

Meeting Date
March 20, 2018



AGENDA	
Section	Public Hearing
Item No.	IV.B

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	PUBLIC HEARING RE: CODE REVISION TO CHAPTER 62, ARTICLE VI – BOARD OF ADJUSTMENT APPOINTMENTS FISCAL IMPACT: NONE
DEPT/OFFICE:	PLANNING & DEVELOPMENT DEPARTMENT

Requested Action:
 It is requested that the Board of County Commissioners approve revisions to Chapter 62, Article VI, Division 4, Board of Adjustment, Section 62-212 (a) to allow at-large appointments.

Summary Explanation & Background:

The Board of County Commissioners, on February 21, 2017, initiated legislative intent and granted permission to advertise revisions to Chapter 62, Article VI, Section 62-212(a), Membership; appointment, term and compensation of members; alternate members.

The proposed code revision is to allow at-large appointments of the Board of Adjustment members. This will allow a Commissioner to search for, and appoint, members outside of his or her district without being concerned about how many members live in each district on the Board of Adjustment.

The BCAC recommended approval of the proposed changes at the February 14, 2018 meeting. The LPA, on February 19, 2018 recommended approval.

Contact: Rebecca Ragain, Assistant Director 321-633-2072 Ext. 5-2362

Clerk to the Board Instructions:

Exhibits Attached: Clean copy code, strikethrough/underline copy

Contract /Agreement (If attached): Reviewed by County Attorney		Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager	Assistant County Manager	John Denninghoff		Department Director / Extension #52070			
Frank Abbate	Interim Assistant County Manager	Jim Liesenfelt		Tad Calkins, Planning & Development Department			



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

March 21, 2018

MEMORANDUM

TO: Tad Calkins, Planning and Development Director Attn: Rebecca Ragain

RE: Item IV.B., Ordinance for Code Revision to Chapter 62, Article VI – Board of Adjustment Appointments

The Board of County Commissioners, in regular session on March 20, 2018, adopted Ordinance No. 18-04, revising Chapter 62, Article VI, Division 4, Board of Adjustment, Section 62-212(a), allowing for at-large appointments. Enclosed is a certified Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

Encl. (1)

cc: Each Commissioner



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

March 21, 2018

Honorable Scott Ellis
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Ms. Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of **Brevard County Ordinance No. 2018-04**, which was filed in this office on March 21, 2018.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

ORDINANCE NO. 2018- 04

AN ORDINANCE AMENDING CHAPTER 62, "LAND DEVELOPMENT REGULATIONS", CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VI, DIVISION 4, BOARD OF ADJUSTMENT; SPECIFICALLY AMENDING SECTION: 62-212, MEMBERSHIP; APPOINTMENT TERM AND COMPENSATION OF MEMBERS; ALTERNATE MEMBERS; TO REMOVE THE REQUIREMENT THAT BOARD OF ADJUSTMENT MEMBERS BE A RESIDENT OF THE DISTRICT THEY SERVE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, the Board of County Commissioners desires to allow for at-large appointments of the board of adjustment members; and

WHEREAS, the Board of County Commissioners, on February 21, 2017, directed staff to prepare an ordinance and ratify existing conditions and members; and

WHEREAS, the Building Construction Advisory Committee, on February 14, 2018, reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Local Planning Agency, on February 19, 2018, reviewed the proposed ordinance and made recommendations; and

WHEREAS, the Board of County Commissioners has reviewed the recommendations of the Local Planning Agency and the Building Construction Advisory Committee and has considered the comments of interested citizens in public hearing; and

WHEREAS, the Board of County Commissioners has determined that the proposed amendment serves the public health, safety and welfare of the citizens of Brevard County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. Section 62-212, Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

Sec. 62-212. Membership; appointment, term and compensation of members; alternate members.

(a) The board of adjustment shall consist of one member and one alternate for each county commissioner's district, each to be appointed for a term of one year. The term of

Officially filed with the Secretary of State March 21, 2018

appointment shall commence on January 1 of the year of appointment, and each member shall serve until his successor is appointed. Each member shall reside in Brevard County, but is not required to be a resident of the commission district for which he or she is designated to serve. Appointments to fill a vacancy shall be made by the board of county commissioners for the unexpired term only. Members of the board of adjustment shall serve at the pleasure of the board of county commissioners. The members shall be paid such compensation and actual expenses as provided by the board of county commissioners from time to time by resolution. No member of the board of adjustment shall serve on the planning and zoning board.

- (b) The chairman shall designate those alternates who are to vote if the number of alternate members exceeds the number of absent regular members.

