

Memorandum



Date: September 30, 2009

To: Charles D. Scurr, Executive Director
Office of the Citizens' Independent Transportation Trust

From: 
Cathy Jackson, Director
Audit and Management Services Department

Subject: Audit Report – Charter County Transit System Surtax Review –
Town of Bay Harbor Islands

PURPOSE AND SCOPE

As requested, we reviewed the Town of Bay Harbor Islands' use of Charter County Transit System Surtax (Transit Surtax) proceeds remitted by Miami-Dade County (County) for the six years ended September 30, 2008, to verify compliance with the Interlocal Agreement, as Amended. Our review included, but was not limited to, testing expenditures for propriety and assessing internal controls over recordkeeping and financial reporting.

BACKGROUND

The Town of Bay Harbor Islands (Town) consists of two islands that are located between the Towns of Bal Harbor Village and Surfside to the East, the City of North Miami to the North and West, and Indian Creek Village to the South. The Town is governed by an elected Mayor, a Vice-Mayor and five Council Members. The Town Manager is appointed by the Town Council, and is responsible for day-to-day operations. During the six-year period ended September 30, 2008, the County through the Office of the Citizens' Independent Transportation Trust (OCITT), remitted \$914,000 in Transit Surtax proceeds for the Town to expend on qualifying transportation-related projects (Schedule I).

Pursuant to Section 212.055(1), Florida Statutes (2001), Miami-Dade County Ordinance (Ordinance) No. 02-116, enacted on July 9, 2002, imposed a one-half of one percent Transit Surtax on eligible sales transactions for transportation-related projects. Of the proceeds received by the County, 20% must be distributed to municipalities incorporated as of November 5, 2002 on a pro rata basis using population statistics. However, cities receiving Transit Surtax proceeds must continue the same level of General Fund support for transportation projects that was appropriated in their Fiscal Year (FY) 2002 Budget. Proceeds may be used to develop, construct, equip, maintain, operate, or expand:

- County-wide bus systems,
- Fixed guide-way rapid transit systems, and
- Roads and bridges in the County.

Transit Surtax proceeds may also be used to secure bonds or pay debt service for such systems.

Further, cities are required to apply at least 20% of the proceeds to transit-related projects such as circulator buses, bus shelters, bus pullout bays, or other related infrastructure. If unable to do so, cities may apply such proceeds to a County project that enhances traffic mobility within their municipal boundaries, or funds shall be redistributed among other cities in the ensuing year for similar purposes.

Under the terms of the July 1, 2003 *Interlocal Agreement for Distribution of Charter County Transit System Surtax Proceeds Levied by Miami-Dade County* (Interlocal Agreement), as Amended May 23, 2007, the Town reported \$807,600 as its budgeted FY 2002 General Fund transportation support level, or Maintenance of Effort (MOE – Table I).

Table I
Surtax Proceeds and Reported MOE
For the Six Fiscal Years Ended September 30, 2008

Description	Fiscal Year Ended September 30:						All Years
	2003	2004	2005	2006	2007	2008	
Maintenance of Effort (MOE)	\$ 807,600	\$ 807,600	\$ 807,600	\$ 807,600	\$ 807,600	\$ 807,600	\$ 4,845,600
Surtax Proceeds	\$ 96,989	\$ 148,613	\$ 155,936	\$ 172,145	\$ 173,190	\$ 167,339	\$ 914,212

Source: OCITT and Town of Bay Harbor Islands

SUMMARY RESULTS

During the audit period, the Town received \$914,212 in Transit Surtax funds but did not report how it used those proceeds to OCITT as required. Instead, Town Management reported transit and transportation expenditures to our auditors of \$2.6 million. Also, the MOE should be \$213,648 rather than the \$807,600 claimed amount, based upon our review of the FY 2002 General Fund Budget. Using the revised MOE, we determined the Town was unable to expend \$414,128 in Transit Surtax receipts which may be subject to recapture. Alternatively, amounts may be eligible for rollover which will allow spending of the proceeds in subsequent years, using the recently revised guidelines approved by Members of the Citizens’ Independent Transportation Trust, pending Board of County Commissioners acceptance. These and other findings and recommendations are presented in the remainder of this report and the Town’s response is incorporated as Attachment I.

