

**MALABAR TOWN COUNCIL REGULAR MEETING
JULY 11, 2005 8:00 PM**

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road. The meeting was called to order at 8:15 pm by the Chair, Bobbi Moccia. The prayer and pledge were led by Mayor Eschenberg.

<u>ROLL CALL:</u>	MAYOR/VICE-CHAIR	TOM ESCHENBERG
	CHAIR:	BOBBI MOCCIA
	COUNCIL MEMBERS:	FRANK HICKSON
		BRIAN VAIL
		STEVE RIVET (left meeting @ 9:30)
		PAT DEZMAN
	ADMINISTRATOR:	ED BOOTH
	ENGINEER:	BILL STEPHENSON
	ATTORNEY:	KARL BOHNE
	RECORDING SECRETARY:	CINDI KELLEY

ADDITIONS AND DELETIONS TO AGENDA: Dezman – addition of the town planner that was postponed at the last meeting. Moccia – we can add to the discussion items. Also, we will move action item #6, Ordinance 2005-11, Light Ordinance to discussion item #3 and then the planner will be discussion item #4. Bohne – this will only be a discussion, it's not a first reading. This ordinance has to do with a Land Development regulation and must go to Planning & Zoning Board first. It is in final form but I would like to make sure it's okay with Planning & Zoning Board.

MOTION: Rivet/Hickson to approve the additions and deletions to the agenda as modified. VOTE: All Ayes.

CONSENT AGENDA:

- (A) TOWN COUNCIL MINUTES OF 6/6/05
- (B) TOWN COUNCIL MINUTES OF 6/20/05
- (C) TOWN COUNCIL WORKSHOP MINUTES OF 6/20/05

MOTION: Rivet/Hickson to approve minutes of 6/6/05, 6/20/05 & workshop minutes of 6/20/05. VOTE: All Ayes.

PRESENTATION:

1) MITCH NEEDLEMAN – 2005 LEGISLATIVE WRAP-UP

Representative Mitch Needleman came forward to address Council. He gave Council an overview of what has been taking place in Tallahassee during the 2005 Legislative term. There has been a change in leadership. The House and Senate have had good rapport between the two. There is a 63 million dollar budget, 5% of revenues are being placed in savings accounts. Education has always been a hot topic and it continues to be. There has been an increase of 2.2 billion added to the education budget. Revenue has budgeted \$.60 of every dollar to education. The budget for healthcare is \$1 billion. A few other issues were touched on by Representative Needleman. They were childcare and a hurricane bill, which will allow the homeowner to have a chance to understand their policies. Also, by the year 2012, there will be \$58 billion in Medicaid. Something must be done with this

issue. In closing, Representative Needleman left on a funny note. He also reminded everyone that he is still working on the red light and has not forgotten this issue.

2) EELS – QUARTERLY PRESENTATION TO COUNCIL

Mike Knight, the interim program manager for the County, came forward and addressed Council. He presented the Council with a handout. This handout has parcels shown that the EELs are going to try to acquire. The County has been without a manager for seventeen months. A new person is on the horizon. They were asked to come to Council this evening to give their quarterly discussion of what is happening with the EELs property and what their plans are for the future. An acquisition is in the process. This property is the parcel of land between the Malabar Scrub Preserve and the Brook Hollow Phase I development. This contract is in the making as we speak. This is the only project that is happening now. All of the other projects have been put on hold for various reasons. Rivet – what is the plan to control the ATVs. Knight – there is nothing planned at this time, but are meeting with the Sheriff's Department with regards to this issue. Rivet – a couple of arrests will do wonders. Knight – one option that is being considered is to block off South Marie Street, by the mulch area, and from Valkaria Road. This will not stop the people coming from the west. Vail – asked Mr. Knight how often someone from the County comes down to Malabar to observe the lands and what is happening on them? Is there a schedule that you come out and run the fence lines? Mr. Knight advised Council that they are out here a couple of times a week. The primary focus regarding acquisitions is the boundaries. Moccia – can we contact you as the official person regarding the issues in Malabar? Rivet – we have an agreement with the County to discuss any acquisitions before they happen. The Town of Malabar must be in agreement before any acquisitions can take place. Knight – it was his understanding that acquisitions could take place to square off the property that we already owned with no problem. Rivet – anything new must be reviewed by the Town Council before anything can happen. Booth – told Mr. Knight that he was at the workshop with the County Manager and heard the same thing that Mr. Booth heard. There is to be no more acquisitions without the Town's review and approval. Knight – we have not received anything in writing from the County stating no more acquisitions without the Town's review and approval. Booth – stated that he would be contacting the County Manager and Commissioner Volz regarding this matter. Rivet – there was to be a moratorium, with the exception of the Brook Hollow parcel. This agreement is what basically stopped a lawsuit with the County. Booth – advised Mr. Knight about the funds it would cost the County to bring the properties that they have acquired to code to meet the Town's ordinances.

