

MALABAR TOWN COUNCIL REGULAR MEETING

September 23, 2013

7:30 PM

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road.

A. CALL TO ORDER:

The meeting was called to order at 7:30 pm by Council Chair Steve Rivet. The prayer and pledge were led by Council Member Chair Steve Rivet, District 3.

B. ROLL CALL:

COUNCIL CHAIR

VICE-CHAIR/MAYOR:

COUNCIL MEMBERS:

TOWN ADMINISTRATOR:

TOWN ATTORNEY:

TOWN CLERK/TREASURER:

STEVE RIVET

CARL BEATTY

JIM MILUCKY

WAYNE ABARE

JEFF MCKNIGHT

MARISA ACQUAVIVA

BONILYN WILBANKS

KARL BOHNE, excused

DEBBY FRANKLIN

For the Record, Acting Fire Chief Dan Welton is also present.

C. ADDITIONS/DELETIONS/CHANGES: Park Bd rec, Purchase Vehicle, move 1st reading of ord to Oct 7 meeting. Delete 1st readings of both

D. CONSENT AGENDA : To Be Approved as a Group with one Roll Call Vote on All Items if Resolution is included, otherwise a voice vote.

(Any Council Member may request an item on the Consent Agenda to be removed and placed on regular agenda immediately after new business to be discussed and voted on separately by the Town Council)

1a. Approval of Minutes

~~Regular Town Council Meeting — 9/16/2013—~~

~~Budget WS #3 — 8/13/2013~~

Exhibit:

None – not ready.

1b. NONE

1c. Acknowledge Receipt of August Financials

E. PUBLIC COMMENTS: Comments may not address subsequent Agenda Items. Comments do not require Council response. (Speaker Card Required)

Five (5) Minute Limit per Speaker

F. ATTORNEY REPORT

G. BREVARD COUNTY SHERIFF'S OFFICE REPORT

H. PUBLIC HEARINGS: 3

2. Ordinance Setting Millage FY 2013/2014 (Ord 2013-63)

Chair read ordinance by title only.

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA ADOPTING THE MILLAGE RATE OF 1.6630 FOR THE LEVY OF AD VALORUM TAX WITHIN THE TOWN OF MALABAR FOR THE PERIOD FROM OCTOBER 1, 2013 THROUGH AND INCLUDING SEPTEMBER 30, 2014; PROVIDING FOR REPEAL AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Request Approval of 1st Reading of Ord 2013-63

Public Hearing opened:

Julianna Hirsch asked if this was an increase in millage. No.

Public Hearing closed.

MOTION: Marisa / Wayne to adopt millage in Ord 2013-63.

ROLL CALL VOTE: Milucky, Aye; 1) Abare, Aye; Rivet, Aye; McKnight, Aye; Acquaviva, Aye
Motion carried 5 to 0

3. Ordinance Setting Budget FY 2013/2014 (Ord 2013-64)

Chair read by title and Sec 1 only.

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA ADOPTING THE BUDGET OF 1,620,963.00 FOR THE TOWN OF MALABAR FOR THE PERIOD FROM OCTOBER 1, 2013 THROUGH AND INCLUDING SEPTEMBER 30, 2014; PROVIDING FOR REPEAL AND PROVIDING FOR AN EFFECTIVE DATE.

SECTION 1. The Town Council, in regular session duly assembled adopt the final Budget of \$1,620,963.00 for the proposed expenditures from October 1, 2013 through and including September 30, 2014, reflecting the general operating millage rate of 1.6630 mills. This total budget includes \$1,497,197.00 in the General Fund and \$123,766.00 in the Stormwater Fund. .

Exhibit: Agenda Report No. 3

Recommendation: Request Adoption of Budget with Ord 2013-64

Public Hearing opened:

None

Public Hearing closed.

MOTION: Marisa / Abare to adopt budget in Ord 2013-64.

ROLL CALL VOTE: Milucky, Aye ; Abare, Aye ; 1) Rivet, Aye; McKnight, Aye; Acquaviva, Aye.
Motion carried 5 to 0

4. Reso Approving Stormwater Fund Budget for FY 2013/2014 (Reso 32-2013).

Chair read by title only. This was added to this agenda due to legal advertising requirements.

