

**MALABAR TOWN COUNCIL REGULAR MEETING MINUTES**  
**April 3, 2017                      7:30 PM**

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

**A.     CALL TO ORDER:**

Chair, Mayor Patrick T. Reilly called the meeting to order at 7:30 pm. CM Mahoney led the prayer and pledge.

**B.     ROLL CALL:**

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL

LAURA MAHONEY

DICK KORN

RICHARD KOHLER

TOWN ADMINISTRATOR:

DOUGLAS HOYT

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

For the record, Fire Chief Leonard Thomassen was also in attendance.

**C.     APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES: none**

**D.     APPROVAL OF THE MINUTES:**

**1. Regular Town Council Meeting Minutes 3/20/17**

**Workshop Meeting Minutes: 3/27/17**

**Exhibit:** Agenda Report No. 1

**Recommendation:** Request Approval

**MOTION: CM Rivet / CM Kohler to approve RTCM minutes of 3/20/17.**

Discussion: CM Mahoney, pg 2, verification of information from attorney; pg 3, clarification, redistricting is moving forward. She called Lori Scotts office and she said it should not be presumed that they said that. She told her they could use any one they wanted for this. She said there are lots of people we could have called. Chair said what are you asking for? CM Mahoney said we should not misrepresent what the Elections office said; should verify first. Mayor said It should be what was said at meeting. Clerk Franklin stated that is what was stated from the Elections office, from Tim Bobanic who is Lori's 2<sup>nd</sup> in command. CM Mahoney said Lori told her she didn't want it presumed that she was advising we use a specific vendor. CM Korn it is what was said at the meeting – right or wrong? CM Rivet, if that is what was said at the meeting that is what should be in the minutes. CM Rivet said that she could state in these minutes that was not what was said at last meeting. CM Mahoney stated that Lori Scott does not want it stated that her office presumed to recommend a vendor. Another correction was on Pg 4, half way down page, the motion to reconsider, CM Ball was the Nay and she voted Aye. (Note: Clerk went back and listened and CM Ball voted Nay).

CM Korn asked to put on for a future Discussion Item the method he has previously mentioned regarding changes to the minutes. Approving minutes taking longer than the regular business.

On pg 7 the last 3<sup>rd</sup> of page, CM Mahoney pointed to last row; stated that the minutes are lacking that she provided the COIs and the positive things Troop 37 has done. She would like that wording added. Chair said the minutes are to reflect what was said.

**Vote: All Ayes as amended.**

**MOTION:** CM Ball / CM Rivet to approve Council workshop minutes of 3/27/17.

Discussion: CM Mahoney questioned the "Note" on the 1<sup>st</sup> page clarifying the Labor Attorney's comments during the meeting – Clerk said yes the comment came later and his email is attached to the minutes as the record copy. It did come later, after the meeting.

**Vote:** All Ayes.

**E. BCSO REPORT:** none

**F. ATTORNEY REPORT:** Atty said the legislature adopted statutory language dealing with public records to change the word "shall" to "may" regarding awarding attorney fees when public records charges are taken to court. He gave ex of robot PRR and requestor to sue and get attorney's fees. This will cut down on number of lawsuits being filed.

**G. SCTPO and FDOT Presentation by Aitkens Engineering on latest proposal:**

Presentation: by Victor Poteat, PE, with Aitkens Eng. introduced himself and Lance DeCuir and FDOT Rep Jazlyn Heywood re: SR514 recent work on corridor. Thanked Council for allowing this. Victor then went over the power point presentation (attached) and stated they will also present Malabar's recommendation on the April 17 Science Committee of EELp. Presentation attached to minutes.

By adding intersection capacity- fatalities are reduced by 90% with roundabouts and they are used not just in suburban and used in rural roadways. On a 2 lane, rural facility there is not a lot of buildup. Added multi-use trail on north side of SR-514 and requires a 104' width. Key segment was to zoom in on the shifted acquisition to the north to not impact Disc Golf Park.

From Marie Street to Hwy 1 with turn lanes. Lowering the design speed to 35mph. Bike lane on both sides. They have curb and gutter on both sides and piping. ROW here is 87 feet.

From Railroad to Hwy 1 the presentation showed a sample rendering. The funding for design scenario is set for 2020. ROW acquisition not funded yet.

The intersection improvements for safety are approved and are funded for construction and will be let for const in 2019.

Next steps: presentations:

April – EEL science

May – EEL

July - Brevard County Commission

ARC – State level re: EEL

SEID - State Environmental Impact Docs

PH – public hearings

FDOT - approval

This is the standard process.

Would like resolution in support of their proposal. The maintenance of the trail over time would need a commitment from the Town. This support is important for EEL to know, for ARC to know, and for the County Commission to know that Malabar supports this presentation.

CM Korn is very uncomfortable with the presentation – the curb and gutter is out of character; and the 4 lanes to 2 lanes to 3 lanes. The turn lanes coming off Malabar are left only? Yes. CM Korn is familiar with the roundabouts that are used in Southside Broward County. There are also a lot in Virginia, NY and Mass. Given the type of traffic on Malabar Road, he does not think they are suitable for roundabouts on this road. CM Korn listed several concerns regarding the presentation.



Mr. Proteat then responded to his concerns: the 3-lane section – same as before – more developed section. Less ROW acquisition is necessary. It fits the capacity needs in that section. It will provide more ROW to allow for traffic entering Hwy 1 or leaving Hwy 1. The 3-lane section is only 2 lanes with turn lane area. Limits the impact.

CM Ball asked him about design speed of 55 for bikes and cars. From Weber to Corey. Your concern is heard. There is a bend before the roundabouts. It will be posted at a lower speed.

CM Mahoney, did they consider the multi-modal for just the one section instead of the sidewalks on both sides. They don't connect to anything else. Like Viera is set up with a large distance between the road and the pedestrians and trail users.

Victor said the sidewalks will go down to Babcock St. The bike users don't like using sidewalks.

CM Rivet asked about the speeds Victor said the roundabouts will have a lower speed – design speed of 35mph then back up to 50 but when posted it is usually lower.

TA asked about tractor semis using roundabouts. Yes, they are ok.

Mayor asked about the traffic projections on how many vehicles would continue thru to the east, and what percentage would do a right turn to Corey Road. Victor was given the traffic projections but he did not have them with him. The through traffic if it was too high the roundabout would not function. Mayor thought it would cause a backup if a good percentage did not drop off at Corey. Gave example of two lanes going into it and if the driver realizes he must

Lance Decuir said they don't over build it (inaudible). Traffic studies show significant drop off heading east after Weber and Corey Roads.

CM Korn asked about the design speed higher but the posted signs would be lower. Yes. CM Korn said they have been asking for 45mph and have been ignored. Now presenting a roundabout with 50 mph.

CM Korn asked if FDOT was listening; there was a lady in the audience went around with a petition. Victor said they have listened and they are listening now. Looking at the last resolution, you will see they have listened. They do take Town desires into their consideration. Chair thanked them for presentation.

#### **H. BOARDS/COMITTEES REPORTS**

Drew Thompson, T&G Committee Chair: Stated he had previously reported on the construction of the shade structure in the Cameron Preserve. Their Committee would like formal action by Council to formally name it the "Cameron Trail Shelter". Chair suggested the Committee formalize the request and ask for Council action for a future RTCM. Drew said the Committee appreciates Council help and support with this project and wanted to publicly thank two local businesses – Bob Wilbur and Brushbusters and Reasonable Auto for their dedication and support of this project. Also, thanked Council as the Town now has links from website to the malabartrails.org and another links.

Hans Kemmler, Park and Recreation Board, nothing

Liz Ritter, P&Z Board - nothing

#### **J. STAFF REPORTS: ADMINISTRATOR: CLERK: FIRE CHIEF**

TA: Easement document has been prepared for DD Ranch and he has given it to Atty Bohne to review.

