



City of Madison

City of Madison
Madison, WI 53703
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Meeting Minutes - Approved PAYMENTS IN LIEU OF TAXES (PILOT) TASK FORCE

Wednesday, February 27, 2013

5:00 PM

210 Martin Luther King, Jr. Blvd.
GR-22 (City-County Building) Police Conference Room

CALL TO ORDER / ROLL CALL

Present: 7 -

Joseph R. Clausius; Michael G. Heifetz; Jay Robaidek; Timothy J. Conroy;
Jean A. Bachhuber; Robert H. Keller and Roger Goodwin

Absent: 5 -

Jill Johnson; Darrell L. Bazzell; Mark Elsdon; Rachel E. Krinsky and
Andrew M. Reschovsky

Member Elsdon arrived at 5:08 p.m.

Present: 8 -

Joseph R. Clausius; Michael G. Heifetz; Jay Robaidek; Mark Elsdon;
Timothy J. Conroy; Jean A. Bachhuber; Robert H. Keller and Roger
Goodwin

Absent: 4 -

Jill Johnson; Darrell L. Bazzell; Rachel E. Krinsky and Andrew M.
Reschovsky

APPROVAL OF MINUTES

A motion was made by Conroy, seconded by Clausius, to Approve the Minutes.
The motion passed by voice vote/other.

PUBLIC COMMENT

There were no registrants.

DISCLOSURES AND RECUSALS

None.

AGENDA

29235 Payment in Lieu of Taxes (PILOT) Task Force 2-27-13 Agenda

1. Comments from the Task Force Chair
2. Task Force Member Comments

3. Update on Boston PILOT Program Provisions

4. Review of PILOT Programs in Other Communities

Member Bachhuber commented that she works for a for profit nursing home, Oak Park, that pays \$800,000 per year in taxes. She has heard of some for profits getting advice on how to transition to a nonprofit as a tax reduction measure

Member Keller asks if we know of any for profits that changed to non-profit.

Mr. Hanson responded that he doesn't know of any.

Member Conroy commented that they have a non-profit nursing home and that is not the case for them.

Member Elsdon stated that he would question what the value would be of a for profit entity going non-profit.

Member Bachhuber responded that we wouldn't be paying the \$800,000 for tax payments.

Member Elsdon agreed, but responded that any tax reduction would have to be used for the benevolent mission or otherwise the entity wouldn't be a non-profit.

Member Bachhuber asked who is reviewing and regulating the investment in the benevolent mission? More than half of Oak Park's residents receive Medical Assistance and Oak Park provides thousands of dollars to the Alzheimer Dementia Alliance and various programs for their employees. Oak Park's owner was born in Madison and believes it is his civic duty to pay taxes to support services. She explained that there are companies in Illinois that are teaching for profit businesses to become non-profit. It is almost like a tax shelter. She doesn't know if it is happening in Madison. Some companies have both non-profit and for profit business entities and when they make too much money, they transfer it to the non-profit entity.

Chairman Goodwin mentioned that the city has contested some non-profit organizations status in the past and would like to know what the criteria are that the Assessor's office uses.

Mr. Hanson replied that benevolence is one criteria.

Attorney Staffaroni explained that an organization can be a non-profit and not be benevolent. Non-profit and tax-exempt are two separate designations with differing criteria.

Mr. Robaidek mentioned that the current health care laws currently encourage insurance companies to go to non-profit from for profit because there is substantial savings once everything is implemented.

Chairman Goodwin asked if there was any disincentive to that practice.

Mr. Robaidek replied that the shareholders of large hospitals may not want to accept Medicaid patients or have emergency rooms.

Chairman Goodwin asked if there were any other cities that took a systematic approach to reviewing tax-exempt properties that the task force should be reviewing.

Mr. Gawenda replied that some communities are engaged in such a review, but are in the early stages of the process. He reminded the committee of how Pittsburgh went through a transition from an industrial economy to a "Meds and Eds" economy and the impact of the associated increase in tax-exempt property on the entire community. About a year ago, the local county assessor began a major campaign about the increasing proportion of tax-exempt property and the implications for taxable property. One example was a large medical facility that was buying a property for expansion and not using it immediately. As a result, the property would become tax-exempt immediately but not be used by the medical facility until needed. Local media ran a series of stories about that specific situation.

