

MALABAR TOWN COUNCIL REGULAR MEETING
December 15, 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 3 Steve Rivet.

B. ROLL CALL:

MAYOR/CHAIR	TOM ESCHENBERG
VICE-CHAIR:	PATRICIA DEZMAN, excused
COUNCIL MEMBERS:	NANCY BORTON, excused
	BRIAN VAIL
	STEVE RIVET
	JEFF MCKNIGHT
TOWN ADMINISTRATOR:	BONILYN WILBANKS-FREE
TOWN ATTORNEY:	KARL BOHNE, excused
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

C. ADDITIONS/DELETIONS/CHANGES: Check with Nancy Glass and add appointment of SCLC voting member and alternate.

D. PRESENTATIONS: None

E. PROCLAMATIONS: None

F. CONSENT AGENDA:

1. Approval of Minutes

Regular Town Council Meeting – 12/01/08

Exhibit: Agenda Report No. 1

Recommendation: Motion to Approve

MOTION: Rivet / Vail to approve as submitted.

Vote: All Ayes.

G. STAFF REPORTS:

ATTORNEY: excused

ADMINISTRATOR:

- Update on Citation Revenue – did research and BCSO have not been putting in the city code. That has been corrected. Try to do retro for last two months.
- Update on Playground Tarp – tarp is still off because there are serious holes and deterioration to cable and they took pictures and they are attempting a warranty repair.
- Update on Country Cove Bridges – started with ants and escalated with heavy rain. Professionally rid ants and then stabilize and plan a long term project to wrap culvert and compact and reinstallation of sidewalks. These are two main access points. Do quick fix and then plan for repair. Staff did nice job on original repair. Bill S. talked to previous TA about this – she can find no memo. She will correct problem. Mayor asked Mr. Merrick if he wanted to speak. His concern is that it is the only entrance to the community. He has seen this problem going steadily going downhill. He is not a bridge expert and there are 43 homes in there. It is doe
- Update on Road Closure – Investigated this and there has been a criminal aspect that have used this. This culvert at Melb Tillman has to be replaced and the town can apply and the homeowners can contribute for the culvert. Residents are very appreciative. We will have to buy the pipe. Barricades are bright orange and FDOT approved. West end of Atz there was an occupied burglary. These are moveable and we can move

- them. East end of Atz has cut the post and opened the gate the town closed ten years ago.
- Update on Interlocal for Radio Network – We have only 22 radios. And bill will be revised.
 - BCSO Stats – included reports for Oct and Nov.
 - Malabar Fire Dept Report – Chief Joe Gianantonio went over monthly report for November. (Attached to minutes) Fires have been kept to a minimum. Goes over equipment and reported Brush 99 has gone down. Vail is working it as a warranty to replace engine. Practicing with turbo-draft to pull from ponds. Brevard Cty has shown interest in training on same. They will start the connection of the antennas. Once the antenna is online, the PW radios will go online. Fire Chief then showed the training clip. Practiced extraction and real life triage situations. This is done with the Explorers in a limited way. They are the next generation of fire fighters. No questions for Chief.

CLERK:

- We purchased the day timers to give out to all the Board members, Council and Eagle Corp as a small thank you. Meeting dates are highlighted on inside.
- 2nd conflict Resolution Mtg set for 1/20/2008 at Malabar Baptist Church, 1665 Malabar Rd
- Karl and I will review records on Thursday of this week. Estimate from Palm Bay is 5000 documents already and at 15 cents each comes to 750.00 for copies alone.
- Another utility issue is the fact that since we have been paying base rate for the 10 inch meter on Malabar Road, appx May/June 2007, we have been paying Palm Bay a considerable amount more than we bring in from the three customers, four customers with MIMA coming on in Feb 08. Example is paying 2791 and receiving 635. Of that, 76 is over charge for Dr Leedy and Eye Institute who have been charged sewer. We are doing research to see how far back it goes.
- Our insurance is with the Florida Municipal Insurance Trust (FMIT) and is sponsored by FLC Inc. The FMIT Board of Trustees oversees the FMIT operations. They solicit member municipalities annually for nominations for election to the Board. The nominee must be an elected official and must be endorsed by the governing body. Openings on the FMIT Board throughout the year are then filled by vote of the Board on those nominees. Is anyone interested? BWF stated Borton has said she wants to get more involved with FLC. Put on next agenda.

H. PUBLIC HEARINGS: Legally advertised on Florida Today on November 27, 2008
ORDINANCES: (4)

- 2. Amend Charter with Referendum (Ord. No. 2008-16) AN ORDINANCE OF**
Without objection, Mayor read by title only.
THE TOWN OF MALABAR, BREVARD COUNTY FLORIDA; CALLING AND
SCHEDULING A REFERENDUM ELECTION TO DETERMINE IF THE TOWN
CHARTER, SECTION 2.07, RELATING TO THE ELECTION AND TERM OF OFFICE
OF THE TOWN COUNCIL AND THE MAYOR AND SECTION 2.09 RELATING TO
THE FILLING OF VACANCIES SHOULD BE AMENDED; PROVIDING FOR THE
MANNER IN WHICH SUCH ELECTION SHALL BE CONDUCTED; ESTABLISHING
THE FORM OF THE BALLOT FOR SUCH ELECTION; PROVIDING AN EFFECTIVE
DATE.

Exhibit: Agenda Report No. 2

Recommendation: Motion to Approve

Public Hearing Opened:

No public.

PH Closed.

MOTION: Vail / Rivet to approve Ord. No. 2008-16 with contingency if there is no election in 2009 this will go on ballot in 2010.

Discussion: Mayor stated the ordinance looks ok but the changes on Exhibit B haven't been updated. Ordinance will be reviewed by Attorney. McKnight is on fence on this. He doesn't see great benefit, but he is not against this. They discussed the election in 2009 and if there is no need for an election then this referendum question will hold until election in 2010. Change the ordinance to reflect that.

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

Motion carried 3 to 0.

3. Developer Recreational Fee Amendment (Ord. 2008-14)

Without objection, Mayor read by title only

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE XVII OF THE MALABAR LAND DEVELOPMENT CODE; AMENDING SECTION 1.17.1.H.4 RELATING TO THE USE OF FEES IN LIEU OF LAND DEDICATION FOR PARKS AND RECREATION; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 3

Recommendation: Motion to Approve

MOTION: Rivet / McKnight to approve Ord. No. 2008-14.

Public Hearing Opened:

No public.

PH Closed.

Discussion: Rivet thought about this and thinks it is important to tie the spending of the money to where it will be used. Vail said they are paying because they don't want to donate land to create the recreation area for the residents in the development. Rivet said he thinks it should still be used in the area of the development. McKnight said we have more recreation per capita than most other cities. Mayor said the Attorney's point was that by doing this it makes it clear that we want to use the money for reasonably related recreation purpose. The park area by Stillwater is passive and this will assist us to be able to use the funds.

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

Motion carried 3 to 0.

4. Amend Signage Regarding Political Signs (Ord. 2008-15)

Without objection, Mayor read by title only

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE XIX OF THE LAND DEVELOPMENT CODE RELATING TO POLITICAL SIGNS; PROVIDING FOR A REGISTRATION FORM; PROVIDING FOR COMPLIANCE WITH STATE LAW CONCERNING THE PLACEMENT OF POLITICAL OR CAMPAIGN SIGNS, ADVERTISEMENTS AND/OR POSTERS IN A STATE OR COUNTY ROAD RIGHT OF WAY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE

Exhibit: Agenda Report No. 4

Recommendation: Motion to Approve

MOTION: Rivet / Vail to approve Ord. No. 2008-15 Signage.

Public Hearing Opened:

No public.

PH Closed.

Discussion: P&Z held PH on Nov 12, 2008.

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

Motion carried 3 to 0.

5. Adopt Annual Update to Capital Improvement Element (Ord. 2008-17)

Without objection, Mayor read by title only

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING THE ANNUAL UPDATE TO THE CAPITAL IMPROVEMENTS ELEMENT WITHIN THE TOWN'S COMPREHENSIVE PLAN IN ACCORDANCE WITH SECTION 163.3177, FLORIDA STATUTES; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 5

Recommendation: Motion to Approve

MOTION: Vail / Rivet to approve Ord. No. 2008-17 CIE.

Public Hearing Opened:

No public.

PH Closed.

Discussion: none.

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

Motion carried 3 to 0.

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

J. ACTIONS ITEMS:

ORDINANCES: First Reading – 1

6. Special Activity Fee Waiver (Ord. 2009-20)

Without objection, Mayor read by title only

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE TOWN OF MALABAR CODE OF ORDINANCES; PROVIDING FOR AN EXEMPTION TO THE FEE REQUIREMENT OF SECTION 10-261 FOR CERTAIN ORGANIZATIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 6

Recommendation: Request Action

MOTION: Vail / Rivet to approve Ord. No. 2009-20.

