

## MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

APRIL 01, 2019 7:30 PM

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

### A. CALL TO ORDER:

Vice-Chair, Steve Rivet called the meeting to order at 7:30 pm. CM Rivet led P&P.

### B. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY, excused

VICE CHAIR/ACTING CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL

BRIAN VAIL

DICK KORN

DANNY WHITE

TOWN ADMINISTRATOR:

MATT STINNETT

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

Clerk said the PW Director Tom Miliore was also present.

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

Acting Chair added the swearing in of Barbara Cameron to the agenda. She is the newest appointee to the Trails and Greenways Committee. He met Barb at the podium and performed the Oath of Office.

(Note: **PROCLAMATION:** April is Water Conservation Month was done and sent to SJRWMD).

### D. CONSENT AGENDA: Acting Chair asked for a motion on the consent Agenda -

- Regular Town Council Meeting Minutes 3/18/19
- Town Council Workshop Meeting Minutes 3/14/19

**MOTION:** CM Vail / CM White to approve the Consent Agenda. Discussion: none. **Vote:** 5 Ayes.

E. **ATTORNEY REPORT:** nothing

F. **BCSO REPORT:** not present

### G. BOARD / COMMITTEE REPORTS:

**Drew Thompson, Chair, T&G Com:** Provided hand out for this year proposed projects. Said the TPO will be announcing this year's lifetime achievement award at an upcoming meeting and wanted Council to know it is to go to Malabar's own Bob Wilbur. The handout is a list of projects the Committee will be presenting to TPO for support. They are the control point for grants and their support can advance the projects. Four different trail connections to connect Malabar to Palm Bay. He is presenting these to Council first to garner their support.

- 1) Go north on Al Tuttle Trail to the point where there is a sharp turn to the west. Construct a bridge across canal and then go east along a trail on the north side of ditch and then along RR to get to Goode Park.
- 2) The next is in the middle, within the Cameron Preserve, a connection to the pavement for ADA and parallel the Green trail for handicap to the CTS (Cameron Trail Shelter). The CTS was done with an ADA design. Continue paved trail past the CTS to the Al Tuttle Trail. This would connect Stillwater Preserve SD and Country Cove SD to the trails.
- 3) Adding a trail connector – Brook Hollow SD has sidewalks that end at the bridge. Do an ADA paved trail down to Glen Brook ALF. That pavement currently connects to the Al Tuttle Trail. More enhanced trail system and included use for ADA.
- 4) The last one is the power line at the west end of Town. Have an FPL trail as a paved with a bridge over Tillman canal. Connect south of Pt Malabar Blvd and continue on the paved trail to the Harris building.

He is looking for a nod from Town Council before they bring before the TPO.

**MOTION:** CM Korn / CM Vail to support the T&G Committee's four (4) suggestions for trail connections. Drew said the T&G Committee appreciates Council support. **VOTE:** All Ayes.

**Eric Bienvenu, Chair Park & Rec Board:** Went over report he submitted. Went over the bridge on the lake, and the ramp and then planted two new trees at the Huggins playground. They (the new trees) are named Bob and Luke. CM Korn said at one time there were charcoal grills at each pavilion. Park Board – think about replacing gazebo roof and handrail replacement.

**Wayne Abare, Chair, P&Z Board:** Gave update on sign ordinances. First update wrestled with animated signs. The Atty made recommendations based on the Supreme Court ruling. They beefed up the definition section. It was a collaborated work from all of P&Z. The Mayor and past P&Z Chair Liz Ritter did a lot of work on this.

#### **H. STAFF REPORTS:**

**ADMINISTRATOR:** TA has April schedule for PW. That will go up on website tomorrow. Update on Fern Creek and call with FDOT resulted with them including the pipe underneath Malabar Road. They will not do the additional piping that goes up to Corey Road. Closed on the cell tower easement. TAC – did resolution about causeways over IRL after looking at flushing paper. Goals and obj over the next five years to include resilience to sea level rise. Presentation on Intelligent management system. CM White said if they open 528 causeway, it will increase the flushing.

**PW DIRECTOR:** Tom Miliore, provided a printed list of the March accomplishments (attached) – read through list. Acting Chair thanked Tom for the work they have been doing and for his reports. CM Korn said Tom and crew have been doing a great job. Should notify FDOT via DBI. CM Korn wants it in writing. CM Vail is getting a lot of positive comments on the drainage. CM White said it is a marked improvement. Thanks,

**CLERK:** Reported that there will be an issue coming out of the MailBoat in July and asked for articles from each CM and the Mayor. Acting Chair said mid-May will be the deadline. Clerk will also ask for articles from the Boards.

