

## **TOWN COUNCIL MINUTES**

**August 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 Mr. Rivet.

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

### **ADDITIONS AND DELETIONS:**

Delete action item 3, Bruno Despenza. And postpone action item 6, Stormwater Interlocal Agreement with Brevard County, to the next meeting.

**MOTION: Chair approved changes without objection.**

### **CONSENT AGENDA:**

Council minutes 7/21/03 and 7/31/03.

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

### **REPORTS:**

#### **ATTORNEY**

Bohne – asks Council to read the charter revisions before Monday's workshop.

### **ADMINISTRATOR**

- Booth – the train was making a lot of noise as it passed by and he wanted to recognize FEC for doing a quick job of fixing it.
- Palm Bay gave us comments regarding the water utility and now Booth will go to the Utilities Commission for help.
- Staff continues to work on the budget and Council has been provided with a revised copy.
- Booth has an interested party for the position for Town Engineer.
- Is working on road development standards. Beatty – discussion of County Road standards, feels that these standards will save those who build roads in Malabar some money. He notes that the County does not have a pay-back provision. Booth wants to see if there is a possibility of using two standards for road building. At this point there is still a lot of work to be done.

### **CLERK**

- Candidate Qualifying is September 5<sup>th</sup> through September 19<sup>th</sup>. Two seats up for election, District 4 (Moccia) and District 5 (Rossman).

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

- Bill Withers – was approached by a fire fighter who would like to see the road going to the Fire Department named to Saint Florin Way. And he would like to name the road that leads to Malabar Park to Malabar Park Way. Council agrees to both names.

- Vicki Thomas, Country Cove – she is the former treasurer for Jane Havet's campaign and she was the Chair to the Charter Review Committee. She is against the witch-hunt of Jane Havet. She states that there is a formal complaint against Havet at the Florida Election Commission, submitted by the Mayor, regarding two of Havets election signs. Thomas has had to talk to the election commission more times than she can count, it's a time-waster. She feels that this is mean-spirited, she sees nothing good in this, it is petty, people are calling Malabar Mayberry.

Thomas heard that Havet tapped-danced on somebody's car and this information got into the newspaper. What does this do? It causes little forms of irritation. She also heard that Havet's horse dropped some manure on the Crews' property. She is sick of all this.

The reason she became chair of the Charter referendum committee was because a woman stated during a Council meeting that Havet was breaking the law by letting her (Havet's) animals loose and that they were trespassing on the woman's property. Havet stated that she had never met the woman face to face, like most neighbors do. This woman brought her report to a Council meeting to embarrass Havet. It wasn't until after that meeting that Thomas found out that this woman was Crews' daughter.

At the same meeting a female attorney stated that Havet was elected illegally because Havet was elected at-large, and the attorney pointed out that the charter was written in an ambiguous manner. Never mind the fact that all Council members were elected this way, the attorney only went after Havet. The attorney turned out to be another of the Mayor's daughters. Thomas is sick of this. She is getting complaints and she does not even hold an office. She feels that this is ugly, mean-spirited and it has to stop.

Crews – is happy to respond. The issue of the illegal campaign sign was filed immediately after the election. Havet was given the opportunity to sign a consent order and the issue would have gone away. Failing to do that, the State took it on themselves to investigate further. It has a life of its own. He has done nothing beyond the initial filing. Whatever happened is between Havet and the State. Crews states that Havets animals should be kept on a leash and should follow the County leash law. Crews does not want a horse leaving a pile on his lawn.

Thomas – we are in Malabar and we know many of our neighbors by their first names. When she finds something irritating in her neighborhood she goes to that neighbor directly, she does not let things build up and come to a public forum and air it to embarrass another person. She discusses it with her neighbors face-to-face.

Havet – she bought her ten acres almost eight years ago and it wasn't until she ran for office that she was repeatedly harassed. Many of her neighbors know her dog Chester, he is not a menace, he is the gentlest animal that you could ever meet. And most of the time he will protect somebody else's yard. Havets understands the leash law. She notes that Chester is a working dog and he works with her horses, he keeps them under control and he works with Havet on the trails.

For six years there was never any mention made about her dog, nor was there any mention about her horses, it was only when she ran for office, and during her campaign. She cannot help but feel that the allegations, whether they were made anonymously, as Thomas brought up, by one of the Crews family, or whether as animal control reports reflect, there have been over nine calls and complaints from the Crews family.

