

Introduction¹

The Town of Southborough is establishing a Payment in Lieu of Taxes (PILOT) program to formally request voluntary payments from tax exempt organizations. The Massachusetts State Constitution, written in 1780, empowered the legislature to promote the arts, sciences, and natural history of our country by granting “reasonable exemptions” to the institutions that embrace these pursuits.² The impact of this law is realized in the erosion of Southborough’s tax base.

Southborough must be fair and even-handed in managing its tax base due to the following fiscal realities:

1. The over-reliance on the property tax as the only major source of tax revenue;
2. The implementation and limitations of Proposition 2 1/2;
3. Increased demands for costly municipal services which require additional revenues;
4. The continued decline in federal and state fiscal assistance;
5. A precarious state revenue forecast that threatens the state’s ability to fund fiscal relief; and,
6. Real costs of providing municipal services to tax exempt properties.

¹ The Southborough Board of Selectmen wish to thank the talented and professional Town employees and committed volunteers who have spent countless hours on prior PILOT committees. That work resulted in a Final Report dated June 29, 2010, and has served as a guide in the preparation of this report. Any errors or deficiencies in this report, however, are solely the responsibility of the Board of Selectmen.

² Mass. Const. pt. 2, ch. 1, § 1, art. IV reads, in part:

And further, full power and authority are hereby given and granted to the said general court [the legislature], from time to time, . . . to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said commonwealth, except that . . . reasonable exemptions may be granted. . . .

Throughout the Town's history, Southborough has responded to the rising cost of servicing the growing number of properties which are tax exempt by increasing property taxes on other classes of taxable property. However, the enactment of Proposition 2 1/2, first dramatically cut property tax revenues, and then limited their future growth to 2 1/2 percent per year. Southborough is no longer able to absorb the reduced operating revenue effect of tax exempt property by increasing its revenues from its taxable base. The intent of this proposal is to offer a fair, open, and equitable process for managing the tax base through a payment in lieu of tax (PILOT) program with tax exempt organizations.

While Southborough benefits from its reputation of excellence cultivated by tax exempt organizations, it must contend with the increasing municipal costs of providing services to those organizations. Tax exempt institutions consume roads, police, fire, and other municipal services largely paid for by Southborough property tax revenues. Since the costs of these services are constantly increasing, tax exemptions necessarily increases the costs allocated to other taxpayers in Southborough. Additionally, Southborough must also absorb the implicit opportunity costs associated with the loss of revenue due to the exempt status of property. If these properties were fully taxable, Southborough would realize a substantial increase in property tax revenue. Yet, Southborough residents must bear the entire costs associated with tax exempt properties. In the final analysis, the Town asks the tax exempt organizations to examine this proposal with a sense of fairness; since tax exempt institutions benefit from taxpayer-funded services, such as fire and police protection, it is only fair and just for tax exempt organizations to pay a share of those costs.

Fay School

The Town of Southborough has always valued its relationship with Fay School. The uniqueness of Southborough is due in part to the presence in town of this prestigious institution. The partnership that exists between the Town and Fay School is built on a solid foundation, and the future promises only to strengthen that foundation.

In an effort to quantify the costs of services rendered to Fay School by the Town, both the Fire Chief and Police Chief provided data spanning the course of five years. In addition to the police and fire service, residents of Fay School's tax exempt property send six (6) children to Southborough Public School. The costs of those services are reflected below:

I. Southborough's Annual Costs of Municipal Services to Fay School³

| | |
|--|-------------------------|
| Fire Department Services: | \$36,276 |
| Police Department Services: | \$4,566 |
| School Services: ⁴ | <u>76,591</u> |
| <u>Total Annual Service Cost:</u> | <u>\$117,433</u> |

In addition to the costs of services rendered to Fay School, Fay School has taken off the Town's tax rolls a large number of residential properties. That analysis is reflected below:

³ The figures for municipal fire and police services represent the average annual cost of those services based upon actual data collected over a five year period of time. The supporting data is available to Fay School upon request.

⁴ This figure represents the costs associated with educating five (5) students at a cost of \$12,639 per student and one student at a cost of \$13,396.

II. Southborough's Loss of Revenue from Fay School's Tax Exempt Residential Properties⁵

| | |
|--|------------------------|
| Number of Residential Properties: | 12 |
| Average Residential Tax Bill: ⁶ | \$7,943 |
| <u>Total Loss of Revenue:</u> | <u>\$95,316</u> |

Based upon the above conservative analysis, the annual amount of loss of revenue to the Town of Southborough for municipal services to Fay School and Fay's School's tax exempted residential property is: **\$212,749.**

III. Fay School's Contributions

Fay School has pledged \$10,000 per year for ten years to help offset the Town's debt associated with the purchase of an aerial fire truck.

IV. Fay School's Financial Status

The Town of Southborough recognizes that fairness dictates that an annual contribution from Fay School should not only be based upon its use of municipal services and tax exempt

⁵ This analysis *only* includes residential properties owned by Fay School. The analysis does NOT take into account the large institutional buildings and other property owned by Fay School. If institutional buildings and land were included in this analysis, the amount of the tax exemption would be substantially higher.

⁶ This report only uses the average residential tax bill as the multiplier. If the Report used the actual valuation of each residential property owned by Fay School, once again the result would be substantially higher.

property, but should also take into account its ability to pay. In arriving at the requested contribution of \$200,000 annually, the Town has taken into account the following information:

For the school year 2009-2010, Fay School enrolled 450 students; 110 of those students boarded at the school, while the remaining student body are day students. Tuition averages between \$44,460 to \$52,750 per boarding student, and between \$17,250 to \$27,250 per day student.

For the period beginning July 1, 2008 and ending June 30, 2009⁷, Fay School reported its total revenue as \$10,918,113 and its net assets at \$49,545,352. It spent \$833,855 on “fundraising expenses”⁸; its endowment balance was \$35,000,000⁹. For the school year ending 2010 – 1022, it offered \$1,200,000 in financial aid.¹⁰

Based upon the above, the Town of Southborough believes Fay School has the financial ability to pay for its use of Town services and tax exempt property. Furthermore, the Town believes it is not unreasonable for Fay School to contribute an amount that is less than 20% of the financial aid it offers annually.

⁷ See Form 990 attached hereto as Exhibit “1”.

⁸ Id. at p. 10.

⁹ This is the amount noted at www.fayschool.org. This amount differs from the amount reported on Form 990, Schedule D, at p. 2. The average endowment for boarding schools is \$13,000,000. Taking the amount represented on its website, Fay School, has an endowment nearly three times as large as the average. See www.boardingschoolreview.com

¹⁰ See www.fayschool.org

PILOT Trends

To justify this payment, Fay School need only look at the emerging trend of tax exempt institutions that make PILOT payments based upon considerations of fairness.¹¹ The Lincoln Institute of Land Policy recently published the most comprehensive account of PILOT programs currently in use in municipalities across the nation. The report notes that “PILOTs can provide crucial revenue for certain municipalities, and are one way to make nonprofits pay for the public services they consume.”¹² The Chronicle of Higher Education reports that “municipalities and local nonprofits should work to hammer out payment plans that are transparent and predictable.”¹³ Most recently the Boston Globe noted that “nonprofit institutions should contribute more to the betterment of the city, and without a lot of fuss.”¹⁴

Fairness has compelled substantially similar schools to Fay School to make voluntary PILOT payments. For example, Phillips Academy makes annual PILOT payments to the Town of Andover in the amount of \$150,000; Cushing Academy committed \$2,700,000 to the Town of Ashburnham toward a new public safety facility; and, the Groton School contributes approximately \$100,000 to the Town of Groton’s annual budget. These are just a few examples of tax exempt institutions that are sensitive to the needs of local government and work in partnership with those governments.

¹¹ A collection of articles is attached as a convenience hereto as Exhibit “2”.

¹² *Payments in Lieu of Taxes: Balancing Municipal and Nonprofit Interests*, November 30, 2010, attached hereto as Exhibit “3”.

¹³ *The Chronicle of Higher Education*, November 29, 2010.

¹⁴ *The Boston Globe*, January 3, 2011.

Conclusion

The theme throughout this report has been one of fairness. Unless the state legislature moves forward with a repeal of the tax exempt status of particular institutions, the Town must rely on the good faith of Fay School and its sense of civic duty. The facts are straightforward and simple: The Town of Southborough needs revenue to provide services; municipal services are supported by tax revenue; Fay School is exempt from property taxes; Fay School uses the Town of Southborough's services without paying for them; Fay School owns a substantial amount of property in town that is tax exempt; and, Fay School appears to have the financial ability to make such payments and to strengthen our community partnership.

Thank you in advance for taking the time to read this report. We look forward to your response and your participation at our meeting with the residents to discuss the results of our efforts.