

## MALABAR TOWN COUNCIL REGULAR MEETING

February 6, 2012

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 Chair Thomas Eschenberg. The prayer and pledge were led by District 1, CM Carl Beatty.

### B. ROLL CALL:

MAYOR/CHAIR

VICE-CHAIR:

COUNCIL MEMBERS:

TOWN ADMINISTRATOR:

TOWN ATTORNEY:

TOWN CLERK/TREASURER:

DEPUTY CLERK

TOM ESCHENBERG

MARISA ACQUAVIVA

CARL BEATTY

DAVID WHITE, Excused, work

STEVE RIVET

JEFF MCKNIGHT

BONILYN WILBANKS

KARL BOHNE

DEBBY FRANKLIN, Excused

CYNTHIA KELLEY

Kelley stated for the record that PW Director Tom Miliore and Fire Chief Dennis Covey are also present.

**C. ADDITIONS/DELETIONS/CHANGES:** Town Administrator made a request that everyone sitting at the Diaz make sure their microphones are on and that they speak into the mics. There was mention that the sound from the last meeting was lacking. Acquaviva asked about Mr. Bohne leaving the meeting before the discussion on fire inspections. Mayor Eschenberg moved Discussion #7 after Discussion #6 so the attorney could be present for this discussion. Acquaviva also asked about Discussion #6, the partial payment back to the Utility Fund; felt that Franklin should be here for this. Mayor asked if Wilbanks could shed some light; she stated that this was before her tenure began and could only give information from 2007. Mayor stated that it would be left on agenda to look at it; if needed, a motion could be made to table it.

### D. **CONSENT AGENDA: To Be Approved as a Group with one Roll Call Vote on All Items**

(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)

#### 1.a. **Approval of Minutes**

##### **Exhibit:**

Corrections: None

Regular Town Council Meeting – 1/23/2012

Agenda Report No. 1.a.

#### 1b. **Budget Adjustment - none**

#### 1.c. **Support FLC Advocacy Supporting Legislation Ratifying the FDEP Version of Numeric Nutrient Criteria (Reso 3-2012)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, SUPPORTING THE FLORIDA LEAGUE OF CITIES ADVOCACY FOR LEGISLATURE TO RATIFY THE FDEP VERSION OF NUMERIC NUTRIENT CRITERIA; ~~PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.~~

##### **Exhibit:**

Agenda Report No. 1.c.

#### 1.d. **Support FLC Advocacy Opposing CS/HB 809 and CS/SB1060 Modifying the Rules Regarding Communication Service Tax (Reso 4-2012)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, SUPPORTING THE FLORIDA LEAGUE OF CITIES ADVOCACY ON OPPOSING THE PROPOSED LEGISLATION THAT WOULD ELIMINATE THE REQUIREMENT FOR PROVIDERS TO MAINTAIN ACCURATE ADDRESS INFORMATION FOR JURISDICTIONAL TAX DISTRIBUTIONS; OPPOSE THE PROPOSED LEGISLATION THAT ALSO REMOVES THE STATE'S REQUIREMENT TO PROVIDE AND MAINTAIN THE JURISDICTIONAL

DATABASE; OPPOSE THE PROPOSED CHANGES TO THE DEFINITIONS; OPPOSE THE PROPOSED LOSS OF TAX REVENUE TO LOCAL GOVERNMENTS; ~~PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.~~

**Exhibit:** Agenda Report No. 1.d.

**1.e. Support FLC Advocacy Opposing CS/SB 820 and HB 999 Requiring Septic Inspections and Associated Inspection Fees (Reso 5-2012)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, SUPPORTING THE FLORIDA LEAGUE OF CITIES ADVOCACY ON OPPOSING THE PROPOSED LEGISLATION IN CS/SB 820 AND HB 999 THAT WOULD REQUIRE THE COUNTY OR MUNICIPALITY TO ADOPT AN ORDINANCE REQUIRING ONSITE SEWAGE TREATMENT INSPECTION EVERY FIVE YEARS; OPPOSING THE PROPOSED LEGISLATION THAT ESTABLISHES FEES FOR THE EVALUATION PROGRAM THAT WOULD PLACE A FINANCIAL BURDEN ON RURAL PROPERTY OWNERS; OPPOSING THE UNFUNDED MANDATE TO DEVELOP A DATABASE TO TRACK SEPTIC SYSTEMS; OPPOSING THE PROPOSED REQUIREMENT FOR AUTOMATIC UPGRADE OF SEPTIC SYSTEM IF ONE BEDROOM IS ADDED TO A HOME; ~~PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.~~

