

TOWN COUNCIL MINUTES
June 16, 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
CLERK:	SUSAN KABANA

ADDITIONS AND DELETIONS:

Rossman – move employee manual item from number 4 to number 5 on the agenda, he has many changes. Council agrees.

CONSENT AGENDA:

Council minutes 8/13/02, 9/3/02, 10/21/02, 11/4/02, 11/7/02, 11/25/02.

Council Workshop Minutes 7/9/02, 7/11/02, 8/13/02, 9/6/02, 10/9/02, 10/19/02.

MOTION: Rivet/Havet to approve.

Rossman – 11/4/02 minutes, Rossman is not on roll-call but was there. 7/11/02 minutes – on the first page he has questions about the discussion of the Town Administrator's position. Mayor – feels the minutes clearly reflect what he said at that time (no change will be made). Rossman – 10/9/02 minutes, he is not on roll call but was there. Kabana – will make corrections.

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

REPORTS:

ATTORNEY

Nothing at this time.

ADMINISTRATOR

Uses overhead to show code enforcement issue on US1 that has since been cleaned up. Booth also shows pepper busting improvements and pictures of the Malabar dock. Moccia – she is working toward having the dock designated as a historical landmark which will help with obtaining grants.

- SUNSHINE DODGE REQUEST

Booth – talked with them and at this time they are not interested in building anywhere.

- Booth – there are squatters on Marie Street and they were told they had one week to find lodging, they are on church property. The squatters are in the audience and they ask the Council for more than one week. Booth – we will help them.

- Booth – is working on Malabar Park. Is going to fix the soccer field and add sprinklers. We are eliminating one ball field which will give us more money to work with.

YELLOW DOG CAFÉ BUILDING PERMIT ISSUE

Booth – states the he has handed this issue over to the attorney. The Borton's have not handed in plans, at this point the Town only has hand-drawn sketches.

Attorney – in July 2001, the Town granted the Borton's a variance to allow the expansion of the existing non-conformity.

Rivet – what about a site-plan? Booth – at that time the project was of a specification that made it a minor site plan and a minor site plan does not require a site-plan. Bohne – there are a lot of errors in this process however this does not excuse not following the technical code requirements. He has now asked the Borton's for a formal site plan.

Moccia – just wants to make sure this is done correctly from here on out. Bohne – they have a general contractor, a plumbing contractor and an electrical contractor. At this point we want to make sure this is a safe structure. There is comfort in knowing that this area will not be used by patrons eating lunch or dinner. Hunter – was told that this area will be used for preparation of food for catering. Rivet – what about the stop work order? Bohne – this is still in effect until the fire marshal approves the plans. Crews – understands that this entire project came about because someone fell on the stairs and this project was to replace those stairs. Discussion continued. Bohne – safety will be the priority.

- Booth – uses overhead to show house on Lett Lane which needs code enforcement, at this point they will get a more forceful letter telling them to clean up. Now there is a camouflage shed on the driveway. Council – wants to see this area cleaned up.

- Rossman – did he hear from the postmaster? Booth – the postmaster is not going to change his mind. Havet – what can we do? Rossman – everybody has a boss, we can go over his head. Rivet – it is not unreasonable to ask to have delivery down a decent road.

CLERK

- Kabana – thanks Council for opportunity to go the FGFOA conference, she learned much.

- Kabana – is working with the State to obtain a purchasing card which will totally replace our credit card. She notes that Bill Hall attempted to cancel our credit card but was not successful.

- Kabana – reminds Council that their Form 1's are due to the Supervisor of Elections by July 1st.

- Kabana – we need a voting delegate for the League Conference.

MOTION: Rossman/Crews to approve Moccia as voting delegate. VOTE: All aye.

PROCUREMENT OFFICER

- Withers – went to Stark, purchased items for public works.

- Withers – regarding Park Maintenance: He continues to find gross trash at park and there was a group that was scheduled to stay at the park overnight and they told Withers that people come and go at all hours. Some people are illegally staying

overnight. The park needs to be secured.

- Cars are entering the park via the Fire Station. He proposes putting in posts with chain between the posts and the chain can be taken out during Malabar Day. Rossman – likes this idea. Rivet – wants to do something the Fire Chief can live with. Havet – can use airline cable with PVC pipe. Crews – can we talk to the Park Board? Osterhout – the Park Board was concerned about the cost. Richard Cameron – part of the problem has been that the Fire Dept has always had access to this area, if the Council wants to change this then they should begin discussions.

Shawn Futch, Malabar Volunteer Fire Department President – at their last few meetings they have asked their members not to drive on the grass. Also, they have been cleaning behind the Fire Station to allow for more parking. Council – directs Booth to control the perimeter of the park.

PUBLIC WORKS SUPERVISOR

Beatty – Public works is working towards using comp and vacation but it is leaving the public works department short handed, but they are still working toward the projects.

TRAILS AND GREENWAYS VOLUNTEER COORDINATOR

Richard Cameron – thanks Hunter for helping with the motorized vehicle problem. Discussion of horse paths and trails at the south end of Town. Moccia – wants to make sure we can have a path down the east side for horse and foot traffic. Discussion of water shed. Cameron – he is working on signage for the trailhead. Havet – commends Cameron and his assistants for doing a great job. Cameron – has been approached by members from County to help other communities develop trailheads. He notes that regarding our trail head grant once he learned that there was a time limit on completing the work for the grant he worked faster, now he is able to slow down to one work party a month.

PUBLIC COMMENTS: GENERAL ITEMS

- Mr. Vitaliano – is concerned about insurance and liability of the Town regarding bike riders on main roads since there are no bike paths.

- Ken Shafer – lives on Lett Lane, is asking that Council change their criteria for paving roads. Booth Road was paved and only served one home, there are several homes on Lett and that was not paved. Asked Council what is the criteria? Administrator – the Town is not paving “Lanes”, only “Roads” were paved. Shafer – asked the Council to change this criteria to use the number of homes that would be served by a paved road.

- Diana Foley, Lett Lane – their neighbor has an acre and an half and the yard is filling quickly with junk. This is the newest house on the block and now there is a camouflage shed on the driveway. Rossman – what is the next step? Booth – he will send a firm letter.

- George and Suzanne Vincent – also lives on Lett Lane and is adding to what Diana Foley said.

- Ken Shafer – also lives on Lett Lane and admits that this is a mess but also believes in property rights. Does not feel this woman should be singled out. Bohne – it is hard to do anything because a lien can't be put in the homestead. Foley – these people know the rules and they know how to bend them.

- Francis Totten – has a neighbor at 2956 Century Oaks Circle and this neighbor is running their sprinklers at odd hours and the water hits a tarp they own and makes much noise. This tarp is right outside her bedroom window and Totten can't sleep.

Moccia – Booth should talk to the neighbor. Havet – will also go. Booth – will go with Havet to talk to the neighbor.

- Laura Gerhrd – is one of the squatters on Marie Street and is currently homeless, it is a difficult time right now. If it would help they will volunteer in the parks, they just need some time right now. The daughter steps forward and states that she will help her mother. Booth – we will help them. Hunter – we will help but there will be some time when they will have to move on.

- Richard Doyle – lives at the south end of Marie at the dirt road, thanks Council for all they have been doing. They have had a great deal of help cleaning up the area. Also thanks Booth for cleaning up the area on US1. And thanks Cameron for his work on the trailhead. Appreciates everything that the employees have been doing.

PUBLIC HEARING:

1. ORDINANCE 03-05, SECOND READING, AMENDING ORDINANCE 01-01, RIGHT OF WAY IMPROVEMENT (ROAD ORDINANCE)

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

ORDINANCE NO. 03-05

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING SECTION 13-38(A); REQUIRING AS A CONDITION FOR ISSUANCE OF A PERMIT FOR A PERMITTED STRUCTURE ON AN UNIMPROVED RIGHT-OF-WAY OR UNACCEPTED LOCAL STREET/ROAD THE OWNER MUST PROVIDE FOR IMPROVEMENT OF SUCH STREET/ROAD FROM THE NEAREST, IMPROVED AND ACCEPTED STREET/ROAD; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

Chair asks for public comments, being none, she closes the public hearing.

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

ACTION ITEMS:

1. APPOINT A COUNCIL MEMBER TO JOIN THE ADMINISTRATOR AND RENEGOTIATE A CONTRACT WITH PALM BAY FOR WATER AND SEWER SERVICES

Booth – we need to have a better agreement for the water Palm Bay pumps from wells located in Malabar, and they need assurance regarding the water access. Rivet volunteers to help. Bohne will assist. Council – all agree.

2. VALKARIA AIRPORT ADVISORY BOARD MEMBER

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

3. BUDGET LINE ITEM ADJUSTMENT

Booth – if he does not resurface Hall Road now it will fall apart. Country Cove resurfacing will be in the next budget and will be done early in the new budget year. Rossman – feels that Country Cove will need more than just resurfacing.

