

MALABAR TOWN COUNCIL REGULAR MEETING
April 21, 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 3 Councilmember Chuck McClelland.

B. ROLL CALL:

MAYOR/CHAIR	TOM ESCHENBERG
VICE-CHAIR:	CHUCK McCLELLAND
COUNCIL MEMBERS:	NANCY BORTON
	BRIAN VAIL
	JEFF MCKNIGHT, excused
	PAT DEZMAN
TOWN ADMINISTRATOR:	BONILYN WILBANKS-FREE
ATTORNEY:	KARL BOHNE
BUILDING OFFICIAL	ROGER CLOUTIER
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

C. ADDITIONS/DELETIONS/CHANGES: Mayor suggests moving I.2. without objection, Agenda Item I.2 is moved.

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

2. Re-address Soccer Agreement – (Nancy Borton)

Exhibit: Agenda Report No. 2

Recommendation: Request Action

Discussion:

Mayor has one card and will hear from speaker. R.A. Popham, District Commissioner of Soccer Program. She gave a presentation on number of participants in soccer programs. Soccer is cheapest sport and is available to more kids. Doesn't understand why we can't put more fields in. Maybe we can if teams get sponsors and we put banners on fencing. She has more kids in soccer than in football, basketball, and baseball. Borton asked when they play. This league plays on Saturdays. She has a national background check done on all soccer personnel - every coach and every volunteer is checked. Dezman asked what the statistics on Malabar residents in this club. This Council is responsible to the residents. Mary Hoffmeister, 4030 Corey Road. She said that she gave list to Clerk Franklin. Franklin stated that Hoffmeister gave Franklin a piece of paper that stated that 40% of players are Malabar residents. Franklin explained that Council wanted specific number of players that were Malabar residents. Hoffmeister stated out of 165 players, about 30 are from Malabar. The number is around 30 from Malabar.

Chair stated that the item for Council to address on the agenda item is the agreement. Take action on the agreement. Mayor gave the history: this was an agreement done when Ed Booth was here as Town Administrator.

District Commissioner Popham said that Indian Harbor Beach kids pay \$5.00 more in their registration and that money goes back to city. Malabar could consider that. Mayor said Council has to direct Administrator to draft agreement.

Borton said she asked for this to be placed on the agenda because at this point they had already spent their registration money and it was her suggestion to let them go for the rest of this season and just start it on the next season. So the league can budget it. Vail is of same opinion.

Dezman asked how we can justify this when the other teams are charged and pay. Borton said that it is Council mistake for not being aware of this. Vail agrees. BWF found the pricing used for baseball team was more than called for in the fee resolution. She suggested putting a new contract agreement together for them and for now until the end of the season waiving the fees. BWF said the basketball team also has paid \$3.00 per hour and not \$10.00 they were being charged. Park Chair asked if they could work with Administrator to correct the scrivener's error in fee resolution. Fee Resolution doesn't state for soccer how it should be paid – it just states \$10.00. It should be per hour. Dezman asked about deposit. When the baseball team rents the field they pay a deposit. She will bring the fee structure back to Council. Chair asked for motion. Dezman has statement. She got a call from soccer ball leadership today and on an earlier date. Wanted to be clear that this is not a misunderstanding of staff. It is not about the money. Dezman wanted to make it abundantly clear that this Council does not want the league to go away. They need to be clear on the facts. Nowhere has this Council stated they want this soccer league to go away. Nothing does heart better than seeing the well behaved children. This is an adult item not a child item. She asked league for specific Malabar residents in league and did not get this. She asked three times. Now we hear it is about 30. The politics of the league is separate from the politics of the town. When this team first came to them, it was not the intent of town to be regional soccer park.

McClelland said it is not fair of the soccer team to accept the registration money and then not allow the kid to play. He felt they did need change in leadership.

MOTION: Dezman/ Borton to allow the soccer league to waive the fee until the next soccer season.
Vote: All Ayes.

Chair gave group total of 5 minutes to offer comment. Dist Commissioner Popham asked about fee scale. Baseball is different than soccer.

