



MEMORANDUM

TO: Honorable Jose "Pepe" Diaz
and Members of the Incorporation/
Annexation Subcommittee

DATE: October 14, 2004

FROM: George M. Burgess
County Manager

SUBJECT: Incorporation and
Annexation Policy
Recommendations

The attached report was presented at the Incorporation and Annexation Subcommittee meeting of July 6, 2004, by Assistant County Manager Alex Muñoz and the Incorporation and Annexation Services Unit in the Office of Strategic Business Management. The Members of the Subcommittee requested additional information regarding cost of police services and how the impact to the unincorporated area is calculated. This will be provided as supplemental information.

As originally noted, this report is intended to facilitate discussion among subcommittee members. Included is an outline of the major policy issues and recommendations for your meeting to help focus our discussion.

As you know, issues surrounding incorporation and annexation are extremely complex and warrant our careful and thoughtful consideration. We look forward to our upcoming discussions.

Attachment



MEMORANDUM

TO: George M. Burgess
County Manager

DATE: July 20, 2004

Alex Muñoz
FROM: Alex Muñoz
Assistant County Manager

SUBJECT: Incorporation and
Annexation Policy
Recommendations

RECOMMENDATION

The following discussion of current and suggested incorporation and annexation policies and practices is provided at the request of the Incorporation/Annexation Subcommittee. In summary it is recommended that the Board continue with established incorporation and annexation policies and implement the additional recommendations detailed below.

BACKGROUND

Previous Report

The December 9, 2003, report presented to the Incorporation/Annexation Subcommittee identifying policy options was prepared pursuant to the direction given at the October 14, 2003, subcommittee meeting. The Subcommittee asked for a limited number of approaches and policy recommendations that could be used to direct and guide future incorporation and annexation requests. The Chair and Members of the Incorporation and Annexation Subcommittee also instructed that existing incorporation and annexation policies be clarified and formalized, as appropriate. The Incorporation and Annexation Subcommittee held a public hearing on December 9, 2003, to address the Incorporation and Annexation Policy Options Report. The report was forwarded to the Governmental Operations and Environment Committee meeting on January 13, 2004, and to the Budget and Finance Committee meeting on January 15, 2004.

Overview

As you have stated in the past, incorporation and annexation requests can not be addressed in a one-size-fits-all model. The issues surrounding each incorporation and annexation request are complex and best analyzed on a case-by-case basis. I believe that the current County policies and pending recommendations provide for a balanced and fair approach to analyzing future incorporation and annexation requests. While it is difficult

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to precisely gauge the effect that incorporations or annexations (whether donor or recipient communities) will have on the remainder of the Unincorporated Municipal Service Area (UMSA) and the County's continued provision of municipal services, staffs role as professionals is to develop, recommend and implement policies that address the fiscal, social, growth-management and service-related impacts of incorporations and annexations.

There are two categories of cities in the County. First, cities that predate the Home Rule Charter along with newer cities beginning with Key Biscayne in 1990 and continuing with the creation of Aventura, Pinecrest and ending with Sunny Isles Beach in 1997. The incorporation movement, beginning in 1990, required much closer scrutiny on the impacts of these largely homogeneous donor areas would have to the County as a whole. This additional analysis compiled with the findings of other studies dating back to 1978, led to a series of policies and practices which define a second category of cities. These new policies included the concept of mitigation for communities who are unable or unwilling to modify their boundaries to achieve true revenue neutrality. Mitigation along with the requirement that new municipalities retain Miami-Dade Police Department (MDPD) specialized police, library and solid waste services in perpetuity, and MDPD local patrol services for a minimum of three years were all implemented to reduce the impact incorporations would have on the remaining UMSA budget and service provision capabilities.

Subsequent to the 1997 incorporations, the new cities of Miami Lakes, Palmetto Bay, Miami Gardens, and Doral incorporated under these Code requirements. These new cities benefit from economies of scale created by the County for police, library and solid waste services while providing an annual contribution to UMSA to help defray service cost in areas proximate to the new cities.

The challenges of incorporation and annexation are multifaceted. In addition to pro-incorporation and anti-incorporation factions, there are residents who are just seeking more information to better understand the governance options for their communities. In many cases it appears that a large number of residents are uninformed on the issues surrounding incorporation. In some cases voter turnout for an incorporation vote has been significant as with Key Biscayne, which had a voter turnout of over 72 percent. Pinecrest, Miami Lakes and Palmetto Bay all had voter turnout in excess of 46 percent. The recent, Miami Gardens and Doral efforts had a voter turnout of just over 15 percent and 28 percent respectively. In other words, just over 5,000 voters in Miami Gardens decided the fate of a city of 100,000, and in Doral just over 1,700 votes determined the creation of that city. These two incorporation elections have had the lowest voter turnout since 1990. I believe we must address this and increase awareness and turnout on incorporation elections.

The County should have a pro-active role in raising awareness by distributing unbiased factual information to citizens. Both "anti-incorporation" and "pro-incorporation" groups may tend to manipulate information in a manner supportive of their particular position. Often, information surrounding municipal services, taxes and property values and the

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exact services impacted get lost in other arguments. Staff has often observed individuals confused over what type of services a new municipality would provide and control. Throughout the Municipal Advisory Committee (MAC) process, which requires a deliberative analysis of the fiscal feasibility of an incorporation and the level of interest of area residents to incorporate, information regarding municipal services is made available. Unfortunately, the MAC meetings are usually poorly attended and at times MAC members have been accused of biasing their findings to support their position. While the MAC process is not perfect, staff has tried to make every effort to facilitate public involvement including providing notice in every Monday edition of the Miami Herald, sending direct mailings to all property owners that reside within the area at the beginning of the MAC process and, as provided by the Code, advertising public hearings regarding the MAC report at the Planning Advisory Board (PAB) and again sending direct mail out seven days before the public hearing at the Board of County Commissioners. In addition, County staff attends MAC meetings in an effort to educate and inform both the MAC members and attendees to ensure the information being disseminated at these public meetings accurately depicts both the process and implications of incorporations. Despite these efforts, I feel that we still need to provide other ways to disseminate information to the general public on this critical issue.

