

## MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

JUNE 21, 2021, 7:30 PM

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

### 1. CALL TO ORDER:

Council Chair, Mayor Patrick T. Reilly called meeting to order at 7:30 pm. CM Vail led P&P.

### 2. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL

DAVID SCARDINO

DANNY WHITE

TOWN MANAGER: (ITM)

LISA MORRELL

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

### 3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES: none

### 4. CONSENT AGENDA:

4.a. Regular Town Council Mtg June 07, 2021

4.b. Special Town Council Mtg June 15, 2021

**MOTION:** CM Vail / CM White to approve consent agenda. **VOTE:** All Ayes.

### 5. ATTORNEY REPORT: Atty nothing.

### 6. STAFF REPORTS:

6.a. Town Manager – Quick update – Hunter Lane pre-construct mtg, this Wednesday. Waste Pro had some questions on the commercial side. Health Ins issue is before you tonight. Union contract is in progress. RVP regulations are on next P&Z mtg, and new playground will be here and begin installation in mid-August. GovDeals auction for Huggins Park is at 117K and has 7 more days.

She is working on amend the ROW vacate to move from the LDC to Chapter 13, Streets and Roads, where it is needed. They had a great Code Enforcement meeting with SM and heard two cases and the Town prevailed in both. One had fines start then and run for thirty days and then the Town can hire a vendor to correct and then lien the property with the cost of compliance and the fines and administrative costs. Lien will remain until satisfied. The other case got a 30-day reprieve to bring compliance or fines will start on that one until compliance is met.

CM Acquaviva asked if when the details are known for the new trash service if we would do a significant news blast to residents to get the correct information out. ITM Lisa said she will be asking for as few changes as possible to minimize transition. CM White asked about Kelly Lane.

6.b. Clerk – The annual FLC Conference is scheduled for August 12-14 at the Orlando World Center. It starts on Thursday at 1pm and will cover a variety of topics that affect municipalities. I must register you for the conference before I can make room reservations so, please let me know ASAP if you intend to attend. FLC is offering a quarterly dose of the Ethics training this Thursday via a webinar between 2-3pm. If you are interested, I will send you the link to register.

### 7. 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. (Speaker Card is Required) Five (5) Minute Limit

### 8. PUBLIC HEARINGS: 2

**8.a. Amend Chapter 2 of Code to Provide for Emergency Powers (Ord 2021-07)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES OF THE TOWN CREATING SECTIONS 2-400 THROUGH 405 "EMERGENCY POWERS"; PROVIDING FOR THE DESIGNATION OF A TOWN OFFICIAL IN THE EVENT OF AN EMERGENCY DEFINED HEREIN; PROVIDING FOR DEFINITIONS; PROVIDING FOR A DECLARATION OF EMERGENCY BY EXECUTIVE ORDER; PROVIDING FOR THE AUTHORITY OF THE DESIGNATED TOWN OFFICIAL; PROVIDING FOR THE DURATION OF AN EXECUTIVE ORDER FOR A DECLARED EMERGENCY; PROVIDING FOR THE POSTING OF ALL EMERGENCY ORDERS, ORDINANCES AND DECLARATIONS ON THE TOWN'S WEBSITE; PROVIDING LIMITATIONS ON ANY CURFEW ESTABLISHED; PROVIDING FOR REPEAL, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE

**Exhibit:****Agenda Report No. 8.a.**

Ord read by title only.

PH opened. No comments. PH closed.

**MOTION:** CM Acquaviva / CM Rivet to adopt Ord 2021-07.

Discussion – ITM Lisa said she recently attended a FMIT Hurricane prep seminar and learned the State has defined some 15 "non health" emergency titles and staff amended the ordinance to include them specifically since the first reading.

**ROLLCALL VOTE:** CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 5 to 0.

**8.b. Budget Amendment FY 2020/2021 (Ord 2021-08)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2020/2021 TO PROVIDE FOR ADDITIONAL FUNDS FROM RESERVES ON DEPOSIT SET ASIDE FOR CAPITAL PARK AND ROAD PROJECTS; PROVIDING FOR EXPENDITURES FOR NEW PLAYGROUND EQUIPMENT AND ROAD PREPARATION FOR THE PAVING OF 1100 FEET OF HUNTER LANE; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Ord read by title only.

PH opened. No comments. PH closed.

**MOTION:** CM Rivet / CM Vail to adopt Ord 2021-08.

**ROLLCALL VOTE:** CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 5 to 0.

**9. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES) 0**

**10. ACTION ITEMS:  
ORDINANCES for FIRST READING: 0  
RESOLUTIONS: 1**

**10.a. Appoint Alternate to Trails and Greenways Committee (Reso 03-2021)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF DICK KORN TO THE MALABAR TRAILS AND GREENWAYS COMMITTEE AS AN ALTERNATE MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:****Agenda Report No. 10.a.**

Reso read by title only. Chair said he had one speaker card.

Mayor/Council Chair Patrick Reilly passed the gavel to Vice-Chair Steve Rivet and stood down at the podium.

Patrick Reilly, 1985 Howell Lane, stated that Council should not rubber stamp appointments to Boards and Committees, and they should have a background that supports or benefits each board or committee. The T&G Committee is a very active and physical committee with trail clearing and maintenance and trailhead building, etc. Mr. Korn did not list any qualifications on his application. He has also demonstrated anger management issues.

**MOTION:** CM Vail / CM NONE to approve Reso 03-2021 for appointment. Motion failed with no second. No need for a vote.

## **MISCELLANEOUS: 2**

### **10.b. Approve Engineering Task Order – Rivet Lane Road Improvement Program**

**Exhibit: Agenda Report No. 10.b.**

Chair called on ITM Lisa to introduce this item.

EDC to do a task order to approve prior to what the road paving cost would actually be. 80% design and construction. Does not include geotechnical. Not to exceed 12,500 and could be less. If authorized to proceed, this will be budgeted for next fiscal year. CM Acquaviva asked and ITM Lisa confirmed it is better to have this info up front instead of doing a Budget Amendment later.

CM Rivet stated his disclosure that he lives on this road.

CM Vail said Hunter, Rivet and Smith are all very different roads with each one having unique issues. Smith Lane had many new road portions built to a higher standard than when Hunter was accepted. Hunter is a much older existing road that got accepted. Rivet is only half of road. So, they are all unique.

**MOTION:** CM White / CM Scardino to approve the Task Order to proceed in the next FY budget. Discussion – CM Vail said to put in perspective – the Town has not maintained them. The standard is adequate to improve for road acceptance is if paved at that time then there would not be an issue. But the Town has not budgeted for that kind of maintenance. They have used substandard fill and then went through a period of using millings which changes the makeup of the road and the ability to do future maintenance. There are a lot of factors – get it to the std and then put asphalt then PW is done.

**VOTE:** All Ayes.

### **10.c. Appoint Voting Delegate at the annual FLC Conference**

**Exhibit: Agenda Report No. 10.c.**

**MOTION:** CM Vail / CM Scardino to appoint/accept CM White as the voting member. **VOTE:** All Ayes.

### **10.d. Town Manager Matt Stinnett 8-month Update and Status**

**Exhibit: Agenda Report No. 10.d.**

Chair stated that he requested this after not receiving a response from TM Matt Stinnett after their conversation in February. He felt he and Council have a responsibility to account for all expenditures paid by taxpayers. It is a strong Council form of government.

Chair stated Council could accept the response from TM Matt Stinnett as satisfactory support for the continued payment, or suspend future payments until he returns to work, or propose an alternative position or action.

In his call he asked for a quarterly report for the first quarter and then his goals for the next quarter. He is regularly asked by residents and a prior council person for the status. Have we been getting product for what we have been paying him for?

CM Vail is trying to be more understanding of his situation and his talk with him today he indicated he has more access now. CM Scardino does not see the value we have been getting for the 1K per month. CM Rivet said Matt has committed to do better; he is ok with continuing but needs to see more action going forward. CM Acquaviva is up to speed now; she did not

realize he was getting a stipend. She was not upset from not hearing from he because he is serving our country.

CM Scardino said we have not had access to him. Town was not required to contact him. He needs to show he wants this job. CM Vail said the plan was to keep him involved via the phone and email so his experiences could be shared and what the ITM was doing could be shared. That was the intent. CM Acquaviva said she did not expect him to be doing that much, but did not know he was being paid, but he is serving our country.

Mayor said he did agree to be in communication in a limited manner. CM Vail said Matt will now be able to commit more time to Town business. Situation has played out and he is now more able to communicate. Mayor said he was going to participate from the beginning according to the July 2020 meeting minutes.

Mayor said Council can consider a motion to stop the \$500 biweekly pay. CM White said he bothered by this, and it is as much Council's fault. We should have pushed harder to make sure he stayed more involved. Not sure if he will be released to come back in September.

When CM White was in reserves, he was subject to weekends and two weeks a year. If they were to call him up to active duty, he would not have had the ability to choose. He has not read the orders. Did he raise any possibility with Army to participate or to say he is critical to the Town as the TM and cannot leave? What is our obligation? Mayor did talk to the labor lawyer. He left as an executive of our Town and needs to be brought back in an equal position. Can not ask for payback. All we have is the minutes of the July mtg. Mayor said he asked the Labor Atty if he could be brought back in a similar position, such as the Clerk/Treasurer. Labor Lawyer is looking at that possibility. He is entitled to be brought back in an equal position.

CM White said ITM Lisa is on contract only until 9/30. If he comes back in two months and then takes vacation. CM White said we have paid him \$1,000 per month for 8 months. He forgot he was the one that made the motion back then and Grant was the second on the motion. He accepted that money and that responsibility and we have gotten basically zero for it.

CM Scardino said he listed in the letter all the things that ITM Lisa has actually been working. Let us forget about the stipend based on the performance we have seen. CM Acquaviva was not part of all of this. When we hired the interim TM, who is proficient and amazing, but Matt is on a mission for the country. She was not expecting him to participate in the active way as TM. Did not realize he was being paid. What were we expecting from him? CM Scardino said he was not available and has not thought about conferring with Matt. He gets paid for serving the country. We hired an interim TM to do that. Maybe we should pay him – maybe not. CM Vail said he is willing to help with the budget. He has to be an integral part and is now willing and able. So, he is stepping up. There were shortfalls up till now. CM Rivet agrees with CM Vail. Lack of oversight and lack of proactive. Is there value in participating? Think we should continue.

CM Scardino said if he wants to do a project, he does not bill until he produces. When he is doing the job, it is his responsibility to stay in abreast. He looks at past performance. CM White agreed with CM Scardino. He hasn't done anything in 8 months. CM White said he will compromise and let it go one more month and then cut the stipend. No offense is intended to Matt or his service to our country. Asked him to do something that he cannot do. He is not demeaning his service but if he can't fulfill what he said he would do. CM Acquaviva did not know the expectations of the Town. Mayor said the ITM Lisa was going to do 32 hours per week and Matt would do 8 hours per week. CM Scardino is ok with revisiting this at the first meeting in August. CM White said he is not on the chopping block.

**MOTION:** CM White / CM Rivet to accept TM Matt Stinnett's response letter to the information request by the Council Chair but direct the mayor to be the point of contact for his future participation and revisit this at the first meeting in August (8/2/2021).

Discussion: CM Scardino said it might be possible that he be deployed for even a longer period. ITM Lisa is only committed until 9/30.

**VOTE:** All Ayes.

**10.e. Consideration of Employee Group Health Insurance through Florida Municipal Insurance Trust (FMIT) for United Health Plans**

**Exhibit:** Agenda Report No. 10.e.

Chair called on ITM Lisa. Lisa went over the three plans. Hugh Cotton is the broker of record that handled the contract for HFHP insurance coverage for employees. He has said that the cost would have gone up 20% if we had the option to renew with HFHP. Renewed one month earlier. Calendar is through the calendar year. EAP is very helpful. It is good for Town to keep the emp healthy. Crisis mgmt. Tele health. During the pandemic this would have been helpful. They do wellness health plan. ITM Lisa created a health insurance survey for Town employees to complete. UHC is nationwide - HF is only Brevard and they are leaving. UHF has the added benefit of being very affordable. HF for employers under 50 are being left. CM Acquaviva has two pharmacies and are part of the small business group plans that are being pulled from Brevard County. This is affecting 129,000 people in Brevard County. All these people are looking for insurance. United Health Care is a good nationwide program. CM Acquaviva said this is a good option for the Town.

**MOTION:** CM White / CM Vail to approve and direct the ITM to provide a forty-five (45) day written cancellation to Health First Health Plans, Gold and Platinum, and Hugh Cotton Insurance to coincide with coverage dates provided by FMIT to execute a contract to include group employee health plans with United Health Insurance Choice Plus Plans 1 and 3 and United Health Care Pharmacy Benefit. **VOTE:** All Ayes.to proceed.

**MOTION:** CM Acquaviva / CM Rivet to approve and direct the Interim Town Manager to execute the policy contract for health insurance with FMIT to include group employee plans with Delta Dental PPO 1500 dental plan, and United Health Care Vision plan. **VOTE:** All Ayes.

**MOTION:** CM Rivet / CM Scardino to amend and approve the Town Policy 2020-TC/T-036, Council approved paying 80% of the monthly premium for health insurance to reflect the new calculation based upon UHC Choice Plus Plan, Employee Only. **VOTE:** All Ayes.

**Chair excused Attorney from participation in meeting.**

**11. DISCUSSION/POSSIBLE ACTION: 2**

**11.a. Discuss Legislative Priorities for Malabar and Need for Possible Legislative Appointee (CM Dave Scardino)**

**Exhibit:** Agenda Report No. 11.a.

The Legislative session starts early this year, in January 2022. The first committee meetings in Tallahassee start 9/24 there are six weeks of them ending the beginning of December. The importance of making connections with our County and State Representatives before the Brevard Delegation meets could be very helpful in getting State support for local issues, like our stormwater projects. I have provided samples of the legislative priorities from IHB and Melbourne, the County, a page from the most recent Quality Cities mag and the tentative agenda for the FLC Conference.

**MOTION:** CM Vail / CM White to approve the appointment of CM Dave Scardino to represent the Town to State and County representatives. **VOTE:** All Ayes.

**11.b. Discuss Upcoming Budget Workshop and July Meeting Dates**

**Exhibit:** Agenda Report No. 11.b.

Clerk wanted to remind Council that during the budget process there may be meetings that fall on days other than the regular 1<sup>st</sup> and 3<sup>rd</sup> Mondays. This is because we cannot hold our public hearings on the millage and budget on the same days as the school board or the county commission. We will be ready for the first budget WS on June 28 (next Monday) if that is still agreeable with Council. Staff will provide preliminary anticipated Ad Valorem and State revenues as well as getting priorities from Council on areas to fund for expenditures. The July 5 RTCM is cancelled due to the Federal Holiday, so the plan is to have one regular meeting in July on the 19<sup>th</sup> and then a possible budget workshop.

**MOTION:** CM White / CM Scardino to approve the Budget WS on June 28 and July 26 and one regular meeting on July 19, 2021, **VOTE:** All Ayes.

**12. PUBLIC COMMENTS: General Items (Speaker Card Required) None:**

**13. REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Acquaviva: Nothing

CM Vail: Historical House restoration update. He spoke with the Manager of Home Depot about their activity and Manager told him the store is supporting Community Grant Funding for local projects. He said to make a list of everything and anything they need for the project and Home Depot will do everything they can to provide it all. Looks promising.

CM Rivet: Nothing

CM White: As Vice President for the SCLC, he has been working on changing the language in bylaws. When they promote an issue, it must be a county wide issue or concern. They are getting rid of the term “lobbyist” and “lobbying”. SCLC will be doing advocacy. What CM Scardino will be doing is lobbying.

CM Scardino: Nothing

Mayor: Attended the Mayor’s Breakfast last Friday. Fourteen of the sixteen Mayors attended. Thanked Council for the good discussion on TM status and update; appreciated their input and discussion.

**15. ANNOUNCEMENTS:** Openings on T&G Committee.

**16. ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 9 P.M.

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

ATTEST:

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

Date Approved: 07/19/2021