



TPA EXECUTIVE COMMITTEE MEETING AGENDA

DATE: **Monday, August 29, 2022**
TIME: **3:00 p.m.**
PLACE: **301 Datura Street, West Palm Beach, FL 33401**

Attendees may not enter the TPA workplace if in the previous 5 days, they have tested positive for COVID-19, exhibited symptoms of COVID-19, or been in close contact with someone with COVID-19 and are unvaccinated.

To promote awareness of multimodal options for in-person attendance, a map of transportation facilities and services around the TPA Office is provided on page 3.

Members of the public can also join the meeting virtually in the following ways:

- Via Zoom app using Webinar ID: 872-8731-0134 and Password: 080732
- Via web browser at PalmBeachTPA.org/Exec-Meeting
- Via phone at 1-646-558-8656 using the above Webinar ID and Password
- View a live simulcast at PalmBeachTPA.org/LIVE

Please call 561-725-0800 or e-mail info@PalmBeachTPA.org for assistance joining the virtual meeting.

1. REGULAR ITEMS

- A. Call to Order and Roll Call
- B. Modifications to the Agenda
- C. General Public Comments

Members of the public are invited to offer comments or questions as follows:

- A written comment may be submitted at PalmBeachTPA.org/Exec-Comment at any time prior to the commencement of the relevant agenda item.
- A verbal comment may be provided by a virtual attendee using the raise hand feature in the Zoom platform.
- A verbal comment may be provided by an in-person attendee submitting a comment card available at the welcome table.

Note that the Chair may limit comments to 3 minutes or less depending on meeting attendance.

- D. Comments from the Chair and Member Comments
- E. Executive Director's Report
- F. MOTION TO APPROVE Meeting Minutes from July 14, 2022

2. ACTION ITEMS

- A. MOTION TO RECOMMEND APPROVAL of the First Amendment to the Executive Director's Employment Agreement

TPA General Counsel will provide an overview of the attached memo and proposed First Amendment to Mrs. Valerie Neilson's employment agreement that was approved by the TPA Governing Board on July 21, 2022.

- B. MOTION TO RECOMMEND APPROVAL of an Amendment to the TPA Operating Procedures Sections 1 and 2

TPA General Counsel will provide an overview of the attached resolution and proposed changes to the TPA's Operating Procedures Sections 1 and 2 to designate an Agency Clerk to maintain and respond to Public Records Requests and adopt the agency's seal.

3. INFORMATION ITEMS

- A. TPA Advisory Committee Membership

TPA staff will present TPA Advisory Committee membership and seek direction for CAC representatives who have been grandfathered in prior to current operating procedures. TPA Advisory Committee membership and a TPA General Counsel memo are attached.

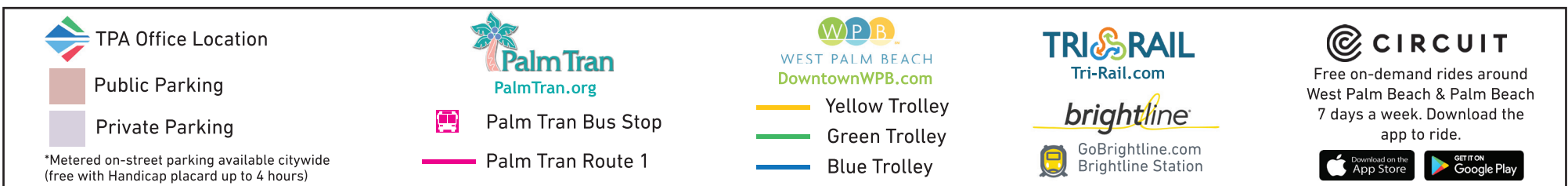
- B. TPA Governing Board Apportionment

TPA Legal Counsel will provide an overview of the attached memo regarding whether the TPA Governing Board can be expanded from 21 to 25 members.

A. ADMINISTRATIVE ITEMS

- A. Next Meeting – **October 3, 2022**

- B. Adjournment



Robert S. Weinroth, Mayor
TPA Chair
Palm Beach County

Chelsea S. Reed, Mayor
TPA Vice Chair
City of Palm Beach Gardens

Joel Flores, Mayor
At Large Member
City of Greenacres

Maria Marino, Commissioner
At Large Member
Palm Beach County

Michael J. Napoleone, Councilman
At Large Member
Village of Wellington

Paul Gougelman, Esq.
TPA General Counsel
Non-Voting Advisory

NOTICE

This is a meeting of the Palm Beach MPO doing business as the Palm Beach Transportation Planning Agency.

In accordance with Section 286.0105, *Florida Statutes*, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings, and that, for such purposes, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability or family status. Persons who require a printed copy of the agenda package, require special accommodations under the Americans with Disabilities Act or require translation services for a meeting (free of charge) must call 561-725-0800 or send email to Info@PalmBeachTPA.org at least five business days in advance. Hearing impaired individuals are requested to telephone the Florida Relay System at #711.



**OFFICIAL MEETING MINUTES OF THE
PALM BEACH TRANSPORTATION PLANNING AGENCY (TPA)
EXECUTIVE COMMITTEE**

July 14, 2022

301 Datura Street, West Palm Beach, FL 33401
Meeting was also conducted virtually via Zoom.

These minutes are a summary of the meeting events and may not reflect all discussion that occurred. PDF versions of the agenda, backup material and presentations as well as audio and video recordings are available for review at PalmBeachTPA.org/Executive-Committee

1. REGULAR ITEMS

1.A. Call to Order and Roll Call

CHAIR WEINROTH called the meeting to order at 2:00 p.m.

The recording secretary called the roll. A quorum was present in-person as depicted in the table below.

Member	Attendance	Member	Attendance
Joel Flores	P	Chelsea Reed	P
Maria Marino	P	Robert Weinroth	P
Michael Napoleone	A		

P = Present A = Absent

1.B. APPROVED: Modifications to the Agenda

CHAIR WEINROTH noted Councilman Napoleone requested permission to participate remotely as he was tending to business out of town.

There were no objections to his virtual participation.

Modification to the Agenda approved by unanimous consent.

1.C. Review the Committee's Charge

CHAIR WEINROTH stated pursuant to TPA Operating Procedures Section 2.2.F.5, the Executive Committee shall meet as necessary to facilitate the hiring of a new Executive Director, including but not limited to refining the job profile, evaluation candidates, recommending a candidate, negotiation an employment agreement for Board consideration, and recommending an interim director for Board consideration.

VICE CHAIR REED offered thanks to Mayor Flores for interviewing candidates with Slavin.

MAYOR FLORES noted a candidate initially objected to a credit check.

PAUL GOUGELMAN, TPA General Counsel, confirmed a credit check is required for the role of Executive Director as the position has access to TPA finances.

BOB SLAVIN, TPA Consultant from Slavin Management Consultants, noted the applicant had ultimately submitted to a credit check.

1.D. General Public Comments

There were no general public comments received.

1.E. APPROVED Meeting Minutes from June 6, 2022

MOTION to Approve Meeting Minutes made by Vice Chair Reed, seconded by Mayor Flores, and carried unanimously 5-0 as depicted in the table below.

Member	Vote	Member	Vote
Joel Flores	Y	Chelsea Reed	Y
Maria Marino	Y	Robert Weinroth	Y
Michael Napoleone	Y		

Y = Yes N = No A = Absent ABST = Abstain

2. ACTION ITEMS**2.A. RECOMMENDED APPOINTMENT: of Valerie Neilson as the TPA Executive Director**

CHAIR WEINROTH facilitated an allotted 20-minute interview with each of the three candidates in the following order:

1. Ronnie Blackshear at 2:18 p.m.
2. Valerie Neilson at 2:46 p.m.
3. Chandra "Chad" Parasa at 3:14 p.m.

Following candidate interviews, member discussion ensued about the recruitment process, delays throughout, and a low number of applicants overall.

COMMISSIONER MARINO noted dissatisfaction with the applicant pool. Discussion ensued about the other Metropolitan Planning Organization recruitment processes that received a stronger applicant pool and the general concern of the low applicant pool for the TPA.

There were no general public comments on this item.

MOTION to Recommend Appointment of Valerie Neilson as the TPA Executive Director made by Councilman Napoleone, seconded by Mayor Flores, and carried 4-1 as depicted in the table below.

Member	Vote	Member	Vote
Joel Flores	Y	Chelsea Reed	Y
Maria Marino	N	Robert Weinroth	Y
Michael Napoleone	Y		

Y = Yes N = No A = Absent ABST = Abstain

The committee took a brief break before returning to review agenda item 2.B.

2.B. RECOMMENDED APPROVAL: of an Employment Agreement with Valerie Neilson as the TPA Executive Director

CHAIR WEINROTH requested that Vice Chair Reed finalize the employment agreement with Valerie Neilson and Paul Gougelman, TPA General Counsel.

There were no public comments on this item.

MOTION to Recommend Approval of an Employment Agreement with Valerie Neilson as the TPA Executive Director made by Vice Chair Reed, seconded by Mayor Flores, and carried 4-1 as depicted in the table below.

Member	Vote	Member	Vote
Joel Flores	Y	Chelsea Reed	Y
Maria Marino	N	Robert Weinroth	Y
Michael Napoleone	Y		

Y = Yes N = No A = Absent ABST = Abstain

3. INFORMATION ITEMS

There were no information items on this agenda.

4. ADMINISTRATIVE ITEMS

4.A. Comments from the Chair and Member Comments

There were no member comments.

4.B. Next Meeting – August 8, 2022

4.C. Adjournment

There being no further business, the Chair declared the meeting adjourned at 4:18 p.m.

