

MEMORANDUM

Agenda Item No. 4(C)

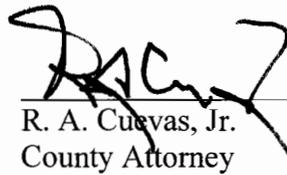
TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: May 5, 2009

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance pertaining to the
Repeal of One Half of One
Percent Charter County
Transit System Surtax

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Carlos A. Gimenez.



R. A. Cuevas, Jr.
County Attorney

RAC/jls



MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

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County Attorney

SUBJECT: Agenda Item No. 4 (C)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Mayor's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(C)
5-5-09

ORDINANCE NO. _____

ORDINANCE PERTAINING TO THE ONE HALF OF ONE PERCENT CHARTER COUNTY TRANSIT SYSTEM SALES SURTAX (“SURTAX”); LIMITING ABILITY TO ENCUMBER OR OBLIGATE SURTAX PROCEEDS; REPEALING, SUBJECT TO REFERENDUM, THE LEVY AND IMPOSITION OF THE SURTAX AS OF DECEMBER 31ST OF THE YEAR IN WHICH ALL EXISTING CONTRACTUAL OBLIGATIONS, AS DEFINED HEREIN, HAVE BEEN SATISFIED; IF REFERENDUM TO REPEAL SURTAX IS APPROVED, ALL SURTAX PROCEEDS AND AVAILABLE BOND/LOAN PROCEEDS, AS DEFINED HEREIN, SHALL BE DEPOSITED IN ONE OR MORE IRREVOCABLE TRUST FUNDS TO BE USED SOLELY TO PAY AND/OR LEGALLY DEFEASE SUCH OBLIGATIONS AND FOR NO OTHER PURPOSE; REPEALING SECTIONS 29-121, 29-122, 29-122.1, 29-123, 29-124 AND 2-1421 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, AND ABOLISHING THE CITIZENS’ INDEPENDENT TRANSPORTATION TRUST AS OF THE DATE OF THE REPEAL OF THE SURTAX; PROVIDING SEVERABILITY, SUNSET OF VARIOUS PROVISIONS UNDER CERTAIN CIRCUMSTANCES, INCLUSION IN CODE AND EFFECTIVE DATES

WHEREAS, this Board wishes to repeal the levy and imposition of the One Half of One Percent Charter County Transit System Sales Surtax as provided herein, if approved by the electorate of Miami-Dade County (“County”) at a duly called election,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Notwithstanding any other ordinance or any provision of the Code of Miami-Dade County, Florida (“Code”), from and after the effective date of this ordinance, (1) this Board shall not make additional pledges of, or enter into any new contracts or exercise any options to renew existing contracts which are paid for, in whole or in part, or secured by, in

whole or in part, the proceeds of the One Half of One Percent Charter County Transit System Sales Surtax levied and imposed pursuant to Article XVI of the Code (hereinafter “Contractual Obligations”) and (2) this Board directs the Mayor or Mayor’s designee not to approve or incur additional Contractual Obligations paid for or secured by, in whole or in part, the proceeds of the One Half of One Percent Charter County Transit System Sales Surtax (“Surtax”). This section shall sunset if the repeal of the Surtax is not approved by a majority of the electorate voting thereon on _____, 2009, or if an election thereon is not called for such date.

Section 2. Notwithstanding any other ordinance or any provision of the Code, from and after the effective date of this ordinance, no municipality shall incur additional Contractual Obligations paid for or secured by, in whole or in part, the proceeds of the Surtax. This section shall sunset if the repeal of the Surtax is not approved by a majority of the electorate voting thereon on _____, 2009, or if an election thereon is not called for such date.

Section 3. Notwithstanding any other ordinance or any provision of the Code or the People’s Transportation Plan approved pursuant to Ordinance No. 02-116, as amended, and only as provided in this section, if the repeal of the Surtax is approved by a majority of the electorate who vote thereon in the election to be held on _____, 2009, from and after such date, the Surtax shall continue to be imposed, levied and collected and all of the Surtax proceeds shall be deposited, along with available bond/loan proceeds, in one or more irrevocable trust funds and used solely by the County and any municipality to pay and/or legally defease all existing Contractual Obligations (“Trust Funds”) as soon as possible, and for no other purpose transit or otherwise. The term “existing contractual obligations” as used herein means Contractual Obligations outstanding as of the effective date of this ordinance and the term “available bond/loan proceeds” as used herein means bond/loan proceeds from the sale of bonds

or the entering into loans, secured by Surtax proceeds, which have not been allocated to a specific contract for an eligible capital project. All Surtax proceeds and available bond/loan proceeds shall be deposited in the Trust Funds until such Trust Funds are fully funded and all existing Contractual Obligations, including all outstanding bonds/loans, have been paid and/or legally defeased as soon as possible. No new Contractual Obligations paid for or secured by, in whole or in part, the Surtax shall be entered into by the County or by any municipality and Surtax proceeds shall only be used to pay or defease all existing Contractual Obligations as provided in this ordinance as soon as possible. If any Surtax proceeds remain after all existing Contractual Obligations have been satisfied, such surplus shall be deposited in a trust fund and shall not be used for any purpose except as permitted by the Code and Section 212.055(1), Florida Statutes, as approved by this Board.

Section 4. Effective as of December 31st of the year in which the foregoing Trust Funds are fully funded and all existing Contractual Obligations as defined herein have been paid and/or legally defeased, the levy and imposition of the One Half of One Percent Charter County Transit System Surtax Sales is repealed.

Section 5. Effective as of December 31st of the year in which the foregoing Trust Funds are fully funded and all existing Contractual Obligations as defined herein have been paid and/or legally defeased, Sections 29-121, 29-122, 29-122.1, 29-123, 29-124 and 2-1421 of the Code are repealed and the Citizens' Independent Transportation Trust is abolished.

Section 6. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 7. It is the intention of this Board, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code. The sections of this

ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 8. Sections 3, 4 and 5 shall become operative only if the repeal of the Surtax is approved by a majority of the electorate who vote on whether the Surtax should be repealed in an election to be held on _____, 2009.

Section 9. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

Section 10. The Clerk of the Board shall forthwith mail certified copies of this ordinance to both the Florida Department of State and the Florida Department of Revenue within ten (10) days of its enactment.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

RAE

Prepared by:

GKS/GTH

Gerald K. Sanchez/Gerald T. Heffernan

Prime Sponsor: Commissioner Carlos A. Gimenez