

**MALABAR TOWN COUNCIL REGULAR MEETING
JANUARY 12, 2006 7:30 PM**

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

<u>ROLL CALL:</u> MAYOR/CHAIR	TOM ESCHENBERG
VICE-CHAIR:	STEVE RIVET
COUNCIL MEMBERS:	FRANK HICKSON (excused)
	BRIAN VAIL
	BOBBI MOCCIA
	PAT DEZMAN
BUILDING OFFICIAL:	NORM SMITH
ADMINISTRATOR:	ED BOOTH
ATTORNEY:	KARL BOHNE
DEPUTY TOWN CLERK:	CINDI KELLEY

ADDITIONS AND DELETIONS TO AGENDA: Action Item #2 has been voluntarily withdrawn for tonight's review. This has been re-scheduled for the January 23, 2006 meeting. Mayor Eschenberg has a presentation addition regarding the Valkaria Airport Update. The homeowners will present first and then the County will go after.

MOTION: Rivet/Moccia to approve as presented with modifications. VOTE: All Ayes.

CONSENT AGENDA:

COUNCIL MINUTES 12/5/05

MOTION: Rivet/Moccia to approve. VOTE: All Ayes.

At this time, Mayor Eschenberg addressed the audience with the way that the proceedings take place during the meetings. Each individual who wishes to speak

MOTION: Rivet/Moccia to approve as presented. VOTE: All Ayes.

PRESENTATIONS:

VALKARIA AIRPORT UPDATE

Janice Walters, President of the Homeowners Association for Valkaria, came forward and made a presentation to Council. Ms. Walters spoke against the Valkaria Airport Master Plan. She is in favor of keeping the airport small as it is now. Ms. Walters asked that Council attend any and all meetings with the County Commission regarding this matter. Mrs. Moccia stated that she would be attending these meetings. Mr. Booth advised the Council that the County is looking at the property across the street from the airport to be used as a new elementary school site. Mr. Vail stated that he is very aware of the air traffic, and if allowed to bring the FIT Flight School and commercial planes, how it would affect the community and surrounding areas. Mrs. Dezman stated that the people of Country Cove are coming forward and complaining about the air traffic as well.

Stephen Burowski the Valkaria Airport Manager, came forward to present to Council. Mr. Burowski stated that he was directed by County staff to look at the airport, all facets of the airport, which included the Master Plan. The plan has not been followed for the last fifteen years. The airport cannot support the flight school or commercialization of the airport. The required towers and equipment are not at the airport to support this type

of flying. Mr. Burowski invited Council to attend all the County Commissioner meetings regarding the airport. Mr. Burowski advised Council that there are a lot of repairs, since the hurricanes that need to be taken care of.

At this time, Mayor Eschenberg asked Council if they would like to hear from the neighbors now or wait for the end. It was general consensus to hear from those who filled out cards regarding this issue to speak at this time.

Linda Mason-5647 Cypress Creek Drive, Grant-spoke against the Valkaria Airport Master Plan. She would like to see the residents involved in the planning of the happenings of the airport.

Curt Lorenc-Valkaria-came forward and spoke against the Valkaria Airport Master Plan. Mr. Lorenc advised Council that he has heard that the flight school is planning to come down to this airport. This would mean flying times of 7 a.m. to 9 or 10:00 p.m. Part of the learning process is to fly early in the morning and late in the evenings. If the school is moved from Melbourne International Airport, this will have significant impact on the homes and life style in this community and surrounding areas.

Leroy Rogers-Valkaria Road-came forward and spoke to Council. He is a pilot out of the Valkaria Airport. He advised Council that Mr. Shimkus, the previous manager, was planning on the Master Plan. In the meantime, Mr. Shimkus retired. The airport needs a master plan to keep the airport in line. At one point, FIT tried to come to the airport and failed. The County has violated the deed restricted areas of the airport. Mr. Rogers does not want to see any commercial action at this airport. We need to take care of what is already there.

Eschenberg-brought it back to Council. We have heard conflicting information tonight. Pay attention and attend any of the public meetings and do our public input.

Rivet-most of the council agrees that we don't want any increase at the airport; we need to fix what is already there.

REPORTS:

ATTORNEY

At this time, Mr. Bohne advised Council that the mediation for the Gentile situation took place at Town Hall on January 6, 2006. Judge Lobere was the presiding mediator. This mediation resulted in an impasse. We were able to get an idea of what Dr. Gentile wants. Anything pertaining to horses, he wants to do it. It will now be a Notice to Trial. The trial will be approximately three to five days. They will be calling expert witnesses.

At this time, Mrs. Dezman stated that she wanted to commend both Mr. Booth and Mrs. Bohne for all the work put into this matter. We did not spend days on this and knowing the consensus of Council and the financial impact, the decision was not made lightly.

ADMINISTRATOR

At this time, Mr. Booth came forward and made a presentation to Council regarding the following:

- **ST. JOHN'S RIVER WATER MANAGEMENT DISTRICT**

The Town of Malabar was never included in the plans. They want to knock down the berm, which is Jordan Boulevard and create a wetland so it can never be used. St. John's went to the EELs as owner of the land, which they are not. This land is zoned RR65, which is residential 1 ½ acres minimum to build. We don't provide for creating conservation lands. This permit violated the home rule and also the 1985 Smart Growth Law.

- **FEMA FUNDS**

We have received an additional \$44,000 in the last month. Of these funds, \$33,000 was for the Jordan Boulevard crossing. The remaining \$11,000 came in to cover labor costs.

- **FUTURE PROJECTS, ACTIONS AND ORDINANCES**

The Public Works Department is now clearing out the ditches in town. We have come to the end of doing the roads. We are looking to put something down on the roads as a top coat to keep the dust down. Mr. Rivet asked Mr. Booth if Eva Lane had received the ground covering. Mr. Booth advised Council that it had.

Oakmont Preserve will be coming to Council, at the next scheduled meeting, to ask Council for an additional three month extension. They have started to bring in the fill dirt. Town Staff would like to see the paving of the roads before a final inspection. We would like to see more work out at this site. The hold-up for this subdivision was St. John's. Council had approved a six month extension and we are well within the area.

- **CAMERON PRESERVE**

At this time, Mr. Booth stated that he would like to address the discussion item regarding the e-mail from Murray Han. The Parks & Recreation Board and I are discussing how to go about the next FRDAP Grant. We are in the discussion phase only. We did clear and area in the preserve, the trail went through a wetland area. We will be bringing three different zoning conditions to Council in the future. We have cleaned up a few of our parks, along with the Foot Park and Cameron Preserve. If we require it of others, we must take care of our own parks. We are not ready to come to Council for anything at this time. The discussions are still with the Parks & Recreation Board. This is an easier grant to get and we don't want the funds to pass us by.

- **HIRE A CONSULTANT TO COMPLETE THE COMP PLAN CHANGES;
RECOMMENDATION FROM PLANNING & ZONING IS LES SOLIN**

Mr. Booth stated that we need to hire a consultant for the Comp Plan changes. The Planning & Zoning Advisory Board has made the recommendation that Solin be hired. In the letter received from Torpy, the County would like to see the school site right across the street from the airport on Valkaria Road. We need to come up with a component for a school sighting in the Comp Plan. Mr. Rivet asked if any of the children from Malabar would be attending this school. Mr. Booth and Mrs. Moccia both advised that some of the children in Malabar would be attending this new school. Mr. Booth stated that we would give Mr. Solin projects that would be in increments of \$5,000. Mr. Rivet asked where these funds would be coming from. Mr. Booth stated that Mr. Solin is now working in the area more often while working on another project. He won't be charging us to come to town.

At this time, Mr. Booth stated that there is an issue with the Cameron Preserve and Dr. Gentile. He is using the trails for his horse riding business by accessing the trails from

his property. Is it the general consensus to stop this activity? Mayor Eschenberg asked Council, with the other situation that is happening, do we want to antagonize Dr. Gentile and make things worse? Mrs. Dezman stated that there are citizens in the town who are already antagonized by Dr. Gentile by the lighting on his property. Mr. Vail asked if there was anyone else accessing the trails from their property? Mr. Bohne stated that we need to find out if this is happening anywhere else in the town for these trails. Mrs. Moccia stated that the EEL property signs posted state "Enter only at designated areas". Mr. Bohne stated that if you do this for him, you must do it for everyone else. Mrs. Moccia stated that access is to be from the gate only. Mr. Rivet asked Mr. Bohne if we are giving up our rights by not enforcing this? Mr. Bohne stated that he doesn't believe so. It is the general consensus of Council that this needs to be studied before we do anything at this time.

Mr. Booth advised Council that we are having vehicle appear all over the town. We need to have an ordinance, which will be coming to Council shortly. We will be using the County's ordinance and making the changes that will suit our needs. Mr. Rivet asked who would be paying for the towing of the vehicles. Mr. Booth stated that a 30-day sticker would be placed on the vehicle. If they are not picked up, we will have them towed and junked.

Mr. Booth advised Council, in regards to the budgets, we have made more than we have spent. We will be coming before Council for a budget amendment for the Fire Department.

Mr. Booth advised Council that we will discuss the Resolution for the Space Coast League of Cities at the January 23, 2006 meeting. Mayor Eschenberg stated that we would send a resolution to our State Representatives in support of the League's position.

FIRE CHIEF

At this time, Chief Gianantonio came forward and addressed Council. He provided a copy of his presentation to Council. Chief Gianantonio stated that we will have \$17,500 coming back from the Division of Forestry, which was not used. \$10,000 of these funds will be used to purchase more gear. We also have funds coming back from the new tanker truck as well. The camera system at the fire station needs to be replaced. All the vehicles are in much better condition.

PARK BOARD CHAIR

At this time, Hans Kemmler came forward and addressed Council. The Disc Golf Park across from the Malabar Community Park is coming along. The town has been taking away the trees. This needs to be coordinated so that the paths can be put through the last half of the park. Mr. Kemmler would like to have authorization to have a new aerial photo of the park taken and hung on the wall to replace the old one. Mr. Kemmler also asked when the cover for the playground equipment will be put back up. Mr. Booth advised that it is being repaired. When it was taken down, it was noticed that there was some tearing going on. Mr. Kemmler would also like to know about the funds coming in from the developers. He has requested to have copies of the budget, showing these funds, for the Park & Recreation Board to review. Mr. Kemmler brought up the fire breaks in the Cameron Preserve. Do we need to dig out more areas or just dig out what is already there? Mr. Kemmler stated that there is consideration for putting up signs at the EELs for horses, bikes, etc.

CLERK

- **SECOND MEETING DATE FOR FEBRUARY IS PRESIDENT'S DAY-
SELECTION FOR AN ALTERNATE MEETING DATE**

Ms. Kelley advised Council that the third Monday in February is President's Day, which is a holiday. We need to select another date for the second meeting in February. This is due to all of the ordinances that are coming before Council. The proper time for publishing notifications in the newspaper is very important. It is the general consensus of Council to hold the second meeting in February on the 27th of the month. This is last Monday of the month. If there is nothing pressing and it can wait, we may want to consider cancelling this meeting.

- **UPDATE TO COUNCIL REGARDING CODE BOOKS**

It has come to the attention of Ms. Kelley that some members of Council and the Mayor do not have code books or the people who have them need them to be updated. Mayor Eschenberg would like to have a code book. Mrs. Moccia stated that she would like for her book to be updated. Mr. Bohne stated that he would also like his book updates. Mrs. Dezman and Mr. Rivet asked for the web site where the codes can be found. Ms. Kelley provided the web site, which is www.municode.com, to Council.

PUBLIC HEARINGS:**1. FINAL READING, ORDINANCE 2006-01, AMENDING ARTICLE V SITE LIGHTING**

By unanimous consent, Council Member Rivet read ordinance by title only.

At this time, Mayor Eschenberg opened the discussion to the public. There being no public discussion, it was brought back to Council.

MOTION: Rivet/Vail to approve as presented. ROLL CALL: Vail, Rivet, Moccia and Dezman – All Ayes. Council Member Hickson was excused.

2. FINAL READING, ORDINANCE 2006-02, RELATING TO BUILDING CODES AND PERMIT FEES

By unanimous consent, Mayor Eschenberg read ordinance by title only.

At this time, Mayor Eschenberg opened the discussion to the public. There being no public discussion, it was brought back to Council.

MOTION: Rivet/Vail to approve as presented. ROLL CALL: Vail, Rivet, Moccia and Dezman – All Ayes. Council Member Hickson was excused.

ACTION ITEMS:**1. APPOINTMENT OF MALABAR REPRESENTATIVE FOR THE VALKARIA ADVISORY BOARD**

At this time, Mayor Eschenberg opened this for public discussion. We have four speaker cards. He has asked that everyone stay on subject.

Linda Mason-Valkaria resident – came forward and addressed Council. She believes in equal representation on the advisory boards. Ms. Mason is not seeing this at this time. If Dr. McClure is appointed, he would be the seventh pilot, out of eleven board members, on this board. Ms. Mason would like to see an environmentalist on this board. She has provided information to Council and would like for Council to make a decision. She believes that there would be a conflict of interest if Dr. McClure were to be appointed.

Janice Walters-Valkaria resident-came forward and addressed Council. Ms. Walters spoke against Dr. McClure being appointed to the board. She feels he would be representing his own interests, not those of the community and the surrounding areas.

Michael Hoffman-2940 Pomello Road-came forward and addressed Council. He likes the idea of planning, but we need to make sure that there isn't a switch & bait going on here. We need someone to represent the citizens. Mr. Hoffman empathizes with the concerns of the citizens here this evening.

Dan Faden-Valkaria resident-came forward and addressed Council. Mr. Faden is on the Valkaria Airport Advisory Board. He would like to see this as a recreational airport, not commercial. There are six pilots on the board. It's all about balance. We need to learn to work together. He is speaking against the agenda of Dr. McClure. Council needs to appoint someone to the board that does not have an interest in the airport and will represent the citizens.

Curt Lorenc-Valkaria resident-came forward and addressed Council. Mr. Lorenc stated that there is a law suit and it is an action for Dr. McClure to take over the airport. Dr. McClure, for the last three years, has tried to commercialize this airport. Mr. Lorenc stated that he feels Council should put someone, who is not a pilot, on this advisory board.

Mrs. Dezman stated that she wanted a good idea of when she was sworn in for Council. Ms. Kelley stated that is was April of 2005. Mrs. Dezman, based on the information that was provided by Mr. Burowski, stated that Mr. Castrillo was not even appointed to the board until August. How could he be considered unexcused from meetings before he was placed on the board? Mr. Burowski stated that the previous board member was never present at the meetings. Mrs. Dezman stated that this was the whole reason for the appointment of Mr. Castrillo. Before Council does anything with this appointment, she would like to hear from Mr. Castrillo.

Dr. Joseph McClure-Malabar resident - came forward and addressed Council. Dr. McClure doesn't feel that he has an agenda regarding this. This is something that he can do for the Town. The meetings are convenient for him to attend. Mr. Rivet asked what are his thoughts for the future. Dr. McClure stated that the airport needs to be cleaned up and have some landscaping . The hangar and the runways need to be fixed. Nobody wants to see a jet port in Valkaria. Dr. McClure feels that there are some things that can be improved upon. If Council has a conflict between what is right and their feelings, then I wouldn't appoint me either. If the representative and Council have conflicts, then the conflicts need to be worked out. If the representative isn't doing their job, then they should be fired.

At this time, Mayor Eschenberg asked how Council would like to handle this.

Mrs. Dezman stated that Council was pro-active in appointing Mr. Castrillo, this was the whole reason for this appointment. Before Council does anything with this appointment, she would like to hear from Mr. Castrillo. Mayor Eschenberg advised Council that we need to appoint a representative every year.

MOTION: Dezman/Moccia to table appointment of Malabar Representative for the Valkaria Advisory Board until the January 23, 2006 meeting. VOTE: Dezman, Moccia and Vail – Ayes; Rivet - Nay

2. **SITE PLAN APPROVAL OF A CHURCH STRUCTURE TO BE BUILT IN PHASES. LOCATION: NW CORNER OF GLATTER AND MARIE. OWNER/APPLICANT: GOD'S HEALING HOLINESS CHRISTIAN CHURCH, INC. REPRESENTED BY REVERAND BORLAND**

This action item was voluntarily withdrawn by the applicant for tonight's review. This has been added to the January 23, 2006 agenda.

