



REGULAR TOWN COUNCIL MEETING

Monday, November 1, 2021 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 10/18/2021**

Exhibit: Agenda Report Number 4a

Attachments:

- **Agenda Report Number 4a** (Agenda_Report_Number_4a.pdf)

- b. **Antique Fire Truck Stored at Malabar Fire Station**

Exhibit: Agenda Report Number 4b

Attachments:

- **Agenda Report Number 4b** (Agenda_Report_Number_4b.pdf)

5. ATTORNEY REPORT
6. BCSO REPORT
7. BOARD / COMMITTEE REPORTS
 - a. T&G Committee
 - b. Park & Recreation Board
 - c. Planning & Zoning Board
8. STAFF REPORTS

- a. **Manager**
 - b. **Special Projects Manager**
 - c. **Fire Chief**
 - d. **Public Works Director**

Written Report of 10/1/2021 - 10/22/2021

Exhibit: Agenda Report Number 8d

Attachments:

- **Agenda Report Number 8d** (Agenda_Report_Number_8d.pdf)

- e. **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. Amend Code to Provide Regulations on Temporary Portable Storage (Ordinance 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 Number 10a

Attachments:

- **Agenda Report Number 10a** (Agenda_Report_Number_10a.pdf)

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

(RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)

a. Recommendation from P&Z Board for Member Appointment (Resolution 31-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR THE APPOINTMENT OF _____ TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR MEMBER TO REPLACE OUTGOING MARY HOFMEISTER WHO IS COUNCIL MEMBER ELECT AS OF CLOSE OF CANDIDATE QUALIFYING ON 08/10/2021; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 11a

Attachments:

- **Agenda Report Number 11a** (Agenda_report_Number_11a.pdf)

12. ACTION ITEMS

ORDINANCES for FIRST READING: 1

RESOLUTIONS: 9

MISCELLANEOUS: 1

a. Amend Chapter 6 Private Providers (Ordinance 2021-12)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN OF MALABAR; AMENDING ARTICLE XVI SUBDIVISIONS; MAINTENANCE OF ROADS, STREETS AND RIGHT OF WAYS; AMENDING SECTION 1-18.7, PERTAINING TO PROCEDURES FOR ACCEPTING ROAD DEDICATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12a

Attachments:

- **Agenda Report Number 12a** (Agenda_Report_Number_12anov.pdf)

b. Oppose the Proposed Senate Bill 280 in the 2022 Legislative Session (Resolution 22-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; OPPOSING SENATE BILL 280 WHICH WOULD EVISERATE LOCAL CONTROL FOR FLORIDA CITIES WITH RESPECT TO ADOPTING AND ENFORCING ORDINANCES; CREATE A SUBSTANTIAL UNFUNDED MANDATE; AND REQUIRE COURTS TO CONSIDER SPECIFIC FACTORS IN DETERMINING IF AN ORDINANCE IS ARBITRARY OR UNREASONABLE; PROVIDING FOR DISTRIBUTION OF THIS RESOLUTION TO THE BREVARD LEGISLATIVE DELEGATION, THE FLORIDA LEAGUE OF CITIES, THE PRESIDENT OF THE SENATE, SPEAKER OF THE HOUSE AND THE GOVERNOR; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12b

Attachments:

- **Agenda Report Number 12b** (Agenda_Report_Number_12b.pdf)

c. Appoint Donna Hanna to Board of Adjustments (Resolution 23-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR THE APPOINTMENT OF DONNA HANNA TO THE MALABAR BOARD OF ADJUSTMENTS AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12c

Attachments:

- **Agenda Report Number 12c** (Agenda_Report_Number_12c.pdf)

d. Appoint Vickie Thomas to Park & Recreation Board (Resolution 24-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR THE APPOINTMENT OF VICKIE THOMAS TO THE MALABAR PARK & RECREATION BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12d

Attachments:

- **Agenda Report Number 12d** (Agenda_Report_Number_12d.pdf)

e. Appoint Jennifer Bienvenu to Park & Recreation Board (Resoultion 25-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR THE APPOINTMENT OF JENNIFER BIENVENU TO THE MALABAR PARK & RECREATION BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12e

