(Second Reading 10-7-08)

Memorandum

MIAMI-DADE COUNTY

Date: July 1, 2008

To: Honorable Chairman Bruno Barreiro and Members, Board of County Commissioners

Agenda Item No. 7(J)

From: George M. Burgess
County Manager

Subject: Ordinance Abolishing The Performing Arts Center of Greater Miami Trust

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Recommendation

It is recommended that the Board adopt the attached ordinance abolishing The Performing Arts Center of Greater Miami Trust; providing severability, inclusion in the Code, and an effective date.

Background

In 1988, the Code of Miami-Dade County under Section 2-307, including Sections 2-307 and 2-307.1 through 2-307.6 established a Performing Arts Center of Greater Miami Trust (PACT Board) for the purpose of overseeing the "planning, design, construction and operation of a world class performing arts center within Miami-Dade County to meet the existing and future cultural and educational needs of the citizens of Miami-Dade County."

However, in 1992, a Florida not for profit corporation named Performing Arts Center Trust, Inc. (PACT Corporation) was incorporated. The intention was for the PACT Corporation to be the successor organization to the PACT Board. In fact, this occurred and the PACT Corporation became the County's partner in developing a performing arts center. In turn, the PACT Board ceased to operate and exist; however, the PACT Board was never removed from the Code of Miami-Dade County.

Subsequently, on July 19, 1993, the Board of County Commissioners (BCC) adopted Resolution No. R-860-93 authorizing an Operating Management Agreement between Miami-Dade County and the PACT Corporation to govern the administration and operations of the County-owned facility currently known as the Adrienne Arsht Center for the Performing Arts of Miami-Dade County, which Agreement will remain in effect until 2026, with a County option to extend the Agreement for an additional 10 year term. The resolution was amended on March 19, 1996 (Resolution No.R-279-96), December 19, 2000 (Resolution No. R-1409-00), January 23, 2003 (Resolution No. R-099-03), July 27, 2004 (Resolution No. R-1018-04, April 25, 2006 (Resolution No. R480-06) and February 5, 2008 (Resolution No. R-141-08).

Since the establishment of the PACT Corporation the PACT Board has been inactive and has not met or conducted any business. Since the PACT Board is no longer needed and its continued existence in the Code of Miami-Dade County causes confusion, I am recommending the abolishment of the PACT Board.

Alex Muñoz
Assistant County Manager

Memorandum

MIAMI-DADE COUNTY

Date: October 7, 2008

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Ordinance abolishing the Performing Arts Center of Greater Miami Trust

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The ordinance abolishing the Performing Arts Center of Greater Miami Trust will not have a fiscal impact to Miami-Dade County.

Alex Munoz
Assistant County Manager

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MEMORANDUM

(Revised)

TO: Honorable Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: October 7, 2008

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(J)

Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 7(J)

10-7-08

ORDINANCE NO. _____

ORDINANCE ABOLISHING THE PERFORMING ARTS CENTER OF GREATER MIAMI TRUST: DELETING ARTICLE XXXIIIC OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA IN ITS ENTIRETY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS Section 2-11.40(d) Code of Miami-Dade County provides that the Board of County Commissioners shall determine whether to abolish, continue, consolidate or modify the existence of a county board; and

WHEREAS in 1988, Section 2-307, including Sections 2-307 and 2-307.1 through 2-307.6, Code of Miami-Dade County established a Performing Arts Center of Greater Miami Trust ("PACT Board") for the purpose of overseeing the "planning, design, construction and operation of a world class performing arts center within Miami-Dade County to meet the existing and future cultural and educational needs of the citizens of Miami-Dade County"; and

WHEREAS in 1992, a Florida not for profit corporation named Performing Arts Center Trust, Inc. ("PACT Corporation"), was incorporated, and the Articles of Incorporation of the PACT Corporation provide that the Board of County Commissioners shall appoint 16 directors to the board of directors of the PACT Corporation; and

WHEREAS, Miami-Dade County entered into a Operating Management Agreement with the PACT Corporation on July 19, 1993 (Resolution R-860-93), which was amended on March 19, 1996 (Resolution R-279-96), December 19, 2000 (Resolution R-1409-00), January 23, 2003 (Resolution R-099-03), July 27, 2004 (Resolution R-1018-04), April 25, 2006 (Resolution

R-480-06), and February 5, 2008 (Resolution R-141-08) to govern the administration and operations of the County facility currently known as the Adrienne Arsht Performing Arts Center of Greater Miami, which Agreement will remain in effect until 2026, with a County option to extend the Agreement for an additional 10 year term; and

WHEREAS, since the establishment of the PACT Corporation, the PACT Board has been inactive, and has not met and has conducted no business; and

