

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

MAY 07, 2018

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 Reilly called the meeting to order at 7:30 pm. CM Mahoney did P&P

B. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL

LAURA MAHONEY

DICK KORN, excused

DANNY WHITE

DOUGLAS HOYT

KARL BOHNE

DEBBY FRANKLIN

TOWN ADMINISTRATOR:

TOWN ATTORNEY:

TOWN CLERK/TREASURER:

Chief and Asst Chief were also present

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

D. CONSENT AGENDA:

1. Regular Town Council Meeting Minutes 4/16/18

Exhibit:

Agenda Report No. 1

Recommendation:

Request Approval

MOTION: CM Rivet / CM Ball to approve the 4/16/18 minutes as presented. Discussion: CM Mahoney questioned the two Votes for the minutes. Franklin directed to delete the "vote" immediately after the motion as the vote is called for after the discussion. CM Mahoney stated on page 3, Item I. 2. Resolution, she had read a list of questions but only Franklins comments are included and she said they should be deleted. No further comments.

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

E. ATTORNEY REPORT: spoke with John Connor on Painted Acre litigation. Trial date is on Feb 4, 2019 docket. Deadline is August of 2018 for exhibits and experts. Who is going to be the designated town expert to sit at trial is under consideration. Case is going to proceed under Bert Harris – no other claims. Estimating a three-day trial.

F. STAFF REPORTS:

Tom Miliore, PW Director made report. He will be working on scheduling but said it is subject to change. He reported the recent breakdown of the excavator; had it repaired and did not have it operating out of the yard and another breakdown occurred. It has been inoperable for five weeks out of eight weeks. This has impacted the drainage Project on Hall Road. Can't just put someone in ditch with shovel.

ADMINISTRATOR: Continuing efforts to clean up Marie Street property. A metal scrapper has proposed it will take 3 or 4 roll off containers to take the metal culvert debris and get it out of here and will pay town a small amount of money. Consensus of Council for TA to proceed.

Chair asked if Council had questions for TA. CM Mahoney read from a list of culvert problems and asked TA to focus on those repairs. CM Mahoney spoke about her conversation with the Florida Dept. of Economic Opportunity regarding zoning changes and possibility of millions of dollars to buy properties in flood plains but we are not applying for it.

Chair and Council called point of order. Chair recognized Franklin – FDEO is agency that has found Malabar not in compliance and that is the project staff has been working with the mayor to produce map of "land use map designation changes" no zoning changes. Also, as previously reported to Council part of the FDEO requirement is to include in the compliance update all legislative updates made since last update. Franklin had previously reported on the Peril of Flood statute that required additional information to update that Comp Plan Element.

TA said he has looked at some possibilities for outside funding and met with a person – we are not equipped to hire outside vendors. Determine the best use of town's dollars. Working with Town's Florida Registered Civil Engineer and are in accord and will be starting again. Are also shooting all the elevations so PW will have these resources. He asked CM Mahoney to send her nearly two pages of questions in advance of meeting. CM Mahoney said we can use shovels to clean culverts.

CM White asked about slope mower attachment demo that five persons had witnessed. He is ready to move to approve purchase. TA said he has heard from vendor to arrange for that. CM White said he would like to place on next agenda for purchase. TA will try and arrange demo before then to encourage public to witness as well. Put on next agenda.

CLERK: SpringFest on 4/21/18 was a great success. Beautiful day and good turnout. Lots of great cars to look at and bar-b-q to eat. Since we had done the FallFest we did not spend money on pony ride vendors or live band and kept total expenditures very low. Had positive input for two events a year but more support for one big one with live music and pony rides.

Clerk prepared two handouts for Council and placed in their mail slots. One handout addresses the homestead exemption information currently in place and the possibility of the additional exemption proposed as Amendment 1. The other handout includes the Budget to Actual for Oct – Mar, marked as "draft and for budget purposes" only and a working creation of a Citizen's Guide to the Budget that is a document we are building to assist citizens in understanding the budget process. The 5-year capital improvement plan is listed but is not included at this time. We are updating the projects that have been accomplished or initiated. These handouts will both provided again in the June 11 budget workshop package. Mayor asked about one big event vs. two smaller events. CM White asked about having the car show in the Fall and having one large event at that time. CM Ball said the Fall has less competition. More sense to put efforts into one event – Put on next agenda.

