



Incorporation and Annexation in Miami-Dade County

Annexation and Incorporation Task Force
Presentation



History

- In 1957, with adoption of the Miami-Dade County Home Rule Amendment and Charter, incorporation and annexation authority shifted from the State legislature to the Board of County Commissioners (BCC). Article 6 of the Charter provides incorporation and annexation guidelines and requirements.

Charter Requirements


- Section 6.04 - Changes In Municipal Boundaries
 - BCC may effect a boundary change after obtaining the approval of the municipal governing bodies concerned and after hearing the Planning Advisory Board (PAB) recommendation; if there are over 250 resident electors in the area being considered an affirmative vote of these electors is required.

Charter Requirements

- Section 6.05 - Creation of New Municipalities
 - Only the BCC may authorize the creation of a new municipality in the unincorporated areas of the County after hearing the recommendations of the PAB, after a public hearing, and after a majority vote of the electors residing within the proposed boundaries.

Code Requirements

- Chapter 20 of the Code of Miami-Dade County governs the Annexation and Incorporation process.
- Petitions for incorporation must include consent from 25 percent of the electors in the proposed area.
- Once the petition is deemed complete, the BCC may form a Municipal Advisory Committee (MAC) to study the desirability and feasibility of creating a municipality.



Incorporated Area v. UMSA

- At the time of Charter adoption, twenty-six municipalities were in existence. Approximately 35% of the County's population lived in the unincorporated municipal service area (UMSA).
- Prior to the incorporation of Miami Lakes, thirty municipalities were in existence and 53 % of the population lived in UMSA.
- Today there are 34 municipalities and about 44% of the population lives in UMSA.

Recent BCC Actions

- On September 8, 2005, the BCC adopted Resolution 1051-05 requesting a report detailing the impacts of incorporation and annexation since 2000.
- On November 13, 2005, the BCC adopted Ordinance 05-192 directing that incorporations and annexations neither be considered nor processed until this report was presented and accepted by the BCC on May 8, 2007.
- On September 4, 2007, the BCC adopted Ordinance 07-120 suspending consideration of proposed incorporations until receipt of the County Manager's report on annexations.
- On April 3, 2012, the BCC adopted Ordinance 12-24 lifting the incorporation moratorium.
- On October 23, 2012, the BCC adopted R-983-12 creating a Task Force to review pending incorporation proposals and to make recommendations on how the County should proceed to address the remainder of the unincorporated communities.

Recent Charter Changes

- On November 8, 2012, the voters approved a change to the Miami-Dade County Charter to include a process to incorporate by petition. In summary the new incorporation charter process is as follows:
- A minimum of five individuals (Incorporation Committee) may provide an incorporation petition to the Clerk of the Circuit Court
- The Incorporation Committee will have 90 days to deliver a municipal charter to the BCC for approval after public hearing
- Incorporation Committee will have six months to gather notarized signatures from 20 percent of the registered voters within the proposed incorporation area from the date the BCC has reviewed the petition
- During the 60 days following the certification of the petition, the BCC will complete a budgetary analysis and schedule three public hearings
- Petition will be presented to the BCC, which will hold a public hearing and decide whether to call an election to authorize the creation of a new municipality



Non-Revenue Neutral Municipalities

- Three out of the five municipalities that have incorporated since 2000 were non-revenue neutral areas at the time the Board set an election among the registered voters seeking incorporation:
 - Miami Lakes
 - Palmetto Bay
 - Doral

Non-Revenue Neutral Municipalities

- As a condition of incorporation, these municipalities agreed to pay a portion of their ad valorem revenues to offset the revenue loss to the unincorporated area as a result of their incorporation.
- The amount charged to the municipalities was based on a portion of difference between the revenues and expenses attributable to that area, the figures were based on an analysis done approximately two years prior to the time of incorporation.



Mitigation

- The County has phased out the mitigation payments from all of the municipalities.
- The municipalities paid into the Municipal Service Trust Fund for a total of seven years.

Prior Attempts to Incorporate UMSA

- In November 1997, the BCC considered an intent resolution to incorporate or annex the remaining unincorporated area by December of 2007 – no action was taken.
- In April 2002, another intent resolution was considered by the BCC to incorporate or annex the unincorporated area by January 2018 – this resolution failed by a 5-6 vote.

