

MALABAR TOWN COUNCIL REGULAR MEETING

April 19, 2010 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 Seat 3 Council Member Steve Rivet.

B. ROLL CALL:

MAYOR/CHAIR

VICE-CHAIR:

COUNCIL MEMBERS:

TOM ESCHENBERG

JEFF MCKNIGHT

NANCY BORTON

BRIAN VAIL

STEVE RIVET

MARISA ACQUAVIVA

BONILYN WILBANKS

TOWN ADMINISTRATOR:

TOWN ATTORNEY:

TOWN CLERK/TREASURER:

KARL BOHNE

DEBBY FRANKLIN

- C. **ADDITIONS/DELETIONS/CHANGES:** Franklin asked to add Resolution 49-2010 changing our primary banking institute from Riverside to Wachovia Bank. No objections, it was added as Agenda Item #11 and will be read in its entirety.

D. **PRESENTATION:**

E. **PROCLAMATIONS:**

F. **CONSENT AGENDA:**

1. **Approval of Minutes**

Regular Town Council Meeting – 4/05/2010

Exhibit: Agenda Report No. 1

Recommendation: Motion to Approve

Franklin said she had corrected pg 2 under her report – added “recommendations” after P&Z and on pg 6 deleted duplicate wording “a better”.

MOTION: Rivet / Borton to approve the RTCM minutes of 4/05/2010 as presented. **VOTE:** All Ayes.

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

H. **STAFF REPORTS:**

ATTORNEY: Atty received the email in front of each Council Member this afternoon and sent response that he could not keep email anonymous as it is public record. Attorney was told the email account was opened under a fictitious name. Wanted Council to know. Bohne has also spoken to Atty Stokes after the Palm Bay executive session. Both Councils appear to be heading in the same direction as far as having Palm Bay take over the utility. Terms and details have not been discussed.

ADMINISTRATOR: Reported that the Stimulus project is going ahead. Federal requirement to place sign with required information at each project site. The first project at Corey and Hall had the sign placed and then got complaint from land owner and had to move the first sign as it was on private land. It has been moved. Since that incident all other owners have been contacted and they all will support the project and allow the required signage on their property if adequate ROW is not available for signage.

Fire Dept: Chief Gianantonio went over the report for March. The ladder truck needs work. Response time to incidents. Borton asked if all trucks had AC. No. Are they on the report? No. There are vehicles that do not have AC.

Last item was the Golf Disc Park regarding the apron at the entrance. Recommendation was made by Park Board to have this asphalted or concreted. Now have new Chair and he doesn't think it is appropriate to spend that much for such an item and we should just add millings to this area. TA explained that money was budgeted for this, it is on a State Road and surveying, engineering and design and FDOT permit was required. Council approved this expenditure. We have done everything short of the actual construction. The total cost was around 4K. We have spent about 2800 to date. Council Chair stated there was an issue of pulling out onto Malabar Road from this driveway and having traction, whether it was dirt or millings. Council consensus that it was approved for safety reasons. TA had meeting with the new Park and Recreation Board Chair Dick Korn and he wanted the resident's damaged fence repaired and PW has made those repairs. Rivet said after hearing all this we should finish this job. TA will let Park and Recreation Board know.

CLERK:

- Riverside Bank was seized by Feds late Friday night, 4/16/2010. It has been taken over by TD Bank out of Delaware. I had moved sufficient capital reserves from Riverside Bank and into money market accounts at other banks before that happened. I am moving our two major operating accounts, General Fund and Utility Fund checking to Wachovia Bank, a Division of Wells Fargo Bank N.A. and that is why I did a resolution for addition to this meeting. Wachovia is a well secured public depository. I am not asking to move everything, we still have CDs, two small accounts and our leases with Riverside, which is now TD Bank. I will be reviewing these items and may be making additional changes in future.
- Trash Bash was a huge success. Much better response than we had anticipated. Had 21 volunteers last year and this year had 54 volunteers! We collected less weight, 1900 pounds, but it was all legitimate trash: no hazardous waste, no paint and no tires. We have spent or will spend over \$3000.00 to get the waste that was allowed to collect at the PW yard by citizens dropping off hazardous waste, const debris and tires.
- Springfest was a great success. Made more than we budgeted. We lost money on our product sales. We now have no t-shirts, mugs or coozis in stock. No pre-event inventory was done but we only took in \$177.00. That is the amount we pay tax on. The price sheet agreed to before the event was not used. Prices were reduced before the event began. I will be following up on those issues.
- Park and Recreation Board meeting for April 21 is cancelled as Secretary was out four days last week and was out today for comp time for time spent at Springfest. Park Board Chair wanted to know why no one else at Town Hall can prepare the agenda. Last week I also dealt with AP and UB issues. I also am still assisting the P&Z Secretary in those agendas as they currently deal with future land use issues and Comp Plan changes. I felt it was wrong for Park and Recreation Board Chair to be so critical.
- Our beloved Bill Moroney has resigned from the Eagle Corp. He has offered to fill in as needed if someone doesn't have a partner to patrol. I will be preparing a proclamation for next meeting thanking him for his service.