Attachments:

- **Agenda Report Number 12e** (Agenda_Report_Number_12e.pdf)

f. Appoint Doug Dial to Planning & Zoning Board (Resolution 26-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR THE APPOINTMENT OF DOUG DIAL TO THE MALABAR PLANNING & ZONING BOARD AS A REGULAR MEMBER; PROVIDING FOR THE REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH;

PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12f

Attachments:

- **Agenda Report Number 12f** (Agenda_Report_Number_12f.pdf)

g. Appoint Drew Thompson to the Trails & Greenways Committee (Resolution 27-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR THE APPOINTMENT OF DREW THOMPSON TO THE MALABAR TRAILS & GREENWAYS COMMITTEE AS A REGULAR MEMBER; PROVIDING FOR THE REPEAL OF RESOLUTRIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12g

Attachments:

- **Agenda Report Number 12g** (Agenda_Report_Number_12g.pdf)

h. Appoint Bob Wilbur to the Trails & Greenways Committee (Resoultion 28-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR THE APPOINTMENT OF BOB WILBUR TO THE MALABAR TRAILS & GREENWAYS COMMITTEE AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12h

Attachments:

- **Agenda Report Number 12h** (Agenda_Report_Number_12h.pdf)

i. Appoint Annelie Harvey to the Trails & Greenways Committee (Resolution 29-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR THE APPOINTMENT OF ANNELIE HARVEY TO THE MALABAR TRAILS & GREENWAYS COMMITTEE AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12i

Attachments:

- **Agenda Report Number 12i** (Agenda_Report_Number_12i.pdf)

j. Appoint Barbra Cameron to the Malabar Planning & Zoning Board (Resolution 30-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR THE APPOINTMENT OF BARBRA CAMERON TO THE MALABAR PLANNING & ZONING BOARD AS AN ALTERNATE MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12j

Attachments:

- **Agenda report Number 12j** (Agenda_Report_Number_12j.pdf)

k. Amendment 1 to State Revolving Load Agreement SW051400

Exhibit; Agenda Report Number 12k

Attachments:

- **Agenda Report Number 12k** (Agenda_Report_Number_12k.pdf)

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

13. DISCUSSION/POSSIBLE ACTION

14. PUBLIC COMMENTS

General Items (Speaker Card Required)

15. REPORTS - MAYOR AND COUNCIL MEMBERS

16. ANNOUNCEMENTS

(2) Vacancies on the Trails and Greenways Committee

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.

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO: 4.a.
Meeting Date: November 01, 2021

Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer

SUBJECT: Meeting Minutes on Consent Agenda

BACKGROUND/HISTORY:

Summary of Council actions at the Town Council Regular Meeting Minutes

ATTACHMENTS:

- Draft Minutes of RTCM Minutes of 10/18/2021

ACTION OPTIONS:

Council Action on Consent Agenda

**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 1st 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 30th, 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 1st 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 4th 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:

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

Date Approved: 11/01/2021

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO: 4.b.

Meeting Date: November 1, 2021

Prepared By: Lisa Morrell, Special Projects Manager/Interim Town Manager

SUBJECT: Antique Fire Truck Sorted At Malabar Fire Station

BACKGROUND/HISTORY:

The members of IAFF have purchased an antique fire truck for parade purposes and are seeking to temporarily store at the Malabar Fire Station as they continue to find a permanent location for storage.

The attached memorandum of understanding, reviewed by the Town Attorney, provides simple language of responsibility of insurance and liability requirements of the IAFF while stored on town property. It also includes that cleaning maintenance can be performed yet stipulates no mechanical or automotive work may be performed on town property.

The agreement shall be in effect until November 1, 2022, where as a permanent location can be secured.

FINANCIAL IMPACT:

None

ATTACHMENTS:

Malabar_Antique Agreement.PDF

ACTION OPTIONS:

Motion to grant use of space with the Malabar Fire Department to store the IAFF owned antique fire truck pursuant to the terms of the memorandum.

