

**PARK AND RECREATION ADVISORY BOARD  
REGULAR MEETING  
WEDNESDAY, NOVEMBER 17, 2010  
7:30 PM  
TOWN OF MALABAR  
2725 MALABAR ROAD  
MALABAR, FLORIDA**

---

**REVISED AGENDA**

- A. CALL TO ORDER, PRAYER AND PLEDGE**
- B. ROLL CALL**
- C. NOMINATIONS FOR CHAIR & VICE CHAIR FROM NOV. TO NOV.**
- D. ADDITIONS/DELETIONS/CHANGES**
- E. CONSENT AGENDA**
- 1. Approval of Minutes**  
        **Regular Park and Recreation Meeting – 10/20/10**  
        **Exhibit:** Agenda Report No.1  
        **Recommendation:** Motion to approve
- F. PUBLIC:**
- G. ACTION:**
- 2. Designation of Park & Recreation Board Member to Committee**  
        **Researching Special Activities Permit Ordinance**  
        **Exhibit:** Agenda Report No. 2  
        **Recommendation:** Request action
- 3. Purchase Bleachers for Soccer Field at Malabar Community Park**  
        **Exhibit:** Agenda Report No. 3  
        **Recommendation:** Request action
- H. DISCUSSION:**
- Logue Property
  - Boy Scout Items
  - Developer's Fees for Parks and Recreation
  - Driveway into Disc Golf Park
  - Huggins Park – Development of Sr. Citizens Activity Area
  - Links for Recreation Activities to Town Website; Procedures & Requirements
  - Special Activities Permit Features & Requirements
  - Action Results From Council Regarding Board's Recommendations
  - Anchor for Soccer Club Trailer
  - Community Park Bathroom Concerns
- I. OLD BUSINESS/NEW BUSINESS:**  
New Business:  
Old Business:
- J. BOARD MEMBER/STAFF REPORTS:**
- Cameron Preserve – Thomas
  - Disc Golf Park – Korn
  - Fern Creek Crossing Park – Pollard
  - Huggins Park – Marsh (Information provided to Board by Knudson)
  - Malabar Community Park – Knudson

- Trailhead – Siegmann
- Shade Canopy - Kelley

**K. ADJOURNMENT**

**NOTE: THERE MAY BE ONE OR MORE MALABAR ELECTED OFFICIALS ATTENDING THIS MEETING.**

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to insure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105). The Town does not provide this service.

In compliance with the Americans With Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

**TOWN OF MALABAR**  
**PARK AND RECREATION**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 1**  
**Meeting Date: November 17, 2010**

**Prepared By: Cynthia Kelley, Secretary to Board**

---

**SUBJECT: Approval Park Board Minutes**

---

**BACKGROUND/HISTORY:**

Attached are the summary minutes for the following meetings:  
Regular Park & Recreation Board Meeting – 10/20/10

**ATTACHMENTS:**

- Draft Minutes from Park and Recreation regular meeting October 20, 2010

**ACTION OPTIONS:**

Recording Secretary requests approval of the minutes

The following draft minutes are subject to changes and/or revisions by the Park Board and shall not be considered the official minutes until approved by the Park Board.

**TOWN OF MALABAR – PARK AND RECREATION ADVISORY BOARD  
10/20/10 MEETING MINUTES**

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

**A. CALL TO ORDER** - Meeting was called to order at 7:30 pm by Vice Chair Bob Siegmann. Prayer and Pledge led by Vice Chair Bob Siegmann.

**B. ROLL CALL OF MEMBERS**

**ROLL CALL:**

Dick Korn, Chair - excused  
Bob Siegmann, Vice-Chair  
Vickie Thomas  
Scott Pollard  
Maryann Marsh  
Bernadette Knudson – Alt. #1  
Cynthia Kelley, Recording Secretary

**C. ADDITIONS/DELETIONS/CHANGES:** None

**D. CONSENT AGENDA**

**1. Approval of Minutes**

**Regular Park and Recreation Meeting – 09/15/10**

**Exhibit:** Agenda Report No. 1

**Recommendation:** Motion to approve

Discussion: Knudson reported that the basketball nets had been replaced; new chain nets were purchased and will be used when the rope nets are no longer usable.

**MOTION: Pollard/Knudson to approve minutes of 09/15/10 as presented.**

**VOTE: All Ayes.**

**E. PUBLIC:** None

**F. ACTION:**

**2. Agenda Item Request from Malabar Soccer Club – Paul Yolles**

**Exhibit:** Agenda Report No. 2

**Recommendation:** Request action

Paul Yolles, 2365 Corey Road, President of the Malabar Soccer Club, came forward and addressed the Board. This request is in regards to the shed that is at the soccer field now. It is falling apart and can no longer be locked. Mr. Yolles stated he spoke to Korn about this; on Korn's recommendation, the soccer club would like to get a mobile trailer and anchor it at the park during season. Once the season is over, they would store it at the Public Works yard or at someone's home if that option is not available to them. To put a shed at the park would be very expensive with the permitting process.

Discussion: The Board is in agreement with the trailer idea. Thomas asked size of trailer; Mr. Yolles stated they would like to have a 16' trailer with shelving in it. A 16' by 8' trailer would be ideal but they would settle for a 12' to 14' trailer. If the Town would assist with the anchoring of the trailer, the soccer club would be very appreciative. Knudson stated we could only make the recommendation to Council. We also have to mention the liability. The soccer club would purchase the trailer. Marsh asked if the equipment would be stored in the trailer during the off season; Mr. Yolles state that it

would be. Knudson stated that the shed in place now is located near the EELs property; we should find out about this as well; make sure this would be okay with them. Mr. Yolles stated the requirements for a shed permit is different with each building department; there are set-backs to be considered as well as the anchoring of the shed. Knudson asked about the anchoring of the soccer goals; she noticed rebar on the field while out making an inspection. Mr. Yolles stated that it should not have been left out while no one is working on the goals. She asked that it be removed from the field as it can be a safety issue while no one is working out there. He stated he would have it taken care of.

**MOTION: Pollard/Thomas to recommend to Council the solution to the Board for a trailer; trailer to be stored at Public Works during off season and anchored at the park during soccer season. The Soccer Club will purchase the trailer and the Town will provide the anchoring apparatus.**

Kelley read the motion back to the Board to make sure of it being correct.

**VOTE: All Ayes.**

**3. Purchase Bleachers for Soccer Field at Malabar Community Park**

**Exhibit:** Agenda Report No. 3

**Recommendation:** Request action

Discussion: Pollard asked if there is money for this purchase. Siegmann stated that there have been several emails regarding this. Knudson stated that the bleachers are now at the basketball court facing the soccer field. If the Board makes a recommendation to Council, they would also recommend the funds be taken from the Developer's fees. Knudson asked Mr. Yolles if there is a need for bleachers at the soccer field; he stated that the need is there. Knudson stated that the bleachers at the basketball court are now leveled off and anchored. Siegmann stated that only one set of bleachers would need to be purchased. He also made a recommendation that we purchase rolling bleachers; they could be used at the soccer field during the season and at off time, they could be used at the park during whatever function is taking place. The rolling bleachers, while in use, would be locked so they cannot be moved. Marsh asked Siegmann to research this type of bleacher. Pollard was able to go on line at the time of the meeting; he found a set of bleachers at Amazon.com for \$1,621. This set of bleachers was not the type with rollers. Marsh stated the cost for bleacher would probably be around \$1,000 to \$1,500. Mr. Yolles stated that the cost of shipping and handling would need to be factored in. Pollard stated that this cost would be \$145.00. Siegmann stated the cost would be somewhere around \$1,800; we need to find out what is in the Developer's fees line item so we can make a recommendation to Council. Kelley stated that staff will provide this information to the Board in the next agenda packet. This item is to be on the next agenda as an action item.

No action taken at this time.

**4. Malabar Soccer Club Use of Malabar Community Park for End of Season Party**

**Exhibit:** Agenda Report No. 4

**Recommendation:** Request action

Paul Yolles, 2365 Corey Road, President of the Malabar Soccer Club, came forward and addressed the Board. When he came into the office last week to reserve the park, Kelley advised him that this event may fall into the special activity category; research would need to be done and if it did indeed fall into this area, he would be notified and an application would be provided to him. Once the research was done, an email was sent to him with the application attached with an explanation. The explanation stated that it had to do with the number of people in attendance; however, the definition of a special activity doesn't mention anything about the number of people attending the event. Mr. Yolles advised the Board that they have used the park for their end of season parties since he has been with the club in 2005. They have never had to pay these types of fees; these are new. Kelley explained that under the parameters of a special activity in the park, these are the fees that are incurred. Siegmann stated that the most expensive portion of the fees have to do with the port-o-lets. We must make sure that there is adequate bathroom facilities in the park to accommodate all in attendance. Mr. Yolles stated that on any Saturday, there are 300 people in the park for the soccer games and they have never had port-o-lets in the park. Kelley stated that Franklin was out at the park working on the playground equipment a few weeks ago and said there were not 300 people in the park at one time. She was able to park in the parking lot right in front of the playground equipment. Mr. Yolles stated that the people come and go during the day, depending on which game their children are playing in. Kelley, for the record, apologized to Mr. Yolles for providing the wrong information to him last week. He stated that it wasn't necessary but she felt it was to let him know that she had made the mistake and was sorry that she was not able to help last week as she was in school for work purposes.

