

**MALABAR TOWN COUNCIL  
REGULAR MEETING MINUTES  
September 11<sup>th</sup>, 2023, 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 Hofmeister led P&P.

**2. ROLL CALL:**

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

DAVID SCARDINO

COUNCIL MEMBERS:

MARISA ACQUAVIVA-EXCUSED

BRIAN VAIL

JIM CLEVENGER

MARY HOFMEISTER

TOWN MANAGER:

MATT STINNETT

TOWN ATTORNEY:

KARL BOHNE

SPECIAL PROJECTS MANAGER:

LISA MORRELL

TOWN CLERK:

RICHARD KOHLER

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

**4. CONSENT AGENDA:**

**4.a. Approve Minutes of 8/21/2023 RTCM**

Exhibit: Agenda Report Number 4a

**4.b. Approve Minutes of 08/21/2023 Council Workshop**

Exhibit: Agenda Report Number 4b

**MOTION: CM Vail/CM Scardino to approve Consent Agenda as presented.**

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

**5. ATTORNEY REPORT: None**

**6. BCSO REPORT: None**

**7. BOARD/COMMITTEE REPORTS:**

**7.a. Trails and Greenways Committee**

Exhibit: Agenda Report Number 7a

Discussion: Written Report. Clerk Kohler informed Council that the Trail Day scheduled for this past weekend was canceled and will be rescheduled at the upcoming September 19<sup>th</sup> meeting.

**7.b. Parks & Recreation Board**

Exhibit: Agenda Report Number 7b

Discussion: Written Report

**7.c. Planning & Zoning Board**

Exhibit: Agenda Report Number 7c

Discussion: Written Report

**8. STAFF REPORTS:**

**8.a. Town Manager – Matt Stinnett** informed Council that the preliminary plans for Rocky Point Road are ready, and the finals should be ready by the end of the month. He had a conference call with the Florida Loan Council. The County's paving contract has been reapproved, and he hopes to piggyback it again. There has been a preliminary review for the two posted positions, with interviews to follow shortly.

**8.b. Town Clerk – Richard Kohler** stated that with the passing SB 102, municipalities are required to update and electronically publish the inventory of publicly owned properties that may be appropriate for affordable housing development. The Town does not have any property that would be appropriate for affordable housing development, and that information has been posted on our website, bringing us in compliance with SB 102.

**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)

**10. PUBLIC HEARINGS/SPECIAL ORDERS: 5**

**10.a. Certify Storm Water Rolls for Non-Ad Valorem Collection for FY 23/24 (Resolution 08-2023)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING CERTIFICATION OF ANNUAL STORMWATER ASSESSMENT ROLL; ADOPTING AN ANNUAL BUDGET FOR THE TOWN'S STORMWATER UTILITY; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10.a.

Resolution read by title only.

PUBLIC HEARING OPENED.

PUBLIC HEARING CLOSED.

**MOTION: CM Vail/CM Scardino to approve Resolution 08-2023.**

Discussion: None

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

**10.b. FIRST READING – R/LC Code Changes (Ordinance 2023-02)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; AMENDING ARTICLE III, DISTRICT PROVISIONS; AMENDING SECTION 1-3.1, PURPOSE AND INTENT OF DISTRICTS; AMENDING SUBSECTION "O" R/LC (RESIDENTIAL/LIMITED COMMERCIAL) TO INCLUDE ADDITIONAL LANGUAGE AND TABLE 1-3.1; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10.b.

Ordinance read by title only.

PUBLIC HEARING OPENED.

PUBLIC HEARING CLOSED.

Mayor Reilly states that this Ordinance was supposed to be included with the FLUM Map.

**MOTION: CM Hofmeister/CM Scardino to approve 1<sup>st</sup> reading of Ordinance 2023-02 with the amended changes discussed.**

Discussion: Mayor Reilly states that the R/LC district was intended as a mixed-use zoning district. He asks Council if they would support the use of 6 residential units and no commercial units per acre, and to allow 6 commercial units with no residential units. He does not support that, as this is designed to be a mixed use, and 6 residential properties per acre would be RM-6, and 6 commercial properties would not be a mixed use. Mayor Reilly asks if Council approves of the first sentence that is to be added? He requests it be changed to make it clear that there are not allowed to have 6 residences in one acre. SPM Morrell states that she believes it is conflicting and will work to correct it before a second reading. Atty Bohne states Council may wish to approve the first reading with a suggested change to the sentence in question.

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

**10.c. FIRST READING – Conditional Use Changes (Ordinance 2023-03)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; AMENDING ARTICLE VI, CONDITIONAL USE AND SPECIAL EXCEPTION USE CRITERIA; AMENDING SECTION 1-6.1, SUBSECTION A, INTENT AND PURPOSE; AMENDING SECTION 1-6.1, SUBSECTION B, CONDITIONAL USE AND SPECIAL EXCEPTION USE CRITERIA; AND AMENDING TABLE 1-6.1(B) CONDITIONAL LAND USE REQUIREMENTS; ADDING CRITERIA FOR FUNERAL HOMES AND MINI WAREHOUSE/STORAGE; REMOVING REFERENCES TO TRADE AND SKILLED SERVICES; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10.c.

