

MALABAR TOWN COUNCIL REGULAR MEETING
September 8, 2014 7:30 PM

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

A. CALL TO ORDER:

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 Dick Korn.

B. ROLL CALL:

COUNCIL CHAIR

VICE-CHAIR/MAYOR:

COUNCIL MEMBERS:

STEVE RIVET

CARL BEATTY

JIM MILUCKY

WAYNE ABARE

DICK KORN

MARISA ACQUAVIVA

BONILYN WILBANKS

KARL BOHNE

DEBBY FRANKLIN, excused

CYNTHIA KELLEY

TOWN ADMINISTRATOR:

TOWN ATTORNEY:

TOWN CLERK/TREASURER:

DEPUTY TOWN CLERK:

For record Fire Chief Christopher Robinson is also present.

C, ADDITIONS/DELETIONS/CHANGES: TA asked to have the \$20,000 for the apron projects to be put into this year's budget as the company doing the project cannot get them until the second to third week of October; it will go toward the Weber Road project and begin this FY and continue into the next FY. As long as we pay the invoices by November, we should be fine. Rivet stated we are swapping these funds for a project that is ready for this year for a project that will not start until next year; TA stated that is correct. TA stated that by doing this, we will have a finishing total of \$48,000 for Weber Road in the next FY; you would minus out the \$20,000 from this FY. TA stated this is already in the budget adjustment pages within the same line item.

D. CONSENT AGENDA:

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(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. Minutes of:

Minutes of:
RTCM 08/18/14, Special 08/25/2014, WS 08/25/14 and WS 08/28/14

Exhibit: Agenda Report No. 1a.

1b. Budget Adjustment (Reso 26-2014)

1b. Budget Adjustment (Reso 26-2014)
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.

Exhibit: Agenda Report No. 1
Approval of Consent Agenda with roll call vote on Reso 26-2014

MOTION: Milucky/Acquaviva to approve the consent agenda as presented. **VOTE:** All Ayes.

MOTION: Milucky/Acquaviva to approve the consent agenda as presented. **VOTE:** 5 Aye, 0 Nay, 0 Absent.

ROLL CALL VOTE: 1) Milucky-Aye; Abare-Aye; Rivet-Aye; Korn-Aye and Acquaviva-Aye. Motion carried 5 to 0.

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**

F. **ATTORNEY REPORT** – nothing to report at this time; will speak to the W. Railroad contract when that comes.

G. **BREVARD COUNTY SHERIFF'S OFFICE REPORT**

H. **FIRE CHIEF REPORT**

I.

J. **PUBLIC HEARING:**

2. Adopt Millage of 1.8000 for FY 14/15 (Ord. 2014-15)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; SETTING THE AD VALORUM MILLAGE AT 1.8000 FOR FY 2014/2015; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, REPEAL AND AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Request Approval of 1st Reading

Chair opened public hearing to the public; hearing none, brought it back to Council.

Drew Thompson came forward to address Council; just wanted Council to be mindful of future budgeting and to have it address the fiscal budget of the Town. He would encourage Council to be wise and to have preventative investing to keep from spending more money in the long run.

MOTION: Abare/Korn to approve Ordinance 2014-15 as presented.

Discussion: None

ROLL CALL VOTE: 1) Abare-Aye; Rivet-Aye; Korn-Aye; Acquaviva-Aye and Milucky-Aye.

Motion carried 5 to 0.

3. Adopt Budget for FY 14/15 (Ord. 2014-16)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA ADOPTING THE BUDGET OF \$1,690,204.00 FOR THE TOWN OF MALABAR FOR THE PERIOD FROM OCTOBER 1, 2014 THROUGH AND INCLUDING SEPTEMBER 30, 2015; PROVIDING FOR REPEAL AND PROVIDING FOR AN EFFECTIVE DATE

Exhibit: Agenda Report No. 3

Recommendation: Request Approval of 1st Reading

Chair opened public hearing to the public; hearing none, brought back to Council.

MOTION: Acquaviva/Abare to approve Ordinance 2014-16 as presented.

Discussion: None

ROLL ALL VOTE: 1) Rivet-Aye; Korn-Aye; Acquaviva-Aye; Milucky-Aye and Abare-Aye.

Motion carried 5 to 0.

