

## MALABAR TOWN COUNCIL REGULAR MEETING

June 02, 2014 7:30 PM

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

### A. CALL TO ORDER:

The meeting was called to order at 7:30 pm by Council Chair Steve Rivet. The prayer and pledge were led by Council Member Wayne Abare.

### B. ROLL CALL:

COUNCIL CHAIR	STEVE RIVET
VICE-CHAIR/MAYOR:	CARL BEATTY
COUNCIL MEMBERS:	JIM MILUCKY
	WAYNE ABARE
	DICK KORN
	MARISA ACQUAVIVA
TOWN ADMINISTRATOR:	BONILYN WILBANKS
TOWN ATTORNEY:	KARL BOHNE
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

For the record Fire Chief Christopher Robinson was also present.

C. **ADDITIONS/DELETIONS/CHANGES:** Jim asked to pull Budget vs Actual from Consent Agenda. No objections.

### D. **CONSENT AGENDA:**

(Any Council Member may request an item on the Consent Agenda to be removed and placed on regular agenda immediately after new business to be discussed and voted on separately by the Town Council)

- 1a. **Approval of Minutes** Regular Town Council Minutes – 5/19/2014  
**Exhibit:** Agenda Report No. 1a
- 1b. **Budget Adjustment (Reso 15-2014)**

Chair read Reso by title only.

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2013-2014; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 1b.

Discussion: Corrections to minutes – Marisa wants her sentences completed and more detail on that section. Clerk will listen to recording and complete sentence and provide more detail. (CM Korn also provided me with some minor corrections in the morning; those are shown as underscore and line throughs.)

**MOTION:** Wayne / Dick to approve Consent Agenda with minutes corrected.

**ROLL CALL VOTE:** 1)Milucky, Aye; Abare, Aye; Rivet, Aye; Korn, Aye; Acquaviva, Aye.  
Consent Agenda approved 5 - 0.

Pulled from consent agenda and discussed separately.

- 1c. **Budget to Actuals for FY to May 29, 2014**  
**Exhibit:** Agenda Report No. 1c. Previously Distributed  
**Recommendation:** Request Approval of all with a roll call vote.

With regards to the Budget to Actual Report, Milucky doesn't like the report; make an appointment to meet in his office and he will assist with the report. He wanted this on the record.

E. **PUBLIC COMMENTS:** Comments may not address subsequent Agenda Items. Comments do not require Council response. (Speaker Card Required) **Five (5) Minute Limit per Speaker**

Speakers Card : Debbie Kicinski, 2470 Skit Lane, last 2 months called Town Hall twice; there is a big hole in the middle of Ski Lane and nothing has been done as of yet. Her complaint is that she has not received a response. She spoke to Franklin last Thursday and has not gotten an email from the TA. She paid \$15,000 to build the road 20 years ago; it has not been maintained since Beatty got off the grader. The Town needs to respond to the citizens.

- F. **ATTORNEY REPORT** – Nothing
- G. **BREVARD COUNTY SHERIFF'S OFFICE REPORT** – Nothing
- H. **MALABAR FIRE CHIEF:** Nothing
- I. **PUBLIC HEARING:**

2. **Budget Amendment Second Reading on Ordinance 2014-06** – An ordinance of the Town of Malabar Brevard County Florida pertaining to a budget amendment in the fiscal year 2013/2014 to provide for additional revenues reallocated from surplus funds on deposit; to provide for the additional expenditure for a new vehicle in the fire department; providing for repeal of ordinances or parts of ordinances in conflict herewith; and providing for an effective date.

**Exhibit:** Agenda Report No. 2.

**Recommendation:** Request Adoption of Ord 2014-06

Chair read ordinance by title only. Legally advertised on May 23, 2014.

PUBLIC HEARING OPENED: none. PUBLIC HEARING CLOSED.

