

COMPLIANCE AUDIT

Mount Carmel Borough Police Pension Plan Northumberland County, Pennsylvania For the Period January 1, 2019 to December 31, 2022

June 2023



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

The Honorable Mayor and Borough Council
Mount Carmel Borough
Northumberland County
Mount Carmel, PA 17891

We have conducted a compliance audit of the Mount Carmel Borough Police Pension Plan for the period January 1, 2019 to December 31, 2022. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984, as amended, 53 P.S. § 895.402(j)), which requires the Auditor General, as deemed necessary, to audit every municipality which receives general municipal pension system state aid and every municipal pension plan and fund in which general municipal pension system state aid is deposited. The audit was not conducted, nor was it required to be, in accordance with Government Auditing Standards issued by the Comptroller General of the United States. We planned and performed the 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 findings contained in our prior 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 findings contained in our prior 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 the plan member who retired and the plan member who elected to vest during the current audit period, 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 benefits due to the retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid or payable to the recipients.
- We determined whether the January 1, 2019, and January 1, 2021, actuarial valuation reports were prepared and submitted by March 31, 2020, and 2022, respectively, in accordance with Act 205 and whether selected information provided on these reports 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.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Mount Carmel Borough Police Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. As previously described, we tested transactions, interviewed selected officials, and performed procedures to the extent necessary 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 Mount Carmel Borough Police Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following findings further discussed later in this report:

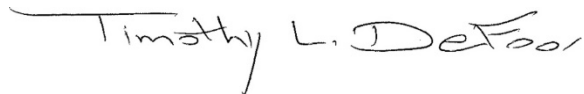
Finding No. 1 – Noncompliance With Prior Recommendation – Collective Bargaining Agreement Contains An Unauthorized Nonservice-Related Disability Benefit Provision

Finding No. 2 – Incorrect Pension Benefit Calculation

Finding No. 1 contained in this audit report repeats a condition that was cited in our previous report that has not been corrected by borough officials. We are concerned by the borough's failure to correct this previously reported finding and strongly encourage timely implementation of the recommendation 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 Mount Carmel Borough and, where appropriate, their responses have been included in the report. We would like to thank borough officials for the cooperation extended to us during the conduct of the audit.

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive, flowing style.

Timothy L. DeFoor
Auditor General
June 1, 2023

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ABBREVIATION

PSABMRT - Pennsylvania State Association of Boroughs Municipal Retirement Trust

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.

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 Mount Carmel Borough Police Pension Plan is also governed by implementing regulations 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 600 - Police Pension Fund Act, Act of May 29, 1956 (P.L. 1804, No. 600), as amended, 53 P.S. § 761 et seq.

The Mount Carmel Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of an Ordinance 2015-05 and a separately executed plan agreement with PSABMRT, effective January 1, 2014, adopted pursuant to Act 600. The plan is also affected by the provisions of collective bargaining agreements between the borough and its police officers. The plan was established December 4, 1956. Active members are required to contribute five (5.0) percent of compensation to the plan. As of December 31, 2022, the plan had seven active members, one terminated member eligible for vested benefits in the future, and ten retirees receiving pension benefits.

MOUNT CARMEL BOROUGH POLICE PENSION PLAN
STATUS OF PRIOR FINDINGS

Compliance With Prior Recommendations

Mount Carmel Borough has complied with the prior recommendation concerning the following:

- Restated Plan Document Not Adopted By Ordinance

The Borough enacted Ordinance 2015-05 effectively adopting the restated plan document.

Noncompliance With Prior Recommendation

Mount Carmel Borough has not complied with the prior recommendation concerning the following as further discussed in the Findings and Recommendations section of this report:

- Collective Bargaining Agreement Contains An Unauthorized Nonservice-Related Disability Benefit Provision

MOUNT CARMEL BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Noncompliance With Prior Recommendation - Collective Bargaining Agreement Contains An Unauthorized Nonservice-Related Disability Benefit Provision

Condition: As disclosed in the two most recent prior audit reports, the collective bargaining agreement (CBA) between the borough and its police officers contains a provision for the payment of a nonservice-related disability benefit which is not authorized by Act 600. Although the borough and its police officers negotiated a new CBA covering the period January 1, 2020 to December 31, 2024, the unauthorized nonservice-related disability benefit provision remains in the current agreement.

Criteria: Regarding disability benefits, Section 5(e)(1) of Act 600 states:

In the case of the payment of pensions for permanent injuries **incurred in** service the amount and commencement of the payments shall be fixed by regulations of the governing body of the borough, town, township or regional police department and shall be calculated at a rate no less than fifty per centum of the member's salary at the time the disability was incurred, provided that any member who receives benefits for the same injuries under Social Security Act (49 Stat. 620, 42 U.S.C. Section 301 et. Seq.) shall have his disability benefit offset or reduced by the amount of such benefits. (Emphasis added)

Furthermore, the Supreme Court of Pennsylvania in *Chirico v. Board of Supervisors for Newtown Township*, 518 Pa. 572, 544A.2d 1313 (1998) held that Act 600 does not provide for the payment of pension benefits for non-service related injuries.