4. Adopt Ordinance Continuing the Waste Management Franchise Fee and Terms (Ord 2014-12)

AN ORDINANCE OF THE TOWN OF MALABAR REPEALING AND REPLACING ORDINANCE 89-3 IN ARTICLE IV OF APPENDIX A, THE FRANCHISE SECTION OF VOLUME ONE OF THE CODE OF ORDINANCES PERTAINING TO THE GRANTING OF EXCLUSIVE SOLID WASTE AND RECYCLABLE MATERIAL COLLECTION FRANCHISE AGREEMENT BETWEEN THE TOWN OF MALABAR AND WASTE MANAGEMENT INCORPORATED AKA HARRIS SANITATION; AMENDING SECTION 2 OF CONTRACT AGREEMENT TO PROVIDE FOR THE TERM OF FRANCHISE AND FRANCHISE FEE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS, CODIFICATION AND AN EFFECTIVE DATE

Exhibit: Agenda Report No. 4

Recommendation: Request Adoption of 2nd Reading

Chair opened public hearing to the public; hearing none, brought back to Council.

MOTION: Korn/Abare to approve Ordinance 2014-12 as presented.

Discussion: Acquaviva asked if the attorney reviewed this and we are good. Korn asked if this is the 7 year contract and we get the fees if the fees change. Wilbanks stated that we get the percentage for the franchise even if the fees are increased.

ROLL CALL VOTE: 1) Korn-Aye; Acquaviva-Aye; Milucky-Aye; Abare-Aye and Rivet-Aye.
Motion carried 5 to 0.

5. Amend Fertilizer Regulations Ordinance to add Additional Exemption for Private Use Gardeners (Ord 2014-13)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ORDINANCE 2014-04 ADDING AN ADDITIONAL EXEMPTION TO THE REGULATIONS PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, REPEAL AND AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 5

Recommendation: Request Adoption of 2nd Reading

Chair opened public hearing to the public; hearing none, brought back to Council.

MOTION: Acquaviva/Abare to approve Ordinance 2014-13 as presented.

Discussion: None

ROLL CALL VOTE: 1) Acquaviva-Aye; Milucky-Aye; Abare-Aye; Rivet-Aye and Korn-Aye.
Motion carried 5 to 0.

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

K. ACTION ITEMS:

ORDINANCES: First Reading – 0

RESOLUTIONS: 0

MISCELLANEOUS:

6. Qualify Candidates for Council as Required by Charter

Exhibit: Agenda Report No. 6

Recommendation: Request Action

Discussion: Chair Rivet explained the reason that Council does this; it is stated in the Charter that Council will qualify all the candidates that provided all the proper, correct paperwork needed to run for office. He then asked Kelley if she could verify that all the candidates did provide the needed documentation. Kelley stated that all the candidates did qualify; Mr. Ryan did submit a packet but later withdrew from the election. Korn asked if all the municipalities do this; Bohne stated that the municipalities that he represents does do the qualifying process. Acquaviva asked about the time-frame of Mr. Ryan withdrawing. Did he do it within the Friday at 4 pm? TA stated that the 4 pm deadline was the time that they had to qualify. He withdrew his name in time to not have his name appear on the ballot. She advised Council that Kelley was on the phone to verify that he had withdrawn as we were having issues with our phones and emails coming through. We also were informed that our candidate's information was not on the Supervisor of Elections website so Kelley provided that information to them as well. The reporter for the newspaper probably pulled the information for the various municipalities by the website prior to them having our information. We corrected it as soon as we were made aware of it. Abare asked about the member elects with speaking to Council members. Bohne stated that he would caution them not to speak to any Council member regarding Council business at all; don't put yourselves into that position.

MOTION: Korn/Abare to accept the qualifying of candidates for 2014 election process. **VOTE:** All Ayes.

7. Approval of Revision to Employee Holiday Leave Policy for 24/72 Hour Shift Employees

Exhibit: Agenda Report No. 7

Recommendation: Request Action

Discussion: TA spoke to this; stated that she had spoken to the labor attorney regarding this and was advised that this needed to be addressed. The revision doesn't say "Lts."; it states for the employees who work 24/72 shifts. Doing it this way, this would cover any employee with this work schedule and would not have to be addressed again.

MOTION: Abare/Korn to approve the revision to Employee Holiday Leave Policy for 24/72 Hour Shift Employees. **VOTE:** All Ayes.

8. ILA – Brevard County Public School Facility Planning & School Concurrency
Exhibit: Agenda Report No. 8

Recommendation: Request Action

Discussion: TA spoke to this; stated that there are some changes made and the ILA needed to be addressed to incorporate those changes. As stated in your agenda packet, we have the tracking copy and the completed clean copy. This is within our comp plan; some municipalities have removed it from theirs but we were advised against doing this. This is the current copy and it has been voted on by 5 cities already. Korn asked what this obligates us to do. TA stated nothing but to follow the ILA; we don't have any schools in our Town.

MOTION: Acquaviva/Abare to approve the ILA – Brevard County Public School Facility Planning & School Concurrency. **VOTE:** All Ayes.

