

MALABAR TOWN COUNCIL SPECIAL MEETING  
MARCH 20, 2002

Present:

Phillip Crews, Mayor/Chairman  
Charlene Horton, Vice Chair  
Nancy Tinio-Borton  
Steve Rivet (arrived 8:00pm)  
Roberta Moccia  
Bob Rossman

William Hall, Town Administrator

Chairman called meeting to order at 7:45 p.m. Horton led the prayer and pledge. Chairman asked for additions or deletions to the agenda. There were none.

Horton asked if there were minutes to the last council meeting. Chairman – No. Rossman – Where are they? Chairman indicated Debby has been snowed under and has not been able to transcribe them yet. Hall stated that we are short staffed, and things are going on, like Malabar Day. Mayor has spoken with Town Clerk Kabana, and she expects to be back in early April.

**Discussion of Environmentally Endangered Lands Program within Malabar.**

Town Administrator's Report – We had a meeting this afternoon with Jackie Colon who is a county commissioner with regard to the process and the progress of the scheduled workshop to be held April 22. I have passed out copies of a draft for consideration at the workshop. Bobbie was with me at that meeting. For all intents and purposes, I thought it was a good meeting. We talked in generalities about how we felt and how they felt. The stage is set for the upcoming workshop, which will be at the DeGroodt Public Library in Palm Bay at 7:30 p.m.

Rossman reported he also met with the EELs committee Monday, and they were very open and receptive. I voiced many of our concerns. One of them was the trails, and they said there would be no problem with trails through any of the scrub. They were willing to work with us in any way they could. I could not have asked for a more receptive group of people. I think we're moving in the right direction.

Chairman stated ground rules for tonight's meeting. Floor will be open to audience. Please fill out a speaker's card if you wish to speak. We will hear speakers from the audience for three minutes each. At the conclusion of that we will return to council and not take any more comments from the audience. The purpose for the meeting for council members is to generate ideas for the April 22 meeting.

Moccia - When we had our meeting today, it was a really good feeling. I think they came across that they were more than willing to work with us. It's not going to be just one-sided; they said they would listen to all of our views. They said concerns would be

dealt with one at a time. It was different than the January meeting. I think we are going somewhere, and we need to go there with an open mind. We're all going to have to work together. It's not going to be going in and fighting any more; we're going in to do something and work together as a team.

Mayor – This is a special meeting, but since we have two speakers that want to speak on a different subject, we're going to hear those.

Joe Driver, 1280 Corey Road – Subject: Violations and burning at 1200 Corey Road.

- One of the reasons I'm here to speak is that Mr. Steve Gentile, who is here in the audience, was cited at one of the council meetings, I think, somewhere in January. William Hall mentioned that we had a precarious situation and with the horse stalls being built more or less on our front door. Somewhere about within three days, Phelps did address it, and I think he did serve papers to Mr. Gentile. It was supposed to have to come to the special master three times. How can something be in violation that can be straightened out, and it's stalled? Stalls are still there, and it has never been to special master. There's a rumor going around that both Steve and I are speaking. It's a good idea to have dialog. I don't really have any problems with Steve. Stalls are OK with me, but they are never going to be OK at my front door. Horse manure is not going to be OK at my front door, and I would like the public to know it. ... ..

The next thing is that Steve has done quite a lot of clearing and probably will have to burn it off. Some neighbors have pools and screen rooms and are concerned that the ash and smoke from this, if on the wrong day, would give us problems. We'd like to see that addressed as well. If you ever see the violations, you'll see that Mr. Phelps asked him to do his number down of horses from five to four, but instead of going downhill, he went up, and now he's got six. ... My question is, being an ex-law enforcement officer, how can you be cited for something that never goes to court, and everything's all right?

Mayor – We won't comment on issues at this time. That can come to another council meeting.

Walter Kane, 1040 Oak Tree Place, representing Book Hollow – Subject: Conflicts of interest? Town council members own adjacent property?

- I'm living in the Brook Hollow subdivision. This is one of my first times participating in this event. I am concerned when I hear some unsubstantiated rumors. People are confused why the situation is turned around when there was poor support initially, and now there isn't. I brought up the issue of having potential conflicts of interest where people that are in the government of Malabar may be aware of what is going on, I'm not saying particularly in this council here, but people that may try to capitalize on opportunities to get involved purchasing property where they would benefit if the decision went are against the Brook Hollow subdivision. It's a rumor that I think you should be aware of. I'm sure you probably wouldn't care to respond to the people that might be concerned which is essentially insider trading activity. I'm not saying it exists. But for a

new person, it gives me concern that that kind of stuff is out there, and it should concern you too.

Drew Thompson, 940 Holloway Trail, representing Brook Hollow Community Association – Subject: Support of EEL program acquisitions north of Malabar Road (BML properties).