Cause: The former borough manager indicated during the previous audit, that the unauthorized provision would be removed from the subsequent CBA. However, this did not occur. When a new borough manager was subsequently hired, the individual was unaware of the issue or how to comply prior to terminating employment during 2020. The current Borough Manager is aware of the issue and the borough has a written amendment in place which is set to be reviewed by the solicitor and approved by the Council. However, this amendment was not effective as of the completion of our fieldwork.

Effect: Providing unauthorized pension benefits increases the plan's pension cost and reduces the amount of funds available for investment purposes or for the payment of authorized benefits or administrative expenses.

Recommendation: We again recommend that the borough comply with Act 600 upon the amendment, renewal, extension, or renegotiation of the collective bargaining agreement.

MOUNT CARMEL BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Management's Response: Municipal officials agreed with the finding without exception. Municipal officials have prepared an amendment which is to be reviewed by the solicitor and approved by the Council.

Auditor's Conclusion: Based on the management response, it appears the borough intends to comply with the finding recommendation. Compliance will be evaluated during our next audit of the plan.

Finding No. 2 – Incorrect Pension Benefit Calculation

Condition: A member of the pension plan who retired on February 2, 2022, had his pension benefit incorrectly determined because municipal officials failed to accurately calculate the member's final monthly average salary in accordance with the plan's governing document. The calculation included longevity pay which was not authorized in the plan document.

Criteria: Part 1.14 of the separately executed joinder agreement with the plan's custodian effective January 1, 2014, as adopted by Ordinance No. 2015-05, states, in part:

Final Monthly Average Salary The averaging period for determining a Participant's "Final Monthly Average Salary" in accordance with section 1.14 of Chapter II of the Master Plan and Trust shall be: final 36 months prior to termination (shall not be less than 36, not greater than 60) of Employment . . .

Salary should include the same element of pay as compensation (1.06).

Additionally, Part 1.06 of the agreement, states, in part:

Compensation Shall be based on base salary and overtime will be used to calculate pension benefits pursuant to Act 600 and related case law but at a maximum of \$3,125.00 annually. Once an officer has reached the \$3,125.00 annual maximum there will be no further payroll deduction and amount over the maximum will be paid as overtime. Base salary is defined as an officer's hourly rate times 2,080 hours per year.

Effect: The plan is paying monthly pension benefits to a retiree in excess of those authorized by the plan's governing document. As of the date of this report, the retiree is receiving excess benefits of \$92 per month, which totaled approximately \$1,473 from retirement until the date of this report.

MOUNT CARMEL BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Cause: Municipal officials did not have a proper procedure in place to accurately calculate compensation used in the pension calculation and the borough lacked adequate internal control procedures to timely identify the computation error prior to distributing monthly benefits to the individual.

Recommendation: We recommend that municipal officials adjust the retiree's pension benefit prospectively, in accordance with the provisions contained in the plan's governing document.

Management's Response: Municipal officials agreed with the finding without exception. The Borough Manager indicated that a standard form will be created to aid in properly documenting all pension calculations.

Auditor's Conclusion: Compliance will be evaluated during our next audit of the plan.

MOUNT CARMEL BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE 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, 2017, is as follows:

	(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)
01-01-17	\$ 5,936,705	\$ 4,867,924	\$ (1,068,781)	122.0%
01-01-19	5,545,311	4,936,406	(608,905)	112.3%
01-01-21	6,587,674	4,954,608	(1,633,066)	133.0%

MOUNT CARMEL BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

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.

MOUNT CARMEL BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS

<u>Year Ended December 31</u>	<u>Actuarially Determined Contribution</u>	<u>Actual Contributions</u>	<u>Contribution Deficiency (Excess)</u>	<u>Covered- Employee Payroll</u>	<u>Contributions as a Percentage of Covered- Employee Payroll</u>
2014 *	\$ 214,440	\$ 2,910,523	\$(2,696,083)	\$ 413,834	703.30%
2015	216,001	216,291	(290)	422,858	51.08%
2016	211,854	211,854	-	425,000	49.85%
2017	198,288	198,288	-	391,704	50.62%
2018	-	-	-	398,432	0.00%
2019	-	-	-	370,000	0.00%
2020	65,226	65,226	-	370,000	17.63%
2021	81,280	81,280	-	419,440	19.38%
2022	-	-	-	459,670	0.00%

* In 2014, the borough deposited an additional \$2,696,083 from the proceeds of a rental acceleration agreement made with the Mount Carmel Municipal Authority into the pension plan.

MOUNT CARMEL BOROUGH POLICE PENSION PLAN
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:

Actuarial valuation date	January 1, 2021
Actuarial cost method	Entry age normal
Amortization method	N/A
Remaining amortization period	N/A
Asset valuation method	Market value
Actuarial assumptions:	
Investment rate of return	5.5%
Projected salary increases	3.5%
Cost-of-living adjustments	In accordance with Act 600

MOUNT CARMEL BOROUGH POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

The Honorable Philip Cimino
Mayor

Mr. Robert Shirmer
Council President

Mr. Ed Cuff
Chief Administrative Officer

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.