



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.10.

8/5/2021

### Subject:

Code Amendment Re: Chapter 98, Article IV, Port St. John Dependent Special District Board, Section 98-105.

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider the proposed ordinance amending Brevard County Code of Ordinances, Chapter 98, Article IV, Port St. John Dependent Special District Board, Section 98-105.

### Summary Explanation and Background:

On March 23, 2021, the Board of County Commissioners (BCC) granted legislative intent and permission to advertise amendments to Section 98-105. The proposed change allows all zoning and Comprehensive Plan applications to proceed to the Planning & Zoning Board/Local Planning Agency for a recommendation to the BCC whether there is or is not quorum for the PSJ meeting, allowing requests to move expeditiously through the process.

The Port St. John Dependent Special District Board (PSJ Board) was created in 1996, per Ordinance 1996-30, for the purpose of providing the citizens of Port St. John a formal means of establishing an advisory board to review and provide the BCC with recommendations on matters affecting properties within the Port St. John Special District boundary. The PSJ Board also reviews and provides recommendations to the BCC on matters such as priority, location, maintenance, and the use of public improvements or infrastructure.

On April 14, 2021, the Building Construction Advisory Committee heard the proposed ordinance and unanimously recommended approval.

On July 14, 2021, the Port St. John Dependent Special District Board heard the proposed ordinance and unanimously recommended approval with the addition of paragraph 6 to allow for the appointment of two alternate members.

On July 26, 2021, the Local Planning Agency heard the proposed ordinance and unanimously recommended approval with an additional change to Section 98-104, to add the appointments of two alternate members to the Port St. John Dependent Special District Board. Please note, the addition of alternate member will require

---

legislative intent and permission to advertise amendments to Section 98-104.

If approved by the Board, implementation will begin with the August 6th application submittal deadline for the October/November rezoning cycle.

**Clerk to the Board Instructions:**

Please return a copy of the ordinance to Planning and Development once filed with the State.



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

August 6, 2021

Honorable Rachel M. Sadoff  
Clerk  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Ms. Sadoff:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 21-18, which was filed in this office on August 6, 2021.

Sincerely,

Anya Grosenbaugh  
Program Administrator

AG/lb



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Kimberly.Powell@brevardclerk.us

August 6, 2021

**M E M O R A N D U M**

**TO:** Tad Calkins, Planning and Development Director

**RE:** Item H.10., Code Amendment for Chapter 98, Article IV, Port St. John Dependent Special District Board, Section 98-105

The Board of County Commissioners, in regular session on August 5, 2021, conducted the public hearing and adopted Ordinance No. 21-18, amending Code for Chapter 98, Article IV, Port St. John Dependent Special District Board, Section 98-105. Enclosed is the fully-executed and a certified copy of the Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK**

*Donna Scott*  
for Kimberly Powell, Clerk to the Board

/cld

Encls. (2)

**ORDINANCE NO. 21-18**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING BREVARD COUNTY CODE OF ORDINANCES, ARTICLE IV., PORT ST. JOHN DEPENDENT SPECIAL DISTRICT, SECTION 98-105, "POWERS, FUNCTIONS AND DUTIES" TO ADDRESS BOARD REVIEW PROCEDURES; PROVIDING FOR SEVERABILITY, CONFLICTS, AREA ENCOMPASSED, PROVIDING FOR AN EFFECTIVE DATE AND INCLUSION IN CODE.**

**WHEREAS**, Section 98-105, Brevard County Code of Ordinances, enumerates the powers and duties of the Port St. John Dependent Special District; and

**WHEREAS**, it is in the public's interest that properly noticed planning and zoning issues be resolved expeditiously; and

**WHEREAS**, it is necessary to provide a process to allow items to move forward when multiple boards exist; and

**WHEREAS**, the Board of County Commissioners now desires to amend Section 98-105, Brevard County Code of Ordinances.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AS FOLLOWS:**

**SECTION 1. Recitals.** The foregoing recitals are incorporated by reference into this Ordinance.

**SECTION 2. Amend.**

Section 98-105, Code of Ordinances of Brevard County is hereby amended as follows:

The governing board of the dependent special district shall have the power and duty to:

(1) Review and provide the Planning and Zoning Board with a recommendation upon rezoning applications made for property located within the boundaries of the dependent special district;

(2) Review and provide recommendations to the board of county commissioners on any issue or subject referred to the governing body of the district by the county

OFFICIALLY FILED WITH SECRETARY OF STATE ON AUGUST 5, 2021

commission which matter may include the priority, location, maintenance, and use of public improvements or infrastructure provided within the district by the county;

(3) Adopt bylaws setting forth procedures for conducting business;

(4) Review and provide the local planning agency with an advisory recommendation upon site-specific applications requesting a change in designation on the county future land use map.

