

TOWN COUNCIL MINUTES
December 1, 2003

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road. The meeting was called to order at 7:30pm by the Chair, Bobbi Moccia. The prayer and pledge were lead by Mr. Rivet.

ROLL CALL:	MAYOR:	PHILLIP CREWS
	CHAIR:	BOBBI MOCCIA
	VICE-CHAIR:	STEVE RIVET
	COUNCIL MEMBERS:	JANE HAVET - EXCUSED
		BRIAN HUNTER
		BOB ROSSMAN
	ADMINISTRATOR:	ED BOOTH
	ATTORNEY:	KARL BOHNE
	CLERK:	SUSAN KABANA

ADDITIONS AND DELETIONS:

Kabana – would like to change action item 3, tree ordinance from 03-19 to 03-17.

MOTION: Rossman/Hunter to approve agenda. VOTE: All aye.

CONSENT AGENDA:

MOTION: Rivet/Rossman to approve consent agenda.

Crews – page 4, the Mayor did not vote. He made the motion but did not vote. Hunter – he voted nay. Moccia – but then it would have been a tie vote unless Havet voted aye. Kabana – Havet called her the day after the meeting and said she voted nay to table. Rivet – voted aye on motion to table.

MOTION: Rivet/Rossman To accept as amended.

VOTE ON AMENDMENT: All aye.

VOTE ON MOTION: All aye.

Council Minutes 11/17/03, 11/18/03.

REPORTS:

ATTORNEY

Bohne – regarding annexation, until 1999 if an annexation increased the Town more than 5% it would have to go to a vote of the people. That was changed in 1999 and now there is no requirement for having a referendum, Council can put this requirement in the ordinance as an option if they so choose. But by law only the registered voters who will be annexed into the Town will vote. Notes that our Planner will have to do a feasibility study.

Bohne – a person was injured at the Haunted Hayride and we have sent this on to the League. Both the EELS and the League have been put on notice. McClelland – the person was treated that night and the mother said she was willing to work with them. Now she has quit talking to them and has an attorney.

ADMINISTRATOR

Booth:

- it is the dry season so Public Works is cleaning ditches.
- the van outside was bought by the Town for use by Public Works.
- uses overhead, shows examples of land clearing without permits which are code enforcement violations. Booth plans to mitigate the desirable trees. One case was building a house and cleared the house pad without a permit. The land owners are willing to mitigate.

- the tree farm north of Malabar Road wants to clear cut so they can plant trees. Booth will get them to mitigate on Highway 1. Hunter – where are US1? Booth – is still working on where.
- Booth will have to start a new violation with Cynthia Burke. Rivet – there was a decision made, why do we have to start over? Bohne – it is cleaner to do it this way because the Council approved the conditional use permit without conditions. The Council inadvertently overruled the Special Master, which can't be done but was done. Booth – has tried to set up two meetings with Burke at her convenience but she has not shown up. Rivet – states that Burke called him demanding that he fix all her problems but didn't return his call when he called her.
- Booth is putting the Town Hall and the grader purchase on hold for now.
- the County manager is very concerned about Council's decline of the MSTU. The Sheriff is not sure how to deal with this because they are required to provide protection.
- the County has offered to give us the golf course if we annex.
- Monday night is the League Christmas dinner.
- Wednesday night there is a joint meeting to discuss Highway 1 and the Zoning on Highway 1, we are going to look at compatibility with the land use.

CLERK

- Tree lighting is Dec 6, 6:00pm.
- Took League dinner reservations.
- Fire Dept/Town Hall Christmas party Dec 13th.

PUBLIC COMMENTS: GENERAL ITEMS

Bill Withers, Candy Lane – the no parking signs at the Yellow Dog are disappearing. Moccia – saw dirt dumped there. Booth – DOT is mitigating this issue. Moccia – has seen signs go up and come down, would like to know what is going on. Moccia – would like to talk to someone at DOT and at St. John's. Discussion. Booth will have the Building Official talk to the Bortons.

Mike Linnell – Dorothy Koutnik has some very interesting pictures from 1914, Linnell help the Town get copies.

Mike Linnell – he feels the Town should be developed very carefully. There is a rumor that Bob Wilbur talked to someone and stopped Havet's project. He states that instead of talking to Havet people come to him and he ends up giving his opinion. Before everyone turns on Bob Wilbur he wants everyone to know that Wilbur is one of the most selfless people he knows.