PALM BAY PROFESSIONAL FIREFIGHTERS



Local 2446
1465 Georgia Street, NE
Suite B
Palm Bay, Florida 32907
vpsupervisorsunit@iaff2446.com
321-759-6850



To: Lisa Morell – Interim Town Manager Town of Malabar, Florida
From: David Ginsburg, Vice President Local 2446 – IAFF
Date: October 15, 2021
Ref: Agreement to Store Antique Fire Engine in Malabar Fire Station

In exchange for permitting Local 2446 IAFF Inc, dba Palm Bay Professional Firefighters to store an antique Fire Engine inside the Malabar Fire Station, the local agrees to the following:

1. The Town of Malabar is not responsible for and will not be held liable for any damage to the engine while being stored in the Malabar Fire Station. This limitation of liability specifically includes any negligence on the part of the Town of Malabar, its employees, contractors, council members and the negligence of any 3rd party.
2. The local will provide proof of insurance for the fire engine
3. The local will provide signs in/on/and or/ around the unit asking that it not be touched without authorization from the local, however from time-to-time members of the local may be requested to perform simple maintenance and cleaning of the fire engine. Maintenance does not include any mechanical maintenance.
4. The local will provide the Town with proof or proper vehicle registration with the State of Florida
5. The term of the agreement is six months from date of approval and may be extended with permission from the Town
6. The local is responsible for the maintenance and upkeep of the fire engine and will not use supplies from the Malabar Fire Department or the Town; The local will provide necessary cleaning and maintenance products.

Signed:

For the Local

Signed:

For the Town

Date:

October 2021 Public Works Report

Equipment Update

- Oil Sample Hose repaired on Gradall
- John Deere Tractor Slope Mower Head Refitted
- 2 New tires on the PW Director Dakota
- Replaced Started in Old Gradall
- Replaced Battery on Toro Mower #2

See attached pages for all Mowing, Road Grading and Slope Mowing accomplishments for the month.

Streets & Roads Jobs

- Repaired Washouts at:
 - Atz and Weber Road
 - Hall Road (North side, Central)
- Repaired Glatter Road
- Filled Potholes in PW Yard
- Repaired Stop Sign on Corey Road

Park Maintenance

- Install New Swing at Playground
- Spray the following properties for ants:
 - Malabar Community Park
 - Malabar Fire Department
 - Soccer Field
 - Baseball Field
- Clean up Sandhill Trailhead Parking lot
- Repair Fence at Malabar Community Park

Mowing & Weed Eating Checklist October 2021

Sanitation	10-4			10-25
Soccer Field	10-1	10-7	10-15	10-18&10-22
Baseball Field	10-1	10-7	10-15	10-22
Drag Infield	10/1	10-7	10-15	10-22
Town Property				
Malabar Park	10-1	10-7		10-21
Fire Department	10-1			
Disc Park	10/6			10-19
Trail Park				10-19
Eschenberg Park				10-18
Huggins Park				
Public Works Yard		10/14		10-19
Marie St. Yard				
Town Hall/ S. RR Ave		10/14		
Town ROWs				
Rocky Point Rd North & South		10/13		
Briar Creek Blvd & Bridge				10-19
Corey Rd North End		10-14		
Marie St South East Side			10-15	
Marie St North West To Johnsnton				10-19
Glatter Rd @ Malabar Rd			10-15	
Glatter Rd East to RR				
Data Managment		10-13		
Marie St Trail North and South Side				
Quaterman & Atz Rd			10-15	
Booth & Lette Intersection North				
Richard Rd Tillman Canal				10-18
Bus Stops				
Atz & Corey				
Weber & Old Mission				
Lacourt & Hall				
LaCourt & Atz				
Hall & Corey				
Main Intersections (All Paved Roads w/ Stop sign, 50 Ft Each Direction)				
Corey & Hall				
Corey & Atz				
Weber & Hall				
Weber & Atz				

