

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

MAY 17, 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 White led P&P.

2. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL

DAVID SCARDINO, excused

DANNY WHITE

TOWN MANAGER: (ITM)

LISA MORRELL

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

3. **APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:** Mayor added a presentation by T&GC Annalie Harvey as 6.d. Then he stood and asked long time PW employee Felix Roque to come to the podium. He read and presented him with a plaque recognizing his 15 years with Malabar before retiring at the end of this month. Staff will have a retirement party for him on the 27th. ITM Lisa took pictures. Felix thanked Council and staff and the FD for the recognition.

4. CONSENT AGENDA:

4.a. Regular Town Council Mtg May 3, 2021

4.b. Hunter Lane Paving Cost Update

MOTION: 1st and 2nd were made to approve consent agenda. CM White made a comment about the statement he had made under reports. No changes to minutes were made. **VOTE:** All Ayes.

5. **ATTORNEY REPORT:** Atty gave update on SB2006 signed into law regarding State declared Emergency Orders (EO). He and ITM Lisa have determined that Malabar needs to provide for local emergency declarations to provide guidance for future administrations. Consensus of Council to direct staff to work on such an ordinance.

6. STAFF REPORTS:

6.a. Town Manager – written, in package. Will answer any questions regarding. SAI will be here on June 7. She gave update on Health First Health Plan insurance and have learned they will honor renewal through 2022. That will give us a little more time to assemble costs and present options to Council. We do have a broker. During the budget process she will discuss this as a Broker is an add on cost. Whether we renew that or not. She has also contacted the owner and broker on the property on Marie St. Wanted to put a back-up offer on the land but wanted approval to walk it first. It is in probate right now. She will check back later this week. The playground fits under the shade structure and with estimated shipping, delivery and installation can set up the procurement in a two-payment process to cover next year. She is working on a ROW vacate ordinance and a RV zoning ordinance. Has met with engineering firm to create engineering specs for Rivet Lane paving. She has also printed out the 151-page report on the American Relief Act (ARP) and suggests they set a workshop date to discuss how to allocate some of that funding. She mentioned they are reaching out to potential sponsors for the FallFest. She has also followed up on the movies at the park; there is a license fee to offer movies at the Park, but it would be a great asset to the Town.

6.b. Clerk – We received confirmation from the State DEO that they have approved the Comp Plan Amendment changing the definition of MBC in R/LC to 20%. Also reminded Council that the Town seal on the wall flew over 2 mil miles in the Space Shuttle Columbia in 1986 with Bill Nelson who is now the NASA Chief.

6.c. Request Permanent Reservation for Bluegrass Jam at the Sandhill Trailhead – by K.D. “Don” Williams

Don Williams, 4960 Hield. Part of the original Castaway Bluegrass Bunch. They moved after the place was lost due to hurricane. The City of Malabar agreed to allow us to play at the pavilion. He referenced the recent conflict with the use and learned the Town had no record of them having exclusive use. Chair said they are also asking for a waiver of the fee.

CM Vail said the jam is open to the public; he has attended it in the past. It is more of a public outreach than a private use. Mr. Williams said years ago he got it listed in the TGIF, but it had to be submitted weekly and he got busy. They are there every Sunday from 2 to 5. CM White said the procedure is reserve should be available to all persons and upheld. CM Rivet said that if there were a request to reserve the pavilion during that time, could Bluegrass Group reschedule. Yes, he could contact most of regular participants, but some come from further areas.

Franklin reiterated that staff has a reservation policy and there was no mention or record of this. Staff would ask that the Bluegrass Bunch submit paperwork to reserve it for a year at a time, so Town staff has current scheduling and contact information.

MOTION: CM Rivet / CM Vail to approve the exclusive use to the Bluegrass Bunch from 2 to 5 on Sundays for the next year and waive the fee. **VOTE:** 4 to 0.

6.d. Recommendation from T&GC Annalie Harvey to have a Town sponsored Malabar Community Market

Annalie Harvey went over the six components for the Malabar Community Market. Also wanted to have a Town booth there to have CM interact with citizens; and Board members show projects and let citizens know what is going on. Display for local business – promote local businesses. Special event changing every month – organize an art show, an equine day, a Beach summer day with waterslide, pools, and a slushy vendor. Just do it every 4th Saturday from 9 to 2 as more for a community building. They would also like to do the pancake breakfast if possible. She has talked to Town staff regarding liability insurance. Not much going on at the south end of county. Starting with exception to not have one in November and coordinate the Dec one with the tree lighting. Great opportunity. Mayor asked if this is conflict with MCA? She would definitely contact them. Believed they stopped due to COVID.

CM Rivet is in favor of events to coordinate and thinks Council should support. CM Acquaviva, White and Vail also agree. Mayor asked about fee. Since it would be kind of sponsored by the Town, there would be no charge. Staff can work out details. Mayor asked for motion.

MOTION: CM White / CM Acquaviva to support the follow up with staff. Atty Bohne said maybe not with a water slide due to liability but other stuff they support. **VOTE:** All Ayes.