9. North Florida Emulsions, Inc. – Road Project for Glatter, Weber & Old Mission Roads

Exhibit: Agenda Report No. 9

Recommendation: Request Action

Discussion: Chair Rivet stated that this is to approve the work that has been planned for these roads; TA stated this is correct.

MOTION: Milucky/Acquaviva to approve North Florida Emulsions, Inc. to complete the road projects for Glatter, Weber and Old Mission Roads per the information provided earlier by the TA regarding the \$20,000. **VOTE:** All Ayes.

10. Approval of the Match Money for the Fire Assistance Grant

Exhibit: Agenda Report No. 10

Recommendation: Request Action

Discussion: TA spoke to this; stated this was approved under the budget adjustments. It was moved to the correct line item.

MOTION: Milucky/Korn to approve the match money for the Fire Assistance Grant. **VOTE:** All Ayes.

11. Flagler Development – Approval of Purchase of W. Railroad Avenue Land Parcel Lot 10

Exhibit: Agenda Report No. 11

Recommendation: Request Action

Discussion: TA spoke to this; she did not send out the bill of sale and contract as the attorney had not had a chance to review it. The funds have been approved and moved to the correct line item. Bohne stated he was able to look at the information and he is generally okay with the contract. It is an "as is" contract; his only concern is to make sure the title is clean. He asked the TA if he could do a title search; since we are taking it "as is" and there is a short due diligence time-frame, he wants to verify that the title is clean. It's a good price; it will help clean up the issues that have taken place across the street. Abare asked about title abstracts; Bohne stated they are not done anymore. It would be \$100 for the title search and a nominal cost for the title insurance. Abare asked who is paying the closing costs; Bohne stated he would do the closing and the costs would be, more than likely, paid by the Town.

Mayor Beatty gave a recap of the process; he sent an original offer of \$500 after consulting with the attorney, an offer for the Town. It was ten times the amount that they countered with and the deal sat for a bit until they came back with this offer of \$1,000 which is \$500 over the original offer. Abare asked about the title insurance amount; Bohne stated they insurance will be issued for the sale price of the land.

MOTION: Milucky/Korn to approve the purchase of W. Railroad Avenue Land Parcel Lot 10 and the acceptance the attorney's recommendation to include title insurance. **VOTE:** All Ayes. Motion carried 5 to 0.

Attorney Bohne was excused at 8:10 pm.

STAFF REPORTS:

Town Administrator: reported that she did not receive anything back from the E-911 dispatch letter; she did not receive the phone call she was told she would receive from the Interim Fire Chief either. She was able to report that County Manager Whitten stated the letter would be rescinded; he was copied on the original letter that was addressed to Chief Strandell but never received his copy. Her concerns were that the County Manager didn't even know about the letter until she made contact with him. We should have more information by Friday and she will advise Council on this. It was a one-month notice letter to give us time to find another dispatcher; it takes more than one month to find this type of service. Rivet asked what brought this on; TA stated she had no clue as to what happened or what took place to bring it to this stage. Korn asked about the conversations with the County Manger about the price increases with Chief Collins. TA stated that this letter shouldn't have even come from the Fire Chief; when a contract is terminated, it is done through the manager of the municipality. Korn stated we have no responsibility in this; it is on them.

Town Clerk: nothing to report at this time.

COUNCIL REPORTS:

Acquaviva: wanted to clarify that Council went through 4 budget workshops. She received a few phone calls questioning her support of the Fire Department. She wanted to let everyone know that she is in full support of the Fire Department; she was trying to be very judicial and didn't mean to infer that she didn't support them. She does support them as well as Public Works; the task is to do the best we can for the safety and well-being of the Town and its employees.

Korn: on the same note as Acquaviva; he wants people to know that they were not choosing sides between the Fire Department and Public Works. Each department has work to get done and they do it very differently. Everyone needs to be taken care of and everyone has value in their jobs. The minutes from August 28th reflect some confusion on this.

Abare: nothing to report at this time.

Milucky: welcomed the new incoming Council.

Beatty: nothing to report at this time.

Rivet: nothing to report at this time.

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

R. ANNOUNCEMENTS:

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

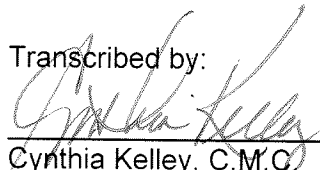
S. ADJOURNMENT:

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


MOTION: Milucky /Abare to adjourn. **VOTE:** All Ayes. The meeting adjourned at 8:20 PM.

BY: 
Steve Rivet, Council Chair

Transcribed by:


Cynthia Kelley, C.M.C.
Deputy Town Clerk

ATTEST BY:


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

Date Approved: 9/22/2014

(seal)

