

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:

DEBBY FRANKLIN

For record Fire Chief Christopher Robinson is also present.

C, ADDITIONS/DELETIONS/CHANGES: Chair said that the review of the Agenda Item 7, the TA evaluation and contract will be postponed until they have a full Council. Clerk asked to pull Agenda Item 5 as it is premature. There are no openings for regular seats at this time.

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)

Agenda Report No. 1a.

1b. Budget Adjustment (Reso 27-2014)

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.

Agenda Report No. 1b.

Approval of Consent Agenda with roll call vote on Reso 27-2014

Chair read by title only.

MOTION: Jim / Wayne to approve the consent agenda as presented. **ROLL CALL VOTE:**

1)Milucky, Aye; Abare, Aye; Korn, Aye; Acquaviva, Excused; Rivet, Aye. Motion carried 4 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: Outside Attorney asked for a bunch of certified copies and Clerk and her staff got it all together.

G. BREVARD COUNTY SHERIFF'S OFFICE REPORT: none

H. **FIRE CHIEF REPORT:** Did we get new truck yet? Next week or two.

I. PUBLIC HEARINGS: 2nd readings**2. Adopt Millage of 1.8000 for FY 14/15 (Ord. 2014-15)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ADOPTING THE MILLAGE RATE OF 1.8000 FOR THE LEVY OF AD VALORUM TAX WITHIN THE TOWN OF MALABAR FOR THE PERIOD OF OCTOBER 1, 2014 THROUGH AND INCLUDING SEPTEMBER 30, 2015; PROVIDING FOR REPEAL AND AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Request Adoption of Ord 2014-15 on 2nd reading.

Chair read the title only.

Chair opened public hearing to the public; hearing none, brought it back to Council. Chair read required info about the Roll Back Rate.

MOTION: Wayne / Dick to adopt Ordinance 2014-15.

Discussion: Dick asked for an explanation of the roll back rate and Franklin gave him a brief explanation. As to RBR from last Question None. **ROLL CALL VOTE: 1) Abare, Aye; Korn, Aye; Acquaviva, Excused; Milucky, Aye; Rivet, Aye.** Motion carried 4 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 Adoption of Ord 2014-16 on 2nd Reading

Chair read by the title and Section 1 of Ordinance.

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

MOTION: Dick / Wayne to adopt Ordinance 2014-16. Discussion: None. **ROLL CALL VOTE: 1) Korn, Aye; Acquaviva, excused; Milucky, Aye; Abare, Aye; Rivet, Aye.** Motion carried 4 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: 1

4. Appoint Wayne Abare to P&Z Board (Reso 28-2014)

A RESOLUTION APPOINTING WAYNE ABARE AS A REGULAR MEMBER OF THE PLANNING AND ZONING BOARD AS REGULAR MEMBER TAKING GRANT BALL'S EFFECTIVE NOVEMBER 6, 2014; AND PROVIDING FOR AN EFFECTIVE DATE

Exhibit: Agenda Report No. 4

Recommendation: Request Approval of Reso 28-2014

MOTION: Dick / Jim to adopt Resolution 28-2014. Discussion: Dick said this is not the proper time to do this. Other potential candidates have not had notice of the opening.

Speaker's Card: Rat Reilly, Chair of P&Z stated the Board supports the appointment of Wayne Abare to P&Z.

ROLL CALL VOTE: 1) Acquaviva, excused; Milucky, Aye; Abare, Aye; Rivet, Aye; Korn, Aye. Motion carried 4 to 0.

Milucky asked why Abare could vote for his own appointment and he could not vote for his spouse's appointment. Attorney explained that voting in favor of your own appointment is not a conflict. Milucky said it seems like the same rule should cover both instances. He wants a formal

legal opinion. They may need to clarify the procedures they are using to be the same as appointing spouse. Clarify in procedure. Put on next agenda for discussion.

The following item pulled -

~~5. Appoint George Foster as a Regular Member on the P&Z Board (Reso 29-2014)~~

6. Authorization for the County to act as Applicant for the Quiet Zone along the FEC Railway (Reso 30-2014)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA SUPPORTING THE SPACE COAST TRANSPORTATION PLANNING ORGANIZATION IN ITS EFFORT TO COORDINATE THE CREATION OF A QUIET ZONE ALONG A PORTION OF THE FLORIDA EAST COAST RAILWAY CORRIDOR.

Exhibit: Agenda Report No. 6

Recommendation: Request Approval of Reso 30-2014

MOTION: Jim / Wayne to adopt Resolution 30-2014. Discussion: Dick asked about using the word "Agent" instead of applicant. TA explained that the County would be the applicant for the entire county. Wayne asked if they put these extra arms and gates and rails in does the Town pay for the maintenance? Franklin said SR514 is a State Road and they will pay for the maintenance; Town would pay for maintenance at Jordan Blvd. Dick said along I-95 they have sound walls; has anyone thought about asking for something like that? TA explained that they are not part of the Quiet Zone application; this would reduce the sound of the warning train horns. Mayor said there was originally two separate tracks; one northbound and one southbound. Then they went on strike and they stopped passenger service and went to one track. Wayne asked if the trestle in Palm Bay had also had two tracks. Mayor didn't know. But said as for ROW, they had to lease the ground where he had planted the sea grapes

ROLL CALL VOTE: 1)Milucky, Aye; Abare, Aye; Rivet, Aye; Korn, Aye; Acquaviva, Excused. Motion carried 4 to 0.

