

MALABAR SPRINGS

**COMMUNITY DEVELOPMENT
DISTRICT**

May 16, 2023

BOARD OF SUPERVISORS

**REGULAR
MEETING AGENDA**

MALABAR SPRINGS

COMMUNITY DEVELOPMENT DISTRICT

AGENDA

LETTER

Malabar Springs Community Development District
OFFICE OF THE DISTRICT MANAGER
2300 Glades Road, Suite 410W•Boca Raton, Florida 33431
Phone: (561) 571-0010•Toll-free: (877) 276-0889•Fax: (561) 571-0013

May 9, 2023

Board of Supervisors
Malabar Springs Community Development District

Dear Board Members:

The Board of Supervisors of the Malabar Springs Community Development District will hold a Regular Meeting on May 16, 2023 at 11:00 a.m., at B.S.E. Consultants, Inc., 312 South Harbor City Boulevard, Suite 4, Melbourne, Florida 32901. The agenda is as follows:

1. Call to Order/Roll Call
2. Public Comments
3. Administration of Oath of Office to Supervisors, Jon Seifel [SEAT 4] and Candice Smith [SEAT 5] *(the following will be provided in a separate package)*
 - A. Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees
 - B. Membership, Obligations and Responsibilities
 - C. Financial Disclosure Forms
 - I. Form 1: Statement of Financial Interests
 - II. Form 1X: Amendment to Form 1, Statement of Financial Interests
 - III. Form 1F: Final Statement of Financial Interests
 - D. Form 8B: Memorandum of Voting Conflict
4. Consideration of Resolution 2023-31, Approving a Proposed Budget for Fiscal Year 2023/2024 and Setting a Public Hearing Thereon Pursuant to Florida Law; Addressing Transmittal, Posting and Publication Requirements; Addressing Severability; and Providing for an Effective Date
5. Consideration of Resolution 2023-32, Designating Dates, Times and Locations for Regular Meetings of the Board of Supervisors of the District for Fiscal Year 2023/2024 and Providing for an Effective Date
6. Consideration of Kutak Rock LLP, Retention and Fee Agreement

ATTENDEES:

Please identify yourself each time you speak to facilitate accurate transcription of meeting minutes.


7. Acceptance of Unaudited Financial Statements as of March 31, 2023
8. Approval of February 21, 2023 Public Hearings and Regular Meeting Minutes
9. Staff Reports
 - A. District Counsel: *Kutak Rock LLP*
 - B. District Engineer (Interim): *B.S.E. Consultants*
 - C. District Manager: *Wrathell, Hunt and Associates, LLC*
 - 0 Registered Voters in District as of April 15, 2023
 - NEXT MEETING DATE: June 20, 2023 at 11:00 AM

○ QUORUM CHECK

SEAT 1	MICHAEL CAPUTO	<input type="checkbox"/> IN PERSON	<input type="checkbox"/> PHONE	<input type="checkbox"/> NO
SEAT 2	TIM SMITH	<input type="checkbox"/> IN PERSON	<input type="checkbox"/> PHONE	<input type="checkbox"/> NO
SEAT 3	JUSTIN FRYE	<input type="checkbox"/> IN PERSON	<input type="checkbox"/> PHONE	<input type="checkbox"/> NO
SEAT 4	JON SEIFEL	<input type="checkbox"/> IN PERSON	<input type="checkbox"/> PHONE	<input type="checkbox"/> NO
SEAT 5	CANDICE SMITH	<input type="checkbox"/> IN PERSON	<input type="checkbox"/> PHONE	<input type="checkbox"/> NO

10. Board Members' Comments/Requests
11. Public Comments
12. Adjournment

If you should have any questions or concerns, please do not hesitate to contact me directly at (561) 346-5294 or Andrew Kantarzhi at (415) 516-2161.

Sincerely,

Cindy Cerbone
District Manager

FOR BOARD MEMBERS AND STAFF TO ATTEND BY TELEPHONE

CALL-IN NUMBER: 1-888-354-0094

PARTICIPANT PASSCODE: 867 327 4756

MALABAR SPRINGS

COMMUNITY DEVELOPMENT DISTRICT

4

RESOLUTION 2023-31

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE MALABAR SPRINGS COMMUNITY DEVELOPMENT DISTRICT APPROVING A PROPOSED BUDGET FOR FISCAL YEAR 2023/2024 AND SETTING A PUBLIC HEARING THEREON PURSUANT TO FLORIDA LAW; ADDRESSING TRANSMITTAL, POSTING AND PUBLICATION REQUIREMENTS; ADDRESSING SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the District Manager has prepared and submitted to the Board of Supervisors ("**Board**") of the Malabar Springs Community Development District ("**District**"), prior to June 15, 2023, the proposed budget ("**Proposed Budget**") for the Fiscal Year beginning October 1, 2023 and ending September 30, 2024 ("**Fiscal Year 2023/2024**"); and

WHEREAS, the Board has considered the Proposed Budget and desires to set the required public hearing thereon.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE MALABAR SPRINGS COMMUNITY DEVELOPMENT DISTRICT:

SECTION 1. PROPOSED BUDGET APPROVED. The Proposed Budget prepared by the District Manager for Fiscal Year 2023/2024, attached hereto as **Exhibit A**, is hereby approved as the basis for conducting a public hearing to adopt said Proposed Budget.

SECTION 2. SETTING A PUBLIC HEARING. A public hearing on said approved Proposed Budget is hereby declared and set for the following date, hour, and location:

DATE: _____

HOUR: _____

LOCATION: B.S.E. Consultants, Inc.
312 South Harbor City Boulevard, Suite 4
Melbourne, Florida 32901

SECTION 3. TRANSMITTAL OF PROPOSED BUDGET TO LOCAL GENERAL PURPOSE GOVERNMENTS. The District Manager is hereby directed to submit a copy of the Proposed Budget to Brevard County at least sixty (60) days prior to the hearing set above.