**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) Five **(5) Minute Limit per Speaker. Speaker Card:**

Dawn Danielson, complemented Tom and the Council for the PW schedule. She mentioned the recent overlay zoning but said to set aside the funding for any zoning overlay until the stormwater plan and project and work with the – put ducks in water and see which way the duck flows. She volunteers to hand them out. It is show which way the water is really showing. She will give them out at MCA.

Richard Kovach, unsafe traffic – southbound on Corey he has been passed and they blew through the stop sign. Then they chased them. In reporting it to BCSO they can't do anything unless they witness it. Speeding complaints within Malabar are increasingly being posted on social media site Next Door Malabar. They are abusing the privilege of driving. CM Korn said the same problem on Weber Road and it is not unique to Malabar; BCSO deputies are patrolling. Acting Chair said if the speeding issues are at a certain time of day, noon to 3pm on Corey Road, they could ask for a specific traffic monitor. Put an article in Mailboat. CM White mentioned the solar powered speed limit. They are about 10K. The one he saw at conference also had a flash like a picture was taken.

2<sup>nd</sup> item – number of break ins reported on next door – Duncil, Lineberry and north Hall. Don't leave stuff in unlocked car in driveway. Education is one of the things we can do. We

the people out here are concerned about that. CM Vail saw the Deputy on two nights on Corey Road last week.

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

**K. UNFINISHED BUSINESS/GENERAL ORDERS**

**L. ACTION ITEMS:**

**ORDINANCES FOR FIRST READING: 0**

**RESOLUTIONS: 1**

- **Appoint Tom Taylor to the Park and Recreation Board (Reso 05-2019)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF TOM TAYLOR TO THE MALABAR PARKS AND RECREATION BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 2

**Recommendation:** Adopt Reso 05-2019

**MOTION:** CM Korn / CM Vail to approve Reso 05-2019. **Rollcall vote.**

CM Ball, Aye; CM Vail, Aye; CM Korn, Aye; CM White, Aye; CM Rivet, Aye. Approved 5 to 0.

**MISCELLANEOUS: 1**

- **Determination of “Accepted” Portion of Linrose Lane for Permitting**

**Exhibit:** Agenda Report No. 3

**Recommendation:** Action

Vice-Chair requests the Town Attorney to stay during the sign ordinance discussion. Atty relayed the history. Found for Petitioner Hoene that Town was wrong for requesting ROW dedication without compensation. Town also had to pay 46K. There was an appeal filed but the Town later dismissed it. There are no records of the Town's reasoning or argument in court or for why the appeal was dismissed. The final judgment established the following: Town can't require those parcels on Linrose Lane to dedicate additional ROW. But it can require improvements to the 25' roadway per Town standards. Staff has not dug deeper into this issue regarding case study. Give staff sufficient time to determine how this may affect the other 39 ROWs that this judgement may impact. Attorney said he doesn't know what was argued in court. Drainage is a problem – the dedication also provides for drainage and better traffic flow and access for emergency vehicles. CM White said all of those things have a value. Attorney suggested a workshop later in this year.

CM Korn to Atty Bohne – If we require the improvement on Linrose Lane, will it cause a lawsuit? No. CM Korn asked if Council can make that requirement to improve the road. Yes, per the Attorney the Town Code provides reasonable requirements for road improvement standards. Per clarification it is for the 400' improvement within the 25-foot ROW between the end of the accepted portion and the northern most point of Parcel 21.

Acting Chair stated the other issue is how we should deal with the other 39 ROWs/roads that are under the 50-foot width. Acting Chair asked Atty Bohne for an estimate of cost for his research on this issue. Atty said it would be under 5K. Staff will make recommendations to change the Code to address these situations. Looking at doing a workshop. Atty needs to analyze the ruling and study case law.

**MOTION:** CM White / CM Ball to require Linrose Lane be improved for 400' from the point of acceptance north to the furthest point of parcel 21 using the 25-foot road improvement

standard, noting the three vacant parcels that will benefit will have to pay a road payback per the Code to the road builder. **Vote:** Ayes, 5; Nay, 0

CM Ball said there are many roads all over that are less than what is in the Code. CM Vail said the road payback portion of the Code works. The owner of Parcel 22 cannot be made to participate in the road pay back.

