

COMPLIANCE AUDIT

City of New Kensington Comprehensive Municipal Pension Trust Fund

Westmoreland County, Pennsylvania
For the Period
January 1, 2017 to December 31, 2018

April 2020



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

The Honorable Mayor and City Council
City of New Kensington
Westmoreland County
New Kensington, PA 15068

We have conducted a compliance audit of the City of New Kensington Comprehensive Municipal Pension Trust Fund for the period January 1, 2017 to December 31, 2018. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with the standards applicable to performance audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of the audit were:

1. To determine if municipal officials took appropriate corrective action to address the finding contained in our prior audit report; and
2. To determine if the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies.

Our audit was limited to the areas related to the objectives identified above. To determine if municipal officials took appropriate corrective action to address the finding contained in our prior audit report, we inquired of plan officials and evaluated supporting documentation provided by officials evidencing that the suggested corrective action has been appropriately taken. To determine whether the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, our methodology included the following:

- We determined whether state aid was properly determined and deposited in accordance with Act 205 requirements by verifying the annual deposit date of state aid and determining whether deposits were made within 30 days of receipt for all years within the period under audit.

- We determined whether annual employer contributions were calculated and deposited in accordance with the plan's governing document and applicable laws and regulations by examining the municipality's calculation of the plan's annual financial requirements and minimum municipal obligation (MMO) and comparing these calculated amounts to amounts actually budgeted and deposited into the pension plan as evidenced by supporting documentation.
- We determined whether annual employee contributions were calculated, deducted, and deposited into the pension plan in accordance with the plan's governing document and applicable laws and regulations by testing total members' contributions on an annual basis using the rates obtained from the plan's governing document in effect for all years within the period under audit and examining documents evidencing the deposit of these employee contributions into the pension plan.
- We determined whether retirement benefits calculated for all seven plan members who retired during the current audit period, and through the completion of our fieldwork procedures, represent payments to all (and only) those entitled to receive them and were properly determined and disbursed in accordance with the plan's governing document, applicable laws and regulations by recalculating the amount of the monthly pension benefit due to retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to recipients.
- We determined whether the January 1, 2017 actuarial valuation report was prepared and submitted in accordance with Act 205 and whether selected information provided on this report is accurate, complete, and in accordance with plan provisions to ensure compliance for participation in the state aid program by comparing selected information to supporting source documentation.
- We determined whether all annual special ad hoc postretirement reimbursements received by the municipality were authorized and appropriately deposited in accordance with Act 147 by tracing information to supporting documentation maintained by plan officials.
- We determined whether the pension plan is in compliance with Act 205 for distressed municipalities through inquiry of plan officials and evaluation of the recovery remedies implemented during the audit period and through the completion of our fieldwork procedures.

City officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the City of New Kensington Comprehensive Municipal Pension Trust Fund is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. In conducting our audit, we obtained an understanding of the city's internal controls as they relate to the city's compliance with those requirements and that we considered to be significant within the context of our audit objectives, and assessed whether those significant controls were properly designed and implemented.

Additionally and as previously described, we tested transactions, assessed official actions, performed analytical procedures, and interviewed selected officials to provide reasonable assurance of detecting instances of noncompliance with legal and regulatory requirements or noncompliance with provisions of contracts, administrative procedures, and local ordinances and policies that are significant within the context of the audit objectives.

The results of our procedures indicated that, in all significant respects, the City of New Kensington Comprehensive Municipal Pension Trust Fund was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following finding further discussed later in this report:

Police Pension Plan:


Finding – Noncompliance With Prior Audit Recommendation - Inconsistent Killed-In-Service Benefit

The finding repeats a condition that was cited in our previous audit report that has not been corrected by city officials. We are concerned by the city's failure to correct this previously reported audit finding and strongly encourage timely implementation of the recommendations noted in this audit report.

The accompanying supplementary information is presented for purposes of additional analysis. We did not audit the information or conclude on it and, accordingly, express no form of assurance on it.

The contents of this report were discussed with officials of City of New Kensington and, where appropriate, their responses have been included in the report. We would like to thank city officials for the cooperation extended to us during the conduct of the audit.

March 26, 2020


EUGENE A. DEPASQUALE
Auditor General

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BACKGROUND

On December 18, 1984, the Pennsylvania Legislature adopted the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 et seq.). The Act established mandatory actuarial reporting and funding requirements and a uniform basis for the distribution of state aid to Pennsylvania's public pension plans. Section 402(j) of Act 205 specifically requires the Auditor General, as deemed necessary, to make an audit of every municipality which receives general municipal pension system state aid and of every municipal pension plan and fund in which general municipal pension system state aid is deposited.

