

**TOWN COUNCIL MINUTES**  
**January 6, 2003**

This meeting of the Malabar Town Council was held at the 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
CHAIR:	BOBBI MOCCIA
VICE-CHAIR:	STEVE RIVET
COUNCIL MEMBERS:	JANE HAVET
	BRIAN HUNTER
	BOB ROSSMAN
ADMINISTRATOR:	ED BOOTH
ATTORNEY:	KARL BOHNE - EXCUSED
CLERK:	SUSAN KABANA

Also present were Carl Beatty, Public Works Supervisor and Fire Chief Chuck McClelland arrived at 7:40pm.

**ADDITIONS AND DELETIONS:**

Kabana – has an addition: Request to go to bid for 600' of Leghorn for Mr. and Mrs. Borer, would like this to be action item number one. Delete the current action item number one, it was taken care of today. And one more addition: Eagle Corp Volunteer Coordinator, Tom Eschenberg, would like to speak under the reports.

**MOTION: Havet/Crews to approve. VOTE: All aye.**

**CONSENT AGENDA:**

**MOTION: Rivet/Rossman to approve the consent agenda.**

Crews – would like to ask both the citizens and the Council to lower the rhetoric relating to the Hall investigation. In the minutes the Chair stated there was a prosecution. At this point Crews is not aware of any prosecution. Rossman – when you initiate an investigation in fact it is the beginning of a prosecution, so it is just a matter of semantics. Crews – but it does not look good.

**VOTE: All aye.**

Council Minutes 12/16/02.

**REPORTS:**

**ADMINISTRATOR**

- Booth – Gentile has moved his stables to the rear of his property per the Special Master's order. But there is nothing to keep the horses from roaming the entire property and it is allowed in the RR-65 zoning. But Booth feels that the horses will stay closer to the stables because that is where they get fed.

Booth notes that this brings up some of the ambiguities in our code which need to be looked at. One of the things promoting this is that in the last two weeks we have been notified that two fairly large subdivisions are looking to come into Town. He feels that we are at the brink of re-doing our comp plan even though it is not due until 2008. Right now things are happening and we need to take a look at our community. To

precipitate that the EELS were in today and have also expressed the desire to join in our planning process regarding their land.

To start the process off Booth will present each Council member with a colored zoning map and a blank zoning map with crayons. The idea is for Council to come up with their vision of our zoning for the next five to ten years, and maybe how many people you see living here. Booth will put together the comp plan from the maps that are drawn. He feels that we are just ahead of development at this point and we need to do this now because if we get behind the power curve we will never catch up.

Havet – have the EELS stated what they would like for zoning around their property? Booth – no, they are only looking at rezoning what is there because currently they have a lot of industrial acreage. They are looking to connect their properties to promote ecotourism. They have also agreed to meet with Booth once a month to update him on their activities in town.

Booth – this process will take some time, maybe six months, but it will shape the community.

- Booth – Council has a letter written by Booth to Phelps regarding his position. Council asked Booth to look at those costs which could be cut and Booth notes that usually the code enforcement officer and the building official positions are separate. This causes a conflict of interest and is not very efficient, so Booth would want these positions to be part time. If there are no objections he would like to make this move. Council has no objections. Booth feels he can handle code enforcement for now until such time as he needs a code enforcement officer.

**MOTION: Rossman/Havet to accept and direct Booth to do this. VOTE: All aye.**

- Booth – passed out a copy of the proposed employee handbook and it has been staffed by other city managers, and Bill Withers has offered to look at it. We will have a workshop on it and in the end have a good document. This greatly expands our policies and outlines previously questionable policies.

- Moccia – asks Booth about job descriptions. Booth – Council will have those in the next two weeks, as well as a salary plan. He will present a study for Council as well as a recommendation.

### **CLERK**

- Kabana - the League dinner is Monday night, Malabar and Palm Bay are hosting. Also there is a reception for Commissioner Jackie Colon given by the City of Palm Bay earlier in the evening at the same facility.

- Kabana – for the record she has refunded BML and PRN \$2,802.85 each. That was the end of a \$21,000 deposit that they deposited with the Town of Malabar on June 4, 1997. This money was used for development of the property and when litigation began this money just sat there. Now that the issue is concluded the remainder will be returned.

- Rossman – where are we with the recording device? Kabana – talked with the company today, will order it tomorrow. It is a dual deck recorder, a mixer, 8 microphones with stands, and cabling. The cost is \$1,440. Moccia – Mr. Olszewski said he would assist in installing the system. Bill Withers – what is the warranty? Kabana – will check on.

