

## **MALABAR COUNCIL WORKSHOP MEETING**

**July 27, 2020**

**7:00 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 7:00 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

DAVID SCARDINO

DANNY WHITE

MANAGER:

MATT STINNETT, excused

BLDG DEPT MANAGER

DENINE SHEREAR

ATTORNEY:

KARL BOHNE, arrived at 7:30

CLERK/TREASURER:

DEBBY FRANKLIN

Also present: Engineer Morris Smith

### **C. ROAD WORKSHOP FOR DEVELOPING ROADWAYS**

Chair said the purpose of the meeting was to gain consensus on the points brought up at earlier workshops to finalize those points for Staff.

First point: widths for the various road types. Staff had earlier suggested reducing the widths but now stands firmly behind the Manager's recommendation to keep them as stated in the Comp Plan and Code Book:

Local lanes – 60' if dirt road; 50' if paved with curbs and gutter

Minor Collector – 70'

Major Collector – 100'

Consensus to not back down on these needed dedications. Continue to require the ROW dedication as a prerequisite to having a building permit issued. Eventually we may have all the ROW needed when the Town needs it to accomplish a Public improvement such as emergency access, fire truck, utility, solid waste, traffic control, or for increasing capacity.

CM Ball said that if they dedicate it, it comes off their tax bill, but they can still use it until the Town is ready to make an improvement, so it is a benefit for the property owner.

CM Vail mentioned for those that need a little encouragement or maybe the Town needs it before the vacant parcel owner is ready to build, we could offer to pay for the needed ROW based on the current value of the parcel. Calculate it on the square foot cost of the parcel.

Regarding Beekeeper – continue to require the ROW dedication but allow a property owner to build to the 50' ROW dirt road standard. CM Vail said to try and make it a consistent 22' travelway. Council discussed the Exhibits B-2 through B-6 and agreed to Exhibit B-4 for the "typical" dirt road improvement. If the Town has been granted the ROW dedication the property owner can build a typical dirt road using this Exhibit B-4. As other property owners develop, they too can improve to the similar standard. At the point that other road(s) are connected or there are enough homes on the street, the Town will have the responsibility to convert the "dirt road" to a paved collector. Add this language to Chapter 13.

Exhibit B-5 and B-6 were adopted in Resolution 48-2010 and only intended for local lanes that serve few homes and do not collect to more than one other street. So, they would not be allowed for collectors. Use Exhibit B-4 for typical improvement requirements.

The reason for the needed ROW dedication is to be under Town's ownership when storm water, traffic, life safety and utility improvements are needed.

Mayor summarized the discussion for the benefit of the Attorney; keep current ROW requirements, continue to require dedications, require a property owner to improve to the Exhibit B-4 standard,

Attorney said the more reasons we can state for needing the ROW dedication the better, to defend it, if challenged. CM Ball said the purpose of the Comp Plan Transportation Element is to ensure the Town has the ROW needed when infrastructure improvements in the future are planned. If we are specific in the needs, even if the improvements won't be done immediately, we can defend the need for them.

CM Vail said the needs are stated for planning for the long view. As more houses are built, more fill is brought in creating more eventual run-off.

Mayor wants Morris involved. CM Vail asked if Morris could develop an overall map showing the current ROW widths and establishing the centerline. Morris said Florida doesn't require recording of all dedications. It would be an extensive undertaking. He could use the Property Appraiser's (BCPAO) maps. Franklin explained that we also use BCPAO maps for they are for tax purposes – we use them only for reference. We require surveys for verification of the ROW and property lines. Franklin then explained how a Building Permit for construction requires a survey showing the adjacent ROW and the property lines. The Building Department then knows how much ROW is needed for the dedication. It is also on the checklist used for new construction. Different roads require different ROW amounts and for corner lots, or some larger lots, ROW dedication may be requested from one, two, three or even all four sides (Melbourne Heights). Consensus to not have Morris develop an overall ROW needs map.

CM Rivet said we should always ask for the voluntary dedication first and use eminent domain as a last resort only if it is needed right away. The Town would have to pay current market value. Morris explained the example is Grace Lane dedicating ROW in order to build multiple homes. Morris described the recent ROW improvement for 25' that provided engineering for a sloped roadway with drainage to a ditch on only one side. The Mayor said that is an "un-typical" design. The Exhibits in the road improvement regulations are for "Typical" road improvements.

CM Vail asked Karl about liability to Town if you ask for the dedication and not use it right away. Karl said we discussed this at staff level – SW and drainage, emergency vehicles, traffic patterns, utility and sanitation. The more reasons the better to prove it. Still need to boost up our rationale nexus on what we are trying to accomplish. Karl referred to the earlier lawsuit and we were probably ill prepared. CM Rivet said we could have defended it better; it is all hindsight now, but that is the Attorney's opinion. CM Vail said sufficient basis justification is the drainage as it is developed and constructed. Get it now.

CM Vail said when you have an undeveloped ROW and the person four lots in wants to develop and dedicates the needed ROW, the Town should try and ask for the needed ROW from the first three lot owners. Karl explained the triggering mechanism is the desire to pull a building permit. If they never come in to pull a permit, the Town may need to "take" it.

Karl asked about the road payback time limit. GV limits their to 15 years. Consensus of Council to not limit the requirement for payback. Clerk asked Atty to think about a better Council certifying the costs (which creates the per linear foot improvement cost for payback purposes) and identifying at that point which other properties would be liable to the road payback. In a document that could be recorded.

Staff currently used Parcel ID numbers but if parcels are merged or separated, that information changes. Attorney said we could spell it out and incorporate the process into a Town Resolution that would identify those parcels using either the tax account numbers or legal Parcel ID that would be required to pay a road payback. Then the Resolution could be recorded in the Brevard County Clerk of Courts. Anyone doing a title search or applying for title insurance would discover this “encumbrance”.

Mayor then referenced the email from the Brook Hollow person regarding repaving. Franklin included it in the package. Franklin explained that the memo handed out last year at road workshop explained a process Highland County used to “grade” their paved roads. Scheduling the repaving of such roads, based on a graded criterion would support the reasoning for putting it in a future budget.

CM Ball said Riverview Drive and First Street were both repaved using the Special Assessment process. Council discussed various methods to repave. Franklin said it was only for discussion at this point. Town has been setting aside surplus reserves for repaving for several years.

Karl gave the example of how Town could do special assessment to pave the roads. He also strongly suggested that the Town change the language to put the maintenance responsibility on the HOA and have that language in the Covenants.

Amend the subdivision Sections of the Code (Art XIV, XVII, XIII) to make it the responsibility of the subdivision in their covenants to maintain the paved roads in the future. If they fail to do so, the Town could step in and do it and use the Special Assessment process to pay for it. It would be for the health safety and welfare.

Morris wants to circle back to why we need to ask for ROW. He explained that St. Johns River Water Management District requires the same type of construction whether the applicant is constructing a dirt road or a paved road. Council asked him to provide those details. Morris said that is why the swales are designed so big; to handle stormwater runoff as if it were paved. Attorney said that information would be good to reference in the Code.

Chair Reilly, without objection, adjourned the workshop meeting at 8:22pm.

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

ATTEST:

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

Approved: 8/03/2020