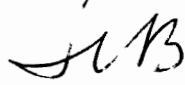


**COMMISSION AGENDA:**

9.27.11 #42.

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

FROM: James L. Bennett, County Attorney 

SUBJECT: Public Hearing on Properties of Countywide Importance

DATE: September 27, 2011

RECOMMENDATION: I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS APPROVE THE ATTACHED ORDINANCE AFTER TAKING COMMENTS AT PUBLIC HEARING.

DISCUSSION: The Pinellas County Charter provides in Section 2.04 for special powers of the County when directly concerned with the furnishing of services and regulatory authority in certain specifically enumerated areas. These areas relate to those services that have traditionally been handled on a countywide basis, such as the countywide park system or animal control. Consistent with Article VIII, Section (1)(g) of the Florida Constitution, the Pinellas County Charter provides that when concerned with the provision of these services and regulatory authority, County ordinances shall prevail over municipal ordinances in the event of a conflict. To support these various countywide activities, the County owns and/or operates numerous facilities throughout Pinellas County, many of which are located within a municipality, such as the various courthouses or many county parks. The authority granted the County by its charter allows for the efficient and consistent development and operation of these facilities by vesting regulatory control over them in the County. The attached ordinance is intended to formalize this grant of authority and clarify those County-owned and County-managed facilities for which it intends to exercise exclusive local regulatory authority and control

The Local Planning Agency (LPA) reviewed this ordinance at its September 8, 2011 meeting and recommended its approval. The LPA report is attached. This is the first of two public hearings before the Board of County Commissioners. The second hearing at which the Board will take final action on this ordinance will take place on October 11, 2011.

JLB:JWC:tsr

Attachments: Ordinance  
LPA Report

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNTY OF PINELLAS IMPLEMENTING COUNTYWIDE AUTHORITY TO OPERATE, MAINTAIN, DEVELOP AND CONTROL CERTAIN COUNTY PROPERTIES DENOMINATED AS PROPERTIES OF COUNTYWIDE IMPORTANCE; PROVIDING LEGISLATIVE FINDINGS; DESIGNATING PROPERTIES OF COUNTYWIDE IMPORTANCE; PROVIDING FOR COUNTY REGULATION AND CONTROL; PROVIDING FOR INTERGOVERNMENTAL COORDINATION; PROVIDING FOR AREAS EMBRACED; PROVIDING SEVERABILITY; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR OTHER MODIFICATIONS THAT MAY ARISE FROM REVIEW OF THE ORDINANCE AT PUBLIC HEARING AND WITH RESPONSIBLE AUTHORITIES

WHEREAS, “Properties of Countywide Importance” herein refers to county-owned properties, or properties affiliated with county-owned properties, that contain facilities that have a countywide benefit and/or are operated under the charter powers of the County; and

WHEREAS, the operation, regulation, management and protection of Properties of Countywide Importance is best achieved at the county level to ensure consistency among such properties and should not be constrained by varying municipal regulations or fees.

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of Pinellas County:

SECTION 1. Legislative Findings

1.1 The Florida Constitution, Article VIII, Section 1(g) provides that the charter of charter counties “shall provide which shall prevail in the event of conflict between county and municipal ordinances”; and

1.2 Section 2.04 of the Pinellas County Charter, s. 1, as adopted by the Florida Legislature and approved by a vote of the Pinellas County electorate on October 7, 1980, as amended (“Charter”), provides for all special and necessary powers of the County to provide certain enumerated services and regulatory authority; and

1.3 Section 2.04 of the Charter provides, “when directly concerned with the furnishing of the services and regulatory authority [in certain specifically enumerated areas], county ordinances shall prevail over municipal ordinances when in conflict”; and

1.4 Section 2.04 of the Charter provides for countywide control over the development and operation of county facilities and properties that relate to the provision of the following governmental services:

- (a) Development and operation of 911 emergency communication system.
- (b) Development and operation of solid waste disposal facilities, exclusive of municipal collection systems.

- (c) Development and operation of regional sewage treatment facilities in accordance with federal law, state law, and existing or future interlocal agreements, exclusive of municipal sewage systems.
- (d) Acquisition, development and control of county-owned parks, buildings, and other county-owned property.
- (e) Development and operation of public health or welfare services or facilities in Pinellas County.
- (f) Operation, development and control of the St. Petersburg-Clearwater International Airport.
- (g) Design, construction and maintenance of major drainage systems.
- (h) Design, construction and maintenance of county roads in accordance with law.
- (i) Implementation of animal control regulations and programs.
- (j) Development and implementation of civil preparedness programs.
- (k) Production and distribution of water, exclusive of municipal water systems and in accordance with existing and future interlocal agreements.
- (l) All coordination and delivery of municipal services in the unincorporated areas of the county.