Annual state aid allocations are provided from a 2 percent foreign (out-of-state) casualty insurance premium tax, a portion of the foreign (out-of-state) fire insurance tax designated for paid firefighters and any investment income earned on the collection of these taxes. Generally, municipal pension plans established prior to December 18, 1984, are eligible for state aid. For municipal pension plans established after that date, the sponsoring municipality must fund the plan for three plan years before it becomes eligible for state aid. In accordance with Act 205, a municipality's annual state aid allocation cannot exceed its actual pension costs.

In addition to Act 205, the City of New Kensington Comprehensive Municipal Pension Trust Fund is also governed by implementing regulations adopted by the former Public Employee Retirement Commission published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes including, but not limited to, the following:

Act 67 - The Third Class City Code, Act of November 24, 2015 (P.L. 242, No. 67), as amended, 11 Pa. C.S. § 10101 et seq.

Act 147 - Special Ad Hoc Municipal Police and Firefighter Postretirement Adjustment Act, Act of December 14, 1988 (P.L. 1192, No. 147), as amended, 53 P.S. § 896.101 et seq.

The City of New Kensington Comprehensive Municipal Pension Trust Fund (CMPTF) is a single-employer defined benefit pension plan for the city's police officers and firefighters. The CMPTF is locally controlled by the provisions of Ordinance No. 6-87, as amended, the police pension plan by Ordinance No. 1-12, as amended, and the firemen's pension plan by Ordinance No. 8-87, as amended, all adopted pursuant to Act 67. The police pension plan is also affected by the provisions of collective bargaining agreements between the city and its police officers. The CMPTF was established on October 20, 1987, and the police and firemen's pension plans were established on June 23, 1931. Active members of the police pension plan are required to contribute 5 percent of base pay plus \$1 per month to the plan. As of December 31, 2018, the police pension plan had 23 active members, 1 terminated member eligible for vested benefits in the future, and 28 retirees receiving pension benefits. The firemen's pension has not had any active members since 1990. As of December 31, 2018, the plan had 4 retirees receiving pension benefits from the plan.

BACKGROUND – (Continued)

POLICE PENSION PLAN

As of December 31, 2018, selected plan benefit provisions are as follows:

Eligibility Requirements:

Normal Retirement	Age 50 and 20 years of service.
Early Retirement	None
Vesting	100% vesting available after 12 years of service.

Retirement Benefit:

A monthly benefit equal to average compensation (the higher of 50% of the final monthly base, holiday and longevity pay, or highest 5-year average) plus a service increment of 1/40 of basic pension for each full year of service beyond the minimum required for retirement (excluding service beyond 65), up to a maximum of \$100 per month

Survivor Benefit:

Prior to completion of 10 years of service: A monthly benefit equal to 25% of the participant's annual compensation on the day of death.

After disability or the completion of 10 years of service: A monthly benefit equal to 100% of the pension the participant was receiving or entitled to receive on the day of death.

Disability Benefit:

Service Related	Upon total and permanent disablement, the full retirement (see above) is payable immediately, without regard to service at disablement.
Non-Service Related	Upon total and permanent disablement that occurs after 10 years of service, the full retirement benefit (see above) is payable. For service less than 10 years, 50% of the retirement benefit (or 25% of salary) will be payable.

BACKGROUND – (Continued)

FIREMEN’S PENSION PLAN

As of December 31, 2018, selected plan benefit provisions are as follows:

Eligibility Requirements:

Normal Retirement Age 50 and 20 years of service.

Early Retirement None

Vesting None

Retirement Benefit:

A monthly benefit equal to 50% of the greater of final monthly base pay or average compensation (averaged over the highest 5 years), plus a service increment of 1/40 of basic pension for each full year of service beyond the minimum required for retirement (excluding service beyond 65), up to a maximum of \$100 per month.

Survivor Benefit:

Before Retirement Eligibility Refund of member contributions.

After Retirement Eligibility A monthly benefit equal to 100% of the pension of the participant was receiving or was entitled to receive on the day of the member’s death.

Disability Benefit:

Service Related For total and permanent disablement, a monthly benefit equal to 50% of the greater of compensation or average compensation over highest 5 years.

Non-Service Related For total and permanent disablement, a monthly benefit equal to 50% of the greater of compensation or average compensation over highest 5 years.

