



SHARON R. BOCK

Clerk & Comptroller
Palm Beach County

March 21, 2017

The Honorable Paulette Burdick, Mayor
Board of County Commissioners
Palm Beach County
301 North Olive Avenue, 12th Floor
West Palm Beach, FL 33401

Dear Mayor Burdick:

The Executive Director of the Palm Beach Metropolitan Planning Organization (MPO) presented a proposal to the Board of County Commissioners to change its structure from an MPO hosted by the County to an independent MPO.

As the Clerk & Comptroller, our duty to the citizens of Palm Beach County is to evaluate the cost effectiveness and efficiencies of proposals that impact county funds. Because this proposal is a shift from the current structure, we present our research in the enclosed document. In doing our research, we gathered information about MPOs, their structure, and the advantages and disadvantages of the different types of structures. We identified federal law, Florida Statute, and various rules and regulations which relate to MPOs. We researched available information about MPOs, including national and local studies, audit reports, and documents prepared by Florida MPOs describing their roles, functions, and products.

This document summarizes the information as well as some of the various considerations and potential risks that will require the Board's attention if the Palm Beach MPO further considers transitioning from host to independent status.

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I trust you will find this information informative in your decision making process. Please let me know if you have any questions or would like to discuss this information further.

Respectfully submitted,

A handwritten signature in black ink that reads "Sharon R. Bock". The signature is written in a cursive, flowing style.

Sharon R. Bock, Esq.
Clerk & Comptroller Palm Beach County

Enclosure: Evaluation of MPO Proposal

Cc: Members of the Board of County Commissioners:
Vice Mayor, Melissa McKinlay, District 6
Commissioner Hal Valeche, District 1
Commissioner Dave Kerner, District 3
Commissioner Steven L. Abrams, District 4
Commissioner Mary Lou Berger, District 5
County Administrator, Verdenia C. Baker
County Attorney, Denise Nieman
M.P.O. Executive Director, Nick Uhren

Palm Beach Metropolitan Planning Organization (MPO) Issues for Consideration for Proposed Transition from Host to Independent Status

The Executive Director of the Palm Beach Metropolitan Planning Organization (MPO) presented a proposal to change its structure from an MPO hosted by the County to an independent MPO. The MPO operates with a current budget of \$2.3 million, including approximately 89% federal grant funding and the remainder split between state funding (6%) and local funding (5%)¹. The proposal was presented to the MPO Board at its meeting on December 12, 2016.

The Clerk & Comptroller office gathered data about MPOs, their structure, and the advantages and disadvantages of the different types of structures. We identified federal law, Florida Statute, and various rules and regulations which relate to MPOs. We researched available information about MPOs, including national and local studies, audit reports, and documents prepared by Florida MPOs describing their roles, functions, and products.

Background:

Metropolitan Planning Organizations (MPOs) are mandated by Federal law (23 USC Section 134) to be designated for all metropolitan planning areas in the United States with more than 50,000 individuals. In 1962, urban transportation planning was mandated as a condition for receiving federal-aid transportation funds as well as regional transportation planning funds. By 1973, the mechanism for achieving that planning was formalized as MPOs. Intervening acts passed since then have provided more planning responsibilities and some additional funding. It has been difficult to quantify the success of MPOs as no measures were established for comparing MPOs between regions. However, more recent federal legislation passed in 2012 required emphasis on regional planning (more than just the area covered by individual MPOs), focus on national priorities for transportation systems, and incorporation of performance measures to support allocation of funds to achieve the goals stated in those priorities.

Principal Outputs Required of MPOs:

As designated in its name, an MPO is a planning organization, specifically devoted to planning for transportation within its metropolitan area and in support of regional

¹ Transitioning to an Independent MPO – What, Why, and When? December 2016 presentation to the MPO Board and Advisory Committees by the MPO Executive Director on December 12, 2016

transportation planning. The MPO is required to produce three major outputs each year.

