

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

JULY 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

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

2. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:

CM Vail requested the 11.a. Item be moved to a Special Council Meeting on 7/26/2021 at 7:30pm. This is due to CM Acquaviva request to participate in the discussion.

4. CONSENT AGENDA:

4.a. Regular Town Council Mtg June 21, 2021

4.b. Special Town Council Mtg June 28, 2021

4.c. Special Town Council Mtg June 30, 2021

4.d. Memo from TM Matt Stinnett to discontinue payroll

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

5. ATTORNEY REPORT: Atty Bohne gave update on Faber Code violation. Fines have accrued to 90K. Received email from Faber with offer to resolve for \$500. Current costs for the Town are \$2500. Courts are going to be reluctant to enforce a fine in excess of the value of the property. It becomes an illegal forfeiture. County uses for a fine, 35% of the maximum value of the property value. If you use that formula, it would be 7K and 8K. There is nothing wrong with our fines. But the courts see the disparity in those cases when the penalty exceeds the crime. CM Vail said this formula would be ok to use. Mayor said use two times the cost to the Town. If Council wants to leave it as is, it is that simple and will stay with parcel until sold; lien just needs to be renewed. CM White is ok with the Mayor's formula. ITM Lisa said this is called amnesty discussion, so the details are not stated. CM Rivet said let the foreclosure stay in place. This is a repeat violation. CM Vail and Mayor want closure. Consensus of Council and direction given to Attorney.

6. STAFF REPORTS:

6.a. Town Manager – had handed outdoor knockers – Hunter Lane paving is commencing. Craig McKinnon refreshed the stakes and the pipe across Hunter will be the first steps. They decided on a 60-day estimated Date of Completion but have left it open for exceptions due to availability of product and weather.

Solid Waste RFP. There are seven plan holders that have downloaded the RFP. Mandatory pre-proposal mtg set for 7/27. There are 4 options for them to bid and then an option to provide their best offer. Need to select committee of 3 to 5 members to review proposals. ITM Lisa will act as administrator for the review but can't be part of the committee as she wrote the RFP. Might be hard to get unless we can set the meetings to evening hours which she is willing to do. It is a big bid and should require focused review as this cost will impact all residents and businesses. She is open to suggestions. Council consensus of having Grant Ball. Committee doesn't meet until the end of the August. CM White suggested having them

from different areas of Town. ITM Lisa will reach out and contact various persons from all areas of the Town and bring list back for Council approval. Don't want to appoint people that are not willing to serve.

Wednesday is open enrollment period for employee health insurance as that issue has been resolved.

MCP new playground has Bldg Permit processed; she is awaiting confirmation for construction start date. They need advance notice so they can deconstruct and remove mulch for reuse. Construction will take multiple days when the playground area will be closed to public use. They will notify public before then and then she will do a drone coverage of construction to show residents afterwards.

FD staff has completed their annual physicals. She noticed today that WM has the clam truck out picking up piles. She took pictures. There have been dozens of calls made to WM by residents and staff.

Huggins Park sale went through. Closing is next week. Buyer is a Brevard resident. He doesn't have plans to develop for at least a year.

NPDES – 2-year reporting cycle we have a one-week extension. We do it in conjunction with Brevard County. We submitted info to County last April and just got response last week. We can improve our reporting process on this information required for future reports to do better.

NFIP – She attended an 8-hour catch up webinar to comply with annual participation in process due last year; also need to adopt some new procedures for tracking the non-compliance, complaints, and violations.

TPO did revise the list of State Road projects but widening SR514 is still at #18. Widening is not immediate, probably decades until completion.

Status of Twin Lakes development. Still working on tree mitigation and irrigation to ensure the livelihood of the new trees that are required. Lots were sold via auction, but no development will proceed until Final SD improvements are completed.

CM White wants to say thank you to ITM Lisa. She spared a few minutes with resident. Thank you. It is instrumental. She thanked him as well. We have improvement that we can do on our end.

6.b. Clerk – The annual FLC Conference is August 12-14 at the Orlando World Center. It starts on Thursday at 1pm and will cover a variety of topics that affect municipalities. I have registered CM White who will be the voting Delegate, and CM David Scardino to attend the full conference. ITM Lisa Morrell will drive over and attend the daily work sessions.

The Election 2021 Candidate qualifying period starts on 7/27/2021 - 8/10/202. It has been posted at the P.O., front kiosk and within Town Hall. It is also on the Town's website and Facebook page. Both serving CM's intend to run for re-election.

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) 2

9.a Trails & Greenways Committee Request for Public Works Assistance (Memo)

Mayor called Drew Thompson for the Eagles Nest Trailhead. The covid situation slowed it down. The cut through has been cut through. Basically, here to request Town assistance. They met with Tom and Bob Wilbur. Aug 6 and 7 (Fri and Sat) to put in 160' of fence. Tom estimated about one day with equipment and root rake. Pull the roots out before the fence installation. Limited duration for use of secured yard next door. If we can get poles one day and then the fence. Marie St Al Tuttle – package that as one project that has made the cut thus far. Oct 30 TPO to co-sponsor a bike event.

MOTION: CM Vail / CM Rivet to authorize the PW Dept to complete the requests as stated by T&G Committee for the ENT (Eagle's Nest Trailhead). **VOTE:** All Ayes

9.b. Fall Fest Event with Waiver of Park Event Fees (ITM Lisa Morrell)

ITM Lisa explained the plan for this Oct 30 is a Sat Fall's FallFest or Trunk and Treat event. Food trucks. Keep the registration and insurance requirements. Music with self-contained stage and sound. CM Vail said it is a good idea. Plenty of local musicians.

MOTION: CM Rivet / CM Vail to approve date of Oct 30 for FallFest/Trunk and Treat event.

VOTE: All Ayes

MOTION: CM Vail / CM White to waive fees but require the registration and insurance.

VOTE: All Ayes

ITM Lisa has suggested to all the Boards and Committees that in order for a member of the Boards or Committees to solicit donations, that request should be first approved by the Town Council. She would request that Council make such a directive to Staff to share with the Boards and Committees that they should not solicit for sponsorship, donations, raffle prizes, support, money, etc. without first receiving support and direction from a Council action as put forth to Staff.

ITM Lisa explained that if FPL or other local sponsorship provided a \$500.00 "donation" – we could recognize them with a listing on the Sponsor Board or making a banner for each vendor agreeing to be a sponsor.

Council consensus to direct staff to inform Boards and committees to not solicit donations for the upcoming event, waive registration fees for vendors, and recognize those that voluntarily offer sponsorship with a banner.

10. ACTION ITEMS:

ORDINANCES for FIRST READING: 2

10.a. Amended Code per new State Law on Home Businesses (Ord 2021-10)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; REPEALING SECTION 1-5.25 IN ARTICLE V OF THE LAND DEVELOPMENT CODE REGARDING HOME OCCUPATIONS; AMENDING ARTICLE II OF CHAPTER 14 BY ADDING A NEW SECTION 14.40.2 RELATING TO HOME BASED BUSINESSES; AMENDING SECTION 14-46 BY ADDING HOME BASED BUSINESSES TO THE BUSINESS TAX RECEIPT FEE SCHEDULE; AMENDING SECTION 14-45 REGARDING FEES FOR BUSINESSES NOT SPECIFICALLY INCLUDED IN THE FEE SCHEDULE; PROVIDING FOR REPEAL; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE.

Exhibit:

Agenda Report No. 10.a.

Ord read by title only.

MOTION: CM Vail / CM Rivet to approve first reading of Ord 2021-10.

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

10.b. Approve Amended Code related to Open Burning (Ord 2021-11)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 8 FIRE PREVENTION AND PROTECTION; AMENDING ARTICLE III SECTION 8-72 DEFINITIONS; AMENDING SECTION 8-73 REGARDING REQUIRED PERMITS; PROVIDING FOR REPEAL, SEVERABILITY AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit:

Agenda Report No. 10.b.

Ord read by title only.

MOTION: CM White / CM Scardino to approve first reading of Ord 2021-11.

Discussion – CM Rivet has question – is this a requirement for a household grill?

CM White said it referenced in the ordinance; the exemptions part was changed. Do need a permit for such use in the park.

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

RESOLUTIONS: 2

10.c. Approve new Fee Resolution (Reso 04-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR UPDATED ADMINISTRATIVE AND PERMIT FEES; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit:

Agenda Report No. 10.c.

Reso read by title only.

MOTION: CM Vail / CM Rivet to approve Resolution 04-2021.

Discussion – ITM Lisa said this will be seen several more times as new fees are realized and will need to be added.

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

10.d. Approve 2020 Local Mitigation Strategy Plan with Brevard Cty (Reso 05-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING THE 2020 UPDATE OF THE BREVARD PREPARES LOCAL HAZARD MITIGATION STRATEGY (LMS) PLAN.

Exhibit:

Agenda Report No. 10.d.

Reso read by title only.

MOTION: CM Rivet / CM White to approve Resolution 05-2021.

Discussion – Mayor asked staff to introduce. Franklin stated this is a requirement from last year that we are correcting after the fact.

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

MISCELLANEOUS: 1

10.e. Form DR-420 – Tentative Maximum Millage and Public Hearing Date

Exhibit:

Agenda Report No. 10.e.

Introduction: As stated in the Agenda Report.

Per State requirements Mayor stated that by August 4, 2021, we must tell the Property Appraiser the following:

- prior year's millage rate (2.3800)
- current years rolled-back rate (2.2727)
- current year's **proposed maximum millage** rate of 2.4999

- the date, time, and meeting place of the first tentative budget hearing of 9/13/2021 at 7:30pm.

Clerk read into record.

MOTION: CM White / CM Vail to approve tentative maximum millage at 2.4999 and set date for first PH on millage and budget on September 13, 2021, at Malabar Town Hall for TRIM Notice.

VOTE: All Ayes. (Note for record: this date conflicts with Brevard Cty PH and will be reset at 7/26/21 mtg to September 14, 2021.)

1. DISCUSSION/POSSIBLE ACTION: 2

11.a. Discussion of Management Level Staff that Report to Council (CM Vail)

Exhibit: Agenda Report No. 11.a.

Tabled to a Special meeting at 7:30PM on July 26, 2021, to discuss this item.

11.b. New Zoning Designation for Recreational Vehicle Park under FLU

Designation of HDR (Ord 2021-09)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING A NEW ZONING DISTRICT FOR RECREATIONAL VEHICLE PARKS (RVP); AMENDING ARTICLE II, TABLE 1-2.1, TO PROVIDE SAME NEW ZONING UNDER HIGH DENSITY RESIDENTIAL LAND USE DESIGNATION (HDR); AMENDING ARTICLE III, SECTION 1-3.1, BY CREATING A NEW SUBSECTION 1-3.1 "P"; AMENDING ARTICLE III, TABLE 1-3.2 TO INCLUDE RECREATIONAL VEHICLE PARKS; AMENDING SECTION 1-3.3, SIZE AND DIMENSION CRITERIA, SUBSECTION "A", AND BY CREATING A NEW SUBSECTION "G"; PROVIDING FOR AN APPLICATION AND OPERATIONAL PROCEDURES FOR RECREATIONAL VEHICLE PARKS; AMENDING ARTICLE III, TABLE 1-3.3(A) PROVING FOR SPECIFIC REFERENCE FOR RVP ZONING PER SUBSECTION "G"; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit:

Agenda Report 11.b.

Discussion: Mayor said this was discussed at P&Z and put together by ITM Lisa. Mayor had two comments; one was the density of 15 per acre; he thought that was too many; thought 12 was a better number. The other one was the requirement for a fence around facility. Fence makes it look like a prison. Council also discussed maximum area permitted to store RVs and ultimately decided to not make any changes Council direction to put on agenda for first reading.

VOTE: All Ayes.

Chair may excuse Attorney at this Point.

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

13. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: Not present

CM Vail: Old house is back on track. Moving right along.

CM Rivet: Will be happy to see that trailhead developed at the south end.

CM White: Took his annual Ethics training.

CM Scardino: Talked about recent issues with Scott Ryan. Lett Lane is closed off and telephone harassing him.

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 8:55 P.M.

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

ATTEST:

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

Date Approved: 08/02/2021