

MINUTES

FINANCE COMMITTEE MEETING

January 20, 2015

PRESENT: Committee Members: Kline-Hecker-Luker-Markman-
Jones (8:22 p.m.)

OTHERS: Finance Director Barron
Township Treasurer Blumenthal
Township Manager LeFevre

CALL TO ORDER: 7:32 p.m.

MINUTES:

Commissioner Kline made a MOTION, seconded by Commissioner Luker to approve the minutes of the November 18, 2014 Finance Committee Meeting.

MOTION was ADOPTED 5-0.

TOTAL EXPENDITURES:

The Committee reviewed voucher list for the month of December 2014.

Commissioner Kline made a MOTION, seconded by Commissioner Luker to recommend approval to the full Board expenditures, salaries and wages for December 2014 in the amount of \$2,791,062.69 and \$1,733,413.85, respectively.

Commissioner Hecker questioned whether entries for water color classes are programs offered at the Ardsley Community Center.

Mr. Barron replied that is correct.

MOTION was ADOPTED 5-0.

CLEARING FUND/DEFERRED REVENUE/EXPENSE & PETTY CASH

Commissioner Kline made a MOTION, seconded by Commissioner Luker to recommend approval to the full Board the Clearing Fund activity, Deferred Revenue/Expense activity and Petty Cash balances for the month of December 2014.

Clearing Fund receipts and disbursements for the month of December 2014 were \$792.31 and \$0.00, respectively.

Deferred Revenue/Expense receipts and disbursements for the month of December 2014 were \$13,084.57 and (\$42.21), respectively.

Petty Cash balances were approved as presented.

MOTION was ADOPTED 5-0.

TRAINING AND CONFERENCE EXPENDITURES:

Commissioner Kline made a MOTION, seconded by Commissioner Luker to recommend approval to the full Board the Training and Conference Expenditures activity. Advance and Travel expenditures for the month of December 2014 totaled \$0.00 and (\$114.33), respectively.

YTD Training and Conference Expenditures totaled \$39,006.38.

MOTION was ADOPTED 5-0.

STATEMENT OF CONDITIONS:

The Committee reviewed statement of conditions for various funds.

CONTINGENCY EXPENSE REPORTS:

The Committee reviewed contingency expense reports.

OTHER MATTERS:

Board Action Request – Collection of 2014 Delinquent Real Estate Taxes:

Mr. Barron said delinquent taxes were handled by the County for many years, but they stopped in 2005 and, during that time, Portnoff Law Associates handled the Township's delinquent sewer and refuse fees, so the Township turned all of its delinquent tax claims over to Portnoff.

He introduced Jason Leininger of Portnoff Law Associates to the Committee.

Jason Leininger said he has been with Portnoff since 2003 and has worked for Abington since that time. He has specifically been handling the Township's accounts and has worked with this committee over the years.

He brought with him reports showing collection of delinquent taxes comparing each year's collection rate until the end of that year. In 2014, the Township turned over \$162,864 in delinquent taxes and, by December 31st, we collected \$123,803, which is a 76.02% collection rate within that year. Some of the variance is because, during the time when the Township collected jointly with the School District, the School District was not as prompt as turning over their claims, so the notices were mailed later in the spring and that is a result of the joint collection.

Last year, when the Township was separate from the School District, we were able to get those notices out in January resulting in a 76% collection rate.

Commissioner Markman asked how much does the Township pay Portnoff for that?

Mr. Leininger replied for the initial notice, the Township pays \$40 plus costs for certified mail postage, but that is added to the delinquent claim.

Commissioner Kline noted the reports shows face plus penalty plus interest, so minus the penalty and interest, what is the total value of the face collected?

Mr. Leininger replied he does not have that figure with him.

Commissioner Kline asked about the column titled "amount placed" on the report, and asked is that just the face?

Mr. Leininger replied no, that is the face and penalty placed with Portnoff. The face, penalty and interest are listed in the fourth column of the report.

Commissioner Kline asked how much is the interest?

Mr. Leininger replied interest begins accruing at 10% once we file a lien.

Commissioner Kline asked how much is interest of the amount of \$123,803?

Mr. Leininger replied he does not have that at this time, but he will report back on it. Also provided to the committee was a report showing total collections as of 12/31/14 as well as prior years and, in those prior years, we are over 100%, so over 100% is the interest.