While Pittsburgh is focusing on the community impact of tax-exempt property, other places are using a more targeted approach. It appears that the community-wide focus is more predominant in cities with a significant share of tax-exempt property. Boston has 40% of property off of the tax rolls. Madison is closer to 30%. Mr. Gawenda speculated that when the tax-exempt property reaches 30% and 40% of the overall property base, it becomes a community-wide issue.

Member Elsdon asked if Mr. Gawenda came across different approaches of selecting who should be asked to contribute to a PILOT other than size of budget or property values like Boston used.

Mr. Gawenda explained that Boston considered other criteria such as number of beds for hospitals and dorm rooms for universities. Those were the common categories he found at the other locations also.

Member Elsdon mentioned that in the top tiers of our community it is a fairly narrow group made up mostly of hospitals, housing and Edgewood.

Mr. Gawenda responded that is typical.

Chairman Goodwin asked Attorney Staffaroni if there are non-profits that are not exempt from property taxes.

Attorney Staffaroni responded yes. Some statutes actually require it. Some are required to be non-profit and some have other language.

Chairman Goodwin was trying to figure out where Group Health Cooperative would be as they say they are a non-profit.

Attorney Staffaroni replied that there are a couple of sections under hospitals and clinics. There are several exceptions under the statutes. She explained that she has worked with the Student Housing Facility, Benevolent Low Income Housing and Retirement Homes for the Aged.

Mr. Hanson explained that hospitals get exemptions, but clinics don't.

5. Discussion of Hypothetical PILOT Calculation Methodology

Chairman Goodwin asked if the state has ever fully funded the Municipal Services Program (MSP).

Mr. Schmiedicke replied that it was fully funded during the first several years following the program's inception. In the 1980's it was still close to fully funded. It has declined in the last 15-20 years.

Chairman Goodwin asked if it has risen or has been reduced.

Mr. Schmiedicke responded that up until the last few state budgets, most of the emphasis has been placed on delivering property tax relief through the school aid formula related to paying two-thirds of school costs. As a result, programs such as shared revenue to municipalities and municipal services payments have not received increases. The University is another example of a program that has experienced a declining share of the state budget. Most of the state budget has been stripped down in order to fund property tax relief through the school aid formula.

Chairman Goodwin asked if MSP funding has been reduced.

Mr. Schmiedicke responded that it has been reduced in some budgets but it has been more of a matter of costs going up and the state appropriation not keeping pace which is similar to shared revenue, other than the cuts in the last budget and around 10 years ago there were two rounds of cuts.

Member Robaidek asked if we received the full Madison formula for municipal services, how close to the actual costs would we be for the buildings being paid on.

Mr. Schmiedicke answered that the formula uses the full cost of police and fire services. Shared revenue is deducted from that amount. The remainder is then allocated based on ratio of state-owned property to the city's total property value. The state-owned property does not include land value and the building values are based on construction costs.

Member Elsdon asked why we approached this hypothetical pilot payment idea differently than Boston did. It is significantly lower than Boston. They were working on half of the full rate.

Mr. Schmiedicke explained that the difference from Boston is that they run the school system. They don't have a separate government that runs the schools. He doesn't believe that Boston has a county government either. It appears that Boston provides all of the services. In Madison, we have different levels of government providing different services. For comparative purposes, the city of Madison government is approximately one-third of the total property tax levy.

Mr. Elsdon added that it looks like the approach presented to us uses a core service perspective.

Mr. Schmiedicke replied that Boston also used a core service approach.

Chairman Goodwin added that one could make the argument that core services should be associated with all property owners. There are other things like water and sewer that all property owners receive.

Mr. Schmiedicke explained that water and sewer costs are currently paid by all property owners including tax-exempt property owners. Other services that could be considered are libraries or other community services. The task force previously discussed refuse and recycling pick up, but most tax-exempt property owners contract with private companies. These services are a large portion of the city budget.

Another large program that is not included in the core service calculation is street construction, re-construction and refurbishment that offer a broad-based benefit.

Chairman Goodwin asked if the street work would be considered special assessments.

Mr. Schmiedicke explained that curb and gutter would be funded from special assessments, but not the transportation connections which could arguably be considered a core service.

Chairman Goodwin agreed that those items would benefit everyone who owns property.

Mr. Schmiedicke responded that the challenge with that is we pay for much of that with debt which is variable from year to year. It could be added to the core service calculation based on a relative share of debt service for street construction projects.

Member Elsdon summarized it that the way it is set up it is around 10% of what a homeowner is paying.

Mr. Schmiedicke agreed, and added that would mean that paying the taxable amount versus a PILOT would be approximately 10 times that amount.

Member Elsdon asked if that is comparable to Boston.

Mr. Schmiedicke explained that we are probably paying more because they have schools in the mix.

Chairman Goodwin added that we are using 43% and Boston is only using 25% because they started with a higher base. His impression from what Boston did, is that they were trying to come up with some logical justification that they thought they could sell to the non-profits.

Mr. Gawenda brought everyone's attention to page 70 of the Boston Report. There are two tables under Taxable vs. Tax-Exempt Property Medical Institutions and Educational Institutions. Under Educational Institutions they list the total PILOT paid as around \$18,213,000 compared to if they were to have paid the taxable amount it would have been around \$190,182,000. That would make the payments roughly 10% of the taxable amount which is comparable to what we came up with.

6. Discussion of Task Force Report Outline and Recommendations

Chairman Goodwin asked the committee if they feel they have enough information to begin the report.

Member Conroy asked if they would use the spreadsheet from the last meeting that uses the value of the different departments.

Mr. Schmiedicke explained that in presenting the hypothetical calculation, this is really all we have. On another point of discussion, we found some information, admittedly not complete, but probably more complete than we would get from these reports, that could provide a sense of the impact from an approach like this.

Mr. Conroy asked if they used the 990 forms to collect the information.

Mr. Schmiedicke explained that much of the information provided regarding Edgewood College and Meriter Hospital was found through an internet search of financial statements.

Member Conroy suggested that we could use the information we have so we could see what their contribution would be.

Chairman Goodwin asked Member Conroy if he would like more specific information before we move ahead or would he like to simply make a recommendation in the report that we get that information.

Member Conroy replied that he thinks we have it. But he would recommend that it would need to be out there so they know what they are being compared against.

Member Elsdon responded that he doesn't know what the right timing for this is, but he would be interested in hearing from non-profits in Madison, especially those that are on the top of this list that are in the target, as to how they view this sort of approach; whether it is from those of us that are here or those that are not. Maybe that comes after some sort of report.

Chairman Goodwin answered that there are options. We could have a public meeting early on, inviting the non-profits that would be affected by this or maybe our recommendations would be that we propose something and then have a series of public hearings. It all depends on what we decide to do.

Alder Clausius added that whatever we draft the first question from the City Council is going to be, "What is the reaction from the non-profits"? It might be nice to have something in there because it might be pitched right back to us. He also questioned if there is enough data available for us to really make a recommendation.

Mr. Schmiedicke responded that without the actual value of certain types of property and some decision on a community benefit, it is hard to say what you would be paid by participants. One recommendation, would be to take a more rigorous approach or it could be one of the final steps in finishing the report. It depends on which way the task force wants to go with it.

Chairman Goodwin responded that this is kind of like the chicken and the egg thing. If the taskforce wants us to get feedback from the non-profits, we have to give them something to chew on. And in order to do that, we would have to at least agree that the Boston model or a modification of it is what we want to give them to chew on. Then, if we agree to all of that, we could send something out to the non-profits about a public meeting and then report back after that. If we just tell someone we are going to put some taxes on you but we don't know what they are going to be, that is not going to go over very well.

Member Elsdon commented that what you did here is much more useful than the Boston model. To me, this clearly lays out what is envisioned. I would add above this line the full mill rate a property owner pays.

