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February 22, 2017

MEMORANDUM

TO: Scott Knox, County Attorney

RE: Item VIII.D., Ordinance Amending to Section 62-212(a), Brevard County Code of Ordinances, to Grant Commissioners "At Large" Appointments

The Board of County Commissioners, in regular session on February 21, 2017, directed staff to amend Section 62-212(a), Brevard County Code of Ordinances, to grant Commissioners "at large" appointments that must be approved by the Board of County Commissioners; this approach will allow, a Commissioner to search for, and appoint, members outside of his or her district without being concerned about how many members from each district is on the Board of Adjustment.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/cmw

cc: Each Commissioner
Planning and Development Director

TB: Option 1.

CS: Okay, do we have a second?

KI: I'll second.

CS: We have a motion by Commissioner.

RP: I have.

CS: Yes.

RP: We have been trying to find people to fill positions and right here in the Board of Adjustments we only have a primary and couldn't find an alternate. We don't have one that would be a good fit from our District right now. So, I almost don't mind the At-large. I think we should do our best. I don't know if we could write it into there that it would be for us to do our best to try to find someone from our District to fill the positions, but I think what we really need to do is find someone with the best fit that fills these boards. So, I don't mind it coming back for discussion. I'm going to have to take some time really thinking through it as we move forward. I didn't know it was a Resolution that it would be in your District, because I too have some that were grandfathered in that aren't in my District but they are good fits on boards. So, I have a little conflict inside of me right now too with this proposal of not going forward or going forward. So?

CS: Mr. Knox do we need a motion to go forward with this?

SK: Yes. Yeah, if you have staff direction to prepare an ordinance amendment that.

CS: Right. So we need to have a motion.

SK: Yeah. I would help me.

CS: Okay. Very good. So Mr. Tobia you want to formally.

TB: Yes. I'd like to have a motion to direct staff to make an amendment to the Ordinance with the staff recommendation to Option 1.

CS: We have that, girls. Okay, can we have a second?

KI: Second.

CS: Okay, we have a second by Commissioner Pritchett

JB: Nay.

CS: Passes 4:1 Commissioner Barfield being the Nay vote.

JT: During Citizen Advisory Board appointments, there was an issue that was brought up with one of my appointees and I in an abundance of caution pulled that because I was waiting for a legal interpretation of what Brevard County Code said; and as somebody that has spent zero days in law school, I asked Mr. Knox's office to come up and give me a solution or, B, and explanation of the requirements for Zoning Board of Adjustment. As soon as I receive that, I sent that out to my fellow Commissioners, hopefully you got a copy of it, and on the back of the memo is dated February 15. As soon as I got it I sent it out. It looks like it was done by Ms. Berrios, the Assistant County Attorney. She makes three. She gives three options to resolve the matter that I brought up and my suggestion moving forward would be to go with the option that she found, not that she came up with it the best. It says "Knowing that often challenge upon members to sit on volunteer boards, the County Attorney's Office recommends Option 1." Option 1 says the Board could amend Section 62-212a Brevard County Code of Ordinance to grant Commissioners At-Large Appointments must still be approved by the Board of County Commissioners. So, I just wanted to clear this up for future commissioners, as well as us. So, my suggestion would be to go with the recommendation of the recommendation of County staff, but I would be open to other alternatives. But I just wanted to get this out because of Sunshine. This, I think is the proper forum to discuss this so that would be. I was told this was the proper place to bring it so I would like to get some ideas on this.

JB: On the Board of Adjustments, I actually have been on the Board of Adjustments before for a city, and what you do is you go out and you need to look at the areas. You need to look specifically at property; it's for variances or whatever. I like the way that this is written. I think it needs to stay where you are in that area, because for instance if you have someone that is supposed to be District 1 and they live in District 5 or different District 3, that really makes it kind of tough to actually go look at the property or, it's just a challenge. So, I think it's more and the fact that you live in that area makes a lot more difference too because you really know what is going on. I like the way it is. I think you need to be in that area. This is one of those areas where, and I remember all the different little things from a variance because someone needed an extra foot or something in their property and you have to go out and look at it. So, I'm just leaving it alone. I prefer to just leave it the way it is.

KI: We have to appoint several dozen people to boards and it just so happened that the one board that they looked at, my appointee happens to be from a different District. Now he was a previous appointee by a previous Commissioner, by Commissioner Anderson, and to remove him now because he doesn't live in my District. This is again, and I think I've said it before we represent the entire County. And where you may have a board, Board of Adjustments for example where it may be an exception to where you should have somebody in the District, I think that just by the Mir fact you want volunteers on your board, and I don't want myself and staff to try to beg someone to be on a board I'd rather have a citizen who is willing to step forward and serve on those board's so I think they need to be At-large positions. And I know a lot of other places that are moving towards that way because we have a lot of slots to fill. And I want people enthusiastic about serving on the boards. So I'd be open to making them At-large as the Assistant County Attorney suggested.

CS: Pleasure of the Board?

TB: Motion to direct staff to make the recommended change for the next meeting to bring to a vote.

CS: Okay, so you are Option 1?



County Attorney's Office
2725 Judge Fran Jamieson Way
Building C, Room 308
Viera, Florida 32940

Inter-Office Memo

BOARD OF COUNTY COMMISSIONERS

1. The Board could amend Section 62-212(a), Brevard County Code of Ordinances, to grant commissioners "at large" appointments that must be approved by the Board of County Commissioners. This way, a commissioner can search for, and appoint, members outside of his or her district without being concerned about how many members from each district is on the Board of Adjustment.
2. The Board could leave the ordinance as it stands. If this is done then District 3's appointment to replace Mr. Rosasco, a primary member who has not yet been reappointed, would need to reside in District 5 to ensure that the ordinance's residential mandate of "one member and one alternate from each county commissioner's district" is complied with. Mr. Young, who lives in District 3, has already been reappointed by District 5 as a primary member, therefore another primary member appointment that lives in District 3 would not be permitted under the present ordinance.
3. The Board could amend Section 62-212(a), Brevard County Code of Ordinances, to make it clear that, in the future, the commissioners can only nominate appointees that reside within their own district. It is recommended that this option also include an ordinance amendment ratifying the current composition of the Board of Adjustment.

Knowing that it is often challenging to find members to sit for volunteer boards, the County Attorney's office recommends "Option 1" and a move toward "at large" appointments. This option would help the districts that presently lack alternates find alternates, permit those already appointed to the Board of Adjustments to remain seated on it, and give the Commissioners wide discretion as to whom they feel will best serve them on this important board.



BOARD OF COUNTY COMMISSIONERS

County Attorney's Office
2725 Judge Fran Jamieson Way
Building C, Room 308
Viera, Florida 32940

Inter-Office Memo

To: Commissioner John Tobia, District 3
From: Cristina T. Berrios, Assistant County Attorney
Through: Scott Knox, County Attorney
Date: February 15, 2017
Subject: Appointments to the Board of Adjustment

Question: What are the rules regarding appointment to the Board of Adjustment?

Answer: The Board of Adjustments is a final decision making body, the decisions of which are appealed directly to a court of competent jurisdiction. Section 62-212(a), Brevard County Code of Ordinances, states that the Board of Adjustment shall consist of one member and one alternate from each county commissioner's district, each to be appointed for a term of one year. Appointments to fill a vacancy shall be made by the Board of County Commissioners.

Traditionally, appointments to the Board of Adjustment have been nominated by individual commissioners and then approved by the Board of County Commissioners. However, as the research set forth in the table below indicates, the residence mandate of Section 62-212(a), Brevard County Code of Ordinances, has not been strictly complied with.

Presently, the breakdown of the Board of Adjustment by appointee's residential district is as followed:

Table with 4 columns: Residential District, Member Name, Primary or Alternate?, and Appointing District. Rows include Britta Hawkins (D1), Wayne Snyder (D2), James Rosasco* (D3), Dave Pasley* (D3), Dale Young (D3), George Bovell (D4), and Francis Clifford (D4).

*Mr. Rosasco and Mr. Pasley have not yet been reappointed and are serving until either reappointment or replacement.

There are no appointments, primary or alternate, who reside within the boundaries of District 5. Moreover, there are three vacancies in Districts 1, 2, and 5 on the Board of Adjustment for alternate positions.

The Board has a few options to resolve this matter.