



**BOARD OF COUNTY COMMISSIONERS**

**DATE:** April 21, 2015

**AGENDA ITEM NO.** 16

**Consent Agenda** ☐

**Regular Agenda** ☒

**Public Hearing** ☐

**County Administrator's Signature:**

**Subject:**

Approval of Authority to Advertise a Public Hearing Regarding Proposed Revisions to the Pinellas County Code Applicable to the Housing Finance Authority (HFA).

**Department:**

Planning Department

**Staff Member Responsible:**

Gordon Beardslee, Director  
Kathryn Driver, Executive Director, HFA

**Recommended Action:**

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS (BOARD) AUTHORIZE ADVERTISEMENT OF A PUBLIC HEARING TO BE HELD ON MAY 5, 2015 TO CONSIDER ADOPTION OF THE ATTACHED ORDINANCE AMENDING SECTIONS OF THE PINELLAS COUNTY CODE (CODE) APPLICABLE TO THE HFA.

**Summary Explanation/Background:**

The proposed ordinance formalizes the HFA reporting requirements and revises the code to conform to applicable state laws. The ordinance creating the HFA makes clear the Board may, at its sole discretion, alter or change the structure, organization, programs or activities of the HFA, subject to certain limitations not applicable to these proposed changes.

The HFA was created by the Board pursuant to its powers under Florida Statutes Chapter 159 in 1982. The County provided administrative support for the HFA until April 1, 2014, when an amendment terminating the administrative services agreement was approved by the Board.

**Fiscal Impact/Cost/Revenue Summary:**

N/A

**Exhibits/Attachments Attached:**

Proposed Ordinance  
Proposed Ordinance - Redline Version

## **ORDINANCE NO. 15-\_\_\_\_\_**

AN ORDINANCE OF THE COUNTY OF PINELLAS, PROVIDING THAT THE PINELLAS COUNTY CODE BE REVISED BY AMENDING SECTION 2-387 TO CONFORM DEFINITIONS TO CHANGES TO STATE LAW; AMENDING SECTION 2-390 OF THE PINELLAS COUNTY CODE RELATING TO THE MEMBERS, EMPLOYEES, DUTIES AND COMPENSATION OF THE HOUSING FINANCE AUTHORITY; AMENDING SECTION 2-398 OF THE PINELLAS COUNTY CODE TO REMOVE INAPPLICABLE STATE LAW REFERENCE AND ADD AN ADDITIONAL EXCEPTION TO ALLOW NEGOTIATED SALE OF BONDS UNDER CERTAIN CONDITIONS; AMENDING SUBSECTION (8) OF SECTION 2-393 OF THE PINELLAS COUNTY CODE TO CONFORM WITH POWERS GRANTED PURSUANT TO STATUTE; AMENDING SUBSECTION (12) OF SECTION 2-393 OF THE PINELLAS COUNTY CODE TO CONFORM WITH POWERS GRANTED PURSUANT TO STATUTE; PROVIDING FOR INCLUSION IN THE PINELLAS COUNTY CODE; PROVIDING FOR OTHER MODIFICATIONS THAT MAY ARISE FROM REVIEW OF THE ORDINANCE AT THE PUBLIC HEARING AND WITH RESPONSIBLE AUTHORITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Housing Finance Authority (HFA) was created by the Board of County Commissioners (Board) pursuant to its powers under Florida Statutes Chapter 159 in 1982; and

**WHEREAS**, the County has provided administrative support for the HFA from that time until April of 2014 which allowed the County access to information concerning the HFA's actions and the status of HFA programs; and

**WHEREAS**, the ordinance creating the HFA makes clear that the Board may, at its sole discretion, alter or change the structure, organization, programs or activities of the HFA, subject to certain limitations not applicable to these proposed changes; and

**WHEREAS**, now that the HFA will be handling its own administrative services, the Board desires to formalize its expectations of certain reporting requirements on the HFA.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Pinellas County, Florida:

### **Section 1.**

The definition of "Qualifying housing development" within Section 2-387 of the Pinellas County Code is hereby amended to add subsections (1) and (2) to read as follows:

## **Sec. 2-387. Definitions.**

*Qualifying housing development* means any work or improvement located or to be located in the state, including real property, buildings, and any real and personal property, designed or intended for the primary purpose of providing decent, safe and sanitary residential housing for four or more families, at least 60 percent of whom are eligible persons, whether new construction, the acquisition of existing residential housing, or the remodeling, improvement, rehabilitation or reconstruction of existing housing, together with such related nonhousing facilities as the authority determines to be necessary, convenient or desirable.

