

**TOWN COUNCIL MINUTES**  
**July 21, 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 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:**

Delete action item 5, Building Permit Restructure Fees.

Crews – this can be approved via unanimous can consent..

**CONSENT AGENDA:**

Council minutes 7/2/03.

Rivet – was not here to make a motion on additions and deletions, it was Rossman.

Crews – page 2 – regarding Havet the word should be unbiased, not bias.

**MOTION: Crews/Rivet to approve as amended. VOTE: All aye.**

**REPORTS:**

**PRESENTATION: ANNUAL AUDIT REPORT FOR YEAR END SEPTEMBER 30, 2002 FROM BERMAN HOPKINS WRIGHT & LAHAM CPA'S LLP**

Ross Whitley – overviewed audit. Discussed single audit on FEMA grant due to expenditures over \$300,000, and discussed other grants. He discussed the management letter comments and noted that the general fund was in very good condition at the end of the year but the water and sewer fund is in trouble and has no room for capital improvements.

**ATTORNEY**

Provided a resolution for piggy-backing other government contracts but now feels that it should be done by ordinance due to auditors comments. Rossman – was going to make that suggestion. Council – gives Bohne consensus to work on this ordinance.

**ADMINISTRATOR**

- Went to the Chief of Staff for Senator Nelson and Booth has been told that Senator Nelson will support the grant for water going down US1. This grant will support the war on terrorism due to Harris Corporation benefiting from the project.
- Booth meets with the EELS once a month and during their last meeting the EELS stated that they want to purchase two more parcels of land in Malabar. One is the Heritage Foundation land east of Brook Hollow and the other is 19 acres on Malabar Road near Corey Road. Booth has a problem with this because he does not feel this is endangered land. Rossman – feels that there are parts of this area that are

environmentally sensitive. Booth – feels that they are only buying the little piece because they have the big piece, there is no science to it. They just want it because they want it.

Hunter – he has a serious problem with them acquiring more acreage in Malabar when they are not taking care of what they already have. Hunter – if they purchase this acreage they would own approximately 1,800 acres in Town, this is about 1/3 of our total area taken out of our control and no way to develop it.

Rossman – feels we should oppose them on both purchases. Booth – feels that the Heritage land is a boondoggle and that someone should contact the Attorney General's office. As far as the other parcel we need to approach the County Commission and let them know that we oppose this.

Hunter – would like a letter sent to our representatives like Thad Altman, who started the EELs, Mitch Needleman and all the others involved and explain our situation. Moccia – agrees. Booth – will talk to Rocky Randalls.

Crews – Needleman told Crews he would help him with this issue. Crews volunteers to talk to Mitch Needleman, Council welcomes this.

Rossman – feels that a letter drafted stating the Town Council's unanimous opposition to both acquisitions would be in order. All Council members agree.

- The Sheriff has offered us the use of low risk prisoners in large groups, but we have to guard and transport them. Beatty has been trained as a guard, but Booth needs a van. Beatty – these are not the same type of prisoners that come from Keep Brevard Beautiful, which have to be guarded by a armed guard. The prisoners that would be available to us actually go home at night and report to the prison every morning. They are low risk and if someone gives him are hard time then they don't get to come back. And if a prisoner walks off then all Beatty has to do is call a number. He is not responsible for them if they walk off. Beatty does not see guarding them as a problem.

#### **CLERK**

- We have an application to build 1149' of Treadwell that is on its way to the engineer's office.

- Kabana handed out a chart of 2002 taxes showing that Malabar does not pay a law enforcement MSTU.

- Kabana states that candidate qualifying is Sep 5<sup>th</sup> through the 19<sup>th</sup>, 2 seats up for election. District 4, Bobbi Moccia and District 5 Bob Rossman.

- Tells Council to bring in their code books for updating and tells them to check for their copy of the comp plan. The workshop to discuss the comp plan is August 27<sup>th</sup>.

- Is still working on the credit card issue and is getting closer to having one only in the Town's name.

#### **PUBLIC COMMENTS: GENERAL ITEMS**

Bruno Dispenza – is here in regard to the fine he paid when he cut down two tress in his yard. Dispenza was told to appeal Council's decision that denied the refund to Mr. Booth. Dispenza appealed to Booth and is not satisfied with Booth's decision.

Booth – has been speaking to Norm Smith about this but they are leaning toward not granting this appeal because if we grant this then we open the door to having every tree in Town cut down.

Crews – does not agree with this, feels this is a property rights issue. Rossman – is in favor of this ordinance, feels trees serve a very valid place in our Town and the Town has right to regulate what happens to those trees. Discussion. Rivet – feels that

this is a property-rights issue and agrees that we should be able to do what we want on our own property.

Hunter – in this particular situation he feels that Dispenza should be refunded his fine. Dispenza – asks what is so special that we can't cut down a tree? Rossman – the environment. Discussion.

Hunter – would like to bring Dispenza's appeal to the next Council meeting. Council agrees.

### **AGENDA REQUEST FORM:**

#### **1.FREDERICK GOLBA, LAZY K CAMP GROUND, US HIGHWAY 1, PALM BAY, FL. SPONSOR IS MAYOR CREWS**

Golba – director and developer of Coast to Coast Search and Rescue Service. Was training in the EELS sanctuary and was approached by Withers who said he would cite him because he was in violation.

Moccia – did Golba have permission to train in the EELS property? Golba – does not feel he needed permission. Moccia – has talked with EELS and they will not allow this training on their land. Golba – he also spoke to them but they are looking at this. Moccia – reiterates that they are only looking at this.

Moccia – the park is not a training facility and something like this would have to be through a permit. Golba – Florida Statutes allow service dogs to go anywhere the public is invited. Rossman – the Statutes do not refer to search and rescue dogs. Crews – disagrees. Moccia – the moment the dogs begin training they are no longer search and rescue dogs.

Crews – reads part of Florida Statute 413.801, Interference with Guide Dogs or Service Animals. Rossman – that Statute refers to dogs being used in a service capacity, not dogs being trained. Only when they are fully trained and certified does that Statute cover them. Golba – disagrees. Mayor – reads Florida Statutes stating that the trainer has access to public facilities. Rossman – that refers to guide dogs, which refers to the blind, not service and rescue dogs.

Moccia – using the park as a non-profit business is not allowed. Asks Golba where he is registered. Golba – in Massachusetts, will give his EIN number to Moccia. Booth – what Moccia is alluding to is that Golba has no license in Florida and the Sheriff's department wants Golba to be trained in Florida or stop what he is doing. Crews – that is a totally different issue. Booth – there is more here than meets the eye.

Rossman – asks Golba if he was a member of the MVFD. Golba – he was, but is no longer. Half the FD members wanted him and half did not, and there were some with allergic reactions. Rossman – heard that Golba left for other reasons.

Golba – feels that Withers, by threatening him with citation, was impersonating a law enforcement officer. Bohne – did Withers identify himself as a law enforcement officer? Golba – no, he said he was going to cite him with a \$70 fine for letting the dog swim in the pond and there is no sign at the pond saying the dog cannot swim.

Booth – Withers is our contractor at the park and he takes a very personal interest in the park because he brought it up from the weeds. Booth notes that Withers tells a different story than Mr. Golba regarding this issue but Booth has told Withers that in the future he should only cut the grass and he should contact Booth if he needs further assistance. Mayor – and that is what he should be doing. He does want to state that he supports the efforts that Withers has made in the park.

Booth – the Sheriff has a training facility and Golba should contact them if he wants to continue. Rossman – and Palm Bay has one also. Booth – the EELS are not

going to allow Golba on their property. Rossman – there should be no training in our park, there are appropriate places to train and the park is not one of them.

Mayor – feels that the issue of whether these are service animals or not needs to be resolved by the correct State agencies.

Hunter – if Golba is indeed legit, he commends him but feels that Golba should have contacted the Town first.

Golba – the EELS are looking for a place for him to train. In regard to Withers, Withers tracked Golba down and presented him with a Sheriff's card with written violations on the back. Golba feels that Withers was acting as an agent of the Sheriff when he gave Golba this card. Moccia – does not buy that. Booth – the cards were given to Golba so Golba would call the Sheriff. Crews – but Deputy Dalton did not expect Withers to write citations on the back of the cards. States that Golba needs to seek answers from the Brevard County Sheriff's Department in regard to Withers impersonating an officer.

Golba – after Withers approached him with the citation cards Golba called the Sheriff's office and they said that they probably would not cite Golba but they would call Animal Control. Asks Council to call Mr. Brown at Animal control. Moccia – Brown is on vacation and Mr. Hough is taking his place. Mr. Hough said that they do not want Golba in the scrub. Golba – his dogs are registered as service animals in the State. Moccia – asks for a copy for the record. Discussion. Rossman – this registration is only a dog license, it is not a registration. Golba – when you call they can tell you that the dog is a service animal. Rossman – does not want a pit bull running around the park.

Hunter – we have regulations that prevent this type of training. Booth – Golba should not be in the park.

Havet – feels that Withers needs a set of rules to go by, he does not have a badge. He is doing a wonderful job he just needs to be reined in.

Moccia – Council needs to look at this issue because Withers has told Council what he has been doing and no one on this Council stopped him. Feels Council is at fault as much as Withers.

#### **ACTION ITEMS:**

##### **1. UTILITY FUND DEBT TO GENERAL FUND FOR PREVIOUS WATER LINE EXTENSION, WATER RATE INCREASE**

Booth – discusses the problems with the water and sewer dept. States that we are in negotiations with the City of Palm Bay regarding water. Presents Council with three options on how to bring our water department out of the red. Council chooses to use option number 1 – pay the \$113,000 back to the General Fund over a 10 year period and pass a rate increase.

##### **MOTION: Rossman/Crews to go with option number 1.**

Kabana – this will be a resolution at the next Council meeting.

##### **2. CONTRACT WITH BILL WITHERS FOR PARK MAINTENANCE**

Booth – Withers is working with a personal service contract.

Crews – there is no record of insurance. He is not dissatisfied with Withers work, but he read a section from Florida Statutes regarding competitive bids. Feels that we need to comply with State laws for competitive bids.

Crews – states that the Town went to bid in the newsletter as requested by Council. It did not look good that Withers was able to work for two months without a contract. In addition some of the items required by the home occupational license were waived by Booth and Crews is not sure that Booth has this authority. He would like the

Council to look at the State procurement laws and have Council adopt those laws. Also, Booth met with a potential bidder prior to the bid opening and that may not have been proper. Booth – there were questions like how often to cut, what to cut, etc. Crews – feels that this boils down to needing policy and procedures, states that he is not harping on Withers or Booth, he is trying to protect the Town from liability.

Richard Cameron – the bids came to the Park Board, two of them were better than double what Withers asked. The people who bid high worked other parks in Town. States that Withers has taken a withered park and turned it into a pristine park. Cameron feels that for \$15,000 more you wouldn't get the care Withers gives the park, Withers has done the Town a favor. Discussion.

Crews – but if you normalize Withers' bid he would not be low bidder. Booth – but now Withers is doing more than just mowing. Crews – feels that we need to adopt State statute. Cameron – if Council is unhappy then null the bid with Withers and bring it back to the Park Board.

Rossman – thinks we did the proper thing in awarding the bid and if proper procedure was not followed that is Council's fault and we need to correct that. Withers should provide correct documentation.

Rivet – feels that Council is spending too much time discussing this issue.

Booth – we can void the bid and then award him a personal service contract.

Crews – states that he has no problem with the work that Withers is doing.

Hunter – feels that the Mayor brought up some glaring problems with this issue but he feels that Withers has done some pretty remarkable things in the park.

Crews – would like to change the color of his uniform to tan so that he does not look like a public works employee. Moccia – likes the blue color.

**MOTION: Rossman/Crews to void the contract and make him a personal service contract. VOTE: All aye.**

### **3. DR420, CERTIFICATE OF TAXABLE VALUE**

Booth – is proposing seven projects and suggests using 5% of the rolled-back rate.

**MOTION: Rossman/Rivet to use 9.9% of the rolled back rate.**

Moccia – agrees. Rivet and Rossman are leaning toward 5% but feel that since we cannot go up in the rate we should adopt 9.9% for now.

**VOTE: All aye.**

### **4. SCHEDULE MEETINGS:**

All meetings will begin at 7:30 pm.

#### **(A) SEPTEMBER COUNCIL MEETINGS**

September 8 and September 22.

#### **(B) BUDGET WORKSHOP**

July 30.

#### **(C) COUNCIL REVIEW OF CHARTER REVISION COMMITTEE**

#### **RECOMMENDATIONS**

August 11.

Council then changed the regular Council meeting from August 4<sup>th</sup> to August 7<sup>th</sup>.

### **5. BUILDING PERMIT FEES RESTRUCTURE**

Removed from agenda, see additions and deletions.

### **6. CONSIDERATION OF DONATION TO THE CENTRAL FLORIDA COUNCIL OF THE BOY SCOUTS OF AMERICA**

\$50 from each Council members discretionary fund.

**DISCUSSION ITEMS:**

**1. PIGGY-BACKING ON OTHER GOVERNMENTAL AWARDED CONTRACTS**

Was discussed during the attorney's comments.

**REPORTS: MAYOR, COUNCIL**

Havet – reads a portion of the code about horses. Kabana – that pertains only to Malabar Park and Huggins park, not the scrub.

Havet – thanks audience for coming.

Crews – there are times when he is on the unpopular side of things and he states that he appreciates that rules are in place that protect his opinion.

Hunter – is happy that he is getting bored at the scrub, people are staying away.

Hunter – feels that the EELs should take care of what they have before purchasing more land.

Hunter – likes the tree ordinance, feel it protects us.

Rossman – will be out of town from July 31 to mid August.

Rossman – Mr. Dispenza is lucky that he will not be at the next meeting. He feels that Council should find him guilty but withhold adjudication.

Rivet – congrats to Hunter on keeping the people out of the EELS property, however, they are coming to his home. Feels that we must keep pushing them out.

Moccia – did an employee evaluation on Booth and handed it to him.

**ADJOURNMENT**

Meeting adjourned at 10:11 p.m.

BY:   
Chair Bobbi Moccia

ATTEST:

  
Susan Kabana, CMC  
Town Clerk/Treasurer

DATE:

8/7/03