This signature is to attest that the undersigned is the Chair, or a designated nominee, of the TPA Executive Committee and that the information provided herein is the true and correct Minutes for the July 14, 2022, meeting of the Committee, dated this 29th day of August 2022.

Chair Robert S. Weinroth
Palm Beach County Mayor

EXHIBIT A
TPA Executive Committee
Attendance Record

Representative Local Government	Mar '22	Apr '22	May '22	Jun '22	July '22
Robert Weinroth, Mayor – TPA CHAIR Palm Beach County	P	P	P	P	P
Chelsea Reed, Vice Mayor – TPA VICE CHAIR City of Palm Beach Gardens	P	P	P	E	P
Joel Flores, Mayor City of Greenacres	P	P	P	P	P
Maria Marino, Commissioner Palm Beach County	P	P	P	P	P
Michael Napoleone, Councilman Village of Wellington	P	P	P	P	P

*** New Appointment

P - Representative Present

ALT- Alternate Present

E - Excused

A - Absent

OTHERS PRESENT

Matthew Masa
Melissa Murray
Valerie Neilson
Margarita Pierce
Cassidy Sparks
Andrew Uhler
Amanda Williams
Bob Slavin
Paul Gougelman

REPRESENTING

Palm Beach TPA
Palm Beach TPA
Palm Beach TPA
Palm Beach TPA
Palm Beach TPA
Palm Beach TPA
Palm Beach TPA
Palm Beach TPA – Slavin Management Consultants
Palm Beach TPA – Weiss Serota et al.

MEMORANDUM

TO: Chairman and Members, Executive Committee
And Governing Board

FROM: Paul Gougelman, TPA General Counsel

SUBJECT: First Amendment to Executive Director's Employment Agreement

DATE: August 15, 2022

Last month, the TPA Governing Board approved the employment agreement with the TPA's new Executive Director. After the Agreement was executed, Ms. Neilson's attorney had a chance to review the Agreement more carefully and recommended to Ms. Neilson some amendments to the Agreement for clarification. I have no objection to the amendments and find them to be minor in nature. It is recommended that the TPA consider approval of those amendments. I am available for any questions.

PRG/mb

FIRST AMENDMENT TO EMPLOYMENT AGREEMENT – EXECUTIVE DIRECTOR

THIS FIRST AMENDMENT TO EMPLOYMENT AGREEMENT - EXECUTIVE DIRECTOR is entered into this _____ day of _____, 2022, by and between the Palm Beach MPO, d/b/a the Palm Beach Transportation Planning Agency (herein: the "TPA"), an agency created pursuant to federal and state law, through its Governing Board ((herein: the "Governing Board") whose address is 301 Datura Street, West Palm Beach, Florida, 33401, and Valerie Neilson, whose address is 6022 Night Heron Court, Greenacres, Florida 33415 (herein: the "Director").

WITNESSETH:

WHEREAS, the TPA entered into an employment agreement with the Executive Director to fulfill the duties of the Palm Beach TPA Executive Director position on July 21, 2022 (the "Employment Agreement"); and

WHEREAS, the TPA and Executive Director desire to amend the aforementioned Agreement,

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the parties agree as follows:

1. Recitals. Each and all of the foregoing recitals be and the same are hereby incorporated in this Agreement.

2. Section 5. Paid Leave, of the Employment Agreement is amended as follows:

5. **PAID LEAVE.** The Director shall be entitled to Paid Leave in accordance with the TPA's Personnel Handbook, except that Vacation Leave shall be accrued at a rate of 18 days earned per year at 6+ years of agency employment (5.5 hours of vacation leave per pay period) until the Director reaches 10+ years of agency employment at which time Vacation Leave shall be accrued at a rate of 24 days earned (7.4 hours of vacation leave per pay period). The Director shall also be provided an initial Sick Leave balance calculated at 5% of the employee's scheduled hours per pay ~~per pay~~ period, not to exceed four (4) hours per pay period (*i.e.* maximum accumulation of 480 hours). The Director shall be allowed annually to sell back to the TPA a maximum of four (4) weeks of accumulated Vacation Leave in excess of the maximum accumulated amount specified in the TPA's Personnel Handbook, at the hourly salary rate at the time of the sale. The Director shall be permitted to carry over any existing paid leave and sick leave earned but unused while serving as the Interim Executive Director.

3. Section 7.a. b., and e. Termination and Severance Pay, of the Employment Agreement is amended as follows:

7. TERMINATION AND SEVERANCE PAY.

a. Termination of Director for Cause. The TPA may terminate the Director “for cause.” In the event that the TPA terminates the Director for cause as set forth above, the Director shall receive no severance payment from the TPA. In the event the TPA terminates the Director for cause then the Director will be given a written copy of the particulars and shall have the right to appear in public before the Governing Board and present evidence and argument concerning said allegations. After such hearing, if a majority of the entire Governing Board finds there is cause to terminate the Director and terminates the Director, then the Director shall *not* be entitled to severance pay. Said hearing shall be held within sixty (60) days of the notice of termination, unless the TPA and the Director agree to a later date.

For the purpose of this Section 7. a., the term “for cause” shall include any of the following: (i) Malfeasance; (ii) Misfeasance; (iii) Neglect of duty; (iv) Conviction for, or admission to having committed the crime of a misdemeanor involving dishonesty or moral turpitude or a felony. A plea of *nolo contendere* shall for the purposes of this Agreement be construed to be the admission to having committed the crime of a misdemeanor involving dishonesty or moral turpitude or a felony. A determination by a court of law withholding judgment for the purposes of this Agreement shall be construed to be the conviction of a misdemeanor or a felony; (v) Unprofessional, unethical, immoral, or fraudulent conduct, if said conduct has a material adverse effect on the TPA’s business or reputation; (vi) Engaging in sexual harassment as admitted to by the Director or as determined by a governmental body or a judicial or administrative forum, after a hearing at which the Director was given an opportunity to be heard in her defense; (vii) a material failure or refusal by the Director to comply with the TPA policies and procedures or directives of the TPA Governing Board or Executive Committee, which failure or refusal is not cured by the Director within thirty (30) days after written notice to the Director from the TPA Governing Board, or Executive Committee, of such failure or refusal; (viii) The Director’s sanctioning of conduct by any TPA employee under the Director’s authority that constitutes a material violation of the TPA policies, procedures, or directives, that is not reprovved by the Director in a reasonable manner within a reasonable period of time after notice to the Director by the TPA Governing Board or Executive Committee;

(ix) A material failure or refusal by the Director to faithfully and diligently perform the usual and customary duties of the Director's employment and to adhere to the provisions of this Agreement, which failure or refusal is not cured by the Director within thirty (30) days after written notice to the Director from the TPA Governing Board, or Executive Committee, of such failure or refusal; (x) Misconduct as defined in Section 443.036(29), Florida Statutes (2022), as amended from time to time. "Misconduct" is defined in Section 443.036(29), as:

irrespective of whether the misconduct occurs at the workplace or during working hours, includes, but is not limited to, the following, which may not be construed *in pari materia* with each other:

(a) Conduct demonstrating conscious disregard of an employer's interests and found to be a deliberate violation or disregard of the reasonable standards of behavior which the employer expects of his or her employee. Such conduct may include, but is not limited to, willful damage to an employer's property that results in damage of more than \$50, or theft of employer property or property of a customer or invitee of the employer.

(b) Carelessness or negligence to a degree or recurrence that manifests culpability or wrongful intent or shows an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his or her employer.

(c) Chronic absenteeism or tardiness in deliberate violation of a known policy of the employer or one or more unapproved absences following a written reprimand or warning relating to more than one unapproved absence.

(d) A willful and deliberate violation of a standard or regulation of this state by an employee of an employer licensed or certified by this state, which violation would cause the employer to be sanctioned or have its license or certification suspended by this state.

(e)1. A violation of an employer's rule, unless the claimant can demonstrate that:

a. He or she did not know, and could not reasonably know, of the rule's requirements;

b. The rule is not lawful or not reasonably related to the job environment and performance; or

c. The rule is not fairly or consistently enforced.

2. Such conduct may include, but is not limited to, committing criminal assault or battery on another employee, or on a customer or invitee of the employer or committing abuse or neglect of a patient, resident, disabled person, elderly person, or child in her or his professional care.

b. Termination of Director without Cause and for TPA's Convenience. The TPA, by a majority of the entire Governing Board membership at a properly noticed meeting, may terminate the employment of Director without cause by directing written notice of termination to Director by certified U.S. mail, return receipt requested and postage prepaid or by hand delivery to the Director. Such termination may be accomplished without a disciplinary hearing other than for name clearing purposes.

In the event of such termination while the Director is ready, willing and able to perform the duties of TPA Executive Director, and although the TPA does not need cause for termination as provided in sub-section b., the TPA shall pay Director a sum equal to 20 weeks of severance pay (*i.e.*, calculated based on the then current annual rate of pay ~~divided by 52 weeks times 20 weeks~~) that the Director would earn for employment pursuant to this Agreement. Consistent with Section 215.425, Florida Statutes (2022), as used in this Section 7.b., the term "severance pay" means the actual or constructive compensation, including salary, benefits, or perquisites, for employment services yet to be rendered which is provided to an employee who has recently been or is about to be terminated. The term does not include compensation for:

1. Earned and accrued annual, sick, compensatory, or administrative leave;
2. Early retirement under provisions established in an actuarially funded pension plan subject to part VII of Chapter 112, Florida Statutes; or
3. Any subsidy for the cost of a group insurance plan available to an employee upon normal or disability retirement that is by policy available to all employees of the unit of government pursuant to the unit's health insurance plan. This subparagraph may not be construed to limit the ability of the TPA to reduce or eliminate such subsidies.

