

**MALABAR TOWN COUNCIL  
REGULAR MEETING MINUTES**

**June 5<sup>th</sup> 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 Scardino led P&P.

**2. ROLL CALL:**

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

DAVID SCARDINO

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL

JIM CLEVINGER

MARY HOFMEISTER

TOWN MANAGER:

MATT STINNETT- EXCUSED

TOWN ATTORNEY:

KARL BOHNE

SPECIAL PROJECTS MANAGER:

LISA MORRELL

TOWN CLERK:

RICHARD KOHLER

**3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:** None

**4. CONSENT AGENDA:**

**4.a. Approve Minutes of 5/15/2023 RTCM**

Exhibit: Agenda Report Number 4a

**4.b. Acknowledgement of State Revolving Loan (SRF) Agreement SW051400, Amendment 3**

Exhibit: Agenda Report Number 4b

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

**Vote: All Ayes (5-0).**

**5. PROCLAMATION: Small Cities Month**

Mayor Reilly read the Small Cities Month Proclamation into the record.

**6. ATTORNEY REPORT:** No report. Mayor Reilly asked how the Town could gain access to Piney Groves Cemetery. Atty Bohne states it is private property, but the Town can obtain an inspection warrant. Other than that, it may take a Court injunction. Regarding the private cemeteries, anyone who disturbs an abandoned cemetery is subject to criminal prosecution. Also, the State has a division that should provide more assistance.

Mayor Reilly also asked about the policy for correspondence between the Boards and Committees and the Attorney. He believes that the communications should go to the Town Manager, and then to the Attorney. Since the Attorney bills for all work he does for the Town, all correspondence between the Board/Committee Members must flow through the Town Manager. He requests a consensus from Council to remind the Committee and Board members of this policy. Attorney Bohne states he did not respond to this email, he did not review it, and he forwarded it to Town Staff. CM Acquaviva requested Staff remind the board at their meetings.

**MOTION: CM Scardino/CM Hofmeister to remind the board/committees that their communications to the attorney flow through the Town Manager.**

**Vote: All Ayes (5-0)**

**7. BCSO REPORT:** None

**8. BOARD/COMMITTEE REPORTS:**

**8.a. Trails and Greenways Committee**

Written Report provided.

**8.b. Parks and Recreation Board**

Written Report provided.

**8.c. Planning and Zoning Board**

Written Report provided.

**8.d. Board of Adjustment**

Written Report provided.

**9. STAFF REPORTS:**

**9.a. Town Manager – Interim Lisa Morrell** states that operations are continuing nicely. FEMA sent an approval agreement to be executed at a future meeting for the Rocky Point Road repairs. The Jordan Scrub Sanctuary will have a prescribed burn tomorrow. CM Vail requests a longer notice for burns. Staff states they were only notified late this afternoon. CM Acquaviva states the County has started their work in the Malabar Scrub. In the past, the Town or County provided advanced notice, and suggests the Town use the new Electronic Display Sign to push out messaging.

**9.b. Special Projects Manager – Lisa Morrell** states that the Piney Grove Cemetery has been registered with the State of Florida. She inquired about assistance and was referenced to Flagler University. The surveyor will survey the Mary Street ROW in the area. Also, the VFA Grant Bunker Gear has been delivered.

**9.c. Town Treasurer – Lisa Morrell** states that she has been reconciling old accounts in QB to prepare for the transfer to BS&A. She is working to get the system best prepared for BS&A Roll out. The TRIM Season also started today. Year end estimates, millage calculation, and other preparations are underway for the budget season. Also, she will be on vacation from October 7<sup>th</sup> to October 15<sup>th</sup>.

**9.d. Fire Chief – Written Report**

**9.e. Public Works Director – Written Report**

**9.f. Town Clerk – Richard Kohler**

Clerk Kohler informed Council that Form 1s are due by July 1<sup>st</sup>. If anyone has questions or would like help, please come see Staff. Information on the upcoming Form 6's has been placed in your mailboxes for your review.

**10. 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)

**Mark Gunter, 1240 Pemberton Trail**, states he is here to discuss the Scrub Sanctuary. He searched for the updated agreement on the Town's website and is comparing the original meetings to refresh his memory. He found that the sanctuary was burned in 2014. Do we know how many Scrub Jays were there? Mayor Reilly states there are currently 14 over 577 acres. Mr. Gunther states in between 2014 and 2022, we have no clue how many birds were in there. He is speaking for the whole habitat, not just the Scrub Jays. He wants the scientific data that backs up the County's actions. The East side makes sense, but Malabar West is too small. Why is the County so concerned with a small property? The Trail relocation will be done with no Malabar support. He believes we should have asked for donations and extended the fight. He lives right next to this sanctuary, and he feels he will pay a much higher price than others for this issue. Jordan Scrub is a mess because of the EELs program, and the Malabar Scrub is going to be next. He goes to the Jordan Scrub and sees no wildlife. He is afraid that this project will turn Malabar Sanctuary into Jordan Sanctuary. He feels that the

presentation from the T&GC was intended to go to a judge. The Town didn't really get anything for this deal, and he is very upset. Mayor Reilly states the County counted the Scrub Jays by zone in the Sanctuary, and all of their information is publicly available. Mr. Gunther also requests more tortoise signs along Briar Creek Blvd in the Trailhead area.

**11. PUBLIC HEARINGS / SPECIAL ORDERS: 0**

**12. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO TOWN APPOINTED BOARDS/COMMITTEES: 1**

**12.a. Parks and Recreation Board Recommendation for FCT Funds**

Exhibit: Agenda Report Number 12a

ITM Morrell stated that this item has been before Council before. A few years ago, Council agreed to the original agreement in the exchange of Fern Creek Park. That agreement included 5 items to be completed with the awarded funds. The funds provided are not enough to complete the tasks, so the FCT suggested the Town amend the agreement. At the May 31<sup>st</sup> Parks and Recreation Board Meeting, the Board voted unanimously to recommend that Council approve the amended FCT Agreement. The Board has recommended a pavilion be purchased for Eschenberg Park, and a foot bridge be installed in the Disc Golf Sanctuary. Multiple options are available for the foot bridge, but the Parks and Recreation Board recommended Option 3, pressure treated wood. These two projects will use all of the \$40,455.00 awarded in the agreement, and only cost \$230.02 of General Fund dollars. Using the Trex Composite to complete the foot bridge would result in an increase of \$805.70 in total. The Park Board reached a consensus to recommend the Patrino Green roof for the pavilion.

**MOTION: CM Vail/CM Hofmeister to approve the Parks and Recreation Board recommendation to amend the FCT contract.**

**Vote: ALL Ayes (5-0)**

**13. ACTION ITEMS:**

**ORDINANCES for FIRST READING: 0**

**RESOLUTIONS: 0**

**MISCELLANEOUS: 3**

**13.a. Approve Extension of Temporary Placement of a Travel Trailer while Constructing a SFR at 2060 Howell Lane**

Exhibit: Agenda Report Number 13a

Staff: ITM Morrell states the applicant is not here but, but she has emailed staff her request and has made steady progress on the property.

**MOTION: CM Acquaviva/CM Scardino to approve a 6-month extension of the placement of a Travel Trailer while constructing a SFR at 2060 Howell Lane.**

DISCUSSION: CM Acquaviva reiterates that the extension is for 6 months.

**VOTE: Motion Carries 5-0.**

**13.b. Memorandum of Understanding for Legal Advertisement on Brevard County's Website**

Exhibit: Agenda Report Number 13b

Clerk Kohler explained that with the passing of HB 7049 municipalities are now allowed to post legal ads on a County website as long as it is less expensive than posting in the local newspaper. Town Code dictates that certain items must be advertised in the local newspaper, and Staff has begun identifying these for future changes. This MOU does not require us to post on the website, but it allows us the opportunity to.

CM Acquaviva reiterates that Staff can use the website, Florida Today, or both. Mayor states Staff can choose whichever is cheaper.

**MOTION: CM Scardino/CM Hofmeister to approve the MOU for Legal Advertisement on Brevard County's Website.**

**VOTE: All Ayes (5-0)**

**13.c. Request by Mr. Don Foley to contract or deannex property from the Town of Malabar**

Exhibit: Agenda Report Number 13c

**Applicant Mr. Don Foley** – Introduced himself as the owner of Berri Patch on Malabar Road. He was approached by investors to develop an Assisted Living Facility. At the time, the Town did not have code dictating ALFs. He previously went to P&Z and Council and was denied the requested use of his property. He went to court and lost. His only alternative is to use his land. He wishes to go to Palm Bay. He states he pays no taxes due to tax breaks and pays no utility fees to the Town. He wishes to deannex so he can get the best use of his land.

**Staff Comments** – Attorney Bohne states that this process started 6 months ago. In that time, Staff has performed a feasibility study. The feasibility study is part of tonight's agenda and concludes to reject the petition. The grounds to reject are that a petition to contract must be signed by 15% of the property owners. This was submitted by an entity, not an individual or qualified voter. The second ground states that if a property can be annexed, it cannot be contracted. Because of this, we cannot approve the petition for contraction.

Mayor Reilly states he believes Mr. Foley was granted some of the uses for his land, as in his previous submittal to P&Z, phase 3 of the original submittal was allowed.

**Motion: CM /CM move to approve the contraction. (No Motion, Motion Fails)**

**MOTION: CM Scardino/CM Vail move to disapprove the request on the basis outlined in the staff analysis.**

Discussion: CM Acquaviva states there are actually 3 lots before the border of Palm Bay. Approving this request would create an island.

**Vote: 5-0 (All Ayes)**

**Chair excused the Attorney at this time.**

**14. DISCUSSION/POSSIBLE ACTION**

**14.a Town Hall Staffing**

Exhibit: Agenda Report Number 14.a

Mayor Reilly states we have discussed this in the past. Some of the options are a Secretary/Receptionist like the Town had with Ms. Dorothy, Administrative Assistant to assist the Charter Offices (Not Building Department), or an executive assistant at \$65,000. Regarding the Building Department, he believes we should hire a specific person to work in that department. This person will need to learn what Ms. Collette is doing. The Mayor believes we should hire an Administrative or Executive Assistant, and a Building Department Assistant.

CM Vail states TM Stinnett will be back in 14 days. Our next meeting is July 3<sup>rd</sup>. He feels it would be best if TM Stinnett was here to explain his intentions. Mayor Reilly states he has been waiting for months to do this, and he does not want to wait any longer. CM Scardino states we can accept applications, but not hire one. Mayor states he asked for job requirements 3 months ago, and nothing has come forth. CM Scardino states he would like to move the project forward. CM Acquaviva states she feels the frustration comes from a difficult search for a Treasurer. She feels TM Stinnett and SPM Morrell should be the head and have a high-level assistant. She suggests beginning to accept applications. CM Scardino states we can't advertise until we have a job description. He suggests directing staff to develop appropriate job descriptions.

SPM Morrell states that procedurally, Council approves these new positions, and Staff creates the budget amendment to accompany them. She requests Council give Staff a title, funding source, and salary range.

CM Vail states the salary range included is higher than the Town Clerk they would be assisting. He believes that does not make sense. We should create a position and pay rate appropriate

for the job. CM Acquaviva states this person should support the two highest staff members. CM Vail states the three executive offices should be supported by an executive assistant. He doesn't feel advertising that position at that salary is right. CM Scardino suggests we select the title and figure out the salary later. SPM Morrell states she was unsure about the information included in the Agenda Report. She does not know if this was intended to include anything in the Building Department. CM Hofmeister asks if Staff can develop a job description? The Town Clerk knows what his office needs, and the Building Department knows what their office needs, can they create a job description for future Council approval?

Clerk Kohler states that he could develop a job description for his office, but an executive assistant would encompass the Clerk's Office, Treasurer/SPM Office, and the Town Manager's Office. SPM Morrell states staff has reviewed job descriptions but needs Council direction on salary amounts. Mayor asks the Clerk what the last Administrative Assistant, and the last Deputy Clerk were paid. Clerk states the Administrative Assistant made \$11.00 per hour, and the Deputy Clerk made \$17.00 per hour. Mayor states an Administrative Assistant could be 40-45k and Executive Assistant would be 50-65k. CM Vail states in the information in the packet, it is listed at \$19.00 per hour, which comes to over \$39k per year. CM Scardino asks how many calls per day come into Town Hall.

Clerk Kohler states his office receives approximately 50 per day, and the building department easily doubles that. SPM Morrell states staff spends a large amount of time answering phones and routing calls. If the Building Department is closed, it slows the rest of Town Hall's productivity.

CM Acquaviva states in the past, we had a receptionist who would route calls. When she calls, sometimes it is hard to get a hold of someone. CM Vail asks if hiring a receptionist at \$15.00 would be appropriate, as well as hiring an Executive Assistant? SPM Morrell states it is Council prerogative. CM Vail asks how much are allotted for these positions this year? SPM Morrell states both positions in the agenda are fully funded. CM Acquaviva states she would like to have an administrative assistant at 50-65k, and a receptionist at 39k.

Mayor reiterates he believes there are 3 options:

1. Receptionist Only
2. Administrative Assistant that supports 3 Charter Offices
3. Executive Assistant

CM Scardino states he would like to see an Administrative Assistant and a Receptionist.

SPM Morrell states she will develop a budget amendment and draft job description.

CM Scardino states that well rounded people could work multiple positions. CM Vail states he is unfamiliar with going rates but believes \$19 is too much for a receptionist.

SPM Morrell states the title is unimportant. We need people who will be dishwasher, cook and busboy. Someone who is adaptive and can address problems as they come.

CM Vail states he is okay with \$15-19 for a receptionist, and Administrative Assistant from \$40-65k, depending on experience. CM Scardino states we need to see what we can get.

Mayor reiterates we will hire 2 people, a Receptionist and Administrative Assistant, Receptionist max pay at \$40k, Administrative Assistant max pay at \$65k. Mayor asks if the 2-year college requirement should stay? CM Scardino states 2 years or experience. CM Vail agrees. SPM Morrell states it doesn't have to be a requirement, but we can look for it. A work experience and schooling requirements should match.

#### **14.b Town Welcome Sign**

Exhibit: Agenda Report Number 14b

Mayor Reilly states there was a crash near the hospital, and he was stuck next to the Town Welcome Sign. They look like they need replacing. The one on Malabar Road especially. The Mayor suggests taking one from US1 to replace the one on Malabar Road, and get 2 replacements for US 1. CM Vail states if we budget 10k per year, we can replace 2 signs per year. SPM Morrell states the new signs could have the same specifications as the new park signs, which are vandal proof, and rated for 10 years. She can shop for a more comparable sign, but we have quotes from a contractor. Mayor suggests removing one sign from US1 to

replace the one on Malabar and replace the two on US 1. CM Acquaviva asks if we can add "Where People Care" to the signs. CM Vail asks how long it would take if we ordered? SPM Morrell states 3-6 months. She states we can remove the downtrodden one and replace it later. **Consensus is reached to budget 10k per year, and replace 2 signs per year.**

**14.c 2023 Truth in Millage (TRIM) Estimates for Budgeting Purposes**

SPM Morrell states this is for budgeting purposes only. In preparing the Budget, staff must know what the Maximum Millage Rate Council would like to advertise this year. Our rollback rate would be 4.2, we could go the same at 4.5, or increase up to 9. We did a referendum last year about raising the taxes to 5 mills, and it did not pass. She would like to begin developing the budget and needs a starting point. CM Vail, Acquaviva, and Clevenger all state 4.5. Mayor states if we keep the same mills, we need to show results. SPM Morrell states she will begin building a budget and advises Council that their Maximum Millage Rate will be heard at a future Public Hearing. Staying the same millage rate will increase the budget by about \$140k. CM Vail states as long as there is 600k in the roads department he is okay.

**15. PUBLIC COMMENTS: General Items (Speaker Card Required)**

**Denton Taylor – Railroad Ave Property Owner** – He states he has been informed that there is possibly a cemetery on his property, and he is working hard to preserve any remains found on his property.

**16. REPORTS – MAYOR AND COUNCIL MEMBERS**

**CM Acquaviva:** States she is aware of work starting in the Sanctuary. The Town has done painstaking work to try and keep up our end of the bargain. She believes all of Council and Staff are trying to keep communication open and is proud of how well the Town did.

**CM Vail:** States the next scheduled meeting is July 3<sup>rd</sup>, and he will not be here.

**CM Clevenger:** None

**CM Hofmeister:** States she has began running in the MSS again. She wants to be involved and stay connected. She believes it is important for everyone to keep an eye out for questionable activity. We want to be able to work together and communicate with the County.

**CM Scardino:** None

**Mayor Reilly:** States there will be a Prescribed Burn in Jordan Scrub tomorrow. Also, we received our Form 1s, and he is curious if any CMs plan to no longer serve due to the new legislation requiring elected officials to complete Form 6's.

**17. 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 9:05 P.M.

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

ATTEST:

Richard W. Kohler  
Richard W. Kohler  
Town Clerk

Date Approved: 07/03/2023