

TOWN OF MALABAR
TEEN COUNCIL MEETING
TUESDAY, NOVEMBER 24, 2009
7:00 PM
MALABAR COUNCIL CHAMBERS
2725 MALABAR ROAD
MALABAR, FLORIDA

AGENDA

- A. CALL TO ORDER, PRAYER & PLEDGE
- B. ROLL CALL
- C. APPROVAL OF MINUTES FROM OCTOBER 20, 2009
- D. PUBLIC COMMENTS (NON-AGENDA ITEMS)
- E. ACTION ITEMS:
 - 1. DANGEROUS DOGS
 - 2. POLITICAL SIGNS
 - 3. MSTU
 - 4. FIRE ARMS DISCHARGE
- F. COUNCIL COMMENTS
- G. PUBLIC COMMENTS
- H. SCHEDULE NEXT MEETING
- I. ADJOURNMENT

NOTE: THERE MAY BE ONE OR MORE MALABAR ELECTED OFFICIALS ATTENDING THIS MEETING.

"The following draft minutes are subject to changes and/or revisions by the Teen Council and shall not be considered the official minutes until approved by the Teen Council."

MALABAR TEEN COUNCIL REGULAR MEETING
October 20, 2009 7:00 PM

Purpose: This program provides the opportunity to teenage students to learn first-hand how a local government operates by participating in simulated town council meetings. The Teen Council will meet once a month on Tuesday during the school year.

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road.

A. CALL TO ORDER: The meeting was called to order at 7:05 pm by Chair, Mayor Bill Stacey. The prayer and pledge were led by Mayor Bill Stacey.

B. ROLL CALL:

CHAIR:	BILL STACEY
MAYOR:	TOM ESCHENBERG
COUNCIL MEMBERS:	DARIEN MAHONEY
	SAMUEL RITTER
	THOMAS ESCHENBERG
	SCOTT PRASSE (excused)
	CONNER MAHONEY
	KEVIN PAGLIARULO
RECORDING SECRETARY:	CINDI KELLEY

C. APPROVAL OF MINUTES:

Discussion: None

MOTION: C. Mahoney/Ritter to approve the minutes from September 15, 2009 as presented. VOTE: All Ayes.

D. PUBLIC COMMENTS (NON-AGENDA ITEMS): None

E. ACTION ITEMS:

1. DOGS ON THE BEACH

Mayor Stacey gave a brief overview of the request. He then opened the discussion to the audience for their comments.

Laura Mahoney-we should allow dogs as long as the owners are responsible and pick up after their pets. Mayor Stacey asked what guarantee we have that people will be responsible. Brevard County did not approve an ordinance for dogs on the beach so they would not be responsible for enforcing ordinance. The Town could write a new ordinance in favor of dogs on the beach.

MOTION: Eschenberg/D. Mahoney to approve the dogs on the beach.

Discussion: Mayor Stacey gave a brief overview of what the resident did in Melbourne Beach. A lot of people go to the beach; if the owner's don't clean up after their pets, we have sanitary issues. Also, once an ordinance is in place allowing this, people who are not local will bring their dogs to the beach. Who is going to patrol to see if the owners are being responsible? Council should consider all the information before making a decision. It will also cost fees to have the dogs on the beach; funds to enforce the

codes, local law enforcement agency will need to enforce codes as Brevard County will not. C. Mahoney asked if this would be a beach in Malabar. Mayor Stacey advised that Malabar does not have a beach; this is for Melbourne Beach. Mayor Eschenberg stated that he went to Mayor Stacey for ideas for Council to discuss. The four items on the agenda for this evening are what they came up with.

C. Mahoney feels we should allow dogs on the beach. Eschenberg asks if someone has to be hired for patrolling the beach to make sure the dogs are on leashes and being taken care of. If the dogs are loose and someone gets bitten, someone will be held liable. Mayor Eschenberg stated that conditions would have to be listed in the ordinance.

Proposed Amendment to Motion: all dogs must be on leashes and restrict certain dogs from the beach.

Eschenberg stated that this is discrimination.

Proposed Amendment to Motion: that owners take care of their pets.

