

MALABAR TOWN COUNCIL REGULAR MEETING

June 20, 2011

7:30 PM

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road and recorded on Ustream.tv/malabarfl.

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:

TOM ESCHENBERG

MARISA ACQUAVIVA

CARL BEATTY

DAVID WHITE

STEVE RIVET

JEFF MCKNIGHT

BONILYN WILBANKS

KARL BOHNE

DEBBY FRANKLIN

Also present were Fire Chief Covey and PW Mgr Tom Miliore.

- C. ADDITIONS/DELETIONS/CHANGES:** TA noted correction to 1.b; correction to three employees reduced amount by \$1000.00. Beatty said on K.5. he would like to expand discussion to include all utility taxes since the water tax affects the fuel tax. The action we take on the water tax will affect amount we get on the fuel tax. Mayor asked if we could add that as a discussion item. Chair explained the decision tonight is to impose the tax or repeal the ordinance. Beatty said ok – add as discussion item. TA said K.5. item is from the auditor; they have noted it for last three years.

D. PRESENTATION:

E. PROCLAMATION:

F. CONSENT AGENDA

1.a. Approval of Minutes Regular Town Council Meeting – 06/06/2011

Exhibit: Agenda Report No. 1.a.

1.b. Budget Adjustment (Reso 90-2011) FRS money

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2010-2011; PROVIDING FOR AN ADJUSTMENT FOR THE MONIES BUDGETED IN THE FLORIDA RETIREMENT SYSTEM TO COVER THE EMPLOYEES PORTION OF THE 3% TO THE FLORIDA RETIREMENT SYSTEM REQUIRED BY SB-2100; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 1.b.

Recommendation: Request Action on Both

MOTION: Rivet / McKnight to approve the consent agenda as presented.

No corrections to minutes. Mayor read the resolution by title only.

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

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

H. STAFF REPORTS:

ATTORNEY: Called for a closed Executive Session regarding the litigation Town of Malabar v. City of Palm Bay, Case No. 05-2009-CA-049231, filed in the Circuit Court of the Eighteenth Judicial Circuit, in and for Brevard County, Florida.

Bohne said he got call from new attorney regarding getting back to litigation. He would like to discuss the discussions he has had and possible resolution. Doesn't expect it to take an hour. White said ASAP. TC picked Thursday June 23, at 8PM.

ADMINISTRATOR:

- TA reported she had excellent cooperation with City of Palm Bay Utility Dept under direction of Ms. Hann. They were very helpful and offered us their equipment and guidance. Needed to locate water service line on Corey.
- Fire Chief Report: Chief went over report. Few new members have come on. Any questions on calls. He made notes on vehicles. The ladder truck is up and running and ladder now works and ladder extends the full 75'. Completed the budget process. Started cleaning up behind the building. Cannibalize from some of the dues and a half's and will be able to get one truck running. Scrap the metal for money. He went over SOPs and will bring back to Council for approval next meeting. Lt. Hooker and he have developed these so County will know how they operate. This is a summary. They are in the process of developing the complete set of SOPs which will augment those currently in place. If you have any questions, please call him.
 - Fire Inspection issue. Talked to Fire Chief in Margate and the paper was done at National Fire Academy. He spoke with guy who wrote it. The City of Margate does annual fire inspections. He also attended the Brevard County Fire Chief's monthly meeting last Thursday and spoke with other Chiefs. He can't say enough how important this is to do annual fire inspections. He referred to the recent request for information on how many fires have there been in commercial businesses. Franklin referred them to State. There haven't been fires because they do the annual inspections. There haven't been any deaths from school fires since 1958. In 1958 they had a school fire and 100 students died. That is when they initiated the fire drills. He asked Council to let him try and do the inspections. It helps the business, and it helps the fire department if they do have to respond to a fire. His guys are getting certified. They will not be intimidating.
 - There was a question regarding the phone usage and he is guilty of making one call to his family and he will pay for that call. The rest of the calls to NH are to the Fire Chief where he used to work. When he is there at 9PM working he is there working.
 - Another question about the application of the mission statement, the lettering on the vehicles. There has been a change in mission statement and it gave the guys an identity and gave them pride. He thinks it is important. The rest of the vehicles will also get stenciled.
 - He did take car to Orlando to meet his family. When he started he thought he could use the car this way. He now knows and he won't use it for personal trips.
 - When they hired him, they knew he was not a Chief. He is going to make mistakes but he is learning from them. He related that when he started he brought a guy back into fire department that made some people very unhappy. He had valuable experience and knowledge and he used him. When he did not make him his Assistant Fire Chief, that made that person and other people unhappy; that is the nature of the position. He will be honest and forthright. You can reach him 24/7 on his cell 321-505-6070. He is there at Fire Station 60-70 hours a week.
 - Mayor asked about Engine 1, showing on report as limited service. Chief replied it failed last pump test – 18 minutes into a 20 min test. When he started, his priority was to get it back on line for full service. He wants to get back to that focus, but has had to deal with all the other distractions. It is a functioning engine, but if he uses it to respond to a fire, he is sure someone will notify the State that it was used to respond to a call and had failed a pump test. It is still a priority for him. TA also stated the policy was

given to him regarding vehicle use and copied to Council. She had discussion with Chief. He understood that she also is a phone call way. She stated that he has never lied to her.

- Deputy Hammer was present to answer any questions. No questions. Deputy left.

CLERK:

- She gave everyone a memo re: FLC Annual Conference in Orlando in August. There is money in budget for four Members to attend with all expenses paid or all five to attend and you pay for per diem and travel or do a budget adjustment. I would like to make these reservations ASAP so please check your calendars and let me know if you can attend.
- Form 1's are due to the Supervisor of Elections by July 1. Call me if you need help in completing.
- The FLC has five legislative committees and would like representatives from all the cities sit on these committees (one city per committee) The five committees are Energy and Environmental Quality, Finance and Taxation, Growth Mgmt and Transportation, Intergovernmental Relations and Urban Administration. I have applications if anyone is interested. I think they meet four times during the year. I will send the information to all of you via email.
- The City of Palm Bay is offering us a credit on our water bill for the pool fill. We will offer a credit to the customer on their water bill.
- Cindi and I attended 1.5 days of the Summer Academy of the FACC in Orlando last week and attended sessions on Ethics, Florida Statutes, Fraud Prevention, and HR issues. Atty Gougelman presented the session on FS and Jim Milucky of Malabar's Forensic Accounting presented the session on fraud prevention. Lori Kalaghchy, City Clerk of Cocoa Beach served as Chair of the Professional Education Committee and presented in front of this Council when Cindi was pinned, was awarded the FACC President's Award for her dedication and service to the organization.
- I will be attending the FGFOA investment training on Saturday June 25 in order to meet the statutory requirement for 8 hours of annual training. Last year I was able to satisfy this requirement through a free offering. No such offer came this year and the class costs \$90.00. I am only attending this portion rather than the entire conference, saving the conference registration fee and the hotel costs.
- Public Hearing and second reading on Ord 2011-39 will be on next meeting as the legal ad did not run as required.

I. **PUBLIC HEARINGS:** Are legally advertised for 7:30 PM *or as soon thereafter as possible.*

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

2. **Request for Reduced Speed on Quarterman Lane – Petition from Residents**

Exhibit: Agenda Report No. 2

Recommendation: Request Action

John Gagnon, 2050 Quarterman Lane. Traffic has picked up speed over the last several months. The majority of the homeowners would like a reduction in speed to 15mph and signed the petition. They are happy that they are doing this. For safety reasons, for the horses, make it safe. He would not be surprised if we see a similar request for Atz. Deputy Hammer has been called out several times to respond to the speeding. Please reduce speed and post signs to 15 mph. When they discovered the speed was 30mph and they have tried to do it, it was impossible. Mayor stated he goes down it at 15mph every week. Mayor said since Quarterman Lane is a dead-end road, can they assume the speeders are the residents to the south, or their visitors? Gagnon stated in the affirmative and said it may also be businesses like cable service that going to an appointment.

MOTION: Beatty / Rivet to reduce speed to 15 mph and post signage. _____.

Discussion: McKnight asked about cost on signs. TA said she would think two signs on road but would check with BCSO. Franklin stated signs run just under \$30.00 each.

VOTE: All Ayes.

3. Request for Status of Road Repair – Kramer Lane - Joe Moccia

Exhibit: Agenda Report No. 3

Recommendation: Request Action

TA said this road is getting an unusual amount of use. Over the years, Kramer Lane has had millings laid and we can't grade it. Ultimately, it will have to be milled up and redone or maybe paved. Our PW is working on a rip rap project and so she has had CDM come in and work with PW with a box blade to try and improve the condition. She will follow up. No action for Council.

K. ACTIONS ITEMS:

ORDINANCE: First Reading

4. Amend Code to Provide Regulations for Adult Care Facility (Ord 2011-38)

Mayor introduced the item. In reviewing the agenda, Clerk had added the site plan review. He reviewed the RTCM March meeting where Council voted the site plan is tabled until the ordinance is drafted to add language. Chair spoke with Attorney and agreed since no action was taken on ordinance, it could be brought back. Chair directed it be brought back for action by Council. Bohne said Council is going to have to deal with this site plan. Chair brought ordinance back with hopes with full Council there would be action on this first reading.

Mayor read by title only.

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; DELETING SECTION 1-2.6.B. 8, LAND USE CLASSIFICATIONS; PROVIDING FOR ADULT CARE FACILITIES AS A CONDITIONAL USE IN THE OI (OFFICE-INSTITUTIONAL) ZONING DISTRICT; AMENDING SECTION 1-3.1.I DISTRICT PROVISIONS; PROVIDING FOR LIMITED RESIDENTIAL USES IN THE OI (OFFICE/INSTITUTIONAL) ZONING DISTRICT; AMENDING TABLE 1-3.2; REMOVING REFERENCES TO GROUP HOMES AND PROVIDING FOR ADULT CARE FACILITIES; AMENDING TABLE 1-6.1 (B) DELETING REFERENCES TO GROUP HOMES AND MAKING PROVISIONS FOR ADULT CARE FACILITIES; AMENDING SECTION 1-9.2.12; PROVIDING FOR ADULT CARE FACILITIES; ESTABLISHING PARKING REQUIREMENTS FOR ADULT CARE FACILITIES; DELETING THE DEFINITION OF GROUP CARE FACILITY IN ARTICLE XX; AMENDING TABLE 1-3.3.A PROVIDING FOR A MINIMUM SQUARE FOOTAGE FOR SINGLE FAMILY HOMES IN THE RM-6 AND R/LC ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 4

Recommendation: Request Action

Speakers cards on this.

Pat Reilly, 1985 Howell Lane and Vice Chair of P&Z. He is going to talk about the Board discussion. P&Z had most difficulty with two different types of uses – it is flagged in the ordinance to be addressed by Council. The Board intended that if more than one use is provided for in a zoning, then the most restrictive conditions would apply. They also discussed at length whether or not to have this use as conditional use in RLC or not at all. The biggest debate was in Sec 5, 4 vs. 5 parking spaces. The delta is only 5 spaces, but there was a big debate on this.

Reilly pointed out to Council to make sure you understand that Sec 7 has nothing to do with Assisted Living. This would still need to be approved separately if this ordinance fails.

Reilly also mentioned that Sec 1-2 has to do with cemetery – Bohne said there is a note to the codifier to renumber. The cemetery one will be in there but as another number.

Reilly stated that Sec 5 deletes definition of group care facility but does not add a definition for assisted care facility. Bohne said that adult care facility covers all of those uses referred to in FS 429 and that does include assisted living facilities.

Reilly's personal comments as a resident: His problem is having residents live in OI. No one would ever state that openly. He said the original builders of Malabar created Professional Commercial before it became OI. He stated if it is an assisted living facility, they do live there.

He would also request that if this ordinance is approved, the site plan should go back to P&Z to review under the new guidelines. Acquaviva asked before his personal feelings, those were from P&Z? Yes.

Mr. Charles Leedy, Smith Lane, he would like to see this hospital go in as soon as possible.

Sheila Eschenberg, Beran Lane, one day we will all need something. The adult care facility is needed. The location is such a good spot across from the hospital. Asked Council to give good consideration. In today's economy, it will give jobs to the community. The location next to the children's facility is also good for the children and the adults and there could be visiting between the two places. Please consider.

Chair asked Council to consider the ordinance only. It does not apply to any specific project.

Frank Plata, 3700 Harbor City Blvd. He is not representing any type of facility. Concentrate on the code modification. The code adds a complete piece of mind. The change in FS is no. By adding specific details. The parking is a little more restrictive. The project they are considering is institutional and is consistent with other areas in the county.

You can connect one to the other one. Each one has a specific requirement in ITE and you can go by that for parking. To recap – they started on 9/25/2007. They got help from Bohne and Mills on how to look at code. They are adding definitions and details in code. All of this will be helpful to the elderly so they can be treated.

McKnight has comment before motion. McKnight wanted to make clear why he didn't make motion on this at last meeting. He thought since he didn't support it, he couldn't make motion. Chair clarified, that the motion maker can make an affirmative motion, but cannot speak against the subject. The motion maker can vote against the motion. The seconder to the motion is free to speak pro or con.

MOTION: Acquaviva / _____ to approve ordinance. Motion died for lack of a second.

MOTION: McKnight / Rivet to send ordinance back to P&Z to direct that residences can't be in OI and look at green space requirements and direct they delete this use in RLC.

Discussion. Acquaviva thought the intent was to support the hospital with the OI zoning. Rivet said there are many uses that would be compatible to hospital that are not residential. Acquaviva stated it is not an apartment building. McKnight said it could be.

Acquaviva was at the P&Z meeting, and McKnight said he did not support this project openly. He asked for assistance from P&Z.

Chair said rather than send it back to P&Z, if the majority of Council wants to make changes they can do so, Council can change it. McKnight said that the P&Z Vice-Chair already said they had much debate. Mayor said if Council directs that this go back to P&Z and recommends they remove this use from OI he would also want to recommend to them to take it out of RLC. RLC was not intended for this. It was for small shops and residences. Apartments upstairs with a business downstairs. Rivet said it is a bigger issue. Sounds like there is not much support to do residential in OI. Atty Bohne said

in Article II, the Land Use Section, it refers to community facilities and group homes, and they are listed as a conditional use in OL.

Atty Bohne said their pending application has to be reviewed under current Code. They agreed to wait to allow time to add language to clarify the different uses under FS 429, but their submittal is required to be reviewed under the current code. In the Code on parking requirements, it doesn't list reference group homes. They have right to be reviewed under current Code. Land Use section refers to community facilities and group homes. Mayor said they don't meet current Code. Bohne said this application will be reviewed under current code. If they eliminate the residential component under OL that will not affect this project. McKnight said throughout this process, the applicant has tried to advocate. He doesn't think we should change our code for one applicant. Also to clarify, Atty Bohne stated he told Clerk to get site plan back on agenda if applicant wanted to proceed.

VIOTE: 4 Ayes, 1 Nay (Acquaviva) Motion carried 4 to 1.

RESOLUTIONS: 0

MISCELLANEOUS:

5. Decision on Utility Tax on Water Sales

Exhibit: Agenda Report No. 5

Recommendation: Request Action

Beatty said that this tax interrelates with the fuel utility tax. Beatty wanted the utility tax on water to go to the water fund. Franklin explained that the Town receives the rates Palm Bay is charging and then adds 15% to each of those rates and Council adopts them. That is everything from the base rate for a 5/8" water service to a late charge, to a turn on charge to a meter replacement charge. Those are the utility rates and those funds go into the Utility Fund or Enterprise Fund. We have done that since 2006, based on rate study done by Town Engineer Bill Stephenson.

The utility tax is a revenue provided by the Legislature to fund expenses in the general fund. Yes it could be allocated to the Enterprise Fund but that action would be similar to stating that a percentage of the ad valorem tax would go to the enterprise fund. The utility taxes are taxes on the purchase of product or service that benefit the general fund revenue to pay for expenses of running Town. Council has authority to direct that the water utility tax or any portion of the ad valorem tax shall be deposited into enterprise fund to help support it. Franklin described that the amount of revenue coming in monthly covers the expenses paid out and is in the black. It is when the depreciation is calculated in that the utility goes into the red. We have put nothing aside and our rates don't include replacement costs.

MOTION: Rivet / Acquaviva to eliminate the water utility tax from the Code.

Discussion: Rivet stated we should resolve the issue with Palm Bay. If we get rid of the surcharge, we can lower our resident's water rates and have a smaller percentage increase. Beatty is against eliminating this tax. He would advocate that we collect and earmark that money for infrastructure things. Rivet said that would be a tax increase. You can call it whatever you want.

VOTE: 4 Ayes, 1 Nay (Beatty) Motion carried 4 to 1.

6. Initiate Design Contest for Malabar Flag Ideas

Exhibit: Agenda Report No. 6

Recommendation: Request Action

Mayor brought this up because of the upcoming 50th anniversary celebration. Council supported the contest idea. Rivet said put it in the Mailboat and on the website and then let the winner hoist the new flag at the celebration. They discussed the cost of the flag. McKnight said if it is only \$90 -100 dollars he could support that. Acquaviva said she will donate \$50 from her discretionary fund.

TA said Indian Harbor Beach had their seal plus their mission statement. Council said see what comes in from submittals. TA said she will get information on the website and use the on screen banner to alert viewers. She will also supply the samples from the other cities so they can get some ideas. They discussed where to fly the flag. Former Council Member Brian Vail from the audience stated he will donate a flag pole. Acquaviva said we should also do a proclamation to honor the flag designer(s).

7. Adopt Policy Regarding Malabar Employees Soliciting Residents on Issues

Exhibit: Agenda Report No. 7

Recommendation: Request Action

This was McKnight's item. McKnight said a resident told him that a staff member called a resident and asked them to come to council regarding an issue. The vote on the item was not an upset, but he did not feel employees should solicit residents on issues. Acquaviva asked if he checked with the employee. No he didn't. TA asked Chair to have Atty to speak to free speech issue. McKnight said employees that aren't residents should not call residents and ask them to take a position.

Bohne said they can't advocate residents to take a position. There is FS covering this. He doesn't think it impacts the first amendment right to speak. State has imposed some of those restrictions. Mayor said those FDOT meetings he goes to they are very careful on how they speak so they are not influencing legislators. Bohne would look up if Council desires. TA stated she provided the section in the Employee Manual that she thought covered this.

TA asked McKnight, we have residents that call from time to time regarding an issue. She said she and Franklin often refer them to minutes. They will come back. McKnight said it is not the issue to give them facts. Facts are ok.

McKnight stated that resident said they were contacted from someone from staff and told that that person wants them there because they did not want this to pass.

Acquaviva said we don't want to deal with an ordinance because it is only one applicant but we are going to write a policy because one person is questioning.

McKnight said he thinks there should be a policy. Rivet sees his point and understands. TA said she can check with her peers and bring something back cheaper than the Attorney. She is sure there are other cities that have something on the books. White said it is one incident but it can go too far. Rivet said it can't go too far. Gave ex as Albanians. McKnight said staff should be apolitical. Acquaviva said this is her only forum to speak, she did read recent emails and sometimes common sense is not so common sometimes, but what is wrong with talking to the parties involved. She said when there was a complaint from a resident about staff, she had a meeting and talked with the person and the staff and hashed it out. Direct people to talk some things out. For the most part the first thing should be going to staff. TA will bring something back.

8. Confirm July 7, 2011 as Next Council meeting Date

Exhibit: Agenda Report No. 8

Recommendation: Request Action

Discussion: Mayor thinks they should have meeting. Address the site plan. The developer desires an answer. Start at 7:30 and Steve will come in at 8PM. He may get here a little before 8

L. DISCUSSION ITEMS:

9. Amendment to Chapter 8, Fire Inspections (Ord 2011-37) and Question for Attorney General from Attorney

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 8 FIRE PREVENTION AND PROTECTION; AMENDING ARTICLE II STANDARDS; AMENDING SECTION 8-32 RELATING TO FIRE

INSPECTIONS; PROVIDING FOR REPEAL, SEVERABILITY AND INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 9

Recommendation: Request Discussion and Direction

Main discussion is the question to the AG. Bohne did draft with 4 basic questions and he had to do a memorandum of law. 1) Are we required to do fire insp? Wiggle room in FAC regarding "shall". If yes, do we have the discretion to determine "periodic" 3) originally wrote with the self inspection and then changed to ask if self-inspection would qualify 4) constitution question, does it have constitutional basis, and if they refuse, we have to go through insp warrant.

Rivet asked Bohne if he doesn't know the answer. Bohne thought yes, whether the F.A.C. (Florida Administrative Code) and the "shall be authorized". With that being said, White said what happens when your building burns down – what about liability. Bohne said no liability when doing a policy decision. Sovereign immunity would apply. If you do the inspection and are negligent then we are liable. Acquaviva said if they sign a waiver and a fire occurs, we are not liable? Bohne believes a self inspection is not conducted by an authorized fire safety inspector. White said we are the only city that has an issue with this. McKnight said we are a reactive not proactive community. White said they make codes and inspections and it works.

Mayor said he had not heard or known about the policy vs. operational liability. Bohne gave example of bad intersection that they needed a light. Policy to not put a light up. Mayor asked about Quarterman questions.

TA referenced a fire at an elder facility that burned. Fire Marshal was 18 mos behind in his insp. That city got brought in to the lawsuit. Policy was to do the insp. Mayor said under current code, they haven't been done. Suppose they have a fire. Mayor said there were 20 some businesses or because they wouldn't let us in. TA said that is not the case, it was tracking and that has been shored up. When she checked with the reports from the Fire Chief, there were inspections done and the inspection fee may not have been sent or paid, but the inspections were done except for four. TA stated there were only four cases of inspection questions and his was the only one that had gone on so long. The previous big issue was with Berri Patch and they wanted to use a private inspector. The Town had the State Fire Marshal and our Fire Marshal go in there for the inspection and explain the requirement. They then discussed what periodic meant – annual, every three years, ten years?

Atty Bohne said we should do fire inspections. There is compelling reason to do them. Public Safety. His gut says the AG is going to tell them to do them.

McKnight wanted to have the self-inspection wording in the AG question called something else, like courtesy safety inspection. McKnight said he introduced the Margate stuff as a study. Rivet said The wording Bohne had is good. McKnight just wants to see this done right and it doesn't get political and doesn't want anyone targeted. Acquaviva asked what is the implication he was making. If that is the case, it is wrong and they should bring this forward. She questions him on why the 50 that get inspected. TA said there were 4 businesses that weren't done. They may not have been paid, Mayor worked off revenue line. McKnight asked why didn't they serve four warrants instead of one? TA said there were no warrants served. Until this was resolved, this did not go forward. They found four that were not done. He was the only one to refuse access since 2007. The others may have only missed the one year inspection.

TA brought the warrant issue to Council and asked for support for this one business. That evolved into this fire inspection dialog and the Fire Chief notified the Fire Marshal and ultimately resulted in his resignation. It was never that one person. There were only four that were not inspected.

Rivet said the entire issue is McKnight holding the entire inspection process up for one person. Beatty asked if they could use audit instead of self inspection. At this time, Mr. Krieger entered the building and handed paperwork to the Chair and left. Bohne suggested that the statute uses the word inspection. Beatty said if a person wants to build they can hire their own inspector. TA referred to memo done by BO. Franklin also stated that person can hire their own building inspector but the official inspection for the permit sign off will be done by the Town's inspector. They are looking for compliance to the Building Code and all the other requirements the municipality is responsible for such as payment of impact fees. Otherwise the city must pay the county those fees.

Bohne said definition of fire insp is doing it on behalf of the municipality. He doesn't know how else to phrase it. Can't sugar coat it.

Attorney also stated he was going to check on lowering speed on local roads without a study.

10. Vehicle Log for all Town and Fire Dept Vehicles

Exhibit: Agenda Report No. 10

Recommendation: Request Discussion and Direction

We are not doing that across the board. It has been instituted in fire dept. McKnight said this was not about Chief's trip to Disney. TA said under HIPPA, they are only logging the case number, but if they are going to Ace or to go to lunch, they log it out. They take vehicle in case there is a call. As of now every town vehicle uses a log.

ADDED: 11. Item on utility taxes. Carl Beatty needed to go back over the rate structure. He wasn't aware that we are charging the same fee and then adding 15%. Mayor said Malabar is getting more money than Palm Bay. Beatty said we need to check the efficiency.

TA will send another request to get the depreciation report from auditor. Franklin said lift station electric is \$46 at BH and at MIMA it is only 13. Beatty said the BH lift station is larger.

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

- 1.) Beatty: nothing. Re: FLC it would not be cost savings to drive back and forth.
- 2.) White: nothing
- 3.) Rivet: LaCourt paving – They will be closed for July 4. Once contract comes back signed, it would start after July 4.
- 4.) McKnight: Mr. Morris complained to him about how long Eng Morris Smith waited for it to rain. He had put dye on property. Also, his bull did get out and push down the fence. They had law enf out there. TA said that now they could enforce them to have a stronger fence. McKnight said he doesn't do anything for personal or for favors. He does it for the benefit of the Town. He takes offense in what Rivet says. Rivet also is offended by some of McKnight's comments.
- 5.) Acquaviva: asked about Mr. Billie place.
- 6.) Mayor: 4 AC got stolen from Dr. Leedy business. Acquaviva said the church has also lost two. The other thing is that resident complained about not getting picked up. Mayor called 800 number and there was a recording about high volume. So he called Geletko and there was one other complaint. By the way, there are 1100 structures in Malabar that WM picks up from. There are 2 houses that they have written off. He said 30% that don't pay. We passed an ord that says that they shall pay. It is their responsibility to send list. TA said we have gotten one list since she started. TA said she can be called. Mayor said that Geletko is retiring and then he will be a contractor and Zonka will be his replacement.

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

Juliana Hirsch said that Malabar Road will not be like Old Melbourne because we are in a different time. She doesn't mean to be facetious; we can't make money with little shops. They spend time on research and somebody needs to make an ordinance that takes in these types of facilities. The

institution is the part that they should come under. They would like to see this like Cocoa Village, but if you don't want growth then put up a sign that you are not welcome. Think where we are – there is a 24 bay gas station that just opened at Malabar and Babcock and you have to wait in line to get gas. Think about it. He said it is 300K in impact fees to pay and to kick the can down the road and everyone is going to say don't go to Malabar. Council needs to decide. They are not going to build what they want to see there.

Brian Vail, 2700 Smith, it is incumbent to Council to make the ordinance address these types of uses. If we don't have an ordinance to address this and make it as restrictive as we need to but when they come in then we can address it.

O. ADJOURNMENT

There being no further business to discuss, **MOTION:** Rivet / Beatty to adjourn this meeting. **VOTE:** All Ayes. The meeting adjourned at 10:20 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: 7/7/11