

MALABAR TOWN COUNCIL REGULAR MEETING

July 20, 2015

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 Vice-Chair Acquaviva. CM Vail led the prayer and pledge.

B. ROLL CALL:

COUNCIL CHAIR:	MAYOR CARL BEATTY, excused
VICE-CHAIR:	MARISA ACQUAVIVA, Chaired Mtg
COUNCIL MEMBERS:	GRANT BALL
	BRIAN VAIL
	DON KRIEGER
	DICK KORN
TOWN ADMINISTRATOR:	BONILYN WILBANKS
TOWN ATTORNEY:	KARL BOHNE
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

For the Record, the Fire Chief Christopher Robinson is also present.

C. ADDITIONS/DELETIONS/CHANGES – CM Krieger asked that he would like to keep

I.7. tabled. TA asked to pull #3. No objections.

1. **Approval of Minutes** Regular Council Mtg Minutes 7/6/15
TA Selection Workshop Minutes 7/9/15
Exhibit: Agenda Report No. 1
Recommendation: Request Approval of Minutes

MOTION: CM Vail / CM Krieger moved to approve the minutes from July 6, 2015 RTCM as corrected. Discussion: CM Krieger stated he did not say “he will get more info re: burn ord” in minutes; he said he was waiting for more info from legal. Clerk will check recording. (Note: Clerk listened to the recording and the comment CM Krieger referred to related to appointment of interim TA. Minutes have been clarified.) CM Korn said on pg 4 sb corridor re: speed on E-W state roads. Korn said SR514 is only east-west corridor that has 55 mph in Brevard County. Attorney Bohne said SR520 is 65. Attorney Bohne said maybe if you said east of I-95. CM Korn agreed. He got his info from a BCSO Deputy.

VOTE: All Ayes.

MOTION: CM Ball / CM Vail moved to approve the TA Sel Workshop minutes from July 9, 2015 as presented.

Discussion: CM Krieger asked if the committee minutes should be approved by the committee, not the council. Council doesn’t approve the P&Z minutes. He did not get the 7/9/15 minutes. Franklin said all got the same package both in paper and electronically. Other Council Members confirmed they all had received the minutes. CM Krieger realized he had overlooked them in his package. Franklin said that they are not a standalone board like Park or P&Z; they are a committee appointed to be “part” of the committee that Council was on; it is appropriate for Council to approve the minutes. The committee will get copies of the approved minutes before the next meeting. CM Krieger questioned the 7/14 and 7/16 minutes mentioned on the agenda Report; Franklin said she was hopeful to have them done but was unable to produce them. Only RTCM 7/6/15 minutes & TA Sel Com workshop minutes of 7/9/15 are on agenda for approval. CM Krieger said he wasn’t at the 7/9/2015 workshop anyhow.

VOTE: All Ayes.

- D. 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.**

E. PUBLIC HEARING: 1

2. Approve Ord 2015-05 Florida Building Codes for 2nd Reading

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BUILDING CODES; AMENDING CHAPTER 6, SECTION 6-1 OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR ADOPTION OF CERTAIN MODEL BUILDING AND CONSTRUCTION CODES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Approval of 2nd Reading of Ord 2015-05

Ordinance read by title only.

Chair opened the PH.

Hearing no comments from public:

Chair closed the PH.

MOTION: CM Vail / CM Korn to approve Ord 2015-05.

Discussion: Korn asked Attorney if this was housekeeping. Yes. **ROLL VOTE:** 1)CM Ball, Aye; CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Acquaviva, Aye. Motion approved 5-0.

- F. ATTORNEY REPORT:** Attorney Bohne stated closed door session (Executive Session) will be on for August 3, 2015 at 7pm. He will talk about sign ord later on the agenda. VC Acquaviva has a question re: last TA Sel Committee there was confusion on whether they were one or separate groups. CM Vail asked if they were committee as a whole or two separate. That was also influenced by the meeting of 7/6/2015 no matter how it is set up; they are all under the Sunshine Law. Attorney Bohne said he understood it was one committee. CM Acquaviva has been on the SpringFest committee and as a neighbor, her vote was not separated. She is looking at this as being a neighbor, a community effort.

Past Mayor Phil Crews said he looked at the timeline that indicated they were intended to be set up as two groups; making it a standalone committee; but the actions taken seemed to support that they intended all to be one committee. He was also asking for clarification. They need to stick to Robert's rules. Crews explained the different requirements for a one committee vs. two separate groups. Probably not an issue. Atty Bohne said he has some issues w/ Roberts Rules as they are applied to municipalities. CM Korn said back to first meeting Mayor Beatty suggested they appoint a Chair and it did not happen; that is why he talked about letting them operate independently and bring their findings; but he realizes they have operated as one group from the start. VC Acquaviva said all along everyone's input has been considered and it is better to have all of us hear the conversation rather than just read it in the meetings.

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

This item pulled at request of TA

PULLED

- 3.** Request to close Gilmore Street at Allen (unimproved ROW) Dave Beaudry
(Clerk's note: It is not a ROW requested to be closed; it was a request to put a barrier up at the end of the ROW to prevent trespassing)

4. Approve Recommendation from TA Selection Committee: CM Vail to do Phone Interviews with Mayor Crews. Franklin stated this is to formalize the action recommended at the last workshop.

MOTION: CM Korn / CM Ball to approve CM Vail conducting TA Applicant phone interviews.

VOTE: All Ayes.

H. ACTION ITEMS:

RESOLUTION: 1

- I. 5. **Resolution 12-2015** A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPONTMENT OF ANNELIE HARVEY TO THE TRAILS AND GREENWAYS COMMITTEE AS AN ALTERNATE MEMBER FOR A THREE YEAR TERM; PROVIDING REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 5

Recommendation: Staff Requests Approval of Reso 12-2015

Chair Acquaviva read by title only.

MOTION: CM Korn / CM Krieger to appoint Annelie Harvey to T&G Committee for a three year term. Discussion: **ROLL VOTE:** CM Ball, Aye; 1)CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Acquaviva, Aye.

MISCELLANEOUS:

6. **DR-420 Maximum Millage and Date of 1st Public Hearing on Budget**

Exhibit: Agenda Report No. 6

Recommendation: Action

Chair explained the annual process as explained in the agenda report.

MOTION: CM Vail / CM Krieger to set tentative maximum millage rate at 1.9300 and hold the first PH on 9/14/15.

Discussion: Krieger asked about the 10% increase cap. Franklin explained the special law that created the cap in 1974. It is supposed to be applied to the rolled-back rate. Since property values have increased slightly, in order to get the same ad valorem as received last year at 1.8% we would only need to set millage at 1.7605 in order to collect the same amount. A 10% increase of that is 1.9300, rounded. CM Krieger said 10% would only be 1.9262. Franklin tried to explain the rounding. Motion was amended by motion maker and seconder to set the max tentative millage at 1.9262 and the date of the first PH at 9/14/15

VOTE: All Ayes

J. DISCUSSION ITEMS:

This item was pulled to remain tabled until CM Krieger receives more info.

7. ~~**Amend Chapter 8 of Code re: Open Burning**~~

~~N-ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO FIRE PREVENTION AND PROTECTION; AMENDING CHAPTER 8, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR AMENDMENTS RELATED TO BURN PERMITS, YARD TRASH FIRES AND LAND CLEARING FIRES; PROVIDING FOR SEVERABILITY, REPEAL AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.~~

8. **Off-street Parking Article IX of Land Development Code**

Exhibit: Agenda Report No. 8

Recommendation: Discussion and Direction

Chair Acquaviva said since this is discussion, it is not necessary to read by title only

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE IX OF THE LAND DEVELOPMENT CODE RELATING TO OFF STREET PARKING; PROVIDING FOR COMPUTATION OF PARKING SPACES, ADDING A PROHIBITION OF NON-CONTIGUOUS AND OFF SITE PARKING; PROVIDING FOR OFF STREET LOADING; PROVIDING FOR SURFACING REQUIREMENTS; AMENDING ARTICLE XX PROVIDING FOR DEFINITIONS; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

MOTION: CM Korn /CM Vail to direct staff to put on first reading at 8/3/15. **VOTE: All Ayes.**

9. Amendment to Signage Code Article XIX of Land Development Code

Exhibit: Agenda Report No. 9

Recommendation: Discussion and Direction

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE CURRENT PROVISIONS OF ARTICLE XIX OF THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING SECTIONS 1-19.1, DEFINITIONS; 1-19.4, ADMINISTRATION REQUIREMENTS; AND 1-19.10, TEMPORARY PERMITS; NEW SECTION 1-19.19; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING AN EFFECTIVE DATE.

Chair Acquaviva explained why this was on for discussion and asked Attorney Bohne to explain Supreme Court ruling. Atty Bohne explained that Supreme Court language that sign codes cannot be content based. As you say political, commercial you are being content based. You can regulate size but not content. He said because it is in LDR it must go to the P&Z Bd first. He is asking for expedited action on this and then if P&Z wants to make further changes to the code they can do it separately with another ordinance than can be combined with whatever LDC ordinances are being amended. Atty Bohne suggested letting a bigger city create an ordinance on their dime and then we will use it and amend it to suit our needs; that will be cheaper. Make it fit our community.

CM Korn suggested waiting until after the conference as they may get some info re: sign issue.

MOTION: Council consensus to approve Attorneys recommendation and send to P&Z Board.
Discussion: Atty Bohne would prefer that the P&Z focus on this short term amendment and not go over the entire Chapter at this time.

VOTE: All Ayes

J. REPORTS – Administrator & Clerk

TA said the slope mower update – defers to Brian. CM Vail said the repairs they made were adequate. It was done correctly. Welding was done correctly. After it came back the machine was cleaned and there was play in arm and in pivot. The discoveries were made by Tom after pressure washing it. You could see stress cracks in the boom. CM Vail should have looked more thoroughly. Everglades being the vendor should have also seen these. CM Vail mentioned to Bill (tech at Everglades) that it is a sensitive subject and needed to be repaired with minimal financial impact. CM Korn said there is an auction coming up later this month in Titusville. (Cliff Schuler Auctioneers house) He noticed they have a slopemower on the list; maybe we could get it for 10.00.

Clerk had no report.

K. MAYOR AND COUNCIL MEMBERS

CM Vail, he and Mayor Crews have started the telephone interviews and when they spoke to applicant Mr. Kutney they were informed of his minimum salary needs of 100K-125K.

Mr. Kutney proposed to them that they postpone the interview until they can get council input on salary to be offered. So they postponed until they get consensus from council. They are looking for guidance. TA said she was told by the labor Atty that applicants should all get asked the same questions or you could be liable. It was consensus of Council to still have Crews and Vail interview him. Do in a timely manner. Don't discuss salary. CM Vail said they would work out a time for the remaining interviews and let Clerk set up. CM Krieger said he fails to understand. How are you going to respond to applicant? TA explained that the interviewers do not respond the applicants inquiry; they simply state they are to complete the interview. If the applicant requests to stop interview or declines interview then town is not liable. CM Korn asked about letting the applicants set their own times for the interviews. No.

CM Vail wants millage table showing what each mil equals. Franklin will provide.

CM Krieger asked about how budget presentation is done. TA said she will provide the first budget showing the last several years budgets & actual and the proposed figures for 15/16. Clerk goes over the revenue estimates and then she will lead them through the expenditures, department by department. CM Acquaviva stated Mayor Tom brought his own budget.

CM Korn informed all that Mayor Carl Beatty is very much better.

CM Acquaviva asked about Mayor attending the FLC annual conference. She went two times and she did a report and so did Mr. Abare when he was on Council. She asked that whoever attends, bring back the information, in the form of a report that all of council can benefit; since it is taxpayer money.

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

M. ANNOUNCEMENTS:

Two (2) vacancies on the Board of Adjustment
Three (3) vacancies on the Park and Recreation Board
One (1) vacancy on the Planning & Zoning Board

N. ADJOURNMENT:

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

MOTION: CM Vail / CM Ball to adjourn. **VOTE:** All Ayes. The meeting adjourned at 9:45 PM.

BY: Marisa Acquaviva
Marisa Acquaviva, Council Vice-Chair

(seal)

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

Date Approved: 8/24/15