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

5. FIRST READING: ORDINANCE 03-03, CULVERTS

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

ORDINANCE NO. 03-03

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VIII OF THE MALABAR LAND DEVELOPMENT CODE; AMENDING SECTION 1-8.7; PROVIDING FOR NEW SECTIONS 1-8.13 THROUGH 1-8.19 RELATING TO CULVERT AND DRIVEWAY INSTALLATION AND CULVERT REPLACEMENT; PROVIDING FOR A PERMIT AND PERMIT APPLICATION; PROVIDING FOR DESIGN REQUIREMENTS; PROVIDING FOR CONSTRUCTION STANDARDS; PROVIDING FOR CONDITIONS; PROVIDING FOR A MAINTENANCE AND INDEMNITY BOND; PROVIDING FOR REPLACEMENT OF EXISTING CULVERTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

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

4. RESOLUTION 05-03: EMPLOYEE MANUAL

MOTION: Rivet/Crews to approve.

Discussion. Rossman – feels that there are many changes.

MOTION: Rossman/Crews to table VOTE: All aye.

DISCUSSION:**1. MALABAR MAIL BOAT DOCK**

Moccia – is working toward having the boat dock designated as an historical marker. Asks all in the audience if anyone has a picture of the dock from the 1800's. Parking is an issue and a separate grant can be obtained for that. Havet – has heard about shadowing problems with the dock. Kabana – glass block can be used. Beatty – board spacing and height are also used to deal with this.

REPORTS: MAYOR, COUNCIL

- Havet – nothing at this time.

- Crews – has an issue with Withers as the park contractor, is concerned about protecting the Town against liability. His understanding is that Withers is a contractor and asks if this was done by competitive bid. Crews asks Bohne to research his concerns, he does not want Town to be liable. He handed each Council Member the IRS's 20-Factor Analysis and read those that he feels applies to Withers. Bohne – the IRS wants to be sure if the proper withholding taxes are held. Crews – he does not want to see the Town be in trouble. Hunter, Moccia – agree. Rossman – is not concerned about this.

Crews – does Withers qualify as a sub-contractor? Bohne – looked at Withers contract and highlighted a section regarding the Town providing the equipment, he had a problem with this section. Booth – but it was left in the contract. Crews – wants to make sure we are protected. Bohne – the issue with the IRS is a control issue – do you control this employee?

Hunter – why has he not seen the contract? Booth – the revised contract has not been printed or signed. James Milucky from audience and a certified public accountant – regardless of the 20 factor list, as a CPA he would be wanting to know if Withers fills out a time card and if he is supervised by Booth. Hunter – asks the attorney to look into this. Council – agrees.

- Hunter – had volunteers at the scrub cleaning up and the trash needs to be picked up before it scatters again. There are some areas that have been wired-off to keep all

horse and other traffic out. Havet – asks Hunter to tell Prusak about fence that is down near her home. Hunter – the area off of Marie Street is listed as non-access by anyone but Hunter states that this is going to be changed. Notes that we need a gate at the end of Marie to keep out the trash. He notes that the Cochran land is about to go to the State and they are asking for us to keep the gate at Jordan closed. Havet – asks Hunter to keep patrolling around her home.

- Bill Withers – has a letter about what we have to do in order to post signs around the park and what the signs should contain and where they should be posted. Hunter – they have had to put two of the same signs on the same post in order to meet the letter of the law for 'size' requirements.

- Rossman – what about the MSTU from the Sheriff? Booth – this is at staff level at this time. If the citizens pay more money he does not feel we would get any more coverage.

- Rossman – what is this Frazier Engineering request for funds? Booth – Frazier put in a request for funds after the FEMA grant was closed out, and they knew the close out documents were already sent in. Booth refused to pay this amount and if Frazier wanted to ask to be paid by the Council they could do that. But they don't want to.

- Rivet – regarding the mail delivery he is going to talk to some of the other affected residents and contact our Congressman. Is also going to contact the local postal union and discuss safety issues with them. Havet – is all for this.

- Rivet – is making his annual pilgrimage to our Sister City in Turkey.

- Moccia – will take a copy of the minutes from the last meeting to the postmaster.

ADJOURNMENT

Meeting adjourned at 10:23 p.m.

BY: 
Chair Bobbi Moccia

ATTEST:


Susan Kabana, CMC
Town Clerk/Treasurer

DATE:

7/7/03