Acquaviva thanked Franklin for her efforts last week with getting things set up at Wachovia. She has stayed on top of this issue and protected the Town's capital.

I. PUBLIC HEARINGS:

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

ORDINANCES: (0)

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

- 2. Recommendation from Park and Recreation Board**
Exhibit: Agenda Report No. 2

Recommendation: No Action Required

Franklin explained that the Park Board made a formal recommendation with a motion and unanimous vote to send this item to Council. Staff has responded that they have taken care of this once they got the schedule from the teams. If Council wants to take a different approach let us know. Council is satisfied with the way staff is handling the issue.

L. ACTIONS ITEMS:**ORDINANCE: First Reading – 0****RESOLUTIONS: 4****3. Resolution Regarding Bid Preferences (Reso 44-2010)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, RELATING TO BID PREFERENCES AS PROVIDED FOR IN SENATE BILL 1924 AND HOUSE BILL 899; MAKING FINDINGS; RECOMMENDING DISAPPROVAL OF THE LEGISLATION; PROVIDING FOR DISTRIBUTION OF THIS RESOLUTION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR ADOPTION.

Exhibit: Agenda Report No. 3

Recommendation: Request Action

Mayor read by title only.

MOTION: Rivet / Borton to approve Reso. 44-2010 as presented.

Discussion:

VOTE: 1) Borton, Aye; Vail, Aye; Rivet, Aye; McKnight, Aye; Acquaviva, Aye.

Motion carried 5 to 0.

4. Resolution re: Children in Prison Act (Reso 45-2010)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO THE SECOND CHANCE FOR CHILDREN IN PRISON ACT PROVIDED FOR IN THE COMMITTEE SUBSTITUTE FOR SENATE BILL 184 AND THE COMMITTEE SUBSITUTE FOR HOUSE BILL 23; MAKING FINDINGS; RECOMMENDING DISAPPROVAL OF THE LEGISLATION; PROVIDING FOR DISTRIBUTION OF THIS RESOLUTION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR ADOPTION.

Exhibit: Agenda Report No. 4

Recommendation: Request Action

Mayor read by title only.

MOTION: Borton / Rivet to approve Reso. 45-2010 as presented.

Discussion:

VOTE: Borton, Aye; 1) Vail, Aye; Rivet, Aye; McKnight, Aye; Acquaviva, Aye.

Motion carried 5 to 0.

5. Resolution re: Elderly Inmate Program (Reso 46-2010)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, RELATING TO THE ELDERLY REHABILITATED INMATE PROGRAM PROVIDED FOR IN FLORIDA SENATE BILL 484 AND HOUSE BILL 1515; MAKING FINDINGS; RECOMMENDING DISAPPROVAL OF THE LEGISLATION IN ITS PRESENT FORM OR PROVIDING FOR SUBSTANTIAL AMENDMENT; PROVIDING FOR DISTRIBUTION OF THIS RESOLUTION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR ADOPTION.

Exhibit: Agenda Report No. 5

Recommendation: Request Action

Mayor read by title only.

MOTION: Borton / Vail to approve Reso. 46-2010 as presented.

Discussion:

VOTE: Borton, Aye; Vail, Aye; **1) Rivet**, Aye; McKnight, Aye; Acquaviva, Aye.

Motion carried 5 to 0.

