

**MALABAR TOWN COUNCIL  
REGULAR MEETING MINUTES  
February 05<sup>th</sup>, 2024, 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 Clevenger led P&P.

**2. ROLL CALL:**

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

DAVID SCARDINO

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL

JIM CLEVANGER

MARY HOFMEISTER - EXCUSED

TOWN ATTORNEY:

KARL BOHNE

TOWN MANAGER:

LISA MORRELL

TOWN CLERK:

RICHARD KOHLER

Also present at the meeting is Fire Chief Anthony Giantonio, and Town Treasurer Makayla Austin.

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

**4. CONSENT AGENDA:**

**4.a. Approve Minutes of 1/08/2023 RTCM**

Exhibit: Agenda Report Number 4.a.

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

**Vote: All Ayes (4-0).**

**5. PRESENTATION:**

**5.a. Dana Investment**

Presented by: Dave Mazza & Greg Peters

Mr. Peters thanked Council for allowing him to present this evening. He explained that his company is employee owned, and they had about \$6.6 billion in assets. They work to customize their products for their clients. They also won "Best Place to Work" award from a national magazine.

Mr. Mazza introduced himself, and thanked Council for allowing him to present, and for the Town's investment with Dana. At the end of 2023 the portfolio had 1.23 million, which is a growth of 4.79%. He reported that the portfolio yield is 5.1, and the effective duration is short term. He highlighted that investment rates are trending up, but it has created an inverted yield curve. He also indicated that he expects the rates to begin dropping soon. He feels the Town's portfolio is very well situated to increase its position. He also stated that the last pages of the presentation show the Town's portfolio in detail. Some of the proceeds from the recent loan have also been invested, with over \$900,000.00 invested to help pay for the debt service payments. Mayor Reilly thanked Mr. Mazza for the presentation.

**6. ATTORNEY REPORT: None.**

**7. BCSO REPORT:** Deputy Thomas reported that there were 293 calls for service in January. He provided specific statistics including 14 suspicious persons, 33 traffic stops, and one stolen vehicle. CM Scardino asks how many sex offender live in Malabar? Deputy Thomas states they responded to 8 sex offender address verification in January.

CM Acquaviva asks about the fatality on Malabar Road. Deputy states there was one crash with injuries, but he has no further data available. CM Vail asks if FHP responds to those type of incidents. Deputy Thomas states yes, they do. CM Vail states he has seen an increase in patrols around Town.

**8. BOARD/COMMITTEE REPORTS:**

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

Exhibit: Agenda Report Number 8.a.

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

Exhibit: Agenda Report Number 8.b.

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

Exhibit: Agenda Report Number 8.c.

**9. STAFF REPORTS:**

**9.a. Town Manager** – TM Morrell began by providing an update on the NDPES permit, FDEP OSTDS report, and the JLAC audit report. She also informed Council that the ITB for Rocky Point Road closed and all bids were rejected. A rebid has been issued and will close on February 16<sup>th</sup>. We are hoping to piggyback VA Paving's contract in March or April. She believes she can accomplish the Rocky Point Road area, Corey and Benjamin, and Briar Creek. All open positions in the Town have been filled. Chief Foley is still on leave, and Interim Giantonio is still serving in his role. Eschenberg Park Pavilion is slated for installation on April 15<sup>th</sup>. The Weir Street drainage project will begin again in March. Staff has ordered about \$12,000.00 of pipe to complete the project. She is hoping to use the ARPA funds for this project. She is preparing an ARPA fund explanation for a future meeting. The Court resurfacing project should be completed in the next few weeks. FD did respond to the Hall Road mulch fire. She sent a Certified Letter, but we did not receive any communication from them. Staff has submitted a complaint to FDACs.

**9.b. Fire Chief**

Exhibit: Agenda Report Number 9.b.

Chief Giantonio read his written report to Council. He thanked Staff for their showing of support at the service last week. CM Acquaviva thanked Chief for accepting her grandchildren for public education. She also asked if having a light on Malabar Road would decrease the response time? Chief Giantonio states it is a concern, but they have policies in place.

**9.c. Public Works Director**

Exhibit: Agenda Report Number 9.c.

Town Manager Morrell states the PW Department is working well and making improvements. They have complimented the new slope mower. CM Acquaviva thanked staff for preparing the report. CM Vail thanked staff for improving the aprons along dirt roads.

**9.d. Town Clerk**

Exhibit: Agenda Report Number 9.d.

Clerk Kohler states that the Space Coast League of Cities is scheduled for March 11<sup>th</sup> at Up the Creek Farms. The Town will pay for all of Council to attend. Any members wishing to bring their spouses will be responsible for purchasing their ticket for \$35. Please notify the Town Clerk before March 1<sup>st</sup> if you plan on attending.

Included in the written report is information from the January Vision Zero Meeting. Some notable examples are that serious injury crashes are trending up, 19% involved a bicyclist

or pedestrian, 20% involved a motorcycle, and 61% were all others, mostly cars. In the 4-year period of 2018-2022, there were 2,744 killed or injured on Brevard County roadways. There is an Action Plan review included in the report.

Staff also received notice from Florida Commerce that they did not receive the required Evaluation and Appraisal Notification Letter regarding our Comprehensive Plan. The Comprehensive Plan was most recently updated in 2019, and staff is in the process of rectifying the issue.

Also, Staff has created a Frequently Asked Questions form to be posted to the Town's website and Facebook.

CM Acquaviva states she likes the FAQ report.

**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) – None

**11. PUBLIC HEARINGS/SPECIAL ORDERS: 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: 4**

**13.a. Request for Parcel 29-37-03-01-\*.1.01 to contract or deannex property from the Town of Malabar**

Exhibit: Agenda Report Number 13.a.

Applicant: Not Present

Staff: Attorney Bohne states the Town will have to perform a feasibility study in the next 6 months. We have been down this road before with previous applicants. One of the things to review is the application and submission process by the applicant. One can only contract property from a town if it can be subject to annexation. CM Acquaviva states the application stated they were seeking the annexation to seek flexibility in future development. Have they been denied a site plan by Planning and Zoning? Attorney Bohne states they have not, but they still have the right to make the request. If we deny it, we must state the reason for the denial.

**MOTION: CM Scardino/CM Acquaviva to direct Staff to undertake a feasibility study of the property in question.**

Discussion: None

**VOTE: All Ayes (4-0)**

**13.b. Approve Temporary Placement of a Travel Trailer while Constructing SFR at 1880 Sandy Creek Lane.**

Exhibit: Agenda Report Number 13.b.

Applicant: Mr. Bonnett states he hopes to live in his fifth wheel while he builds his house on Sandy Creek Lane. He is in receipt of the building permit.

Staff: Clerk Kohler states Mr. Bonnett has filed the required paperwork and paid the \$500.00 bond.

**MOTION: CM Acquaviva/CM Vail to approve temporary Trailer placement.**

Discussion: CM Clevenger asks if the applicant has a time frame? Applicant states he hopes to complete it in 6-8 months.

**Vote: All Ayes (4-0)**

### **13.c. Connex Container Discussion**

Exhibit: Agenda Report Number 13.c.

Staff: TM Morrell states this item was discussed at the January Planning and Zoning meeting. The recommended unanimously to leave the Code as is, allowing Connex materials for dwellings.

**MOTION: CM Scardino/CM Vail to direct Staff to create an Ordinance to limit development from connex containers.**

Discussion: Mayor Reilly asks if Staff agrees with the recommendation from P&Z. TM Morrell states Staff is agnostic to the details. The permitting process will be very expensive for a build of this type. Mayor Reilly states that in table 1-3.3(A) there are allowable uses of less than 1500 sq feet. He is opposed to these type of dwellings. He has had poor experiences with them in his past. CM Scardino states he agrees, and feels they will be a nuisance. Mayor Reilly states he feels we have had a bad experience in Malabar with them already. CM Clevenger states he is also against it, but would denying it open the Town up to a lawsuit? TM Morrell states no. CM Vail states he has seen some nice ones. Mayor states Planning and Zoning stated they felt the minimum square footage would hinder development. TM Morrell states the agenda includes options to allow or disallow these types of dwellings. Mayor Reilly states he feels we should prohibit it. CM Scardino agrees. TM Morrell suggests if Council wishes to deny these types, to make a motion to include the Polk County code.

**VOTE: All Ayes (4-0)**

### **13.d. Cancel Second RTCM of February 2024**

Exhibit: Agenda Report Number 13.d.

Staff: Clerk states that Council has traditionally considered the need for a second meeting in February. Staff would like to request a meeting be held on February 26<sup>th</sup> to accept the ITB.

**MOTION: CM Vail/CM Acquaviva to cancel the second meeting of February 2024 to hold a Special Council Meeting on February 26<sup>th</sup>.**

Discussion: None.

**VOTE: All Ayes (4-0)**

## **14. DISCUSSION/POSSIBLE ACTION: 5**

### **14.a. Town Hall and Historical House Location Discussion – CM Vail**

Exhibit: Agenda Report Number 14.a.

**Discussion:** CM Vail states that currently, the new Town Hall is proposed to go in the same area where the historical house will go. He would like to see it placed along the north or south side of the road to the playground. The building will meet all ADA requirements. TM Morrell states she wished to discuss this as we appear to have conflicting plans. CM Vail also requests Council waive the permit fees for the rehabilitation. There will be permits pulled for the construction, plumbing, electrical, and the pouring of the concrete slab. Mayor Reilly asks what the purpose of this building is? CM Vail states we could rent it out for parties, or have Board meetings, or rent to the boy scouts. In total, it will be about 800 sq foot structure. In the future, it could be used as a concession stand. Mayor Reilly asks if the building would be suitable in between the bridge and the baseball field. CM Vail states he hopes to keep it near the front of the park to prevent potential vandalism. CM Vail states another option would be behind the baseball backstop. CM Scardino states he feels waiving the fees should be easy, but he is unsure of where the building would go. He would like to see a final decision made once we know what the Town Hall plan is. CM Acquaviva states that she recently saw a historical house restored in a park in Jacksonville. She supports the building being at the park and being visible. CM Scardino suggests waiving the fees, but not selecting a final location at this time. CM Clevenger states he believes CM Vail is looking for a safe place for the building. Is there a

space that would have it be viewed and maintained? CM Scardino asks who will pay for the slab? CM Vail states he has funded a lot of the project personally, and he has hosted a few fundraisers. He has also applied for a Home Depot grant, as the Palm Bay location is one of the best. TM Morrell states she is thrilled this discussion is taking place. Mayor Reilly suggests placing it outside the third base line. CM Vail states he hopes to tap into the Fire House septic system. CM Scardino asks if we could develop a conceptual plan for where Town Hall will go. TM Morrell suggests waiting until budget season to create a conceptual site plan for Council's review. She also states Staff will have an item to waive the fees at a future meeting.

**14.b. Springfest and Parks Discussion – CM Acquaviva**

Exhibit: Agenda Report Number 14.b.

**Discussion:** CM Acquaviva states that she sees the Parks and Rec Board is hoping for an October 19<sup>th</sup> Trunk or Treat event. She would like to see increased notices about the events. Clerk Kohler states an application has been submitted for membership. TM Morrell states staff is excited to have a date selected. CM Vail states he would be happy to donate supplies. CM Acquaviva states she is thrilled to see it move forward and hopes to encourage more volunteer participation.

**14.c. Table 1-3.3(A) to be reviewed by the Planning and Zoning Board – Mayor Reilly**

Exhibit: Agenda Report Number 14.c.

**Discussion:** Mayor Reilly states that he requested the Planning and Zoning Board review this table in November. He has noted more deficiencies and would like a motion to send it to P&Z for review. Mayor Reilly states that there were footnotes included in the original Ordinance, and he feels they were not codified.

**MOTION: CM Scardino/CM Acquaviva to request Planning and Zoning Board review table 1-3.3(A).**

**Staff:** TM Morrell states Staff will research this and provide PZ with the appropriate information.

**VOTE: (4-0) All Ayes.**

**14.d. Discussion of Quiet Zones – Tabled**

Exhibit: Agenda Report Number 14.d.

**Item Remained Tabled until full Council is present.**

**14.e. State Legislative Session Update**

Exhibit: Agenda Report Number 14.e.

**Discussion:** TM Morrell states the Live Local Act is a preemption of local zoning laws. A County official in Pinellas County found loopholes to the bill, and some tax breaks for developers. State legislators are working to close them, but she wanted to bring this to Council's attention. She also included a summary from Ms. Casey Cook on active legislation.

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

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

**CM Acquaviva:** States that she is thinking of if she will continue to serve due to the Form 6 requirement. She is conflicted by this, and feels the State is continually chipping away the Town's authority.

**CM Vail:** None

**CM Clevenger:** None

**CM Scardino:** None

**CM Hofmeister:** Excused

**Mayor Reilly:** None

16. **ANNOUNCEMENTS:** (2) Vacancy on the Planning & Zoning Board; (3) Vacancies on the Parks and Recreation Board; (2) Vacancy on the Board of Adjustment; (2) Vacancy on the Trails and Greenways Committee.
17. **ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 9:12 P.M.

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

ATTEST:

Richard W. Kohler  
Richard W. Kohler  
Town Clerk

Date Approved: 03/04/2024