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
STATUS OF PRIOR FINDING

Noncompliance With Prior Audit Recommendation

The City of New Kensington has not complied with the prior audit recommendation concerning the following as further discussed in the Finding and Recommendation section of this report:

Police Pension Plan:

- Inconsistent Killed-In-Service Benefit

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
FINDING AND RECOMMENDATION

Finding - Noncompliance With Prior Audit Recommendation - Inconsistent Killed-In-Service Benefit

Condition: As disclosed in our prior audit report, the pension plan's governing document, Ordinance No. 1-12, appears to repeal the payment of a killed in service benefit from the city's police pension plan that is inconsistent with that as prescribed by the Third Class City Code.

Section 6.02 of Ordinance No. 1-12 indicates the following pursuant to a survivor benefit:

Upon the death of a Participant, the following survivor benefits shall apply:

- (a) If a Participant dies as a result of performing in the line of duty, or after he has retired or is eligible to retire, or while an active participant who has completed at least ten (10) Years of Continuous Service, or while receiving disability pension benefits, his surviving spouse shall be entitled to receive a monthly income in the amount of one hundred percent (100%) of the Participant's benefit. If no spouse survives or if a spouse survives and subsequently dies, the Participant's child or children under the age of eighteen (18) shall until reaching the age of eighteen (18) be entitled to receive the monthly income.

Effective January 1, 2012 and pursuant to Act 51 of 2009, the line-of-duty (killed-in-service) survivor benefit previously payable under this section 6-02(a) is instead mandated to be paid by the Commonwealth pursuant to the Emergency and Law Enforcement Personnel Death Benefits Act, 53 Pa-C.S. § 891, et seq.

Furthermore, Section 1 of Article 14 of the collective bargaining agreements covering the periods January 1, 2016 through December 31, 2018 and January 1, 2019 to December 31, 2021 also reference a killed while in the line of duty provision that appears consistent with the Third Class City Code as follows:

The City has also agreed to provide for the increase in the survivor benefit for members of the new police pension plan from 66-2/3 percent of the participant's benefit to 100 percent of the participant's benefit provided the participant has ten (10) or more years of service or is killed while in the line of duty as provided for and subject to the terms and provisions of the third class City Code 53 P.S. § 39303.

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
FINDING AND RECOMMENDATION

Finding – (Continued)

Criteria: Section 4301 of the Third Class City Code states, in part:

Cities shall establish, by ordinance, a police pension fund... to be maintained by an equal and proportionate monthly charge against each member of the police force, which shall not exceed annually four per centum of the pay of such member and an additional amount not to exceed one per centum of the pay of such member to be paid by such member or the municipal corporation to provide sufficient funds for payments required by subsection (d) of section 4303 to surviving spouses even if they remarry, or if no spouse survives or if such person survives and subsequently dies, then to the child or children under the age of eighteen years, of members of the police force or of members retired on pension or who die in service.... [Emphasis added.]

Furthermore, Section 4303(a) of the Third Class City Code states, in part:

The basis of the apportionment of the pension shall be determined by the rate of the monthly pay of the member at the date of injury, death, honorable discharge, vesting under section 4302.1 or retirement, or the highest average annual salary which the member received during any five years of service preceding injury, death, honorable discharge, vesting under section 4302.1 or retirement, whichever is the higher. [Emphasis added.]

Section 4303(c) of the Third Class City Code states, in part:

The spouse of a member of the police force or a member who retires on pension who dies or if no spouse survives or if such person survives and subsequently dies or remarries, then the child or children under the age of eighteen years of a member of the police force or a member who retires on pension who dies on or after the effective date of this amendment, shall, during the lifetime of the surviving spouse, even if the surviving spouse remarries, or until reaching the age of eighteen years in the case of a child or children, be entitled to receive a pension calculated at the rate of fifty per centum of the pension the member was receiving or would have been receiving had he been retired at the time of his death and may receive the pension the member was receiving or would have been receiving had he been retired at the time of his death.

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
FINDING AND RECOMMENDATION

Finding – (Continued)

Finally, Section 4308 of the Third Class City Code states, in part:

In the event of the death of a member of the police force **not in the line of service** before the member becomes entitled to the pension aforesaid and such member is not survived by a spouse or family entitled to payments as hereinbefore provided, the total amount of contributions paid into the pension fund by the member shall be paid over to his estate. [Emphasis added.]

Based on these sections of the Third Class City Code taken as a whole, the Department has concluded that the Code mandates the provision of a benefit for survivors of police officers killed in service.

