

**MALABAR TOWN COUNCIL REGULAR MEETING
OCTOBER 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 7:40 pm by Chair Bobbi Moccia. The prayer and pledge were led by Council Member Frank Hickson.

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

ADDITIONS AND DELETIONS TO AGENDA: Hans Kemmler would like to be added to the agenda under reports after Ed Booth. Bobbi Moccia would like to add Boy Scouts that want to work on the Corey Road at Malabar Road (Foot Park) before the EELs presentation. Pat Dezman would like to add a couple of topics regarding vandalism and harassment before the EELs presentation as well.

MOTION: Dezman/Rivet to approve additions to the agenda. VOTE: All Ayes.

CONSENT AGENDA:

- (A) TOWN COUNCIL SPECIAL MEETING MINUTES 9/7/05
- (B) TOWN COUNCIL REGULAR MEETING MINUTES 9/7/05
- (C) TOWN COUNCIL REGULAR MEETING MINUTES 9/19/05

MOTION: Rivet/Dezman to approve consent agenda as presented. VOTE: All Ayes.

REPORTS:

Bobbi Moccia addressed Council at this time regarding two young men, who are Boy Scouts that live in our Town. These two young men live on LaCourt Lane and they have volunteered their time to plan and create the Foot Park at Corey and Malabar Roads. Since they live in the town, this would be a benefit to them. Mr. Rivet asked if we would need to act as their sponsors. Mrs. Moccia stated that we would need to see their plans and then we would go from there. Mr. Rivet stated that if Council does approve this, he would like to see the plans that the boys come up with for this project and what they have planned for this new park.

MOTION: Rivet/Vail to approve request of Bobbi Moccia. Vote: All Ayes.

Michael Foley-Assistant Fire Chief-came forward at this time to address Council. Mr. Foley wanted to recognize Carl Beatty for an outstanding job performance. Mr. Beatty had to make a special trip to Cocoa for fuel keys. When he performed this duty, he used his lunch hour so as to not take time away from his other duties. Mr. Foley requested that this letter of appreciation be placed in Mr. Beatty's personnel file.

Pat Dezman addressed Council with two concerns that she has. The first is the destruction that is being caused by the wild pigs in Country Cove. The pigs are coming from the EELs property that back up to Country Cove. The Country Cove Association Board is livid over this situation. There is a letter coming from the Association. Mr. Withers stated that there is a sow that has had babies, he's called the County. There is nothing that can be done. Richard Cameron addressed Council and Mrs. Dezman at this time. While the animals are on your property, they become the responsibility of the homeowner. You can, if you wish, shoot the animals while they are on your property. However, with this being a highly populated community, it is not the best way to handle the situation. Mrs. Moccia has had the pigs on her property. She set traps to catch them and have them removed. Mrs. Dezman stated that the bottom line is that the Town can do nothing regarding this situation.

Mrs. Dezman stated that the next item of concern is that three homes in Country Cove, her home included, was vandalized. The other two homes belong to the Kings' and the Barr's'. These three homes have one thing in common, which is the Gentile property. Mrs. Dezman is not assuming that this had anything to do with this situation; she is just bringing it to Council's attention. Mrs. King, one of the homes that was vandalized, is pursuing this matter with the Sheriff's Department. She also stated that she wanted Council to know that this matter is being pursued as a civil matter.

**ENVIRONMENTALLY ENDANGERED LANDS PROGRAM (EELS) UPDATE,
PRESENTERS ARE MIKE KNIGHT, EELS PROGRAM MANAGER AND CHRIS
O'HARA, SOUTH REGION LAND MANAGER**

There was no one here from the County representing the EELs. Mrs. Moccia would like to know why they are on the agenda with no one here to report to Council.

ATTORNEY- Mr. Bohne had nothing to report to Council at this time.

ADMINISTRATOR

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

- CALCULATION OF THE RECREATIONAL DEVELOPER FEES

Mr. Booth stated that he would like to change the way the formula is calculated so that there is more equity. The fees should be based on the property value, not the purchase price. The developers from Stillwater Preserve paid the Town \$22,000.00, Pence, for Oakmont, would only have to pay around \$5,000.00. We want to have the same fees across the board. We could probably make the changes and have Pence pay the fees because we have not received any funds from them as of this date.

- FUTURE BOY SCOUT CAMPING AREA

We would like to get this project started. We are changing the location of the pond. We will need to remove the Palmettos to build the reflection pond. Once the site is ready, we will bring the Boy Scouts so that they can determine where the camp site should be. Mrs. Moccia asked if the pond would be used as a retention pond. Mr. Booth stated that this pond would be for retention. We will also put fish in it as well.

- **REQUESTED MEETING BY THE COUNTY MANAGERS OFFICE REGARDING SHERIFF PROTECTION IN MALABAR**

Mr. Booth advised Council that the County would like to set a meeting date for the Sheriff, County Commissioners and our Council to discuss the MSTU. This is strictly to be held at a Council meeting. We could either have it at the next meeting or the first meeting in November.

- Mr. Booth advised Council that the ditch by the Boy Scout Park has been cleaned out. This reduces the water levels in the canals and in the Town.
- Security cameras – Mr. Booth advised Council that the security cameras are to be set up outside the bathrooms at the park. The equipment will be set up in the supply closet in the bathrooms.
- Public Works Maintenance Schedules – Mr. Booth advised Council that we now have three crews out in the Town now. You will be able to see the work being done in the Town. At the same time, we will be cleaning up the ditches.

PARK CHAIRMAN – Hans Kemmler came forward and addressed Council. He showed everyone the activities that are going on in the park. We have had no problems thus far. There is a thin piece of land across the street from the park that is being considered for Frisbee golf. The Bluegrass in the Park is going very well. We have fifteen musicians and twenty spectators sitting and listening to the “jam” session. The Park Board has had some people approach them asking if the Town would be able to put in a small park for dogs. The Council discussed this for a brief time and stated that the liability would be too great for the Town. Mr. Kemmler stated that this is what is being requested by the residents of Malabar.

CLERK

Ms. Kelley reminded Council members that the Space Coast League dinner is to be held on Monday, October 10, 2005. For those attending, please call the Clerk's office by Wednesday, October 5, 2005, so that reservations can be made.

PUBLIC HEARING:

1. WEBER WOODS, PRELIMINARY PLAT APPROVAL

Richard Kern, the architect of record, came forward and addressed Council. He also represents the developer for this project. All of the fifteen lots are on Weber Road, with the exception of one lot. This lot is located on Hall Road. We are posing a joint driveway access from Weber Road, which will keep traffic to a minimum with people leaving their driveways to Weber Road. We will be installing a water main extension on Weber Road and Malabar Road, eight inches and twelve inches. All the homes in the subdivision will be on Town water, with septic tanks. Joe Paladin, developer of the project, came forward and addressed Council at this time. The homes that are being constructed are \$400,000 homes, with a Home Owner's Association. The landscaping will be kept up and there will be extensive landscaping in the subdivision. We have capped the free-flowing well to cut down on the wetness that has been draining. We also cleared out a portion of the swale on Hall Road to see how the drainage would go.

At this time, the public hearing was opened to the audience.

Mrs. Hirsch – 1035 Malabar Road, came forward and addressed a concern to the engineer and developer for Weber Woods. What is the requirement for the lake on the next property line? She lives next to the project that is coming in next to Weber Woods. Her property is very wet and she doesn't need any more water.

After Mrs. Hirsch spoke, the public hearing was closed and discussion was brought back to Council by Chair Bobbi Moccia.

Mr. Hickson asked how the sizing of the pond took place. Mr. Kern stated that it was based on a ten-year storm event, but they have over-sized it based on a twenty-five year storm event.

Mr. Rivet asked about the setbacks for the pond, if there was a setback from the rear property line.

Mayor Eschenberg asked about the right turn lane and if one would be put in. This is not a code requirement. It has not come up in any of the staff meetings. Mr. Rivet stated that a right turn lane had been discussed but not for this subdivision. Mayor Eschenberg stated that it would cut the traffic problem in half if a turn lane was installed. Mr. Bohne advised Council that the developer didn't fully comply with the letter of the law with regards to subdivisions. The Council could give the developer relief on certain issues if it is a hardship to the developer. Mr. Booth stated that this was a storm water issue and was a primary concern.