6. Resolution re: Transportation Trust Fund (Reso 47-2010)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, RELATING TO THE FLORIDA STATE TRANSPORTATION TRUST FUND; MAKING FINDINGS; REQUESTING THAT THE FLORIDA LEGISLATURE NOT MAKE "SWEEPS," TRANSFERS, OR DIVERSIONS OF MONIES, FROM THE STATE TRANSPORTATION TRUST FUND; PROVIDING FOR THE DISTRIBUTION OF THIS RESOLUTION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR ADOPTION.

Exhibit: Agenda Report No. 6

Recommendation: Request Action

Mayor read by title only.

MOTION: Rivet / Borton to approve Reso. 47-2010 as presented.

Discussion:

VOTE: Borton, Aye; Vail, Aye; Rivet, Aye; **1) McKnight**, Aye; Acquaviva, Aye.

Motion carried 5 to 0.

MISCELLANEOUS:

7. Review of Material from Charles "Bud" Ryan

Exhibit: Agenda Report No. 7

Recommendation: Request Action

Chair called on two (2) Speaker Cards:

Kevin Fleming works for PW Dept. He has been mistreated for the last 8 years. He relayed an episode that was repeated daily. Mike Brown arrived first and left door open. Then Carl Beatty would enter the unlocked door after Mike. Moments later Kevin approached the door and it was locked. Then he had to pound on the door to get someone's attention to open it. Then he asked Carl Beatty why do you lock me out? Carl Beatty said he didn't and said door lock tweaks. The locks have been changed 4 times and every time the door tweaks? Carl Beatty has been gone for 7 months, and the door hasn't tweaked once. That is not all. He has been mistreated for 8 years. He has tried to get along; he said hello and good bye and got nothing. He was trying to get his CDL license and asked Carl if he could get help with some of the training from Mike or Tom. Carl said no to help and said TA said we must get CDL on their own. He now has his CDL and got it through the Town. He is a hard worker and gives 110%.

Charles "Bud" Ryan, Howell Lane. When he first saw TA Bonnie and her two dogs and he asked if they were here every day. He offered his place but she declined due to fear of bacteria from his pond. He has dogs and they have gotten no bacteria from the ponds. Finally the Mayor told her not to bring the dogs in anymore but she still did on occasion.

Ryan did a poll and only one Council Person had called the references he asked them to call. To the main issue, he refers to Wilbanks work at Clewiston. Also the background check done by Malabar only covered the driver's license, social security verification, accident reports, and court filings. No one asked her previous employers if they would rehire her. Ryan said definite points should be added to the vetting process when doing the background check, ask if they would rehire, etc. The employees he talked to were actually afraid to come forward. He suggested appointing an ombudsman. It helps to have this. Employees did not know they could go to their Councilpersons. He has made no judgments. Ryan quoted from a famous person "you can fool some of the people some of the time, but not all of the people all of the time."

Back to Council: Acquaviva read statement into record: regarding the Bud Ryan information and Jeff McKnight's agenda request:

RTCM: April 19, 2010

Marisa Acquaviva

Council Member Comments:

I feel the need to write my comments pertaining to Bud Ryan's and Council Member Jeff McKnight's Agenda Item. First, I need to go back to last meeting, when I had an item on the agenda, Personnel Issues. I wanted to discuss having a special meeting for employees and council to come together to discuss what has been going on at Town Hall. I was told by the mayor that would never work because the employees would fear losing their jobs in the public forum. No disrespect, but I felt the Mayor disregard my concerns and did not take me seriously. He thought better to put my agenda item after Mr. McKnight's, but the chair never brought my item back that night. The reason why I wanted to have a special meeting was to discuss a workshop where personnel problems can be handled in a positive and constructive way, where the employee manual is followed and the chain of command is obeyed. The employees knowingly sign the employee manual and it is my conclusion that it has not been followed. I did not want Mr. Ryan's item to be carried over for two more weeks because I feared that it would further destroy moral at Town Hall, which is exactly what has happened. I have tried to go to town Hall everyday since the last meeting and it is not the same place it was just a month ago. Everyone is walking on pins and needles, the third party hearsay has gotten worse and the TA is a lame duck if you will. This is our Town Hall that is getting mired down by this. This is not fair to the whole population to let this go on like this.

