October 19, 2010
Agenda Item No. 4F Supplement

Memorandum

Date: July 19, 2010

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

From: George M. Burgess
County Manager

Subject: People's Transportation Plan Municipal Revenue Sharing

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Voters' approval of the People's Transportation Plan (PTP) in 2002 was a bellwether moment for transit and transportation in Miami-Dade County. Revenues from the half-penny surtax immediately transformed the use of mass transit by eliminating fares for the Metromover and creating the Golden Passport to fully subsidize bus and train transportation for senior citizens. Over the ensuing years, PTP funds have resurfaced roads, improved intersections and laid the financial foundation for the ongoing construction of the first Metrorail expansion in a generation with the connection between Earlington Heights and the Miami Intermodal Center. In the future, those funds will continue to improve both mass transit and roadway travel for residents and visitors. Aside from the well-documented and unfortunate ways that the plan was oversold by leaders who are no longer a part of this administration, the PTP has been a powerful success story for the modernization of transportation.

One element of the original PTP was the decision to share revenues with municipalities. On most taxable sales in Miami-Dade, every $200 of purchase price generates 80 cents for the County and 20 cents to be divided among the 31 municipalities that were operating when the PTP was approved in 2002. This 80-20 split is defined in Ordinance 02-116, which codified the PTP, and is operationalized in 31 separate interlocal agreements. Ordinance 02-116 also provided the right for municipalities incorporated after November 5, 2002, to negotiate with the County for a pro rata share of the surtax, taking into consideration the County funded projects within the applicable municipality. The Ordinance also provided that any surtax proceeds distributed to subsequently incorporated municipalities shall not affect the twenty percent share provided for those municipalities in existence as of November 5, 2002. Since November 5, 2002, Miami Gardens, Doral, and Cutler Bay incorporated.

During the 2009 legislative session, House Bill 1205 was approved and subsequently signed into law, requiring the County to renegotiate those interlocal agreements in order to include municipalities that were subsequently created.[1] The three municipalities created since 2002 – Miami Gardens, Doral and Cutler Bay – are eager to claim their pro rata share, which totals $5.337 million. It now falls to the Board of County Commissioners to determine how that funding should be allocated, both now and going forward.

The consequences of this decision must not be underestimated; in addition to possible legal fallout, there are potential implications to service levels in the countywide bus network, funding for municipal transportation projects, coverage for existing bonds backed by PTP revenues and government's ability to sell future debt backed with these funds.

The County Attorney's Office (CAO) has reviewed the language of the law, the written legislative intent and the staff analyses that accompanied HB 1205 as it traveled through the process. The counsel received by

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[1] The law specifically requires that, "Any charter county that has entered into interlocal agreements for distribution of proceeds to one or more municipalities in the county shall revise such interlocal agreements no less than every five years in order to include any municipalities that have been created since the prior interlocal agreements were executed."

the administration was that the law contemplates funding the newly incorporated municipalities from the same 20 percent municipal share to be divided among the larger number of cities that now exist.

Earlier this year, I considered preparing Board legislation to that effect. However, the administration is keenly aware of the impact this could have on municipal budgets during difficult economic times; each municipality's revenue from PTP would be reduced about 13.5 percent. Moreover, both the administration and the Board have been consistent in their desire to work with our municipalities as partners, not adversaries.

To that end, I asked to meet with representatives of all 34 municipalities that would be impacted. That meeting, held March 18, was frank and at times heated. A great deal of passion surrounds this issue, as well as an unfortunate level of misunderstanding about the PTP itself and the extensive actions taken by this Board and administration to increase efficiency at Miami-Dade Transit (MDT). Some of the cities that already have interlocal agreements are adamant that the new cities be funded from the County's share. Regardless of the funding source, the three new municipalities are unwavering in their position that they must receive their pro-rata share of surtax funds. Despite the vigorous debate that afternoon, we remained committed to finding intelligent and creative solutions that satisfy the new municipalities' legitimate claim for PTP funding without imposing an unreasonable burden on either the County or the cities already receiving PTP funds.

Controversy over the 80-20 split is not new; it has been discussed many times over the last eight years. The County's share is by no means limited to the Unincorporated Municipal Service Area (UMSA) – to the contrary, it has been used primarily for the creation and evolution of an integrated and effective regional system that equally benefits residents of UMSA and municipalities. In effect, municipal residents benefit from both the 80 share and the 20 share, while UMSA residents would only encounter the results of the 20 percent share while traveling within a municipality.

