

**MALABAR TOWN COUNCIL  
REGULAR MEETING MINUTES  
November 6<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 CLEVINGER

MARY HOFMEISTER

TOWN ATTORNEY:

KARL BOHNE

INTERIM TOWN MANAGER:

LISA MORRELL

TOWN CLERK:

RICHARD KOHLER

INTERIM FIRE CHIEF:

ANTHONY GIANTONIO

- 3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:** Mayor Reilly requests to move 12.I to before the Public Hearings. Without objection, approved.

**4. CONSENT AGENDA:**

**4.a. Approve Minutes of 10/16/2023 RTCM**

Exhibit: Agenda Report Number 4a

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

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

- 5. ATTORNEY REPORT:** Attorney Bohne states that no action can be taken at a joint workshop. He hopes to emphasize that there is a parcel of property owned by a planning and zoning board member in the area to be discussed. He will not be allowed to participate in the discussion as a board member, just as a resident. Attorney Bohne also cautioned against speaking about items that are not on the agenda, particularly on items in land use, site plans and zoning changes. We need to be sure that we are being fair and should remind all boards of this.

- 6. BCSO REPORT:** Deputy Wheeler states that there was one battery complaint, 4 crashes w/no injuries, and 2 with, 41 business patrols, 74 residential patrols in response to the vehicle burglaries, 20 reckless driving complaints, 9 suspicious persons, 10 suspicious vehicles, 24 traffic stops. CM Vail asks if there have been any more burglaries? Deputy Wheeler states there have not, but the same type of crimes was reported near the interstate in Ft. Lauderdale.

**7. BOARD/COMMITTEE REPORTS:**

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

Exhibit: Agenda Report Number 7.a.

Discussion: None.

**7.b. Parks and Recreation Board**

Exhibit: Agenda Report Number 7.b.

Discussion: None.

**7.c. Planning and Zoning Board**

Exhibit: Agenda Report Number 7.c.

Discussion: None.

**7.d. Board of Adjustment**

Exhibit: Agenda Report Number 7.d.

Discussion: None.

**8. STAFF REPORTS:**

**8.a. Town Manager** – ITM Morrell states that she has distributed a copy of the departure notes from the former TM Stinnett. She feels it is a good point of transition. A request to purchase a new slope mower and tractor will be coming forward at the next meeting. The Weir, Allen and Gilmore Street project is resuming. There are still only three employees in Public Works, so we are working to prioritize their projects. We are moving forward with the purchase of the Tender. FEMA will be meeting Staff at Town Hall on Wednesday to discuss the Rocky Point Road project. We will be drafting an ITB for the shoreline restoration. She is also working to renegotiate the Stormwater contract with the County.

**8.b. Town Clerk – Richard Kohler** States that he recently attended the Florida City Clerks Association Fall Academy. The Academy had 32 hours of seminars on topics such as employment law, Local Government Budgeting in Florida, Parliamentary Procedures and more. Both of the new employees have been transitioning well. The Executive Assistant, Ms. Lauren, attended the planning and zoning board meeting last week, and was instrumental in developing tonight's agenda. The new receptionist, Ms. Judy, has been successfully routing calls, inputting citizen requests into iWorqs, and assisting in processing BTR payments. BTR collection has continued. Of the 275 registered businesses, 232 have paid, or about 79%. Delinquent notices will be sent out this week. Included in your mailbox today is information about a public information meeting being hosted by FDOT at the Malabar Baptist Church on November 29<sup>th</sup> from 5:30 -7 PM. The meeting will discuss an upcoming project which will repave and improve the portion of Highway 1 between Century Oaks Circle and Myers Drive (South of Conlan). Waste Pro USA informed us today that they will be unable to provide Solid Waste service on Friday, as the County Landfill will be closed Friday and Saturday in observance of Veterans Day. Residents have been informed via our website and Facebook. Also, Florida Communities Trust has approved the spending of the Fern Creek funds with the submission of our annual stewardship report and an agreement to update the management plan. We are working with the contractor to have the pavilion installed at Eschenburg Park, and our Public Works team will work to rebuild a wooden footbridge in the Disc Golf Sanctuary.

- 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) - None

**Agenda Amended to hear 12.i before Public Hearings**

**12.i. Florida Loan Council Loan Offers (Resolution 18-2023)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AUTHORIZING THE ISSUANCE OF ITS \$3,500,000 CAPITAL IMPROVEMENT REVENUE NOTE, SERIES 2023, FOR THE PURPOSE OF FINANCING THE CONSTRUCTION AND ACQUISITION OF CERTAIN CAPITAL PROJECTS, AS MORE FULLY DESCRIBED HEREIN; AUTHORIZING THE NEGOTIATED SALE OF SUCH NOTE TO WEBSTER BANK, NATIONAL ASSOCIATION, PURSUANT TO THE TERMS AND CONDITIONS OF A LOAN AGREEMENT BY AND AMONG THE FLORIDA MUNICIPAL LOAN COUNCIL, THE TOWN OF MALABAR,

FLORIDA, AND WEBSTER BANK, NATIONAL ASSOCIATION; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT; DESIGNATING THE NOTE AS A "QUALIFIED TAX-EXEMPT OBLIGATION;" MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF SUCH NOTE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.i.

Resolution read by title only.

Staff Comments: ITM Morrell states that this has been a long process, beginning with the surficial pavement assessment. The Capital Plan incorporated the information gathered in the assessment, and we can use the funding from this loan to accomplish these goals. We bought the offer through PRAG, and Webster National had the best rate. There is a prepay penalty before 2031. It is a fixed rate, with three annual payments, interest in April and October, and principal in October. We could raise these funds over the next few years, but it is likely the rates for service will increase, and if we bundle the projects, we are more likely to get qualified bidders. If we complete the roads and have funds left, we can request to use the funds elsewhere.

**MOTION: CM Vail/CM Hofmeister to adopt Resolution 18-2023.**

Discussion: Mayor Reilly asks for Council discussion.

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

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

**10.a. FIRST READING – Small Scale Comprehensive Plan Amendment Changing the Future Land Use Map designation from Residential/Limited Commercial (R/LC) to Commercial General (CG) for the 2.54 acre Parcel 28-38-31-54-D-4 (Ordinance 2023-06).**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT CHANGING THE FUTURE LAND USE DESIGNATION OF THE PROPERTY DESCRIBED HEREIN FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG) FOR THE 2.54 ACRE (+/-) PROPERTY WITH THE FORMER PARCEL ID'S OF 28-38-31-54-D-4 AND 28-38-31-54-D-6, WHICH HAS BEEN JOINED INTO ONE PARCEL WITH THE PARCEL ID OF 28-38-31-54-D-4; PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN LAND USE MAPS; PROVIDING FOR INCORPORATION INTO THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR THE REPEAL OF EXISTING ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10.a.

Ordinance Read by title only.

Applicant Mr. Carmine, 3916 Lakeside Lane, Grant – States this is about the property across the street. He has joined the parcels and hopes to unify the zoning. Eventually they would like to build a building, but first the goal is to fence it, and sell boats.

PUBLIC HEARING OPENED.

PUBLIC HEARING CLOSED.

Staff: Clerk states this Ordinance would change the Comprehensive Plan and FLUM for parcel 28-38-31-54-D-4 from R/LC to CG. The Planning and Zoning Board heard this request at their 10/25/2023 Meeting. It has been recommended unanimously to be approved with no special conditions.

**MOTION: CM Vail/CM Scardino to approve the first reading of Ordinance 2023-06.**

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.b. FIRST READING – Amending the Town Zoning Map designation from Residential/Limited Commercial (R/LC) to Commercial General (CG) for the 2.54 acre Parcel of 28-38-31-54-D-4 (Ordinance 2023-07)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN ZONING MAP FOR THE 2.54 ACRE (+/-) PROPERTY WITH THE FORMER PARCEL ID'S OF 28-38-31-54-D-4 AND 28-38-31-54-D-6, WHICH HAS BEEN JOINED INTO ONE PARCEL WITH THE PARCEL ID OF 28-38-31-54-D-4 MALABAR, FLORIDA, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAPS; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10.b.

Ordinance read by title only.

PUBLIC HEARING OPENED.

PUBLIC HEARING CLOSED.

Staff: Staff: Clerk states that Planning and Zoning Board heard this request at their 10/25/2023 Meeting. It has been recommended unanimously to be approved with no special conditions. This is a companion Ordinance to Ordinance 2023-06.

**MOTION: CM Vail/CM Hofmeister to approve the first reading of Ordinance 2023-07.**

Discussion: None

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

**10.c. FIRST READING – Small Scale Comprehensive Plan Amendment Changing the Future Land Use Map designation from Residential/Limited Commercial (R/LC) to Commercial General (CG) for the 2.26 acre Parcel 28-38-31-00-253, or 1080 Highway 1 in Malabar, Florida. (Ordinance 2023-08)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT CHANGING THE FUTURE LAND USE DESIGNATION OF THE PROPERTY DESCRIBED HEREIN FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG) FOR THE 2.26 ACRE (+/-) PROPERTY WITH THE ADDRESS OF 1080 HIGHWAY 1 IN TOWNSHIP 28, RANGE 38, SECTION 31, SUBDIVISION 00, LOT 253, MALABAR, FLORIDA; PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN LAND USE MAPS; PROVIDING FOR INCORPORATION INTO THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR THE REPEAL OF EXISTING ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10.c.

Ordinance read by title only.

Applicant, Burce Moia, MBV Engineering – He states the request would conform to the existing zoning north. They are 2 properties away from the nearest home. They also plan to bring in city water. The owner hopes to develop the property into a storage facility.

PUBLIC HEARING OPENED.

PUBLIC HEARING CLOSED.

Staff: This Ordinance would change the Comprehensive Plan and FLUM for the parcel at 1080 Highway 1 from R/LC to CG. Clerk states that Planning and Zoning Board heard this request at their 10/25/2023 Meeting. It has been recommended by a 3-2 vote to be approved with no special conditions.

**MOTION: CM Vail/CM Clevenger to approve the first reading of Ordinance 2023-08.**

Discussion: CM Vail asks if the approval could be contingent on site plan approval? Attorney states no we cannot. CM Hofmeister asks about ingress and egress off of US 1. Attorney states that would be from the state. Mayor Reilly states it is compatible with the surrounding area. CM

Vail states there will still be a buffer from the CG to a residence. Mayor Reilly asks if this parcel has land on the East side of US 1? Clerk Kohler states they do not

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

**10.d. FIRST READING – First Reading - Amending the Town Zoning Map designation from Residential/Limited Commercial (R/LC) to Commercial General (CG) for the 2.26 acre Parcel 28-38-31-00-253, or 1080 Highway 1 in Malabar, Florida. (Ordinance 2023-09)**  
AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE ZONING MAP FOR THE 2.26 ACRE (+/-) PROPERTY WITH THE ADDRESS OF 1080 HIGHWAY 1 IN TOWNSHIP 28, RANGE 38, SECTION 31, SUBDIVISION 00, LOT 253, MALABAR, FLORIDA, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10.e.

Ordinance read by title only.

PUBLIC HEARING OPENED.

PUBLIC HEARING CLOSED.

Staff: Clerk states that Planning and Zoning Board heard this request at their 10/25/2023 Meeting. It has been recommended by a 3-2 vote to be approved with no special conditions. This is a companion Ordinance to Ordinance 2023-08.

**MOTION: CM Vail/CM Clevenger to approve the first reading of Ordinance 2023-09.**

Discussion: None

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

**10.e. FIRST READING – Fiscal Year 2022/2023 Budget Amendment (Ordinance 2023-10)**  
AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2022/2023 TO PROVIDE FOR ACTUAL REVENUES RECEIVED; PROVIDING FOR THE UNSPENT BUDGETED FUNDS DUE TO REDUCED EXPENDITURES; PROVIDING DIRECTION TO REALLOCATE SUCH EXCESS FUNDS TO DESIGNATED RESTRICTED RESERVES FOR THE BUILDING DEPARTMENT , PARKS AND RECREATION, AND THE STATE & LOCAL FISCAL RECOVERY FUND; PROVIDING THE SHIFTING 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 10.e.

Ordinance read by title only.

PUBLIC HEARING OPENED.

PUBLIC HEARING CLOSED.

Staff: ITM Morrell states this is the final budget amendment for the last fiscal year. The auditors will review this during their final year. We adopted a 6.9 million budget but brought in 3.9 million dollars due to not seeking a loan last year. Expenditures were budgeted for 6.9 million dollars but spent 2.8 million dollars. Some of the left-over funds are restricted, such as Building, ARPA, and Stormwater. This Ordinance will clean up the year-end finances. We do need to begin to spend down the Building Department fund, or we will have to begin issuing refunds. ITM has suggested rolling forward some funds to assist in equipment purchases in Public Works and Fire. She has designated 200k into the Disaster relief fund. The fund was very low in the past. We are hoping to correct that moving forward. CM Vail states that the Town used to rely on reserves to cover any emergencies, but that process has gotten long. Having an emergency

fund would expedite the process in case of emergency. 163k to be assigned to a new Town Hall fund if Council approves with Council's approval. Technically, we are all parked in the street outside of our building, and we do not meet the setback requirement we enforce.

**MOTION: CM Vail/CM Scardino to approve the first reading of Ordinance 2023-10.**

Discussion: CM Vail asks if TIFT funds are set to expire. ITM Morrell states she believes we are not in danger of losing any funds. She believes there is about 53k in that fund. ITM Morrell states that in the last fiscal year, we received 0 payments for lane paving assessments.

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

**11. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO TOWN APPOINTED BOARDS/COMMITTEES: 1**

**11.a. Site Approval of New Commercial Building property known as: 6795 Babcock Street, Malabar FL 32950 AKA: Parcel ID # 29-3710-00-318 Commercial General (CG) property 1.26 acres.**

Exhibit: Agenda Report Number 11.a.

Applicant Bowman Consulting Group – Zachary Keninos 4450 W. Eau Gallie – proposes a warehouse including an office for Soffit. There will be 16 parking spots, including one handicapped. Palm Bay is providing water, they will have a septic tank, and the driveway and drainage have been approved by SJRMD and FDOT.

Staff: Clerk states that the Planning and Zoning Board heard this item at their 10/25/2023 meeting and voted unanimously to recommend approval. The Town Engineer, building official and Fire Marshall both have provided written approval of the proposal.

**MOTION: CM Hofmeister/CM Clevenger to approve the site plan for 6795 Babcock Street.**

Discussion: Mayor Reilly states this has only come to Council due to the Code requirement. CM Scardino asks about a traffic count? ITM Morrell states that our code does not include a trip counter for a proposal like this.

**VOTE: Passes (3-1) Scardino - Nay**

**12. ACTION ITEMS:**

**ORDINANCES for FIRST READING: 0**

**RESOLUTIONS: 9**

**MISCELLANEOUS: 4**

**12.a. Town Manager Contract (Resolution 10-2023)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF LISA MORRELL AS THE TOWN MANAGER; PROVIDING FOR DUTIES, REMUNERATION AND BENEFITS; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.a.

Resolution read by title only.

Staff: Clerk Kohler states the only increase was 5k to the salary. Attorney Bohne states there were some minor changes in the legalese. ITM Morrell states that one difference is a 90-day separation. She is also planning to use the car allowance for Town Hall celebration expenses. We sometimes lose track of birthdays and events; this will allow for the Town Manager to assist in these areas. She states it was a pleasure to work with

**MOTION: CM Hofmeister/CM Scardino to adopt Resolution 10-2023**

Discussion: None.

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



**12.b. Appoint Wayne Abare to the Planning and Zoning Board (Resolution 11-2023)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF WAYNE ABARE TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.2.

Resolution read by title only.

**MOTION: CM Hofmeister/CM Vail to adopt Resolution 11-2023.**

Discussion: None

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

**12.c. Appoint Liz Ritter to the Planning and Zoning Board (Resolution 12-2023)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF LIZ RITTER TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.c.

Resolution read by title only.

**MOTION: CM Hofmeister/CM Clevenger to adopt Resolution 12-2023.**

Discussion: None

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

**12.d. Appoint Murray Hann to the Trails and Greenways Committee (Resolution 13-2023)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF MURRAY HANN TO THE MALABAR TRAILS AND GREENWAYS COMMITTEE AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.d.

Resolution read by title only.

**MOTION: CM Vail/CM Hofmeister to adopt Resolution 13-2023.**

Discussion:

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

**12.e. Appoint Hans Kemmler to the Parks and Recreation Board (Resolution 14-2023)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF HANS KEMMLER TO THE MALABAR PARKS AND RECREATION BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.e.

Resolution read by title only.

**MOTION: CM Scardino/CM Vail to adopt Resolution 14-2023.**

Discussion: None

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

**12.f. Appoint Eric Bienvenu to the Parks and Recreation Board (Resolution 15-2023)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF ERIC BIENVENU TO THE MALABAR PARKS AND RECREATION BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.f.

Resolution read by title only.

**MOTION: CM Vail/CM Scardino to adopt Resolution 15-2023.**

Discussion: None

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

**12.g. Appoint Charles "Chuck" Frazee to the Board of Adjustment (Resolution 16-2023)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF CHARLES "CHUCK" FRAZEE TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.g.

Resolution read by title only.

**MOTION: CM Hofmeister/CM Scardino to adopt Resolution 16-2023.**

Discussion: None

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

**12.h. Appoint David Sowards to the Board of Adjustment (Resolution 17-2023)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF DAVID SOWARDS TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.h.

Resolution read by title only.

**MOTION: CM Vail/CM Hofmeister to adopt Resolution 17-2023.**

Discussion: None

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

**Agenda Item 12.i. was moved to before Public Hearings.**

**12.j. Tri-Party Development Agreement for 3350 Henderson Drive**

Staff Comments: Attorney Bohne states that he has drafted this document because there is property that is only accessible from Grant Valkaria. We have drafted the agreement, and once we sign it the Town of Grant and the property owner will have to sign it as well. The property will be developed by Malabar Codes, but the roads will meet Grant Valkaria codes.

Applicant: Mr. Radencic 2575 Gradick Drive – States he doesn't understand the purpose, as Grant only allows 2 homes. Attorney Bohne states it is just an agreement as to how we got here. Mr. Radencic states that he has been put very far behind and will now have to pay. Mayor Reilly states that Malabar Code requires a Town Accepted Road to the furthest extent of the lot, and this provides a path for that. He would like to expedite the process. Attorney Bohne states he can



e-record it. Applicant states he feels surprised that this had to take place. Attorney Bohne states he wrote the agreement quickly when he was requested.

**MOTION: CM Vail/CM Scardino to approve Tri-Party Development Agreement.**

Discussion: None

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

**12.k. Approval of Medical Director Contract (Interim Chief Giantonio)**

Staff Comments: TM Morrell states that this contract will continue services with Dr. Dudley for the increased rates shown in the agenda report. Dr. Dudley is the Medical Director for about 90% of the County.

**MOTION: CM Hofmeister/CM Vail to approve the three-year agreement for medical director services as presented and authorize the Town Manager to execute the contract with Brevard Physician Associates, PLLC the current employer for, Dr. Larissa Dudley, medical director of record for the Town of Malabar.**

Discussion: None

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

**12.l. Town of Malabar Town Treasurer (CM Vail)**

Staff Comments: Clerk states this item was requested to be brought to this meeting by CM Vail. Staff is seeking direction on who Council wishes to fill the Town Treasurer Role. Council may wish to promote internally by combining the Clerk and Treasurer roles, and hire a paymaster to assist the Treasurer, or they may wish to hire a dedicated Town Treasurer. The position was posted last year for several months. The Job Description used is included in the agenda packet for reference.

Discussion: CM Vail states there was discussion at the last meeting about the combining of the Clerk and Treasurer. All of our employees wear many hats, and he wants to make sure any decisions we make will not slow Lisa down. CM Scardino asks if we could contract it out? CM Hofmeister states she would like to see it posted. TM Morrell states we could contract it out, but the transition could take a while, and we would have to put out a bid. CM Vail states now that we have added employees, do we have enough staff in house to accomplish this? CM Hofmeister asks if any of the applicants from the previous posting would be fitting? CM Scardino suggests having Kohler as the Clerk/Treasurer and contracting out payroll. TM Morrell states that the taxes and liabilities would still be on the Town. If the interest is in posting, we can call the person from a past interview. TM Morrell states that she needs Council direction on how to proceed. Mayor Reilly states he would like to have Lisa only train one person. Mayor Reilly states he would like to have Mr. Kohler do the position. CM Scardino suggests making Kohler the combined position and hiring a Paymaster. CM Vail asks what position should be posted, paymaster or treasurer? TM Morrell states that the Org Chart has a position budget for a Treasurer. The 90k manager is up 15k, treasurer position is -100k and Clerk is under 60. Continuity of operations is a huge factor. She believes Kohler can oversee the project but would do well with a subordinate. The Town can also use a dedicated treasurer. The majority of the treasurer position would be doing the paymaster. CM Clevenger suggests he feels we should post for a treasurer. CM Hofmeister and Scardino agree. Consensus reached to post an advertisement for the Town Treasurer Position.

**12.m. Schedule Joint Workshop between Town Council and the Planning and Zoning Board for potential amendments to the Comprehensive Plan (Mayor Reilly)**

Discussion: Mayor Reilly states he and Staff have been meeting with developers for the last few months, and many are interested in the 10-acre parcels on Malabar Road in the West of Town. He would like to revisit the area in a similar manner to how the Town did the R/LC. Vail, Scardino and Hofmeister all suggest a later date, as they will be travelling. CM Vail suggests December 11<sup>th</sup>. The Mayor will be at an event. Mayor suggests a Tuesday in November. CM Scardino

suggests scheduling it for 6:30 PM before the 11/20/2023 RTCM. TM Morrell states that for a joint workshop, would both boards have to have a quorum. Mayor Reilly requests the meeting be dependent on getting a quorum from PZ.

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

- 13. **DISCUSSION/POSSIBLE ACTION: None**
- 14. **PUBLIC COMMENTS: General Items (Speaker Card Required)**
- 15. **REPORTS – MAYOR AND COUNCIL MEMBERS**

**CM Acquaviva: Excused**

**CM Vail:** Allowed 600,000 per year in increase. We promised these residents we would be making major improvements with these increased taxes. He wants to stand true to his promise to his constituents to improve the roads and drainage. He also is also now aware of the 90 day notice, should we update our current contracts to the same? Mayor Reilly states Florida is a right to work state, it wont make much of a difference.

**CM Clevenger: None**

**CM Scardino:** Asked about the fire on Atz Road. Chief Giantonio states that the Town responded. The debris pile is about 2.5 stories high, and about 1 acre wide. There are conflicting reports on the cause of the fire. Multiple units responded to protect the surrounding area. The owner is using their heavy equipment to mitigate the issues, but it will likely continue burning for a while. CM Scardino asks if the pile is a danger? Chief states yes, we were lucky. CM Scardino asks if the facility is permitted to do what he is. TM Morrell states she is unaware, but will investigate. She has heard it is agriculture, and that the owner was told it is okay. She will investigate the incident further once the fire is out. There is great concern about a 2.5 story mulch pile.

**CM Hofmeister:** She inquired about the possibility of combining the Parks and Recreation and Trails and Greenways. Please put it on the next agenda.

**Mayor Reilly:** November 15<sup>th</sup> he is presenting from the Town of Malabar to the DOT.

- 16. **ANNOUNCEMENTS:** (1) Vacancy on the Planning & Zoning Board; (3) Vacancies on the Parks and Recreation Board; (1) Vacancy on the Board of Adjustment; (1) Vacancy on the Trails and Greenways Committee.
- 17. **ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 9:30 P.M.

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

ATTEST:

Richard W. Kohler

Richard W. Kohler  
Town Clerk

Date Approved: 11/20/2023.