

3.12.13 #17

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

FROM: James L. Bennett, County Attorney

*JLB*

SUBJECT: Authority to Advertise a Public Hearing on a Proposed Ordinance Amending  
Section 138-111 of the Pinellas County Code Relating to Board of Adjustment  
Members Term Lengths

DATE: March 12, 2013

RECOMMENDATION: I RECOMMEND THAT THE BOARD OF COUNTY COMMISSIONERS AUTHORIZE THE ADVERTISEMENT OF A PUBLIC HEARING ON A PROPOSED ORDINANCE AMENDING SECTION 138-111 OF THE PINELLAS COUNTY CODE RELATING TO THE LENGTH OF TERM FOR BOARD OF ADJUSTMENT MEMBERS.

DISCUSSION: The attached proposed ordinance amends section 138-111, Pinellas County Code. Currently, the ordinance reads that each County Commissioner nominates, and the Board as a whole, appoints members to the Board of Adjustment. The ordinance currently provides that the terms last for two years, concurrent with the term of the "appointing commissioner." This language causes two problems. First, the terms of Commissioners are for four years, not two. Secondly, the Commissioners do not appoint but nominate the Board of Adjustment members for appointment by the full Board of Commissioners. The proposed amendment reconciles these inconsistencies by changing the terms of members of the Board of Adjustment to a period of up to four years, concurrent with the "nominating commissioner."

Accordingly, I recommend that the Board of County Commissioners authorize the advertisement of a public hearing on the proposed ordinance on April 9, 2013, at 9:30 a.m. A highlighted copy showing the amendment is also attached hereto.

JLB:JCE:gm

Attachments

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## ORDINANCE NO. 13-\_\_\_\_

AN ORDINANCE OF THE COUNTY OF PINELLAS, AMENDING THE PINELLAS COUNTY CODE; AMENDING SECTION 138-111 PROVIDING FOR A CHANGE IN THE TERM LENGTH FOR MEMBERS OF THE BOARD OF ADJUSTMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR AMENDMENTS THAT MAY ARISE AT PUBLIC HEARING.

**WHEREAS**, the Board of County Commissioners previously enacted section 138-111, Pinellas County Code; and

**WHEREAS**, section 138-111(b) includes a conflict in the terms of office for members of the Board of Adjustment in which the length of the term is not equal to the length of the term of the concurrent Commission members; and

**WHEREAS**, the individual Commission members nominate the members to the Board of Adjustment, as opposed to appointing them; and

**WHEREAS**, this amendment acts to clarify those stated inconsistencies; and

**WHEREAS**, the resolution of said conflict requires a modification to the terms of office.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, in a meeting duly assembled this \_\_\_\_\_ day \_\_\_\_\_ of 2013, that:

### **Section 1. Section 138-111(b) is amended to read as follows:**

#### **Sec. 138-111 – Establishment; composition; terms; application fees.**

- (b) *Composition; term; salary.* The board of adjustment shall be composed of seven members, one each nominated by each member of the board of county commissioners and appointed by the board of county commissioners. The term of office shall be up to four ~~two~~ years and shall run concurrently with the term of the nominating ~~appointing~~ commissioner. Members of the board of adjustment shall be paid a salary as deemed appropriate by the board of county commissioners.

### **Section 2. 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 3. Inclusion in the Pinellas County Code.**

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

**Section 4. 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 enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the Ordinance with the Department of State.

## **ORDINANCE NO. 13-\_\_\_\_\_**

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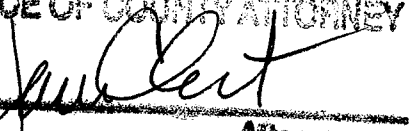
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APPROVED AS TO FORM  
OFFICE OF COUNTY ATTORNEY

By



Attorney