

**MALABAR TOWN COUNCIL
REGULAR MEETING MINUTES
February 6th, 2023, 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:

DAVID SCARDINO

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL

JIM CLEVENGER

MARY HOFMEISTER

TOWN MANAGER:

MATT STINNETT

TOWN ATTORNEY:

KARL BOHNE

SPECIAL PROJECTS MANAGER:

LISA MORRELL

TOWN CLERK:

RICHARD KOHLER

- 3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:** Mayor requests to delete Agenda Item Number 13.b, as Mr. Towne has withdrawn his application. All Ayes (5-0)

4. CONSENT AGENDA:

4.a. Approve Minutes of 1/09/2023 RTCM

4.b. 2023 Holiday Schedule - Revision

MOTION: CM Scardino/ CM Vail to approve Consent Agenda.

Discussion: Mayor Reilly noted an error on the first line of the minutes. Clerk confirmed it has been corrected.

Vote: All Ayes (5-0).

- 5. ATTORNEY REPORT:** Atty Bohne stated that the Faber property is up for sale. He will be attending the sale on behalf of the Town. There are about \$1500 in taxes, \$93000 in Code Enforcement, \$8000 in attorney fees, other assorted costs of about \$2000, totaling about \$104,000. Property is maybe worth \$50k. What does Council want him to do? He will start with a \$100 bid, but if there is competitive bidding, he needs to know the limit. CM Scardino asks what other bidders will do? Attorney states they will likely try to lowball it. The Town will be responsible for paying the dock stamps. BCPAO has the property listed at a \$25k value, market is about \$50k. CM Acquaviva states if the bid gets higher than us, the bid comes back to us. Attorney states yes. CM Scardino states he believes we should bid up to \$50k on it. Mayor states the Board of Adjustments has allowed people to build on these lots, and it is three times as large as many Palm Bay lots. CM Hofmeister asks TM Stinnett if we have the money for this? Attorney reminds her we don't pay for the property.

MOTION: CM Scardino/CM Vail move to authorize Attorney to bid up to \$35k on the Faber property.

Vote: All Ayes. (5-0)

- 6. BSCO REPORT:** None

7. Board/Committee Reports:

7.a. T&G Committee – Chair Drew Thompson requested to give a brief presentation on the SCTPO opportunities involved in the South Brevard Trails Master Plan. (Available upon request)

7.b. Parks and Recreation Board – Written Report.

7.c. Planning and Zoning Board – Written Report.

8. STAFF REPORTS:

8.a. Town Manager – Matthew Stinnett – TM Stinnett informed Council that there has been progress with FEMA on Rocky Point Road. There was a meeting last week, and a site meeting scheduled for tomorrow. Our engineering firm has produced some useful information for the project as well. The road assessment should be submitted to us by February 17th. The TAC meeting was mostly housekeeping. The new Public Works truck should be delivered in March. He also wanted to provide a thank you to PW Director Miliore for repairing the Briar Creek Blvd Bridge.

8.b. Special Projects Manager – Lisa Morrell – Written report included in agenda. Provided Council with a progress matrix on the ARPA projects. The Laserfische project has completed training. Parks bathroom roof has been completed. We have received the LifePack last week. Station toning at the FD is almost complete. The last remaining funds are major projects like the road assessment, stormwater, water service expansion and bathroom restoration. We are all allocated, but not all spent.

8.c. Town Treasurer – Lisa Morrell - Written report included in agenda. Mrs. Morrell states the budget is progressing nicely. The gas tax was considerably high, and we will keep an eye on it to see if it continues.

8.d. Public Works Director – Written Report included in agenda.

8.e. Fire Chief – Mike Foley – Written Report provided to Council.

8.f. Town Clerk – Richard Kohler – Written report included in agenda. Provided updated numbers in BTR portion, 14 paid a total of \$2,537.50. Also informed Council he has been elected as the President of the Brevard County City Clerk's Association (BCCCA).

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: None

10. PUBLIC HEARINGS / SPECIAL ORDERS:

11. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO TOWN APPOINTED BOARDS/COMMITTEES: 0

12. ACTION ITEMS:

ORDINANCES for FIRST READING: 0

RESOLUTIONS: 0

MISCELLANEOUS: 2

12.a. Allen Street ROW Maintenance.

Chair asked TM Stinnett to introduce this item. TM Stinnett stated that this street is not currently on the accepted roads list, but we have done sporadic service to it in the past. It does not carry much traffic, but the stormwater issues are prevalent. He would like to see it added to the list for maintenance. The area is fully developed, so there will be no future road building. Mayor asks if this is a resident or staff request? TM states both. CM Acquaviva states she met with the homeowners in the area. We can't do a major project here but providing maintenance would assist the residents. CM Scardino states people sometimes get confused and that the water table changing can affect where the water stands. CM Vail states the area has been an issue for years, and there are existing systems in the area that can help the residents. The project would be done in house, and we wouldn't need any new equipment. CM Clevenger states after a good rain the road disappears. Mayor asks if the road is up to the Town's specifications? TM states no. CM Scardino suggests the residents should bear the responsibility. TM Stinnett states there is no future development, so the road will not be improved by a private citizen. CM Vail states we could classify it as an alleyway. CM Hofmeister suggests signing the road as one way. CM Vail states the road has been signed as closed and people

still use it. CM Clevenger states there is currently nowhere for the water to go, so we need a swale if the road is accepted or not.

MOTION: CM Vail/CM Acquaviva move to accept Allen Street as an approved road for ROW maintenance.

Discussion: Mayor asks if we have a cost to bring it to Town standards? TM states he does not, but he isn't planning a big project.

Vote: All Ayes (5-0)

12.b. Cancel Second Meeting in February due to President's Day.

Discussion: None

MOTION: CM Scardino/CM Acquaviva move to cancel the second meeting in February.

Vote: All Ayes (5-0)

13. DISCUSSION/POSSIBLE ACTION

13.a. Lett Lane Extension Encroachment Agreement

Chair asked for staff comments. TM Stinnett gives a brief overview of the issue. An applicant has applied to extend Lett Lane. The application has passed through the review, and the Florida Gas Transmission provided us with an Encroachment Agreement, naming the Town liable for issues created by the builder. Attorney Bohne states that there are three easements across the Lett Lane ROW. As it stands today, the gas company would have to fix their issues and replace the road to the condition it was in. This agreement would change that. The Town would become the contracted party for the road improvement. The Gas Company will not work with residents, because it is our road. This also shifts the burden to all repair work done in the ROW to their equipment. How do we proceed? He suggests possibly bonding off the improvements, but that is a short-term solution. CM Scardino states they are out there digging now. CM Vail equates it to the Railroad. Attorney Bohne states it is similar. CM Acquaviva asks if the applicant has heard this news? TM states the permit is ready for release pending this agreement. CM Scardino states the liability is too high. Attorney states due to it being a contracted liability, our insurance may not cover it. Mayor asks if we can amend the agreement and make them a counteroffer. Attorney states he can, but it would be substantial changes and the gas company has no reason to agree to it. Mayor asks if we deny this are restricting someone's ability to access their property? Attorney states under normal situations, we should be able to proceed, but if the improvement effects their gas line, or the gas line is damaged, the Town would be liable. It seems to him that this is an opportunity to shift the burden of liability in that area. He states there is nothing to compel us to sign this. We may be able to just approve the permit. CM Acquaviva states the residents knew the gas line was there when they bought the property. Attorney states they can not stop us from improving the ROW. TM Stinnett states the resident shared their plans with the gas company on their own. Attorney states he will review the prior easements and inform us if he finds any changes. Our actions will not affect their utilities. CM Vail states typically the utility usually pays for the repair. CM Acquaviva states she is uncomfortable moving on this without further research. Mayor states the area is zoned CL, do we know what they are building? TM states they have not submitted plans. CM Vail states a potential alternative is to find another route to Babcock St. Attorney states he will research the easements and bring back alternative options.

Chair excused the Attorney at this time.

13.b. Review of Treasurer Applicant, Mr. Towne.

Removed from agenda due to Mr. Towne withdrawing his application.

13.c. Extension of Special Projects Manager Morrell's Contract.

Chair asked CM Scardino to introduce this item. CM Scardino states we should either get Ms. Morrell help or hire her firmly in the Treasurer's role. TM Stinnett states we have had a great challenge finding a qualified Treasurer. CM Vail proposes a part time position for the Treasurer, and an Assistant Town Manager. Lisa can accomplish all these duties, and the Town can benefit from her staying. With the current staff we have, they are well versed in the issues at hand and Ms. Morrell can take on the TM

position when Matt is unavailable. She can assist in IT, communications, and project management. This group is used to filling many roles. He believes it will keep together a good team. CM Acquaviva states staffing has been an issue. We separated the Clerk and Treasurer position, and promoted the Deputy Clerk to Town Clerk, and we have a Special Projects Manager. In the midst of this hunt for the Treasurer, the Clerk hired a Deputy. We gave 10% raises and have added several new positions. We are now talking about not having a Treasurer and keeping Ms. Morrell on in this position. The Deputy Clerk's position could have been more money for a Treasurer. CM Hofmeister states she came to Town Hall before the Holidays and was informed that there was a new hire. She was unhappy with that. The Mayor provided Council with a copy of the Organizational Chart, showing that only the Clerk, Treasurer, Town Manager and Attorney answer directly to Council. The rest of staff are hired by department heads to fill needs budgeted by Council. CM Hofmeister asked when is the probation period over for the Town Clerk, is it business or calendar days? She would like for there to be reviews from staff. She has heard from residents that Malabar have a lot of people on staff compared to Grant Valkaria. She believes staff acts independently without oversight. The Mayor states what she is describing sounds like micro managing. CM Vail states that protocol was followed for the hiring of the Deputy Clerk. Staff announced to Council that they were doing interviews, and that they had hired a Deputy. There was no direction given to staff beforehand to bring any hires forward for approval. Mayor states he agrees. CM Acquaviva states there is no micromanaging here. In the past, Ms. Franklin brought an applicant forward. Just because something is in the budget, it doesn't mean it's ready to spend. CM Vail states it was in the approved budget. CM Acquaviva states she would have appreciated a heads up. She feels there should be better communication. We created a Treasurer position in the Charter. She wants to help the Clerk and feels he has improved communication since she spoke to him. Do we want to hire a Treasurer?

MOTION: CM Scardino/CM Vail moves to extend Lisa's contract, rewrite her job description, and discontinue the ads for Treasurer.

Discussion: CM Hofmeister asks if this is something Ms. Morrell is interested in? Ms. Morrell states she will speak after Council discussion. CM Vail states he would like to not extend the contract but create a permanent position. CM Scardino agrees to amend his motion to include CM Vail's suggestion.

AMENDED MOTION: CM Scardino/CM Vail move to create a permanent position for Ms. Morrell.

CM Acquaviva states she disagrees with the overall actions. We doubled taxes to improve roads, and we are putting a large portion to salary. It is our decision, because it is the tax payers money. CM Vail states the increase is 100% for roads, and we are not spending the increased taxes on wages. CM Acquaviva states the Clerk is here to serve us, and she feels taken advantage of. CM Vail states there must have been a lack of communication both ways. We should have let staff know if we wanted to review this hire. CM Hofmeister states SPM Morrell emailed Council every applicant that applied for the Treasurer position. CM Vail states that happened because the Treasurer reports to and is hired by Council, and a Deputy Clerk does not. CM Acquaviva states the Clerk was still under probation when this hire was completed. CM Hofmeister asks if any of Council saw the resumes of the applicants? CM Vail states they did not, nor should they have.

Mayor Reilly reminded Council there is a motion on the floor. CM Acquaviva and CM Hofmeister requested to hear from SPM Morrell. SPM Morrell states she wanted to hear from Council about what they would like the position to be. She would like to know so that she can plan her future. She states she does not love finance, but she would do the position. She would suggest that Council talk to the Town Manager. CM Vail states we have seen a huge improvement in IT and communications, CM Scardino adds economic development. SPM Morrell states it has been a pleasure to serve here, she is happy to continue to serve, but needs to know if the position would fulfil her passion. She states her passion is to work with all departments across the Town and making improvements. She would like to see a prioritized list from Council to see if it fits her needs. CM Scardino states we can offer her position and still negotiate her duties. TM Stinnett suggests Council give direction for Staff to create a job proposal. He would like input from Council on this.

AMENDED MOTION: CM Scardino/CM Vail moves to research a job description and title to fit the needs of the Town. CM Acquaviva states she wants to know where Ms. Morrell is in her projects.

CM Vail states she reported her progress today. CM Acquaviva states she was talking about the non-ARPA projects and feel disrespected with the lack of communication.

Vote: (5-0)

13.d. Assistance in Treasurer's office.

Agenda item discussed above.

13.e. Town Clerk Communication.

Chair asked CM Acquaviva to introduce the item. CM Acquaviva states she did discuss this with Staff when the issue came up. We previously split the Treasurer and Clerk position. She understands the Clerk could hire a Deputy but would have appreciated a heads up. She also feels Town Hall was understaffed over the holiday. She feels butts in seats are an important part of the job and would like to see better attendance. She also does not think that a Deputy Clerk should not have been hired before a Treasurer. She states she feels misled, as this agenda had a treasurer applicant, and an item to make Ms. Morrell the Treasurer; did we ever intend to interview the applicant? Clerk Kohler explains that agenda items 13.c and 13.d were requested by CM Scardino after the last meeting. After that request, Mr. Towne submitted his application. Both were placed on the agenda to comply with Council requests. CM Hofmeister asks if the Treasurer position is still posted. SPM Morrell states it will remain posted until it is filled, or Council directs us to remove it. CM Hofmeister reiterates that keeping an open line of communication is key. CM Acquaviva states communication goes both ways. Feel free to text or call her with any updates, as she isn't always around her computer. CM Scardino states he regularly comes to Town Hall and asks staff what is going on, and suggests everyone do the same. CM Acquaviva and Hofmeister state they come to Town Hall regularly.

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

15. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: Congratulated CM Hofmeister for running a Marathon yesterday! She also wanted to state she believes we all work well together.

CM Vail: None

CM Clevenger: None

CM Hofmeister: None

CM Scardino: None

Mayor Reilly: None

14. ANNOUNCEMENTS: (1) Vacancy on the Planning & Zoning Board; (2) Vacancy on the Parks & Recreation Board; (1) Vacancy on Board of Adjustment.

15. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 9:20 P.M.

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

ATTEST:

Richard W. Kohler
Richard Kohler
Town Clerk

Date Approved: 03/06/2023