I would like Mr. Ryan, Mr. McKnight, Council and the Town of Malabar to know that I have read every item presented by Mr. Ryan. I met with him On Feb. 3rd (two and a half months ago) when he discussed his concerns and read all the public records he had given me at that time. I did not feel the need to interview the employees as I feel this is undermining to the TA and the chain of command. I have a good working relationship at town hall with everyone and I think it is better to observe and listen. I immediately called Mr. Carl Bohne and discussed my concerns; I sought his advice and got his background info on the TA. There was nothing illegal or in writing by any employees, which in the Employees manual, we have reviews and a Grievance Policy. Mr. Ryan has copied my own personal oath, marked it and underlined it about the promise that I made to the Town of Malabar. I am personally offended by this as I have spent countless hours taking his allegations seriously. I am a very thoughtful and fair minded person who does not take being on this Council lightly. I found my oath being put in this packet threatening to me by Mr. Ryan to do my job as he sees fit. I believe that Mr. McKnight and Mr. Ryan believe their intentions are for the good of the town to investigate Miss Bonnie, but how they handled this matter is so sad to me. The heading last Meeting by Mr. McKnight was Mr. Carl Beatty, I was never given the info prior to that meeting about The TA and that was really what the Agenda Item was all about. I was prepared to speak to Mr. McKnight's Concerns about Mr. Beatty; instead I was shocked that was not his intent. I heard and have read all of their interviews and work they have compiled but not once have I seen the investigation of theirs is fairly balanced. The picture of Miss Bonnie and our town hall they have painted is I believe not a proper portrayal. I have not experienced the bad work environment up until the last few weeks and I go to town hall all hours of the day. They say she has done great things but if this was all that ever was read about her you must ask the question to those that hired her. Why hire Miss Bonnie? I pulled all the minutes from the time she was hired and comments made about her. Miss Bonnie's strengths far outweighed her weaknesses. That same council had all the information that Mr. Ryan brought forth. I have asked the TA to explain some of the items in question face to face to me and I am confident in her answers that she was truthful. Ask yourselves, has she been derelict in duties? What has she done good for the town; this is not mentioned when reading the public records they pulled. I have casually talked to the employees about things and I think the worse thing is what is going on now with all the allegations hanging over their heads. The TA's life, by the nature of her work, law enforcement, Town Administrator, her life has been on public record. I found it ridiculous and sad that I had to read her tax records, school records

etc. Why is she being publicly scrutinized when we have not done that to others? You could pull records on everyone.

I believe there are many issues that are going on here. Mr. Beatty was the topic of the agenda and I believe this is a round-about way to speak for him. I do believe we have to come together as a Council and address ALL the personnel issues at Town Hall. The Council is supposed to review the TA, Clerk and Lawyer. When I checked into this only one council member (Nancy Borton) did this, last April I have talked to everyone as well and I know if the third party, behind the door talk stops we can work on being a productive, friendly place to work. These are people's lives and our town that is being affected. We need to think of the whole town when making decisions. We as a council need to stay above the 3rd party talk and resolve this issue fairly. I have reread enough public files; we need to work on personnel issues so that we can all work together.

End of record

Rivet read all the material that was presented to him. He believed the people submitting it are honest and that is why he didn't check on the people quoted in the material. He did talk to people not quoted in the material. He believes Bonnie is effective. He does not think the issue is as big as it is being made out to be by persons with their own agenda. Some people like TA Wilbanks and some don't. Her management style offends some people and so does his. He thinks there are people with a personal agenda and it is not anyone on the current Council or Mr. Ryan. He felt Council should make a motion of support for the administrator and resolve to say we support her.

MOTION: Rivet / Borton to communicate our confidence in our Town Administrator. Discussion. Vail said he thinks it needs more attention as other Council have not yet spoken. Did not contact other places, did contact some of town employees and there are some issues. Some of the concerns were personality conflicts; some of the employees had problems and worked them out, some were deeper than that. In speaking with current and past employees, the people skills and being talked down to were the two biggest problems. There were also comments about belittling and demeaning comments. Also with residents the method she presents to the customers. She is very short and to the point. Maybe a little more tact. The concerns of the employees, this is not the forum to be discussing these issues and concerns. Some were very disgruntled. He listened to them in confidence and the question is how to move on; he is not 100% ready to disregard this input.

Vail asked Rivet if he contacted employees. Rivet stated he did not contact any people documented in the handout. He did talk to several employees not quoted in the handout. Vail said without naming names, it is hard to go too far into this.

Acquaviva said that is why we have an employee handbook and we can work this out in a good constructive manner. In 1995 there were problems and they had a workshop and there are avenues to use without getting fired or scared and without that threat of losing their jobs. Vail said that is the fear; losing their jobs. Acquaviva said there are ways to deal with this, as Council we need to be above that and deal with this. She has had phone calls that have been both good and bad. She believes there is a problem here; could be a management style or could be a backlash from employees but there has to be a better method than publicly scrutinizing the Town Administrator.

Vail said referring to her workshop request how can they do it. Acquaviva said they need to do this to make sure they follow the procedures; and review the administrator, clerk and attorney; there is a chain of command; and processes to deal with issues. Vail said they had gotten away from the motion.

Chair said we aren't talking about policies. Acquaviva said that is exactly what we are dealing with taking someone's character down over a management style and they have to discuss this in the open. There are ways to work with those issues. Mayor said it was about personalities and Council needed to focus on the data Bud Ryan had presented. It boiled down to management style. That is what the Mayor sees there. Mayor said no one is criticizing Bonnie's job performance in any way..

Acquaviva stated that is why the motion for a vote of confidence in her is appropriate. Mayor said to focus on her management style.

Acquaviva asked what Vail is not comfortable with. Vail said if someone came to him with a concern he felt he needs to bring it to Council. Acquaviva asked if he went to TA Bonnie with his concerns. No he did not. Acquaviva said do we have to bring it to this point; can we not work with her at a special meeting.

Vail said this is not productive at all unless employees are anonymous. McKnight said it is not possible due to sunshine law. She means to have a special meeting to bring it all out into the light instead of this hearsay. It is much better to talk to someone face to face about these issues. That is how they did the fire department issues.

Vail said he supported Bonnie. Rivet said to vote yes on the motion. The motion is to declare that we are supporting our Town Administrator. We will never always agree with everything an administrator does. The question is does Bonnie do a good job as our Town Administrator and he felt that needed to be clearly stated. If there are issues to be worked we can do those at our Council meetings for the next six months.

Rivet said TA Wilbanks does a good job and we need to fully support her in the record. If you want to improve the process for employee dissatisfaction or appoint an ombudsman, then fine. But we must make a decision whether we are supporting our administrator or not and move forward and get past this.

McKnight said he has received a lot of backlash about this issue but he does not regret doing this as any ethically responsible Council Person would do. What initiated this was the Carl Beatty issue and he talked to both Carl and Bonnie and got two completely different stories. Then he talked to staff and then to residents and then to previous employers. It was his responsibility as Council Person to let other Council know what was going on outside of a sunshine meeting..

Acquaviva said two weeks ago when Chair said to go home and read the material, she felt McKnight's frustration, she did review the material and she takes this job very seriously and has thoughtfully reviewed all the material. She is truly feeling that this has been a good process but process has to move on. It can cause paranoia.

McKnight agreed and said that is why he went to Bonnie and he said he is not gunning for Town Administrator. Town Administrator has done some good things here but he has concerns with the way she deals with people.

Borton said that is what the reviews are for. You give them this evaluation and then they work on it. You don't publicly humiliate the person. Acquaviva said it is then documented. It is the better way.

Wilbanks said when Council does not do an evaluation; there is no way for her to develop a method to improve. When she was evaluated by Borton, it was not all glowing. If you want something changed then give her some feedback. McKnight stated that is why he wanted a 360 review, a review from staff because he did not know what was going on a town hall because he is not here all the time. Call it feedback from your staff on how you are doing. Wilbanks said she didn't have concern until he said anonymous, and that is not fair. Chair said that is an issue for item #9. Neither the Town Administrator nor the Clerk wanted that done.

Borton said this can't go on for another two weeks. Chair said there is a motion on the floor. Acquaviva said it is tough with the supervisor being reviewed by staff. Need to move on. Borton said it has been done in other places but is it the best thing to do in a place that has three employees? Let's move on, we are not focusing on the right things.

Chair asked Franklin to re-read the motion.

VOTE: Aye, 3; Nay, McKnight and Vail. Motion carried 3 to 2.

8. Set Special Meeting for Personnel Discussions (Acquaviva)

Exhibit: Agenda Report No. 8

Recommendation: Request Action

Chair said it was an oversight at last meeting that this was not brought back.

Acquaviva said they need process where they can review the Employee Manual and get familiar with it so they can be more compliant. Council has not done that in the past. She asked if they can have a closed workshop to discuss personnel issues. No, sunshine will not allow it. Vail agreed that Council had not followed the policy on evaluations; he did not fill out the review. He said basically, unless there are problems then the reviews don't get done. Acquaviva said she wanted a meeting with Council and current employees to see what the issues are. Borton is seeing a pattern here with other employees. We are setting a bad precedent. When they see they can get away with it, they will. You are creating a monster. They directed TA to do evaluation process and then they didn't follow it. Acquaviva wanted a special meeting with employees to discuss these issues. Council should review the management and let management review their staff and we, Council, need to be accountable for following the process. Borton said if there is a problem, bring it to Council. Borton said we all care about Malabar and we do our job for free. Our previous Town Managers haven't been great either, but you can give her directions. You can't go from having no management to complete management without having problems. We have never had an administrator that hasn't had problems. We have processes in place; let's follow them. Borton said we spend all this time and haven't followed our adopted processes.

Rivet said is she proposing a meeting with employees and a refresher on the employee manual. Karl Bohne said the manual doesn't address the TA if the TA is the reason for the grievance. He would advise a grievance committee be formed for a grieving employee. Rivet said we should work on an ombudsman. McKnight said we are accountable to have this in place.

Rivet said he wants to be on record and although he disagrees with the other's findings, he is glad they did this. Acquaviva also feels the same way.

9. Town Administrator Evaluation

Exhibit: Agenda Report No. 9

Recommendation: Discussion

Speaker cards:

Dan Welton looked over the evaluation in packet and just having gone through this at work at Harris said it is a targeted evaluation. To have everyone just jump on her is completely wrong. Having all employees weigh in on a person that is not their supervisor is wrong.

Judy Hard, has been in Malabar for 16 years. And for that time, has been trying to get drainage problems addressed. They had met with Bill Hall, Mayor and Carl Beatty. Since TA Wilbanks has been here, issues have been addressed. Regarding what Bud Ryan said at the last meeting regarding cleaning the faces of the water meters, Carl Beatty said it was demeaning and yet the other guy had no problem doing it because it needed doing. Unless you are willing to come together, get past this and move on. She feels TA Wilbanks has been doing a fantastic job. She sends out emails late at night to provide status. She does not work 8-5. Believes she has the Town's best interests at heart. Thinks this effort is a case of sour grapes. Hopes Council will continue to do what is best for our Town.

Anne Crain, 3020 Township. Her family has lived here for over 30 years. In the last three years, she was verbally and physically abused by a Town employee. The letter that she

got from the Town Administrator said that the person that did this would be sent to anger management class. He refused and quit and now is rehired and is in charge. Nothing was ever done. She lives in fear, day to day that something will happen. She also said that 11 days ago, while waiting for a table, she was asked "what are you doing here?" She had a friend with her. The stress she is under, Malabar is not a lovely place to live. She has drug dealers, dog fighters, cock fighters in her neighborhood. She was told by a Council Member that it was not true and that untrue things were said about the employees. She has friends on Council and there are people on Council that have talked to her very derogatorily and employees that have threatened her and used cursive language.

Joe Gianantonio, Palm Bay, regarding the gas propene tank has been hashed out enough. We had a problem with the tank, we met and discussed it and shook hands and went on with it. He has been here for five years. He asked for five years to get work done at the fire station. He had asked Carl Beatty and it didn't get done. Has asked the new crew and got a year's worth of work done in a month. If you have a tough management, suck it up and get on with it. This is a witch hunt

William Hard "Skip", last meeting he tried to speak and to summarize you should praise in public and reprimand in private. Follow the employee manual. If it is broken, let's fix it.

Mayor said this is his item. Regarding Dan Welton's suggestion, we are not a private corporation, we are a small group. Mayor also worked at Harris. Harris brought in a special group to do evaluations, so Malabar workers are not the same as Harris Corp. Mayor did tailor the form. He did it before and then Council didn't do it and then he stopped. He didn't think the evaluation form fit a council evaluation of the administrator. His evaluation form is covering items that Council should know about. Acquaviva didn't know and she asked and learned. The other form is for employees. Mayor said employees should do evaluation or call it feedback; even the ones that aren't directly under her. If this had been in place this wouldn't have come to this point. They would have gotten it in a timely fashion and it would eliminate problems. If something gets flagged, most would come out and we wouldn't have this big rowe. Acquaviva asked why he doesn't want to follow the chain of command. If an employee has a problem, they can't go to personnel dept. We are too small. Does it undermine the authority of the Administrator? If you have 10 out of 15 then you have a problem. The issue is not policy or management style. This is addressing personalities. If the Mayor had a problem with any of his bosses he wouldn't want to talk them. Borton said you have to have protocol if the problem is that you are criticizing your supervisor.

Wilbanks said in 1995, there was a problem with the TA Hall, and later with TA Booth there were problems and both times it wasn't suggested that they have a bottom-up review. The example she gave is the fenced area behind Town Hall. What she said to Carl Beatty to do the fence around the septic. Then she saw PW weed wacking the area and asked why they are doing this. They asked her why she made them do this so a mower couldn't get through gate. When you talk about anonymous feedback, that is the feedback. They asked to have meetings, because the erroneous information given to employees. Mayor said she is savvy and she would have come to Council with the problem with Carl Beatty. For self-protection she would defend herself. You would bring it to Council. The concern would be biased. Mayor said that if this had been in place, then this would not have gotten to this.

Mayor said they should use these evaluations; give out in mid September and they are due in October and give them so newly elected have almost a year before the evaluation. TA said how would we budget for this. There are two sets of forms. One for employees and one for Council.

Rivet said there is already a procedure in place for grievance. What Mayor is talking about is a new evaluation form. Mayor said it is not working. Acquaviva said they have not

done the one on the books now, so how can you say it is not working. This one is easy. This should be a regular recurring event. May is too soon – use the Sept and due by Oct 1. Do the Clerk too. McKnight would like to get feedback from TA and Clerk on how he is doing. Vail agrees. TA Wilbanks asked if he wanted it anonymous. Mayor said not interested in what other governments do. Borton asked if Mayor, Vail and Rivet met with Hall. About once a week. Interface once a week. No regular scheduled meetings. Acquaviva is calling almost every day. It was a tenuous situation. She gets a lot done and gets up to speed.

Review Administrator evaluation procedures. Compare it to current form. Mayor asked Council to include the evaluation forms into the workshop.

Borton asked what the workshop meeting is for. We talked about having a special meeting to review the employee manual, policy and procedures as it pertains to employee evaluations, grievance procedures and then review the Town Administrator evaluation process. Don't hold the meeting before a regular meeting. Mayor doesn't like deadlines.

May 24, 2010 is chosen at 7:30 for a workshop. Soft copies of policies and procedures for grievances will be sent out.

10. Disposal of Fire Department Gear

Exhibit: Agenda Report No. 10

Recommendation: Request Action

MOTION: Rivet / Vail to send gear to other agencies to dispose of it at cost not to exceed 400.00 to the Town.

Discussion:

Assistant Fire Chief Dan Welton explained there are companies that will take gear that does not meet our American standards and ship it to a third world country. McKnight does not support paying to ship it to a third world country. Welton said there are two companies that he is checking on that would do the shipping out of country and if we can send it to New Guinea or Haiti then that is what they would like to do.

VOTE: Aye, 4; Nay, 1 (McKnight). Motion carried 4 to 1.

11. Added: Reso No. 49-2010 Change Town of Malabar's Primary Depository to Wachovia Bank, a Division of Wells Fargo, N.A.

Exhibit: Agenda Report No. 11

Recommendation: Action

Mayor read by the resolution in full.

MOTION: Rivet / Borton to approve Reso 49-2010.

Discussion: As Franklin explained under Clerk Report, to change the main depository for Town operating accounts to Wachovia Bank. Treasurer took this measure to protect the Town's capital reserves.

ROLLCALL VOTE:

Borton, Aye; Vail, Aye; Rivet, Aye; McKnight, Aye; 1) Acquaviva, Aye.

Motion carried 5 to 0.

M. DISCUSSION ITEMS:

N. MAYOR AND COUNCIL REPORTS:

1) Borton – She has a concern with Fire Fighter that she will address when she gets back into Town and also had concern with employee. For the record, she was the Councilperson that the lady was referring to that had breakfast.