In reviewing the Town’s response, we are unable to legally permit its FY 2002 budgeted circulator expenditures to be excluded from the MOE calculations. Likewise, debt service payments on the 2003B Series Revenue Bonds were not allowed because the majority of the proceeds remain unspent and are being invested. Only the \$1.3 million that was actually spent on eligible transportation-related projects was allowed.

Based on the foregoing, we reaffirm the accuracy of our findings and the audit has been closed. Follow up reviews will be conducted to assure that the Town has been formally notified regarding recertification of the MOE, as well as, resolution of the unspent funds and adherence to the new spending rules. We appreciate the courtesies and assistance extended to our staff during the audit process. Please contact Nancy McKee, Deputy Director, at 305-349-6100 if you have any questions.

FINDINGS AND RECOMMENDATIONS

General Fund Support

The Town reported \$807,600 as its MOE, yet our review disclosed budgeted General Fund transit and transportation expenditures of \$213,648 in FY 2002 (Table II). Since municipalities are required to apply the proceeds to supplement, rather than replace, their General Fund support for transit and transportation-related projects, the propriety of all future uses of Transit Surtax proceeds are affected by the accuracy of the MOE.

**Table II
 FY 2002 General Fund MOE**

Description	Budget	Actual
Circulator Rentals	\$ 74,000	\$ 73,724
Circulator Fuel	3,600	3,819
Transit-Related MOE	77,600	77,543
Personnel Costs	76,168	66,131
Streetlight Utilities	37,440	48,000
Street Repairs and Maintenance	22,440	14,534
Transportation-Related MOE	136,048	128,665
Total MOE	\$ 213,648	\$ 206,208

Source: Town of Bay Harbor Islands FY 2002 Budget and General Ledger.

Recommendation

Require the Town to certify the corrected MOE within 30 days.

Use of Surtax Proceeds

The Town did not submit reports detailing Transit Surtax project expenditures to OCITT as required. However, Management provided a listing of potential qualifying expenditures to our auditors that included debt service payments for the 2003B Series Revenue Bonds sold on December 17, 2003 through the Florida Municipal Loan Council. The Bonds were issued to fund various drainage improvements, street lighting, landscaping and other infrastructure projects, however, \$8.3 million of the proceeds are being held as cash and cash equivalents as of September 30, 2008. Thus, we only allowed the \$1.3 million expended for transportation-related improvements, as debt service payments on unspent proceeds are not an eligible use of Transit Surtax funds (Schedule II). Based on the foregoing and after adjusting the MOE, we determined the Town was unable to expend \$414,128 on qualifying transit and transportation projects (Table III).

Table III
Analysis of the Usage of Transit Surtax Funds

Description	Fiscal Year Ended September 30						All Years
	2003	2004	2005	2006	2007	2008	
Surtax Proceeds (Schedule I)	\$ 96,989	\$ 148,613	\$ 155,936	\$ 172,145	\$ 173,190	\$ 167,339	\$ 914,212
Surtax Uses:							
Transit Expenditures							
As Claimed and Adjusted (Schedule II)	\$ 78,101	\$ 76,661	\$ 75,111	\$ 76,283	\$ 74,927	\$ 74,003	\$ 455,086
Less: MOE, as Adjusted (Table II)	77,600	77,600	77,600	77,600	77,600	77,600	465,600
Net Transit Expenditures, As Adjusted	\$ 501	\$ (939)	\$ (2,489)	\$ (1,317)	\$ (2,673)	\$ (3,597)	\$ (10,514)
Transportation Expenditures							
As Claimed and Adjusted (Schedule II)	\$ 129,535	\$ 678,672	\$ 229,129	\$ 520,293	\$ 152,073	\$ 415,620	\$ 2,125,322
Less: MOE, as Adjusted (Table II)	136,048	136,048	136,048	136,048	136,048	136,048	816,288
Net Transportation Expenditures, As Adjusted	\$ (6,513)	\$ 542,624	\$ 93,081	\$ 384,245	\$ 16,025	\$ 279,572	\$ 1,309,034
AMS Analysis:							
Transit Expenditures							
Required 20% Transit Minimum ¹	\$ 19,398	\$ 29,723	\$ 31,187	\$ 34,429	\$ 34,638	\$ 33,468	\$ 182,843
Qualifying Transit-Related Expenditures Applied	(501)	-	-	-	-	-	(501)
Unused Transit Funds	\$ 18,897	\$ 29,723	\$ 31,187	\$ 34,429	\$ 34,638	\$ 33,468	\$ 182,342
Transportation-Related Expenditures							
Remaining 80% Balance ¹	\$ 77,591	\$ 118,890	\$ 124,749	\$ 137,716	\$ 138,552	\$ 133,871	\$ 731,369
Qualifying Transportation Expenditures Applied	-	(118,890)	(93,081)	(137,716)	(16,025)	(133,871)	(499,583)
Unused Transportation Funds	\$ 77,591	\$ -	\$ 31,668	\$ -	\$ 122,527	\$ -	\$ 231,786
Recommended Recapture or Rollover:							
Transit	\$ 18,897	\$ 29,723	\$ 31,187	\$ 34,429	\$ 34,638	\$ 33,468	\$ 182,342
Transportation	77,591	-	31,668	-	122,527	-	231,786
Total Recapture	\$ 96,488	\$ 29,723	\$ 62,855	\$ 34,429	\$ 157,165	\$ 33,468	\$ 414,128