Payment of the severance pay shall be paid to the Director after deductions for income tax, social security, and other applicable payments due, if any. This termination or severance pay shall be paid in lump sum within forty-five (45) days from the notice of termination. Upon termination and payment of the severance pay, it is agreed by the Director and the TPA that the TPA shall be relieved of any further liability to the Director for pay, charges, penalties, damages, compensation or otherwise. Pursuant to Section 215.425(4), Florida Statutes, the Director may not receive severance

pay when the Director has been fired for misconduct as defined in Section 443.036(29), Florida Statutes, by the TPA.

* * *

e. Permanent Disability. If the Director is permanently disabled or is otherwise unable to perform the Director's duties because of sickness, accident, injury, mental incapacity or health for a period of thirty (30) days beyond any leave protected by the Family Medical Leave Act and accrued sick leave and annual, the TPA shall have the option to terminate this Agreement. The Director shall be compensated upon termination as provided in Section 5. b. above. Upon payment of said compensation, the TPA shall be free of all liability to the Director.

4. Interpretation. In interpreting this amendment to the Employment Agreement, underlined words indicate additions to existing text, and ~~stricken through~~ words include deletions from existing text.

5. Effective Date. This Agreement shall become effective upon approval by the TPA Governing Board and execution by both parties.

IN WITNESS WHEREOF, the TPA has caused this Agreement to be signed by its authorized officer, and this Agreement has been executed in duplicate, the day, month, and year set forth below.

ATTEST:

TPA:

PALM BEACH MPO, d/b/a Palm Beach
Transportation Planning Agency

Amanda Williams, TPA Agency Clerk

By: _____
Robert Weinroth, its Chair

Date: _____, 2022

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY
Weiss Serota Helfman Cole & Bierman, P.L.

EXECUTIVE DIRECTOR:

Valerie Neilson

By: _____
Paul R. Gougelman, Esq.
TPA General Counsel

Date: _____, 2022

TPA RESOLUTION 2022-15

A RESOLUTION APPROVING AN AMENDMENT TO THE OPERATING PROCEDURES OF THE PALM BEACH METROPOLITAN PLANNING ORGANIZATION d/b/a PALM BEACH TRANSPORTATION PLANNING AGENCY (TPA); MAKING FINDINGS; AMENDING OR CREATING SECTION 1.3 Q., 1.5, 1.6, AND 2.3 G. OF THE TPA OPERATING PROCEDURES; PROVIDING A DEFINITION FOR “PUBLIC RECORD”; PROVIDING FOR AN AGENCY CLERK AND DUTIES; ADOPTING THE AGENCY SEAL; PROVIDING FOR INTERPRETATION/SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Palm Beach MPO, doing business as the Palm Beach Transportation Planning Agency (TPA), a public agency created in accordance with and operating pursuant to 23 U.S.C. 134, 49 U.S.C. 5303, and Sections 163.01 and 339.175, Florida Statutes, is the designated and duly constituted body responsible for the urban transportation planning process for Palm Beach County; and

WHEREAS, the TPA has previously adopted by-laws regulating the conduct of its Governing Board and advisory committees entitled “Operating Procedures”; and

WHEREAS, pursuant to Section 7. of the Operating Procedures, the TPA Governing Board may amend its Operating Procedures from time to time provided that the draft proposal for amendment is included in the agenda package at least 7 days prior to a Governing Board meeting; and

WHEREAS, the Governing Board desires to create the *ex officio* position of Agency Clerk and to describe the duties of the Agency Clerk; and

WHEREAS, the Governing Board desires to describe and adopt an official seal for the agency: and

WHEREAS, the Governing Board desires to define the term “public records,” such that it is as described in Chapter 119, Florida Statutes: and

WHEREAS, the Governing Board finds these amendment to be in the public interest and in the interest of promoting its responsibilities pursuant to federal and Florida law.

NOW THEREFORE, BE IT RESOLVED BY THE PALM BEACH MPO, d/b/a PALM BEACH TRANSPORTATION PLANNING AGENCY, THAT:

SECTION 1. The foregoing recitals are hereby adopted and declared to be true and

correct and are incorporated herein.

SECTION 2. Section 1.3 Q. of the TPA Operating Procedures adopted May 19, 2022, be and the same is hereby created as set forth below:

- Q. "Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. Accord §119.011(12), F.S.

SECTION 3. Sections 1.5 and 1.6 of the TPA Operating Procedures adopted May 19, 2022, be and the same is hereby amended to create a new Section 1.5 as set forth below:

1.5 Agency Clerk.

- A. The Executive Director shall appoint a designated member of the TPA staff to serve, ex officio, as the Agency Clerk. Alternatively, the Executive Director may appoint the executive director to serve, ex officio, as the agency clerk. The duties and responsibilities of the agency clerk shall be to: maintain the official seal of the agency; index and file agency resolutions, orders, operating procedures, and official agency records; send notices of workshops and meetings; transcribe minutes of the Governing Board and committee and subcommittee meetings and workshops; maintain and be the custodian of agency files and records; make certifications of true copies and actions; attest to the signatures of MPOAC officers; and perform such other duties as determined by the executive director. See §339.175(2)(e), F.S.
- B. Upon completion of the preparation of an agenda for a meeting of the Governing Board, or any committee or subcommittee, the agency clerk shall make available the agenda for the meeting for distribution on request by any interested person who pays the reasonable cost for a copy of said agenda; to any person named in said agenda; and to any class of individuals to whom intended action is directed.
- C. The agency clerk shall give written notice of said meeting by all applicable members and the general public prior to any meeting or workshop of the Governing Board, the Executive Committee, or any other committee of the TPA. In addition, the agency clerk shall prepare and make available a copy of said notice or the agenda package: for distribution on request to any interested person who pays the reasonable cost for a copy of said notice; to any person named in said notice; to members of the applicable board or committee; and to any class of individuals to whom action is directed. Meeting notices should be advertised on the TPA web-site at least seven (7) days prior to any non-emergency meeting. All notices to members shall be sent to the official address of the member delegate and alternate delegate at such current address on file with the agency clerk. Agenda packages may be sent via e-mail.
- D. The agency clerk shall be responsible for coordinating responses for all public records.
- E. The agency clerk, or a person having custody of public records, may designate

another officer or employee of the TPA to permit the inspection and copying of public records, but the agency clerk or other person having custody of a public record, must disclose the identity of the designee to the person requesting to inspect or copy public records. Accord, §119.07(1)(b), F.S.

- F. Photographing public records shall be done under the supervision of the agency clerk, who may adopt and enforce reasonable rules governing the photographing of such records. Photographing of public records shall be done in the room where the public records are kept. If, in the judgment of the agency clerk, this is impossible or impracticable, photographing shall be done in another room or place, as nearly adjacent as possible to the room where the public records are kept, to be determined by the agency clerk. Where provision of another room or place for photographing is required, the expense of providing the same shall be paid by the person desiring to photograph the public record as provided by law. Accord, §119.07(3)(c) and (d), F.S.
- G. If the furnishing of a public record can be accomplished with little or no effort or cost to the TPA, the agency clerk is authorized to waive the collection of a fee for copying and providing the public record.
- H. The TPA shall prominently post the contact information for the agency's agency clerk and custodian of public records in the TPA's primary administrative building in which public records are routinely created, sent, received, maintained, and requested and on the agency's website. The signage shall advise anyone requesting a public record to advise the agency clerk as custodian of public records of any request for a public record. See §119.12(2), F.S.

1.6 Agency Seal.

The agency seal is hereby adopted. The seal shall consist of two concentric circles, one inside the other. In the center of the inner circle, the agency's logo shall be displayed, together with the words "OFFICIAL SEAL" set forth. Between the inner and outer circles shall be the agency name "Palm Beach Transportation Planning Agency".

SECTION 4. Section 2.2 G. of the TPA Operating Procedures adopted May 19, 2022, be and the same is hereby amended as set forth below:

~~G. Agency clerk—The TPA Executive Director shall act as the Agency Clerk pursuant to Section 339.175(2)(e), F.S.~~

SECTION 5. Severability Clause/Interpretation.

(a) In the event that any term, provision, clause, sentence or section of this Resolution shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this Resolution, and this Resolution

shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

(b) That in interpreting this Resolution, underlined words indicate additions to existing text, and ~~stricken through~~ words include deletions from existing text.

SECTION 6. This Resolution shall take effect upon adoption.

The foregoing Resolution was offered by _____ who moved its adoption. The motion was seconded by _____ and upon being put to a vote, the motion passed. The Chair thereupon declared the Resolution duly adopted this ____ day of _____, 2022.

ATTEST:

Amanda K. Williams, TPA Executive Assistant

PALM BEACH METROPOLITAN
PLANNING ORGANIZATION, d/b/a PALM
BEACH TRANSPORTATION PLANNING
AGENCY

By: _____

Robert Weinroth, as its Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

Paul R. Gougelman, TPA General Counsel

2.B.2



PALM BEACH
Transportation
Planning Agency

Operating Procedures

Approved by TPA Board on ~~June 16~~ September 15, 2022

Mayor Robert S. Weinroth, TPA Chair

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Section 1. General Information

1.1 Purpose

The Palm Beach Transportation Planning Agency (TPA) Operating Procedures facilitate efficient conduct by the TPA as it collaboratively plans, prioritizes and funds a safe, efficient, connected, and multimodal transportation system for all of Palm Beach County.

