

MALABAR TOWN COUNCIL REGULAR MEETING

August 20, 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 7:32 pm by Interim Mayor/Chair Phil Crews. The prayer and pledge were led by Council Member District 3 Steve Rivet.

B. ROLL CALL:

MAYOR/CHAIR (Interim)

VICE-CHAIR:

COUNCIL MEMBERS:

PHILLIP CREWS

MARISA ACQUAVIVA

CARL BEATTY

DAVID WHITE, excused

STEVE RIVET

JEFF MCKNIGHT, excused

BONILYN WILBANKS

KARL BOHNE

DEBBY FRANKLIN

TOWN ADMINISTRATOR:

TOWN ATTORNEY:

TOWN CLERK/TREASURER:

Franklin said for the record, Town's Asst Fire Chief Dan Welton was also present.

C. ADDITIONS/DELETIONS/CHANGES: Beatty wanted all the surplus items put under one agenda item. Chair stated they are all listed under Agenda Item 12.

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**

Regular Town Council Meeting – 8/6/2012

Special Budget WS Council Meeting – 8/13/2012

Exhibit:

Agenda Report No. 1a.

1b. **Budget Adjustment – Reso 25-2012**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2011-2012; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit:

Agenda Report No. 1b.

1c. **Acknowledge Receipt of July Financials**

1d. **Approve 7PM Start to Budget Workshop on August 29, 2012**

Exhibit:

Agenda Report No. 1d.

Recommendation: Request Action on all with one motion.

Recommendation: Action on All with one MOTION and with reading of resolution.

MOTION: Rivet / Beatty to approve the consent agenda.

Chair directed Clerk to read resolution by title only. Discussion: none.

ROLL CALL VOTE: 1)Beatty, Aye; White, excused; Rivet, Aye; McKnight, excused; Acquaviva, Aye. Motion carried 3 to 0.

E. PUBLIC COMMENTS: General Items not related to agenda items; **Speaker Card Required none**

F. ATTORNEY REPORT: Update on reduced speed limit. Told Rivet he had one question regarding the reference about traffic observations. Did BCSO observe excessive speeds or was it on the display of the mobile detector? It was the mobile display. Clarify that and it is ready to go. He has done up an ordinance and it will be coming up at next meeting.

- G. **BREVARD CTY SHERIFF:** None present. TA said they may be on patrol due to storms.
H. **PUBLIC HEARINGS:** 2 Legally Advertised 8/8/12; First reading for both held on 8/6/12.

2. Franchise Fee (Ord 2012-55)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA GRANTING TO THE CITY OF PALM BAY, ITS SUCCESSORS AND ASSIGNS, A WATER AND SEWER UTILITY FRANCHISE TO USE THE PUBLIC PLACES OF THE TOWN OF MALABAR; PROVIDING AUTHORITY; SERVICE AREA; FRANCHISE GRANT; SCOPE OF GRANTS; EXCLUSIVITY; IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO; PROVIDING FOR MONTHLY PAYMENTS TO THE TOWN OF MALABAR; PROVIDING THAT THE GRANTOR SHALL NOT BE LIABLE FOR CERTAIN ACCIDENTS AND DAMAGES; PROVIDING THE FRANCHISEE'S RATE; SPECIFYING THE CONSIDERATION FOR THE FRANCHISE; PROVIDING FOR TERMINATION OF THE FRANCHISE AGREEMENT; PROVIDING FOR AN EXAMINATION OF THE FRANCHISEE'S RECORDS; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Request Action

Chair directed Clerk to read Ordinance by title only.

Chair declared **Public Hearing open** – no public comment. Chair asked if public wanted explanation.

No request for explanation.

Chair declared **Public Hearing closed**

MOTION: Rivet / Beatty to approve Ord 2012-55.

Discussion: Rivet said this is a win for utility customer, win for Town and win for Palm Bay. Beatty said with the new management at Palm Bay allowed for resolution of the lawsuit.

ROLL CALL VOTE: Beatty, Aye; 1)Rivet, Aye; McKnight, excused; Acquaviva, Aye; White excused.

Motion carried 3 to 0.