REPORTS:

ATTORNEY

- HIRING OFF-DUTY SHERIFF DEPUTIES BY THE TOWN

Mr. Bohne provided a letter to Mayor Eschenberg and the Council members. This letter was regarding the hiring of a part-time sheriff for the Town. Mr. Bohne suggested that the Town have a meeting with the Sheriff's Department to see what programs are available to us.

With regards to the Gentile case, the paperwork has been filed and Dr. Gentile has been served.

ADMINISTRATOR

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

- GENTILE MEDIATION MEETING

This meeting is not going to happen. Dezman – stated that the answer was “NO” from Country Cove. Dr. Gentile has been served with a restraining order. He would not be able to attend a meeting even if it could be scheduled. A copy of the transcripts will be requested from the management company regarding Country Cove. Mayor Eschenberg – he understood that we would go forward, by advice of Mr. Bohne, with a professional mediator. Bohne – the courts will direct us to mediate. This is just a fact of litigation. We have to make an appearance. The only parties that will be involved are the members of the mediation. Rivet – he understood that Dr. Gentile must obey all ordinances without exception.

- ROAD PROJECTS

There is no ditch on Hall Road. Public Works is starting to create it. All areas that don't have ditches will have to have them created. Moccia – please make sure that they are pitched accordingly. This will make it easier for mowing and the maintenance of the ditches. Booth – it is too wet to do Corey Road at this time. We may have to contract some of this work out because the Gradall will not do the work. Atz & Corey Roads and Hall & Corey Roads are being worked on now.

- STORMWATER PROJECTS

This was addressed in the above report.

- CODE ENFORCEMENT

Mr. Cook is refusing to do anything with his property. We will be taking him to the Special Master. The Gentile property, he has built pens and is putting dirt inside them. This is still considered agricultural. Moccia – asked about the ordinances regarding dirt and the burden of standing water on the neighbor's properties. Booth – there is a property on US #1 where the owner is starting to park trucks. The zoning, which is CG, does not allow for this. The property owner has obtained a lawyer and we will be going to the Special Master with this case as well.

CLERK**- SETTING THE ELECTION DATES (Truth in Millage Process)**

This process states that when we turn in the DR420 form, this form has to include a tentative first public hearing date. The second public hearing date must be within fifteen days after the first public hearing date. If the meetings are held on September 7th and September 19th, this will allow us to have these meetings within the time frames required. The DR420 is due to the Property Appraiser's office by August 4, 2005. The Council set the tentative date for the first budget public hearing for September 7, 2005 at 7:30 p.m. along with a regularly scheduled Town Council meeting. Mr. Bohne may or may not be able to attend. It would depend on what Indian Harbour Beach does with their Planning & Zoning meeting. September 19, 2005 will be the second public hearing for the budget at the regularly scheduled

Town Council meeting. Mayor Eschenberg also requested that a special workshop meeting, away from the regularly scheduled Town Council meeting, be set in August to go over the budget. The meeting was set for Wednesday, August 3, 2005 at 7:30 p.m.

- ONE ALTERNATE POSITION AVAILABLE ON THE P&Z BOARD

With the resignation of David Quadrozzi, the Planning & Zoning Board now has an alternate position available. Please advise Debby Franklin if you know of anyone with interest in this position.

FIRE DEPARTMENT

Bob Rowan came forward and made a presentation to Council with regards to the new budget. The Fire Department is happy with the numbers that Mr. Booth has given to them. A couple of things need to be worked out. Moccia – will the radio tower assist with the pagers? Rowan – stated that the new tower will indeed assist with the pagers. Dezman – stated that a meeting for June 29, 2005 was scheduled for budget discussions and the milestones meeting will be on July 22, 2005. A special thank you was given to Mr. Withers. With his assistance, a train derailment policy was received from Maryland.

DISCUSSION:

1) CANDIDATES FOR THE VALKARIA AIRPORT ADVISORY BOARD
(Pat Dezman)

Dezman – it looks like Cindi Kelley has done some research for Council showing the Town's representative to be Mr. Tom Gehman. Ms. Kelley advised Council that Mr. Shimkus, the contact for this board, made the suggestion that Mr. Gehman be replaced as he has not attended any of the last three to four meetings. Dezman – stated that Mr. Castillo is interested in this position. Mayor Eschenberg – stated that Pam Winegar is also interested. Moccia – feels that both candidates should be invited to the next meeting and address Council with why they are interested in this position and their availability to serve on the Board. Dezman – can Mr. Booth draft a letter to these two individuals inviting to the next meeting? Booth – a letter will be drafted and sent out tomorrow, as I am on vacation after that. Ms. Kelley will take care of this for me. Dezman – this letter should come from Town Council through Town staff.