Annexation Process

- The annexation process can be initiated by the Planning Advisory Board, the Board of County Commissioners, a governing body or a group or individual
- In the case of a governing body, the proposed boundary change process is initiated by resolution *after* public hearing
- Three copies of resolution and proof of compliance with notice requirements must be filed with the Clerk of the Board
- 20-3(A) Accurate legal description of land area
- 20-3(B) Map or survey sketch showing location of area involved, existing boundaries of municipality affected, and indicating relation of area to existing municipal boundaries
- 20-3(C) Certificate of County Supervisor of Elections certifying that area involved contains either more or fewer than 250 qualified electors
- 20-3(D) Statement setting forth grounds or reasons for proposed boundary change
- 20-3(E) A statement declaring whether an enclave borders the municipality and whether the proposed boundary change includes such enclave

Annexation Process

- 20-3(F) Additional information
 - Land use plan and zoning – regardless of area size or state of existing development
 - List of services to be provided – described in detail – character and amount – discussion of service levels taking into account existing development, changes in character and extent of development which may be reasonably anticipated in near future based on land use plan and zoning for area – character and amount of services currently received in area sought shall be set forth for comparative purposes
 - Police protection
 - Fire protection
 - Water supply and distribution
 - Facilities for the collection and treatment of sewage
 - Garbage and refuse collection and disposal
 - Street lighting
 - Street construction and maintenance
 - Parks and recreation facilities and services
 - Building inspection
 - Zoning administration
 - Local planning services
 - Special services not listed (stormwater management, and housing and economic development)
 - General governments

Timetable for supplying services in terms of how soon after annexation

Annexation Process

- Financing of services
 - Include estimated cost of providing, maintaining, and operating service in addition to the methodology used to arrive at the estimate
- Tax load on area to be annexed
 - Narrative, including estimated figures, direct and indirect tax revenues from area sought before and after annexation
 - Appraisal of tax impact on property owners and business in area and within municipality
 - Identification of any areas designated as terminals in the County's Adopted Land Use Plan Map ("terminals"). The municipality shall set forth the following information in its annexation petition:
 - a. The reason that any area designated terminals and areas located within one-half (½) mile surrounding any area designated terminals ("surrounding areas") should be annexed to the municipality;
 - The impact that annexation may have on the operation and future development of facilities within any area designated terminals and surrounding areas;
 - The municipality's assessment of the present and future importance to the economy, job generation, and future development of the County and the region of any area designated terminals and surrounding areas proposed to be included in the area annexed;
 - Whether the land uses within areas designated terminals and surrounding areas are compatible with adjacent land uses within the annexing municipality; and
 - A proposed Interlocal Agreement with the County which would include provisions agreeing to the County's retention of master plan and regulatory control over any area designated terminals and surrounding areas, which shall set forth with specificity the limitations and conditions to be imposed on the municipality's jurisdiction of the area proposed for annexation.

Annexation Process

- 20-3(G) Certificate from Director, Planning and Zoning certifying that in his or her sole determination the area sought having two hundred fifty (250) or fewer registered electors is more than fifty (50) percent developed residential
- 20-3(F) A petition to be filed with the Clerk of the County Commission indicating the consent of twenty-five (25) percent plus one (1) of the electors in the area sought for annexation*

** Not required when property is vacant or where there are 250 or fewer residents*

- The application is filed with the Clerk of the County Commission
- The Clerk of the County Commission will place the matter on the official agenda of an ensuing BCC meeting
- The Clerk of the County Commission will notify the municipality of the date when the matter will be considered
- The County Commission refers the proposed boundary change application to the Planning Advisory Board (PAB) for review, study and recommendation
- Statements contained in annexation application will be reviewed by appropriate County departments
- A report will be written and sent to the Planning Advisory Board for their review and recommendation
- The Planning Advisory Board Committee and Planning Advisory Board will hold a public hearing all property owners within the annexation area and 600' thereof will be notified of the hearing
- The County Mayor will review the recommendations and staff report and issue a recommendation

Annexation Process

- The report and the recommendations from the County Mayor, the Planning Advisory Board will be forwarded to the BCC
- The BCC Committee will hold a public hearing on the application
- The BCC Committee will forward its recommendation to the BCC
- The BCC will entertain the application and may accept, amend or reject

If accepted or amended.....

- The BCC will direct the Supervisor of Elections to schedule an election for the area's registered electors (if applicable)
- The BCC will direct the County Attorney to prepare an ordinance changing the municipality's boundaries along with the required interlocal agreement
- The ordinance will go to the BCC for transmittal to the BCC Committee
- County staff will negotiate the interlocal agreement governing the annexation area
- The Committee will hold a public hearing on the boundary change ordinance
- The Committee forwards the boundary change ordinance to the BCC
- If approved, ordinance goes into effect ten (10) days later

Annexation Requirements

- Retention of garbage and refuse collection and disposal
- Retention of utility taxes
- Retention of franchise fees
- Responsible for bond indebtedness
- Areas of countywide significance – County will retain jurisdiction
- Retain authority to modify or delete restrictive covenants

Incorporation Process

- Sec. 20-20. - Petition for incorporation initiated by individual or group; Creation of Municipal Advisory Committee related to petition
- An individual or group of area residents may file a request for approval of the form of a petition with the Clerk of the Board
- The petition form shall provide for the following information about the proposed municipality:
 - General description and map of area boundaries, and
 - Statement of the reason for seeking incorporation.
- The Clerk informs the BCC that a request to approve the form of a petition for incorporation and authorize the circulation of such petition has been received. The BCC may approve the form of the petition and may authorize the petitioners to circulate the petition for incorporation and obtain signatures of resident electors within the area
- In order for the submitted petition to be complete, the petition shall include consent from no less than twenty-five (25) percent of the electors in the area proposed for incorporation
- Signed petitions shall be submitted to the Clerk of the Board within 90 days of the date the County Commission approves the form
- The Clerk transmits a copy of the petition to the Office of Management and Budget for determination of completeness in accordance with the requirement of subsection (A)(1) and to the Department of Elections for certification as to the sufficiency of signatures on the petition

Incorporation Process

- The Clerk notifies the BCC that the petition is complete and contains sufficient signatures. The County Commissioner whose district comprises the majority of the area proposed to be incorporated by the petition may sponsor an item to create a Municipal Advisory Committee ("MAC")
- The BCC may also initiate incorporation proposals which would not require a petition of the area residents
- The MAC studies the feasibility and desirability of creating a municipality, it is created by ordinance
- Upon completion of the MAC study, the Clerk submits the MAC report to the BCC and the district commissioner may motion to have the report scheduled to be considered by the PAB
- Statements contained in the MAC study will be reviewed by appropriate County departments
- A staff report will be written and sent to the Planning Advisory Board for their review and recommendation
- The Planning Advisory Board Committee and Planning Advisory Board will hold a public hearing all property owners within the incorporation area and 600' thereof will be notified of the hearing
- The County Mayor will review the recommendations and staff report and issue a recommendation

Incorporation Process

- The report and the recommendations from the County Mayor and the Planning Advisory Board will be forwarded to the BCC
- The BCC Committee will consider the legislative item and make a recommendation to the full BCC
- The BCC will entertain the incorporation at a public hearing and may accept, amend or reject it
- If accepted or amended.....
- The BCC will direct the Supervisor of Elections to schedule an election for the area's registered electors
- Upon an affirmative vote of the area's resident electors, the BCC may approve the incorporation
- The BCC will appoint a charter commission and the proposed charter will be placed on a ballot for the resident electors to consider
- If the charter is adopted by the electors, the municipality is created

Incorporation Requirements

- Retention of garbage and refuse collection and disposal
- Remain within the Miami-Dade Fire Rescue District in perpetuity
- Remain within the Miami-Dade Library System in perpetuity
- Contract with the Miami-Dade Police Department for three years
- Have revenue neutral boundaries or make a payment to the Municipal Services Trust Fund
- Incorporation of any commercial, business, or industrial area will require 100 percent of the net excess revenues paid to the County
- Responsible for bond indebtedness (Stormwater, QNIP)
- Areas of countywide significance – County will retain jurisdiction
- Retain authority to modify or delete restrictive covenants

Financial Information

Financial (UMSA Budget) - Revenues

		FY 2012-13 Budget
<u>Taxes</u>		
General Property Tax		\$ 99,596,000
Utility Tax		77,970,000
Communications Services Tax		39,117,000
Franchise Tax		38,755,000
	Subtotal	\$ 255,438,000
<u>Occupational Licenses</u>		
Business Tax		\$ 1,950,000
	Subtotal	\$ 1,950,000
<u>Intergovernmental Revenues</u>		
State Sales Tax		\$ 71,646,000
State Revenue Sharing		48,210,000
Alcoholic Beverage Licenses		255,000
	Subtotal	\$ 120,111,000
<u>Charges for Services</u>		
Sheriff and Police Fees		\$ 1,167,000
	Subtotal	\$ 1,167,000
<u>Interest Income</u>		
Interest		\$ 364,000
	Subtotal	\$ 364,000
<u>Other</u>		
Administrative Reimbursements		\$ 14,297,000
Miscellaneous		1,707,000
	Subtotal	\$ 16,004,000
<u>Cash Carryover</u>		
Cash Carryover		\$ 1,136,000
	Subtotal	\$ 1,136,000
	Total	\$ 396,170,000

Revenue Detail

Ad Valorem Taxes: Municipalities may levy up to 10 Mills for municipal purposes pursuant to s. 200.071, F.S. Currently the county levies 1.9283 mills in UMSA.