Recent incorporation efforts have revealed another area that needs to be addressed. Current policies primarily contain a process for advancing either a pro-incorporation or pro-annexation agenda. As previously noted, information available from individuals in favor of a particular effort typically solely support their position. This is particularly true of an initiative where only one view dominates the agenda. Concerns have been raised that the process does not allow for all citizens to participate fairly and openly. Support of this assertion is evident in the petition process which does not guarantee sufficient opportunities for the public to express their concerns or ideas in public hearings at the community level. While MACs are typically comprised of a strong majority of pro-incorporation individuals, the process requires that two public hearings be held in the community before their report can be completed. The point was accurately made during the Falls incorporation discussion regarding the criteria for incorporation that calls for a show of support from the interested community in order to consider placing the issue to a vote. We do not quantify or qualify said support. The process simply calls for a show of support, but does not weigh that against the lack of willingness or the sentiments not in favor of incorporation. The process would be better served by measuring community support or lack of support as part of our process.

Since the incorporation of Key Biscayne, UMSA has seen the wealthier communities incorporate leaving no relief for remaining UMSA residents until the creation of the Town of Miami Lakes, which was the first municipality to pay mitigation to help offset its negative fiscal impact on remaining UMSA residents. The County must strive to achieve a balance for the citizens it serves; those that are satisfied with the UMSA services they receive and those that are seeking alternative forms of governance; and the monetary impact incorporation poses for both the future residents of a city and the current residents of UMSA.

Incorporation and Annexation Policy Recommendations

In addition to a number of practices exercised in previous incorporations and annexations, there are many codified policies currently in place to guide these processes. Attachment "A" is a matrix of existing and proposed policy recommendations to guide incorporation and annexation

POLICY RECOMMENDATIONS

PETITION REQUIREMENTS FOR INCORPORATIONS

Incorporations may be petition driven or a Municipal Advisory Committee (MAC) may be created by the Board of County Commissioners (BCC) to study incorporation for an area. The County's current incorporation and annexation process is clearly described in the County Code. Attachment "B" is a brief description of the current process. Chapter 20, Section 20-20 of the Code requires that at least 10 percent of the registered voters in an area sign the petition for incorporation. Petition driven incorporations can only be heard by the BCC during the months of March and September. As previously noted, the petition process, unlike the MAC process, does not necessarily allow the general public in the area to participate in any discussion. Public hearings at the community level are not required. The incorporation petitions are usually coordinated through a community initiated steering committee or group. If the public meetings are not held, there will be little or no public input on the issue of whether the area should incorporate and the reasons they are seeking incorporation.

Annexations should be considered when appropriate and beneficial to the County and annexing municipalities. Currently, as outlined in the Code, Chapter 20 Section 20-1 through Section 20-9, annexations can be initiated by the Planning Advisory Board, the Board of County Commissioners, a municipality or a group of citizens. All annexations must be approved by the affected governments and depending on the number of registered voters residing in the area to be annexed, a vote of the people. If the annexation is initiated by citizens, a petition with signatures of 25 percent of the registered voters in the area is required. Pursuant to County Code, the County retains utility taxes and franchise fees generated by the annexed area. If the area has fewer than 250 registered voters and the land use designation is less than 50 percent residential no vote in the area is required. Unlike the incorporation petition method, the Code requires that the annexing municipality hold a public hearing and notice all property owners within the annexation area and 600 feet thereof. This is one of several notices sent out, once the application is received. There is also a public hearing before the Boundaries Commission, PAB and the BCC. This notification process allows individuals sufficient time to express their concerns to all parties.

Recent city initiated annexation applications and inquiries received by the County involve the annexation of higher value commercial/business/industrial areas. These types of non-residential annexations usually do not require a vote since there are typically less than 250 resident electors in such areas. In these situations the BCC decides if the area is

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to be annexed to the requesting municipality. These annexations will typically require a tax increase for the property owners in the area, since most municipal millage rates in the County are above that of UMSA. Applications are also received from municipalities to annex areas with per capita taxable values much higher than that of UMSA (see Attachment "C" – Incorporation/Annexation Status Report). Again, this further aggravates the situation for the remaining UMSA residents as high value areas no longer contribute net revenue to the UMSA budget.

The Board should seriously consider modifying the County Code to require incorporation petitions to be more consistent with the annexation petition requirements of 25 percent. The additional signature requirement allows for more community involvement. Although there have been different petition requirement options in the past for annexations, ranging from 5 to 50 percent, I believe that a higher percentage requirement allows for a considerable amount of community involvement.

MUNICIPAL ADVISORY COMMITTEES

The MAC process is not outlined in the County Code. To date, the District Commissioner sponsors the creation of a MAC after being asked by interested citizens to study incorporation for their area. One item pertaining to MACs is codified in Chapter 20, Section 20-29 that requires MACs only study incorporation of areas within the sponsoring Commissioners district unless they receive the neighboring Commissioner's approval. In reality the creation of a MAC may not reveal whether a community is truly interested in studying incorporation.

