

**MALABAR TOWN COUNCIL
REGULAR MEETING MINUTES
December 04th, 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 Vail led P&P.

2. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

DAVID SCARDINO

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL

JIM CLEVENGER

MARY HOFMEISTER

TOWN ATTORNEY:

KARL BOHNE

TOWN MANAGER:

LISA MORRELL

TOWN CLERK:

RICHARD KOHLER

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

4. CONSENT AGENDA:

4.a. Approve Minutes of 11/20/2023 RTCM

Exhibit: Agenda Report Number 4.a.

4.b. Approve Minutes of 11/20/2023 Joint Council & Planning and Zoning Board Workshop

Exhibit: Agenda Report Number 4.b.

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

Vote: All Ayes (5-0).

5. ATTORNEY REPORT: Attorney Bohne stated he attended a final judgement hearing for the Grindley property. He is waiting on the final written ruling from the Judge. Mayor Reilly asks for an update on the Faber property. Attorney Bohne states the timeframe for the property owner to file ends on December 14th.

6. BCSO REPORT: Deputy Gish reported the October statistics. Almost all of their activity in Town was proactive, with only 2 property crimes and no violent crimes. CM Vail asks about vehicle burglaries and speeding on Weber Road. Deputy Gish states they are patrolling the area actively due to increased reports of reckless driving.

7. BOARD/COMMITTEE REPORTS:

7.a. Trails and Greenways Committee

Exhibit: Agenda Report Number 7.a.

7.b. Parks and Recreation Board

Exhibit: Agenda Report Number 7.b.

7.c. Planning and Zoning Board

Exhibit: None

Mayor Reilly states the Planning and Zoning Board has had a change in leadership, with Mr. Abare stepping down, and Mr. Dial is the new Chair. They will be reviewing 1.3.1 and connex box homes.

8. STAFF REPORTS:

8.a. Town Manager – TM Morrell began by informing Council of the letter sent to the Hall Road property owner. She also discussed the new slope mower, Building Department issues, and the positive work from the Executive Assistant to assist in covering the area. A new Building Department employee will be starting Wednesday, and maybe increasing the hours on site by CAP. New PW employee will also begin on Wednesday. ITB for Rocky Point repair has been uploaded to Demand Star, and there are currently 37 plan holders. We have contacted the road paving contractor. Staff will bring forward a short-term investment plan for the loan at an upcoming meeting. The playground received 3 loads of certified mulch. CM Scardino asks about using rubber mulch. TM Morrell states it is much more expensive, and with proper maintenance, it can be maintained with wood. We have received a lot of road grading requests in Town Hall. The Allen Street project will be progressing again, as we plan to buy preformed boxes. We have received several complaints from Kelly Lane about Stormwater. There are several road extension projects underway. The Fire Truck and Eschenberg Park deposits have been signed. The owner of the Cemetery on Railroad Ave has hired an attorney and requested a meeting about improving the area.

8.b. Town Clerk – Richard Kohler thanks Council and Staff for the successful Tree Lighting, and reiterated TM Morrell's comments about the new employees fitting in well and being valued assets to the Town.

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

10. PUBLIC HEARINGS/SPECIAL ORDERS: 8

10.a. SECOND READING - Limited Manufacturing Activities (Ordinance 2023-01)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE II, SECTION 1-2.6, SUBSECTION (C) TO INCLUDE NEW SUBSECTIONS (9) AND (10); AMENDING ARTICLE II, SECTION 1-2.6 SUBSECTION (C) TO RENUMBER SUBSECTIONS (9) THROUGH (20) AS SUBSECTIONS (11) THROUGH (22); AMENDING ARTICLE III, SECTION 1-3.2, TABLE 1-3.2 TO INCLUDE NEW CONDITIONAL USES; AMENDING ARTICLE VI, SECTION 1-6.1, TABLE 1-6.1(B) TO INCLUDE NEW TYPES OF CONDITIONAL LAND USES; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10.a.

Ordinance read by title only.

PUBLIC HEARING OPENED.

PUBLIC HEARING CLOSED.

Staff Comments: Clerk states the grammatical error noted by Mayor Reilly during the First Reading has been corrected. Otherwise, this is the same language as the First Reading.