Chairman Goodwin asked Member Elsdon if he is saying that you would like to see a similar document as this go out with a letter saying this is what might happen so come to a meeting on X day at X time.

Member Elsdon responded that it is a possibility.

Mr. Schmiedicke suggested that we could send something that asks for them to fill in some blanks.

Member Elsdon responded that he thinks most non-profits should be able to look at this and have some sense of where they would be, although with some non-profits it may be more difficult than others.

Member Heifetz commented that he doesn't know how simple that would be. They have never had to evaluate themselves in this way before.

Ms. Miley mentioned to Member Elsdon that for them it would be simple because of what they do. But for others, it could be much more difficult.

Member Heifetz mentioned that their property and buildings really have a market value. But if you look at the challenges the hospital community is facing, just as the city is facing, their financial environment doesn't get any better in the next few years, actually, it's worse. That is a fiscal fact. So, we have the same dilemma that the city has. We can go through all of this, but the reality doesn't change. And then, are you going to look at this process and then say, to implement this program correctly, are we going to then be asked to fill out a separate request for more information so you can ask us for more money that in the next few years, we aren't likely to have? There are a lot of contradictions in the whole discussion. I don't know how to slog through this without thinking a lot more about the various issues. Regarding Mr. Schmiedicke's earlier presentation, for the properties above \$25 million, he chose a \$37.5 million average. I don't know how that will work. They have pulled numbers together but they are from disparate sources that are not necessarily to be used for this kind of purpose. If we are going to do this or even make a recommendation from this taskforce, the entities need a lot more to chew on.

Chairman Goodwin asked Member Heifetz if he meant a lot more in terms of better information about the values of the property.

Mr. Heifetz responded yes.

Mr. Hanson added that maybe using insurance values is something that everyone would have and that would be one way to go. When talking about market value, many things are taken into consideration. That could be a tougher standard to use. The state uses insurance values and construction values.

Chairman Goodwin suggested that the task force can go in a couple of directions. Direction (a) might be that you want to go ahead with this and want staff to get much more accurate information and work with the top property owners and negotiate with them on the property value to determine a payment in lieu of taxes. Direction (b) might be that you report back to the Common Council that we came to a point where there is a good model for doing this, but we don't have the information available to us. We can't proceed on that model until the information is arrived at. So, the next step is for the city to pursue some method of arriving at that information. Further staff effort would be necessary before we could move ahead. It could be State Legislation requiring information filing similar to that of Massachusetts.

Member Bachhuber asked what the mayor had in mind for this committee.

Ms. Miley responded that he had heard about the Boston program and what others were doing. Knowing how much city property is not on the tax rolls, he wanted to see if the task force could come up with something voluntary that would work for Madison.

Member Keller suggested that the insurance values would be much higher than market value of the real estate. He would argue using insurance values as they would be higher than other tax payers are paying taxes on. It would be nice to find another city that is a state capitol, same population, same set of circumstances out of the 50 states that is more similar to Madison.

Chairman Goodwin replied that Member Gawenda had mentioned this before. Other than Pittsburgh, Boston is the only city that is this far along in the process, although not much more than we are.

Member Keller responded that it would be much better if we could compare apples to apples.

Member Gawenda replied that the other thing that makes it difficult are state laws governing tax exemption and how tax exemptions are allocated. Even if we found another state capitol, it's not going to be a perfect match because of the regulations that are in place in that state.

Chairman Goodwin added that different states and different municipalities have different ways that they assess property taxes. It looks to him like it all comes down to where to go with determining the value of the tax-exempt property.

Member Robaidek agreed and added that before we can take any other steps we need to debate how we are going to do it. Or we are going to punt that to the city and say they have to do that before we can look at anything else?

Chairman Goodwin commented that we have some pretty good staff that did

some really good work, but it is pretty clear that what Mr. Schmiedicke is saying is that there is only so far we can go with the data we have.

Member Robaidek asked if there is a way to come up with a list of alternatives such as insurance, what you are doing now, or construction costs. You mentioned a few different ways this could go. Is there a way you can lay out really concrete ways we think we could do this?