An issue made more evident during the failed Falls and East Kendall initiatives is that an anti-incorporation movement has no effective mechanism to express views prior to County Commission consideration. The primary concern being that a non-representative or numerical minority can lead an effort and bring it to a vote, with little community awareness or support. We have seen this cause community tensions and not provide for quality and involved public participation. The MAC process also suffers from some of the same issues of the petition driven incorporations in that the general public may not have sufficient input in the process. They may also claim they do not have or have not received sufficient information to make informed decisions. Staff advertises all meetings in a newspaper of general circulation, and on the County calendar. All materials provided to MAC members are also available to the public at the meeting. Additionally, the Office of Strategic Business Management has set up a website within the County website to post general information on MACs and their meetings. Yet, all of this may not be enough to ensure thoughtful inclusive public debate.

I believe that individuals requesting the formation of a MAC should bring forth a petition with at least 15 percent of the registered voters in the area, to the area Commissioner. A process should also be established to gauge community support for the MAC or petition process including community surveys to gauge the true interest levels of the community.

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FISCAL RESPONSIVENESS

The creation of new municipalities absolutely has an effect on the UMSA budget and over time service levels. For example, if a recipient community, defined as a community where the cost of services provided to an area exceed the revenues generated in the area, incorporates during the UMSA fiscal year, the newly elected officials of the municipality may choose or be required to change the service levels currently provided. Because the fiscal year for UMSA is underway, the expenses and revenues in the area for that year have already been allocated. Service adjustments within the same year will cause the remainder of UMSA to bear additional costs on behalf of the new cities if UMSA is not appropriately reimbursed by the new cities.

Annexations can also pose an impact on the remaining residents of UMSA. As unincorporated areas are annexed, UMSA is no longer required to provide services to the area, but it does retain certain revenues from the annexed area. With the recent annexations to the Cities of Medley and Hialeah Gardens, which were largely vacant industrial areas, staff successfully negotiated 100 percent mitigation in those areas. The Code also requires the County to retain utility taxes and franchise fees generated by the annexed area. This practice should not change.

One of the policies in place that lessens the impact of incorporation on UMSA is the Code requirement that new municipalities contract for police services as a special condition of incorporation. The County currently has three contracts for local patrol and specialized police services in place with the Town of Miami Lakes, Palmetto Bay and Doral. Staff is currently beginning negotiations with the Town of Miami Lakes for the renewal of the police local patrol contract. Other departments offering services to municipalities are Planning and Zoning, Building, Team Metro, Public Works and Park and Recreation. The County is also offering certain technical assistance and expertise to existing municipalities. However, if the municipalities do not contract with MDPD for local patrol services after the initial three year contract, the efficiency and effectiveness of the police department will be an issue.

Since 2000, the BCC has approved four incorporation votes, and as a result, four new cities have been created. There are currently eight MACs studying the feasibility and desirability of incorporating. There are also several annexations that have been approved and several pending requests. While changes may not have a short term impact on the remaining UMSA area, over time the combined impact of annexations and incorporations may limit the ability of the County to efficiently and effectively provide municipal services to UMSA and Countywide residents. The long term impact that recent incorporations and annexations will have on the remaining UMSA area and the County is difficult to determine at this time.

To help address the concerns of transition fiscal year financial and service impacts on UMSA, recipient communities could be encouraged to vote for incorporation during the months of October through December. If the vote is successful, this would allow a new municipality to have its own tax roll and be able to amend its millage rate for the

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upcoming fiscal year. In order to have a tax roll for the upcoming year, the municipality must exist prior to December 31st, in January the property appraiser uses the property values from the previous year to produce a preliminary tax roll for July, and a final certified roll in October. While the timing for the election may not always be practical, at a minimum, the Code should include language that allows the County to set service levels for the remainder of the municipality's first fiscal year. This should be a condition of incorporation to protect UMSA residents from bearing first year costs associated with a new city. This also allows a new city enough time to elect their municipal officials and construct its own first full year budget to be effective the next fiscal year, while not negatively impacting the new municipality and also allowing UMSA enough time to adjust to any service level changes. Service level changes for new cities would be effective October 1 of the upcoming fiscal year.

POLICE SERVICES

An extremely important issue is the ability of the MDPD to hire and maintain adequate staffing levels to support UMSA and also to meet the needs of jurisdictions contracting for police service. MDPD states it has not experienced a significant decrease in the hiring of new recruits. While the number of applications has slightly decreased, it is not expected to negatively impact the hiring process. While incorporations have affected MDPD, due to the requirement in Chapter 20 of the Miami-Dade County Code which requires municipalities to retain MDPD local patrol for three years under a contractual agreement and specialized police in perpetuity, there has been some stability. The first municipality to contract with MDPD was Miami Lakes. Miami Lakes, Palmetto Bay, and Doral have all requested additional officers, while the reduction of officers in Miami Gardens has led to a redeployment of officers to UMSA or contract municipalities. Nonetheless, your directive has been to ensure new incorporations DO NOT have an adverse impact on police services to the remaining UMSA. We strive to absorb existing staff to the extent possible by planning for training classes appropriately and by absorbing positions into funded vacancies. Incorporations are continually evaluated to ensure that staffing levels for contract municipalities and UMSA are at optimal and appropriate levels.

MDPD should continue to contract services to both existing municipalities and any newly formed municipality in order to maintain a countywide force able to respond to regional emergencies and to ensure Miami-Dade has a large well trained police force that can be deployed as needs arise.

Annexing municipalities are currently not required to pay for specialized police services for the area being annexed. I recommend the County should consider changing the Code to require any municipality annexing an area to receive MDPD specialized police services in perpetuity for the area being annexed unless the annexing municipality currently provides specialized police services to its residents.

