

TOWN OF MALABAR

TOWN COUNCIL REGULAR MEETING

April 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 2 Councilmember Brian Vail.

B. ROLL CALL:

MAYOR/CHAIR

VICE-CHAIR:

COUNCIL MEMBERS:

TOM ESCHENBERG

CHUCK McCLELLAND

NANCY BORTON

BRIAN VAIL

JEFF MCKNIGHT, excused

PAT DEZMAN

TOWN ADMINISTRATOR:

BONILYN WILBANKS-FREE

ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

C. ADDITIONS/DELETIONS/CHANGES: none

D. PRESENTATIONS: Accountant Augie Torres. Financial statement for Oct through December. It shows the actual the budgeted amount and the variance. First is the summary form and then the detail format. 800-524-0582. Mayor said the percentage should be 75 or less in the revenue. In the expenditures it should be 75 % or more. On page 2 taxes, we are looking for a percent that says 75 or less. They discuss the amount left to collect. In expenditures the amount the percent is the amount you have left to spend or collect. Mayor stated the previous statements were done differently. Torres said these are the reports per the Governmental Accounting Standards Board and the generally accepted governmental accounting principles. This is how municipalities report their financials. He also recommends consolidating the little funds. He is recommending we also combine the bank accounts. You will see that resolution at the next council meeting. All those totals will be combined and consolidated at the next meeting. If you want to recognize particular items we create a set-up for a line item. Try not to have too many special revenue funds. This report does not include all these little funds. Dezman wants these changes done before the beginning of the next fiscal year. Torres is suggesting changing these by for 07/08 FY. Dezman doesn't want to change too rapidly since it is an adjustment. BWF said 541 is what the County called it and it is actually within the general fund. The Stormwater Fund has been set up a special revenue fund and should be Enterprise Fund. Mayor said the bottom line could be deceiving. Because it could sit there for a year or two. Torres said you restrict the funds by reserving them or use them by non-reserving. Mayor stated the Transportation Impact Fee Tax (TIFT) funds were in their own fund. Torres stated you should then also add in the percentage of the Local Option Tax and the percentage of the Revenue Sharing that are for roads. McClelland asked about the status of the software for accounting. Due to the budget constraints Torres is taking the source documents and putting them in his software and emailing the general ledger. Borton asked about page 9, the bottom of the debt service – the interest and principal but no actual budget amount. Torres explained that Malabar does not have a true debt service fund – that is why there is not money budgeted there. If we did we have to make annual or semi-annual payments. What we have are lease purchase agreements. Torres said they (GASB) show the long-term debt completely separate. Torres also mentioned that there would be some revenue reductions based on estimates coming out of Tallahassee. May affect Malabar's budget approximately 20K per the projections - at this time. It could go either way before September 30. He will try and have January and February for the next Council meeting. If anyone has questions, please call.

Mayor said regarding the reduced State revenues, we might have to trim 20K from this budget. Mayor said we don't know where we are or where to take this from. Dezman said staff is to be commended and Council is at fault for letting the condition to get to this. The buck stops here. They are working on it. Staff is to be commended.

E. PROCLAMATIONS – National Crime Victims Rights' Week – Mayor read.

F. CONSENT AGENDA

1. Approval of Minutes

Regular Town Council Meeting – 3/17/08

Exhibit: Agenda Report No 1

Recommendation: Motion to Approve

MOTION: Borton / Dezman to approve as corrected: Dezman said be consistent with naming names – keep it either last or first.

VOTE: All Ayes.

G. STAFF REPORTS:

ATTORNEY

- nothing

ADMINISTRATOR

- EELs mtg will be tomorrow and she will go -dealing with Hussein property. SCLC wants list of unfunded mandates we want the State to give relief on. Also the Pot Luck at old school house is May 18.

TOWN CLERK

- SCLC dinner on April 21 not the 14th
- Charter Amendment will be done per memo in FYI
- In roll call votes, Clerk will be rotating each District Council Member throughout the agenda.

H. PUBLIC HEARINGS:

ORDINANCES:

2. Appurtenance Height ORD. No. 2008-04

Mayor read by title only. This has been legally advertised in Florida Today newspaper on March 6, 2008.

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING ARTICLE V, SECTION 1-5.1 OF THE LAND DEVELOPMENT CODE OF THE TOWN; PROVIDING FOR EXCEPTIONS TO HEIGHT LIMITATIONS; DECLARING THAT ELEVATORS ARE INTENDED FOR HUMAN OCCUPANCY AND SHALL NOT BE CONSIDERED FOR AN EXCEPTION TO THE HEIGHT LIMITATIONS; AMENDING SECTION 1-20.2 OF ARTICLE XX OF THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING THE DEFINITIONS OF STORY AND BUILDING HEIGHT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No 2

Recommendation: Action on Ord. No. 2008-04

OPEN Public Hearing

None

CLOSE Public Hearing

MOTION: McClelland / Dezman to approve Ord 2008-04

Discussion: None.