Discussion: Marsh stated that she would like to make a new rule for those who have a contract with the Town to use the park facilities to give them some type of discount. Thomas stated that she thought the fees were very high; she asked Kelley if they couldn't be grandfathered in. Kelley stated that she cannot speak for Council; a recommendation from the Board would be provided to Council for their decision. Kelley advised the Board that a group from Palm Bay came in and used the park in August; they had a special activity permit and did not hesitate to pay the fees to use the park. Mr. Yolles asked about the \$40 to clean the bathroom; he stated he would personally clean the facilities after the event. Marsh stated she understood this expense. Kelley also advised the Board that research for area municipalities was done and that information was provided to them so they could see what other cities are charging for the use of their facilities for a party like this one. Kelley also explained that we lost another \$28,000 in ad valorem taxes; Council didn't raise taxes this year. With the loss of funds, it seems that people want more services for nothing. Mr. Yolles and Marsh both stated that they weren't asking for more, they are asking for the same. Siegmann, in reviewing the costs paid by Pop Warner, went over the fees. It would seem that the most costly amount is the port-o-lets. Again Kelley explained that we need to make sure that everyone is accommodated while in the park. Knudson asked Mr. Yolles what his magic number would be for the use of the park. He stated that he would agree to \$50 pavilion rental; \$5.00 electrical and \$100 deposit.

Kelley advised the Board that the club used the field back in May for their end of season party. The deposit of \$50 was not returned to them due to someone from their club riding over fencing at the park; Public Works made the repairs needed to the fence. Marsh asked if the deposit covered the cost of the repairs; Kelley stated she didn't know for a fact but the fence was repaired none the less. Marsh stated this is what deposits are for.

It is the general consensus of the Board to grandfather the Malabar Soccer Club for this particular event. Thomas stated that Council may have an issue with a forever type of recommendation; if the cost goes up, their rental fees should be adjusted.

**MOTION: Marsh/Pollard recommend to Council that the Malabar Youth Soccer Club be grandfathered in to the same price that they have been paying over the last two years; \$60 pavilion rental, \$5.00 electrical fee & \$100 refundable deposit with the stipulation that the bathrooms and park be cleaned after the event and COLA for future contracts.**

Kelley read the motion back to the Board to make sure of it being correct.

**VOTE: All Ayes.**

Marsh understands the point of Malabar, but since they have been paying for so long, we need to make this recommendation. Kelley advised the Board that this would go to Council for the first meeting in November; the event isn't scheduled until November 20<sup>th</sup>. Marsh suggested that Mr. Yolles go to the Council meeting and he may want to research how long they have been paying the lesser fees to use the park for this event.

**G. DISCUSSION: None**

**H. OLD BUSINESS/NEW BUSINESS:**

**New Business:** Liz Ritter, 2860 Orange Avenue, came forward and addressed the Board. She is on the committee to research the Logue property purchase and asked that the Board provide any input they could. It would be nice to have some property on the river and have a public dock. She advised the Board that it would be for small non-motorized vessels on the water. Marsh stated it would be very nice to have a dock to fish off of. Pollard stated we may want to band cast netting; left a huge mess in St. Petersburg.

Pollard reported that he came into Town Hall to report a clogged toilet in the men's room and no toilet paper in the ladies room. Kelley stated that this was taken care after he left the office; Public Works was contacted and both issues were resolved. However, Amanda, who takes care of cleaning the Town's facilities called and reported to the Town Clerk that everything that can be taken is being stolen; toilet paper, paper towels and the wax paper baggies in the ladies room. Kelley was speaking to the Town Clerk today about the possibility of locking the doors at the restrooms. Thomas stated that she would ask if someone at the Fire Dept. would volunteer to do this. Marsh stated that she would recommend, if this can be done, that locks be placed on the doors before our next meeting. Kelley stated that this is something that the Town Administrator can direct staff to do if it can be done; a recommendation doesn't need to go to Council for this.

**Old Business:** Thomas advised the Board that she is on the committee for the old school house purchase and they have begun work on this project.

**I. BOARD MEMBER/STAFF REPORTS:**

- **Cameron Preserve**

Thomas reported no status change; she and her husband have found more and more broken glass. Malabar's trash can is on Palm Bay's property; Siegmann stated that he would help if needed.

- **Disc Golf Park**

Korn was excused from meeting as he is out of town.

- **Fern Creek Crossing Park**

Pollard reported Brazilian pepper trees are still on the west side.

- **Huggins Park**

Marsh reported no changes.

- **Malabar Community Park**

Knudson reported that the bathrooms are a big issue. Basketball court benches need to be looked at; nails are sticking up and can be a safety issue. She would like to see recycle bins at the park; the trash cans are full of plastic water bottles. Baseball diamond looks great for the breast cancer function. The west side of the soccer field had a Gopher hole that needs to be filled in. Knudson also reported the grass at the soccer field is not looking good at all; Kelley advised the Board that the soccer club uses the field seven days a week. When they use the field, they don't rotate around the field so it doesn't have time to come back. This information came from Brett, owner of Taylor Maid, who is our mowing contractor. It is important to rotate around the field to give the grass time to come back to life.

- **Trailhead**

Siegmann reported looks good; people out there using the park; very clean.

- **Shade Canopy**

Kelley reported that the shade canopy has been removed and sent to the manufacturer; we are awaiting their decision regarding a new canopy or repairs being done under the 10-year warranty. Staff will keep the Board up to date with what is taking place with this matter.

Knudson, while doing an inspection of the Malabar Community Park, stopped by the office today. She advised staff that a steel pipe, painted orange, was laying at the basketball court; it was rusted at one end and she felt it could be a safety issue. Staff had Public Works take care of this immediately.

Kelley advised the Board, with regards to the soccer club, that staff is very accommodating to them. A meeting was held at the soccer field not too long ago with the Town Administrator, the owner of the mowing company and Mr. Yolles. Mr. Yolles

advised the contractor when he would like the field cut, fertilized and irrigated to accommodate the club. Kelley told the Board that the money paid for the use of the field for the season doesn't even come close to the \$6,300 that is paid just for the pesticides and fertilization of the soccer field, let alone the cost of the mowing. The soccer club has a schedule but they use the field seven days a week. Marsh stated this is the kind of information that the Board needs to know.

Kelley advised the Board that the Town is having a Board/Council Appreciation Dinner next Wednesday, October 27, 2010 at 7:30 pm. Everyone on the Board is invited to come to Town Hall and partake of the food; you don't need to eat before coming to this event; there will be plenty of food provided for your enjoyment.

Knudson went over the pictures of the bacchi ball court being constructed at Barefoot Bay. Also in the pictures you could see their shuffle boards as well. They also have a shed on site to hold the equipment needed for these games.

Knudson also reported that John Leach, one of the disc golf players is willing to do a demonstration for Malabar residents who wish to learn the game. A notice will be placed in the next Mailboat; Marsh asked when that would be going out. Kelley stated one should be going out prior to the holidays as we report the schedule of office hours to our residents.

**J. ADJOURNMENT**

There being no further discussion, general consensus. **MOTION: Pollard/Marsh to adjourn meeting. VOTE: All Ayes.** This meeting adjourned at 8:45 pm.

By: \_\_\_\_\_  
Bob Siegmann, Vice-Chair

ATTEST:

\_\_\_\_\_  
Cynthia Kelley, Recording Secretary

Date Approved: \_\_\_\_\_

**TOWN OF MALABAR**  
**PARK AND RECREATION**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 2**  
**Meeting Date: November 17, 2010**

**Prepared By: Cynthia Kelley, Secretary to Board**

---

**SUBJECT: Designation of Park & Recreation Board Member to Committee  
Researching Special Activity Permit Ordinance**

---

**BACKGROUND/HISTORY:**

In light of recent discussions, Council Member Jeff McKnight and Chair Dick Korn have asked that this be placed on the agenda for discussion and action. Chair Korn would like to have a member of the Parks & Recreation Advisory Board on the committee that will be researching the ordinance with the rules and regulations of the Special Activity Permit. Council will be discussing this issue at the RTCM on Monday, November 15, 2010; a copy of the portion of minutes from this meeting will be at your seats on Wednesday, November 17, 2010.

