



**REGULAR TOWN COUNCIL MEETING
MONDAY, MARCH 19, 2007
7:30 PM
MALABAR COUNCIL CHAMBER
2725 MALABAR ROAD
MALABAR, FLORIDA**

AGENDA

CALL TO ORDER, PRAYER AND PLEDGE

ROLL CALL

ADDITIONS/DELETIONS

CONSENT AGENDA:

(A) TOWN ADMIN SELECTION MINUTES 3/5/07

PRESENTATION: GAIL SCHUNEMAN, PRESIDENT OF PALM BAY COMMUNITY HOSPITAL
REPORTS:

AUDITOR ANNUAL REPORT, ROSS WHITLEY, BERMAN, HOPKINS, WRIGHT & LAHAM
ATTORNEY

INTERIM ADMINISTRATOR

- CALLS TO TOWN ADMINISTRATOR CANDIDATES

PARK BOARD CHAIR

- GRANT FUNDS FOR TRAILHEAD RESTROOM

CLERK

PUBLIC HEARINGS:

1. SECOND READING ORDINANCE 2007-02, ADOPTING FLORIDA VERNACULAR

ACTION ITEMS:

1. SITE PLAN REVIEW FOR EXPANSION PLANS FOR SERENE HARBOR FACILITY, MALABAR ROAD, MALABAR, R/LC ZONING, 2 ACRES, APPLICANT MELODY KEETH
2. MAYORS RECOMMENDATION ON MSTU
3. DIRECTING STAFF TO PREPARE AN ORDINANCE TO ADOPT THE BREVARD COUNTY MSTU FOR SHERIFF PROTECTION – COUNCIL MEMBER NANCY BORTON
4. COUNTY COMMISSIONERS REQUEST FOR JOINT MEETING WITH MALABAR COUNCIL
5. CONTRACT FOR BILL STEPHENSON
6. SELECTION COMMITTEE FOR RECOMMENDING ARCHITECT FOR NEW TOWN HALL
7. JOINT PARTICIPATION AGREEMENT WITH FDOT FOR US1 BEAUTIFICATION
8. RECOMMENDATION FROM TOWN ADMINISTRATOR SELECTION COMMITTEE REGARDING TRAVEL EXPENSES FOR CANDIDATE

DISCUSSION ITEMS:

1. DISCUSSION OF THE MARCH 10TH MEETING ON THE MSTU
2. PROPOSED PURCHASE OF VIBRATORY ROLLER
3. COUNCIL OF CHAMBERS REQUEST FOR ADVERTISING
4. BUILDING PERMITS ON UNAPPROVED ROADS
5. POLITICAL SIGN ORDINANCE

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 Towns ADA coordinator at 727-7764 at least 48 hours in advance of this meeting.

**MALABAR TOWN COUNCIL REGULAR MEETING
MARCH 19, 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.

<u>ROLL CALL:</u> MAYOR/CHAIR	TOM ESCHENBERG
COUNCIL MEMBERS:	NANCY BORTON
	BRIAN VAIL
	CHUCK MCCLELLAND
	BOBBI MOCCIA - excused
	PAT DEZMAN
INTERIM ADMINISTRATOR:	BILL STEPHENSON
ATTORNEY:	RICHARD RIEHL
ASSISTANT TO THE BLDG. OFFICIAL:	DEBBY FRANKLIN
TOWN CLERK/TREASURER:	SUSAN KABANA

CONSENT AGENDA:

(A) TOWN ADMINISTRATOR SELECTION COMMITTEE MINUTES 3/5/07

MOTION: McClelland/Borton to approve. VOTE: All ayes.

ADDITIONS AND DELETIONS:

Dezman – feels that the MSTU issue needs to be discussed before any action is taken. She's recommending tabling the vote on the MSTU until we have a full Council. Discussion. Eschenberg – does Council want Discussion Item 1 moved up? Vail, McClelland – yes. Mayor – it is moved up right after public hearings.

PRESENTATION: GAIL SCHUNEMAN, PRESIDENT OF PALM BAY COMMUNITY HOSPITAL

Ms. Schuneman – wants to give an update on Palm Bay Community Hospital. They are celebrating their 15th anniversary and have 60 beds. They are a full-service hospital and they offer everything except open heart surgery and neurosurgery. They are extremely busy and over capacity with the population growth and are in the process of a \$68 million expansion. They have received their St. John's permit and will begin tree removal and land clearing in the next week or two. The expansion will include 40 all-private patient rooms on the second floor. The third floor will be a shell with an additional 40 private rooms and an additional shell with a 12 bed intensive care unit, they currently have an 8 bed intensive care unit. On the first floor they will be adding an additional 10 bed observation unit for those patients who will be in the facility for 23 hours or less that will be adjacent to their emergency department. Also there will be two special procedure rooms and they will relocate their dietary area. The current hospital is 127,000 sq ft and they will be adding 130,000 sq ft which will attach at the east end of the current hospital. Schuneman states that MIMA has bought the 20 acre parcel directly to the east of the hospital which is in Malabar and they are going to be building a 35,000 sq ft office building. They will have 12 physicians when they open and they will expand to 100,000 sq ft. The hospital is excited about working with MIMA and their construction will take about two years. Additionally they have and 8 bed free-standing hospice house on their property and they are in the process of doubling the size of that facility. That construction is almost complete and should open this month. This is the only free-standing hospice house in Brevard County and it is greatly needed.

Dezman – knows the MIMA doctors pulled out of Palm Bay Community Hospital, are they going to have privileges there? Schuneman – yes, they are coming back.

Vail – is the current hospital going up in stories? Schuneman – it was footed for 5 floors but you cannot build on top of a patient bed so the east building is footed for 5

floors and patients will be moved to there. Then we can stair-step until it is done. Her final plan for the hospital is 300 beds.

Mayor – are you moving to the Palm Bay city line? Schuneman – yes, we are going all the way to the border between Malabar and Palm Bay.

Citizen – will there be a trauma center? Schuneman – she does not think so. Schuneman notes that there are 12 or 13 trauma centers in Florida and it is very, very expensive to create one. And it is very labor intensive when you bring in the specialists. And when Holmes is only 7 miles away it is not financially feasible to duplicate that. Especially when we have helicopters that can quickly transport patients. But we will be, and are, a full-service hospital. They will see 36,000 emergency room visits this year which is astounding because that is typically what a 200 bed hospital would see.

Sheila Eschenberg – are you going to put a street light on Malabar Road? Schuneman – because it is a State highway it becomes a whole different issue. She does have some tremendous concerns and she will continue to work on this.

Citizen – will there be improvements to Malabar Road? Schuneman – both MIMA and the Hospital will be adding turn lanes.

Dezman – would like to commend Schuneman, her staff and the people she employs at the hospital for the support, the love, and the care they have shown to the Fullem family in the last 6 months. You are to be congratulated for your overwhelming support of them. In the space of 24 hours you found a fully-furnished condo on the beach so an 8 year-old-boy could have his wish. Schuneman – thank you, will let her staff know.

Citizen – how many people do you see employing? Schuneman – 40 to 50 people and we will continue to grow. Mayor – thanks Schuneman for coming, tells the audience there are some pamphlets on in the back if anyone is interested.

