

PORT ST. JOHN DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The Port St. John Dependent Special District Board met in regular session on Wednesday, April 20, 2015, at 6:00 p.m., at the Port St. John Library, 6500 Carole Ave., Port St. John, Florida.

Board members present were: Vaughan Kimberling; Carmella Chinaris; Wendy Porter; Maureen Rupe, Greg Messer; and Peter Costello.

Staff members present were: Robin Sobrino, AICP, Planning and Development Director; Cindy Fox, Zoning Manager; and Jennifer Jones, Special Projects Coordinator II.

The meeting was called to order by the Chairman, Vaughan Kimberling, at 6:00 p.m.

1. Ordinance Amending Chapter 98, Article IV pertaining to the Port St. John Dependent Special District Board.

PSJ Recommendation: Rodriguez/Chinaris – Approved. Vote was unanimous.

Vaughan Kimberling – Good evening and thanks for coming out tonight for the special meeting tonight of the Port St. John Dependent District Advisory Board, to go over the Florida Statutes 163.3174. We'll open it up for discussion at this point. Has everybody had the chance to read the ordinance? Any questions?

Robin Sobrino – Mr. Chair, may I address the board?

Vaughan Kimberling – Please.

Robin Sobrino – For those who don't know me, I'm Robin Sobrino, I'm the Director of the Planning and Development Department. I wanted to have an opportunity to chat with you today to let you know what was happening. You all are familiar with your historic roles as part of land use decision making for Brevard County. You have a very unique niche; you and North Merritt Island; you're the only two that actually are dependent special districts hearing land use matters within your neighborhoods. So, it's really a wonderful opportunity that you have. Historically, the Code has provided you with the authority to hear zoning applications, and to sit in lieu of the citizen resource group to consider comp plan amendments and offer recommendations to the Board of County Commissioners. We have determined that there was a change in Florida Statute in 2003 that we had been unaware of. The State Legislature had changed its definition of what is known as Local Planning Agency, and the authority given by the State Legislature to the Local Planning Agency. You probably are familiar with the fact that at Brevard County, at the Government Center, we do have what we call LPA meetings, and the LPA hears comp plan amendments that are anywhere other than North Merritt Island and Port St. John. They also hear, when they sit as the Planning and Zoning Board, rezoning applications, the same way that you have been hearing rezoning applications. The Florida Statutes changed to say that a Local Planning Agency should be the exclusive recommending body to the Board of County Commissioners for rezoning applications that increase density and for comprehensive plan changes. A Local Planning Agency, in order to exist, must have a member of the School Board sitting on the board itself. Clearly, they were trying to reinforce the connection that increases in density and changes in land use often have a major impact upon schools and the School Board's capability to provide student stations for students. So, I guess this was their way of reinforcing that connection and making sure that the School Board has a seat at the table on such decisions. Now we've determined that the way that we've been historically doing business here now is inconsistent with State Statute, so we're compelled to modify the authority of the North Merritt Island board and the Port St. John board in order to remain consistent with Florida Statute. What is very important to consider is the fact that when we brought this disconnect to the attention of the Board of County Commissioners and explained to them that your board does not meet the definition of a local planning agency, so therefore, per State Statute, you cannot hear comp plan amendments and you should not be hearing rezoning applications that increase density. The Board said it didn't want to cut these boards out of that process, that it's an important part of the discussion process. So, the Board of County Commissioners directed the our County Attorney to draft an ordinance that would be consistent with the State Statute, but would also still continue to give your board a place in the land use decision making for comp plan amendments and for rezoning requests

that increase density. What you have before you today is an ordinance that attempts to reconcile the County Code in accordance with State Statute, but also ensure that you still have a place in the process for rezoning applications that increase density and for comp plan amendments, and by virtue of the fact that you would offer an advisory opinion to the Local Planning Agency on those two types of applications, and the Local Planning Agency would take that under advisement in their deliberations, and they are the official recommending body per State Statute, to the Board of County Commissioners. You are, and still remain, the recommending body on any other rezoning requests. So, when somebody comes in for a CUP for alcohol, or somebody comes in and wants to go from residential to business, those are still squarely your authority to consider those and make the recommendation directly to the Board of County Commissioners. So, it will be business as usual for you on those. So, with that being said, I'm glad to allow your board to open the dialogue up.

