

**MALABAR TOWN COUNCIL REGULAR MEETING
NOVEMBER 15, 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:	TOM ESCHENBERG
	CHAIR:	BOBBI MOCCIA
	VICE-CHAIR:	STEVE RIVET
	COUNCIL MEMBERS:	FRANK HICKSON
		BRIAN VAIL
		BOB ROSSMAN
	ADMINISTRATOR:	ED BOOTH
	ATTORNEY:	KARL BOHNE
	CLERK:	CINDI KELLEY

NOMINATIONS AND ELECTION FOR COUNCIL CHAIR AND VICE-CHAIR

MOTION: Rossman/Rivet to re-nominate Bobbi Moccia as Council Chair.

Rivet-explained that he feels that the Mayor should chair the meetings. In the strong council form of government, the Mayor should chair the meetings. A previous situation came forward that warranted Ms. Moccia to step in as Chair of the Council and she has been doing a fine job. Rossman-re-nominated Ms. Moccia because of the job that was done within last two years, it was a very difficult job and she has handled it very well. The charter states that the Chair is elected by Council.

Hickson-feels that Council Members should represent their districts and let the Mayor chair the meetings.

Rossman-disagrees that we represent our districts, we represent the entire Town. We are elected by the entire Town.

Moccia-hopes that she has served the town in a good way. She likes to hear what the people of the Town have to say.

Vail-Ms. Moccia has done a fine job as Chair.

THE ROLL WAS CALLED: Rossman, Vail, Moccia – Aye. Rivet and Hickson – Opposed.

Bobbi Moccia is the new Chair for Council meetings.

MOTION: Rossman/Rivet to nominate Mayor Eschenberg as Vice-Chair.

THE ROLL WAS CALLED: Hickson, Vail, Rivet, Moccia, Rossman - Aye.

Mayor Tom Eschenberg is the new Vice-Chair for Council meetings.

SELECTION OF BILL APPROVAL PERSON AND CHECK SIGNERS

Moccia-has chosen to eliminate herself from approving the bills, as her schedule does not allow immediate availability for bill approvals. She has suggested that Brian Vail be nominated for this. Mr. Vail is not far from Town Hall and is more accessible for this duty.

Rossman-stated that Mayor Eschenberg may be the person to approve the bills. Mr. Rossman asked Mr. Eschenberg what his schedule would allow.

Mayor Eschenberg-stated that he was fairly flexible and would do whatever would be needed.

Rossman-stated that Brian Vail and Mayor Eschenberg could approve and sign checks.

Vail-asked which was more important, approval of the bills or signing the checks?

Moccia-stated that they go hand in hand, you can't have one without the other.

Booth-we need a person for approval of the bills and a person to sign the checks. We need a check and balance for this. Both of these people would review the bills, but both can't approve and sign the checks.

Rossman/Rivet nominates Brian Vail to approve the bills and Mayor Tom Eschenberg to sign the checks. VOTE: All Ayes.

Steve Rivet is willing to be a backup as well.

ADDITIONS AND DELETIONS TO AGENDA: None

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

CONSENT AGENDA:

(A) COUNCIL MINUTES 11/1/04, 11/4/04

MOTION: Rivet/Hickson to approve. VOTE: All Ayes.

REPORTS:

ATTORNEY

Bohne-a meeting with the County regarding the conflict resolution has been scheduled for December 1, 2004, at 2:00. Those attending the meeting would be myself, Ed Booth, Mayor Eschenberg, the County Attorney and County Manager, Tom Jenkins. The meeting will be held at the County. Each party will have an opportunity to air their differences. The idea of coming to an agreement is not likely. This meeting is required in the legal process.

ADMINISTRATOR

-CONFLICT RESOLUTION MEETING SCHEDULED

Booth-gave a brief history to the new Council Members. MSTU 1.7%, just about the same as our property tax. The Sheriff would like to place on the town, do this for every town that does not have a police department. The council unanimously turned it down for a number of reasons. The Council is the only ones to enforce this by signing the agreement. The County cannot force this on the Town of Malabar. The Sheriff's office has to provide protection by State statute. EELs issues are not necessarily that they did take the land, they have not taken care of the land that they have and communicated to the Town what the plans were for the land that they have acquired.