1.2 Authority

The federal government, under the authority of Title 23 United States Code (USC) §134 and Title 49 USC §5303, requires each metropolitan area, as a condition for the receipt of federal capital or operating assistance, to designate a Metropolitan Planning Organization (MPO) to conduct a continuing, cooperative, and comprehensive transportation planning process that results in transportation plans and programs consistent with the comprehensively planned development of the metropolitan area. Pursuant to Titles 23 USC §134(d), 49 USC §5303, 23 CFR §450.310(b), and Section 339.175(2), Florida Statutes (F.S.), the Palm Beach MPO, d/b/a the Palm Beach TPA is designated by Interlocal Agreement to serve as the federally mandated MPO for that part of the Miami Urbanized Area Transportation Management Area (TMA) within Palm Beach County (PBC).

1.3 Definitions

The following terms when used in these Operating Procedures shall be defined as set forth below, unless the context of usage affirmatively dictates to the contrary:

- A. TPA - The Palm Beach Transportation Planning Agency (TPA), which serves as the Metropolitan Planning Organization (MPO) for that part of the Miami Urbanized Area Transportation Management Area (TMA) within Palm Beach County.
- B. Interlocal Agreement - The agreement executed by the Governor and units of general purpose local government representing at least 75 percent of the affected population in the Palm Beach County urbanized area which formally designates the TPA, as it may be amended from time to time.
- C. TPA Governing Board - The policy-making body for the TPA responsible for coordinating the cooperative decision-making process of the TPA's actions and taking required actions as the TPA.
- D. Governing Board Member - A unit of General Purpose Local Government or an agency that operates or administers a major mode of transportation with voting membership on the TPA pursuant to the most current Interlocal Agreement (and any amendment thereto) creating the TPA.
- E. Governing Board Representative - An elected official appointed by a Governing Board Member to exercise its voting membership on the TPA Governing Board.

- F. Governing Board Alternate - An elected official appointed by a Governing Board Member to exercise its voting membership on the TPA Governing Board in the event the Representative is not in attendance.
- G. TAC Member - A local government, airports, seaports, public transit agencies, the school superintendent or designee, and other entities as deemed appropriate by the TPA Governing Board.
- H. TAC Representative - An individual nominated by the TAC Member and appointed by the TPA Governing Board to represent the TAC Member at TAC meetings. If a TAC Member has a TAC Representative and TAC Alternate, these terms are used interchangeably.
- I. TAC Alternate - An individual nominated by the TAC Member and appointed by the TPA Governing Board to represent the TAC Member at TAC meetings in the event the TAC Representative is not in attendance.
- J. CAC Member - An individual nominated by a TPA Governing Board Member and appointed by the TPA Governing Board to represent the citizenry of Palm Beach County at CAC meetings.
- K. VZAC Member – A local government, law enforcement and fire rescues services, school district, health department, active transportation advocacy groups, or other entity as deemed appropriate by the TPA Governing Board.
- L. VZAC Representative - An individual nominated by the VZAC Member and appointed by the TPA Governing Board to represent the VZAC Member at VZAC meetings. If a VZAC Member has a Representative and Alternate, these terms are used interchangeably.
- M. VZAC Alternate - An individual nominated by the VZAC Member and appointed by the TPA Governing Board to represent the VZAC Member at VZAC meetings in the event the VZAC Representative is not in attendance.
- N. Quorum – A quorum of the TPA Board or any of its committees shall be constituted by a majority of Representatives (or Members, for the CAC). Only designated Representatives physically present shall count toward establishing a quorum unless the TPA is operating under Section 6. Emergency Powers.
- O. Robert's Rules of Order - Roberts Rules of Order, Newly Revised (10th Edition).
- P. Communications Media Technology - the electronic transmission of printed matter, telephone, audio, computer, full-motion video, freeze-frame video, compressed video, and digital video by any method available.
- Q. "Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. Accord §119.011(12), F.S.

1.4 Interpretations

If any provision of these Operating Procedures conflicts with the Interlocal Agreement that designates the TPA, the Interlocal Agreement shall control. Furthermore, all provisions contained in these Operating Procedures shall be interpreted to be consistent with applicable state and federal law and the TPA's Public Participation Plan (PPP). In the event of a conflict, state or federal law shall control.

1.5 Agency Clerk

- A. The Executive Director shall appoint a designated member of the TPA staff to serve, ex officio, as the Agency Clerk. Alternatively, the Executive Director may appoint the executive director to serve, ex officio, as the agency clerk. The duties and responsibilities of the agency clerk shall be to: maintain the official seal of the agency; index and file agency resolutions, orders, operating procedures, and official agency records; send notices of workshops and meetings; transcribe minutes of the Governing Board and committee and subcommittee meetings and workshops; maintain and be the custodian of agency files and records; make certifications of true copies and actions; attest to the signatures of MPOAC officers; and perform such other duties as determined by the executive director. See §339.175(2)(e), F.S.
- B. Upon completion of the preparation of an agenda for a meeting of the Governing Board, or any committee or subcommittee, the agency clerk shall make available the agenda for the meeting for distribution on request by any interested person who pays the reasonable cost for a copy of said agenda; to any person named in said agenda; and to any class of individuals to whom intended action is directed.
- C. The agency clerk shall give written notice of said meeting by all applicable members and the general public prior to any meeting or workshop of the Governing Board, the Executive Committee, or any other committee of the TPA. In addition, the agency clerk shall prepare and make available a copy of said notice or the agenda package: for distribution on request to any interested person who pays the reasonable cost for a copy of said notice; to any person named in said notice; to members of the applicable board or committee; and to any class of individuals to whom action is directed. Meeting notices should be advertised on the TPA web-site at least seven (7) days prior to any non-emergency meeting. All notices to members shall be sent to the official address of the member delegate and alternate delegate at such current address on file with the agency clerk. Agenda packages may be sent via e-mail.
- D. The agency clerk shall be responsible for coordinating responses for all public records.
- E. The agency clerk, or a person having custody of public records, may designate another officer or employee of the TPA to permit the inspection and copying of public records, but the agency clerk or other person having custody of a public record, must disclose the identity of the designee to the person requesting to inspect or copy public records. Accord, §119.07(1)(b), F.S.
- F. Photographing public records shall be done under the supervision of the agency clerk, who may adopt and enforce reasonable rules governing the photographing of such records. Photographing of public records shall be done in the room where the public records are kept. If, in the judgment

of the agency clerk, this is impossible or impracticable, photographing shall be done in another room or place, as nearly adjacent as possible to the room where the public records are kept, to be determined by the agency clerk. Where provision of another room or place for photographing is required, the expense of providing the same shall be paid by the person desiring to photograph the public record as provided by law. Accord, §119.07(3)(c) and (d), F.S.

G. If the furnishing of a public record can be accomplished with little or no effort or cost to the TPA, the agency clerk is authorized to waive the collection of a fee for copying and providing the public record.

H. The TPA shall prominently post the contact information for the agency's agency clerk and custodian of public records in the TPA's primary administrative building in which public records are routinely created, sent, received, maintained, and requested and on the agency's website. The signage shall advise anyone requesting a public record to advise the agency clerk as custodian of public records of any request for a public record. See §119.12(2), F.S.

1.6 Agency Seal

A. The agency seal is hereby adopted. The seal shall consist of two concentric circles, one in side the other. In the center of the inner circle, the agency's logo shall be displayed, together with the words "OFFICAL SEAL" set forth. Between the inner and outer circles shall be the agency name "Palm Beach Transportation Planning Agency".

Section 2. TPA Governing Board

2.1 Membership

- A. Number of Governing Board Members - The number of Governing Board Members for the TPA shall be as determined by the Interlocal Agreement, as amended.
- B. Representatives - Each Governing Board Member shall designate a Representative and notify the TPA in writing of this designation. The qualifications of Representatives shall be as specified in the Interlocal Agreement.
- C. Alternates - Each Governing Board Member shall designate an Alternate(s) and notify the TPA in writing of this designation. The Alternate must meet the same qualifications as a Representative. An Alternate may serve as a Representative for the Governing Board Member during any meeting or portion of a meeting where that Governing Board Member's Representative is not in attendance.
- D. Term of Office - Representatives and Alternates shall serve until the TPA has been notified in writing of a new designation by the Governing Board Member or until their earlier death, resignation, disqualification, incapacity to serve, or removal in accordance with the law.

2.2 Officers

- A. Officers - The officers of the TPA shall consist of a Chair, a Vice Chair, and three at-large Representatives of the Governing Board. Together, the officers shall be referred to as the Executive Committee. Not more than two of the officers may be County Commissioners.
- B. Elections - The officers shall be elected annually at the last regularly scheduled meeting of the calendar year or earlier if desired by the TPA Governing Board. The newly elected officers shall take office on the first day of the following calendar year or earlier if desired by the TPA Governing Board. Additional elections may be held as necessary if an officer cannot carry out said officer's duties and complete the remainder of the appointed term.
- C. Officer Criteria - The Chair must have served on the TPA Governing Board as a Representative for a minimum of one year prior to taking office. All officers must have completed the MPOAC Institute training program for elected officials, attended a national Association of MPOs (AMPO) Conference, or received similar training. The training criteria can be waived by majority vote of the TPA Governing Board.
- D. Terms of Office - The term of office for officers shall be until their successors take office as provided in Section 2.2.B.
- E. Duties of the Chair - The Chair shall call and preside at TPA Governing Board meetings, set the order of business for each meeting and sign official documents for the TPA. In the Chair's absence, the Vice Chair shall preside and complete all other duties of the Chair. In the absence of both the Chair and the Vice Chair, the Representatives present shall elect a Chair Pro-Tem to preside and complete all other duties of the Chair.