- The most forward-looking output is the Long Range Transportation Plan (LRTP), which is required to address transportation needs projected for at least 20 years. The LRTP is required to be updated every five years. In Florida, the LRTP must be consistent with the Florida Transportation Plan (FTP) developed for the entire state by the Florida Department of Transportation.
- The mid-range output is the Transportation Improvement Program (TIP), which by federal law must be at least a four-year plan for highway and transit improvements. In Florida, MPOs are required to develop a five-year plan of projects and update the TIP annually.
- The third and arguably most relevant output is the Unified Planning Work Program (UPWP). This program is a statement of work identifying the planning priorities and activities to be carried out within a metropolitan planning area. In Florida, the UPWP covers two years of planned projects representing the highest priority projects for the metropolitan area within available funds. The current year of the UPWP is tied to specific funding amounts for each project from the allocated amounts of funding. The second year is tied to specific amounts anticipated to be allocated. The UPWP is updated biennially to reflect any changes in priorities that may have occurred and also to reflect the most recent estimates of funding that will be available. The projects included in the UPWP are listed under work element sections² described in the Florida Department of Transportation MPO Program Management Handbook. These include administration, data collection, TIP, LRTP, special project planning, public participation, and systems planning.

MPO Designation and Structure

Part of the basis for the establishment of MPOs comes from the results of the decennial census of the United States. The census defines “urbanized areas” that are all required to be served by transportation planning organizations. An urbanized area may be partly covered by more than one MPO; likewise, an individual MPO may cover parts of more than one urbanized area. The 2000 U.S. Census identified 453 such urbanized areas

² Florida Department of Transportation MPO Program Management Handbook at <http://www.fdot.gov/planning/policy/metrosupport/mpohandbook/>

throughout the 50 states, 28 of those in Florida.³ The 2010 U.S. Census identified 486 urbanized areas, 30 in Florida.⁴ In Florida, the Miami urbanized area comprises parts of Miami-Dade County, Broward County, and Palm Beach County. It had a total population in 2010 of 5,502,379. The three counties partially included in the Miami Urbanized Area had a population of 5,564,635⁵ – indicating only 62,256 people in those counties were not included in the urbanized area. *The Miami Urbanized Area was more populous than the three next largest urbanized areas in Florida combined.* Only three other urbanized areas in the U.S. (New York–Newark, Los Angeles–Long Beach–Anaheim, and Chicago) have larger populations than the Miami area.⁶

In total, there are 27 MPOs in Florida, six of which serve metropolitan areas with populations in excess of 1,000,000, including Palm Beach MPO. Three of those six large MPOs (including Palm Beach, Miami-Dade and Hillsborough) are hosted, and three are independent (Broward, Orlando and North Florida).⁷

The Palm Beach MPO was first established by interlocal agreement dated August 3, 1977: while most documentation suggests the MPO was created in 1979, the 1979 resolution explicitly cites the prior existence of an MPO. Revisions to the MPO occurred periodically in response to changes in Florida Statutes, Federal Law, and population. The most recent change is documented in Palm Beach County resolution (R2015-1055, dated August 18, 2015, effective October 13, 2015). Membership of the MPO has grown from 10 voting members in 1977 to 21 voting members under the current structure. Throughout this period, the Palm Beach MPO has been hosted by Palm Beach County. The MPO Board is comprised of five county commissioners, two representatives each from West Palm Beach and Boca Raton, and one representative each from Boynton Beach, Delray Beach, Lake Worth, Riviera Beach, Palm Beach Gardens, Jupiter,

³ US Census Urbanized Areas 2000 at <https://www.census.gov/geo/reference/ua/urban-rural-2000.html>

⁴ US Census Urbanized Areas 2010 at <https://www.census.gov/geo/reference/ua/urban-rural-2010.html>

⁵ US Census Population by County 2010 gazetteer at <https://www.census.gov/geo/maps-data/data/gazetteer2010.html>

⁶ US Census Urbanized Areas 2010

⁷ Florida MPO Advisory Council Factsheets.pdf at https://www.mpoac.org/download/research_documents/

Wellington, Belle Glade, Greenacres, Royal Palm Beach, Palm Springs, and the Port of Palm Beach.