**ATTACHMENTS:**

- E-mail from Debby Franklin dated 11/08/10
- Portion of RTCM dated 11/01/10
- Portion of RTCM dated 12/01/08
- Special Activity Permit Application
- Town of Malabar Code - Article III, Special Activity Permits

**ACTION OPTIONS:**

Discussion and action.

## Cindi Kelley

---

**From:** Town Clerk / Treasurer  
**Sent:** Monday, November 08, 2010 11:14 AM  
**To:** Cindi Kelley  
**Subject:** Park Board  
**Attachments:** Approval of Permit RTCM of December 1.doc; Special Activity Application.pdf

Cindi, Council will be discussing this on Nov 15. Jeff McKnight has also talked with Dick Korn and they want this on your next Park Board agenda also.

Debby K. Franklin, C.M.C.  
Town Clerk/Treasurer  
Town of Malabar  
2725 Malabar Road  
Malabar, FL 32950  
[townclerk@townofmalabar.org](mailto:townclerk@townofmalabar.org)  
321-727-7764 x12  
321-722-2234 Fax  
321-213-8009 Cell  
Town Website: [www.townofmalabar.org](http://www.townofmalabar.org)

*Please Note: Florida has a broad public records law. As a result, any written communication created or received by Town of Malabar officials and employees will be made available to the public and media, upon request, unless otherwise exempt. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this office. Instead, contact our office by phone or in writing.*

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

**2. Recommendation from Park & Recreation Board – Soccer Club Trailer**

**Exhibit:** Agenda Report No. 2

**Recommendation:** Request Action

**MOTION:** Vail / Borton to approve the Malabar Soccer Club to put their trailer at Malabar Community Park during soccer season and then remove it at end of season and have those exact dates added to the agreement.

Malabar Soccer Club would be responsible for the wind tie downs. Chair said they could write general agreement and hold harmless. Then just add in about removing it at end of season. McKnight not in favor of paying attorney for drafting agreement. Chair said TA could write agreement with hold harmless. CM Vail said he would provide a tie down for the trailer. Chair said a hitching post with a lock should be sufficient. McKnight said they have hitch locks. McKnight said if we have a storm, the town is going to be liable if the Town puts in anchors. The trailer will hold soccer team equipment. The goals stay on the field. Vail said the trailer could also be stored at members house. The strapping and anchoring could be done but agreed with McKnight. TA said the issue may be the storing of the trailer in the Pw yard. The PW yard is not a stagnant place. We had boy scouts there because we sponsored them. We are still storing their trailers. Vail said if the Malabar Soccer Club trailer is a problem it can stay at his house if that resolves the issue. **VOTE:** All Ayes.

Paul Yolles, 2365 Corey Road. The understanding that there is a shed. Dick Korn said the property is the town's. The existing shed. Park Board didn't know it was there. They came to them asking if they could build a small building. He suggested they get a 14' or 16' trailer.

**3. Recommendation from Park & Recreation Board – Malabar Soccer Club Season End Party at Malabar Community Park**

**Exhibit:** Agenda Report No. 3

**Recommendation:** Request Action

Chair has a card on this.

Paul Yolles, the season end party. The fees went from \$60.00, with a \$40 deposit and \$5.00 elec and went to \$475. The largest fee was the port a lets. They are not prepared to pay that. Park Bd recommended they be grandfathered in and are a youth league. Borton is not sure what he is asking. Yolles said they want the same they paid last time. Chair said how long have they had these picnics abd what do they use the electric for? The bounce houses. Yolles thinks Council understands In the pasd they have paid \$65.and they would like to pay 65 again. The electric was questioned. TA wanted Franklin to explain it. Franklin explained the past uses of the par and the corresponding electric bills. She gave the Pop Warners Special Activity permit with FPL bill and the last Maabar Soccer Club application and FPL bil.I Staff has tried to collect the fees from users to cover the anticipated costs.

Council discussed the usage of the restrooms. A table was used for determination of port-a-lets needed. Yolles feels they are different that the Pop Warner group and should be given consideration since they pay \$350 a year for a lease. Vail said budgetarily this is what they planned on and maybe it should be used for this use and then increased. Council members discussed the FPL bill and the amount of electricity the bounce house blowers use. They think they are only 4 amps. They discussed cost of amps. Asked how long they are there. Yolles said three hours. Going off topic. Borton asked why are we spending money on attorney to write ordinances to cover special events and then not using them.

Mayor said he could not find anything to authorize the Town to charge for port a potties and electric. With rules and regulations. We can't just authorize. TA said we never documented where that came from. We were collecting it before she started and not. We don't have anything that said what. Mayor could only find the \$100.00 charge. Borton said she only wants the fee to be paid. Yolles said they would clean the bathrooms. Chair said he will let Yolles speak after Council to discuss it. The special event for Haitian Day and Council said they had to have parking and police. TA said the question never came up. Three hours use at 10.00 and 50.00 deposit for cleaning and the special event activity 100.00. Vail said we have apples and oranges in our ordinance. We have a past relationship and discovering our problems with the code are not his problem. After that we can come up with revised rules.

McKnight said he is ok with the charges the Mayor suggested. Vail said we should charge as they had budgeted. This needs to be resolved and we have to review and update the fees.

**MOTION:** Vail / --- to allow them to use it. Died for lack of second.

**MOTION:** Rivet / Vail to let Malabar Soccer club to use park for fee of \$100.00 and a refundable \$50.00 cleaning deposit. Amended to state Borton would pay for fee from her discretionary fund.

Acquaviva said we need to specify for a special event.

Paul Yolles, confirmed that it is 100.00 for this season but next season it could go up? Yes. Chair said if the Council increase the fees, he will be notified. Borton said it is not fair to charge him more than he was charge last time. Each group is treated fairly as well. That is for the future. Paul said they are a small athletic group with only 150 members. They have no intention of renting port-a-pots. They are expecting 300 people, same as last year.

Dick Korn, chairman of Park and Rec Board. He thanks Rivet for his suggestion. It is as a good. He wanted Council to consider this is a Malabar youth soccer group and not Pop Warner. Mr. Whitworth from Malabar Baptist is waiting to see how Council directs before they offer their facility. Korn said the Code allow for the fee to be waived by town Council. They do need to revisit this. Keep personal feelings out of it and with everyone's interest in mind. This group can be frustrating but they are serving our kids. Otherwise the kids could be out on the street doing other things. Borton is willing to pay for the 100.00 from her discretionary fund. TA said as a response to the parting comment. Please don't infer that town staff have positions on this; it is Council policy they are following. Staff is looking out for the Town and that is their job.

**VOTE:** All Ayes.

McKnight asked to bring this to next agenda for discussion. Use of park, special activity permit.

Portion of minutes from RTCM of December 1, 2008:

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

**5. Request for Special Activity Permit for Community Event – God’s Healing Holiness Christian Church, 1690 Marie Street, Malabar**

**Exhibit:** Agenda Report No. 5

**Recommendation:** Request Action

Rev Borland sends greetings from the Church. Thanks Council for allowing them to be heard. Event is planned for Feb 14, 2009. They plan to have a community day. Invite the community to come out and enjoy the fellowship. From 10AM to 4PM. No charge to the community. Also, if they can find it in your heart, please waive the fee.

**MOTION:** Borton / Vail to approve permit.

Discussion: Council discussed the history of the special activity permit. It has been requested in the past for Brook Hollow subdivision to have a street party and they also asked for the permit fee to be waived and it was. The Haitian Flag Day applicant also asked for the fee to be waived. That event didn’t happen due to Tropical Storm Fay.

**MOTION:** Rivet/Vail to amend the motion to waive the fee.

Discussion: Dezman asked why the fee is in there. Because it is in the Code. Borton said we shouldn’t waive the fees. These are bad financial times and we need the money. Rivet said \$100.00 is not going to make a material difference and waiving it could go a long way in building a positive result. Vail said he looks at the not for profit status in his support to waive the fee. McKnight agrees. Vail said it is an outreach to the community. Borton said she could support it for the not for profit purpose. Dezman said she can go along with this also. BWF said we may want to amend Code to waive fee for not for profit activities.

**Vote on Amendment:** to waive fees. All Ayes.

**Vote on original motion** to approve permit: All Ayes

**6. Request for Special Activity Permit for Community Event – Malabar Mini-Storage, 2700 Malabar Road, Malabar**

**Exhibit:** Agenda Report No. 6

**Recommendation:** Request Action

**MOTION:** Rivet / Borton to approve permit and waive fee.

Discussion: none.

