

**PARK AND RECREATION ADVISORY BOARD  
REGULAR MEETING  
WEDNESDAY, MAY 15, 2013  
7:30 PM  
TOWN OF MALABAR  
2725 MALABAR ROAD  
MALABAR, FLORIDA**

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**AGENDA**

- A. CALL TO ORDER, PRAYER AND PLEDGE**
- B. ROLL CALL**
- C. ADDITIONS/DELETIONS/CHANGES**
- D. PRESENTATIONS**
- E. CONSENT AGENDA**
  - 1. Approval of Minutes**  
Regular Park and Recreation Meeting – 04/17/13  
Exhibit: Agenda Report No.1  
Recommendation: Motion to approve
- F. PUBLIC:**
- G. ACTION:**
  - 2. Request Approval to use Malabar Community Park Parking Lot for Local Hay Co-Op Delivery**  
Exhibit: Agenda Report No. 2  
Recommendation: Discussion & Recommendation
- H. DISCUSSION:**
- I. OLD/NEW BUSINESS:**
  - New Business:**
  - Old Business: Fern Creek Crossing Park – Siegmann**  
**Bike Path Survey – Siegmann**  
**Disc Golf Park Boundary – Siegmann**
- J. BOARD MEMBER/STAFF REPORTS:**
  - Cameron Preserve – Thomas
  - Disc Golf Park – Knudson
  - Fern Creek Crossing Park - Siegmann
  - Huggins Park – Sastram
  - Malabar Community Park – Thomas
- K. ADJOURNMENT**

**NOTE: THERE MAY BE ONE OR MORE MALABAR ELECTED OFFICIAL 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: May 15, 2013**

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

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**SUBJECT: Approval Park Board Minutes**

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**BACKGROUND/HISTORY:**

Attached are the summary minutes for the following 04/17/13

**ATTACHMENTS:**

- Draft Minutes from Park and Recreation regular meeting April 17, 2013

**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 – PARKS AND RECREATION ADVISORY BOARD  
04/17/13 MEETING MINUTES**

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road. It was called to order by Chair Vickie Thomas at 7:30 pm. Prayer and pledge was lead by Chair Vickie Thomas.

**A. CALL TO ORDER, PRAYER AND PLEDGE**

**B. ROLL CALL**

Chair Vickie Thomas  
Vice Chair Bernadette Knudson, excused for vacation  
Bob Siegmann  
Bill Sastram  
Board Secretary Cindi Kelley

Also Present: Dick Korn, P&Z Board

**C. ADDITIONS/DELETIONS/CHANGES**

Addition of naming the soccer field at the Malabar Community Park in remembrance of Mayor Thomas Eschenberg; parking lot size at soccer field to be clarified.

**D. PRESENTATIONS**

**E. CONSENT AGENDA**

- Approval of Minutes**  
**Regular Park and Recreation Meeting – 03/20/13**  
**Exhibit:** Agenda Report No.1  
**Recommendation:** Motion to approve

Discussion:

**MOTION: Siegmann/Sastram to approve the minutes from March 20, 2013 meeting as presented. VOTE: All Ayes**

**F. PUBLIC:**

Dick Korn was present at the meeting last night and he brought up a few things that have been discussed at previous meetings that are still not complete. He made the comment to the Board that one of the reasons he resigned after being appointed to the P&Z Board is that he feels this Board is being ignored.

- The flag poles for Malabar Community Park – it was brought up by him last May; almost a year ago. He had a flag pole donated in honor of his son and Brian Vail donated a flag pole to the Town as well.
- The driveway at the 17 acres off of Weber Road – he stated that the motion that went to Council was worded incorrectly by stating the first 100 square feet as opposed to a 100 foot area for the bicyclists to park while riding their bikes in Malabar. This area, in his eyes and Bill Sastram's has not been cleaned out. The weeds are very tall and it wouldn't take much time to go in and take care of the area; it's not the way a Town should present itself to the public.

- Mr. Korn suggested to the Board that the soccer field at Malabar Community Park be named after Mayor Eschenberg with some history about him. After Mr. Korn left the meeting, Vickie Thomas stated that she had spoken with Mrs. Eschenberg and was advised by her that she would rather have the 17 acres named after him as she uses this road daily; their family does not play soccer or visit the soccer field. Mrs. Eschenberg stated that she would appreciate whatever the Town does, but she felt the 17 acres was a better area. The Board, with one of the members on vacation, chose to table this until the May meeting to discuss and make a motion.
- Mr. Korn stated he visited Huggins Park to find that the park had been closed by the Town Administrator. He was very upset about this and asked the Board if they knew about this. The Board stated that they did not know this. However, Vickie Thomas stated that the Town Administrator had been doing inspections and keeping them abreast of them. If she thought it was necessary, then the park was closed for a good reason. Mr. Sastram stated that the Town needs to either fix the equipment or remove it; the park looks bad this way. I, Cindi Kelley, stated that the equipment in the park is in very bad disrepair and cannot be fixed; we received a call from the First Baptist Church as they were told by Mayor Beatty that the equipment could be donated to them. I stated that this information was given to the Town Administrator because all information I had led to the conclusion that the equipment was in no way able to be donated. It is the consensus of the Board to remove the playground equipment that is a safety issue. I also advised the Board that their hands are needed more than their eyes. If they see something that they feel needs addressed, perhaps they could volunteer as the Town is very short-staffed with now only four (4) staff members in Public Works.

Don Krieger was also present at the meeting. He owns property adjacent to the Disc Golf Park. During the Springfest event, he had people wonder from the park to his property. He is requesting that the Town walk the property and find the property markers. He is willing to put in secrete to mark the lines. He would also like the Town to fence the back of the park to keep trespassers from his property. Vickie Thomas asked if he had posted "No Trespassing" signs. He stated that he had not; he could but they will more than likely be removed and it could become costly. It has been happening since Ed Booth authorized the clearing for the park. He would just like to have the fencing around the park as it is done at all the other parks. Mr. Siegmann stated, with a valid concern, he would walk the park with Mr. Krieger within the next week or two to find the boundaries. Mr. Siegmann also would like to know how much a fence would cost. Mr. Krieger stated that is of no concern to him; Mr. Siegmann stated that it will be a concern to the Park Board and needs the information.

**G. ACTION:**

**H. DISCUSSION:**

**I. OLD/NEW BUSINESS:****New Business:**

Weber Road 17 acres – Korn recommended that this be named as the Weber Road Recreation Area but at the RTMC, McKnight stated that it should be named after Mayor Eschenberg. Korn stated that he did a lot for this Town. A lot of what he did involved youth. He would recommend that the Board suggest to Council to name the soccer field after Mayor Eschenberg; it is the most used youth activity field; The Tom Eschenberg Soccer Field @ Malabar Community Park.

Mr. Korn advised the Board that Council is working on an ordinance addressing the selection/appointment of Board Members. He felt the Board should be made aware of this information. Mr. Krieger was in agreement with Mr. Korn's suggestion to request a copy of the ordinance prior to the first reading. He made the suggestion to the Board that they have someone from this Board at the RTCM so they can be kept abreast of what is happening in the town. The Board may want to do some brainstorming to come up with some names to have as Board Members since you are now down to four (4) members with no alternates. He gave the names of David Ruip, Rick Rickaukas and some other names of people who used to be on the Board. Thomas suggested that Korn send a list of names to Kelley and she could pass them on to the Board for review. Siegmann asked what the proposed changes for board selections from the audience. Korn stated that he doesn't know if that can be done at this time. Kelley will provide a copy of the ordinance that will be submitted to Council for first reading with the proposed changes to the Board selection(s).

In regards to the ordinance, Siegmann suggested that the Board make a recommendation to Council to view the sample prior to it becoming a first reading of the ordinance. Right now, it is in limbo. Krieger stated that he would hope that it would be sent to each board for review; Siegmann stated that it probably wouldn't be. Krieger stated he has read it five (5) times and feels that there will be a lot of problems; it could be handled with policy.

Upon Korn leaving the meeting, Thomas stated that she had spoken with Mrs. Eschenberg regarding naming the soccer field in honor of her husband. Mrs. Eschenberg stated to her that she will be happy with what the Town decides to do but their family doesn't play soccer and doesn't spend time there; she would prefer the 17 acres to be named after him. Thomas stated that with Knudson being excused from this meeting, she would like to table the naming of the 17 acre parcel/soccer field until the next meeting.

**Old Business: Update on Sand Hill Trail Head Restroom Grant**

Siegmann reported Fern Creek Park has some issues and he will take caring care of them within the next two weeks

Thomas stated that with two members being out this evening, she would like to table the items brought to their attention by Mr. Korn; it is not urgent business. MOTION: Siegmann/Sastram to table.

**MOTION: Siegmann/Sastram to table discussion and recommendation to next month's meeting. VOTE: All Ayes.**

Thomas stated, while Huggins Park was being discussed this evening, she has spoken to someone involved with the Boy Scouts who had an Eagle Scout project in the Titusville area for a bacci ball court that received a very generous grant. She hasn't checked into it yet; the reason they were given the grant is because it was made specifically to be handicapped accessible. So this may be something to look into; something we need to look into. Knudson has done a lot of research but this may be the way to get a grant for more funding for handicapped accessibility. She will be receiving some information about this from the Scouts and she will check into it.

Thomas stated that she wanted to report on something herself. After the Springfest, her husband and her were walking the preserve and they were picking up trash along the way. Considering that there were 200 people participating in the races, it was pretty well clean but some people were litter bugs and they took care of the trash. She reported that people were nailing stuff to the trees and tape was used to delineate the trails that was not removed.

Kelley stated that she would speak to that. The trails were marked by Brevard County EELs for the run. They could have been the ones who put the signs on the trees; they are the one who, most definitely, put the tape out and the little markers. So if you removed stuff, you removed stuff that was not property of the Town of Malabar. Next time, anyone walking those trails after that kind of run, except for what you know is trash, please leave the stuff there. It could be left there on purpose to go back and look at the layout for possible changes for the next event. Kelley reported that there were some minor issues with people being treated; nothing major, because of going through the trails. It was not on a paved area and they chose to run this course. Some people tripped on "nature". They were treated by the Fire Department staff. When you see the tape and that sort of stuff, please don't "willy nilly" take that as trash. Thomas stated that they didn't remove the tape. Kelley stated that it was Brevard County's doing; it is there property. The Town's responsibility was to sell the beer and the Fire Department to sell the sandwiches, get people registered and go home. It was a very long day for a lot of people. Franklin and Sherear were in the park from 9 am until 8 that night; Kelley had to leave at 4 pm for another engagement. It was a very long day. Speaking of the park and preparations for Springfest, Kelley advised the Board that the inspections on the parks were not completed by the Town Administrator. Staff did over and above to prepare the Malabar Community Park for Springfest. Town Administrator is going to try to do them monthly; if not monthly, they will be done every two (2) months for sure.