SECTION 4. POSTING OF PROPOSED BUDGET. In accordance with Section 189.016, *Florida Statutes*, the District's Secretary is further directed to post the approved Proposed Budget on the District's website at least two (2) days before the budget hearing date as set forth in Section 2 and shall remain on the website for at least forty-five (45) days.

SECTION 5. PUBLICATION OF NOTICE. Notice of this public hearing shall be published in the manner prescribed in Florida law.

SECTION 6. SEVERABILITY. The invalidity or unenforceability of any one or more provisions of this Resolution shall not affect the validity or enforceability of the remaining portions of this Resolution, or any part thereof.

SECTION 7. EFFECTIVE DATE. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 16th day of May, 2023.

ATTEST:

**MALABAR SPRINGS COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chair/Vice Chair, Board of Supervisors

Exhibit A: Fiscal Year 2023/2024 Proposed Budget

Exhibit A: Fiscal Year 2023/2024 Proposed Budget

**MALABAR SPRINGS
COMMUNITY DEVELOPMENT DISTRICT
PROPOSED BUDGET
FISCAL YEAR 2024**

**MALABAR SPRINGS
COMMUNITY DEVELOPMENT DISTRICT
TABLE OF CONTENTS**

<u>Description</u>	<u>Page Number(s)</u>
General Fund Budget	1
Definitions of General Fund Expenditures	2 - 3

**MALABAR SPRINGS
COMMUNITY DEVELOPMENT DISTRICT
GENERAL FUND BUDGET
FISCAL YEAR 2024**

	Fiscal Year 2023				Proposed
	Adopted Budget FY 2023	Actual through 3/31/2023	Projected through 9/30/2023	Total Actual & Projected	Budget FY 2024
REVENUES					
Landowner contribution	\$ 83,515	\$ 9,547	\$ 73,968	\$ 83,515	\$ 535,575
Total revenues	83,515	9,547	73,968	83,515	535,575
EXPENDITURES					
Professional & administrative					
Management/accounting/recording**	40,000	8,000	32,000	40,000	48,000
Legal	25,000	1,314	23,686	25,000	25,000
Engineering	2,000	-	2,000	2,000	5,000
Audit	-	-	-	-	4,075
Arbitrage rebate calculation*	-	-	-	-	750
Dissemination agent*	500	-	500	500	1,000
Trustee*	-	-	-	-	5,500
Telephone	200	66	134	200	200
Postage	500	-	500	500	500
Printing & binding	500	167	333	500	500
Legal advertising	6,500	-	6,500	6,500	2,000
Annual special district fee	175	-	175	175	175
Insurance	5,500	-	5,500	5,500	6,050
Contingencies/bank charges	750	-	750	750	500
Website hosting & maintenance	1,680	-	1,680	1,680	705
Website ADA compliance	210	-	210	210	210
Total professional & administrative	83,515	9,547	73,968	83,515	100,165
Field operations					
Field operations management					18,000
Field operations accounting	-	-	-	-	4,500
Wet pond maintenance	-	-	-	-	30,000
Conservation area maintenance	-	-	-	-	4,000
Entryway maintenance	-	-	-	-	7,500
Entryway electricity	-	-	-	-	3,500
Landscape inspection	-	-	-	-	18,000
Landscape maintenance	-	-	-	-	206,910
Plant replacement	-	-	-	-	10,000
Irrigation repairs	-	-	-	-	2,500
Irrigation water supply electricity	-	-	-	-	20,000
Irrigation pump maintenance	-	-	-	-	7,500
Walking trail maintenance	-	-	-	-	5,000
Streetlighting	-	-	-	-	63,000
Roadway maintenance	-	-	-	-	5,000
Contingencies	-	-	-	-	30,000
Total field operations	-	-	-	-	435,410
Total expenditures	83,515	9,547	73,968	83,515	535,575
Excess/(deficiency) of revenues over/(under) expenditures	-	-	-	-	-
Fund balance - beginning (unaudited)	-	-	-	-	-
Fund balance - ending	\$ -	\$ -	\$ -	\$ -	\$ -

* These items will be realized when bonds are issued

**MALABAR SPRINGS
COMMUNITY DEVELOPMENT DISTRICT
DEFINITIONS OF GENERAL FUND EXPENDITURES**

EXPENDITURES

Professional & administrative

Management/accounting/recording** \$ 48,000

Wrathell, Hunt and Associates, LLC (WHA), specializes in managing community development districts by combining the knowledge, skills and experience of a team of professionals to ensure compliance with all of the District's governmental requirements. WHA develops financing programs, administers the issuance of tax exempt bond financings, operates and maintains the assets of the community.

Legal 25,000

General counsel and legal representation, which includes issues relating to public finance, public bidding, rulemaking, open meetings, public records, real property dedications, conveyances and contracts.

Engineering 5,000

The District's Engineer will provide construction and consulting services, to assist the District in crafting sustainable solutions to address the long term interests of the community while recognizing the needs of government, the environment and maintenance of the District's facilities.

Audit 4,075

Statutorily required for the District to undertake an independent examination of its books, records and accounting procedures.

Arbitrage rebate calculation* 750

To ensure the District's compliance with all tax regulations, annual computations are necessary to calculate the arbitrage rebate liability.

Dissemination agent* 1,000

The District must annually disseminate financial information in order to comply with the requirements of Rule 15c2-12 under the Securities Exchange Act of 1934. Wrathell, Hunt & Associates serves as dissemination agent.

