

DATE MONDAY DECEMBER 28, 2020

THE KEARNS METRO TOWNSHIP COUNCIL, STATE OF UTAH, MET ON MONDAY, DECEMBER 28, 2020, PURSUANT TO ADJOURNMENT ON THURSDAY, DECEMBER 3, 2020, AT 6:30 P.M. VIA ZOOM.COM.

COUNCIL MEMBERS PRESENT: TINA SNOW
CHRYSTAL BUTTERFIELD
ALAN PETERSON
PATRICK SCHAEFFER
KELLY BUSH, Chair

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Mayor Kelly Bush, Chair, presided.

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Council Business

Mayor Kelly Bush referred to the temporary conduct of electronic meetings of the Kearns Metro Township Council that is consistent with the Utah Open and Public Meeting Act. This allows the Council to hold electronic meetings without a physical location.

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Franchise Tax Legislation

Nathan Bracken, Legal Counsel, Kearns Metro Township, stated the purpose of the meeting tonight is to discuss the Municipal Energy and Telecommunication Sales and Use Tax (MET) tax. He stated all the metro townships are fully independent of Salt Lake County. The metro townships are incorporated municipalities with the same rights, responsibilities, obligations, and expenses of running a city with one exception. The townships do not have the ability to impose MET taxes. The reason townships were not given the ability to impose MET taxes is because the League of Cities and Towns felt the townships would just be an extension of the County and encouraged legislatures not to allow this ability. Also, there was an understanding in 2014 that the metro townships would be quasi-municipalities because Salt Lake County would be providing some of the services. Since the incorporation of the townships in 2017, the County started pulling back certain services, which led to the present situation where townships are fully independent of the County and contract for any services needed.

Not having the ability to impose this tax creates an inherently unfair situation. For any municipality to function independently and to treat its citizens fairly in terms of tax and cost burden of funding the services provided it needed to have a broad range of funding sources. MET taxes are one of the most essential funding tools cities and towns have at its disposal to generate revenue.

Over the next five years, townships are looking at close to \$32 million deficit for the Municipal Services District (MSD) and the only legal option to pay for these costs is through a huge property

tax increase. Kearns has a significant portion of untaxable land within its boundaries and with the ability to impose this tax it would spread the impact out widely and equitably. MET taxes would allow Kearns to impose a tax on service providers of up to 3.5 percent on the value of telecom services provided within its boundaries and up to 6 percent of the deliverable value of taxable energy. Some utilities pass this tax onto the consumer, but not always. Some telecommunication providers might already be charging this tax to Kearns residents. He will need to investigate this further.

The ability to charge this tax is not some type of silver bullet. It will not solve the deficient, but it will give the townships more ability to deal with this cost imbalance fairly and equitably. Just because the townships have this ability does not mean it will impose the tax. The MSD will need to look at all streams of taxes to determine what is fair and best.

Mayor Bush stated the Unified Police Department (UPD) and the Unified Fire Authority (UFA) are both going to the legislature this year requesting an increase in the cap they can charge for emergency services. The Kearns Metro Township Council does not want to increase any property taxes if it can get away with it. The MET tax would spread any increase out evenly, it will not just hit the property owners.

Mr. Bracken stated he did not know of any municipality that functions without these types of taxes. If the township cannot meet its obligations and has to disincorporate these costs are not going away, and the County would have to raise this revenue.

Bart Barker, General Manager, Municipal Services District, stated the primary source of revenue for townships is property taxes. Not having the ability to impose MET taxes takes away a primary source of revenue. The MSD does five-year projections on the budget to make sure the decisions made today are made in the context of long-term budgeting. The revenues for the MSD come from several sources such as the metro townships, the town of Brighton, unincorporated Salt Lake County, and from some grants. Going forward the MSD will be spending more than it is taking in resulting in a structural imbalance, which causes the MSD to have to use its fund balance. The fund balance currently stands at \$30 million but in five years, if not before, the balance will be zero. This structural imbalance may require some metro townships to disincorporate giving the County total control once again.

The MET tax is one tool, it is not going to solve everything, but it is one more tool that other municipalities have that provide necessary revenues for services and spreads the cost among more taxpayers than just property owners.

