



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, October 24, 2012

5:00 PM

215 Martin Luther King, Jr. Blvd.
Room LL 120 (Madison Municipal Building)

CALL TO ORDER / ROLL CALL

Present: 7 -

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

Absent: 5 -

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

Member Reschovsky arrived at 5:25 p.m.

APPROVAL OF MINUTES

A motion was made by Heifetz, seconded by Clausius, to Approve the 10-3-12 Minutes. The motion passed by voice vote/other.

PUBLIC COMMENT

None.

DISCLOSURES AND RECUSALS

None.

AGENDA

Andrew Reshovsky arrived during Item No. 1.

Present: 8 -

Joseph R. Clausius; Michael G. Heifetz; Jay Robaidek; Mark Elsdon; Jean A. Bachhuber; Robert H. Keller; Andrew M. Reschovsky and Roger Goodwin

Absent: 4 -

Jill Johnson; Darrell L. Bazzell; Timothy J. Conroy and Rachel E. Krinsky

- 1. 28025** Payment in Lieu of Taxes (PILOT) Task Force 10-24-12 Agenda

1. Comments from Task Force Chair

Chairman Goodwin stated that at our last meeting, member Bazzell asked questions about the criteria for the establishment of payments in lieu of taxes in the city of Madison and if there were ordinances or statutes in effect. Chairman Goodwin noted that there is a copy of the appropriate Madison General Ordinance sections, primarily relating to planning and zoning and one statutory item dealing with the municipalities and the zoning authority in their packets. These are what have been used in establishing payments in lieu of taxes.

2. Task Force Member Comments

3. PILOT Experience in Other Cities

As Mr. Gawenda discussed "Other PILOT Developments in Pittsburgh—November 2009—Pittsburgh Mayor Luke Ravenstahl Proposes 1% Tuition Tax", Chairman Goodwin asked if the state statutes in Pennsylvania allowed the creation of a tuition tax. Mr. Gawenda replied that there is ambiguity there. Also, the Pittsburgh Mayor later dropped the proposal because there were a number of non-profits that agreed to PILOT payments.

At the end of the presentation, Member Elsdon asked why the PILOTs are regionally located with not many being on the West coast. Mr. Gawenda said that the further West you go, especially past the Mississippi, the land use policies appear to be different than what they are in the Midwest and the East. Chairman Goodwin explained that there is a greater emphasis on user fees than on property taxes in the South and West. For example, most of the cities have a solid waste user fee. Mr. Schmiedicke noted that cities in the Northeast tend to have more private education institutions. That is the tradition of delivering higher education in that part of the country. On the other hand, Wisconsin has public university campuses throughout the state.

Alder Clausius mentioned that he is interested in how the Racine letter sent to non-profits requesting payments in lieu of taxes plays out. Alder Clausius referred to an article that was in the Wisconsin State Journal a few weeks ago regarding the mayor of Racine sending out letters to the Racine non-profits requesting payments in lieu of taxes. Mr. Gawenda will check on responses and report the findings. Member Elsdon asked what the Racine mayor was requesting. Alder Clausius explained that the article was very general.

Member Keller inquired if every property in the city of Madison has an assessed value. Mr. Kurth answered that anything that is exempt has no values assessed. Mr. Gawenda explained that when he was researching Pittsburgh, non-profit property was an issue. Some within the city and county governments wanted to approach some of the tax exempt institutions but didn't have any assessment records to back them up. What also came to light was that their assessment records were not very orderly so they hired an outside firm to get their records in order. One of the things they were tasked to do was to assign assessed values to the non-profits.

Member Robaidek asked if Mr. Gawenda found any examples of communities that had a wide range of PILOTs that covered religious organizations in addition to other non-profits. Mr. Gawenda explained that there is only ad hoc information. He picked about 10% of the examples out of the article. There were others that had references to religious institutions that were paying PILOTs but he didn't run into any community that had any kind of a general policy or proposal regarding all religious institutions.

Chairman Goodwin asked Mr. Gawenda if in his review of material has there been any underlying patterns of motivation on the parts of the institutions that are making PILOT payments. Mr. Gawenda expressed that he thinks one of the reasons this is happening now is the financial crisis that began in 2008. When he talked to city staff in Providence, it was a new administration that came in back in 2010. The new administration felt that the previous administration had hidden a \$100 million hole in the budget and they were tasked right away with dealing with the shortfall. That was a big motivator to talk with the tax exempt

institutions. Mr. Gawenda has not found any underlying pattern of motivation on the parts of the institutions. Pittsburgh officials won't come out and say it, but it seems more than coincidental that the Mayor introduces the tuition tax and a month later they reach an agreement on PILOTs with the major universities.

