

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

NOVEMBER 04, 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 Vail led P&P.

2. **ROLL CALL:**

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL

BRIAN VAIL

DICK KORN, excused

DANNY WHITE

TOWN MANAGER: (TM)

MATT STINNETT

TOWN ATTORNEY:

KARL BOHNE

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:** none

4. **CONSENT AGENDA:** Town Council Mtg Minutes of 10/07/2019

MOTION: CM White / CM Rivet to not approve the minutes. Too long – they should be brief.

VOTE: 2 Ayes and 2 Nays with the Mayor breaking the tie with a Nay. I

5. **ATTORNEY REPORT:** nothing

6. **BCSO REPORT:** not present – out on a call.

7. **BOARD / COMMITTEE REPORTS:**

7.a. **Drew Thompson, Chair, T&G Com:** Displayed the new trailhead signage recently completed by MCGraphix to motivate future improvements.

7.b. **Eric Bienvenu, Chair Park & Rec Board:** Gave presentation on Board's request approval to proceed with their commendation to remove the old house located in the Malabar/Glatter Roads triangle, renovate it and place it at the Malabar Community Park.

MOTION: CM Vail / CM White to approve Park Board recommendation and proceed with renovation project on old "Malabar" house. **VOTE:** All Ayes.

7.c. **Liz Ritter, Vice-Chair, P&Z Board:** Briefed Council on the Board's recommendation on Huggins Park rezoning and Twin Lakes preliminary plat.

8. **STAFF REPORTS:**

8.a. **ADMINISTRATOR:** Nothing.

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

8.c. **FIRE CHIEF:** Gave Oct stats. Applied for grant. Failed duct work will be fixed.

8.d. **CLERK:** Richard has provided a draft of the flyer for the FallFest; please submit any changes ASAP. Event is set for Nov 30 from 9AM – 3 PM. If there is any interest in contributing to beer, let us know.

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**

10. **PUBLIC HEARINGS/SPECIAL ORDERS: 4**

10.a. **ORDINANCE 2019-14 Budget Amendment FY 2018/2019 – 2nd Reading**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2018/2019 TO PROVIDE FOR ADDITIONAL REVENUES RECEIVED; PROVIDING FOR THE UNSPENT BUDGETED FUNDS DUE TO REDUCED EXPENDITURES; PROVIDING DIRECTION TO DELEGATE SUCH EXCESS FUNDS TO DESIGNATED RESTRICTED RESERVES FOR BUILDING DEPARTMENT USE, STORMWATER USE, FIRE DEPARTMENT DONATIONS AND FOR VEHICLE

REPLACEMENT; PROVIDING THE SHIFTING OF UNSPENT MONIES BETWEEN DEPARTMENTS TO BALANCE THE EXPENDITURES; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Read by title only. PH opened: none. PH closed.

MOTION: CM Vail / CM Rivet to adopt Ord 2019-14. Rollcall VOTE: CM Ball, Aye; CM Vail, Aye; CM Rivet, Aye; CM Korn, Excused; CM White, Aye. Motion carried 4 to 0.

10.b. ORDINANCE 2019-15 Amending Art IX of Chapter 2, Code of Ordinances – 2nd Reading

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES OF THE TOWN; AMENDING THE TITLE FOR THE TOWN ADMINISTRATOR IN ARTICLE IX; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE.

Read by title only. PH opened: none. PH closed.

MOTION: CM White / CM Ball to adopt Ord 2019-15. Rollcall VOTE: CM Ball, Aye; CM Vail, Aye; CM Rivet, Aye; CM Korn, Excused; CM White, Aye. Motion carried 4 to 0.

10.c. ORDINANCE 2019-13 Rezoning Huggins Park

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ADMINISTRATIVELY AMENDING THE ZONING MAP FOR THE 3.4 ACRE SITE IN SECTION 31, TOWNSHIP 28 AND RANGE 38 LOCATED IN THE JOHN J POLLAKS SUBDIVISION, MALABAR FLORIDA FROM INSTITUTIONAL (INS) TO RESIDENTIAL (RS-10); PROVIDING FOR PROPER CLASSIFICATION IN ORDER TO SELL; PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAP; PROVIDING AN EFFECTIVE DATE.

Read by title only. PH opened: Jennifer Wormuth spoke against selling the park. PH closed.

MOTION: CM Rivet / CM Vail to approve first reading after public hearing of Ord 2019-13.

Discussion – Mayor said the P&Z recommendation is consistent with the surrounding area and what it was before it was a park. CM Vail asked to designate the sale revenue to the Park Fund. CM Ball agreed. TM will make a note of that so that they do have that conversation. **Rollcall VOTE:** CM Ball, Aye; CM Vail, Aye; CM Rivet, Aye; CM Korn, Excused; CM White, Nay. Motion carried 3 to 1.

