

## Meeting Minutes

Wilder Foundation  
451 Lexington Parkway North, St. Paul, 55104  
Thursday June 1st, 2017  
7:30 am – 9:30 am

**Committee Members Present:** Tanya Bell, Ellen T. Brown, Zach Crain, Mike Day, Niles Deneen, Jon Gutzmann, Kit Hadley, Doug Hennes, Bror Herrick, Matt Hill, Heather Johnston, Jay Kiedrowski, Susan Kimberly, Barb McCormick, Joan McCusker, James Moeller, Kaye Rakow, Rinal Ray, Joe Reid, Pa Der Vang, John Regal

**Members not present:** Jake Hamlin, Greg Mellas

**Staff & staff support present:** Sean Kershaw and Lincoln Bacal

**Guests:** John Kavanagh, Amy McDonough, Sam Walseth, James Mclean, Mary Gilbert, Melenie Soucheray, Amy Filice, John Mannillo, Kristen McHenry, Denise Rodriguez, Curt Kline, Lyle Nelson, Patrick Burke

**Project scope:** Is a 'payment in lieu of taxes' and/or 'services in lieu of taxes' (PILOT/SILOT) model advisable for St. Paul, and how would the program be structured and sustained if so?

### Proposed Committee outcomes:

- Findings: Shared understanding of the facts, data and local/national trends on this issue that are accessible and relevant to broader public.
- Conclusions: Shared set of statements and questions related to the implications of these findings. Why do they matter to the citizens of St. Paul and the region?
- Recommendations: Proposed set of actionable recommendations IF changes are needed to address current situation. Recommendations might come in phases.
- Base of support for implementation: Buy-in from key stakeholders needed to advance and sustain any potential recommendations.

### Proposed outcomes for June 1st meeting:

- Discuss May 18th meeting and identify additional data/questions that need to be brought/discussed at subsequent meetings in order to achieve committee outcomes in the project's timeline;
- Continue the conversation on legal issues related to ROW decision and the project scope;
- Provide additional information on tax increment financing (TIF) impacts in St. Paul
- Learn more about current PILOT program from public housing agency; and
- Discuss agenda for June 15 meeting and additional speakers/data/questions.

### AGENDA

1. Review/approve agenda, outcomes, and minutes (Joe Reid, 7:30 – 7:40)
  - a. Approve minutes from 5/18 meeting (attached).
  - b. Note: Minutes from 5/11 meeting are forthcoming.
2. Feedback and discussion on May 18th meeting (Joe Reid, 7:40 – 7:50)
3. Legal perspective on the recent Supreme Court ROW case (Kaye Rakow, 7:50 – 8:15)
  - a. Presentation by Todd Guerrero
  - b. Supreme Court decision attached
4. Additional context on TIF in St. Paul (Kaye Rakow, Staff, 8:15 – 8:30)
  - a. See attachment
5. PHA's PILOT program (Kaye Rakow, 8:30 – 9:00)

- a. Presentation by Jon Gutzmann
6. Discussion and next steps for 6/15 meeting (Joe Reid, 9:00 – 9:25)
7. Evaluation (Joe Reid, 9:25 – 9:30)

Co-Chair Reid called the meeting to order at 7:31 am.

**Review/approve agenda, outcomes, and minutes (Joe Reid, 7:30 – 7:40)**

Co-Chair Reid welcomed the committee members and the guests, and made sure everyone was aware of the two committee members who were attending the meeting via conference call. He began by asking the committee for input on the agenda. There were no questions or comments so he reviewed the project scope and the proposed committee outcomes. Then, he introduced the minutes from May 18th and asked for comments and feedback. A staff member pointed out that the minutes were missing the name of a guest and explained why the minutes from May 11th weren't available yet. The group approved the minutes from May 18th.

**Feedback and discussion on May 18th meeting (Joe Reid, 7:40 – 7:50)**

Co-Chair Reid assured the group that their unanswered questions from the 18th would be answered as soon as he, Co-Chair Rakow, and the staff members found the relevant information. He also made sure to say the 8 million dollar PILOT from page 15 of Chris Samuels's presentation was an error. It was the estimated market value of government property rather than PILOT payment.

Co-Chair Rakow asked if the percentage of properties that are tax exempt in Saint Paul was referring to tax capacity value, number of parcels, or something else entirely. A staff member answered that the number the group used the most was percentage of value of the city's tax base. He referred to pages 13 and 14 in Chris Samuel's presentation.

A member pointed out that the State Fair's PILOT went mainly to the county or to Falcon Heights rather than the city.

Co-Chair Reid asked if the group wanted further information.

A committee member asked about the sustainability and legality of PILOT agreements.

A member asked if other cities in Minnesota had ROW-type programs.

**Legal perspective on the recent Supreme Court ROW case (Kaye Rakow, 7:50 – 8:15)**

Co-Chair Rakow introduced Todd Guerrero and explained his relevance to the PILOT issue.

Mr. Guerrero began with the issue of when a municipal fee or assessment is a tax. He reviewed municipalities' taxing authority; specifically that taxes raise revenue to support public purposes, that the power to levy special assessments comes from the taxing authority, and the state constitutional limits to taxation. He continued by explaining that police power authorizes municipalities to collect regulatory service fees. Mr. Guerrero explained the purposes and characteristics of fees and that there are generally fewer safeguards against the abuse of municipal fees. Municipalities are not allowed to raise general revenue under the police power. He also gave examples of how other jurisdictions had addressed the issue. In addition to the ROW assessment, he gave examples of other municipal fees.

