

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

AUGUST 06, 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 Ball led P&P.

B. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL

LAURA MAHONEY

DICK KORN

DANNY WHITE

TOWN ADMINISTRATOR:

DOUGLAS HOYT

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

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

D. CONSENT AGENDA:

1. Regular Town Council Meeting Minutes 7/16/18 & Special 7/23/18

Exhibit: Agenda Report No. 1

Recommendation: Request Approval

MOTION: CM Rivet / CM White to approve the 7/16/18 minutes as presented.

Discussion: none. Vote: Ayes, 5.

MOTION: CM Ball / CM Mahoney to approve the 7/23/18 special minutes as presented.

Discussion: none. Vote: Ayes, 5.

E. PROCLAMATION DRAFTED BY PARK BD NAMING MCP PLAYGROUND AFTER HUGGINS FAMILY – Mayor read. Council voted unanimously to support naming.

F. ATTORNEY REPORT: none

G. BCSO REPORT: done later.

H. BOARD / COMMITTEE REPORTS:

Drew Thompson, Chair, T&G Com:

The meeting with State reps for the "Trail Town" was done on 8/2/18 and was a great success. In attendance were a couple members of Council, EELp, Park Board and staff. Presented extensive plan of where they wanted to go. Kayaking and manatees. Passed through to the next stage. Special meeting in September in Titusville to present at 10 minutes show – Trail Town competition. Low dollar impact for the Town.

Ready to present a conceptual design plan for the trail head. They would like to get on the next council agenda to use this year's money. CM Korn asked about the Trail Town designation – is it State wide. Yes – they want to see connectivity with other cities. Bring in eco-tourism. CM Rivet said the presentation was very professional and the drone presentation. Congrats to T&G Committee members. Put on for next agenda for the Eagle trailhead.

Eric Bienvenu, Chair Park & Rec Board: Not present

Liz Ritter, Chair, P&Z Board: Board is working on sign code. Welcome Council to attend. Bud Ryan resigned. Mary to be regular member. Put on next agenda

I. STAFF REPORTS:

PW DIRECTOR: Tom Miliore – Last month they graded 15 roads, have mowed all park land.

Cleaning up the storage yard with the bins. CM White asked about school starting and asked him to check the other bus stops. The mowing of bus stops ended when they stopped mowing the ROWs.

FIRE CHIEF: Busy month. 238 calls to date. Asked for participation from residents to pull permits for fires. Working out mutual aid with Palm Bay. Working on grants for scot packs, Selling a brush truck for 15K

ADMINISTRATOR: nothing

CLERK: Announced Candidate Qualifying periods 8/8/18 from 8:30AM to 8/22/18 at 4:30PM.

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: none.

K. **PUBLIC HEARINGS/SPECIAL ORDERS: 1**

2. Vacate Request (Reso 06-2018)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA VACATING AND ABANDONING A 50-FOOT WIDE UNIMPROVED RIGHT-OF-WAY KNOWN AS WILSON LANE ADJACENT TO PARCEL 13 IN SECTION 03, TWSP 29, RNG 37 WITHIN MALABAR FOR A DISTANCE OF 600+/- FEET; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report 2

Recommendation: Approve Reso 06-2018

Disclosures – none.

Applicant to introduce. Mr. Logsdon. No swales, no ponds – basically flat land divided by this ROW. Would like them joined. CM Korn asked if was going to be pastureland. CM White asked if there was plans to build on. No plans to develop.

Chair opened PH:

Liz Ritter, P&Z Board Chair spoke about why they voted in favor.

Chair closed PH:

Chair asked for motion.

MOTION: CM Korn / CM Rivet to approve the vacate request and adopt Resolution 06-2018 as presented.

Discussion: CM Korn stated that when he was on Park Board they considered access from Hall Road to the 17 acres and it was not possible. CM Ball said he was on P&Z Board and mostly would rely on their recommendation, but he has concern about giving away town owned property. In 50 years we may need it for drainage or roadway. CM White understands Ball's concern but does not see it would ever hurt us. Council needs to protect the citizens and work for our residents. CM Mahoney went to P&Z meeting and got information from Denine. She looked at Eschenberg Park and it is full of water during parts of the year. There could be a future problem – could we just think about it. We don't have our SW solution. Gave away Fins Lane and now have SW problems. Wanted to know if we can think about it. CM Korn said most of the drainage is west to east and did not see how it would be adversely affected. Helping a member of our community, resident.

Atty when we are talking about vacating a public ROW. The relevant consideration is if it serves a public need

ROLLCALL Vote: CM Ball, Nay; CM Mahoney, Nay; CM Rivet, Aye; CM Korn, Aye; CM White, Aye. Motion Carried 3 to 2

UNFINISHED BUSINESS/GENERAL ORDERS

ORDINANCES FOR FIRST READING: 0

(Note: During the discussion at the meeting the parcel under discussion was referred to as Parcel 808. The correct identifier is Parcel 802.)