Utility Taxes: a local government operating a utility may charge fees for the services and products it provides. Currently FPL, Water and Sewer and gas companies pay this fee.

Communications Service Tax: This tax is distributed by the State and is based on the actual collections within a geographical area by service providers.

Franchise Fees: Franchise fee is fair rent for a utilities privilege to use the government right of way and consideration for the local government not to allow competition for the utility during the franchise term. Currently, MDC's rate is 6% of gross billing.

Business Taxes: Taxes paid by businesses in UMSA.

Local Government Half-cent Sales Tax: This program distributes net sales tax revenue to local governments that meet the requirements pursuant to s. 218.63 F.S. and s. 218.23 F.S.

State Revenue Sharing: State distributes a portion of sales and use tax collections to eligible municipalities. Currently USMA has a guaranteed minimum of \$48.2 million.

Alcoholic Beverage Licenses: The State distributes a portion of the annual state license levied on manufacturers, distributors, vendors or brokers to the municipality and county where it was collected.

User Fees and Service Charges: Local governments can impose user fees and service charges to pay for a service as granted by the Florida Constitution. Charges for the services can include building permit fees, recreational fees, zoning fees, etc.

Sales Tax Distribution

Current Formula: $\frac{\text{County's Unincorporated} + (2/3 \times \text{County's Incorporated Population})}{\text{Total County Population} + (2/3 \text{ County's Incorporated Population})}$

Proportion Formula:

$A = \frac{(2/3 \times \text{County's Incorporated Population})}{\text{Total Countywide Population} + (2/3 \times \text{County's Incorporated Population})}$

$B = \frac{\text{County's Unincorporated Population}}{\text{Total Countywide Population} + (2/3 \times \text{County's Incorporated Population})}$

Current Distribution

Total Value of Distribution Entire County	\$ 234,304,805
County Portion	\$ 47,481,048
Municipal Services (includes UMSA)	\$ 186,823,757

New Formula: $\frac{\text{Zero} + (2/3 \text{ Total County Population})}{\text{Total County Population} + (2/3 \text{ Total County Population})}$

Proportion Formula:

$A = \frac{(2/3 \times \text{County's Total Population})}{\text{Total Countywide Population} + (2/3 \text{ Total County Population})}$

$B = \frac{\text{Zero}}{\text{Total Countywide Population} + (2/3 \times \text{Total County Population})}$

New Distribution

Total Value of Distribution Entire County	\$ 234,304,805
County Portion	\$ 56,232,153
Municipal Services (includes UMSA)	\$ 179,940,996

Other Revenue Disbursements

- Gas Taxes – There are two County gas tax distributions that impact municipal distributions: CILOGT and LOGT

CILOGT (Capital Improvement Local Option Gas Tax) = 3 cents


- Distribution is based on state statute through inter-local agreements – 74 percent goes to the County and 26 percent to municipalities

LOGT (Local Option Gas Tax) = 6 cents

- Distribution is based on state statute through inter-local agreements – 70.4 percent goes to the County and 29.6 percent to municipalities

Financial (UMSA Budget) - Expenses

		FY 2012-13
		Budget
Office of the Mayor		\$ 1,416,000
Board of County Commissioners (BCC)		4,435,000
County Attorney		4,098,000
Miami-Dade Police		300,941,000
Non-departmental - Public Safety		691,000
Parks, Recreation and Open Spaces		8,943,000
Non-departmental - Recreation and Culture		45,000
Public Works and Waste Management		4,423,000
Non-departmental- Neighborhood and Infrastructure		317,000
Regulatory and Economic Resources		1,651,000
Non-departmental - Economic Development		274,000
Audit and Management Services		671,000
Human Rights and Fair Employment Practices		212,000
Information Technology Services		7,495,000
Internal Services Department		15,638,000
Community Information and Outreach		2,193,000
Management and Budget		1,563,000
Non-departmental - General Government		41,164,000
Total		\$ 396,170,000



Allocation of Municipal Costs (the “Split”)

- General Fund includes tax-supported functions for both Countywide and UMSA services
- Direct service departments’ budgets are allocated based on service provided
 - Parks: costs of parks, overhead and construction
 - Police: local patrol, specialized police services, overhead
 - Public Works: local roads, ROWs, overhead
 - Regulatory and Environmental Resources: code enforcement, planning
- County Administration functions allocated based on ratio of CW to UMSA expense in budget