Palm Beach MPO - Staff and Services Agreement:

A separate interlocal agreement details the staff and services provided to the MPO by the County in support of its mission and also the services that the MPO may provide to the County, including the funding arrangements necessary to accomplish the objectives of the agreement. The current staff and services agreement (R2013-0211) took effect on April 1, 2013, and extends through September 30, 2018. It replaced the prior staff services agreement that had taken effect on October 1, 1985.

Under the staff and services agreement, all employees of the MPO are employees of Palm Beach County and are subject to County policies regarding employment, compensation, and benefits. At the time the agreement was signed, MPO staff included at-will employees of the County and Merit Service employees of the County. The agreement makes clear that Merit Service status is only available for the incumbent and only as long as that incumbent is not promoted, demoted, or otherwise reclassified during employment with the MPO. Any such change in the Merit Service employee's status or replacement of such an employee will result in conversion to at-will status. Any new staff positions and any new hires for work within the MPO are to be at-will employees.

The position of Executive Director is somewhat more influenced by the County. If a vacancy occurs or is planned in that position, the County will advertise the availability of the position and screen applicants. Applicants who successfully pass the County's screening will be submitted to a selection committee for interviews and recommendation of candidates for the position. The selection committee will include the County Administrator, the MPO Board's Chair and Vice-Chair, two designees of the County Administrator, and two designees of the MPO Board. Recommendations of the selection committee must be approved by the MPO Board and then forwarded to the County Administrator for presentation to the County Board of County Commissioners for approval.

The Executive Director of the MPO, also an employee of the County, serves under the direction of the MPO Governing Board. All other staff of the MPO serve under the direction of the Executive Director. A clear delineating provision in the agreement is that *"No County department head shall have oversight of the MPO staff. Neither the MPO's*

Executive Director nor the MPO staff shall be encompassed within a department of the County or shown on the County's organizational chart as a division of a County department.”⁸

Finally, the agreement includes a clause which reserves the County's ultimate authority to remove, reassign, suspend, or terminate any MPO staff or the MPO Executive Director and prohibits any provision in the agreement from interfering with the County's exercise of such authority.

The agreement also details that the County will provide the MPO:

- Office space, equipment and facility services – including security, telephones, tech support, pest control, janitorial services, and repair or replacement of any such equipment.
- Meeting/facility space – on request, to the extent facilities are available.
- Government Television Facilities – on request, for recording, taping, and/or broadcasting MPO board meetings.
- Mail Services – including mail courier services.
- Communications – telephone communications system and services, including internet access.
- Procurement Services – including processing of purchase orders, approval of MPO vendors, assistance in preparation of specifications, review of solicitations & evaluations of bids and proposals, with the exception of purchases made with grant funds.
- Payroll Services – processing time and attendance, calculating payroll, including optional and mandatory deductions, generating payroll checks and/or direct deposits. These services are provided by the Clerk & Comptroller office.
- Human Resources – including recruitment and all related tasks and County employee benefits.
- Finance and Budget – incorporating MPO budget into the County budget, financial management of grant funds, payment of all invoices and billings submitted by MPO subject to audit review by the Clerk & Comptroller Payables Department.
- Line of Credit – the County will advance funds to the MPO to pay some MPO costs not reimbursable from grants and some MPOs costs expected to be reimbursed by federal or state agency grants.
- Audit Services – for the annual financial statement audit required under Florida laws, which is reviewed and coordinated by the Clerk & Comptroller office.
- Travel – all MPO staff travel is approved by the Executive Director, and must be in accord with provisions of Florida Statutes section 112.061 and County policies.

