



REGULAR TOWN COUNCIL MEETING

Monday, April 1, 2024 at 7:30 pm

1. CALL TO ORDER, PRAYER AND PLEDGE
2. ROLL CALL
3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES
4. CONSENT AGENDA

- a. Approve Minutes of 03/18/2024

Exhibit: Agenda Report Number 4.a.

Attachments:

- **Agenda Report Number 4.a.** (Agenda_Report_Number_4.a..pdf)

5. ATTORNEY REPORT
6. BCSO REPORT
7. BOARD / COMMITTEE REPORTS

- a. T&G Committee

Exhibit: Agenda Report Number 7.a.

Attachments:

- **Agenda Report Number 7.a.** (Agenda_Report_Number_7.a..pdf)

- b. Park & Recreation Board

Exhibit: Agenda Report Number 7.b.

Attachments:

- **Agenda Report Number 7.b.** (Agenda_Report_Number_7.b..pdf)

- c. Planning & Zoning Board

Exhibit: Agenda Report Number 7.c.

Attachments:

- **Agenda Report Number 7.c.** (Agenda_Report_Number_7.c..pdf)

8. STAFF REPORTS

- a. Manager

- b. Clerk

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)

Five (5) Minute Limit per Speaker

10. PUBLIC HEARINGS: 1

a. SECOND READING - Amending Chapter 6, Section 6-1 of the Code of Ordinance to include the 2023 8th Edition of the Florida Building Code (Ordinance 2024-01)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BUILDING CODES; AMENDING CHAPTER 6, SECTION 6-1 OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR ADOPTION OF CERTAIN MODEL BUILDING AND CONSTRUCTION CODES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10.a.

Attachments:

- **Agenda Report Number 10.a.** (Agenda_Report_Number_10.a..pdf)

11. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING

(RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)

12. ACTION ITEMS

ORDINANCES:0

RESOLUTIONS:0

MISCELLANEOUS:1

a. Fire Department Deputy Chief Position

Exhibit: Agenda Report Number 12.a.

Attachments:

- **Agenda Report Number 12.a.** (Agenda_Report_Number_12.a..pdf)

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

13. DISCUSSION/POSSIBLE ACTION

a. Amend Town of Malabar Code 1-5-6 Accessory Buildings to Allow Shipping Containers for Storage Only

Exhibit: Agenda Report Number 13.a.

Attachments:

- **Exhibit: Agenda Report Number 13.a.** (Agenda_Report_Number_13.a..pdf)

14. PUBLIC COMMENTS

General Items (Speaker Card Required)

15. REPORTS - MAYOR AND COUNCIL MEMBERS

16. ANNOUNCEMENTS

(2) Vacancies on the Trails and Greenways Committee; (2) Vacancies on the Parks and Recreation

Board, (2) Vacancy on the Planning and Zoning Board; and (2) Vacancy on the Board of Adjustment.

17. ADJOURNMENT

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to ensure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105).

The Town does not provide this service. In compliance with F.S. 86.26 and the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

Contact: Richard Kohler (townclerk@townofmalabar.org 321-727-7764) | Agenda published on 03/27/2024 at 1:40 PM

TOWN OF MALABAR

Regular Town Council Meeting

AGENDA ITEM NO: 4.a.

Meeting Date: April 1st, 2024

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Approve Minutes of 3/18/2024 STCM Minutes

BACKGROUND/HISTORY:

Summary of actions at Town Council Meetings

ATTACHMENTS:

- Draft Minutes of the RTCM of 3/18/2024

ACTION OPTIONS:

Review

**MALABAR TOWN COUNCIL
REGULAR MEETING MINUTES
March 18th, 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 Vail 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

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 3/04/2023 RTCM

Exhibit: Agenda Report Number 4.a.

4.b. CAP Government Building & Inspection Services Renewal Piggyback, adding Fire Reviewer and Fire Inspector.

Exhibit: Agenda Report Number 4.b.

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

Discussion: Clerk noted the inclusion of CM Clevenger Form 8b being attached to the minutes of 03/04/2024 RTCM.

Vote: All Ayes (5-0).

5. ATTORNEY REPORT: None

6. STAFF REPORTS:

6.a. Town Manager –

TM Morrell began by stating she appreciates the support she has received from Council. Rocky Point Road repair will be moving forward tomorrow. The contractor will be placing message boards shortly. The supplies required for the project are in stock, so they plan to move quickly. Staff will be providing door knockers and information to the residents of the area. She also reports the PW loader repair will be covered under warranty, and we have received a loaner for use during the repair. The Gradall will take more time to complete. We received one applicant for the open HEO position. Instead of hiring the one applicant, she is suggesting to promote from within and send a current MEO to receive their CDL A license. She would also like to use an employee training program that will allow her to assign classes and check compliance. It is an online program.

6.b. Town Clerk

Exhibit: Agenda Report Number 9.b.

Clerk Kohler states that the Space Coast League of Cities was well attended, and thanked Council for their attendance and support. Staff has included in tonight's agenda the response to the first South Brevard Trails Master Plan Working Group, with 10 comments or corrections to be

included in future presentation. The full package is available upon request. Malabar will be hosting a Trash Bash event on Saturday April 6th from 8 AM to 12 PM, with collection sites at Malabar Community Park, and the corner of Atz and Corey Road. So far, 15 volunteers have signed up to assist in the project.

7. 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):

Barbra Cameron – 665 Hall Road. Ms. Cameron stated she has seen an increase in travel trailers in her area. She is inquiring about what rules stipulate where mobile homes can go in Malabar. One near a creek was removed, but she is aware of a mobile home on Weber Road and Wilson Lane. Mayor Reilly states there are rules about this, and suggests she report any violations to Town Staff. Ms. Cameron thanks Council for the information.