(5) In the event the dependent special district does not provide a recommendation on an item noticed for regularly scheduled meeting of the dependent special district, the item may move directly to the Planning and Zoning Board provided notice of the Planning and Zoning Board meeting has been previously given. After an item has been heard by the Planning and Zoning Board, the Board of County Commissioners may hear the item at a properly noticed meeting.

The provisions of this section establishing a review process shall supersede and replace any conflicting review procedure set forth in any other ordinance.

**SECTION 3. Severability.** If any section, subsection, sentence, clause or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause or provision and shall not be affected by such holding.

**SECTION 4. Conflict.** All resolutions, ordinances, and agreements or parts thereof that may be determined to be in conflict with this ordinance are repealed.

**SECTION 5. Area Encompassed.** This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.


**SECTION 6. Effective Date.** A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This Ordinance shall take effect upon adoption and filing pursuant to law.

**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 Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered 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.

**DONE, ORDERED AND ADOPTED**, in Regular Session, this 5 day of AUGUST, 2021.

ATTEST:

BOARD OF COUNTY COMMISSIONERS

  
\_\_\_\_\_  
Rachel M. Sadoff, Clerk  
(SEAL)

BREVARD COUNTY, FLORIDA

  
\_\_\_\_\_  
Rita Pritchett, Chair

As approved by the Board on 8/5/2021

Reviewed for legal form and content:

  
\_\_\_\_\_  
Assistant County Attorney



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Kimberly.Powell@brevardclerk.us

March 24, 2021

**M E M O R A N D U M**

**TO:** Commissioner Rita Pritchett, District 1

**RE:** Item J.3., Legislative Intent and Permission to Advertise an Ordinance Amending Brevard County Code of Ordinances, Chapter 98, Article IV, Port St. John Dependent Special District, Section 98-105

The Board of County Commissioners, in regular session on March 23, 2021, approved legislative intent and granted permission to advertise an ordinance amending Brevard County Code of Ordinances, Chapter 98, Article IV, Port St. John Dependent Special District, Section 98-105.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, reading "Kimberly Powell".

Kimberly Powell, Clerk to the Board

/ds

cc: County Attorney  
Planning and Development



## PSJ MEETINGS 2015 - 2021

### 2015

4 meetings total / 3 items

- 03/11/15
- 04/20/15 - PSJ ordinance
- 08/12/15 - No quorum
  - Tabled to: 09/09/15 PSJ  
09/28/15 LPA  
10/01/15 BCC

### 2016

6 meetings total / 5 items

- 01/06/16
- 04/13/16
- 05/11/16
- 07/13/16
- 08/10/16 - No quorum
  - Tabled to: 09/14/16 PSJ  
10/13/16 BCC

### 2017

3 meetings total / 3 items

- 01/11/17
- 02/08/17 - By-Laws
- 04/12/17

### 2018

2 meetings total / 1 item

- 05/09/18 - No quorum
  - Tabled to: 06/13/18 PSJ  
07/10/18 BCC

### 2019

1 meeting total / 1 item

- 04/10/19

### 2020

2 meetings total / 2 items

- 01/08/20
- 11/18/20

### 2021

3 meetings total / 1 item

- 01/06/21 - cancelled due to crowd size
- 02/10/21 - No quorum
  - Tabled to: 03/03/21 PSJ  
03/08/21 LPA  
03/23/21 BCC

Port St. John Current Membership Attendance  
2018 - 2020  
4 Meetings

Vaughan Kimberling	3 Meetings = 75%
Maureen Rupe	4 Meetings = 100%
Greg Messer	2 Meetings = 50%
Randy Rodriguez	3 Meetings = 75%
Carmella Chinaris	4 Meetings = 100%
Wendy Porter-Hyde	3 Meetings = 75%
Kevin Shropshire (Appointed 09/2020)	1 Meeting = 100%

## **PORT SAINT JOHN DEPENDENT SPECIAL DISTRICT BOARD MINUTES**

The Port Saint John Dependent Special District Board met in regular session on Wednesday, July 14, 2021, at 6:00 p.m., at the Port St. John Library, 6500 Carole Ave., Port St. John, Florida.

