



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Unfinished Business

I.3.

4/19/2022

Subject:

Non-Mandatory Advisory Board Uniformity Ordinance

Fiscal Impact:

Unknown

Dept/Office:

District 3 Commission Office

Requested Action:

It is requested that the Board review the attached draft ordinance and approve legislative intent and permission to advertise.

Summary Explanation and Background:

At the April 5, 2022 regular Board meeting, the Board directed staff to draft an ordinance relating to the uniformity of non-mandatory advisory boards. This draft does not include advisory boards that are otherwise required to operate in a certain manner under state or federal law, or partnership boards. This ordinance seeks to make the following changes:

- Meeting frequency
- Meeting times
- Meeting locations
- Annual report to the Board
- Staff time request policy
- Attendance policy

The sunset provision has been removed from the ordinance as per request by the District 4 office.

Clerk to the Board Instructions:



April 20, 2022

MEMORANDUM

TO: John Tobia, County Commissioner District 3

RE: Item I.3., Non-Mandatory Advisory Board Uniformity Ordinance

The Board of County Commissioners, in regular session on April 19, 2022, reviewed the draft ordinance and granted legislative intent and permission to advertise.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

for Donna Scott
Kimberly Powell, Clerk to the Board

/pp

cc: Each Commissioner

ORDINANCE 2022-_____

AN ORDINANCE OF THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING CHAPTER 2. ADMINISTRATION. AT ARTICLE VI. BOARDS, COMMISSIONS AND AUTHORITIES. AT DIVISION 4. UNIFORM ADVISORY BOARD. AMENDING SECTION 2-212. DEFINITIONS. TO PROVIDE FOR NEW AND UPDATED TERMS.; AMENDING SECTION 2-213. GENERAL PROVISIONS. TO PROVIDE FOR THE REQUIREMENTS OF THE ESTABLISHMENT OF ADVISORY BOARDS.; AMENDING SECTION 2-214.OPEN MEETINGS, PUBLIC COMMENT AND AGENDA.; CREATING NEW SECTION 2-215. PROVIDING FOR MEETING FREQUENCY, TIME AND LOCATION; CREATING NEW SECTION 2-216. PROVIDING FOR STAFF TIME AND EXPENDITURES; CREATING NEW SECTION 2-217. PROVIDING FOR ANNUAL WRITTEN REPORTS; CREATING NEW SECTION 2-218. PROVIDING FOR FINANCIAL DISCLOSURES.; AND CREATING NEW SECTION 2-219.; PROVIDING FOR DISSOLUTION OF ADVISORY BOARDS.; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the Board of County Commissioners has established numerous advisory boards and committees; and

WHEREAS, the Board of County Commissioners previously established a uniform appointment process and protocols for public comment for advisory boards in Chapter 2 of the Brevard County Code of Ordinances; and

WHEREAS, many of the advisory boards currently meet after normal business hours in various locations throughout the county, with varying meeting frequency; and

WHEREAS, Board of County Commissioners now seeks to simplify the schedule of advisory board meetings and reduce expenses related to County staff time devoted to such meetings; and

WHEREAS, the Board of County Commissioners now desires to provide for uniform regulations for advisory board use of staff time as well as the location, time and frequency of advisory board meetings.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Brevard County, Florida, that:

SECTION 1. Section 2-212 of the Code of Ordinances of Brevard County Florida is hereby amended to read as follows:

Sec. 2-212. – Definitions.

The following words, terms and phrases when used in this article, shall have the meanings ascribed to them herein, except where the context clearly indicates a different meaning:

Advisory board means a board, commission, council, committee, subcommittees, workgroup or panel established by county ordinance, resolution or state statute to which appointments are made by a commissioner or the board of county commissioners.

Board or board of county commissioners means the governing body of the county.

Commissioner means an individual serving on the board of county commissioners.

Mandatory advisory board shall mean an advisory board which is required to exist by federal law, state law or by voter referendum.

Non-mandatory county advisory board shall mean an advisory board which is not required to exist by federal or state law and is comprised solely of members appointed by the Board of County Commissioners.

Partnership advisory board shall mean an advisory board which includes participation by or appointments made by another municipality or entity.

SECTION 2. Section 2-213 of the Code of Ordinances of Brevard County Florida is hereby amended to read as follows:

Sec. 2-213. – General provisions.

The following provisions shall be applied in the establishment and implementation of uniform advisory board appointments:

(1) *Ordinances and resolutions.* All ordinances and resolutions shall specifically contain, or provide for the number of members, their minimum qualifications, how they are to be appointed, their term of service, and provisions for interim appointments and their terms of service.

