

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

AUGUST 16, 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 immediately after the Budget Workshop ended. CM Scardino did 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, excused

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

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

4. CONSENT AGENDA:

4.a. Regular Town Council Mtg Minutes of 8/02/2021

4.b. SAI Request for Schedule Extension – chg. order 002

MOTION: CM Acquaviva / CM Vail to approve. **Vote:** All Ayes.

5. ATTORNEY REPORT: Attorney excused

6. STAFF REPORTS:

6.a. Town Manager – No prepared statement for mtg. Has been working on Solid Waste RFP. Waiting for one committee person to respond. Committee meeting to review bids is set for 8/31/2021 in the evening. She has been busy answering the 100+ questions from the bidders that submitted input so far. Some questions overlapped but you could tell who had what priorities. CM Acquaviva asked if WM is participating. ITM Lisa has received the MOU from WM but is not bringing to Council until the bid period closes.

8.b. Fire Chief: excused - no report.

8.c. Clerk – Nothing

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. Public comments do not require a Council response. (Speaker Card is Required)

Five (5) Minute Limit per Speaker.

7.a. Recognition of Gift of Framed Sandhill Crane Photo by Lloyd Behrendt.

Mayor read and presented the Certificate of Appreciation to Lloyd Behrendt. Clerk unveiled the photo. ITM Lisa took pictures of the presentation. Council asked some questions about the birds. Mr. Behrendt said Sandhill Cranes have lots of predators such as coyotes and bobcats, but also feral cats and dogs will also take them. Boys are always born two days before the girls. Found a fossil of SandHill crane over 10 mil yo recently in the Midwest. Mr. Behrendt explained that other cities are following Malabar's example. The City of Lake Helen has named the Sandhill Crane their Town Bird as well, and others are interested as well. Mr. Behrendt then thanked Council for their hard work.

8. PUBLIC HEARINGS: 2

10.a. Amend Chapter 13 to provide for a recordable document to track required road paybacks (Ord 2021-13)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 13, SECTION 13-47 PROVIDING FOR A ROAD REIMBURSEMENT RESOLUTION TO RECORD ROAD PAYBACKS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

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

Ord read by title only.

Chair asked staff: nothing beyond the agenda report.

PH opened. None. PH closed.

Discussion: none.

MOTION: CM Vail / CM Rivet to Adopt Ord 2021-13.

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 Code to Provide for RVP (Ord 2021-09)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; PROVIDING A NEW ZONING DESIGNATION FOR RECREATIONAL VEHICLE PARKS (RVP); AMENDING ARTICLE II, SECTION 1-2.2, TABLE 1-2.1, TO REFLECT SUCH NEW DESIGNATION; AMENDING ARTICLE III, SECTION 1-3.1, BY CREATING A NEW SUBSECTION 1-3.1 "P. RVP "RECREATIONAL VEHICLE PARK" ; AMENDING SECTION 1-3.2, TABLE 1-3.2 TO INCLUDE RECREATIONAL VEHICLE PARKS AS A PERMITTED USE IN THE R-MH ZONING DISTRICT; 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; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

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

Ord read by title only.

Chair asked staff: ITM Lisa said it was amended per last meeting. It is notated in red and went through the ordinance on the overhead.

PH opened. None. PH closed.

MOTION: CM White / CM Acquaviva to Adopt Ord 2021-09.

Discussion: none

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 5 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 13 to provide for ROW Vacate Process (Ord 2021-15)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 13, ADDING A NEW SECTION 13-26 PROVIDING DEFINITIONS AND PROCEDURES FOR THE TEMPORARY CLOSURE AND/OR VACATION AND ABANDONMENT OF PUBLIC RIGHTS-OF-WAY; DELETING IN FULL SECTIONS 1-12.8. AND 9. IN ARTICLE XII; PROVIDING FOR, SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

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

Ord read by title only.

ITM Morrell the ordinance moves the location of the vacate regulations from the LDC to the Chapter of the Code that deals with streets and roads. Franklin added that the ordinance also

provides process for Council to grant authorization for staff to close public ROWs temporarily or permanently. There have been multiple requests recently and this provides a process. Housekeeping.

MOTION: CM Vail / CM Scardino to approve first reading of Ord 2021-15.

Discussion: none

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

RESOLUTIONS: 1

10.b. Appoint Alt Member to T&GC (Reso 06-2021)

Reso read by title only.

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF DANIEL WAITE TO THE MALABAR TRAILS AND GREENWAYS COMMITTEE AS AN ALTERNATE MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

MOTION: CM Rivet / CM Vail to approve Reso 06-2021.

Discussion: none.

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

MISCELLANEOUS: 2

10.c. Council to Qualify the Candidates for District 4 and 5.

Exhibit: Agenda Report No. 10.c.

Franklin introduced process for Council to “qualify” candidates as stated in agenda report.

Discussion: none

MOTION: CM Rivet / CM Acquaviva to “qualify” the candidates. **VOTE:** All Ayes.

