

**MALABAR TOWN COUNCIL
REGULAR MEETING MINUTES
April 15th, 2024, 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 CLEVINGER

MARY HOFMEISTER - EXCUSED

TOWN ATTORNEY:

KARL BOHNE

TOWN MANAGER:

LISA MORRELL

TOWN CLERK:

RICHARD KOHLER

For the record, Town Treasurer Makayla Austin, Public Works Director Bobby Johns, Building Department Manager Denine Sherear, and BCSO South Precinct Commander Little are also in attendance.

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

4. CONSENT AGENDA:

4.a. Approve Minutes of 4/01/2024 RTCM

Exhibit: Agenda Report Number 4.a.

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

Vote: All Ayes (4-0).

5. PROCLAMATIONS: 2

5.a. Government Finance Professionals Week

Exhibit: Agenda Report Number 5.a.

Mayor Reilly requested the Town Treasurer come to the podium. He then read the Proclamation into the record, and thanked Ms. Austin for her service.

5.b. Thanking the Palm House for its Generous Donation

Exhibit: Agenda Report Number 5.b.

Mayor Reilly requested Mr. Doug Proctor, owner of the Palm House, to come to the podium. He then read the Proclamation into the record, and thanked Mr. Proctor for the donation.

6. ATTORNEY REPORT: Attorney Bohne states the 2 suits pending for Form 6 litigation are moving slowly, particularly the State case. The Federal case is moving quickly, with a preliminary injunction hearing scheduled for April 22nd. If the injunction is entered the Form 6 requirement will be on hold. Mayor Reilly asks about the status of the ALF case. Attorney states the briefs have been filed, and the appellate court is looking to make a judgement if oral arguments will be granted.

7. STAFF REPORTS

7.a. Manager

TM Morrell began by stating that Rocky Point repairs are underway. She was able to meet the contractor on site, and they are hoping to complete the project before hurricane season. They are ordering the rock and beginning the prep work soon. Staff has received feedback from residents of the area and are working to mitigate any issues. The Weir Allen and Gilmore Street project is on hold while we wait for custom parts from our supplier. Rocky Point repaving is being discussed with VA Paving, in hopes to time the two projects to work together. The SLFR audit is due in the next 15 days. Staff has also filed for our FEMA extension. She also thanked the Staff for their assistance and attitude.

7.b. Clerk

Exhibit: Agenda Report Number 7.b.

Clerk Kohler states the Town participated in the 2024 Trash Bash. 15 volunteers collected over 1,00lbs of trash from Town Parks and Rights-of-ways. Staff also attended an April 9th FDOT FY 27 project update. The FDOT is planning 2 projects in Malabar, the resurfacing of SR 514 from Babcock Street to US 1, and the resurfacing of the South Bound lanes of US 1 from Rocky Point to Malabar Road. Staff has also prepared an article for the Palm Bay Chamber of Commerce Membership Directory. A draft has been provided to you tonight for review. Please provide Staff with any comments.

7.c. Treasurer

Exhibit: Agenda Report Number 7.c.

Treasurer Austin states that we are about halfway through our fiscal year. The Town has brought in about 2.4 million in revenue. They are on track with where we expected to be. Our income is about 1.5 million. No department is currently trending to be over budget. A Budget adjustment will be required to cover TMs contract.

7.d. Fire Chief - Written

Exhibit: Agenda Report Number 7.d.

7.e. Public Works Director

Exhibit: Agenda Report Number 7.e.

PW Director Johns provides Council with a description of successful ditch cleaning.

7.f. Building Department

Exhibit: Agenda Report Number 7.f.

BD Director Sherear states the Building Department has expanded, adding Ms. Linsley Wilson as a permit technician. They have taken permitting classes together and work well together. The department has seen a lot of roofing permits, and currently has 4 site plans in review. Mayor Reilly asks what percentage of developers bring their own inspectors. Sherear states it is a very limited number, only 2 use their own inspectors.

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):

9. PUBLIC HEARINGS/SPECIAL ORDERS: 0

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

10.a. Trails and Greenways Committee Purchase Recommendation

Exhibit: Agenda Report Number 10.a.

Staff Comments: Clerk Kohler states that at their 4/8/2024 meeting, the Trails and Greenways Committee recommended the purchase of 21 additional signs to be installed in and around the Cameron Preserve. 20 of the signs will be Cameron Preserve Boundary signs, to be installed along the south and western unfenced boundary of the preserve, and the remaining sign will replace the "Welcome to Malabar" and "No Outlet" signs along Briar Creek Blvd. The Committee has requested the Public Works Staff install the Welcome sign, and that the Committee volunteers install the Boundary signs.

MOTION: CM Scardino/CM Vail to approve the recommended purchase of 21 signs for \$434.14 from Brevard County Traffic Operations.

Discussion: CM Acquaviva asks if there will be too many signs in the area. Clerk Kohler explained the rationale behind the Boundary Signs. CM Vail states he supports this. CM Acquaviva states she supports it as well, and hopes they protect the trees.

VOTE: ALL AYES (4-0)

11. ACTION ITEMS:

ORDINANCES FOR FIRST READING: 2

RESOLUTIONS: 2

MISCELLANEOUS: 0

11.a. FIRST READING – Amend Town of Malabar Code Section 1-5.6 Accessory Buildings to Allow Shipping Containers for Storage Only (Ordinance 2024-02)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; AMENDING ARTICLE V, GENERAL PROVISIONS; AMENDING SECTION 1-5.6, ACCESSORY BUILDINGS; ADDING SUBSECTION E, "CARGO CONTAINERS FOR PERMANENT STORAGE"; PROVIDING FOR A DEFINITION OF A CARGO CONTAINER; PROVIDING FOR CONDITIONS AND RESTRICTIONS REGARDING CARGO CONTAINERS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 11.a.

Clerk read by title only.

Staff Comments: TM Morrell states this has been back and forth from Council and Planning and Zoning. This Ordinance does not allow it for habitation and provides additional requirements. Clerk Kohler states if this First Reading is passed tonight, Staff will legally advertise for the Final Hearing at the May 6th RTCM.

MOTION: CM Scardino/CM Acquaviva to approve the First Reading of Ordinance 2024-02.

Discussion: CM Scardino asks if these are prone to uplift in a hurricane. CM Vail states they may roll, but they should be strapped down.

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

11.b. FIRST READING – Referendum Question for November 5, 2024, Election: Municipal Services Taxing Unit (MSTU) (Ordinance 2024-03)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY FLORIDA; CALLING AND SCHEDULING A PERIODIC ELECTION TO DETERMINE IF THE TOWN SHOULD CONTINUE TO PARTICIPATE IN THE BREVARD COUNTY MUNICIPAL SERVICE TAXING UNIT (MSTU) FOR LAW ENFORCEMENT; PROVIDING FOR THE MANNER IN WHICH SUCH ELECTION SHALL BE CONDUCTED; ESTABLISHING THE FORM OF THE BALLOT FOR SUCH ELECTION; PROVIDING REPEAL AND AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 11.b.

Clerk read by title only.

Staff Comments: BCSO Commander Little states that all responses in Malabar fall under the MSTU. He wanted to come and introduce himself as the South Precinct Commander, in charge

of our area. Clerk Kohler states that the Town of Malabar has followed this procedure every two years as directed by Ordinance 2007-05 since 2008. Town Staff has notified both the Brevard Supervisor of Elections, and the Brevard County Sheriff's Office of our intent to hold this referendum. Clerk Kohler states if this First Reading is passed tonight, Staff will legally advertise for the Final Hearing at the May 6th RTCM.

MOTION: CM Vail/CM Scardino to approve the First Reading of Ordinance 2024-03.

Discussion: CM Vail states he is very happy with the service provided. He also provided some history as to why we hold the referendum every two years. CM Acquaviva reiterates that we appreciate their service. She is concerned that with how often it is on the ballot, it may confuse some residents, but she understands why we do it. Mayor Reilly states it has gone to vote 8 times and has passed at an average of 86%.

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

11.c. Appoint Meghan Wolfgram as a Regular Member of the Planning and Zoning Board (Resolution 05-2024)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF MEGHAN WOLFGRAM 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.

Clerk read by title only.

Staff Comments: Clerk Kohler states that this Resolution will appoint Ms. Wolfgram as a regular member. After a member resigned in November, the Board only had 4 regular members. Ms. Wolfgram has indicated her interest in beginning a new 3-year term.

MOTION: CM Acquaviva/CM Scardino to approve Resolution 05-2024.

Discussion: CM Acquaviva states she supports Ms. Wolfgram and appreciates her fresh perspective.

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

11.d. Appoint Anne Vliegenthart as an Alternate Member of the Planning and Zoning Board (Resolution 06-2024)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF ANNE Vliegenthart TO THE MALABAR PLANNING AND ZONING BOARD AS AN ALTERNATE MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

Clerk read by title only.

Staff Comments: Clerk Kohler states that this resolution will appoint Ms. Vliegenthart as an alternate member on the Planning and Zoning Board. She has completed all of the required paperwork and meets all of the minimum requirements for Board membership. She has also attended several Planning and Zoning Board meetings to familiarize herself with their processes.

MOTION: CM Vail/CM Scardino to approve Resolution 06-2024.

Discussion: None.

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

12. DISCUSSION/POSSIBLE ACTION: 3

12.a. Town Council and Mayoral 2024 Election Qualifying

Exhibit: Agenda Report Number 12.a.

Staff Comments: Clerk Kohler states he wanted to publicly provide this information to Council. The 2024 election is fast approaching, and this year 4 of the 6 elected officials of the Town will be up for election. Council Member Districts 1-3 and the Mayor will be elected at the November 5th, 2024, election. Included in the agenda packet are the requirements for eligibility for all positions, information on the Town's qualifying process, a paperwork checklist, sworn statements for both Mayoral and Council candidates and qualifying petitions for both offices. Unless Council has any recommended changes to the documents and information, no further action is required. Mayor Reilly reiterated the importance of correct forms.

12.b. Select Dates for TRIM Public Hearings

Exhibit: Agenda Report Number 12.b.

Staff Comments: Clerk Kohler states that an important step in the annual TRIM process is selecting the dates for our TRIM public hearings. State Statutes require the Town to hold its TRIM public hearings on dates when the County Government and the School Board are not holding theirs, so that concerned residents would be able to speak at all TRIM hearings that affect them. Staff has compiled the meeting dates for both of those organizations, and is recommending Monday September 9, and Monday September 23 for the Town's public hearings. Staff is also recommending that the TRIM public hearings be held as a separate meeting, scheduled at 7 PM prior to the 7:30 RTCMs.

MOTION: CM Scardino/CM Vail to approve the recommended TRIM Public Hearing dates, and an amended September RTCM schedule.

Discussion: CM Acquaviva states those dates work for her. CM Vail states he can attend. Mayor Reilly states he will be unavailable for the 9/9/24 meeting. TM Morrell also requests Council provide any vacation dates over the summer to the clerk to assist in planning the budget workshops.

VOTE: ALL AYES (4-0)

12.c. Discussion – Review Land Development Code Table 1-3.3(A) Size and Dimensions Table

Exhibit: Agenda Report Number 12.c.

Staff Comments: TM Morrell states that this has been recommended by Planning and Zoning. The wastewater column was removed by Council in 2006. We have added that column back in as it was last in the code. The table was also amended by making all decimals and percentages show as percentages, commas added in numbers over 1,000, and the single-family requirements removed from multifamily zoning districts RM-4 and RM-6. If someone wishes to build a single-family home in multifamily zoning districts, they should request a rezoning. With Council approval, staff will draft an Ordinance for future approval.

MOTION: CM Scardino/CM Vail to direct Staff to prepare this as Ordinance 2024-04 to be heard for First Reading at the May 6th RTCM.

Discussion: Mayor requests the floor area ratio from the code be included in the table. TM Morrell states this will be in the verbiage of the Ordinance. CM Acquaviva asks if we still need it? Mayor Reilly states the current language does make more sense. CM Acquaviva agrees being direct in the code is very important. TM Morrell states it is best to not leave anything ambiguous. Mayor states that RM-6 is only currently on US 1, and to get the higher density, they would have to bring water and sewer down from the Yellow Dog.

VOTE: ALL AYES (4-0)

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

14. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: She thanked the Departments for their reports. She felt the charts were great, and hopes they continue using them in the future.

CM Vail: He is moving forward with the Historical House and will be meeting an engineer to discuss it tomorrow.

CM Clevenger: None

CM Scardino: None

CM Hofmeister: Excused

Mayor Reilly: He thanked Treasurer Austin for her presentation.

16. **ANNOUNCEMENTS:** (1) Vacancy on the Planning & Zoning Board; (2) Vacancies on the Parks and Recreation Board; (2) Vacancies on the Board of Adjustment; (2) Vacancies on the Trails and Greenways Committee.
17. **ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 8:27 P.M.

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

ATTEST:

Richard W. Kohler

Richard W. Kohler
Town Clerk

Date Approved: 05/06/2024