

**TOWN COUNCIL MINUTES**  
**July 7, 2003**

This meeting of the Malabar Town Council was held at 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 Ms. Moccia.

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

**ADDITIONS AND DELETIONS:**

Booth – would like to move the Denuzzio issue up on agenda.

**MOTION: Rossman/Hunter to approve as amended. VOTE: All aye.**

**CONSENT AGENDA:**

Council minutes 6/2/03, 6/16/03. Council workshop 6/19/03.

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

**ACTION ITEMS:**

**1. RALPH DENUZZIO & ASSOCIATES REQUEST FOR SITE PLAN APPROVAL FOR PROJECT LOCATED BETWEEN MALABAR AND GLATTER ROADS**

Denuzzio – gave overview of who he has spoke with up to this point, St. Johns, DOT, etc. and updates Council on the status of his project.

Rossman – asks Denuzzio to explain flex space. Denuzzio – flex space is behind a front office, it can be used for storage, or remodeled and used for additional office space. Rossman – is not satisfied with questions from staff that are not answered, asks Parkhurst if the questions have been answered. Parkhurst – no, there are a lot of items that have not been resolved.

**MOTION: Rossman/Hunter this issue should go back to P&Z.**

Discussion. Havet – asks if Rossman now understands flex space. Rossman – this is only a minor concern. Denuzzio – this is not a warehouse, a renter will have first class office space in front and have the flex space in back. The Town would control the business in each office because each occupant needs a license from the Town. Havet – would you be putting up a fence like the one in Fort Lauderdale? Denuzzio – no.

Rossman – quoted some of the engineering comments. He continued to read the comments made by Town representatives and restated that this project should go back to P&Z.

Moccia – spoke with the engineer and the building official and they both have issues with this project. At this point she agrees that this project should be worked on more before an approval is given.

Crews – feels that Council thinks this is a credible project and would like to see this go through but there are questions that should be answered. Rossman – agrees.

Denuzzio – does not feel that he has been treated fairly by Town staff and does not plan to go forward. Rossman/Hunter – do not want to see him walk away, they like the project but feels it should go back to P&Z one more time. Denuzzio – pulls out of the project, is very dissatisfied by his treatment from Town staff.

Richard Cameron – notes that P&Z did not receive information that was required in a timely manner which hampered their decision process. Feels that a better project will come forward. Council – agrees.

### **PRESENTATION: SENATOR MIKE HARIDOPLOLS**

Haridoplos – goes over the accomplishments of this last session and is here to meet the Council. He feels that the most important issue is communication. Moccia – notes that Malabar has a lot of land that belongs to the EELS and the management of those lands are an issue in this Town.

Havet – what about taxes on the casino boats? Haridopolos – when you go onto a gaming boat you don't know the odds of winning, or who is running the games. It protects the consumer to disclose this information, a consumer has the right to know the rules and who is running the games. As far as taxes, the government taxes every amusement from putt-putt golf, to Disney World and Universal studios, it is a fairness issue to tax cruise boats also.

Crews – thanks the Senator for coming. Haridopolos – thanks Council for their time and plans to come back.

### **REPORTS:** **ATTORNEY**

Bohne – received the sealed engineered drawings for the Yellow Dog and he gave those drawings to Booth tonight. They are moving forward.

Rossman – where are we with Gentile, there was activity on his property in the last two days. Booth - will look into, this should be the planting of the trees.

Bohne – notes that Gentile's appeal is still 'out there'. He has about a 50/50 chance of winning. If he wins the only thing that can happen is that it will come back to Council. The Court cannot approve the application.

Clerk – for the record she notes that both Gentile and Burke owe the Town money.

Havet – states that Gentile has involved himself in her daughter's legal case, would she vote if this issue comes before Council? Bohne – if she cannot be unbiased then she should not vote.

### **ADMINISTRATOR** **- REQUEST TO SURVEY CITIZENS REGARDING SHERIFF COVERAGE THRU** **MSTU'S**

Booth is requesting to survey the public regarding Sheriff coverage. Moccia – understands that we built the Sheriffs department an office in our building in exchange for sheriff coverage. Rossman – feels that if we are going to pay for their service then they can pay for the use of our substation.

Booth – is working on water down US1.

Booth – the Denuzzio project has brought out several issues with our ordinances and Mr. Mills is working on this. Glatter Road is really a problem.

Booth – shows transparencies of pepper busting along the river.

**CLERK**

Kabana – takes league dinner reservations: Hunter, Crews, Havet, Moccia, Booth. Havet will attend the Intergovernmental Committee meeting.

Kabana – League breakfast for convention: Moccia, Havet, Crews, Hunter, Booth.

Kabana – purchasing card will cost \$205 a year, Council feels that using a credit card and having policies and procedures will suffice, they do not want to pay for the purchasing card.

Kabana – has provided a budget folder for use with the upcoming budget.

**PUBLIC COMMENTS: GENERAL ITEMS**

- Diane Parker – reads parts of her letter attached to the original minutes. Would like the area she lives in rezoned to a lesser density. Moccia – to rezone you would need to apply for a rezoning and even if Council did rezone the current owners would be grandfathered in. Discussion. Parker – then will not pursue this and will rescind her agenda request form for the next meeting. She would like to see the Council address the need for help for the needy who need house repairs. Discussion of drainage in her area.

