Memorandum

MIAMI-DADE COUNTY

Date: November 14, 2012

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Report on Municipal Incorporations and Annexations

The issue of incorporation is a complex public policy issue. Staff has been working with areas desiring to incorporate since the Miami-Dade County Board of County Commissioners (BCC) approved Ordinance No. 12-24 on April 3, 2012, which lifted the incorporation moratorium. More specifically, staff is updating information necessary to plan for new municipalities. It is important to carefully plan future communities to ensure their composition is sustainable and service deficiencies for the remaining Unincorporated Municipal Service Area (UMSA) are not created. Consideration of annexation opportunities, as opposed to incorporation of new municipalities, should also occur.

Background

The State Constitution grants the BCC with the power to change the boundaries of municipalities and other municipal corporations through the home rule charter (Charter). Upon adoption of the Charter by the voters, the BCC was given the authority, under Section 6.05, to create new cities, which prior to the establishment of Metro government in 1957, was completely governed by state law.

The Charter provides that the BCC may create a new city after receiving a recommendation from the Planning Advisory Board (PAB), after a public hearing, and after approval of the majority of the voting electors in the proposed new municipality. The process for BCC and PAB review and approval of municipal boundary changes – annexations and incorporations – is outlined in the Miami-Dade County Code of Ordinances (Code), Chapter 20. At the time the Charter was adopted, there were 26 cities in Miami-Dade County, which comprised 65 percent of the County's total population. Today there are 34 cities with approximately 57 percent of the total population.

This subject has been carefully analyzed and discussed over the years. Since the early 1990s, various committees have made recommendations regarding incorporation and annexation policies and several reports have been completed. Over the years, the BCC has adopted legislation to change and define the way incorporations and annexations occur in the County.

This memorandum has been developed to also address directives received from Commissioner Barbara J. Jordan and Commissioner Rebeca Sosa when the BCC considered lifting the incorporation moratorium. More specifically, the following sections provide more detailed information on the incorporation and annexation process, the status of various incorporation and annexation movements, and the implications of these changes.

The following are some of the reports that have been prepared by staff, task forces, and consultants:

- Touche Ross Recommendations; A Report on Two-tier Government June 12, 1978
- 1982 County Charter Review Commission Recommendations; January 1, 1982
- *Citizen's Charter Review Committee on the Dade County Charter; Final Recommendations; April 1, 1986*
- Dade County Citizen's Advisory Committee on Countywide Incorporation; Final Recommendations; February 1992
- Citizen's Task Force on Incorporation; Final Recommendations; June 1994
- Planning Department Report: Issues Related to Incorporation; November 4, 1994

- County Manager's Report on Incorporation; Recommendations; June 6, 1995
- Planning Advisory Board Resolution on Incorporation; Recommendations; June 21, 1995
- Boundaries Commission Report on Incorporation Issues; May 1996
- Revenue Sharing Taskforce Recommendations; July 22, 1997
- County Manager's Report on Recommended Incorporation Policies; April 12, 1999
- Incorporation and Annexation Report and Policy Recommendations; July 12, 2001
- County Manager's Incorporation and Annexation Policy Recommendations; February 25, 2002
- Board of County Commissioners Incorporation and Annexation Subcommittee; October 14, 2004
- Report on Incorporation and Annexation; June 2006
- Mitigation Adjustment Policy Review Task Force; July 11, 2006

Each of these reports is available on our website at www.miamidade.gov/inc.

Code Requirements

To create a new municipality, the Code allows for two options: 1) a petition requiring consent of no less than 25 percent of the electors in the area may be circulated, or 2) a County Commissioner can present legislation. The next step is the creation of a Municipal Advisory Committee (MAC) upon the sponsorship of the commissioner in whose district the proposed municipality would be located, comprised of citizens from the proposed area, which develops a plan to study and give information and ultimately a recommendation regarding the creation of a proposed municipality. The MAC submits a report to the area's residents and ultimately to the BCC. Upon presentation of the MAC report to the BCC and after public hearing, the BCC may forward the proposed incorporation to the PAB. A staff report in accordance with the Code which answers questions such as the potential revenue sources available and if the incorporation is within the urban development boundary, is also prepared and presented to the PAB. After public hearing, the PAB may recommend approval, approval with modifications, deferral or denial of the petition. The PAB report, MAC report, and a recommendation from the Administration are submitted to the BCC. The BCC, after public hearing, may 1) call an election on the petition as presented or with modifications, 2) defer the petitioner, or 3) deny. There are a number of conditions that must be met in order for a new municipality to be created, and elements that must be included in a new municipality's charter such as retaining County solid waste service, remaining in the Fire-Rescue District, contracting with the Miami-Dade Police Department for three years, and the area's share of debt service on existing bonds.