3. Flood Plain Management (Ord 2012-56)

AN ORDINANCE OF THE TOWN OF MALABAR AMENDING CHAPTER 9 OF THE CODE OF ORDINANCES OF THE TOWN; REPEALING SAID CHAPTER 9 IN ITS ENTIRETY; ADOPTING A NEW CHAPTER 9; ADOPTING FLOOD HAZARD MAPS; DESIGNATING A FLOODPLAIN ADMINISTRATOR; ADOPTING PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS; PROVIDING FOR DEFINITIONS; ADOPTING LOCAL ADMINISTRATIVE AMENDMENTS TO THE FLORIDA BUILDING CODE; AMENDING SECTION 6-1 OF THE CODE OF ORDINANCES; PROVIDING FOR REPEAL, INCLUSION IN THE CODE OF ORDINANCES, SEVERABILITY AND AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 3

Recommendation: Request Action

Chair directed Clerk to read Ordinance by title only.

Chair declared **Public Hearing open** – no public comment. Chair asked if public wanted explanation.

No request for explanation.

Chair declared **Public Hearing closed**

MOTION: Rivet / Beatty to approve Ord 2012-56.

Discussion: none.

ROLL CALL VOTE: Beatty, Aye; White, excused; Rivet, Aye; McKnight, excused; 1)Acquaviva, Aye.

Motion carried 3 to 0.

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

4. Rationale from P&Z Board on their Recommendation re: R/LC

Exhibit: Agenda Report No. 4

Recommendation: Request Action

Chair asked P&Z representative to present.

Planning & Zoning Vice-Chair Pat Reilly addressed Council regarding this item. He said this came before Council in April, 2012 and Council wanted P&Z to give their rationale for their recommendations. Reilly explained why R/LC was designed for US 1; utilize existing buildings and allow for Mom and Pop operations in existing homes; operate a business and maintain the residence. That is how it came about. Biggest thing that Council wanted P&Z to do was to clarify their recommendation. Big thing P&Z Board wanted was to cut the density down to 4 from 6. If they are allowed 1200 square feet, and allowed 6 per acre, that was too many per acre so that is why they wanted it to be reduced to 4. Also, wanted to change Table 1-3.3.A. to require 900sf from 500 sf.

Reilly said that the last thing he wanted to point out to Council was that if they incorporate the reduction from 6 to 4 units per acre, we would also need to change our Comp Plan and that would have to happen. Place of business would be more upstairs and downstairs. Could also have up to 12 people living on an acre.

Questions? CM Carl Beatty asked if there were any drawings. Eng Morris Smith did a sketch showing the layout left over after setbacks. Beatty was on the zoning board when this came up. People wanted commercial so it would be more valuable but then they couldn't rebuild if it burned down.

Marisa asked about the changing the sf and making the density less. Would that decrease the property value for property owners on US 1? The Comp Plan states it at 6 per acre.

Rivet said this is somewhat more restrictive for the zoning classification and is a big impact for property owners for the area and will affect more people. This should require more public comment. He would like to see this document posted on the website. Beatty asked if they could also include the sketch showing the impact of the change. Reilly said both Eng Morris Smith and Clerk Franklin had done drawings for meetings at P&Z showing the impact.

CM Marisa Acquaviva said regarding living upstairs; on US 1 how many 2-story dwellings do we have? Is that a common dwelling? She agrees with CM Steve Rivet. If 500sf was fine since 1988 why change it? That is the commercial area and is a higher density area. Rivet said it is important to him to have input from those affected or that may be affected.

Reilly said Council can approve all the recommended changes except the 6 to 4. Approving all the rest would be helpful. We still need guidelines. CM Rivet said that is the central question. Reilly said the minimum lot size is a half acre.

P&Z V-Chair Reilly knows staff is busy but asked if they could produce a map and provide a list of those parcels on US 1 that this proposed change would apply to?

Chair – table to a time certain? Person in audience asked to speak (no speaker card)

Public – Jim Milucky, US 1, lives on US 1 and operates a business from there as well. He is also a candidate for office. He has over a half-acre on one property and owns another property. He would really like to address a couple of things that would affect him as a US 1 property owner.