**Vote:** All Ayes.



2725 Malabar Road  
Malabar, Florida 32950-4427  
321-727-7764 – Telephone  
321-727-9997 – FAX

### SPECIAL ACTIVITY APPLICATION

#### ACTIVITY TYPE

- Block Party
- Carnival or Circus
- Concert or Festival
- Foot Race/Bike Race/Walk-a-thon
- Other (describe) \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

#### EQUIPMENT

- Alcoholic Beverage Use
- Balloon or Banner
- Food Preparation
- Sound Amplification
- Temporary Electrical
- Temporary Restrooms
- Temporary Signs
- Temporary Structure
- Tent

**FEE FOR SPECIAL ACTIVITY IS: \$100.00**

ACTIVITY NAME: \_\_\_\_\_

Applicant (person): \_\_\_\_\_

Organization/Sponsor (If applicable): \_\_\_\_\_

The Organization /Sponsor is (Check one)  Profit  Non- profit

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ (Please list the telephone number where we may contact you during the day. If we are unable to contact you, the permit may be delayed).

Date of event: \_\_\_\_\_

Time of event: \_\_\_\_\_

Location of event/ street address (A site plan **must** be attached):

\_\_\_\_\_

\*Please note: If the applicant / sponsor listed is not local, complete the following:

Local contact person: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Description of event: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If you are requesting Town assistance with your event, please describe: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Describe any temporary structures planned for use during event: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If sound amplification is associated with this event, I agree to monitor the sound level so that it remains within the limits of the Town Code. If valid noise complaints are received, I agree to reduce that noise to a satisfactory level. Further, I understand that if reducing the noise does not control citizen's complaints, the source of the noise will be terminated.

Signature of applicant: \_\_\_\_\_

Date: \_\_\_\_\_

The space below may be used for your site plan.

exterior door or curtain of such cubicle, room or booth. Nothing contained herein shall be construed to eliminate other requirements of any statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof, whenever such inspection is deemed necessary by the town council, sheriff or their duly authorized agents. (Ord. No. 3-12-85, § 27(p), 4-2-85)

**Sec. 10-243. Supervision.**

An adult massage establishment licensee shall have the premises supervised at all times when open for business. Any massage establishment shall have one individual who qualifies as a massager on the premises at all times while the massage establishment is open for business. The adult massage establishment licensee shall personally supervise the massage establishment, and shall not violate, or permit others to violate, any provisions of this article. (Ord. No. 3-12-85, § 27(q), 4-2-85)

**Secs. 10-244—10-255. Reserved.**

**ARTICLE III. SPECIAL ACTIVITY PERMITS\***

**Sec. 10-256. Purpose.**

The intent of the town council in adopting this section is to recognize that there are certain special or unique activities not recognized in the code, which provide for an economically viable community. Special activities have been determined to be in the best interest of the public and may call for temporary waivers from the Town Code. (Ord. No. 02-02, § 1, 4-1-02)

**Sec. 10-257. Town administrator to issue permits.**

The town administrator, under the direction of the town council, is hereby authorized to issue a special activity permit. The town council may grant temporary waivers to the Town Code for special activities. The permits shall be subject to all conditions imposed by the town council. Prior to any special activity permit being issued, the town council shall first approve the issuance of such a permit to an applicant.

Waivers may include but are not limited to: open container ordinance, subject to all conditions contained in the special activity permit as may be from time to time established by the town council; use of barricades on public streets or closure of public streets; and sound amplification; provided, however, a permit for sound amplification does not allow an applicant to violate any noise provisions provided elsewhere in this Code.

In granting waivers to the open container provision of the Town Code, no waiver to the hours of operation established by this Code shall be permitted.

**\*Editor's note**—Ordinance No. 02-02, § 1, adopted April 1, 2002, set out provisions intended for use as §§ 10-1—10-9. For purposes of classification, and at the editor's discretion, these provisions have been included as §§ 10-256—10-264.

Notwithstanding any of the foregoing, no permit or waiver shall be issued for any special activity which would meet the definition of a rave club as that term is defined in Ordinance No. 2001-25, an Ordinance of Brevard County.  
(Ord. No. 02-02, § 1, 4-1-02)

**Sec. 10-258. Definitions.**

For the purpose of this section, the following words shall have the meanings indicated:

*Gated street event* shall mean an event held on public right-of-way in the town where admission is charged for access to the event area.

*Special activity* shall mean an event activity or any occasion that is characterized by its limited duration, infrequent occurrence, or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary activities include but are not limited to, exhibitions, celebrations, festivals, shows, parades, carnivals, block parties, outdoor seasonal sales, concerts, marathons, races, walks, fund raisers, taking place within a specifically defined area of the town which event, activity or occasion does not fall within the normal categories of permitted uses, activities, accessory uses or activities within the applicable town zoning district.

*Special activity applications* shall mean the form provided by the town for the purposes of processing a select activity.

*Special activity fee* shall mean the fee an applicant is required to pay in accordance with the special activity permitting procedure, before a special activity application can be processed.

*Special activity permit* shall mean the permit that is issued by the town council.  
(Ord. No. 02-02, § 1, 4-1-02)

**Sec. 10-259. Penalty.**

It shall be unlawful for any person, group of persons, firm, corporation or entity to advertise, hold, conduct, engage in, permit or allow any special activity to occur unless a permit has been obtained from the town. A violation of this section is punishable by the imposition of a fine not exceeding five hundred dollars (\$500.00) and/or imprisonment for a term not exceeding sixty (60) days.

(Ord. No. 02-02, § 1, 4-1-02)

**Sec. 10-260. Time for submitting application.**

A special activity application must be submitted to the town no later than thirty (30) days before the scheduled event, activity or occurrence.

(Ord. No. 02-02, § 1, 4-1-02)

**Sec. 10-261. Fees.**

All applications for a special activity permit will be charged a special activity fee of one hundred dollars (\$100.00). This fee may be waived by the town council.  
(Ord. No. 02-02, § 1, 4-1-02)

**Sec. 10-262. Application processing procedure.**

(a) The town shall provide an application for a special activity permit. Upon submittal of the application, along with the applicable fee and attachments, the town administrator shall distribute such applications to the building and zoning department and such other staff members as may be necessary for comment. The completed application and comments shall be submitted to the town council at the next regularly scheduled town council meeting for approval or disapproval. The town council may impose any and all reasonable conditions on the issuance of the permit.

(b) Criteria for approval. The town may approve or conditionally approve the issuance of a special activity permit, unless one of the following circumstances exists:

- (1) The applicant has been convicted of a felony or misdemeanor involving moral turpitude and has not subsequently demonstrated rehabilitative characteristics;
- (2) The applicant has made a material misrepresentation on the application;
- (3) The applicant has not complied with the town's request for further information necessary for the town to fully evaluate the application;
- (4) The proposed special activity will substantially disrupt peace and quiet within any area of the town;
- (5) The proposed special activity will have a substantial negative impact upon traffic in any area of the town;
- (6) The proposed special activity damages or degrades the image of the town;
- (7) The proposed special activity will have a material negative impact upon the neighboring property;
- (8) The proposed special activity will create a safety hazard;
- (9) The proposed special activity is not appropriate for the location due to zoning requirements for that location;
- (10) The proposed special activity subjects the town to contingent liability which cannot adequately be addressed by requiring the applicant to name the city as an insured on the applicants general liability insurance policy;
- (11) The applicant has failed to supply the town an insurance certificate naming the town as an additional insured on the applicant's general liability policy;

- (12) The special activity fails to comply with any of the criteria designated under this section for the issuance of a special activity permit or rules and regulations governing this special activity;
- (13) An applicant has violated conditions of a previous special activity permit or any ordinances or regulation of the town in the conduct of a prior special activity.
- (c) The following provisions are not intended to be all-inclusive and may be amended based on the type of event or the information submitted by the applicant:
- (1) *Special activity application/fee.* The applicant will be required to complete a special activity application prior to the activity and submit it to the town with the application fee. A site plan is required with each application and may be hand drawn. The site plan should be detailed enough to indicate major streets, a north arrow, and event set-up. The application shall set forth the anticipated attendance, arrangements for off-street parking, a plan for dealing with disposed of waste and refuse and the placement of portable toilet facilities if applicable.
- (2) *Special activity permit.* Once an applicant has submitted all required documents, met all conditions and staff concerns with the issuance of a permit, and the town council has approved the permit, the town will issue a special activity permit. The activity shall not be considered approved until the town has issued a permit.
- (3) *Frequency of events.* An applicant may apply for a special activity one time per year. A year is defined as January 1 through December 31. An event shall not exceed one day in duration.
- (4) *Set-up and take down period for events.* An applicant will be allowed a reasonable set-up and take-down period for an event. The period will be based on the type and complexity of the event. Balloons and banners will be allowed a one-day set-up and one-day take-down period. Violations of this section may result in future permits being denied.
- (5) *Alcoholic beverages.* The provisions contained in the Town Code (open container), may be waived by a special activity permit. The waiver will be subject to all conditions contained in the permit.
- If an applicant operates a licensed premises for the sale of alcoholic beverages, that applicant will be required to obtain an extension of the permit from the department of business and professional regulation, division of alcoholic beverages and tobacco for alcoholic beverages sold/consumed outdoors. Non-profit civic organizations will be required to obtain a temporary permit for sale/consumption of alcoholic beverages in accordance with F.S. § 561.422.
- Additionally the applicant is responsible for controlling alcoholic beverages by ensuring under-age consumption does not occur.
- (6) *Balloons.* Tethered balloons that are no larger than fifteen (15) cubic feet may be considered for a permit. Small, helium-filled balloons are prohibited.

- (7) *Barricades.* The town will determine if barricades are required for an event. Applicants will need to obtain barricades from a private source. Once barricades are placed, signs, balloons, or other items may not be placed on the barricades.
- (8) *Block party.* In addition to a special activity application, a petition is required to be signed by all the residents who live on the portion of the street that will be closed/barricaded indicating their support of the event.
- (9) *Carnival.* In addition to any applicable fees, an occupational license is required regardless of non-profit status. Each carnival ride is required to have a current inspection certificate from the Bureau of Fairs, Rides Inspection (850-488-9790).
- (10) *Circus.* In addition to any applicable fees, an occupational license is required regardless of non-profit status. The following stipulation shall apply for all circuses:  

The permit is conditioned upon the exhibitor complying with all applicable requirements of F.S. §§ 372.921 and 377.922, and the regulations contained in the Florida Administrative Code, Rule 39-6, of the Florida Fish and Wildlife Conservation Commission.
- (11) *Co-sponsorship.* The town may from time to time provide services for an event (police, barricades, etc.) which may result in reduced charges.
- (12) *Fire prevention / code enforcement inspections.* Most events require an on-site review and final inspection by fire/code personnel. If the event requires extraordinary inspections, including inspections after hours, the applicant will be required to pay the staff time at fifty dollars (\$50.00) per hour.
- (13) *Hold harmless and indemnification.* The applicant, by submitting a special activity application, agrees that at all times they will indemnify and hold harmless the town from and against any and all liability, claims, demands, damages, expenses, loss, injury, death, fees, costs, attorney's fees, fines, penalties, or suits to or by any person, firm, corporation, or entity arising from or out of the special activity.
- (14) *Insurance.* An applicant for an event held on public property or on a public right-of-way will be required to provide a general liability insurance policy in the amount of one million dollars (\$1,000,000.00). Additionally, if alcohol is being served at the event, liquor liability in the amount of one million dollars (\$1,000,000.00) will be required. A certificate of insurance will be required and the following language must appear on the certificate: "The Town of Malabar is named as additional insured as the Town of Malabar's interest may appear only."
- (15) *Additional permits.* Additional permits may be required from the town or other governmental authorities. The applicant shall submit proof of compliance with the permitting requirements of all governmental authorities, including, but not limited to, disabled parking and sanitation requirements.

- (16) *Medical services.* Late night events involving alcohol and events that, due to their nature, may have injuries will require medical coverage. The applicant shall be responsible for payment of medical services. The cost will be based on the hourly rate of the medical team.

A medical team is defined as at least one paramedic and one emergency medical technician. Additional medical team personnel may be required depending on the special event. The town administrator shall determine if additional medical team personnel are needed.

- (17) *Outdoor seasonal sales.* The following stipulations shall apply:

The applicant must obtain an occupational license and a special activity permit prior to set-up.

Adequate paved parking, including handicapped parking, must be provided within one hundred (100) feet of the sales/display area. Restrooms, including handicapped accessible restrooms, must be provided on the site within five hundred (500) feet of the sales/display area.

Hours of the sales must coincide with the hours of availability for the restrooms and parking.

The sale/display shall not be located within a required landscaped area and on-site vegetation shall not be disturbed.

Proof of ownership or a lease agreement with the property owner must be submitted with the application.

A maximum of one recreational vehicle and one private vehicle may be maintained on site by the applicant.

- (18) *Law enforcement.* Law enforcement services are required for any special activity. The applicant shall be responsible for the presence and payment of law enforcement services. The cost will be based on the average hourly rate of Deputy Sheriffs for Brevard County.

- (19) *Sound amplification.* A permit for sound amplification does not allow the applicant to violate the noise levels in the Code of Ordinances. The applicant agrees to control noise, and in the event surrounding residents complain of excessive noise, to reduce that noise to a satisfactory level. The applicant further understands that if reducing noise cannot control citizen complaints, the source of the of the noise will be terminated.

- (20) *Signs in the right-of-way.* No signs in the public rights-of-way are permitted.

- (21) *Tents.* A flame retardant certificate must be attached to the application for a tent permit.

(Ord. No. 02-02, § 1, 4-1-02)

**Sec. 10-263. Permit.**

The town administrator will issue a special activity permit once an applicant has completed a special activity application, submitted all required documents, met all conditions and staff concerns with the issuance of the permit, and the special activity permit has been approved by the town council.

(Ord. No. 02-02, § 1, 4-1-02)

**Sec. 10-264. Revocation or suspension of special activity permit.**

A special activity permit may be revoked or suspended immediately for any of the following reasons:

- (1) A material false statement in the application.
- (2) Failure to comply with any federal, state or municipal laws and regulations.
- (3) Failure to comply with any limitation or condition imposed by the town on the issuance of a special activity permit.
- d. To conduct any special activity in such a manner as to create a public nuisance or conducting the special activity in a fraudulent disorderly manner or in a manner which endangers the public health safety and welfare or any manner in which disrupts the public peace.

(Ord. No. 02-02, § 1, 4-1-02)

**TOWN OF MALABAR**  
**PARK AND RECREATION**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 3**  
**Meeting Date: November 17, 2010**

**Prepared By: Cynthia Kelley, Secretary to Board**

---

**SUBJECT: Purchase Bleachers for Soccer Field at Malabar Community Park**

---

**BACKGROUND/HISTORY:**

At the last Parks & Recreation Board meeting of October 20, 2010, the Board discussed the purchase of bleachers for the soccer field at Malabar Community Park. This discussion was tabled because the Board requested information with regards to the amount of funds available in the Developer's Fees account. It was discussed that a cost of approximately \$1,800 would be used, if available, for the purchase of bleachers for this field.

**ATTACHMENTS:**

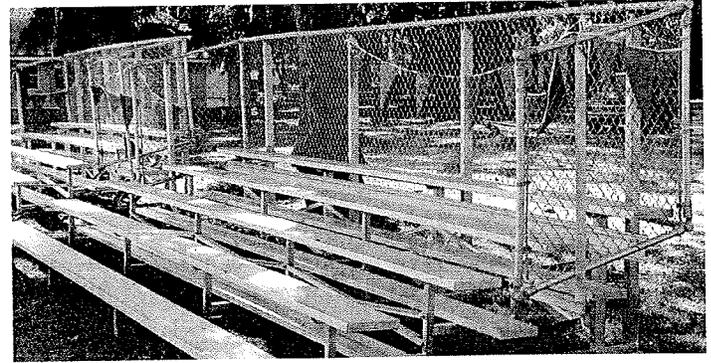
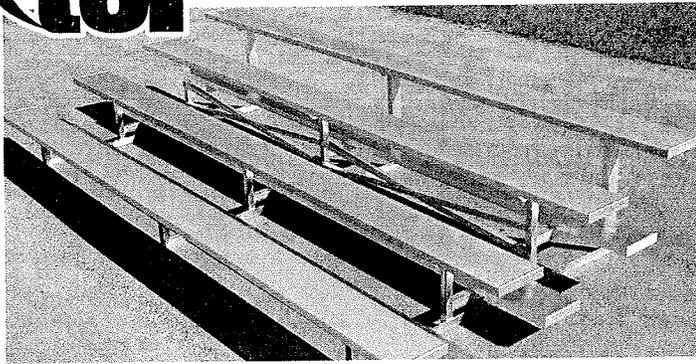
- Cost sheet showing pricing of bleachers from TSI
- Information showing fees in Developer's Fees Account – to be provided at the time of the meeting

**ACTION OPTIONS:**

Discussion and action.



