

MALABAR TOWN COUNCIL REGULAR MEETING

July 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 Chair, Mayor Eschenberg. The prayer and pledge were led by District 1 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

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

- C. ADDITIONS/DELETIONS/CHANGES:** Staff has requested pulling #5 surplus material until they can verify they own all if it. Also, #3 move it to discussion item. He has recommended changes. Also because it has to go to P&Z first before Council can pick it up.

D. PRESENTATIONS:

E. PROCLAMATIONS:

F. CONSENT AGENDA

1. Approval of Minutes

Regular Town Council Meeting – 6/16/08

Budget Workshop – 06/23/08

Joint Council & Town Hall Site Selection Committee Meeting 06/23/08

Exhibit: Agenda Report No. 1

Recommendation: Motion to Approve

MOTION: Borton / McClelland to approve as corrected. Vote: All Ayes.

List corrections: pg 2 of joint mtg second para it reads EELs staff and should. In cover page of budget ws in middle change loose to lose.

G. STAFF REPORTS:

ATTORNEY

- none

ADMINISTRATOR

- Budget Projections are not ready. Would like to consider the setting of the date but will have figures ready tomorrow. This will be separate workshop for FY 08 different from FY09. Audit is moving along very slowly and this year. They are testing in every area. Representative is here from BCSO – No one had any questions. Vail asked if BCSO had any questions for Council. No. Mayor asked newsletter to be mailed to Sheriff. Clerk will mail to Sheriff tomorrow.

Mayor was at monthly potluck and asked fire fighters about status of annex building. They said nothing was being done. BWF explained that the night Council approved the vendors, a fire truck hit the

Building. The Building Official has inspected and he stated it was not structural but need to be repaired properly to uphold warranty. We are trying to get the parts ASAP. Staff is aware of the importance and need for haste.

TOWN CLERK

- SCLC 7/14/08 @ Mimi's in IHB
- Attended Fla City Clerks Conference June 29 – July 2 got much good information and will be submitting a memo to Council

H. PUBLIC HEARINGS:

ORDINANCES: 0

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

2. Request for Sign in Public ROW – Jim Noble

Hear from applicant first? Yes. Jim Noble, Brevard Hardwoods, proposals to put sign on corner of Marie and Malabar, SW corner to position the sign for the church and the old school house. P&Z recommended approval. Mayor said that their primary concern was that the sign not create a visual obstruction. It will be in line with the telephone pole. Not obstruct vision E/W or the. Mayor said to put the condition on it. Wilbur was a drafter of grant for trail. Won't interfere with the trail.

MOTION: McClelland / Vail to approve as long as it does not locate in the trail easement.

Borton asked about sign in ROW. Atty said it would be governed by Council. Franklin mentioned agreement Karl drafted. Borton asked about precedent. Council would not be setting precedent. This would be case by case. McKnight said this is fairly common. Yes. HOA usually do this.

Vote: All Ayes, 4, Nay, 1 (Dezman).

J. ACTIONS ITEMS:

ORDINANCES: First Reading – 1

Without objection, moved to Discussion:

3. Amending Article XV Providing for a Tree Buffer (Ord. No. 2008-08)

Exhibit: Agenda Report No. 3

Recommendation: Request Action on Ord. No. 2008-08

RESOLUTIONS:

Mayor asked BWF to explain. She explained that the County had us agreement to first one and then when they sent it to the State some changes had to be made.

Without objection, Mayor read by title only.

4. Approval of ILA with Brevard Cty for School Concurrency (Reso. No. 28-2008) A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR COUNCIL APPROVAL OF THE INTERLOCAL AGREEMENT WITH BREVARD COUNTY SCHOOL BOARD SUPPORTING THE REVISED SCHOOL CONCURRENCY PLAN; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 4

Recommendation: Request Action on Resolution 28-2008

MOTION: Vail / McClelland to approve Reso 28-2008

Discussion: McKnight tried to read. Did attorney read this? He had not read the changes. They were not specific to Malabar.

VOTE: The roll was called: Council Members: Vail, Aye; McClelland, Aye ; McKnight, Aye; Dezman, Aye; Borton, Aye. Motion passed 5 to 0.