First, he objects to the reduction of 6 to 4 units per acre. The reason given for the reduction from 6 to 4 was because you can't put 2000 sf on a ½ acre. The density is per acre, not per minimum lot size. So first objection is dropping from 6 to 4. Second objection is the increase of square footage requirement for one-bedroom place. He stated that 900sf for a one bedroom home is a pretty big home. He said a single wide 12x60 trailer would be 750 and most of those are 2 bedroom. So to require a home with one-bedroom to be 900sf unconscionable. It is not consistent with Comp Plan. This seems to be completely contrary to the rural desire of Malabar.

Last item, is his thought that along US 1 it is hard to do a 2-story structure. He thinks there are only about two that are more than 2-story in area of US1 and Malabar Road. And they are probably not going to have that higher than 35 feet. He referenced the difficulty in getting insurance for a two-story structure.

Milucky also questioned the Malabar vernacular. He has recently walked part of the Town and doesn't know what Council was thinking in their definition. His building was not done to match a Malabar vernacular. The real Malabar vernacular is more like the building next door. He referred to the old hotel north of Malabar Road that is Spanish style. He said to Council that any time they decide on a change they really need to think about what you want it to be like. Milucky encouraged Council to set this aside and give the property owners in the affected areas an opportunity to comment. He is here as a business that he lives in that is in this area. He said a lot of Council has been to his place.

Mayor said the comments reinforce the Council consensus to table.

MOTION: Rivet / Beatty to postpone this item until second meeting of September (9/24/12)

Discussion: TA asked for direction. Put information she has on website.

VOTE: All Ayes.

5. Recommendations by Park Board: re:

- Cow Bell 5K in 2013
- Construct Foot Bridge Over Wetland in Disc Golf Park

Exhibit: Agenda Report No. 5

Recommendation: Request Action

Foot Bridge:

Hans Kemmler, not on Park Board now but does live in a 2-story house in R/LC. The Golf Disc users have volunteers that are willing to do the project for free. The bridge would cover a wet area that is a cross section from a target to a t-pad. If users go around the wet spot they could be hit. It would need five 8x4 pressure treated pieces of wood. Anything else would be paid by the volunteers. Also wanted to let Council know they got two trees planted for shade and protection and also have removed some of the maleluca.

Mayor asked about membership. It is a well used park. Kemmler said there are lots of the same people that come on Tuesdays and Sundays. The park is in really good shape and is enjoyed by the users. This improvement would be a positive. Franklin said staff supported this project.

MOTION: Rivet / Beatty to direct staff to approve expenditure and project in this budget year.

VOTE: All Ayes.

TA asked Kemmler about another wood bridge – no it is a dual tee that is made out of concrete.

Franklin said it is the one that the State complemented the Town on when they inspected.

Cow Bell 5K:

CM Marisa Acquaviva asked about having this on a Sunday morning and Springfest on Saturday. She understands about going back to a 1-day event for SpringFest but suggested kicking off the Springfest event on Saturday with this race. She spoke with Franklin about this earlier today and Franklin sent an email to the race mgnt co to see if they have 3/30/13 date available. Franklin has not heard back as of the start of the meeting.

MOTION: Acquaviva / Beatty to direct staff to proceed with confirming with the Race Mgmt Co. and reserve the date on either Saturday or Sunday.

VOTE: All Ayes.

6. Recommendation from TBRB to Consider Health Insurance Options

Exhibit: Agenda Report No. 6

Recommendation: Request Action

This was a request that came at the budget workshop.

MOTION: Rivet / Acquaviva to table to next meeting.

VOTE: All Ayes.

RESOLUTIONS: 1

7. Non-Binding Referendum Questions – Reso 24-2012

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY FLORIDA; CALLING AND SCHEDULING A NON-BINDING REFERENDUM ELECTION TO DETERMINE THE VOTERS SUPPORT OF SPECIFIC LAND ACQUISITIONS IDENTIFIED IN THE 5-YEAR CAPITAL IMPROVEMENT PLAN 2012-2016; ESTABLISHING THE FORM OF THE BALLOT FOR SUCH ELECTION; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 7

Recommendation: Request Action

Chair directed Clerk to read by title only.

MOTION: Rivet / Acquaviva to approve Reso 24-2012.