SECTION 2. Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 4. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

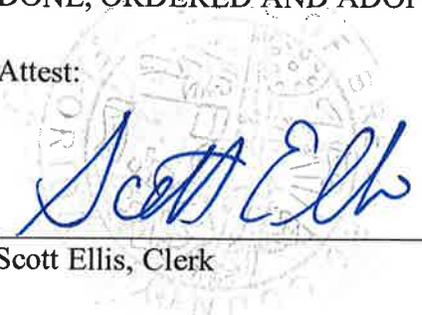
SECTION 5. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

SECTION 6. 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 20th day of March, 2018.

Attest:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



Scott Ellis

Scott Ellis, Clerk

Rita Pritchett

Rita Pritchett, Chair

(as approved by the Board on March 20, 2018)

(S E A L)

Reviewed for legal form and content by: _____



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Tammy.Rowe@brevardclerk.us

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,

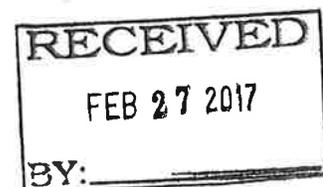
BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/cmw

cc: Each Commissioner
Planning and Development Director



Meeting 2/21/2017 9:00 AM

Vote Results

Rita Pritchett	Second	Yes/Aye
Jim Barfield	Voter	No/Nay
John Tobia	Mover	Yes/Aye
Curt Smith	Voter	Yes/Aye
Kristine Isnardi	Voter	Yes/Aye

February 21, 2017 9:00 AM Adopted

Commissioner Tobia stated during the citizen advisory board appointments, there was an issue brought up with one of his appointees; and he, in an abundance of caution pulled that, because of what Brevard County Code said. He went on to say as a person who spent zero days in law school, he asked Attorney Knox's office to come up and give him a solution or an explanation of the requirements for Zoning Board of Adjustment; as soon as he received that, he sent that out to his fellow Commissioners; on the back of the memorandum dated February 15th, it looks like it was done by Cristina Berrios, Assistant County Attorney, who gives three options to resolve the matter he has brought up; and his suggestion moving forward would be to go with the options Ms. Berrios found, where she recommends Option 1, amending Section 62-212(a), Brevard County Code of Ordinances, to grant Commissioner's 'at large' appointments that must be still approved by the Board of County Commissioners. He noted he wants to clear this up for future Commissioners; his suggestion would be to go with the recommendation of County staff; he is open to other alternatives; but because of the Sunshine Law, he thinks this is the proper forum to discuss this.

Commissioner Barfield stated he has actually been on the Zoning Board of Adjustment for a city before; a person needs to actually go out and look at the property; he likes the way it is written, and it needs to stay where a person is in that area; if there is someone who is supposed to be District 1 and they live in District 5, that makes it kind of tough to actually look at the property; the fact a person lives in that area makes a lot more difference because he or she knows what is going on; and he reiterated he likes the way this reads currently. He noted he is for leaving it just the way it is.

Commissioner Isnardi stated the Commissioners have to appoint several dozen people to advisory boards; it just so happened her appointee is from a different District; he was a previous appointee by Commissioner Anderson; and to move him now because he does not live in her District is not right. She went on to add the Board represents the entire County; where there may be a particular advisory board where they may be someone needed from the District, the Commissioners need volunteers for the advisory boards; and she does not want her or her staff to have to beg someone to be on the advisory board, she would rather have a citizen who is willing to step forward and serve on those advisory boards. She stated she thinks they should be 'at large' positions; she knows a lot of places moving towards that way, because there are a lot of slots to fill; she wants people to be enthusiastic to be on the advisory boards; and she would be open to making those 'at large' appointments as the County Attorney's Office has suggested.

Commissioner Pritchett stated her staff has been trying to find people to fill positions; they could not find an alternative for the Zoning Board of Adjustment, as there is no one who would be a good fit from the District 1 right now; and she does not mind the 'at large' appointments. She stated she would like to take some time to think about it first.

The Board approved Option 1, to direct 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.

Brevard County Attorney
Ordinance Approval Sheet

SECTION I

The following information must be completed on all ordinances submitted to the Board:

Ordinance Name: BOA Membership Ordinance		Ordinance Author: Rebecca Ragain	
Division Name: Planning & Development Dept. (Zoning Office)		Mail Stop: 81	Review Deadline:
Sent by P&ZO: Rebecca Ragain <i>RR</i>			
Dept./Office Director: Tad Calkins			
Meeting Date: (P&Z/LPA) 2/19/18	(BCC) 3/1 & 3/20/18	Advertising Deadline: 1/31/18	

SECTION II

COUNTY OFFICE

APPROVAL
Yes No

INITIALS DATE

County Attorney's Office

✓

RC *1/10/18*

SECTION III

Sent for Review

Land Dev.

RR Y N N/A

ONRM

Y N N/A

Other Dept./Office

Y N N/A

Comments: