

MALABAR TOWN COUNCIL REGULAR MEETING

November 18, 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.

B. ROLL CALL:

COUNCIL CHAIR

VICE-CHAIR/MAYOR:

COUNCIL MEMBERS:

STEVE RIVET

CARL BEATTY

JIM MILUCKY

WAYNE ABARE

DICK KORN

MARISA ACQUAVIVA

BONILYN WILBANKS

TOWN ADMINISTRATOR:

TOWN ATTORNEY:

TOWN CLERK/TREASURER:

KARL BOHNE

DEBBY FRANKLIN

For the Record, Acting Fire Chief Dan Welton is also present.

C. SUNSHINE LAW PRESENTATION BY ATTORNEY BOHNE

Memo attached. Went over mtg with another member. Also can't use a private citizen as a conduit to circumvent the provisions in the Sunshine Law. It is the biggest thing that can get Board members in trouble. Doesn't prevent Council member to talk to Board member. Council member can attend a P&Z Board and speaking but if another Council is present should refrain from getting into a conversation between them. Still have rights as resident. Applies to TC PZ Pk and any other committees that provide recommendation to TC. There is an exception if they are only fact finding and presenting. But if they rank or make recommendation they have to abide by sunshine. Can submit a position paper to clerk if you can't attend mtg. It is a public record. Also can't talk on phone with another council member on Town business. Consultations with legal counsel are not governed by Sunshine. If they have an executive mtg it is closed and considered privileged until litigation is settled. Don't have side bar conversations. It could be cured by one of the members stating what was discussed. Openness is most important in local govt.

Public Records: any document dealing with town business. Whether on personal computer or public computer. Everything you receive that relates to Town business should be sent to clerk. She can determine if it is a public record or consult with Attorney.

Social media, voice mail at home or on cell phone that can be saved it is a public record, text, twitter. AG said that if it can be saved it is public record.

Quasi-Judicial Proceedings: Land use related. Applicant is entitled to a fair hearing. If Council member has a conflict he should refrain from voting. Receive benefit or detriment.

Melb CM went to all the P&Z against a project and then voted on it at TC and it was thrown out because she should have abstained because she is biased.

Voting Conflicts:

Marisa asked when they state their opinion at P&Z and then vote on it later. If it is related to a land use issue like a site plan and you state your position, then you should abstain from voting.

Karl said it depends; gave example of posing the concerns to P&Z but if you express bias at P&Z you should abstain from voting. Karl site plan, plats, rezoning, come before TC as quasi-judicial. Dick said he has always sent email to another without copying to clerk is a violation of public records. The record is preserved.

D. NOMINATE CHAIR AND VICE-CHAIR FOR 2013-2014

Dick nominate Carl, second by Wayne

Marisa to nominate Steve, second by Jim, Steve

Vote: for Steve, 3 Ayes. Steve will serve as chair.

Jim nominated Mayor for Vice Chair / Dick to second.

Vote 5-0

E. ADDITIONS/DELETIONS/CHANGES:

F. 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

Regular Town Council Meeting – 11/04/2013

Exhibit: Agenda Report 1.a

1b. Budget Adjustment - none

MOTION: Jim / Wayne to approve consent agenda as presented.

VOTE: All Ayes.

G. PUBLIC COMMENTS: Comments may not address subsequent Agenda Items. Comments do not require Council response. (Speaker Card Required)
Five (5) Minute Limit per Speaker

H. ATTORNEY REPORT – nothing. Mayor about agenda item MOU about supporting Brazil; the instrument should be signed by the Mayor.

I. BCSO REPORT – no representative present

J. PUBLIC HEARINGS: 1

2. Amend Land Use and Zoning Maps Murdoch CL to R/LC (Ord 2013-67)

Chair read by title only. Advertised for PH on 11/7/13.

