

**MALABAR TOWN COUNCIL
REGULAR MEETING MINUTES
MAY 02, 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

TOWN MANAGER:

MATT STINNETT, military duty

SPECIAL PROJECTS MANAGER:

LISA MORRELL

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN, acting TM

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

4. CONSENT AGENDA:

4.a. RTCM Minutes of 4/18/22/2022

4.b. Approval to apply for the Volunteer Fire Assistance (VFA) Grants through the Florida Department of Agriculture and Consumers Services, Florida Forest Service to replace Fire Department Turnout Gear

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

5. ATTORNEY REPORT: Provided an update on EELs issue and explained the technical error on the 20/40-day response period. He will file a motion to abate on the last day. Faber foreclosure, Faber is avoiding service. Atty is going to do a service by publication. It will take a little longer.

Clerk asked Attorney to state for clarification on the record for how the lien release for 2415 Malabar Road will be processed. Attorney Bohne stated that once the fines and fees are paid in full and cleared, then the release of lien will be drafted and recorded and forwarded to the Clerk.

6. BCSO - none

7. BOARD / COMMITTEE REPORTS:

7.a. T&G Committee: Chair Drew Thompson – brief – still pursuing new signage for Cameron Preserve. We haven't lost the fact that we are a Trail Town. ENT has worked there and met with staff and PW can add fill dirt and compact it down. Request we have invasive mitigation work done. Get mitigation from or thru KBB for removal of Brazilian peppers. They are willing to meet us out there and give us an estimate. T&G also wants to bring in some native plants to blend in. CM Acquaviva asked about KBB mtg. Chair Thompson will volunteer to meet with them but make no commitment. Consensus of Council for Chair Thompson to continue and pursue estimate from KBB. CM Vail also talked about the pepper trees along the river.

7.b. Park & Recreation Board: Chair Eric Bienvenu – see below

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

8. STAFF REPORTS:

8.a. Town Manager – excused

8.b. Special Projects Manager – written - ARP report on time. Electronic Sign
is complete.

Tracked Vol Asst Grant ap and it took 3 weeks to arrive in Tallahassee. Attended the 2022 HR Safety seminar in Tamarac last Thursday. Mtg set for May 12 with Palm Bay to discuss water expansion and will update Council in the June meetings.

8.c. Fire Chief – written

8.d. PW Director - written

8.e. Clerk – in case any of you missed it, Malabar now has an electronic sign we can update from Town Hall. Kudos to Council and SPM for making it happen as our first SLFRF (State & Local Fiscal Recovery Fund) project – providing touchless ability to provide information to the public. There were a few tweaks in the set-up last Friday in keeping the time in the correct zone, but SPM Lisa resolved that this afternoon.

- This is Municipal Clerks Week May 1 – 7, 2022
- Project related to the scanning project (SLFRF project) Returning residential property files – as part of the MCCi project to scan and upload existing required documents, staff will be culling the residential property files and destroying all residential single family building records older than ten years. Prior to that project beginning, we have advertised on the Town's website and Facebook page that if any property owners would like their property files that have reached the retention period of ten years will be returned to the current property owner. We have had a tremendous response in the first week.
- VAB (value assessment board) as of 4/15/2022 determined the final gross taxable value is 304,073,181 up from 303,721,771 or about 352K.
- Population – very disappointing but the population estimate for us to use in the 2022/2023 FY has been reduced to 2927 – a drastic reduction from the 3033 we had for last year. I will provide a copy of the response I got from BEBR of UFL on the way they calculate the pop estimate for the following year. I provided them the facts from the existing verified population when we determined that a redistricting was not necessary, the number and location of all the new homes built in 2020 thru Dec 2021 – 42 new homes, no foreclosure vacancy problems no standing empty homes as we have been told that homes are sold in less than two weeks from listing. They do use seasonal residences as a reduction in the population.
- In going into budget workshop discussions, I would like to make you aware of the roads in que for paving estimates – Since Council adopted the cost share incentive for paving of accepted dirt roads, we have completed only one - Hunter Lane. After learning lessons from that process, (22K estimate vs. 130K reality), we have expanded the process in order to acquire more accurate detailed costs for the Town before the Town approves the special assessment. Since the Hunter Lane paving was advertised, we have received multiple petitions for paving considerations using the Special Assessment process. There is resident support for this process, we just lack a funding source. All the petitioners have been told it is a multi-year process, but the interest is there.

Rivet Lane – 1150' north of Hall Road – recd 12/16/2020

Duncil Road – ½ mile south of Hall Road – recd 8/13/2021

Howell Lane - 1145' south of Hall Road – recd 9/20/2021

Howell Lane – 1300' north of Hall Road – recd 10/18/2021

Kramer Lane -1375' north of Benjamin Road – recd 3/24/2022

So, since we are still working on getting the engineering estimates and 80% design plans for Rivet Lane that Council approved in June 2021, we may want to consider another road workshop to discuss and fine tune the method we are using, and the monies being committed to road maintenance.

- Steve Fitzgibbons SJRWMD has also contacted us regarding a future needs water supply plan we must adopt and incorporate into our Comp Plan. This was approved by their Board on 2/8/2022. We have 18 months to come up with a Water Supply Facilities Work Plan (WSFWP) with a ten-year planning period. Staff will begin working on a draft ordinance and then it will go to P&Z before it come to Council.

- Special Leg Session is over and FLC has provided a summary on the bills that passed.

- Provided an updated list of upcoming meeting dates. The two we selected for the PH for the millage and budget (Sept 12 and 26) do not conflict with the Cty or the Sch Bd so just a reminder these mtgs will be the 2nd and 4th Monday of the month.

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. Closure of Marie Street by Town of Malabar per Ordinance 2021-15 the request to barricade Marie Street right-of-way between Section 01 and Section 06 at a point adjacent to the southeast corner of Parcel 29-37-01-00-783. The purpose of the barricade would be to prevent motorized and other off-road vehicles beyond that point until development of the adjacent parcels occurs.

Exhibit:

Agenda Report No. 10.a.

Mayor opened PH:

William Wall 2340 Marie Street. He noticed most of the drivers of the ATVs drive unsafely and travel down Marie Street and most are young people. He is very much in favor of this temporary closure.

Chair closed PH.

Mayor asked staff: Clerk has received no negative comments. Only supportive calls.

MOTION: CM Vail / CM Scardino to approve the temporary closing of Marie Street at that location and proceed with the reading of the resolution. **Vote:** All Ayes.

Resolution 10-2022 read by title only.

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE TEMPORARY CLOSURE OF MARIE STREET BETWEEN SECTION 01 AND SECTION 06 AT A POINT ADJACENT TO THE SOUTHEAST CORNER OF PARCEL 29-37-01-00-783; PROVIDING PREVENTION OF MOTORIZED AND OTHER OFF-ROAD VEHICLES BEYOND THAT POINT UNTIL DEVELOPMENT OF THE ADJACENT PARCELS OCCURS; AUTHORIZING THE TOWN CLERK TO RUN A LEGAL ADVERTISEMENT OF THIS ADOPTED RESOLUTION; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

MOTION: CM Rivet / CM Vail to approve the temporary closing of Marie Street as indicated and directed Clerk to read Resolution 10-2022 by title only for adoption.

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

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

11.a. Park and Recreation Board Recommendation and Staff Comments

Exhibit:

Agenda Report No. 11.a.

Chair asked if Park & Rec Board Chair Eric Bienvenu would present. He said the Park Board had looked at doing this years before but with no budget they put it on back burner. Now they have person offering to pay for it. He said the donator would be the owner of the Muscle Car Museum. He had previously donated money for three dog parks in Melbourne. He has committed 80K to this donation but there are requirements and conditions like once they complete the build, it will be an ongoing maintenance requirement by the Town.

He went through the Agenda Report 11.a. He described the proposed site at MCP west of the soccer field parking lot. Could be extended south to make about a 1/2 acre site. Would require more than one pavilion, a water source, fencing and shading, etc. He thinks they

could pull water from Fire Department. Or drill another well. He said TM Matt said the Town could do some of the prep land work like clearing and staff could help with the site plan.