Discussion: Rivet wants to reserve the Council's right to waive the fee or not. There is no case for deposit. If event is on Town property, like a street party, we could charge a deposit. Put a stipulation in the agreement. McKnight would prefer not having to require them to come to Council to request the fee be waived. Form will be updated and changed to the rules per Steve Rivets concerns. Would require deposit if on public property. Could still be exempt from fee. No objections. Mayor said they may want to table. Motion and second withdrawn.

MOTION: Rivet / McKnight to table and bring back as first reading on Jan 5.

Vote: All Ayes.

RESOLUTIONS:

7. Budget Adjustment (Reso No. 47-2008) A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2008-2009; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 7

Recommendation: Request Action

MOTION: Rivet / McKnight to approve Reso. No. 47-2008

Discussion. None.

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

Motion carried 3 to 0.

MISCELLANEOUS:

8. Approve Day Off for Employees

Exhibit: Agenda Report No. 8

Recommendation: Request Action

Vail said it is not going to be a productive day. Traditionally other companies get the time off. Steve Rivet said he has to work or take vacation on Christmas Eve and feels it is appropriate to use it.

MOTION: Vail / McKnight to approve the closing for Town Hall on December 26 and January 2, 2009.

Vote: 2 Ayes; 1 Nay (Rivet).

9. Request Brevard County Commission Re-activate VAAB

Exhibit: Agenda Report No. 9

Recommendation: Request Action

Rivet said that the case to be made is we are asking for a representative. Vail said we need a voice. We are affected directly by the airport. Malabar lost their voice when the VAAB was dissolved.

MOTION: Rivet / Vail to direct Town Administrator to send letter to County Commission to request they re-instatement of VAAB.

Discussion:

Vote: All Ayes.

K. DISCUSSION ITEMS:

10. Purchasing Policy

Exhibit: Agenda Report No. 10

Recommendation: Discussion and Direction

Mayor said the agenda report said it may be codified and asked why. BWF explained other cities codes very explicitly spell out the purchasing regulations. It details for the vendors and the administrative said is very clear. This would make it more transparent to the residents. You are going to see a more attentive body and it will show that there is no more good old boys. McKnight said it prevents the appearance of impropriety. Mayor said the PO is required for over \$100. He has no problem with this in the policy but not in codified. The next administrator may want to do it at 250 or 500. The other thing is the 5000 requirement to bring it to Council. There again, doesn't want to see it in the code. The administrator needing to come to council for over 5000.00 was enacted with a resolution. BWF said she would get with the Attorney and remove the dollar amount and bring back as an ordinance. McKnight said he agrees. It is easier to change a resolution or policy for dollar amounts.

L. MAYOR AND COUNCIL REPORTS:

(Number indicates order of Reports)

3) Vail – Merry Christmas and thanked Fire Dept for a great time at party – it was great. Good effort by the FD.

) Borton – Excused

) Dezman – Excused

2) Rivet – asked about dip at Marie Street with cone. BWF is working this issue this week. ATT subbed the job out and it was done poorly. Franklin said Mike O'Brien was by today to discuss correcting it for Town. Rivet also asked about Ski Lane – when is the extension going forward. Franklin said the property owner/applicant is selecting a contractor. The extension of 260' should start soon.

1) McKnight: Wishes everyone happy holidays. Also reported on meeting with EELs last week and the unlikely chance of getting any land from them for town hall site. They discussed possible cost savings ideas of jointly constructing and sharing architects and contractors to save money. BWF said they do want the Town to separate the Town's support for the 191-acre purchase and the town hall site. No comment from Council.

4) Mayor – Put on agenda for discussion moving public comments to the front. Public comments not pertaining to agenda items. With that specific wording. Lots of time we could get more public input if we put it up front. McKnight agreed.

M. PUBLIC COMMENTS: General Items - none

N. ADJOURNMENT

There being no further business to discuss, **MOTION:** Vail / Rivet to adjourn this meeting.

VOTE: All Ayes. The meeting adjourned at 8:48 PM.

BY: Thomas Eschenberg
Mayor Thomas M. Eschenberg, Chair

ATTEST BY:

Debby Franklin
Debby K. Franklin, Town Clerk/Treasurer

01/05/2009
Date Approved