Moreover, the County has never hesitated to use funds from its share to finance road projects within both existing and new municipalities, especially when they contributed to improved traffic flow on major corridors. This is consistent with our vision of using the PTP to enhance transportation in the most effective ways, regardless of political lines or parochial considerations.

Understanding those facts and the concerns of our municipal leaders, we worked with the Miami-Dade League of Cities and the Citizens' Independent Transportation Trust (CITT) to convene a series of informal brainstorming and discussion sessions. While we initially planned on a small working group with members chosen by the League, we ultimately opted for optimal transparency and allowed all stakeholders to participate.

Senior members of the administration participated directly in these meetings, including Assistant County Manager Ysela Llort, who oversees MDT and other transportation departments, and Jennifer Glazer-Moon, Special Assistant and Director of the Office of Strategic Business Management. The meetings were facilitated by CITT Executive Director Charles Scurr. Despite my inclination to protect the regional transit system above all, I directed them to explore and consider any compromise proposals, and I was pleased with some of the ideas that developed.

Many of those ideas will require some months or years to implement; they do not address the short-term needs to do right by Miami Gardens, Doral and Cutler Bay, but they present important and intriguing opportunities.

One idea was to more tightly integrate municipally-funded circulators – which are often excellent examples of hyper-local government addressing the needs of a geographically tight area – with our regional Metrobus service. If we can tweak our routes to minimize duplication with circulators without impacting service beyond municipal boundaries, we can reduce costs at MDT in a way that will be nearly invisible to riders. Coupled with route realignments and administrative cuts that have saved MDT more than $57.5 million over the last two years, these added efficiencies could identify new savings while enhancing our service partnerships with municipal governments. Early estimates indicate the County could reduce spending by approximately $900,000, with the potential for more savings if smaller municipalities band together to fund and operate circulators.

Another idea addresses the revenue side of the equation rather than the expense side. Both the PTP half-penny surtax and the half-penny sales tax that funds Jackson Health Systems have a significant limitation: they only apply to the first $5,000 of a transaction. If the County and our municipalities could successfully lobby the Florida Legislature to remove that restriction, each of those funds would receive an additional $12 million. Considering the fact that transportation and health care are two of this Board's highest priorities – indeed, two of our community's highest priorities – I would strongly recommend including this in our next legislative package.

Neither of those ideas, however, will address the demands of Miami Gardens, Doral and Cutler Bay. At first blush, there would appear to be only four solutions to that issue. None are attractive:

1. Fund the new municipalities entirely out of the County's share of the 80-20 split. The negative implications to our government, our transit system and our riders would be severe. Additional service cuts of 1.2 to 1.6 million service miles would be absolutely necessary in order to balance the budget, bringing the County perilously close to levels that existed before the PTP was created. Even more troubling, it would have a direct impact on our bonding ability and set a poor precedent that could further degrade our ability to issue debt. Funding new cities from the County's share would lower that share below 80 percent, changing the funding stream that guarantees hundreds of millions in PTP-backed bonds. A change of .25 percent – which is a reasonable guess of the impact – would increase the per-year interest cost on $100 million in debt by $180,000. Multiplied out by the large amount of PTP-backed debt anticipated by our capital plans, that annual impact becomes severe. Moreover, because the new law requires renegotiating these agreements every five years, rating agencies and bond buyers could be reluctant to buy the 30-year bonds we traditionally sell and might limit us to five-year bonds, substantially adding to issuance costs and making major capital project financing unrealistic. It could also impact our existing debt, which would suddenly have a degraded funding source. The administration could never recommend an option that created such vulnerabilities. Attempting to fund the new cities from County funds outside the PTP is also problematic, in that those cities might be unable to sell debt in the absence of a dedicated funding stream to back it.

2. Fund the new municipalities entirely out of the 20 percent share. While this would have no direct impact on the County, it would have a notable impact on the PTP revenues granted to existing municipalities. In isolated cases, it could have similar impacts to smaller, municipal-backed debt issuances. Moreover, it would likely be seen by municipal governments and our shared constituents as an aggressive action, impairing our ability to work together in partnership on numerous other issues.

3. Fund the new municipalities with some combination of funds from both the 80 percent and 20 percent shares. While this mitigates the severity of the challenges described above, it nonetheless sets the same precedent and could have the same broad impact on debt issuance and, to whatever degree the County's share is tapped, a proportionate impact on MDT service.