MISCELLANEOUS:

The following item pulled until there is a full Council.

7. ~~Review of Administrator Evaluation and Contract per Council Meeting of 5/19/2014~~

8. Consider Purchase of 2715 Malabar Road (Billie/Dzurak Property) Owner has given Town First Option (Abare)

Exhibit: Agenda Report No. 8

Recommendation: Request Action

Speaker's Card: Pat Reilly, 1985 Howell Lane, why should Town buy this property? Parking? Keep for the future use? The PA website values nearby properties between 27K and 62K. If it is for a Town Hall; what would it cost to build on our property by fire station?

Brian Vail, 2700 Smith Lane, supports this purchase and said it is not connected with any expansion plans. This building will stay regardless so it would be used for the community. The purchase would eliminate the current non-conforming status of the parcels. It is adjoining town properties and makes it conforming. Can't go to the PA to come up with values. What is the value to us to cure the non-conformity?

Chair explained they needed a motion since it had been tabled.

MOTION: Dick / Wayne: remove from table. **VOTE:** Ayes, 3; Nay, 1 (Milucky).

Wayne said in a perfect world they could build a new Town Hall; they could buy the property next door and expand the building and put a new council chamber and other offices. They also have the Huggins Park, but that is in a residential area. The value to the Town is that it is right next door. It is right next to PW. The value is to us. The owners have spent a lot to demolish and clear the property. It is understandable they want to finish the process and liquidate the assets and close the estate. We should offer a reasonable price; don't steal it. Buy in the 70 or 75K area. Mayor said he would like Council to step back. He referenced the results of the election. The results are before them; the majority of voters did not want to raise taxes to buy any land. Mayor said you also don't want to add to this building. It is deficient, too close to the tracks; no metal in corners and the floor is at ground level. This building is substandard and should not be added to. The voters said no.

Dick said if the vote was now he would say no. Wouldn't pay 70K for it. Someday we should get together and put together a long range plan.

Jim said in 2004 we were going to buy it for 175K and he is so happy we didn't buy it. The myriad of projects that need to be funded. Retailers prey on people thinking it is on sale. There are many other budget restraints. Just because it is contiguous is not justification to buy it. The five people that will be sitting in these chairs in November were selected by 75 signatures. The election in 2012 the voters said no four times to buying land.

Wayne, said go back several years, the legislature had limits. During one the IEMO he learned the cities were underfunded. The average millage statewide is 5.3 mil. If we continue to be bashful with keeping the millage under 2 mills we will never meet the needs of the town. They need to educate the citizens to the reason for the increase. Wayne said what if it is sold for 25K.

MOTON: Wayne / Dick to offer 50K to owners. **VOTE:** Ayes, 2; Nays, 2; (Milucky, Rivet). Mayor breaks tie by voting no. Motion fails 3 to 2.

Franklin said that the Billie family paid 20K for the asbestos abatement and land clearing.

Attorney Bohne was excused at 8:33 pm.

STAFF REPORTS:

Town Administrator: reported that they have put steel plates on areas that they have had failures. Howell and Hall Roads. Weber Road preparation for North Florida Emulsions is going forward. Also need to put out a newsletter. Dick said he put on his website. Dick said encourage others to recycle. Mayor said they can put scrap food in bag and freeze it. Jim said the recycle is not getting PU on Friday.

Town Clerk: Wanted to keep Council updated on items staff is working on. There are some housekeeping inconsistencies in Chapter 13 and she and the Attorney are working on an ordinance to make these corrections. Another housekeeping item is the recently adopted ordinance on Boards says members with expiring terms must submit applications before 9/30/14 but Council doesn't act on it until 2nd meeting in October. Clerk doesn't send out the letters until September. This will be corrected. On Wednesday, 9/24/14, the P&Z Board will hold Public Hearings on two items – a Land Use and Zoning Change for a parcel on Hwy 1 by Mr. Carmine; the item will then be decided at Council on October 6, 2014. The other item is a ROW vacate for a section of Fins Lane. As a point of information Paladin has submitted a preliminary site plan along with the CUP application for the ALF on Highway 1; it is called "The Shores" and is set to go to P&Z on October 22, 2014.

Mayor said he will go to First Amendment Foundation Sunshine class in Winter Park on October 15, 2014.

COUNCIL REPORTS:

Acquaviva: excused

Korn: Re: purchasing the Billie property; he doesn't know enough to say yes to an offer. They need to do more information.

Abare: As I turn into Harris, northbound going south there is a big pothole.

Milucky: nothing

Beatty: We haven't cancelled the Billie property. Ask realtor to give property value. Wayne said is he going to do the study. Have a realtor. TA said staff doesn't need another project.

Rivet: We pay what its worth to the market, plus one dollar.

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

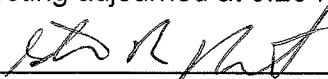
R. ANNOUNCEMENTS:

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: Dick / Jim to adjourn. **VOTE:** All Ayes. The meeting adjourned at 9:20 PM.

BY: 
Steve Rivet, Council Chair

ATTEST BY:


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

Date Approved: 10/6/14

(seal)