

TOWN COUNCIL MINUTES
January 7, 2002

This meeting of the Malabar Town Council was held at the Town Hall at 2725 Malabar Road.

ROLL CALL:	MAYOR/CHAIR:	PHILLIP CREWS
	VICE-CHAIR:	CHARLENE HORTON
	COUNCIL MEMBERS:	BOBBI MOCCIA
		BOB ROSSMAN
		NANCY TINIO-BORTON
		STEVE RIVET
	ADMINISTRATOR:	WILLIAM HALL
	ATTORNEY:	KARL W. BOHNE, JR.
	CLERK:	DEBBY FRANKLIN

Also present were Jim Phelps, Building Official, and Chuck McClelland, Fire Chief.
The Mayor called the meeting to order at 7:30 PM. Vice-Chair Horton led the prayer and pledge.

ADDITIONS AND DELETIONS

None.

At this time, the Mayor asked Henry Dekker, representing the Brook Hollow Community Association, and Trails and Greenways Volunteer Coordinator Richard E. Cameron, Sr. to step forward to the podium. Dekker said the Association is in full support of the trails program and wanted to help Cameron with his Saturday work parties by presenting him with a check in the amount of \$1,200.00 to help offset some of the material costs involved in fencing the openings into the Cameron Preserve to prevent motorized vehicles entry. On behalf of the Town, the Mayor thanked Dekker. Cameron also thanked Dekker and said they would begin fencing along the opening off Briar Creek Boulevard on January 12, 2002. (Barbara Kibling took pictures.)

The Mayor then asked Council member Tinio-Borton to come down to the podium. He explained that she had successfully completed the Advanced Institute for Elected Municipal Officials. He congratulated her on this accomplishment and presented her a certificate from the Institute of Government.

CONSENT AGENDA:

MOTION: Borton/Horton to approve. VOTE: All aye.

REPORTS:

ATTORNEY:

Bohne reported that regarding the Brook Hollow litigation, that trial was set to start within the next two weeks. With the case recently being turned over to Mr. McClelland, he has been successful in getting pushed out to a later date. The developer's attorneys have submitted interrogatories, which consists of a list of questions they want answers to before trial. This will require a meeting with Hall, McClelland, and himself to prepare answers. What it means is that BML is starting to push the matter forward.

There has been a recent Attorney General's opinion (AGO) that states that council member(s) can attend planning and zoning meetings and voice their opinions on items under discussion that may in the future be before council, even in the presence of other council members that might be in attendance. Council should refrain from having a dialogue or discussion amongst themselves. It is acceptable to make comment since you are all citizens of the Town. He would just urge caution if there were multiple Council members attending such a meeting. Save the discussion for when it is before a Council meeting.

ADMINISTRATOR:

Hall – congratulated Borton on her award for completing the Institute. He also congratulated Moccia on her article on the editorial page in this day's paper. It was on mentoring.

There has been issue come to light a while ago, but in the last week, we have become more involved with it in code enforcement. It is an issue where someone has purchased 14 acres of land in Malabar and put horses on it and there are no structures on it. There have been two Council members involved in this so far, Mr. Rossman, and Mrs. Borton. He has also talked to one of the victims so to speak and he would like the Building Official to bring Council up to date on this issue.

Phelps is in the process of preparing a notice of violation, identifying the specific codes that are being violated what it would require in order to eliminate the violation. He expected to complete that by tomorrow and hand deliver it to the respondent. If the violations are not corrected, he is looking at having it before the Special Master on the 28th. As you are aware we try to be fairly lenient and help out new people coming in, give them as much benefit as we can until it begins to affect adjoining property owners. Then when we begin to receive complaints we have to proceed with code violations. This is what has happened. I had basically said OK to some things that have gotten out of hand. He had already voiced to the individual that he thought he was being taken advantage of. There were certain permits issued and the condition of those permits has not been met. Other things were done under those permits. At this time, he would prefer not to go into the specifics of it.

Mr. Hall continued his report. Hall commented that the Brook Hollow area has always been a strong supporter of Town and the events within the Town. He thanked Dekker for again showing that support of the Trails Program.

Hall was scheduled to attend a meeting with St. Johns in Palatka on Tuesday to discuss a drainage project that we have been working on for the last four years. It was originally approved by the Federal Emergency Management Agency (FEMA) (with the assistance of Representative Dave Weldon) for 750K to make drainage improvements and to replace culverts along Atz and Corey Roads to improve drainage flow. All the engineering had been done and they were ready for construction. Then St. Johns asked if they could join in the project and they would contribute 1.6M, but they had some other requirements for this project. Malabar agreed and changes were made to the project to include a 20-acre retention pond on a particular piece of property. Negotiations with the owner were begun, but then he died. Negotiations with the family have not been successful. They are asking for more money than the appraisal amount. St. Johns is not held to the same constraints other agencies are regarding offers to purchase. This is what was to have been discussed at the meeting. Do we offer them more money so we can proceed with this very worthy and drawn out project? Or should we go the route of condemnation in order to get the property we need. According To St. Johns, this is the key location for the retention pond. The entire project is contingent on acquiring that piece of property. St. Johns is not in favor of condemnation proceedings as a general rule. Offering them more money could be cheaper than the costs of condemnation.

The meeting was cancelled by St. Johns. He will keep Council apprized of the situation.

The City of Palm Bay and Malabar co-host the Space Coast League of Cities (SCLC) January meeting. This year it will be held at the Pt. Malabar Country Club off of Pt. Malabar. He encouraged as many of Council as could to attend since Malabar is a co-host.

Public Works is on Blanche Street working on drainage along the east side of the road. The drainage problems on north Marie Street, caused by the lack of drainage improvements on the Malabar Scrub property, are too much for Public Works to handle. The water just sheets over the road. It will have to be addressed.

At the last joint meeting, the power went off and the entire room was in darkness. Since then, he has had the electrician in to install emergency lights on the ceiling and repair the exit signs, since they also should remain on in a power outage.

The Malabar ditch project is near completion. The issues surrounding the wall are not quite settled amongst the Ritters. They will continue to work on this until all issues are settled and the project can be completed. It is a very important project.

CLERK:

Nothing.

PUBLIC HEARING:

1. REQUESTS TO VACATE PORTIONS OF RIGHTS-OF-WAY IN THE MELBOURNE HEIGHTS SUBDIVISION, SECTION E, SPECIFICALLY, PORTIONS OF ALABAMA AVENUE, HENBANE STREET, NASSAU STREET, GINSENG STREET, FEVERROOT STREET, AND GEORGIA AVENUE.

The Building Official asked to do an over view. The Town Planner, Ed Washburn had done an overall plan on what rights-of-way should be retained in that area. The applicant's request does not conflict with that. The code requires 60 feet on Delaware and Moss Rose (we presently have 50 feet) and 100' on Corey Road (we presently have 50'). The overhead displayed the ROWs requested to be vacated. Otherwise, these properties could in effect have four front yards. While the applicants are asking the Town for something is the ideal time to ask for easements.

Applicant Pat Benington was not happy about giving up 25 feet along Corey but would agree to it if the other ROWs were vacated by the Town. Mr. Wiebelt was against giving any footage up along Corey. Closed Public Hearing.

The discussion among Council was whether to accept Planning and Zoning Board's recommendation as it is written:

The Board recommends vacation of Henbane and Georgia in exchange for 5 feet on Delaware and 25 feet on Corey (by Mr. Wiebelt.) The Board recommends that Alabama be vacated from blocks 1 through 4, and that Gensing and Nassau be vacated between Alabama and Moss Rose, in exchange for dedication to the Town of 25 feet on Corey Road by the Beningtons and that 5 feet be dedicated from the properties on Moss Rose. They did not recommend vacating Feverroot from Alabama to Moss Rose. (map attached)

The vacation could be done by resolution. Staff will draft it and get the legal descriptions and it should be back before Council within one month. Phelps said there will need to be a public advertising after drafting the resolution. He then clarified what the Town Council was asking for from Wiebelt and the Beningtons on Corey Road. Borton wants to get input from the planner. Chairman Bob Wilbur stated the P&Z Board position. They agreed to follow P&Z's recommendation on granting the vacations on Alabama between Corey Road and Feverroot, and on Ginseng, Nassau, and Henbene between Alabama and Moss Rose, but not on Feverroot.

Mr. Wiebelt was against giving any easement along Corey thus his application was pulled from the agenda. Staff will go forward with preparation of the resolution.

