

**MALABAR TOWN COUNCIL REGULAR MEETING**  
**June 20, 2016                      7:30 PM**

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

**A.     CALL TO ORDER:**

The meeting was called to order at 7:35 pm by Council Chair Mayor Phil Crews. CM Kohler Vail led the prayer and pledge.

**B.     ROLL CALL:**

COUNCIL CHAIR:	Mayor PHIL CREWS
VICE-CHAIR:	BRIAN VAIL
COUNCIL MEMBERS:	GRANT BALL
	DON KRIEGER
	DICK KORN
	RICHARD KOHLER
TOWN ADMINISTRATOR:	DOUGLAS HOYT
TOWN ATTORNEY:	KARL BOHNE
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

For the Record, the Fire Chief Christopher Robinson was not present.  
Tom and Joann Murdock were present.

**C.     APPROVE AGENDA - ADDITIONS/DELETIONS/CHANGES – none.**

**D.     APPROVE MINUTES –**

**1.     Regular Council Mtg of 6/6/16**

**Exhibit:**                      Agenda Report No. 1

**Recommendation:**        Request Approval

**MOTION:** CM Kohler / CM Vail to approve RTCM 6/6/16 as corrected. Discussion: CM Korn asked for clarification about restricted traffic – former council member and a current council member bottom of pg. 5. **VOTE:** All Ayes.

**E.     ATTORNEY REPORT: none**

Lt. Burke Camin introduced himself. Has emailed and spoken with Mr. Hoyt and emailed. One of the two meetings will be a Sargent. Try to get someone here at every meeting. Receiving a monthly report. On the other hand, Mayor McCormick get a daily intelligence report. He can strip out the parts that are pertinent to the town and send it to TA. He noticed that from the minutes of the last meeting. CM Vail said for quite a while we had an in person report once a month. He supports that. 12 times a year. Speeders on Weber Road. CM Korn said he lives on Weber and most of the people that are speeding all the way through Town are not from here. How would it be enforced? He thinks Deputies and signs telling them no through traffic. Lt. said speed bumps work but local people do not like it. CM Korn said they got an electronic speed sign. CM Korn said the MSTU question is on the ballot. Lt. said they patrol from Pineda to south border of county. They have at least one mandatory 24/7 deputy plus 3 supervisors and two floating patrols in our area at any given time.

**F.     STAFF REPORTS: ADMINISTRATOR:**

TA briefed Council –

1) Happy 1<sup>st</sup> day of summer.

2) Town does have one speed bump in Brook Hollow. Will be on the agenda for next meeting. Speed bump was put in with good intent. County said they need to be 6" and have at least two in close proximity. Lt. said we could also use them on Weber and Corey.

3) Sent Council bridge inspection. Will be going out to bid to at least four contractors and then bring back to council. It may be paid for by special assessment. CM Kohler asked about the email – is alternative access suitable.

4) Meeting tomorrow with EELp to discuss the heavy rains and standing water and also will be addressing the multimodal trail on north side of Malabar Road.

CM Korn asked about the I-95 project. TA said they initially thought there was one box culvert of 11' x 48" but went for an inspection with Engineer Smith and found there are two additional at 11' x 30" size and two others. FDOT said we can go up to Cocoa and review the engineering on those. It is a big contributing factor. He has been in contact with the state and federal agencies for assistance. Mayor did check for the digitized data and it is not available. TA said that they could borrow.

5) Crown Castle needs an answer by the 24<sup>th</sup>. If we continue with lease, we get rev it goes into the GF.

**CLERK:** Form 1 is due back to SOE by July 1. Provided information on ethics training that is required annually.

**G. 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.**

Tom Murdock thanked Doug, Debby and Denine for all their help. Got a big investment there and have had a lot of water. Anything we can get to support their plan. This amount of business is detrimental to all of Malabar. Need to make it happen. If there is anything they can do as citizens, they are willing to do. They would like to have an open house and invite all of council. Any evening except 1<sup>st</sup> and 3<sup>rd</sup> Monday

**H. PUBLIC HEARINGS/SPECIAL ORDERS: 0**

**I. UNFINISHED BUSINESS/GENERAL ORDERS: 0**

**J. ACTION ITEMS:**

**ORDINANCES FOR FIRST READING: 1:**

**2. Referendum Question for Ballot – Single District Voting (Ord 2016-01)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY FLORIDA; REPEALING ORDINANCE 2014-09; CALLING AND SCHEDULING A PERIODIC ELECTION TO DETERMINE IF THE TOWN SHOULD CONTINUE TO PARTICIPATE IN THE BREVARD COUNTY MUNICIPAL SERVICE TAXING UNIT (MSTU) FOR LAW ENFORCEMENT; CALLING AND SCHEDULING A PERIODIC ELECTION TO DETERMINE IF THE TOWN SHOULD AMEND THE CHARTER, SECTION 2.02 TO CHANGE THE CURRENT WAY TOWN COUNCIL MEMBERS ARE ELECTED FROM "AT-LARGE" TO BEING ELECTED BY DISTRICT; PROVIDING FOR THE MANNER IN WHICH SUCH ELECTION SHALL BE CONDUCTED; ESTABLISHING THE FORM OF THE BALLOT FOR SUCH ELECTION; PROVIDING AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 2

**Recommendation:** Request Action on 1<sup>st</sup> Reading

**MOTION:** CM Vail / CM Kohler to approve 1<sup>ST</sup> reading of Ord 2016-01. Discussion: CM Vail said the MSTU is the obvious choice. Voting by District, he supports having the voters decide voting at large or by district.

CM Korn said there is a down side to this. All six of GV council are voted "at large" and they live at large. If we have single Districts, we will vie against each other. CM Korn said everything they do as council members affects every one of Malabar residents. We represent and act upon things for the benefit of the Town. CM Vail said the money is collected "at large". CM Korn does not want to divide the Town. CM Ball said he is for single district voting. He said you could have an ALF with 500 beds move into an area of town and if they wanted to run the Town, they could with current method. By having district voting they would only have influence over one vote.

CM Krieger had technical question. What if they want additional referendum questions they want to add; should they hold off on the legal advertising? Atty Bohne said Council would do another ordinance.

**ROLL CALL VOTE:** CM Ball, Aye; CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Kohler, Aye. Motion approved 5 to 0.

Chair asked for a Motion to suspend the rules and add an item to the agenda – re cell tower lease. **MOTION:** CM Korn / CM Kohler so moved.

**MOTION:** CM Vail / CM Kohler to entertain the one time selling of the cell tower lease. CM Vail said our reserves have been depleted over the past and this could be a mechanism to increase the reserves. It is a onetime shot. If there are additional users on the tower, we get additional money.

CM Korn said over the next 10 years, he does not see any change is that correct. TA opinion said it is easier to put a lump sum deposit. CM Krieger said get the best of both worlds and look at the contract. Mayor said they have made the offer for the buyout and the deadline is irrelevant. CM Korn said TA research showed the offer is in line.

**VOTE:** Ayes: 3; Nays: 2 (Ball, Krieger)

TA said he could make a counter offer, get back with the Chair/Mayor, and call a special meeting.

Mr. Murdock, Tom asked to speak. He said this is his line of work and they are getting ready to reengineer from 4G to 5G. Everything is going wireless, house, cars, security, etc. Time is not your enemy. They are trying to lock in the leases. TA asked about satellites. They will not impact the cell towers. There will be more and smaller. Reiterate that time is not your enemy.

**MOTION:** Krieger / Ball to reconsider vote. CM Krieger said we are being rushed. Work on the chattel, increasing the rate. Give TA some parameters. Keep a revenue stream. How to protect the reserves. CM Korn said we should set meeting for Wednesday to meet posting requirements. CM Vail said he also has reserves with the time sensitivity of it. CM Ball said we are being asked to sell something without knowing what it is worth. CM Krieger said it goes back to bidding.

**VOTE:** All Ayes, to rescind the previous motion.

CM Krieger said they should still be looking at their options and not rush into this. CM Vail said that this was brought up last year during budget time by Franklin. CM Vail said we need to get somebody from a user end to give us a feel for this. What a buyout should be worth and what a monthly lease price should be. CM Krieger said what does it hurt to renegotiate the lease. CM Vail said find out when the lease renews, we may want to reconsider the monthly lease. TA said is he to contact them or not. Atty said let the vendor call. Tell them we are considering all of our options.

**RESOLUTIONS:**

**3. Resolution Repealing** Prior Resos re: Council Procedures (Reso 05-2016)  
 A RESOLUTION TO REPEAL PRIOR RESOLUTIONS PERTAINING TO COUNCIL PROCEDURES AND ADMINISTRATION TO INCLUDE BUT NOT BE LIMITED TO RESOLUTION 07-2014, RESOLUTION 30-2013, RESOLUTION 11-2012, RESOLUTION 104-2011, RESOLUTION 01-2009, RESOLUTION 13-2008, RESOLUTION 04-2007, RESOLUTION 5-97, AND OTHERS THAT MAY MEET THIS CRITERIA PRIOR TO RESOLUTION 04-2016, PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 2

**Recommendation:** Request Action

**MOTION:** CM Vail / CM Krieger to approve Reso 05-2016. Discussion: none.

**ROLL CALL VOTE:** CM Ball, Aye; CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Kohler, Aye. Motion approved 5 to 0.

**MISCELLANEOUS:**

**4. Repeal Section 13.38 of Chapter 13 re: Street Improvement Requirements**

**Exhibit:** Agenda Report No. 4

**Recommendation:** Request Council Direction re: Code Amendment

CM Vail explained why these short roads create a burden to the next person developing. He suggested it be moved to next meeting.

CM Krieger said he read through the 1-6 criteria – didn't think it was followed at the BOA meeting.

**MOTION:** CM Vail / CM Ball to direct staff to draft an ordinance repealing Section 13-38(c) of Code. Discussion:

**VOTE:** All Ayes.

**5. Revise Meeting Date for 1<sup>st</sup> Mtg in July**

**Exhibit:** Agenda Report No. 5

**Recommendation:** Select Alternate Meeting Date for 7/4/16

**MOTION:** CM Korn / CM Vail to postpone until 7/5/16. Atty can't make it. Put only first meeting in July. Discussion: **VOTE:** Ayes, 1 (Korn); Nays, 4. More discussion.

**MOTION:** CM Korn / CM Kohler to cancel 1<sup>st</sup> mtg in July. **VOTE:** All Ayes.

**6. Review of TA Purchasing Policy**

**Exhibit:** Agenda Report No. 6

**Recommendation:** Direction to Adopt by resolution

TA said he is not looking for approval at this meeting. He will incorporate comments from CM Krieger received tonight. Wants to provide something agreed to by Council to the Attorney. CM Krieger read his handout into the record (attached). He suggested some of what TA is proposing should be in house policy, but he is focused on the language that will be put in the code. He gave example of assigning a unique identifier. Put the lower than 10K in the policy. Chair commends CM Krieger and asks him to work together with TA.

CM Vail stated that once Council approves expenditure at budget time then Staff should be able to spend it. Go get your purchase. A maintenance budget item of 10K that is not in the budget then that is what should come before Council.

CM Vail said piggy backing should be part of the consideration. Get three bids and then check with Palm Bay and County and see what they paid. He gave example of buying large number of vehicles at one time and getting a special discount. BCSO bought 50 new vehicles. They have the purchasing power of 50. We could be 51 and get the same deal.

CM Korn said piggy backing could be used as a competitive bid. The micro surfacing on Weber Road has pieces are coming off. The perception of the residents is that we got ripped off. We piggy backed from someone in St Augustine. We used Brown to mow the ROW and it looked like we spent 58K without authorization. CM Korn said we can wait a week or two for Council approval. Didn't know how the 10K came about but we won't always have a good TA that we agree with. We need to prepare for the future and have it spelled out. CM Vail said that is why we have a bill reviewer and check signer. That is their obligation to take it to staff and ultimately council.

CM Krieger, 24/54, sec 1 and 2 lot of good stuff in there. TA said it is easy to assign a master job number for projects; it is very standard procedure as many contracts require dozens of contractors.

CM Vail asked the Atty to participate. Atty Bohne said that piggy backing works. Attorney does not agree with Council. He has represented many cities and piggy backing has saved them much money.

Mayor said does TA have enough info? Yes. He'll bring it back. Put on Agenda for July 18.

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME 9:20pm.

#### **K. DISCUSSION/POSSIBLE ACTION:**

##### **1. Limit Corey and Weber Roads to Local Traffic Only (CM Korn)**

CM Korn asked for this. In late 2013, 2014 he brought up this item. If you live on Corey or Weber, there is a tremendous amount of traffic on those roads and it is not all local traffic. At least half of the traffic passing his house is using it to by-pass US1 or Babcock. We need slower traffic and need less of it. When they start widening Babcock it will get even worse. No one was on council when he brought it up they said how will it be enforced. Sign on each end and maybe a deputy patrolling. A lot of the speeders that go by his house southbound. He talked to Jason Mahaney who was on GV Council at the time. Cathy Dumont who is also another Council member and she supported it. The GV Mayor did not like the idea. Jason is no longer on Council.

Mayor said perhaps just limit it to truck traffic. CM Ball said how would you limit cars. Krieger Road gets beat up with heavy trucks. Does not know what solves it. You can't tell citizens to stay off local streets. With trucks, you get the tag number and call the BCSO. The road belongs to us. Would it be right to say to passenger cars? He doesn't know. CM Vail said the stop signs were put in, he wanted 6. Put them in Old Mission, Hall and Atz. Put two more on Corey and 2 more on Weber. Especially with enforcement. Put up no thru trucks or no thru traffic. He understands CM Ball concerns but all the people coming out of Palm Bay and using these streets. CM Ball said this would also apply to bikes and golf carts. CM Korn asked other council members to talk to citizens. TA likes the stop signs added. If we start limiting traffic. Put on next agenda.

##### **2. Repeal SW Assessment (CM Krieger)**

CM Krieger has been working on this. He brought them up last year when SW people were here. Businesses are being charged too much. Fixing that problems. Are we actually getting benefit from our storm water? He doesn't see any benefit. Suggests this be looked at before they renew the ILA for the County to handle the storm water administration.

#### **M. PUBLIC COMMENTS: General Items (Speaker Card Required) none**

#### **N. REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Krieger – purchasing and SW items

CM Vail - nothing

CM Korn – 2 items – slope mower – start planning ahead to purchase another piece of equipment. CM Vail said that is going to be his soapbox items at budget time. Couple different options and get with TA and PW Director and look at what other cities are doing.

The other item is the helter skelter culverts and no culverts. They weren't required to put in culverts in back in the 1970s. They pay the labor to put them in. TA said he and CM Vail have looked at 2/3 of town. There are over 100 entrances where there are no culverts, collapsed culverts, undersized culverts. TA has asked Attorney to pop over next week and take a look at several examples. Taking a look at where the water should go, and where it is coming from. Engineer Morris Smith is doing a good job for setting elevations and getting new construction to comply. TA said staff is getting ready to pursue a grant for north Corey Road storm water project by piping the entire area from outfall on north side of Malabar up to the Turkey tributary north of Stillwater Preserve SD. It would not carry more water but would dump it out of Town a little faster.

CM Kohler - nothing

CM Ball - nothing

Mayor

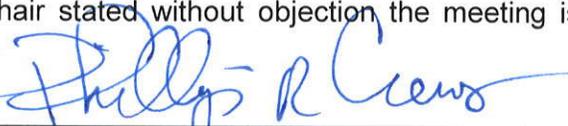
TA

**O. ANNOUNCEMENTS:**

- (2) Vacancies on the Board of Adjustment;
- (3) Vacancies on the Park and Recreation Board;
- (1) Vacancy on the Planning & Zoning Board

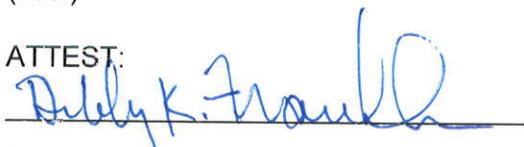
**P. ADJOURNMENT:**

There being no further business to discuss, Chair stated without objection the meeting is adjourned. The meeting adjourned at 10:15 PM.

BY:   
 Mayor Phillip R. Crews, Council Chair

(seal)

ATTEST:

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

Date Approved: 7/18/2016