At this time, Mayor Eschenberg stated that he would like to see a checklist regarding each new project showing what has been completed and what has not been completed. Along with this checklist, he would like to know the reasons why something has not been met. Is it because they were not required by staff, if so, why. He feels that there are steps that have been missed in this approval process. There is no staff here tonight to answer any questions that Council has regarding this new subdivision. Mrs. Dezman likes the idea of the checklist. Mayor Eschenberg also questioned the viewing of a site plan for this subdivision. Mr. Bohne stated that our code would require a site plan for residential development. A site plan doesn't apply to a single family subdivision. This can't be done because of the placement of the home on the property by the homeowner.

Mayor Eschenberg stated that he is not comfortable with what has been met and what has not been met at this time. Mrs. Moccia stated that the Town's engineer is not here to give answers to questions that Council has. We need to know that the checklist has been met. She asked Mr. Booth is we could have someone here at the next meeting to go over the questions that Council has? Mr. Booth stated that he would have all staff involved present at the next meeting. Mayor Eschenberg stated that he wants Council to see everything regarding these projects that come before Council and also why a condition has not been met. Mrs. Dezman asked Mr. Wilbur if he felt that anything was missed in this process. She doesn't feel that Council can make a good decision tonight if the Town's Planner and Engineer are not present.

MOTION: Rivet/Hickson moved to have Public Hearing Item #1 tabled to the October 17, 2005 meeting. VOTE: All Ayes.

DISCUSSION ITEMS:**1. DISPOSITION OF SPECIAL MASTER ORDERS AND COUNCIL REACTION TO CODE ENFORCEMENT**

Mr. Booth advised Council that this item really has to do with vehicles. In our ordinance with Code Enforcement, there is no specific amount of vehicles that can be parked at a residence.

At this time, Mrs. Moccia gave a brief history as to how this came about. It seems that there are a lot of homes that have several cars parked on the property. This has to do with home occupational licensing. A home business should not have people coming to the home; it should be that the running of the business is from the home.

Mr. Hickson asked who was going to set the limit of vehicles that can be parked on someone's property. Who is going to enforce this issue?

Mrs. Dezman asked Mr. Booth if we did not pursue a code enforcement issue on Corey Road because of this issue. Mr. Booth advised Council that we deal with this issue, as any other, on a case by case basis.

Mrs. Moccia stated that she doesn't feel the need for this. Mr. Rivet asked if Council agrees that we pursue this through the ordinances that are already in place.

It is the consensus of Council that this issue should be left alone.

2. GOALS FOR THE TOWN ADMINISTRATOR

Mr. Booth addressed the goals that the Council has put before him for the next year and what they would like to see happen in his position as Town Administrator.

3. REQUEST FROM T.A. TAYLOR

Mr. Taylor was not present at this meeting and there was no one here to represent this request. Town staff is very much opposed to flag lots. Mr. Bohne stated that this is expressly prohibited by our codes. Mr. Taylor will not be able to get a variance for something that is prohibited in the codes.

At this time, Paul Marpil, Chairman of the Board of Adjustment, came forward and addressed Council. He was questioning why this would not be allowed if the request was already granted. Mr. Bohne advised Mr. Marpil that this had not come before the Board of Adjustment, this had not been granted. Mr. Taylor is coming to Council to get permission to create a flag lot. This cannot be done, as it is prohibited by our codes. With this understanding, Mr. Marpil stated that a variance would not be granted.

ACTION ITEMS:**1. FIRE DEPARTMENT REQUEST TO PURCHASE TWO VEHICLES**

Mr. Booth advised Council that the Fire Department would like to purchase two vehicles; they have \$21,000 in the budget for support vehicles. He would also like to have permission from Council to allow Brian Vail to go over the vehicles before the Fire Department makes the purchases. Mr. Vail advised Council that he has already reviewed the vehicles and finds them to be in good working order and a good purchase for the Fire Department. The vehicles have a limited warranty and if they need attention, it would be addressed.