Havet feels that they managed to co-exist for the past five or six years before her election. It is very suspicious that all these charges have been brought over and throughout her campaign and her election.

At this point she feels that since we are having an election in November everything is escalating. There have been criminal charges rumored. She has had police at her door and she has had animal control calling with threatening comments. Every single instance with animal control has been found to be harassment by either disgruntled borders (in her stables) or somebody that she refused her facilities. Havet is just so worried that at some point this is going to escalate to the point where she will find herself again in a courtroom, as she did with the Gentile case, which she firmly believes was orchestrated during her campaign for bad press and to take advantage of an ugly situation. At that time, rather than paying for thousands of dollars in her defense she chose to plead no 'lo conten'dere to that charge.

Her concern now is that she was notified by animal control last week that again a neighbor of her's, and she only has two neighbors, has filed a very virulent complaint stating that she is guilty of criminal neglect of her horses. She has had that business for seven years. There was a period of 30 days when she was on a buying trip and there was confusion on feeding. During the summer she will regularly allow her horses to drop a few pounds because they handle the heat better. As a result, she has talked to animal control, they are coming to her house and bringing a deputy with them and they told her that she would be arrested on Friday. She cannot live with this any more, it just goes on and on and on.

Havet states that there have been over three different occasions where the Mayor has tried to have Havet arrested. Right up to and including when Crews had Deputy Lancaster demand that Havet go over to Crews' driveway and clean some horse defecation, and there was no proof that any of her horses were even over there.

She is asking Council tonight, she feels that as the November election approaches these things will escalate, and if she is charged she will have to prove her innocence in a court of law again, and she is afraid that her seat will be vacant. She would like to have an investigation into every single allegation made by the Crews family whether it was anonymously made or publicly done. She would like to establish a pattern and a proclivity for this type of thing incase it should escalate to a point where she is again having to pay thousands of dollars, having to have terrible press, and having to have her phone turned off.

She has had it and is asking Council for guidance, whether it is a censure or an investigation. She is asking for help from Council and is asking her constituents if they have been approached in any way, if there has been anything that has happened regarding Havet, her family, or her livelihood, to please come forward and help Havet in this.

Havet – if she is convicted of some stupid thing then her seat is left open.

Moccia – states that Havet's seat is good for two years. Havet – unless it turns into a criminal case. She would not blame Council for saying how much time are we going to spend trying decide if Jane Havet is guilty of one criminal accusation or another. That would leave this seat open and she has two guesses as to who would like to fill it. She is asking for some support, suggestions, perhaps an investigation and she would like some documentation of these complaints.

Crews – he deeply resents Havet's accusation that Crews has somehow done some of this. Havet knows all of the charges that Crews has lodged against her, they were done in the public, they were done openly. He states that Havet's father called Crews on Friday and asked Crews why he was harassing his daughter. Crews told the father that he has not done anything to Havet in a long time and, in fact, he thought they were getting along quite well.

Havet – asks Crews if he just heard what he just said? 'he hasn't done anything to me in a long time.' Crews – so what has he done? Havet – this is not the way a Council should be run. Crews – he is telling Havet that he has not done anything, he feels that this is absurd.

Moccia – states that this is a civil matter. Asks Bohne where Havet can turn, Havet wants to formally record what she feels is a harassment situation. This is all on tape and Moccia states that we can be specific in the minutes so that Havet feels the documentation is on record. Moccia does not know what road to turn, she was hoping that it was getting better. She feels that if the last thing that Havet said was true then it is on-going. Asks Bohne what she should do, should Havet contact Bohne privately?

Bohne – he cannot give private advice to a Council Member against another Council Member. Havet – that is not what she was asking, she is asking for guidance from the Council as far as being able to bring forth all the paperwork she has, all the charges with the Crews' names all over them, and the anonymous complaints not identifying themselves as the Crews' family, and have it documented in the record and then ask Council to either censure or to find some way to put a stop to this. As she said, for five and a half years, she did not even exist to the Crews family. It is very specious that it is over her campaign and her election and is constantly turning into something.

Rivet – thinks Havet has some good points, he basically agrees with what she said. It appears to be a political vendetta playing itself out. He is not sure there is a lot the Council can do other than a possible censure vote. And if this goes on he will vote in favor of censure of the Mayor.