2) Vail – nothing

3) Rivet – Referred to the confidence vote on the Town Administrator that there were two Council that voted against confidence. He asked what it would take? McKnight said it would have to take that this is not a hostile workplace. Vail agreed. Rivet asked if we can address these issues with the workshop and the evaluations, might they change.

4) McKnight – Got Ports email and hopes she has a speakers card. Also the letter that was sent. He wants to get Fire Dept issue done. Make it an agenda item. Doesn't know what but something is going on.

5) Acquaviva – she felt that the BCSO request was dismissed. It is a matter of protocol to have a deputy on hand at these meetings. Things can get contentious. She does not think it is funny. She has a very friendly work environment. Mayor is laughing at her and she is offended. To place her in a category that she wants to be like another town, she is insulted. Mayor would rather have BCSO patrolling streets.

6) Mayor said first thing is the teen council is tomorrow. Mayor said in the 1980s. He has been to practically every council meeting since 1995 and probably only missed 5 meetings.

O. PUBLIC – speaker card required

Stuart Borton, 141 Riverview Drive, thanked everyone for the work they do. A lot is contentious. To McKnight, he respects him, and he gets a review every 2 years. On US1 going north there is a need for a light at the corner across from Riverview Drive. Borton said there is a pole across from there. Unless you are a subdivision they don't put them in unless the Town requests it because it is FDOT right-of-way and they need the letter from the Town. If the Town would want to request such a light she would recuse herself. Mayor said Council could not decide that now. Borton was just giving information on what they had found out. Rivet asked if it would it be properly shielded per our ordinance so it would shine down and not onto other property? Rivet said most are not properly shielded. Vail said there is a comparison with the one requested on Waring. Franklin said not comparable as that one was on Town right-of-way at the end of a driveway for the benefit of one homeowner. Borton thought Chairman said it would be a public safety issue. Put on the next agenda for action.

Pat Dezman:1670 Country Cove Circle. She sat on Council 18 months ago and said Council had a responsibility to fill out an evaluation on the Town Administrator. You haven't used the system and so you can't know if it is broken. Three years ago Booth sat here and said there were problems with PWs and he was working it. These problems with public works were here long before Wilbanks got here. She directed to Mayor and said two Council Members are requesting BCSO attendance. Another woman tonight said she was also in fear. Listen to their words. Whether you think it real for your safety, they think it is necessary, don't blow them off.

Bridget Ports: She sent an email to all this morning about this, wanted to talk to Town Administrator first and have a meeting. Wilbanks said she did not get it. She does not think the problem is a Town Hall but at the Fire Department; that is where they should direct their focus. Hostile environment. The request is the Fire Dept is very hostile there, things from personal meetings are said outside of the meeting. After such a meeting, Dan Welton told David Jon to not talk about Derek Ports in front of Chief Gianantonio because it upsets him. Why would that be said? She has 374 emails of hostile things that were said about Derek and her. Things being blamed on her husband because she made complaints about system. Things were supposed to be fixed and it hasn't happened. Her husband has not been returned to his position but she wants to talk to TA Wilbanks first about that before bringing this back to Council. There are morale issues and safety issues. Upper management needs to be looked into. Wants meeting with TA Wilbanks as soon as possible. Borton asked to be part of that meeting. Try for April 26th.

Mayor said he takes Dezman's comment to heart. He apologized to ladies for acting insensitive to their concerns about their safety. His is a man's viewpoint.

Dezman asked Council to have Franklin pull out the TD report on the Fire Dept that was done a few years ago that we paid a lot for and get it to Council to see if we are any further ahead than we were then. Mayor said ok.

Anne Crain from audience said to Chair, to look at records and see that nothing was done on her past upset either. They let someone quit and come back and start a new file is not acceptable for any town.

P. ADJOURNMENT

There being no further business to discuss, **MOTION: Rivet / Borton to adjourn this meeting. VOTE: All Ayes.** The meeting adjourned at 9:50 PM.

BY: Thomas M. Eschenberg

Mayor Thomas M. Eschenberg, Chair

ATTEST BY:

Debby K. Franklin

Debby K. Franklin, Town Clerk/Treasurer

Date Approved: 5/3/2010 with revisions – re-approved 5/17/2010