

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

JULY 06, 2020

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. Mayor led P&P.

2. **ROLL CALL:**

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET, excused

COUNCIL MEMBERS:

GRANT BALL

BRIAN VAIL

DAVID SCARDINO

DANNY WHITE

TOWN MANAGER: (TM)

MATT STINNETT

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

3. **APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:** Clerk had asked the Chair to allow Reso 10-2020 be added. It is a preliminary requirement before we can legally proceed with the Special Assessment Map and Assessment List and provide for a comment period.

4. **CONSENT AGENDA:**

4.a. Regular Town Council Mtg Minutes of 6/15/2020

MOTION: CM White / CM Ball to approve consent agenda.

VOTE: All Ayes. Motion carried 4 to 0.

5. **ATTORNEY REPORT:** Reported on Code Enforcement July 1 SM hearing. Magistrate found in favor of Town and gave 15 days for compliance or daily fines for each of three violations can be assessed in addition to administrative fees. After three months of noncompliance we can foreclose on property.

6. **BCSO REPORT:** Lt. Cline was not present.

7. **BOARD / COMMITTEE REPORTS:**

7.a. **Drew Thompson, Chair, T&G Com:** not present no report

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:** Reported that one of the FD Lt. has fallen ill – not CODVID-19 related, but not doing well. He has brought on two volunteers as temp employees.

8.b. **PW DIRECTOR:** Written Report

8.c. **FIRE CHIEF:** excused

8.d. **CLERK:** Only other thing is the upcoming FLC annual Conf in August. We need a voting delegate. Could I get consensus for it to be the SCLC delegate? The conference voting will be done electronically. Consensus to have CM White be the voting delegate.

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: 3**10.a. Second Reading: Change Qualifying Dates for 2020 Election and beyond (Ord 2020-05)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, REPEALING AND REPLACING ORDINANCE 2019-10 AND AMENDING SECTION 2.03 OF THE TOWN CHARTER RELATING TO THE CANDIDATE QUALIFYING PERIOD; AMENDING SECTION 2.04 OF THE TOWN CHARTER RELATING TO THE MAYOR QUALIFYING PERIOD; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 10.a.**

Ord read by title only. Open Public Hearing: none. Closed Public Hearing.

MOTION: CM Vail / CM Ball to adopt Ord 2020-04. Discussion: none

ROLLCALL VOTE: CM Ball, Aye; CM Vail, Aye; CM Rivet, excused; CM Scardino, Aye; CM White, Aye. Motion carried 4 to 0.

10.b. Second Reading: Amend Chapter 13 re: Special Assessment Process (Ord 2020-06)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA TO AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES; PROVIDING FOR A COST SHARE IN THE PAVING OF IMPROVED AND ACCEPTED DIRT ROADS THAT HAVE MET THE REQUIREMENTS FOR A SPECIAL ASSESSMENT IN SECTION 13.52.(2)b.; PROVIDING FOR NEW SUBSECTION 13.52.(2)c.; PROVIDING FOR THE FUNDING SOURCE FOR THAT COST SHARE; PROVIDING FOR SEVERABILITY, CODIFICATION; CONFLICTS AND AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 10.b.**

Ord read by title only. Open Public Hearing: none. Closed Public Hearing.

MOTION: CM White / CM Vail to adopt Ord 2020-04. Discussion: CM White – said of the eight that replied regarding paving Hunter Lane, two may not have agreed without the Town doing a cost share.

ROLLCALL VOTE: CM Ball, Aye; CM Vail, Aye; CM Rivet, excused; CM Scardino, Aye; CM White, Aye. Motion carried 4 to 0.

10.c. Public Hearing on Road Improvement Waiver Request – Right of Way known as Beekeeper Lane

Title read by title only. Open Public Hearing: none. Closed Public Hearing.

A REQUEST FOR A WAIVER TO THE ROAD IMPROVEMENT REQUIREMENTS IN CHAPTER 13 OF THE MALABAR CODE OF ORDINANCES REGARDING THE UNIMPROVED/UNACCEPTED RIGHT OF WAY EAST OF COREY ROAD KNOWN AS BEEKEEPER LANE IN SECTION 12, TOWNSHIP 29 AND RANGE 37 WITHIN THE TOWN OF MALABAR. REQUEST BY ADAM HAYWARD.

Exhibit: **Agenda Report No. 10.c.**

Chair called applicant to podium to state the request. Adam Hayward, 2735 Woodside Ave, Winter Park FL. Seeking a waiver because if it is developed as the 70' roadway, it will cut into a garage of an existing home facing Corey. It exists as 12' now and some of it is wider and it is currently used as a travelway. If he is required to contact the other property owners facing Beekeeper and ask them to dedicate ROW to the Town; there is no incentive for them to dedicate a portion of their parcels. He has listened to the Malabar Town Road workshop where the Attorney discussed the problems in defending the challenges to the Town's ROW requirements when there are so many existing approved roads that do not have such widths.

MOTION: CM White / CM Vail to approve for discussion.

CM Vail said you must stand firm on the requirements.

TM said he understands the issue of having to widen the road into a minor collector – this ROW, when improved and approved, will serve a large number of potential parcels for future property development. This is intended to be a similar classification of roadway as Hall and Atz Roads. While we go through this discussion, we must consider the potential impacts of having a narrow travelway now may be more consequential for future development. CM White said this gentleman is required to improve the road – should the Town ask for the additional ROW needed instead of this person. Clerk explained the road improvement regulations. The Town has the authority to require the needed additional ROW to be dedicated when a parcel owner applies for a development permit. If these are vacant lots facing Beekeeper, they have not applied for a development permit. CM White said that seems like a short coming. You can't just tell people to give part of their land. Clerk explained the discussion at the road workshops for Council to consider reducing the widths for the road classifications. That would give direction to staff. Attorney said such a change would also require a Comp Plan Large Scale Amendment because it would change the text of the Transportation Element. It would also first have to go to P&Z. CM White / CM Vail withdraw the motion.

Council discussed the need to finalize the work they began on updating the Transportation Element. Attorney Bohne stated that the amendment would require a large-scale amendment (LSA) to the Comprehensive Plan and would need to be reviewed by Planning and Zoning.

Council discussed the need to provide the reasonable and defensible guidelines for roadway development before, so future residents/taxpayers are not burdened with court costs. The regulations need to provide adequate width for travelway, drainage, emergency response, and for collectors to provide proper connections to local lanes. Council consensus was to require a property owner to build to the end of the parcel to be developed to prevent some of the issues they are dealing with now.

MOTION: CM Ball / CM Vail to “table” the waiver request for a three-month period to provide additional time for Council to consider amendments to the Transportation Element of the Comp Plan and Land Development Regulations for streets.

11. UNFINISHED BUSINESS/GENERAL ORDERS:

12. ACTION ITEMS:

ORDINANCES FOR FIRST READING: 0

RESOLUTIONS: 1 (added at beginning of meeting)

12.pre. Adopt Resolution 10-2020 Special Assessment re: Paving Hunter Lane

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AUTHORIZING, DECLARING AND CREATING A SPECIAL ASSESSMENT FOR THE HARD SURFACING OF HUNTER LANE, NORTH OF ATZ ROAD FOR A DISTANCE OF 1,100 FEET; PROVIDING FOR THE ESTIMATE OF TOTAL COSTS OF SAID IMPROVEMENTS; DESIGNATING THE PORTION OF THE IMPROVEMENT TO BE PAID BY SPECIAL ASSESSMENT; DESIGNATING WHEN THE SPECIAL ASSESSMENT SHALL BE PAID; DESIGNATING THE LANDS UPON WHICH THE SPECIAL ASSESSMENT SHALL BE LEVIED; PROVIDING FOR CREATION OF AN ASSESSMENT PLAT AND A PRELIMINARY ASSESSMENT ROLL; PROVIDING FOR PUBLICATION AND NOTIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit:

Agenda Report No. 12.pre. added item

Reso read by title only.

MOTION: CM White / CM Scardino to adopt Reso 10-2020 as submitted. Discussion: Clerk explained that this is the preliminary step required before developing the assessment map and roll and advertising the adopted resolution to start the comment period.

ROLLCALL VOTE: CM Ball, Aye; CM Vail, Aye; CM Rivet, excused; CM Scardino, Aye; CM White, Aye. Motion carried 4 to 0.

MISCELLANEOUS: 2**12.a. Form DR-420 – Tentative Maximum Millage and Public Hearing Date****Exhibit: Agenda Report No. 12.a.**

MOTION: CM Ball / CM Vail to set the tentative maximum millage at 2.3810 and the date for the first PH on September 3, 2020. This is based on the prior FY19/20 millage of 2.2680 and the calculated current year rolled back rate (RBR) of 2.1627.

VOTE: All Ayes. Motion carried 4 to 0.

12.b. Clarification on Land Use Designation & Zoning Consistency**Exhibit: Agenda Report No. 12.b.**

Discussion: Mayor read his statement. It was the Planning and Zoning Board's understanding that a property owner could develop under the existing zoning or change to match the FLUM designation. The intent was to make it easier but not mandatory. Attorney Bohne explained that existing developed properties could continue to exist under the existing zoning and would be "grandfathered" in. Buyer is motivated to change the land use map.

Vacant land would need to request a zoning change to match the FLUM or both a zoning change and land use designation change to go to another land use.

Mayor asked why they are making this change. Atty Bohne said buyer wants assurance that there will be no conflicts in the future. The existing owner would have no problem proceeding under the "grandfather" clause. Clerk explained that this is for clarification of why this will be before P&Z on 7/22/20 for a public hearing and then to Council on 8/3/20 for a public hearing in order to send to the State and request expedited review. If there are no adverse comments, after the review, Council can advertise the ordinance for second reading and final adoption.

CM White is OK with the new buyer's concern for consistency. He asked about all the other properties that the Town changed the land use designation. This could crop up again and again. Current owners of vacant land don't have the option to develop if the zoning is not consistent with the land use designation. Existing, developed properties can continue under their current zoning.

CM Vail said similar requests have the potential to come before them again. Yes.

13. DISCUSSION/POSSIBLE ACTION: 0**14. PUBLIC COMMENTS: General Items (Speaker Card Required) none:****15. REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Ball: Referred to the Malabar FD Lt with medical issue – keep him and his family in your thoughts and prayers

CM Vail: nothing

CM Rivet: excused

CM White: Do we have any FD staff with confirmed COVID-19? TM said yes, one volunteer and three paid staff. CM White relayed the incident last Tuesday when he was in Publix and two members on duty, in uniform were inside with no masks. He then came by Town Hall to sign bills and saw the two cleanings that were done at the fire house. If we are going through that kind of effort for the FD, they need to take some personal responsibility to wear masks.

TM said they are supposed to wear the masks while on duty. TM said the issue was addressed and policies reiterated. They adjusted those policies after the first positive case to require masks and arriving and leaving differently to avoid cross contamination. They are not currently bringing in volunteers – any time they are in close quarters they are to be masked

CM Scardino: agreed with him. Florida is reporting 10K a day.

Mayor: nothing

16. ANNOUNCEMENTS: Openings on T&G and Park and Rec Bds.

17. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 9:00 P.M.

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

ATTEST:

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

Date Approved: 7/20/2020