3. **FIRST READING: ORDINANCE 2006-03, LAND USE CHANGE FROM OI TO R/LC FOR LOTS 1 AND 2 IN BLOCK 1 OF SNEDEKERS SUBDIVISION AND FROM MDR TO R/LC FOR LOTS 3-10 IN BLOCK 1 OF SNEDEKERS SUBDIVISION – APPLICANT SERENE HARBOR, INC.**

By unanimous consent, Mayor Eschenberg read ordinance by title only.

MOTION: Moccia/Rivet to approve as presented.

Mrs. Moccia stated that she didn't see anything in the ordinance regarding the 35 foot height requirement. Mr. Bohne stated that we are not changing anything regarding the height. Mr. Smith stated that they went along with the building code definition, 35 feet to the new roof height.

ROLL CALL: Vail, Rivet, Moccia and Dezman – All Ayes. Council Member Frank Hickson was excused.

4. **FIRST READING: ORDINANCE 2006-04, ZONING CHANGE FROM OI TO RLC FOR LOTS 1 AND 2 IN BLOCK 1 OF SNEDEKERS SUBDIVISION AND FROM RS-10 TO RLC FOR LOTS 3 THROUGH 10 IN BLOCK 1 OF SNEDEKERS SUBDIVISION – APPLICANT SERENE HARBOR, INC.**

By unanimous consent, Mayor Eschenberg read ordinance by title only.

Mr. Booth stated that this cannot take place until the school site component is in the Comp Plan. Mr. Rivet asked if it would be incorporated before the second reading of the ordinance. Mr. Booth stated that we will try to have this done, but he was not sure if it would happen that quickly.

MOTION: Rivet/Vail to approve as presented. ROLL CALL: Vail, Rivet, Moccia and Dezman – All Ayes. Councilman Hickson was excused.

5. **PAID CALLS FOR VOLUNTEER FIRE FIGHTERS**

At this time, Mayor Eschenberg opened the discussion to the public. We have three speaker cards filled out and he has asked that they stay on subject.

Bill Withers-Candy Lane-came forward and addressed Council. Mr. Withers spoke against paying volunteer firefighters. He read a letter, which was published in the newspaper. This is not aimed at the Fire Department, it is aimed at paying volunteer fire fighters.

Bob Rowan-2565 Corey Road-came forward and addressed Council. He stated that most volunteer fire departments across the nation are paying their volunteers for responding. Most of the fire stations are paying \$20/call. We are asking for \$5/call, which puts us on the low side. We would have specific guidelines for this incentive. Each member would have to meet all the criteria. Mr. Rowan would like to see the support of Council on this matter.

Frances Kithcart-1874 Alexander Lane-came forward and addressed Council. Ms. Kithcart came from Polk County. They received \$5/call. All the funds paid to the fire fighters were put back into the fire department. These funds were used to purchase equipment needed. Ms. Kithcart stated that she did not know if all the volunteers would do this, but it is a good way for equipment that is needed to be purchased. These funds could also be used for repairs of equipment as well. Ms. Kithcart asked that Council support the fire department on this issue.

Mrs. Dezman stated that this issue shouldn't be taken lightly. We are talking about human lives. This is something that Council should consider. Mr. Vail asked how much funds are being talked about. Mr. Rowan, with just some basic figuring, stated that it would be approximately \$15,000/year. Mr. Vail also asked where these funds would be coming from. Mr. Rowan stated that there would be a \$1,400/monthly rental coming in from the cell tower. These funds could be put towards this. Mrs. Moccia stated that this is something that is important and feels it should be considered. If it means getting someone to assist in an emergency, than it would be worth the \$5.00. Mr. Vail stated that he is in favor of this. Mayor Eschenberg stated that if we can't afford to do this next year, we can take it away. Mr. Rowan advised Council that national statistics show a 20% increase. Mayor Eschenberg stated that we would be getting one to two more people per call. Mr. Booth stated that we have received an additional \$44,000 from FEMA that we did not anticipate. Some of these funds could be used for this.

MOTION: Vail/Moccia to accept proposal \$5.00/per call from this date forward.

VOTE: All Ayes. Just for clarification, Mr. Rowan asked Council for the effective date of this. Council advised Mr. Rowan that the effective date would be today, January 12,2006.

