

**MALABAR TOWN COUNCIL  
REGULAR MEETING MINUTES  
November 21, 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 Clevenger led P&P.

**2. ROLL CALL:**

CHAIR:

MAYOR PATRICK T. REILLY

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL (EXCUSED)

JIM CLEVINGER

DAVID SCARDINO

MARY HOFMEISTER

TOWN MANAGER:

MATT STINNETT

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK:

RICHARD KOHLER (EXCUSED)

SPECIAL PROJECTS MANAGER:

LISA MORRELL

**3. APPOINT CHAIR/VICE-CHAIR**

**MOTION: CM Acquaviva/CM Scardino to appoint Mayor Reilly as Council Chair.**

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

**MOTION: CM Acquaviva /CM Clevenger to appoint CM Scardino as Council Vice Chair.**

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

- 4. SUNSHINE LAWS REVIEW** – Atty Bohne stated that Judge Polk canceled the hearing on the EELs issue. The Judicial Assistant selected a date in February. On Painted Acres litigation, we have discussed the proposed final judgement. The Judge will then make a ruling in due time. Atty Bohne discussed the information included in the agenda packet in regard to the Sunshine Laws.

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

- 6. CONSENT AGENDA:**

**6.a. Approve Minutes of 11/07/2022 RTCM & 11/10/2022 STCM**

**MOTION: CM Scardino / CM Acquaviva to approve Consent Agenda. Vote: All Ayes (4-0).**

**7. STAFF REPORTS:**

**7.a. Town Manager – Matthew Stinnett** – Rocky Point Repairs, Permitting, DEP Restoration (Scardino), FEMA.

**7.b. Town Clerk – Richard Kohler** – We received the official certified results of the 2022 elections today. The MSTU question passed at 88% yes, 12% no; and the ad-valorem question failed at 34% yes and 66% no. Also informed Council that staff has suggested 6:30 PM on Monday, December 5<sup>th</sup> at Malabar Community Park for this years Tree Lighting Ceremony. It will be held immediately before the RTCM scheduled for the same night.

- 8. 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.**

**9. PUBLIC HEARINGS / SPECIAL ORDERS: 2**

**9.a. FY 21/22 Final Budget Amendment (Ordinance 2022-10)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA,  
PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2021/2022 TO

PROVIDE FOR ACTUAL REVENUES RECEIVED; REGULAR TOWN COUNCIL MEETING Monday, November 21, 2022 at 7:30 pm PROVIDING FOR THE UNSPENT BUDGETED FUNDS DUE TO REDUCED EXPENDITURES; PROVIDING DIRECTION TO DELEGATE SUCH EXCESS FUNDS TO DESIGNATED RESTRICTED RESERVES FOR BUILDING DEPARTMENT USE, STORMWATER USE; PROVIDING THE REALLOCATION OF UNSPENT MONIES BETWEEN DEPARTMENTS TO BALANCE THE EXPENDITURES; PROVIDING REMAINING EXCESS FUNDS TO RESERVES ON DEPOSIT; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** **Agenda Report Number 9a**

Ordinance read by title only.

Chair asked for staff comments. SPM Morrell states there were a few changes from the last reading, but it is as presented in the agenda.

**PH Open:** None

**PH Closed.**

**MOTION: CM Acquaviva/ CM Scardino to adopt Ordinance 2022-10.**

**Discussion:**

**ROLL CALL VOTE: CM Acquaviva, Aye; CM Vail, Excused; CM Clevenger, Aye; CM Scardino, Aye; CM Hofmeister, Aye. Motion carried 4-0.**

**9.b. Vacate Request within Section 11, Melbourne Heights subdivision (SD)  
Section "E" east of Corey Road (Resolution 29-2022)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE VACATE OF ONE FIFTY (50) FOOT-WIDE UNIMPROVED PLATTED RIGHT-OF-WAY BISECTING PARCEL 29-37-11-75- 18-3 IN SECTION "E" MORE SPECIFICALLY KNOWN AS COLORADO AVENUE AS DESCRIBED HEREIN; AUTHORIZING THE TOWN CLERK TO RUN A LEGAL ADVERTISEMENT OF THIS ADOPTED RESOLUTION; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** **Agenda Report Number 9b**

Resolution read by title only.

Chair called on applicant to speak:

**Greg Massey, 1455 Moss Rose Ave.** Mr. Massey thanked Council for the opportunity. At the last meeting, Council approved several Vacates in the area. He also requested Ginseng be vacated but was told that was being left as a possible future road.

Atty notes that Ginseng is not referenced in the Vacate. TM states that past Council direction stated it wanted a turn around road. The Clerk removed it at his discretion due to past Council direction. Council directs to readvertise for Ginseng Ave and not charge Mr. Massey additional fees.

Chair asks staff for comments. Staff informs Council that the applicant requested three ROWs to be vacated. One, Nassau Street, was approved last week as part of a previous vacate resolution. Staff is recommending the Town vacate Colorado Ave, as it bisects the applicant's property, and serves no public purpose. Staff is recommending that the vacate request for Ginseng Street be denied, as it would restrict the ability for future development of a road connecting Delaware Ave and Moss Rose Ave.

**PH Opened:**

**PH Closed.**

**Motion: CM Scardino /CM Acquaviva to adopt Resolution 29-2022.**

**Discussion:** Council directs staff to readvertise for Ginseng with no additional cost to the applicant.

**Roll Call Vote: CM Vail, Excused; CM Clevenger, Aye; CM Scardino, Aye; CM Hofmeister, Aye; CM Acquaviva, Aye. Motion Carried 4-0.**

**10. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO TOWN APPOINTED BOARDS/COMMITTEES: 0**

**11. ACTION ITEMS:**

**ORDINANCES for FIRST READING: 0**

**RESOLUTIONS: 1**

**MISCELLANEOUS: 6**

**11.a. Adopting the Goal of “Vision Zero” (Resolution 27-2022)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ADOPTING THE GOAL OF VISION ZERO, ADVOCATING THAT NO LOSS OF LIFE IS ACCEPTABLE ON OUR TOWN STREETS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR ADOPTION.

**Exhibit: Agenda Report Number 11a**

**SPEAKERS CARD:** Drew Thompson, expressed his support for this Resolution.

Resolution read by title only.

Chair asks for Staff comments. Ms. Smith of the SCTPO spoke from her presentation. (Handout Presentation, copies)

**MOTION: CM Acquaviva / CM Hofmeister to adopt Resolution 27-2022.**

**Discussion:** Cost, no direct costs.

**Roll Call Vote:** CM Clevenger, Aye; CM Scardino, Aye; CM Hofmeister, Aye; CM Acquaviva, Aye; CM Vail, Excused. Motion Carries 4-0.

**11.b. Council Direction of Treasurer Reposting**

**Exhibit: Agenda Report Number 11b**

**Staff Comments:**

**MOTION: CM Scardino/ CM Hofmeister to direct Staff to repost the position for 60 days starting 11/22/2022, providing regular updates on the applications received at each RTCM until the posting closes on 01/21/2023; and to direct Staff to rank applicants and provide Council a ranked list at the 01/23/2023 RTCM; and to reaffirm CM Scardino as the contract negotiator for the position.**

**Discussion:** CM Scardino suggests 90 days. CM Acquaviva agrees. Mayor suggests 60 and readvertise as needed. CM Hofmeister suggests 90 days. CM Scardino agrees with the Mayor, 60 days and then readvertise as needed.

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

**11.c. Council member Bill Reviewer Exemption**

**Exhibit: Agenda Report Number 11c**

**Staff Comments:** SPM Morrell explained that these bills are recurring and on auto pay. This will assist in the bill paying process.

**MOTION: CM Scardino /CM Hoffmeister to approve bill reviewer of monthly recurring contractual service invoices or vendors approved through Town Council action for payment through electronic fund transfer or procurement card methods.**

**Discussion:** CM Acquaviva states she supports this as it makes the process easier, and provides an opportunity for some cash back benefits.

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

**11.d. Select Bill Reviewer for 2022/2023.**

**Exhibit: Agenda Report Number 11d**

**MOTION: CM Scardino /CM Acquaviva appoint CM Clevenger as the 2022/2023 Bill Reviewer.**

**Discussion:** CM Clevenger asks what is required, and agrees to come a few minutes early to meetings to review bills.

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

**11.e. Select Check Signed for 2022/2023**

**Exhibit:** Agenda Report Number 11.e

**MOTION:** CM Scardino /CM Hofmeister appoint CM Acquaviva as the 2022/2023 Check Signer.

**Discussion:** CM Acquaviva volunteers to continue as the check signer.

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

**11.f. Select Space Coast League of Cities (SCLC) Delegate for 2022/2023**

**Exhibit:** Agenda Report Number 11.f

**MOTION:** CM Scardino /CM Hofmeister appoint Mayor Reilly as the 2022/2023 delegate to the SCLC.

**Discussion:** Mayor states he is willing to continue his service as the delegate.

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

**MOTION:** Mayor /CM Hofmeister appoint CM Scardino as the alternate 2022/2023 delegate to the SCLC.

**Discussion:**

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

**11.g. Select Representative to the TPO/TAC Board for 2022/2023**

**Exhibit:** Agenda Report Number 11.g

**MOTION:** CM Scardino /CM Hofmeister appoint TM Matt Stinnett as the 2022/2023 TPO/TAC Representative.

**Discussion:**

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

**MOTION:** CM Scardino/CM Hofmeister appoint Mayor Reilly as the alternate 2022/2023 TPO/TAC Representative.

**Discussion:**

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

**Chair excuses Attorney**

**12. DISCUSSION/POSSIBLE ACTION**

**12.a. Discuss Restricting Increased Revenues to a Streets and Roads Fund**

**Exhibit:** Agenda Report Number 12a

**Discussion:** SPM Morrell begins by explaining that this year's budget is already protected. In the future years, Council should set a Milage rate or \$ amount to set aside each year. It is hard to do this action after the budget has been accepted. It is better to plan for the future in budget workshops. CM Clevenger suggests Council prepare for spending the funds required for fixing Rocky Point Road. Mayor reiterates these are separate funds. SPM Morrell states she will have something to protect these funds developed by the budget season. General discussion ensued about Rocky Point Road, and FEMA reimbursement opportunities.

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

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

**CM Acquaviva:** None

**CM Vail:** Excused

**CM Clevenger:** None

**CM Hofmeister:** None

**CM Scardino:** None

**Mayor Reilly:** None

14. **ANNOUNCEMENTS:** (1) Vacancy on the Planning & Zoning Board; (1) Vacancy on the Parks & Recreation Board; (1) Vacancy on Board of Adjustment.
15. **ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 8:59 P.M.

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

ATTEST:

Richard W. Kohler  
Richard Kohler  
Town Clerk

Date Approved: 12/05/2022