

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

MAY 21, 2018

7:30 PM

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

A. CALL TO ORDER:

Chair, Mayor Patrick Reilly called the meeting to order at 7:30 pm. CM Rivet did P&P

B. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL

LAURA MAHONEY

DICK KORN

DANNY WHITE

TOWN ADMINISTRATOR:

DOUGLAS HOYT

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

C. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES: Move #7 to

"Administrator" - **MOTION:** CM Mahoney / CM Korn asked to postpone meeting since agenda wasn't uploaded. Agenda was posted as required and package was emailed to any that requested it. Due to technical difficulties with computer system the agenda package was too large to upload as explained to all. **Vote:** Aye, 1 (Mahoney); Nay, 4.

D. CONSENT AGENDA:

1. Regular Town Council Meeting Minutes 5/07/18

Exhibit: Agenda Report No. 1

Recommendation: Request Approval

MOTION: CM Rivet / CM Ball to approve the 5/7/18 minutes as presented. **Discussion:** CM Mahoney said on page 3, Tom Saleeba's comments were editorialized - not recorded private property damage. Chair stated the minutes reflect his concerns.

Vote: Ayes, 3; Nay, 1 (Mahoney).

E. ATTORNEY REPORT: none.

F. STAFF REPORTS:

ADMINISTRATOR: Hall Road, met with property owner – if he would pay for pipe we would put it in. He thought that was a good idea. Write down his concerns and he will bring to Council.

We are shooting the elevations for all the roads and we are 2/3 of way through. Many years ago, we had Brevard County do a culvert inventory and this work we are doing today will add better information to that. Those elevations will go up on Google Earth.

Babcock Street widening improvement from Micco to Malabar Roads – they will be scheduling a project meeting and when they pick a date he will urge Council and public to attend that meeting.

Fern Creek – FDOT is acquiring this for turn lanes and for widening SR514. Also regarding the drainage project that Malabar is proposing – as an alternate put a 48" pipe and water control structure in for storm management. Received email from FDOT acquisition person – marked up the plan note to state that the drainage improvement we are getting from them has been set aside for now; we are not in a strong position right now. CM Rivet said the purpose of Malabar giving up Fern Creek Crossing was in order to get the stormwater improvement. CM Korn agrees with CM Rivet. He is concerned about the turn lanes on SR514. Have we agreed to that? CM Mahoney said she signed petition for the slowing down of speed on SR514. We have funding now to get the turn lanes to help the safety issue. They have safety money available. CM Korn said turn lanes only on SR514 will make it much more dangerous.

TA said Bob Camm retired and Georgina Gillete is his replacement. We will be bringing her to town to show her the concerns. CM Ball said if they say if that is going to go away; if they are going to hold off on drainage, then we will hold off on giving up title.

Agenda Item 7. TA put 2 documents before Council. Slope mower attachment – ditcher will work in ditches as deep as 7 feet. He is still working on a demo for the rest of council. Reasonably

inexpensive. PB has 3 of them. Cost estimate is 5,680.00. He would like authorization to go ahead pending a satisfactory demonstration.

MOTION: CM White / CM Korn to authorize purchase of ditcher. Discussion. **Vote:** Aye, 4; Nay, 1 (Mahoney).

Gradall – TA went over the need for that piece. Existing one is a 2002 purchased from a rental fleet. When we rented it for one month it cost 7K. Recommendation was to buy a new one but Council voted to buy the used one from the rental fleet and it is operational 50% of time. It is down again. It is the time loss as well as the tangible loss. The one we have will go down highway at 60mph but has double the electronics. The one he is recommending goes 30mph and only has one set of controls. TA strongly advises to buy new one at 280K through a lease for 6 years. Compare the annual lease to the previous loss and it is paid in the first five months. TA referred to the slope mower we finally bought and it has worked for 8 months with no down time.

MOTION: CM Ball / CM Rivet to authorize TA to acquire purchase information for the Gradall recommended by TA. Discussion: CM Ball said stormwater related problems are the #1 concern. **Vote:** Ayes, 5; Nay, 0.

CLERK: nothing – Chair said he wants a newsletter out and inputs for newsletter are due in by this Friday, 5/28/18. CM Mahoney asked Clerk to send meeting hand-ins by meeting date to her.

G. PUBLIC COMMENTS: none

H. PUBLIC HEARINGS/SPECIAL ORDERS: 2

2. Adopt Budget Amendment to FY 2016/2017 Budget (Ord 2018-02)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR **2016/2017** TO PROVIDE FOR ADDITIONAL REVENUES RECEIVED OVER BUDGETED AMOUNT; TO PROVIDE FOR THE ADDITIONAL EXPENDITURES OVER BUDGETED AMOUNT; TO DIRECT SURPLUS REVENUES TO RESERVED FUNDS ON DEPOSIT; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report 2

Recommendation: Adopt Ord 2018-02

Ordinance read by title. Chair asked for Staff comment. Franklin said as stated in Agenda Report Public Hearing opened. None. Public Hearing closed.

MOTION: CM Korn / CM Rivet to adopt Ord 2018-02 on 2nd Reading. Discussion.

ROLLCALL Vote: CM Ball, Aye; CM Mahoney, Aye; CM Rivet, Aye; CM Korn, Aye; CM White, Aye. Motion Carried 5 to 0.

3. Adopt Budget Amendment to FY 2017/2018 Budget (Ord 2018-03)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2017/2018 TO PROVIDE FOR ADDITIONAL REVENUES FROM RESTRICTED RESERVES ON DEPOSIT; TO PROVIDE FOR THE ADDITIONAL EXPENDITURES TO COMPLETE NECESSARY ROAD IMPROVEMENT PROJECTS; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report 3

Recommendation: Adopt Ord 2018-03

Ordinance read by title. Franklin said as stated in Agenda Report Public Hearing opened. None. Public Hearing closed.

MOTION: CM Rivet / CM Korn to adopt Ord 2018-03 on 2nd Reading. Discussion. CM Mahoney asked if this prevents staff from spending money. CM Rivet said staff cannot spend money that is not approved by Council. He asked where this is coming from; if there an allegation, state it. CM Mahoney responded yes, the teen council money gave her natural suspicion. CM Korn said that this has been discussed.

ROLLCALL Vote: CM Ball, Aye; CM Mahoney, Aye; CM Rivet, Aye; CM Korn, Aye; CM White, Aye. Motion Carried 5 to 0.

**I. UNFINISHED BUSINESS/GENERAL ORDERS
ORDINANCES FOR FIRST READING: 1**

4. Amending Article III and Article VI Providing regulations for Pharmacies and Medical Marijuana Center Dispensing Facilities (Ord 2018-04)

AN ORDINANCE OF THE TOWN OF MALABAR RELATING TO ZONING AND LAND USE; AMENDING ARTICLE III DISTRICT PROVISIONS OF THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING TABLE 1-3.2; PROVIDING FOR PHARMACIES AND MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES IN THE COMMERCIAL ACTIVITIES PORTION OF SAID TABLE; PROVIDING PHARMACIES AND MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES AS CONDITIONAL USES IN THE COMMERCIAL LIMITED ZONING CATEGORY; AMENDING ARTICLE VI OF THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING SUBSECTION D; SETTING FORTH ADDITIONAL REQUIREMENTS AND CRITERIA FOR PHARMACIES AND MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES; AMENDING TABLE 1-6.1 (B) CONDITIONAL LAND USE REQUIREMENTS; PROVIDING FOR PHARMACIES AND MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE

Exhibit:

Agenda Report 4

Recommendation:

Adopt Ord 2018-04

Ordinance read by title.

Speaker Card: Liz Ritter, PZ Chair: There are changes ongoing with legislation. There is not a critical need for such a unit. Let the statutes get clarified.

CM Korn: Asked about the distinction she questions for dispensing of marijuana

Franklin explained the Ord 2017-02 regulations had to be changed due to SB 8A. Ritter said that is why they opted to wait and see future changes. Allow them like pharmacies.

MOTION: CM White / CM Rivet to approve Ord 2018-04 on 1st Reading.

Discussion:

CM White said he read entire SB 8A and then quoted from portions. Does a disservice to his residents. CM Ball is on board with 67% of voters approving medical marijuana. Torn by what Ritter is saying. Nothing is firm yet. Once we say we will approve them. If we ban them for now and then later decide. Probably no one going to put one here. CM Korn is the point is this is a dispensing facility not treatment center. Attorney stated the Statute does not distinguish the definitions. CM Rivet said he agreed with Ball – also means concern. Worried with what we are approving. What is the loss if we wait and get clarification. What do we gain by the banning of it. If we ban them today we can re-visit it next year. Makes sense to be cautious here. Banning them for the time being is in the best interest of all. CM Mahoney said the voters that voted for medical marijuana but don't want it in their town. She missed all of that discussion at P&Z but later called the members and got that input. Ban would be wise. Attorney proposed another moratorium. CM Ball was led to believe there was only two choices. No mention of moratorium. CM Korn asked Attorney if the facility does include treatment. CM White has letter to submit. Does not understand the fear – or bring a bad element. He does not see any ambiguity with the statute and has read it all.

ROLLCALL Vote: CM Ball, Nay; CM Mahoney, Nay; CM Rivet, Nay; CM Korn, Nay; CM White, Aye. Motion failed 4 to 1.

CM Korn to direct Attorney to get definitions before Council consider a moratorium on regulations. Atty will check commentary. The issue is the "treatment center" vs. "dispensing facilities".

CM Mahoney said we didn't include pharmacies and we don't want those kinds of place.

What direction to attorney - ban or moratorium. CM Korn said the addition of treatment center was added, is when PZ voted against it. Dispensing places ok in town. The treatment center is

not wanted in town. Atty point of clarification, CM Rivet dispensing facilities should be allowed. CM Ball agreed. Is there ambiguity? Attorney will report back for a future agenda.

RESOLUTIONS: 1**5. Adopt Reso 03-2018 approving ILA for Save our IRL Surtax (Reso 03-2018)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, APPROVING THE SAVE OUR INDIAN RIVER LAGOON LOCAL INFRASTRUCTURE SURTAX INTERLOCAL AGREEMENT; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit:

Agenda Report 5

Recommendation:

Adopt Resolution 03-2018

Resolution read by title. Speaker Card: none.

MOTION: CM Rivet / CM Ball to approve Reso 03-2018.

Discussion: CM Ball is not comfortable signing off on this agreement without someone from County here to explain what it entails. Table until there is someone to represent the ILA.

MOTION: CM White / CM Rivet to table. **Vote:** Aye, 5.

MISCELLANEOUS: 2**6. Direction to Staff for Annual Town Event – Spring or Fall**

Exhibit:

Agenda Report 6

Recommendation:

Action

Discussion: CM Korn said he spoke to Park and Rec Member and he recommends that it go back to a committee with input from staff. Car show driven event in the fall. Mayor said there is not the money or the staff time to put on two events. CM Korn said the money coming in from vendors. One year we had 62 vendors. CM Rivet agrees with doing one event a year. CM Ball said do one and he has been thinking about this. SpringFest is the better of the two. Better time of the year to pull it off. Make it one big event. The more often you have it the less interest. CM Korn said it used to be in the Spring and Fall and was called Malabar Day. Good item to stick in MailBoat at and see what residents think. It seems that the FallFest was more populated than the SpringFest. More competition in the spring. CM White said Car show and FallFest is his choice, but ask the residents.

CM Korn said don't have two events going on in the town on same day. CM White said he thought it would encourage residents to attend both. Chair called for a Straw vote: once a year event - 6 each; Spring only vote: 4; Fall only event – 2.

7. Authorization to Purchase Ditcher and Gradall - done earlier**J. DISCUSSION/POSSIBLE ACTION:****8. Discuss Proposed Resolution 04-2018 Council Direction to FDOT and SCTPO (Reso 04-2018)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PPROVIDING COUNCIL DIRECTION TO THE SPACE COAST METROPOLITAN PLANNING ORGANIZATION AND THE FLORIDA DEPARTMENT OF TRANSPORTATION REGARDING WIDENING PLANS FOR SR514 PROVIDING FOR UNIFORM DIRECTION; PROVIDING FOR ONE CONTACT REGARDING THE WIDENING PROJECT; PROVIDING FOR DISTRIBUTION OF RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit:

Agenda Report 8

Recommendation:

Action

Mayor spoke.

He was told that the SCTPO and FDOT were getting mixed messages coming from Malabar. He wants Council to come up with a resolution that clearly states Malabar intentions. CM Mahoney said they should do the safety things first just to get it started.

CM Korn – has talked to FDOT and they don't know what we want. They want to construct a 22' median. Don't need four lanes to two lanes and then to three lanes. We have got two churches, two parks, a fire station and dumping into a bottleneck.

Speaker Card – Brian Vail, ideally should be four lanes all the way through. If there is no feasible way at least make it three lanes. Don't agree with median. Have a sidewalk that connects Marie Street to hospital. This is what he is hearing and many people talk to him.

CM White – agreed with Brian but includes traffic light and reduce speed.

CM Ball – four lane it to Glatter and have east bound go down Glatter as two lanes and west bound from US 1 to Glatter west bound as two lanes. That is what we should be asking for. It isn't being pursued because FDOT doesn't want to fight Florida East Coast Railway. CM Korn – The enforcement of speeding is impossible; no area to pull vehicles over. They need adequate shoulders to pull traffic over and to allow for bicycles. CM Mahoney – Thinks the engineering companies chosen by FDOT to create proposals, like Aitkens love to redraw the plans per Town requests and take the FDOT money. CM Mahoney said the safety money needs to be pushed for. When she called and said we wanted traffic lights. Turn lanes improve the safety and they can do today. Find some money somewhere to do the Town ones. CM Rivet – let's take excuse away from them. Speak with one voice. Direction to Clerk: Send the Resolution out to Council in Word so they can each add their own bullets.

K. PUBLIC COMMENTS: General Items (Speaker Card Required) none

L. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Ball: He is fired up about getting SR514 addressed – making it two lane each way from Glatter Road, like 512.

CM Mahoney: nothing

CM Rivet: nothing

CM Korn: FDOT plans stormwater ponds in the CG triangle is Malabar's downtown area; he won't see if in our lifetime. They don't want to know what we want. They can justify their paycheck. That is what they are doing instead of caring for what the residents want. Look at right turn lanes on Corey and Weber.

Mayor: He attended the Mayors Breakfast last Thursday and spoke about the 2016 election and single districts, the SR514 widening, and the T&G praise and recognition. Attended appreciation for Brian and Murry at TPO meeting.

CM White: apologized to Liz. These people devote their time and energies and when we do finally come up with the new sign ordinance he will volunteer to go through the town and identify all the violations and then give these people notice and let them know what they have to do to come into compliance. He also announced he will be going to county commission meeting about the fire assessment millage increase and the moratorium on septic systems.

M. ADJOURNMENT:

There being no further business to discuss and without objection, the meeting was adjourned by the Chair at 10:00 PM.

BY: original signed
Mayor Patrick Reilly, Council Chair

ATTEST:

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

Date Approved: 6/04/2018