Telephone 200

Telephone and fax machine.

Postage 500

Mailing of agenda packages, overnight deliveries, correspondence, etc.

Printing & binding 500

Letterhead, envelopes, copies, agenda packages

Legal advertising 2,000

The District advertises for monthly meetings, special meetings, public hearings, public bids, etc.

Annual special district fee 175

Annual fee paid to the Florida Department of Economic Opportunity.

Insurance 6,050

The District will obtain public officials and general liability insurance.

Contingencies/bank charges 500

Bank charges and other miscellaneous expenses incurred during the year and automated AP routing etc.

Website hosting & maintenance 705

Website ADA compliance 210

Field operations

Field operations management 18,000

Field operations accounting 4,500

Wet pond maintenance 30,000

Conservation area maintenance 4,000

Entryway maintenance 7,500

**MALABAR SPRINGS
COMMUNITY DEVELOPMENT DISTRICT
DEFINITIONS OF GENERAL FUND EXPENDITURES**

Entryway electricity	3,500
Landscape inspection	18,000
Landscape maintenance	206,910
Plant replacement	10,000
Irrigation repairs	2,500
Irrigation water supply electricity	20,000
Irrigation pump maintenance	7,500
Walking trail maintenance	5,000
Streetlighting	63,000
Roadway maintenance	5,000
Contingencies	30,000
Total field operations	435,410
Total expenditures	<u><u>\$535,575</u></u>

MALABAR SPRINGS

COMMUNITY DEVELOPMENT DISTRICT

5

RESOLUTION 2023-32

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE MALABAR SPRINGS
COMMUNITY DEVELOPMENT DISTRICT DESIGNATING DATES, TIMES AND
LOCATIONS FOR REGULAR MEETINGS OF THE BOARD OF SUPERVISORS OF THE
DISTRICT FOR FISCAL YEAR 2023/2024 AND PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the Malabar Springs Community Development District ("**District**") is a local unit of special-purpose government created and existing pursuant to Chapter 190, *Florida Statutes*; and

WHEREAS, the District is required by Section 189.015, *Florida Statutes*, to file quarterly, semi-annually, or annually a schedule (including date, time, and location) of its regular meetings with local governing authorities; and

WHEREAS, further, in accordance with the above-referenced statute, the District shall also publish quarterly, semi-annually, or annually the District's regular meeting schedule in a newspaper of general paid circulation in the county in which the District is located.

WHEREAS, the Board desires to adopt the Fiscal Year 2023/2024 meeting schedule attached as **Exhibit A**.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE
MALABAR SPRINGS COMMUNITY DEVELOPMENT DISTRICT:**

1. **ADOPTING FISCAL YEAR 2023/2024 ANNUAL MEETING SCHEDULE.** The Fiscal Year 2023/2024 annual meeting schedule attached hereto and incorporated by reference herein as **Exhibit A** is hereby approved and shall be published in accordance with the requirements of Florida law and also provided to applicable governing authorities.

2. **EFFECTIVE DATE.** This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 16th day of May, 2023.

ATTEST:

**MALABAR SPRINGS COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chair/Vice Chair, Board of Supervisors

EXHIBIT "A"

MALABAR SPRINGS COMMUNITY DEVELOPMENT DISTRICT		
BOARD OF SUPERVISORS FISCAL YEAR 2023/2024 MEETING SCHEDULE		
LOCATION		
<i>B.S.E. Consultants, Inc.</i>		
<i>312 South Harbor City Boulevard, Suite 4, Melbourne, Florida 32901</i>		
DATE	POTENTIAL DISCUSSION/FOCUS	TIME
October 17, 2023	Regular Meeting	11:00 AM
November 21, 2023	Regular Meeting	11:00 AM
December 19, 2023	Regular Meeting	11:00 AM
January 16, 2024	Regular Meeting	11:00 AM
February 20, 2024	Regular Meeting	11:00 AM
March 19, 2024	Regular Meeting	11:00 AM
April 16, 2024	Regular Meeting	11:00 AM
May 21, 2024	Regular Meeting	11:00 AM
June 18, 2024	Regular Meeting	11:00 AM
July 16, 2024	Regular Meeting	11:00 AM
August 20, 2024	Regular Meeting	11:00 AM
September 17, 2024	Regular Meeting	11:00 AM

MALABAR SPRINGS

COMMUNITY DEVELOPMENT DISTRICT

6

RETENTION AND FEE AGREEMENT

I. PARTIES

THIS RETENTION AND FEE AGREEMENT (“**Agreement**”) is made and entered into by and between the following parties:

- A. Malabar Springs Community Development District (“**Client**”)
c/o Wrathell, Hunt & Associates, LLC
2300 Glades Road, Suite 410W
Boca Raton, Florida 33431

and

- B. Kutak Rock LLP (“**Kutak Rock**”)
107 West College Avenue
Tallahassee, Florida 32301

II. SCOPE OF SERVICES

In consideration of the mutual undertakings and agreements contained herein, the parties agree as follows:

- A. The Client agrees to employ and retain Kutak Rock as its attorney and legal representative for general advice, counseling and representation of Client and its Board of Supervisors.
- B. Kutak Rock accepts such employment and agrees to serve as attorney for and provide legal representation to the Client in connection with those matters referenced above. No other legal representation is contemplated by this Agreement. Any additional legal services to be provided under the terms of this Agreement shall be agreed to by Client and Kutak Rock in writing. Unless set forth in a separate agreement to which Client consents in writing, Kutak Rock does not represent individual members of the Client’s Board of Supervisors.

