

**MALABAR TOWN COUNCIL REGULAR MEETING**  
**AUGUST 15, 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 Vice-Chair, Mayor Eschenberg. The prayer and pledge were led by Council Member Pat Dezman.

<b><u>ROLL CALL:</u></b> MAYOR/VICE-CHAIR	TOM ESCHENBERG
CHAIR:	BOBBI MOCCIA, excused
COUNCIL MEMBERS:	FRANK HICKSON
	BRIAN VAIL
	STEVE RIVET
	PAT DEZMAN
ADMINISTRATOR:	ED BOOTH
ATTORNEY:	KARL BOHNE, excused
TOWN CLERK/TREASURER:	SUSAN KABANA

**ADDITIONS AND DELETIONS TO AGENDA:**

Eschenberg – there are two requests, add FIRE DEPARTMENT PRESENTATION and add PARK BOARD CHAIR PRESENTATION. Eschenberg would like to add LEGISLATIVE ISSUES TO REPORT TO LEAGUE. Kabana – and there has been a request to move action item 6 to the first action item.

**CONSENT AGENDA:**

- (A) TOWN COUNCIL MINUTES OF 8/1/05
- (B) TOWN COUNCIL WORKSHOP MINUTES OF 8/3/05

**MOTION: Rivet/Vail to approve. VOTE: All aye.**

**PRESENTATION:**

Mayor Eschenberg presents an award to fire fighter Tim Downey for being an outstanding volunteer.

**REPORTS:**

**ATTORNEY:** - excused.

**ADMINISTRATOR**

**- NEW TOWN HALL SITE SELECTION COMMITTEE**

Booth – states that property being offered to the Town is very expensive. Wants Council to appoint a site-selection committee to help with determining site selection. Each Council member should provide at least one name for the committee. Booth suggests Council provide the names at the next Council meeting. Dezman – make sure the number of members on the board is odd so a vote cannot be tied.

Booth – reviews the road repair list, within two years he plans to have all roads and ditches repaired.

Dezman – what about the standing water on Malabar Road? Booth – DOT is doing a study. Notes that working on Glatter helped.

Next Council meeting Booth will have a bid for a new truck for public works.

Booth – Code Enforcement: Tarzia's property has been sold. The houses will be burnt down and the piles in the back will be removed. The lot will then be vacant.

Booth – there will be Special Master meeting later in the month, notes that many people are cooperating in order to get off of that agenda.

Booth – Park Security: The Sheriff will provide detectives for the park and we will provide security cameras.

Dezman – states that she received an email from Mrs. King, what is being done? Booth – it is a farming thing so he cannot enforce the issue. Dezman – wants to make sure Mrs. King gets an answer.

### **FIRE DEPARTMENT PRESENTATION**

Assistant Fire Chief Bob Rowan introduces himself, Fire Chief Joe Gianantonio and Fire Fighter Mike Foley for this presentation.

Rowan – the Fire Department is currently having problems with reporting, if they had a dispatcher their reports would be current. Dispatchers are unique in their position and highly trained. Many of Malabar calls go without a dispatcher. Rowan proposes solutions: One solution could be to hire a part-time person to operate the dispatch but the cost is steep. Another proposed solution is to subcontract with the City of Palm Bay, doing this would simplify mutual aid and the cost would be reduced. Vail – asks if the old council chamber recorder is still around and could it be used. Gianantonio – we need a person at dispatch so that person can contact other agencies if the need arises.

Booth – understands that Brevard County gets taxpayer money to run a dispatch. Rowan – that only provides for notification of a call for Malabar. Booth – will look into this.

Gianantonio – it looks bad if the Fire Department does not maintain good log books. Foley – this is a vital position. We can train 10 volunteers we'll be lucky if one person shows up due to home or work responsibilities.

Rowan – states that if a tanker goes over a trained dispatcher would be looking up the number they are given off the tanker and without even being asked that person would be looking up the pertinent information such as what the hazards are, how much safety gear must be worn, and if the area should be evacuated. Dispatchers are trained to give answers before questions are asked. Foley – has done dispatch from his home in Palm Bay, it is something that must be done.

Dezman – what is your time table on this? Foley – as soon as Council wishes to discuss this. Booth – he will find out what the County's responsibility is regarding this. Eschenberg – would like to make a decision on this item next meeting, suggests the Fire Department coordinate with Booth and have more options next meeting. Foley – states that Palm Bay has a great system and this is why they looked at Palm Bay first.

Eschenberg – recognizes Mr. Cameron. Cameron – the County gave notice that the County fire department and ambulance fees will go up this year for every landowner in Malabar and he feels it would be interesting to find out if we could get more assistance from them.

### **PARK BOARD CHAIR PRESENTATION**

Hans Kemmler – reviews the proposed recommendations for use of the Developer Recreation Fees from the Park & Rec Board. He would like Council action on these recommendations. Eschenberg – this is not an action item and it needs to be. Dezman – she needed the information Kemmler has provided this evening in order to make a decision. Eschenberg – would like this to be an action item for the next meeting.