¹ At least 20% of Transit Surtax proceeds must be used on transit-related projects, such as circulator buses, and the remaining funds (80%) are earmarked for eligible transportation projects as defined by Florida Statutes.

Recommendation

Recapture the \$414,128 or allow for rollover in accordance with revised guidelines recently approved by Members of the Citizens' Independent Transportation Trust.

Certification and Reporting Requirements

The Town's Five-Year Transportation Plans detailed its use of Transit Surtax proceeds, however only the FY 2003 Plan could be located. Moreover, the FY 2003 and 2008 Certification Letters were not submitted.

Recommendation

- Prospectively, the Town should submit reports to OCITT in the prescribed form.
- OCITT should more timely review the Five-Year Transportation Plan for content and eligibility of planned projects as well as completeness to assure reporting requirements are met.

- Prospectively, OCITT should consider withholding funding if reports are incomplete or delinquent.

Signage

The Amended Interlocal Agreement requires the posting of a conspicuous sign at the job site, structure or vehicle if funded in whole, or in part, by Transit Surtax proceeds. We found no evidence of posting on existing construction sites or Town Circulator buses.

Recommendation

The Town should be instructed to comply with signage requirements.

CJ:zg

- c: Honorable Harvey A. Ruvin, Clerk of the Courts
George M. Burgess, County Manager
Robert A. Cuevas, Jr., County Attorney
Ysela Llort, Assistant County Manager
Jennifer Glazer-Moon, Special Assistant/Director, Office of Strategic Business Management
Charles Anderson, Commission Auditor
Ronald J. Wasson, Town Manager, Town of Bay Harbor Islands

**Charter County Transit System Surtax
Summary of Payments to Municipalities
For the Six Fiscal Years Ended September 30, 2008**

