

TOWN COUNCIL MINUTES
May 20, 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 - EXCUSED
		NANCY TINIO-BORTON
		STEVE RIVET - EXCUSED
	ADMINISTRATOR:	WILLIAM HALL
	ATTORNEY:	KARL BOHNE
	CLERK:	SUSAN KABANA

Also present was Jim Phelps, Building Official.

The meeting was called to order at 7:30pm by the Mayor. The prayer and pledge were lead by the Mayor.

ADDITIONS AND DELETIONS TO AGENDA: None.

Mayor – for the record: Bob Rossman and Steve Rivet are excused tonight.

CONSENT AGENDA:

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

REPORTS:

ATTORNEY:

Bohne – has updates on case law tonight. The first one deals with public records. This case came out of the Second District Court of Appeals from Pinellas County. A newspaper requested emails concerning two public employees with the City of Clearwater. And the City of Clearwater went through those emails and separated them into personal and city related emails, and provided the city related emails. The newspaper said they wanted all the emails, not just the city related items. The Second District Court of Appeals sided with the City of Clearwater. But the Court specifically did not specify whether or not it was appropriate for the employees to receive or send personal email on publicly owned computers. They did state that just because a document appears in a public building does not make it a public record and they listed some criteria. The email must have been received pursuant to a law or ordinance and such an email must be created or received in connection with official business. Personal email are not within that category.

The next case was out of the Fifth District Court of Appeals, which is our own court, and concerned the Brevard County School Board. The School Board appointed an advisory committee to make recommendations regarding certain people to fill certain teacher slots when they became available. This committee was to interview people and make recommendations to Dr. DiPatri but it didn't narrow the selection down. It recommended a few people but it sent all the names to DiPatri. Now, there was a person who wanted to attend the these committee meetings and this person was told

this was not a board as defined by the Sunshine law and that they could not attend. The person who was denied access to the meetings filed a lawsuit and a local judge denied her request, so this person appealed to the Fifth District. The Fifth District agreed with the lower court judge and it distinguished between an advisory board that makes recommendations by going through a decision making process and narrows down the candidates, versus this board. And although this board made recommendations to DiPatri, it submitted all the names without eliminating any candidates. So in that instance the court said that this was not a board covered by the sunshine law and they can meet in private.

ADMINISTRATOR:

- The railroad crossing was closed for a few days, it is now open. There was a defect in the rubber mat that was installed a few years ago and they had to replace it.
- Malabar did not fair well at the state budget this year, we were not awarded any of the projects we applied for.
- Hall received a letter from the Country Cove Homeowners Association which asked for three things. One was for no parking signs along Corey road to discourage people from parking there and fishing in their retention ponds. Hall is looking for direction.

MOTION: Mayor approves the no parking signs without objection.

County Cove also asked for repair to the erosion under the bridge that enters their subdivision. Public Works will address this when they are finished with the other projects on their list. Currently they are cleaning ditches.

- The FEMA project is moving forward and is on tonight's agenda. Because the funds expire on May 31st we are going to begin work. We still have to negotiate for land for the retention pond but we already have a permit to start so we will begin. The only problem with starting now is that we can only do so much work before we trip the threshold of increasing the water flow and without the retention pond we don't have a place to put the water. Doing this work now will tie up the funds. Right now we have everything we need except the land.

- Vivian Murray retired on May 9th. We have chosen Jennifer Mansur to replace her if Council agrees. Council – no objections.

CLERK:

- has two items on the agenda tonight.
- due to a shift in responsibilities Kabana is not ready to set the workshop for redistricting, hopes to have this for the next meeting.

Hall – is trying to get a landscape architect to come to the June 11th Council workshop on beautification.

Mayor – saw Mitch Needleman and informed him of some projects that he would like funding for in Malabar including road paving, water to Harris, and beautification. Hall – in the past month he has had interest in water down US1 to Harris. Mayor – instructs Hall to meet with Bill Barrette to discuss details as to why we lost the state funding this year.

ACTION ITEMS:**1. AUTHORIZATION TO BID FEMA PROJECT 1062-0006, DRAINAGE IMPROVEMENTS**

Hall – we are afraid that if we don't make some kind of move we will lose the money. Jim Helmer, Brevard County Surface Water Improvement – this allows Malabar to keep

this grant in place, we don't want you to lose the funding. The land that is required for the pond is part of the St. John's part of the permit. And if our alternatives fail then we are going to have to come up with other creative alternatives for water quality treatment. Brevard County will work with Hall, Frazier and St. John's to make this all work because they really don't want to see this money lost. Hall – wants Council to be aware what he is trying to do and that he is skating on thin ice.

MOTION: Mayor approves without objection.