With regard to the amount of killed in service benefit payable, Section 1(d) of Act 51 of 2009, states in part:

Upon receipt of such certification, the Commonwealth shall, from moneys payable out of the General Fund, pay...the sum of \$100,000...and an amount equal to the monthly salary, adjusted in accordance with subsection (f) of this section, of the deceased paid firefighter, ambulance service or rescue squad member or law enforcement officer, less any workers' compensation or pension or retirement benefits paid to such survivors, and shall continue such monthly payments until there is no eligible beneficiary to receive them. For the purpose of this subsection, the term "eligible beneficiary" means the surviving spouse or the child or children under the age of eighteen year or, if attending college, under the age of twenty-three years, of the firefighter, ambulance service or rescue squad member or law enforcement officer who died as a result of the performance of his duty. When no spouse or minor children survive, a single sum of \$100,000, adjusted in accordance with subsection (f) of this section, shall be paid to the parent or parents of such firefighter, ambulance service member, rescue squad member or law enforcement officer. [Emphasis added.]

Although the General Assembly specifically repealed sections of Act 205 (the Municipal Pension Plan Funding Standard and Recovery Act) and Act 600 (Municipal Police Pension Law) containing language which had formerly referenced killed in service survivor benefit issues, the killed in service provisions of the Third Class City Code were not addressed in Act 51. Therefore, the city's police pension plan would have an obligation to pay a portion of any killed in service benefit based on the provisions of the Third Class City Code.

The Department has also concluded that with respect to the issue of whether a city of the third class can repeal an ordinance conferring survivor benefits for a plan member who is killed in service, because the Third Class City Code already mandates that such a benefit provided, the repealing of an ordinance has no effect on the requirement to pay such a benefit.

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
FINDING AND RECOMMENDATION

Finding – (Continued)

Cause: As disclosed in the prior audit report, plan officials believed that the city was authorized in removing the plan's killed in service benefit from the plan document due to the passage of Act 51 of 2009 and that the payment of any killed in service survivor's benefit would be the responsibility of the Commonwealth under Act 51. Moreover, subsequent to the release of the prior audit report, the city submitted a written response to the Department relative to the city's disagreement with the Department's position which is included, in its entirety, in the Management Response section below and was awaiting a formal response from the Department before reviewing the finding and governing plan document with the city's solicitor.

Effect: The failure to provide a killed in service benefit consistent with the Third Class City Code could result in a potential unrecognized liability to the plan or deny plan members benefits to which recipients are statutorily entitled.

Recommendation: We again recommend that that city officials, with assistance for their solicitor, review the plan's governing document and take appropriate action to ensure compliance with the Third Class City Code.

Management's Response: The Department of the Auditor General (Department) takes the position that the Third Class Cities Code mandates a killed in service benefit for police officers. The Department's position is at odds with fundamental rules of statutory construction. The General Assembly expressed a clear and unequivocal intent to provide a killed in service benefit to the survivors of a municipal police officer who "dies as a result of the performance of his duties" as prescribed in Act 147 of 1988, as amended. See 53 P.S. § 891(a)(1). In this circumstance,

Upon receipt of such certification, the **Commonwealth shall**, from moneys payable out of the General Fund, **pay to the surviving spouse or**, if there is no surviving spouse, **to the minor children of the ... law enforcement officer who died as a result of the performance of his duty** the sum of \$100,000, adjusted in accordance with subsection (f) of this section and an amount equal to the monthly salary, adjusted in accordance with subsequent (f), of the deceased... law enforcement officer, less any workers' compensation or pension or retirement benefits paid to such survivors, and shall continue such monthly payments until there is no eligible beneficiary to receive them. For the purpose of this subsection, the term "eligible beneficiary" means the surviving spouse or the child or children under the age of eighteen years or, if attending college, under the age of twenty-three years, of the ... law enforcement officer who died as a result of the performance of his duty. When no spouse or minor children survive, a single sum of \$100,000, adjusted in accordance with subsection (f), shall be paid to the parent or parents of such firefighter, ambulance service member, rescue squad member or law enforcement officer.

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
FINDING AND RECOMMENDATION

Finding – (Continued)

53 P.S. § 891(d).

While the Department must acknowledge that this protection applies to all political subdivisions, it contends that the General Assembly failed to repeal the implied killed in service provision when it passed Act 51 of 2009. The Department's reliance upon Act 51 is misplaced for two reasons. First, General Assembly had specific cause to repeal the killed in service provisions in Act 600 and corresponding reference in Act 205. No similar provision was set forth in the Third Class City Code. Second, the Third Class City Code has been re-enacted and again contains no killed in service provision. See 11 Pa.C.S. §§ 14301, *et seq.* (2015, Nov. 24, P.L. 242, No. 67). Thus, the purported failure to repeal in 2009 does not support the Department's position. The City disagrees with the Department's analysis and objects to the disparate treatment of Third Class cities with respect to police officers who are killed in the line of duty and the pension plans maintained on behalf of all participating officers.

