

**MALABAR TOWN COUNCIL
REGULAR MEETING MINUTES
APRIL 04, 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 Vail 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, excused

MATT STINNETT

TOWN MANAGER:

LISA MORRELL

SPECIAL PROJECTS MANAGER:

KARL BOHNE

TOWN ATTORNEY:

DEBBY FRANKLIN

TOWN CLERK/TREASURER:

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

4. CONSENT AGENDA:

4.a. RTCM Minutes of 3/21/22, 3/29/2022

4.b. Approval to apply for the Volunteer Fire Assistance (VFA) Grants through the Florida Department of Agriculture and Consumers Services, Florida Forest Service to replace Fire Department Turnout Gear

MOTION: CM Vail / CM Scardino approve Consent Agenda. Vote: All Ayes.

Proclamation: Mayor read and presented Women's Lung Health Week to Mr. and Mrs. Smith

5. **ATTORNEY REPORT:** update on litigation – sent out letter and resolution – would like to limit the amount of public speaking on this issue.

6. **BCSO REPORT:** now been asked to patrol the area around the scrub sanctuary. Marisa asked if anyone has been cited. He has not been any citations issued.

7. BOARD / COMMITTEE REPORTS:

7.a. T&G Committee: Chair Drew Thompson – went over PowerPoint he was going to talk about. Malabar Scrub Sanctuary East and West (total 577 acres) is separated by 100-acre Cameron Preserve under control of Malabar– and that is not closed. Barricade on Briar Creek Blvd. was taken down. Will likely request funds for additional signage to direct you to the Cameron Preserve. During their meeting they made better definition of what was discussed at the last RTCM – trying to make it safe and accessible. CM Acquaviva knows the north Corey trailhead is still being used. You can go through Cameron Preserve to get to Al Tuttle trail. She sees bikes coming out of there without trespassing. Can no longer access this from the Sandhill Trailhead on Marie St. People can still get outside and enjoy the nature.

7.b. Park & Recreation Board: Chair Eric Bienvenu - no

7.c. P&Z Board: Chair Wayne Abare - no

8. STAFF REPORTS:

8.a. **Town Manager** – nothing

8.b. **Special Projects Manager** – written

8.c. **Fire Chief** – written

8.d. **PW Director** - written

8.e. **Clerk** – Have received memo from P&Z Secretary that a member has stopped attending and will be on next Council agenda for removal. Printed and placed at your seats the unaudited year to date memo and finance reports by quarter. Have received another petition package for road paving on Kramer Lane. Will have on upcoming agenda.

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.

Lance Supernaw – representing – one veteran – one roof. His life was featured on a documentary. Idea is to zoning, permitting and tax exemption, with 1200sf homes. Hopes to get your support. 2415 Malabar Road. He wants to put up a park. This is his vision. Marisa asked how many homes. He was hoping to put at least six homes without garages. Mayor suggested they bring the plans to Town staff to start process.

Gerald Paradis, purchased 2415 Malabar Road. He reacted immediately. It is only fair to waive the fines and fees. You waived 75%. He said he closed on property on Friday and there was no lien and on Monday there was a lien. It is not fair. He would like to buy 2425 Malabar and resolve the issue with the code violations.

10. PUBLIC HEARINGS: 0

11. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING: 2

11.a. Trails and Greenways Committee Report

Exhibit:

Agenda Report No. 11.a.

Chair stated this is per Council directive at last meeting. T&G Chair went over the buffer they discussed – vegetative, perimeter buffer. Area that does not get reduced in height; 15' is within the EELs plan; within the 20-25' width buffer – no reduction in height; this attempts to define it further. This still fits within the intent for EEL program. Allows for a higher reduction in the center area. Oak trees are preserved, palm trees and make sure we are clear on that we don't want them killed by other means like laser or soot from nearby radiant heat or herbicide since it has been mentioned in some of the recent documents.

CM Rivet read through the clarification and thinks it is completely within his intent on the motion he made at the last meeting. This made it a little more detailed.

12. ACTION ITEMS:

ORDINANCES for FIRST READING: 2

12.a. Amend Chap 2 of Malabar Code of Ordinance Pertaining to Procurement (Ord 2022-03)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 2, ARTICLE V, 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. 12.a.

MOTION: CM Vail / CM Rivet to approve first reading of Ord 2022-03.

Discussion: Vail read it and then called TM. Tightens up our standards. Housekeeping.

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM Hofmeister, excused. Motion carried 4 to 0.

12.b. Amend Article VIII of the Malabar Land Development Code Pertaining to Illicit Discharge (Ord 2022-04)

AN ORDINANCE OF THE TOWN OF MALABAR, FLORIDA, PROVIDING FOR AMENDMENT TO THE TITLE OF ARTICLE XIII 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. 12.b.**

MOTION: CM Rivet / CM Acquaviva to approve first reading of Ord 2022-04.

Discussion: TM said we had our NPDES audit, and they recommended this language be added. CM Vail said again a housekeeping item.

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM Hofmeister, excused. Motion carried 4 to 0.

RESOLUTIONS: 2

12.c. Appoint New Trails & Greenways Committee Alternate Member (Reso 07-2022)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF MARK BRITT TO THE MALABAR TRAILS AND GREENWAYS COMMITTEE 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.c.**

MOTION: CM Acquaviva / CM Vail to adopt Reso 07-2022.

Discussion: none

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM Hofmeister, excused. Motion carried 4 to 0.

12.d. Appoint New Trails & Greenways Committee Alternate Member (Reso 08-2022)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF MIKE SCHOOLFIELD TO THE MALABAR TRAILS AND GREENWAYS COMMITTEE 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.d.**

MOTION: CM Rivet / CM Acquaviva to adopt Reso 08-2022.

Discussion: none

ROLLCALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM Hofmeister, excused. Motion carried 4 to 0.

MISCELLANEOUS: 0

Chair excuses Attorney

13. DISCUSSION / POSSIBLE ACTION: 2

13.a. Extend Council Terms from Two years to Three years (from 3/21/2022)

Exhibit: **Agenda Report No. 13.a.**

CM Acquaviva offered comment; she thinks two years is good because it gives others a chance to run. CM Vail said it would remain two terms for limits so still six years. CM Rivet said one of the

greatest things about local representation is it the closest to the people – that is why we do a better job. Voters should have a chance as often as possible to vote for them. Having elections every two years is a good thing. CM Vail said that was his thinking on the MSTU – keeps the voters involved. CM Acquaviva said she also likes the staggered terms. But she would like more people voting.

Re: single district voting. CM Acquaviva is against this stating we have too small of a budget and all people are affected by Council decisions – not just one district. CM Vail supports single district voting.

Council will discuss this further in the future. Clerk said we must have referendum questions to the Supervisor of Election office by August for the ballot. Atty stated that off years have lower turnout.

13.b. Discussion of Code Enforcement Lien at 1870 Hall Road (CM Rivet)

Exhibit:

Agenda Report No. 13.b.

Atty said give me the word and he will proceed with foreclosure.

CM Rivet said we have a reputation of not really doing code enforcement. Recent legal guidance that we can proceed we should be pursuing.

MOTION: CM Scardino / CM Rivet to pursue the foreclosure due to violations on Hall Road.

The violations have been cured but it took three years and repeat Code Enforcement actions. Atty has tried to resolve with the property owner. CM Rivet said this is a first if we proceed. If we have similar situations, we must enforce the Code. CM Rivet who do we want to attract here people who want to avoid the rules or people that want to see their property values protected and rules followed. Mayor asked for process. Atty files foreclosure. The property owner responds, and judge rules and gives person certain amount of time to pay. Then it is sold on the courthouse steps. Atty said this guy is going to fight. Atty has done this in G-V. CM Vail asked for approximate legal costs to proceed. Atty gave estimate of \$1500; could be 5K to 10K; depends on the litigation. **Vote: All Ayes.**

14. PUBLIC COMMENTS: General Items (Speaker Card Required)

15. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: nothing

CM Vail: noting

CM Rivet: nothing

CM Hofmeister: excused

CM Scardino: nothing

Mayor Reilly: nothing

16. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 8:30 P.M.

BY:

Patrick T. Reilly

Mayor Patrick T. Reilly, Council Chair

ATTEST:

Debby Franklin
Debby Franklin, C.M.C.
Town Clerk/Treasurer

Date Approved: 04/18/2022