III. CLIENT FILES

The files and work product materials (“**Client File**”) of the Client generated or received by Kutak Rock will be maintained confidentially to the extent permitted by law and in accordance with the Florida Bar rules. At the conclusion of the representation, the Client File will be stored by Kutak Rock for a minimum of five (5) years. After the five (5) year storage period, the Client hereby acknowledges and consents that Kutak Rock may confidentially destroy or shred the Client File. Notwithstanding the prior sentence, if the Client provides Kutak Rock with a written request for the return of the Client File before the end of the five (5) year storage period, then Kutak Rock will return the Client File to Client at Client’s expense.

IV. FEES

- A. The Client agrees to compensate Kutak Rock for services rendered in connection with any matters covered by this Agreement on an hourly rate basis plus actual expenses incurred by Kutak Rock in accordance with the attached Expense Reimbursement Policy (Attachment A, incorporated herein by reference). Time will be billed in increments of one-tenth (1/10) of an hour. Certain work related to issuance of bonds and bond anticipation notes may be performed under a flat fee to be separately established prior to or at the time of bond or note issuance.
- B. Attorneys and staff, if applicable, who perform work for Client will be billed at their regular hourly rates, as may be adjusted from time to time. The hourly rates of those initially expected to handle the bulk of Client's work are as follows:

Jere Earlywine	\$295
Associates	\$265
Contract Attorney	\$235
Paralegals	\$190

Kutak Rock's regular hourly billing rates are reevaluated annually and are subject to change not more than once in a calendar year. Client agrees to Kutak Rock's annual rate increases to the extent hourly rates are not increased beyond \$15/hour.

- C. To the extent practicable and consistent with the requirements of sound legal representation, Kutak Rock will attempt to reduce Client's bills by assigning each task to the person best able to perform it at the lowest rate, so long as he or she has the requisite knowledge and experience.
- D. Upon consent of Client, Kutak Rock may subcontract for legal services in the event that Client requires legal services for which Kutak Rock does not have adequate capabilities.
- E. Kutak Rock will include costs and expenses (including interest charges on past due statements) on its billing statements for Client reimbursement in accordance with the attached Expense Reimbursement Policy.

V. BILLING AND PAYMENT

The Client agrees to pay Kutak Rock's monthly billings for fees and expenses incurred within thirty (30) days following receipt of an invoice, or the time permitted by Florida law, whichever is greater. Kutak Rock shall not be obligated to perform further legal services under this Agreement if any such billing statement remains unpaid longer than thirty (30) days after submittal to and receipt by Client. Non-payment of billing statements shall be a basis for Kutak Rock to immediately withdraw from the representation without regard to remaining actions necessitating attention by Kutak Rock as part of the representation.

VI. DEFAULT; VENUE

In any legal proceeding to collect outstanding balances due under this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to costs and outstanding balances due under this Agreement. Venue of any such action shall be exclusive in the state courts of the Second Judicial Circuit in and for Leon County, Florida.

VII. CONFLICTS

It is important to disclose that Kutak Rock represents a number of special districts, trustees ("Trustees"), bondholders, developers, builders, and other entities throughout Florida and the United States of America relating to community development districts, special districts, local governments and land development. Kutak Rock or its attorneys may also have represented the entity which petitioned for the formation of the Client. Kutak Rock understands that Client may enter into an agreement with a Trustee in connection with the issuance of bonds, and that Client may request that Kutak Rock simultaneously represent Client in connection with the issuance of bonds, while Kutak Rock is also representing such Trustee on unrelated matters. By accepting this Agreement Client agrees that (1) Client was provided with an explanation of the implications of the common representation(s) and the advantages and risks involved; (2) Kutak Rock will be able to provide competent and diligent representation of Client, regardless of Kutak Rock's other representations, and (3) there is not a substantial risk that Kutak Rock's representation of Client would be materially limited by Kutak Rock's responsibilities to another client, a former client or a third person or by a personal interest. Acceptance of this Agreement will constitute Client's waiver of any "conflict" with Kutak Rock's representation of various special districts, Trustees, bondholders, developers, builders, and other entities relating to community development districts, special districts, local governments and land development.

VIII. ACKNOWLEDGMENT

Client acknowledges that the Kutak Rock cannot make any promises to Client as to the outcome of any legal dispute or guarantee that Client will prevail in any legal dispute.

IX. TERMINATION

Either party may terminate this Agreement upon providing prior written notice to the other party at its regular place of business. All fees due and payable in accordance with this Agreement shall accrue and become payable pursuant to the terms of this Agreement through the date of termination.

X. EXECUTION OF AGREEMENT

This Agreement shall be deemed fully executed upon its signing by Kutak Rock and the Client. The contract formed between Kutak Rock and the Client shall be the operational contract between the parties.

XI. ENTIRE CONTRACT

This Agreement constitutes the entire agreement between the parties.

Accepted and Agreed to:


**MALABAR SPRINGS COMMUNITY
DEVELOPMENT DISTRICT**

KUTAK ROCK LLP

By: _____

Its: _____

Date: _____

By:  _____
Jere L. Earlywine

Date: March 6, 2023

ATTACHMENT A

KUTAK ROCK LLP CDD EXPENSE REIMBURSEMENT POLICY

The following is Kutak Rock's expense reimbursement policy for community development district representation. This policy applies unless a different arrangement has been negotiated based on the unique circumstances of a particular client or matter.

All expenses are billed monthly. Billings ordinarily reflect expenses for the most recent month, except where there are delays in receiving bills from third party vendors.

Photocopying and Printing. In-house photocopying and printing are charged at \$0.25 per page (black & white) and \$0.50 per page (color). Outside copying is billed as a pass-through of the outside vendor's charges.

