

MALABAR TOWN COUNCIL REGULAR MEETING

September 22, 2016

7:30 PM

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

A. CALL TO ORDER:

Council Chair Mayor Phillip Crews called the meeting to order at 7:30 pm. CM Ball led the P&P.

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, excused

TOWN ATTORNEY:

KARL BOHNE, excused

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

For the Record, the Fire Chief Christopher Robinson was also present.

C. ADDITIONS, DELETIONS, CHANGES APPROVAL OF AGENDA

Chair stated he had a request for #8 to be removed. Chair was asked by P&R Chair Kemmler to add a request to expend \$1000.00 for a survey at the north end of Rocky Point Road. Without objection, done.

D. APPROVAL OF THE MINUTES:

1. Regular Council Meeting Minutes 09/06/2016

Exhibit: Agenda Report No. 1

Recommendation: Request Approval

Chair said without objection the minutes were approved.

E. STAFF REPORTS: ADMINISTRATOR: CLERK: FIRE CHIEF: none

F. 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.**

Dave Neddstrom, Former Mayor of Cocoa beach, now running for Clerk of Courts, wanted to introduce himself. He knew Former Mayor Carl Beatty and had served with him on many shared issues. Wanted Council to know he would be available to them.

G. PUBLIC HEARINGS/SPECIAL ORDERS: 3

2. Adopt Final Assessment for Non-Ad Valorum Stormwater Roll (Reso 10-2016)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING CERTIFICATION OF ANNUAL STORMWATER UTILITY ASSESSMENT ROLL; ADOPTING AN ANNUAL BUDGET FOR THE TOWN'S STORMWATER UTILITY; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Adopt Reso 10-2016

PH opened. None. PH closed.

MOTION: CM Vail / CM Kohler to certify the roll and approve the Stormwater Utility Budget for 2016/17 by approving Reso 10-2016. Discussion:

ROLL CALL VOTE: CM Ball, Aye; CM Vail, Aye; CM Krieger, Nay; CM Korn, Aye; CM Kohler, Aye. Motion carried 4 to 1 (Krieger).

3. Adopt Millage (Ord 2016-05)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING THE MILLAGE RATE OF 2.0260 FOR THE LEVY OF AD VALORUM TAX WITHIN THE TOWN OF MALABAR FOR THE PERIOD FROM OCTOBER 1, 2016 THROUGH AND INCLUDING SEPTEMBER 30, 2017, PROVIDING FOR REPEAL AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 3
Recommendation: Adopt Ord 2016-05

PH opened.

Joel Date, 2170 Lineberry Lane, refers asked about TRIM notice with 5 mil proposed. Drew Thompson made a motivational comment – thinks TA has done a tremendous job. Stated the decision has been made to go with 2.026 but by not increasing, it is like going into war without ammunition, or driving a car on the highway with no oil.

PH closed.

MOTION: CM Vail / CM Korn to approve the levy of 2.0260 mil by adopting Ord 2016-05.

Discussion: CM Korn is still concerned about information getting to citizens. Asked if we could contact the Tax Appraisers Office to do a more complete explanation of the process. Malabar is raising taxes – article in paper. He has not seen article. Need to connect with media and be aggressive about it.

Chair said County was in the dark as we were. Brevard is the only county limited to 10% - he is surprised that the County allowed it to go on TRIM Notice. This only affects Brevard County. Chair is trying to research how that came about. Any other of the 66 counties can increase the millage with a unanimous vote. With the Special law passed in 1974, Brevard cities can only increase 10% over rollback rate with a super majority (4 of 5) vote. A simple majority (3 of 5) will only allow the levy of the rollback rate.

CM Vail said no one intended to go to 5%. He spoke with 100 people and half were ok with a levy around 3%. He sees the struggles first hand. He will try to get it on the ballot. Working with an insufficient amount of money. We are not talking tons of money. CM Korn said FLC puts out an informational paper yearly on city stats and Malabar is one of the 12 cities with the lowest millage.

CM Ball he is in favor of going to the 2.026. We sit here and make decisions on spending people's money. We have made mistakes and other councils have made mistakes. However, if we continue to increase it by 10%, it will compound. He is not willing to spend money on goods and services if the people do not want it. He would like to see it go on a referendum and see what the citizens want instead of it being the five of them guessing what they may want. He also said that the "grants" are not free money; they are made up of tax dollars paid to the state by taxpayers.

CM Vail said the information Mayor Crews put out is on the website and is very informative. CM Korn takes exception with CM Ball statement. They have been very diligent. Squeezed very tight. Going over each individual item to a fault. Last year over optimistic with the revenues. This council over the years has not been irresponsible.

CM Kohler, he believes homeowners have a standard of living they want and Council should maintain that. CM Krieger said we will have a budget adjustment in January. In Dec we will have an adjustment. Process started way too late. CM Krieger said doing a budget by referendum could be a disaster, especially if it is done with at large voting and not single district voting. CM Krieger said we have a rural portion of Malabar and a progressive portion.

CM Vail said we all pay taxes to the State. If we do not apply for grant and get it, then some other city will and benefit from the grant money.

Chair just completed writing a grant for paving and piping Eva Lane, treating the water before Other cities have fulltime grant writers. We pay the same money into the federal government and should expect to get some of that back in grants; but you must apply. A grant was just awarded for 1.6mil. to "study" the IRL. The grant he just completed is for 1.8 mil to "do

something" about treating the runoff before it enters IRL. Mayor continued there is even private grant money and referred to a person that gives away 100mil a year.

Franklin stated that the DEP grant application for the ADA restroom was submitted six times, each time with Council approval and with their commitment for the financial match. Nothing was done without Council awareness, approval and financial commitment.

ROLL CALL VOTE: CM Ball, Aye; CM Vail, Aye; CM Krieger, Nay; CM Korn, Aye; CM Kohler, Aye. Motion carried 4 to 1 (Krieger).

4. Adopt Budget (Ord 2016-06)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA ADOPTING THE BUDGET OF \$1,563,508.00 FOR THE TOWN OF MALABAR FOR THE PERIOD FROM OCTOBER 1, 2016 THROUGH AND INCLUDING SEPTEMBER 30, 2017; PROVIDING FOR REPEAL AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 4

Recommendation: Adopt Ord 2016-06

PH opened.

Skip Hard, 2560 Hard Lane, atty boy to CM Ball. Put to voters as referendum. Give you all an "aw shucks" you can't put it on ballot this year. You are raising the taxes.

Pete Fusscus, 1855 Sandy Creek Lane, before he moved into town he looked at Town's last five years budgets. Expenditures and employees went down. His compliments on past budgets. One of the things he likes to look at are budget to actuals. His understanding was that expenditures would be going up. Franklin explained the two items not typical are the 130K for Jordan Blvd railroad crossing work and the estimated 40K to complete the ADA restroom at the Sandhill Trailhead. Fusscus said it is not in personnel expenses, this year it is 1.2. He has no complaints. Compliments Council.

Drew Thompson referenced the 26 grant awards DEP made in 2014. Malabar's was #12 of 26. He stated per his documents from DEP, 90K will coming back to us per the documents he has. He resents that people are saying that the project has cost overruns. CM Ball said the TA has gone back to DEP to ask for more money.

PH closed.

MOTION: CM Kohler / CM Vail to approve Ord 2016-06 setting budget for FY2016/2017.

ROLL CALL VOTE: CM Ball, Aye; CM Vail, Aye; CM Krieger, Nay; CM Korn, Aye; CM Kohler, Aye. Motion carried 4 to 1 (Krieger).

H. UNFINISHED BUSINESS/GENERAL ORDERS

5. ACTION ITEMS:

ORDINANCES FOR FIRST READING: 1 Ord 2016-03

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE III TABLE 1-3.2 ELIMINATING THE CONDITIONAL USE "C" FOR HOUSES OF WORSHIP WITHIN RESIDENTIAL ZONING DESIGNATIONS; CHANGING THE PERMITTED USE "P" TO CONDITIONAL "C" FOR HOUSES OF WORKSHIP WITHIN COMMERCIAL GENERAL (CG) AND RESIDENTIAL/LIMITED COMMERCIAL (R/LC); PROVIDING FOR CODIFICATION, SEVERABILITY AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 5

Recommendation: Adopt Ord 2016-03

MOTION: CM Krieger / CM Kohler to approve Ord 2016-03 amending Article III Table 1-3.2 in LDR on first Reading.

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

RESOLUTIONS: 0**MISCELLANEOUS: 2****6. Qualifying Candidates for Election:****Exhibit:** Agenda Report No. 6**Recommendation:** Request Action

MOTION: CM Kohler / CM Korn to Qualify the candidates for the open seats in the 2016 election: Patrick Reilly for Mayor, Grant Ball for District 1, Brian Vail and Laura Mahoney for District 2, Don Krieger and Steve Rivet for District 3. **VOTE:** All Ayes.

7. Approve 10K Expenditure from Street & Roads for New Mower:**Exhibit:** Agenda Report No. 7**Recommendation:** Request Action

MOTION: CM Kohler / CM Vail to approve the expenditure for a new zero turn mower not to exceed 10K. **VOTE:** 4 Ayes; 1 Nay (Krieger)

I. DISCUSSION/POSSIBLE ACTION:**Added Agenda Item:**

Request to Spend \$1,000.00 on survey of north Rocky Point Road.

MOTION: CM Vail / CM Kohler to approve request for expenditure.

Discussion: Parks Chair Kemmler and T&G Chair Drew Thompson gave background on this item and why they are trying to maximize the funds available.

Franklin explained that if Council approves encumbering these funds for the survey then those funds would come from current fiscal year. The FY16/17 budget has \$1,000.00 in Dept. 572 is designated for the shelter in Cameron Preserve.

Kemmler explained they have been looking for access to river. They inquired about it. BCPAO said it belongs to FDOT. FDOT said they would lease it for 0. It is well defined on north and south and west side is defined. The east side is not defined. They said if we get it surveyed past the waterline then they will lease it to us. TA sent the criteria and the surveyor will give estimate tomorrow. T&G voted to spend the money on the survey if they can in this year. Asking for approval.

T&G Chair Drew Thompson, last night did the liaison report to the Park Board. Hans covered everything with feedback from the residents, both HOAs. More problems could be dealt with under the auspices of the town.

CM Ball mentioned this first to Drew because he grew up here. Have pix of boat on our seal but we have no access. It is very appropriate to have access. He spoke to F.I.N.D. and they have grants and they said we would get it. He is very much for this. CM Krieger is very much for this. But.. it is no mans land. What happens if we put a sign on it? It is not the \$1000, it is the leaps and bounds.

Chair allowed Hans to respond. The only way they will make a determination if there is a survey done and FDOT is not going to pay for it. Everyone from Rocky Point has opposed this project. Talking about 1000 coming from, but estimate is 1500, a few meetings ago the shade structure in Cameron Preserve. We don't know enough at this point. Chair has been with FDOT to meet with Hans. Language includes reversion. Little bit of ambiguity. CM Ball said Drew and Hans explained it very well. If there is no land left, then the upland water lands, the state can give it to them for 1 per year. Road was put in the late 1960's early 1970s, and that is why

MOTION: CM Ball / CM Korn to postpone. Discussion. CM Vail said they should encumber the money. Then we do not have to do a budget adjustment. **VOTE:** 3 Ayes; 2 Nays; (Kohler, Vail)

Next Item Postponed**8. Road Classifications and Existing Homes on Unaccepted Rights-of-Way (Krieger)****Exhibit:** Agenda Report No. 8

Recommendation: Discussion

Chair asked Council if they wanted to postpone this since CM Krieger was not present. Yes. Chair asked Council Members to keep this portion of the package and it will be placed on the next agenda when CM Krieger will be in attendance.

J. PUBLIC COMMENTS: General Items (Speaker Card Required)

K. REPORTS – MAYOR AND COUNCIL MEMBERS

TA: excused

CM Kohler: none

CM Korn: Needed all five CM to be here and he could not on the 19th.

CM Krieger: Comment of date of meeting. Thought it was done improperly and reminded him of a prior meeting that was changed similarly. Request on removal of the speed bump. He wants the information on the history. (Note: Clerk provided after meeting)

CM Ball: none

CM Vail: They had approved the budget with the lawn mower. Why the redundancy when council already approved. Franklin said TA wanted to present each expenditure before council over 10K. CM Vail said regarding the budget hearings, it is important for all of council to be there. This is something when they went around the table.

Mayor: In July, they had to make decisions and that is how it all came about.

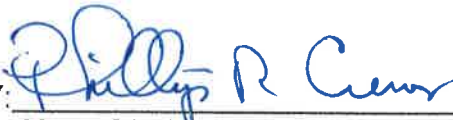
Clerk: none

L. ANNOUNCEMENTS:

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

M. ADJOURNMENT:

There being no further business to discuss and without objection, the meeting was adjourned by the Chair at 9:10PM.

BY: 
Mayor Phillip R. Crews, Council Chair

ATTEST:



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

Date Approved: 10/03/2016