AGENDA REQUEST FORM:**1. HANS KEMMLER, CHAIRMAN PARK AND REC BOARD, REGARDING RECOMMENDATIONS FROM THE PARK AND RECREATION BOARD**

Kemmler:

- plans to show up at the Council meetings and give updates.
- Malabar Day will be on April 3, 2004. Arbor Day is January 16th for Florida and January 18th Nationally. They are trying to get donations and will plant trees at Malabar Park.
- The Boy Scouts want to plant a tree in memory of the Columbia astronauts.
- The Park Board gathered quotes on mowers and will have a recommendation next meeting.
- Aqualawn has completed their part of irrigation for the park. It is ready for dirt. Booth – is hoping for dirt this week. Kemmler – the softball field is ready for leveling. And after the soccer field is filled with dirt the irrigation guy will flush out the lines and add the heads. Continues giving update on the ball fields. Adds info about the type of grass. Shows pictures of turtle holes which may move the location of future shade trees.
- The Park Board discussed the issue of the gate and they preferred that it not be there. Kemmler had planned to bring the information to the Council and then the gate disappeared. Kemmler saw the gate issue on this agenda and he is asking Council to make a decision on

whether to replace the gate or leave it down. Some of the reasons for taking it down were because of the lighting that will soon be there, you wouldn't want to close the park with lights. Also, you can't get large horse trailers in there, and there has been some problem with law enforcement officers accessing the park. The Park Board wants to make the park accessible to the citizens. If life-threatening things happen there then they would review the gate issue.

– in the effort to promote ecotourism he researched Goat Creek which is accessible by canoe or kayak, it is beautiful and serene. Kemmler shows overheads.

– back to the gate: Rossman – has had several calls pertaining to the gate. Rossman was told that a tractor trailer could get through the gate. And was told that a large dump truck can get in and out of the gate. He wants the gate. Before the gate there was a lot of noise back there at night. He does not want to go back to having those problems. There have not been problems since the gate was up. Discussion. Rossman – if a tractor trailer can get through the gate then a horse trailer can get through. It may be difficult but it can be done.

Moccia – who took down the gate? Booth – Public Works. Moccia – so it was taken down before coming to Council? Kemmler – the Park Board voted to make a recommendation. Discussion. Rossman – it was taken down without Council's permission and he wants it back up. Kemmler – and he is here to say that the didn't have anything to do with taking it down. Discussion. Moccia – was expecting a recommendation from the Park Board. Kemmler – and that was what he intended to do. Booth – understood that Council gave the Park Board the authority over the gate.

Kemmler – the Park Board probably doesn't have any decision making power over the way the park is maintained but there is a consensus among the Park Board that whoever maintains the park is to maintain the park and not run off the users. Can they make any recommendations on the person who is hired to maintain the park? Rossman – not at this time. Hunter – would like to see documentation, this is hearsay. Has heard good things about Withers and the work he does.

Rossman – the Park Board can make recommendations, Council has the responsibility to listen to the recommendations but they don't have to take them.

Discussion about the size of the gate opening. Kemmler – feels that the Park Board should have been involved in the original design and they could have come up with a design that would have allowed for a wider access. Hunter – he sees Kemmlers point. Rossman – likes the gate the way it was and would like it back. Crews – calls for regular order. Rivet – if we put lights in the park we would need to keep it open after dark but we need to control access. It should be a safe place for all and the gate should be there.

PUBLIC HEARINGS:

1. SECOND READING, ORDINANCE 03-10 NUSIANCES

MOTION: Mayor requests unanimous consent to read by title only. Moccia read:

ORDINANCE NO. 03-10

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 11 NUISANCES; AMENDING SECTION 11-1 DEFINITIONS; AMENDING SECTION 11-7 REMOVAL OF GARBAGE AND THE LIKE; AMENDING SECTION 11-18 PENALTIES; PROVIDING FOR SUPPLEMENTAL REMEDIES; AMENDING ARTICLE II JUNKED, WRECKED OR ABANDONED PROPERTY; AMENDING SECTION 11-26 DEFINITIONS; AMENDING SECTION 11-31 RELATING TO PENALTIES; ADDING A NEW SECTION 11-32 RELATING TO SUPPLEMENTAL REMEDIES; CREATING A NEW ARTICLE III TO CHAPTER 11 RELATING TO OVERGROWN VEGETATION; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE REMOVAL OF CERTAIN GROWTH OR VEGETATION; PROVIDING FOR NOTICE OF VIOLATION; PROVIDING FOR A HEARING; PROVIDING FOR THE CORRECTION OF VIOLATION BY THE TOWN; PROVIDING FOR ASSESSMENT OF COSTS OF CORRECTION AND NOTICE OF LIEN; PROVIDING FOR THE

FORECLOSURE OF LIEN; PROVIDING FOR PENALTIES; PROVIDING FOR IMMUNITY FOR TOWN CODE ENFORCEMENT OFFICERS AND TOWN EMPLOYEES; PROVIDING FOR A REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE.

