

## MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

MAY 20, 2019

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 Korn led P&P.

### B. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL

BRIAN VAIL

DICK KORN

DANNY WHITE

TOWN ADMINISTRATOR:

MATT STINNETT, excused

TOWN ATTORNEY:

KARL BOHNE

TOWN PLANNER:

TOD MOWERY

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

### C. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES: NONE

### D. CONSENT AGENDA:

#### 1. Approval of Minutes

#### Regular Town Council Meeting Minutes 5/06/19

MOTION: CM Rivet / CM Ball to approve the 5/6/19 regular meeting minutes as submitted.

Discussion: none. Vote: 5 Ayes

### E. ATTORNEY REPORT: Nothing currently.

### F. BCSO: N/A

### H. STAFF REPORTS:

ADMINISTRATOR: TA excused

CLERK: Remind Council of the need for articles for the MailBoat

### 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:** Dorthea White wanted Council to consider putting money into the next budget for paint and carpet. She would paint if they would buy some paint. Also put in some carpet. She got bids on carpeting and gave it to TA. Take pride in appearance of building.

### J. PUBLIC HEARINGS/SPECIAL ORDERS:

#### 2. Adopt Budget Amendment to FY 2018/2019 Budget (Ord 2019-05) – Second reading

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2018/2019 TO PROVIDE FOR REALLOCATION OF FUNDS WITHIN DEPARTMENTS; PROVIDING FOR ADDITIONAL FUNDS FROM UNRESTRICTED FUNDS ON DEPOSIT; TO PROVIDE FOR THESE ADDITIONAL EXPENDITURES AS APPROVED BY COUNCIL; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Adopt Ord 2019-05

Ord read by title only.

Chair asked for staff comments. Franklin stated comments were covered in the agenda report.

**PH OPEN:**

Dan Welton – he understands the need for staffing. Volunteers can't do it anymore. Now we have proper staffing, need some operational savings. Comparisons with Palm Bay and Brevard Cty providing services can be investigated but if they are significantly higher keep our own Fire Dept. Indialantic has the same staffing. They have a higher millage. Basic life support. He will support the extra funding but would like to see some recurring operational savings.

Tom Wilson, Smith Lane, he has done the numbers – the direct comparisons with Brevard County providing – the numbers are not even close. The amount of service to the cost. The average cost for GV based on MSTU it would cost 1.3mil. Reiterate, residents pay about 35% of the costs. For the increase he would be happy to pay more.

**PH CLOSED:**

**MOTION:** CM Vail / CM Korn to adopt the Ordinance 2019-05 for a Budget Amendment to increase the FY 2018/2019 Fire Dept budget by \$16,298.00.

Discussion:

CM Vail said this is a BA for the next 4 months. As a citizen, when there is an emergency, he wants the FD to be able to respond. We have a lot more to talk about in the budget prep that will be discussed later in the budget workshops. When tones go out he wants to make sure there are at least 2 people responding.

CM Rivet said he will support this BA, but the next budget should replace it in reserves.

CM Ball thinks we should put the question to the residents. This budget amendment also is taking money from the approved budgets of other departments.

CM White said it is disingenuous to say it is only 16K from reserves; there are other depts that have now lost funds that were approved. No one wants to see the Town not protected. He heard there were 4 PT FF and they were in fear of losing two of them. That happens; it is not an emergency. He has seen comparisons with the costs of having Palm Bay and the County to provide services. He wants to get rid of some of the hyperbole. Saying get rid of the FD is not under consideration. We don't want to get rid of our FD.

The total cost of the FD is coming – he is not about raising taxes – there are other parts of this Town that need attention also. Saw on social media that the "Town" unionized the FD. No, the law allows the fire fighters to unionize. He would like the people in the Town to know that the Malabar FD is a good thing. Going to Brevard Cty FD by Special Fire Assessment would cost residents more. This is a staffing thing – not part of the union thing. Ask the residents if they want that – TA Matt Stinnett said they need another 200K in annual budget for all the capital improvement projects that need funding. He will pay an increase of property taxes for his house from \$419 to about \$615 for millage increase, if approved. He proposes putting it on as a ballot question. But Council must make the case for it. He said at no point do they want the FD to take a bigger piece of the current budget. He will be a no vote on this.