**MOTION:** Marisa / Dick to adopt Ordinance 2014-06 on 2nd reading. Discussion: none

**ROLL CALL VOTE:** Milucky, Nay; 1) Abare, Aye; Rivet, Aye; Korn, Aye; Acquaviva, Aye. Motion Approved 4 to 1.

#### J. **RECOMMENDATIONS FROM TOWN BOARDS/COMMITTEES PRESENT AT MEETING**

##### 3. **Recommendations from Park and Recreation Board: 4 each**

- Bench at Corey and Benjamin Roads
- Trail Crossing Signs and 20mph Signage for Briar Creek Blvd.
- Appointment of two Residents to Park & Rec Board (Action under Resolutions)
- Clear Exotics 100' west from Signage at Eschenberg Park

**Exhibit:** Agenda Report No. 3

**Recommendation:** Request Action

Bill Sastrum, P&R Board is here to answer. Dick said it is a school bus stop. No other questions Jim asked about speed. Franklin explained 25mph after study but Council has bought and installed lower speeds in the past.

TA explained the dangers at the curve with the mountain bikes; BCSO won't enforce crossing Briar Creek, it is a safety issue.

**MOTION:** Dick / Marisa to approve all of the P&R recommendations and the speed to 25. **Vote:** All Ayes.

Council approves bench at Corey and Benjamin

Council asked for info on trail crossing location along Briar Creek Blvd.

Appointments will be handled later in meeting under resolutions.

Clearing exotics – Consensus to approve. Mayor asked about mowing since it is conservation land. Franklin said it is an actual obligation to clear out the exotics so if the mowing does that it would be within the management plan.

#### K. **ACTION ITEMS:**

##### **ORDINANCES: First Reading - 2**

##### 4. **Amend Code to Provide for Mayoral Veto Process (Ordinance 2014-07)**

Chair read by title only.

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR A PROCESS FOR THE MAYOR AND COUNCIL TO FOLLOW RELATING TO THE MAYOR'S AUTHORITY TO VETO AN ORDINANCE; PROVIDING A REQUIREMENT THAT THE VETO SHALL BE SUBMITTED IN WRITING TO THE CLERK; PROVIDING FOR A TIME LIMIT; PROVIDING FOR EMERGENCY ORDINANCES; PROVIDING FOR COUNCIL OVERRIDE PROCESS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 4

**Recommendation:** Request Approval of 1<sup>st</sup> Reading

Chair read by title only.

**MOTION:** Marisa / Jim to approve Ordinance 2014-07 on 1st reading.

Discussion: Amount of time – 5 business days.

**ROLL CALL VOTE:** Milucky, Aye; Abare, Aye; 1)Rivet, Aye; Korn, Aye; Acquaviva, Aye. Motion Approved 5 to 0.

**5. Amend Code to Provide for Establishment, Purpose and Procedures for Volunteer Advisory Boards and Committees (Ordinance 2014-08)** AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BOARDS AND COMMITTEES; AMENDING CHAPTER 2, ARTICLE VIII OF THE CODE OF ORDINANCES OF THE TOWN; AMENDING DIVISION 1 BY CREATING SECTION 2-211 GENERAL PROCEDURES FOR APPOINTING MEMBERS TO BOARDS AND COMMITTEES; CREATING SECTION 2-212 OPEN MEETINGS, PUBLIC COMMENT AND AGENDAS; CREATING SECTION 2-213 RELATING TO AD HOC COMMITTEES; CREATING SECTION 2-214 RELATING TO PUBLIC MONIES; CREATING SECTION 2-215 RELATING TO STAFF SUPPORT FOR BOARDS AND COMMITTEES; AMENDING DIVISION 2, SECTION 2-221 RELATING TO THE PARKS AND RECREATION BOARD; PROVIDING FOR ITS ESTABLISHMENT AND PURPOSE; PROVIDING FOR ALTERNATE MEMBER DUTIES; CREATING DIVISION 3 SECTION 2-230 CREATING THE TRAILS AND GREENWAYS COMMITTEE; PROVIDING FOR THE ESTABLISHMENT AND PURPOSE; PROVIDING FOR DUTIES; CREATING DIVISION 4 SECTION 2-240 RELATING TO THE BOARD OF ADJUSTMENT; PROVIDING FOR THE ESTABLISHMENT AND PURPOSE; CREATING DIVISION 5 SECTION 2-250 RELATING TO THE PLANNING AND ZONING BOARD; PROVIDING FOR THE ESTABLISHMENT AND PURPOSE; AMENDING ARTICLE XII OF THE MALABAR LAND DEVELOPMENT CODE; DELETING SECTION 1-12.2, AND SECTION 1-12.3; AMENDING SECTION 1-12.3.C.4 RELATING TO DECISIONS OF THE PLANNING AND ZONING BOARD; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 5

**Recommendation:** Request Approval of 1<sup>st</sup> Reading

Chair read by title only.

