

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

NOVEMBER 01, 2021, 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 White led P&P.

2. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL

DAVID SCARDINO

DANNY WHITE

TOWN MANAGER: (ITM)

LISA MORRELL

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN Excused

DEPUTY TOWN CLERK/TREASURER:

RICHARD W. KOHLER

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

4. CONSENT AGENDA:

4.a. Regular Town Council Mtg Minutes of 10/18/2021

4.b. Authorize Antique Fire Truck Storage at Malabar Fire Dept

MOTION: CM Acquaviva/ CM Vail to approve. **Vote:** All Ayes. 5-0

5. ATTORNEY REPORT: Attorney stated he has not heard from Doug Noah on the Painted Acres litigation. He will contact Council if he receives any updates.

6. BCSO REPORT: none

7. BOARD / COMMITTEE REPORTS:

7.a. T&G Committee: Committee Chair Thompson - none

7.b. Park & Recreation Board: Chair Eric Bienvenu – none

7.c. P&Z Board: Chair Wayne Abare - none

8. STAFF REPORTS:

8.a. Town Manager – ITM Morrell informed Council that she has submitted a DEP grant. FallFest was exciting and very well attended. Gave special thanks to Town Staff for all of there help. Estimated 500 people in attendance. Land use and code enforcement cases have been increasing.

8.b. Special Projects Manager – Hoping to schedule a workshop to discuss the use of ARPA funds. Waste Pro negotiations are in progress. Hoping for January 1st start date. CM White asks if we can get billing of Waste Pro on the tax roll as a referendum for the next election? ITM Morrell states she believes that is possible. We will work on that moving forward. CM Scardino asks how much would it save the citizens? ITM Morrell states she doesn't have that information now, but she will look into it. CM Rivet stated the downside is residents don't have as much leverage in the event of a missed pick-up.

8.c. Fire Chief: Chief Foley - Excused

8.d. PW Director - written

8.d. Clerk – apologizes for not being present – death in family.

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.

10. **PUBLIC HEARINGS: 1**

10.a. Amend Code to Provide Regulations on Temp Portable Storage (Ord 2021-22)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE V IN THE LAND DEVELOPMENT CODE TO ADD A NEW SUBSECTION “D” PROVIDING REGULATIONS FOR TEMPORARY STORAGE UNITS IN THE TOWN OF MALABAR; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 10.a.

Ordinance 2021-22 was read by title only.

PH opened. None. PH closed.

MOTION: CM Vail / CM Rivet to Adopt Ord 2021-22.

Discussion: None

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 5 to 0.

11. **UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES) 1**

11.a. Recommendation from P&Z on Member Appointment (Reso 31-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF SUSAN SHORTMAN TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR MEMBER AS OF 11/01/2021 TO REPLACE OUTGOING MARY HOFMIESTER WHO IS COUNCIL MEMBER ELECT AS OF THE CLOSE OF CANDIDATE QUALIFYING ON 8/10/2021; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

Resolution 31-2021 was read by title only.

MOTION: CM Acquaviva / CM Vail to Adopt Reso 31-2021.

Discussion: none

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 5 to 0.

12. **ACTION ITEMS:**

ORDINANCES for FIRST READING: 1

12.a. Amend Chapter 6 of Code to Provide for Private Providers (Ord 2021-23)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BUILDING CODES; AMENDING CHAPTER 6, CREATING A NEW SECTION 6-10 OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR PRIVATE PLAN AND BUILDING CODE INSPECTIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE. **Exhibit:**

Agenda Report No. 12.a.

Ordinance 2021-23 was read by title only.

MOTION: CM Rivet / CM Vail to Adopt Ord 2021-23.

Discussion: None

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 5 to 0.

RESOLUTIONS: 9

12.b. Oppose the Proposed Senate Bill 280 in the 2022 Legislative Session (Reso 22-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA OPPOSING SENATE BILL 280 WHICH WOULD EVISERATE LOCAL CONTROL FOR FLORIDA CITIES WITH RESPECT TO ADOPTING AND ENFORCING ORDINANCES; CREATE A SUBSTANTIAL UNFUNDED MANDATE; AND REQUIRE COURTS TO CONSIDER SPECIFIC FACTORS IN DETERMINING IF AN ORDINANCE IS ARBITRARY OR UNREASONABLE; PROVIDING FOR DISTRIBUTION OF THIS RESOLUTION TO THE BREVARD LEGISLATIVE DELEGATION, THE FLORIDA LEAGUE OF CITIES, THE PRESIDENT OF THE SENATE, SPEAKER OF THE HOUSE AND THE GOVERNOR; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 12.b.

Resolution 22-2021 was read by title only.

MOTION: CM Rivet / CM Scardino to Adopt Reso 22-2021.

Discussion: Mayor Reilly stated he would share this Ordinance with the Space Coast League of Cities. Clerk's office will email out to all 411 municipalities through the FACC.

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 5 to 0.

12.c. Appoint Donna Hanna to Board of Adjustment (Reso 23-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF DONNA HANNA TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 12.c.

Resolution 23-2021 was read by title only.

MOTION: CM Acquaviva / CM White to Adopt Reso 23-2021.

Discussion: None

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 5 to 0.

THE NEXT TWO ARE GROUPED TOGETHER:**12.d. Appoint Vickie Thomas to Park & Recreation Board (Reso 24-2021)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF VICKIE THOMAS TO THE MALABAR PARK & RECREATION BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 12.d.**

12.e. Appoint Jennifer Bienvenu to Park & Recreation Board (Reso 25-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF JENNIFER BIENVENU TO THE MALABAR PARK & RECREATION BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 12.e.**

Resolutions 24 & 25-2021 were read by title only.

MOTION: CM Vail / CM Acquaviva to Adopt Resolutions 24 and 25-2021.

Discussion: None

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 5 to 0.

12.f. Appoint Doug Dial to Planning & Zoning Board (Reso 26-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF DOUG DIAL TO THE MALABAR PLANNING & ZONING BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 12.f.**

Resolution 26-2021 was read by title only.

MOTION: CM White / CM Vail to Adopt Reso 26-2021.

Discussion: None

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 5 to 0.

NEXT 3 ARE GROUPED TOGETHER:**12.g. Appoint Drew Thompson to the Trails & Greenways Committee (Reso 27-2021)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF DREW THOMPSON TO THE MALABAR TRAILS AND GREENWAYS COMMITTEE AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 12.g.**

12.h. Appoint Bob Wilbur to the Trails & Greenways Committee (Reso 28-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF BOB WILBUR TO THE MALABAR TRAILS AND GREENWAYS COMMITTEE AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 12.h.**

12.i. Appoint Annelie Harvey to the Trails & Greenways Committee (Reso 29-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF ANNELIE HARVEY TO THE MALABAR TRAILS AND GREENWAYS COMMITTEE AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 12.i.**

Resolutions 27, 28 and 29-2021 were read by title only.

MOTION: CM Vail / CM White to Adopt Resolutions 27, 28 and 29-2021.

Discussion: None

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 5 to 0.

12.j. Appoint Barbara Cameron to the Malabar Planning and Zoning Board (Reso 30-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF BARBARA CAMERON TO THE MALABAR PLANNING AND ZONING BOARD AS AN ALTERNATE MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 12.i.**

Resolution 30-2021 was read by title only.

MOTION: CM White / CM Acquaviva to Adopt Reso 30-2021.

Discussion: None

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 5 to 0.

MISCELLANEOUS: 1

12.k. Amendment 1 to State Revolving Fund Loan Agreement SW051400

Exhibit: **Agenda Report No. 12.k.**

Intro by SPM ITM Lisa: This is an amendment to the Stormwater Master Plan Loan. It is housekeeping to change the payment schedule.

MOTION: CM Rivet/ CM Vail to approve the Amendment. **Vote:** All Ayes. 5-0

Chair released Attorney at this time.

13. DISCUSSION/POSSIBLE ACTION: 0

14. PUBLIC COMMENTS: General Items (Speaker Card Required) None:

15. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: Great job to staff on the FallFest. She saw TM Stinnett, and it was great to see him. She wants to make sure its okay with everyone that he begins again in January 2022. Mayor states if he is willing to come in and play catch up, that would be ideal with him. CM Scardino agrees. CM Vail got the impression he would be stopping by to catch up before.

CM Vail: FallFest was a great time. The Halloween costumes were very cool.

CM Rivet: No Comment

CM White: Wants to know if the Alamo Ditcher will be used on Atz Road. He suggests using it more. Mowing the ditches doesn't help water flow, but the ditcher will. Also wanted to thank his wife, Mrs. Dortha White, who helped paint and upgrade Town Hall, painted signs around town among other things. He likes that he was able to help implement a road paving program. He then thanked Mayor Reilly and the rest of Council for the fond memories.

CM Scardino: Suggests TM Stinnett come in for a select day to catch up on what is going on in Town. North end of Lett Lane has a gate blocking and concealing the ROW. Its hindering the development of the area. There have been several issues back there. He suggests having the gate removed. ITM Morrell states you cannot restrict access to properties from a ROW. We can make it a public process to open it. It gets the input of the residents in the area, and then we will have a public hearing. CM Vail suggests giving them a deadline and removing it after it. Mayor Reilly suggests we include the several instances of this in the Town, and deal with them together. CM Vail suggests just tackling the one at the end of Lett Lane.

Mayor Reilly: Thanked Council Member Danny White for his service on Council, and his involvement with the Space Coast League of Cities, and the Town.

16. ANNOUNCEMENTS: Openings on T&G Committee.

17. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 8:20 P.M.

BY: _____
Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard W. Kohler
Deputy Town Clerk/Treasurer

Date Approved: 11/15/2021