Slope Mowing / Flat Mowing October 2021

	Road Name	Date	Ditch Side (N, S, E, W)	Grass	Brush	Ditcher
1	Quarterman Lane	10/4	East/West	X		
2	Hard Lane	10/4	East/West	X		
3	Kelly Lane	10/4	East/West	X		
4	Old Mission Road	10/5	North	X		
5	Hardway Lane	10/5	East/West	X		
6	Beran Lane	10/5	East/West	X		
7	Waring Lane (South)	10/8	East/West	X		
8	Atz Road (Central)	10/8	South	X		
9	Smith Lane	10/8	East/West	X		
10	McCain Lane	10/8	East/West	X		
11	Wilson Lane	10/8	East/West	X		
12	Hall Road (West)	10/8	East/West	X		
13	Old Mission Road	10/6	South	X		
14	Reese Lane	10/6	North	X		
15	Isasa Lane	10/6	East	X		
16	Raulerson Lane	10/6	East/West	X		
17	Reble Lane	10/7	East/West	X		
18	Waring Lane (North)	10/7	East/West	X		
19	Duncil Lane (South)	10/7	East/West	X		

20	Quarterman Lane	10/7	East/West	X		
21	Atz Road (Central)	10/11	North/South	X		
22	Atz Road (Central)	10/13	North/South	X		
23	Hunter Lane	10/13	East/West	X		
24	Russle Lane	10/14	East/West	X		
25	Huggins Park	10/15	East/West	X		
26	Corey Road (North)	10/15	East/West	X		
27	Treadwell Lane	10/18	East/West	X		
28	Kramer Lane	10/18	West	X		
29	Benjamin Lane	10/18	North	X		
30	Deleware Ave	10/20	North/South	X		
31	Moss Rose Ave	10/20	South	X		
32	Billie Lane	10/20	West	X		
33	Atz Road (West)	10/20	North/South	X		
34	Eva Lane	10/22	East	X		
TOTALS		13 Days	34 Roads Maintained			

Road Grading			Month: October 2021		
Road Name	Date	Machine Used	Loads	Materials	Comments
Glatter Road	10/12	All Machines	10	Base Rock	
Linrose Lane	10/19	Road Grader	2	Base Rock	
Flashy Lane North	10/19	Box Blade			
Flashy Lane South	10/19	Box Blade			
Wilson Lane	10/19	Box Blade			
Raulerson Lane	10/19	Box Blade			
TOTALS	2 Days	3 Machines	12 Loads	1 Material	

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO: 10.a.
Meeting Date: November 01, 2021

Prepared By: Lisa Morrell, Interim Town Manager

SUBJECT: 2nd Reading of Ord 2021-22 Amending Art V Related to Temp Storage Units

BACKGROUND/HISTORY:

With the recommendation of approval by the P&Z Board on 9/8/2021, Staff has prepared an ordinance to amend the LDC Article V, General Provisions, Sec. 1-5.6. Accessory Structures to provide regulations for temporary portable storage units in Malabar.

P&Z Recommendation: Unanimous Board Approval on September 8, 2021.

Legally advertised for PH.

ATTACHMENTS:

Ord 2021-22

FISCAL IMPACT: None

ACTION OPTIONS:

Action on Adoption of Ord 2021-22

ORDINANCE 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.

WHEREAS, the Town Council desires to update the Code of Ordinances providing regulations for allowing temporary storage units in the Town of Malabar.

NOW THEREFORE BE IT ORDAINED by the Town Council for the Town of Malabar, Brevard County, Florida:

SECTION 1. Article V, General Provisions, in the Land Development Code Section 1-5.6. Accessory Buildings is amended to add subsection "D" to read as follows:

"Sec. 1-5.6.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 Fla. Stat. § 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.

SECTION 2. Severability. If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalid or unconstitutional portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the other portions of this ordinance, provided the remaining portions effectuate the purpose and intent of this ordinance.

SECTION 4. Conflicting Provisions. In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate federal, state, or town law, rule, code, or regulations, the more restrictive shall apply.

SECTION 5. Inclusion in Code. It is intention of the Town Council that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the Town of Malabar.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon passage and 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 Steve Rivet _____
- Council Member David Scardino _____

Council Member Danny White _____

This ordinance was then declared duly passed and adopted this 1st day of November 2021.

TOWN OF MALABAR

By: _____
Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

(seal)

Approved for Legal Sufficiency:

Karl W. Bohne, Jr.
Karl Bohne, Jr, Town Attorney

P&Z Board: 9/08/2021

First Reading: 10/18/2021 Vote 5 to 0.