Bohne – the Council has the right to rezone but it does not have the right to take away vested rights.

- Bob Wilbur, Planning and Zoning Chair – has concern with the planner that was recently hired. Keith Mills has another full time job and we need the service of a full-service planning agency. Feels that this is a necessity. Also, information that is for P&Z needs to follow a better time-frame than was used with the Denuzzio project. Moccia – this was discussed and will be followed in the future.

Moccia – would like the issue of a planner on the next agenda for discussion. Crews – asks Booth what is around. Booth – there is really nothing around. Wilbur – feels that Solin and Solin is a good choice. Discussion. Crews – one of the problems with them is the travel time and the fact that from them we get boiler-plate ordinances that fit other cities and not necessarily Malabar.

Wilbur – wants us to be careful that we are not going to spot zone and create non-conformities.

**PUBLIC HEARING:****1. ORDINANCE 03-03, SECOND READING, CULVERTS**

**MOTION: Rossman/Crews 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.

Moccia asks for public comment, being none, she closes the public hearing.

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

**ACTION ITEMS:**

**1. RALPH DENUZZIO & ASSOCIATES, REQUEST FOR SITE PLAN APPROVAL FOR PROJECT LOCATED BETWEEN MALABAR AND GLATTER ROADS**

Moved to first item on agenda.

**2. DISBANDING OF THE CHARTER REVIEW COMMITTEE**

**MOTION: Rossman/Crews to disband committee. VOTE: All aye.**

**3. SCHEDULE JOINT WORKSHOP WITH PLANNING AND ZONING TO DISCUSS COMPREHENSIVE PLAN**

It is set for August 27<sup>th</sup>.

**DISCUSSION:**

**1. PRELIMINARY DRAFT OF FINANCIAL STATEMENTS FOR YEAR END SEPTEMBER 30,2002**

Rossman – per the auditors comments we must address accounting policies and procedures. The auditors also comment that the minutes must be done in a timely manner and they state that we were not properly segregating duties.

Kabana – the minutes were late due to losing two office employees, one right after the other, and she could not keep up with the work load.

**2. PROPOSED INTERLOCAL AGREEMENT WITH THE CITY OF PALM BAY REGARDING THE MAIN WATER WELLS LOCATED IN MALABAR THAT ARE USED BY PALM BAY UTILITIES**

We are in the negotiation stage with Palm Bay and they are developing an interlocal agreement. We will send that agreement to our attorney when we receive it.

**3. PRELIMINARY DISCUSSION OF THE PROPOSED BUDGET FOR 2003/2004**

Booth uses overhead to discuss preliminary projects for the budget: pay increase, retirement, tax increase by 5% to cover public works projects, part-time in-house engineer. Booth will do a rate study on the utility fund and will set aside money for a capital improvement fund in the general fund. Council is not interested in giving monetary reimbursement to employees who do not use health insurance.

Booth lists some of what is needed as far as public works and drainage projects. Moccia – wants to see the Homestead Lane project in the budget. Booth – will do that project this year. Booth – has an additional employee in the public works department.

- Booth – we are building our roads so you can top them with asphalt some time in the future. But what is happening is that we are not topping them and over a period of four or five years Public Works has graded-off the top of the road. Then people complain about the quality of their road. Booth feels that these roads are not meant to be graded, they are meant to be capped. This is one of the reasons why Booth would like an in-house engineer. Booth feels that Council needs to discuss what they want – dirt or paved roads?

Rossman – maybe we need a different standard for building dirt roads. Discussion. Booth – Frazier uses DOT standards because he can stand behind them.

Council likes a part-time engineer.

**4. MEMBERS OF THE PUBLIC CONTACTING PAID TOWN CONTRACTORS  
(ATTORNEY, PLANNER, ENGINEER)**

Booth – we have a problem with citizens who are on the volunteer boards calling the paid staff and we can't afford that. Bohne – citizens call him but he won't talk to them due to the compensation issue. Council – agrees that Board members should not have the power to call paid staff. If there is a reason for them to need to call paid staff then they must go through Booth first. Booth – will give this information to the boards.

**REPORTS: MAYOR, COUNCIL**

- Moccia – has a certificate of appreciation for Bill Withers from the Navel Sea Cadet Corps. She presents a certificate to the Mayor, on behalf of the Town, from the same group.
- Booth – Havet did a great job of taking care of the homeless situation, she found them a place to live. Havet – she gave them the choice of going with the church or going with the Sheriff and they took the church. She will consider a donation to the Light of the Lord Church. Beatty – the camp site was disbanded and cleaned on Saturday.
- Crews – issue on Withers contract? Bohne – gave a written comment to Booth.
- Hunter – nothing at this time.
- Rossman – completed Booth's evaluation and is very satisfied with Booth's work up to this point. Rossman wants to give Booth \$750 bonus out of his (Rossman's) discretionary fund for the tremendous effort. Bohne – taxes will have to be deducted.

**ADJOURNMENT**

Meeting adjourned at 10:25 p.m.

BY:

  
Chair Bobbi Moccia

ATTEST:

  
Susan Kabana, CMC  
Town Clerk/Treasurer

DATE:

7/21/03