Vote: The roll was called: Council members: Borton, Aye; Vail, Aye; McClelland, Aye; McKnight, excused; Dezman, Aye. Motion passed 4 - 0.

I. PUBLIC: ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING

3. Recommendations from Park Board

A) Additional Soccer Field

B) Port-a-lets

C) Hot Dog Vendor

Exhibit: Agenda Report No 3

Recommendation: Request Action on A, B, C

BWF showed pictures of drainage considerations and stated the engineer will have to be tasked with redesign. Then she showed the slide and the safety factor of moving the slide due to warranty. Study the drainage. Bob also said the layout s/b

Regarding A)

MOTION: Dezman / Vail to approve the additional soccer field. Discussion. Dezman said she is against this. It is not the Regional Park for the purposes of soccer. She is not in favor changing the drainage especially since it works. Borton agrees. Vail said we have a nice diversity within the park and it is user friendly for a large group of people. Until we get more land to expand we should leave it as it is. Maybe in the future we could change it. McClelland called for the question.

VOTE: All Nays. Motion failed 4 - 0.

Regarding B)

MOTION: Vail / Borton to approve Park Board recommendation to have Town pay for them.

Discussion. Vail said he would support allowing them to have them but make them pay for it. How we would control that he didn't know. Possibly the usage fee. It is Dezman said the catalyst for the request was for the referee to use for insulin shots. Borton said they are smelly and get knocked over. Mayor suggested changing the motion. Attorney stated it should be withdrawn. Vail withdraws the motion. Do this for a trial period.

MOTION: Vail / Dezman to allow the soccer league to install one or two port-a-lets at their expense and remove them at the end of the season. McClelland called the question.

Vote: Vail, Aye; Nay, 3. Motion Failed 3 – 1.

BWF explained background and when the baseball league wanted to do the same thing Council denied. Mayor read the special event section of the code. Did the former administrator deny the baseball team? BWF said the county does get a percentage but they also have a full concession. Mayor said he read Chap 14 as the business should have a permanent location.

Regarding C)

MOTION: Dezman / Borton to approve the hotdog vendor for the balance of the season, and be responsible for the litter clean up under the authority of the Town Administrator. Dezman has a problem with the lack of consistency. Her other concern is trash. It is nice to have it handy. BWF said it is not her responsibility to set policy. Do you want her to allow it and require litter control? Vail said we need to come up with something. Vail said let's try it out for 6 weeks.

Borton asked how the trash was after she was there for opening. BWF explained we do not clean up until Monday. Do you want to put on someone at overtime to come in a clean up on Saturday or Sunday? Vail said the cans by the soccer field are animal proof. He doesn't think the litter would be a problem.

VOTE: Aye, -2 (Vail, Dezman); Nay, 2 (Borton, McClelland); Mayor voted Aye. Motion approved 3 - 2.

4. Recommendation from Planning and Zoning Board -

Exhibit: Agenda Report No 4

Recommendation: Request Action

Mayor asked P&Z Chair Bob Wilbur to speak to this. Wilbur explained they have had a number of requests from persons wanting to develop the area between I-95, Babcock and Booth Road. There has been strong opposition to using Booth Road for this access, from the adjacent residential area south of Booth Road. It is his proposition to use the Foundation Park intersection to access and open up the limited commercial and commercial zoned areas within Malabar. The consensus of the P&Z Board was this was a good idea. Board is asking Council how we can make this happen. What is the proper approach? It is vacant and we can hook up to Palm Bay water and sewer. It would be a great fit for this area. There would be no comp plan changes or zoning changes required. Lots of room for service businesses. We have turned down many people because we don't have any place for them. Mayor asked if staff got the ownership information. Yes P&Z got the information. And there is water and sewer there. Vail would be in favor of researching this.

MOTION: Vail / Dezman to direct staff to do feasibility study with the planner and St. Johns regarding establishing a road right of way within Malabar, adjacent to Foundation Blvd through to Lett Lane. Dezman wants the results of the study to go back to P&Z as a formal document.

VOTE: All Ayes, Motion carries 4 - 0.

J. ACTIONS ITEMS:

ORDINANCES: First Reading - None

RESOLUTIONS: None

MISCELLANEOUS:

5. Approval to Solicit Agreement – Brevard Stars Baseball Team

Exhibit: Agenda Report No 5

Recommendation: Action

BWF said we charge to baseball team \$50.00 a month and don't charge the soccer. They come in and reserve the baseball field. We don't have a contract – they are paying per the fee resolution.