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE FUTURE LAND USE MAP AND THE OFFICIAL ZONING MAP OF THE TOWN REFERENCED IN ARTICLE II OF THE TOWN LAND DEVELOPMENT CODE; CHANGING THE LAND USE DESIGNATION AND ZONING DESIGNATION OF THE PROPERTY AS FOLLOWS: A PARCEL OF LAND LYING ON THE NORTH SIDE OF MALABAR ROAD, LOCATED IN TOWNSHIP 28, RANGE 37, SECTION 36, PARCEL 00753, ALSO KNOWN AS 1490 MARIE STREET, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 36; THENCE NORTH 89 DEGREES 50' 34" WEST ALONG THE SOUTH LINE OF THE NORTHEAST ONE-QUARTER OF SAID SOUTHEAST ONE-QUARTER OF SAID SECTION 36, 30.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89 DEGREES 50' 34" WEST; ALONG SAID SOUTH LINE 423.00 FEET; THENCE NORTH 00 DEGREES 29' 19" EAST 260.00 FEET; THENCE SOUTH 89 DEGREES 50' 34" EAST, 423.00 FEET; THENCE SOUTH 00 DEGREES 29' 19" WEST, 260.00 FEET TO THE POINT OF BEGINNING, IN THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; FROM COMMERCIAL LIMITED (CL) TO RESIDENTIAL LIMITED COMMERCIAL

(R/LC); PROVIDING FOR AMENDMENT TO THE FUTURE LAND USE MAP AND THE OFFICIAL TOWN ZONING MAP; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Request Adoption of Ord 2013-67

PH open:

Tom Murdoch introduced himself, He and wife bought old school house. Wanted to thank staff and P&Z and is looking forward to working with them. In the corner of the building is an old time capsule and he would like to work with town to decide when and how to open it.

Pat Reilly, P&Z Chair, recommended TC approve this because of the 4 reasons stated at P&Z.

PH closed:

MOTION: Jim / Marisa to adopt Ord 2013-67.

Discussion: none

ROLL CALL VOTE: 1)Milucky, Aye; Abare, Aye; Rivet, Aye; Korn, Aye; Acquaviva, Aye. Motion carried 5 to 0

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

Moved to after Items "C"

3. Malabar Boy Scout Troop 37 Request

Liz Ritter, it is their regular meeting so she is helping out. Proud to be part of the community. Have been in area since 1998. Charter has changed, but members have remained the same. The town logo has been integral part of their badge. Marisa has no problem as long as they make no changes without first coming back before council.

Dick stated she is asking for three separate requests - Use Town logo on scarf's, B-2 t-shirts, and on the trailers. Yes.

MOTION: Dick / Wayne to permit them to continue to use Town logo as part of their emblem.

Vote: All Ayes.

4. Orange Ave residents Request reduced speed

Robert Oakes, 2945 Orange Ave, number of us on street have observed one of our residents, they have a disabled person on the street and kids, When he first came to town this person came to TC and asked for speed limit increase to 15mph from 5mph. She goes 30mph down the road.

Chair asked Atty to speak. Atty said FS would not allow a speed lower than 20-25mph and only then if they do a study. He can't speak to how it was first made 5 or 15 mph.

Dick said he drove up there and the dust is the main problem. Chair said that is not the request before Council.

Marisa asked if residents had called the BCSO. Report that driver as a reckless driver. Rob was hoping to go alternate routes.

Carl said we have done this before, and you have to do study. Can't vote to lower it below 20mph. It was done way before us. Town has taken stance that 15 mph is the lowest it can go unless they do the study and then it can only be lowered to 20mph.

Atty said have TA call the BCSO and ask if they have a solution.

Wayne, if they are ignoring what it is now they will continue. On Rocky Point Road someone was speeding and BCSO will ticket anyone that is speeding.

TA isn't sure if they will enforce the 15. Marisa asked if they would under reckless driving. TA will contact BCSO and send email to Rob.

Rob thanked them.

Liz Ritter, Orange Ave., she is all about safety. It is about the dust, Her car idles at 15mph. Her kids are the only ones; his grandkids come, they are across from her. She has never petitioned Town to change speed limit. It is about the dust. TA said she will also copy her on email.

