

AGENDA ITEM #2E  
June 23, 2009  
**Action**

**M E M O R A N D U M**

June 19, 2009

TO: County Council

FROM: <sup>GO</sup> Glenn Orlin, Deputy Council Staff Director

SUBJECT: **Action**—resolution to provide clarification regarding FY10 funds allocated to Takoma Park for bridge repairs

During its deliberations on the FY10 Operating Budget the Council placed \$168,000 on the Reconciliation List—and ultimately funded—a grant of \$168,000 to pay half the cost of the repairs to two bridges that are City of Takoma Park assets for which it is responsible to maintain: the Flower Avenue and Maple Avenue bridges over Sligo Creek. The intent expressed by the Council was that this was essentially a loan that the City would pay back to the County in installments according to terms that would be defined in a subsequent Memorandum of Understanding between the City and County.

On June 16 the Council introduced a resolution sponsored by Councilmembers Leventhal, Ervin, and Elrich that, if approved, would express the Council's intent that this be a grant without an obligation for the City to repay (©1).

The County Executive does not support this resolution (©2-3). He points to the increased fiscal burden, the costly precedent it would set, and the disproportionate hit the County is taking vis-à-vis Takoma Park and other municipalities with regard to Highway User Revenue (HUR).

**Council staff concurs with the Executive that this resolution should not be approved.** The Council's decision in May was a compromise between the Executive's initial position (which was not to fund the \$168,000) and an earlier recommendation by Councilmembers Ervin and Elrich, which was to fund half the repairs with certain conditions (see ©4, an excerpt from the May 5, 2009 Council worksession memorandum). The May decision preserved the notion that the County would not ultimately pay for a municipal maintenance responsibility, while helping Takoma Park fix the bridges in a timely fashion. In light of the new information regarding the relative HUR distributions from the State to the City and County, respectively, a long-term "loan" of \$168,000 from the County to the City is more than generous.

Resolution No.: \_\_\_\_\_  
Introduced: June 16, 2009  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: Councilmembers Leventhal, Ervin and Elrich

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**SUBJECT:** Clarification Regarding FY10 Funds Allocated to Takoma Park for Bridge Repairs

**Background**

1. On May 22, 2009, the County Council approved the capital and operating budgets for Fiscal Year 2010.
2. The operating budget for the Department of Transportation included a grant to the City of Takoma Park of \$168,000 for half the cost to repair two bridges, with the requirement that the City reimburse this amount to the County according to the terms in a subsequent Memorandum of Understanding to be developed between the City and County.
3. The City of Takoma Park requested County funding to repair its Maple Avenue and Flower Avenue bridges over Sligo Creek. The Flower Avenue bridge serves Sligo Creek Park, while the Maple Avenue bridge provides access to Sligo Creek Park as well as direct access to the Washington Adventist Hospital emergency room. Both bridges provide critical access to locations that fulfill important community needs.
4. The allocation was listed at line 47 of the FY10 Operating Budget Final Reconciliation List as, "Grant to Takoma Park for bridge repairs, to be reimbursed in the future."

**Action**

The County Council for Montgomery County, Maryland approves the following resolution:

The County Council states its intent that the funds of \$168,000 allocated to the City of Takoma Park in the FY10 Operating Budget now be granted without an obligation to repay the funds to the County.

This is a correct copy of Council action.

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Linda Lauer, Clerk of the Council



OFFICES OF THE COUNTY EXECUTIVE

Isiah Leggett  
County Executive

Timothy L. Firestine  
Chief Administrative Officer

MEMORANDUM

June 19, 2009

TO: Phil Andrews, President, County Council

FROM: Isiah Leggett, County Executive *Isiah Leggett*

SUBJECT: Resolution – Clarification Regarding FY10 Funds Allocated to Takoma Park for Bridge Repairs

This Tuesday, June 23, the County Council will be acting on a resolution that would begin amending the FY10 budget by absolving the City of Takoma Park for the obligation to repay Montgomery County for the costs of repairs to the Maple Avenue and Flower Avenue Bridges. The Council's action in approving the FY10 budget required a future reimbursement for the County's \$168,000 grant to the City. I do not support this action for several reasons.

