

**TOWN COUNCIL MINUTES
NOVEMBER 4, 2002**

This meeting of the Malabar Town Council was held at the Town Hall at 2725 Malabar Road. The meeting was called to order at 7:30pm by the Chair, Phillip Crews. The prayer and pledge were led by Mr. Rivet.

ROLL CALL:

COUNCIL MEMBERS:	NANCY TINIO-BORTON BOBBI MOCCIA FRANK BALLOU BOB ROSSMAN
VICE CHAIR:	STEVE RIVET
MAYOR/CHAIR:	PHILLIP CREWS
ATTORNEY:	KARL BOHNE
CLERK:	SUSAN KABANA

Also present were Jim Phelps, Building Department, Fire Chief Chuck McClelland, Carl Beatty, Public Works Supervisor, Mr. Cameron, P&Z Board, and Maria Parkhurst, Frasier Engineering.

ADDITIONS & DELETIONS:

Ballou has issue for engineer - #2 under Discussion Items.

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

REPORTS:

ATTORNEY:

- Bohne – rezoning – Mrs. Balkany is interested in rezoning her property from industrial to residential, asks if Council is interested. Mayor/Rossmann/Rivet feel it would be tough sell to the DCA. Her property is on Atz & Jordan. Bohne will tell her she can apply but it will be a tough sell.

- Bohne – road Ordinance – Frazier had no problem reducing lane requirement from 20 to 18 feet and the subgrade from 12 to 8 inches. This reduces cost of building a new road 15 to 20%. Bohne notes that it is more difficult to deal with right-of-way leading nowhere, like the issue with the Barrs.

Rivet – feel the road ordinance can be modified.

CLERK

- Kabana – a citizen would like a street light at Walker and Atz. Council – there is already too much light pollution, is not interested.

- Kabana – says thanks to Ballou, it has been a pleasure working with him.

- Kabana – there will be a meeting on Thursday, November 7th to swear in new Council members.

- Kabana – the first order of business at next meeting will be to elect a Chair and Vice-Chair.

- Kabana – regarding Mr. Booth, the new Town Administrator: cell phone – Town pays for basic plan, upgrade cost is his. Insurance will be ordered now. There will be no credit card. Mr. Booth will deal with the Berri Patch/Palm Bay Utilities issue.
- Kabana – Town Hall closed Monday for Labor Day.
- Kabana – gave tape recorder info to Council.

PUBLIC WORKS SUPERVISOR

Beatty – it will take \$128,000 to add remaining roads for paving. Moccia – wants a schedule from Public Works. Rivet – wants to consolidate the stop/street signs.

PUBLIC COMMENTS:

- Patricia Dezman – Next time Council is invited to her home absolutely do not bring a reporter, is very upset that the event that was held at her home was invaded by a news paper reporter. Is referring to the Country Cove Homeowners Association meeting where Council was invited to speak.
- Brian Hunter/Stuart Borton - (audience) – thanks Frank Ballou, departing Council member. Ballou – he has learned a lot.

DISCUSSION ITEMS:

1. CHARLES RYAN – 1923 HOWELL LANE – MOTORIZED VEHICLES IN THE JORDAN SCRUB

Ryan – reminds Council of what Prusak (from Brevard County) said. It is very dangerous as ATV's play around there, there is liability involved. Solutions: 1 – put article in the Town newsletter and in the local paper discussing damage and designate riding areas. 2 – ATVs can patrol, trail riders can call (Town can get ATV for Sheriff). 3 – letter to ATV shops stating Malabar will enforce by air, from Valkaria Airport. Also Ryan notes that residents, at access points, can help with detection.

Discussion: access points should be gated by end of year. Vandalism is taking place. Ordinance needed to enforce restricting motorized vehicles. Since some land is some state-owned and Bohne isn't sure what we can enforce on state-owned lands.

2. (ADDED ITEM): FRANK BALLOU – HAD TRUCK LOADS OF TOPSOIL BROUGHT IN AND WAS GIVEN A “STOP WORK” ORDER.

Phelps - Talked to Parkhurst about Ballou's survey. All three (he, Parkhurst and Ballou) will (try to) resolve issues. Discussion. Rossman – suggests bringing in dirt to make Ballou's equal height as neighbor.

Phelps – the permit for his neighbor is good as long as needed, if job is abandoned then it's complete. Ballou – the permit has been ongoing for three years.

Parkhurst – this will only get worse. Says the engineer look at each request individually.

ACTION ITEMS:

1. CONDITIONAL USE REQUEST – CYNTHIA BURKE, 2085 OAKRIDGE LANE **MOTION: Tinio-Borton/Rivet – to approve. VOTE: All aye.**

Discussion. Phelps has not heard from Washburn and presumes there are no remarks. There is controversy over dust in the area, is it from the dirt road or Burkes

land? Rivet – the source of the dust is the road, it happens everywhere does not want to add any unnecessary restrictions.

2. MIKE MEYER, 2305 HOMESTEAD, REQUESTED REPLACEMENT OF HIS CULVERTS

Meyer – the drainage letter shocked/surprised him. Why is this necessary? The culvert pipes may not be the right size, and some may be plugged, but they're better since the fire department blew them out. Discussion. Crews – homeowner received culvert at no cost. Beatty – their culvert caved in, blocking the water and Public Works replaced. Crews – the Town policy says homeowners pay for culverts.

Phelps – the culverts were replaced – Mayor Durand wrote letters giving 30 day notice to get action going.

Rossman – so now is the Town going to replace all the culverts? There is a serious drainage problem on Homestead.

Rivet – suggested a compromise, this is a big expense but has to be done. Rossman – homeowner pays for pipe and Malabar does labor. Crews – a workshop is needed to discuss this. Council will set a date at the next meeting.

