

**MALABAR TOWN COUNCIL REGULAR MEETING MINUTES  
DECEMBER 04, 2017                      7:30 PM**

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

**A.     CALL TO ORDER:**

Council Chair, 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, Excused

RICHARD KOHLER

TOWN ADMINISTRATOR:

DOUGLAS HOYT

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

For the record, Malabar Fire Chief Mike Foley is not present.

**C.     APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:**

Mayor asked for any – add audio recording and video under #6. CM Mahoney motion to change wording of #4. She said it was already voted on unanimously to pay for fencing.

**D.     APPROVAL OF MINUTES -**

**1. Regular Town Council Meeting Minutes 11/20/17**

**Exhibit:** Agenda Report No. 1

**Recommendation:** Request Approval

**MOTION:** CM Rivet / CM Ball to approve the 11/20/17 minutes as presented.

**Discussion:** CM Mahoney stated the minutes is like reading fiction.

**Vote:** Ayes, 3; Nay, 1. (CM Mahoney) Motion carried 3 to 1.

**E.     CERTIFICATE OF APPRECIATION TO KENNY SCOFIELD Dolphin Auto & REBECCA FERGUSON FOR FALLFEST – previously given out**

**F.     ATTORNEY REPORT: none**

**G.     BCSO REPORT: none**

**H.     BOARD / COMMITTEE REPORTS:**

T&G – Drew Thompson – haven't met recently.

P&Z: no one present.

Parks & Rec: Hans Kemmler with representative from Disc Golf Assc to speak of using the Eschenberg Conservation area for a site. Last meeting voted to name Eric to be new Chair. Approached by SBGD (South Brevard Disc Golf) and they are looking for a new location and they like the 17-acre site on Weber Road. Park Board voted to recommend Council support this. The one across from FD is for leisure play. The new one would be for professional use with contract. Put on a future agenda for council. Rick is here from disc golf group if you have questions. Not too many trees going through there and the kind of trees they would plant would be native and look more attractive.

It has not been used before. They would eradicate the exotic species. CM Ball asked who would provide for portlets. Contract would spell it out. CM Rivet also had the same concerns as CM Ball.

Shade sails will be going up. Rest of parks are doing good. Malabar Madness event coming up.

**I. STAFF REPORTS:**

**ADMINISTRATOR:** Stop signs have been dug up and removed. One was found and two were completely gone. Has filed a police report. We will prosecute.

Culvert at 1810 Marie will be complete by end of next week. Atz Road ditch is moving water. Will be determining which culverts will be replaced by end of year. Got email from shade sails vendor and they will be installed the week before Christmas. CM Rivet asked about Hall and Flashy Lane project.

CM Mahoney suggested Harris may want to donate money before the end of the year. CM Mahoney said they need more accountability re: culvert blocked that crosses under Hall Road. TA said please send email and he will respond to all of council. CM Mahoney said it is her observance that staff runs this town. Like the dirt being given away. Sold to Malabar residents and given to outside of Malabar residents for free. She also referenced the sod at trailhead. Put on town website that dirt may be taken for free. TA said please put in email and he will respond to all of council. She asked where is the Atz Road dirt going. TA said dirt is being brought in. Mayor asked her to put her questions in writing to Administrator. CM Mahoney asked attorney.

CM White asked to speak. He was surprised when they were pulling out and adding new dirt. They were bringing new material to put in the ditch. He is not an engineer. The vendor obviously knew what he was doing. He has also learned that previously the ditch spoil was offered on the website. He doesn't think anyone is taking advantage.

She was getting calls from people that truck loads were going down Corey. TA said when they were trying to clean out the yard. After a year we started offering it for free. Yard was so full they couldn't bring any more in.

Attorney doesn't have legal definition of muck that CM Mahoney asked for. Muck can be removed. CM Mahoney said some people took soil samples. Clerk said ditch spoil can be removed.

CM Rivet about three years ago he bought some ditch spoil and he would not buy it again.

CM Mahoney also asked Clerk to post the quarterly financials. CM Mahoney said it would be great to have posting tab on website to show all the new permits issued.

TA asked if Council would fund another person.

**CLERK:** Newsletter will be going out.

**J. 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 Card: Skip Hard, Hard Lane: referenced the 10/16/17 minutes – petty – pettiness to stop. Read FS 103 and it doesn't state how wording should be put. Offered the following facts. Campaign Treasurer handbook – pg. 32, he read from.

CM White – responded – he went to the same sign place that you may have gone to. He apologizes for all the heartache this has caused.

CM Mahoney said a seated CM submitted the complaint against her.

Speaker Card: Jose Merino, 1720 Benjamin Road: spike of the drainage problems in his area. It gets worse as time goes by and the excuses are the same. How much longer before they get action. Water doesn't go anywhere. Tremendous amount of construction in Valkaria and more water comes across. Can't go on private property to solve this.

CM Mahoney stated Grant-Valkaria did have similar flooding problems. Immediately after the hurricane they had two miles of ditches cleaned in two days. Had a fleet of trucks.

CM Mahoney said we can do the same. From Benjamin, north it goes down. From Valkaria it goes south.

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

**L. UNFINISHED BUSINESS/GENERAL ORDERS**

**ORDINANCES FOR FIRST READING: 0; RESOLUTIONS: 0; MISCELLANEOUS: 1**

**2. Cancel 2<sup>nd</sup> meeting in December**

**Exhibit:** Agenda Report 2

**Recommendation:** Action

**MOTION:** CM Rivet / CM White to cancel the 2<sup>nd</sup> meeting in December.

Discussion: **Vote:** Ayes, 4; Nay, 0.

Council discussed the January meetings and with News Years on Monday, SCLC on the 8<sup>th</sup>, MLK Jr holiday on 1/15, it was Council consensus to hold the regular meeting in January on the 3<sup>rd</sup>.

**M. DISCUSSION/POSSIBLE ACTION: 4**

**3. Referendum Questions for 2018 Ballot**

**Exhibit:** Agenda Report 3

**Recommendation:** Discussion and Direction

Mayor said a few questions had been brought up during earlier discussions. CM Ball said he gets input from two sides – those that are very happy to live in the rural community as it currently exists. And then those that don't mind paying for certain improvements. CM Ball said if we are going to do a referendum then set a millage – and then build a case and ask the voters. Need to pave these secondary roads. People can decide instead of the five of them. So, he would like to see that. He would also like to see a straw ballot – do we want to continue to be the Town of Malabar? They have choices. Biggest problem he has is the lack of citizen input. Take these questions and put them to voters. As a council member – what looks to be the best for the Town of Malabar.

CM Mahoney said the new construction is large homes and those taxes should surpass the lost taxes. Put a tab showing this on the website. Have the tab show the income.

Attorney will copy the staff and Council with the AGO opinion. The Attorney's concern is that setting the millage is the responsibility of Council – not the residents.

CM Ball wants to find out what the residents want. If it is a straw vote it is what the majority of the voters.

CM Rivet said he knows what 7 or 8 persons feel on a topic but a referendum would indicate what the majority of voters want. CM Rivet will commit to vote whichever way the residents indicate.

Mayor said think about the MSTU issue going to the voters every two years. Find out what the administrative costs are to take it to voters every two years. CM Rivet said the downside is for the BCSO.

**4. BSA Troop 37 – Locate Scout Equipment to Town owned parcel behind Town Hall****Exhibit:**

Agenda Report 4

**Recommendation:**

Discussion and Direction

Dawn Danielson, BS have been an integral part of Malabar for the last several decades. She referred to a document given to Council that lists 25 eagle projects done in the town. Why has this not been resolved in the last two years. She summarized that the Community Park. Marked handicap parking, installed the grills, wondering what has happened.

Liz Ritter, little insight she was on scouts. Bill Hall started with John Henkelman. It is sad because the boys look up to the adults. She said Rivet's son was a scout.

CM Rivet said his son was not a scout – he was a teen council member.

TA said the scouts are a great organization. His concern from Town's perspective is if they have their equipment stored on Town property and it could cause a delay for fire equipment response or kids being kids – damage equipment. The lot could be used behind town hall and could accommodate their canoes and storage unit. The proposed fenced area of 20' x 50' area – the cost was \$2,500.00 for 8' high with barbed wire on top, gate for drive in and a people gate.

CM Ball asked Attorney – can the town fund this? The Atty said the expenditure of funds must have a public purpose. Atty said if creating space for the BSA benefits the public, then it is a public purpose. CM Mahoney said the canoe trailer is not movable. CM White went to Fire Dept to look at canoe trailer and it is in pretty sad shape. CM White said the FD had to secure their – the BSA equipment pre-hurricane. Devil's advocate – what if another charitable group comes to Council – does Council have to make a similar offer?

CM Rivet said they can make a determination that the BSA provides a public service. CM White said the last place we need a BSA storage place is in the PW yard. CM Mahoney had a paper to read that she had previously referred to. They have been displaced. CM Rivet said it is a matter of how to pay for the new fencing. CM Mahoney said they have been given permission in the past to use the PW equipment yard.

Chair – first item for Council consideration – allowing BSA to remain in the PW yard.

Resident Liz Ritter – to clarify – they did not use the building or the equipment. They are not on the west side. They wouldn't get in the way.

CM White – once they enter the lot they have access to entire lot. They don't service the equipment. TA said once in the area they have access to the entire yard.

TA said it seems to him that having their own location that should appeal to them with no conflict with the FD or PW. Exclusive for their use and on Town property.

TA said PW does use that area. CM Ball said the area we are talking about is there any reason we can't just put the stuff there. Trailer holding canoes. Also, the storage container.

Valkaria Aviation Authority is the chartering organization but can't allow the storage. CM Mahoney read from paper. Staff threatened by BSA. Mayor said she doesn't want to move. Custodian of record doesn't have records – she has had to write history. TA said it is much safer here.

CM White said they can move storage unit that locks and move the trailer.

She also has two trailers to move there. If the stuff is secure. Funding could be found later. If container is secure – he doesn't have the problem. CM Mahoney said perhaps a scout may want an eagle project.

**MOTION:** CM Ball / CM White to use the area behind town hall to move the storage container and relocate the trailer with canoes.

Discussion: **Vote:** Ayes, 4; Motion carried 4 to 0.

#### **5. Status of R/LC and Comp Plan update**

**Exhibit:** Agenda Report 5

**Recommendation:** Discussion and Direction

**MOTION:** CM Rivet / CM Ball to hold a WS on 1/22/18.

Discussion: **Vote:** Ayes, 4.

#### **6. Video Record of Council Meetings**

**Exhibit:** Agenda Report 6

**Recommendation:** Discussion and Direction

Dawn hopes the clerk has followed council directive of 10/2/17 to get cost to video from our current website provider. What she provided is the cost from two other cities.

Dawn said the TA reference the number of hits to the Town's website at 100K and she thought a lot of those would be to access the audio. Mayor said the council said they weren't going to do the video. Atty said posting of video is not a requirement.

Mayor said there is a clear understanding that council does not want to fund the video. There is consensus of Council to not fund video of meetings.

CM Ball said spend this amount of money when they just discussed this at length.

CM Mahoney asked about the video. Don't have to do an audio recording.

Chair asked if they wanted to eliminate the audio. CM White said it is not required and it is very helpful but on as available. Is that an ok practice? Yes.

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

#### **O. REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Ball: FD showed up to do their evaluation of the facility. Very professional very polite and thought that was good. Very impressed. Good group of them. Very different then what was done in the past. Last meeting for this year. Merry Christmas.

CM Mahoney: Patty Foster asked for PRR that she is requesting for her.

CM Rivet: Even though the flood waters are receding – the yards are still very wet. This dry season we should be able to make some impact. He knows it is frustrating. Quote Skip – shows patience. Limited to what can be done while it is wet.

CM Korn: excused

CM White: This was a much more pleasant than first meeting. Merry Christmas.

Mayor – did the Mailboat and it is a shortened version – went to Nannas House fundraiser and they are doing great things. There were representatives from 15 governmental agencies. Wished more people would show up. Good experience.

TA said what the FD is doing is pre-planning. They locate the hazardous material and have sketches. Have to keep the FF safe. Season's Greetings.

**P. ANNOUNCEMENTS:**

**Q. ADJOURNMENT:**

There being no further business to discuss and without objection, the meeting was adjourned by the Chair at 9:40 PM.

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: 1/08/2018