Fundamentally, the Department's position is premised upon a strained interpretation of the Third Class City Code. The Department has concluded in recent years that Act 317 had mandated the provision of a benefit for survivors of police officers killed in service. Killed in service benefits were prescribed simply and clearly in Act 600 (as they are in 53 P.S. § 891). Act 317 contained no such references. Instead, 53 P.S. 39301(b)(3) stated: "The fund shall be applied, under such regulations as council may, by ordinance, prescribe, for the benefit of such members of the police force as shall receive honorable discharge therefrom by reason of age or disability, surviving spouses even if they remarry, or if no spouse survives or if such person survives and subsequently dies, then to the child or children under the age of eighteen years, of members of the police force or of members retired on pension." Unlike Act 147, the Third Class City Code has not prescribed a benefit for an officer who dies "as a result of the performance of his duty."

Despite the General Assembly's clear prescription of a killed in service benefit in other instances, the Third Class City Code never made a reference to a "killed in service" benefit. More to the point, the more recently promulgated Third Class City Code again made no reference to a killed in service benefit and certainly does not upset the specific killed in service benefit provisions in Act 147. Despite this, the Department clings to an argument "the killed in service provision of the Third Class Code were not addressed in Act 51." A more accurate analysis would focus on the reality that the General Assembly made no attempt to supplant or disturb the Act 147 benefit structure that is plain an [sic] unambiguous. "It is a principle of statutory construction that when the legislature adopts a statute it must be presumed that it does so with full knowledge of existing

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
FINDING AND RECOMMENDATION

Finding – (Continued)

statutes relating to the same subject.” Seliga v. SERS, 682 A.2d 77, 79 (Pa.Cmwlth. Ct 1996) (citations omitted); see also Gault v. PSERS, 720 A.2d 1090, 1094 (Pa.Cmwlth. Ct. 1998) (interpreting Seliga to mean: “where a statute contains a particular provision, the omission of that provision in the enactment of a similar section is significant to show a different intention.”).

The provisions of the Third Class City Code identified by the Department as mandating a KIS benefit are more accurately interpreted to mean that an officer who otherwise has a pension right will not have that benefit extinguished by reason of death. Indeed, the most applicable provision (prescribing the survivor benefit) says that the survivor(s) “shall... be entitled to receive a pension calculated at the rate of fifty per centum of the pension the member was receiving or would have been receiving **had he been retired at the time of his death** and may receive the pension the member was receiving or would have been receiving **had he been retired at the time of his death.**” 53 P.S. § 39303(c) (repealed) (emphasis supplied). The current survivor benefit provisions states:

Spouse and children.—The spouse of a member of the police force or a member who retires on pension, who dies or, if no spouse survives or if the spouse survives and subsequently dies or remarries, the child or children under 18 years of age of a member of the police force or a member who retires on pension who dies on or after August 1, 1963, shall, during the lifetime of the surviving spouse, even if the surviving spouse remarries, or until reaching 18 years of age in the case of a child or children, be entitled to receive a pension calculated at the rate of 50% of the pension the member was receiving or would have been receiving if the member was retired at the time of the member’s death and may receive the pension the member was receiving or would have been receiving had the member been retired at the time of the member’s death.

11 Pa.C.S. § 14303(e).

The General Assembly’s failure to identify or require a killed in service benefit in the Third Class City Code is reinforced through its more recent codification of the Code. In this regard, the Code specifically allow for a benefit to certain police officers who die because of “injuries or mental incapacities not in the line of duty.” This benefit may be 25% or 50% “of the police officer’s annual compensation” depending on whether the officer has less or more than 10 years of service”. 11 Pa.C.S. § 14303(f). Importantly, there is no provision addressing an officer who is killed in the line of duty. The General Assembly’s omission of any benefit required for an officer killed in service, particularly in view of Act 147, is critical. First, it points decidedly away from the Department’s strained interpretation of the Third Class City Code. Second, it explains the General Assembly’s lack of explicit repeal of any provision in the Third Class City Code in 2009.

