

MALABAR TOWN COUNCIL REGULAR MEETING

March 4, 2013

7:30 PM

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

A. **CALL TO ORDER:**

The meeting was called to order at 7:30 pm by Council Chair Steve Rivet. The prayer and pledge were led by Council Member Wayne Abare, District 2.

B. **ROLL CALL:**

COUNCIL CHAIR	STEVE RIVET
VICE-CHAIR/MAYOR:	CARL BEATTY
COUNCIL MEMBERS:	JIM MILUCKY
	WAYNE ABARE
	JEFF MCKNIGHT
	MARISA ACQUAVIVA, excused
TOWN ADMINISTRATOR:	BONILYN WILBANKS
TOWN ATTORNEY:	KARL BOHNE
TOWN CLERK/TREASURER:	DEBBY FRANKLIN, excused
DEPUTY TOWN CLERK	CYNTHIA KELLEY

Kelley said for the record, Town's Fire Chief Bob Strandell is present.

C. **ADDITIONS/DELETIONS/CHANGES:**

Chair stated that there are a couple of proclamations after the consent agenda. During the Public Comments, Mike Knight from Brevard County is to make a presentation regarding the trails & recent fires. At the request of Council Member Acquaviva, Discussion items 9 & 10 will be held to the next meeting so she is in attendance; there were no objections.

D. **CONSENT AGENDA : To Be Approved as a Group with one Roll Call Vote on All Items if Resolution is included, otherwise a voice vote.**

(Any Council Member may request an item on the Consent Agenda to be removed and placed on regular agenda immediately after new business to be discussed and voted on separately by the Town Council)

- 1a. **Approval of Minutes**
Exhibit: Regular Town Council Meeting – 2/04/2013
Agenda Report No. 1a.
- 1b. **Budget Adjustment (Reso 06-2013)**
Exhibit: Agenda Report No. 1b.
- 1c. **Acknowledge Receipt of January Financials**
Exhibit: Agenda Report No. 1c.
- 1d. **Resolution Supporting Retaining Funds for EEL's Educational Facility (Reso 07-2013)**
Exhibit: Agenda Report No. 1d.
- 1e. **Acknowledge Requirement to Record a Unity of Title for Town Hall**
Exhibit: Agenda Report No. 1e.
Recommendation: Request Action on all with one motion and a roll call vote

Discussion: None

MOTION: Abare/McKnight to approve the consent agenda.

VOTE: 1) Jim Milucky, Aye; Wayne Abare, Aye; Steve Rivet, Aye; Jeff McKnight, Aye; Marisa Acquaviva, excused.

Motion carried 4 to 0.

Mayor Beatty read the proclamation for Irish American Heritage Month and presented it to Pat Reilly.

At this time, the certificates for the basketball team coached by David White were presented to each player present. Pictures were taken of the basketball team, Coach David White and his wife, Renee White and Mayor Beatty. David White stated that when the leagues were put together, it was up to the coaches to choose where to practice. Portable lights were put out there; all managed to make it to Malabar; it brought good luck as the team took first place.

Mayor Beatty presented Bob Wilbur with a proclamation and copy of the Town's flag in a picture frame with his tenure for P&Z showing. Pictures were taken of the presentation.

E. PUBLIC COMMENTS: Five Minute Limit. Comments may not address subsequent Agenda Items. Does not require Council response. (Speaker Card Required)

Mike Knight, from Brevard County EELs Program, came forward and made a presentation to Council regarding the management and trail activities. This is to let everyone know what is happening with the funding. The Al Tuttle Trail is in place, the construction of the improvements is done. We are working with the Town Administrator to put together a ribbon cutting ceremony. There is a lot of use at this site; it is now open.

A new trailhead, the Jordan Scrub Trailhead, is in progress; working with the Town to get the culvert in place. This will allow access to a new trail; it is an Eagle Scout project done by K. J. Nickish. A quick look at the Jordan Scrub will show the new trail in the northwest. The Coastal Jewel property connects to this; there will be modifications around the lakes. The trail markers have been stolen and put in the ground upside down; makes it hard to find the County has had to replace a lot of these markers.

The Malabar Scrub has a significant amount of activity. Fire lines are now going to be a single trail. It has become the most popular trail for mountain bikers. There has been an addition to the existing boardwalk in Malabar East; an observation platform was added. It was put in by the Southwest Middle School Technology Association. It was reported by Knight that the restoration of the Scrub at Malabar and Jordan are complete. The northwest area by Briar Creek is still a fire hazard concern.

Knight stated that the County is working with the Town on the Cowbell 5K/10K Trail Run. The route is being planned and will work its way west. The new trail will be used for the 5K run. Trail running is becoming very popular in this area.

