

TOWN COUNCIL MINUTES
February 23, 2004

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road. The meeting was called to order at 7:30pm by the Chair, Bobbi Moccia. The prayer and pledge were lead by Mr. Rivet.

ROLL CALL:	MAYOR:	PHILLIP CREWS - EXCUSED
	CHAIR:	BOBBI MOCCIA
	VICE-CHAIR:	STEVE RIVET
	COUNCIL MEMBERS:	JANE HAVET
		BRIAN HUNTER – EXCUSED
		BOB ROSSMAN
	ADMINISTRATOR:	ED BOOTH
	ATTORNEY:	KARL BOHNE
	CLERK:	SUSAN KABANA

ADDITIONS AND DELETIONS:

Kabana – we need to delete action item number 3, per the attorney, it will come back to Council as an ordinance. Moccia – adds Tom Eschenberg under reports with the Eagle Corp update.

MOTION: Rossman/Rivet to approve as amended. VOTE: All aye

CONSENT AGENDA:

MOTION: Rivet/Rossman to approve.

Kabana – on page 4 the Mayor made a motion stating that he wanted to decrease the spending threshold, she feels this was not his intent but he is not here to ask. Notes that this is the item that will come before Council in the form of an ordinance.

VOTE: All aye.

Council Minutes 1/23/04.

PROCLAMATION: MARCH AS IRISH –AMERICAN HERITAGE MONTH

Moccia read proclamation and presented to Bill Moroney.

REPORTS:

ATTORNEY

Bohne – Resolution 03-04 was to increase the spending limit, which is in the code, so the only way you can increase the amount is to change the ordinance.

- he has been working with Booth on verbiage for the nuisance ordinance and how to deal with exotic vegetation.

ADMINISTRATOR

Booth – will be scheduling citizens with the special master as needed.

- next Council meeting he will need to know if Council is interested in a \$150,000 grant that Brad Smith worked on. Booth can come up with \$30,000 in-kind. The grant can only be used for vegetation. Rivet – can we apply for only a portion of the \$150,000? Booth – he feels we can. Moccia – is not in favor of spending \$150,000 of Town money for beautification. Rossman – notes that we just cleared out the river bank, do we really want to plant there? Booth – maybe we could put it in the medians. Discussion. Rossman – would be amenable to planting in the median but not along what we just cleared out.

Booth - Is going to DOT and ask for a grant for a boardwalk along the river.

- Kudos to Bill Withers, park maintenance, for compliments for the sparkling condition of the park.

- Kudos to Carl Beatty, public works supervisor, for the pepper busting.

- Kudos to Shawn Sweeney, firefighter, for compliments when responding to a 911 call.

PALM BAY ANNEXATION OF PROPERTY LOCATED EAST OF BABCOCK STREET

Booth – Palm Bay had a 2nd reading on an annexation ordinance for a parcel along Babcock and they indicated that there will be more.

PARK BOARD UPDATE

Booth – will get more involved in the use of certain ball fields in the park. He will give preference to groups from Malabar because the park is supported by us.

PEPPER BUSTING

Booth – the pepper trees have been ground down the ground from just north of Malabar Road to the north end of Rocky Point, the prisoners are coming to clean the trash along the shore. The remaining north shore line will be cleared soon.

CLERK**RESCHEDULING 2004 CANDIDATE QUALIFYING**

Kabana – due to the Legislature canceling the 2nd primary we must change our qualifying time, we must end by September 3rd, as opposed to beginning on September 3rd. Kabana will present a resolution at the next meeting.

MALABAR NIGHT AT SPACE COAST STADIUM

Council supports this and will move the June 7th Council meeting to accommodate the event.

WEBSITE UPDATE

Kabana chose Web Diva's for website development but needs additional funds. Havet – who will update the website? Kabana – she will do the maintenance, Web Diva's will help when needed.

MOTION: Rivet/Moccia to approve \$600 from the contingency line item to the web site line item. VOTE: All aye.

Kabana – Legislative Action day is April 14th, Havet will go. Kabana – the League convention is in August.

Kabana – the next Council meeting would be in one week, does Council want to meet again? Council decides that they will meet on March 1st only if necessary.

PARK AND RECREATION BOARD CHAIR

Han Kemmler – the Park Board will meet again on March 3rd.

- The irrigation at Malabar park has been installed and is working well. The trees will soon be irrigated but we need 5 more trees in order to efficiently extend the sprinkler line.

