

## MALABAR TOWN COUNCIL REGULAR MEETING

October 15, 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 Interim Mayor/Chair Phil Crews. The prayer and pledge were led by Council Member District 3 Steve Rivet.

### B. ROLL CALL:

MAYOR/CHAIR (Interim)

PHILLIP CREWS

VICE-CHAIR:

MARISA ACQUAVIVA

COUNCIL MEMBERS:

CARL BEATTY

DAVID WHITE

STEVE RIVET

JEFF MCKNIGHT

TOWN ADMINISTRATOR:

BONILYN WILBANKS

TOWN ATTORNEY:

KARL BOHNE, excused

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

Franklin said for the record, Town's Fire Chief Robert Strandell and Asst Chief J. Hooker are present.

**C. ADDITIONS/DELETIONS/CHANGES:** Clerk asked to add item #5 to approve an additional 10K distance and related fees for the Cow Bell event on April 13, 2013. Without objection the Chair added the item.

**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 – 9/24/2012

**Exhibit:**

Agenda Report No. 1a.

**1b. Budget Adjustment – Reso 32-2012**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2012-2013; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:**

Agenda Report No. 1b.

Chair directs Clerk to read Resolution by title only.

**MOTION:** McKnight / Beatty to approve the consent agenda.

**ROLL CALL VOTE:** 1)Beatty, Aye; White, Aye; Rivet, Aye; McKnight, Aye; Acquaviva, Aye. Motion carried 5 to 0.

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

Wayne Abare, Rocky Point Road, these are his comments only. The MSTU stands for Municipal Service Taxing Unit. He said the government can create this for funding for short term projects. In this case it is not a short term project. The Sheriff is charged with providing services per the constitution. Malabar residents pay 5 mil for County taxes and a third of that goes to the Sheriff's Dept. Talking to people everyone is happy with this. In 2007 they started with MSTU and the rate was .84 and has gone up since. The amount now is 1.33 over and this reflects about 250K from Malabar taxpayers; we run our Fire Dept on less than this.

Abare said In Sept of 2012, Cmdr Ambrose said there are still four deputies assigned to south district. We are about a 10<sup>th</sup> of the south district. In 2007 Cty Com Voltz said they could fund two additional deputies for 250K. We get one tenth of four deputies.

White asked if he remembered the attorney's comments in the research. Abare said in the referendum, if they vote it down, they will get a year to decide what to do. Legal Council said we don't have to be in MSTU. Cape Canaveral has a MSBU. Legal Council doesn't think there would be a problem if we

voted it down. White said we can't do our own police dept for 250K a year. Abare will have to do more research.

**F. ATTORNEY REPORT:** As reported at last meeting, Atty Bohne is on vacation.

**G. BREVARD COUNTY SHERIFF:**

Chief Drinkwater to speak on MSTU

This was one of the big issues that came up. When this occurred there were several options available and discussed. The MSTU is paid by all property owners in the unincorporated areas. It is also paid by Grant-Valkaria and Palm Shores. Cape Canaveral pays 2.5 mil per the contract for 2.5 sq miles of coverage.

Drinkwater explained Malabar was offered ability to do a similar thing. The General Fund is paid by all citizens in Brevard County.

Merritt Island is 15 sq miles. They could not pay for services needed. If they choose to do that (get direct services)

Drinkwater said the South Precinct has 80 deputies; 19 are Gen Fund, 8 are gen crimes investigators, and others are supervisors, sergeant and lieutenants and desk officers and investigators. The City of Palm Bay residents can call 911 and they pay the Palm Bay police dept for their direct services. They do go to Brevard County jail. All residents of Brevard Cty pay for those services. It was not possible to provide patrol services to incorporated areas in addition to the unincorporated areas without the MSTU. Before 2007, the Town of Malabar slipped through the cracks and they had to do something to correct that. Everyone else but Malabar was paying. Of that it is 237K and pays for about 4 people. If you want to pay for 4 deputies for 24/7. All of the unincorporated residents. You have all the resources when all of them are here.

Cape Canaveral wanted their own police dept. They contract with the BCSO. They have 2.5 deputies per 1000 residents. They pay 2.5 million for that coverage. The BCSO representatives came here in prior years and now because they realized it was a sensitive area. Malabar Council also approved putting the question to the voters as a referendum every two years. It was not a permanent decision they made. The idea that we can use general fund money to pay for direct services is not correct. If that is the way the Town goes, and this is not a threat, the Sheriff will respond with a general fund officer when they are available. The criminals once they know there are not patrols they will be here. They try and do the best with what they have. The 237K pays for 4 deputies, cars, guns and insurance.

Abare, 4 for the south district or for Malabar? 4 can't patrol it. After the 237K they put on 4 more deputies. If you do not pay the MSTU they will not do direct services. They will send an investigator who is gen fund. The Gen Fund is not for direct services.

Abare said in the 1980's before MSTU. Drinkwater said we had 1 deputy on Merritt Island and 1 on Cocoa side. We have more size. Palm Bay pays the same amount for Gen Fund and they do not get direct services. It was created because no one had enough services. We are 70 dep short of national average for MSTU. They overlap shifts and do their best but they are short. The MSTU is short.

Abare asked about the fees from speeding. Does it go back to Malabar? Very Little. Abare said what about the use of the building.

He said most everything can be done on phone and computer. Don't use fax machine etc. May use restroom and establish relationship. They would prefer to have that kind of relationship.

Ben DuBose, in 2004, the Sheriff said take your office and shove it. He did negotiations for three large areas up north and the budget was 170K per man for everything, at that time. Need 6.5 men to do the job. Plus a supervisor. They only work 40 hours. How can you add 4 men at 250K.

Drinkwater said it is 59,000 per person; 36K per year, plus benefits. You only get what you pay for. That does not include insurance. He doesn't. The Town of Malabar has choices. Are we happy with services? That is going to be your decision. They want to provide them the services. If they contract there is more that goes with it.

Mayor Crews asked about enforcing Malabar ordinances. He would have to check, he thinks yes. If they are HOA type rules they may step back. Drinkwater gave example of "can't park between 2-6AM." If you had a certain questions you could ask Cmdr Ambrose. He is proponent of community policing. He made them go to HOA and town meetings. Find out what they want. If they want you to do patrols then do that. They will work with you. No reason not to work with you.

White said we either pay the MSTU or eliminate direct services. Drinkwater said yes. Said the SWAT Team is expensive. That is general fund. They are expensive. He can tell true stories. The times they need to risk their lives, you want the equipment and manpower. Go back to Palm Bay when Cruse went on rampage and shot 14 people and killed 6; 2 of them police officers. They did not have bullet proof vests.

They are supportive in anything Town decides. He lives in Brevard Cty and cares about it. They love their job. That is not going to change.

Vail asked to explain the difference between MSBU and MSTU.

MSBU are directed to one time projects. Specific to small portion of residents benefitting from item.

McKnight said accountable, are we getting what we are paying for. 2<sup>nd</sup> year, it seemed coincidence that 4 were taken away. Control of the millage, BCSO has complete control. Town has no control.

Drinkwater said the County Commission actually approves it. They ask for it based on need. It is a challenge every year. Property values go down and service costs don't go down. You are still out of pocket the same amount but our millage has to go up in order to get the same amount. If you don't do that they will pay less.

McKnight said we have paid more. In his mind the Town of Malabar should have control over the millage. If they want more then take it out of the general fund.

Rivet said his constituents have voiced the same concerns. No control over millage. If they don't get increase then do with less.

Sheriff got 3% raise. Jack Parker said to Commission, your employees are your most valuable asset. If you are not paying something that is competitive then they will go someplace else.

He does not disagree with McKnight. McKnight said also about citizen patrol and the Mayor turned it down. This is a volunteer program and they are mostly from this area. He is not familiar with this. Drinkwater said it is great as more eyes on the road. The volunteers have even run errands for them. They do some school crossing stuff. They drive through neighborhoods and deter crime. They can call deputies. South Prec has largest COP program in the County.

McKnight thanked him for having a calm and non-threatening manner on the issues. It is nothing personal.

Drinkwater said it is not personal. He can stand on the outside and tell you the facts. They will do their best and provide a good service. Communication is the main thing. He runs the patrol division. If you don't pay your taxes they won't come down here.

Beatty, we can't replicate what the BCSO does. We need to hold some meetings. We didn't have a county vehicle down here.

Drinkwater said he will see what they can do. Beatty said he wouldn't have problem going to their class. Drinkwater said there are insurance issues and costs, \$1000 per person. Beatty said they need to start the dialog. Drinkwater said that the program has certain requirements since there is that investment and expense.

Drinkwater said as for the education on the MSTU if you just need information, call and there are people that can answer those questions.

**H. PUBLIC HEARINGS: 0.**

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

**2. Recommendation from P&Z Board re: Article V, Section 1-5.27**

**Exhibit:** Agenda Report No. 2

**Recommendation:** Request Action

Chair asked Pat Reilly, P&Z Board Vice-Chair, to podium. Reilly said Board had been working on this for over a year. Present code was redone by previous administration and was messed up. They put it in logical order. Separated the DWF and pond and created rules for each. P&Z Member Abare had provided a bulleted list of reasons the Board considered this for Council's benefit.

Reilly said the Attorney changed the appeal section to go to BOA and P&Z Member Krieger voted against it for that reason. It was a 4-1 vote in favor of the recommendation.

Discussion: Council supported the recommendation.

**MOTION:** Rivet / Beatty to approve P&Z recommendation.

**VOTE:** All Aye

**J. ACTION ITEMS:**

**ORDINANCES:** First reading - 0

**RESOLUTIONS:** 0

**MISCELLANEOUS:**

**3. Approve Micro Surfacing of Existing Cold Paved Roads**

**Exhibit:** Agenda Report No. 3

**Recommendation:** Request Action

TA said this came up at budget workshop. They had just finished capping LaCourt Lane. Mayor Eschenberg was working on this research with her. He was in process when he took sick. CM Beatty agreed to meet with the representative from this company and went over the roads that are starting to fall apart. This was first discussed as a method to use when hard surfacing a dirt road, such as the Smith Lane request. But on existing hard surfaced roads, if we don't do something we will lose these roads that. The five roads listed in not all inclusive; they are what they start with only. There are many that could benefit from this process. TA said they have 40K in capping line item in budget. This will make them last another seven years and could be done again if necessary.

Beatty said they spent four hours going over the roads. This is by no means all of the ones that need it.

Mayor asked if this was cold service. Beatty said it is various. Some are chip and seal, some are fogging. They do leveling to fill in potholes and then go over the top. This is for the most part. It will add 5-7 years. More economical than capping.

Acquaviva asked about his other ideas for funding.

Beatty said what about the money that is getting shuffled over from Water Fund to General Fund due to sale of utility. He knows the sale money is to be put in reserves but is talking about the operational money.

McKnight is ok with process and the preventative basis. Asked about bidding requirement. TA said they can Piggy back on St Johns county bid. They get it in volume and we will benefit from the cost savings.

TA said in order to do these five roads the need to fund the additional \$13,900.00 to do this. Beatty would suggest taking pix and then monitoring how well they last. They can do the fogging equipment.

Franklin explained to Council that the Water Fund owed the General Fund 113K from the extension of the waterline along Malabar Road. They did a partial pay back but there is still more money owed to General Fund than will be left in the Water Fund. The revenues taken in on the operational account goes out to pay Palm Bay for the water so there is no surplus there. The customer deposit money transferred to Palm Bay. Beatty can budget 5K a year to pay them off.

Discussion: Rivet would like to hear from Morris Engineer. McKnight said these are just starting to degrade and there are some roads that have had no attention. McKnight would like to hear from the Town Engineer. Rivet would also like to see if Engineer is confident to have this done.

**MOTION:** McKnight / Rivet to table.

**VOTE:** Ayes (4); Nay 1, (Beatty)

#### **4. Nomination for FMIT Board Opening**

**Exhibit:** Agenda Report No. 4

**Recommendation:** Request Action

Franklin said the reason this is again on the agenda as there is another opening on Board. We had just done this in July. Board replacements are chosen from nominations from the member cities. TA said this is the Board that provides out health and property and workers comp insurance.

TA said she thought they met quarterly in Orlando.

McKnight thought this should be postponed until after the election. Council consensus to postpone.

#### **5. Approve Additional Race Distance & Related Expenses**

**Exhibit:** Agenda Report No. 5

**Recommendation:** Request Action

Franklin said that Rene White would address Council on the meeting she had with Race Mgmt Company Running Zone regarding adding this second distance. Ms. White said they had 122 runners last April and only had three weeks to prepare. The idea is to add a second race and should attract possible 60 runners interested in this trail extension. The registration should cover the costs. Running Zone is giving us a discount for handling this second race; their price is usually double what they are proposing. The 10K run going through part of the trails is unique and should be very popular.

McKnight said he is familiar with Running Zone.

Ms. White said the trail course is unique and very neat to promote and they have much more time to promote. She said they should break even.

**MOTION:** McKnight / Acquaviva to approve the request.

**VOTE:** All Ayes.

- K. PRESENTATIONS:**
- L. PROCLAMATION:**
- M. STAFF REPORTS:**

ADMINISTRATOR: TA called on Fire Chief Bob Strandell to report on Fire Dept. Strandell said Sept was a busy month. Call volume wasn't high but had spurts, 7 in a 24 period; three on critical calls. They had good turn-out of volunteers. They have had a couple of terminations. Since that they have had two new volunteers from Sat Bch that have finished orientation and a 3<sup>rd</sup> starts orientation this week and supposedly will have a 4<sup>th</sup>. Next month the volunteer column should be in a plus. Engine 99 is ready for pick up. They will do a pump test on it and put it back in service. They did have elec problem with ladder truck. The warranty on tankers will be honored. They will pick up on their next trip down or we can drive it up.

Chief brought Asst Chief Dan Welton up to discuss fund raising.

Welton said he got some volunteer members and put together fundraising mtg. Brainstorm mtg. and came up with 22 items at first meeting. Pick low cost, low effort and is repeatable. Came up with five items. Can do every other week. Discussed if they had to do it all over again what would they do. Three big things came out of it. Lack of accountability on funds. General membership did not know how much was spent and how much came in. Going forward with any event there will be a ledger kept; all monies that come in will be witnessed and deposited into safe and then bank.

Welton said he met with someone from the Knights of Columbus in Malabar and made contact with them, full kitchen and AC. One of complaints about pancake breakfast was that the smell lasted for days in building.

Welton said they have people in this town that do this for a living and they are going to reach out to them to help them. They asked Malabar Soccer if they could sell drinks to spectators. Texas Road House is very supportive of volunteers on beach side.

Want to do car washes. Taking one of the fire trucks to RV Park and washing RVs. Here again, low cost, low effort.

After the race, have them do the bar-b-q sandwiches for the participants.

They are excited and want to do for members in general. Want to do a fund raising letter. They send out fund raising letter every year. It is one of their biggest sources of revenue. Welton has worked on such a letter three years ago. He has revamped it and it should be ready to go soon.

Beatty asked about the accounting on the pancake breakfast. They gave seed money, two banners bought, then they got yard signs and we own those. Without trashing them, we need to clean them up and put them up. Put paper on banner and sign to protect them and store them for future use. Also should have the bank account through the Town.

Welton said one of the things that was discussed at meeting, when it is little money it is one thing but at some point they may bring back the notion of the FD association. He was there before with all of the issues and is very sensitive to that. Some members would like to be able to spend that the membership feels as they feel is necessary. If the big screen TV went out then they could buy a new one. And Council could say no if it is a Town account.

Acquaviva said employees have to be accountable and volunteers must also.

TA said the monies came up missing gave example of lack of accountability. Any dollars coming in should come to the clerk for deposit. Just like with the fires; special account numbers were set up so if people wanted to donate for a particular item it was so designated. There is no pocket money. Whether you like it or not, it is for the Town's fire dept.

Welton completely agreed. Before there was no Town oversight. He said in Indialantic the Chief is a defacto member of the Board.

Acquaviva said part of the feeling of bringing this up was not just regarding the money. It was also for friend-raising and getting people together in the community.

Welton said they send get well cards to those they respond to and also have done surveys. The two or three they have gotten back have been positive. Being partners with the businesses.

Ben DuBose asked if Town had registered with State to do fund raising. 501c3 doesn't work anymore. Law changed five years ago.

TA said she has a spread sheet with the pancake breakfast costs and income.

Beatty said if we are using fire trucks and using \$10 on truck to bring one dollar in donations. One banner and then two and then the signs and then used a fire dept vehicle to place and pick up. Maybe we need to have veto power. He is for what they want to do. Pick one and then prove it. He likes using the Knights of Columbus.

Welton said the participants didn't know anything about the results on the pancake breakfast. Last year, volunteers put in 18000 hours.

Mayor said he is glad that Malabar FD participated in the event at the hurricane awareness event across the street. Welton said he got the flyer in the mail and it listed that a Palm Bay fire truck would be participating and he contacted them and offered to participate as they are the local response team.

Acquaviva asked about the hydrant painting. TA said that Palm Bay has requirements to paint them green and white.

CLERK: Will be on vacation from Oct 18-26. Will have phone. Deputy Kelley will assist candidates. Articles for the next newsletter are due Oct 20, 2012.

TA said that there will be candidates at pavilion are 10/20 and 10/21 and she will get info about them on marquee.

**O: DISCUSSION ITEMS:**

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


- 5) Beatty: nothing
- 4) White: nothing
- 3) Rivet: nothing
- 2) McKnight: nothing
- 1) Acquaviva: This past Friday a family friend almost got killed visiting here from Miami. The skid marks are still out there. It is a dangerous situation at the intersection of Corey and Malabar Road. TA said they are doing a study and have the wires across the roads at several locations.
- 6) Interim Mayor: nothing

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

**R. ADJOURNMENT:**

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

BY:

  
Mayor Phillip R. Crews, Council Chair

ATTEST BY:

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

Date Approved: 11/5/12 as submitted