

**MALABAR TOWN COUNCIL
REGULAR MEETING MINUTES
May 1st, 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 Reilly requests to add Turquoise Takeover Week Proclamation before the Attorney's report. .

4. CONSENT AGENDA:

4.a. Approve Minutes of 4/17/2023 RTCM

Exhibit: Agenda Report Number 4a

4.b. ARPA Audit Report

Exhibit: Agenda Report Number 4b

4.c. Brevard County Request to Perform Aerial Mosquito Spraying

Exhibit: Agenda Report Number 4c

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

Discussion: None

Vote: All Ayes (5-0).

Mayor Reilly read the Turquoise Takeover Week proclamation into the record.

Mayor Reilly also read a proclamation recognizing Municipal Clerk's Week

5. ATTORNEY REPORT: None

6. BCSO REPORT: None

7. Board/Committee Reports

7.a. Trails & Greenways Committee – Committee Chair Drew Thompson stated that on Saturday April 8th, the T&GC did a workday in the Cameron Preserve. They installed the remaining signs and trimmed the trails.

He states the following comments are his opinion, and do not reflect that of T&GC, as they have not met since the meeting.

At today's joint conflict assessment meeting, he believes the Council knowingly and intentionally disregarded a carefully developed reasonable list of requests to preserve key tree areas in Malabar Scrub Sanctuary (MSS). The list was among back up slides in a PowerPoint presentation requested by and provided to the Town of Malabar Town Council. At the very least, the list was to be provided to the record for judge review if no agreement was reached with the Brevard County Commissioners. The request specifics were ready in immediately available summary and detail slides just a couple

of mouse clicks away. However, Town Council chose not to display these slides and discuss the Town of Malabar request detail with the County Commissioners. Instead, Town Council took action to trade \$400,000 in permit fee income to essentially be allowed to keep only weeds at the fence line. The unanimous Council action today may be remembered in Malabar history as "Malabar Mayday" – the day a Trail Town paid the County to open its barricades to a sanctuary so that the sanctuary could be destroyed. Before the cutting, grinding and burning begin, beyond permanent loss of vegetation and wildlife in the greenway, property values of the nearby developments will begin to drop, and this will be reflected in a lowering of the future tax base for Malabar. The Trails and Greenways Committee had trusted that its serious effort would have been leveraged by the Council. It now appears that was an error that will not be repeated soon.

7.b. Parks & Recreation Board

Exhibit: Agenda Report Number 7b

7.c. Planning & Zoning Board

Exhibit: Agenda Report Number 7c

8. STAFF REPORTS:

8.a. Town Manager – Matthew Stinnett states he has had several meetings with FDOT about resurfacing projects. US1 and Malabar Road will both be resurfaced soon. These projects are scheduled for the next three years. Pedestrian improvements and lights will be discussed. There is a new employee in PW, and there are more candidates coming forward. He has annual training from May 24th – June 20th. He will send an email shortly with more information on that. CM Scardino asks if we are getting sidewalks? TM states FDOT tries to limit their work to improved ROWs, so they may add sidewalks before the resurfacing. Hopefully they will extend down US 1 from Malabar Road to Jordan Blvd. There is also the possibility of sidewalks on US1 north of Malabar Road. CM Scardino notes that Brevard leads the state in pedestrian deaths.

8.b. Town Treasurer – Lisa Morrell states her treasurer report is included in the agenda.

8.c. Special Projects Manager – Lisa Morrell states the water utility improvement process is moving but moving slowly. Restrooms at MCP should be open this week. The floors and fixtures look excellent. Mayor Reilly asks if the doors will lock? SPM Morrell states eventually, we are working towards that. We may possibly combine these doors with the FD doors.

8.d. Public Works Director – Tom Miliore - Written

8.e. Interim Fire Chief – Anthony Giantonio - None

8.f. Town Clerk – Richard Kohler staff would like to request the second meeting in June be canceled. TM will be at his annual military training, and the FACC Summer Conference takes place from June 17-21. Consensus reached to cancel the meeting.

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.

Rene Purden, 3195 Kramer Lane – She requests information on the improvement of Benjamin and Kramer Lane. She requested communication a year ago and hasn't heard from us since. The Town Manager did respond to her most recent request, and wanted to know why Grant Valkaria is in the top 10, and why it will take several years?

What kind of time frame are we talking about? There has been lots of new development on the Grant Valkaria side, and it has made their drive difficult. Town Manager Stinnett states it is a funding issue. We have dedicated a large amount of money to road improvements. We will take the roads as we can afford them in order of our list. We are entering budget season now and will likely begin planning. Rocky Point Road has become a priority, but we are working on your project.

CM Vail states the positive side is that the Town has dedicated about \$600k per year to improving roads. A professional company provided a road survey that put the roads in order of despair. Rocky Point Road was one of the worst roads in town, and one of the oldest.

Mrs. Purden states she would like greater communication about this process.

CM Vail states now that we have a list, we can begin work on them.

CM Scardino states eventually we will get to your road, but it is a game of priorities.

Finding a contractor to work is difficult as well.

CM Acquaviva states she feels the lack of communication is because Rocky Point took all our attention. It was a major washout.

CM Vail said the other factor is getting Grant/Valkaria to contribute.

Mrs. Purden states she started this project over 20 years ago and is concerned that there has been no progress in the last year. She would appreciate updates. She understands priorities and funding issues but would appreciate any form of updates and communication.

Mayor Reilly requests the road report be posted to the website.

10. PUBLIC HEARINGS / SPECIAL ORDERS: 1

10.a. Request Road Improvement Waiver for the North end of Kramer Lane adjacent to parcel 814. Request by parcel owner Joy Maximin.

Exhibit: Agenda Report Number 10a

Exhibit: Agenda Report Number 10a

Chair called the applicant to present. Ms. Maximin stated her request for a waiver for her property. It is a 20-acre parcel, securely fenced, and away from any public thoroughfare. Her family's goal is to have a separate home for her family. There are 4 generations of her family living there at this time. She does not believe that this request would be injurious to her neighbors.

Mayor Reilly asks how she wished to gain access to the lot from her house. She states she wishes to utilize her existing driveway. The driveway is currently passable and wide. Mayor Reilly asks if the applicant split her lot into 3 parcels. She states she did. Mayor Reilly asks the Attorney if this required a subdivision. Atty Bohne states that adding infrastructure it will become a subdivision. Mrs. Maximin states there are existing properties along Benjamin Lane that have this granted. She only wishes to develop one parcel. The survey in the application shows only one driveway for one house. The second parcel is in wetlands, and likely undevelopable. She is requesting the ability to build one additional home, using the same driveway. Attorney Bohne states that the Town needs to see that there is only one additional parcel out there. Mrs. Maximin states it has been corrected, and she will contact the BCPAO and request it be updated.

Mayor Reilly states that he feels we can move forward. We will assume that it is only one parcel for development. The road waiver request is to not develop Kramer Lane to the furthest extent of the land.

Chair opened the Public Hearing.

Fred Levey, 2060 Benjamin Rd – lived here for 30 years. He gave a presentation (Available Upon Request). He asked if the waiver would be limited to one property, or if the waiver

should be accompanied with a traffic study? A resident just tonight requested information on the rehabilitation of Benjamin Lane. Should that be considered? He is concerned about the feasibility of adding additional traffic to the area. Will the Town improve any standards of the roads to accommodate for the additional traffic?

Victor Doherty, 3255 Kramer Lane – He has lived here for almost 40 years, and since he moved in it has been a dead end road. If the Town allows this, the residents of this area may be run off the roads. He is concerned by the increased traffic in the area. The stop signs are not enforced and ignored. Kids play in this area. Opening the road up may cause increased traffic to their neighborhood. He suggests allowing entry from Beekeeper Lane.

Laurie Barnes, 3285 Kramer Lane – When the applicant took possession of this property, they installed a huge gate. It has Promise Land Incorporated on it. There are many promise land assets within the USA that have different subdivisions and RV areas. She is concerned about where this is going. She feels if the waiver is granted, the fence should come down.

Dianne Doherty, 3255 Kramer Lane – The traffic is horrendous in the area since these neighbors have moved in. She is frustrated with their speed, and fears for her grandchildren when they play in the area. She states FedEx and UPS are bad as well.

Chair closes the Public Hearing.

Attorney Bohne states the code requires people to build their road to the furthest extent of the property. The applicant is asking to not build a road. We would require a road be built to the end of the lot. He is also concerned with the splitting of the lots.

Mayor Reilly states the request to not build a road. What would stop this applicant from using this waiver to develop more property?

CM Acquaviva states the Town Code requires someone to build a road to the furthest extent of their land.

Attorney Bohne read a Board of Adjustment reading from 2008. The previous owner was granted a variance to not build a road. The previous owner was required to dedicate ROWs along Kramer Lane and Beekeeper. It appears those dedications were not made. That variance was granted to build one house. The request as presented does not meet our code.

CM Vail asks Attorney if you can build two homes on one parcel? SPM Morrell states yes, but it must be attached. Her concern would be E911. How would they address the area? How will firetrucks and garbage trucks access the area?

Mayor asks if this addition would violate the RR-65 zoning code? Attorney states yes it would.

CM Vail states if the applicant decides to improve the area, would it need to go to the developed area, or the 20-acre parcel. Attorney states the end of the developed road. This home would need to receive a Kramer Lane address.

Mayor Reilly states the applicant has combined all of the parcels, and he would like to deny the request.

Attorney states it should be denied without prejudice.

MOTION: CM Scardino/ Hofmeister for disapproval of the waiver request.

Discussion: none

ROLL CALL VOTE: CM Scardino, Aye ; CM Hofmeister, Aye ; CM Acquaviva, Aye ; CM Vail, Aye ; CM Clevenger, Aye . Motion carries 5-0 (All Ayes).

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: 1****MISCELLANEOUS: 0****12.a. Reappoint and extend employment contract for Special Projects Manager/Treasurer with additional duties. (Resolution 04-2023)**

Exhibit: Agenda Report Number 12a

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE RE-APPOINTMENT OF LISA MORRELL AS THE MALABAR SPECIAL PROJECTS MANAGER/TREASURER; PROVIDING FOR ADDITIONAL DUTIES; PROVIDING FOR A TERM; PROVIDING FOR REMUNERATION AND BENEFITS; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Clerk Kohler read by title only.

MOTION: CM Scardino /CM Hofmeister move to approve Resolution 04-2023.**Discussion:** Attorney Bohne states he reviewed the resolution and has no objections. He believes it is a move in the right direction.**ROLL CALL VOTE: CM Hofmeister, Aye ; CM Acquaviva, ; CM Vail, ; CM Clevenger, ; CM Scardino, . Motion carries 5-0.****CM Scardino/Vail move to discontinue the search for the Treasurer. All Ayes (5-0)**

Mayor requests staff begin working on a job description for the executive assistant.

Chair excused the Attorney at this time.**12. PUBLIC COMMENTS: General Items (Speaker Card Required)****13. REPORTS – MAYOR AND COUNCIL MEMBERS****CM Acquaviva:** None**CM Vail:** None**CM Clevenger:** None**CM Hofmeister:** She requests an update on the newsletter. Staff states there have been no articles submitted. CM Acquaviva suggest incorporating this into our website. SPM Morrell states the website should likely be updated soon. CM Hofmeister also requests the Town remind the residents about proper storm prep. She also noted lots of speeders in her area.**CM Scardino:** None**Mayor Reilly:** Thanked Staff for their hard work in preparing for this morning. He also thanked the Trails and Greenways Committee for their hard work, especially Chair Thompson.**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 8:58 P.M.BY: Patrick T. Reilly
Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard W. Kohler
Richard Kohler
Town ClerkDate Approved: 05/15/2023