

October 8, 2013

The Honorable Nancy Navarro, President
Montgomery County Council
100 Maryland Avenue, Sixth Floor

Rockville, MD 20850

RE: Municipal Tax Duplication and Revenue Sharing in Montgomery County Report

Dear President Navarro:

On behalf of the Mayor and Council, I want to take this opportunity to thank you and your Council colleagues for directing the Office of Legislative Oversight (OLO) to study and issue a report on Municipal Tax Duplication (MTD) and Revenue Sharing. The Mayor and Council and Rockville staff would also like to express our appreciation to the OLO staff, particularly Senior Legislative Analyst Sue Richards, for their hard work, effort, and research that are clearly reflected in the recently released report.

Having served on the Municipal Revenue Sharing Task Force whose 2012 report served to highlight the significant disparity between the City and County positions on municipal tax duplication and other revenue sharing issues, I am optimistic that the OLO report has opened up a pathway to truly move forward on these issues. The report demonstrates a willingness and interest in partnering with municipalities and sets forth possible new approaches that can move us beyond the historical impasse and conflict of recent years.

The City of Rockville (COR) offers the following comments on each of the OLO recommendations in the spirit of developing a program that is more effective, fair, and transparent.

OLO Recommendation #1

Review and discuss nine revisions to strengthen the fairness, uniformity and sustainability of the County's MTD Program.

OLO Recommendation #1 Revision A

Revise the MTD payment formula to reimburse on a property tax cost basis instead of a full service cost basis to better align the County's MTD program with State law and the State's shared revenue structure.

The COR does not support a payment formula that reimburses on a property tax basis. The COR supports the full cost basis approach reflected in current County law, which reimburses municipalities what the County would spend to provide the service if the municipality did not provide the service.

The County receives revenues from a variety of sources to fund the services it provides. State law severely limits the ability of municipalities to raise revenues. While the property tax is the only tax levied by both the County and municipalities, the County imposes other taxes on municipal taxpayers including the real property transfer tax, the energy tax, and the County income tax (municipalities receive 17%). The County has the discretion to decide how it will allocate this unrestricted revenue. Funding sources that are discretionary are fungible and can be applied to various services in any manner in which the County chooses. As a result, there is no precise methodology to delineate the specific County services funded by property taxes and those services funded by other revenues.

OLO's suggested approach would apply the percentage of overall County revenues comprised of property tax revenue to the MTD program; however, as noted above, there is no linkage between this percentage and the funding for the specific services for which municipalities are being reimbursed under the MTD program. The COR would like to be fully reimbursed for what the County is saving, as County MTD reimbursements are paid for from the County's unrestricted General Fund.

The OLO report highlights a 1991 Institute for Governmental Service report which recommends "that the local design of an MTD program first examine the relationship between the county income tax revenues a municipality receives and its shared service expenditure obligations to determine if a MTD payment is a warranted." The COR strongly believes that it is inappropriate to link the State mandated income tax, which is unrestricted and not part of a State shared tax program, to the discussion of the County MTD program.

Read in its entirety, Section 6-305 of the State Property Tax Article, referenced on page 5 of the OLO report, makes no reference to a shared revenue program between counties and municipalities. The authorization for municipalities to receive a percentage of the County income tax is located in Section 2-607 in the State General Tax Article. Municipalities have received a percentage of the County income tax since 1937. According to the Maryland Municipal League, it was not until 1983, forty-six years later, that the General Assembly enacted a law requiring a County to provide a property tax set off for municipal property tax payers if a municipality provides a service in lieu of a similar County service.

Understanding how the income tax came to become State law is relevant as well. OLO Report 2008-5, Chapter IV, page 169 notes that, ".....before 1937, the State had an "intangible tax." Under the law in effect at that time, two-thirds of the intangible tax was retained locally and the remaining one-third was paid to the State.in the case of a taxpayer residing in an incorporated city, town or village of any county, one fourth (1/4) of the tax collected from such taxpayer shall be equally divided between the incorporated city, town, or village, and the county in which such taxpayer resides." Municipalities receiving income tax under State law are receiving such tax as a replacement for an intangible tax that they no longer have the authority to levy.

The COR urges the County Council to keep in mind that MTD is a cost reimbursement program for services that the County would otherwise provide. There is no relationship between this reimbursement for duplicative property taxes paid by municipal taxpayers and the receipt of

income tax revenues to which municipalities are entitled under State law. Commingling these separate and unrelated issues jeopardizes the prospect for a successful outcome to the longstanding MTD debate.

OLO Recommendation #1 Revision B

Give municipalities and their taxpayers the option to make an annual election for either a County property tax rate differential or a property tax share municipal rebate payment.

The COR agrees with the revised recommendation that municipalities be given an opportunity to select the municipal rebate payment or the tax differential. This provides municipalities with the flexibility to choose the option that is most advantageous to their specific situation. Rather than a one-time election as has been suggested, the COR recommends giving municipalities the option to renew the manner in which MTD is addressed on a periodic basis, perhaps once every five or ten years.

OLO Recommendation #1 Revision C

Fund park maintenance service rebates with revenue from the Metropolitan District, or redraw the Metropolitan District boundaries to eliminate the need for park maintenance reimbursement payments within the MTD program.