ACTION ITEMS:

1. ROW VACATE ORDINANCE 01-06 FIRST READING
Borton/Horton to read by title only. Vote: all Aye.

ORDINANCE NO. 01-06

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE XII OF THE LAND DEVELOPMENT CODE RELATING TO ADMINISTRATIVE PROCEDURES; PROVIDING DEFINITIONS; ESTABLISHING PROCEDURES FOR VACATING AND ABANDONING PUBLIC RIGHTS-OF-WAY; PROVIDING PROCEDURES FOR A TOWN INITIATED VACATE AND ABANDONMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Rivet/Rossman to approve. Vote: All aye. Roll call: Rossman, Rivet, Moccia, Tinio- Borton, Horton all Aye.

2. DISCUSSION OF PROPERTY IDENTIFIED BY THE ENVIRONMENTALLY ENDANGERED LANDS PROGRAM FOR ACQUISITION WITHIN MALABAR.

Clerk's note: The following is a reasonably verbatim transcription of this portion of the meeting. Speakers are identified as follows:

Ann Birch (AB), Dr. Hinkle (DH), Mayor Crews (MC), Steve Rivet, Bob Rossman, Nancy Borton, Charlene Horton, Bobbi Moccia all are identified as (TC), Bill Hall (BH), Jim Phelps (JP)

(AB) Thank you for this opportunity. I'm the Survey Manager for EELs. Its been brought to our attention by Mr. Hall that there are some concerns by Council about the amount of land identified by EELs for acquisition in the Town. During the meeting last month we were asked to put together, a management team to come and present to you the selection process of the land. The quest of the management team is the advisement committee for the EELs program. They select the land to be acquired. And make recommendations to the Board of County Commissioners to purchase those lands. And they also provide management recommendations on any lands to be acquired. **So the outcome of the meeting last month was to have committee members meet with the Council and the first available meeting was this one tonight. And the second outcome was that the EELs had to put on hold any further acquisition within the Town of Malabar until this meeting. This has caused us to have to put on immediate hold some contract negotiations that we had on several pieces of land and were almost close to having a signed contract.** The reason for us coming to this meeting tonight so quickly after having the meeting last month was negotiations on those lands. Tonight we have four members of the selection management committee. With us the chairman Dr. Ross Hinkle will come up first and make the presentation and other members will also be available for discussion. I'd like to introduce Dr. Ross Hinkle and if you have any questions I'm certainly available and the committee members are also.

(DH) Thanks. I'd like to invite any time that we can set up a time for you to attend one of our meetings. We meet about once a month to discuss conservation acquisition. Let me give brief history. We started in 1990 we had seven members, all volunteers. The committee consists of biologists, geologists, and other scientists. Our goal is to advise this Council of those properties in Brevard County that meet certain criteria related to conservation value. You may recall an ordinance was passed in 1990 related to acquisition and preservation of those lands in Brevard Country that are labeled environmentally sensitive and important for preserving biological resources in the County. As a result of that, these seven members were appointed by the County Commission to advise the Commission and staff. Our job is to identify those properties that have high biological value in terms of conservation. Now we spent approximately two years of our time very carefully looking at criteria, talking to other conservation organizations and collecting data and information on those resources in Brevard County that we consider critical to long term preservation of biological resources. We went into an acquisition program that has been very aggressive. We've been able to match quite a bit of money that the State conservation and recreation programs provide ---- land and we are working on getting a dollars from Forever Florida to continue with that acquisition program and the last 3-4 years we've been concentrating on the development of management strategies to advise the County of the EELs staff and the EELs land managers on the best development practices for managing these properties for conservation. In order to organize the way we approach conservation in the County, we initially developed three major things that were based on ecological and at that time scientific criteria that we had for identifying these properties that were very important to us. It targeted the south beaches, the scrub ecosystem, and the properties there. We looked at the scrubs throughout the County we conclude the scrub jay

(MC) I have a few comments. I think what some of our concerns are that this involves a large portion of our Town, therefore our taxpayers.are swallowed up in wildlife reserves. There are services that we have to provide to this Town and we run into the tradeoff of either not providing necessary services or continuing to raise property taxes. Neither of those choices is

attractive. Is there any other way we can satisfy by drafting portions of the proposed project substituting some other habitat in different location? Any way we can try and be vocal about our concerns here and try and come up with a win-win situation.