Barry Rogers, son plays, resident of Grant. Learned that there is a right way of doing things and perhaps we got off on the wrong foot. South County is one big community. We love your parks. We want to do what we can to make this good for both of us.

Dan Ciacia Coquina Point, both his children have played on team. The growth in program is astonishing. Almost 200 children in program. Fact is it has grown and they should not be charged fees for residents. It is inconsistent. Please be consistent. Not using precedent by Palm Bay – we wear Malabar shirts. He also uses it as for scout activities and they pay deposit but no usage fee.

Mary Hofmeister stated the first contract was supposed to be for three years. There was a user fee. She doesn't want this to be a battle. She has been taking over the politics and she wants this for the children. Wants a contract with a happy medium. Have it start when the soccer season starts. Season starts in August. Pre-register in July and May 31 is end of Soccer season. Start collecting in June for registration.

Dezman had something more to say. Mayor called recess for 5 minutes. Group left. Meeting reconvened. Borton thinks we should not charge Malabar residents. Vail agrees.

BWF said the fee structure is not paid by resident it is paid by league. This is not a Town-run league. The soccer field also has additional costs. It is a fee structure for the use of the park. Dezman said she told league person to step back and see what their mission statement. We can't support 200 players. Town has no say over the league politics.

BWF said perhaps Town of Grant-Valkaria may grow and be able to expand and build parks.

Mayor said at \$10/hour then the soccer team would pay a large amount. Perhaps the adults should be charged and not the children. BWF said that is why the Parks Board wants to re-look at this.

Borton asked how to pay for maintenance. Dezman said it is not realistic to not charge.

Mayor said it is their right to come to the Town and ask. The Council has answered that. They have to arrange their games accordingly.

D. PRESENTATIONS: Accountant Augie Torres. Financial statement for January and February has been distributed. The revenues show we are 85% over expenditures. Mayor said since he prepared these reports. How are we really doing. Torres said as of Feb/Mar our position is strong. We have collected 60% of revenues. June would be a better time – these are your strong months. What he has presented are the actual revenues. The State has projected a reduction of 20K but that is just a projection.

E. PROCLAMATIONS - none

F. CONSENT AGENDA

1. Approval of Minutes

Regular Town Council Meeting – 4/7/08

Exhibit: Agenda Report No 1

Recommendation: Motion to Approve

MOTION: Vail / Borton to approve as corrected: Clerk stated Accountant's number was incorrect in minutes. The correct number is 800-524-5082.

VOTE: All Ayes.

G. STAFF REPORTS:

ATTORNEY - nothing

ADMINISTRATOR

BWF introduced BCSO Lt. Cockriel that usually works the night shift. Most of their calls and special details are related to ATV activities. They have been doing voluntary compliance. Even families that don't realize it is trespassing. They try educational first and then move to punitive if they don't learn. Quality of life issues and target with their resources and overtime. Referenced ATVers and stated many are from Palm Bay and they chase them back there. The crime in south area has had some residential burglaries. No business burglaries. Overall crime is fairly benign. We have 4 trainees out of training now and have 3 or 4 more going into training. Vacancies are getting harder to fill. Borton asked if they are on now. Yes. They got three rookies and a 2-year deputy that transferred from North County.

Mayor said regarding Trash Bash, if a deputy sees a litterbug, can they issue a ticket? Yes they do it all the time. They even do it for cigarettes. Coming into Fire season they get aggressive and may also include Div of Forestry. It is a civil infraction against the F.S. Council thanked Lt. Cockriel of BCSO.

- Fire Department – Report attached to minutes.

Chief Gianantonio reported on statistics for March. Up 3 to 8% from last year. Report is attached to minutes. Chief stated that there are some errors in this. He stated the wiring has been fixed and the oil. Mayor asked about charging motor vehicle victims for response costs. We would recoup a small amount of money. Other companies handle this. Is there any way to get an estimate. BWF said she had provided the research and council did not go forward. Mayor said you are going to have difficult time when you go over our budget.

Mayor stated Melbourne Beach is looking at maxing out on their utility taxes. BWF said she is looking at bringing at user fees and not coming out of the pocket of someone.