Also this report shows percentage of files without attorneys' fees charged and that shows how much was paid just as a result of an initial notice. So when an initial notice is sent, it gives opportunity to submit payment in full or to make payments per a payment plan or to request a hardship application for a hardship payment plan. No attorneys' fees are charged for all of those options with the lowest at 46% and the highest was 61% of those who paid just as a result of that initial notice and they were not charged any attorneys' fees.

We are proud of our collection rate and also proud of our customer service as both Township staff and the Township's residents are handled professionally when they deal with Portnoff Law Associates.

The hardship application is something we offer to work with owner occupants who are facing some type of financial difficulty and we work with them to get them on a payment plan that they can abide by and submit payments to.

We also have a team of customer service that specifically handles calls from property owners to set up payment plans and we also have other resources online such as they can do a property search and find their amounts and submit payment on our website if they want to. We are a law firm and not a collection agency, so we are held to higher standards of professional responsibility.

Commissioner Kline referred to the report and asked about the number of files without attorneys' fees charged as compared to the number of files paid in full without attorneys' fees.

Mr. Leininger replied the number of files without attorneys' fees charged means they are on payment plans, so if they are on a payment plan as a result of the initial notice, no attorneys' fees are charged.

Commissioner Kline questioned whether any money is added to that payment plan for attorneys' fees.

Mr. Leininger replied no. The only charge is the initial \$40 plus postage as a result of our collection as long as they contact us in response to the initial notice.

Commissioner Kline asked does Portnoff receive any portion of the interest?

Mr. Leininger replied no.

Commissioner Kline clarified that if someone responds to a notice and sets up a payment plan, the only fee Portnoff gets is \$40 and the Township pays 5%. Is that correct?

Mr. Leininger replied yes. We provide a report to Township staff as well as weekly remittance electronically every Wednesday, which is money collected from prior week along with a report of the details of that remittance that is emailed. We also provide an attorney and an account manager that Township staff can contact with any questions or concerns.

The Portnoff process provides an incentive for the resident to pay and, if they do not, set up payments. Our process provides an incentive because each step of the process there are attorneys' fees and court costs that are paid by delinquent property owners, so if it goes through that process, it is an incentive to pay earlier rather than later. Then the next step would be to bring it to an upset sale in the future. Not too many properties go to sale because of that progressive incentive. Out of 50,000 claims that we handle in one year there is less than one percent that actually go to sheriff's sale.

Commissioner Kline said at this time, the Township pays the 5%, and there has been some question as to whether the Township can charge that 5% because they are not using the County Tax Claim Bureau.

Mr. Leininger replied we can definitely pass through that 5% to the residents just as Northeast Revenue will do plus an additional 1% attorney fees.

Commissioner Kline said he understands there are legal concerns about whether a municipality can do that and that it can only be done if the County is collecting.

Mr. Leininger replied no, we proceed under the Municipal and Tax Liens Act exclusively and that allows for the pass through of charges such as a commission. The County would charge the Township a commission and the Municipal and Tax Liens Act allows for the pass through of any charge that the Township pays for, for the collection and that includes the 5%.

The Township has a better legal way of doing that through Portnoff Law Associates than Northeast Revenue because they proceed under the Municipal and Tax Liens Act and the Real Estate Tax Sale Law and the Real Estate Tax Sale Law does not allow for the pass through charge.

Mr. Barron commented that he spoke with Susan Matiza about it and she indicated that the reason why the Township did not pass through the 5% charge was because the County did not think it was legal for them to pass it through, but that each municipality would need to pass it through. Abington Township took the option of not passing it onto the residents and decided that staff would discuss it at a later date.

Commissioner Kline asked what does that 5% cost the Township?

Mr. Barron replied \$6,000-\$7,000.

Commissioner Luker referred to the report and questioned what the annual net cost represents.

Mr. Leininger replied that is the \$40 initial notice expense. The report shows how much the notice expense was per year and how much of it we recovered to-date and how much is still outstanding that we will recover and remit back to the Township.

Commissioner Kline questioned how Portnoff Law Associates makes their money.

Mr. Leininger replied ultimately from those who do not initially respond. \$40 is covering costs to send out the notice and handle and remit the payments.

Mr. Barron said over the years, the Commissioners have tried to help their constituents by getting them on a payment plan.

