

TOWN COUNCIL MINUTES

December 2, 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, Bobbi Moccia. The prayer and pledge were lead by Ms. Moccia.

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

Also present were Jim Phelps, Building Official, Maria Parkhurst, Engineer, Chuck McClelland, Fire Chief, and Carl Beatty, Public Works Supervisor.

ADDITIONS AND DELETIONS:

Kabana – would like to add the Engineer under Reports after the Administrator. Mayor – item 4 should be removed since it has not been removed from the table. It will take a motion from Council to be removed from the table before discussion can be reopened.

MOTION: Crews/Rossman to approve the agenda as amended. VOTE: All aye.

PRESENTATION: VENTURING CREW PRESENTATION TO TOWN

Mr. Beard presented a certificate to the Town in recognition of the Town's support of Venturing Crew 37. This organization is for kids, male and female, ages 14 to 20 and is associated with the Cub Scouts/Boy Scouts.

REPORTS:

ATTORNEY:

- Bohne – the Special Master called him this morning and said that he will be submitting an order in the Gentile case this week.
- Bohne – will have a draft available of the road ordinance for Phelps to review. It is not a long ordinance but it is very difficult to choose the correct wording. Bohne is waiting for Frazier's exhibit's A and B.
- Rossman – what is happening with the civil litigation regarding Gentile? Bohne – we have not been served yet.

ADMINISTRATOR

Booth – would like to schedule workshops for the second meeting of each month rather than regular Council meetings. A workshop allows for more input from the public during the second meeting of the month and allows for more government during the first meeting. Mayor – agrees, feels that sometimes it is very difficult to run a meeting with extensive public input.

Booth – would like to see us try this next year on a couple issues and one of those issue would be paving. He feels that there is money in his own budget (about \$25,000) that could be moved toward the paving of roads. It would only take \$60,000 to add two additional roads (Benjamin and Booth) to this year's paving project. He notes that the contractor does not like mobilizing for less than a mile of road so if we paved these roads this year it would be at a more economical cost. He states that we could borrow the remaining money on a short term loan from the bank.

Rossman – why borrow it when we have \$300,000+ surplus? He would rather use that money. Booth agrees, he brought this up because there was talk of this before he began working here. He feels it is best to use the money we have.

Mayor – likes the idea but does not want to fall below the minimum that the auditors recommend we have on hand. Kabana – we are about to use \$32,000 tonight so that puts us below the \$300,000 and put us pretty much at the minimum. Taking more can be done, but she states that absolutely no more should be used past this amount for the year. Rossman – that is fine with him because it does not pay for use to borrow money at 7.5% to 10.5%. Kabana – and we are getting less than 2% interest on savings right now. Rossman – feels a workshop is a good idea.

Booth – will focus public works on working on the drainage on Benjamin and Booth in preparation for paving. Booth feels that once these major roads are paved then we can start looking at drainage issues.

- Rossman – asks about memo in tonight's packet regarding a lobbyist. Booth – at this time it does not look like we need a legislative representative and he would like to find out if the lobbyist is working on anything that was directed by the former administrator, and tell him that if there is anything that is needed in the future that we will call on his services. Crews – notes that he is going to the legislation for \$690,000 and that we will need more than just our six legislators to vote for the expenditure. He knows that we are going to need someone to help spread the word in Tallahassee. Booth – feels that sometimes the Mayor and manager can do just as much as a lobbyist. Rossman – agrees and notes that the Mayor has done a tremendous job so far regarding the \$690,000 for mitigating the pond.

- Booth – is working on rewriting the employee and policy manual and is obtaining copies of work that our attorney has done for other cities. What he has before Council tonight has been looked at by our attorney, the Florida League of Cities, and by other administrators.

Mayor – his understanding of the FLSA is that compensatory time is not allowed for non-exempt employees. Unless there is something different for government employees, this is not an option. Booth – so far he has read this verbiage in every policy he has read. Mayor – knows there are some differences for public employees and this could be one of them. Booth – he personally would not mind taking that out, it can be reviewed.

Mayor – regarding the overtime statement, even though we'd set a policy saying that overtime has to be approved before you work it, the burden is on the employer to police that. If an employee works overtime and the department head does not know it, even though there is a policy that says it must be approved before it is worked, you still have to pay the employee. And as long as everyone understands this then the way it is written is fine.