CM White going back to lawsuit. What is the likelihood of facing that type of lawsuit again? Do all lots about a ROW. Atty explained the original Florida Fruit and Lands (or Trucks) plat provided for 40-foot ROW on section lines and 25-foot ROW on half section lines. CM Korn said roads like Rivet Lane should have different requirements than for Corey Road (they do); have different improvement requirements for different road classifications. CM Vail said there is a safety standard that needs to be considered. Fire trucks and the tanker must be able to maneuver. If responding to a fire and the tanker needs to leave to refill, could be a problem on 25-foot roadway.

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

- **Discussion on the Signage Regulations in the Land Development Code**

Atty said that page 4 – under 8) strike that part as a conflict with Supreme Court ruling. PZ Chair Wayne Abare is in favor of taking it out. Atty said the PZ Board simplified this ordinance.

CM Korn said – encourage commercial growth. Use the keep it simple process. CM Vail said the topic mentioned during Route 1 Motorsports was the LED animated signs. He didn't see anything specific related to that; 4 seconds to 30 second refresh speed. Wayne said they need to have a minimum of 4 sec to refresh. CM Ball said they don't want signs streaming video. The applicant mentioned at council mtg that it would be 30 seconds, but it was not required or put into a developer's agreement. CM Korn asked Matt to ask FDOT for their standard. Do memo to send back to P&Z regarding refresh rates for animated signs.

- **Discuss Proposed Depth of Six Parcels on the south side of Malabar Road for both R/LC and OI Land Use Designations on FLUM before final adoption.**

CM Vail said splitting the lots on the south side would discourage development. Could do an overlay for these six parcels and require a 75-foot of no touch buffer and an additional 75-feet of greenspace or drainage buffer. CM Ball and White agreed. Intent of P&Z was to follow the property lines. CM Korn says stay with property lines. Go with property lines and make some requirements for consideration for the buffer to depending on whether it was a house of commercial.

CM Rivet said he was contacted by the residential property owners adjacent to these parcels and they oppose using the full depth.

Franklin went over the request from Ms. Hirsch (lot #5) to include her entire ten-acre site as R/LC. The property shown on the map as lot #4 opposes both the split designations and the land use designation of OI.

Acting Chair said bring this back to the first May meeting after notifying property owners.

#### **N. PUBLIC COMMENTS: General Items (Speaker Card Required) none**

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

CM Ball: Gave Atta boy to T&G as they are doing tremendous work. Also gives an Atta boy to Matt, regarding PW schedule. This is exactly what they were looking for.

CM Vail: PW is really stepping up. What we do with the existing unimproved roads as far as maintenance and ditch cleaning – we need to stand our ground. Property owners must improve road if they want services. Make a discussion item for next meeting.

CM Rivet: Got a call re: the soccer field maintenance. Basically, we are going to do some work on field after season. Matt was on top of issue before he could have a conversation with him about it.

CM Korn: He is an advocate of the fire department. They have 4 FT Lts and 4 PT driver/eng and the PT are not eligible for health insurance. They are going to lose two of those PT due to the lack of insurance. Talk up recruiting more volunteers. Need more local residents. Also need to consider making those 4 part time positions fulltime to encourage retention. It would be worth it to pay for keeping the best fire protection. Need to support our fire department. Making the 4 PTE FT and do a budget amendment now. The FD has earned our support. Put on agenda for next meeting. Bring Chief or one of the Lts to discuss the need for this. CM Vail said the economy is good now and people are getting paid well and they are going to other departments with more pay and benefits being offered.

CM White: Spoke with Scot Nelson, Director of Space Coast Area Transit (SCAT). They did a ride and he gave him several minutes of his time to discuss getting a bus stop in town. Bus must run on a schedule, and if you add a stop then the timing is changed, and schedules are changed. Each bus route costs about 150K. His point was that it is problematic and not justifiable. He recommended we talk with County Commissioner John Tobia. CM White will attempt to make an appointment. CM White thinks it can be done. Use the call feature to get handicap pickups.

Mayor: excused

**P. ANNOUNCEMENTS:** Openings on Bd of Adjustment and Park and Recreation Bd.

**Q. ADJOURNMENT:**

There being no further business to discuss and without objection, the meeting was adjourned at 9:23 PM.

BY: Original signed  
CM Steve Rivet, Council Vice-Chair

ATTEST:

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

Date Approved: 4/15/2019