- At the February 26 meeting, I spoke on behalf of the Brook Hollow Association representing 130 properties and citizens of that community. Stressed our support for the EELs acquisitions north of Malabar Road. We spend a lot of time in meetings, think this is the fourth meeting in six weeks on this issue. There were people on both sides of it. County commission agreed to have a workshop and agreed to listen and work with the town council. Encouraged this evening because comments prior to this time haven't stated that. Very concerned on the number of meetings, short notice of meetings, and that we are spending a lot of time talking. It is a voter-supported issue. The acquisitions are positive thing on the part of Brook Hollow, and it's good for the county and Malabar. Encouraging town council to continue forward to work with the EELs people. There were referendums and votes. Elections clearly show that. Encourage you to go forward. Hope this meeting is a turning point.

Laura Hottendorf, 1065 Oak Tree Place – Subject: EELs acquisition.

- I am also encouraged that you are willing to work on this area. I wanted to hear if the town council is supportive of this matter of the property north of Malabar. Is the decision going to be made tonight whether they are for or against? Chairman advised her to listen to the discussions tonight. There's been no prior decision. Hottendorf continued. Raised questions with audience concerning preferences as to where they prefer to live -  
- in Malabar or in Palm Bay. Continued with questions to the audience on lifestyle preferences. All seemed to Malabar or Brook Hollow because of safety for the children and a less congested lifestyle.

Don LaFontaine, 1040 Steeplechase Circle – Subject: EELs.

- Thank you for the opportunity to speak tonight. I am excited to hear that Rossman, Moccia and Hall have spoken to the commissioners. There are a lot of good things we can use that land for to help Malabar with their finances. One of the people who spoke with commissioners was Dave White. He did a study, and one of the things stated was why it's not necessarily good that housing developments often do not pay for themselves. (Quoted from reports.) We can look at possibly zoning some of that land off Malabar Road to become office space and commercial and generate revenue. If growth and development make money for the town, then Palm Bay would be rich. I would hope that the town council has moved from trying to block the sale of specifically the BML property and moved toward communicating with them to look at maybe using some of that land to solve our water problem and see about putting a big pond there.

Nona Swann, 1000 Falls Trail – Subject: EELs acquisitions targeted in Malabar.

- I live in Malabar. I received the agenda Monday night while visiting someone who told us the meeting tonight was to be on discussing whether this could be put on a ballot for November so that's why we've seen so many concerned citizens here. I'm pleased to hear that's not what the meeting is about, and I'm pleased to hear that we have several council members that have met with EELs and that we are going to find some mutual ground.

I would like, as a citizen, on the next agenda for next meeting, the job description and evaluation of the town administrator. I've been coming to these meetings for over two years. It keeps getting put on the agenda and gets tabled again and again, and I am asking council to take action on this.

Chairman thanked the speakers. He addressed Rivet with proceedings so far since he was late. We are trying to formulate guidelines for meeting of April 22 with EELs and brainstorm to get things going. I believe we could make good use of some of this EELs property, and I don't know what restrictions they may have and how they feel. I'm sure they're open to suggestions, and perhaps we could invite someone from St. Johns to the meeting as well. We have about \$2 million in grant money that may go away if we can't find property to place these retention ponds on for our stormwater management program. (Pointed to property on Weber Road property where St. Johns would like to locate retention pond.) Just north of it is BML property, and Turkey Creek runs in that area. Would like to suggest the pond if they can acquire the property. Those are the types of things I would like to open up with the EELs people.

Horton thought it was a great idea. BML property? That would kind of solve a couple of problems. Chairman felt EELs has been more aggressive with that property. They're at the stage now negotiating with the property owner. It looks like this is the one they are furthest along on of all the properties they've identified. If we could put a pond on it and meet the objectives of EELs and the town for our stormwater, that'd be great. Horton asked how that would affect bargaining for the front property. Chairman – When I had discussions with Nancy Higgs, she indicated these things are not set in cement. Open to discussion.

Rossman – When I met with EELs committee, they were absolutely open. If we could work something where they buy property and allow us to put retention pond in, I would be in favor of that. I am concerned with lawsuit. They said it was a resolvable problem and would not be an issue. That would save us considerable money. If we could work something out with EELs, and let them buy that property and let us put in a retention pond, I am in favor of that. Horton still likes the idea of keeping line 200 feet on the front. Rossman said they would work with us and sit down with us. I could not have asked for a more open environment. They said even though they look at property, they look at property throughout the whole county. I have a handout to copy and give to everybody. Most of the time they are not accepted and they can't buy the property. Forty percent of

the property they look at. They are looking at a FIND Valkaria, and they're trying to swap land with FIND. They do not have a contract with BML; they are talking with them. They feel they can work it out. They are concerned about us. They should not be concerned about us.

