

**MALABAR TOWN COUNCIL REGULAR MEETING
JANUARY 3, 2005 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 the Chair, Bobbi Moccia. The prayer and pledge were led by Mr. Hickson.

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| <u>ROLL CALL:</u> MAYOR/VICE-CHAIR | TOM ESCHENBERG |
| CHAIR: | BOBBI MOCCIA |
| COUNCIL MEMBERS: | FRANK HICKSON |
| | BRIAN VAIL |
| | STEVE RIVET |
| | BOB ROSSMAN |
| ADMINISTRATOR: | ED BOOTH |
| ATTORNEY: | KARL BOHNE |
| CLERK: | CINDI KELLEY |

ADDITIONS AND DELETIONS TO AGENDA: None
MOTION: Rivet/Rossman to approve. **VOTE:** All Ayes.

CONSENT AGENDA:
(A) COUNCIL MINUTES 11/15/04
MOTION: Hickson/Rossman to approve. **VOTE:** All Ayes.

REPORTS:
ATTORNEY:

Karl Bohne-First, a copy of the memo given to Council regarding the Sunshine Law that was placed in the packets is not for discussion this evening. It was given to you as a reminder of the laws. If any member has any questions regarding this, please feel free to contact me. Secondly, last meeting there was consensus that we begin looking into doing a site lighting ordinance. Some of the Council members had indicated that they had some ideas or standards that they would like brought forward. I have begun the drafting of the ordinance, but I am lacking the standards for this ordinance. I have done some research with other municipalities. It's a good start, but it's not what we are looking for. If Council has any suggestions or input, please feel free to pass the information on to me. This can be done via e-mail as well.

ADMINISTRATOR:

Ed Booth came forward and made a presentation to the Town Council. The topics of discussion were:

-ACCIDENT WITH PICK-UP TRUCK

Carl Beatty was involved in a traffic accident on December 8, 2004 at 12:12 p.m., at the intersection of Atz Road and Weber Road with one of the Town's trucks used by the Public Works Department. The 1997 Chevy truck was totaled in the accident. An individual ran the stop sign and hit Mr. Beatty. Mr. Beatty was not injured in the accident. The driver of the other vehicle was cited for the accident. We are bringing this to Council's attention, as we will need to obtain a new truck in the future.

In speaking of this, I would like to bring to your attention the budget. With the events from the hurricanes, we have stopped all procurement activities except for hurricane expenses. We have spent a good bit of funds, which all came from the reserve funds. As of yet, we have not received any monies from FEMA. We know that they have not been dis-approved for any funds that we have applied for. We are not the only ones that have not received any funds from FEMA. Towards the end of the month, if we have not received any funds, I will be getting in touch with FEMA through State Officials. Once we receive monies from FEMA and the insurance company, in payment for the truck that was totaled, we will pursue the purchase of another truck for Public Works. Mr. Withers has agreed to continue to be our Procurement Officer. He will be looking into a new truck for Public Works when the time is appropriate and funds are in place.

-FIRE DEPT REPAIRS

The shed for the Fire Department is totaled. We, like everyone else, are having to wait on the insurance company. The new building, to replace the shed we had, will cost \$35,000.00. The insurance company is willing to pay \$14,000.00 towards the new building. We are looking at a number of other options and the insurance company is willing to work with us. It looks like they are going low to start, and we will go from there. We are also looking into some changes for the building.

Rossman-who is our insurance with?

Booth-our insurance is with the League of Cities.

Moccia-are they allowing for depreciation in the figures that they have given you?

Booth-no, once we get all the bills in, then we will sit down and re-negotiate. We are pushing to get the Fire Department taken care of as soon as possible. The morale is not very good at this time. The space that is available to the people of the fire department is very limited. We have bids out for the roof repairs. We have the bids for the inside, but we need the roof repaired first. We have received some funds to replace furniture that was lost in the hurricanes. The one thing about the trailer is that I have to keep it operational for one year. If I don't, FEMA will require me to pay the salvage value at the time it is no longer in use. So, I have no doubt that it will be in use for a year with the repairs being completed. Then Council can decide what to do with it.

Vail-has the insurance company given any date for the repairs?

Booth-it's the company, and we look to start in February. He's out obtaining the bids now. We are pushing to get this underway as soon as possible.

Rossman-have you spoken with the League of Cities as of yet regarding the monies?