Postage. Postage is billed at actual cost.

Overnight Delivery. Overnight delivery is billed at actual cost.

Local Messenger Service. Local messenger service is billed pursuant to the State of Florida approved reimbursement rate (i.e., pursuant to Chapter 112, Florida Statutes). Should the State of Florida increase the mileage allowance, Kutak Rock shall, without further action, be entitled to reimbursement at the increased rate.

Computerized Legal Research. Charges for computerized legal research are billed at an amount approximating actual cost.

Travel. Travel (including air fare, rental cars, taxicabs, hotel, meals, tips, etc.) is billed at actual cost. Where air travel is required, coach class is used wherever feasible. Out-of-town mileage is billed pursuant to the State of Florida approved reimbursement rate (i.e., pursuant to Chapter 112, Florida Statutes). Should the State of Florida increase the mileage allowance, Kutak Rock shall, without further action, be entitled to reimbursement at the increased rate. Reasonable travel-related expenses for meals, lodging, gratuities, taxi fares, tolls, and parking fees shall also be reimbursed.

Consultants. Unless prior arrangements are made, consultants are ordinarily employed directly by the client. Where consulting or testifying experts are employed by the firm, their charges are passed through with no mark-up. The client is responsible for notifying the firm of any particular billing arrangements or procedures which the client requires of the consulting or testifying experts.

Other Expenses. Other outside expenses, such as court reporters, agency copies, conference calls, etc. are billed at actual cost.

MALABAR SPRINGS

COMMUNITY DEVELOPMENT DISTRICT

UNAUDITED FINANCIAL STATEMENTS

**MALABAR SPRINGS
COMMUNITY DEVELOPMENT DISTRICT
FINANCIAL STATEMENTS
UNAUDITED
MARCH 31, 2023**

**MALABAR SPRINGS
COMMUNITY DEVELOPMENT DISTRICT
BALANCE SHEET
GOVERNMENTAL FUNDS
MARCH 31, 2023**

	General Fund	Debt Service Fund	Total Governmental Funds
ASSETS			
Undeposited funds	\$ 20,081	\$ -	\$ 20,081
Due from general fund	-	4,534	4,534
Total assets	<u>\$ 20,081</u>	<u>\$ 4,534</u>	<u>\$ 24,615</u>
LIABILITIES AND FUND BALANCES			
Liabilities:			
Accounts payable	\$ 9,547	\$ 4,534	\$ 14,081
Due to Landowner	-	4,534	4,534
Due to debt service fund	4,534	-	4,534
Landowner advance	6,000	-	6,000
Total liabilities	<u>20,081</u>	<u>9,068</u>	<u>29,149</u>
DEFERRED INFLOWS OF RESOURCES			
Deferred receipts	-	-	-
Total deferred inflows of resources	<u>-</u>	<u>-</u>	<u>-</u>
Fund balances:			
Restricted for:			
Debt service	-	(4,534)	(4,534)
Total fund balances	<u>-</u>	<u>(4,534)</u>	<u>(4,534)</u>
Total liabilities, deferred inflows of resources and fund balances	<u>\$ 20,081</u>	<u>\$ 4,534</u>	<u>\$ 24,615</u>

**MALABAR SPRINGS
COMMUNITY DEVELOPMENT DISTRICT
GENERAL FUND
STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCES
FOR THE PERIOD ENDED MARCH 31, 2023**

	Current Month	Year to Date	Budget	% of Budget
REVENUES				
Landowner contribution	\$ 4,977	\$ 9,547	\$ 103,540	9%
Total revenues	<u>4,977</u>	<u>9,547</u>	<u>103,540</u>	9%
EXPENDITURES				
Professional & administrative				
Management/accounting/recording	2,000	8,000	48,000	17%
Legal	860	1,314	25,000	5%
Engineering	-	-	3,500	0%
Audit*	-	-	5,000	0%
Arbitrage rebate calculation*	-	-	750	0%
Dissemination agent*	-	-	1,000	0%
Trustee*	-	-	5,500	0%
Telephone	17	66	200	33%
Postage	-	-	500	0%
Printing & binding	42	167	500	33%
Legal advertising	-	-	6,500	0%
Annual special district fee	-	-	175	0%
Insurance	-	-	5,500	0%
Contingencies/bank charges	-	-	500	0%
Website				
Hosting & maintenance	-	-	705	0%
ADA compliance	-	-	210	0%
Total professional & administrative	<u>2,919</u>	<u>9,547</u>	<u>103,540</u>	9%
Excess/(deficiency) of revenues over/(under) expenditures	2,058	-	-	
Fund balances - beginning	(2,058)	-	-	
Fund balances - ending	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	

*These items will be realized after the issuance of bonds.

**MALABAR SPRINGS
COMMUNITY DEVELOPMENT DISTRICT
STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCES
DEBT SERVICE FUND
FOR THE PERIOD ENDED MARCH 31, 2023**

	Current Month	Year To Date
REVENUES		
Total revenues	-	-
EXPENDITURES		
Cost of issuance	3,847	4,534
Total debt service	3,847	4,534
Excess/(deficiency) of revenues over/(under) expenditures	(3,847)	(4,534)
Fund balances - beginning	(687)	-
Fund balances - ending	\$ (4,534)	\$ (4,534)

MALABAR SPRINGS

COMMUNITY DEVELOPMENT DISTRICT

MINUTES

DRAFT

**MINUTES OF MEETING
MALABAR SPRINGS
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the Malabar Springs Community Development District held Multiple Public Hearings and a Regular Meeting on February 21, 2023 at 9:30 a.m., at B.S.E. Consultants, Inc., 312 South Harbor City Boulevard, Suite 4, Melbourne, Florida 32901.

