

PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY

Minutes of the Meeting of the Board

January 18, 2017

The meeting of the Board of Directors of the Pennsylvania Intergovernmental Cooperation Authority ("PICA") was held on Tuesday, January 18, 2017 in the PICA Board Room located at 1500 Walnut Street, 16th Floor, Philadelphia, Pennsylvania.

Attendees

Board: Kevin Vaughan, Joseph M. McColgan (*via telephone*), Michael Karp, Alan Kessler (*via telephone*), and Robert A. Dubow (*ex officio*).

Staff: Harvey M. Rice, Konstantinos Tsakos, Dora Ward, Daniel Esposito, and Deidre Morgenstern.

Invited Guests: Anna Adams, Budget Director; Sozi Tulante, City Solicitor; Michael DiBerardinis, Managing Director; Allan Domb, Councilman At-Large.

Call to Order

Mr. Vaughan called the meeting to order at 12:15 p.m.

Approval of Minutes

Mr. Karp made a motion to approve the minutes from the meeting of December 19, 2016. Mr. McColgan seconded the motion. The motion passed 3-0.

Executive Director's Report

Mr. Rice updated the Board that PICA's staff report on the Quarterly City Managers Report was released earlier this month, which was cited in a *Philadelphia Inquirer* article. The December PICA monthly revenue report was also recently released.

Mr. Rice informed the Board that PICA's US Bank investments declined slightly because of an increase in interest rates. However, investment performance is still above projections by 0.71 percent.

PICA staff will be hosting its annual Regional Economists conference on February 10, 2017. More detailed information to the Board is forthcoming.

PICA has sent letters to Board appointing authorities reminding them of the January 30, 2017 deadline to make appointments.

Mr. Rice explained that the Boston College report on DROP, commissioned by PICA, will be delayed until April because Boston College is still waiting on data from the Philadelphia Pension Board.

Treasurer's Report

Mr. Rice explained to the Board that PICA's expenditures are currently at 79 percent of the budget, and are one percent higher than last fiscal year due to increased personnel and rent costs.

Presentation by City Solicitor on Sweetened Beverage Tax

City Solicitor Sozi Tulante provided the Board with an update on the legal proceedings surrounding the Sweetened Beverage Tax.

- In September 2016, the American Beverage Association (ABA) filed a lawsuit challenging the Sweetened Beverage tax passed by City Council.
 - The basis of the challenge was that the tax is illegal on the grounds of uniformity and state preemption.
- On December 19, 2016, the Court of Common Pleas dismissed the petition in full. The Court agreed with the City's argument that the tax, levied at the distributor level, means that there is no preemption (i.e. that it is not a sales tax) because the legislation does not compel any action from retailers.
- Shortly thereafter, Plaintiffs appealed to Commonwealth Court.
 - The appeal will be on an expedited schedule, with briefs due by March 24, 2017. Arguments are anticipated to occur in April 2017, and a ruling is expected sometime in the summer of 2017.
 - The City additionally filed a King's Bench petition with the Supreme Court of Pennsylvania. (Previously, the ABA had filed for King's Bench in the fall of 2016, and the petition was denied).
 - The Solicitor emphasized that a quick resolution is important to the City, especially with regard to seeking authority for bonds for the programs associated with the tax. He clarified that the City cannot go to the bond market until the legal challenge is resolved. (Plaintiffs support this approach).
- Mr. Karp asked the Solicitor whether a "similar dichotomy" exists elsewhere between state and local governments in the context of a sweetened beverage tax, and whether there has been a similar legislative conflict elsewhere.
 - Mr. Tulante explained that he has not studied that question, but that Berkley, California was the first city to pass this type of tax in the U.S. He elaborated that the City cited Berkley as an example in its brief.

- Mr. Karp followed up, asking if there are other examples of cities, apart from Berkley, that have passed this type of tax while faced with similar legislative/constitutional issues.
 - Mr. Tulante explained that Philadelphia is the first municipality to be sued over this type of conflict. The legal challenge essentially tries to target what City Council has the power to do in the context of preemption and uniformity.

Presentation by Managing Director on Overtime Spending

Michael DiBerardinis, Managing Director (MD), presented an update on the City's increased overtime spending.

- In the First Quarter, the MD requested Departments to prepare overtime spending plans in order to control that spending. They were then asked to provide actual costs for the quarter and compare to the original plan. If there was a variance, Departments had to explain the causes of the variance.
- The purpose of the above approach is to identify drivers of overtime spending. The MD gave a rundown of the most notable overtime, over-budget spenders and the reasons for the overages (detailed in his handout).
- MD explained that there are too many vacancies in hard-to-fill "skilled" positions.
- Mr. Kessler asked if City Council should be more involved in tracking overtime spending. The MD responded that he believes that there is sufficient oversight of overtime spending, thus Council involvement is not needed. Mr. Dubow added that if a transfer ordinance is required to cover personnel costs for any given Department, that Council is directly involved in passing that ordinance.
- Mr. Karp asked how much court time is accountable for Police overtime, over-budget spending in FY16. Ms. Adams responded that it was approximately one third; \$23 million out of \$70 million.
- Mr. Kessler asked whether there is any revenue generated by overtime. Ms. Adams responded that most special events are reimbursed, but that overtime spending due to special events is not factored into budget projections.
 - Mr. Kessler asked why special events are not factored into projections, especially those events that occur annually. He also asked whether savings could be achieved through use of volunteers. Mr. Dubow answered that special events are not projected because the City would not hire for those events. Mr. DiBerardinis added that it is hard to use volunteers for "skilled" work.
 - Mr. Kessler asked whether NFL Draft projections would be more accurate because of the City's experience with special events in recent years. Mr. Dubow responded that the City feels confident in its NFL projections.
 - Mr. Karp asked whether the City has improved on getting reimbursements since the Pope visit, which was not fully reimbursed. Mr. Dubow said the City was reimbursed for most of the DNC and expects that to be the case for future events.

- Mr. Karp expressed a desire to commission a study on anything that the City might need help with. He suggested best practices for overtime. He made a motion for a study on Police overtime due to court appearances. Mr. Vaughan made a motion, and Mr. McColgan seconded the motion. The motion passed 3-0.

Public Comment

Councilman Domb made a public comment on several topics that were discussed during the meeting.

- He requested an exact statement of expenditures for the DNC and all reimbursements. Mr. Dubow responded that the City would provide this.
 - Councilman Domb added that there should be a study conducted on the economic impact of the DNC and all tax revenue generated as a result of the event in order to assess the total return on investment for hosting the DNC. Mr. Dubow did not commit to conducting such a study, but said it was a possibility.
- Councilman Domb stated that Skype testimony should be used to lower Police overtime related to court appearances.
- Councilman Domb explained that City Council had approved the purchase of the compactors that would help control the cost of Streets Department overtime. Mr. DiBerardinis acknowledged this.
- Councilman Domb suggested emergency care clinics at Prison facilities in order to lower costs of transporting inmates for medical treatment.
- He suggested a PICA study on converting all City properties to PGW use and related savings, as well as what the increase in asset value for PGW would be. Mr. DiBerardinis explained that the City is currently exploring this, particularly for the Prisons Department.
- Councilman Domb suggested an expansion of vocational programs that implement green initiatives throughout the city, particularly at public schools. Mr. DiBerardinis said there is a program, called Green Futures, that supports these efforts.
- Councilman Domb endorsed the services of consultant Josh Kopelman for exploration of potential City savings on utility costs.

Adjournment

Mr. Vaughan asked for a motion to adjourn. Mr. Karp made the motion. Mr. McColgan seconded the motion. The motion passed 3-0.