

**MALABAR TOWN COUNCIL WORKSHOP  
FEBRUARY 7, 2005                      7:00 PM**

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road. The meeting was called to order at 7:15 pm by the Chair, Bobbi Moccia. The prayer and pledge were led by Bobbi Moccia.

**ROLL CALL:**MAYOR/VICE-CHAIR

CHAIR:

COUNCIL MEMBERS:

ADMINISTRATOR:

ATTORNEY:

BUILDING OFFICIAL:

ENGINEER:

CLERK:

TOM ESCHENBERG

BOBBI MOCCIA

FRANK HICKSON

BRIAN VAIL

STEVE RIVET

BOB ROSSMAN

ED BOOTH

KARL BOHNE

NORM SMITH

BILL STEPHENSON

CINDI KELLEY

**DISCUSSION OF THE MALABAR WATER UTILITY:**

Moccia-opened the meeting and asked that the Town Administrator, Ed Booth, to come forward and begin the discussion.

Booth-came forward and gave an overview of the utility program that we have set up. We have 186 customers, and of these customers half are water/sewer & the other half are water. Within the next few years, we will be tripling the size of our utility. We have, especially down US #1 we have a couple of condominiums coming in. We also have the subdivision coming at Malabar and Corey Roads. Another subdivision that Council is not familiar with, they are getting ready to submit for approval, is a subdivision at Weber and Malabar Roads. This subdivision will have water/sewer. There is an issue with Pence's property and what we want to do there. The truth is we have some water lines in Country Cove & Brook Hollow. When there's a problem, one of our Public Works personnel takes care of the maintenance. We don't really have a utility department at this time. As we start getting lift stations, taking care of lines, adding more customers and reading meters, we need to establish a Utility Department. The issue is, by ordinance, we make no money on our utility and we have no money. What money, basically, are used for maintenance comes out of our Streets Department, it's their wages that happens. This is really where we are at. We are here to make a decision to run a utility or not. With the way this is now, all the fees go to Palm Bay. We get charged retail rates and pass them on to our customers. Almost no money stays here at the Town.

Moccia-the people that work for the Town send out the information, so we are losing money there?

Booth-that's right, we lose money all the way around. One could say that we are doing Palm Bay's work. We're taking care of the lines, we're doing the billing and taking care of all that the utility involves. Palm Bay collects the money. The

contract is for thirty years. Mr. Rossman and I have sat down with the Mayor and the Manager. It's pretty clear that they are going to hold us to the contract.

Moccia-the contract is for thirty years? I thought it was a twenty year contract.

Booth-it was a thirty year contract and we have gone through ten years. We have twenty years left on the contract. Mr. Bohne has reviewed the contract and it's a locked in contract. They will let us out of the contract but we have to find the water from another source. We are not in a position to do that.

Vail-there is no negotiation as to the quantity that we buy?.

Booth-there is no negotiation. On the other side, the plus side now is the contract calls for them to provide all the water that we need. Our only requirement is to give them a report once a year showing what our growth is. They were starting to waffle a little bit. Because of their growth and their capacity, there were some rumblings that they would limit our growth by not giving us any additional water.

Rivet-that would be non-performance of the contract and would release us from our obligations of the contract.

Booth-this would allow us to go back to the table and negotiate the contract. But still, we would get a court order making them provide water to us. The State usually does this, Palm Bay can't just cut off another town with no water supply.

Moccia-the water that was serviced to Brook Hollow, are they using that water also to service their own people in that area as well? I don't know what our contract states regarding this. Was it for our people in Malabar or was it for the people of Palm Bay?

Booth-either, by contract we gave them those wells. We just gave up the wells and did not restrict them whatsoever. We allowed them to drill twelve additional wells within the Town of Malabar.

Rossman-one of the wells has been run dry.

Vail-Palm Bay is responsible for providing the water to us and we are responsible for all the maintenance in our community?

Booth-yes we are. This is what we really have. While we have 186 customers, we could do it with our Street Department. Now all the impact fees, basically, go to Palm Bay. If we are going to have a utility as we grow, and we are going to grow, especially along US #1, we need to know what you, as Council, want to do. The developer putting in the water system stated that we are not getting a fair deal. He was willing to come into this meeting and speak to Council. That's very unusual for a contractor or developer to say that we should be charging him more money. It's to his benefit that we are able to run our system. His side is that we should have our own impact fees. We certainly need to raise the rates to a point where we can operate it and have some reserves. An example is we are going to have to purchase a generator that costs \$16,000. The reason we need to do this is because during the hurricane, with no power, Palm Bay does not service us. They have to service their own stations. We will need to make this purchase for the lift stations. This needs to be taken care of before the hurricanes come. We will have more than one lift station. We will have a lift station on US #1 and one here. We are allowed, by contract, to have four points where we get water. We currently use two of those. One is down Malabar Road, which provides

water to Berri Patch and the other is for Brook Hollow that also services Country Cove. The third one will be on US #1 and we are keeping the fourth one, by contract, open for wherever there is growth.

