

**MALABAR TOWN COUNCIL  
REGULAR MEETING MINUTES  
APRIL 18, 2022, 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 Rivet led P&P.

**2. ROLL CALL:**

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL

DAVID SCARDINO

MARY HOFMEISTER

TOWN MANAGER:

MATT STINNETT

TOWN ATTORNEY:

KARL BOHNE

DEPUTY CLERK/TREASURER:

RICHARD KOHLER

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

**4. CONSENT AGENDA:**

**4.a. RTCM Minutes of 4/04/22**

**4.b. Change Order 003 to SW Master Plan with S.A.I. adding \$23,415 to address FDEP's requirements**

**4.c. Sole Source purchase of LIFEPAK 15 Monitor/Defibrillator utilizing funds State and Local Fiscal Recovery Funds (SLFRF)**

**MOTION: CM Rivet / CM Vail to approve Consent Agenda. Vote: All Ayes.**

**5. ATTORNEY REPORT:** We have been served with a Lawsuit regarding the EELs issue. We are prepared to respond, and he urges Council to keep the public discussion limited. We will discuss it in an executive session in the future. Mayor asks if there is a time frame. Atty states there is, and he sees an issue. Municipalities have a longer amount of time to respond. The summons issued is incorrect in his opinion.

**6. STAFF REPORTS:**

**6.a. Town Manager Matt Stinnett - None**

**6.b. Clerk – Informed Council that the 20/21 Fiscal Year Audit is under way. Staff has been supplying the Auditors with the requested financial materials and are looking forward to hearing James Moore & Co presenting their findings to Council.**

**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: 2**

**8.a. 2<sup>nd</sup> Reading: Ord 2022-03 - Amend Chap 2 of Malabar Code of Ordinance Pertaining to Procurement**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 2, ARTICLE V (5), REPEALING SECTION 2-101 IN ITS ENTIRETY AND REPLACING WITH A NEW SECTION 2-101 THROUGH 2-116 PROVIDING FOR POLICIES AND PROCEDURES RELATED TO ALL ASPECTS OF THE PROCUREMENT PROCESS; PROVIDING FOR DELEGATION OF DUTIES, PROVIDING FOR SUPERVISION, RESPONSIBILITY AND AUTHORITY; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

**Exhibit:**

**Agenda Report No. 8.a.**

Ordinance read by title only.

Chair opened the PH. none

Chair closed the PH

Chair asked staff – as presented in Agenda Report.

**MOTION:** CM Vail / CM Acquaviva to adopt Ord 2022-03. Discussion: none

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

**8.b. 2<sup>nd</sup> Reading Ord 2022-04 - Amend Article VIII of the Malabar Land Dev Code Pertaining to Illicit Discharge**

AN ORDINANCE OF THE TOWN OF MALABAR, FLORIDA, PROVIDING FOR AMENDMENT TO THE TITLE OF ARTICLE VIII (8) OF THE MALABAR LAND DEVELOPMENT CODE PROVIDING FOR A REVISED CHAPTER TITLE; PROVIDING FOR A NEW SUB-SECTION 2-8.01 THROUGH 2-8.14; PROVIDING FOR REGULATION OF NON-STORMWATER DISCHARGES TO THE STORM DRAINAGE SYSTEM; PROVIDING FOR FINDINGS AND LEGISLATIVE INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROHIBITION OF ILLICIT DISCHARGE; PROVIDING FOR PROHIBITION OF ILLICIT CONNECTION; PROVIDING FOR REPORTING OF ILLICIT DISCHARGES AND ILLICIT CONNECTIONS; PROVIDING FOR ENFORCEMENT, PENALTIES, AND LIABILITY FOR POLLUTION ABATEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

**Exhibit:**

**Agenda Report No. 8.b.**

Ordinance read by title only.

Chair opened the PH. none

Chair closed the PH

Chair asked staff – as presented in Agenda Report.

**MOTION:** CM Acquaviva/CM Hofmeister to adopt Ord 2022-04. Discussion: none

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

**9. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO TOWN APPOINTED BOARDS/COMMITTEES: 3**

**9.a. Report by Planning & Zoning Board of the Absence of Meetings by**

Alternate Member as Required by Code – Removal of Jeff Rinehart and Repeal of Reso 01-2020.

**Exhibit:**

**Agenda Report No. 9.a.**

Chair asked staff – as presented in Agenda Report.