REPORTS:

AUDITOR ANNUAL REPORT, ROSS WHITLEY, BERMAN, HOPKINS, WRIGHT & LAHAM

Allison Becka, Berman, Hopkins, Wright and LaHam – very much appreciated the cooperation from the Town staff while they conducted the audit. She believes this is the first year Council has been presented with the Management Discussion and Analysis. This is required by GASB 34 and it highlights what is going on in the Town and compares it to previous years. The Town received a clean audit opinion which means our financials are materially stated correctly.

Becka continues to overview the details of the government-wide and the fund financial statements. The Town had \$4.8 million in total net assets. The increase in governmental net assets was \$465,000 and the increase in the water/sewer funds was \$250,000. Total increase in net assets was \$716,000. The Town's total governmental fund balance is \$1.2 million. The Town had a decrease in fund balance of \$15,000, this was because of the capital purchases of \$79,000 which have to be expensed on the fund statement.

The enterprise fund has total net assets of \$384,000, there was an increase in net assets of \$250,000 this year due to the developer contribution of the Stillwater water lines. The enterprise fund is really looking up with that addition this year. The enterprise fund even had an increase in cash this year, by \$20,000.

The report on internal controls was a clean opinion, there were no reportable conditions and no material weaknesses.

Becka notes that everything in the management letter the auditors deemed immaterial but the Auditor General requires it to be in there.

Becka reviews the comments: 05-3 – some of the analytics that have to be done show the town in financial crisis but this is due to the hurricanes and she notes the town is not in the state of financial emergency. 05-4 – capital expenditures should be in certain accounts and there were some reclassifications, the auditors consider this immaterial. 06-1 – Becka notes that the auditor industry is changing, they cannot be controls of the Town, and they are recommending that someone else should be

checking journal entries each month. 06-2 – was recorded because it needed an audit adjustment and 06-3 deals with the due to/from's in the special revenue funds.

Becka asks if the Council has any questions. Mayor – do you have any suggestions who should check the entries. Kabana – gave them to the Stephenson to approve. Becka thanks the Council.

ATTORNEY

Rhiel – the attorney's office is waiting for the packet from the Town to continue with code violations with the Gentile issue.

INTERIM ADMINISTRATOR

- Bill Stephenson – spoke to the Town Attorney and because the Gentile case requires some legal notices he recommends it be handled by the attorney's office. Dezman – that is a prudent choice.

- Stephenson – our agreement with Palm Bay Utilities does not really define 'wholesale' water and recently the Palm Bay City Council passed an ordinance to charge a 25% surcharge to those customers outside the City of Palm Bay. We are not disputing that they can pass this type of ordinance, but we sent a letter to the city manager asking they review the action taken because of our historical relationship.

- Stephenson – St. John's River Water Management has proposed some relaxation in the environmental and permitting rules for municipalities that wish to improve and pave existing roadways. If the Town has any desire to have a roadway improvement plan this, in effect, keeps the town from having to build retention ponds to retain the first 1 inch of water run-off for those roads you wish to put impervious surfaces on. There is a trigger in the Water Management District Rules that requires a permit for 5,000 sq ft or more of impervious surface subject to vehicular traffic. It relaxed those rules so if the Town has any inclination to do anything in the way of improving the roads or having a paving program to resurface the roads he would recommend the Council consider doing this while these rules are relaxed. This is something the Council would need to implement.

- Stephenson – there is a workshop on Mar 28th to bring all the cities up to speed on water supply planning in the comp plan and making that meet DCA rules. He approved one for Cocoa last week and he can get us a copy. Before he would have just recommended Palm Bay represent us, but now he is not so sure. The Town may want to consider hiring someone to get involved with this. We don't want to be left behind in water supply planning because we have to have these facilities in place if we are going to issue development permits. The Council should consider how they want to handle that issue.

- Stephenson – notes that a list of state purchasing contracts have been passed out to staff and should be used if practical.

- Stephenson – in Rocky Point there is an area that has a lot of standing water and saturated soils because all the property west of the railroad tracks is fairly high and there is a fairly steep gradient of water flowing from west to east toward the Indian River. And where the property is below the water table the water comes out of the ground. The result of all this is there are a lot of metal culverts that are failing. And in one place the road is caving in and in several other places the driveways are falling in and people have mowed the end of the culverts with their big mowing machines and they've dumped their grass clippings in the swales. Stephenson wants Council to know he is sending out some notices that some of the culverts will have to be replaced. Another couple culverts will have to be replaced under the roadways which will cause some road closures. Stephenson does not see a way around this, it needs to be done before the rainy season. Kabana – can we use stormwater money to do this? Stephenson – we can use stormwater money to buy the pipes and then use public works to do the installation.

- Dezman – has the light meter been found? Stephenson – we have not found it yet.
- Dezman – understands that there is a multiple listing for the Gentile property.

There is no sign advertising it so it will not interfere with business. Wants staff directed to contact the attorney. Eschenberg – that may be a problem because we'd be paying the bill. Stephenson – then direct them to one person on staff. Mayor – Debby Franklin can do that. Franklin – she would be more comfortable with a position paper from the attorney. Mayor – that would be the way to handle this. Dezman – agrees.

- Stephenson – he will not be at the next Council meeting but he will be drafting a letter for the next meeting recommending approval of Matthews Lane improvements.

- Dezman – asks about our building permits at the City of Palm Bay. If they are busy do our permits go last? Franklin – no, we have been assigned a person. Stephenson – that process seems to be working very well.

- CALLS TO TOWN ADMINISTRATOR CANDIDATES

- Stephenson – he talked to the candidates and to his knowledge all of them are coming on the 24th for the interview process. Travel expenses are a concern for the out-of-state people.

- Mayor – you made reference to a meeting on March 28th, would the Administrator normally take care of that? Stephenson – maybe but this might turn more into a planning issue and the planner should attend. He is not sure the first meeting is as important as the meetings to come. The Town should monitor the situation and make sure our needs are met in this ten-year plan. Mayor – asks Stephenson to find out if our planner can be involved for Malabar. Stephenson – it may be better if he (Stephenson) looked over the Palm Bay plan and see if our interests are represented. Notes that he will be out of town on the 28th.

PARK BOARD CHAIR

- GRANT FUNDS FOR TRAILHEAD RESTROOM

Hans Kemmler – asks if the attorney's office has seen the soccer club contract. Rhel – he will check.

Kemmler – notes that the soccer club is running out of room, and out of parking space. And they are asking where else in the Town soccer park could be built. Kemmler knows of two places, one of them is due north of Huggins Park and the only other place he knew of was a parcel near the Berri Patch but he has since found out that this is only for passive recreational use.

Kemmler – the liner trail people have been looking at Malabar to continue the Brevard County liner trail through the EELs property to the trail head. Murray and Sue Hann have worked on this proposal.

Kemmler – asks about the Trails and Greenways committee. Mayor – he recalls the Council wanting to reestablish the committee and that Karl Bohne is supposed to be working on the guidelines for this. Dezman – there is a big question about the Sunshine Law.

