

## MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

SEPTEMBER 09, 2019

7:30 PM

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

### 1. **CALL TO ORDER:**

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

### 2. **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, excused

TOWN ATTORNEY:

KARL BOHNE

TOWN ENGINEER

MORRIS SMITH

TOWN PLANNER

TOD MOWERY

BLDG DEPT MGR

DENINE SHEREAR

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

Clerk said for the record the Fire Chief Mike Foley was also present.

### 3. **APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:**

Chair asked Franklin to speak first. Franklin requested the naming of a new right-of-way be added for Council action. It is in the form of a resolution naming the new road off Benjamin between Treadwell and Kramer Lanes. If approved for addition to the agenda it would be Agenda Item 6.

Also, on behalf of the TA, she asked that an emergency item be added as Agenda Item 7 under Misc. to approve his recommendation for emergency road repair on Rocky Point Road. TA would like to get this done in this current budget from the funds in the roads department. Council approval to add both.

Chair then called on Attorney Bohne to speak. Attorney Bohne said he sent an email regarding options Council could use for Agenda Report #2; request postponement until 9/23/19. An alternative suggestion is to allow CM Rivet to attend the meeting via the phone. This would require an affirmative vote on the procedural motion by Council. CM Ball would be allowed to vote of this procedural motion. This could be for only this item or for all items. Due to extraordinary condition of his care for his wife. It would take a motion of Council to appear by telephone. Other options available – could hold the public hearing and postpone the vote.

**MOTION: CM Korn / CM Vail to support the request from CM Rivet to attend via telephone.**

CM Korn explained he attended via phone once and it was very cumbersome. Mayor suggested it could take hours. CM Korn suggested then only allowing the input from the public tonight and postpone the vote. CM Korn withdraws his motion.

**MOTION: CM Korn / CM Vail to support the request from CM Rivet to postpone second reading of Ordinance 2019-08 Land Use and Rezoning Change Request until 9/23/19.**

Discussion: Council discussed allowing the public input before the vote tonight would not provide CM Rivet the ability to be present. Chair said it had already been postponed once. Attorney said that was due to applicant's attorney. CM Ball said what about the people that have appeared four times to voice their position; will be postponed again. CM Korn is not in favor of asking CM Rivet to appear via phone when he is caring for his wife. CM White agreed.

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 can attend the re-advertised public hearing on 9/23/19. **Vote: All Ayes.** Second reading postponed to September 23.

CM Korn asked to add discussion item – title of TA.

Mayor then called the Representative from the Brevard County Economic Development Council to the podium and read the Proclamation supporting Brevard's military and presented it to her. She spoke briefly and thanked Malabar for their support of the military.

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

**Exhibit: Agenda Report 4.**

**4.a. Regular Town Council Meeting Minutes 8/19/19.**

**4.b. Council Workshop Meeting Minutes 8/26/19.**

**4.c. MOU with Brevard County re: EELs**

**MOTION:** CM White / CM Ball to approve the Consent Agenda as presented. **Vote:** 4 Ayes (CM Rivet excused).

**5. ATTORNEY REPORT:** nothing

**6. BCSO REPORT:** Lt. Cline is present and made report. Corey and Benjamin. That has been a hot spot. July and August 29, 69 traffic stops. For August, 7 alarms to businesses. Vehicle burglary, 33 traffic stops. People are not locking their vehicles and keys and garage door openers are being left in unlocked cars. Talked about berry picking. CM Korn said the traffic is slower on Weber. He appreciates the increased efforts.

**7. BOARD / COMMITTEE REPORTS:**

**Drew Thompson, Chair, T&G Com:** Drew said he would be quick. Update on recent changes. Met with TPO. Went with TA and Murry Hann. The TPO is considering – they are on the list. Talking about FDOT funding. Main one is #1. Then #6 and #7. #1 down Marie Street working with GV and City of Palm Bay. #6 Tillman Canal, crossing Babcock to go to a future bike path at the Grapefruit trail. Leaning to ride a trail bike. Bridge across the Melbourne Tillman going east/west. Last one is Jordan Scrub – another major east/west connector. In summary they have gotten Space Coast Transportation Planning Organization and their support for three major joint projects. Mayor asked if Drew could modify his map to include the section of Marie Street north of Malabar Road. Drew will make the change and it will be available on Malabartrails.org.

**Eric Bienvenu, Chair Park & Rec Board:** Not Present

**Wayne Abare, Chair, P&Z Board:** Wayne Abare they had one meeting last month. CM Korn asked about temporary (snipe) signs in ROW. They discussed that and looked at it again. They are not allowed except at election time.

**8. STAFF REPORTS:**

**8.a. ADMINISTRATOR:** nothing

**8.b. PW DIRECTOR:** submitted written report.

**8.c. FIRE CHIEF:** Next meeting.

**8.d. CLERK:** Nothing.

**9. 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:**

Jim Roulston had comment not about zoning change. Wanted to bring to Council attention that he works for Asplundh which contracts with FPL and they have worked many hours of overtime to make sure power losses were at a minimum during recent hurricane Dorian. He also did 12 hours in the COP vehicle last week, patrolling Malabar.

**10. PUBLIC HEARINGS/SPECIAL ORDERS: 3****~~10.a. ORDINANCE 2019-08 Land Use and Zoning Change for Stuart J Borton and Nancy Tinio Borton Trust – 2nd Reading~~**

~~AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING 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, 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.~~

**TABLED UNTIL 9/23/19**

**10.b. ORDINANCE 2019-11 Setting Millage for FY 19/20 – 1<sup>st</sup> Reading**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING THE MILLAGE RATE OF 2.2680 FOR THE LEVY OF AD VALOREM TAX WITHIN THE TOWN FOR THE PERIOD FROM OCTOBER 1, 2019 THROUGH SEPTEMBER 30, 2020, AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:**

Agenda Report No. 3

Ordinance read by title only.

**PH OPEN:** none **PH CLOSED:**

**MOTION:** CM White / CM Ball to adopt Ordinance 2019-11.

Discussion: CM Korn said the increase is minimal. CM White said his went up \$32. Total tax bill only went up \$10.

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

**10.c. ORDINANCE 2019-12 Adopting Budget for FY 19/20 – 1<sup>st</sup> Reading**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA ADOPTING THE BUDGET OF \$2,204,996.00 FOR THE FISCAL PERIOD FROM OCTOBER 1, 2019 THROUGH SEPTEMBER 30, 2020; AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:**

Agenda Report No. 4

Ordinance read by title only and Section 1 of the ordinance.

**PH OPEN:** none **PH CLOSED:**

**MOTION:** CM Korn / CM Vail to adopt Ordinance 2019-12.

Discussion: CM Korn to complement staff. CM White said he wasn't in favor of increasing FD budget to cover the FTE costs but said the Chief did a great job of mitigating the increased costs and keeping the total department cost down. CM Vail said they only had to do minor modifications to the budget. Probably the smoothest budget process in the last 15 years. CM Ball said the setting aside of funds for vehicle replacement and road improvements is something he has requested. They did a very good budget. Keep trimming as much as possible.

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

**11. UNFINISHED BUSINESS/GENERAL ORDERS - 0****12. ACTION ITEMS:**

**ORDINANCES FOR FIRST READING: 0**

**RESOLUTIONS: 2****12.a. Appointment to Board of Adjustment (Reso 14-2019)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF KATIE ABARE TO THE MALABAR BOARD OF ADJUSTMENT AS AN ALTERNATE MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:**

Agenda Report No. 5

Resolution read by title only.

**MOTION:** CM Korn / CM White to approve Resolution 14-2019.

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 (CM Rivet excused).

**12.b. Name Grace Lane (Reso 15-2019)**

A RESOLUTION OF THE TOWN OF MALABAR PROVIDING FOR THE NAMING OF A NEWLY DEDICATED PUBLIC ROAD RIGHT-OF-WAY AS GRACE LANE FOR A DISTANCE OF 1,200 FEET +/- NORTH OF BENJAMIN ROAD IN SECTION 12, TOWNSHIP 29, RANGE 37; PROVIDING FOR THE FORWARDING OF THIS INFORMATION TO BREVARD COUNTY ADDRESS ASSIGNMENT FOR E 9-1-1 EMERGENCY IDENTIFICATION PURPOSES; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:**

Agenda Report No. 6

Resolution read by title only.

**MOTION:** CM Vail / CM White to approve Resolution 15-2019.

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 (CM Rivet excused).

**MISCELLANEOUS: 1**

**12.c. Rocky Point Road Restoration:** Further, at the request of the TA, Franklin requested action on selecting the lowest and best bid recommended by the TA for the emergency repair to the subbase of a portion of Rocky Point Road. The desire is to have this done in this fiscal year with funds on hand in the roads department.

He sent the request to four vendors and got two estimates back, one from Ken Farrington for \$14,380.00 and from Lunn Development for \$12,300.00.

**MOTION:** CM Ball / CM Vail to select Lunn Development for the Rocky Point Road repair for \$12,300.00.

Discussion: CM Vail asked if Town had experience with either vendor? Engineer Morris Smith replied that the Town has had good experience with both as both have done projects with the Town.

**VOTE:** 4 Ayes (CM Rivet excused)

**13. DISCUSSION/POSSIBLE ACTION:**

Added by CM Korn – change title of Administrator to Manager. Clerk will have ordinance on October 7 agenda to amend Chapter 2 of Code making this change.

**14. PUBLIC COMMENTS: General Items (Speaker Card Required) none****15. REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Ball: nothing

CM Vail: nothing

CM Rivet: excused

CM Korn: Said he had recently read the 2003-15 Ordinance describing duties of Administrator. The occupant of this position performs these duties and they are better defined as a Manager's duties. The position remains subject to Council review; he has a lot of responsibilities. Out of the 412 cities there are only eleven with administrators. Franklin to prepare an ordinance to make this change. This office should be in the Charter. CM Korn said Malabar has a strong Council form of government.

CM White: During recent rain, his neighbor commented that he never saw the water flow so well. Made a big difference.

Mayor: nothing

**16. ANNOUNCEMENTS:** Openings on Bd of Adjustment and Park and Recreation Bd.

**17. ADJOURNMENT:**

There being no further business to discuss and without objection, the meeting was adjourned at 8:25 PM.

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

ATTEST:

---

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

Date Approved: 9/23/2019