Moccia – opens the public hearing and asks for public comment.

Tom Eschenberg, Beran Lane – if Council passes this ordinance it will be a major nuisance to many people in the Town. Page 2, Section 5, the definition of abandoned properties has the phrase 'or unenclosed from the elements' this means any car, truck or boat can't be even parked in your yard. It goes on to say that the existence of current vehicle registration shall not be sufficient to show that such vehicle is not abandoned property. Eschenberg states that this ordinance says that people can be guilty of committing a misdemeanor for not cutting their grass. He asks if this is what Council means to do. He is concerned about the definitions for vegetation and weeds. Also, according to this you must clear-cut a 25' vegetation barrier between you and your neighbor, it would make Malabar look like a checker board. He feels that if Council passes this ordinance probably 90% of the population will be in violation. And he asks if Council is going to enforce this on every single property owner if it is passed?

Patrick Reilly, Howell Lane – he will be in violation two times a year when he has to let his biah grass grow to let his pasture go to seed.

Booth – notes that the grass can grow up to 16 inches tall. This ordinance was written for abandoned homes. There are some things that were stated by Eschenberg that he disagrees with. The intent is not to allow us to be an armed force, it is to allow us to deal with abandoned homes that are causing a nuisance.

Crews – point of order. Moccia – closed the public hearing.

MOTION: Rivet/Rossman to approve.

Rossman – had the same question about the registered vehicles, has a problem with the word 'current'. Rivet – feels that wording regarding this is good, if someone is having code enforcement problems with an abandoned car then it may be easier to pay \$30 to register it than to deal with the code enforcement and then the abandoned vehicle is still there.

Crews – is concerned about some poor wording and definitions. Is also concerned that there will be disparaging enforcement. This is a complex issue and will be difficult to enforce across the board. It looks like a Palm Bay ordinance. Bohne – none of this is taken from Palm Bay, it is a combination of other local municipalities. He states that the reference to the abandoned property is not underlined and thus is already a part of Malabar code. Discussion.

Booth – there is an abandoned house and the neighbors are having problems with rats living in the high grass. Crews – has a problem with clear cutting 25' from the property line. Would not want to see a hedge have to come down just because this ordinance. Discussion.

MOTION: Crews/Hunter to table.

VOTE: Aye – Rivet, Moccia, Hunter. Nay – Rossman.

On Jan 5th we will schedule a workshop.

2. SECOND READING, ORDINANCE 03-11 MINING

MOTION: Mayor requests unanimous consent to read by title only. Moccia read:

ORDINANCE NO. 03-11

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; CREATING A NEW CHAPTER 7 TO BE ADDED TO THE CODE OF ORDINANCES OF THE TOWN ENTITLED EXCAVATION AND MINING; PROVIDING FOR INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROHIBITIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Moccia – opens the public hearing and asks for public comment, being none she closed the public hearing.

MOTION: Rivet/Crews to approve.

Booth – this was once on the books, disappeared, and now is back.

VOTE: Aye – Hunter, Rivet, Moccia, Rossman.

3. SECOND READING, ORDINANCE 03-12 PONDS

MOTION: Mayor requests unanimous consent to read by title only. Moccia read:

ORDINANCE NO. 03-12

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE V OF THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING SECTION 1-5.27 RELATING TO POND PERMITS; PROVIDING FOR A PERMIT FOR PONDS ONE-QUARTER ACRE IN SIZE OR GREATER; PROVIDING THAT ALL APPLICATIONS FOR POND PERMITS SHALL BE REVIEWED BY THE TOWN'S PLANNING AND ZONING BOARD; PROVIDING FOR SITE PLAN REVIEW; PROVIDING FOR DEFINITIONS; PROVIDING FOR DISPOSAL OF EXCAVATED MATERIAL; PROVIDING FOR THE GRANTING OF AN EXTENSION FOR CONSTRUCTION OF POND PERMIT; PROVIDING FOR STANDARDS FOR POND CONSTRUCTION AND THE FILLING OF PONDS; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

Moccia – opens the public hearing and asks for public comment, being none she closed the public hearing.