2. CURRENT YEAR BUDGET ADJUSTMENT

Kabana – this adjustment covers fund 107 and fund 001, general fund. The general fund highlights are the removal of the FEMA grant for a fire truck that was turned down, fines and forfeitures that were received from Sheriff William's office, and the addition of a line item for a network upgrade, which is agenda item #3.

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

3. REQUEST TO UPGRADE IN-HOUSE COMPUTER NETWORK

Kabana – we have several issues with the current server and need to upgrade.

MOTION: Tinio-Borton/Horton to approve.

Mayor – the server we use right now is not really a server, it is just an ordinary PC, and the backup software is antiquated. He continues to explain the proposed system. It really will assist the staff considerably.

VOTE: All aye.

PUBLIC COMMENTS:

Alan Wollard, Park and Recreation Board Chair – is speaking on behalf of the Park Board. At the last Park Board meeting they discussed the possibilities of maintenance at Malabar Park. It was brought to their attention that the Council will soon begin the budget process and maintenance for the park has always been a catch-it-as-you-can thing for public works. And as a result it was often left fallow then spruced up before Malabar Day because there was not much in there. But now we have the ball field and the tennis courts and what the Park Board would like to see is scheduled maintenance for the park. It could be contracted out, or scheduled weekly with public works or we could even hire a part-time public works person to do the work. He asks Council to explore any available avenues.

Wollard – the Easter Seals people who currently maintain Huggins park came back with a bid of \$25,000 to maintain everything in the park, which was too high to consider. They came back with a bid of \$12,500 but the Park Board does not know if this is reasonable either. They need to bid it out. At this point they want to get in on the early budget process and ask for anything that is available. Mayor – asks Wollard to come up with some recommendations. Discussion continued.

REPORTS: MAYOR, COUNCIL

- Moccia – does not like the idea of wire of any kind strung up above the top rung of a fence to control animals – they can get seriously hurt. If we need to change something in our ordinance prohibiting this then we need to do this now. Phelps – barbed-wire is prohibited in RR65 except in the control of animals within your own property.

- Moccia – would like to see a building department FAQ for Jennifer to hand out. And we can put it on the website also. Phelps – that is a good idea, it is something that we will eventually get to, right now we need to do what needs to be done as soon as possible. Notes that we are re-structuring the entire building department.

- Tinio-Borton – what is going on with fining the EEL's? Phelps – has a delimma because a large portion of that property has now been turned over to the state and they become the violator. Exactly what the fallout of that would be he is not sure. And he has a question about the legal definition of land clearing. They did not strip the land and clear it. They only crushed and rolled the vegetation.
- Tinio-Borton – when are they going to clear the trees at the end of Malabar Road?
Hall – June 11th.
- Tinio-Borton – there is an agenda from EEL's about a meeting from today and our Council representative is out of town. Asks Hall to investigate this meeting. Feels Hall should attend these meetings so we know what is discussed, she does not want to be in the dark again.
- Tinio-Borton – what about the fence across the ROW? Phelps – it is down, he will inspect it tomorrow.
- Tinio-Borton – what is happening with the BML/PRN lawsuit? Bohne – has not received any indication that the litigation has been formally dismissed.
- Horton – nothing at this time.
- Hall – we won trash bash. We are trying to split \$500 between the boy scouts and the cub scouts and then \$500 to the Park Board but Keep Brevard Beautiful does not know if they can give it to a city or town board.

Mrs. Dezman, from the audience – asks Hall what was the third issue from the County Cove letter? Hall – there is damage to the road in front of a house, about a 2 foot by 2 foot square. The town will try to get the money back from the builder or the homeowner first before spending taxpayer money to repair the damage. Dezman – the homeowners have a deposit from that builder and if the Town is not going to fix it then she needs to know how the board can handle it. Hall – was unaware there was a deposit.

- Mayor – had a call from Mrs. Zindel regarding the fees on her building permit, she is looking for information on the radon fees.
- Mayor – Mr. Massengill from the storage place on US1 called the Mayor regarding a U-haul truck he had parked across a dirt path between his storage facility and a restaurant. There were concerns from Camelot RV because the path is actually in the ROW. Asks Hall to explain – states that it is a problem between neighbors.
- Mayor – there was a fire on Malabar Road just east of Marie. It was due to the Australian pines hitting the power line. He notes that the fire chief had called FP&L a month ago and told them about the hazard and asked for the trees to be trimmed.
- Hall – there was a young sand hill crane hit and killed buy a speeding dump truck in front of some children at a bus stop on Corey Road and now are running radar there. We are trying to catch speeders, and we are, but we are catching neighbors who speed also.

Meeting adjourned at 9:00 p.m.

ATTEST:

BY:

Susan Kabana, CMC

Mayor Phillip R. Crews, Chair

Date: _____