



**REGULAR TOWN COUNCIL MEETING  
MONDAY, FEBRUARY 5, 2007  
7:30 PM**

**MALABAR COUNCIL CHAMBER  
2725 MALABAR ROAD  
MALABAR, FLORIDA**

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**AGENDA**

CALL TO ORDER, PRAYER AND PLEDGE

ROLL CALL

ADDITIONS/DELETIONS

CONSENT AGENDA:

- (A) COUNCIL MINUTES 1/22/07
- (B) COUNCIL/P&Z WORKSHOP MINUTES 1/29/07

REPORTS:

ATTORNEY  
ADMINISTRATOR  
- CONTRACT WITH THE VOLUNTEER FIRE DEPARTMENT  
CLERK

DISCUSSION:

1. UPDATE FROM WASTE MANAGEMENT, GEORGE GELETKO
2. RECOMMENDATION FROM THE NEW TOWN HALL REVIEW COMMITTEE REGARDING SITE SELECTION FOR THE NEW TOWN HALL
3. TRAILS & GREENWAYS
4. REVIEW OF LETTER ON MSTU
5. PROPOSED ADDITION OF S1, S2 AND S3 ZONING DESIGNATIONS

ACTION ITEMS:

1. REQUEST FOR ADDITIONAL EMPLOYEE FOR THE BUILDING DEPARTMENT
2. ESTABLISHMENT OF THE TOWN ADMINISTRATOR SELECTION COMMITTEE
3. APPOINTMENT OF BILL STEPHENSON AS INTERIM TOWN ADMINISTRATOR BEGINNING FEBRUARY 17<sup>TH</sup>
4. FIRST READING ORDINANCE 2007-02, ADOPTING FLORIDA VERNACULAR
5. RESOLUTION 03-2007, BUDGET ADJUSTMENT FOR PAYING REMAINDER OF JORDAN BOULEVARD REFURBISHMENT FEE
6. RESOLUTION 04-2007, REVISING RESOLUTION 5-97, COUNCIL MEETING PROCEDURES
7. SCHEDULING THE SECOND COUNCIL MEETING IN FEBRUARY
8. DIRECTION FOR STAFF REGARDING THE FEBRUARY 5<sup>TH</sup> COUNTY COMMISSION MEETING REGARDING THE MSTU

REPORTS: MAYOR, COUNCIL

PUBLIC COMMENTS: GENERAL ITEMS

ADJOURNMENT

If any individual decides to appeal any decision made by this Council with respect to any matter considered at this meeting, a verbatim transcript may be required and the individual may need to insure that a verbatim transcript of the proceeding is made (FS 286.0105). The Town does not provide this service.

In compliance with the Americans with Disabilities Act (ADA) anyone who needs a special accommodation for this meeting should contact the Town's ADA coordinator at 727-7764 at least 48 hours in advance of this meeting.

**MALABAR TOWN COUNCIL REGULAR MEETING  
FEBRUARY 5, 2007                      7:30 PM**

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road. The meeting was called to order at 7:30 pm by Mayor Eschenberg. The prayer and pledge were led by Council Member Pat Dezman.

**ROLL CALL:** MAYOR/CHAIR  
COUNCIL MEMBERS:

TOM ESCHENBERG  
NANCY BORTON  
BRIAN VAIL  
CHUCK MCCLELLAND  
BOBBI MOCCIA  
PAT DEZMAN  
ED BOOTH  
KARL BOHNE  
CINDI KELLEY

ADMINISTRATOR:  
ATTORNEY:  
DEPUTY TOWN CLERK:

**ADDITIONS/DELETIONS:** Mayor asked Council to put an action item for a fence height exception request as #9. Without objection, Council agrees.

**CONSENT AGENDA:**

**(A) COUNCIL MINUTES 1/22/07**

Mrs. Dezman stated that on page 10 at the very bottom where Mr. Vail makes mention of the up lighting; Stillwater Preserve is the subdivision that has this happening, not Country Cove.

**(B) COUNCIL/P&Z WORKSHOP MINUTES 1/29/07**

**MOTION: Dezman/Vail to approve Council minutes of 1/22/07 as corrected and Council/P&Z Workshop minutes of 1/29/07. VOTE: All Ayes**

**REPORTS:**

**ATTORNEY**

Mr. Bohne advised Council that after the last meeting, Charles Nash, who represents the Sheriff's Department regarding the MSTU, contacted him. He is wondering if they, meaning the Town's attorney, the Administrator and the Mayor, could have a meeting and discuss this issue. Mr. Bohne doesn't see why we can't do this. He has been asking for the justification of a lawsuit for past MSTU services. They are not providing any answers and he doesn't feel that there is an answer. Mr. Bohne has asked that the County provide statistical information showing what services are provided to Malabar.

Before giving the floor to Mr. Booth for his report, Mayor Eschenberg spoke in regards to Mr. Booth's leaving. He is sorry to see him leave. He has had more time to spend with him since his own retirement. It will be a challenge to replace him. Mrs. Moccia stated that when Mr. Booth was chosen for the position, Council knew he was the person for the position. He was the kind of person that Council was looking for. What was given to the Town was what you could do for us. He has never faltered and has always been there for the Town and Council. Mr. Vail stated that there have been some pretty tough situations that Mr. Booth has had to go through. Mr. Booth stated that it has been difficult at times because you are a growing community. This town truly isn't fully developed; some changes have been made.

