



DATE: MARCH 1, 2010
TO: COUNCIL MEMBERS
FROM: STAFF
SUBJECT: LEGISLATIVE UPDATE - MOBILITY STUDY

Senate Bill 360, the Community Renewal Act, required the Florida Departments of Community Affairs and Transportation to submit to the President of the Senate and the Speaker of the House of Representatives a joint report on the mobility fee methodology study. The report would also contain recommended legislation and a plan to implement the mobility fee as a replacement for the existing local government adopted and implemented transportation concurrency management systems. The final joint report must also contain, but is not limited to, an economic analysis of implementation of the mobility fee, activities necessary to implement the fee, and potential costs and benefits at the state and local levels and to the private sector.

The report, entitled *Joint Report on the Mobility Fee Methodology Study*, was submitted on December 1, 2009. On January 13, 2010, the Institute for Community Collaboration, Inc. convened a meeting of the Senate Bill 360 Working Group, which is composed of land use and transportation planners and lawyers representing the public and private sectors.

The Group members made the following observations regarding the Report.

A. Strengths

- Establishes a fee methodology, which assesses all new development for transportation impacts, not just development impacting overcapacity facilities.
- Requires a uniform methodology and fee basis (minimum: county and its municipalities, but can be multi-county), while allowing for variation in fee amounts for subareas, to allow implementation of potentially divergent growth management and transportation objectives, such as distance sensitive Vehicle Miles Travel (VMT) methodology.
- Broadens the types of transportation enhancements/projects that serve as a basis for fee calculation, and for which fee revenues may be used.
- Encourages fees based on a mid-to-long range planning process, instead of a short-range process.
- Provides the option for fees addressing local transportation needs, in addition to the mandatory regional fees.
- Provides an additional opportunity for dialogue regarding how transportation issues may be addressed in a collaborative, multi-county or regional manner.

B. Weaknesses

- Concerns were expressed that the focus is on new development without a definition of "new". New development continues to decline in south Florida. Additionally, limiting fees to new development is not equitable.
- The mobility fee concept does not appear to differ significantly from impact fees, which do not adequately address the cost of providing for mobility needs.
- The mobility fee concept does not appear to address growth management needs, such as how to properly plan and apportion the location and amount of density and intensity within urban communities, or Mobility Fee "guiding principles" for already urbanized areas of the state.
- The mobility fee concept could lead to limiting the use of currently available transportation funding tools, such as impact fees. There is ample case law regarding the use and implementation of impact fees, which have arisen organically from local home rule powers.
- The mobility fee concept appears to present a means to maintain the status quo. The needs of the urbanized South Florida area require additional options and techniques. There is a need for an urban agenda or version of the Mobility Fee concept.

C. Areas Requiring Additional Clarification

- It is not clear whether the definition of "new development" is intended to include infill, rehabilitation, and/or renovations.
- The number of years for which "short-term" fees can be collected for transit operations should be defined.
- Additional background regarding the legal status of a transportation utility is needed. If necessary, authorizing legislation should be studied and then implemented.
- Who would be responsible for "managing" the set of interlocal agreements (ILA) that would be needed as part of the proposed mobility fee concept? The multi-party ILA approach seems unnecessarily cumbersome, especially given the difficulties implementing similar arrangements related to school concurrency.

D. Other

- The mobility fee concept presented in the Report would allow for incentives for infill and Transit Oriented Development, but transit service in Miami-Dade County may not be adequate.
- A special taxing district, utility fee, or their equivalent may be needed to fund mobility, including transit operations and maintenance costs. Authorizing legislation may be needed.
- Charlotte County is using location sensitive impact fees, which may be an option to consider.
- The land use laws in Florida have been amended over time to speed up development approval. If we concentrate on talking about the best way to fund intersection improvements and the like, then we will lose focus on the intent of growth management.
- The growth management discussion should be framed by transportation system needs, especially the needs of transit.
- We cannot deal effectively with transportation issues until we open up the possibility of regional transportation. We cannot incentivize infill development until we are aware of regional transportation needs.
- The southeast Florida regional transportation corridors are in place. We need to address transit between and among the corridors.

