Board of County Commissioners
Agenda Request

Date of Meeting: October 14, 2003
Date Submitted: October 8, 2003

To: Honorable Chairman and Members of the Board

From: Herbert W.A. Thiele, County Attorney

Subject: Acceptance of Status Report Regarding the Cultural Resources Commission

Statement of Issue:

Requests Board acceptance of the status report regarding the creation, membership and organization of the Cultural Resources Commission (CRC).

Background:

At the September 23, 2003 regular meeting, the Board directed the County Attorney's Office to agenda issues related to the CRC in light of the City Commission's request to modify the number of CRC Board members; and the appointment procedures related to the CRC Board members.

In 1985, the Board adopted a Resolution creating the Tallahassee/Leon County Cultural Resources Commission (Attachment #1), specifically under the authority of Section 265.32, Florida Statutes. Section 2 of the Resolution provides that "the Council is hereby created and may transact business and perform duties and exercise all the powers authorized and empowered by Section 265.32, Florida Statutes."

At the August 26, 2003 regular meeting, the Board approved the Cultural Resources Plan as presented by the Cultural Plan Advisory Committee. The City Commission, at a regular Commission meeting, also approved the plan; however, the City Commission voted to modify the total number of CRC Board members, and the appointment procedures. By letter dated September 2, 2003, City Manager Anita Favors advised the County that the City Commission had approved the above referenced changes to the Cultural Resources Commission, and Ms. Favors stated that a draft Interlocal Agreement was being prepared for the County's consideration (Attachment #2).

Analysis:

Section 265.32(1), Florida Statutes (2002), provides that "each county of the state is hereby vested with the authority to create a county fine arts council, herein after referred to as "council" or "art council," a public agency corporate and politic ..." The Resolution adopted by the Board of County Commissioners in 1985 created the CRC pursuant to this provision.

Section 265.32(2)(b) 1., Florida Statutes (2002), provides that

> " [i]f a county is creating a council under the provisions of this act, the arts council **shall** consist of fifteen members. Vacancies which exist on the council **shall** be filled by the board of county commissioners." (Emphasis added)

Clearly, Section 265.32(2), mandates the method by which council members are to be selected, and the number of such membership, by use of the word "shall" in the aforementioned section.

The County Attorney's office concludes that the proposed Amended Interlocal Agreement would not be appropriate or permissible under the present statutory scheme. However, that is not to suggest that the Board could not accomplish that which the City proposes to accomplish as enunciated in Ms. Favors' correspondence. Specifically, the Board could reduce the total number of CRC members from fifteen to thirteen, as well as the process and method by which selection of the Board of Directors would be made. In order to effectuate the requested modifications to the CRC, it is the County Attorney's opinion that it would require the Board dissolving the CRC previously created pursuant to Section 265.32. Thereafter, a newly created Council would require further action of the Board. This would have the effect of removing from the CRC the mandates provided for within Section 265.32, Florida Statutes. However, such action might also affect its abilities to issue, refund, or take any other action with respect to revenue bonds to finance or re-finance a capital project as defined under Florida law. Therefore, the County Attorney's office believes it would be in the County's best interest to maintain the present composition and organization of the CRC in accord with Section 265.32, Florida Statutes.

Options:

1. Accept status report and reject the City's proposal to modify the membership of the Cultural Resources Commission, and the process whereby the Board of Directors is selected, and authorize the County Administrator to inform the City Manager of same.
2. Accept status report and instruct the County Attorney to coordinate with the City of Tallahassee the necessary legal documents required to effectuate the changes to the Cultural Resources Commission as requested by the City Commission.
3. Board direction.

Recommendation:

Option #1.

Attachments:

1. Resolution creating CRC.
2. Letter dated September 2, 2003, from Anita Favors to Parwez Alam.

HWAT/PTK/cc

RESOLUTION

A RESOLUTION DECLARING THE NEED FOR AN ARTS COUNCIL TO FUNCTION IN LEON COUNTY, FLORIDA; ESTABLISHING THE TALLAHASSEE-LEON COUNTY CULTURAL RESOURCES COMMISSION; SETTING FORTH CERTAIN CONDITIONS FOR THE EXERCISE OF THE COUNCIL'S POWERS AND RESPONSIBILITIES; NAMING THE INITIAL MEETING OF THE SAID COUNCIL; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA:

Section 1. The Board of County Commissioners of Leon County, Florida, finds and declares that there is a need for the establishment of the Tallahassee-Leon County Cultural Resources Commission, hereinafter referred to as the "COUNCIL," within Leon County, which Council is hereby created under authority of §265.32, Florida Statutes (1983), to function in Leon County.

Section 2. The Council is hereby created and may transact business and perform duties and exercise all the powers authorized and empowered by §265.32, Florida Statutes, subject to the specific condition that the Council shall consider only such financial undertakings as are provided in the Act as shall be approved by Resolution of the City Commission of the City of Tallahassee and the Leon County Board of County Commissioners.

Section 3. No notes, bonds or any other obligation incurred by the Council shall be deemed a pledge of the faith or credit of Leon County, Florida, or the City of Tallahassee. No ad valorem taxes shall ever be used for the purpose of paying the interest or principal on any bonds issued to finance or refinance a project.