The funding for the EELs Program is in a predicament. If no additional funding mechanism is found by 2015, EELs will need to reduce staffing by 70%. This could happen sooner, possibly at the end of this FY. Using the bond proceeds and interest from retired bonds cannot be used for operational purposes. If this happens, this level of reduction will not allow for staff to operate the three EELs educational centers.

McKnight asked Knight about the running with dogs; there have been complaints that they cannot run on EELs property. Knight stated that they recognize the concern. It is going to general management for discussion this week. The County has an ordinance that states no animals in the parks. An area can be designated; that's how they are doing this. The primary concern is disease and parasites. Knight stated that dogs aren't allowed but horses are. Knight stated that horses don't carry the diseases that canines carry. Horses eat vegetation and grains whereas dogs eat meat which carries the diseases. It is being looked at.

Mayor Beatty stated he is looking at an issue. We have the Malabar Community Park and the Al Tuttle Trailhead with EELs property between the two. Would the EELs Program have an issue with the Town, during Springfest, running hay rides across the EELs property to the Al Tuttle Trailhead. Knight stated that it would not be an issue; just let him know what is needed and they would be willing to assist with this taking place for Springfest. Mayor stated that there are eight stalls out there, animals could be brought in and the community can see the trailhead; thinks it is a win/win situation for both the Town and Brevard County. You could have information under the pavilion there; people could learn about the 4H Club and other associations. Mayor will pass this on to the Springfest Committee.

McKnight asked about a Sand Hill Crane that was hit on the road at Atz; if a "crossing" sign was put up, would it do any good? Knight stated that Public Works used to put up these signs but had to stop due to budgeting.

F. ATTORNEY REPORT

Attorney Bohne stated that he attended a hearing on the motion to dismiss the lawsuit. Part of the complaint was dismissed and the plaintiff was given 20 days to give time to get the other issues addressed. The court will give 20 days to amend; this battle was won but they will continue. He believed they have until March 19th to submit any new information for the un-dismissed portion.

Mayor Beatty asked about the resolution for Teen Council. He wanted to know who instructed the attorney to draft a resolution. He is not sure that is what Council would like to do. This is to be an educational experience for the kids. Mayor Beatty stated that he asked for Springfest to be included; hasn't seen that yet. Bohne stated that he and Franklin were having a phone conversation and they thought it would be good to have some rules and guidelines for the group. McKnight stated that we already pay someone to come to the building to open it up and act as recording secretary; we don't want to pay the attorney to do a resolution for this group; Rivet is in agreement with McKnight. Rivet asked if this is a general consensus to not draft a resolution for Teen Council. Bohne will discontinue working on this. It was general consensus of Council that the attorney not draft this resolution.

G. BREVARD COUNTY SHERIFF'S OFFICE REPORT

Major DeSantis came forward and gave an introduction to Council and the audience of his professional and personal background. He has no fancy stats to give out; there was a burglary at the Berri Patch Preschool. Looks to be the same perpetrators doing the crimes; they are gathering information and hope to report to Council at the next meeting that they have caught the person(s). They are working this with various other agencies. McKnight asked about the live-in security guard at the Berri Patch Preschool. DeSantis stated that person was not home.

Milucky asked him to address the flash party that took place in Malabar off US 1. Major DeSantis stated that it was FIT student who, through social media, invited people and it became out of hand. They made a visit and told the property owner that it would not be tolerated; it was his warning regarding this type of activity. Grant Ball stated that he knew there was a party going on.

Town Administrator asked him to talk about the COPs program and how it affects Malabar. Mayor DeSantis stated that at one point, there was a robust group involved in this program. However, a lot of people have dropped out or have passed away. The Sheriff's Office is amenable to this program and he will provide information to the Town Administrator, they would like to get it back to where it was and the volunteers are not restricted to a certain area; they patrol all over the area. Major DeSantis also stated that they are reviewing the zone alignments. He is trying to get a Deputy for Malabar that doesn't have to be shared; if this happens we would be zone 73. Mayor Beatty asked that he be part of the conversations regarding patrolling so that he is kept abreast of what is happening in the area.

In regards to the resolution for Teen Council, Bohne stated that the Town Clerk didn't direct him to draft the resolution; it was a mutual thing. He didn't want to make it sound like it was the Clerk's fault.

H. PUBLIC HEARINGS: 0

I. PUBLIC: ITEMS DIRECTLY RELATED TO RESIDENTS AND RECOMMENDATIONS FROM TOWN BOARDS/COMMITTEES PRESENT AT MEETING

2. Request Approval to Use Malabar Community Park Parking Lot for Local Hay Co-Op Delivery

Exhibit: Agenda Report No. 2

Recommendation: Request Action

Mark Peters, PE teacher with Palm Bay Elementary School and resident of Palm Bay, came forward and addressed Council regarding this request. They board horses here and need a place to pick up the hay for their animals. A group of people have banded together and they get the hay every six to eight weeks; it takes about an hour to get the hay and clean up any mess that may be created and it can be done before dark. At one time, they were using Corey Road but with the high traffic, they didn't want to damage the road. They had to go to Cocoa previously to get the hay then they had an agreement with the developer of Weber Woods. Since homes are now being constructed, the developer doesn't want hay delivered in this area anymore. With all the participants, they now warrant an additional truck for delivery.

Mayor stated that this should have gone through the Park Board for their recommendation to Council. Also, where they want to do this is at the back of the park near the gate; this is not Malabar's property but the EELs property and they need to speak to Mike Knight to see if they would have an issue with this. Knight came forward and stated that it wouldn't be an issue as long as the area is cleaned up before leaving; the Town needs to be okay with this as well. Town Administrator stated that this is where the dumpsters were when Waste Management was staging the vegetation removal for the town; she was chastised for not going to the Park Board and had to have the dumpsters removed. Kelley advised Council that Dick Korn had called earlier in the day to say that he didn't have issues with this; he can't speak for the entire Board but felt this was the safest place for them to do this transaction. McKnight stated that he spoke with Korn as well and he expressed concerns with paying taxes. Abare also stated he spoke with Korn regarding this; expressed concerns with not only paying taxes but also being in conflict with the area businesses. Rivet stated that paying taxes is an issue. Knight stated that money must be exchanged before picking up the hay; you can't use Brevard County property to exchange funds. Mr. Peters stated that all money is paid prior to the pickup of the hay. Rivet asked Council if it is general consensus to go to the Park Board for their recommendation. Abare stated that out of respect for the Park Board, it should go to them. McKnight stated he felt it is a County issue. Town Administrator stated she could do a memo to the Park Board; if they have issues with this, bring it up at their next meeting. Rivet stated it is the consensus of Council, they don't have issues, but it should go to the Park Board for their input.

3. Recommendations from Park and Recreation Board:

- Sand Hill Trailhead – move sign
- 17-ac Site – Clear area for Parking
- Oversight of Sand Hill Trailhead to T&G Committee
- 17-ac Site to be Named Weber Road Recreation Area
- Request FDOT to Reduce speed on SR514 to 45mph in front of Parks

Exhibit: Agenda Report No. 3

Recommendation: Request Action

Discussion: McKnight asked about the flag lot at Weber Road. Town Administrator stated it has already been cleared. She stated that the majority of their recommendations have been addressed. The Park Board feels they don't need to communicate with her but go straight to Council. She stated that the signage at the Trailhead will be moved after all the construction is done at the Al Tuttle Trailhead. The area at the front of the 17 acres had been cleared so we could get our equipment out there as part of the culvert project. Abare asked how much it would cost to do this; Town Administrator stated it is already done. He asked how much area they are asking for. Kelley stated the first 100 feet. Town Administrator stated it's already been done; staff did this to get equipment out there to install the culvert. The Sand Hill Trailhead has been given back to the Trails & Greenway Committee; they will report on this from now on. With regards to the 17 acres, McKnight stated he would like to see it named after Mayor Eschenberg. Town Administrator said the timing of the naming of the park is perfect as we need to do the sign stating it was provided by the Florida Communities Trust.

Town Administrator stated that the only thing left, and it is being worked on, is the speed limit for Malabar Road being dropped to 45 mph. She provided a copy of the study that was done and based on that information; it isn't warranted at this time to drop the speed on the road. However, she did send an email to the contact informing them of major concerns the Town has for the speed being dropped. She was told that the final decision hasn't been made yet and they will take all concerns into consideration, but the initial indicators are that it would not be reduced at this time.

Mayor Beatty stated that he was at the Park Board meeting last month when they expressed their concerns. He will go to the next meeting and let them know about this issue and how it was addressed. He also advised the Board that their job is to report cosmetic issues that are seen at the parks now because of the extensive inspection reports that are now being done on each park by the Town Administrator. They were very pleased as Kelley had copies of the reports to show them.

Rivet stated it is with general consensus to approve items one through four with the changing the name of the 17 acres to something with Eschenberg in it. Town Administrator stated that a resolution with the 17 acres name change would be presented under the consent agenda at the next RTCM.

J. ACTION ITEMS:

ORDINANCES: First Reading - 0

RESOLUTIONS: 1

4. Approve Renaming Malabar Portion of Roadway to Goat Creek Lane (Reso 08-2013)

Exhibit: Agenda Report No. 4

Recommendation: Request Action

Discussion: Town Administrator gave background on this. Apparently it was brought to Council several years ago; to the Council that was seated at the time. They didn't want to make the change. Grant Valkaria has made the change and we need to support them. Rivet stated it is the general consensus of Council to support this. Town Administrator stated it will be put in resolution form and brought back at the next RTCM. Abare asked what the cost would be to the Town. Town Administrator stated it is minimal but Grant-Valkaria has been taking care of this.

MISCELLANEOUS:

5. Approve Newsletter Articles Before Layout

Exhibit: Agenda Report No. 5

Recommendation: Request Action

Discussion: Abare stated he sent recommendations to Town Administrator for golf carts. He asked if that information was in the packet. She stated that she sent it out before hand and asked Council if they read it and had any issues with the additional wording. Abare stated that Grant Valkaria did this and about 50 residents came up with about \$25 to cover this. Malabar's response was are we dependent on how many are willing to do that. If we get 2 or 3 people interested, he suspects it will die on the vine. If 20 to 30 people come in, we would get more excited about it. He just wants some feedback; that is what he had added to the newsletter. He put in there for legal recordings and it needs to be added about signs; that's the most expensive part of this.

Milucky asked the attorney if we are in violation of what we can do; we are not licensing these golf carts, we are still within the boundaries? Town Administrator stated that we have not even presented the ordinance to Council. That is why it was left pretty generic. Milucky stated that we are talking about a newsletter that states are you interested in putting up \$35 with the Town so a sticker can be placed on the back of your golf cart. Abare stated we would clone Grant Valkaria's ordinance; our attorney represents them as well. That part would be easy. If we need more wording to let people know we are going to do that, than lets add it. The point is Abare would like to get distinct feedback from the residents. If he had a golf cart and read the newsletter, he would call Town Hall and say he would be willing to do this. That's the intent of his recommendations. Town Administrator stated that she is going to give the contact information for Town Hall and her email so people can call if questions or more information is needed.

Kelley stated that since the article for Springfest was written, additional sponsors have been received and they will be added to the article. Those additions will not change the content of the article. She just wanted Council to be aware of those additions.

Abare stated he wanted to compliment staff on the newsletter. He thinks it is a good thing and they do a good job. Running it by us, we may add a few tweaks but he still gives staff high marks. Town Administrator stated that we received no articles or comments from Council. Is that because you don't want to add anything?

Mayor stated he wanted to expand on the golf carts. We need to let people know that there are different levels; you won't get a call tomorrow, but we can set the criteria. Then the next level is what is in the ordinance. There are limitations on driving; he stated that if they have a sticker, it is his understanding that the golf cart doesn't have to have lights. You can't drive at night. Rivet stated that is getting into the details of the ordinance. Town Administrator stated she didn't think that is what Council wanted. Mayor Beatty stated that if we have room in the newsletter, let's give the residents information; if we don't have room, then we won't add this. McKnight stated that we are getting into too much right now. Abare stated that he thinks the Mayor's point is if you get the deluxe golf cart, you can go to the County and get a tag for it. But if you have a simple golf cart, you can't ride it down the road unless we adopt this ordinance. Rivet asked if this is what he was trying to get at. Mayor stated that there are rules there. Abare asked where you draw the line; it could turn into 2 to 3 pages. Mayor stated he was just throwing it out there. He doesn't want to see us print fillers when we have information. Abare asked the Town Administrator to put something out to them and then they will review it. It has to be done pretty quickly because of Springfest. Rivet asked Abare and Mayor if they had some specific language they wanted to add.

Milucky made a suggestion for this article; to some, less is more. Instead of all the details; a line in there that states if you have questions about the details for golf carts call or go to the website. We have three inches of details; put the line in there that states if you need more detail about what the Town is talking about, call. It's more in line with what Abare is trying to do to see how many are interested in this. Abare stated that we don't have anything on the website. Town Administrator stated we don't because Council didn't know what they wanted. What she did with the issue of recreational vehicle ordinance; prior to it coming to Council for a vote, we put it on the website for 2

to 3 weeks prior so the residents could read it and then ask their questions. She figured she would do the same with this issue once Council gave staff something to work with. Rivet stated the only thing we can point to is the Grant Valkaria ordinance. Mayor Beatty said we could post this on the website to let the residents know that this is something Council is proposing; just so people are informed. He stated he goes on the website on a regular basis. He is agreeing with Abare. Town Administrator stated she would write it up and send it out with the one Abare presented.

Town Administrator stated that the only other article that will be in the newsletter, and it's not an article, it's a picture. There are certain criteria that we have to do for NPDES items that have to go in that talk about the drainage to keep up our points. There's one in here about keeping your drains clear. But there is one that talks about the hazardous materials and how to get rid of them legally. She usually puts this information in the newsletter. Franklin and Wilbanks are looking for the picture.

6. Appoint Alternate to Vacant Regular Seat on Planning and Zoning Board

Exhibit: Agenda Report No. 6

Recommendation: Request Action

MOTION: Abare/McKnight to appoint Grant Ball to fill the vacancy of regular seat on Planning & Zoning Board.

Discussion: Rivet asked if there was any discussion. McKnight stated he didn't think it was Council's place to appoint; he's served on the P&Z Board for several years and on Council for several. He doesn't think he's ever had the opportunity to place a position on any of the boards that we have. As far as the position they are on like the Chair or Vice Chair, alternate or alternate 2, we have never done that. He doesn't know why Council is attempting this, especially without recommendations from the Board itself. So he doesn't know why Council is doing it now. Rivet stated that we are appointing a regular member and actually it is within our authority to appoint one of the alternates or someone else. McKnight stated that historically, we've never done that without recommendations from the Board. Rivet asked if he is suggesting we get recommendations from the Board before taking action. McKnight stated that is his suggestion. Town Administrator stated that there is also another application that came in; Rivet stated that there was. Town Administrator stated that she didn't see it mentioned here; Abare stated that it is Dick Korn. Mayor stated that he turned it down at another meeting. Town Administrator stated that this had been recent. Mayor asked if he reapplied and Town Administrator stated he had but she didn't see it here in the packet. Abare wanted to make a few comments; he struggled with motion; he's been on both sides of this issue. He made some notes with his thoughts. In January or early February, he was there, the Mayor was there and Acquaviva was there. Pat Reilly took the high road and he made a motion to recommend Mrs. Saylor to Alternate 1 position, there were no seconds. A motion was made, he believes it was Pat Reilly but it could have been someone else, to recommend Grant Ball to be Alternate 1; the vote was 5 to 0. As Jeff said, the 20+ history of the P&Z Board is that they determine their own Chair and Vice Chair; they typically determine seats 1 and 2. Now the Council clearly has the authority to do anything they want; to fill an alternate seat or a full seat. This Town has a strong Council organization. We can fight all we want but the Charter is very specific. He thinks that the fact that the meeting had a vote of 5 to 0 for Grant Ball, they, in effect, made their decision. What are they going to do at the next meeting? So he felt that Council should respect their recommendation as submitted and he doesn't want to start micro-managing. They elect their own Chair and Vice Chair. Micro-managing demotivates people; they seem to be doing a good job for 20+ years so he would like to respect that.

McKnight, just to follow that up, he strongly suspects, but he hasn't talked to him, but he strongly suspects that one of the straws that tipped the cart for Bob Wilbur was this right here. He's just sick of this kind of stuff and he's not doing it anymore. That's McKnight's opinion but he hasn't talked to Wilbur.

Milucky asked if they were waiting for him to speak on this. McKnight said not really. Milucky stated he was going to say something anyway. McKnight stated he figured that. Milucky stated that only since it's been a point of contention, he's going to weigh in on this. He can tell, he doesn't care if Council elects Grant Ball, but here's what he does care about. He doesn't like the rules changing in the middle of the stream because when it suits P&Z, we're going to do it based on seniority and the first come, first serve. When it doesn't suit them, then they say it's the best qualified. He would agree with Abare when he says that popularity contest was pretty clear; he agrees with that. But if you are going to sit here and pontificate that Grant has longer seniority on P&Z, he's been to one meeting. If you are going to say that he's more qualified; well Pat, you shake your head but you don't know Saylor's qualifications and that's part of what he resents. Saylor was the project manager of two office complexes when he met her, 80,000 sq. ft. And while she may not have your knowledge of Town code, she probably knows a lot more about codes than anyone on Council. So please give her the respect that she should have if you knew better. And he's not saying Ball is not qualified; what he's saying is that you can't say first come, first serve or you do, and that's what he objects to and that's why we go around and around, and he's never going to be happy with this; so he would support Ball but not because of the reasoning that underlies this little game we play. Here's the concern he has today. It's in our Town, the people that controls what goes on in town, is P&Z because Council gets turned over every two years and you get termed out at six. Get on P&Z, you don't seem to leave; even when we try to get people to leave, they don't seem to leave. That's just the way the Town is. But we make these decisions based on what we think we know about someone and he doesn't know if anyone here; he's spoken to Ball, so he has a little bit of insight at to his philosophy on P&Z. He doesn't know that anyone else has done that. So that's his speal on the deal without it becoming; he doesn't want to spend till midnight beating this up and he won't. He wants to move on with this Council and have a good year and put the rest of it to bed. But he would ask this one concession of this Council, if you are big enough to do this. If you approve Ball, he would like you to modify your motion to have Saylor be the first alternate appointed by the Council and not allow the people of P&Z to manipulate that. Bohne spoke up and told Milucky that he needs to caution him at this point; it's the advocating, so please. Milucky stated he is absolutely right so he will stop. The attorney is absolutely on point so Council; I forgot. Bohne stated he was listening and when it got to that point, he had to stop him.

Mayor stated that the agenda item is choosing the next seat. We've heard the reservations and he respects McKnight in the fact that P&Z should make a recommendation. He believes the fact that they picked Ball as first alternate; they've already made their choice. So he would be comfortable with just going forward and getting this thing over with rather than drag it out because he believes that it's going to come back just as we know. This says who we put in that position. We can't go off on second alternate. All it says is who's going to be the next member.

Abare stated that both are highly qualified; they've both been on a lot of boards. Saylor had been to 9 meetings and Ball to 1. That doesn't make her hugely qualified but she is qualified individual and Ball is too. They are both solid candidates but we need to respect their recommendation with Ball by a huge margin to fill the position. Mayor said it's time to move on and it would be a waste of time to go back to the Board. They have already expressed their decision. Rivet stated he agrees that the preference of the Board has been made known. He has concerns about the Board being elected/appointed for life good old boy network that doesn't allow any members that doesn't think exactly like they do; that's what concerns Rivet. Abare stated that this Council can put term limits or they can do whatever they think makes sense. Bohne stated he is trying to address this with a new ordinance. He had comments from both Abare and McKnight. It is a valid discussion right now. Rivet stated Council has discussed term limits in the past and it's something that we don't want to do right now and he voted that position; it's just the amount of talent that we have right available it would probably unnecessarily limit. Abare stated he was on P&Z for 2 years and the first year he still had his training wheels on. By the end of the second year, he was just getting his stride. There is a lot to that position; Rivet state he wasn't arguing that. He agrees 100% and he's just

suggesting that a diversity of experience and opinion in members would be a good thing. Abare stated that is always with Krieger. He can always give you another opinion. Rivet asked if it good in the case with Krieger than for Saylor. Abare was just saying he was always the guy going up the down stairway. With respect, he's a smart guy; there is a lot of diversity in that group. At times, there was so much diversity that Wilbur wanted to walk around and slap everybody but at the end and after a lot of discussion, we would close with a decision. That is the strength of that group; one guy doesn't dominate, they all participate. Ball is an individual thinker and so is Saylor. Rivet stated he agrees that they can't make a bad choice here. Unless any new points to discuss before we call for the question? McKnight stated that the one thing he got from all that is that it's not right to change the rules midstream. And that is exactly what this agenda item is doing. He disagrees with it. Rivet asked if this is because of not getting an official recommendation from the Board; McKnight stated yes. Rivet stated that even though we haven't gotten a formal recommendation, it's pretty clear what the Board wants.

Pat Reilly came forward. He called for a point of order; to ask attorney whether Milucky would be able to vote on this. Bohne stated that the pending motion right now is to appoint Mr. Ball to the vacant spot; yes he can. The answer is yes he can vote, absolutely. Town Administrator stated that he couldn't if he would have amended the motion to include the first alternate. Bohne stated that was correct. Town Administrator just wanted to know what makes it wrong or right. Rivet called for the question as a roll call vote.

VOTE: Milucky, Nay; Abare, Aye; Rivet, Nay; McKnight, Aye. With a tie, the Mayor was asked to vote; Mayor Beatty, Aye. This is by the Charter.

Motion carried 3 to 2.

Town Administrator asked if this could be a resolution on the consent agenda for the next RTCM. Council stated that it would be fine.

Bud Ryan, Howell Lane, came forward. He thinks, at the next P&Z meeting, just to keep everything on the up and up, we will validate the decision that was made tonight that it represents the wishes of the Board just to keep things straight. Then at the next RTCM, it can be read into the record or something like that; then it's not left hanging. Then we can go back to where things originate with the Board and then are sent to Council.

7. Second Meeting in March Conflicts with Legislative Action Days

Exhibit: Agenda Report No. 7

Recommendation: Request Action

Discussion: Chair stated Mayor is planning to attend Legislative Action Days in Tallahassee. With him being gone, what is the consensus of Council to cancel the second meeting in March? McKnight stated that we had one meeting last month and have gotten through most of the agenda tonight in a timely fashion; he doesn't have an issue with cancelling the second meeting in March. Abare and Milucky are both good with cancelling the meeting as well. It is the general consensus to cancel the second Council meeting in March.

(No Recess – Attorney Excused)

K. PRESENTATIONS:

- Certificates of IEMO Completion for Council Members Jim Milucky and Wayne Abare
- Certificates of Completion for FLC 2013 Humans Resources & Labor Relations Workshop to Mayor Carl Beatty and Town Administrator Bonnie Wilbanks
- Certificate of Attendance at the Supervisor Boot Camp Seminar to Town Administrator Bonnie Wilbanks

Chair Steve Rivet made presentations to both Mayor Beatty and Town Administrator Bonilyn Wilbanks and congratulated them for a job well done.

L. PROCLAMATIONS:

March as Irish American Heritage Month
Recognizing Dedication and Service of Bob Wilbur

See above under the consent agenda for presentation information for the proclamations.

M. STAFF REPORTS:

FIRE CHIEF – gave an overview of the activities of the Fire Department; total of 41 calls with 7 being brush fires. It was a busy month; real high and it came in the last half of the month. Six came within the last week and a half; 4 of them were off of Corey Road at the 1100 block by the Sanctuary. We used some mutual aid from Palm Bay and the County of that. The EELs folks were doing a 40 acre controlled burn off of Marie Street; just about done and then they had issues just west of that. DOF & Brevard County and Malabar was on site for this. Had suspicious activity in areas that had been burned months ago; so called in DOF investigated and they thought that smoldering fires cropped up and they closed the investigation on that. Chief asked which group wants the fire lines cut. The Chair of the Trails & Greenways Committee, who lives in Brook Hollow, stated that the fire lanes next to them need attention after seeing the fires burned. He reached out and saw DOF to see if they could do the cutting in on these. Chief stated that it will be the end March before it can be done. The piece of equipment they use is under repair and won't be back for this time. Chief brought up an issue; the tanker purchased in 2006 with grant funds is rusting out. Asst. Chief Welton contacted Deep South and they agreed to warranty it. We are 5 years into this truck; they are going to make good on it. The deal was that we could drive it up there taking a couple of guys but it would be expensive. They said they would get it up there; we wait for them to make a delivery down here. So they had a delivery in Port Everglades and it's the worst time of the year to lose a tanker but we can't look a gift horse in the mouth. It was picked up last week but we do have a 25 gallon brush tender that we can use as a structural tanker. We've already talked to Palm Bay and Brevard County and no one had an issue. It may take a few months to do the work; it will come back in be in perfect shape.

ADMINISTRATOR – the one thing she laid out is the handicapped restrooms that you asked us to look at; both Roger and Mayor Beatty got together. It's going to cost the Town about \$2,000 with what they came up with for this, maybe a little more. They are doing some door frame work and some electrical. She did ask the Town Engineer to put the scope of work together for her so it would look responsible to get some quotes on it. When he went into look at what Roger have, he noticed the electrical switch for the men's room would have to be moved as well as the light switch in the hallway. This is due to the door frame would be cut into. We estimated \$2,000 to \$2,500. Abare asked if 32" is ADA compliant. Town Administrator stated that we are rehabbing not renovating and there are different laws that come into play. Mayor stated that with this being an existing building, we are allowed to rehab. We don't have to meet the criteria for a brand new building which saves us a lot. Abare asked about the hidden bathroom that was a storage room. Mayor stated we can do it cheaper with rehabbing. Abare asked if we have a contingency fund. Town Administrator stated that we put it in the budget and Council takes it out so we don't have one. She had never budgeted like she does in Malabar; she and Franklin just sat with the auditor and she feels that Council will be very happy with staff. There are no management compliance issues and the two we had from last year have been done. He had a lot to say about what has gone on with the money. He will be making the presentation in April. Abare asked about the money for this; we would authorize you to go into savings for this. She said it would come before Council. It could be coming from the \$10,000 from the wastewater line item; so legally, we are going get it down and take it from the line item.

Last, but not least, Franklin put before you the Springfest. She revised it from the one that she presented to you on July 9th. She also had the benefit to have the September 2012 numbers in.

So she would ask that you look at this. It should give the explanation for any of the quote unquote questions that we had over what we spent; but more importantly, she felt we are in a much different frame than what we were this year because I put together the spreadsheet. Franklin took it very personal the comments that were made and the inference if nothing else of the fact that the money might have been mis-handled or not appropriately approved. And because of that, she has stepped down from the Springfest Committee. Abare stated that's a shame. Town Administrator stated it's a shame for a number of reasons. She always believed that two heads are always better than one. She worked it when only Kelley handled it; she worked when the two of them handled it. But she would like to say to you that she's not as comfortable today as she would have been last year or the year before because if, God forbid, something happens to Kelley, she doesn't have that backup person who can take it and run it seamless. She is very concerned with that. The other side of that is we saw what happened when she wasn't able to attend; we ran seamless because she had always managed by teaching what she does; people are never in the dark, people could run it when she wasn't here. She is concerned with Springfest with the way this is happening because there isn't a backup person for Kelley. And Kelley, on top of it, has a tremendous amount of accounts payable work that she's got to meet twice a month whether we like it or not. And Abare knows this because he has to review the check requisitions and Acquaviva signs the checks. So she's not as comfortable and she feels really bad, if the mystery is solved, that we don't say to Franklin we understand where the money went; we may not like the way we did the approval process and in the future we may do it differently. She doesn't have an issue with that but to leave an inference that there was something missing or not right or handled appropriately, she gets concerned with that because the auditors didn't find it, the accountant didn't find it and certainly the GL stands for the numbers. McKnight stated that from his standpoint, that was not the inference. When Mayor Beatty brought that issue up and we want to see where the money went, there were two line items; \$7,000 and \$12,000. What was sent this past week was perfect; if it had of been sent the first time, there would have been no issues. It's not too much to ask for. Town Administrator stated she agrees; that is why before Springfest came up, she said a spreadsheet would be put together showing all expenditures/revenues/ donations/in-kind donations. It allows her to look at the numbers and see what is happening. She wants to know that best deal is being gotten. She noticed that there were a few quotes missing on things we have bid out in the past. She is passionate that we know where the money is spent and we do the best for our tax payers. Transparency can only lead to good things. She does feel that the things said in a manner that Franklin and Acquaviva, and she asked if Acquaviva is still on the committee. Kelley stated that she has not asked to be removed, she wasn't able to attend the last meeting due to a conflict but Kelley sends all information to her along with the rest of the committee members. Mayor sits in.

Rivet stated that the lack of detail of where all the money was spent was the scrambling at the last minute. Town Administrator stated it was two days. Mayor Beatty stated that he brought this up because the numbers weren't matching up. At one point, there was money needed so a budget adjustment was done; then there was \$2,400 profit that staff wanted to use to put a shed at the park for storage purposes. Then at another meeting there was more budget adjustment needed. He reviewed the check requisitions and it says that the funds are there. Town Administrator stated that all overages were brought to Council before expenses were made and they were approved. Mayor Beatty asked if we have a "play book" so we know what to do for the event. Town Administrator stated that Kelley has a notebook and historical data that is used each year. Mayor stated he would help in any way that he can; he needs to be careful with Acquaviva on the committee. Abare praised staff; he is always amazed when he comes to Town Hall to sign the requisitions. They have meetings going on in several areas and they always have time for me when I come in. We need to encourage staff to keep them going and thanking them; we ought to be real careful with the criticism because everybody works hard at this place. We have to be very careful with the criticism. Rivet stated they not only work hard but uphold the absolute highest ethical standards. Abare stated that they help each other; they don't snipe at each other, they cover for each other and work well together. Mayor stated he wasn't picking on anybody but

looking at the facts, the money didn't add up. Abare asked Kelley to correct him if he's wrong but he signs the check requisitions; is there ever a time when the funds aren't there. Kelley stated that she will review the budget and when money is short, she puts a note on the check requisition to let them know a budget adjustment is needed. Town Administrator stated that when she sees this, it is put on the next agenda for a budget adjustment approval. She provides the monthly sheets to Council; when she sees the red, she will do budget adjustments from these sheets as well. She is dependent on the accountant getting the numbers from the Clerk's office. Kelley stated that these numbers are provided to the accountant within one to two days after the month's end.

CLERK – nothing at this time

N: DISCUSSION ITEMS:

8. Possible Budget Amendment to Provide for Additional Revenue Not Budgeted (would require an Ordinance)

Exhibit: Agenda Report No. 8

Recommendation: Request Action

Discussion: Rivet asked Kelley to give background information. Town Administrator stated she wrote this up and she could give information unless Kelley was comfortable with this. Kelley asked Town Administrator to give the background information. She stated we took in about \$7,000 in donations from the residents with the January donation letter sent out. We have also taken in about \$4,000 in training fees with outside people coming into the training sessions. We have had some additional expenditures that we could have no way of knowing about for budgeting. These funds will offset items that we did not budget for. Based on this, we want to move the funds to the Fire Department's budget by \$11,000. It will be in ordinance form for the next RTCM and a legal ad will be placed. McKnight stated that his only concern is to make sure that these funds show that they came from outside; do not bump up the budget automatically by \$11,000 for next year. Rivet stated that it is the general consensus of the Council to increase these funds in the Fire Department's budget.

9. Council to Consider Naming Mayor as Dedicated Council Chair (McKnight)

Exhibit: Agenda Report No. 9

Recommendation: Request Action

To be held over to the next agenda so as Acquaviva can be present

10. Roles and Responsibilities of Town Administrator and Town Clerk (McKnight)

Exhibit: Agenda Report No. 10

Recommendation: Request Action

To be held over to the next agenda so as Acquaviva can be present

O: REPORTS – MAYOR AND COUNCIL MEMBERS (number indicates in which order they spoke)

- 1) Mayor Beatty – he was invited to a send-off for the Veterans. It is a Saturday, March 23rd and he is letting Council know he will be attending this function.
- 4) Jim Milucky – stated that Council is doing good; he knows there are rough areas but he sees no evidence of anything different.
- 3) Wayne Abare – nothing at this time
- 5) Steve Rivet – stated he agrees with Milucky
- 2) Jeff McKnight – nothing at this time
-) Marisa Acquaviva – excused

P. PUBLIC COMMENTS: General Items (Speaker Card Required)

Q. ADJOURNMENT:

There being no further business to discuss, Chair asked for a motion.

MOTION: Milucky/Abare to adjourn; **VOTE:** All Ayes. The meeting adjourned at 9:50 PM.

BY: Carl A. Beatty
Mayor Carl Beatty

ATTEST BY:
Cynthia D. Kelley
Cynthia D. Kelley, C.M.C.
Deputy Town Clerk/Treasurer

Date Approved: 4/1/2013 as corrected

(seal)