Vail-a question posed to Bill Stephenson, is it common for the smaller towns, with fewer users, to charge more money than the larger towns with more users?

Stephenson-it's not common to run a utility and keep losing money.

Vail-as a low user number water supplier, can we charge slightly more to compensate for the loss that we currently have?

Rivet-we can set the rates to whatever we want, but we need to be reasonable.

Vail-I would think that a smaller utility would charge more per gallon than a larger utility.

Booth-this is where we are at. This is a good time to have a workshop because of the new subdivisions coming into the Town of Malabar. I have provided the overview and would like to have Mr. Stephenson come and give the Council information that he has.

Moccia-opened the discussion to Bill Stephenson.

Stephenson-came forward and made presentation. Mr. Stephenson gave the Council some background from where he has come from. Mr. Stephenson managed the Utility Department for the City of Cocoa for twenty-five years. He saw the water system go from about 25,000 customers to 55,000 customers. He has a background in utilities.

What you have here is a thirty year agreement with the Palm Bay Utility Corporation, which makes you a member of the corporation. I don't know what you get with that but never the less, you are a member. I am assuming that you are allowed to go to board meetings and sit in and to vote. Your agreement with Palm Bay is much like the agreement with Cocoa's agreement with the Air Force and Kennedy Space Center. Whereas they sell water at the gate and the government runs their own distribution, storage, pumping, metering, testing and chlorination facilities. It's pretty much the same here. The difference is that the government has a different reason for doing this. They don't want the City of Cocoa staff on government property at all hours of the day and night doing things and they get to control it. So does the Town of Malabar. We get to control this from the master meter on. That means that we get to provide the operation, maintenance, the capitalization and the replacement. In the case of sewer, the collection and pumping system and the pumps themselves and the wet wells.

I don't know that this agreement is good or bad. I'm not really looking at it as good or bad. It is what it is. But it does set the Council of Malabar up with some substantial obligations. You are responsible for the master meters. If the meters are inaccurate and there is a loss of water, it is our loss of water. If the State comes and makes Malabar Road six lanes and says that we have to relocate the water main to another area, it's our relocation. If we have to expand the system, the capital costs are ours. If a fire hydrant is knocked over and washes away the road, it's our cost. I have a long laundry list of obligations here. It's a fairly big

job. When it was a small utility, people didn't give it much thought. But when I sat here and watched us extending a 12 inch water main down Corey Road to Malabar Road and we're looking at a 12 inch water main down US #1 from the north town limits to Rocky Point Road. I can see the back bone of the system forming. I see the meter at the west end over by Weber Road. You can see that you're going to have a main line down Malabar Road and a center feed up Corey and feed on the east end and the west end. You now have a skeleton system. Where it goes from there is up to Council. I want to make you aware of what you have, give you some options and try to answer your questions. Let's see where you want to go with this. Policy decisions belong here and this is why we're here.

At this time, Mr. Stephenson brought several concerns to Council's attention. They are listed on the attached discussion sheet provided by Mr. Stephenson. This discussion sheet is hereby made a part of these minutes.

The question in regards to negotiating out of the contract, Mr. Stephenson brought out some good points. It does, as Mr. Booth pointed out, put the responsibility on Palm Bay Utility Corporation to provide all of the town's water and sewer needs for a thirty year period with a ten year renewal unless one of the parties objects to it. That is worth something, assuming that you want to be in the utility business. Palm Bay has to go to the Water Management District in Palatka and get a Consumptive Use Permit and I am sure that they include Malabar in their growth projections so that they get an allocation from the State to withdraw water from whatever their water sources are to treat and provide water to Malabar.

Mr. Stephenson continued to go through the list of concerns regarding continuation of a utility in Malabar. Another issue that Mr. Stephenson discussed was regarding people who front the water system, by code, are not required to connect to the system. If we ever have to borrow money, and typically, a utility would borrow in the form of revenue bonds. You would pledge the revenues from the system to repay the bonds as opposed to general obligation bonds, where the citizens themselves have the obligation and we collect the money by whatever means you have to do that. Unless you have some guarantee that you can require these people to connect, you have no guaranteed revenue stream. That is a pretty big issue in the financial end of utilities. Should we seek financial assistance to facilitate system growth, there may be monies available through different programs such as The Farmers Home Administration Program and The Rural Water Association (this could be matching funds). Mr. Stephenson doesn't know all the programs available for utility growth, but there are programs available to assist in utility growth. This is something to consider looking into.

A question posed to Council was "does the Town wish to ultimately provide utility services to all of its citizens or only to selected areas within the Town limits?" To my way of thinking, with an acre and a half lots west of the railroad tracks it's going to be a long time before those people have sewer service. But water

service might be a different issue. This is something that you would need to speak to your constituents about and address. Then you need to provide guidance to Town Staff as to what you want this Town to look like. You have done a good job with The Comp Plan. The Comp Plan, Land Use Plan and the zoning has set Malabar on a direction and a course and if you compare to what Cocoa has done, I think you are light years ahead of them in knowing what you want. You need to do the same with the water system and set the Town on the right course and make it happen.

Mr. Stephenson gave the Council Members some ideas for generating cash flow. They are as follows:

1. Impose a surcharge on water/sewer consumption. With a small utility, keep in mind that it won't be a lot of money unless you have a large surcharge. You would probably have a lot of disfavor and discontent.
2. Annual assessment on each account.
3. A one time connection charge. We currently collect an impact fee for the Palm Bay Utility. You might want to establish your own impact fee to fund some of the capital improvements. With Mr. Bohne's indulgence here, you really can do anything that you want to do as long as you are fair to the people that you charge. If they get a benefit for what you charge, and that benefit is proportionate to what you charge them, you have a lot of latitude in doing that.
4. You could set up a Municipal Service Taxing Unit or a Municipal Services Benefit Unit (called a MSTU or MSBU), where you could assess all the properties within a unit that is benefited for the utilities. That's commonly done with utilities all over Florida.
5. You don't charge your people for fire protection. Some people have access to fire hydrants and others do not. In the County, they will not pay that charge but they allow the cities to put a charge on the resident's tax bills to operate, maintain, paint and number fire hydrants. They allow the utilities to do that and most of them do.
6. You could establish a Redevelopment District or a Community Development Block Grant District which is another way of seeking other funds using tax increment financing used to develop systems.

Mr. Stephenson has provided a lot of information to Council. What we are looking for tonight is some policy direction to let us know what direction you want Malabar to go in so that we can do our homework and do the part that prepares for implementation. I will try to answer any and all questions regarding what we have and what we are going to have and what you want to have.

Vail-as far as the rates, what are we charging versus Palm Bay's rate per gallon?  
Stephenson-it's the same, there might be a penny or two difference in price, but it's basically the same. It's over \$3.00 a 1,000 gallons of water. They have a

tiered rate structure in that there is some cost at lower rates and the rates increase as the consumption of water goes up.

Vail-in comparison, once again, with the smaller communities in the rates they charge compared to the number of users we have versus a town similar to our utility that does have a small utility versus their rates, how far off are we? Are we higher, lower or the same?

Stephenson-trying to compare utility rates is like comparing house payments. There are a lot of factors in comparing rates. Rates are typically composed of operation maintenance costs, chemical costs, energy costs and debt costs. Chemical costs follow energy costs. The cost of money is very important when you are borrowing to build facilities and construction costs are very important. Vail-if we decide to create our own utility and get State funding or whatever funding we can, our rates will more than likely be significantly higher but the Town is growing fast and will have more people on the lines then we will have more users on the system?

Stephenson-you already have your utility system. It's not very big or sophisticated. As to what it is and in the future, within two years it will probably twice the size it is now and maybe more. We have actually provided Palm Bay with a five year projection of water/sewer customers. The way we got to that is by looking at what developments we know about and we looked at the areas that we knew or had a good feeling where the water mains were going to go into and we looked at the zoning density for the vacate property along those routes to try to come up with an amount of customers. We gave that to Palm Bay to meet our contractual requirement in providing future numbers. They need to know to plan infrastructure to grow as this town grows.

Vail-the only thing we have to decide is can we create our own supply because it's either them or create our own. Or can we up our rates without upsetting our users and make it profitable?

