

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 Marisa Acquaviva, District 5.

COUNCIL CHAIR  
VICE-CHAIR/MAYOR:  
COUNCIL MEMBERS:

TOWN ADMINISTRATOR:  
TOWN ATTORNEY:  
TOWN CLERK/TREASURER:

STEVE RIVET  
CARL BEATTY  
JIM MILUCKY, excused  
WAYNE ABARE  
JEFF MCKNIGHT  
MARISA ACQUAVIVA  
BONILYN WILBANKS  
KARL BOHNE  
DEBBY FRANKLIN

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

**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.**

**1a. Approval of Minutes**

Regular Town Council Meeting – 9/16/2013  
Budget WS #3 – 9/9/2013 – pulled  
Regular Town Council Meeting – 9/23/2013  
Agenda Report 1.a

**1b. Budget Adjustment FY 2012/2013 (Resolution 42-2013)**

**Exhibit:**

Agenda Report No. 1b

**Recommendation:** Request Approval on all with one motion and a roll call vote  
Chair read reso by title only.

**MOTION:** Wayne / Marisa approve consent agenda.

**MOTION:** Wayne / Marisa approve consent agenda.  
Mayor on minutes has to do with additional employees page 1 of budget workshop. Mayor pushed for two part-time. And there was banter back and forth and asked about proactive mowing. If they voted it should be part of the minutes. Marisa said it was not an official vote. He voted with the minority. Marisa said they included him because it was a workshop. Chair said he asked / polled. Do that portion verbatim. Put back on next meeting for approval.

Jeff on 9/23/13 before section I – committee does not have a 8. Pg 6 of same mtg. Sell ladder truck but didn't say buy a helicopter. Strike it would be safer to have a helicopter.

Wayne 9/23 page 5, 5<sup>th</sup> para, Marisa would like council – spell out license. Next para, allow up to two people and don't need license. Next para, Marisa would like Atty input on sober homes. Pg 7 of same minutes, 2.3 of way down – Wayne said go to County and Palm Bay – Wayne volunteered.

Wayne, 9/16 minutes – page 7, 2<sup>nd</sup> para from bottom – wording is good but wants to reiterate that future BOA meetings courtesy notice will be given out to Council and Boards.

Marisa, 9/23, her report about volunteering for the whole front yard – whole sb hole.

**ROLL CALL VOTE:** 1)Milucky, Excused; 1)Abare, Aye ; Rivet, Aye; McKnight, Aye; Acquaviva, Excused. Motion carried 4 to 0.

Jeff asked for clarification from Attorney: can't vote on anything during a workshop. Correct.

**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** – Atty reported that they put out the letter and have not heard back. Jeff said he did support that land purchase for Brian Vail's benefit. Marisa asked Atty about the sober homes. TA said there are two types of sober homes. One is legit the other is the result of foreclosures. One city had over 100. If neighborhood complains they cry foul under ADA because alcohol is protected. Atty said there are some state regs on this. You can't enforce your zoning against them. He will have to work on it. TA will send Atty the info.

**G. COUNTY COMMISSIONER IFANTINI & SHERIFF IVEY, MAJOR DESANTIS OF BCSO**  
Council had asked for their attendance so that questions could be asked about the rate of the increase in the MSTU for law enforcement.

Steve introduced by saying when they started with the MSTU the millage was at .8% and now 1.3574%. Infantini said has been here four years and Sheriff Ivey has only been here since January. She thought they were going to talk about road issues. Jeff asked her if it is possible to negotiate the contract with the BCSO for the percent. He would like to be able to negotiate. She said they could entertain doing a separate agreement similar to Cape Canaveral.

Jeff said regarding roads, he has tried to contact John Denniholff and so has the TA and we have gotten no response from him. Would like to engage with the county in getting assistance on the maintenance of Weber and Corey Roads since they are used by out of Malabar drivers.

She said they are town roads and the county is struggling now with getting their roads maintained. She is working on getting Malabar Road widened. Jeff was focusing on maintenance of Corey and Weber all the way to Valkaria. When they need repaving it will bankrupt the town. She said you need to consider doing a MSBU to raise millage. Jeff said they are used by more county people and wants them to consider that.

Carl said the county gave us the streets and said we had to grade them. They were paving Corey and Weber and that is how we got them paved. But they are now used by people trying to avoid the traffic and lights on Babcock. He offered to her if she wanted history when he was there. She will share this discussion with County Commission on Tuesday. Babcock and Malabar is only intersection that is over capacity.

Sheriff Ivey said this zone is manned even when there is shortage. We have 55 deputies and have two openings. Due to retiring or going to another agency. You will have coverage. Cpl Jennings

reported at last mtg re: shortage; it is agency wide not from this zone. They have one person for Zone 73. Zone 72 to the north and 74 and 75 to the south. They are also minimally manned and have 24 hour coverage in those zones as well.

Wayne has been on council less than a year. When the MSTU was approved we were to get 4 people. No, it was 3.8 persons. The millage has gone up so they can get the same amount of money. They made it a minimum manned zone. Wayne is glad he is here to address it. Ivey said that he is here to support the town. They could do a contract like Cape Canaveral. Wayne said 80% of the citizens of Malabar agreed to continue the service. Some of the immediate steps they took. Jeff said they are not looking to expand the service they are looking to control costs. Ivey said the system you have now is much better than a negotiated contract would be.

Mayor would like to sit with him and then he will have the information. Many people ask him and if he knows then he can better inform the residents.

Chair thanked them all for attending.

#### **H. PUBLIC HEARINGS: 0**

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

##### **2. Recommendation from Planning & Zoning Board**

**Exhibit:** Agenda Report No. 2

**Recommendation:** Action

Speaker's card: Joseph Paladin, with Black Swan Consulting LLC. He is using his application as a guinea pig so they can work this in parallel. The marketing study showing that there is a need for it. They have been working on formulas and brought language. P&Z Board has been working with him. He agrees with what they have found. If there is anything he can help with, he is available.

P&Z Chair Pat Reilly presented to bring them up to date. They want to use the FS in there references. He went through overhead on the package he presented. The Board wanted to use Chapter 397; he has read it and doesn't know if they want to go there. He will bring up at their next meeting.

Re: Article II, Section 1-2.6B, they want to change #8 *group home to community residential homes*; expand on #9 to include the added language for ALFs and Florida Statute references and leave #10 as is.

Steve asked about substance abuse. Pat doesn't think it is good fit for the town. Steve agrees. Wayne said we have the right to say whether we want them and if. He likes the idea of doing projects on more spacious design. Jeff agrees. Marisa asked what the abuse. Is it like circles of care? FS 394. FS 397 is the one he is unsure about.

Pat read definition of mental health facility. Does not include 400 or 429.

Wayne said their mission was to address ALF and they could do it and then go back and do the rest. Liz said it is easier to trash it and start over it. Can only control thru land use and zoning.

Atty said the code uses old language, ex group home, extended care, etc. Need to clean up terminology. Can control with parking and setbacks. Jeff asked if there is any problem picking and choosing what they want and don't want.

If the council determines that the sober homes are not compatible with the residential areas. Liz said they are trying to address what they want.

Art III doesn't think pgs 113 and 114. They don't want to allow in OI. Table 1-3.2 as is and with proposed changes. It would be conditional in RM 4 and RM6. There are no permitted uses only conditional uses and that forces them to bring their plans to town. They based the density into the different zones they could fit into. This table is the first thing they attacked.

Wayne asked about the current density and requirements in Table re: for 5 acres they could only do 5 people per acre? Pat will look at this.

Then went over Table 1-6.1(B).

Atty said to get rid of rest homes and convalescent homes and keep nursing homes.

RR65 can have one or two persons only. He hasn't given Council the density issue. Liz said they had much discussion on this; is it per person, per bed or per resident. So when they use the AL (assisted living) factor the formula gives them the maximum beds permitted.

Wayne said FS regulates the size of the units.

Marisa asked if Paladin had been giving good assistance. He has helped with the language. This isn't for one project. Marisa asked if they can have others come in and help us along? There is nothing he is giving that can't be backed up with FS.

Atty said the one that was not approved was because they did not meet the parking. Atty does not see anything inappropriate. Expertise is helpful. When it is objective and not just applies to his project.

Liz said the asterisk came from the two ladies that came in. Marisa said anyone other than residents.

Wayne said he can give some real world feedback.

Atty asked if they had looked at off street parking 1-9.2(12) only lists nursing homes. It is a big point in the current case. They will review it.

Council thanked P&Z Chair and Board for their efforts.

Mr. Paladin has built these in other counties. He is the guinea pig. Once they go through process, you are not giving anything away. Back to the intensity and density. 100k less under air. Less intense. When they had the units per acre. To use that term saved some time in the process. They also listen to facts. Bigger units you can add a bed but it has to be taken away someplace. Density overall is capped.

Wayne asked when it would go to TC. Sometime in November. PH at P&Z first. Franklin asked Attorney if the subject matter had to be in ordinance form for PH at P&Z. Attorney said no.

**J. ACTION ITEMS:**

**ORDINANCES: First Reading**

**RESOLUTIONS:**

**MISCELLANEOUS:**

**(No Recess – Attorney Excused)**

**K. PRESENTATIONS:** Mayor presented Jeff with plaque for his years of service. Officially he has three more meetings 10/21, 11/4 and 11/7. Wanted to surprise Jeff.

**L. PROCLAMATIONS:**

**M. STAFF REPORTS:**

**ADMINISTRATOR:**

Took delivery of truck. Tom recognized a popping sound as welds breaking and it was sent back for correction. Wayne asked if she can get something in writing about the weld covering it for a year. She also reported that they have piggy backed on PB striping company and will be getting ready to start.

**CLERK:** will have articles for the newsletter on the next agenda so if you want to submit an article please get it to me before 10/15/13. Also if you plan to attend SCLC dinner next Monday, let Cindi know.

**N: DISCUSSION ITEMS:**

**O: REPORTS – MAYOR AND COUNCIL MEMBERS**

Jim Milucky: excused

Wayne: has been looking at FD and it is bigger project and will be taking more time. Jeff said Cape Canaveral

Steve: nothing

Jeff: nothing

Marisa: nothing; wants article on farms to forks

Mayor – went up to Jacksonville and went on his own dime. It is \$200 / night and can't justify that. He also went to 20/40 symposium. He said there will be High Speed Rail going thru and will have 16 trains a day. Plus they plan another private rail that will have additional routes. He will talk to Trudie about the railroad crossing issue. We have a crossing at Jordan Blvd. It would be a good alternative for access to Highway 1.

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

**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:** Acquaviva / McKnight to adjourn. **VOTE:** All Ayes. The meeting adjourned at 9:20 PM.

BY: Carl A. Beatty  
Mayor Carl Beatty

ATTEST BY:

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

Date Approved: 10/21/13 as submitted

(seal)