

## MALABAR SPECIAL TOWN COUNCIL MEETING

August 10, 2015

8:30 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 8:50 pm by Mayor.

### B. ROLL CALL:

COUNCIL CHAIR:

MAYOR CARL BEATTY

VICE-CHAIR:

MARISA ACQUAVIVA, *excused*

COUNCIL MEMBERS:

GRANT BALL

BRIAN VAIL

DON KRIEGER

DICK KORN

TOWN ADMINISTRATOR:

BONILYN WILBANKS, *excused*

TOWN ATTORNEY:

KARL BOHNE, *excused*

DEPUTY TOWN CLERK:

CYNTHIA KELLEY

For the record, also present for this meeting was P&Z member Bud Ryan and resident Tom Taylor.

### C. ACTION:

For the record, Mayor stated that he never knew the consultant contract was a part of the meeting. He didn't put it on the agenda.

#### 1. **Disband the TA Selection Committee**

**MOTION:** CM Vail / CM Ball moved to disband the TA Selection Committee

Discussion: None

**VOTE:** All Ayes.

#### 2. **Review Consultant Contract for Bonilyn Wilbanks**

Mayor stated that he is uncomfortable with this, he didn't see this until Friday evening. CM Krieger stated he made some comments. When asked about the salary of \$40/hour, DTC Kelley stated that she makes \$35.0072 as the Town Administrator. When DTC Kelley asked about the increase, she was told that Wilbanks will have to pay her own taxes. CM Korn stated that the taxes would be higher and this makes sense.

CM Ball stated that he didn't understand item 6; since the attorney isn't present, maybe someone can try to explain it to him. CM Vail tried to explain this to Council.

CM Krieger stated that this contract is not for a consultant; as a consultant she wouldn't be able to supervise Code Enforcement. At this time, it became aware that Council didn't have a copy of the contract. DTC Kelley asked CM Krieger to wait to speak on this for a few minutes while she printed the contract and handed it out to Council.

Upon returning to the meeting, DTC passed out the contract. She stated to Mayor Beatty that she followed Council's direction from the RTCM of August 3<sup>rd</sup>; CM Krieger stated that if a contract could be drawn up and provided to Council, it could be added to the Special Town Council Meeting of August 10<sup>th</sup>. Mayor Beatty was at the RTCM of August 3<sup>rd</sup> when the direction was given to staff.

CM Krieger went through the contract with his concerns for each of the numbered items of the contract. He went over each item, listing the recommended changes that he made to the contract. There were no changes to items 4 and 5.

CM Korn stated that he wanted to have budget preparation added to the contract. CM Vail stated that Council should list the duties that the consultant would be doing; asking if we should use the list of Town Administrator's duties in the code or just list what we want done. CM Krieger stated that after August 19<sup>th</sup>, she will no longer be the Town Administrator. We will have her as a consultant to advise on items relating to and described in Article IX of Chapter 2, section 2-300 (d), Administration with the following respect to the following: Code Enforcement, Stormwater management and supervise PW, Building Department and the Fire Department. He suggested that if Council wasn't familiar with this portion of the Town's code, they should read it. CM Krieger stated that the contract he provided this evening should be sent to the attorney for his review and advice. DTC Kelley stated that it would be sent to him and to Council so they could also see the suggestions made.

CM Korn stated we are in the middle of budget preparations, TC Franklin is already busy with everything she has to do. Sometimes, because she's helping others, we don't receive the council packets when they are due to be out. CM Krieger stated that Wilbanks would be a phone call away; who does the work when she's out on vacation or for another reason. DTC Kelley stated that TC Franklin does it when Wilbanks isn't here, TC Franklin is put in charge while Wilbanks is away. CM Korn asked if she is qualified to do this. DTC Kelley stated of course she is; she's the Financial Officer or her title is Town Clerk/Treasurer. She's been involved in the budget process for a very long period of time.

CM Krieger and CM Ball stated that CM Korn is going back to the Town Administrator and having her here in that capacity. The Council wants her as a consultant; this is what she offered to the Town. CM Korn stated that if we can't use her in the capacity that we have her in now, then on August 19<sup>th</sup>, we should be done with Wilbanks.