Mayor suggested only going after the ones that are cited. Not an innocent party. Bohne said that there is a push by several cities, Cocoa being one. BWF said it was before McKnight came on. Borton said we couldn't charge resident vs. non residents. Bohne said that Cocoa wrote theirs that way. The problem with resident and non resident there is some constitutional and interstate commerce references. Cocoa cites specifically the federal aid highways and 520. It has not been challenged. Citations are not given out at crash site. Borton said the Highway Patrol responds to the accidents on highways. Mayor drops idea as there is not enough interest from Council.

- Park Chair – Accident and no report
- Update from Eagle Scout Candidate Robert Ritter

Presentation on overhead – Robert Ritter Jr.. Dezman commends him and says he is a credit to the Scouts, his family and the community. Ritter recognizes Eagle Scouts Stevie Ray and Bret Stebbins for helping with this project. Ritter also commended Mr. Vitaliano, who allowed the scouts to conduct the construction from his side of the fence, thus making the project much easier. Only ran into one tree root. He thanked Public Works Director Carl Beatty for bringing wood out to site. The distance of the fence project was 140 feet of fence built on the south side of Fern Park. Current and past Scout Leaders Tim Sutton and Joey Sartin, the new leader were both part of the project.

Dezman asked how many Eagle projects they have done. Mrs. Ritter showed plaque from wall and stated they are on second plaque. There are 15 from this group. It is an unusually high number. When paper work is done and scarf is earned take mom out to dinner.

- Trash Bash – Public Works Manager Carl Beatty

Carl Beatty reported all sites reported fewer participants. Beatty acted as Site captain and the Site check-in was here at Town Hall. Resident Anne assisted by signing in volunteers. Malabar had a total of 48 volunteers and collected 17,300 pounds of solid waste litter from roadways and river's edge. Price of steel is up and so they didn't get one container. Last year we had three. He said we get different stuff every year. Last year it was propane tanks and this year it was mattresses. Major volunteers were Boy Scout Troop 37 and the Malabar Mariners Association (MMA) who clean up the shoreline and the islands. Mayor Eschenberg and Jeff McKnight and his son also volunteered. The MMA went out in the morning, but they don't come back in for the pizza that Beatty provided for the volunteers.

Mayor said he attended the Board meeting at the Space Coast League of Cities (SCLC) this evening and he saw the Keep Brevard Beautiful Coordinator Larry Weber asked if we beat out Palm Bay and he said yes. Beatty explained in previous years our category won for both "most volunteers" and "most tonnage". Now they changed the rules and weigh the total collected for the whole month and so we won't win on tonnage because Palm Bay will collect more.

TOWN CLERK

- Spring Fest Results and Commend Staff and Volunteers –presentation of pictures and figures from days intake. Pictures played on overhead and will be posted to website. Clerk reported on the excellent job done by Cindi Kelley and Event Committee and the Public Works Department and that the Town made \$4,800+ money. Great day, positive comments received, no complaints, made money, each year we get better. The pictures will be on the website. Also Roger and Denine of Building Department took 48 picture and they will be on website too.

Mentioned Alert on Legislative vote tomorrow on restricting local governments ability to charge fees – call members on committee if you want to voice your concerns.

Valkaria Airport funding for expansion will be on Brevard Cty Commission meeting tomorrow. BWF has already copied Council. This is a reminder. Please attend if you can.

Fred Galey, Supervisor of Elections, has been with Brevard County 15 years, Open House for retirement in Viera on 4-28-08 if anyone is interested in attending.

H. PUBLIC HEARINGS: ORDINANCES: none**I. PUBLIC: ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING****2. Re-address Soccer Agreement – (Nancy Borton)****Exhibit:** Agenda Report No. 2**Recommendation:** Request Action**SEE ABOVE:****3. Shondalyn Roberts – Fence Height Request-****Exhibit:** Agenda Report No. 3**Recommendation:** Request Action**MOTION: Borton / Vail to approve revised project not to exceed 6 feet.**

Discussion: Vail supports P&Z comments.

VOTE: All Ayes.**J. ACTIONS ITEMS:****ORDINANCES: First Reading -****4. Fencing for Subdivisions – Ord 2008-05****Mayor read by title only.**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING ARTICLE V OF THE LAND DEVELOPMENT CODE OF THE TOWN; PROVIDING FOR SUBDIVISION PERIMETER FENCING; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 4**Recommendation:** Action on First Reading**MOTION: Borton / Vail to approve first reading of Ordinance 2008-05**

Discussion: Vail said that the SD fence is subject to same requirements as a resident. P&Z recommended this.

VOTE: The roll was called: Council Members: Borton, Aye; Vail, Aye; McClelland, Aye; McKnight, excused; Dezman, Aye. Motion approved 4-0.**RESOLUTIONS:****5. Amending Road Improvement Code adding Exhibit B-4 (Reso No. 15-2008).****Mayor read by title only.**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE EXHIBITS OF CHAPTER 13 KNOWN AS THE MALABAR RIGHT-OF-WAY IMPROVEMENT CODE; PROVIDING FOR AN EXHIBIT "B-4"; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 5**Recommendation:** Action on Reso. No. 15-2008**MOTION: Vail / McClelland to approve Reso 15-2008**

Discussion: Vail asked about depth of material. Franklin stated this does not change the specification on the road material or specifications. It provides for roadway width within a 50' right-of-way similar to Exhibits done for other roadway widths for other rights-of-way. Engineer had been asked to attend. No other comments.

VOTE: The roll was called: Council Members: Vail, Aye; McClelland, Aye; McKnight, excused; Dezman, Aye; Borton, Aye. Motion approved 4-0.

6. Financial Reports – Merging Small Funds (Reso No. 18-2008).**Mayor read by title only.**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET FUND CONSOLIDATION IN THE FISCAL YEAR 2007-2008; PROVIDING FOR COMPLIANCE WITH THE GOVERNMENTAL UNIFORM ACCOUNTING SYSTEM SET FORTH BY THE DEPARTMENT OF BANKING AND FINANCE OF THE STATE OF FLORIDA BY CORRECTING IMPROPERLY LABELED LINE ITEMS AS FUNDS WITHIN THE GENERAL FUND; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 6**Recommendation:** Action on Reso. No. 16-2008

Mayor/Chair asked Accountant Torres to speak to this. The auditing report does not recognize these separated funds. It is fragmented. Mayor attended a meeting in Viera about a year ago and has to justify our request for monies. They collect and we request. Our position was that we had advanced the funds from the general funds. This will show up when you get your audit report.

MOTION: Vail / McClelland to approve Resolution 18-2008.

Discussion: none.

VOTE: The roll was called: Council Members: McClelland, Aye; McKnight, excused; Dezman, Aye; Borton, Aye; Vail, Aye. Motion approved 4-0.

7. Authorizing Movement of Pooled Funds into Florida Approved Depository (Reso No. 17-2008).**Mayor read by title only.**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA ESTABLISHING ADDITIONAL DEPOSITORIES FOR INVESTMENT PURPOSES AT FLORIDA APPROVED PUBLIC DEPOSITORIES WITHIN BREVARD COUNTY, FLORIDA AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 7**Recommendation:** Action on Reso. No. 17-2008**MOTION: Borton / McClelland to approve Resolution 17-2008.**

Mayor asked Accountant Augie Torres to speak to this. Have a little more than 700K to put in local banks that are approved depositories. Each bank has to have additional collateral to separately secure each deposit. The bank must have this type of collateral. None of the municipalities he deals with invest with the SBA. If you want to do high risk investments you can get higher returns at local banks. The new administrative fee to be charged offsets any gain you may have gotten.

Depending what your needs are, you can move the money into 30-day to 15 month certificates. Mayor agreed. Florida legislature is also considering locking in Funds in Pool A. BWF relayed the telephone conference we listened to last week.

Discussion:

VOTE: The roll was called: Council Members: Dezman, Aye; Borton, Aye; Vail, Aye; McClelland, Aye; McKnight, excused. Motion approved 4-0.