Springfest was a huge success. Kelley stated she heard no negative comments; everything heard was good and people even stated it was the best one yet. Staff had a debriefing meeting today to discuss the process of set-up, preparations, during the event and break-down. Some minor changes will be made to enhance next year's event. Kelley stated it was the most relaxed event thus far she's been involved with; felt no stress whatsoever. Thomas stated hats off to Kelley for putting it together. She thought it was so well organized; how everything meshed together like a well oiled machine. It

was very impressive. Kelley stated she's been involved with it for nine years and each year is another learning experience. She had excellent assistance from all staff members and volunteers. Thomas stated that she sent out press releases and had some good feedback; once we get pictures from Denine and the church member, she would like to send them out. She was told by a friend, that when there is a slow news day, it is very possible they will print out information regarding the event; has to be made really easy with write-up.

Thomas stated, regarding the naming of the park, she would like to add to this as she may not be at the next month's meeting. She may be out of town with her daughter. She spoke to Mrs. Eschenberg and was told that her family is thrilled at the idea of having some kind of tangible reminder of her husband. She was absolutely excited about the park on Weber Road being named in honor of our former Mayor. Thomas asked her if she would prefer the soccer field at Malabar Community Park. Mrs. Eschenberg stated that no one in her family plays soccer and they don't visit the park very often. She uses Weber Road every day and it would be nice to have the 17 acres named in honor of him. That is her opinion. Siegmann asked that Kelley make a note and he will bring this up at the next meeting.

Kelley reported that the grant was mailed prior to the deadline date; Thompson, Hann & Kohler did a great job putting the grant together. Council, at the RTCM of April 5<sup>th</sup>, adopted the resolution to support the grant application. Nothing has been heard as of yet, but as stated before, grants do take time to be reviewed and depending on how many are received and ranked. Kelley stated that when news came in, she would update the Board. Thomas stated that she added some photos to the grant; it is important that we make sure that they understand that this is not a park with picnicking in mind but that it is trails. She provided pictures to Thompson from Glen Brooke; it is important to show people in various stages of life, she believes that when the Town goes for grants we need to stress the needs of the handicapped people in our area. Kelley stated that Kemmler also provided pictures to Thompson and Hann; Kelley received an email from Hann stating he was able to use some of the pictures to enhance the application.

Siegmann asked if he could address new business with regards to the ordinance that Council is working on. He would like to make a motion regarding this to Council. The Board needs to be aware of the proposed changes to how board members are selected. The wording of the motion is very important to this Board. It doesn't matter how many people are here; his motion is:

**MOTION: Siegmann/ to recommend to Town Council to request receipt a copy of the proposed ordinance to change board member selection prior to approval.**

Thomas stated that she thought they would do that as a courtesy. Siegmann stated that they will not. Sastram asked if we could get it before it is approved. Siegmann asked Kelley to read the motion again. She did so and then asked if he wanted the Board to see it prior to it being adopted. Kelley stated to add "before first reading". Siegmann stated that is good.

**AMENDED MOTION: Siegmann/Sastram to recommend to Town Council to request receipt of a copy of the proposed ordinance to change board membership selection prior to first reading. VOTE: All Ayes.**

**BOARD MEMBER/STAFF REPORTS:**

Sastram stated he went around the parks and he has some concerns. Weber Road; 17 acres, if the stuff is taken away and weeds cut back, there would be enough room for the bicyclists to park their cars while riding. The Disc Golf Park has debris all over the place and needs to have it hauled away. Siegmann stated that we are now cleaning up for the Disc Golf people? Fern Creek Crossing Park has some branches hanging down and should be cut; Siegmann stated he will be addressing issues with this park

Huggins Park is now closed; we should fix the equipment or remove it. The Town shouldn't be presenting the park this way. Kelley mentioned that volunteers are needed to removed the equipment. Sastram stated it needs to be removed or repaired. Kelley advised the Board that we are down another staff member from Public Works; resignation of an employee who has moved out of stated. We don't need eyes looking at the parks as we have the Town Administrator doing the inspections of each park. We need volunteers, so if you see something, maybe you could get a group of people to volunteer.

**MOTION: Sastram/Siegmann to recommend to Council that the safety issue playground equipment be removed and that the park remain closed until the equipment is removed. VOTE: All Ayes.**

With the Springfest event, individual park reports were not heard tonight. See above notes regarding parks visited by Sastram

- Cameron Preserve – Thomas
- Disc Golf Park – Knudson
- Fern Creek Crossing Park – Siegmann
- Huggins Park – Sastram
- Malabar Community Park – Thomas

**K. ADJOURNMENT**

There being no further discussion, general consensus. **MOTION: Siegmann/Sastram to adjourn the meeting. VOTE: All Ayes.** This meeting adjourned at 8:40 pm.