Municipality	Fiscal Year Ended September 30,						Total
	2003	2004	2005	2006	2007	2008	
City of Aventura	\$ 495,408	\$ 759,096	\$ 818,788	\$ 933,612	\$ 947,021	\$ 946,296	\$ 4,900,221
Town of Bal Harbour Village	62,707	96,085	99,550	112,832	105,834	95,526	572,534
Town of Bay Harbor Islands	96,989	148,613	155,936	172,145	173,190	167,339	914,212
Village of Biscayne Park	62,045	95,070	104,750	117,666	110,586	106,676	596,793
City of Coral Gables	810,009	1,241,148	1,298,953	1,467,752	1,480,710	1,426,754	7,725,326
Village of El Portal	47,795	73,232	76,045	84,400	84,367	82,000	447,839
City of Florida City	153,748	235,582	254,464	288,454	291,983	295,447	1,519,678
Town of Golden Beach	17,511	26,830	27,952	32,999	24,732	7,016	137,040
City of Hialeah	4,382,718	6,715,483	7,014,990	7,730,686	7,656,151	7,336,976	40,837,004
City of Hialeah Gardens	373,801	572,763	604,331	676,565	681,956	657,921	3,567,337
City of Homestead	621,791	952,745	1,051,671	1,208,129	1,275,853	1,387,011	6,497,200
Indian Creek Village	625	955	931	1,093	-	-	3,604
Village of Key Biscayne	202,733	310,644	333,638	369,378	379,639	368,354	1,964,386
Town of Medley	21,186	32,464	33,963	37,170	37,616	41,385	203,784
City of Miami	6,905,410	10,580,915	11,208,930	12,562,541	12,855,629	12,574,719	66,688,144
City of Miami Beach	1,686,079	2,583,517	2,719,756	3,029,839	3,108,056	2,960,734	16,087,981
Town of Miami Lakes	460,331	705,348	737,093	822,002	822,114	876,926	4,423,814
Village of Miami Shores	197,655	302,860	313,826	346,278	348,437	335,963	1,845,019
City of Miami Springs	259,738	397,985	412,534	456,196	459,353	440,937	2,426,743
City of North Bay Village	126,762	194,231	198,770	218,913	215,921	186,169	1,140,766
City of North Miami	1,136,965	1,742,129	1,805,505	1,989,253	2,004,095	1,919,328	10,597,275
City of North Miami Beach	799,300	1,224,740	1,267,423	1,402,019	1,366,735	1,307,355	7,367,572
City of Opa-Locka	291,102	446,045	468,652	533,416	513,020	497,615	2,749,850
Village of Palmetto Bay	459,612	704,246	745,086	824,252	823,908	807,842	4,364,946
Village of Pinecrest	361,540	553,977	579,684	639,364	646,631	627,523	3,408,719
City of South Miami	203,889	312,415	323,655	360,476	351,494	338,279	1,890,208
City of Sunny Isles Beach	293,299	449,411	486,866	548,772	555,020	582,250	2,915,618
Town of Surfside ¹	95,908	146,959	157,799	184,160	144,185	223,419	952,430
City of Sweetwater	270,238	414,075	429,218	472,215	477,595	458,867	2,522,208
Village of Virginia Gardens	44,592	68,325	70,576	77,979	78,619	76,184	416,275
City of West Miami	113,307	173,613	185,212	202,961	194,190	184,561	1,053,844
	<u>\$ 21,054,793</u>	<u>\$ 32,261,501</u>	<u>\$ 33,986,547</u>	<u>\$ 37,903,517</u>	<u>\$ 38,214,640</u>	<u>\$ 37,317,372</u>	<u>\$ 200,738,370</u>

Source: Office of the Citizens' Independent Transportation Trust

¹ Payments for FY 2008 include a \$42,361 disbursement which was withheld in FY 2007.

Charter County Transit System Surtax - Town of Bay Harbor Islands
Listing of Qualifying Surtax Expenditures
For the Six Fiscal Years Ended September 30, 2008

Description	Fiscal Year Ended September 30,						All Years
	2003	2004	2005	2006	2007	2008	
Transit Expenditures							
Circulator Rentals	\$ 69,403	\$ 71,169	\$ 69,677	\$ 69,626	\$ 69,677	\$ 64,633	\$ 414,185
Maintenance and Repairs	7,816	3,790	-	-	-	1,004	12,610
Operating Supplies	882	1,702	5,434	6,657	5,250	8,366	28,291
Total Transit Expenditures	<u>78,101</u>	<u>76,661</u>	<u>75,111</u>	<u>76,283</u>	<u>74,927</u>	<u>74,003</u>	<u>455,086</u>
Transportation Expenditures							
Personnel Costs	59,124	72,139	82,717	86,665	92,587	100,416	493,648
Streetlight Utilities	43,672	34,464	33,314	37,546	35,885	43,608	228,489
Repairs and Maintenance	26,583	16,050	26,205	38,434	23,017	17,892	148,181
Operating Supplies	156	-	769	1,742	584	-	3,251
	<u>129,535</u>	<u>122,653</u>	<u>143,005</u>	<u>164,387</u>	<u>152,073</u>	<u>161,916</u>	<u>873,569</u>
Improvements Made with Series 2003B Revenue Bond Proceeds:							
Architectural and Planning Fees	-	556,019	86,124	355,906	-	174,320	1,172,369
Concrete Replacements for Wooden Streetlight Poles	-	-	-	-	-	79,384	79,384
	<u>-</u>	<u>556,019</u>	<u>86,124</u>	<u>355,906</u>	<u>-</u>	<u>253,704</u>	<u>1,251,753</u>
Total Transportation Expenditures	<u>129,535</u>	<u>678,672</u>	<u>229,129</u>	<u>520,293</u>	<u>152,073</u>	<u>415,620</u>	<u>2,125,322</u>
Total Transit and Transportation Expenditures	<u>\$ 207,636</u>	<u>\$ 755,333</u>	<u>\$ 304,240</u>	<u>\$ 596,576</u>	<u>\$ 227,000</u>	<u>\$ 489,623</u>	<u>\$ 2,580,408</u>