Second Reading: 11/01/2021

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO: 11.a.
Meeting Date: November 01, 2021

Prepared By: Debby Franklin, Town Clerk/Treasurer

SUBJECT: P&Z Board Recommendation for Member Appointment (Reso 31-2021)

BACKGROUND/HISTORY:

With the recommendation from the P&Z Board meeting of 10/27/2021, Staff has prepared a resolution moving Alternate _____ to the position of Regular Member. She will replace outgoing Mary Hofmeister who is the CM Elect and will be sworn in on Nov 4, 2021/

P&Z Recommendation: Unanimous Board Approval on Oct 27, 2021.

Legally advertised for PH.

ATTACHMENTS:

Reso 31-2021

FISCAL IMPACT: None

ACTION OPTIONS:

Action on Adoption of Reso 31-2021

RESOLUTION 31-2021

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF _____ TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR MEMBER AS OF 11/01/2021 TO REPLACE OUTGOING MARY HOFMIESTER WHO IS COUNCIL MEMBER ELECT AS OF THE CLOSE OF CANDIDATE QUALIFYING ON 8/10/2021; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified of a opening on the Planning & Zoning Board; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of _____ as a regular member of the Planning & Zoning Board for a four-year term in order to keep the staggered terms of members.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the member, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____. This motion was seconded by Council Member _____ and, upon being put to vote, the vote was as follows:

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member David Scardino	_____
Council Member Danny White	_____

This Resolution was then declared to be duly passed and adopted this 1st day of November, 2021.

TOWN OF MALABAR

By:

Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

(seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO: 12.a.

Meeting Date: November 1, 2021

Prepared By: Debby K. Franklin, C.M.C. Town Clerk/Treasurer

SUBJECT: 1st Reading Ord 2021-23 to Amend Chapter 6 of Code to Provide for Private Provider is Hired by Permittee

BACKGROUND/HISTORY:

Section 553.791 of the Florida Statutes requires local jurisdictions to authorize building permit applicants to utilize private providers for plan review and inspection services in lieu of Town staff professionals. Private providers must be fully licensed to perform the required reviews and inspections and are paid directly by the permittee. They must also provide evidence of professional liability coverage with a minimum policy limit of \$1 million per occurrence.

The private provider must provide the Building Department Manager documents and reports stating plans as reviewed and work as performed complies with the Florida Building Code. The Building Official would then review and authorize the use of private providers.

The statute also states that such permittees pay a reduced fee related to plan review and inspections based on the cost savings to the Building Department:

Subsection (2)(b) It is the intent of the Legislature that owners and contractors pay reduced fees related to building permitting requirements when hiring a private provider for plans review and building inspections. A local jurisdiction must calculate the cost savings to the local enforcement agency, based on a fee owner or contractor hiring a private provider to perform plans reviews and building inspections in lieu of the local building official, and reduce the permit fees accordingly. The local jurisdiction may not charge fees for building inspections if the fee owner or contractor hires a private provider; however, the local jurisdiction may charge a reasonable administrative fee.

We have done that review and believe Malabar savings would be like the City of Melbourne, the Town of Grant-Valkaria and the Brevard County Building Departments. They all offer a fee reduction of 25% on the Plan review cost and Inspection fees done by private providers. The City of Palm Bay reduces the plan review and inspection fees by 15%.

ATTACHMENTS:

Ord 2021-23

ACTION OPTIONS:

Action on First reading of Ord 2021-23

ORDINANCE 2021-23

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BUILDING CODES; AMENDING CHAPTER 6, CREATING A NEW SECTION 6-10 OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR PRIVATE PLAN AND BUILDING CODE INSPECTIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statute Section 553.791 provides, in part that: *Notwithstanding any other law or local government ordinance or local policy, the fee owner of a building or structure, or the fee owner's contractor upon written authorization from the fee owner, may choose to use a private provider to provide building code inspection services with regard to such building or structure and may make payment directly to the private provider for the provision of such services... The fee owner may elect to use a private provider to provide plans review or required building inspections, or both; and,*