Rivet-the property that EELs owns has been taken off the tax rolls.

Moccia-didn't we discuss to come before the council quarterly.

Booth-meets with the EELs once a month. We have the least development happening. We have two new subdivisions coming and some commercial construction on US 1. How much does it cost to provide protection to a small town that has very little crime? We have very little influence with the County.

Rossman-the MSTU is by the County Commissioner. The Sheriff, by state law, is to provide protection. Cape Canaveral has an MSTU, has designated people to provide services to them.

Booth-If we should choose to do this, we should have designated people for this town.

Rossman-if we don't have something in writing, we will continue to get what we have now.

Booth-the total cost for this MSTU is \$240,000.

Rossman-for that amount of money, this would provide four Police Officers, seven days a week, twenty-four hours a day.

Vail-with the other towns paying, are they getting any better coverage?

Rivet-to Bohne, can we be made to sign?

Bohne-the Sheriff is the chief law enforcement officer, constitutional officer. The law states that the sheriff has to uphold the criminal and state traffic laws, he's not obligated to uphold the local Town's laws. The County cannot force the MSTU on us; Council has to approve the MSTU. Unless we sign an inter-local agreement with the Sheriff's Department, they cannot impose a monetary fee upon us.

Moccia-feels the Eagle Corp do a great job. They can't stop anything that is happening, but they know how to report what is happening.

Mayor Eschenberg-Cape Canaveral has there own dedicated Deputies. What they pay for this service is more than our entire budget. They are not happy with the services they are receiving.

Booth-pays over one million in fees and is not happy with the services provided.

Moccia-Town Council's general consensus is to hold our ground. The Council stands firm.
Bohne-the Sheriff will continue to provide the services as stated in the Florida Constitution.
Rivet-is there anything we can ask for if they will give a list of conditions?
Bohne-let's wait until the meeting and see what happens.

MALABAR DAY

Booth-April 9, 2005 is the date that has been selected. A committee has been called together and duties assigned. We will meet again within thirty days to see what has been accomplished. We are getting a head start this year and will hopefully get a lot of participation from our neighboring businesses within and around Malabar. Betsy Vosburgh, who is the head of the Melbourne Art Festival, will be the person to over-see the progress of the celebration. We will pay her expenses only. We will be expending a little more. There will be wilderness tours by Mr. Wilbur and Mr. Cameron.

Vail-the next meeting will be December 2, 2004 at 10:00 a.m. if anyone would like to volunteer your time.

FEMA

Booth-today was the last day that we are picking up hurricane debris. We went around and checked the town. Everything that is out there will be picked up. The south needs some additional attention. The Fire Department should be completed within three months. The insurance company provided the contractor for us. The roof will be done in about two months. The inside has been gutted and should be ready to be worked on shortly. We have contracts out for bids for Rocky Point Road and Corey Road.

Rivet-any updates of Code Enforcement regarding Howell Lane and Hall Road.

Booth-went in to get an eviction for the individual that was out there. Cannot touch him until the eviction process is done. Code Enforcement looks into matters if there is a complaint unless the property stands out with violations.

Rossman-last Friday's paper had an ad stating twelve units available, preconstruction, river-view on US #1 in Malabar. There has not been any presentation to Council for approval of new residential.

Booth-has seen this ad, but no concepts have been brought to Council for approval.

Rossman-to Mr. Bohne-is it legal to advertise for this?

Bohne-it happens all the time, they can take a reservation fee, but if it is not refunded, it's a whole other deal.

CLERK

Kelley-nothing to report at this time.

