



## **MINUTES OF THE REGIONAL ISSUES COMMITTEE**

Wednesday, September 22, 2021

*Hybrid Zoom Virtual Meeting/In-Person Meeting*

### **I. Call to Order**

The meeting was called to order at 3:56 pm by Kyle Hanlon. The meeting was recorded.

#### Committee Members Present

Kyle Hanlon, North Adams (Present via Zoom)  
Chris Rembold, Great Barrington (Present via Zoom)  
Sheila Irvin, Pittsfield (Present via Zoom)  
Eleanor Tillinghast, Mount Washington (non-Commission member) (Present via phone)  
Andrew Groff, Williamstown (Present via Zoom)  
John Duval, Chair of BRPC (Present via phone)

#### Committee Members Absent

CJ Hoss, Chair, Pittsfield

#### BRPC Staff Present

Tom Matuszko, Executive Director  
Laura Brennan, Economic Development Program Manager  
Wylie Goodman, Senior Planner

#### Other Attendees

Dr. Ben Tafoya, Director of Division of Local Mandates, Office of the State Auditor Suzanne M. Bump (Present via Zoom)  
Carrieanne Petrik, Regional Coordinator for The Municipal Vulnerability Preparedness Program for Berkshires and Hill Towns (Present via Zoom)  
Kent Lew, Chair of Select Board, Washington (Present via Zoom)

### **II. Approval of August 11<sup>th</sup>, 2021, Meeting Minutes**

Eleanor T. moved to approve the minutes of the August 11<sup>th</sup>, 2021, meeting. Sheila I. seconded the motion.

#### Roll Call

Kyle H. – Yes  
Andrew G. – Abstain  
John D. – Abstain  
Eleanor T. – Yes  
Chris R. – Yes

The motion to approve the minutes of the August 11<sup>th</sup>, 2021, meeting passed.

### **III. State-Owned Land Payments in Lieu of Taxes (PILOT) Report**

Dr. Tafoya summarized findings from the report [The Impact of the State-Owned Land PILOT](#)

[and Solar Taxation Policies on Municipalities](#), authored by Auditor Suzanne M. Bump for whom he works, and previewed a follow-up report forthcoming. He explained the purpose of his division, begun in the mid-1980s, and its link to Proposition 2, which restricted the State's ability to increase annual property taxes while documenting when the State takes action that is considered an unfunded mandate. He noted that the definition of "unfunded mandate" has changed over the years, informed by actions of the State Supreme Court, legislators, and cases brought by local petitioners. He stated that many actions lay people consider an "unfunded mandate" the law does not. In recent years, such cases have dwindled to one or two per year and the division's work has shifted to handling Municipal Impact Reports, which analyze the impact of State actions on cities and towns with one or two produced each year.

Last year, the division's report focused on State-Owned Land Payments in Lieu of Taxes, which the State had not looked at for 20 years. The reason for a re-evaluation was due to the Municipal Modernization Act, which changed the way land is appraised. In previous years, the Department of Revenue appraised land every few years by taking a baseline from when the program started then adjusting it annually by change in **the overall average property value rate across the State. (i.e., if property values rose 2% the value of State-owned land did in kind)**. Under the MMA, the legislature changed the formula from one based on a **calculated State-Owned tax rate to a proportional calculation of the value of State-Owned land**, which made it easier for local assessors and the Department of Revenue but created a system of winners and losers based on property values, particularly if town values declined or did not grow substantively. The value of land in Western Massachusetts experienced this phenomenon and **thus has seen** declining State-Owned Land Value payments for many years. These towns are also more dependent on State aid than other towns in the Commonwealth. He provided Savoy and Plymouth as examples of inequity; both have the same number of State-Owned acres, but Plymouth receives eight times the reimbursement rate, due to its higher property values.

Auditor Bump sees the above as an example of the State not living up to its commitment. **Dr. Tafoya recommends** instead a return to the earlier calculation method to ensure towns are fully funded. Current funding is at \$30M; \$45M is what is needed which, if done, would benefit every town. In the State legislature, the appropriation increased to \$35M in the most recent FY and could increase further in the next. Additionally, the rate of **property tax value increases was greater in Western MA than in Eastern MA** in the most recent FY due to pandemic buying, which gave the region a larger boost than normal.

