

**TOWN COUNCIL WORKSHOP
JANUARY 2, 2003**

This meeting of the Malabar Town Council was held at the Town Hall at 2725 Malabar Road.

ROLL CALL:

MAYOR

CHAIR

VICE-CHAIR

COUNCIL MEMBERS

PHILLIP CREWS

BOBBI MOCCIA

STEVE RIVET

BOB ROSSMAN

JANE HAVET

BRIAN HUNTER

TOWN ADMINISTRATOR (TA)

ED BOOTH

ENGINEER

MARIA PARKHURST

ATTORNEY

KARL BOHNE

DEP CLERK

DEBBY FRANKLIN

Also present was Carl Beatty of Public Works.

Call to Order, Prayer and Pledge

This meeting was called to order at 7:30 by the Chair. Vice Chair lead the prayer and pledge.

Discussion of fiscal responsibility for culvert replacements.

Chairwoman Moccia opened discussion. TA Booth stated that there are a lot of metal culverts that need replacing and the resolution states that the cost burden has been on the property owner. It is his idea to separate the resolution to address new construction and separately, a maintenance portion. In the past the Town sometimes paid for all and sometimes nothing. We need to have a policy.

Mayor questions legal liability improving private property with public money. Atty Bohne stated if we are going to do it by resolution then we have that responsibility and we should get a bill of sale. If we assume the responsibility of maintenance then we should get a bill of sale. The Town already does maintenance and assumes the maintenance of new ones installed. Havet asked what the criteria was in determining who we paid for and who we made pay. Withers suggested prioritizing the culverts that need replacing. Hunter wants to know where the money is coming from. TA Booth stated that we would pay for it from stormwater money. Mayor said that we can only do construction projects with that money, not maintenance. TA Booth said that we will be getting the wall money back.

Eng. Parkhurst said if we don't get the money from HB 851 then we will still need money to do the retrofit on the other stormwater project. Withers asked to speak. He doesn't think the residents should have to pay or liable. Once the CO

is issued then the culvert has been blessed. He got a cost estimate from Cameron of 2 or 3K for plain culverts. The ones on Homestead have concrete headwalls and then the price estimates went up to 5K and 6K. This all started because one unfortunate man built his house too low. Mayor said there were several culverts on Homestead that have 4" pvc pipe. Mayor said until the Town is built out he feels the Town should take the responsibility. TA Booth explained that his suggestion is to share the cost of replacing collapsed culverts as Public Works goes along on their Friday stormwater maintenance program.

Withers refers to accepted roadway or unaccepted roadway - once Town approves road, Town is responsible for roadway. Same should go for culverts. Town should pay for culverts that need replacing, because the homeowner is responsible to initially put in the acceptable culvert per Town code.

Eng. Parkhurst stated how other cities do it. Typically, if the city initiates the project to provide a solution, then the city pays for it. If someone put in a corrugated pipe and 20 years later it fails, then the homeowner needs to pay. That is how it is done in other cities.

- 1) Brand new, owner pays
- 2) If it fails, owner pays;
- 3) If it is part of a Town initiated drainage project, Town pays for it.

Atty Bohne – if we assume responsibility for maintenance, then we are liable to replace them. CM Rivet asked TA for an example. TA Booth – Public Works does drainage work, is assisted by MVFD because they will blow out the blocked culverts. When PW identifies a collapsed metal pipe, or one that is too small, a letter is sent to homeowner stating that they have to replace it within 30 days. Owner pays for culvert and Town PW puts it in. Chair asked if someone is making a list of all the culverts that need replacing. TA Booth said they are looking at the town area by area; no Town wide list available at this time. CM Hunter asked if they have to upgrade the pipe, would homeowner be required to pay for larger pipe? Yes.

Atty Bohne stated this should be an ordinance. General consensus to do it in ordinance form.

Eng Parkhurst asked to address the concrete vs. corrugated metal. Concrete is more efficient. Her recommendation is that all culverts be concrete. Chair recognizes Robert LaTou on Homestead. He asked if changing out the culverts would guarantee the drainage problems would go away. Eng Parkhurst explained that it is part of the stormwater plan. When the other areas are completed then there will better flow throughout the town. CM Rossman explained that they are doing what other councils haven't done. Chair recognizes Carl Beatty who explained that someone people embellish their culverts, shouldn't we address that in ordinance.