10.d. Capital Improvement Priorities (con’t. from Budget WS)

Exhibit: Agenda Report No. 10.d.

Public Input: Drew Thompson – need to take care of the infrastructure. Needs to sell the participation element to the homeowners. Mr. Thompson is requesting the Town of Malabar to include Brook Hollow roads for resurfacing.

Clerk Franklin explained the Chap 13 Spec Assessments provides authorization of Council to initiate a “Special Assessment” or allow affected residents to “petition for a Special Assessment” and for improvements that benefit a specific area of Town. Last year Council adopted a new ordinance amending this section to be an incentive for property owners on a dirt road to request such an assessment and the Town would pay 40%. Clerk had discussed the possibility of a similar joint effort with BH homeowners since when the improvements were made (paved roads and sidewalks) they were dedicated to the Town, and it is now the Town’s responsibility to maintain. ITM Lisa said it comes down to a road maintenance plan. This specific project: resurfacing all street in BH would be about two miles of 50’ wide road and just the rough calculation based on the Hunter Lane asphalt cost would put it at 1.5M.

ITM Lisa suggested that they get some fairly accurate costs on the necessary improvements to multiple collector roadways (major and minor) and get several road paving vendors to price out multiple roadways. They should know the various costs before you schedule a workshop. Suggests a road WS to prioritize the roadways to be funded or explore potential funding sources. Engineering costs are up front. CM White said that need to be the first things we should do. Without knowing realistic costs, a WS is meaningless. CM Vail said there was quite a bit of discussion on the micro surfacing, but it was relatively inexpensive. CM Acquaviva said she discussed this with Mr. Thompson, and he said he wanted to get into que. She didn’t think

we even had a que. Mayor said the que is that those roads that have done the petition process. CM Vail suggested the most important thing is to validate the estimates.

ITM Morrell states ARPA does not provide funds for road infrastructure. It could fund water and wastewater extensions; also includes SW. Keep expectations reasonable. TPO is going to rank road projects using the countywide economic impact benefit so getting their assistance is unlikely. She has learned from FLC conference about potential grant funding and has secured two log-ons to look for state funding. There could be a possible match we could apply for.

CM Acquaviva asked if Hunter Ln was a Special Assessment. Yes. CM White relayed issue on Oaktree Ln in BH with the oak tree roots. CM Vail stated this has been discussed before, and you can't cut the roots as they are shallow, and it will make them susceptible to storm damage. Discussed the options and need for an arborist. It is the Town's responsibility. CM Scardino asked how many similar problems in that SD? Several, more than two. Mr. Thompson knows it is a money issue and acknowledges they may need to do a Bond or assessment, but it is a reality that needs to be addressed. CM Scardino said we need a maintenance program or to hire out a contractor to do these repairs and maintenance. He suggests getting some life extensions while we come up with funding sources.

Discussion: Introduction by ITM Lisa. The goal is to have a consistent list of projects actively being pursued and funded for the betterment of the Town. For this year we are hoping to get flashing lights at the hospital and Fire Station, but those are FDOT issues. We are funding refurbishing of the tanker, life packs, the lease for the engine and Gradall is included.

Should the right turn lanes at Corey and Weber Roads be included? CM Acquaviva states the FDOT has accomplished this already. CM White said this was on list when he started. He counted vehicles. He found out that a right turn lane without traffic control is even more dangerous. Most vehicles are large so we can't see over them if you are in a little car. Not getting exorbitant wait times. Don't know if we want to keep it. ITM Lisa said we could move it out until the widening of Malabar Road. We may be able to pursue the combined Town Hall and EELS center through ARPA Facilities funding. CM White met a gentleman at the FLC Conference who specializes in shared community facilities. FRDAP also has funding. Without the need you lack the scoring for the grant. Dugouts could be done but could also be done as maintenance. MLB has grants we can apply for. ITM Morrell would like to move the water infrastructure from north Corey Road to the Fire Department. Artesian wells are also a possibility. ITM Morrell will pursue.

ITM Morrell asks if resurfacing Old Mission Road is still a priority? Clerk Franklin gave a history on the resurfacing. ITM Morrell suggested more discussion at a WS.

CM Acquaviva asked how old and how many mowers are on the list? ITM Morrell stated there are two mowers, and they are five years old and have more value for trade ins at this stage than later when they are worn out.

ITM Morrell asked if SW Plan from 2014 is still viable? CM Vail suggests it has been completed with SW Master Plan. ITM Lisa has also put the culvert vacuum contract in the maintenance item.

Culvert replacement steel pipes under roads. ITM Morrell said PW has done 4 replacements this year. When they stop to do those, other maintenance gets behind. CM Vail asked about connecting Jordan Blvd. to Atz Road to improve flow and emergency exit for Harris Corp, and SW infrastructure. We have been waiting for road stabilizer. We are still in a pandemic. Loader from China came before the Ford truck.