### **PUBLIC WORKS SUPERVISOR**

- Beatty – was hoping for a dry winter but they can't wait any longer, they will have to use begin putting in pipe. In the mean time they have been working small projects.

**EAGLE CORP VOLUNTEER COORDINATOR**

- Tom Eschenberg – gives some stats on the Eagle Corp, which began on October 16. The stats through December 31st are as follows: 10 volunteers comprising 5 teams have done 26 patrols, they spent about 70 hours and drove about 976 miles. The reports showed 11 items recorded but they were not necessarily crime items but items like a dead dog in the road that they moved off to the side, to the condition of a bad road. These reports are given to the front office and the front office routes the information to the proper department. It is another way things get taken care of around Town. We plan on having quarterly meetings, the first one will be in January.

Moccia – she noticed some of the reports and feels this is a good way to get info to the proper departments. Rossman – has heard a lot of positive comments and commends the Eagle Corp and Eschenberg for providing this service. Applause from audience.

Eschenberg – when the next newsletter comes out he will have another article and recruit more people.

**PUBLIC COMMENTS: GENERAL ITEMS**

Bill Withers, Candy Lane – where are we on the Bill Hall investigation?

Moccia – has been leaving messages at the Sheriff's Department and no one returns her calls. Hunter – has been speaking with Glen Evers from the Sheriff's office and they have elected not to pursue the investigation and they have passed it up to the FDLE. FDLE has declined to pursue this also and as of this afternoon it was on its way to the Attorney General's office. And the feeling Hunter is getting from there is that they are going to decline to do anything with this also.

Withers – so are we going to write the State Attorney General's office a letter?

Moccia – this is a great idea. Rivet – feels we need to pursue this and not drop this. He would like to know what Hall owes the Town. He thinks it is important to send a message to people working in municipal government that that type of activity won't be tolerated. Rossman – feels that the message we send to our constituents is important.

Hunter – feels that Hall did some things that makes Hunter want to know what Hall was thinking when he did them. But Hunter has to comment that the credit card was actually the property of Bill Hall and there was never an expense report reviewed by this Council. Asks if that is correct. Kabana – the monthly credit card bill was approved by Hall. Hunter – is there is policy in effect that anyone who is submitting credit card charges, or any other receipt for that matter, be responsible for documenting this on an expense form? Kabana – no. Hunter – it's an unfortunate thing that we did not have anything like this in the past. He also would like to know what Bill Hall owes this Town but he has never heard a figure. Hunter states that if the State Attorney General's office declines to go any further then he is not sure what, if any, avenue we have left.

Hunter feels that the Council should work as a team and concentrate on the goals in front of them. He is not suggesting that forgetting the past but Hunter is sick of Hall's ghost and does not feel the issue should be discussed unless there is something pertinent to discuss. He suggests Council move forward.

Havet – she thinks that everybody is upset about the credit card and we'd like to see something done about that. But her question is what about all the alleged malfeasance he used as an administrator? What if allegedly it can be proved that if you were a friend of Bill's you didn't have to pull a code permit, you didn't have to do all kinds of things. She feels that there are many things that have happened in this Town that had Bill Hall's seal of approval and she does not know if all those things went to a Council vote.

Moccia – we need to discuss this with the attorney present. She asks Havet to repeat those things to our attorney.

Rossman – also does not want to continually deal with the ghost of Bill Hall. He resents Hall appearing at (the Malabar table) at the League of Cities (dinner). He resents Hall attempting to sit at the Malabar table. Moccia – Hall did not attempt but somebody did invite him. Rossman – he read the whole thing in the minutes and feels it should be addressed at another time. We seem to be getting caught up in the Hall thing and he would like to see something done positively about Mr. Hall. He thinks we should continue but he would like to wait until our attorney is present.

Moccia – in order to inform the audience of the topic Moccia states the issue: she was present at the December League dinner and Mr. Hall came to the Malabar table and the Mayor invited Hall to sit down and have dinner with Malabar, pointing at the seat two seats away from herself.

Moccia was not comfortable with that, because she knows that this Council does not feel that way and it is sending a wrong message to the other cities. Notes that the Mayor holds the alternate vote for the Space Coast League of Cities and she does not particularly care for him speaking for her, especially when she feels so strongly about this particular issue.

