

**MALABAR TOWN COUNCIL
REGULAR MEETING MINUTES
MARCH 07, 2022, 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 Acquaviva led P&P.

2. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL

DAVID SCARDINO

MARY HOFMEISTER

MATT STINNETT

TOWN MANAGER:

LISA MORRELL

SPECIAL PROJECTS MANAGER

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN, excused

DEPUTY CLERK/TREASURER

RICHARD KOHLER.

FIRE CHIEF

MIKE FOLEY

3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES: None

4. CONSENT AGENDA:

4.a. RTCM Minutes of 2/07/22

4.b. b. Award of RFP 2022-01 to Southeastern Lighting Solutions for Parks, Facilities, and Wayfinding Signs

4.c. Approve Piggy-back Plan Review & Building Inspections Services, IFB#09-0-2021, City of Palm Bay, Joe Payne, Inc.

4.d. Approve contract with MCCi for scanning and archiving purposes

4.e. Approve Piggy-back Procurement of Electronic Sign – Art-Kraft Sign Company

4.f. Approve Glenn's Tire & Service Company for Town Heavy Equipment Tires

4.g. Approve Purchasing Card Program with Bank of America under the State of Florida Contract

SPM Morrell stated that there is a scrivener's error in 4d.

MOTION: CM Vail/ CM Rivet to approve Consent Agenda. **Vote:** All Ayes.

5. ATTORNEY REPORT: None

6. BCSO: None

7. BOARD / COMMITTEE REPORTS:

7.a. T&G Committee: Chair Drew Thompson – Informed Council that the T&GC has successfully included a new trail from the fences on Cameron Preserve. This allows one directional travel on the single-track trail. The trail building work was a collaborative effort from Mountain Bikers from across the County. The new trail has been named the Impala Trail, and it is entirely in the Cameron Preserve. There has also been one trail barricade removed near the GlennBrook Retirement home. He then stated that the T&GC will begin looking at signage for the northern edge of the Cameron Preserve.

7.b. Park & Recreation Board: Chair Eric Bienvenu – not present

7.c. P&Z Board: Chair Wayne Abare – not present

8. STAFF REPORTS:

8.a. Town Manager Matt Stinnett – Provided an update on Rivet Lane, and states we are expecting the plans next week. There has also been positive and open dialog with the EELs program in the past week.

8.b. Special Projects Manager Lisa Morrell – Published the ARP webpage today, and thanked Council for the passing of the items on the consent agenda.

8.c. Fire Chief – Went over the written report provided to Council. Applied for the Fire House Sub Grant and a BCFR Grant, and there recently was an ISO study.

8.d. PW Director -written report

8.e. Clerk – Staff has done the research required to determine if redistricting is necessary as stated in Chapter 7 of Code if population in any of the five districts has a variance of more than 10%. After comparing the counts from the 2017 redistricting and the 2020 Census and adding in the new homes through December 2021 that variance has not been met. We added 42 new homes built in 2020 and 2021.

9. 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.

10. PUBLIC HEARINGS: 1

10.a. Decision by Council to Authorize the Closure of Lett Lane north of Booth Rd
Per Chapter 13, Section 13-26 a public road can only be closed, temporarily or permanently by Malabar Town Council after a Public Hearing and notice to the surrounding property owners. The existing gate was erected by an adjacent property owner.

Exhibit:

Agenda Report No. 10.a.

Opened PH: none Closed PH:

Chair asked staff – as presented in Agenda Report. SPM Lisa gave background on issue. We have done all of the procedural steps to take this action.

Atty states that Council has the right to close a road. The issues you must consider is depriving people access to their property. The law mostly deals with improved and maintained roads. This is neither of those. To permanently close a road would be a problem. He had a familiar issue in Grant Valkaria, where they used locks, but the locks were opened regularly.

CM Scardino states the issue is that one property owner is restricting access to the rest of the Town, and the Town's industrial park is there. CM Scardino states the property owner has fences, cameras, and has chased him away at gun point.

MOTION: CM Vail / CM Hofmeister to approve Resolution 04-2022.

Discussion: CM Scardino states that one resident shouldn't control what kind of growth occurs in Town. He feels the gate has been put up to hide criminal activity, including a documented fuel spill.

Atty states that if there is an unauthorized gate, we can not allow it.

CM Acquaviva states that this would be fine for a private road, but this is a public ROW.

CM Vail states that this issue has come up before all across the Town, like at the ends of Hall and Atz Road. Typically, pedestrian traffic is allowed, and property owners are allowed as well. Why is that different?

Atty states that the Town put up fences across Hall and Atz, a private resident has placed a gate across a public Right of Way.

SPM Morrell states that there are reasons to close a ROW, such as flooding or construction. This is not why this road is closed.

Atty states that if we gate and lock the area, the property owner will put his own lock on it.

CM Rivet states that if there was public interest in a gate, we could put one in. This appears to be causing a problem, so we should not allow it.

Mayor states that Mr. Callagy allows people to enter from the rear of his property to access the north side of Lett Lane since the south end is blocked.