8. Providing for Fire Instruction Fees (Reso No. 14-2008).**Mayor read by title only.**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR A SCHEDULE OF FEES TO BE CHARGED BY THE TOWN OF MALABAR FOR FIRE PROTECTION CERTIFIED INSTRUCTION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 8**Recommendation:** Action on Reso. No. 14-2008

MOTION: McClelland/Vail to approve Resolution 14-2008..

Discussion: McClelland said to change the name from MVFD, Inc. to Malabar Fire Department – they are two separate entities.

VOTE: The roll was called: Council Members: Borton, Aye; Vail, Aye; McClelland, Aye; McKnight, excused; Dezman, Aye. Motion approve 4-0.

9. Budget Adjustment for Fire Department Grant Purchase of Bunker Gear (Reso No. 16-2008).

Mayor read by title only.

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2007-2008; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 9

Recommendation: Action on Reso. No. 16-2008

MOTION: McClelland/Vail to approve Resolution 16-2008.

Discussion: BWF explained that this was a reimbursable grant that was approved back in December.

VOTE: The roll was called: Council Members: Vail, Aye; McClelland, Aye; McKnight, excused; Dezman, Aye; Borton, Aye. Approved 4-0.

MISCELLANEOUS:

10. Approval to Continue Lease Agreement with FEC

Exhibit: Agenda Report No. 10

Recommendation: Action

MOTION: McClelland/Borton to approve continuing the lease with FEC.

Discussion: We are reviewing with Dept of Natural Resources to see what the restrictions are for removing a protected species from this area if we choose to not renew. Sea Grapes are protected when located by water. They are also protected if they reach a certain diameter and are not by water. Council thought they were protected regardless. If we do not renew we must notify within 30 days. We are paid for this year. The question is for budget purposes.

VOTE: Dezman asked for a roll call:

The roll was called: Council Members: McClelland, Nay; McKnight, excused; Dezman, Nay; Borton, Nay; Vail, Nay. Motion Failed 4-0.

11. Opening of Gate at Park and Trailhead

Exhibit: Agenda Report No. 11

Recommendation: Action

BWF stated she had discussed this with Park Chair and he said Park Board never got a chance to offer input. The Public Works were directed to move the gates back after the gates were first put in without consideration for truck access to entrance. Also the BCSO can't get in to patrol after it is locked. Pictures of the gates were shown at Malabar Community Park and the Sand Hill Trail Head.

MOTION: McClelland / Borton to leave the gates open for a period of one month to monitor.

Discussion: McClelland stated this was recommended by Park Board or would have been. Dezman thought this was done to stop large trucks from parking overnight and sleeping there. BCSO can still prevent this if they can drive back there.

BWF said again that anyone could access the park from the back side or from stepping over the gates. Keeping the gates closed is a preventive for BCSO to patrol if there is a problem even if they had the combo to locks. Not likely to stop and open and then relock.

VOTE: Aye: 3; Nay: 1 (Dezman). Approved 3-1.

K. DISCUSSION ITEMS:**L. MAYOR AND COUNCIL REPORTS:**

Dezman: Directed Franklin to deliver a check for \$250 from her discretionary fund to Serene Harbor. Congratulations to them on their progress.

Dezman asked about evaluations. BWF stated evaluations on staff are complete except for Chief Gianantonio. Town Administrator and Clerk are done and will be sent out in Friday's FYI.

McClelland - nothing

Vail: nothing.

Borton: nothing

Mayor: Regarding *How shall we Grow* The maps they have showing how the greenways connect need local input. They want to join up the trails within the 7 counties. He went to League of Cities tonight and asked each city to submit a contact person to provide the trail information. Who should Malabar's be? Franklin volunteered.

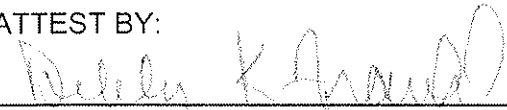
M. PUBLIC COMMENTS: General Items - none**N. ADJOURNMENT**

There being no further business to discuss, **MOTION: McClelland / Vail to adjourn this meeting.**
VOTE: All Ayes. The meeting adjourned at 9:45 P.M.

BY: 

Mayor Thomas M. Eschenberg, Chair

ATTEST BY:


Debby K. Franklin, Town Clerk/Treasurer

5-5-08
Date Approved