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SPECIALIZED POLICE FUNDING

Currently, new municipalities are required to contract with MDPD for specialized police services in perpetuity. This practice should continue as it protects the integrity of specialized police services which require well trained personnel which must be ready to respond if and when the need arises. The County must also revisit specialized police funding, including how existing municipalities using MDPD specialized services contribute to the cost of such service.

There needs to be a countywide solution to the issue of specialized police service funding. There are municipalities that provide some of their specialized police services while a majority of the municipalities use MDPD for all specialized police services. Currently, municipalities pay a portion of their countywide millage to fund these services. The challenge with the current model is that some cities providing their own specialized services are paying for services they may not receive, while other cities are receiving more services than for which they pay. There is only one realistic alternative to the current approach for the funding of specialized police services. However, I do not recommend the implementation at this point since it has significant problems. The long-term solution for funding specialized police services requires further review and analysis.

One option would be to increase the countywide millage to fund specialized police services for all Miami-Dade County municipalities, as well as the unincorporated area. The benefits of this option are that it would completely fund specialized police services, representing a recurring source of revenue and not require any cities to contribute existing revenue. The principle barrier to this option is that it requires an increase in the countywide millage rate and would impact the countywide 10 mill cap, applicable to countywide, fire rescue district, and library system millages. This option would reduce the current UMSA millage by transferring the specialized police expense to the countywide budget. There is not enough capacity under the 10 mill cap to cover the cost of specialized police services countywide.

MITIGATION PAYMENTS

The requirement that mitigation payments be provided from donor areas is codified for incorporations but not for annexations. This policy has been in place since the creation of Miami Lakes. Ordinance 02-26, created Section 20.26 of the County Code. The Code requires incorporations to be revenue neutral or that new municipalities mitigate the negative impact of their incorporations on the UMSA budget. The BCC reserved for itself the authority to set the mitigation amount. The payments for Miami Lakes and Palmetto Bay both equal to 1 mill of their taxable value in their first year of existence. These communities were residential and did not include any Commercial, Business or Industrial (CBI) areas within their boundaries. Doral included a large CBI area within its boundaries. At the Doral BCC public hearing, staff recommended 100 percent mitigation for the CBI area and one mill for residential areas. The BCC adjusted the CBI mitigation payment to 1.5 mills which represented 87 percent of the excess CBI revenues and 39

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percent of the excess revenues in the residential area. The Town of Medley currently pays 100 percent mitigation on the areas it has annexed; their mitigation is adjusted yearly by the growth in the tax roll for the areas.

Some recipient communities have inquired about the possibility of "reverse mitigation" where the County would pay a recipient city since its incorporation has a positive net impact on UMSA. Under no circumstances can or should mitigation paid to UMSA from donor municipalities be used to fund other municipalities. The intent of the mitigation revenues was to offset the negative impact to UMSA, not to other municipalities.

Incorporations – The County should consider mitigation amounts in excess of one mill and up to 100 percent of the calculated mitigation amount from proposed municipalities only when the area is a donor community, i.e., estimated revenues to UMSA exceed the estimated cost of providing services to the area. Under no circumstances should the CBI mitigation drop below 87 percent of the excess revenues in the first year and in subsequent years it should be based on a millage rate to be adjusted annually by the growth in the tax roll. This is essential given favored nations language likely to be in other future municipal charters.

Annexations – There is currently no Board policy that addresses the issue of mitigation for annexing municipalities. Staff has negotiated and recommended that annexing municipalities mitigate the impact of the annexation area to the remainder of UMSA. Recently, we reached agreements with the cities of Hialeah Gardens and Medley for mitigation of the net surplus generated by the portion of the CBI areas they annexed.

I recommend that the mitigation policy should continue and be codified for CBI and residential areas to include incorporations and annexations as it allows for UMSA to retain some of the revenues it would lose as a result of the incorporation or annexation. Such revenues will improve the likelihood that service levels can be preserved as incorporations and annexations continue in the future.

Solid Waste Department

New municipalities are required to continue to use the Solid Waste Department for waste collection services in perpetuity. Currently, annexing municipalities are not required to use the County for waste collection services so long as the municipality agrees to utilize the County's waste disposal system for all waste generated in the annexed area. These policies should not change.

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Commercial Business Industrial Area (CBI)

Retention of CBI areas helps reduce the negative impact of the incorporation of affluent areas on UMSA. If retention of CBI areas is not a viable option, mitigation should be sought from the annexing or proposed municipality. Currently, staff has recommended 100 percent mitigation for these areas, in both annexations and incorporations. In no case should the mitigation amount be any less than 87 percent of the excess revenues generated within the CBI area (for the Doral agreement) to avoid triggering the favored nations clauses in prior municipal charters. I recommend that the Code be amended to require any new or annexing municipality to pay 100 percent mitigation on CBI areas to offset the impact of the area's departure on the UMSA budget. Staff has presented legislation regarding CBI areas. I recommend such legislation be resubmitted for Board consideration.

The table below is a listing of all the CBI areas identified in unincorporated Miami-Dade County. Since the creation of the table, some CBI areas have been incorporated into cities.

CBI AREA	Proposed Incorporation Area Overlap
Airport West	Partially within City of Doral
Calder Race Track/Pro Player Stadium	Partially within City of Miami Gardens
Cutler Ridge	Partially within Cutler Ridge MAC study area
Dadeland	N/A
Gratigny	Partially within North Central Dade MAC study area
Mall of the Americas	N/A
NE Industrial Area	Partially within the City of Miami Gardens
NW Industrial Area	Partially within Medley and Hialeah Gardens annexation area
Tamiami Airport	N/A
The Falls	N/A
Tropical Park	N/A

FACILITIES OF COUNTYWIDE SIGNIFICANCE

Areas or facilities of Countywide significance are private or public lands in UMSA where the BCC should retain regulatory control over its land use, development and service delivery to protect and promote the health, safety, order, convenience, prosperity, and welfare of current and future residents and tourists. The Board should retain jurisdiction for purposes of zoning and building approvals for publicly and privately held facilities such as, water and sewer installations, and compliance with environmental and utility regulations, examples of such regional facilities include airports, electrical power plants,

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land fills, well fields, water and wastewater treatment facilities and regional parks to name just a few.

This issue is currently dealt with as each incorporation or annexation comes forward. Language is placed in the conceptual agreements, charters or interlocal agreements to address each area of concern. I recommend that the code be amended to provide a countywide policy to address facilities of Countywide significance. Such legislation has been prepared and can be resubmitted for Board consideration.

COUNTY ASSETS

As areas incorporate or are annexed, the County conveys any municipal parks and local roads in the area. As with all previous incorporations and annexations, these assets are conveyed to the municipality in as-is condition. I recommend that a section in the Code should be created to convey County assets in as-is condition, and allow the County, during the transition period, to start and complete any budgeted and planned projects in the area for any municipal park or local road. This would provide incorporating area residents the benefit of infrastructure improvements planned and funded during the transitional year (typically the first year of a cities existence).

DEBT SERVICE

The County has issued bonds on behalf of the unincorporated area to pay for infrastructure improvements within UMSA. These programs include, but are not limited to, the Quality Neighborhood Improvement Program (QNIP), Stormwater Utility bonds, and the Fire Rescue District bond program. Since the incorporation of Miami Lakes, municipalities pay for their share of outstanding bond based on the revenues generated in the area. The Miami-Dade Home Rule Charter is bound to Article VIII, Section 6 of the Florida Constitution 1968 which states: "Provision shall be made for the protection of the creditors of any governmental unit which is merged, consolidated, or abolished or whose boundaries are changed or functions or powers transferred."

Quality Neighborhood Improvement Program - In 1999 and 2002 the County issued the QNIP bonds to fund improvements in the UMSA area. New municipalities are required to pay for QNIP debt service issued prior to their respective incorporation, since the utility taxes pledged to pay for the bonds will be transferred to the new municipality. Currently, if a QNIP project is under way within a newly formed municipality, that phase of the project is completed and no more funding is allocated to that project.

Stormwater Utility Bonds - In 1999 the County issued Stormwater Utility bonds to fund drainage projects in UMSA. When areas incorporate they remain part of the Miami-Dade Stormwater Utility until such time as they opt to create their own stormwater utility. If a stormwater project is currently under way, that phase of the project is completed and no more funding is allocated to that project. For annexations, municipalities are required to pay the debt service for that area based on the stormwater revenues collected for the area.

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Again, if a stormwater project is currently under way, that phase of the project is completed and no more funding is allocated to that project.

Fire Debt Service – The Code requires new municipalities to stay within the Miami-Dade Fire Rescue District, whereas annexing municipalities are not. I recommend that a section should be created in the County Code to address the issue of outstanding Fire Rescue District debt service as well as any other similar circumstances in the future where an annexed area should continue to pay its fair share of indebtedness in existence at the time the annexation is approved.

I recommend that a section should be created in the Code to require new municipalities to pay for their pro-rata share of any outstanding bonded indebtedness and also, to permit new municipalities to utilize bond proceeds approved and programmed at the time of an incorporation which are earmarked for the area.

AREAS OUTSIDE THE URBAN DEVELOPMENT BOUNDARY (UDB)

The UDB delineates the overall location and amount of land that will be eligible for urban development. Land inside the UDB is eligible for development orders and permits authorizing the urban land uses. The factors that determine whether or when to change the UDB includes the supply of land and the demand for residential and non-residential development, environmental concerns, and the ability to extend public services and facilities to service new urban areas.

Staff believes that incorporations or annexations outside the UDB should not be approved. However, should the Board determine that it is in the County's best interest to approve such annexations or incorporations, the current policy that the County retain jurisdiction for purposes of the approval of the Comprehensive Development Master Plan, zoning and building approvals, water and sewer installations, and compliance with environmental and utility regulation should remain. I recommend that the Code should be amended to prohibit incorporations or annexations outside the UDB unless the conditions of County jurisdiction remain on the property.

FIRE RESCUE DISTRICT

In order to protect the integrity of the Fire Rescue District, as a condition of incorporation new municipalities are required to remain in the Fire Rescue District in perpetuity. However, as a currently written, the Code permits other municipalities to opt out of the Fire Rescue District. I recommend that Section 18-30 of the Code should be amended to prohibit all municipalities currently in the fire district from leaving. That change will assist in protecting the integrity of the District as much as requiring new municipalities to remain in it.

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ELECTIONS

Elections for incorporations or annexations are scheduled after the BCC approves a vote on the issue. For incorporations, a charter election is scheduled only after the initial vote on the creation of a new city passes, and then the municipal elections are held. The initial vote is paid for by the County if the citizens of the area reject the incorporation however, if the area approves the incorporation, the new city pays for the cost of the election. The charter vote and the election of municipal officers are paid for by the new municipality. Municipal elections for new cities should occur no later than 45 days after the approval of the municipal charter. After the initial municipal election of officers, any other municipal election should be scheduled on dates to coincide with countywide elections. This would be more beneficial to the community, allowing a greater turnout for the election as well as making more efficient use of County taxpayer resources.

The scheduling of municipal elections should be addressed by creating a section in the County Code.

CHARTER CHANGES

Certain charter changes will need to occur if the UMSA population begins to diminish beyond a certain size. These changes should include granting the BCC the power to initiate annexations or incorporations. If or when UMSA reaches a point where it is not fiscally or operationally viable, the BCC should be in a position to incorporate or annex the remaining parts of UMSA. This would allow the BCC to require annexation of enclaves to existing municipalities. Such authority would require amendment to the Home Rule Charter. I am not recommending such amendments at this time.

Also provided with this report for your information is a current map of Miami-Dade County depicting areas considering incorporation or annexation.

CONCLUSION

Incorporation and annexation must be conducted in a deliberate and methodical manner. The results of these activities impact our community in many permanent ways. Incorporation or annexation can affect a community and adjoining areas by changing the composition of communities both economically and socially. Service levels and tax burdens can also be impacted. The County has a clear role in ensuring that potential impacts are well analyzed and communicated effectively to all involved parties. Part of our stewardship of this process is to ensure that residents within UMSA continue to receive the same level of services and that proposed municipalities are viable and can serve the needs of their citizens. Staff is currently pursuing contractual opportunities with existing and new cities for services historically provided by municipalities to their citizens. It is important to note that the failure or success of any city can impact the

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region. Many municipal issues do not recognize borders such as crime, road maintenance and health and public safety.

The County must be careful to avoid the establishment of barriers to the growth and well-being of our community, as well as creating enclaves that would diminish the effective and efficient delivery of municipal services. Not all areas are viable as cities and others must significantly raise taxes to provide the same level of services that UMSA provides. In addition, we must make every effort to protect the best interest of all County residents.

As we implement these policies, we should consider the impact of recent incorporations on the County. I ask this so that we have time to evaluate the true impact on the County and to study how to best develop a plan for how this County should look in the future. Also, we must ensure that cities are seeking to adjust their boundaries in a way that makes sense for the delivery of service to adjacent areas. Cities should ensure that the appropriate levels of service are provided and that annexations are undertaken in a fiscally responsible manner. Staff should also only consider, review and analyze a certain number of annexation or incorporation initiatives at any one time. I am concerned as to the current volume being handled. Each initiative is thoroughly scrutinized on a multi-departmental level. This includes extreme care and attention to fiscal and legal matters. Staff also assists in transitioning services. In every case a high level of assistance, is provided initially to new cities. Therefore, I suggest that staff only undertake as many efforts as they can responsively handle. For now we probably have too many initiatives on our plates. I recommend that we move forward selectively and carefully in the future with any new petitions.

ATTACHMENT A

POLICY RECOMMENDATIONS

Area	Current Policy	Reference	Practice	Recommendation	Additional Clarification
Mitigation	Require mitigation from incorporations that are not revenue neutral	Code Chapter 20-Sec 20-26 (D)	Areas not revenue neutral, negotiate mitigation for residential areas on a case by case basis	Incorporation or annexation of donor areas should require mitigation that would not trigger favored nations clauses in previous agreements	Create section in Code Chapter 20 to address mitigation of residential areas
	Require mitigation from incorporations that are not revenue neutral	Code Chapter 20-Sec 20-26 (D)	Areas not revenue neutral, negotiate mitigation for CBI areas on a case by case basis recommend 100% mitigation	Areas incorporating or annexing CBI areas should be required to pay 100% mitigation	Create section in Code Chapter 20 to address mitigation of CBI areas
Incorporation	Petition requirement 10% of area electorate	Code Chapter 20 Sec 20-23	Codified	Require a higher percentage petition for incorporation	Amend Code Chapter 20 Sec 20-23
	N/A	N/A	N/A	Encourage incorporation elections of communities between Oct and Dec; require cities to be governed by USMA budget for remainder of fiscal year	Create Section in Code Chapter 20
	N/A	N/A	N/A	Provide BCC with the power to force annexations and incorporations if USMA is no longer viable	Modify Charter
MAC	N/A	N/A	MAC is created by sponsoring Commissioner to study Incorporation	MAC creation should require a petition and a survey	Create Section in Code Chapter 20
Specialized Police	Municipalities are required to retain and pay for MDPD Specialized Police Services in perpetuity	Code Chapter 20 Sec 20-26	Municipalities are required to retain and pay for MDPD Specialized Police Services in perpetuity	Modify Code so that annexing municipalities that do not have Specialized Police retain MDPD in perpetuity	Modify Code Chapter 20 Sec 20-26
Facilities of Countywide Significance	N/A	N/A	As areas incorporate or are annexed, County retains control of facility	As areas incorporate or are annexed, County retains control of facility	Create Section in Code
County Assets	N/A	N/A	County assets such as local roads and parks are transferred to the new or annexing city in as-is condition	Continue to convey County assets such as local roads and parks to the new or annexing city in as-is condition	Create Section in Code
Debt Service	N/A	N/A	As areas incorporate or are annexed, cities are required to pay for their share of outstanding debt service	As areas incorporate or are annexed, cities are required to pay for their share of outstanding debt service with the ability to use the funds that have not been spent in the area	Create Section in Code
Urban Development Boundary	N/A	N/A	Areas not be annexed or incorporated	If areas are annexed or incorporated outside the UDB, the County should retain all jurisdiction	Create Section in Code Chapter 20
Fire District	Areas incorporating are required to stay with MDRF in perpetuity	Code Chapter 20 Sec 18-30	Areas incorporating are required to stay with MDRF in perpetuity	Amend code so that municipalities currently within fire district remain and annexing municipalities remain with MDRF	Modify Code Chapter 20 Sec 18-30
Elections	Elections are scheduled between 60 and 120 days following the BCC vote	County Code	Elections are scheduled after 90 days following the BCC vote	Require all municipal votes to take place during a general election	Create Section in Code Chapter 20 or Chapter 12

ATTACHMENT B

CURRENT PROCESS AND PRACTICE

Current Code Mandated Incorporation Process

1	Steering committee submits petition or asks BCC member to sponsor a resolution to initiate process
2	BCC refers incorporation application to Boundaries Commission and Planning Advisory Board
3	Office of Strategic Business Management, and Department of Planning and Zoning staff prepare a report and transmit to the Boundaries Commission and Planning Advisory Board
4	Boundaries Commission holds public hearing on the incorporation, evaluates merits of the application, and makes a recommendation to the Planning Advisory Board
5	Planning Advisory Board holds public hearing on the incorporation, evaluates merits of the application, and makes a recommendation to the BCC
6	BCC holds a public hearing to determine whether or not the matter will be put to a vote of area residents
7	BCC schedules area residents' election
8	BCC appoints committee to write city's charter if an affirmative vote by area residents
9	BCC approves charter to go to a vote of area residents
10	Charter vote; if affirmative, a municipality is created

Current Practices for Incorporations

- Require new municipalities to remain in the Miami-Dade County solid waste collection system on a permanent basis
- Require new municipalities to enter into a contract with the Miami-Dade Police Department for an initial 3 year period with a 1 year transition after incorporation for patrol and other purely local police services
- Require new municipalities to continue to receive and pay for specialized police services provided by the County in perpetuity
- Require new municipalities to remain within the fire district in perpetuity
- Require new municipalities to remain within the library district in perpetuity
- Require new municipalities to continue to receive services from the Department of Solid Waste in perpetuity
- Draw boundaries in such a way that the proposed area is itself sustainable and the fiscal impact of the incorporation on the remainder of the unincorporated area is revenue neutral or require new cities make a mitigation payment to compensate for any negative fiscal impact of their incorporation on the remaining unincorporated area

ATTACHMENT B

CURRENT PROCESS AND PRACTICE

- Retain commercial and industrial areas as part of UMMA, or a new municipality should pay 100 percent of the difference between the revenues generated and expenses incurred in the area
- Retain regulatory control over facilities of countywide significance
- Consider incorporations outside of the Urban Development Boundary on a case-by-case basis
- Require new municipalities to pay their portion QNIP debt service

Current Code Mandated Annexation Process – Governing Body Initiated

1	Governing body requesting a boundary change will initiate a resolution after a public hearing as provided by the MDC Code
2	Said municipality will file with the Clerk of the Board an application for the boundary change to include all Code requirements and fee per AO 4-111
3	BCC refers boundary change application to Boundaries Commission and Planning Advisory Board
4	Office of Strategic Business Management, and Department of Planning and Zoning staff prepare a report and transmit to the Boundaries Commission and Planning Advisory Board
5	Boundaries Commission holds public hearing on the boundary change, evaluates merits of the application, and makes a recommendation to the Planning Advisory Board
6	Planning Advisory Board holds public hearing on the boundary change, evaluates merits of the application, and makes a recommendation to the BCC
7	BCC holds a public hearing to determine whether or not the matter will be put to a vote of area residents; If area has less than 250 residents BCC may approve without a vote
8	If vote is affirmative, boundary change becomes effective

ATTACHMENT B

CURRENT PROCESS AND PRACTICE

Current Code Mandated Annexation Process – Group or Individual Initiated

1	A person or group desiring a boundary change to a municipality shall initiate by filing with the Clerk of the Board a written petition signed by 25% of the areas electorate along with a resolution from the municipality approving the boundary change (no fee per AO 4-111)
2	BCC refers boundary change application to Boundaries Commission and Planning Advisory Board
3	Office of Strategic Management, and Department of Planning and Zoning staff prepare a report and transmit to the Boundaries Commission and Planning Advisory Board
4	Boundaries Commission holds public hearing on the boundary change, evaluates merits of the application, and makes a recommendation to the Planning Advisory Board
5	Planning Advisory Board holds public hearing on the boundary change, evaluates merits of the application, and makes a recommendation to the BCC
6	BCC holds a public hearing to determine whether or not the matter will be put to a vote of area residents; If area has less than 250 residents BCC may approve without a vote
7	If vote is affirmative, boundary change becomes effective

Current Practices for Annexations

- Require annexing municipalities to pay for fire debt service if they are not part of the fire district
- Retain utility taxes generated in the annexing area
- Retain franchise fees generated in the annexing area
- Retain commercial and industrial areas as part of UMSA, or annexing municipality should pay 100 percent of the difference between the revenues generated and expenses incurred in the area
- Retain regulatory control over facilities of countywide significance
- Consider annexations outside of the Urban Development Boundary on a case-by-case basis
- Retain garbage and refuse collection and disposal unless delegated by BCC
- Require annexing municipality to pay for stormwater utility debt service

ATTACHMENT C

Incorporation/Annexation Status Report October 2004

Municipal Advisory Committees

Biscayne Gardens

The Biscayne Gardens Municipal Advisory Committee (MAC) is in the educational phase of the MAC process. The first public hearing is currently scheduled for November 11, 2004.

Cutler Ridge

The Cutler Ridge proposed incorporation went before the Board of County Commissioners (BCC) on July 13, 2004. The Board instructed staff to finalize estimated budget numbers to be presented to the BCC on the July 27, 2004 meeting. At that meeting the item was passed and the residents of the Cutler Ridge area will vote on incorporation on the November 2, 2004.