Mr. Hanson answered that we could look at all of those different things, but he thinks Member Keller made a really good point that if you tried to compare what someone would pay if they were not exempt, that basis would be market value. If we get away from market value, are we being fair? It almost seems like that is what we should do and that is going to take the most data gathering.

Member Robaidek commented that he thinks that it is fair to add it as a recommendation that lays out what we need to accomplish that task. If it means going to these organizations directly or state legislation, he thinks that would be part of the equation to present.

Mr. Hanson agreed that if they agree to give us the information, we are going to have a better value. If they don't agree, we can try other methods. For example, we know how many beds a hospital has. If we have good data on one hospital that says a bed is worth X, we could apply it to other properties.

Alder Clausius asked Mr. Hanson if he tries that method, is he talking about tremendous amounts of staff to do it.

Mr. Hanson replied that he would hope that we could narrow it down.

Alder Clausius responded that he would hate to see Mr. Hanson have to go to the council for more staff. That would defeat the purpose of finding revenue for the city.

Member Elsdon remarked that he is hoping that we are still under the premise that this is voluntary. If that is the case, then he thinks we have to hope that any organization that is going to voluntarily make a payment is also going to voluntarily offer you the information. He also thinks that the feeling of the dynamic changes if the city is trying to surreptitiously find out how much an organization is worth in order for them to apply a PILOT payment that these organizations aren't aware of. That will not set up a very positive dynamic. The question that keeps coming back to him is how do we have that back and forth in a helpful way?

Mr. Hanson said that his feeling after the last meeting was that the committee wanted to get a sense of what kind of totals we are looking at and Mr. Schmiedicke's slides showed that.

Member Heifetz asked if we are working under the premise of voluntary, but at the same time this is supposed to help city revenues and budget stability, how do the Mayor and City Council budget for voluntary payments that may not show up, especially if there are economic difficulties or upheaval in a particular industry? How does it really help the problem if you don't really know it is coming? Is there some way of soft encouragement that makes one confident

that a voluntary payment will show up? It could show up for a few years and then all of a sudden 2008-09 returns. How does this all function in the city's day to day budgeting? He's not convinced that Boston's program is voluntary despite what we call it. He has had some conversations off-line. It's a different model and a different dynamic in Boston. He thinks in Madison we are a little more collaborative and he thinks this is a collaborative issue. If we really do mean voluntarily are we going to really help the problem when we can't budget solidly upon hypothetical revenue?

Mr. Gawenda answered that based on what he has learned, in other cities where the approach has been laid out, there was a negotiation with a property owner who then allowed the city to determine whether a payment may be forthcoming. If so, that amount would be over a period of time and would give the property owner the option to discuss a change in the payment due to economic conditions. He thinks it is that kind of communication that allows the municipality to manage its budget.

Member Robaidek said that he assumes it is safe to say that projections of income have not always turned out for the city.

Ms. Miley commented that we know some things like what we will collect in property taxes, but things like room taxes are variable. They collapsed in 2008.

Mr. Heifetz commented that we are creating another variable on the budget and making the system even less solid.

Ms. Miley mentioned that there are people in this room that are making voluntary PILOT payments. The organization came to the city and said they wanted to make a voluntary payment. It was based on them saying they think this will work with our budget and we want to make a payment, but if our budget situation changes, we would need to revisit this.

Member Goodwin commented that the revenue from a voluntary PILOT program may be volatile and this fact should be part of the comments also.

Member Elsdon replied that it is nothing new to non-profits. The City can take a million dollar contribution whether they know if they are going to get it for sure every year or not. He doesn't think the city would turn it down. He thinks you raise a point about how it gets factored in, how voluntary is it, and will it remain voluntary? Is there an expectation that the non-profits enter into contracts? To use our example, we have chosen not to enter into an agreement. We make our payment every year with a letter saying here is our payment. We hope to make it again next year, but we don't know if we will. It is literally voluntary. He thinks if we are going to go contractual in setting up these arrangements, it is going to change the situation. Maybe the city wants to push for that.

Member Keller asked Member Elsdon what they based their payments on.

Member Elsdon answered that he wishes they would have had this because they are paying about 50% more. In large part it was what they thought they could do and they thought it was a significant contribution for the services they receive.