WHEREAS, Florida Statute Section 553.791 provides, in part, that: *If an owner or contractor retains a private provider for purposes of plans review or building inspection services, the local jurisdiction must reduce the permit fee by the amount of cost savings realized by the local enforcement agency for not having to perform such services; and,*

WHEREAS, The Town staff has reviewed the total cost savings to the Town for not having to do such inspections and has compared the and reviewed similar cost savings to other local jurisdictions, including the city of Melbourne, Town of Grant-Valkaria, City of Palm Bay and Brevard County and has recommended a reduction of 25% on plan review costs and Inspection fees done by private providers; and,

WHEREAS, The Town Council adopts the findings of Town staff.

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

SECTION 1. Chapter 6 of the Malabar Code of Ordinances is hereby amended to add a new section 6-10 to read as follows:

“Section 6-10. Private plan and building code inspections

A property owner or the owner's contractor may elect to use a private provider to provide plans review or required building inspections, or both. However, if the owner or the owner's contractor uses a private provider to provide plans review, the Town's building official, in his or her discretion, may require the owner or the owner's contractor to use a private provider to also provide required building inspections.

If the owner or contractor retains a private provider for purposes of plans review or building inspection services, the Town must reduce the permit fee by 25%. The Town may not charge fees for plan or building inspections if the owner or contractor hires a private provider to perform such services; however, the Town may charge a reasonable administrative fee to be provided by resolution of the Town Council from time to time.

The provisions of Florida Statute section 553.791 are hereby adopted herein by reference and it shall be the responsibility of the property owner or property owner's contractor to comply with the provisions of Florida Statute section 553.791 as amended from time to time.”

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 Steve Rivet _____
- Council Member David Scardino _____
- Council Member Danny White _____

PASSED AND ADOPTED by the Town Council, Town of Malabar, Brevard County, Florida this 15th day of November, 2021.

BY:
TOWN OF MALABAR

Mayor Patrick T. Reilly, Council Chair

(seal)

First Reading: 11/01/2021 Vote: ____ to ____.
Second Reading: 11/15/2021

ATTEST:

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

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO: 12.b.
Meeting Date: November 01, 2021

Prepared By: Debby Franklin, C.M.C. Town Clerk/Treasurer

SUBJECT: Oppose Senate Bill (SB) 280 (Reso 22-2021)

BACKGROUND/HISTORY:

This bill would significantly restrict all Florida cities from adopting ordinances without first expending additional funds for equity studies required by this bill.

FINANCIAL IMPACT:

Negative based on number of ordinances considered by Council in a given year.

ATTACHMENTS:

Malabar Reso 22-2021
Info sheet on Home Rule Authority

ACTION OPTIONS:

Staff requests Action on Reso 22-2021

RESOLUTION 22-2021

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA OPPOSING SENATE BILL 280 WHICH WOULD EVISERATE LOCAL CONTROL FOR FLORIDA CITIES WITH RESPECT TO ADOPTING AND ENFORCING ORDINANCES; CREATE A SUBSTANTIAL UNFUNDED MANDATE; AND REQUIRE COURTS TO CONSIDER SPECIFIC FACTORS IN DETERMINING IF AN ORDINANCE IS ARBITRARY OR UNREASONABLE; PROVIDING FOR DISTRIBUTION OF THIS RESOLUTION TO THE BREVARD LEGISLATIVE DELEGATION, THE FLORIDA LEAGUE OF CITIES, THE PRESIDENT OF THE SENATE, SPEAKER OF THE HOUSE AND THE GOVERNOR; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Malabar, like 411 other municipalities, enjoy Home Rule authority under the 1968 Constitutional revision adopted by the voters of Florida: and

WHEREAS, this Home Rule authority was formally adopted by the Florida Legislature in 1973 as the Home Rule Powers Act of 1973; and

WHEREAS, the Florida Constitution states in Article VIII, Section 2(b) for municipalities:

"Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise power for municipal purposes except as otherwise provided by law."

WHEREAS, the proposed Senate Bill (SB) 280 would prohibit local governments from adopting local ordinances without first conducting unfunded equity studies to determine the economic impact to local businesses as well as businesses in the surrounding areas, determine the number of businesses likely to be affected by the ordinance, and determine the extent the ordinance would impede local businesses from competition; and

WHEREAS, SB 280 will also require a business impact statement that must include the following:

- The public purpose served by the ordinance;
- A statement of reasonable connection between the public purpose and the expected effects of the ordinance;
- Estimated direct and indirect effects of the ordinance on businesses inside and outside the municipality;
- An estimate of the number of businesses likely to be affected by the ordinance;
- An analysis of the extent to which the ordinance will impede the ability of businesses within the municipality to compete with other businesses in Florida or other domestic markets;
- An analysis of the extent to which the ordinance is likely to deter or encourage the formation of new businesses within the municipality;
- The scientific basis for the ordinance, if applicable; and
- Alternatives considered by the municipality that would reduce the impact of the ordinance on businesses.

WHEREAS, SB280 will create additional personnel or contractor budget costs on municipalities without input from the municipalities.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

SECTION 1. The Town of Malabar Council states that the "Whereas" statements above are true and correct and oppose the proposed SB 280 as it will preempt to the State the Home Rule Authority granted to local municipalities in the Constitution and the Home Rule Powers Act of 1973.

SECTION 2. The Town of Malabar Council encourages of local municipalities to communicate to the State that local regulations are best determined by local governments.

SECTION 3. The Town Council of Malabar directs the Town Clerk to forward copies of this resolution to each member of the Brevard County Legislative Delegation, the Senate President, the Speaker of the House; the Florida League of Cities; the Space Coast League of Cities, and to all Brevard County municipalities.

SECTION 4. This Resolution shall become effective immediately upon its adoption.

This Resolution was moved for adoption by Council Member _____ . This 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 Steve Rivet _____
- Council Member David Scardino _____
- Council Member Danny White _____

This resolution was then declared to be duly padded and adopted this 1st day of November 2021.

TOWN OF MALABAR

Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

APPROVED FOR LEGAL SUFFICIENCY:

Karl Bohne, Jr., Town Attorney

Understanding Florida's Home Rule Power

History

The U.S. Constitution makes no mention of the powers related to local governments – the 10th Amendment reserves those powers to the state. During the 18th century, cities, counties and parishes across the nation derived their powers from their state constitutions, and these local governments relied upon their respective state legislatures for all powers. This was upheld in an 1860's court case, called "Dillon's Rule," which held for most states through the end of the 1800s.

An example of the difficulty in a non-Home Rule era would be the issue of traffic control signs: if a city wished to erect signs related to traffic control (horses, wagons, and the newly created automobiles), the city first had to obtain state permission through a special act, or general law of local application. Cities and counties might seek this permission jointly, or by population category ("all cities over 10,000 in population shall..." but still had to petition their legislators for these bills during each legislative session. It was not uncommon in Florida for more than 2,000 special acts to be filed in a session during this era.



In the early 1900s, however, states began to adopt "Home Rule" provisions in which cities and counties were allowed to enact ordinances at the local level without state "blessing" – or without the enactment of special acts, general laws of local application, or similar measures.

In Florida, Home Rule language was proposed in the 1968 Constitutional revision, and was adopted by the people. After several legal challenges, the Legislature adopted the Home Rule Powers Act in 1973, which ended challenges related to city and county powers. The Florida Constitution states in Article VIII, Section 2(b) for municipalities:

"Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise power for municipal purposes except as otherwise provided by law."

These powers do not extend to fiscal Home Rule: the state reserves all taxing authority unto itself.

Application

The most precious powers a city in Florida has are its Home Rule powers. The ability to establish its form of government through its charter, and to then enact ordinances, codes, plans and resolutions without prior state approval is a tremendous authority. To further be able to enforce them "at home" and to make necessary changes as a city grows is a great reflection of the trust that citizens have in their respective city leaders.

Of course, city laws cannot conflict with state or federal laws. In the metropolitan Miami-Dade County government and in certain chartered county governments, some municipal ordinances and processes are subject to county review. However, for most of Florida's 412 municipalities, Home Rule powers ensure that the cities are effectively and efficiently providing for the wishes of their citizens.