5. P&Z Recommendation

P&Z Chair Pat Reilly, read from handout. 1-XII.3, any member may be removed for cause, a vote of no confidence is the cause. Attached to minutes.

Pat believes he has presented enough evidence for Council action.
Chair – any action?

Attorney said agenda package is full of information on this. He recognizes what is in code but the FS must be followed.

Reso has to be drafted stating the reason for removal, can be removed misfeasance, malfeasance, drunkenness, related to her official duties.

Tell staff to draft a resolution, and state the basis for your preliminary determination which rises to the level of misfeasance, improper doing of a permitted act; or Malfeasance doing something they shouldn't do it.

Bohne stated Staff is not going to write a reso and state the reasons. First step is do you want staff to draft a resolution then you have to give them the reasons.

Dick said he was accused of Sunshine violation by Bill Withers. After Park Board meeting he told Hans where equip was for Springfest. He was charged with a felony.

Council needs to direct staff to look into this. It is an extremely important to give information to staff. Atty said it has to relate to her duties as an alternate member of the Board. Don't want to punish a person for something she is permitted to do outside her duties as Board member.

Wayne said it should have been handled at Town level; thinks they got wrong advice. Attorney said he did not give advice.

Wayne commented she seemed to flip her motives around. After this happened, get over it. She is smart and contributes. He was at meeting when chair was nominated and she made snipe. Does it mean she should be punished? He'll do homework. Franklin has tape of the meeting. Wayne will review handout.

Marisa said she understands Attorney and that the cause has to state by Council. Staff is not going to create the facts. Dick asked how do they get the facts.

Attorney said if they decide to do that they should get an independent person. Chair said make a motion. Dick said he would like this resolved. Atty said get someone outside – an attorney because of the sunshine law. He would be concerned with having the person that does not know about Sunshine requirements.

Jim Milucky has lived this. He has heard the excerpt from draft minutes of P&Z. The crux of the problem there has been no apology. The irony of it all, she would probably make a good member if it wasn't for these behavioral problems.

MOTION: Jim / none to put it to bed. Someone wanted an apology. Jim said he is sorry they have to spend this time.

MOTION: Jim / none to not pursue any action. That is what we did before.

MOTION: Wayne / Dick each TC Member to review the facts and look at the quotes and see if they can take that somewhere.

Chair restates: every TC will review the pertinent facts and come back to the next TC meeting. Mayor said the whole issue started with the sunshine violation so Council should be given a copy of complaint. Franklin said she did not have a copy. Pat stated he included it in his package. It became public record once determination was made.

Jim wanted the findings of the Ethics Commission to also be included as they were discussed at the Council meeting and also the minutes from the TC meeting. Several statements have been made like they were facts and may not be facts or there may be an alternative understanding of the facts.

Marisa thinks Dick sounds biased. If we are going to be judge and jury and asked atty if he was biased. Atty said he appeared to have an open mind. Marisa has read and listened. She was on TC when that was brought. These are people's lives and it is serious. Appreciates the motion, but felt it was dealt with at the ethics commission.

Wayne said just look at quotes. It was 5 of 5 and they were not comfortable doing that. Marisa is not comfortable acting on this tonight. Dick said listen to the CD, 1 hour 47 minutes into mtg. Marisa asked can she call Attorney. She asked if Atty is saying he doesn't want to deal with this. Atty said we have lived with this for awhile. Need to have someone outside look at it. Don't ask staff to do it.

Dick asked if it is germane who the two persons were. It is no hidden question. You can't sit in this position. Marisa said she just gave advice to call the BCSO. You are not advising them, it is their right. TA said we are both asked for information "advice"

VOTE: 4 Ayes; 1 Nay (Milucky)

L. ACTION ITEMS:

ORDINANCES: First Reading - 0

RESOLUTIONS: 2

6. Appoint Fire Chief – Reso 43-2013

Chair read by title only.

A resolution of the Town of Malabar, Brevard County Florida providing for Council approval of Christopher Robinson to serve as the Fire Chief for the Malabar Fire Chief for Malabar Fire Dept for an annual stipend of \$14,000.00; providing for repeal of resolutions or parts of resolutions in conflict herewith; providing for an effective date.

