

**MALABAR TOWN COUNCIL REGULAR MEETING MINUTES
DECEMBER 06, 2021, 7:00 PM (immediately following tree lighting)**

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 7:00 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

MARY HOFMEISTER

TOWN MANAGER: (ITM)

LISA MORRELL, Excused

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

DEPUTY TOWN CLERK/TREASURER:

RICHARD W. KOHLER

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

4. CONSENT AGENDA:

4.a. Regular Town Council Mtg Minutes of 11/15/2021

4.b. 2022 Holiday Schedule

4.c. 2021 Holiday Schedule

4.d. Piggyback for Verizon

4.e. Cancel RTCM 12/20/2021

4.f. Approve re-decking bridge at MCP

MOTION: CM Vail / CM Acquaviva to approve. Vote: All Ayes. 5-0

5. ATTORNEY REPORT: None

6. BCSO REPORT: none

7. BOARD / COMMITTEE REPORTS:

7.a. T&G Committee: Committee Chair Thompson – Mayor said he was running late and would report later in the meeting.

7.b. Park & Recreation Board: Chair Eric Bienvenu – Present but no report

7.c. P&Z Board: Chair Wayne Abare - none

8. STAFF REPORTS:

8.a. Town Manager – ITM Morrell provided written report in packet.

8.b. Special Projects Manager – Ms. Morrell, SPM, provided a written report in packet.

8.c. Fire Chief: Chief Foley – Provided written report.

8.d. PW Director – Provided written report.

8.e. Clerk – Provided information about latest improvements. All three open positions for Town staffing have now been filled. MEO, Driver Engineer and Administrative Asst in Clerk's office have accepted employment offers and gone through the onboarding process.

Flags are at half-staff due to the remembrance of the attack on the Pensacola Naval Air Station two years ago. Tomorrow it will be down in remembrance of Pearl Harbor Day 80 years ago. In addition, the flags will remain at half-staff until December 9 in honor of Senator Bob Dole who died Sunday.

Deputy Clerk/Treasurer Kohler gave his report on the status of his certification as Certified Municipal Clerk – January he will have met the two-year requirement of membership into the International Institute of Municipal Clerks, and he submit his application for certification as a Certified Municipal

Clerk. He has attended conferences, seminars, and webinars for educational points toward this certification.

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: 0

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

12. ACTION ITEMS:
ORDINANCES for FIRST READING: 0
RESOLUTIONS: 0
MISCELLANEOUS: 0

Chair requested Attorney to stay through next item.

13. DISCUSSION / POSSIBLE ACTION:
13.a. EEL program plan to do Tree Removal / Land Clearing at Jordan and Malabar Scrub Sanctuaries

Exhibit: Agenda Report No. 13.a.

Mayor asked Clerk to do intro: Franklin said this came to our attention last week and required urgent action. We noticed the signage stating there would be work on the Malabar Scrub starting 12/1/2021. That is what put the urgency to the matter. We are happy to report that we contacted the Environmentally Endangered Lands (EEL) Program Director and held a Zoom meeting and had success in achieving the pause to the project. We are asking for no action at this time other than to pursue continued communication and coordination with the EEL program plan for management of these environmentally sensitive lands owned by the State and purchased for conservation purposes. We are satisfied with the pause in the project until public input is received. Program Director Mike Knight will be presenting to Council on January 3 on the proposed plan, and we will all have more information about the possibility of transitioning management over to the Town for at least the Malabar Scrub Sanctuary. We are asking for direction from Council to gather information and do research on the possibility of transitioning the management of the Malabar Scrub Sanctuary to Malabar from the EELs as suggested by the Brevard Cty Commission's P&Z meeting of 12/2/2021. We are asking for direction to review the legal aspects on amending our Codes to include specifically how our codes could impact conservation land within Malabar jurisdiction. That would require legal input with review on the authority having jurisdiction. We have historical documentation of coordination with the County Commission and the EEL program on requesting and issuing permits whether they were legally required or not – cooperation and coordination.

Open to Public with Speaker's cards:

Sue Hann – thanked Council for having this discussion. They bought here 28 years ago because of the trails. They were there before the EELs program and continued there after the program was approved. It is an economic driver for the Town. It is important public policy to work together; user groups, stake holders, taxpayers, and the Town government with the County. The original purpose of purchasing the conservation lands was intended for both public passive recreation use and conservation. She doesn't want those parties to be combatants – rather work as collaborative partners. Preserve the property and allow it to be used in passive recreation. Find areas where we agree and work on those areas where we

need compromise. We can do a better job. Thanked staff for being responsible stewards of the Town and bringing this to the attention of Council and achieving the pause on the project.

Murray Hann thanked Council for the opportunity to speak. The last thing the Brevard Mountain Bike Association (BMBA) wanted to be seen as is villains. We want to build and maintain boardwalks and trails. We have been down that road before of non-cooperation. Ten years ago, we reached a compromise after a similar plan was enacted. It is important to realize the purpose of the original plan approved by the voters. You used to be able to ride the trails through the original Malabar Scrub Sanctuary (original 395 acres) and remain entirely in the shade. It had more scrub jays then than now. He doesn't understand the whole transition to the focus on scrub jays. Even the County referred to the land incorrectly – it is not Malabar scrub jay sanctuary it is the Malabar Scrub Sanctuary for the scrub conservation. He sits on the Recreational Educational Advisory Committee (REAC) for the Selection and Management Committee (SMC) for the EEL program. He has missed no meetings, but the huge restoration project done on Jordon Scrub was not on a recent agenda - to say that the trail remains is true but if you must put in more signposts along it because it has been so cleared it is difficult to see the trail. That is what they are worried about – it is happening again. Is it all going to be like the Jordan Scrub? They are ready to sit at table and reach a compromise.

Brandi Julin represents the property owner at the north end of Corey Road and abuts some of this land. They are here to get more information. She learned a lot from the introduction by Franklin. She would like to see more communication with the public to get information out to the impacted neighbors.

Back to Council.

CM Rivet agreed with what the Hann's have stated. The bond referendum money was approved to support passive recreation and preserve the environment. Let's work together. He looks forward to us working together. CM Acquaviva was for the conservation land being purchased for the benefit of future generations. She does not support being combative; because it is for conservation there should be a compromise. CM Scardino said what about the other lands. He asked when staff found out about the clearing of the 700 acres of Jordan Scrub? Franklin stated last week. CM Scardino asked when the work was done – Franklin said in May.

CM Vail has known these lands since 1970's. Thought we would manage the lands in such a way, and it would be preserved to protect native habitat when it was on the ballot. He understands there is some science to the need for special habitat for the scrub jay bird. Need to gather more information. Supports the pause in the project; need to have Malabar input as it is literally in our back yards. And we are also financing its management through tax dollars to the EEL line item on all of our tax bills. Reiterated all parties need to communicate better. They are tasked with the management, but we live next to it. CM Hofmeister said we were all surprised by this occurrence.

CM Scardino said the email from ITM Lisa to Mr. Knight last February stated the concern of Council on any tree removal, and they went ahead and cleared Jordan Scrub without permitting.

CM Rivet said we have seen a way to quickly lose support in this program. He said it appears to have been a concerted effort to proceed so it would be too late to do anything about the project. He hopes we are not going backwards but watching the video and listening the audio the comment "done too good a job of providing information" stands out. CM Vail said we don't collect any property tax money on the protected land but before it was

purchased by the State it could have been developed into residential development and brought it much tax money. He is glad they have this set aside for conservation and passive recreation but what other municipality can state that 20% of their jurisdiction is set aside and off the tax bill? They are one of nine municipalities designated by the State as a Trail Town.

Mayor read the proposed motion:

MOTION: CM Rivet / CM Vail to direct staff to send a thank you letter for pausing the EEL's proposed project from the Mayor to the EEL Program Mgr. Mike Knight and a commitment to work together to get information to the public for input.

Vote: All Ayes.

MOTION: CM Vail / CM Scardino to direct staff to review the potential of Malabar managing the property. **Vote:** All Ayes.

MOTION: CM Acquaviva / CM Hofmeister to direct staff to investigate further amendments to the code for tree removal and land clearing within conservation land. **Vote:** All Ayes.

CM Scardino would like background information on what studies were done before clearing Jordan Scrub. Who was hired to log and how much did they get for the trees? That information should come from future communications with the EELs.

CM Scardino said again we are reactive instead of proactive, using the clearing of 700 acres of Jordan Scrub as an example. We need to have a part-time code compliance person driving throughout Town. CM Vail said it could be a function of T&G. Atty advised against having volunteers doing this work. Can't make anonymous complaints and need to follow protocols.

T&G Chair Drew Thompson said we could observe things that don't seem right and report.

Mayor allowed T&G Chair Drew Thompson to give a delayed presentation: he will go through Power Point at Jan 3 meeting. They are looking at this current situation as a crisis. Can't see trees for woods. We are envisioning EELs that key initiative. It is a scrub sanctuary and has native habitats. We need to hold them back to original approved plan as a conservation area to preserve native habitat and provide for passive recreation. The T&G looks at this as the essence of the Town. They are a Trail Town. If the big trees come down to make into scrub habitat. Need to look at compromise.

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

Eric Jones: Wanted to get information about the increase in the WM bill. He spoke with Denine, and she said there was a contract change. He asked why did some get a high bill and not others? Mayor directed Franklin to respond.

Franklin gave the explanation. WM notified Malabar council of their intent to not continue the 21-year contract for services. We had 60 days left on the first 7-year cycle. We tried to piggyback on Grant Valkaria franchise with Waste Pro, but they couldn't provide the service for the same amount as G-V residents are paying. We had to go out for Request for Proposal (RFP). WM submitted a "no bid" citing insufficient time to prepare a bid; Republic submitted a proposal that offered once a week trash service and a limit of one cubic yard of yard waste which would not work in Malabar. The last proposal was from Waste Pro, and they offered the same level of service at 43.50/month. We are working on the transition plan now. Because of the short notice we had to request an extension from WM to provide service through the end of the year. Once all the details are finalized, we will get the word out to our residents on when WM will pick up their totes and when Waste Pro will be

delivering. ITM Lisa has suggested using door hangers to provide info to all residents if necessary.

15. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: beautiful tree lighting and good turnout. Decorations were beautiful.

CM Vail: none

CM Rivet: none

CM Hofmeister: none

CM Scardino: none

Mayor Reilly: none

16. ANNOUNCEMENTS: Openings on T&G Committee.

17. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 7:50 P.M.

BY: _____
Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

Date Approved: 01/03/2022