

**MALABAR TOWN COUNCIL REGULAR MEETING
OCTOBER 18, 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
	ENGINEER:	BILL STEPHENSON
	CLERK:	SUSAN KABANA
	RECORDING SECRETARY:	CINDI KELLEY

ADDITIONS AND DELETIONS TO AGENDA: None

CONSENT AGENDA:

(A) COUNCIL MINUTES 9/13/04, 10/4/04

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

REPORTS:

ATTORNEY

Bohne—nothing to report at this time.

Rivet—had a question regarding what was happening with Mr. Gentile. Bohne—there is nothing at this time, no documentation for the property to be zoned agricultural.

ADMINISTRATOR

A. FEMA

Booth—camera is being fixed, so no pictures to show Council. FEMA changed the formula for administration, FEMA will pay 90%, the State and local government will split the remaining 10%, 5% each. FEMA has been helpful with the paperwork. With the damage from both storms, we will be submitting approximately \$500,000. FEMA agrees with the purchase of a trailer for the fire department and thought we got a very good price. We will decide what to do with the trailer once the repairs are complete. With assistance from the engineer, Bill Stephenson, we have started obtaining bids for the repairs and re-building. We have selected 15th of Nov. as our last day to pick up any debris that is hurricane related. Before this date, we will make one last sweep to make sure that all vegetation and construction/demolition debris has been picked up. It seems like a long time, but we feel that it is necessary to make sure that all is picked up and the right-of-ways are clear. The construction/demolition debris will be approximately three truck loads, there doesn't seem to be nearly as much as some other places.

B. TOWN HALL SITE COMMITTEE

Booth—a site selection committee has been picked. Property on US1 is no longer available. We have an agent who is looking at several sites. We would like to move as quickly as possible on this. We have two agencies, FEMA and the Rural Development Agency who are willing to assist with the construction of a new Town Hall. The Rural Development Agency will give a grant and a loan, with an interest rate of approximately 2%. Rossman—with regards to the new town hall, the EELs was looking into purchasing a site. Would this be something that we do jointly? Booth—the EELs have changed their minds and have taken 400 acres off the acquired list. It is recommended that we still keep pressure on them. It would be beneficial to do something together and have the Town Hall in a central place for the Town. Rossman—let the EELS purchase the land, Booth—we need to purchase the land jointly.

At the last P&Z meeting there was discussion regarding the allowance of trailers/campers on properties that were severely damaged. They would be allowed to stay on the property for a period of six months. In reviewing the ordinance, it allows trailers/campers only on a site that has new construction but the Building Official stated that this would also include severely damaged homes. A \$500 cash deposit is required. A permit would be required for the construction/repair work. This will ensure that inspections are being done and the building is to the current codes. All Council Members are in agreement with this.

During the hurricanes, the tree that is used for our Christmas tree was damaged and it is dying. We have a request to remove the dying tree and purchase an artificial Christmas tree. It is 14' tall and can be added to each year in 2' increments. The cost is \$3,561 and we have \$2,265 in the budget. Rivet-for \$1,000, what size real tree would be able to get? Hunter-the existing tree is dying? Booth-yes, and needs to be replaced. Kabana- it would be treated as an asset and we can add to the tree each year. This would be a good way to put some community spirit back into the community after all the hurricane damages. Havet-offered her discretionary fund to purchase the tree. All Council Members were in agreement.

Booth-we are trying to move away from the storm recovery. One of the first things that we would like to accomplish is a playground at the Community Park. We still have a lot of work to do with the hurricanes, but we need to get back on track with the projects that we had been working on.

ENGINEER

A. MELBOURNE HEIGHTS VACATING OF RIGHT-OF-WAY RECOMMENDATION

Stephenson-this came before P&Z two to three times because we have had two formal requests and one informal request. There are several issues here. First of all, the streets in this subdivision are fifty foot streets, and Council has stated several times that we want to comply with the Comp Plan and have sixty foot streets. Stephenson made a recommendation to P&Z that there would be no problem with the request that came to them vacating those segments of the North/South streets where the people already own both sides, provided they dedicate the additional five feet of right-of-way along the East/West streets to make those streets comply with the Comp Plan. Doesn't see any need in vacating any more streets in the subdivision until such time there may be a property owner who has a reason to do so. P&Z did not agree on a decision as what to do with these requests. Mr. Stephenson recommends vacating an additional five feet. Discussion.

MOTION: Rossman to accept Mr. Stephenson's recommendation.

It was not on the agenda as an action item, so it will be made a part of the next meeting's agenda as an action item.

CLERK

Kabana-We have several old computers we could donate to Bill Withers so he can refurbish them then give them away. Moccia will work with Withers so the computers will be placed in homes none. All Council members were in agreement.