(1) The term “qualifying housing development” includes a housing development that meets the definition of a “qualified low-income housing project” under s. 42(g) of the Internal Revenue Code, regardless of whether such development meets the 60-percent eligible persons requirement under this subsection.

(2) The exception provided under paragraph (1) applies to all housing developments meeting the federal definition for “qualified low-income housing project” as well as all developments that previously qualified under the state definition for “qualifying housing development.” The authority may enter into regulatory agreement amendments as necessary to accommodate housing developments that qualify under paragraph (1).

## **Section 2.**

Section 2-390 of the Pinellas County Code is hereby amended to add a new subsection (d) to read as follows:

## **Sec. 2-390. Members, employees; duties and compensation.**

(d) The housing finance authority shall make periodic reports and appearances before the board of county commissioners, in substantially the following manner:

(1) At least quarterly, submit a written report containing at least the following information:

a. Single Family and Multi-Family Bond Issues including but not limited to dates of TEFRA hearings, all bond parties, amounts, covenants and terms;

b. Federal grant program activity, including but not limited to, grant administration activity, expenditures, program income, and project updates;

c. Contractual arrangements, or modifications to contracts, with other entities, including but not limited to local governmental jurisdictions; 501(c)3 non-profit organizations; other Housing Finance Authorities; or other funding entities

d. Updated financial records and instruments relating to all activities including but not limited to expenditures; income and disbursements;

creation, modification or assignments of instruments or mortgages; creation, elimination or modification of land trusts, including but not limited to the transfer of property to or from a trust, or changes to trustees or beneficiaries.

(2) Not less than annually, appear through its chair or executive director before the board of county commissioners to present and answer questions relating to the annual report (which may be combined with one of the written quarterly reports required above) which shall include in addition to the matters covered in each quarterly report the following:

- a. Certified Financial Audits of the housing finance authority, which shall include appropriate footnotes or other disclosures of any and all trusts established by the housing finance authority;
- b. Housing trust fund monitoring reports of local jurisdictions including Pinellas County, City of St. Petersburg, City of Clearwater, and City of Largo;
- c. Certified Financial Audits of all trustees of all land trusts created by the housing finance authority;
- d. Certified Financial Audits of all direct named beneficiaries of all land trusts created by the housing finance authority.

### **Section 3.**

Subsection (8) of Section 2-393 of the Pinellas County Code is hereby amended to conform with the powers granted pursuant to statute to read as follows:

#### **Sec. 2-393. Powers.**

(8) To make loans directly to eligible persons or families who otherwise cannot borrow from conventional lending sources. Such loans must be secured by either first mortgages or subordinated mortgages and must be used to purchase, construct, rehabilitate or refinance single-family residences that have purchase prices that do not exceed the purchase price limits of the county where the borrower's residence is to be located, as mandated by federal law for tax-exempt single-family bond programs.

### **Section 4.**

Subsection (12) of Section 2-393 of the Pinellas County Code is hereby amended to conform with the powers granted pursuant to statute to read as follows:

#### **Sec. 2-393. Powers.**

(12) To do anything necessary or appropriate to further the purpose for which a housing finance authority is established, pursuant to F.S. § 159.602, including, as further described in F.S. § 159.8075, the power to issue mortgage credit certificates to the extent

allocation is available for that purpose to qualifying individuals in lieu of issuing qualified mortgage bonds pursuant to ss. 25, 143, and 146 of the Internal Revenue Code of 1986, as amended, or a combination of the two. Mortgage credit certificates may not be issued on December 30 or December 31 of any year.

## **Section 5.**

Section 2-398 of the Pinellas County Code is hereby amended to read as follows:

### **Sec. 2-398. Form and sale of bonds.**

(a) Bonds of the housing finance authority issued pursuant to this division shall be authorized by a resolution of the housing finance authority and may be issued in one or more series and shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed by such members of the housing finance authority and in such manner, be payable in such means of payment at such places, and be subject to such terms of redemption, with or without premiums, as such resolution or trust indenture entered into pursuant to such resolution may provide.