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: 3

8.a. Amend Chapter 13, Malabar Code of Ordinances, Street Improvement (Ord 2021-04)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 13, ARTICLE II, DIVISION 2 OF THE MALABAR CODE OF ORDINANCES RELATED TO STREETS; AMENDING SECTION 13-37 DEFINITIONS; AMENDING SECTION 13-38 PRECONDITION TO ISSUANCE OF BUILDING PERMIT; DELETING SECTION 13-40; AMENDING SECTION 13-41 ROADWAY IMPROVEMENT PROCESS AND ADDING EXHIBITS “B-4”, “B-5” and “B-6” TO SECTION 13-41; AMENDING SECTION 13-42 ROADWAY IMPROVEMENT PROCESS; AMENDING SECTION 13-46 STANDARDS FOR ROAD IMPROVEMENTS; AMENDING SECTION 13-47 REIMBURSEMENT FOR

EXPENSES INCURRED BY OWNER IN CONNECTION WITH THE CONSTRUCTION OF ROAD IMPROVEMENT; AMENDING SECTION 13-48 IMPROVEMENT OF UNACCEPTED PORTION OF PARTIALLY IMPROVED ROAD; AMENDING SECTION 13-49 IMPROVEMENT REQUIRED IF LAND PARTIALLY ABUTS UNACCEPTED ROAD; DELETING ARTICLE III IN ITS ENTIRETY; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 8.a.**

Ord read by title only.

PH opened. No comments. PH closed.

MOTION: CM Vail / CM Rivet to adopt Ord 2021-04.

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

8.b. Road Improvement Waiver Request – south 200 feet of Hunter Lane adjacent to Parcel 325; applicant Mr. Cranston Gittens

Exhibit: **Agenda Report No. 8.b.**

Clerk stated the applicant is not present. She does not know what the issue is but will contact applicant. She is asking for a postponement to date certain of June 7th for public hearing and she will not have to re-advertise legal ad. If he cannot make that date she will re-advertise. CM Rivet asked Attorney about agricultural property uses requiring a building permit? Attorney said that is an issue. Right to farm act. The Town's issue is the road access. Attorney clarified that non-residential farm operations do not require building permits. It does not require a tax exemption of Agricultural through the Tax Department.

8.c. First Public Hearing of two required to Amend the Malabar Zoning Map for approximately 1,716 acres as shown in Exhibit "A" and specifically excluding the parcels listed in the ordinance. (Ord 2021-05)

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 ALL PARCELS EXCEPT THE ONES LISTED IN THIS ORDINANCE; PROVIDING FOR THE EXISTING ZONING CLASSIFICATION FOR THOSE PARCELS; PROVIDING ACCESS TO THE NEW ZONING MAP ON THE TOWN WEBSITE; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 8.c.**

Ord read by title only.

PH opened. No comments. PW closed.

MOTION: CM Acquaviva / CM Vail to approve first PH reading of Ord 2021-05.

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Excused; CM White, Aye. Motion carried 4 to 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 Chapter 2 of Code to Require Property Posting for Land Use Issues (Ord 2021-06)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 2, ARTICLE IV, CREATING A NEW SECTION 2-76 OF THE MALABAR CODE OF ORDINANCES RELATED TO ADOPTING ORDINANCES, HOLDING PUBLIC HEARINGS AND PROVIDING PUBLIC

NOTICES, PROPERTY POSTINGS AND LEGAL ADVERTISEMENTS; , PROVIDING FOR LIMITED EXCEPTIONS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

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

Ord read by title only.

MOTION: CM Rivet / CM Vail to approve first reading of Ord 2021-06.

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

RESOLUTIONS: 0

MISCELLANEOUS: 2

10.b. Surplus of Municipal Owned Property 2540 Johnston Avenue

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

Chair asked ITM to introduce. ITM Lisa explained that before staff can dispose of material bought with public funds, Council must declare it surplus. This parcel was determined to be surplus, and the Town changed the zoning back to RS-10 to match the surrounding area and it is now ready to market. Based on sales of acreage in Malabar she suggested the starting bid could be set at 100K. The buyer would be responsible for all associated costs. The bid could be advertised so that before the bid is accepted it must come before council again for final acceptance of the bid. Council supported that and asked for local contacts to be included since many people in real estate are unfamiliar with GovDeals. The adjacent property owners have already reached out to the Town regarding the impending sale. The offering must be open to all.

MOTION: CM Rivet / CM White to confirm the 3.4-acre parcel at 2540 Johnston Avenue is surplus and approve the listing the property with GovDeals at a starting bid of 100K.

VOTE: All Ayes.

10.c. Select Representative for Mediation Meeting regarding Painted Acres v. Town of Malabar

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

Chair stated his recommendation would be CM Rivet. The tentative date is July 16, 2021.

MOTION: CM Vail / CM Acquaviva to appoint CM Rivet as Town representative for mediation tentatively set for July 16, 2021. Atty Bohne explained to Council that the new Attorney, Doug Noah is the very competent and is fully up to speed on the status. The ultimate approval of any mediation will rest with Council.

VOTE: All Ayes.

Chair excused Attorney from phone participation in meeting.

11. DISCUSSION/POSSIBLE ACTION: 2

11.a. Status of Contract Discussion with WM – Ms. Dina Reider-Hicks

Exhibit: **Agenda Report No. 11.a.**

Chair called WM Rep Dina Reider-Hicks, Talona Dr. Melbourne, representing WM. Please allow her to begin by stating the very long relationship with Malabar. Malabar is unique and requires 70% of roads to be backed down. WM has safety protocols that require a longer process when backing down roads. The time and amount of service that baking down roads require are the most significant cost drivers within the Solid Waste contract. The Malabar franchise uses the CPI index which does not indicate the actual waste hauling costs, just the cost of doing business. The average annual increase is just over 1%, or \$1.50 over the last six years. In that time, the cost of steel has gone up about 75%. Resin costs have increased 26% to 49% in fuel. Commodity prices lead to market reset. Malabar generates 30% more yard-waste than similar cities. In 2014 they transitioned to carts. It was the hope that the carted service would increase the efficiencies and that has not been realized. At the same time, we want to invite your thoughts.

George Geletko. Provide the highest level of service. Cannot find drivers, currently paying \$20/hr. for CDL drivers. In 2006 we began promoting automated services. The WC was running over a mill a year. Cost of goods are not going down. Very strong competition for labor. Prime. What is Prime. Figure how we can provide the level of service. 30% of the people create the additional cost to the rest of the residents. They have to use 2 and 3 claw trucks. He is open to any questions. He knows Malabar pretty well.

Discussion: CM Rivet stated their comment of significant increases will require an RFQ. How can we not open it up for bid? They only provide good service when contract is up for renewal. If we are talking 1, 2 or 5 % is different but a "significant" increase screams putting it out to bid. CM White agrees with opening up to bid. CM White disagrees with CM Rivet comment about service. He thinks they have provided good service. Mayor agrees. CM White said there is some things we just cannot do. He is used to good service. CM Acquaviva said this whole issue is sad; she understands the automated service with the carts. She gets good service. The sad part is we are in the middle of a bad time and as a resident or representative could not approve a "significant increase" at this time without putting it out for bid. CM Vail had not had any issues with LOS. Malabar is unique. We put empty feed bags and it goes away. We need to go out to bid if the price increase is "significant" but need to remember that our solid waste collection is different from other cities. We are not PB or beachside and we need to get the level of service that will work for Malabar residents. Consider the other options. CM White said we can add it to the tax roll. That might not be an easy sell. We could even consider a subsidy from the Town. CM Rivet said that would still be a cost that the residents are going to pay in the end.

He has talked to people in G-V on narrow dirt roads and they are happy with Waste Pro. WM will bid on it. Go to once a week that would reduce only drop two trucks.

CM Acquaviva – we have always had the back down roads. We have always had dirt roads and narrow, but we have always had a good relationship. As a resident and CM, she can't not support going forward without going out to bid.

CM Acquaviva said consensus to do RFP. Short period. WM would hold contract out to sept 30. If you do not "qualify" the bid process. We know that there are only three or four. Piggyback on another town. Could put out RFP then have it clean and process. WS and presentations. It will be presses for time. 21.16 + .36 recycle. PB, they have negotiated . Bid is expensive. Franchise free. If you give it away or reduce it. You are reducing you GF revenues.

CM Acquaviva asking about piggy backing another contract.

CM Vail if we piggyback it has to be the same. She can present the options. Go with RFP until at least 8 weeks. It is close. We can do emergency mtg to award. Do it now. CM Rivet start now. ITM Lisa said she could put an emergency workshop together later this week. Similar to what we have now. Piggyback what are the options. CM White said the RFP for the same service we now have with an option to do once a week. Consensus by Council to bring the options back to Council on June 7 by ITM for possible RFP or piggyback options.

11.b. Discuss Repeal of Reso 17-2020 (face coverings) (CM White)

Exhibit:

Agenda Report No. 11.b.

MOTION: CM White / CM Marisa to repeal/sunset the face coverings policy in Reso 17-2020 effective tonight. CM White said this was at his request and he believes it is time to take down the barriers and get back to normal operations. He feels it is time to sunset the requirement for face coverings and remove these safety guards.

VOTE: All Ayes.

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

13. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: CM Rossman memorial. PB did a great job. Re-emphasize. CM Vail said construction is very busy and may be able to donate. ITM Lisa said that she would recommend that we recognize those that should be memorialized on the wall here at Town Hall now until such time as a formal memorial recognition is recommended by Park and Rec board. Consensus of Council to support.

CM Vail: nothing

CM Rivet: nothing

CM White: thanked us for cards. Ref home bus legislation.

CM Scardino: excused

Mayor: Mayor's B-fast will be on June 18th. Last year, that was his first zoom event after lock down started.

ITM Lisa asked for clarification that the position shields could be removed as well as the request for face coverings. Yes. Take them down.

15. ANNOUNCEMENTS: Openings on T&G Committee.

16. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 9:45 P.M.

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

ATTEST:

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

Date Approved: 06/07/2021