

TOWN COUNCIL REGULAR MEETING
APRIL 17, 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 Rivet.

<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
ATTORNEY:	KARL BOHNE
TOWN CLERK/TREASURER:	SUSAN KABANA

ADDITIONS AND DELETIONS TO AGENDA:

Mayor – Mike Knight from EELS is here, would like to put him in after the Clerk. Vail – would like to put the Fire Dept as Discussion item 2 regarding a Fire Tanker.

MOTION: Rivet/Vail to approve agenda as amended. VOTE: All aye.

CONSENT AGENDA:

MOTION: Hickson/Rivet to approve.

Bob Rowan wants clarification on page 2 regarding wild land gear. They will spend \$17k and get \$8k back. Motion is changed to approve as amended.

VOTE: All aye.

REPORTS:

ATTORNEY

Has an item under discussions.

ADMINISTRATOR

- ROADS

Booth – the engineer and the administrator would like to do a minor change to the road ordinance in the effort to save desirable trees. The ordinance would be amended by permitting the engineer and the administrator to save the trees. This would prevent clear-cutting when it may not be desirable. States that we saved some beautiful trees on Arnold Lane. Showed a picture of desirable trees located in right-of-way.

- ENVIRONMENTALLY ENDANGERED LANDS (EELS)

- Booth – he attended the County Commission meeting last week. Feels Council has no friends there. Dezman – states that she watched it and that Booth has no friends there either. Booth – the Commissioners would like Council to appear before them. Booth brought up the topic of the MSTU with the EEL's issue because the County Manager wanted him to include it. It is obvious that the Commission wants to separate the EELs and MSTU issues so they don't have to talk about all the property they took off the tax rolls. They only see what they feel we owe them. Dezman – feels Booth did a good job. Dezman asked how long was Booth there? Booth – 11 hours.

- Booth – has the position that only land-owners can get a permit. Shows pictures of down trees on the property outside of Brook Hollow. He plans to use code enforcement in order to get the property owners (EEL's) to clean up. Discussion of the area.

- Booth – the new zoning ordinance for conservation and green space will require fencing, allowing access to it but deterring ATV's and unauthorized use. This takes any issue out of the political realm and puts it in zoning. Vail – so any piece of land the Town owns will have to be fenced upon request? Booth – yes. But we are not talking only about Town land, this includes any land that is zoned for conservation. Dezman – have the appropriate parties been notified by letter that this is coming? Booth – no, not yet. Dezman – is asking that they be notified. Booth – and they will be. Vail – wants the new zoning info in the next Mailboat. Wants to know what is the expense? Booth – has been working on the budget for next year. Discussion of the long-term cost of the caring for the land.

Dezman – would like to make sure Mike Knight and Helen Voltz know they have to fence the area. She wants it in writing. Booth states that this should be coming in the next few months.

CLERK

STATUS OF BOARD MEMBER SEAT RESOLUTION/ORDINANCE

Kabana – is working on the ordinance to adjust board member seats. And is working on an ordinance to change the candidate qualifying times due to a change in the Florida election laws.

MIKE KNIGHT, ENVIRONMENTALLY ENDANGERED LANDS (EEL's)

Mike Knight – passed out a brief update of what he is going to talk about, as well as a few maps that he marked with the lands that are currently managed by the EEL's. He first talked about the results of last weeks Commission meeting. The EEL's had asked the Commission for direction on how to deal with future acquisition of lands in Malabar based on the Town Council's concern over this. The Commission was presented with two options: to direct the EEL's to discontinue acquisition or to continue acquisition with the understanding that the County Commission has the authority to approve or deny any contract that comes before them. The EEL's staff concern was that if the Commission was not going to approve any further acquisition then staff did not want the expense of having the land appraised. The Commission approved the continued acquisition with the condition that every acquisition is brought before the Town Council. So when the EEL's have a willing seller they will put it on the Malabar agenda and by the time the item reaches the Commission in the form of a contract there will be a very clear position in the packet regarding Malabar's opinion.

Rivet is concerned that Malabar's opinion will not matter. Knight – believes that there is a Commission that will look a lot harder at that than in the past. Dezman – basically if they have a willing seller the Town does not have any jurisdiction. Booth – agrees, but there seemed to be no concern from the County Commission about the management of this land. Dezman – believes the County Commissioner that represents Malabar is the one who has the problem, the other Commissioners do not have the same issue.

Vail – can they have a park in an area zoned industrial? Rivet – they can buy it and not do anything with it. Vail – but they still have to use the land according to the zoning. Booth – we are changing the zoning of the conservation land to the new zoning so that the current use will match the zoning. It would take an act of congress to change the use.

Mike Knight – his personal thought is that the County receives payment in lieu of taxes for the land taken off the tax rolls for environmental purposes, and due to Malabar's location it clearly has a higher percentage of environmental land than any other city in the County. If the issue is revenue then maybe there is a way of accomplishing something with the County. While it would open a door that might concern the Commission, Malabar is in a unique situation where it would be hard show

that there is a similar percentage anywhere else. Rivet – feels it would only be a delay tactic.

Dezman – heard Knight say that he was awaiting a letter from the Town regarding a permit, has he received that letter? Knight – he heard it was on its way. The lease agreement with the State gives the EEL's clear authority to manage the land and to apply for permits. The EEL's obtained clarification from the State regarding this and provided a letter to the Town.

- Knight – the Brook Hollow acquisition was approved in February but is not due to close until late April or early May.

- Knight – the feral hog issue in Country Cove was resolved by the suggestion of putting up a field fence on the backside of the existing fence. But the EEL's were told they needed a permit and the Town refused the application. Booth – is not sure a permit is required.

- Knight – there have been a couple public meetings about the trails on the west tract of the Malabar Scrub near Brook Hollow. And the plan was moved forward to the Selection and Management Committee who provided comment and the EEL's are revising the management plan to include those parcels and those plans. It will hopefully be available by next week and they will make the information available on their website and available to the Town for review during the review period. It's designated mixed use, some trails are for bicycle use only and others are multi-use.

- Knight – the Marie Street fence along the east border of the Malabar Scrub needs to be relocated, it was originally put in the wrong place. Their understanding is that the EEL's cannot put the fence there because it was perceived that it would possibly block off a prescribed right-of-way that exists there. They have asked for some clarification as to what statute the Town is using to define that. Booth – it is a legal issue. Knight – they want to show the information to their attorney but they don't know where to look for it. Moccia – the issue is that the fence is in the wrong spot and now the land has been used by people to access their property. Booth – the right-of-way has been there since 1923. Knight – just wants to see the documentation that supports this idea. Vail – wants Booth to convey the information. Knight – who does he get the info from? Booth – he will give Bohne direction.

- Knight – they are in the process of looking at building locations in the Malabar Scrub for the proposed Management and Education Center. They still have to go back to the Commission to get that up and running again. One of the things they are looking at is trying to explore any co-location opportunities with the Town in the front end of the sanctuary. One of the possibilities is restructuring the road from the gate at the kiosk out to Malabar Road.

- Knight – as far as the trees in near Brook Hollow. They hired a contractor to remove the trees that were threatening homes. They agree that standing dead sand pine trees are a problem and their efforts will include some timbering in order to restore the scrub which will create a much safer environment near the homes. This management plan should be to Council in the next 30 days and then it takes a few months after that to obtain final approval.

DISCUSSION:

1. ORDINANCES FOR CHARTER REFERENDUM

Mayor – the proposed ordinances look good to him. Wants the Council to know that the Florida House has approved 3 measures to protect property rights. This has to go to referendum and it would amend the Florida constitution to prohibit the transfer of

property taken by eminent domain from being transferred to a private property owner within a 5 year time frame, with certain exceptions. Eschenberg feels this is pretty liberal. Rivet has no problem with the ordinances.

MOTION: Moccia/Rivet to go forward with our ordinance. VOTE: All aye.

2. FIRE DEPARTMENT TANKER

Chief Gianantonio – states that fire staff has stabilized, and that fires are up. In the last two weeks we have been put on alert by Brevard County and Palm Bay for brush fires. We sent a truck to support Melbourne with a fire on Wickham Road. We have had several fires in the area and we have a suspect.

Gianantonio – we've had some problem with two condemned trucks: Trails 99, which is a 1,500 gallon water tanker and Brush 299, which is a 1,200 gallon brush truck. We are required to have a minimum of 8,000 gallons. Right now we are below that number by 750 gallons. The Fire Dept is requesting a 2,000 gallon tanker and that would bring us up to 9,800 gallons. The first cost is the assembly of the tanker and the second cost is the cost of adding the pipes. If we had better weather and we had ponds to draft out of it would be a different matter

MOTION: Dezman/Moccia to authorize the administrator to use \$16,000 from reserves to build this truck.

Hickson – how long will it take to build? Gianantonio – 30 days. Vail – how many people are willing to build this truck? Gianantonio – two.

VOTE: All aye.

Kabana – will present a budget adjustment at the next meeting to cover this expenditure.

PUBLIC HEARINGS:

1. WEBER WOODS, REQUEST FOR FINAL PLAT APPROVAL

Mayor opens the public hearing and asks for public comment.

Patrick Reilly – Howell Lane, member of P&Z, a procedure has changed and now P&Z looks at the final plat review. They only were given one sheet of paper to review and he considers the final as an as-built, which is much more extensive. What is required in the final plat? There was nothing on irrigation, trees, or landscaping and he believes that the final plat is the final document that is recorded at the County. He feels the package is incomplete. His statement goes for both plat approvals tonight.

Mayor – closed the public hearing.

Booth – he had the same concern but by our ordinance the developer can put up a bond that will cover the cost of all the improvements and if the developer defaults then we have the money to finish the development so. That is part of what is incomplete, our attorney has not yet reviewed the document. The reason they want the final is so they can sell the lots.

Vail – P&Z had concerns with building from the preliminary plat and getting the final at the end. P&Z wanted a final prior to building.

Vail – can the developer start building without final plat approval in the County?

Bohne – they can proceed with improvements if they bond, if they don't, they have to construct the improvements before they get final plat approval. By posting the bond, which secures the construction of the improvements if they default, then they are allowed to start marketing the lots for sale. Bob Wilbur (P&Z Chair) – his concern with the bond is that since the Town is not in the land development business if developer defaults it would be difficult for an inexperienced municipality to continue the project. Booth – which is why the engineer determines the amount of the bond. Bohne – and we collect 120% of the bond amount.

Moccia – when we first looked at Weber Woods there were some issues to be resolved. She asks Richard Cameron (P&Z member) if the developers' solutions to those issues satisfied Planning and Zoning. Cameron – at the beginning of the project the developer did not have to go through St. John's because there was drainage on each lot. Later they decided to put in a lake for retention which would discharge under

Malabar Road. They have enlarged the water utility lines for future development at their expense, they have put in more fire hydrants, they have gone above and beyond any request that staff requested. The reason they have not done any clearing is because when the retention pond was added St. John's decided they wanted to take a look at the project. We are expecting that approval any day after which they will come to Town Hall to apply for their permits. All improvements located in the development are the responsibility of the deed-restricted community. This subdivision will be way above all requirements of the Town. The engineer and the planner both approve the plan. P&Z has a new responsibility in regard the to the final plat and they are depending on the opinions of staff to make recommendations. If the developer does not follow what was laid out then it is up to staff to enforce the plan. Feels the development is very good.