Present at the meeting were:

Michael Caputo	Chair
Timothy Smith	Vice Chair
Justin Frye	Assistant Secretary

Also present were:

Cindy Cerbone	District Manager
Andrew Kantarzhi	Wrathell, Hunt and Associates, LLC
Jere Earlywine (via telephone)	District Counsel
Ana Saunders	Interim District Engineer
Neil Miserendino	Public

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Ms. Cerbone called the meeting to order at 9:46 a.m.

Supervisors Caputo, Frye and Tim Smith were present. Supervisors Seifel and Candice Smith were not present.

SECOND ORDER OF BUSINESS

Public Comments

There were no public comments.

THIRD ORDER OF BUSINESS

Administration of Oath of Office to Supervisors, Jon Seifel [SEAT 4] and Candice Smith [SEAT 5] (*the following will be provided in a separate package*)

A. Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees

B. Membership, Obligations and Responsibilities**C. Chapter 190, Florida Statutes****D. Financial Disclosure Forms****I. Form 1: Statement of Financial Interests****II. Form 1X: Amendment to Form 1, Statement of Financial Interests****III. Form 1F: Final Statement of Financial Interests****E. Form 8B - Memorandum of Voting Conflict**

This item was deferred.

FOURTH ORDER OF BUSINESS

Public Hearing Confirming the Intent of the District to Use the Uniform Method of Levy, Collection and Enforcement of Non-Ad Valorem Assessments as Authorized and Permitted by Section 197.3632, Florida Statutes; Expressing the Need for the Levy of Non-Ad Valorem Assessments and Setting Forth the Legal Description of the Real Property Within the District's Jurisdictional Boundaries that May or Shall Be Subject to the Levy of District Non-Ad Valorem Assessments; Providing for Severability; Providing for Conflict and Providing for an Effective Date

A. Affidavit/Proof of Publication**B. Consideration of Resolution 2023-27, Expressing its Intent to Utilize the Uniform Method of Levying, Collecting, and Enforcing Non-Ad Valorem Assessments Which May Be Levied by the Malabar Springs Community Development District in Accordance with Section 197.3632, Florida Statutes; Providing a Severability Clause; and Providing an Effective Date**

On MOTION by Mr. Caputo and seconded by Mr. Smith, with all in favor, the Public Hearing was opened.

Mr. Miserendino stated his interest in becoming more informed and active. Ms. Cerbone stated that the public is welcome to direct questions to the District Manager's office.

On MOTION by Mr. Caputo and seconded by Mr. Smith, with all in favor, the Public Hearing was closed.

On MOTION by Mr. Caputo and seconded by Mr. Smith, with all in favor, Resolution 2023-27, Expressing its Intent to Utilize the Uniform Method of Levying, Collecting, and Enforcing Non-Ad Valorem Assessments Which May Be Levied by the Malabar Springs Community Development District in Accordance with Section 197.3632, Florida Statutes; Providing a Severability Clause; and Providing an Effective Date, was adopted.

FIFTH ORDER OF BUSINESS

Public Hearing to Consider the Adoption of an Assessment Roll and the Imposition of Special Assessments Relating to the Financing and Securing of Certain Public Improvements

- A. Affidavit/Proof of Publication**
- B. Mailed Notice to Property Owner(s)**
- C. Engineer's Report (*for informational purposes*)**

Ms. Cerbone stated the Engineer's Report was presented at the last meeting. Feedback was received at the last meeting regarding potential outcomes relating to the irrigation system. The Report in the agenda book is the old Engineer's Report, not the updated version. She read in the following that the District Engineer added at the end of the second paragraph in Section IV, on Page 5:

"The Developer or a private irrigation company may elect to privately finance and operate the irrigation system for the community, in which case the irrigation system would not be included as part of the CIP."

Ms. Cerbone stated the purpose of inserting the sentence was to allow for the potential, but not to guarantee that this will happen. Ms. Saunders stated that was the substantial change to the Report; minor grammatical revisions might have been made.

Mr. Caputo asked if the Engineer's Report was updated to reflect the new Phase lines. Ms. Saunders stated it was not. Mr. Earlywine stated the Report is needed for the Master Lien; a Supplemental Report will be produced specific to the phases, when necessary for the issuance of bonds. Ms. Cerbone stated work on the Draft Supplemental Report is underway.

D. Master Special Assessment Methodology Report (*for informational purposes*)

Ms. Cerbone stated that the Master Special Assessment Methodology Report is unchanged since it was presented at the last meeting. She recalled discussion about the Equivalent Residential Unit (ERU) weighting for the multi-family units.

Mr. Earlywine stated, if the ERU weights will be changed, now is the time to do so. Currently, the ERU weighting for the townhomes and villas are 0.60.

Discussion ensued regarding the Appendix Tables. The consensus was the ERUs are proper, as listed.

A Board Member asked if bond proceeds can be utilized to finish the lots in the "build to rent" section. Mr. Earlywine stated the "build to rent" lots are treated like any other lot for assessment purposes unless treating them differently is desired. Those lots can typically be paid down through a contribution, if assessments are not desired; otherwise, they are treated like regular lots.

On MOTION by Mr. Smith and seconded by Mr. Caputo, with all in favor, the Public Hearing was opened.

- ***Hear testimony from the affected property owners as to the propriety and advisability of making the improvements and funding them with special assessments on the property.***

No members of the public spoke.

- ***Thereafter, the governing authority shall meet as an equalizing board to hear any and all complaints as to the special assessments on a basis of justice and right.***

The Board, sitting as the Equalizing Board, made no changes.