**ADMINISTRATOR**

**- CONTRACT WITH THE VOLUNTEER FIRE DEPARTMENT**

The Mayor and Mr. Booth have met with Melbourne Beach. We want to do exactly the same as they are doing. We are in the process of putting together a contract with the private organization at the fire department. The contract is being drawn up by Mr. Bohne at this time.

With regards to the vision workshop scheduled for Wednesday evening, Mr. Booth would like to focus on Babcock Street. He would like to go through that whole area and see what we want to do with it. There is a mismatch of zoning in this area.

With regards to warehouses, there was an outburst at the last vision workshop. If all the codes are met, we must allow the contractor to build. If we don't, we have to write a letter to the State sighting our reason for declination. If the State feels the reasons are inadequate, they can override the decision and issue the permits themselves. This building is still under construction, he's not done the project. Mrs. Moccia stated the contractor was given, by Council, what can be done on the property. Mrs. Dezman stated that we need to make sure that we have on record what the colors for the buildings are to be; what was approved by Council. Mrs. Moccia stated that the Florida vernacular concept was on her mind when this project came before Council for approval. Mrs. Dezman asked if this was one of the projects on the list that will need attention until the new administrator is in place.

#### CLERK

The signs for the special meeting in March have been taken care of and they will be placed throughout the town within the next few weeks. Ms. Kelley also reminded Council of the Space Coast League dinner on Monday, February 12, 2007.

#### DISCUSSION:

##### **1. UPDATE FROM WASTE MANAGEMENT, GEORGE GELETKO**

Mayor Eschenberg stated concerns were brought up at the last meeting. Mr. Geletko is here to address Council. George Geletko, Waste Management, came forward and addressed Council. He gave his best wishes to Mr. Booth. Joe Gazarro is the person for Waste Management that provides service to Malabar. Mr. Geletko advised Council that they are, in several areas of the County, trying out a fully automated system. He gave a brief overview of this program. Waste Management is looking to have all of Brevard County on this system by 2010; getting 1/3 of the County involved in the program starting in 2008, with adding 1/3 each year until the program is in full force. He stated that they are willing to make a capital investment of \$60,000,000; this will help to ensure the safety of the drivers of the trucks.

Mr. Geletko made comments to the problems of broken trash cans and lids missing. Laborers are in short supply. There is a very rigorous application process for hiring drivers for the trucks. A ten-year background check is performed, drug screening tests, driving records are thoroughly checked and previous employment is looked at. Within the last five years, two CDL drivers have been placed on the trucks. They have reach 40% of this goal. Without two CDL drivers on the truck, we rely on temporary help. This is where most of these problems come from.

Mrs. Moccia asked Mr. Geletko when our contract is up for renewal. He stated that contract is to be renewed in 2010. She also mentioned that the people are not calling for the "white trash" to be picked up. If they aren't calling, the drivers are supposed to be picking this garbage up if they see it in the town. This is the only thing that she sees that needs attention. Mr. Geletko stated he will have the supervisor check into this. Mr. Gazarro stated that the drivers have forms that are to be completed on their routes.

Mr. McClelland stated that he no longer has lids, they have gone to the landfill with the trash. The neighbors around him have also had the same thing happen. If the cans don't have the lids attached to them, then they go into the back of the trucks. Mr. Geletko stated that we should get information to Mr. Booth regarding complaints. All complaints that come in through the service center are looked at by the supervisors. Mrs. Borton asked if we have the same driver for Malabar. Mr. Gazarro stated we only have one route in Malabar and it is driven by the same driver. Mr. Geletko advised Ms. Kelley who to contact for special events. The e-mail address provided was [Manager-bthorto@wm.com](mailto:Manager-bthorto@wm.com). Mayor Eschenberg stated that Malabar had passed a trash ordinance; it was very controversial. Does Waste Management provide a report to Malabar for residents not paying for trash hauling? Mr. Booth stated they need to provide the information and the Town will send letters to the residents. Mrs. Dezman stated that the resident could have paid the bill and not received their sticker that goes on the trash can.

## **2. RECOMMENDATION FROM THE NEW TOWN HALL REVIEW COMMITTEE REGARDING SITE SELECTION FOR THE NEW TOWN HALL**

Mr. Booth advised Council on this matter. The first area of choice is the land by the park. The committee chose two other areas as alternative land for the new Town Hall. The five acres in front of the church on Marie Street is the first alternative. The building would be at the corner of Marie Street and Malabar Road. The other choice is the 4.5 acres at the corner of Malabar & Corey Roads. Both of these pieces of land are \$500,000 or less. The biggest thing to address now is the criteria for the new Town Hall; \$3,000,000 is what is being proposed. We are waiting for Mitch Needleman to put it in bill form for the land next to the park. Once this bill is passed, we would then hire an architect and provide the vision to him/her to design a building. Mrs. Moccia asked if there were grants to help with this building. Mrs. Dezman asked if this building would be a special needs shelter. Mr. Booth stated that we don't want a special needs shelter; it would require special provisions and employees for this type of shelter. It should be a temporary shelter. This Town Hall is used as a receiving center and the people are then transported to the special needs shelters. The committee is moving forward; we are waiting for the land to come through. The session ends in April and we have support from the Senate's side.

