

**MALABAR TOWN COUNCIL REGULAR MEETING MINUTES
OCTOBER 05, 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 Vail 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: (ITM)

LISA MORRELL

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

For the record, the Fire Chief Mike Foley was also present.

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

4. CONSENT AGENDA:

4.a. Regular Town Council Mtg Minutes of 9/17/2020

MOTION: CM Vail / CM Ball to approve consent agenda. **VOTE:** All Ayes.

5. ATTORNEY REPORT: nothing

6. BCSO: no report

7. BOARD/COMMITTEE REPORTS:

7.a. T&G Committee - none

7.b. Park & Recreation Board - none

7.c. Planning & Zoning Board – Chair Wayne Abare reported the Board had reviewed and recommended approval for the route 1 Motorsports Site plan with two conditions; additional landscaping on east side and the unity of title. They also reviewed the proposed change to Table 1-3.3.A. regarding minimum square footage for homes in R/LC, RM4 and RM6. It also removed the 20% maximum building coverage for commercial developments in R/LC and left the MBC at 4,000sf. Board would like to continue discussing that. The last issue they have reviewed is the proposed regulations for mobile food vendors. Recent State legislation has limited local control to only the zoning and hours of operation. They are still working on that. Will send to council with recommendations.

8. STAFF REPORTS:

8.a. Manager: Cares Act grant submittal was submitted and recently notified of approval and reimbursement is being processed. Noted that on Oct 17 Malabar Road will again be closed for the day.

8.b. PW Director: written

8.d. Fire Chief: Went over Aug stats. CM Rivet asked about illegal burns. Chief says they give them warning and provide guidelines.

8.e. Clerk: Have had good success on the responses to the letters from property owners supporting a blanket zoning change. Will be prepared to present responses at next Council meeting.

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: 0**11. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES) 0****12. ACTION ITEMS: ORDINANCES for FIRST READING: 0
RESOLUTIONS: 3****12.a. Resolution 14—2020 – Appoint to BOA**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF CHARLES “CHUCK” FRAZEE TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 12.a.**

Reso read by title only.

MOTION: CM Rivet / CM Vail to adopt Reso 14-2020. Discussion:

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

12.b. Resolution 15—2020 – Appoint to P&Z Board

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF WAYNE ABARE TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 12.b.**

Reso read by title only.

MOTION: CM Ball / CM White to adopt Reso 15-2020. Discussion:

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

12.c. Resolution 16—2020 – Appoint to Park and Recreation Board

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF HANS KEMMLER TO THE MALABAR PARK AND RECREATION BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 12.c.**

Reso read by title only.

MOTION: CM Ball / CM Rivet to adopt Reso 16-2020. Discussion:

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

MISCELLANEOUS: 3

12.d. Request by WM for a \$0.36 increase to the monthly recycling rate due to changes in law: by WM Public Affairs Manager Ms. Dina Reider-Hicks.
Chair asked for consensus to remove from table from last meeting. Council consensus.

Ms. Reider-Hicks presented additional supporting information to Council to support their request for approval of the cost increase.

CM Ball asked about article in paper about WM rates in unincorporated Brevard County is being increased to \$194. He asked why it is less than the \$258 Malabar pays. He also had concerns about items that could be recycled and suggested additional educational

information if WM is granted this increase. He also mentioned items that would not be collected by WM.

Attorney Bohne said the rates in the contract were negotiated and approved by Council in 2014. It is up for renewal next year and contract provides for two renewals before going out for Bids. The vendor has the right to ask for the increase. He referenced the email he sent in response to the request. WM referenced a change in Florida legislation in this matter but has not had time to review the law.

CM Rivet also voiced concerns over the request outside of the renewal period. When franchise contract was approved in 2014, it was a 4 to 1 vote as he voted against it. Chair reminded Council the issue before them was the request for .36 increase to monthly recycle bill.

MOTION: CM White / CM Vail to approve the .36 increase to monthly charge for recyclables.

Discussion: CM White said his recycle doesn't always get picked up on the day, but he is pretty happy with the yard waste service. Usually they just come the next day.

When the next contract comes up then it will be discussed. CM Vail doesn't an issue. Whatever gets put out there gets picked up. They have done a great job. The \$4 to keep recycle going in the right direction. CM Scardino is in the recyclable business. He thinks they do a great job. He knows the recycle costs are going up. CM Rivet said Atz and Hall have huge piles of yard debris. Mayor restated the vote is on the increase of 36 for recycles.

VOTE: 3 Ayes; 2 Nays. (CM Ball and CM Rivet) Motion carried.

12.e. Request for Clarification regarding Face Masks worn at Malabar Meetings

Exhibit:

Agenda Report No. 12.e.

Wayne Abare spoke about issue at last P&Z meeting. He spoke to another voting member. Jeff wouldn't put on mask at first mtg. Door has guidelines. Next mtg he had a Deputy there. Jeff was wearing a mask and Susan was not. Because of the promise he made to the voting member to have everyone wear masks during meeting. He sent a letter (email) to Mayor. He wants the Council to set the rules.

CM White is a champion of the masks. He doesn't think they can mandate. Wear a mask for each other. They have all agreed to wear a mask for each other. The Governor has opened up everything.

Attorney said we have not adopted an ordinance. They do allow the P&Z Board to adopt their own rules. Every case law at civil level has said that we have the right to set policy. Penalty are suspended but you can't – can have a non-compliant person out of order. Council has obligation to direct other boards. Chair said it was his intent to deal with all the Boards and Council the same.

Susan Shortman, Ivey Ln, she has serious breathing issues. Respect her right to not wear a mask. She came down and had a pretty good discussion with ITM Morrell. You can't mask shame someone into leaving a meeting. Need to have an exemption for wearing a mask. It could have been a lawsuit.

Jeff Rinehart, Corey Road, part of the problem. The way he was addressed by P&Z Chair was the issue. In the way it was presented, he said no. He doesn't have a problem with it. It is a violation of her civil rights. Without an ordinance he explained to P&Z Chair he can't do that. It has to do with how you approach and handle things.

CDC requirements – not masks then social distance. Attorney said if you are going to do a face covering regulation then do it as a resolution. Or do it as a policy. IHB they have mask regulations. They don't impose fines. If you don't leave it is trespassing. What do you want to do?

CM Scardino said we are talking about the exception. Those that won't wear them must practice social distancing. He wears it out of respect. CM Vail is against mandating the wearing of masks.

CM Rivet said let's decide, have a face covering mandate until November meeting.

CM White said support the face covering or provide extra space. Attorney will draft a resolution for next meeting, but they can approve the policy to require face coverings while at Town Hall on any type of business. Then in November they can revisit or let it expire.

MOTION: CM Rivet / CM White to wear a face covering while in any Town building until the first meeting in November.

Discussion: Attorney will have resolution for next meeting and last until the first meeting in Nov. Leaving it up to individual boards can create inconsistency. In the instance of a reasonable accommodation provide for at least six feet separation.

12.f. Request to proceed with Fall Fest 2020 on Nov 21, 2020

Exhibit: **Agenda Report No. 12.f.** no attachment

Barbara Cameron, 665 Hall Road, was vendor at the last FallFest. Bring it to Council that \$50 is a really big amount to have a vendor pay. She will support Malabar until the money runs out. Richard Kohler, Deputy Clerk said they have considered reducing the cost to Malabar BTR holders and will continue to discuss incentives.

Chair said the question is moving the FallFest until spring. Looking for guidance. Attorney said the Grant Seafood Fest will also been cancelled. PB Chamber and Clerks have cancelled events through end of year. CM Ball supports pushing it off to Spring. CM White asked if we trying to make money or have a good event. CM Rivet said we do a better job in the Spring. Council consensus to wait until Spring.

13. DISCUSSION/POSSIBLE ACTION: 0

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

15. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Ball: He is in support of getting the riverfront cleaned up. Some of the weeds are getting mowed down.

CM Vail: nothing

CM Rivet: complaint about temp signs. He is tolerant of campaign signs during the election period, but they should abide by ordinance. He asked ITM to look into enforcement of sign ordinance.

CM White: -. reiterate what Steve said. Big signs should be regulated. Corey and Malabar

CM Scardino: asked about the trench that is in the West Railroad Avenue ROW.

Mayor: Mayor's Breakfast is next Friday. He will do a zoom mtg.

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 9:10 P.M.

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

ATTEST:

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

Date Approved: 10/19/2020