MOTION: Abare / Marisa approve Reso 43-2013 appointing Christopher Robinson as Malabar Fire Chief.

Discussion: TA introduced Mr. Robinson. Welcome to Malabar. Chair asked him to address Council. He said he has 28 years in fire service, rescue, haz mat, 0 incident with military type contracts.

Abare was on review panel and would like to see him as a part of the Town. TA said he would have to go forward with complete compliance. It is perfectly acceptable to perform the duties of Chief. He has the background and the experience. TA said as a command person they don't go into the fire. That has been the complaint that county has. Marisa asked if the Town is going to pay for the certification.

Marisa asked Dan if he was on the panel. Dan said he doesn't know anything about the candidate other than what was on the paper. The one thing that is important is he can't enter Fire scene. If he is paid he has to have FF2.

ROLL CALL VOTE: Milucky, Aye; Abare, Aye; 1)Rivet, Aye; Korn, Aye; Acquaviva, Aye. Motion carried 5 to 0

7. Appoint P&Z Alternate Member – Reso 45-2013

Chair read by title only.

A resolution of the Town of Malabar, Brevard County Florida providing for Council appointment of George Foster to serve as an alternate to the Planning and Zoning Board; providing for repeal of resolutions or parts of resolutions in conflict herewith; providing for an effective date.

Pat Reilly, PZ Chair, Board voted to recommend appointment of George Foster.

MOTION: Dick / Wayne approve Reso 45-2013 appointing George Foster to P&Z Board as an alternate.

Discussion: Chair asked Foster to come to podium. George Foster, introduced himself. Knows a lot of you. He has been here 8-9 years. Has served community as a licensed RN and as a contractor. He works with the town and PW on their property on Marie Street. He looks forward to serving on the Board

ROLL CALL VOTE: Milucky, Aye; 1)Abare, Aye; Rivet, Aye; Korn, Aye; Acquaviva, Aye. Motion carried 5 to 0

Mayor gave George Foster the oath.

MISCELLANEOUS:

8. Appoint Bill Reviewer

Exhibit: Agenda Report No. 8

Recommendation: Request Action

MOTION: Jim / Wayne to appoint Dick Korn as bill reviewer.

VOTE: All Ayes.

9. Appoint Check Signer from Council

Exhibit: Agenda Report No. 9

Recommendation: Request Action

MOTION: Jim / Dick to appoint Wayne as check signer Withdrawn.

MOTION: Marisa / Wayne to appoint Marisa.

VOTE: All Ayes

10. Appoint SCLC Delegate and Alternate

Exhibit: Agenda Report No. 10

Recommendation: Request Action

MOTION: Wayne / Dick to appoint Mayor as delegate. Vote: all Ayes

MOTION: Dick to appoint Jim. Jim declines.

MOTION: Jim / Marisa to appoint Wayne as alternate.

VOTE: All Ayes

M. PRESENTATIONS: Mayor addresses Council about the support SCLC is asking for the Brazil-Space Coast MOU

Mayor said they voted 100 to 1. They are going to agree to agree. There is not much there. They are very interested in the space center and the port. They will bring business that would bring in 150M in business. Melbourne is working with them now. Titusville actually got them in. They have

the money, people and trading and they . Brazil has a tremendous amount of money. Opportunity to expand. Even if it is at the Cape, it means employment. Agreement to be friends for period of two years. No cost to us. They were well received by league. Ask other cities if they are interested.

MOTION: Wayne/ Jim to approve the MOU.

Vote: All Ayes

Wayne said we can do a special assessment to fund road resurfacing; it does not need to go to the voters. Can't they use it for roads in general. Atty said no, we would get sued. Wayne said to build a kitty; they would need to designate an amount in each budget. Atty left.

(No Recess – Attorney Excused)

N. PROCLAMATIONS:

O. STAFF REPORTS:

ADMINISTRATOR: 2nd floor mezzanine. After the numbers, she went to CMR and asked him to give us price and she has received estimate today and he will build the whole for no more than 6K.