(TC) I know that you have the biological studies that show that this is the ideal spot for conservation. But I'm from the show me state and I want to see the biological studies.

(DH) I apologize for not being familiar with the municipalities of.... Our job on the EELs committee is to recommend. This is high priority land and we cannot? the municipal. boundaries that has never been a task that I was aware of...

(TC) I don't object to all of those but I do object to some of what you want to do.

(MC) I think there is some room along the edges that still maintain viable population.

I think that they have to be looked at very carefully. The responsibility of the EELs committee is not the population and liability. The population and liability issue is really the responsibility of the remodeling crew. So we kind of overlapped we're trying to provide representation but that hasn't been the #1 priority.

(TC) You're proposing to buy land that we already own.

(AB) And where would that be?

(TC) The 30-acres that are owned by Malabar known as Cameron Preserve.

(AB) We just had the coding wrong.

(TC) (looking at map) We already own this right here.

(AB) Right, and that's shown as your own property.

(TC) It seems to me that that's a duplication you're going to spend your money but we've already spent it see. And another thing is the property that you already own that Mr. Hall mentioned earlier you were supposed to improve a portion of that for drainage and this has not been addressed and it's really a problem.

(AB) We're addressing that right now...

(BR) Two years ago it was supposed to be addressed, three years ago it was supposed to be addressed...

(AB) Right and they're working with Mr. Hall. Very recently, we've been working on plans for that...

(TC) I don't want to be difficult but I'm from Missouri and I have to be shown that all these properties are crucial or critical for what you need to do.

(AB) Anything that's in the gray (on the map) we don't have to code that. Gray is identified as Town property, anything in the pink we propose to buy.

(MC) Let me bring this back to what I think the real issue is but here's what the problem is as I see it. Good science and bad government and I know that all members of the Commission, I believe, almost every one of them are strong holders to this rule. Charter governments as I think most members of the Council are and I think that's where the real issue is... **that the lands within the Town of Malabar in our future should be determined by the elected officials of this town, not by the elected officials of the County.** That means County Commission. And of course, you're kind of put in the middle when you've been directed. It's not something that you can address and I understand that. The issue is really between us and the County Commission. That's why I just want it up front that we don't have an issue at this point with your science yet because we haven't really had the opportunity to address it. That's because at this point it looks like the County has given directions for you to purchase property within the County. So we have a government to government issue here. And I think those are the things have to be resolved first before we go any further. I mean I'm not comfortable with anything that you're doing within this town without members of this council having a full input.

(TC) It's certainly not your fault the County Commission directed you all to do the scientific studies without reference to boundaries and that's fine that you made those recommendations. The recommendation then should come to the Town and let us work with you to plot out a course to go from at that point. And I think there's a good point to be made. **One acre in every seven in this Town is already permanently preserved and so you know there's got to be a limit. The EELs program has already taken virtually all of our industrial property that isn't developed.**

(AB) Well, as I already said, I'd like to address that really because we've bought very little of the industrial portion. What you see in yellow is the Cochran property that was purchased for the mitigation... that was industrial. That was not an EELs purchase.

(MC) But the issue is that it is property off of our tax rolls.

(AB) But that's not our purchase.

(MC) I understand.

(AB) OK. I just want to make that clear.

(MC) I am not pointing fingers. But that is public land.

(AB) Well, no that's private land. Mr. Cochran owns that. He owns that privately.

(MC) Is that the issue there? Has the zoning been changed?

(?) No.

(JP) That's one of the major problems we have is that none of this acquisition - none of this property that has already been purchased has been rezoned. No comp plan changes have been made. The purchases seem to be inconsistent with our comprehensive plan. If you'll recall, I brought this issue up when we looked at vacating the right-of-ways for the area around our park over there. So we could get more land we had quite a discussion regarding north Marie Street. What we could get and what we couldn't get from the County. And I think the question is can something be done? They are not complying with the Town regulations. I've had to do a stop work on the roller chopping on the Jordan Scrub they were doing with total disregard to tree preservation and land clearing. I asked them to stop work and they promised they would take care of it they continued to roller chop the EELs property. I had OK'd the fire lane for protection of Country Cove and surrounding properties. It's untold how many critters they had roller chopped over there. And they're talking about saving tortoises and snakes. (MC) **I think the serious issue that we have is with the County government at this point. And so my recommendation is that we halt any further discussion of acquisition until we can resolve these issues with the County government. And put some plan in motion where these decisions are made in conjunction with good science and the wishes of the people of this Town.**

(TC) I would like to add that I am definitely in favor of conserving wildlife habitat. I don't want to see the diversity of this area be abused. But we have to start now. And I don't think we're doing that.

