

Summary of Meeting with Tim Flaherty & Holly Biron

Civic Caucus 8310 Creekside Circle, Bloomington, MN
Friday, July 14, 2006

Guest speakers: Timothy Flaherty and Holly Biron, lobbyists, Coalition of Greater Minnesota Cities

Attendance: Verne Johnson, chair; Chuck Clay, Paul Gilje, Jim Hetland (by phone), John Mooty, Wayne Popham (by phone), Clarence Shallbetter

A. Context of today's meeting: Minnesotans in November 2006 will vote on a proposed amendment to the state's constitution to dedicate all revenue from the state sales tax on the purchase of new and used cars and trucks to highways and transit. Currently, slightly more than one half of revenue from this source is dedicated by state law to highways and transit. The balance is placed in the state general fund and used for other state purposes. The Civic Caucus has been conducting meetings with individuals and groups with an interest in the amendment. Today we are meeting with representatives of the Coalition of Greater Minnesota Cities (CGMC).

B. Introduction-- Verne and Paul introduced our guest speakers, Timothy Flaherty and Holly Biron, lobbyists for CGMC. Flaherty has been with the law firm of Flaherty & Hood since 1992. Previously he was with Briggs & Morgan and before that, Holmes & Graven. Earlier he was lobbyist for the city of Minneapolis. Biron, a recent graduate of the Humphrey Institute of Public Affairs at the University of Minnesota, has been with Flaherty & Hood since January 2006.

C. Comments and discussion-- In the comments by Flaherty and Biron and in discussion with members of the Civic Caucus the following points were raised:

1. Background on CGMC-- The CGMC has been in existence since 1984. It currently has 69 cities outside the seven-county metropolitan area in its membership.

2. Opposition to the constitutional amendment-- The CGMC believes the proposed amendment to dedicate the motor vehicle sales tax (MVST) should be rejected by voters for these reasons:

(a) The state needs a comprehensive plan to fund transportation, not just this piece-meal approach.

(b) The amendment is unnecessary. The Legislature and Governor can accomplish the objectives of the amendment without resorting to a constitutional amendment.

(c) The amendment doesn't guarantee any funding for highways; only transit funding is guaranteed.

(d) The amendment will shift dollars from the state's general fund, which pays for such services as education, health care and property tax relief, with no provision for replenishing the general fund.

(e) The amendment will mislead voters into thinking that 60 percent of revenues are guaranteed for highways.

3. Limit state transit funding- In the event the amendment is adopted, CGMC believes the Legislature should limit transit funding to 40 percent of MVST revenue and to transit's current level of state general fund dollars. Any additional transit funding, CGMC believes, should come from local sales taxes, such as a half-cent metro sales tax.

4. Local governments prohibited from spending funds on campaigning for amendments-- Flaherty distributed a letter from Carla Heyl, deputy state auditor, dated June 21, 2006, stating that cities and other local government are prohibited from spending funds to advocate adoption or rejection of proposed constitutional amendments. The state auditor's letter cited past Attorney General's opinions and court cases. One court case notes that public tax dollars "belong equally to the proponents and opponents of the proposition..."

Flaherty said it is legal for city governments to pass resolutions and distribute their positions but they can't join in any advocacy effort. Thus the CGMC will respond to requests to outline its position but CGMC will not be conducting any campaign on the amendment nor participate in any group that is campaigning.

5. Amendment is a piecemeal approach-- The amendment creates an illusion that transportation needs will be satisfied, but an additional \$300 million that the amendment is supposed to provide would meet only 18 percent of the needs for transit and highways. What will happen is that the amendment will remove pressure for a real solution, Flaherty said.

6. Ballot language is misleading-- The ballot language creates an impression that 60 percent of the funds would be for highways. But that is not the case. The only guarantee is that transit gets at least 40 percent and that highways would get 60 percent at the most. A Civic Caucus member inquired whether the concern of CGMC is that metropolitan area transit will get more and highways will get less. Flaherty replied that his group believes that metro transit is under-funded but that the increased dollars should come from a revenue source within the metropolitan area, such as a regional sales tax. Nationally, Flaherty said, about metropolitan transit systems receive about 22.5 percent of their revenue from the state. In Minnesota metro transit receives 62 percent of its revenue from the state. You need to realize too, he said, that many unfunded highway needs exist in the non-metropolitan parts of the state.

7. Failed efforts to guarantee 60 percent for highways-- Biron summarized unsuccessful efforts in the 2006 Legislature to provide a "hard" 60-40 split for highways and transit. Bills to that effect were passed in both the House and Senate and, therefore, were in both bills that entered the Conference Committee. However, a strong pro-transit group was appointed from the Senate to the Conference Committee, which was unable to reach agreement. Hence the final outcome was that language adopted in 2005 remains in effect--at least 40 percent for transit and up to 60 percent for highways.

8. Possible damage to the general fund-- Some cities that are part of CGMC aren't as concerned about the MVST revenue as they are about the state's general fund losing money should the amendment be adopted. They wonder where the Legislature will turn for funds to replace the funds that would be lost from the general fund. Official forecasts indicate that the hole in the general fund would be filled by normal growth in revenues, but such forecasts are very speculative.

9. Use of MVST funds for bonding-- A questioner noted that some supporters of the amendment would use MVST funds for bonding. Flaherty said that CGMC generally prefers pay-as-you-go. CGMC would support bonding if a new revenue stream were provided to pay off the bonds. Another questioner noted that advocates the MVST amendment have cited a need for long-term revenue stability for building highways. Flaherty said the amendment won't provide any more revenue stability for highways than is available now.

10. St. Paul Pioneer Press editorial-- Copies of an editorial in the St. Paul Pioneer Press for Monday, July 10, 2006, were distributed. The editorial criticizes the fact that no plan is in place to replenish the state's general fund if all MVST money is transferred to transportation.

11. Desirable to separate highway and transit funding policy?-- A member asked whether the state would be better off if the Legislature acted separately on transit and highway funding legislation, rather than trying to combine two.

12. Risk of transit funds being consumed by operating deficits-- A member said some people have unrealistic expectations that the MVST money will provide the needed funds for LRT. But as a practical matter, the member said it appears as if most of the transit money will go to pay the operating deficit--the difference between expenses and fare box revenue. Flaherty said he agrees with that assessment. Already about \$200 million in state general revenue fund money is earmarked annually for metropolitan transit, he said.

13. Principal argument against the amendment- Asked about the CGMC's main concern with the amendment, Flaherty said it is the absence of any guarantee of funding for highways.

14. Campaigns on the amendment-- Flaherty said the proponents have announced a \$4 million vote yes campaign. He knows that some legislators will be speaking against the amendment. He doesn't know of an organized vote no campaign but it is possible that some mayors might seek private funding for such a campaign. Asked which legislators are likely to speak out in opposition, he mentioned Sen. Thomas Bakk of Cook, Sen. Rod Skoe of Clearbrook, and Rep. Thomas Rukavina of Virginia.

15. Funding for non-metropolitan transit-- On the distribution of the 40 percent or more that would be given to transit, Flaherty said the Legislature will make that decision. The CGMC is working for 5 percent for non-metro transit and 35 percent for metro transit. Others in the metro area want as much as 38 percent for transit. A 36-4 split appeared in some statutory language.

It was agreed that accessibility, not reducing congestion or influencing development, is a main justification for non-metro transit. In the metro area, most discussion focuses on congestion relief and influencing development, although accessibility is important for large numbers of metro area residents. That is particularly true for persons who rely on the bus system and whose accessibility will not be enhanced, and possibly could be restricted, with LRT.

In the continuing discussion of transit, Flaherty agreed with a member's comment that large numbers of people are unaware that less than 15 percent of work trips in the metropolitan area terminate in the downtowns of Minneapolis and St. Paul combined.

16. Need for a comprehensive strategy-- A member asked whether the CGMC has developed a comprehensive transportation strategy for the state, including transit and highways, along with recommended revenue sources. Flaherty said that such a proposal has been prepared, with CGMC support, but that a "no new tax" attitude by the Governor and some legislators has not made the proposal workable. A suggestion was made that perhaps a governor-appointed commission could come up with a workable plan. Flaherty said CGMC opposed one comprehensive plan because it was advocating different tax rates in the metro area versus the rest of the state. Continuing this discussion, Flaherty said his group supports a 10-cent-a-gallon increase in the gasoline tax but suggested that perhaps a 5-cent increase that is indexed to the price of gasoline would be better.

17. Other potential benefit-based revenues-- A member suggested that other revenues with connections to users and those that benefit from construction are available. For example, when interchanges and possibly transit stations are built, land values increase considerably in the vicinity. No effort is made to capture a portion of that windfall for the cost of construction. The member said such a strategy is much better than turning to the general fund. Flaherty said he agrees. Continuing this discussion, a member said that creative use of the fare box also could be employed, by providing vouchers for lower income persons while letting the fares rise, particularly in peak hours.

18. Is constitutional amendment a response to polarization?-- A member asked whether the constitutional amendment is part of a much larger problem, that of polarization and paralysis in government. Perhaps, the member said, the amendment is being advanced because it is increasingly difficult to get elected officials to cooperate and reach consensus among themselves. Flaherty, who has been a lobbyist since 1984, said that he senses a less cooperative, more hostile environment with more extreme partisanship today. Biron and Flaherty said too many legislators of different caucuses don't even know one another. Flaherty illustrated the polarization problem by recalling how Governor Ventura and the House and Senate settled a budget issue. Each assumed responsibility for settling one-third of the problem, rather than coming together and developing a comprehensive agreement.

C. Thanks-- On behalf of the Civic Caucus, Verne thanked Flaherty and Biron for meeting with us today.