

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

July 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 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, Lt. Hooker is here representing Chief Leonard Thomassen.

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

D. APPROVAL OF THE MINUTES:

1. Regular Town Council Meeting Minutes 7/3/17

Exhibit: Agenda Report No. 1

Recommendation: Request Approval

MOTION: CM Rivet / CM Ball to approve RTCM minutes of 7/3/17.

Discussion: CM Korn – pg 2 minutes don't state that the SCOTT paks came from Melb Beach. Franklin said she didn't think Chief mentioned the source.

Pg 2 – Ethics training – can he do it online. Franklin said he can do it in any manner he has; the training is being offered in Sat Bch for free on Aug 1. Under "Speakers card" Skip Hard – said "surprisingly" - yes, he did use that word. CM Mahoney mentioned "Ryan" – who is that? CM Mahoney said that was another Mr. Ryan, not Bud. Mayor said on Pg 3, Kovach this item per se – delete it. MC Mahoney said Karlene Conroy name is misspelled. Kovach said his name is misspelled also. VOTE: All Ayes

E. ATTORNEY REPORT: Medical Marijuana Legislation – email attached

Atty went over last discussion when Rep Fine discussed the SB 8 – Staff needs guidance We have our code in place. We can ban medical marijuana dispensaries.

If allowed it must be regulated like pharmacies. Have to look at Malabar Code and the new law again. Right now, the Malabar Code regulates hours of operation and proximity or dispensaries. We would have to change that to regulate similarly to pharmacies. Mayor said we can completely ban medical marijuana dispensaries. Atty Bohne said the IHB Mgr. Mark Ryan provided position papers to his council recommending a moratorium.

Attorney Bohne is recommending a moratorium to give Malabar 180 days to figure this out. Consensus of Council to draft a moratorium Ordinance.

Wireless Communication infrastructure in ROW.

Small telecommunication within row but will not have full control over – complex language. The current recommendation is to do a moratorium. Something is going to happen fast on this legislation. There are certain things we can and can't do. The League will come up with a draft Ord that we can copy. Atty will have for first reading at next meeting.

F. PRESENTATION: 1**Presentation by Victor Poteat, Aitkens Engineering on SR514 Widening**

He introduced Ms. Lorena Cucek and said she is the new FDOT representative on this project. PD&E process (hard copy attached). Mr. Poteat said the following did not change from earlier presentations:

- 3 lanes from Marie Street to Highway 1
- 4 lanes from Babcock Street to Weber Road
- 2 lane Rural between Corey Road and Marie Street with multi-use trail

This presentation focused on the area between Weber Road and Corey Road:

- 4 lane Suburban between Weber and Corey Roads with paved inside shoulders, bike lanes, sidewalks, improved drainage and a grassed median.
- 2 roundabouts – one each at Corey and Weber

He explained that the presentation didn't show detail on the details for each roundabout at this time.

Next steps are to meet with the Selection and Management Committee (SMC) of the Environmentally Endangered Lands (EEL) Program on Friday 7/21/17 and then the Space Coast Transportation Planning Organization (TPO) then the Brevard County Commission. Would like to have the approval from SMC before going to the Florida Department of Environmental Protection (FDEP) Acquisition and Restoration Council (ARC) but it is not required. It is their responsible for review of all land use plans involving state-owned conservation land. Aitkens will then update documents accordingly and prepare the State Environmental Impact Report (SEIR) and prepare for a Public Hearing.

What they would like from the Town is a Resolution of support for this concept and the commitment from the Town to do the maintenance of the multi-modal trail.

Mayor asked where the Public Hearing would be held. Mr. Poteat said at the Palm Bay hospital. The ARC meeting will be in Tallahassee.

Mayor pointed out re: the roundabouts that they only showed two lanes in each direction, should be four. Mr. Poteat stated the presentation didn't depict exact detail. Mayor would like to see the analysis they reviewed to reach conclusion that only 2 lanes were necessary going into roundabouts. Mr. Poteat said it is a three-step process: the traffic volumes; the cost, and it is a pass, then a more detailed cost analysis based on actual traffic counts. Traffic study of volume at Corey will determine two or four lanes going into the roundabout; it is based on traffic counts.

CM Ball asked for cost estimate for trail maintenance for one mile. CM Korn said this is the best presentation he has seen. His concern is still with the speed; it should be set at 45mph. Right now, there is no room to pull something over. There are at least three or four creeks that go under the road and go north to Turkey Creek and go out to the Indian River Lagoon. He is also concerned with bottleneck going into Corey Road intersection. He then he mentioned pond "N" is some of the highest property in Malabar. Mayor said it is also all zoned Commercial General (CG). Also, there are multiple owners.

CM Mahoney – she realizes he will be going to TPO to present – hopes to still can use the safety money. Mr. Poteat stated this project will not impact that project.

She saw the plans at the hearing held at the hospital. There was a Resolution done in 2016 in support of these safety improvements. TA said the elevations of the road would change. Mr. Poteat said he is not the roadway engineer but knows there must be a certain distance between water table and bottom of hard surface. CM Mahoney asked when he knew he would be at this meeting. She would have liked to have the presentation information sooner.

CM Kohler said this is the closest to what the Town has been asking for and thanked Mr. Poteat and Ms. Cucek for the presentation.

CM Korn asked if he was looking for positive support of the plan presented; he could not support this. Mr. Poteat said the three lanes was considered and dismissed as it too much of the EEL land would be taken and lowering the speed could not be done in this kind of roadway.

CM Rivet said they are not expected to vote tonight. Put on the next agenda.
Mayor said the area between Marie to Hwy 1 is 3 lanes. Yes, that was not changed.

Council thanked Mr. Victor Poteat. Mayor asked if they need to do a new resolution. Clerk said we have two similar ones that were done and tabled that could be modified and used to support this concept. Put it on next agenda.

G. STAFF REPORTS: ADMINISTRATOR: CLERK: FIRE CHIEF

- **ADMINISTRATOR:**

Mentioned the Neighborhood Mtg on 7/20 to present to those residents in the project work area what the plan will cover. Atz Road east of Candy Lane to Jordan Blvd.

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

- **CHIEF:** Lt Hooker, acting Chief while he is out of Town.

Report covers a 5-week period. Had 70 calls. The Atz Road fire had several subsequent call outs; other structure fires and automobile accidents. Training hours 240 for June; had 247 hours of call participation from volunteers. Fire 1 class has been approved by State and that will generate revenue in autumn.

CM Mahoney asked who their Medical Director is and how much is he paid. Lt. Hooker replied that it is Dr. McPherson and he is doing it for free. CM Korn asked if there were any significant equipment problems since last report. Lt. Hooker replied there was an issue with the Tender but Palm Bay Fleet corrected it. Lt. Hooker continued that the SCOTT paks had been received and put into use.

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:

Holly Yolles, Corey Road, spoke to the Council about fireworks. Had 14 days of fireworks. BCSO said it was a holiday. She read from a paper. Her animals can't be sedated. She wants Council to know that she and others like her would like their concerns recognized and validated. She asked BCSO if she could press charges when she called BCSO at 11:30pm and was told no.

CM Mahoney said Malabar could do something creative and offer to sell them the ones that don't make noise. Attorney said it is a misdemeanor and unless BCSO see the offender, they can't make an arrest.

CM Korn suggested she write an article for the newsletter. She accepted.

Speaker's Card:

Richard Kovach, is a little bit disappointed that he can't offer correction to 7/3/17 minutes. The minutes of 7/3 omitted that portion of his statement and it lost the context of his statement.

Clerk was recognized by Chair and stated for Council that the minutes are to reflect a summary of Council actions on agenda items and other council actions. If a statement is read at the podium and provided to the Clerk, it will be attached to the minutes in the record.

Richard Kovach said the enforcement is lacking by the BCSO regarding fireworks. The legislation is there.

I. PUBLIC HEARINGS/SPECIAL ORDERS: 0

J. UNFINISHED BUSINESS/GENERAL ORDERS

ORDINANCES FOR FIRST READING: 0

RESOLUTIONS: 0

MISCELLANEOUS: 2

2. Form DR-420 – Tentative Maximum Millage and Public Hearing Date

Exhibit: Agenda Report No. 2

Recommendation: Request Approval

Speaker's Card:

Brian Vail, Smith Lane, should go towards the maximum. If Council sets it low and doesn't initially set it high so they have it and during budget workshops determine that it needs to be higher, they can't increase it without great expense.

MOTION: CM Rivet / CM Kohler to set the max tentative millage at 2.0906 to begin the budget process.

Discussion: CM Rivet explained to public that this is the millage that will be advertised in the TRIM notice mailed to property owners. CM Rivet said this does not mean that is what it will be; it is a starting point. He does not intend to increase the millage. CM Ball said that is his feeling also. CM Mahoney agreed to this for setting the maximum. She said she would support the rolled-back rate of 1.9005.

VOTE: All Ayes.

MOTION: CM Kohler / CM Rivet to set the date for the first Public Hearing on the 2017/2018 Budget on Monday, 9/11/17.

VOTE: All Ayes.

3. Lowering Speed Limit to 20mph on Selected Unpaved Roads

Exhibit: Agenda Report No. 3

Recommendation: Request Approval

Chair directed TA to introduce. There has been some discussion that when requested by residents on a dirt road to lower the speed it can't be set lower than 25mph. TA stated that F.S. 316 allows for municipalities to lower speed to 20 mph if a traffic study has been done. We have done the study. BCSO can enforce the 20mph. It is not necessary to have separate studies for each street. We have done that. He would propose to do that on a case by case basis when they get calls. As we did with the sand hill crane signs, we can ask for a donation to offset the cost to buy the sign, post and labor to install.

MOTION: CM Ball / CM Mahoney to approve the 20mph where requested. Discussion: CM Ball questioned who gets to decide. CM Mahoney suggested tabling. CM Korn is totally against this; traffic signs are the responsibility of the municipality; not for residents to make donations. He stated the enforcement of this thing would be impossible.

Speaker's Cards: none

VOTE: Aye, 1 (CM Kohler); Nay, 4. Motion failed 4 to 1.

COUNCIL CHAIR MAY EXCUSE ATTORNEY NOW

Mayor asked for status of Ordinance on Council/Board civility. Ordinance will be on next agenda for first reading.

K. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Dist 1: It is very hard to sit up here to make decisions without having the input from residents and asked public to let Council know how they feel. If you want roads fixed and drainage problems addressed they will budget for them. If you don't want to fix the ditches and roads, let them know that too. Council is trying to make decisions on what is the best for all of Malabar.

CM Dist. 2: Would like to get the packet a little sooner.

CM Dist 3: CM Rivet – Budget meetings are coming up – wants audience to know what is important to them; they need resident input – come to meetings and tell your neighbors.

CM Dist 4: Need to provide the basic municipal services and whatever money is needed to do that. Don't need to budget frivolous things and don't think they have. He called the Clerk today on millage question and got a very thorough answer. The tax bill is going up. Costs go up – provide what is necessary for the Town. He has participated in three budget years and they need to continue to be attentive.

CM Dist. 5: CM Kohler also asked residents for their input. He asked TA about missing sign. TA will check it out and get back to him.

Mayor: Will miss the Aug 7 meeting - he will be on vacation. CM Rivet said he will be in attendance to Chair the meeting.


M. ANNOUNCEMENTS:

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

N. ADJOURNMENT:

There being no further business to discuss and without objection, the meeting was adjourned by the Chair at 9:07PM.

BY: 
Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

Date Approved: 8/07/2017