MEMORANDUM

Agenda Item No. 7(B)

(Second Reading 9-21-10)

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

DATE: June 3, 2010

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

SUBJECT: Ordinance amending Code of Miami-Dade County, Florida, by two-thirds vote (2/3) of the Board of County Commission membership relating to the Citizens' Independent Transportation Trust (Trust) and the Peoples' Transportation Plan

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum

MIAMI-DADE COUNTY

Date: September 21, 2010

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

From: George M. Burgess
County Manager

Subject: Ordinance amending the Code of Miami-Dade County, relating to the Citizens Independent Transportation Trust and the People's Transportation Plan

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The ordinance amending the Code of Miami-Dade County, by two-thirds vote 2/3 of the Board of County Commission membership relating to the Citizens' Independent Transportation Trust and the People's Transportation Plan will have no fiscal impact to the County. The ordinance requires the establishment of a five year implementation plan, procedures for modifications to the five year plan and requires the Trust to submit a recommendation to the County Commission prior to the awarding of certain contracts by the County Commissioners. The fiscal impact analysis assumes that existing County resources will be utilized for the creation and modification of a five year implementation plan. However, if the Office of Citizens' Independent Transportation Trust (OCITT) decides to use a consultant for this purpose there could be a fiscal impact upwards of $300,000.

Ysela Llort
Assistant County Manager

fis06510

MEMORANDUM
(Revised)

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

DATE: September 21,2010

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

SUBJECT: Agenda Item No. 7(B)

Please note any items checked.

	"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
	Ordinance creating a new board requires detailed County Manager's report for public hearing
	No committee review
✓	**Applicable legislation requires more than a majority vote (i.e., 2/3's ✓, 3/5's ____, unanimous _____) to approve**
	Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(B)
9-21-10

ORDINANCE NO. _____

ORDINANCE AMENDING CODE OF MIAMI-DADE COUNTY, FLORIDA, BY TWO-THIRDS VOTE (2/3) OF THE BOARD OF COUNTY COMMISSION MEMBERSHIP RELATING TO THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST (TRUST) AND THE PEOPLE'S TRANSPORTATION PLAN; REQUIRING THE ESTABLISHMENT OF A FIVE YEAR IMPLEMENTATION PLAN; ESTABLISHING PROCEDURES FOR MODIFICATIONS TO THE FIVE YEAR IMPLEMENTATION PLAN; PROVIDING THAT THE TRUST SUBMIT A RECOMMENDATION TO THE COUNTY COMMISSION PRIOR TO COUNTY COMMISSION AWARDING OF CERTAIN CONTRACTS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, on July 9, 2002, the Board of County Commissioners adopted Ordinance 02-116, approving, subject to voters' approval, the levying of a one half percent surtax for the development and construction of new transit and transportation projects throughout Miami-Dade County; and

WHEREAS, Exhibit One, which was attached to and incorporated into Ordinance 02-116, listed specific transportation and transit projects to be paid for in whole or in part with the half percent surtax funds; and

WHEREAS, on July 9, 2002, the Board of County Commissioners adopted Ordinance 02-117, creating the Citizens' Independent Transportation Trust to "monitor, oversee, review, audit, and investigate implementation of the transportation and transit projects funded in whole or in part with surtax proceeds"; and

WHEREAS, on November 5, 2002, the voters of Miami-Dade County agreed to tax themselves in order to implement the projects outlined in Exhibit One to Ordinance 02-116; and

WHEREAS, a more autonomous Citizens' Independent Transportation Trust is consistent with the commitment made to the voters,

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

Section 1. Article XCVII of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

ARTICLE XCVII.

CITIZENS' INDEPENDENT TRANSPORTATION TRUST

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

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

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 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 >>States<< [~~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~~]>>4<<, 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 >>in the approved Five Year Implementation Plan or << on Exhibit 1 attached to the ordinance levying the surtax nor add any project thereto except as provided in this subsection (c) >>and Section 29-124(d)(e).<< 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 >>and the Five Year Implementation Plan<< 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[[~~.~~]]>>; and<<

(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.

Section 2. Section 29-124 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 29-124. Special fund created; uses of surtax proceeds; and role of Citizens' Independent Transportation Trust.

The surtax proceeds collected by the State and distributed hereunder shall be deposited in a special fund set aside from other County funds in the custody of the Finance Director of the County. Moneys in the special fund shall be expended for the transportation and transit projects (including operation and maintenance thereof)

set forth in Exhibit 1 to this article (including those projects referenced in the ballot question presented to the electors to approve this levy) >>and the adopted Five Year Implementation Plan<<, subject to any amendments thereto made in accordance with the MPO process or made in accordance with the procedures specified in subsection (d) of this Section.

Expenditure of surtax proceeds shall be subject to the following limitations:

(a) Surtax proceeds shall be applied to expand the Golden Passport Program to all persons (regardless of income level who are over the age of 65 or are drawing Social Security benefits, and to provide fare-free public transportation service on Metromover, including extensions.

(b) Surtax proceeds may only be expended for the transportation and transit purposes specified in Section 212.055(1)(d)1—[~~3~~]>>4<< Fla. Stats. (2001).

(c) The County shall not expend more than five percent of the County's share of surtax proceeds on administrative costs, exclusive of project management and oversight for projects funded by the surtax.

>>(d) The Trust shall in consultation with the Mayor recommend to the County Commission a Five Year Implementation Plan. The Five Year Implementation Plan shall include a detailed scope of work, schedule and budget, consistent with the federal requirements for the MPO TIP and Long Range Plan, for each project included in Exhibit 1 of the People's Transportation Plan, as amended, anticipated to be implemented in whole or in part during the five year period. The Five Year Implementation Plan shall be approved by the County Commission in accordance with the procedures established in paragraph (f) of this Section. The initial Five Year Implementation Plan shall be approved no later than November 1, 2010. The Five Year Implementation Plan shall be updated annually no later than thirty days from the commencement of Miami-Dade County's fiscal

year. The Trust shall review and monitor projects included in the Five Year Implementation Plan and provide to the County Commission and post online an annual report no later than December 31 of each year. The annual report shall detail the progress on each project included in the Five year Work Plan.<<

[[(~~d~~)]] >>(e)<< The County Commission shall not delete or materially change any County project contained in the list attached as Exhibit 1 to this article nor add any project to the list >>or delete, materially change or add any project to the Five Year Implementation Plan<< except in accordance with the procedures set forth in this subsection [[(~~d~~)]]>>(e)<<. [[~~A~~]] >> The Five Year Implementation Plan and any << proposed deletion, material change or addition of 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 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 Exhibit 1 >>and the Five Year Implementation Plan<< may be changed as a result of the MPO process as mandated by federal and state law.

[[(e)]]>>(f)<< No surtax proceeds may be used to pay the costs of a contract [[~~awarded by action of the County Commission until such action has become final (either by expiration of ten days after such action without veto by the Mayor, or by Commission override of a veto) and either: i) the Trust has approved same; or, ii) in response to the Trust's disapproval, the County Commission re-affirms its award by two-thirds (2/3) vote of the Commission's~~

~~membership.~~]] >>unless the Trust has submitted a recommendation to the County Commission regarding said contract award. The County Commission, if in agreement with the Trust's recommendation, may award a contract by majority vote. The County Commission may modify or reject the recommendation of the Trust by a two thirds (2/3) vote of the Commission's membership. If the Trust has failed to forward a recommendation to the County Commission within 45 days of the County Mayor or his designee filing his award recommendation with the Clerk of the Board, the County Commission may take action on the contract award recommendation without any Trust recommendation. Notwithstanding any other provision to the contrary, a committee of the Commission may consider a contract award recommendation prior to receipt of a recommendation of the Trust.<< [[~~The bid documents for all County contracts funded in whole or in part with surtax proceeds shall provide that no award shall be effective and no contractual relationship shall arise with the County unless and until approved by the Trust or re-affirmed by the County Commission as provided in this subsection.~~]]>>The Trust shall, in consultation with the County Mayor or his designee, schedule Trust meetings monthly so as to ensure that a Trust recommendation is provided to the Commission with the Commission's agenda package. << [~~The foregoing notwithstanding, awards of contracts for services in support of the administration of the Trust or in support of the Trust's oversight function shall not require County Commission or Trust approval, so long as the individual contract amount does not exceed one thousand dollars ($1,000).~~]

[[(~~f~~)]]>>(g)<< On a quarterly basis, the Executive Director of the CITT shall submit a written report to the Commission, the Mayor and the Manager of all expenditures made pursuant to Section 29-124 herein.

[[(g)]]>>(h)<<Twenty percent of surtax proceeds shall be distributed annually to those cities existing as of

November 5, 2002 that meet the following conditions:

(i) That continue to provide the same level of general fund support for transportation that is in their FY 2001-2002 budget in subsequent Fiscal Years. Any surtax proceeds received shall be applied to supplement, not replace a city's general fund support for transportation;

(ii) That apply 20 percent of any surtax proceeds received to transit uses in the nature of circulator buses, bus shelters, bus pullout bays or other transit-related infrastructure. Any city that cannot apply the 20 percent portion of surtax proceeds it receives as provided in the preceding sentence, may contract with the County for the County to apply such proceeds on a County project that enhances traffic mobility within that city and immediately adjacent areas. If the city cannot expend such proceeds in accordance with either of the preceding sentences, then such proceeds shall carry over and be added to the overall portion of surtax proceeds to be distributed to the cities in the ensuing year and shall be utilized solely for the transit uses enumerated in this subsection (ii); and

(iii) Surtax proceeds distributed amongst the existing cities shall be distributed on a pro rata basis based on the ratio such city's population bears to the total population in all such cities (as adjusted annually in accordance with the Estimates of Population prepared by the Bureau of Economic and Business Research of the University of Florida) annually to those cities that continue to meet the foregoing conditions. For purposes of the foregoing, whenever an annexation occurs in an existing city, the number of persons residing in such annexed area at the time it is annexed shall be excluded from all calculations. Increases in

population in areas annexed over and above the population in such area at the time of annexation which occur after annexation shall be included in subsequent years' calculations.

(iv) that do not expend more than 5% of its municipal share of surtax proceeds on administrative costs, exclusive of project management and oversight for projects funded by the surtax. Administrative costs shall be defined as overhead expenses which are not readily attributable to any one particular project funded in whole or in part by transit surtax funds.

[[(~~h~~)]]>>(i)<< Newly incorporated municipalities shall have the right to negotiate with the County for a pro rata share of the sales surtax, taking into consideration the neighborhood and municipal projects identified in Exhibit 1, as amended, within the boundaries of the new municipalities. The preceding sentence shall not affect the twenty (20) percent share provided herein for municipalities existing on November 5, 2002.

Section 3. 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 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. 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 5. 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.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Bruce Libhaber

Prime Sponsor: Commissioner Barbara J. Jordan

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR

Legislative Notes

Agenda Item: **7(B)**

File Number: **101316**

Committee(s) of Reference: **Board of County Commissioners**

Date of Analysis: **August 27, 2010**

Type of Item: **Ordinance Amending the Code of Miami-Dade County**

Sponsor: **Commissioner Barbara J. Jordan**

Summary

This item mandates that the Citizens' Independent Transportation Trust (CITT) create a Five-Year Plan which is to include all transportation-related projects for a span of five years. This item also creates the policy that no contracts will be awarded using People's Transportation Plan (PTP) funds unless the CITT has issued a recommendation.

Citizens' Independent Transportation Trust		
	Current CITT Disposition	**Proposed Changes**
PTP Project List	The BCC may not delete or materially change any County project listed in Exhibit 1 to the PTP enabling ordinance.	The BCC may not delete or materially change any project approved in the Five-year Implementation Plan.
Contracts	No surtax funds may be used on contracts awarded by the County Commission until the CITT has approved the item, and if the Trust disapproves the item then the County Commission must reaffirm its award by a 2/3 vote. Awards of contracts for services in support of the administration of the CITT does not require BCC or CITT approval, so long as the individual contract amount does not exceed $1,000.	No contracts will be awarded using PTP funds unless the CITT has issued a recommendation. The BCC may award the contract, if it agrees with the CITT, by a majority vote. A contract modification or rejection will take a 2/3 vote of the BCC. The BCC may act on a contract award recommendation if the CITT does not take action within 45 days of the filing of the contract award recommendation.
Five-year Plan	There is currently no requirement for the CITT to develop a five-year plan. The Metropolitan Planning Organization (MPO) currently develops a region-wide Long Range Transportation Plan which is updated every five years.	The CITT will be tasked with developing a five-year plan in consultation with the Mayor. The plan would be *recommended* to the BCC, and approved by the BCC. The plan will include a detailed scope of work, schedule, budget for each project included in Exhibit

Citizens' Independent Transportation Trust		
	Current CITT Disposition	**Proposed Changes**
		1 of the PTP, which is expected to be completed within five years. The first five-year plan is to be approved no later than Nov. 1, 2010. The CITT must also produce an annual report detailing the progress of each project included in the five-year plan.

Background and Relevant Legislation

In 2002, Miami-Dade voters approved the levy of a half-penny sales tax to fund the PTP. Along with levying the tax, voters also approved the creation of the CITT to oversee the PTP. The CITT is currently comprised of 15 members appointed by the Board of County Commissioners (13), and the County Mayor (1), and the Miami-Dade League of Cities (1).

The Office of the Citizens' Independent Transportation Trust (OCITT) provides staff support for the CITT and "coordinates public outreach efforts to inform the community regarding the improvements that have been implemented using surtax funds," according to the OCITT website. The OCITT is fully funded with proceeds from the PTP surtax.

The most recent amendments to the CITT's enabling legislation is as follows:

Ordinance 08-97: **(Passed on 9/2/2008)** This ordinance required that the County Attorney serve as legal counsel to the CITT. This amendment made the County Attorney and his office the only County employees required to staff the CITT. The amendment eliminated the requirement for the County Manager's office to provide staff and support services to the CITT.

The ordinance also amended the Code to allow the CITT to hire its own executive director through a simple majority vote. The executive director is now empowered to hire and fire staff and support services for the CITT. This ordinance also gave the CITT the power to remove the executive director with a 2/3s vote of the members present at any CITT meeting.

Ordinance 08-98: **(Passed on 9/2/2008)** This ordinance added new subsection to the Code to give the CITT the explicit authority to hire consultants, so long as the CITT does not exceed its approved budget in the hiring of consultants.

The powers and responsibilities of the CITT include the following:

1. To monitor, oversee, review, audit, and investigate implementation of the transportation and transit projects listed in any levied by the County under authority of Florida Statute 212.055;
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 Florida Statute 212.055(1)(d)1-3;

b. any limitation that no more than 5% 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 BCC may not delete or materially change any County project listed in Exhibit 1 attached to the ordinance levying the surtax nor add any project thereto except as provided by this subsection. A proposed deletion, material change or addition of such a County project will be initially reviewed by the CITT, which shall forward a recommendation thereon to the BCC. The BCC may either accept or reject the CITT's recommendation. If the BCC rejects the recommendation, the matter will be referred back to the CITT for its reconsideration and issuance of a reconsidered recommendation to the BCC. The BCC may approve, change or reject the CITT reconsidered recommendation. A two-thirds vote of the BCC membership will be required to take action other than as contained in the reconsidered recommendation of the CITT. The foregoing notwithstanding, the list of County projects contained in 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 Miami-Dade Transit

3. To assure compliance with any applicable federal and state requirements;
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 CSBEs and CBEs in contracts funded in whole or in part with surtax proceeds, and to recommend ways to increase such participation.

Prepared by: Jason T. Smith