Booth-no I haven't as of yet, we are just getting started with the bids for repairs and still in negotiations for the shed.

Rossman-we should not settle for less then what we already have.

Booth-we do not intend to take less than what we had in the past. We will be negotiating with the insurance company for the funds that they will pay. Some of the additional cost will come into bringing the building up to the current codes, which will cost us some fees, but not much.

-HURRICANE DEBRIS PILE-at the last meeting I advised Council that FEMA had said that the 15th of November was the end. It became very obvious that it would take a year for all the debris to be taken care of with three men and one truck. With the help from Mr. Beatty, FEMA allowed the Town of Malabar to obtain another contractor to finish the debris clean-up. The company we hired, TFR Enterprises, Inc., completed the clean-up the last week of the year. At the last meeting, I had mentioned that we would be burning

the vegetation. The Department of Forestry said that we would not be able to conduct a burn. There were several issues that prevented this from happening. FEMA will be paying for the grinding, which will provide approximately 22,000 cubic yards of mulch. The company that we hired is grinding all the vegetation at this time. We had to build a tower, for an aerial view of the total of vegetation in the trucks before dumping at Marie Street. We will be holding onto the mulch and using it on the trails. Once we have placed what we need around town, it is a good possibility that we will provide mulch to the public. I visited Pelican Island, a park that uses mulch in various ways. It gave me ideas of where to use the mulch. Any debris that is out now, it will be Waste Management's responsibility. Within the next week, Public Works will be removing the debris from the ditches. They have been out grading the roads and we are getting back into our normal routine.

WATER SYSTEM & US #1-the major goal was a water system going in and this should be coming in late spring, early summer. We will be having a workshop to discuss our utility system. Along with this, we will have a workshop regarding Florida Sunshine Laws.

We have sent out letters to the neighboring properties on US #1 to see if people would be interested in hooking up to the water system. Their participation is not mandatory; it is an option for them to connect to Town water.

Moccia-are you putting the option out there to them?

Booth-we are looking to see what the desire demand is. It may be none, but certainly just having the water available will raise the property value. It is less expensive than putting in a well and if people need to replace a well, this would be an option for them.

Vail- what would the approximate cost of the connection be for the public?

Booth-the cost to hook-up is \$2000.00 hook-up. There is a \$750 impact fee that is paid to Palm Bay.

Vail-that's fixed per site?

Booth-yes, but again, it's an option for the people along US #1 to connect or not. We are putting the information out there to them so that they can decide which way they want to go when the lines are put in.

CLERK:

Kelley-reminded the Council members that the Space Coast League of Cities dinner is January 10, 2005.

DISCUSSION:

1. STEVE GENTILE, DOC HOLIDAY'S-Mr. Bohne sent a letter to Mr. Booth concerning this situation. Apparently Mr. Gentile is operating a commercial business on the property, which he admitted he was going to do. He has obtained an agricultural tax exemption from Brevard County Property Appraiser's Office, qualifying as a bone fide agricultural operation. He's allowed to operate for profit. There is no prohibition in the law that says he can't operate a bone fide agricultural operation.

Rossmann-he can only raise horses.

Bohne-he can do a little more than that under the case law. He can raise horses, train horses and breed horses. In reviewing a couple of cases, which came out of Broward County, people there were able to build race tracks and grand stands. These act as bone fide farm activities. The way that I think we should handle, if Mr. Gentile has gone beyond the bone fide agricultural exemption, is to have the exemption taken away. If the County removes the exemption, with enough complaints, then he will be out of code. If this

happens, then he will have to comply with our Conditional Use Permit, which we know he can't comply within these perimeters because of the situation of his property. As long as he has the exemption, we are pre-empted and cannot do anything to block this.

Moccia-the County told Ms. Moccia that if you don't have enough animals, you would not qualify for the exemption. They were very specific about how many animals are required under this exemption.

Bohne-If Mr. Gentile is not operating within perimeters of his exemption, and then the County Appraiser's Office needs to be notified of this information. If the exemption is taken away, we will be able to go in and have him come into compliance with Malabar code. Until the exemption is removed, we are stuck with what is there.

Rossman-there is a similar type of facility up in Cocoa, west of I-95. How does the City of Cocoa manage this property? What do they do? Could you check into this and how do they regulate it?

Bohne-I can check into this. In what respect do they regulate it?

Rossman-not sure as to the specifics of the regulations of the property.

Bohne-we can't prohibit Mr. Gentile as long as he has the exemption from the County. Mr. Gentile is exempt from building out buildings under the building codes with this agricultural exemption.

Rossman-once he does anything residential, he does have to comply with the Town?

Bohne-as far as the residential component, he does have to comply with the Town.

Vail-as far as the conditional use, asked Mr. Bohne to explain this issue.

Bohne-Mr. Gentile tried to apply for the Conditional Use Permit but because he does not have the proper road frontage on his property, he did not qualify for the permit. We had two hearings, one with Council and one with Planning & Zoning. He also appealed the decision. The Appeals Court ruled in our favor. He tried to take care of this at the appellate level and the Courts wouldn't allow it. He came back thereafter and stated that we are pre-empted from regulating his farm activity by statute. He is correct. As long as he has a bone fide agricultural exemption we cannot prohibit it. If he is not operating under the conditions of his exemption, then this exemption will be revoked.

Rivet-who makes that decision if it is a bone fide exemption?

Bohne-the Property Appraiser's Office makes that determination. Apparently they did based on the application that he submitted.

Moccia-they are the people that initially stated that he was bone fide?

Bohne-yes he is bone fide.

Rossman-this could have all taken place by mail.

Bohne-has no idea how it was done. No one ever notified us except that Mr. Gentile came in and told us. It's going to be two steps. The County would have to revoke the exemption and then we could regulate him because he is not a "farm". It's not a popular position, but that's the way it is. If he qualifies, then we're stuck. I'll check on the property in Cocoa.

Rossman-was told that the City of Cocoa regulates this property in some form.

Steve Wilson-1190 Corey Road-if I am understanding this correctly, with agricultural exemption, he can run a commercial horse stable operation legally and there is nothing the Town can do about it?

Bohne-assuming that the commercial operation is associated as part of the bone fide agricultural exemption, we can do nothing. The first step is to have the exemption removed.

Wilson-does this apply to all businesses?

Bohne-only if they have a bone fide agricultural classification.

Wilson-Brad Beville, who is with the Property Appraiser's Office of Brevard County, is the person who approved the original application for the exemption.

Rossman-if you have a phone number for Mr. Beville, please give it to Mr. Bohne. You can give it to him right now.

Wilson-his phone number is #321-264-6715. He's been on vacation and will be back in the office 1/4/05. It's hard to believe that this exemption could take away all that we have been working towards for the last three years.

Mayor-why didn't that property qualify for a conditional use permit?

Bohne-one of the requirements for stables is that you have to have so many feet abutting a public or private road. Mr. Gentile's property is an odd shape. It's rectangular with a flag stem coming down. The flag stem is what abuts Corey Road. He did not have the appropriate width. He needs to have 100 feet of frontage. (Reviewed code-requires 325 ft. frontage for a Conditional Use Permit.)

Mayor-this is spelled out in the code clearly?

Bohne-this is spelled out clearly and the Appellate Court clearly ruled in this favor. He didn't qualify and doesn't meet the objective criteria.

2. PARK AND REC BOARD PROPOSED ORDINANCE

Bohne-stated that two meetings ago, the Town Council had appointed and approved appointments to the Park & Recreation Board. Technically, this was done in error, as the ordinance states that the applicants are to be reviewed and recommended to Council by the Mayor. He thought it would be consensus that we bypass this and go directly to Council.

Rossman-this will make it consistent with the other boards.

Rivet-we have one, two and three year terms. Wouldn't it be better to have them all the same terms but stagger the terms?

Rossman-I agree with that. We could make them two year or three year terms and stagger the terms.

Vail-in comparison to the other boards, we need to make them consistent.

Rossman-has no problem with making them three year staggered terms.

Mayor-make it three years, as this was the longest term that has been.

Rossman-let's have Mr. Bohne make the changes and corrections to the ordinance.

Bohne-this will be presented to the Parks & Recreation Board for their review and then it will come back to Council.

