

**MALABAR TOWN COUNCIL
REGULAR MEETING MINUTES
SEPTEMBER 12, 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 Vice Chair called meeting to order at 7:30 pm. Vice-Chair Rivet led P&P.

2. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY, excused

VICE CHAIR – **ACTING CHAIR:**

STEVE RIVET

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL

DAVID SCARDINO

MARY HOFMEISTER

TOWN MANAGER:

MATT STINNETT

SPECIAL PROJECTS MANAGER:

LISA MORRELL

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

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

4. CONSENT AGENDA:

4.a. RTCM Minutes of 8/15/2022 & Budget WS Minutes of 8/22/2022

4.b. Consideration for Professional Services for Surficial Pavement Assessment

Proposal with EDC, Inc, a continuing contract for engineering services

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

5. ATTORNEY REPORT: Atty Bohne stated he was contacted by another Attorney re: the EELs issue and told him he was contacted by a citizen about representing people that are very upset about the County closing access to the Malabar Scrub Sanctuary.

6. BCSO – not present

7. BOARD / COMMITTEE REPORTS:

7.a. T&G Committee: Chair Drew Thompson – Report this month emphasis on Cameron Preserve. Complemented the new signage and recognized Richard Kohler for his efforts in getting them done. The T&G want to refine the trail within Cameron Preserve to include more tree coverage. They want to continue protecting the foliage and the Rural Residential way of life. Refine the plan to protect all species not just the scrub jay – also are adding the kiosk maps soon within the Cameron Preserve. Emphasis now is on ENT – adding dirt starting tomorrow. Once dirt is added they will get the fence line in and some native planting. Perhaps getting a well that will facilitate fire suppression. Non-invasive planting. TPO from FDOT has allocated 200K for engineering trail study to connect G-V and Rocky Point. Marie St at 514 is a horse crossing. Trying to get more emphasis from FDOT to get more significant signage for this crossing. Put that crossing on the map maybe with flashing light. T&G made this recommendation to Council. Make this a safe place. Council supports T&G and this funding. CM Scardino asked about getting FDOT funding for the flashing light that connects Al Tuttle to G-V to the south so it could be part of there financial consideration. Council consensus to support the T&G plan for improvements at Cameron Preserve.

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

7.c. P&Z Board: Chair Wayne Abare – we are not as busy as T&G; their last mtg was 3/24/22. This Weds there will be a P&Z mtg and the Mayor will be presenting case to consider some limited manufacturing use in the Commercial General areas since the Town's Industrial area has been bought up by the State and County for conservation.

8. STAFF REPORTS:

8.a. Town Manager – He has three mtgs this week - with FDOT on the US1 resurfacing northbound from Goat Creek to Malabar Road; with Stormwater Engineering firm

to review their last proposals for the Stormwater Master Plan and then plan for some public meetings to get public info out; and the last one is a meeting with a vacuum truck services vendor for work in near future.

8.b. Special Projects Manager – written – the Pre-bid mtg on MCP restroom had a great turnout.

8.c. Fire Chief – Acting Chief Joseph Hooker reported they are 12 days into the month and have already been on 17 calls. The co-location at fire station with Brevard County is going well. The Medical Director is rolling out new protocols and that will step up FD on the level of care they can give residents. The first phase of the ARPA funded radios has happened without a hitch. They are also starting to see more volunteer applications.

8.d. PW Director – written

8.e. Clerk – we have sent out the BTR renewals with a memo to explain the new online portal so they can pay for renewal online. Have requested updated email info on all BTR holders so renewals can be sent out via email next year. The continued savings on material and staff time due to online automation is part on the improvements SPM initiated to reduce paper and encourage online access.

We have informed the bank that we need to update the signature cards. This will be a two-step process, with my name coming off this month and when the new check signer is selected in November, that change being made separately, if necessary. Also, a suggestion to rotate the vote on Council on rollcall documents is usually brought up every year or so. If there is interest it would only take direction from Council to Clerk.

The code enforcement issue at 2425 Malabar is on the list to be sold on the courthouse steps in Dec. We have recorded the code violations and they have been accruing daily. She said we may see payment, Attorney said he would review and verify if we can collect on property sold for tax deed.

I will be staying an additional two weeks into the new fiscal year to help, if necessary, with the transition. This will be in the background only.

Council consensus was to start rotating the roll call votes.

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.

Speaker Card: Mike Spence – stated he is a heavy equipment operator (HEO) for Malabar and read from prepared paper expressing several employment related matters.

Speaker Card: Mr. Steffe, Weber Road: he has been a resident since Jan 2009. They love living here and are happy with Council's commitment to rural living. He wanted to talk about new trash collection vendor. He has talked with TM Stinnett about the reason Town changed and learned the Town is simply stuck with what you got. With the much-increased cost, he would have expected a big increase in quality of service but has seen no improvement and wanted to share that with Council. CM Scardino stated the vendor we had, Waste Management (WM) dropped us causing the need to put out to bid. Vice-Chair Rivet stated he has seen big improvement in yard and recycling service with the new vendor Waste Pro of Florida.

9.a. Agenda Request form – Wayne Abare – Speed Bump on Rocky Point Road
Exhibit: Agenda Report No. 9.a.

Mr. Abare called to podium to present.

Mr. Abare stated due to speeding on Rocky Point Road, since 1998. Many of the residents walk and/or ride bicycles along here. He has been run off road twice a year. Don't want to wait until someone dies. Speed bumps could help. Staff provided overview of Brook Hollow

similar request and got reduced speed and speed bumps. Later they were removed. How is Rocky Point different from Brook Hollow? Some think they do it to avoid light at Harris. CM Scardino asked when this happens – later in the afternoon. BCSO come earlier in the day. Have they asked BCSO to change time they do their enforcement? Once or twice a month. Wayne paid for a sign that said speed checked by radar. We are different because we don't have sidewalks. There are 39 homes, and he will get residents to sign a petition. Maybe just two speed humps. Old speed bumps may be saved by Tom and may still be back there. CM Acquaviva said she has bad memories of the speed bumps in Brook Hollow. She would like to see at least a majority of the residents that support speed bumps and sign the petition.

CM Scardino would like to see the BCSO step up the patrol. CM Vail said the Council had also considered rumble strips. The complaints are about the noise of heavy trucks going over the speed bumps. It is not the cars, it's the trucks. Empty truck will make big noise. CM Hofmeister said she lives on Corey Road and runs daily. Even after Council added two stop signs on Corey has not solved the problem of speeding. Council consensus to ask for more coverage by BCSO at the times necessary as provided by Mr. Abare and see if that helps. Mr. Abare stated he will be patient and see what happens. He will give an update to Council in a couple of months.

10. PUBLIC HEARINGS: 3

10.a. Certify Storm Water Assessment Roll for Non-Ad Valorem Collection for FY 22/23 (Reso 17-2022)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING CERTIFICATION OF ANNUAL STORMWATER UTILITY ASSESSMENT ROLL; ADOPTING AN ANNUAL BUDGET FOR THE TOWN'S STORMWATER UTILITY; PROVIDING AN EFFECTIVE DATE.

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

Resolution read by title only.

PH opened: none. PH closed:

MOTION: CM Scardino / CM Hofmeister to adopt Reso 17-2022. Discussion: CM Scardino said we have talked about the importance of addressing the stormwater projects. CM Vail stated this is an annual housekeeping issue.

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

10.b. First Reading: Approve Millage Levy for FY 2022/2023 (Ord 2022-06)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING THE MILLAGE RATE OF 4.5001 FOR THE LEVY OF AD VALOREM TAX WITHIN THE TOWN FOR THE PERIOD FROM OCTOBER 1, 2022, THROUGH SEPTEMBER 30, 2023, AND PROVIDING FOR AN EFFECTIVE DATE.

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

Ordinance read by title only.

PH opened:

Mr. Steffe, Weber Road – spoke of need for responsible government. Inflation is over 10% food is up and product is down. Retirees are on fixed income. His homeowner's insurance doubled. Re: his tax bill. Good example of why Weber Road is deteriorating is the big trucks run up and down the road at night. More reasonable and acceptable increase would be a 50% increase in light of the economy.

Mr. Benoit, 1280 Absaroka, he and wife are living on social security. His tax increase is about 87% increase over last year. He realizes there are rising costs. Town having tax influx with more houses and rising values of homes. He knows there are concerns for roads. They live on a private road. Suggested a more incremental increase.

Drew Thompson, Brook Hollow, wanted to mention that for years he has been asking for road repairs. Folks have identified the roads needing resurfacing. If the Town doesn't address the road issues now the cost will be 2x or 3x the cost down the road. Stated it is a difficult issue for this Town to address; it is a no-win situation but can't continue to kick the can down the road. He applauds this Council for taking on this unpopular issue – if we don't take care of it, the problem will be worse tomorrow.

PH closed:

Clerk said for the record we got a call from Mr. Wagner that he opposes the tax increase.

MOTION: CM Vail / CM Scardino to approve Ordinance 2022-06 1st Reading.

Discussion: CM Vail – obligation to take care the infrastructure. If the roads fall apart, we must redo the base. Kicking the issue down the road for 20 years. Repaving will give us another 20 years. CM Acquaviva – she feels what everyone is saying and was on council before. We are way below the average on millage rates and by doing that for so many years the Town can't afford to fund their needs. Council all really worked on this together. We are facing some serious costs to the Town. We have not been irresponsible.

CM Scardino said it is not just the roads we live on. It is going to take us several years to take care of this issue. CM Acquaviva explained the need for thermal striping on Corey and they can't paint them because the roads are so bad. CM Vail reiterated CM Acquaviva that the money is earmarked for roads only.

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

10.c. First Reading: Approve Budget for FY 2022/2023 (Ord 2022-07)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA ADOPTING THE BUDGET OF \$6,968,624.00 FOR THE FISCAL PERIOD FROM OCTOBER 1, 2022, THROUGH SEPTEMBER 30, 2023; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit:

Agenda Report No. 10.c.

Ordinance read by title only.

PH opened: none. PH closed.

MOTION: CM Scardino / CM Acquaviva to approve 1st reading of Ord 2022-07. Discussion:

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

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

12. ACTION ITEMS:

ORDINANCES for FIRST READING: 0

RESOLUTIONS: 1

12.a. Approve Contract for Town Clerk (Reso 18-2022)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF RICHARD KOHLER AS THE MALABAR TOWN CLERK; PROVIDING FOR DUTIES, REMUNERATION AND BENEFITS; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit:

Agenda Report No. 12.a.

Resolution read by title only.

MOTION: CM Scardino / CM Vail to adopt Reso 18-2022.

Discussion: CM Scardino – CM Rivet negotiated with Richard and supports the contract.

Vice Chair Rivet stated it is a fair contract – it is a win/win. CM Acquaviva thanked Vice Chair Rivet for negotiating. CM Vail said base pay is 55K and 80% of family coverage equates to 15K so that is a consideration. He said there is also a reimbursement clause for

college education and that is a good thing. CM Acquaviva did not read that part of the contract and is concerned with cost based on experience. CM Hofmeister has a tough time with the 55K and the insurance and the tuition when they just heard from a PW employee who is upset with the level of pay. She doesn't agree with it. CM Scardino said the Clerk position and the maintenance worker are not equal employees and shouldn't be paid as such. Vice-Chair Rivet said don't justify that to do the wrong thing here. That is another separate discussion.

Clerk Franklin said that Richard has earned his Certified Municipal Clerk status and has had three years in Clerk's Department. The contract pay is the minimum Council approved for advertising.

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

MISCELLANEOUS: 3

12.b. Council Qualifies Council Candidates

Exhibit:

Agenda Report No. 12.b.

Clerk explained that Malabar Charter 2.06 requires the seated Council to "qualify" the candidates. Vice-Chair Rivet reminded Council, since the candidates are unchallenged and will be sworn in, they are now subject to compliance with the sunshine law.

MOTION: CM Hofmeister / CM Scardino to qualify the candidates. Discussion: none. **VOTE:** All Ayes.

12.c. Direction on Job Postings for Treasurer (2nd round closed 9/02/2022)

Exhibit:

Agenda Report No. 12.c.

Chair asked Council to discuss. Discussion on Treasurer. Vice-Chair Rivet stated they need to give direction to staff. Asked Franklin. Clerk stated the first round of advertisement brought five applicants and the second round brought two more applications. Since this was on for action, staff provided all seven applications. Council had discussed this in July and agreed to assign SPM with additional duties of Treasurer in the interim.

Consensus to continue the ad. Vice-Chair Rivet reminded Council that they had voted to have SPM assume the duties of Treasurer so there is no urgent need but need to fill the position.

Readvertise and rank the ones we have. Vice-Chair Rivet has looked thru them and felt there were only two, Quirk and Pelletier, eligible for interview. This item continued to next meeting.

12.d. Consideration of Change Order for Wayfinding Signage with Southeast Lighting Solutions, Inc.

Exhibit:

Agenda Report No. 12.d.

SPM spoke to this. Ref: signs in front of Disc golf and Malabar Community Park.

She ordered these signs back in October before TM came back. We reviewed proofs and approved them. They came in for installation and were one-sided and so not put in. The vendor will essentially make another one-sided sign for the added cost, or we can accept and use the one-sided signs. It was our understanding they would be two-sided but not in the contract. She also stated that the existing sign in front of the Disc Golf Sanctuary has had the wrong address since first installed. That will also need to be corrected.

Council consensus to use the single sided signs.

13. DISCUSSION / POSSIBLE ACTION: 1

13.a. Council Reviews of Clerk and Manager

Exhibit:

Agenda Report No. 13.a.

CM Acquaviva – said the Mayor said they decided in 2018 to not do the reviews. CM Vail said that they work at Council pleasure, and they are reviewed by Council on a regular basis. CM Scardino said if they aren't doing a good job then Council finds a different person. CM Acquaviva said it would help morale here too, to have the reviews done. CM Scardino said he understands what CM Acquaviva is saying but they are reviewed consistently. Council asked for SPM Morrell to comment. She said her 20 years of experience have seen both councils that do annual reviews and some that

don't. Ideally, the Clerk and Manager provide the performance review to each member of council and ask them to do the review. Clerk and Manager should also do one on themselves. Then meet one on one to go over them. Do for each member of council and then put in HR file. This provides good exchange and understanding from each person and provide necessary feedback. It is not always a stick; it can also be a carrot. Consensus by Council to do them once a year. Do in June for budget purposes starting next year. For this year, do by end of September.

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

15. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: welcomed Richard and said it would be hard and they need to work together. Told him to ask for help.

CM Vail: nothing

CM Rivet: Council had previously spoken about rezoning some lands. Staff is researching some options.

CM Hofmeister: nothing

CM Scardino: welcome to Richard as Clerk and Jim Clevenger as Council.


Mayor Reilly: excused

ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 9:30P.M.

BY: 

Steve Rivet, Council Vice-Chair

ATTEST:



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

Date Approved: 09/26/2022