TA then explained the virus that got into our system when she opened an email. We lost a lot of data and had to restore back to October 11. All of town computers were affected. Also wanted to thank PB IT in the help they have given us. Make you aware that this occurred. Citizens Services also was lost. It was a sad situation. She was working references for the candidate for fire chief and saw the area code in the subject line and thought it was someone getting back to her.

We do have tape back-ups. The Oct 31 monthly backup was not complete. Mtg on Thurs with PB to see what we have to do to move to cloud. Server is at capacity. We never would have opened it. TA said Korn wants to put the Town flag on a real pole with a top. He wants to use discretionary funds. Estimated cost is \$116. TA will put this on next agenda. Marisa asked about complaints re: trash pickup. Wanted to know if it was Malabar wide. Yes. Marisa said they are told it is the wrong container. Never had this problem before. Korn said on Weds and Sat and he puts it out, he does not have a problem. On Thursday, he puts yard waste and they are there with a claw. TA will contact again. Contract is up and the RFP will go out in Jan. Wayne asked TA about pix on website. She has to have Vicki resend pix. Wayne said we have a lot of parks and we should be proud.

CLERK:

Aiken Engineering will be making another presentation to public regarding the status of their work on the SR514 widening project. It will be at the hospital and as soon as the date is set we will post notices so interested persons can attend.

Newsletter will be mailed out soon. Volunteers from Brook Hollow folded, added insert, tabbed and addressed the newsletters for us.

Cindi is attending the FGFOA school of Govt Finance thru Weds.
Progress continues on the Quick Books accounting program.

P. DISCUSSION ITEMS:

40.

11. Abare re: IEMO II class in October

Abare said it was a very good class. Re: public input, you can limit the total time for public. If things get out of hand do an emergency recess. Getting info on FD, points out that he is only gathering data can't negotiate. Ken Small said we can reclaim lost ad Valorum

Read into Minutes by Pat Reilly

November 18, 2013 Town of Malabar Council Meeting

It is totally against my character to read what I am about to read, but it's my responsibility as Chairman of the Planning and Zoning Board to do this.

In the Town of Malabar Land Development code it states in Section 1-12.3, Town Planning and Zoning Board the following:

"Any member may be removed from office for cause by the Town Council upon written charge and public hearing."

I stand before you tonight to present the written charge of a "**Vote of No Confidence** to remove LeeAnne Saylors as an Alternate member on the Malabar Planning and Zoning Advisory Board". A motion and a second was made at the P&Z October 23, 2013 regular meeting. There was a roll-call vote of 5-0 to approve this motion. The Board has lost respect, trust and confidence with LeeAnne over her actions this past year. I believe her intention for filing an ethics complaint involved a planned self-advancement constituting malfeasance and damages resulting from her actions, whether she intended them or not constitutes misfeasance.

1. LeeAnne Saylors Basis for Filing:

At the Town of Malabar Town Council meeting on November 19, 2012, LeeAnne Saylors read into record the following quote:

"Wednesday, November 14th, I arrived just after 7:10pm for the 7:30pm regular meeting of the Town of Malabar Planning and Zoning Committee. Pat Reilly and Donald Krieger were sitting at the dais in council chambers prior to the P&Z regular meeting. Their chairs were pushed together and they were whispering. Their heads were down; their conversation was hushed and not audible." The key words here are "**not audible**". LeeAnne then stated "They were discussing the documents in the presence of staff, Debby Franklin and Denine Sherear. Ms. Franklin and Ms. Sherear were busy preparing for the meeting." I have sworn statements that states from Ms. Franklin "I heard no Board related discussion before the meeting began" and Ms. Sherear "I did not see or hear any Board related discussion between Board members Pat Reilly and Don Krieger". For the record, none of the documents in front of us had LeeAnne's name on them nor had anything to do with her being on the Board. Also, LeeAnne brings up the Malabar Town election that was held November 6, 2012. LeeAnne states "I can draw no other conclusion, based on the coaching statements and previous statements made by Mr. Krieger, but that the actions were spiteful, **retaliatory from the recent election**, unethical, violated sunshine laws, and were not conducive to representing the citizenry of the Town of Malabar."