## **3. TRAILS & GREENWAYS**

Mayor Eschenberg advised Council that a couple of meetings ago, Council wanted to look into re-establishing this committee. This could be a sub-set of the Parks & Recreation Board. The Park Board doesn't spend any funds without Council's approval; they are advisory in nature only. The Town has a very thin number of people that volunteer; some are very dedicated to the trails and greenways. This committee will have no authority to spend any funds. Mrs. Dezman asked if this committee would make recommendations to the Park Board. Once they recommend to the Park Board, does the Park Board make recommendations to Council? The question was asked to Mr. Bohne if this could be a committee under the Park Board or a separate committee. Mr. Bohne stated it could be a separate committee but we have had problems in the past. If both committees are not spending funds, they can be dual role committees. Council would be the ones to re-establish this committee by making a motion. Mrs. Moccia and Mrs. Borton would like to see this committee re-established. Mayor Eschenberg asked that this be placed on the agenda for the next meeting as an action item; guidelines for this committee are to be in place.

## **4. REVIEW OF LETTER ON MSTU**

At the previous Council meeting, Mr. Booth was directed to create a letter and have the Mayor red-line it. Mayor Eschenberg stated he took a few things from Mr. Booth's letter and added to it. Mr. Bohne stated we have a fourth option; a contract with the Sheriff's Department. This would be more funds, but it is an option. Mrs. Moccia stated she has received several calls in the last two weeks with the constituents saying they can't believe we are doing this again. When are we going to say enough? Mrs. Borton stated she has received numerous phone calls as well; a letter from the Purden's has been received. Mr. Vail stated the vote in November was an opinion; non-binding. Mrs. Moccia stated she is not moving her position on this matter; she has made up her mind. Mrs. Borton feels she needs to push away from this issue. Mrs. Moccia stated if this letter comes from Council, she doesn't want to be a part of it. Mrs. Dezman stated we will work through the hurdles and come to a consensus. If this letter is from Council, then it is from everyone who sits on Council. Mrs. Moccia stated she wants something in the letter for those people who are not able to make the meeting, giving them the opportunity to get their opinion to Town Hall. Mr. Bohne stated the whole idea of the letter is to get people to attend. This letter needs must be drafted in such a way to get them there. He also reminded Council that the charter creating a police department was defeated. People are very sensitive to taxes. Mrs. Borton asked if we are looking at the third option of doing nothing at this time. Mr. Vail stated he is not in favor of doing nothing, but he doesn't feel that Council should rush into a decision when there is time to review all the information and input from the citizens. Mrs. Dezman stated she has already made up her mind regarding this issue. Mr. Bohne made the suggestion that when taking calls, keep track of the number of calls received. Mrs. Moccia would like the names of the people calling.

**5. PROPOSED ADDITION OF S1, S2 AND S3 ZONING DESIGNATIONS**

Mr. Booth advised Council that they need to direct staff to put this in ordinance form and bring it back to Council. The EELs land needs to be zoned correctly; we will be able to control the land at a later date. This ordinance would be for the government lands and the control of those lands. Council has directed staff to put this into ordinance form and place it on the agenda for the next Council meeting as an action item.

**ACTION ITEMS:****1. REQUEST FOR ADDITIONAL EMPLOYEE FOR THE BUILDING DEPARTMENT**

Mr. Booth advised Council that there are no funds in the budget for an additional person at this time. The Building Department is very thin; Ms. Franklin had an accident and broke her leg. She could be out for some time.

**MOTION: Dezman/Borton to table this action item until the March 5, 2007 meeting. VOTE: ALL AYES.**

**2. ESTABLISHMENT OF THE TOWN ADMINISTRATOR SELECTION COMMITTEE**

Council advised the Mayor that they have their chosen people in place.

**MOTION: Dezman/Vail to move forward with establishing the committee for searching for town administrator.**

Mayor Eschenberg asked each Council member to give the names for the record. They are as follows: District #1: Liz Ritter and Stuart Borton; District #2: Bob Seigmann and Bob Wilbur; District #3: Steve Rivet and Bud Ryan; District #4: Lori Davis and Greg Purden; and District #5: Bob Rossman and Jim King. Mrs. Dezman stated that Mr. King has not committed to this, but she feels confident in her choice.

**VOTE: ALL AYES.**

**3. APPOINTMENT OF BILL STEPHENSON AS INTERIM TOWN ADMINISTRATOR BEGINNING FEBRUARY 17<sup>TH</sup>**

Mr. Booth advised that the Mayor volunteered to assist the Town during the search for a new administrator. He will do this free of charge. Mrs. Borton stated that Mr. Needleman volunteered as well but his attorney stated that this would be a conflict of interest. Mr. Bohne stated that he did not feel comfortable with the Mayor standing in as acting administrator. This could also be a conflict of interest and feels that the Mayor cannot fill in this position. There is a concern of dual office for the town; the Mayor breaks the vote when there is a tie.

Council asked that Mr. Stephenson come to the podium. Mr. Stephenson advised Council that he serves the Town through the Council and Administrator. He has no contract with the Town; he can be available but would need to know the kind of time and guidelines of what he is to do. He would like to set up an agreement outlining the hours, rate of pay and rules. Mrs. Moccia asked if this additional work would be a burden to him. Mr. Stephenson replied that this would not be a burden; he would fill in as interim, not full time. He doesn't want a full time position. Mr. Booth stated that he could be here for 15 hours per week as the administrator; three days a week. A portion of the remaining two days of the week would be spent in the Building Department as the Town's engineer. Mr. Stephenson would be required to be at the necessary meetings for the Town; however, the outside meetings are not important at this time and can be missed for a short time. Mayor Eschenberg stated he could fill in when necessary for these meetings. The question was asked as to how long it would be for a new administrator to be hired and put into place. Mrs. Moccia stated it would be approximately two months. Mr. Stephenson feels it will be more like four to six months; the hiring process and then getting the new administrator in the area and in place here at Town Hall.

