

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

APRIL 19, 2021 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 meeting to order at 7:30 pm. CM Rivet led P&P.

2. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

MARISA ACQUAVIVA, excused

BRIAN VAIL

DAVID SCARDINO

DANNY WHITE

TOWN MANAGER: (ITM)

LISA MORRELL

TOWN ATTORNEY:

KARL BOHNE, attended via phone.

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

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

4. CONSENT AGENDA:

4.a. Regular Town Council Mtg March 15, 2021

4.b. Terminate Government Relations Agreement with S.P.G. – Bill Barrett

4.c. Approve Piggy-back Contract for Plan Review and Inspection Services

MOTION: CM Rivet / CM White to approve consent agenda. **VOTE:** All Ayes.

5. **ATTORNEY REPORT:** CM Atty gave update on Faber CE matter. Chair asked for recommendation from Atty. Atty said we need to maybe send one more letter and failing a response – proceed with lien. Staff will get actual staff and attorney costs and forward that amount to Council in an email update tomorrow. That cost is not negotiable. The Atty is proposing to send one more notification to property owner to contact Town for settlement of the lien amount and actual costs. Council consensus to go forward with one more notification letter.

6. STAFF REPORTS:

6.a. Town Manager – written, in package. Will answer any questions regarding. Hunter Ln update from this afternoon; contractor can start mobilization within three weeks of purchase order being issued. We are waiting on revised proposal from contractor currently. SAI SW masterplan update. They are getting ready to give Council a presentation with their latest update.

They have refreshed the safety ADA certified mulch around playground at Malabar Community Park (MCP). She is also working on the annual report for the National Pollution Discharge Elimination System (NPDES) for the last year. CM Scardino asked about the recent land clearing and clearing of wetlands without permits on the weekends. Are these people confused or would there be a way we could prevent these activities? Mayor asked ITM Lisa to respond. ITM Lisa said that the person that was clearing came in the next Monday at 8:30AM with his engineer and the completed road permit application, engineering drawings and wetland determination report. That would indicate that this property owner was probably just excited to start the work.

6.b. Clerk – Report on results of *Fall in Love with Springfest* – The winnings from the raffle were \$150 and set aside for the playground equipment replacement. Other revenues were just \$42 in various merchandise sales. The intent was not to make money but provide a community event.

Blanket Zoning – We have succeeded in loading the FLUM designations, the existing zoning, and the proposed zoning if Council approves the blanket zoning for those properties that

have supported it in their responses. It will be legally advertised and presented to P&Z and then come back to Council for first reading of the ordinance hopefully by the RTCM of 6/7/2021.

7. **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**

8. **PUBLIC HEARINGS: 0**

9. **UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES) 0**

10. **ACTION ITEMS:**

ORDINANCES for FIRST READING: 1

10.a. Amend Article VIII of the Land Development Code to provide updated requirements for Culverts (Ord 2021-03)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VIII OF THE MALABAR LAND DEVELOPMENT CODE; AMENDING SECTIONS 1-8.4 DEFINITIONS; AMENDING SECTION 1-8.8 ITEM 11b; AMENDING SECTION 1-8.14 ITEMS A, E & G; AMENDING SECTION 1-8.16 PARAGRAPH 3; PROVIDING UPDATED REQUIREMENTS FOR SURFACE WATER MANAGEMENT IN MALABAR; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 10.a.

Ord read by title only.

MOTION: CM Vail / CM Scardino to approve first reading of Ord 2021-03.

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

RESOLUTIONS: 0

MISCELLANEOUS: 1

10.b. Appoint Special Magistrate

Atty Bohne said Mr. Stokes has become very busy in Pt St Lucie and is required to travel all over the State. The hearings we need conflict with his schedule. He is supposed to recommend an attorney or attorneys and he knows the hourly rate most require, and he cannot justify that. Mr. Goldfarb has agreed to the \$175/hr. with a minimum of two (2) hours.

Exhibit: Agenda Report No. 10.b.

MOTION: CM Vail / CM White to Atty Bohne recommended Atty Goldfarb as Special Magistrate. Discussion: none. **VOTE:** All Ayes.

Chair excused Attorney from phone participation in meeting.

11. **DISCUSSION/POSSIBLE ACTION: 3**

11.a. Increase Penalties in Article XV, Tree Protection for Violations (CM Scardino)

Exhibit: Agenda Report No. 11.a.

CM Scardino said this goes hand in hand with his earlier statements. Just in the past month two incidents on Lett Lane. Protect the old growth trees and wetlands. CM Vail said our fines are higher than other cities. ITM Lisa said there are technically only three staff members at any times in Town Hall. She has visited many sites as calls come in from neighbors, adjacent property owners and the public. She can only document what is visible from public ROW with human eye without assistance of drones or cameras, so it is difficult. There is reference to trees in several parts of the code; perhaps a workshop to combine and focus on intent for preservation could be

combined with the land clearing, site plan, landscaping, commercial and residential development, and tree preservation. She continued that Malabar has not done a tree inventory or have any trees designated as "tree of significance". She has contacted Google that we would like to be included in doing a tree inventory could be done and a registration of "tree of significance". She suggested a workshop to discuss all these issues. CM Scardino said the violations seem to happen at same time and suggested an employee to drive around Town on weekends. CM Rivet questions if it is a lack of education, education and information will always help. He does not want to see unreasonable proactive code enforcement. CM Vail said there are multiple locations that have been developed correctly with tree preservation in mind. Council consensus is to not change to proactive code enforcement.

Mayor asked ITM Lisa if the fines are too high or low. ITM said Malabar penalties are higher than similar municipalities. She agreed that since our primary residential zoning encourages tree retainage, we should keep our fines high but still consider a workshop to discuss combining and making more concise the requirement for tree removal, preservation, and mitigation. CM White said his other homes in a HOA required him to sign a paper on the covenants regarding certain requirements. When he bought here, he did not see anything about policy on trees. Is it possible to add a signature on a "general information statement" on Town rules before issuing a CO. Or a new buyer buying an existing home. Maybe a "Welcome to Malabar" notice to be mailed out to new home buyer. Mayor said we can do it for new homes but how to track resales? Use special events, the pancake b-fast and the farmers market to spread the information.

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

13. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: Excused.

CM Vail: nothing

CM Rivet: Spoke about the passing of Bob Rossman. He will be missed; He was a valuable member of the community. CM Vail agreed.

CM White: his neighbor had a contractor clearing property and he asked to look a portion of his lot. The contractor said they do not go within 25 feet of any wetlands. He said it the right answer and he was pleased.

CM Scardino: happy with existing fines but do more education.

Mayor: nothing

15. ANNOUNCEMENTS: Openings on T&G Committee.

16. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 8:17P.M.

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

ATTEST:

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

Date Approved: 05/03/2021