(2) *District commissioner appointments.* All advisory board appointments made by an individual district commissioner shall expire after two years, or with the term of the commissioner making the appointment, whichever occurs first. A district commissioner's appointee may continue to serve after the expiration of the district commissioner's term until he or she is reappointed or until a new appointment is made.

(3) *At-large appointments.* All at-large advisory board appointments (those made by the board of county commissioners) shall expire every two years. An at-large member may continue to serve after the expiration of his or her term until he or she is reappointed or until a new appointment is made. All at-large appointments shall be made by the board no later than the first board meeting in April of each year.

(4) *Term limits.* Appointees to advisory boards shall serve no more than eight consecutive years, or ten years in 16-year period, on the same advisory board for which there is not an interlocal agreement or memorandum of understanding or other contractual commitment precluding imposition of a term limit. A commissioner may request the board of county commissioners waive the aforementioned term limits should the commissioner have difficulty filling an advisory board appointee position. A waiver of the term limits will only be granted if the board votes in favor of the waiver by a supermajority vote.

(5) *Attendance/absences.* Any appointee who is absent fifty percent of the advisory board's meetings at the end of the appointee's current term, shall be dismissed from their appointment to the advisory board unless excused by the Board of the County Commissioners.

(6) *Removal.* A district commissioner may remove an appointee to a district commissioner appointment with or without cause, for at-large appointments, for both chair and district nominated appointees, the board may remove an appointee with or without cause by a simple majority provided that the district commissioner who initially nominated the appointee is in the majority. If the district commissioner is no longer on the board, the current district commissioner must be in the majority for removal of a district nominated appointee and the current chair must be in the majority for removal of a chair nominated appointee. In the event the appointing authority removes an appointee, the appointing authority may appoint an individual to complete the remainder of the term. For advisory boards with term limits, a replacement's completion of a term shall not count toward the term limit. For at-large appointments, the board of county commissioners is the appointing authority.

(7) *List of advisory boards on County government website.* A list of all active advisory boards shall be maintained on the County government website and available to the

public. This list shall categorize each advisory board as either a mandatory advisory board, non-mandatory county advisory board, or partnership advisory board.

SECTION 3. Section 2-214 of the Code of Ordinances of Brevard County Florida is hereby amended to read as follows:

Sec. 2-214. – Open meetings, public comment and agendas.

All meetings of any advisory board are declared to be public meetings and open to the public at all times. Open meetings of advisory boards and commissions shall be governed by the following standards:

(1) Reasonable notice must be given to the public of the time and place of such meetings. Responsibility for providing such notice may be delegated to any county staff persons assigned to assist the advisory board or commission.

(2) Each advisory board shall establish procedures for taking public comment at all advisory board meetings. Such procedures shall comport with the following minimum guidelines:

a. Two kinds of public comment shall be taken:

1. Relevant comment when the advisory board discusses a particular issue or takes a final vote on any given issue; and

2. Comment which brings new business or issues before the advisory board.

b. Each speaker shall be given three minutes to speak, with provision for an extension or reduction of time by the chair or majority vote of the advisory board.

c. Speakers may be required to give their names and addresses for the record.

d. Any member of an advisory board, who votes to refuse a member of the public the right to speak in the manner prescribed in subsections a. and b. shall be subject to removal as a member of the advisory board or commission by the board of county commissioners.

(3) The advisory board or county staff to whom such responsibility may be designated, shall prepare a meeting agenda and any back-up material which shall be made available for inspection during regular business hours prior to each meeting.

SECTION 4. Creating a new Section 2-215 of the Code of Ordinances of Brevard County Florida to read as follows:

Sec. 2-215. – Meeting frequency, time, and location for non-mandatory county advisory boards.

(1) Meeting frequency: Each advisory board shall meet a maximum of four times per year unless specifically exempted from this provision. Any additional meetings will require the approval of the County Manager.

a. This provision does not apply to the Board of Adjustment or the Personnel Council.

(2) Time and location: All meetings shall be held at County government facilities. A minimum of 75 percent of an advisory board's meetings shall be held during normal business hours (8:00 a.m. to 5:00 p.m.). The County Manager may approve exceptions to these time and location requirements on a case by case basis.

SECTION 5. Creating a new Section 2-216 of the Code of Ordinances of Brevard County Florida to read as follows:

Sec. 2-216. –County staff time and expenditures.

(1.) Staff shall be responsible for:

a. Officially notifying the Board of vacancies or impending term expirations.

b. Officially notifying the Board of the name, address, telephone number, term of appointment, starting date, and representation of each appointee as well as the name of the individual being replaced.

(2.) County staff time for all county advisory boards not mandated by state or federal law, shall be billed at \$50 per hour, which shall be increased annually by Consumer Price Index. Staff time billed during a single year shall not exceed \$3,000.

(3.) Staff time shall include, but is not limited to, the following activities: attendance of all county advisory board meetings, scheduling, research, communication, and any other task done on behalf of or in relation to a request made by the advisory board.

- (4.) All requests for staff time or for records, documents or data shall be made through the advisory board chair by majority vote to the County staff liaison.
- (5.) The County Manager may approve the use of additional County staff time on a case by case basis.

SECTION 6. Creating a new Section 2-217 of the Code of Ordinances of Brevard County Florida to read as follows:

Sec. 2-217. – Annual written reports for all county advisory boards.

All county advisory boards shall submit an annual written report to the Board of County Commissioners at the beginning of each fiscal year. Each report shall be published on the consent portion of a Board of County Commissioners regular meeting agenda. The report shall also be published on the Brevard County government website. If the report is not submitted within 30 days of the first day of the fiscal year, the board shall be considered inactive and subject to dissolution by the Board.

SECTION 7. Creating a new Section 2-218 of the Code of Ordinances of Brevard County Florida to read as follows:

Sec. 2-218. *Financial disclosures.* Required financial disclosure reports from applicable advisory board members shall include:

- a. Any appointed member of the Planning and Zoning Board, Board of Adjustment, Merritt Island Redevelopment Agency, North Brevard Economic Development Zone.
- b. Any members of advisory boards whose total budget, appropriations or authorized expenditures constitutes one percent of the budget of the Board of County Commissioners or \$100,000 whichever is less; and whose powers, jurisdiction and authority are not solely advisory in nature.
- c. By other member who is required by law to file such a disclosure.

SECTION 8. Creating a new Section 2-219 of the Code of Ordinances of Brevard County Florida to read as follows:

Sec. 2-219.- *Dissolution.*

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WHEREAS, the Board of County Commissioners has established numerous advisory boards and committees; and

WHEREAS, the Board of County Commissioners previously established a uniform appointment process and protocols for public comment for advisory boards in Chapter 2 of the Brevard County Code of Ordinances; and

WHEREAS, many of the advisory boards currently meet after normal business hours in various locations throughout the county, with varying meeting frequency; and

WHEREAS, Board of County Commissioners now seeks to simplify the schedule of advisory board meetings and reduce expenses related to County staff time devoted to such meetings; and

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Advisory board means a board, commission, council, ~~or committee~~, subcommittees, workgroup or panel established by county ordinance, resolution or state statute to which appointments are made by a commissioner or the board of county commissioners.

Board or board of county commissioners means the governing body of the county.

Commissioner means an individual serving on the board of county commissioners.

~~*Excused absence* shall mean personal emergencies or business reasons excused by the advisory board or chairman of the advisory board.~~

Mandatory advisory board shall mean an advisory board which is required to exist by federal law, state law, or by voter referendum.

Non-mandatory county advisory board shall mean an advisory board which is not required to exist by federal or state law and is comprised solely of members appointed by the Board of County Commissioners.

Partnership advisory board shall mean an advisory board which includes participation by or appointments made by another municipality or entity.

~~*Unexcused absence* shall mean an absence from an advisory board meeting which is not a result of an illness or an emergency.~~

SECTION 2. Section 2-213 of the Code of Ordinances of Brevard County Florida is hereby amended to read as follows:

Sec. 2-213. – General provisions.

The following provisions shall be applied in the establishment and implementation of uniform advisory board appointments:

(1) Ordinances and resolutions. All ordinances and resolutions shall specifically contain, or provide for the number of members, their minimum qualifications, how they are to be appointed, their term of service, and provisions for interim appointments and their terms of service.

(2) District commissioner appointments. All advisory board appointments made by an individual district commissioner shall expire after two years, or with the term of the commissioner making the appointment, whichever occurs first. A district commissioner's appointee may continue to serve after the expiration of the district commissioner's term until he or she is reappointed or until a new appointment is made.

(3) At-large appointments. All at-large advisory board appointments (those made by the board of county commissioners) shall expire every two years. An at-large member may continue to serve after the expiration of his or her term until he or she is reappointed or until a new appointment is made. All at-large appointments shall be made by the board no later than the first board meeting in April of each year.

(4) Term limits. Appointees to advisory boards shall serve no more than eight consecutive years, or ten years in 16-year period, on the same advisory board for which there is not an interlocal agreement or memorandum of understanding or other contractual commitment precluding imposition of a term limit. A commissioner may request the board of county commissioners waive the aforementioned term limits should the commissioner have difficulty filling an advisory board appointee position. A waiver of the term limits will only be granted if the board votes in favor of the waiver by a supermajority vote.

(5) Attendance/absences. Any appointee who is absent fifty percent of the advisory board's meetings at the end of the appointee's current term, shall be dismissed from their appointment to the advisory board unless excused by the Board of the County Commissioners.

(6) Removal. A district commissioner may remove an appointee to a district commissioner appointment with or without cause, for at-large appointments, for both chair and district nominated appointees, the board may remove an appointee with or without cause by a simple majority provided that the district commissioner who initially nominated the appointee is in the majority. If the district commissioner is no longer on the board, the current district commissioner must be in the majority for removal of a district nominated appointee and the current chair must be in the majority for removal of a chair nominated appointee. In the event the appointing authority removes an appointee, the appointing authority may appoint an individual to complete the remainder of the term. For advisory boards ~~and committees~~ with term limits, a replacement's

completion of a term shall not count toward the term limit. For at-large appointments, the board of county commissioners is the appointing authority.

~~(6) *Applicability.* The provisions of sections 2-211 to 2-214 of this Code apply to the county advisory boards except as otherwise provided by law, resolution or ordinance, memorandum of agreement or interlocal agreement.~~

(7) *List of advisory boards on County government website.* A list of all active advisory boards shall be maintained on the County government website and available to the public. This list shall categorize each advisory board as either a mandatory advisory board, non-mandatory county advisory board, or partnership advisory board.

SECTION 3. Section 2-214 of the Code of Ordinances of Brevard County Florida is hereby amended to read as follows:

Sec. 2-214. – Open meetings, public comment and agendas.

All meetings of any advisory board ~~or commission created by the county commission to assist in the board's decision-making process, including committee and subcommittee meetings of such boards or commissions,~~ are declared to be public meetings and open to the public at all times. Open meetings of advisory boards and commissions shall be governed by the following standards:

~~(1) The minutes of such meetings shall be recorded and be promptly made available for public inspection.~~

(2) (1) Reasonable notice must be given to the public of the time and place of such meetings. Responsibility for providing such notice may be delegated to any county staff persons assigned to assist the advisory board or commission.

(3) (2) Each advisory board ~~by~~ shall establish procedures for taking public comment at all advisory board ~~committee~~ meetings. Such procedures shall comport with the following minimum guidelines:

a. Two kinds of public comment shall be taken:

1. Relevant comment when the ~~committee~~ advisory board discusses a particular issue or takes a final vote on any given issue; and

2. Comment which brings new business or issues before the ~~committee~~ advisory board.

b. Each speaker shall be given three minutes to speak, with

provision for an extension or reduction of time by the chairman or majority vote of the ~~committee~~ advisory board.

c. Speakers may be required to give their names and addresses for the record.

d. Any member of an advisory board, ~~commission, board, committee or subcommittee~~ who votes to refuse a member of the public the right to speak in the manner prescribed in subsections a. and b. shall be subject to removal as a member of the advisory board or commission by the board of county commissioners.

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b. Any members of advisory boards whose total budget, appropriations or authorized expenditures constitutes one percent of the budget of the Board of County Commissioners or \$100,000 whichever is less; and whose powers, jurisdiction and authority are not solely advisory in nature.

c. By other member who is required by law to file such a disclosure.

SECTION 8. Creating a new Section 2-219 of the Code of Ordinances of Brevard County Florida to read as follows:

Sec. 2-219.- Dissolution.

If the Board determines an advisory board has served its purpose, is inactive, or functioning inadequately, such advisory board shall be dissolved by the same action taken to create the advisory board, whether by motion ordinance or resolution.

Sections 2-220- 2-225. Reserved.

SECTION 9. CONFLICTING PROVISIONS In the case of a direct conflict between any provision of this Ordinance and a portion or provision of any other applicable federal, state or county law, rule, code or regulation, the more restrictive shall apply, unless preempted by law.

SECTION 10. SEVERABILITY If any section, subsection, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such invalid unconstitutional portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, provided the remaining portions effectuate purpose and intent of this ordinance.

SECTION 11. AREA ENCOMPASSED This Ordinance shall take effect in the unincorporated area of Brevard County, Florida.

SECTION 12. EFFECTIVE DATE This Ordinance shall take effect upon filing as provided by law.

DONE, ORDERED AND ADOPTED in Regular Session, this ____ day of _____, 2022.