

**MALABAR TOWN COUNCIL REGULAR MEETING
OCTOBER 17, 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 Chair Bobbi Moccia. The prayer and pledge were led by Council Member Brian Vail.

<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
	BUILDING OFFICIAL:	NORM SMITH
	ENGINEER:	BILL STEPHENSON
	PLANNER:	KEITH MILLS
	TOWN CLERK/TREASURER:	SUSAN KABANA

ADDITIONS AND DELETIONS TO AGENDA

Moccia – adds Fire Department under reports.

Booth – the EELS will not be present tonight.

MOTION: Rivet/Dezman to approve agenda. VOTE: All aye.

REPORTS:

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

Removed from agenda.

ATTORNEY

The next Special Master meeting will have only one item, the Gentile issue. Moccia – was contacted by the newspaper regarding the Gentile issue, has made no comments up to this point.

ADMINISTRATOR

Booth – public works continues to mow. Roads continue to be improved with millings, Kramer was one. Moccia – is very impressed with the improvement on Kramer. Wants article in next newsletter regarding ATV's being restricted to ride on the side of the road, not over the millings. Rivet – explains that we are using recycled ground-up asphalt to improve the roads. Booth – this material will work itself into the dirt and in a year or so we will add another layer.

Booth – drainage will be improved on Smith Lane.

Booth – states that St. John's issued a cease-and-desist order regarding the cleaning of the Corey Road ditch. Booth would like Council's approval to go to St. John's and ask them for help regarding this issue. Council agrees.

Booth – the complaints for public works will now go directly to public works and they will be responsible for tracking this on the computer.

Booth – the Fire Department is training people. States that we have volunteers on a rotating schedule with other local cities going to the hurricane Katrina area.

PARK BOARD CHAIR

Not present.

FIRE DEPARTMENT

Fire Chief Joe Gianantonio – the Fire Dept has used 7% of the current budget. The NFPA standard for response time is 6.23 minutes and they are down to 5.25 minutes. States that they are in a recruiting mode. Reviewed the number of hours spent training, the number of calls, and the number of man-hours and duty-hours. We are in the rotation for sending people to the hurricane Katrina area. Hands out status sheets for the fire department.

CLERK

Kabana – will need a quorum for the November 10th meeting to swear in new Council Members.

PUBLIC HEARING:

1. WEBER WOODS, PRELIMINARY PLAT APPROVAL

MOTION: Rivet/Vail to remove from table for discussion. VOTE: All aye.

Rivet – read the documentation and sees no issues. Vail – has been asked questions by constituents regarding the water outfall to the south but the town engineer has no problems so he has no problems. Booth – the developer has resolved drainage issues by adding a pond to the east side of the development.

Hickson – the top of the outfall structure sits 6" above the pond, he has never seen this done. Bill Stephenson, Town Engineer – he looked at the pre and post runoff figures and the post runoff peak was less than the previous runoff peak, which answers the neighbors concerns.

Rickard Kern, 385 Pineda Court – the top of the grade of the structure is not designed as an outflow device, the actual weir on the side is for the overflow.

Hickson – are there any concerns about possibly draining the wetland? Kern – no, the pool level for the pond is the same as the pool level for the wetlands. Hickson – asks about the propose of the road off of Malabar Road. Kern – there is another parcel of land that they are involved with in that area (that is not part of this project) and for the purpose of planning a stub-out on the water main they also show a possible future driveway connection there.

Hickson – regarding the waterline and the possibility of the widening of Malabar Road in the future, instead of running the line down Malabar Road, where we'd have to pay for relocation in the future, why not give the town five foot easement and place the water line in that easement. That way the burden of cost is on the State not on Malabar. Moccia, Booth – that is a good idea.

Vail – regarding the outfall to the south is there adequate drainage returning it back to the north? Stephenson – if the flow is adequate now, the flow will be adequate then because they are not increasing the peak outflow.

Joseph Powell – is the developer and has no problem giving the easement for the water line.

Eschenberg – has several questions, they are in no particular order. Is not clear about question number two on the comments from RK Engineering, stormwater pond construction, does this mean that the pond will be built in pieces as each house is built? Stephenson – the whole pond gets built first, but each lot shares a side easement with the adjacent side lot and as a house is built the drainage facility must be built between the two lots. Kern – the pond will be built at the one time but as each house is built the side drainage will be put in.

Eschenberg – in a memo from Stephenson the words 'I believe' are in question by Eschenberg, is this normal language? Stephenson – the words are common enough, there are

ambiguities and contradictions in the Malabar code, what he is saying is that he believes what they have performed complies with the code.