Hunter – states that he was there as well and his interpretation was completely different than what hers, Hunter wasn't even sure who the gentleman was at first. Hunter states that the Mayor was offering a civil grace, if nothing else, in a very uncomfortable situation. And he commends the Mayor for doing the right thing, had Mr. Hall sat down Hunter feels that the Mayor would have surprised, Hunter knows that he himself would have. You're talking about a social venue where we are interacting with our surrounding communities and maybe the proper thing would have been to get up and grab Hall by his tie and strangle him, but Hunter does not think that is the case. What he thinks should have happened was exactly as the Mayor did. He did a social invitation, not expecting him to accept.

Mayor – that is correct, it was a Christmas setting and in the spirit of the holiday season it was appropriate to extend an invitation. He extended an invitation to several people that night, some of which accepted. Crews did not expect Hall to accept. Hall sits with his city, which is Satellite Beach. If others would go to the meeting more often you would see what goes on. Moccia – plans on being there. Crews – it was the Christmas spirit and what Crews is trying to do is to protect the best interest of the Town. From the beginning he has cautioned Council to lower the rhetoric, put this thing in perspective, and let the professionals do the investigation and to be silent and stay out of it. Crews is trying to protect the interest of the Town against litigation by Mr. Hall. Crews has talked with other attorneys and he knows what Hall's potential areas of litigation might be and should Hall choose to do that Crews feels that Town is in serious jeopardy. He feels that whenever the rhetoric goes up that we are inflaming the potential. Crews is trying to keep us out of trouble.

Rossman – he was not at the dinner but he knows Bill Hall and he guarantees that Mr. Hall would have sat down. Moccia – had she not been there, there is no doubt in her mind. Rossman – he probably knows Bill Hall longer than anyone here, he knew him before Hall was a town manager. Rossman resents the fact that Hall was invited to sit at the table. He does not think that this was the place for that man to sit. If Hall wants to come to those meetings he is welcome too, Rossman has no problem with that. Rossman has no animosity, he has no ill feelings for Mr. Hall. Rossman just feels that the way Hall left this town, and what he did to this town, that Hall has absolutely no place even being invited to sit at the Town of Malabar table. That is Rossman's opinion.

Havet – she thinks perhaps what the Mayor was saying is like that old country saying that goes: it's alright to have a snake for a friend as long as you know where his head is. But we are trying to prosecute the guy and on the other hand we have him sit at our table. Asks if he was looking for another job at the League of Cities, what was he doing there? Kabana – he is the past president and he may go to every dinner for life. Rossman – he is entitled to be there.

Rivet – he has no problem with the Mayor speaking with Hall and extending pleasantries however, he feels that the League dinner is not purely a social event, we are representing the Town of Malabar. Therefor Rivet feels that it is extremely inappropriate to ask the disgraced former administrator to sit with us. Rivet feels that the Mayor is fully aware of the opinions of most of the Council members with regards to Mr. Hall. And Rivet thinks to make an offer for Hall to sit at the Malabar table was extremely inappropriate and Rivet can't stress that enough. Rivet cannot understand why the Mayor would do that. Rivet can understand being nice and polite and exchanging pleasantries but inviting Hall to sit at the Malabar table was not appropriate.

Moccia – feels that the Mayor did not speak for this Council or this community and she feels that having the Mayor as an alternative vote for the Space Coast League would not be in this Council's best interest. Feels the Mayor sent the wrong message to the neighboring communities and she does not respect that. She would entertain a motion.

Crews – asks the Chair to return to regular order, asks to return to the agenda. States that we are off the agenda and this is not an agenda item. Moccia – will wait for her report to ask.

Rossman – asks if we can make this an agenda item for the next meeting. Moccia – agrees.

**MOTION: Rossman/Rivet to have an agenda item as follows on the next agenda: Alternative vote for the Space Coast League of Cities. VOTE: Aye – Rivet, Moccia, Havet, Rossman. Nay – Hunter.**

#### **DISCUSSION ITEM:**

##### **1. COUNCIL TO SUBMIT CHARTER REVIEW COMMITTEE NAMES**

Rossman – Pat Dezman, and is looking for a name from Brook Hollow. Hunter – Bill Withers and Stuart Borton. Havet – is still working on this issue. Rivet – Roy Baker and is waiting for an answer. Moccia - Pat Benington and Carol Briggs. Council – would like the Mayor to also submit names. The meeting is January 30, 2002 at 7:00 pm.