Discussion: Rivet said this is what we wanted; to hear from residents. Acquaviva liked the way it was worded. Mayor said he doesn't know how much traffic is floated on website. It would be nice to see how residents feel about an item. Acquaviva said this is the third year for her and the same items keep getting discussed but nothing goes forward. Franklin said that the binding item does expand on the possible purposes listed in the Capital Improvement Plan in the legal ad that will run in the 5th week before the election and again in the 3rd week before the election but this can be posted at the Post Office and in front of Town Hall and put on the website.

ROLL CALL VOTE: 1)Beatty, Aye; White, excused; Rivet, Aye; McKnight, excused; Acquaviva, Aye. Motion carried 3 to 0.

MISCELLANEOUS:

8. Town Participation in Cost of Hard Surfacing Local Roads

Exhibit: Agenda Report No. 8

Recommendation: Request Action

Chair asked Franklin to summarize. Franklin explained the City of Vero Beach participates in a cost share by paying a third of the cost. They were very helpful in providing their petition process, notification to residents and even the bid package and winning bidder so we could possibly piggy back. Franklin has provided all that information to TA and given Council a summary of process. They use a shredded rubber with a binding component. Vero Beach also said Palm Bay has used this process. Franklin did not contact Palm Bay. Engineer Morris Smith had said that Vero Beach participates in this cost because their maintenance costs go down when road is hard surfaced. Franklin contacted Brevard County Property Appraiser's office and was told that in rural communities with homes on an approved dirt road, the value of the property would not go up just because the road was hard surfaced.

TA said cold paving now is allowed but wasn't allowed before. TA has Eng Morris Smith is talking to two vendors and getting information. TA said they have held up well. It was done originally as it was half the cost of the hot asphalt process. TA said the amount of maintenance saved would be substantial.

Chair asked if Council wanted to wait for a full Council? Rivet said they should not participate in cost share on local roads. There are a lot of residents that don't want the lanes paved at all.

Beatty said he was there when the roads were cold paved and he prepped the roads. One of companies was FHP and he had some issues with them since they did some of it in the rain. It is an emulsion water based process and when it rains it dilutes and then you have raveling. We have that on west Hall. You could get a company to spray it and sand it to get it to rebind. There was another company in north Fla that uses granite. The lime rock is like marbles. With granite it is square and it packs better. Beatty said they are not his friends but they are better than the other company. There is another company that uses several sizes of rocks. Chair said we are getting off topic. Beatty wants a full Council to consider this.

Chair asked Council to Table to a time certain or just table?

TA said we do have Smith Lane coming up. She will have to submit prices to residents and this decision could impact that amount. Have the determination before this goes to residents? Rivet said it hasn't been approved and to use the current code.

Chair said if it is tabled anyone can bring it back.

MOTION: Acquaviva / Beatty to table it.

Discussion:

VOTE: 2 Ayes, 1 Nay (Rivet).

9. Approve Expenditure for Maintenance Striping of Major Roads

Exhibit: Agenda Report No. 9

Recommendation: Request Action

Chair asked TA to summarize.

It is not in the Budget. She has talked to FDOT and Palm Bay and it is not required. We ordered the paint and the actual painting won't stay on. They tried it on Eva and it didn't last. Beatty said that was not paint but the thermoplastic.

TA said we don't have it in this budget. Council had directed that it was a maintenance issue and wanted it done.

Acquaviva said reading was educational. It is a budget item.

Chair asked TA if there is a requirement to keep it up; if it is completely gone, what is Town's liability. Atty Karl Bohne doesn't see it as being a liability issue. The white striping on the edge would probably be the most liable issue.

Crews said Florence and Blanche were all striped in late 1990's. It is still visible – the center line. TA asked if they put down the reflective paint. It wasn't reflective back then.

Beatty, gave history of a Town employee who striped Weber walking behind a striping machine and using dozens of cans of spray paint. It was four miles. Also, he has talked to the Sheriff's office and with the stop bars, that is how the BCSO determines if they stop there. Acquaviva said it is when your back tires leave the stop bar, that is how they get you.

TA gave example of having to put stop sign up back from the intersection because there is no way to post it in the ditch. Rivet said if there is a stop sign you need to stop. Rivet said the striping is important but needs to be budgeted.

MOTION: Acquaviva / Rivet to deal with this in the budget workshop.

VOTE: All Ayes.