(TC) I think we all agree with that.

(MC) What are the areas under contract?

(AB) The areas that we are currently are having negotiations and are in contracts are national heritage and BML/PRN investments. And then we have had appraisals done in the property surrounding the Malabar Scrub and we've had to not continue negotiations on all of those and then the BML and national heritage have verbally accepted our offer and are ready to sign the contracts and we had to halt.

(MC) I think these are issues that need to come before Planning and Zoning for recommendations and for Council to take into consideration and perhaps for a public hearing.

(AB) With all due respect, I understand what your issue is but we have a charge from the County Commission - acquisition, and we've put acquisition on hold for this meeting tonight and we will have to then go to our Board and ask permission to halt acquisition. I've never been in this position before but I think that's what we'll have to do or the Town will have to make a formal complaint.

(TC) Can I ask a question - during what point are people notified that this is happening?

I mean the people who live right around the edges who have adjoining property. I don't know what you do when you purchase the property. Do you put up fences or do you have natural containage?

(AB) Well it depends on the location. If it's adjoining people's property we will generally put up a low fence, we notify them and get their input on it but in general that is done because there is a lot of encroachment that happens.

(TA) This may make all or most of the litigation mute. Would it behoove us, I don't know, but it may have a significant impact to part the litigation that's ongoing.

(MC) I think Council should discuss that issue.

(TC) And what about the lost taxes.

(MC) Well, I think it appears that we are at a point where I am not sure if we've given you a satisfactory answer to what you're looking for.

(AB) No.

(MC) We certainly appreciate your input and the chance to review at least on the surface here but Council certainly understands it needs a full review of the issues and the Council will meet with the County people. We'll have a trip over there.

(citizen comment)

(AB) I did try to classify the amount of tax revenue. It was approximately a little over \$9,000. That the town's portion of those property taxes they would receive. I have no idea what that amounts to as part of your budget and what percent of that budget is yours but I did provide that for your information. I'd like to address Mr. Phelp's issue. First, we would very much like to know what issue. I know there was one issue that Zach had spoken with you about with the clearing. We do fire lane clearing especially in scrub that is overgrown in order to provide prescribed burning capability. We are not aware of ordinances within the Town - we are happy to be made aware of them. We don't know the regulations of every place that we graph and we certainly would like to work with the Town in that we're not there to do it in spite of the Town.

(JP) I will respectfully disagree with you. Because Zach knew when I stopped the work on US1 (Jordan Scrub) what was required. He sat in my office and we went over that. Following that, they roller chopped all the way from Marie Street west up through the property up there probably 20 or 30 acres. A resident of Malabar had e-mail conversations with Zach. That was done after our discussions and behind locked gates.

(AB) OK, I will talk with Zach to understand what happened.

(JP) Our fine for land clearing without a permit of \$5000.00 per acre – that is what a resident pays, should a resident do clearing without permits.

(AB) I just want the Council to understand that we didn't do this with malicious act but that we are doing it to restore the habitat.

(MC) I think we're all going to have to understand that we have to all work together on this and certainly we have our own rules and we expect them to comply.

(BH) I don't want to be too hard on Ann, but I am wondering now after tonight's conversation, Ann made a comment about her charge from the County Commission is to go buy these lands according to the biological studies so she's probably doing that. My question is I wonder if the County Commission is aware of what's going on and whether maybe I should make them aware of that. You know we're dealing with Ann and the EELs committee but we haven't really addressed the County Commission because what I was waiting for was for the next property purchase to come up for approval at a County Commission and then I would appear there. But I think that I would like for the County Commission to tell us that they have charged Ann with purchasing these properties without due regard for the Town of Malabar, if that is our issue.

(MC) So I would like to see the activity suspended until the opportunity for this to come before the County Commission with our objections and address this issue with them and I don't know if that's possible from your perspective or not.

(AB) As long as it's going to be very soon.

