

**MALABAR TOWN COUNCIL
REGULAR MEETING MINUTES
AUGUST 15, 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 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

TOWN MANAGER:

MATT STINNETT

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES: add reso 13-2022-A as 10.b.

4. CONSENT AGENDA:

4.a. RTCM Minutes of 8/01/2022

4.b. Agreement for co-location between Brevard County Fire rescue and Town of Malabar. Place two Brevard units at Station 99 while they rebuild Station 88.

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

5. ATTORNEY REPORT: Re: the issue with County EEL there has been a hearing set for 11/21/2022 on the 'Motion to Abate' the Town filed to request mediation. Re: Faber issue, the time to respond has passed. He is filing and the next step will be to file for foreclosure. Re: Painted Acres issue, they will be going to trial next week

6. STAFF REPORTS:

6.a. Town Manager – Culvert collapse on Corey and will have to get a contractor to replace ASAP.

6.b. Clerk – There are candidates for all three council openings. Council will qualify on 11/12/22 agenda.

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. Second Reading of Ord 2022-08

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON THE SUBMITTAL, PROCESSING, AND APPROVAL OF PETITIONS REQUESTING ACCEPTED DIRT ROADS TO BE PAVED THROUGH SPECIAL ASSESSMENTS APPROVED BY COUNCIL PURSUANT TO ARTICLE II OF CHAPTER 13, SECTION 13-52 (2); PROVIDING FOR FINDINGS, INTENT AND THE DURATION OF THE MORATORIUM; PROVIDING FOR AN EXTENSION PERIOD; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Exhibit:

Agenda Report No. 8.a.

Ordinance read by title only.

PH opened: no public. PH closed.

Atty Bohne said the title incorrectly states it will be codified and these types of ordinances don't get codified.

MOTION: CM Scardino / CM Vail to adopt Ord 2022-08.

Discussion: none

ROLLCALL VOTE: CM Acquaviva, Nay; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM Hofmeister, Aye. Motion carried 4 to 1.

8.b. Second Reading of Ord 2022-09

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA EXTENDING THE WATER AND SEWER FRANCHISE WITH THE CITY OF PALM BAY AS ESTABLISHED IN ORDINANCE 2012-55; PROVIDING FOR CODIFICATION, PROVIDING FOR AN EFFECTIVE DATE.

Exhibit:

Agenda Report No. 8.b.

Ordinance read by title only.

PH opened: no public. PH closed.

MOTION: CM Rivet / CM Scardino to adopt Ord 2022-09.

Discussion: Franklin said this one will be codified in the "franchise" section of the code book.

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 RESIDENTS PRESENT AT MEETING:

10. ACTION ITEMS: 3

ORDINANCES for FIRST READING: 0

RESOLUTIONS: 2 (added Reso 13-2022-A)

10.a. NON-BINDING REFERENDUM QUESTION (Reso 16-2022)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY FLORIDA; CALLING AND SCHEDULING A NON-BINDING REFERENDUM ELECTION TO DETERMINE IF THE TOWN SHOULD ADOPT A MILLAGE RATE OF 5.0000 FOR FISCAL YEAR 2023/2024 TO FUND CAPITAL IMPROVEMENTS AND OPERATION; PROVIDING FOR THE MANNER IN WHICH SUCH ELECTION SHALL BE CONDUCTED; ESTABLISHING THE FORM OF THE BALLOT FOR SUCH ELECTION; PROVIDING AN EFFECTIVE DATE.

Exhibit:

Agenda Report No. 10.a.

Resolution read by title only.

Chair asked for motion. Staff expressed need to determine millage for "blank" in resolution before that vote.

Discussion: CM Vail spoke about cost to rebuild roads and the responsibility of Council to maintain the Town. CM Rivet echoed CM Vail – they have responsibility to improve quality of life. Stated they have made a lot of progress in the last few years. He is fully in favor of increasing the millage in order to fund these needs. CM Scardino is ok with 5.0000 but questions maintenance. CM Vail stated that paved roadways reduce the maintenance. CM Acquaviva said we need an engineer to certify the roads, how long they will last and how much they cost. Mayor said we are only going up 2mil. TM said we need to consider that the millage Council discussed for this year was 4.5000. Council agreed the millage in the referendum question should be higher.

MOTION: CM Vail / CM Rivet to use 5.0000 mil in the blank in the resolution. Vote: All Ayes.

MOTION: CM Vail / CM Rivet to adopt Reso 16-2022.

Discussion: none

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

**10.b. RESOLUTION PROVIDING DETAILED INFO ON VACATES
APPROVED IN RESO 13-2022 ON JUNE 20, 2022**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE ADDITIONAL DETAILED INFORMATION RELATED TO THE VACATES APPROVED ON JUNE 20, 2022, IN RESOLUTION 13-2022 AS REQUESTED BY THE BREVARD COUNTY PROPERTY APPRAISERS AND LAND RECORDS DEPARTMENTS; PROVIDING FOR AN EXHIBIT OF THE VACATES; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit:

Agenda Report No. 10.b

Resolution read by title only.

Chair asked for Clerk to address subject.

Franklin explained that the Property Appraiser and GIS Departments at the County wanted more detailed information on the vacates to properly assign the vacated rights-of-way. Going forward we will probably include an additional step in the application process to have a legal done of the vacate to include with the resolution for recording.

MOTION: CM Acquaviva / CM Hofmeister to adopt Reso 13-2022-A.

Discussion: none

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

MISCELLANEOUS: 1

10.c. Interview Potential Candidates for Clerk as directed at RTCM 8/1/2022

Exhibit:

Agenda Report No. 10.b.

Chair stated that Ms. Rinaldi had also been invited to interview and explained she had accepted another position. Chair called Mr. Kohler to podium.

Kohler read opening statement.

CM Vail – how do you effectively record ordinance? Kohler replied that after it is reviewed by Attorney and adopted by Council it is recorded at the Clerk of Courts if necessary.

CM Rivet is satisfied with knowledge he has of Kohler.

CM Acquaviva – the Deputy is the interim Clerk when Clerk is out. What excites you about being a clerk? Kohler stated its doing everything. He is excited about doing more. Was involved with hometown issues when he was little and learned how the issues are discussed; they were deciding on a library or a pool. Has always been interested. CM Acquaviva asked about college. Kohler stated he attended Fla Eastern college but was interrupted when he served on Council and worked fulltime; the second time he had dual issues with a new baby and his mom's health. He would like to continue his education when he can.

CM Hofmeister asked if he would still be secretary on T&G? Yes, he will continue unless his duties are too much.

CM Scardino is comfortable with Richard Kohler and has no questions at this time.

Chair asked Franklin to speak. Franklin said the experience will come by doing the job and there is a strong support system locally for him to call on with issues. She fully supports Richard filling this position. She came here from Harris and learned by reading and doing. Richard has met the requirements for certification and the paperwork is being processed. He will receive his certification at a ceremony at an upcoming Council meeting.

CM Vail said it is not just one job and stated he thinks Kohler is very diverse at that with special events and is active as a part of this community.

Chair asked SPM Morrell. She stated she had previously spoken to Richard about the time commitment and the additional hours the job would require.

Chair asked Atty Bohne. Atty state he has a good relationship with Richard and restated the need for communication between the Attorney and Clerk and much gets done or discussed after hours or on weekends. It is a necessity.

MOTION: CM Scardino / CM Rivet to hire Richard Kohler as Malabar Clerk contingent on a negotiated contract.

Discussion: CM Acquaviva wants him as an interim or Deputy and have a review after a period of time. Chair asked if motion maker wanted to amend motion. No.

VOTE: All Ayes

MOTION: CM Vail / CM Acquaviva to appoint CM Rivet to negotiate with Richard Kohler. **VOTE:** All Ayes

Chair may excuse Attorney at this Point.

11. DISCUSSION/POSSIBLE ACTION: 1

11.a. Maintenance of ditches (CM Scardino)

Exhibit: Agenda report No. 11.a.

CM Scardino stated he is called a lot about the ditches and wanted to know status of maintenance.

TM said he has contacted a vendor to clean the culverts. Town ROW culverts need clearing. He doesn't think it can be done this year. CM Acquaviva asked him to Mayor said equipment TM said we are down to Tom and one employee. Slope mower is also down again since Thursday. CM Vail said complements on Atz and on Marie by Carl's property. You can't get contractors. Need to get in line.

12. PUBLIC COMMENTS: General Items (Speaker Card Required) (5 minutes limit)

13. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: nothing

CM Vail: nothing

CM Rivet: nothing

CM Hofmeister: berry season and the pickers are out

CM Scardino: nothing

Mayor Reilly: went to his first conference. It was a full event. Lots of towns in the same position we are. Can't keep employees. Went to the Mayor's meeting. Will use the next two years.

14. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 8:40 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: 09/12/2022