8. PUBLIC HEARINGS/SPECIAL ORDERS: 0

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

10. ACTION ITEMS:

RESOLUTIONS: 1

MISCELLANEOUS: 3

10.a. Acceptance of a Temporary Easement and Road Payback for Candy Lane (Resolution 03-2024)- Tabled

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR ACCEPTANCE AND CERTIFICATION OF COSTS IN CONSTRUCTING CANDY LANE FOR A DISTANCE OF 1332 FEET+/- SOUTH OF ATZ ROAD IN SECTION 12, TOWNSHIP 29, RANGE 37; PROVIDING FOR A TEMPORARY EASEMENT FOR PUBLIC USE; PROVIDING FOR THE ROAD PAYBACK AS DESCRIBED IN SECTION 13-42 OF THE TOWN CODE; AND PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10.a.

Clerk read by Title Only.

MOTION: CM Vail/Scardino to untable Resolution 03-2024.

Vote: All Ayes (5-0)

Staff: Clerk Kohler states that the applicant has submitted the as builts, the road construction costs, and all other required information to request acceptance of Candy Lane as a Town Road. A Road Payback has been created and is attached to the Resolution. The Town Engineer has inspected and approved the Road. CM Clevenger has indicated he intends to abstain from this vote.

MOTION: CM Scardino/CM Hofmeister to approve Resolution 03-2024.

Discussion: Mayor Reilly asks Attorney Bohne if CM Clevenger should recuse himself from this vote. Attorney Bohne states he feels that would be the prudent thing to do.

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

10.b. Agency Support for Federal Lobbying efforts for funding improvements of Interchange, State Road 514 at Interstate 95 Southbound and Northbound Ramps.

Exhibit: Agenda Report Number 10.b.

Staff: TM Morrell states the City of Palm Bay is seeking federal funds to improve the SR514 and I95 interchange and are seeking our support. They will be taking the lead in the project, seeking \$500,000 for road improvements.

MOTION: CM Scardino/CM Hofmeister to approve the Mayor signing the agency letter in support of City of Palm Bay seeking federal funding for the improvements as provided.

Discussion: CM Acquaviva states she supports this. CM Scardino agrees.

VOTE: All Ayes (5-0).

10.c. Historical House – CM Vail

Exhibit: Agenda Report Number 10.c.

Discussion: CM Vail states he has distributed the background of the project, and historical evidence that Council approved the project. Council however did not approve acceptance of the House. The House will be fully permitted and safely restored, with the intent of it becoming a usable structure for the public. For future maintenance, he does not expect it to cost more than maintaining a new home. The paint, roof, AC, and all wiring will be new. There will be a 16'x20' porch on the front of the area. He would hope to have it near the baseball field or playground. As the plan for the new Town Hall progresses, we can continue to plan, but he feels the Fire House, Town Hall, and the Historical House should be in the same Town Center. The only maintenance required will be a repaint in about 10 years. Mayor Reilly states he believes the perfect place for the House is the Northeast Corner, near the existing bathrooms and entrance to the EELs Sanctuary. He feels it could be used to showcase maps of the trails, and animals to be seen out in the sanctuary. CM Vail states he believes the structure should be in the front of the park to reduce the risk of vandalism. CM Acquaviva states she heard two different descriptions of the building use. CM Vail has stated the goal is to have a house for birthday events and meetings. Mayor Reilly states in the future we will have to vote on the final location. CM Scardino asks who will pay for the foundation? CM Vail states he is still working on it, but he has been able to get considerable donations. As the plans progress, he will seek additional assistance from volunteers. He has time accurate materials for use in the project. There will be a bathroom available for when the building is rented. CM Acquaviva asks what the estimated time of completion is? CM Vail states he is hoping for the project to be completed in 1 year. His next goal is to get a roof completed. Mayor Reilly asks Attorney Bohne what the process would be to create a 5013c to take ownership of the house, and then have the Town rent the land to it, similar to the Grant Seafood Fest. Attorney Bohne states it is possible but would be a lot of work for the applicant. It would not provide them with any relief. The Town would still be liable if someone gets hurt in the structure no matter who owns the home. Mayor Reilly asks Attorney Bohne to do more research for a future discussion. Attorney Bohne states it may help with maintenance costs. CM Vail states he would like to see it taken over by the Town. Who will man it when he passes? The FD used to have 45 volunteers. They currently have 9. He feels strongly about this house becoming a Town owned asset.

Mayor Reilly states he would like for Council to work on ideas of where this house should go in the park. CM Acquaviva states this will become part of the Town's history. CM Hofmeister asks if it can be used as a concession stand? CM Vail states yes. CM Scardino asks if the Town will require a sprinkler system? CM Vail states no.

TM Morrell provides some clarity that the Town building official has been made aware of the project, and made one trip to the site, but no permit has been received. If a spot without access to the septic system is chosen, a new septic system is very expensive. Maintenance costs will be more than painting, we will be required to clean it, and repair any minor or major damage. She believes it is a good project, and she is very interested in seeing where this goes. She feels the location should be the next major decision. CM Scardino asks if the house is installed near the existing bathrooms, they wouldn't need a septic system? CM Vail states they could hook to either the FD septic system or the bathroom system.

10.d. Corrective Action – Approve Temporary Placement of a Travel Trailer while constructing SFR at 2215 Oakridge Lane – Applicant Brandi Patterson

Exhibit: Agenda Report Number 10.d.

Applicant: Ms. Patterson states she is in the process of getting the septic permit finalized. She has submitted the rest of her documents for review. A well and (portable) septic system are included on site.

Staff: TM Morrell states this process is a little unusual. Staff did not provide the correct information to the applicant about the correct process. She feels this is an appropriate action to correct the issue. The applicant is the property owner, and she does intend to build a SFR on the land. We have collected the payment for the Bond. CM Hofmeister asks if there will be any additional work on site before an SFR permit is issued. TM Morrell states no.

MOTION: CM Vail/CM Acquaviva to approve the temporary placement of RV with approved site plan while building plans are submitted and reviewed in the next 60 days for the construction of the single-family residence. The principal residence will be required to be permitted and significantly, 80% constructed, prior to any other accessory permits.