Booth – during this process Booth will be here for administrative support but generally he does not get involved with these items. He is precluded by the ICMA from getting involved in the process and influencing it either way. Rivet – since we have a meeting on January 16<sup>th</sup> he feels that should be the deadline to submit names. Council agrees.

#### **ACTION ITEMS:**

##### **1. REQUEST FOR BID FOR 600' OF LEGHORN FOR MR. AND MRS. BORER**

**MOTION: Rossman/Havet to go for bid for 600 feet of Leghorn.**

Rivet – is Borer aware that we are changing the road ordinance to make it less expensive to build a road? Borer – no, asks if the changes are substantial. Rossman – the depth is the change, it is going to be 8 and 8. Borer – thinks that is what was engineered. Moccia – this needs to be checked on because this is not the current code. Booth – will check into this.

**VOTE: All aye.**

**2. APPLICATION TO PARK AND RECREATION BOARD, CAPTAIN ROBERT SIEGMANN, 2305 LACOURT LANE**

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

**3. CODE ENFORCEMENT**

Booth – is not sure how long he will take this on but he would do it until it is obvious that we need to hire someone.

**MOTION: Rossman/Rivet to appoint Ed Booth as the temporary Code Enforcement Officer.**

Hunter – are there specific requirements by the State for this position? Booth – no. Booth – there is a feeling in Town that when someone wants to build and the need the Building Official, they are also calling on the Code Enforcer and they are hesitant to build, or maybe they build without a permit.

Havet – is Phelps free to apply to the part time positions? Booth – yes, and we will look at the best qualified and best suited for that position.

**VOTE: all Aye.**

**4. BUILDING PERMITS**

Booth – is not a building inspector but he does need the authority to be the building official in order to sign permits. We are cleaning up permits that have been sitting out there. He is only signing minor permits. Booth notes that the County is performing inspections at no cost.

Hunter – what are you looking to hire the building official for? Booth – is looking for part time, maybe semi-retired, no benefits. Hunter – feels we will need a code enforcement officer eventually and that the cost to fill both positions may be equal to what we already have. Booth – feels that if he empowers those around him that issues can be settled. Havet – does not feel that we need to go on reconnaissance for code issues anyway.

**MOTION: Rossman/Havet for Booth to be the temporary building official and this does not include building inspections.**

Hunter – so what does the Building Official do? Booth – signs permits and looks over the plans. Anything major will go to either our engineer or a licensed building official. Hunter – asks Booth not to hesitate if he feels something should be looked at closer.

**VOTE: All aye.**

**REPORTS: MAYOR, COUNCIL**

Kabana – who is going to the League dinner? Rossman (1), Hunter (2), Crews (2), Havet (1), Moccia (1), Booth (2), Kabana (1)

- Havet – nothing at this time.

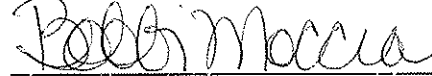
- Crews – nothing at this time.

- Hunter – thanks Beatty for cleaning up the Jordan scrub and notes that it has been secured for five days in a row, which is a record. Hunter feels that he has secured the south end of the scrub as well. He encourages hiking and using it for permitted uses which will keep the unauthorized uses to a minimum. Hunter notes that new signs are needed. There is to be no fire arms, no fishing, no hunting, and no camping out there. He will be contacting the EELS regarding the removal of large trash items. Havet – there are a lot trails that were marked as no-horse passage but it was the horses that kept the trails clean. Now that the horses are not allowed through the trails are being overgrown. Hunter – that is because EELS wants those trails closed off.

- Rossman – we have a vehicle not being used, could Booth use that vehicle? Booth – he will put some miles on it in town just to keep it from rotting but the idea is that when we get someone to take over the park then they will get Beatty's old truck and then Beatty would use the Isuzu. Hunter – would like to see a log kept. Council agrees.
- Rivet – nothing at this time.
- Moccia – did Booth talk to Bohne regarding the ability of Booth being able to sign in the Building Officials capacity. Booth – yes he did and he notes that it is the Building Inspector that has to be licensed through the State.

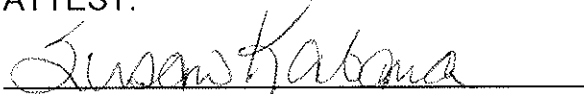
Meeting adjourned at 8:45 pm.

BY:



Chair Bobbi Moccia

ATTEST:



Susan Kabana, CMC  
Town Clerk/Treasurer

DATE:

2/3/03