Kemmler – the Park Board has basically finished working on the park and has decided to put their efforts toward trails and greenways. They have been working with a few people who might end up working on this committee, Murray Hann, Sue Hann, Bob Wilbur and Kemmler himself. And one thing they did last week was to get the grant together for the prefab restroom at the trailhead for a total of about \$80,000, which will buy the unit and install the drain field. Kemmler notes that Murray Hann spent a lot of his time and did a lot of extremely good looking color prints on photo paper and if Kemmler were sitting on Council he would be tempted to use approximately \$100 to reimburse Murray Hann for the photo paper he supplied. Kemmler thinks we have a very good chance of winning this grant.

Kemmler notes that sometime in the near future the Park Board will probably recommend to Council to fund the money necessary to build a restroom at the south end

of Malabar Park. They haven't found grant money to fund it because it is an ancillary item. Notes that we didn't get the last FRDAP grant we applied for.

Nancy Borton – would like to give \$50 to Murray Hann, Vail would like to add \$50 from his discretionary fund. Dezman – and add \$100 from her discretionary fund and write a thank-you letter.

Kabana – asks Kemmler if the Park Board can use the conference room for the next Wednesday night meeting. Kemmler – yes.

CLERK

Kabana – notes that Ed Booth was paid out per his contract and the employee manual and the gross amount was \$21,735. Kabana wants Council to be aware of the amount. Dezman – duly noted.

PUBLIC HEARINGS:

1. SECOND READING ORDINANCE 2007-02, ADOPTING FLORIDA VERNACULAR

Mayor – read:

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.

Mayor Eschenberg opens the public hearing.

- Don Krieger – 2345 Lineberry Lane and a member of Planning and Zoning. Feels Council is misinformed. Feels Booth was pushing this ordinance, he feels having one style in the town is too limited. He feels this is moving too fast, wants it to go back to Planning and Zoning before the second reading.

Being no other public comments the Mayor closes the public hearing.

MOTION: Vail/McClelland to approve Ordinance 2007-02.

Vail – notes that Planning and Zoning was indecisive. Feels this was being pushed by Council due to current growth. Also there was a mention of pictures that was supposed to be attached to this and he does not see those. Borton – would like to see pictures also.

MOTION: Borton/Vail to table to next meeting. VOTE: All ayes.

Franklin – Planning and Zoning can add this to their meeting on the 28th.

DISCUSSION ITEM**1. DISCUSSION OF THE MARCH 10TH MEETING ON THE MSTU**

Jim Raulston, 2480 Malabar Road – voiced his opinion to go ahead and enact the MSTU, it is in our best interest. He felt that this was the general consensus. The Council here should go ahead and enact this.

Coleen Conroy – did we get the information on the history of the MSTU? Kabana – it may have come to her by email but she did not have a chance to go through the 2,000 in her inbox. Conroy – objects to the MSTU, feels it is a shakedown by the County Commissioners. She is not blaming the Sheriff's Department, she is blaming the County Commissioners. Malabar did not even get to vote on this because it was voted on by the people in unincorporated Brevard County (when it was originally enacted). Conroy handed out information regarding fire protection. She is against the MSTU and she is asking the Council to investigate the fire protection issue to see if it involves police protection as well. She feels that the Council is looking at imposing a tax that no one has any real information on. She reads an excerpt from the County Charter, Section 5.5 regarding an MSTU. She wants to see a referendum by the County Commission for the citizens of Malabar and she wants a three part question one of which would be the option of doing nothing.

Greg Purden, Kramer Lane – he took a couple things away from the March 10th meeting. He was happy to see the turn out and he feels that the people thank the Council for their job. Feels the resounding vote was in favor of the MSTU.

Mia Crews, Johnston Ave – requests that the Council say no to the MSTU. Reads from statute. Feels we will be giving away control. We have already paid for this. Who cares if we have a MSTU or a general fund officer. Asks for no more taxes. The elderly have been already hit hard.

Phil Crews Johnston Ave – has a strong opposition of the MSTU. Only Council can impose the MSTU on its citizens. We should not be counting on the County commission to decide what support we should have. Asks will the sheriff attend the meeting? Will they support the Town's ordinances? The answer is no.

Bob Rowan – is here in support of the MSTU. The question is do we want patrol deputies in Malabar? The only source of patrol deputy is an MSTU deputy. Council has an obligation to have police protection. He does not want the general public to know that Malabar is not being patrolled.

George Foster, Malabar Road – opposes the MSTU, feels the citizens are currently paying for sheriff's protection and we will continue to get that current level of service. We cannot control this new tax, we have a greater tax burden than we've ever had. Our incomes are not going up but the County's revenues have gone up significantly due to skyrocketing property values. They are providing this rural community with adequate coverage.

Dezman – she watched the tape and would like to know each Council member's idea about what happened there.

Borton – the majority have spoken and are in favor of the MSTU, she knows there are some that don't want to pay this but safety is very important. She does not think our level of service will continue without paying the MSTU. She has to go with majority rule which is in favor of the MSTU. Maybe someday we can provide police service but that is

not now, there is no way we can possibly provide the service to our citizens that they can give. She feels the people came out and spoke.

Dezman – how many people were there? Mayor – there was 171 by count. Borton – was amazed by the turnout. She commends the people for coming out and speaking their minds. The County will give us the camaraderie we want and there will be a representative at our Council meetings. Borton asks Officer Lewis to speak.

Officer Mike Lewis, Brevard County Deputy Sheriff – he spoke to Sheriff Parker about a town liaison officer and the Sheriff is not only willing to do that, and thought it was a wonderful idea, but he would be willing to write his intentions in a letter to Council stating that they will have a liaison officer assigned to Malabar. This would be one point of contact with the Sheriff's office that would be empowered to make decisions. And when Officer Lewis discussed this idea with the south precinct commander, one of the commanders' lieutenants volunteered to be that person. Not only will we assign someone to do this but we will assign someone who is anxious and eager to do this. They are willing to partner with the Town to give the Town that feeling of accountability. They want to better facilitate communication between the Sheriff's Department and the Town. And they are willing to document this in a letter to Council. Borton – can we have this in an interlocal agreement? Lewis – we can do an interlocal agreement or a letter of understanding or any other way that will suffice the Town and the County.

Vail – the better portion of the people were for the MSTU tax. A lot of good questions were brought up, such as where are the guidelines that set this tax up? It was his opinion that the bulk of the people at the March 10th meeting were in favor for the tax. The only saving grace is that we can write the ordinance for however many years, this would give the Town an out if necessary.

McClelland – the people were adamant that no one wants a Malabar police force. Out of 171 people, and between the 20 that came to the podium on the 10th and those to spoke tonight 45% of those were in favor of the MSTU.

Vail – he has asked a lot of people in town how they feel and the consensus is to pay the MSTU with the conditions of a promise of service and a time limit on how long it is paid.

McClelland – wish that people had not left before we had a show of hands, it was done late in the meeting. At the end of that night there were 56% of the people who came to the podium in favor of the MSTU. Borton – were the emails factored in? McClelland – no they were not.

Mayor – he totally enjoyed the event, he loved seeing the people attend. What does he think we learned from it? He feels we learned just about the same thing we learned last November. He does not think Council gained anything new but he does think the citizens gained a lot which made the event well worth it.

Borton – what is Dezman's take on the event?

Dezman – that the people there want to pay it, that it is a quality of life issue. She has had conversations with many people in her district and they all want to see it paid. But, she also believes that the County Commissioners are looking to make an example out of Malabar. They are looking to send a message to the other cities in this County. Separate from that this Council has a big issue with the County Commissioners regarding the amount of property that was bought by the EEL's. Both of those issues are very hot buttons for the Council. She likes the idea of a joint meeting and seeing a lot of communication occur, not only for this Council but more for the people of this town. No matter what action Council takes 50% of the Town is going to be angry with us. She does not want to pay anymore taxes either, but when she picks up the phone she wants to know an officer will be here. She is concerned about how many people live in this Town and that only 171 showed up.

McClelland – feels only those who felt strongly showed up. Mayor – and notes that many people won't come to the podium.

Borton – feels a meeting with the Commissioners would be good. Dezman – at this point she would like to have the meeting before a decision is made for the communication part of it.

ACTION ITEMS:

1. SITE PLAN REVIEW FOR EXPANSION PLANS FOR SERENE HARBOR FACILITY, MALABAR ROAD, MALABAR, R/LC ZONING, 2 ACRES, APPLICANT MELODY KEETH

Stephenson – Serene Harbor will be built in two phases, phase one is 1.05 acres and phase two is 0.65 acres, there is a building in each phase that is 4,000 sq ft, phase one has 15 parking spaces and phase two has 9 parking spaces.

Debby Franklin – this site plan was before Planning and Zoning a year ago and was recommended for approval by staff and P&Z. This could not come before Council until now because it was tied in with a land use change, which could not be approved until the Town dealt with the school sighting issue. Now that the school sighting issue has been resolved, and the Serene Harbor land use change approved, the site plan can come before Council for approval. Franklin notes that this is a domestic violence facility that was awarded a grant to expand its facility so the Town staff has been working diligently with the key people while the DCA issues were being resolved so the request for approval from Council would go as smooth as possible.

Stephenson – the stormwater collection and treatment site is completely built in phase one so that when phase two is built that portion is already complete. And they have addressed all staff issues.

MOTION: Vail/Borton to approve.

Eschenberg – are there any significant changes from the last time P&Z saw it? Franklin – no, there is nothing significant. Dezman – her only concern is that this is a domestic shelter and the whereabouts should not be discussed unless you know who you are talking to.

VOTE: All ayes.

Mayor before we discuss action item 2 he will take the new speakers cards:

Thomas Trembly, Atz Road – asks why we didn't have this meeting before the election so people would have some idea of what was being voted on. Feels that there was only a small blurb in the newsletter. Mayor – it is the first time the Council has faced as issue of this type.

Don Krieger, Lineberry Lane – on the 10th he asked if Helen Voltz thought that the voters of Malabar had the right to vote on this particular issue, not on whether it is MSTU or Sheriff or police department, what we had was a straw vote that was non-binding. Why are we not thinking about a contract? He was the only citizen at the arbitration meeting. He asked two things one of which was what was the beginning of the MSTU and the County Manager told him 1988. Why are we thinking only of MSTU for police? Next year we may see an MSTU for animal control. This is not a taxing issue, it is a spending issue. Since we are not being promised anything then why are we not looking at other solutions, such as paying for one deputy for our town. Feels we should go back to arbitration. His view is that this is incorrect. The issue is how the County spends money. Give the people a chance to vote.

Lorrie Barnes, Kramer Lane – she is for the MSTU she is afraid of news articles publishing that we have no police protection. She is also concerned about calls from an alarm agency, will the Sheriff respond if they get calls? Feels this issue must be resolved quickly. If we delay there could be a serious crime and there could be a lawsuit.

2. MAYORS RECOMMENDATION ON MSTU

Dezman – how do your recommendations constitute an action item? Mayor – because he is going to ask for a motion.

Mayor – the addendum he handed out is part of this item. He reads from his addendum. States that if this Council is of a mind to pass the MSTU it is Council's responsibility to assure the citizens of Malabar receive the maximum value for their tax dollars. In order to do this he recommends the following action: He notes that the sunshine law blows a big hole in any sort of negotiation strategy. We are not allowed to have an executive session. He is going to give broad recommendations but unfortunately there are County representatives here tonight listening to our every word. Here are his recommendations: 1) table action item three, going forward with the MSTU now would reduce the town's negotiating leverage with the County and the Sheriff. 2) meet with the County, we are required to do this anyway and it is a requirement that the Sheriff should be there. 3) The Council should demand deputies that would be dedicated to the Town 'Malabar MSTU officers', and the back bumper of the patrol vehicles should read MMSTU. Malabar should have its own MSTU officers. He tells Council not to cave into the County Commission. Home rule makes all governments equal. Remember what our attorney said about us owing the County nothing. The Town could pass a counter suit and pass a resolution of our own. A court could just as easily rule that the County is required to provide Sheriff protection to municipalities that do not have their own. Such a ruling could cause Palm Shores and Grant-Valkaria to opt-out of their MSTU tax, does the County want to take that chance? Do not be influence by someone else schedule. Let the citizens vote, if Council votes to implement the MSTU it should be for fiscal year 08/09 and should be in effect for two years. The referendum should take place every two years so the Council could establish a police department in lieu of the MSTU. Also, remember that the State is going to do something about property taxes, municipal and state revenue is going to be reduced, and the question is by how much. The Commission could react to revenue reduction by cutting the Sheriff's budget and even if Malabar pays the MSTU this could result in no additional deputies or even a reduction and the Commission could conveniently blame it on the State. Malabar must negotiate their own arrangement and get it in writing.

Mayor – is recommending Council pass a motion to adopt these actions to deal with the County.

Borton – with all due respect, she understands now why we have such a bad relationship with the County. Feels we should meet with them and ask for everything we can get for our money. But this is a safety issue. This is a joke, they are not backing us a against a wall, they are just concerned about our safety. Borton is concerned about our safety. She doesn't want more taxes, but this is not a tax issue, it is a safety issue. This is a matter of time, how many times are you going to ask people to give up their time to talk about this. Just pay it, the majority want to see it paid.

Dezman – feels like a puppet on a string that is supposed to do what the Mayor wants and she has not seen this until now. She finds that insulting.

Mayor – passes the gavel to Council Member McClelland for the purposes of making a motion.

MOTION: Eschenberg/Vail moves to adopt the Mayor recommendations on the MSTU taxes minus let the citizen vote section.

Dezman – we don't have a full Council.

Eschenberg – with all due respect, we were informed that we were going to have to have meeting with the County and he worked and worked on this. We don't have a choice, we have to meet with them.

Dezman – she does have a choice because she has a job.

Eschenberg – you can negotiate the time and the place but it has to be before April 4th. Vail – with a quorum or with all five members? Dezman – she thinks the expectation

is all five members. Eschenberg – reads from the Florida Statutes for conflict resolutions.

Rhiel – because we are in the posture of a lawsuit he feels it would be a mistake not to participate in the process required by F.S. Chapter 163. Vail – is for participating.

Vail – when could a referendum process start? Rhiel – that is a strategy decision.

Mayor – that is why he wants to table action item three, we would disable our negotiations even if we take the first step.

Dezman – she cannot be available on Friday. Mayor – the Council does not have to agree with the time.