D. Mahoney agrees with the Council; doesn't feel it would be a problem. It would probably be less than those who don't take care of their dogs. Ritter asked what if someone is allergic to dogs. Mayor Stacey said this could be a problem. C. Mahoney stated, for the motion, to make the owners liable for their dogs. Mayor Stacey asked if he is speaking of a fine; \$75 to \$100. C. Mahoney asked if we could make the owners be liable for their dogs. Mayor Stacey replied that the Town has the ordinance and the biggest pockets. Mayor Eschenberg stated if a dog is loose and someone is hurt, a lawsuit can be filed against anyone involved in the incident. The Town has liability insurance; home owners have homeowner insurance.

Ritter asked if Council could add to the amendment.

Proposed Amendment to Motion: if dog bites someone or causes large commotion, the dog is to be banned from the beach.

Mayor Stacey stated there is concern for out of town visitors with dogs on the beach.

Eschenberg stated the dog should be registered and have a tag to be on the beach.

Proposed Amendment to Motion: to require the dog be on a leash with the owner responsible for the dog and clean-up; \$100 can be imposed if owner fails to comply.

Amended MOTION: to require dogs be on a lease; owners are responsible for clean-up or impose \$100 fine, dog registration is required and staff of Melbourne Beach is to determine the cost and type of tag to be issued.

MOTION: Eschenberg/C. Mahoney to approve the amended motion.

VOTE: All Ayes. Motion carried unanimously.

VOTE: All Ayes for dogs on the beach. Motion carried unanimously.

Mayor Stacey advised Council this issue was discussed for six months; it was not passed.

2. CONCESSION STAND ON THE BEACH

Mayor Stacey gave a brief overview of the request. He then opened the discussion to the audience for their comments.

Melbourne Beach had to put in a handicapped ramp for disabled people. There are wheel chairs for the beach; large wheels to go through the sand. State of Florida gave \$200,000 (2/3 cost of project) for a comfort station (restroom) in conjunction with the ramp. The other \$100,000 will be funded by Melbourne Beach.

A vendor came to Melbourne Beach and stated he would like to put in a concession stand on the beach; he would pay for all the work to be done with the ramp and comfort station as well as the concession stand. He would also give 10% of his profits to Melbourne Beach. The State would not be involved in the venture at all. Melbourne Beach wrote up the project and took it to their attorney. Council overrode the concession stand.

Mayor Eschenberg advised Council that no funds would be received from the State if Mr. Brown builds all the amenities.

Liz Ritter, Malabar, stated this should be allowed. The Town would have all the amenities in place. No funds would be spent by the Town. It would be a win/win situation for the Town; 10% of profits also come to the Town. If Mr. Brown goes out of business, the contract would state that the Town would take the property. He would have to have all the financing in line and paid for.

Mr. Eschenberg, Palm Bay, spoke against having a concession stand on the beach. This is due to litter being left on the beach. The restrooms would have to be locked from dusk to dawn.

MOTION: Eschenberg/D. Mahoney to have a concession stand on the beach.

Proposed Amendment: If owner goes out of business, the ramp and comfort station e donated to the Town. Mayor Eschenberg asked if the maker of the motion is in agreement with this. Eschenberg stated he is in agreement.

VOTE: All Ayes. Motion carried unanimously.

3. WALGREENS

Mayor Stacey gave a brief overview of the request. He then opened the discussion to the audience for their comments.

Liz Ritter, Malabar, stated there is already a gas station there; this should be re-zoned. She doesn't know anyone who would want to build residential in this area.

Mayor Stacey advised Council that this area should be re-zoned as commercial residential. It is possible that Walgreens won't come in and someone could put in an apartment building. With it being zoned this way; people who may be interested in the property have options with what can be done with the parcel of land.

The owner of the parcel would not sell to Walgreens; she intended to put an apartment building there. There is a gas station there now.

MOTION: Eschenberg/Ritter to re-zone the vacant lot as commercial/residential.

Discussion: C. Mahoney asked who owns the gas station. Mayor Stacey stated the owner of the gas station is very willing to sell to Walgreens. C. Mahoney stated this property should be re-zoned.

VOTE: All Ayes. Motion carried unanimously.

4. BOAT RAMP

Mayor Stacey gave a brief overview of the request. He then opened the discussion to the audience for their comments.

