

**MALABAR TOWN COUNCIL REGULAR MEETING
OCTOBER 4, 2004 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 the Chair, Bobbi Moccia. The prayer and pledge were led by Mr. Rivet.

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

PUBLIC HEARINGS:

1. ORDINANCE 2004-09, FIRST READING, 2004/2005 PROPOSED MILLAGE RATE

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

ORDINANCE 2004-09

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA,
ADOPTING THE MILLAGE RATE FOR THE TOWN OF MALABAR FOR THE PERIOD
FROM OCTOBER 1, 2004 THROUGH AND INCLUDING SEPTEMBER 30, 2005.

Kabana – the proposed millage rate of 1.7642 mills represents a 6.21% increase of the rolled-back rate of 1.6611.

MOTION: Rivet/Rossman to approve. VOTE: Aye – Havet, Hunter, Rivet, Moccia, Rossman.

2. ORDINANCE 2004-10, FIRST READING, 2004/2005 PROPOSED BUDGET

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

ORDINANCE 2004-10

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA
ADOPTING THE BUDGET FOR THE TOWN OF MALABAR FOR THE PERIOD FROM
OCTOBER 1, 2004 THROUGH AND INCLUDING SEPTEMBER 30, 2005.

Kabana read the budget amount of \$1,897,813.00 based on millage rate of 1.7642 mills.

MOTION: Rivet/Rossman to approve.

Rossman – if Valkaria wants to annex can we change this budget? Kabana – Section 2 of the ordinance allows for changing the budget by resolution during the year.

VOTE: Aye – Havet, Hunter, Rivet, Moccia, Rossman.

ADDITIONS AND DELETIONS TO AGENDA

None.

MOTION: Rivet to approve by unanimous consent. Chair approves without objection.

CONSENT AGENDA:

Council Minutes 8/16/04, 8/17/04, Council Workshops 8/23/04, 8/31/04.

MOTION: Rivet to approve by unanimous consent. Chair approves without objection.

REPORTS:

ATTORNEY

A. BREVARD COUNTY LICENSE REGULATION AND ENFORCEMENT, RE: INTERLOCAL AGREEMENT FOR LICENSED AND UNLICENSED CONTRACTORS

Bohne looked at interlocal agreement that would regulate unlicensed contractors and it is a pretty basic interlocal agreement. Council should decide if they are interested. Booth – due to the hurricanes out of town contractors are given a 90 day grace period. Signing this interlocal agreement might be a good thing to do in six months or so but not now due to the hurricanes. Havet – the hurricane issue makes this a good time to sign. She wants to make sure the homeowners are

protected. Booth – we protect the homeowner in our own building department. Havet – we don't have anything in place to fine, prosecute or jail unlicensed contractors but the County does have this.

Rivet – the plus is that we are gaining help with enforcement but do we want to give away sovereignty? Havet – they are not taking away anything from us. Rivet – he is just trying to highlight the pros and cons. Discussion.

Rossman – can we get out of the agreement? Bohne – it has a 3 year term with a 180 day termination clause, he recommends cutting the imitation period and the termination clause.

Rossman – can we ask for some type of reporting from them? Bohne – we can insert that language but we can get this info under public records law. Moccia – we should get public comment.

Rossman – but this would not harm them, it would protect them, he would think they would be in favor of this. Bohne – this is will be on a future agenda.

Bohne – the County wants to enter conflict resolution with the Town regarding the Sheriff department coverage. If Council adopts the EELs resolution later in this meeting then maybe we can take care of both the EELs issue and the Sheriff issue in the same Conflict Resolution. Havet – asks for clarification. Bohne – the Sheriff may have the obligation to provide protection. Discussion. Rossman – how many Counties have MSTU's? He cannot find any.

ADMINISTRATOR

- Booth – identifies those people who have gone far and above the call of duty: the Fire Department, who worked for 30 days straight; Bill Withers, who set up the comfort station and worked non-stop in the heat; Brian Hunter, who was the constable and provided much admin support; Brian Vail, who could get us whatever we needed when we needed it; Mike O'Brien, who gets big kudos for picking up debris, even the day before the hurricane.

- Booth – had a meeting of the sighting committee for a new town hall, progress is being made.

- FEMA will help with the building of a new town hall due to the local need for a shelter. Havet – what will happen with the Fire Department building? Booth – will take an architect and engineer there to look at, states that insurance and FEMA will help. Moccia – we need to consider a built-in generator for the new town hall and the fire dept. Havet – Palm Bay Hospital offered their beds for the fire department during the hurricane. Booth – and though the Fire Dept stayed here, it was very appreciated.

- FEMA will help with covering the payment for debris removal, about \$240,000 for about 2,000 cubic yards of debris; and with \$150,000 worth of road damage on Rocky Point (which the engineer is working on); about \$60,000 for the washout on Corey Road; for deductibles for insurance; and for salaries of the fire dept, public works, and admin emergency time.

- Booth notes that we had friction with Palm Bay over the need for a comfort station in Malabar.

- Booth states that the town reserves are being used it to fund hurricane recovery.

PROCUREMENT OFFICER

Bill Withers – he went to Stark and picked up a dump truck for \$5000 and 25 gas cans, plastic that won't rust. States that this is his last procurement officer trip, he will let someone else have the honors.

EAGLE CORP COORDINATOR

Tom Eschenberg - next Tuesday night there is an Eagle Corp meeting for those who are interested. After 3 years as Eagle Corp Coordinator he is passing the torch. Nancy and Carl Conklin are to be the new leaders. Council approves the new leadership.

Booth – there are two fire fighters who had damaged cars during the first hurricane and Booth would like to pay the deductible for one care and the blue-book value of the other car. Council agrees.

CLERK

We are open on October 11, one calendar says we are closed.

PUBLIC COMMENTS: GENERAL ITEMS

Maria Branach – Bill Withers was very rude to her at the comfort station. There was one incident that upset her to the point where she will not volunteer any more in Malabar. Branach states that the

lady from United Way said that Malabar did a great job with the comfort station but felt that Withers was rude. Moccia – we should all try to work together. Booth – thought the comfort station ran well there were several misunderstandings, we need a volunteer coordinator. States that people were hot, tired, and on edge. Discussion. Booth – will take responsibility for frayed nerves. Withers – Marie had no idea what Withers was told, he was only following direction. Booth said one each and they got one each, some people came through the line seven times. Booth – the mission itself was more important than anything else, he is sorry about what happened. Branach – we had a very good system, they participated with Withers but that one incident was bad.

Tom Eschenberg – regarding term limits. Pat Reilly called both Palm Bay and Melbourne regarding this. Palm Bay has term limits. Melbourne does not, they said why would they want to get rid of such knowledgeable people. Eschenberg states that Council already has the right to not re-appoint members.

Sandy Shafer, Lett Lane – they have massive debris. Booth – it will be picked up in a few days. Their dirt road was re-done a few years ago but they need maintenance. And there needs to be maintenance at Booth and Lett. Booth – the roads will all be graded as soon as they dry out. Rossman – we need to pay attention to the culvert so it does not deteriorate. When will we get to repair Lett Lane? Booth – in a few months.

Charlie Smutko – thanks the volunteers. 1) Four years ago he asked for a survey of Lett Lane. 2) At the north end of Booth there was a culvert that was not addressed. 3) The traffic on Babcock for them to get out of their community is terrible. Their bus stop is poor, there is no Sheriff support, would like Sheriff support. 4) Every spring they have a garage sale and this past year Palm Bay took their signs that were located on the south side of Babcock. Booth – we will back you up, they cannot patrol on the south side.

Jim Milucky, 1280 Highway 1. Regarding the term limits. States that the Council already has a vehicle to change the boards. Our gene pool is only so big, we would not want to run out of volunteers.

DISCUSSION ITEM:

1. TERM LIMIT ORDINANCES FOR ALL MALABAR APPOINTED BOARDS

Kabana – needs to send out the letters.

Havet – it was Council's idea not to address this matter. Feels that we have learned in this Town that if someone is in a position too long they should be replaced.

Rivet – when this issue first came up he was in favor of term limits but Eschenberg has a good point. Lets not throw out the baby with the bathwater. If Council has a problem with a board member then they should take care of it.

Rossman – is for term limits, notes that there are current procedures in place but it is a good idea to have term limits. With staggered terms there are always new and old ideas. There would still be a flow of information. Feels this is the appropriate venue to take care of Havet's issue.

Crews – feels that if the board situation is so bad it can only be that way because Council has not done their job. Council is elected to establish and manage these boards and that is what they should do. Hunter – is concerned about losing experience on one hand but no one should be permanent. Feels the term limit should be longer.

Rossman – this Council and previous Council's have not taken care of this issue. Crews – there was a time when the Mayor made a recommendation not to re-appoint a Chair of a Board and Council approved that recommendation removing that member.

Bohne – terms are defined as two years with a limit of three terms which is a limit of six years. Havet – feels that boards are a big political monster.

Moccia – how many Council members want to address this after the election? Kabana – beginning in November would be good.

2. PROPOSED ANNEXATION OF VALKARIA

MOTION: Booth Crews/Rivet to table. Vote: Aye – Rivet, Moccia, Hunter, Rossman. Nay – Havet.

3. WATER UTILITY TECHNICAL PROVISIONS

Booth – these are proposed standards for water utility development. Kabana – will be adopted by resolution, will be on next agenda.

ACTION ITEMS:**1. COUNCIL TO QUALIFY CANDIDATES FOR NOVEMBER GENERAL ELECTION**

MOTION: Rivet/Rossman to qualify the candidates. VOTE: All aye.

2. RESOLUTION 09-2004: CONFLICT RESOLUTION WITH THE BREVARD COUNTY BOARD OF COMMISSIONERS AND THE BREVARD ENVIRONMENTALLY ENDANGERED LANDS PROGRAM

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

RESOLUTION NO. 09-2004

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA PURSUANT TO SECTIONS 164.1041, 164.1051, AND 164.1052, FLORIDA STATUTES INITIATING CONFLICT RESOLUTION PROCEEDINGS WITH THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS AND THE BREVARD COUNTY ENVIRONMENTALLY ENDANGERED LANDS PROGRAM .

Booth - Section 1 should say and recoupment of lost tax revenue.

MOTION: Rivet/Crews to approve. VOTE: Aye – Havet, Hunter, Rivet, Moccia, Rossman.

3. DEBBY FRANKLIN, REQUEST FOR EXTENDED VACATION

Council approves.

REPORTS: MAYOR, COUNCIL

Havet – nothing at this time.

Crews – nothing at this time.

Hunter – thanks the Fire Department. Until you do 30 days of this you can't know what is going on. Does not make excuses for Bill Withers but Withers had been working for 30 days. This is a beautiful town and wants Branagh to volunteer again in the Town. Gives kudos to Booth for all his hard work, and to Brian Vail and Vicki Thomas for their time.

Rossman – will discuss his discretionary fund at the next meeting.

Rivet – nothing at this time.

Moccia – thanks all for all their help.

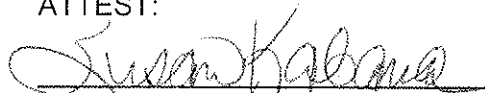
ADJOURNMENT

Meeting adjourned at 9:25 p.m.

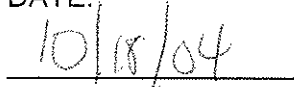
BY:


Chair Bobbi Moccia

ATTEST:


Susan Kabana, MMC
Town Clerk/Treasurer

DATE:


10/18/04