

MALABAR TOWN COUNCIL REGULAR MEETING
January 7, 2008 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 Mayor Eschenberg. The prayer and pledge were led by District 1 Councilmember Nancy Borton.

B. ROLL CALL:

MAYOR/CHAIR

TOM ESCHENBERG

VICE-CHAIR:

CHUCK McCLELLAND

COUNCIL MEMBERS:

NANCY BORTON

BRIAN VAIL

JEFF MCKNIGHT

PAT DEZMAN

TOWN ADMINISTRATOR:

BONILYN WILBANKS-FREE

ATTORNEY:

KARL BOHNE

TOWN CLERK:

DEBBY K. FRANKLIN

C. ADDITIONS/DELETIONS/CHANGES – NONE

D. PRESENTATIONS – NONE

E. PROCLAMATION – MARTIN LUTHER KING JR FEDERAL HOLIDAY – Mayor read

F. CONSENT AGENDA

1. Approval of Minutes

Regular Town Council Meeting – 12/17/07

Exhibit: Agenda Report No 1

Recommendation: Motion to Approve

MOTION: Vail / Borton to approve as corrected in Action Item #1. 4. – Vote should be 4 to 0, not 1. And likewise on #5. Delete second name, Vail, in motion to adjourn. Vote: All Ayes.

G. STAFF REPORTS:

ATTORNEY - nothing

ADMINISTRATOR

- Road list is updated, Elaine Lane and Gilmore are done and Hunter Lane will be by the 14th. Waiting for rest of millings until the 14th. During Budget Workshop, Chief stated that some roads weren't accessible. List is attached.
 - Fire Chief's Report - attached to minutes
 - Nancy asked about asphalt roads. Yes, and hydrants will also be marked on roads. Roads to be repaired, upgraded, and capped. Dezman asked about road to get to the north end of Corey and then through Cameron Preserve. There has already been a fire there. TA will check into it. Also going in off of Oak Harbor to access the house there that is not part of the CCC.

TOWN CLERK

- E.A.R Mailed – confirmation received today – sufficiency by end of February.
- Council Support Of First Amendment Foundation -
- SCLC Jan Dinner – Malabar Co-Hosts -
- Legal Opinion On Fire Protection – Nancy asked about State Code requirements. Karl Bohne checked Life Safety, Statutes, etc. Nancy said Palm Bay denied a 15 story building on river because they did not have a truck that could go that high. Karl is unaware of any State requirement.

H. PUBLIC HEARINGS:**ORDINANCES: None****I. ACTIONS ITEMS:****ORDINANCES: First Reading – none****RESOLUTIONS:**

- 2. Multi-use Trail Support. RESO No. 01-2008.** A Resolution of the Town of Malabar, Brevard County, Florida supporting the countywide linear trail system; supporting the Sand Hill trail head; supporting the Boundary Canal trail; supporting the trail placement along the eastern border of the Malabar Scrub Sanctuary; supporting a trail crossing; providing for an effective date.
Exhibit: Agenda Report No 2
Recommendation: Motion to Approve Reso. No. 01-2008

Without objection Mayor read Resolution 01-2008 by title only. RESOLUTION 01-2008
A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, SUPPORTING THE COUNTYWIDE LINEAR TRAIL SYSTEM; SUPPORTING THE SAND HILL TRAIL HEAD; SUPPORTING THE BOUNDARY CANAL TRAIL; SUPPORTING THE TRAIL PLACEMENT ALONG THE EASTERN BORDER OF THE MALABAR SCRUB SANCTUARY; SUPPORTING A TRAIL CROSSING; PROVIDING AN EFFECTIVE DATE.

MOTION: McClelland / Vail to adopt Resolution 01-2008 supporting the Linear Trail System...supporting the trail placement along the eastern border of the Malabar Scrub Sanctuary. Discussion. None.