Franklin also reported the TPO will meet in Viera on May 10 and award Brian Vail and the T&G group for their contributions on the trail enhancements in Malabar (Correction: Award was for Brian Vail only). Malabar T&G member Murray Hann will also be recognized with a resolution for his attendance as Malabar citizen rep from 2014-2017 with a greater than 85% attendance (Correction: Lifetime Achievement Award).

G. BOARD Reports:

Drew Thompson, T&G Committee Chair, gave overview of Trail Town application and would like to get signed and submitted ASAP. Eco tourism. He is looking at late June. Get the application in the queue early. Accept and submit – unless there is a problem. Encourage citizen support. Put on next agenda if necessary. Requires no commitment by Council.

Liz Ritter, PZ Board Chair, stated they hope to have recommendation on medical marijuana ready for Council after this Weds meeting and thanked CM White for his input. The Board is also reviewing the 5-year plan. The sign ordinance is under review but she questioned staff for not enforcing the code on non-compliant business as was reported by a P&Z member. She asked if we are not going to enforce. TA said using the pending ordinance doctrine. Attorney said better to wait. Ritter said staff should go by what is on the books and take action on violation brought forward by Board member. TA said if Council directs action on a code under amendment, he will have to go after all code violations to avoid liability to the Town. CM Mahoney said old signs are grandfathered in. Point we are focusing on one instance. If they are illegal now they will probably still be illegal after code is amended. Some of the ones that are not going to have a problem enforcing an illegal sign. Putting up a sign without a permit. Attorney said Council has no problem with going forward with pending ordinance doctrine.

- 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 Card: Tom Saleeba – at 450 Hall Road and had concerns with the ditch project. Has no criticism to PW or staff but questions the benefit of the ditch in front of his property that looks like a moat.

- I. **PUBLIC HEARINGS/SPECIAL ORDERS: 0**

- J. **UNFINISHED BUSINESS/GENERAL ORDERS**
ORDINANCES FOR FIRST READING: 2

2. Approve Budget Amendment to FY 2016/2017 Budget (Ord 2018-02)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR **2016/2017** TO PROVIDE FOR ADDITIONAL REVENUES RECEIVED OVER BUDGETED AMOUNT; TO PROVIDE FOR THE ADDITIONAL EXPENDITURES OVER BUDGETED AMOUNT; TO DIRECT SURPLUS REVENUES TO RESERVED FUNDS ON DEPOSIT; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report 2

Recommendation: Approve 1st Reading of Ord 2018-02

Ordinance read by title. Speaker Card: none.

MOTION: CM Rivet / CM White to approve Ord 2018-02 on 1st Reading.

Chair referred to agenda report explaining this. Discussion: CM Mahoney asked about increase in budget and Franklin explained the surplus monies are directed to reserved (savings) bank account.

ROLLCALL Vote: CM Ball, Aye; CM Mahoney, Aye; CM Rivet, Aye; CM Korn, Excused; CM White, Aye. Motion Carried 4 to 0.

3. Approve Budget Amendment to FY 2017/2018 Budget (Ord 2018-03)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR **2017/2018** TO PROVIDE FOR ADDITIONAL REVENUES FROM RESTRICTED RESERVES ON DEPOSIT; TO PROVIDE FOR THE ADDITIONAL EXPENDITURES TO COMPLETE NECESSARY ROAD IMPROVEMENT PROJECTS; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report 3

Recommendation: Approve 1st Reading of Ord 2018-03

Ordinance read by title. Speaker Card: none.

MOTION: CM Ball / CM White to approve Ord 2018-03 on 1st Reading.

Discussion: CM White said that with all the discussion and concern about how to pay for the paving of Eva Lane this should have been brought up back then – it is the exact purpose for these funds. CM Ball said this is a smart allocation of funding.

ROLLCALL Vote: CM Ball, Aye; CM Mahoney, Aye; CM Rivet, Aye; CM Korn, Excused; CM White, Aye. Motion Carried 4 to 0.

RESOLUTIONS: 1

4. Adopt Reso 02-2018 regarding 2018 Ballot Amendment 1 (Reso 02-2018)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, CONCERNING AMENDMENT 1 TO THE FLORIDA CONSTITUTION, WHICH IF ADOPTED WOULD CREATE ADDITIONAL INEQUITIES IN FLORIDA'S TAX SYSTEM BY GRANTING CERTAIN TAX BREAKS TO SOME TAXPAYERS AT THE EXPENSE OF OTHER TAXPAYERS; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report 4

Recommendation: Adopt Resolution 02-2018

Resolution read by title. Speaker Card: none.

MOTION: CM White / CM Rivet to approve Reso 02-2018.

Discussion: CM White stated he has read up on this and it does not apply to the school tax; only local tax. Mayor said that is why he wanted it on the agenda to explain the impact. The information and resolution is intended to inform the residents. CM Ball said this information is what the people need to know; money is needed to run the Town – and if revenue is cut somewhere it will have to be made up somewhere else.

ROLLCALL Vote: CM Ball, Aye; CM Mahoney, Aye; CM Rivet, Aye; CM Korn, Excused; CM White, Aye. Motion Carried 4 to 0.

MISCELLANEOUS: 1

5. Accept Lease Offer from Crowne Castle for 30 years with 20-year payout.

Exhibit: Agenda Report 5

Recommendation: Approve 30-yr lease with 20-yr payout

MOTION: CM Rivet / CM White to approve the 30 yr. with 20-year payout

Discussion: CM Mahoney wanted to table so she could do homework. CM Rivet said we went over it in the last meeting. They own the tower. MOTION: CM Mahoney to table. Died for lack of second.

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

6. Approve Interlocal Agreement (ILA) with Palm Bay for Temporary Quarters at Fire Department

Exhibit: Agenda Report 6

Recommendation: Approve ILA for co-location for Temp Quarter's

MOTION: CM Mahoney / CM Rivet to approve the interlocal agreement with Palm Bay regarding sharing Malabar Fire Dept. for a period up to one year.

Discussion:

We have over this. Sec 1 terms Ball asked about Sec 1 – term. TA responded that the constr period is over 12 months that would give them the option to renew. There is no automatic renew. Both parties have to agree. CM White said we should forward the bill
c) Ball asked about maintenance – they will work it out.

Vote: All Ayes.

7. Direct repository for material handed in at council meetings

Exhibit: Agenda Report 7

Recommendation: Direction to Staff

Drew said he has three suggestions: post future documents in readable as OCR it is a larger file that people could search. He offered to assist Town in this.

CM Rivet said the Attorney has confirmed that when speakers hand something in and request it to become "part of the minutes" that is not appropriate. It should not be part of the minutes. Attorney said no – it is not part of the minutes; it is a public record. Still have the consensus.

MOTION: CM White / CM Ball to save all attachments submitted at the meetings to a binder as described in the Agenda Report.

Discussion: CM Mahoney said it is not visible if not part of the minutes.

Vote: 3 Ayes; Nay 1.

Before Attorney dismissed: CM White asked about letter to owners that put brought fill on to property without a permit and site plan. We only caught it afterwards when same occurred and now it has been repeated. CM White made the distinction between a complaint about a possible sign code violation which is aesthetic vs a violation of Malabar Code that adversely affects the community;

K. DISCUSSION/POSSIBLE ACTION: none

L. PUBLIC COMMENTS: General Items (Speaker Card Required) none

M. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Ball: Fired up about getting us designated as a trail town. Be front and center and bring something to the town. This is a great opportunity. Mayor asked about potential for signage.

CM Mahoney: Appreciates public opinion and neighborly community on next door and 3rd sat of month Malabar community event.

CM Rivet: Eva Lane has improved that was long overdue and is a connector. Residents certainly appreciate it.

CM Korn: Excused

CM White: Speeding on Atz – catch one or two cars. Supported buying a digital sign showing speed of vehicles. They do help. Cost about 3K. TA said the responsible people slow down and the others don't.

Put on next agenda.

TA stated that they just completed putting road material from Eva onto Quarterman and rolled and compacted it and someone has dug a hole in the road deliberately dug big tracks into the road.

Mayor: Mayor is impressed with drainage on Eva Lane and can tell by slopes. Would like to get a final cost on road and drainage portions. Mayor's breakfast this Thursday and it is more of a roast. Today went to the first TAC meeting. Need to be aggressive.

N. 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 Reilly, Council Chair

ATTEST: Debby K. Franklin

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

Date Approved: 5/21/2018