I believe her motive for filing the Ethics complaint against Don and I was in retaliation for the recent election events. She must have known the success of her complaint could result in our dismissal and consequently her advancement as a full member of the Board. I also think that the appearance of favoritism by Councilman Milucky and possibly others has occurred during past meetings. (more evidence to support this statement comes later)

2. Ethics Complaint 12-262 filed November 27, 2012:

Without any evidence of a Sunshine Law violation, LeeAnne went forward and filed an Ethics Complaint with the Florida Ethics Committee anyways. LeeAnne restated in the Ethics Complaint the same story she told at the Town Council Meeting on November 19, 2012.

3. On January 25, 2013, the Florida Ethics Committee dismissed the complaint due to lack of legal sufficiency. "Accordingly, this complaint is hereby dismissed for failure to constitute a legally sufficient complaint with the issuance of this public report."
4. February 15, 2013, Bob Wilbur, a 24 year volunteer and Chairman of the Planning and Zoning Board resigned.
5. At the April 16, 2013 Town of Malabar Planning and Zoning Advisory Board meeting:

During the nomination process for Chairman of the Board, I was nominated and seconded, and then during the discussion Leeanne states "She is concerned and thinks they should have a chair that is more neutral to the Planning and Zoning Board and not have biases. She is concerned with his biases and is concerned he will not act in the best interests of Malabar." I asked "What biases?", there was no response from Leeanne. She attacked my character without any evidence to back it up.

6. At the October 23, 2013 Town of Malabar Planning and Zoning Advisory Board meeting:

During the discussion of the motion "Vote of No Confidence to remove Leeanne Saylor as an Alternate member on the Malabar Planning and Zoning Advisory Board", Leeanne stated the following:

Grant asks a question, "I was not here at the time all this took place, if I am understanding everything, what I am understanding, is that Leeanne filed an ethics violation against Don Krieger and Pat Reilly for discussing issues while not in session". Leeanne responds "whether I can be on the Board or not". "And it really did not have anything to do with Pat, it had more to do with Mr. Krieger and his attacks during the campaign and then the mudslinging".

In Leeanne's original complaint, she says that Don and I were discussing the documents in front of us while not in session. Now she is saying it's about whether she can be on the Board or not, and about the November 2012 election mudslinging, and it had nothing to do with Pat.

7. Councilman Milucky's involvement:

At the November 19, 2012 Malabar Town Council meeting, Mr. Milucky seconded a motion to table the reappointment of Don Krieger to the Planning and Zoning board.

At the December 3, 2012 Malabar Town Council meeting, Mr. Milucky made a motion and it was seconded by Mr. Rivet to deny the reappointment of Don Krieger to the Planning and Zoning Board. Mr. Rivet as Chairman of the Council can not second a motion unless he passes the gavel to the vice-chair per Robert's Rule of Order. This was brought to his attention by the Town's attorney Karl Bohne. A motion was later made to reappoint Mr. Krieger to the Planning and Zoning Board and both Mr. Milucky and Mr. Rivet voted NAY.

At the March 4, 2013 Malabar Town Council meeting, Mr. Milucky made a statement during Grant Ball's appointment to the Planning and Zoning Board "In our Town, the people that controls and what goes on in Town is P&Z mainly because Council gets turned over every 2 years or if you don't, you get termed out at 6. But when you 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". Also, both Mr. Milucky and Mr. Rivet voted NAY to the motion to advance Grant Ball to a regular seat on the Planning and Zoning Board from his present position as an Alternate member.

At a Malabar Town Council meeting, Mr. Milucky advocated to expand to 7-member boards and eliminate the Alternate positions. This would advance his wife Leeanne Saylor to being a voting member of the P&Z Board.