⁸ MPO Staff and Services agreement with County R2013 0211, paragraph 7.1 at page 12

Travel by the Executive Director must be approved by the MPO Board Chair and the County Administrator.

All these services are to be provided in the same manner and at the same terms and conditions (and at the same rates) as would be applicable to any county department availing itself of the same services, except the advances of funds which are not reimbursable services. The agreement states that the MPO will be responsible for following all County policies regarding such services if the MPO uses them, and grants the MPO the right to perform procurement using its own staff and policies as long as those procurements are processed within the requirements of applicable state, federal, and local law.

The agreement also details services which the MPO may provide to the County:

- Planning and programming required to maintain the County's eligibility to receive federal and state transportation funds.
- Pedestrian facilities planning including review of site plans, field reviews, coordination, and public involvement.
- Bicycle facilities planning to the same extent as pedestrian facilities planning.
- Trail facilities planning to the same extent.
- Public involvement / outreach including presentations and attendance at public meetings and dealing with public inquiries and requests.
- Developments of regional impact, including review and comments concerning transportation elements thereof.
- Traffic impact study review.
- Inter-departmental coordination regarding transportation planning involving Engineering, Planning and Zoning, Facilities, Parks and Recreation, Surface Transportation, and Airports.
- Governmental coordination on transportation including the Port of Palm Beach, Florida Department of Transportation (FDOT), SFRTA, and the Regional Planning Council.
- Agency transportation inter-governmental coordination as requested on behalf of the County with local, regional, state, and federal agencies and transportation modal agencies in regard to transportation planning.
- Insight and updates on transportation legislation including technical support.
- Legislative recommendations compiled for the County to submit regarding transportation.
- Comprehensive plan development assistance to ensure such plans are consistent with the MPO transportation plan.

The agreement states that any services to be provided by MPO to the County will be set forth in written work orders signed by the County Administrator and the MPO Executive Director or their designees.

MPO Structures:

The proposal by the Palm Beach MPO speaks of two types of structure, hosted or independent, which broadly define the degree to which an MPO is supported by the prominent local government organization in the planning area for which the MPO is responsible. Research conducted for the Federal Highway Administration in 2010 (conducted by the Center for Urban Transportation Research at the University of South Florida) determined that 69% of all MPOs were hosted (40% by a form of local government, 26% by a regional council, and 3% by other organizations) and the remaining 31% were determined to be independent.⁹ The study reports there are degrees of “host” as well as degrees of “independence” which demonstrate a continuum of five identifiable structures, as summarized below:

- Hosted
 - All in one agency
 - Dual purpose MPO
 - Component MPO

- Independent
 - Leaning independent
 - Freestanding independent

The study reported the following characteristics that define how MPOs can be identified as being one or the other of the structures in the continuum.

Hosted MPOs generally operate within another agency.

An All-In-One Agency generally has the following unique characteristics:

- MPO functions use the same name as the host agency.
- The MPO’s governing board is identical to the host agency.
- Agency employees perform a mix of MPO and non-MPO work activities.
- The MPO is usually within a regional council.

⁹ Staffing and Administrative Capacity of Metropolitan Planning Organizations, page 3-4

A Dual Purpose MPO generally has the following distinguishing characteristics:

- Staff frequently shift between MPO planning tasks and local government transportation planning tasks.
- MPO policy direction comes from the MPO board, while employment direction comes from the host agency board.
- The MPO director reports to a host agency manager for administrative purposes.
- The MPO board, while different, is still predominantly made of host agency officials.
- The MPO is generally hosted by a local government, either a county or municipality.

A Component MPO generally has the following characteristics:

- The MPO has a distinct name, logo, and website separate from the host agency.
- The MPO director reports to a host agency manager for administrative functions.
- The MPO director takes policy direction only from the MPO board.
- The MPO board membership is significantly different in composition from the host agency board.