Board members present were: Randy Rodriguez, Chair Pro-Tem; Wendy Porter-Hyde; Maureen Rupe; Greg Messer; and Kevin Shropshire.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; and Jennifer Jones, Special Projects Coordinator.

The meeting was called to order at 6:00 p.m.

### **CHAIR PRO TEM NOMINATION**

Motion by Maureen Rupe, seconded by Greg Messer, to nominate Randy Rodriguez as Chair Pro Tem in the absence of the Chair and Vice Chair.

Seeing no other nominations, Randy Rodriguez called for a vote on the motion as stated, and it passed unanimously.

### **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 23<sup>rd</sup> 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 14<sup>th</sup> 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 24<sup>th</sup>.

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

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.

Upon consensus, the meeting was adjourned at 6:30 p.m.

## **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 Hodgers 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. Hodgers asked if she makes sure the Port St. John Board has a quorum. Ms. Jones replied yes. Mr. Hodgers 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. Hodgers 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 Count 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.

ORDINANCE NO. 21-\_\_\_\_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING BREVARD COUNTY CODE OF ORDINANCES, ARTICLE IV., PORT ST. JOHN DEPENDENT SPECIAL DISTRICT, SECTION 98-105, "POWERS, FUNCTIONS AND DUTIES" TO ADDRESS BOARD REVIEW PROCEDURES; PROVIDING FOR SEVERABILITY, CONFLICTS, AREA ENCOMPASSED, PROVIDING FOR AN EFFECTIVE DATE AND INCLUSION IN CODE.

**WHEREAS**, Section 98-105, Brevard County Code of Ordinances, enumerates the powers and duties of the Port St. John Dependent Special District; and

**WHEREAS**, it is in the public's interest that properly noticed planning and zoning issues be resolved expeditiously; and

**WHEREAS**, it is necessary to provide a process to allow items to move forward when multiple boards exist; and

**WHEREAS**, the Board of County Commissioners now desires to amend Section 98-105, Brevard County Code of Ordinances.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AS FOLLOWS:**

**SECTION 1. Recitals.** The foregoing recitals are incorporated by reference into this Ordinance. Underline indicates additions. ~~Strike through indicates deletions.~~

**SECTION 2. Amend.**

Section 98-105, Code of Ordinances of Brevard County is hereby amended as follows:

The governing board of the dependent special district shall have the power and duty to:

(1) ~~In lieu of the planning and zoning board, r~~Review and provide the Planning and Zoning b~~Board of county commissioners with a recommendation upon rezoning applications made for property located within the boundaries of the dependent special district, when such application, if approved, would not increase residential density on the property that is subject of the application;~~

~~(2) 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;~~

(23) Review and provide recommendations to the board of county commissioners on any issue or subject referred to the governing body of the district by the county commission which matter may include the priority, location, maintenance, and use of public improvements or infrastructure provided within the district by the county;

(34) Adopt bylaws setting forth procedures for conducting business;

(45) Review and provide the local planning agency with an advisory recommendation upon site-specific applications requesting a change in designation on the county future land use map.

(56) In the event the dependent special district does not provide a recommendation on an item noticed for regularly scheduled meeting of the dependent special district, the item may move directly to the Planning and Zoning Board provided notice of the Planning and Zoning Board meeting has been previously given. After an item has been heard by the Planning and Zoning Board, the Board of County Commissioners may hear the item at a properly noticed meeting.

The provisions of this section establishing a review process shall supersede and replace any conflicting review procedure set forth in any other ordinance.

**SECTION 3. Severability.** If any section, subsection, sentence, clause or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause or provision and shall not be affected by such holding.

**SECTION 4. Conflict.** All resolutions, ordinances, and agreements or parts thereof that may be determined to be in conflict with this ordinance are repealed.

**SECTION 5. Area Encompassed.** This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

**SECTION 6. Effective Date.** A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This Ordinance shall take effect upon adoption and filing pursuant to law.

**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 Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be

renumbered 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.

**DONE, ORDERED AND ADOPTED**, in Regular Session, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Rachel M. Sadoff, Clerk  
(SEAL)

\_\_\_\_\_  
Rita Pritchett, Chair

As approved by the Board on \_\_\_\_\_

Reviewed for legal form and content:

\_\_\_\_\_  
Assistant County Attorney