By: \_\_\_\_\_  
Vickie Thomas, Chair

ATTEST:

\_\_\_\_\_  
Cynthia Kelley, C.M.C.  
Recording Secretary

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

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

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 2**  
**Meeting Date: May 15, 2013**

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

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**SUBJECT: Request Approval to use Malabar Community Park Parking Lot for Local Hay Co-Op Delivery**

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**BACKGROUND/HISTORY:**

At the RTCM of March 4, 2013, a request was made by a local hay co-op to have Council authorize them to use the parking lot at the Malabar Community Park for their hay deliveries. It is delivered once every six weeks. In the past they were using the access street in Weber Woods Subdivision. With all the new home construction activity, they are looking for an alternate location.

There are 18 to 30 local participants in this co-op. The hay truck arrives at 5:30 pm on Friday and they offload the hay onto their own trucks and then they clean up the area and they are out within an hour.

At the RTCM of March 4, 2013, the representative gave Council information and stated that they would rather use the paved driveway. Council stated that this is not the Town's property and they would have to make contact with Brevard County. Mike Knight, Brevard County EELs Program, was in the audience and stated that as long as no monies are exchanged on County property, there would not be an issue.

However, we have received a call from Pat Lint of Hidden Hoof Prints; they would like the Town to consider allowing the parking area at the Malabar Community Park to be used after all. When Cindi Kelley was speaking to Ms. Lint she noted that the minutes from the March 4<sup>th</sup> RTCM stated that Council would not have any issues with this, but it must be presented to the Park Board and a recommendation made back to Council. Ms. Kelley advised Ms. Lint of this; it will take two meetings prior to getting approval for this co-op to be approved and they should have their representative at both meetings to present what it is they are requesting. Malabar would have the same prohibition on money being exchanged on Town property.

**ATTACHMENTS:**

- Portion of Approved Minutes from RTCM 03/04/13
- Agenda Report from RTCM 03/04/13
- Proposal from Co-Op
- Malabar Code, Chapter 12.5; particularly 12.5-51, page 777

**ACTION OPTIONS:**

Discussion and recommendation to Town Council:

In regards to the resolution for Teen Council, Bohne stated that the Town Clerk didn't direct him to draft the resolution; it was a mutual thing. He didn't want to make it sound like it was the Clerk's fault.

**H. PUBLIC HEARINGS: 0**

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

**2. Request Approval to Use Malabar Community Park Parking Lot for Local Hay Co-Op Delivery**



**Exhibit:** Agenda Report No. 2

**Recommendation:** Request Action

Mark Peters, PE teacher with Palm Bay Elementary School and resident of Palm Bay, came forward and addressed Council regarding this request. They board horses here and need a place to pick up the hay for their animals. A group of people have banded together and they get the hay every six to eight weeks; it takes about an hour to get the hay and clean up any mess that may be created and it can be done before dark. At one time, they were using Corey Road but with the high traffic, they didn't want to damage the road. They had to go to Cocoa previously to get the hay then they had an agreement with the developer of Weber Woods. Since homes are now being constructed, the developer doesn't want hay delivered in this area anymore. With all the participants, they now warrant an additional truck for delivery.

Mayor stated that this should have gone through the Park Board for their recommendation to Council. Also, where they want to do this is at the back of the park near the gate; this is not Malabar's property but the EELs property and they need to speak to Mike Knight to see if they would have an issue with this. Knight came forward and stated that it wouldn't be an issue as long as the area is cleaned up before leaving; the Town needs to be okay with this as well. Town Administrator stated that this is where the dumpsters were when Waste Management was staging the vegetation removal for the town; she was chastised for not going to the Park Board and had to have the dumpsters removed. Kelley advised Council that Dick Korn had called earlier in the day to say that he didn't have issues with this; he can't speak for the entire Board but felt this was the safest place for them to do this transaction. McKnight stated that he spoke with Korn as well and he expressed concerns with paying taxes. Abare also stated he spoke with Korn regarding this; expressed concerns with not only paying taxes but also being in conflict with the area businesses. Rivet stated that paying taxes is an issue. Knight stated that money must be exchanged before picking up the hay; you can't use Brevard County property to exchange funds. Mr. Peters stated that all money is paid prior to the pickup of the hay. Rivet asked Council if it is general consensus to go to the Park Board for their recommendation. Abare stated that out of respect for the Park Board, it should go to them. McKnight stated he felt it is a County issue. Town Administrator stated she could do a memo to the Park Board; if they have issues with this, bring it up at their next meeting. Rivet stated it is the consensus of Council, they don't have issues, but it should go to the Park Board for their input.

**3. Recommendations from Park and Recreation Board:**

- Sand Hill Trailhead – move sign
- 17-ac Site – Clear area for Parking
- Oversight of Sand Hill Trailhead to T&G Committee
- 17-ac Site to be Named Weber Road Recreation Area
- Request FDOT to Reduce speed on SR514 to 45mph in front of Parks

**Exhibit:** Agenda Report No. 3

**Recommendation:** Request Action

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 2  
Meeting Date: March 04, 2013

Prepared By: Bonilyn Wilbanks, Town Administrator

**SUBJECT:** Request Approval to use Malabar Community Park Parking Lot for Local Hay Co-Op Delivery

### **BACKGROUND/HISTORY:**

A request has been made by a local hay co-op to have Council authorize them to use the parking lot at the Malabar Community Park for their hay deliveries. They have hay delivered once every six weeks. In the past they were using the access street in Weber Woods Subdivision. With all the new home construction activity they are looking for an alternate location.

