

**MALABAR TOWN COUNCIL REGULAR MEETING
MARCH 20, 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 Mayor Eschenberg.

<u>ROLL CALL:</u> MAYOR/CHAIR	TOM ESCHENBERG
VICE-CHAIR:	STEVE RIVET (excused)
COUNCIL MEMBERS:	FRANK HICKSON
	BRIAN VAIL
	BOBBI MOCCIA (excused)
	PAT DEZMAN
ADMINISTRATOR:	ED BOOTH
ATTORNEY:	KARL BOHNE (excused)
	CLIFTON McCLELLEND, JR.
	(sitting in for Mr. Bohne)
DEPUTY TOWN CLERK:	CINDI KELLEY

ADDITIONS AND DELETIONS TO AGENDA: Ed Booth has asked that Action Item #4 be moved up to a discussion item.

With no objections, the agenda stands with this correction.

CONSENT AGENDA:

A) COUNCIL MINUTES 3/6/06

MOTION: Hickson/Dezman to approve the minutes as presented. VOTE: All Ayes.

REPORTS:

ATTORNEY – nothing to report at this time.

ADMINISTRATOR

At this time, Mr. Booth came forward and addressed Council on the following:

The power point is here and we are in training and getting it installed. Mrs. Dezman offered to instruct the staff. Mr. Booth stated that Cindi Kelley would be the person to train on this equipment.

- OAKMONT SUBDIVISION

The infrastructure is just about complete. If you have not seen this subdivision, it would be worth it to drive over and take a look at it. They are about thirty (30) days from the full completion. This project should be coming to Council by the end of April.

- DEBRIS SITE ON MARIE STREET

The site at the end of Marie Street is housing the remainder of the debris from the hurricane. We gave away about 10,000 cubic yards. We have approximately 35,000 cubic yards left. This needs to be removed from the Town, as the ATV riders are using this area as a park. This mulch has decomposed and can no longer be used for roads. It would make a great soil enhancer. We are not able to sell it, as FEMA has paid for this. We have two choices; we can pay someone to come in and haul it away for approximately \$40,000, or we can have Mike O'Brien come in and remove it. Mr.

O'Brien will come in and sift through the mulch and fence it with no charge to the Town, with the exception of \$1. This is acceptable to FEMA and the attorney. Mr. Bohne will put together an agreement and we will have the Mayor sign it. Mrs. Dezman asked who Mr. O'Brien is. Mr. Booth stated that he is the local contractor who collected the debris after the hurricane and dropped it off here. Mrs. Dezman asked if we had contacted Stillwater Preserve or Weber Woods to see if they could use this. They don't have the equipment to move it, Mr. O'Brien has the equipment. Mrs. Dezman stated that she feels it should be burned. Mr. Booth stated that he has a curtain. Mr. Vail stated that the burn would be better with a curtain, it's safer.

At this time, Mr. Booth reported on a few other items of interest. They are as follows:

The park at the corner of Corey and Malabar Roads is looking very good. It has not been named. We are looking to have a contest to name it. We have another 17 acres between Hall and Malabar Roads, which blossoms out into a lake. We have offered it to the Boy Scouts to be designed. With their hard work, the Boy Scouts made it very easy to complete this park.

Mr. Booth advised Council that Public Works has received several new signs from the County. These are signs that were damaged or missing from the hurricanes. They will be taking some time to get them back into place where they belong.

The Malabar Springfest is in April. We are looking to go into a two day event next year. We have received a lot of donations and we will try to have a name band come into for the next event. We still want to keep it as a home-town festival; we have enough big festivals all around us during the year. Mr. Booth has asked that the Council members come and join in the fun.

The impact fees for the development on US 1 are approximately \$250,000. These funds will be paid to Palm Bay. This will be coming before Council in the near future.

We have received a number of the surveys back from the citizens of our community. It will take some time to extract the information and compile what they are looking for. It is not as easy as taking the numbers and giving the information to Council. We will provide the comments to Council for their review at a later date. The results for the first phase will be compiled within the next few weeks.

CLERK

There is nothing to report on at this time.

DISCUSSION

- 1. BOARD MEMBERS, TERMS AND ATTENDANCE**
 - a. PLANNING AND ZONING**
 - b. BOARD OF ADJUSTMENT**
 - c. PARK AND RECREATION**

Mayor Eschenberg stated that this has been something that has been discussed for a short while. The Planning & Zoning Advisory Board makes a good model for the way the other board term dates should be. We need to make all the boards identical. This could be done when the next rotation comes around. The Park & Recreation Board will be the hardest to get into place. Mr. Vail agrees with Mayor Eschenberg. The people on the

boards would keep their same seat if they are re-appointed. The alternates would move up when one of the permanent members leaves the board. Mr. Withers, from the audience stated that they have two alternates and a permanent position available. Who makes the decision of who gets moved? Mayor Eschenberg stated that it is usually the board who decides who will be moved up. Mr. Vail stated that it should be based on the order that the applications were received. Mr. Hickson stated that he thought it was Council who fills the vacancies. He feels that each board should do this, as they are the ones who work with the board members. Mayor Eschenberg stated that Council should let each board handle this and then report back to Council with an update.

At this time, Mayor Eschenberg advised Council that he would make a proposal to Council. His proposal would show them, for each board, the members name and their expiration date. He would then also include how the terms should be staggered so that we don't have all positions coming open for the boards at the same time. Mrs. Dezman asked that he write up what he is recommending and the term office according to him. Secondly, how are we going to deal with the alternates moving up? Will be this be handled by the boards, or it is a Council decision? Do we need to change the ordinances so that they are all each three year terms or do we let it alone? Mayor Eschenberg stated that he didn't think so. Let's bring everything in line and go from there.

Mr. McClelland stated that the authority lies with the Council and they should be the ones to appoint the board members and alternates. Mr. Vail asked if this could be relinquished. Mr. McClelland stated that it could not. Mayor Eschenberg will provide his proposal for the next Council meeting.

ACTION ITEMS:

1. REQUEST FOR APPROVAL OF PARK SURVEILLANCE SYSTEM, HANS KEMMLER

Hans Kemmler came forward and addressed Council. Previously as a workshop meeting, Council had met with Hans Kemmler and Charles Ryan regarding the surveillance equipment for the park. We wrote up what Council had agreed upon and sent it out to the one person who we knew did this type of work. Council asked for three bids. We put the bid out and gave a response time until the 15th of the month. We only received one bid back, which was by the same person that is known in this area for this. It is now up to Council to approve the price from the quote. The Mayor asked Mr. Booth where the funds would be coming from for this equipment. Mr. Booth stated that this would be done with a budget adjustment, with the funds we have received from FEMA. Mr. Booth advised Council that we are still having problems at the park. The Sheriff Deputies, under cover, have been propositioned.

Before Mr. Kemmler left the podium, he stated that Vicky Thomas was going to be here this evening but a family event has prevented her from being here. She has submitted an application for the Park & Recreation Board. Mayor Eschenberg stated that this needs to be an action item for the next meeting.

Getting back to the discussion at hand, Mayor Eschenberg stated that the Council needs to consider all the information regarding the surveillance equipment. Mr. Vail stated that he would like to see a demonstration of the video and camera equipment before Council makes any decisions regarding this matter. He wants to make sure that we are getting what we are paying for. Mr. Kemmler stated that this equipment has been used in

several businesses such as McDonald's and various banks. This equipment has not been used for what we are asking for. This is the best, commercially, for what we are looking for. Mr. Vail feels that the full Council should be here for this decision. Mr. Booth stated that the happenings in the park are really happening in the woods. The people meet at the park and then take a walk into the woods. This is where the activities are happening. We are not putting cameras in the woods, only in the park and the monitoring equipment at the fire station.

At this time, Mr. Vail asked Mr. McClelland if the tape would or could be used in a court of law. Mr. McClelland stated that the video would be used at a later date for confirmation of the activities; used as supplementary information. Mrs. Dezman stated that, in regards to the quality of the tape, it has already been worked on and enhanced by the time you see something being shown on the news. These people have done everything they can to make it more clear and enhanced. It's not the quality that you are concerned about; it's the format that can be taken farther.

From the audience, Mr. Withers stated that Wal-Mart has good quality cameras. Mayor Eschenberg stated that this whole idea came about as a protection to the children in the park, not the fact that they are going off in the woods. We are looking to have camera equipment installed around the playground equipment and bathroom areas. We also need to factor in the maintenance of this equipment. Mr. Kemmler stated that the equipment comes with a one year warranty. He also stated that this is the best equipment that we are going to be able to have installed.

MOTION: Vail to table until we have a full Council. There was no second, the motion dies.

MOTION: Hickson/Dezman to approve the purchase and installation of the camera equipment. VOTE: All Ayes.

2. FENCING OF TOWN PROPERTY, EFFECTIVENESS OF CONTROLLING WILD HOG MOVEMENTS

At this time, Mayor Eschenberg opened the meeting for public comments. He asked that Mr. Wollard, the HOA president come forward to speak first.

