

PLANNING ADVISORY BOARD RESOLUTION MAKING RECOMMENDATIONS
TO THE COUNTY COMMISSION CONCERNING IMPLEMENTATION OF FIRST
TIER OF LOCAL GOVERNMENT

WHEREAS, there have been a number of requests recently presented to the County by community groups within the unincorporated area, seeking greater self-determination such as by incorporation or annexation;

WHEREAS, the Planning Advisory Board is charged with planning functions including incorporations and annexations, and the County Commission has directed the Planning Advisory Board not only to conduct feasibility studies for the incorporation of communities within the unincorporated area, but also to make recommendations to the Commission with regard to the overall implementation of two-tier government in Dade County;

WHEREAS, there exists concern as to the impact of incorporations and annexations upon the County and upon other areas within Dade County;

WHEREAS, the Planning Advisory Board, through various steering committees, has conducted a series of public workshops throughout the portions of Dade County wherein the desire for incorporation has been formally expressed, has been provided with staff's analysis as to the revenues and expenditures for each of the areas considering incorporation, as well as the impact that such incorporations could have upon the county government and the remaining unincorporated area, and has considered the following reports from prior committees or organizations that have studied the issues pertaining to implementation of the first tier local of government in Dade County:

- (a) Final Report and Recommendation, Dade County Metropolitan Study Commission, 1971 (Exhibit "1" hereto);

- (b) Report On A Review Of Two-Tier Government In Miami Dade County, Touche Ross & Co., 1978 (Exhibit "2");
- (c) Report Of Dade County Charter Review Commission, 1982 (Exhibit "3");
- (d) David Bendel Hertz, Governing Dade County: A Study Of Alternative Structure, 1984 (Exhibit "4");
- (e) Report Of Citizens Charter Review Committee On Dade County, 1986 (Exhibit "5");
- (f) Final Report, Dade County Citizens' Advisory Committee On Countywide Incorporation, 1992 (Exhibit "6");
- (g) Final Report, Citizens Task Force On Incorporation, 1994 (Exhibit "7").

WHEREAS, the Planning Advisory Board has given these issues extensive and intensive consideration at several public meetings, THE FOLLOWING FINDINGS ARE HEREBY MADE:

1. In most of Florida's counties, incorporation of new municipalities is governed by the provisions of Chapter 165 of the Florida Statutes (Exhibit "8"). That law essentially requires areas seeking to incorporate to be compact, contiguous, amenable to separate municipal government, of a certain minimum population (depending on the size of the county), of a minimum average population density of 1.5 per acre, and to make equitable fiscal arrangements. Since the statute envisions an "incorporate as you go" approach rather than incorporating already-urbanized areas, it requires city boundaries to be a minimum of two (2) miles apart.

2. By virtue of the Home Rule Amendment to the Florida Constitution and the adoption of Dade County's Home Rule Charter in 1957, sole discretion over incorporations was transferred from the State to Dade County.

3. At the time the Dade County Charter was proposed in 1955, there existed 26 municipalities and more than three quarters (78%) of the County's population lived within such municipalities. (See, Exhibit "6" at p. 6).

4. Since adoption of the Home Rule Charter in 1957 and despite extensive population growth and urbanization in Dade County, only two new cities have been created: Islandia (having a population of less than three) and Key Biscayne (with a population of approximately 9,000)¹ and one, Pennsuco, has been dissolved.

5. Today, the majority of Dade County's population lives within the unincorporated area (more than 54% as of the 1990 census). Between 1980 and 1990, seventy-six percent (76%) of the County's population growth occurred in the unincorporated area. (See, Exhibit "6" at p.6).

6. The unincorporated area is governed as to all of its local affairs, (with the exception of a few special districts), by the Board of County Commissioners ("BOCC").

7. The BOCC, which serves not only as county government for all of Dade County including those who live within the 27 municipalities, but also as "city" government for the residents of the unincorporated area, consists of 13 Commissioners elected from single member districts, all but one (District 11) of which include municipalities within their boundaries. In fact,

¹The unique area of "Blockbuster Park" partially in Northwest Dade, was recently created as a "Special District" pursuant to Section 165:031 of the Florida Statutes.

residents of municipalities are a majority in six of the thirteen districts (Districts 3,4,5,6,7 and 13)².

