

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

AUGUST 05, 2019

7:30 PM

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

A. CALL TO ORDER:

Council Chair, Mayor Patrick T. Reilly called the meeting to order at 7:30 pm. CM Korn led P&P.

B. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET, excused

COUNCIL MEMBERS:

GRANT BALL

BRIAN VAIL

DICK KORN

DANNY WHITE

TOWN ADMINISTRATOR:

MATT STINNETT

TOWN ATTORNEY:

KARL BOHNE

TOWN ENGINEER

MORRIS SMITH

TOWN PLANNER

TOD MOWERY

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

Clerk said for the record the Fire Chief Mike Foley and PW Dir Tom Miliore were also present.

C. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES: Attorney Bohne said he received an email regarding Agenda Report #4, applicant Mr. Borton's attorney, Mr. Jeff Smith at 5:22pm this evening that raised the issue of CM Grant Ball's ability to vote, alleging a conflict of interest. Attorney Bohne stated he is not able to analyze the question in this time frame; he is uncomfortable with this going forward without a legal response to this statement. Atty Bohne respectfully requests at this time that the matter related to Agenda Item #4 be postponed to the next meeting. Otherwise, it is not fair to CM Mr. Grant Ball or anyone else to go forward at this time with first reading.

MOTION: CM Korn / CM Vail to support the request from the Town's Attorney statement to postpone first reading of Ordinance 2019-08 Land Use and Zoning Change for Stuart J Borton and Nancy Tinio Borton Trust to August 19, 2019.

Discussion: CM Danny White not comfortable with this item going forward without a full Council, CM Vail agrees. CM White stated the people that had filled out comment cards should be heard. Attorney Bohne said they will have two more meetings to attend and speak. It will come up at two other meetings. The Town Attorney would prefer to not allow public input until the next two meetings, because of what was raised, but defers to Council. CM Vail said Council should listen to Town Attorney Karl Bohne's recommendation.

Vote: All Ayes. First reading postponed to August 19; with a new legal ad to be run for the second reading on September 9, 2019.

D. **CONSENT AGENDA:** Chair asked for a motion on the consent Agenda -

1. **Approval of Council Minutes:**

Exhibit:

Agenda Report 1

Recommendation: Approval of Minutes

- Regular Town Council Meeting Minutes 7/15/19.
- Council Workshop Meeting Minutes 7/29/19 @ 2pm
- Special Town Council Meeting Minutes 7/29/19 @ 7:30pm

MOTION: CM White / CM Vail to approve the regular meeting 7/15/19 minutes as presented.

Vote: All Ayes (CM Rivet excused).

MOTION: CM Ball / CM Vail to approve the Workshop meeting 7/29/19 minutes as presented.

Vote: All Ayes (CM Rivet excused).

MOTION: CM Vail / CM White to approve the Special meeting 7/29/19 minutes as presented.

Vote: All Ayes (CM Rivet excused).

E. ATTORNEY REPORT: nothing

F. BCSO REPORT: was not present

G. BOARD / COMMITTEE REPORTS:

Drew Thompson, Chair, T&G Com: Drew said they have not filed a report since spring. At the last meeting they were about to propose seven projects and sidewalk extensions. Those projects had questions and the list is somewhat nebulous. Looking for grant dollars to connect the trail systems that start or end in Malabar. The longest is to go down Marie Street to G-V. The State of Florida is interested in paved trails. Those seven items will be discussed at the TPO and there are certain engineering components that we may need to get help from Palm Bay. The TPO has acknowledged that these tangents make sense and that is what the T&G Com was hoping for. It is unknown at this time what our responsibilities would be, but there are grant dollars that do come through. That is the big news now. There is a video of the Al Tuttle trail on the TPO website showing some Malabarians so you may want to visit the website. The horse trail equestrian trail head on south Marie needs signage. Want people to identify and know where it is. They want to put in some trail signage. Post based signage within this year's budget. Matt has helped them get to this point. Need some signage to encourage more visitors.

CM Korn said that in St Johns County it is stated on the State Hwy and there are lines on the state road indicating trail crossings. CM Korn said he was told that the FDOT said no to putting signage on Malabar Road at Marie Street, but he thinks they would now be more supportive. Drew said the T&G committee has made that request. CM Korn asked Matt to contact the TPO to see about getting such markings – Matt said there has been a lot of talk about safe crossings and he thinks it will be well received at TAC/TPO. Drew said the local TPO wants 0 serious preventable injuries and accidents for crossing of bikes or pedestrians. Drew said the biggest embarrassment to Brevard County is the number of preventable accidents.

Eric Bienvenu, Chair Park & Rec Board: Not Present

Wayne Abare, Chair, P&Z Board: Wayne Abare has not been here in some months. Cancelled the first meeting and the 2nd meeting was the Borton PH. Tonight, we were going to go in to more detail. He gave credit to Franklin in the summary minutes of P&Z meeting. He was prepared to summarize the meeting to Council. He had entertained a motion to accept the request and there was no motion or second. Will go into more detail in two weeks when this comes back before Council.

H. STAFF REPORTS:

ADMINISTRATOR: nothing

PW DIRECTOR: Tom Miliore, went over the report. Had some equipment problems so got some projects backed up. The Sterling dump truck also was down. Culverts lowered to match the existing pipes. Council also got the August schedule via email. CM Ball said how is the drainage doing. Tom said water is lowering. CM Korn said it is working. Where is water going. Tom said Corey Road. Dick said something is working. CM Vail said he left shop and went to Atz and Corey he made references to where the water was on Friday; 12 hours later he noticed that the water had dropped 12 inches. CM White said the pool was overflowed in one hour; that is 4 inches of rain on Sat. He was down of Corey Road in G-V and he has heard that G-V people think they do a great job on drainage and that was Friday and ditches on Corey were as high as the road on Friday.

He said it was flowing like a river on Corey in Malabar. It is slow and gradual and constant improvements. The improvements are noticeable and thanked PW. CM Vail said Eva both sides were doing great.

FIRE CHIEF: Went through his report for June and July. Fire Station got painted from July 9 and 10. And they came back today and painted the garage doors. Invited everyone to the breakfast next Saturday. Applied for a 100% no-match state grant and will hear soon on outcome.

CLERK: Reported that the Candidate Qualifying for Seats 4 and 5 begins August 7th at 8:30AM and ends the following Wednesday at 8/14/19 at 4:30pm.

I. 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. Speaker Card: NONE.**

Dawn Danielson, 1690 Hall Road, several months ago gave rubber ducks to Council, TA, PW Dir and Mayor. That was before Skip Hard bought 144 more rubber duckies. She asked if Deb could put article on website and let them know that Mayor, Council, TA, Dawn and Skip had these ducks available to drop in ditches – they could put their address on the ducks and then they can find out how water in ditch flows when it is high vs how it flows when it is low. CM White said he knows what way the water flows in ditch in front of his property. CM Korn – said he doesn't want these things to become the litter that blocks the ditches. CM Korn uses his in his hot tub.

J. PUBLIC HEARINGS/SPECIAL ORDERS: 2

2. ORDINANCE 2019-09 Amending Chapter 11, providing for public rights of way

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 11, SECTIONS 11-8 (a) OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR THE MAINTENANCE OF PROPERTY; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Adopt Ord 2019-09 on 2nd Reading

Ordinance read by title only.

PH OPEN: none

PH CLOSED:

MOTION: CM Vail / CM Korn to adopt Ordinance 2019-09 providing for public ROWs.

Discussion: none

Roll Call VOTE: CM Ball, Aye; CM Vail, Aye; CM Rivet, Excused; CM Korn, Aye; CM White, Aye. Motion carried 4 to 0.

3. ORDINANCE 2019-10 Amending Section 2.03 of Charter regarding Qualifying Period – 2nd Reading

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING SECTION 2.03 OF THE CHARTER REGARDING THE CANDIDATE QUALIFYING PERIOD TO CONFORM WITH SENATE BILL 7066; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 3

Recommendation: Adopt Ord 2019-10 on 2nd Reading

Ordinance read by title only.

PH OPEN: none

PH CLOSED:

MOTION: CM White / CM Ball to adopt Ordinance 2019-10 providing a change to the candidate qualifying period.

Discussion: CM White said no one wanted this shorter period this year. CM Ball asked why the short notice as this was done years before. Clerk Franklin explained that in 2007 the Florida Legislature adopted the increase of one week between Primary and General election change to be effective in 2008. The 2019 Legislature adopted the additional change and made it effective as of July 1, 2019.

Roll Call VOTE: CM Ball, Aye; CM Vail, Aye; CM Rivet, Excused; CM Korn, Aye; CM White, Aye. Motion carried 4 to 0.

K. UNFINISHED BUSINESS/GENERAL ORDERS - 0

L. ACTION ITEMS:

ORDINANCES FOR FIRST READING: 1

4. ORDINANCE 2019-08 Land Use and Zoning Change for Stuart J Borton and Nancy Tinio Borton Trust – 1st Reading

This is postponed – 1st reading on 8/19/19 and PH on 9/9/19.

~~AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE LAND USE MAP AND ZONING MAP FOR THE .31 ACRE (+/-) ON THE EAST SIDE OF US HIGHWAY 1 IN TOWNSHIP 28S, RANGE 38E, SECTION 31, PARCEL 250.4, MALABAR, FLORIDA, AS MORE PARTICULARLY DESCRIBED IN THIS ORDINANCE, FROM COASTAL PRESERVE (CP) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN LAND USE AND ZONING MAPS; PROVIDING FOR AN EFFECTIVE DATE.~~

~~—Exhibit:— Agenda Report No. 4~~

~~—Recommendation:— Approve 1st Reading of Ord 2019-08~~

RESOLUTIONS: 0

MISCELLANEOUS: 0

M. DISCUSSION/POSSIBLE ACTION:

N. PUBLIC COMMENTS: General Items (Speaker Card Required) none

O. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Ball: he is happy that the PW is making good progress on drainage.

CM Vail: nothing

CM Rivet: excused

CM Korn: newscast of Fox news yesterday. Don't have much on community development. Develop a sense of community and the pancake breakfast goes a long way forward this. Need to come up with community events in the realm of parks and recreation. This building was given to community by Brevard County to use as a community center.

CM Korn stated that Council is not paid but back years ago, there was a dollar figure budgeted for each district for discretionary spending; back then it was \$500.00 to each council seat. Mayor said that the TBRB voted to do away with this and Council agreed.

CM White: - provide an incentive to people who want to pave their lane. Matt said he talked to TIFT money to fund this incentive. When they pave a lane, the maintenance goes down and the quality of the road goes up. This would help people that otherwise couldn't afford it.

Mayor: nothing.

Mayor recognized public:

Jim Roulston – Malabar Road, want people to pay to pave your roads. Uncle lives in Melbourne, when the 3rd house is built then they pave road. Why should I pay to pave on your road? Don't understand it. His thoughts are that the dirt roads need to be maintained, and when the 3rd, 4th, 5th house is built, then pave the roads. He lives on a State Hwy. He is willing to pay more in taxes.

CM Vail – the ad valorem is less than 500K.

MOTION: CM Korn / CM Vail to direct TA to contact TPO.

Juliana Hirsch – about the road stuff – do a road assessment. Like every other city except in Malabar.

Wayne Abare – made a counter to Jim Roulston comments – developed Coquina Point and because the development was on a paved road the lots were worth more money.

P. ANNOUNCEMENTS: Openings on Bd of Adjustment and Park and Recreation Bd.

Q. ADJOURNMENT:

There being no further business to discuss and without objection, the meeting was adjourned at 8:22 PM.

BY: Original signed
Mayor Patrick T. Reilly, Council Chair

ATTEST:

Debby Franklin, C.M.C.
Town Clerk/Treasurer

Date Approved: 8/19/2019