

**MALABAR TOWN COUNCIL REGULAR MEETING MINUTES  
OCTOBER 18, 2021, 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 Acquaviva led P&P.

**2. ROLL CALL:**

CHAIR:

VICE CHAIR:

COUNCIL MEMBERS:

MAYOR PATRICK T. REILLY  
STEVE RIVET  
MARISA ACQUAVIVA  
BRIAN VAIL  
DAVID SCARDINO  
DANNY WHITE  
LISA MORRELL  
KARL BOHNE  
DEBBY FRANKLIN

TOWN MANAGER: (ITM)

TOWN ATTORNEY:

TOWN CLERK/TREASURER:

**3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:** Mayor asked Clerk to add proclamations. Clerk read city govt and Mayor read Veteran Owned Business 1-5 2021 to add item 10.a. to consider canceling the RTCM 10/4/2021.

**4. CONSENT AGENDA:**

**4.a. RTCM Minutes of 9/27/2021**

**4.b. Annual Update Piggyback Cooperative Purchase Contracts**

**MOTION:** CM / CM to approve. **Vote:** All Ayes.

**5. ATTORNEY REPORT:** Attorney spoke about mediation with Painted Acres. No agreement was reached. The FLC legal rep Atty Doug Noah is back in discussion with the other party and has asked for a closed door mtg to discuss settlement options and costs. Case is now focusing on money. Have a closed door mtg to discuss those settlement possibilities. Council, Atty, ITM and Mr. Noah and a court reporter are the only ones allowed to attend. He estimates a about one hour. He proposed Monday, 10/25/2021 at 7pm. Council consensus to set this date. We will confirm with Mr. Noah's office and order a court reporter. He then reminded Council of the process - convene as an open mtg, recess to closed mtg and then reconvene public meeting and adjourn. Mayor will not be here - The FLC is still on board here.

**6. STAFF REPORTS:**

**6.a. Town Manager - ITM Morrell** informed Council of the following items:  
Wanted to recognize and thank FDOT and their vendor DBI on recent maintenance of SR514. I was recently done very well, and signage and ROW are now clear and look good.

**Florida Government Week**

This is a time for municipalities to provide and foster civic education, collaboration, volunteerism and to celebrate all those cities provide for their residents and businesses.

**Solid Waste Contract**

New Contractor, WastePro, finalizing the contract and transition plan. Parallel Actions to Date Reported: 10/11 - Received their new truck to Service Malabar:  
10/6-10/14: Comparing Customer Reports from current hauler & improved properties provided by the town to order the appropriate number of carts for solid waste & recycling for distribution. Coordinated on Town space for staging carts for distribution.  
Hiring drivers - key priority for drivers and collection staff, a number of offers and acceptances have occurred for staffing. Uploading Customer data reports from WM for residential & Commercial accounts into their billing system and testing.

**Cybersecurity Month** –

Partnership with Federal Government & Florida Division of Emergency Management  
Resources available at ready.gov. Theme is Do your part, be cybersmart

**American Rescue Plan ARP Disbursement** received 1<sup>st</sup> allocation 10/1. 790K

Time for workshop/discussions with Council and the public for allocating:

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

**Resilient Florida Grant**

Applied on 9/1 for stormwater funding, this initial call for projects has been accepted to the second-tier review with a request for additional data due by Monday, November 15, received the portal and notice today 10/18.

**Stormwater Master Plan-** The Final Report has been received.

**Fall Fest** – October 30<sup>th</sup>, Saturday from 4-9, formalized and communicated attendee map and guide published.

8.b. Clerk – nothing. 8.c. Fire Chief – none. 8.d. PW Dir (written)

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)

**Five (5) Minute Limit per Speaker.**

Mayor/Chair called on Gary Sampson: to speak on the rate increase on the trash. Even with lower rate offered by the other vendor it is a big increase. Asked why some cities add it to the tax bill and Malabar doesn't. What if we just say no to the increase. Mayor asked ITM Lisa to respond. She referenced the information that is posted on both the Town's website (depts/solid waste) and the Town's Facebook page. She showed on the overhead the page and went thru the timeline and attempt to piggyback and the subsequent formal bid and the results. She negotiated the original bridge contract cost down from WM by reducing the franchise percentage. It is still a huge increase considering up until June, WM continued to say to Malabar Council that they enjoyed the relationship with Malabar.

CM White and Scardino also explained the Town's action related to this situation. Town staff and Town Council did their due diligence.

8. **PUBLIC HEARINGS: 0**

9. **UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES) 0**

10. **ACTION ITEMS:**

**ORDINANCES for FIRST READING: 1**

**10.a. Amend Code to Provide Regulations on Temp Portable Storage (Ord 2021-22)**  
AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE V IN THE LAND DEVELOPMENT CODE TO ADD A NEW SUBSECTION "D" PROVIDING REGULATIONS FOR TEMPORARY STORAGE UNITS IN THE TOWN OF MALABAR; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

**Exhibit:**

**Agenda Report No. 10.a.**

Ord read by title only. Staff comments: ITM background – very little existing Code to govern these temporary units or pods. This is a housekeeping item, so we can enforce through code enforcement.