TC: Nothing

FC: Gave overview – report is attached. Still have 36 volunteers. EVOC – in house class. Forestry grant has been applied for. IOS rating is still at 4 – 10. New Brush truck has been painted and should be in service in May. Applied for grant for Scot Packs. Passed their

audit and are 100% in compliance. Nice boost on the grant schedule. Good feedback from residents.

Speaker: Jim Roulston Malabar Road. Would like a copy of the report that goes to State, so he can see the breakdown of types of calls and number of man-hours per call. He would like to see a better breakdown. Breakdown per calls. Chief said half of the reports on medical have names and conditions and releasing would be against Hippa. As far as hours per call, the Chief can do it but it will be broken up. Chief will do his very best to get that for the council. He does the total man hours. 42 calls 63 man hours. Each call lasted about one hour. Atty said the PRR is made thru Clerks office of if it takes time then they are entitled to charge for it. The FD Chief does not have to create a report.

**K. 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) Three (3) Minute Limit per Speaker.

**L. PUBLIC HEARINGS/SPECIAL ORDERS: 0**

**M. UNFINISHED BUSINESS/GENERAL ORDERS  
ORDINANCES FOR FIRST READING: 0**

**RESOLUTIONS: 1**

2. RESO 11-2017 – read by title only.

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A REQUEST FROM THE FLORIDA TRANSPORTATION PLANNING ORGANIZATION TO RECOMMEND A CONCEPT FOR THE WIDENING ON SR 514, MALABAR ROAD FROM THE WESTERN BOUNDARIES OF THE TOWN TO U. S. 1 (STATE ROAD 5) IN THE TOWN OF MALABAR; PROVIDING FOR DISTRIBUTION OF REQUEST; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 2

**Recommendation:** Request Approval

Speakers Cards from Public: Karen Moser, 1775 Atz Road, had some of the same concerns of the changing of the number of lanes. Down by hospital it is 3 lanes. If you do that please be very careful and use reflectors. She has seen roundabouts and they work very well. The ones that are large are good in southern Spain. Viera is kind of small and can be very annoying. Keep it visible.

She likes the bike and walk trails as well as they are all linked up. If they are not connected they are more dangerous than having none. She does support having the Town maintain them. She doesn't oppose the idea in principle. Do it right.

George Foster, 1205 Malabar Road, his property has been impacted as MUCH or more than any other. He has worked with the County and FDOT and people in this room. Move the road north in to the EELs property. Brevard Clerk of Court said they had surplus. The road has been moved north to save his house. He knows it is not a done deal. What he sees of project, he supports and would like Council to give their support. There are some people here that have worked with him and he thanks them.

**MOTION: CM Korn / CM Rivet to deny Reso 11-2017.**

Discussion: CM Korn referenced the A, B, C, sections of the resolution and said he can go along with A, but can't go along with B or C. He seems to recall that FDOT requires the consideration first of roundabouts before considering traffic signals.

CM Rivet said the roundabouts are new to him as well. He would like to know if the residents would support this.



CM Ball has issue with suddenly we have roundabouts being presented. Moving the road ROW to the north he supports. However, they have never discussed roundabouts and they have never come to us before.

CM Mahoney, this is the first time she saw it and would like to get more feedback from residents before she votes on this.

**MOTION:** CM Rivet / CM Mahoney to table. All Ayes. Put this on future agenda. CM Korn asked when it comes off the table, would the pending motion (motion to deny) be before them. Attorney said it should be dealt with soon. Chair said on next agenda. Staff was directed to put the presentation and the resolution 11-2017 marked as DRAFT to solicit input from residents between now and next meeting. (Note: information placed on website the following day.) Attorney stated they would need more information regarding roundabouts, it is not going to come from discussions at Council; they need someone with the expertise to present. Mayor asked how to accomplish that. TA said if Council could give list of questions and concerns he would try and get additional information and material they could put on the website. Chair asked if the funding was going to go away May 1? TA said no. Chair said for Council to get their questions to staff so they can forward them off and at the next meeting they can discuss this again.

