

**MALABAR TOWN COUNCIL
REGULAR MEETING MINUTES
AUGUST 01, 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 called meeting to order at 7:30 pm. CM Scardino led P&P.

2. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL, excused

DAVID SCARDINO

MARY HOFMEISTER

TOWN MANAGER:

MATT STINNETT

SPECIAL PROJECTS MANAGER:

LISA MORRELL

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

4. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES: TM Stinnett asked to add an item dealing with the millage restrictions due to Spec Law – Atty Bohne has submitted a legal opinion that we can proceed with the proposed millage. 13.b.

5. CONSENT AGENDA:

4.a. RTCM Minutes of 7/18/2022 & WS Minutes of 6/25/2022

4.b. Consideration of Waiver of Bid to procure Fire Incidents and Health Record software with ESO Solutions, Inc.

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

5. ATTORNEY REPORT: Atty Bohne said he will speak under 13.b.

6. BCSO – not present

7. BOARD / COMMITTEE REPORTS:

7.a. T&G Committee: Chair Drew Thompson – Report this month BPTAC announced on 7/14/2022 that 200K for engineering study of combined Marie St/Jordan Blvd addition to the Al Tuttle Trail through this area. G-V T&G also supports this project. They are also encouraged with FDOT support. Signage, recognition for Cameron Preserve. Bids out for pavilion at north end of Corey Road. Cement floor with metal roof. Make a minimum footprint – emphasis on – would like for T&G to have input on location/placement. IMBA had expressed interest in helping us with the grant process. Due by 7/31/22 and they did not submit. They wanted 50% in payment and then would provide consultation. Decided not to go that route. Lot is going on in the background and he recognized Richard Kohler as their Committee Secretary and stated he helps members stay focused. It is one thing to have staff support to work in the background and do research, but Richard is also an avid user and supporter. T&G made decision is to not pursue with the international group. They already have much support from the local MBA is already helping and we have their support. Moving forward on ENT. PW has helped. Trailhead area is significantly lower than Marie Street. Need to add considerably more fill – town dirt in compound to be done by vendor. Envision loading and spreading. Bobcat with a bucket for the fence line fill – then they can get the fence and gates in and secure the area. Damage was done during more recent work. Wax myrtle was lost, and barrier berm breached since the members of T&G weren't present and reiterated T&G request to be onsite when work continues at ENT. This is the summer to do it. Expressed to Council the benefit of having Richard as secretary of Committee since he has real interest in success of projects and thanks Richard again.

Mayor asked if the T&G C was working with Palm Bay on the Grapefruit trail. T&G have not been actively working on it, but T&G members that are also MBA members have been helping. Mayor is it moving forward? Yes.

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 – We are behind on mowing ditches – slope mower is due back tomorrow. CM Scardino asked about vacuum truck – TM said next budget year.

Mayor said he has a SCLC mtg. next week and is regularly asked by 4-6 people about latest status on Brevard County/EELs conflict. Atty Bohne said Town submitted a motion to abate. It is just sitting there. Cty Atty has since resigned, and the County has had an interim. He understands the County will be appointing a new Attorney very soon. Conflict is status quo.

8.b. Special Projects Manager – written – bid on restroom is out. She is finishing employee manual. CM Acquaviva asked about LifePaks and turnout gear; both are being delayed; she asked if we had paid for these items. SPM Morrell said Town has issued a P.O. but will not make payment until the items are delivered and confirmed correct.

8.c. Fire Chief – nothing

8.d. PW Director - written

8.e. Clerk – nothing at this time.

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:

12. ACTION ITEMS:

ORDINANCES for FIRST READING: 2

12.a. Establish a Temporary Moratorium on the Special Assessment for Road Paving of Accepted Dirt Roads. (Ord 2022-08)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON THE SUBMITTAL, PROCESSING, AND APPROVALS OF PETITIONS REQUESTING ACCEPTED DIRT ROADS BE PAVED THROUGH SPECIAL ASSESSMENT APPROVED BY COUNCIL PURSUANT TO ARTICLE II OF CHAPTER 13, SECTION 13-52 (2); PROVIDING FOR FINDINGS, INTENT AND DURATION OF THE MORATORIUM; PROVIDING FOR AN EXTENSION PERIOD; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 12.a.

Ordinance read by title only. Atty Bohne explained the process.

MOTION: CM Scardino / CM Rivet to approve 1st reading of Ord 2022-08.

Discussion: CM Acquaviva has problem with Council adopting a moratorium that would prevent people that want to get their roads paved from applying. Town should be honest and say the Town doesn't have the money. It was explained that this would not restrict persons from getting their roads paved using Special Assessment to pay the 100% of cost. The moratorium is on the cost share portion. CM Rivet Like to find funding sources ASAP. Anything that encourages

paving the road is good for the people and for the town. CM Rivet supports this and hopefully we can repeal it once funding sources are identified. CM Scardino said if we let people know what we want to fund so we can get their support. CM Acquaviva said the moratorium takes peoples voices away. They can see what the budget is and explain the timeframe.

ROLLCALL VOTE: CM Acquaviva, Nay; CM Vail, excused; CM Rivet, Aye; CM Scardino, Aye; CM Hofmeister, Nay. Mayor voted Aye to break tie and it is a 3 to 2 vote. Motion carried 3 to 2.

12.b. Extend Franchise Agreement with Palm Bay Utilities (Ord 2022-09)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA
EXTENDING THE WATER AND SEWER FRANCHISE WITH THE CITY OF PALM BAY AS
ESTABLISHED IN ORDINANCE 2012-55; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 12.b.

Ordinance read by title only.

MOTION: CM Rivet / CM Scardino to approve 1st reading of Ord 2022-09.

Discussion: TM Stinnett said this will continue the approximately 6K in revenue. It is agreeable to Palm Bay.

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, excused; CM Rivet, Aye; CM Scardino, Aye; CM Hofmeister, Aye. Motion carried 4 to 0.

RESOLUTIONS: 0

MISCELLANEOUS: 1

12.c. Direction on Job Postings for Clerk and Treasurer (1st round closed 7/20/2022)

Exhibit: Agenda Report No. 12.c.

Chair asked Council to provide their rankings for each position. Start with Clerk. CM Acquaviva wanted to know what staff thinks. Council said the position reports to Council. CM Rivet said he eliminated those that weren't qualified; the others have different strengths. He thought that Richard Kohler can hit the ground running. CM Scardino – Richard is his top pick; he has the understanding and qualifications; others don't. CM Hofmeister agreed with CM Rivet and likes Rinaldi first and Kohler as well. Rinaldi is her first choice. CM Rivet said who has the best chance of success; none of them are fully qualified. CM Acquaviva said plus we have TM Stinnett. CM Scardino said we have SPM Morrell, and she can take the pressure off by taking on the Treasurer duties for now. Put Richard Kohler in as Clerk and put SPM Morrell as finance/treasurer. She has more experience than any of the applicants. CM Scardino didn't see any applicants with experience. Mayor sees where CM Scardino is coming from. Let SPM Morrell help us while she is here. CM Acquaviva agreed with CM Hofmeister and said Kohler is not ready to be clerk in Sept. CM Acquaviva wants to interview Rinaldi – Mayor said Council can interview them as a body in an open meeting. Interview Rinaldi and Kohler on 8/15/2022. Afford the opportunity to both.

Discussion on Treasurer.

CM Hofmeister had reviewed the applications: #1 Rafferty, #2 Croteau – didn't have education and #3 Chris Quirk – great qualifications but changed jobs a lot.

CM Acquaviva chose Calhoun; she has lots of finance. She would like to interview these also: Rafferty for #2 and Croteau for #3.

CM Rivet said if SPM is willing to help then that is his choice. He is having a hard time picking one out from applicants. Mayor said hold off on doing background checks because it is not done until offer is made. CM Rivet is not hearing anyone say to support a particular applicant. CM Rivet asked if the SPM is willing to help. She said is here to serve and would do as directed by Council.

Consensus to readvertise. TM Stinnett suggested they advertise for another month just for the treasurer.

CM Rivet is in favor of having SPM Morrell as the Interim person. CM Scardino agreed.

MOTION: CM Rivet / CM Scardino to request SPM Morrell to assume the additional duties of Treasurer for the upcoming year with a renewed search for a replacement.

Vote: All Ayes. CM Acquaviva would have liked to interview them. Mayor said Calhoun is the only one remotely qualified.

13. DISCUSSION / POSSIBLE ACTION: 1

13.a. Workshop set for 8/08/2022 at 7:30pm for Budget move to 8/22/2022

Exhibit: Agenda Report No. 13.a.

Council discussed need for another budget WS. TM Stinnett would like one more and proposed the 22nd of August. CM Acquaviva can attend. CM Hofmeister can as well.

13.b. Added item: Atty Bohne legal opinion on Special Law 74-290 and 85-xxx

Atty Bohne explained his legal opinion based on opinion of 5th Circuit Court in an appeal to a judgement issued in 2002. The case involved this restriction brought by County Clerk of Court Scott Ellis. The Circuit Court Judge ruled the 1974 law was implied to be repealed when F.S. 200 was adopted. The 5th Circuit Court of Appeals affirmed the Circuit Judges ruling.

This gives Town the ability in good faith reliance on the case law to set millage as determined by Council to fund the expenditure needs of the Town.

TM Stinnett asked Council about a referendum question on this year's ballot. Three for referendum – nonbinding – have Atty Bohne draft a resolution for a non-binding question to voters.

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

15. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: Any follow up on the truck food event. Good turnout.

CM Vail: excused

CM Rivet: had praise for Waste Pro; he did have a missed pick-up and they fixed it the next day.

CM Hofmeister: nothing

CM Scardino: said they are getting homeless people in his area, and they are stealing mail.

Mayor Reilly: Will be at the FLC conf later this week.

16. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 8:45P.M.

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

ATTEST:

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

Date Approved: 08/15/2022