Chairman – We are also trying to obtain property for another retention pond on north side of Corey (Reynolds property). That's why I'd like to have them (St. Johns) at this meeting, because if there's some other place that EELs has already selected that would be appropriate for a retention pond, we can still do our business. At least I would like to open that up for some possibilities.

Hall – One of our thoughts was that if we are not successful with either of the two, we could put both ponds on the BML property. Mention made of Turkey Creek running through the area. Discussion continued on possible location for retention ponds and degree of environmental endangerment of certain properties.

Chairman – In discussions with Higgs, they are looking to preservation of wildlife and wetlands. Higgs indicated they may be able to reduce the amount of property they buy if we rezone some of the other that's left for development with restrictions that the scientists can buy off on, for example, very low density housing, maybe five-acre parcels. Rossman – The concerns are not only the jays, but the indigo snakes. Chairman – They can cohabitate with people as long as it's not too dense.

Rivet apologized for being late. I think the setting up of buffer zones with even lower density housing than we're zoned for makes a lot of sense, especially if we require a set amount of the parcels not being able to be cleared for maybe 100 feet would add to preserve land. It would be to benefit of wildlife and we would still maintain our tax base to some extent. To echo your comments that the interaction with EELs was quite rancorous. That's unfortunate, but I think that was necessary to make a point. I am in favor of working with EELs. It sounds they are now well into talking with us and take our concerns into account. I am in favor of their buying BML property; and if we can build retention ponds, it would be good. I do have concerns if that would be the correct place to put retention ponds. We need to get expert advice from the scientists.

I also heard a comment that only approximately 40 percent of identified land is actually purchased. (Differences in percentage figures discussed.) If they bought 50 percent of the identified land, I think that's a reasonable amount. I would like to see us come to some kind of agreement where there's a cap, like when they get to the 50 percent, they stop. Glad to see there's been significant progress made since two months ago. I am in favor of setting aside undeveloped land. Let's work with EELs and get this project done.

Chairman – Our lowest density is RR-65. Do you know of other communities that have a zoning classification that would be more suitable for a preservation kind of environment? Rivet – Some portions of Palm Bay that are environmentally sensitive where only a certain percentage of lot is clearable. Hall – Our planner is working on a proposal for this but waiting for the right time. This would be for the future where if something should occur to create a possible sale, the zoning would keep it in that state, unless council chose to change the zoning again.

Moccia – They said they would produce the scientific information. We need to look at those areas that they say they need to purchase. It has not been produced yet. We will have non-biased people to look at that. We need to know what area we need to go into and have to look at what type of buffers we really need.

Borton – I obviously see that everybody on council is in total agreement. I do not think we will be able to go back to our comp plan or anything regarding Malabar. So I think you win. Go ahead and sell the BML property to the EELs people. We've never seen the scientific proof. I think it's great for the people that live in Malabar and Brook Hollow; I think it's what they want. I hope you all participate in our meetings when it doesn't just involve Brook Hollow. I called for the meeting tonight to see what my fellow council members felt. It's obvious they want to see a Brook Hollow go. In previous years we've fought for Brook Hollow to keep the road out. I think the town has paid a lot of money to keep the road out, and it's sad that that it comes to this to where the property goes totally untaken care of. If we can put a retention pond there, that's great for Malabar. If they don't do anything for it, Malabar really doesn't accomplish anything by it. I'm not going to fight with anybody any more about it or discuss it any more. I've been asked to let it just drop; I'm going to let it drop. But I want you to know I think it's a huge mistake that Malabar, as a whole, is being taken up by one entity or group of people. And I think it's great you all side together. But I'm saddened it was not scientifically proven to us whatsoever for any reason why it's been taken to be an EELs project, or for the birds, or anything. No scientific proof whatsoever has been to us, and I won't go into it any further. They're spending your money too, not just mine, and the rest of the folks in Malabar. They're spending your tax dollars too. I just hope years from now when there's a whole new council or new people in the legislature in Tallahassee that they don't have different views.

Horton – I know your heart is in the right place, I'm sure, but I think if we quit bickering back and forth, we will have more say if we are together and not divided. Borton – I was looking at Malabar as a whole. I wasn't just looking for one section. I think Randy O'Brien hit it right on the nail. They may just pacify us. All I'm asking is that council look at the scientific reason to why they think one bird should live on that property and not our family and friends. That's all I'm asking for is the scientific proof, and nobody can produce it to us. Chairman – They have indicated it's coming; that's why they moved the meeting. Discussion continued. Moccia – We need to have the material at

least two weeks prior to it (the meeting) to review and discuss and have someone explain it to us.

Rossman has walked the land; there are eagles, scrub jays, gopher tortoises and the creek. Brook Hollow did not elect me; Malabar elected me. The votes did not come from Brook Hollow. I respect Nancy Borton's opinion. I have no allegiance to anybody in the town of Malabar. Borton – I have nothing to gain. I just think it is a mistake.