Consensus to have ITM Lisa get some cost estimates for several collectors, Corey, Weber, Briar Creek for example and engineering costs and then prepare a staff recommendation of priorities and schedule a Capital Improvement Road Workshop sometime in the first quarter of next year. That will allow some of these other active issues to be completed.

She would also like to extend waterline from Corey Road at Malabar to the FD. Refill station for FD. Water activities at the park. May cost 1.5 mil just to extend water. ITM Morrell will get estimate for that number.

MOTION: None: Consensus of Council to continue the discussion on CIP projects at the next budget WS on 8/30/2021.

11. DISCUSSION/POSSIBLE ACTION: 2

11.a. New mandated Section to be added to Comp Plan (Ord 2021-16)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ADOPTING THE COMPREHENSIVE PLAN SMALL SCALE AMENDMENT (SSA) NO. 2021-02; ADDING A PROPERTY RIGHTS ELEMENT WITH ASSOCIATED GOALS AND POLICIES GOVERNING PROPERTY RIGHTS; REQUESTING EXPEDITED STATE REVIEW; AND PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 11.a.

Franklin read by title only and then introduced as a housekeeping requirement of the State due to new legislation signed into law this year. This must go to P&Z Board for review and recommendation since they are the Land Planning Agency for the Town. The new chapter in the Comprehensive Plan will require regulations to ensure that private property owners are properly noticed and allowed to speak at public meetings that deal with land use issues that may affect their property. It also requires developers to take steps to "introduce" their development concept to surrounding property owners and show evidence of that before it is brought to Planning and Zoning. By adopting this now it will ensure the Town remains in compliance with the State. ITM Morrell reiterates that the State will not approve any Comp Plan Amendments until we pass this. Council consensus to send it to P&Z Board.

11.b. Discuss/Review revised Employment Contract for Lisa Morrell

Exhibit: Agenda Report No. 11.b.

Discussion:

Introduction by Franklin – Clerk explained that from the direction of July 26 meeting they reviewed the employment contract as a contractor and as an employee. To avoid the FRS requirement, she would have to be a contractor. To provide benefits, she would have to be an employee. So, she is in the budget as an employee reporting directly to Council as the Clerk and Manager do. She would have no staff reporting to her so would be at the regular rate for FRS. As the consensus of Council on 7/26 the wages are 100K and the benefits are 26K. Half of that is budgeted in Executive and the other half in ARPA.

CM Acquaviva asked if the Attorney has reviewed this? Clerk Franklin explained that the Labor Attorney has reviewed this, and the contract is the same template used for the last four Administrators. She only changed the term, pay, benefits and duties.

CM Acquaviva asked about the reviews. Council hasn't done any. The Council used to do the reviews. She referenced Building Department Manager Sherear. The Manager and Clerk serve at the pleasure of Council. All other staff report to either the Manager or the Clerk.

CM White said it is not Council's job to manage the employees. CM Vail and the Mayor said just because it is in the contract they don't have to execute. CM Rivet said there is a difficulty having a six-member review to do a documented performance review. He is concerned

about logistics and confidentiality. Mayor asks if he would like to strike it from contract. ITM Morrell said it is hard to keep Council all happy; there are times when Council may not agree. That is the importance of having these actions occur at a Council meeting. So, the direction comes from the legislative body, not the individual CM. There will be moments when it is uncomfortable, but that is how it must be done. CM White said the recent situation with TM Stinnett is a good example. There was a concern, and it was brought before Council and discussed and that was all that was necessary. That was not a scheduled review. Mayor stated there is Council consensus to strike that section of the contract. CM White said he is very pleased with ITM Morrell.

Clerk said if Council is satisfied with the employment contract it can be approved now with the adoption of the Resolution. She then handed out Resolution 07-2021. Council consensus to proceed.

MOTION: CM Scardino / CM Vail to approve contract and adopt Resolution 07-2021 now.

Clerk read Reso 07-2021 by title only.

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF LISA MORRELL AS THE MALABAR SPECIAL PROJECTS MANAGER; PROVIDING FOR ADDITIONAL TEMPORARY DUTIES; PROVIDING FOR A TERM; PROVIDING FOR REMUNERATION AND BENEFITS; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

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

ITM Morrell thanked Council. Her priority is service, and she is happy to continue to serve and assist Malabar in accomplishing great things.

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

13. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: question on playground. ITM Lisa just heard from them, and it will be delivered on Thursday and the shade stays up. The demo will be done by PW. Will not be open for the Market Day on 28th. Also stated she is thrilled ITM Morrell is staying in Malabar.

CM Vail: nothing

CM Rivet: nothing

CM White: at FLC Conf and went to the seminar on the ARPA. Have until 2024 to commit and Dec 2026 to expend.

CM Scardino: nothing

Mayor Reilly: SCLC and IRL people were there. Oct 21 22 and will pay one person for 2-day seminar. Learned about IRL. CM Rivet will do it.

14. ANNOUNCEMENTS: Opening on T&G Committee.

15. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 9:32P.M.

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

ATTEST:

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

Date Approved: 09/14/2021