CM Korn – if you have your own business – the unemployment rate is so low. The union has nothing to do with this. Making the PT FF eligible for health insurance. We are here to deal with the remainder of this year, deal with the employment crisis – keep qualified employees to drive a very expensive piece of equipment and provide EMT. He has also talked about taking the 16K from reserves and paying it back. Chief and the FD staff have been phenomenal in getting grant money. Maintain what we have and then decide about the budget in July, August and Sept.

CM White asked again you don't want to give up anything because you can't take it back. This is not a temporary fix – it will be permanent.

CM Vail worst case scenario – shift them back to part-time without adverse impact. This is an issue, as a town we have to provide public safety. It is obvious the level of service.

CM White said what about going to 24/48 shifts. CM Vail said we will have further discussions at future meetings. If we are putting residents at risk.

CM Korn we have the responsibility to maintain the health safety and welfare of the residents.

CM Ball thinks it is a budget issue and it should be put off until budget time.

**Roll Call VOTE:** CM Ball, Nay; CM Vail, Aye; CM Rivet, Aye; CM Korn, Aye; CM White, Nay. Motion carried 3 to 2.

**3. Adopt Comprehensive Plan Amendment 2018-01ER (Ord 2018-06)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ADOPTING THE COMPREHENSIVE PLAN LARGE SCALE AMENDMENT (LSA) NO. 2018-01ER TEXT AND MAP PERTAINING TO THE FUTURE LAND USE, TRANSPORTATION, PUBLIC FACILITIES AND COASTAL MANAGEMENT ELEMENTS; PROVIDING FOR INCORPORATION INTO THE COMPREHENSIVE PLAN; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 3

**Recommendation:** Adopt Ord 2018-06

Ord read by title only.

**PH OPEN:**

none

**PH CLOSED:**

**MOTION:** CM White / CM Vail to adopt the Ordinance 2018-06 for the Comprehensive Plan Amendment 2018-01ER.

Discussion:

CM Vail again stated his desire to change the land use at the SE corner of the Town, the triangle between Hwy 1 and the railroad that is adjacent to Goat Creek should be RLC to allow a bait store and canoe launch.

CM Rivet stated Council came up with a compromise on the depth for the RLC parcels on Malabar Road and some council members changed their support and he is disappointed with that. This change will mean they will soon come in for the zoning change. It is not a minor change; it is not minor to the people that live next to these parcels.

Mayor said he hopes he is not basing his decision on three lots.

CM Ball said they discussed the lots being divided in the middle. Being a small Town, we have the latitude to accommodate property owners.

CM White said it only takes three votes to kill a good or bad motion. He disagrees with CM Rivet. They decided to keep these parcels all with the same land use designation.

CM Korn said he is not comfortable to vote on this now. His understanding has been that the Town already had a depth of 660 feet. He questioned if the Town would have to provide road access to the rear portions of these parcels to develop.

Mayor said they have already hashed out the lot sizes and held a vote at the last meeting.

CM Vail asked Tod and/or Karl if we could have an overlay for the six parcels and the small piece by Goat Creek.

Malabar Town Planner Tod Mowery said this is only the “land use designation” for the *future vision* for development. CM Korn said this wording should be put in writing and uploaded to the website.

Tod said this process is a State mandate. This amendment will get Malabar back into compliance. At a subsequent meeting you can do another change. If this amendment is not approved, we will continue to be out of compliance. You can do small scale or large-scale amendment in the future. Having a vision doesn’t mandate that particular use. Re: the piece by Goat Creek the case could be made either way – you look at the environment around the area, in this case, you have Goat Creek, so it would be considered compatible for such a designation. Good government says let the public participate. Take action on this Amendment to the map and the text changes agreed to by Council.

CM Rivet – this is setting the land use plan for the future zoning requests. There is a lot of money to be made and they are not going to sit around. The minor change is not – the land use to RLC for 1320 to 660 was not a minor change. Not to those people. You lost that support for that plan when you made those changes.

Atty said we can accomplish a lot of things with a developer’s agreement. Not at this time. Attorney stated that the Town would put the onus on building roads on the developers not on the Town.

**Roll Call VOTE:** CM Ball, Aye; CM Vail, Aye; CM Rivet, Nay; CM Korn, Aye; CM White, Aye. Motion carried 4 to 1.

Mayor thanked P&Z and Council, the Planner and Debby. He reviewed and worked with Debby on the text.

