

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

MARCH 15, 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 Vail led P&P.

2. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL

DAVID SCARDINO

DANNY WHITE

TOWN MANAGER: (ITM)

LISA MORRELL

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

3. **APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:** Yes – the applicant for the first PH, Mr. Thomas has requested the item be moved to a future meeting. No objections – Chair states that the item will be addressed under its Agenda Item.

4. CONSENT AGENDA:

4.a. Regular Town Council Mtg Minutes of 3/1/2021

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

5. **ATTORNEY REPORT:** CM Rivet asked about the notice he sent regarding 1870 Hall Road. Atty has mailed but has not received the green card back yet.

6. STAFF REPORTS:

6.a. Town Manager – written in package. Will answer any questions.

6.b. Clerk – Reminder for ***Fall in Love with Springfest*** on Saturday March 20, 2021. It will run from 9am to 1pm. Would like to put on the record unless there is objection, that the 50/50 raffle offered by the Town will designate all its proceeds to the playground equipment replacement at Malabar Community Park. No objection. Follow up from last meeting on the proposed citizen survey Park and Rec Board would like to post to the website. That will go live tomorrow unless Council has any objection. No objection.

Blanket Zoning – I have compiled the responses and non-responses for the letters sent out at Council direction regarding doing a “Blanket” zoning to be compatible with the FLUM. At this point it is a narrative of the results. Again, thanks to ITM Lisa’s forward thinking, she has requested a change order to include a zoning layer to the AGOL platform for about \$1000.00. This will allow the Town to update future land use and zoning changes and provide this information to the public on the website. The ultimate decision on whether to adopt the blanket zoning will be on a future agenda. Finance Report – attached un-audited Budget to Actual from 10/1/20 to 3/11/2021. Annual outside audit for the FY ending 9/30/2020 will be on April 19, 2021 or May 3, 2021 agenda.

Budget process for Council starts in July with Truth in Millage (TRIM) process – setting the proposed Maximum Millage and choosing the tentative date for the first public hearing on the adoption of the millage and budget that will be mailed out on the Notice from the Property Appraisers Office.

Updated meeting and Federal holiday memo will be distributed to Council following this meeting.

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**

Kenny Schofield of Dolphin Auto addressed Council: (arrived at 7:55PM and was allowed to speak before the discussion items.)

8. **PUBLIC HEARINGS: 2**

8.a. Road Improvement Waiver Request – unimproved portion of right-of-way in line with Beekeeper ROW and Old Mission ROW running west from Corey Road – tabled from May 6, 2019; applicant Mr. Chris Thomas

Exhibit: Agenda Report No. 8.a.

Applicant sent email on 3/10/2021 requesting it be taken from agenda and rescheduled to a later agenda. Council took action on this after removing from table.

MOTION: CM Vail / CM Rivet to remove from table. Vote: All Ayes.

CM Acquaviva said she would not be able to attend the April 19 meeting and would like to be present for this item. Consensus to table to the May 3, 2021 meeting.

MOTION: CM Acquaviva / CM Rivet to table this PH until May 3, 2021 RTCM. Vote: All Ayes.

8.b. Amend Comprehensive Plan and Code re: maximum building coverage (MBC) in Residential/Limited Commercial (R/LC) to permit 20% coverage (Ord 2021-02)

A ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT; PROVIDING FOR A TEXT CHANGE TO THE PERMITTED MAXIMUM BUILDING COVERAGE IN THE RESIDENTIAL AND LIMITED COMMERCIAL (R/LC) MIXED USE DESIGNATION; PROVIDING FOR A SIMILAR CHANGE IN THE LAND DEVELOPMENT CODE DELETING THE MAXIMUM BUILDING COVERAGE OF 4,000SF AND UTILIZING THE TWENTY PERCENT COVERAGE AS STATED IN TABLE 1-3.3(A); PROVIDING FOR CODIFICATION; SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR TRANSMISSION TO THE FLORIDA STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING AN EFFECTIVE DATE.

Ord read by title only.

Public Hearing opened. Barbara Cameron, Hall Road asked about the 4,000sf – did the change deal with the residential component? No, only the commercial portion and would be changed to 20% of parcel size. Public Hearing closed.

Chair asked staff: as expressed in the agenda report. This will be for transmittal to State and other agencies review.

MOTION: CM Acquaviva / CM Vail to approve Ord 2021-02 for transmittal to State.

Discussion: no further Council discussion so Mayor commented. He had been against this initially since allowing R/LC on Malabar Road and this would mix RLC with RR uses. Didn't want a huge building next to an SFR. But reviewing the permitted limited commercial uses in R/LC it is very limited in what you can do – can't be a big box store but could be a Dollar General which is smaller footprint. Due to this he has changed his position and supports this change.

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Nay; CM White, Aye. Motion carried 4 to 1.

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: 0
RESOLUTIONS: 0

MISCELLANEOUS: 1**10.a. Approve Cancellation of April 5, 2021 RTCM ~~or set an Alternate Date~~****Exhibit: Agenda Report No. 10.a.****MOTION:** CM White / CM Acquaviva to cancel the April 5, 2021 RTCM.Discussion: none. **VOTE:** All Ayes.**Chair asked Attorney to stay through discussion items.****11. DISCUSSION/POSSIBLE ACTION: 3****11.a. Code Enforcement/Compliance Discussion (White & Scardino)****Exhibit: Agenda Report No. 11.a.**

CM Scardino suggested using a volunteer instead of writing citations. To encourage compliance. CM White doesn't have a solution. Do reactive code enforcement. No enforceable code – point to countless others that are also not in compliance. CM Scardino said educational – CM White said when you have an anonymous letter mailed to all of us. Should not be required to put themselves at risk to report on a business operating out of their house. Neighbor might be afraid. CM Rivet – non adversarial way is always be the way we start. No or negative response is when we proceed. Point is do we want a reactive code enforcement policy or is it time for discussion. CM Acquaviva took it seriously. People that aren't anonymous sit with town staff and work out issue. Thought had done the investigation. CM Vail – we have had numerous anonymous letters and we don't know if it is a feud – unless there is a signature we don't follow up. We do follow up and he supports reactive – not support proactively look for code violations

Atty said that HB under consideration that if passed will go into effect on 7/1. It has been our policy to not take action on anonymous complaints. Looks like it is going to pass. CM Scardino said we are limited unless we get a complaint. Some limitation to proactive enforcement. CM Scardino that is why he is suggesting education before the violation. Atty said you can pick a number of people are going to comply and others will not. CM Scardino said some people move here from elsewhere and don't know. Get community more involved. Summary of Council position is to remain *re-active* to code complaints.

11.b. Home Business Tax Receipt Regulations (White & Scardino)**Exhibit: Agenda Report No. 11.b.**

CM White said they are not home-based businesses and there are heavy trucks jockeying to get equipment in and out of there. There are businesses that are operating as home based and are really commercial operations, but no one has complained.

Summary of Council position is to remain *re-active* to complaints against home-based businesses.

11.c. Land Development Tree Preservation (Scardino)**Exhibit: Agenda Report No. 11.c.**

CM Scardino is interested in saving the old oak trees and not replacing them with multiple smaller trees. Find a way to increase the fee to remove in order to encourage them to keep the old trees. He wanted to know if there is Council interest. CM White explained it is easier to build on clean slate. In heavily wooded area trees get sunburned and start dying. New development is required to replant. CM Vail said you can see some of the trees. ITM Lisa said Staff will be bringing the rate resolution before Council and the increase for removal of significant trees could be added. She referenced the Codes Tree preservation Trust fund and she will include an example of what it would cost to take down a tree of significance. Summary of Council position is to address with revision of Fee Resolution. Attorney Bohne leaves at 8:30pm.

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

13. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: Noticed that the food truck got moved. Good to see some progress.

CM Vail: nothing

CM Rivet: nothing

CM White: Asked ITM Lisa about cost for Hunter Lane coming before Council? Paver will be doing all the earthwork and that will be at the cost of the Town. She will apprise Council of cost after the fact if necessary.

CM Scardino: asked about outreach regarding open burning. Yes website, Facebook, etc.

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 8:35P.M.

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

ATTEST:

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

Date Approved: 04/19/2021