

**TOWN OF MALABAR
TOWN COUNCIL MEETING
TUESDAY, SEPTEMBER 29, 2015
7:30PM
2725 MALABAR ROAD
MALABAR, FLORIDA**

MINUTES

A. CALL TO ORDER, PRAYER AND PLEDGE

Chair called the meeting to order at 7:30 P.M. Prayer and Pledge let by CM Vail.

B. ROLL CALL

Council Chair:	Marisa Acquaviva
Council Vice-Chair:	Brian Vail
Council Member:	Grant Ball
Council Member:	Don Krieger
Council Member:	Dick Korn
Mayor	Carl A. Beatty
Town Attorney:	Karl W. Bohne, Jr.
Town Clerk/Treasurer:	Debby K. Franklin

Clerk stated for the record Malabar Fire Chief Christopher Robinson is also present.

C. ADDITIONS/DELETIONS/CHANGES: CM Korn asked to add Ordinance 2015-02 amending Chapter 8 to agenda for first reading. CM Krieger objects. CM Korn said we have put this off long enough. Consensus to put on agenda as Agenda Item 8.

1. **Approval of Minutes:** Regular Council Minutes 8/24/15 clarified
Regular Council Minutes – 9/14/15
Minutes of TA Interviews – 9/15/15
- Exhibit:** Agenda Report No. 1
- Recommendation:** Request Approval of Minutes

MOTION: CM Vail / CM Krieger to approve 8/24/15 minutes after verbatim requested on 9/14/15. Discussion: CM Krieger said he was reading into the record that he had facts, not opinions. **VOTE:** All Ayes.

MOTION: CM Ball / CM Vail to approve 9/14/15 minutes. Discussion: CM Krieger said he was just reading facts into the record. **VOTE:** All Ayes

MOTION: CM Korn / CM Vail to approve 9/15/15 minutes. Discussion: none. **VOTE:** All Ayes.

D. PUBLIC COMMENTS: Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required) **Five (5) Minute Limit per Speaker.**

Speakers: Bridget Ports: 1340 Hall Road, sent emails re: what is going on in front of her house? She said the email from Debby was different from what she got from Morris. Email said it would be nice to say when it would happen so they can take care of the drainage. CM Vail said staff has done as much as they can. He is working with Morris and Debby. Yours is the

first one getting done. Ditches are getting cleaned. Ports said they have 30K in horses they want to protect.

ATTORNEY REPORT: nothing now – will offer input on agenda items.

E. PUBLIC HEARINGS: 2

2. 2nd READING AND PH SETTING MILLAGE (ORD 2015-07)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING THE MILLAGE RATE OF 1.9256 FOR THE LEVY OF AD VALORUM TAX WITHIN THE TOWN OF MALABAR FOR THE PERIOD FROM OCTOBER 1, 2015 THROUGH AND INCLUDING SEPTEMBER 30, 2016, PROVIDING FOR REPEAL AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Adoption of Ord 2015-07 setting Millage

Ordinance read by title only.

Chair opened the PH. - Comments: none - Chair closed the PH.

MOTION: CM Vail / CM Ball to Adopt of Ord 2015-07 setting millage.

Discussion: none

ROLL VOTE: 1)CM Ball, Aye; CM Vail, Aye; CM Krieger, Nay; CM Korn, Aye; CM Acquaviva, Aye. Motion approved 4-1.

3. 2nd READING AND PH APPROVING BUDGET (ORD 2015-08)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA ADOPTING THE BUDGET OF \$1,653,555.00 FOR THE TOWN OF MALABAR FOR THE PERIOD FROM OCTOBER 1, 2015 THROUGH AND INCLUDING SEPTEMBER 30, 2016; PROVIDING FOR REPEAL AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 3

Recommendation: Adoption of Ord 2015-07 setting budget

Ordinance read by title only.

Chair opened the PH. - Comments: none - Chair closed the PH.

MOTION: CM Korn / CM Vail to adopt Ord 2015-08 setting the budget.

Discussion: CM Krieger said we have raised our tax rate by 10% for the last four years. It was originally planned around the 1.8%. From what he sees the millage didn't need to be increased. That is his view. Pay increases should be done by merit and should be handled separately. CM Vail said Council has worked very hard to not spend frivolously. They try to keep within the budget. They have had to take from the 2.5M in reserves down to 1.2M to balance prior budgets.

CM Korn said last year was his first year doing the budget process; this year he has a greater understanding of the process. Every one of us sitting up here had ample opportunity to add input. Malabar millage is much less than what we need to provide needed services. Now it is drainage and in the summer it is going to be paving. We are not doing any services for residents. He is not for raising taxes for no reason. CM Vail said if we neglect repairing the existing infrastructure, the replacement cost is going to be much more expensive. Next time you get your tax bill look at what Malabar gets; it is very low.

