

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

DECEMBER 02, 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 White led P&P.

2. **ROLL CALL:**

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL

BRIAN VAIL

DAVID SCARDINO

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:** one by Mayor to cancel the Dec 16 RTCM – no objections.

4. **CONSENT AGENDA:** Town Council Mtg Minutes of 10/21/2019

MOTION: CM Vail / CM White to approve the minutes consent agenda. **VOTE:** All Ayes.

5. **ATTORNEY REPORT:** nothing

6. **BCSO REPORT:** not present –

7. **BOARD / COMMITTEE REPORTS:**

7.a. **Drew Thompson, Chair, T&G Com:** Chair got email from Drew – working on trails and signage.

7.b. **Eric Bienvenu, Chair Park & Rec Board:** not present

7.c. **Wayne Abare, Chair, P&Z Board:** not present

8. **STAFF REPORTS:**

8.a. **MANAGER:** Noted FPL has finished work on Atz west of Weber and ATT can now get out there and do their part. FDOT has begun work at Fern Creek property.

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

8.c. **FIRE CHIEF:** Gave brief report in Nov had 62 calls, 27 EMS and 28 public assists. Hydrant testing will begin.

8.d. **CLERK:** FallFest had a great turnout with great team effort. Thanked Council for recognition.

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**

Skip Hard, 2560 Hard In – cave strong – also have t-shirts. 9/26 submitted a FOIA request for record of phone call between CM Rivet and Korn and got response from Clerk that there were no records. Asked CM Rivet what it was about. CM Rivet said it was about the health of his wife.

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

10.a. **ORDINANCE 2019-13 Zoning Change for Huggins Park – 2nd Reading**

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.

Exhibit:

Agenda Report No. 10.a.

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

MOTION: CM Rivet / CM Vail to adopt Ord 2019-13 as amended to provide sale revenue to go to parks and/or trails purposes. Discussion: CM White made the amendment.

Rollcall VOTE: CM Ball, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 5 to 0.

Chair explained process that will be conducted as quasi-judicial public hearing. Quasi-judicial proceedings give name and address, all documents to be given to clerk, ex parte communication, summary of communication. No disclosures by Council. Atty asked about swearing in witnesses – Chair said not necessary.

10.b. Complaint from Richard Kovach on Code of Conduct Violation committed by then CM Dick Korn

Richard Kovach presented and provided a handout – went through presentation showing multiple examples of alleged violations of the Code of conduct adopted by council and codified in Chapter 2 of Code. Examples show a lack of decorum. He said Korn should be censured and not allowed to hold any office for the Town. Showed seven instances of violations and insists Council levy the penalties.

Public: Skip Hard – Korn was six years on council – why didn't you police yourselves. Dawn Danielson do the right thing. Do penalty phase of the code of conduct you put into place two years ago.

Laura Mahoney –most were directed towards her but really it is about the residents.

PH closed. Chair said the motion maker should support the motion. Chair said item dies for lack of motion.

10.c. Complaint from Jose Merino on Code of Conduct Violation committed by then CM Dick Korn

PH opened. Jose Merino agrees with everything that the preceding persons said. PH closed.

Dies for lack of motion.

10.d. Complaint from William Hard on Code of Conduct Violation committed by CM Danny White

PH opened. William Hard left building. Atty said Council needs to proceed with complaint that was filed. Atty said CM White should abstain if a motion is made.

Barbara Cameron is thoroughly confused that no motions are being made. Why isn't Council voting on that. Owned property here since 1974. She was asked to run for office. People that do not respect the citizens should not run for public office. It does not make any sense. PH is closed.

Dies due to lack of motion.

11. UNFINISHED BUSINESS/GENERAL ORDERS:

ACTION ITEMS: ORD for 1st: 0; RESOLUTIONS: 0; MISCELLANEOUS: 0

12. DISCUSSION/POSSIBLE ACTION: 1

13.a. Impact Fees for Malabar (CM Scardino)

David notice that Malabar does not impose impact fees. He has listened to the constituents and they are concerned the drainage, roads, infrastructure. The people who come from the outside should pay an impact fee. Mayor said it has been brought it up.

CM Rivet said that if development causes a need for infrastructure, development should pay for it. What is the next step. Atty said decide on the category of impact fees you want. Impact fees are not for maintenance – it is for impact of new development. Could be for public buildings. Funding a new town hall. SW utility pays for maintenance – impact fees would be for new infrastructure. Once you make thoses determinations then do the study. CM Ball said it should be discussed at an workshop. Don't want citizens already living here to have to pay. Also only want the impact fees to be responsible to not discourage new owners.

CM White would be for it and think it was discouraged when they saw that Brevard County imposes some impact fees and the school also charges an impact fee. TM said the transportation impact fees are collected by the county but Malabar can use the funds collected in Malabar for qualifying road projects and road paving is one of those.

CM Vail recalls it was the proportionality test. The cost of the study is what is holding us back. CM Ball says see what GV has done. CM White said how long would be cost effective. Would impact fees offset the cost of the study? CM Scardino – we should do impact fees.

Set WS for the last Monday in Jan – get staff information.

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

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

Laura Mahoney – read from paper.

Dawn Danielson – disappointed in Council – repeal those ordinances.

Susan Shortman – Ivey Ln – asked Dick to apologize.

MOTION: CM White / CM Vail to cancel the 12/1619 RTCM. All Ayes.

14. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Ball: nothing

CM Vail: nothing

CM Rivet: nothing

CM Korn: nothing

CM White: nothing

Mayor: Thanked all for FallFest.

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

16. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 8:38 PM.

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

ATTEST:

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

Date Approved: 1/14/2020