There are 18 to 30 local participants in this co-op. The hay truck arrives at 5:30PM on Friday and they offload the hay onto their own trucks and sweep up and are out of there in an hour. The person I spoke with said that they would have two members at the meeting to answer any questions.

### **ATTACHMENTS:**

Letter from Jan Pence stating the request.

### **ACTION OPTIONS:**

Discussion and Action

May 1, 2013

Malabar Town Counsel  
Malabar, Florida

RE: Proposal for Hay Co-op Request at Malabar Scrub

To Whom It May Concern,

We were asked to make a proposal regarding the approval to use the Malabar Community Park for our Local Hay Co-op Delivery (**parking location for co-op truck requested is at the back in the park area near the bathrooms**). This particular area of the park is the part owned by the town of Malabar and IS NOT the part that we requested in previous meeting owned by EELs (Refer to: **Attachment 1. Minutes**). Our question to the Town of Malabar is: While we are waiting on a answer from EELs, (*in which we have sent a similar proposal*). We would like permission from the board to use the Town of Malabar park area for the co-op delivery. The part that is *owned by the Town of Malabar, not EELs*.

As you know, many equestrians use this park to ride their horses and most have great pride in preserving our ECO system. Many equestrians also help in the clean-up of the park. Therefore, we want to address some of the ECO system concerns that may arise from our request to use said property. First, the Co-Op truck has a cleanup crew along with other equestrians that will help assure that most (if not all) of the excess hay would be cleaned up before leaving the area. Second, we contacted the producer of this peanut hay to ask if they would give us some information for your review and/or concerns regarding the environment. Please see **Attachment 2) input information on peanut hay**.

**ALSO PLEASE NOTE:** There will not be an exchange of money on said premises and therefore, will not be considered "engaging in a business" on EELs or the County's Property. Also, the hay is delivered *only once every 6 or 8 weeks*. Approx time to unload said hay is 1.5 hours. You may contact us at any time. Phone numbers are included in this request.

In closing, please take in consideration; by granting us permission for the Co-Op truck to deliver the hay in the above mentioned area, you are not only saving us monies from the high hay cost in today's economy crisis; you will also play a big part in keeping us off the various side roads that could cause major traffic safety issues.

Thank you for your time and consideration to this matter. Your prompt attention to this proposal will be greatly appreciated.

Sincerely,

Patricia Lent (321) 725-2791 Home or (321) 432-3436 Cell  
(Representing the Co-Op local Malabar and surrounding Equestrians and Alpaca owners)  
<http://www.hiddenhoofprints@yahoo.com>

See Attachments: 1) Minutes of Malabar Town Council meeting regarding request  
2) Input - Peanut Hay environmental concerns.

May 1, 2013

**ATTACHMENT 1) Minutes of Malabar Town Council Regular Meeting on March 4th, at 7:30 PM. This meeting of the Malabar Town Council was held at Town Hall 2725 Malabar Rd.**

RTCM MINUTES

3/04/2013

PAGE 4

In regards to the resolution for Teen Council, Bohne stated that the Town Clerk didn't direct him to draft the resolution; it was a mutual thing. He didn't want to make it sound like it was the Clerk's fault.

**H. PUBLIC HEARINGS: 0**

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

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Mayor stated that this should have gone through the Park Board for their recommendation to Council. Also, where they want to do this is at the back of the park near the gate; this is not Malabar's property but the EELs property and they need to speak to Mike Knight to see if they would have an issue with this. Knight came forward and stated that it wouldn't be an issue as long as the area is cleaned up before leaving; the Town needs to be okay with this as well. Town Administrator stated that this is where the dumpsters were when Waste Management was staging the vegetation removal for the town; she was chastised for not going to the Park Board and had to have the dumpsters removed. Kelley advised Council that Dick Korn had called earlier in the day to say that he didn't have issues with this; he can't speak for the entire Board but felt this was the safest place for them to do this transaction. McKnight stated that he spoke with Korn as well and he expressed concerns with paying taxes. Abare also stated he spoke with Korn regarding this; expressed concerns with not only paying taxes but also being in conflict with the area businesses. Rivet stated that paying taxes is an issue. Knight stated that money must be exchanged before picking up the hay; you can't use Brevard County property to exchange funds. Mr. Peters stated that all money is paid prior to the pickup of the hay. Rivet asked Council if it is general consensus to go to the Park Board for their recommendation. Abare stated that out of respect for the Park Board, it should go to them. McKnight stated he felt it is a County issue. Town Administrator stated she could do a memo to the Park Board; if they have issues with this, bring it up at their next meeting. Rivet stated it is the consensus of Council; they don't have issues, but it should go to the Park Board for their input.

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- 17-ac Site to be Named Weber Road Recreation Area
- Request FDOT to Reduce speed on SR514 to 45mph in front of Parks

**Exhibit:** Agenda Report No. 3

**Recommendation:** Request Action

May 1, 2013

**ATTACHMENT 2)** Peanut Hay Concerns

:

**For further information contact:**

**Florida Department of Agriculture  
and Consumer Services**

**Mayo Building, Room 427-A**

**Tallahassee, FL 32399-0800**

**Phone: (850) 922-9827**

**or**

**Perennial Peanut Producers Association**

**P.O. Box 352**

**Madison, FL 32341**

**Phone: (850) 973-2399**

Perennial peanut an environmentally sound, low energy consuming crop which ranks it as important component for sustainable agricultural systems.

Perennial peanut is planted using underground stems, dug from our well-established nursery planting. It does not require nitrogen fertilizer.

The Perennial Peanut is a high-quality persistent tropical forage legume which can be grazed or fed to horses, dairy and beef cattle, hogs, goats, sheep and rabbits. It can be stored as dry hay or silage, and is an ideal substitute for alfalfa. Florigraze and Arbrook cultivars of perennial peanut, or rhizoma peanut, as it is sometimes called, have been selected in Florida for their high yield, quality, persistence, disease resistance, and drought tolerance.

Chapter 12.5

**PARK AND RECREATIONS REGULATIONS**

- Art. I.**      **General, §§ 12.5-1—12.5-15**  
**Art. II.**     **Rules and Regulations, §§ 12.5-16—12.5-30**  
**Art. III.**    **Violations and Penalties, §§ 12.5-31—12.5-57**

**ARTICLE I. GENERAL**

**Sec. 12.5-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings subscribed to them in this section, except where their context clearly indicates a different meaning:

*Alcoholic beverages* means and includes any beer, wine, fortified wine, liquor or alcoholic beverages defined in F.S. Ch. 561.

*Closing hours* mean the time period during which a park or recreation facility is closed to the general public.

*Motor vehicle* means and includes any vehicle which is self-propelled.

*Park* means and includes any park, reservation, playground, beach, recreation center, refuse, sanctuary or other area owned, leased, operated or maintained by the town and devoted to active or passive recreation.

*Permit* means written document issued by the town granting permission for special activity.

*Recreational facility* means and includes a facility for recreational purposes on property owned, leased, operated or maintained by the town.

*Town administrator* means the town administrator or his designee.

*Vehicle* means and includes any water craft or wheeled conveyance, whether motor powered, animal drawn or self-propelled. This term shall include any trailer in tow of any size, kind or description.

(Ord. No. 00-6, § 1, 3-5-01; Ord. No. 11-43, § 2, 8-15-11)

**Secs. 12.5-2—12.5-15. Reserved.**

**ARTICLE II. RULES AND REGULATIONS**

**Sec. 12.5-16. Regulation of facilities.**

(a) Authority. The Town Council of the Town of Malabar, by and through this chapter, hereby adopt the aforementioned rules and regulations regarding the use of parks and recreational facilities owned or operated by the town which include but are not limited to the

use of supplies and equipment, the charge and payment of fees, the hours of operation, the use and parking of vehicles, the conduct and overall safety of persons within the parks and the general use of parks and recreational facilities for each such park and recreational facility as may be necessary.

(b) The Town Council of the Town of Malabar hereby empowers the town administrator, the town code enforcement officer and the Brevard County Sheriff's office with authority to enforce any and all provisions of this chapter. The town administrator, however, shall be responsible for the day to day operations of any and all parks and recreational facilities located within the town.

(c) Ejectment. The town administrator, the town code enforcement officer, or Brevard County Sheriff's Office shall have authority to eject from the park any person found to be in violation of any provision of this chapter. Ejectment shall be in addition to any penalty hereinafter described.

(d) Penalty for violation. Whoever violates any regulation contained herein, after being given notice of such regulation, either oral or written, or whoever violates a regulation when the regulation is posted on a sign in the park, shall forfeit any fees or deposits paid to the town and may be punished pursuant to the provisions of Chapter 12 of the Code of Ordinances, the Town of Malabar, Florida.

(e) Intent. The general purpose and intent behind this chapter is to establish uniform procedures for individuals and organizations using town parks and recreational facilities.  
(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-17. Designated areas.**

*Areas designated for specific activities.* The town administrator shall have the power to designate areas and facilities in any park and recreational facilities for specific activities, and to prohibit other activities within the designated area. The town administrator shall be the official custodian of a list of all areas which have been designated for specific activities. Such list shall contain a description of the property which is designated for a specific activity and the nature of the activities which are permitted. The town administrator is authorized to post designated areas when, in his discretion, such posting is appropriate.  
(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-18. Emergency exclusion of public.**

In an emergency, when the town administrator or his designee determines that the public interest, public health, public morals and public safety require such action, any park or recreational facility or any part thereof may be closed and all persons may be excluded from such area.  
(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-19. Right of entry.**

The town administrator and his employees and/or any law enforcement officer shall have the right at all times to enter the premises of any building, structure or enclosure of any park or recreational facility including such grounds, buildings, structures or enclosures as may be leased or set aside for the private or exclusive use of any individual or group.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-20. Permits.**

Permit for special activity—Required. A permit shall be required before any area may be designated as reserved for any special activity. Availability and reservation of a park or recreational facility shall be on a first come first served basis.

The department shall issue a permit when:

- (1) The desired park (or requested portion thereof) or recreational facility has not been reserved for other use at the time requested.
- (2) The applicant has provided a fee as established by resolution of the town council for the activity.
- (3) The applicant has acquired public liability insurance where required by the town.
- (4) The proposed activity or activities will occur in an area designated for such activity or activities.
- (5) The applicant has agreed to indemnify and hold the town harmless in writing for any and all activity of the applicant and/or his guests or invitees.
- (6) The applicant agrees to abide by all the rules set herein.