PUBLIC HEARINGS:

1. FINAL READING, ORDINANCE 2004-11: UNSAFE BUILDING ABATEMENT

MOTION: Rossman/Rivet to read by title only. VOTE: ALL AYES. Moccia read

ORDINANCE NO. 2004-11

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING SECTION 105 OF THE STANDARD UNSAFE BUILDING ABATEMENT CODE - 1985 ADDITION AS ADOPTED BY ORDINANCE 99-2; PROVIDING FOR APPEALS TO THE SPECIAL MASTER; PROVIDING FOR APPEAL PROCEDURES; PROVIDING FOR A REPEAL OF CHAPTER 5, SECTION 501-505 OF THE STANDARD UNSAFE BUILDING ABATEMENT CODE - 1985 ADDITION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Moccia – opened to public – none, came back to Council.

Booth-a quick overview was provided to the new Council Members. Our code adopted the universal building code. Under this code, if we're going to set up a Condemnation Board, we would need to have a separate attorney and engineer. We are asking to modify the ordinance so that the Building Official can make the decision if the building is unsafe.

Vail-the Building Official would make the initial determination, and then take it to the Special Master, if the homeowner does not agree with the Building Official.

Rivet-takes away the red tape and costs that are involved with a special meeting. Special Master makes determination.

Vail-how often is this necessary?

Booth-not very often. With the way real estate has gone up, this will be less and less. There will be some special circumstances, but for the most part, it will not happen very often.

MOTION: Rossman/Rivet move to approve.

Roll Call: Hickson, Vail, Rivet, Moccia, Rossman. All Ayes.

ACTION ITEMS:

1. BOARD MEMBERS WITH EXPIRING TERMS

Moccia-we need to have a discussion regarding this matter.

Rossman-I would like to lead off this discussion. We put this off for a specific reason, to remove personality from the discussion. There were problems, or have been problems in the past with Board and Council and with conflict between Board and Council. I think our previous Mayor postponed part of this for a very specific reason. Term limits were discussed by previous Council and that was also tabled. I am one of the proponents; I guess you could say, in terms of term limits although I am not in favor of term limits.

Rivet-point of order, this subject was tabled and we need a motion to remove.

MOTION TO REMOVE FROM TABLE: Rossman/Hickson. VOTE: All Ayes.

Rossman-the reason I proposed term limits is that it was apparent that there was a personality conflict or personalities involved. The best way to remove personality is to have something in place that removes personality from it. I do feel, though, that with previous Council and all of the Boards, some of the people on the Boards feel that this is their job for life and they've been there for life. Previous Councils have just, for whatever reason, never taken notice of who is on the Boards and what the Boards do and they go their own way and, in a way, we have a government within a government with some of the Boards. So my recommendation would be that the Planning & Zoning Board stays the same as we have no openings because everybody is there until 2005.

Rossman/Hickson, would make a motion that the Planning & Zoning Board stay in tact.

Rossman-has no problem with that. I would like to go on record, as this is my last term, that when people come up for re-appointment, that Council looks at the Board and reviews and gives consideration to re-appointments, not just rubber stamp re-appointments. Sometimes new blood is very beneficial. We get new ideas and opinions with new people. This is evident even with a new Council. This is my position for all the Boards, that we just not rubber stamp appointments.

Moccia-so you feel that the Council should take a little closer look at who the Board member is and if they have done a good job for the Board they represent?

Rossman-even if they have done a good job, sometimes new people on Boards are good. It brings new ideas and opinions to light. We have a couple new Council Members and a new Mayor. I think that they will do a fine job and bring new insight to the meetings and to the Town. I feel that the same way about the Boards.

Moccia-we need to vote on the motion as stated above.

VOTE: All Ayes.

Moccia-the Planning & Zoning Board stays as is.

Rossman-for the Board of Adjustments, there is someone who would like to be on the board, Thomas Olszewski. I think that Mr. Olszewski would be an excellent candidate and I would make a motion to appoint Mr. Olszewski to the Board.

Moccia-we need a second to the motion.

