

## MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

JUNE 07, 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 Scardino 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:** Mayor added presentation of certificate of Completion of IEMO Course to CM Dave Scardino.

### 4. CONSENT AGENDA:

#### 4.a. Regular Town Council Mtg May 17, 2021

**MOTION:** CM White / CM Scardino to approve. **Vote:** All Aye.

5. **ATTORNEY REPORT:** Attorney stated that he must call for an executive session or closed-door meeting to discuss litigation in an ongoing lawsuit. It will be called to order in an open meeting, then recessed to the closed meeting; go back to the open meeting and adjourn. Date is set for Tuesday, June 15, 2021, at 1pm at Town Hall. Appx one to 1.5 hour. Schedule for court reporting.

6. **BCSO REPORT:** none

### 7. BOARD / COMMITTEE REPORTS:

7.a. T&G Committee: Mayor read written report.

7.b. Park & Recreation Board: Chair Eric Bienvenu – no report

7.c. P&Z Board: no report

7.d. Audit Report for FY 2019/2020 by James Moore & Co., independent auditors

Presented by Mr. Zach Chalifour, Partner of the company. He went over the four reports that make up financial report. It is actually the Town's management report to the State. They had a recommendation to improve the financial accounting of receipts that come before and after the FY; stop back dating and use a better way at year end. Follow up with Zach on how to record it better.

Town has a 1.7 million fund balance; Malabar has a very healthy reserve and financial position. Good report. Thanked staff.

7.e. Stormwater Master Plan Update by Singhofen & Associates

Allyson Hunt of SAI, briefed Council on the create a database and zoning parcels layers. Analyze SW model includes 24 sq miles to include PB and GV. Most goes out to Turkey Creek. Primary drainage structures are included. She went through the PP presentation. Master Plan does not include neighborhood or subdivision level. Most of major roads are free of flooding. Low lying dirt roads and yard flooding does exist and is to be expected. No structure flooding in the modeling. Piping this area along Hall to Eva. Design Alt 2. Benefit is to move drainage from private property to public ROWs.

Corey and Malabar and Weir Street – FDOT just did their roadway work. They just added pipes. Provides framework for a secondary system. Connect to the FDOT pipes and gives some relief. Can be designed at the same time or split up over two fiscal years. Marie Street is the 3<sup>rd</sup> area. Water not getting out. No roadway flooding but water does not drain. Pipe the whole ditch – easier to maintain. No erosion. Pond provides a treatment possibility and possibility IRL funds could be a funding source for a part of it. Do we need the pond for flooding – no it is primarily added for water treatment. Can also be added later and connect to a pond in the future. 800K for piping. Adding the pond added another 500K. Rocky Point is not connected to the town's drainage system and drains into IRL directly. There are some maintenance issues. Collapsed pipes and headwalls. Addressing the maintenance issues first. Then maybe do a focused study. She then went over the high, medium, and low priority issues.

Mayor asked what type of water is coming into the Town. She went over the slide showing the impact from Palm Bay and Grant-Valkaria. Can you put the direction of the flow on the aerial maps – assumes it is north – yes. Future tasks – secondary system is not included. They will submit a more detailed report. CM Vail asked about connecting Gilmore to Country Cove drainage system. Have to research if there are willing property owners for an easement.

## **8. STAFF REPORTS:**

**8.a.** Town Manager – no written report. No major issues. Regarding the surplus land sales, GovDeals has had over 2300 views, and they have 21 days left and already have 5 bids. CM White asked about land clearing at LaCourt and Atz. ITM Lisa said she got the complaint, and a permit had not been pulled so a stop work order was placed today.

**8.b.** Fire Chief: Acting Chief, Lt. Barkley attended and went over fire report for May. Will be turning in the Isuzu for surplus. CM Vail passed on a complement to the Fire Dept from a resident after a recent incident and had nothing but high praise. Lt. Barkley thanked Council for the recognition.

**8.c.** Clerk – nothing.

**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. Public comments do not require a Council response. (Speaker Card is Required)  
**Five (5) Minute Limit per Speaker.**

## **10. PUBLIC HEARINGS: 3**

**10.a. Second required Public Hearing 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. 10.a.**

Ord read by title only. PH opened.

Discussion: David Tom – lives in Palm Bay and owns a parcel on Osage. He complemented Town staff and has talked to them at length regarding the overall rezoning. Sounds like they put a lot of work on this. Since public servants are normally not recognized he wanted to do so.

PH closed.

**MOTION:** CM Acquaviva / CM Vail to Adopt Ord 2021-05.

Discussion: no additional comments.

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

**10.b. 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.b.

Ord read by title only. PH opened. None. PH closed.

**MOTION:** CM Rivet / CM Scardino to Adopt Ord 2021-06.

Discussion: no additional comments.

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

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

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

Chair called applicant to present. Mr. Gittens stated his request. Mayor asked about plans. He plans to put chickens and goats and will pursue a well as next step. He wants to put a generator in for now for the well; no timeline as he does not have any experience on putting in a well. His request is as stated in the application,

Chair opened PH.

Cheryl Weldon – 2636 Hunter Lane. She called Town Hall after hearing the sounds of land clearing and learned no permits have been issued. If he is going to have an agricultural operation how are animals going to be cared for properly?

Chair closed PH.

ITM Lisa gave the update for the code enforcement issue. Chair stated they are separate issues. Council discussed the similar issues throughout the town of clearing land on weekends without permits or wetland determinations.

Chair called for to approve waiver – no motion made.

**MOTION:** CM White / CM Scardino to deny waiver to road improvement requirements.

**ROLLCALL VOTE:** CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried to deny the waiver.

**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: 2**

**12.a. Amend Chap 2 of Code to Provide for Emergency Powers (Ord 2021-07)**  
AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES OF THE TOWN CREATING

SECTION 2-400 "EMERGENCY POWERS"; PROVIDING FOR THE DESIGNATION OF A TOWN OFFICIAL IN THE EVENT OF AN EMERGENCY DEFINED HEREIN; PROVIDING FOR DEFINITIONS; PROVIDING FOR A DECLARATION OF EMERGENCY BY EXECUTIVE ORDER; PROVIDING FOR THE AUTHORITY OF THE DESIGNATED TOWN OFFICIAL; PROVIDING FOR THE DURATION OF AN EXECUTIVE ORDER FOR A DECLARED EMERGENCY; PROVIDING FOR THE DECLARATION OF A PUBLIC HEALTH EMERGENCY; PROVIDING FOR THE ISSUANCE OF LOCAL EXECUTIVE ORDERS; PROVIDING FOR THE DURATION OF A LOCAL EXECUTIVE ORDER ISSUED FOR A PUBLIC HEALTH EMERGENCY; PROVIDING FOR THE POSTING OF ALL EMERGENCY ORDERS, ORDINANCES AND DECLARATIONS ON THE TOWN'S WEBSITE; PROVIDING LIMITATIONS ON ANY CURFEW ESTABLISHED; PROVIDING FOR REPEAL, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE

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

Ord read by title only.

**MOTION:** CM Rivet / CM Vail to approve first reading of Ord 2021-07.

Discussion: Atty explained the reason for the need for a backup – should be Mayor after the Town Manager. Should be a Charter officer or designated head of Town. As for the financial spending cap, that number is all over page depending on size of city. Council agreed to set it at 50K. ITM Lisa explained that the way it would work would be to authorize the emergency expenditure for a local emergency and then brought before Council at the next meeting for transparency. CM Acquaviva asked about public health emergency. State has public health we have all the other declared emergencies including transportation related.

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

#### **12.b. Budget Amendment FY 2020/2021 (Ord 2021-08)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2020/2021 TO PROVIDE FOR ADDITIONAL FUNDS FROM RESERVES ON DEPOSIT SET ASIDE FOR CAPITAL PARK AND ROAD PROJECTS; PROVIDING FOR EXPENDITURES FOR NEW PLAYGROUND EQUIPMENT AND ROAD PREPARATION FOR THE PAVING OF 1100 FEET OF HUNTER LANE; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Ord read by title only.

**MOTION:** CM White / CM Acquaviva to approve first reading of Ord 2021-08.

Discussion: CM White was shocked that the price.

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

#### **RESOLUTIONS: 1**

##### **12.c. Acceptance of Audit on FY 2019/2020 (Reso 02-2021)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING ACCEPTANCE OF THE ANNUAL AUDIT REPORT PROVIDED FOR FISCAL YEAR 2019/2020 BY THE AUDIT FIRM OF JAMES MOORE AND CPA; AND PROVIDING AN EFFECTIVE DATE.

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

Reso read by title only.

**MOTION:** CM Vail / CM White to adopt Reso 02-2021.

Discussion:

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

**MISCELLANEOUS: 1****12.d. Consideration of Piggyback or RFP for Solid Waste Services – Information presented by ITM Lisa Morrell****Exhibit: Agenda Report No. 12.d.**

Introduction by ITM Lisa. Went over her handout. We could write an RFP. There are not a lot of checks and balances when the same person writes, reviews, and negotiates with the bidders. She would recommend hiring an outside professional to review, rate and recommend a vendor. There are only three that provide services in this area. Waste Pro provides service for GV. Yard waste is a concern. G-V is similar to Malabar, and they have 5 years on current term and then a 7-year term. Slight difference because they would have to do the billing. Discussion on discount to put on tax bill. Cures CM Vail said if we continue the RFP process and choose to write a bid. Could be a lapse in service if it is challenged, etc. CM Acquaviva said it is a cumbersome process and not to be rushed. CM Scardino said he supports piggyback with Grant-Valkaria.

**MOTION:** CM Rivet / CM Scardino to authorize ITM Lisa to  
Restate motion from agenda report.

Discussion: CM Acquaviva asked the Atty if they are on track with this. Atty said there is no restrictions for a local govt to piggyback and not provide for an RFP. Perhaps we might want to consider updating our code to provide guidance.

**VOTE:** All Ayes.

**Chair released Attorney at this time.**

**13. DISCUSSION/POSSIBLE ACTION: 0****14. PUBLIC COMMENTS: General Items (Speaker Card Required) None:**

Dick Korn – was on council in 2014. He spoke about WM service. Council stated this was on a previous agenda. CM White explained why this was on the agenda. CM Acquaviva and CM Scardino said they were notified by WM, and this was an agenda item at last meetings, and they announced a significant increase necessary for rates that the Malabar residents would not be prepared for. We are saving the Town taxpayers money.

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

CM Acquaviva: nothing

CM Vail: nothing

CM Rivet: nothing

CM White: SCLC meeting in person June.

CM Scardino: nothing

Mayor: Mayor's bfast coming up on the 18<sup>th</sup> at the Crown Plaza.

**15. ANNOUNCEMENTS:** Openings on T&G Committee.**16. ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 9:30 P.M.

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

ATTEST:

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

Date Approved: 06/21/2021