

MALABAR TOWN COUNCIL REGULAR MEETING

December 6, 2010 7:30 PM

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 7:30 pm by Chair Thomas Eschenberg. The prayer and pledge were led by District 5 Council Member Marisa Acquaviva.

B. ROLL CALL:

MAYOR/CHAIR

TOM ESCHENBERG

VICE-CHAIR:

MARISA ACQUAVIVA

COUNCIL MEMBERS:

CARL BEATTY

DAVID WHITE

STEVE RIVET, excused

JEFF MCKNIGHT, excused

TOWN ADMINISTRATOR:

BONILYN WILBANKS

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

Franklin stated for the record that Rivet was traveling for business; McKnight had a scheduling priority.

C. ADDITIONS/DELETIONS/CHANGES: Without objections the Mayor to add items 3 & 4: Employee holiday schedule and the other is a 5-year plan.

D. PRESENTATIONS: none

E. PROCLAMATIONS: none

F. CONSENT AGENDA:

1. Approval of Minutes

Regular Town Council Meeting – 11/15/2010

Exhibit: Agenda Report No. 1

Recommendation: Motion to Approve

MOTION: Beatty / Acquaviva to approve the Consent Agenda as corrected. List corrections:

Mayor stated on page 1, Section E, presentation: Mayor spoke and presented plaque to Borton. Strike that portion. Clerk has corrected. VOTE: All Ayes.

G. PUBLIC COMMENTS: General Items not related to agenda items; Speaker Card Required

Bridget Ports, 1340 Hall Road, Malabar. Back in September they had a Fire Chief position open up and she was wondering the status. And last meeting Bud Ryan was removed from P&Z Board after discussion on an email he had sent and the Assistant Fire Chief wrote over 300 emails about her and her husband and nothing has been done. That was called venting. But when Ryan did it it wasn't venting. She said if they had an attorney maybe they would have different outcome. Wanted to know how Council approaches such emails and also how they handle them.

Chair asked TA for status of Fire Chief Selection during her report.

Bob Siegmann, 2305 LaCourt Lane, wanted to speak to the condition of LaCourt Lane. It is falling apart and it is being torn apart daily by the school buses. He would like to know the status of the road. He has driven on many of the roads in Malabar and he thinks LaCourt Lane is in the worst condition of all roads in Malabar.

H. STAFF REPORTS:

ATTORNEY:

- Mediation meeting was on November 22, 2010 concerning PB litigations. It was very productive and they have banged out an agreement. He called for a special executive session so they can go over the guts of the agreement. The formal approval or disapproval will be on the 20th. Discussion on the possible date for Council executive

session. Rivet has conflict on the 16th. Bohne and Franklin suggested the 13th. McKnight may be available on Monday, 12/13/10; unknown about Tuesday. Bohne has a council meeting in IHB on Tuesday. They start at 7PM are normally short meetings. Mayor said Carl Beatty would be going to SCLC on 13th. Franklin said he will not be sworn in until January meeting so we still do not have a delegate for December meeting. Mayor said if McKnight couldn't attend on the 14th, we would have 4 out of 5. Mayor is suggesting 8:30PM on Tuesday the 14th. TA asked about her need to attend the executive session. No need per Mayor. She has a conflict with another appointment. Consensus to have the Executive meeting on Tuesday, December 14, 2010 starting at 8:30PM. Bohne will check with IHB and if he can get excused they could have it earlier.

ADMINISTRATOR:

- Corporal McMillan, BCSO no issues in Malabar. Keep lights on to discourage home break-ins.
- The 17th is the date for scheduling Fire Chief Candidate interviews. She is going to have Blanca set up interviews. She'll bring results to Council.
- LaCourt Lane needs pipe replaced at intersection and it was a priority until the Park Board asked for the pipe at the driveway at the Golf Disc Park be made a priority. TA has sent out RFQs to do the paving of LaCourt after the pipe is replaced because the estimate to resurface LaCourt is over 10K threshold.

CLERK: The Space Coast League of Cities (SCLC) meeting for December is at Patrick Air Force Base (PAFB) and only Council Member Carl Beatty has reserved.

I. PUBLIC HEARINGS:

Are legally advertised for 7:30 PM *or as soon thereafter as possible. Ad ran on August 5, 2010.*

ORDINANCES: (0)

J. PUBLIC: ITEMS DIRECTLY RELATED TO RESIDENTS AND RECOMMENDATIONS FROM TOWN BOARDS/COMMITTEES PRESENT AT MEETING

K. ACTIONS ITEMS:

ORDINANCE: First Reading – 0

RESOLUTIONS: 0

MISCELLANEOUS: (3)

2. Approve Live Streaming of Council Meetings over the Internet

Exhibit: Agenda Report No. 2

Recommendation: Request Action

Franklin told Council Rivet had no objection to the filming. Mayor said the camera is working tonight. He has reviewed previous tapings and the technical side is acceptable. The audio is pretty good quality. The question that was brought up is when the meeting is stored. He found a program to download the video from the website and he downloaded the free program and tried to play it and it was there. He did not transfer it to DVD for archiving but we should be able to do so. The problem is it does it in almost in real time. If the Clerk is in charge of the public records she would be responsible to do this - put it on DVD for retention purposes. Mayor explained the test runs have been thru his son's website. If Council approves to continue this the Town would get an account with Ustream and then put a link on Town's website. The Ustream account would be free. Acquaviva asked Mayor if there had been a constituent that asked for this filming and access. Mayor said McKnight said he knew some people that would like it. Mayor would also like to have the meetings on the government channel but that is too expensive. White said that for now this is an affordable alternative. TA said for 2K our web hosting vendor will do live streaming. She got price for comparison purposes. TA had asked City Manager about cost for their system and learned the City of Palm Bay pays about 28K for web streaming.

Chair asked for a motion.

MOTION: Beatty / Acquaviva to initiate the taping. **VOTE:** All Ayes.

3. Employee Holiday Schedule. Mayor recommended Council give employees an extra half day off before Christmas and New Years. His reasoning is that they did not get a pay increase this year.

MOTION: Beatty / Acquaviva to approve adding the extra half day off before Christmas and New Years for Town employees. **VOTE:** All Ayes.

4. Mayor went over some old papers and found a 5-year plan dated 2001. Mayor said it is divided up and seems more like a wish list. He explained in his meetings with the ECFRPC for over a year the Renaissance Planning group did a projection for road improvements and the program determined the priority list. Step 2 – look out the next 25 years and forecast the revenues, local option, federal, state DOT and started funding. What this gave you is report of what was feasible today.

Mayor would like to see Town staff, the Fire Department and the P&Z Board work on this independently and if each of them do a 5-year plan and submit and they all get together and then decide what the priorities are. Eventually we could come up with a list. It would be Council's job to come up with funding. Mayor is looking for an ok. Acquaviva said one of the frustrating things is not getting things done. Let's make a plan and follow through with it. She thinks it is a great idea if we are held accountable to do it and follow through.

If there is an economic turnaround in a couple of years we may have more ad valorem. White said do a 5 and 10 year plan. Start with a 5 year plan. They will be more energetic with a 5 year plan. Acquaviva stated we lose site of the picture dealing with the problems we have mired ourselves in. Mayor said we got to figure out how to get word to Denine. Acquaviva said this is a very positive thing. Mayor would like to see a workshop in February. It could be regular meeting or a workshop. TA would finish. Franklin stated that Denine get copies of the meeting minutes to share with P&Z and she also will do a memo to her to advise her what Council decisions are.

L. DISCUSSION ITEMS:

M. MAYOR AND COUNCIL REPORTS:

1) Beatty – went to teen council and park board and introduced himself and tree lighting. Also the social on Sunday. It was very nice.

2) White – He did research on SB550 and he has a three minute letter to read into the record. He got it from internet and this will be verbatim. There are 2.3 million persons in Florida. This new law on regulation on septic systems was approved but it has been put on hold until July 2011. Current plan is to relook at this in March. No one has a clue about the inspection requirements. Type this into the minutes. Who would do inspections? Who are you going to trust to do this inspection? We have opportunity to fight it now. TA suggested doing a resolution. Council consensus to do resolution for next Council meeting.

For the record: Senate Bill 550

It is difficult if not impossible to argue with someone wanting clean water in our lakes and estuary systems. However, to blame septic systems for the water quality issues in the state of Florida are not only wrong, but incorrect. Pollution comes from many sources. While SB550 does have some good merits, it is also fraught with many problems that must be dealt with before fair and equitable implementation and enforcement can be achieved.

In order to understand SB550 and how it would be implemented, I spoke with a State of Florida Environmental management Manager based in Brevard County. My first question regarding this new law was who would perform the mandatory inspections? The answer was, inspectors licensed by the state. Second question, where do I find an inspector to perform the required inspection? I was informed septic companies have licensed inspectors that could perform this job for me. This is when the red flag went up. When notified by the state that I must have my system inspected and re-certified, I am now expected to hire an inspector to assess my septic system that will likely be employed by and paid by a septic

company. I am sure I am not the only one who sees the potential conflict of interest in this situation. Perception is everything and I see the potential for wide spread abuse. How confident can I or anyone be with the evaluation of a septic system that is performed by an entity with a vested interest in the outcome of that inspection? And frankly, how many families in Brevard County with septic systems are going to receive an evaluation that says their septic systems passes inspection with no required repairs or changes deemed necessary?

In Brevard County there are approximately 100,000 legally permitted systems. These systems were built and certified according to the requirements of the State Health Department and the State of Florida prior to property owners receiving their certificates of occupancy. Now if I understand correctly with the passage of SB550, homes constructed in accordance with all the laws and certified by the state as being in compliance, suddenly no longer will meet the NEW standards. Herein lays the problem. Making changes to laws is nothing new however, making them retro-active is wrong.

Opposing SB550 in not a case of trying to avoid paying for clean water, nor is it an attempt to avoid sanitation costs. It is simply standing up for the laws that were in place at the time my home was constructed. In many cases throughout Brevard County public sewage hook up was not an option, it simply was not available. Implying having a septic system amounts to improper treatment of sewage and puts tourist dollars at risk shows a total lack of understanding of the situation. As the owner of a fully functioning and legally permitted septic system, I disagree with the way SB550 is currently structured and slated for implementation. SB550 is retroactive and re-writes the laws that were in place when my system was constructed and that I complied with in good faith.

) Rivet – excused

) McKnight – excused

3) Acquaviva – wanted to thank staff for their efforts at the tree lighting and the Christmas social. She saw the pictures today from the events and they looked great.

4) Mayor – disappointed in the turnout. They were socializing and mingling and it was very nice. He got an email and wants to read it into the record. From Sharon Casler, President of the IIMC regarding Cindi Kelley. She has earned the designation of Certified Municipal Clerk. Email stated Malabar can take pride in that.

N. PUBLIC – speaker card required

O. ADJOURNMENT

There being no further business to discuss, **MOTION:** White / Beatty to adjourn this meeting. **VOTE:** **All Ayes.** The meeting adjourned at 8:30PM.

BY: Thomas M. Eschenberg

Mayor Thomas M. Eschenberg, Chair

ATTEST BY:

Debby K. Franklin

Debby K. Franklin, Town Clerk/Treasurer

Date Approved: 1/3/2011