(b) The bonds issued by the housing finance authority shall be sold by the authority at public sale substantially in the manner provided by F.S. § 215.68(5)(b) and (c), unless otherwise approved by the state board of administration; provided, that such requirement shall be deemed waived if:

(1) The state board of administration has not responded in writing within 30 days from the date of application; or

(2) The bonds are rated by at least one nationally recognized rating service in any one of the three highest classifications approved by the comptroller of the currency for the investment of funds of national banks; an appropriate certification and opinion of counsel pursuant to the applicable arbitrage regulations under section 103(c) of the Internal Revenue Code or delivered simultaneously with the delivery of the bonds; and the official statement issued in connection with the sale of the bonds has been filed with the state board of administration prior to the closing; or

(3) The financial advisor to the Authority determines and recommends that the bonds should be issued pursuant to a negotiated sale, the resolution authorizing the negotiated sale provides specific findings as to the reasons requiring the negotiated sale, which may be the same resolution authorizing the sale of the bonds and the issuance of the bonds is approved pursuant to Sec. 2-399.

(c) If an offer of an issue of bonds at public sale produces no bid, or if all bids received are rejected, the authority is authorized to negotiate for the sale of such bonds under such rates and terms as are acceptable; provided, however, that no such bonds shall be sold or delivered on terms less favorable than the terms contained in any bids rejected at the public sale thereof, or the terms contained in the notice of public sale if no bids

were received at such public sale.

(d) If any member of the housing finance authority whose signature appears on the bonds or coupons shall cease to be a member before the delivery of the bonds or coupons, such bonds shall, nevertheless, be valid and sufficient for all purposes, the same as if such member had remained in office until such delivery. Any provision of law to the contract notwithstanding, any bonds issued pursuant to this division shall be fully negotiable.

(e) Pursuant to F.S. ch. 159, pt. IV (F.S. § 159.601 et seq.), in any suit, action or proceeding involving the validity or enforceability of any bond of the housing finance authority or the security therefore issued pursuant thereto, any such bond reciting in substance that it has been issued by the housing finance authority to assist in providing financing of a qualifying housing development to alleviate the shortage of housing in its area of operation shall be conclusively deemed to have been issued for a qualifying housing development of such character.

#### **Section 6. 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 7. 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 8. Filing of Ordinance; Effective Date.**

Pursuant to Section 125.66, *Fla. Stat.*, 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.

APPROVED AS TO FORM  
OFFICE OF THE COUNTY ATTORNEY

By: 

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#### **Sec. 2-393. Powers.**

(8) To make loans directly to eligible persons or families who otherwise cannot borrow from conventional lending sources, and whose annual income does not exceed 80 percent of the median income based on a family of up to four persons for the county in which they seek to purchase a residence. The housing finance authority may adjust the annual income requirements for families of greater than four persons. Such loans must be secured by either first mortgages or subordinated mortgages and must be used to purchase, construct, rehabilitate or refinance single-family residences; however, that have purchase prices that do not exceed the purchase price of any residence financed through such a loan may not exceed 90 percent of the median sales price for single-family homes in limits of the county where the borrower's residence is to be located, as mandated by federal law for tax-exempt single-family bond programs.

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(b) The bonds issued by the housing finance authority shall be sold by the authority at public sale substantially in the manner provided by F.S. § 215.68(5)(b) and (c), unless otherwise approved by the state board of administration; provided, that such requirement shall be deemed waived if:

(1) The state board of administration has not responded in writing within 30 days from the date of application; or

(2) The bonds are rated by at least one nationally recognized rating service in any one of the three highest classifications approved by the comptroller of the currency for the investment of funds of national banks; an appropriate certification and opinion of counsel pursuant to the applicable arbitrage regulations under section 103(c) of the Internal Revenue Code or delivered simultaneously with the delivery of the bonds; and the official statement issued in connection with the sale of the bonds has been filed with the state board of administration prior to the closing; or

(3) The financial advisor to the Authority determines and recommends that the bonds should be issued pursuant to a negotiated sale, the resolution authorizing the negotiated sale provides specific findings as to the reasons requiring the negotiated sale, which may be the same resolution authorizing the sale of the bonds and the issuance of the bonds is approved pursuant to Sec. 2-399.

(c) If an offer of an issue of bonds at public sale produces no bid, or if all bids received are rejected, the authority is authorized to negotiate for the sale of such bonds under such rates and terms as are acceptable; provided, however, that no such bonds shall be sold or delivered on terms less favorable than the terms contained in any bids rejected at the public sale thereof, or the terms contained in the notice of public sale if no bids were received at such public sale.

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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.

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#### **Section 8. Filing of Ordinance; Effective Date.**

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