**MOTION:** CM Rivet / CM Scardino to Approve 1<sup>st</sup> Reading of Ord 2021-22. Discussion: nothing further.

**ROLLCALL VOTE:** CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 5 to 0.

**RESOLUTIONS: 1**

**10.b. Approve Resolution 11-2021 Amending Administrative Fees (Reso 11-2021)**  
A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO THE AMENDMENT OF ADMINISTRATIVE AND PERMIT FEES REQUIRED TO BE ESTABLISHED BY VARIOUS ORDINANCES OF THE TOWN OF MALABAR; PROVIDING FOR AN UPDATED APPLICATION FEE REQUIREMENTS FOR TREE REMOVAL ACTIVITIES FOR BOTH RESIDENTIAL AND COMMERCIAL PURPOSES; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

**Exhibit:**

**Agenda Report No. 10.b.**

Reso read by title only. Franklin explained the revised resolution at their seats includes the fee when a private provider is used on a Building project in Malabar. It was originally approved in 2020 by Council with Reso 06-2020 but was not included in the subsequent updates. It came to staff attention when the Twin Lakes SD submitted for construction permits using a private provider for plan review and inspections. As ITM Lisa has previously stated this Fee Reso will continue to be updated until it contains all the fees and charges the Town requires for all administrative procedures. Then there is only one document to keep current. It should be looked at annually.

**MOTION:** CM Acquaviva / CM Vail to Approve Reso 11-2021. Discussion: no additional.

**ROLLCALL VOTE:** CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 5 to 0.

**MISCELLANEOUS: 2**

**10.c. Request Authorization to Proceed with Engineer Estimate of Probable Cost from Engineering Design and Construction, Inc. (EDC) for the bundling of paving south Duncil, south Howell and north Howell Lanes in Malabar**

**Exhibit:**

**Agenda Report No. 10.c.**

ITM explained that in June Council approved the contract with EDC for provide the engineering estimate for the total cost to pave Rivet Lane. That estimate is the first step. Council approved \$12,500.00 for Rivet Lane. Bundling may save some on these preliminary engineering costs. This is the first step after contact by residents about the interest in paving. This will provide a realistic estimate to put in the next communication with residents. ITM said we can amend the existing task order with EDC to add these roadways. This is the request to Council to add these to the task order for your consideration.

**MOTION:** CM White / CM Acquaviva to authorize ITM to Proceed with additions to the task order with EDC for an engineering estimate of Probable Cost for referenced streets  
**Discussion:** Vote: All Ayes.

**10.d. Malabar Market Discussion****Exhibit:****Agenda Report No. 10.d**

Mayor said this was a continuation of discussion at last meeting. Council needs to provide direction to Staff to either take on the event or not. CM Acquaviva totally supports the Malabar Community Market, but she has thought of it as being in its infancy stage at this time. It is about how the Town deals with the collection of money as well as payment of related expenses. It must be kept separate.

Mayor said they have received donated money for this event and expenses. Let the money go to the committee as a donation to them. CM Acquaviva said with limited staff, it would be a lot on the Town. What do other CM think? CM Rivet doesn't like more work for staff or create more work. Council agrees to donating the use of the park at no fee. Atty Bohne said it doesn't seem appropriate for staff to collect the money and then expend the money if it is not for a public purpose. All other non-profits that want support from Council would have a claim for similar support. CM Acquaviva said the bigger it gets the more work it will take. Keep it simple like it is. We can help advertising for volunteers. Annalie said maybe the Town could help with the cost of insurance. ITM Lisa explained that the Council must either take on the event and put it in budget and add fees to Fee Reso and provide for accounting of the event but they would also have to either provide same support to all other requests or not. It is not serving a municipal public purpose.

Mayor asked if there was Council consensus that the donations, and expenses be handled by the private, not for profit volunteers. Council will still support the event and waive fees for use of park on 4<sup>th</sup> Sat of each month. But can't waive the insurance and other requirements.

**11. DISCUSSION/POSSIBLE ACTION: 0****12. PUBLIC COMMENTS: General Items (Speaker Card Required) None:****13. REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Acquaviva: how great the playground is and how proud she is of it.

CM Vail: looking forward to FallFest and it looks to be exciting.

CM Rivet: nothing

CM White: nothing.

CM Scardino: glad the playground has been replaced.

Mayor Reilly: spoke about the SB 280 that is proposed that will require additional costs on the Town before passing any ordinances by requiring equity studies and comparisons on possible impacts to local businesses and well as similar businesses in adjacent cities. Very expensive requirement by the State. CM White stated the effects of SB280 if passed will impact taxpayers more than the solid waste issue.

**16. ANNOUNCEMENTS: Openings on T&G Committee.****17. ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 8:44 P.M.

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

ATTEST:

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Debby K. Franklin, C.M.C.  
Town Clerk/Treasurer

Date Approved: 11/01/2021