MOTION: Crews/Rossman to approve.

Booth – this will allow an individual to dig a ¼ acre pond without requiring a permit, but if you want to dig something larger then it must go before P&Z. Crews – this also covers the filling of a pond which should be covered.

VOTE: Aye – Hunter, Rivet, Moccia, Rossman.

4. SECOND READING, ORDINANCE 03-15 CREATION OF A TOWN ADMINISTRATOR POSITION

MOTION: Mayor requests unanimous consent to read by title only. Moccia read:

ORDINANCE NO. 03-15

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES OF THE TOWN; CREATING A NEW ARTICLE IX TO BE ADDED TO CHAPTER 2 OF THE CODE OF ORDINANCES OF THE TOWN; CREATING THE OFFICE OF THE TOWN ADMINISTRATOR; PROVIDING FOR THE PROCEDURES TO APPOINT THE TOWN ADMINISTRATOR; PROVIDING FOR THE DUTIES OF THE TOWN ADMINISTRATOR; PROVIDING FOR A CONTRACT OF EMPLOYMENT; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE.

Moccia – opens the public hearing and asks for public comment.

Tom Eschenberg, Beran Lane – this states that the Administrator shall fix the compensation of the town employees, does this include the Clerk and the Clerk's office? This is in conflict with the charter because it says that the Council will set the compensation. It also says the administrator is supposed to present the financial reports to the Council, what happened to the Clerk/Treasurer? It also says that the Administrator will be the chief purchasing agent for the Town and in the past there was a spending limit and is that spending limit still enforced and where is it written?

Moccia – closes the public hearing.

MOTION: Rossman/Rivet to approve.

Crews – feels Eschenberg has some good points. Crews also notes that the ordinance says that the instruments of the Town shall be signed by the Administrator and that conflicts with the charter which says all instruments of the Town shall be signed by the Mayor. Obviously, the Administrator will do all the negotiating but the Mayor will sign.

Rossman – as far as the employee compensation, it says as established by the Town Council which follows the charter.

Crews – the treasurer is chartered and should submit the financial reports. Rossman – it should come from both of them. Bohne – it doesn't exclude the treasurer from preparing the reports, the administrator only submits them, there is no conflict because it says unless the Council or the charter provides otherwise. Crews – then why bother putting it in there?

Kabana – why should this go through the Administrator? Rossman – because the Town Administrator is the one who is ultimately responsible. Crews – it clouds the issue. The charter still prevails, having this in there is moot. Moccia – what about using the words 'coordinates with'. Hunter – who is the Council going to hold responsible if there is a problem with the financial reports? Crews – the charter says that the Clerk is responsible. Rivet – his intent is to add responsibility to the Administrator's position, not to take away from the Clerk. Bohne – the charter only says the treasurer shall be the custodian of the money. Crews – so wouldn't that be implied? Rossman – being implied is not enough. Moccia – the duties of the two positions work together. Crews – this has been clarified enough, this only means that the administrator submits the report. Discussion.

VOTE: Aye – Hunter, Rivet, Moccia, Rossman.

DISCUSSION ITEM:

1. JIM LEDBETTER, POSSIBLE RECONSIDERATION OF COMPREHENSIVE PLAN CHANGE AND ZONING CHANGE

Steve Ledbetter, 3986 Classic Court, West Palm Beach, Fl. He and his brother are business partners and asked Council to consider a comp plan change for a piece of property on US1. He states that they sent a letter describing what they would like to discuss tonight. He thought there would have been more discussion at the last Council meeting. They felt they had gone through proper procedures: the BOA then P&Z. They answered questions along the way during the process. They were surprised that this was so quickly shut down at the last Council meeting, especially with the letter from Karl Bohne stating that this project would not conflict with some of the things Council might be concerned with. They think this project is zoning compatible with what Council desires. If Council is not interested in this project the Ledbetters would end up with a non-conforming piece of land at which point they would like to know from Council what they would recommend. It is their feeling that the RLC would be a good fit for the land use.

