

LOCAL PLANNING AGENCY/PLANNING AND ZONING BOARD MINUTES

The Brevard County Local Planning Agency/Planning & Zoning Board met in regular session on Monday, July 26, 2021, at 3:00 p.m., in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by Vice Chair Peter Filiberto, at 3:07 p.m.

Board members present were: Ron Bartcher (D1); Brian Hodgers (D2); Ben Glover (D3); William Capote (D3); Ron McLellan (D4); Joe Buchanan (D4); Peter Filiberto, Vice Chair (D5); and David Bassford.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Kyle Harris, Planner I; Abby Jorandby, Assistant County Attorney; Tad Calkins, Planning and Development Director; Virginia Barker, Natural Resources Management Director; and Jennifer Jones, Special Projects Coordinator.

Excerpt from Complete Minutes

4. Code Revision to Chapter 98, Article IV, Port St. John (PSJ) Dependent Special District Board, Section 98-105.

Jeffrey Ball stated what the proposed ordinance does is allow rezoning applications to move forward to the P&Z (Planning & Zoning) Board or LPA (Local Planning Agency) if the PSJ (Port St. John) board is not able to meet due to a lack of a quorum. He said the applications would move along in the process without delay.

Peter Filiberto asked how often has the PSJ board not had a quorum. Mr. Ball replied four times in the past seven years, with the most recent being in February.

Mr. Filiberto stated he has some concerns even though residents can come to this board to voice their opinion.

Ben Glover stated if the PSJ board doesn't have a quorum the items come to this board, and asked, if they do have a quorum, do the items go directly to the County Commission.

Jeffrey Ball replied no, under the current ordinance, if they do not have a quorum the items are tabled until the next meeting. The proposed ordinance states that for any reason they are not able to meet, the items would move to either the P&Z board or the LPA, depending on the schedule. In the past, there were some delays in hearing those applications and getting them to the County Commission for the final decision.

Ron Bartcher stated there are two issues involved in this change. One is that it makes all of the special board recommendations come to this board rather than some of them coming to this board and some going directly to the County Commission. Some board members think that is a reduction in the power of the local board. The other thing it does is that it allows some items to skip the local board if the local board doesn't have a quorum. Since these local board meetings provide an opportunity for public input, that's really what this board's job is and that's what their job is. He said he would hate to see at some time in the future language like this added to the Planning and Zoning Board's rules. He stated as a representative of the public, the board should be more concerned with allowing public input than sticking to a schedule.

Mr. Glover asked if an item comes to the P&Z Board, does staff notify them, or are they already notified as far as the 500 feet radius of the subject property. Mr. Ball replied all of the meeting notices would be included on the courtesy cards that are mailed to property owners within 500 feet of a subject property.

William Capote asked if the proposed ordinance is being created because there is an issue with those boards meeting. Mr. Ball replied yes, and on March 23, 2021, the Board of County Commissioners gave staff legislative intent to make the changes.

Mr. Bartcher stated the second change about quorums appears to be primarily aimed at the PSJ board, as they seem to have more meetings without quorums than the NMI board. He said it has been his experience that the NMI board is very active and very dedicated. According to one of their board members, they have only had one meeting in the last 10 years that did not have a quorum. He noted the NMI board said they would like to have a second chance rather than just being skipped if there is no quorum, and if they don't have a quorum a second time, the items can be moved forward without their recommendation. He stated the Port St. John Board had a comment that he believes was worthwhile, and that is that their board doesn't have alternates. He noted the P&Z board has five alternates, but their board has none. He stated the PSJ board recommended that they be allowed two alternates, and he believes that could solve the problem of no quorums.

Motion by Ron Bartcher, seconded by Ben Glover, to approve the proposed ordinance with an additional change to Section 98-104 to add the appointments of two alternates to the Port St. John Dependent Special District Board.

Mr. Ball clarified that the motion is for the Port St. John board item, not the North Merritt Island board item, which is the next item on the agenda.

William Capote asked, with alternates, if there is a meeting and the person doesn't show up, is the alternate supposed to sit in the audience waiting to see whether the person shows up or not. He said being on standby means that person would have to come to the meetings accordingly and wait to see if someone shows up or not in order to meet the quorum.

Mr. Ball stated alternates would have to show up at the meetings just in case, because although staff makes sure there will be a quorum, there is no way to make sure that everyone who said they would show up, shows up. If that's the outcome of what happens at the meeting, those alternates would have to attend the meeting in case there was a lack of a quorum.

Mr. Capote stated that's what makes it difficult because the board members are not paid, and for them to come and then not even participate, after a while they are probably not going to show up at all and then you don't have a quorum.

Ron McLellan stated what they will have to do is what this board has done for many years, and that is that the alternates can attend the meeting and participate, but they cannot vote. The only time they are able to vote is when someone is out. He said perhaps instead of having five alternates they could have three that could go anywhere and be chosen at any time. They can participate in all of the discussions, but they can't vote. They have to have a voice or they are not going to show up.

Mr. Bartcher stated he agrees, because he attended these meetings as an alternate for three years and participated in the discussions, but the only time he voted was when there wasn't enough other members.

Mr. Capote stated if that wording gets added, then it's a different story, but that wasn't the wording that was added.

Mr. Glover stated alternates can participate in every meeting.

Mr. Bartcher stated the way the P&Z Board works and the way alternates work, is in the rules for this board, and he would expect that they would need to take that same kind of language from the P&Z Board's rules and put it into the rules for the other boards.

Mr. Capote stated that will be the motion at hand, that the board wants to have an alternate, that the alternate then participate with the PSJ board. He said if they are going to make changes, it should be a uniform change.

Brian Hodggers asked if there is a staff member for PSJ that does the same thing for the P&Z board.

Jennifer Jones replied yes, she coordinates both boards. Mr. Hodggers asked if she makes sure the Port St. John Board has a quorum. Ms. Jones replied yes. Mr. Hodggers asked if the PSJ board had alternates, would she be able to get them to the meeting. Ms. Jones replied yes, she would attempt to get them to the meetings.

Mr. Filiberto asked if the alternates are included in the emails Ms. Jones sends to the P&Z board for a quorum. Ms. Jones replied yes, they are.

Mr. Hodggers stated if staff is already doing that, and the board adds alternates, he doesn't see where there is going to be a big issue. Mr. Capote state it is not a problem as long as the wording is in there.

Mr. Filiberto asked if the P&Z rules of the alternates participating but not voting unless a regular member is not present, carries on to the PSJ board.

Abby Jorandby stated if the board makes that change to the alternate language, that can be a proposal. She said her concern is that the legislative intent staff received is for Section 98-105, which does not pertain to alternates, so there may be an advertising issue. She said the board may make this recommendation to the County Commission and staff may have to re-advertise to actually make the changes to Section 98-104. She said this board can vote to recommend approval of the proposed ordinance as it is, recommend denial, or recommend approval with a modification. She cautioned the board that if it does have the modification there may have to be another hearing because of the fact that Section 98-104 was not advertised.

Mr. Bartcher said he feels it's important that the board and make that recommendation and if the County Commission chooses to ignore it and ignore the Port St. John Board recommendation as well, then so be it.

Peter Filiberto called for a vote on the motion as stated, and it passed unanimously.