The Auditor's office has co-sponsored legislation with Sen. Hinds and others recommending that a) the legislature appropriate more money to the PILOT program and b) the formula to calculate PILOT reimbursements be changed. The legislation is before the House and Senate. He noted that another potential change could be an adjustment to the formula recommended by Sen. Comerford to acknowledge the higher value of Western Mass.' forested land to mitigate climate change. There is also a parallel program by the Massachusetts Water Resources Authority (MWRA), a watershed protection program, that does nearly the same as the PILOT program, but which reimburses towns at higher rates. The MWRA program, located in 27 communities with 17 overlapping PILOT, covers land abutting the watershed (reservoirs, **viaducts** and more). In a cooperative agreement with **the Division of Ecological Restoration (DER)**, they pay the local commercial tax rate for the land and are reimbursed at a far higher rate than PILOT (three times higher).

**PILOT's other issues** include anomalies in terms of the land included in the program and with the ways land enters and leaves the program that the division is recommending be re-examined. The Auditor has stated her intention to keep working with the legislature on this issue.

During the question-and-answer session, Eleanor T. provided an example from Mt. Washington where 60% of the land in town is State-owned and 80% is protected. In FY 20 the town received \$293K+ for this 60% portion of land, meaning 3/5 of the town is undervalued. While she agrees that returning to the earlier formulation is an improvement, she also discussed the need for additional funds to cover infrastructure costs associated with maintaining roadways that the public uses at higher rates to access State-Owned lands. While she stated that Chapter 90 compensation was available for towns that provide recreation access, the State could also pursue valuing the land based on the amount of carbon sequestration it provides. She added that the aggregate formula is still insufficient because these towns have lost development potential as well on these State-Owned lands. This is particularly true given that the report discusses valuing lands under buildings as well, which means towns like Mt. Washington with only open space and no buildings **would be further undervalued.**

Kent L. shared his and fellow residents' experience in Washington, where 70% of land is tax-exempt (only 42% of which is October Mountain State Forest; the other portion being the Pittsfield Watershed, a municipal watershed that is not part of MWRA). He noted that **while 28% of the town's land is owned by MWRA,** the town receives 50% more compensation from the MWRA program than it does for the 42% of land in town located in October Mt. State Forest. He also shared concerns about the aggregate rate calculation formula, since tax rates in Western Massachusetts are generally less diverse than those of other parts of the Commonwealth because of the lower rate of economic diversification (i.e., industry, commercial) to spread the tax burden more broadly. This continues a system of underlying inequity because of variable tax rates across the Commonwealth. For example, of 32 towns in Berkshire County, 1/3 have tax rates higher than the aggregate rate, which means even the aggregate calculation reimbursements fall short of their taxable value were they in private hands. He expressed concern that the new formula will be seen as the 'fix' and therefore there will be less political will to fully compensate towns for State-owned lands' real-world value and costs (e.g., two acres of land in Orleans is valued the same as 2K+ acres of land in Chester-Blandford State Forest). As another example, he offered that the value of land in October State Forest in Lenox is higher than the same land in Washington, despite their adjacency. While the aggregate formula thus raises the mandatory reimbursement rate, it still gives more to towns with already higher valuation to begin.

Dr. Tafoya shared that the new legislation would also have a Hold Harmless Clause, meaning once a town reaches a pre-defined taxation level, the State cannot go below it. The State has also looked at different ways to amend the formula to address the above concerns, but the legislation being put forth now has the best political advantage.

Eleanor T. asked about the relative inequity of property values (i.e., Savoy/Nantucket) that contribute to richer communities receiving more while poorer towns with large swaths of State-Owned Land are valued lower, meaning the value of the town overall declines because a high percentage of land is undevelopable.

Tom M. queried about the current state of the legislative process and the likelihood of "adders," (e.g., carbon sequestration valuation). Dr. Tafoya responded that the legislation has not had a hearing yet, but that people can get in touch with Senators Adams and Comerford and Representative Blais to find out when there will be a hearing to ensure the County's voices are heard (Bill#: [H2831](#) and [S1875](#)). Mr. Tafoya said calculating the added value of forests could be done relatively easily. Eleanor T. noted that the SOLAR SMART uses adders and Mr. Tafoya said some towns in the MWRA have adders, too.