MOTION: Dezman / Borton solicit an agreement and be consistent and make both pay the same to use the park according to our fee schedule and effective immediately.

VOTE: All Ayes.

6. Mileage for Building Official

Exhibit: Agenda Report No 6

Recommendation: Action

MOTION: McClelland / Vail to continue to pay him \$200.00 a month due to cost of fuel.

VOTE: All Ayes.

K. DISCUSSION ITEMS:

7. Repeal of Ordinance 2007-06

Exhibit: Agenda Report No 10

Recommendation: Discussion and Direction

Borton stated she asked for this to be placed on the agenda. She repeats what she has stated before... We have already asked the residents with the straw ballot. Resident's do not want a police department. She has spoken to 90 to 100 persons who support the MSTU and don't understand why it is on the Ballot again.

Dezman said it was her understanding that if it had failed, then we would give them options.

MOTION: Borton / Dezman to direct staff to draft an ordinance to repeal Ordinance 2007-06. McClelland said it should be on the ballot as a binding referendum. If it did fail, we are bound by it for another year, but still have to come up with an alternative. Vail does not think the voters will vote it down. Dezman said the Mayor and three seats on the Council are up for re-election. Vail said it was promised to go to the ballot. Give them an option.

VOTE: Roll Call Vote – Dezman, Aye; Borton, Aye; Vail, Nay; McClelland, Nay; McKnight, Excused. Mayor voted Nay. Motion failed 3 – 2.

8. Fire Department Capital Improvement Plan

Exhibit: Agenda Report No 11.

Recommendation: Discussion and Direction

Mayor said there was a staff meeting and it was discussed that it is a wrong time to put this on the ballot. Dezman said there are unknowns. Mayor said there is an anti-tax group. Bob Rowan said it wasn't the right time or the format to ask for this stuff.

(McClelland called out at 9:10pm)

Rowan said the ladder truck and the hydrants will help but they are worried about the timing. Dan Welton said they all agreed on the going forward with the ballot issue was bad timing. But that being said but there are a number of items that need to be funded. The Hirsch tools (Jaws of Life) won't cut the cars being made today. These items need to be funded. Chief Joe said we have been good steward of the Town's money. They have diligently looked for grant money and looked for donation for used goods. They are looking at some equipment from a city now that will help cut through vehicles. Someone else wants to donate an air station. With the budget cuts and citizens are getting concerned and it would not be appropriate to ask for money, but in the future look at this. BWF would like to sit with staff and identify the critical needs stuff and streamline the list and then look at what we have in the budget. She will have this for the next meeting. Dezman said how about a fund raiser or carnival to get what we need. Borton said she would provide food. Think outside the box. Chief said he is proposing charging fees for fire classes. That will be on the next agenda. Mayor said the Corporation is charged with fund raising. Borton will back any fundraising with food. You can raise 1000's. Mayor said get this idea to the corporation. BWF will talk to MVFD Corporation President Bryan Erikson and get on their meeting agenda and speak to them about fundraising. Borton can get other food vendors to donate. It could be fun.

L. MAYOR AND COUNCIL REPORTS:

Dezman: Had a call from Mary at the soccer league and asked to provide – what is their goal or mission statement. Don't take money if they aren't going to let the kids play. Dezman also announced she has received her certificate to be a principal. She will not be available next week. Contact BWF if you need to get in touch with her. She and her husband have been discussing selling their house and building a smaller house in Stillwater Preserve. Their house was built for in-laws and they have died so they are downsizing.

Vail: A great time at Spring Fest was had by all.

Borton: She missed a phenomenal event. Commends staff.

Mayor: Letter to DCA – no response yet. He went to Palm Bay City Council meeting that discussed the adult entertainment location. They had two extra attorneys there. They had a map and are writing an ordinance that deals with exclusions. They can't be within so many feet of a church or school. Our limits are 1000 feet. We may want to look at it when they are done.

M. PUBLIC COMMENTS: General Items

Dan Michael, Vail and him helped clear the park. He pays taxes and volunteers. States for the record his house has burned down twice in the last ten years. Malabar has 1mil in a money market account which is not protected.

N. ADJOURNMENT

There being no further business to discuss, **MOTION: Dezman / Borton to adjourn this meeting.**
VOTE: All Ayes. The meeting adjourned at 9:30 PM.

BY: Thomas Eschenberg
Mayor Thomas M. Eschenberg, Chair

ATTEST BY:

Debby K. Franklin
Debby K. Franklin, Town Clerk/Treasurer

4-21-08
Date Approved