Borton – when the Mayor was at the County Commission meeting in November he stated that the Town would go ahead with the MSTU if the straw ballot was in favor of it. Then the Council said we'd wait until we had the meeting on the 10th, she asks how many more meetings are we going to have? She cannot imagine the Sheriff not coming to the table with the attitude of helping Malabar. She does not know what we are waiting for. The people have said what they want. Are we afraid to raise taxes? She does not feel this is a tax issue, it is a safety issue. She does not want to put her staff or the citizens in a bad position. The Sheriff is going to lessen our services. We need to think about what we are doing, we keep discussing this over and over.

Mayor – we did not call this extra meeting and he will go along with whatever the Council votes on. It is not about the money, what bothers him is the unfairness of the issue. The ad valorem system is unfair which is why Tallahassee is contemplating changing it. And he still firmly believes that it is the County Commissions responsibility to pay for the deputies required to cover Malabar. If Borton is representing her constituents then she should take the position that it is not her constituency's responsibility to pay for Sheriff protection, it is the County Commission's responsibility. Borton – it is our responsibility, the people have spoken. Mayor – Borton should take his position and hold firm that it is the County's responsibility to pay for Sheriff protection. We are talking about \$225,000.

Dezman – we are not a full Council and she feels that items two and three should be tabled for now. She feels the communication with the County should happen. She does believe that the people have spoken. She supported the meeting so Vail and McClelland could be as comfortable as they can with their decision. The entire Town is not going to agree on this issue.

Mayor – his motion is for the Council to adopt these positions going into the meeting. That is all he is asking for.

Dezman – her position is to table items two and three and then open a dialog with the County Commissioners and try and smooth over some of the hardships that are on both sides so we can establish a working relationship. No matter what we do 50% of the citizens will be angry with us.

Vail – has not had the Mayor's recommendations long enough to decide. Mayor – we only have a very short notice. Dezman – but you keep saying we are not tied to that. Mayor – you can make it as late as April 4th.

Dezman – we still have to vote on the motion that is on the floor. Mayor – you ought to be able to decide if you want to take these as your position when talking to the County Commission. Dezman – if we give an yes or no we will be giving away our strategy. We should not give them any kind of advanced knowledge so we can have good, honest dialog. Vail – agrees, there is nothing saying we can't have these ideas in the back of our mind and bring them as ideas during the meeting. Mayor – the problem is the Sunshine, this is not normally the way strategy is held. He thinks the Council should go into the meeting united. Borton – do you think we can go in united without hiding anything and all talk intelligently? She thinks they want the same things we want. We want the most we can get for our dollar. Mayor – he thinks the County just wants our money. He does not think there is any hard feelings between the Commission and Malabar's Council. Dezman – she thinks there is. She has watched the same County

Commission meetings that the Mayor has watched and she feels that people are watching this and laughing at us. Mayor – does not agree. Vail – calls for the question.

VOTE: Aye – none. Nay – Dezman, Vail, Borton.

McClelland hands the gavel back to the Mayor.

3. DIRECTING STAFF TO PREPARE AN ORDINANCE TO ADOPT THE BREVARD COUNTY MSTU FOR SHERIFF PROTECTION – COUNCIL MEMBER NANCY BORTON

MOTION: Dezman/Borton to table. VOTE: All aye.

4. COUNTY COMMISSIONERS REQUEST FOR JOINT MEETING WITH MALABAR COUNCIL

McClelland – cannot go to Viera on a Friday. Borton – would like to go. Dezman – Friday is a school day and then on Saturday we are going to be here at 9:00am to begin interviews. Friday works for their schedule, not ours. She would like it to be in Viera so it can be televised. She wants to see it postponed a week. Discussion of when to have the meeting, spring break is next week. The Mayor suggests 7pm on Friday evening.

MOTION: Dezman/Vail that we get back to Sally Lewis and tell her that this Council will be available on March 23rd at 7:30pm in Viera and not to extend past 9:30pm.

Aye – Borton, Vail, McClelland, Dezman.

It is now 10:30pm.

MOTION: Dezman/Vail to extend for 20 minutes. VOTE: All aye.

5. CONTRACT FOR BILL STEPHENSON

MOTION: Dezman/Vail to approve.

Mayor – mileage is at the IRS rate, we use the State rate. Stephenson is comfortable with that.

VOTE: All aye.

6. SELECTION COMMITTEE FOR RECOMMENDING ARCHITECT FOR NEW TOWN HALL

Stephenson – Cocoa just went through this process, their process was design/build which has pros and cons. Stephenson put together a list for ranking architectural firms. The architectural committee will use something like this to rank the firms. The committee should understand the level of importance of each item.

Vail – they have to want to work here, they can't want to build a seven-story building.

Dezman – we have several people in town who are architects and builders. For the Committee the Council suggests Craig McKinnon, Sue Hann, Jim Clevenger, Renee Clary-White, Bob Shepard, and Charles Frazee. Council wants a five person committee. Rhie – all of these meetings are in the Sunshine.

MOTION: Dezman/Vail for Stephenson check with these people and see who wants to be on this committee and write a memo for the next meeting. VOTE: All aye.

7. JOINT PARTICIPATION AGREEMENT WITH FDOT FOR US1 BEAUTIFICATION

Stephenson – the Council must make a decision tonight because this agreement is going to expire. A few years ago Brad Smith made a presentation to Council and the Council executed an agreement with DOT for a beautification project along US1 not to exceed \$150,000 in State funds. Smith's initial design fee was \$5,000 and he submitted a conceptual plan to DOT and they rejected it because they wanted a detailed plan. In the beginning Smith didn't really understand that he needed a detailed plan so he came

back to the Council and asked for another \$13,500. And he basically advised Malabar that \$15,000 of the money paid to him would be reimbursed by DOT leaving Malabar with about a \$3,500 expense, but in reality that is not the case. Stephenson has read the grant, he's talked to DOT, and to Smith and the truth is that the State's share is \$102,982.59, Malabar's share is \$65,871.09 plus what we have already spent, which is non-reimbursable and this project has an expiration date unless Council wants to renew it. And what bothers Stephenson is that even if the Council had put this in we would have to maintain it. At this point in time he needs to give direction to the State as to whether we want to abandon this or pursue it. Stephenson feels that even if they would have given Malabar the money DOT probably would not have let Malabar build it due to all the construction after the hurricanes. Dezman – feels that we opted out of this before. Stephenson – this has not been done because we are still receiving correspondence from the State regarding this.

MOTION: Dezman/Borton abandon the project and notify the State. VOTE: All aye.

8. RECOMMENDATION FROM TOWN ADMINISTRATOR SELECTION COMMITTEE REGARDING TRAVEL EXPENSES FOR CANDIDATE

Mayor – the candidate from Alabama will not charge. Discussion of airfare, Dezman does not want to pay airfare, considering the cost of airfare, she does not want to give money to one person and not to the next.

MOTION: Dezman/Vail to pay for food and lodging and do not pay for airfare, giving \$150 to each candidate.

Vail – for each candidate or for the out-of-state candidates? Dezman – wants to see them all treated the same.

It is now 10:50pm.

MOTION: Vail/Dezman to extend for 15 more minutes. VOTE: All aye.

McClelland – feels that we will lose our top candidates if we don't pay for airfare.

Stephenson – one of the candidates said he will not come unless airfare is paid for.

AMENDED MOTION: Dezman/Vail pay \$150 in-state and \$400 out of state. VOTE: All aye.

