



**REGULAR TOWN COUNCIL MEETING
MONDAY, AUGUST 20, 2007
7:30 PM**

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

AGENDA

A. CALL TO ORDER, PRAYER AND PLEDGE

B. ROLL CALL

C. ADDITIONS/DELETIONS/CHANGES

D. PRESENTATIONS - None

E. CONSENT AGENDA

1. Approval of Minutes

Exhibit: Agenda Report No. 1

Recommendation: Motion to approve

F. STAFF REPORTS:

ATTORNEY

- Concrete Issue at Fire Department

ADMINISTRATOR

- Update on Planning Services Contractor
- Update on Town Hall A/C unit
- Town Hall Site Offers – direction on how to handle

CLERK

- Election Packets ready for pickup

G. PUBLIC HEARINGS:

ORDINANCES – None

H. ACTION ITEMS

ORDINANCES – First Reading - None

RESOLUTIONS - None

2. Approval to Remove the Employee Flow Chart from the Employee Manual

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA;
AMENDING RESOLUTION 12-2005; PROVIDING FOR THE REMOVAL OF THE
TOWN'S EMPLOYEE FLOW CHART FROM THE PERSONNEL MANUAL;
PROVIDING FOR CONFLICT AND PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Approval of Resolution No. 16-2007

MISCELLANEOUS

3. **Council Comments on the Proposed EEL's Land Acquisition of the Hirsch/Kain Property Located at: 29-37-02-00-254 (approximately 10 +/- acres)**
Exhibit: Agenda Report No. 3
Recommendation: Council action
4. **Approval of Architectural Firm for New Town Hall Project**
Exhibit: Agenda Report No. 4
Recommendation: Council action
5. **Appointment of Bud Ryan as Regular Member of Planning and Zoning Board**
Exhibit: Agenda Report No. 5
Recommendation: Council action
6. **Accounting Services until Year End**
Exhibit: Agenda Report No. 6
Recommendation: Council Action

I. DISCUSSION ITEMS

7. **Use of the Town's "Mailboat" and/or Website by Election Candidates**
Exhibit: Agenda Report No. 7
Recommendation: Discussion and direction by Town Council
8. **Consideration of a Doggie Dining Ordinance**
Exhibit: Agenda Report No. 8
Recommendation: Discussion and direction by Town Council
9. **Consideration of the Proposed Contracts with the MVFD**
Exhibit: Agenda Report No. 9
Recommendation: Discussion and direction by Town Council

J. MAYOR AND COUNCIL REPORTS

K. PUBLIC COMMENTS: GENERAL ITEMS

L. 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.

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 1
Meeting Date: August 20, 2007

Prepared By: Cindi Kelley, Deputy Town Clerk

SUBJECT: Approval of Minutes

BACKGROUND/HISTORY:

Attached are the summary minutes for the following meeting:
Regular Town council Meeting – 08/06/2007

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Draft Minutes of Regular Town Council Meeting – dated 08/06/2007

ACTION OPTIONS:

The Deputy Town Clerk requests approval of the minutes.

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 2

Meeting Date: August 20, 2007

Prepared By: Bonilyn Wilbanks-Free, Town Administrator

SUBJECT: Approval to Remove the Employee Flow Chart from the Employee Manual

BACKGROUND/HISTORY:

At the RTCM of 08/06/07, Council approved removing the Employee Flow Chart from the Employee Manual after discussion by the Town Administrator. The Town Attorney recommended that since the Employee Manual was adopted by Resolution, any changes to the Employee Manual should be done by resolution and agreed to prepare it for the next RTCM.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Resolution No. 16-2007

ACTION OPTIONS:

Staff seeks approval of Resolution No. 16-2007.

RESOLUTION NO. 16-2007

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING RESOLUTION 12-2005; PROVIDING FOR THE REMOVAL OF THE TOWN'S EMPLOYEE FLOW CHART FROM THE PERSONNEL MANUAL; PROVIDING FOR CONFLICT AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Town Council adopted the Town's Personnel Manual on June 20, 2005 by Resolution No. 12-2005; and,

WHEREAS, The Town Council does not believe that the Town's employee flow chart should be a part of the Personnel Manual in so much as the chart changes regularly and it is more appropriate to make changes to the chart, if necessary, during budget time so that the coordination between salaries and expenses can be visualized.

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Malabar, Brevard County, Florida, as follows:

SECTION 1: Resolution 12-2005 is hereby amended by removing the employee flow chart from the Personnel Manual.

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. Effective Date.

The effective date of this resolution is the date of adoption by the Malabar Town Council.

The foregoing Resolution was moved for adoption by council member _____ . The motion was seconded by Council member _____ and, upon being put to a vote, the vote was as follows:

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

PASSED AND ADOPTED by the Town Council, Town of Malabar, Brevard County,
Florida this 20th day of August, 2007.

BY:

Town of Malabar
Mayor Tom Eschenberg

ATTEST:

Cindi Kelley, Deputy Town Clerk

Approved as to form and
legal sufficiency by:

Karl W. Bohne, Jr.
Town Attorney

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 3

Meeting Date: August 20, 2007

Prepared By: Bonilyn Wilbanks-Free, Town Administrator

SUBJECT: Environmentally Endangered Lands (EEL's): Willing sellers of one identified parcel with the Town. Parcel 29-37-02-00-254, approximately 10 +/-acres

BACKGROUND/HISTORY:

In accordance with Council direction that any acquisition of land by the EEL's is to be brought to Town Council, the Town has been notified by letter from Mike Knight of the proposed acquisition of the Hirsh/Kain property. The owners of the properties are now interested in selling to the EEL's and the EEL's have asked that this be placed on our agenda for Council input.

FINANCIAL IMPACT:

Taxable value to be removed from tax rolls - \$234,210

ATTACHMENTS:

Letter from Brevard County dated 07/17/07
Map of Hirsh/Kain Property
Property Research

ACTION OPTIONS:

EEL's seeking Town Council input for County Commission.



PARKS AND RECREATION DEPARTMENT
Environmentally Endangered Lands Program
91 East Drive
Melbourne, Florida 32904

Telephone: (321) 255-4466
Fax: (321) 255-4499
<http://www.eelbrevard.com>

VIA EMAIL: TESCHENB@TOWNOFMALABAR.ORG, SKABANA@TOWNOFMALABAR.ORG

July 17, 2007

Tom Eschenberg, Mayor
Town of Malabar
2725 Malabar Rd. Malabar, FL 32950-4427

RE: BREVARD COUNTY EEL PROGRAM

Dear Mr. Eschenberg,

This letter is to inform you that a willing seller within the Town of Malabar has contacted the EEL Program to assess their land for possible acquisition.

The Hirsch/Kain property located at: 29-37-02-00-254 (approximately 10 +/- acres, map attached).

On April 17, 2006, in a Regular Town Council meeting, the Town Council was informed that the Commission approved the continued acquisition of identified lands within the Town with the condition that every acquisition is brought before the Town Council. When the EEL Program receives a willing seller application it will be put on the Town Council agenda so by the time the item reaches the Commission in the form of a contract there will be a very clear position in the packet regarding Malabar's opinion.

This letter is to request an opinion from the Town on the potential acquisition of the Hirsch/Kain property. The EEL Program is requesting that this be placed on the next available Town Council agenda for consideration and please let me know the date and time that meeting will be held.

If you have any questions, please feel free to contact me.

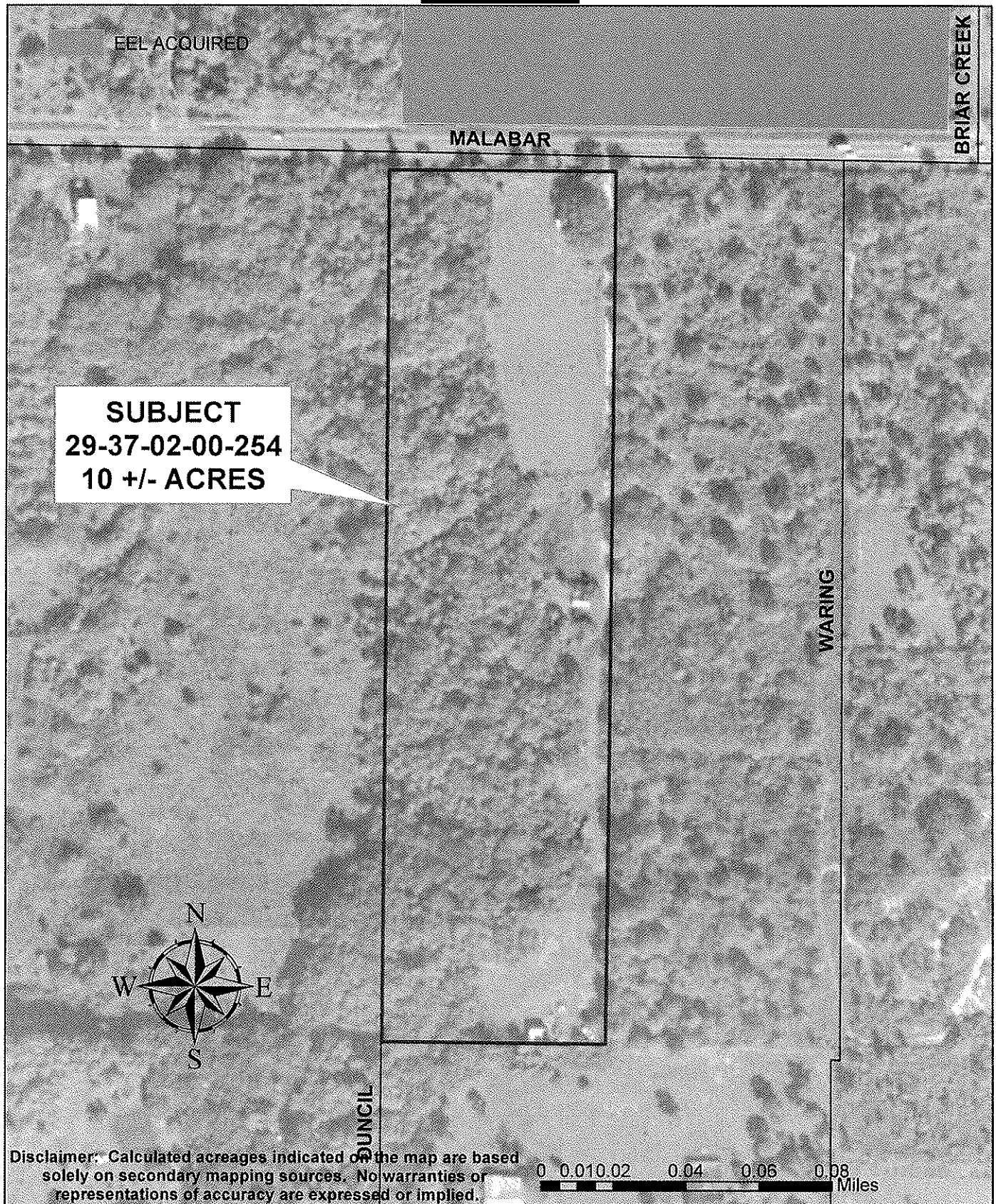
Thank You
Mike Knight, EEL Program Manager
Jenny Ashbury, EEL Program Acquisition Program Coordinator

Cc: Susan Kabana, Town Clerk / Treasurer
skabana@townofmalabar.org

Malabar



Hirsch/Kain Property Malabar



Jim Ford, C.F.A.
Property Appraiser
Brevard County, FL



**Property
Research**

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General Parcel Information for 29-37-02-00-00254.0-0000.00

Parcel Id:	29-37-02-00-00254.0-0000.00	Map	Millage Code:	34Z0	Exemption:	1	Use Code:	110
* Site Address:	1035 MALABAR RD , MALABAR, FL 32950						Tax Account:	2922490

* Site address information is assigned by the Brevard County Address Assignment Office for E9-1-1 purposes; this information may not reflect community location of property.

Tax information is available at the Brevard County Tax Collector's web site
 (Select the back button to return to the Property Appraiser's web site)

Owner Information

Owner Name:	HIRSCH, JULIANA
Second Name:	KAIN, HEIDI
Third Name:	
Mailing Address:	P O BOX 500068
City, State, Zipcode:	MALABAR, FL 32950

Legal Description

Sub Name:	W 1/2 LOT 27 EX RD R/W
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Value Summary for 2006

** Market Value:	\$259,210
Agricultural Assessment:	\$0
Assessed Value:	\$120,660
*** Homestead Exemption:	\$25,000
*** Other Exemptions:	\$0
Taxable Value:	\$95,660

Land Information

Acres:	10
Site Code:	514

** This is the value established for ad valorem purposes in accordance with s.193.011(1) and (8), Florida Statutes. This value does not represent anticipated selling price for the property.

*** Exemptions as reflected on the Value Summary table are applicable for the year shown and may or may not be applicable if an owner change has occurred.

Save Our Homes - Estimated Tax Savings 2006

	Values	Millage Rate	Taxes
Market Value (new owner, no homestead)	\$259,210	x 14.9365	\$3,871.69
Exemptions (homestead = \$25,000)	\$25,000		
Taxable Value (with exemptions only)	\$234,210	x 14.9365	\$3,498.28
Taxable Value (with exemptions and SOH cap)	\$95,660	x 14.9365	\$1,428.83
2006 Estimated Savings Resulting From Exemptions			\$373.41

2006 Estimated Savings Resulting From SOH				\$2,069.45
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Sales Information

OR Book/Page	Sale Date	Sale Amount	Deed Type	*** Sales Screening Code	*** Sales Screening Source	Vacant/Improved
5415/2222	1/2005	\$100	QC			I
3781/1798	1/1998	\$100	PT			V
3362/4921	2/1993	\$0	QC			I
3078/3668	8/1990	\$100	QC			
2722/0172	8/1986	\$100	QC			
2570/2517	1/1985	\$163,000	WD			
1253/0233		\$23,000				

*** Sales Screening Codes and Sources are from analysis by the Property Appraiser's staff. They have no bearing on the prior or potential marketability of the property.

Building Information

PDC #	Use Code	Year Built	Story Height	Exterior Code	Interior Code	Roof Type	Roof Mater.	Floors Code	Ceiling Code
1	110	1981	8	21	07	01, 05	03, 04	12, 14	04

Building Area Information

PDC #	Base Area	Garage Area	Open Porches	Car Port	Screened Porches	Utility Rooms	Enclosed Porch	Basements	Attics	Total Base Area
1	1125	0	0	0	0	0	0	0	0	1125

Extra Feature Information

Extra Feature Description	Units
FIREPLACE	1
WOOD DECK	720
OUTBUILDING	264
OUTBUILDING	576
PATIO	461

Data Last Updated: Thursday, August 16, 2007- Printed On: Thursday, August 16, 2007.

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TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 4

Meeting Date: August 20, 2007

Prepared By: Bonilyn Wilbanks-Free, Town Administrator

SUBJECT: Selection of the Architectural Firm for the New Town Hall Project

BACKGROUND/HISTORY:

The Town solicited an RFP – for Architectural Firms to assist with the New Town Hall Project. The Technical Committee held several meeting which concluded with a presentation of their three topped rank firms on August 15, 2007. Based on that meeting they have ranked the three top firms as follows:

1. Dave Nagrodsky Architects
2. Architects in Association Rood and Zwick, Inc.
3. H.S.A. Architecture Interior Design Planning
- 4.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Agenda Face Sheet – August 15, 2007

Minutes of the August 15, 2007 Architect Selection Committee

Minutes of the July 31, 2007 Architect Selection Committee

ACTION OPTIONS:

Staff seeks approval of the Architectural Firm to begin contract negotiations.



**ARCHITECT SELECTION COMMITTEE
FOR NEW TOWN HALL
WEDNESDAY, AUGUST 15, 2007
3:00 PM**

**MALABAR TOWN HALL
2725 MALABAR ROAD
MALABAR, FLORIDA**

- A. CALL TO ORDER, PRAYER AND PLEDGE**
- B. ROLL CALL**
- C. DISCUSSION OF REFERENCE CHECKS ON TOP THREE SHORT-LISTED ARCHITECTURAL FIRMS**
- D. PRESENTATIONS BY TOP THREE SHORT-LISTED ARCHITECTURAL FIRMS**
 - 1. 4:00PM ARCHITECTS IN ASSOCIATION ROOD AND ZWICK, INC.**
 - 2. 4:45PM H.S.A. ARCHITECTURE INTERIOR DESIGN PLANNING**
 - 3. 5:30PM DAVE NAGRODSKY ARCHITECTS**
- E. BREAK 6:15PM**
- F. ACTION ITEMS**
 - 1. Ranking of Short-Listed Architectural Firms**
 - Exhibit:** Agenda Report No. 1
 - Recommendation:** Discussion and ranking of Short-Listed Architectural Firms
- D. ADJOURNMENT**

If any individual decides to appeal any decision made by this Committee 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 ARCHITECT SELECTION COMMITTEE MEETING

August 15, 2007

3:00 PM

This meeting of the Town of Malabar Architect Selection Committee was held at Malabar Town Hall, 2725 Malabar Road.

A. CALL TO ORDER, PRAYER AND PLEDGE

This meeting was called to order by Chair Sue Hann at 3:10. The prayer and pledge were led by Chair Sue Hann.

B. ROLL CALL

CHAIR:

SUE HANN

COMMITTEE MEMBERS:

JIM CLEVINGER

RENEE CLARY WHITE

CHARLES FRAZEE

CRAIG MCKINNON

TOWN ADMINISTRATOR:

BONILYN WILBANKS-FREE

ENGINEER

BILL STEPHENSON –arrived @ 3:25

DEPUTY TOWN CLERK:

CINDI KELLEY

C. DISCUSSION OF REFERENCE CHECKS ON TOP THREE SHORT-LISTED ARCHITECTURAL FIRMS

Mrs. Clary-White states she is concerned about the question/answer portion of the presentation. Mrs. Clary-White mentioned that the criteria discussed at the last meeting were not provided to the presenters in the letter sent to them. We may want to have those items in mind while listening to the presentations so that we may ask questions of them. The information is as follows: how and when the public is handled and by whom; experience with space/heat assessment; include evaluation as to whether we should be a single or multi-story project; as far as aesthetics appeal of the property, we want ideas and methods to keep the historical and rural aspect of our town without making us an extension of Palm Bay's Florida Vernacular. We want experience with grant allocations or funding assistance; the combined experience of the team component, meaning the architect and the engineer and with everyone else together; experience with designing emergency operation centers or hurricane shelters, looking at grant funds for this and experience with assistance with FEMA funding for those types of buildings.

Mrs. Hann stated they will each have 20 minutes to present and she will allow questions by going around the table. Two questions will be permitted with each committee member and if time allows, more questions can be asked.

Mrs. Clary-White asked about the statute involved with how the contract negotiations goes, we of course have this point system, we are to use this format in coming up with the 1, 2 or 3 order? Mrs. Hann stated we are to rank them as 1, 2 or 3. Mrs. Clary-White asked the committee is bound a criteria of this point system. Mr. Bohne advised that it is just a guide for the committee to go by. You can consider any other elements as factors. There is no problem with asking questions and using it as criteria to rank them. The function of the committee is to rank them as 1, 2 or 3 and send them on to Council. Council will receive the ranking of the firms and then make a choice; it's possible that they may not go with the recommendations of this committee. The process, once the ranking is done, it goes to Council and they will agree to the ranking or a different ranking; contract negotiations will begin. If it doesn't work out, the next firm would be contacted. The committee, at the last meeting, did not rank any of the firms; they took it to a short list. The ranking is to be completed today.

Mr. Clevenger brought up the funding assistance; it is possible that the firm can supply some direction. They may not supply the direction but they should be prepared to address the issue. Mrs. Hann stated that, typically, architects don't chase funds unless they are asked. They may have a planner on staff that may be able to assist with this. Mrs. Clary-White stated she would like to challenge that Rood/Zwick has received some form of funding for each grant they have written. She was very impressed with the Town of Melbourne Beach's facility.

Bill Stephenson arrived at the meeting at 3:25 pm. He reported to the committee that it was not easy to get information regarding the firms that are presenting today. He found that information regarding Dave Nagrodsky was more forthcoming. Mr. Stephenson was advised that Mr. Nagrodsky comes to the job site himself; what you see is what you get. Rood/Zwick is doing a project in Cocoa at this time; no information provided as to how they are to work with. Mr. Stephenson was not able to find any information about HSA. He believes that all three firms are good and can do the job. Mrs. Clary-White stated Mr. Nagrodsky is local and most of his work is local. Both Mr. Nagrodsky and HSA has worked in the Palm Bay area.

The first presenters arrived at 3:25 pm and a short break was provided at 3:30 pm to allow set-up of their presentation. The meeting was brought back to order at 3:40 pm. Mrs. Hann asked that each member of the panel introduce themselves with their title.

D. PRESENTATIONS BY TOP THREE SHORT-LISTED ARCHITECTURAL FIRMS

1. 4:00PM ARCHITECTS IN ASSOCIATION ROOD AND ZWICK, INC.

Jack Rood, principal of the firm, came forward and presented to the committee. Mr. Rood introduce Travis Kerr, the project manager, Aaron Mauro and Robert Schlenker, both will assist with the design. This firm mostly builds for public use. They have done extensive work the Brevard Community College and the Brevard County schools; they have been in business for 20 years. This firm has prepared the prototype of the elementary schools; nine of these buildings have been built. They have experience with hurricane shelters. The design team includes Sklow Post Buckley Shuh & Jernigan and Landscape Architect.

Mr. Kerr came forward and presented the design of the building. It would be completed within four phases; those being the programming phase, the construction documents, bidding and construction administration. He provided samples of each phase.

Competitive bidding phase – brought on the planner (what is this)

Mr. Kerr went over the project delivery options. There are three options to choose from. They are design/bid/award, design/build and Construction Manager (CM/GC)-feels this is where they fall into; they are local and can respond immediately.

Mr. Kerr went over the plan for the Melbourne Beach town hall facilities. They needed three departments and common areas to share. All three departments wanted to face Front Street. All three departments have had the future growth taken into consideration. He also spoke of the Rockledge City Hall and how this plan came together.

Mr. Kerr provided a preliminary budget: 12,000 sq. ft. x \$175/foot = \$2,100,000; FF&E (furniture & equipment) \$300,000; wired/wireless systems \$100,000 and soft costs @ 10%

\$250,000. The building would be in the neighborhood of \$2,750,000 plus other unknown costs.

Mr. Kerr spoke of green building costs; these buildings have health benefits and overall environmental benefits. The upfront costs are realized with saving energy, water and reducing waste. All projects have green building in mind. LEED certification requires benchmarks are reached while designing the project. Each client is unique and the design is done to meet user needs; it would be a custom designed building. This firm has experience in libraries, municipal buildings, town halls, etc.

Mr. Rood came forward and thanked the committee for allowing them to make a presentation. This firm is ready to work with the Town. Mrs. Wilbanks-Free left the meeting at questions/answer segment of this presentation.

Mrs. Hann opened the question/answer portion of the presentation.

Mrs. Clary-White opened with her questions. The main concern for her is the history of Malabar and its buildings being presented. How would the firm tie into the rural history of the town? Who is the person to do the research of the town? Mr. Rood stated that some research has been done already; the rural character would be retained. He has worked with clients who want to keep the rural/historical values. He feels that working together as a team, these goals can be met.

With grant assistance, is this something that an experienced person takes care of? Mr. Rood stated that architects look at the big picture; he likes the challenge of the grants. All grants they have applied for have received funding. The key is knowing who is reviewing the grant and speaking to them to find out what the process is. Most grants are matching; the amounts vary.

Mr. Clevenger asked if the firm gets involved with land acquisition. Mr. Rood stated that they don't get involved but they can weigh the pros/cons of the site that is being looked at. They can take a site and lay out the building and parking improvements. They will assist in assessing a site to know what is best for the Town.

Mr. McKinnon asked what component of their project can be used for grant funds. Mr. Kerr and Mr. Rood both stated the hurricane aspects; they can provide specific cost estimating and verbiage to assist with the process.

If we are building from the ground up, if we found an existing building, could your firm do the expansion? Mr. Rood stated that this can be a difficult process; you have to be creative to work around existing constraints. Mr. McKinnon asked if we could use the same design if something is already built. Mr. Rood stated there would be some savings in the design. They do custom building; to modify the building may change the footprint of the building.

Mr. Frazee asked more operational question. Mr. Kerr is to be the project manager; would he be involved in the entire project? What is his authority to carry back to the firm for an expeditious answer to questions in the field? Mr. Kerr stated he speaks daily with Mr. Rood; it is something critical, a meeting would be set up to work out the situation. He works well with his associates and believes in being part of the team. Mr. Frazee asked if Mr. Kerr would make recommendations to Council regarding the contractors. Mr. Kerr stated he can do this to assist with the decision making process.

Mrs. Hann asked how Mr. Kerr would deal with having input from everyone with their wants. Mr. Kerr stated it's about having control of the meeting. Listen to what is being said; let them know what is in line with the budget and what is not. Mr. Rood stated he prefers to have a one owner contract. The information is taken and a presentation is made to see if this is the way the Town wants to go with this project. Mrs. Hann asked who will handle the public involvement. Mr. Kerr stated people have different interests in the project. The firm would come back with a power point presentation and work through the process with the decision makers. We need to understand who the decision makers are and who is interested in the project. The firm's role is to help facilitate.

Mrs. Clary-White asked how many projects Mr. Kerr manages at one time. Mr. Kerr stated the load varies; he may have two or three projects. It is very unlikely that these projects are in the same stages at the same time. One could be in the design stage and the other in the construction stage. He lives in Brevard County and mostly within range of his projects. The design team is out of separate offices but he does have a good working relationship all the way thru the project. All communications would come through Mr. Kerr.

Mr. Frazee asked how many employees are in the firm itself. Mr. Kerr stated there are ten and they have worked on projects up to \$20,000,000.

Mrs. Clary-White stated that an environmental engineer would be more in costs. Mr. Kerr stated that they do have staff to handle most situations. He will be the one here dealing with the community. Mr. Kerr has the confidence that he can work and handle most situations. Mr. Rood stated he has confidence in Mr. Kerr.

Mr. McKinnon has concerns about the budget; it could be more than the Town can handle. How do you assist in this area? Mr. Kerr stated it is very important to do budget sheets and see what is happening with the budget. He already recommends that a project has alternates. Mr. Kerr feels the Construction Manager delivery option is the way to go for this project.

Mr. Stephenson asked that they touch on the relationship with the general contractors and the economy with bidding the project. Mr. Rood stated the end of this year or early next year. It's not so much the equipment and the materials; it's within the contractors and sub-contractors. There is a lot of competition right now because the industry is slow.

Mr. Frazee stated it may be a double-edge sword; you could get a bid that is not valid. He recommends the Construction Manager/General Contractor process for this project.

A short break was taken at 4:35 to allow for the next presenters to set up. The meeting resumed at 4:40 pm. Mrs. Hann asked that each member of the panel introduce themselves with their title.

2. 4:45PM H.S.A. ARCHITECTURE INTERIOR DESIGN PLANNING

Craig Suman, principal, and Lori Dennis, project manager, and Marie Eisner, interior designer, came forward to present to the committee. They are representing Vaughn Holman, who is another principal in the firm. He is out of town at this time and unable to be here. Mr. Suman and Mr. Holman are both designers as well as architects. Within the last six months, a new designer has been brought on to their team. This firm works around the state; they have designed churches, office buildings; large and small projects. Each client is treated the same no matter what size the project is. Projects come in on budget and on schedule. They have

had reasonable success with keeping the budget. Their job is to communicate with the Town. A continuing relationship has been established with Brevard County; works with them on their Architectural Review Committee. They have run the information for this project and feel its pretty common for what the Town is looking for. They provided a handout at the meeting showing the stages of the project. The beginning, middle and end are what you are looking for. At this time, Mr. Suman asked the committee for questions. He stated he would expand on information as questions are asked.

Mrs. Hann opened the question/answer portion of the presentation.

Mr. Frazee-asked operational question. You would be the project manager? Ms. Dennis stated this is true, but we are all involved in our office. Mr. Holman is the principal for the project but if he's isn't available, Mr. Suman would step in. Mr. Frazee asked how free Ms. Dennis would be to go to a principal for answers should the need arise? You will have an active hands-on principal. An answer will be provided from one of the people on the project called.

Mr. McKinnon-explain how you would assist with planning, budgeting and the scope of work. We will meet with whomever the Town would like and do a questionnaire to obtain information for what you are looking for. Once we put this information into a plan, we would then meet back; we ask that one person be the true point of contact. The more complex the project is, the more funds will be needed. We would come to an agreement and go from there. We would also plan in the structure a five and ten year expansion plan. Mr. Suman likes to be involved with the project; if you manage the engineers, it helps to keep the costs down. Mr. McKinnon asked if we could build on an existing design with expansion. Mr. Suman stated it would depend on the building. Mr. McKinnon asked about making modifications. Mr. Suman stated when making changes, it makes it harder to make modifications to the plan.

Mr. Clevenger asked about their assistance with grant funding. Mr. Susman advised the committee that they don't do this. The research is fairly common. Mr. Clevenger asked who would be working with Council. They have not done a town hall before; churches are like a Council. They have assisted churches with finding funds.

Mrs. Clary-White stated she is looking for answers to hurricane shelters and FEMA approved buildings; your firm does not have experience in this. The consultant firm this firm uses has experience in this area. They also have several engineering firms that they work with. Bud Gardner has been working with the firm for several years. Mrs. Clary-White asked how many projects run at a time. Is there a limitation? Mr. Suman stated they have 15 employees at this time. The projects they have worked on more recently have been mold remediation. The industry has slowed down quite a bit and they have been able to pick the work when it was very busy. Scheduling is such that one or the other principals are available; if not, Ms. Dennis is available to take over. Ms. Dennis stated that in a four week time period, it would not be unusual to have four or five projects going, however, they would not all be at the same stage of progression. We limit the workload. They have a team that know about the project and a civil engineer would be consulted for this project as well. The landscaping would also be handled the same; they choose the consultants that would be best for the project.

Mrs. Hann asked who is going to be involved in the public involvement. Mr. Suman stated it would be Mr. Holman or Ms. Dennis. If neither one is available, then Mr. Suman would step in. Mrs. Hann asked if they have any public involvement ideas. Mr. Suman stated workshops would be a good way to get involvement; make everyone feel heard and then convince them

they are being shown their ideas. What if you have a project that is four times what we can afford? Mr. Suman stated this cannot be allowed to happen; we need to have control. There should be designated representatives; listen to everyone but take the information back and design something with the answers to the questions.

Mr. Frazee stated we need to get the right contractor for this project. Mr. Susman stated that they know a number of contractors who will watch out for the Town. A lot of the contractors will not do a public bid. We would like, along with you, to be involved with the advertising and interviewing to assist with selecting the contractor. We would look at the contract bids that come in and look for the "gotcha's" and make recommendations. We would have a full-time facility inspector on site. Mr. Frazee asks how the supervision of draws take place. Mr. Suman state the inspector would be on site taking pictures and looking at the project. Feedback would be given to the representative and advice provided during the draw process.

Mrs. Clary-White asked about their involvement with the land selection. They would bring in the experts to go over the property and make recommendations. Mrs. Clary-White asks what they have in mind for the total square footage of the building. Mr. Suman stated between 3,000 to 5,000 square feet; it would be worked to show what is needed. A lot of the buildings of this caliber is 6,000 to 10,000 square feet. We need to plan on something that will give the Town character. Mrs. Clary-White asks if they would keep us from the Palm Bay vernacular. Mr. Susman stated we can't get too restrictive with this; they don't have a set style.

Mr. Stephenson asked about the time frame for, based on the economy, going to bid. Mr. Suman stated that we need to get through the reviews and under contract within a month; needs to know what the Town wants as far as size. In October, we could be in a design development phase. Unless something terrible happens, you may have another year to year and a half.

3. 5:30PM DAVE NAGRODSKY ARCHITECTS

Dave Nagrodsky came forward and made presentation. He is the principal in the firm. He is working with Mr. Paladin on Paladin Shores, which is to be constructed off of US 1 in Malabar. He has also provided work for some repairs to the fire station during the 2004 hurricane season. His firm is small with only four employees. Harry Hoskins, the planner for his firm, came from the City of Melbourne with 14 years of experience. Mr. Nagrodsky advised the committee that he has been awarded the new city hall building for the City of Melbourne. It is a five-story building and five story parking garage. It is out to bid at this time and the plans are in for review as well. They are looking to start this project in September. Mr. Nagrodsky lives in Brevard County and the majority of the work he does is within the Melbourne/Palm Bay area. Mr. Nagrodsky advised the committee that he would be using the engineering team from CEG.

Dave Alley, who is a full engineer stated the company 10 years ago with himself and a mechanical engineer; they are now up to 20 employees total. Mr. Allen will be the electrical engineer for the project and will be responsible for the lighting and back-up generator. During the design and construction phases, Mr. Allen will be available.

Tom Adams, who is the structural engineer and principal, would be responsible for making sure the building stands and meets the wind load codes. He has the experience for what the Town is looking for..

Keith Couch, who is the mechanical engineer, has worked with Mr. Nagrodsky for the last 5 to 6 years.

Jake Weiss would be the civil engineer for this project. He has just finished the church on the corner of S. Marie Street and Glatter. He is now involved with the MIMA project on Malabar Road. During this process, there was a lot of work with the phasing to preserve the trees; the environmental issues were worked on very carefully. A project like this has a great opportunity. Mr. Wise has extensive experience in working with St. John's. One thing to consider is alternative parking areas. You can preserve the trees and environment with good planning. He also has knowledge of parking surfaces that are environmentally safe. There are a lot of alternative septic systems available as well. Dave Abernathy, Fire Marshal, would also work very closely on this project for the safety issues. All four principals of the company will be involved throughout the project; they are all in-house.

Mr. Nagrodsky came forward and thanked the committee for their time and for the opportunity of being on the short list.

Mrs. Hann opened the question/answer portion of the presentation.

Mr. Clevenger asked who the project engineer would be. Mr. Nagrodsky stated it would be himself. He would attend all meetings that are involved in the project. Mr. Clevenger asked about assisting with the funding of the project. Mr. Nagrodsky advised the committee he has never been involved in this activity but he would certainly try to assist in this matter.

Mr. Frazee stated that we would need 80% of Mr. Nagrodsky's time for this project. How many other projects do you have at one time? Mr. Nagrodsky stated he has had six to ten projects at one time, all at various stages. Two of the smaller projects were run by Mr. Hoskins. Mr. Nagrodsky is the person who would be on site and the "go-to" guy. Mr. Frazee asked how he would assist in finding the contractor. It was stated that he works with six to ten contractors within Brevard County. He would look for the contractor that would benefit the project. He has a good handle on who he would use on a project like this. Mr. Wise stated that this would go out to bid; he would try to provide an itemized bid list and give information. Grant funds may come in after the fact; you could take advantage of this and possibly increase the size of the building in certain areas. Mr. Frazee asks if there is any merit to obtaining the permit to cut down on change orders. Mr. Nagrodsky advises yes. If you are in a time crunch, you may want to go into permitting and bidding at the same time..

Mrs. Clary-White asks how involved do you get in the selection of the land and the building size. With regards to the building size, he would meet with the principals and see what is needed and what is wanted; a program would then be generated. Mr. Wise stated that site selection is most important. Mr. Wise stated site selection is most important in this project. A due diligence inspection is needed to look at the site and determine the specifics needed to facilitate the building needs. The experience needed for hurricane shelters would be coordinated with Mr. Adams. Mr. Alley has been involved with Brevard County EOC. The engineering level does not get involved with FEMA funding.

Mr. McKinnon asked who the project manager would be and who handles the day to day availability. Mr. Nagrodsky stated this would be himself. The question was asked of how the meetings would be conducted. Mr. Nagrodsky stated he would have one meeting a week until the design concept is complete. He anticipates have one to two meetings a week. He would then have a meeting with the town to go over construction documents. He goes to the site

every week to take care of whatever may come up. If the Town does decide to add hurricane protection, the guidelines are very strict; you may want the structural engineer involved in this. Mr. Wise advised that all inspections and permits must be signed off by the engineers and they must explain and deviations.

Mrs. Hann asked how the public is engaged. Mr. Nagrodsky stated that town will do advertising and get involvement from the citizens. He knows the other two firms are bigger; they are not working the entire project. He will be involved from start to finish.

Mrs. Clary-White stated the City of Melbourne has 100% of attention at this time. Did you research the town; where does your inspiration come from? Given the basic information needed; he based his floor plan with this in mind. How many drawings did it take for Melbourne? When presented to the board, he had four variations; he did not have to go back and forth. Do you work with a landscape architect? Mr. Wise stated it's a case by case basis.

Mr. Stephenson knows what things costs. With today's prices, what do you see? Mr. Nagrodsky stated \$150/sq. ft. Residential is dead; commercial is better.

Mr. Frazee asked how to protect against the low bid that may not be the best contractor. He would hope that at the bidding, he would be able to do a spread sheet to review the bids. He will try to curtail as many change orders as possible. The RFP will list certain criteria for the bidding process. We need to get a list from the contractors of what they are going to use; he will go through the bids and break down the information. With the way the market is today, very detailed bids should be received.

Mr. Stephenson asks what kind of percentage-wise savings you use. Mr. Nagrodsky stated 10 to 15%.

There was a break in the meeting at 6:13 pm. The meeting resumed at 6:26 pm.

E. BREAK 6:15PM

F. ACTION ITEMS

1. Ranking of Short-Listed Architectural Firms

Exhibit: Agenda Report No. 1

Recommendation: Discussion and ranking of Short-Listed Architectural Firms

At this time, Mrs. Hann asked the committee to give their feedback.

Mrs. Clary-White stated she would like to take the best from all of them. Rood/Zwick made the best presentation. A critical element with them is the project manager; doesn't seem to have the where withal to handle the job. He waited for Mr. Rood to answer the questions; they had very good answers for the hurricane issues.

With HSA, many times he referred to Mrs. Hann by name. They are very poetic and want to work with us but felt they didn't take the time to prepare. They have no experience with hurricane issues.

She is concerned about Mr. Nagrodsky. She would like to hear what the other committee members have to say.

Mr. Clevenger stated that Town needs someone to help get us started and finish the project; Rood/Zwick is his choice. Without the basic information needed, how can we go forward? We need to know what the Town wants; we need the land and we need to know the square footage.

Mr. Frazee speaks from a contractor's point of view. We have other things to consider. Mr. Nagrodsky is above the other two firms. He has a great engineering firm working for him; he puts the time into the projects. He may be able to assist with grants. We need all that Dave will do for us. Mr. Frazee also liked Rood-Zwick but has a concern with the project manager. The two principals for HSA take too many vacations; he's not sure what we will get. Mr. Frazee feels the project would be bounced around. We need to determine what the grant funds will get us.

Mr. McKinnon made is ranking by Mr., Nagrodsky, Rood/Zwick and then HSA. Mr. Nagrodsky has a one man team; Rood/Zwick has a bigger team. Mr. Nagrodsky has strong hands on quality. If we knew what we want, Mr. Nagrodsky would be the one to take the project.

Mrs. Hann stated she is concerned that Mr. Rood didn't let Mr. Kerr speak when asked questions. Mr. Kerr seems like a capable person; when he spoke, Mr. Rood would speak over him. She does like what they did for Melbourne Beach. She's also not sure that the grant funds were obtained by their firm; Rochelle Lawandales was mentioned by two firms.

Mrs. Wilbanks-Free spoke regarding the hardening of the building. She can assist with grant funding with the assistance of the engineer or architects input. She has completed the grants for this as well as landscaping in the past. There are various grants available; considerable costs would be the hardening of the building.

Mrs. Hann stated she didn't feel HSA took Malabar seriously. Mr. Nagrodsky would do a good solid job; he has a good team but she didn't get a great sense of creativity. Mr. Bohne stated that Mr. Nagrodsky is working on Paladin Shores and has done something at the fire department; how was he during the plan review. Mr. Stephenson stated he was not part of the plan review and could not say. Mrs. Hann asked if Mr. Stephenson spoke to the City of Melbourne regarding the new building. He stated he spoke with Bill Alcott of Pence. He also went by and looked at the building. Mr. Nagrodsky does a good job and is involved in the process. What you see is what you get. Mrs. Clary-White stated they built the Pence building with him; he's a little hard in the beginning to get the issues worked out.

Mr. Frazee stated he was not sure what the design involvement was with the Wesche building, but Mr. Nagrodsky put a beautiful building together, so there was creativity from somewhere. He also took over the project when the contractor was let go.

Mrs. Wilbanks-Free did make mention of a project from her past. When there was a problem with the project manager, it was made known. A new project manager was brought in and within a very short period of time, the issues were worked out. With this being an urban grant, some of the firms that inquired did not bid because they didn't want to work with this grant.

Mrs. Clary-White made comment about Mr. Nagrodsky hanging around after his presentation to hear what the committee comment might be. Mr. Wise demonstrated his ability to save our environment and has been in front of Council for numerous projects.

Mr. Bohne stated that Rood/Zwick may be too flashy for the town. When there's an issue in the town, Mr. Nagrodsky will be here. Mr. Wise and their firm can and has dealt with this in the past. Mr. Bohne advised that he ranked the firms himself and came up with Nagrodsky and Rood/Zwick to be his first and second choice. He feels you will see Mr. Wise. Mrs. Hann stated that Mr. Nagrodsky would be very receptive to the input of the Town. With Rood/Zwick, it may take some doing to get them off of what they want to do.

Mr. Stephenson made mention that you won't see a lot of these people once construction starts. When their portion of the construction comes up, this is when you will see them. The electrical engineer will be out there several times. The structural engineer will be on site may be a couple of times to make sure all is well. The civil engineer will be out for up-front permitting and the parking lot pour. Mr. Frazee is in agreement with this observation.

Mrs. Hann asked for the consensus of the committee:

Mr. Frazee – Nagrodsky, Rood/Zwick and HSA

Mr. McKinnon – Nagrodsky, Rood/Zwick and HSA

Mrs. Hann – Nagrodsky, Rood/Zwick and HSA

Mr. Clevenger – Rood/Zwick, Nagrodsky and HSA – how much involvement is the Town going to need in order for this to be built? We need a lot of help. We have nothing to start from.

Mr. Stephenson stated that all points are good but you need to have a project to fund and we need to pick the architect. If we don't have the project, we don't get any funds.

Mrs. Clary-White – Rood/Zwick, Nagrodsky and HSA

Mrs. Hann asked the committee if we want to interview the firms again. Mr. Stephenson stated that this isn't necessary; what are you going to find out in other interview that you didn't get this evening? Mr. Bohne stated that this needs to be done this evening; we don't want to drag this process out. Ms. Kelley advised the committee that this grant has a window of opportunity of 18 month from the 2004 hurricane season to get the funds. Once the funds are obtained, there is no time limit on the construction side of the project. The architect is key in getting the funding. Mr. Bohne stated the committee needs to rank the three firms and give this information to Council.

Mr. Stephenson stated this is a normal process for the committee to go through. The first two presenters are a tie; different information came into play with each firm and how the presented. What's best for Malabar? Mr. Stephenson ranked each firm within one point of each other; he wants to know how the project manager will handle the problems on the job site.

Mrs. Hann stated we have three options: 3-2 vote, adjust the voting or invite them back. It is the general consensus of the committee to provide the ranking to Council and let them take this information to be considered.

Ranking is: 3 – Nagrodsky #1 votes
2 – Rood/Zwick #1 votes
0 – HSA no votes at all.

D. ADJOURNMENT

There being no further discussion, this meeting adjourned at 7:20 pm.

BY:

Chair Sue Hann

ATTEST:

Susan Kabana, CMC
Town Clerk/Treasurer

Date

MALABAR ARCHITECT SELECTION COMMITTEE MEETING
JULY 31, 2007 6:30 PM

This meeting of the Town of Malabar Architect Selection Committee was held at Malabar Town Hall, 2725 Malabar Road.

A. CALL TO ORDER, PRAYER AND PLEDGE

Since there was no Chair Kabana called the meeting to order and led the prayer and pledge.

B. ROLL CALL

COMMITTEE MEMBERS:	JIM CLEVINGER RENEE CLARY WHITE CHARLES FRAZEE SUE HANN CRAIG MCKINNON
TOWN ADMINISTRATOR:	BONILYN WILBANKS-FREE
ENGINEER	BILL STEPHENSON
TOWN CLERK/TREASURER:	SUSAN KABANA

Kabana noted that Town Administrator, Bonilyn Wilbanks-Free, Council Member Nancy Borton and Mayor Tom Eschenberg, were in the audience.

C. ACTION ITEMS

1. Selection of Committee Chair

MOTION: McKinnon/Clary White to elect Sue Hann as chair.

There were no more nominations.

MOTION: Clary White/Clevenger to approve. VOTE: All aye.

Hann asks for staff comments on the proceedings of this meeting. Kabana – read an email from Town Attorney Karl Bohne: **insert email from Karl here.**

Stephenson – notes that all the proceedings must be in the Sunshine. Hann explains that all communication must take place at the public meetings, there can be no outside communication.

Stephenson – notes that staff does not know the space needs, this will be one of the things that must be determined by the architect. We also do not have a site as of yet. We tried to obtain land from FPL and have also looked at the land near the fire station. Once an architect is chosen they will have to meet with the Council to determine the needs of the Town. He knows that the term 'old vernacular' has been used to describe the style desired.

Frazee – asks what are the dollars the Town is going to spend on the project?
Wilbanks-Free – states that the Committee cannot discuss dollars at all. Stephenson – states that the Committee can probably get a per-square-foot determination from the proposals.

Wilbanks-Free – notes that we were turned down by the EEL's for the land on Malabar Road. States that we now have about 3,300 sq ft and doubling that to 6,000 is what staff was thinking of for size.

Kabana showed a Power Point presentation the Mayor created from a trip to a St. Cloud community center/hurricane shelter. Mayor Eschenberg stated that the vernacular shown in the presentation was something Council was interested in for the new Town Hall.

Hann – asks what is the process? Stephenson – the Committee can use the ranking lists supplied or just go by the books themselves. Then the Committee should pick three or four architects to present. Then the Committee would rank the firms and those rankings would be given to Council. Once the Mayor and the Council get the rankings they can either take the recommendation of the Committee and go from there or they can throw that all out and start over. But he feels that Council does not want to repeat all that work and they will first negotiate with the number one ranked firm and if needed then number two and so on. Feels the committee has a fair amount of responsibility to pick out the best firm.

2. Ranking of Architects per the submitted Requests For Proposals

Exhibit: Agenda Report No. 1

Recommendation: Discussion and ranking of RFP's

McKinnon – ranked four firms and no more. Clary White ranked three and Frazee ranked three.

Frazee – Dave Nagrodsky, H.S.A., Rood & Zwick

McKinnon - Rood & Zwick, Dave Nagrodsky, H.S.A. Starmer Ranaldi

Cleveanger - Nagrodsky, Rood & Zwick, H.S.A.

Clary-White - Rood & Zwick, Nagrodsky, H.S.A.

Hann - Rood & Zwick, Nagrodsky, Woodruff.

Clary-White – two of the three projects teamed up with TLC. Discussion continued regarding the different architect firms.

Hann - Rood & Zwick, Nagrodsky and H.S.A. are top three – is this a good place to start. The Committee agrees and would like to interview them.

Hann – feels that the Committee should come up with a list of questions which can be emailed to Kabana who can then include them in the transmittal to the architect.

Hann – it is very important to her not to have the marketing person present. We should ask to have the team working on the project present. It is very important to her that they can communicate with the public, she will be watching for this.

Clary White – feels that we need to differentiate ourselves from Palm Bay. We don't want to use the same gingerbread and style as them. We don't want the Malabar Road corridor to continue looking the same as Palm Bay. We need to look like ourselves.

Clary White – notes that at least two of the top three have LEED certification and Rood and Zwick had that, they also have a stormwater manger which will help. And they have had great success with obtaining grant money.

Clevenger – feels we need to give enough information to the architect so they can present. Clary-White – feels the firms can work with the information we've supplied, they've done more with less information than that.

Hann – asks about the architects involvement with the public. Kabana – the Rural Development packet for the architect has requirements for the architect to have public meetings.

Kabana – notes that grant funds were available from Rural Development but we may not make their deadline to apply for those funds. Wilbanks-Free – but Rural Development said that they can lock in the funds at one point in the process but we need to hire the architect first.

Discussed the length of the architect presentation, 30 minutes worked well last night, but one hour per firm is decided on.

Hann – who from the firms should be present at the meeting? **Email Rene.** Hann – wants the team manager as well as landscape and stormwater people. And she wants the public involvement person here and she wants them to speak at the presentation.

Stephenson – notes that it is not uncommon to see the same project on different proposals, he would not place a whole lot of weight on the projects. The key to a good project is the project manger, if you have a good project manger then you have a good project.

Hann – who will call the references? Stephenson – he will develop a list of questions to ask the references and call them himself.

Clary White – also would like to learn of three projects that they haven't listed.

There is much discussion on how to structure the meeting. It is finally decided that the meeting will begin at 3:00pm and from 3pm to 4pm the Committee will discuss the Engineers findings on the references. After that each presentation will last 45 minutes. Staff is to let the firms know that they will have 20 minutes to present and then 20 minutes for Q&A with 5 minutes for a break or transition. There will be a presentation at 4pm, at 4:45pm, and at 5:30pm. With dinner served at 6:15pm and after dinner the Committee will reconvene and make the final rankings to present to Council. Kabana is to coordinate snacks and dinner.

Wilbanks-Free – will assist Kabana in writing a letter to the remaining firms that they are currently not on the short list.

Hann – notes that in the City of Palm Bay, at the last consultant presentation, all the consultants showed up at the public meeting to listen in on the other presenters.

Stephenson – is anyone interested in him looking at any of the projects listed? Clary White – is not sure that is necessary, we know most of those projects listed.

Stephenson – it may be good to call the contractor. Frazee – agrees about calling the contractors, notes that contractors turn down projects based on the architect.

Wilbanks-Free – it would be good to know how many change orders there were on a project, thinks Stephenson should ask when he calls the contractor, the Committee agrees.

Wilbanks-Free will assist Kabana in writing the letter to the firms that were chosen to present and then this letter will pass through Hann before going out to the firms.

Discussion of when to have the next meeting. August 15th at 3:00pm is chosen. All members will verify their calendars and get back with Kabana if there is a conflict.

D. ADJOURNMENT

Meeting adjourned at 7:36pm.

TOWN OF MALABAR

BY:

Chair Sue Hann

ATTEST:

Susan Kabana, CMC
Town Clerk/Treasurer

DATE:

TOWN OF MALABAR
TOWN COUNCIL MEETING

AGENDA ITEM REPORT

AGENDA ITEM NO: 5
Meeting Date: August 20, 2007

Prepared By: Debby Franklin, Administrative Assistant to the Building Official

SUBJECT: Recommendation to Appoint Bud Ryan to Regular Member of Planning and Zoning Board

BACKGROUND/HISTORY:

Planning and Zoning Regular member Kathleen Clasen submitted her letter of resignation effective 7-21-07. She had volunteered on this Board since 2000. Bud Ryan has been Alternate #1 since 2006 and was a regular board member since 2005. Mr. Ryan had to resign from the Board in 2006 in order to run for a Council seat. The P&Z Board at the meeting on August 8, 2007 discussed this appointment and made a motion to recommend Bud Ryan to replace Kathleen Clasen as the regular member with a term to expire 10/2010. Ms. Clasen's term would have expired 10/2007.

Planning and Zoning would then have one opening for an alternate seat.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Memo 07-ABD-043 dated 7-26-07
P&Z minutes dated August 8, 2007
Letter of Resignation dated 7-20-07
Bud Ryan's Application for Appointment
P&Z Board Committee Membership and terms
Code of Ordinances Section 1-12.3

ACTION OPTIONS:

Motion to approve.

TOWN OF MALABAR

MEMORANDUM

Date: July 26, 2007 07-ABD-43
To: Susan Kabana, Town Clerk
From: Debby Franklin, Administrative Assistant to the Building Official
Ref: Planning and Zoning Board

Ms. Kathleen Clasen resigned from the P&Z Board effective 7-21-07. A copy is attached.

According to Resolution 06-2006, her term was due to expire in 2007.

Planning and Zoning will be providing a memo to Council recommending an alternate to move to seat number 3. That is on the P&Z agenda for August 8, 2007.

The Planning and Zoning Board will then be in need of a volunteer to serve as an alternate.

Thank you for your attention to this.



PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY, AUGUST 8, 2007
7:30 PM
MALABAR COUNCIL CHAMBER
2725 MALABAR ROAD
MALABAR, FLORIDA

AGENDA

- A. CALL TO ORDER, PRAYER AND PLEDGE
- B. ROLL CALL
- C. ADDITIONS/DELETIONS/CHANGES
- D. CONSENT AGENDA
 - 1. Approval of Minutes
Regular Planning and Zoning Meeting – 07/25/07
Exhibit: Agenda Report No. 1
Recommendation: Motion to approve
- E. PUBLIC: GENERAL ITEMS NOT ON AGENDA
- F. ACTION ITEMS:
 - 2. Recommend P&Z seat # 1 replacement
- G. DISCUSSION ITEMS
 - Continue review of Goals in Comprehensive Plan for E.A.R. preparation
Exhibit: Previously handed out
- H. OLD BUSINESS/NEW BUSINESS:
Florida Vernacular Ordinance
- I. ADJOURN:

**TOWN OF MALABAR – PLANNING & ZONING ADVISORY BOARD
8/8/07 MEETING MINUTES**

ROLL CALL:

Bob Wilbur, Chair	Bill Stephenson, Town Eng, excused
Richard Cameron, excused	Debby Franklin, Secretary
Patrick Reilly, V-Chair, excused	Keith Mills, Town Planner, excused
Kathleen Clasen, resigned 7-25-07	
Don Krieger	
Bud Ryan, Alt. #1	
Cindy Zindel, Alt. #2, excused for month	

Town Administrator Bonilyn Wilbanks-Free (BWF) was in attendance. No members of Council or the Mayor were in attendance. Resident Juliana Hirsch was present in the audience.

Meeting called to order at 7:30PM. Prayer and Pledge led by Chair Bob Wilbur.

ROLL CALL OF MEMBERS – see above.

ADDITIONS AND DELETIONS: none

MINUTES FROM JULY 25, 2007 ADVISORY BOARD MEETING:

MOTION: Reilly / Krieger to approve minutes of July 25, 2007 as presented.
Pg 3 5-1.2 regarding shoreline change to “or is not listed properly”
Vote: All Aye.

E. PUBLIC – other than on the agenda

F. ACTION ITEMS:

Recommendation to Council for who should be seated after Kathleen Clasen’s resignation.

MOTION: Krieger / Wilbur to recommend that Council appoint Bud Ryan to fill Kathleen Clasen term on the Board. **Vote:** All Aye.

G. DISCUSSION ITEMS

**Continue review of Goals in Comprehensive Plan for E.A.R. preparation
Exhibit: Previously handed out**

Got through Goal #6 at last meeting. Board hopes to finish review of the nine Goals in the Comp Plan to present this review to the company selected to perform the E.A.R. Board will also offer some summary of issues they consider important.

BWF said that the planning firm has been selected and they are working out the proposal and they will be meeting with this Board and the community.

Begin at -
Goal #7 Recreation

Obj 7-1.1 System shall be maintained – Yes

Obj 7-1.2 Protect Open Space – Yes - reclassify zoning for the EELs property. Ryan asked about the recreational requirements – State will require compliance

Obj. 7-1.3 - Coordination - Yes

Goal 8 Coordinate with other agencies

Obj 8-1.1 - Coordinate with other agencies – Yes and add Grant-Valkaria. Wilbur also asks for overlaps of neighboring communities and the land use designation of those lands.

Policy – 8-1.1.2 – Coordinate with Palm Bay re: Adult Entertainment

Obj. 8-1.2 – Conflict Resolution – Yes – do we have a member on the intergovernmental board? TA was not attending or not relaying information. Council needs to assume that responsibility to have a Council person at these meetings.

Obj. 8-1.3. – Infrastructure – LOS (level of service) – Yes

Obj 8-1.4. – Multijurisdictional Steering Committee – Yes – The liaison should be a Council member - Other new agencies should be added – such as Marine Resources Council

Obj. 8-1.5: - Data Base – Yes, barely but it is being improved by putting facility management, roads, capital improvements, and it is being improved

Goal – 9-1.Capital Improvement – Yes and currently improving the list

9-1.1.1 Scheduling and amount – at 25K to 50K is that too low? Yes. BWF said she is looking at putting in drainage projects that will have high dollar amounts. Bonnie will check and see what a capital improvement are gauged – percentage or dollar amount. She wants to have an active 5 year plan and have projects roll off and get added on each year. This keeps continuity. She also suggests a strategic plan.

Policy 9-1.1.3 Policies – P&Z shall have authority to list and rank the 5-year plan

Obj. 9-1.2. Yes - Limitation on Public Investments in the Coastal Preservation areas

Wilbur explained the remnants of the historical Mailboat dock – it was a 800' by 200' wide dock with rail to allow for cart movement to haul mail and goods from the steamboats to the land. Krieger explained that there has been a lot of land loss from the making of Highway 1 and then recently by the hurricanes. Wilbur relayed the Glatter family truck gardening and then they trucked it to the train and shipped it to NY. There is a lot of history in Malabar.

Coastal Management Element – Krieger thinks it should be collected and put it all under recreation or keep the salt water and the fresh waters separately. He also mentions that the spoil islands are being managed

Obj. 9-1.3 Yes - Future Developments share a cost - Article XVII to change recreational fee calculation. Base it on land value - not what was paid for the land. We can use this money for our match on grants. They discussed HOA improvements. They then discussed density of the areas north of Malabar Road. Weir Street was RS15, Tamarron was PUD, Brook

Hollow was a PUD, and Marie Street RS10 was all planned for possibly hook up with Palm Bay water.

Obj 9-1.4 – Yes Recreational Impact money is tracked separately.

Obj 9-1.5 – Management of Development Orders and Permits. These LOS numbers will be updated by Planner. Also the roads – Krieger said he is concerned with Weber and Corey Roads. He said then that they should be given. The basic statement should be that we want to increase the zoning along Malabar Road and have approved projects with no deceleration lanes. Wilbur said the Brevard MPO is identifying deficiencies and will be showing that the north side should be piped and a sidewalk will come to connect hospital, PO and Scrub. Krieger said bicyclists don't use sidewalks. This Town should be bike friendly. We should interact with our bikes and horses. Ryan said that we would need a barrier.

Wilbur wants signage along Malabar Road. Wilbur is talking about mom and kids who want to get to a library. BWF said that up until 2025 the MPO has no plans to widen Malabar Road. Wilbur is looking for a gateway plan now rather than retrofit. BWF said that the planning firm that was picked put in hourly rates to do those types of things. She mentioned Sunny Isle as an example.

Obj. 9-2.1 Yes Capital Imp items

Obj 9-3.1 Yes Budget for annually – P&Z needs to be involved. Town Council needs to keep P&Z in loop. When this was written there was no Town Administrator and now we need to keep in the loop.

Goal 10 – Monitoring

Obj 10-1.1 - Yes - Shall monitor and recommend to Town Council – Continue to ask Town Council for updated maps and overlays, aerials, and powerpoint maps. It is so necessary to have current maps.

Mrs. Juliana Hirsch said we need to take the responsibility to follow through on the zoning changes. Ryan said it is due to safety issues. Hirsch said that once the stuff comes there will be lights and turn lanes. They will be changed once development comes. Ryan said they will not slow down on Malabar Road.

Citizen participation – include links on the website. Also provide land use and zoning maps with overlays on the website. Krieger says the major arteries should be higher use. The zoning should be increased as we discussed and then let the people decide what they want to do. The zoning should come first – let them know what the future. The access and other issues will be left to each site plan. The joint workshops have laid out what we essentially want. All the work we have done over the past two years – If we had the gateway plan would any of these storage projects be changed? Wilbur said if we had the gateway plan in place ten years ago then we would be attracting higher class development. Wilbur said we need to know how many driveway cuts FDOT will allow along Malabar Road.

Obj 10-1.2 – Criteria to continue evaluating – Yes -

Agenda item for next meeting – short review and then discuss some issues to be included in the letter to DCA. The generalities and follow the 10 items.

H. OLD BUSINESS/NEW BUSINESS:

Florida Vernacular Ordinance – no action

Building Official will be offered a position and if accepted may start in 30 days.

I. ADJOURN:

MOTION: Krieger / Ryan to adjourn. Vote: All Aye. Meeting adjourned at 9:50 PM

Debby Franklin, Secretary

Bob Wilbur, Chair

Date approved

7/21/07



Town of Malabar

RE: Kathleen Clasen
Planning & Zoning

Please accept my resignation
from the Board effective

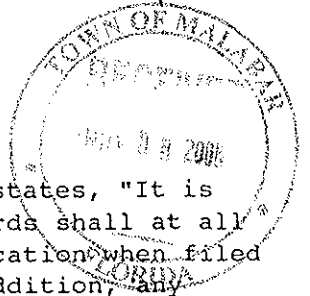
7/21/07. Thank you for the
opportunity to serve. It has
been my privilege & pleasure.

Sincerely

Kathleen Clasen

TOWN OF MALABAR

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE



NOTE: Florida's Public Records Law, Chapter 119, Florida Statutes states, "It is the policy of this state that all state, county, and municipal records shall at all times be open for a personal inspection by any person." Your application when filed will become a public record and subject to the above statute. In addition, any appointed member of a board of any political subdivision (except members of solely advisory bodies) and all members of bodies exercising planning, zoning or natural resources responsibilities are required to file a financial disclosure form within 30 days after appointment and annually thereafter for the duration of the appointment as required by F.S. Chap. 112.

(Please type or print clearly.)

DATE: NOV. 8, 2006

NAME: CHARLES RYAN

TELEPHONE: _____

ADDRESS: 1923 HOWELL CANE MACA

REGISTERED VOTER: ☒ YES ☐ NO

RESIDENT OF TOWN FOR 6 MONTHS OR LONGER: ☒ YES ☐ NO

OCCUPATION: SEMI-RETIRED BUSINESS MGR & Fleet. TECH.
(If retired, please indicate former occupation or profession.)

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES: FORMER P&Z BOARD
MEMBER AS WELL AS BOARD OF ADJ.

ADDITIONAL PERTINENT INFORMATION/REFERENCES: HAD TO RESIGN FROM
P&Z IN ORDER TO RUN FOR TOWN COUNCIL

I am interested in serving on: PLANNING & ZONING BOARD, AGAIN

Second choice (if any): _____

Any board/committee for which I am qualified: _____

(By Town Charter, most boards require removal of members after 3 successive absences.)

Charles Ryan
(Signature of Applicant)

(The Planning & Zoning Board and the Board of Adjustment are continuing boards. At various times, the Town has had or may have ad hoc committees. Incumbents whose terms expire will be considered for reappointment without filing an application, unless they have indicated they no longer wish to serve, or unless the Charter prohibits extending their terms.)

Please return this form to: Town Clerk
Town of Malabar
2725 Malabar Road
Malabar, FL 32950-4427

(wp50\keep\applappt.fm)
(rev. 2/23/94)



MALABAR BOARDS

Members and Terms

as of May 21, 2007

All Terms run from November 1 to October 31

District Began Expiration

PLANNING AND ZONING

Bob Wilbur	1	1986	2008	
Richard Cameron	4	1998	2008	
Kathleen Clasen	2	2000	2007	Resigned 7/21/07
Patrick Reilly	3	2001	2007	
Don Krieger	3	2005	2009	
Charles 'Bud' Ryan		2006	Alternate 1	
Cindy Zindel		2006	Alternate 2	

All terms are for 3 years.

which shall be governed by the Florida Rules of Civil Procedure, or by petition for writ of certiorari, which shall be governed by the Florida Appellate Rules. The election of remedies shall lie with the appellant.

Cross reference—Administration, ch. 2.

Section 1-12.3. Town Planning and Zoning Board (local planning agency).

A. *Establishment, Composition and Terms.* The Planning and Zoning Board is hereby established and shall consist of five (5) members and two (2) alternates who shall be residents of the Town and shall serve without compensation. The Town Council shall appoint each for a term of three (3) years. The terms shall be staggered. Existing members shall hold office for the term for which each member was appointed. The Town Council shall hereinafter establish a sequence for the staggered terms. If a vacancy occurs, the Town Council shall within thirty (30) days therefrom fill the vacancy for the unexpired term. Members of the Board shall hold no other Town office.

Any member may be removed from office for cause by the Town Council upon written charge and public hearing.

1. *Alternate Member Duties.* The alternate member of said Planning and Zoning Board may attend all meetings of the Planning and Zoning Board but shall act only in the absence, disability or disqualification of a regular member thereof. When an alternate member acts, the minutes of the Planning and Zoning Board shall reflect the name of the absent, disabled or disqualified member in whose place and stead the alternate is acting. The absence of a member, including the alternate member, for three (3) consecutive meetings, without an excuse approved by the Chairman of the Planning and Zoning Board, and noted in the minutes, shall be deemed cause for removal by the Town Council.
2. *Vacancies.* Vacancies shall be filled for the unexpired term of any members whose term becomes vacant. The Town Council shall fill any vacancy within thirty (30) days after the vacancy occurs. The alternate may, in this event, be appointed as a member, whereupon the resulting vacancy in the position of alternate shall be filled as provided in this Section.

B. *Designation as Local Planning Agency.* Pursuant to and in accordance with F.S. § 163.3174, the Local Government Comprehensive Planning Act, the Town Planning and Zoning Board is hereby designated and established as the local planning agency for the city. The local planning agency, in accordance with the Local Government Comprehensive Planning Act of 1975, F.S. § 163.3161–3211 shall:

1. Conduct the comprehensive planning program and prepare the Comprehensive Plan or elements or portions thereof for the city.
2. Coordinate said Comprehensive Plan or elements or portions thereof with the comprehensive plans of other appropriate local governments and the State.

3. Recommend the Comprehensive Plan or elements or portions thereof to the Town Council for adoption.
4. Monitor and oversee the effectiveness and status of the comprehensive plan as may be required from time to time.

C. Authority, Powers and Proceedings.

1. *Authority.* The Town Planning and Zoning Board shall abide by all the applicable provisions of the Town Charter, as amended, and Chapter 163.3174, et seq., F.S. The authority of the Planning and Zoning Board of the Town of Malabar is intended to be advisory only. Nothing contained herein shall be construed to grant to the Planning and Zoning Board final decision making authority.
2. *Functions and Powers.* The functions and powers of the Town Planning and Zoning Board shall include:
 - a. Acquire and maintain such information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions. Such information and material may include maps and photographs of man-made and natural physical features of the area concerned, statistics on past trends and present conditions with respect to population, property values, economic case, land use, and such other information as is important or likely to be important in determining the amount, direction, and kind of development to be expected in the area and its various parts;
 - b. Establish principles and policies for guiding action in the physical development of the Town;
 - c. Advise and consult with administrative staff and others as may be directed by the Town Council in preparing the Comprehensive Plan, recommending amendments to the Plan based on continuing Plan evaluation; and in recommending to the Town Council courses of action and proposed ordinances and regulations designed to promote orderly development as may be necessary to implement the Plan or to carry out any function of the Board;
 - d. Determine whether specific proposed developments conform to the principles and requirements of the Comprehensive Plan as to growth and improvement;
 - e. Keep the Town Council and the general public informed and advised as to the physical development of the Town;
 - f. Conduct such public hearings as may be required to gather information necessary for the preparation, establishment, and maintenance of the Comprehensive Plan, as well as all other public hearings provided for hereby or by the Town Council;
 - g. Make or cause to be made any necessary special studies on the location, condition, and adequacy of specific facilities in the area. These may include, but are not limited to, studies on housing, commercial and industrial conditions and facilities, public and private utilities, and traffic, transportation, and parking;

- h. Consider all plats subdividing lands, as well as all newly proposed streets or extensions thereto, and recommend acceptance, modification, or rejection thereof; prepare regulations for the subdivision and platting of land; review all plans for such streets and subdivisions, including all required community facilities such as drainage, water and wastewater facilities, and all other needed public improvements; and forward to the Town Council written recommendations on such matters;
 - i. Undertake studies of Town public land needs and recommend site acquisition for the same, including development plans and requisite facilities;
 - j. Consider all questions involving the location, removal, or alteration in any way of any work of art belonging to the Town, including monuments, memorials, and statuary, that is not kept indoors or assigned hereby or by ordinance to the jurisdiction of another agency; and, prior to the acceptance or rejection of any proposed gift to the Town in the form of a monument or memorial, to approve or recommend modification or rejection of a sketch or plan thereof and the proposed location thereof;
 - k. Annually prepare or update the capital improvements program and budget in conjunction with the Town Planner and Town Engineer, including the list of the capital improvements recommended for construction during the next fiscal year and the five (5) year period following it. This process should include identification of recommended order of priority thereof, the year recommended for beginning construction, the year recommended for completing construction, and the estimated costs thereof;
 - l. Carry out powers of site plan review; and
 - m. Perform any other duties which lawfully may be assigned to the Board.
3. *Rules of Procedure.* The Planning and Zoning Board shall establish and adopt Rules of Procedure subject to approval by the Town Council, which include policies for, but not limited to, election and duties of officers; meeting schedule, time, and place; establishing order of business and method of transaction; procedure for action and voting by members; conduct of public hearings; rules of conduct; parliamentary procedure; maintenance of records; and method of amending same.
- a. *Officers.* The Planning and Zoning Board shall elect a Chairman and a Vice Chairman from among its members. The Board shall appoint a Secretary who may be an employee of the Town.
 - b. *Meetings.* The Board shall meet at regular intervals to be determined by it and at such other times as the Chairman or Board may determine. It shall adopt rules for the transaction of its business and keep a properly indexed record of its resolutions, transactions, findings and determinations. Such record shall be a public record. All meetings of the Board shall be public.
 - c. *Administration of Business Affairs.* The Board may, subject to the approval of the Town Council and within the financial limitations set by Town Council appropri-

ations or by other available funds approved by the Town Council, employ such experts, technicians, and staff as may be deemed proper and pay their salaries, contractual charges and fees, and such other expenses as are necessary to conduct the work of the Board.

- d. *Procedures for Planning and Zoning Board.* Rules of the Planning and Zoning Board shall also apply to the Board acting under powers extended to the Planning and Zoning Board in Chapter 163 [F.S.]. Members of the Planning and Zoning Board shall continue to be appointed and follow such rules of procedure, methods of choosing officers, setting of public meetings, providing of financial support, and accomplishing its duties as provided in existing city ordinances. All meetings of the Planning and Zoning Board shall be public meetings and all agency records shall be public records. The Planning and Zoning Board shall encourage public participation.
- e. *Funding of Planning and Zoning Board.* The Town Council shall appropriate funds at its discretion to the Planning Agency for expenses necessary in the conduct of its work. The Planning and Zoning Board may, in order to accomplish its purposes and activities, expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans, and other sources, provided acceptance of loans or grants must be approved by the Town Council.
- f. *Establish a Schedule for Comprehensive Plan Review.* The Planning and Zoning Board Rules of Procedure shall establish a schedule for the review of the Comprehensive Plan pursuant to Chapter 163.3191 F.S. to determine whether Comprehensive Plan amendments are desirable.
- 4. *Appeals of Planning and Zoning Board to the Town Council.* Decisions of the Planning and Zoning Board are advisory in nature. Actions and requests approved by the Planning and Zoning Board shall not be binding upon the Town of Malabar until approved by majority vote of the Town Council. Any aggrieved property owner may appeal the decision by filing a written appeal with the Town Clerk within ten (10) days of the decision of the Planning and Zoning Board. It shall require three (3) affirmative votes of the Town Council to override the Planning and Zoning Board.

D. *Planning and Zoning Board Reviews Required.* Pursuant to the State's Local Government Comprehensive Planning Act, the following Reviews by the Planning and Zoning Board are mandated:

- 1. *Review of Development for Consistency with Comprehensive Plan.*
 - a. *Intent.* In compliance with Chapter 163.3194 F.S. all development within the Town of Malabar and all development orders and public actions related to such development shall be consistent with the Town's adopted Comprehensive Land Use Plan as may be hereafter amended. "Development order" as stated herein shall mean any order granting, denying, or granting with conditions an applica-

tion for a development permit, building permit, zoning permit, subdivision approval, rezoning, variance, or any other action having the effect of permitting the development of land as defined in Chapter 163.3161 F.S.

- b. *Review by Planning and Zoning Board.* Where the Building and Zoning Official or other administrative official as may be charged by the Town Council, determines that a question exists as to a development application's consistency with the Comprehensive Plan, a written report and recommendation regarding such question shall be forwarded by the administrative official to the Planning and Zoning Board for its review. The issue shall be placed before the Planning and Zoning Board at its next regularly scheduled meeting. The applicant shall be notified of the meeting date, time, and place of the meeting. Decisions of the Planning and Zoning Board may be appealed to Town Council pursuant to Section 1-12.3(C)(4) of this Article.
 2. *Review and Amendment of Comprehensive Plan.* At least once every five (5) years, the Comprehensive Plan or the completed parts thereof shall be reviewed by the Planning and Zoning Board to determine whether changes in the amount, kind, or direction of development of the area, or other reasons, make it beneficial to make additions or amendments to the plan. If the Town Council desires an amendment or addition to the Comprehensive Plan, it may, on its own motion, direct the Planning and Zoning Board to prepare such amendment; and if such amendment is in accordance with the purposes of the Comprehensive Plan, the Board shall do so within a reasonable time as established by the Town Council. The procedure for revising, adding to, or amending the Comprehensive Plan shall be the same as the procedure for its original adoption.
 3. *Review of Land Development Code Adoption or Amendment.* Prior to adoption or amendment of the land development code, the Planning and Zoning Board shall review such regulations and maps, [and] hold appropriate hearings as required pursuant to Chapter 125.66 F.S. The Planning and Zoning Board, regardless of the source of a proposed land development code change, shall hold a public hearing or hearings thereon, with due public notice, and submit written recommendations to the Town Council for official action on the proposal.
 4. *Review of Development Plans and Policies Required to Carry Out Powers Described Herein or Delegated by Town Council.* The Town Planning and Zoning Board shall conduct such other reviews of development plans and policies as shall be necessary to effectively carry out duties and responsibilities described in Chapter 163 F.S., stipulated in this Code, or delegated otherwise by the Town Council.
- (Ord. No. 94-1, § 2, 5-16-94)

Section 1-12.4. Town Council's role.

A. *Legislative Intent.* The legislative intent of the land development code is to provide the Town Council of the Town of Malabar zoning powers necessary to implement the Comprehensive Plan consistent with enabling legislation of Chapter 163 F.S.

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 6

Meeting Date: August 20, 2007

Prepared By: Bonilyn Wilbanks-Free, Town Administrator

SUBJECT: Accounting Services for Monthly Closings

BACKGROUND/HISTORY:

At the Budget Workshop on August 9, 2007, I recommended to you to consider accounting services for the monthly book closing and to solicit an RFP for these services. I spoke with the auditor, Russ Whitley and explained what we were considering doing. He did not have any individual companies that handled government accounting services per se. I contacted the company that I know is used in to South Florida cities (Village of Virginia Gardens & Hialeah Gardens) and his business is located in Orlando. He commutes to those cities once a month.

I spoke with Mr. Torres who is a governmental accountant and explained our circumstances to date. He agreed that he could do monthly closings for using our accounting software and on the present chart of accounts. Susan would set up the new chart of accounts in the system for the upcoming fiscal year. Presently we have not closed the books for June or July. This makes it difficult to know if the expenditures should or could be made. I have discussed this with Susan and she agrees with the plan I propose which is for Susan to close out June, and Mr. Torres would do the last quarter of the fiscal year and prepare the year-end report. I supplied Mr. Torres with the necessary information for him to assess our present needs and project a cost for me. In addition, he will assist me in preparing the Scope of Services for the RFP.

FINANCIAL IMPACT:

\$7,500 (\$2,500 x 3 months)

ATTACHMENTS:

Letter of Engagement for August Torres, CPA

ACTION OPTIONS:

Staff seeks approval of the services to be provided by Mr. Torres.

**AUGUST TORRES
CERTIFIED PUBLIC ACCOUNTANT
14027 SAN MATEO COURT
ORLANDO, FLORIDA 32837
(407) 857-8772**

August 17, 2007

Bonilyn Wilbanks-Free
Town of Malabar
2725 Malabar Road
Malabar, Florida 32950

Dear Bonilyn Wilbanks-Free:

At your request, I have outlined below the accounting services I can offer to Malabar.

Preparation of the general ledger, journals, financial statements and budget comparison statement would be prepared on a monthly basis.

I would prepare the monthly reconciliation of the bank accounts and reconcile the interfund account balances for the General Fund, Water and Sewer Department and the other funds maintained by the city. In addition, the payroll records would be reconciled to and recorded in the general ledger for the funds involved with payroll entries. Accounting consulting services are included in this engagement letter. The services detailed above include the training and supervision of the staff personnel responsible for recording the data into your computer program.

The services listed herein would be based on the records submitted to me without audit. The financial reports would indicate that they are unaudited and no opinion is expressed on them. It should be noted that these services would not be for the purpose to discover fraud and therefore such irregularities may not be detected. Monthly reports are issued prior to the annual audit; therefore, an audit on interim statements would not be performed. My report on the financial statements would read as follows:

I have compiled the interim financial statements and other financial information contained in this report in accordance with standards established by the American Institute of Certified Public Accountants.

Page 2


A compilation is limited to presenting in the form of financial statements information that is the representation of management. I have not audited or reviewed the accompanying financial statements and, accordingly, do not express an opinion or any other form of assurance on them.

Management has elected to omit substantially all of the disclosures ordinarily included in financial statements. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the assets, liabilities, fund balances, equity, revenues, and expenses. Accordingly, these financial statements are not designed for those who are not informed about such matters.

The accounting fees for the services described in this letter would be based on an hourly rate of \$ 80.00 an hour and would be capped at \$ 2,500.00 per month. The term of this engagement letter would be for July 2007 through September 2007 and can be extended or terminated at any time by either party. There would not be a limit or an additional charge for consulting services. In addition, any fees for special projects would first be discussed and agreed upon by both parties.

I appreciate the opportunity to act as the city's accountant. If this letter meets with your approval, please sign one copy and return to me.

SINCERELY,



AUGUST TORRES

Accepted: _____

Date: _____

Title: _____

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 7

Meeting Date: August 20, 2007

Prepared By: Bonilyn Wilbanks-Free, Town Administrator

SUBJECT: Use of the Town's "Mailboat" and/or Website by Candidates

BACKGROUND/HISTORY:

I received a request by a resident to allow qualified candidates to use the Town's Mailboat Newsletter or the Town Website to share with the residents their opinions/views on topics and issues prior to the election. There is no past historical data on this matter so I am bringing it to Council for discussion and direction. I requested the Town Attorney to review the request and offer an opinion as to legality for your consideration.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Email from Bud Ryan dated 08/09/07

Legal opinion by Town Attorney dated 08/15/07

ACTION OPTIONS:

Staff seeks direction on this request.

Bonilyn Wilbanks-Free

From: Bud Ryan [malabarbud@yahoo.com]
Sent: Thursday, August 09, 2007 8:50 AM
To: Bonilyn Wilbanks-Free
Subject: candidates forum

if any legal issues could be resolved is there a way that candidates for the two seats on town council this november be given access to the "mailboat" or the town's web site to state their positions on issues and reasons for running. i may be wrong but council seats tend to be popularity contests. two of the current seats were unopposed, one of them twice.i feel that if voters were given this exposure, turnout would increase and election results would be a much better reflection of how the residents feel on issues. this would be a vast improvement over choices made primarily on name recognition: campaign signs,etc. it may also increase the number of canditates choosing to run as well as making incumbents be more in touch with the towns citizens and how they feel...i will bring this up soon at a council session. i would appreciate you checking into this. charles"bud"ryan, 1923 howell lane, malabar. 676-5418. if this works out it could be done prior to each election. i believe it merits a try.

Fussy? Opinionated? Impossible to please? Perfect. Join Yahoo!'s user panel and lay it on us.

Bonilyn Wilbanks-Free

From: Karl Bohne [KarlB@fla-lawyers.com]
Sent: Wednesday, August 15, 2007 1:02 PM
To: Bonilyn Wilbanks-Free
Subject: RE: candidates forum

I could not find any prohibition in the law against allowing a candidate to submit their positions on issues in the newsletter or website. The candidate who chooses to do so must post a statement in the publication or website as required by F.S. 106.1437. The Town should give equal time and space to all candidates. The choice to allow it is up to the Town Council. Nothing in the Town charter or codes forbids such activity. This is not a political ad because it is not a paid for expression. See F.S. 106 011 (17).

From: Bonilyn Wilbanks-Free [mailto:bwfree@townofmalabar.org]
Sent: Friday, August 10, 2007 12:02 PM
To: Karl Bohne
Subject: FW: candidates forum

Karl,
 I discussed this with the Mayor and he thought I should get a legal opinion about this and then if it is legal I will bring it to Council to approve.

From: Bud Ryan [mailto:malabarbud@yahoo.com]
Sent: Thursday, August 09, 2007 8:50 AM
To: Bonilyn Wilbanks-Free
Subject: candidates forum

if any legal issues could be resolved is there a way that candidates for the two seats on town council this november be given access to the "mailboat" or the town's web site to state their positions on issues and reasons for running. i may be wrong but council seats tend to be popularity contests. two of the current seats were unopposed, one of them twice.i feel that if voters were given this exposure, turnout would increase and election results would be a much better reflection of how the residents feel on issues. this would be a vast improvement over choices made primarily on name recognition: campaign signs,etc. it may also increase the number of candidates choosing to run as well as making incumbents be more in touch with the towns citizens and how they feel....i will bring this up soon at a council session. i would appreciate you checking into this. charles"bud"ryan, 1923 howell lane, malabar. 676-5418. if this works out it could be done prior to each election. i believe it merits a try.

Fussy? Opinionated? Impossible to please? Perfect. Join Yahoo!'s user panel and lay it on us.

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 8

Meeting Date: August 20, 2007

Prepared By: Bonilyn Wilbanks-Free, Town Administrator

SUBJECT: Consideration of a Doggie-Dining Ordinance

BACKGROUND/HISTORY:

Councilmember Borton requested information be researched for consideration of drafting an Ordinance as required to allow Doggie Dining at food establishments. Governor Bush passed the law on June 2, 2006. However, each municipality has to pass its own Ordinance allowing this activity. Councilmember Borton would like to consider this for the Town of Malabar.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Doggie Dining Bill passed on June 2, 2007
Florida Pet.net information on doggie dining

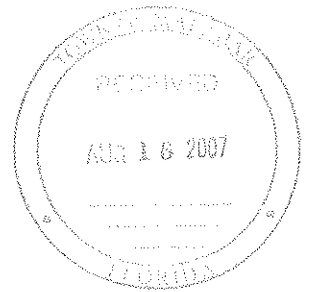
ACTION OPTIONS:

Discussion and direction on considering an Ordinance to allow this type of activity.

CHAPTER 2006-72

Committee Substitute for Senate Bill No. 1172

An act relating to public food service establishments; providing a short title; providing legislative findings and intent; creating s. 509.233, F.S.; creating a pilot program that authorizes local governments to adopt an ordinance establishing a local exemption to certain provisions of general law and agency rules relating to public food service establishments in order to permit patrons' dogs at certain designated outdoor portions of such establishments; providing for implementation and enforcement procedures; providing for state assistance; providing for future review and repeal; providing an effective date.



Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as "The Dixie Cup Clary Local Control Act."

Section 2. Findings and intent.—The Legislature finds and declares:

(1) Chapter 509, Florida Statutes, requires the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to carry out all laws and rules relating to the inspection and regulation of public food service establishments for the purpose of safeguarding the public health, safety, and welfare.

(2) Section 509.013(5), Florida Statutes, defines "public food service establishment" as "any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure, where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption."

(3) Section 509.032, Florida Statutes, requires the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to adopt and enforce such rules as are necessary to ensure the protection of the public from food-borne illness in public food service establishments.

(4) Section 509.032, Florida Statutes, further requires the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to adopt such rules in order to "provide the standards and requirements for obtaining, storing, preparing, processing, serving, or displaying food in public food service establishments, approving public food service establishment facility plans, conducting necessary public food service establishment inspections for compliance with sanitation regulations, cooperating and coordinating with the Department of Health in epidemiological investigations, and initiating enforcement actions, and for other such responsibilities deemed necessary by the division."

(5) Pursuant to the grant of rulemaking authority cited in s. 509.032, Florida Statutes, the Division of Hotels and Restaurants of the Department

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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To	Cindy	From	Lenore		
Co./Dept.		Co.			
Phone #		Phone #	724-5860		
Fax #	722-2234	Fax #	984-8994		

Ch. 2006-72

LAWS OF FLORIDA

Ch. 2006-72

of Business and Professional Regulation has adopted by rule sanitation and safety requirements of public food service establishments, including requirements relating to physical facilities, which adopts by reference certain portions of the Food and Drug Administration Food Code, as amended from time to time, as developed by the Food and Drug Administration of the United States Department of Health and Human Services.

(6) The Food and Drug Administration Food Code generally prohibits live animals from public food service establishments.

(7) Section 509.032(7), Florida Statutes, expressly preempts to the state regulation of public lodging establishments and public food service establishments for compliance with the sanitation standards adopted by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(8) Section 509.032(7), Florida Statutes, expressly limits the general home rule powers of local governments as it relates to the regulation of public food service establishments.

(9) The purpose of this act is to establish a 3-year pilot program to allow participating local governments to enact an ordinance establishing procedures by which public food service establishments could become exempt from certain portions of the Food and Drug Administration Food Code and allow patrons' dogs within certain designated outdoor portions of their respective establishments.

Section 3. Section 509.233, Florida Statutes, is created to read:

509.233 Public food service establishment requirements; local exemption for dogs in designated outdoor portions; pilot program.—

(1) INTENT.—It is the intent of the Legislature by this section to establish a 3-year pilot program for local governments to allow patrons' dogs within certain designated outdoor portions of public food service establishments.

(2) LOCAL EXEMPTION AUTHORIZED.—Notwithstanding s. 509.032(7), the governing body of a local government participating in the pilot program is authorized to establish, by ordinance, a local exemption procedure to certain provisions of the Food and Drug Administration Food Code, as currently adopted by the division, in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments.

(3) LOCAL DISCRETION; CODIFICATION.—

(a) The adoption of the local exemption procedure shall be at the sole discretion of the governing body of a participating local government. Nothing in this section shall be construed to require or compel a local governing body to adopt an ordinance pursuant to this section.

(b) Any ordinance adopted pursuant to this section shall provide for codification within the land development code of a participating local government.

Ch. 2006-72

LAWS OF FLORIDA

Ch. 2006-72

(4) LIMITATIONS ON EXEMPTION; PERMIT REQUIREMENTS.—

(a) Any local exemption procedure adopted pursuant to this section shall only provide a variance to those portions of the currently adopted Food and Drug Administration Food Code in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments.

(b) In order to protect the health, safety, and general welfare of the public, the local exemption procedure shall require participating public food service establishments to apply for and receive a permit from the governing body of the local government before allowing patrons' dogs on their premises. The local government shall require from the applicant such information as the local government deems reasonably necessary to enforce the provisions of this section, but shall require, at a minimum, the following information:

1. The name, location, and mailing address of the public food service establishment.

2. The name, mailing address, and telephone contact information of the permit applicant.

3. A diagram and description of the outdoor area to be designated as available to patrons' dogs, including dimensions of the designated area; a depiction of the number and placement of tables, chairs, and restaurant equipment, if any; the entryways and exits to the designated outdoor area; the boundaries of the designated area and of other areas of outdoor dining not available for patrons' dogs; any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways; and such other information reasonably required by the permitting authority. The diagram or plan shall be accurate and to scale but need not be prepared by a licensed design professional.

4. A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area.

(c) In order to protect the health, safety, and general welfare of the public, the local exemption ordinance shall include such regulations and limitations as deemed necessary by the participating local government and shall include, but not be limited to, the following requirements:

1. All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling dogs. Employees shall be prohibited from touching, petting, or otherwise handling dogs while serving food or beverages or handling tableware or before entering other parts of the public food service establishment.

2. Patrons in a designated outdoor area shall be advised that they should wash their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.

3. Employees and patrons shall be instructed that they shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations.

Ch. 2006-72

LAWS OF FLORIDA

Ch. 2006-72

4. Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.

5. Dogs shall not be allowed on chairs, tables, or other furnishings.

6. All table and chair surfaces shall be cleaned and sanitized with an approved product between seating of patrons. Spilled food and drink shall be removed from the floor or ground between seating of patrons.

7. Accidents involving dog waste shall be cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.

8. A sign or signs reminding employees of the applicable rules shall be posted on premises in a manner and place as determined by the local permitting authority.

9. A sign or signs reminding patrons of the applicable rules shall be posted on premises in a manner and place as determined by the local permitting authority.

10. A sign or signs shall be posted in a manner and place as determined by the local permitting authority that places the public on notice that the designated outdoor area is available for the use of patrons and patrons' dogs.

11. Dogs shall not be permitted to travel through indoor or non-designated outdoor portions of the public food service establishment, and ingress and egress to the designated outdoor portions of the public food establishment must not require entrance into or passage through any indoor area of the food establishment.

(d) A permit issued pursuant to this section shall not be transferred to a subsequent owner upon the sale of a public food service establishment but shall expire automatically upon the sale of the establishment. The subsequent owner shall be required to reapply for a permit pursuant to this section if the subsequent owner wishes to continue to accommodate patrons' dogs.

(5) POWERS; ENFORCEMENT.—Participating local governments shall have such powers as are reasonably necessary to regulate and enforce the provisions of this section.

(6) STATE AND LOCAL COOPERATION.—The division shall provide reasonable assistance to participating local governments in the development of enforcement procedures and regulations, and participating local governments shall monitor permit holders for compliance in cooperation with the division. At a minimum, participating local governments shall establish a procedure to accept, document, and respond to complaints and to timely report to the division all such complaints and the participating local governments' enforcement responses to such complaints. A participating local government shall provide the division with a copy of all approved applications and permits issued, and the participating local government shall require that all applications, permits, and other related materials contain the appro-

Ch. 2006-72

LAWS OF FLORIDA

Ch. 2006-72

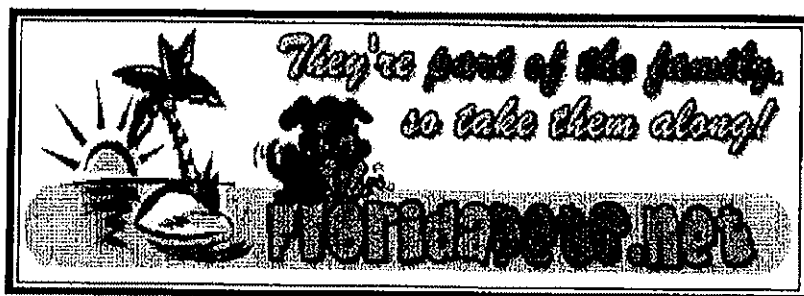
priate division-issued license number for each public food service establish-
ment.

(7) FUTURE REVIEW AND REPEAL.—This section shall expire July 1,
2009, unless reviewed and saved from repeal through reenactment by the
Legislature.

Section 4. This act shall take effect July 1, 2006.

Approved by the Governor June 2, 2006.

Filed in Office Secretary of State June 2, 2006.



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The Doggie Dining Bill Has Been Approved, But Now What?

Florida Governor Jeb Bush signed the Doggie Dining bill into law June 2, 2006. Restaurants, plenty of them, are poised, ready to begin serving both you and your pup. But something else needs to happen before this exciting opportunity becomes a reality - know what that is?

Your local government, whether it's a city council or a county commission, must now pass an ordinance allowing permits to be issued to restaurants wishing to participate. And, by the way, there is **no** application fee for the restaurants to apply for the permits.

People in quite a few cities see clearly the business advantages of offering doggie dining and they're already establishing the processes necessary to get things started. We're tracking the cities that are either seriously considering, have already started the paperwork, or have already completed the process to become one of the Cities in Florida Cool With Doggie Dining. We'll keep the list updated as we get information and if you know of a city that has "gone doggie dining", please let us know and we'll happily add it to our list.

Then, on the other hand, we've talked with officials from several more cities and were told some won't even consider doggie dining - *unless residents and restaurants start requesting it*, so...

It's Time to Request Doggie Dining,

Florida Resources By Category

**Pet-friendly place
to vacation in
Florida**

Listings growing
every day!

**Pet-friendly place
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Dog parks, beaches
more

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We're "guardians"
not "owners" of our
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here.

But How?

Here are a few general tips to keep in mind when
corresponding with local councils and commissions:

* For a list of your local city and/or county officials
and their contact information, go to Congress.org.
We tested out this site and the listings seem pretty
current.

* Emails or faxes are preferable over snail mail -
they'll get read quicker.

* Phone calls are considered interruptions. Many
calls go to electronic mail boxes and messages left
are too easily deleted.

* If you're going to fax your letter, typed rather than
handwritten is best.

* If you are a restaurant, use your business stationary
and fax your letter. If you are a restaurant, and either
do not have stationary or your name does not indicate
the nature of your business, strongly indicate in your
letter that you are a restaurant.

* Be courteous in style and factual in content -
convince without anger or argument!

* Letters should be no more than one page in length.

* Address letter to: The Honorable _____ [Title and
Last Name]

* Begin letter with: Dear Council Member _____ [Last
Name]

* End letter with: Sincerely yours, _____ [Your Full
Name]

What to Say and How to Say It

Officials hate form letters, so don't just copy another
letter and send it. Here's a letter we wrote to our own
county commissioners. If you'd like, use it as a go-by
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area's specific info, i.e., names and titles (depending
on whether you have a council or commission.) Also,
write in your own words why you feel your

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city/county should allow restaurants the choice to offer outdoor doggie dining:

Dear [Council Member/Commissioner] _____,

Florida Gov. Jeb Bush signed into law Friday, June 2 a bill that allows local governments to issue permits to restaurants interested in allowing dogs to accompany their guardians in outdoor dining areas.

In light of this, I would like to formally and respectfully request that _____ [formal name of governing body, such as the Canine County Commission or the Feline City Council] begin the process necessary to start issuing permits to area restaurants that wish to participate in what is being called "doggie dining."

Although this measure, as any other, has its detractors, I see doggie dining as a win-win proposition, for the following reasons:

- 1) Participating restaurants will enjoy a cost-effective, revenue-generating opportunity. I am a small business owner and am quite aware those don't come along very often!
- 2) Customers with dogs will be happy to frequently patronize a business where their best pals are welcomed and accommodated. They know upfront they must be responsible for their dog or risk losing the opportunity presented to them by the participating restaurants. Therefore, they'll do whatever it takes to make their presence (and repeat visits) positive experiences for everyone involved.
- 3) Customers without dogs can be assured the restaurants will be required to have strict and specific controls for cleanliness. Additionally, the doggie dining bill requires all dogs to be leashed and under control and that's important to both dog people and non-dog people.
- 4) If you own or have ever owned a business, you can appreciate the bottom line of offering amenities. In this case, the bottom line of providing a spot for dogs to join their guardians is increased revenues, seen first by the restaurants. And what's good for restaurants is good for other area shops and



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businesses. And all of that provides increased revenue passed on through fees, taxes, etc., for the [city of ____ OR county of ____], monies which can then be used for various community projects or capital improvements.

*5) Restaurants **do not have to participate**. They'll **only** apply for permits if they choose to participate. And nothing is carved in stone. The doggie dining bill is a trial program, set to begin July 1, 2006. After three years, the program can be continued - or ended - based on how responsible pet guardians have been and the public's general perception of the program's progress. I would like to see the [city of county of] ____ be part of what I feel will be a huge success and a boost to the balance sheets of many Florida businesses.*

Thank you for your attention to this matter. Please contact me if you would like additional information or if you have any questions. I will follow up with you in a few days.

Sincerely,

_____[Name]
_____[Street Address and City]
_____[Phone]
_____[Email]

If You Want To Get On a City Council or County Commission Agenda

Contact the clerk prior to the council or commission's regular meeting within the time frame designated by the governing body - you can find out this info by calling your local city hall or county administrative offices. Be prepared to give the clerk a brief written description of the subject matter you wish brought before the council/commission, something like:

"I'd like to ask the ____ [name of governing body, i.e. the council or the commission] to begin the process necessary for allowing restaurants to apply for permits allowing dogs to join their guardians in the restaurants' outdoor dining areas. This is a requirement of the bill Gov. Jeb Bush signed June 2."

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August 16, 2007

FLORIDA TODAY

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— ALLEN H. NEUHARTH, FLORIDA TODAY Founder, March 21, 1968



TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 9

Meeting Date: August 20, 2007

Prepared By: Bonilyn Wilbanks-Free, Town Administrator

SUBJECT: Fire Department Corporation Contract

BACKGROUND/HISTORY:

At the beginning of my tenure with the Town it was pointed out that, the Fire Department Corporation contract had expired and that a draft contract was prepared by Karl Bohne and reviewed by Interim Administrator Bill Stephenson. I reviewed the document and it was explained to me that the new contract was specific in identifying the role of the corporation and the role of the Town. This contract was presented to Mr. Eriksen at a meeting in which Chief Joe and I sat down and reviewed the contract proposal with him. Mr. Eriksen presented the contract draft to the Corporation and it was voted down to accepting it. In turn, they presented their draft proposal for our review and acceptance. I am presenting both documents to you for decision on which one to accept.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Draft Contract Proposal submitted by Town of Malabar

Draft Contract Proposal submitted by the Malabar Volunteer Fire Department Corporation

Email from Bryan Eriksen dated 08/06/07

ACTION OPTIONS:

Staff seeks direction on this matter.

PROPOSED BY TOWN

AGREEMENT FOR THE PROVISION OF MUNICIPAL VOLUNTEER FIRE PROTECTION SERVICES

THIS AGREEMENT entered into this _____ day of _____, 2007, by and between the TOWN OF MALABAR, a Florida Municipal Corporation, (the "Town") and MALABAR VOLUNTEER FIRE DEPARTMENT, INC., a Florida not-for-profit corporation, (the "Corporation").

WITNESSETH

For and in consideration of the covenants set forth herein and other good and valuable considerations the receipt of which is hereby acknowledged, the parties hereto agree as follows:

Town's Responsibilities and Oversight

1. **Budget Funds for Operating Expenses and Capital Purchases**
Provide fire fighting and emergency response equipment, vehicles, safety and fire fighting supplies and operating revenue as set forth in the annual budget approved by the Town Council including, but not limited to, maintenance of buildings, equipment and property, repairs, operating supplies, funds and materials for training and water for supplying vehicles and pumps.
2. **Provide Municipal Insurance Policies**
Furnish general liability insurance (including any riders or endorsements required by the Town Council or Corporation). Furnish insurance for injury, workman's compensation, VFIS policy, disability and life insurance in the amounts required by Florida Statute 112.191, as amended from time to time, for each firefighter.
3. **Provide Buildings and Equipment**
Provide existing building and storage facilities to be used by the Fire Department/Corporation for the housing of the Town's fire fighting and emergency response equipment and supplies. The building and property may also be used for the recreation, meetings, fund raising events and training of the Corporation members and the Fire Department consistent with Town's Policies.
4. **Assign Priority and Scheduling Activities to the Fire Chief**
The Fire Chief is designated to exclusively schedule use of the Malabar Fire Station by the Corporation and its members subject only to instructions approved by the Town Council. The station may be utilized for a public purpose if approved by the Town Council or Administrator. Requests for use of the Malabar Fire Station for activities by non-members shall be presented, in writing, by the Chief on Monday through Thursday for approval by the Town Administrator, or designee, at least two (2) weeks prior to the date of requested usage. The Town Administrator, or designee, will have one (1) week from date of receipt to respond.
5. **Provide an Appeals Process for Corporation Members**
Appeals for fire personnel who are the subject of personnel disciplinary actions shall be conducted in accordance with the Town's current Personnel Policies Manual with the proviso that the first tier of appeal shall be to the Town Administrator. Any decision of the Town Administrator may be appealed to the Town Council.

Responsibilities of the Corporation and its Members

1. Corporation's Purpose

The Corporation agrees to provide, through its members, emergency fire protection operations, fire protection instructions and education, supervision of its members, training, equipment operation and maintenance and rescue services for the preservation of life, property and Town assets within the municipal Town boundaries and in response to mutual aid agreements approved by the Town Council.

2. Corporate Bylaws

The Corporation shall prepare a set of written operating Bylaws which must be approved by the Town Council prior to implementation. Such Bylaws shall not be in conflict with the Town Code, Town Personnel Policies, this Agreement and applicable laws, ordinances and resolutions of the Town and the State of Florida.

3. Mutual Aid Agreements

The Corporation agrees to comply with any written mutual aid pact or similar agreement entered into by the Town Council with other governmental or emergency services agencies to provide for emergency response and/or fire protection services outside of the municipal boundaries of the Town.

4. Complying with Supervisory Orders

The Corporation agrees to comply with and have all of its members comply with all orders of the Town's Fire Chief relating to the provision of the emergency and fire protection services, preventive maintenance, operations and responses to emergencies. The Corporation agrees to have its members respond to any emergency situation when so ordered by the Fire Chief, the Town Administrator or a designee appointed by the Town Administrator.

5. Attendance and Training

The Corporation agrees to require all members to attend and participate in fire drills and training sessions as requested by and to the satisfaction of the Fire Chief.

6. Conduct Standards

The Corporation agrees to abide by all Malabar Fire Department Standards, Policies and Procedures in effect or as may be adopted in the future or amended from time to time.

7. Recruitment and Membership

The Corporation is responsible for recruitment and agrees to maintain, at all times, a minimum active membership of twenty-five (25) trained firefighters as defined by the Fire Department Standards and the Policies and Procedures of the Town which are incorporated herein by reference, and including any amendments thereto. The Corporation shall immediately notify the Town Administrator in writing should the membership fall below twenty-five (25). Should the active membership fall below eighteen (18) trained firefighters, the Contract may be terminated at the sole option of the Town. All recruits shall be subject to approval by the Town's Fire Chief.

8. Facility & Equipment Maintenance

The Corporation agrees that all property, equipment, vehicles and buildings provided by the Town for safety, personal protection, transportation, emergency and fire fighting purposes shall be maintained by the Corporation members in good working order and, to the extent possible, kept clean and maintained in a business

like manner consistent with fire fighting standards and similar operations in Brevard County, Florida.

9. **Fund Raising and Social Functions**

The Corporation shall be responsible for all fund raising and social activities it deems necessary to carry out the function of the Corporation and meet the Town's goals for the Fire Department. The Corporation shall be solely responsible for these activities including, but not limited to, securing all necessary permits, insurance, safety, security, providing of personnel, sanitary facilities, securing and cleaning sites/buildings and the proper disposal of all waste. All such activities shall be done in the name of the Corporation and not in the name of or affiliated with the Town.

10. **Corporate Review of Personnel Disciplinary Actions**

The Corporation has no personnel disciplinary powers, but may review all personnel disciplinary action implemented by the Fire Chief. All such reviews shall be concluded within seven (7) calendar days of the Chief's action and a written report prepared for and delivered to the Town Administrator confirming or denying that, in their opinion, proper procedures have been complied with.

Miscellaneous Provisions

1. **Amending or Terminating the Agreement** -- This Agreement may be amended by mutual written agreement of both parties or terminated at any time, by either party, by providing sixty calendar days written notice to the other party. Notice to the Town shall be delivered to the Town Clerk at Town Hall. Notice to the Corporation shall be posted in a conspicuous place at the Town Fire Station.
2. **Term of Agreement** -- The term of this Agreement shall be for a period of five (5) consecutive years, commencing on _____, and may thereafter be renewed for successive periods of five (5) years. At least 180 calendar days prior to the expiration date of the Agreement the Corporation shall initiate negotiations for renewal or extension of the Agreement.
3. **Minor Children** -- Minor children on Town property will be supervised at all times. No children under the age of 12 years will be permitted in the station after 9:00 pm except for approved events, fire calls, declared emergencies, or as approved by the Fire Chief.
4. **Night Duty** -- Only active, probationary or associate Corporation members will be permitted in the station after 11:00 p.m. except for approved event, declared emergencies, or approved by the Fire Chief.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first written above.

Town of Malabar as authorized by a Resolution approved by a majority of the Town Council.

Mayor Tom Eschenberg

Malabar Volunteer Fire Department, Inc.
Brevard County Florida

, President

ATTEST:

, Secretary

Bonilyn Wilbanks-Free

From: Halon1210@aol.com
Sent: Monday, August 06, 2007 6:31 PM
To: Bonilyn Wilbanks-Free
Subject: (no subject)
Attachments: MVFDCorpProposedContract.doc

Ms Wilbanks-Free

I apologize for the time lag in getting this Agreement to your office. The Malabar Volunteer Fire Dept Inc. has finally agreed on what should be in the Agreement. As you know in July the Cooperation voted not to accept the Agreement that you gave me to present. In August, the Cooperation reworked it brought a version to the membership. This revised Agreement passed with the full support of the membership. Attached is a copy of the Agreement. If you have anyquestion please feel free to contact me via my cell phone at 321-508-4482.

Sincerely
Bryan Eriksen
President, Malabar Volunteer Fire Dept Inc.

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8/15/2007

PROPOSED BY CORPORATION

AGREEMENT BETWEEN THE TOWN OF MALABAR AND THE MALABAR VOLUNTEER FIRE DEPARTMENT, INC.

THIS AGREEMENT entered into this _____ day of _____, 2007, by and between the TOWN OF MALABAR, a Florida Municipal Corporation, (the "Town") and MALABAR VOLUNTEER FIRE DEPARTMENT, INC., a Florida not-for-profit corporation, (the "Corporation").

WITNESSETH

For and in consideration of the covenants set forth herein and other good and valuable considerations the receipt of which is hereby acknowledged, the parties hereto agree as follows:

Town's Responsibilities

1. **Provide Municipal Insurance Policies**

Furnish general liability insurance (including any riders or endorsements required by the Town Council or Corporation). Furnish insurance for injury, workman's compensation, VFIS policy, disability and life insurance in the amounts required by Florida Statute 112.191, as amended from time to time, for each corporation member.

2. **Provide Buildings and Equipment**

Provide existing building and storage facilities to be shared by the Corporation for the purpose of conducting corporation meetings and working on corporation projects and events. The use of the building and facilities is to be approved by the Fire Chief or his designee.

Responsibilities of the Corporation and its Members

1. **Corporation's Purpose**

The Corporation is to be a self contained not-for-profit entity made up of, but not limited to, the members of the Town of Malabar Fire Department. The purpose of the Malabar Volunteer Fire Department, Inc is to provide a tax exempt corporation capable of planning, executing, and managing fund raisers for the purpose of bettering the Malabar Fire Department, it's members, and/or the community at large.

2. **Conduct Standards**

In execution of the purpose of the Corporation, it agrees to conduct itself via the corporation bylaws and in accordance with the Town's codes, policies, ordinances and resolutions.

3. **Facility & Equipment Maintenance**

In exchange for the use of the building and facilities for Corporation purposes, the Corporation agrees that it shall respect and properly care for and help maintain the building, grounds, facility by providing corporation members as a labor pool for Firehouse projects.

4. **Fund Raising and Social Functions**

The Corporation shall be responsible for all fund raising and social activities it deems necessary to carry out the function of the Corporation and to attempt to meet the Town's goals for the Fire Department. The Corporation shall be solely responsible for these activities including, but not limited to, securing all necessary permits, , safety, security, providing of personnel, sanitary facilities, securing and cleaning sites/buildings and the proper disposal of all waste. All such activities shall be done in the name of the Corporation and not in the name of or affiliated with the Town. Insurance shall be the responsibility of the Town.

Miscellaneous Provisions

1. **Amending or Terminating the Agreement** -- This Agreement may be amended by mutual written agreement of both parties or terminated at any time, by either party, by providing sixty calendar days written notice to the other party. Notice to the Town shall be delivered to the Town Clerk at Town Hall. Notice to the Corporation shall be posted in a conspicuous place at the Town Fire Station.
2. **Term of Agreement** -- The term of this Agreement shall be for a period of three (3) consecutive years, commencing on _____, and may thereafter be renewed for successive periods of three (3) years. At least 180 calendar days prior to the expiration date of the Agreement the Corporation shall initiate negotiations for renewal or extension of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first written above.

Town of Malabar as authorized by a Resolution approved by a majority of the Town Council.

Mayor Tom Eschenberg

Malabar Volunteer Fire Department, Inc.
Brevard County Florida

, President

ATTEST:

, Secretary

MALABAR TOWN COUNCIL REGULAR MEETING
AUGUST 20, 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 7:35 pm by Mayor Eschenberg. The prayer and pledge were led by Council Member Nancy Borton.

B. ROLL CALL:

MAYOR/CHAIR	TOM ESCHENBERG
VICE-CHAIR:	CHUCK McCLELLAND
COUNCIL MEMBERS:	NANCY BORTON
	BRIAN VAIL
	BOBBI MOCCIA
	PAT DEZMAN coming from Orlando
TOWN ADMINISTRATOR:	BONILYN WILBANKS-FREE
ATTORNEY:	KARL BOHNE
DEPUTY TOWN CLERK:	CINDI KELLEY

- C. ADDITIONS/DELETIONS/CHANGES:** Mrs. Moccia asked that Council approve hearing from Helen Volz, Steve Burowsky and Morris Richardson regarding the Valkaria Airport master plan. It is the general consensus of Council to hear this information. This is to be heard as a presentation.

D. PRESENTATIONS

Helen Volz, Steve Burowsky and Morris Richardson came forward and provided information regarding the Valkaria Airport master plan. This information was provided in answer to a letter received from the Town speaking against the master plan. Each concern raised in the letter was addressed and spoken to.

E CONSENT AGENDA

1. **Approval of Minutes** RTCM 8/6/07
 Exhibit: Agenda Report No. 1
 Recommendation: Motion to approve
 MOTION: Moccia/Borton to approve consent agenda. VOTE: All Ayes.

F. STAFF REPORTS:

ATTORNEY

- Concrete Issue at Fire Department

A letter was sent to Southeast Masonry on July 11, 2007 regarding the work completed at the fire department. Each issue brought forth had an answer and this information provided stated that both Chief Gianantonio and Mr. Vail authorized the work to be done. Mr. Bohne advised that under current case law, there is no signed contract and the Town is not obligated to pay for this work. A threat to place liens against the property has been made; you can not put liens against municipal property, it could be fraudulent. Mrs. Wilbanks-Free stated that there is a discrepancy as to when the concrete was poured. Mayor Eschenberg asked that comments be copied to Council and that this appear as a discussion item at the next meeting.

ADMINISTRATOR

The Town Administrator introduced the new Building Official, Roger Cloutier to Council. He gave a brief history of his background.

- Update on Planning Services Contractor

The contract has been prepared and sent to the planner for their completion. It could not be completed for this evening but it should be for the RTCM on September 5, 2007.

Mrs. Dezman arrived at 8:15 pm.

- Update on Town Hall A/C unit

A set of materials was provided to you and we have the Bob Cannon from R. D. Cannon A/C here to explain what is needed. Mr. Cannon gave an overview of what he feels is needed to make this problem go away. Mr. McClelland asked about the electrical. This was not included in the proposal for the a/c; Council wanted to go out for an RFP. Mr. Vail stated it is worth bringing the unit up to standards. It was requested that this be spoken on later in the meeting. Mrs. Dezman is in agreement.

- Town Hall Site Offers – direction on how to handle

Mrs. Wilbanks-Free asked Council for guidance with regards to the individuals who have made an offer to sell property to the Town for the new town hall. There are no procedures in place for her to know how to handle this. Mayor Eschenberg stated that Site Committee needs to have a meeting and get a full update on what has been happening. It was asked that Mrs. Wilbanks-Free sit on this committee as the previous Town Administrator was on the committee.

There was a meeting with Mitch Needleman regarding the land we have been looking into. The EELs Program seems to be the road block in this. Mrs. Wilbanks-Free has spoken to Debby regarding the property that Mrs. Hirsch owns with regards to getting a price. The resident lives to the rear of the property; with legal assistance, we could have a life estate on the property and have it revert back to the Town for our use when the resident is no longer occupying it. Mrs. Moccia stated we are running out of property large enough for the new Town Hall. The EELs are holding this project up. Mrs. Borton would like to follow-up with this. The central location is ideal. Mrs. Borton doesn't feel the Town can afford to purchase both the building and the land. When leaving the meeting with the EELs, both she and Mrs. Wilbanks-Free thought we were on our way with the feeling that something had been accomplished.

Mrs. Vickie Thomas came forward to address Council. This committee was put together as an AHOC committee. She had tried to contact make contact with the committee and was told that this committee had completed their task. Staff will set up a meeting with this committee.

CLERK

- Election Packets ready for pickup

Ms. Kelley reported that the packets for Candidate Qualifying have been put together. A packet was delivered to Mrs. Dezman on Friday. Mrs. Moccia asked if the dates had been extended. Ms. Kelley stated that the legal ad had been placed and the dates should be fine. Mrs. Wilbanks-Free advised Council that the ad was placed, but not prior to the dates of qualifying. The Supervisor of Elections stated they would extend if there is any complaint.

Deputy Drinkwater was in the audience and was introduced. He came forward and addressed Council. The lines of communications have been opened. He reported that with the last e-mail he received, all positions have been approved for four deputies in the south precinct. There are no real issues within the Town. Mrs. Moccia states it's good to see him at the meeting.

At this time, Mayor Eschenberg asked Hans Kemmler to come forward. Mr. Kemmler is the Chair of the Parks & Recreation Advisory Board. He stated the board is going back and forth with the existence of the Trails & Greenways Committee. The board has done everything they can to get a restroom at the Trailhead; the grant funds were not received. The board is talking about taking the existing funds that have been received from the developers and report to Council within the next month what is needed. The board will try to

apply for another grant; they will need assistance with writing this grant. He asked if the Town will be having a committee for the trails and greenways. It has been noticed that the web site does not have the current minutes for this board; are we working on getting the information on the web site sooner?

Mayor Eschenberg stated that speaker cards have been received. We will hear issues on the airport issues only.

Bernadette Knudeson, a resident of Malabar, came forward and addressed Council. She spoke against the airport's master plan. She has had property damage with the helicopters flying over her home. Malabar is a community designed and built around being agricultural and rural. General and hurricane maintenance at the airport is fine.

Janice Walters, a resident of Grant-Valkaria, came forward and addressed Council. She has heard enough that she has specific comments. She spoke against the airport's master plan; it promotes for student training and more traffic in general. When putting this plan together, the Airport had no input from the two surrounding towns.

Curt Lorenc, a resident of Grant-Valkaria, came forward and addressed Council. He spoke against the airport's master plan. The way that this was done, very few of Malabar's residents knew about it. This is a giant planning process; there were no real public notices. The master plan is needed to apply for FAA funding. When Mrs. Volz was addressing Council a short time ago, Grant-Valkaria advised her that the date of August 29th for a meeting to get this approved was not good for them. This is the date that was chosen for this meeting. He is asking for support for the people and that Malabar come out against the master plan.

Bob Rowan, 2565 Corey Road, came forward and addressed Council. He is not for or against the master plan. He did do quite a bit of flying while in New York. The focus seems to be a little different; no fees or low fees for touch and go's, the planes are going to come. He is in agreement with the safety issues as an ex-pilot and a resident with flights over his home. Establishing a high enough touch and go landing fee could be the only way to control the air traffic.

Vickie Thomas, 1605 Country Cove Circle, came forward and addressed Council. She is concerned about the safety cautions not being observed. The helicopters are not supposed to fly lower than 500 feet. She feels this needs to be reviewed more; don't sell out for Federal dollars.

Mayor Eschenberg stated since Mrs. Dezman is now present, the action items will now be moved back to the original order.

G. PUBLIC HEARINGS:

ORDINANCES – None

H. ACTION ITEMS

ORDINANCES – First Reading – None

RESOLUTIONS – None

2. **Approval to Remove the Employee Flow Chart from the Employee Manual**
A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA;
AMENDING RESOLUTION 12-2005; PROVIDING FOR THE REMOVAL OF THE
TOWN'S EMPLOYEE FLOW CHART FROM THE PERSONNEL MANUAL; PROVIDING
FOR CONFLICT AND PROVIDING AN EFFECTIVE DATE.
Exhibit: Agenda Report No. 2
Recommendation: Approval of Resolution No. 16-2007
Without objection, Mayor Eschenberg read Resolution 16-2007 by title only.
MOTION: Moccia/McClelland to approve Resolution 16-2007 as presented.
The roll was called: Borton, Vail, McClelland, Moccia and Dezman – All Ayes.

MISCELLANEOUS

3. **Council comments on the proposed EEL's land Acquisition of the Hirsch/Kain Property Located at: 29-37-02-00-254 (approximately 10 +/- acres)**

Exhibit: Agenda Report No. 3

Recommendation: Council action

Mr. Vail stated the land by the fire department is ideal. We need to keep looking and have the committee meet and coordinate with the Town Administrator. Mayor Eschenberg stated that the County Commission is looking for input on this purchase. Mrs. Dezman stated Council cannot stop someone from selling their property, we can only voice our opinion. Mrs. Borton stated this is more land off the tax rolls. Mrs. Dezman stated they are not asking for our permission, they have brought it to our attention. Mrs. Wilbanks-Free stated a letter will be put together with input from Council. Mr. Vail stated that the EELs property asked for approval to purchase three pieces of property to round out what they already own. One reason to be stated is the letter is that this is some of our prime real estate north of Duncil Lane; it would be \$300 in ad valorem taxes and \$200 in the MSTU. Mr. Vail and Mrs. Dezman are against this sale. Mrs. Borton asked if the Town could afford to purchase this land; the EELs keep taking with no giving. Mrs. Moccia stated with Council's approval, Mrs. Wilbanks-Free should be on the committee in Mr. Booth's place.

Juliana Hirsch, a resident of Malabar, owns this property. She has held off on this and she did not contact the EELs; she contacted FDOT. Before selling the property, we need to know what is happening with the zoning; originally, this was commercial. The Town may only need five acres. Mrs. Hirsch stated the Town should think before trying to stop the purchase; there's no legal standing. Mr. Bohne stated the only way is to challenge the science; you have to hire experts and the cost would be great to the Town.

MOTION: Vail/Dezman to send letter to the EELs regarding the purchase of said property.

Mrs. Moccia stated the EELs are still going out and actively seeking land. They have changed their plan right on Malabar Road; they have money to spend. A letter needs to come from the Town Administrator. Mrs. Dezman stated she has learned from the MSTU that communication is key with each other. The Commissioners need to know how we feel about this; communicate our plan, don't change it. We need to render an opinion simply stating the facts. There will be a decrease in our tax rolls; the property is RR65 now; trying to get 600 foot frontage off Malabar Road.

MOTION: Vail/Dezman write letter to EELs and County Commissioners regarding the purchase of this property. VOTE: All ayes.

4. Approval of Architectural Firm for New Town Hall Project

Exhibit: Agenda Report No. 4

Recommendation: Council action

Mrs. Moccia stated she called the Better Business Bureau looking for information on the applicants; with the exception of Rood/Zwick, she didn't know where to look for this company. Mr. Bohne suggested that Council bring back all three firms; following the State statutes. It was a close vote between the Nadgrotsky and Rood/Zwick; the meeting was 4 ½ hours long; the committee did a thorough job. The main positive of Rood/Zwick was their presentation. Mr. Vail stated Council should keep in mind the qualifications of the committee members; he is putting his faith into them.

MOTION: Dezman/Borton to bring in all three firms for presentations.

Mrs. Wilbanks-Free stated this needs to be a special meeting not a workshop.

VOTE: All Ayes.

Mrs. Dezman asked that this meeting not be a Monday. Mrs. Wilbanks-Free asked about September 6th. Mr. Bohne stated any third Wednesday he is available. The budget hearing is set for Wednesday, September 5th. It was stated that the grant is based on the architect; there is no deadline on spending the funds. A special Council meeting as been set for Thursday, August 30th to begin at 7:00 pm. Each presentation will be 15 minutes and Council will have 10 minutes for questions.

5. Appointment of Bud Ryan as Regular Member of Planning and Zoning Board

Exhibit: Agenda Report No. 5

Recommendation: Council action

MOTION: Borton/Moccia to approve as presented. Vote: All ayes.

6. Accounting Services until Year End

Exhibit: Agenda Report No. 6

Recommendation: Council action

Mrs. Wilbanks-Free stated that at the last budget workshop there was no plan of action as of yet for Mrs. Kabana. We don't know where we are at. One reason the amount for the auditors was so high is due to the chart of accounts. Mrs. Wilbanks-Free has spoken to an accountant she has worked with in the past and has passed information to him to show what needs to be done. Mr. Torres stated that he would charge the Town \$2,500 per month to close July, August and September; he would also assist with the information for the RFP.

MOTION: Dezman/Borton to approve.

Mrs. Moccia asked how this happened, was something left out. Mrs. Wilbanks-Free stated the Stillwater assets were not done; the audit was complete and the numbers had to be re-worked. Mayor Eschenberg asked where the funds would come from to pay this. Mrs. Wilbanks-Free stated she could not say at this time. Mayor Eschenberg stated this needs to be done and the funds, if need be, should be taken from reserves. Mrs. Dezman stated she does not want the person who presented the audit to be our contact person. Mrs. Wilbanks-Free stated that she has had conversation with Mr. Whitely at Berman Hopkins and this person will no longer be involved with our account.

MOTION: Dezman/Borton to approve \$7,500 of accounting for last quarter. VOTE: All Ayes.

I. DISCUSSION ITEMS**7. Use of Town's "Mailboat" and/or Website by Election Candidates**

Exhibit: Agenda Report No. 7

Recommendation: Discussion and direction by Town Council

MOTION: Borton to decline involvement

Mayor Eschenberg stated that before a motion can be made, we have a speaker card on this matter.

Bud Ryan, 1923 Howell Lane, came forward and addressed Council. He is asking that space be made available on the town web site and the Mailboat for candidates to get their views across. This will assist the Council in seeing what the people are concerned about. It should be edited for factual correctness and for length of presentation.

The discussion was brought back to Council. Mrs. Borton ran unopposed the first time; the second time, someone ran against her and she had to pay to advertise. The Mailboat should not be used; it is a way for Council and the Administrator to communicate with the residents regarding issues that are happening. The candidates have always run their own campaign. Mrs. Moccia is in agreement; it's part of running for Town Council. It's like a blessing of the candidates and it's hard work. . She doesn't mind the web site being used. Mr. Vail doesn't want the Mailboat used as a place to voice opinions. It's not a place for a campaign letter either. Mrs. Moccia stated that Florida Today runs articles on the candidates. Mayor Eschenberg made suggestion that any town publication is totally non-political. A web site can be purchased for about \$5.00; any candidate who opens a web site, the town should give them a link.

Mrs. Dezman hasn't said anything regarding this as she is up for election. Anyone has the right to open their own web site with a link on the town's web site.

MOTION: Borton/Dezman to decline any involvement in this at all.

Mr. Bohne stated that if someone gets a web site, Council can allow the links to be provided. It can be used as a candidate's forum; it's not uncommon. He placed a call to the Supervisor of Elections regarding this. It is totally up to Council.

Mrs. Borton stated there should be no links; this should be done all on their own with no official assistance from the Town.

Mr. Vail doesn't like a double action motion; each motion should be broken out.

VOTE: Moccia, Borton, Dezman, Ayes – Vail & McClelland – Nays.

Mrs. Dezman advised Council that the School Board, when running, is responsible for everything they do.

8. Consideration of a Doggie Dining Ordinance

Exhibit: Agenda Report No. 8

Recommendation: Discussion and direction by Town Council

Stuart Borton, 141 Riverview Lane, came forward and addressed Council. He spoke in favor of the ordinance. The restaurant will have to deal with their own liabilities. This is a conflict of interest for Mrs. Borton.

Steven Sciontino, 1390 US #1, came forward and addressed Council. He spoke in favor of the ordinance. He is in agreement with Mr. Borton.

The discussion came back to Council. The question of liability issues was brought to mind. Mr. Bohne stated he doesn't see how the Town can be liable. We are permitting something to occur; he doesn't see the liability and could not get the issue from the Florida Today paper.

Mayor Eschenberg advised that this is a 3-year pilot program. The State Division shall provide assistance with enforcement of the ordinance. There are some requirements that the Town would have to do if Council decides to pass this ordinance. How much is the application to issue the permit? The fee would have to cover all these costs. Mrs. Wilbanks-Free stated a sample ordinance from Orlando was provided for Council to review. Mrs. Borton stated that she has had people inquire when their dogs could come to the restaurant. The ordinance would serve any restaurant within Malabar. Mr. Vail and Mr. McClelland both feel an ordinance should be drafted. Mrs. Dezman stated great

concern for the dogs being out on US #1. Mrs. Borton stated the dogs would have to be leashed. Mrs. Borton asked how soon this could happen. Mr. Bohne is to draft an ordinance to be brought before Council at the next RTCM. It would take a minimum of three Council meetings.

9. Consideration of the Proposed Contracts with the MVFD

Exhibit: Agenda Report No. 9

Recommendation: Discussion and direction by Town Council

Mayor Eschenberg stated the contract proposed by the Town was turned down by the Corporation; they have presented a contract to the Town for review.

Bob Rowan, 2565 Corey Road, came forward and addressed Council. He can only comment on what he has seen post hurricane. He does see a need for the corporation but they should stand on their own; they need to do fund raising, recruiting and paying for the uniforms. Donations should be spent to benefit the firefighters. They should not be involved in hiring/firing personnel or purchase fire equipment. Let them exist on their own merits. The Chief, Town Administrator and Council should run the fire department. Membership to the corporation should be a choice, not mandatory. He is asking that Council review all documents.

Mayor Eschenberg asked that Chief Gianantonio come to the podium. He is familiar with both contracts. Mayor asked what he is comfortable with. Chief Gianantonio stated the Corporation should be involved in the recruiting. It's been over a year and under present management, they have done nothing. He would be comfortable with the Corporation just doing fund raising.

Mr. Bohne stated there are three entities: the Town, Fire Department and the Corporation. The corporation is not going to be doing the firefighting according to their contract. The members of the corporation, at the expense of the Town, are insuring the members of the corporation. This should be made to say that insurance of firefighters only. Council needs to understand that they are not doing any firefighting. Mrs. Wilbanks-Free stated the information requested from the labor attorney has not been obtained regarding paid or stipends; a lot of research is involved in this. This also may be a question that needs answered with regards to insurance if stipends are paid instead of salary. FRS requires that the Town pay the portion for the positions at the fire department no matter if it is a stipend or the part-time salary for the Chief and the Fire Marshal. Mr. McClelland stated on August 14, 2004, a final contract was sent back to Mr. Booth showing all corrections; the contract was not executed.

It was stated that the language needs to be changed to show firefighters only with regards to the VFIS insurance. VFIS will cover anyone. If worker's comp is turned down, the VFIS insurance will pick up. Mr. Bohne stated if the Town is negligent then we are responsible. It was asked that the policy be looked at for the VFIS insurance to see what the policy premium is based on.

J. MAYOR AND COUNCIL REPORTS

Borton-asked Council for permission to see if her neighbor can come in to see about the a/c in this building.

Mrs. Borton attended the FLC conference and stated the speakers were good motivational speakers; she picked up a lot of information and has passed it on to Mrs. Wilbanks-Free.

Mrs. Borton asked that the e-mails for the Town Clerk be checked daily. We don't want to miss anything that may need attention.

MOTION: Vail/Moccia to extend the meeting for an additional 10 minutes. Vote: All Ayes.

The issues with the Clerk need to be addressed. Mrs. Wilbanks-Free stated Mrs. Kabana would be in on Monday to close the month of June and to work with the accountant. Mrs. Dezman asked if a doctor's note is available at this time. Mrs. Wilbanks-Free stated she has not received any doctor's notes; a test is being performed tomorrow.

Mrs. Borton advised Council that she has asked Mrs. Wilbanks-Free for attendance records; some of the attendance of the staff scares her.

Vail-has no concerns at this time. He would like to see three estimates for the a/c.

McClelland-has nothing to report at this time.

Moccia-she is meeting with the County Commissioners on Wednesday; asks for Council's input. How should she go forward with the airport issues? Safety issues come first; the touch & go landings. Mayor would like to know about the safety systems they are looking to put in; will it make it easier for landing at night with lights added. If yes, he's opposed to it. We want nothing to encourage night-time landings. Mrs. Dezman stated they are landing and flying at night and day. The helicopters are below 500 feet. It was stated that Mr. Lorenc has video-taped their altitudes; they are so low you can see the numbers on the tail of the aircraft. He has been reporting this activity as recreational use. If the funds are being spent, they are doing it for a reason.

MOTION: Dezman/Vail to extend the meeting for an additional 10 minutes. VOTE: All Ayes.

Mrs. Moccia stated that all questions have been answered; she will go to the Commissioners with what Council wants. Mrs. Dezman stated Mrs. Knudson and Mrs. Thomas said the Advisory Board meeting is August 27th. She has asked that a call be received from Mrs. Wilbanks-Free. If the meeting is at 10:00 am, she is available to attend.

Dezman-states we should be consistent with full names on legal documents.

Mrs. Dezman is sharing Mrs. Borton's concerns. She raised questions a few meetings ago with how we do business.

Mayor Eschenberg-two things about the conference; different cities have different opinions. The Council members should come into a meeting and not socialize. This would not work for Malabar; we are pretty much in line. Within the vendor area, Calvin Giordano was there; Mayor Eschenberg spoke to them about the contract.

K. PUBLIC COMMENTS: GENERAL ITEMS**L. ADJOURNMENT**

There being no further discussion; **MOTION: Dezman/Borton to adjourn the meeting. VOTE: All Ayes.** This meeting adjourned at 10:45 pm.

These minutes were approved on 9/5/07.