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR APPROVAL OF THE ANNUAL BUDGET FOR THE TOWN'S STORMWATER UTILITY; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 4

Recommendation: Request Adoption of Reso 32-2013

Public Hearing opened:

None

Public Hearing closed.

MOTION: Wayne / Marisa to adopt Stormwater budget in Reso 32-2013.

Jeff said resolution should have been done before budget ordinance. Clerk said point taken.

ROLL CALL VOTE: Milucky, Aye; Abare, Aye; Rivet, Aye; 1) McKnight, Aye; Acquaviva, Aye.
Motion carried 5 to 0

PUBLIC: ITEMS DIRECTLY RELATED TO RESIDENTS AND RECOMMENDATIONS FROM TOWN BOARDS/COMMITTEES PRESENT AT MEETING

Added:

I. Drew Thompson, T&G Chair, presented request to use T&G Funds on kiosk construction for Cameron Preserve. Currently have \$690. Estimating \$524 with a similar amount of donations. Council consensus is yes.

Second request was to ask if T&G Member could be primary contact with State agency regarding grant applications. Simply trying to find if there is anything missing. Would coordinate all information through the town staff.

Third idea they are working on is to provide trail markers - essentially 4 x4 posts with Plexiglas showing where the hiker is on trail. Perhaps include QR codes. Low expense maps that can be easily updated. Where to walk, how long it will take level of difficulty. They are looking at packaging this idea similar to Turkey Creek asking for planks. Maybe identify donators on map page. Should not cost the town anything.

T&G made presentation to G-V. Had a 90 page PP and they were very receptive. They will be going forward with similar committee and look forward to working together in future.

TA said we just got letter that grant was denied. TA also said the contact person should be someone in administration. Also should be run by Attorney if you are going to have committee solicit donations. TA said it could be handled just like they do for FD donations. Could do a similar letter and open a similar account.

Mayor said if we are talking about signage we should look at how EELs do it on their property. Steve said we have mechanism in place for donations for park.

Mayor asked about direct communication with committee members. He heard that you are supposed to have a certified grant coordinator person. He had a conversation and it was passed on the tail end of another bill. TA said she was certified and did CDGB grant in Village of Virginia Gardens. Mayor could be wrong. Make discussion item for next mtg.

Jeff has concerns with committee collecting money for the town.

I. ACTION ITEMS:

ORDINANCES: First Reading 2 Moved to Oct 7, 2013

~~5. Ordinance Allowing Golf Carts (Ord 2013-65)~~

~~6. Amend Code re: Town Letterhead (Ord 2013-66)~~

RESOLUTIONS:

7. Reappoint P&Z Member Reilly (Reso 34-2013)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR A THREE-YEAR REAPPOINTMENT OF PATRICK REILLY TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 7

Recommendation: Request Action

MOTION: Abare / McKnight to adopt Reso 36-2013.

ROLL CALL VOTE: 1)Milucky, Aye; Abare, Aye; Rivet, Aye; McKnight, Aye; Acquaviva, Aye.
Motion carried 5 to 0

8. Reappoint P&Z Member Ryan (Reso 35-2013)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR A THREE-YEAR REAPPOINTMENT OF CHARLES "BUD" RYAN TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 8

Recommendation: Request Action

MOTION: Abare / McKnight to adopt Reso 36-2013.

ROLL CALL VOTE: Milucky, Aye; 1)Abare, Aye; Rivet, nay ; McKnight, Aye; Acquaviva, Aye.
Motion carried 4 to 1

9. Reappoint BOA Member Arnauckas (Reso 36-2013)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR A THREE-YEAR REAPPOINTMENT OF BILL ARNAUCKAS TO THE MALABAR BOARD OF ADJUSTMENT AS AN ALTERNATE; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 9

Recommendation: Request Action

MOTION: McKnight / Abare to adopt Reso 36-2013.