Mayor-feels that all three ordinances should be the same. Mayor Eschenberg thinks that the other two ordinances should be changed to say that the Mayor is to review and recommend the applicants to Council for all the boards. There seemed to be some minor problems that Council had with making appointments and there was some confusion about how many meetings were attended and some other issues. If one focal point was the one that made the recommendations, than that one focal point would have done some research into the performance of the Board Member over their term so that with the recommendation, you would get a brief history of the Board Members that are up for appointment or re-appointment. The focal point would talk to the members that wish to be re-appointed and get a statement from them. The Mayor thinks that it should be done this way and makes this suggestion.

Rossman-I would disagree with the Mayor. This is not a strong Mayor form of government; it is a Council form of government. The Mayor, by intent, is not to have a lot

of duties and it in fact, more or less, a figure-head. I think that the Council should receive information regarding the applicants and if they are past Board members, we should look into their performance in the past regarding that Board. This ordinance should be consistent with the other two boards.

Mayor-maybe we should make it the Council Member from District #5 the focal point to supply Council with data on the applicants and then rotate the focal point.

Rossman-he is in agreement with this.

Vail-is in agreement that we should have one person to obtain information regarding the applicants to the boards.

Rossman-typically, in an organization, if it's not assigned, it won't get done. I would agree with a Council Member, each year rotating it, to acquire the data on board applicants and re-appointees.

Moccia-providing the member can take it on.

Rossman-let Council Chair designate the person each year and it would be that person's responsibility.

Rivet-that's the same as giving that power to the Council Chair.

Moccia-you would be alternating each year. There would be no power there, to say that there is a different person each year.

Vail-has no problem with the Mayor for this position.

Moccia-it seems to me that we are trying to change something that I think doesn't need changing. We hash things out when it's brought to the table. The only thing that needs to be changed is that someone needs to bring more information to the table so that we can make more informed decisions. Is this what you are considering, Mayor?

Mayor-I think that we need to have information on the applications, especially those applicants that Council is not familiar with. If it's a Board re-appointee, then we will only need a brief history of the Board members performance during their term.

Rivet-the whole point is that there should be one person gathering information regarding the applicants for board appointments. I would rather not make it by statute, but have the Mayor and Council come together and have a consensus as to who that person is to do the research. If the Mayor and Council can't come to a general consensus, then a majority vote would determine the outcome.

Vail-you are saying that when it comes time for review, we would all get together?

Moccia-we would come together, make the choice and have that person gather the pertinent information. This is what we have been doing, but the information was not all there.

Rivet-the only additional step would be to explicitly appoint someone to do the research some number of weeks or months before the appointments are due.

Moccia-that could be upon discussion with Council. It doesn't have to be a designated appointment; it could be someone who volunteers the time it would take to complete the task.

Rivet-for this year, I would have no problem with Mayor Eschenberg taking the appointment for research.

Vail-is in agreement with Mayor Eschenberg.

Rossman-the only thing that needs to come back is the change for three year terms, staggered.

Hickson-are they already staggered? Not every position needed to be addressed.

Rivet-the terms are one, two and three years. It would, eventually, be all clumped together. We need to have the terms staggered so that we always have the positions filled.

Moccia-Mr. Bohne, do you have an understanding of what the ordinance should say?

Bohne-my understanding is that we are going to change, for all boards, how the appointment recommendation process is going to occur. I understand that Council, in advance, an individual Council Member to, basically, make the recommendation. We are, also, going to stagger the terms. The appointed person will be a member of Council.

Rossman-it will be a member of Council or the Mayor – and/or the Mayor.

Hickson-do we want to limit it to the Council?

Vail-the appointment of Board members is the duty of Council, so the gathering of information should stay with Council.

Rossman-this is a Council function.

3. EELS PROGRAM

Booth-since we've had the last meeting, and by your direction, I have been at war with them. I have hit a nerve and they have had a number of meetings here within the last month with us and select members of the County. I believe that they are ready to capitulate. We have a meeting with the County Commissioner on the January 13th, with the Mayor and Mr. Bohne attending the meeting as well. I will be going into this meeting as a mediator. They are willing to capitulate and not purchase any more large tracts of land. We would agree that we would allow them to purchase small areas, on the outskirts, to square up the property that they already own. They are willing to put more funds in management and upgrading the facilities. We would be willing to look at creating a zoning for their lands. This would be their Achilles heel. If we create a zoning for their land, we could make it impossible or make it so they can work with us. This will give us the leverage that we need. I feel confident that we will come away from the meeting with what we want. I will have a brief synopsis of the meeting for Council at the next Council meeting.