On MOTION by Mr. Smith and seconded by Mr. Frye, with all in favor, the Public Hearing was closed.

- E. Consideration of Resolution 2023-28, Making Certain Findings; Authorizing a Capital Improvement Plan; Adopting an Engineer's Report; Providing an Estimated Cost of Improvements; Adopting an Assessment Report; Equalizing, Approving, Confirming and Levying Debt Assessments; Addressing the Finalization of Special Assessments; Addressing the Payment of Debt Assessments and the Method of Collection; Providing for the Allocation of Debt Assessments and True-Up Payments; Addressing Government Property, and Transfers of Property to Units of Local, State and Federal Government; Authorizing an Assessment Notice; and Providing for Severability, Conflicts and an Effective Date

Ms. Cerbone presented Resolution 2023-28 and read the title.

Mr. Earlywine stated this Resolution makes certain findings with respect to the Capital Improvement Plan (CIP) and the debt assessment process. It sets forth that the CIP in the Engineer's Report is in the best interests of the CDD, benefits the property owners, assessments described in the Methodology Report are fairly and reasonably allocated and that the benefit to the property exceeds the assessment burden. The Resolution authorizes the Capital Improvement Plan (CIP), adopts the Engineer's and Assessment Methodology Reports and finalizes, equalizes and confirms the levy of the assessments.

On MOTION by Mr. Caputo and seconded by Mr. Smith, with all in favor, Resolution 2023-28, Making Certain Findings; Authorizing a Capital Improvement Plan; Adopting an Engineer's Report; Providing an Estimated Cost of Improvements; Adopting an Assessment Report; Equalizing, Approving, Confirming and Levying Debt Assessments; Addressing the Finalization of Special Assessments; Addressing the Payment of Debt Assessments and the Method of Collection; Providing for the Allocation of Debt Assessments and True-Up Payments; Addressing Government Property, and Transfers of Property to Units of Local, State and Federal Government; Authorizing an Assessment Notice; and Providing for Severability, Conflicts and an Effective Date, was adopted.

SIXTH ORDER OF BUSINESS

**Public Hearing to Hear Public Comments
and Objections to the Adoption of the
Rules of Procedure, Pursuant to Sections
120.54 and 190.035, Florida Statutes**

A. Affidavits of Publication**B. Consideration of Resolution 2023-29, Adopting Rules of Procedure; Providing a
Severability Clause; and Providing an Effective Date**

Ms. Cerbone presented Resolution 2023-29 and the Rules of Procedure, which were
presented at the last meeting.

**On MOTION by Mr. Frye and seconded by Mr. Smith, with all in favor, the
Public Hearing was opened.**

No members of the public spoke.

**On MOTION by Mr. Smith and seconded by Mr. Frye, with all in favor, the
Public Hearing was closed.**

**On MOTION by Mr. Frye and seconded by Mr. Smith, with all in favor,
Resolution 2023-29, Adopting Rules of Procedure; Providing a Severability
Clause; and Providing an Effective Date, was adopted.**

SEVENTH ORDER OF BUSINESS

**Public Hearing on Adoption of Fiscal Year
2022/2023 Budget**

A. Affidavit of Publication**B. Consideration of Resolution 2023-30, Relating to the Annual Appropriations and
Adopting the Budgets for the Fiscal Year Beginning October 1, 2022, and Ending
September 30, 2023; Authorizing Budget Amendments; and Providing an Effective
Date**

Ms. Cerbone presented the proposed Fiscal Year 2023 budget, which is unchanged since
last presented. The budget is Landowner-funded, with expenses being funded as incurred.

212 **On MOTION by Mr. Caputo and seconded by Mr. Smith, with all in favor, the**
213 **Public Hearing was opened.**

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216 Mr. Miserendino asked why the Affidavits of Publication were notarized by a Wisconsin
217 notary. Ms. Cerbone stated that they are notarized where the ad is processed; which is
218 increasingly common.

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220 **On MOTION by Mr. Frye and seconded by Mr. Caputo, with all in favor, the**
221 **Public Hearing was closed.**

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224 Ms. Cerbone presented Resolution 2023-30 and read the title.

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226 **On MOTION by Mr. Frye and seconded by Mr. Smith, with all in favor,**
227 **Resolution 2023-30, Relating to the Annual Appropriations and Adopting the**
228 **Budgets for the Fiscal Year Beginning October 1, 2022, and Ending September**
229 **30, 2023; Authorizing Budget Amendments; and Providing an Effective Date,**
230 **was adopted.**

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233 **EIGHTH ORDER OF BUSINESS**

Consideration/ Ratification of Engagement
with Jere Earlywine at Kutak Rock LLP

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236 Mr. Earlywine discussed his transition from KE Law Group to Kutak Rock LLP.

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238 **On MOTION by Mr. Caputo and seconded by Mr. Smith, with all in favor, the**
239 **engagement of Jere Earlywine/Kutak Rock LLP for District Counsel Services,**
240 **was ratified.**

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243 **NINTH ORDER OF BUSINESS**

Consideration of Resolution 2023-14,
Designating Dates, Times and Locations for
Regular Meetings of the Board of
Supervisors of the District for Fiscal Year
2022/2023 and Providing for an Effective
Date

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250 Ms. Cerbone presented Resolution 2023-14.

Discussion ensued regarding bond issuance and construction.

Mr. Earlywine stated bonds will likely be issued during the second quarter of 2023, with the bond validation hearing likely in March and bond issuance authorized in April.

Mr. Frye anticipated bond validation in April, with bond sales in May.

Ms. Cerbone stated Supervisor Candice Smith expressed concern about the early meeting start time; she will speak with Ms. Smith and adjustments might be made, if necessary.

The following will be inserted into the Fiscal Year 2023 Meeting Schedule:

DATES: Third Tuesday of each month

TIME: 10:00 AM

Ms. Cerbone stated the March meeting will likely be canceled.

On MOTION by Mr. Smith and seconded by Mr. Caputo, with all in favor, Resolution 2023-14, Designating Dates, Times and Locations for Regular Meetings of the Board of Supervisors of the District for Fiscal Year 2022/2023 and Providing for an Effective Date, was adopted.

TENTH ORDER OF BUSINESS

Approval of Minutes

A. December 15, 2022 Landowners' Meeting

B. December 15, 2022 Organizational Meeting

On MOTION by Mr. Caputo and seconded by Mr. Smith, with all in favor, the December 15, 2022 Landowners' Meeting and Organizational Meeting Minutes, as presented, were approved.

ELEVENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: *Kutak Rock LLP*

There was no report.

B. District Engineer (Interim): *B.S.E. Consultants*

There was no report.

C. District Manager: *Wrathell, Hunt and Associates, LLC*

Ms. Cerbone noted that the Fiscal Year 2024 budget will be discussed at the next meeting and asked if the CDD will own any improvements requiring field operations in Fiscal Year 2024. If so, the Board must decide whether to contract with the HOA to maintain CDD improvements. The consensus was that the CDD budget will budget for the expense, as the HOA is not established.

- **NEXT MEETING DATE: TBD**

- **QUORUM CHECK**

The next meeting will be on March 21, 2023, unless canceled.

TWELFTH ORDER OF BUSINESS**Board Members' Comments/Requests**

There were no Board Members' comments or requests.

THIRTEENTH ORDER OF BUSINESS**Public Comments**

There were no public comments.

FOURTEENTH ORDER OF BUSINESS**Adjournment**

On MOTION by Mr. Caputo and seconded by Mr. Smith, with all in favor, the meeting adjourned at 10:28 a.m.
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[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

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Secretary/Assistant Secretary

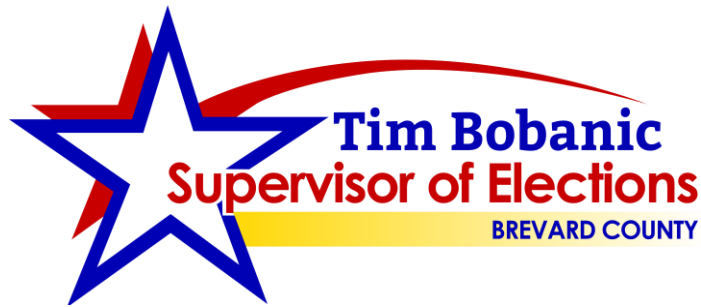
Chair/Vice Chair

MALABAR SPRINGS

COMMUNITY DEVELOPMENT DISTRICT

STAFF

REPORTS



April 17, 2023

Daphne Gillyard, Director of Admin. Services
Wrathell, Hunt and Associates, LLC
2300 Glades Road, Suite 410W
Boca Raton, FL 33431

RE: Cypress Bay West Community Development District
Deering Park Stewardship District
Emerald Lakes Community Development District
Malabar Springs Community Development District
Viera Stewardship District

Dear Ms Gillyard:

I am writing in response to your request of April 3, 2023 for the number of registered voters within the afore-mentioned communities.

Please be advised our records indicate the number of registered voters as of April 15, 2023 are as follows:

Cypress Bay West Community Development District **0**
Deering Park Stewardship District **0**
Emerald Lakes Community Development District **0**
Malabar Springs Community Development District **0**
Viera Stewardship District **6,304**

If you need any additional information, or have any questions, please feel free to contact me at 321.290.8683.

Kind regards,

Tim Bobanic

TB/dy

Mailing Address

PO Box 410819
Melbourne, FL 32941-0819
Toll Free: (800) 579-4780

Supervisor of Elections - Titusville

400 South Street
Suite 1F
Titusville, FL 32780-7610
Telephone: (321) 264-6740
Fax: (321) 264-6741

Supervisor of Elections - Viera

2725 Judge Fran Jamieson Way
Building C, Suite 105
Viera, FL 32940-6605
Telephone: (321) 633-2124
Fax: (321) 633-2130

Supervisor of Elections - Melbourne

1515 Sarno Road
Building A
Melbourne, FL 32935-5293
Telephone: (321) 255-4455
Fax: (321) 255-4401

Supervisor of Elections – Palm Bay

450 Cogan Drive SE
Palm Bay, FL 32909-6869
Telephone: (321) 952-6328
Fax: (321) 952-6332

(321) 290-VOTE (8683)
VoteBrevard.gov

MALABAR SPRINGS COMMUNITY DEVELOPMENT DISTRICT		
BOARD OF SUPERVISORS FISCAL YEAR 2022/2023 MEETING SCHEDULE		
LOCATION		
<i>B.S.E. Consultants, Inc.</i>		
<i>312 South Harbor City Boulevard, Suite 4, Melbourne, Florida 32901</i>		
DATE	POTENTIAL DISCUSSION/FOCUS	TIME
March 21, 2023 CANCELED	Regular Meeting	11:00 AM
April 18, 2023 CANCELED	Regular Meeting	11:00 AM
May 16, 2023	Regular Meeting	11:00 AM
June 20 2023	Regular Meeting	11:00 AM
July 18, 2023	Regular Meeting	11:00 AM
August 15, 2023	Regular Meeting	11:00 AM
September 19, 2023	Regular Meeting	11:00 AM