Mayor Eschenberg stated that the \$70 fee for the engineer should not be the same rate of pay for the administrator's duties. Mr. Stephenson stated his current rate is \$70 and mileage. Mr. Booth stated that he will only be paid for 15 hours a week as the administrator. Mr. Stephenson stated that the Town has no overhead with Mr. Stephenson. He pays his own taxes and overhead. The fees for the engineering services come from the application fees collected from the applicants. Mrs. Moccia doesn't feel that the Town should quibble over this issue; Mrs. Borton is in agreement. Mrs. Dezman asked if 25 hours a week is realistic. Mr. Stephenson will be here to assist with problem solving and getting the Town's

objectives done.

**MOTION: Vail/Moccia to approve Bill Stephenson as interim administrator with guidelines in place and salary in place. Mr. Bohne is to put a contract in place.**

No vote was taken at this time. Discussion took place with the following motion made by Mrs. Dezman:

**MOTION: Dezman to approve Bill Stephenson as interim town administrator and also split the departments up so that Council can assist if Mr. Stephenson is not available.**

No second, motion dies.

**MOTION: Vail/Moccia to approve appointment of Bill Stephenson as interim Town Administrator, working three five hour days; minimum of 15 hours per week until the next Council meeting where the contract will be available. VOTE: All Ayes.**

#### **4. FIRST READING ORDINANCE 2007-02, ADOPTING FLORIDA VERNACULAR**

Without objection, Mayor Eschenberg read by title only.

Pat Reilly-1985 Howell Lane-came forward and addressed Council. It is not the government's role to decide what the buildings should look like in the municipality. He asked if there was a recommendation from the Planning & Zoning Advisory Board regarding this ordinance. He didn't think they made a recommendation. He is speaking against the passing of this ordinance.

Stuart Borton-141 Riverview Drive-came forward and addressed Council. He didn't like it when Palm Bay put this into ordinance. They are having problem after problem with this in place. He spoke against this ordinance and hopes that Council will not pass it.

Mr. Bohne stated that Mr. Reilly brought up a very good point. This ordinance is an amendment to the land development code. Mr. Booth stated that it went to the Planning & Zoning Advisory Board and they couldn't come to an agreement and they took no action; it's now back to Council.

**MOTION: Moccia/Dezman to approve Ordinance 2007-02 as presented.**

Mr. Vail stated that we are trying to keep a theme going throughout the town. He is in favor of this ordinance. Mrs. Moccia stated that she is thinking of the town and what we want our town to look like. She feels that there needs to be guidelines in place for the new commercial construction that will be coming into the town. Mr. Vail stated if we don't set a standard, we will have a lot of different types and styles of construction happening. He has spoken to some people and they also feel that standards should be set. He did state he has a problem with the colors; why are earth tones not being used? Mrs. Borton stated we have been looking to beautify the town; she's in favor of this ordinance as well. Mrs. Moccia stated that the colors were discussed when this came about. The Building Department looks at the plans; they go to the Planning & Zoning Advisory Board, they should choose the colors. Mr. Vail stated he would like to see the colors be added at Council's discretion.

**MOTION: Dezman/Moccia to approve Ordinance 2007-02 as presented with a change made to Section 5, #3 to state: The predominant exterior color shall be pastel shades, white or light earth tones; dark earth tones are acceptable in brick and stone.**

**THE ROLL WAS CALLED: Borton, Vail, McClelland, Moccia and Dezman – All Ayes.**

Mr. Vail asked this affects Section 7, Trim Colors? Mrs. Moccia stated it is covered and it doesn't need to be changed. Mr. Vail asked about hospitals and churches. Mrs. Moccia stated it should stay as is. MOTION PASSES UNANIMOUSLY.

#### **5. RESOLUTION 03-2007, BUDGET ADJUSTMENT FOR PAYING REMAINDER OF JORDAN BOULEVARD REFURBISHMENT FEE**

**MOTION: McClelland/Dezman approved Resolution 03-2007 to be read by title only. VOTE: All Ayes.**

**MOTION: Borton/Vail to approve Resolution 03-2007 as presented:**

**THE ROLL WAS CALLED: Borton, Vail, McClelland, Moccia and Dezman – All Ayes.**

**6. RESOLUTION 04-2007, REVISING RESOLUTION 5-97, COUNCIL MEETING PROCEDURES**

**MOTION: Moccia/McClelland approved Resolution 04-2007 to be read by title only. VOTE: All Ayes.**

**MOTION: McClelland/Dezman to approve Resolution 04-2007 as presented. THE ROLL WAS CALLED: Borton, Vail, McClelland, Moccia and Dezman – All Ayes.**

**7. SCHEDULING THE SECOND COUNCIL MEETING IN FEBRUARY**

Mayor Eschenberg asked if there was any pressing business that we needed to set up a special meeting date for. Ms. Kelley advised Council that Mrs. Kabana was going to put a March calendar in the packets for the next meeting do discuss a date for the Town Administrator Selection Committee. Mrs. Dezman stated she thought the resumes were being accepted until February 15, 2007. Mr. Booth was in agreement with her. On February 16<sup>th</sup>, the packages would need to be ready with all the resumes and gotten to Council and the other people on this selection committee. A meeting date was selected for Wednesday, February 21, 2007 at 6:00 pm. We will meet for an hour before the regularly scheduled Planning & Zoning Advisory Board meets at 7:30 pm. There will be no second Council meeting in February.

**8. DIRECTION FOR STAFF REGARDING THE FEBRUARY 6<sup>TH</sup> COUNTY COMMISSION MEETING REGARDING THE MSTU**

Mayor Eschenberg stated he would not be attending this meeting. Mrs. Borton advised Council that she would be attending this meeting. Mr. Booth stated that this is to be a short meeting regarding this issue. They would like to have another mediation since the last one was so long ago. They cannot take us to court until we try to solve this issue. Council did not direct staff at this time regarding this matter.

**9. FENCE HEIGHT APPROVAL – APPLICANT: DR. SEYBOLD**

This request is for a fence up to 6 feet tall; not over the 6 feet. This went through the Planning & Zoning Advisory Board and they recommended that this be approved.

**MOTION: McClelland/Moccia to approve the request as presented. VOTE: All Ayes.**

**REPORTS: MAYOR, COUNCIL**

Nancy Borton – nothing to report at this time.

Brian Vail – nothing to report at this time.

Chuck McClelland – nothing to report at this time.

Bobbi Moccia – while sitting in this chair she gets emotional at times; she is thinking of the people and tries to keep them in mind. She is not trying to put her own views across; she speaks for the people.

Pat Dezman – unless she can change a couple of appointments, she may not be at the meeting on Wednesday. She advised Council that she would contact an acquaintance with regards to the town administrator's position. The number of people looking at this time is small but he may be able to make recommendations. If he knows of anyone, he will contact her via e-mail.

Mayor Eschenberg – Mr. Booth is leaving a to-do list. Code Enforcement used to give Council a brief update of what is happening. This should be a part of this list.

**PUBLIC COMMENTS: GENERAL ITEMS**

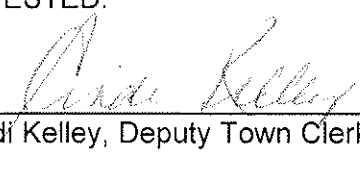
Bob Rowan-2565 Corey Road, came forward and addressed Council regarding the MSTU issue. He hopes that the facts will be presented at this special meeting on March 10<sup>th</sup>. It is very important that the citizens have all the information available to them; in black and white.

**ADJOURNMENT**

There being no further discussion, **MOTION: McClelland/Moccia to adjourn. VOTE: All Ayes.** This meeting adjourned at 10:03 pm.

By: \_\_\_\_\_  
Mayor Thomas Eschenberg, Chair

ATTESTED:

  
\_\_\_\_\_  
Cindi Kelley, Deputy Town ClerkDate: 3/5/07





*From the New Town Hall Site Committee*

Date: February 5, 2007

Subj: Recommendation for site for new town hall

At the January 29, 2007 meeting of the New Town Hall Site Committee the members voted to recommend the following choices for the location of the new town hall, with number 1 listed at their first choice, number 2 being their second choice, etc.:

1. The 15 acres belonging to the State of Florida to the east of Malabar Woods Blvd adjacent to Malabar Park
2. The 5 acres belonging to God's Healing Holiness Church on the corner of Marie Street and Malabar Road
3. The 4 acres belonging to Stillwater Preserve at the corner of Corey Road and Malabar Road

DISCUSSION ITEM 2

## Letter Head

This letter from the Town Council to the citizens of Malabar is to announce a special meeting to receive input on the subject of police protection.

As you may know, over the past four years, the Town Council has been trying to resolve the issue of passing an ordinance requiring the citizens of Malabar to pay an MSTU tax for Sheriff service or establish our own Police Department. Over the past four years, the Council has conducted surveys, had members of law enforcement make presentations, been addressed by a County Commissioner and had the issue placed on the ballot for a referendum. The bottom line is that although the Town Council has received a great amount of feedback, we are looking for the opinion of the majority.

The Town Council has three choices. The first is to pass an ordinance to require the citizens of Malabar to pay the MSTU for the Sheriff. According to State law, the Sheriff must respond to calls in Malabar and there is no requirement that Malabar pay for it. The County Commission has injected "fairness" into this issue. They say it is not fair for Malabar to get Sheriff service for free when citizens in Palm Shores, Cape Canaveral and the County area pay for it. At the present rate, the amount Malabar citizens would pay for an MSTU would be \$86.80 per \$100,000 of valuation. This rate could be changed by the County Commission. The second option is for the Town Council to establish a Police Department. The cost would be dependent on size and level of service. In round numbers, you can figure \$60,000 per officer annually plus start-up costs. If the money is not available in the budget, it would require a vote of the citizens of Malabar for the additional funding. The third option is to do nothing. This option was not offered in the referendum and the Council is concerned that this could be the majority opinion. The County Commission has threatened the Town of Malabar with a lawsuit if the Town Council does nothing although legal opinion from our Town attorney says such a lawsuit would have no basis.

Before a decision by the Town Council is made, they are requesting your opinion. It is important for you to attend this meeting because of the impact it has on your taxes. The meeting will be held at the Malabar Fire Station on March 10, 2007 at 6 P.M.

Please come and give the Council your opinion.

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Tom Eschenberg, Mayor

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| DISCUSSION ITEM <u>4</u> |
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**ORDINANCE NO. 2007-02**

**AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING ARTICLE III, SECTION 1-3.1.I. OFFICE INSTITUTIONAL, TO INCLUDE DESIGN REQUIREMENTS FOR A FLORIDA VERNACULAR ARCHITECTURAL STYLE IN OI (OFFICE INSTITUTIONAL) ZONING ALONG ARTERIAL ROADWAYS; AMENDING ARTICLE III, SECTION 1-3.1.K. TO INCLUDE DESIGN REQUIREMENTS FOR A FLORIDA VERNACULAR ARCHITECTURAL STYLE IN CL (COMMERCIAL LIMITED) ZONING ALONG ARTERIAL ROADWAYS; AMENDING ARTICLE III, SECTION 1-3.1.L. TO AMEND THE DEVELOPMENT STANDARDS TO INCLUDE DESIGN REQUIREMENTS FOR A FLORIDA VERNACULAR ARCHITECTURAL STYLE IN CG (COMMERCIAL GENERAL) ZONING ALONG ARTERIAL ROADWAYS; AMENDING ARTICLE III, SECTION 1-3.1.O. TO AMEND THE DEVELOPMENT STANDARDS TO INCLUDE DESIGN REQUIREMENTS FOR A FLORIDA VERNACULAR ARCHITECTURAL STYLE IN R/LC (RESIDENTIAL/COMMERCIAL LIMITED) ZONING ALONG ARTERIAL ROADWAYS; AMENDING ARTICLE V, ADDING SECTION 1-5.29; PROVIDING FOR THE DESIGN REQUIREMENTS FOR A FLORIDA VERNACULAR ARCHITECTURAL STYLE IN THE CG, CL, OI AND R/LC ZONING ALONG ARTERIAL ROADWAYS; AMENDING ARTICLE XX, DEFINITIONS, ADDING A DEFINITION FOR FLORIDA VERNACULAR STYLE; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:**

**SECTION 1.** The Town of Malabar Code of Ordinances, Land Development Code, Article III, Section 1-3.1.I., is amended to add the following:

“A Florida Vernacular Style is required for all development along arterial roadways.”

**SECTION 2.** The Town of Malabar Code of Ordinances, Land Development Code, Article III, Section 1-3.1.K is amended to add the following:

“A Florida Vernacular Style is required for all development along arterial roadways.”

ACTION ITEM

4

**SECTION 3.** The Town of Malabar Code of Ordinances, Land Development Code, Article III, Section 1-3.1.1 is amended to add the following:

“A Florida Vernacular Style is required for all development along arterial roadways.”

**SECTION 4.** The Town of Malabar Code of Ordinances, Land Development Code, Article III, Section 1-3.1.O is amended to add the following:

“A Florida Vernacular Style is required for all development along arterial roadways.”

**SECTION 5.** A new section 1-5.29 is hereby added to The Town of Malabar Code of Ordinances, Land Development Code to read as follows:

“Section 1-5.29. *Design requirements for Development within Office Institutional, Commercial Limited, Commercial General and Residential/Limited Commercial along arterial roadways.*

(a) A Florida Vernacular architectural style for each structure is required. This shall include the following architectural elevations facing public rights-of-way on arterial roadways:

1. A metal panel, 5-seam or metal shake roof is acceptable. A 5-tab twenty-five (25) year dimensional shingle roof or manufactured equivalent of a wood shake roof is acceptable. 3-tab roof shingles, barrel vaulted tiles, or corrugated roof systems are not permissible.

2. Pitch of main roof, hipped or gable, shall be no greater than 5:12; mansard roof shall be no greater than 9:12; porch roof shall be a lower pitch than the main roof. A minimum 6” overhang is required for any roof structure. All structures must have a minimum 3:12 slope roof. Multiple roof systems with matching roof slopes are permissible. Low slopes (“Flat”) roof systems are permissible when screened by a mansard roof or parapet wall meeting the design requirements.

3. The predominant exterior color shall be pastel shades or white; earth tones are not acceptable except in brick.

4. Manufactured brick or materials that have the appearance of brick are acceptable. Horizontally struck stucco, exterior insulated finish system stucco panels, board and batten, wood or vinyl siding, and stained hardwood panels shall also be considered acceptable finishes.

5. Front porch. The front porch must encompass an area greater than fifty percent (50%) of the front façade. The porch must be a minimum of 60” in depth.

6. Gingerbread trim, and/or porch railings, columns or posts shall have the appearance of light frame wood construction.

7. Trim colors shall be white or light pastels. (Trim shall be considered railings, columns, door and window surrounds, soffits, shutters, gutters and downspouts, and other decorative elements.) Trim finishes shall be of a contrasting lighter color than that of the primary building color with the exception of white as a primary building color.

8. There shall be no area greater than 400 square feet of contiguous blank wall area on any front façade that remains unadorned by architectural features that include, but are not limited to, windows, doors, lights, banding trim or porch elements.

9. There shall not be any singular façade that has greater than 100' lineal feet of run without a minimum 16" break, by using a directional or material change.