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

**N. DISCUSSION/POSSIBLE ACTION: 1**

**3. Policy to be used for Communications with Town Staff and Town Attorney**

**Exhibit:** Agenda Report No. 3  
**Recommendation:** Discussion and Direction

Mayor said members of current Council and past Councils have contacted the attorney on items that could have been answered by staff. Create a policy to mandate that all questions be directed to Clerk and if she can't answer then she will delegate and then if no answer then it is sent to lawyer. CM Ball said that he doesn't want to be told he cannot contact the lawyer. Mayor is trying to limit the amount of money spent.

CM Korn picks up on what CM Ball said. If someone monopolizes the attorney's budget, he understands what the Mayor is saying. He will ask staff first and then he will inform staff that he is going to contact the atty. Let's be careful about saying you can't contact. They take a lot of abuse as Council Members. We need to protect ourselves with legal advice. Grant Ball said he may have an issue with staff and not want to bring it to them. Mayor said there should be a written policy.

CM Rivet said the goal is to reduce the costs – he supports a policy that would limit when appropriate.

CM Ball may have a sunshine violation or ethics question he doesn't want to tell anyone.

CM Ball does support a policy; not a prohibition.

CM Mahoney said they are not subject to staff. They are subject to residents. She asked Karl Bohne. Stay with the Charter. We are the representatives. Most city governments have access to the legal department.

CM Rivet supports a policy. CM Kohler thinks a policy would keep the Atty fees down. Recommend that it go through staff but not make it a mandate.

CM Korn said all work together for the betterment of the Town. CM Korn always talks to staff before contacting the Atty. But can't mandate it.

TA suggested. Have Clerk to contact other cities re: contacting their attorneys. Give us a broader view of what we can do. Not want to restrict council or anyone else's ability to contact the attorney. He looks at the legal bills every month and maybe. Mayor said it needs to be written.

CM Mahoney wants the Attorney to report. Ask him to break it down. Find out the truth.

CM Korn said they have done this since before the last election. Ask him not to clump. Most over our citizens are against the frivolous charges.

CM Vail, Smith Lane, when you come in as a Council Member or Board Member, check your feelings at the door. Your job is to do the best for the Town and check feelings at door.

Mayor asked staff to check with other cities and then they can put it on for a future meeting.

CM Ball ask him to do a more accurate job of breaking it down.

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

**P. REPORTS – MAYOR AND COUNCIL MEMBERS**

**Dist 1.** Concerned with roundabouts – they have taken their time to give us presentations. If we keep stopping the process, there is a concern that ed. From what they have said here, the last couple of pages.

**Dist 2:** CM Mahoney wanted to report in Dec it was offered to do some redistricting. She called Lori Scott, she didn't want to presume. You must always keep your numbers up; Should have used. Should have considered the financial impact before we made the choice on the amendment. Let the public used. Could have shopped around. Ditches – talked about getting started.

**Dist 3:** Disinterested 3<sup>rd</sup> party. Every resident has some. Dispassionate 3<sup>rd</sup> party would be.

**Dist 4:** Condition of the soccer field. Re-districting would need to be done by a professional. The financial impact is very little. CM Korn also asked about the grills at the little pavilions.

**Dist 5:** A roundabout may look better than stop lights to keep with the rural character.

**Mayor:** Mayor loves roundabouts – they work in Ireland. He loves them if they are done right. Mayor has updated the maps and added where the homes are on the maps for the next workshop.

**Q. ANNOUNCEMENTS:**

(1) Vacancy on the Board of Adjustment; (2) Vacancies on the Park and Recreation Board; (1) Vacancy on the Trails & Greenways

**R. ADJOURNMENT:**

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

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

ATTEST:

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

Date Approved: 4/17/2017