

MALABAR TOWN COUNCIL REGULAR MEETING
JULY 16, 2007 7:30 PM

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road.

A. CALL TO ORDER:

The meeting was called to order at 7:30 pm by Mayor Eschenberg. The prayer and pledge were led by Council Member Pat Dezman.

B. ROLL CALL:

MAYOR/CHAIR	TOM ESCHENBERG
VICE-CHAIR:	CHUCK McCLELLAND
COUNCIL MEMBERS:	NANCY BORTON
	BRIAN VAIL
	BOBBI MOCCIA (excused)
	PAT DEZMAN
TOWN ADMINISTRATOR:	BONILYN WILBANKS-FREE
ATTORNEY:	KARL BOHNE
ASSISTANT TO THE BO	DEBBY FRANKLIN
DEPUTY TOWN CLERK:	CINDI KELLEY

C. ADDITIONS/DELETIONS/CHANGES: Pat Dezman asked that a discussion item #10 be added to the agenda. This discussion would be Organization and Business Methods.

MOTION: Dezman/Borton to approve with addition. VOTE: All Ayes.

D. PRESENTATIONS

E CONSENT AGENDA - None

F. STAFF REPORTS:

ATTORNEY-Pat Dezman and Karl Bohne reported that a summary judgment has been issued in this case in favor of the Town of Malabar; document dated 7/16/07. Mr. Gentile has 30 days to appeal this decision. If after the 30 days and no action taken by Mr. Gentile, he can no longer run a commercial business in the Town of Malabar; if it continues, we can go back to court.

Julianna Hirsch-1036 Malabar Road came forward and asked questions regarding boarding horses for other people in the town. Mr. Bohne stated there are factors that need to be looked at and a conditional use needs to be applied for; people can board horses if all the criteria are met with the codes and conditional use permits.

ADMINISTRATOR- advised Council that we have received an estimate for a wall a/c unit for the Council chambers. Members of Council would like to see at least two more estimates and see if there are any other alternatives for the cooling of the chambers.

With regards to records management, two fire proof cabinets have been ordered and will be stored in the full-block storage room. This room will be cleaned out and files/books will be moved upon receipt of the cabinets. Mrs. Dezman asked if the door to this room is locked at all times. Mrs. Wilbanks-Free stated that it is only unlocked when we are accessing the files in the room.

2007/2008 proposed budget books have been prepared for you to take home and review. There have been some changes, which have to do with the chart of accounts; these account numbers are from the Uniform Accounting System manual. We are headed in the right direction; we just need to fine-tune some issues with checks/balances.

Mrs. Dezman raised some questions with regards to business practices and asks Mrs. Wilbanks-Free if she feels the need to have an independent audit. Mrs. Wilbanks-Free stated that she does not feel the need; if she thought there was any misappropriation of funds, she would be the first to ask for a forensic audit. Mrs. Wilbanks-Free pointed out that there are some problems that are being looked into. With the budget, you have a broad scope of numbers presented tonight. There will be changes coming; we have a big issue with the budget due to legislature. With Mrs. Kabana on vacation, she will be reviewing the budget and setting time aside to go over information with Ms. Kelley regarding accounts payable information. When it is time to present the budget for the workshops, it should all be in place with all information being accurate.

DEPUTY CLERK – nothing at this time

G. PUBLIC HEARINGS:

ORDINANCES – Final Reading

1. Amending Chapter 13, Article 2 Streets, Ord. 2007-11

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES OF THE TOWN; AMENDING SECTION 13-38(A); PROVIDING A PRECONDITION FOR THE ISSUANCE OF PERMITS UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 13-39 OF THE CODE OF ORDINANCES; PROVIDING FOR THE DEDICATION OF SUFFICIENT RIGHT-OF-WAY AS A PRECONDITION TO THE ISSUANCE OF A BUILDING PERMIT; AMENDING SECTION 13-42 OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR AMENDING THE PROCESS FOR IMPROVING ROADWAYS WITHIN PUBLIC RIGHTS-OF-WAY; PROVIDING FOR CODIFICATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 1
Ordinance No. 2007-11

Recommendation: Motion to approve

MOTION: Dezman/Borton to read by title only. VOTE: All Ayes.

Upon reading by title only, Mayor Eschenberg opened the public hearing to the public. Hearing from no one, the discussion was brought back to Council.

MOTION: Borton/Vail to approve Ordinance 2007-11. The roll was called: Borton, Vail, McClelland, and Dezman – All Ayes. Moccia was not present.

Motion carries.

H. ACTION ITEMS

ORDINANCES – First Reading - None

MISCELLANEOUS

2. Form DR-420, Certificate of Taxable Value

Exhibit: Agenda Report No. 2

Recommendation: Discussion and direction by Town Council

Mayor Eschenberg stated if Malabar's tax rate is more than 1.2693%, we will forfeit \$51,544. If we vote for a higher millage; money will be lost.

MOTION: Borton/McClelland to approve the preliminary millage rate of 1.2693%. VOTE: All Ayes.

Mr. Bohne asked for clarification on the motion because he feels it should be broken out into separate motions based on the way it is written.

Mayor Eschenberg state the vote was for the DR-420 M-P.

Mrs. Dezman left the meeting for a short break at 8:30 pm. She returned at 8:40 pm.

MOTION: Borton/Vail to pass the DR-420 Certificate of Taxable Value. VOTE: All Ayes.

3. Results of RFP for Evaluation and Appraisal Report (E.A.R.)

Exhibit: Agenda Report No. 3

Recommendation: Discussion and direction by Town Council

Mrs. Wilbanks-Free stated four companies made submittals for this; each is very reputable. We need to have a special Council meeting set to hear the presentations.

There was discussion between Council members with the best dates and times. Mrs. Moccia was not at the meeting.

MOTION: Dezman to take a short break to make contact and get information regarding meeting time availability.

Mayor Eschenberg granted a short break at 8:37 pm. The meeting was brought back to order at 8:45 pm.

A special meeting has been set for Monday, July 30, 2007 at 7:00 pm in Council Chambers.

4. Operating Transfer Request for TIFT Fund 107

Exhibit: Agenda Report No. 4

Recommendation: Discussion and direction by Town Council

Mayor Eschenberg explained that we have received the funds from Brevard County and they need to be transferred to the general fund; funds have already been spent on road improvements at Atz and Hall Road with some other smaller road improvements along the way.

Motion: McClelland/Vail to approve the transfer of funds. VOTE: All Ayes.

5. League Request for Representation by each City on One or More of the League's Legislative Council

Exhibit: Agenda Report No. 5

Recommendation: Discussion and direction by Town Council

Mayor Eschenberg and Mrs. Wilbanks-Free have expressed an interest in this. Mrs. Borton expressed interest in the home rule or urban planning committees. Mayor Eschenberg has an interest in fiscal stewardship and Mrs. Wilbanks-Free is interested in municipal service.

MOTION: Dezman/McClelland that the Mayor, Council Member Borton and Town Administration apply to the League's Legislative Council. VOTE: All Ayes.

6. Approval of Expenditure for Culvert/drainage Piping

Exhibit: Agenda Report No. 6

Recommendation: Discussion and direction by Town Council

This is a continuation from the last RTCM. Mr. Stephenson stated there are a certain amount of pipes for improvements. Council asked for the specifics of this project. We are looking to do items 1-9; items 10 & 11 needs some additional information obtained before presenting it to Council. This does not have to go out to bid as we are piggy-backing on the County's approved vendor listing.

MOTION: McClelland/Borton to approve the expenditure. VOTE: All Ayes.

7. Approval of Applicant to Serve on BOA – Katherine Harwood, Applicant

Exhibit: Agenda Report No. 7

Recommendation: Motion to approve

MOTION: Borton/Vail to approve Katherine Harwood to the BOA.

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This board has one vacancy now and in October one of the board member's will be resigning. The position for Ms. Harwood would be that of an alternate. Mrs. Dezman appreciates that this

person is a resident of Malabar and has applied for a position on this board, but she does not know who this person is. Mr. Vail feels that all alternate positions on boards should be filled; this is where the person learns about what is done by each board and then they can move up as people resign. Mrs. Dezman stated this board is the alternative to Council; she needs more information. Mrs. Wilbanks-Free suggested that the applicant submit a resume and be at the meeting when the appointment is requested. Mayor Eschenberg asked why you would have the applicant submit a resume when the Council members don't have to do this when they apply for candidate qualifications prior to elections. Mrs. Wilbanks-Free stated at a minimum, the applicant should be at the meeting to address Council's questions. Mr. Vail asked if the applicant was asked to attend tonight's meeting. Ms. Franklin stated no.

VOTE: Borton, Val, McClelland, Ayes – Dezman – Nay.

8. Interlocal Agreement with Brevard County for Stormwater Utility

Exhibit: Agenda Report No. 8

Recommendation: Motion to approve

Mrs. Wilbanks-Free advised Council that the wrong agreement without the Exhibit was provided in the packets. This agreement before them was provided to staff this afternoon between 3:30 and 4:00 pm. The new agreement has a cover sheet to show the additions/deletions to the agreement. After discussion with Carolina Alvarez and Council, a motion was made by Mrs. Dezman.

MOTION: Dezman to table until more information is available.

Motion dies for lack of second.

MOTION: McClelland/Vail to approve the agreement for a period of 1 year with the changes as stated by the attorney.

Discussions continue between Ms. Alvarez and Council.

MOTION: McClelland/Dezman to extend agreement until September 30, 2007 with corrections as stated by attorney. VOTE: All Ayes.

I. DISCUSSION ITEMS

9. Acceptance of Beehive Road

Exhibit: Agenda Report No. 9

Recommendation: Discussion and direction by Town Council

Mrs. Wilbanks-Free provided a brief overview of this item. Mr. Vail stated he thinks this area of the road was upgraded; it's a very popular area for fires. Doing this enables the fire apparatus back there to fight fire. Mrs. Wilbanks-Free stated Mrs. Shepherd wants to pay the \$14,000 and have the town maintain the road; she's not asking that the road be accepted again. St. John's has serious issues with this road.

MOTION: Vail/Dezman to table item until official opinion is received from attorney at the next Council meeting. VOTE: All Ayes.

This discussion item added to agenda by Mrs. Dezman.

10. Organization and Business Methods.

Mrs. Dezman speaks regarding Resolution 02-2005; the organizational chart for the Town. She does not know where or how it came about. Mrs. Wilbanks-Free seems to think this is where Council adopted the Employee Manual. She advised Council that this ordinance did not go through them before it was adopted.

Mrs. Dezman stated the Town Attorney and the Town Administrator both report to Council. The Town Clerk also reports to Council and she feels that the Town Clerk should be providing a weekly FYI like the Administrator does. It is not her intent to hurt anyone's feeling, this just needs to be done. Mrs. Wilbanks-Free stated several times that Council has a very good staff and they work well and hard together. There are some things that need to be fine-tuned and worked out. Mayor Eschenberg stated that he would meet with the Town Administrator and go

over the organizational chart; they both have ideas that need to be heard and looked at. Mrs. Borton voice some concerns regarding the daily operations. She is concerned that the minutes from the last meeting were not in the packet for approval this evening. There was a major issue at the last meeting regarding the concrete poured at the Fire Department. Since she was not able to attend the meeting, she wanted to see what took place by reading the minutes.

MOTION: Dezman to table this discussion.

Mr. Vail asked that he be allowed to share his thoughts. He is not here on a daily; Council is accountable for all that goes on in Town Hall. The administrator oversees the day to day tasks. Mrs. Wilbanks-Free stated that as long as she, the Town Clerk and the Auditors are on the same page, we should be okay. There, again, needs to be some fine-tuning and tweaking of duties and responsibilities.

Mrs. Dezman asked for a copy of the employee manual. It was stated that a copy would be e-mailed to her; she also would like a hard copy. Mrs. Wilbanks-Free will provide this when the weekly FYI goes out this week. It was also stated that the FYI will have a brief summary of the meeting minutes attached to it when there is a meeting. Mrs. Dezman stated this is to be placed on the agenda as a discussion item for the next Council meeting.

Mr. McClelland stated he sees good changes coming through, get more control as she is doing; we need to start the budget process earlier. Mayor Eschenberg stated that Mrs. Kabana takes vacation every year the last two weeks of July and has always had the budget for August. With the changes that have taken place this year with legislature, we may want to look at vacation time for July next year. Mrs. Wilbanks-Free stated that the budget is usually completed by June and provided to Council so that they have plenty of time to review before the workshops begin. It is very unusual that finance people take vacation during budget time.

J. MAYOR AND COUNCIL REPORTS

Borton-has nothing to report at this time.

Vail-has nothing to report at this time.

McClelland-has nothing to report at this time.

Dezman-asked if the reservation for the FLC conference has been arranged. Ms. Kelley informed her that she would verify the information for her.

Mayor-made a recommendation to Council regarding conference information he received. Each member stated they received the information. He has also received a response from Satellite High School regarding the dome. Arrangements were made to view the dome; very similar to what they have. The school representative will get back with the Mayor within a couple of weeks. A plaque should be attached to the dome stating "Donated by the Town of Malabar".

K. PUBLIC COMMENTS: GENERAL ITEMS

Bill Withers-2324 Candy Lane-addressed Council regarding the parks. He spoke against the maintenance that the parks are getting; gave examples of what he sees wrong. Mrs. Wilbanks-Free stated that after all the required paperwork was received, the first mowing did not happen until July 9th.

L. ADJOURNMENT

There being no further discussion, **MOTION: Dezman/McClelland to adjourn this meeting. VOTE: All Ayes.** This meeting adjourned at 10:30 pm.

These minutes were approved on 8/6/07.