The second half of Mr. Guerrero's presentation was dedicated to a summary of the ROW court case, *First Baptist Church v. City of Saint Paul*. He introduced the facts of the court case, including the types of services provided and the amount of revenue collected. He provided an overview of the arguments of the churches and of the city, and reviewed the court's decision. He also summarized the differences between taxes and fees before opening the floor to questions.

A member asked if the city was making a point not to raise taxes. Mr. Guerrero said that in his opinion, the city knew the distinction between fees and taxes but were likely under pressure not to raise taxes.

A member asked if there was a distinction between the Saint Paul case and other smaller, less expensive

programs. Mr. Guerrero said that it really depends on the facts of each fee/assessment, including how it's charged, who it's charged against, and most importantly what is the purposes of the charge.

A member said that Saint Paul does yet have a downtown improvement district but that some people are looking to support adopting one. He said that downtown was unique because of things like its public skyway system, and asked if Mr. Guerrero agreed. Mr. Guerrero couldn't agree or disagree. While St. Paul may have some unique features, it really would depend on how the program was adopted and what its stated purpose would be.

A staff member asked if there were questions the committee should think about when thinking about a voluntary PILOT program. Mr. Guerrero said he believed that if there was a PILOT program, it should be very transparent.

#### **Additional context on Tax Increment Financing (TIF) in St. Paul (Kaye Rakow, Staff, 8:15 – 8:30)**

Co-Chair Rakow thanked Mr. Guerrero for his presentation and introduced a staff member who gave a quick presentation on TIF districts. He explained that properties in a TIF district pay property taxes based on the value of the property when the district was formed. As the property is improved and its value goes up, the increment (the difference between property taxes paid before the improvements and the property taxes paid after the improvements) is used to pay for part of the improvements. He clarified that the property owner should be paying the same amount of property taxes as they did when they bought it. In other words, no extra money is going to the city or county.

A member asked why a TIF district would ever be renewed. The staff member said it was because a TIF district is a source of revenue and after renewal the revenue can be redirected for other uses, subject to legislative approval. He also mentioned that the revenue can be used on different properties within a district. A committee member asked if the extra money left over was transferred to the general fund and the staff member clarified that it was not. Another committee member clarified that there are legal documents created that state specifically what can or cannot be done with the money.

#### **PHA's PILOT program (Kaye Rakow, 8:30 – 9:00)**

Jon Gutzmann began his presentation with an overview of the PHA. He discussed their history and organizational structure. He also mentioned their "Officer In Residence" program with the Saint Paul Police Department. Refer to page 31 of the presentation for the payments to the city and SSPD since 1991 as well as page 40 for the PHA's PILOT formula. He explained that the reasons the PHA pays PILOT are a sense of civic duty and pride, their payment helps offset the cost of services that are important to their residents, and it helps fulfill their mission.

A committee member asked if the PHA reached an agreement with the city about their PILOTs. Mr. Gutzmann clarified that they did it without an agreement or even any prompting from the city. The member asked if the PHA had ever tried to apply property tax rates to their buildings. Mr. Gutzmann said they had not because they use the formula that is mandated.

A committee member asked if the total was half PILOT half assessment. Mr. Gutzmann affirmed that it was.

A member asked about the Officer In Residence (OIR) program and if the officers worked exclusively in the buildings and if there was any compensation that was not included on the documents. Mr. Gutzmann clarified that the officers work in the building, and that the 75,000 per year calculation is just the rent the PHA loses over the course of the year since the officers pay no rent.

A member asked about the role of the federal government in the PHA's PILOTs. Since the PILOT formula was dictated by the federal government, she wanted to know what power the City of Saint Paul had. Mr. Gutzmann explained that the county assessor they worked with was fine going along with the guidelines the federal government provided.

A member asked if the whole idea of PILOTs started with the federal government. Mr. Gutzmann said that he is unaware if the entire PILOT concept began with the federal government. However PHA's have had this obligation for decades.

Co-Chair Rakow thanked Mr. Gutzmann for his presentation.

#### **Discussion and next steps for 6/15 meeting (Joe Reid, 9:00 – 9:25)**

Co-Chair Reid explained that before the Lincoln Institute of Land Policy and a representative from the City of Boston presented to the group on the 22nd, he wanted to make sure the group had all the information they wanted and he invited them to ask questions.

A member asked about the role of public information and its contribution to the success of PILOT programs.

A member said she was interested in hearing from tax exempt properties about their opinions on PILOTs.

A member expressed her interest in learning about SILOTs.

A member brought up the differences between the amount of money Boston is collecting and the scope of the committee.

A member asked if the group had to wait until the 22nd to hear about Boston. The co-chairs assured that although the committee would have to wait until the 22nd to hear about Boston from an expert, the staff members and the co-chairs had a considerable amount of information about Boston that they could make available to the group.

A member expressed his curiosity about the history of the increase in revenue from ROW over time.

A member asked for information about the increases in property taxes over the same period of time.

A member pointed out the importance in finding information about the other cities in Minnesota and PILOT programs they might have.

#### **Evaluation (Joe Reid, 9:25 – 9:30)**

A staff member reviewed the Citizens League evaluation process. He explained that they were interested in how well the meetings are going, and that they take the evaluations very seriously. It is on a 1-5 scale, 5 being we met or exceeded objectives, 1 being it was not productive at all.

The members evaluated the meeting as follows: 5, 4, 4, 5, 4, 4, 4, 4, 4, 5, 5, 5, 5, 5, 5 for an average of 4.5