**YOUR COMPLETE SOURCE FOR TEAM SPORTS EQUIPMENT!**



**STATIONARY ALUMINUM BLEACHERS**

**Economical solution to meet the building code requirements for 3, 4, and 5 row bleachers**

Features:

- 12" front row seat height
- 6" rise per row, 24" tread depth
- 2" x 12" seat plank, 2" x 10" foot plank
- Aisles are not needed
- Chain link guardrail system on 5 row units
- All aluminum angle frame understructure
- Maintenance-free aluminum planking
- Can be made towable with optional transport kit
- All units must be anchored to meet wind load requirements
- Chain link guardrail system on 5 row units\*

Additional features may be required to meet local codes. Always check with your local code enforcement office before ordering.

**All Bleachers Feature:**

- Full five-year warranty!
- Oversized aluminum angle frame members for added strength
- Galvanized hardware
- Extra-strong aluminum extrusions

**Sizes and Seating Capacities**

| Item #  | Rows | Length | Seats | Clear Depth | Top Row Seat Height | Weight | Price      |
|---------|------|--------|-------|-------------|---------------------|--------|------------|
| BL315A  | 3    | 15'    | 30    | 5'          | 24"                 | 198lbs | \$1,379.99 |
| BL321A  | 3    | 21'    | 42    | 5'          | 24"                 | 283lbs | \$1,824.99 |
| BL415A  | 4    | 15'    | 40    | 7'          | 30"                 | 276lbs | \$1,858.99 |
| BL421A  | 4    | 21'    | 56    | 7'          | 30"                 | 397lbs | \$2,574.99 |
| *BL515A | 5    | 15'    | 50    | 9'6"        | 36"                 | 613lbs | \$4,324.99 |
| *BL521A | 5    | 21'    | 70    | 9'6"        | 36"                 | 858lbs | \$5,558.99 |

**DELUXE SERIES BLEACHERS**

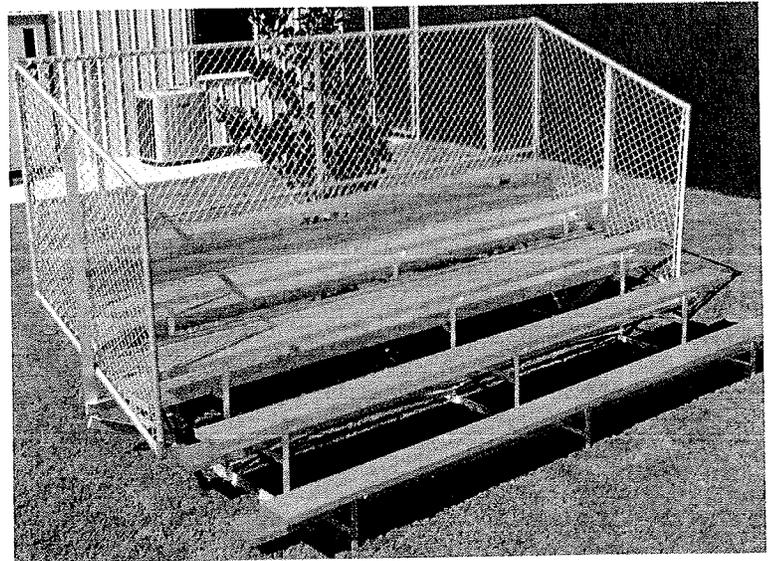
**3 Row Units**

- 2"x10" seat plank
- 7" rise / 24" tread depth per row
- 16" first row seat height and 30" third row seat height
- Single 2"x10" aluminum foot plank

**5 Row Units**

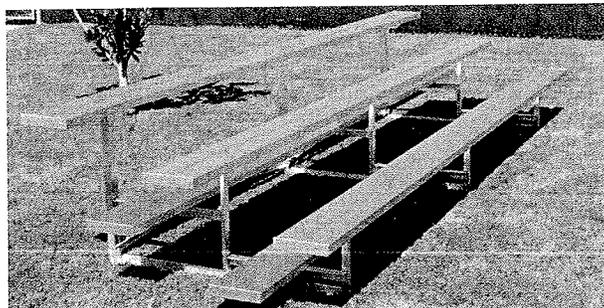
- 2"x10" seat plank
- 8" rise / 24" tread depth per row
- 16" first row seat height
- Semi-closed planking (4" max. opening) at rows 4 and 5
- Single 2"x10" aluminum foot plank at rows 2 and 3. Double foot planks on row 4 & 5.
- Guardrail system on rear and sides extending to the third row

Additional features may be required to meet local codes. Always check with your local code enforcement office before ordering.



**Sizes and Seating Capacities**

| Item #  | Rows | Length | Clear Depth | Top Row Seat Height | Weight | Price      |
|---------|------|--------|-------------|---------------------|--------|------------|
| BL315AD | 3    | 15'    | 4'10"       | 30"                 | 217lbs | \$1,263.99 |
| BL321AD | 3    | 21'    | 4'10"       | 30"                 | 304lbs | \$1,763.99 |
| BL515AD | 5    | 15'    | 9'5"        | 48"                 | 717lbs | \$5,021.99 |
| BL521AD | 5    | 21'    | 9'5"        | 48"                 | 955lbs | \$6,569.99 |



**TOWN OF MALABAR**  
**PARK AND RECREATION**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 4**  
**Meeting Date: November 17, 2010**

**Prepared By: Cynthia Kelley, Secretary to Board**

---

**SUBJECT: Discussion Items**

---

**BACKGROUND/HISTORY:**

Per Chair Korn, the following items are on the agenda as discussion items:

- Logue Property – Liz Ritter to report
- Boy Scout Items – Liz Ritter to report
- Developer's Fees for Parks & Recreation
- Driveway into Disc Golf Park
- Huggins Park – Development of Sr. Citizens Activity Area
- Links for Recreation Activities to Town Website; Procedures & Requirements
- Special Activities Permit Features & Requirements
- Action Results From Council Regarding Board's Recommendations
- Anchor for Soccer Trailer
- Community Park Bathroom Concerns

**ATTACHMENTS:**

- Developer's Fees – Information to be provided to you at your seats prior to Wednesday's meeting – Item #3
- Huggins Park – Information regarding Bacchi Ball courts – Information to be provided to you at your seats prior to Wednesday's meeting – Item #5
- Special Activities Permit Features & Requirements – item #7
- Portion of RTCM of November 1, 2010 – item #8

**ACTION OPTIONS:**

Discussion



DISCUSSION ITEM 7

2725 Malabar Road  
Malabar, Florida 32950-4427  
321-727-7764 – Telephone  
321-727-9997 – FAX

**SPECIAL ACTIVITY APPLICATION**

ACTIVITY TYPE

- Block Party
- Carnival or Circus
- Concert or Festival
- Foot Race/Bike Race/Walk-a-thon
- Other (describe) \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

EQUIPMENT

- Alcoholic Beverage Use
- Balloon or Banner
- Food Preparation
- Sound Amplification
- Temporary Electrical
- Temporary Restrooms
- Temporary Signs
- Temporary Structure
- Tent

**FEE FOR SPECIAL ACTIVITY IS: \$100.00**

ACTIVITY NAME: \_\_\_\_\_

Applicant (person): \_\_\_\_\_

Organization/Sponsor (If applicable): \_\_\_\_\_

The Organization /Sponsor is (Check one)  Profit  Non- profit

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ (Please list the telephone number where we may contact you during the day. If we are unable to contact you, the permit may be delayed).

Date of event: \_\_\_\_\_

Time of event: \_\_\_\_\_

Location of event/ street address (A site plan **must** be attached): \_\_\_\_\_

\*Please note: If the applicant / sponsor listed is not local, complete the following:

Local contact person: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Description of event: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If you are requesting Town assistance with your event, please describe: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Describe any temporary structures planned for use during event: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If sound amplification is associated with this event, I agree to monitor the sound level so that it remains within the limits of the Town Code. If valid noise complaints are received, I agree to reduce that noise to a satisfactory level. Further, I understand that if reducing the noise does not control citizen's complaints, the source of the noise will be terminated.

Signature of applicant: \_\_\_\_\_

Date: \_\_\_\_\_

The space below may be used for your site plan.

exterior door or curtain of such cubicle, room or booth. Nothing contained herein shall be construed to eliminate other requirements of any statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof, whenever such inspection is deemed necessary by the town council, sheriff or their duly authorized agents. (Ord. No. 3-12-85, § 27(p), 4-2-85)

**Sec. 10-243. Supervision.**

An adult massage establishment licensee shall have the premises supervised at all times when open for business. Any massage establishment shall have one individual who qualifies as a massager on the premises at all times while the massage establishment is open for business. The adult massage establishment licensee shall personally supervise the massage establishment, and shall not violate, or permit others to violate, any provisions of this article. (Ord. No. 3-12-85, § 27(q), 4-2-85)

**Secs. 10-244—10-255. Reserved.**

**ARTICLE III. SPECIAL ACTIVITY PERMITS\***

**Sec. 10-256. Purpose.**

The intent of the town council in adopting this section is to recognize that there are certain special or unique activities not recognized in the code, which provide for an economically viable community. Special activities have been determined to be in the best interest of the public and may call for temporary waivers from the Town Code. (Ord. No. 02-02, § 1, 4-1-02)

**Sec. 10-257. Town administrator to issue permits.**

The town administrator, under the direction of the town council, is hereby authorized to issue a special activity permit. The town council may grant temporary waivers to the Town Code for special activities. The permits shall be subject to all conditions imposed by the town council. Prior to any special activity permit being issued, the town council shall first approve the issuance of such a permit to an applicant.