Independent MPOs

A Leaning Independent MPO leans on another agency for support and is characterized by the following:

- The MPO board supervises the MPO director and staff.
- The MPO director has no supervisor other than the MPO board.
- The MPO or the agency providing services can sever their contractual relationship.
- The MPO adopts the personnel policies of the agency it leans on.
- The MPO oversees its own finance, payroll, purchasing – either directly or through a contractual relationship.

A Freestanding Independent MPO meets all of its own operating needs, as described below.

- The MPO independently provides employee benefits under its own personnel policies.
- The MPO board supervises the professional staff.
- The MPO manages its own finances, payroll, and purchasing.

Our understanding of the structure, reporting relationships, and contractual obligations of the Palm Beach MPO suggest the conclusion that the MPO bears characteristics that would most closely define a Component MPO (hosted).

- The Palm Beach MPO has a distinct name, logo, and website.
- The Palm Beach MPO Executive Director takes policy direction only from the MPO board.
- The Palm Beach MPO Executive Director and staff are all employees of Palm Beach County, under the county's personnel policies.
- The MPO Executive Director does not report to a manager in any county department, but is subject to termination by the county at any time for any reason as are all MPO staff.
- MPO board composition is significantly different from the Palm Beach Board of County Commissioners (while five of the seven County Commissioners serve on the MPO board, they are five of 21 voting members; municipalities comprise the majority of the MPO board with 15 voting members, and one voting member is from the Port of Palm Beach).

Advantages and Disadvantages of being a “hosted” MPO:¹⁰

The key advantages of being a hosted MPO are the following:

- Reduced cost of operation by:
 - Eliminating or reducing office rent
 - Reducing cost of office support services such as payroll, employee benefits, procurement, payables, accounting, budgeting, human resources, legal and information technology
 - Reducing the cost of office supplies and durable goods (e.g., furniture and office equipment)
 - Reducing employee benefit costs by taking advantage of a larger employee base
- Reduced devotion of MPO staff to administrative tasks
- Availability of financial assistance by the host agency providing capital float to cover operational costs when federal reimbursement delays exist
- Host provision of local matching funds to avoid loss of federal assistance when federal programs require a specified minimum local match
- Availability of shared expertise without the need for large specialized MPO staff
- Independent oversight provides assurance that monies are spent properly

¹⁰ All references to advantages and disadvantages of hosted and independent MPOs are included in Staffing and Administrative Capacity of Metropolitan Planning Organizations, pages 3-8 through 3-12

The key disadvantages of being a hosted MPO are the following:

- Blurring of MPO and host agency identity, responsibilities, and boundaries, which may create confusion among the board, staff and public
- Requirement to adhere to host agency rules, budget, and oversight
- Cumbersome procurement procedures
- Hiring freezes
- Time devoted to host-required budget process
- Lack of autonomy
- Host interference in MPO policy setting and implementation priorities
- Host interference with MPO governance, whereby the host agency may withhold support services to pressure the MPO to change decisions
- Host misunderstanding of MPO mission, work and processes, which can lead to conflicts in the interests and mission between the host agency and MPO

Advantages and disadvantages of being an independent MPO:

The key advantages of being an independent MPO structure are the following:

- Political and administrative autonomy for MPO from the host agency
- Freedom from host control of decisions and policy
- Freedom from host control over employee compensation and procurement
- Clarity in chain of command – no confusion for MPO employees as to which agency they are taking direction or implementing decisions
- Distinct identity and culture from other planning agencies

The key disadvantages of being an independent MPO structure are the following:

- Difficulty with maintaining sufficient cash flow and loss of cash float provided by host
- Challenges with using their own funds to provide the commonly required 20% local match in order receive federal funds, which if not available, would not allow the MPO to claim the full allocation of federal funds
- High cost of operation and loss of economies of scale associated with being part of a host agency in regard to:
 - Support services such as payroll, finance, human resources, and information technology
 - Space rental
 - Employee benefits such as health and disability insurance and training
 - Office supplies and durable goods (e.g., furniture and office equipment)
- Higher and broader demands on MPO staff requiring more varied and specialized skills, necessitating greater reliance on outside contractors

Risks & Considerations associated with Palm Beach MPO considering transitioning to an independent agency:

With the Palm Beach MPO considering making plans to transition from host to independent status, there are numerous considerations and potential risks that will require the Board's attention and resolution. We have summarized some of the key issues below though these are certainly not intended to be all inclusive.

- ✓ The interlocal agreements currently in effect would no longer be viable, as new agreements would have to be negotiated, signed, and approved.
- ✓ Decisions would have to be made about the source and extent of funding available to the MPO, the relocation of the MPO to space off County premises, the potential restructuring of the MPO staff, and the ability of the MPO to continue to operate as a financially self-supporting organization.
- ✓ Oversight responsibility of an independent Palm Beach MPO would be placed entirely on the MPO Board. The control environment, currently supported through other agencies, may be negatively impacted. For example, Clerk & Comptroller oversight and monitoring of various functions would likely no longer be in place including expenditures from grant funds, payroll processing, accounting and budgeting, and the annual financial audit. Also, personnel decisions would no longer be required to adhere to County policy controls.
- ✓ The MPO may not be able to provide adequate benefits to its staff, and may face challenges in being able to retain or hire well-qualified staff. Benefits and retirement programs available with a larger pool of employees under the host status may not be available at the same level and cost structure for a significantly smaller employee base under an independent status.
- ✓ The MPO would no longer have the County's funds available to support its operations while waiting for federal grant reimbursements.
- ✓ The MPO may face challenges in being able to raise local matching funds required to obtain some federal funding.
- ✓ The MPO would likely have higher expenses because of the requirement to perform its own administrative support functions, including payroll,

procurement, accounting and budgeting, legal, human resources, communications, and the annual financial audit.

- ✓ The federal government's stringent funding requirements may be more difficult for an independent MPO to meet.
- ✓ MPO Board oversight would have to be more extensive in managing policies and procedures as well as other administrative tasks.
- ✓ The County may need to expand its internal planning capability to ensure appropriate presentation and consideration of County needs to the MPO.
- ✓ The MPO Board would need to be reconstituted to reflect the independence from any one hosting agency and consider the potential requirement for liability coverage for officers and directors.

Additionally, the presentation by the MPO Executive Director to the MPO Governing Board in December 2016 included following items, which may identify further questions and cost considerations as noted below:¹¹

- ✓ Stating that the MPO operates as a division of the host agency overstates the circumstances in many hosted MPOs including Palm Beach - the existing agreement explicitly describes the MPO as not part of the County organization and the MPO is treated as a discrete component unit emphasizing their legal separation from the County.
- ✓ Stating that independent MPOs operate under their governing boards implies Palm Beach MPO does not do so; however, only 5 of the 21 members of the MPO board are County Commissioners.
- ✓ The MPO desires a downtown office location, with adequate space for the board, committees and the public. Rent expense may be substantially higher than their current Vista Center offices provided by the County, in which shared conference room space for larger meetings is likely available at little or no incremental cost.
- ✓ While the presentation correctly states that three of the six large MPOs in Florida are independent, rather than hosted, it does not explain that two of those

¹¹ Transitioning to an Independent MPO – What, Why, and When? December 2016 presentation to the MPO Board and Advisory Committees by the MPO Executive Director on December 12, 2016

independent MPOs (Orlando Metro and North Florida) serve parts of three counties each – providing a logical rationale for independence rather than “hosting” given the multiple counties involved.

- ✓ Dependence on carry forward to cover one-time expenses and future year cost increases may create challenges if the MPO has difficulty in raising sufficient local matching funds to obtain the full allocations of federal funding, potentially subjecting the MPO to federal issues (e.g., audits, withdrawal of funding).