

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

May 15, 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 Kohler 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, excused

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 suggested one - move public comments under Attorney Report

D. **APPROVAL OF THE MINUTES:**

1. **Regular Town Council Meeting Minutes 5/01/17**

Exhibit: Agenda Report No. 1

Recommendation: Request Approval

MOTION: CM Rivet / CM Ball to approve RTCM minutes of 5/01/17.

Discussion: CM Mahoney said this is a public document. It is not always representative of the public. Would not like to approve until they can be more precise minutes. Chair asked if there were any other specific corrections – hearing none -

Vote: Ayes, 3; Nay, 1 (CM Mahoney) (CM Korn excused).

E. **ATTORNEY:** Re: Marijuana Treatment Centers - State Legislature still hasn't made final rules and regulations – Malabar may have to relook later, as most other municipalities have done.

PUBLIC: Dave Kello, 1041 Hall Road, had pleasure of meeting a lot of the council members at the past Saturday Fire Academy at Malabar Fire Department. He has lived here for years and watched how Malabar has grown to accommodate the new residents. Some changes are good and some were out right dangerous. Their family identified some very serious electrical modifications that was done without a permit and it endangered their family. This past Saturday of last weekend spending three hours with the Malabar Fire Department volunteers, showed him both the physical and the psychological stress they deal with. They will blindly walk into our homes to protect lives and properties. He thought he was ready and he realized that he is in no way prepared to do that. He would like in the future to talk to the Malabar Fire Chief about volunteering. He stated his brother is also a fire personnel in another jurisdiction and he asked who do they find. The tough one is the kids. Fire Dept personnel find kids in ovens, dryers, and under their beds; the adults are usually within ten feet of the exits. The fact that the question of getting rid of the Malabar Fire Dept even came up is unbelievable; to add to the response time is one of the most terrifying thoughts he deals with; he wants his family to stay here the rest of their lives. He is very supportive of the small changes that council is making for the FLUM on the arterial corridors; allowing commercial development along those corridors will provide additional needed tax revenues to assist in funding the fire department. If it (getting rid of fire department) is talked about again or eliminating the FD, that would make him leave the Town. Again thanks Council and the Malabar Fire Department.

PRESENTATION: Trails and Greenways Committee: Drew Thompson and Murray Hann, Chair and Vice-Chair of the Malabar Trails and Greenways Committee
Went through PP presentation with updates after award from County TPO for trail development.

CM Rivet asked what they want – how do you want them to present. Mur – TOM support the twin lakes option. Like the options to the south - empower Doug to work with them. CM Mahoney wanted to thank them. Recognized recently by the County for the award. The thought being if they can make the best – involve the public more. People are still contacting her on how to involve the public. Drew trying to promote Malabartrails.org will advertise future walks. Not trying to offend anyone. Mur said the TPO lays out a place and then they want to get local input. EELs are not regulatory. It is their duty to get local input.

F. STAFF REPORTS:

• **ADMINISTRATOR:**

Update on slope mower

ADA Restrooms – Sandhill Trailhead – supposedly passed health department testing but nothing in hand yet.

DD ranch – it is entirely possible that someone is stirring the pot over there. The surveyor was sent over there to do a generic description of the easement and he was not received. Later meeting with TA was also not positive. Property owner representative said they are now not interested in giving us anything. Should have gotten the easement years ago. Franklin explained that there were “hold harmless agreements” in the past for town drainage going through their property. TA will contact the principal property owner.

- **CLERK:** Audit Presentation for FY 15/16 is tentatively set for 7/24/17 at 7PM followed by a budget workshop.

- **FIRE CHIEF:** Wanted to thank council for participating. Thanked Dave Kello. Grant said can he go on a call. CM Mahoney wanted it put in the record that they also offer training and collecting revenue funds for those classes at about 4K this year and volunteers are offered the training but they are required to commit to do one year of service in exchange. Otherwise they must pay the Town back for the training.

~~**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~~

G. PUBLIC HEARINGS/ UNFINISHED BUSINESS/GENERAL ORDERS

**2. Second Reading of Ord 2017-02 – Medical Marijuana Treatment Centers
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; 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 2017-02

Chair opened the Public Hearing:

Dave Kello, 1041 Hall Road, lived in state that allowed this for severe medical conditions. There are some legitimate uses and could benefit. There are some positive.

Chair closed the Public Hearing:

Speaker's Card: none –

Read by title only

MOTION: CM Rivet / CM Kohler to adopt of Ord 2017-02.

Discussion: none

ROLL CALL Vote: 1) CM Ball, Aye; CM Mahoney, Aye; CM Rivet, Aye; CM Korn, Excused: CM Kohler, Aye. Motion Carried 4 to 0.

3. 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. 3

Recommendation: Request Adoption of Ord 2017-05

Chair opened the Public Hearing:

Speaker's Card – not required: Dawn Danielson discussed her concerns with other sections of Malabar Code re: citations. LDC art XII, Art XI and in Chap 6 and 6.5.

Can they do that with these conflicts? Attorney Bohne explained what he said before at precious meeting. The Magistrate process gives town ability to file the Notice of Violation and get compliance without use of the County Court System. This is housekeeping update to Code. They have the ability still to do code enforcement.

Chair closed the Public Hearing:

Read by title only

MOTION: CM Kohler / CM Ball to adopt of Ord 2017-05.

Discussion: CM Mahoney asked how much money did this take to bring to Council? Atty said the SM now Mr. Stokes. CM Mahoney asked about the current violation? TA said that is being dealt with.

ROLL CALL Vote: CM Ball, Aye; 1)CM Mahoney, Aye; CM Rivet, Aye; CM Korn, Excused: CM Kohler, Aye. Motion Carried 4 to 0.

H. ORDINANCES FOR FIRST READING: 0

RESOLUTIONS: 1

4. Supporting a New Conceptual Trail Layout for T&G (Reso 13-2017)

Read by title only.

A RESOLUTION OF THE TOWN OF MALABAR REQUESTING THAT THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS ACCEPT THE CONCEPTUAL TWIN LAKES TRAIL ALIGNMENT, TRANSMIT THE TWIN LAKES ALIGNMENT TO THE SPACE COAST TRANSPORTATION PLANNING ORGANIZATION AND INCORPORATE THE TRAIL ALIGNMENT INTO THE JORDAN SCRUB SANCTUARY MANAGEMENT PLAN; PROVIDING FOR AN EFFECTIVE DATE

Exhibit:

Agenda Report No. 4

Recommendation:

Request Adoption of Reso 13-2017

MOTION: CM Kohler / CM Rivet to approve Reso 13-2017.

Discussion: CM Mahoney – fiscal cost to present this? Franklin explained that Drew sent the resolution and Clerk formatted it. My daily cost.

CM Kohler wanted to encourage and fully support the Malabar T&G Committee on their successes. CM Rivet also wanted to convey his full support for the alignment going through the Malabar Jordan Scrub lakes area.

CM Ball said this is a draw to the Town and these properties should be useful to the community. Hoping to see the value that corporate Harris has for their employees. They can see the big positive.

ROLL CALL Vote: CM Ball, Aye; CM Mahoney, Aye; 1)CM Rivet, Aye; CM Korn, excused: CM Kohler, Aye. Motion Carried 4 to 0.

MOTION: CM Kohler / CM Ball to name them both the primary contacts to speak to all the external agencies regarding the extension of the trail alignment.

TA said he will state that they want to consider Harris with the forthcoming railroad improvements. He will be contacting Harris re: some assistance on paying for part of those improvements. Wants to keep a positive relationship.

MISCELLANEOUS: 1

5. Formal Approval of the Updates to the FLUM

Exhibit:

Agenda Report No. 5

Recommendation: Request Approval for Staff to Proceed with Public Hearing and Notices

MOTION: CM Rivet / CM Kohler to approve the change to the Comp Plan and LDC related to R/LC and the FLUM.

Discussion: CM Mahoney has concern the zoning will change. If the zoning changes then the taxes will go up. Investors want to invest when it is cheap. Chair said it will not change the zoning.

Property owner has to request the zoning change.

CM Rivet – the fact that this LUM is being updated. The value of the land go up. Yes, if you are an investor trying to buy land then maybe not. But if you are property owner. Develops the corridors as commercial land.

CM Kohler said this will also help investors. CM Ball said they have had a land owner for a formal plan and then request a change in the zoning or the future use map to make it easier to sell their property and Council and P&Z has not felt they should assist in promoting sales for a prospective seller. Clerk explained she had to make notifications to all affected property owners and did not have the PH date confirmed.

VOTE: All Ayes; (4) CM Korn excused.

I. DISCUSSION / POSSIBLE ACTION:

J. PUBLIC COMMENTS:

K. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Dist 1: none

CM Dist 2: Buying the slope mower with stormwater funds. She questioned stormwater expenditures. Clerk said the culverts were on hand. TA explained that in this case they used S&R.

CM Dist 3: none

CM Dist 4: excused

CM Dist. 5: Thanks FD and Drew and Murray for their efforts.

Mayor: SCLC hosts June dinner meeting and asked Council to coordinate with Clerk on attending.

TA said the closing of the soccer field is set for May 17 for 4 months. Made a change in the company that was taking care of the sprinkler system. He thinks they can recover this field. Soccer Team is supportive. They are on board at this point.

CM Mahoney asked about the basketball courts. TA said work in progress to get parts to fix hoops have been actively worked on.

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 8:50PM.

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: 6/05/2017