

## **MALABAR COUNCIL WORKSHOP MEETING**

**July 29, 2019**

**2:00 PM**

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

### **A. CALL TO ORDER:**

The meeting was called to order at 2:00 pm with P&P led by Chair Mayor Reilly.

### **B. COUNCIL:**

COUNCIL CHAIR:

MAYOR PATRICK T. REILLY

VICE-CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL

BRIAN VAIL

DICK KORN, excused

DANNY WHITE

ADMINISTRATOR

MATT STINNETT

ATTORNEY:

KARL BOHNE

CLERK/TREASURER:

DEBBY FRANKLIN

Also present Engineer Morris Smith (arrived 2:20PM).

### **C. ROAD WORKSHOP FOR 19/20 Fiscal Year**

Chair asked Attorney to describe his findings. Atty Bohne has done case law update since the lawsuit in 1991 that the Town lost significantly related to a right-of-way dedication request. Atty explained that "exactions" as illegal unless they pass the three-part test referred to in his memo. The rough proportionality test must be able to be argued if we are again challenged.

Attorney suggested Council consider a review and possible reclassification of road types, widths and definitions of the reasons for the improvements. The improvements do have a value. The requirement for the dedication must be able to stand in court that it is tied to that public improvement.

Clerk has focused on six sections south of Malabar Road for this workshop. The agenda report describes the history of how some of these ROW's were created before the LDC and road improvement language were adopted but these undersized ROW were never officially dealt with as being "grandfathered" or conditional or whatever.

Perhaps it is time to consider reclassification of some of the roadways. Staff recommends reinserting the ability to request a variance. For those ROW that do not have 60 feet available should allow consideration of other situations.

Staff went through six examples of either undersized improvements on an "accepted ROW width, or a undersized "travelway" within a undersized ROW or a perfectly legal "lack of dedication" maneuver as shown in the workshop.

After the examples were displayed by Denine Sherear on the overhead, Council summarized that there are four issues for Council action: reevaluate the road widths, reclassify the road types, revised language for a variance request, and how will the language be amended in the Comprehensive Plan to support these changes.

The Engineer suggested a bond or fee be paid to cover the cost to repair a road to the pre-construction condition. The fee would include the required a pre- and post-construction inspection and an estimated cost based on road frontage, conditions and distance.

Council directed staff to amend the variance language to eliminate wetland mitigation from the "payback" formula; Council did not feel that was a relevant "hardship".

Council also directed staff to develop a recommendation on the classifications and widths.

Chair Reilly, without objection, adjourned the workshop meeting at 3:48pm.

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

(seal)

ATTEST:

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

Approved: 8/05/2019