Member Bachhuber commented that they thought it was the right thing to do. She thinks we are short selling a lot of organizations in Madison that are unique in many ways and do want to help. She also thinks that the public has no idea about any of this so we will also be educating the public on why this might be an issue and how we might help. There could be a little bit of public pressure also.

Member Heifetz commented that it ignores the contributions that non-profits make to get the tax exemption in the first place which Dr. Reshovsky and he went back and forth on a few meetings ago.

Member Bachhuber commented that a lot of people give contributions to the city.

Member Heifetz replied that he isn't saying they don't. That wasn't his point. His point is that some may not be known. He thinks he might be agreeing with her in that regard. The back and forth illustrates it. We are turning what is a collaborative relationship into potentially a very adversarial one. That is not a productive thing to do overall. We might be doing this and it may not help the city much. He supposes the Common Council will have to evaluate on the whole if this is this worth everything it will require to put it into place. Then an entity would have to decide that since it is voluntary do they pay it, well it's a rough year, should they pay a little less, what are the consequences of not doing it. They would all have to go through that exercise. Everyone wants to contribute. Everyone in here is already contributing in many ways.

Alder Clausius suggested that Member Heifetz is talking political fall-out. And how that would be perceived is a big thing.

Member Heifetz agreed that there would be political fall-out in multiple ways for the Common Council to approach the whole thing, consider it, and go through a big debate for a small source of revenue. As he looks at Lanley, Kenyon and Baylen, it's the debate of how PILOTs can be disproportionate to the dollars involved. They talk about how the majority of the revenues come from wealthy universities and hospitals. Wealthy is a relative term. Having a positive margin is considered wealthy to some people. From the hospitals' point of view, it is a big debate over very little but could potentially hit us the hardest. It is a tough spot for us to be in.

Member Bachhuber asked if the majority of the committee is even considering moving this forward.

Chairman Goodwin stated that we are coming down to where the rubber meets the road. We need to have an idea of where we are going to go with this. Do we want the task force to come up with a better model for getting the property values, or do we want to punt it back to the Mayor and Common Council until such information is arrived at? In order to move on this we need a motion.

Ms. Miley explained that one thing the Mayor wanted out of this is public education. This is the time of year we get our letters explaining why our taxes are so high.

Chairman Goodwin added that it is number 4 of the recommendations.

Member Elsdon responded that he thinks it is difficult to go to non-profits and say pony up a million dollars when \$8 million dollars is coming up short from the State every year. He knows it is a tough position for the city to be in.

Ms. Miley responded that because of the shortfall, and because of our properties not on the tax rolls, the expenses of keeping the city running go to those who own taxable property. Maybe we put that out there and everyone will say they are just fine with that.

Member Elsdon replied that he doesn't think people are fine with it. He doesn't think the issue is going away.

Member Goodwin asked if we have a motion about how we want to proceed or we can leave it on the table for our next meeting.

Member Elsdon wondered if there is a way to get a little more direct information from the key players to see if we can craft something with the information from them. He found Member Heifetz's information valuable and would like to find out if there are some commonalities among the players.

Member Goodwin responded that it is that chicken and egg kind of thing. If we were to go to even the paired down list of property owners and talk to them about what they might be in store for, we would have to have some basic agreement under the model we are working with. The committee hasn't agreed on a model yet. In order for us to approach anyone, we would need a motion that talks about preparing materials or preparing a discussion at least. We need to have something to show them such as a draft report. A draft report is sometimes a good time to have a public meeting. A draft report could simply be the punt option or we can say no, send staff back to come up with different methods, to contact the organizations to attempt to gather that information and then have a public hearing. Or you could propose that we aren't going anywhere with this and suggest we drop the whole thing.

7. Scheduling Next Meeting

Member Goodwin suggested we stop here and that we will poll the committee for our next meeting date. He asked Mr. Schmiedicke if staff could start a draft report.

ADJOURNMENT

A motion was made by Heifetz, seconded by Bachhuber, to Adjourn at 6:38 p.m. The motion passed by voice vote/other.