MOTION TO APPOINT THOMAS OLSZEWSKI TO THE BOARD OF ADJUSTMENTS:

ROSSMAN/VAIL.

Eschenberg-point of order, please. I am confused as to what motion was taken off the table. Two Council meetings ago, there was a discussion about Boards and term limits.

Rossman-there was conflict between the Boards and Council, and the previous Council was discussing whether to have term limits for the Board members and Mayor Crews asked that we table this discussion until such time that the new Council could review and discuss this issue.

Eschenberg-I do not understand why this was removed from the table, as this agenda item is to appoint new Board members, which has nothing to do with term limits.

Moccia-we just removed it from the table.

Rivet-what was tabled was the actual appointment of the new board members. It was not term limits.

Eschenberg-I attended the meeting in question and the way that I remember it was that the discussion about term limits was tabled and this Council re-appointed all expiring Board members for sixty days.

Rossman-or until this issue was called back to question for the new Council could review it and open it for discussion. You are correct, both were tabled, the re-appointment of Board members and term limits.

Eschenberg-you re-appointed the Board members for sixty days and tabled term limits.

Rossman-we tabled both. The Board members were re-appointed for sixty days. These were to be recalled at a future date.

Eschenberg-without referring to the records, we are challenging each other's memory.

Rivet-regardless, we all agree on one thing.

Moccia-we want to go ahead and take care of this. People would feel better knowing what they are going to do.

Eschenberg-we need to be clear on what is on the table that should be addressed.

Rossman-the extension of sixty days was so that there would be some type of continuity for the Boards to continue in their functions so there would not be an interruption of service. It was recommended to extend for sixty days, and Council approved it, so that the new Council could have input. I have no problem, since we have two new Council people, to table this until another meeting to give them time to study this issue.

Moccia-we already have a motion and a second, so I think we should go ahead and continue.

Vail-I think what Mayor Eschenberg was trying to come to was are we going to enforce term limits?

Eschenberg-no, we need to be clear on what motion was brought back for discussion.

Vail-is term limits in this discussion?

Bohne-term limits are still tabled. This was not removed from the table.

Moccia-if this discussion of Mr. Olszewski is over, we need to vote on this.

Rivet-Paul Marpil is up as an expiring term on the Board of Adjustments. Don't we need to decide to re-appoint Mr. Marpil? If we re-appoint, then there is no open seat on the Board.

Rossman-there is an alternate position available on this Board. I think that Mr. Marpil has done a great job. I don't have any problem with nominating him and re-appointing him to the Board.

Moccia-asked Mr. Marpil if he is still willing to be on the Board of Adjustments.

Paul Marpil-advised the Board that he would be willing to stay on the Board. He would like to get some experience on the Board, which comes with time. The members of this Board need to be knowledgeable with the building codes. I would like to groom someone to take over my position, as I have been on the Board for almost seventeen years. At some point, I will need to step down.

Rossman-thinks Mr. Olszewski would be a good addition to the Board. We show both alternate one and two open. Mr. Olszewski would be the first alternate and the second position would still be open.

Vail-feels that Mr. Olszewski would be an asset to the Board as well.

MOTION TO RE-APPOINT PAUL MARPIL TO THE BOARD OF ADJUSTMENTS: Rivet/Vail. VOTE: All Ayes.

MOTION TO APPOINT THOMAS OLSZEWSKI AS FIRST ALTERNATE TO THE BOARD OF ADJUSTMENTS: Rossman/Rivet. VOTE: All Ayes.

2. BOARD MEMBER APPLICATIONS:

- A. **DICK KORN, PARK BOARD**
- B. **WILLIAM WITHERS, PARK BOARD**
- C. **LAUREN OLSZEWSKI, PARK BOARD**
- D. **THOMAS OLSZEWSKI, BOARD OF ADJUSTMENT**

Rossman-I would like to nominate Bill Withers to Dan Osterhoudt's seat. Mr. Osterhoudt has indicated that he does not want to be re-appointed to the Board. Mr. Withers works in the parks and has the Town's best interests at heart.