Mayor said PW needs to be doing ditch cleaning. He drove around during the rains and some pipes were so full of dirt. The worse case is on Corey Road by the church. What money we have in SW should be used for contractors to do these special projects.

CM Acquaviva said she has been on council six years. We have had workshops and learned there were needs at the fire dept; protective gear, equipment upgrades, etc. We also added paid Lts. for better coverage for our residents. We have to be fiscally responsible; but you have to provide protective services just like you have to provide for infrastructural improvements

CM Ball said we shouldn't continue to dip into the reserves. The budget this year hopefully will not require us to dip into the reserves. CM Ball said we base this on what was budgeted in the prior year. We should be using the actuals. CM Acquaviva stated that the prior year has the budgeted amount and in the next column are the actual expenditures through 7/1/15.

CM Korn said we are amongst the lowest millage in state. There are only about 12 other cities that don't pay their council.

ROLL VOTE: CM Ball, Aye; 1)CM Vail, Aye; CM Krieger, Nay; CM Korn, Aye; CM Acquaviva, Aye. Motion approved 4-1.

F. ACTION ITEMS: PUBLIC: 1

4. RESIDENTS REQUEST FOR STREET LIGHTS ON WEBER ROAD

Exhibit:

Agenda Report No. 4

Recommendation:

Action on Request

Discussion: Resident from Weber Woods spoke to this item. Their request was for the Town to put street lights up on Weber Road. It is very dark there. She lives on Whimsical. There is nothing between Hall Road and Malabar Road. CM Vail said they each have post lights. It is very dark. You can't see where the Whimsical turnoff is. She said it is a private street. She said that is not lighting up Weber Road. CM Korn said he lives on Weber and it is darker by his house than hers. CM Korn said 10 years ago there was some collusion and the private road is actually part of their lot size. He said the RR-65 zoning requirement for 1.5 acres was corrupted. CM Acquaviva asked if there were others that wanted the lights. She asked if the HOA had consensus for this request. CM Ball said he has problem with light pollution. He would want to hear from the other people on Weber Road. CM Vail said he supports CM Ball. When he was on Council before, they adopted a light ordinance. Keep it (lighting) to a minimum. You are voters, and residents and he would support them doing a petition. CM Korn said just before the last meeting, he went out there and parked at Eschenberg Park and it is very dark there. The light at the corner is blocked by the trees. The technology is there to have lights and prevent light pollution. CM Korn said direct staff to get cost of doing the lights. Mayor said he would like to see a map of where the street lights are. Probably need a procedure to follow for such requests. Mayor said he had lights installed at two street intersections for the kids waiting on the school bus.

CM Acquaviva told of the subdivision in W Melbourne they lived in and developers promised a playground. SD was completed and there was no playground. The residents marched down to developer's office and demanded a playground. And they got their playground. We should do that with the Weber Woods developer. CM Korn said put on future agenda or table until staff gets price. CM Vail said no, we should take no action until they bring a petition back. As of tonight CM Acquaviva would say no; that could change if they got a petition. CM Ball said 4 lights per half mile. What makes that section magical; what about the rest of the road? Are they proposing to have a special assessment?

RESOLUTIONS: 0

MISCELLANEOUS: 1

5. Select the Top TA Candidates and Make Offer to Top Candidate

Exhibit:

Agenda Report No. 5

Recommendation:**Discussion and Action****Speaker's cards:**

Jim Roulston, 2480 Malabar Road, is responding to letter to he got from TA Wilbanks. That will be heard later under public. His opinion re: #5 he backs Jeff McKnight.

Dawn Danielson: 1690 Hall Road found Jeff McKnight to be thoughtful and rational and recommends Council appoint him.

William "Skip" Hard, 2560 Hard Lane, stated the biggest problem has been with past councils is the failure to deal with stormwater. Ditch system is not maintained. He stated that appx 5' down is hard pan so the water is not going to percolate so it needs to have ditch to drain to. Several of the past administrators were from out of town. Because Jeff McKnight lives SOM (so of Malabar) he understands the drainage challenges. Take a long look and decide what your legacy will be – vote for Jeff McKnight.

John Seybold, 1830 Corey Road, asked Council to please consider selecting Jeff McKnight for TA. He is high energy individual. Remind Council that 6 of 12 selection committee voted for him. He is choosing to apply for this job to benefit his community. He would be worth every dime.

Tim Lynch, 3440 Coquina Terrace, asked Council to consider Jeff McKnight. There are significant issues dealing with the budget. If you wait then it will cost more. More efficient actions save money and make it worth his salary. Jeff McKnight is able to act quickly and will save our town money and is a true civil servant.

MOTION: CM Ball / CM Krieger to name Jeff McKnight as #1 choice contingent of background check and contract negotiations.