Mayor – also there is a Florida Statue that states that if you work 15 hours on Monday, and then don't work another hour that week, anything after 10 hours in one day must be paid at time and a half, even if you haven't worked a 40 hour week. Feels

that this does not have to be addressed in here. That possibly a reference to the FLSA is enough. Other than these items, the policy looks fine.

Booth – compensatory time for exempt employees will be eliminated because if it is allowed then the town is liable for it so we don't recognize it. Except in the one case with FEMA, if there is an emergency and an exempt employee works an extraordinary amount of hours they should be compensated because FEMA will reimburse this money if it is identified. FEMA won't pay it if it is not identified.

In this policy we are really saying that comp time is administrative time. Although Booth is having the employee put down every hour they work that does not mean we are having them accumulate it, it just means that if a Council Member asks why a person has a day off it is easy for Booth to say that this person worked over. And we are also saying that we want the employees to take this at a particular time, like Friday afternoons to avoid disruption of a normal workweek. Rossman – that is pretty much what was done when he worked for Dade County. Booth – prior to this the exempt employees were accumulating comp time.

Booth notes that he will have more of the manual by the next time this is discussed. There are things that need to be looked at and changed. He predicts that he will present Council with an entire new manual in the next 30 to 60 days that will meet all the requirements.

Rossman – will this manual include points made by the auditor? Booth – definitely. Mayor – if you will let us know when you are ready to discuss this then we will remove it from the table.

Booth – he plans on expanding on the conditions for the use of the credit card and defining the Group III offenses that were mentioned. He plans on defining three groups of offenses and their consequences, with Group III being immediate discharge.

Mayor – asks if the credit card is still in Kabana's name. Kabana – yes, she has not yet been successful in getting a credit card company to put the card only in the Town's name.

Moccia – would like Booth to put together job descriptions and evaluations for all the employees and have this ready in January if possible. Booth – is there something specific you want to see? Moccia – not really, all the employees need job descriptions and evaluation forms.

Hunter – asks if the Town has an inventory list of assets and where they are located. Kabana – we keep a current inventory list and she will give Hunter a copy.

ENGINEER

Maria Parkhurst – is here to introduce herself to the new Council Members. She is employed by Frazier Engineering and works for the Town on a consulting basis. They also consult with Palm Bay, Brevard County, and the City of Melbourne so they are familiar with governmental projects.

In Malabar they work on driveway permits, site plan reviews, subdivisions, conditional uses, special exceptions, fill permits, drainage complaints, and they also do design projects. The current design project is for the FEMA 1062 grant and she notes that the contractor will be mobilizing next week. The hold up thus far was the waiting for the pipes to be fabricated. The other design project they are currently working on is the revision to the FEMA contract. This is where House Bill 851 comes into play. This will ask for money to pay for the pollution control devices that will mitigate the building of the pond. Frazier Engineering has done other projects for the Town like the water main extension. Parkhurst does not field calls from citizens, (which would be billable to the Town) her work comes from the Council, the Administrator, or the Building Official.

Rossman – had a question on the Cynthia Burke billing issue. Parkhurst – is giving more detail on the bills. Rossman – wants Parkhurst to break down billing between what the Town requested and what was billable to Burke. Hunter – asks why are we going to be billed for something that we wouldn't have been billed for unless Burke put us in this position. Why should we pick up the fees? Rossman – he felt it was necessary for him, not for Ms. Burke, to have that expertise at that meeting.

CLERK:

- Kabana – takes reservations for the League dinner in December.
- Kabana – asks about an update for the Council recording system. Hunter – is working on this.
- Crews – did Havet attend the last League dinner as well as an event in Orlando. Kabana – will have to check on both of those items.
- Kabana – would like to purchase 10 more chairs from Sam's Club for the Council Chamber audience. They should cost about \$25 each. Council agrees.

PUBLIC WORKS SUPERVISOR:

Beatty – they are proceeding with installing the culverts on Atz Road and then they will go to Old Mission and Booth after that. Also, public works is working on filling in some roads but the fill is coming to us slower than desired but they are working on them.

BUILDING OFFICIAL:

Nothing at this time.

PUBLIC COMMENTS: GENERAL ITEMS

Bill Withers – at the last meeting he requested that a speed limit sign on Corey Road be removed and it was still up this morning at 8:30 a.m., he is concerned that the Town's customer service is not what it should be. Moccia – the sign has been taken care of.

