


COMMISSION AGENDA:

5.24.11 #27.a.

TO: The Honorable Chairman and Members of the
Board of County Commissioners

FROM: James L. Bennett, County Attorney 

SUBJECT: Authority to Advertise a Public Hearing on a Proposed Ordinance
Amending Chapter 90 of the Pinellas Code Relating to Community
Cultural Programs

DISTRIBUTION: Robert S. LaSala, County Administrator

DATE: May 24, 2011

RECOMMENDATION: I RECOMMEND THAT THE BOARD OF COUNTY COMMISSIONERS AUTHORIZE THE ADVERTISEMENT OF A PUBLIC HEARING ON A PROPOSED ORDINANCE AMENDING CHAPTER 90 OF THE PINELLAS COUNTY CODE RELATING TO COMMUNITY CULTURAL PROGRAMS.

DISCUSSION: The attached ordinance highlights proposed revisions to Chapter 90 of the Pinellas County Code reflecting the policy decisions made by the Board of County Commissioners relating to the administration of cultural programs in Pinellas County. The revisions include elimination of the Cultural Affairs Department and the Cultural Council, and designation of Creative Pinellas, Inc. as the local arts agency charged with administering cultural programs. Accordingly, I recommend that the Board of County Commissioners authorize the advertisement of a public hearing on this ordinance for Tuesday, June 14, 2011, at 9:30 a.m.

JLB:DRL:sme

Attachment

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ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF PINELLAS RELATING TO COMMUNITY CULTURAL PROGRAMS; AMENDING SECTION 90-141 OF THE PINELLAS COUNTY CODE RELATING TO PURPOSE; AMENDING SECTION 90-142 OF THE PINELLAS COUNTY CODE RELATING TO DEFINITIONS; AMENDING SECTION 90-143 OF THE PINELLAS COUNTY CODE RELATING TO THE DESIGNATION OF THE LOCAL ARTS AGENCY; REPEALING SECTION 90-144 OF THE PINELLAS COUNTY CODE, RENUMBERING AND AMENDING SECTION 90-145 OF THE PINELLAS COUNTY CODE RELATING TO CULTURAL PROGRAMS; RENUMBERING AND AMENDING SECTION 9-146 OF THE PINELLAS COUNTY CODE RELATING TO PUBLIC ART AND DESIGN; RENUMBERING SECTION 90-147 OF THE PINELLAS COUNTY CODE RELATING TO OWNERSHIP AND MAINTENANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR OTHER MODIFICATIONS THAT MAY ARISE FROM REVIEW OF THE ORDINANCE AT THE PUBLIC HEARING AND WITH RESPONSIBLE AUTHORITIES; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, in a meeting duly assembled this _____ day of _____, 2011, as follows:

SECTION 1. Sections 90-141, 90-142 and 90-143 are hereby amended, Section 90-144 is hereby repealed in its entirety, and Sections 90-145 and 90-146 are hereby renumbered to Section 90-144 and 90-145, respectively, and amended, all of the Pinellas County Code, as follows:

COMMUNITY CULTURAL PROGRAMS

Sec. 90-141. Purpose.

Pinellas County ("county") recognizes that arts, cultural, and heritage programs enhance the county's economic development and the quality of life for residents and visitors to the county. ~~Establishing a cultural affairs department, with oversight from the Pinellas County Cultural Council, constituted as a board of county government, Designating and supporting a local arts agency as defined in Section 265.283, Florida Statutes, will stimulate greater governmental and public awareness and appreciation of the importance of cultural development within the county, will encourage and facilitate greater and more efficient use of governmental and private resources to maximize opportunities for the development and support of the arts, encourage and facilitate opportunities for county residents to participate in cultural activities, provide an informational resource for artists, cultural organizations and the public, and promote cultural activities, events or organizations. Further, allocating funds to subject to annual funding, retaining a public art and design program as provided herein for art and artists' design services, and for the selection, acquisition and display of artworks will enhance the aesthetic quality of public and private buildings and spaces, and the county also encourages private developers to likewise set aside a percentage of construction or alteration costs for the purchase or commission of artwork in private developments.~~

Sec. 90-142. Definitions.

For the purpose of this article, the definitions contained in this section shall apply unless

otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in singular number include the plural.

Annual public art and design program shall mean an itemized and prioritized list of anticipated art projects including the objectives, design approach, budgets and scheduling for the upcoming year. The annual public art and design program shall be developed by the public art and design committee in consultation with county agencies and the ~~cultural council~~ local arts agency and shall be presented to the board of county commissioners for approval.

Arts and cultural programs include, but are not limited to, music, dance, theater, creative writing, literature, architecture, painting, sculpture, folk arts, photography, crafts, media arts, visual arts, programs of museums, and other such allied, major art forms.

Artwork shall mean works in a variety of media produced by professional visual artists, encompassing a broad range of expression, media and materials. Works may be permanent, temporary, or functional.

~~*Board shall mean the Board of County Commissioners of Pinellas County.*~~

Capital improvement project shall mean any facility or system funded for construction or renovation wholly or in part by the county, including buildings, parks, roads, bridges, or other above-ground project, but does not include major drainage, solid waste, emergency medical services, water or wastewater projects.

Committee shall mean the Public Arts and Design Committee.

~~*Council shall mean the Pinellas County Cultural Council established herein.*~~

County means Pinellas County, a political subdivision of the State of Florida.

~~*Cultural grant programs* shall mean annual grant programs established and/or administered by the local arts agency council with approval of the board of county commissioners and in accordance with the approved department budget to enhance the stability and development of both well-established and emerging tax exempt literary, visual arts and cultural organizations operating in the county; support professional development for and special projects and/or recognition of arts teachers and artists; and provide such other grants programs as established by the local arts agency~~ the council with approval of the board of county commissioners.

~~*Department* shall mean the department of cultural affairs.~~

Eligible construction costs shall mean the total capital project appropriation, including engineering and design, but excluding costs of incidental equipment, real property acquisition, and environmental remediation.

Local Arts Agency means the public or private nonprofit organization in Pinellas County operating on a permanent basis for the primary purpose of strengthening, supporting, and stabilizing the activities of one or more county art and cultural constituencies, as designated by the board of

county commissioners as provided in this article.

Public places shall mean all spaces owned by the county, indoor or outdoor, that are accessible and visible to the general public and located where residents and visitors live or congregate.

~~*Renovation* shall mean major redesign and remodeling of all or part of a facility or system which is included in the county's capital improvement budget, including expansion or significant change in use.~~

Sec. 90-143. Local Arts Agency Pinellas County Cultural Council.

(a) ~~*Establishment*~~Designation; appointment; qualification, organization.

(1) ~~*Establishment*~~Designation/Appointment. There is hereby established in and for the county a board to be known as the "Pinellas County Cultural Council." The council shall consist of 15 members. Fourteen members shall be appointed by the board. The chair of the board or any other commissioner designated by the chair shall also serve on the council and shall be appointed annually by the chair. Except for the county commission member, the term of each member shall be four years. Members may be appointed to successive terms. In filling any vacancy which occurs, other than the county commission member, the board shall select the replacement council member from a candidate submitted by the remaining members of the council. In the event that the candidate nominated is not approved by the board, the council shall submit another candidate for board consideration. This process shall continue until a suitable replacement has been appointed by the board to fill the existing or anticipated vacancy. The council shall adopt rules to notify the general public of any vacancy which occurs, or which is expected. The council shall consider suggestions or recommendations made by members of the public; representative civic and cultural associations; and groups concerned with encouraging the development and appreciation of the arts, before submitting candidates to the board of county commissioners. Creative Pinellas, Inc., a Florida nonprofit corporation, is designated and shall serve as the local arts agency in Pinellas County as defined in Section 265.283, Florida Statutes, and shall perform the duties as defined in subsection (b) herein. Creative Pinellas, Inc. shall serve as the local arts agency until another public or private nonprofit organization is designated to serve in that capacity by resolution of the board of county commissioners. The number, term, appointment, officers and replacement of directors or members of the Creative Pinellas, Inc., any other nonprofit organization, or the public organization designated as the local arts agency shall be as defined in the bylaws of the nonprofit organization, or the resolution, ordinance or statute establishing the public organization. The local arts agency shall adopt rules of procedure.

(2) *Qualification.* Each council member's of the local arts agency shall have the background, education and experience such as to that qualifies said member to carry out the duties and responsibilities vested in the local arts agency council. Council members shall be appointed from the county at large, and in such manner as to assure that the general arts needs of the people in the county may best be served. New members shall be charged with the responsibility of serving the best interests of the arts and cultural programs in the county, and no council member or director shall view his or her role as that of

representing any particular geographic area of the county, interest group, arts institution, community organization, or audience. No individual committed to, or owing allegiance to, any particular arts faction shall be eligible to serve on the council.

~~(3) — *Organization.* The council shall elect annually one of its members as the chair and one as vice chair and shall adopt rules and procedures for the conduct of its meetings. The council shall meet at least four times during the county's fiscal year.~~

~~(4) — *Compensation.* No council member may receive compensation for his or her services, but each member may be reimbursed in accordance with F.S. ch. 112, for actual expenses necessarily incurred in the performance of his or her duties.~~

~~(5) — *Removal.* Council members, other than the county commission member, may be removed by the council for cause, and continued and unexcused absence shall constitute a form of, but not limit, such cause for removal. The removed member's replacement shall be chosen as provided in subsection (a)(1). Removal shall only be accomplished by a two-thirds vote of the remaining council members.~~

(b) *Duties.* The duties of the ~~council~~ local arts agency shall include:

(1) Serving as the designated local arts agency for the county, as defined by the State Division of Cultural Affairs.~~Reviewing the proposed annual departmental budget developed by the director and making recommendations on the budget including, identification of funding sources, to the board of county commissioners.~~

(2) Establishing, awarding and administering cultural grants programs and financial and technical assistance programs for artists, cultural institutions, and arts teachers.

(3) Administering the public art and design program as provided by Agreement with the County plan with recommendations for works of art.~~Preparing an annual~~

(4) Reviewing, periodically, the Pinellas County Community Cultural Plan ("cultural plan"), including amendments thereto, and presenting the cultural plan making recommendations to the board of county commissioners for consideration, adoption and incorporation into the county's comprehensive plan.~~Developing a~~

(5) ~~Serving as the designated Local Arts Agency for the county, as defined by the State Division of Cultural Affairs.~~

~~(6) — Collecting, arranging, recording, preserving and disseminating aesthetic and cultural material and data, through the department.~~

~~(7)~~ Reviewing and recommending legislation to the board of county commissioners in relation to cultural matters.

~~(8)~~ Marketing or advertising arts and cultural programs and facilities.

~~(9)~~ Promoting an aesthetic and cultural environment in the community.

(109) Encouraging and facilitating greater and more efficient use of governmental and private resources for the development and support of the arts and cultural programs.

(110) Encouraging and facilitating opportunities for county residents to participate in cultural activities.

(112) Promoting the development of county artists, cultural institutions, community organizations sponsoring cultural activities, and audiences.

(123) Surveying and assessing the needs of the arts, artists, cultural institutions, community organizations sponsoring cultural activities, and people of the county relating to the arts.

(134) Supporting and facilitating the preservation and growth of Pinellas County's cultural resources.

(145) Otherwise serving the citizens of the county and state in the realm of the cultural matters.

(c) ~~Cultural affairs director.~~ The chair of the council or his or her designee shall participate in the selection process for the cultural affairs director, including participation in the interview of candidates with county staff, and making recommendations on candidates for the director position.

(d) ~~Transition provisions.~~ The initial members of the council shall be the members of the Pinellas County Arts Council, an independent special district created pursuant to F.S. § 265.32 ("district"), which has been dissolved as provided by resolution of the board of county commissioners, who shall serve on the council for the remainder of their respective terms on the district. Thereafter, vacancies shall be filled as provided in subsection (a)(1) herein. In support of the program transition from the county, Creative Pinellas, Inc. is hereby deemed to be the successor in interest to the county for the purposes of any grants or other arts or cultural program funding sources, as may be further specified in an agreement between the county and local arts agency.

~~Sec. 90-144.~~ Pinellas County Cultural Affairs Department.

~~There is hereby established a cultural affairs department that shall operate as a department of county government under the board. Until otherwise determined by the board, the department shall be a department within the culture, education and leisure bureau, and shall have such duties and responsibilities as provided in this division, and as otherwise assigned to the department.~~

Sec. 90-1445. Cultural grant programs.

Subject to available annual funding as provided in the department budget approved annually by the board, the council local arts agency shall establish and/or administer cultural grant programs to accomplish the duties provided herein, and to implement the goals of the cultural plan, as it determines to be necessary and appropriate:

(1) The local arts agency council shall adopt rules to determine eligibility, the

application process and award criteria, which shall be subject to approval by the board of county commissioners for any cultural grant programs funded by the county.

(2) The local arts agency council shall provide such notification of the availability of cultural grants in newspapers, trade journals, posting, and the departmental website, as determined by the council, which is designed to reach the widest audience of potential applicants for the available grants.

(3) The grant award decisions of the local arts agency council shall be final, unless otherwise provided by the grants program approved by the board.

(4) The cultural grants programs, including grant contracts as may be required by, and approved pursuant to, applicable local arts agency procedures, shall be administered by the local arts agency department.

Sec. 90-1456. Public art and design.

(a) Public Art and Design Trust-Funding. ~~There is hereby established~~ Subject to the availability of annual funding, a public art and design trust fund. ~~The trust fund shall be a separate account or accounts set up shall be established by the county to receive for monies appropriated by this article as well as gifts and grants of a monetary nature from other sources. All appropriations pursuant to this article shall be deposited by the county to this fund, to be held in trust for and inure to the use and benefit of the county, and said proceeds, together with the interest thereon, shall only be expended in accordance with the provisions of this article.~~

(1) Public art and design funds ~~The board shall approve the amount of monies disbursed from the fund be expended in accordance with the annual county-approved public art and design program. The~~ An annual program shall ~~may~~ be presented to the board of county commissioners outlining the projected art projects and associated costs for the upcoming year. The committee shall provide recommendations to the board of county commissioners for disbursement.

(2) ~~Monies from the fund~~ Funds may be used for artists' design services, the development of design concepts and models, for the selection, acquisition, installation, and exhibition of artworks.

(3) ~~The trust fund is intended to be a self-perpetuating fund, continuing from year to year unless specifically terminated by the board by amendment to this article.~~

(4) ~~At the time of approval of the initial budget or budget amendments for capital improvement projects, the board shall~~ may appropriate from the one percent local option infrastructure sales tax proceeds an amount up to one percent of the total eligible costs of the project or projects. ~~The appropriation shall apply to all capital improvement projects as defined above with the exception of the following:~~

(5) ~~Projects with budgets less than \$250,000.00 shall not be subject to the appropriation.~~
(i) ~~The appropriation shall not apply to county facility projects constructed with bond revenues or other revenues which contain covenants or resolutions prohibiting~~

~~such use of revenue.~~

~~(ii) — The basis for appropriation for the public art and design fund shall be the eligible construction costs budget for the project.~~

(b) Funds appropriated from the budget for one capital improvement project, but not deemed necessary or appropriate for that project, may be pooled with funds attributed to budgets for other projects and may be used for any art and design project in the county, subject to the annual art and design plan.

~~(c) Funds deposited or earmarked for the trust fund and not expended onr encumbered and approved projects that are not completed by the close of any fiscal year shall be carried over to subsequent fiscal years until the project is completed automatically for a period of three years, and by action of the board may be carried over for an additional two years. Funds still unexpended and unencumbered shall revert to the Capital Projects Fund from which appropriated. Funds from a restricted source shall follow the restriction attached thereto.~~

(d) *Public art and design committee.* The committee shall be appointed by the board of county commissionerseouncil to act in the public interest on all matters relating to this article, including, selection, operation, maintenance, administration, planning, education and curatorship of the public art and design program.

(1) *Membership.* The committee shall be composed of the following seven members provided that as the need arises, the committee may appoint others to provide expertise or otherwise represent a particular interest unique to a location or characteristic of an artwork.

(i) One member ~~selected~~ appointed by the board of county commissioners.

(ii) One member from the local arts agency~~cultural council~~.

(iii) Two members who are private citizens of the county with knowledge and appreciation for visual art.

(iv) Three members who are arts professionals.

(2) *Compensation.* Members of the committee shall serve without compensation.

~~(3) — Terms/Organization. The terms of the committee members and the organizational requirements shall be established by the council, with the approval by the board.~~

(e) *Terms.*

~~(1) Initially, m~~Members shall serve four-year terms in staggered terms to retain experience among the committee members. ~~The arts council shall appoint the original members to serve in the following terms:~~

~~(i) — Three members shall be appointed for a four-year term.~~

~~(ii) — Two members shall be appointed for a three-year term.~~

~~(iii) — Two members shall be appointed for a two-year term.~~

(2) ~~Thereafter, appointments shall be made for a term of three years and n~~No member shall serve for more than two full terms, plus the remaining portion of the prior member's

term if the member has been appointed to fill the unexpired term of a prior member.

(3) Any member who consistently fails to attend meetings without prior approval of the chair shall be removed and a new member shall be appointed to complete the term.

(f) *Responsibilities.*

(1) Subject to the availability of annual funding, ~~The~~ committee shall prepare and present ~~an annual~~ public art and design program to the board of county commissioners for the purpose of establishing an itemized and prioritized list of anticipated art projects. The committee shall also prepare and present recommendations to the board of county commissioners, whenever appropriate, in any matter relating to the public art and design program ~~disbursement of the trust fund~~.

(2) The committee shall prepare implementation guidelines, selection procedures and organizational policies to facilitate this article, and to govern the manner and method of submission of proposed artworks to the committee, subject to approval by the board of county commissioners.

(3) The committee ~~shall~~ may act as a liaison with private developers to encourage and facilitate private contributions, and private art installations within corporate construction and alternation projects.

(4) The committee ~~shall~~ may advise and inform the board of acquisitions, installations, and temporary displays of artworks and other public art activities.

(5) The committee ~~shall~~ may identify appropriate projects or spaces to locate or display artworks. Funds appropriated against a particular project may be used to locate art at the same project or may be pooled ~~into the trust fund~~ for use elsewhere, if permitted by the funding source.

(6) The committee ~~shall~~ may coordinate, investigate and recommend other means by which artworks may be obtained, including donations to the trust fund, gifts and loans of artwork to the county, creation of additional ~~non-profit~~ nonprofit organizations, and grant applications.

(7) The committee ~~shall~~ may educate and stimulate the participation of all citizens in a joint public and private effort to promote the public art and design program.

(8) The committee shall work closely with the ~~council~~ local arts agency to assure an overall consistency in the public art and design program.

(9) The committee shall receive recommendations from county staff as to appropriate locations for artworks and shall consult with the architect or the project manager of the county project for which an artwork is proposed.

(g) *Organization; selection of chair.*

(1) Immediately after the appointment of the first committee members, the committee shall organize by electing one of its members as chair. The chair's terms shall be decided by the committee. In the event the chair's position becomes vacant, a new chair shall be elected by the committee immediately after such vacancy is filled.

(2) The presence of four members shall constitute a quorum.

(h) *Procedures.*

(1) The committee shall meet as necessary to fulfill its duties herein~~at least four times a year~~, and may adopt rules for governing the conduct of its affairs.

(2) All meetings shall be open to the public and minutes kept including the vote of each committee member.

(i) *Selection process.*

(1) The committee shall select and acquire works of art of the highest quality and which are consistent with the ~~annual~~ public art and design program work plan as approved by the board of county commissioners.

(2) The committee shall select and acquire artworks that are appropriate in scale, material, form and content for the general, social and physical environment with which they are to relate.

Sec. 90-1467. Ownership and maintenance.

(a) *Ownership.* Ownership of all artworks acquired by the county shall be vested in the county, and the county shall hold title to each, unless the board of county commissioners waives this requirement.

(b) *Maintenance.*

(1) All artworks shall be required to be accompanied by detailed instructions for maintenance and ongoing care, including annual maintenance cost projections.

(2) Funds for ongoing maintenance shall be designated annually by the board of county commissioners in accordance with the annual public art and design program.

SECTION 3. *Severability.*

If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 4. *Inclusion in the Pinellas County Code.*

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

SECTION 5. Amendment of Proposed Ordinance at Public Hearing.

Any section, subsection, sentence, clause, phrase, or provision of this Ordinance as proposed be amended, added, or deleted by majority vote of the Board of County Commissioners as a result of matters raised at the public hearing or in consultation with responsible authorities, and in such event, the amendments, additions or deletions shall be validly adopted without additional advertisement or hearing.

SECTION 6. Filing of Ordinance; Effective Date.

Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after the enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the Ordinance with the Department of State.