1. It is not prudent to amend the FY10 budget in a manner that will increase the County's obligations and lower its future revenues even before FY10 begins.
2. By all indications in the economy, state revenue collections and mid year budget reductions, and our own fiscal forecasts, FY11 will be another very challenging budget year for Montgomery County. Now is not the time to increase this fiscal burden, even by \$168,000, by removing the reimbursement requirement from the City of Takoma Park.
3. As previously pointed out by Council Staff, this action could set a costly precedent since the County taxpayer is not responsible for these repairs and the County has not made them in the past (though we have offered our technical assistance). However, with this proposed resolution, it will be difficult to turn away future requests from Takoma Park or other municipalities for similar repairs since no justification has been offered as to why these particular costs should be borne by the County.
4. The State reduced the County's Highway User Revenues by over \$20 million in FY10 from the amount estimated in FY09. The reductions to the municipalities will be disproportionately smaller. For example, Takoma Park

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Phil Andrews, President, County Council

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will be receiving \$517,115 of Highway User Revenue in FY09, and will receive \$469,424 in FY10, a \$47,731 (9.2%) reduction. Montgomery County is receiving \$32,440,927 in FY09 and will receive \$9,677,001 in FY10, a \$22,763,926 (70.2%) reduction.

In closing, I urge the Council to stand by its decisions for the FY10 budget and to not support this resolution.

IL:jfb

copies:

Kathleen Boucher, Assistant Chief Administrative Officer

Joseph F. Beach, Director, Office of Management and Budget

Arthur Holmes, Director, Department of Transportation

5. **Takoma Park bridge repairs.** The City of Takoma Park has requested County funding to repair its Maple Avenue and Flower Avenue bridges over Sligo Creek. Its budget assumes that roughly half the \$335,000 cost of these repairs—\$168,000—would come from the County, although it has asked that the full amount be paid from the County's allocation of Federal stimulus funds. The City also notes that bridge repair is not included in the municipal tax duplication formula, and so it gets no credit for bearing this responsibility.

In February Councilmembers Ervin and Elrich proposed that the County fund up to 50% of the cost of repairing each bridge, and no more than \$84,000 per bridge, if the City provided the balance. If the City directly receives Federal stimulus funds, then it would have to be used towards the cost of these repairs before any of the County funds would be tapped. Therefore, the Ervin/Elrich proposal would allow for County funding of \$168,000 or less, depending on the circumstances (©18). The Executive Branch has responded that it will not make stimulus funds available for the repair of these bridges, noting the General Assembly's recent cuts in Highway User Revenue to the County were proportionately deeper than to the municipalities.

Not stated in the Executive's response is the precedent that would be set by using County funds to fix a City asset. County funds have been used periodically to help municipalities fund their capital improvements; examples in the past 15 years include two redevelopments in the Rockville Town Center and a garage in Gaithersburg, but not maintenance and repairs.

A relevant precedent is the CIP amendment for the Pinecrest Revitalization—Takoma Park in 1999. At that time the City asked the County for \$1.9 million to perform sidewalk, curb and gutter replacement as well as street resurfacing in the Pinecrest neighborhood of Takoma Park. This neighborhood had been annexed shortly before the unification referendum, but some of it had been within the City for decades. Many of the same issues pertaining to that request pertain to this case as well; see Council staff's analysis and recommendations on ©19-21. The Council ultimately decided to fund the improvements with a grant, but with the condition that the \$455,000 of improvements within the non-annexed area be reimbursed to the County under the provisions of a subsequent memorandum of understanding between the County and City (see the excerpt from the Council's April 13, 1999 minutes on ©22-24 and Resolution 14-99 on ©25-28).

This example is relevant because the Council distinguished between the work considered to be beyond the City's normal responsibility—upgrading the streets in a newly annexed area—from that which had always been the City's responsibility. The analogy is that the County could advance a portion of the funds to the City for the repair of these bridges, but it should expect a reimbursement over time.

**T&E Committee (and Council staff) recommendation (3-0): Add \$168,000 to the Reconciliation List for these bridges with the provisions proposed by Councilmembers Ervin and Elrich, and the added provision that before any of these funds are disbursed that an MOU between the City and County be executed specifying full reimbursement of these funds over time.** An example is for the City to reimburse the County 10% of the amount annually for 10 years, with the reimbursement in the form of a reduced annual municipal tax duplication payment to the City.