Mr. Wollard, who resides at 1623 Country Cove Circle, came forward and addressed Council. Mr. Wollard handed pictures to Council for their review while he made his presentation. What we are here to discuss is the effectiveness of fencing to keep the hogs out of Country Cove on the south side of Cameron Preserve, which borders the Country Cove subdivision. The east end of the property is already fenced, with an opening at the tennis courts. Does this need to be closed off? The Town will only issue the fence permit to the property owners, who happen to be the State of Florida. This is in the works and the permit should be issued shortly. Mrs. Dezman stated that, while living there for ten years, she has not had any problems with the hogs until recently. This could be because of the land disturbance at Stillwater Preserve. Mr. Wollard had asked the Richard Enstice be at this meeting to also address Council.

Richard Enstice, who resides at 1689 Country Cove Circle, came forward and addressed Council. Mr. Enstice is an electrical engineer with FIT. They have completed two studies regarding wild hogs at FIT. The studies were to show the habits of the hogs; such as what food they eat, where they sleep and how much land do they need to be

comfortable. If they have ten square miles, they seem to be fine. As long as there is food, they are satisfied. Once the food source is gone, they will move to another location. Mr. Enstice advised Council that the wild hogs are the sixth intelligent animal in the world; they know where the food is. They will continue to go back until the food source is gone. There really is no effective way to remove and prevent them from coming into an area. The two ways for the federal government to act on is to place a strong fence or bring dogs in to drive them away. On state lands, hunting dogs and traps are not effective. The hogs will figure them out and then move on to another area. The EELs land is providing the habitat for the hogs. There are three things that the hogs do: 1) primarily, they eat; 2) they don't like to be/get hurt; and 3) if they can't feed and live, they protect their young very violently. The fence, if installed, is one thing that we can do. The fence would be constructed/installed to code and have an inspection done. Mr. Vail stated that the fence would be mandated by the State and there would be a space between the bottom wrung and the ground. Mr. Enstice advised Council that the EELs stated that the fence could go all the way to the ground. Mr. Vail stated that it would have to go on Country Cove's property, because the State would not allow this. Mr. Vail stated that if we decide to put this fence in for one subdivision, then we will have to do for everyone who makes the request. This would be setting a precedent. Mr. Enstice stated that the children of their neighborhood play outside. If one of these children were to be attacked by one of these animals, the liability would be very great.

Pat Reilly, who resides at 1985 Howell, came forward and addressed Council. Mr. Reilly spoke against the Town spending taxpayer dollars and staff time to put up this requested fence. This is not the Town's problem.

Julianna Hirsch, who resides at 1035 Malabar Road, came forward and addressed Council. She, also, spoke against the Town putting in this requested fence. She can see the problem of the hogs. The people of Country Cove need to change their own regulations to fence in their own property. Mrs. Hirsch feels that this request is ridiculous and asks that Council not approve it.

Dan Michael, who resides at 2265 Atz Road, came forward and addressed Council. He also feels very strongly about this issue and asked that Council not approve this request. He has property here in Malabar and has had to spend his own funds to put up the fencing that he has placed on the property.

At this time, Mayor Eschenberg asked the Mr. McClelland if a child is attacked, is the Town liable? Mr. McClelland stated that there would need to be a little research done on this matter. The hogs are owned by whose ever property they are on at the time. The only liability that would be to the Town is if a child was on a portion of the 100 acres that the Town owns.

Mr. Hickson stated that he has owned property where the wildlife has come onto his property. He had a fence and it didn't seem to keep the animals away. He does not want the Town to pay for fencing for a private owner.

MOTION: Hickson/Vail not approve the fencing for the Country Cove subdivision.
VOTE: Hickson and Vail, Aye; Dezman, Nay. Motion carries.

3. ACCEPTANCE OF 930 FEET OF PROSPERITY LANE

Mr. Booth advised Council that this has been accepted by the engineer.

MOTION: Vail/Hickson to accept.

The question was asked if the labs had certified this and if we have received the as-built drawings for the road. Mr. Booth advised Council that all is good with this request.

VOTE: All Ayes.

4. BOARD MEMBERS, TERMS AND ATTENDANCE

- a. PLANNING AND ZONING
- b. BOARD OF ADJUSTMENT
- c. PARK AND RECREATION

See above discussion item. This was moved at the request of the Town Administrator at the beginning of this meeting.

5. RESOLUTION 03-2006, BUDGET ADJUSTMENT

Mr. Booth advised Council that the total funds are really from the fire engine and FEMA funds being put back into the budget. There will be some small adjustments, but it doesn't change your budgets that you have received for review. We still have approximately \$200,000 funds outstanding. Most of these funds will come from the insurance company. These funds will go into the reserves. We have approximately \$1,000,000 in reserves and when all the funds are received, we will have about 1,250,000 in the reserve account. These funds will be used in case of an emergency.

At this time, with no objections, Mayor Eschenberg read the resolution by title only.

MOTION: Hickson/Dezman to approve the resolution as presented. VOTE: All Ayes.

At this time, Ms. Kelley stated that this resolution needed to be approved by roll call.

The roll was called: Hickson, Vail and Dezman – All Ayes. Mrs. Moccia and Mr. Rivet were excused at the beginning of this meeting.

6. REQUEST FOR BUDGET LINE ITEM ADJUSTMENTS

This is the same. This item was asked to be tabled until the next Council meeting.

MOTION Hickson/Vail to table . VOTE: All Ayes.

REPORTS: MAYOR, COUNCIL

Vail-asked what it would take to have a web cam to broadcast the meetings on the internet. He would like to see this happen.

Mr. Vail advised Council that he is using \$325.00 of his discretionary fund to purchase a "pin" for the Disc Golf Park. There will be between eight and eighteen discs. The funds will be used and provided as a donation from the Town for this "pin". He is in full support of this park. He has purchased a pin in his business's name as well. Mr. Booth stated that this park is going across the street from the Community Park on Malabar Road. Ms. Kelley asked Mr. Vail who this check gets made out to. Mr. Vail stated John Leach would be the person to contact regarding this matter.

Hickson-stated that he received the request from Planning & Zoning regarding placing draft minutes on the web site. Mrs. Dezman stated that drafts should not be put on the web. All minutes should be approved before the public reads them. Ms. Kelley stated that while taking minutes at the meetings, there are several times that she has made notes to herself that won't mean anything to the general public. There are times when

she has to listen to the tape to get the correct information, as so much is being talked about and at a fast pace. It is the general consensus of the Council not to post draft minutes to the web site before they are approved. Mrs. Dezman asked that we advise the Planning & Zoning Advisory Board of this decision.

Mr. Hickson stated that he has received another anonymous letter regarding the Public Works Complex. Mrs. Dezman stated that she also received this and until the person who is making the complaint signs the letters, it should not be taken seriously.

Dezman-stated that she has received a letter from William Wolf of Hall Road. A copy of this letter was given to the Deputy Town Clerk for the records.

Mrs. Dezman stated that she has sent an e-mail regarding the EELs fence permit. She will provide a copy to the Clerk's office. She also asked if Mr. and Mrs. Wormuth, off of Weir Street, received a letter regarding her desire for a horse. Mr. Booth stated that the letter went out from the Building Department.

Mrs. Dezman asked if anyone is looking to the south regarding the equipment that is being brought in. It was stated from the audience that Mr. Foster is bringing all of the equipment together so that he can move it from the property.

At this time, Mr. Hickson made a general comment regarding the anonymous letters. We should take a look at this person's complaint. There is a possibility that the person is not signing the letters because of fear of repercussions of someone coming back at them. When they are received, we should really look into these comments. Mrs. Dezman stated that, to get your point across, you don't have to be insulting when writing your complaint.

PUBLIC COMMENTS: GENERAL ITEMS

Bill Withers, who resides at 2324 Candy Lane, came forward and addressed Council regarding gun fire in the Town limits. Mr. Withers provided a copy of the time line regarding this situation to Ms. Kelley. This document is now made a part of these minutes.

The ATVs continue to be a problem throughout the Town. Mr. Withers witnessed two second grade children, with no helmets, this past Sunday.

At this time, Mayor Eschenberg stated that, when he was able to, he did go out to Hunter Lane regarding the firearm issue. There is a berm out there and there were two boxes that were being used for target practice. This will create a lot of noise that could or would be very irritating. The direction of the shooting was to the west where it is a good quarter mile of nothing but woods to Corey Road. Mr. Vail asked Mr. McClelland if it is against the law to fire a firearm within 300 feet of another residence. Mr. McClelland stated that he was not able to answer this, as this is not his expertise. You would need to see what your ordinance states. If there is no ordinance, then you may want to consider having an ordinance stating no discharge of a firearm in the Town of Malabar.

ADJOURNMENT

With there being no further business for discussion, **a MOTION: Dezman/Hickson to adjourn was heard. VOTE: All Ayes.** This meeting adjourned at 9:05 p.m.

BY Thomas Eschenberg
Mayor Thomas Eschenberg, Chairman

ATTESTED:

Cindi Kelley
Cindi Kelley, Deputy Town Clerk

Date: 04/03/06