



Village of Biscayne Park Commission Agenda Report

Village Commission Meeting Date: October 6, 2015

Subject: Discussion on Board Appointments -
Residents vs Property Owners

Prepared By: Mayor David Coviello

Sponsored By: Commission

Background

Per the attached excerpts from the Village of Biscayne Park Code of Ordinances, board and committee members must “reside” in the Village to be eligible to serve, unless such requirement is waived by the Village Commission by a 4/5 vote. See Chapter 2, Article III provisions. The planning board requirements also refer to those that “reside” in the Village. See Appendix A, Part III, Chapter 13. The code compliance board provisions (i.e., Appendix A, Part III, Chapter 15) require that code compliance board members shall be “property owners and residents.”

As currently drafted, residents (not necessarily owners) have the ability to serve, but not owners if they do not reside in the Village. Owners have made an investment in the Village and arguably should have every right to serve on a board or committee.

Recommendation

To have a discussion as to whether changes should be made so that non-resident owners are allowed to serve.

October 6, 2015

Commission Agenda Report

Board Appointments

Attachments

- Village's Code of Ordinances:
 - Article III - COMMISSIONS, BOARDS AND COMMITTEES, Sec. 2-30
 - CHAPTER 13. - PLANNING BOARD AND LOCAL PLANNING AGENCY
 - CHAPTER 15. - PROCEDURES

ARTICLE III. - COMMISSIONS, BOARDS AND COMMITTEES

FOOTNOTE(S):

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Cross reference— Planning board appointed, § 12-16.

Sec. 2-30. - General rules and policies.

(a) *Application of article; definitions; authority to appoint.*

- (1) *Established.* The boards and committees currently on file with the village clerk are established as the official boards and committees of the village. Consistent with section 3.06 of the village Charter, the commission may establish or terminate boards or committees as deemed advisable.
- (2) *Application.* The provisions of this section shall apply to all appointive boards and committees of the village established under this article, except as otherwise provided in this Code.
- (3) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Board or committee for purposes of this article includes every agency, authority, advisory board, regulatory board, quasi-judicial board, semi-autonomous instrumentality, committee, council, task force or any other citizens' group established under this article and funded in whole or in part by the village commission. Except as otherwise provided herein, or in the village Charter, village boards and citizens' advisory groups shall only be created by action of the village commission, and only the village commission, as a body, shall appoint the members to such boards or committees.

Relative means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

Resident means a natural person who resides within the village for not less than six (6) months in each calendar year.

- (4) *Authority to appoint.* The village commission may create boards and committees to be composed of such number of residents as the commission may deem expedient to act in an advisory capacity concerning any issue or subject.
- (5) *Removal.* Board and committee members may be removed at any time by a majority vote of the village commission.
- (6) *Confidentiality.* Except when exempt by state law, all information received by the village on board and committee members is subject to public records law.
- (7) *More restrictive requirements.* That any requirements set forth in a resolution or ordinance creating an individual board or committee which are more restrictive than the requirements herein shall remain in effect.
- (8) *Less restrictive requirements.* That the requirements herein shall supersede any less restrictive

requirements set forth in a resolution or ordinance creating an individual board or committee.

- (9) *Review to determine continuation of existing board or committee.* The village commission may review a board or committee at any time to determine whether the board or committee shall continue to exist, amend or change its purpose and requirement.
 - (10) *Automatic trigger of review.* Failure of a board or committee to have a quorum at two (2) consecutive meetings shall automatically trigger review by the village commission.
- (b) *Qualifications and appointment of members.*
- (1) *Manner of appointment.* Any person appointed to any board or committee of the village shall be appointed by the village commission in the following manner:
 - a. Unless otherwise agreed by the commission, each board or committee established under this article will consist of five (5) members that shall be appointed by the village commission by a simple majority vote. The village commission may appoint alternates for any board or committee as it deems necessary.
 - b. The village clerk shall notify the village commission, in writing, of upcoming vacancies on the boards or committees. The village clerk shall also post such vacancies on the village's web page and outside Village Hall.
 - c. During regular village commission meetings each month, appointments will be made by the village commission to fill vacancies.
 - d. When a vacancy due to resignation, removal or death is filled, the appointment of a replacement member shall take effect on the date of appointment, except as may otherwise be provided by state law.
 - e. The village manager shall designate a staff liaison to each board established under this article.
 - (2) *Prohibition of appointment of relatives.* An individual cannot be appointed to any village board or committee if that person is a relative (as defined above) of a current village commissioner or another relative is on that board or committee.
 - (3) *Resident/nonresident members.* Unless otherwise specifically provided in the Charter or the Code, all members of village boards and committees shall be residents of the village, unless such requirement is waived by the village commission by a four-fifths vote of its membership.
 - (4) *Member ceasing to be in compliance with eligibility requirements.* The village clerk shall inform the village commission whenever a board or committee member has ceased to be in compliance with eligibility requirements for board membership and said board or committee member shall be automatically removed from the board or committee. The village clerk shall then inform the village commission in writing that the position has been declared vacant. Upon being advised by the village clerk of such circumstances, the vacancy will be promptly filled, consistent with section (b) above.
 - (5) *Qualification as candidate for village commission office deemed tender of resignation.* No member of any village board or committee shall become a candidate for village commission office without resigning from that board or committee. Should any member of a village board or committee qualify as a candidate for village commission office, such qualification shall be deemed a tender of resignation from such board or committee as of the date on which the



CHAPTER 13. - PLANNING BOARD AND LOCAL PLANNING AGENCY

13.1. - Generally.