6. FIRST READING: ORDINANCE 2006-05, AMENDING ARTICLE III OF THE LAND DEVELOPMENT CODE IN RELATION TO BUILDING HEIGHT

By unanimous consent, Mayor Eschenberg read ordinance by title only.

MOTION: Rivet/Moccia to approve as presented. ROLL CALL: Vail, Rivet, Moccia and Dezman – All Ayes. Council Member Frank Hickson was excused.

7. RESOLUTION 01-2006: ACCEPTANCE OF STILLWATER SUBDIVISION WATER LINES

By unanimous consent, Mayor Eschenberg read ordinance by title only.

MOTION: Rivet/Vail to approve as presented. ROLL CALL: Vail, Rivet, Moccia and Dezman – All Ayes. Council Member Frank Hickson was excused.

8. AUCTION OF OLDER, UN-USED VEHICLES AND MISCELLANEOUS PUBLIC WORKS ITEMS

At this time, Mr. Booth stated that he has a minimum amount for these bids. The trailer has been here for over a year and we can now sell it. This really belongs to the Town. The other vehicles will have a minimum bid of \$500.00. The other miscellaneous equipment will be sold for \$1 to \$2. Mr. Rivet asked Mr. Booth if the additional dome will be included in this auction. Mr. Booth stated that it would not be at this time.

MOTION: Rivet/Dezman to approve the disposal of the items. VOTE: All Ayes.

9. APPROVE EXTENSION FOR SITE PLAN – CELL TOWER AT FIRE DEPARTMENT

At this time, Mr. Booth advised Council that this was approved by a previous Council in 2001. It is now just coming forward and we are doing a new lease agreement. Since this Council has not seen it, we are asking for an extension for you to be able to review it. The fire department will be able to put their antennas on it for free. The amount of the lease will start out at \$1,200, each additional customer will be charges \$1,000. Mr. Bohne is looking over the agreement. There are a lot of the issues that he is re-working.

MOTION: Rivet/Moccia to approve the extension for six months with the understanding that we fix the items in question in the agreement. VOTE: All Ayes.

DISCUSSION ITEM:

1. EMAIL FROM MURRAY HANN

At this time, Mr. Booth stated that he thought we already addressed this issue. Mayor Eschenberg asked about the Management Plan. Mr. Booth stated that this was covered. Mr. Kemmler is the expert and we are in the planning stages regarding the FRDAP Grant. We have not decided how to use the grant funds. Mr. Kemmler has done some research and has contacted the State. Mayor Eschenberg stated that he got the idea that Mr. Han is against having a Boy Scout Camp. Mr. Bohne stated that it can't be just a Boy Scout Camp, it has to be opened to the general public. Mayor Eschenberg stated that this sounds like it is an on-going matter. Mr. Booth stated that Mr. Han could have called the office and received the information that is in this e-mail.

2. TERM LENGTHS FOR BOARD OF ADJUSTMENT SEATS

Mayor Eschenberg stated that the ordinance reads that the term should not be less than three years and no more than five years. We should make these terms consistent with the other boards. Mr. Rivet stated that we need to make them similar to the other boards. We need to look at each board members term expiration date. There are three members who expire in the same year. Mayor Eschenberg stated that this will take an ordinance to correct these terms. Mr. Bohne advised Council that this will have to go before the Planning & Zoning Advisory Board. Mayor Eschenberg stated that it looks like the best way to do this is the way that Planning & Zoning is doing their terms. It is the general consensus of Council to correct this by an ordinance.

REPORTS: MAYOR, COUNCIL

Hickson-excused

Vail-nothing at this time.

Moccia-reported to Council that a culvert pipe has been crushed in her jurisdiction. A trucking company, who is working on the weekends, is backing over the culver and it is now crushed. A neighbor was able to partially fix the culvert. With the continued use, the temporary fix is no more. Also, there seems to be a business in town with no license. Mr. Booth stated that Code Enforcement is actively pursuing this matter and a letter has been sent out. Mrs. Moccia has requested a copy of the letter for her records. Mr. Booth advised Mrs. Moccia that we cannot get involved, civilly, because of trespassing on the property.