Vote: The roll was called: Councilmembers: Borton, Aye; McClelland, Aye; McKnight, Aye; Vail, Aye; Dezman, Aye . Motion carried 5 to 0.

- 3. Legislative Issues Support. RESO No. 02-2008.** A Resolution of the Town of Malabar, Brevard County, Florida urging members of the Florida Legislature to support the following issues during the 2008 Legislative session; providing for an effective date.
Exhibit: Agenda Report No 3
Recommendation: Motion to Approve Reso. No. 02-2008

Without objection Mayor read Resolution 02-2008 by title only. RESOLUTION 02-2008
A RESOLUTION OF THE TOWN OF MALABAR, URGING MEMBERS OF THE FLORIDA LEGISLATURE TO SUPPORT THE FOLLOWING ISSUES DURING THE 2008 LEGISLATIVE SESSION.

MOTION: McClelland / Vail to adopt Resolution 02-2008 supporting the FLC 2008 Legislative Actions. Discussion. Borton doesn't agree with all of the issues. McKnight also doesn't agree, Section 1 bullet 4, regarding occupational license fees. Franklin explained the required rate study. McKnight likes the idea of the resolution of support and would support with the deletion of the 4th bullet. Mayor suggests they all review and bring back to next meeting, sections they want deleted.

MOTION: Vail / McKnight to table to the next meeting. Vote: All Ayes.

4. **Appointment to the Parks & Recreation Board. RESO No. 03-2008.** A Resolution of the Town of Malabar, Brevard County, Florida providing for Council Appointment of Maryann Marsh to serve on the Parks and Recreation Board; providing for an effective date.

Exhibit: Agenda Report No 4

Recommendation: Motion to Approve Reso. No. 03-2008

**Without objection Mayor read Resolution 03-2008 by title only. RESOLUTION 03-2008
A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY,
FLORIDA, PROVIDING FOR COUNCIL APPOINTMENT OF MARYANN
MARSH TO SERVE ON THE PARK AND RECREATION BOARD; PROVIDING
AN EFFECTIVE DATE.**

MOTION: McClelland / Borton to adopt Resolution 03-2008 appointing Maryann Marsh to the Parks and Recreation Board. Discussion.

Vote: The roll was called: Councilmembers: Borton, Aye; McClelland, Aye; McKnight, Aye; Vail, Aye; Dezman, Nay. Motion carried 4 to 1.

MISCELLANEOUS:

5. **Authorization to Purchase 2715 Malabar Road**

Exhibit: Agenda Report No. 5

Recommendation: Motion to Approve Reso No. 04-2008

Speaker's Card: John Seybold, 1830 Corey Road, is concerned about paying over the appraised value. Especially taking a loan for this. We should do a study and budget for same before authorizing purchase.

**Without objection Mayor read Resolution 04-2008 by title only. RESOLUTION 04-2008
A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY,
FLORIDA, PROVIDING FOR AUTHORIZATION TO PURCHASE .95 ACRE
PARCEL AT 2715 MALABAR ROAD, MALABAR; PROVIDING AN
EFFECTIVE DATE.**

MOTION: Vail / Borton to adopt Resolution 04-2008 authorizing the purchase of Mr. George Billie's .95 acre property at 2715 Malabar Road. Discussion. McKnight said this is a knee-jerk reaction. We don't know how we are going to expand and have just started process. We should have a rough idea of the type of structure first. Current building is nonconforming with no stormwater. The other concern is the high interest. He is concerned about paying this because there was another offer on the table and now the same guy has also offered his land to the town. Dezman said she disagreed and they have worked on this in the past and he has come back to us. Borton has worked with Needleman. Vail said the appraisers are being very conservative. It combines our properties. This gives us the option to do alternative design. It ties the two pieces together and would become compliant for stormwater and parking. Even if the town hall is located elsewhere this building will be used by the town. While this purchase price is over the appraisal value, it is more palatable solution than some of the other offers we have been given. McKnight has heard from people that say it is unwise to buy property within such a short period with no planning. That wasn't even possible because this property cannot be altered. McClelland asked if the property was even ours. He is not in favor of paying more than the appraised value but is in favor of having the additional land. Next to the RR tracks is not desirable. We could not sell this for 175K. Dezman disagreed. We have been working on this and there has been planning for over a year. This is valuable commercial land.