8. As part of its "city" government function for the unincorporated area, the BOCC governs a \$318 million dollar general fund Unincorporated Municipal Service Area ("UMSA") budget and makes all purely local, zoning and other land use decisions within the unincorporated area. In contrast, in the parts of Dade County that are incorporated, those decisions are made by the locally-elected municipal governing body.

9. Since all members of the BOCC (including those representing districts that are mostly or entirely incorporated) vote on the taxes, expenditures and other budgetary and fiscal issues for the unincorporated area as well as on the zoning and land usages within the unincorporated area, the result is a lack of accountability of elected officials for such decisions and a dilution of the impact of the vote of the citizens who reside in the unincorporated area. In other words, a commissioner whose single member district consists in significant part or exclusively of incorporated communities, cannot effectively be called to task at the voting booth by residents of the unincorporated area for such Commissioner's voting record on the "city" issues that affect only such area. Since most or all of the voters to whom such commissioner is accountable at the voting booth are not impacted by such decisions (as they have their own local

² These districts are currently represented by Commissioners Teele, Margolis, Kaplan, Reboredo, Ferre and Millan, respectively. The percentages of the population in such districts that live in the unincorporated area are as follows: 10.24%, 44.73%, 0.01%, 15.21%, 13.49%, and 20.12%, respectively.

governments to make those decisions for them) those voters are not likely to have much interest in that commissioner's voting record on such issues.

10. As a result of the foregoing, it has been a growing view within the unincorporated area (as most recently evidenced by the citizen initiative to amend the charter to create locally-elected planning and zoning boards) that local government has not succeeded in the urbanized, unincorporated area and that changes which would result in developing the first tier of local government for the unincorporated areas are desperately needed. In fact, a Dade County Citizens Survey taken by Florida International University in May, 1995 demonstrates that only 24% of the citizens of UMSA would vote to remain unincorporated as of the date of the survey. The plurality was not ready to vote without further study.

11. Instead of proceeding as in practically every other county in the State of Florida, or even as in Dade County before 1957, in creating municipalities to provide that first tier of local government to each community as it developed, Dade County has provided "two hat" rather than "two tier" government to such areas. (However, Dade, as most counties, responds to requests to incorporate by area residents. Of the three requests that have progressed to conclusion since 1957; two were approved).

12. As a result of the failure to incorporate as we urbanized, concern now exists that different parts of the currently unincorporated, urbanized areas have different economic characteristics and that if the area were to incorporate into separate municipalities, these would have different economic capabilities with some being better able to provide local services than

others. Had the areas been incorporated as they developed, there is no question that some areas would have had higher property values and greater tax revenues than others: the existing 27 municipalities have disparate economic scenarios -- Bal Harbour has a much higher per capita and per square mile tax base than Opa Locka, etc. The same is true in all the other counties within the State of Florida (except Duval where the entire area was incorporated into the city of Jacksonville).

13. If fiscal analysis is used as the primary consideration in whether or not to allow areas to incorporate, the effect is a "damned if you do, damned if you don't" approach whereby if an area is deemed to be a "recipient" community, request for incorporation would be denied based upon the perception that "it cannot afford to incorporate," whereas if an area is deemed to be a "donor" community, the application would be denied because it is presumed to have a negative impact upon the budget for the remaining unincorporated area. Such "Catch 22" would result in the preservation of the status quo and is quite likely to result in an increased frustration of the residents of the unincorporated areas.

14. Despite the fact that a number of cities within Dade County have lower per capita or per square mile tax base than the average tax base in the UMSA, no such cities have sought to disincorporate to become part of the UMSA, although to do so would hypothetically result in higher level of services or lower taxes to residents of such areas.³ This indicates either that

³The City of Pennsuco did dissolve itself in 1986 and portions of the City of Miami and of South Miami have sought to separate but have been denied by those cities.

smaller municipalities more effectively or efficiently use their revenues than does the county or, at the least, that citizens of existing municipalities are more concerned with self-determination than with the added costs, if any, thereof. (However, in terms of choice with respect to efficiency and effectiveness, fire rescue and library services are the only municipal-type services for which city residents are relatively free to express a preference across government jurisdictional lines and 21 and 19 cities, respectively, have selected the county as provider of these services).

