

**MALABAR TOWN COUNCIL REGULAR MEETING  
DECEMBER 17, 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 Mayor Eschenberg.

**B.     ROLL CALL:**

MAYOR/CHAIR	TOM ESCHENBERG
VICE-CHAIR:	CHUCK McCLELLAND
COUNCIL MEMBERS:	NANCY BORTON
	BRIAN VAIL
	JEFF MCKNIGHT
	PAT DEZMAN, EXCUSED
TOWN ADMINISTRATOR:	BONILYN WILBANKS-FREE
BUILDING OFFICIAL:	ROGER CLOUTIER, EXCUSED
ATTORNEY:	KARL BOHNE
TOWN CLERK:	DEBBY K. FRANKLIN
TOWN PLANNER	KEITH MILLS

**C.     ADDITIONS/DELETIONS/CHANGES – Clerk asked to move Agenda Item No. 3 to before the Public Hearing on AGENDA ITEM NO. 2. Chair noted no objections and change was approved.**

**D.     PRESENTATIONS – NONE**

**E.     PROCLAMATION - NONE**

**F.     CONSENT AGENDA**

1.     **Approval of Minutes –**  
                    **Regular Town Council Meeting Minutes 12/03/07**  
         **Exhibit:**                      Agenda Report No. 1  
         **Recommendation:**     Motion to approve

**MOTION:** Borton / McClelland to approve as presented.    Vote: All Aye.

**G.     STAFF REPORTS:**

**ATTORNEY**

- Attended the recent Grant-Valkaria meeting and helicopter flights by Silver State were discussed and they were going to cease doing some activities and the complaints are coming back and they are going to take the lead and do some things. If the residents start complaining to FAA and have multiple witnesses. There are specific forms and Mr. McFadden will provide the form to Town. He is working on other options. Vail said at 7:30 Sunday morning he heard the helicopters flying over. Attorney stated FAA is reluctant to act with only one complaint.

**ADMINISTRATOR**

- Referred to blogging and asked for TC to forward questions to her.
- Also asked about adding to Christmas tree. There is a discount if we want to add to it. Look at it while the tree is up and when we prepare the budget we will add it.
- The dome is gone. Ten people came and they were so enthusiastic and disassembled it and moved it.
- The Benjamin Road right-of-way clearing she wrote about in the FYI has been discussed with the Town Attorney and will be followed up with by the Special Magistrate.

**CLERK**

- Seminar Florida Association of City Clerks offered for professional and educational credits was in Port Orange and was attended by Deputy Clerk and I. Memo attached to minutes.

- Showed picture sent in by Pt. Malabar Elementary School on Butterfly Garden constructed with financial assistance from Bobbi Moccia's Discretionary Fund while on Council. Pt. Malabar Elementary is the school that Malabar students attend.
- Newsletter delivery problem has been investigated and resolved. Malabar will go back to old method of delivering newsletters to Malabar Post Office after verification at Melbourne P.O.

Moved Agenda Item No. 3 here:

**I. ACTION ITEMS:  
RESOLUTIONS**

**3. Appointment to Valkaria Airport Advisory Board. RESO 33-2007.**

Without objection the Mayor read by title only.

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING APPOINTMENT OF BOBBI MOCCIA TO SERVE ON THE VALKARIA AIRPORT ADVISORY BOARD; PROVIDING AN EFFECTIVE DATE. Ms. Moccia was in attendance and addressed Council on her desire to continue to serve. She explained the original Board was dissolved in order to reorganize and add a member from Grant-Valkaria and in order for her to attend the next meeting she would need to be reappointed.

**MOTION:** McClelland / Vail to re-appoint Bobbi Moccia to the Valkaria Airport Advisory Board with Resolution 33-2007.

Vote: The roll was called: Councilmembers: Borton, Aye; McClelland, Aye; McKnight, Aye; Vail, Aye; Dezman, not present. Motion carried 4 to 1.