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
FINDING AND RECOMMENDATION

Finding – (Continued)

There is no question that Act 51 specifically repealed the killed in service benefit (53 P.S. § 771(e)(2)) provided through Act 600. The Department espouses the view that there should be an explicit repeal applicable to Act 317, which was in effect at the time. Why was there no such repeal of a killed in service benefit under the Third Class City Code? There is only one answer that makes sense – Act 317 does not contain a killed in service benefit in the first instance. This answer fits with the plain language and clear intent of the General Assembly. As noted, this understanding has been reinforced by the subsequent promulgation of the Third Class City Code. Certainly, the General Assembly has acted to specifically ensure a full and uniformed killed in service benefit to survivors. There is no indication that the General Assembly intended to establish differential treatment depending upon whether an officer was employed in a borough or township as compared to a third class city. Unfortunately, the Department’s interpretation would result in just that type of effect. While the Department apparently believes that fidelity to its statutory interpretation controls, the City requests that the Department reconsider an analysis that would thwart the plain intent and meaning of Act 147 by having the payment of benefits (and the financial viability of a police pension plan in a third class city) hinge upon the repeal of a benefit not prescribed in the first place. This reconsideration is particularly appropriate in view of Act 67 of 2015, 11 Pa.C.S. § 14301.

Despite the problems with the Department’s analysis, it insists that the surviving spouses and pension plans of police officers in Third Class cities should be treated differently than those of other Pennsylvania municipalities. Such disparate treatment, however, is not only inequitable but is also not supported by fundamental principles of statutory construction. To the extent that the Department relies upon an inconsistency with the collective bargaining agreement, the City agrees that an update and correction to the CBA is appropriate.

Auditor’s Conclusion: It should be noted that the position of the Department is based on the language in the Third Class City Code and it cannot overlook or ignore the language because the municipality believes it is not to their advantage in a parallel reading of Act 51. To the extent the city disagrees with the Third Class City Code, the city should seek to change it but the Department must enforce its language until such time. Therefore, as previously cited, based on the Criteria stated, the city should ensure the plan’s killed in service benefit provision is in compliance with the Third Class City Code and will be subject to verification in our next audit report.

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
SUPPLEMENTARY INFORMATION

The supplementary information contained on Pages 12 through 15 reflects the implementation of GASB Statement No. 67, *Financial Reporting for Pension Plans*. The objective of this statement is to improve financial reporting by state and local governmental pension plans.

POLICE PENSION PLAN

SCHEDULE OF CHANGES IN THE NET PENSION
LIABILITY AND RELATED RATIOS
FOR THE YEARS ENDED DECEMBER 31, 2015, 2016, 2017 AND 2018

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Total Pension Liability				
Service cost	\$ 273,930	\$ 270,507	\$ 260,236	\$ 271,296
Interest	942,706	984,380	1,022,480	1,061,372
Difference between expected and actual experience	(254,461)	-	(509,259)	-
Changes of assumptions	-	-	(103,685)	-
Benefit payments, including refunds of member contributions	(570,699)	(573,516)	(684,882)	(751,396)
Net Change in Total Pension Liability	<u>391,476</u>	<u>681,371</u>	<u>(15,110)</u>	<u>581,272</u>
Total Pension Liability – Beginning	<u>14,764,562</u>	<u>15,156,038</u>	<u>15,837,409</u>	<u>15,822,299</u>
Total Pension Liability – Ending (a)	<u>\$ 15,156,038</u>	<u>\$ 15,837,409</u>	<u>\$ 15,822,299</u>	<u>\$ 16,403,571</u>
Plan Fiduciary Net Position				
Contributions – employer *	\$ 649,906	\$ 611,544	\$ 565,684	\$ 509,195
Contributions – member	83,144	87,276	85,047	87,372
Net investment income	(310,882)	1,235,309	1,588,979	(706,208)
Benefit payments, including refunds of member contributions	(570,699)	(573,516)	(684,882)	(751,396)
Administrative expense	(79,173)	(69,337)	(75,893)	(92,183)
Other	(1,734)	-	-	-
Net Change in Plan Fiduciary Net Position	<u>(229,438)</u>	<u>1,291,276</u>	<u>1,478,935</u>	<u>(953,220)</u>
Plan Fiduciary Net Position – Beginning	<u>11,976,611</u>	<u>11,747,173</u>	<u>13,038,449</u>	<u>14,517,384</u>
Plan Fiduciary Net Position – Ending (b)	<u>\$ 11,747,173</u>	<u>\$ 13,038,449</u>	<u>\$ 14,517,384</u>	<u>\$ 13,564,164</u>
Net Pension Liability - Ending (a-b)	<u>\$ 3,408,865</u>	<u>\$ 2,798,960</u>	<u>\$ 1,304,915</u>	<u>\$ 2,839,407</u>

* The 2018 Employer Contributions include interest paid on the late deposit of the 2018 minimum municipal obligation.

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
SUPPLEMENTARY INFORMATION

POLICE PENSION PLAN – Continued

Sensitivity of the Net Pension Liability to Changes in the Discount Rate

The following presents the net pension liability of the city as of December 31, 2015 and 2016, calculated using the discount rate of 6.50%, as well as what the city’s net pension liability would be if it were calculated using a discount rate that is 1 percentage-point lower or 1 percentage-point higher than the current rate:

	1% Decrease (5.50%)	Current Discount Rate (6.50%)	1% Increase (7.50%)
Net Pension Liability – 12/31/15	\$ 5,234,124	\$ 3,408,865	\$ 1,892,581
Net Pension Liability – 12/31/16	\$ 4,651,543	\$ 2,798,960	\$ 1,259,752

In addition, the following presents the net pension liability of the city as of December 31, 2017 and 2018, calculated using the discount rate of 6.75%, as well as what the city’s net pension liability would be if it were calculated using a discount rate that is 1 percentage-point lower or 1 percentage-point higher than the current rate:

	1% Decrease (5.75%)	Current Discount Rate (6.75%)	1% Increase (7.75%)
Net Pension Liability – 12/31/17	\$ 3,207,143	\$ 1,304,915	\$ (268,241)
Net Pension Liability – 12/31/18	\$ 4,770,706	\$ 2,839,407	\$ 1,242,229

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
SUPPLEMENTARY INFORMATION

FIREMEN'S PENSION PLAN

SCHEDULE OF CHANGES IN THE NET PENSION
LIABILITY AND RELATED RATIOS
FOR THE YEARS ENDED DECEMBER 31, 2015, 2016, 2017 AND 2018

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Total Pension Liability				
Service cost	\$ 40,032	\$ 37,837	\$ 36,454	\$ 34,143
Difference between expected and actual experience	23,204	-	14,683	-
Benefit payments, including refunds of member contributions	<u>(73,798)</u>	<u>(73,798)</u>	<u>(73,798)</u>	<u>(70,154)</u>
Net Change in Total Pension Liability	(10,562)	(35,961)	(22,661)	(36,011)
Total Pension Liability – Beginning	<u>628,985</u>	<u>618,423</u>	<u>582,462</u>	<u>559,801</u>
Total Pension Liability – Ending (a)	<u>\$ 618,423</u>	<u>\$ 582,462</u>	<u>\$ 559,801</u>	<u>\$ 523,790</u>
Plan Fiduciary Net Position				
Contributions – employer *	\$ 108,398	\$ 104,424	\$ 59,735	\$ 60,935
Net investment income	(13,433)	51,077	58,044	(20,825)
Benefit payments, including refunds of member contributions	(73,798)	(73,798)	(73,798)	(70,154)
Administrative expense	<u>(2,851)</u>	<u>(6,710)</u>	<u>(3,054)</u>	<u>(7,238)</u>
Net Change in Plan Fiduciary Net Position	18,316	74,993	40,927	(37,282)
Plan Fiduciary Net Position – Beginning	<u>434,359</u>	<u>452,675</u>	<u>527,668</u>	<u>568,595</u>
Plan Fiduciary Net Position – Ending (b)	<u>\$ 452,675</u>	<u>\$ 527,668</u>	<u>\$ 568,595</u>	<u>\$ 531,313</u>
Net Pension Liability - Ending (a-b)	<u>\$ 165,748</u>	<u>\$ 54,794</u>	<u>\$ (8,794)</u>	<u>\$ (7,523)</u>

* The 2018 Employer Contributions include interest paid on the late deposit of the 2018 minimum municipal obligation.

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
SUPPLEMENTARY INFORMATION

FIREMEN’S PENSION PLAN – (Continued)

Sensitivity of the Net Pension Liability to Changes in the Discount Rate

The following presents the net pension liability of the city as of December 31, 2015, 2016, 2017 and 2018 calculated using the discount rate of 6.50%, as well as what the city’s net pension liability would be if it were calculated using a discount rate that is 1 percentage-point lower or 1 percentage-point higher than the current rate:

	<u>1% Decrease (5.50%)</u>	<u>Current Discount Rate (6.50%)</u>	<u>1% Increase (7.50%)</u>
Net Pension Liability – 12/31/15	\$ 205,008	\$ 165,748	\$ 130,559
Net Pension Liability – 12/31/16	\$ 90,388	\$ 54,794	\$ 22,794
Net Pension Liability – 12/31/17	\$ 24,178	\$ (8,794)	\$ 38,526
Net Pension Liability – 12/31/18	\$ 22,005	\$ (7,523)	\$ (34,226)

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
SUPPLEMENTARY INFORMATION

SCHEDULES OF FUNDING PROGRESS

Historical trend information about the plan is presented herewith as supplementary information. It is intended to help users assess the plan’s funding status on a going-concern basis, assess progress made in accumulating assets to pay benefits when due, and make comparisons with other state and local government retirement systems.