In the event that the Chair is unable to carry out their duties for the remainder of the term, the Vice Chair shall automatically become Chair and a new Vice Chair shall be elected from the remaining Representatives, including the at-large members of the Executive Committee, for the remainder of the term.

- F. Duties of the Executive Committee – The Executive Committee shall:
 - 1. Meet annually to review and recommend updates to the TPA's Strategic Plan for consideration by the Governing Board;
 - 2. Meet as necessary to review and recommend content related to other TPA initiatives (e.g., the 561 Mobility Plan, the Vision Zero Action Plan, transportation surtax funding strategies, and other plans and strategies) for consideration by the Governing Board;
 - 3. Meet as necessary to review and recommend updates to TPA policies and procedures as requested by the Executive Director;
 - 4. Meet as necessary to participate in TPA procurement selection committees as requested by the Executive Director;
 - 5. Meet as necessary to facilitate the process of hiring a new Executive Director, including but not limited to refining the job profile, evaluating candidates, recommending a candidate, negotiating an employment agreement for Board consideration, and recommending an interim director for Board consideration; and

6. Undertake other tasks as may be assigned by the Governing Board.

~~G. Agency clerk - The TPA Executive Director shall act as the Agency Clerk pursuant to Section 339.175(2)(e), F.S.~~

2.3 Meetings

- A. Regular Meetings - Meetings will be held on the third Thursday of each month, except as noted on the meeting calendar published to the public on the TPA website. The Chair may cancel regular meetings should there be insufficient business on the TPA's tentative agenda or a lack of anticipated quorum.
- B. Special Meetings - Special meetings may be called by the Chair with three (3) day notice. Whenever possible, at least seven (7) day notice shall be given.
- C. Workshops - Workshops may be called from time to time and shall not require a quorum; however, all workshops shall be noticed in the same manner as regular meetings of the TPA Governing Board. No official actions may be taken at a workshop.
- D. Attendance - Each Representative shall be expected to attend each regular meeting. It shall be the obligation of the Representative to provide at least 24-hours advance notice to the TPA when the Representative will not be attending a meeting. It shall be the obligation of a Representative to provide reasonable notice to the Alternate when the Representative will not be attending a meeting. An absence without advance notice or without having an Alternate in attendance will be considered unexcused.

When a Representative or Alternate for a Governing Board Member does not attend three (3) consecutive regular meetings, the TPA Executive Director will send a letter to the chief elected officer of the Governing Board Member indicating the number of absences and requesting reaffirmation or reappointment of the Governing Board Member's Representative.

- E. Agenda - The Executive Director, in consultation with the Chair, shall create a published list of items for decision (consent and action items), discussion (special presentations, reports, and information items), and receipt without discussion (administrative items) at a meeting. The agenda and any backup material for a TPA Governing Board meeting shall be published on the TPA website seven (7) days prior to the meeting or as early as practicable. Only when extenuating circumstances warrant, a Representative, Alternate, or the TPA Executive Director may propose an additional item or a modification to the agenda at the commencement of a given meeting, subject to approval by a majority of the Representatives/Alternates at the meeting; provided that consideration of such item(s) is consistent with the TPA's PPP noticing requirements.

TPA advisory committee requests to add an item to a TPA Governing Board meeting agenda or to furnish work product (*e.g.*, written report, video, *etc.*) of a specific topic to the TPA Governing Board shall first be approved by the committee in the manner and format in which the matter should be presented.

Organizations wishing to make a presentation to the TPA Governing Board must contact the Executive Director at least ten (10) days prior to the meeting. The Executive Director shall consult with the Chair to determine if the presentation should take place during the public comment

period or be added as a regular agenda item. Presentations added to the regular agenda shall be limited to ten (10) minutes or as allowed by the Chair.

Members of the public wishing to add an item to a future agenda must first request the item during a Board meeting by submitting a public comment. The Board will determine whether to add the item to a future meeting.

- F. Voting Procedures - The Chair and any Representative may call for a vote on any issue, provided that it is seconded and within the purposes set forth on the agenda. Representatives must be physically present to vote unless a Representative is approved to participate remotely by the physically present Representatives. At any given meeting, if a Representative(s) is absent, the Alternate(s), may vote in place of the absent Representative(s).

Voting shall be by voice, but the minutes shall contain sufficient detail to record the vote of each Representative/Alternate. A Roll Call vote shall be held upon the request of the Chair, a Representative, or the TPA Executive Director. Pursuant to Section 339.175(13) F.S. a recorded roll call vote shall be taken for the Long Range Transportation Plan (LRTP), the Transportation Improvement Program (TIP), and any corresponding amendments. A tie vote shall be interpreted as a failure to pass.

Any Representative who voted on the prevailing side may make a motion for reconsideration at the meeting during which the vote was taken or at the next regularly scheduled meeting unless the action for which the vote was taken has been completed by the next regularly scheduled meeting and cannot be undone. A Representative desiring to request reconsideration of a matter shall advise the Executive Director no less than ten (10) days prior to the meeting. The Executive Director shall endeavor to provide notice of the request to the TPA Governing Board Members prior to the meeting. Any Representative who was not present at the meeting at which the vote was taken shall be deemed to be on the prevailing side unless the absence was unexcused. A motion to reconsider cannot be renewed if it has been voted on and defeated except by unanimous consent of those present at the meeting.

Board Representatives/Alternates may not abstain from voting, unless the Representative/Alternate has a voting conflict of interest as defined by Section 112.3143, F.S., or unless the matter is quasi-judicial in nature and the abstention is to avoid prejudice or bias as provided in Section 286.012, F.S. If a Representative/Alternate abstains from voting, the Representative/Alternate must declare the conflict at the introduction of the item and not participate in the discussion of the item. The Representative/Alternate must then submit a completed Florida Commission on Ethics - Form 8B to the TPA Agency Clerk within 15 days after the abstention occurs.

In the absence of any direction from these Operating Procedures or other duly adopted voting procedures pursuant to certain approval actions, Robert's Rules of Order will designate procedures governing voting over any TPA Governing Board, advisory committee, subcommittee or ad hoc committee meeting. In the interest of efficiency or flexibility, a majority consensus of the TPA Governing Board may approve departures from Robert's Rules of Order.

Proxy and absentee voting are not permitted.

- G. Public Comment Procedures - All TPA Governing Board meetings shall be open to the public. Members of the public are permitted to speak on any topics not on the Agenda during the General Public Comment period by providing a Speaker Card to the Executive Director or designee prior to the commencement of the meeting. Members of the public are allowed to speak on agenda items following presentation of the item to the TPA Governing Board but prior to Representative discussion, by providing a Speaker Card to the Executive Director or designee prior to the presentation of the item. Public comment shall be limited to three (3) minutes. The deadlines for submitting a Speaker Card and time limits for public comment may be waived by the Chair.
- H. Florida's Open Meetings Law - Every Representative/Alternate shall comply with the State's Open Meetings Law. This includes not discussing current board items or other matters that may foreseeably come before the TPA Governing Board for action with other members outside of a noticed meeting.

2.4 TPA Board Committees

As necessary, the TPA Governing Board may establish a committee of Representatives and/or Alternates to investigate and report on specific subject areas of interest to the TPA Governing Board.

A TPA Board Committee shall consist of at least three (3) Representatives and/or Alternates. A majority of the committee members must be physically present for the committee to take formal action. The committee shall meet and establish a chair and vice chair. The chair or vice chair shall report to the TPA Governing Board at its next regular meeting on the committee's activities.

A TPA Board Committee's authority shall be limited to making recommendations regarding items to be considered by the TPA Governing Board.

2.5 TPA Advisory Committees and Ad Hoc Committees

The TPA Governing Board relies on the standing advisory committees as outlined below to review and make recommendations regarding items to be considered by the TPA Governing Board. No advisory committee member may serve on more than one advisory committee to the TPA Governing Board at any time; however, advisory committee members may serve on more than one ad hoc committee in addition to serving on an advisory committee.

- A. Technical Advisory Committee (TAC) - The TAC is comprised of representatives of local governments, airports, seaports, public transit agencies, the school superintendent or designee, and other entities as deemed appropriate by the TPA Board pursuant to Section 339.175(6)(d), F.S.
- B. Citizen's Advisory Committee (CAC) - The CAC is responsible for providing the TPA Governing Board with a "citizen's eye" view of ongoing transportation issues in Palm Beach County. Members are appointed by the TPA Governing Board according to required special designations in accordance with Section 339.175(e.)1., F.S. and other categories as identified by the TPA Governing Board.
- C. Vision Zero Advisory Committee (VZAC) – The VZAC is comprised of county and municipal planners, law enforcement and fire rescues services, school district, health department, active

transportation advocacy groups, or other entity as deemed appropriate by the TPA Governing Board to advance those elements of the TPA's Vision Zero Action Plan oriented around pedestrian and bicycle safety.

From time to time, an advisory committee or the Executive Director may form an ad hoc committee for the purpose of investigating specific subject areas of interest. Ad hoc committees shall report to the advisory committee(s) on their activities at the next available meeting.

2.6 Transportation Disadvantaged Local Coordinating Board (LCB)

The TPA Governing Board is the Designated Official Planning Agency (DOPA) for the Palm Beach County Transportation Disadvantaged (CTD) program, as designated by the Florida Commission for the Transportation Disadvantaged. In accordance with Section 427.0157, F.S., all members of the LCB shall be appointed by the DOPA. Membership and conduct are established by separate by-laws adopted by the LCB.