Waivers may include but are not limited to: open container ordinance, subject to all conditions contained in the special activity permit as may be from time to time established by the town council; use of barricades on public streets or closure of public streets; and sound amplification; provided, however, a permit for sound amplification does not allow an applicant to violate any noise provisions provided elsewhere in this Code.

In granting waivers to the open container provision of the Town Code, no waiver to the hours of operation established by this Code shall be permitted.

**\*Editor's note**—Ordinance No. 02-02, § 1, adopted April 1, 2002, set out provisions intended for use as §§ 10-1—10-9. For purposes of classification, and at the editor's discretion, these provisions have been included as §§ 10-256—10-264.

Notwithstanding any of the foregoing, no permit or waiver shall be issued for any special activity which would meet the definition of a rave club as that term is defined in Ordinance No. 2001-25, an Ordinance of Brevard County.  
(Ord. No. 02-02, § 1, 4-1-02)

**Sec. 10-258. Definitions.**

For the purpose of this section, the following words shall have the meanings indicated:

*Gated street event* shall mean an event held on public right-of-way in the town where admission is charged for access to the event area.

*Special activity* shall mean an event activity or any occasion that is characterized by its limited duration, infrequent occurrence, or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary activities include but are not limited to, exhibitions, celebrations, festivals, shows, parades, carnivals, block parties, outdoor seasonal sales, concerts, marathons, races, walks, fund raisers, taking place within a specifically defined area of the town which event, activity or occasion does not fall within the normal categories of permitted uses, activities, accessory uses or activities within the applicable town zoning district.

*Special activity applications* shall mean the form provided by the town for the purposes of processing a select activity.

*Special activity fee* shall mean the fee an applicant is required to pay in accordance with the special activity permitting procedure, before a special activity application can be processed.

*Special activity permit* shall mean the permit that is issued by the town council.  
(Ord. No. 02-02, § 1, 4-1-02)

**Sec. 10-259. Penalty.**

It shall be unlawful for any person, group of persons, firm, corporation or entity to advertise, hold, conduct, engage in, permit or allow any special activity to occur unless a permit has been obtained from the town. A violation of this section is punishable by the imposition of a fine not exceeding five hundred dollars (\$500.00) and/or imprisonment for a term not exceeding sixty (60) days.

(Ord. No. 02-02, § 1, 4-1-02)

**Sec. 10-260. Time for submitting application.**

A special activity application must be submitted to the town no later than thirty (30) days before the scheduled event, activity or occurrence.

(Ord. No. 02-02, § 1, 4-1-02)

**Sec. 10-261. Fees.**

All applications for a special activity permit will be charged a special activity fee of one hundred dollars (\$100.00). This fee may be waived by the town council.  
(Ord. No. 02-02, § 1, 4-1-02)

**Sec. 10-262. Application processing procedure.**

(a) The town shall provide an application for a special activity permit. Upon submittal of the application, along with the applicable fee and attachments, the town administrator shall distribute such applications to the building and zoning department and such other staff members as may be necessary for comment. The completed application and comments shall be submitted to the town council at the next regularly scheduled town council meeting for approval or disapproval. The town council may impose any and all reasonable conditions on the issuance of the permit.

(b) Criteria for approval. The town may approve or conditionally approve the issuance of a special activity permit, unless one of the following circumstances exists:

- (1) The applicant has been convicted of a felony or misdemeanor involving moral turpitude and has not subsequently demonstrated rehabilitative characteristics;
- (2) The applicant has made a material misrepresentation on the application;
- (3) The applicant has not complied with the town's request for further information necessary for the town to fully evaluate the application;
- (4) The proposed special activity will substantially disrupt peace and quiet within any area of the town;
- (5) The proposed special activity will have a substantial negative impact upon traffic in any area of the town;
- (6) The proposed special activity damages or degrades the image of the town;
- (7) The proposed special activity will have a material negative impact upon the neighboring property;
- (8) The proposed special activity will create a safety hazard;
- (9) The proposed special activity is not appropriate for the location due to zoning requirements for that location;
- (10) The proposed special activity subjects the town to contingent liability which cannot adequately be addressed by requiring the applicant to name the city as an insured on the applicants general liability insurance policy;
- (11) The applicant has failed to supply the town an insurance certificate naming the town as an additional insured on the applicant's general liability policy;

- (12) The special activity fails to comply with any of the criteria designated under this section for the issuance of a special activity permit or rules and regulations governing this special activity;
- (13) An applicant has violated conditions of a previous special activity permit or any ordinances or regulation of the town in the conduct of a prior special activity.
- (c) The following provisions are not intended to be all-inclusive and may be amended based on the type of event or the information submitted by the applicant:
- (1) *Special activity application/fee.* The applicant will be required to complete a special activity application prior to the activity and submit it to the town with the application fee. A site plan is required with each application and may be hand drawn. The site plan should be detailed enough to indicate major streets, a north arrow, and event set-up. The application shall set forth the anticipated attendance, arrangements for off-street parking, a plan for dealing with disposed of waste and refuse and the placement of portable toilet facilities if applicable.
  - (2) *Special activity permit.* Once an applicant has submitted all required documents, met all conditions and staff concerns with the issuance of a permit, and the town council has approved the permit, the town will issue a special activity permit. The activity shall not be considered approved until the town has issued a permit.
  - (3) *Frequency of events.* An applicant may apply for a special activity one time per year. A year is defined as January 1 through December 31. An event shall not exceed one day in duration.
  - (4) *Set-up and take down period for events.* An applicant will be allowed a reasonable set-up and take-down period for an event. The period will be based on the type and complexity of the event. Balloons and banners will be allowed a one-day set-up and one-day take-down period. Violations of this section may result in future permits being denied.
  - (5) *Alcoholic beverages.* The provisions contained in the Town Code (open container), may be waived by a special activity permit. The waiver will be subject to all conditions contained in the permit.  
  
If an applicant operates a licensed premises for the sale of alcoholic beverages, that applicant will be required to obtain an extension of the permit from the department of business and professional regulation, division of alcoholic beverages and tobacco for alcoholic beverages sold/consumed outdoors. Non-profit civic organizations will be required to obtain a temporary permit for sale/consumption of alcoholic beverages in accordance with F.S. § 561.422.  
  
Additionally the applicant is responsible for controlling alcoholic beverages by ensuring under-age consumption does not occur.
  - (6) *Balloons.* Tethered balloons that are no larger than fifteen (15) cubic feet may be considered for a permit. Small, helium-filled balloons are prohibited.

- (7) *Barricades.* The town will determine if barricades are required for an event. Applicants will need to obtain barricades from a private source. Once barricades are placed, signs, balloons, or other items may not be placed on the barricades.
- (8) *Block party.* In addition to a special activity application, a petition is required to be signed by all the residents who live on the portion of the street that will be closed/barricaded indicating their support of the event.
- (9) *Carnival.* In addition to any applicable fees, an occupational license is required regardless of non-profit status. Each carnival ride is required to have a current inspection certificate from the Bureau of Fairs, Rides Inspection (850-488-9790).
- (10) *Circus.* In addition to any applicable fees, an occupational license is required regardless of non-profit status. The following stipulation shall apply for all circuses:  

The permit is conditioned upon the exhibitor complying with all applicable requirements of F.S. §§ 372.921 and 377.922, and the regulations contained in the Florida Administrative Code, Rule 39-6, of the Florida Fish and Wildlife Conservation Commission.
- (11) *Co-sponsorship.* The town may from time to time provide services for an event (police, barricades, etc.) which may result in reduced charges.
- (12) *Fire prevention/code enforcement inspections.* Most events require an on-site review and final inspection by fire/code personnel. If the event requires extraordinary inspections, including inspections after hours, the applicant will be required to pay the staff time at fifty dollars (\$50.00) per hour.
- (13) *Hold harmless and indemnification.* The applicant, by submitting a special activity application, agrees that at all times they will indemnify and hold harmless the town from and against any and all liability, claims, demands, damages, expenses, loss, injury, death, fees, costs, attorney's fees, fines, penalties, or suits to or by any person, firm, corporation, or entity arising from or out of the special activity.
- (14) *Insurance.* An applicant for an event held on public property or on a public right-of-way will be required to provide a general liability insurance policy in the amount of one million dollars (\$1,000,000.00). Additionally, if alcohol is being served at the event, liquor liability in the amount of one million dollars (\$1,000,000.00) will be required. A certificate of insurance will be required and the following language must appear on the certificate: "The Town of Malabar is named as additional insured as the Town of Malabar's interest may appear only."
- (15) *Additional permits.* Additional permits may be required from the town or other governmental authorities. The applicant shall submit proof of compliance with the permitting requirements of all governmental authorities, including, but not limited to, disabled parking and sanitation requirements.

- (16) *Medical services.* Late night events involving alcohol and events that, due to their nature, may have injuries will require medical coverage. The applicant shall be responsible for payment of medical services. The cost will be based on the hourly rate of the medical team.

A medical team is defined as at least one paramedic and one emergency medical technician. Additional medical team personnel may be required depending on the special event. The town administrator shall determine if additional medical team personnel are needed.

- (17) *Outdoor seasonal sales.* The following stipulations shall apply:

The applicant must obtain an occupational license and a special activity permit prior to set-up.

Adequate paved parking, including handicapped parking, must be provided within one hundred (100) feet of the sales/display area. Restrooms, including handicapped accessible restrooms, must be provided on the site within five hundred (500) feet of the sales/display area.

Hours of the sales must coincide with the hours of availability for the restrooms and parking.

The sale/display shall not be located within a required landscaped area and on-site vegetation shall not be disturbed.

Proof of ownership or a lease agreement with the property owner must be submitted with the application.

A maximum of one recreational vehicle and one private vehicle may be maintained on site by the applicant.

- (18) *Law enforcement.* Law enforcement services are required for any special activity. The applicant shall be responsible for the presence and payment of law enforcement services. The cost will be based on the average hourly rate of Deputy Sheriffs for Brevard County.

- (19) *Sound amplification.* A permit for sound amplification does not allow the applicant to violate the noise levels in the Code of Ordinances. The applicant agrees to control noise, and in the event surrounding residents complain of excessive noise, to reduce that noise to a satisfactory level. The applicant further understands that if reducing noise cannot control citizen complaints, the source of the noise will be terminated.

- (20) *Signs in the right-of-way.* No signs in the public rights-of-way are permitted.

- (21) *Tents.* A flame retardant certificate must be attached to the application for a tent permit.

(Ord. No. 02-02, § 1, 4-1-02)

**Sec. 10-263. Permit.**

The town administrator will issue a special activity permit once an applicant has completed a special activity application, submitted all required documents, met all conditions and staff concerns with the issuance of the permit, and the special activity permit has been approved by the town council.

(Ord. No. 02-02, § 1, 4-1-02)

**Sec. 10-264. Revocation or suspension of special activity permit.**

A special activity permit may be revoked or suspended immediately for any of the following reasons:

- (1) A material false statement in the application.
- (2) Failure to comply with any federal, state or municipal laws and regulations.
- (3) Failure to comply with any limitation or condition imposed by the town on the issuance of a special activity permit.
- d. To conduct any special activity in such a manner as to create a public nuisance or conducting the special activity in a fraudulent disorderly manner or in a manner which endangers the public health safety and welfare or any manner in which disrupts the public peace.

(Ord. No. 02-02, § 1, 4-1-02)

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

**2. Recommendation from Park & Recreation Board – Soccer Club Trailer**

**Exhibit:** Agenda Report No. 2

**Recommendation:** Request Action

**MOTION:** Vail / Borton to approve the Malabar Soccer Club to put their trailer at Malabar Community Park during soccer season and then remove it at end of season and have those exact dates added to the agreement.

Malabar Soccer Club would be responsible for the wind tie downs. Chair said they could write general agreement and hold harmless. Then just add in about removing it at end of season. McKnight not in favor of paying attorney for drafting agreement. Chair said TA could write agreement with hold harmless. CM Vail said he would provide a tie down for the trailer. Chair said a hitching post with a lock should be sufficient. McKnight said they have hitch locks. McKnight said if we have a storm, the town is going to be liable if the Town puts in anchors. The trailer will hold soccer team equipment. The goals stay on the field. Vail said the trailer could also be stored at members house. The strapping and anchoring could be done but agreed with McKnight. TA said the issue may be the storing of the trailer in the Pw yard. The PW yard is not a stagnant place. We had boy scouts there because we sponsored them. We are still storing their trailers. Vail said if the Malabar Soccer Club trailer is a problem it can stay at his house if that resolves the issue. **VOTE: All Ayes.**

Paul Yolles, 2365 Corey Road. The understanding that there is a shed. Dick Korn said the property is the town's. The existing shed. Park Board didn't know it was there. They came to them asking if they could build a small building. He suggested they get a 14' or 16' trailer.

**3. Recommendation from Park & Recreation Board – Malabar Soccer Club Season End Party at Malabar Community Park**

**Exhibit:** Agenda Report No. 3

**Recommendation:** Request Action

Chair has a card on this.

Paul Yolles, the season end party. The fees went from \$60.00, with a \$40 deposit and \$5.00 elec and went to \$475. The largest fee was the port a lets. They are not prepared to pay that. Park Bd recommended they be grandfathered in and are a youth league. Borton is not sure what he is asking. Yolles said they want the same they paid last time. Chair said how long have they had these picnics abd what do they use the electric for? The bounce houses. Yolles thinks Council understands In the pasd they have paid \$65 and they would like to pay 65 again. The electric was questioned. TA wanted Franklin to explain it. Franklin explained the past uses of the par and the corresponding electric bills. She gave the Pop Warners Special Activity permit with FPL bill and the last Maabar Soccer Club application and FPL bil. Staff has tried to collect the fees from users to cover the anticipated costs.

Council discussed the usage of the restrooms. A table was used for determination of port-a-lets needed. Yolles feels they are different that the Pop Warner group and should be given consideration since they pay \$350 a year for a lease. Vail said budgetarily this is what they planned on and maybe it should be used for this use and then increased. Council members discussed the FPL bill and the amount of electricity the bounce house blowers use. They think they are only 4 amps. They discussed cost of amps. Asked how long they are there. Yolles said three hours. Going off topic. Borton asked why are we spending money on attorney to write ordinances to cover special events and then not using them.

Mayor said he could not find anything to authorize the Town to charge for port a potties and electric. With rules and regulations. We can't just authorize. TA said we never documented where that came from. We were collecting it before she started and not. We don't have anything that said what. Mayor could only find the \$100.00 charge. Borton said she only wants the fee to be paid. Yolles said they would clean the bathrooms. Chair said he will let Yolles speak after Council to discuss it. The special event for Haitian Day and Council said they had to have parking and police. TA said the question never came up. Three hours use at 10.00 and 50.00 deposit for cleaning and the special event activity 100.00. Vail said we have apples and oranges in our ordinance. We have a past relationship and discovering our problems with the code are not his problem. After that we can come up with revised rules.

McKnight said he is ok with the charges the Mayor suggested. Vail said we should charge as they had budgeted. This needs to be resolved and we have to review and update the fees.

MOTION: Vail / --- to allow them to use it. Died for lack of second.

MOTION: Rivet / Vail to let Malabar Soccer club to use park for fee of \$100.00 and a refundable \$50.00 cleaning deposit. Amended to state Borton would pay for fee from her discretionary fund.

Acquaviva said we need to specify for a special event.

Paul Yolles, confirmed that it is 100.00 for this season but next season it could go up? Yes. Chair said if the Council increase the fees, he will be notified. Borton said it is not fair to charge him more than he was charge last time. Each group is treated fairly as well. That is for the future. Paul said they are a small athletic group with only 150 members. They have no intention of renting port-a-pots. They are expecting 300 people, same as last year.

Dick Korn, chairman of Park and Rec Board. He thanks Rivet for his suggestion. It is as a good. He wanted Council to consider this is a Malabar youth soccer group and not Pop Warner. Mr. Whitworth from Malabar Baptist is waiting to see how Council directs before they offer their facility. Korn said the Code allow for the fee to be waived by town Council. They do need to revisit this. Keep personal feelings out of it and with everyone's interest in mind. This group can be frustrating but they are serving our kids. Otherwise the kids could be out on the street doing other things. Borton is willing to pay for the 100.00 from her discretionary fund. TA said as a response to the parting comment. Please don't infer that town staff have positions on this; it is Council policy they are following. Staff is looking out for the Town and that is their job.

VOTE: All Ayes.

McKnight asked to bring this to next agenda for discussion. Use of park, special activity permit.