**K. UNFINISHED BUSINESS/GENERAL ORDERS**

**L. ACTION ITEMS:**

**ORDINANCES for FIRST READING: 0**

**RESOLUTIONS: 1**

**4. Adopt the Florida Sandhill Crane as the Official Malabar Bird (Reso 08-2019)**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING THE FLORIDA SANDHILL CRANE AS THE TOWN BIRD AND PROVIDING EXTRA PROTECTION FOR THESE BIRDS; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 2

**Recommendation:** Approve First Reading of Ord 2019-05

**MOTION:** CM Ball / CM Vail to adopt Reso 08-2019.

Discussion: CM Korn how do you provide extra protection. Atty said we have very little room to provide extra protection. These birds are important to the Town. Perhaps make an ordinance on protecting.

CM White said emphasis on education. CM Ball agrees. Questioned point #3 are we making a legal statement with that. No, don’t make it like they are a criminal if they accidentally encounter them.

**Roll Call VOTE:** CM Ball, Aye; CM Vail, Aye; CM Rivet, Aye; CM Korn, Aye; CM White, Aye. Motion carried 5 to 0.

**MISCELLANEOUS: 0**

Chair excused the Attorney and Planner at this time.

**M. DISCUSSION/POSSIBLE ACTION:****N. PUBLIC COMMENTS: General Items (Speaker Card Required) none**

Mayor recognized Clerk to speak:

- We have received the information needed to make a recommendation to Council regarding the restriction on ad valorem placed by Special Law 74-380. Because of the timeline requirement Staff would recommend that Council first put the question to the voters to increase the ad valorem millage beyond the limit set by the Special Law, and if the results are in the affirmative to increase the ad valorem millage then for the *next fiscal year* (FY 2020/2021) budget Council could vote to set the millage beyond that restriction to fund the Capital Improvement Projects that have been identified and prioritized.
- This means for the FY 2019/2020, we will work with the maximum ad valorem millage possible as restricted by Special Law 74-380. In rough numbers that would be an additional \$49,000.00

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

CM Ball: the budget process – get into it hot and heavy and pay a lot of attention to that. Last year we said we were going to work on drainage and have done a good job. If we want the residents to come up with more millage, then we must do a scripted paper - or offer them a choice – such as fish or steak.

CM Vail: how much have we put in the reserves for the last ten years

How much does it cost to pave a road – voting by district. He doesn't think anyone votes by district. Voting by districts keeps the same results. On the millage increase-his intent is to set aside for specific tasks. Workshop stuff.

CM Rivet: he stated there is a group of residents in District 3 have been treated poorly. Think we made the wrong decision with the Comprehensive Plan Amendment. He supported the FLUM until the last meeting. Investigate going back to at large voting.

CM Korn: His priority has always been the health, safety and welfare of the residents and property owners of Malabar. He understands the needs quite well and there are many good concerns. On the budget – he supports the vote to increase the millage rate beyond the limit imposed by Special Law 74-380. We will allocate the funds to specific projects. Have a responsibility to provide for the health, welfare and safety for the people and the property and the infrastructure. He went down Atz Road, on the north side they are not being mowed because of wires in the ditch. He understands that ATT has been contacted. Asked the Chair if a Motion from Council would underscore the significance of this request. Franklin said both TA and Denine have been in contact with the utilities. The other thing is he saw a homeowner working on Cason Lane. There are at least five roads where homeowners are making improvements. Do we need a policy?

CM White: He volunteered to serve on the advocacy group for Transportation. They will meet four times a year. He may get some insight on how the SR514 widening to Working with Dortha on sandhill cranes. He does care about all the residents. He would support going back to at large. He does what he thinks is right. Object to being said that he would have voted differently.

Mayor: Went to the Mayor's Breakfast last Friday. It is an annual event. All 16 Mayors from the County attend and have five minutes to share what is going on in each city. He reported that Malabar had 21 new homes in the last year and that Malabar had been named a Trail Town by the State. The Sheriff is the emcee of the event and some of the Mayors get a little roasting.

For the newsletter, he got Ace Hardware to do a write up. He was going to also write an article about the cost Malabar pays for the railroad crossing maintenance at Jordan Boulevard. Together Harris Corporation and Data Management pay over \$28,000.00 in property taxes annually. He recommends Council consider setting aside their ad valorem to be available when the big bill comes from FEC every seven years.

CM Korn said he heard that other areas can get State or County to pay for fire protection within the conservation areas. We should investigate that possibility.

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

**Q. ADJOURNMENT:**

There being no further business to discuss and without objection, the meeting was adjourned at 8:50 PM.

BY: original signed  
Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

Date Approved: 6/3/2019