MISCELLANEOUS:

This was pulled from the agenda

5. **Approval of Surplus Material List**
Exhibit: Agenda Report No. 5
Recommendation: Request Action
6. **Approve of Budget Timetable**
Exhibit: Agenda Report No. 6
Recommendation: Request Action

Chair asked for discussion and for each council Member to review their calendars for availability. The following dates were available for all to attend:

Budget Workshop for FY 07/08 on 7/15/08 at 7:30.

First. Budget W/S for FY 08/09 on 7/17/08 and 2nd Budget W/S on 8/25/08 if needed. Both at 7:30

7. **Approve of Alternate to COC**
Exhibit: Agenda Report No. 7
Recommendation: Request Action

Chair asked for discussion first.

MOTION: Dezman / Borton to approve BWF as alternate. Vote: All Ayes.

K. DISCUSSION ITEMS:

8. Amend LDC to Require Requests for Site Plan Extension to go first before the P&Z Board prior to being brought to Council (McKnight)

Exhibit: Agenda Report No. 8
Recommendation: Discussion and Direction

McKnight stated he thought things may have changed from the time it is originally approved.

Motion: To Require Site Plan Extension Requests to go first to P&Z. Vote: All Ayes.

9. Adopt Procedures for Quasi-Judicial Hearings
Exhibit: Agenda Report No. 9
Recommendation: Discussion and Direction

The discussion was about the time. Borton asked about HOA or condo and if they only have one speaker then others could not speak. No they can each speak. The Board has the discretion to allow more speakers. It can be deviated from. The Chair can cut it off if it becomes repetitious. It is within the authority.

In quasi you are in position of judge and not rep of people. No emotions.

Motion: McClelland /Dezman to approve with 3 minutes for discussion.

Vote: All Ayes

Moved from Ordinance First Reading to Discussion:

3. **Amending Article XV Providing for a Tree Buffer (Ord. No. 2008-08)**
Exhibit: Agenda Report No. 3
Recommendation: Request Action on Ord. No. 2008-08

Discussion: Mayor at 3rd line, Para D: at the top of said tree should be stricken. The other thing at end, where it says greater than 30 feet – strike the 30 feet and insert – “the distance from the canopy to the roofs edge”. Attorney will change the “Whereas” to deal with hurricane as well as fires. McKnight asked about permitting. Permits are still required.

Council says this gives the mechanism to take them down. This will go to P&Z for public hearing on July 23 and then first reading on August 4, 2008.

L. MAYOR AND COUNCIL REPORTS:

(Number indicates order of Reports)

- 1) Dezman – nothing enjoyed vacation
- 4) Vail: - had a great vacation in Colorado and great time a potluck.
- 5) Borton – Billboards – go after signs and collecting \$200 per and ask for past years. We will draft letter to companies.
- 3) McClelland – He is losing the trash cans to the landfill.
- 2) McKnight – asked Clerk to repeat W/S dates.
- 6) Mayor – WM – We have ord that says that we must enforce it. They would send list and we would send out letters. That same ord requires WM to give us 100% pick up. Mayor was at TAC mtg to day and they gave him a reso from Titusville supporting passenger rail service down east coast. Last thing is something he got on the internet. It has to do with finding land for a town hall. BWF will call her. Usually they get a percentage to do the grant and then a percentage if they get the grant.

M. PUBLIC COMMENTS: General Items

Derrick Ports, 1340 Hall Road, if Palm Bay Youth baseball League could have a pancake breakfast at the Fire Station. They used to have it at local restaurants and wanted to know if they could do it at FD. After recent incident – if they don't need to use the facility. Procedure is to work with. The stove is off limits. McClelland said there are procedures. The stove is out of service. McClelland asked about being there and the gas was still lit. Ports will come in and see the administrator tomorrow. Maybe could use an electric griddle.

N. ADJOURNMENT

There being no further business to discuss, **MOTION: Borton / Vail to adjourn this meeting. VOTE: All Ayes.** The meeting adjourned at 9:15 PM.

BY: Thomas Eschenberg
Mayor Thomas M. Eschenberg, Chair

ATTEST BY:

Debby Franklin

Debby K. Franklin, Town Clerk/Treasurer

July 21, 2008
Date Approved