

MALABAR TOWN COUNCIL REGULAR MEETING
April 20, 2009 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 Council Member Brian Vail.

A. ROLL CALL:

MAYOR/CHAIR	TOM ESCHENBERG
VICE-CHAIR:	PATRICIA DEZMAN
COUNCIL MEMBERS:	NANCY BORTON
	BRIAN VAIL
	STEVE RIVET
	JEFF MCKNIGHT
TOWN ADMINISTRATOR:	BONILYN WILBANKS-FREE
TOWN ATTORNEY:	KARL BOHNE
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

B. ADDITIONS/DELETIONS/CHANGES: Changed attachment for Agenda Item 3.

C. PRESENTATIONS: Cape Canaveral Mayor Rocky Randal was invited to attend and speak to Council on dedicated millage for town services. Cape Canaveral does it for fire service. He read from their charter on the imposition of the millage. Purpose was unique. MH Park owners owned most of the land and although laws have changed, Cape Canaveral honored this authority. They built a library and did it with a dedicated tax and then turned it over to county. They earned confidence of residents and credibility when the tax stopped after it was built. Then they did a referendum for the fire dept and the BCSO protection. In early 1980s they did fund raisers and then they realized they needed more to fund the fire department. They do not have an advalorum millage for general purpose. They get money from CST, State Rev sharing, sales tax and utility taxes. Rocky explained in their budget, for past year, the fire dept come in 1,623,000.00. It started as volunteer and has evolved to need more paid force. They share it with the Port. The referendum is still in place. The residents decide what they want; they just purchased land to build a public safety building. They forecast their needs out for a period of years. Public Safety and Fire Dept has respect of residents. Mayor asked what the tax rate was - .25 mil or 25 cents on a thousand dollar of value in 1990. It stayed there til 1995. Then it went to .50 to 2002. Then the ladder truck wore out and then it went to 1.20 until 2005, and then went down to 1.02 and then .92. Then they lowered the tax. The current rate is .98. Their fire dept is in an old house that is rotting out with termites. They have the ability to tax up to 1.50. Their fire department tells council in spring what they need. The training that is required is 160 hours annually. In Cape Canaveral's case, they partner with the Port. They don't have residents there and the Port pays a partial of the cost of operations. The Port is not owned. It is leased out. The residents are more prone to approve money for public safety and not a new city hall. Rocky Randal explained that the law states that the fire truck can't leave until it has 3 people. It dictates that we must have 3 people.

Eschenberg asked if they gave the residents a lot of information before the 2002 referendum. Rocky said yes, they sent out info explaining the 1.5 mil limit and continue to do that. They tell them they are going to increase 10 cents or up to the limit but they explain why.

McKnight asked what the population was. 10K. Annual budget is \$9,560,000.00. 1 mil is trash. The water comes from Cocoa. They have their own water treatment. Police millage of 1.46 for 1,408,000.00 and 1,628,000.00 for fire service. We are spending more than the millage provides. They choose the level of service they want from the BCSO and then pay for it. He

gave example of the bicycle cops and the 40 hours of bicycling training for BCSO and they had to pay for it. It put a damper on car breaking. They practice climbing stairs at condos.

Eschenberg explained that Malabar gets all the same taxes Cape Canaveral gets plus ad valorem. He asked Randal if he sees any advantage to breaking off a separate collection. Rocky Randal said it gives the residents a clear idea of where their money is going. Rocky said that it is a political decision. If a ladder truck needed to be bought, then ask the residents to pledge 23 cents to buy new piece of equipment.

Eschenberg proposes a millage of 1.25 for the fire dept and the .25 for the rest of town. He thinks public safety is on everyone's mind. Mayor says that would be revenue neutral.

Mayor said the council was squeezing out the budget. Go to people now and ask if they want to pay more for a specific reason. It was easy for them. Eschenberg likes the way they did it with the 1.5 and they don't have to go back to residents unless they want more than that. Rocky said it would be hard to do here and would be a challenge.

No other questions for Rocky Randal. Council thanked him for coming.