Mayor Stacey stated the boat ramp was to be installed at the end of Fifth Street in a residential area.

Liz Ritter, Malabar, stated it would be good to have a boat ramp there. There would need to be restrictions in place such as limited to small vessels, jet skis; no commercial vessels.

MOTION: Ritter/Eschenberg to allow the State to put the boat ramp at Fifth Street at the river.

Mayor Stacey advised Council that in this area, there is no place for parking. The people with boat trailers would be forced to park on the street, blocking the street for passage. The residents in this area are against having this in their neighborhood; they don't want the noise from the vessels on the water in their back yards.

VOTE: All Nays. Motion carried unanimously.

F. COUNCIL COMMENTS

The next meeting of the Teen Council will be Tuesday, November 24, 2009 at 7:00 pm.

G. PUBLIC COMMENTS: None

H. ADJOURNMENT

There being no further discussion, **MOTION: Eschenberg/C. Mahoney to adjourn the meeting.** **VOTE: All Ayes.** This meeting adjourned at 8:15 pm.

BY: _____
Mayor Thomas Eschenberg, Chair

Transcribed by:

Cindi Kelley, Recording Secretary

Date Approved: _____

Agenda Item 1

Dangerous Dogs

Background:

Mrs. Clare Martin, a Malabar resident walks her small dog along Atz Road in the morning. She passes two houses where there is a pit bull in the yard. Each time she passes, the pit bulls charge out to the fence barking and snarling. She is afraid that a gate will be left open and the pit bull will get out and kill her little dog and attack her. She is asking the Council to pass an ordinance banning the possession of pit bulls in Malabar.

Current Ordinance:

There is no Malabar ordinance pertaining to dogs. County ordinance requires dogs outside of their yard to be on a leash.

Action Requested:

Motion to direct the attorney to draft an ordinance banning the possession of pit bulls in the Town of Malabar.

Typical Arguments:

In the last 27 years, 320 people have been killed by dogs --- nearly half of them by pit bulls.

The problem is not pit bulls, it is irresponsible owners.

All you have to do is look at a pit bull and you know they are dangerous.

Pit bulls are the fad 'dangerous dogs' right now, but if they are banned, reckless people will simply find another breed.

Agenda Item 2

Political Signs

Background:

Mr. Dale Adams was a candidate for Malabar Town Council in the last election. He did not win. Mr. Adams claims that his opponent placed political signs all over town in the right of way. When he complained to the town, nothing was done to have the signs removed. He followed the law and did not place any of his signs in the right of way. As a result, his opponent had 10 times as many signs as he did. Mr. Adams believes this contributed to his defeat in the election. He is asking the Council to either change the ordinance to allow political signs in the right of way or to strictly enforce the current ordinance.

Current Ordinance:

No signs of any kind are allowed in the right of way.

Action Requested:

Motion to direct the attorney to prepare a change to the sign ordinance to allow political signs in town right of way.

Typical Arguments:

The Town should encourage political activity.

If signs are in the right of way, cars will hit them.

If an ordinance is not enforced, it should be repealed.

There will be political signs all over town and it will look terrible.

Political signs are a form of free speech and are only up for a short time.

Agenda Item 3

MSTU

Background:

At a previous meeting, the Malabar Council voted down paying an MSTU tax for sheriff protection. The county is now threatening a lawsuit against Malabar. They claim that Malabar owes them over one million dollars for past services from the sheriff. The County Commission is requesting a meeting with the Malabar Town Council to work out an agreement before they file a lawsuit. Our town attorney has advised us that a county lawsuit would have no basis.

Current Ordinance:

No ordinance exists to pay an MSTU tax.

Action Requested:

Motion to approve a meeting with the County Commission.
If a meeting is approved, establish a negotiating position.

Typical Arguments:

The county is trying to bully us.

It never hurts to talk.

Their lawsuit has no basis, we should just ignore them.

All they want is our money, we would be wasting our time talking to them.

Maybe they would be reasonable.

Note: See Mayor's recommendation for negotiation.

11/24/2009

Mayor's recommendation to Council on MSTU tax.

If the Council is of a mind to eventually pass the MSTU tax, it is also their responsibility to assure that the citizens of Malabar receive the maximum value for their tax dollars. In order to accomplish this, I recommend the following actions.

- **MEET WITH THE COUNTY.** The County has requested a meeting to discuss the MSTU. The Council should meet with them and do some hard negotiating.
- **REQUEST THAT THE SHERIFF BE AT THE MEETING AS A PRE-CONDITION.** If the Sheriff is not present, the Town could not receive any firm commitments for service. The Sheriff himself should be there unless he has delegated authority to his representative to make firm commitments.
- **TAKE THE POSITION THAT IT IS THE COUNTY'S RESPONSIBILITY.** My addendum to police protection paper sets forth the reasons that Sheriff protection in Malabar is the responsibility of the County. Council should take this position going into negotiations.
- **DEMAND A MALABAR MSTU.** If the County should convince you that it is not their responsibility to provide Sheriff protection in Malabar, Council should demand that the citizen's tax money fund deputies dedicated to the Town. The MSTU tax should fund three deputies. MMSTU should be on the back bumpers of the patrol vehicles. Malabar MSTU. Obviously, the Sheriff would have the authority to send Malabar MSTU deputies to back up other deputies in an emergency.
- **DO NOT CAVE IN TO THE COUNTY COMMISSION.** Do not be in awe of the County Commission because you think they are a higher authority. They are not. Home rule makes all governments equal. Remember our attorney's opinion that the County has no basis for a lawsuit. The Town of Malabar could consider a counter suit and pass a dispute resolution of their own. A court could just as easily rule that the County is required to provide Sheriff protection to municipalities that do not have their own police. Such a ruling could cause Palm Shores and Grant-Valkaria to opt out of their MSTU tax. Does the County want to take that chance?
- **LET THE CITIZENS VOTE.** If Council ultimately passes the MSTU tax, it should be for only FY 09 and 10. Starting with the election in Nov. 2010, the citizens of Malabar, in a binding referendum should have the opportunity to vote to continue the MSTU tax for an additional two years. This referendum would take place every two years. The ordinance should include an option for the Council to establish a town police department in lieu of continuing the referendum.
- **FINAL THOUGHTS.** General consensus is that the State Legislature is going to do something about property taxes. County and municipal revenue will be reduced. The question is by how much. The County Commission could react to revenue reduction by cutting the Sheriff's budget. Even if Malabar pays an MSTU tax, this could result in no additional deputies or even a reduction. The County Commission could conveniently blame it on the State. Malabar must negotiate their own arrangement and **get it in writing.**

Agenda Item 4

Firearms Discharge

Background:

Mrs. Betty Bennett, a Malabar resident has filed a complaint with the town. She says that her neighbors across the street have set up targets and are shooting guns. She does not like the noise and believes this activity is dangerous. Mrs. Bennett wants the town to do something about it.

Current Ordinance:

No Malabar ordinance exists prohibiting firearms discharge.

Action Requested:

Motion to direct the attorney to prepare an ordinance prohibiting firearms discharge within the town limits.

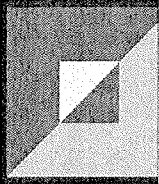
Typical Arguments:

It is our right to shoot guns in our own yards.

People could get killed.

Malabar is getting too crowded to allow people to shoot guns

I want to be able to shoot a rattlesnake in my yard.



December 2009

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5 Tree Lighting 6:00
6	7 TOWN COUNCIL 7:30	8 Hadassah Goes Green Tree Planting in Malabar Community Park 1:00 pm	9 P & Z 7:30	10	11 So. Water Supply Plan- ning Area Work Group Indian River Comm. Chambers 10:00 am	12
13	14 Space Coast League of Cities Dinner Meeting	15 Malabar Mariners Association Meeting 5:00	16 Holiday Luncheon 12:00	17	18	19
20	21 TOWN COUNCIL 7:30	22	23 P & Z 7:30	24 Town Hall Closes @ Noon	25 Town Hall Closed	26
27	28	29	30	31 Town Hall Closes @ Noon	1 Town Hall Closed	2

Town of Malabar

2725 Malabar Road
Malabar, Florida 32950

Phone: 321-727-7764
Fax: 321-722-2234

E-mail:
TownClerk@townofmalabar.org

