



The City of Takoma Park

Takoma Park City Council

7500 Maple Avenue, Takoma Park, MD 20912 301-891-7230

October 23, 2013

President Nancy Navarro
Chair, Government Operations Committee
Montgomery County Council
100 Maryland Avenue, Sixth Floor
Rockville, MD 20850

Re: Municipal Tax Duplication and Revenue Sharing

Dear President Navarro,

The City of Takoma Park has reviewed the Office of Legislative Oversight (OLO) Report Number 2013-6, Municipal Tax Duplication and Revenue Sharing in Montgomery County, Maryland. Our comments on the report are summarized in this letter, and are addressed in detail in the accompanying documents.

The City of Takoma Park's overall recommendation for an appropriate approach to municipal tax duplication is for Montgomery County to fully compensate municipalities for eligible services exclusively provided by a municipality at the amount that the County would have spent if it had provided the service. In addition, we recommend that other services jointly provided by municipalities and Montgomery County be eligible for financial support when a partnership approach helps meet County goals.

As the Government Operations Committee considers this issue and reviews the OLO Report, we ask that comments provided by the City of Takoma Park and the other municipalities be carefully considered. We look forward to discussing these matters in detail so there is full understanding of the implications of making changes to this program, especially to the more vulnerable members of the County in Takoma Park and nearby Silver Spring.

Regarding the OLO Report specifically, the City makes the following comments:

1. **Improper Focus on the Property Tax Portion of Municipal Tax Duplication**

The OLO staff recommendation to focus on the "property tax portion" of municipal tax duplication is the most problematic element of the OLO report. The report authors note that State municipal tax duplication law refers to property tax duplication and, if Montgomery County were to change County law and restrict

rebate payments to just the portion of County services paid for by County property tax, the County would only have to rebate 40% of the actual cost of those services. It is difficult for anyone to defend State law related to municipal tax duplication for the following reasons:

- different counties follow different rules;
- counties have multiple revenue generation options while municipalities have severely restricted options; and
- use of an arbitrary figure (17%) – in a separate, much earlier State law – for the percentage of county income taxes paid by municipal residents to be returned to the municipality.

To Montgomery County’s credit, County law was adopted to address municipal tax duplication in a fairer manner than State law does. County law directs the County Executive to determine what the County would have spent to provide a particular service and then, providing the County Council determines that funds are available, rebate that amount to the municipality that provided the service.

This approach is fair to both municipal and non-municipal residents. This approach recognizes that the County obtains revenue from County residents and property owners via a variety of taxes and fees and does not use just property tax funds to provide these services.

If the approach were changed to rebate just the “property tax portion” of duplicated services, the County could ensure that no revenue was returned to municipalities simply by directing that the County only spend the “income tax portion” of County revenue for duplicated services. There would then be no “property tax portion” to rebate.

2. **We Support Looking at Formulas Addressing Partnerships and Differences in Municipal Need**

Although State law does not require it, the OLO Report authors recommend looking at municipal need and the benefit of partnership in providing services to County residents. We support consideration of this approach. Many services provided by municipalities add value to the services provided by the County, both for municipal and non-municipal residents.

The City of Takoma Park has few wealthy residents but provides many services that help lower income residents in Takoma Park and Silver Spring. Services that Takoma Park does not exclusively provide but that benefit County residents include: youth and senior programs; general recreation programs; affordable housing counseling and services; library services; land use and transportation planning; and community and economic development services. These services help the County meet a number of important goals, especially in support of lower income residents.

3. There Should Be No Cap to Municipal Tax Duplication Payments

We do not support the idea that the County should cap the amount of municipal tax duplication funds at any pre-specified amount, with 40% of this (the “property tax portion”) provided by a formula and the remaining amount provided as “grants” for non-recurring services. Appropriate formulas should be adopted and then the County should pay that amount.

Under the County’s existing Municipal Tax Duplication law, the County Council already has the authority to set the upper limit of payments when approving the annual budget. We oppose the grant process because it creates additional uncertainty in the municipal budgeting process. Further, it incorrectly implies that these payments are a gift instead of appropriate compensation for services provided by municipalities. Finally, one-time grants meant for non-recurring services introduce significant funding instability to Takoma Park’s ability to provide vital long-term services to its residents.

It was noted in the Report that, if the current formulas were used in FY 13, the County would have had to pay out \$11.6 million to the municipalities for services being provided. Right now, municipal taxpayers are paying the \$11.6 million to Montgomery County and the County is keeping \$3.8 million for its own use instead of rebating it to the municipalities as required by County law. This amount is not a hardship for Montgomery County. Put in context, the total FY14 Montgomery County operating budget excluding schools is \$2.6 billion. The \$11.6 million is 0.004 of this amount.

4. Simple, easy-to-calculate formulas are important

We agree with the recommendation to use straightforward calculations. Such formulas allow for understanding and transparency over time and as personnel changes are made.

Some of the specific recommendations are flawed, however. For example, a per capita method to determine crossing guard or police staffing does not make sense. Crossing guards are stationed where needed due to levels of traffic, availability of sidewalks, and locations of schools. There are existing standards that identify when a crossing guard position is warranted, and those standards should continue to be used.

Another example concerns police payments. Police staffing is affected by geography, demographics, residential and commercial development patterns and the location of jurisdictional boundaries. Police staffing for Takoma Park would be comparable to the one used for the Silver Spring District if Montgomery County were responsible for policing Takoma Park. In fact, after meeting in 2007 and 2008 to devise a more accurate and easily computed police payment, the City of Takoma Park and Montgomery County tentatively agreed on an appropriate formula that was based on County police staffing for nearby Silver Spring. This agreement was awaiting County

legal review and then was unilaterally shelved by senior County officials without any communication or explanation. We continue to want to return to the table to finalize our Memorandum of Understanding.

It should be noted that the OLO Report contains many assertions about the history of the Takoma Park Municipal Tax Duplication for Police Services that are incorrect. Documents regarding this history are provided as an attachment, including a letter to County Executive Duncan dated March 22, 2004 summarizing a number of issues.

5. **Discussions with the Maryland-National Capital Park and Planning Commission (M-NCPPC) are needed regarding the recommendations of the OLO Report**

The OLO Report recommends substantial changes related to the Metropolitan District without addressing the impact on the M-NCPPC budget or many significant impacts on planning, zoning and park management that may be affected by a change. Discussions with M-NCPPC officials are needed to discuss the implications of the recommendations. No M-NCPPC representatives are listed as being consulted in the preparation of the report.

If the Metropolitan District were changed, the City of Takoma Park could not afford to take on management of the stream valley parks within its boundaries, nor would M-NCPPC want to lose these assets. Having Takoma Park take on planning and zoning authority would also have significant staffing and cost implications.

Takoma Park does feel that all Montgomery County municipal residents should contribute toward the maintenance of Countywide park resources, rather than just those residents within the Metropolitan District.

Similarly, the County should take into consideration the benefits non-municipal residents receive from the presence and use of municipally-owned parks and recreation facilities.

Conclusion

In sum, the OLO Report is a significant step forward in presenting the complex details of the municipal tax duplication issue. We support looking at the services the municipalities provide as part of a partnership of service to the County's residents. We also welcome a look at the revenue needs of municipalities and at the possibility of revenue sharing.

However, the major recommendation of changing Montgomery County law to only rebate the property tax portion of municipal tax duplication is deeply problematic given the limited authority of municipalities to raise revenue by means other than property tax and the flexibility of counties to use a variety of revenue sources to pay to provide services. Similarly, placing a cap on reimbursements has no merit other than to save the County money. Instead, fair and easy-to-compute formulas—for the amount the County would have spent if the County were providing the service—should be devised and then paid.

We look forward to working with the County Council and the County staff on assessing the recommendations of the OLO Report and preparing appropriate formulas for the various service areas.

Sincerely,



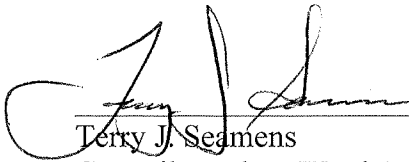
Seth Grimes
Councilmember, Ward 1



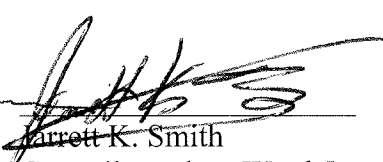
Tim Male
Councilmember, Ward 2



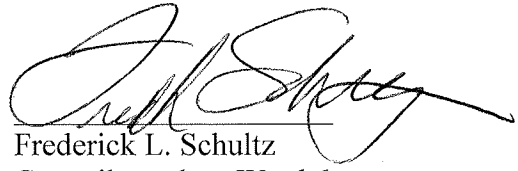
Kay Daniels-Cohen
Councilmember, Ward 3



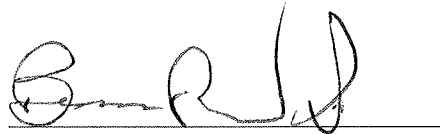
Terry J. Seamens
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Bruce R. Williams
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cc: County Executive Isiah Leggett
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