Vote: The roll call was called: Councilmembers: Borton, Aye; McClelland, Aye; McKnight, Nay; Vail, Aye; Dezman, Aye Motion carried 4 to 1.

6. Authorization to proceed with financing for purchase 2715 Malabar Road**Exhibit:** Agenda Report No. 6**Recommendation:** Discussion and Action

BWF said in holding with what SBK said in the past, that for bond rating, the Town needed to improve its credit rating. Mayor asked about the difference in the bank stated – 75% of the appraised value on land and what about closing costs. Attorney stated the closing costs –seller and buyer would each pay a portion. Sellers side would cost about \$1500 and buyers side close to the same. Mayor also asked the Council to direct the Administrator in her dealing with Mr. Billie, the down payment would be put into an escrow account until title search and a due diligence period. If it is not suitable for our purposes then we get our deposit back. Mr. Billie also wanted to stay in the property for 6 to 9 months. We would then be a landlord and we would rent it on an as-is condition. McKnight said it is illegal to rent it when it is not in code compliance. Borton asked if it could be negotiated – change the closing date to 6 to 9 months. If something happens in those 9 months. What if he passes away. His estate would be bound to the agreement. Borton asked for a shorter period. Borton also asked about the grant application status. The architect has now been selected. Dezman offered to follow-up on the grant application. BWF explained the possibility of adding onto the new structure for planned expansions. Borton asked if 10K would be large enough. Malabar Comp Plan estimated us at 10,000 population at build out but that was before the EELs purchases. Maybe 9,000 would be a likely revised population for build out. McKnight asked about an Equity loan. BWF did not think they were available to government.

MOTION: Vail / Borton to research financing options with RNB and other banks for better options and consider paying off an earlier loan, consider pre-payment options for purchase of 2715 Malabar Road. Discussion.

Vote: All Aye.

Mayor asked if they wanted to make a formal requirement for the down payment to be held in escrow until the financing is in place.

Dezman asked if we should get appraisal of our property to see if it would be prudent to stay here and build a new town hall here or go elsewhere. BWF said we will have to do it again. Can you get a market analysis? Yes any realtor can do that. Ask Vicki Thomas for a market analysis on this property and the PW building.

7. Authorization to Survey North Marie Street**Exhibit:** Agenda Report No. 7**Recommendation:** Discussion and Action

Discussion with EELs on trail and there is a discrepancy during Mr. Torpy's time as Town attorney and there was a right-of-way and later it was not shown. Staff wants this resolved.

MOTION: McClelland / Borton to approve authorization to surveyor to survey disputed right-of-way known as Marie Street, north of Malabar Road. Discussion. None.

Vote: All Aye.

8. Adoption of Social Security Number Policy**Exhibit:** Agenda Report No. 8**Recommendation:** Motion to approve Reso No. 05-2008

**Without objection Mayor read Resolution 05-2008 by title only. RESOLUTION 05-2008
A RESOLUTION OF THE TOWN OF MALABAR, ADOPTING A SOCIAL SECURITY
DISCLOSURE POLICY OUTLINING WHY AND HOW WE COLLECT SOCIAL**

SECURITY NUMBERS DURING THE COURSE OF BUSINESS; PROVIDING VALIDATION OF REQUESTS FOR PUBLIC RECORDS CONTAINING SOCIAL SECURITY NUMBERS; PROVIDING NOTIFICATION OF ANNUAL COMPLIANCE TO THE STATE; PROVIDING AN EFFECTIVE DATE.