Section 4. The following fifteen (15) persons are hereby designated as members of said Council for the respective terms prescribed below:

1. Howard Lewis shall serve for one year
2. George T. Riordan shall serve for one year
3. Steve Meisburg shall serve for one year

4. George L. Waas shall serve for two years
5. Douglas C. McCuean shall serve for two years
6. William Price shall serve for two years
7. Jerome H. Stern shall serve for two years
8. Debra Allen Bacon shall serve for three years.
9. Robert W. Fichter shall serve for three years
10. Dana Preu shall serve for three years
11. Curtis Tucker shall serve for three years
12. Ellen Ashdown shall serve for four years
13. Nanette G. Fisher shall serve for four years
14. Irving J. Fleet shall serve for four years
15. Marsha Orr shall serve for four years

In addition, each of the said members shall further serve until his successor is appointed and has qualified. Each of the terms above-described shall commence upon the initial meeting of the said Council. After the initial term, all members shall serve four (4) year terms. A member of the Board of County Commissioners of Leon County, Florida, and the City Commissioners of the City of Tallahassee shall serve as ex-officio members of such Council.

Section 5. The initial meeting of said Council shall be at 6:30 o'clock, p.m., on October 30, 1985, at Myers Park Community Room in the City of Tallahassee, Leon County, Florida. If fewer than three (3) of the persons above-named are present at said meeting, those of said persons who are present may adjourn the meeting from time to time until three (3) members shall be present.

Section 6. The Clerk of the Board of County Commissioners of Leon County shall send a certified copy of this Resolution to each of the above-named members of said Council as official notice of his or her designation as such member. This Resolution shall constitute the Charter of the said Council.

Section 7. This Resolution shall take effect immediately upon its adoption.

BOARD OF COUNTY COMMISSIONERS
LEON COUNTY, FLORIDA

By: Gayle Nelson
Gayle Nelson, Chairman

ATTEST:

Paul F. Hartsfield
Clerk of Circuit Court

By: Sam Hurst
Sam Hurst, D. C.

CITY OF TALLAHASSEE

September 2, 2003

Parwez Alam, County Administrator
301 S. Monroe Street
Tallahassee, Florida 32301

Dear P.A.:

This letter is to inform you of action by the Tallahassee City Commission last week to amend the organizational structure of the Cultural Resources Commission (CRC). The Commission action calls for the following modifications:

1. The total number of CRC board members be reduced from the current 15 to a total of 13; and

2. The process for selecting the Board of Directors be modified such that (a) five of the Board members be appointed by the City and those appointments be made through the Mayor, (b) five Board members be appointed by the County Commission, the appointment process to be determined by the County Commission, (c) one current City Commissioner and one current County Commissioner be appointed to the Board, the method for selecting those representatives to be determined by each elected body, and (d) one Board appointment be made by the Leon County School Board, the appointment process to be determined by the School Board.

As you know, the current Cultural Resources Council was established via a resolution adopted by the County Commission in 1985 and a City/County Interlocal Agreement that was also executed in 1985. The modifications adopted by the City Commission will require revisions to those documents. We are preparing a revised interlocal agreement that accomplishes these modifications and will forward a copy for your review as soon as it has been completed.

The City Commission also took action to adopt the Cultural Plan and provide funding for implementation of the Plan. I am aware that the County Commission has also taken similar action and look forward to working with you to see the Cultural Plan put into action.

Sincerely,

Anita

Anita R. Favors
City Manger

ARF/mp
cc: Mayor and City Commission
Leon County Board of County Commissioners
Executive Team
Michael Parker, Director, Economic Development

300 S. Adams St.
Tallahassee, FL 32301-1731
Phone: 850-891-0010 TDD: 711

JOHN R. MARKS, III Mayor | ANITA R. FAVORS City Manager | ALLAN J. KATZ Mayor Pro Tem | JAMES R. ENGLISH City Attorney | ANDREW D. GILLUM Commissioner | GARY HERNDON City Treasurer-Clerk | DEBBIE LIGHTSEY Commissioner | SAM M. McCALL City Auditor | MARK ML Commissi

Case No. 03-2195 (Southern Triangle Annexation Litigation)
(County Attorney - Herb Thiele)

Commissioner Winchester moved, seconded by Commissioner Maloy, to approve Resolution initiating the conflict resolution procedures for Leon County, Florida v. (No. 03-2195 (Southern Triangle Annexation Litigation).

The motion carried 6-1, with Commissioner Rackleff opposed.

Item 34 Acceptance of Status Report on the Cultural Resources Commission
(County Attorney - Herb Thiele)

Commissioner Sauls is negotiating with City Commissioner Katz on the CRC issue.

County Attorney Thiele indicated that if the CRC is changed from what is required in Statute needs to disband and reconstitute as a new agency without statutory authority. He added that status would need to be removed and then reestablished.

Commissioner Thaell moved, seconded by Commissioner Proctor, to transmit the prop Cultural Resource Commission (CRC), with the Board's recommendation for consider: meeting, and Board recommendation that the changes be adopted, while a general cons recommends that the CRC meet by November 15 to consider these amendments. Legall Law, no CRC member can be required to resign by either the City or the County, there resignation has to be voluntary. The Board recommends that the CRC also address the recommendations. In order to provide continuity and continue the successful history of organizations, it is recommended that at least four (4) members of the current CRC be their service to the conclusion of their terms.

The motion carried 7-0.

Staff: Public Services/ Intergovernmental Affairs - Vince Long/Andrea Simpson

Item 35 Approval of Mid-Year Funding Request in the Amount of $3,000 for the Race Relations Sun October 28-29, 2003
(OMB - Alan Rosenzweig)

Brief Board discussion.

Commissioner Thaell moved, seconded by Commissioner Sauls, to approve Option #1: Race Relations Summit, at $3,000 from the General Fund Contingency Account, and a amendment.

The motion carried 7-0.

Staff: OMB - Alan Rosenzweig

Item 36
Update on Wakulla County Comprehensive Plan Amendment CP-02-05 (N. G. Wade Investi
(Public Services/Planning - Vincent Long/Wayne Tedder)

This item was brought up together with the ADD-ON agenda item, requested by County Adr