Mayor – has comments. Notes that these subdivisions fall under the old ordinance. His comments are as follows (he states that some of these may apply to Weber Woods and some apply to the other plat considered tonight):

- Certification of the surveyor was mentioned previously.
- There is a missing statement about PCP's: when required improvements have been completed prior to the recording of a plat, the certification shall state that the PCP's (permanent control points) have been set in compliance with the State of Florida.
- There is supposed to be a certification of title on the plat that says who owns the property and that all the taxes have been paid.
- For both plats tonight we have a statement from staff (not the developer):the plat shall be accompanied by a statement of the developer indicating whether the required improvements have been constructed prior to the recording of the plat or after the recording.....
- Eschenberg asks if the big hold-up with Weber Woods is this: if the developer lacks the required improvements after recording the plat the following shall be submitted: a contract executed in triplicate between the Town and the applicant for construction of required improvements..... Booth – yes that is one of them.
- Eschenberg suggests the Developers read Section G1.
- In the homeowners covenants there is a comment about trees that basically says they cannot remove invasives. Booth – we normally don't get involved with those. Mayor – just ask them to clarify this. Rivet – but our ordinances supersede the homeowners covenants.
- There is one thing that is missing from the covenants it had to do with the homeowners being responsible for the keeping up of the common area. There should be a section stating that if the homeowners association is dissolved that it makes provisions for a special taxing district. That is in our code, and this applies to both applications tonight.

MOTION: Rivet/Vail to postpone until the May 1st Council meeting. VOTE: All aye.

2. OAKMONT PRESERVE, REQUEST FOR FINAL PLAT APPROVAL

Mayor asks for public comment, being none, he asks for comments from Council. Vail – mentions the eradication of exotics from Planning and Zoning's minutes. And wants to reflect Planning and Zoning's notes as per St. John's modifications. Booth – they already have a permit from St. John's. They wanted to pipe a ditch on Marie Street but it is not an item for the approval, but we strongly go along with the idea. Oakmont is giving us an easement for the last 400 feet of the ditch that flows under the railroad for access purposes.

Mayor – on the plat it shows two lots (10 & 11) that are under size in width. Cameron – those lots were going to be addressed.

MOTION: Moccia/Vail to postpone until the May 1st Council meeting. VOTE: All aye.

Kabana – Debby has asked that Council hang on to their packets for the next meeting.

Eschenberg – at the last meeting he indicated that we'd bring the hog fence issue back to this meeting but he checked Robert's rules and in order to reconsider it has to come from someone on the winning side so either Vail or Hickson had to make the request and it had to be made either the same day or the next day.

ACTION ITEMS:**1. REQUEST FOR FENCE HEIGHT EXCEPTION IN RR-65 ZONING PER CODE (MAYOR)**

Mayor – P&Z decided not to make a recommendation on this issue and the Mayor suggested the homeowners come before Council prior to paying a fee to go before the Board of Adjustment. There is no recommendation either way from P&Z.

Booth – there is a six foot solid fence in front of the house which replaced a five foot stockade fence that you could see through. The contractor told the owners that they (the contractor) had a permit but the owners found out that the contractor did not. Council can make an exception in regard to fence height. Mayor – has a letter from the Building Official, Norm Smith, recommending approval. Mayor – asks the applicant to come to the podium.

Monica Oats, Smith Lane – they are asking to be evaluated regarding their fence. They spoke to their neighbors regarding the fence and asked if they had any issues with the height or the nature of the fence and she had them sign a petition. Moccia – will the other side remain undone? Mrs. Oats – yes, there is a canal that acts like a natural barrier along that side. Mr. Oats – from the crown of the road you can see into the bottom of the garage. And their gate is chain-link. Vail – does not have a problem with it as long as we aren't setting a precedence. Mrs. Oats – in the Malabar General Provisions it states that the Council can grant a height exception and that is what they are asking for. When they learned of the error they came to Town Hall to rectify the problem before any notices were sent out. They have paid all permit fees. They want the fence in the front as a safety issue, to keep other animals out and keep their animals in.

MOTION: Dezman/Moccia to approve the exception. VOTE: All aye.

2. RECOMMENDATION FROM PLANNING AND ZONING ADVISORY BOARD FOR POND LARGER THAN ¼ ACRE, AND CLARIFICATION OF POND FEE, APPLICANT MIKE AND CANDI PIERSON, 2720 MATTHEWS LANE, MALABAR

Booth – the intent was to be able to build a pond less than a quarter acre for no fee other than the engineering, which is minor. This is one of the few ponds that have occurred that has been more than a quarter acre. Staff reads the code as to not charge a fee for the first quarter acre but after that charge for the square feet over a quarter acre. Staff needs clarification from Council on the verbiage.