MOTION: CM Acquaviva/CM Scardino to approve the Final Reading of Ordinance 2023-01.

Discussion: None.

ROLL CALL VOTE: CM Vail, Aye; CM Clevenger, Aye; CM Scardino, Aye; CM Hofmeister, Aye; CM Acquaviva, Aye. Motion Carries 5-0.

10.b. SECOND READING – R/LC Code Change (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.

Barbara Cameron, Hall Road, asks what property this is for? Staff states it is for all R/LC properties in Town.

PUBLIC HEARING CLOSED.

Staff Comments: Clerk states that staff has added one sentence to clarify the maximum density of the zoning district. Otherwise, this is the same language as the First Reading.

MOTION: CM Vail/CM Scardino to approve the Final Reading of Ordinance 2023-02.

Discussion:

ROLL CALL VOTE: CM Clevenger, Aye; CM Scardino, Aye; CM Hofmeister, Aye; CM Acquaviva, Aye; CM Vail, Aye. Motion Carries 5-0.

10.c. SECOND READING - Conditional and Exceptional Uses (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.

Staff Comments: Clerk Kohler states there are no changes from the First Reading.

MOTION: CM Scardino/CM Vail to approve the Final Reading of Ordinance 2023-03.

Discussion: None

ROLL CALL VOTE: CM Scardino, Aye; CM Hofmeister, Aye; CM Acquaviva, Aye; CM Vail, Aye; CM Clevenger, Aye. Motion Carries 5-0.

10.d. SECOND 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.d.

Ordinance read by title only.

PUBLIC HEARING OPENED.

PUBLIC HEARING CLOSED.

Staff Comments: Clerk Kohler states there are no changes from the first reading.

MOTION: CM Hofmeister/CM Vail to approve the Final Reading of Ordinance 2023-06.

Discussion: None.

ROLL CALL VOTE: CM Hofmeister, Aye; CM Acquaviva, Aye; CM Vail, Aye; CM Clevenger, Aye; CM Scardino, Aye. Motion Carries 5-0.

10.e. SECOND 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.e.

Ordinance read by title only.

PUBLIC HEARING OPENED.

PUBLIC HEARING CLOSED.

Staff Comments: Clerk Kohler states there are no changes from the First Reading.

MOTION: CM Hofmeister/CM Vail to approve the Final Reading of Ordinance 2023-07.

Discussion: None

ROLL CALL VOTE: CM Acquaviva, Aye; CM Vail, Aye; CM Clevenger, Aye; CM Scardino, Aye; CM Hofmeister, Aye. Motion Carries 5-0.

10.f. SECOND 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 Parcels 28-38-31-00-253 and 28-38-31-00-255 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 (+/-) PROPERTIES OF 1080 HIGHWAY 1 IN TOWNSHIP 28, RANGE 38, SECTION 31, SUBDIVISION 00, LOTS 253 AND 255, 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.f.

Ordinance read by title only.

PUBLIC HEARING OPENED.

PUBLIC HEARING CLOSED.

Staff Comments: Clerk Kohler states this request is for 2 parcels, not one as discussed at the last meeting. The total area of the request was correct, but lot 255 was not included. The issue has been corrected.

MOTION: CM Vail/CM Clevenger to approve the Final Reading of Ordinance 2023-08.

Discussion: None

ROLL CALL VOTE: CM Vail, Aye; CM Clevenger, Aye; CM Scardino, Aye; CM Hofmeister, Aye; CM Acquaviva, Aye. Motion Carries 5-0.

10.g. SECOND READING - Amending the Town Zoning Map designation from Residential/Limited Commercial (R/LC) to Commercial General (CG) for the 2.26 acre Parcels 28-38-31-00-253 and 28-38-31-00-255, 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 (+/-) PROPERTIES OF 1080 HIGHWAY 1 IN TOWNSHIP 28, RANGE 38, SECTION 31, SUBDIVISION 00, LOTS 253 AND 255, 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.g.

Ordinance read by title only.

PUBLIC HEARING OPENED.

PUBLIC HEARING CLOSED.

Staff Comments: Clerk Kohler states as with the previous Ordinance, this has been corrected to reflect the two parcels requested.

MOTION: CM Clevenger/CM Acquaviva to approve the Final Reading of Ordinance 2023-09.

Discussion: None

ROLL CALL VOTE: CM Clevenger, Aye; CM Scardino, Aye; CM Hofmeister, Aye; CM Acquaviva, Aye; CM Vail, Aye. Motion Carries 5-0.

10.f. SECOND 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.f.

Ordinance read by title only.

PUBLIC HEARING OPENED.

PUBLIC HEARING CLOSED.

Staff Comments: Clerk Kohler states there are no changes from the First Reading.

MOTION: CM Vail/CM Scardino to approve the Final Reading of Ordinance 2023-10.

Discussion: None

ROLL CALL VOTE: CM Scardino, Aye; CM Hofmeister, Aye; CM Acquaviva, Aye; CM Vail, Aye; CM Clevenger, Aye. Motion Carries 5-0.

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: 3

12.a. Approve RTCM and Holiday Schedule for 2023/2024.

Exhibit: Agenda Report Number 12.a.

Staff: Clerk Kohler states that Staff has prepared the holiday list and RTCM schedule for 2024. Of note, January meetings are recommended to move to the second and, if needed, fourth Monday of the month to avoid meetings on New Years Day and MLK Jr. Day. Also, President's Day is not included in the Town Employee Handbook as an approved holiday. If Council wishes, it can be included as a paid holiday off for all departments. Also of note is Independence Day. This year, it falls on a Thursday. Staff would like to request that Friday July 5th be observed instead of the 4th.

MOTION: CM Vail/CM Hofmeister to approve the RTCM and Holiday Schedule as presented by Staff.

Discussion: Attorney Bohne states he will be unavailable for the January meetings as presented. Mayor Reilly states to have a light meeting on the 8th. Final decision is to have President's Day a work day, and holiday on July 4th. TM Morrell states the Employee Handbook is under review.

VOTE: All Ayes (5-0)

12.b. Cancel December 18th, 2023 RTCM.

Exhibit: Agenda Report Number 12.b.

Staff: Clerk Kohler states that Council traditionally considers the need for the 2nd meeting in December. Staff currently has no pressing business scheduled for that meeting date.

MOTION: CM Hofmeister/CM Scardino to cancel the December 18th, 2023, RTCM.

Discussion: None

VOTE: All Ayes (5-0)

12.c. Treasurer Applications

Exhibit: Agenda Report Number 12.c.

Discussion: TM Morrell states she has received 2 additional applications since the last RTCM. She feels all 3 are qualified and should be interviewed. She has spoken to all 3 and previously interviewed one for the Executive Assistant position. CM Scardino and TM Morrell are scheduled to interview the 1st at 9 AM on 12/06. Mayor asks if Council wishes to interview the other two candidates. Consensus is to interview all candidates. Mayor asks if anyone else wants to interview. CM Acquaviva states she is willing to assist. CM Hofmeister states she is willing to as well. CM Acquaviva states she feels having one CM interview all candidates would be beneficial and suggests CM Scardino do all of the interviews. CM Scardino states time is of the essence, and he is looking forward to the process. CM Vail asks if the Town has a policy for medical marijuana. TM Morrell states the Town Handbook does not. Mayor Reilly states he would like to have all interviews done this month, and a recommendation prepared for the first meeting in January.

13. DISCUSSION/POSSIBLE ACTION: 0

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

15. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: None

CM Vail: None

CM Clevenger: None

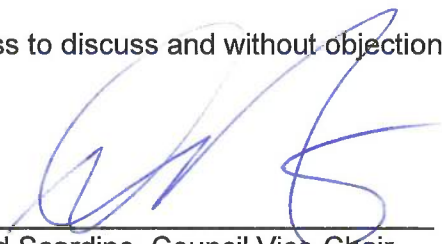
CM Scardino: None

CM Hofmeister: None

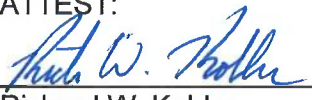
Mayor Reilly: Thanked everyone for a year of hard work.

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 8:23 P.M.

BY: 
David Scardino, Council Vice-Chair

ATTEST:


Richard W. Kohler
Town Clerk

Date Approved: 01/08/2024