Moccia-I like what they wrote about the Malabar Scrubs with the couple of different things that they looking to do.

Booth-I will have a brief synopsis at the next Council meeting.

Rivet-Ed Booth has done a good job, with out his tenacity and leadership; we would not be in the position where the County is basically addressing our concerns. There is definite progress in this area.

ACTION ITEMS:

1. FORMAL ACCEPTANCE OF MODIFICATION OF FRDAP GRANT #FO3612

Booth-We have made several modifications to this grant. The grant will be over with and they have allowed us to place the playground in the park. We are working on the next grant. We need to place playground equipment in Huggins Park. This will part of the new grant.

Vail-have we still conformed to the restrictions of the grant as far as the use of the monies?

Booth-we have conformed to all the restrictions and we have been asked, for the next grant, to keep the modifications to a minimum.

MOTION: Rivet/Rossman to approve the modification of FRDAP Grant #FO3612.

VOTE: Hickson, Vail, Rivet, Moccia, Rossman - All Ayes.

2. ACCEPTANCE OF BID FOR PLAYGROUND EQUIPMENT AT MALABAR COMMUNITY PARK

Booth-the Park Board went over all information in great lengths before choosing the equipment. Several presentations were made to the Board and they have chosen the best equipment for the money.

Motion: Vail/Rivet to approve the bid for playground equipment at Malabar Community Park. VOTE: Hickson, Vail, Rivet, Moccia, Rossman - All Ayes.

Booth-with the playground equipment being put in, the kids will come. We will be putting a chain link fence in between the Fire Department and the playground equipment.

Moccia-we will need to put a dust strip on the fence for weed eating purposes.

3. REQUEST FOR STREET LIGHT ON WARING LANE (Applicant T. A. Taylor, 2755 Waring Lane)

Booth-the individual cannot apply for the light, the Town has to. The applicant is asking for the Town to apply and pay for it.

Moccia-the applicant would pay the additional \$10/month, but will the payment be continually paid? Is this something that we're okay with? Has someone gone out and checked this out?

Hickson-do we want to set a precedent? If we allow this one, we'll have to do it for all. If we do this, we'll have the most "lit up" town.

Vail-still have not contacted all the people that this would affect.

Moccia-the applicant was going to be doing all the work to get this accomplished. Now he can't apply for the light himself, so this was not able to be resolved. If we do this, a precedent would be set. Do we want that?

Booth-we are trying to do a light ordinance. We need to wait until we have a light ordinance in place before we do this.

MOTION: Rossman/Rivet to table this discussion until such time as ordinance for lighting is in place. VOTE: All Ayes.

4. PARKS & RECREATION BOARD RECOMMENDATION (re-appoint Bob Siegmann as alternate Board Member)

Kemmler-came forward and made his presentation. Mr. Siegmann came to the last meeting only find that he had been removed. We, the Board, asked if he would like to participate as an alternate member. Mr. Siegmann stated that he would like to do this.

Moccia-so everyone approved on the Board.

Kemmler-we have a position available at this time.

Moccia-does the Council have any problems with appointing Mr. Siegmann as alternate to the Parks & Recreation Board?

Rossman-I would have a problem with this. The problem is the reason he's not on the Board. To me, Mr. Siegmann, if he was conscientious about it, he would have made all the meetings and he'd still be on the Board. Even though there's an opening as an alternate on the Board, I don't think that he's the appropriate person to fill it.

Vail-can you give us some information regarding this Hans?

Kemmler-Mr. Siegmann knows the waterways in case they become important to us. If all the alternate positions were filled and he was fighting for a position on the Board, then I could see Mr. Rossman's position.

Vail-when he was absent, did he still communicate with you regarding the Board issues?

Kemmler-he would go out and research lawnmower things.

Vail-even though he was absent, he still had input to the Board.

Kemmler-he has a rotating schedule, he has all the best intentions, he just doesn't have a schedule that allows him to attend all the meeting.

Vail-he forwards all his input to you or to another Board member prior to the meetings? It's a unique situation for Mr. Siegmann.

Kemmler-all of a sudden, there is a rush with the Parks & Recreation Board. We can work with everybody. We have a lot of good people and I don't feel that having Mr. Siegmann on the Board as an alternate would detract from us doing our job.

Rivet-what we have to do is appoint the best people to the openings we have available. It sounds like Mr. Siegmann would be a good Board member with the exception that he can't make it to all the meetings. We don't have a better candidate, he's willing to do it and I think it would be silly not to take advantage of this desire.

Kemmler-we still have one more alternate position available on the Board.

Vail-doesn't have a problem with Mr. Siegmann being an alternate board member on the Parks & Recreational Board.

MOTION: Hickson/Rivet to re-appoint Mr. Siegmann as alternate Board Member.

Moccia-if a board member is missing, then the alternate member steps up to fill that position for the meeting? Or if two members are out, then both alternates step up to fill in for the meeting?

Kemmler-the alternates would step up if any of the Board members were not able to make the meeting. They would have voting rights as well.

Rossman-but if all Board members are in attendance, the alternates can discuss but they cannot vote.

VOTE: Hickson, Vail, Rivet, Moccia – All Ayes. Rossman - Opposed.

Mayor-I was rather surprised that the Board Member was not notified that he was no longer on the Board.

Vail-would this be the responsibility of the Council Member designated to do research for board appointments?

Moccia-I wouldn't put it as the responsibility of the Council Member.

Mayor-this should be the responsibility of the Council Chair to notify any Board Member that they have been removed from the Board.

Moccia-if that's what needs to be done, I can do that.

REPORTS: MAYOR, COUNCIL

Mayor-nothing to report at this time.

Hickson-asked the Town to remember the people with the latest disaster be kept in our prayers.

Vail-I will need to background information on the Gentile situation, as I do not know what all has happened with his property. The ordinance changes should state that applicants should be, they don't have to be accepted, but they should be reviewed on a first come first serve basis. Therefore, not showing any partiality or prejudice, it's the fairest way possible.

Moccia- what do you mean by first come first serve?

Vail-the applicants should be reviewed on a first come first serve basis, which was the traditional way of doing it.

Moccia-you are talking about board applications. I thought you were speaking of Gentile.

Vail-I was speaking of the ordinance for the board appointments. I believe that they should be reviewed on a first come first serve basis. It's the only fairest way to do it in my opinion.

Moccia-to Clerk, are the dates of receipt on the applications as they are submitted?

Kelley-yes they are. We stamp everything that comes into the office.

Moccia-the dates are on the applications. It's only a matter of looking at them.

Rossman-the paving company that did paving in our Town, are they coming back?

Booth-yes they are. We have made several efforts to get in touch with them. We will make a big effort again.

Rossman-If they don't respond, then let's have Mr. Bohne contact them.

Booth-we had some agreements made.

Moccia-were the agreements in writing?

Booth-we did not accept the job.

Moccia-if we have it written, then they have to come back.

Booth-we would have more leverage with them. They also do work for the County.

Rossman-this company was supposed to be back here months ago.

Moccia-let's go ahead and set a date on this. Mr. Bohne you should do this.

Rivet-what is a reasonable time? Can we tell them 30 day, 60 days? I'm not willing to give them anymore time.

Rossman-I wouldn't give anymore time than 30 days. They were supposed to be back four to six months ago.

Booth-the hurricanes came into play.

Rossman-they were over-due before the hurricanes.

Vail-are the paving contractors affected as hard as all the other contractors?

Moccia-I'm sure that they were.

Booth-their facilities were hurt, they come from Cocoa Beach.

Hickson-which company has it?

Booth-would have to look up the information.

Rossman-I don't want to be unreasonable and I would be more than willing to be reasonable as long as they give us some guarantee.

Moccia-we want a response back and we want to know when.

Booth-I will have a response back by the next meeting.

Moccia-if they don't get back with you, then go right ahead and give it to Mr. Bohne. I understand that everyone needs some time to recuperate, but everyone has had that time. They could set a date.

Rossman-at our last meeting, I believe that the Scouts had requested some part of our Preserve to be designated. I think that we should do that and designate a portion.

Moccia-we had asked Mr. Cameron to give us a designated "best" spot. Have they come to you at all?

Cameron-we had talked about putting them in Cameron Volunteers Wilderness Preserve. Bob Wilbur was working with them. No one has contacted me as of yet.

Rossman-the property north of Gentile would be an ideal spot.

Cameron-that is where we were talking about. There is an area just inside the entrance that had been set up.

Rossman-would like to see us do this.

Booth-we are in the process of taking care of this. We are the ones who initiated this.

