



REGULAR TOWN COUNCIL MEETING

Monday, May 15, 2023 at 7:30 pm

1. CALL TO ORDER, PRAYER AND PLEDGE
2. ROLL CALL
3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES
4. CONSENT AGENDA

a. Approve Minutes of 05/01/2023

Exhibit: Agenda Report Number 4a

Attachments:

- **Agenda Report Number 4a** (Agenda_Report_Number_4a.pdf)

5. ATTORNEY REPORT

6. STAFF REPORTS

a. Manager

b. Treasurer

Exhibit: Agenda Report Number 6b

Attachments:

- **Agenda Report Number 6b** (Agenda_Report_Number_6b.pdf)

c. Special Projects Manager

Exhibit: Agenda Report Number 6c

Attachments:

- **Agenda Report Number 6c** (Agenda_Report_Number_6c.pdf)

d. Clerk

7. AUDIT PRESENTATION

a. Presentation of the Fiscal Year 2021/2022 Financial Audit by JMCO

Exhibit: Agenda Report Number 7a

Attachments:

- **Auditor's Presentation** (Audit_Presentation.pdf)

8. 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

9. PUBLIC HEARINGS / SPECIAL ORDERS

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

(RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)

a. Trails and Greenways Committee Recommendation to Council

Exhibit: Agenda Report Number 10a

Attachments:

- **Agenda Report Number 10a** (Agenda_Report_Number_10a.pdf)

11. ACTION ITEMS

ORDINANCES:0

RESOLUTIONS:1

MISCELLANEOUS:2

a. Acceptance of the Fiscal Year 2021/2022 Financial Audit (Resolution 05-2023)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE ACCEPTANCE OF THE ANNUAL AUDIT REPORT PROVIDED FOR THE FISCAL YEAR 2021/2022 BY THE ADUIT, PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 11a

Attachments:

- **Agenda Report Number 11a** (Agenda_Report_Number_11a.pdf)

b. Select Dates for TRIM Public Hearings, Budget Workshops, and Future RTCMs

Exhibit: Agenda Report Number 11b

Attachments:

- **Agenda Report Number 11b** (Agenda_Report_Number_11b.pdf)

c. ILA between the Town of Malabar and Brevard County

Malabar Scrub Sanctuary Restoration Project

Exhibit: Agenda Report Number 11c

Attachments:

- **Agenda Report Number 11c** (Agenda_Report_Number_11c.pdf)

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

12. DISCUSSION/POSSIBLE ACTION

13. PUBLIC COMMENTS

General Items (Speaker Card Required)

14. REPORTS - MAYOR AND COUNCIL MEMBERS

15. ANNOUNCEMENTS

(2) Vacancies on the Trails and Greenways Committee

16. ADJOURNMENT

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to ensure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105).

The Town does not provide this service. In compliance with F.S. 86.26 and the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

TOWN OF MALABAR

Regular Town Council Meeting

AGENDA ITEM NO: 4.a
Meeting Date: May 15th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Approve Minutes of the RTCM of 5/1/2023

BACKGROUND/HISTORY:

Summary of actions at Town Council Meetings

ATTACHMENTS:

- Draft Minutes of RTCM of 5/1/2023

ACTION OPTIONS:

Review

**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 CLEVINGER

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:**

- 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: _____
Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard Kohler
Town Clerk

Date Approved: 05/15/2023

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO. 6.b

Meeting Date: May 15, 2023

Prepared By: Lisa Morrell, Special Projects Manager

SUBJECT: Treasurer Report – Revenue & Expenditures Report Through April 2023

The Treasurer report provides a monthly financial report through April 30, 2023 (unaudited), completing seven months, or 60%, of the fiscal year.

Revenue generated through the period totaled: \$ 2,506,673.

- General Fund: \$ 2,218,957
- Building Fund (322.1000): \$153,040 or 80% collection of the fiscal budget.
- Land Use Permits (329.5000): \$14,805 or 185%, exceeding the estimated fiscal budget, of \$8000 in revenue collection.
- Beautification Trust Fund (329.5010), established for tree removal permits, totals \$2855.00 fiscal year to date.
- Stormwater Fund (363.1000): \$119,871 or 90% collection of the fiscal budget.

Notable Revenue Trends:

- Special Event Revenue: park usage trending upward with reservations.
- Paving Assessment: no payments from recorded property liens fiscal year to date.
- Solid Waste Franchise Fee payments are received at the end of the previous billing quarter.

Departmental Expenses for the reporting period totaled, \$1,628,906.

Notable expenses:

- Litigation Expenses (514.3100), will require a budget amendment increase of \$25,500, based upon this year's average legal services expense of \$4,250 per month. A future budget amendment to increase the funding for continued legal services for the current fiscal year.
- Disaster Debris expense from Hurricane Nicole was paid to the Brevard County per the Disaster Debris Interlocal Agreement (ILA) in the amount of \$3,447.63 (525.3010).
- Expenses for the repair of Rocky Point Road began at \$13,750 and shall be tracked and submitted to FEMA for reimbursement in a future fiscal year(s) due to Hurricane Nicole.

The current financial outlook for the fiscal year to date period, October 1, 2022 to April 30, 2023, representing 60% of the fiscal year, is stable. Total expenditures represent an average of 23% usage while revenues represent 36% collected.

During this period the revenue accounts have an aggregate collection rate of 36% while total department expenses have an aggregate of 23% expended in this period. An unaudited net balance closes the period with \$877,767 unexpended.

Attachment(s):