Member Keller asked if 30% of property in Madison is not on the tax rolls, and we don't have the values of the properties, how do we know what the percentage is. Mr. Kurth explained that he received some information on the properties and did some rough estimates on the balance.

Mr. Gawenda explained that while researching different examples it seems like there is a threshold when tax exempt property becomes an issue. Pittsburgh had 40% of its property off of the tax rolls. It seems like the closer it gets to the 40% threshold that it becomes more of an issue with the municipality. That would seem to be one element; not only the percentage of property but then the value of the property that is off the rolls. That also came up in Pittsburgh regarding the UPMS buying up a significant amount of property. They looked not only at the acreage that was not on the rolls, but also the value that was not on the rolls.

4. Revenue Options for Wisconsin Municipalities

While Mr. Schmiedicke was discussing the "Non-property Tax Revenue Options" slide, Chairman Goodwin asked if in Wisconsin the average city has 40% revenue sources come from property taxes and 25% from state aid and in Madison it is 74% of property taxes does that mean Madison has the highest percentage in the state?

Mr. Schmiedicke explained that it is hard to say in terms of percentage. Milwaukee has a lot of non-profit as well as other property that is tax exempt. They may not be non-profit but they have large elements of the tax base that may be exempt, such as the M & E or Machinery and Equipment Exemption for industrial purposes, and hospitals, religious organizations, housing and so on, so may not have the largest percentage.

Member Reschovsky commented that if you look across the states at city finance, Wisconsin and a few other states stand out as having the share of tax revenue local city governments receive through property tax very high relative to others. Chairman Goodwin pointed out that Madison is almost twice as high as the average.

Chairman Goodwin asked if Mr. Schmiedicke could explain why Madison has such a high percentage of its budget income as property taxes and lower state aids than the others. Mr. Schmiedicke explained that it primarily has to do with shared revenue and the shared revenue formula. The Shared Revenue program is aimed at equalizing tax bases. If you have a higher property value per capita than another community in the state, you are going to get less aid as a result. What it is really trying to get to is the rate of \$1,000 of value that a property owner pays is the same for each dollar spent. So if two communities spend at the same level, they should have the same tax rate. So while property taxes in Madison are a large part of the budget, if you look at the property tax rate it's pretty comparable to other communities around the state.

Member Reschovsky commented that we have a very good formula designed to do just that, whether that is the appropriate goal is another question. His understanding is that in 2002 or 2003 that formula was discarded and they just took the allocations from that formula and cut them across the board. The formula doesn't operate anymore so with each passing year as some places grow faster than others they are moving away from it. Mr. Schmiedicke explained that is true to some extent. The formula has been frozen for a little over 10 years. Member Reschovsky commented that as we were a high wealth place, we didn't get as much shared revenue. Mr. Schmiedicke answered that starting the formula again may not benefit Madison. Member Reschovsky agreed.

When discussing the "Wheel Tax Program", Chairman Goodwin mentioned that it is only to be taxed on the residents, not on visitors to the community. Mr. Schmiedicke answered that it is for the vehicle that is domiciled in the community.

Member Reschovsky mentioned that his students have been working for the budget office in Milwaukee for the last 15 years and some of their projects have been related to user fees. They have been quite explicit in their discussions in the budget office that they need a way to charge non-profits

who are not paying property taxes for the services being rendered. They have been imaginative in coming up with user fees that are broad based for both exempt and non-exempt properties. I'm not sure if they had any influence on the Alders and their decisions, but it was part of the discussion.

Chairman Goodwin stated that to some extent it appears in Madison that we have a lower percentage of income from state shared revenue so we haven't been hit as hard. Mr. Schmiedicke responded that is because it is not as large a share in our revenue stream and we have never been that reliant on it.

While discussing "Milwaukee Revenue Sources", Member Reschovsky mentioned that they have made efforts to provide certain areas at certain times of year when people can drop off items with no item fee because there is a bulk waste fee. Member Elsdon asked if this is charged to all property owners in Milwaukee regardless if they actually utilize it. Mr. Schmiedicke answered Yes. Even if they have a private waste disposal? Mr. Schmiedicke answered that if they have private waste disposal they don't get charged. Member Elsdon asked if that would disproportionately impact the home owners as opposed to businesses and non-profits. Mr. Schmiedicke answered that the City of Milwaukee's analysis has shown that it would not.

Chairman Goodwin mentioned that he looked at this when he was Street Superintendent. Because of the way the services are set up, Madison's solid waste services are primarily concentrated in residential, small commercial and small non-profits. The big institutions and big apartment complexes have their own waste service. At that time about 85% of the solid waste service was residential.

Member Heifetz asked if the state allows municipalities to implement some of these revenue sources, do they all require City Council action or is that unique to each municipality? Or if we just stick with Madison, does it take the City Council to do any of these things we just talked about? Mr. Schmiedicke answered that pretty much anything that happens in a community, at a minimum, needs legislative action.

Member Elsdon asked if anyone looked at what amount is possible to raise in Madison with some of these types of fees, actual dollar amounts or estimates? Mr. Schmiedicke explained that we have in place a storm water fee and sewer and water utility so we have gone down that path. The storm water fee is probably the newest at about 11 or 12 years old. At different points in time the City has looked at solid waste fees.

Chairman Goodwin commented that we have some solid waste fees. For example, we charge for large items. That is where it started. If you want to get rid of your refrigerator, it is going to cost you. Mr. Schmiedicke answered that we haven't looked at a snow and ice removal fee or similar approaches in any significant way. Solid waste has been looked at. It can be done in a few ways.

Member Keller asked if the City could charge a beer tax. Mr. Schmiedicke answered that anything the municipalities are able to do in terms of taxes and revenues is defined in state law and that is not an option.

Ms. Miley mentioned that another area where there are a fair number of fees is building inspection and this department. Chairman Goodwin mentioned that

the number one fee source is parking tickets. When he started here alternate side tickets were \$5. Now he thinks they are around \$30. Mr. Schmiedicke agreed that it is a major revenue stream of those non-property tax fees. Member Heifetz asked if that is under "other" on the slide. Mr. Schmiedicke answered it is under fines and forfeitures.

Chairman Goodwin mentioned that alternate side parking tickets used to be \$10 and are now \$20.

Member Elsdon commented that it seems like one of the challenges for this group is to try to figure out ways that non-profits can contribute to the City services. One of the questions about some of these fees is if it just simply adds to the fee base of the individual homeowner or folks who are already paying property taxes. Is it really addressing the question of non-profits to have an opportunity to contribute to the City services?

Chairman Goodwin commented that in a sense we did that with some of the fees we have in place already. The storm water management fee was really geared towards collecting revenues from all property owners that benefit. And as it was tied to the water bill and water is used by everyone that was the idea behind it to go for a wider revenue base.

Member Reschovsky added that if we took solid waste collection and recycled collection and say we are going to charge a fee for that then that gets the non profits too.

Member Elsdon answered that would reach some of them. A lot of them, especially the larger ones, wouldn't be affected as they are paying privately. Some of them would go away from the City services entirely and go to private collection which may result in a higher concentration of residential use. They are paying fees already.

Member Keller asked what percent of non-profits own their property vs. those that rent from other landlords, and would a fee make a difference. Mr. Kurth answered that an exempt entity wouldn't be able to rent from somebody and still be exempt. They would have to own and use the property. Member Keller asked would there then be a tax? Mr. Kurth answered that yes, the property owner is going to pay the tax.

Member Reschovsky commented that if you have two non-profit organizations doing similar things and one happens to own its building and the other one is renting, then one is paying property tax. Member Keller answered we assume they are paying taxes. Maybe they aren't paying property tax. Chairman Goodwin stated if they are renting from a private owner, they are paying taxes.

Member Reschovsky commented that in Madison most property tax is being shifted to the tenants. It is a really hard thing to determine and it depends on relatives, demands and supplies.

Mr. Schmiedicke mentioned that if we look at Milwaukee, for example, a fee that would affect all property owners would be a snow removal fee and a street frontage fee. Some communities outside of Wisconsin are looking at what they are calling Right-of-Way utilities which would assess portions of street reconstruction to all property owners on a fee basis. Mr. Gawenda mentioned

that Minneapolis is doing that with street lights.

Member Elsdon asked if anyone ever looked at doing something something similar with fire, police or other services. Mr. Schmiedicke answered that there are some communities that tried to do that in Wisconsin. Case law on this issue is contradictory. One community tried to set up a fire protection fee and that was struck down. Another community set it up as a "need to have water available to fight fires" to distribute the costs that way. If it is a service, what exactly is the service and what is the nexus for it? Otherwise it is moving away from a fee and into a tax. It is a gray area.

Chairman Goodwin mentioned that for the Wheel Tax, we could assess the vehicles that were registered in the city and the revenue can only be used for street maintenance. That obviously would free up revenue for something else. It would hit people where they live, not where they work.

Mr. Schmiedicke mentioned that technology is changing. Look at something like the IPass. Some states are beginning to look at vehicle miles traveled and tracking it in vehicles. That is one way to increase transportation fees. That is being done in very large cities around the world. New York looked at using that technology in vehicles as a transportation demand management type approach.

5. Scheduling Next Meeting

Our next meeting is scheduled for November 28 in the Water Utility conference rooms on Olin Avenue.

ADJOURNMENT

A motion was made by Elsdon, seconded by Robaidek, to Adjourn at 6:27 p.m. The motion passed by voice vote/other.