MOTION TO APPOINT WILLIAM WITHERS TO THE PARK BOARD: Rossman/Rivet.

Moccia-opened to discussion between Council members.

Vail-I think that it's only fair that we take the applications in order of the listing on the agenda.

Rivet-it is the discretion of the Council to review the applicants. It looks like Mr. Withers' application is dated November 3rd and Mr. Korn's application is dated October 23rd.

Vail-it's only fair that we look at the applications and take them in the order that they were submitted.

Moccia-I don't know how this has been handled in the past. Could Mayor Eschenberg shed some light?

Mayor Eschenberg-it is to Council's discretion to review and appoint Board members.

Moccia-if this is the way it's been done, do we want to discuss this further?

Rossman-we may have done it in the past, but it doesn't mean we have to continue to do it this way. We have done things in the past that have not worked out.

Vail-looking at it from the citizen's perspective, we really should take the applications in the order that they were received, on a first come first serve basis.

Rossman-there are three alternate spot on the Park Board.

Rivet-there are also three positions on this Board coming to term.

Rossman-so there could be six positions available in total on the Park Board

Hickson-could I get a description of the duties that this Board addresses?

Booth-the Board actually advises the Council. The only Board that has power is the Board of Adjustments. The Park Board makes recommendations to the Council, such as the new equipment coming into the park and the hours of the operation for the parks. Malabar Day was a duty of the Board, but we have since taken it over, as it has become a burden to the Board members. This decision was agreed upon and we have since established a committee.

Moccia-does this information answer your questions?

Hickson-yes it does.

Vail-I would like to nominate Dick Korn to the Park Board.

Moccia-we already have a motion on the table and we need to vote on it.

VOTE: Hickson, Rivet, Moccia, Rossman – Aye. Vail – Opposed.

William Withers is appointed to the Park Board.

Rossman-would second Mr. Vail's nomination of Dick Korn to the Park Board.

Dick Korn-I am a little confused about this Board. I applied for this Board with a different understanding then what I am hearing now. Maybe I should withdraw my application at this time. As I understand it, this is supposed to be a Park and Recreational Board. I was under the impression that we would be able to make an effort to bring recreation to the park. No one is using the park and money is being wasted. The few Saturdays that I am in town I have seen no one using the park. The only time that I have seen anyone there is when Mr. Withers is there cutting the grass. I felt like a trespasser. The park is locked up. If I want to play tennis, I would have to walk a half mile to get to it because the driveway to the tennis courts or basketball courts is locked up. The park is not being used and I think the Town is wasting a lot of money and resources.

Moccia-I see people in the park all the time.

Rossman-didn't we have a baseball league using the park?

Korn-we had a league and they were made to feel un-welcome, I'm told. I don't know those people. I have not had a chance to do any research, as this is something I would want to know and we recommend that your Parks & Recreation Board, if you want a Parks & Recreation Board, look at. This has been a bone of contention for me with the time that I have paid any

attention to the park and to the activities, which has been within the last four to five years. Prior to that, I have stayed to myself. There are a lot of people that could use this park. There are students who could make use of the facilities. We are doing nothing in the way of recreation activities for our community. I don't see the current Board, Parks & Recreation Board, doing anything but spending a lot of time looking at some expensive playground equipment, which will look pretty in the park. If you look at the baseball field, I wouldn't let anyone play out there. It is totally neglected. The soccer field is in bad shape due to the hurricanes. The park situation is an embarrassment to the Town.

Moccia-I don't think that's the situation.

Korn-I think it is and if you talk to people who have tried to use the park, no one is comfortable going over there.

Booth-I have to disagree with you a little bit. The Boy Scouts have been using the park, they were in there just last weekend.

Korn-the park should be full of people all the time, or the park should have some activity going on more than it is.

Moccia-would you be willing to be an alternate to the Board?

Korn-no I don't think so. Not from what I'm hearing now. It's not just a park, it's parks and recreation.

