

**MALABAR TOWN COUNCIL REGULAR MEETING
MARCH 6, 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 Frank Hickson.

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

ADDITIONS AND DELETIONS TO AGENDA: None

Mayor Eschenberg stated that with no objections, the agenda stands as is.

CONSENT AGENDA:

A) COUNCIL MINUTES 2/6/06, 2/27/06

MOTION: Hickson/Rivet to approve the consent agenda as presented. VOTE: All Ayes.

PROCLAMATION: MARCH IS IRISH-AMERICAN MONTH

At this time, Mayor Eschenberg read the proclamation and declared March Irish-American month. The proclamation was presented to Bill Moroney.

PRESENTATION:

**PRESENT LETTER & CERTIFICATE OF APPRECIATION TO PLAINSVIEW
FIRE DEPARTMENT - CHIEF GIANANTONIO**

At this time, Mayor Eschenberg asked that Chief Gianantonio come forward and read the certificate and give a brief over-view to the audience for the recognition. Chief stated that the Plainview Fire Department had donated Scott Air Packs to our Fire Department. Chief Gianantonio will make sure that this letter and certificate is passed on to the fire department in New York.

REPORTS:

ATTORNEY

Mr. Bohne had nothing to report at this time.

ADMINISTRATOR

- REQUEST FROM CITIZEN ON WEIR STREET

At this time, Mr. Booth addressed Council regarding Weir Street. Council had asked that the zoning be looked into for having a horse on a property in that area. Mr. Booth advised Council that this is zoned RS-10 and does not allow for a horse to be on the property. Mrs. Dezman stated that the person living in this home was in her district. She thought that this should be handled by Mr. Booth and had asked that he do this. The only way to have a horse in this area

of town would be for Council to go through the entire process of changing the zoning and the Comp Plan Change process. The homeowner was told by the realtor involved that they would be able to have a horse. This happened before the land was purchased. The properties in this area are zoned RS-15, allowing three (3) units per acre. You are required to have ½ acre lots to get a septic permit, so most lots are ½ acre lots. To be able to have a horse, you must have RR-65 zoning and that requires a minimum of 1.5 acres and allows one horse for the first acre and an additional horse for each ½ acre thereafter. This homeowner does not qualify because they cannot meet the minimum required acreage. Mrs. Dezman asked Mr. Booth to send a letter to the homeowners. Mr. Booth advised that the Building Department would be handling this.

When the Mailboat went out last week, a survey was included. We have received a good number of them back. We will wait for another week or so, and then compile all the information and provide it to Council. Mrs. Moccia stated that she has received phone calls regarding this issue. Mr. Booth asked that she share what they had to say because they may not complete the survey. Mr. Booth has not gone through each survey as of yet, he is giving everyone some more time to get them to Town Hall. We should have a good feeling about how the citizens of Malabar want to handle this issue. With regards to the survey, Mrs. Dezman stated that she received a phone call from someone in her district stating that they were not sure what district they were in. Ms. Kelley stated that a map is on the back of the Mailboat. Mrs. Dezman stated that there were no landmarks to give people an idea of where they are. She has asked that we have a more detailed map on the Mailboat. Mr. Rivet also requested that a detailed map be placed on the web site as well.

FIRE CHIEF

At this time, Chief Gianantonio came forward and addressed Council regarding the Fire Department. He provided his presentation before hand and it was included in this package. He advised Council that we have 10 new members, from the results of an article in the Hometown News, which was prepared by Dan Welton. Also, he stated that the paid calls were getting a better response from the firefighters. We need to get the 30' tower. The pages are being sent, but without the right height in the tower, some people are not getting the pages. They are looking to start the Juniors program soon. We have two individuals at the station who are going to be in this program. They do just as much and sometimes work harder than most members. Should they be paid per call? This is something to look into down the line. Chief Gianantonio spoke to Council about the emergency truck repairs. It is imperative that the engines are up and running. He cannot send a crew out on a truck with no lights and brakes, the liability is too great.

CLERK

At this time, Ms. Kelley reminded Council that the Space Coast League of Cities dinner is next Monday, March, 13, 2006. It is being hosted by Cocoa and will be held at the Cocoa Civic Center.

Ms. Kelley also let Council know that the preparations for Malabar Springfest are well under way and going great. The event will be held on Saturday, April 8, 2006, from 10 am until 4 pm.

PUBLIC HEARING:

1. FINAL READING: ORDINANCE 2006-06 AMENDING ARTICLE XVI SUBDIVISIONS

By unanimous consent, Mayor Eschenberg read Ordinance 2006-06 by title only.

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

MOTION: Rivet/Moccia to accept Ordinance 2006-06 as presented. The roll was called: Hickson, Vail, Rivet, Moccia and Dezman: All Ayes, motion carries.

DISCUSSION ITEMS:

1. FENCING OF TOWN PROPERTY ADJACENT TO RESIDENTIAL AREAS

Mr. Booth advised the Council that 700' of fence was asked for to protect the Country Cove subdivision. The cost would be \$2,100.00. We would clear 200' feet of brush, leaving the trees in place, with the exception of the pepper trees. The type of fencing to be used is hog fence.

At this time, Mayor Eschenberg opened the discussion to the public, as there were four (4) people who wished to speak on this matter.

Julianna Hirsch—1035 Malabar Road—advised Council that she wished to pass at this time.

Richard Cameron—650 Hall Road—Mr. Cameron asked if the fence was going to be going along the north end of Country Cove where Corey Road ends. This is part of the preserve. This is being done to stop the wild life from entering the developed areas. Mr. Cameron asked Council what would stop the pigs from coming around the fence and entering the developed areas. Mr. Booth advised Mr. Cameron that the State will also be fencing the area as well. Mr. Cameron stated that spending Town funds to place a fence and the north end is not fenced is a futile task. Unless you trap and remove the pigs, they will not go away. They feed off the Palmetto trees and berries from these trees. The animals are doing exactly what this land is being preserved for, but they do need to be brought under control.

Bob Wilbur— 2500 Glatter Road—Mr. Wilbur came forward regarding the Cameron Preserve fencing issue. He stated that anything we do is supposed to be submitted to the State for their approval. He doesn't have a problem with fencing this land, but we need to do a feasibility study, a study showing where the property lines are and we should bid this out for three bids. If Council wants to do this, it should be done by the method that was set down. Placing a small piece of fence is going to be a mistake. We need to do fire breaks through controlled burns. If you cut mechanically, it will not deter the growth coming back. You should have a burn afterward if mechanically cut.

Jimmie Marshall—2650 Malabar Road—Why is the Town and the State using tax payers funds to put up a fence? Why aren't the funds coming out of the HOA funds for this fence?

Mr. Vail advised Council that he has a concern about only fencing a portion. If we are going to fence, it should be done in it's entirety or not at all. Does the Town want to take on this financial burden? Do it all or do nothing.

Mr. Rivet stated, in answer to Mr. Cameron, that these wild animals have just as much right to be there. They do not, they are Ferrell Pigs. If we put this fence up, will it do any good? These animals are smart; they will find a way around the fence. Mr. Vail stated that with proper advertising, we could have trappers come in and remove the pigs and take care of this situation. Mr. Cameron stated that if the State owns the rights, they have the governing body and the animal belongs to the person's whose land it is on at

that time. Mr. Wilbur stated that St. John's Water Management has policies on the books. Maybe we could adopt their policies. They have contract trappers that they contact. They will go out, because they are allowed, and trap the animals and remove them. The faster we can get trappers in, the faster we can get the animals caught and removed. A fence will not keep the animals from breeding. Mrs. Moccia stated that she agrees with the trapping. We cannot use guns or force because you only catch the babies. The sows can have quite a few piglets at a time. It doesn't matter if you have fencing or not. Maybe we should be out in force to get trappers to come in.

At this time, Mrs. Dezman asked that Mr. Allan Wollard step to the podium. He is the president of the HOA for Country Cove. It needs to be explained to him why the 43 people, tax payers in this town, are not important enough for the Town to take care of this. He needs to be able to go back to the people of the community and explain it to them. Mr. Wollard advised Council that the HOA and the people in Country Cove have paid for trapping and so has the County. It has been an on-going problem. They have spent \$40,000 on this issue. He feels that a good hog fence would keep them out and he feels that a fence would be a good thing.

At this time, Mayor Eschenberg asked that this be added to the next agenda as an action item. Mrs. Moccia stated that all the pertinent information regarding this issue be made available at the next meeting so that Council can take care of this issue. Mr. Rivet asked if this is going to be good enough.

2. PROPOSED JUNKED, WRECKED AND ABANDONED PROPERTY ORDINANCE

Mr. Booth advised the Council that he is asking for this ordinance. Without it, the towing companies cannot come in and take the junk cars out of the Town's right of ways. With this ordinance in place, we can have the cars tagged and removed. Mr. Rivet asked Mr. Booth if the cost of the towing can be passed onto the owner if we are charged for this service. Mr. Booth stated that we usually cannot find the owner. The towing company will store the vehicle for thirty days and then they take possession of the vehicle. Chuck McClelland came forward and spoke to Council regarding this. He stated that there would be no cost to the Town. A lien would be placed, if the vehicle is owned by a Florida resident. The lien covers the cost of the towing and the storage fees. This is a money-losing proposition. A certified letter would be sent to the owner, lien holder and insurance company. This is done ten (10) days before a public sale to notify everyone involved. Mayor Eschenberg asked Mr. McClelland if there would be a cost to the Town if the car was on private property. Mr. McClelland stated that the vehicle is junked, with no salvage value. What would be the cost? Brevard County's rate for this is \$104.55 total costs. This is scheduled to go before the County Commission for a requested increase of 3%.

At this time, Mr. Bohne stated that the lien on private property would come back to the Special Master. A lien would be placed on the property that the vehicle was left on. This is modeled after the County ordinance. This ordinance may have some short-comings that need to be addressed. This is a discussion item only at this time; we are not taking any action on it this evening. Mr. Smith stated that he would not go onto private property. Mr. Bohne stated that the County ordinance gives permission for officials to enter private property. Mr. Booth stated that we are only looking at the Town's right of ways, not private property. Marie and Malabar Roads seem to be a magnet for this type of activity. Mayor Eschenberg asked if it was the general consensus of Council to address the abandoned vehicles on public property and not on private property. Mr. Bohne stated that the ordinance could be shortened to state public property only. He feels that the County's ordinance is way too broad allowing officials to go on private

property. Mayor Eschenberg stated that we will see this back before Council, but it is not a rush.

At this time, Mayor Eschenberg opened the discussion for public comments.

Rick Doyle-2150 Marie Street-came forward and addressed Council. He reported seeing a towing company from Yeehaw Junction, approximately six months ago, coming down his road. The person driving the truck took the vehicle off the back of the truck and was going to leave it down off of Marie Street. Mr. Doyle stated that he called the police and blocked the road so the tow truck could not leave the area. The only thing the driver was made to do was to hook the vehicle back up to the truck and remove it from the town. He was not issued any type of citation. Mr. Doyle could not understand why there was no citation issued. Mayor Eschenberg stated that we do have an ordinance in place to take care of this. The County is not keen on enforcing our ordinances; maybe because they don't know what they are.

ACTION ITEMS:

1. SITE PLAN APPROVAL FOR PALADIN SHORES CONDOMINIUMS

Before the Council discussed this action item, Mayor Eschenberg opened the discussion to the public.

Jim Milucky-1280 US #1-came forward and addressed Council regarding this action item. Mr. Milucky spoke in favor of this project and asked that Council keep in mind what Mr. Paladin is bringing into the town. We can all ride around the US 1 corridor and even down Malabar Road and see the disheveled properties. This is something good that will bring revenues into the Town.

Joe Paladin-came forward and addressed Council. He is the owner of the property, developer and person responsible for this project. He has been before Council several times within the last year to two years. Mr. Paladin feels that a very good relationship as developed between him and the Town of Malabar. He is looking to keep this going and bring a project that we can be proud of to Malabar. He doesn't mind being the first developer to set the standard for this area. The architect, engineer and project manager are all here tonight and would be happy to answer any and all questions that Council may have.

Mrs. Moccia stated that she would like for the architect to come forward because she had some questions regarding the elevator shaft. Mr. Dave Nagrodsky came forward at this time. He stated that there will not be any structure on the roof, above the roof line is the elevator. It is this way because of the design of the elevator. The State of Florida has codes regarding elevator shafts and the limitation for the height is 25 feet. Anything above the roof line has to be that height. The elevator for this project is well under the 25 feet, it is only 15 feet. Mrs. Moccia asked how the observatory would be accessed. Mr. Paladin and Mr. Nagrodsky stated that they would be accessed by private stairs for those who live in the units that have access to the observatory. The question was asked if this would set a precedent for anyone else coming in. The General Provisions state that everything needs to be approved by Council. The maximum roof height is 35 feet; anything over that would not be approved. When the ordinance was revised, it became stricter and protected the Town. Mr. Booth advised Council that staff did take a hard look at this. We sat down with everyone involved and re-designed a lot of the project.

Mr. Paladin advised Council that Building F has been totally redesigned, saving 100% of the wetlands. By doing this, we have eliminated on tier of the building, moved the building back and the parking area back. We will make this area an observatory. He has been working with Dr. Cox and his environmentalist, along with St. John's Water Management District. This will be an enhancement to the property.

Mr. Hickson brought his one concern to Council. The project is beautiful. But he feels that we may be dancing around an area of ambiguity. Is the top considered to be living space and therefore, a fourth floor? Mr. Paladin stated that there is no roof to enclose the space. Norm Smith, Building Official, stated that the codes are very strict and for this to be considered as actual living space there must be roof to enclose the space. Mr. Paladin stated that everything that is on the roof will be portable to be removed in case of storms. There is a small storage closet to house the equipment, such as chairs and small tables. There is no occupied space on the roof.

MOTION: Rivet/Hickson to approve site plan. VOTE: All Ayes. Motion Carries.

2. DIRECT THE ATTORNEY TO WORK ON ORDINANCE FOR EMINENT DOMAIN

At this time, Mayor Eschenberg gave information to Council regarding the wording for eminent domain. He asked Council what they thought of this. He also stated that we may want to put a time frame in this as well. Mr. Rivet stated that simple is good. Mayor Eschenberg clarified that this would be a charter amendment addressing eminent domain and limitations. This would go to the voters in November.

MOTION: Hickson/Dezman to direct the attorney to go forward with this. At this time, Mrs. Moccia stated that the term of holding may not be relevant. Mr. Bohne stated that we would want to have a time frame, as well as what the land is being used for. A good example of this would be what the New London court did and what happened in Boca Raton. We need to limit the powers of eminent domain and what they use it for.

Jimmie Marshall-2650 Malabar Road-came forward and addressed Council. We need to make sure about the powers of eminent domain and what it is used for so that we don't make mistakes down the road. This is very important.

Mr. Bohne stated that he would have some information regarding this at the next meeting. Mayor Eschenberg asked him to keep it simple.

Rick Doyle-2150 Marie Street-came forward and addressed Council. He is going through this right now with the City of Melbourne. There should be some serious thought put into this.

Mr. Rivet stated that we do need to have some time frame involved with this. Mayor Eschenberg stated that he thought 50 years would be good. Mr. Rivet stated that it should be 25 to 50 years. This is meant to discourage any inappropriate activities.

VOTE: All Ayes.

3. REQUEST FOR APPOINTMENT TO PARK BOARD, GARY RHODES

At this time, Mr. Bohne asked Mayor Eschenberg if this item had been tabled at the last meeting. Mayor Eschenberg stated that it had been. Mr. Bohne advised Council that we would need a motion to remove it from the table before any discussion or action could take place.

MOTION: Hickson/Rivet to remove this item from the table. Vote: All Ayes.

Mrs. Moccia asked if Lauren Olszewski had been moved up from the alternate position to a permanent position or was she still in the alternate capacity? Mr. Withers, from the audience, stated that she had been moved up. Mrs. Dezman asked if Mr. Rhodes would be able to attend at least 80% of the meetings or more. Mayor Eschenberg stated that we have one application and three vacancies on the board. Mr. Hickson asked about the term limits. Aren't we supposed to be staggering these terms? We are in the process of getting this done. We just appointed Hans Kemmler to the board for another year as well. Mrs. Moccia asked Mr. Withers if the plan was to have Bob Siegmann moved to a permanent seat. Mr. Withers stated that a motion was made for such, but there was no second so it did not happen. He has only attended three out of ten meetings in 2005. Mr. Cameron advised Council that Mr. Siegmann has a very strange work schedule and that he communicates with the board via email. This is what Hans stated when he addressed Council last year about having Mr. Siegmann re-appointed to the board when Council removed him. Mayor Eschenberg stated that this is not an issue with the vacancies that exist for this board.

MOTION: Dezman/Vail to move Mr. Sieggman to a permanent position and Mr. Rhodes as an alternate to the board. VOTE: Dezman, Rivet, Hickson, Vail, Ayes, Moccia, Nay. The motion carries.**4. ST. JOHN'S REQUEST, PROPOSED LIMITING LANDSCAPE IRRIGATION**

Mr. Booth addressed this ordinance. He stated that if Council were to pass this, then Mr. Booth would become the water police. If we don't pass it, then it would be up to St. John's to keep an eye out on the water usage with regards to landscape irrigation. Mr. Booth's recommendation is to have St. John's take care of this.

MOTION: Hickson/Moccia not to support this ordinance. VOTE: All Ayes.**5. HIRE DEPUTIES TO PATROL REGARDING ATV'S**

At this time, Mr. Booth addressed Council regarding the status of this. He stated that Sgt. Ludwig would not be able to do this. If we want patrolling to take place regarding the ATVs, then we would have to go directly to Commander Perry of the Sheriff's Department. It is the general consensus of Council not to do this because of where we are with the MSTU. Mrs. Moccia stated that she had a conversation with one of the sheriff's deputy's; he was sitting in our parking lot after a meeting one night, about this issue. The deputy advised her that the ATVs are so fast that they can't be caught. The people using the vehicles know the ways to get around the town with the back roads and the woods. Moccia-the sheriff can't even catch them, they out run the police.

At this time, Mr. Booth stated that the real problem is the parents. We need to write letters to the parents that the children are out of control. Mayor Eschenberg asked what the laws for ATVs are. Do children under a certain age have to wear helmets? Mr. Rivet stated that any unlicensed vehicle on the road is illegal. It was brought to Council's attention that a parent, in another part of Brevard County, was charged with negligence because a child was riding without a helmet. The question was brought up and asked if this could be treated as child neglect and have DCF come in and investigate. Mrs. Dezman stated that all information must be documented. Before DCF will come in, there has to be three incidences. Then they will step in, once they have all the documentation. Mrs. Dezman stated that she could not, in good faith, support the Town paying for the patrolling of ATVs because of one individual, while the people of Country Cove, who pay their taxes as well, are having a problem with the pigs and the fencing issue that was discussed here tonight. Why would we pay for patrolling for one individual who is

causing the problem regarding the ATVs? What about the people on the north end of Town?