Budget to Actuals: FY23 (UNAUDITED) October 1, 2022 – May 1, 2023.PDF

Town of Malabar

Budget vs. Actuals: FY_2022_2023 - FY23 P&L

October 1, 2022 - May 1, 2023

	TOTAL			
	ACTUAL	BUDGET	OVER BUDGET	% OF BUDGET
Income				
47900 Revenue				
001-311.1000 Ad Valorem Taxes	1,434,345.98	1,484,127.00	-49,781.02	96.65 %
001-312.4100 Local Option Gas Tax	73,152.44	99,500.00	-26,347.56	73.52 %
001-314.1000 Utility Tax - Electricity	196,464.47	330,000.00	-133,535.53	59.53 %
001-314.4000 Utility Tax - Gas	9,369.24	14,000.00	-4,630.76	66.92 %
001-315.1000 Communications Service Tax	75,079.94	107,457.00	-32,377.06	69.87 %
001-316.1000 BTR - Malabar	19,063.00	20,000.00	-937.00	95.32 %
001-322.1000 Building Permits	153,080.44	190,000.00	-36,919.56	80.57 %
001-323.1000 Electric - Franchise Fee	147,730.29	240,000.00	-92,269.71	61.55 %
001-323.3000 Water - Franchise Fee	4,632.44	6,900.00	-2,267.56	67.14 %
001-323.7000 Solid Waste - Franchise Fee	16,219.60	37,000.00	-20,780.40	43.84 %
001-329.5000 - OPSA Land Use	14,805.00	8,000.00	6,805.00	185.06 %
001-329.5010 - Beautification Trust Fund	2,855.00		2,855.00	
001-331.5100 SLFRF Allotment	1,928.61		1,928.61	
001-335.1250 State Revenue Sharing	79,807.09	95,865.00	-16,057.91	83.25 %
001-335.1400 State Mobile Home Tax	1,967.37	3,000.00	-1,032.63	65.58 %
001-335.1500 State Alcoholic Beverage Licenses		1,700.00	-1,700.00	
001-335.1800 State Local Gov't 1/2 Cent Sales Tax	108,500.68	191,837.00	-83,336.32	56.56 %
001-335.2100 State FF Education Supplemental Payment		4,800.00	-4,800.00	
001-335.4900 Other General Gov't - Traffic Signal Maintenance	8,067.51	5,500.00	2,567.51	146.68 %
001-338.2000 BTR - Brevard County	626.08	1,100.00	-473.92	56.92 %
001-349.2000 Cell Tower Lease (deleted)	0.00		0.00	
001-349.5000 Special Event Revenue	2,985.00	3,000.00	-15.00	99.50 %
001-349.7010 Background Check	90.00	200.00	-110.00	45.00 %
001-349.8000 Paving Assessment		16,228.00	-16,228.00	
001-349.8010 Golf Cart Registration	150.00	300.00	-150.00	50.00 %
001-349.9000 Lien Searches	2,275.40	6,000.00	-3,724.60	37.92 %
001-351.5000 Fines/Forfeiture	437.62	500.00	-62.38	87.52 %
001-361.1000 Interest	43.44	3,000.00	-2,956.56	1.45 %
001-361.1010 Cell Tower Lease Interest Only	6,404.07	10,885.00	-4,480.93	58.83 %
001-363.1000 SW Assessment	119,871.26	132,001.00	-12,129.74	90.81 %
001-363.2300 TIFT Allocation Request		50,000.00	-50,000.00	
001-365.1000 Sales of Surplus Materials	45.00	2,500.00	-2,455.00	1.80 %
001-366.1000 Donations FD/GF	100.00	1,000.00	-900.00	10.00 %
001-369.3000 Insurance Refund - FMIT	0.00	1,500.00	-1,500.00	0.00 %
001-369.9000 Misc. Revenues	692.92	300.00	392.92	230.97 %
001-383.1000 Cell Tower Lease Principal Only	10,500.93	18,095.00	-7,594.07	58.03 %
001-389.3000 VFA State Grant		11,294.00	-11,294.00	
001-389.5000 Debt Proceeds	15,382.00	2,107,000.00	-2,091,618.00	0.73 %
001-389.9000 Parks Rec Funds		45,160.00	-45,160.00	
001-389.9520 Use of BD Restricted Fund Balance		44,390.00	-44,390.00	
001-389.9530 Use of GF Fund Balance		48,369.00	-48,369.00	

	TOTAL			
	ACTUAL	BUDGET	OVER BUDGET	% OF BUDGET
001-389.9540 Use of SW Fund Balance		164,113.00	-164,113.00	
001-389.9560 SLFRF Restricted Funding		1,462,004.00	-1,462,004.00	
Total 47900 Revenue	2,506,672.82	6,968,625.00	-4,461,952.18	35.97 %
Total Income	\$2,506,672.82	\$6,968,625.00	\$ -4,461,952.18	35.97 %
GROSS PROFIT	\$2,506,672.82	\$6,968,625.00	\$ -4,461,952.18	35.97 %
Expenses				
66000 Payroll Expenses				
Taxes	9.64		9.64	
Total 66000 Payroll Expenses	9.64		9.64	
B Legislative				
001-511.110 Spec Projs Mgr	0.00		0.00	
001-511.1100 Spec. Projects Mgr	31,604.90	50,000.00	-18,395.10	63.21 %
001-511.2100 FICA taxes	1,440.78	3,825.00	-2,384.22	37.67 %
001-511.2200 FRS	3,893.96	5,955.00	-2,061.04	65.39 %
001-511.2300 Employee Benefits	9,811.57	16,919.00	-7,107.43	57.99 %
001-511.3400 Contract Svcs - SC	2,983.08	14,600.00	-11,616.92	20.43 %
001-511.4000 Mayor Travel	1,720.99	1,500.00	220.99	114.73 %
001-511.4010 Council Travel	245.00	3,500.00	-3,255.00	7.00 %
001-511.4100 Postage & PR	763.49	1,000.00	-236.51	76.35 %
001-511.5200 Operating Supplies	118.50	1,500.00	-1,381.50	7.90 %
Total B Legislative	52,582.27	98,799.00	-46,216.73	53.22 %
C Executive				
001-512.1100 Executive TM	51,512.40	86,000.00	-34,487.60	59.90 %
001-512.2100 FICA Taxes	3,956.57	6,855.00	-2,898.43	57.72 %
001-512.2200 Retire. Cont.-FRS	16,328.00	27,150.00	-10,822.00	60.14 %
001-512.4000 Travel Per Diem	1,558.00	3,600.00	-2,042.00	43.28 %
Total C Executive	73,354.97	123,605.00	-50,250.03	59.35 %
D Finance & Administration				
001-513.1100 Clerk	33,225.62	55,000.00	-21,774.38	60.41 %
001-513.1110 Treasurer		65,000.00	-65,000.00	
001-513.1200 Dep Clerk/Treasurer(10/17/22)	4,235.10	34,900.00	-30,664.90	12.13 %
001-513.1400 Overtime		1,000.00	-1,000.00	
001-513.2100 FICA Taxes	2,799.52	11,926.00	-9,126.48	23.47 %
001-513.2200 Retire. Contr. FRS	9,536.80	29,381.00	-19,844.20	32.46 %
001-513.3100 Election Expense	345.15	350.00	-4.85	98.61 %
001-513.3210 Auditing	3,000.00	22,000.00	-19,000.00	13.64 %
001-513.4000 Travel Per Diem	104.25		104.25	
001-513.4900 Other Curr. Ob	3,190.99	7,000.00	-3,809.01	45.59 %
001-513.6400 Machinery & Equip	16,050.00	51,000.00	-34,950.00	31.47 %
Total D Finance & Administration	72,487.43	277,557.00	-205,069.57	26.12 %
E Legal				
001-514.3100 Prof. Services	67,572.12	60,000.00	7,572.12	112.62 %
Total E Legal	67,572.12	60,000.00	7,572.12	112.62 %
F Comprehensive Planning				
001-515.3100 Prof. Services		1,500.00	-1,500.00	
Total F Comprehensive Planning		1,500.00	-1,500.00	
G General Government				

	TOTAL			
	ACTUAL	BUDGET	OVER BUDGET	% OF BUDGET
001-519.2300 Employee Benefits	86,660.95	169,580.00	-82,919.05	51.10 %
001-519.2330 OEB Liabilities	28,665.39	25,194.00	3,471.39	113.78 %
001-519.2400 Worker's Compensation	31,889.45	42,980.00	-11,090.55	74.20 %
001-519.2410 AD&D and FFCD Premium	825.00	950.00	-125.00	86.84 %
001-519.3100 Eng Cont. Services	200.00		200.00	
001-519.3400 Contractual Svs - Pest Control	2,389.22	3,000.00	-610.78	79.64 %
001-519.3420 Contractual Svs - IT/Web	13,676.25	16,000.00	-2,323.75	85.48 %
001-519.3440 Contractual Svs - Engineering	1,887.50	10,000.00	-8,112.50	18.88 %
001-519.3460 Contractual Svs - Cleaning	2,366.00	4,620.00	-2,254.00	51.21 %
001-519.4000 Travel, Train, Per Diem	509.00	5,000.00	-4,491.00	10.18 %
001-519.4100 Comm & Freight-Tele/ISP	4,993.87	12,650.00	-7,656.13	39.48 %
001-519.4300 Utilities-Electric	10,193.45	14,000.00	-3,806.55	72.81 %
001-519.4400 Rentals & Leases	6,436.11	12,700.00	-6,263.89	50.68 %
001-519.4500 Insurance- Property Liability	34,837.70	56,077.00	-21,239.30	62.12 %
001-519.4600 Repairs & Mtnc	333.64	10,000.00	-9,666.36	3.34 %
001-519.4900 Other Current Charges & Obligation	3,947.92	5,000.00	-1,052.08	78.96 %
001-519.4920 Contingency		7,674.00	-7,674.00	
001-519.5200 Operating Supplies	4,653.91	9,000.00	-4,346.09	51.71 %
001-519.5400 Memberships/Subscriptions	458.59	1,000.00	-541.41	45.86 %
Total G General Government	234,923.95	405,425.00	-170,501.05	57.95 %
H Fire Control				
001-522.1100 Executive - Fire Chief	24,355.04	53,251.00	-28,895.96	45.74 %
001-522.1200 Regular Salaries	167,804.40	277,023.00	-109,218.60	60.57 %
001-522.1300 Holiday Pay	7,588.28	9,000.00	-1,411.72	84.31 %
001-522.1400 Overtime Pay	7,046.83	6,000.00	1,046.83	117.45 %
001-522.1500 Special Pay - Vol. FF	5,965.18	4,000.00	1,965.18	149.13 %
001-522.2100 FICA Taxes	15,497.53	25,353.00	-9,855.47	61.13 %
001-522.2200 Retirement Contribution - FRS	57,296.91	96,090.00	-38,793.09	59.63 %
001-522.3100 Contractual Svs - Med Director & Testing	7,750.00	12,500.00	-4,750.00	62.00 %
001-522.3420 Contractual Svs - IT/Web	5,863.90	8,000.00	-2,136.10	73.30 %
001-522.3440 Training MVFD Members	30.00	3,000.00	-2,970.00	1.00 %
001-522.3470 Contractual Svs - ILA 800 MHz	5,250.00	7,000.00	-1,750.00	75.00 %
001-522.3490 Contractual Svs - ILA BCFR Dispatch	9,500.00	9,500.00	0.00	100.00 %
001-522.4600 Repairs/Maintainence	13,417.91	20,000.00	-6,582.09	67.09 %
001-522.4620 Repairs & Mtnc Radio	613.99	1,500.00	-886.01	40.93 %
001-522.4800 Promotion Activity	145.00		145.00	
001-522.5200 Operating Expenses - Fuel	4,540.48	12,000.00	-7,459.52	37.84 %
001-522.5210 Operating Expenses	8,377.67	12,000.00	-3,622.33	69.81 %
001-522.5400 Book/Pub/Subsc/Memberships	453.15	600.00	-146.85	75.53 %
001-522.6300 Lease Purchase E99	49,696.00	49,696.00	0.00	100.00 %
001-522.6400 Machinery & Equipment		150,000.00	-150,000.00	
001-522.8300 Grants		22,589.00	-22,589.00	
Total H Fire Control	391,192.27	779,102.00	-387,909.73	50.21 %
I Protective Inspections				
001-524.1200 Regular Salaries	27,853.54	47,586.00	-19,732.46	58.53 %
001-524.1210 Permitting Clerk -P/T	5,523.99	11,000.00	-5,476.01	50.22 %
001-524.1400 Overtime	540.54	1,500.00	-959.46	36.04 %
001-524.2100 FICA Taxes	2,197.32	4,597.00	-2,399.68	47.80 %
001-524.2200 Retirement Contribution - FRS	2,359.81	7,156.00	-4,796.19	32.98 %

	TOTAL			
	ACTUAL	BUDGET	OVER BUDGET	% OF BUDGET
001-524.2300 Employee Benefits	5,455.01	9,332.00	-3,876.99	58.45 %
001-524.2400 Workers Compensation	4,211.82	5,155.00	-943.18	81.70 %
001-524.3100 Professional Svs - Engineering	6,076.00	12,000.00	-5,924.00	50.63 %
001-524.3110 Professional Svs - Planner		2,000.00	-2,000.00	
001-524.3120 Professional Svs - Legal	2,905.00	5,000.00	-2,095.00	58.10 %
001-524.3400 Contractual Svs - Pest Control	270.25	450.00	-179.75	60.06 %
001-524.3420 Contractual Svs - IT/Web	4,924.22	8,500.00	-3,575.78	57.93 %
001-524.3440 Contractual Svs - Bldg Official, Plan Review	31,637.72	95,000.00	-63,362.28	33.30 %
001-524.3460 Contractual Svs - Cleaning	294.00	960.00	-666.00	30.63 %
001-524.4100 Communications & Freight, Phone	1,399.69	3,000.00	-1,600.31	46.66 %
001-524.4300 Utilities Electric	793.37	1,300.00	-506.63	61.03 %
001-524.4400 Rentals & Leases	2,818.21	4,000.00	-1,181.79	70.46 %
001-524.4500 Insurance - Property Liability	5,416.20	6,854.00	-1,437.80	79.02 %
001-524.4900 Other Current Charges & Obligations	2,432.07	5,000.00	-2,567.93	48.64 %
001-524.5200 Operating Expenses	564.04	1,500.00	-935.96	37.60 %
001-524.6400 Machinery & Equipment		2,500.00	-2,500.00	
Total I Protective Inspections	107,672.80	234,390.00	-126,717.20	45.94 %
J Emergency/ Disaster Relief				
001-525.1100 Special Projects Manager	27,097.90	50,000.00	-22,902.10	54.20 %
001-525.2100 FICA	3,120.08	3,825.00	-704.92	81.57 %
001-525.2200 Retirement Contribution - FRS	2,977.69	5,955.00	-2,977.31	50.00 %
001-525.2300 Employee Benefits	9,811.50	16,919.00	-7,107.50	57.99 %
001-525.3010 Disaster Debris	3,447.63		3,447.63	
001-525.3011 PA Rocky Point	13,750.00		13,750.00	
001-525.3020 American Relief Plan Act/SLFRF	168,399.74	1,385,304.00	-1,216,904.26	12.16 %
Total J Emergency/ Disaster Relief	228,604.54	1,462,003.00	-1,233,398.46	15.64 %
K Flood Control				
001-538.3100 Contractual Svs - Engineering/Design	4,168.50	30,000.00	-25,831.50	13.90 %
001-538.3110 Contractual Svs - ROW Culvert	2,600.00	20,000.00	-17,400.00	13.00 %
001-538.3400 ILA Administrative Program	3,862.42	11,000.00	-7,137.58	35.11 %
001-538.4900 - SW Projects	3,510.93	57,440.00	-53,929.07	6.11 %
001-538.6300 Infrastructure Projects	8,529.90		8,529.90	
001-538.6400 Machinery/Equipment	168,968.88	167,344.00	1,624.88	100.97 %
001-538.7100 SRF Loan Payment	5,170.00	10,340.00	-5,170.00	50.00 %
Total K Flood Control	196,810.63	296,124.00	-99,313.37	66.46 %
M Streets & Roads				
001-541.1100 PW Director	33,647.76	57,182.00	-23,534.24	58.84 %
001-541.1200 Reg Sal & Wages	33,792.98	116,729.00	-82,936.02	28.95 %
001-541.1400 Overtime	3,597.80	8,000.00	-4,402.20	44.97 %
001-541.2100 FICA Taxes	5,222.21	13,916.00	-8,693.79	37.53 %
001-541.2200 Retirement Contributions - FRS	7,147.94	21,666.00	-14,518.06	32.99 %
001-541.4000 Travel, Training, Per Diem		500.00	-500.00	
001-541.4300 Electric - Street Lights & Signals	6,412.84	11,000.00	-4,587.16	58.30 %
001-541.4600 Repair & Mtnce - Vehicles	4,393.88	35,000.00	-30,606.12	12.55 %
001-541.4610 Repair & Mtnce - Roads	6,427.46	50,000.00	-43,572.54	12.85 %
001-541.4650 Repair & Mtnce RR Signal	3,934.00	3,600.00	334.00	109.28 %
001-541.4900 Other Charges & Obligations	25.00	1,000.00	-975.00	2.50 %
001-541.5200 Operating Supplies - Fuel	5,538.83	25,000.00	-19,461.17	22.16 %
001-541.5210 Operating Supplies	2,406.85	7,000.00	-4,593.15	34.38 %

	TOTAL			
	ACTUAL	BUDGET	OVER BUDGET	% OF BUDGET
001-541.6300 TIFT Projects		50,000.00	-50,000.00	
001-541.6400 Machinery & Equipment	37,074.21	37,075.00	-0.79	100.00 %
001-541.6410 Replacement Equipment	40,157.00	45,300.00	-5,143.00	88.65 %
001-541.6420 CIP Road Paving		2,650,292.00	-2,650,292.00	
Total M Streets & Roads	189,778.76	3,133,260.00	-2,943,481.24	6.06 %
N Parks & Recreation				
001-572.4400 Rentals & Leases	1,400.00	2,600.00	-1,200.00	53.85 %
001-572.4600 Repairs & Mtnce	3,411.14	15,000.00	-11,588.86	22.74 %
001-572.4900 Other Charges & Obligations		600.00	-600.00	
001-572.4930 Trails & Greenways		10,000.00	-10,000.00	
001-572.6400 Machinery & Equipment	8,320.00	20,000.00	-11,680.00	41.60 %
001-572.6410 Infrastructure - FCT		45,160.00	-45,160.00	
Total N Parks & Recreation	13,131.14	93,360.00	-80,228.86	14.07 %
O Special Events				
001-574.4800 Fall/SpringFest Event	785.90	3,500.00	-2,714.10	22.45 %
Total O Special Events	785.90	3,500.00	-2,714.10	22.45 %
Purchases	0.00		0.00	
Total Expenses	\$1,628,906.42	\$6,968,625.00	\$ -5,339,718.58	23.37 %
NET OPERATING INCOME	\$877,766.40	\$0.00	\$877,766.40	0.00%
NET INCOME	\$877,766.40	\$0.00	\$877,766.40	0.00%

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM REPORT NO. 6.c

Meeting Date: May 15th, 2023

Prepared By: Lisa Morrell, Special Projects Manager

SUBJECT: Special Projects Report

Dane Contracting, Inc, the awarded contractor for the Malabar Community Park Restroom Facility Renovation Project, has completed the the interior renovations on Mau 5th which commenced on March 29, 2023. A short presentation is included with before and after photos. Staff announced with re-opening of the restroom on Monday, May 8th, on social media.

The Road Analysis Report, funded by SLFRF, was presented to the Town Council on March 20, 2023 and has been posted to the website under Departments, Public Works for the public

Mach Alert completed the Fire Station Toning project on Friday, May 5th. The station now receives escalating tones and audible calls for service with details with two informational display boards in the kitchen and engine bay areas including a map for the location of service.

Remaining Projects:

- 22-11 Cybersecurity, Allocation \$5,000
Applied for the Florida Digital Grant, closed on March 31, 2023.
- 22-13 Park Improvements, Allocation \$64,199.27
- 22-15 Roads, \$300,510.00
- 22-16 SWU, 310,511.00
- 22-17 Water Expansion, \$329,011.00.

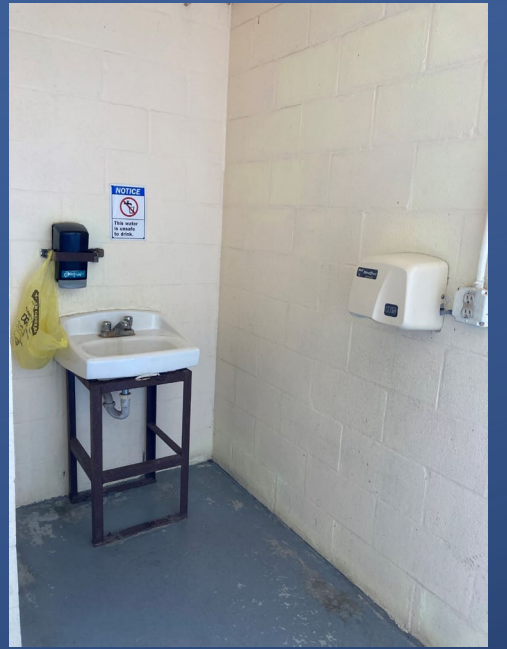
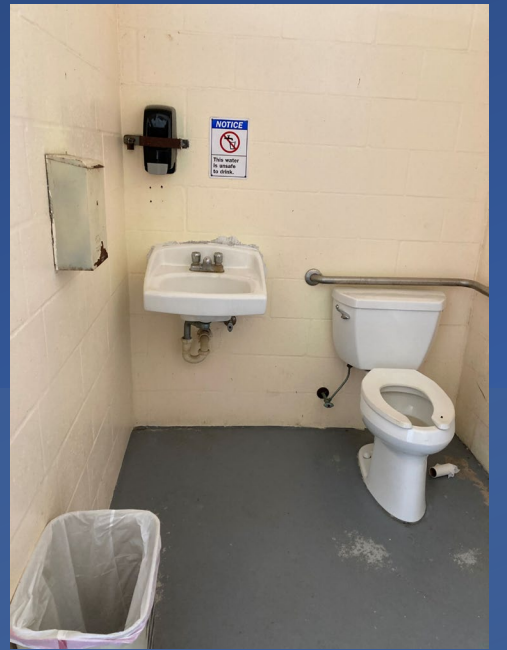
- Staff will be meeting with Palm Bay Utilities on Wednesday, May 17th to participate in the loop expansion project that will loop Corey and Weber. This Palm Bay Utility project precedes the Town of Malabar's water expansion project to the Fire Station project.

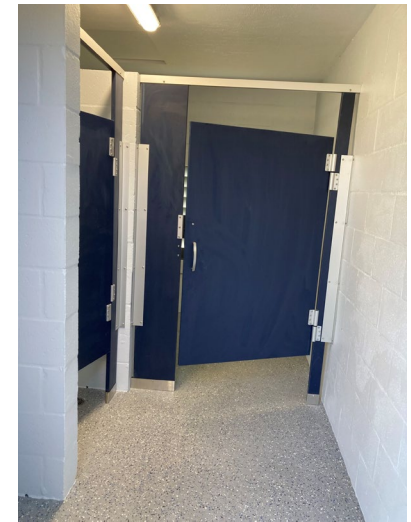
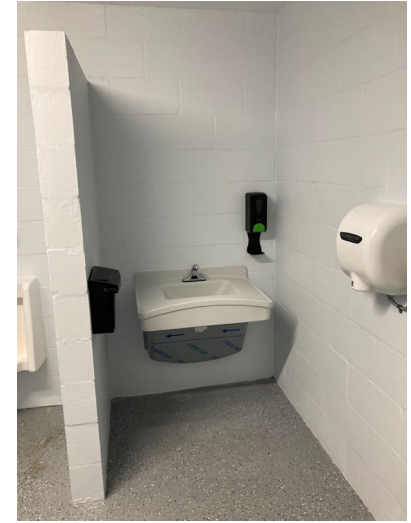
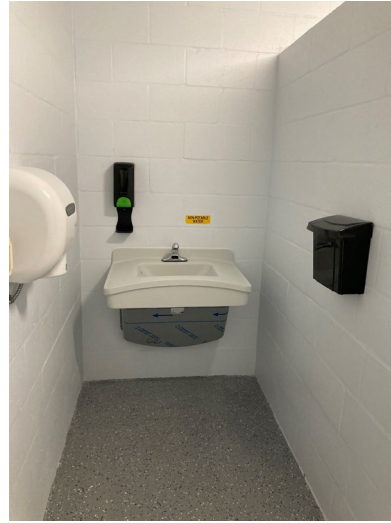
All SLFRF funds must be expended by 2026.

A discussion of the fund allocations and park improvement topics will be brought forth at a June Regular Town Council Meeting.



Exterior Renovation Completion





Town of Malabar

Annual Audit for the Year Ended
September 30, 2022

Presented by:
Zach Chalifour, CPA

 JAMES
MOORE
888-387-6851
www.jmco.com



Auditors' Reports

- **Independent Auditors' Report** (pages 1-3)
 - Qualified Opinion due to GASB 75 (OPEB)
- **Independent Auditors' Report on Internal Control and Compliance – Government Auditing Standards** (pages 33-34)
 - 2 Material Weaknesses – Reconciliation of Account Balances and Accruals and Bank Reconciliations and Accounting System Cleanup
- **Independent Auditors' Management Letter Required by Chapter 10.550, Rules of the Auditor General Report** (pages 35-37)
 - 1 Other Recommendation: Building Department Fund Balance
- **Independent Accountants' Examination Report** (page 38)
 - Town in compliance with state statutes over investment activity/policies

General Fund (Page 11)

<u>Fund Balance</u>	<u>9/30/2022</u>	<u>9/30/2021</u>	<u>9/30/2020</u>	<u>9/30/2019</u>
Nonspendable	\$ 4,302	\$ 29,223	\$ 177	\$ -0-
Restricted	301,480	230,060	204,741	29,549
Committed	38,258	-0-	29,800	3,742
Assigned	93,529	154,442	180,385	215,299
Unassigned	<u>1,650,615</u>	<u>1,366,885</u>	<u>1,291,616</u>	<u>1,136,169</u>
Total	<u>\$ 2,088,184</u>	<u>\$ 1,780,610</u>	<u>\$ 1,706,719</u>	<u>\$ 1,384,759</u>

General Fund (continued)

Total Assigned/Unassigned Fund Balance	\$ 1,744,144
2022 Expenditures and Transfers Out	\$ 2,407,655
Assigned/Unassigned Fund Balance as a percentage of Expenditures:	72.4%
Prior Year %	63.4%

Other Highlights

- Long-term debt
 - \$72,000 repayment on financed acquisitions; no SRF loan payments
- ARPA
 - FY22 – second tranche received
 - \$1,277,839 reported as unearned revenue due to limited expenses in FY22
- Net Pension Liability – recorded in financial statements
 - Governmental Activities: \$1,340,839 net pension liability (allocated from FRS)
 - Overall impact of pension liability
 - All Town contributions made



QUESTIONS

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 10.a

Meeting Date: May 15th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Trails and Greenways Committee Recommendation to Council

BACKGROUND/HISTORY:

At the May 8th T&GC Meeting, the Committee discussed areas of the Malabar Scrub Sanctuary Restoration Project they feel were unresolved by the tentative agreement reached at the May 1st Joint Conflict Assessment Meeting. Vice-Chair Hann moved that the Committee recommend 6 items to be included in the final order for the project. Committee Member Cameron seconded the motion, and it passed unanimously.

Town Manager Stinnett has communicated these items to the Attorney for possible inclusion in the final Interlocal Agreement.

ATTACHMENTS:

- Memo 2023-TC-1.

ACTION:

- None.

TOWN OF MALABAR

MEMORANDUM

Date: May 9, 2023 2023-TC-1
To: Town Manager
CC: Town Council and Mayor Reilly
From: Richard W. Kohler, Town Clerk
Ref: Trails & Greenways Committee Recommendations

During the May 8th Trails and Greenways Committee Meeting, the Committee discussed at length the Malabar Scrub Sanctuary Restoration Project, and the tentative agreement reached between the Town Council and the County Commission. The Committee was concerned that certain areas of the project require additional discussion before approval. After a lengthy discussion, the following motion was passed unanimously:

“Vice-Chair Hann moves to recommend to Council and TM Stinnett that the 6 discussed items be included in the ILA.

1. Require a formal boundary survey of Malabar Scrub Sanctuary prior to work commencing. The boundary between MSS West and Cameron Preserve must be marked.
2. If Malabar Road (DOT), Briar Creek Blvd (TOM/City of Palm Bay), or the Boundary Canal Trail (City of Palm Bay) or their margins are damaged, the County shall repair it at their own expense (Bonded).
3. Due to the proximity to the IRL, Saint John’s Water Management District should require protective silt fencing and other protections as appropriate.
4. It is imperative the Briar Creek Blvd ROW remain open and unobstructed. The ROW has been used in the past to evacuate residents during fires.
5. Protect trees within the Briar Creek Blvd ROW (North and South of Brook Hollow) DOT ROW (Malabar Road) and the Boundary Canal Trail (City of Palm Bay). Only remove trees clearly within MSS boundary.
6. Request 1 week notice given to Town of Malabar for public posting prior to commencement of any work, so residents and users can plan appropriately. This includes controlled burns, tree reduction, and roller chopping.”

Motion seconded by Committee Member Cameron and passed unanimously.

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 11.a

Meeting Date: May 15th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Acceptance of the Fiscal Year 2021/2022 Financial Audit (Resolution 05-2023)

BACKGROUND/HISTORY:

James Moore and Co. have completed the financial audit for the 2021/2022 Fiscal Year. The audit process began in October of last year and continued through April of this year. James Moore & Co have completed the last 4 fiscal audits of the Town.

Staff provided all requested information to the audit team including financial documents, processes, testing and historical documents.

Once the Audit is accepted by Council, it will be placed on the website and sent to the State to meet the deadline of June 30, 2023.

ATTACHMENTS:

- Resolution 05-2023
- FY 2021/2022 Financial Report (Previously Distributed)

ACTION:

- Motion to approve Resolution 05-2023.

RESOLUTION 05-2023

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE ACCEPTANCE OF THE ANNUAL AUDIT REPORT PROVIDED FOR THE FISCAL YEAR 2021/2022 BY THE ADUIT, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has determined the benefit of hiring Lisa Morrell as the Malabar Special Projects Manager/Treasurer to improve various projects and assist with operations currently underway or planned in conjunction with the Town Manager and Town Clerk; administer the financial services and activities for the Town, and new projects to benefit and improve the overall condition of the Town for a two-year period beginning on October 1, 2023; and

WHEREAS, Malabar Town Council request to fulfill the vacant position of Treasurer for financial administration of public monies and Town financial fund(s) reporting; and

WHEREAS, Malabar Town Council has been notified that the current Town Manager serves as an active military duty member, the Special Projects Manager/Treasurer may serve in the capacity of Interim Town Manger as designated by the Town Manager or Town Council during active military deployments.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby ratifies, confirms, and certifies the annual audit report for the Fiscal Year of 2021/2022 attached to this Resolution and identified as Exhibit "A".

Section 2. That a certified copy of this Resolution shall be delivered with the audit report to the State Auditor General per Auditor General Rule 10-558(3).

Section 3. This Resolution shall take effect immediately upon its adoption.

This Resolution was moved for adoption by Council Member _____. This motion was seconded by Council Member _____ and, upon being put to vote, the vote was as follows:

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Jim Clevenger	_____
Council Member Dave Scardino	_____
Council Member Mary Hofmeister	_____

This Resolution was then declared to be duly passed and adopted this 15th day of May 2023.

TOWN OF MALABAR

By: _____

Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard W. Kohler
Town Clerk

(seal)

Approved as to form and content:

Karl W. Bohne, Jr.,
Town Attorney

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 11.b

Meeting Date: May 15th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Select Dates for TRIM Public Hearings, Budget Workshops, and Future RTCMs

BACKGROUND/HISTORY:

An important step in the budget process is setting the dates for the TRIM Public Hearings. In accordance with the requirements of Florida Statutes, Chapter 200.065, notice is given concerning the dates of the scheduled public hearings on the ad valorem tax rates and budgets of the Brevard County School Board and the Brevard County Board of County Commissioners for the fiscal year beginning October 1, 2023. Their TRIM Hearing dates are as follows:

School Board:

Thursday July 27, 2023

Thursday September 7, 2023

County Commission:

Tuesday September 5, 2023

Tuesday September 19, 2023.

Also, for consideration, Labor Day falls on the first Monday of September, and one Council Members has indicated they will be unavailable from September 1-20.

Staff would like to recommend the TRIM Public Hearings be held on the following dates:

Monday August 28, 2023 at 7:30 PM

Monday September 25, 2023 at 7:30 PM

JULY MEETINGS: Council has agreed to cancel the second RTCM of June. The first RTCM of July is scheduled for July 3rd, and the second RTCM is scheduled for July 17th. If Council wishes to reschedule the meeting for July 3rd, Wednesday July 5th and Monday July 10th are both available. Staff would also like to recommend the first budget workshop take place on Monday July 24th.

AUGUST MEETINGS: The first RTCM of August is scheduled for Monday August 7th. Staff would like to recommend a second budget workshop be held before the RTCM on the 7th. Staff would also like to recommend that the second RTCM be postponed to August 28th and include the first TRIM Public Hearing. Additionally, August 21st is available for a third Budget Workshop if necessary.

SEPTEMBER MEETINGS: The first RTCM of September would fall on September 4th which is Labor Day. If necessary, Wednesday September 6th is available. Staff would like to recommend moving the Second RTCM to the 4th Monday of the month, September 25th to include the second TRIM Public Hearing.

ATTACHMENTS:

- July, August, and September Calendars

ACTION:

- Approve Meeting schedule as presented, OR
- Approve meeting dates for TRIM Public Hearings.
- Approve budget workshop dates.
- Approve RTCM schedule for July, August and September.

July 2023

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3 RTCM 1	4 Town Hall Closed	5	6	7	8
9	10 T&GC Meeting	11	12 P&Z Meeting	13	14	15
16	17 RTCM 2	18	19 P& R Meeting	20	21	22
23	24 Budget Workshop #1	25	26 P&Z Meeting	27 School Board TRIM PH #1	28	29
30	31					

August 2023

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7 RTCM #1 Budget Workshop #2	8	9 P&Z Meeting	10	11	12
13	14 T&GC Meeting	15	16 P&R Meeting	17	18	19
20	21 Budget Workshop #3	22	23 P&Z Meeting	24	25	26
27	28 RTCM #2 TRIM PH #1	29	30	31		

SEPTEMBER 2023

SUN	MON	TUE	WED	THU	FRI	SAT
					1	2
3	LABOR DAY Town Hall Closed	County Commission TRIM PH #1	RTCM #1 (As Needed)	School Board TRIM PH #2	8	9
10	T&GC Meeting		P&Z Meeting		15	16
17		County Commission TRIM PH #2	P&R Meeting		22	23
24	RTCM #2 TRIM PH #2		P&Z Meeting		29	30

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 11.C

Meeting Date: May 1st, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: ILA Between the Town of Malabar and Brevard County

BACKGROUND/HISTORY:

The Town of Malabar and Brevard County have been involved in a dispute over a Habitat Restoration Project scheduled for the Malabar Scrub Sanctuary. After many attempts to reach a compromise, a Joint Conflict Assessment Meeting was held between the elected officials of each body on May 1st. At that meeting, a tentative verbal agreement was reached. Town and County Attorneys have drafted the following ILA for acceptance and execution.

ATTACHMENTS:

- ILA between the Town of Malabar and Brevard County in regards to Malabar Scrub Sanctuary.

ACTION:

- Motion to approve ILA between the Town of Malabar and Brevard County.

**INTERLOCAL AGREEMENT BETWEEN BREVARD COUNTY, FLORIDA, AND THE
TOWN OF MALABAR, FLORIDA, REGARDING THE MANAGEMENT OF THE
MALABAR SCRUB SANCTUARY**

THIS INTERLOCAL AGREEMENT (hereinafter referred to as the “Agreement”) is made and entered into the date of last signature below, by and between BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as the “County”), and the TOWN OF MALABAR, FLORIDA, a municipality incorporated under the laws of the State of Florida (hereinafter referred to as the “Town.”)

RECITALS:

WHEREAS, the parties desire to enter into this Agreement for the purpose of settling disputes arising out of the management of the Malabar Scrub Sanctuary; and

WHEREAS, the Malabar Scrub Sanctuary consists of approximately 577 acres of land located entirely within the municipal boundaries of the Town; and

WHEREAS, the Malabar Scrub Sanctuary was acquired through the Brevard County Environmentally Endangered Lands Program (hereinafter referred to as the “EEL Program”), with the State reimbursing the County for approximately fifty percent of the purchase price and associated acquisition costs; and

WHEREAS, the EEL Program managed property within the Town encompasses approximately 15% of the total area of the Town; and

WHEREAS, the parcels of land constituting the Malabar Scrub Sanctuary are owned either by the State or the County, with the State owning the majority of the land; and

WHEREAS, the Malabar Scrub Sanctuary contains a scrub ridge which is home to several species, including the Florida scrub-jay, which is listed as a threatened species under the Federal Endangered Species Act, is a Federally-designated threatened species by the Florida Fish and Wildlife Commission, and is protected by the U.S. Migratory Bird Act; and

WHEREAS, the County is responsible for managing the entire Malabar Scrub Sanctuary, including the parcels it owns, as well as the State-owned lands pursuant to a lease agreement and State-approved management plan; and

WHEREAS, in addition to the County’s management of the Malabar Scrub Sanctuary for conservation purposes, members of the public utilize trails located on the property for recreational purposes, including hiking and bicycling; and

WHEREAS, Florida scrub is a shrubland ecosystem characterized by low-growing oak and shrubs with open sandy gaps and few sparse trees, which historically burns in natural wildfires; and

WHEREAS, natural wildfires have long been suppressed on and around the lands comprising the Malabar Scrub Sanctuary, allowing trees to grow large and become fire-resistant, and eliminating the low, open, regularly burned habitat that Florida scrub-jays require to feed, breed, and survive long-term; and

WHEREAS, as part of its management of the Malabar Scrub Sanctuary, the County proposed reestablishing a more natural scrub habitat through mowing, roller chopping, and selective tree removal; and

WHEREAS, on May 17, 2021, the Town issued a permit authorizing the tree removal and land management activities (hereafter the “Land Management Activities”) proposed by the County; and

WHEREAS, on November 17, 2021, the Town-issued permit expired before the County commenced the Land Management Activities; and

WHEREAS, in the time between the Town’s issuance of the permit and its expiration, the Town adopted new regulations, requirements, and fees related to land clearing and tree removal activities; and

WHEREAS, a dispute existed between the Town and County regarding whether the Town’s new regulatory framework was applicable to the County’s Land Management Activities of the Malabar Scrub Sanctuary; and

WHEREAS, on or about January 25, 2022, the County erected barricades preventing entry into the Malabar Scrub Sanctuary; and

WHEREAS, on April 8, 2022, the County filed a lawsuit styled *Brevard County, Florida v. Town of Malabar*, Case No. 05-2022-CA-022983 in the Circuit Court of the Eighteenth Judicial Circuit in and for Brevard County, Florida (hereinafter referred to as the “Litigation”) against the Town in order to clarify its ability to perform the Land Management Activities within the Malabar Scrub Sanctuary in accordance with the State-approved management plan; and

WHEREAS, on February 15, 2023, the parties appeared before Judge Paulk on the Town’s motion to abate proceedings in order to comply with the requirements of Chapter 164, Florida Statutes, also known as the Florida Governmental Conflict Resolution Act (hereinafter referred to as the “Conflict Resolution Act”); and

WHEREAS, on March 2, 2023, Judge Paulk ordered the parties to follow the process outlined in the Conflict Resolution Act and abated the Litigation; and

WHEREAS, on April 10, 2023, the Town hosted a conflict assessment meeting between staff from the County and the Town pursuant to section 164.1053, Florida Statutes; and

WHEREAS, on May 1, 2023, the County and the Town held a joint public meeting of their respective governing bodies pursuant to section 164.1055, Florida Statutes, at which meeting a resolution was met between the Board of County Commissioners and the Town Council, subject to the entry into an Interlocal Agreement as provided for in section 164.1057, Florida Statutes; and

WHEREAS, the County and the Town find that it is in their respective best interests, and that it is in the best interest of the public health, safety, and welfare of the citizens of the Town of Malabar and Brevard County, for the dispute regarding the Malabar Scrub Sanctuary to be settled in accordance with the terms and conditions outlined in this Agreement; and

WHEREAS, this Agreement is authorized pursuant to Florida law, including, but not limited to, Chapters 125, 163, and 164, Florida Statutes.

NOW, THEREFORE, in consideration of the premises and mutual promises contained herein, the parties hereto agree as follows:

1. **Recitals**. The above recitals are true and correct, and are incorporated herein by this reference.
2. **Authority**. This Agreement is entered into in accordance with Chapters 125, 163 and 164, Florida Statutes.
3. **Terms of Agreement – County Obligations**. The County agrees to:
 - a. Immediately remove the barriers erected at the Malabar Scrub Sanctuary. The County satisfied this requirement immediately following the joint public meeting on May 1, 2023.
 - b. Maintain, abandon, and relocate certain trails in accordance with the agreed-upon map attached hereto as *Composite Exhibit A*. The County shall be responsible for the management and relocation of said trails.
 - c. Utilize the maps attached hereto as *Composite Exhibit B* while performing the Land Management Activities contemplated herein to ensure certain

identified trees and perimeter vegetation areas are maintained in the manner agreed upon by the parties.

- d. Comply with all applicable State and Federal permitting requirements.
 - e. Provide reasonable notice in writing to the Town Manager in advance of the County's performance of significant Land Management Activities. The County will provide such notice seven days in advance of the Land Management Activities when practicable, however, shorter notice may be provided when necessitated by occurrences outside of the County's control, such as weather events or contractor availability. In cases of emergency, the County shall be entitled to conduct any work it deems necessary and appropriate to protect the public health, safety, and welfare, with or without notice.
 - f. Limit the Land Management Activities to property owned and/or managed by the County, unless otherwise provided herein.
 - g. Be solely responsible for the Land Management Activities at the Malabar Scrub Sanctuary. Nothing herein will be deemed to be a waiver of the County's statutory right/defense of sovereign immunity, or to have increased its limits of liability under section 768.28, Florida Statutes, as may be amended from time to time. The County retains all rights, defenses, and remedies under Florida law in the event of any claims, suits or other disputes arising from its performance of the obligations under this Agreement. Nothing in this Agreement shall be interpreted to create any causes of action under this Agreement for any third parties not a party to this Agreement.
4. **Terms of Agreement – Town Obligations.** The Town agrees to:
- a. Waive any requirement for the County to obtain a Town permit for the Land Management Activities contemplated herein.
 - b. Waive any permit or tree removal fees for the Land Management Activities contemplated herein.
 - c. Waive any requirement to obtain a tree survey for the Land Management Activities contemplated herein.

5. **Dismissal**. Upon recordation of this fully executed Agreement, the County shall voluntarily dismiss the Litigation, and incorporate this Agreement as an exhibit to its notice of dismissal.
6. **Governing Law; Jury Trial Waiver**. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the parties stipulate that venue for any dispute arising from this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida. **IN THE CASE OF ANY DISPUTE ARISING OUT OF THIS AGREEMENT, ANY TRIAL SHALL BE NON-JURY.**
7. **Interpretation**. Both parties have had the opportunity to consult with legal counsel. Consequently, this Agreement shall not be more strictly or more harshly construed against either party as the drafter.
8. **Severability**. If any part of this Agreement is found invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall nevertheless continue in full force without being impaired.
9. **Further Documents**. The parties shall execute, issue, and deliver all documents and perform further actions that may be reasonably necessary to effectuate the provisions of this Agreement.
10. **Notices**. All notices shall be sent via certified mail to the following designated individuals for each party

<u>As to the County</u> Brevard County Manager's Office c/o County Manager 2725 Judge Fran Jamieson Way Suite C-301 Viera, FL 32940	<u>As to the Town</u> Town of Malabar c/o Town Manager 2725 Malabar Road Malabar, FL 32950-4427
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11. **Entire Agreement**. This Agreement, including exhibits, appendices, riders, and/or addenda, if any attached hereto, sets forth the entire agreement between the parties. This Agreement shall not be modified except in writing and executed by all parties. Such modification shall be recorded in the public records.
12. **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the successors in interest and assigns of the parties.

13. **Counterparts**. This Agreement may be executed in counterparts, all of which, when taken together, shall constitute one and the same Agreement. Each party represents that the person signing on its behalf has been fully authorized by all required action to sign on behalf of and to bind that respective party to the obligations stated herein.
14. **Recording**. The County shall be responsible for the cost to record this Agreement in the public records of Brevard County, Florida. The County shall provide a recorded copy of the Agreement to the Town.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DRAFT

IN WITNESS WHEREOF, the parties hereto, by and through the respective undersigned authorized representative, have entered into this Agreement on the date and year last written below.

ATTEST:

BREVARD COUNTY, FLORIDA

Rachel Sadoff, Clerk of Court

By: _____
Rita Pritchett, Chair DATE

As approved by the Board on _____

Approved for legal form and content
for Brevard County, Florida

Morris Richardson, County Attorney

ATTEST:

TOWN OF MALABAR, FLORIDA

Richard W. Kohler, Town Clerk

By: _____
Patrick T. Reilly, Mayor DATE

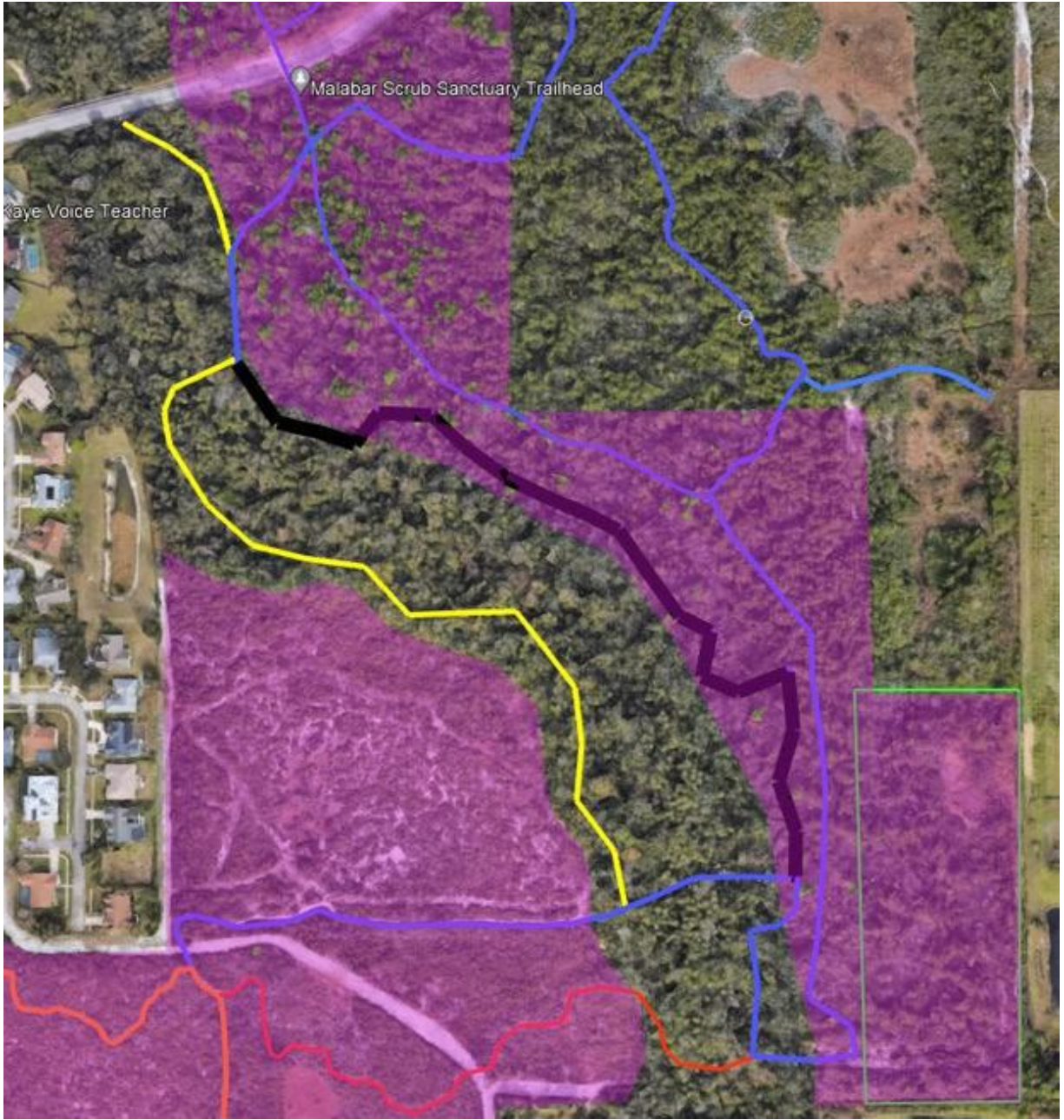
As approved by the Council on _____

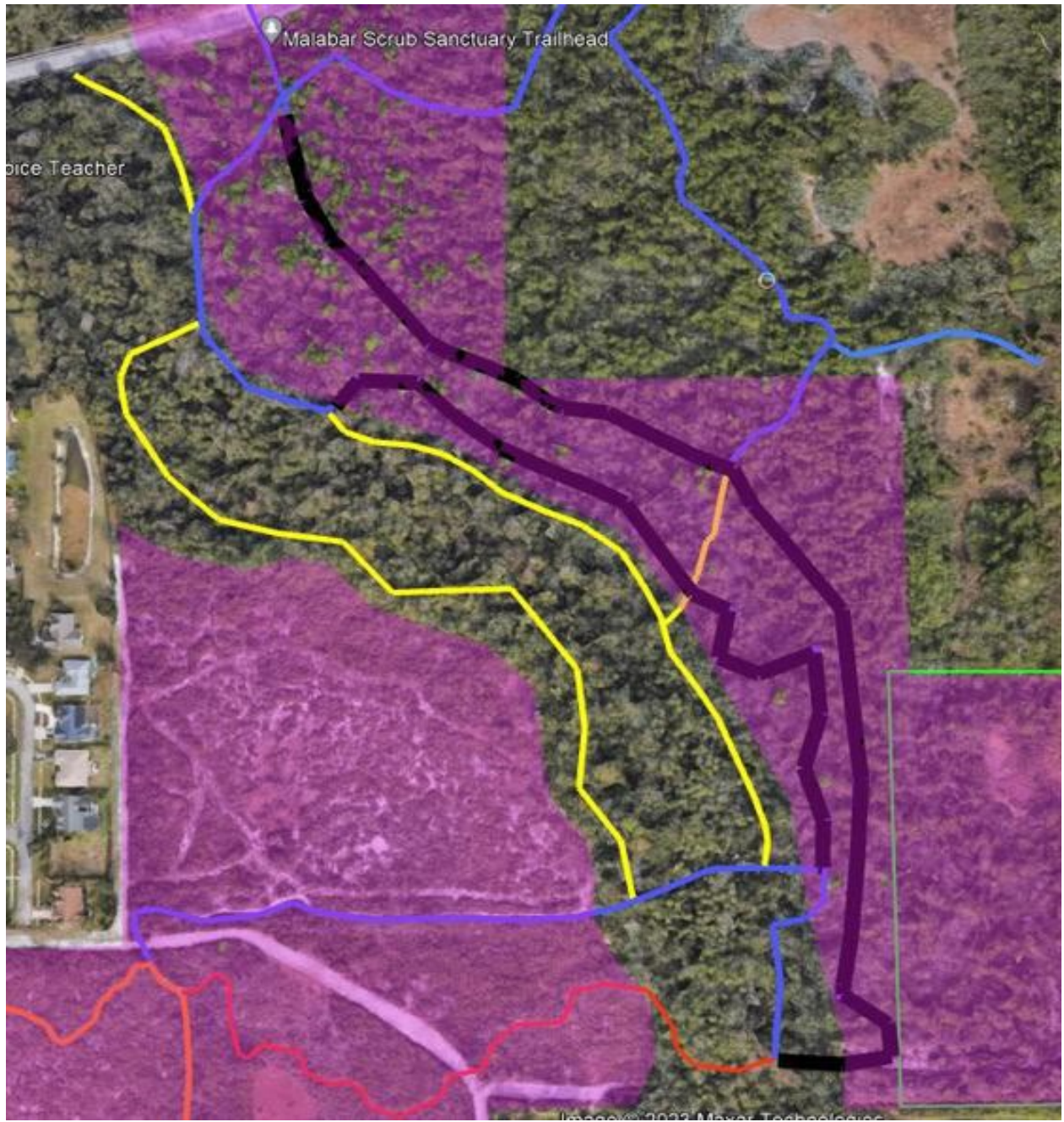
Approved for legal form and content
for the Town of Malabar, Florida

Karl W. Bohne, Jr., Town Attorney

COMPOSITE EXHIBIT A (TRAIL RELOCATION)







COMPOSITE EXHIBIT B (BUFFER AND PERIMETER)