Source: Town of Bay Harbor Islands General Ledgers and Accounts Payable Records

TOWN OF BAY HARBOR ISLANDS MEMORANDUM

DATE: SEPTEMBER 25, 2009

TO: CATHY JACKSON, DIRECTOR
AUDIT AND MANAGEMENT SERVICES DEPARTMENT; AND,
CHARLES D. SCURR, EXECUTIVE DIRECTOR
OFFICE OF THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST

FROM:  ALAN K. SHORT, FINANCE DIRECTOR
TOWN OF BAY HARBOR ISLANDS

RE: AUDIT REPORT - CHARTER COUNTY TRANSIT SURTAX REVIEW-
TOWN OF BAY HARBOR ISLANDS

First, we wish to state our appreciation for the courtesy and professionalism of the staff of the Miami-Dade Audit and Management Services Department in the conduct of the audit.

The Transportation Surtax was intended to be used for transportation-related expenditures (80%), and for transit-related expenditures (20%).

TRANSIT

With regard to the audit conclusions regarding the transit funding, we are in substantial agreement. According to our records, at September 30, 2008, we have \$182,320 in unexpended Surtax receipts for transit-related projects. We would, however, suggest that it would be appropriate to re-examine at this time the desirability of excluding our local circulator bus service from Maintenance of Effort calculations in order to allow us to use Surtax receipts to fund that service. Since our bus was in operation prior to fiscal 2003, we have been unable to use our Surtax transit receipts for funding. This has resulted in what we believe is an inequity in that other municipalities are using Surtax proceeds to fund local bus services (begun in 2003 or later) while we are barred from doing so. Given the desirability of maintaining local circulator bus services in these difficult economic times, we believe it would be appropriate to allow the Town to use the transit portion of its Surtax receipts fund our bus service.

TRANSPORTATION

When the Surtax was first instituted, we inquired if debt service on funds borrowed for the Town's Community Enhancement Project (streets, drainage, and related lighting and landscaping) would be an acceptable use of the transportation portion of the Surtax receipts and we were assured that it would be. On that basis, we proceeded to issue bonds with the expectation that we would use Surtax proceeds to help fund the debt service and we have since incorporated that funding into our budget planning. The audit raises the point that a large portion of the bond proceeds remain unexpended and that is therefore inappropriate to use Surtax proceeds to fund the debt service. While it is true that our Community Enhancements Project was unexpectedly delayed, it is still our

firm intent to expend the bond proceeds on that project (indeed the project was resumed in fiscal 2008 and is still in process as of this date) and that therefore the debt service should remain an acceptable use as we were told prior to issuing the bonds.

However, even if only project expenditures are considered, we believe it is inappropriate to consider each fiscal year in isolation. The audit allows expenditures in each year only to the extent of surtax receipts in that year. Expenditures in a year in excess of that year's Surtax amounts are in effect disallowed. The result of this approach is that for all years up to September 30, 2008, the auditors show that we have spent \$2,125,322 in transportation related expenditures on our Community Enhancements Project (see auditors' Schedule II), received \$914,212 in total Surtax proceeds (auditors' Schedule I), of which only 80% or \$731,370 is earmarked for transportation, yet recommend that \$231,786 of that \$731,730 be subject to rollover or recapture (auditors' Table III).

SUMMARY AND CONCLUSIONS

We contend that as of September 30, 2008, we have received \$911,602 in surtax proceeds. 80% or \$729,282 is earmarked for transportation-related expenditures. Through September 30, 2008 we have spent \$2,628,694 on debt service and from the bond proceeds we have spent \$2,125,322 on Community Enhancement Improvements. Both the debt service amount and the construction expenditure amount far exceed the transportation portion of the Surtax receipts. Given the nature of the Community Enhancements project and the use of bond financing to fund the project, it is inappropriate to focus on each year in isolation and we contend that none of the transportation portion of the Town's Surtax proceeds is subject to recapture or rollover.

We agree that as of September 30, 2008, the Town of Bay Harbor Islands has approximately \$182,300 in unexpended Surtax proceeds earmarked for transit. As discussed above however, we believe that we should be allowed to fund our circulator bus service using those funds. In addition, we would hope that C.I.T.T. would allow us to rollover any unused transit funding for future transit projects within the Town of Bay Harbor Islands.