

Brevard County Surface Water Protection Ordinance Working Group
September 24, 2008 Meeting Minutes

Working Group Members Present

1. Mark Bowes, Alternate Representative, Home Builders and Contractors Association
2. Don George, Alternate Representative, Brevard Nature Alliance
3. Pete Kaiser, Primary Representative, District 2
4. Beth McMillen, Alternate Representative, Marine Resources Council
5. Ana Nesbitt, Alternate Representative, Florida Marine Contractors Association
6. Suzanne Valencia, Primary Representative, Partnership for a Sustainable Future
7. Andy Wolter, Primary Representative, District 4

Working Group Members Absent

1. Jim Durocher, Primary Representative, Brevard Nature Alliance
2. Jim Egan, Primary Representative, Marine Resources Council
3. Franck Kaiser, Primary Representative, Home Builders and Contractors Association
4. Troy Rice, Primary Representative, District
5. Joanna Stone, Primary Representative, Marine Industries Association
6. Steven Webster, Primary Representative, Florida Marine Contractors Association
7. George Wilson, Primary Representative, District 5
8. Open, District 1

Support Staff

Tim Franta, Facilitator

Darcie McGee, Environmental Permitting, NRMO

Madeline Donato, Administrative Secretary, NRMO

Members of the Public

Paul Pettit

Jim Staylor

Call to Order

Tim Franta called the meeting to order at 9:14 AM. The group was not able to conduct any official business because a quorum was not present; however, the group members continued the meeting and discussed the agenda items without making any formal decisions.

Public Comment

No comment

Handouts

Darcie McGee handed out the following documents:

- Agenda
- Draft Minutes for September 10, 2008
- Chapter 46, Article II, Division 3, Lake Washington Area

- Public Interest Determination Request for Purposed Pine Road Extension Project

Darcie briefly explained her hand outs. She didn't want the working group to have a conflict with the Lake Washington Ordinance that was discussed at the last meeting. The last document was a public interest determination that was brought to the board. The request was to place a road in a surface water protection buffer and the request was denied.

Public Comment

Jim Staylor stated there is a problem with the regulations. Mr. Staylor felt they are too cut and dry and would like to see them changed

Reasonable Access

Open discussion continued because there still was not a quorum. Paul Pettit stated that reasonable access is defined as what any person would consider reasonable access. Reasonable Access doesn't have a definition. Mr. Pettit asked if there is no definition for the state or the federal government, is it legal for the county to come up with a definition and wouldn't it be challenged in court? Tim Franta stated that it was legal in the state of Florida. The state of Florida has home rule and that is why the task force must define it. The approved definition would be the guide line if it were to be challenged. At this point, a quorum was reached.

Minutes Review and Approval

The minutes were approved with 100% consensus after the quorum agreed to change the following:

- "Federal Department of Environmental Protection (FDEP)" to "Florida Department of Environmental Protection (FDEP)" and,
- "the Brevard County Water Line be defined as 0.6 feet." to "the Brevard County Water Line be defined as 0.6 feet in the Indian River Lagoon."

Public Comment

No Comment

Reasonable Access

The group members discussed the following:

- Changing "reasonable access" to "buffer access"
- Defining what would be allowable for access to the buffer
- Defining what kind of structure would be allowable in the buffer and whether it would be temporary or permanent
- Clarifying land clearing and buffer clearing in the upcoming meetings to make sure they stay with the ordinance

The group members developed draft language for staff and the county attorney to consider, including changing "Reasonable Access" to "Buffer Access."

- Buffer Access shall mean the ability for an individual(s) to temporarily or permanently transgress his/her property to the shoreline and/or other permitted structures, and/or access to specific sites of the property in the buffer by means of allowable uses.
- Add cross references to the Buffer Access definition.
 - Allowable uses are defined in the Building and Zoning Codes.
- Temporary Access in the shoreline protection buffer means access for allowable use for construction, maintenance, restoration, non-native/invasive species removal or mandated corrective actions.
- Permanent Access: To be developed.
- Staff to draft definition including, “No wider than 4 feet path” and adherence to Coastal Code with regard to ADA

Action Items:

1. Staff/Attorney review of working group Buffer Access Definition
2. Review & discuss with working group: permitted vs. allowable
3. Staff list of permitted uses in buffer
4. Definition of impervious
5. Staff list of accessory uses
6. Ensure buffer is consistent with landscaping code
7. Not addressed in code: restoration after removal
8. Shoreline restoration – make sure it comes under future topic of hardening

Pending Items

- Land clearing vs. Buffer Clearing
- Best public interest vs. public interest

Public Comment

None

Next meeting

The next meeting will be held on Wednesday, October 8th in the NRMO conference room, Building A, second floor, suite 219, at the Government Center in Viera. The working group will address the definition of buffer access with help from NRMO Staff and the county attorney, and then go through the codes.

Information on the Surface Water Protection Working Group can be found at <http://natres.brevardcounty.us/SurfaceWaterWorkingGroup.cfm>

The meeting was adjourned at 12:00 PM.