The town shall deny the permit application if any of the above conditions are not met.

All permits shall be signed by the town administrator or his designee.

The town administrator or his designee shall notify the applicant whether an applicant's permit is granted or denied and if denied, the reasons for such denial.

The applicant may appeal the refusal of a permit to the town council. The appeal shall be made by the applicant within five (5) days after notification of such refusal by filing a written notice with the town clerk. The town council shall consider the appeal at the next regularly scheduled meeting or within forty-five (45) days of a timely filed notice of appeal, whichever is sooner. If the town council does not meet within forty-five (45) days the permit shall be issued by the town administrator or his designees. The town council shall direct the town administrator to issue the permit unless the town administrator demonstrates that the applicant failed to meet the permit requirements. In the event the town council affirms the denial of the permit, the applicant may immediately request a review by a court of competent jurisdiction subject to the rules and laws governing such application to such court. The denial of a permit because the applicant for park or recreational facility has been previously reserved is not a basis for an appeal.

The town administrator or his duly authorized designee shall have the authority to revoke any permit upon finding of violation of any rule or regulation contained herein.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-21. Permit application.**

Permit applications shall state: The name and address of the applicants; the name and address of the persons sponsoring the activity; the day and hours for which the permit is desired; the park or portion thereof for which such permit is desired; an estimate of the anticipated attendance; and any other information necessary to make a determination whether a permit shall be issued.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-22. Fees.**

The park and recreation board may recommend appropriate fees and charges for the use of public parks and recreational facilities within the town. Said fees and charges may be adopted by resolution at the town council. The fees at this time shall be treated as a refundable deposit to ensure that the park area is left in a clean, undamaged state.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-23. Liability.**

The following are considered high risk or commercial activities: Athletic activities that involve physical contact; alcoholic beverage usage; sale of food at events open to the public; activities where amplified music is a primary function; commercial activities at events open to the public. For any group utilizing parks or recreational facilities for high risk or commercial activities shall be required to provide general comprehensive liability insurance in the amount of not less than three hundred thousand dollars (\$300,000.00) per occurrence to cover any and all claims and costs arising in connection with any accident or occurrence related to such activity. Additionally, fire damage liability insurance for leased premises in the amount of not less than fifty thousand dollars (\$50,000.00) per occurrence is also required as conditioned to issuance of a permit. Where insurance is required, the town shall be named as an additional insured on any such policy. A copy of the certificate of insurance or letter binding the insurance company shall be provided to the town prior to the issuance of any and all permits.

This provision may be waived at the discretion of the town administrator.

(Ord. No. 00-6, § 1, 3-5-01)

**Secs. 12.5-24—12.5-30. Reserved.**

**ARTICLE III. VIOLATIONS AND PENALTIES****Sec. 12.5-31. Hours of operation.**

Except for unusual and unforeseen emergencies and general maintenance, parks and recreational facilities shall be opened to the public every day of the year during designated hours. The designated hours shall be determined by the town administrator. The opening and closing for each individual park shall be posted therein for public information.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-32. Closed areas.**

Any section or part of any park may be declared closed to the public by the town administrator or his designee, at any time for any interval of time, either temporarily or at regularly stated intervals, daily or otherwise, and either entirely or merely to certain uses. No person in a park shall enter an area posted as "closed to the public" nor shall any person use, or abate the use of any area in violation of posted notices.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-33. Trespass.**

No person shall enter or remain in a park or recreational facility without a permit during closed hours, if the closing hours are posted at the entrance to the park or recreational facility. No person shall enter or remain on park or recreational facilities after such person receives notice of the closing hours from the town administrator or his designee or a law enforcement officer.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-34. Remaining on property after request to leave.**

No person who has violated a rule or regulation contained herein shall remain in a park or recreational facility after the town administrator or his designee, police officer, sheriff's deputy or other sworn law enforcement official requests such person to leave or vacate a park or recreational facility.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-35. Meetings.**

All use of the park involving fifty (50) people or more shall require a permit.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-36. Defacing, tampering with buildings and other property.**

(a) No person in any park or recreational facility shall willfully mark, deface, disfigure, injure, tamper with, displace or remove any building, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or impertinence thereof, signs, notices, or place cards, whether temporary or permanent, monuments,

stakes, posts or other structures or equipment or any part of any aforesaid facilities, park property or pertinence whatsoever, either real or personal, in any park or recreational facility. Any violator of this section shall also be liable for actual damages caused to the town property.

(b) Restrooms and washrooms. No person in any park or recreational facility located within the town shall fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of five (5) years shall use the restrooms and washrooms designated for the opposite sex.

(c) Removal of natural resources. No person in a park shall dig or remove any beach sand, whether submerged or not, or any soil, rock, stones, trees, shrubs or plants, downed timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.

(d) Erection of structures. No person in any park shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such lands, except on special written permit issued hereunder.

(e) Trees and shrubbery. No person in a park shall damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds of, any tree or plant. Nor shall any person attach any rope, wire or other contrivance to any tree or plant. The person shall not dig in or otherwise disturb grass areas, or any way injure or impair the natural beauty or usefulness of any area.