13.1.1 *Purpose of chapter.* The following board and agency are created to administer the provisions of this code under the authority prescribed by this code and Florida law.

13.2. - Planning board.

13.2.1 *Appointed.* There is hereby appointed and created a village planning board hereinafter called the board to review and recommend to the village commission approval or denial of development applications submitted under this code and any other matter that may be referred to the board by the commission.

13.2.2 *Term.* The planning board shall be appointed for a term of two (2) years.

13.2.3 *Membership.* The board shall be composed of three (3) members. Each member shall reside in the village. When a position becomes vacant before the end of the term, the village commission shall appoint a substitute member to fill the vacancy for the duration of the vacated term.

13.2.4 *Chair.* The members shall designate one of them as chair of the planning board.

13.2.5 *Meetings.* The board shall meet in the village hall or at such other place or places as the members thereof may decide and at such times as the members of the board may decide.

13.2.6 *Quorum.* A majority of the members of the planning board shall constitute a quorum for all purposes.

13.2.7 *Procedures.* The board shall follow rules of procedure that conform to this code, the village charter and other ordinances, and state law. Minutes of the board's proceedings shall be kept, indicating the attendance of each member, and the decision on every question. Each decision of the board must be approved by majority vote. All meetings of the board shall be public meetings and all board records shall be public records.

13.2.8 *Finances.* The village commission shall appropriate funds to permit the planning board to perform its prescribed functions. Members shall not be compensated, but may be paid for travel and other expenses incurred on board business under procedures prescribed in advance by the village commission.

13.2.9 *Application fees.* The village commission shall adopt by resolution a schedule of application fees for functions performed by the planning board in response to applications submitted by any person, corporation, organization or governmental entity.

13.3. - Local planning agency.

13.3.1 *Designation and establishment of local land planning agency.* Pursuant to and in accordance with F.S. § 163.3174, the village planning board is hereby designated and established as the local planning agency for the incorporated territory of Biscayne Park, Florida.

13.3.2 *Duties and responsibilities of the local planning agency.* The local planning agency, in accordance with the Local Government Comprehensive Planning and Land Development Act of 1985, F.S. § 163.3174(4), shall:

- (a) Be the agency responsible for the preparation of the comprehensive plan and shall make recommendations to the governing body regarding the adoption of such plan or element or

CHAPTER 15. - PROCEDURES

~~15.1. - Code compliance board~~—Generally.

15.1.1 *Purpose.* This chapter sets forth procedures for enforcement of this code, for the consideration of variances from this code, for amending this code or the comprehensive plan, and for appealing decisions. Section 15.1 shall be for code compliance procedures. Section 15.2 relates to planning board requirements.

15.1.2 *Intent.* It is the intent of the village to provide an equitable, expeditious, effective, and inexpensive method of enforcing the codes and ordinances in force in the village by granting to the code compliance board the authority to impose administrative fines and other no criminal penalties for violation(s) of said codes and ordinances.

15.1.3 *Composition.* The five-member board shall be appointed by the village commission. Members of the code compliance board shall be property owners and residents of the Village of Biscayne Park. Appointments shall be made on the basis of experience or interest and, when possible, the inclusion of the following individuals is encouraged: an architect, an attorney a business person, an engineer, a general contractor, a subcontractor and a licensed real estate person.

15.1.4 *Term of office.* The terms of office of the members of the board shall be up for reappointment yearly at the regular March village commission meeting. The nominating commissioner can continue the term of the commissioner's current appointment or appoint a new member. If no action is taken by the commissioner or the commission, the board or committee member shall continue to serve. New commissioners will also be able to continue the term of a previous commissioner or appoint a new member.

The members shall serve in accordance with the Village Charter and may be suspended and removed for cause as provided in the Village Code of Ordinances and resolutions for removal of members of village boards.

15.1.5 *Procedures.*

- (a) *Chairman.* The members of the code compliance board shall elect a chairman from among its members.
- (b) *Quorum.* The presence of three (3) members shall constitute a quorum of the code compliance board.
- (c) *Expenses.* Members shall serve without compensation, but may be reimbursed for such travel, mileage and per diem expenses as may be authorized by the village commission.

15.1.6 *Counsel.* The village attorney shall either be counsel to the code compliance board or shall represent the village by presenting cases before the board, but in no case shall the village attorney serve in both capacities.

15.1.7 *Compliance procedure.*

- (a) It shall be the duty of the code compliance officer to initiate enforcement proceedings of the various codes; provided, however, no member of the code compliance board shall have the power to initiate such enforcement proceedings.