Annexations are typically initiated by a municipal government, but may also be initiated by the BCC or the PAB. If a municipal government initiates an annexation of an area where there are more than 250 resident electors, a petition of 25 percent plus one of the proposed annexation area's resident electors must also be filed by the municipality. Annexations accepted by the BCC must be considered by the PAB, along with a staff report according to the Code that outlines certain characteristics of the area to be annexed such as will the annexation impact safety response times, is the area in a flood zone or will it be connected to government offices by public transportation. After public hearing, the PAB may recommend 1) approval 2) deferral or 3) denial of the annexation by the BCC. If the area to be annexed has fewer than 250 electors, the annexation may be approved by ordinance of the BCC. If there are more than 250 electors or if the area is developed (is over 50 percent residential), a referendum is required. As with an incorporation, after public hearing, the BCC may approve, approve with modifications, defer or deny an annexation and the election required for its approval. There are certain conditions to annexations and/or agreements negotiated with the annexing municipality that are generally required in annexations which include debt service payments, retention of utility taxes and franchise fees, and retention of garbage and refuse collection.

Charter Changes

On August 23, 2012, the BCC approved a resolution to place a question on the November 6, 2012 ballot whether to amend the Charter provisions pertaining to changes in municipal boundaries and creation of new municipalities. As it pertains to annexations, it requires the BCC to consider if the proposed annexation area includes commercial areas for the mere benefit of increasing the tax base of the annexing municipality. This ballot question was ultimately approved by the voters.

For incorporation, it provides individuals an alternative to the incorporation procedures generally described as follows:

- A minimum of five individuals (Incorporation Committee) can provide an incorporation petition to the Clerk of the Circuit Court
- The Clerk will have seven days to determine if the form is acceptable and approve the petition
- The Incorporation Committee will have 90 days to deliver a municipal charter to the BCC
- BCC shall review the appropriateness of the petition and municipal charter at a public hearing where the BCC will either approve the incorporation petition and charter as presented, or as revised by the Incorporation Committee or reject the incorporation petition and charter as presented or as revised by the Incorporation Committee
- During the 60 days following the certification of the petition, the BCC will complete a budgetary analysis, in cooperation with the petitioners, of the proposed incorporation area and schedule three public hearings
- 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
- Petitions will be submitted to the Supervisor of Elections who will canvass the signatures
- 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
- The new municipality will be required to remain within the Miami-Dade Fire Rescue District, and the Miami-Dade Library System, and contract with Miami-Dade Police for a minimum of three years, Miami-Dade will retain residential garbage and refuse collection, and assumption of any debt service attributable to the area.

The charter amendment is only an alternative means of accomplishing an incorporation by petition, no incorporation or annexation proposals currently underway would be impacted with the charter amendment.

Status of Current Municipal Advisory Committees

There are three MACs that completed studies and held a public hearing before the PAB prior to the incorporation moratorium.

- ***Fontainebleau MAC*** – The MAC was created by Resolution R-598-02 on June 4, 2002 and by Ordinance 03-109 on May 6, 2003. The MAC completed its incorporation study in December 2003. The Boundaries Commission, which no longer exists in the Code, held a public hearing on April 28, 2004 and deferred the item for 45 days requiring the MAC to prove community involvement. On September 1, 2004 the Boundaries Commission recommended that the incorporation move forward with three considerations: (1) that the budget be evaluated, (2) expansion of the boundaries be explored, and (3) community involvement be analyzed. On October 18, 2004, the PAB held a public hearing and deferred the item until such time that the municipal budget is compared to similar municipalities. On January 10, 2005, the PAB recommended denial of the incorporation.

- ***North Central MAC*** – The MAC was created by Resolution R-1445-01 on December 18, 2001 and by Ordinance 03-42 on March 22, 2003. The MAC completed its incorporation study in June 2004. On September 29, 2004, the Boundaries Commission held a public hearing and recommended denial of the incorporation. On December 6, 2004, the PAB held a public hearing and recommended denial of the incorporation.