Bill Withers – sees nothing in the Town Charter that permits the Mayor to make motions or seconds. Crews – there is nothing in the Charter but he Mayor is treated like any other member of Council with two exceptions. One is that he cannot vote except to break a tie and he has the power to veto. Bohne – there is nothing in the Charter preventing the Mayor from speaking and if it is not there then the Mayor is considered a member of the Board and by Robert's Rules any member of the Board has the right to make a motion.

Dominick Vitaliano – feels that conditional uses should be done away with. He also feels that the town is violating their own ordinances. And he states that we are now paying for mistakes that were made 30 years ago, there was no foresight. He feels that the culvert across Corey Road is one of the mistakes that was made. The road is still there but the culvert is collapsing. He also feels that things should be documented to keep people accountable.

ACTION ITEMS:**1. RESOLUTION 27-02: BUDGET ADJUSTMENT ALLOWING FOR A GRANT FROM WAL-MART AND THE MOVING OF RESERVED FUNDS TO COVER THE COST OF PAVING**

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

RESOLUTION 27-02

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO AN ADJUSTMENT IN THE FISCAL YEAR 2002-2003 GENERAL FUND, FUND 001 BUDGET; PROVIDING FOR ADDITIONAL INCOME; PROVIDING FOR ADDITIONAL EXPENDITURES; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Crews/Rossman to approve.

Crews – this just looks like a pro-forma thing, he sees no problem with this.

VOTE: Aye – Hunter, Rossman, Moccia**2. SCHEDULE WORKSHOPS: POLICIES AND PROCEDURES, CULVERT REPLACEMENT, HEALTH AND WELFARE, PROPOSED CHARTER REVIEW COMMITTEE**

Kabana – we are missing two members and it might be prudent to do this the next meeting. Rossman – will not be here for that meeting but is free in January.

3. CONSIDERATION OF TEMPORARILY CLOSING MALABAR COMMUNITY PARK SOCCER FIELD

Booth – at the last meeting the Council asked him to look at the contract and there was no contract to look at. It was a change order written by the contractor, in the future we will write the change orders rather than the contractor. Booth notes that the soccer field is unusable, it doesn't have enough grass and it is a very rough field. And there is a very real liability because we have identified it as a problem. His recommendation is to close it at this time until we fix it.

The fix would come in Phase IV of the FRDAP grant, which includes irrigation. In order to grow grass you have to have water and there isn't any water out there. We basically paid the contractor to throw mulch and seed but since there was no water, nothing grew.

There was a recommendation to grind the first four inches down, and that has some merit, but if you only grind the top and have no top soil you're still not going to grow grass very well. So we can grind and then add top soil or just remove the first 4 inches and add topsoil. But we need to have water. He recommends closing the park until Phase IV is complete and there is water.

Hunter – is there anyone using the field right now? Booth – no. Hunter – is there anyone who wants to use the field? Moccia/Rossman – yes. Hunter – so there is a good reason to continue down this path. Booth – yes, and he feels that once it is complete it will be very nice and will be an asset to the community. Hunter – how long until Phase IV is done? Booth – not long, we are in the middle of Phase IV right now.

MOTION: Crews/Rossman to close the soccer field and keep it closed until the administrator says it is fixed. VOTE: All aye.**4. CONSIDERATION OF ADOPTION OF POLICIES FOR THE TOWN CREDIT CARD, COMPENSATORY TIME, AND TOWN VEHICLES** Was removed from the agenda.**5. FILLING OF FRONT OFFICE POSITION****MOTION: Rossman/Crews to hire Danielle McCain.**

Rossman – has no problem with hiring McCain. Hunter – will we be paying as much due to benefits? Kabana – there are no benefits with this part-time position.

VOTE: All aye.

REPORTS: MAYOR COUNCIL

- Rossman – has not been about to contact Earl but before he leaves Town he will make sure he knows where we stand.
- Hunter – is working on setting up a meeting with Harris Corporation, Ed Booth, and himself to introduce themselves and discuss some issues.
- Crews – this Wednesday he will attend a legislative delegation to present for the HB851.
- Moccia – nothing at this time.
- Rossman – will not be here next meeting.
- Fire Chief – the parade is Saturday, please contact him if you are interested.

Meeting adjourned at 9:00 p.m.

BY:

Chair Bobbi Moccia

ATTEST:

Susan Kabana, CMC
Town Clerk/Treasurer

DATE:
