

**MALABAR TOWN COUNCIL
REGULAR MEETING MINUTES
July 17th 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 Vail 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

TOWN ATTORNEY:

KARL BOHNE EXCUSED

SPECIAL PROJECTS MANAGER:

LISA MORRELL

TOWN CLERK:

RICHARD KOHLER

3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES: Mayor requests item 6.c be added as Special Project Manager report.

4. CONSENT AGENDA:

4.a. Approve Minutes of 7/3/2023 RTCM

Exhibit: Agenda Report Number 4a

Staff: Clerk Kohler noted that under item 10.c on page 4, the vote should have "carries 4-0" inserted, and at the bottom of page 5, Adjournment should be numbered 18.

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

Vote: All Ayes (5-0).

5. ATTORNEY REPORT: None

6. STAFF REPORTS:

6.a. Town Manager – Matt Stinnett provided a written report to Council (Available upon request). The report addressed the Rocky Point Road/Shoreline, Roadway Resurfacing, and Lane Paving. CM Scardino states the importance of updating the exemption forms with the State. TM Stinnett suggests that all of Rocky Point Road be resurfaced while the reconstruction portion is rebuilt. CM Acquaviva states the Town will have to pay for the reconstruction up front and wait to be reimbursed. TM Stinnett states we could pay for the project using cash reserves, the investment account, or a loan. He suggests using the cash on hand raised for resurfacing to pay for the reconstruction, and ARPA money for the resurfacing. CM Clevenger asks if 500,000 is an accurate estimate. He states he received quotes from 300k to 500k. CM Vail states he is in favor of using cash on hand. He would like to come up with a contingency plan in case of an emergency. Mayor Reilly states that he feels this is taking from a dedicated fund to resurface roads, and that he is totally against taking away from the fund we promised the residents we would use to repave roads. CM Scardino states people who live on oceans or rivers take a risk that should not affect the rest of the Town. He would be more comfortable taking out a loan, so the Town's cash reserves would be full in the event of an additional storm. CM Acquaviva states that Rocky Point is a road that has been ranked for resurfacing, so she supports TM Stinnett's proposal to use cash reserves. TM Stinnett states the current plan would not drain all of our cash. We have 1.2 million in the investment account, and several hundred thousand in the main account. CM Scardino states that we should repair the sealine and the destroyed part of the road. CM Vail states that Rocky Point Road is already slated for

resurfacing, why not do the repair while the contractor is there. He feels there is no reason to get a loan right now. He feels we should use the funds we have to complete the project. CM Scardino states interest rates are rising, so it may be better to get a loan before they rise. TM Stinnett states the current rate is about 5.5%. CM Scardino states it he feels it will be better to get the loan before the interest rates go up. Mayor Reilly states he would like to have this decision at the next meeting. CM Vail asks if we can get bids at this time? TM Stinnett states he believes so. TM Stinnett's presentation also includes a suggested Capital Improvement Plan for Roadway Resurfacing, including estimates for several of the roads. CM Scardino suggests that the longer we wait, the more expensive the repairs will be, and we should get a loan to accomplish all of the projects at once. TM Stinnett states that the proposed plan is one that one contractor can bid on them all and work on under contract over a period of time. Mayor asks if CM Scardino would like a separate agenda item to discuss this? CM Scardino states yes. TM Stinnett's report also included information on the Town's Lane paving program. There is currently a moratorium on accepting new applications, but there are currently 5 submitted to Staff. Mayor Reilly asks how the funds listed impact the active requests? The Town has a responsibility to hold its end of the agreement. CM Vail asks what percent of the lane paving project was paid for by the residents? SPM states the total project was 190k, and 160k came from the general funds, 32k came from the residents and Transportation Impact Fees. Mayor Reilly states he feels many of the lanes are ready to be paved without much additional work. CM Acquaviva states the Town pays for the project up front, and recoups limited amounts from the residents. CM Vail states the lanes must be brought up to standard before the paving happens. TM Stinnett showed the list of current road projects. Mayor Reilly asks why 4 of the 5 projects are in step 2? Can the Town Engineer complete these projects? TM Stinnett states that he is working with EDC to get quotes on Duncil Lane. CM Vail asks how much we have in the TIFT Fund? TM Stinnett states it is about \$494k. CM Vail reaffirms that we can use this fund to cover the paving of roads. TM Stinnett states that the TIFT funds can not be spent on bringing the road up the standard they require to be paved. CM Scardino asks when the funds could expire? TM Stinnett states that about \$60k may be lost in a year. CM Vail asks if it would be possible to run asphalt over the existing dirt roads? It is impossible to know without getting official engineering estimates and designs. CM Acquaviva states that some of our past paving projects were rushed and are causing us problems now. TM Stinnett suggests going for quality over speed. CM Scardino states that he feels we need to find a way to do things in a more efficient process. CM Acquaviva states that we are lacking in the care of our roads. We haven't had the funds to properly care for them, and now we have to pay the price. CM Vail suggests we have more precise numbers available for a deeper discussion at a future meeting. Mayor suggests not getting hung up on one road. Mayor asks if there are any suggested motions from this presentation? None heard.

There is also a quarterly report submitted by the interim Fire Chief. (Available upon request) Also here tonight is Lt. Hooker of Malabar Fire Department to speak about a recent class he participated in.

Lt Hooker explained that several members of the MFD that took a FEMA course on train derailments. He states that the class made him think about how dangerous the placement of this building is. Twice a week, a HAZMAT train passes down the tracks outside. The Brevard HAZMAT Unit responds from Viera, about 40 minutes away. There are over 1000 train derailments each year, over 3 per day. He gave a few examples of prior train derailments, including one this morning, a level 2 HAZMAT event. CM Acquaviva states that she heard that the high-speed trains have killed several pedestrians in South Florida. Lt Hooker states that there was one here in Malabar this year. CM Vail states the freight trains pass through town at 45 MPH, the passenger trains at 80 MPH will be difficult to avoid. CM Hofmeister asks how likely a

train accident would be here? Lt Hooker states likely, and it could affect the continuity of government of the Town. Chemical spills can cause evacuations up to half a mile. CM Scardino states in his experience, chemical clean up can take over 15 years. CM Vail states it is possible to have nuclear rods going down the tracks. Council thanked Lt. Hooker for his presentation.

6.b. Town Clerk – Richard Kohler states that today was the July Brevard County City Clerks Association luncheon, and Supervisor of Elections (SOE) Tim Bobanic was the guest speaker. Mr. Bobanic provided estimates for the municipal elections of 2023. Mr. Bobanic noted the cost increase in our election was a direct result of the district voting. He also provided some key dates for the upcoming election. Any municipality-initiated referendums intended for the 2023 election, must be submitted to the SOE by August 21st. The last day to register to vote in the 2023 election is October 10th, and election day will be on November 7th. Qualifying dates for the Malabar Council election are August 1st (98 days before Election Day) to August 15th (84 days before Election Day). This year, Council Members from Districts 4 & 5 are up for reelection. The requirements to qualify as a Council Member are:

- Must be a resident of Malabar for at least six (6) months.
- Candidate must reside in their District at the time of qualifying, and through the election and term of office.
- Must complete the Qualifying Paperwork and Oath of Candidate.
- Select a Campaign Treasurer and name a bank for campaign financing.
- All candidates must collect signatures from a minimum of 15 registered voters within their District.

Candidates who qualify must complete a Form 1 for the Florida Commission of Ethics. Those who are elected will have to complete a Form 6 by July 2023.

6.c. Special Projects Manager – Lisa Morrell states that she is still working on the financial system transfer. BS&A will be on site for 10 days of training. Staff has received more year end estimates to include in the budget. She is pleased with how the process is going. The survey drone for the Utility expansion project happened last week. She reiterated to Council that public projects are bonded, so many contractors may not work if they feel the project will not hold long enough.

7. 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)

8. PUBLIC HEARINGS/SPECIAL ORDERS: 0

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

9.a. Trails and Greenways Committee Recommendation to Council

Exhibit: Agenda Report Number 9a

Staff: Clerk Kohler states that at the last Trails and Greenways Committee Meeting, the Committee voted unanimously to recommend Council approve the purchase of 41 signs for the Cameron Preserve, and one section of pipe for the Eagles Next Trailhead. The signs include 25 boundary signs, 8 kiosk maps, and 8 on-trail "you are here" maps intended to be installed at trail intersections.

MOTION: CM Scardino/CM Hofmeister move to approve the request.

Discussion: None

Vote: All Ayes (5-0)

10. ACTION ITEMS:

ORDINANCES for FIRST READING: 0**RESOLUTIONS: 0****MISCELLANEOUS: 1****10.a. Staff Needs**

Exhibit: Agenda Report Number 10a

Staff: TM Stinnett states that there are job descriptions included in the agenda, one for a receptionist, and one for an Executive/Administrative Assistant. CM Vail states he remembers discussing one person to work in the front and one high level assistant. Mayor states he feels we don't need an executive assistant. CM Hofmeister agrees. Mayor states he doesn't see the requirements discussed in the job description. CM Acquaviva states she feels the Executive Assistant will attract a higher lever employee. SPM Morrell states there is currently an Administrative Assistant at the Fire Department who makes about \$13 per hour. That is the quality of employee you will likely receive. We are trying to hire someone with a higher ceiling. CM Scardino states he agrees. Mayor Reilly suggests adding assist Special Projects Manager to the job description for the executive assistant. CM Vail asks if the job description for the receptionist meets staffs needs. Clerk Kohler states staff worked together to develop these job descriptions. A receptionist would help with simple tasks like answering phones and sorting mail, while an executive assistant may help write an ordinance or interpret code.

MOTION: CM Vail/CM Scardino to accept the position of receptionist and Executive Assistant and to budget and post the position.

DISCUSSION: TM Stinnett states we are working on a Budget amendment, as we had funds available for Treasurer and Deputy Clerk. SPM Morrell states that the process for making a budget amendment may take time. She suggests the options are to make a budget amendment, or to plan in the budget prep to hire 10/1/2023.

Vote: All Ayes (5-0).

Mayor Reilly asks about adding a position in the Building Department. CM Acquaviva asks when the current assistant is leaving? TM states in a year or so. Mayor reminds Council that the audit has recommended spending down the building fund.

MOTION:CM Acquaviva/CM Hofmeister to direct staff to write a job description for an employee in the Building Department.

Vote: All Ayes (5-0)

11. DISCUSSION/POSSIBLE ACTION: 4**11.a. Expansion of Town Hall Continued Discussion**

Exhibit: Agenda Report Number 11.a

Staff: TM Stinnett states that he investigated the primary issues with expanding Town Hall. There are currently 4 Gopher Tortoise holes, along with the items listed in the agenda. If Council wishes to build a new Town Hall, we should begin planning and budgeting.

Discussion: Mayor Reilly discusses the presentation he prepared on the Town Hall discussion. We could add 1200 sq feet. It would be less expensive, but it has several issues. The other option could be to build a new Town Hall modeled after Grant Valkaria Town Hall. He feels this would be a better option, as it creates more of a Town Center, we own the land, and it is close to the fire station. However, it will be expensive. Mayor Reilly states he previously discussed building a joint building with the EELs program, and it didn't move forward. CM Scardino states he believes building a new Town Hall before we pave roads may upset the residents. CM Vail states that some of the funds can come out of the Building Department. He believes we could spend 250k to expand, or possible over 1 million to build a new one. He would like to see a estimate on building a new Town Hall before he make a decision. He feels the Town could also investigate the property in front of the Fire House. Mayor states the property was sold. CM Vail suggests dedication 250k to begin saving for a new Town Hall. CM Scardino asks if we have space on the property we currently own. Staff states yes. CM Acquaviva states that she thought the plan was to restructure the current Town Hall to be more efficient. She feels this project is different from the roads and that Council can reallocate the ARPA Funds to help pay for this project, among other options. CM Vail suggests looking into a grant for a shelter. CM

Acquaviva suggests discussing reallocating funds for this project during the budget workshops if this is a priority for Council. CM Vail suggests seeking nature center grants. CM Scardino suggests still performing upgrades at this building to make it a more efficient workplace. Mayor reminds Council that they just approved the addition of three staff member who need room. He also reminds Council that TM Stinnett included additional difficulties in his agenda report. CM Scardino suggest doing both. CM Acquaviva and Hofmeister states they would like to have this discussion during the Budget Workshops. CM Hofmeister states she feels Town Hall is unsafe for some residents to get to.

11.b. Code Enforcement Action (CM Scardino)

Exhibit: Agenda Report Number 11.b

Discussion: CM Scardino suggests he is not suggesting a full-time employee to seek issues, but to hire a contractor to assist with the Code Enforcement. TM Stinnett states that our Building Department has a contract with CAP Government, and we can add Code Enforcement work with that contract. They are currently paid out of the building fund, so we will have to have separate funds to pay them. Mayor Reilly reminds Council that the person who does this needs to know our codes.

MOTION: CM Scardino/CM Vail to direct staff to add Code Enforcement to the CAP Government contract not to exceed \$3k in this Fiscal Year.

Discussion: CM Acquaviva asks if that would be enough to get through the rest of the year? TM Stinnett states he believes so. CM Hofmeister asks how many active complaints we have? TM Stinnett states there are several that need to be worked through. He states a lot of the complaints are resolved after speaking to the homeowner. There are a few bad and involved cases, where specific actions are required. CM Scardino believes this will assist the Town. CM Vail reiterates that code enforcement will remain reactive only. He also asks if the contractor or staff would investigate the reported issues. TM Stinnett states ideally, the contractor would. They would report to the TM. Mayor suggests TM create a checklist to follow for Code Enforcement procedure. He also remembers a past incident where a special master's case usually does not result in funds being recognized by the Town. He states that to this day, we have not received a penny. TM Stinnett states in the last year we received funds for a case, we acquired a piece of property, and are working to acquire another. CM Hofmeister asks where we collected funds and property? TM states one property on Malabar Road has paid, another along Hall was gained. CM Scardino reiterates that Code Enforcement is supposed to gain compliance, not to gain funds.

Vote: All Ayes (5-0)

11.c. Fee Resolution Discussion (CM Scardino)

Exhibit: Agenda Report Number 11.c

Discussion: CM Scardino states that he feels we did a whole study, spent thousands, and we only collected \$300. He wishes to review the charges. He asks how much we had to spend on the deannexation process? He believes we should raise the fee so that it covers our costs. He doesn't believe Council is prepared to review this tonight, but he would like to have it on a future meeting. SPM Morrell states that last year, we amended the fill and tree clearing fees. We do not have a fee for deannexation, and we can create them. We may also wish to imbed fees from Ordinances and Resolutions into the Fee Schedule. CM Vail states the goal is not to make money, but to cut even. He suggests staff recognize the shortfalls and address them, and to compare our costs with the surrounding municipalities. CM Acquaviva states these issues could be costing us a lot of money if we don't address it.

MOTION: CM Scardino/CM Hofmeister to include the fees from Resolutions and Ordinance in the fee schedule.

Vote: All Ayes (5-0)

11.d. R/LC Code Change Discussion

Exhibit: Agenda Report Number 11.d

Discussion: Mayor Reilly states that from 2015 to 2019, the Town of Malabar discussed, reviewed, and updated its code language for the Residential/Limited Commercial (R/LC) Zoning designation. During the discussion, Table 1-3.1, Permitted Combinations of R/LC Land Uses, was recommended by Planning and Zoning, but not included in the final adoption of the codes. He would like to see it moved forward. CM Scardino believes it is fine.

MOTION: CM Scardino/CM Vail move to direct Staff to draft an Ordinance to include Table 1-3.1, Permitted Combinations of R/LC Land Uses into the Town Code.

Discussion: None

Vote: All Ayes (5-0)

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

13. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: Looking forward to budget season.

CM Vail: States he has made progress on the Eagles Nest Trailhead. He thanked Mike Cram from Flawless for donating his time for the work. He will not be at the Monday Workshop. Mayor asks about the Malabar Historical House. CM Vail states they are using materials with numerous historic properties. He hopes to be making more progress soon.

CM Clevenger: None

CM Hofmeister: None

CM Scardino: None

Mayor Reilly: Thanked TM Stinnett for his presentation, and for the FD report.

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

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

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

ATTEST:

Richard W. Kohler

Richard W. Kohler
Town Clerk

Date Approved: 08/07/2023