Council Member Pat Dezman on Communities for a Lifetime: She asked BWF to join her at the podium and asked Franklin to pull up the presentation from the last meeting. She went through the presentation and explained how each component would work in Malabar. She read through the seven points on the issues related to aging in the community. They are co-chairs on the committee. They have two volunteers. Need to go into community and do survey and do assessments.

She is working on package to send to State on their progress. There will be an award given to those communities that are innovative and successful in their program. There is a deadline and BWF is working with her on that. BWF said the program need is paramount in the present economy - seeing people moving in together. State is looking to local government to serve their own. Give younger people peace of mind because there will be a phone bank to call elderly residents and check on their well being. Dezman spoke about the meeting with Janine and Tammy Roberts is the county person coordinating this. The project will run beyond her term and she intends to stay with it. Rocky Randal stated he brought this program to Brevard County and Brevard is the only county that has all 16 municipalities participating. He gave examples of how Cape Canaveral is helping older people. He got 4mil in grants and bought large print street signs, had all the uneven sidewalks ground up to level them out. They have 5 lanes on A1A and only had 18 seconds to cross. They brought out FDOT and he took the photogher from Fla Today. FDOT adjusted the timing to allow 42 seconds. Don't let the program get away. Dr. Beech lives in Orlando and will talk to us anytime.

- D. **PROCLAMATIONS:** Municipal Clerks Week 5/3 – 5/9
Mayor read. Council applauded Franklin.

E. **CONSENT AGENDA:**

1. **Approval of Minutes**

Regular Town Council Meeting – 3/16/09

Budget Workshop FY 08/09 - 03/18/09

Exhibit: Agenda Report No. 1

Recommendation: Motion to Approve

MOTION: Rivet / Dezman to approve as submitted.

Vote: All Ayes

G. **PUBLIC COMMENTS:** General Items not related to agenda items per Reso. No. 13-2008

H. **STAFF REPORTS:**

ATTORNEY: Still has not heard from Stokes. Telephone conference set for Wednesday.

ADMINISTRATOR:

- BCSO – Commander Salvo. The Clerks office. Salvo said in Jan he was asked about citations. Ms. Richardson. At clerks office will audit the tickets and there are 1400 in our community.
- Rabble rousing in Malabar on Smith Lane. They had a tactical unit in there and Lt. Todd Maddox. Have them coordinate with Brian Vail. Also the 4-wheeling going on Sat and Sun. He would like to say they are locals but they are trailered in. If we catch them we can do something about it. Does this council want to look at an ordinance so they can enforce. Vail said after Sat night there was a drop off on traffic going back there. But on Sunday there was no one. Rivet said they were sure there on Sat. Salvo stresses please call BCSO if this activity is going on. The more info they get, the more they can do about it. Rivet asked if we could tow illegally parked trucks or trailers. Yes if we can get out there. BWF said we get good cooperation and follow up from BCSO. He also took initiative by getting map to keep them out of Jordan Scrub. Salvo said we have plenty of resources. BWF stated a resident came in today and asked for barricades similar to Atz and Hall.
- Vail said there was a gate and post before and the FD and BCSO can get though the gate. They can leave pedestrian and horse opening. Vail said we can get donated labor and materials along with neighbors will contribute. Dezman said we need to follow up with ordinance. BWF asked Salvo if a city has a good one they can use to enforce. Dezman asked Franklin to look at old minutes. McKnight asked why we can't enforce as trespassing, - we can but it takes a lot more effort.
- Fire Chief goes over report. Attached to minutes. Ladder truck used for mutual aid for Palm Bay and to get a cat out of a tree. They also have a tank being donated from Palm Bay to replace an old water tank that has failed.
- Emergency sink hole at Moss Rose and Corey Road and pipe has been replaced.
- Bridge work at Country Cove complete. Contractor will repair the missing stone that fell off however he said some of the sod was removed. The HOA requested us to repair the side walls of bridge. The HOA wants that approved. It certainly wasn't anything we had planned to pay for. She will research and will copy Dezman on her response. Dezman inquired as to who is requesting these repairs and BWF replied Ms. Merrick.