10.d. Preliminary Plat for ‘Twin Lakes’ Subdivision

Applicants Malcom Kirschenbaum, Weber Woods LLC, represented by Mr. Bruce Moia, PE of MBV Engineering, Inc. request approval of the Preliminary Plat for a 16 homesite subdivision in Rural Residential (RR-65) Zoning. The site is located on the south side of Malabar Road, east of Weber Road on a 24-acre parcel more fully desc as Lot 26 & part of Lot 25 of Pb 1 Pg 165 as desc in Orb 8065 Pg 1488 exc Orb 8313 Pg 1942.

Mayor asked Project Representative Bruce Moia to podium. Moia said they have been working with FDOT for ROW acquisition and entrance requirements. This developer has made the land available so they can do turn lane improvements. Working also with City of Palm Bay to extend water. Have acquired easements with neighbors to get the water line located without having to move it again when the road is widened. Regarding trees – the developer is proposing to keep all the trees possible and not impact the wetlands. The drainage will be self-contained. The FDOT requires the 100-year standards. There are existing wetlands on the perimeter. That discharge rate is required to remain same as pre-development - so no new drainage into State's ditch. Everything else will be treated. Turtles will be permitted before they go forward. PH – none. PH – closed. Chair asked if there were any staff comments. Atty made his comment about private roads and the right for Town to do a special assessment to make repairs to streets if HOA fails.

MOTION: CM Rivet / CM Vail to approve the Preliminary Plat of Twin Lakes subdivision.

Discussion – looks to be compatible per CM Rivet. Mayor likes just the one entrance. CM Ball said it will be private road. **Rollcall VOTE:** 4 Ayes (CM Korn excused).

11. UNFINISHED BUSINESS/GENERAL ORDERS: 3**11.a. Agenda Request – Richard Kovach: Council Must Adhere to its Code of Conduct – Action Desired: CM Korn, White & Rivet to Give Reasons, not Rationale, for Voting in favor of Ordinance 2019-08.**

Discussion: Richard Kovach put up 11.a. on the screen and read from page. Said Council has refused to act on this his repeated requests for factual answers. CM White said he articulated several reasons. He was addressing the topic.

11.b. Agenda Request – Richard Kovach: Council Must Adhere to its Code of Conduct – Action Desired: Conduct Public Hearing and Penalty Phase against CM Korn

Discussion: Richard Kovach requested action be taken against CM Dick Korn. He then played a portion from 1/3/18 mtg audio and video from YouTube.

11.c. Agenda Request – Laura Mahoney: Public Involvement and Interaction – Action Desired: Consider Resources and Ideas for Effective Interaction with Public

Speaker's Card: Dawn Danielson, C.A.V.E. people are Citizens Are Very Engaged.

Discussion: Laura Mahoney, talked about public records requests, efforts to improve public trust and volunteerism, and making public records searchable.

Attorney addressed point of order issues for purposes of local government.

12. ACTION ITEMS: ORD for 1st: 0; RESOLUTIONS: 0; MISCELLANEOUS: 1**12.a. Agreement Between Malabar Fire Rescue Dept and Brevard Physicians Associates, PLLC and Dr. Larissa Dudley (collectively, Medical Director)**

Chief said they are looking for a new med dir. He has it included in the budget. Met with her and the Atty. The cost is different, but it is in the budget. Atty said the contract expanded on the roles of the med dir. Requirement for her to carry 1 mil and 1 mil for liability coverage that she will cover.

MOTION: CM White / CM Rivet to approve contract for medical director. **VOTE:** All Ayes.

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

13. DISCUSSION/POSSIBLE ACTION: 1**13.a. Road Variance Process – Requested CM Rivet**

CM Rivet started the discussion. No provision for a variance. There are no lots and no more road ROW. Having this person improve the road would create a negative impact to the environment and cause people to spend money to build a road that will never get used. Road serves no purpose. Atty weighed in on this and suggested a road vacate and Rivet does not support that. He believes this does not make since to make someone build 200' when there is no need for road.

CM Vail said he was in support of a variance in this case. It was being abused and that is why he supported removing that option from Code. Bring variance mechanism back to Council with additional requirements to close loopholes and discourage abuse.

Franklin said they will be scheduling a follow-up road ROW improvement workshop before Christmas if possible and this can be part of that meeting.

14. PUBLIC COMMENTS: General Items (Speaker Card Required)**15. REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Ball: issue that continues to come up; how can we communicate better with citizens. Every time we go to do something, someone comes up and says we should do better. How can we do better. CM White said they should feel listened to. How to keep them better informed. CM Ball said he brought this up to TA – each CM set up a small area at the FallFest and let the people come to them with their concerns.

CM Vail: nothing

CM Rivet: nothing

CM Korn: excused

CM White: Maybe we have to add something to our process to include the public earlier. Thanked TM for the work the PW is doing – referred to the removal of palm trees blocking the flow downstream of his property - the water flows.

Dawn Danielson – has been speaking with TM about communication. Suggested having workshops 3 or 4 times a year with residents to allow some give and take and for citizens to ask questions.

Mayor: nothing

16. ANNOUNCEMENTS: Openings on Bd of Adjustment, T&G, P&Z and Park and Rec Bds.

17. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 9:25 PM.

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

ATTEST:

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

Date Approved: 11/18/2019