4. Refuse to fund the new cities. This certainly violates the spirit of the law and likely its letter, as well.

The working group also discussed the imposition of the two-cent local-option gas tax, which would generate $16.7 million. Under the existing distribution formula – which is different than the 80-20 split – municipalities would receive $4.3 million and the County would receive $12.4 million. Prior studies suggest that such gas taxes are not directly responsible for increase prices at the pump – largely because their repeal rarely leads to price drops – but the notion was still considered a difficult proposition during such dire economic times.

Fortunately, discussions in the working group and among County staff have yielded an option that, while still difficult, may be more palatable. Known as the hold-harmless plan, the idea is to fund the new cities with the growth in PTP revenue that is expected in the coming years as the economy recovers. If that growth is not sufficient in the early years to fully fund the new municipalities, the difference would come entirely out of the County's share. After that point, the current 80-20 split would be retained at the new, higher funding level.

This presents numerous advantages. New municipalities would be funded, rendering moot any question of a costly and time-consuming legal action. Municipalities, while forgoing surtax growth in the short term, would not have funding reductions that would contribute to budget gaps. The importance of that cannot be overstated. The impact to the County – potentially as high as $17.5 million over five years, and therefore not insignificant – would be limited to a finite amount and time period, which should prevent any negative effect on our existing bond agreements or ability to sell future debt.

While a few vocal municipal leaders have expressed complete opposition to this idea – insisting that the only acceptable solution is to fund new municipalities entirely from the County's share – we believe the majority of cities consider the above option a fair and honorable compromise that addresses everyone's needs within today's difficult budget situations. We believe that few municipalities develop budgets that predict growth in PTP funds, so they would be content to continue receiving the same funding level. The administration also expressed its willingness to discuss lowering the cities' maintenance-of-effort requirements. While this would not add new dollars to the ledger, it would allow cities to reprogram some existing non-PTP transportation funding for other badly-needed services; in that way, it was a show of good faith by the County toward the broader goal of finding a solution that met every party's global goals.

For some municipalities, that MOE has become increasingly onerous; their budgets have become tighter with the declining tax base, and their transit and transportation needs have abated as early years of PTP funding allowed them to address capital needs. Allowing municipalities to continue receiving PTP funding with less matching funding would not free up money for the new municipalities, but would make it easier for existing ones to manage their ongoing operations.

The hold-harmless solution is likely to emerge as the only one that has reasonable consensus both within County government and among our partners. I would be professionally remiss, however, if I did not raise one final alternative that this Board must consider, despite the fact that it is not our recommended course of action.

It is within the Board's power to reduce the 20 percent municipal share effective upon the expiration of the existing interlocal agreements in 2012. For some cities, the purpose originally served by this share has long since been addressed. At some point, those cities will reach – or perhaps have already reached – a state of diminishing returns in which there are no more major roads to be resurfaced, no more bus shelters to be built, no more traffic circles to be installed. The County would receive an additional $34.279 million in PTP revenue. In order to honor the legal obligations of the cities that sold debt based upon PTP agreements, the County could assume $227 million in municipal debt with an annual debt-service payment of $19.148 million. The net benefit to the County would be $15.131 million.

Certainly this would be seen as hostile to municipal governments, regardless of whether it better serves the regional transit system and the broader Miami-Dade community.

In summary, the question of how to fund Miami-Dade's three newest municipalities is a difficult conundrum that has been too long delayed. Whenever a new funding obligation is imposed upon a finite funding source, there will be impacts. I have directed staff to prepare legislation for the Board's consideration that embraces the hold-harmless model discussed in our dozens of hours of meetings with municipal staff. Nonetheless, I wanted the Board to be aware of the numerous short- and long-term alternatives that exist, and I look forward to receiving your input and direction as we move forward.

If you have any questions, please contact me directly.

c: Honorable Carlos Alvarez, Mayor
Robert A. Cuevas, Jr., County Attorney
Ysela Llort, Assistant County Manager
Jennifer Glazer-Moon, Special Assistant and Director, Office of Strategic Business Management
Harpal Kapoor, Director, Miami-Dade Transit
Charles Scurr, Executive Director, Citizens' Independent Transportation Trust
Ryan Elliot, Budget Manager, OSBM
Charles Anderson, Commission Auditor
Richard Kuper, Executive Director, Miami-Dade League of Cities