10. Metal-clad structures are permissible. Internal bracing must be certified to accept additional finishes or structures applied to the exterior metal panels. No external "X" bracing is to be visible on any front façade. Finish panels must be able to accept a painted finish. All exterior wall finishes must match the primary building color. The use of corrugated, synthetic or fiberglass panels is prohibited on any front wall or any front roof surface. All design requirements must be met for metal-clad structures as for any other new structure.

(b) The predominant exterior color shall be applied to all sides of the structure.

(c) The design requirements listed above shall be applicable to all new construction in these zoning districts, and in the case of additions or renovations to, or redevelopment of, an existing building or project, where such addition, renovation or redevelopment exceeds fifty percent (50%) of the square footage of the existing structure(s). A mirror building, defined as a building meant to compliment a pre-existing structure by use of identical material finishes, scale and form, shall be exempt from the design requirements. New buildings that are part of an overall campus plan that has an established architectural theme may be exempt from the design requirements herein with the approval of Town Council.

(d) The design requirements listed above shall be applicable to all accessory structures not exempted by division (10) (c). Any accessory structure not meeting this requirement shall be screened so as to be not visible from the public right-of-way. Mechanical equipment such as gasoline pumps, air and vacuum machines, drive-through menu boards and speaker stations, drive-through teller stations, ATMs, and similar appliances which require direct access by the public shall be exempt from the design review requirements of this section.

(e) Compliance with the requirements set forth in this subsection shall be demonstrated by submittal of building front elevations and color and material samples at the time of site plan review.

(f) Structures in the following use categories are exempt from the design review requirements of this subsection, including: public utility equipment, commercial towers, hospitals and churches.

(g) The Town-wide Sign Code shall be adhered to with the following exceptions:

1. *Materials.* The color, construction and material of each sign should be compatible with the architecture on the site.

2. *Design.* Every sign frame or support shall be designed as a sympathetic architectural element of the building(s) to which it is principally related.

3. Free standing signs shall have landscaping at the base.

(h) Structures having a federal or state historic site status shall be exempt from this subsection.

(i) The Town Council may, by resolution, adopt such administrative policies, manuals and/or fees as necessary to implement the design requirements identified above.”

**SECTION 6.** The Town of Malabar Code of Ordinances, Land Development Code, Article XX, Section 1-20.2 is amended to add the following:

*“Florida Vernacular Style. An architectural style representing historical influences from the development of Florida. These include the simple wooden Cracker or the mellow wooden Caribbean dating to the turn of the 19<sup>th</sup> century that include elements of elevated first floors, porches, verandas and overhangs and that create a relationship to the street at human scale. The design standards provided in Section 1-5.29 of the Land Development Code of the Town shall apply to any structure required to be built in the Florida Vernacular style.”*

**SECTION 7. Severability.** In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of this ordinance shall not be affected and it shall be presumed that the Town Council of the Town of Malabar did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the Town Council would have enacted the remainder of this ordinance without said invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

**SECTION 8. Conflicts.** All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

**SECTION 9. Effective Date.** This Ordinance shall become effective immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Councilmember \_\_\_\_\_.  
The motion was seconded by Councilmember \_\_\_\_\_ and, upon being put to a  
vote, the vote was as follows:

|                                |       |
|--------------------------------|-------|
| Councilmember Nancy Borton     | _____ |
| Councilmember Brian Vail       | _____ |
| Councilmember Chuck McClelland | _____ |
| Councilmember Bobbi Moccia     | _____ |
| Councilmember Pat Dezman       | _____ |

This Ordinance was then declared to be duly passed and adopted this \_\_\_\_<sup>th</sup> day  
\_\_\_\_\_, 2006.

TOWN OF MALABAR

BY: \_\_\_\_\_  
Mayor Tom Eschenberg

First Reading: 02/05/2007  
Second Reading: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Susan Kabana, CMC  
Town Clerk/Treasurer

Approved as to form and content:

\_\_\_\_\_  
Karl W. Bohne, Jr.,  
Town Attorney

**RESOLUTION 03-2007**

**A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2006-2007. PROVIDING FOR ADDITIONAL REVENUE; PROVIDING FOR ADDITIONAL EXPENDITURES; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

**NOW, THEREFORE BE IT RESOLVED BY THE TOWN OF MALABAR OF BREVARD COUNTY, FLORIDA that;**

**SECTION 1. Total Revenues.**

Total revenues in the 2006-2007 Fund 001, General Fund, be amended from \$1,521,512.00 to \$1,559,136.00 to reflect the change in the General Fund allowing for the \$37,623.49 payment to the Florida East Coast Railway for the refurbishment of the Jordan Boulevard grade crossing.

**SECTION 2. Total Disbursements.**

Total disbursements in the 2006-2007 Fund 001, General Fund, be amended from \$1,521,512.00 to \$1,559,136.00 to reflect the change in the General Fund allowing for the \$37,623.49 payment to the Florida East Coast Railway for the refurbishment of the Jordan Boulevard grade crossing.

**SECTION 3. Funding Source.**

The funds necessary to create the budgetary line items described in Section 1 of this Resolution are from reserved funds on deposit.

**SECTION 4. Conflict.**

All resolutions or parts of resolutions in conflict herewith are hereby repealed.

**SECTION 5. Effective Date.**

This Resolution shall take effect immediately upon passage.