Mr. Leininger said we understand they are your constituents and we will waive fees if it will help resolve the issue or if there is a true hardship. Our goal is not to sell anyone's house, but collect money for the Township.

Commissioner Kline said in 2014, there was a 50% collection rate with initial notice; what happened to the remaining 50%? Were they charged legal fees?

Mr. Leininger replied those are the files paid without attorneys' fees and some are still on payment plans and that number could increase, but for the remaining claims, we proceeded with the process. Some paid during the next step, so they would not be listed in the report or some of them are still going through the legal process.

Commissioner Kline said the concern is that residents get overwhelmed with legal fees making it impossible to pay off their delinquent taxes and the Township will never be paid back.

Mr. Leininger said that is why the initial notice says they need to get on a payment plan or request a hardship application, which allows for a more extended payment plan based on their circumstances.

Mr. Barron clarified that Portnoff's fees are listed on that initial notice. Is that correct?

Mr. Leininger replied yes.

Commissioner Hecker asked who defines the criteria for hardship?

Mr. Leininger replied payment plans are reviewed with the Township and can be changed, but parameters are, if the balance is over \$1,500, it is a six-month payment plan; if it is between \$500-\$1,500, then it is a three-month payment plan; and if it is less than \$500, then it is one month. Anything beyond that, the resident could request a hardship application that asks for their income and expenses and then a proposal for payment.

Commissioner Hecker asked how do these collection rates compare to the average industry standard?

Mr. Blumenthal replied Montgomery County averages 2% of lien properties.

Mr. Barron introduced representatives of Northeast Revenue Service, LLC - Jason Salus, Montgomery County Treasurer, Sean Shamany, Treasurer and Bill Caldwell, First Deputy Treasurer to the Committee.

Mr. Salus said he took office in 2012, and at that time, the Tax Claim Bureau that operates by the County had not done an adequate job of collecting delinquent taxes.

That cost revenue to the County in terms of the 5% collection charge was done by the taxing districts that are responsible for their collections. At the same time, Northeast Revenue Service was appointed in 2012, and we set out to overhaul how delinquent taxes would be collected.

The first year we improved operations in terms of notices and standardization of operating procedures and, in the second year, we implemented the hybrid collection model, which marries our default collection statute, Real Estate Tax Sale Law and Municipal Claims and Tax Lien Act.

Our tools are collection notices and bulk real estate sales for chronically delinquent properties and also the ability for taxing districts that elects to participate, to pass the 5% collection charge onto the delinquent taxpayer as well as instituting a legal proceeding by way of filing a lien with the County Prothonotary and capping the legal fees at 1%.

Every month, third party tax collectors remit returns to our office and it appears that Abington's tax collection rate through November is 63.7%, so of the 58 taxing districts that we collector for, 30 are higher and 28 are lower.

Commissioner Kline asked what does 63.7% represent?

Mr. Salus replied how we consider collection rates is that the face and penalty that is collected is divided by face and penalty that is returned at the beginning of the year, so it is a 50% collection rate.

In the 327 payments for 2013 taxes that we observed through November, 34 appear to include interest and we uniformly apply interest to accounts and statutorily it is 9% applied on a monthly basis beginning in February.

Commissioner Kline asked how much does Northeast Revenue Service get for the collection?

Mr. Salus replied Northeast Revenue Service has a contract with a fixed fee with the County and their incentive is to consistently deliver solid collection rates in order to get their contract renewed.

Last year, Abington School District elected to turnover their collections to the Tax Claim Bureau, and if a parcel has a delinquent County and School balance, it is all on one notice.

We go to great lengths to help constituents avoid legal fees. There is plenty of notice before a lien is filed and before legal fees are applied. If a constituent gets on a payment plan, they are able to avoid legal fees and legal fees are capped at 1%.

Commissioner Kline asked when are legal fees assessed?

Mr. Salus replied legal notices are sent out in February, which is a courtesy letter, so there are no certified mail charges. The second notice is sent out in March by certified mail and, required by law 30 days after that, we send out another letter by First Class Mail. It is the middle of April before we decide to file a lien and due to some timing delays it could be May or June.

Properties that are 21 months delinquent are listed for sale for the first time in an upset sale and the minimum bid for those sales is delinquent taxes and municipal claims and any other liens remain outstanding. We find over 75 properties that are prepared for that upset sale end up being offered on the day of the sale. This year that number was over 80% and properties not sold at that sale are then sold at a sale and the liens are divested and that is 11 months later.

If a property is under bankruptcy or litigation or has environmental issues then those properties are not sold by court order. The Tax Claim Bureau had in the past extended payment plans where property owners were paying \$25 or \$50 a month and the payments now are designed to help property owners get out of delinquency within a year or by extenuating circumstances within 18 months.

Norristown School District turned over all of their delinquent balances to the Tax Claim Bureau in 2013, so that is 2012 and prior taxes, and they had liens dating back nine years, and we were able to resolve most of them and collect \$3 million more than they collected in a year in part because we noticed those property owners about the potential of the sales. We do not subjectively pick which properties go up for sale as it is set by statute and also the cost of a sheriff's sale is more expensive than the costs incurred for upset sales.

All of our data is available on the Tax Claim Bureau website that is open to the public and updated every night. Additionally, the Tax Claim Bureau can create a variety of reports for the taxing authority.

Standard payment plans are available for all taxpayers, which are 12 months with a 25% down payment and hardship payment plans are also available with no down payment as it is just 12 monthly installments and, for extending circumstances, we have 18-month payment plans with no down payment.

Commissioner Kline clarified that if there is no hardship or extenuating circumstances they are paying a down payment and paying on a 12-month plan. Is that correct?

Mr. Salus replied that is correct. We also have initiated partnerships with housing counseling and nonprofits to help homeowners better understand what their options are.

We also have the ability to remit payment on a weekly basis to the Township as we do that for a number of taxing districts now and, since the inception of our new program, Pottstown Borough has returned to the Tax Claim Bureau as well as Abington, Norristown and Upper Moreland School Districts, and earlier this month, Wissahickon School District.

Commissioner Kline asked when is the 5% charged?

Mr. Salus replied most taxing districts add it on when the taxes are returned to the Tax Claim Bureau and we work with the Tax Collectors to put a notice on their reminder letter that there may be an additional 5% collection charge. Last year, Abington School District provided a 30-day grace period for the first year.

Commissioner Kline asked how does Northeast Revenue Service get paid?

Mr. Salus replied it is a fixed fee set by the County, and there are monthly reminder letters sent out to those who are non-responsive to any of the communications and, if there is no response, then by First Class Mail, which is \$5, and in addition, if property owners do not pick up their certified mail, the Sheriff's Office or Constable will post the property.

Commissioner Kline asked how is the fixed fee for Northeast Revenue Service funded?

Mr. Salus replied from our office budget.

Mr. Barron clarified that the Township would not be charged a fee for turning over claims to the Tax Claim Bureau. Is that correct?

Mr. Salus replied that is correct.

Mr. Caldwell noted that the 5% is designed by statute for all municipalities to pay Northeast Revenue Service whether they choose to make the delinquent taxpayer pay it or not. The 5% is to cover the cost of running the Tax Claim Bureau, so the fee to the County is a line item in our budget that is a set fee.

Commissioner Kline clarified that the set fee is not based on collections. Is that correct?

Mr. Caldwell replied that is correct. The incentive to maintain a high collection rate is that the contract expires at the end of 2015, which is a two-year contract with three, one-year options.

Commissioner Kline asked who evaluates whether the Tax Claim Bureau should continue their contract with Northeast Revenue Service?

Mr. Salus replied it is primarily his recommendation to the County Commissioners, but the County Commissioners have to approve all contracts.

Commissioner Kline asked what is the evaluation based on?

Mr. Salus replied collection rates are very important as well as a level of service such as maintaining an office and staffing it adequately.

Mr. Shamany added that our business plan is always to be part of the community that we serve and we have staff onsite and we have weekly conference calls with our staff and the Treasurer's Office to discuss any issues that need to be addressed.

Commissioner Kline asked about the collection rate for a community similar to Abington for the first year.

Mr. Salus replied first year collection rate would be comparable to where the Township is now and possibly slightly higher and, for every account, we would assess the interest.

Commissioner Markman asked for the reason why the Township should switch over to Northeast Revenue Service.

Mr. Salus replied because at this time, the Township is not getting the benefit of interest in most cases.

Commissioner Kline asked for clarification of the benefit of interest.

Mr. Salus replied of the 327 payments that we have records on through November interest was only paid on 34.

Mr. Barron disagreed.

Mr. Salus continued that legal fees, if assessed, are capped for constituents. Also, he is sure that if property owners are delinquent on Township taxes they are also getting a notice from us. So right now they are paying two letter charges and two lien fees, so with the Tax Claim Bureau, it would be one letter so those fixed charges would be eliminated and taxes are paid proportionately based on the balances. So overall our program is more consumer-friendly.

Mr. Shamany added that the Tax Claim Bureau under the Real Estate Tax Sale Law has the ability to hold a bulk sale.

Mr. Salus said our goal is not to sell properties. Our goal is to get people out of delinquency through counseling or payment plans.

Mr. Shamany said we try very hard to work with those families who are struggling and do want to get them to a tax sale.

Mr. Barron asked when will he receive a report indicating the funds are in the account?

Mr. Salus replied the County pays out on Fridays, so the money will be in the account on Friday and the report will follow a day or two after.

Mr. Barron asked is there an option to give a property owner a longer time period to pay?

Mr. Salus replied yes, that is the hardship plan of 18-months.

Mr. Barron asked when would the Township receive funds after the upset sale?

Mr. Salus replied 90 days after the sale, but when 80% of the property owners pay before the day of the sale, that is remitted on a weekly basis.

Commissioner Kline asked is there any other options besides the 18-month plan?

Mr. Salus replied sometimes property owners on the eve of the sale will go to court and we do not oppose any court-requested hardships, so the court can order a longer payment plan.

Commissioner Kline said the committee needs to make recommendation to the full Board as to stay with Portnoff or change to Northeast Revenue Service.

Commissioner Hecker asked why didn't the Township use the Tax Claim Bureau previously?

Commissioner Kline replied information provided to the committee was that the differences were in the 90% for Portnoff and 55% for the Tax Claim Bureau. It was better for the Township to pay the 5% because we were getting the money quicker.

Mr. Barron said the average going back to 2005 when the Township was using Portnoff, after the first year, 69%-70% was collected and, after the second year, 80%-90% was collected.

Commissioner Markman questioned why the Township should make the change.

Mr. Barron replied if the Township stays with Portnoff and does not pass that 5% onto the property owner, the Township loses 5% a year.

Commissioner Kline said we need to decide whether to go with Northeast Revenue Service or stay with Portnoff Law Associates and should the Township pay the 5% or pass it onto the property owner.

The issue with Portnoff is that their legal fees continue adding up and they get paid first for those fees and the Township gets paid later. Whereas the County does not assess their legal fees for four or five months following initial notice and it's capped at 1%.

Previously the concern was about the Township getting paid on a regular basis, but both firms pay weekly.

Consensus by committee was to pass the 5% onto the property owner.

Mr. Barron said he is torn as to which firm to go with, but his main concern is for the Township to get paid.

Commissioner Jones questioned whether staying with Portnoff would make the situation better for chronic delinquent taxpayers.

Mr. Blumenthal replied it delays losing their house.

Commissioner Jones questioned whether going with Northeast Revenue will reduce the number of chronic delinquent taxpayers.

Commissioner Markman replied yes, their house would be sold sooner.

Commissioner Jones said in the situation where a few houses are sold from chronic delinquent taxpayers, the School District's reason would be they need to maintain a teacher's salary.

Commissioner Markman said that is an interesting point because the School District are currently using Northeast Revenue, so the sale would be forced anyway because that is the majority of the tax bill.

Commissioner Kline said the most important issue is the Township is not having to pay the 5%, and that is off of the table, so now his concern is legal fees adding up for the property owners.

Commissioner Markman said essentially, the School District has made the decision for the Township.

Mr. Barron agreed that by going with Northeast Revenue there would less legal fees in the long run.

Commissioner Kline made a MOTION, seconded by Commissioner Markman to recommend to the full Board to authorize Township staff to notify Montgomery County Tax Claim Bureau that the Township will utilize Northeast Revenue Service, LLC for the collection of 2014 delinquent real estate taxes and that the Board will reevaluate this in one year for the 2015 delinquent real estate taxes.

Commissioner Markman commented that it should be a decision made by both the Township as well as the School Board, so we should speak with representatives of the School Board at that time.

MOTION was ADOPTED 5-0.

County Loan Program:

Commissioner Kline noted there will not be any discussion on the County Loan Program tonight.

ADJOURNMENT: 9:23 p.m.

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