3. RESOLUTION 25-02 REGARDING THE PLAN FOR SURFACE WATER QUALITY IMPROVEMENTS

Crews - Talked to Council about HB 851. Asked Parkhurst to explain. Parkhurst – the first step is to pass a resolution for pollution, health, safety, and welfare. Rivet – will resolution meet requirements, is this the correct thing to do?

Parkhurst – yes, when package is together copies go Council. Rivet – will provide a way to provide matching funds.

MOTION; Moccia/Rossman to read by title only. VOTE: All aye. Crews read:

RESOLUTION 25-02

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA
REGARDING THE PLAN FOR SURFACE WATER QUALITY IMPROVEMENTS;
AND PROVIDING FOR AN EFFECTIVE DATE.

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

4. APPLICATION TO THE BOARD OF ADJUSTMENT AS AN ALTERNATE MEMBER: ANNE VARCO, 2225 ATZ ROAD

Rivet - Knows candidate, feels she would be excellent on BOA.

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

5. RESOLUTION 23-02: ACCEPTANCE OF 25 FEET OF RIGHT-OF-WAY ON COREY ROAD AND 5 FEET OF RIGHT-OF-WAY ON DELAWARE FROM RICHARD AND REBECCA WIEBELT

MOTION: Rossman/Tinio-Borton to read by title only. VOTE: All aye. Crews read:

RESOLUTION 23-02

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA
ACCEPTING THE DEDICATION OF CERTAIN REAL PROPERTY FROM
RICHARD AND REBECCA WIEBELT.

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

Comments from Council:

- Council got copy of letter regarding Bill Hall to Sheriff Williams. Clerk has copy on file.
- Kabana – even though you live in the County you can have a ‘Malabar, FL’ address. Basically the address means that you are serviced by the Post Office located in Malabar. It doesn’t mean you necessarily live in Malabar.
- Ballou – has a gentlemen concerned about culvert.
- Moccia – wants a time clock installed before new administrator. Rossman – should be discussed when job descriptions are done.
- Tinio-Borton – Gentile? Bohne – both sides submitted, in private, closing arguments to Special Hearing Master on fine. Waiting for him to look at both and come up with his decision. There’s no time limit. At attorney’s suggestion the Special Master went to the site unannounced, and found problems of odor, insufficient stall maintenance, (fresh and old manure). Although sufficient in area horses were not given opportunity to utilize back 3 acres of property. Physically they were concentrated up front. He found a violation of “spirit of intent” of his order since the horses were to have access to the back and the gates were closed. Mr. Driver’s complaint is that they can’t get to the back and they are kept up front. Attorney went out there one day and it was terrible. Mr. Phelps went out the day of the hearing and it was terrible. The “odor abatement” program was not being followed. Is in Specail Master’s hands now.
- Tinio-Borton – the road ordinance cost the Town a lot of money and should be worked on quickly. Bohne – will redefine the standards and come up with an exemption. We’re not going to “reinvent the wheel.”
- Rivet - one of the first things Council will do at the November 18th meeting is elect a new Chair and Vice-Chair but Rossman won’t be in town. Feels full Council should make this important decision. Suggests delaying until first meeting after election when full Council present. Kabana – states this is by Ordinance. Crews – without objection election will stand as Rivet proposes.
- Rivet – thanks Ballou.
- Rossman – important that the notes that are made by the Eagle Corps’ get attention from the new Town Administrator. When does Eagle Corp run? Kabana – in daytime only. They don’t have keys to open the building at night. Rossman – leave keys with Eschenberg, or at Fire House, or leave with staff during the day and then after a certain time, leave at Fire House. Council – would agree if they’d like to also work at night. Kabana - Mission was to provide coverage while folks worked during the day, Monday – Friday. Crews – put Eschenberg on agenda for next meeting and Council will bring up to him.

- Crews – issue with a traffic light at Weber and Corey: Town wrote a letter requesting a traffic study a year ago, remind them again. Kabana – those studies were done.

- McClelland – some of the street lights are intermittent. Kabana – need the pole numbers to call FPL.

- Phelps – there is a longstanding battle between the Conroy's, who live on Alexander Lane, and Mr. Vitaliano, who's back lot is on Alexander Lane (his house faces Corey Road). Mr. Vitaliano has gained access to his house from the rear using Alexander Lane for some time. We get sporadic complaints from Mrs. Conroy that Mr. V is having tree limbs cut. Direction from Bill Hall was that Mr. V cannot cut those limbs because a large portion of those limbs hanging over the right-of-way are from trees located on private property. Phelps feels it's a civil issue between two property owners and if Town has to go in and trim limbs on the right-of-way you could probably do that. But, for Mr. V to just cut limbs so he can get in and out of that right-of-way is not what needs to be done.

The owner of property, at this point, has not complained about trees being cut. It's a toss up. Phelps was paged at home this evening because Mr. V wants to trim the trees, Phelps needs direction.

Reason for trimming is to get his vehicle in and out. Back when, however, there was an agreement he was not to use this for his vehicle. Crews – Mr. V wanted to put a road on that right-of-way, probably to sell that private lot. Resolution was if he took out a permit to build a home on that parcel, he would then be issued a permit to build a road. But he couldn't get the road permit without it and it was tied together. Then it died after that. There's been this turf war along that right-of-way. Rivet – the owner of the land is not complaining. Phelps – if they don't want their trees trimmed they need to hire an attorney to stop Mr. V.

ADJOURNMENT

Meeting adjourned at 9:40 p.m.

BY:

Mayor Phil Crews, Chair (on 11/04/02)

Chair Bobbi Moccia (on 06/16/03)

ATTEST:

Susan Kabana, CMC
Town Clerk/Treasurer

DATE:
