

## MALABAR TOWN COUNCIL REGULAR MEETING

April 18, 2011

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 Mayor.

### B. ROLL CALL:

MAYOR/CHAIR

VICE-CHAIR:

COUNCIL MEMBERS:

TOWN ADMINISTRATOR:

TOWN ATTORNEY:

TOWN CLERK/TREASURER:

TOM ESCHENBERG

MARISA ACQUAVIVA

CARL BEATTY

DAVID WHITE

STEVE RIVET

JEFF MCKNIGHT

BONILYN WILBANKS

KARL BOHNE

DEBBY FRANKLIN

### C. ADDITIONS/DELETIONS/CHANGES:

### D. PRESENTATIONS:

Mayor was to present plaque to Dan Welton. He had to work late. Welton submitted letter and asked for it to be read into the record. Mayor read it into the record and it is attached to the minutes.

Park and Recreation Board Chair Bob Siegmann, lives on LaCourt Lane and as Chair of the Park Board would like to recognize the work done by Malabar staff. Present to the staff and workers of Malabar. Month before Spring Fest he looked at Malabar Community Park and it was pretty rough. He knew that staff had been fighting with the vendor regarding the top of the play equipment, Debby, Cindi and Bonnie. The bathrooms were pretty rough. In the last month, the bathrooms were replumbed with new equipment and painted. The canopy issue was resolved and we got a new one and it was put up. He wanted to recognize the Town staff and workers that made all that happen. He thanked everyone for the great event. Town staff performed exemplary work in preparing for the Spring Fest event. Lots of people and everyone had a good time.

### E. PROCLAMATION:

### F. CONSENT AGENDA

#### 1. Approval of Minutes

RTCM minutes – 04/04/2011

**Exhibit:** Agenda Report No. 1

**Recommendation:** Motion to Approve

**MOTION:** Rivet / McKnight to approve the consent agenda as presented. **VOTE:** All Ayes.

### G. PUBLIC COMMENTS: General Items not related to agenda items (Speaker Card Required)

Speaker card: Mr. Morris, Weber Road, has been here before regarding the water issue. Has been to town hall three times this week regarding info requests on drainage issue and when the building will be completed. What he said about Town Engineer Mr. Smith failing to do his job. He passed 22 pictures to council. He said pictures don't lie. Identify the Foley barn, its elevation, him standing in 12" – 15" of water. He has beautiful pond and his fish are dying. Blames it on fertilizer coming from Foley sod. Foley is supposed to have a swale and a berm and the picture shows he has no berm. It is non-existent. He does not enjoy coming in to complain but he is not going to let Mr. Foley run him off. He wants to be treated the same as Foley. Foley is planning to build a commercial project that will bring in permit money and also Foley's project will bring in 50 jobs. He wants to be treated the same. He invites all of Council to look at his property and the missing berm. White said the resolution is to get the one foot berm put in place. TA said there hasn't been a Certificate of Completion issued so we

can't provide a copy to Mr. Morris. There isn't a final inspection so there isn't an Engineer's report. Mr. Morris doesn't want Foley to be allowed to put horses in the building. TA explained that it can be drawn out until Foley calls for a final inspection. Mr. Morris said the Building Inspector told him Mr. Foley didn't have to put berm in until a year from now. Mr. Morris said he can't mow because it is so wet. White said he can add a load of dirt to his property to save his fish. Mr. Morris wants Council to make Foley put in the berm. The Engineer will be back on April 25 and this problem should be #1. Mr. Morris doesn't want favors done for Mr. Foley. Mr. Morris said when Cameron used it for cattle and horse grazing and he had no problems. Mr. Morris bought his property in 2009 and he mows and maintains his ditch. Council directs TA to make this project a #1 priority for the Town engineer. McKnight said he visited the site and it was obvious to him where the water was coming from. Mr. Smith said Foley brought in 191 loads. And he bought more for the septic. McKnight also has concern with the bull. Beatty is familiar with drainage in the area. He referred to a cross drainage pipe on east side of Weber Road and the Weber Woods subdivision was developed and had that pipe removed and the drainage was re-engineered and had the water flow south. Before that the water would sheet flow across Weber Road and go through the pipe and on to the tributary which led to the outfall. Also people were allowed to build by only putting ditch along the side property lines and have it drain to front ditch.

TA said since Carl we have re-established some of that flow by replacing the crushed pipes. She said also that Engineer Morris Smith is very aware of this situation that previous engineer Bill Stephenson approved for Weber Woods. CM Beatty said Town paid Bo Saunders to put in a 4' pipe. Chair said Beatty can call and speak to Engineer when he gets back.

#### **H. STAFF REPORTS:**

ATTORNEY: nothing

ADMINISTRATOR: Her latest on Palm Bay mtg. They want their staff present and she has not received dates from Mr. Feldman.

- The LaCourt Lane bid is posted and will be on May agenda to approve. Notice to proceed will be in May to winner of bid.
- BCSO – Lt Scott. Mayor asked if there was a burglary spike in Malabar. Lt stated there were three houses in Malabar, one on Malabar Road and two on Atz Road. One was an AC unit, one was jewelry and TV; and the last one was nothing taken but door was opened. They had dogs. They have all been assigned to agents. He said there were 88 traffic stops and 22 citations issued. White asked about ATVs being stolen. None for March. McKnight asked about vessels being broken into and a couple of kayaks stolen. Watch your stuff and keep it locked up. McKnight said he had a person call and tell him about a Palm Bay police car stop a car on US1. BCSO said to call Palm Bay and speak to supervisor. Ports asked about drag racing on Weber Road. BCSO asked if she called it in. No. They need to call it in. He will pass it on to the traffic unit. They have a motorcycle unit to handle the speeding.
- Chief Covey has the report. He reports a lot of citizens came thru the Fire Dept for open house at Spring Fest. Started the first step in the first new Lt. We had 11 people apply for the position. He met with community clinic for qualified physicals for annual fire fighters. He would like to transfer 600.00 to cover the physicals to cover the people that are ready to come on board. TA explained that these are young people that don't have jobs. Acquaviva said we said that the ones with jobs and insurance could pay for their own. SCBA (self contained breathing apparatus) testing has begun. Our support services Derek Ports has put it all in place. The cost to the Town was a whopping \$2.00 for a candle. He has begun the testing and more than half have failed. It is not critical as the equipment is working. He put a memo out today stating no one goes into a building until they have been fit tested. We have had the last 2 new doors installed and fixed the other 2 doors.
- TA said Chief will be doing a weekly report and she will send it out with the FYI. So it is timelier. He will still do a report at second meeting of Council.

CLERK: nothing

- I. **PUBLIC HEARINGS:** Are legally advertised for 7:30 PM *or as soon thereafter as possible.*  
**ORDINANCES: 0      RESOLUTIONS: 0**
- J. **PUBLIC: ITEMS DIRECTLY RELATED TO RESIDENTS AND RECOMMENDATIONS FROM TOWN BOARDS/COMMITTEES PRESENT AT MEETING**
- K. **ACTIONS ITEMS:**  
**ORDINANCE: First Reading**  
**RESOLUTIONS:**  
**MISCELLANEOUS:**
2. **Decision on Old School House**  
**Exhibit:** Agenda Report No. 2  
**Recommendation:** Request Action

Speak card: Bud Ryan, said he has reviewed the reports and the old school house is a money pit.

Chair asked Council to start.

Rivet said it will take ½ million dollars and there are roughly 1000 houses. That is about \$500.00 per household. White has spoken to people and he is not gotten the support. The amount of time and money it is going to take for purchase and rehab, it is not right time for this kind of expense.

**MOTION:** White / Rivet to not purchase the old school house. Discussion: Franklin questioned if the motion maker could make a motion he did not support. She got Robert Rules for Attorney. McKnight said when he first started discussing with Malabar people it was 50/50. But lately he has gotten more from the side that does not support. White said it is going to cost to keep it running. A new center would pay for itself. Council agreed that they all supported the idea of preserving the old school house. Acquaviva said the same as McKnight; they did not support paying for the building in current economy. White said three years ago we may have had more support. Rivet called for the question. **Vote: All Ayes.** Attorney Bohne said the motion maker can make a motion he does not support; he can't speak against it.

3. **Direction on Chapter 13, Street and Road Improvement Amendment**  
**Exhibit:** Agenda Report No. 3  
**Recommendation:** Request Action

Council consensus to make these two changes – eliminate the 10-year cap and the reference to 6% interest.

4. **Reduction of Speed Limit on US 1 and Malabar Road**  
**Exhibit:** Agenda Report No. 4  
**Recommendation:** Request Action

Mayor asked what the source was. Business owners. Mayor hates to see political body directing the speed. The engineers at FDOT know better. White said he would support reduced speed on Malabar Road. Not on US1. McKnight said he was working on boat over period of four days and witnessed two accidents on US1. Acquaviva said there are reduced speeds all along US 1. It goes down to 45 through Palm Bay, then up to 50, then down to 45 and then down to 40. Rivet said it is up to us to decide what the speed should be through our Town. McKnight said if we decrease the speed on Malabar Road and US1 then the traffic will decrease.

**MOTION:** McKnight / Acquaviva to draft resolution to FDOT to support decreased speed of 45MPH on US 1 within Malabar. **Vote: All Ayes.**

**MOTION:** McKnight / Rivet to draft resolution to FDOT to support decreased speed of 45MPH on US Highway 1 within Malabar **Vote: all Ayes.**

5. **Action on Five-year Plan**  
**Exhibit:** Agenda Report No. 5

**Recommendation:** Request Action

Mayor handed out his list of prioritized projects and stated that his items are true capital improvement projects. The others could be budgeted or presented to Council for funding during the year.

Rivet said there are three items on Mayor's list he doesn't agree with. LaCourt Lane is being done this year. Mayor didn't know that was happening this year. Mayor asked Council to rate their items. First we will go over Mayors items:

Remove the community center. White, Rivet, McKnight, Beatty. Acquaviva said she supports a community center. Move it out to a later year; put it out to year 5. They all agreed. Rivet said there was a large group of board members that wanted a community center.

Town Hall land: Acquaviva said we should buy this and we could use as community center. Rivet agreed, we are not buying a liability. Rivet said put it out to year 3.

River front access: leave a year 5. TA and CM McKnight discussed another piece of land just north of Rocky Point Road. You could launch kayaks from there. Leave at 5 years.

Improve Marie Street to Atz Road: move to year 3: Rivet said it needs to be done. McKnight said the resurfacing comes before this. Franklin said the Comp Plan lists Marie Street as a collector and it was supposed to be built to take the traffic that LaCourt is now taking. LaCourt is supposed to be a local lane. White said once we improve it then the developers will come out there. If it is an allowed use.

Turn land at Corey – keep at year one.

Resurface LaCourt – coming off

Resurface west Hall – year 4

Resurface west Atz – year 2

Resurface Old Mission – year 3

Trailhead restrooms – reapply for grant for 2012

Huggins Park upgrade – year 2

Malabar Road bike path – year 3. Mayor said to approach Space Coast TPO – Beatty said years ago FDOT did a study to do sidewalks on Malabar Road and they said there wasn't enough ROW.

Weber Road right turn lane – year 4

Baseball dugouts – year 1 TA said we could add a concession stand and restroom. Look for grant

Artisian hydrants – year 2, 3, 4, 5

McKnight would add drainage: the FEMA ditch and they are going to do maintenance. Mayor said that it is maintenance.

Eagle car – Mayor said it has over 100K in miles but it is still running. It ought to be good for another couple years.

Mayor is going to put all the other items together to bring back to Council to discuss at budget.

Generator for lift station – McKnight did not support it being paid from General Fund. Franklin explained it would be paid for from utility account. Similar to stormwater projects: they would be paid from stormwater fund.

Mayor said same with window improvements. It will come out at budget times. Franklin asked to speak and said that we do put these items in at budget time. We are staff and know what items need to be included and then they get cut so we don't have to increase taxes.

Acquaviva stated that at the joint meeting she saw a capital improvement list from Bob Wilbur from 2001 and only the things completed or acquired were for the fire dept. Mayor said the rest can be reviewed at budget time.

Mayor said to add the caution light at fire department. Add it back in and put at year 3.

**L. DISCUSSION ITEMS:****6. Billie Property Purchase (Acquaviva)****Exhibit:** Agenda Report No. 6**Recommendation:** Request Discussion and Direction

Acquaviva brought this back to discuss for the benefit of the new members. We have spent money on two appraisals of this property. We would be dealing with his estate now. She did read that on Mayor's website that he supports the purchase and that is why she included it. She referenced the comp plan and the desire to have this property. Also it would beautify the front of town hall by expanding and then you could have this building larger and it could be used as library, community center, potluck dinners and a larger Town Hall. She said that prior CM Brian Vail is working on this proposed purchase but she wanted new Council to know that Council was serious about this purchase.

There is Council consensus to direct staff to find out what the current price is and if they are still willing to sell. Rivet said if we can find out the price. White and Beatty agree and McKnight was against it when it was 175K. Acquaviva said there has been money spent on this project as well and we should follow through.

Mrs. Hirsch, 1035 Malabar Road. It is going to cost a lot more to tear the buildings down and build something else up. County should buy old school house and give it to town. Why not condemn the place and have them tear it down.

**7. Review Council Travel Budget (Rivet)****Exhibit:** Agenda Report No. 7**Recommendation:** Request Discussion and Direction

Rivet said if we broke out the money similar to how we do discretionary. The point is one person could spend all the money. Mayor said you can't divide it up fairly. The imbalance is going to be there. It is assigned to each council member. Rivet said divide it up and keep the same amount. Mayor said it is going to be more trouble than it is worth. He said the SCLC delegate attends the monthly meetings and may attend the annual conference. Acquaviva said that when Council wants to discuss an item then the Mayor impedes that process and he should not. She stated if a council member didn't want to go then there would be money left over.

Beatty said he is the culprit of this. It was his intent to take advantage of the education. He can't see creating five line items. He could support a procedure. Rivet said if he had a portion then he would probably not spend it. TA said we give detail in definition. Acquaviva said she takes the transparency very seriously. When she attended last April's SCLC dinner meeting, she and her husband left the Cape Canaveral event due to it was outdoors, lots of mosquitoes and windy and she came in and paid the money back. Rivet questioned the Mayor having his own line item for this. Mayor said he is expected to attend more events. Rivet said Mayor used same argument to keep separate line items as to keep them together. Acquaviva said Mayor is not facilitating by taking this position. Mayor said to keep it in one line item. The three people that are definitely going to be going on to next year can put in the items they want to go to. At budget time you can stay drop the amount down.

CM Rivet directed to have this as an action item on next agenda: to adjust the travel budget so it has five line items.

**M. MAYOR AND COUNCIL REPORTS: (number indicates the order in which they spoke.)**

6.) Mayor: Regarding complaints on Hunter Lane road maintenance he called Mr. Cody back and drove on Hunter Lane and on the north end there are some potholes; that is what Mr. Cody wants fixed. Mayor mentioned email that Dan Welton wrote on who has authority to do fire inspections. TA said there is an individual that has made anonymous complaints to the State. Chief Covey called the State and they can work under his umbrella as Fire Marshal. They are going to have him train and certify the fire fighters. Mayor gave reminder and invitation to Council to teen council meeting tomorrow night. One of their agenda items – graffiti in park.

- 1.) Beatty: wants to discuss items with Engineer when Engineer Smith is back in Town.
- 2.) White: nothing
- 3.) Rivet: nothing
- 4.) McKnight: nothing
- 5.) Acquaviva: nothing

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

**O. ADJOURNMENT**

There being no further business to discuss, **MOTION:** Rivet / Beatty to adjourn this meeting. **VOTE:** All Ayes. The meeting adjourned 10:15 PM.

BY: Thomas M. Eschenberg  
Mayor Thomas M. Eschenberg, Chair

ATTEST BY:

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

Date Approved: 5/2/2011 as corrected