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*Gene Bleu Terwilliger  
Superintendent Public Works*

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Village Clerk*

September 9, 2020

## POSITION STATEMENT

### **Housing and PILOTs**

- Payment-in-lieu-of-tax (“PILOT”) agreements are harmful to local governments and school districts - and as a result, existing property tax payers - because of the way revenues are accounted for within New York State’s property tax cap formula. PILOT revenue may not be used to increase local budgets, even when there are new costs created by the new development. There is no “new money” for taxing authorities to use:
  - Property value increases brought on by investments under PILOT programs are excluded from the Tax Base Growth Factor (“TBGF”), which partially determines the allowed tax levy increase. (The tax base growth factor is a part of the tax cap formula that recognizes new construction, newly taxable status of existing property, or measurable improvements to taxable property within the boundaries of a local government or school district.)
  - PILOT payments have to be subtracted from tax cap calculations, creating a situation whereby a local taxing authority could be required to cut its tax levy to stay within its cap.
  - Additionally, the TBGF does not get adjusted at the end of the PILOT when the property becomes taxable so harm is perpetual.
- For example, if new housing is constructed and its developer secured a PILOT, the local school district is forced to educate its new students without adding any new net revenue to the tax base. Funds collected through a PILOT are often described as “*some money*” that may be less than a fully taxed property but better than *no money*.” However, PILOT funding results in no net revenue increase thereby prohibiting school districts from increasing their budgets to accommodate the cost of new students. Districts would have to successfully seek an override from the voters to increase the levy above that limit dictated by the property tax cap formula.
- The New York State Education Department (“NYSED”) provides [Tax Cap Guidance](#) on page 16 of this link where the NYSED states that “Districts with increasing or new PILOTs could have a tax levy limit that represents a change from the prior year that is less than zero.”
- There have been several unsuccessful [bills proposed](#) in Albany from 2011 - 2020 to amend the property tax cap law so that the assessed value of any property that becomes tax exempt due to a PILOT be included in the tax base growth factor calculation as if it were taxable property.
- Communities need to be able to expand their resources in proportion to service demand increases.

## **Sales Tax Revenue Distribution in Ulster County**

As the largest municipality and Ulster County's only city, Kingston is responsible for providing more governmental services than the county's 23 towns and villages. Kingston should and does receive a larger portion of sales tax revenue compared to the county's other municipalities.

As in 42 of the state's 57 counties outside of New York City, New York State (4%) and Ulster County (4%) sales tax rates combine to produce a total rate of eight percent (8%). Because NYS law does not entitle villages and towns to participate in sale tax agreement negotiations, only Ulster County and Kingston are "at the table" to determine how sales tax revenue within our county is allocated. Pursuant to their agreement, the 4% local share is split so Kingston receives eleven and one-half percent (11.5%), the twenty towns and three villages share three percent (3%), and the County retains the remaining eighty five and one-half percent (85.5%).

In New Paltz we have consistently stated that we support progressive redistributive county policies that increases the sales tax share for all villages and towns that do not have a say during allocation negotiations, and have specifically expressed concerns about the Town and Village of New Paltz's combined share at 0.1% being unfairly and oddly low, especially given our significant role in the tourism economy that is expected to continue to grow and only increase demands on the services we provide.

For the 12-month period through February 2019, \$243 million in sales tax revenues were generated in Ulster County including \$13.4 million generated in New Paltz, based on the 8% sales tax rate. Under the current agreement, this means that the sales tax of \$13.4 million from New Paltz only amounted to approximately \$251,000 to help offset our property tax bills. We have never advocated for New Paltz to receive all of what we generate in sales tax, but believe in a countywide formula that is more rational and equitable to support Kingston and all of the other 23 municipalities.

## **In Conclusion**

We are calling on the Kingston Common Council, Ulster County Legislature, and the Kingston City School District Board of Education to be mindful of the other neighboring 23 municipalities. We all contribute and must continue to work together to generate sales tax revenue for our county's approximately 180,000 residents. Kingston should not unilaterally forfeit property tax revenues via PILOT schemes while municipalities like the Town and Village of New Paltz, as well as high-need places like the Village of Ellenville, are expected to provide more than their fair share of county sales tax.

***Until the State's Tax Cap Law and County's Sales Tax Agreement are amended, the Village of New Paltz Board of Trustees declares its opposition to any PILOT agreements that result in a reduction of real property taxes versus full taxation based on a full market value assessment determined by local assessor offices.***

Kingston needs and deserves its property taxes and should not be padding a developer's profit margins at the expense of the rest of the county. Trading property tax revenue in exchange for building a poorly conceived parking garage that compromises uptown Kingston's uniquely desirable pedestrian-focused character is also just short-sighted planning. There are better ways to serve more residents like investing in public transportation to more effectively support local businesses and serve community members across the county.