Mayor – Council has two issues tonight. One is to approve the request for the pond and the second is to determine how much money they are going to pay. Booth – all dirt must remain on the property.

MOTION: Vail/Rivet to approve the pond.

Hickson – did the engineer verify the excavation? Booth yes.

VOTE: All aye.

MOTION: Rivet/Vail to clarify the pond fee as being the stated fee for any portion over a quarter acre.

VOTE: All aye.

Mayor – asks Booth if all roads listed have the necessary approvals by staff. Booth – action items 3 through 7 have been approved.

3. APPROVE CONSTRUCTION OF 870 LINEAL FEET OF ARNOLD LANE SOUTH OF HALL ROAD

MOTION: Rivet/Moccia to approve.

Dezman – asks for clarification. Vail – these are unimproved right-of-ways and in order to build a home they must first improve the road.

VOTE: All aye.

4. APPROVE CONSTRUCTION OF 300 LINEAL FEET OF SAMANTHA LANE SOUTH OF HALL ROAD

MOTION: Rivet/Moccia to approve.

Vail – where is Samantha Lane? Kabana – north of Candy, south of Rays.

VOTE: All aye.

5. APPROVE CONSTRUCTION OF 50 LINEAL FEET OF MCCAIN LANE SOUTH OF HALL ROAD

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

6. APPROVE CONSTRUCTION OF 64 LINEAL FEET OF HARD LANE SOUTH OF ATZ ROAD

MOTION: Rivet/Moccia to approve.

Vail – why are these roads so short? Booth – that was all that was required. Kabana – the road must be built to the end of the owners contiguous lot.

VOTE: All aye.

7. APPROVE CONSTRUCTION OF 114 LINEAL FEET OF ATZ ROAD EAST OF LACOURT LANE

MOTION: Vail/Moccia to approve.

Vail – the owners went before the BOA regarding the length of the road on the assumption that the piece of the road to the east of their lot was owned by EEL's. But the code states that the road must go to the end of your property line. Is the lot to the east of the applicants lot owned by EEL's? Booth – it is not. Vail – then the road is too short. Mayor – obviously the intent of building the road to the end of your property is so the next person is not responsible for the road in front of your property. States that this can be voted down tonight. Vail – or it would be contingent upon the next applicant. Bohne – how are you going to enforce that? Booth – this is an example of the EEL's putting up a fence and declaring the land all theirs.

VOTE: All Nay.

8. REQUEST FOR BUDGET LINE ITEM ADJUSTMENTS

Kabana – this does not effect the bottom line of the budget. It is moving budget amounts around to better fit what is happening. One of the reasons this needs to be done is because Kabana is using a new payroll program and the new accounts will clarify the numbers on paper.

MOTION: Hickson/Dezman to approve. VOTE: All aye.

9. RESOLUTION 04-2006, SUPPORT OF COMMUNITIES FOR A LIFETIME INITIATIVE

Mayor – the basic intent of the resolution is that the Town will do its best to accommodate the elderly.

MOTION: Mayor – to read by title only without objection.

Eschenberg read:

RESOLUTION 04-2006

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA SUPPORTING THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS COMMUNITIES FOR A LIFETIME INITIATIVE; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Hickson/Rivet to approve.

VOTE: Aye – Hickson, Vail, Rivet, Moccia, Dezman.

Mayor – he has a folder on this that he will bring to the next meeting to be passed around.

10. REQUEST FOR NOVEMBER VOTE FOR SHERIFF MSTU

Mayor – does it take an ordinance to put this on the ballot? Bohne – does not think so. But we need to come up with what question is going will be placed on the ballot. Mayor – came up with something simple: Should we form our own police department? Yes or No; or, Should we pay the sheriffs department MSTU? Yes or No. Or you could offer some sort of a third option as to maintain the status quo.

Rivet – feels that part of the problem is that we have not really coalesced an opinion very strongly in this Town one way or the other regarding this issue. And he thinks there has been a lot of conflicting information and a lot of conflicting disinformation. Maybe there are three alternatives but he thinks there are only two, he feels the status quo is unacceptable. We either need to have improved police services from the sheriff or from another organization. In order for people to make an informed decision on which option is going to be the best we need to know what each one of them is going to cost. He has no confidence that even if we agree to pay the MSTU that we're going to see any significant improvement in service from the sheriff. He thinks we need to be very frank with the residents that the Sheriff came before us and essentially promised us nothing. He thinks that if we form our own police force we may be able to do it for less than the cost of the MSTU due to other monies in our budget. He thinks it's premature to put anything on the ballot until we really know the answers to those questions.

MOTION: Rivet/Dezman to table this until we have that information. VOTE: Aye – Vail, Hickson, Rivet. Nay – Moccia, Dezman.

Rivet – we need those costs to make an informed decision. He will contact the Mayor of Melbourne Village. Mayor – will do the same thing with the Mayor of Melbourne Beach. Booth – will have them put together what the minimum is to begin a department. Dezman – wants to see the raw input. Moccia – it wasn't that long ago that the people voted on this and they don't want to visit this again. Eschenberg – this should be on the next agenda to be addressed. Dezman – we need to tell the citizens that we have to make a decision. We need to do a better job of educating. She does not want to pay another set of taxes but the bottom line is are we doing what is right?

REPORTS: MAYOR, COUNCIL

- Booth – the Malabar Springfest was the best we've ever had. Thanks Vail for jumping in the dunk tank. The day was a total success!

- Moccia – states that the EEL's should be purchasing less land in Malabar due to rising prices.

- Hickson – the Rocky Point Homeowners Association wants to discuss this issue. Booth – will go along.

- Rivet – feels his experience applies to the police issue. Since the robbery the Rivets have made about twelve phone calls to the sheriff and they have not received one return call, he feels this is representative of the lack of police protection that we are getting. There has been zero effort to do anything. His wife saw two guys in a van parked outside their home the morning of the robbery. A week later she sees them on TV as being arrested for breaking into a department store. This seems like very relevant information but they have not even received a return phone call.

- Dezman – had a wonderful time at the Springfest. Would like \$25 taken from her discretionary fund times-seven, she wants the checks and they will go to the Malabar Springfest committee members. She wants to write personal notes herself.

- Dezman – there is one house built on Corey Road in Stillwater and it's beautiful.

- Dezman – there was a problem with a contractor in Country Cove. Booth – yes, and it will show up in the next budget.
- Dezman – Mrs. Oats stated tonight that she has found illegal drugs in her ditch, Dezman also found illegal drugs in the lot next to her. We are having more and more of this.
- Mayor – has something for Booth, it is a picture of a pond in the northern part of our Town. Vail – this was on Marie Street. Booth – it was built before our ordinance was passed. Mayor – make no mistake, that pond was illegal.
- Mayor – did we send a letter to the Chief Judge regarding the support of a courthouse somewhere south of New Haven? Thought it was a consensus. Booth – we will do a letter.
- Mayor – is Mr. Torpy just wanting us to get the comp plan done because it is holding up one of his clients? Booth – yes. The issue was the School Board deciding at the last minute that they want to site a school here.
- Mayor – he was at a picnic last Saturday and he ran into someone he knew and he asked Eschenberg if he knew that he (Eschenberg) and everyone else was being sued by the County Commission? The friend sent the Mayor copies of the court file. Back in 2000 there was a referendum to approve money to build a bunch of recreational facilities, Malabar was the only entity to vote against this. As it turns out the County is over-budget so the County Commission wants to issue \$36million in bonds to cover the overruns. According to their charter if they want to issue bonds for more than \$19million they have to go to referendum and ask for public approval. So what they have done is to break the bond issue into three separate issues, which was probably not the intent of the Charter. As a result, the Clerk of Court, Scott Ellis, is refusing to sign off on the bonds, so they can't issue the bonds. So now the County is taking everybody and their brother to court. It is an order to show cause, dated March 24th. "To the State of Florida through the State Attorney for the 18th Judicial Circuit, the tax payers, property owners, and citizens of Brevard County Florida including non-residents.....and all other having or claiming any right, title, interest in property to be effected by the issuance of bonds. You and each of you are hereby required to appear the 21st of April.... to show cause why the complaint file should not be granted." Mayor asks Bohne what this is. Bohne – will have to research and will get Council an answer.

PUBLIC COMMENTS: GENERAL ITEMS

- Bill Withers, Candy Lane – asks why Atz Road has not been paved yet, it is in the budget.
- Bill Withers – the gentleman who was storing equipment on Malabar Road is still storing equipment.
- Bill Withers – finding drugs in Malabar Park is very common.
- Bill Withers – he passes around pictures of a 2nd or 3rd grader riding an ATV on Candy Lane. On the 4th of April trucks pulled up on Candy Lane, they off-loaded their ATV's, the sheriff showed up twice but were not there when the ATV's returned, packed up, and left. He shows pictures of the events. This is what the Town is turning into because of Council inaction. Booth – the contractor for the County is going to pave ATZ but we are at the bottom of the list because it is such a small project.
- Charlie Smutko, Lett Lane – commends the fire department for their good work. In the past it has been determined that the land around his property is wet. He has had restricted ability to develop his property. He wants to know how that Town allowed the clearing of the land at Babcock and Booth. A natural drainage ditch that goes through that property was filled in. This ditch interacts with a culvert at the end of Lett, and even a small change in the drainage in the area has a big effect. His area needs some help. The culverts and drainage ditches are filled with plant life. They are not in the main community and they often take care of themselves but now they no longer have the

gentleman who used to take care of the road. They hope to see more of Council Member Moccia in the area. Asks Council if they have anything to do with the clearing of land? Booth – the land owner had to have DEP certification before they could proceed. The engineer has been out there to look at the drainage and provide a solution.

Smutko – wants to know how did the Town get away with using ground asphalt on the roadbed? Booth – it is DOT approved. Smutko – there is a road that goes out to the power lines at the northeast corner of Booth and Lett. Looks like a pond is going in, is it going to impact the fluid movement in that area? Booth – the individual is under code enforcement.

Smutko – they need help and assistance from the Town. They need some maintenance to the easements prior to the storm season. Mayor – if Smutko wants Council to take specific action then Smutko should ask to be on a Council agenda. Smutko – the corner of Babcock and Booth is where is kid's bus stop is, do we have any control over Babcock? Hickson – it is a County Road. Mayor – and we have no jurisdiction.

Mayor – asks Smutko to summarize. Smutko – at Babcock and Booth the drainage is an issue, and he would like a time-line on paving Booth and Lett. He would like a review as to the alteration of the drainage culverts that were cleared on Booth at Babcock.

- Richard Cameron, 650 Hall Road – points on set-aside lands: Knight stated that the EELS would continue to purchase land in Malabar. Cameron wants to remind Council that when the EEL's bought the Malabar Scrub they came before Council to ask Malabar to vacate all the right-of-ways, which was worth a million dollars to Brevard County in State funds. There was a lot of pressure put on the Council at the time by our current County Commissioner Representative to the point where the Council conceded. We asked for right-of-way along Marie Street as a trade for some the right-of-way to be vacated but that trade was refused by the County. Asks Council to remember that one million dollar gift when dealing with these other County issues.

Also, Cameron was told that every 25 years all set-aside lands are reviewed for 'best use', which is very frightening. It could be used for a transfer station, a school, a park or whatever the State deems is necessary. So they are not guaranteed to be park lands forever.

Cameron – if Malabar starts fencing set-aside lands the wildlife that lives there will have to be taken into consideration. The fencing will have to work with keeping the animals for a particular site enclosed in that site. It is something to consider.

ADJOURNMENT

MOTION: Hickson/Rivet to adjourn the meeting. VOTE: All aye.

The meeting adjourned at 10:06 pm.

BY:

Thomas Eschenberg

ATTEST:

Mayor Thomas Eschenberg, Chairman

Susan Kabana

Susan Kabana, MMC
Town Clerk/Treasurer

DATE: 05/01/06