

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
JUNE 13, 2012 7:30 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

**A. CALL TO ORDER, PRAYER AND PLEDGE:**

Meeting called to order at 7:30 P.M. Prayer and Pledge led Chair Bob Wilbur.

**B. ROLL CALL:**

CHAIR:	BOB WILBUR
VICE-CHAIR:	PAT REILLY
BOARD MEMBERS:	DON KRIEGER
	BUD RYAN
	LIZ RITTER
ALTERNATE:	WAYNE ABARE
ALTERNATE:	CINDY ZINDEL
BOARD SECRETARY:	DENINE SHEREAR
RECORDING CLERK:	DEBBY FRANKLIN, excused

**C. ADDITIONS/DELETIONS/CHANGES:**

**D. CONSENT AGENDA:**

1. **Approval of Minutes** Planning and Zoning Meeting – 5/23/12

**MOTION:** Abare/ Ryan to approve 5/23/12 minutes as submitted.

Board discussing and reviewing minutes. Wilbur states if you don't want it in the minutes don't say it.

**Vote:** All Ayes

**E. PUBLIC: none**

**F. ACTION:**

2. **Discuss Procedures for P&Z Excused Absence Policies**

<b>Exhibit:</b>	Agenda Report No. 2
<b>Recommendation:</b>	Discussion/Action

Reilly states that staff gave suggestion, it was suggested that the chairman be contacted. Ryan adds that is the smartest way to go, it is the chairman that makes the decision if it is excused or not.

Wilbur likes the procedure from staff as far as when you can call in and get in touch with everyone. Ritter, if you know ahead of time you are going to let everyone know. There is email.

Zindel asks about with Florida having the Sunshine Law to contact a Board member your particular the chair directly may be misunderstood. Reilly added it was checked by attorney and Abare explained it is a one way conversation.

Wilbur, to discuss an absent is a one way conversation. Reilly explains the rule is to not discuss something you will be voting on. Ryan states the Sunshine Law is there to prevent gross violations.

Krieger says that our policy is by the consensus of our Board and municode clearly states that we can do that.

Board consensus is that the Chairman determines the excused absence. Abare suggests calling Town Hall.

Ritter adds none of these suggestions is a "must do first" but to let someone know and as a Board we prefer to stick with our Chairman to let him know what is going on and if you cannot get a hold of him leave a message at the Town or email him.

Reilly reads to the Board Article VII, to stick with code. The Chairman is who approves absences.

Ryan states any sufficient way to contact anyone.

Wilbur suggests going to staff first to let them know if we have a quarm (three Members).

**Motion: Reilly/Ryan Recommendation to Maintain Article XII Section 1-12.3 that the Chairman of the Board approves absences and to contact the Recording Secretary, or Board Members, or Town Staff to notify of an absence. Vote: All Ayes**

Wilbur and Ritter suggest putting in the minutes the protocol for contacting someone in the event of an absence.

Abare suggest sending an email to Debby first then copying the chair and other Board Members.

Krieger, we have a code and we know who makes the final discussion the Chairman makes final decision of excused absence.

Krieger, do an email to all Board Members.

Wilbur there is a difference between emergency and a few days ahead, staff needs to know if we have a quarm or not so the rest of Board is contacted if meeting is cancelled.

Ryan's point is an excused absence is strictly an internal matter for this Board only. If a person cannot make meeting owe it to get in touch with Denine the Secretary for the Board.

Ritter, I agree to contact Bob, Chairman or call Board Secretary, she is the one who prepares the information and needs to know.

Wilbur explains you can be excused for anything you need to be excused for there is no criteria to be excused. He thinks this Board has good work ethic not to abuse this.

Krieger read minutes from Town Council Meeting about absences that the Town Council left it that each Board set there own and the Council is the superior deciding feature.

Zindel, asks where in the Code is the absence listed, Reilly responds Article XII.

Ritter suggests that this absence policy should be put in the proper place to be found.

Ryan suggests taking this discussion and the results of it and other things that are particular to the rules that we go by in P&Z and make a pamphlet that is available to any current member or new member that might come along so they understand what the policy for absences and it is there in writing. An in house document.

Abare suggests we put policy into Code to clarify and capture into the future. Reilly explains that is documented and on tape and recorded in minutes and if you want to change at a later date you make a list. It costs money to change Land Development Code.

Ritter and Abare suggest a clarification of Code in some appendix somewhere. Wilbur adds to make list of recommendations and give to staff and let them stick it where it needs to be. Reilly explains the next codification of Code book, what is found will be fixed.

## **G. DISCUSSION:**

### **3. Continue Review Checklist and Permit Requirements for Decorative Water Features and Ponds**

**Exhibit:**

Agenda Report No. 3

**Recommendation:**

## Discussion

Abare explains about the example that he submitted (picture) about pond slope for legal opinion, attorney submitted legal opinion. Abare explains that Wilbur wanted 7.0 put back in for Article V Section 1-5.27 and add words about "fill".

Abare discussing about the legal opinion on the slope is that it is not a big deal and neither is the fence.

Wilbur said that this hand out given out tonight about from Florida Fish & Wild Life about ponds is excellent handout for residence that comes in for a pond permit.

Abare said that when he has come to the Town for information he has received 50 pages and some information is over whelming.

Reilly asked about underlined areas in packet, is that what is added to the Code? Sherear replies that was what was added into Code or put back by Board recommendation from last meeting.

Reilly asks about "Freeboard" definition and Ritter explains that it is information from the University of Florida information packet on ponds.

Krieger wants to add the word pond in the definition "Excavated Material" in the fourth sentence after If and before material.

Wilbur there is no reason you cannot use the material on site.

Ritter explains that is just definitions it can't hurt anything. Abare, the more definitions the better to understand things in the code.

Krieger, defines existing DWF sometimes staff & Towns changes

Abare, the DEP and all the rules we don't want people doing things and the Town condoning things It gets ugly fast, these procedures keep things from happening it is a good overall.

Abare says you have to use common sense. Krieger says if you are not changing anything no one should bother you.

Abare is talking about DWF, and to come to Town and get permit at no charge. It is to your benefit go through paper work and this way it will be on file with Town.

Krieger suggests going through definition and seeing consensus of this Board. Abare states what prompted all this that Town Engineer explained we don't have requirements for 350 truck loads of fill, it is huge amount and a major change to a piece of property.

Wilbur adds we took a big step forward to clarify things with DWF and Pond, definition and check lists.

Abare created this example I want someone that comes into Town a year or so from now to know what they can do and how to do it and show them an example.

Krieger agrees that a simple process but for a pond it should be more restricted because they are larger.

Reilly comments on the example drawing (pg 16) that Abare did, that it should have size of DWF, Abare says it is on pg 14 in explanation (cover letter). Reilly suggests a space on check list and on drawing.

Abare added the way the water flows now, and added setbacks and well. Abare explains it is all in the verbiage.

Board is discussing the 75 feet for well distance away from DWF or pond.

### Corrections for Article V Section 1-5.27 Pond & DWF: Noted on pages

Reilly corrections & suggestions:

- Page 19 add on C. (DWF) at end before the "."
- get rid of ADD: and put ABC's through out definitions
- Page 21 consistence with numbers & letters under 2.0 & 3.0.
- Page 21&22 the bullets should be numbers at the bottom take out (DWF) under 3.0 first sentence
- Get rid of all under lines
- Get rid of all decorative water feature (DWF)
- Page 25 spell out DWF (never put DWF in bold)

Abare corrections & suggestions:

- Page 26 added wetlands present Y & N and things underlined
- Update example drawing
- Page 27 Abare Storm Water Drainage Plan?

Board is discussing the check lists and correcting.

- Page 27 correct Application fee as \$\_\_\_\_\_ for Engineering Review by Town leave blank, per Boards consensus.

Reilly suggests bringing back a cleaned up copy of DWF & Pond.

The Board is discussing the slopes of a pond 6:1 slope; it was on a grid sheet.

Krieger states that the slopes depend on what you are using pond for.

Krieger suggests you don't need Diagram "A". Wilbur said it is up to establish the slopes.

Wilbur explains a pond is a 6:1 ration.

Ritter / Krieger notation about fences are not required or at property owners discretion Then Wilbur reads the memo 2012-TC/T-22

Reilly states if you do not say anything at all about fences it is already inferred.

Krieger has corrections & suggestions:

- Berm instead of freeboard
- Impound area, not the surface area the minimum surface area of the pond. Ryan suggestion putting "average surface area"
- Krieger suggests for **Impound surface area to add in** minimum surface area for the DWF and Pond
- Littoral Zone?
- Pond second sentence, where in the impound surface area is greater than, 1,000sq ft
- I. "to fill" you are not affecting the area

Reilly asks why was "Impound Area" added. Board answers for definition purpose and informative information.

Zindel is explaining that the surface area is inside your 1,000 sq ft that you are disturbing as long as it is inside your 1,000 sq ft you are good to go. The Impound area is telling you if you dig a pond and you hold no water you need to put a liner in to hold water. Ritter explains it is for information purposes only.

Abare expresses that Krieger has made a couple good points let's discuss them one by one.

Krieger states it all relates to impound area.

Wilbur states we are wasting time beating all this to death.

Abare asks who would decide if a pond sealer or liner was needed, Board responds to this  
Ritter suggests it is up to the applicant

Wilbur, adds it is the design standards of who wants the pond or DWF?  
Zindel and Krieger are discussing the definition  
Wilbur clarifying the informative definitions

The Board is discussing extensively the definitions of the Pond & DWF and informative information.

Zindel explaining the definitions only!  
Ritter adds there are definition and informative information.  
Wilbur explains to Board these are mechanisms' that will help you establish and impound level that you may want or don't want.

Page 21 J- Add "for example" after definition of words.  
Reilly to add Informative Definitions 3.0 insert into Article V Section 1-5.27

Abare, the slopes depends on the material digging into. Abare slope determined by soil

The Town will accommodate the situation for the pond or DWF. Abare slope determined by soil

Board suggestions:

- Combine Design Considerations with Side Slopes
- Krieger about reference to Florida Engineer Wilbur adds it is so noted and he wouldn't change a thing.
- Board is going through definitions and clarifying
- Slope designation is in permit application

Ritter suggests if a property owner wanted to have a certain slopes they would use clay or rock. If you're hiring someone to do your pond they are going to know slopes and test dirt.

Krieger asked staff how many independent pond permits have been issued without building SFR. Sherear responds possibly two or three in five years.

Abare states that some changes proposed are actually better for homeowner.

Board suggestion to make Action Item for next meeting June 27, 2012

- 4. Define "Light Industrial" Zoning**  
**Exhibit:** Agenda Report No. 4  
**Recommendation:** Discussion
- 5. Code Requirements for Assisted Living Facilities**  
**Exhibit:** Agenda Report No. 5  
**Recommendation:** Discussion

- H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:**
- I. PUBLIC:**
- J. OLD BUSINESS/NEW BUSINESS:**

Krieger, asks about the political signs and 8 ft signs have not had chance to look at ordinance. The real-estate agencies seem to have carte blanche. Sherear responds that they are supposed to get permits.

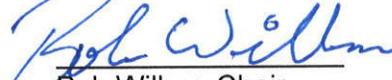
Abare asks if political candidates have to pay sign permit fee. Sherear responds they don't pay fee but do register in our Town.

Krieger suggests that there should be a maximum size of a political sign in this Town. Reilly suggests to Krieger to go to Council.

**K. ADJOURN**

There being no further business to discuss, **MOTION: Reilly /Ryan to adjourn this meeting. Vote: All Ayes.** The meeting adjourned 10:06 P.M.

BY:

  
\_\_\_\_\_  
Bob Wilbur, Chair

Denine Sherear, P&Z Board Secretary

7/25/2012

Date Approved