

**MALABAR TOWN COUNCIL
REGULAR MEETING MINUTES
November 20th, 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 Scardino led P&P.

2. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

DAVID SCARDINO

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL

JIM CLEVENGER - EXCUSED

MARY HOFMEISTER

TOWN ATTORNEY:

KARL BOHNE - EXCUSED

TOWN MANAGER:

LISA MORRELL

TOWN CLERK:

RICHARD KOHLER

3. NOMINATE CHAIR AND VICE CHAIR

Exhibit: Agenda Report Number 3.

MOTION: CM Vail/ CM Hofmeister move to appoint Mayor Reilly as the Council Chair.

VOTE: All Ayes (4-0)

MOTION: CM Acquaviva/CM Vail move to appoint CM Scardino as Vice-Chair of Council.

VOTE: All Ayes (4-0)

- 4. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:** TM Morrell requests to add Treasurer Application Review as Agenda Item number 12.f. She received an application on Sunday, and the applicant has been in contact with Staff.

5. CONSENT AGENDA:

5.a. Approve Minutes of 11/06/2023 RTCM

Exhibit: Agenda Report Number 5.a.

5.b. Approve Minutes of 11/09/2023 STCM

Exhibit: Agenda Report Number 5.b.

5.c. Final Approval of Contract for Pavilion at Eschenburg Park

Exhibit: Agenda Report Number 5.c.

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

Vote: All Ayes (4-0).

- 6. PRESENTATION:** None

- 7. ATTORNEY REPORT:** None.

8. STAFF REPORTS:

8.a. Town Manager – TM Morrell states that we have filled 2 positions in Public Works. One will start 12/6, and the other will start in the new year. Town Hall new staff is working well. We have offered a position to a Permit Tech. Her tentative start date is also 12/6. CM Scardino asks if the Fire Chief is coming back. TM Morrell states that she has heard no final ruling. Mayor Reilly asks when we can reevaluate the position. TM Morrell states when there is a final diagnosis and prognosis. He has been out since April, so the

decision will come forward soon. Our Interim Chief is being paid as a Driver/Engineer. We will be negotiating a new contract with the union next year. CM Scardino asks if we can pay the interim chief wages? TM Morrell states that the Interim Chief is unsure if he wants the position long term.

8.b. Town Clerk – Richard Kohler States that FDOT is planning to host a public information meeting on 11/29 at the Malabar Baptist Church to explain the suggested improvements to US Highway 1. He also informed Council that Staff has developed a Town Event Survey and posted it to our website and Facebook Page. Staff will bring Council the result at the 12/4 RTCM. He also reminded Council that the Malabar Holiday Tree lighting will take place at 6:30 PM, on December 4th, preceding the RTCM.

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) –

David Taylor, Flashy Lane – Presentation to Council of information about the mulch fire. (Available upon request)

CM Hofmeister asks when Mr. Taylor could smell the fire. He states he could smell it the day after the fire started, and it made it hard for him to breathe.

Mayor Reilly asks if we can prove that this property is Agriculturally exempt. TM Morrell states that State Statute states that local government agencies cannot impede the right to farm. She has discussed this with the Attorney and is investigating it. She knows that several agencies were on site for the fire, such as DEP, Forestry, Palm Bay, and Malabar. The property owner is working to take corrective action. Mayor Reilly asks if we can verify their agricultural exemption. TM Morrell states she is investigating. Mayor Reilly asks if this is a State or Town issue. TM Morrell states if she brings Code Enforcement action on them and infringes on their right to farm, the State will act against us. Mayor Reilly states he believes the Town should write a letter to the property owner. TM Morrell states she can write the letter, but the property owner has no obligation to respond. CM Scardino states he doubts that it is a farming operation. CM Hofmeister states that this is an environmental and health issue. CM Acquaviva asks if there is a public record of this? TM Morrell states yes, but it is not our record. CM Vail reminds everyone that there is a reward for arson information. The operator has also been very communicative and helpful in response to the issue.

10. PUBLIC HEARINGS/SPECIAL ORDERS: 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: 5

12.a. Procurement, Other Agency Contract, Slope Mower Replacement

Exhibit: Agenda Report Number 12.a.

Staff: TM Morrell states this is the purchase of a replacement slope mower. This is a straight purchase, so we can decide what to do with our John Deere in the future. The funds for this are coming from the road resurfacing, and we can use ARPA funds to replace it in the road fund. She feels this is an important purchase and she has verified this is the equipment our PW team wants.

MOTION: CM Vail/CM Scardino to approve tractor and slope mower purchase totaling \$155,000 using the Florida Sherriff's Association Cooperative Purchasing Program contract FSA23-EQU21.0, Equipment from awarded contractor Kelly Tractor, headquartered at 8255 NW 58 St., Miami, Florida 33166.

Discussion: CM Acquaviva asks what color it will be? CM Vail states it is a Massey, so likely red.

VOTE: All Ayes (4-0)

12.b. Other Agency Contract, Purchase Water Tender Firefighting Apparatus

Exhibit: Agenda Report Number 12.b.

Staff: TM Morrell states this is the procurement of a future Tender. Delivery in 2026, with payment due upon delivery. CM Vail states the Tender currently in operation could be surplus to offset the cost.

MOTION: CM Acquaviva/CM Hofmeister to permit the Town Manager to execute the purchase contract for Midwest Fire, located at 901 Commerce Road, Luverne, MN 56156, using Source well contract # 113021-RCK.

Discussion: None

VOTE: All Ayes (4-0)

12.c. Natural Resource Management Department, Stormwater Program Interlocal Agreement

Exhibit: Agenda Report Number 12.c.

Staff: TM Morrell states the Town has partnered with Brevard County for this in the past. We appreciate their partnership in the NDPES permit, and this Interlocal is now a flat payment, so it will be easier for accounting.

MOTION: CM Vail/CM Scardino to approve and authorize the Mayor to execute the Stormwater ILA Contract 2023 between the TOWN of MALABAR and the BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS for the Stormwater Program.

Discussion: None

VOTE: All Ayes (4-0).

12.d. Select Space Coast League of Cities (SCLC) Delegate for 2023/2024

Exhibit: Agenda Report Number 12.d.

MOTION: CM Vail/CM Acquaviva to appoint Mayor Reilly as the SCLC Delegate.

Discussion: Mayor Reilly volunteers to continue serving as the delegate.

VOTE: All Ayes (4-0)

MOTION: CM Vail/CM Acquaviva to appoint CM Scardino as the SCLC Alternate.

Discussion: CM Acquaviva suggests CM Scardino continue in his role as the alternate delegate.

VOTE: All Ayes (4-0)

12.e. Select Representative to the TPO/TAC Board for 2023/2024

Exhibit: Agenda Report Number 12.e.

MOTION: CM Scardino/CM Hofmeister to appoint Mayor Reilly as the Town's representative at the TPO/TAC.

Discussion: Mayor Reilly states he would be happy to represent the Town.

VOTE: All Ayes (4-0)

MOTION: CM Scardino/CM Hofmeister to appoint TM Morrell as the Town's alternate representative at the TPO/TAC.

Discussion: TM Morrell states she would be happy to be the alternate representative.

VOTE: All Ayes (4-0)

12.f. Review Treasurer Applications

Added at beginning of Meeting.

Discussion: TM Morrell states she has received 2 applicants. One of them is highly qualified, with experience in Brevard County. She and a selected CM can have a meeting and or make an offer with Council direction. CM Scardino states he would be willing to attend a meeting with the applicant.

Consensus is reached that TM Morrell and CM Scardino will meet with the applicant. TM Morrell states she will contact the applicant and request a meeting next week.

13. DISCUSSION/POSSIBLE ACTION:

13.a. Combine Trails and Greenways Committee and Parks and Recreation Board – CM Hofmeister

Exhibit: Agenda Report Number 13.a.

Discussion: CM Hofmeister states that she feels the Parks and Rec Board has not met often recently and wanted to explore the option of combining the Parks and Rec with the Trails and Greenways. Clerk Kohler states that this item was presented to both the Parks and Rec Board and the Trails and Greenways Committee at their November meetings. Both groups expressed their preference of remaining independent, and stated they would promote the vacancies in an effort to gain more Parks and Rec members. One resident has already requested an application, and one other has inquired about the position. CM Vail states that it is hard to get volunteers, so we should do what we can to get more applicants. CM Acquaviva states that P&R might be meeting too frequently, maybe have meetings quarterly and have more as needed. She would like to see more involvement from the Boards and Committees, including coming to Council meetings to make presentations and requests. Mayor Reilly states we can revisit this in January of 2024.

13.b. Request for P&Z Advisors to review Connex Box Building

Exhibit: Agenda Report Number 13.b.

Discussion: TM Morrell states there was recently an article in Florida Today about a Connex Box home creating controversy in an area Town. Absent of a local code, the Florida Building Code allows for these types of buildings. If they meet the local requirements, they can build in Malabar. Would Council like to send this to P&Z for review? Mayor Reilly states he believes a Connex building must be on a foundation. TM Morrell states that is correct. Does this type of building have a place in Malabar? CM Scardino asks if they have the same square footage requirements? TM states yes. CM Acquaviva asks if they will be able to meet hurricane safety regulations? TM states yes. CM Vail asks if the Town can restrict this? TM states we can amend our code to include restrictions. Mayor Reilly states you would need 5 of them to meet the minimum square footage requirements. CM Acquaviva states she isn't sure if it will meet the Malabar aesthetic. CM Scardino states we allow barndominiums, why is this different?

MOTION: CM Vail/CM Hofmeister to send to PZ

VOTE: All Ayes (4-0)

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

15. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: None

CM Vail: None

CM Clevenger: Excused

CM Scardino: None

CM Hofmeister: Happy Thanksgiving

Mayor Reilly: He attended the Space Coast transportation meeting and gave a 3 minute presentation on Malabar. He learned a lot about other municipalities. Ellis Road is the top priority, but it is only half funded.

16. **ANNOUNCEMENTS:** (2) 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 8:26 P.M.

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

ATTEST:

Richard W. Kohler
Richard W. Kohler
Town Clerk

Date Approved: 12/04/2023.