- ***Northeast MAC*** – the MAC was created by Resolution R-341-03 on April 8, 2003, then by Ordinance No. 04-104 on May 11, 2004. The MAC completed its incorporation study in December 2004. The Boundaries Commission held a public hearing on March 23, 2005 and recommended approval of the incorporation. The PAB held a public hearing on August 8, 2005 and recommended approval of the incorporation.

County staff is in contact with the MAC chairpersons and beginning to update the MAC reports. The MAC reports include impacts to the UMSA and MAC municipal budgets that must be updated prior to consideration of these incorporations moving forward. We are also preparing detailed financial reports and overlay maps to be included with any items that move forward for consideration by the BCC.

There are two MACs that did not complete their respective studies prior to the incorporation moratorium.

- ***Biscayne Gardens MAC*** – The MAC was created by Resolution R-974-03 on September 9, 2003 and by Ordinance No. 04-142 on July 27, 2004. The MAC did not complete their report at the time of the moratorium.

- ***Fisher Island MAC*** – The MAC was created by Resolution R-838-04 on July 13, 2004 and by Ordinance No. 05-185 on October 18, 2005. The MAC did not complete their report at the time of the moratorium.

Status of Annexations
The following details annexations that are pending with the County.

Deferred by City:

- North Miami Beach – The application was submitted to the Clerk of the Board on May 9, 2005, accepted by the BCC at the June 7, 2005 meeting. The application was heard at the PAB on August 20, 2007 and had a favorable recommendation. The application was heard by the BCC Committee on October 12, 2007, and received a favorable recommendation. The City requested an indefinite deferral prior to the BCC meeting on November 6, 2007.

- Four City Annexation: The municipalities of Doral, Medley, Miami Springs and Virginia Gardens submitted annexation applications where the boundaries were conflicting. The municipalities met and have since amended the applications to include boundaries that are not in conflict. All four applications were considered by the PAB on September 8 and 20, 2010. The PAB recommended all applications be denied. The municipalities requested deferrals after the meeting.

    - Medley – The application was submitted to the Clerk of the Board on July 20, 2004 and accepted by the BCC on July 21, 2009. The application was heard by the PAB on September 8, 2010 which recommended denial. Afterwards, the City requested an indefinite deferral.

- Doral – Two separate annexation applications were submitted to the Clerk of the Board on February 5, 2009 and August 13, 2009 and accepted by the BCC on March 17, 2010 and September 1, 2009, respectively. The applications were heard at the PAB on September 8, 2010 and received negative recommendations. Afterwards, the City requested an indefinite deferral.

- Miami Springs – The application was submitted to the Clerk of the Board on November 14, 2003 and accepted by the BCC on September 9, 2004. The application was heard at the PAB on September 8, 2010 and received a negative recommendation. Afterwards, the City requested an indefinite deferral.

- Virginia Gardens – The application was submitted to the Clerk of the Board on August 21, 2003 and accepted by the BCC on September 23, 2003. The application was heard at the PAB on September 8, 2010 and received a negative recommendation. Afterwards, the City requested an indefinite deferral.

In Process:

- Coral Gables – An application was submitted to the Clerk of the Board for the Ponce Davis area on October 9, 2003 and accepted by the BCC on November 4, 2003. The application was heard by the Boundaries Commission on September 1, 2004 and the recommendation was to move forward and that it include the entire High Pines enclave. The item was heard by the PAB on November 8, 2004. The PAB recommended that the BCC defer the application until the entire High Pines enclave is addressed. Additionally, the County has requested that the City also consider the Little Gables enclave. To date the City has not amended the application.

- Florida City Area H – The application was submitted to the Clerk of the Board on September 6, 2011 and accepted by the BCC on September 20, 2011. The item was heard by the PAB on February 22, 2012, and the PAB recommended approval of the application. At the PAB meeting, the City amended its application to exclude a portion of a parcel that would have been split as a result of the annexation boundaries. The item was deferred at the October BCC committee meeting, and the City is considering alternate boundaries.

- North Miami – The application was submitted to the Clerk of the Board on December 14, 2011 and accepted by the BCC on January 24, 2012. The item was heard by the PAB on August 20, 2012, and the PAB recommended approval of the application. The item was approved by the Infrastructure and Land Use Committee on October 17, 2012. The item is scheduled for BCC consideration on November 8, 2012.

- Sweetwater (FIU Engineering Campus) – The application was submitted to the Clerk of the Board on August 6, 2012 and accepted by the BCC on September 6, 2012. Staff is currently reviewing the application.

Fiscal Impact of a Proposed Incorporation or Annexation

At the April 3, 2012 BCC meeting, Commissioner Rebeca Sosa instructed the administration to provide information regarding the associated costs and the impact to services related to incorporation or annexation proposals. Many years ago, in order to gauge the monetary impact of incorporations to UMSA, an analytical "Impact to UMSA" model was created in order to identify the revenues and expenses attributable to a given area. The revenues are based on the revenues that UMSA generates as a whole and are broken down by type of revenue and are calculated, in some cases, using ratios

based on that particular year's budget. The expenses associated with the area are calculated using the same approach. For example, the police expenses are based on several factors, which include calls for service and types of crimes. The difference between the revenue for the area and expenses determines if the area is a donor, recipient, or revenue neutral as it relates to UMSA operations. However, this analysis was limited to the impact to the UMSA budget and did not consider other impacts, including other segments of the County budget.

A new approach being considered is based on the cost of services to the individual living in UMSA and the County. For example, based on the FY 2011-12 UMSA budget of $397.253 million and a population of 1,073,747, the average cost of services to the UMSA resident for municipal type services is approximately $370 per person per year. In order to better inform the residents, this could be compared to a per person estimate based on the budget developed by a MAC.

Another issue with the previous approach is that it does not take into consideration any costs that begin to move over to the countywide budget. For example, certain policy formulation and general government activities – such as, but not limited to the BCC, Office of the Mayor, County Attorney, Audit and Management Services, and Office of Management and Budget – are currently charged a portion of the expense to the countywide budget and a portion to the UMSA budget. Since it is unlikely that any of those functions would be reduced, even if the entirety of UMSA was incorporated, that expense will shift to the countywide budget. This is not to say that all of those expenses would transfer over, but a majority would. In the example provided earlier, of the $397.253 million UMSA budget, $58.336 million encompasses items such as the Mayor's Office, BCC, County Attorney's Office, Audit and Management, Information Technology, Fair Employment and Human Rights, Internal Services and Management and Budget. Additionally, a portion of the overhead from the Miami-Dade Police Department (MDPD), Public Works and Waste Management (PWWM) and Parks, Recreation and Open Spaces (PROS) would remain and therefore be funded through the countywide budget. The average cost to the County resident for regional type services based on the FY 2011-12 countywide budget of $1.169 billion is $475 per person. If these service costs were to be funded entirely from countywide ad valorem taxes, these costs would increase the cost per person for regional type services by an additional $24 per person to $499 per person per year, approximately a 0.3 mill increase.

Impact to County Operations

If large areas begin to incorporate, services provided to what remains in UMSA will need to adjust. Services provided to the remaining UMSA may cost more per capita, as there may be no economies of scale of which to take advantage. Municipal services are currently provided by PROS, Regulatory and Economic Resources (RER), and PWWM. Furthermore, the costliest service and the one of most concern is police. New municipalities are currently required to continue to use MDPD for the first three years after which they may transition into their own department. The UMSA general fund provides over $300 million for MDPD services within UMSA. Should municipalities transition to their own departments, the MDPD will need to adjust as there is less service area and less revenue.

If the County were to fully incorporate, County government would look different than it currently does. We could just provide specialized police services to certain municipalities and sheriff services such as warrants and court services for the entire County. PROS would only provide support to the regional parks, as local parks would be turned over to new municipalities. The building and permitting section of RER would not be necessary as building and permitting functions would be the responsibility of new municipalities. While new municipalities are required to remain with PWWM for the disposal of waste, all public works-type functions for local roads would be turned over to each new municipality. There would be other services that are currently provided by County departments that would transfer to the new municipalities.

Current policy requires that future incorporated areas remain in the Fire Rescue District and continue to utilize PWWM for solid waste disposal. If this policy were to change, fire rescue and disposal fiscal and service impacts would also occur and protections would need to be in place and/or maintained to ensure that bond indebtedness is not affected by any future incorporations.

As I stated earlier, the issue of incorporation is a complex public policy issue. However, it is one that we, as a community, must address. There are very strong feelings on both sides within our community, even within neighborhoods. As we move forward, I am confident that by working collaboratively with the BCC and citizens' groups, we will be able to develop a well thought out and comprehensive plan that is in the best interest of the residents we serve.

If you have any questions, please feel free to contact Deputy Mayor Edward Marquez at 305-375-1451.

c: Robert A. Cuevas, Jr., County Attorney
Office of the Mayor Senior Staff
Jennifer Moon, Director, Office of Management and Budget
Charles Anderson, Commission Auditor

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