ACTION ITEMS:

1. FIRST READING, ORDINANCE 2004-12: COMP PLAN CHANGE, BOOS PROPERTY

MOTION: Crews to read by title only by unanimous consent. Chair approved without exception. Moccia read

ORDINANCE NO. 2004-12

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING COMPREHENSIVE PLAN AMENDMENT NO. 2004-2 (LSA); AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE TOWN FROM CG (GENERAL COMMERCIAL DEVELOPMENT) TO R/LC (RESIDENTIAL AND LIMITED COMMERCIAL) FOR A PARCEL IN THE TOWN LYING ON THE WEST SIDE OF US-1 AND SOUTH OF MALABAR ROAD; AND ESTABLISHING A PROPER AND APPROPRIATE LAND USE FOR THE PARCEL DESCRIBED HEREIN; PROVIDING AN

EFFECTIVE DATE.

Rossman-this 19 acres is behind Hotel California? Moccia-this was discussed a while back. Booth-at a joint meeting, which is what the Council wanted to decide the zoning. Rossman-the development use of this property is what? Moccia-consistent with what we asked before, three stories. Booth-thirty-five feet in height. Havet-is this what Mr. Paladin would like to do? Booth-yes he is already zoned correctly, allowing six units per acre.

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

2. FIRST READING, ORDINANCE 2004-13: ZONING CHANGE, BOOS PROPERTY

MOTION: Crews to read by title only by unanimous consent. Chair approved without exception. Moccia read ORDINANCE 2004-13

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE DISTRICT BOUNDARIES OF THE OFFICIAL ZONING MAP OF THE TOWN OF MALABAR AS PROVIDED FOR IN ARTICLE II, SECTION 1-2.2 OF THE LAND DEVELOPMENT CODE; ESTABLISHING A TOWN ZONING CLASSIFICATION FOR A PARCEL IN THE TOWN AND LYING ON THE WEST SIDE OF US-1 AND SOUTH OF MALABAR ROAD; REZONING THE SAID PARCEL FROM TOWN OF MALABAR CG (COMMERCIAL GENERAL DEVELOPMENT) TO TOWN OF MALABAR R/LC (RESIDENTIAL AND LIMITED COMMERCIAL); PROVIDING AN EFFECTIVE DATE. (Z.C. 2004-2)

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

3. ACCEPTANCE OF 1,675 FT OF OLD MISSION ROAD, EAST OF COREY ROAD

Tom Eschenburg-2835 Beran Lane-this road may not be a road that the Town wants to be responsible for. If the Town accepts the road without meeting the standards, we would be setting a precedence. Anyone coming in after acceptance of this road would have the same right to have a road accepted without paying the fees. Eschenberg asked if the road was accepted now, would it meet the requirements of the ordinance? Booth-stated that the owner would put money in a fund that would be used to maintain the road, this is the only to get the road accepted. Discussion.

MOTION: Rossman/Hunter to accept the 1,675 feet of Old Mission Road east of Corey Road.

Crews, need to have wording to keep anyone from using this as a means of getting a road accepted without going through the proper channels. The motion should also state that the owner will be placing money in a fund to upgrade and maintain the road.

MOTION: Rossman/Hunter to amend the motion to add that the acceptance of the road state that the owner will pay the expense of the road as stated by Mr. Booth.

VOTE: Aye

4. RESOLUTION 12-2004: CROSS-SECTIONS FOR ROW IMPROVEMENT

MOTION: Crews to read by title only by unanimous consent. Chair approved without exception. Moccia read RESOLUTION 12-2004

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING EXHIBITS "A", "B-1" AND "B-2" OF ORDINANCE 01-01 KNOWN AS THE MALABAR RIGHT-OF-WAY IMPROVEMENT CODE; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

5. RESOLUTION 13-2004: WATER UTILITY TECHNICAL PROVISIONS

MOTION: Rossman to read by title only by unanimous consent. Chair approved without exception. Moccia read RESOLUTION 13-2004

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA,

ADOPTING THE TOWN OF MALABAR TECHNICAL PROVISIONS FOR POTABLE WATER SYSTEMS AND THE TOWN OF MALABAR POLICIES AND PROCEDURES FOR POTABLE WATER SYSTEMS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Booth-this starts the utility system, it will establish the criteria for the builders to build, and be reimbursed. The developers has reviewed this and it is acceptable to them.

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

6. RESOLUTION 14-2004: NAMING OF RIGHT-OF-WAY NORTH FROM OSAGE

MOTION: Rossman to read by title only by unanimous consent. Chair approved without exception. Moccia read RESOLUTION 14-2004

A RESOLUTION OF THE TOWN OF MALABAR ADOPTING PROSPERITY LANE AS A NEW MALABAR STREET NAME AND FORWARDING SAME TO BREVARD COUNTY ADDRESS ASSIGNMENT FOR E 9-1-1 EMERGENCY IDENTIFICATION PURPOSES, PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS AND PROVIDING AN EFFECTIVE DATE.

Booth-this road is north of Osage. We took over Osage from the County. We have not accepted Osage at this time. There is development south and they must bring Osage up to our standards. There are spots that will need to be fixed. This road will meet the standards of the Town of Malabar. We own a portion of the road.

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

7. BOARD MEMBER'S WITH TERMS EXPIRING OCTOBER 31, 2004

There are several Board members who have terms that will expire October 31, 2004. We need to do something or there will be no quorum for these Boards. Rivet-do we want to re-appoint the same people who wish to stay, appoint someone, or do we want to leave as open. Rossman-feels that the members whose terms will expire should be replaced. At the last meeting, it was discussed that new people should be on the Boards as their terms expire. Hunter-stated that at the last meeting, this issue should be addressed by the new Council Members.

MOTION: Crews/ to extend the terms for thirty days so that the New Council Members would be able to handle this issue.

Kabana-asked that the Council consider extending the terms for sixty days, as we have one meeting in November before the new Council members are sworn in.

MOTION AMENDED: Crews/ to extend the terms for sixty days so that the New Council Members would address this issue.

VOTE: Aye – Hunter, Rivet, Moccia, Rossman, Havet-Nay

REPORTS: MAYOR, COUNCIL

Havet-nothing at this time.

Mayor-nothing at this time.

Hunter-nothing at this time.

Rossman-asks about the exit on Malabar Road for Stillwater. Booth-the study went to DOT.

They will not allow any formal exit onto Malabar Road, the emergency exit will be allowed only.

Rossman-has all the debris on Lett Lane been picked up? Carl Beatty was out with grader.

With the roads drying out, grading will be done with greater ease. Ed's evaluation coming soon.

Mr. Rossman would like, from his discretionary fund, to donate \$100.00 to Bill Withers for the children's orphanage in Peru, and \$100.00 to Ed Booth for all of his efforts during the hurricanes. Mr. Booth has requested that the \$100.00 given to him be donated to the children's orphanage as well.

Rivet-when will the debris pick-up be for damaged household property? Booth-stated that the pick-up would begin with the next few days. Mike O'Brien would take a few days off, this would

allow anyone with damaged items to place them at the right-of-way for pick-up. All debris will be picked up by Mike O'Brien and hauled to the Sarno Road landfill.

Moccia-would like to donate \$200.00 to Bill Withers's for the children's orphanage. Mr. Withers visits this orphanage every year, taking supplies and anything else that the orphanage could use.

\$200.00 from Mr. Rossman's discretionary account and \$200.00 from Ms. Moccia's discretionary account, making a total donation of \$400.00, will be donated to the children's orphanage through Bill Withers. Mr. Withers leaves on the 8th of November and will return on the 5th of December.

PUBLIC COMMENTS: GENERAL ITEMS

Vicki Thomas, Realtor-1605 Country Cove Circle-came forth to present information to Council regarding possible sites for the new Town Hall. Kabana called Thomas and asked her to complete some research regarding sites that are available within the Town.

Neil Ciechalski- 1361 Marie Street-Mr. Ciechalski lives on Marie Street. The street is horrendous. When it rains, he cannot go from the front door to his car without getting soaked, he can't walk his dogs. People are driving thirty feet onto his property to stay out of the water. He has had an irrigation system put in and people are driving over the heads. Mr. Ciechalski was told that his street was paved at one time. The tree roots grew up under the road and broke it all up and the paving was removed. Booth-we are in the process of picking up all the tree debris. We have an eye on the palm trees that need to be removed. We would like to put a drainage ditch down that street, but on his side of the road, there is no easement. We are trying to solve this by putting a drainage ditch on the west side of the road, which will capture the water coming down the street. Rossman-if we put a ditch on the west side of the street, with this help to take care of this problem for Mr. Ciechalski? Booth-this will help immensely.

Tom Eschenburg-is an advocate for property rights. Mr. Eschenburg was playing devil's advocate for the issue on Old Mission Road. Mr. Eschenburg is concerned that we would now have two roads with the same name. Kabana-stated that we would not be allowed to have two roads with the same name because of the 911 emergency address assignment.

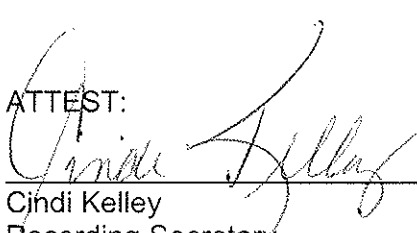
ADJOURNMENT

Meeting adjourned at 8:35 p.m.

BY:


Chair Bobbi Moccia

ATTEST:


Cindi Kelley
Recording Secretary

DATE:

10/30/04