The COR is not a participant in the Metropolitan District. Due to Rockville's extensive park maintenance programs which are already supported by City taxpayers, the COR does not wish to be included in any future redrawn boundaries.

OLO Recommendation #1 Revision D

Transfer the Takoma Park Library rebate, currently authorized as a separate payment in County law, into the MTD program.

The COR has no comment on this recommendation as it pertains solely to the City of Takoma Park.

OLO Recommendation #1 Revision E

Include land use administrative hearings as reimbursable services under the MTD program for all municipalities in the County that provide these services.

The COR agrees with this finding and recommendation and welcomes the opportunity to be reimbursed for these critical services provided by the City.

OLO Recommendation #1 Revision F

Revise current cost of service formulas with a methodology that uses available activity and/or relevant program data to develop unit cost factors for crossing guards, human relations and library services.

The COR agrees with this finding and recommendation. This methodology would provide a more transparent, equitable and data driven manner by which the County would reimburse municipalities for services provided. We believe this is a major improvement over current

formulas, which have not been followed or adequately funded, resulting in tax duplication funds being allocated through an unpredictable and politicized process.

OLO Recommendation #1 Revision G

Revise the methodology for transportation services reimbursement to determine the County's net costs per mile using data from the Local Highway Finance report filed annually with the State.

The COR agrees with this finding and recommendation, provided that the County makes transparent what is included in the report and that all services addressed in the current reimbursement formula are accounted for and included in the State filing. Additionally, it is the COR's position that the new reimbursement formula should include all of the applicable expenditure categories, as listed on Part XXII Local Highway Finance Report, a copy of which is provided in Attachment A:

- *Capital Outlay;*
- *Maintenance;*
- *Road and Street services;*
- *General administration and other miscellaneous expenses; and*
- *Debt Service on local obligations, interest 6. Notes, interest.*

It is only through the inclusion of all applicable categories that the true County net cost per mile can be calculated. The COR would appreciate the opportunity to meet with County staff to discuss specifically which expenditure lines and categories should be included in calculating the County's net cost per mile.

OLO Recommendation #1 Revision H

Provide a single reimbursement payment for Takoma Park police services through the MTD program by eliminating the stand-alone payment authorized in the County Code. Revise the current repayment methodology to utilize a unit cost formula.

The COR has no comment on this recommendation as it pertains solely to the City of Takoma Park.

OLO Recommendation #1 Revision I

Incorporate the use of service factors as part of the County's MTD program, and reinstitute reimbursement for police patrol services in Chevy Chase Village, Gaithersburg, and Rockville under the partial service rate model.

The COR substantially agrees with OLO's finding and recommendation. However, with this new approach, it does not make sense to compel municipalities to be first responders for 100% of the calls within their corporate boundaries. If the logic for a partial service rate model holds, then a municipality will respond to as many patrol calls within its boundaries as it has the resources to do; every call to which it responds saves County resources and should therefore be reimbursed.

The Rockville Police Department is the major public safety service provider in Rockville and handles the vast majority of calls for service (73%). The role of the Rockville Police has become even more critical with the relocation of the County Police headquarters to Gaithersburg, resulting in increased demand for services provided by Rockville Police.

The COR fully supports OLO's recommendation relative to the reimbursement for municipally provided police services and looks forward to working with County officials on implementing this recommendation.

OLO Recommendation #2

Establish and fund a Municipal Grant Program to fund non-recurring expenses or other initiatives. Structure the program to cap annual funding at an amount equal to the annual appropriation for the MTD program and require a municipal matching contribution.

The COR partially agrees with this recommendation. While the City supports the general notion of a grant program and the spirit of the intergovernmental partnership underlying it, it does not agree with any prescribed limit on the program's annual funding.

A municipal grant program should be subject to annual approval by the County Council, following the process used for all County budgetary appropriations. The annual appropriation authorized by the County Council would serve as a program funding cap. This approach would be beneficial because it would provide the County Council with greater discretion in the annual award of grant funding, municipalities could obtain additional financial support for service provision that aligns with County policy objectives, and it would increase the likelihood of County-municipal service partnerships. If the grant were capped "in an amount equal to the total payment to reimburse the municipalities for their reimbursable services" (OLO Report), it would limit the County Council's options.

Furthermore, the COR has concerns regarding the suggestion that two municipalities should have "first claim" on the allocation of grant funds "to help low wealth municipalities cover their reimbursable service costs." As noted earlier, the COR does not believe it is appropriate to link the MTD discussion to the municipal share of income tax revenues, which is provided for under State law.

If the County wishes to address income disparities among various jurisdictions in the County, that matter should be addressed by a separate County policy and program, rather than limiting the ability of other municipalities to receive grant funds and to partner with the County to advance mutual objectives. While the COR does not wish to see any of its municipal colleagues negatively impacted by any new MTD program, it is not logical or fair to simply allocate grant funding to two specific municipalities.

Municipal Bridges

The replacement or reconstruction of municipal bridges was not addressed in the OLO report and remains an unresolved issue from the County Executive's Municipal Revenue Sharing Task Force. The COR requests further review of this matter by the County Council as it considers the future structure of the MTD program.

Under the current MTD program, the County reimburses municipalities for bridge maintenance costs as part of the road maintenance payment. The payment only addresses low cost, cosmetic issues, such as painting. In recent years, the payment has ranged from as low as \$17 per bridge to a high of several thousand dollars. This minimal level of funding has been inadequate and is insufficient to address the replacement or major rehabilitation of bridges.

The guiding principle of the County's MTD program is whether the County has incurred savings as a result of a municipally-provided service. There is no doubt that the County receives a financial benefit because it does not have the responsibility for replacing or rehabilitating bridges located within the corporate boundaries of a municipality. Additionally, municipal bridges serve pedestrians, cyclists, and motorists who reside in all parts of the County, including County residents who reside in unincorporated areas.

Given the sheer magnitude of the cost of major bridge rehabilitation and replacements, it is not possible for municipalities to bear this burden alone. When an inspection report indicates the imminent failure of a municipal bridge, the County should help its municipal partners address this critical public safety need, by providing financial support through a shared service partnership. Given the high dollar value and the low frequency of occurrence, the COR would like to discuss how the County and municipalities can collaborate to ensure the continued safety and reliability of bridges, which are an integral part of the County transportation network.

Conclusion

In summary, the COR believes that the OLO report represents a major milestone in establishing a new path forward for the County and municipalities relative to the MTD issue and is supportive of the majority of the OLO report findings and recommendations. It is the COR's understanding that municipal representatives will be provided the opportunity to participate actively in the County Council's future discussions of the MTD issue, and we look forward to working together to reach a fair and equitable resolution.

Sincerely,

Barbara B. Matthews
City Manager

cc: Mayor and Council of Rockville
Montgomery County Councilmembers
Chris Cihlar, Director, OLO
Sue Richards, Senior Legislative Analyst, OLO
Jacob Sesker, Senior Legislative Analyst, Montgomery County Council
Gavin Cohen, City of Rockville

Part XXII LOCAL HIGHWAY FINANCE REPORT		LOCAL GOVERNMENT		
Department of TransportatJon		Montgomery County		
		YEAR ENDING (d/mJyyyy)		
		6/30/2011		
Prepared by: Almon Turner		Phone:		240-777-8817
I. DISPOSITION OF HIGHWAY-USER REVENUES AVAILABLE FOR LOCAL GOVERNMENT EXPENDITURES				
ITEM	A. Local Motor-Fuel Taxes	B. Local Motor-Vehicle Taxes	C. Receipts from State Highway-User Taxes	D. Receipts from Federal Highway Administration
1. Total receipts available	0	0	2352970	0
2. Minus amount used for collection expenses	0	0		
3. Minus amount used for nonhighway purposes	0	0	0	
4. Minus amount used for mass transit	0	0	0	0
6. Remainder used for highway purposes	0	0	2352970	0
I. RECEIPTS FOR ROAD AND STREET PURPOSES		II. DISBURSEMENTS FOR ROAD AND STREET PURPOSES		
ITEM	AMOUNT	ITEM	AMOUNT	
A. Receipts from local government sources		A. Local highway disbursements		
1. Local highway-user taxes		1. Capital outlay	107551699	
a. Motor fuel (from Item I.A.5)	0	2. Maintenance	18559810	
b. Motor vehicle (from Item 1.8.5.)	0	3. Road and street services		
c. TOTAL (a+b)	0	a. Traffic control operations	6570666	
2. General fund appropriations	253171843	b. Snow and ice removal	56046245	
3. Other local imposts	7451505	c. Other	0	
4. Miscellaneous local receipts	2180680	d. Total (a. through c.)	62616911	
5. Transfers from toll facilities	0	4. General administration & misc.	8082809	
6. Proceeds of sale of bonds and notes		6. Highway law enforcement and safety	17933466	
a. Bonds-original issues	66600000	6. TOTAL (1 through 5)	214744695	
b. Bonds refunding issues	0	B. Debt service on local obligations		
c. Notes	67500000	1. Bonds		
d. Total (a.+b.+c.)	134100000	a. Interest	19514454	
7. TOTAL (1 through 6)	396904028	b. Redemption	33606359	
B. Private contributions	544091	c. Total (a.+b.)	53120813	
C. Receipts from State Governments (from Part XX)	8144013	2. Notes		
D. Receipts from Federal Government (from Part XX)	0	a. Interest	227647	
E. Total receipts (A.7+B+C+D)	405592132	b. Redemption	85000000	
		c. Total (a.+b.)	85227647	
		3. TOTAL (1+2)	138348460	
		C. Payments to State for highways	0	
		D. Payments to toll facilities	0	
		E. Total disbursements (A.6+B.3+C+D)	353093155	
IV. LOCAL HIGHWAY DEBT STATUS (Show all entries at par)				
	Opening debt	Amount Issued	Redemptions	Closing debt
A. Bonds (Total)	394244452	66600000	33606359	427238093
1. Bonds (refunding portion)				
B. Notes (Total)	106500000	67500000	85000000	89000000
NOTES AND COMMENTS				