The LCB is an advisory body to the CTD and identifies local service needs and provides information, advice and direction to the Palm Beach County Community Transportation Coordinator (CTC) on the coordination of services to be provided to the transportation disadvantaged through the Florida Coordinated Transportation System.

Section 3. Technical Advisory Committee (TAC)

3.1 Role and Function

Pursuant to Section 339.175(6)(d), F.S., the TAC provides technical review, comments and recommendations regarding items to be considered by the TPA Governing Board, including transportation plans, programs, studies, and other appropriate documents and regional transportation issues. The TAC addresses other matters and concerns when directed by the TPA Governing Board. It shall be the function of the TAC to provide technical review and make recommendations to the TPA Governing Board regarding:

- Long Range Transportation Plans (LRTP) goals, objectives, performance measures, targets and desired and cost feasible projects and programs;
- Priority Project Lists, Transportation Improvement Programs (TIP), and Unified Planning Work Programs (UPWP);
- Objective Scoring system used to rank project applications submitted for funding through the annual Local Initiatives (LI) Program and State Road Modifications Program (SRM);
- Other TPA-led transportation plans, studies and reports;
- Transportation plans, studies, reports, and project designs presented to the TPA by partner agencies (FDOT, PBC Engineering, Municipalities, SFRTA, Palm Tran, Seaport, Airport, etc.);
- Regional transportation plans, studies, reports, and projects; and
- Proposed TPA policy or position statements.

Represented Agency	Representative	Appointment Date	Renewal Date	Alternate 1	Appointment Date	Renewal Date	Alternate 2	Appointment Date	Renewal Date
City of Boca Raton - Planning	Jim Bell	Mar-22	Mar-25	Tamashbeen Rahman	Feb-16	Feb-25			
City of Boca Raton - Engineering	Naresh Machavarapu	Mar-22	Mar-25	Quan Yuan	Feb-18	May-24			
City of Boynton Beach	Gary Dunmyer	Apr-21	Apr-24	Amanda Radigan	Apr-21	Apr-24			
City of Delray Beach	VACANT			Cynthia Buisson	Sep-19	Sep-22			
City of Greenacres	Kara Ferris (2022 Chair)	Oct-16	Oct-22	Caryn Gardner-Young	May-22	May-25			
City of Lake Worth Beach	Jamie Brown	Oct-14	Oct-23	Felipe Lofaso	Oct-14	Oct-23			
City of Palm Beach Gardens - Planning	Natalie Crowley	May-12	May-24	Michael Morrow	Feb-17	Feb-23	Peter Hofheinz	Dec-19	Dec-24
City of Riviera Beach	Terrence Bailey	Dec-15	Dec-24						
City of Westlake	JohnPaul O'Connor	May-22	May-25	Greg Langowski	May-22	May-25			
City of West Palm Beach - Planning	Alex Hansen	Mar-14	Mar-23						
City of West Palm Beach - Engineering	Xavier Falconi	Apr-21	Apr-24	Valerio Oricchio	Apr-21	Apr-24			
FDOT District 4 (Non-voting Advisory)	John Krane	May-20	May-23	Marsha Taylor	May-20	May-23	Christine Fasiska	May-20	May-23
Florida Dept. of Health - Palm Beach County	Kenny Wilson	Dec-12	Dec-24	Janelle St. Ange	Dec-12	Dec-24			
Palm Beach County - Airports	Gary Sypek	Dec-20	Dec-23	Wil Hicks	Dec-04	Dec-22			
Palm Beach County - Engineering	Motasem Al-Turk (2022 Vice Chair)	Dec-15	Dec-24	Melissa Ackert	Oct-18	Oct-24			
Palm Beach County - Planning	Bryan Davis	Feb-20	Feb-23	Jorge Perez	Apr-17	Feb-23			
Palm Tran	Levi McCollum	May-21	May-24	Yash Nagal	Jun-22	Jun-25			
Port of Palm Beach	Aaron Hoffman	Jul-19	Jul-25	Carl Baker	Jul-19	Jul-22			
School District of Palm Beach County	Joyce Cai	Apr-14	Jul-24						
SFRTA (Tri-Rail)	Loraine Cargill	Mar-22	Mar-25	Vicki Gatanis	Mar-22	Mar-25			
Town of Jupiter - Engineering	Thomas Hernandez	Jul-22	Jul-25	Chang-Jen Lan	Sept-08	Oct-24			
Town of Lake Park	Roberto Travieso	Apr-22	Apr-25						
Treasure Coast Regional Planning Council	Kim DeLaney	Mar-22	Mar-25	Thomas Lanahan	Dec-16	Dec-22			
Village of Palm Springs	Kim Glas-Castro	Apr-21	Apr-24	Iramis Cabrera	Apr-21	Apr-24			
Village of Royal Palm Beach	Christopher Marsh	Oct-15	Oct-24	Bradford O'Brien	Oct-15	Oct-24			
Village of Wellington	Michael O'Dell	Jun-18	Jun-24	Jonathan Reinsvold	Dec-21	Dec-24			

Represented Agency	Representative	Appointment Date	Renewal Date	Alternate	Appointment Date	Renewal Date
Boca Raton Bicycle Club	Bruce Rosenzweig	May-21	May-24		May-21	May-24
City of Boca Raton	Tracy Phelps	Apr-21	Apr-24	Kimberly Kosirog	Apr-21	Apr-24
City of Boynton Beach	Craig Pinder	Feb-20	Feb-23			
City of Delray Beach	VACANT			Amy Alvarez	Sep-19	Sep-22
City of Lake Worth Beach CRA	Joan Oliva	Apr-22	Apr-25	Chris Dabros	Apr-22	Apr-25
City of Palm Beach Gardens	Joann Skaria	Dec-19	Dec-22			
City of West Palm Beach	John Roach	May-20	May-23			
Disabled Community	Ted Goodenough	Dec-19	Dec-22			
FDOT - Non-Voting Advisory Member	Larry Wallace	Sep-18	Sep-24	Wibet Hay	Sep-18	Sep-24
Palm Tran	Bruce Guyton	Jun-22	Apr-25	Chris Walker	Jun-22	Jun-25
PBC - Engineering	Fadi Nassar	Oct-18	Oct-24	Neil Wantz	Feb-15	May-24
PBC - Environmental Resources Management	Jacey Biery	Oct-21	Oct-24	Sally Channon	Jun-06	Mar-24
PBC - Parks & Recreation	Jean Matthews	Apr-02	May-24	Casey Prancun	Apr-18	May-24
PBC - Planning	David Wiloch	May-11	May-24	Michael Howe	Jun-06	May-24
School District of Palm Beach County	Michael Owens	Apr-14	Apr-23	Joyell Shaw	Apr-14	Apr-23
Town of Jupiter	Stephanie Thoburn (2022 Chair)	Apr-18	May-24	Garret Watson	Apr-18	May-24
Village of Wellington	Christian Santa-Gonzalez	May-22	May-25	Kyle Burg	May-22	May-25

CAC Member	Nominated By ¹	TPA Board Member	Appointment Date	Renewal Date
Terry Brown	N/A - predates current by-laws	N/A	Sep-06	N/A ²
Greg Fagan	N/A - predates current by-laws	N/A	Mar-95	N/A ²
Varisa Lall Dass	Commissioner Katherine Waldron	Port of Palm Beach	May-22	May-25
James Bonfiglio	Commissioner Maria Sachs	PBC County Commissioner D5	Jul-21	Jul-24
Marc Bruner	Mayor Pro Tem Joni Brinkman	Village of Palm Springs	Mar-21	Mar-24
VACANT	Mayor Joel Flores	City of Greenacres		
Michael Fitzpatrick	Vice Mayor Angela Cruz (Grant)	City of Boynton Beach	Jul-16	Oct-22
VACANT	Mayor Jim Kuretski	Town of Jupiter	Jun-21	Jun-24
Sammie Brown	Councilwoman Shirley Lanier	City of Riviera Beach	May-22	May-25
James Garvin	Mayor Chelsea Reed	City of Palm Beach Gardens	Mar-21	Mar-24
Richard Vassalotti	Commissioner Melissa McKinlay	PBC County Commissioner D6	Dec-20	Dec-23
Vijay Mishra	Councilman Michael Napoleone	Village of Wellington	Apr-21	Apr-24
Francisco (Paco) Gil	Commissioner Christy Fox (Lambert)	City of West Palm Beach	Jul-21	Jul-24
Myron Uman	Commissioner Joseph Peduzzi	City of West Palm Beach	Mar-20	Mar-23
Albert Richwagen (2022 Vice Chair)	Mayor Shelley Petrolia	City of Delray Beach	Dec-18	Dec-22
Mark Forrest	Mayor Fred Pinto	Village of Royal Palm Beach	Apr-21	Apr-24
Ryan Rossi	Council Member Yvette Drucker (Singer)	City of Boca Raton	Oct-19	Oct-22
Uyen Dang (2022 Chair)	Council Member Andy Thomson	City of Boca Raton	Dec-20	Dec-23
VACANT	Commissioner Reinaldo Diaz	City of Lake Worth Beach		
Ramona Bean	Commissioner Maria Marino	PBC County Commissioner D1	May-21	May-24
Jim Knight	Mayor Robert Weinroth	PBC County Commissioner D4	Oct-21	Oct-24
Paula Ryan	Commissioner Gregg Weiss	PBC County Commissioner D2	Mar-21	Mar-24
VACANT	Mayor Steve Wilson	City of Belle Glade		

Notes

1. Shows current TPA board representative. If CAC member was nominated by prior Rep, that name is shown in parenthesis
2. Committee members shall be replaced upon sufficient nominations from the 21 elected officials.

MEMORANDUM

TO: Valerie Neilson, Executive Director

FROM: Paul Gougelman, TPA General Counsel

SUBJECT: Citizen's Advisory Committee ("CAC") Membership

DATE: August 7, 2022

BACKGROUND: You have raised an issue regarding CAC membership of two individuals, namely Terry Brown and Greg Fagan. Mr. Brown is a resident of South Ocean Ridge, and Mr. Fagan is a resident of Palm Beach Gardens. Messrs. Brown and Fagan were both appointed prior to adoption of the current TPA Operating Procedures. Both Messrs. Brown and Fagan have a good CAC meeting attendance record.

Neither Mr. Brown nor Mr. Fagan were nominated by a TPA Governing Board member. They were appointed at a time when TPA By-Laws did not fully follow Florida law regarding the appointment and composition of the CAC. "The previous by-laws did not tie these individuals to a specific Board member and were broader."¹

With regard to the CAC membership of these two individuals, Former Executive Director Nick Uhren apparently wanted to address their membership at such time as the "CAC meets the full 21-member goal, as we [the CAC] were struggling to meet the minimum requirements for membership and active attendance from others."² Apparently, Mr. Uhren believed that, "their term is set to expire when we reach the full 21-member committee, there are no other term limits associated with them."

ISSUE PRESENTED: May Messrs. Brown and Fagan continue to serve on the CAC, and if so, what would be the legal basis for doing so?

SHORT ANSWER: Given that Messrs. Brown and Fagan have been active and productive members, it is suggested that the Operating Procedures be considered for amendment using one of the following approaches:

Approach number 1 requires that the Operating Procedures be amended to provide for two (2) at-large position. At-large members would be appointed by the Governing Board as a whole, would serve a three (3) year term but also serve at the pleasure of the

¹ See E-Mail from Margie Pierce, Executive Assistant, to Valerie Neilson, Interim Executive Director (June 7, 2022).

² *Id.*

Governing Board, and would be eligible for periodic re-appointment. The at-large positions would be permanent and would raise the number of CAC appointees.

Approach number 2 would require an amendment of the Operating Procedures that would grandfather two (2) at-large positions in for three (3) years from the date of adoption of the grandfathering position. Messrs. Brown and Fagan would, during the upcoming three (3) year period, need to find a Governing Board Member to sponsor them as a nominee to the CAC. At the end of three (3) years, the at-large positions would automatically be terminated, and all CAC members would be nominated by individual Governing Board Members.

ANALYSIS: Section 339.175(6)(e)1., Florida Statutes, provides:

(e)1. Each M.P.O. shall appoint a citizens' advisory committee, the members of which serve at the pleasure of the M.P.O. The membership on the citizens' advisory committee must reflect a broad cross-section of local residents with an interest in the development of an efficient, safe, and cost-effective transportation system. Minorities, the elderly, and the handicapped must be adequately represented.

23 USC Section 134, which is the federal law which provides for the creation and operation of MPOs, does *not* specifically require the creation of a CAC.³ Similarly, the implementing

³ However, 23 USC Section 134(h)(6)(A) does set the stage for the creation of a CAC by providing:

(6) PARTICIPATION BY INTERESTED PARTIES.—

(A) In general.—

Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, public ports, freight shippers, providers of freight transportation services, private providers of transportation (including intercity bus operators, employer-based commuting programs, such as a carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, affordable housing organizations, and other interested parties with a reasonable opportunity to comment on the transportation plan.

23 CFR Section 450.316(a) implements the foregoing provision of federal law.

(a) The MPO shall develop and use a documented participation plan that defines a process for providing individuals, affected public agencies, representatives of public transportation employees, public ports, freight shippers, providers of freight transportation services, private providers of transportation (including intercity bus operators, employer-based commuting programs, such as carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework

regulations adopted by the Federal Highway Administration ("FHWA") do not require the creation of a CAC. The point is that the concept of a CAC is a creature of Florida law.⁴ Prior to the TPA's adoption of its current Operating Procedures, the TPA operated pursuant to a set of By-Laws adopted on February 18, 2016. Section 9.A. provided the operative regulations relating to appointment of the CAC membership. That provision stated:

A. Citizen's Advisory Committee (CAC)

The CAC is responsible for providing the TPA Governing Board with a "citizen's eye" view of ongoing transportation issues in Palm Beach County. Members are appointed by the TPA Governing Board according to required special designations in accordance with Section 339.175(e.)1., F.S. and other categories as identified by the TPA Governing Board. Membership and conduct are established by separate by-laws adopted by the TPA Governing Board.

Notwithstanding the last sentence in Section 9.A., there was apparently no additional direction on the selection of CAC members in the By-Laws.

In early 2022, the TPA By-Laws were replaced by the currently imposed TPA Operating Procedures. Section 4.2 A. provides that the CAC is composed of between 11 and 21 members. Each TPA Governing Board may nominate a candidate to sit on the CAC. The TPA Governing Board is responsible for considering the actual appointment of the nominated CAC candidate-member. §339.175(6)(e)1., Fla.Stat.

program), representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with reasonable opportunities to be involved in the metropolitan transportation planning process.

⁴ Florida law regarding MPOs was first adopted in 1979. §1, Chap. 79-219, Laws of Fla. The provision regarding creation of a CAC was adopted in that statute and has undergone virtually no change since its initial adoption. Section 334.215(16), Florida Statutes, provided:

(16) The M.P.O. shall appoint a citizens' advisory committee whose members shall serve at its pleasure. The citizens' advisory committee shall be selected to provide a broad cross section of citizens with an interest in the development of an efficient, safe and cost-effective transportation system. Minorities, the elderly and the handicapped shall be adequately represented. However, the M.P.O. may, with department and federal concurrence, adopt an alternate program or mechanism which will insure adequate citizen involvement in the transportation planning process.

All CAC Members must be Palm Beach County residents and electors.⁵ CAC Members cannot be elected officials or directly employed by an elected official.⁶ A CAC Member is prohibited from serving on any other advisory committee.⁷ According to the TPA Operating Procedures, CAC Members serve a three year term.⁸ Notwithstanding that provision, it should be noted that Florida law, which supersedes TPA Operating Procedures, provides that CAC Members serve at the pleasure of the MPO.⁹

Section 4.2 A. and B. of the currently effective Operating Procedures states:

4.2 Membership.

A. Number of CAC Members - The CAC is comprised of up to twenty-one (21), and no less than eleven (11) CAC Members, representing a diverse segment of Palm Beach County's citizenry. CAC Members - Each TPA Governing Board Member may nominate one CAC Member via submittal of a written request to the TPA along with a concise summary of the nominee's credentials for consideration and approval by the TPA Governing Board. When nominating CAC Members, TPA Governing Board members shall ensure adequate representation for minorities, the elderly and the handicapped in accordance with F.S. 339.175, Section (6)(e)1. Additionally, TPA Governing Board member nominations shall promote representation for environmental issues, business interests, the construction and development industry, the freight and goods movements industry, and private transportation providers as well as the general public. All CAC Members shall be residents and electors of Palm Beach County. A CAC Member cannot be an elected official or directly employed by an elected official. No advisory committee member may serve on more than one advisory committee to the TPA Governing Board at any time. The TPA Governing Board shall have the authority to grant waivers to the CAC membership requirements.

B. Term Limits for CAC Members - CAC Members shall serve at the pleasure of the TPA Governing Board for a three (3)

⁵ §4.2 A., TPA Operating Procedures (adopted 2022).

⁶ *Id.*

⁷ *Id.*

⁸ §4.2 B., TPA Operating Procedures (adopted 2022).

⁹ §339.175(6)(e)1., Fla.Stat.

year term. CAC Members may be reappointed by the TPA Governing Board.

To assure that Messrs. Brown and Fagan may continue to serve on the CAC, there are two alternative approaches for dealing with the problem.

Approach number 1 requires that the Operating Procedures be amended to provide for two (2) at-large position. At-large members would be appointed by the Governing Board as a whole, would serve a three (3) year term but also serve at the pleasure of the Governing Board, and would be eligible for periodic re-appointment. The at-large positions would be permanent and would raise the number of CAC appointees.

Approach number 2 would require an amendment of the Operating Procedures that would grandfather two (2) at-large positions in for three (3) years from the date of adoption of the grandfathering position. Messrs. Brown and Fagan would, during the upcoming three (3) year period, need to find a Governing Board Member to sponsor them as a nominee to the CAC. At the end of three (3) years, the at-large positions would automatically be terminated, and all CAC members would be nominated by individual Governing Board Members.

PRG/mb

MEMORANDUM

TO: Chairman and Executive Committee Members; and
Valerie Neilson, Interim Executive Director

FROM: Paul Gougelman, TPA General Counsel

SUBJECT: Apportionment

DATE: June 26, 2022

BACKGROUND: At its last Executive Committee meeting, the members asked for a report on whether the TPA Governing Board could be expanded to 25 members.

ISSUES: Can the TPA Governing Board be expanded to 25 members? If so, what is the process, and what other factors should the TPA consider?

SHORT ANSWER: The TPA is authorized pursuant to Florida law to have up to 25 members. Membership is determined by agreement between the Governor and the “affected units of local government,” such as the county, municipalities, and the port. Expansion of the TPA Governing Board would allow up to four (4) additional Governing Board seats to be apportioned. This must include elected members of general purpose local governments, which includes both the county and various municipalities. Other aspects to be considered are the concept of alternate members and an alternating membership.