Moccia – feels that Council did not want to make a hasty decision. Rossman – notes that the meeting scheduled for this coming Wednesday night is going to address the zoning along US1. Ledbetter – they are getting frustrated because they have been working on this since June. Rossman – does not feel that the type of development the Ledbetter's want is an issue with the Council. The size of the lots, the use, and the compatible zoning will be discussed. Discussion. Moccia – notes that our Planner has stated that the Council needs to change the map and do what we need to do before we can make a recommendation like this one. Discussion. Ledbetter – can we find out Thursday what the property will be zoned? Crews – no because there will have to be public hearings. Moccia – we can let them know of our intent. Bohne – this may be a major comp plan change and can take over a year to complete. Discussion. Ledbetter – all they are requesting is a small scale comp plan change.

ACTION ITEMS:

1. BRAD SMITH OF BRAD SMITH AND ASSOCIATES

Booth – shows overhead of what is possible for building the dock and states that that parking seems impossible at this point.

Brad Smith – we have to have public access to the dock. Moccia – we could have access through the water. Smith – the more access we have the better chance we have to getting the funding. Discussion. Moccia – she admits that the dock may have to wait. Smith – DOT has a 'set aside' program that states they have to spend 1.5% on beautification when working on projects. He may be able to get \$150,000 with no match. Discussion. Smith recommends going with this Joint Participation Agreement. He recommends going without the dock at this time. A typical project is 1/3 irrigation and 2/3 plants. Discusses some of the details. There will be some cost to the Town for the engineering and the irrigation but it still won't be at 50% match.

Notes that the Highway Beautification grant is beginning to be a political issue. It has been funded not only on the merit of the project. We can apply for a \$250,000 with a \$50,000 match. He tells Council to begin making those political contacts. Discussion of the feasibility. This grant will fund lights, banners, paving. Hunter – wants to make sure Council knows the total project cost. Rivet – can some of the \$50,000 be in-kind? Smith – yes.

With the dock one of the possible grants could be the Florida Inland Navigation District's Waterways Assistance Program. The construction part of this program is doable after permits are obtained. If Council does find an appropriate site this would be a good grant to apply for.

a) Policy direction regarding the dock: at existing location, or construct new dock at north side of Goat Creek (or at another suitable location having adequate space for safe public access)

Discussion of "is it a historic dock if it can't be built at the historic dock site". Council agrees that the dock should not be pursued at this time.

b) Motion to authorize Brad Smith Associates, Inc. to prepare a Joint Participation Agreement with the Florida Department of Transportation requesting funding for the U.S. Highway 1 Beautification Project in the amount of \$150,000

MOTION: Rossman/Crews to prepare a cover letter for Smith and Assoc.

Hunter – wants the letter approved by Bohne.

VOTE: All aye.

c) Authorize Town Administrator to negotiate a Work Order and Contract Amendment with Brad Smith Associates, Inc. to prepare an application for funding for all three projects (U.S. 1 shoreline, U.S. 1 medians, and the dock) through the National Scenic Byways Program

Rossman – recommends that Booth negotiate with Council's approval. Council all agree.

d) Authorize Town Administrator to negotiate a Work Order and Contract Amendment with Brad Smith Associates, Inc. to prepare a Phase 1 project grant request for the dock project (planning, design, engineering, and permitting) through the Florida Inland Navigation District's Waterways Assistance Program

Smith – this is a moot point at this time. Discussion.

2. FIRST READING, ORDINANCE 03-18, AMENDING TABLE 1-3.3(A) OF ARTICLE III OF THE LAND DEVELOPMENT CODE

Bohne – this must go to P&Z for public hearing before it can come to Council. Council pulls it from the agenda.

3. FIRST READING, ORDINANCE 03-17, TREES PRESERVATION

MOTION: Rivet request unanimous consent to read by title only. Moccia read:

ORDINANCE NO. 03-17

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE XV, TREE PROTECTION, OF THE TOWN OF MALABAR LAND DEVELOPMENT CODE; PROVIDING FOR A SHORT TITLE; PROVIDING FOR AUTHORITY AND POWER; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR THE ESTABLISHMENT OF A BEAUTIFICATION TRUST FUND; PROVIDING FOR DEFINITIONS; PROVIDING FOR GENERAL PROHIBITIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR A PERMIT AND CRITERIA FOR ISSUING PERMITS; PROVIDING FOR PERMIT SUBMITTAL REQUIREMENTS; PROVIDING FOR AN APPLICATION PROCEDURE; PROVIDING FOR THE ADOPTION OF A FEE SCHEDULE BY RESOLUTION; PROVIDING FOR THE PROTECTION OF TREES DURING DEVELOPMENT OF LAND; PROVIDING FOR TREES OF SPECIAL SIGNIFICANCE; PROVIDING FOR A VARIANCE; PROVIDING FOR EMERGENCY TREE REMOVAL; PROVIDING FOR PENALTIES AND ENFORCEMENT; PROVIDING FOR SPECIAL HEARING MASTER JURISDICTION; PROVIDING FOR APPEALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

Booth – this is a model ordinance from a class he attended at a tree preservation seminar.