Carrieanne P. offered their thoughts about climate vulnerabilities, referencing projects their

coalition is working on, including one that measures carbon sequestration in Williamstown, as well as the larger issue of “ecosystem services” provided by working lands, such as filtering water and air in addition to carbon sequestration. They also wanted to know more about whether the valuation rate was calculated differently when plots of land were adjacent or contiguous to one another, rather than being dispersed. They noted concerns about higher transportation costs associated with, for example, getting children to school in Western Mass. towns with large, contiguous parcels of State-Owned land and the costs this adds to school budgets. Dr. Tafoya noted that the report does address concerns about how well the State manages roads in State-Owned land properties for the reason they raised.

Dr. Tafoya also previewed a new report being released in early October that addresses public infrastructure, defined as roadways, bridges, public buildings, culverts, municipal broadband and the vulnerability of these critical assets to climate change, including the roadways. The report comes out in early October. The Study looks at Western Massachusetts’ four counties (Berkshire, Franklin, Hampden, Hampshire) and examines funding mechanisms as part of the report with recommendations offered. Kyle H. shared his eagerness to read the report due to experience he has had in town meetings.....

Tom M. confirmed that the State Auditor is a co-signer to the legislation. To his question about how to best move the legislation forward, Dr. Tafoya recommended that BRPC call the co-sponsors’ legislative offices, particularly Chief of Staff for Sen. Hinds to understand how to best amplify the region’s concerns. Dr. Tafoya made mention of the help he received from Clete Kus in writing the report. Tom M. added that other reports on the auditor’s website are similarly beneficial for the group to read.

Tom M. asked the group how to best proceed. Kent L. expressed support for the legislation, even with the bill’s imperfections. Eleanor suggested the group prepare a comment letter to Sen. Hinds suggesting amendments to the legislation. Tom M. offered concerns that Eastern Mass. towns may be concerned about the bill’s re-distribution of funds while Eleanor T. suggested the time is ideal to propose a bold solution due to the influx of infrastructure dollars into the Commonwealth. Kent L. noted that there will never be absolute equity between regions due to geographic anomalies (i.e., Williamstown’s hills versus Plymouth’s flat land). Chris R. agreed with Eleanor T. and felt a conversation with Sen. Hinds was valuable as well as researching how other States and communities handle the issue of “adders” to see what might qualify. Eleanor felt Worcester County would be amenable to the group’s recommendations, which could increase receptiveness to amendments that further increase valuation.

Tom M. will be adding this topic to an early October meeting of the Rural Policy Advisory Commission to identify other rural regions that might be supportive of the legislation. Kyle H. wondered if Worcester County is aware of the program’s impact on non-watershed lands due to the large amount of land in the Quabbin Reservoir Watershed that the County is compensated for through MWRA. Andrew G. was in favor of Tom M.’s RPAC outreach. Tom M. will try to add PILOT to the RPAC’s next agenda. Eleanor T. asked about presenting the topic to the Berkshire Selectboard Committee. Tom M. stated the current chair is aware of the topic but he is unclear where Small-Town Administrators and Managers and MMA stand on the issue. Eleanor T. was unsure if MMA would support the legislation because they support large towns in the Eastern part of the State, while Tom M. wanted to know where they stood on the topic. Kent L. spoke with John Robertson about the issue at an earlier meeting and believes MMA should be aware; Tom M. noted John R. has retired, such that Kent L. may want to re-send his earlier letter to his successor. Kent L. remains interested in how small towns on the Cape respond to suggested changes because they may lose reimbursement (See Rural Commonwealth report – tax value of land if in private ownership compared to PILOT). Kent L. will share the report with Laura B. for distribution. Tom M. stated the PILOT issue will be discussed at the next Commission meeting and that, due to strong interest from towns, BRPC conducted broader outreach to delegates and alternates

and shared the topic in the e-newsletter to expand participation. Laura B. has tentatively invited Dr. Tafoya to return for the October 27 Committee meeting to discuss the early October infrastructure report being release. Tom M. stated that, at this meeting, the group can also discuss the comment letter and report-back from the RPAC and Tom's engagement with Sen. Hinds' office

#### **IV. Municipal Infrastructure Report – Preview**

Tom M. has seen an initial draft of the report that highlights how Western Mass. has been left behind in terms of infrastructure funding.

#### **V. Topics for Future Consideration**

See above.

#### **VI. Next Committee Meeting Date – October 27<sup>th</sup>, 2021**

#### **VII. Adjournment**

Tom M. moved to adjourn the meeting. Eleanor T. seconded the motion. The meeting was adjourned at 5:08 p.m.