Council Member Schaeffer asked how it will be determined if residents of Kearns are already paying some franchise taxes.

Mr. Bracken stated there are some bills that residents receive that indicate a franchise tax. He is not entirely sure what this tax is. Mr. Barker thought it could be a carryover tax that was imposed by the County for the use of roads and utilities.

Roger Snow, Vice Chair, Kearns Community Council, asked if this was a direct tax on the citizens of Kearns.

Mr. Bracken stated not necessarily. The tax is paid by the utility provider, which may pass the tax onto the consumers. Kearns is faced with the choice of either doing a property tax increase, which is already significantly high and will only be paid by a subset of people in Kearns and not by the largest users, or impose the MET tax which would be borne equally.

Mr. Barker stated before the metro townships were established, the County was charging Comcast a Cable TV Franchise Fee for the use of its roads and that has probably carried over. This will need to be investigated to determine if it is allowed under the current law. If Comcast looked into this and determined it should only be paying this for the unincorporated area, then MSD could lose up to \$800,000. If it is not allowed, then the MSD would lose approximately \$900,000. This will need to be investigated with the Utah Tax Commission and the Public Services Commission to verify the source of these fees and where the money is going.

Mr. Snow asked if places like the fitness center, parks, libraries, and churches would have to pay the MET tax.

Mr. Barker stated yes, this tax is spread out over more taxpayers and those entities. The churches and schools are paying this tax as every other city in the County, it is part of their expenses.

Mr. Snow asked if every other city in the County charge MET taxes.

Mr. Barker stated yes, every city in the County is charging these fees.

Mr. Bracken stated Kearns would not be imposing a tax right now, it would just be trying to get the authority to deal with this challenge. In his experience, the vast majority of the Energy Tax will come from nonprofit entities because they are the biggest users. So, if Kearns needs to come up with \$2 million it could impose a property tax, which is paid entirely by property owners, or it could impose a MET tax, which is spread over all users. He does not know of any city or town that functions without this tax.

The League of Cities and Towns support this bill, and it is important to get all metro townships and community councils on board with this. He is hoping to do outreach to the community councils, township councils, and the Association of Community Councils Together, but have not had the opportunity to do so yet.

Senator Mayne reached out to Representative Dunningan to ask him to co-sponsor this bill. He has not had an opportunity to brief Representative Dunningan on this bill so it does not know if he will co-sponsor the bill or not. Paula Smith, Chair, Kearns Community Council, had some concerns about this and expressed them to Representative Dunningan. It will be difficult to get this bill passed without his support.

Council Member Snow stated her biggest concern was imposing a new tax on the citizens of Kearns.

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Mr. Barker stated the cost will not go away; it is just how you get the revenue needed to pay for it.

Mr. Bracken stated it would be hard for Kearns or any of the other metro townships to remain independent of Salt Lake County without this authority. This tax would be the least impactful, cost effective way to go to provide revenue needed. The township could still do some things with the storm water fee and he is hoping to do some redevelopment agencies in order to increase the commercial base to bring in more tax revenue. Getting this MET tax is not going to be enough in and of itself.

Mr. Snow stated he would like to have this presentation done for the community council on the 5th of January and asked if Mr. Bracken and Mr. Barker could attend that meeting.

Both agreed to come, they each requested an invitation to attend the ZOOM or WebEx meeting.

Nichole Watt, Deputy Clerk, Salt Lake County Clerk's Office, stated she would send out invitations to this meeting.

Mr. Bracken stated it might be a good idea to have Mr. Barker explain the limitations the Council will be facing with Class B and C road tax. There will be a significant cut to that stream of revenue.

Mr. Barker stated the funds the County receives from the State for Class B roads will be cut in half the first of July. It will be a huge lost of revenue for the MSD. These funds are used for roads, sidewalks, storm drains, and streetlights.



THERE BEING NO FURTHER BUSINESS to come before the Council at this time, the meeting was adjourned.

SHERRIE SWENSEN
METRO TOWNSHIP CLERK

By _____
Deputy Clerk

CHAIR, KEARNS METRO TOWNSHIP

