

## MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

May 1, 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 Ball 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:** Mayor wanted to add as discussion an item to have WS for capital improvements projects for 5/22/16. no objections.

D.

### E. **APPROVAL OF THE MINUTES:**

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

##### **Workshop Meeting Minutes 4/24/17**

**Exhibit:** Agenda Report No. 1

**Recommendation:** Request Approval

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

Discussion: none. **Vote:** All Ayes.

**MOTION:** CM Ball / CM Kohler to approve WS minutes of 4/24/2017.

Discussion: none. **Vote:** All Ayes.

F. **BCSO REPORT:** None

G. **ATTORNEY REPORT:** None

### H. **BOARD/COMMITTEE REPORTS:**

**Trails and Greenways Committee:** Drew Thompson, Chair, Murray Hann, Vice-Chair reported a Rapid Report with a request for a full Presentation at the next Council Meeting along with action on a Resolution proposed by the special Event worked out what they can do for connectivity.

**Planning and Zoning Board,** None

**Park and Recreation Board,** Chair Hans Kemmler gave brief overview of P&R Bd Activities.

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

#### • **ADMINISTRATOR:**

Several items to update Council: Illegal parking of motor home; D&D Ranch work in progress; Repairs to Briar Creek ROW at south end near Malabar Road necessary to provide access to emergency. Repaired with material in stock since 2007. These improvements will provide better control over outflow. If we do the Eva Lane project it's estimated cost is 1.8mil, not 4mil. They are going out for 100% funding. The project will drain 535 acres and is a Proof of Concept for other projects. Project done by end of week.

CM Korn asked about the drainage projects.

TA said majority of ½ cent sales tax.

Bold and gold – septic system example. Ferrate solution from FIT. Put in sensor to treat the water per demand.

Coagulate the sediments in the water. Flash board risers. Pond would be dredged every 5-7 years. CM Korn said the benefit is the water going into IRL will be cleaner. The other control area will be the pond in Weber Woods.

Are they giving a proper proportion of effort to get the water out of the town? St Johns says you have 72 hours. CM Rivet, one treatment area, proof of concept.

It will also be good publicity for the Town of Malabar.

The dredged material looks like black tar.

CM Mahoney stated there are a lot of homes on well and septic. Their water is clean. Feels Malabar should be diverting the water, not cleaning it. Samples taken 14 months ago showed higher levels. CM Rivet is the answer is stop dumping pollutants into IRL.

CM Kohler, who bears cost to maintain if grant money is awarded for project. TA said maintenance is minimal – it is skid mounted – cost of chemicals and maintenance – cost of chemicals \$30-\$50.

CM Ball – is there an ongoing study of these pollutants that they are trying to get rid of. Check with IRL folks – I believe those studies are ongoing.

Boy Scouts – found no evidence that Council approved storage on Town property. Propose we do have clear area behind town hall – it could be fenced – with council approval and set aside for BS – no conflict with PW; no conflict with FD. Should have a contract. And insurance. TA question – if Troop council then contract for 1 per year. Put on for agenda item for 5/15/17. If scouts tell him how much space, they need.

- **CLERK:** The SCTPO will recognize the Malabar T&G Committee at their meeting on May 11, 2017 for the Bicycle/Pedestrian Safety Award for “Get on a Trail” beginning at 9AM. Encourage all that can to attend.
- **FIRE CHIEF:** April report (copied to Council) reapplying for gear and fire hose with VFA grant.

Brush 299 is the brandy hall truck. Hydrant testing. Grant for SCBA got denied. CM Rivet asked if there was feedback. Will try again. Doesn't open again until next January.

Also, want to invite council to FD on May 13, and show how hard they train. POST FOR PUBLIC MEETING. CM Korn will not be in Florida then. 30% of buildable land in Malabar is owned by EELs. Ask for voluntary donation or otherwise bill them. Chief said we are under mandatory burn ban. They are recording info on 214 for possible reimbursement. Chief thinks it is up to Council to decide how to handle costs. CM Ball asked if it works both way. CM Korn doesn't want to further alienate the relationship.

- I. **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:**

Scott McClachen, 1805 Corey Road, condition of the Malabar Community Park soccer field. Field hadn't been treated since 2015. They have people that will donate materials and labor but want a commitment that maintenance will be continued. In talking to TA is to



get a commitment from town that the field will be treated. Malabar soccer season is over in two weeks.

CM Korn is the commitment to vendor that didn't do the work. It wasn't done. Commit to take care of field.

Terry Rock, 1015 Atz Road, has been fighting this for two weeks. Malabar Soccer is moving to Valkaria. Prove me wrong. If the town didn't cancel the contract. They were ready to shame Massey. Had the town cancel. They can fix it, but to play in fall, it needs to be maintained. Not fair to waste the volunteer resources, get the answer from council. CM Korn stated the Council understands the frustration. TA went over the checklist:

- 1 commit for the next 12 months – by vendor
- 2 welcome donation of tilling and seeding
- 3 irrigation layout –
- 4 town could box blade the field to contour
- 5 water per vendor rec
- 6 continue to mow
- 7 cannot guarantee burrowing
- 8 accept donation
- 9 no assurances re future

CM Korn – he is comfortable with that. There was much discussion that followed. Clerk reminded Council that the council in 1995 committed to maintenance of the Malabar Community Park that was funded 75% by State money from DEP (Florida Recreational Development Assistance Program (FRDAP)). If the Town does not maintain the improvements, the State can require Malabar to pay back the grant money.

Consensus Korn / Rivet so moved that Council approve staff action on maintenance issues related to the condition of soccer field.

#### **J. PUBLIC HEARINGS/ UNFINISHED BUSINESS/GENERAL ORDERS**

##### **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 7-2(b), 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 Adoption of Ord 2017-04

**PH opened:** none

**PH closed:** open to speaker's cards: none

**Speaker's Card:** none –

Read by title only

**MOTION:** CM Rivet / CM Kohler to adopt of Ord 2017-04.

Discussion: none

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

#### **K. UNFINISHED BUSINESS/GENERAL ORDERS**

##### **ORDINANCES FOR FIRST READING: 2**

##### **3. Medical Marijuana Regulations Ord 2017-02**

AN ORDINANCE OF THE TOWN OF MALABAR RELATING TO ZONING AND LAND USE; AMENDING ARTICLE III DISTRICT PROVISIONS OF THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING TABLE 1-3.2; PROVIDING FOR MEDICAL MARIJUANA TREATMENT CENTERS IN THE COMMERCIAL ACTIVITIES PORTION OF SAID TABLE; PROVIDING MEDICAL MARIJUANA TREATMENT CENTERS AS A CONDITIONAL USE IN THE COMMERCIAL LIMITED ZONING CATEGORY; AMENDING ARTICLE VI OF THE LAND DEVELOPMENT CODE OF THE TOWN; CREATING A NEW SUBSECTION D, "ADDITIONAL CONDITIONAL USE CRITERIA FOR MEDICAL MARIJUANA TREATMENT CENTER" TO SECTION 1-6.1; SETTING FORTH ADDITIONAL REQUIREMENTS AND CRITERIA FOR MEDICAL MARIJUANA TREATMENT CENTERS; AMENDING TABLE 1-6.1 (B) CONDITIONAL LAND USE REQUIREMENTS; PROVIDING FOR MEDICAL MARIJUANA TREATMENT CENTERS; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 3

**Recommendation:** Request Approval of 1<sup>st</sup> Reading of Ord 2017-02

**Speaker's Card:** none – read by title only

**MOTION:** CM Rivet / CM Ball approval 1<sup>st</sup> Reading of Ord 2017-02.

Discussion: none.

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

#### 4. Eliminating Citation Process Ord 2017-05

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE REPEAL OF SECTIONS 2-208 THROUGH 2-210 OF DIVISION 2 OF ARTICLE VII OF CHAPTER 2; PROVIDING FOR REPEAL OF ORDINANCES OR PART OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 4

**Recommendation:** Request Approval of Ord 2017-05

**Speaker's Card:** none – read by title only.

**MOTION:** CM Kohler / CM Ball to approve 1<sup>st</sup> Reading of Ord 2017-05.

Discussion: Chair asked Atty to explain. Pay a filing fee. We may want a 250 fine, court can change that to 20 fine. Citation is archaic. Mayor mentioned a typo - the council need"s" – Clerk will correct.

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

#### RESOLUTIONS: 1

5. **Naming the Shade Structure (Resolution 12-2017)** A RESOLUTION OF THE TOWN OF MALABAR PROVIDING FOR THE ADOPTION OF "CAMERON TRAIL SHELTER" RECENTLY COMPLETED IN THE RICHARD E. CAMERON SR. AND VOLUNTEERS WILDERNESS PRESERVE; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 5

**Recommendation:** Request Approval

Reso read by title only.

**Speaker's Card:** None.

**MOTION:** CM Kohler / CM Ball to approve Reso 12-2017.

Discussion: CM Kohler thanked the T&G Committee and voiced his support for the resolution and would request a full presentation at the next meeting.

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



**MISCELLANEOUS:**

**L. DISCUSSION / POSSIBLE ACTION:**

**M. PUBLIC COMMENTS:**

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

CM Dist 1: none

CM Dist 2: got a lot of calls on SW increase. Good use of community resources. At no expense to the town.

CM Ball said needs data before for at least a year. CM Rivet said proof on evidence. Ground water is what is going. Removing the contaminants when there is a major storm event. When there is no stormwater, there is no treatment. Keep ground water in the ground. It is not a benefit to take ground water.

CM Mahoney, proposing an ordinance with all related costs. Would have it been better to know those costs before the elections. Citizens Advisory to do day to day. What resources we have. Just keep track of resources.

CM Dist. 3: CM Rivet – Citizen Advisory Committee. Encourage to contact council member, attend council meetings. AGO discourages they contact.

Highly encourage all citizens to call and attend council meetings. He is watching next door Malabar and most are ill informed. Some are just trying to stir them up. He implores they contact and express their opinion.

CM Dist 4: Pick up with what CM Rivet said. He tried to reach out and placed three calls, 2<sup>nd</sup> call was responded with a “how did he get number and why he was calling”. He has volunteered to take a map to her house. There is a map already posted on the Malabar website.

The point is that Council needs to be out there and meeting people. Pet thing of MCA at MCP is set for 5/6/17 – he plans to attend. Sunshine prevents them from talking about town business but would like to talk to them socially – that is not a problem.

CM Dist. 5: Get back into the budget process.

**O. ANNOUNCEMENTS:**

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

**P. ADJOURNMENT:**

There being no further business to discuss and without objection, the meeting was adjourned by the Chair at 9:30PM.

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: 5/15/2017