(MC) Well, as soon as possible.

(AB) We certainly are receptive to the town.

(BH) I can go and any of the Council members can go.

(TC) They would all like to go.

(BH) The next meeting we can get on the agenda. I'm not sure the County Commission...

(MC) No, I don't think they fully understand.

Question from audience (Diana Alagood, Planning & Zoning): I have a question. I don't understand the process of rezoning. What is the possibility of you buying it and having it being rezoned institutional and the County coming in and put a land fill on it.

(AB) I'm not sure and I will certainly get to the County about the rezoning requirements. All of our lands are bought in partnership with the State of Florida and actually now the Malabar Scrub Sanctuary is now fully owned by the State of Florida and 100% titled to the State. And all of the lands that we buy, if the State provides dollars towards the acquisition it will be titled 100% to the State of Florida. The EELs program will just have management responsibility over those lands. I can't answer that question. I'm not sure.

(Diana Alagood): The other question. I agree with Bob regarding the tax rebate - we need some kind of tax relief we're giving away all this developable property and in the future that would be a large tax base for us. Our taxes are going to have to go up because we're not meeting the tax base. My other thought is the right of way. I'm also concerned about the last time you came up with habitat properties

idea we requested or wanted some of right of way on north Marie Street and we were denied so if we give up all this property the right of ways for those roads we're not going to have enough money to buy them back again ten years from now. We want to make sure that these right of ways are set out for what we want if we have to give up all this property.

(TC) That's another good point. We talked about the \$9000.00 worth of property taxes impact. That is for the land as it exists today in an undeveloped state. When the land is developed it is 10 times the value and now you are talking about a significant portion of our total property tax revenues at least what they are today

(AB) The majority of the land that we have identified, and I don't know if it makes a difference or not, but they're zoned residential. A small minority is commercial and industrial. The majority of it is residential. I don't if that makes a difference on the tax base.

(TC) Help me to understand. In other words, our tax dollars go to purchase this land, and our tax dollars go to maintain this land, and yet we get no taxes back for the Town - we're buying this land over and over and over.

(AB) The entire citizens of Brevard County are.

(TC) The taxpayers of Malabar have to deal with things like drainage runoff from that property. It's not as much as if it were a development; but it puts a burden on the Town's resources.

(MC) A developer would have to pay for the drainage improvements.

(TC) Malabar is developing a trails program and part of that goes through EELs property now. Will the trail system be affected?

(AB) No, we certainly are willing to work with the Town on trails and support the trails program. We put trails through our property.

(TC) That brings up another issue. Someone in the audience said earlier we worked with the County and the State for some planned acquisition in the past we tried to get some of the easement that we needed and they basically said no, that's not going to happen. You've got to sign the deal before the grant money goes away. We cooperated. We acted in good faith and we didn't get the easement.

(AB) Not aware of area he was referring to. (North Marie on the west side.)

(MC) Well, I'm just not convinced this program is working the way the State government intended it to. I certainly would like to make contact with our State representative and County government and get a dialogue going on just where we are with this program. It seems to be in conflict with home rule and that's bad for everyone.

(BH) I am not sure the County is aware of what our concerns are. And we have many more concerns than what we're talking about tonight. For instance the property in the Cochran area or the industrial area. You know we've got campers in there, we've got bikers, we've got 4- wheelers, we have booze parties, if you will. All this action out there, and nobody to control it, to take care of it.

(AB) We are initiating fencing on that road.

(BH) You've been initiating for 5, 6, 7, years, we've been talking about an initiating. Mr. Dekker will tell you that at every Council meeting he would ask me "what are we doing, about the road?" We've talked about the road to the park, which is a joint effort for how many years? And they're still engineering that. I had a meeting at the County Manager's office not too long ago and they talked about they were going to do. I was in an EELs committee meeting a year ago and pleaded, and the EELs committee appeared to not even be aware that, that was an issue.

(MC) It appears that they're chartered to identify, do the scientific study, acquire and then abandon, basically for some other type of agency to manage and control. And it's just not being managed.

(AB) Well that's not the case. They do provide management guidance and the EELs staff takes on management. The road has been an issue. We have talked with Mr. Hall extensively about the roads. We do have a study that will fix the drainage and we are initiating that with the County Public Works department, and an engineering firm.

