

**TAX ABATEMENT COMMITTEE
CITY HALL – ROOM 302B
10 N. DIVISION
BATTLE CREEK, MICHIGAN
April 21, 2015
4:30 PM**

Present: Mayor Owens, Commissioners Baldwin and Behnke

Absent: Comm. David Walters

Staff: Rebecca Fleury, Ted Dearing, Steven Hudson, Jill Steele, Vicki Houser

Call to Order: Ms. Fleury called the meeting to order at 4:38 p.m.

Nomination of Commission Chair: A motion was made by Comm. Behnke, supported by Comm. Baldwin, to nominate Mayor Deb Owens as Chair. All yes, none opposed. Motion approved.

Approval of Minutes: A motion was made by Comm. Behnke, supported by Comm. Baldwin, to approve the minutes of the February 24, 2012 Tax Abatement Committee. All yes, none opposed. Motion carried.

Public Comment: None.

Committee Discussion:

1. Proposed change to City IFT Guidelines

Steve Hudson, City Assessor, discussed the City's abatement program and proposed changes, expressing his concern that companies that are applying for tax abatements are also filing appeals of their property taxes. Mr. Hudson provided a list of all tax abatements for the last 5 years, stating that approximately a third of the companies also appeal their taxes within a year of the tax abatement, noting a majority receive some kind of reduction, rarely receiving the whole amount they are asking for. Mr. Hudson stated Marcel Stoetzel of the City Attorney's office works with the Assessor's office on tax appeals.

Jill Steele, City Attorney, stated the reduction is just by agreement, not that the assessment is out of line.

Mr. Hudson stated the appeals are very expensive, and with the volume received, the City has had to seek outside counsel for help, at a cost of \$110,016.94. Mr. Hudson stated the Attorney's office will receive a reimbursement for appeals in the TIFA district. Mr. Hudson stated 20% of Attorney Stoetzel's time is dedicated to MIT appeals.

Comm. Behnke asked if filing tax appeals was a recent trend.

Mr. Hudson stated there has been a dramatic rise since 2011-2012 when companies have worked with outside counsel.

Comm. Baldwin recommended the Committee view the tax appeals as an important business decisions for the companies, stating businesses also need to look at their bottom line. Comm. Baldwin asked if City assessments increased in 2012.

Mr. Hudson stated property values have declined since 2008, not only in the City and the State, but nationwide also, affecting both commercial and industrial properties. Mr. Hudson noted two thirds of the companies did not file an appeal, instead discussing appraisals with the City to work to an agreement. As an example, Mr. Hudson stated Kellogg's expressed concern the lower value would affect the DDA, offering to phase in the reduction to minimize the impact to the City and the DDA, stating this was a good example of social responsibility. Mr. Hudson also discussed Mason Capital, LLC, a subsidiary of the Hinman Group, who withdrew their appeal, waiting until completion of their project through the Commercial Rehabilitation Act, then allowing the Assessor to review the property upon completion. Mr. Hudson stated there is little a local government can do as the state is able to approve, deny or revoke abatements. Mr. Hudson stated the local government would not have to create an abatement district if a company is filing an appeal, but once the district is established, the local government would have to allow an IFT or revoke a district. As an example, Mr. Hudson stated the Fort Custer TIFA was established in 1975, noting the City could not end the district until all IFTs have expired, which would be 2028. Mr. Hudson cautioned that if the local government were to deny an IFT application, the company had the right to appeal the decision to the State Tax Commission, who then may approve the application. Mr. Hudson indicated the City could set terms in the IFT agreement, stating that with approval of the tax abatement, the business could not appeal their tax assessment for a certain amount of time, noting the State Tax Commission may not enforce this. Mr. Hudson stated the City could also limit the number of years of the abatement, proposing the City only grant a one year abatement if the company applying for the abatement had an existing MIT appeal, noting the local government had the authority to determine the number of years of abatement. Mr. Hudson stated several communities have tried to deny an abatement if an appeal were in process, stating this has not been successful.

Ms. Fleury noted the limited 1 year abatement would give the business time to work with the City, then come back to the City for an extension once a value determination has been made.

Mr. Hudson noted businesses always have the opportunity to talk with the City at any time about their assessment, but that the City has the option within the resolution to state conditions for an extension, but the reason cannot be that they cannot appeal their tax assessment, but an extension would apply for a multiple phase project.

Comm. Baldwin expressed her disagreement, stating this would not promote a business friendly environment, noting Musashi has had 5 expansions.

Mr. Hudson stated that if a business was to appeal their assessment, the City should not have to subsidize the business, stating there was an obligation on the part of business to support the City, noting the savings from the tax abatement are then being used to appeal their tax assessment.

Comm. Behnke expressed his appreciation of Mr. Hudson's comments on social responsibility, asking if most companies talk with the City before filing with the MTT.

Mr. Hudson stated businesses used to talk with the City, but recently a tax firm in Detroit has been soliciting companies to file tax appeals.

Ms. Fleury noted Meijer recently filed tax appeals for all of their stores.

Comm. Behnke noted this hurts many communities. Comm. Behnke remarked on an article that discussed the valuation of vacant stores to occupied and operating business properties, expressing concern state law would support this.

Mr. Hudson stated Meijer, Lowes and Home Depot have been successful with their appeals, stating the MTT has agreed with the argument from appellants.

Comm. Behnke recommended the City look for a more business friendly option, proposing they find a happy medium.

Ms. Fleury stated she saw several tax appeals filed in the area of her prior job, stating Meijer hired a firm from Detroit, who compared the operating business to buildings that recently closed or were vacant.

Mr. Hudson expressed his view again that the tax appeal did not show good citizenship, stating his preference the companies talk with the City about their tax assessment concerns. Mr. Hudson stated the discussion involves attorneys once the appeal has been filed with the MTT, increasing costs to the City. Mr. Hudson noted other communities have denied tax abatements, but the company can then appeal to the State.

Comm. Baldwin asked if companies submit what they believe their value is when applying with the MTT, asking what the usual settlement is.

Mr. Hudson stated some tax appeals are dismissed or withdrawn, while some get a portion of their request, however noting the added costs incurred by the City for appraisals and staff time.

Comm. Baldwin requested Mr. Hudson research other communities' practices, expressing concern the denial of tax abatements would be an anti-business measure, stating the recession was difficult on most businesses, and that companies have a right to appeal.

Comm. Behnke noted the City of Ann Arbor does not provide tax abatements, but seems to be doing well.

Comm. Baldwin noted Denso continues to expand their business every year, employing thousands.

Mr. Hudson noted Denso's attorneys file tax appeals every year, stating it is often difficult to find comparable properties. Mr. Hudson stated all properties are inspected and measured when being built, with all properties being reappraised in an 11 year cycle. Mr. Hudson stated his commercial/industrial appraiser spends 90% of her time on tax appeals.

Mayor Owens, noting this was a complex issue, suggested Mr. Hudson look at what other communities were doing, then to present the information to the entire Commission at a later date.

Mr. Hudson stated that any changes to the abatement process approved by the Commission would take effect immediately.

Mr. Dearing stated the City wants to be business friendly, while balancing the need to use tax payer resources efficiently, stating there was value to researching a workable balance with the businesses.

Comm. Baldwin expressed her concern the timing of this discussion was not good, especially while working on the goals for the City Manager and Commission to be more business friendly.

2. Update on Personal Property Legislative Changes

Mr. Hudson stated Battle Creek is a Core community, with the ability to offer additional programs and abatements that other communities cannot, as an example, the City of Springfield is not a core community and cannot offer OPRA's. Mr. Hudson stated a 425 agreement with Springfield allows OPRA agreements for some of the auto dealerships. Mr. Hudson provided the State Tax Commission Bulletin, noting that with the passage of PA 397 of 2013, personal property with a true cash value of \$80,000 or less is exempt, if the affidavit has been filed, stating it covers all different types of personal property. Regarding Eligible Manufacturing Personal Property, Mr. Hudson stated that beginning in 2016, any industrial personal property taxation was beginning to be phased out, noting any assets acquired after 2012, or before 2006, will be exempt for 2016, providing the Personal Property Tax Phase Out and Exemption Schedule for Existing Property tables, demonstrating the 100% exemption will go into effect in 2023. Mr. Hudson noted all of the changes will have an impact on TIFA and DDA districts, stating provisions of the law indicate the local governments are to be reimbursed, noting the State special assessment on industrial property will be less than they were paying previously on personal property taxes, with a local governing board distributing the funds.

Ms. Fleury noted the process to make the local government whole is very complicated.

Adjournment:

The meeting was adjourned at 5:26 PM.