Rossman-I would like for the Town to monitor Mr. Gentile. The trees that he was supposed to have put in have not been added to the property.

Bohne-he was required by the Special Master to put them in and make sure that they remain living.

Rivet-It's nice to have all the hurricane debris gone from the Town. It looks really good around the town.

Moccia-The person doing the Hall Road paving, is he the one doing the Country Cove paving as well?

Booth-yes, he is doing Hall Road and will be going into Country Cove.

Moccia-Mr. Tarzia is still making improvements on his property.

Vail-he has spoken to Mr. Tarzia and he is making strides with the clean-up. I have told everyone in the area to speak to me regarding this if they have any concerns and I would address them.

Booth-he is making progress. He cannot get a building permit until the architect has to come up with plans and the property must be cleaned up.

Rossmann-speaking of buildings, the two-story structure on Malabar Road is falling in.

Booth-I will bring it up at the next meeting, but the Building Official and I have an ordinance that we can work with now. We will now be able to start condemning those buildings in the town that need to be taken down. We are looking at three properties to start with. One being the old California Hotel, a trailer here on Malabar Road and the two-story structure on Malabar.

PUBLIC COMMENTS: GENERAL ITEMS

Chris Norton-1611 Country Cove Circle-welcomed the new Mayor and Council Members. I have two concerns that he would like to discuss: Mr. Gentile's property and the protection of our paved roads. In light of what was proposed tonight, I would like to suggest to the Council to consider applying for a FRDAP Grant to purchase his property and change it into a horse facility that the Town could operate or have someone operate it for the Town. Then there would not be any problems adjoining property owners. Mr. Norton expressed his concerns, which were negative, to the Council regarding the activities going at Mr. Gentile's property.

The protection of our paved roads is a big concern for me. I have read the code regarding driveways in Article 5, General Provisions, Section 1-5.23 Construction of Driveways, Swales, and Other Improvements Affecting Drainage. The language that is in here about protecting roadways with respect to driveways says driveways are encouraged to be paved and culverts shall be designed to meet accepted engineering standards. It's good language but the road I'm using, Corey Road, as an example, if you look at the damage to the pavement that has been generated by Mr. Gentile's multitude of trucks, whether they be dooleys, tractor trailers and other various vehicles. Look at the damage to the pavement. I would use his property as an example to maybe examine your codes and consider requiring that someone building a house or if someone is building a commercial business or even a business that generates traffic like this, that you consider, if you are having a paved road then when they go for permit or any activity, that they have to submit signed/sealed approved drawings to the Town Engineer. Such that, we call it an apron, the driveway would touch the pavement of the street and go in over the swale pipe that you would be put in, the culvert, and touch on the other side. We are not asking that you pave a driveway that is two to three hundred feet back. By paving that apron over the culvert pipe the engineer will set the slope for the pipe under the driveway, which will help your drainage. At the same time, the pavement from traffic going back and forth will protect your roadway. If I could make a suggestion to review Article 5, General Provisions, Section 1-5.23 Construction of Driveways and study for the future. This does not affect new subdivisions because when the plans are submitted, they go through the Engineer, Town Council and they usually get updated before the final approval. The driveways are being put in with the construction of the homes.

Steve Wilson-1190 Corey Road-came forward and expressed his concerns, also negative, to Town Council. Mr. Bohne stated that the conditional use permit was denied based on the fact that Mr. Gentile's property does not meet the criteria for this permit. The site/planning issues do not come into play under the exemption. If Mr. Gentile builds any out buildings, he is not required to pull any permits. An out building is considered as a non-residential building. Until the exemption is removed from Mr. Gentile's property, there is nothing the Town of Malabar can do.

Jim King-1170 Corey Road-came forward and expressed negative concerns regarding Mr. Gentile's property. Mr. King is looking to Council and Mr. Bohne for guidance in this matter. Mr. Bohne stated that formal complaints need to be made to the Brevard County Appraiser's Office. If they receive many complaints, then they have to look into the matter. Until such time as the exemption is removed, our hands are tied. Mr. Booth stated that if there code violations for one property is the same for all properties.

ADJOURNMENT

This meeting was adjourned at 9:20p.m.

ATTEST: 

Cindi Kelley
Recording Secretary

DATE: 2/7/05

BY:


Chair Bobbi Moccia