

# MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

April 17, 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 Rivet 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 is also in attendance.

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

## D. APPROVAL OF THE MINUTES:

### 1. Regular Town Council Meeting Minutes 4/03/17

#### Workshop Meeting Minutes 4/04/17

Exhibit: Agenda Report No. 1

Recommendation: Request Approval

MOTION: CM Rivet / CM Kohler to approve RTCM minutes of 4/03/17.

Discussion: CM Mahoney suggested using one of those apps that converts voice to written.

CM Korn: Point of order.

Vote: Ayes, 4; Nay, 1 (CM Mahoney).

MOTION: CM Kohler / CM Ball to approve WS minutes of 4/4/2017.

Discussion: CM Mahoney did not say that she wanted to get rid of the Charter. Clerk will check audio.

Vote: All Ayes with correction.

## E. ATTORNEY: none

## F. STAFF REPORTS:

### • ADMINISTRATOR:

Several items to update Council:

Has surveyor creating descript of drainage easement to allow us to maintain drainage improvements on D&D Ranch.

Working of Atz Road and Smith Lane drainage and paving project.

Surveys have been done. Problems on Atz Road are not unique to Atz Road. Showed the survey of Atz from Candy to Jordan Blvd. approximately 5000lf - 75% of the ditches are not even in the right of way.

FPL will be moving the power pole at intersection of SR-514 and West Railroad Avenue. ATT has also been contacted and he has not heard back from them.

CM Korn said the residents on Smith Lane will be paving. The word around town is that the paving will be mandatory on all the roads. Can we do an article in newsletter or website to quell the fears. TA mentioned that the County wants to bill us 11K for debris

clean up. TA said we have filed a claim with our insurance. If that doesn't work. Brevard County made an error in not sending it out within so many days.

TA said in regards to Smith Lane, they came to us; comments he has made is that individuals want to do this. Then the Town can use it as an example.

There are people that don't want to live on a paved road. He is meeting with a person that puts stuff up on Next Door to clarify some misinformation. He will try and move forward with this.

Did you post the quarterly financial report? He is still just reviewing it. He will go over that with the financial people. We are six months in and not running in the red.

- **CLERK:** nothing
- **FIRE CHIEF:** nothing

**H. 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.

**Speaker's Card:** none

**I. PUBLIC HEARINGS/ UNFINISHED BUSINESS/GENERAL ORDERS  
ORDINANCES FOR FIRST READING: 1**

**2. Ordinance 2017-04: Redistricting Malabar Council Districts**

Read by title only.

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR AMENDMENT TO CHAPTER SEVEN, SECTION 7.5, ELECTIONS, OF THE CODE OF ORDINANCES; PROVIDING FOR THE NOVEMBER 8, 2016 ELECTION RESULTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 2

**Recommendation:** Request Approval of 1<sup>st</sup> Reading of Ord 2017-04

**Speaker's Card:** none

**MOTION:** CM Rivet / CM Kohler approve 1<sup>st</sup> Reading of Ord 2017-04.

Discussion: CM Mahoney said in the 3rd Whereas it says we got recommendation from Elections Office; she talked to SOE Supervisor Lori Scott; CM Mahoney said it should be amended to say there were multiple companies available that could do the redistricting.

CM Rivet asked if the Whereas is factual. Clerk said yes.

CM Korn said if we get something in writing from SOE Lori Scott then Council could reconsider it.

**ROLL CALL Vote: 1) CM Ball, Aye; CM Mahoney, Nay; CM Rivet, Aye; CM Korn, Aye; CM Kohler, Aye. Motion Carried 4 to 1.**

**RESOLUTIONS: 3**

**(2 Tabled Resolutions re: SR-514)**

**3. RESOLUTION 06-2017**

(Tabled on 3/20/17 to this certain date & will require motion to remove from table.)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, REQUESTING A REDUCTION OF SPEED TO 45 MPH ON STATE ROAD 514 ALSO KNOWN AS MALABAR ROAD FROM THE WEST END OF THE JURISDICTIONAL BOUNDARY EAST TO MARIE STREET; REQUESTING EXPEDITED INTERSECTION IMPROVEMENTS AT COREY AND WEBER ROADS TO INCLUDE TRAFFIC SIGNALS; SOLICITING SUPPORT FROM OTHER COMMUNITIES AND AGENCIES IN THIS

REQUEST TO FLORIDA DEPARTMENT OF TRANSPORTATION; 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. 3

**Recommendation:** Request Action

Chair asked for a motion to take from table. None. Chair stated this resolution has died.

**4. RESOLUTION 11-2017**

(Tabled on 4/03/17 after TPO Presentation & will require motion to remove from table.)

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. 4

**Recommendation:** Request Action

Chair asked for a motion to take from table. None. Chair stated this resolution has died.

**5. RESOLUTION 03-2017 – Intent to Increase Storm Water Fee**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR FINDINGS; PROVIDING FOR AN INCREASE IN THE STORMWATER NON ADVALORUM ASSESSMENT FROM \$36.00 PER ERU SET IN FY 2000 TO \$52.00 PER ERU FOR THE TAX YEARS 2017, 2018 and 2019 AND A FURTHER INCREASE TO \$64.00 PER ERU FOR THE TAX YEAR 2020; PROVIDING FOR CLASSIFICATIONS OF PROPERTY; PROVIDING FOR CERTIFICATION OF ANNUAL STORMWATER UTILITY ASSESSMENT ROLL; ADOPTING THE UNIFORM AD VALOREM METHOD OF COLLECTION; PROVIDING FOR MASS MAIL OUT NOTIFICATION OF PUBLIC HEARING TO TAKE PLACE AT THE COUNCIL MEETING OF JUNE 19, 2017; PROVIDING FOR A COPY OF THE RESOLUTION TO BE DELIVERED TO THE BREVARD COUNTY TAX COLLECTOR; PROVIDING FOR REPEAL OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 5

**Recommendation:** Request Approval of Reso to go Forward with Public Notices

Reso read by title only.

**Speaker’s Card:** None.

**MOTION:** CM Rivet / CM Korn to approve Reso 03-2017.

Discussion: Chair said there are two missing values; staff is asking Council to determine what they should be.

CM Rivet did a compounded calculation on inflation and it would come up \$52. CM Korn said the County is at \$64 and he proposes \$52 also for 2017. These funds are used only to help with Storm Water projects which are the major concern in Malabar.

CM Mahoney, asked about how SW money is/can be spent. Clerk explained how the tax is assessed and the restrictions on how it can be spent.

CM Ball then what’s the next number. CM Rivet said it could be 52 plus CPI for next year. TA said or have it adjusted every two or five years. CM Korn asked about keeping it at 52 and can be reviewed annually. Franklin explained that this is a multi-step process; once Council adopts the resolution with “intent” to increase the SW tax then the notice must be

sent out to all property owners of the 1,681 parcels. This is an expensive process that you don't want to undertake annually.

Consensus to set 2017 rate at \$52.00 for the tax years of 2017, 2018 and 2019 and then increase it to 64.00 in tax year 2020 until further revised by future council.

Chair asked for rollcall: Clerk stated that in previous Councils she had restated the CM that would vote first on multiple issues requiring rollcall votes. She asked if current council would support. Council said yes. Clerk said the "1)" would indicate the CM that votes first in Roll Call votes.

**ROLL CALL Vote:** CM Ball, Aye; 1)CM Mahoney, Aye; CM Rivet, Aye; CM Korn, Aye; CM Kohler, Aye. Motion Carried 5 to 0.

#### **MISCELLANEOUS: 1**

##### **6. Reconsider TPO/TAC Delegate (Mayor)**

**Exhibit:** Agenda Report No. 6

**Recommendation:** Request Action

Chair said many people have come up to him and asked for reconsider the TPO appointment of Mr. Krieger as our Town's representative. They felt it should always be a staff person or a member of council. We have a lot going on right now with the discussions on widening SR-514.

**MOTION:** CM Ball / CM none to appoint Mayor Reilly as new delegate to TPO/TAC and stated his reason. It should be an engineer type person.

Mayor declined. It is daytime meeting and it would be difficult to break away. CM Korn said when it was first discussed it was his belief that it ought to be a council member. He had forgotten that a previous Town Administrator served in that position for many years. He should have stated it should be Council or staff. This is not to say that Mr. Krieger has not shown interest. We got a report today, we got a report last month. He has not come to Council personally with these reports; he called him this afternoon; he guessed Mr. Krieger went around to each of them today passing the reports out.

When the council was meeting with the consultant to do the redistricting, the Deputy Clerk/Treasurer Matt Stinnett was working with him and CM Korn was amazed at the level of detail he was familiar with regarding the specifics of this town. He is impressed with him and thinks he would do a good job in this position.

**MOTION:** CM Korn / CM Rivet to appoint Matt Stinnett as new delegate to TPO/TAC.

Discussion: CM Korn said that TA was the delegate in the past and he had overlooked that. It is not to say that Mr. Krieger has not done anything wrong. He has not come to us directly. Need to commend him. And ask him to continue as a CAC.

CM Korn would recommend the Deputy Town Clerk. CM Korn was at town hall on April 4 before the workshop to meet with Mr. Tozier and he was amazed at how well versed Mr. Stinnett is with the town. CM Ball said it should be a member of the seated Council.

CM Mahoney said she contacted the TPO and spoke with Lisa Hickman who said previously that the nice thing about having Don Krieger this year is that Malabar had an engineer for their delegate. He would understand the technical side. The other thing is that he was elected by this council. The TPO consists of 26 voting members, 13 must be municipal representatives approved by the SCTPO. Then she called the league of cities, Stu from IHB and he said he reads that he (Krieger) is representative because we voted him into that, but this us up to us.

TA said Mr. Krieger has been the Town representative since last November but they finally got a report at 5:23pm this evening about two meetings. They got one other report that was provided at a meeting. He thinks these reports are a result of the pressure being applied by the town. As a representative to the Town TA thinks Mr. Krieger would send an email or put in an appearance. Neither of the reports the town received were presented by Mr. Krieger. TA does not think the town's best interests are being served having Mr. Krieger as the representative. TA said because of his technical expertise, Matt would do a good job. TA has been to couple of TPO meetings and he thinks the attitude towards Malabar is changing. TA noticed a marked increase in interest by TPO head Bob Kamm from the meeting in Nov 2015 and the most recent one TA attended. Need someone from the Town to promote the Town's interests.

CM Rivet asked if Mr. Krieger had ever asked staff or Council or the Mayor's what the Town's position is on any issues before the TPO? No. CM Rivet asked if Mr. Krieger had ever come to Council to ask what issues to support? Had he ever come to Council to give a report? If not, what positions is representing? How would he know Council position if he does not communicate? CM Rivet thinks Matt would be a great representative.

CM Ball would like it to be a council member. CM Kohler says he has to work Monday daytime so he can be here Monday nights. CM Mahoney said having a staff member the representative would have a financial impact. She thinks Don has done a great job and his reports have been great. His first report – he had a death in the family. It was a voting meeting. All the others were cancelled. Mayor said he has been the rep for six months and they have gotten two reports. CM Mahoney said the meetings didn't have quorums.

CM Rivet said he should have asked for direction from Council if he is Council's representative. CM Korn said they are discussing the position not the person. Stay away from that. He suggested CM Mahoney be the alternate. CM Mahoney said they should leave Mr. Krieger as rep until next year and then decide.

CM Kohler agreed the representative needs direction from the Town Council. CM Ball said there is a communication problem. CM Korn said it should not get into a discussion of the quality of Mr. Krieger. Stay away from that.

**MOTION: CM Korn / CM Kohler to appoint Matt Stinnett** Vote: Ayes, 3; Nays, 2. (CM Ball, CM Mahoney)

**MOTION: CM Korn / CM Rivet to appoint Mayor Reilly as alternate.** Vote: All Ayes.

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

**7. Updates to Capital Improvement Plan Projects (C.I.P.) Due Annually Prior to Budget Workshops**

**Exhibit:** Agenda Report No. 7

**Recommendation:** Request Direction to Staff

Chair wanted Council to continue considering this item for future action. Franklin said the recommendation from P&Z Board will be forthcoming.

Atty leaves at 8:20

**J. PUBLIC COMMENTS:**

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

CM Dist 1: nothing

CM Dist 2: Wrote out a report and read into the record: I believe the citizens of Malabar desire community. I envision people coming to Malabar to see trees, grass, cows, chickens,

horses and lots of wildlife. I believe we have an abundance of resources that sometimes are forgotten. I believe our preamble and charter are our responsibility as Council Members to uphold and keep.

Let's continue to remember our young people, our Veterans, our generations of families that grew their children and businesses here. When "developing" Malabar, we must put the Citizens first.

I believe a Malabar Memorial Garden (low maintenance) with lots of stones out near the road and along our new multi modal bike path would be a pleasant feature to remind us of our history and allow newcomers the history in an exciting and Malabar way. I'd suggest some coquina rocks, a mailboat, some fish, some farm animals, just all kinds of Malabar features with the names that come up to put with those features.

I believe in order to help appear more transparent, simple progress reports of areas covered by public works would be encouraging.

I believe we need to encourage ways to keep getting better and better at communicating with the public. Remaining inclusive and involved is important.

It is exciting to think, that we can remain rural. That we have something to offer to all of Brevard County.

Can you imagine if we could link all of our trails up and down Brevard County? This would preserve a healthy transportation system and natural environment for our future generations. CM Mahoney said she can not attend next Monday's meeting.

CM Dist 3: nothing

CM Dist 4: He will do letter of thanks to Mr. Krieger. He will quote CM Vail – leave personal feelings at the door. There are too many people that have ill feelings. There was one CM that did not speak to a former TA because he was never formally introduced. Don't have to like someone to work with someone. If you don't like our town staff, then get out of town. Don't let that affect how you do your job. Bunch of people with personal agenda.

CM Dist. 5: nothing

TA said by next weekend we may have a toilet to flush at SandHill Trailhead.

**L. ANNOUNCEMENTS:**

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

**M. ADJOURNMENT:**

There being no further business to discuss and without objection, the meeting was adjourned by the Chair at 8:25PM.

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: 5/01/2017