Mayor Menino's PILOT Task Force

Meeting Minutes – March 27, 2009

The meeting commenced at 2:00pm on the 6th floor of City Hall.

Topics of Discussion

Brief overview of the PILOT presentation of 2/9/09.

Discussion by Eric Carriker of the Massachusetts Attorney General's Office, providing a legal overview of charitable organizations:

- A charity must: be non-profit, serve the public, and serve a charitable purpose.
- Charity must not promote or grow "for profit" and must directly benefit its members.
- Charity should not distribute financial gains to its officers and directors, although the law currently does not enforce salary limits.
- Charities have a sense of indefiniteness and fluidity - its members come and go (ex: college students).
- Traditional involvement of charities includes the following: education, medicine, religion (lessen the burden of government).
- Questionable practices concerning charities: selectivity, entrance fees, gifting/donations, benefit certain types of people – do these satisfy the traditional means and purposes of charities? Example: Boston Symphony Orchestra charges high fees and doesn't provide for the needy but it is considered a 501(c)(3) non-profit.
- Overview of New Habitat case regarding a non-profit organization on Brattle Street in Cambridge. Court ruled the organization was entitled to a tax exemption since the entrance and monthly fees directly contributed toward the charitable functions of the organization.

Presentation by the City of Boston's Tax Policy unit:

- Land area of other tax-exempt organizations:
    - Other exempt land area (ex: museums, other cultural institutions) compared to tax exempt land area belonging to colleges and hospitals from first task force meeting.
    - Land area was used for comparison instead of value because the other tax-exempt property has not yet gone through the same revaluation process as the college and hospital properties.
- Real estate taxes paid by colleges and hospitals:
    - Presented a table showing real estate taxes paid by major colleges and hospitals as compared to total value of tax exempt land and tax revenue if exempt land were taxable at the commercial rate ($27.11 per $1000).

Questions Raised/General Discussion

Q: What are the statutory obligations of PILOTs?

> **A:** There are no statutory obligations of PILOTs. Non-profit institutions are not legally required to make payments to the City of Boston. Payments are completely voluntary.

Q: How frequently are charities reviewed to ensure that they are complying with their 501(c)(3) designation?

> **A:** 501(c)(3) compliance is not done regularly due to lack of resources . Much of the non-profit documentation and paperwork on file with the IRS are from the initial 501(c)(3) tax filings, many of which are several decades old.

Q: What are the restrictions, if any, on compensation for officers and directors of charitable organizations?

> **A:** It is very difficult for the courts and government to determine fair wages and the value of non-profit officers and directors. By law, although a non-profit cannot distribute "gains" to officers, there are no growth or income restrictions on these organizations. Therefore, non-profits often experience a dilemma: should they develop and increase their endowment in order to provide greater charitable functions in the future or should they use endowment funds to marginally increase their benefits to the communities they serve? The long term (first) option is often called intergenerational equity – save equity now to promote social good for future generations.

Items for Follow-Up

- Schedule a public hearing in late April at the Boston Public Library to get feedback from the public on the PILOT program and tax-exempt property.

- Solicit examples of existing community benefits statements from the major hospitals and universities. Consider featuring the results at the May Task Force meeting.

- Contact other Cities across the country to examine their PILOT programs and how they relate/differ to the City of Boston's program. Suggestions included Philadelphia and Baltimore.

- Obtain and review reports on the PILOT program from organizations such as the Boston Foundation and Kennedy School.

- Continue discussion regarding a standard PILOT blueprint/equation so each tax-exempt institution can contribute in a fair and consistent manner, since there are large discrepancies between PILOT contributions.

- Include non-profit organizations other than hospitals and colleges in PILOT discussions, as they too should be a part of the PILOT equation.