CM Ball said he looked at the candidates that were residents of Malabar first. Then he looked at the resumes. McKnight put in a huge resume. He put in a tremendous amount of effort. He would put in that same effort into the TA position. CM Ball said that Debra Kruger was prepared and Jeff McKnight was prepared. The others were not. He said he supported McKnight or two reasons: #1 McKnight is a resident and #2 he has the qualifications to do the job.

Mayor said he has had six years exp; he has training, worked with County on all aspects of TA requirements. Plus he loves the town of Malabar. When Mayor watched all the candidates interviews Jeff McKnight was the most experienced. It is a no brainer.

CM Korn thought we are going to rank all of the people. He has talked to people from all over the town and all over the state. We have some very highly qualified candidates. He mentioned all the other candidates that had excellent qualifications. This one individual has become a very divisive issue. He had one call in support of McKnight. He got a call on his cell phone that is not publicly listed. He also has been threatened regarding his vote and wants to go on the record stating that.

CM Krieger said the 12 people they chose for the selection committee seemed to indicate at the end of their venue that they are looking within and not without of the town for the person to be the new TA. We have done it the same way three times. He said McKnight is high energy – build a better Malabar. Kudos to those that have spoken for him. He is the obvious choice. As far as ranking, you can go thru the ranking policy. He was reading into the record what they had voted for.

CM Vail said from the beginning the statement was made that if you feel strongly about a candidate, then speak up. The committee was told that Council would accept and appreciate

their input. But from the beginning it was clear that Council would make the final decision.
VOTE: 2 Ayes; 3 Nays (Vail, Korn, Acquaviva). Motion failed 3 to 2.

MOTION: CM Vail / CM Korn to name Doug Hoyt as #1 choice contingent of background check and contract negotiations.

CM Vail knows Hoyt is capable of doing the job. He would be a better candidate for this position. CM Krieger said he had a poor showing during the interview. He did not come up with a good understanding of what is going on with drainage. Did not see him exhibiting the energy. Did not like the way he was added. CM Korn has asked him about drainage and he felt he was interested. Because he is laid back doesn't mean he is a push over. He is familiar with his work in north GA. He almost overlooked him because he is so soft spoken. He is not going to micromanage. As long as they are doing their job; let them do their jobs. He has confidence in his ability to do the job.

CM Acquaviva stated her number one choice was Krueger; she was on her feet in the interview, she has the experience needed from Sebastian. She is her first pick.

CM Ball gave his reasons for his choice of McKnight: his presentation at the face to face interviews, the effort put into his application package, his level of energy...

CM Korn asked who has FEMA experience. Who has grant experience? He answered only Drew Thompson and the Fire Chief.

It was asked from the audience what CM Korn meant about receiving an email. CM Korn stated that he received an email from Mr. Hard supporting Mr. McKnight; he passed on the emails that he's received to the Town Clerk. CM Acquaviva stated that she's sent all information received to the Town Clerk as well. CM Krieger stated he received an email from someone he didn't know supporting Mr. McKnight and forwarded it to everyone including the Town Clerk. It would seem that there are emails that have been sent to the Town Clerk that he hasn't seen; he finds that very interesting.

VOTE: 2 Ayes; 3 Nays; (Krieger, Ball, Acquaviva). Motion failed 3 to 2.

MOTION: CM Korn / CM Vail to name Drew Thompson as #1 choice contingent of background check and contract negotiations.

Discussion: CM Korn said he was his second choice. CM Vail said it is not a far stretch from what he is doing now.

VOTE: 2 Ayes; 3 Nays; (Acquaviva, Vail, Korn). Motion failed 3 to 2.

MOTION: CM Korn / CM Ball to name Debra Krueger as #1 choice contingent of background check and contract negotiations.

CM Krieger came here prepared with his rankings. He would like each CM to submit their rankings. CM Krieger said that is usually done first. Also, CM Krieger wanted to point out that the Mayor had input on the previous appointment. TC Franklin said for clarification the previous administrator was recommended by the combo committee & council. In this case the committee has been dissolved. CM Acquaviva said Krueger had the most experience. She did not consider gender in her decision.

Mayor said McKnight put on best performance. CM Acquaviva said it is not a performance contest. CM Ball said she was his 2nd choice. He thinks McKnight is best candidate. He said it is political. The next best is Krueger.

VOTE: 4 Ayes; 1 Nay (Krieger). Motion carried 4 to 1.

MOTION: CM Krieger / CM Ball to select McKnight as 2nd choice. **VOTE:** Ayes, 2; Nays, 3 (Acquaviva, Korn, Vail). Motion failed 3 to 2.

MOTION: CM Vail / CM Korn to name Thompson as 2nd choice. **VOTE:** Ayes, 2; Nays 3 (Acquaviva, Krieger, Ball). Motion failed 3 to 2.