Rivet-the Board has decided that it was a Parks Board and not a Parks and Recreation Board.

Korn-but in listening to you referring to as the Parks Board, and it stated this way on the agenda, you are enforcing it. Until there is a change, I can't be a part of it.

Rossman-I have to agree with Mr. Korn to a certain degree. I do think that our park is under utilized. Although the Board is referred to as the Parks Board, I think that it should be the Parks & Recreation Board. I know that we did have a league playing ball there, I don't know if they are coming back or not. Whatever we do tonight, I would have to agree with Mr. Korn. I would like to see it be the Parks & Recreation Board with a lot more emphasis on recreation. We have put in a soccer field, water and now new playground equipment. If we're going to do this, I want a soccer team in there. He's 100% in what he says to a point. I, like you, have seen other people there. I know that it is utilized, but I think it is under utilized as a recreation park.

Booth-the park has really been evolving. Up to just a year ago, it had mounds of dirt. Once the playground equipment is installed, it will be a park that is pretty well complete. Then we will be able to ask for grants to make additions to the park. The soccer field has been re-done and we will have facilities that people will be able to use. We will have to make some decisions if we are really going to do recreation. We will have to remove some of the fees. The rest of the County is used to using the park facilities without having to pay for them. This is one reason why we are not getting a lot of usage at this time.

Rossman-to Mr. Bohne, if an alternate comes to the meetings, do they have input and can they vote?

Bohne-an alternate can voice his input and his position as an alternate and be a part of the discussions. He would not be able to vote on the matter.

Booth-the Park Board usually has a hard time getting enough people to attend the meetings, so an alternate would be able to step in and participate in the discussions and then take part in the vote.

Rossman-I don't know the answer to this, but the person, as most absent and up for re-appointment, should probably not be re-appointed and we put Mr. Korn in that position. Could we research this information?

Booth-Town staff would be able to research this and provide the information to Council at the next meeting.

Moccia-it sounds like Mr. Korn would be a wonderful addition to the Board.

Korn-if I could paraphrase what I said, I would, with a vote, be willing to sit on the Board. Without a vote, I would not be interested in participating on the Board.

Rossman-could I asked a question to Mr. Bohne? Could we table the Park & Recreation Board to the next meeting, so that we have the research showing the person who is most absent, if it's one of three that is up for re-appointment. I would recommend, as I am not able to attend the next meeting, that Council not re-nominate that person and place Mr. Korn in that position.

Bohne-we've already filled the seat vacated by Mr. Osterhoudt with Mr. Withers. Do you want to table the remaining applicants?

Rossman-I would like to recommend that we table the remaining applicants to the Parks Board until the next meeting of Town Council. Mr. Booth needs to provide the information regarding attendance to Council. Council needs to review this information for the person who doesn't deserve to be there and place Mr. Korn in that position with Mr. Olszewski as first alternate.

Bohne-we need a motion stating Mr. Rossman's recommendation.

MOTION MADE TO RE-SCHEDULE THE PARK BOARD APPOINTMENTS TO THE NEXT MEETING, AFTER REVIEWING THE ABSENTEEISM FOR THE LAST YEAR:

Rossman/Rivet. VOTE: All Ayes.

Vail-wants to express that he doesn't want to place board members based on just because we know the person. It should be on a first come first serve basis.

Rivet-I understand where Mr. Vail is coming from with the first come first serve basis and that this is how it has been done in the past, but it is Town Council who appoints the Board members. We have to vote on what we know.

Moccia-we have alternates and we have term limits that are coming due.

Rossman-we would place Mrs. Olszewski as an alternate. If we have two egregious people who don't attend, then we have two candidates to replace them. It is Council's responsibility to take that action. If that happens, then I would never un-table the term limits, because I am not in favor of term limits for the Boards.