Rivet – Rossman raised a good point. Even though we have not seen the scientific research, I've walked through there and similar land. If we clear out to build houses, it's going to get rid of a lot of the wildlife there. I would be more comfortable seeing studies showing that this is scrub jay habitat, but just from what I personally know, there's a lot of wildlife there that needs to be preserved. Let's preserve some land and address our concerns.

Hall – We talked about retention ponds tonight. That is not a done deal. That would require studies. It is a thought that has come up in the last few days. Engineers would have to determine if it would fit.

Rivet – There is the issue of the strip along Malabar Road and possibly rezoning that to commercial. It is a complicated issue. We cannot allow EELs to buy it and then rezone it. Somebody has to buy it. With the town buying it, I do not know if the town has financial resources to do that. Chairman – It could be on next agenda for discussion.

Rossman – Would like to see subject of annexing property near Babcock, Valkaria Road and out to US1 on next agenda. Chairman – That can be added to agenda for future meeting.

Moccia – We need to get this information back to Ms. Birch and EELs a couple of weeks prior to their meeting so that they can be prepared.

Horton – Can I ask why the Gentile matter is not going to the special master? Chairman – Can we hold that for the next regular meeting? It's only a week or so away.

Rossman – Is the Gentile matter going to the special master Monday or not?

Steven Gentile (from audience) – I'm going to the special master Monday at 7:30.

Violation was for land clearing. We have a disagreement. I have a permit to clear all my parcels. The special master will decide that. Driver – It took me from October to now to get Mr. Phelps to cite him. Stalls are now evidently legal. I don't understand how you can be cited and then come into compliance ...

Chairman stopped discussion. This is a special meeting with special agenda. We'll catch this at another meeting.

Donald LaFontaine expressed thanks to council and past councils for helping out Brook Hollow and understanding our problems, because it was a Malabar problem as well. We did not want to solve Palm Bay's traffic problems by routing 4,000 cars through us. Thank you for that. Because this is a brainstorming session, I have a few things to bring out that you may wish to think about. Brook Hollow homeowners own seven acres that we would like to talk to you about. One of the things we brainstormed is the possibility that you guys own the land of that road. You guys can sell or not sell. We talked with Ann Birch about if EELs were willing to buy that land. You could sell that property (right-of-way) to EELs to compensate for some of the money you've lost on the lawsuit. We might possibly trade you the seven acres we have for two or three acres at the end of that road where you guys own so we can possibly set up something to store RV's or boats. That is another way of generating money. They said something like 200 feet in. If the town could own that land and have someone build on it as a source of revenue. Consider that and talk with Brook Hollow about things that would be mutually beneficial.

Question from councilmember as to where the property is located. Hall pointed it out on map and stated the seven acres was set aside when the development came in for their green space. Chairman thanked LaFontaine. That's food for thought.

Richard Cameron (from audience) – There are a few things that council is not aware of. You have been talking about the county coming in to buy the property along the Atlantic Ridge which fronts along the railroad tracks because that's pristine land for animals. I hear you say that you do not want large high-rises, low density in that area. Hall had a request by Flagler Properties for a meeting with staff and me and their engineer to do exactly what was said tonight. They were going to develop it, cut it into five- to fifty-acre pieces, low density. Wetlands were going to be left, trails were going to be designed in and around throughout the entire property for general public and owners. When EELs made them an offer, that entire thing stopped. Your town administrator is doing exactly what you are now wanting him to do nine months after the fact. Because other people did not converse with us, they've stopped the progress that we had going. It may be possible they don't buy that land, and it may go back into design. When they left here that day, it was to go to design paper and be brought back to us. Last time I recollect, from my personal phone calls, there were 11 people on a waiting list ready to buy into this property. It would have provided plenty area for animals and had low density and given us a development area through that part of Malabar that is designed for what Malabar is set up for. If EELs buys it, it will be fenced and left in natural state.

Chairman – That is one of the things open for discussion. I think they're willing to discuss that, at least it was Nancy Higgs' impression that we could raise those issues. I am hopeful that we can do that. Cameron would like to bring up the BML property. Even though the road was voted not to go all the way through, the town still owns the 100-foot right-of-way through the property even if the EELs buys it. Council member felt that even if we couldn't develop a trail system through the EELs property, it might be a good idea to hold on to that right-of-way.



Hall - Cameron has been advisor to several agencies regarding trails, etc. He has been or is going to be appointed to the county trails and greenways program. Cameron spoke of the many projects he is involved in and future projects he will be undertaking.

Chief Chuck McClelland announced there would be activity across the street in burning the house down for fire training purposes.

MOTION – Borton/Rossman – To adjourn. All ayes. Meeting adjourned at 8:50 p. m.

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Vivian Murray, CPS, Secretary

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Phil Crews, Mayor and Chairman