CM Acquaviva states she would have loved to hear from any of the residents effected by this, but none are here.

Mayor states one property owner has contacted him and is opposed to the gate being there.

ROLLCALL VOTE: CM Acquaviva, Nay; CM Vail, Aye; CM Rivet, Nay; CM Scardino, Nay; CM Hofmeister, Nay. Motion Fails 4 to 1.

CM Vail stated that there is an issue on South Marie Street with people causing a nuisance, and in that particular scenario, a temporary gate would help.

11. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING: 2

11.a. Request for Council to Take Legal Action to Provide Public Access to Publicly Purchased Land (Malabar Scrub Sanctuary) by CM Scardino

Exhibit: Agenda Report No. 11.a.

Murray Hann, 1365 Corey Rd stated that he appreciates CM Scardino's and the Town's action in trying to take the fences down. They make everyone look bad. He gave an extra explanation of the gate that was removed near Glenbrook. In talking with TM Stinnett, he has learned there has been progress with Mr. Knight and the EELs program. He is assuming that the Town hasn't been served with a suit because the County knows they don't have a case. Maybe the fastest way to get the fences down would be to table this for a few weeks.

CM Scardino states he is not opposed to tabling this for a few weeks. He believes we are on firm ground to ask them to remove the gates.

Atty states that the fences were put up without the necessary permits. The quickest step would be the special magistrate. He believes that there has been more discussion.

TM Stinnett states that he doesn't have a proposal for tonight, but there has been progress. We do not have a suit filed against us.

Atty states that the State of Florida will be a respondent in any case we bring, and he feels they don't care. If we take the special magistrate avenue, both the County and State will get noticed.

CM Scardino states that we need to show them we mean business. If we go to the special magistrate, how long will it take for the fences to come down? The Special Magistrate angle may work as it involves the state.

Atty states he likes Mr. Hann's idea

MOTION: CM Scardino/CM Vail to table this item until the next RTCM.

Motion Passes 5-0 (All Ayes)

12. ACTION ITEMS: ORDINANCES for FIRST READING: 1; RESOLUTIONS: 0; MISC: 0
12.a. Amend Chap 6 Building Codes Pertaining to Unsafe Structures (Ord 02-2022)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BUILDING CODES; AMENDING CHAPTER 6, SECTION 6-1 OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR ADOPTION OF CERTAIN MODEL CONSTRUCTION CODES DEALING WITH ABATEMENT OF DANGEROUS BUILDINGS AS PROVIDED IN THE FLORIDA BUILDING CODE 1997 EDITION; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 12.a.

Motion: CM Rivet/ CM Hofmeister to approve Ordinance 02-2022

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

RESOLUTIONS: 0

MISCELLANEOUS: 1

12.b. Request from Trails & Greenways Committee for Council Directive to Brevard County Commission regarding Briar Creek Blvd.

Exhibit: Agenda Report No. 12.b.

Chair asked T&GC Chair Thompson to present: Chair Thompson state the committee is concerned with safety. There is an emergency ingress and egress from the Malabar ROW of Briar Creek Blvd. Residents also take this area to work and are now blocked. There are also trees inside of the 100' ROW. It is the T&GC's recommendation to protect this ROW, as it is essentially a trail. On January 31st, this issue was discussed at the BCBPTO. If we do not have the area marked during restoration, there could be an issue of blocked access.

CM Vail asks if there has been a survey done on the ROW? TM Stinnett states yes. CM Vail suggests we mark and tape it in house.

TM Stinnett states that the trees in the ROW have been discussed, and its not likely it will happen. In terms of keeping it passable, they use the road to access the park too, so they want it in good condition.

Thompson states that in Malabar West, they lack the 1000' buffer the PVA stated was required. That can potentially be a huge factor. From Brook Hollow, the trees along the ROW screen the view of Malabar Road.

CM Acquaviva stated she has discussed this with TM Stinnett and feels it is hopeful.

MOTION: CM Rivet/ CM Acquaviva move that the Briar Creek Blvd Right of Way be maintained and that no trees are removed without Town of Malabar permission. (5-0) All ayes

Chair dismissed Attorney.

13. DISCUSSION / POSSIBLE ACTION: 0

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

15. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: Wanted to acknowledge the approval of the Digital Sign and noted that maintenance can be tough. SPM Sated that ArtKraft was the awarded vendor, and they produced the Port Malabar Rd Community Center Sign.

CM Vail: no

CM Rivet: no

CM Hofmeister: Wanted to thank the T&GC and the BMBA. The work you have done has been incredible. Opening a new trail in the face of adversity is a special event.

CM Scardino: Also thanked the T&GC and the BMBA. Asked if they have changed the speed limits on US 1? SPM Morrell stated that there is some resurfacing going on south of us, and there has been increased enforcement.

Mayor Reilly: no

16. ANNOUNCEMENTS: Openings on T&G Committee.

17. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 8:27 P.M.

BY: _____
Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard Kohler
Deputy Town Clerk/Treasurer

Date Approved: 03/21/2022