**MOTION:** CM Rivet / CM Scardino to remove Jeff Rinehart from P&Z Board.

Discussion: CM Rivet asked how many meetings has he missed? CM Hofmeister stated he missed almost all of the meetings last year. CM Acquaviva asks if Mr. Rinehart has been contacted? Staff answers that he has not responded to any attempts made by Staff to contact him. **VOTE:** All Aye

**9.b. Request by Trails & Greenways Committee for Council to Direct**

Staff to Research and Prepare a Submittal for Funding Request for Invasive Plant Control (removal of Cogan, Melaleuca and Brazilian Pepper) within the Cameron Sanctuary (Funding provided by Upland Program through FFWCC)

**Exhibit:**

**Agenda Report No. 9.b.**

Chair asked staff – as presented in Agenda Report.

**MOTION:** CM Vail / CM Hofmeister to authorize staff to work on the funding request.

Discussion: Noted the deadline for current FY is in one week. May also work for next year's submittal. **VOTE:** All Aye

**9.c. Request by Trails & Greenways Committee for Council to Authorize** staff to meet with T&GC at the ENT during the workday to measure/mark the proposed trail site for continued land work within the current budget.

**Exhibit: Agenda Report No. 9.c.**

Chair asked staff – as presented in Agenda Report.

**MOTION: CM Vail / CM Acquaviva to authorize staff to spend limited workday hours on this project, noting the staff shortage.**

Discussion: Noted the ENT work is continued from previous work done but not completed.

Atty noted it will be a fact-finding operation only. **VOTE: All Aye**

**10. ACTION ITEMS:**

**ORDINANCES for FIRST READING: 1**

**10.a. Referendum Question for Nov 8, 2022, Election: MSTU (Ord 2022-05)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY FLORIDA; CALLING AND SCHEDULING A PERIODIC ELECTION TO DETERMINE IF THE TOWN SHOULD CONTINUE TO PARTICIPATE IN THE BREVARD COUNTY MUNICIPAL SERVICE TAXING UNIT (MSTU) FOR LAW ENFORCEMENT; PROVIDING FOR THE MANNER IN WHICH SUCH ELECTION SHALL BE CONDUCTED; ESTABLISHING THE FORM OF THE BALLOT FOR SUCH ELECTION; PROVIDING REPEAL AND AN EFFECTIVE DATE. **Exhibit:**

**Agenda Report No. 10.a.**

Ordinance read by title only.

Chair asked staff – as presented in Agenda Report. It is done every two years.

**MOTION: CM Vail/ CM Hofmeister to adopt Ord 2022-04.** Discussion: CM Acquaviva asked when the last time we did this is? Atty stated this is every two years. Mayor would like Council to stop doing this, as it passes resoundingly every year. Atty states we need to be careful and reference the original referendum. CM Scardino asks if we can do it this year? Atty states we can work towards that if its your direction. CM Vail states he is in favor of every two years as it keeps it fresh on the voter's mind. CM Rivet agrees with CM Vail that it is beneficial to the voters and the Sherriff. The more often voters vote it encourages the average citizen to pay more attention. Mayor states he has researched the cost of a Municipal Police force and it is astronomical. CM Rivet states were not spending money to perform the election as it is a regular election cycle. TM Stinnett suggests 4 years.

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

**RESOLUTIONS: 0**

**MISCELLANEOUS: 1**

**10.b. Request Approval of Procurement of Used Motor Grader, Surplus**

of Motor Grader and Tractor **Exhibit: Agenda Report No. 10.b.**

Chair asked TM to speak to this: TM Stinnett stated that our motor grader is in for repairs, and we received a loaner in the meantime, and it is a superior machine. The offer is 140 to buy and 69 to trade in. If Council is agreeable, he will draft a budget adjustment and bring it back.

PW Director Miliore stated that the buyout rate is an excellent price, almost half of the cost after 25 years, and the new machine is more efficient.

CM Vail stated the machine has been kept in great condition, and we have smaller dirt roads now than when we purchased the old grader.

**MOTION: CM Rivet / CM Vail to authorize TM to proceed with Procurement of used Grader and surplusage of Grader and Tractor. (As stated in agenda report):** **VOTE: All Aye**

**Chair excuses Attorney**

**DISCUSSION / POSSIBLE ACTION: 1**

**11.a. Request by CM Scardino for Council to Hold a Workshop to discuss** prioritizing Capital Improvement Projects that would expand city water on south side of Malabar Road from Weber Road east to Fire Department and Malabar Community Park.

**Exhibit:****Agenda Report No. 11.a.**

Chair asked CM Scardino to introduce: CM Scardino stated that this started with him being interested in developing the commercial opportunities of Malabar Road and safety to the Malabar FD. Mayor stated that he and TM Stinnett met with then CM Morrell of Palm Bay, and proposed thirds, Town, City, Residents and was rejected. They are open to having the lines, but they want the Town to fund it. CM Vail believed it would be a good idea for Staff to propose it to the city again. If we can create a loop of water from US 1 to Malabar Rd to Babcock it will increase the quality of water. Mayor states a meeting won't change their old message. SPM Morrell stated this also came up under SLFRF plans. Last time we discussed it; Storm water was the focus. She reiterates that the City of Palm Bay will not fund the expansion of their water system into Malabar. CM Scardino states he doesn't see harm in looking into it further. Mayor states the Workshop should be on a broader spectrum. CM Scardino said he is interested in seeing the Capital Improvement Plan development. SPM Morrell stated this is excellent feedback that Staff can work with. We can schedule a workshop and/or direct staff to act. CM Acquaviva stated she feels the ARP/SLFRF funds should benefit all the residents. What is going to touch the most residents. CM Scardino states a workshop seems to be unnecessary, what is Council's opinion on expanding the drinking water? Consensus is agreement. CM Scardino suggests if we get the ball rolling, the city may be inclined to assist. CM Acquaviva stated her neighborhood has city water, and every resident had to pay for the connection. CM Rivet states if we didn't want commercial development, we shouldn't have zoned Malabar Road Commercial. This would be a good help to that. CM Acquaviva stated a Workshop might not be a bad idea. Can we get a workshop for Capital Improvements? CM Scardino stated he believes staff should come back with some ideas and numbers and go for a workshop to prioritize them. He wants to know what projects we can afford. SPM Morrell states so far, we have allocated about 300k. That leaves us about a million dollars of unspent funds. These funds will go quickly. Roads, Stormwater, and Drinking Water are all expensive. CM Scardino asks how much commercial development can grow if we add water? SPM Morrell stated it is hard to guess and depends on the type of development. The best you can do with this money is plant a seed and hope it grows. CM Acquaviva stated that Roads are a priority. The thermal painting needs to be done, and you can't paint roads that need to be paved. CM Scardino states we could get a bond to finance these projects, like Street Lights, Roads, Paving Brook Hollow, etc....

CM Rivet stated that if we can get a bond the be supported by the residents, it would have to encompass a lot of issues in the Town. CM Scardino states he wants to do a list and prioritize the items and get together some projects to be Bonded.

SPM Morrell reminds Council that ARP Funds can not pay debt, but you can use it to match on a grant. Drinking water and Stormwater grants are both available. However, we are not quite ready for the requirements. Another option would be to pass a resolution to pass the 10% cap. CM Scardino states we could be able to make a package that works for most of the Town. CM Rivet agreed. TM Stinnett states it sounds like we need a workshop.

CM Vail states his thoughts are where is the best bang for the buck. What can we do that has a heavy impact on our citizens? He believes a workshop is the best path. CM Scardino states for a workshop, we should have prices. TM Stinnett states when he first took over, we did a series of Workshops, maybe we should do that again? CM Acquaviva asks what came to fruition from that?

TM Stinnett stated that was mostly operational. This is long term goals. DEP is looking for a financial plan to see how we will pay for the Stormwater Master Plan.

CM Rivet states we have been talking about the Capital Improvement Plan for years and we haven't accomplished much. We've been nibbling around the edge too long. We now have enough money to make a difference.

TM Stinnett stated it will be difficult to set up a long-term plan. We can do an annual budget, but long-term financial planning is a new area for Malabar.

Mayor stated we will discuss it at the next meeting.

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

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

**CM Acquaviva:** None

**CM Vail:** None

**CM Rivet:** None

**CM Hofmeister:** None

**CM Scardino:** None

**Mayor Reilly:** None

**14. ANNOUNCEMENTS: (1) Vacancy on the Planning & Zoning Board.**

**15. ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 8:24 P.M.

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

ATTEST:

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Richard Kohler, Deputy  
Town Clerk/Treasurer

Date Approved: 05/02/2022