

# Chester might have to disincorporate by year's end, receiver warns

## City would then turn into an unincorporated service district

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PUBLISHED: April 11, 2023 at 2:04 p.m. | UPDATED: April 11, 2023 at 7:52 p.m.

Two days before the three-year anniversary of the governor declaring a fiscal emergency in Chester, the state-appointed receiver warned that the city may have to disincorporate by year's end.

What that means, in effect, is that Chester would cease to exist as a city, it would no longer have any municipal officials and would be turned into an unincorporated service district.

“This is the very real warning or, dare I say, even threat of ‘If we don’t get our act together and get this taken care of, this plan developed by the end of this year, disincorporation is a very real possibility,’” Receiver Michael T. Doweary said Tuesday.

The city's been under commonwealth oversight since 1995 and had adopted a recovery plan in 1996, with amendments made in 2006, 2013 and 2016. At the beginning of this receivership in 2020, the city did not even have enough money to clear the streets in the event of a 6-inch snowfall.

In April 2020, then-Gov. Tom Wolf declared a fiscal emergency in the city of Chester.

In June, Michael T. Doweary was appointed receiver to create a recovery plan and to chart Chester out of financial distress. In November, Doweary filed for Chapter 9 bankruptcy on behalf of Chester.

In Tuesday's Municipal Financial Recovery Advisory Committee meeting, the receiver's office maintained that ongoing litigation by certain city officials has prevented actions to be implemented that could fix the situation.

There are pending legal matters involving [the bankruptcy filing](#) and in the receiver's request [to take over administrative functions from city council](#).

Relatedly, the Pennsylvania Supreme Court issued an order on March 29 stating that it would be taking the case regarding city council members functioning as department heads.

Oral arguments are scheduled for May 24 in Harrisburg. Briefs are required from both Doweary and the city prior to that. There is no deadline for when the court will issue an opinion after the May hearing.

Vijay Kapoor, Doweary's chief of staff, said that even on this expedited schedule, these decisions are going to take months to resolve and these appeals are consuming valuable time and resources needed to focus on solutions.

"That is time that the city does not have," he said, noting that in 2025, Chester will face the loss of another \$12.5 million from the end of American Rescue Plan Act and the federal Staffing for Adequate Fire and Emergency Response funds, which could cause the layoffs of at least 20 people, including at least five in the Public Works Department and eight firefighters.

In February, Chester Councilman Stefan Roots communicated to city Mayor Thaddeus Kirkland and the other city council members his opposition to filing the appeal to the state Supreme Court.

"The basis of appeal has nothing to do with financial recovery and everything to do with power," he wrote. "If I were a betting man, the odds are too great that the Supreme Court will not overrule the Commonwealth Court decision and with the city in bankruptcy, I would not risk the legal expense of a challenge. Even if you win, it doesn't move the needle on improving city operations or fiscal recovery. If you lose, it becomes another embarrassing public bad outcome and waste of money."

Roots wrote that Chester residents care that city departments are run effectively, not who runs them.

### **Kirkland speaks up**

The mayor stepped forward during the disincorporation presentation.

"I have to interrupt you when you say the city has not put forth any credible plan," Kirkland said, citing two proposals: one, working with the Chester Water Authority to monetize the system and two, another to sell the water system to a private entity. "So, we had two plans on the table."

Doweary said that they were not comprehensive plans, but only two offers.

“Those are just offers for the system,” the receiver said. “That is not a comprehensive plan to avoid bankruptcy and to address all of the concerns for the city of Chester’s finances.”

He said the city needs negotiations with labor unions, settlements with retirees, completions of two monetization deals — DELCORA and the water system — operations need to be improved and a federal judge needs to approve a plan.

Kapoor noted that the 2019 audit revealed a negative general fund balance of \$27.7 million, which was on top of the \$40 million missed in annual pension payments that year.

He added that the 2019 loss was the seventh annual loss in eight years and that the only reason there was no loss in 2017 was due to a loan the city received. Audits for the years 2020 to 2022 are forthcoming.

Kapoor also noted that the pension fund had \$1.28 million, or the equivalent of three months of coverage, when the receiver arrived in July 2020. As of March, the police pension is estimated to be \$7.7 million, or approximately 16 months of coverage.

Kapoor said the city remains on pace to face an operating deficit in 2024.

### **The potential dissolution**

Dowery maintains that there’s section of Act 47 that permits him to disincorporate the city and would occur if the bankruptcy process does not work. Both he and Kapoor repeated multiple times that this is a route they want to avoid but they had to raise it.

What would occur is that all city employees would be laid off, elected officials would be removed, and an administrator would be appointed by the state Department of Community and Economic Development to contract for the provision of vital and necessary services on behalf of the area.

Disincorporation, Kapoor explained, would mean that Chester is nonviable and would effectively no longer exist as a city.

“I am not aware of any municipality that has used the Act 47 process to disincorporate,” he said. “A lot of this has never happened before and, again, we hope never does.”

Kapoor said a city being “nonviable” means it cannot provide essential services to its residents and property owners; it has experienced such deteriorated economic

conditions and a collapse of its tax base that all reasonable efforts to restore economic viability have failed; and efforts to merge or consolidate with a neighboring municipality are unachievable or won't be viable.

“Whether or not you use the Chapter 4 process in Act 47, if you don't have the money, you don't have the money,” Kapoor said. “If you run out of cash, you run out of cash ... If you're out of money, you can't keep the lights on and you become effectively disincorporated because you can't provide services.”

Upon disincorporation, all elected officials' terms immediately end and all city ordinances are nullified, meaning they are wiped out.

“It is the worst possible outcome for everybody involved,” Kapoor said. “It is a possibility. It's not something we want but it is a possibility. Chester's financial situation is critical and the city is running out of time to find a solution.”

The receiver says he is trying to avoid disincorporation.

“The very real warning or sobering message that is being delivered here: We need to have a plan of adjustment in place by the end of this year,” Doweary said.

“Considering how long it will take to implement the plan, we don't have a choice.”