The actuarial information is required by Act 205 biennially. The historical information, beginning as of January 1, 2013, is as follows:

POLICE PENSION PLAN

	(1)	(2)	(3)	(4)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Accrued Liability (b) - (a)	Funded Ratio (a)/(b)
01-01-13	\$ 10,079,492	\$ 13,628,382	\$ 3,548,890	74.0%
01-01-15	11,842,546	14,510,101	2,667,555	81.6%
01-01-17	13,279,559	15,224,465	1,944,906	87.2%

Note: The market values of the plan’s assets at 01-01-13, 01-01-15, and 01-01-17 have been adjusted to reflect the smoothing of gains and/or losses over a four-year averaging period. This method will lower contributions in years of less than expected returns and increase contributions in years of greater than expected returns. The net effect over long periods of time is to have less variance in contribution levels from year to year.

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
SUPPLEMENTARY INFORMATION

SCHEDULES OF FUNDING PROGRESS – (Continued)

FIREMEN’S PENSION PLAN

	(1)	(2)	(3)	(4)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Accrued Liability (b) - (a)	Funded Ratio (a)/(b)
01-01-13	\$ 391,967	\$ 693,207	\$ 301,240	56.5%
01-01-15	428,596	652,189	223,593	65.7%
01-01-17	533,944	597,145	63,201	89.4%

Note: The market values of the plan’s assets at 01-01-13, 01-01-15, and 01-01-17 have been adjusted to reflect the smoothing of gains and/or losses over a four-year averaging period. This method will lower contributions in years of less than expected returns and increase contributions in years of greater than expected returns. The net effect over long periods of time is to have less variance in contribution levels from year to year.

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
SUPPLEMENTARY INFORMATION

The comparability of trend information is affected by changes in actuarial assumptions, benefit provisions, actuarial funding methods, accounting policies, and other changes. Those changes usually affect trends in contribution requirements and in ratios that use the actuarial accrued liability as a factor.

Analysis of the dollar amount of the actuarial value of assets, actuarial accrued liability, and unfunded (assets in excess of) actuarial accrued liability in isolation can be misleading. Expressing the actuarial value of assets as a percentage of the actuarial accrued liability (Column 4) provides one indication of the plan's funding status on a going-concern basis. Analysis of this percentage, over time, indicates whether the system is becoming financially stronger or weaker. Generally, the greater this percentage, the stronger the plan.

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
SUPPLEMENTARY INFORMATION

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

POLICE PENSION PLAN

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2013	\$ 626,307	100.0%
2014	627,162	100.0%
2015	649,906	100.0%
2016	611,544	100.0%
2017	565,684	100.0%
2018	504,873	100.0%

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
SUPPLEMENTARY INFORMATION

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES – (Continued)

FIREMEN’S PENSION PLAN

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2013	\$ 89,341	100.0%
2014	32,868	100.0%
2015	108,398	100.0%
2016	104,424	100.0%
2017	59,735	100.0%
2018	57,110	100.0%

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
SUPPLEMENTARY INFORMATION
NOTES TO SUPPLEMENTARY SCHEDULES
(UNAUDITED)

The information presented in the supplementary schedules was determined as part of the actuarial valuation at the date indicated. Additional information as of the latest actuarial valuation date follows:

POLICE PENSION PLAN

Actuarial valuation date	January 1, 2017
Actuarial cost method	Entry age normal
Amortization method	Level dollar, closed
Remaining amortization period	6 years
Asset valuation method	Fair value, 4-year smoothing
Actuarial assumptions:	
Investment rate of return	6.75%
Projected salary increases *	4.25%

* Includes inflation at 2.75%.

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
SUPPLEMENTARY INFORMATION
NOTES TO SUPPLEMENTARY SCHEDULES
(UNAUDITED)

FIREMEN'S PENSION PLAN

The information presented in the supplementary schedules was determined as part of the actuarial valuation at the date indicated. Additional information as of the latest actuarial valuation date follows:

Actuarial valuation date	January 1, 2017
Actuarial cost method	Entry age normal
Amortization method	Level dollar, closed
Remaining amortization period	1 year
Asset valuation method	Fair value, 4-year smoothing
Actuarial assumptions:	
Investment rate of return	6.5%
Projected salary increases *	N/A

* *Not applicable, no active members since 1990.*

CITY OF NEW KENSINGTON COMPREHENSIVE MUNICIPAL PENSION TRUST FUND
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