MOTION: McClelland / Vail to adopt Resolution 05-2008 adopting a Social Security Number Policy. Discussion. BWF stated that we were notified that we needed to do this. Policy requires not only original notice to State but also annual reports to the State. The policy is pretty much written by the FLC and the attorney.

McKnight said he has a problem with giving SS # information out at all but understands the need allow access to certain businesses. Attorney explained this is the process we must use. Dezman asked about security, referencing recent theft of laptops at the university and asked how we protect our information. It is password protected, encrypted and held on the server.

Vote: The roll was called: Councilmember's: Borton, Aye; McClelland, Aye; McKnight, Aye; Vail, Aye; Dezman, Aye. Motion carried 5 to 0.

9. Reactivate Trails and Greenways Volunteer Committee

Exhibit: Agenda Report No. 9

Recommendation: Motion to approve Reso No. 06-2008

Without objection Mayor read Resolution 06-2008 by title only. RESOLUTION 06-2008

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR COUNCIL ACTIVATION OF A TRAILS AND GREENWAYS VOLUNTEER COMMITTEE; PROVIDING AN EFFECTIVE DATE.

Speaker Card: Barb Cameron, 665 hall Road, issue with wording in public book – stated that the volunteers did not disband – they were disbanded

MOTION: McClelland / Borton to adopt Resolution 06-2008 reactivating the Trails and Greenways Volunteer Committee and correcting the Agenda Report face sheet. Discussion.

Borton said that Richard Cameron should be a part of this. Dezman wanted Cameron to come to the podium. Vail said that there is no conflict with regular board members. Mayor suggested a council liaison for this committee. McClelland would also like to see Cameron on this committee. Progress of building things at the trailhead. Borton remembered Cameron doing reports to the council. Cameron no longer has the tools or volunteers to keep this up. Cameron said some neighbors didn't like the trail - when volunteers come you need to have the tools and equipment and planning. Mayor said there should be a line item in the budget. Cameron explained the entire process for a 4 hour work period. If the Council reauthorizes the committee, then the committee could. Once we set up as a board with certain – also need to consider workers comp. Cameron said there is a lot more to it.

Vote: The roll was called: Councilmember's: Borton, Aye; McClelland, Aye; McKnight, Aye; Vail, Aye; Dezman, Aye. Motion carried 5 to 0.

10. Set second RTCM for February

Exhibit: Agenda Report No. 10

Recommendation: Discussion and Action

Consensus to set February 25, 2008 for the second meeting in February.

11. Schedule Fire Department Brainstorming Meeting

Exhibit: Agenda Report No. 11

Recommendation: Discussion and Action

Mayor said his idea was to have the Fire Chief and one other member of FD and a member of Council - McClelland because of his background and the Administrator and they should meet at least quarterly and see what they need to do to come up with a 5 year plan. Maybe meet biannually. Dezman would prefer to see McClelland do the review. Mayor would like to see a plan and a way to get there. BWF asked why we are focusing on FD and not other departments. Goals and Objectives are set out at budget time. Mayor said if our FD is not brought up to best standard, it is so critical to the town. If you did a survey the town citizens would say the FD is the most important and then roads and drainage. Vail said he is involved on a daily basis. Chief will forward needs to Vail. Dezman suggested using McKnight but also do it for all departments. BWF said that is why she proposed the strategic plan with every department. Dezman is against singling out the Fire Department. Do a strategic plan for the town and then go to each department. Dezman asked if McKnight is comfortable with strategic planning. BWF said that FLC can help with a facilitator. Mayor said that takes a long time -

Regular depreciation on all vehicles and that has not been done in the past. BWF said we depend on Vail to keep the fleet going but we will need to bite the bullet and deal with it for PW and FD. Mayor wants something done now. He referred to the truck that responded to Ozzies fire and had to be sent back because it broke down. He doesn't want that to be a fire in Malabar. He suggests a special assessment for a specific purchase and for a defined period. McClelland said the only two referendums have passed and they were for the FD. McClelland said that many of the items on the last 5 year plan they did have not been purchased. Dezman said we should resurrect. Set aside Monday nights to review this list and put together something. McClelland said we should start with each department submitting what they want. McClelland said the only things not accomplished were the bay door replacements and the aprons put in without metal. Dezman proposes meeting every Monday night.