He said the donator originally wanted to do a fundraiser for this purpose but that has been pulled. He also requested a sign giving him recognition for the 80K donation.

CM Acquaviva asked if he could share any potential obstacles. He replied that it could be a long process and they will have to do a tortoise study. CM Rivet asked where the closest dog park is - Jahn Casey said the Fee Avenue Park is the closest that Mr. P helped with. SPM said Fred Poppe in Palm Bay is the closest to Malabar. CM Acquaviva asked Atty Bohne to address Town liability. Atty said there are many aspects Council should consider.

Chair Eric Bienvenu said John Casey could respond to that. Casey said they require signage that states the dogs all must be vaccinated, tagged, etc. but there is usually no checking. Satellite Bch has special requirements. These are free parks.

SPM stated that at the FLC seminar she attended last Thursday she learned that these parks are covered under our general liability policy and do not require a special rider, but we could still be sued. She also said that water would be more available at Eschenberg Sanctuary. Mr. Casey said that would be a none-starter for Mr. P. He wanted it at MCP. CM Acquaviva mentioned real case issues of dog injuries at some dog parks.

CM Acquaviva is on the fence. Direct staff to proceed with more information gathering. The initial cost and the ongoing costs for the operation, routine costs going forward. Rider on ins (done) CM Vail said the parking would be an issue. CM Acquaviva said we don't have a lot of employees; how are other dog parks maintained. Mr. Casey said they have a dedicated person to address these issues on site. Consensus Mayor would like to consider Eschenberg Sanctuary. Mr. Casey said the Mr. Pieloch would probably not prefer that location as it is not an established park. Consensus of Council to direct staff to continue to get operational and long-term costs going forward if they approve this.

Mayor reminded Council they had considered a earlier recommendation from Park Board for a dog park at Huggins Park and Council did not support that recommendation.

12. ACTION ITEMS:

ORDINANCES for FIRST READING: 0

RESOLUTIONS: 1

12.a. Budget Adjustment FY 2021-2022 (Reso 09-2022)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2021-2022; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit:

Agenda Report No. 12.a.

Resolution read by title only.

MOTION: CM Vail / CM Acquaviva to adopt Reso 09-2022.

Chair asked for staff comment: Clerk said this budget adjustment resolution formally documents the Council action taken at the last meeting authorizing the purchase of the used Grader and the surplus and trade-in of the Town's grader.

Discussion: none

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

MISCELLANEOUS: 0

Chair excuses Attorney

13. DISCUSSION / POSSIBLE ACTION: 1**13.a. Continue Discussion on Long-term Capital Improvement Priorities****Exhibit:****Agenda Report No. 13.a.**

Continued from last meeting. They agreed they need to have a meeting, but they need more information from staff. Staff will propose an alternate date later. The WS for 5/23/2022 is for budget prep to get Council priorities. Separate one will be held for capital projects funding options. FLC can help with bond possibility but that also is a long, multi-step process. It can't all be done in one year.

14. PUBLIC COMMENTS: General Items (Speaker Card Required) (5 minutes limit)

Scott Ryan, Lett Lane, had question to ask – he wanted Attorney to swear in CM before answering his questions. Atty was previously excused. Chair directed him to provide handouts to Clerk for distribution. Mr. Ryan stated Council approved leaving the gate in place. He made several statements about historical activities that occurred within the right-of-way. He stated the Town was not maintaining the ditches, which is a 3rd degree felony. He has retained an attorney. Chair said his time is up. Mr. Ryan continued to speak from the podium and the audience and Chair asked BCSO to escort him away from podium and then outside.

15. REPORTS – MAYOR AND COUNCIL MEMBERS**CM Acquaviva:** nothing**CM Vail:** nothing**CM Rivet:** nothing**CM Hofmeister:** nothing**CM Scardino:** nothing**Mayor Reilly:** nothing**16. ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 8:50 P.M.

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

ATTEST:

Debby Franklin Date Approved: 05/16/2022
Debby Franklin, C.M.C.
Town Clerk/Treasurer