

MALABAR TOWN COUNCIL REGULAR MEETING
May 04, 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 Steve Rivet.

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: TA asked to pull #8. ok

C. PRESENTATIONS:

D. PROCLAMATIONS: National Public Works Week 5/13 – 5/23
Mayor read. PW are doing excellent job of mowing

E. CONSENT AGENDA:

1. Approval of Minutes

Regular Town Council Meeting – 4/20/09

Exhibit: Agenda Report No. 1

Recommendation: Motion to Approve

MOTION: Dezman / Rivet 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: Nothing

ADMINISTRATOR:

- Stated Council had been given the request from Chris Norton for items for this budget year and next year (attached) and we have nothing in the budget for these requests. She will add two of them to capital improvement plan in next budget. There was a request to have a fence put up before to keep the hogs out of their yards. She would like to send this request to Park Board to consider using the recreational funds to fence Cameron Preserve. Consensus of Council to allow her to send this to Park Board. It is not an ordinary fence. It must be small mesh and dug down 4 feet in order to keep hogs out.

CLERK:

- SCLC Melb Beach must choose dinner choice. Trash Bash award winners should be announced. She will also check and see if the first meeting of the Intergovernmental Committee will be meeting at 5PM. Let Dezman know so she can decide if she will stay for dinner.

I. PUBLIC HEARINGS:

ORDINANCES: (3) All have been advertised. Without objection, the Mayor read each by title only:

- 2. Amending Article VIII Regarding Culverts (Ord. No. 2009-21) AN**
ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA;
AMENDING ARTICLE VIII OF THE MALABAR LAND DEVELOPMENT CODE;
AMENDING SECTION 1-8.14.G. REQUIRING MITERED ENDWALLS IN RESIDENTIAL
INSTALLATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS;
PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Action on Ord. No. 2009-21

PH Opened: none

PH Closed:

MOTION: Rivet / Dezman to approve Ord 2009-21.

Roll Call Vote: 1) Borton, Aye; Vail, Aye; Rivet, Aye; McKnight, Aye; Dezman, Aye.

Motion carried 5 to 0.

- 3. Amending Chapter 6 Regarding Building Codes (Ord. No. 2009-22) AN**
ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA,
RELATING TO BUILDING CODES; AMENDING CHAPTER 6, SECTION 6-1 OF THE
CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR ADOPTION OF CERTAIN
MODEL BUILDING AND CONSTRUCTION CODES; PROVIDING FOR
CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS;
PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 3

Recommendation: Action on Ord. No. 2009-22

Add to the bottom of each section: *as may be amended in the future.*

PH Opened: none

PH Closed:

MOTION: Rivet / Borton to approve Ord 2009-22 as amended.

Roll Call Vote: Borton, Aye; 1) Vail, Aye; Rivet, Aye; McKnight, Aye; Dezman, Aye.

Motion carried 5 to 0.

- 4. Amendment of Advertising Procedures for Request for Proposals (Ord. No. 2009-23) AN**
ORDINANCE OF THE TOWN OF MALABAR, BREVARD
COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE V OF THE MALABAR
CODE RELATING TO PURCHASING; PROVIDING FOR AN ALTERNATIVE
METHOD OF ADVERTISING FOR COMPETITIVE BIDS; PROVIDING FOR
CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR
SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 4

Recommendation: Action on Ord. No. 2009-23

PH Opened: None

PH Closed:

MOTION: Dezman / Vail to approve Ord 2009-23.

Roll Call Vote: Borton, Aye; Vail, Aye; 1) Rivet, Aye; McKnight, Aye; Dezman, Aye.

Motion carried 5 to 0.

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

- 5. Recommendation from Planning and Zoning Board – E.A.R. Maps**

Exhibit: Agenda Report No. 5

Recommendation: Action of Recommendation

Mayor was at P&Z meeting when this was discussed and he told them it would cost money to have her attend. He also told them that her attendance wasn't necessary for the review. What P&Z was doing in their review was injecting local knowledge of the maps. Vail said one of the issues that he had was that the maps weren't using current information. New ponds weren't shown on the wetlands maps.

MOTION: Vail / Dezman to approve \$1,015.00 to Calvin-Giordano and Associates, Inc. to allow Lorraine Tappan to appear at P&Z meeting. Discussion: McKnight said he heard that the past maps and the future maps were color coded and the colors weren't consistent so you couldn't compare. The research needs to be done and it doesn't need to come from her attending the meeting. She needs to check their research sources. They need to put more diligence into the detail. The maps need to have sources identified that include the year of the data. Council is more concerned with getting it right. Dezman said the P&Z Board has the local information. We need to communicate that and the maps need to identify where the sources are coming from and getting the dates correct. We should not be using three year old data if the maps are updated by St. Johns every six months. The maps need to provide the local knowledge. Dezman said it needs to be right. Borton said it needs to be right. Dezman asked how we communicate. Franklin stated we communicate through email. Rivet said we can mark up the maps and send them to her. People on P&Z are the people that know what the maps should show.

Vote: 0 Ayes; 5 Nays

Motion failed 5 to 0.

K. ACTIONS ITEMS:

ORDINANCES: Second Reading – (1) Without objection, the Mayor read by title only:

6. Adoption of Public School Facilities Element (Ord. No. 2008-19)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE COMPREHENSIVE PLAN OF THE TOWN BY ADDING A NEW CHAPTER 11, PUBLIC SCHOOL FACILITIES ELEMENT; AMENDING THE INTERGOVERNMENTAL COORDINATION ELEMENT; AMENDING THE CAPITAL IMPROVEMENTS ELEMENT; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 5

Recommendation: Action on Ord. No. 2008

The ordinance was advertised on March 20, 2009. The PH was held on April 6, 2009. Item tabled to allow the numbering references to be corrected in ordinance.

MOTION: Dezman / Rivet to remove from table. Vote: All Ayes.

MOTION: Vail/Borton to approve Ord 2008-19.

Roll Call Vote: Borton, Aye; Vail, Aye; Rivet, Aye; 1) McKnight, Aye; Dezman, Aye.

Motion carried 5 to 0.

ORDINANCE: First Reading – 0

RESOLUTIONS: (3) Without objection, the Mayor read by title only:

7. Adopt Reso. No. 07-2009 to Rescind Reso. No. 05-2009 and amend Budget for 2008/2009 AN RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR RESCINDING RESO 05-2009 AND PROVIDING AMENDMENTS TO THE REVENUES AND EXPENDITURES IN THE BUDGET FOR 2008/2009 YEAR; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 7

Recommendation: Action on Reso. No. 07-2009

MOTION: Rivet/ Borton to approve Reso No. 07-2009.

Roll Call Vote: Borton, Aye; Vail, Aye; Rivet, Aye; McKnight, Aye; 1) Dezman, Aye.
Motion carried 5 to 0.

8. Deleted from agenda under ADDITIONS/DELETIONS

~~**Budget Adjustment (Reso. No. 06-2009)** AN RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR AMENDMENTS TO THE REVENUES AND EXPENDITURES IN THE BUDGET FOR 2008/2009 YEAR; PROVIDING AN EFFECTIVE DATE.~~

9. Adopt Reso. No. 08-2009 to Approve Temporary Building Official A
RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA,
PROVIDING FOR TEMPORARY BUILDING OFFICIAL SERVICES;
PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 9

Recommendation: Action on Reso. No. 08-2009

MOTION: Borton / Vail to approve Reso No. 08-2009. Discussion – Mayor asked if Council should fill in the blanks in contract attached to resolution or let TA do it. Should hourly rate be in there? Borton feels comfortable letting the TA fill in the blanks. Rivet said we should have hourly wage in there. Use the actual hourly that we pay Cloutier now.

Roll Call Vote: 1) Borton, Aye; Vail, Aye; Rivet, Aye; McKnight, Aye; Dezman, Aye.

Motion carried 5 to 0. Dezman asked that Rivet's name be corrected from Steve to his full name, Steven, on resolutions. Rivet said he goes by Steve and signed election paperwork as Steve and had checked it with the Elections office. He doesn't care if it is changed to show Steven (Steve) on resolutions and ordinances.

MISCELLANEOUS:

10. Budget Manual 2009/2010

Exhibit: Agenda Report No. 10

Recommendation: Request Action

Mayor has a couple of comments before motion. The budget manual presented is for a specific year. It should be made for all years by changing so it is good for any year. Make it generic. Recommend one change on last page – under budget approval - add statement probably at end of first paragraph to state that the Mayor or any council member may submit a proposed budget.

MOTION: Rivet / Vail to approve budget manual as amended to make manual work for every year and add statement to allow Council and/or Mayor to submit proposed budget.

Discussion: McKnight asked why it is marked page 10 of 11. TA explained the first page was counted.

VOTE: All Ayes.

11. Waste Management Negotiation Criteria

Exhibit: Agenda Report No. 11

Recommendation: Request Action

Discussion: TA said we sent a letter to WM explaining we were going to continue the agreement and Mr. Geletko wanted to set up meeting to discuss WM coverage. TA wants to nail down the enforcement of the bill paying portion of the WM bill as part of her job. Since we had the recent problem with service she wanted Council to direct what they want attention given to. Every Thursday she meets with WM supervisor. She would like that added to contract - supervisor will drive town weekly. Eagle Corp does still call in some of them. Dezman said there are a number of large big piles on north Corey. TA said they have been picked up. Vail said on Atz they have been doing a good job. Vail said keep checking on by Eagle Corp. Horace from WM said this time of year is usually heavy on yard waste. As long as someone is monitoring then we can stay on top of it. McKnight said we had problem with dumping on

vacant lots and then WM saying they wouldn't pick up. 100% pick up means they pick it all up. That will be reiterated. They discussed putting the WM bill on the tax bill. Mayor said it was voted down three times to put customers on tax bill. McKnight said he had heard from someone that there should only be one pick up per week instead of two. He had heard that from some residents and is simply passing it on, not supporting it. TA said that would create a mess with large families. Borton and Dezman have always lived where there were two pick ups per week. Rivet said this is the first place he has been that offered two per week. Council stated if WM wants to renegotiate their rates, then keep it as is.

12. Budget Calendar 2009/2010

Exhibit: Agenda Report No. 12

Recommendation: Request Action

MOTION: Rivet / Dezman to remove from table. **Vote:** All Ayes.

Discussion: Mayor said this would be approved every year. Certain instructions to each department can change each year.

MOTION: Borton / Dezman to approve budget calendar with dates set for August 11 and 18th for workshops. **Discussion.** Monday is good for Rivet, Borton and McKnight. Tuesdays, the 11th and the 18th of August will be the dates at this time. The 4th week will be open in case we need to have another meeting.

VOTE: All Ayes.

13. Leased Land from FEC

Exhibit: Agenda Report No. 13

Recommendation: Request Action

Mayor asked Attorney what was the purpose of the lease? Attorney said it did conflict. Carl Beatty said the line of vegetation was planted on the extreme east side of the 5-foot strip to maximize the useable area.

MOTION: McKnight / Borton to terminate lease. **VOTE:** All Ayes.

McKnight said remove the shrub in whatever form staff can and replace with sod or seed.

He said it would be up to the TA to give them away or sell them. Call nurseries and see if they are interested. They are worth money.

L. DISCUSSION ITEMS:

M. MAYOR AND COUNCIL REPORTS:

(Number indicates order of Reports)

4) Vail – traffic at Smith much less – caution tape has stopped traffic. Fence and gate will be put up. McKnight said this is better than passing ord against 4-wheelers.

5) Borton – Sign on US 1 says work will be done – where is start. It should be from Malabar Road and going south. FDOT apologized for short notice. Mr. Moeller wrote a book. Books available here at Town Hall for \$15.00. His father was former Mayor.

1) Dezman – May 18 she has a conflict and won't be at mtg, away on vacation the last part of July.

3) Rivet – Asked if meeting has been set for Joint WS, regarding fences. Franklin is looking at the 2nd mtg in May. Rivet said the Southern Tire mess on Corey has gotten much better. Thanks BWF. Sprinklers no longer running at Oakmont S/D and he thanked TA for her efforts.

2) McKnight – nothing

6) Mayor – Remind council of teen council on May 12, at 7PM. One of the items to discuss will be putting the WM bill on the tax bill. Also talk about home OL for guy that wanted to keep a lion at his house.

N. PUBLIC COMMENTS: General Items –

O. ADJOURNMENT

There being no further business to discuss, **MOTION:** Borton / Dezman to adjourn this meeting.
VOTE: All Ayes. The meeting adjourned at 8:40 PM.

BY: Thomas Eschenberg
Mayor Thomas M. Eschenberg, Chair

ATTEST BY:

Debby Franklin
Debby K. Franklin, Town Clerk/Treasurer

5/18/09
Date Approved