



REGULAR TOWN COUNCIL MEETING

Monday, March 20, 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 03/06/2023

Exhibit: Agenda Report Number 4a

Attachments:

- Agenda Report Number 4a (Agenda_Report_Number_4a.pdf)

5. ATTORNEY REPORT
6. STAFF REPORTS
 - a. Manager
 - b. Special Projects Manager
 - c. Clerk
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)

Five (5) Minute Limit per Speaker

8. PUBLIC HEARINGS / SPECIAL ORDERS
9. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING

(RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)

10. ACTION ITEMS

ORDINANCES: 0

RESOLUTIONS: 1

MISCELLANEOUS: 0

- a. **FDOT State Highway Lighting, Maintenance, and Compensation Agreement (Resolution 03-2023)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PERTAINING TO A STATE HIGHWAY LIGHTING, MAINTENANCE, AND COMPENSATION AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE TOWN OF MALABAR; PROVIDING FOR AUTHORIZATION FROM COUNCIL FOR THE TOWN MANAGER TO EXECUTE SAID AGREEMENT; PROVIDING FOR A REPEAL OF

RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10a

Attachments:

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

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

11. DISCUSSION/POSSIBLE ACTION

a. Roadway Asphalt Pavement Surface Evaluation

Exhibit: Agenda Report Number 11a

Attachments:

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

b. Town Manager to perform Employee Reviews

Exhibit: Agenda Report Number 11b

Attachments:

- **Agenda Report Number 11b** (Agenda_Report_Number_11b.pdf1.pdf)

c. Expand Existing Town Hall, or Build New Town Hall

Exhibit: Agenda Report Number 11c

Attachments:

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

d. Organization Discussion Continued

Exhibit: Agenda Report Number 11d

Attachments:

- **Agenda Report Number 11d** (Agenda_Report_Number_11d.pdf)

12. PUBLIC COMMENTS

General Items (Speaker Card Required)

13. REPORTS - MAYOR AND COUNCIL MEMBERS

14. ANNOUNCEMENTS

(2) Vacancies on the Parks and Recreation Board, (1) Vacancy on the Board of Adjustments, (1) Vacancy on the Planning and Zoning Board.

15. 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.

Contact: Richard Kohler (townclerk@townofmalabar.org 321-727-7764) | Agenda published on 03/15/2023 at 5:00 PM

TOWN OF MALABAR

Regular Town Council Meeting

AGENDA ITEM NO: 4.a
Meeting Date: March 20th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Approve Minutes of the RTCM of 3/06/2023

BACKGROUND/HISTORY:

Summary of actions at Town Council Meetings

ATTACHMENTS:

- Draft Minutes of RTCM of 3/06/2023

ACTION OPTIONS:

Review

**MALABAR TOWN COUNCIL
REGULAR MEETING MINUTES
March 6th, 2023, 7:30 PM**

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road.

1. CALL TO ORDER:

Council Chair Mayor Patrick T. Reilly called meeting to order at 7:30 pm. CM Hofmeister 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
FIRE CHIEF:	MIKE FOLEY

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

4. PROCLAMATIONS/PRESENTATIONS

4.a. Irish American Heritage Month

Discussion: Mayor Reilly read the Irish American Heritage Month Proclamation into the record.

4.b. American Red Cross Month

Discussion: Mayor Reilly read the American Red Cross Month Proclamation into the record. Ms. LaTonya Daniel of the American Red Cross accepted the proclamation. Ms. Daniels thanked the Town for its proclamation, and states they are looking forward to working in our community. They have several training initiatives and support programs that can assist residents in our area. She encouraged anyone with questions to contact her or her organization.

4.c Business of Month

Discussion: Mayor Reilly invited TM Stinnett, SPM Morrell, and TC Kohler to the podium to accept the Palm Bay Chamber of Commerce Business of the Month Award.

5. CONSENT AGENDA:

5.a. Approve Minutes of 2/06/2023 RTCM

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

Discussion: None

Vote: All Ayes (5-0).

6. ATTORNEY REPORT: Atty Bohne stated that he has communicated with Florida Gas Pipeline and advised that the Town would not sign the agreement. FI Gas was under the misunderstanding that the Town was improving the road. They stated they would contact the Homeowner directly to resolve.

The Attorney and TM were able to purchase the Faber property with less than Council approved. The property should be ours soon.

The motion to abate in the EELs issue was approved. The next step is the required pre-suit mediation. The County has also tried to file an agricultural exemption. That was successfully refuted under a potential conflict.

Mayor Reilly asked when the locks would come down. Atty states he does not have the answer. Mayor states they have been up for over a year, and should be removed ASAP. Atty states it is part of the process.

7. **BSCO REPORT:** Deputy stated there were 336 calls for service last month. They have noticed an increase in speeding in our area. There has been an influx of stolen vehicles in our area. Pass on the “See something Say Something” mantra.
CM Acquaviva asked about the rerouting of traffic through Town. Are the deputies aware of the influx that brought? Deputy states that is out of their control, as 95 is a major roadway. CM Vail stated he traveled Weber Road recently and someone flew past him.
Michelle Massey asked if the trespassing was related to a specific event? Deputy states he is unaware of the specifics of the report.
8. **Board/Committee Reports:**
 - 8.a. **T&G Committee – Chair Drew Thompson** gave a brief update on the SCTPO South Brevard Trails Master Plan meeting that took place at Malabar Town Hall on Thursday March 2nd. Representatives from Palm Bay, Grant Valkaria, Malabar, the Space Coast Transportation Planning Organization, and several outside contractors were in attendance. The main goal is planning for connectivity. He also thanked the Town for the extended work at the Eagles Nest Trailhead. The Trails and Greenways Committee will be having a trail day this Friday, and the next meeting is scheduled to take place on March 27th. At that meeting, he would like to discuss any way they can assist in the mediation about the MSS. He understands the difficulty of coordinating between the Committee and the Attorney, but is looking forward to finding an appropriate avenue. CM Vail states he has heard from several residents that they are using the trails, and all enjoy them immensely.
 - 8.b. **Parks and Recreation Board** – Written Report.
 - 8.c. **Planning and Zoning Board** – Written Report.
9. **STAFF REPORTS:**
 - 9.a. **Town Manager – Matthew Stinnett** – TM Stinnett informed Council that FEMA canceled the site visit on Rocky Point Road, and has been rescheduled for this Thursday. Our engineer has been working on plans. We have also received the initial report on the roads survey. That should be ready for the next meeting. SAI also submitted their final Storm Water Master Plan. CM Acquaviva states she was very happy to see the roads evaluation.
 - 9.b. **Town Treasurer – Lisa Morrell** – Written report included in agenda.
 - 9.c. **Special Projects Manager – Lisa Morrell** - Written report included in agenda. She also informed Council that the Park Restroom restoration may be working again at the end of this month. There is a cybersecurity grant she will be applying for. We did meet with Palm Bay to discuss water expansion. Palm Bay’s engineering will be utilized for the plans. The risk factor is expending the ARPA funds by 2026.
 - 9.d. **Public Works Director** – Written Report included in agenda.
 - 9.e. **Fire Chief – Mike Foley** – Written Report provided to Council. Chief gave a brief overview of the monthly statistics. The ESO is up and running, and it is great! Special thanks to SPM Morrell. Mach Alert is also up and running. Lifepack was delivered and is in use. He did promote a driver to a Lt, and is in the process of hiring a new driver.
 - 9.f. **Town Clerk – Richard Kohler** – Written report included in agenda. Gave a brief verbal update of staff issues, training attended, and the SCLoC dinner scheduled for March 13, 2023.
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)

Five (5) Minute Limit per Speaker.**Speaker:** None**11. PUBLIC HEARINGS / SPECIAL ORDERS:****11.a Vacate Correction Resolution 02-2023**

Chair asked Clerk to introduce this item. Clerk Kohler stated that the initial application was accepted without the required surveys of the area to be vacated. One of the residents affected by this had a survey done of the area after Resolution 19-2022 was recorded, and the surveyor noted several errors in the lengths provided in the original resolution. This resolution corrects the inaccuracies found in Resolution 19-2022.

Public Hearing Open: No Comments.**Public Hearing Closed****MOTION:** CM Scardino/CM Hofmeister move to approve Resolution 02-2023.**Discussion:** CM Acquaviva asked why this happened? TC Kohler explained that the applications were accepted without proper surveys. Resident Ager stated there was a survey submitted.**ROLL CALL VOTE:** CM Vail, Aye; CM Clevenger, Aye; CM Scardino, Aye; CM Hofmeister, Aye; CM Acquaviva, Aye. Motion Carries 5-0.**12. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO TOWN APPOINTED BOARDS/COMMITTEES: 0****13. ACTION ITEMS:****ORDINANCES for FIRST READING: 0****RESOLUTIONS: 0****MISCELLANEOUS: 2****13.a. Direction on Park Reservation Policy**

Chair asked TM Stinnett to introduce this item. TM Stinnett stated we have had several requests for use of the park. The current code is very vague in this area. We would like to revisit the code and clarify some of the issues. We received several applicants from one applicant. We did not approve any past the first year. Staff would be willing to look at it and bring it back to Council. CM Hofmeister states historically, Malabar Soccer has been very involved. That group helped develop the field. Every town seems to have their own soccer program, except for Malabar. We got swallowed up by a bigger organization. She believes the code should be reworked, but it was originally set up as a soccer field. CM Acquaviva states the Code is lacking. Staff needs more authority to correct this. CM Scardino agrees with CM Acquaviva. Mayor Reilly states Soccer is a year-round sport, whereas Football is a seasonal sport. CM Vail states there should be a standard. Neighboring communities have had similar issues. He is confident our Staff can find a way to make this more understandable and clear. We built this park for our community, and groups that include our community should receive preference. CM Hofmeister states that the younger kids play at the soccer field. CM Acquaviva states the issue is the long-term commitments. Mayor Reilly states he believes it should be a soccer field, and he would like to see that Malabar kids are on the team. CM Vail suggests staff do research and bring it back to us.

Ms. Massey, 1455 Moss Rose. Parent of 2 kids who are growing up in Malabar Soccer. Our club was absorbed in Brevard Soccer due to mismanagement. There are several Malabar centered teams in the Brevard Soccer Alliance. We have been forced out of our home field. We are currently practicing at Fred Poppe Park. The team her kids are a part of has 7 families from Malabar and Grant/Valkaria. They were also undefeated last year.

Mr. Van Buren, President of BSA. They were approached by Malabar soccer to take over the group. Most of the kids in the group are from families in our area. They would like to set a working agreement. It's designed as a soccer field. It is maintained as a soccer field. There has never been a written agreement between the Town and the league. We would love to have one. It will protect the field, and it will help the kids of our community. He doesn't want to hurt other programs, but he wants to promote Malabar sports to Malabar Families.

Precious, Flag Football Player. States when she initially inquired about the field, they were unaware it was just a soccer field. They are in the middle of our program, and she wants to know if her league will be interrupted.

TM Stinnett states the park has traditionally been first come, first serve. The Space Coast Flight applied first, so they got it first.

Michael Fralin, Space Coast Flight President. Flag football has been there for only a few months. They have noted the issues from the past football groups.

MOTION: CM Scardino/ CM Vail move to approve reservations as submitted.

TM Stinnett reminds Council that the reservations for the rest of the year have been approved. Staff is seeking direction on the reservations in 2024 and beyond. TM Stinnett confirms Council is uninterested in approving any reservations beyond this year. Council agrees, and CM Scardino/CM Vail rescind their previous motion.

Motion Scardino/Vail to suggest changes to the Park Reservation Code.

Discussion:

Vote: 5-0 (All Ayes)

13.b. Organization Chart and Town Hall Expansion

Chair asked TM Stinnett to introduce this item. TM Stinnett stated there has been a lot of personnel discussions and there has been a lot of Council feedback. He has suggested the amended organization chart and an expansion of Town Hall using building department funds. We would like to build south and consolidate the offices to the back. We could then share staffers such as administrative assistants, or data entry clerks. He is looking for direction. CM Acquaviva states she loves what is presented. She thinks Town Hall is currently disjointed and would like to see it more organized. CM Vail states he believes this is a good plan. He supports consolidation the offices of Town Hall and creating more room for Council Chambers. The expansion will likely not affect the budget, as it will come from the Building Department surplus. As far as the positions and organization chart, the discussion should be about the position not the individual. Ms. Morrell may leave someday, and someone else must be able to fill the shoes as well. The division of duties should be clearly defined. He suggests letting staff keep working on the proposal and come back for final approval. CM Acquaviva states having the Town Manager involved in the rest of the office is very effective. If we have this, it will make our staff work together on a daily basis. It provides more structure. CM Scardino states he would like to see it move forward. TM Stinnett states there will be several decision points to be made by Council, such as Budget Amendments, and staffing changes. We may need to draft an ordinance to change staff positions. CM Vail states he does not see a big impact on the budget with these changes. CM Scardino states he believe it will create a more attractive destination for future employees. Mayor references the new Organization Chart, and requested who would do the Treasurer duties? TM states it would be in his office, an Assistant Town Manager. Mayor asks because we are in the process of hiring a treasurer, should we close the posting and advertise something else? TM Stinnett states we would hire an administrative assistant to start soon, and hopefully promote them up. Mayor asks for clarification on if we want a Treasurer. TM states the plan would not have a dedicated treasurer. CM Acquaviva states she feels this could be great. CM Vail states part of the duties would be to act as treasurer. It would be a duty of the position.

MOTION: CM Scardino/CM Vail move to continue developing the proposal in the direction TM Stinnett is heading.

Discussion: CM Hofmeister states she does not agree with the proposal and would like to hear from Ms. Morrell. She has done so much to assist the Town. CM Vail states he is in support of the title, but the duties would encompass all her responsibilities. CM Hofmeister states she would like to see more input. CM Acquaviva states this is not an issue of egos; we want to keep Ms. Morrell in a high-level role. CM Scardino states he believes that what TM Stinnett has laid out is more likely to be filled. CM Vail states our staff wears many hats. This plan fits that mold. We don't have the luxury of having a Clerk, a Treasurer, a Town Manager and an Assistant Town Manager. We have a good staff that works well together, and we should do what we can to keep them. CM Acquaviva doesn't think this would be a demotion for Ms. Morrell but would provide the high-level offices more staff to accomplish

their goals. She believes this proposal fits the needs of the Town. CM Vail states he has watched the staff change over the years. He believes this is an excellent plan. Mayor Reilly recommends each CM have a one on one with Ms. Morrell. SPM Morrell states with this new plan, she would report to the Town Manager. That would mean CMs would have to talk to the Town Manager before her, as to properly follow the chain of command. She is also unsure what would happen with the Treasurer duties. Her feedback is that she would like to see the posting for the position. She states her current contract encompasses other duties as assigned. She believes there has been a lot of progress in the current model. She has enjoyed her time here, and likes to be productive, but it's the Council's town. CM Scardino states he believes Council agrees with expanding the building, and the org chart needs a little more work. CM Hofmeister wants to know how we can move forward. CM Acquaviva asks what he doesn't like about the org chart? CM Scardino states we can't find the position we post for now, so we should post for positions we can fill. Mayor states we have a short term and a long time issue. He believes we should continue to seek a treasurer, or assistance in that office. He again suggests each CM develop their own org chart, talk with staff, and discuss further at a future date. CM Acquaviva loves all of the work shown in this project. Mayor requested Ms. Morrell create a list to show all her duties, so Council can compare and create an effective position.

Vote: All Ayes (5-0)

Chair excused the Attorney at this time.

14. **DISCUSSION/POSSIBLE ACTION**
 15. **PUBLIC COMMENTS: General Items (Speaker Card Required)**
 16. **REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Acquaviva: Happy St. Patrick's Day!

CM Vail: Stated there has been some extra progress at the ENT, and the food truck on the corner of Malabar and Weber is having a Friday dinner this week.

CM Clevenger: None

CM Hofmeister: None

CM Scardino: Noted people drive with excessive speeds all over, not just Malabar.

Mayor Reilly: SCLOC dinner Monday!

17. **ANNOUNCEMENTS:** (1) Vacancy on the Planning & Zoning Board; (2) Vacancy on the Parks & Recreation Board; (1) Vacancy on Board of Adjustment.
 18. **ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 9:11 P.M.

BY: _____
 Mayor Patrick T. Reilly, Council Chair

ATTEST:

 Richard W. Kohler
 Town Clerk

Date Approved: 03/20/2023

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 10.a

Meeting Date: March 20, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: FDOT State Highway Lighting, Maintenance, and Compensation Agreement (Resolution 03-2023)

BACKGROUND/HISTORY:

Florida Power and Light power and maintain the streetlights in the Town of Malabar. The Town pays for all of the electricity used to power streetlights on both Town Roads and State Roads. The Florida Department of Transportation (FDOT) reimburses the Town for the costs of maintaining and operating the streetlights on State Roads (Malabar Road & US 1). This agreement dictates the funds the Town will receive from the FDOT for the next seven fiscal years.

ATTACHMENTS:

- Resolution 03-2023
- State Highway Lighting, Maintenance, and Compensation Agreement, Contract No. ASV25

ACTION:

Request Approval of Resolution 03-2023

RESOLUTION 03-2023

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PERTAINING TO A STATE HIGHWAY LIGHTING, MAINTENANCE, AND COMPENSATION AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE TOWN OF MALABAR; PROVIDING FOR AUTHORIZATION FROM COUNCIL FOR THE TOWN MANAGER TO EXECUTE SAID AGREEMENT; PROVIDING FOR A REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Whereas, the Florida Department of Transportation (FDOT) is authorized under Section 334.044 and 335.055, Florida Statutes, to enter into this Agreement, and the Town of Malabar (Maintaining Agency) has the authority to enter into this Agreement and to undertake the maintenance and operation of lighting on the State Highway System; and

Whereas, the Maintaining Agency has authorized the undersigned officers to enter into and execute this Agreement;

Whereas, FDOT has identified sites where lighting and/or lighting systems, hereinafter referred to as “Facilities”, are located on the State Highway System within the jurisdictional boundaries of the Maintaining Agency. A List of the Facilities is included as Exhibit A, attached hereto and incorporated herein;

Whereas, the Maintaining Agency agrees to maintain the Facilities as further set forth herein.

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

SECTION 1. The Malabar Town Council approved this State Highway Lighting Maintenance and Compensation Agreement between the Town and FDOT for the contract known as ASV25.

SECTION 2. The Town Council hereby authorizes and directs the Town Manager to make, execute and deliver to the Florida Department of Transportation the State Highway Lighting Maintenance and Compensation Agreement. This Resolution shall become “Exhibit B” of the agreement.

SECTION 3. Conflicts. All Resolutions of parts of resolutions in conflict herewith are hereby repealed.

SECTION 4. Effective Date. This Resolution shall take effect immediately upon passage.

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

Council Member Marisa Acquaviva _____

Council Member Brian Vail _____

Council Member Jim Clevenger _____

Council Member David Scardino _____

Council Member Mary Hofmeister _____

This Resolution was then declared to be duly passed and adopted this 20th day of March, 2023.

Town of Malabar

By:

(Seal)

Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard W. Kohler

Town Clerk, Town of Malabar

Approved as to Form and Content:

Karl W. Bohne, Jr., Town Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**STATE HIGHWAY LIGHTING, MAINTENANCE, AND
COMPENSATION AGREEMENT**

375-020-52
MAINTENANCE
OGC – 02/21
Page 1 of 8

CONTRACT NO. ASV25
FINANCIAL PROJECT NO. 413615-4-78-11
F.E.I.D. NO. F5910329960003

THIS AGREEMENT, entered into this _____ day of _____, year of 2023, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as "**FDOT**", and Town of Malabar, hereinafter referred to as the "**MAINTAINING AGENCY**";

WITNESSETH:

WHEREAS, **FDOT** is authorized under Sections 334.044 and 335.055, Florida Statutes, to enter into this Agreement, and the **MAINTAINING AGENCY** has the authority to enter into this Agreement and to undertake the maintenance and operation of lighting on the State Highway System; and

WHEREAS, the **MAINTAINING AGENCY** has authorized its undersigned officers to enter into and execute this Agreement;

WHEREAS, **FDOT** has identified sites where lighting and/or lighting systems, hereinafter referred to as "Facilities", are located on the State Highway System within the jurisdictional boundaries of the **MAINTAINING AGENCY**. A list of the Facilities is included as Exhibit A, attached hereto and incorporated herein.

WHEREAS, the **MAINTAINING AGENCY** agrees to maintain the Facilities as further set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, **FDOT** and the **MAINTAINING AGENCY** hereby agree as follows:

1. Maintenance of Facilities

- a. The **MAINTAINING AGENCY** shall maintain the Facilities listed in Exhibit A. The Facilities may include lighting for roadways, as well as park and ride, pedestrian overpasses, and recreational areas owned by or located on the property of **FDOT**. The Facilities shall not include lighting located in weigh stations, rest areas, or on Interstate highways.

The location and type of lighting to be maintained pursuant to this Agreement is set forth in Exhibit A. Any changes or modifications to Exhibit A must be in writing and signed by both **FDOT** and the **MAINTAINING AGENCY**. Any Facilities added to Exhibit A during the **FDOT**'s fiscal year shall be maintained and operated by the **MAINTAINING AGENCY** upon the **FDOT**'s final acceptance of installation of any new lighting and/or lighting systems. Prior to the start of each new fiscal year, the **MAINTAINING AGENCY** and **FDOT** shall amend Exhibit A to reflect any changes to the Facilities, including addition, removal, or change in lighting type maintained pursuant to this Agreement.

The **MAINTAINING AGENCY** will be compensated for Facilities added to Exhibit A by amendment of this Agreement in the **FDOT**'s fiscal year occurring after the lighting and/or lighting systems are installed and final acceptance of such installation is given by **FDOT**. In the event that no change is made to the previous year's Exhibit A, a certification from the **MAINTAINING AGENCY** shall be provided to **FDOT** certifying that no change has been made to Exhibit A during **FDOT**'s previous fiscal year. Unless stated otherwise, all references to fiscal years within this agreement refer to **FDOT**'s fiscal year, beginning July 1st and ending June 30th.

- b. In maintaining the Facilities, the **MAINTAINING AGENCY** shall perform all activities necessary to keep the Facilities fully operating, properly functioning, with a minimum of 90% of the lights burning for any lighting type (e.g., high mast, standard, underdeck, and sign) or roadway system at all times in accordance with the original design thereof, whether necessitated by normal wear and tear, accidental or intentional damage, or acts of nature. Required maintenance includes, but is not limited to, providing electrical power and paying all charges associated therewith, routine inspection and testing, preventative maintenance, emergency maintenance, replacement of any component parts of the Facilities (including the poles and any and all other component parts installed as part of the Facilities), and locating (both vertically and horizontally) the Facilities. All repairs or replacement will be in kind unless a variance is approved in writing by **FDOT**.

- c. All maintenance must be in accordance with the provisions of the following:
- (1) Manual of Uniform Traffic Control Devices; and
 - (2) All other applicable local, state, or federal laws, rules, resolutions, or ordinances, and **FDOT** procedures.
- d. For lighting installed as part of a **FDOT** project, the **MAINTAINING AGENCY's** obligation to maintain the Facility commences upon the **MAINTAINING AGENCY's** receipt of notification from **FDOT** that **FDOT** has formally accepted the project, except for the obligation to provide for electrical power, which obligation to provide for electrical power commences at such time as the lighting system is ready to be energized; provided, however, that the **MAINTAINING AGENCY** is not required to perform any activities which are the responsibilities of **FDOT's** contractor.
- Prior to acceptance by **FDOT**, the **MAINTAINING AGENCY** shall have the opportunity to inspect and request modifications/corrections to the installation(s). **FDOT** agrees to make modifications/corrections prior to acceptance so long as the modifications/corrections comply with the installation contract documents and specifications.
- e. The term for this Agreement is seven (7) years. Either party may terminate this Agreement by a notice of termination. The notice of termination must be in writing. Should the **MAINTAINING AGENCY** choose to terminate the Agreement, the **MAINTAINING AGENCY** shall provide a minimum notice period of two (2) fiscal years prior to the effective date of termination and the notice shall be endorsed by the elected body (County Commission, City Council, or local agency governing body) under which the Agency operates. The effective date of the termination will coincide with the end of the **FDOT's** fiscal year of June 30th following the two-year notice.

The termination of this Agreement will not terminate maintenance responsibilities for lighting owned by the **MAINTAINING AGENCY**. Maintenance obligations for lights owned by the **MAINTAINING AGENCY** will remain the responsibility of the **MAINTAINING AGENCY**. Nor does termination of this Agreement operate to relieve the **MAINTAINING AGENCY** of any maintenance obligations contained in other agreements. Maintenance of lights governed by a separate maintenance agreement will continue per the terms of that separate maintenance agreement.

2. Compensation and Payment

FDOT shall pay to the **MAINTAINING AGENCY** a sum of \$ 5,444.13 for the fiscal year in which this Agreement is signed. Payments will be calculated and made in accordance with Exhibit A.

Prior to the beginning of each fiscal year, the **MAINTAINING AGENCY** shall submit an amended Exhibit A or a certification of no change to Exhibit A and **FDOT** and the **MAINTAINING AGENCY** shall agree on the amount and percentage of lighting to be paid for the coming fiscal year. **FDOT** will issue a work order confirming the amount and authorizing the performance of maintenance for each new fiscal year. The work order must be an **FDOT**-signed letter of authorization to the **MAINTAINING AGENCY** with a subject line containing the terms "State Highway Lighting, Maintenance, and Compensation Agreement work order". The work order must reflect the contract number, financial project number, FEID No. of the **MAINTAINING AGENCY**, the fiscal year, the percentage of lighting funded and the lump sum amount to be paid for the fiscal year indicated. The work order must be signed by the **MAINTAINING AGENCY** and returned to **FDOT**. Failure by the **MAINTAINING AGENCY** to take any of the actions required by this paragraph may result in nonpayment by **FDOT**.

FDOT expressly assigns its rights, interests and privileges pertaining to damage to Facilities caused by third parties to the **MAINTAINING AGENCY**, so they may pursue all claims and causes of actions against the third parties responsible for the damage. **FDOT** will assist the **MAINTAINING AGENCY** and will confirm the **MAINTAINING AGENCY's** authorization to pursue recovery. The **MAINTAINING AGENCY** will be responsible for all attorneys' fees and litigation costs incurred in its recovery activities.

3. Record Keeping

The **MAINTAINING AGENCY** shall keep records of all activities and report all maintenance performed and replacement components and parts installed pursuant to this Agreement. The records shall be kept in an electronic format approved by **FDOT**.

Records shall be maintained and made available upon request to **FDOT** during the period of this Agreement and for three (3) years after final payment for the work pursuant to this Agreement is made. Copies of these documents and records will be furnished to **FDOT** upon request.

4. Invoicing

The **MAINTAINING AGENCY** shall invoice **FDOT** annually in a format acceptable to the **FDOT**. Invoices must be submitted no earlier than May 1 and no later than June 15 of the fiscal year in which the services were provided in order to be processed for payment by June 30.

Upon receipt, **FDOT** has five (5) working days to inspect and approve the goods and services. **FDOT** has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within forty (40) days, a separate interest penalty at a rate as established pursuant to Section 215.422, Florida Statutes, will be due and payable, in addition to the invoice amount, to the **MAINTAINING AGENCY**. Interest penalties of less than one (1) dollar will not be enforced unless the **MAINTAINING AGENCY** requests payment. Invoices returned to a **MAINTAINING AGENCY** because of **MAINTAINING AGENCY** preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to **FDOT**.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for contractors/vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the Chief Financial Officer's Hotline, 1-800-848-3792.

The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one (1) year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

FDOT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection shall be null and void, and no money may be paid on such contract. **FDOT** shall require a statement from the Comptroller of **FDOT** that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of **FDOT** which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year.

5. Default

In the event that the **MAINTAINING AGENCY** breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in this Agreement, **FDOT** may exercise one or more of the following options, provided that at no time may **FDOT** be entitled to receive double recovery of damages:

- a. Pursue a claim for damages suffered by **FDOT** or the public.
- b. Pursue any other remedies legally available.
- c. As to any work not performed by the **MAINTAINING AGENCY**, perform such work with its own forces or through contractors and seek reimbursement for the cost thereof from the **MAINTAINING AGENCY** if the **MAINTAINING AGENCY** fails to cure the non-performance within fourteen (14) days after written notice from **FDOT** of the non-performance; provided, however, that advance notice and cure will not be preconditions in the event of an emergency.

6. Force Majeure

Neither the **MAINTAINING AGENCY** nor **FDOT** will be liable to the other for any failure to perform under this Agreement to the extent such performance is prevented by an act of God, war, riots, natural catastrophe, or other event beyond the control of the non-performing party and which could not have been avoided or overcome by the exercise of due diligence; provided that the party claiming the excuse from performance has (a) promptly notified the other party of the occurrence and its estimated duration, (b) promptly remedied or mitigated the effect of the occurrence to the extent possible, and (c) resumed performance as soon as possible.

7. Miscellaneous

- a. **FDOT** shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- b. The **MAINTAINING AGENCY** shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the **MAINTAINING AGENCY** in conjunction with this Agreement. Failure by the **MAINTAINING AGENCY** to grant such public access will be grounds for immediate unilateral cancellation of this Agreement by **FDOT**.
- c. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, or negotiations with respect thereto. Without limiting the generality of the foregoing, this Agreement shall replace and supersede all prior agreements between **FDOT** and the **MAINTAINING AGENCY** with respect to maintenance of the lighting and/or lighting systems for the Facilities identified in Exhibit A.
- d. This Agreement is governed by the laws of the State of Florida. Any provision hereof found to be unlawful or unenforceable are severable and will not affect the validity of the remaining provisions hereof.
- e. All notices required pursuant to the terms hereof may be sent by first class United States Mail, facsimile transmission, hand delivery, electronic mail, or express mail and will be deemed to have been received by the end of five (5) business days from the proper sending thereof unless proof of prior actual receipt is provided. The **MAINTAINING AGENCY** must notify the local District of **FDOT** of the appropriate persons for notices to be sent pursuant to this Agreement. Unless otherwise notified in writing, notices must be sent to the following addresses:

MAINTAINING AGENCY:

Town of Malabar Attention: XXXX XXXXX
2725 Malabar Rd
Malabar, FL 32950
321-727-7764

FDOT:

District Maintenance Engineer
719 S Woodland Blvd
DeLand, FL 32720-6834

- f. **PUBLIC ENTITY CRIME INFORMATION STATEMENT:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for **CATEGORY TWO** for a period of thirty six (36) months from the date of being placed on the convicted vendor list.
- g. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

- h. By signing this agreement the Maintaining Agency certifies that it is not: (1) listed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S., (2) engaged in a boycott of Israel, (3) or listed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes. For contracts involving \$1,000,000 or more, if the Department determines the Maintaining Agency submitted a false certification under Section 287.135(5) of the Florida Statutes regarding the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes, or for contracts involving any amount, if the Maintaining Agency has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, the Department shall either terminate the Contract after it has given the Maintaining Agency notice and an opportunity to demonstrate the Department's determination of false certification was in error pursuant to Section 287.135(5)(a) of the Florida Statutes, or maintain the Contract if the conditions of Section 287.135(4) of the Florida Statutes are met.
- i. Nothing herein shall be construed as a waiver of either party's sovereign immunity.
- j. **MAINTAINING AGENCY:**
1. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the **MAINTAINING AGENCY** during the term of the contract; and
 2. shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
 3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the **Maintaining Agency** does not transfer the records to **FDOT**
 4. Upon completion of the Agreement, transfer, at no cost, to **FDOT**, all public records in possession of the Consultant or keep and maintain public records required by **FDOT** to perform the service. If the Consultant transfers all public records to **FDOT** upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to **FDOT**, upon request from **FDOT's** custodian of public records, in a format that is compatible with the information technology systems of **FDOT**
 5. Failure by the **Maintaining Agency** to comply with Chapter 119, Florida Statutes, shall be grounds for immediate unilateral cancellation of this Agreement by **FDOT**

IF THE MAINTAINING AGENCY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE MAINTAINING AGENCY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

District 1

863-519-2623

D1prcustodian@dot.state.fl.us

**Florida Department of Transportation
District 1 – Office of General Counsel
801 N. Broadway
Bartow, FL 33830**

District 6

305-470-5453

D6prcustodian@dot.state.fl.us

**Florida Department of Transportation
District 6 – Office of General Counsel
1000 NW 111 Avenue
Miami, FL 33172-5800**

District 2

386-758-3727

D2prcustodian@dot.state.fl.us

**Florida Department of Transportation
District 2 - Office of General Counsel
1109 South Marion Avenue, MS 2009
Lake City, FL 32025**

District 7

813-975-6491

D7prcustodian@dot.state.fl.us

**Florida Department of Transportation
District 7 - Office of General Counsel
11201 N. McKinley Drive, MS 7-120
Tampa, FL 33612**

District 3

850-330-1391

D3prcustodian@dot.state.fl.us

**Florida Department of Transportation
District 3 - Office of General Counsel
1074 Highway 90 East
Chipley, FL 32428**

Florida's Turnpike Enterprise

407-264-3170

TPprcustodian@dot.state.fl.us

**Turnpike Enterprise Chief Counsel
Florida Turnpike – Office of General
Counsel
Turnpike Mile Post 263, Bldg. 5315
Ocoee, FL 34761**

District 4

954-777-4529

D4prcustodian@dot.state.fl.us

**Florida Department of Transportation
District 4 – Office of General Counsel
3400 West Commercial Blvd.
Fort Lauderdale, FL 33309**

Central Office

850-414-5355

COprcustodian@dot.state.fl.us

**Office of the General Counsel
Florida Department of Transportation
605 Suwannee Street, MS 58
Tallahassee, Florida 32399-0458**

District 5

386-943-5000

D5prcustodian@dot.state.fl.us

**Florida Department of Transportation
District 5 – Office of General Counsel
719 South Woodland Boulevard
Deland, FL 32720**

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**STATE HIGHWAY LIGHTING, MAINTENANCE, AND
COMPENSATION AGREEMENT**

8. Certification

This document is a printout of an **FDOT** form maintained in an electronic format and all revisions thereto by the **MAINTAINING AGENCY** in the form of additions, deletions, or substitutions are reflected only in an Appendix entitled "Changes to Form Document" and no change is made in the text of the document itself. Hand notations on affected portions of this document may refer to changes reflected in the above-named Appendix but are for reference purposes only and do not change the terms of the document. By signing this document, the **MAINTAINING AGENCY** hereby represents that no change has been made to the text of this document except through the terms of the Appendix entitled "Changes to Form Document."

You **MUST** signify by selecting one of the applicable options:

- No changes have been made to this Forms Document and no Appendix entitled "Changes to Form Document" is attached.
- No changes have been made to this Form Document, but changes are included on the attached Appendix entitled "Changes to Form Document."

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year first written.

MAINTAINING AGENCY

BY: (Signature) _____

Date: _____

(Printed Name: _____)

(Printed Title: _____)

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

BY: (Signature) _____

Date: _____

(Printed Name: Ron J. Meade _____)

(Printed Title: District Maintenance Engineer _____)

FDOT Legal Review

BY: (Signature) _____

Date: _____

Counsel

(Printed Name: J. Ryan Mahler, Esquire _____)

Exhibit A
STATE HIGHWAY LIGHTING, MAINTENANCE, AND COMPENSATION AGREEMENT
For Fiscal Year 2023

1.0 PURPOSE

This exhibit defines the method and limits of compensation to be made to the **MAINTAINING AGENCY** for the services described in this Agreement and method by which payments will be made.

2.0 FACILITIES

The lighting or lighting systems listed below, or in an attached spreadsheet, or other electronic form are included with this Agreement and represent the Facilities to be maintained by the **MAINTAINING AGENCY**:

1. 12 Lights on State Rd 5 (US-1) from MP 8.817 (Rocky Point Rd) to 9.650 (north of Huggins Dr)
2. 7 Lights on State Rd 514 (Malabar Rd) from MP 4.020 (750 Malabar Rd) to 5.390 (1840 Malabar Rd)
3. _____
4. _____
5. _____
6. _____

3.0 COMPENSATION

For the satisfactory completion of all services detailed in this Agreement, **FDOT** will pay the **MAINTAINING AGENCY** the Total Sum as provided in Section 2 of the Agreement. The **MAINTAINING AGENCY** will receive one single payment at the end of each fiscal year for satisfactory completion of service.

The per-light unit rate shall increase by 3% each fiscal year. E.g., the per-light unit rate of \$318.37 in fiscal year 2023 shall increase to \$327.92 in fiscal year 2024.

Total Payment Amount for each fiscal year is calculated by inputting the actual number of qualifying types of lights into the table below and multiplying by the unit rate and ____%. Example: 330 (lights) x \$318.37 (unit rate) x 0.90 (90% requirement) = \$94,555.89

Type of Light	# of lights	LED or HPS	Unit rate	90.00%	Total
High Mast		HPS		0.90	0.00
Standard	19	HPS	318.37	0.90	5,444.13
Underdeck		HPS		0.90	0.00
Sign		HPS		0.90	0.00
High Mast		LED		0.90	0.00
Standard		LED		0.90	0.00
Underdeck		LED		0.90	0.00
Sign		LED		0.90	0.00

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO: 11a
Meeting Date: March 20, 2023

Prepared By: Matthew Stinnett, Town Manager

SUBJECT: Roadway Asphalt Pavement Surface Evaluation Report

BACKGROUND/HISTORY:

The Town contracted Engineering Design & Construction Inc. (EDC) to conduct a town wide asphalt pavement surface evaluation to assist with developing a maintenance and resurfacing plan. David Baggett (EDC) will present the results of the study to the Town Council.

Steve Rivet was appointed by the Town Council to work with me to review the study and develop a recommendation for prioritizing the roads for resurfacing. We will be providing our recommendation at the next RTCM.

ATTACHMENTS:

None

FINANCIAL IMPACT:

None

ACTION OPTIONS:

Presentation and discussion.

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 11.b
Meeting Date: March 20, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Town Manager to Perform Employee Reviews – CM Hofmeister

BACKGROUND/HISTORY:

CM Hofmeister has requested a Council discussion of the requirement for the Town Manager to perform employee reviews of Department Heads who report to him. Currently, the Fire Chief, Public Works Director, and Building Department Manager report to the Town Manager.

ATTACHMENTS:

- Town Code Section 2-300, Office of Town Manager

ACTION:

Discussion

Sec. 2-300. - Office of town manager.

- (a) The town council, by majority vote, shall appoint a town manager for an indefinite term and shall establish his or her compensation of employment by a written contract. The town manager must be a resident of Brevard County.
- (b) The town manager shall serve at the will and pleasure of the council and may be removed by the affirmative vote of a majority of council.
- (c) The town manager, subject to prior approval by the town council, shall designate by letter filed with the town clerk, an acting town manager to perform his or her duties during any temporary absence or disability. If the town manager fails to make such a designation, the town council may appoint an acting town manager. The acting town manager shall be selected from among town employees.
- (d) The town manager shall be responsible to the council for all the administration of town affairs placed in his or her charge by this article for the Town Charter. The town manager shall have the following powers and duties:
 - (1) To hire, and when he or she deems it necessary for the good of the town, suspend or remove any town employees or officers, except those appointed by the council. He or she may authorize the head of any department under his or her direction or supervision to exercise such powers within the department, office or agency.
 - (2) Fix the compensation of town officers and employees within the pay schedules established by the town council.
 - (3) Direct and supervise the administration of all town departments, offices, and agencies, except as otherwise provided by this Charter, ordinances or by law.
 - (4) Attend meetings of town council and participate in discussions, but with no right to vote.
 - (5) See that all laws, provisions of this Charter, ordinances and acts of the town council subject to enforcement by him or her or by officers subject to his or her direction and supervision, are faithfully executed.
 - (6) Prepare and submit the annual budget, budget message, and capital program to the council, together with such other reports concerning town operations as the town council may require; and administer the adopted budget, review of work programs and allotments, make requests for appropriation transfer. He or she shall also perform all functions as purchasing agent or appoint such agent.
 - (7) Submit complete reports on the finances and administrative activities of the town.
 - (8) Keep the council fully advised of the financial condition and future needs of the town and make such recommendations to the council concerning the affairs to the town as he or she deems desirable.
 - (9) Execute contracts on behalf of the town unless the council or Charter provide otherwise.
 - (10) Perform such other duties as are specified in the Charter or as may be required by the council or as may be required by the town's employee manual.
- (e) The town council shall have the power to review any action of the town manager and may direct the town manager in any of his or her actions.
- (f) The town council may enter into a written contract with the town manager so long as said contract is not in conflict with this article.

(Ord. No. 03-15, § 1, 12-1-03; Ord. No. 19-15, § 1, 11-4-19)

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 11.C
Meeting Date: March 20, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Expand New Town Hall or Build New Town Hall – CM Hofmeister

BACKGROUND/HISTORY:

CM Hofmeister has requested additional Council discussion of the decision to expand the current Town Hall, as opposed to building a new Town Hall.

ATTACHMENTS:

- None

ACTION:

Discussion

TOWN OF MALABAR

COUNCIL MEETING

Agenda Item: 11.d

Meeting Date: March 20, 2023

Prepared By: Lisa Morrell, Special Projects Manager

SUBJECT: Organization Discussion Continued

At the suggestion by the Mayor and direction of Town Council at the March 6, 2020 Regular Town Council Meeting, I was requested to bring back a list of items that I perform with the Town.

On a regular basis, I communicate with residents, future property owners, business owners, and interlocal agencies regarding general inquiries of Town processes. These include but are not limited to town codes and corresponding town applications and process information. These range from business development, building permits, land use, streets and roads, and existing interlocal agreements with other agencies. These may be directly with a constituent direct, or staff requested assistance and participation.

I am currently fulfilling a gap in service of a vacant Treasurer position. The duties of that role are expansive and detailed oriented relating to the revenues and expenses of the Town's operational budget, inclusive of all payroll activities, and procurement of goods and services.

I have had the pleasure to improve the payroll system, alleviating paper timecards to an electronic process that permits employees to submit clock in, clock out, request time off, review accrual balances, receive and review electronic paystubs, and wage statements from an online portal and mobile application. Managers review timesheets after the employee submits and signs electronically, for their approval and submission approval into the payroll system. Electronic timesheets are heavily integrated with the payroll system and process and have proven to be more efficient than collection of paper, paper review, physical signatures, and routing all paper timekeeping activities in person to Town Hall. I have been able to improve the overtime policies and apply automated calculations for standard labor standards for general employees and the fire department union agreement to a 99.99% rate, with limited manual overrides required.

The exception to this improvement, where manual oversight and calculation must be performed occurs when holidays are present within the bi-weekly pay period. When employees work shifts during the holiday, different pay hours and rates apply on these special occurrences that cannot be automated in the software platform.

The payroll system has been improved to check and balance employer tracking of deductions and liability payments to Florida Retirement System and employee benefit elections on a monthly basis. Reducing time and effort of tracking calculations manually outside the payroll and accounting system.

The payroll system has been improved from the March 2022 upgraded platform. This intricate system performs the employee wage payments via direct deposit on a biweekly basis to include wages for hours worked, sick leave, vacation leave, holiday, overtime, fire department overtime, worker's compensation, jury duty, military leave, employee elected W4 withholdings for federal taxes and payments, Medicare and Social Security withholdings and payments of the employer and employee, as well as deductions, contributions, and deductions for Florida Retirement System, employee health benefit elections, Fire Department union dues, employee specific Nationwide Deferred Retirement Plan elections, certain employees eligible for car allowance and firefighter education reimbursement plan.

Journal entries and corrections have been minimized with allocations to the correct expense and liability accounts for certain time and accounting tasks on a quarterly basis, these include holiday at one- and half-time rates and split allocations for four general ledger accounts between the Legislative and Disaster Relief funds for one employee. Other minor adjustments and corrections occur quarterly or during the monthly financial review and reporting period at Town Council Meetings.

The treasury position also has duties and tasks that include daily banking reconciliations for account receivable and payable, reconciliation of credit card batch deposits corresponding to separate software solutions utilized by department operations, processing on invoices upon receipt for routing, allocation,

signature, and payment. Efforts have been made to maintain detailed backup and input for payments and receipt transactions that include attaching invoices, including line item detail of operational payments to contractors, goods, and services; to reduce manual lookup from file cabinets, scanned paperwork to a general network drive, or specific personnel mailboxes. A high level of effort has been geared to electronic processing of ACH payments or utilization of a purchasing card to reduce the paper process of review, signatures for approval for payment via a check and mailing. The electronic payments are not devoid of the review and authorization process, but incorporated in a new, more cost effective process for payment of Town expenses.

The financial tasks include the participation of the Clerk, Town Manager, and Treasurer with Town Council to achieve the annual budgeting process. This is a four to six month process, with state mandated deadlines for certain tasks and coordination with other governmental agencies for Truth in Mileage (TRIM) activities that adopt the annual mileage rate for public TRIM notice which occurs prior to the detailed operational needs budget review and scheduled workshops with other governmental agencies through to a multiple public hearing and adoption process each year, by September 30th

A second major annual tasks that is required by the state is the annual financial report (AFR) with coordination and activities driven by the Town's selection of an externally auditor. Major effort and attention is required at the close of each fiscal year with a firm deadline of closing the books annually and providing the auditor certain requested information at the beginning of the next fiscal year for auditor testing and information gathering. The next step is the completion of the auditor review with a second round of requested information in March and April with a final report to Town Council in June, annually. The auditor request can be detailed and arduous yet necessary and required to provide a clear financial picture for the Town and compliance with all financial standards of accounting within the local government framework.

In December of each year, the Worker's Compensation Audit is required and due to the insurance provider to ensure that the annual rate and payment of coverage is adequate and complaint with the worker's comp codes associated with each employee, the adjusted gross pay with a weighted calculation of actual overtime pay per employee, in comparison to the quarterly IRS 940 and State RT-6 form reports.

During my time with the Town, I have brought forth improvements to the purchasing process with new Town codes, adopted by Town Council in a public meeting for updated procurement policies and administrative code for Town operations. These changes included split authority roles for certain positions and managers, threshold amounts, quoting requirements, processing and financial impact statements and agenda reports, corrections, and revisions to utilizing of other agency contracts code, as well as formal and competitive methods of procuring goods and services exceeding the Town Manager's authority, examples: request for proposals, invitation to bids, consultants' competitive negotiation act services. I have written and awarded three formal requests with scopes of work, price sheets, and criteria during my tenure to include Solid Waste Services and Franchise Agreement, Wayfinding Signs, and Remodeling of the Community Park Restroom Facilities. In conjunction with Town Council and departments, the Town has used wavier of bid, sole source, and other agency contracts to leverage and enhance the procurement process of qualified vendors for services and goods and competitive pricing in using public monies to better the Town's constituents more efficiently and economically.

The other portion of my role has been administering and overseeing projects and expenditures related to State and Local Financial Recovery Funds. The tasks associated with these projects and activities are update to Town Council on a monthly basis, in participation with the Town Manager and operational departments. The Town is 100% allocated for project allocations, with ongoing expenses and fine tuning of project results. This information is also publicly available through the website in conjunction with Town Clerk. The three major outstanding allocations include Paved Roadway Maintenance including an Analysis Report, Stormwater Projects with the upcoming master plan adoption, and Public Water Supply Expansion in conjunction with Palm Bay Water Utility.

One of my strengths is process improvement by translating needs and processes of a wide variety of topics and communication styles to achieve a focused and purposeful approach to any problem and resolution. I have demonstrated these with the Town in many projects that may be categorized as Administrative Services that include finance, human resources, public outreach, project management, information technology, procurement. Some examples demonstrated are public portal improvements for online applications and payments, updated fill in forms with print and sign features, adding fields for data collection in citizen inquiry database for reporting and prioritizing requests, online zoning, and future land use map for public access, facilitating union negotiations and finalizing amendments, procurement, site

plan review, planning and zoning code updates, payroll, financial review, procurement, IT, cybersecurity, social media and public records solution, employee handbook updates.

The Town's limited staff and knowledge has presented me with many opportunities to assist, share knowledge and provide advisement related to process improvements of town operations, interpretation and improvement of local ordinances, compliance with other agencies and state law, and informational improvements of communications and technology. The opportunity during my contracted time as an Interim Town Manager and Special Projects Manager, I have been afforded to actively participated and cooperated with charter offices, council members, employees, constituents, and other agencies; of which I am most grateful. Rendering twenty years of experience in local government; in many roles within a full-service city; is where my strengths of coaching, counseling, leading, following, administering, and achieving the goals set by council are the talents and knowledge available to the Town of Malabar to utilize in any capacity that the Town would best benefit. If desired by Town Council, it would be desired to remain in a contract position reporting to the Town Council. This organizational structure best suits my desire to be able to provide advisement and knowledge and teamwork framework among the Town Clerk and Manager to advise Council and peers to benefit the most efficient and effective service to the constituents and elected officials.

From the February 6th meeting with Town Council where discussion of this item arose, my perspective after our discussion of creating a new job description and posting for application was denounced by council members. The follow-up advisement from myself, was for each member to speak with the Town Manager and determine what role, duty, or authority would best serve the Town. In this respect, my expectation for the March 6th meeting would be an extension of the existing contract with additional duties and roles; however, that transpired to a recommendation by the Town Manager to create a new position and job description reporting through the Town Manager to Town Council for public posting.

I defer to the Town Council to approve all new positions with a budget amendment process during a fiscal year of their desired level of service and personnel through direction and authority of the Town Manager; or the annual approved budget process, effective October 1st of each year.

The Town Council has the authority and may appoint or remove positions reporting to the elected body directly with a majority vote.

ATTACHMENTS:

- Mayor Reilly's Organization Recommendation

ACTION:

Discussion

Mayor Reilly's Organization Recommendation