Booth-I have talked that way in that I have the Florida Rural Water Association. They consider us rural. There are concerns regarding the ground water in this area. One, we had two wells out by Brook Hollow and one is now dry. The ground water from where we are getting the good potable water is drying up in this particular area. The farther west you get the better it is, the farther east you go, poorer it is. Palm Bay put in six test wells and did not use any of them. We gave up on putting any more wells in. We've tapped a little water over at the park and it seemed to be alright for some irrigation, but we are not alright for the quantity that we're really talking about. In talking about reverse osmosis, the cost is incredible and the technology is not there. For example, Tampa spent two hundred million dollars and can't get the system to work.

Vail-Harris has a system of their own, correct? They talked about bringing this system up to here.

Booth-they still do, their usage is pretty small.

Vail-could the system be upgraded to meet our needs, if we negotiated with them and were able to work something out?

Booth-not at this time because their basic usage is bathroom needs. They don't use water in their manufacturing. They just want to hook on to get rid of the

contract they have that runs it. We might be able to take it over and take their power as an emergency thing, but it would never be big enough to provide any kind of water for the Town. It would be, basically, we would keep the tower full in case of a problem, we could back flow the water a little bit. They are looking to get out of the sewer business. With the small system that they have, they spend a lot of money running the contract. It costs them a couple hundred thousand dollars a year to run the contract. They are waiting for the new budget year because the monies were tied up this year. What really has helped them is the developer that is close to them is putting in the system. They would hook on from there and then our engineer would try to engineer that whole area as far as their wells and tower and how it would play into our system.

Stephenson-getting into the potable water supply business is like jumping into a pit of snakes sometimes. You have to meet the primary and secondary drinking water standards, the trihalomethanes, all the chlorinated organic compounds in the water needs to be monitored, lead monitoring, the disinfection monitoring requirements and there are substantial regulatory hurdles to jump getting into the potable water supply and treatment system. Doing this on a small scale basis, the cost would be just prohibitive. Unless you are going to go into this in a big way, I wouldn't count on finding a local ground water supply that would meet a sustainable demand. It probably would for a short while, but it takes ten years to get an equilibrium with water coming and going out. If you're going to have a water supply that your going to hang your community on, it needs to be something that is sustainable for the long term. You would probably be looking at reverse osmosis with a two membrane system. The capital cost keeps coming down as the membrane technology keeps getting better. The technology is getting better and the cost is coming down. The big problem with this is where you put the brine that you flush out the membranes with.

Vail-for an operating cost and a small profit, how much would their bill go up on a system double what we have now?

Stephenson-if you put ten dollars on each customer a month, you might generate \$25,000 for the year.

Mayor-in the past, our auditors have been after us for not running our utility properly, primarily for not allowing for depreciation. The Councils in the past have always seemed very reluctant in raising the water rates on residents over and above what Palm Bay raises their rates. I think that reluctance is probably still here. I get the feeling that it is anyway. In order for the Council to make any kind of decision at all, they are going to need some real numbers. Someone will need to study it and here is what our projected costs over the next five years will be and provide some options as to how we can cover these costs.

Booth-we are going to do that. We put this as a workshop to bring this to you so that you could have the information and be thinking about what you would like to do with this. We will bring you a rate study in a reasonable time frame.

Mayor-I was under the impression that the expansion along Corey and US #1 was not going to cost the Town any money.

Booth-that's true right now, but we have the long term issues. There is one other issue that does not have to do with rates, it has to do with mandatory water. For

the first time in fifteen years, we are doing subdivisions. Our subdivision ordinance now requires a subdivision to have water. The issue comes up with the Pence subdivision, which by ordinance, is required to have water. We are looking for a feeling from the Council, the water is not there yet and Pence is building a subdivision. We need your ideas about the possibility of giving an exception to this ordinance. The ordinance requires a bond if the water can't be put in. Is making him put a bond to put water in when it's available. It is easier than it looks because underneath the railroad there are two four foot pipes, one of them is block, so that leaves a four foot pipe to be possibly used as a water extension.

Stephenson-this is not a possibility. The railroad will require you to put any water line under pressure, under the railroad, in a steel casing that is one piece from end to end, vented on the ends. When it comes to the railroad, they are gospel. You will not be able to do what you are thinking of doing.

Booth-it's not impossible, it just not as easy as I thought. The railroad is a major obstacle to anything.

Vail-does that fall under Palm Bay's responsibility to supply water to one of our community's?

Booth-it is their responsibility to supply water at our master meter which is at our farthest point from their town or at our border.

Rossman-everything else is our responsibility. As Mr. Booth stated earlier, we sat down with Palm Bay and tried every method of persuasion and they would not budge for twenty years. It's a legal contract. We had Mr. Bohne look at it. It is legally binding. The previous Town Administrator, with what was done, tied our hands.