Mrs. Moccia advised Council that she is writing a grant for the Foot Park at Corey and Malabar Roads. We can also receive another \$2,000 from Keep Brevard Beautiful. Mrs. Moccia asked that Council approve the writing of a letter in support of the grant. Mr. Rivet asked if she is looking for Council support. Mrs. Moccia stated that she needs Council to appoint Mr. Booth to write the letter.

Rivet-reported to Council that he felt the letter in regards to a Paintball Park was not a good idea. Mayor Eschenberg thought that this would be a good idea but we don't have the land for this. Council has asked that Mr. Booth send a letter of response stating that we don't have the property available for this park.

Dezman-reported to Council that she would not be able to attend the County Commissioner's meeting on January 24, 2006. Mrs. Dezman stated that she went to have her picture taken on December 27, 2005. She was told by the photographer that we would have it at Town Hall by the first of the year. Mrs. Dezman has asked that Ms. Kelley check into the status of this. Mrs. Dezman has requested that business cards and an ID badge be ordered for her. During the mediation, she had no way to identify herself.

Mrs. Dezman stated that Code Enforcement needs to enforce the light ordinance regarding Dr. Gentile. Mr. Rivet stated that we need to buy a light meter. Mr. Booth stated that he would get with Mr. Rivet regarding the purchase of this piece of equipment. Mrs. Dezman reported that one of the neighbors, regarding Dr. Gentile, would like to have a meeting with Mr. Bohne, Mr. Booth and myself. They have sought the advice of an attorney. Mr. Rivet asked Mr. Bohne if they could hold a meeting if the Town was not a party to the law suit. Mr. Bohne stated that they may be witnesses. We will need to have a meeting anyway with all the witnesses pertaining to the Gentile matter.

Mrs. Dezman brought to Council's attention her concern that someone who was arrested for harvesting marijuana is servicing the town's vehicles. The Town shouldn't be hiring anyone that was arrested. Mr. Booth advised Council that this was within the fire department and that this would not happen because of these reasons.

Eschenberg-reported to Council in regards to the League of Cities. He would like to have the appointments for the intergovernmental committee, the member and alternate member. He has made the suggestion that Council appoint him, Mayor Eschenberg, as the member and Mr. Booth as the alternate.

At this time, 10:30 p.m., Mayor Eschenberg stated that a motion was needed to extend the meeting.

MOTION: Vail/Rivet to extend for 10 minutes. VOTE: All Ayes.

PUBLIC COMMENTS: GENERAL ITEMS

Pat Reilly-Malabar resident - came forward and addressed Council. Mr. Reilly is a member of the Planning & Zoning Advisory Board. This board has the same problem of expired terms. He would like to make a suggestion that Council move Don Krieger to 2007, which will correct this problem. It is the Council's pleasure as to who they choose,

it doesn't have to be Don Krieger. Mayor Eschenberg asked that this be placed on the January 23, 2006 agenda as an action item.

Bill Withers-Malabar resident – came forward and addressed Council. There are five hogs in the park. They are staying over by the fence in the area where the new town hall is being looked at. The EELs were called and they are passing the buck. The law states that the animal on the land belongs to the owner of the property.

With regards to ATVS, Mr. Withers reported that on January 3rd or 4th, it was stated on the news that a fourteen year old was injured while riding. The child's mother was charged with culpable negligence. It is against the law to ride on the side of the road, not on the roads, which was written in the Mailboat. We have nothing in writing on ATVs. Mr. Withers asked Council why we don't have anything regarding this matter. It is Council's responsibility to protect the citizens of the town. If we had an ordinance, the County would enforce it. Mr. Withers stated that last June/July, a gentleman on Hunter Lane had an eight year old riding an ATV. The sheriff was two blocks away, a citation was issued and a tow truck called to take the ATV away. The County can't do anything if we don't pass an ordinance. You can't make it less restrictive, you can make it more restrictive. The County has been told by Sheriff Parker not to chase them

ADJOURNMENT

There being no additional discussion, **MOTION: Dezman/Vail to adjourn at 10:40 p.m.**
VOTE: All Ayes.

BY:

Thomas Eschenberg
Mayor Thomas Eschenberg, Chairman

ATTESTED:

Cindi Kelley
Cindi Kelley, Deputy Town Clerk

02/06/2006
Date