Discussion: CM Scardino asks if we are only providing the applicant 60 days. TM Morrell states the site plan has been approved to the extent it can be. CM Scardino states the Health Department is backed up and may take longer than that. Attorney Bohne states we should set the time frame of 6 months to complete the project, and if needed, apply for an extension. CM Hofmeister asks how long the RV has been on the property? TM Morrell states 10/19.

CM Vail/CM Scardino to amend the motion to provide 6 months from today.

VOTE: All Ayes (5-0)

11. DISCUSSION/POSSIBLE ACTION: 2

11.a. Discussion of Quiet Zones - Tabled

Exhibit: Agenda Report Number 14.b.

Staff: Clerk Kohler states this item was tabled at the 1/8/2024 RTCM until there is a full Council Present. If Council wishes to discuss it tonight, a motion is required to remove the item from the table.

MOTION: CM Vail/CM Scardino to untable item 11.a. Discussion of Quiet Zones.

VOTE: ALL AYES (5-0)

Discussion: CM Scardino asks if we implement a quiet zone, would we be liable for any injuries? CM Vail states the gates required would prevent that. Have there been any complaint to Staff? Staff states they have not had complaints filed at Town Hall. CM Vail asks if Grant Valkaria is applying? TM Morrell each intersection is viewed independently. Mayor Reilly states the only crossing we can do alone is Jordan Blvd. TM Morrell states we would be a co-applicant with the state for SR 514. There is no deadline for this purpose. CM Scardino believes we should let the horns sound. CM Clevenger agrees. TM Morrell states if we receive complaints at Town Hall, Staff will bring this item back for review.

11.b. Increased Enforcement of Existing Rules – CM Scardino

Exhibit: Agenda Report Number 11.b.

Discussion: CM Scardino states there are people clearing wetlands without permits. Someone dug a canal out to I95 and is pumping wetland out to the Interstate. TM Morrell states there is a permit for road improvements of Lett Lane. Staff received complaints that the applicant was dewatering the wetland into the FDOT ROW. Town Staff issued a Stop Work Order for the road work. She was able to contact the applicant, and ensure he was aware of the Stop Work Orders. CM Scardino suggests we try to educate the public more about required permits for land clearing and wetland work. CM Acquaviva states we can provide as much messaging as possible, but some residents are just going to do unpermitted work. We are a reactive code enforcement Town, so things like this may happen from time to time, but they are fined for these types of actions. TM Morrell provides another example, land clearing along Malabar Road. She contacted the contractor, who is a Malabar resident, and was unaware that the permit was required. A permit was applied for today; however, it was incomplete. The fee will be doubled for the permit. CM Hofmeister asks if we should revisit how much we charge for the permits, or if we can raise the fines for non-compliance. TM Morrell states she feels if you raise the fees, less people will comply. CM Clevenger states a double fee is the standard for work without a permit. TM Morrell states 4 of the CE cases reported

on at the last meeting are already resolved. CM Scardino suggests increasing the outreach to the community. CM Acquaviva states sometimes that may help. TM Morrell states Staff is working towards upgrading our Town Website, and our Building Department will be transitioning to paperless, and will have an open house event where we can provide additional information. Clerk Kohler states Staff can include a relevant article in the upcoming newsletter. CM Acquaviva thanks CM Scardino for bringing this topic up, as it has become a repeat issue for some residents.

- 12. **PUBLIC COMMENTS: General Items (Speaker Card Required)**
- 13. **REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Acquaviva: Thanked Staff for the SCLoC dinner. She thought it was well attended, and an excellent event. She also has been spreading the news about the upcoming Trunk'or'Treat event in October.

CM Vail: None

CM Clevenger: None

CM Scardino: None

CM Hofmeister: None

Mayor Reilly: The Brevard County Sheriff Office awards are this weekend, and he will be attending. The event will be held at the first Baptist Church on Dairy Road.

- 14. **ANNOUNCEMENTS:** (2) Vacancy on the Planning & Zoning Board; (2) Vacancies on the Parks and Recreation Board; (2) Vacancy on the Board of Adjustment; (2) Vacancy on the Trails and Greenways Committee.
- 15. **ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 8:35 P.M.

BY: _____
Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard W. Kohler
Town Clerk

Date Approved: 04/01/2024 .

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Cleuzenger James Paul</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>City Council</i>
MAILING ADDRESS <i>1765 Elaine Lane</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY <i>Malabara</i> <i>Brevard</i>	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED <i>March 18th 2024</i>	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, James Cleveland, hereby disclose that on March 18, 20 24 :

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____ ;
- inured to the special gain or loss of my relative, _____ ;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Contract on Ross Candy Lane

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

3/18/2024

Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 7.a
Meeting Date: April 1st, 2024

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Trails and Greenways Committee Report

BACKGROUND/HISTORY:

At the 3/12/2024 Trails and Greenways Committee Meeting, the Committee discussed current trail and firebreak conditions, the Cameron Preserve, and the Eagles Nest Trailhead.

The Committee scheduled a work event on February 23rd and installed most of the fence at the Eagles Nest Trailhead. A second workday has been scheduled for Friday April 5th to complete the fence line.

The Committee is also discussing adding a new sign along Briar Creek Blvd, welcoming people to the Town of Malabar and increasing awareness of the Cameron Preserve. They also reviewed and discussed the South Brevard Trails Master Plan document.

ATTACHMENT

- None

ACTION:

Approve

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 7.b
Meeting Date: April 1st, 2024

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Parks and Recreation Board Report

BACKGROUND/HISTORY:

The Parks and Recreation Board held a meeting on March 20th. They continued their discussion about the upcoming FallFest event, as well as possible additions to Eschenberg Park once the pavilion is installed (April 15th). Staff is developing quotes for a portal-et and picnic benches for the area.

ATTACHMENTS:

- None

ACTION:

- None.

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 7.C.

Meeting Date: April 1st, 2024

Prepared By: Lauren Hamilton, P&Z Board Secretary

SUBJECT: Planning and Zoning Board Update

BACKGROUND/HISTORY:

The Planning and Zoning Board met on March 13th and March 27th. At their meetings, they approved several sets of past minutes (2022 and 2021) and discussed the consideration of shipping containers for storage only and the revision of Table 1-3.3. The Board suggested minor revisions to both items as presented by Town Staff.

ATTACHMENTS:

- a. None

ACTION OPTIONS:

- a. None

TOWN OF MALABAR

SPECIAL TOWN COUNCIL MEETING

AGENDA ITEM NO: 10.a.

Meeting Date: April 1st, 2024

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: SECOND READING - Amending Chapter 6, Section 6-1 of the Code of Ordinance to include the 2023 8th Edition of the Florida Building Code (Ordinance 2024-01)

BACKGROUND/HISTORY:

The Florida Building Commission updates the various codes per F.S. 553 and becomes the latest revision for municipal building departments to comply with in reviewing, processing, and inspecting building permit applications every 3 years.

The Town of Malabar adopts the Florida Building Codes and any other applicable codes within The Town of Malabar's Code of Ordinances, Part II, Chapter 6, entitled Buildings and Building Regulations.

The ordinance includes the adoption of the updated Florida Building Code, Fire and Electrical Codes, and a Dictionary of Architecture and Construction per the Building Official.

The 2023 8th Edition, Florida Building Code, Building and the following volumes:

- 2023 8th Edition, FBC, Residential
- 2023 8th Edition, FBC, Accessibility
- 2023 8th Edition, FBC, Energy Conservation
- 2023 8th Edition, FBC, Florida Existing Building Code
- 2023 8th Edition, FBC, Plumbing
- 2023 8th Edition, FBC, Mechanical
- 2023 8th Edition, FBC, Fuel Gas
- 2023 8th Edition, FBC, Test Protocols for High Velocity Hurricane Zones

Additionally, the following:

- The Florida Fire Prevention Code 2023 8th Edition, Chapter 9
- The National Electric Code (2020 Edition) N.F.P.A.
- Dictionary of Architecture and Construction, 4th Edition

The following Codes are also adopted:

- The Standard Amusement Device Code, 1985 Edition.
- International Property Maintenance Code, 2006 edition as published by the International Code Council.
- The Uniform Code for Abatement of Dangerous Buildings, 1997 Edition.
- Life Safety Code NFPA 101, 2024 Edition.

The Ordinance passed First Reading unanimously at the 3/4/2024 RTCM. The legal advertisement requirements for Public Hearings have also been met.

ATTACHMENTS:

Ordinance 2024-01

Legal Advertisement of Ordinance 2024-01

ACTION:

Motion for approval of Second Reading of Ordinance 2024-01.

ORDINANCE NO. 2024-01

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BUILDING CODES; AMENDING CHAPTER 6, SECTION 6-1 OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR ADOPTION OF CERTAIN MODEL BUILDING AND CONSTRUCTION CODES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is the desire of the Town Council to adopt in all respects the various building and construction codes identified herein to provide for the health, safety and general welfare of the public; and

WHEREAS, the adoption of these codes is to facilitate proper inspection activities relating to construction and maintenance of buildings within the Town; and

WHEREAS, the existing codes and ordinances governing such activities are outdated; and

WHEREAS, such regulation and administration are in the best interest of the public.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, THAT:

SECTION 1. Sections 6-1 of Chapter 6 of the Malabar Code of Ordinances is hereby amended as follows and all other codes referenced in Chapter 6 remain in force unless found to be in conflict with Florida Statute 553:

“Section 6-1. Codes and amendments adopted

As of December 31, 2023, the Florida Building Code supersedes all local building codes which are developed and maintained by the Florida Building Commission. It is updated every three years and may be amended annually to incorporate interpretative and clarifications. The 2023 8th Edition, Florida Building Code, Building, and the following volumes:

- The 2023 8th Edition, FBC, Residential
- The 2023 8th Edition, FBC, Accessibility
- The 2023 8th Edition, FBC, Energy Conservation
- The 2023 8th Edition, FBC, Florida Existing Building Code
- The 2023 8th Edition, FBC, Plumbing
- The 2023 8th Edition, FBC, Mechanical
- The 2023 8th Edition, FBC, Fuel Gas
- The 2023 8th Edition, FBC, Test Protocols for High Velocity Hurricane Zones

Additionally, the following:

- The Florida Fire Prevention Code, 2023 8th Edition, Chapter 9
- The National Electric Code (2020 Edition) N.F.P.A. 70*
- Dictionary of Architecture and Construction, 4th Edition

The following Codes are also adopted:

- The Standard Amusement Device Code, 1985 Edition.
- International Property Maintenance Code, 2024 edition as published by the International Code Council.
- The Uniform Code for Abatement of Dangerous Buildings, 1997 Edition.
- Life Safety Code NFPA 101, 2024 Edition.

SECTION 2. Codification.

It is the intention of the Town Council of the Town of Malabar, Brevard County, that the provisions of Section 1 of this Ordinance become part of the Code of Ordinances of the Town of Malabar. The Town Clerk is hereby authorized and directed to cause the provisions of Section 1 of this ordinance to be incorporated into the Code of Ordinances.

SECTION 3. Severability.

In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of this ordinance shall not be affected and it shall be presumed that the Town Council of the Town of Malabar did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the Town Council would have enacted the remainder of this ordinance without said invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

SECTION 4. Conflicts.

All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

SECTION 5. Effective Date.

This Ordinance shall become effective immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Council Member _____.

The motion was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Jim Clevenger	_____
Council Member David Scardino	_____
Council Member Mary Hofmeister	_____

PASSED AND ADOPTED by the Town Council, Town of Malabar, Brevard County, Florida this ___ day of _____, 2024

BY:
TOWN OF MALABAR

Mayor Patrick T. Reilly, Council Chair

First Reading Approved: **03/04/2024**: Vote: **3** to **0**

Second Reading: _____

ATTEST:

(Seal)

By _____

Richard W. Kohler
Town Clerk

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

Town of Malabar, 2725 Malabar Road, Malabar, FL 32950
321-727-7764 (Office) 321-727-9997 (Fax) www.townofmalabar.org

To: ganlegpubnotices3@gannett.com

March 5, 2024

From: Richard Kohler, Town Clerk, Town of Malabar, Acct # 126287

Please place the following legal ad one time on Thursday, March 14, 2024. Please put the heading in **BOLD** font. Please send proof via email to: townclerk@townofmalabar.org and mail ONE affidavit to 2725 Malabar Road, Malabar, FL 32950.

**TOWN OF MALABAR
NOTICE OF
PUBLIC HEARING**

The Malabar Town Council, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Monday, **April 1, 2024, at 7:30pm**, or as soon thereafter as the matter can be heard, for a public hearing on the following topic:

ORDINANCE 2024-01

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BUILDING CODES; AMENDING CHAPTER 6, SECTION 6-1 OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR ADOPTION OF CERTAIN MODEL BUILDING AND CONSTRUCTION CODES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.

Copies of the Code pertaining to this are available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may email comments to townclerk@townofmalabar.org or mail comments to 2725 Malabar Road, Malabar, FL 32950 or appear and be heard at this meeting of the Town Council with respect to these topics. Persons with disabilities needing assistance to participate in any of these proceedings should contact the Clerk's Office, ADA Coordinator, 48 hours in advance of the meeting at 321-727-7764. Richard Kohler, Town Clerk.

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PO Box 631244 Cincinnati, OH 45263-1244



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PROOF OF PUBLICATION

Richard W. Kohler
Town Of Malabar
2725 Malabar Rd
Malabar FL 32950-4427

STATE OF WISCONSIN, COUNTY OF BROWN

Before the undersigned authority personally appeared, who on oath says that he or she is the Legal Advertising Representative of the Florida Today, a daily newspaper published in Brevard County, Florida; that the attached copy of advertisement, being a Legal Ad in the matter of Public Notices, was published on the publicly accessible website of Brevard County, Florida, or in a newspaper by print in the issues of, on:

03/14/2024

Affiant further says that the website or newspaper complies with all legal requirements for publication in chapter 50, Florida Statutes.

Subscribed and sworn to before me, by the legal clerk, who is personally known to me, on 03/14/2024

[Handwritten signature]

Legal Clerk

Notary, State of WI, County of Brown

1-7-25

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KATHLEEN ALLEN
Notary Public
State of Wisconsin

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 12.a.

Meeting Date: April 1st, 2024

Prepared By: Micheal Foley, Fire Chief

Through: Lisa Morrell, Town Manager

SUBJECT: Fire Department Deputy Chief Position

BACKGROUND/HISTORY:

The Malabar Fire Department is seeking the addition of a Deputy Chief position. Pursuant to the Town of Malabar Code of Ordinances Sec. 8-92, the fire chief shall appoint officers as he deems necessary for the effective operation of the department subject to the approval of the Town Council. According to Section 2.0 (MFO Organization) Sub-Section 2.12 (Membership Designations), the Deputy/Assistant Chief is an active Firefighter, appointed by the Chief, and is responsible for assisting the Chief in the performance of his duties, and acting on his behalf in his absence. The Deputy/Assistant Chief shall be responsible for all administrative tasks and perform duties as assigned by the Chief.

Chief Foley returned from his medical leave on March 25, 2024. Upon the Chief's return, Interim Chief Gianantonio submitted his two weeks' notice of resignation as he accepted a paid position at another agency. Interim Chief Gianantonio has offered to stay on as the volunteer Deputy Chief. Chief Foley recommends retaining Gianantonio as the Deputy Chief as described in Section 2.0 (MFO Organization) 2.12.3.2 Deputy/Assistant Chief.

FINANCIAL IMPACT:

None.

ATTACHMENTS:

Malabar Code of Ordinances Sec. 8-93. - Fire chief; duties and authorities and Sec. 8-92. - Fire department organization.

Section 2.0 (MFO Organization) 2.12.3.2 Deputy/Assistant Chief.

ACTION OPTIONS:

Motion to approve the addition of a Deputy Chief position for the Malabar Fire Department.

Sec. 8-92. Fire department organization.

The fire department shall consist of the following:

- (1) *Fire chief.* The fire chief shall be the head of the department and shall be recommended by the council liaison or town administrator and subject to approval by the town council.
- (2) *Members.* Other members of the department shall be paid firefighters, volunteer firefighters or a combination of both. The number of members shall be established by the fire chief as he deems necessary for the effective operation of the department, subject to the approval of the town council.
- (3) *Officers.* The fire chief shall appoint officers as he deems necessary for the effective operation of the department.

(Ord. No. 96-3, § 1, 4-1-96)

Sec. 8-93. Fire chief; duties and authorities.

The fire chief shall:

- (1) Formulate written regulations, policies and procedures to govern the fire department and be responsible to the town administrator, for the personnel, equipment, budget, administration, morale, general efficiency, and effectiveness of the department.
- (2) Assist the proper authorities in suppressing the crime of arson by investigating or causing to be investigated the cause, origin and circumstances of all fires.
- (3) Maintain complete records of all fires, inspections, apparatus and minor equipment, personnel, and other information pertaining to the department.
- (4) Report to the town administrator the condition of the apparatus and equipment, the number of fires during the month, the number and purpose of other runs made, the number of members responding to each fire or other run, and any changes in membership. Notify the fire marshal and the building inspector of the location, cause, date and loss occasioned by fire.
- (5) Conduct or cause to be conducted at least twice per month, suitable drills or instruction in the operation and handling of equipment, first aid and rescue work, salvage, fire prevention, water supplies, and all other matters generally considered essential to good firemanship and safety of life and protection of property from fire.

(Ord. No. 96-3, § 1, 4-1-96; Ord. No. 2008-10, § 1, 10-6-08)

Section 2.0 (MFD Organization)

Section 2.0 (MFD Organization) Sub-Section

2.12 (Membership Designations) -

Continued

Version Date 6//1/06

2.12.3.2 Deputy/Assistant Chief

The Deputy/Assistant Chief is an active Firefighter, appointed by the Chief, and is responsible for assisting the Chief in the performance of his duties, and acting on his behalf in his absence. The Deputy/Assistant Chief shall be responsible for all administrative tasks and perform duties as assigned by the Chief.

TOWN OF MALABAR

REGULAR TOWN COUNIL MEETING

AGENDA ITEM NO: 13.a.

Meeting Date: April 1, 2024

Prepared By: Lisa Morrell, Town Manager

SUBJECT: Amend Town of Malabar Code 1-5-6 Accessory Buildings to Allow Shipping Containers for Storage Only

BACKGROUND/HISTORY:

On 3/5/2023 The Town Council considered the advisement of Planning and Zoning board regarding amending the Town code for restrictions and or permitted uses of cargo/shipping containers for building structure as permitted by the Florida Building Code.

The majority of the Town Council directed staff to provide amendments to restrict the use of shipping containers as a dwelling or inhabitation yet allow the item for permanent storage.

The Town of Malabar, as the applicant, is seeking the advisement from the board to approve the summary of changes to the Land Development Code, Article V - GENERAL PROVISIONS, Section 1-5.6. - Accessory buildings adding Item E, entitled Cargo Containers for Permanent Storage:

Cargo containers are permitted to be used as permanent storage in accordance with the following:

1. All cargo containers shall comply with the Florida Building Code, Florida Fire Prevention Code, and shall require a building permit.
2. Cargo containers shall be permitted in accordance with the following:
 - a. As a temporary use in any land use district in conjunction with an authorized construction project and shall be removed upon completion of the project unless properly permitted to remain as permanent storage in accordance with this section.
 - b. Non-residential and bonafide agricultural properties are permitted to have one cargo container per five acres of agricultural tax-exempt acres of land.
3. Cargo containers located on a residentially developed lot land use districts, that is adjacent to residentially developed lots or structures shall be buffered and opaquely screened from the adjacent off-site residential lot or structure. Additionally, they shall maintain a minimum setback of 15 feet.
4. All cargo containers shall be placed in either the side or rear yard and meet accessory structure setbacks for the applicable land use district or the setback as outlined in condition #4 above, whichever is more restrictive.
5. Cargo containers shall not be located within any drainage easements.

6. Cargo containers shall not occupy any required off-street parking spaces, vehicular accesses or drive aisles, pedestrian facilities or landscape areas for the site.
7. Cargo containers shall not be permitted to have signage of any type.
8. In the instance where more than one cargo container, as outlined in this section, is allowed they shall not be stacked.
9. Cargo containers shall not be modified or retrofitted for habitation.

As a reminder, underlined text is addition and strikethrough text as a deletion, for amendment.

On March 13, 2024, the Planning & Zoning Board unanimously approved the amendment with revisions, which have been included.

FINANCIAL IMPACT:

Building Permit Required with adopted Fee Schedule

ATTACHMENTS:

- Proposed amendments to Land Development Code, Article V - GENERAL PROVISIONS, Section 1-5.6. - Accessory buildings
- 20240313 P&Z Minutes, Item 7.a

ACTION OPTIONS:

Motion to approve changes to the Town of Malabar Code of Ordinances, Land Development Code, Article V - GENERAL PROVISIONS, Section 1-5.6. - Accessory buildings by adding Item E, entitled Cargo Containers for Permanent Storage and advise council of any comments by the board and/or members.

Section 1-5.6. - Accessory buildings.

- A. *Presence of Principal Building Required.* No accessory building shall be constructed upon a lot until the construction of a principal building has been issued a certificate of occupancy and no accessory building shall be used unless the principal building is in use. No structure which has been constructed as a principal use for the housing of animals or for agricultural purposes shall be used as a residence.
- B. *Prohibited in Required Yard.* No accessory building or structure shall be located in any required yard area.
- C. *General Regulations of Accessory Building.* No mobile homes, travel trailers, or old cars shall be permitted as an accessory structure. No accessory structure shall be built without a permit first being issued by the Building Official expressly authorizing the accessory structure. If the Building Official is in doubt as to the type of added accessory structure or whether a proposed accessory use is a duly authorized accessory use or structure within the district in which it is proposed, then the Building Official shall forward the issue to the Planning and Zoning Board and the Town Council for action.
- D. *Standards for Temporary Storage Units.*
1. Temporary Storage Unit is defined and typically utilized for the temporary storage of personal belongings only, as part of the process of household moving and/or part of a household intent to store items offsite at a commercial storage location. This definition does not include storage units authorized by the Florida Building Code pursuant to F.S. § 553.73.
 2. Temporary storage units are permitted as follows:
 - (a) Permitted in Residential Areas: Any land zones RR-65, RS-10, RS-15, RS-21, RM-4, RM6, R-MH, R/LC, and PUD designated for single family and multiple family uses
 - (b) Size: Temporary storage units, shall not exceed nine (9) feet in height, ten (10) feet in width, and 24 feet in length.
 - (c) Location: temporary storage units are allowed in any required setback and shall not be placed in any public or private right-of-way or easement and shall not be in such a manner to create any visual obstruction for any motor vehicle operator's view of other motor vehicles, bicycles, or pedestrians upon entering or exiting rights-of-way.
 - (d) Time frame: Temporary storage units are allowed in residential districts for a period not exceeding 14 days in a calendar year and no more than two times a calendar year.
 - (e) The temporary storage unit shall not be utilized for the following:
 - i. Storage of live animals.
 - ii. Utilized for human habitation.
 - iii. Storage of hazardous or flammable materials.
 - iv. Advertising is prohibited on the temporary storage unit except for the name and phone number of the vendor of the unit.
 - v. Storage of trash, junk ,debris, garbage, construction debris or material or refuse.

3. The Town Manager, or designee, may grant one (1) extension to the time limit established in subsection (1) above with written request by the property owner demonstrating good cause. For purposes herein, "good cause" shall mean an act of God, or some unforeseen circumstance or event which has caused a need to extend the use of the temporary storage container at the present location. No extension shall be longer than the time period which was previously approved by the Town.
4. Exemptions. The above regulations shall not apply to temporary storage units that are placed for construction purposes in connection with a valid building permit or during any period of declared weather emergency by federal, state, or local official action.
The provisions of this Ordinance shall not apply to any container which is placed on real property within the Town that is otherwise authorized by the Town's garbage and trash franchise agreement.
5. Violations and provisions for schedule of fines will follow the Town of Malabar Code of Ordinances, Land Development Code, Article XII entitled Administrative Procedures for land development and code enforcement.

E. Cargo Containers for Permanent Storage

Cargo containers are permitted to be used as permanent storage in accordance with the following:

1. All cargo containers shall comply with the Florida Building Code, Florida Fire Prevention Code, and shall require a building permit.
2. Cargo containers shall be permitted in accordance with the following:
 - a. As a temporary use in any land use district in conjunction with an authorized construction project, and shall be removed upon completion of the project unless properly permitted to remain as permanent storage in accordance with this section.
 - b. Non-residential and bonafide agricultural properties are permitted to have one cargo container per five acres of agricultural tax-exempt acres of land.
 - c. Cargo containers located on a residentially developed lot land use districts, that is adjacent to residentially developed lots or structures shall be buffered and opaquely screened from the adjacent off-site residential lot or structure. Additionally, they shall maintain a minimum setback of 15 feet.
3. In the instance where more than one cargo container, as outlined in this section, is allowed they shall not be stacked.
4. All cargo containers shall be placed in either the side or rear yard and meet accessory structure setbacks for the applicable land use district or the setback as outlined in condition #2 above, whichever is more restrictive.

5. Cargo containers shall not be located within any drainage easements.
6. Cargo containers shall not occupy any required off-street parking spaces, vehicular accesses or drive aisles, pedestrian facilities or landscape areas for the site.
7. Cargo containers shall not be permitted to have signage of any type.
8. Cargo containers shall not be modified or retrofitted for habitation.

MALABAR PLANNING AND ZONING BOARD REGULAR MEETING MINUTES
March 13, 2024, 6:00 PM

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

1. CALL TO ORDER, PRAYER, AND PLEDGE:

Meeting called to order at 6:00 P.M. Prayer and Pledge led by Chair Dial.

2. ROLL CALL:

CHAIR:	DOUG DIAL
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	SUSAN SHORTMAN
	DAVE TAYLOR - ABSENT
	MEGHAN WOLFGRAM
	ALTERNATE: VACANT,
	ALTERNATE: VACANT

BOARD SECRETARY:	LAUREN HAMILTON
TOWN CLERK:	RICHARD KOHLER
TOWN MANAGER:	LISA MORRELL

3. APPROVAL OF AGENDA: None.

4. CONSENT AGENDA:

4.a. Approval of Minutes of 03/23/2022

Exhibit: Agenda Report Number 4.a

4.b. Approval of Minutes of 09/14/2022

Exhibit: Agenda Report Number 4.b

4.c. Approval of Minutes of 11/15/2022

Exhibit: Agenda Report Number 4.c

4.d. Approval of Minutes of 01/10/2024

Exhibit: Agenda Report Number 4.d

MOTION: Member Shortman/VC Ritter to approve the Consent Agenda as presented.

VOTE: All Ayes (4-0)

5. PUBLIC COMMENTS: 0

6. PUBLIC HEARING: 0

7. ACTION ITEMS: 1

7.a. Amend Town of Malabar Code 1-5.6 Accessory Buildings to allow Shipping Containers for Storage Only

Exhibit: Agenda Report Number 7.a

Staff Comments: Chair Dial asked TM Morrell to speak on this item. TM Morrell states that the Town Council has made this request and is seeking advisement from the Board. She states the intent is to not allow shipping containers as a dwelling, and only as permanent storage.

VC Ritter requests future agendas have page numbers. She states that item 2b permits 1 cargo unit per 5 acres of agricultural tax-exempt land. Then it says with no minimum acreage to be required which is contradictory. She requests that the no minimum acreage to be required should be eliminated. She states 2c has the same issue and recommends removing the no minimum acreage requirement. Member Shortman believes all properties should be able to have one regardless of acreage. Member Wolfgram states the language is too vague. TM Morrell states this item is open for interpretation. VC Ritter reiterates her request to remove the minimum requirement. Member Shortman states she believes we should limit the minimum lot size they are allowed on. Member Wolfgram suggests the Board determine the Town's intent on this action, and then finish the minor changes after. TM Morrell states this is purely for advisement. VC Ritter notes that item 4 requires a buffer and setbacks but does not provide any restrictions on how many containers a resident could have. Member Shortman states she believes that if it is in the backyard, buffered, and meets the required setbacks, why should we restrict this? Chair Dial asks if the buffer language is covered in a separate portion of the code. TM Morrell states it is. Chair Dial asks if there are restrictions on how many containers per acre for residential properties? TM Morrell states the number is not at this time, and requests the Board provide a number if they wish to limit it. VC Ritter reiterates her opinion that there should be a limit in residential areas. TM Morrell suggests requiring the buffer and screen to be opaque. VC Ritter states she feels that would ease her objections. Member Wolfgram asks if there would be a conflict on the height of the fences or hedges? TM Morrell states it would not. Member Wolfgram states if an applicant must screen them and meet all other requirements, she doesn't have an issue with this. Chair Dial asks if restricting the number of containers on Agricultural and non-residential properties, why are we not restricting them in residential? TM Morrell states it is mostly an enforcement issue. Member Wolfgram asks if this will create an issue for our local businesses? She uses the example of Malabar Feed. TM Morrell states these are intended to be containers for permanent storage, with no wheels or axels. Chair Dial asks if the Board would like to add a limit to number 4 or do we agree it's self-regulating? VC Ritter states she feels as long as the property owner is using the opaque screening, she has no issues. Member Wolfgram asks if an agricultural property would be required to get a permit? TM Morrell states it would be regulated under the Florida Building Code and would still need a building permit. Chair Dial asks if any board members have final comments? Member Wolfgram states she feels 2b and 2c should be the same. Member Shortman agrees, and suggests the code be consistent. VC Ritter states she feels the Town should restrict use to properties an acre or more. TM Morrell suggests combining 2b and 2c and including a restriction of 1 unit per acre. Consensus is reached to combine 2b and 2c and strike "no minimum acreage being required", opaque screening, and meeting all side and rear yard setbacks. VC Ritter asks how the fees are calculated? TM Morrell states the fee schedule is adopted by Council.

MOTION: VC RITTER /MEMBER WOLFGRAM to approve changes to the Town of Malabar Code of Ordinance, Land Development Code, Article V – GENERAL PROVISIONS, Section 1-5.6, Accessory Buildings, by adding item "E", entitled Cargo Containers for Permanent Storage, and to advise Council of any comments by the board members.

VOTE: All Ayes. Motion Carries 4-0.

8. DISCUSSION/POSSIBLE ACTION: 1

8.a Discussion – Review LDC Table 1-3.3 Size and Dimension Table

Staff Comments: Chair Dial asked TM Morrell for comment. TM Morrell states that there has been a lot of discussion of this item. We are not looking for a motion at this time. She has made a few changes to the format and included the section “Without Central Wastewater”. She states outside of replacing that section, there were not many changes. She also cleaned up a few of the footers. The Maximum Building Coverage will also be included as percentages. She is requesting direction on the minimum living square footage for RM-4. VC Ritter states a lot of this information will be determined by setbacks. TM Morrell asks if there should be allowances of single-family residences in RM-4 and RM-6. Member Wolfgram asks if multiple single-family structures can be built in these zoning districts as long as they meet the 1500 sf minimum. TM Morrell states that is what we are here to decide. Chair Dial asks what the easiest way to simplify this table? TM Morrell states that we could find a minimum square footage. VC Ritter suggests including 1500 sq ft as the minimum square footage of RM-4, RM-6 and R/LC. TM Morrell states she can bring back how many parcels this will affect. Member Wolfgram agrees to setting a minimum of 1500 sq ft for all three. VC Ritter also recommends using the same setbacks in RM-4 and RM-6. Members Shortman and Wolfgram agree. VC Ritter also suggests making the bedroom size requirements match as well. TM Morrell states the only difference with these changes will be the maximum units per acre. TM Morrell suggests she will review the past minutes to determine why the sf per bedroom distinction exists currently. Member Wolfgram states she believes this will work. TM Morrell asks the Board to review this Table before their next meeting and provide more feedback at that time. VC Ritter requests the minimum sq ft in RM-4 and RM-6 be swapped, as RM-4 will have more room. Member Wolfgram states it should be consistent and how little do they want to allow. Member Wolfgram asks if the code would limit efficiency building? TM Morrell states no. VC Ritter suggests using the RM-4 numbers for RM-6 and R/LC. Chair Dial agrees. TM Morrell states an overall review of the table would be appreciated. Chair Dial asks if there any other areas Staff would like the Board to review? TM Morrell Commercial Development area. Chair Dial thanks TM Morrell for the improvements to the table. TM Morrell to edit the table with revisions discussed to present at the next meeting along with the data of the number of parcels in all zoning districts.

9. ADDITIONAL ITEMS FOR FUTURE MEETINGS: TM Morrell says there are (4) site plans on deck for P&Z review, none of which are ready yet. Chair Dial requests if the Board would be interested in discussing forward thinking in our Code, 10-years, 30-years from now. Perhaps a workshop that staff could also attend with the P&Z Board. TM Morrell states that is an excellent idea, and we have some Comprehensive Plan Amendments coming forward.

10. PUBLIC COMMENTS

11. OLD BUSINESS/NEW BUSINESS

11.a. Old Business: Clerk Kohler states that the Planning and Zoning Board will be required to file a Form 1 Financial Disclosure Form, not a Form 6. The major change this year is that the forms MUST be submitted online by July 1 directly to the Commission of Ethics. Staff cannot be a repository for the Forms. Chair Dial requests Staff to send a link to the site.

11.b. New Business: Board Member Comments:

Member Wolfgram states in light of the Form 1 requirement, her friend will be happy to serve the board as an alternate and will attend the next meeting. Clerk Kohler will reach back out to the alternate member.

VC Ritter asked if we're doing a Spring Fest or Fall Fest this year. Clerk Kohler advises that we are planning a Fall Fest for October 19.

Chair Dial asks if a vendor was selected for Rocky Point? TM Morrell advises yes. We were out there today. We are waiting for their insurance information and once that is received, we'll issue the Notice to Proceed.

Chair Dial asks what the projected completion date is for the US 1 construction. TM Morrell states that the approved plans can be viewed at www.cflroads.com/project/447092-1. Clerk Kohler states the website has an estimated completion date of Fall 2025.

Member Shortman asks about the PW loader? TM Morrell states the loader is covered under warranty and we're being provided with a loaner.

VC Ritter asks if the Board would be willing to move the meeting time to 6:30. Member Shortman states no.

12. ADJOURNMENT

There being no further business to discuss, the meeting adjourned 7:37 P.M.

BY:

Doug Dial, Chair

Lauren Hamilton, Board Secretary

Date Approved: as presented.