MOTION: CM Korn / CM Vail for Hoyt for 2nd. **VOTE:** Ayes 3; Nays 2 (Krieger, Ball). Motion carried 3 to 2.

MOTION: CM Korn / CM Krieger to pick McKnight as #3. **VOTE:** All Ayes. Motion carried 5 to 0.

Recess: Clerk & Atty go to her office to place call to Ms. Krueger.

Reconvene: Atty Bohne said he made the conditional offer of 62K, discussed a probationary period and method to extend contract. She accepted and was very appreciative and thankful.

G. DISCUSSION: 2

6. Discuss Amending Public Records Policy to Provide Charges for time Required to Retrieve, Prepare, Scan and Send Public Records (Acquaviva)

Exhibit: Agenda Report No. 6

Recommendation: Discussion and Direction

This was Chair's idea. Charge for time needed to retrieve and scan documents. Atty read policy re: 15 min quarterly. CM Korn said that there are many restrictions the FS puts on the custodian of public records. There is no requirement that states clearly the custodian can charge for her time. Chair said let's use common sense. We have an issue, we have a salaried person doing it and not being able to get her own work done. Change Reso so you can request a 50% deposit. Address language re: 15 min increments; the 1st segment is free and then after that you charge. Last thing – remove the no cash language.

7. Discuss creating an "Incident report" to document Alleged Mistreatment of Employees and Amending the Grievance Policy (Acquaviva)

Exhibit: Agenda Report No. 7

Recommendation: Discussion and Direction

Chair said this was hers also. Grievance policy is employee on employee. This does not address council or citizens yelling at staff. Set up a procedure. CM Vail said there should be a procedure. CM Korn asked why not use the TA. CM Acquaviva said not in the case of the Clerk because she reports to Council. It was her intent was to not have this stuff build up. Not requiring a big effort. They should feel like there is recourse if they feel harassed. CM Vail said TA and TC report to Council. If there is an issue it needs to come to council.

Added:

8. Ord 2015-02 – for First Reading

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING of Ord CHAPTER 8 FIRE PREVENTION AND PROTECTION; AMENDING ARTICLE II STANDARDS; AMENDING ARTICLE III, SECTION 8-73(b) RELATING TO BURN PERMITS; AMENDING SECTION 8-83(d) AND (e) RELATING TO TYPES OF BURNING PERMITTED; PROVIDING FOR REPEAL, SEVERABILITY AND INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 8 (emailed w/ paper copy at dais)

Recommendation: Approval of Ord 2015-02 for 1st reading

MOTION: CM Korn / CM Vail to remove from table. **VOTE:** Ayes 3; Nay, 2. (Ball, Krieger).

MOTION: CM Korn / CM Vail to approve 1st reading of Ord 2015-02.

CM Korn asked for this to be added. We have discussed this for the past six months. CM Korn explained why he wanted it dealt with. CM Vail asked Chief if he was ok with this. Yes. Vail said this would be a good time to allow burning. Chair said they just had a huge pick up of yard waste from WM – can't they put it out front? CM Vail explained that if you have acreage you aren't going to haul your palm fronds 300' to put by roadside. Chief said if they want to burn – they don't want another 1998 or 2008. Chair is good with that. Sign in from of FD is good. CM Korn said we need to support the FD. Ball said his pile is there and has been there for two weeks. Ball said if you have a safe way to burn and have a large lot. Mayor said they can get pot ash to put on garden. CM Korn said most are responsive.

ROLL VOTE: CM Ball, Aye; CM Vail, Aye; 1)CM Krieger, Nay; CM Korn, Aye; CM Acquaviva, Aye. Motion approved 4-1.

I. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Ball - none

CM Vail – none

CM Krieger – none

CM Korn – pretty intense thing on #5. He was impressed with the applicants they got. Hated that it seemed like it was a “for and against”. Vail said put step between interview process and the selection process. If you came up with a scoring system. Maybe a ranking of each of the finalist. And turned it in and have a WS. Consider for this process in the future.

CM Acquaviva – said this meeting was supposed to be the selection.

J. PUBLIC COMMENTS: General Items (Response by Council not required)

Jim Roulston received a letter from past TA and didn't know she was gone. So he is addressing Council. He read two letters. Attached as part of the minutes. He was not impersonating a fire department person.

K. ANNOUNCEMENTS:

- (2) Vacancies on the Board of Adjustment;
- (4) Vacancies on the Park and Recreation Board;
- (1) Vacancy on the Planning & Zoning Board

L. ADJOURNMENT:

MOTION: CM Korn / CM Acquaviva to adjourn. **Vote:** All Ayes. Meeting adjourned at 10:25PM.

TOWN OF MALABAR

Marisa Acquaviva,
Council Chair

(seal)

ATTEST:

Debby K Franklin, C.M.C.
Town Clerk/Treasure

Minutes approved: