

PA Supreme Court Decision and City Charter Issues

February 13, 2024

Purpose of Presentation

- On January 29, 2024, the Pennsylvania Supreme Court issued its decision in the Receiver's Plan Modification matter (12 MAP 2023) which affirmed the Commonwealth Court's confirmation of the Plan Modification.
- On January 31, 2024, the Receiver's team explained the opinion and its impact on Chester. That presentation was recorded and can be found on the Receiver's Facebook page and on YouTube here: <https://www.youtube.com/watch?v=kF12EEqlj5I>. The powerpoint from the presentation can be found at <https://www.chesterreceivership.com/mfrac>.
- During the January 31st presentation, the Receiver's Chief of Staff mentioned a conflict in the City's charter regarding whether it was the right of the Mayor or City Council to appoint department heads. Because of the Supreme Court decision, this issue is moot for the moment, but it will likely reoccur once Chester is out of receivership unless it is addressed.
- The purpose of this presentation is to explain to the public what that Charter conflict is and why it needs to be addressed.

Court Decision

Practical Impact of the Court Decision

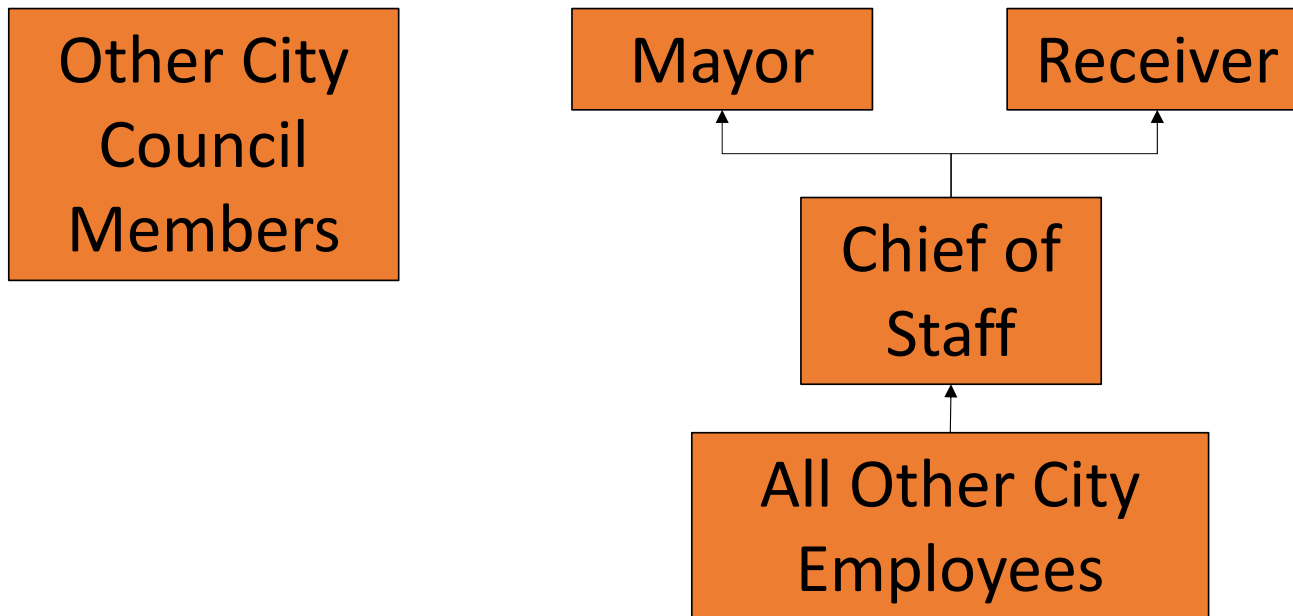
- The City's Chief of Staff will report to the Receiver and to the Mayor.
- City elected officials may contact the Chief of Staff for the purposes of inquiry, but they shall not direct the Chief of Staff relating to any matter in the line of his responsibilities.
- The administrative duties of City elected officials with respect to day-to-day operations are suspended (this includes but is not limited to serving as a department head, participating in job candidate interviews and labor negotiations, etc.). The Chief of Staff shall have the ability to assign those administrative duties to qualified employees and contractors.
- City elected officials may not direct a City employee relating to any matter in the line of the employee's employment. Note: If an elected official directs or requests that a City employee perform a task, that employee must notify the Chief of Staff immediately.

Practical Impact of the Court Decision (continued)

- City employees must follow the directives of the Chief of Staff relating to any matter in the line of their employment.
- City elected officials shall not interfere with the directives of the Chief of Staff or the Receiver.
- All City elected officials, employees and contractors shall be required to provide any information in furtherance of their responsibilities that the Receiver or the Chief of Staff requests.
- The Receiver has sole authority regarding employee hiring and termination, including those employees appointed by City elected officials per the Home Rule Charter.

Plan Modification

City Chain of Command/Staff Reporting Structure



Note: With the exception of the Chief of Staff/City Manager also reporting to the Receiver, this is how most Pennsylvania cities operate. Chester is the exception.

Charter Provision Conflict

Overview of the Charter Issue

- Two sections of the City Charter relate to the appointment of City Council members as department heads:
 - Section 11.6-603: “At the annual organizational meeting of Council, the Mayor may assign to each Council Member a responsibility as department head of one or more departments or agencies of the city government.”
 - Section 11.6-601: “The Council may, by ordinance, create, alter, or abolish and prescribe the functions of the city departments, agencies and offices, not inconsistent with the general laws or this Charter, and designate department heads from City Council.”
- What happens when the Mayor and Council disagree?

What Happened at the City's Organizational Meeting on January 2, 2024?

- At the City's organization meeting on January 2, 2024:
 - Mayor Roots appointed Councilwoman West as the department head of Public Works and declined to appoint any other councilmember as a department head.
 - City Council then voted 4-1 (Mayor Roots against) to appoint all other Councilmembers as department heads.
 - Note: City Council did not take this action via ordinance as the Charter required them to do, so there was an argument that their action was void. However, they might have made these assignments via ordinance at a later date.
- As a result of these actions, until the PA Supreme Court decision, it was not clear who the department heads were which is a bad problem.
 - Note: This conflicting language in a charter is extremely unusual.

Why Does the Receiver Care?

- Because of the PA Supreme Court ruling, this issue is moot because the ruling suspended the power of Council Members to serve as department heads.
- However, once receivership is over, the City Charter will again be in full effect and this issue is likely to occur again unless addressed. The time after receivership will be critically important for the City and this conflict would be extremely disruptive to ensuring the City operates smoothly.
 - To be clear, while the Receiver has an opinion as to whether City elected officials should be able to serve as department heads, after receivership that question (and/or the question of who should assign them) is up to the citizens of Chester.

So Now What?

- The potential for this conflict to occur again is very high
 - Clearly, this is not just theoretical. It happened last month in January and could happen again.
- To address the conflict, the Charter needs to be amended and the residents need to decide what they want the Charter to say.
- There is a process for amending the City's charter which is long and ultimately needs to be approved by the City's voters.
 - That process can be started either by City Council or by a petition of registered City voters. See: <https://dced.pa.gov/download/home-rule-pa-pdf/>

End