1.5 The Local Government Comprehensive Planning and Land Development Regulation Act (“Act”), specifically Section 163.3171, Florida Statutes, reserves to charter counties authority for planning and land development regulation to the extent provided for in the county charter; and

1.6 In order to limit any disruptive effects of a County exercise of this charter authority, the County herein enumerates those properties of countywide importance it wishes to preemptively regulate and leaves other County-owned or County- managed facilities to County regulation by interlocal agreement, where appropriate, or as otherwise provided by law.

SECTION 2. Properties of Countywide Importance. Following is a listing of Properties of Countywide Importance that shall be governed by this ordinance:

- (a) Emergency Communications Center and associated satellite facilities including communications towers.
- (b) Resource Recovery Facility and all County solid waste disposal properties.
- (c) Sewer facilities, including but not limited to, the South Cross Bayou Reclamation Facility and the W. E. Dunn Water Reclamation Facility.

- (d) County parks, preserves and management areas.
- (e) Countywide social services/health services facilities.
- (f) St. Petersburg-Clearwater International Airport, which includes all properties owned and/or managed by Pinellas County for aviation purposes and that are leased for non-aviation purposes, and also includes the Army Reserve Aviation Training Center and the U.S. Coast Guard properties.
- (g) Major drainage systems and associated water quality projects owned or operated, in whole or in part, by the County.
- (h) County rights-of-way, including ancillary facilities, traffic control and highway maintenance facilities.
- (i) Animal Services.
- (j) Multi-jurisdictional water facilities, including but not limited to, the S. K. Keller Water Treatment Facility and the Eldridge-Wilde Wellfield.
- (k) Public safety facilities, including emergency operations centers and emergency shelters.
- (l) Emergency Medical Services Facilities.
- (m) Government facilities that support other county functions, including constitutional and court-related activities, including but not limited to the Clearwater Courthouse, St. Petersburg Judicial and 501 buildings, Criminal Justice Center, County Correctional Facilities and Juvenile Detention Center, offices of the Supervisor of Elections, Tax Collector, Clerk of the Circuit Court, Property Appraiser and Sheriff.

SECTION 3. County Regulation and Control The development, regulation and use of Properties of Countywide Importance shall be governed by County ordinances, permits and approvals, and except as otherwise provided herein, municipal ordinances shall not control or regulate the development or use of Properties of Countywide Importance, unless otherwise agreed to by the County. All permits or approvals for development, as that term is defined in Sections 163.3164 and 380.04, Florida Statutes, except for placement of an actual zoning or future land use designation on a particular parcel, that are related to Properties of Countywide Importance shall be reviewed, issued, and enforced by the County.

SECTION 4. Intergovernmental Coordination In order to coordinate consideration of the particular effects of County regulation of Properties of Countywide Importance as provided herein upon the development and community character of affected municipalities, the County shall notify effected municipalities of development plans, and provide copies of County permits and approvals, as well as comply with any processes agreed to pursuant to interlocal agreement.

SECTION 5. Areas Embraced Pursuant to Sections 2.01 and 2.04 of the Pinellas County

Charter, this ordinance shall be effective within the boundaries of Pinellas County.

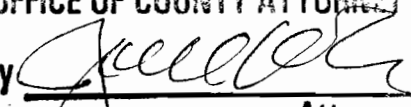
SECTION 6. Severability If any Section, Subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 7. Inclusion in Code It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pinellas County Code and that the sections of this Ordinance may be renumbered or relettered and the word “ordinance” may be changed to section, article or such other appropriate word or phrase in order to accomplish such intentions.

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.

h:\users\atykb11\wpdocs\jwc\ordinances (new)\2009\facilities of metrosignificance ordinance\facilities of countywide significance ord 080411.docx

APPROVED AS TO FORM  
OFFICE OF COUNTY ATTORNEY

By   
Attorney

**LOCAL PLANNING AGENCY (LPA) RECOMMENDATION to the  
Board of County Commissioners**



**REGARDING: Proposed Amendments to the Pinellas County Code pertaining to  
Properties of Countywide Importance**

**LPA Recommendation:** The LPA finds that the proposed Ordinance is consistent with the Pinellas County Comprehensive Plan and recommends that it be approved. (The vote was 5-2, in favor)

**LPA Report No. 18-911**

***LPA Public Hearing Date: September 8, 2011***

**PLANNING STAFF RECOMMENDATION: That the proposed amendments to the Pinellas County Code which clarify and implement provisions in the Pinellas County Charter are consistent with the Pinellas County Comprehensive Plan, and that the Board of County Commissioners therefore approve the proposed amendments.**

---

**Staff Discussion and Analysis**

The Pinellas County Charter was adopted by the Florida Legislature and approved by Pinellas County voters on October 7, 1980. The Florida Constitution [Article VIII, Sec. 1(g)], states that, in the case of Charter Counties, the Charter authority prevails in the event of a conflict between a County and municipal ordinance. The Pinellas County Charter (specifically Section 2.04) enumerates Pinellas County's Charter authorities and powers and, consistent with Florida law, provides for County authority to prevail over municipal ordinances in the event of conflict. Chapter 163.3171, F.S., specifically recognizes that Charter Counties have planning and land development regulation authority as provided for in their Charter.

The County's Charter authority, as itemized in the Pinellas County Code, is largely associated with development and operation of those facilities, services or properties that provide certain countywide benefits, and therefore provides for the application of County regulations in both unincorporated and incorporated areas, specifically to facilitate:

- Development and operation of the 911 emergency communications system.
- Development and operation of solid waste disposal facilities, exclusive of municipal collection systems.
- Development and operation of regional sewage treatment facilities in accordance with federal law, state law, and existing or future interlocal agreements, exclusive of municipal sewage systems.
- Acquisition development and control of county-owned parks, buildings, and other County-owned property.
- Operation, development and control of public health or welfare services or facilities.
- Operation, development and control of the St. Petersburg-Clearwater International Airport.
- Design, construction and maintenance of major drainage systems.
- Design, construction and maintenance of County roads in accordance with State law.

- Implementation of animal control regulations and programs.
- Development and implementation of civil preparedness programs.
- Production and distribution of water, exclusive of municipal water systems and in accordance with existing and future interlocal agreements.
- All coordination and delivery and delivery of municipal services in unincorporated areas of the County.

The Ordinance proposed at this time is simply intended to specify and clarify this County authority by describing the “properties of countywide importance” and how the County will implement the responsibilities and authorities described above. Many of those properties/facilities that serve a countywide purpose are located within a municipal boundary (e.g., courthouse, etc.). This Ordinance therefore makes it clear that the County, as described in the County Charter, retains authority and regulatory control over these facilities/properties, including with regard to their development and operation. For clarity, those facilities and properties required to meet an important countywide purpose are enumerated in the proposed Ordinance attached to this staff report. The effect of this Ordinance is to provide consistency, efficiency and predictability in planning for the development, operations and maintenance of these properties by making it clear that County procedures and land development regulations will be utilized for permitting and development (as provided for in Sections 163.3164 and 380.04, F.S.). The Ordinance does recognize that intergovernmental coordination will be ongoing with regard to sharing/providing information to the municipalities.

---

**IMPLEMENTATION OF  
THE PINELLAS COUNTY COMPREHENSIVE PLAN**

---

Staff finds that the proposed amendments to the Land Development Code are consistent with the following goal and objectives of the Pinellas County’s Comprehensive Plan:

**Intergovernmental Coordination**

Goal 1     **PINELLAS COUNTY MAINTAINS AN INNOVATIVE AND PROACTIVE PROGRAM OF INTERGOVERNMENTAL AND INTERAGENCY COORDINATION, COOPERATION AND PARTNERSHIP IN ORDER TO PROVIDE THE MOST EFFICIENT AND EFFECTIVE OPERATIONS AND SERVICES, TO IDENTIFY AND RESOLVE MUTUAL ISSUES AND CONCERNS, TO PROTECT, PRESERVE, AND ENHANCE SIGNIFICANT NATURAL RESOURCES, AND TO PROTECT AND IMPROVE THE QUALITY OF LIFE FOR EXISTING AND FUTURE PINELLAS COUNTY RESIDENTS AND VISITORS**

Objective 1.3     Pinellas County shall continue to coordinate with governments within its area of concern regarding the siting of facilities with countywide significance and in assessing the potential for development related impacts.

Objective 1.4     Pinellas County shall continue to practice collaborative planning with affected governments and agencies to facilitate the locating and extension of facilities subject to concurrency, and shall continue to coordinate with other State, regional or local governments and service providers who have operational and maintenance responsibility for public facilities providing service to the unincorporated County.