(MC) Well it's certainly not being done in a timely manner and that's the point here.

(AB) And we understand that. We're doing it now. We really do understand that it's a sore issue. Nothing that I say right now is going to matter except we do have a study now and we are working on that.

(MC) Do we have a date on that for completion?

(AB) We received a quote back from the engineering firm and a portion of it was topographic study was quite high and even Mr. Hall kind of raised his eyebrows on that one. So we're going back to and saying please lower that topographic study portion and then we'll get it done.

(TC) You can certainly see why we would be a little hesitant to get involved and give up any more. And you saying you're working on it now but it's been nine years. And I think that's why we're concerned.

(AB) We bought it in 1994/1995. It's been an issue for two years but not nine years, but it has been a long time, and I do agree it has been a long time. All I can say now is that we are working on it.

(TC) I think the best thing is to do now is what Mr. Hall suggested - go in front of the County Commission and they would get a little more information. You know what our concerns are, they'll know what our concerns are, and we'll come together.

(MC) We need to be involved in the whole issue from the beginning so that there's an understanding that we have an agreement. This is what's going to be required, this is how it's going to be managed, this is who's going to manage it, and we all come to an agreement. Right now it just seems to be an acquisition and abandonment plan. You have long range plans to go out and I don't know what year you plan on put fencing up and whatever it hasn't happened, and that's our concern.

(AB) The fencing hasn't happened because we thought we'd be getting adjoining properties and therefore we don't want to put fencing up and take fencing down. Now that it looks like the adjoining property is not going to be able to be bought we are initiating fencing. We've been out there surveying and ...

(BH) You see that's the point. This council is unaware of what your plans are. There needs to be an agreement before you apply.

(AB) And I agree. I think that's part of the problem. You weren't aware of what's going on behind the scenes. And we are making effort to increase communication. In fact, the land manager is now initiating monthly meetings; a few are periodic meetings with Mr. Hall, either through e-mail, personal memos or whatever so we are trying to initiate communication. We are trying to repair communication that was broken down and it will take some time to do that.

(TC) How much of Malabar do you people plan on buying? I'm very serious. You've got quite a bit of our land right now.

(AB) In your spreadsheet we have identified 1200 - approximately 1285 acres that have not been acquired to date that are identified on the map you see in there.

(TC) How much of that would be left for the citizens?

(AB) The Town of Malabar - you're right, it is approximately a third of the town. The total area of the town is 6834 acres.

(MC) That's my concern. **The citizens, through their elected representatives in the Town should govern the Town and not an agency that doesn't answer to people. It's just bad government. Good science bad government. I think we need to fix it. I know there are State Senators and Representatives who are responsive to home rule. I want to contact some of them. I think we need to talk to the County Commission. I think the dialogue needs to start there. I'd like to see everything put on hold until we have an opportunity to do that.**

(AB) We can do that. We'll put bank payment on hold until you have an opportunity to do that.

(MC) Thank you very much. We'd be happy to schedule another meeting for you.

(BH) And I don't want to be going down the wrong track if in fact the 400 acres along Malabar Woods is owned by the State then do I need to go the State regarding our management concerns? Our drainage concerns, our road concerns.

(AB) The EELs program has management responsibility.

(BH) Well, you have the responsibility but...should I tell the State that it is not being managed?

(MC) When the property was transferred to the State the EELs retained management responsibility?

(AB) Yes.

(MC) Thank you.

(JP) Mr. Mayor, if I could just mention one observation. Apparently, whoever compiled market values for Ms. Birch did not look at these properties properly. There is one property that is identified for sale at the south end of Smith Lane, which is, identified as some 6,8,9 thousand dollars in value. The gentleman who owns that has about \$40,000.00, to date, invested in road improvements and

improvements to the property and I would say that in within two years that property would be valued at somewhere around \$250,000. - \$300,000. Directly across the street, there is also another resident in the permitting process. While those are listed for purchase, it doesn't really look like they are on the market for purchase.

(MC) Yes, and that's an issue I think that perhaps that if there's some discussion between yourself and Ms. Birch you can iron those issues out for a future report so that we have all that input that might be useful.

(AB) I think it was taken from the tax assessor information.