- Southeast Florida should advocate for a methodology that would apply in a regional context of the seven counties (Broward, Indian River, Martin, Miami-Dade, Monroe, Palm Beach, and St. Lucie).
 - A cost-benefit analysis of a multicounty MPO and utility fee should be developed. Information analyzing the federal funding dollars lost to multicounty MPOs in areas such as Atlanta and Chicago should be incorporated.
 - Research regarding the planning process mandated to be conducted by the Tampa Bay Area Regional Transportation Authority (TBARTA; §343.922(3)(a), Fla. Stat.) should be conducted to determine if it is a model that may be applicable to southeast Florida. TBARTA was created by the Legislature, §343.90, Fla. Stat.
 - The City of Aventura has developed a transit impact fee.
 - Should the existing MPO model be used to establish, collect and distribute fees?
 - A mobility fee is not applicable to this area of the state. New tools are needed to address the southeast Florida urbanized area, especially transit operation and maintenance costs.
 - Review strategies used by other communities around the country to fund mobility. For instance, Chicagoans pay a tax on their cars and the revenue is used for transit.
- E. Recommendations for the South Florida Regional Planning Council (It should be noted that the following are separate ideas from individuals attending the meeting, not a group of consensus recommendations.)
1. The Legislature should be requested to “do no harm”.
 2. The Legislature should restore local governments’ powers over the growth management process.
 3. Legislation should be pursued that would provide an entity¹ in southeast Florida the authority to:
 - a. Act as a modified pilot project to develop planning and funding solutions for the urbanized areas of the state;
 - b. Review transportation and mobility needs on a multicounty basis;
 - c. Function similarly to TBARTA; and
 - d. Investigate the authorization, use, collection, and expenditure of a transportation utility fee.
 4. Do not approach the Legislature for anything. Build a demonstration project instead. The key aspects of the demonstration project are:
 - a. Small, local, pilot project for immediate implementation. The project must connect to Tri-Rail, Miami-Dade MetroRail, or bus and be an airport destination. There must be a close relationship with the developer.
 - b. Use growth management laws as they exist. Use it before you lose it;
 - c. Use federal funds plus easily available state and local funds plus growth management dollars. An example of available funding is the Safe Neighborhood District Program (§163.501-526, Fla. Stat.)
 - d. Reduce or eliminate need to subsidize through placement at town/urban center and transit access strategies.

Recommendation

Adopt the attached resolution for transmittal to the Florida Legislature.

¹ It should be noted that the South Florida Regional Transportation Authority and Southeast Florida Transportation Council were identified as two organizations that could be the designated entity. Staff was asked to review the legislation that created the organizations to determine if they could serve as the entity.



RESOLUTION #10-01

A RESOLUTION BY THE SOUTH FLORIDA REGIONAL PLANNING COUNCIL (SFRPC) ENCOURAGING THE STATE LEGISLATURE TO PROVIDE FUNDING FOR A STUDY AND IMPLEMENTATION OF A MODIFIED PILOT PROJECT TO DEVELOP PLANNING AND FUNDING SOLUTIONS FOR THE URBANIZED AREAS OF THE STATE; REVIEW TRANSPORTATION AND MOBILITY NEEDS ON A MULTICOUNTY BASIS; DEVELOP AND ADOPT A REGIONAL TRANSPORTATION MASTER PLAN THAT PROVIDES A VISION FOR A REGIONALLY INTEGRATED MULTIMODAL TRANSPORTATION SYSTEM FOR THE SEVEN COUNTY AREAS (BROWARD, INDIAN RIVER, MARTIN, MIAMI-DADE, MONROE, PALM BEACH, ST. LUCIE); AND INVESTIGATE THE AUTHORIZATION, USE, COLLECTION, AND EXPENDITURE OF A TRANSPORTATION UTILITY FEE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2007, traffic congestion caused people in large and small metropolitan areas of the United States to waste 4,200,000,000 hours in traffic and to purchase an extra 2,800,000,000 gallons of fuel, for a congestion cost of \$87,200,000,000. This represents a 5-fold increase in wasted time and cost since 1982; and

WHEREAS, the Energy Information Administration of the Department of Energy forecasts that driving will increase 59 percent between 2005 and 2030, far outpacing the projected 23 percent increase in population; and

WHEREAS, according to the United States Census Bureau, only 54 percent of households in the United States have access to public transportation; and

WHEREAS, the average household spends 19 percent of its household budget on transportation, and some very low-income households spend as much as 55 percent of their household budget on transportation. In contrast, households with good access to public transportation spend only 9 percent of the household budget on transportation, which increases the portion of the household budget available for other critical household needs; and

WHEREAS, in the United States, people who live in areas of compact development (where housing, shopping, jobs, and public transportation are in close proximity) drive 20 to 40 percent less than communities with lower density, suburban development patterns; and

WHEREAS, when the effects of emissions savings from passengers taking transit instead of driving and the reduction in vehicle miles traveled due to the impact of transit on land use are taken into account, public transportation in the United States reduces carbon dioxide emissions by nearly 37,000,000 metric tons each year; and

WHEREAS, transportation users account for 70 percent of the oil consumed in the United States and nearly one-third of carbon emissions. Reducing the growth of the number of miles driven and providing transportation alternatives through good planning and sustainable development is a necessary part of the energy independence and climate change strategies of the United States; and

WHEREAS, the Florida Departments of Community Affairs and Transportation's *Joint Report on the Mobility Fee Methodology Study* was submitted to the Florida Legislature on December 1, 2009 in compliance with the requirements of enacted Senate Bill 360; and

WHEREAS, the *Joint Report on the Mobility Fee Methodology Study* contains "Recommended Principles" that proposes to limit the application of mobility fees to new development while restricting their use to the funding of multi-modal transportation improvements. These improvements include capital projects, system efficiency and congestion management strategies and transit operating costs that support the provision of transit service for new development; and

WHEREAS, the fees generated by the proposed mobility fee to fund transit operating and maintenance costs would be limited to a "short-term" period, which is not defined; and

WHEREAS, the concept does not appear to differ significantly from impact fees, which have failed to address adequately the cost of providing for mobility needs; and

WHEREAS, the use of mobility fees could lead to limiting the use of currently available tools, such as impact fees; and

WHEREAS, there is ample case law regarding the use and implementation of impact fees, which have arisen organically from local home rule powers; and

WHEREAS, a mobility fee is not readily applicable to this area of the state and new tools are needed to address the southeast Florida urbanized area, especially transit operation and maintenance costs.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE SOUTH FLORIDA REGIONAL PLANNING COUNCIL THAT:

SECTION 1. The Council supports further examination of alternative means to fund and support mobility.

SECTION 2. The Council supports legislation that would provide an entity in southeast Florida the authority to:

- e. Act as a modified pilot project to develop planning and funding solutions for the urbanized areas of the state;
- f. Review transportation and mobility needs on a multicounty basis;
- g. Develop and adopt a regional transportation master plan that provides a vision for a regionally integrated multimodal transportation system for the seven county areas (Broward, Indian River, Martin, Miami-Dade, Monroe, Palm Beach, St. Lucie); and
- h. Investigate the authorization, use, collection, and expenditure of a transportation utility fee.

SECTION 3. This Resolution shall become effective immediately upon its passage and adoption.

SECTION 4. That this resolution be forwarded to the Florida Legislature, the Governor, President of the Senate, the Speaker of the House and all the affected municipalities and counties in the areas of Broward, Indian River, Martin, Miami-Dade, Monroe, Palm Beach and St. Lucie to encourage support for the Council's request.

ADOPTED this 1st day of March, 2010.

Joseph Scuotto, Chair
South Florida Regional Planning Council

Date