15. Nevertheless, since the perception, if not reality, exists that if areas with greater tax bases are permitted to incorporate, the remaining areas may not be able to maintain their existing levels of service, and since we are considering incorporations after the areas have been largely developed, some form of fiscal disparity mitigation (such as revenue sharing) should be pursued and implemented to at least prevent creation of any "pockets of poverty."

16. Given the huge size of this County, there exists a significant variation in the priorities of the different communities. A comparison of the (non-scientific) survey results from the various areas seeking to incorporate demonstrates the dramatic differences that exist. For example, in West Kendall, improvement of land use and zoning was ranked as the top single priority. "Governance" received an 88% "highest" priority ranking, while 56% felt issues of costs should be at the "lowest" priority. In contrast, in Pinecrest, improvement of police services was the highest priority, with 66% feeling that issues of services should rank the highest priority,

while governance was only allocated a 28% "highest priority" rating. (See the Survey results attached as Composite Exhibit "9").

17. Testimony from a number of residents in several of the public hearings has revealed that not all areas of Dade County necessarily wish to be incorporated. Yet, the County ought to consider whether it wishes to remain in the business of providing first tier local government to any urbanized portion of Dade County or whether it would be best for the County to concentrate all of its efforts on providing the area-wide government that a strategically located, aspiring "citi-state," more populous than 17 states of the union, demands. Since more than 50% of the BOCC's time is spent dealing with first tier issues for the UMSA, the BOCC is prevented from dedicating all its efforts to providing the superior, area-wide focus that the Charter envisioned and that an emerging "citi-state" demands.

18. In sum, it is felt that smaller units of local government, closer to the people it serves, are better able to direct the allocation of the area's resources and make its local decisions in a manner that better corresponds to the area's priorities than does a government as large as that of UMSA. (See, Osborne & Gaebler, Reinventing Government).

WHEREFORE, in light of the foregoing, THE PLANNING ADVISORY BOARD RECOMMENDS TO THE COUNTY COMMISSION AS FOLLOWS:

**GRADUALLY IMPLEMENT TRUE TWO-TIER GOVERNMENT
WITH FISCAL DISPARITY MITIGATION**

First tier local government must be implemented for all residents of Dade County in order to more closely reflect the original vision of the Home Rule Charter enacted in 1957: the provision of two-tier local government overseen from the county seat rather than from the state capitol, recognizing the area's unity as a metropolitan area while respecting its differences as local communities. However, since the first tier of local government tier will be provided "after the fact" to already developed areas, fiscal disparity mitigation is necessary in order to prevent significant differences in levels of services provided among the various communities that today make up UMSA.

County government should focus exclusively on providing truly "area-wide" services such as pertain to: airport; seaport; public health; tourism; trade; major public facilities; regional crime (such as car theft, drug enforcement, organized crime, etc.) and centralized communications, helicopter, emergency backup, and crime lab support to local police departments; major transportation facilities; water and sewer facilities; environmental and coastal regulation; public housing and welfare; regional planning and coordination of inter-local relations; etc.

The entire urbanized but currently unincorporated area should be incorporated into a relatively large number of relatively small municipalities (populations not to exceed 175,000) which will provide the first tier of local government services to these communities. In turn, these local governments would be prohibited from duplicating the area-wide services provided by the

county such as are listed above. (Since it is unlikely that the existing 27 municipalities can be dissolved and the entire county provided first tier local government through limited power municipal units ("LPMUs"), for the sake of consistency and so as to not deprive citizens of the currently unincorporated area equal treatment, full incorporation of such areas is recommended.)

These cities would have access to the county's centralized computer system and will share information and, potentially, resources via an "information super-highway" managed by the county. The city structure and relationship with the county will be set up in such manner as to result in streamlined city administrations that would avoid needless duplication of services and would maximize the benefits of interlocal agreements, resource and information sharing, and other regional coordination and cooperation, with the county as the central research gathering and coordinating authority.

Areas within existing municipalities having major area-wide strategic significance such as the downtown Miami core, major transportation corridors, farmlands, wetlands and areas or major facilities clearly exceeding the interests of local residents, should be controlled by the County as far as development and development regulations, but if it is non-exempt property, shall pay municipal taxes and be subject to the same "revenue sharing tax" as may be assessed countywide.