Kemmler – there are some bluegrass musicians using Trail Head number 1. He saw about 20 cars there this past weekend. They cleaned up the area well.

Kemmler – states that someone brought up a question regarding the Boy Scouts use of Cameron Preserve. Could there be a pavilion and restrooms there? And is this considered passive recreation? Kemmler notes that passive recreation is required by the terms of our agreement with the State for the use of the land. Kemmler called Tallahassee and was told that if the Town wanted to build there it would have to be open to the general public, it cannot be for the exclusive use of the Boy Scouts. The Town could even build a campground and charge money if it so chooses.

Kemmler – the cameras for the park are wireless and can be recorded on a computer. Reviews camera types and where they could be placed. We would need to purchase a computer for the exclusive use of the cameras. Vail – asked about the price. Booth – about \$2,000. Discussion of optic resolution and camera placement.

Kemmler – played Frisbee golf recently, it seems very non-invasive and each goal could be sponsored by various businesses. The people who are interested in this would like to use the EELS property.

#### **CLERK**

Kabana – is glad to be back. Notes that she will present a resolution next meeting regarding finances.

#### **ACTION ITEMS:**

##### **6. SELECT THE BID FOR THE AUXILLARY BUILDING FOR THE FIRE DEPARTMENT**

Assistant Chief Bob Rowan introduces himself, Fire Chief Joe Gianantonio and Fire Fighter Mike Foley. Rowan – states that this building is necessary for security. Recently they were written up by the Dept of Forestry for not having the trucks under cover. Reviews four quotes for the auxiliary building. Other fees will be required such as lighting and electrical. Rivet – asked if the low quote is a good building. Rowan – yes. Booth – the Council approved \$60K for the building, part of this came from FEMA and part came from insurance. Rivet – the lowest bid is \$64K so he recommends the low bid. Vail – feels they have worked hard on this and came out with a good low bid. Dezman – what is the general contract support for? Rowan – to watch the laborers to make sure the building is constructed correctly, no short cuts are permitted. Vail – will also watch over the job.

**MOTION: Rivet/Hickson to approve option 2 (low bid). VOTE: All aye.**

##### **1. CORRECTION TO 7/11/05 MINUTES TO REFLECT FRANK HICKSON ABSTAINING TO VOTE FOR US #1 BEAUTIFICATION PROJECT**

Hickson – states that he abstained due to his current position with FDOT.

**MOTION: Dezman/Vail to amend the minutes. VOTE: All aye.**

##### **2. RESOLUTION 11-2005 MAYOR/TOWN ADIMINISTRATOR EXECUTION OF INSTRUMENTS**

**MOTION: Mayor requests unanimous consent to read by title only.**

Mayor read:

RESOLUTION 11-2005

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO EXECUTE CERTAIN INSTRUMENTS; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

**MOTION: Rivet/Dezman to approve.**

Vail – what is an example of 'certain instruments'. Rivet – loans, contracts, external agreements. Dezman – this is subject to Council decision. Eschenberg – the Charter is not clear on this issue, hence this resolution.

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

**3. RECOMMENDATION FROM THE BUILDING OFFICIAL THAT COUNCIL AMEND THE OCCUPATIONAL LICENSE ORDINANCE TO PROHIBIT CUSTOMERS AT THE HOME AND LIMIT THE LICENSES TO ONE PER HOUSEHOLD**

Eschenberg – has one speaker card for this issue, will hear this person now.

Pat Reilly, Howell Lane – recommends that an occupational license be limited to property owners, not one per household. His reason: he and his wife own a commercial stable and he would like to get a separate license in the future. Also, he would like to see the word 'customer' defined. They have 14 horses and the way this is written, they have 14 customers.

Booth – states that through code enforcement we have several complaints about business vehicles in the front yard and it is obvious that there is a lot of business going on. Staff concern is that if there is one business with a lot of vehicles then a second business in the same location only doubles the problem.

Vail – Malabar is a blue collar community and to confine this to one license per residence is going to create problems. Feels it should be based on residents in the house.

Rivet – feels a homeowner will be more careful than a renter.

Vail – would not have a problem with a separate husband and wife license.

Rivet – it may be possible for Council to approve a second license, it is something to be discussed.

Booth – the problem is that more than one vehicle is parked at the house. Feels that a Palm Bay crackdown is causing more people to rent in Malabar. Vail – up to this point the Town has been business-friendly. Is not sure we can separate renter and owner.

Dezman – what about a current business? Rivet – we can choose to not renew the license. Vail – feels that there are a lot of businesses in Town that may have a problem with this.

Eschenberg – suggests the Council read the ordinance and figure out what is to be done. Dezman – reminds Council that Moccia gave an example of possibly three licenses in one home. Vail – we could use family members as a criteria. Booth – we may not want to look at the occupation license ordinance, maybe we should look at the vehicle ordinance.

Dezman – asks Debby Franklin, who has been serving as Clerk Pro Tem, and works in the Building Department, to gather information on the trend she saw happening in regards to this issue.

Eschenberg – would like a copy of the occupational license ordinance and the vehicle ordinance in the next Council packet.