**Exhibit:** Agenda Report No. 1.e.

**Recommendation:** Request Action on all

Mayor read each resolution by title only. Acquaviva stated that one septic is spelled incorrect; showed on resolution as septic. This will be corrected before sending out to all agencies.

**MOTION: Rivet / Acquaviva to approve the consent agenda as amended.**

Discussion: None

Kelley stated the three resolutions had a repeal clause in the title that was not necessary for this type of resolution (supporting/opposing positions) and it was deleted on the originals.

**ROLLCALL VOTE: 1) Beatty, Aye; White, Excused; Rivet, Aye; McKnight, Aye; Acquaviva, Aye. Motion carried 4 to 0.**

**E. PUBLIC COMMENTS: General Items not related to agenda items; Speaker Card Required**

Speaker's Cards: Chair stated he would use the 3-minute rule.

- Speaker 1 – Steve Morris came forward and addressed Council about the drainage at 2000 Weber Road and the bull. He called the Town Administrator and received no response. He saw her out with the Town's Engineer; he didn't speak to anyone directly about the berm. When he calls and doesn't receive a response, it bothers him. If he doesn't answer the phone, a message can be left. The bull broke the bottom board of the fence while someone was out taking pictures. She screamed and left the premises. Mr. Morris called the Mayor's home and spoke to his wife; he also called McKnight and spoke to him. The issue with the bull is that it is going to kill someone; sooner or later. He has already been injured. He was transported by ambulance and has the invoice to proof it. His dog got away from him; he went to get the dog and the bull came out it. It is a good thing the bull had blunt horns or he would be dead. The bull does not belong there; Mr. Foley fixed the board replacing it with another board. There is no wire there.

Mr. Morris wanted to re-visit the drainage. Mayor Eschenberg and McKnight have been out to see. When the dye was put in, his property was flooded. The water cannot go out to Weber Road even if it wasn't flooded. The opening is too small. The water runs from Foley's property to his property. It doesn't have a berm; it is required. This needs to be dealt with. He wants the problem resolved. He doesn't care if Foley builds a house on the property; he just wants him to take care of the problems that he has created.

As he had in the past, Mayor Eschenberg asked Mr. Morris what he would like the Town to do. Mr. Morris stated he would like nothing better than for Mr. Foley to comply with what he was supposed to do. He's made a small ditch and it doesn't work. When the rain comes down, it overflows; he has an 18" opening; Mr. Morris has a 52" opening for the water to flow through. Mayor Eschenberg stated that a report was provided to Council this evening regarding the berm with pictures showing what was looked at when the inspection was made. Council has not had a chance to review it as it was just given to them. He told Mr. Morris to come to the front office and make a public records request for the report. Mr. Bohne gave his copy to Mr. Morris for his review. Acquaviva asked Mr. Morris about the engineering report he keeps speaking of. Mr. Morris stated that he had brought it before Council a couple of times and he was told that Council is not engineers. She has never seen the report. Mayor stated that it sounds like Mr. Morris is asking to have Mr. Foley comply with what he was supposed to do.

**F. ATTORNEY REPORT:**

- Cemetery Update on title search. Mr. Bohne reported that the title search had been ordered; it will take some time to get the information. Council had discussed the signs for horses but he had left the meeting prior to the discussion. He received a call from Mr. Hood of Grant-Valkaria. Mr. Hood stated that Mr. Bohne said not to put the signs up; he did not say this. It would be up to Council to put up signs. All he said is what could happen if the signs are installed.

**G. BREVARD CTY SHERIFF:**

Deputy Hannigan reported to Council about the burglaries that have taken place in Brook Hollow on Brookshire. There were four vehicles; three were left unlocked and the fourth was a forced entry. They have a suspect in these burglaries. At the last meeting there was concern expressed about the traffic on Hall Road. The BCSO has given considerable attention to traffic enforcement. They have three to five Deputies enforcing the traffic and issuing tickets; also controlling the traffic on Corey and Weber as well. It is starting to make a difference; a lot of effort has been made. It will be an on-going issue until people understand the 35 mph speed limit. We are moving in a positive way. McKnight stated that he received several calls; there has been a significant change. Town Administrator asked if there was an opportunity to have the sign boards so people can see their speed as they approach. Deputy Hannigan stated that they don't have this equipment in the south precinct but they are working on obtaining one to use from BCSO. It has not been forgotten; it is being worked on. Mayor Eschenberg asked if they could do random speed controls once this is under control; maybe once or twice a month so that it is regular. Acquaviva stated she had heard there were houses vandalized in Brook Hollow and wanted to know about this. Deputy Hannigan stated there were no houses, just the vehicle incidents and again, they have a suspect in the matter and it's under investigation. As stated, three vehicles were left unlocked; the fourth was forced by cutting the canvas top of a jeep.

**H. PUBLIC HEARINGS:** None

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

**2. Request from Resident Charles "Bud" Ryan regarding Request to Amend Code to Provide Meeting Absence Procedure**

**Exhibit:** Agenda Report No. 2

**Recommendation:** Request Action

Bud Ryan, 1923 Howell Lane, came forward and addressed Council. He has, on occasion, had to request an excused absence from the P&Z meetings. A lot of the time, it happens between the time that Town Hall closes for the day and the meeting begins. He called the Chair, as it is the Chair that determines if an absence is excused, to let him know. Acquaviva stated she was very thoughtful when reading this. The Town has an answering machine and the messages are

checked before the meetings. She will call Franklin or Wilbanks if she is not able to attend the meeting. Or if they are not there, leave a message on the machine. She asked Bohne if one Board member calls another Board member does this open up for a sunshine violation. Bohne stated that sometimes the law doesn't take things into consideration logically. If no action is taken to formally excuse the member, in a technical sense, there is no violation. Ryan is speaking of the Boards and not Council. It was stated that the secretary of the board(s) checks the messages before the meeting. If you let people know about your absence, you are excused. McKnight stated that this happened to him for last month's Council meeting. He called and left a message as no one was at Town Hall; he also emailed Franklin. Kelley stated that it went to her "spam" folder and was found the day after the meeting. Wilbanks stated that her number is public; you can always call her phone. She will get the information to the secretary. McKnight stated he thought the correct procedure was to email Franklin. Wilbanks stated that while looking at the code, it doesn't state who the board member should call. The excuse is approved by the Chair; no vote taken by the Board. McKnight asked Bohne if he called the Mayor and stated he couldn't be at the meeting and there is something on the agenda that he is concerned with, can he ask the Mayor to pull the item. Bohne stated he would have a problem with this; call staff. Acquaviva asked Ryan if he has had a lot of absences. Ryan stated that at one of the meetings, he was marked absent but had addressed certain items on the agenda. He doesn't see an issue with calling the Chair or Vice-Chair. Wilbanks stated that if Council would like, she would put something in writing for the next meeting in March. Mayor stated he would like to see three options listed. This is something that can be changed with a resolution; don't need to make a code change. He asked everyone to think about it and bring their ideas to the next meeting in March. Ryan said he would suggest calling the Town first, the Chair second and the Vice-Chair third. This will be on the next agenda for discussion.

### **3. Recommendations from Park Board:**

- **Award Certificate of Appreciation to Brian Vail for Donation of 20' Flag Pole to Town for New Town Flag**

**Give at next meeting. No objections.**

It is the consensus of Council to present a certificate of appreciate to Brian Vail at the next Council meeting in March.

- **Purchase Another Flag Pole for State Flag at Park at Cost Estimated at \$500.00 Using Developer Recreational Funds**

Kelley advised Council the purpose of the third flag pole; to have a balanced appearance at the park. The funds could come from the Developer's Recreational Funds left after the driveway at the Disc Golf Park; \$4,000 is the balance left. Rivet and McKnight both support taking the funds from this line item; don't have to try to find the funds in the budget. Acquaviva stated this was very good information to have and thanked Kelley for giving to Council. This was a recommendation from the Park Board.

**Motion: Rivet / McKnight to spend \$500 from the Developer's Recreational Funds for the third flag pole at the Malabar Community Park. VOTE: All Ayes**

- **Pursue Purchase of Riverfront Property for Town Recreation**

**Exhibit:** Agenda Report No. 3

**Recommendation:** Request Action

Mayor Eschenberg advised Council that the Park Board is looking at 1670 US 1. Beatty stated we have nothing on the property; no appraisal of the property. Mayor stated that he went online and found that the property is appraised at \$104,000; purchased in 2008 for \$138k; the new owner has put a lot of money into the property. Knudson came forward and addressed Council. It doesn't have to be this particular property; just want something that can be accessed by water. Do a referendum vote and see if the people want to do this then we can come up with funds. It was suggested to make contact with Senator Nelson and see if he would donate the small piece he owns on Goat Creek. Mayor stated this could be a project for the Park Board.

Knudson stated it could be named after him. It is definitely an option. McKnight also stated there is property just north of Rocky Point that is available. It doesn't have any significant value to it. The property in front of Council tonight, he has issues with. Knudson stated that the Park Board's goal is to have water access in the Town somewhere. Mayor Eschenberg stated that Council wasn't interested in this property when it came before them previously. He said for someone to make a motion to pursue a piece of property for waterfront access. Rivet stated he likes the referendum idea; McKnight seconded this. A special tax for a fixed number of years to pay for the land. Rivet also likes the idea of speaking to Senator Nelson.

**MOTION: Rivet / Beatty to have Park Board speak to Senator Nelson . VOTE: All Ayes.**

#### **H. ACTIONS ITEMS:**

**ORDINANCES: First Reading: none**

**RESOLUTIONS:**

#### **MISCELLANEOUS:**

**4. Consider Adding Horse Signage onto Speed Limit Signs and add Entry Signs**

**Exhibit:** Agenda Report No. 4

**Recommendation:** Request Action

**Discussion:** Beatty stated he has had a short discussion with attorney. We need to enforce the speed limits. Lower the speed on side streets to 20 mph; do a study. Maybe we need to look at whole thing. Rivet asked how you enforce caution for horses. Mayor stated we could put signs on the welcome signs; we have four in the Town. Beatty stated he would rather re-evaluate the speed limits. Mayor Eschenberg asked what this would accomplish. Beatty stated that the BCSO could write tickets. Acquaviva stated she was not at the last meeting; we are a horse friendly Town and want to let it be known that we are. Can we put up awareness signs? It was stated that we had one incident where children were killed. Town Administrator stated we have 22 "children at play" signs. We have signage that would make people aware. The signs that were proposed are already there. If we put them on the poles of the speed limit signs, they are already in place. It was suggested to collect \$10 from each person to pay for the signs. Mayor Eschenberg stated that the number that was received was from a Face Book community. He asked if Council is interested in putting signs up at all on the existing speed limit signs. Mayor asked Wilbanks what the source would be for the signs and the total cost; \$900 with shipping. Wilbanks stated that the cost is what she gave to Council with no shipping fees. It would be taken from the contingency fund in General Government (519).

Bridget Ports: 1340 Hall Road, came forward. She did research; called the Department of Agriculture and there are 1200 horses in Malabar. It is really important to have these signs. She offered to pay for the signs and would write a check for the total amount of the quote at \$826.20. Mrs. Ports stated that you can't even take a ride in the trails for all the ATVs; you take your life in your hands every day. A horse costs \$100 a day; doesn't include the fees to board at \$500. Horses cost anywhere from \$500 to \$30,000. They are not just pets; they are an investment. Mayor asked if she thought the signs would really change the behavior of the people. She said yes. She advised Council that she went to the Grant-Valkaria meeting and they put signs up the next day. She could take up donations and give a check to the Town right now. This is just as important as flag poles. Mayor Eschenberg stated that those funds would come out of a designated fund. Acquaviva asked what the difference would be; we could start with 12 signs to see what would happen. Rivet stated he had issues with the liability for the Town. If it is a real risk, we have to make a cost benefit trade off analysis. He doesn't feel the signs will make a difference. Speed limits are legally enforceable; horse signs are not. Wilbanks stated that we would be talking about a traffic analysis for each area, very costly. McKnight agrees with not spending the funds. If residents want the horse signs on their street, they can pay for it. Acquaviva asked if Public Works would be putting up the signs and maintaining them. Wilbanks stated that the Town would maintain the signs. Bohne stated that

you could have an agreement with the homeowner but if something happens, they will go after the Town. It won't make a difference. Rivet asked what is the best way to do this without having liability for the Town. Sheriff could write a ticket for not respecting horses on the road; word would go through the town. Call the Sheriff's Department; that would get the word out to the public instead of signs. Acquaviva is for the horse awareness signs. Place at Atz, Hall, Corey and Weber Roads. This is not a negative thing for the Town. It was mentioned that there are a lot of bikers in the Town; will they want signs for bicycles? Bohne suggested that reduce the speed when sharing the road with a horse. Wilbanks stated that Grant-Valkaria now has golf cart and they are an issue. They have put signs up for that. McKnight stated that people who want the signs can pay for them for their street. Bohne stated it is minimal risk to the Town. Public Works will assess as they are out and about as well as the Eagle Corp.

**MOTION: McKnight / Rivet moved the Town pay for 4 Town entry signs; any resident or combination of residents can buy horse signs.**

**VOTE: All Ayes.**

**5. Approval to Apply for Greenways & Trails DEP Grant for Sand Hill Trailhead**

**Exhibit:** Agenda Report No. 5

**Recommendation:** Request Action

**Discussion:** Wilbanks advised Council that the grant does cover restrooms and access to drinking water. The 20% is by money or in-kind services. It would depend on the cost of the restrooms to determine the 20%. She has 2 volunteers; one is a contractor, to help with writing the grant. In-kind services or donations would be great. If not, Council would be committing \$14,000 Town money or in-kind services.

**MOTION: Rivet / Acquaviva to move forward with grant application. VOTE: All Ayes.**

**6. Approve Partial Repayment to General Fund from Utility Fund Reserves**

**Exhibit:** Agenda Report No. 6

**Recommendation:** Request Action

**Discussion:** Mayor advised Council that this was during Bill Hall's tenure. He took funds from the General Fund to pay for the expansion with the intent to pay back from the Utility Fund. Wilbanks advised Council that the auditors have spoken to this. What is the intent of Council? If not going to pay back, then it needs to be taken off the books. Mayor asked Council if \$43,000 in the reserves for the Utility Fund would be enough if something were to happen and repairs were needed. Wilbanks stated that there are two projects that may come up. Mayor advised Council that Hall made a unilateral decision to use the funds from General Fund; this did not come before Council for their approval. Rivet asked if \$50,000 would be a lump sum or if we could do something else. He doesn't have a good feel for this. These funds would be moved from the Utility Fund reserves to the General Fund reserves leaving \$43,000 in Utility Fund reserves; is this enough money? Wilbanks stated that audit wise, it could be held against you. Mayor Eschenberg stated that it sounds like Council doesn't have enough information. Acquaviva asked how this would affect our talks with Palm Bay; would it be an issue? Mayor Eschenberg stated this has nothing to do with Palm Bay; we need to know what could happen within the utility system. Mayor suggested that Council make a good faith payment to the General Fund. It would show intent from Council to make good on the debt.

**MOTION: Rivet / McKnight to pay back to the General Fund \$5,000 for the Weber Road water extension project. VOTE: All Ayes.**

Item 7 moved to be heard after #6.

**N: DISCUSSION ITEMS:**

**7. Fire Inspection Status of Amendment to Code and Repeal of Fire Inspection Fees**

**Exhibit:** Agenda Report No. 7

**Recommendation:** Discussion and Direction

Chair stated that Council Member Acquaviva asked to have this brought back for discussion. Acquaviva stated that, just recently, there was a fire back where she is from that got her thinking about this; she spoke with Franklin. It was in a multi-family dwelling where the alarm didn't go off. It was the Steelers' coach that got burned over 50% of his body. Are we not having any fire inspections? We don't have a fire marshal and she felt that it has been left out in the air in that sense. We do need to do some housekeeping with what we have on the books because we are not following it; is that correct. Asked the attorney to shed some light on rewriting the resolution or ordinance that we are not collecting fees. We need it in there as to who is doing the inspections. What are we going to call the person doing the inspections and when are we going to have fire inspections? Or did we decide that we are not going to have fire inspections at all? I know we voted on no fees for it; she was at the Knights of Columbus for an event and it was full to capacity. Are those getting inspected; it was at capacity and no more tickets could be sold. Chair asked Wilbanks to answer any questions as to the status of our fire inspections in the Town. Wilbanks stated that staff went on the basis that Council said that you did not want to be charging. To her knowledge, the Fire Chief has reviewed plans when necessary of any facilities that would have met that criteria of a commercial building but to actually go out and do fire inspections, no. But we did get the people trained so that; that was one of the things that we didn't have before, we actually have trained people to do them and it is acceptable under the State law. Acquaviva stated that Malabar Mo's has done a lot to their building; falls under the Building Department. But who is going to follow-up to make sure they are getting inspected? She doesn't know if it was the intent of Council to not have any fire inspections in the Town. Mayor Eschenberg stated this was not the intent. Acquaviva stated we are not having inspections. Mayor provided information to Council with a memo to explain information. He is not looking for any action tonight; Council needs to review and mark up the information. Mayor stated in his information that Malabar will have fire inspections and they will be the ones that are required by the State. It's basically all he is saying. Acquaviva stated it is what we are required to do; correct? Mayor Eschenberg stated yes. Those are the ones we will do. There is more information to state that if we have establishments in the Town that are not required to have fire inspections, they must provide evidence to the Town that their fire prevention equipment is periodically inspected by certified personnel in accordance with State requirements. Acquaviva asked if it would be one of their employees. Mayor stated that, if like fire extinguishers, they must be inspected and they have a tag to show the inspection information. But as far as going out and physically inspecting any properties, it would be what the State requires. Acquaviva stated that she doesn't feel that the Town is living up to that at this time. Mayor stated that this is the essence of the ordinance. Rivet stated we want an ordinance that we can and will live up to. Mayor stated yes; he felt we could easily live up to this. Acquaviva asked if Bohne had seen this information. Bohne stated yes and he sent comments back to the Mayor. Council was provided a copy of the response from Bohne. He's just tweaking the language. McKnight had question of the email from Monday, 2/6/12 at 2:13; last sentence where it says "A fire safety inspector" is an individual certified by the State Fire Marshal under s. 633.082 who is officially assigned the duties of conducting fire safety inspections; he wants to know assigned by whom. Can you specify assigned by whom? Bohne stated he pulled this right directly from the Florida Statute. McKnight has a concern that it's not specified by whom that they are officially assigned. He assumed that it was the State Fire Marshal but it doesn't specifically state it there. Bohne stated that is a "cut and paste". Acquaviva said that it states it is a certified individual by the State Fire Marshal. Bohne suggested that it is the State Fire Marshal. If the Chief is certified by the State Fire Marshal, he is the one who is officially assigned. Wilbanks stated that was the reason we had all the people go through the training required by the State Fire Marshal required them to do the inspections. McKnight stated he is just reviewing the verbiage. Wilbanks stated that would cover anyone of the people at the station the day they were asked to do it. McKnight wants to keep it as simple as possible. He wants it to be very clear. Acquaviva asked if this covers the businesses in Town that don't want to do the inspections. Mayor Eschenberg stated that if it is required by State law, the Town will do the inspection. Acquaviva asked if we are going to fine them. Rivet stated that we are not forcing any other inspections but we are requiring businesses open to the public that their equipment was properly inspected. Bohne stated that the answer to the question is two-fold. If they are not going to let us in, we get an inspection warrant or alternatively, we take them to