Booth-we, Town Staff, will come back to Council with recommendations, but we wanted to open it up for you to think about it, read about it and speak to your constituents. We will come back with rate studies in the area and a recommendation on the Pence subdivision with giving them an exception or not, looking at what kind of negative impact one way or the other.

Stephenson-it was one view when you were sitting there looking at a subdivision with a water line is two miles away. That's one consideration. But when the water line is going down the street two to three hundred feet away from the property, it changes the picture a little bit. The picture is changing and the staff wants to know is if the posture of the Council going to change with this. What do you want to do?

Mayor-one other thing to consider when you're talking about water rates, looking to the future with an expanded system. Is it fair to charge current water users a large increase in rates to cover current and future expansions. Could there be a two tier rate system for current user and new users.

Booth-there would be impact fees.

Stephenson-the answer is probably yes. We are not asking you to make the existing users pay for the expansion. I think that growth is pretty much prepared to pay its own way. What we are concerned about is the cost of maintenance, operations, relocations, repairs more on a long term than we are on expansion right now. The developers that are extending down Corey Road are paying



100% of that, Malabar is paying nothing.

Mayor-the other side of the coin is that the older users could expect or need repairs before the new system.

Rivet-would it be fair to assume that an expanded system, the maintenance cost would be a little less per gallon of water used.

Stephenson-water facilities depreciate over a fifty year period of time, unless you relocate the road, or the contractors dig the facilities up. I'm thinking long term, if you use whatever 2% of the gross worth of your system should be put aside in your renewal/replacement fund. Right now you don't have a fund set aside. If you have a system that typically last forty to fifty years, what's the value of your system and what is the replacement cost of your system, whatever your anticipated replacement time is you would take that percentage and you should be accumulating funds at that rate so that when the time comes you have some funds available.

Rivet-understands that we are lacking, and we need to do some things to prepare financially for the future maintenance, regardless of whether we expand or not. I was asking you is the real operating cost, of operating and maintaining the system, if we double or triple it, to me it doesn't make sense to think that it would increase the per gallon expense of providing that water. I'm asking you if that is a correct assumption.

Stephenson-no there are incremental costs savings as we get larger. If you have 186 meters to read today. If you can read 186 meter in one day, then you should be able to read 200 meter in one day. You still have to mail out more bills, someone has to collect the money, the meters have to be replaced. They only last about 18 to 20 years.

Moccia-basically, we're doing the work and handing the money over to Palm Bay.

Vail-the bottom line is, for us to have a profitable utility, we will have to charge more. The only other option is to get out of the utility business all together.

Personally, I need to see the numbers, but I would rather stay in the business and keep everything in our Town.

Rivet-I would rather control our destiny.

Stephenson-here's another option. The City of Kissimmee had their own electric and water utility and they contracted with the Orlando Utilities Commission to run both. The city got out all together. They contracted the total operation to OUC.

This is something to consider like this, but I'm not sure that there is still incremental cost savings. Mr. Rivet brings up a very good point. Do you want to control your own destiny or do you want to give it to someone else to do it?

Rossman-regarding this handout from Mr. Stephenson, the second page first two concerns are out of our hands. It's definitely in our best interest to get out of the contract, but we can't. The first two are moot points. The remaining information is what Council needs to look at.

Moccia-could we have some numbers before the next meeting?

Rossman-we will need to have another workshop.

Booth-we will have another short workshop, at 7:30 p.m, within the next month.

Moccia-can we do our own numbers or do we need an expert to go out and do the research?

Booth-we will do our own numbers and research in-house.

Stephenson-if you have any questions or need any additional information, please feel free to contact me. It's time to make these kinds of decisions soon. The entire Council needs to be up to speed on this issue.

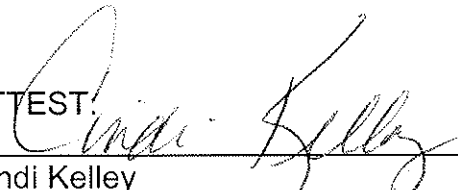
Rivet-I'm worried about what is good for us long term. We can't let utility rates triple tomorrow but let's look at what's best for the Town after this contract with Palm Bay.

Moccia-we all need to read this information and get our questions ready for the next workshop. Any questions we have we can call Town Hall and speak to Norm Smith or call Bill Stephenson.

**ADJOURNMENT:**

This meeting was adjourned at 8:00 p.m.

ATTEST:

  
Cindi Kelley  
Recording Secretary  
DATE: 3/7/05

BY:

  
Chair Bobbi Moccia