(Mayor crews acknowledged Ms. Birch)

(Audience – Bob Wilbur) (Muffled)asked Ann Birch if there was an order of importance in the parcels she identified.....referring to the sand hill trail acquisition there were key pieces that were critical to the project.....asked Ms. Birch did she get willing seller letters from the property owners she has listed.....

(AB) no.....

(MC) That highlights my point is that this isn't being managed by the elected officials of the town. We do have plans in progress and we would love to work with you and bring this project to fruition and there's probably points where we'll merge and that's what we'll want to get to.

(AB) We'd love a copy of those plans too.

(MC) Obviously, we need some balance with our staff and your staff to get that information communicated to you. I think that Mr. Hall could probably arrange to, to affect that.

Thank you once again.

(Bob Rossman to Mr. Hall) I want to compliment Ms. Murray. She did an excellent job on this presentation.

(mc,nb,bm,bh,sr) yes she did!! Yes sir. She did a lot of work on it.

PUBLIC:

Mayor: There is a Council meeting scheduled for 1-21-02 and that is Martin Luther King Jr. day, a federal holiday. The Mayor asked if Council wanted to reschedule or cancel that meeting. He will be out of town that whole week. He asked if others would be traveling. Rossman said if there was no meeting, he would be traveling. Rivet also replied he would be traveling. Hall stated there was nothing for the agenda on the 21st as yet.

Meeting on 1-21-02 was cancelled without objection.

Hall asked the Mayor if he could make one more comment. Tinio-Borton owns the Yellow Dog Restaurant and it was unfortunately broken into. Brevard County Sheriff's Office responded with the canines. They turned the dogs loose in the restaurant to search. Although they did not turn up the burglars, she and her husband Stuart were so impressed with them that they offered to buy a dog for the Sheriffs office. It costs about six thousand dollars to buy and train the dog. Last week they presented the dog to the Sheriffs office for the fine service they did for their restaurant. (Applause)

Mr. Withers, Candy Lane, to speak on Atz Road. First, he thanked Council's position on the EELs program. Atz Road from Hunter to LaCourt is falling apart. It wasn't prepared properly. He walks it six days a week.

Hall responded that he was aware of problem and he is negotiating with the contractor that laid the asphalt. He has withheld the last payment until they can resolve the issue.

REPORTS MAYOR, COUNCIL:

Rossman - Asked about the status of the refurbish project on the Citizens on Patrol (COP) car. Hall replied that the car is in the garage of the Palm Bay Police Department (PBPD). They have spent \$41.00 to date on it. Mr. Eschenberg is the chief volunteer and Hall has asked him to decide what he wants to do the striping and whatever. Palm Bay is providing that service. The last two weeks have been holiday/vacation mode and not much has gone on. Eschenberg asked to speak. He contacted the garage and the guy there said they might have a set of lights in the back we could use. A company named Stripes does the striping and he is set to meet with him this Friday. He is scheduled to meet

with Deputy Cabrerra this Friday also. He wants to maintain contact with the Sheriffs office and get their guidance, tips, and guidelines to follow.

Rossman stated that Tomoko State prison up by Daytona will refurb the car for free. They will even pick it up for free. Palm Bay uses them all the time. Talk to Ken Geyer at Palm Bay and ask him to contact the prison if you're interested.

Rivet – Regarding the workshop dealing with special events. He felt he was the only one that supported this issue and if that is the case he would suggest canceling the workshop. Mayor asked the rest of Council if there was interest in creating an ordinance to deal with special events. It is his opinion it is unnecessary. He felt the park ordinance covered all the issues. Crossed discussion of Council prevented clear identification. It was decided to make it an agenda item for the next Council meeting for further discussion and postpone the workshop.

Direct Clerk to have a member of Planning and Zoning at the next Council meeting to offer comment. Moccia – Nothing.

Borton – Proposed a draft ordinance and would like it to be on the next agenda. Without objection, it will be added. Rivet asked for a brief explanation. It has to do with serving/consumption of alcohol outside. Yellow Dog wants to develop the riverfront and offer drinks. Other establishments in Town would also benefit. This is Florida and she thinks this would benefit the Town of Malabar.

Horton – Nothing.

Without objection, Chairman adjourned the meeting at 9:40 P.M.

BY:

Mayor Phillip R. Crews, Chair

ATTEST:

Debby K. Franklin, CMC
Deputy Town Clerk

DATE:
