

Minutes Port St. John Dependent Special District Board

6:00 PM

Call To Order

Approval of Minutes

H. Public Hearings

H.1. Code Revision to Chapter 98, Article IV, Port St. John Dependent Special District Board, Section 98-105.

An ordinance amending Brevard County Code of Ordinances, Chapter 98, Article IV, Port St. John Dependent (PSJ) Special District, to address review procedures.

Maureen Rupe noted that the PSJ board doesn't have alternates like the County Planning and Zoning (P&Z) Board, and having a couple of alternates could solve the problem of quorums. She stated she was at the Commission meeting on March 23rd when this came before the Board, but the PSJ board had no notification of it. She said at the meeting she heard Commissioner Tobia say he would "get rid of all these boards". She said she addressed the Board and explained that the residents of Port St. John asked for the dependent special district board because the P&Z Board at the County in the 1990's was not listening to them. She said the residents of PSJ asked to have their own board because they knew the issues of Port St. John and could give better verdicts than the P&Z Board, which at that time consisted of developers. She asked staff what is the Building and Construction Advisory Committee (BCAC).

Jeffrey Ball replied the BCAC is an advisory committee that makes recommendations on ordinances and text amendments.

Ms. Rupe asked why, when there is a County P&Z, and asked if the BCAC is a County board. Mr. Ball replied yes.

Ms. Rupe stated she had no notification that the BCAC heard the proposed ordinance on April 14th and unanimously approved it. She said the PSJ board wasn't advised of it, so they could not attend to give any input. She asked if Bruce Moia is on the BCAC. Mr. Ball replied yes, he is.

Ms. Rupe stated that is two boards applicants have to go through as well as the PSJ board, because at the time, they said PSJ didn't have to go through the P&Z Board if PSJ had its own board. She stated she received notification of this meeting a week ago. Jennifer Jones noted the packages were mailed prior June 24th.

Ms. Rupe asked why the PSJ board was not notified after the March 23rd meeting that the BCAC would hear it on April 14th.

Ms. Jones clarified the BCAC hears ordinances before the LPA (Local Planning Agency) hears them; it does not hear rezoning items, just ordinances.

Ms. Rupe stated she will look into that because that doesn't sound right to her unless things are changing. She said she still believes alternates would solve the problem of quorums. She said she knows two people who would be willing to stand in if there is not a quorum. She said if

there are not alternates, the County will abolish the board.

Mr. Ball advised the legislative intent from the Board of County Commissioners was not to dissolve the board. The direction was that if in any case there was no quorum for this board, that the items would move forward, regardless of a recommendation, to the LPA.

Randy Rodriguez stated they would move to LPA rather than be delayed a month.

Wendy Porter-Hyde stated she agrees with Maureen, and it also stood out to her that suddenly there is this BCAC that she never heard of and they unanimously recommended approval; and she agrees the PSJ board should have had notice of the BCAC and who they are and what they do. She said on Page 2, Paragraph (2) is going to be crossed out, and the language they are crossing out is, "Review and provide the Planning and Zoning Board with an advisory recommendation upon rezoning applications made for property located within the district, when such application, if approved, would increase residential density on the property that is subject of the application". She stated the PSJ board is very concerned with density when someone comes in to either have new zoning or rezoning, and she objects to that being taken out because she read through the rest of it and it seems to her that the PSJ board's original purpose is being watered down by the change in language. She pointed out that Section 7 states, "...that the sections of this ordinance may be re-numbered or re-lettered and that the word 'ordinance' may be changed to 'section', 'article' or such other appropriate word or phrase in order to accomplish such intentions." She stated that says nothing, and asked who decides the appropriate words. She reiterated she thinks the County is watering down the board's whole purpose by the language and she doesn't agree.

Kevin Shropshire stated the way he read it, Paragraph (2) that is stricken through, if you flip back to the first page, they re-worded Paragraph (1), and it actually encompasses more than what (2) states. He said (2) - the one stricken through - only involves increasing residential density, but when they re-worded (1) by adding the underlined and crossing out the stricken, it broadens the board's ability to give recommendation on any rezoning, whereas previously it was the residential density. As far as the wording, it has to be worded a certain way. The only thing that has changed is what has been underlined and stricken through. He said he understands the intent of the ordinance, and it appears the County is broadening what the board looks at, but it only directly recommends to the local P&Z Board instead of directly to the County Commissioners.

Mr. Rodriguez agreed with Mr. Shropshire regarding paragraphs (1) and (2).

Ms. Rupe said she understands that, but this is all changing from what the PSJ board did in the first place.

Mr. Rodriguez stated he doesn't think that part particularly hurts the board.

Greg Messer stated if the PSJ board is only advising to the P&Z Board then that somewhat limits them.

Mr. Rodriguez said he is okay with the intent of not wanting to delay things if there is not a quorum; however, he would like to see an amendment that the County not change the PSJ board's status for being present or not present within five days of a meeting, because when referring back to the attendance record and the February 10, 2021, meeting, there was more than just himself on the telephone when the County Attorney said they could not be counted towards a quorum. Whereas, the week before it was okay to be not present because of the pandemic. He asked that nothing change in the quorum requirements within five days of a

meeting so that everyone can be notified and there can be a quorum. He said he likes the idea of alternates. He said when people are turned away who are verbally present at a meeting, which is supposed to be the acceptable way to stay safe and then say now they are absent and there isn't a quorum, that's not right for the PSJ board or any other board.

Mr. Ball stated that was an Executive Order from the Governor's office, which has expired, allowing the County to conduct public hearings virtually, so that may have conflicted with the board's meeting, and that's why the meetings have to now be in person.

Mr. Rodriguez stated the Governor didn't say it can't be done anymore, it just expired the ability. He said all the Commission had to do was say that for Brevard County it is safer and they can conduct meetings as they had been and that would have worked fine. He said someone could have called in instead of sending somebody in to disband a meeting, a group that had no warning. He said there were two board members on the phone, so there was a quorum plus one until that happened. He stated that could have been handled differently.

Ms. Jones stated the library doesn't have the capability for a board member to call in to a meeting because he or she would not be able to see an exhibit presented to the board by the applicant or a speaker, and all board members need to be able to see all exhibits presented.

Mr. Rodriguez stated he is on the Parks and Recreation Board and it has been meeting by phone. He referred to the proposed ordinance and said the wording is a little different and it takes away from the PSJ board recommending directly to the County Commission, but it has been recommending to the P&Z Board for some time now, so that's not really a big change. He said he agrees with Kevin that the wording gives the board a little more of a range of things to cover, because they took 'would increase density' out of (1), so the board could and should be seeing issues that come up that do not change the density but would affect the community. He stated the addition of the new paragraph (5) sets out the route of it, so he doesn't see too much changing from the way the board is doing business now.

Greg Messer stated he has been present for more than two meetings, and noted there were three meetings on the trailer park issue.

Ms. Jones asked Mr. Rodriguez for clarification on the five-day notice.

Mr. Rodriguez stated the board should have five days' notice if the County is going to change attendance requirements of any sort, whether it's no longer by phone, whether phones are allowed, or whether a venue has changed. He said when the venue was changed to Viera for the very large group in January, there was more than adequate notice for that, but any time staff changes something in those last two days, it's usually by email and not everyone is in their emails nearly as much as he is, so that can be missed and that can make somebody absent when someone is at a place where the meeting was a week ago.

Mr. Ball stated staff always tries to ensure there is a quorum. Mr. Rodriguez stated he understands that, he would just like it noted that somebody has to try and not do that last minute shocker that changes all of that.

Mr. Shropshire stated he believes ordinances are State mandated to be advertised in the newspaper, and that is all staff has to do, they don't have to notify anyone by letter. Ms. Rupe stated they should have to notify people by letter. Mr. Shropshire stated the County is only required to advertise ordinances in a local newspaper with the largest circulation. Ms. Rupe stated the board should have been notified so they could have gone to the meeting to make

comments.

Motion by Maureen Rupe to deny the proposed ordinance until the board can work something out and bring alternates before the Commission.

Randy Rodriguez called for a vote on Ms. Rupe's motion, and it died for lack of second.

Motion by Kevin Shropshire, seconded by Wendy Porter-Hyde, to approve the proposed ordinance with the addition of paragraph (6), to include two alternate members. The motion passed unanimously.

Result: APPROVED

Mover: Kevin Shropshire

Second: Wendy Porter-Hyde

Public Comment

Adjournment

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in the proceedings, please notify the Planning and Development Department no later than 48 hours prior to the meeting at (321) 633-2069.