This Resolution was moved for adoption by Council Member \_\_\_\_\_. The motion was seconded by Council Member \_\_\_\_\_ and, upon being put to a vote, the vote was as follows:

|                                 |       |
|---------------------------------|-------|
| Council member Nancy Borton     | _____ |
| Council member Brian Vail       | _____ |
| Council member Chuck McClelland | _____ |
| Council member Bobbi Moccia     | _____ |
| Council member Pat Dezman       | _____ |

This Resolution was then declared to be duly passed and adopted this 5<sup>th</sup> day of February, 2007.

TOWN OF MALABAR  
By:

ATTEST:

\_\_\_\_\_  
Susan Kabana, CMC  
Town Clerk/Treasurer

\_\_\_\_\_  
Mayor Thomas Eschenberg

ACTION ITEM 5



RESOLUTION 04-2007

**A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING SECTION 4 OF RESOLUTION 5-97, COUNCIL PROCEDURES; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

**NOW, THEREFORE BE IT RESOLVED BY THE TOWN OF MALABAR OF BREVARD COUNTY, FLORIDA that;**

**SECTION 1. Amendment.**

Section 4 of resolution 5-97 shall be amended in full as follows:

“Section 4. Regular Meeting Agenda.

A. **Agenda Order.** The normal order of the agenda items is as follows and may be reorganized by the Council Chairperson for items directly related to paid staff:

1. Call to order
2. Prayer and Pledge
3. Additions, deletions and changes to the agenda
4. Consent agenda
5. Staff reports
6. Public hearings
7. Items directly related to residents present at meeting  
(such as occupational licenses, P&Z recommendations on subdivisions, resident grievances, etc.)
8. Action items  
(listing Old Business first then New Business)
9. Discussion items  
(listing Old Business first then New Business)
10. Mayor, Council verbal reports
11. General public comment”

**SECTION 4. Conflict.**

All resolutions or parts of resolutions in conflict herewith are hereby repealed.

**SECTION 5. Effective Date.**

This Resolution shall take effect immediately upon passage.

This Resolution was moved for adoption by Council Member \_\_\_\_\_. The motion was seconded by Council Member \_\_\_\_\_ and, upon being put to a vote, the vote was as follows:


|                                 |       |
|---------------------------------|-------|
| Council member Nancy Borton     | _____ |
| Council member Brian Vail       | _____ |
| Council member Chuck McClelland | _____ |
| Council member Bobbi Moccia     | _____ |
| Council member Pat Dezman       | _____ |

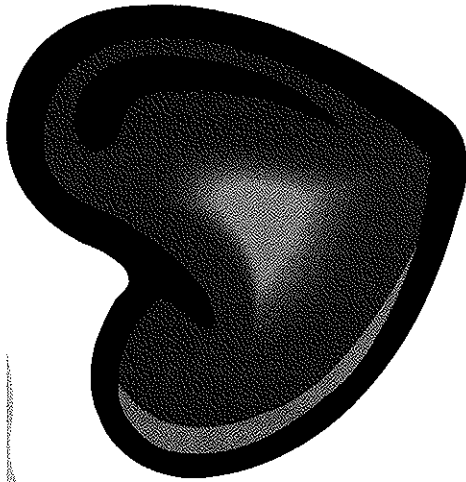
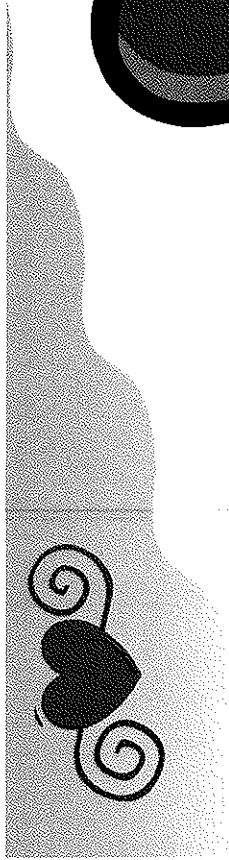
This Resolution was then declared to be duly passed and adopted this 5<sup>th</sup> day of February, 2007.

TOWN OF MALABAR  
By:

ATTEST:

Susan Kabana, CMC  
Town Clerk/Treasurer

|             |  |
|-------------|--|
| ACTION ITEM | <br>Mayor Thomas Eschenberg |
|-------------|--|



# Town of Malabar

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2725 Malabar Road  
Malabar, FL 32950  
Phone: 321-727-7764  
Fax: 321-722-2234  
www.townofmalabar.org

## FEBRUARY 2007

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     |     |     |     | 1   | 2   | 3   |

|   |   |   |   |   |   |    |
|---|---|---|---|---|---|----|
| 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---|---|---|---|---|---|----|

Council Meeting 7:30 pm  
Joint Council/P&Z Visioning Workshop 7:30 pm

|    |    |    |    |    |    |    |
|----|----|----|----|----|----|----|
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
|----|----|----|----|----|----|----|

P&Z Meeting 7:30 pm



Valentine's Day

|    |    |    |    |    |    |    |
|----|----|----|----|----|----|----|
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
|----|----|----|----|----|----|----|



President's Day  
Town Hall Closed

Park & Recreation 7:30 pm

|    |    |    |    |  |  |  |
|----|----|----|----|--|--|--|
| 25 | 26 | 27 | 28 |  |  |  |
|----|----|----|----|--|--|--|

Joint Council/P&Z Visioning Workshop 7:30 pm  
Mitch Needleman Town Hall Meeting 7:00 pm  
P&Z Meeting 7:30 pm

ACTION ITEM 7