**MOTION: CM Korn / moved to end all contact with Bonilyn Wilbanks as of August 19, 2015.**

Both CM Krieger and CM Ball stated no; they want to have a contract with Wilbanks as a consultant to provide information on issues on an as needed/on call basis up to 25 hours a week; CM Ball stated that Council needs to remember that she is charging \$40/hour when we ask for her to provide services to the Town. CM Krieger stated to send his changes to Attorney Bohne and have him advise Council. **Motion failed due to lack of a second.**

CM Vail is looking for an understanding of what Council is looking for; in his opinion, a consultant or an interim Town Administrator. If Council wants a consultant, we should have an interim Administrator to deal with stuff in between Council meetings. We, Council, need to officially appoint an Interim Administrator. CM Ball stated this isn't necessary. CM Krieger asked who would take care of things until a new Town Administrator is hired. DTC Kelley stated that it would be TC Franklin who handles the day to day operations. CM Korn, again, stated that she is already busy. DTC Kelley stated that she is the next in line and handles things and takes care of what is needed when the Town Administrator is out of the office. That's the way it's been handled as she is next in line. CM Vail asked about an "emergency" that may happen in between Council meetings. This is why we need to appoint someone here at Town Hall. CM Krieger stated it isn't necessary, we have the Town Clerk who would take care of things. CM Vail stated that we need to plan; you wouldn't drive a car without insurance or not have homeowners insurance in place on your home; that would be stupid.

Mayor Beatty stated that when Bill Hall got sick, the Town hired the Engineer; doesn't know how long he was out. {Clerk's Note: When Administrator Bill Hall got sick (May 1 through October 31, 1992), Council expanded the duties of existing Town Engineer Messersmith to include administrator duties and increase his monthly salary to \$4,000; he was already receiving \$2,500.} {2<sup>nd</sup> Clerk's Note: Bill Hall was terminated on 6/20/02; Susan Kabana and Debby Franklin handled day to day operations until Ed Booth was hired 11/22/02.} When Ed Booth left, Booth set us up with Bill Stephenson, the Town Engineer. That wasn't the best idea because he came in part-time at his engineer fees; all the funds were used up. He's not advocating that. CM Korn asked Mayor Beatty if he knew of anyone who would be available for this. CM Ball stated he didn't know why Council is going around with this; doesn't see why Council can't hire Wilbanks as a consultant with no powers in play. If powers are needed, TC Franklin has those and will be able to take care of what is needed. As a consultant, she can answer questions and give direction just as a consultant with no executive powers. He doesn't see any problem with that at all. We don't need to name someone specifically in this capacity; we don't even have to have a Town Administrator, do we? CM Vail stated that we can function without one. CM Ball asked why we can't use her during this time until we hire the Town Administrator. CM Krieger stated that is what she offered to Council. CM Ball stated that is what he thought she offered and now we are writing a contract to put her right back into being the Town Administrator, which he doesn't think that is what Council wants. CM Korn stated it isn't what we want but wants to know who would have the authority to request her for consultation at \$40/hour. CM Krieger stated it would probably be the Town Clerk and Council. CM Korn asked if we wanted to empower the Town Clerk to spend that money or the Mayor or the entire Council. CM Ball asked both CM Korn and DTC Kelley if we can call the attorney; both answered yes. He then asked if we are charged for the calls; both said yes. CM Ball asked what the difference is then. CM Krieger stated that we have a Chair and Mayor as well who are a phone call away. DTC Kelley stated she would send the amended contract to the attorney tomorrow and to Council as well. When he gets the document completed; she will send it to Council for their review as well. CM Krieger stated that the Town Administrator wasn't at the meeting tonight; was she in the office today? DTC Kelley stated she took the day off today. {Clerk's Note: Town Administrator had medical appointments.}

At this time, Council took no action on this item. The contract will be sent to Attorney Bohne on Tuesday morning, August 11<sup>th</sup> for his review and advice/comments to Council.

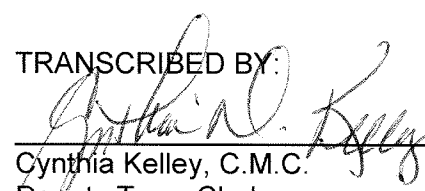
#### N. ADJOURNMENT:

There being no further business to discuss, Chair asked for a motion.

**MOTION:** CM Ball / CM Korn to adjourn. **VOTE:** All Ayes. The meeting adjourned at 9:37 PM.

BY:   
Mayor Carl Beatty, Council Chair

TRANSCRIBED BY:

  
Cynthia Kelley, C.M.C.  
Deputy Town Clerk

ATTESTED BY:

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

Date Approved: 8/24/15