Fisher Island

Resolution R-838-04 sponsored by Commissioner Barreiro and passed by the Commission on July 13, 2004, created the Fisher Island MAC (FIMAC). After the 10-day veto period, the Commissioner appointed the members of the MAC. The MAC's first meeting was held on Thursday, August 19, 2004, where a chair was elected and information such as: taxable values, impact to the Unincorporated Municipal Services Area (UMSA), and maps were passed out. The FIMAC's next meeting will be scheduled in October.

Fontainebleau

The Fontainebleau MAC report was presented to the Boundaries Commission on September 1, 2004. The Boundaries Commission moved the item forward to the Planning and Advisory Board (PAB) with three (3) considerations to note: (1) how the proposed budget would impact the millage rate for the proposed incorporation area, (2) review the possibility of expanding the boundaries, and (3) consider lack of community participation at the Boundaries Commission meeting. The PAB meeting is tentatively scheduled on October 18, 2004 at 6:00 PM at the EWF Stirrup Elementary School which is located within the Fontainebleau boundaries.

Goulds

Currently, the Goulds MAC (GMAC) is working with the Florida Conflict Resolution Consortium (FCRC) negotiating boundaries with the Redlands and Redlands Edge. Subsequent to the adoption of Ordinance 04-148 creating the GMAC with the boundaries mediated with Cutler Ridge, the GMAC has not met. The August meeting was cancelled due to lack of quorum. Additionally, the Chair canceled the September meeting citing weather conditions in the area. The next meeting is scheduled for

ATTACHMENT C

October 5, 2004. Staff is prepared to present an impact to UMSA analysis based on the new boundaries adopted at the July 27, 2004 BCC meeting.

North Central Dade

The staff report was presented to the Boundaries Commission on September 29, 2004. The Board's recommendation was to deny the proposed incorporation of the area because it was not economically feasible and that the boundaries would result in two enclaves remaining in the area.

Northeast Dade

The Northeast Dade MAC (NEDMAC) met on June 9, 2004, at Highland Oaks Middle School. The meeting was advertised as a public hearing, but was unofficial because NEDMAC members had not filed their paperwork with the Clerk of the Board. The next meeting is scheduled for October 20, 2004 at Highland Oaks Middle School. The NEMAC members have filed their paperwork so the meeting will be official.

PLANT (Princeton, Leisure City, and Naranja)

The PLANT MAC (PMAC) met on September 16, 2004 and discussed their pro-forma budget. The PMAC decided not to meet again until they had more information from the FCRC. The PMAC chairperson said he would contact them as to their status.

Redland

The Redland MAC (RMAC) had their last meeting on January 22, 2004. The major discussion item was Commissioner Sorenson and Commissioner Moss' resolution. The RMAC has conflicts with Goulds and PLANT concerning the boundaries and is currently in negotiations with the FCRC.

Annexations

Davis Ponce

The Davis Ponce report was presented to the Boundaries Commission on September 1, 2004. The Boundaries Commission recommended that the item be deferred by the PAB and the BCC until the entire enclave (which consists of the Davis Ponce and High Pines area) is annexed to the City of Coral Gables. The PAB meeting is tentatively scheduled for November 8, 2004.

Doral

The Doral application went before the BCC on September 9, 2004. The BCC did not accept the application. The Board instructed the Manager, within 120 days, to negotiate with Doral, Virginia Gardens, Medley, and Miami Springs mutually agreeable boundaries between the four (4) municipalities.

ATTACHMENT C

Florida City

The Florida City application has been approved by the Boundaries Commission and rejected by the Planning Advisory Board (PAB). It is scheduled to be reviewed by the Incorporation & Annexation Subcommittee of the BCC on October 14, 2004.

Homestead

The City of Homestead submitted its completed application on July 21, 2004. The application has been reviewed by County departments and the Boundaries Commission meeting is tentatively scheduled for October 20, 2004.

Medley

The Medley application went before the BCC on September 9, 2004. The BCC did not accept the application. The Board instructed the Manager, within 120 days, to negotiate with Doral, Virginia Gardens, Medley, and Miami Springs mutually agreeable boundaries between the four (4) municipalities.

Miami Springs

The Miami Springs application went before the BCC on September 9, 2004. The BCC did not accept the application. The Board instructed the Manager, within 120 days, to negotiate with Doral, Virginia Gardens, Medley, and Miami Springs mutually agreeable boundaries between the four (4) municipalities.

Virginia Gardens

The Virginia Gardens application went before the BCC on September 9, 2004. The BCC did not accept the application. The Board instructed the Manager, within 120 days, to negotiate with Doral, Virginia Gardens, Medley, and Miami Springs mutually agreeable boundaries between the four (4) municipalities.

Transition Cities

Doral

The City of Doral has given the County its required notification to assume certain municipal services on October 1, 2004 or earlier. These services include: Planning and Zoning (assumption date on September 6, 2004), Code Enforcement, Building, and permit review for National Food Insurance Program (NFIP). The Park and Public Work functions will be transferred at the time the County transfers title to the City for the local parks and/or local roads. The County and City are in the process of finalizing the documents in order to transfer the applicable parks and roads.

Miami Gardens

All interlocal agreements with the City of Miami Gardens have been completed and recorded. The deeds to three parks have not been transferred due to funding and construction issues.

ATTACHMENT C

Palmetto Bay

The road transfer agreement between the County and the Village has been signed by the Village. Public Works staff will prepare the necessary documents to take the agreement before the Government Operations & Environment (GOE) Committee and BCC.

Additional Information

Redland Petition

The Clerk of the Board has forwarded to our office a petition to incorporate from the Redland area residents on May 17, 2004. The petition was certified by the Elections Department. Staff is currently working on the staff report and the item is tentatively scheduled to go before the Boundaries Committee on October 20, 2004.