3. INTERLOCAL AGREEMENT WITH BREVARD COUNTY FOR LICENSED AND UNLICENSED CONTRACTORS

Booth-if you have a contractor, he's coming here to pull a permit. We, in the Building Department, are going to make sure that he is licensed and has the proper insurance. But if you hire a relative, out of state, and are pulling the permit as owner/builder, with their help, the Town will not bother you. However, if we sign the inter-local agreement, the County will come through and stop the work and place a fee on the owner/builder. Before the storms, this could have been a possibility; however, we now have so many people who need roofs and other work on their homes.

Rivet-felt good in making the statement that no contractor, who is un-licensed, would be working within the Town's limits.

Vail-has spoken to the Building Department regarding this matter and was told that, within the last year, there has been very few situations with this matter. Maybe we could put a notice in the next Mailboat that if you pull a permit as the owner, you need to check the credentials of the contractor that you hire. It is very important, that as the owner, you have a good understanding that it is your responsibility as the owner to take care of this. Does not agree with having the County oversee us.

Rossman-will make a motion that we not sign the agreement.

Vail-in the event that it becomes a problem, this might be looked at later.

MOTION: Rossman/Vail for Town Council to not sign the Interlocal Agreement. VOTE: All Ayes.

4. SCHEDULE DECEMBER COUNCIL MEETING

Booth-asking the council to forego this meeting. It is too close to the holidays.

Rossman-the meeting for the 6th of December, he may not be able to attend. Has no problem with canceling the December 20th meeting.

Moccia-if all are in agreement with eliminating the December 20th meeting, we need a motion.

MOTION: UNANIMOUS CONSENT TO CANCEL THE DECEMBER 20, 2004 MEETING.

They only meeting for the month of December will be held on the 6th of December, 2004.

REPORTS: MAYOR, COUNCIL

Hickson-nothing at this time.

Eschenberg-appreciates the support of the town's people during the election and will do his best for the Town.

Vail-he also appreciates the support and encourages the Town's people to contact him regarding concerns they may have.

Rossman-would like to have Staff find a family in the Town of Malabar that has a disabled veteran from the current conflict. I would like to take \$100.00 from his discretionary fund and provide Thanksgiving dinner for this family. If more money is needed, take whatever to cover the entire meal.

Rivet-nothing to report, would like to encourage that anyone who may have issues, contact the council people and let them know. Your concerns/comments are very important to Council.

Moccia-nothing to report at this time. Made a request that the paperwork for Ed Booth's evaluation be added to the next Council packet.

PUBLIC COMMENTS: GENERAL ITEMS

Jennifer Peterson-1415 Corey Road-stated reason for moving to Malabar was the love of nature and animals. Pointed out that 63% of Malabar residents voted in favor for EELs and 70% of the County is supportive of EELs. Comprehensive plan-voted on by the County, 30% for EELs preservation. Would like to emphasize that Malabar is something so unique and special. We have a rural setting where we can go downtown and then come back to our rural setting. We need to look at the 100 year view. Please take into account that 63% of our residents are in support of EELs.

Rivet-wanted to respond to Dr. Peterson. The reason he lives in Malabar is that he also likes to be in the middle of nature. The reason you are hearing so many different percentages is because it depends exactly what you are talking about. If you are talking about land owned by EELs, it is about 13.5%. There's also land owned by the Town that is nature preserves. There is also a very large amount of acreage that EELS has identified as being an acquisition target. Thinks that some of the problem that some of the members of the Town and Council is that EELs is buying the land and forgetting about it. Please don't interpret that we think EELs as being anti-nature or we want full development, because most of us don't want that.

Jennifer Peterson-understands concerns, she's ridden through the scrubs, but they have done a lot to improve it. The Scouts have done a great job of providing pamphlets regarding plants and animals. The time clock is ticking, the land value has gone up, so they have to emphasize land acquisition.

Rossman-some of the land is owned by the State, mitigated by EELs to the State. EELs need to take care and maintain the land that they have bought. They need to be town friendly, which they are not. They need to let the Council know what is happening with the property and what intentions they have. If they purchase land in our town, they have a responsibility to the town, the town people and to themselves to take care of what is purchased and protect the wildlife and vegetation.

Booth-what we are trying to do is get the taxes back.

Vail-what he has seen from the audience, the council is trying to communicate and work together with EELS rather than moving in different directions.

Jennifer Peterson-has emphasized to EELs that communication is very important and that they need to come to the Town Council and share what is happening and what plans they have regarding the land they have purchased.

Pat Reilly-1985 Howell Lane-what is the status of Jane Havet's pond and whether the Town owns it yet? A question to the Mayor, did the Mayor recommend the people to the Parks and Recreation Board? According to the ordinance, the Mayor recommends the people and then the Council will approve the recommendations. Has this process been followed?

Booth-the town has not taken possession of the pond because it is not finished yet. There is additional work that needs to be completed. The Town is monitoring the progress.

Moccia-the appointment of the Board members is on the agenda, and as far as I know, this has always been the way it is handled.

Pat Reilly-you just made a recommendation earlier to do away with the first come, first serve and now Council has done away with the Mayor making the appointments.

Rivet-to Mayor Eschenberg, you did not submit those names?

Mayor Eschenberg-stated that he did not make the recommendations. Years ago, the Mayor did make recommendations to Council. The ordinance states, just for the Park Board, that the Mayor recommends the Board applicants. It is just for the Park Board, not the other two Boards.

Vail-is this still in the ordinance?

Rossman-yes it is, and maybe we need to change the ordinance.

Rivet-we should take care of this the way the ordinance states or change the ordinance. There is no ordinance that states that the Council positions are filled on a first come, first serve basis. This had just been tradition.

Jim Milucky-1220 Highway 1-Has a question regarding the Florida Sunshine Law. When the meeting is opened to public comments, if you end up in a dialogue with the person making public comments, have you violated the Florida Sunshine Law?

Moccia-we are a very laid back Council. It is important for us to hear from you and to discuss the issues.

Bohne-there is no Sunshine violation. It's a Council prerogative. There is no fast set rule, it's up to the council and in a public forum, it is okay to discuss the comments.

Rossman-thinks it's beneficial. As long as it's in a public forum, there is not a violation. The inter-dialogue between the speaker and Council is beneficial to the speaker and to the people in the audience.

Vail-we are all here for the good of the town. It's good to listen to the townspeople.

Rivet-the conduct of the meeting is set by the Chair. If the Chair allows a dialogue between the Council and spokesperson, then so be it.

Chief Chuck McClelland-the tree lighting is scheduled for December 4th. We have been working on scheduling the annual Town Fire Department Christmas party. We are having a hard time finding a place to have the party since the fire department is out of commission. Chief McClelland asked the Council if this is something that we should do this year. He feels that, with all the extra work that everyone has to do, there probably won't be a good turnout. Looking for input from the Council regarding this matter.

Moccia-it would almost be a burden on you.

Chief McClelland-it's going to be very hard to do. The latest date we are looking at is December 18th, which Mr. Rossman has already stated that he would not be able to attend.

Rossman-understands the hardship of trying to put this together and has no problem with not having the party this year.

Booth-at this late date, it would be very hard to find a place to hold the function.

Chief McClelland-stated that they had looked at Camelot's recreation center, but there is no parking there, so we would have to transport everyone back and forth.

Moccia-please be honest, it's going to be difficult to hold this. Let's take a year off and start again next year.

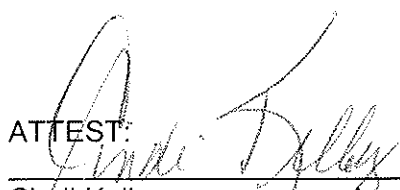
Rivet-we all understand the reasons behind this decision.

The annual Fire Department Christmas party has been cancelled for this year.

ADJOURNMENT

This meeting was adjourned at 9:15 p.m.

ATTEST:


Cindi Kelley
Recording Secretary

DATE: 1/3/05

BY:


Chair Bobbi Moccia