Planning and Zoning Board
Regular Meeting Minutes
January 7, 2008

The Planning and Zoning Board of the Town of Melbourne Beach, Florida met in regular session on Monday, January 7, 2008 in the Community Center, 509 Ocean Avenue beginning at 7 p.m.

Present were Chairman Dave Campbell, Regular Members Susan Dieterle, Steve Schwartz, David Clay and Sherri Quarrie. Alternate Members Colleen Doyle and James Flanagan were in the audience. Also in attendance were Town Manager Jim Bursick, Town Attorney Paul Gougelman, Building Official William Whitelock and Deputy Town Clerk Marion Noe.

Chairman Campbell called the meeting to order.

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The first item on the agenda was the approval of Minutes:

Member Quarrie made a motion to approve the minutes of December 3, 2007, which was seconded by Member Schwartz. The motion carried unanimously.

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Chairman Campbell stated that the next item on the agenda was the discussion and possible action regarding Ordinance 2007-10 regarding requirements related to breezeways, which was advertised on November 15, 2007.

AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, RELATING TO LAND DEVELOPMENT REGULATIONS; AMENDING SECTIONS 1A-3 AND 7A-65, APPENDIX A, MELBOURNE BEACH TOWN CODE; ADDING THE DEFINITION OF "BREEZEWAY"; ELIMINATING DUNE HEIGHT AS A MEASUREMENT FACTOR; PROVIDING FOR THE APPLICABILITY OF BREEZEWAYS TO THE 5-RMO, 6-B and 9-I ZONING DISTRICTS; PRESERVING NON-CONFORMITIES; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING FOR REPEAL OF PARTS OF ORDINANCES AND RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE.

Town Attorney Gougelman read the Ordinance by title only.

Town Attorney Gougelman reminded the board of non-conformity provision for The Breakers. He also informed the board of the change requested by The Breakers on page 5 of the Ordinance, line six, changing the second "or" to "and".

Chairman Campbell asked if there was any discussion regarding this Ordinance.

Member Clay inquired why the requested change was only for the second "or" and not for the first as well. The Breakers Attorney Van Catterton, stated that changing the first "or" wasn't a necessary change.

Member Quarrie made a motion to recommend this Ordinance to the Town Commission, with suggested changes, which was seconded by Member Schwartz. The motion carried unanimously.

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Chairman Campbell stated that the next item on the agenda was the discussion of an amendment to the Walls and Fences Ordinance 2007-12, which was advertised on December 21, 2007.

ORDINANCE NO. 2006-12 OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, AMENDING SECTIONS 7A-34, 7A-35, 7A-36, 74-37 AND 7A-38 OF THE TOWN OF MELBOURNE BEACH CODE OF ORDINANCES; PROVIDING FOR THE USE OF WALLS AND FENCES AS A BUFFER BETWEEN COMMERCIAL AND MULITI-FAMILY ZONED PROPERTY AND RESIDENTIAL USES; AMENDING SECTION 7A-53 OF THE TOWN OF MELBOURNE BEACH CODE OF ORDINANCES; PROVIDING FOR THE PLACEMENT, LOCATION, HEIGHT, AND MAINTENANCE OF WALL AND FENCES; AMENDING SECTION 7A-57 OF THE TOWN OF MELBOURNE BEACH CODE OF ORDINANCES; PROVIDING FOR SWIMMING POOL FENCING; AMENDING SECTION 7A-58 BY DELETING THE SAME; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

Town Attorney Gougelman read the Ordinance by title only.

Chairman Campbell asked if there was any discussion regarding this Ordinance.

The proposed change to this Ordinance is on page 2, Section (2). The change is to remove **"a maximum of 10 feet apart along all property lines"** from the paragraph.

> *Reference Melbourne Beach Land Development Code 7A-53, Section (2) Fence Height Measurement:*
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> The height of a fence is measured from the finished grade of the property immediately adjacent to the fence, prior to berming or placement of fill in excess of that required by the Code of Ordinances, to the highest point of the fence. A sealed survey with reference elevations ~~a maximum of 10 feet apart along all property lines~~ shall be submitted with all wall and fence permit applications. Fence height shall be measured from the surveyed elevation prior to placement of fill.

Member Dieterle had questions regarding (1)-f on page one. She asked if this section made it possible for a resident to construct a tennis court in their front yard. Building Official Whitelock stated that a tennis court would not be permitted to be constructed in front of the front building line.

Member Dieterle inquired if section (9) on page 3, Hedges, should be removed from the Ordinance and asked, "How do you regulate a hedge?" The Board discussed provisions allowing hedges and the appropriations for including hedges in the walls and fences Ordinance.

Member Schwartz made a motion to recommend this Ordinance to the Town Commission, as presented, which was seconded by Member Quarrie. The motion carried unanimously.

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Chairman Campbell stated that the next item on the agenda was the discussion of recommendation developed by Planning and Zoning regarding side setback requirements for 60' wide lots.

Member Quarrie expressed concern that a change in the side setback requirement would penalize the other homeowners that complied with the existing setback requirements.

Member Schwartz indicated his approval of the document as presented.

Chairman Campbell reminded the Board that the reason Town Commission asked them review the side setback requirements was because some of the owners wouldn't be able to rebuild if their home was destroyed.

Member Quarrie indicated her agreement with the document as written.

Member Quarrie made a motion to forward document to the Town Commission, which was seconded by Member Schwartz. Motion was carried 4-1, Member Dieterle - Nay

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Chairman Campbell stated that the next item on the agenda was the discussion regarding development of an ordinance to amend the description and location of the coastal construction line recognized by the Town of Melbourne Beach.

Chairman Campbell asked the Building Official where the building line was located.

Building Official Whitelock informed the Board that the 1986 coastal construction line follows A1A westward and is consistent with the rest of the area.

Member Dieterle asked for the definition of building line.

Building Official Whitelock responded, that the coastal construction line is the building line according to the Florida Department of Environmental Protection, which is what the Town follows. He also commented that if we do not adopt the County line there will continue to be confusion.

Member Quarrie confirms her understanding.

Member Clay asked what the Town would need to do if the State changes the line.

Town Attorney Gougelman replied that if the State changes the line, we would want to amend our Ordinance again and assured it should not be a big concern.

The Board decided to advertise and place on the agenda for the next scheduled meeting, February 4, 2008.

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Chairman Campbell stated that the next item on the agenda was the discussion of the application of "green" building techniques for the Town of Melbourne Beach.

Member Clay would like to change the title of the ordinance from "green building techniques" to "Climate Change Mitigation Ordinance"

The Board decided to place on the agenda for the next scheduled meeting, February 4, 2008.

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Chairman Campbell stated that the next item on the agenda was the discussion and possible action regarding an Ordinance amending Building Code References contained in the Land Development Code.

Member Dieterle questioned why the building permit fees are so high.

The Board had a brief discussion regarding permit fees.

Town Attorney Gougelman explained that permit fees are higher due to inflation and the municipal budget. Less money is being put aside for the Building Department, so fees must be adjusted to keep the Department open and running.

The Board decided to advertise and place on the agenda for the next scheduled meeting, February 4, 2008.

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Chairman Campbell stated that the next item on the agenda was the review of allowable Special Exception uses and development of standards for granting Special Exception Permit Applications.

The Board decided to place on the agenda for the next scheduled meeting, February 4, 2008.

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Town Attorney Gougelman went over the memorandum he had given to Town Manager Bursick regarding quasi-judicial proceedings.

The purpose of this discussion was to educate the Board on quasi-judicial proceedings and answer any questions the Board may have.

Town Attorney Gougelman stated that no board member should have signs in their yard regarding their opinion on Town issues and members of boards should remain unbiased.

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Member Quarrie made a motion to adjourn, which was seconded by Member Schwartz

The meeting was duly adjourned at 8:19 p.m.

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David Campbell, Chairman

ATTEST:

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Marion Noe, Deputy Town Clerk