Dezman understands the need and wants the FD to provide info so it can go to TC by the Jan18th FYI - to meet Mayor's concern for safety and gives us time to read it and formulate another plan. If by next TC we have the short term, intermediate and long term concerns of the FD.

Consensus to set for Discussion and Direction at next Council meeting. Once Council agrees that the plan is good then we have to figure out how to pay for it. McKnight said he would like to have estimates on maintenance costs.

Strategic plan are usually less than five years because of change in seats. We will have three council seats and the Mayor will be up for election.

Dan Welton, Hunter Lane, also Asst Chief, filled out a card. He and Bob Rowan are the only two members that live here. He would like a Council person to come to a Fire Department meeting in the evening. They are the largest employer in Town, with 30 to 60 volunteers. He does not feel comfortable coming to Council with a wish list. He is suggesting someone sit down with them on a bi-monthly basis. He is biased. Meetings are 2nd Thursday at 6:30PM – McKnight said that he can make at least a quarterly meeting and possibly bi-monthly.

Dezman suggested at next TC meeting how are we going to handle input from other departments.

J. DISCUSSION ITEMS:

12. Interest in purchasing property at 1450 W. Railroad Avenue

Exhibit: Agenda Report No. 8

Recommendation: Discussion and direction

No discussion.

K. MAYOR AND COUNCIL REPORTS:

Borton – BCSO has been operating along Highway 1 and issuing many tickets. She was unsure if they were MSTU deputies. Yellow Dog had a “Leash Clipping” in concert with doggie dining permit recently received and they had a good turnout. It worked out quite nicely. U.S. Representative Dave Weldon attended as did State Representative Mitch Needleman. She has gotten numerous calls thanking Council for allowing restaurants to choose whether to operate doggie dining or not. They have had good experiences so far.

McClelland – nothing.

McKnight – thanks for getting the package out early and on the website. He suggested allowing more time to review. Get copy of council reso to McKnight and Donate his discretionary fund to roads – he thinks it is \$350.00. He is not happy with the MSTU and he has not seen a MSTU car in months. Is threat behind us that they said they would sue for back coverage? This will be on the next ballot at election time in November. What if the residents don’t pass it? You will see a reduction in service. Attorney did not see lawsuit as likely.

Vail – Mailboat article on brush fires. Also encourage residents to use a draft hydrant to fight fires.

Dezman – has spoken to her email technician and the fatal error on email delivery has been corrected – disregard message when sending her email. Resolutions are legal documents and we need to use all full names – not nicknames on all resolutions. Had calls from constituents – questioning the integrity in serving the town. Not following our code unless there is a complaint. We are being looked at closely. Mayor asked if we wanted pro-active code enforcement. Yes some of her callers do want that. She is relaying.

Mayor – He was on council for 6 years and maybe got three calls. He wants TC to speak to their constituents – WM will be coming to us to change the process of collection.

L. PUBLIC COMMENTS: General Items

Juliana Hirsch, 1035 Malabar Road, regarding purchase next door. Regarding attorney’s comments – allowing current owner to reside is bad idea. Put closing 6 or 9 months down the road. Town doesn’t need it now.

M. ADJOURNMENT

There being no further business to discuss, **MOTION:** Borton / Vail to adjourn this meeting. **VOTE: All Ayes.** The meeting adjourned at 10:00 PM.

BY: Thomas M. Eschenberg
Mayor Thomas M. Eschenberg, Chair

ATTEST BY:

Debby K. Franklin
Debby K. Franklin, Town Clerk

01/28/2008
Date