CLERK:

- Memos written as directed.
- Trash Bash 2009 had lower turnout – fewer volunteers and much less illegal dumping.

I. **PUBLIC HEARINGS:**

ORDINANCES: (0)

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

K. **ACTIONS ITEMS:**

ORDINANCES: First Reading – 0

RESOLUTIONS: - 2 – Without objection, the Mayor read by title only:

2. Budget Adjustment (Reso. No. 04-2009) AN RESOLUTION OF

THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2008-2009; PROVIDING FOR REDUCED REVENUE; PROVIDING FOR REDUCED EXPENDITURES;

PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Action on Reso. No. 04-2009

MOTION: Borton / Rivet to approve.

Roll Call Vote: Borton, Aye; Vail, Aye; Rivet, Aye; McKnight, Aye; Dezman, Aye.

Motion carried 5 to 0.

3. **Budget Adjustment (Reso. No. 05-2009)** AN RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2008-2009; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 3

Recommendation: Action on Reso. No. 05-2009

MOTION: Borton / Vail to approve. Discussion. BWF stated she had handed out the new sheet with accounting adjustment per Mayor's correction.

Roll Call Vote: Vail, Aye; Rivet, Aye; McKnight, Aye; Dezman, Aye; Borton, Aye.

Motion carried 5 to 0.

MISCELLANEOUS:

4. **LED Lighting – Energy Audit / Alternatives**

Exhibit: Agenda Report No. 4

Recommendation: Request Action

Franklin said she had asked other cities for input regarding LED lighting and the comments continued to come in after the agenda package was sent out. They all cautioned that there are no standards and the technology is new and changing fast. She explained that Commercial Electric had an analysis done on how much we could save by changing to electronic ballast in our fluorescents. Results are in packet. Rivet said the technology is more efficient and we should consider it in new building. McKnight tried the LED with DC and AC and had poor results. The ones he tried had electronic in the lights themselves. Council takes no action on the energy audit. Franklin will send letter to LED representative.

5. **New Storage Building for Fire Department**

Exhibit: Agenda Report No. 5

Recommendation: Request Action

Franklin stated this was mentioned at last meeting for information and then directed to put on agenda for action. The building needs to be replaced over the water pump and the Chief would like to move the generator to this location. We have a price from the contractor and a price from the electrician. The prices proposed are not the final cost as the size has changed. The Chief provided a sketch of a larger building.

MOTION: Borton / Dezman to approve building and electric to up to \$9,999.00 **VOTE:** All Ayes.

6. **Appointment of Representative and Alternate for Intergovernmental Committee**

Exhibit: Agenda Report No. 6

Recommendation: Request Action

SCLC wants a volunteer for this. Borton asked Mayor for information on this committee. What is the purpose? He didn't know anything. Mayor asked Rocky Randal. He does not sit on SCLC Board. Mayor said she did not explain it to the Board members. Meetings will be at 5:00PM. This committee will meet monthly before the Board meeting. Meetings rotate around the County. Dezman would like to volunteer to be representative.

MOTION: Rivet / Borton to approve Dezman as representative. **VOTE:** All Ayes.

MOTION: Rivet / Dezman to appoint Mayor as alternate. **VOTE:** All Ayes.

7. Approval Alternative Budget Preparation Method

Exhibit: Agenda Report No. 7

Recommendation: Request Action

Mayor wants to amend the way we prepare budget to make it simple. The council would decide how to budget expenses. His memo proposes two methods. Either sit as group and fill in the blanks or split it up as depts... 2 departments for each council person. If done that way you would have to spend time to come in to talk to people. If you decide to do as a group you would have the appropriate people here anyway. They could answer right then at meeting what they need in their department.

Mayor stated we have a strong council form of government. Stated Council would be familiar with the budget and they would own the budget. Borton passed out the job description of the Town Administrator from the adopted ordinance and the TA is responsible for preparing the budget. The clerk and mgr do a fine job and don't think we should be asked to do this. We own the budget now. Dezman said it would be like asking the school board to prepare the school budget for the principal. We need objectivity. She likes that they have been given the actuals we spend by TA and clerk. She feels very confident to sit down with the school budget since she has gone through this process. Rivet said he would like to understand why Mayor wants to change it. Why propose a change. Mayor said our charter says it is our responsibility to do it. He said it is totally different when you have to put a number in. Rivet said he feels a personal responsibility to the budget. Having this starting point makes it more efficient. If most want to do it, ok. Dezman said we have to start with the staff starting point. Vail said Mayor wants Council to discuss each line item. Vail said we ask about each line item now. Rivet said we will do this again. McKnight said there is value to that. It is necessary to do this. His opinion is that if we don't have it then they won't get it. He referenced some governmental mentality that if the full budget isn't spent they don't get it the next year so they make sure to spend the entire budget. He stated in this regard, it doesn't happen here. The only value he sees in doing this is to know the expenses. Rivet said if it is only meaning to add a column to provide council a place to insert a number. BWF says that she has prepared the budget and provides the expense from the last year and a blank for Council to fill in. Mayor said in past years, the councils have not scrutinized the budget.

MOTION: Dezman / Borton to leave things alone. Discussion: Rivet said he is only asking for an empty column. Vail said we need to keep the checks and balances in place so that the spending is done carefully. Dezman said we have been told that we have reduced. Rivet said with his six years of history, he agrees with the Mayor. Previous councils did not scrutinize the budget. In good conscience, in the good times, the budget was pretty much rubber stamped.

BWF said the last two budget years, she provided a budget definition page and before that there were no definitions. There was also a miscellaneous line item before that was a catch all. She has identified all the actual expenses. She also provides a vacant column for council to use. Vail is leaning towards requiring future budgets to be forced to be scrutinized by the line items and keep them involved. He likes the definition and the details. It is not about personalities. He likes the budget workshop and the involvement of everyone. He has seen it rubber stamped before. BWF said perhaps they want to adopt the budget process instead of this. She has done that with the budget manual. She can add language to require the council to review line by line and TA to provide substantial background; then adopt it with resolution or ordinance.

Consensus of council was to not have each one take a department home or split up departments amongst council. Do it together and review line by line. Dezman said the mechanism is to require each council to look at it. The alternative is to go to the constituents and change the charter. Mayor said the Administrator can still submit a budget and the Mayor

can submit a budget and they can be a reference. Mayor said past councils have not been compliant. Future councils will not scrutinize. Vail likes the way it is being presented. The council review is happening now. Vail said he is in support of this scrutiny. Mayor said this summer we will delve into each item. Rivet asked how did discussion on this process morph into how future council will do the budget. Don't want to go backwards and to move forward. She hears what they are saying. MOTION: Dezman / Borton to table. Ayes 3; Nays 2 (McKnight and Rivet)

MOTION: Dezman / Borton to remove from table. Rivet said the major change is to have a blank column for the full council to fill in. Make that formalized by codifying.

MOTION: Borton / Dezman to table until Administrator provides budget manual. **Vote:** Ayes, 4; Nay, 1 (McKnight)

8. Approve Budget Calendar

Exhibit: Agenda Report No. 8

Recommendation: Request Action

MOTION: Dezman / Vail to table until Administrator provides budget manual. Ayes, 5; Nay, 0

L. DISCUSSION ITEMS:

9. Establish Dedicated Millage for Fire Service (Mayor)

Exhibit: Agenda Report No. 9

Recommendation: Request discussion and direction

Chair stated he had a speaker card.

Chuck McClelland, 2050 Linrose Lane, prior to 1977, Brevard County wanted to charge Malabar 1.5 to provide MSTU for fire service. Town went to Grant for training and did referendum to residents for 1.5 to start a fire department in Malabar and was passed in 1977. The town paid \$1000.00 per month to Palm Bay for fire protection until they could get trained. They did a 2.25 mil for one year to build the fire station. McClelland said they got two referendum approved in Malabar and both were for the fire department. There were two other referendums for roads that did not pass.

Rivet said Mayor is asking to give up the flexibility. Mayor said the Fire Dept is the number 1 service that is provided to this town. Mayor said it would take the competition out of the decision. Mayor stated that it would be like to decide not to pay for council to go to the FLC conference because the fire dept needs a piece of equipment. Vail asked what happens if you need more money. Mayor said if they approve 1.5 and need more, they have to go back to voters. Rivet said considering pros and cons of idea: and a pro would be it guarantees a minimum level of funding to the fire dept., but a con would be that it puts a ceiling on the total amount of spending. The expenditure requirements are not linked. Vail said one of the main advantages is when you go out to voters and ask for a dedicated millage to pay for the fire department. If they choose to make a major purchase they can do a voted debt for one or two years. Rivet said if you have to raise taxes, it is a better way to do it politically. Mayor said some cities are looking at this as a way to get around the limit. You now have two pots of Ad Valorem. Mayor thought it gives more flexibility. Rivet thought it gave less flexibility once the tax rates have been set. Still need council to approve the item going to referendum. Mayor said if anyone is interested they can bring it back for action.

10. Return Stimulus Money (Mayor)

Exhibit: Agenda Report No. 10

Recommendation: Request discussion and direction

Mayor submitted pitch. He talked about "tea party" at Wickham Park yesterday that he attended. Congressman Posey was there. One of the themes – the politicians were there to hear from them. There is too much spending. He knows Malabar has some jobs on the list;

most are repaving. The most they can do is repaving. After Alaska turned down some of the money, Michigan said we will take any money. If you send the money back, he would not want it to go to someone else. Malabar is only getting a small amount. He would love to pursue the ability to do this to make a statement that Malabar does not approve all the spending. BWF said that the MPO mechanism provides that any money not used by one city would go back to pot to go out to another city's projects. McKnight said it is a very political action. He supports it. The Mayor's sense of the majority of the citizens of Malabar is that they would support this. He would go for it if it would go back into the treasury. Mayor – make it an action item. BWF said we have a kick off meeting tomorrow. Rivet said if the amount would go towards reducing the deficit or to send a strong message then yeah. McKnight, Rivet and Vail agree that they would want to if it would go back into Treasury but they doubted it. We can find the answer tomorrow. BWF said she will check with Georganna. If the Council wants to send the money back, there is no reason to go through with the certification and hold the kick off meeting. Mayor said BWF will not get an instant answer. Georganna will have to go to her supervisor. Does she have the authority to go forward if it can't go back to treasury? Yes.

M. MAYOR AND COUNCIL REPORTS:

(Number indicates order of Reports)

2) Vail – nothing

1) Borton –. Weds can't make it for P&Z and won't be here for 30th either.

5) Dezman –) Asked if meeting on 30th is on or off. Attorney will be speaking to PB atty. He will tell BWF if it is cancelled.

3) Rivet – ham radio event for 24 hours. It was held there last year. A member asked him if the town would be interested in hosting it again. He would like to get Council thoughts on that. BWF said the radio frequencies were knocking out FD radios. She does not think they came in last year. Rivet will mention the interference. He also said we need to write Oakmont about watering restrictions. At 7:15 in front of Oakmont they were going full blast as they do regularly. BWF will send letter.

4) McKnight – did third island with son for Trash Bash. Very well done. Why rush on the joint mtg on fences. Rivet has no problem. Don't rush. Cancel Joint Mtg set for Wednesday. We will pick a night that P&Z regularly meets.

6) Mayor – Next meeting for the teen council the 21st.

N. PUBLIC COMMENTS: General Items – none

O. ADJOURNMENT

There being no further business to discuss, **MOTION:** Rivet / Borton to adjourn this meeting.

VOTE: All Ayes. The meeting adjourned at 10:35 PM.

BY: Thomas Eschenberg

Mayor Thomas M. Eschenberg, Chair

ATTEST BY:

Debby K. Franklin

Debby K. Franklin

Town Clerk/Treasurer

Date Approved: 05/04/09