- The ph is low on the soccer field, has the lime been added? Booth – not yet, the lime will come in this Thursday and he will then have it applied. Kemmler – it has to have 3 applications because it slowly changes the ph. We need the ph level to the point where it will support the Bermuda sod.

- Kemmler – when is the sod coming in? Booth – we will wait until the spending ordinance is passed. Discussion.

- Kemmler – the Park Board is working on playground equipment for Malabar Park, they will make recommendations to Council.

- Kemmler – we can light one field or the other. Booth – lighting is very expensive, FPL will donate the poles. Council – wants to have the ball field lit first.

- Kemmler – notes that at some point the Council decided that there would be a \$10/hr charge to use the fields, he notes that surrounding communities do not charge for this. Havet & Rossman – do not have a problem charging. Rivet – we could waive the fees for a Malabar team. Booth – there is one team that did a lot of work on the baseball field we are only charging them \$5/hr.

- Kemmler – on Feb 1st a magnolia tree and plaque were planted by the cub scouts in memory of the Columbia astronauts.

- Kemmler – received a letter from John Henkelman associated with the cub and boy scouts, he is asking for unrestricted access to the park as well as other things. Council – Kemmler should refer Henkelman to Council regarding those issues.

- Kemmler – asks about managing grants. Booth – we do what is required of the grant and fulfill what we can as we can.

- Kemmler – he and Richard Cameron put up a gate at the end of Corey Road, they are still trying to get material for the parking lot, the parking signs are there.
- Kemmler – due to circumstances Malabar Day cannot be on April 3rd. Booth – they are looking to move to Malabar Day to a Park Grand Opening day. Havet – she will help with planning this event. The date is set for April 24th.

EAGLE CORP COORDINATOR

Tom Eschenberg – feels that the Eagle Corp needs an assistant coordinator. He recommends Nancy Conklin as the assistant coordinator. Council agrees. Eschenberg – they will have their quarterly meeting this Saturday.

PUBLIC COMMENTS: GENERAL ITEMS

- William Withers, Candy Lane – would like to forewarn Council about lighting a ball field, he feels that a study should be done regarding the cost involved.
 - Withers feels that the Park Board minutes should be titled as Malabar Park & Recreation Advisory Board. Havet – feels this would be a good addition, and P&Z should be written with 'advisory' as well. There is a consensus of Council to do this.
 - Withers – we have two sandhill crane eggs and the dogs are still running wild. Withers would like to be able to talk to the dog owners. Rossman – would like to ban dogs from the park. Havet – has a problem with that.
 - Withers – the pavilions have been painted, the tables have been stained, and the restrooms will have to be closed for a week for repair.
 - Withers – notes that some people are training their dogs on the tennis courts. The urine could stain the courts.
 - Withers – he would like to put a small backstop up near the softball field so small children have a place to throw a ball around.
 - Withers – notes that the ball field is configured as a softball field, not a baseball field.
 - Withers – informs Council that he was told recently that a horse was shot by paintball in EELS property.
- Rivet – feels that Withers should be able to point out a law on a sign to those who are breaking the law. Council agrees that Withers should point them to the sign.

Bonnie Salee – the proposed subdivision at Weber and Valkaria Roads was before the County Commission in early February. The Commission told the developer to come back with a plan for ½ acre lots. And, she notes, that last week Nancy Higgs had a meeting in Valkaria and told the residents that the Commission is encouraging the developer to use an 'open concept' development. Higgs explained that the County could not fight voluntary annexations into Palm Bay. Discussion of types of annexation. Rossman – Salee's concern is: can the land be annexed if it is not contiguous? Bohne – no. He notes that the developer probably filed a pre-annexation agreement in order to get water services for the development.

Salee – asks for updates to the citizens on a regular basis. Rossman – would like Salee to write an article for the Mailboat.

Carl Beatty, public works supervisor – states that the pump at the park was modified to allow the fire trucks fill up. Council – good idea.

Jim Milucky – wants to caution Council regarding adding to the responsibilities of Bill Withers at the park. Withers is a contract employee and letting him do this might be a reflection on the Town that he is an employee. Moccia – Council has dealt with this. Milucky – is just asking Council to be cautious. Also, he notes that Booth is did half a good job on the pepper trees and when the job is finished he will have done another half a good job.

DISCUSSION ITEMS:**1. JAMES NEWELL, FRIENDZ FOR LIFE, ANIMAL CARE IN CL ZONING**

James Newell – would like to use the old elementary school for small animal adoption and care. They would use the first floor for retail sales and a vet area. Upstairs would be used for education. Moccia – explained the issue to the audience. Notes that this is only a discussion item. Newell – will use 'hush board' in the construction of the out-buildings. He would add a wooden fence to both sides which would further dampen noise.

Rossman – how many animals at one time could you have? Newell – about 50. Rossman – will someone be there at all times? Newell – yes, they will have three shifts. Rivet – there is still the asbestos. Booth – explains to Council that an operation like this can only be in industrial zoning, Mr. Newell would need to rezone. Moccia – we need to think on this and talk to the citizens who live in the area. Rivet – does not have an issue with this, would oppose this only if the local residents did not want this. Havet – agrees. Discussion of the 'hush board'.

Vicki Easterling – as far as granting FPL an easement: sometimes when these things happen it opens up the door and allows other things to happen. If we do this would it allow for further development at the north end of town? Would like Council to make sure this action would not cause development.

Easterling – has a copy of the proposed nuisance ordinance and feels that it sounds like something she moved to Malabar to avoid. Feels that the loss of freedom is very alarming. As far as dogs, she enjoys the freedom of letting her small dog run free. Booth – understands her concern about the nuisance ordinance but there are those people who make major messes and they ruin it for the rest.

ACTION ITEMS:

1. REQUEST TO GRANT FLORIDA POWER AND LIGHT TWO 5 FOOT x 35 FOOT EASEMENTS WITHIN THE CAMERON PRESERVE

Mike McCabe – is the engineer for the project in Palm Bay. There are two existing power poles that hold guide wires for the power poles across the canal. Havet – would this provide power to the Malabar's side of the canal? McCabe – that is not the intent. Havet – the agreement needs to clearly spell out that we will only allow guide wires there. McCabe – the main intent is to stabilize the canal bank, reduce the sediments entering Turkey Creek, and to stabilize the road so they can continue to maintain the ditch and end having washouts. They would put either bars or chains up at the Port Malabar entrance to keep motorized vehicles out. Rossman – would like some type of guarantee that Palm Bay would take care of the ATV's who would surely use the road.

Bohne – the request by Palm Bay is asking for a guide wire pole easement but the easement agreement in the packets allows for much more than that. He proposes substantially modifying the language in the agreement. Discussion.

Rivet – it seems like Palm Bay is asking for a favor. When we ask Palm Bay for something they tell us where to go, we need something in return. Discussion. Rossman – feels we should work with Palm Bay, he is concerned about motorized vehicles, we should approach them with that issue. Discussion.

Council – directs Bohne to write the agreement to our specifications. Rivet – feels we need quid pro quo. Discussion. This item will come back when we agree with the FPL agreement.

2. RESOLUTION 02-04, URGING MEMBERS OF THE FLORIDA LEGISLATURE TO SUPPORT MUNICIPAL ISSUES

MOTION: Rivet/Rossman to read by title only. VOTE: All aye.

Moccia read: RESOLUTION 02-04

A RESOLUTION OF THE TOWN OF MALABAR URGING MEMBERS OF THE FLORIDA LEGISLATURE TO SUPPORT THE FOLLOWING MUNICIPAL ISSUES DURING THE 2004 LEGISLATIVE SESSION.

MOTION: Rossman/Rivet to approve.

VOTE: Aye – Havet, Rivet, Moccia, Rossman. Nay – none.

3. RESOLUTION 03-04, INCREASE THE SPENDING THRESHOLD FOR THE TOWN ADMINISTRATOR

Item 3 was removed from the agenda.

REPORTS: MAYOR, COUNCIL

- Havet – will help with Malabar Day.
- Rossman – went through the budget, there are several overages.
- Kabana – the auditors have completed the prelim audit, there are no comments.
- Havet – why did we fire the lady up front? Rossman – this is not the time of the place to answer that.
- Rivet – where are we on Cynthia Burke? Booth – she will be to the Special Master in April.
- Rivet – Gentile? Bohne – portions of his brief have been stricken and right now they are arguing what will be in the brief, then they will go on to the oral argument. Rivet – it appears that the Gentile's strategy is to drag this out.
- Rivet – states that he does not publicly endorse any particular candidate but will give his opinion in private.

ADJOURNMENT

The meeting adjourned at 9:49 pm.

BY:


Chair Bobbi Moccia

ATTEST:


Susan Kabana, CMC
Town Clerk/Treasurer

DATE:

3/15/04