**MOTION:** Marisa / Wayne to approve Ordinance 2014-08 on 1st reading.

Discussion: Atty Karl gives credit to Debby for both of these ordinances; it saved money by having her prepare Ord 7 and 8. Mayor is not fond of 25% absence reference. Marisa said if they miss more than 25% as elected person, she did not think they would be reelected. Wayne said boards don't have authority to remove members. Council can extend or consider extenuating circumstances and allow to continue. If it pleases Council, they can reappoint. This takes care of problem they have had. Don't contribute if you're not attending. Marisa said that if you are not making the meetings, the seat could be taken by someone that would attend. Dick is hearing that Council should have final input.

**ROLL CALL VOTE:** Milucky, Aye; Abare, Aye; Rivet, Aye; 1)Korn, Aye; Acquaviva, Aye. Motion Approved 5 to 0.

**RESOLUTIONS: 2**

**6. Appoint Regular Member to Park & Recreation Board (Reso 16-2014)** A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR COUNCIL APPOINTMENT OF PATRICIA FOSTER AS A REGULAR MEMBER ON THE PARK AND RECREATION BOARD; PROVIDING AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 6

**Recommendation:** Request Action

Chair read by title only.

**MOTION:** Marisa / Wayne to approve Resolution 16-2014. Discussion: none.

**ROLL CALL VOTE:** Milucky, Aye; Abare, Aye; Rivet, Aye; Korn, Aye; 1)Acquaviva, Aye. Motion Approved 5 to 0.

**7. Appoint Alternate Member to Park & Recreation Board (Reso 17-2014)** A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR COUNCIL APPOINTMENT OF HELENA AUSLEY AS AN ALTERNATE MEMBER ON THE PARK AND RECREATION BOARD; PROVIDING AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 7

**Recommendation:** Request Action

Chair read by title only.

**MOTION:** Dick / Wayne to approve Resolution 17-2014.

Discussion: Dick knows both of these people supports this appointment.

**ROLL CALL VOTE:** 1)Milucky, Aye; Abare, Aye; Rivet, Aye; Korn, Aye; Acquaviva, Aye. Motion Approved 5 to 0.

#### **MISCELLANEOUS:**

#### **8. Solid Waste Ranking**

**Exhibit:** Agenda Report No. 8

**Recommendation:** Request Action

**MOTION:** Jim / Dick to approve the ranking as published. Vote: All Ayes.

Dick asked about semi-automated. TA explained that it meant 2-person truck.

Without objection, Council selects WM for TA to enter negotiations.

**MOTION:** Dick / Wayne to select Option 1 with semi-automated service. **VOTE:** All Ayes.

Discussion: Wayne said the semi-automated seems to be viable. Dick likes the option to offer choices in sizes. Jim asked Dick to amend to add enhanced pilot program. They agree. The pilot program is a good idea but she would suggest they go with option 1 and have everyone participate from beginning. Otherwise you will get "Why wasn't I one of the 200?" They discussed how the 200 would be selected without causing upset with rest of area. Council consensus to not go with the enhanced option. Selection of Option 1 is for all subscribers.

Jim said they certainly have sharpened their pencil. Marisa said this was the first time she has participated in such a bid process where the bidders were ranked. It was very painstaking and she spent a lot of time going over it. She called the Attorney because she had a concern that the Mayor also submitted a ranking although it is a strong council form of government. Attorney said Mayor can participate in discussion but not vote. Mayor wanted to bring up a couple of points. It is 25 cents per 4 runs. The other bidder came in with absolute recommendation from every city they serve in Brevard County. To be fair, it was brought up the other night. The recycle bins are thrown in the trash truck. Marisa said we are talking about the ranking and cost was 40%. Carl said he was here at a meeting 1.5 years ago and they weren't happy with WM. Chair said the rating was a tool for selection it is not the determining factor. Attorney said it is the lowest and best bidder. Mayor said if you vote on option 1. Marisa said this has been a long time coming. Some people are going to complain about. We have not gotten new recycle cans for years. There are people that want all of their trash picked up. Her cans are beat.

**MOTION:** Dick / Jim to authorize TA to begin negotiations with WM. **VOTE:** All Ayes.

**MOTION:** Jim / Wayne for the 7 year term and renewal options at 7 years. **VOTE:** All Ayes.

Attorney permitted to leave at this time. TA cautioned that at SCLC dinner please don't discuss.

Attorney recommends they draft their own regulations for bidding. He wants Council to direct staff to capture that then Debby does a good job at drafting ordinance. TA said it would make it a lot easier on us. Atty ok to leave 8:45. Fire Chief asked to be excused as well 8:45PM

**9. Council Review of Mtgs TA Attends; Appt as Delegate to Capital Outlay Committee**

**Exhibit:** Agenda Report No. 9

**Recommendation:** Request Action

Discussion: This was Jim's idea. He asked about TAC – input very important. TA explained about SMC. Wayne said EELs knows her now. She attends those that have something on agenda related to Malabar. Dick said they are also all in Brevard. Re: appointment to the Capital Outlay Committee; TA attends all the COC. Marisa explains why it is better for TA to be primary delegate. Marisa will be alternate.

**MOTION:** Marisa / Dick to appoint TA as Delegate to COC. **Vote:** All Ayes.

**MOTION:** Dick / Jim to appoint Marisa as alternate to COC. **Vote:** All Ayes.

Wayne to Jim's point, when you are there you are not here. But you do a good job. It should be her call on what meetings to attend.

**10. Set Dates for Annual Evals and Contract Renewal for TA and Clerk (Abare)**

**Exhibit:** Agenda Report No. 10

**Recommendation:** Request Action

**MOTION:** Wayne / Dick to set Town Administrator's contract review and performance review in April and Town Clerk's performance review in August. **VOTE:** All Ayes.

**11. Contribute \$200.00 for Melb Independence Day Parade and Fireworks**

**Exhibit:** Agenda Report No. 11

**Recommendation:** Request Action

**MOTION:** Dick / Wayne to approve the \$200.00 contribution to Melbourne for July 4<sup>th</sup> Celebration.

Discussion: Dick said we used to have fire truck in parade but it is too late for this year. Franklin said we used to rent a convertible and have council ride in the parade. The staging time is hours before the parade so our FD can't tie up a vehicle for that long. Dick said our people enjoy the fireworks in Melbourne. Jim said there is another one down the road. Why Melbourne and not Palm Bay? Palm Bay did not ask.

**VOTE:** Ayes: 3; Nay: 2 (Marisa and Steve).

**12. Council Overview of Outstanding Action Lists (Abare)**

**Exhibit:** Agenda Report No. 12

**Recommendation:** Request Action

Discussion: Wayne wanted to just walk through the list and not dwell on details of each - keep discussion brief at this time. They went through list. MISC first.

1. Done but want to enhance it. They are working on link.
2. Sent out last week. Convert to raw dollars. How much time to have on ballot. Can do ordinance that elaborates on amount money residents pay and would they prefer something Put on for next agenda. Draft ordinance
3. What is on agenda for next year – Have on for discussion.
4. PW projects
5. PZ Scope of Duties - done
6. Special Assessment – may get free money
7. Boy Scout stuff in PW yard
8. ROW maintenance – Jeff McKnight brought this up. Why should mowing be – would like to put agenda to discuss. Show it resolved

9. Referendum questions – put on agenda to change terms to 3 yrs and how many term limits and change wording on MSTU question.
10. Quarterman Lane – can't lower to 15 but what is condition? They bought rocks 3 times. Eva has been done with crushed concrete and not millings. First it needs a base of rock. Waiting on rock.  
PW next:
  1. PW Fleet – need to have Tom present. PW needs new truck. It will be at budget workshop
  2. PW street/road project – Mayor will get back on it. Wayne we need to budget for this. Mayor, just a quick thing. What is it going to cost to keep the roads up?
  3. Special Projects – take off of MISC
  4. Howell – to be country lane. TA will take Deb out to check Howell – It has grown back. Return to country lane with center grass lane.
  5. Duplicate
  6. Duplicate
  7. Tried in two areas – cut sidewalk in one place and added concrete in another. 2 have been completed.
  8. Road aprons is out for TFQ and will come in on 6/16
  9. Marisa noticed they trimmed the big tree at Corey and Malabar Road. All of the lines are loaded with trees. FPL schedules the trimming. Other thing is when bridges were repaired there was a warranty issue.
  10. Add Ski Lane – per Jim

FD

1. All closed

**13. Set Budget Workshop Dates****Exhibit:** Agenda Report No. 13**Recommendation:** Request Action

Consensus to use July 8, August 12 and August 26 at 7PM. First WS will be overview.

If there are residents that want to participate they can attend; they don't need to be part of a special board; all are welcome. Wayne said he participated and they were not pleasant and they don't know what they are doing.

**MOTION:** Wayne / Marisa do not have TBRB this year. **VOTE:** Ayes: 4; Nay: 1 (Rivet)

Discussion: Dick says we should encourage all to attend. One of the inadequacy he felt is he didn't attend the budget workshop. Council should be the primary decision makers.

L. **PRESENTATION:**M. **PROCLAMATION:** Mayor read making June 1-7 as Management WeekN. **STAFF REPORTS:**

**ADMINISTRATOR:** Update on flag pole. One pole needs to be polished. No hardware is attached to either. So she will place on Outstanding Action List. TA is getting pricing on needed hardware. Dick said TA has worked hard. Council had approved \$500 previously.

**CLERK:** If there are any resolutions you would like the FLC to consider at the annual conference we must have them for the next meeting. They must be limited to federal, constitutional or commemorative issues that are of statewide concern. The deadline is July 9. The Conference is August 14-16, 2014 at the Weston Diplomat in Hollywood. Are you interested in placing an ad in the Conference issue of Quality Cities? Lastly, the newsletter has been on the website and sent to residents on TA email list and should be in mailboxes tomorrow and Weds. Dick said consider a resolution re: AAF and send to FLC. Council consensus to do a resolution for Action 5/16/14.

O. **DISCUSSION ITEMS:**

**14. Road Management Plan (Abare)**

Discussion: Do short range and longer range. Marisa would like to hear from Tom on roads no longer able to be graded. Mayor was working on the list. They are out there every day. Wayne said Carl can bring in as much help as he can. Franklin said about need to budget for road maintenance.

Dick said when we do do a road do it right.

Chair recognized Mrs. Kicinski. Hers had to be 25 'with swales and turned it over to town. It is up to the town to provide the funds to maintain it. No crown – crown was required when she built it. Granted there are only 2 houses but there are people that stable their horses there. She does not want it paved. Weber Road was paved in 1987.

Wayne said during the great recession Malabar didn't raise taxes. So they missed an opportunity to get funds for roads and other capital projects.

Jim said the Budget versus Actual Report should be on Action List.

Jim said he is glad to see Mrs. Kicinski and hopes she keeps attending. He has a problem with her comment that it is "their" FD – it is the Malabar FD; and it is not "your" road, it is the road.

**O. REPORTS – MAYOR AND COUNCIL MEMBERS**

) Wayne, Steve and Marisa - nothing

2 ) Mayor, Honor Flight – this last one, one of the veterans was soon to be 100 years old. Roads, there are many aspects, depends on when the road was put in. He has been involved in all the roads and started to give report on road status.

1 ) Jim, Get involved and get others involved.

3) Dick, Complements to TA. Issue that is now called Beekeeper Road. It has been approved by prior administration. Shooting and nuisance behaviors. BCSO dep got with Ag truck. It is a real problem to people that live in the area. TA said this will be an agenda item. Been going on for decades. Has to be resolved. Invite BCSO and include Dick's color map. Wayne asked him to bring in a resident that is affected.

**P. PUBLIC COMMENTS: General Items (Speaker Card Required)****Q. ANNOUNCEMENTS:**


One (1) vacancy each on the Planning & Zoning Board, Board of Adjustment, Park and Recreation Board and Trails & Greenways Committee.

**R. ADJOURNMENT:**

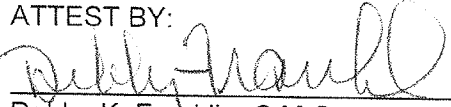
There being no further business to discuss, Chair asked for a motion.

**MOTION:** Wayne / Marisa to adjourn. **VOTE:** All Ayes. The meeting adjourned at 10:00 PM.

BY:

  
Steve Rivet, Council Chair

ATTEST BY:

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

Date Approved:

8/18/14

(seal)