

The Connecticut General Assembly



Working Group to Examine the Taxation of
Federally Recognized Tribal Nations

MEETING NOTES

TUESDAY, NOVEMBER 14, 2023

1:00 PM IN ROOM 1A OF THE LOB AND ZOOM AND [YOUTUBE LIVE](#)

Members in Attendance:

Jeffrey Beckham, OPM Secretary, Chair
Sen. Cathy Osten, Appropriations Committee
Rep. Toni Walker, Appropriations Committee
Rep. Maria Horn, Finance, Revenue and Bonding Committee
Rep. Holly Cheeseman, Finance, Revenue and Bonding Committee
Rep. Eleni Kavros-DeGraw, Planning And Development Committee
Jody Cummings, General Counsel, Mashantucket Pequot Tribal Nation
Betsy Conway, Senior Legal Counsel, Mashantucket Pequot Tribal Nation
Jean Swift, CFO, Mashantucket Pequot Tribal Nation
Larry Roberts, Attorney General, Mohegan Tribal Nation
Chuck Bunnell, Chief of Staff, Mohegan Tribal Nation
Leonard Bunnell, Mayor, Town of Montville

Others:

Anthony Casdia, Sr. VP for Business Development, Mohegan Gaming & Entertainment
John J. Rich, Chief, Ledyard Police Department

The meeting was called to order at 1:03 pm by Secretary Beckham.

Secretary Beckham thanked the Mashantucket Pequot Tribal Nation (MPTN) for hosting a tour of their facilities. He shared that he found the tour "illuminating".

Secretary Beckham asked for a motion to approve the October 17, 2023 meeting notes. A motion was made by Rep. Cheeseman, seconded by Sen. Osten. The motion carried.

Secretary Beckham then called on Ms. Conway and Ms. Swift to present the MPTN responses to issues presented at the October meeting. Ms. Conway, on behalf of the Tribal Council, thanked the working group for the in-depth analysis it is conducting regarding the "dual taxation" issue. She and Ms. Swift proceeded with the MPTN presentation (link to presentation [here](#)). Attorney Conway concluded the presentation by offering the following regarding the working group's required report to the General Assembly:

- MPTN endorses a Work Group recommendation to enact a tax exemption (add to C.G.S. Sec. 12-81) for "non-Indian owned personal property located on lands held in trust by the United States for the benefit of a federally recognized Indian tribe".
- MPTN supports Mohegan Tribe's efforts to revisit settlement agreements as a separate issue not linked to or dependent on the personal property exemption.

Mr. Bunnell thanked Ms. Conway for her thoughts regarding potential litigation issues between the Mohegan Tribe and the town of Montville should the tax exemption be enacted. He shared that the Mohegan Tribal Council (MTC) has been in discussions with attorneys and with the town, and it is believed that Montville will litigate the tax exemption. Attorney General Roberts stated that he did not think that this meeting was an appropriate forum in which to delve into the issue of potential litigation. He added that if the focus of deliberations is solely on the issue of non-Indian personal property on trust lands, he believes that it creates a "vastly unique" situation, where the tribe would be paying personal property tax on its trust lands, but the non-Indian entities with whom the tribe would have lease agreements would not pay the tax. General Roberts believes that passage of the tax exemption alone would exacerbate the "unicorn" that is the Mohegan-Montville agreement.

Mr. Bunnell stated that Mohegan has agreements that need to be looked at in global discussions. While the MTC will join in discussions regarding finding global solutions, focusing on the tax exemption alone is not acceptable to the Mohegan tribal government.

Attorney Conway reiterated that the MPTN supports the state discussing the Mohegan settlement agreements, but the Mashantucket Pequot Tribal Council does not believe that the tax exemption and the settlement agreements should be interconnected or dependent.

Chief John Rich of the Ledyard Police Department commented on the MPTN presentation by clarifying that on Routes 2 and 214 in Ledyard, police coverage is provided by the Ledyard PD.

Secretary Beckham called on Senator Osten to present the data she has been collecting and the matters for consideration and conclusions offered in her presentation. He informed working group members that there would be an opportunity at a later date for members to offer updates on the information provided by Senator Osten (link to presentation [here](#)).

Anthony Casdia thanked Senator Osten for her presentation. He stated that some of the data presented regarding tribal government costs would need to be augmented or corrected. He cited the following examples:

- Health Services – he clarified that Mohegan provides approximately \$14.3 million in support for social services, pharmacy care, family care and elder care.
- Utilities – the \$946,000 included in the presentation represents the administrative cost only. Mr. Casdia stated that the cost of providing the utilities themselves is \$20.3 million per year.

Mr. Casdia stated that he would review the slide deck to make sure that the data presented is accurate on an "apples to apples" basis.

Representative Cheeseman expressed concern that, while reimbursing Ledyard and Montville for lost revenue from the Mashantucket Pequot and Mohegan Fund (MPMF) would solve the problem today, the towns would not be reimbursed for any future revenue lost due to tax increases. Ms. Swift suggested adding a COLA factor to payments to those municipalities. Senator Osten disagreed with Ms. Swift's suggestion, as the legislature may look to change a policy that did not recognize the sovereignty of the tribal nations. She stated that she does not believe that the state has an obligation to "take on the ills of that policy forever".

With regard to the fiscal impact of changes to current statute, Secretary Beckham shared that the Office of Policy and Management (OPM) is working with the Governor on midterm adjustment recommendations for Fiscal Year 2025. In addition, OPM and the Office of Fiscal Analysis recently completed their consensus revenue update. He spoke about the "softening" of revenues and of deficiency appropriations that will need to be addressed. Secretary Beckham shared that his greatest concern is keeping state expenditures under the spending cap. He stated that given the potential fiscal issues that may lie ahead, he is skeptical in making changes to policies that will necessitate new appropriations. Further, given the complicated relationships between the federal government, the state government, the towns, and the tribal nations, he's very skeptical in this forum of coming up with a taxation solution without considering what the "spillover" effects may be.

Senator Osten responded to Secretary Beckham's comments, stating that the General Assembly and the Executive Branch always look at legislation to correct inequities. She shared her thoughts on what it would mean to not address the inequities that have existed regarding how the state has dealt with the tribal nations. She spoke about the revenue generated by the tribal enterprises and the need to recognize that they are the top two businesses in the state. She believes that the state has an obligation to correct the inequities regarding taxation and settlement agreements, while not punishing the towns for following state policy. Senator Osten added that the cost to making the towns whole is \$1 million, which she believes can be addressed within the budget adjustments.

Ms. Conway added that she believes the reimbursement to towns could be handled within the Mashantucket Pequot Mohegan Fund.

Secretary Beckham then called on Attorney General Roberts to address the implications of congressional status regarding the Mohegan agreement. AG Roberts stated that the presentation was, in large part, a response to Rep. Horn's questions (link to presentation [here](#)). The members then discussed the Mohegan proposal to provide the tribes a dollar-for-dollar credit to the Mashantucket Pequot and Mohegan Fund for the payment of real estate and personal property taxes paid by the tribes or non-Indians on trust lands to local governments. Ms. Conway stated that the problem with the proposal from the Pequot perspective is that Ledyard and Montville would still be allowed to tax on the reservations and to set their own tax policies, as opposed to allowing each tribe to make those decisions on their reservation. The proposal would address the money issue, not the sovereignty issue. Ms. Swift concurred with Ms. Conway's remarks, and added that the proposal does not address the determinant of economic development by non-Indians on the reservations.

Mr. Bunnell raised the issue of how sovereignty is defined. He posited that it is a tribal government's sovereign right to decide for themselves what is acceptable to them, and it is not the place of other governments to tell a sovereign government what is right for them.

Representative Horn and Senator Osten discussed the various issues associated with the elimination of the policy of the taxation of non-tribal property. In response to Rep. Horn's request for clarification, Sen. Osten confirmed that she suggests the use of MPMF dollars to hold Ledyard and Montville harmless should a policy change be enacted and her support of providing funds to make the towns whole. She expressed her concerns regarding the Mohegan proposal, as she believes that the change in policy should be at the forefront of consideration before the fiscal issues are addressed. Additionally, she spoke of the need for Montville and Mohegan to have discussions about changes to their agreement and the nature of their relationship going forward. Representative Horn agreed that whatever action is taken should incentivize the towns and the tribes to continue their good relationships.

Mr. Bunnell shared that Mohegan talks with Montville on a regular basis, and that the parties have talked about the Montville agreement repeatedly. He stated that Montville has asked Mohegan to "be a better neighbor and double the money".

Senator Osten offered that she suggested the removal of Section 1F from the agreement between the State and Mohegan, as she believes that the section "set up this bad policy", as that agreement was signed first. She stated that the section "cannot stand any longer".

Representative Cheeseman offered that, while she respects Senator Osten's position on the policy concerns, she believes that the issue is ultimately about the money – how the towns would be affected, the effects on tribal economic development, and the fiscal impact to the state. She shared her view that the working group cannot absent the issue of the money, as worthy as the other issues are, from a purely practical standpoint. Ultimately, a solution will need to be found on how to fix the fiscal implications.

Senator Osten informed the group that legislation was enacted to allow for 100% payment to towns regarding in-trust lands. She added there are other issues

associated with tribal lands that the various parties will need to look at, including that the reservation lands in Ledyard and Montville are assessed differently by the town assessors. She reiterated her position that current policy cannot continue and that the state cannot allow the sovereign nations to be treated as though they do not exist. Senator Osten suggested that discussions between the town of Montville and Mohegan include the town councilors.

Attorney General Roberts reiterated Mohegan's position that the policy change would not address the Mohegan situation, only the Pequot situation, and would lead to litigation between Mohegan and Montville. He offered that potential legislation could be drafted to address the unique circumstance of both tribes separately:

- Mashantucket issue – eliminate the taxation of non-Indian personal property.
- Mohegan issue – provide for Mohegan to have an offset against the funds it pays to the MPMF.

Secretary Beckham asked members to provide draft recommendations for circulation by Friday, December 1. The next meeting of the working group will be scheduled for the week of December 11. In addition to the discussion of proposed recommendations, the Mohegan team will be given the opportunity to provide updated data to Senator Osten's presentation.

Seeing no further business, the meeting was adjourned at 2:47 pm.

Respectfully submitted,

Susan Keane
Appropriations Committee Administrator