

Red flags flying over Broward's penny sales tax for transportation

Broward County commissioners promised voters last year that if they raised the sales tax from six to seven cents, an “independent oversight board” would ensure the \$16 billion raised over the next 30 years would be properly spent on transportation fixes.

But that was last year.

On Jan. 7, commissioners will consider amendments that would place the independent board firmly under the thumb of the county administrator, whose office controls the checkbook, and the county attorney, who represents the county and its staff.

Time out, commissioners.

You promised this independent board would be independent. It says so right there in the ballot language you put before voters. It says the money would be put in a new trust fund with “all expenditures overseen by an independent oversight board.”

So far, that independence is **not working out** so well. The good people appointed to this board are crying foul, clearly frustrated by the box you're putting them in. There's tension with the county staff assigned to them, who are pushing them in a direction they don't want to go.

For legal reasons, the board is being told that it cannot select its own staff, its own attorney, its own auditor or its own consultants. To underscore this, amendments are racing toward a vote at the county commission's first meeting after the holidays. One would have County Administrator Bertha Henry make all staffing decisions, so long as the county commission deems her choices “reasonable and necessary.”

At an emergency Dec. 20 meeting called to discuss this enormous rug-pull, Angela Wallace, the deputy county attorney assigned to the board, made it clear. “To function autonomously, you need to be a separate entity,” she said. “You are not a legal entity. You cannot contract.”

Almost every board member expressed concern about their independence.

“It's difficult to be represented by an attorney who represents the other side,” added board chairman Alan Hooper. “There's conflict. We've having conflict now. By virtue of the last two or three meetings, we're in conflict.”

Alarm bells also are ringing in cities that partnered with the county to pass the tax increase. Since most of Broward County lies within the boundaries of its 31 cities, there's sure to be conflict about which projects get built first and who decides. The cities want a level playing field with the county.

"What's independent?" asked Weston Mayor Dan Stermer, president of the Broward League of Cities, at the emergency meeting. "You all know what you think it is. The county is trying to tell you that's not what is, is."

"The county has hired hundreds of personnel, and they're telling you, you can't have staff," he added. "The intent was to allow you to do what you needed to do with the staff you needed to do it."

Wait a minute. The county has hired hundreds of staff with surtax funds? That can't be right. Remember, commissioners promised the penny tax would only be spent on new projects, that they wouldn't cost-shift already existing operations, like the bus system.

It was an important promise, given Florida's history. During the campaign to create the Florida Lottery, for example, state lawmakers promised voters the proceeds would be spent to enhance public schools. What they didn't say was that general revenue dollars already being spent on education would be shifted elsewhere.

The same thing is playing out in Miami-Dade County, where taxpayers were promised a half-penny sales tax increase would pay to expand Metrorail to northern and western suburbs. Twenty years later, the only rail expansion is a 2.4-mile extension to the airport. And as the [Miami Herald](#) recently reported, "about half of the money ... paid for county transit operations previously funded mostly by property taxes."

We asked Deputy County Administrator Gretchen Cassini, the chief staff person assigned to the oversight board, if it's true that 128 county employees — the number we heard — are now being paid with surtax funds. She said it wasn't true, but declined further comment. Instead, she directed us to the county budget.

Here's what [the budget](#) says:

In Mobility, 15 positions are budgeted with surtax funds and almost \$2 million is budgeted to relocate "surtax staff" into new office space next year.

In Public Works, 26 positions are budgeted with surtax dollars.

In Transit, "there are 327 positions budgeted with the Transit Operating Fund that are supported with surtax dollars." They created a 10% increase in service this year and will add another 10% next year.

These numbers certainly raise questions. Answers are difficult to obtain.

It's essential this oversight board attain the independence — and confidence — it needs to answer the public's questions.

The board clearly needs its own attorney, not a deputy county attorney. It also needs an executive director whose performance review is conducted by the board chairman, not the county administrator. And it needs the ability to hire an outside auditor, not the county auditor, and other consultants, within reason.

It's also important that the "appointing board" chosen to pick oversight board members — a structure designed to create a buffer between the county and its watchdog — stick to its assignment. To propose its own amendments, as it has, creates a linkage it was supposed to help avoid.

As readers of this page will recall, we **didn't support** the penny sales tax plan because while we agreed the county needed money to address traffic congestion, the plan was rushed and full of holes. Now, we're told the implementing ordinance needs to be changed because it wasn't thought through. Go figure.

And now the commission is poised to rush a promise-breaking decision about the independent oversight of this 30-year, multibillion-dollar trust fund.

The county charter says the county attorney must represent all county boards in legal matters "unless otherwise provided for ... by ordinance."

So change the ordinance to let the board hire its own attorney. Also, change the ordinance to ensure the board follows proper budget controls. If an amendment to the county charter is needed, you've got plenty of time, commissioners, to reach next year's ballot. Believe us, we'll support that change.

Whatever you do, don't break your promise to voters.

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