Eschenberg – there was a number of comments in the very beginning that were responded to by the developer as 'comment noted', which really means nothing other than they have read the comment. He is not convinced that comment noted equals compliance. The first question he has is regarding an easement comment. Ketih Mills, Town Planner – the easements have been addressed.

Eschenberg – the next is in regards to traffic signs. Kern – this project will pay for and install the stop signs at the two access road locations.

Eschenberg – asks about a possible right turn lane on Weber Road. Kern – does not feel that the amount of traffic generated by 15 homes warrants a right turn lane. Booth – we could do a joint project, we will collect impact fees from that development that should be spent in that area, this would be a perfect use. Powell – and if we do this as a joint project, while the pavers are there, it would be cost effective and much easier to do.

Eschenberg – is the developer paying for the cost of the waterline? Stephenson – there will be no cost to the Town for the water lines.

Eschenberg – what is happening with the developer recreational fees? Stephenson – the code provides for options, either provide the equipment, or a fee that is based on the last sale of the property as recorded in the public records. Weber Woods is paying the fee. Eschenberg – what is that fee and when will it be paid? Stephenson – we don't know what it is at this time but it will be calculated based on the last sale of the property as recorded in the public records and paid before building permits are issued.

Eschenberg – the southern-most access road looks like it is not the required distance from the intersection of Weber and Hall. Kern – the current distance is about 310 feet, they will move this to 330 feet as a condition of approval.

Eschenberg – did any of this development go through St. John's? Stephenson – it did not trip the threshold. Kern – thinks the threshold is 40 acres or 12 acres of pervious cover.

Eschenberg – the access road is crossing wetlands. Kern – they will apply for a FDEP permit.

Eschenberg – are the soils shown? Stephenson – yes.

Eschenberg – the minimum distance for the fire hydrants is 500 feet, the plans show more than that. Kern – has agreed to the 500 feet minimum at a previous meeting.

MOTION: Eschenberg/Rivet to approve.

Dezman – asks which set of the preliminary plat did Stephenson approve? Stephenson – September 7, 2005.

AMENDED MOTION: Rivet/Eschenberg to amend motion to approve preliminary plat of September 7th.

VOTE ON AMENDED MOTION: All aye.

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

MOTION: Moccia requests unanimous consent to read by title only.

Moccia read:

ORDINANCE NO. 2005-05

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, CREATING A NEW CHAPTER 13.6 "WATER SYSTEM"; PROVIDING FOR CONNECTIONS TO TOWNS WATER SYSTEM; PROVIDING FOR PENALTY FOR UNAUTHORIZED CONNECTION; PROVIDING FOR A CUSTOMER APPLICATION FORM; PROVIDING FOR THE INSTALLATION OF MAINS AND SERVICE CONNECTIONS; PROVIDING FOR PURPOSE AND DISPOSITION OF FUNDS AND EARNED INTEREST; PROVIDING FOR A SCHEDULE OF SYSTEM WIDE WATER CONNECTION FEES; PROVIDING FOR SITE SPECIFIC WATER CONNECTION CHARGES; PROVIDING FOR ADOPTION OF WATER SYSTEM POLICIES AND TECHNICAL PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES;

PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Rivet/Vail to approve.

Booth – Stephenson has been a great asset, this ordinance establishes our utility. Stephenson – this sets up a connection charge and sets some site-specific connection charges. Some changes have been made since first reading: the third whereas was added and a provision for paying the Palm Bay impact fees and the Malabar connection fees at a specific time. There is a refund for putting in larger pipes than needed to act as an incentive for developers. Stephenson notes that the fees escalate over time.

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

ACTION ITEMS:

1. BOARD MEMBER EXPIRATIONS AND REQUESTS FOR CONTINUATION ON BOARD

Bob Rossman, 1635 Country Cove Circle – when he sat on Council one of his issues was accountability on the Fire Department and he feels that happened. He thinks the same issue of accountability should be applied to the Boards, feels many boards are stagnated.

Bill Withers, Candy Lane – Council is limited by term limits and he feels the same thing should apply to the Boards. He has been told that people will not apply to the boards because of the tenure of others, they feel they will just be wasting their time. Feels that the Town is changing and we need to keep up with the changes.

Eschenberg – notes that there are two alternate positions on P&Z and one application. So what was said is fine if we have people lined-up to be on the board. Feels that P&Z and the BOA benefit greatly from experience.

MOTION: Vail/Hickson to accept the candidates willing to continue.

Dezman – is McKnight running for Council? Does he have to resign? Kabana – no. Bohne – states that McKnight must resign to run. Kabana does not agree. Dezman – overviews P&Z: McKnight must resign to run, Burgess is unable to continue so there are three positions open on P&Z. Asks if Bob Wilber has been on the board for 19 years? Moccia – correct. Dezman – and there is no one from District 5? This to her is a red flag, there does not seem to be a balance on the board. Rivet – if there was a district five applicant he would vote for that person. Dezman – in all honesty she would have not come forward if she has not been involved in the town, it is Council's responsibility to inform the citizens. Vail – an article is often in the Mailboat regarding this. Moccia – would like to see this again in the next issue. Discussion of notification and qualifications. Dezman – she is being asked to vote on members she does not know, feels it would be a disservice. Paul Marpil – suggests Dezman attend meetings to get to know board members. States that he has had to go out and get recruits for his board and has had to dismiss people from the board for non-attendance. Feels boards benefit greatly from experience.

Rivet – feels this should be addressed board by board. Vail rescinds his motion.

MOTION: Vail/Rivet to reappoint Bob Wilbur & Richard Cameron to P&Z.

Bohne – notes that McKnight's seat can be held until after the election.

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

MOTION: Rivet/Hickson to approve Don Kreiger to Jeff McKnight's position.

Patrick Reilly, from audience, member of P&Z – Kreiger has not come before P&Z asking to be on the board yet. Rivet – that has been tradition but it is not in the code. Eschenberg – does not remember the boards approving the applicants first.

Moccia – adjourns for a 5 minute break.

Moccia – reconvenes the meeting.

Bohne – by code the Council fills and appoints members on P&Z.

VOTE: All aye.

MOTION: Hickson/Rivet to reappoint the members of the BOA.

Moccia – feels that Anne Varco is very good as well as Mr. Ryan.

VOTE: All aye.

MOTION: Rivet/Dezman to appoint Tom Olszewski to the BOA. VOTE: All aye.

MOTION: Eschenberg/Hickson to reappoint Bill Withers to the Park Board. VOTE: All aye.

Eschenberg – feels that the alternates are appointed to the board and the Park Board should move up whom they choose.

PUBLIC COMMENTS: GENERAL ITEMS

Richard DePasquel, 2040 Marie Street – is effected by the new subdivision (Oakmont). In the past many bird nests and turtle sanctuaries were shown to be there. Sees one entrance from Marie Street, is there going to be another access in case of fires? He and his friend surveyed the rough road and it is 18 inches higher than Marie Street, asks where the water is going to go. Asks about the lot elevation, which will be higher than even the new road. Where is the water going to shed? Also would like to know where the plans for this are, he would like to see them. Booth – notes that the water will flow east, and there was an environmental study on the land regarding the birds and turtles. Much of the land has been set aside for environmental issues. He tells Mr. DePasquel to contact the building department to see the plans.

REPORTS: MAYOR, COUNCIL

- Eschenberg – last Friday morning he meet with state officials, school board members, and County commissioners at Commissioner Colon's Summit. Much of the discussion was regarding growth. It was noted that the governmental agencies were in conflict regarding growth while the developers roll right along. Is not sure what was accomplished but it was interesting.
- Eschenberg – received a letter from a church proclaiming November as Family Month. Would like Council have proclamation on next agenda.
- Eschenberg – has an email asking for a letter for the group incorporating the Grant-Valkaria area. Recommends passing a resolution. Rivet – if we support this fully we may have a municipality next to us incorporated similar to us. Is in favor of this. Vail – is in favor of this. Dezman – does not feel she has as much information as the Council on this issue. Hickson – does not have much info either but would like a similar community next to us. Moccia – is in favor of this. Bob Rossman – feels a similar community south of us would be beneficial. Kabana – will draft a resolution and send it to Bohne for legal review.
- Hickson – nothing at this time.
- Vail – nothing at this time.
- Dezman – nothing at this time.
- Rivet – one of the functions of the Town is to provide for infrastructure. Feels broadband internet access is becoming more and more important to the citizens. Would like Council to think of some type of development to help along DSL availability. Rivet would like a briefing from Bright House. He would like some stats on the percentage of hooked-up homes.
- Moccia – kudos to the building department, is working on her home and the contractors are grateful for the corporation with our building department.

ADJOURNMENT

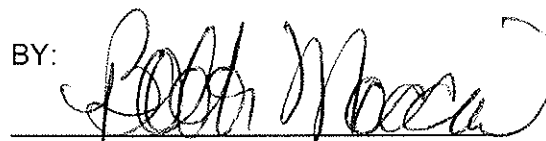
Meeting adjourned at 9:44pm.

ATTEST:



Susan Kabana, MMC
Town Clerk/Treasurer

BY:



Chair Bobbi Moccia

DATE: 11/7/05