MOTION: Rivet/Rossman to approve.

Booth – this developed due to what is happening in the Town. Booth – the pamphlet for new potential builders is almost done and will be announced in the newsletter.

Crews – is bothered by the creation of more and more legislation. Booth – but with our ordinances there were so many loopholes they cannot be enforced. Discussion.

VOTE: Aye – Hunter, Rivet, Moccia, Rossman.**4. RESOLUTION 17-03 ADOPTING THE EMPLOYEE MANUAL**

MOTION: Rivet request unanimous consent to read by title only. Moccia read:

RESOLUTION NO. 17-03

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ESTABLISHING AN EMPLOYEE MANUAL; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Crews/Rivet to approve.

Booth – this is a living document and will need to be changed. Booth – discusses exempt employees and a buyout for their comp time, will pay out up to 60 hours per person. Kabana will be the most impacted, she will have to take a lot of time off in December and will finish in March the week of her birthday, all hours must be taken by April 1st. Booth – we have to limit the buy out due to the budget, it would be as much as \$6,000 to buy out all three employees. Hunter – is this acceptable to Kabana? Kabana -- she is OK because the Town really can't afford to pay her out, she will have three weeks off at Christmas and another week in March. Hunter – and this can't happen again? Booth – that is correct.

MOTION: Aye – Hunter, Rivet, Moccia, Rossman.**5. PARK GATE**

Bill Withers – before he put the gate up he coordinated though the proper DOT channels. He notes that the lanes on Malabar Road are 11 feet wide and the gate opening is 13 feet wide. He states that he personally gave the combination to the lock to each Sheriff. On his time off, even on Sundays, he opens the gate at 6:30 a.m. and closes it at 5:30 p.m. He measured different vehicles, all of which could easily fit through the gate. Withers pays attention to detail in order to allow people to use the park comfortably. When the lights go up accommodations will have to be made.

Also, he does not understand why the Park Board is going to recommend what mower he should ride. Moccia – if Withers is going to be the one to ride it shouldn't he recommend what he should use. Booth – Council should take Withers recommendation and the recommendation from the Park Board and make a decision. Withers – attended Park Board meetings but they turned down every idea he had. Withers – knows that the Park Board wants him out of the park. Crews – feels that is a turf war and it needs to end. Hunter – feels that Withers does a great job and that Booth needs to sit down with Withers and the Park Board and come to a compromise. Withers – feels this is due to change and people don't like change. Since the gate has been down there has been vandalism during the night at the park. Discussion.

Brian Vale – he tows trailers and states that it is difficult getting into the park with the gate up because the road turns, it is not a head-on turn. Discussion. Rossman – wants the gate back where it was on Wednesday.

6. WALKER BROTHERS CIRCUS REQUEST TO USE MALABAR PARK

MOTION: Crews/Hunter to table. Aye – Rivet, Moccia, Hunter. Nay – Rossman.

7. REQUEST FOR ACCEPTANCE OF LETT LANE FROM THE CENTER LINE OF BOOTH NORTH TO THE END OF PARCEL 317

Booth – the engineer recommends accepting

MOTION: Rivet/Crews to accept. VOTE: All aye.

REPORTS: MAYOR, COUNCIL

- Crews – nothing at this time.
- Hunter – the fencing at the Malabar Scrub is continuing. There are still some bad boys that persist.
- Rossman – would like to attend the Palm Bay Chamber function on the 3rd.
- Rossman – would like to give a Christmas bonus to the employees. \$50 to the 9 employees and \$25 to the 3 employees on probation, and \$25 to Bill Withers.
- Rivet – continues to work on gathering petitions to get rid of the postmaster.
- Moccia – wants someone to talk to the Yellow Dog owners, find out what is going on and then call her.

ADJOURNMENT

The meeting adjourned at 10:30p.m.

BY:



Chair Bobbi Moccia

ATTEST:



Susan Kabana, CMC
Town Clerk/Treasurer

DATE:

1/5/04