Crews – once again we are operating with no evidence whatsoever.

Bohne – he suggest that we have a procedure in our charter for censuring. There are public notice and public hearing requirements. As the Mayor has said he has a right to a due process hearing. So it would be necessary to hold a public hearing.

Rivet – we are all going to disagree with each other and that disagreement is going to take various forms and it is unfortunate that it has reached this point. It certainly not unusual, politics is a very dirty sport. He thinks we can disagree, we can even campaign against each other but he thinks the system is being abused here and he thinks that the test of that is the fact that before Havet was a candidate there were no issues, and suddenly, when she campaigned and when she won the seat, there are

issues almost all the time. This is Rivets opinion of it and everyone is entitled to their opinion but is sure smells to high heaven in his opinion.

Moccia – would like Havet to document things and give Council some clear-cut evidence.

Havet – asks if the attorney has something to say.

Bohne – if this is a matter that is to come before Council for a censure then let's not prejudge anymore, lets just wait until it's been presented. This gives everybody a fair opportunity.

Havet – that is her question, does Council feel that that would be appropriate?

Moccia – she feels that Havet has to do it and that it has to be done by the code that is set forth by the Town. The information on how to handle this can be given to Havet by Bohne or the clerk. Moccia – knows that Council has been at odds a time or two but she was hoping that after this length of time that it would be over.

Havet – the interesting thing is that most of the time she is voting right along side of Crews.

Crews – is telling Havet that he does not know who is bothering Havet but it isn't him.

Hunter – this is very distressing to him to the point that he is shaking. He joined this Council to do good government in his Town, he lives in a place that he loves. This has nothing to do with good government. He sympathizes with both Havet and Crews and he is trying to take an impartial view. He came here tonight with his packet and there is a lot to accomplish and there is short time to do it in but this specter keeps raising itself up, and this is not a threat, but if this is going to be the theme of this Council he no longer wants to be part of it.

Havet – she would hope he wouldn't feel that way. Hunter – he lives a very busy life and the time he devotes to this Town is not paid for. Havet – states that she respects that. Hunter – it had nothing to do with politics when he decided to join this Council, he knows politics and he knows it very well. That is not why he joined this Council, he joined this Council to do good government. We have things that are on our agenda and we see them every day, and yes, we are Mayberry, and he likes it and wants to keep it that way.

And we are the small town going up against the big guys and that is what we should be concentrating on. He sees the cooperation that goes on between Havet and Crews and he has felt a cohesiveness for the past three Council meetings that makes him want to be part of this. He is beginning to wonder if he wants to be part of this any longer. He had nothing to do with this, he is very upset.

Havet – if this can happen to her it can happen to anyone out there and that is her only reason for pursuing this. She has a responsibility and that is how she feels. If this kind of thing can happen to her it can happen to anyone out there.

Carolyn Carrigan – state that Carrigan's neighbor, Alice White, told Carrigan that the Mayor's wife called Alice White and asked White to call animal control on Chester. Carrigan also states that there is an 86 old lady who has been harassed by Crews' in-laws. Hunter – excuses himself from the Council chamber. Carrigan – Ernie Whitt has suggested that she go to the Florida Ethics commission because she feels that a lot of unethical, sneaky, dirty politics are going on and we have a Town bully that calls himself a Mayor. Moccia – Carrigan can state her opinion. Carrigan – the yellow pamphlet that

came in the mail the day of election, she thinks that should be given to the Board of Elections, she thinks it should be brought before the Ethics Commission, she thinks we should have an investigation. She is not a trouble maker but there is a lot of sneaky stuff that is going on.

- Nancy Preston – lived in Centry Oaks and her trailer burned down and she needs some help moving the burnt shell out of the trailer park. Havet – has had a lot of luck doing this type of thing and will be happy to help out.

**AGENDA REQUEST FORM:**

**1. JANICE & ED BURTON, 2956 CENTURY OAKS CIRCLE**

Ed Burton – he is having a terrible time with their neighbor, Frances Totten. Totten is calling the Sheriff over and over on he and his wife at all times of the day and night and nothing is ever found. The situation is out of control. Hunter – both need to be a good neighbor but if he has done all he has done then this is a civil matter. Council cannot help with this situation.

**ACTION ITEMS:**

**1. ACCEPTANCE OF 600' OF LEGHORN ROAD**

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

Kabana – this is 600 feet of Leghorn Road beginning at the north lot line of lot 753 and going south 600 feet.

**2. CERTIFICATION OF COSTS FOR 600' OF LEGHORN ROAD**

**MOTION: Rivet/Havet to certify the costs. VOTE: All aye**

Tim Borer, builder of the 600' – it cost him \$2000 for the Town Engineer and Borer's engineer developed the entire road for \$900. Booth – this is why we are looking at an in-house engineer.

**3. BRUNO DISPENZA, 1041 HALL ROAD, APPEALING THE FINE FOR CUTTING DOWN TWO TREES ON HIS PROPERTY WITHOUT A PERMIT (Per Code, routed to P&Z)**

See additions and deletions.

**4. RESOLUTION 06-03 WATER RATE INCREASE**

**MOTION: Rivet/Havet to read by title only.** Moccia read:

RESOLUTION 06-03

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO UTILITY RATES WITHIN THE TOWN OF MALABAR; PERTAINING TO SERVICE AND OPERATION RATES FOR THE MALABAR UTILITY SYSTEM; PERTAINING TO RATE INCREASES FOR THE MALABAR UTILITY SYSTEM; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

**MOTION: Rivet/Havet to approve.**

Booth – this is minimal type of rate increase.

**VOTE: Aye – Havet, Hunter, Rivet, Moccia.**

Kabana – for the record everything else in Resolution 01-01 is still in effect, only the water rates have changed.

**5. RESOLUTION 07-03 UTILITY FUND TO PAY BACK THE GENERAL FUND  
\$113,000 OVER A PERIOD OF TEN (10) YEARS**

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

**RESOLUTION 07-03**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO THE REPAYMENT TO THE UTILITY FUND FROM THE GENERAL FUND MONIES EXPENDED TO EXTEND THE WATER LINE ALONG MALABAR ROAD TO WEBER ROAD WITHIN THE TOWN OF MALABAR; PROVIDING FOR THE AMOUNT AND THE PERIOD OF REPAYMENT; PROVIDING FOR THE INTEREST RATE; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

**MOTION: Havet/Rivet to approve.**

Booth – in order to get water to Malabar and Weber water was brought in. Discussion.  
Hunter – why are we charging ourselves interest? Rivet – it makes good business sense. Hunter – is all for forgiving the interest. Booth – the people who use the water utility are paying for this. Discussion.

**AMENDED MOTION: Hunter/Havet to approve the resolution without the interest.**

Rivet – feels that it is good accounting practice to charge the interest. Discussion.

**VOTE ON AMENDMENT: Aye – none. Nay – Rivet, Havet, Hunter, Moccia.**

**VOTE ON ORIGINAL MOTION TO APPROVE: Aye – Havet, Hunter, Rivet, Moccia.**

Bohne – the resolution passes as written.

**6. STORMWATER UTILITY INTERLOCAL AGREEMENT WITH BREVARD COUNTY**

See additions and deletions.

**DISCUSSION ITEMS:**

**1. FIRE ON MATTHEWS LANE ON JULY 23, 2003**

Crews – felt that Mr. Moore had issues with the Fire Department and so Crews told Moore to come tonight to speak to those issues, Mr. Moore is not present. Fire Chief Chuck McClelland – Moore has a complaint about the response time, Chief Chuck states that he was there in 6 minutes. McClelland explains that there were issues with the trucks that were coming to the fire but he was on scene the entire time and he requested a truck from Brevard County, but he cancelled it immediately after the rain started, the fire was put out by the rain. The incident with the trucks is being investigated.

Moccia – on another note she thanks the Fire Department for responding so quickly to a down power line on Benjamin Road yesterday.

**2. RIGHT OF WAY ISSUES – PETER PETRILLO, 1390 US 1**

Rachel Patel, from the Citgo gas station on the corner of Malabar Road and US 1 – Mr. Petrillo, the owner of My Way Restaurant keeps complaining about the Greek food vendor. She states that it does not hurt his business because the Greek vendor leaves about 5:30 p.m. Everyone has a license but Petrillo keeps complaining. Council – knows that the Greek vendor is legal.