

Meeting Minutes

Wilder Foundation
451 Lexington Parkway North, St. Paul, 55104
Thursday May 18, 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, Greg Mellas, Joan McCusker, James Moeller, Kaye Rakow, Rinal Ray, Joe Reid, Pa Der Vang

Members not present: John Regal, Jake Hamlin

Staff & staff support present: Sean Kershaw, Mark Haveman and Lincoln Bacal

Guests: Rachel Walker, Melenie Soucheray, James McClain, Jack Hoeschler, Jon Kavanagh, Amy Felice, Jon Manillo, Mary Gilbert, Amy McDonough, and Sam Walseth

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 May 18 meeting:

- Discuss May 11 meeting and identify additional data/questions that need to be brought/discussed at subsequent meetings;
- Learn about and discuss the legal fundamentals of tax exempt properties;
- Review the fundamentals of the property tax system in Minnesota and on the types of tax exempt properties in St. Paul; and
- Discuss agenda for June 1 meeting and additional speakers/data/questions.

Co-Chair Rakow called the meeting to order at 7:36am

Review/approve agenda and outcomes (7:30 – 7:40, Co-Chairs)

Co-Chair Rakow called the meeting to order by reminding the group of the scope of the PILOT project. She brought up the May 11th meeting and told the committee members they should mention any questions, comments, or anything the group should keep in mind for future meetings. She also quickly reviewed the agenda for the day before turning the meeting over to Co-Chair Reid. He opened the floor for comments about the May 11th meeting.

A committee member posed a question about tax increment financing (TIF), and Co-Chair Reid assured her that TIF would be covered by Chris Samuel, one of the speakers for the day.

A member wanted to know what other mechanisms has the city or county considered in the past. The committee member thought that what the city might have thought through could be useful to the committee. Co-Chair Reid agreed and said he could get that information for the group.

A member asked about the 2008 data provided in the packets and wondered if there was anything more recent than that. A Citizens League staff member responded that they had not updated it because although they would like to, they don't have the resources. He did say, however, that he had been talking to Center for Fiscal Excellence about updating the information. Another committee member asked if the legislature did anything with the information in that report.

Co-Chair Reid mentioned how the Citizens League's partner from the Center for Fiscal Excellence had found some information about PILOTs on government owned property. Since there were no further questions, he introduced Jean Stepan from the County Attorney's office. He made it clear that she was there to speak about the fundamentals of tax exempt property, not about Right of Way or to give any legal interpretation or opinion about ROW litigation.

Legal fundamentals of tax exempt properties in Minnesota (Jean Stepan, County Attorney's Office, 7:50 – 8:20)

She began by reviewing what kinds of property can be exempt, and whether or not they are exempted by the state constitution or by specific statutes. She listed burying grounds, public school houses, education institutions and seminaries of learning, purely public charities, churches and places of worship, property used exclusively for the public purpose, and hospitals as the types of exempt properties exempt by the constitution. She also brought up the distinction between hospitals and clinics

A committee member asked a question about whether hospitals had to be publicly owned in order to be considered tax exempt. Ms. Stepan explained that as long as hospitals are open to the public that makes them tax exempt.

A member asked if there were such things as private hospitals, and Ms. Stepan said she was not familiar with private hospitals and said she would be hard pressed to find one. Ms. Stepan continued by discussing urgent care clinics and standalone surgery centers. She pointed out that none of them had filed for tax exempt status, but if they did, she wondered aloud what the outcome would be.

A member wondered what makes a hospital public, and Ms. Stepan explained it must be open to the public. Another member introduced his perspective and explained that a public hospital has duties to the public, and would provide emergency care to the public regardless of their ability to pay.

A staff member was curious what would happen if the committee decided that tax exempt entities should be required to pay. He wanted to know if the constitution would have to be changed. Ms. Stepan said he was correct.

A member asked for clarification about something being classified as public. She asked if it had anything to do with who owned it, or if it was just about who accessed it or was able to use the service. Ms. Stepan said it was mostly about who used it, however, in the case of public property, the owner mattered.

A member was curious about religiously owned cemeteries. She brought up that if the religious organization controlled who was buried there, was the cemetery really public? Ms. Stepan answered that although she's never encountered a cemetery case, she thought it would fall under the church category, maybe as a part of their mission, and therefore count as exempt.

Ms. Stepan continued by explaining institutions of purely public charity. She explained that the property had to be owned by an exempt entity and be used for an exempt purpose. It also had to be reasonably necessary for that exempt purpose. She continued about leasing property. If a portion of tax exempt property were leased, the lessee would also have to be tax exempt in order for that portion of property to be tax exempt.

A member asked if that meant there could be tax exempt properties where certain portions are not exempt. Ms. Stepan confirmed and said there is case law that recognizes this principle. She also mentioned that if the portion of exempt property was extremely small, it would not defeat the exemption of the whole.

A member wanted to know if the property tax statement would go to the property owner if a part of the property was leased. Chris Samuel answered that the property taxes would go to the lessee.

Ms. Stepan said that if exempt property is leased, loaned, or publicly made available and it is used in connection with a for-profit business, a tax is imposed.

A member wondered if there was anything about this legally at the federal level. Ms. Stepan answered no, tax exemption is a state power.

A member asked if government property could not be taxed or if it was tax exempt. Ms. Stepan said that was an interesting distinction. She explained that there is a difference between immunity from tax and being tax exempt. Tax exemption, she explained, is an exemption granted by law, however, government property is immune from tax and cannot be taxed.

Co-Chair Reid thanked Ms. Stepan for her time and introduced Chris Samuel and what he would be talking about.

Fundamentals of property taxes in Minnesota and types of tax exempt properties in St. Paul (Chris Samuel, Ramsey County, 8:20 – 9:10)

Chris Samuel gave a quick overview of what he would be talking about. He pointed out that Minnesota has one of the most complex property tax systems in the nation, and his goal was to increase the group's understanding of property tax, but not to make them experts.

A member asked if all tax programs were statewide, or if there were certain programs by county. Mr. Samuel explained that generally, programs available locally would also apply statewide to other communities meeting that program's criteria. The member clarified that she meant if a city wanted to have a program, could they run it independently or would it have to be recognized at the state level. Mr. Samuel answered that usually, programs were not determined or run by area, but they could be done. There are examples of programs developed to benefit a particular area or even a particular parcel.

He began his presentation by talking about seven myths about property taxes: property taxes always go up; market value increases generate more revenue; property taxes paid are directly tied to services received; property taxes are based on ability to pay; there is a limit on how much property taxes on a given (residential) property can go up in a year; local taxing authorities have more than a marginal ability to change property taxes; and property taxes for homes are low in Minnesota compared to other states. He went on to explain who determines property tax.

A member clarified that there are multiple taxing jurisdictions, not just one. Mr. Samuel confirmed, and moved on to state-imposed levy limits. He also explained state aids and credits.

A member asked if the state provided any aid in TIF districts that suffered a loss of revenue because of the class rate changed in 2001. Mr. Samuel responded that they did not. The state also did not provide aid when it took over a larger share of k-12 general education financing which reduced TIF revenue. He explained that relief came in the form of being more lax in terms of enforcement as opposed to aid or credit.

He continued by explaining disaster credit and short term property tax refund relief for homesteads with huge property tax increases in a short amount of time. A member wanted to know if the relief applied only to residential properties, and Mr. Samuel clarified it applied only to homestead residential properties. He continued with homestead market value exclusion and state general property tax. He went over a table showing St. Paul exempt values by type of property.

A member asked for clarification on page 13 of the presentation about public and private hospitals. He wanted to know if the 3 public hospitals were the big public hospitals in St. Paul and the 44 private were clinics and other private healthcare providers. Mr. Samuel said he would need to check with an attorney about the distinction, but he assumed it was just the difference between public hospitals, and for-profit hospitals. The numbers shown are not a reflection of the number of hospitals but rather the number of distinct parcels identified with that usage.

He continued by introducing a table of 2010 Ramsey County exempt values by city. It included 8 million dollars of market value associated with PILOTs from St. Paul and \$800,000 from the State Fairgrounds. Mr. Samuel also provided a table of large cities in Minnesota and nationwide and the total percentage of exempt property in those cities. He went over the difference between estimated market value and taxable market value.

Mr. Samuel moved on to residential and commercial property, and explained the differences between them and how they're assessed. He reviewed graphs about St. Paul property tax revenue and property taxes generated by type of property. He brought information about fiscal disparities but only spoke about it briefly. He quickly pointed out that St. Paul does well under the fiscal disparity program, in part, because under the needs based portion of the formula St Paul has a smaller fiscal capacity (average market value per capita) and that St. Paul has relatively low market value for its population size. One of the members mentioned a report that showed if the fiscal disparities program was not in place, the average homestead would pay 8-12% more in property taxes

A committee member asked a question about slide 10 of Mr. Samuel's presentation (homestead market value exclusion). He wanted to know if it was a mandatory shift from the state to the counties. Mr. Samuel confirmed that it was. He also asked about the State Fairgrounds paying PILOTs based on the information on page 15, and pointed out it may be something the group would want to learn about.

When asked what he thought the committee should be getting at, Mr. Samuel said he'd heard it had to do with the Right of Way assessments. He believed there should be some non-voluntary contribution for specific services by organizations that are exempt and that the list of exempt organizations can't be limited to charitable organizations. Otherwise you are not generating a reliable funding source or sufficient revenues to make a significant difference in funding local government services.

A committee member asked about a report done by the St. Paul Port Authority and its focus on the difference between services delivered to different types to property and payments. She thought it would be beneficial to look into services delivered to properties and Mr. Samuel agreed.

A committee member wondered how use of emergency services are measured. Mr. Samuel answered that it's not measured by services received by a specific property, but rather by a group of properties.

Co-Chair Reid thanked Mr. Samuel for his time and Co-Chair Rakow moved on to discussion and the agenda for June 1st.

Discussion and June 1 agenda (Co-chairs, 9:10 – 9:25)

Co-Chair Rakow brought up a few of the main things the committee spoke about, including services, fiscal disparities, and TIF. She opened up the floor for any suggestions for the June 1st meeting.

A committee member who is involved with an organization that pays PILOTs offered to give a presentation about his organization's PILOT contribution.

A committee member asked for more information, specifically about the Port Authority study and the case law around "lessening the burden of government." Several committee members agreed.

A member wanted information about other existing PILOTs in the city of St. Paul.

A member offered insight into "institutions of purely public charity."

A member expressed his interest in PILOT payments in other cities.

A member wondered about the scope of the project.

A member wanted to know about what ends up in a levy and what ends up as a special service, and how that decision is influenced politically.

A member pointed out that it was important to find out why PILOT-paying organization pay PILOTs, how they were approached, how they reached a decision, etc.

A member brought up that on the flipside, it would be interesting to talk to organizations who are challenging PILOTs and why they do that.

A member also wanted to know how PILOTs are suggested to organizations.

Evaluation (Co-Chairs, 9:25 – 9:30),

Sean Kershaw 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, 5, 5, 5, 5, 5, 5, 5, 5, 5, 5, 5, 5, 5, 5, 5, 5, 5, 4 for an average of 4.94

Co-Chair Rakow adjourned the meeting at 9:29