(f) Climbing trees and the like. No person in a park shall climb any tree or walk, stand or sit upon monuments, bases, fountains, railings, fences or gun carriages or upon any other property not designated or customarily used for such purposes.

(g) Hitching of animals. No person in a park shall tie or hitch a horse or other animal to any tree or plant.

(Ord. No. 00-6, § 1, 3-5-01)

#### **Sec. 12.5-37. Sanitation.**

(a) *Pollution of waters.* No person in a park shall throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of such waters.

(b) *Refuge and trash.* No person in a park shall have brought it or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse or other trash. No such refuge or trash shall be placed in any water in or contiguous to any park or left anywhere on the grounds thereof, but shall be placed in the proper receptacles

where these are provided; where the receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and property disposed of elsewhere according to law.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-38. Traffic.**

(a) The State Uniform Traffic Control Laws, F.S. Ch. 316, are incorporated by reference and made a part of this article and shall apply to the operation of all motor vehicles on streets and roads in the town parks, unless modified herein. Town employees and also law enforcement officers are hereby authorized to direct traffic whenever necessary.

(b) No person shall operate, drive or park any motor vehicle or other vehicle upon any road, driveway, path, parking area or other area unless such road, driveway, path, parking area or other areas has been designated by the town administrator for such purpose. No person shall cause any vehicle for hire to stand upon any part of a park or recreational area for the purpose of soliciting passengers.

(c) No person shall drive a vehicle at a rate of speed to exceed five (5) miles per hour in any town park unless the town administrator has designated, by posting a sign, a greater speed limit.

(d) No person shall park any vehicle in an area other than that which is designated for parking. No person shall leave any vehicle standing or parked at night without lights clearly visible from at least two hundred (200) feet upon said vehicle, except in legally established parking areas.

(e) No person shall enter or exit from any park or recreational facility in any vehicle except on entrance and exits established for such purpose by the town administrator.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-39. Intoxicating beverages.**

*Use of alcohol.* No person in a park shall use alcohol in any form, in any park area or recreational facility located within the town except at designated times in specifically designated areas and buildings as evidenced by permit.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-40. Boating.**

No person in a park shall bring into or operate any motorized boat or other water craft, upon any waters except at places designated for boating by the town administrator. This is not meant to exclude radio controlled model boats.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-41. Camping.**

Overnight camping shall be allowed by permit only.  
(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-42. Domestic animals.**

Any and all domestic pets which are brought onto property or into recreational facilities, shall be kept on a leash not to exceed ten (10) feet in length. Additionally, person bringing their pet into a park or recreational facility are responsible for immediately cleaning up after their pet. More specifically, any and all fecal matter left behind by a pet must be picked up and disposed of properly by the pet's owner or guardian. For purposes of this section, guardian shall mean the person that is in control of the pet at the time it defecated.  
(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-43. Wildlife.**

No person in a park or recreational facility shall molest, trap or pursue wildlife at any time.  
(Ord. No. 00-6, § 1, 3-5-01; Ord. No. 11-43, § 3, 8-15-11)

**Sec. 12.5-44. Equestrian activities.**

Horseback riding shall only be allowed on designated bridle trails or mixed use trails. It shall be unlawful for any person to ride a horse in a reckless manner.  
(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-45. Fires.**

No person in any park or recreational area shall ignite, set or maintain any fire for cooking or any other purpose unless such fire is within designated areas for such purpose.  
(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-46. Fireworks and explosives.**

No person in a park shall have brought, or have in his possession, or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedo, rocket, or other fireworks or explosives of inflammable material, or discharge them or throw them into any such area from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture or article that in conjunction with other substance or compound would be dangerous from any of the foregoing standpoints.  
(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-47. Loitering and unruly conduct.**

No person shall engage in loud, unruly, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior that would interfere or detract from the general public's enjoyment of the park or recreational facility.  
(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-48. Begging and soliciting.**

No person in a park shall solicit alms or contributions for any purpose whether public or private.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-49. Exhibit of permits.**

No person in a park shall fail to produce and exhibit any permit from the town administrator or his designee, which claims to have, upon request of any authorized person who shall desire to inspect the same for purpose of enforcement and compliance with any ordinance or rule.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-50. Interference with permittee.**

No person in a park shall disturb or interfere unreasonably with any person or party occupying any area, or participate in any activity, under the authority of a permit.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-51. Vending and peddling.**

No person in a park or recreational facility shall expose or offer for sale any articles or things, nor shall he station or place any stand, cart, or vehicle for the transportation, sale, or display of any such article or thing. Exception is made as to any regularly licensed concessionaire acting by and under the authority and regulation of the town administrator.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-52. Advertising and signs.**

(a) No person in a park or recreational facility shall announce, advertise, or call the public attention in any way to any article or service for sale or hire except in designated areas.

(b) No person in a park shall paste, glue, tack or otherwise post any sign, placecard, advertisement, or inscription whatsoever, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to the park.

(Ord. No. 00-6, § 1, 3-5-01)

**Sec. 12.5-53. Multi-use trails.**

All bridle trails located within the town are designed for shared use between walkers, bicyclists and equestrians. Trail users shall abide by the right-of-way signs along the trails. Additionally, no motorized vehicles are allowed on such trails.

(Ord. No. 00-6, § 1, 3-5-01)