Ordinance read by title only.

PUBLIC HEARING OPENED.

PUBLIC HEARING CLOSED.

Mayor Reilly states he championed this change due to past experiences in Court. He hopes to clarify the conditional uses in our code.

**MOTION: CM Vail/CM Hofmeister to approve 1<sup>st</sup> reading of Ordinance 2023-03.**

Discussion: None

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

**10.d. FIRST READING – Approve Millage Levy for FY 2023/2024 (Ordinance 2023-04)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ADOPTING THE MILLAGE RATE OF 4.5000 FOR THE LEVY OF AD VALOREM TAX WITHIN THE TOWN OF MALABAR FOR THE PERIOD FROM OCTOBER 1, 2023, THROUGH SEPTEMBER 30, 2024, AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10.d.

Ordinance Read by title only.

Town Clerk states that the 2023/2024 Fiscal Year proposed milage rate of 4.5000 mils on property values. This rate represents an increase of 7.86% over the roll-back rate of 4.1721. The final millage rate of 4.5000 to fund the general fund expenses commencing October 1<sup>st</sup>, 2023, and ending September 30<sup>th</sup>, 2024.

PUBLIC HEARING OPENED.

PUBLIC HEARING CLOSED.

Staff: SPM Morrell reviews the agenda report provided in the agenda, highlighting the goals of the budget for the coming fiscal year.

**MOTION: CM Scardino/CM Vail to approve 1<sup>st</sup> reading of Ordinance 2023-04.**

Discussion: None

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

**10.e. FIRST READING – Approve Budget for FY 2023/2024 (Ordinance 2023-05)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA ADOPTING THE BUDGET OF \$4,959,685 FOR THE FOR THE FISCAL PERIOD FROM OCTOBER 1, 2023, THROUGH SEPTEMBER 30, 2024; AND PROVIDING FOR AN EFFECTIVE DATE.

Ordinance read by title only.

PUBLIC HEARING OPENED.

PUBLIC HEARING CLOSED.

Staff: TM Stinnett states there are no additional changes since the last workshop. This includes road paving, personal changes, and cost of service increases.

**MOTION: CM Vail/CM Scardino to approve 1<sup>st</sup> reading of Ordinance 2023-05.**

Discussion: None

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

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

**12. ACTION ITEMS:**

**ORDINANCES for FIRST READING: 0**

**RESOLUTIONS: 0**

**MISCELLANEOUS: 1**

**12.a. Residential Service Rate Adjustment for Solid Waste**

Exhibit: Agenda Report Number 12a

Staff: TM Stinnett states that the contract with Waste Pro allows for increases. They have provided the math. Cost will rise from 43.88 to 51.19 per month, or a difference of 7.... CM Scardino asks if this is because of the Sarno Road closure? Dean Ulrich, Waste Pro Rep states that the refuse will continue to go to Sarno until it closes. Some does go to Cocoa, but most stays local. The largest increase for Waste Pro has been the cost of recycling. There are 3 components, CPI, fuel, and the recycling costs. The recycling costs have gone up from 25 per ton to 100 per ton.

**MOTION: CM Vail/CM Scardino to approve Residential Service Adjustment for Solid Waste, requested by Waste Pro USA.**

Discussion: Mayor states he feels it is a fair deal. CM Vail states everyone's prices are going up. Mr. Ulrich thanks Council for the approval, and states he hopes to have the billing of this account taken onto the tax rolls. CM Vail asks what level of reduction would that provide? Mr. Ulrich states he is unsure, but he will investigate it if requested. SPM Morrell states we can look at it for the following year election, with action taken place the following year. CM Scardino states he believes the Town is interested. CM Clevenger states he agrees. Mayor Reilly suggests it be placed on the first agenda in October.

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

**13. DISCUSSION/POSSIBLE ACTION: None**

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

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

**CM Acquaviva:** Excused

**CM Vail:** None

**CM Clevenger:** None

**CM Hofmeister:** Asked about an update on the Malabar Scrub Sanctuary project. Clerk Kohler states there have been no official updates since the controlled burn earlier this month.

**CM Scardino:** Thanked Staff for getting the potholes along Lett Lane repaired.

**Mayor Reilly:** Reported that he has heard reports of speeders along Weber Road. He discussed it with a local deputy, who stated he would patrol the area more frequently. He also thanked Staff for a smooth qualifying period.

**14. ANNOUNCEMENTS: (1) Vacancy on the Planning & Zoning Board; (2) Vacancy on the Parks & Recreation Board; (1) Vacancy on Board of Adjustment; (1) Vacancy on the Trails and Greenways Committee.**

**15. ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 7:57 P.M.

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

ATTEST:

Richard W. Kohler  
Richard W. Kohler  
Town Clerk

Date Approved: 09/25/2023