10. Town Council Action on Live Streaming of Council Meetings

Exhibit: Agenda Report No. 10

Recommendation: Request Action

Chair asked Franklin to summarize. Franklin said she was asked to put this on agenda by Acquaviva since Council directed her to video in 2010 and she is no longer doing it. Franklin provided Council with the minutes and memos and information from vendors who could provide this in the packet. Not only was the process cumbersome but once created it became Franklin's responsibility to provide copies for public records. These recorded meetings copy in real time. Had same issue with CD recorder. The intent was to allow each Council Member with a CD or DVD after the meeting to take home. That is impossible as we can only copy one at a time, in real time. We have no DVD burner so I had to buy a media, 16GB flash drive to hold the video.

Acquaviva said this was started by Mayor Eschenberg and is not being done and Council should act on it. Are you willing to continue this?

Mayor said what about a citizen committee.

Attorney Bohne had expressed concerns about this from the beginning. Rivet said it is a nice service but the unintended consequences and the associated costs. If we could find a way to do this for \$500.00 per year he would support it.

MOTION: Rivet / Beatty to table.

VOTE: All Ayes.

11. Approve Expenditure for Town Seal on Exterior of Town Hall

Exhibit: Agenda Report No. 11

Recommendation: Request Action

Chair asked Franklin to summarize. Franklin said after all the good work that has been done on the building and on the grounds this would be a good finishing touch and would add a symbol of Town pride. It would be visible from the road and also to customers and visitors of Town Hall. She showed color picture. Money would come from General Govt promotional account.

MOTION: Beatty / Rivet to approve.

VOTE: All Ayes.

12. Approve Surplus Material for Disposition – Sale, Donation or Disposal

Exhibit: Agenda Report No. 12

Recommendation: Request Action

Beatty said what about the rest of the junk. Rivet said deal with this and then at another meeting have the item again with additional surplus. TA said Council had already approved the majority of surplus in PW last year. Franklin said this will get vehicles off the insurance. Once Council approves them as surplus then TA can dispose of by scrapping, selling or donating.

MOTION: Beatty / Acquaviva to approve declaration of surplus so staff can dispose of accordingly.

VOTE: All Ayes.

13. Approve Expenditure for Mower in FY 2011/2012

Exhibit: Agenda Report No. 13

Recommendation: Request Action

Chair asked TA to summarize. It is in budget for next year. If we buy it now we can use it in current growing season. Then the amount in next budget can go in to reserves.

MOTION: Beatty / ~~died for lack of second~~ ~~to approve purchase of mower this year.~~

Recess for Break 9:10 to 9:20PM

14. Approve 3% Special Pay in FY 2012/2013 to Employees Participating in FRS

Exhibit: Agenda Report No. 14

Recommendation: Request Action

Chair asked TA to introduce.

This was discussed at Budget workshop and to determine what number to put in the next set of budget workshop pages.

She understands from Mr. Milucky that it is viewed as a raise. She does not carry it in the personnel part of the budget because if she did then there would be FRS contribution requirement because that would negate the giving 3%; they would be giving 3% and then taking 3% so that would be a zero.

She moved it from promotional activities and into 519.4900 because Mr. Milucky was correct, that was not the correct number to carry it in. TA said Council needed to decide if they wanted to do this or give a 3% raise. There comes a point in time of doing this; she is not saying it does not benefit our employees because it does because it offsets what they are losing. Most of our employees are young

but when you are at her age you keep giving her a bonus but don't put it in salary she is getting what she was getting five years ago. So Council needs to look at that; there are not a lot of people looking at retiring, but for some of us that would reach that point of what my retirement with FRS. She knows how important that is especially with what she has been going through, retirement couldn't come soon enough.

Mayor asked if the 3% is taxable compensation? TA said yes they pay withholding on it. Rivet said then this is no different than giving a 3% raise we just have to decide to do it every year. TA said right. Acquaviva said we have done this before.

TA said when the new Governor came in this went into effect on July 1, 2011 and we put this on the agenda for immediate action so employees would not see reduction in net pay in their July paycheck. Then they put it into the budget for the next year.

Chair recognized Jim Milucky, asked to help explain. The 3% is wages and as such is subject to payroll taxes. But because of the way it is set up in Budget the employees are not losing 3% of the 3% or getting 97% of their earning. The money the State is requiring the employees to contribute toward their retirement; think of it as a mechanical dollar for dollar. Employee earning "x" has to pay \$900.00 towards the retirement. We are just coming in from the side to replace that money. Intent was to replace their net income so they would not be out of pocket.

