

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

AUGUST 03, 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. CM Ball 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, excused

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

For record, Malabar Fire Chief Mike Foley is not present.

3. **APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:** none

4. **CONSENT AGENDA:**

4.a. Regular Town Council Mtg Minutes of 7/20/2020

4.b. Council WS Minutes of 7/27/2020

MOTION: CM Rivet / CM Vail to approve consent agenda.

VOTE: All Ayes. Motion carried 5 to 0.

5. **ATTORNEY REPORT:** none

6. **BCSO REPORT:** Lt. Cline was not present but will be at next meeting.

7. **BOARD / COMMITTEE REPORTS:**

7.a. **T&G Com:** V-Chair Murray Hann presents – printout provided. It is intended to expand the trail system. They got approval for EELs to work on their property. Looking for approval from Council for the actual part under the ROW. This would be the second item on their activity list and may take six months before they get to it and have it complete. It would be built by volunteers from T&G and BMBA and ask for private donations at this time. Mayor asked about the height between the platform and the top of the bridge. CM Scardino is concerned about homeless using it to sleep. Murray said their trail system doesn't have homeless problem; it is very well used. Same with Cameron Preserve shelter. CM White asked about the cost – between 4K and 6K and use of good southern pine it will last 10-12 years.

CM Ball asked Atty about liability. Attorney Bohne said none on construction but maybe on maintenance but would be no more so than other boardwalks. Attorney asked about ADA compliance. Murray said regarding the ADA compliance – they must offer people a similar experience and they have some less than a mile away at Turkey Creek Sanctuary and in the Cameron Preserve. Every part of trail doesn't have to be – just offer a similar experience. Mayor asked for Council consensus. All of Council supports this project to proceed.

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:** excused.

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

8.c. **FIRE CHIEF:** Written report

8.d. **CLERK:** Incumbents have declared intentions. No other candidates yet

Census is doing training here daily this week. The County EOC has been activated for 151 days now, mostly for COVID-19 but also with the rocket launch last week, the tropical storm and then splash down of the SpaceX Dragon capsule. Also wanted to put in the record that the Fire Chief met

with the County personnel at the Elohim church on Malabar Road and resolved the free flowing well issue. Would like to propose that we renew with James Moore CPA for the performance of our audit for the FY 21, 22, 23. Can have it on an upcoming Sept agenda if directed by Council. Otherwise FY 20 will be the last of the three years and we would have to go through the bid process again. Council consensus to direct staff to move forward with another three-year contract with James Moore CPA.

CM White asked about what happens if no one steps up to run. Can CM Ball continue? Should we change Charter? Attorney explained that changes to Charter would need to be a referendum question to voters. Council discussed term limits. Consensus is to keep the term limits. Clerk said we have until the 11th. CM Ball said term limits have a real value.

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. (Speaker Card is Required) Five **(5) Minute Limit**

10. PUBLIC HEARINGS: 2

10.a. First Reading: Amend Malabar Zoning Map to Match FLUM: 2525 Malabar Road (Ord 2020-07)

Questions read: Property Owner Nicholas Shalton Requests a Zoning Map Amendment for the 4.72+/- acre parcel located at 2525 Malabar Road from Office Institutional (OI) and Rural Residential (RR) to Residential Limited Commercial (R/LC) to achieve consistency with the Future Land Use Map in the Comprehensive Plan. Property is in Section 31, Township 28 and Range 38 in the Town of Malabar. This is described in Ord 07-2020 for first reading.

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE ZONING MAP TO MATCH THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN FOR THE 4.72+/- ACRE SITE LOCATED AT 2525 MALABAR ROAD, ALSO KNOWN AS PARCEL B-4 IN SNEDEKERS SUBDIVISION IN SECTION 31, TOWNSHIP 28 AND RANGE 38, MALABAR, FLORIDA FROM RURAL RESIDENTIAL (RR-65) AND OFFICE INSTITUTIONAL (OI) TO RESIDENTIAL/LIMITED COMMERCIAL (R/LC); PROVIDING FOR AMENDMENT TO THE TOWN ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 10.a.

Request is read by title only.

Chair called applicant to podium. Clerk said the applicant called and is sick. Chair asks staff. Staff supports request. P&Z Recommends approval.

Open Public Hearing: none. Closed Public Hearing.

Ord read by title only.

MOTION: CM Vail / CM Ball to approve first reading of Ord 2020-07. Discussion: CM Rivet said he has heard no opposition from residents.

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

10.b. First Reading: Amend FLUM to Revert to RR Designation (Ord 2020-08)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ADOPTING THE COMPREHENSIVE PLAN LARGE SCALE AMENDMENT (LSA) NO. 2020-01; AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE TOWN FROM OI (OFFICE INSTITUTIONAL) TO RR (RURAL RESIDENTIAL) FOR A 24.73 +/-ACRE PARCEL IN THE TOWN LYING ON THE SOUTH SIDE OF MALABAR ROAD AND EAST OF WEBER ROAD; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 10.b.

Ord is read by title only.

Chair calls applicant to podium. Mr. Moia of MBV is here for questions only. Came to you before subdivision was started and FLUM was being worked on. Council said it wouldn't be changed and then it was changed. Applicant wanted to put it back to the original RR designation.

Chair asked staff. Staff supports request. P&Z Recommended approval 5 to 0.

Open Public Hearing: none. Closed Public Hearing.

MOTION: CM Rivet / CM White to approve first reading of Ord 2020-08 for transmittal to State.

Discussion: none

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

11.UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)

12. ACTION ITEMS:

ORDINANCES for FIRST READING: 0

RESOLUTIONS: 0

MISCELLANEOUS: 0

13. DISCUSSION/POSSIBLE ACTION:

13.a. Direction to staff for a Town Initiated Zoning/Land Use Change for Consistency

Exhibit: Agenda Report No. 13.a.

Mayor explained his call from P&Z Board Chair Wayne Abare. Since Council changed the FLUM there have been several requests. Perhaps the Town wants to look at this again. They suggested letters be sent to parcel owners to ask:

Option 1 – change land use to match zoning; or

Option 2 - change zoning to match land use designation; or

Option 3 – no opinion or do nothing

Mayor said he has talked to multiple landowners and they want Council to change the zoning.

Franklin said there are approximately 99 parcels that would be sent notifications. Staff did not support Option 1 as it would incur much more cost to the Town. Atty explained legal requirements to change the Comp Plan would be involved in Option 1. Consensus of Council to disregard Option 1.

MOTION: CM Vail / CM Ball to send letter to ask property owners if they support the Town doing a blanket Zoning change to match FLUM. Vote: All Ayes.

13.b. Direction to staff for Property Owner Input on Depth of Five Parcels on south side of Malabar Road for both R/LC and OI

Exhibit: Agenda Report No. 13.b.

Mayor said the P&Z Board voted 7 to 0 to keep the parcels intact when changing the land use designations. That was the five regular and two alternates.

CM Rivet said these two discussion items are interrelated. Council at that time agreed with the 660' depth. Changing the depth on the FLUM for these parcels extended the RLC for 1/4 mile. Mayor said commercial development would want to build up close to Malabar Road.

CM Vail voted to follow the lot lines on the original presentation by P&Z – it did not change it. The last action by Council was a 3 to 1 vote. (CM Korn was excused) The parcels are the only ones to have the impact. Lots 1,2,3 are across from the hospital. We have already had legal challenges if we split the property with two separate land use designations.

CM Vail had suggested previously to add enhanced buffering requirements for these parcels. The Council then discussed areas of the Land Development Code that could be amended or

strengthened to provide for additional buffering depth and/or requirements when commercial land use is developed adjacent to Rural Residential. CM Rivet said it is about balancing the interests of existing residents with some commercial development. That is why he agreed to the 660 for commercial development. CM Scardino agreed with CM Rivet. CM Ball doesn't agree with splitting the land. He agrees with CM Vail. Let's make sure we have plenty of setbacks and greenspace. CM Rivet's concern is for the current residents that border these commercial properties. They bought properties that bordered RR land. Those people should not be subjected to living next to commercial property. The specific properties he is more interested in are the ones that reach 1320'. None of the other Land Use Designation changes they made go that deep. Much discussion about the difficulty existing property owners have had with OI in the front and RR in the back – we don't allow flag lots, and no one has successfully developed in these areas. CM Vail said we can meet in the middle. Make the buffer "X" feet and make it more when it abuts Rural Residential. Council agreed this was a good discussion.

Consensus of Council to not seek input from these property owners. Only have four.

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

15. **REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Ball: wants to thank staff about the free-flowing Sulphur well at the church. He is very happy about that. Still wants the river front cleared of pepper trees. Since we made it CP and we ought to preserve it. CM Rivet said the Pepper trees are invasive and they need to be gotten rid of. CM Vail said grind them down and then treat it with herbicide and then monitor and treat as necessary.

CM Vail: nothing

CM Rivet: nothing

CM White: he keeps his party politics out of this office. He told about his flag being torn down and later his flagpole broken by vandals.

CM Scardino: asked about landscaping – yard waste stuff. Franklin explained about the COVID-19 effects on WM staff – we have been understanding. She was copied on emails between WM and TM – they have kept Matt up to date and remain in touch with status and even used outside vendors to assist in getting the yard waste picked up. CM Ball said they got missed. A two week before that the recycle didn't get picked up. Everyone is being affected by COVID-19.

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: 8/17/2020