the Special Master. Acquaviva stated that her urgency is that we've become complacent because there are no fires. We are not doing inspections. Bohne stated that we are not inspecting homes. Acquaviva understood this but fire can happen at any time. The thing we have in place is not being done; that concerns her for safety. Mayor Eschenberg stated this is one of the reasons he did this; to get this out of the way. His hope is that Council will take this and study it and mark it up. When we come back to the next meeting, we can have something that we can say to formally do an ordinance. Wilbanks stated that we have something on the books that says we are going to collect fees; we need to get this off the books because the auditors say to look at the ordinance, it was never repealed. Mayor stated he suggested repealing the whole resolution because the second half is the inspection fees; the first half of it is the fire inspection fees. The first half is the inspection fees at the building permit point. Construction fees ought to be in the other list that the Building Department works from when people pull permits. It shouldn't be; Wilbanks stated no that the commercial plans are reviewed by the Fire Department. Mayor stated they are not going to charge. Wilbanks stated that they need to be paid for their time. Acquaviva asked if we are going to charge for new buildings. Mayor stated yes and it's collected when the permit is issued. But if you are adding an addition to your business, it's going to cost so much and they collect the money. Bohne stated that section 3 states the fees that are collected by the Fire Department. Mayor asked when the Fire Marshal was here and he reviewed the plans, who got the money. Wilbanks stated that the fees were split between him doing inspections for the Building Department and for the Fire Department; his spreadsheet was very specific for the inspections he did so we could charge the correct fees to the right line items. Site plan review fees of \$100 were not given to the Fire Marshal. Wilbanks stated that the site plan review pays for all the disciplines reviewing the plan. Mayor is confused with whole resolution; Wilbanks asked which resolution, he stated 02-2007. Mayor stated he thought the construction fees would be back on a list in the Building Department so they know how much to collect for the permit. Wilbanks will get with Franklin about this. McKnight stated that if they are getting a permit, they can roll the fees into one fee. Mayor stated that numbers like this needs to be in one place, not scattered around. This will be on the agenda for the next scheduled meeting.

**(No Recess – Attorney Excused)**

**K. PRESENTATIONS:**

**L. PROCLAMATION:**

**M. STAFF REPORTS:**

**ADMINISTRATOR:**

She will ask for a breakdown of the tickets issued. There will be a point in time when they will have an unmarked COP car and have them stationed for so many hours on Corey and Weber Roads. They don't have the vehicle at this time; it is in the works.

Regarding the comments from Mr. Morris; she called twice and there was no answering machine. After 3 attempts, she went to the Winter Institute. She had Sherear witness the phone calls. The day that she was out there with Smith; no animals bothered them. In reference to the measuring, we measured from the bottom to the opening at the top. She gave Council a brief overview of how the measurements were taken and why they were done that way. The berm was put all the way to the back fence. Smith went back out to inspect and make sure it was done and met our specifications. The swale is there; it's just grassed over.

She had been contacted by Grant-Valkaria about them assisting us with the stop signs at Weber Road. When we put up the four-way stop at Atz and Corey Roads, the traffic was diverted to Weber Road. Grant-Valkaria would like to balance out the flow of traffic by adding 2 more stop signs.

McKnight stated to Wilbanks that he wants the definition of a berm; a thorough definition. She advised that it was on page 3 of the report submitted tonight but she will also let Smith know what Council is looking for.



## CLERK:

- SCLC Feb dinner at Rockledge CC and Carl, Marisa and BW will be attending.
- Have applicant for acct position that will be meeting with TA and Clerk on Thursday.
- Have opened the new accounts at BB&T and will be transitioning over this month.
- Have been working diligently on SpringFest 2012 since October but still need volunteers to commit to help during the two-day event. Please talk to your neighbors. We have a volunteer application and will send it out to everyone if they know someone who can help – kids zone, parking, selling soda, litter pick up, cleaning tables under tent, making signs, etc. plenty to choose from. Call Cindi.
- Next newsletter will be going out in early March so we need any articles or topics now so we can include them. This newsletter will feature the 50<sup>th</sup> Anniversary, SpringFest and the Town Boards and what they do and also the Eagle Patrol.
- We still have only one flag design submitted and have moved the Council selection date to March 5, 2012 RTCM.

**O. REPORTS - MAYOR AND COUNCIL MEMBERS:**

- 1) Beatty: asked for Council to make the decision for second meeting in February. Doesn't know what else will be for work load. McKnight stated unless time pressing, hold off till March. Beatty seconded. There will be only one meeting for the month of February.
- 2) White: excused
- 3) Rivet: advised Council that his son took part in last month's Teen Council meeting. This is a great program and it gives the kids a chance to see some of the difficult questions that come before Council. They have some very good ideas with the issues.
- 4) McKnight: nothing
- 5) Acquaviva: advised Council that she is on the Springfest Committee; she met David White's wife, Renee. She is doing a lot for the 5k run. Knudson is also very involved in this. We need to get the word out; we have an awesome venue for the area. McKnight stated that his wife is a runner and he will speak to her about this. She has a lot of contacts. We need to get the word out. We have an awesome venue for the area.
- 6) Mayor: advised Council that there was an article in the Hometown News regarding the Teen Council. He also asked Wilbanks if the issue of how to spend the TIFT funds will be on the March agenda. He asked the Chief how the breakfast went on Sunday; Chief stated they made a 30 dollar profit. He also wanted to know how things are going with the audit from last year's financials. Wilbanks stated that they are setting up a meeting to go over it with Jim Warmus then a meeting will be set up for Council. Mayor stated he would have more than 4 hours notice?

**P. PUBLIC COMMENT: General Items related or not to agenda items (Speaker Card Required)**

Brian Vail, 2700 Smith Lane, stated his daughter just spent time working on community service hours for the Grant Seafood Festival. He will find out about volunteers for Springfest; his daughter attends West Shore. He also wants to have the purchase for land put out to the voters; do a referendum and put it out there with that question only.

McKnight had question for Wilbanks regarding Waring Lane; Tom Taylor's property, at the south end of Waring Lane. He said there is a berm removed two streets down going east and they are causing drainage to enter his land. Wilbanks stated he has had issues with St. John's also; he filled in some wetlands. Beatty stated he met with the same gentleman and he has a lot of information. If you; believes the name of the street is Russell; if you drive down it, you can see

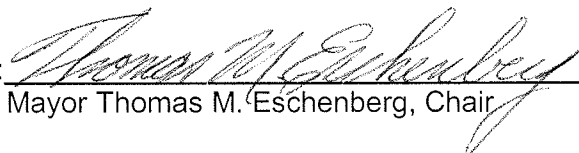
where there is a berm. It was dug to keep water out of the tomato fields, depending on what they wanted to do, it's contiguous. That basically describes one basin from another. Historically, this water did not intermingle. Wilbanks asked if there are any wetlands in this area that St. John's would be interested in. In this case, you can see the berm and you can see a cut through it. Wilbanks asked how long the cut has been there. Beatty stated that he didn't know. It creates an issue that wasn't there before. Wilbanks stated that she will look into this. Beatty stated it's on the west side. She will report back to Council and McKnight.

**Q. ADJOURNMENT:**

There being no further business to discuss, **MOTION:** Rivet / McKnight to adjourn this meeting.

**VOTE:** All Ayes. The meeting adjourned at 10:15 PM.


BY:

  
Mayor Thomas M. Eschenberg, Chair

Transcribed by

  
Cynthia Kelley, C.M.C. Deputy Clerk

ATTEST BY:

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

Date Approved: 3/5/12 with clarification on 3/19/12