Carmella Chinaris – My question is, a member of the School Board must sit on the board as a non-voting member, or a School Board designee?

Robin Sobrino - A School Board representative.

Carmella Chinaris – And is that a non-voting member?

Robin Sobrino – The Florida Statute says that they may be a non-voting member in order to still qualify, or at the jurisdiction's discretion, make them a voting member. Brevard County has designated our representative as a voting member, but there are a number of cities within Brevard County who only have their representative from the School Board as a non-voting member.

Carmella Chinaris – So, how do we go about doing that? Getting the School Board to send someone?

Robin Sobrino – As the board that you sit now, you don't need a representative. That's where the Local Planning Agency has the School Board representative and they would continue to serve as being the recommending body to the Board of County Commissioners.

Carmella Chinaris – So, we will not hear any planning and zoning that is a land use change or increases density? We'll be circumvented and it will go straight to.....

Robin Sobrino – No, what we're saying is that if we were to read the State Statute as it's written, you would have no place in the process for those two types of applications. However, our Board of County Commissioners said they feel it's important that this board still participates in the process. So, what you would be doing is hearing those applications and offering an advisory opinion to the Local Planning Agency. So, you still get to have your public hearing here; you get to have your dialogue; and you would be recommending to the Local Planning Agency, and they would take your recommendation under advisement as they conduct their public hearing.

Randy Rodriguez – That explains why it was split into two clauses, because it made no sense when I read it that one said we can hear issues that did not increase zoning, and then later it said we can hear issues that do increase density. It's the path it takes from this board, and it will go to the transportation advisory committee [sic] on its way if it increases density.

Robin Sobrino – It will go to the Local Planning Agency if it's increasing density, or if it is a future land use change. But if it is just a more traditional request, such as a request for a CUP for alcohol, a change in zoning from residential to commercial, something that doesn't trigger one of those two stipulations, you continue to recommend directly to the Board of County Commissioners.

Carmella Chinaris – I understand, thank you.

Maureen Rupe – But when does the County Commission hear our views of what we approved or disapproved here?

Robin Sobrino – The same way that they have always.

Maureen Rupe – Then why? I don't understand.

Randy Rodriguez – Because if requiring increased density, it takes an extra step to go through LPA before the Commission, but it still goes to the Commission.

Greg Messer – Our advisory capacity is still intact.

Carmella Chinaris – We're still the same, essentially.

Greg Messer – There's just one more step after us to go through.

Maureen Rupe – So, we have been brought down a step?

Carmella Chinaris – Not really.

Randy Rodriguez – We were the starting place before and the starting place after.

Maureen Rupe – I haven't seen the State Statute that says we are in conflict.

Robin Sobrino – We handed them out. I gave you a copy of the Florida Statute and a copy of.....

Maureen Rupe – I might have just got them.

(several speakers at once)

Robin Sobrino – Yes, I had them handed out so that you'll be able to see how the rules changed.

Maureen Rupe – So, has the County been out of compliance since 1998?

Robin Sobrino – No, since 2003.

Maureen Rupe – Been out of compliance since 2003.

Randy Rodriguez – In defense of the County, I think 1(a) says it clearly, "If a joint planning entity is in existence, that entity shall be the agency for those local governments until such time as the authority of the joint planning committee entity is modified by law." So, we sort have been in compliance because we haven't modified the law until now.

Robin Sobrino – Better late than never.

Maureen Rupe – So, what was the problem with North Merritt Island? I know there was something there. What was their problem?

Randy Rodriguez – They're drawn the same way.

Maureen Rupe – Yes, I know they are, but what brought all this about? Was it a rezoning? No, it was a comp plan amendment. The comp plan amendment that came before them.....it didn't come before them, and it

went straight.....Now, is there anything there.....could these people sue the County for not going through the proper.....the right....

Randy Rodriguez – No, because that did go through LPA, didn't it?

Maureen Rupe – Yes.

Robin Sobrino – Yes.

Randy Rodriguez – So, that was.....

Maureen Rupe – Yes, but at that time it went through the North Merritt Island, too, and it didn't. You cut them out, right? I'm sorry, I don't mean.....they weren't in the process and they should have been, according to them.

Robin Sobrino – No. They were not part of it because there was not a place for them to be officially part of it. This ordinance that we're presenting to you now says, despite what the Florida Statutes compels us to do, our Board is choosing to still be more reclusive and provide for these two boards to participate in the process.