Rivet said there is litigation going on and he thinks it makes sense to do this again for a one-year basis. If it is settled the other way, he would support a 3% permanent raise. Acquaviva said they may get a refund if the litigation goes the other way. TA said they say it will be years in litigation and that was said last year. TA said the money for this is in the current dollar figures.

MOTION: Rivet / Acquaviva. To approve 3% special pay with caveat that they look at it again after litigation is complete.

Discussion:

VOTE: All Ayes.

Town Atty Bohne leaves 9PM

J. PRESENTATIONS:

K. PROCLAMATION:

L. STAFF REPORTS:

ADMINISTRATOR:

Reposted that the collapsed culvert not our culvert, but our guys were out there at 6AM doing a temporary repair and FDOT will do replacement. Cones are there. No FDOT removed them to the side. TA said PW is moving forward to Weber Road drainage project as she pointed out to them in one of her memos. They will be starting at Hall and working back. Mayor asked if they will be changing the direction of the flow. They will be pitching it to Malabar Road. TA said they will also put the culvert in for access to the 17 acres. TA explained that the culverts at individual driveways are at different heights. That this why the water sits where it does.

TA said Town will be pulling out the palm tree in the ditch. Regarding the ATT fiber optics concern in the ditch, ATT Engineer has basically said that the wiring is not fiber optics and is in conduit and went in the 1990s. They can't tell us the depth. TA said that Tom remembers it and it wasn't in conduit. We are going to work with machine and do it by hand around the driveways. ATT will not be doing anything. Rivet said it is probably phones for a huge section of town.

TA said PW did finish the sod and one thing we are going to do differently on Weber Road drainage project is that they will do the sod as they go. By Rivet Lane, they seeded it and it is not taking so that will also be sodded. It is washing down and will cause more erosion.

Acquaviva wanted to ask about the Spinning concrete contractor. She saw them at the bridge and stopped briefly. What is the status? TA said the RFP is on the streets for another couple of weeks. Other RFP is for Atz and Weber and it is on the streets. TA also went out for quotes for spraying of the baseball and soccer fields. She will also will be quoting for port-a-lets since current vendor is going up by \$8.00.

Acquaviva asked TA if they came back to Town Hall and said what they did. TA said she spoke to them and they actually helped do the scope of work.

Beatty said regarding the Weber ditch, in front of the pipe there is cable; it is a 600 pair or better. That is there and not in conduit. He recalled trying to match inverts and had to dig by hand and hoping if there have surplus cable they throw it in the ditch and just loop it up and bury it. It can be snagged at the loop. Beatty said if he walked with the locate guy they can tell him where it is but if they are wrong then it is liability so they don't give exact locations; just general areas. Beatty also said that the surplus fill from the project should be taken to Huggins Park.

TA said the other issue about the Town car, the Isuzu. The AC is out and the proposal is for \$700 to fix that. TA related that maybe six months ago she had a discussion with BCSO and was told our members could join their patrol. Presently we have only two groups go out. We don't have patrol groups like we used to. Do we want to look at joining BCSO and get their car? TA said she knows Mayor Eschenberg was a supporter but right now we don't have much participation.

Beatty said we need to engage the people that are doing Eagle Patrol. Can we use magnetic sign and use it in Malabar when our people patrol? Look at how many miles we put on those vehicles.

Beatty had suggested getting rid of both Isuzu and Explorer and get one new vehicle. He gave scenario of history on vehicle. Beatty stated that he heard that Town claimed hail damage to one of the vehicles and got insurance money. Franklin said that is not true. Franklin asked him to check the records. She will do research on insurance claims if he wants. It is important to state correct facts at meeting so residents don't get impression that things are done improperly. Beatty said that is what he was told by Ed Booth. Franklin will check insurance claims.

CLERK: Elections – Qualifying started Wednesday 8/8 and runs through 8/22. We have had numerous residents pick up packets. Council will formally “qualify” the candidates on 9/12/12

Newsletter – map will be corrected for next edition.