Chair recognized CM Rivet. If the town replaces culverts they are not going to replace the embellishments. CM Hunter said the council needs to set the standard and everyone will live by that.

Eng Parkhurst said that if we replace a culvert that has a headwall she will not require the replacement to be sand/cement. She will at least give them back the headwalls.

Eng then explained that the project on Corey, there are a number of headwalls and walls, and the contractor is offering cash to those homeowners to do it themselves.

Either the homeowner pays or the Town pays, it must pass the acid test of recommended by the Engineer.

Citizen Bob Barr asked if there had been a topo map done of the town. Yes, most of it. He asked who owns the road right of way portion of a piece of land. Somewhere in the chain of title, it will show the area dedicated to the public. The homeowner does not pay taxes on road right of way.

TA Booth said we will prepare ordinance.

Discussion of road ordinance.

Resident Bill Withers asked Eng if she knew the weight of a Harris WM truck? Eng said the weight of the truck is equivalent to 5000 vehicles. Withers asked if the 8" and 8" in the Exhibits stand up to that? Yes.

CM Hunter asked resident Brian Vail how much road he built at 6" and 6." About 640 feet. Eng stated that what Vail did is more than what was in effect at that time. He actually built it 6" of subgrade and 8" of top.

Applicant stated that the town is not even building to that standard. He is only asking to be able to build the same thing Vail did. There are only two more lots south of his. He has been building roads for 16 years and inspecting them for 8 years for Palm Bay. He doesn't think we should lay this major expense on the homeowner. He heard that EELs have bought another piece of surrounding land. He will never see any pay back if he has to pay 30k. He will build it to what Vail did.

John Frazier asked around what other city's require and said he would accept 8 and 8. CM Rivet doesn't have a problem with going to that. Applicant stated they are still looking at the width too. Vail was for a 20 foot and he is required to make a 24 foot road. CM Havet said there are some things that can't be changed.

Applicant said there is no standard. You will never make the depth for the first 640 feet 8" nor will you ever make the width 24 ft for the first 640 ft.

Eng says DOT does accept 10' lanes. The ROW is 50 ft. CM Rossman said that he will not vary from the 8 and 8 requirement, but, he does think we should look at allowing 20' width in this instance. Atty explained that 18' is the width for a 25 foot right of way to allow for drainage. Vail built his road to Ord 91-2. Carl Beatty explained that what they are doing is improving existing roads – they are not building new roads.

CM Hunter asked if Town built a new road town would have to have to follow new standards. Yes.

Vail asked if Council was sticking with 20 or 24? Still discussing. CM Rossman asked if we would be paving, would we be paying to improve the first 640 feet.

Chair said dropping to 8 and 8 was all they could do.

CM Havet said you have to draw the line. You have to be 21 to drink.

Applicant stated that $\frac{3}{4}$ of the road is complete. Atty said it has to be a variance request made to BOA and that is not possible under current code. Road ordinance does not fall under the LDC. BOA addresses variance requests dealing only with the LDC. The Draft II of the road ordinance sets up a variance procedure for the roads that go nowhere. Maybe expand the procedure.

CM Rossman looked at map. Does the road go anywhere? Consensus that the ROW goes down to Valkaria.

Barr asked if the possibility of a deviation. It is too hard to build. He doesn't envy Council. CM Havet asked if he paid less for his land because the road needed to go in.

Applicant said if we are going to force the standard then do it across the board. Point of order. Chair said we need to stand by our standard. Atty asked about the other provisions in his draft. He doesn't like draft 1. Draft 2 allows for a variance procedure, for unique, special circumstances. Draft 2 includes the exhibits you received tonight. That will allow Barr some relief.

With no objection, Chair adjourns at 9:30PM.

ATTEST:


Debby Franklin, CMC
Deputy Town Clerk

2/3/03
Date

BY:


Chair Bobbi Moccia