ROLL CALL VOTE: Milucky, Aye; Abare, Aye; 1) Rivet, Aye; McKnight, Aye; Acquaviva, Aye.
Motion carried 5 to 0

10. Reappoint BOA Member Sowards (Reso 37-2013)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR A THREE-YEAR REAPPOINTMENT OF DAVID SOWARDS TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 10

Recommendation: Request Action

MOTION: Marisa / Abare to adopt Reso 36-2013.

ROLL CALL VOTE: Milucky, Aye ; Abare, Aye; Rivet, Aye; 1)McKnight, Aye; Acquaviva, Aye.
Motion carried 5 to 0

11. Reappoint BOA Member Korn (Reso 38-2013)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR A THREE-YEAR REAPPOINTMENT OF JOANNE KORN TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 11

Recommendation: Request Action

MOTION: McKnight / Abare to adopt Reso 36-2013.

ROLL CALL VOTE: Milucky, Aye; Abare, Aye; Rivet, Aye; McKnight, Aye;1) Acquaviva, Aye.
Motion carried 5 to 0

12. Reappoint Trails & Greenways Member Thompson (Reso 39-2013)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR A THREE-YEAR REAPPOINTMENT OF ANDREW "DREW" THOMPSON TO THE MALABAR TRAILS & GREENWAYS COMMITTEE AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 12

Recommendation: Request Action

MOTION: McKnight / Abare to adopt Reso 36-2013.

ROLL CALL VOTE: 1) Milucky, Aye; Abare, Aye; Rivet, Aye; McKnight, Aye; Acquaviva, Aye.
Motion carried 5 to 0

MISCELLANEOUS:**12. Dump Truck Purchase (Added at beginning of meeting)****Exhibit:** Agenda Report No. 9**Recommendation:** Request Approval

Tom had prior commitment since it is not a regular meeting night. TA thanked CM Abare and explained he gave website info to Tom and this vehicle has low mileage and will have a new bed. Question is to pay now with reserves and pay back Oct 1. We would be reducing the amount of budgeted money from the payment #2 of utility sale by this amount. Would not need a budget amendment, only an adjustment.

Consensus of Council to buy it in the fiscal year we budgeted it for. Wayne said do it on Oct 1.

J. PRESENTATIONS: Certificate of Completion to CM Abare Wayne sent a memo

K. PROCLAMATIONS:

L. STAFF REPORTS:

ADMINISTRATOR:

Wanted Council to know about complaint in case they get calls. Re: horses being abandoned at 3250 Weber Road. One died and wasn't buried at least 6 x 6 x 6. She passed it to Lt Cockrell of BCSO. This is a bogus complaint. Vet was just out there on Sept 6. Nothing wrong with horses.

She was assigned to Urban Dev Committee for the FLC Legislative Committee. Met on Friday in Jacksonville and goal in her group was to narrow down issues to two by end of day. Will be talking to P&Z about these sober homes. If you do not having something in your zoning. Something was sent out to members. She talked to Chair and will be on next agenda.

Marisa, would also like council to follow this. TA will keep them posted. Abare asked about who was funding. Federal funds but licensed through the State.

Dick Korn and Leeanne Saylor. This has come to P&Z. Couple of ladies wanted this on Waring Lane. She was told they are working on wording. PZ is working on this with the ALF. They are allowed up to 2 people and don't need license. We have to let them have up to two.

Marisa said they do this with elderly. This is a really slippery slope. Rental property is commercial operation. Wayne asked how to police it. Chair said it is up to P&Z to make recommendation. Marisa would also like Attorney's input on this. Attorney was not familiar with this sober house issue.

CLERK: Apologized for the delay in the council packet delivery. Came in Sat to paint new doors and checked email and noticed that emailed packets had been returned. Hopefully we won't have too many back to back meetings. Sept mtgs are always difficult because of the holiday and the public hearing requirements.

New doors installed in front. Casings were falling apart and could no longer lock the doors securely. Instead of putting in same doors, we had 36" doors so we don't have to take doors out to move furniture. Also the Dutch door was given to the Town. Cost for this was about \$600.00 and was in budget under repair and maintenance.

