

CORRECTED ORDINANCE NO. 05-22

AN ORDINANCE AMENDING CHAPTER 98, "PORT ST. JOHN DEPENDENT SPECIAL DISTRICT", ARTICLE IV, CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, SPECIFICALLY AMENDING SECTION 98-107, "ELECTIONS"; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; 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 specify that members may be appointed to the Port St. John Dependent Special District Board;

WHEREAS, the Local Planning Agency, on February 28, 2005, reviewed the proposed ordinance and made recommendations; and

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

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

Underline indicates additions.

~~Strike-through indicates deletions.~~

ARTICLE IV. PORT ST. JOHN DEPENDENT SPECIAL DISTRICT

Sec. 98-101. Creation.

There is hereby created a dependent special district to be known and referred to as the "Port St. John dependent special district."

Sec. 98-102. Purpose.

The dependent special district is being created for the purpose of providing the citizens of the Port St. John unincorporated area a formal means of establishing an elected board to review and provide the board of county commissioners with recommendations on particular matters which affect the Port St. John area of the county.

Officially filed with
The Secretary of State
August 5, 2005

Sec. 98-103. Establishment and dissolution.

The dependent special district is established by ordinance of the board of county commissioners. The dependent special district may be dissolved by an ordinance repealing the provisions of this article or by resolution of the governing body of the dependent special district, a copy of which is filed within 30 days of its effective date with (1) the special district information program and (2) the board of county commissioners.

Sec. 98-104. Membership and organization.

The governing board of the dependent special district shall be comprised of seven elected representatives who are registered voters residing within the boundaries of the dependent special district.

Sec. 98-105. Powers, functions and duties.

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

- (1) In lieu of the planning and zoning board, review and provide the board of county commissioners with a recommendation upon rezoning applications made for property located within the boundaries of the dependent special district;
- (2) In lieu of the applicable CRG, review and provide recommendations to the board of county commissioners upon-site-specific applications requesting a change in designation on the county future land use map;
- (3) 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;
- (4) Adopt bylaws setting forth procedures for conducting business.

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

Sec. 98-106. Disclosure and open government laws.

The governing body of the dependent special district shall comply with all financial disclosure, reporting, open government, public records, and public meeting laws set forth in the laws of the state including, but not limited to, F.S. §§ 189.417 through 189.422; F.S. ch. 218, part 111, ch. 119, and ch. 286.

Sec. 98-107. Elections. Appointments

The seven representatives on the governing body of the dependent special district shall be elected appointed by the Board of County Commissioners.¹ ~~plurality vote of the registered electors residing within the boundaries of the dependent special district with the candidates for open seats being ranked according to votes received, and those receiving the highest number of votes being deemed to be elected to the corresponding number of open seats. Elected representatives shall take office at the same time prescribed for county commissioners. Each elected representative shall serve a term of four years. Any elected representative on this board shall serve the remainder of his or her term. The contents of this Section supersede the provisions of Section 98-102, Section 98-104, Section 98-108 and Section 98-109.~~ Pursuant to F.S. § 189.405(1), the election shall be conducted by the supervisor of elections of the county in accordance with the Florida Election Code, F.S. chs. 97 through 106. The governing body shall be known as the "Port St. John special district governing board." Candidates shall qualify in the manner set forth in F.S. ch. 99. Qualifying shall take place between August 12th and 16th in the year of the initial election and, in subsequent elections, at the time that candidates for county offices must qualify.

~~In the event that a sufficient number of candidates do not qualify to fill all vacant seats, the representative shall be selected by a majority vote of the advisory board to serve for a two-year term, or the remainder of a two-year term if the selection is made after the beginning of the term. At the time of the next regular general election, that seat shall be filled by election for the remaining two years. Any appointment by the advisory board shall be submitted to the board of county commissioners for confirmation.~~

Sec. 98-108. Removal of elected representatives.

Any elected representative on the governing body of the dependent special district may be removed by the board of county commissioners for malfeasance, nonfeasance or misfeasance as those terms are defined under state law.

Sec. 98-109. Replacement of elected representatives.

In the event a vacancy occurs, the representative shall be the candidate for the advisory board receiving the next highest number of votes during the last election. If there is no candidate, the representative shall be selected by a majority vote of the advisory board to serve until a new member is elected. If two years remain in the term of the vacated seat, at the time of the next regular general election, that seat shall be filled by election for the remaining two years. Any appointment by the advisory board shall be submitted to the board of county commissioners for confirmation.

Sec. 98-110. Financing.

The dependent special district shall have no authority to borrow money or incur debt of any kind.

¹ The version of this ordinance originally recorded with the Secretary of State has been corrected to remove the following language after the words "shall be" in the first line on this page: "...nominated by the District 1 Commissioner and..." The removed language was not approved by the County Commission at the time of adoption.

Sec. 98-111. Budget.

The dependent special district shall have no operating budget.

Sec. 98-112. Area embraced/geographical boundaries.

The geographical boundaries of the dependent special district and the area embraced by this article is that described in Exhibit A (on file with the county clerk).

SECTION 3. 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. The contents of this Ordinance supersede the provisions of Section 98-102, Section 98-104, Section 98-108 and Section 98-109.

SECTION 4. 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 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 as required by 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.

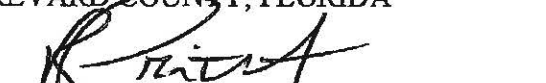
DONE, ORDERED AND ADOPTED, in regular session, this 17 day of May, 2005.

Attest:



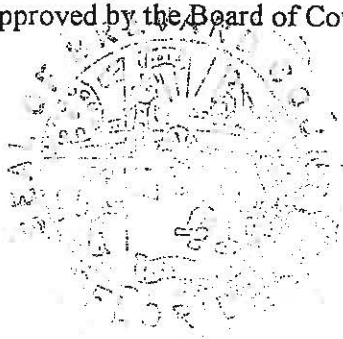
Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



Ron Pritchard, D.P.A., Chairman

As approved by the Board of County Commissioners on May 17, 2005.



RECEIVED

AUG 11 2005

COUNTY ATTORNEY