**H. PUBLIC HEARING:**

**2. Evaluation and Appraisal Report for the Malabar Comprehensive Plan**

**Exhibit:** Agenda Report No. 2.

**Recommendation:** Motion to adopt Reso 31-2007

**Without objection Mayor read Resolution 31-2007 by title only. RESOLUTION 31-2007**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING THE EVALUATION AND APPRAISAL REPORT FOR THE MALABAR COMPREHENSIVE PLAN; STATING THE INTENT OF THE MALABAR COUNCIL TO AMEND THE COMPREHENSIVE PLAN BASED UPON RECOMMENDATIONS CONTAINED IN THE REPORT; APPROVING TRANSMITTAL OF THE REPORT TO THE DEPARTMENT OF COMMUNITY AFFAIRS IN ACCORDANCE OF SECTION 163.3191 FLORIDA STATUTES; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor introduced Ms. Lorraine Tappen of Calvin-Giordano and Associates, Inc. the company hired to produce Malabar's Evaluation and Appraisal Report. She did a 15 minute presentation on the E.A.R. process and the earlier Scoping Meeting and the issues that came out of that meeting that they used in the report. She included the successes and shortcomings, population changes, financial feasibility of LOS, conformance to State regulations, recommendations from citizens. She stated that the Scoping Meeting had 30 attendees.

Some highlights: Access to the IRL – incredible feature - original Comp Plan required public access every half-mile. Over time it did not happen. Pull that from the Comp Plan. Access feasibility of acquiring land to access the IRL such as FIND grant funding for the property north of Rocky Point Road. Requirement of Florida Administrative Code 9J-5 policy requires parking for these access points. She mentioned the historical location north of Malabar Road that had mail shack and the early sail boats would throw mail off there and south of Malabar Road where old dock was that the steamboat would throw the mail bag onto. Historic inventory is important for town cohesiveness.

Also need to include a policy for a requirement for a Corridor plan and/or a zoning overlay for ease of transportation along corridors. Also need a redevelopment plan; right of way allocation policy. Turning onto and off of Malabar Road is difficult now. Provide for pedestrian uses and trails on quiet roads.

Change policy to require concurrency requirements for all development including SFR. Also regarding timing of improvements - sewer, drainage, and water must be available when you get a CO. Parks within 1 year of CO and transportation must be in place or under construction within three years of permitting. Put these timelines into the development agreements. Town will also need to comply with Fair Share Transportation requirement and school concurrency.

Showed Existing land use map. North of Malabar Road is largely conservation. South of Malabar is largely single family rural. Emphasis on rural character. And residents want this to continue. Town is working on Malabar Vernacular and policy should include this. Mark the conservation areas with a Conservation Land Use designation to protect them from future development. Also amend your PUD regulations.

Regarding blight and redevelopment - use the proposed corridor plan policy to aid redevelopment, street-scaping and greenway and trails development. Change policy to support active code enforcement. Stormwater quality is important being close to IRL. Town Staff recommended consultant include St. Johns Low Impact Development to add more permeable drainage and update the Town's 1994 Stormwater regulations. She also mentioned Florida Statute 163 requirements on affordable housing needs, post disaster redevelopment, adding a schedule for redevelopment, changing traffic to transportation for a policy and adding public transit. Fair Share mitigation and policies related to that also need to be added. Public School concurrency are required to be adopted by March 2008 and Capital Improvement Plan (CIP) are required to be adopted by December 2008. FLUM – current uses don't match actual uses.

Chair opened to Public Hearing portion.

Pat Reilly, 1985 Howell Lane, Vice-Chair of P&Z and they had their public hearing at 5:30PM. As the Local Planning Agency they recommended approval by a 4 to 1 vote and it was passed. P&Z Board has had many meetings since we started working on E.A.R. in March of this year. Report is complete and any issues remaining can be addressed at the next stage. The extra time some requested or the postponement for the vote will not make a difference. He recommended Town Council approve the Evaluation and Appraisal Report.

No other Public comment.

Chair closed the Public Hearing.

**MOTION: Borton / McClelland to adopt Resolution 31-2007 approving the 2007 Evaluation and Appraisal Report. Discussion.**