Attended the FLC Policy Committee mtg on Taxation & Finance on Friday and goal is for each of the four committees to form two priorities to support in the next Legislative session. Our committee started with over 15 very worthy issues and narrowed it down to five. Next meeting set for Oct 18 in Orlando to reduce to 2. On top of the list is the CST and BTR and they remain #1. Also on the top five is the opposition to the proposal to have every agency change their finance reporting so our

definitions are the same as the school board and the water districts, etc. and file a monthly report in their format so they can post them all on the DFS website. In 2010 the legislature directed the DFS to come up with a method to update the Chart of Accounts to apply to all agencies (except State agencies). These agencies don't have the same FY, or personnel levels or services or contracts. It would not be apples to apples and it would be cost prohibitive to prepare these micro detailed reports without any benefit to the town. Our financial reports are submitted monthly to council and are available to the public. This is an unfunded mandate. Large cities already have very transparent financials and their CAFR (certified AFR) posted on their websites. Small towns can't afford the staffing and software required to produce this level of detail required. Ex is travel, drill down to type of transportation, taxi, cost, where meals were eaten, drinks, hotel costs, etc. I have plenty of written material on this and would encourage Council to get to know about this issue and also voice your concerns to our Legislators.

N: DISCUSSION ITEMS:

13. OPTIONS FOR LADDER TRUCK

Jeff said sell the ladder truck. Best thing is to get rid of it. Wayne said he talked to someone and learned that Harris donated the first payment. Mayor said we need to evaluate the whole FD. Equipment sitting there and getting older and we should know all that. Need a breakdown of when it was acquired, miles, cost, status and certification. If they learn that the ladder truck was only used once then maybe we don't need it. Jeff agreed that the total equipment should be inventoried.

Dan Welton, subject of many council discussions. They did use it to make a rescue within the last month. His professional opinion is the rescue could not have happened with a ground ladder. PB ladder truck was not available. Waiting an additional 30 minutes could mean life and death. It is a quint means it is a regular fire truck. Elevated location to fight fire on Corey. If they get rid of it their ISO rating goes up. It is 4-9b. All residential and businesses will go up. Dan said re: recent emergency victim could have lost a leg.

Wayne commented that lady at bible study fell and broke leg. Ambulance arrived and then ladder truck. They are first response team. You are going to get 6 persons responding. Got call few weeks ago where it took all six to strap down patient. Who decides when to send ladder truck?

They rotate vehicles. They have good ISO rating – some insurance companies don't care.

Brian Vail, 2700 Smith Lane, was on council. Truck made perfect sense. Wayne said it holds only half the amount of water as a regular truck. Brian said it was bought to replace a fire engine and oh by the way it has a ladder.

Steve said a big issue is it has cost us a lot on money on repairs and was out of service for a long time. When it is out of service it was not available to respond. That is why we need to do analysis. Detailed, age repair, etc.

Do analysis – no objection. TA will head up.

Dan said they have had ongoing discussions about could we do the same with less. Getting rid of two trucks and not replacing them. Get rid of some of the fleet. Replace two and get one new one. Get rid of extra.

He welcomes working on this. Marisa asked about rescue could be done with a bucket truck. She has heard that the FPL bucket truck could have done it. Dan said they were 30 min out and they wouldn't want to take liability.

Wayne wants to go to G-V and see how many vehicles they have. Bench mark against what they have. How many square miles are covered?

14. SHARING FIRE STATION WITH BREVARD COUNTY FIRE PERSONNEL

Dick Korn, 3115 Weber Road. 13 and 14 are together. Man was reading ad for Fire Chief. He was asking Dick question. Do we want to share the FD with the County. G-V volunteers said no to sharing. There was a turf war. The local guys left. The Vol. Fire Dept was part of the community. Early 1970s started the FD. Have problem in this town with volunteers. Look at bottom of agenda – shortage of volunteers – serious morale problem. If they lose the Vol. FD they will really lose. Abare knows facts that rest aren't privy to. Asked Council to appoint Wayne to work on this. Don't know when Mailboat is going to come out. He can remember when there was a waiting list for the boards. Go back to Fall Fest to bring town together.

Wayne we have a vol. FD; 40-50 vol. and 1 or 2 live in Malabar. Wished we had more like Brian Vail. People come and get qualified and then leave. If we can't make it work then go with the MSTU and go with the county. It is always an option. Marisa was also from a smaller town. She feels that the fire station was a hub to bring community back. No one wants to get rid of fire dept but if they don't have vol. then they have to make decisions. With Joe, they had a constant flow of volunteers. Joe went after them. The ones leaving are for full time employment and should take credit for the good training. Steve said we are getting an incredible deal.

Wayne said we don't have more like Brian Vail. Young people aren't excited.

Dan said when it first started. You had to live in Malabar. As times changed, 1980s sometime Chief McClelland had to expand that to Hwy 192. When he started in 2003 there were 6. They have all left. They have healthy debates at budget. He feels they get beat up but where are they at 3:00 in the morning. They need fire fighter EMTs from the town of Malabar. Not volunteers. Maybe discount their property tax. Or pay their garbage bill. Wayne went thru the .85 MSTU and have 24/7 coverage. If it makes more sense in dollars and cents. Wayne said put it to voters. It was put to referendum. TA said it was put to voters. Wayne said it could be worded differently and explained better.

Mayor said we paid 1000/month to Palm Bay and the volunteers said they can do it cheaper.

Wayne volunteered to go to the County and Palm Bay and see if they want to provide fire service. Council consensus.

Jeff said the nearest transport was in Barefoot Bay. Nearest one is actually at the hospital. County is not a dedicated resource. Dan said they go to where they are needed.

Dan said to also have the alternative is to have a fully funded fire dept. When you look at what G-V fire dept. has it is not dedicated to that area.

O: REPORTS – MAYOR AND COUNCIL MEMBERS

- 1) Marisa – Mr. Korn about volunteerism – about a year ago had a drawing of the old town hall. Sometimes it starts with an example. There are a lot of good people here and they need to know we need them. Grass also needs mowing. Yard also has holes in there. Mayor said it looks woody .
- 2) Jeff - Cape Canaveral Pt Authority. Putting in a new cruise ship. 7 proposals for alternate locations. If you have an interest.
- 3) Wayne – asked about follow-up to have parks and trails on the website. TA said she is working it.

- 4) Jim – thanks CM Marisa and Korn. If they had not then there would be 3 lonely persons.
- 5) Steve – told Korn he is subject to sunshine
- 6) Mayor – pix of dedication of park – good affair. Between storms. Family was very pleased. He was there Friday and Sat and Monday and they said they will shut you down and then in two years they shut your zip code down. He would like us as the town. When they got the RR they had to fight for it.

P. PUBLIC COMMENTS: General Items (Speaker Card Required)

Leeanne Saylor, has comments, solely her own and not related to anyone else. Bonnie brought up that P&Z develops codes. She has had more problems. Told they have reactive not proactive. They have had numerous complaints. Had material removed. He is putting in garden. The point was the fence was done without a permit on a 90 year old property. Point was not that he owned it; they did not have a permit. No. Those permit fees and codes are the heart of our community. The community is affected. Their neighbor had to fill in pool next to the septic pit. The code enforcement office said today it was not a pool it was a flower garden. If we are not going to have proactive code enforcement, then why have it. Why have P&Z or any other board. They did not get any permit for a special event. We have sound ord. They called BCSO and they do this every quarter. We have officials. Swimming pool has become a flower garden and a pit that is now a garden. It is becoming an embarrassment. She shouldn't have to pursue it. She then read from Art VII on permit requirements. If we are going to have codes then they need to be enforced. Not asking for discussion. TA will provide information to Council.

Marisa is interested in following up.

Q. ANNOUNCEMENTS:

- One (1) vacancy on the Board of Adjustment
- Three (3) vacancies on the Park and Recreation Board
- One (1) vacancy on the Trails & Greenways Committee

R. ADJOURNMENT:

There being no further business to discuss, Chair asked for a motion.

MOTION: Marisa / Jeff to adjourn. **VOTE:** All Ayes. The meeting adjourned at 10:15 PM.

BY: Carl A. Beatty
Mayor Carl Beatty

ATTEST BY:

Debby K. Franklin

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

Date Approved: 10/7/13 as corrected

(seal)