This is a problem that is throughout the town. Mr. Vail stated that he would speak to the individual's parent of the person that came up for discussion this evening. Mr. Withers stated that it is Dr. Leedy's son who is in violation. Mrs. Dezman stated, because of the way this discussion has gone, she would not be able to vote on this matter if it comes before Council as an action item in the future. It is the general consensus of Council to take no action at this time. Mr. Vail will speak to the parents. Mr. Bohne stated that if any letters were to go out to parents, he would like to review them first.

REPORTS: MAYOR, COUNCIL

Pat Dezman-received an e-mail from Leslie King asking if the light meter gauge has been received. She would like to have the lights at 1200 Corey Road checked. Mr. Booth stated that the equipment has been received and he is being trained on how to use it. He will take care of this as soon as possible.

Mrs. Dezman stated that Ivan Castrillo, by his standards, would like to be replaced as our representative for the Valkaria Board Advisory Board. He advised Mrs. Dezman that the meeting that was to be held on March 7, 2006 was held last week. He can no longer be a part of this board.

The map on the back of the Mailboat does not have any defining landmarks. She received a call from someone, who happened to be in her district, stating that they didn't know which district they are in. This was due to the survey that was in the last issue. Mr. Rivet stated that he would like to see a more detailed map on the web site as well.

Steve Rivet-the people using the ATVs knows our Town very well. There are several paths through the woods that they are using to elude the Sheriff's Deputies. He made a suggestion to Council that we block these paths so that only foot traffic and the horses can get through. What they are doing is abuse to the land and a nuisance to the residents. Mr. Vail stated that when Brian Hunter was on Council, he spent a lot of time doing this very thing. Mr. Rivet stated that maybe we should identify a few of the choke points. Mayor Eschenberg asked Mr. Rivet if there were any particular areas that he was speaking of. Mr. Rivet stated that there is a problem with Hall Road across from Rivet Lane. Mr. Withers stated that they are going down Hunter Lane and coming out at Rivet Lane.

Frank Hickson-nothing to report at this time. He just asks that everyone drive carefully because it's Bike Week.

Bobbi Moccia-as you pass by the park at Corey and Malabar Roads, you've probably seen all the work that has been happening there. The Eagle Scout has a crew still working while he is recovering from surgery. Mrs. Moccia advised Council that she has taken \$290.30 from her discretionary fund to pay for the benches and four (4) bags of quick crete from Ace Hardware. She asked Mr. Withers about the bike rack and it's availability. Mr. Withers stated that the bike rack would be provided by Wednesday of this week.

Brian Vail-nothing to report at this time. He did ask Mrs. Dezman if she had seen the picture of the hog that was trapped. It was an e-mail received by the Town.

Mayor Eschenberg-he advised Council that he received his bill from FPL. There are three different taxes showing up on this bill for approximately \$15.00. Mr. Booth stated that these taxes are how FPL will recoup losses from the hurricanes. We will receive a small portion of the taxes as part of the franchise fees. We will all be seeing these fees on our power bills from FPL.

Mayor Eschenberg received a letter from the Melbourne International Airport. They are asking the local cities to send a letter of support for a grant application they are trying to submit. The jest of the grant is to entice another airline to come to Melbourne. This airline would have a connection to Charlotte, North Carolina. The grant monies would get US Airlines to come to this airport. Mrs. Dezman asked if this needed to be put on the agenda as an action item. Mr. Bohne stated that it did not. Mayor Eschenberg stated that this needed to be done by March 8, 2006. Mr. Rivet stated that he objected to government meddling in economic development. It is not the appropriate thing to do. Mayor Eschenberg is asking for direction from Council. Mr. Vail stated that he is in favor of intervention. The grant funds are going to go to someone, so why not assist in getting another airline here in Melbourne.

MOTION: Hickson/Dezman to have the Mayor sign the letter. VOTE: Moccia, Vail, Dezman and Hickson, Ayes – Rivet, Nay. The motion carries.

Mayor Eschenberg asked why we have an evaluation for Jason Massey in our information. Mr. Booth stated that this is a job performance appraisal from FEMA. Mr. Vail stated that he was one of several people from the Fire Department that assisted FEMA after Hurricane Wilma came through down south. At first Council viewed the form as not being filled out. Looking at it closer, it is marked as all "S" for satisfactory. The Supervisory section of the form was left blank, as Mr. Massey did not serve in this capacity.

PUBLIC COMMENTS: GENERAL ITEMS

Bill Withers—2324 Candy Lane—came forward and read an article from the Florida Today regarding a family pet in Malabar being shot. This shooting took place off of Hall Road. Public safety is the responsibility of this Council. Mr. Withers stated that he would offer a \$500.00 reward with information leading to the arrest of the person(s) responsible for this act. These funds will be from his own pocket. Mr. Withers stated that Council needs to address this and do something.

Christy & George Foster—1205 Malabar Road—came forward and addressed Council. She stated that they have heard a lot of rumors with regards to small businesses not being able to park their trucks on their property. This is one of the reasons that they moved to Malabar, to have a small business and the space needed to house their equipment. They hear that this is changing. Mr. and Mrs. Foster would hate to see Malabar ignore the core people and why they came here in the first place. They are asking that Council, as ordinances and land uses change, to remember the core people and why they are here.

Mayor Eschenberg asked Mr. and Mrs. Foster if their primary concern is the parking of the trucks. Mr. Booth stated that they are part of Code Enforcement. The land that they have parked their trucks on is vacant and they are storing construction equipment. The ordinances do not allow this if you don't live there. We have found some places for them

to call about storing the equipment. Also, the ordinance does not allow for a construction business to be run out of a home. Mr. Booth advised Council that if these people lived north or east of Malabar, they would only have ten (10) days to move their equipment. We have given them six (6) months.

Mr. Foster stated that he has been brought to Code Enforcement due to a disgruntled neighbor. This causes a real hardship for him, as he has spoken to the people that Mr. Booth has referred him to for storing his equipment. They are either booked up or the fees for storage are so high that he can't afford the fees. His livelihood is made in land clearing. He asked that Council not make him move the equipment. Mayor Eschenberg stated that he could not ask Council not to impose the ordinance on him. If there is a complaint, Council has directed Mr. Booth to look into it. If there is a violation found, a letter is sent to the property owner. The only other option is to change the ordinance, if they choose. Mayor Eschenberg made a suggestion to Mr. and Mrs. Foster that they request to be placed on the agenda for Planning & Zoning. They should do this request the Wednesday before the Council meeting. This is a Planning & Zoning issue and would require them to be heard by this board before coming to Council. The Planning & Zoning Advisory Board would send their recommendations to Council. Mrs. Dezman stated that Mr. and Mrs. Foster should put their request in writing, have it dated and witnessed before coming to Town Hall.

Rick Doyle-2150 Marie Street-came forward and addressed Council in the Foster's behalf. He stated that Mr. Foster has been a big help to the neighbors. He would like to place a berm around his lake to keep the children away from the lake. Mr. Doyle feels that he should be allowed to do this, as we all know that children are attracted to water. What is the definition of a berm? The Town has built one down at the end of Marie Street with all the dirt and vegetation that is being taken from the ditches.

ADJOURNMENT

There being no additional discussion, **MOTION: Rivet/Hickson to adjourn this meeting. VOTE: All Ayes.** This meeting adjourned at 10:10 pm.

BY:

Thomas Eschenberg

Mayor Thomas Eschenberg, Chairman

ATTESTED:

Cindi Kelley

Cindi Kelley, Deputy Town Clerk

Date: 03/20/06