Attorney pointed out that the P&Z recommendation should read from Local Planning Agency since that is their role in this process. CM McKnight did not have a problem with the report but felt Council did not have enough time to review the 200 plus pages. McKnight attended the P&Z meeting and of the P&Z Board, only two members stated they reviewed the report in any depth and one of those two had issues with recommending approval. There were 20-25 issues at Scoping meeting and only 7 were used by the consultant in the report. CM McKnight considers the issues the building blocks. The Town residents should state which of the 20-25 issues to use in the report. He didn't believe there was enough time given to review. By not meeting the deadline there is a need to take a hit from the State but did not think it was significant. The EAR sets the suggestions. You have to comply with the state regulations. You will incorporate them later. CM McKnight questioned how many council members had read the pages – CM Vail and McClelland had scanned the 200 plus pages. They know it must conform to the State guidelines. The amendments will be added to our Comp Plan. CM McKnight is afraid that important things will be left out. It will stand as written and the one person that has reviewed

it will have changed it. Town Administrator asked CGA consultant Ms. Lorraine Tappen if the issues were in the newsletter article. CM McKnight asked how will it affect the outcome – Ms. Tappen stated after this, during the amendments the intent can be changed. Mayor stated that he called and asked an expert and if we miss any deadlines the State won't review any further Comp Plan changes until we do submit it and comply.

Vail asked what happened if we change a goal after this is approved. Ms. Tappen explained that there are two parts to the EAR amendments – state requirements and those from the review of the Comp Plan. After we get into the process we actually can expand on amendments.

CM McKnight asked about the parking requirement for the river. Requirement of parking is state mandate, Tappen listed the items that are state required. Whereas the changing of the land use designation of the conservation land would be from the review of the existing Comp Plan. Each change would require additional public hearings. Mayor stated that the more changes we make the more it will cost. Borton feels comfortable with the EAR Report. She doesn't like the state mandates but feels that Calvin-Giordano has done a good representation of what she heard at the Scoping meeting.

Town Administrator BWF said that in Oakland Park – they changed from their original issues during the process with no problem. CM McKnight stated that his concerns about not enough time to review is not a reflection on any staff and knows the due dates were tight. In any situation like this he will always want a thorough review.

VOTE: The roll was called: Councilmembers: Borton, Aye; McClelland, Aye; McKnight, Nay; Vail, Aye; Dezman, not present. Motion Carries 3 to 1.

## **I. ACTION ITEMS**

### **ORDINANCES – First Reading - None**

### **RESOLUTIONS**

#### **4. Conditional Use Permit Application for a Equestrian Commercial Horse Stable, 2905 Weber Road, Malabar – Applicant Diana Gonzales-Villamil. RESO 32-2007 CUP**

Without objection Mayor read by title only.

Resolution 32-2007 A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR COUNCIL APPROVAL OF A CONDITIONAL USE PERMIT FOR EQUESTRIAN TRAINING AND BOARDING AT 2905 WEBER ROAD, PROVIDING FOR REPEAL; PROVIDING FOR AN EFFECTIVE DATE.

Patrick Reilly spoke and went over the Art VI – they bought existing property – they provided info to staff, answered all of staff questions and P&Z questions. They are on a corner lot with roads on three sides one now and two in the future. They are very low impact to the neighbors. They are only going to have five and could have nine. Will board the horses they train. The owners will come to get the horse to take to shows. All of this is provided on site plan.

**MOTION:** McClelland / Vail to adopt Resolution 31-2007 approving the Conditional Use Permit for 2905 Weber Road for Equestrian Boarding and Training. No Discussion.

Vote: The roll was called: Councilmembers: Borton, Aye; McClelland, Aye; McKnight, Aye; Vail, Aye; Dezman, not present. Motion carried 4 to 0.

## **MISCELLANEOUS**

### **5. REAL ESTATE APPRAISAL FOR 2715 MALABAR ROAD**

**Exhibit:** Agenda Report No. 5

**Recommendation:** Discussion and action

Council asked the Attorney if a government can pay more for a property than the appraisal. The market value is 138K and property appraiser value is 135K. Attorney stated that if there is a public purpose and if there are reasonable grounds for the increased amount then yes. CM Vail said the reasonable grounds and public purpose is that it ties the town hall site and the PW site together. CM McClelland asked BWF where the money would come from. CM McKnight asked if we can come up with money over the appraisal. Yes TA BWF stated we don't have fluff in budget. Susan started a grant application. No follow through. We could get a loan. We have money in reserves. CM Borton asked if we should continue to ask town residents if they want a town hall.

**MOTION:** McClelland / Borton to authorize TA BWF to explain the appraisal to Mr. Billie and negotiate for best price. Discussion. The last time we discussed it someone told Mr. Billie it was worth 400K. Mayor said once he understands the appraisal process... Vail thinks the appraisal is considerably less. Vote: Councilmembers: Borton, Aye; McClelland, Aye; McKnight, Aye; Vail, Aye; Dezman, not present.  
Motion carried 4 to 0.

**6. Request For Council Approval For Volunteer Fire Assistance Grant Purchase For Fire Personnel Bunker Gear and Helmets**

**Exhibit:** Agenda Report No. 6

**Recommendation:** Motion to approve

**MOTION:** McClelland / Borton to approve. Town Administrator explained that this was an approved expenditure in the budget. Mayor called Chief up to podium. Chief Gianantonio explained the grant reimbursement process. McKnight asked about the description of "gold tails". This will be paid out of Fire Department budget and then submit proof of payment to Division of Forestry. Then Forestry reimburses half of that within three months. We have done this before. Mayor wants Council to be aware of this in case the Fire Department has a financial need before the reimbursement is received. McClelland is familiar with process from his history as Fire Chief. Vote: All Ayes. Motion carried.

**7. Determine Second Meeting Date In January And Set 7:00 PM For A Joint Workshop With P&Z For "How Shall We Grow"**

**Exhibit:** Agenda Report No. 7

**Recommendation:** Discussion and action

**MOTION:** Borton / McClelland to set second meeting in January on January 28, 2008. Meeting will start at 7PM with the Joint Workshop with P&Z and then the regular meeting at 7:30PM. Hold off on selecting the second meeting date in February until January 7, 2008 meeting. Vote: All Ayes. Motion carried.

**8. Closing of Town Hall for 12/24/07 and 12/31/07**

**Exhibit:** Agenda Report No. 8

**Recommendation:** Discussion and action

**MOTION:** Borton / McKnight to close Town Hall on 12/24/07 and 12/31/07 for entire day. Vote: All Ayes. Motion carried.

**J. DISCUSSION ITEMS**

**K. MAYOR AND COUNCIL REPORTS**

CM McKnight: Appreciate the packets being ready as early as they were.

CM McClelland: wishes everyone happy holidays

CM Vail: wishes everyone happy holidays

CM Borton: asked if all of Council can be involved when we interact with SCLC.

Mayor: he has been mulling over since FD party. General requirements – there is a need to look at the Fire Department needs for the next five years. He believes the taxpayers would first want a good fire and rescue department. And then fix roads and drainage. Bottom line is money. He throw out this to have TC think about. Need a regular meeting at least quarterly with one member of council and brainstorm what they will need how they can get it. He suggests McClelland. Think about it and come up with ideas. Compare the cost to the need. The one truck will have to be replaced within 5 years. When do payments run out? BWF stated the CIP lists the debt service and budget time would be the strategic planning for what they need from there department. It is done through the budget process. McClelland went through this process. TC asked BWF to put together a strategic planning session. FD Brainstorming Session on next TC agenda.

One other thing: at the SCLC dinner meeting there was an exchange between cities and Palm Bay got us and they gave us some of their dirt since we have lost so much to EELs. Also an IOU from State Board Plan. They also referenced out Interlocal Agreement for water and gave each CM a bottle of Palm Bay water.

#### **L. PUBLIC COMMENTS: GENERAL ITEMS**

Bill Withers, Candy Lane, over 3 to 4 months has been trying to get maintenances done and has talked to TA BWF and CM Vail to no avail. He and his neighbor keep up Candy Lane and want millings. It has a good base just like Brians. He drags it. He needs someone to say put a couple loads of millings down. Thanks Council .

TA BWF stated Candy Lane is ranked a “B” on the road list Council has approved. The budgeted amount is for millings for the C and D roads. We have received the millings and have yet to start. She is waiting on prices on paving and millings She will begin with the D roads and then the C roads. The millings – will cover C and D roads. She will forward list to TC. It was either in late Sept or Oct. - CM Vail suggested looking at roads again.

We do not use residents to do our roads.

#### **M. ADJOURNMENT**

There being no further business to discuss, **MOTION: McClelland / Borton to adjourn this meeting.**  
**VOTE: All Ayes.** The meeting adjourned at 9:30 PM.

BY: \_\_\_\_\_  
Mayor Thomas M. Eschenberg, Chair

ATTEST BY:

\_\_\_\_\_  
Debby K. Franklin, Town Clerk

\_\_\_\_\_  
Date