DISCUSSION ITEMS:

2. PROPOSED PURCHASE OF VIBRATORY ROLLER

Vail – feels this is needed.

MOTION: Dezman/Borton to table the Discussion Items 2 through 5 until the next agenda. VOTE: All aye.

3. COUNCIL OF CHAMBERS REQUEST FOR ADVERTISING

4. BUILDING PERMITS ON UNAPPROVED ROADS

5. POLITICAL SIGN ORDINANCE

REPORTS: MAYOR, COUNCIL

- Dezman – who is planning the food for Saturday? Kabana – she is.

MOTION: McClelland/Dezman to adjourn the meeting.

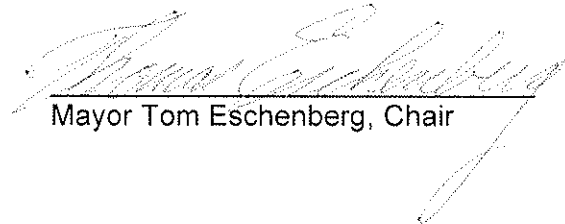
- Mayor – gave Council questions that they can ask the County Commission from a former law enforcement officer.

PUBLIC COMMENTS: GENERAL ITEMS

ADJOURNMENT

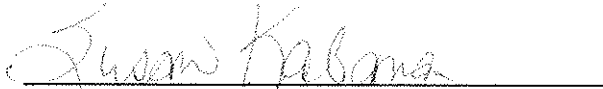
The meeting adjourned at 11:00pm.

BY:



Mayor Tom Eschenberg, Chair

ATTEST:



Susan Kabana, CMC
Town Clerk/Treasurer

DATE:

4/17/07



**William H. Stephenson
Interim Town Administrator**

**2725 Malabar Road
Malabar, FL 32950**

**Tel: 321-727-7764 X20
Fax: 321-722-2234**

To: Town Administrator Applicants

The Selection Committee met Wednesday night, 3/14/07, and agreed to interview up to seven applicants on Saturday, March 24th, 2007.

The Council will meet on Monday night, March 19th, to discuss possible travel expense reimbursement for applicants. All finalists for the job will be subject to:

1. Background check
2. Financial / Credit Check
3. Criminal Record Check
4. Drug Test
5. Physical Examination

Please contact Sharon White at: swhite@townofmalabar.org if you have questions or need additional information.

Mr. William Stephenson
Interim Town Administrator

cc: Council

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.”

SECTION 3. 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 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, white or light earth tones. Dark earth tones are acceptable in brick or stone.

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 19th 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 19th day of March, 2007.

TOWN OF MALABAR

BY: _____
Mayor Tom Eschenberg

First Reading: 02/05/07
Second Reading: 03/19/07

ATTEST:

Susan Kabana, CMC
Town Clerk/Treasurer

Approved as to form and content:

Karl W. Bohne, Jr.,
Town Attorney

OFFICE OF THE TOWN CLERK
PHONE (321) 727-7764
FAX (321) 722-2234



ACTION ITEM 1

TOWN HALL
2725 MALABAR ROAD
MALABAR, FLORIDA 32950-4427

SITE PLAN APPROVAL FOR SERENE HARBOR

REQUEST:

Formal Approval of the Site Plan for the expansion of the domestic violence facility known as Serene Harbor

The Site Plan proposes constructing a new building on the rear of their property and relocating the current operations into the new building. Then they will demolish the existing building and construct a new building in its place. The Site Plan meets the requirements called out in Article VII of the Land Development Code. As directed by Council, land clearing for the new building will be overseen by Town personnel and all possible natural vegetation will be encouraged to be kept.

PROCEDURE:

Planning and Zoning reviewed this Site Plan last year and recommended Council approval. It could not go directly to Council for review because of the pending land use change. That has been resolved. The applicant has incorporated comments from St. Johns River Water Management District, the Town Engineer, and FDOT and are ready to proceed.

BACKGROUND:

Property owner requested a land use change in 2004 and corresponding zoning change to permit expansion of a domestic violence shelter from one building to two. This shelter has been in existence since the mid 1980's and was awarded a grant from the State to expand. The current land use is OI in the front and RS-10 in the rear. The change approved by Council to R/LC will allow the new administrative offices in the rear portion in addition to residential sheltering. With the formal adoption of Ordinance 2006-13 providing for a School Siting Element within our Comp Plan, this amendment has now been submitted to DCA.

ACTION REQUESTED:

Site Plan approval for this project.

Susan Kabana

From: Lewis, Sally A [Sally.Lewis@brevardcounty.us]
Sent: Wednesday, March 14, 2007 10:28 AM
To: skabana@malabartown.org
Subject: Joint meeting w/ Board of County Commissioners

ACTION ITEM

4

Dear Susan,

I am setting up a joint meeting with the Board of County Commissioners and the Council for the Town of Malabar to discuss participation in the Law Enforcement MSTU. If an agreement can not be met then a joint meeting has to be held prior to April 4.

I have polled all of the Commissioners and the only date that is viable is March 23, 2007 in the afternoon.

Please poll your Council and see if this is a viable date for them as well.

Thank you in advance.

Sally Lewis
Agenda Coordinator
County Manager's Office
633-2010
sally.lewis@brevardcounty.us

AGREEMENT

This AGREEMENT entered into this 19th day of March, 2007 between the Town of Malabar, a Florida Municipal Corporation, hereinafter referred to as the "**Town**" and William H. Stephenson, P.E., an engineer registered in accordance with Florida Statutes and currently holding a valid occupational license, hereinafter referred to as "**Engineer**".

Whereas: **Town** is in need of municipal administrative services for approximately two to six calendar months in addition to professional engineering services for the day to day operations of the **Town**. The services required are to be performed at the Town Hall, at various locations within the Town, at agencies conducting business with the Town and at meetings the **Town** may request, by Council decision, **Engineer** to attend, and

Whereas: **Engineer** and **Town** have agreed on a basic scope of work for the **Town** which is detailed below, and

Whereas: **Town** Council has examined the scope of work, finds the scope of work reasonable and offers to pay **Engineer** for services rendered the sum of seventy (70) dollars per hour actually worked for or on behalf of the **Town**.

Now, therefore **Town** and **Engineer** agree as follows:

1. **Engineer** agrees to work under the general direction of **Town** Council as an independent contractor and shall not be considered a **Town** employee. **Engineer** will establish his own schedule considering the needs and schedule of the **Town** and **Town's** Council, appointed boards and employees. **Engineer** will provide his own vehicle, tools, insurance, a cell phone number, FAX number and E-mail address in addition to his mailing address and office telephone for reasonable access by **Town** Council members and **Town** employees.
2. **Engineer** will use professional judgment and experience to provide timely information and recommendations to the **Town** Council members. The hours he will be available within the **Town** are initially five (5) hours per day for three (3) days per week plus the routine engineering type work currently being performed by **Engineer**. The hours to be worked may be increased, decreased or changed by mutual agreement of both parties to this Agreement *based on the needs of the Town*. **Engineer** will strive to make himself available for both

planned and unplanned meetings set by the Town Council and the various Town appointed Boards, if requested by the Council. Engineer will be available for **Town** Council members, employees, attorney, planner, contractors, vendors and citizens to resolve issues that may arise during the course of the **Town's** day to day business or emergency operations,

3. Engineer will exercise general oversight of all municipal departments, contracts and employees consistent with **Town** Code, policies, purchasing practices and guidelines.
4. **Engineer** agrees to charge the **Town** an hourly rate of \$70/hour for work related to the **Town's** needs, direct expenses made on behalf of **Town** (such as copying charges, express mail & excessive long distance charges) and vehicle mileage at the IRS rate in effect at the time of invoice. **Engineer** will pay for his own incidental and routine office, vehicle, insurance and supplies expenses.
5. **Engineer** will invoice **Town** monthly for work accomplished during a calendar month. Town will pay invoices rendered within 20 calendar days of receipt unless the invoice is disputed.
6. If a portion of an invoice is being disputed then the **Town** Treasurer will pay undisputed amounts and attempt to resolve the disputed amount with **Engineer**. Disputes unresolved after 45 days will be submitted for mediation in Brevard County, Florida with the two parties sharing equally in mediation costs.
7. The scope of work may be amended at any time by written mutual consent of **Town** and **Engineer**.
8. **Town** will provide an office at the Town hall for storage of project files, photographs, drawings, correspondence and provide a computer with E-mail capability.
9. Either **Town** or **Engineer** can terminate this agreement, without prejudice by providing 14-calendar days written notice to the other at their current business address.
10. **Engineer** agrees to provide reasonable notice to **Town** of any absence such as vacation or emergencies. **Engineer** agrees to schedule, if possible, such absence at non-critical times except for the time period from March 26th through April 7th, 2007 at which time **Engineer** will be unavailable.

11. **Engineer** agrees that all documents and records pertaining to the **Town** are the property of **Town** and will be turned over to **Town** at completion of the work or within 15 days of agreement termination. **Engineer** is familiar with the public disclosure requirements of municipal documents and correspondence and agrees to follow the State guidelines therefore.

**City of Cocoa, City Hall Design/Build
Additional Questions**

- 1) Provide the following information to describe your team's organization.
 - A. Team Organization and Location
 - B. Breakdown of Work (Phase I)
 - C. Personnel Availability
- 2) Provide the following information to describe your teams' experience.
 - A. Team Experience and Reference
 - B. Using the same project identified above, identify and indicate the role of your team members. Identification of Project Manager, Project Superintendent, Architect, Structural Engineer, Civil Engineer are preferred. List as many personnel as applicable.
 - C. Of the five projects identify previously (2.A), please indicate the team's experience in working together. If the projects did not utilize the same team, list other similar projects.
- 3) Provide a preliminary project schedule with the following activities and milestones:
 - 30%, 60%, 90%, 100% Design Documents
 - 60% Project Pricing Documents
 - 90% Project Pricing Documents with Specifications
 - Permitting
 - Final GMP
 - Start Construction
 - Substantial Completion
 - Owner Move in

**City of Cocoa, City Hall Design/Build
Additional Questions**

B. Phase I Deliverables (% Complete Design Documents by Discipline)

Phase I

Civil Engineering	8	%
Landscape / Irrigation Design	2	%
Architectural	48	%
Structural	8	%
HVAC, Plumbing, Electrical, Fire Protection	34	%

**City of Cocoa, City Hall Design/Build
Additional Questions**

4. Provide summary of the estimated project costs and deliverables.

A. Estimated Project Costs

Phase I

Civil Engineering	\$	31,720
Landscape / Irrigation Design	\$	7,930
Architectural	\$	190,320
Structural	\$	31,720
HVAC, Plumbing, Electrical, Fire Protection	\$	134,810
Reimbursables	\$	2,000
Pre Construction Fees	\$	30,000
Total Phase I Design Fee	\$	428,500

Phase II

Civil Engineering	\$	7,930		
Landscape / Irrigation Design	\$	1,983		
Architectural	\$	47,580		
Structural	\$	7,930		
HVAC, Plumbing, Electrical, Fire Protection	\$	33,703		
Reimbursables	\$	3,000		
Construction Cost of Work	\$	7,625,000	\$	169.44 /SF
General Conditions (Based on 14 month construction schedule)	\$	25,000	/mo	4.59 %*
Design Build Fees		478,500		6.0 %**
Total Fee (Phase I and II)	\$	8,984,125		

Notes:

*% of the Construction Cost of Work.

**% of the Construction Cost of Work + General Conditions.

Memo to: Mayor and Town Council

From: Bill Stephenson

Date: March 14, 2007

Subject: Joint Participation Agreement (JPA) with FDOT for US 1 Beautification improvements north of Townsend Avenue in Malabar

Malabar authorized execution of the Agreement not to exceed \$150,000 State contribution of funds in early 2005. Brad Smith was contracted to perform the design work for \$5,000. His submittal was rejected by FDOT as a "conceptual" plan. He requested an additional \$13,500 from Malabar (per minutes from the 3/21/05 Council meeting) for "detailed design plans" and advised Malabar that \$15,000 of the design costs would be reimbursable from FDOT (leaving Malabar with about a \$3,500 expense).

The Contract (JPA) provides for FDOT to have approval oversight and the ability to require changes in the Malabar design plans. The JPA also requires Malabar to maintain the landscaping after completion. If FDOT is dissatisfied with maintenance it can require removal of the landscaping and returning the R/W to its original condition.

I discussed the Project with Brad Smith this date and he advised that the revised FDOT share of costs is \$102,982 and Malabar's share is \$65,971 which can be paid with "in kind" services, labor, materials or cash. I haven't seen the design plans and I would be surprised if the project wasn't delayed by the State after suffering hurricane damage along the "Project" area. The State now will require the Town to either request a contract extension or the funds will likely be diverted elsewhere.

I will need direction from Council about the disposition of the Project, the design funds and the desire to continue efforts toward the completion in light of the history and the requirement for Town maintenance of landscaping within a State road R/W. I don't see, in the Town budget, funds for this project.



From the Desk of Susan Kabana...

March 19, 2007

To: Mayor, Council Members

Subj: Recommendation by Town Administrator Selection Committee

At the March 14th Town Administrator Selection Committee meeting the committee recommended the Town pay for an amount (to be determined by Council) for travel expenses for the one candidate who lives in Pennsylvania.



DISCUSSION ITEM 3

The Brevard County Council of Chambers is pleased to announce that Village Profile has been selected to produce the 2007-2008 Brevard County Atlas. The Council, which includes the Titusville Area Chamber of Commerce, Cocoa Beach Area Chamber of Commerce, Melbourne-Palm Bay Area Chamber of Commerce and the Greater Palm Bay Chamber of Commerce, along with their partner organizations, Brevard Workforce Development Board, Inc., the Economic Development Commission of Florida's Space Coast, the Home Builders and Contractors Association, Lead Brevard and the Tourism Development Commission are all working together to achieve economic growth and development throughout Brevard County. The Council believes that this high quality, detailed atlas will offer a first point of contact for families and businesses interested in relocating to the Brevard County area, as well as a valuable guide for travelers and longtime residents.

The Atlas will include....

- The Chambers of Brevard County and their partner organizations will distribute the atlas for 12-18 months. The publication is scheduled to be completed and delivered to the Chambers in November 2007.
- Pinpoints will be located on the map/atlas for all sponsor businesses. Schools, hospitals, recreation facilities, golf courses and area sub-divisions will also be featured on the atlas.
- At publication, the printed version of the atlas will be hyper-linked to the four Chamber websites as well as the partner organization sites. You will be able to view County and community information on line, plus a Business Directory of Sponsor advertisers. Your business listing will link to your printed advertisement and a detailed street location map featuring your business!
- The area Atlas will also be located on the Village Profile network at www.villageprofile.com, an international site that receives over 2 million hits a month.
- A wide variety of advertising rates are available to accommodate all types of businesses.
- Complimentary advertising preparation is available, and can be submitted electronically.

Advertising revenues support the production of this publication and the Brevard Council of Chambers. If you would like to be a part of this informative publication and Atlas, please call our Village Profile representative, Carolyn Fish at 772-214-4124 or fax this form to 321-459-2232 and Carolyn will contact you to schedule a brief in-person appointment.

Titusville Area Chamber
Of Commerce

Cocoa Beach Area
Chamber of Commerce

Melbourne-Palm Bay Area
Chamber of Commerce

Greater Palm Bay
Chamber of Commerce

Marcia Gaedcke, Pres.

Kathi Schillo, Pres.

Shannon Meyer, Pres.

Kathleen Bishop, Pres.

Yes, I am interested in hearing about the advertising opportunities in the Brevard County Council of Chambers Atlas/Community Profile.

Company Name_____

Contact_____

Address:_____

City:_____

Telephone_____

Fax:_____

Sec. 13-38. Precondition to issuance of building permit--Completion of road.

- (a) As a precondition for the issuance for any permit for a permitted structure on property that abuts an unimproved right-of-way or unaccepted local street/road within the Town of Malabar, Brevard County, Florida, the owner of the property for which such permit it requested must provide for the improvement of the local street/road from which a person will obtain ingress and egress to and from such property from the nearest improved and accepted road continuously in the most direct route (or route otherwise approved by the town) on public rights-of-way through and including the furthest boundary of the lot of Record on which the principal structure is to be constructed.

GRAPHIC LINK: Illustration No. 1

(Illustration No. 1 only depicts the length or distance for which the right-of-way must be improved if the owner of Lot No. 4 requests a boundary permit or other development order).

In determining whether any parcel "abuts" such unaccepted local street/road for purposes of this chapter, any property that lies contiguous to an existing unimproved local street/road or right-of-way and which is intended to be used as ingress and egress to said property, shall be deemed to abut the unimproved local street/road or right-of-way.

- (b) Ownership of contiguous lots.
- (1) In the event that such owner owns more than one (1) lot of record on the same local street/road and if such lots are contiguous, such local street/road shall be completed only through the furthest boundary of the lot on which the principal structure is to be wholly constructed.
- (2) However, should such principal structure not be located wholly on one (1) lot, or should the owner desire to construct accessory uses, ponds or outbuildings (accessory to the principal structure) on the contiguous lot, then the local street/road shall be improved through the furthest boundary on which such accessory building to be constructed.
- (c) The board of adjustment may only grant a variance to the requirements of subsection (b)(1) and (2). Notwithstanding the authority granted to the board of adjustment in section 1-12 of the Town of Malabar Land Development Code the below stated procedures shall in all respects be utilized for a variance to subsection (b)(1) and (2). In order to authorize a variance under this section the board of adjustment must find the following:
- (1) That special conditions and circumstances exist and that the presence of which would make complying with section 13-38(b)(1) or (2) unreasonable;
- (2) The special conditions and circumstances are not caused in any way by the owner or applicant;
- (3) That such variances will not be injurious or detrimental to the public welfare;
- (4) That the variance granted is the minimum variance that will make possible the

reasonable use of the land;

- (5) The board of adjustment may impose additional reasonable conditions and safeguards that it deems appropriate;
- (6) The board of adjustment may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both.

(Ord. No. 01-01, § 1-3, 2-5-01; Ord. No. 03-01, § 2, 2-24-03; Ord. No. 03-05, § 1, 6-16-03)

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE XIX OF THE LAND DEVELOPMENT CODE RELATING TO POLITICAL SIGNS; PROVIDING FOR THE LOCATION OF POLITICAL SIGNS AND RESTRICTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is necessary for the town to consider both the current need and the long term impact that political signs have on aesthetics in the Town before, during and after a political campaign and election; and

WHEREAS, limited regulation of political signs is permissible under the United States Constitution and such regulation as provided for in this ordinance is in the best interest of the health, safety and welfare of the Town and in the best interest of the public.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, THAT:

SECTION 1. ARTICLE XIX, Section 1-19.10 B (3) of the Land Development Code of the Town of Malabar is hereby amended to read as follows:

“Section 1-19.10. Temporary permits.

• • •

B. A permit fee for the following signs will not be required:

• • •

(3) A permit fee for political signs and posters will not be required, provided that said signs are subject to the following regulations:

a. Such signs shall be removed within five (5) days following the election. If the candidate or political action committee fails to remove said sign, within the required five (5) days, the town may remove said signs. These signs will be held by the town for a period of thirty (30) days. During this period, and during regular town business hours, the candidate or political action committee may claim their signs, but shall pay a service charge of five dollars (\$5.00) to the town

for each sign claimed. Any signs not claimed within thirty (30) days shall become the property of the town.

b. Only one (1) stationary sign per candidate or referendum issue shall be permitted on any one (1) parcel of land, except should there be more than one (1) owner or occupant of said parcel, each owner or occupant shall be permitted one (1) sign per candidate or per issue of dimensions herein specified.

c. Said sign shall not exceed sixteen (16) square feet on aggregate area and if detached, shall not be erected in such a manner as to constitute a roof sign. Notwithstanding the provisions of this subparagraph, a sign may be placed upon any legally existing sign structure but not so as to cover an existing sign.

d. Political or campaign signs may be allowed in a public or private right-of-way but shall be located no closer than 3 feet from the edge of pavement or in the case of a dirt road from the edge of the dirt of a public or private street or five feet from the edge of a sidewalk, bike-path, or ped-way. All such signs which are allowed in a public or private right of way may not be placed any closer than ___ feet to the edge of pavement or in the case of a dirt road any closer than ___ feet to the edge of the dirt. Further any such sign allowed in a public or private right of way may not be placed any sooner than ___ days before the election. Such signs shall not be placed closer than ___ feet to a sign of the same candidate.

e. No political or campaign sign shall be:

- (i). Located such that it obstructs, impedes, or otherwise creates a hazardous condition for safe and normal flow of pedestrian or motor vehicle traffic.
- (ii). Erected on private property without the consent of the property owner.
- (iii). Placed on any tree, utility pole, fences or fence post.
- (iv). Placed in or on government-owned property such as a park”

SECTION 2. CONFLICTS.

All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this ordinance

SECTION 3. CODIFICATION.

It is the intention of the town council of the Town of Malabar, Brevard County, and it is hereby provided that the provisions of this ordinance shall become part of the Land Development Code of the Town of Malabar.

SECTION 4. SEVERABILITY.

Should any section, clause or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the remaining provisions or parts of this ordinance.

SECTION 5. EFFECTIVE DATE.

This ordinance shall take effect immediately upon its adoption.