2) PARK ACTIVITIES (Pat Dezman)

Dezman – Mr. Withers has brought to our attention that there is inappropriate activity happening in the park. The EELs is willing to put up "NO LOITERING" signs. Booth – we will put up the same signs in the parking areas. We have to be very careful about this. We may have to hire security to monitor the park at night. Vail – why not take one of the fire department vehicles through the park? The indication and presence would be there. The more aggressive we get, the better off we will be.

Mr. Withers came forward and addressed Council. We have sexual predators harassing our guests. Mr. Booth was called to the park to speak to the person. The facilities are being used for inappropriate activity. Drugs are being sold in our park. Within the last ten days, there have been men sitting in their cars watching the

children play. When the children leave, the men in the cars pull away. Mr. Withers has not seen the Sheriff's Department riding through the park. We have two sheriffs that patrol from who patrol from the south of Palm Bay all the way down to Indian River County. Booth – for a short term answer, we will use the signs. We will have to look at it again if it becomes a long-term issue.

Bob Rowan – came forward to address Council regarding park activities. A fence is going to be put up at the fire department property line to keep the activities off of their property. The Fire Department personnel are aware of the activities happening in the park.

Bill Withers – the County wants us to sign up for the MSTU. Why not use these funds to have our own police department? Could we study and research what it would cost the Town for a police department?

Bud Ryan – came forward and addressed Council. Maybe the Town could look into placing a surveillance camera on site. This would serve as a deterrent. Booth – this would be very expensive to do and the possibility of the cameras being stolen or broken is too great.

Mayor Eschenberg – there has been a lot of emotional speaking on this subject tonight. This should be put on the agenda as a discussion item. Maybe Mr. Booth could put together some numbers for Council to review for a police department for now and then numbers for a one-year prospectus.

3) ORDINANCE 2005-11 – LIGHT ORDINANCE

Bohne – we do want this to go before Planning & Zoning for this. Rivet – under Section 1.5.31 – 1 (iii) should read: no sight lighting in residential area to be over 0.2 lux on any adjacent property. If these corrections could be made then it would be ready to go to Planning & Zoning for their review and opinions.

4) Town Planner – Solin & Associates

Mr. Booth advised Council that staff is against hiring this company. Dezman – stated that she does not want this issue lost. Council needs additional information and it needs to be put on the agenda. Someone from Planning & Zoning needs to address Council as to why they want him back. Town staff needs to address to Council why they don't want this company to come back. Booth – stated that Planning & Zoning should come to him, as the Administrator, and discussing what is happening with planning & zoning issues. Dezman – would like to have something written from Mr. Booth and Planning & Zoning, procedures as to how everyone sees the planner working, who he/she is to report to, etc. A position paper is needed. Mrs. Dezman would also like something written from our current planner regarding this matter as well.

ACTION ITEMS:**1) INTERLOCAL AGREEMENT WITH BREVARD COUNTY REGARDING EMERGENCY MEDICAL FACILITY IMPACT FEES**

Mr. Booth advised Council that these fees are impact fees and not MSTUs. If we sign the agreement, we can appoint someone from our Town to their Board. Mayor Eschenberg advised Council that this is a way for the County to use us as the police to make sure that these fees have been collected before a C/O is issued. We do not have to agree to sign these documents.

MOTION: Vail/Hickson to accept the Interlocal Agreement with Brevard County regarding Emergency Medical Facility Impact Fees. VOTE: All Nays – motion declined acceptance of the Interlocal Agreement with Brevard County regarding Emergency Medical Facility Impact Fees.

2) INTERLOCAL AGREEMENT WITH BREVARD COUNTY REGARDING LIBRARY IMPACT FEES

MOTION: Hickson/Vail to not accept the Interlocal Agreement with Brevard County regarding Library Impact Fees: VOTE: All Ayes – motion to decline acceptance of the Interlocal Agreement with Brevard County regarding Library Impact Fees.

3) SET QUALIFYING DATES FOR ELECTION 2005

The dates for Candidate Qualifying are Friday, August 26, 2005, beginning at 8:30 a.m., until Friday, September 9, 2005, ending at 4:30 p.m.

MOTION: Hickson/Dezman to approve the qualifying dates as stated above. VOTE: All Ayes.

4) SET PRELIMINARY FIRST BUDGET PUBLIC HEARING

As stated above under Clerk's report, the date for the first Budget Public Hearing has been set for Wednesday, September 7, 2005.

MOTION: Hickson/Dezman to approve the date of September 7, 2005 for the first Budget Public Hearing. VOTE: All Ayes.

5) DISPOSAL OF NON-USEABLE EQUIPMENT - PUBLIC WORKS DEPARTMENT

Mr. Booth advised Council that Public Works is cleaning out their department. Mr. Withers can look over the equipment then it can be disposed of.

MOTION: Hickson/Dezman to dispose of non-usable equipment located at the Public Works Complex. VOTE: All Ayes.

6) RECOMMENDATION FROM BOARD OF ADJUSTMENT CHAIRMAN TO APPOINT BARRY ALEXANDER TO FILL VACANCY ON BOARD

MOTION: Eschenberg/Vail to approve appointment of Barry Alexander to the vacancy on the Board of Adjustment.

Mr. Marpil was asked if he would be okay with this. Yes he is.

VOTE: All Ayes.

7) APPOINT VOTING DELEGATE FOR FLC ANNUAL CONFERENCE

MOTION: Dezman/Hickson to appoint Mayor Eschenberg as voting delegate for annual FLC Annual Conference. VOTE: All Ayes.

8) US #1 LANDSCAPE IMPROVEMENTS GRANT

Mr. Booth asked Council for guidance with this. This was supposed to be fully funded. This has now turned out to be a possible cost to the Town over \$65,000.00. We would then be responsible for cutting the grass as well. Moccia – wants copies of all the pictures and information from Mr. Smith. It is possible to have this done by volunteers? Does this involve the Blight study in any way? She is very disappointed in the direction that this landscaping project has gone. Booth – hasn't totally given up on this yet. He will have discussions with DOT and Brad Smith. Mr. Booth asked Council to table this issue.

MOTION: Dezman/Vail to table discussion until such time information can be presented to Council. VOTE: Dezman, Moccia & Vail – Ayes. Hickson – opposed.

REPORTS: MAYOR, COUNCIL

Hickson – wanted to report on the drainage problems, but sees that everyone is having the same problems. This has already been addressed at this meeting tonight.

Mayor – if it ever gets to the point of wanting to know how to form a police department, I have met the former Police Chief of Melbourne Village. He would probably come and address the Council if we asked him to. He would be able to address any questions that Council may have with regards to this issue.

The County will be voting tomorrow on putting a referendum on the ballot for the November elections regarding voluntary annexation. If it is passed, the referendum will take a 4/5 vote to happen. Anytime there is a voluntary annexation, it has happened in Palm Bay, the County Commission doesn't like that, they are losing their land. If the referendum passes, there will be a lot more requirements placed on voluntary annexations. The cities are against it. The League is going to have some representation at the County Commission's meeting to make some valid points about how they went about this. Booth – very interesting, when the County bought up our land, they didn't ask for anyone to vote on the issue.

Vail – nothing to report at this time.

Dezman – Heidi Conn came to the meeting last month to discuss drainage problems. The meeting was so long, she did not stay to speak. Vickie Thomas gave a letter to Mrs. Dezman regarding drainage issues. Mr. Booth was asked to handle the same way Ms. Conn was handled. Debby Franklin should be signing as Town Clerk Pro Tem. The e-mails coming from her computer should not be from Susan Kabana, as she is out on medical leave. It should be coming from "Town Clerk".

Moccia – wants it on record that she has been receiving inappropriate e-mails from Town Hall. ATVs – no one wants them.

MOTION: Eschenberg/Vail to extend this meeting for an additional ten minutes. VOTE: All Ayes.

Moccia – want to see work accountability for Public Works. She wants a written report of the daily duties that each employee performs during the day. Mrs. Moccia has an appointment with George Gelecko of Waste Management for this Friday. They will be taking a ride around the Town so that she can show him where the “trash” issues are. Mr. Booth stated that he would be riding around the Town to make sure that the trash is not “mixed”. If it is, the homeowner will be receiving a letter to take care of getting the trash cleaned up. Public Works will also be picking up trash as well. Waste Management will also be getting a letter from the Town Administrator if trash is not being picked up that is within the parameters that have been set by Waste Management.

PUBLIC COMMENTS: GENERAL ITEMS

Bud Ryan – came forward and addressed Council. Mr. Tarzia needs to receive a letter for being a repeat offender. This needs to go before the Special Master.

ADJOURNMENT

There being no further business, this meeting was adjourned at 10:40 p.m.

BY: 
Chair Bobbi Moccia

ATTEST:


Cindi Kelley, Recording Secretary

DATE: 8/1/05