Greg Messer – We will be the first stepping stone; it goes through us and then the LPA.

Maureen Rupe – But I thought it read to me like it did not, in one instance, go through to the County Commissioners; that it went to the LPA and didn't go to the County Commissioners. I believe I even read it in the legislative intent.

Robin Sobrino – I'm drawing a blank, here.

Randy Rodriguez – The LPA goes to the County Commission.

Maureen Rupe – I know that.

Randy Rodriguez – If they skipped the Commission, that would be trouble.

Maureen Rupe – My only point is, if we are not advising the County Commission, I don't know what we're doing here.

Carmella Chinaris – We are.

Randy Rodriguez – We still are.

Greg Messer – We are the first initial step in it.

Robin Sobrino – You're advising the Commission on the other rezoning requests.

Greg Messer – We advise and then the LPA looks at it, and then it goes to the County Commission.

Wendy Porter – I see what Maureen is saying, because it's the LPA going into it.

Randy Rodriguez – Only on comp plan and density issues.

Maureen Rupe – I know that, but I feel like we're being cut down probably to be cut out like CRG's. I hope not.

Carmella Chinaris – Can I ask a question on that? When the County Commission gets the recommendation from the Planning and Zoning, is there anywhere in there that it also says what the local advisory recommendation was?

Robin Sobrino – Yes.

Carmella Chinaris – So, in fact, we're still....our recommendation is still reaching the County Commission, albeit through an extra step.

Robin Sobrino – It will continue to be....right.

Greg Messer – The Board is what devised this so we still have a voice. They want us to still do this.

Robin Sobrino – They wanted to include you, so they directed us to make sure that you continue to be seated.

Randy Rodriguez – The State took us out and the County put us back in.

Greg Messer – The people we report to want to keep us in this capacity.

Robin Sobrino – They simply told staff to figure a way to keep them in the process without running afowl of State Statute.

Randy Rodriguez – Maybe we won't build another elementary school in the crash area for the airport.

Maureen Rupe – There's still something there that doesn't sit right with me, Robin.

Robin Sobrino – Quite candidly, Maureen, the State's made a lot of changes in growth management laws. A lot of them leave us land use folks scratching our head. The statutes have watered down concurrency, it's watered down growth management, and it looks like eminently they're going to eliminate the DRI process, which many of us as planners and interested community members feel is a very important part of the process. So, I'm going to say that we shouldn't look at it as they were figuring out a way to target you, specifically, but rather we're just collateral damage in a bigger picture.

Maureen Rupe – The CRG's were let go because?

Robin Sobrino – Because of our financial problems. Those were budget cuts back in 2007.

Maureen Rupe – They weren't dependent districts, they were....

Robin Sobrino – They were appointed bodies.

Carmella Chinaris – Citizen review....weren't the voluntary? So, what kind of savings was that? Monetarily, it can't have been much.

Robin Sobrino – Staff after work.

Cindy Fox – It's all after hours, it's travel time, and processing minutes and agendas, and mailing courtesy notices.

Randy Rodriguez – That was my though when I read through that, and then chased it around the internet for a while to see what had changed. We're going to pay a lot of money for something we could have emailed back.

Robin Sobrino – We wanted to give you at least the courtesy of it in person.

Randy Rodriguez – We appreciate that.

Carmella Chinaris – I appreciate it because now I understand it better.

Maureen Rupe – I understand, but I still feel uncomfortable about it. I'm sorry, but there is something I don't know.

Wendy Porter – The inclusion of the LPA.

Maureen Rupe – There's something there that's bothering me.

Vaughan Kimberling – Are there any other comments from the board?

Maureen Rupe – No, I don't think so. I'll go home and study it again.

Vaughan Kimberling – I appreciate everybody coming out. Are there any other questions or comments?

Robin Sobrino – Do you want to vote?

Vaughan Kimberling – Do we need a vote?

Robin Sobrino – Not necessarily.

Randy Rodriguez – Mr. Chairman, I make a motion that we recommend acceptance.

Carmella Chinaris – Second.

Vaughan Kimberling called for a vote on the motion as stated, and it passed unanimously.

Maureen Rupe – I'm still going to look at it. I'll accept it because I have no answer right now.

Upon consensus of the board, the meeting was adjourned at 6:20 p.m.