

## ARTICLE XCVII. CITIZENS' INDEPENDENT TRANSPORTATION TRUST\*

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\***Editor's note:** Ord. No. 02-117, § 1, adopted July 9, 2002, did not specifically amend the Code; hence, its inclusion herein as article XCVII, § 2-1421, was at the discretion of the editor.

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### **Sec. 2-1421. Citizens' Independent Transportation Trust created; powers over expenditure and use of proceeds of proposed Charter County Transit System Surtax.**

(a) *Creation.* A Citizens' Independent Transportation Trust ("Trust") is hereby created. The Trust will have fifteen (15) members: one residing in each of Miami-Dade County's thirteen commission districts, one appointed by the Mayor without regard to such appointee's district of residence, and one appointed by the Miami-Dade League of Cities without regard to such appointee's district of residence. Members of the Trust shall be residents of Miami-Dade County who possess outstanding reputations for civic involvement, integrity, responsibility, and business and/or professional ability and experience or interest in the fields of transportation mobility improvements or operations, or land use planning. No person shall be eligible to serve as a member of the Trust who has any interest, direct or indirect, in a contract with the County or in any corporation, partnership or other entity that has a contract with the County, or who is a member of a community council. The Trust and the Nominating Committee, as defined below, will be comprised of members who are representative of the geographic, ethnic, racial and gender make-up of the County.

(b) *Initial members.* The initial members of the Trust shall be nominated and appointed in the manner set forth in this subsection. The Board of County Commissioners shall appoint a nominating committee (the "Nominating Committee") comprised of seventeen (17) members as set forth below who are representative of the geographical, ethnic, racial and gender make-up of the County:

- (1) The Executive Director of the Miami-Dade League of Cities or one of the League's officers shall serve as a member of the Nominating Committee;
- (2) The Chairperson of the United Way or his or her designee shall serve as a member of the Nominating Committee;
- (3) The Chairperson of the Greater Miami Visitors and Convention Bureau or his or her designee shall serve as a member of the Nominating Committee;
- (4) The Chairperson of the Citizen's Transportation Advisory Committee or his or her designee shall serve as a member of the Nominating Committee;
- (5) The Chairpersons of the Community Councils shall meet and shall, by majority vote, appoint one member of the Nominating Committee;
- (6) The Chair of the Ethics Commission or his or her designee;
- (7) The President or CEO of the Urban Environment League shall appoint one member of the Nominating Committee;
- (8) The President or CEO of the local branch of the Urban League shall appoint one member of the Nominating Committee;
- (9) The President or CEO of the Alliance for Aging shall appoint one member of the Nominating Committee;
- (10) The President or CEO of the Miami-Dade Branch NAACP shall appoint one member of the Nominating Committee;
- (11) The President or CEO of the Coalition of Chambers shall appoint one member of the Nominating Committee;

- (12) The President or CEO of Florida International University shall appoint one member of the Nominating Committee;
- (13) The President or CEO of Miami-Dade Community College shall appoint one member of the Nominating Committee;
- (14) The President or CEO of People Acting for the Community Together (P.A.C.T.) shall appoint one member of the Nominating Committee;
- (15) The President or CEO of Underrepresented People's Positive Action Council (UP-PAC) shall appoint one member of the Nominating Committee;
- (16) The Executive Director of the local chapter of the League of Women Voters shall appoint one member of the Nominating Committee; and
- (17) The Executive Director of the Haitian American Grass Roots Coalition shall appoint one member.

The Nominating Committee shall submit a slate of four (4) candidates from each Commission District to the Commissioner of each District for selection. The District Commissioner must select from the slate submitted by the Nominating Committee; however, the District Commissioner may request one additional slate of entirely new nominations. The Board of County Commissioners shall ratify each District Commissioner's selection. The Nominating Committee shall submit a slate of four (4) candidates without regard to district to the Miami-Dade League of Cities for selection. The Miami-Dade League of Cities must select from the slate submitted by the Nominating Committee; however, the League may request one additional slate of entirely new nominations. The Nominating Committee shall also submit a slate of four (4) candidates without regard to district to the Mayor for selection. The Mayor must select from the slate submitted by the Nominating Committee; however, the Mayor may request one additional slate of entirely new nominations.

(c) *Term of initial members.* The initial members from Districts 1 to 5, inclusive, shall serve two-year terms; the initial members from Districts 6 to 9, inclusive, shall serve three-year terms; and, the initial members from Districts 10 to 13, inclusive, shall serve four-year terms. The selection of the Mayor shall serve an initial term of four years. The selection of the Miami-Dade League of Cities shall serve an initial term of two years. The foregoing notwithstanding, such initial terms shall be subject to automatic expiration as provided in subsection (c) of Section 2-11.38.2 of this Code provided however, a District Commissioner appointed Trust member may continue to serve until the appointment and ratification of the succeeding District Commissioner's selection.

(d) *Subsequent membership and term.* Any vacancy on the Trust that occurs after appointment of the initial membership, as well as appointment of successors to those members whose terms have expired shall be filled directly by appointment of the Commissioner for the district for in which a vacancy occurs, or, in the case of a vacancy in a Miami-Dade League of Cities appointment shall be filled by appointment of the League, or, in the case of a vacancy in a mayoral appointment shall be filled by appointment of the Mayor. Such appointments shall be made from a slate submitted by the Nominating Committee in accordance with subsection (b) pertaining to initial members, and shall have the qualifications for Trust membership set forth in subsection (a) above. The foregoing notwithstanding, an incoming District Commissioner or Mayor may elect to re-appoint his or her predecessor's currently serving appointee, in which case there shall be no need for the Nominating Committee to submit a slate of candidates for such vacancy. The term of any Trust member appointed or re-appointed pursuant to this subsection after the initial terms set forth in (c) above shall be for a term of four years, and in the case of Commissioner or Mayor appointees shall be subject to automatic expiration as provided in subsection (c) of Section 2-11.38.2 of this Code provided however, a District Commissioner or Mayor appointed Trust member may continue to serve until the appointment and ratification of the succeeding District Commissioner's or Mayor's selection. Members may be re-appointed, however no member shall serve more than the maximum number of years provided in subsection (b) of Section 2-11.38.2 of this Code. If an appointment is not made by the District Commissioner (or the League or Mayor where applicable) within thirty (30) days from the date on which the Nominating Committee submits the required slate of candidates, the County Commission may appoint the successor.

(e) *Leave of absence for CITT members on active military duty.* Any Trust member who as a result of being called into active duty of any of the branches of the United Services Armed Services is unable to continue serving on the CITT may request a leave of absence from the CITT for a period not to exceed

ninety (90) days. Said leave of absence may be renewed so long as the Trust member remains in active duty of the United Services Armed Services, but may only extend until the expiration of the term for that Trust member. Upon a Trust member's leave of absence, the applicable District Commissioner, Mayor, or League of Cities may directly appoint an interim Trust member who shall serve on the CITT until the expiration of the term of the Trust member on leave of absence or the return of the Trust member from leave of absence, whichever is sooner.

(f) *Attendance and quorum requirements.* Any Trust or Nominating Committee member shall be automatically removed if, in a given fiscal year: (i) he or she is absent from two (2) consecutive meetings without an acceptable excuse; or, (ii) if he or she is absent from three (3) of the Trust's or Nominating Committee's meetings without an acceptable excuse. A member of the Trust or Nominating Committee shall be deemed absent from a meeting when he or she is not present at the meeting at least seventy-five (75) percent of the time. An "acceptable excuse" is defined as an absence for medical reasons, business reasons, personal reasons, or any other reason which the Trust or Nominating Committee, by two-thirds ( 2/3) vote of its membership, deems appropriate. The requirements of this section may be waived by two-thirds ( 2/3) vote of the members of the full Board of County Commissioners. A quorum of the Trust or Nominating Committee shall consist of a majority of those persons duly appointed to the Trust or Nominating Committee, provided that at least one-half ( 1/2) of the full Trust or Nominating Committee membership has been appointed.

(g) *Powers and duties.* The Trust shall have the following duties, functions, powers, responsibilities and jurisdiction with regard to use and expenditure of proceeds of any Charter County Transit System Surtax that is levied by the County under authority of Section 212.055(1), Florida Statutes:

- (1) To monitor, oversee, review, audit, and investigate implementation of the transportation and transit projects listed in any levy of the surtax, and all other projects funded in whole or in part with surtax proceeds;
- (2) To assure compliance with any limitations imposed in the levy on the expenditure of surtax proceeds, including but not limited to:
  - (a) Any limitation that surtax proceeds only be expended for the transportation and transit purposes specified in Section 212.055(1)(d)1--3, Florida Statutes (2001);
  - (b) Any limitation that no more than five (5) percent of surtax proceeds be expended on administrative costs, exclusive of project management and oversight for projects funded by the surtax;
  - (c) The limitation that the County Commission may not delete or materially change any County project listed on Exhibit 1 attached to the ordinance levying the surtax nor add any project thereto except as provided in this subsection (c). A proposed deletion, material change or addition of such a County project shall be initially reviewed by the Citizens' Independent Transportation Trust ("Trust"), which shall forward a recommendation thereon to the County Commission. The County Commission may either accept or reject the Trust's recommendation. If the County Commission rejects the recommendation, the matter shall be referred back to the Trust for its reconsideration and issuance of a reconsidered recommendation to the County Commission. The County Commission may approve, change or reject the Trust's reconsidered recommendation. A two-thirds ( 2/3) vote of the Commission membership shall be required to take action other than as contained in the reconsidered recommendation of the Trust. The foregoing notwithstanding, the list of County projects contained in said Exhibit 1 may be changed as a result of the MPO process as mandated by federal and state law; and
  - (d) Any requirement with regard to maintenance of effort of general fund support for MDTA.
- (3) To assure compliance with federal and state requirements applicable thereto;
- (4) To require monthly reports from the Manager, County agencies and instrumentalities regarding the implementation of the projects funded by surtax proceeds (which reports shall be posted on-line, i.e., made publicly accessible on the Internet);
- (5) To file a report, including any recommendations, with the Mayor and the County Commission

on a quarterly basis regarding the implementation of the projects funded by surtax proceeds; and

(6) To monitor, oversee and periodically report to the County Commission on the level of participation by CSBEs and CBEs in contracts funded in whole or in part with surtax proceeds, and to recommend ways to increase such participation.

(7) Notwithstanding any provision to the contrary, to retain the services of consultants the Trust deems necessary to assist in its monitoring functions without the need for action by the County Commission, so long as the retaining of such consultants does not result in the budget for the Trust exceeding the amount approved by the County Commission during the annual budget approval process.

(h) *Staff support.* The County Attorney shall serve as legal counsel to the Trust. The Trust may by a majority vote of its membership hire an Executive Director. The Executive Director shall provide to the Trust adequate staff and support services to enable the Trust to carry out its duties and responsibilities. The Executive Director is authorized to hire and/or remove staff in order to provide adequate support for the Trust. The Executive Director may be removed by a two-thirds ( 2/3) vote of the Trust members present.

(i) *Trust subject to Florida Open Government law, the Conflict of Interest and Code of Ethics Ordinance and the investigatory powers of the Inspector General.* The Trust shall at all times operate under the Florida Open Government Laws, including the "Sunshine" and Public Records laws, and shall be governed by the Conflict of Interest and Code of Ethics Ordinance, Section 2-11.1 of this Code providing, among other things, a proscription on transacting business with the County and on oral communications with bidders or their representatives during the bid process, and a requirement for financial disclosure. The Trust and its actions shall be subject to the investigatory powers of the Inspector General provided in Section 2-1076 of this Code. Additionally, Trust members shall not lobby, directly or indirectly, the Mayor, any member of the County Commission or any member of County staff regarding a project funded in whole or in part by surtax proceeds, or regarding any person or business bidding for or under contract for a project funded in whole or in part with surtax proceeds. Trust members shall not have from any interest, direct or indirect, in any contract with the County or in any corporation, partnership or other entity that has a contract with the County.

(j) *Removal of Trust members.* A finding by the Ethics Commission that a person serving as a member of the Trust has in the course of his or her service willfully violated any provision of Section 2-11.1 of this Code (the Conflict of Interest and Code of Ethics Ordinance) shall constitute malfeasance in office and shall effect an automatic forfeiture of such person's position as a member of the Trust.

(Ord. No. 02-117, § 1, 7-9-02; Ord. No. 04-208, § 1, 12-2-04; Ord. No. 05-53, § 1, 3-15-05; Ord. No. 06-71, § 1, 5-9-06; Ord. No. 06-72, § 1, 5-9-06; Ord. No. 07-06, § 1, 1-25-07; Ord. No. 08-21, § 1, 2-7-08; Ord. No. 08-97, § 1, 9-2-08; Ord. No. 08-98, § 1, 9-2-08)

Secs. 2-1422--2-1430. Reserved.