**MOTION: Dezman/Vail to postpone until next meeting. VOTE: All aye.**

**4. RECOMMENDATIONS FROM PLANNING & ZONING**

Booth – this is in regard to the issue of the Planner. Booth would like P&Z and the Planner to have a workshop and discuss any issues they may have. Eschenberg –

should we have a workshop on this and the lighting ordinance? Booth – before we do that first P&Z needs to tell the Planner what it is they want. Dezman – who did this come from? Franklin – the entire P&Z Board.

Richard Cameron, P&Z Member – P&Z has the idea that the Planner is not interested and P&Z thought he was going to leave the position. Booth – was told by the Planner that he had more time to do this job. Cameron – P&Z needs the proper advice from the professionals, whether it is Booth, Bohne, or the Planner, and this has been lacking.

Rivet wants a lighting ordinance workshop soon. Dezman – shares Rivets concern. Booth – will set up a workshop that is conducive to both boards.

#### **5. SURPLUS EQUIPMENT LIST – PUBLIC WORKS DEPARTMENT**

Booth – there are items to be sold from Public Works, Council has a list. This will be done by sealed bids.

**MOTION: Dezman/Vail to disposed of the items listed on the list. VOTE: All aye.**

#### **8. ESCHENBERG: LEGISLATIVE ISSUES TO REPORT TO LEAGUE**

Eschenberg – this is where the cities offer suggestions to the League and they select legislative priorities from them. He has an item for Council to suggest. There was an issue in Connecticut where a city condemned a piece of land and turned it over to a developer. He suggests Malabar recommend not being able to use eminent domain to obtain a piece of property and then turn it over to a developer. The Florida law is vague and this could happen here, it may happen in Daytona Beach. Rivet – feels there are uses for eminent domain but this is one of them. Council agrees.

Eschenberg – restrictions on sexual predators is a new issue. The distance where a sexual predator can live in relation to certain areas could be extended by the legislature. The deadline for these ideas is September the 5<sup>th</sup>.

#### **REPORTS: MAYOR, COUNCIL**

- Dezman – the letters she received regarding drainage, have they been contacted?

Booth – he is not wanting to jump into back yards. Dezman – but have they been contacted? Booth – yes.

- Vail – nothing at this time.

- Hickson – just wanted to make sure the drainage is being worked on. Booth – it is.

- Rivet – nothing at this time.

- Eschenberg – the League has a website called Space Coast Cities.com and it links to other cities. Recommends Council look at Indialantic's site. Kabana – has looked at the site and likes their financial reporting.

#### **PUBLIC COMMENTS: GENERAL ITEMS**

Jonathan Ball, represents Danny's Open Storage and is a resident of Malabar – appreciates Council tabling the occupational license issue. Asks Rivet a question.

Eschenberg – this is only public comment, we listen and you talk. Attorney – his client has the right to due process and his client has been told that his license application is on hold. He asks if his clients license is going to be issued pending Council's decision.

Eschenberg – states that right now Council will listen and take notes only. Ball – asks if all the September renewals of occupational licenses are being held until the outcome of this issue. Eschenberg – this is not to be addressed now. Ball – is also interested in a definition of 'home' and 'household'. Thanks Council for their consideration.

Bill Withers, Candy Lane – he would like to know what Council is going to do about ATV's. ATV's and golf carts are just getting worse. Some kids don't look older than 12

years old that are riding these vehicles. Withers wants to know if someone has to die before Council takes action.

Debra Martin, Lineberry – they moved here because this is the country. She has no problems with ATV's. When two kids were missing in the woods it was ATV's that looked for them. She has not seen any underage kids without helmets on ATV's. States that the mail trucks do more damage than ATV's. Her kids have to ride in the backyard because the Deputies say you can't ride elsewhere, then another Deputy says you can, then one says you can't. Does not want to see Council punish everyone. The Town can tag the ATV's, that way you can fine them. Feels her kids are losing their freedom.

Richard Cameron – notes that horse equipment is being stolen from tack rooms, would like to see something in the next newsletter.

Eschenberg – wants to know if Council wants to address Mr. Ball's issue. Booth – will have to research the answer. Dezman – feels this issue is on the table for now.

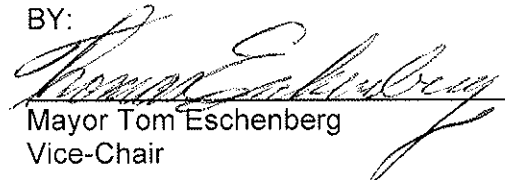
Eschenberg – what about the ATV's? Rivet – thought Council was not going to pursue this because it cannot be enforced easily. Eschenberg – we could tag the ATV's. Rivet – this should be a question for Karl, we cannot permit something that is already prohibited.

#### ADJOURNMENT

MOTION: Rivet/Dezman to adjourn. VOTE: All aye.

The meeting adjourns at 9:21 pm.

BY:

  
Mayor Tom Eschenberg  
Vice-Chair

ATTEST:

  
Susan Kabana, MMC  
Town Clerk/Treasurer

DATE: 9/7/05