In order to oversee the orderly incorporation of the currently-unincorporated but urbanized area, the Planning Advisory Board should be required to analyze incorporation applications with the charge of insuring that unincorporated enclaves are not created; that population minimums

(5,000 residents) and maximums (175,000 residents) are observed; that the areas be compact, contiguous and amenable to separate municipal government; that boundaries not be gerrymandered so as to create any significant social division or economic disparity.

The County should consider amending its current ordinances governing incorporation so as to entitle communities to incorporate upon a majority vote of its citizens after demonstrating they meet the foregoing requirements and the further requirements that equipment and resources that would be rendered surplus because of such incorporation be acquired from the county by such new municipality to the extent practicable, and that displaced county employees be given first priority in hiring by the new municipalities without loss of seniority or other vested benefits. The county should actively encourage the orderly but gradual incorporation of all the currently unincorporated but urbanized area.

In order to insure that "pockets of poverty" are not created as a result of this restructuring, the BOCC should adopt a resolution formally requesting the State Legislature to enact a statute expressly permitting imposition by the county of a "revenue sharing tax" on a countywide basis. Ideally, the revenue sharing should be modeled on the Minneapolis-St. Paul approach which is, in essence, a tax increment finance district. In the Minnesota approach, "40 percent of the Metropolitan Area's growth in commercial and industrial tax base...[is put] into a metro-wide pool. The pool of tax base contributions is then redistributed among all communities in the [affected]...area. The redistribution is based on a community's population and how its per-capita market value of all real property ("fiscal capacity") compares with the average for the

Metropolitan Area. A community with below average fiscal capacity receives a somewhat larger distribution from the pool, while a community with above average fiscal capacity receives somewhat less."⁴

Alternatively, the Legislature should be requested to permit imposition of a revenue-sharing tax on all municipalities in Dade County (existing and to be created) whose "fiscal capacity" (as defined in the Minnesota plan) exceed the countywide mean by more than 25%. Such a revenue sharing tax shall be no more than the amount by which such municipality's "fiscal capacity" exceeds 125% of the entire county's mean "fiscal capacity." The proceeds of this "revenue sharing tax" shall be distributed annually by the County, based upon a formula to be established by the BOCC, to the various municipal governments (including UMSA) whose "fiscal capacities" are less than seventy-five percent (75%) of the countywide mean, provided that such municipalities are exercising the maximum "tax effort" relative to their "fiscal capacities." The maximum that shall be shared with any such municipality shall be the amount necessary to enhance the municipality's revenues to an amount equal to 75% of the county-wide average.⁵ The County shall have the right and obligation to audit the records of all municipalities to ensure

⁴ Staff Report (Draft), Fiscal Disparities Discussion Paper Metropolitan Council, Publications No. 620-91-066 (Rev. April 16, 1991), at page 1.

⁵ This formula is designed to implement the Touche Ross & Co. recommendation in its 1978 study (Exhibit "2") that there not exist more than a 50% disparity between any municipalities, 25% from the county-wide mean in either direction. In this regard, it should be noted that the Twin Cities' Metropolitan Council approach in Minnesota only reduced the disparity ratio to 4 to 1. The Touche approach, generally followed here, would permit a maximum ratio of only 1.6 to 1 (125/75).

compliance with these requirements, whether as a donor or as a recipient. Any increases beyond the set limits for this tax shall require majority approval in a county-wide referendum held during a general election.

In any case, to ensure that "pockets of poverty" not be created as a result of the incorporation process and to ensure a minimum acceptable standard level of services beneath which no municipality shall be permitted to fall, the County should exercise its powers under Article 1, Section 1.01.A.18 of its Charter and set minimum standards for the performance of all essential services or functions (such as Police, Fire, Housing, Water, Sanitation, and Sewer) which, if not met by the governing municipality, the County shall take over or grant franchises to operate such services.⁶

The county should consider, either as an alternative to revenue sharing or in addition thereto, creating a "Police District" similar to the Fire District or to the Juvenile Welfare Special District.⁷ Such district should govern provision of "regional" police services such as drug

⁶ Of course, boundaries oversight will help prevent creation of pockets of poverty. In this regard, in assisting the Planning Advisory Board in fulfilling its role concerning incorporation requests, the planning staff should be directed to prepare a computer-based model that identifies areas that would be potentially at risk of becoming pockets of poverty and prepare models of the boundary alternatives that would be necessary to prevent such pockets from being created. As an application to incorporate comes forward which infringes on any parts of the boundaries in the computer models for such "at risk" zones, the application would be "red flagged" and alternative boundaries should be recommended which would prevent a deleterious impact.

⁷ If a separately elected board is given governing authority, the tax millage for the district will not come out of the County's ten mill cap. If the district is defined to include some or all of the incorporated areas, it may have the same basic effect as revenue sharing, especially since the police budget is the single largest line item for all municipalities. The County Commission has authority to create a police protection district by ordinance pursuant to Article 1, Section 11

enforcement, homicide, car theft, organized crime, crime lab, centralized communications and support including helicopter service and emergency backup to the local police departments, etc. throughout Dade County. The various municipalities would then provide only the truly local "street beat" police services which a local police department is better able to provide.

During the gradual incorporation process, and until at least one of the aforementioned fiscal disparity mitigation plans is implemented, the unincorporated area should be divided into a number of districts, each of which should elect its own five to seven member "municipal advisory council," and have its own "Team Metro" county outreach office which shall work with the elected council. For the areas that have already been the subject of an incorporation feasibility study by the P.A.B., (i.e., Aventura, Destiny, Pinecrest, East Kendall and West Kendall) the boundaries recommended by the Planning Advisory Board shall be the boundaries of the area's respective district. The remaining unincorporated area shall be divided into at least six compact and contiguous districts of roughly equal size. The elected municipal advisory councils shall hear and decide all land use and zoning matters within its boundaries subject to appeal to the BOCC which may only reverse the municipal council's decision by a two-thirds vote of the entire membership of the BOCC. The BOCC shall allocate no less than 80% and no more than 120% of the revenues generated from each district to be spent within such district and the municipal advisory councils shall make recommendations to the Commission regarding

of the Charter. However, to give governing authority to a body other than the County Commission (and thus to charge the millage against the municipal 10 mills rather than the countywide cap), a Charter Amendment would be required.

expenditure of such funds within its district. Such recommendations may be disregarded by the commission only upon a two-thirds vote of its entire membership unless an express finding is made that to follow the recommendation would be illegal or jeopardize funds or other benefits received by the county from state, federal, or other such sources. The County shall provide all staff and equipment and facilities reasonably necessary for operation of the councils, including planning, legal, building and zoning, clerical and other such needs. It must be clear, however, that these councils shall not preclude full incorporation should communities within those districts so desire, and otherwise meet the requirements set forth above, once a revenue sharing or similar fiscal disparity mitigation plan is implemented. In the event that for any reason, a fiscal disparity mitigation plan, such as countywide revenue sharing, is not implemented within three (3) years from the adoption hereof, the Commission must allow incorporations to proceed notwithstanding such fact and simply exercise its Charter powers to ensure that minimum levels of service are provided and thus, no pockets of poverty are created.

In sum, this plan is premised on the tenet that large government is not the most effective or efficient means for delivery of truly local services, and that smaller, streamlined municipal governments provide the most responsive and accountable government, best capable of addressing local communities' needs and providing local government services to its citizenry, while recognizing that the county government is the best means of addressing and governing regional and interlocal concerns as well as coordinating the efforts of the region on such matters as

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national and international trade, economic development, coastline protection, and the other previously listed area-wide concerns. It is believed that this approach maximizes the benefits of the recently adopted single member district County Commission structure and would fulfill the promise of two-tier government originally envisioned in the 1957 Charter.

The foregoing resolution was moved by Al Maloof. The motion was seconded by Osmond Howe and upon being put to a vote, the vote was as follows:

The chairperson thereupon declared the resolution duly passed and adopted this 31 day of May, 1995.

Dorothy Cook	Aye	Osmond Howe	Aye
Pan Courtelis	Absent	Rod Jude	Aye
William Delgado	Absent	Abraham Kawa	Absent
Santiago Echemendia	Absent	A. Albert Maloof	Aye
Randolph Espinet	Aye	Jose Rojas	Aye
Charles George	Aye	Jay Sosna	Aye
		Gonzalo Sanabria, Chair	Aye