Leeanne Saylor also stated the following quotes at the October 23, 2013 Town of Malabar Planning and Zoning Advisory Board meeting.

Leeanne stated "I was advised by several people at the Town level to file a complaint". She also later stated "So I talked with people here at Town Hall again and I was advised by two of them that I needed to do this".

8. Conclusion

Based on Leeanne Saylor's above quotes, the Ethics Complaint had very little to do with the Florida Sunshine Laws, it was all about her animosity towards Don Krieger prior to, during, and following the November 2012 election. I believe her motive was to get Don Krieger's seat on the Planning and Zoning Board by falsely accusing Don and I of Florida Sunshine Laws violations. I believe it would be in the best interests of the Town that Leeanne Saylor step down from her Alternate seat on the P&Z Board. She signed an oath when filing complaint form 12-262 to the Ethics Commission dated November 27, 2012, that clearly states "the facts set forth in the foregoing complaint are true and correct to the best of my knowledge and belief". She later recanted the reasoning and substance for that complaint.

She has diminished the cohesive harmony of our Board. For this and possible other reasons not stated here I ask the Council to take action.

Based on what I have presented, the appearance that Leeanne Saylor along with her husband Councilman Milucky knowingly and with forethought attempted to stop Mr. Krieger's re-appointment to the Planning and Zoning Board so that Leeanne could be advanced by council from Alternate to a full member of the Board, I believe I have presented sufficient cause for the Town Council to take further action.

Patrick T. Reilly (date)
Malabar Planning and Zoning Board Chairman

Attachments used for this letter's evidence:

- a. Leeanne Saylor's letter she read to Town Council November 19, 2012
- b. State of Florida Commission of Ethics Complaint 12-262, November 27, 2012
- c. State of Florida Commission of Ethics Complaint Findings, January 30, 2013
- d. Planning and Zoning meeting minutes of October 23, 2013
- e. Note: All Malabar Town Council meeting minutes are available on the Town's web site

Q. REPORTS – MAYOR AND COUNCIL MEMBERS

4) Jim Milucky: no

3) Wayne: no

6) Steve: Fertilizer Ord – he is trying to look at the science on this. There are some biology professors at FIT. Dick Korn said Matt Reed has done articles. TA said another person also. Marisa has pictures. And they all had middle high numbers. Home Depot. TA has list of approved types and where it is available. Wayne said Sat Bch was simpler. TA will be putting this before them. At her last meeting City Mgr they are all going to have stronger ord.

1) Dick: Follow up on something Jeff addressed. Resurfacing Weber and Corey. Getting tremendous amount of traffic. Certain times of the day. Has contacted one particular person Include Discussion Item on next agenda: making Corey and Weber as not through roads. TA said is it legally enforceable. What type of road, etc. Dec 2 meeting. Wayne said would a sign have impact.

2) Marisa: no

5) Mayor: Learned more about RR. They will put in another line and will be putting in all new crossings. 900' long. Miami 3 steps, truck line to 528 to Orlando airport and will build new station. Trains stop at night and change crews. Years ago train would meet at Cox Truck stop. Went to Maven launch today and it was awesome. Will be going to EIMO III. Teen Council is awesome. Got email and may even share it. It is good. Wayne said the number of trains will double or triple. It will become more and more of a problem. The 4-laning is coming sooner than later. Port a let at Golf Disc Park is in place and is much appreciated.

R. PUBLIC COMMENTS: General Items (Speaker Card Required)**S. ANNOUNCEMENTS:**

One (1) vacancy on Planning & Zoning

One (1) vacancy on the Board of Adjustment

Three (3) vacancies on the Park and Recreation Board

One (1) vacancy on the Trails & Greenways Committee

T. ADJOURNMENT:

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

MOTION: Wayne / Marisa to adjourn. **VOTE:** All Ayes. The meeting adjourned at 10:25 PM.

BY: Carl A Beatty
Mayor Carl Beatty

ATTEST BY:

Debby K. Franklin
Debby K. Franklin, C.M.C.
Town Clerk/Treasurer

Date Approved: 1/6/2014

(seal)