MOTION: By unanimous consent, Council gave permission for Mr. Vail to oversee the purchase of two support vehicles for the Fire Department.

Mayor Eschenberg made mention of the Isuzu that the members of the Eagle Corp drive through the Town with. If this vehicle is to be replaced, he suggests that the Town purchase a four-wheel drive, short wheel base vehicle. Mr. Vail stated that he would recommend the same type of vehicle that we have now if a new vehicle is to be purchased.

2. ORDINANCE 2005-05, FIRST READING: WATER UTILITY CONNECTION FEE

MOTION: Rivet/Dezman to approve that ordinance be read by title only. VOTE: All Ayes. Mrs. Moccia read the ordinance by title only.

MOTION: Rivet/Vail to approve Ordinance 2005-05, First Reading: Water Utility Connection Fee.

Mr. Bohne stated that this ordinance is in lieu of an impact fee, which was discussed by Council several months ago. Mr. Bohne also stated that this could be taken care of by having the new developers pay the fees. It's a way to accomplish this without going through an impact fee study.

The roll was called: Hickson, Vail, Rivet, Moccia and Dezman, all ayes.

3. COUNCIL TO QUALIFY CANDIDATES FOR NOVEMBER ELECTION

Mr. Rivet asked Ms. Kelley if all the candidates had been qualified. Ms. Kelley stated that Mrs. Kabana had completed the qualifying of the candidates.

MOTION: Rivet/Hickson to approve the qualifying candidates for the November Election. VOTE: All Ayes.

The candidates that were qualified are: District 4, Bobbi Moccia, incumbent, and Jeff McKnight, candidate; District 5, Pat Dezman.

4. APPROVE 200' FEET OF CASON LANE

MOTION: Vail/Rivet to approve the right-of-way improvement of 200' of Cason Lane by the applicant, Barry Self. VOTE: All Ayes.

REPORTS: MAYOR, COUNCIL

Mayor – stated that he was reading the Real Estate section in the paper on Sunday about Weber Woods. The article mentioned that they were talking to a family about signing a contract. Mr. Bohne advised Council that without a recorded plat, this could not be done.

Hickson – stated that there had been a rash of break-ins within the community. These are happening, mainly, at nurseries. He just wanted Council to be aware of these activities.

Vail – has concerns regarding bus stops. Mrs. Moccia stated that she has the list and will give it to Mr. Vail tomorrow. Mr. Vail also brought the Billie property to Council's attention. He feels, if we can get it for fair market price, we should purchase this land and join all of these properties together. He made a recommendation that this be put on the next agenda for discussion with Council. Mr. Vail would also like to get a clarification of the date for the Town Hall Selection Committee. Is it on the 16th of October or the 19th? Ms. Kelley stated that she would get with Sharon White and then call all the members involved to make sure that they have the correct meeting date.

Rivet – stated that his son is playing soccer and the park and playground are full on the weekends now.

Moccia – stated that the road material is very durable and she is happy with Kramer Lane. With the rain that we have had, this road has held up very well.

Dezman – asked Mr. Booth to check on Stillwater Preserve with the heavy rains that we have had. The review date for Mr. Booth's review states that it is due by 10/1/05. Is this when it was due by? Mr. Booth stated that he had received most of the reviews.

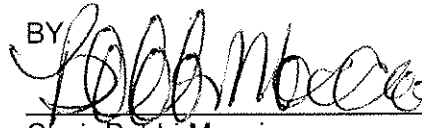
PUBLIC COMMENTS: GENERAL ITEMS

Mr. DePasqual – has left before the meeting ended. Mrs. Moccia advised Council that he has some concerns with Oakmont Preserve.

ADJOURNMENT

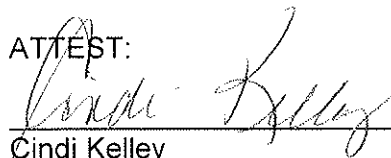
Meeting adjourned at 9:25 pm.

BY



Chair Bobbi Moccia

ATTEST:



Cindi Kelley
Deputy Town Clerk

DATE:

11/7/05