ANALYSIS: Metropolitan Planning Organizations (MPOs) were provided for by federal law in 1978.¹ As a result, the Florida Legislature created a statute to provide for the creation of MPOs in 1979.² According to Florida law at the time, MPO governing boards were to consist of between 5 and 15 members.³

An MPO with a Governing Board Member that Operates or Administers A Major Mode of Transportation: Florida law provides that “[a]n M.P.O. may include, as part of its

¹ §169, P.L. 95-599; 92 Stat. 2689, 2723-2724 (Nov. 6, 1978).

² §1, Chap.79-219, Laws of Fla. (see §334.215(2), Fla.Stat. (1979).

³ *Id.* The cap on the number of members was expanded to 18 members in 1987, §1, Chap. 87-61, Laws of Fla. (see §339.175(2)(a), Fla. Stat. (1987), and was further expanded to 19 members in 1993. See §60, Chap. 93-164, Laws of Fla.

apportioned voting members, a member of a statutorily authorized planning board, an official of an agency that operates or administers a major mode of transportation, or an official of Space Florida.” §339.175(3)(a), Fla.Stat. (emphasis supplied). The TPA contains such an appointee by virtue of an elected port commissioner serving on the board, representing ocean-going shipping, which is a major mode of transportation. Given that circumstances, another provision in Section 339.175(3)(a) is effective. The provision specified that “[c]ounty commissioners shall compose not less than 20 percent of the M.P.O. membership *if an official of an agency that operates or administers a major mode of transportation has been appointed to an M.P.O.*” §339.175(3)(a), Fla.Stat. (emphasis supplied).

A 25-Member TPA Governing Board: The cap on MPO membership was last increased to between 5 and 25 members in 2014.⁴ The legislative analysis for this legislation explained that:

Current law does not authorize more than 19 members on an MPO in cases when the MPO is redesignated [*sic*] as a result of the expansion of an MPO to include a new urbanized area or the consolidation of two or more MPOs, even if the membership is already at 19 members. For both multicounty and single-county MPOs, current law requires that county commission members compose not less than one-third of the MPO governing board membership

Proposed Changes: The bill amends s. 339.175, F.S., to: . . . Increase the maximum voting membership from 19 to 25 members, which may provide more flexibility when membership apportionment plans are revised based on updated census data and new or expanded urbanized area boundaries, and *could potentially benefit MPO consolidation*.

House of Representatives Final Bill Analysis HB-7175, at 14-15 (June 25, 2014)(emphasis supplied).

Anecdotally, I can supplement this analysis by explaining that FDOT staff hoped that this expansion of the membership cap would assist in encouraging various MPOs, especially the smaller MPOs, to merge. FDOT staff believed that the number of MPOs in Florida was creating somewhat of a logistical nightmare. The cap expansion did not create a movement for MPOs to merge. Also, the statute does not require MPO consolidation to approve a cap of 25 governing board members.

⁴ See §17, Chap. 2014-223, Laws of Fla.

The legislative analysis makes clear that the intent of the Legislature was to provide flexibility when an MPO's membership was to include reapportionment based on an updated census or based on the expansion of urban area boundaries.

Florida law provides that "the exact number [of MPO members shall be] determined on an equitable geographic-population ratio basis, based on an agreement among the affected units of general-purpose local government and the Governor," §339.175(3)(a), Fla.Stat.

Additional Members on the Governing Board: By expanding the membership to 25 members, the number of municipal members and county commission membership could be expanded. The membership would not be required to include additional county commissioners, given that at least 20% of the overall membership consists of county commissioners. 20% of the 25 members equals a minimum required of 5 county commissioners be members of the TPA Governing Board, which currently exists. §339.175(3)(a), Fla.Stat.⁵

Up to four additional municipal members could be included, or alternatively, a mix of additional county commissioners and municipal members could be added.

What is required is that the governing board membership must be comprised of *elected* officials of general-purpose local governments and *may* also be comprised of a member of a statutorily authorized planning board or an official⁶ of an agency that operates or administers a major mode of transportation.⁷ An elected official of a general-purpose

⁵ This provision seems to conflict with another sentence in Section 339.175(3)(a), Florida Statutes, which provides that "[w]ith the exception of instances in which all of the county commissioners in a single-county M.P.O. are members of the M.P.O. governing board, county commissioners shall compose at least one-third of the M.P.O. governing board membership." However, given that the sentence regarding appointment of a representative of a major mode of transportation is set forth later in the statute along with a requirement that a M.P.O. must have only 20% of its membership comprising county commissioners, it appears that the TPA is not required to place all of its county commissioners on the governing board. This point was raised by Deputy Director Andrew Uhler, and I think he makes a valid point.

⁶ A member of an airport authority or a port authority are the most obvious examples for representatives of a major modes of transportation serving on a M.P.O. governing board. For example, James Herston, who is a member of the Charlotte County Airport Authority serve on the Charlotte County-Punta Gorda M.P.O. Jerry Allender, a member of the Port Canaveral Port Authority, serves on the Space Coast TPO Governing Board. Adelee Le Grand, a member of the HART Board of Directors, Joe Lopano, the Chief Executive Officer of Tampa Aviation Authority, Port Director Paul Anderson of the Tampa Port Authority, Executive Director Greg Slaters of the Tampa-Hillsborough Expressway Authority, Commissioner Cody Powell of the Hillsborough Planning Commission, all serve as members of the Hillsborough MPO. The North Florida TPO Governing Board, includes Reba Ludlow, a member of the St. Augustine/St. Johns Airport Authority, Ari Jolly, a member of the Jacksonville Transportation Authority, Daniel Beach, a member of the Jacksonville Port Authority, Fernando Acosta-Rua, a member of the Jacksonville Aviation Authority, Mike Cole, a member of the Nassau County Ocean, Highway and Port Authority.

⁷ Federal law requires the operators or administrators of major modes of transportation to be on the MPO governing Board, if the MPO is a transportation management area or "TMA." 23 USC §134(d)(2)(B);

local government includes county commissioners and municipal council members but excludes constitutional officers, including sheriffs, tax collectors, supervisors of elections, property appraisers, clerks of the court, and similar types of officials. §339.175(3)(a), Fla.Stat.

Alternating Membership: As part of the process of considering Governing Board expansion and reapportionment, the TPA should also be aware of the concept of alternating members. Section 339.175(3)(a), Florida Statutes, provides that “[i]n accordance with 23 U.S.C. s. 134, the Governor may also allow M.P.O. members who represent municipalities to alternate with representatives from other municipalities within the metropolitan planning area which do not have members on the M.P.O.” For example, Westlake and Loxahatchee Grove could be added as a single membership on the Governing Board, and the membership could alternate between the two municipalities. To implement this concept, the Governor would have to agree to it as part of the reapportionment, and an interlocal agreement between Westlake and Loxahatchee Groves would need to be prepared.

Alternate Members: It is also important to note that any reapportionment plan should consider permitting alternate representatives, as is currently permitted for the TPA. Section 339.175(4)(a), Florida Statutes, provides that “[a]t the request of a majority of the affected units of general-purpose local government comprising an M.P.O., the Governor and a majority of units of general-purpose local government serving on an M.P.O. shall cooperatively agree upon and prescribe who may serve as an alternate member and a method for appointing alternate members, who may vote at any M.P.O. meeting that he or she attends in place of a regular member.”

The Process of Reapportionment: Reapportionment usually occurs at the time that the new decennial census is released. This is due to the statutory requirement in Section 339.175(3)(a), Florida Statutes, that an apportionment plan must be based “on an equitable geographic-population ratio basis, . . .” Thus, the FDOT should be approached regarding any proposed reapportionment plan.

Of course, as outlined by statute, the Governor must agree to the plan. However, in the event that the Governor does not agree, the TPA should be aware of Section

23 CFR 450.310(d)(1)(ii). A TMA is “an urbanized area with a population over 200,000, as defined by the Bureau of the Census and designated by the Secretary of Transportation, or any additional area where TMA designation is requested by the Governor and the MPO and designated by the Secretary of Transportation.” 23 CFR §450.104.

In cases when a major mode of transportation is operated by a county or municipality, a county commissioner or city council member represents both said member’s general purpose local government and the major mode of transportation. In Palm Beach County, since Palm Tran is a county operated entity, county commissioners are seen as representing that major mode of transportation. Another example would be the Melbourne-Orlando Airport Authority, which is an agency of the City of Melbourne. Thus, a Melbourne City Councilmember who sits on the Airport Authority wears two hats and represents both the city and the airport authority.

339.175(3)(c), Florida Statutes, which permits charter counties with over 1,000,000 people to reapportion itself. That statute provides:

(c) Any other provision of this section to the contrary notwithstanding, a chartered county with over 1 million population may elect to reapportion the membership of an M.P.O. whose jurisdiction is wholly within the county. The charter county may exercise the provisions of this paragraph if:

1. The M.P.O. approves the reapportionment plan by a three-fourths vote of its membership;
 2. The M.P.O. and the charter county determine that the reapportionment plan is needed to fulfill specific goals and policies applicable to that metropolitan planning area; and
 3. The charter county determines the reapportionment plan otherwise complies with all federal requirements pertaining to M.P.O. membership.
- Any charter county that elects to exercise the provisions of this paragraph shall notify the Governor in writing.

Notwithstanding the existence of this statute, I do recommend proceeding without use of this statute for the time being. Additionally, there are certain other provisions that I recommend be included in the interlocal agreement that implements the reapportionment plan. FDOT has always been a party to that interlocal agreement.

PRG/mb

pc: Andrew Uhlir, TPA Deputy Director
Margie Pierce, Executive Administrator