Will be looking for articles from Council. Goal is to have newsletter to residents after election and before T-day. Newsletter can be laid out and last deadline for Council Members for their one or two paragraph article is due to Clerk's office by November 7, 2012.

Also have given TA reduced revenue for Local Option. The formula uses how much we spent in prior 5-year period on road projects and our population to determine the share. Our estimate has been reduced to 69,844.00. Our population has also been reduced from a high of 3000 down to 2738. This will also impact our revenue sharing monies.

Franklin reported that she did the Business Tax Receipt renewals this week and based on the closing of the current period, the estimate for BTR revenue for next year has been reduced from 23,000.00 to 18,890.00.

O: DISCUSSION ITEMS:

15. Require Residents on Local Roads to Maintain Rights-of-Way

Exhibit: Agenda Report No. 15

Recommendation: Request Action

TA said if those ditches are to be mowed by residents and aren't and since Code Enf is reactive you are looking at 60 days to take it to code enforcement action and by that time it could be a real mess.

At some point we have to state we are different type of community and are an open ditch drainage system and need to keep the ditches clear.

Acquaviva said we are mowing more than the ditches. She relayed about the person who wanted the ROW of Briar Creek Blvd done on a regular basis and how they were able to resolve that but let him know that the other priorities of PW would take precedence.

Rivet said part of it has to be dedicated and Town tells you what you can't and can't do it. And now you have to mow it too. You are taking away the benefit of it and then having to maintain it? He has a philosophical problem with that. If the rights-of-way belong to the Town, then we should mow. TA said if we are sending letters out to ask for compliance then it could be weeks. Acquaviva said we are not pro active code enforcement.

Mayor said it might be helpful to put something in the newsletter. He suggest for the ditch area, what he did was spray the bottom portion with diluted Round-Up so the weeds would die but not disturb the root base and cause erosion like cleaning a ditch can. Just doing that once a year could go a long way. Give educational information to encourage residents to help.

Rivet said no one wants the taxes to go up. Encouragement is fine but not a requirement. Rivet said he couldn't mow his front. If he tried to get down in it he would sink it. Mayor said he has to use a weed eater.

Beatty said concept was good. Meant well but is impractical, up in age, some places like Corey Road would have huge ditches. Mayor said mowing services you could include that. Beatty related a story about a property on the north side of Hall where the Town required dedication of right of way and her fence that you see there is on her property line. Her acreage then went down and she could not keep as many horses. And there was no way the Town could clean and maintain that area.

Rivet said the status quo is fine.

16. Allow Private Advertising in Newsletter

Exhibit: Agenda Report No. 16

Recommendation: Request Action

Marisa likened this to church bulletins. There are companies that do the service. She does TA said if we start putting ad for businesses, Data Mgmt may stop printing. Beatty said the concept was good. We have enough to do. Our printer is doing it for free. Marisa likes our newsletter the way it is. Stay classy. Consensus to not allow advertisements.

P. REPORTS - MAYOR AND COUNCIL MEMBERS:

- 3) Beatty: Town is repairing Alexander Lane? No the residents purchased the millings and paid for the delivery and spreading. Mayor said the property owner nearest Malabar Road owns the easement and won't give it up to Town. They were really happy that the Town would be willing to do for a fee. TA said no taxpayer money was used on this. Residents paid for all of the expense.
- x) White: excused.
- 2) Rivet: Noticed while looking around – McCain was fairly bad. Others looked like they could use grading.
- x) McKnight: excused
- 1) Acquaviva: will be attending League of Cities this week. Mayor had to cancel. She is excited. Other news is she will not be able to make Budget WS.

Interim Mayor: Won't be attending so will be saving some money.

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

Brian Vail, 2700 Smith Lane, thanks for the ballot question. Other thing in discussion on the maintenance of roads in general. Just as far as the calculation the cost of maintaining for a period of ten years, vs. cold pave.

Look at real numbers and compare apples to apples.

Vail realizes that staff is very busy but there should be a calculation that can be made to what the maintenance savings would be if roads are hard surfaced.

R. ADJOURNMENT:

There being no further business to discuss, Chair stated that without objection the meeting was adjourned. The meeting adjourned at 9:40PM

BY: Phillip R Crews
Mayor Phillip R Crews, Council Chair

ATTEST BY:

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

Date Approved: 9/12/12 as submitted