MISCELLANEOUS: 1

3. Determination of Accepted Portion of McCain Lane for Permitting

Exhibit: Agenda Report 3

Recommendation: Approve Naming

Speakers Card: Mrs. Vernier introduced herself and said their home and property is for sale. One of the lots (802) has access from the improved roadway lot 839 constructed with a variance provided by the Board of Adjustment. They have an interested buyer who asked if he would be required to improve the remaining 175 feet in front of the lot. Staff could not answer and proposed putting on agenda for Council.

Discussion:

Chair said Council has three options.

- 1st option would be to approve current improved 25-foot access as it currently exists;
- 2nd option is allow current access but include an agreement that would require them to pay for their portion of the improvement costs if the property to the south develops and has to improve the roadway.
- 3rd option would be to require they improve the roadway per the Code to the furthest point of the property.

CM Mahoney asked Mrs. Vernier if the houses experienced stormwater problems in the area; does it get wet in there? Mrs. Vernier said she is the last house on west side and have 8.5 acres.

Attorney Bohne explained the Board of Adjustment (BOA) variance process that was in Code for roads. It provided for situations like this but since it was removed staff recommended that this be brought to Council. The only way to develop a property now is to build the road. Attorney cautioned Council that if we deny a permit we could be faced another Bert Harris Act lawsuit. CM White understands why the variance was granted. He supports Option 1.

CM White asked about possible future road payback requirements. Attorney explained that since the requirement was not included in the Order for the Kayes to pay their share of any future road improvement costs, the Town cannot pursue them.

Franklin explained that the road builder bears the costs of the road improvement and then Council certifies the costs and the per linear foot amount is determined. That figure would be multiplied by 175' for the owner of lot 802 to pay. Other lots to the south that benefit would be multiplied by 200 feet of frontage. The Kayes would be exempt from the requirement and those costs would be left with the road builder.

Attorney asked Council to consider bringing back this variance procedure for roads. CM Rivet agrees. The most reasonable resolution is Option 1 or 2. There is a reasonable expectation that the roadway will not be improved. The Attorney's agreement covers all the bases. CM Korn to give them limited access now and sign the agreement to have to pay if the road is improved in the future. CM Ball said for clarification: Option 2 would allow current access from existing roadway but require property owner of lot 802 to sign agreement. Franklin explained that the agreement would require the property owner of lot 802 to pay for the improvement cost for the linear footage improved in front of their lot, 175 feet.

MOTION: CM Ball / CM Rivet to approve Option 2 and have the agreement signed by owner of parcel 802. **Vote: All Ayes.**

Deputy Report: BCSO - Gave out June stats. 13 disturbances. TA gets the report. Got the storage room broken into two times at the Sand Hill Trailhead. BCSO is aware and is assisting with extra patrols. CM Korn said the Town is getting good coverage. People are still flying down Weber and Corey though.

M. DISCUSSION/POSSIBLE ACTION: Atty leaves at 8:50PM.

4. Discussion of FY 18/19 Budget

Wanted a top-level overview. Matt Stinnett gave the overview.
Overall budget going down this year.

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

O. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Ball: Where are we on the ditch mower? TA responded that he is setting up a demo for later this week or the first part of next week. This ditcher cleans out the bottom of the ditch, except the large ones on Corey and Weber. When we have a firm date, we will notify Council and post it on website to allow residents to also see it in operation.

CM Mahoney: She said Council should consider a more complete SW overview. Look at existing problems and see if basic maintenance. PW Dir is providing mowing maintenance and should also provide regular water flow maintenance reports.

CM Rivet: He again thanked and recognized the great job done by T&G to the State last Thursday for the Trail Town application.

CM Korn: Following up on CM White comments on ROW mowing; he also mows in front of his property and his neighbors. SW problems are coming from I-95 and drainage from outfalls need to be taken to Melbourne Tillman Canal. His other concern from constituents is shooting firearms across property lines. Local Councils, and the County have no authority; it is governed solely by State law. If residents have complaints of gun shots over property lines, tell them to call the BCSO.

CM White: Presentation by T&G Committee was awesome. Went down creek in kayak and saw manatees. Also wanted to thank his wife for painting the directional trailhead signs. Regarding mowing the ROWs – take another look at Councils position to “not mow the ROWs”. TA agreed with him. Town looks shabby. Many residents are mowing but many aren’t being mowed and the vacant lots are not being maintained.

Mayor: Thanked all the people that fixed the signs. Next Monday is budget workshop.

P. ADJOURNMENT:

There being no further business to discuss and without objection, the meeting was adjourned at 8:55PM.

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

ATTEST:

Debby K. Franklin

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

Date Approved: 8/20/2018