WHEREAS, the County Manager has recommended that the PACT Board be abolished because it is no longer needed, and because its continued existence in the Code of Miami-Dade County causes confusion, and this Board hereby determines that the PACT Board should be abolished,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. The Performing Arts Center Trust of Greater Miami, established by Section 2-307, including Sections 2-307 and 2-307.1 through 2-307.6, Code of Miami-Dade County be and the same is hereby abolished. Article XXXIIIC, Sections 2-307 through 2-307.6, of the Code of Miami-Dade County, Florida, is hereby deleted in its entirety:[1]

[[~~**ARTICLE XXXIIIC.**~~

~~**PERFORMING ARTS CENTER TRUST**~~

~~**Sec. 2-307. Trust created.**~~

~~There is hereby created the Performing Arts Center for Greater Miami Trust.~~

~~**Sec. 2-307.1. Purpose.**~~

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

~~The purpose of the Trust is to oversee the planning, design, construction and operation of a world-class performing arts center within Miami-Dade County to meet the existing and future cultural and educational needs of the citizens of Miami-Dade County.~~

~~Sec. 2-307.2. Membership.~~

~~(a) The Trust shall consist of up to thirty-two (32) trustees appointed by the Mayor of Miami-Dade County. Trustees shall include the County Manager; the City Managers of the cities of Miami and Miami Beach; one (1) County Commissioner, one (1) City Commissioner from the cities of Miami and Miami Beach; the Chairman of the Miami-Dade County Cultural Affairs Council; the Chairman of the Miami-Dade County Art in Public Places Trust; the President of the Concert Association of Greater Miami; the Vice-President of the Wolfson Campus, Miami-Dade Community College; the President of the New World School of the Arts; the General Manager of the Greater Miami Opera; a Director of the Miami City Ballet; the Executive Vice-president/General Manager of the Philharmonic Orchestra of Florida; the Vice-Chairman of the Greater Miami Chamber of Commerce for Arts and Culture; the Executive Director of the New World Symphony Orchestra; the President of the National Foundation for the Advancement of the Arts; the Chairman of the Cultural Council of the Greater South Miami-Dade Chamber of Commerce; and a Director of Vision Council, Inc. The other thirteen (13) trustees shall be selected from the community. Their selection shall take into account the ethnic and cultural diversity of the community. The County Manager and the City Managers of the Cities of Miami and Miami Beach shall each nominate three (3) trustees. Trustees shall serve without compensation but may be reimbursed for actual authorized expenses incurred in the discharge of their duties.~~

~~(b) The nine (9) community trustees shall be appointed to three-year terms which shall end concurrently with the last day of the County's fiscal year; provided, however, that initially, one (1) trustee nominated by each Manager shall serve a one-year term, one (1) nominated by each Manager shall serve a two-year term and one (1) nominated by each Manager shall serve a three-year term. Annually the County Manager and the two (2) City Managers shall each nominate one (1) individual to fill the vacancy created by the expiration of their respective trustee's term. The Mayor of Miami-Dade County may reject any or all nominees and may request that the Managers nominate additional individuals. If~~

~~a vacancy occurs prior to the expiration of a trustee's term, the Mayor shall appoint a new trustee to fill the balance of the term.~~

~~(c) Failure by the Community Trustees to maintain the qualifications for membership set out in Section 2-11.38, failure to maintain the attendance requirements of Section 2-11.39, or a violation of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, Section 2-11.1, Code of Miami-Dade County, Florida, shall be grounds for removal from the Trust.~~

~~**Sec. 2-307.3. Procedure.**~~

~~(a) *Chair.* The Trust shall have a Chairperson elected by a majority of the trustees; provided, however, that the Mayor shall appoint the initial Chairperson. The term of office shall be one (1) year.~~

~~(b) *Meetings.* The Trust shall meet at the call of the Chairperson, but in no event shall it meet less often than once every three (3) months. A quorum shall consist of eleven (11) members. The Trust may appoint committees of at least two (2) trustees, and may include as committee members individuals who are not trustees. All actions by committees are advisory, and are not binding upon the Trust. All meetings of the Trust and its committees shall comply with all requirements of the Florida "Government in the Sunshine" Law, Chapter 119, Florida Statutes, as it may be amended from time to time.~~

~~**Sec. 2-307.4. Powers.**~~

~~The Trust shall have the power to invite individuals to address it, to hold public hearings, workshops and seminars. The Trust shall have all the powers necessary to carry out its purposes. The Trust cannot commit itself or the County to any expenditure of funds without the specific approval of the Board of County Commissioners, or of the County Manager, under circumstances when the Board of County Commissioners has delegated that authority to him or her.~~

~~**Sec. 2-307.5. Staff.**~~

~~The County Manager shall provide to the Trust adequate staff and support services to enable it to carry out its purposes.~~

~~**Sec. 2-307.6. Reports.**~~

~~No less frequently than once per year, the Trust shall submit a written report to the Board of County Commissioners detailing its activities during the past year and outlining its contemplated activities for the ensuing year.~~]]

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Deborah Bovarnick Mastin