TOWN OF MALABAR

TOWN COUNCIL

AGENDA ITEM NO: 12.c. thru i.

Meeting Date: November 01, 2021

Prepared By: Debby K. Franklin, C.M.C. Town Clerk/Treasurer

SUBJECT: Appointments to Committee with expiring terms – Reso 23 thru 29-2021

BACKGROUND/HISTORY:

Board and Committee terms are for three years. As the term expires at the end of October, this is normally done at the 2nd meeting of October. It was the intent of Council to have the seated Council make the appointments, not the incoming Council. We have sent out requests to continue to those Board Members with expiring terms.

Council also changed the method to appoint stating in the Code that existing members that wish to continue need to complete and submit a new application for consideration. In addition, the Council adopted the Board Code of Conduct.

We received back affirmative confirmations that the current members wish to continue serving.

ATTACHMENTS:

- 12.c. Reso 23-2021 Donna Hanna to BOA
- 12.d. Reso 24-2021 Vickie Thomas to Park Bd
- 12.e. Reso 25-2021 Jennifer Bienvenu to Park Bd
- 12.f. Reso 26-2021 Doug Dial to P&Z
- 12.g. Reso 27-2021 Drew Thompson to T&G
- 12.h. Reso 28-2021 Bob Wilbur to T&G
- 12.i. Reso 29-2021 Annelie Harvey to T&G

ACTION OPTIONS:

Staff requests Action on these Resolutions.

RESOLUTION 23-2021

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF DONNA HANNA TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified of completed terms on the Board of Adjustment; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Donna Hanna as a regular member of the Board of Adjustment for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the member, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____. This motion was seconded by Council Member _____ and, upon being put to vote, the vote was as follows:

Council Member Marisa Acquaviva _____
Council Member Brian Vail _____
Council Member Steve Rivet _____
Council Member David Scardino _____
Council Member Danny White _____

This Resolution was then declared to be duly passed and adopted this 1st day of November, 2021.

TOWN OF MALABAR

By:

_____.
Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

(seal)

Approved as to form and content:

_____.
Karl W. Bohne, Jr., Town Attorney

RESOLUTION 24-2021

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF VICKIE THOMAS TO THE MALABAR PARK AND RECREATION BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified of completed terms on the Park & Rec Board; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Vickie Thomas as a regular member of the Park & Rec Board for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the member, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____. This motion was seconded by Council Member _____ and, upon being put to vote, the vote was as follows:

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member David Scardino	_____
Council Member Danny White	_____

This Resolution was then declared to be duly passed and adopted this 1st day of November, 2021.

TOWN OF MALABAR

By:

Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

(seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

RESOLUTION 25-2021

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF JENNIFER BIENVENU TO THE MALABAR PARK AND RECREATION BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified of completed terms on the Park & Rec Board; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Jennifer Bienvenu as a regular member of the Park & Rec Board for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the member, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____. This motion was seconded by Council Member _____ and, upon being put to vote, the vote was as follows:

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member David Scardino	_____
Council Member Danny White	_____

This Resolution was then declared to be duly passed and adopted this 1st day of November, 2021.

TOWN OF MALABAR

By:

Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

(seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

RESOLUTION 26-2021

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF DOUG DIAL TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified of completed terms on the Planning & Zoning Board; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Doug Dial as a regular member of the Planning & Zoning Board for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the member, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____. This motion was seconded by Council Member _____ and, upon being put to vote, the vote was as follows:

Council Member Marisa Acquaviva _____
Council Member Brian Vail _____
Council Member Steve Rivet _____
Council Member David Scardino _____
Council Member Danny White _____

This Resolution was then declared to be duly passed and adopted this 1st day of November, 2021.

TOWN OF MALABAR

By:

_____.
Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

(seal)

Approved as to form and content:

_____.
Karl W. Bohne, Jr., Town Attorney

RESOLUTION 27-2021

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF DREW THOMPSON TO THE MALABAR TRAILS AND GREENWAYS COMMITTEE AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified of completed terms on the T&G Committee; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Drew Thompson as a regular member of the T&G Committee for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the member, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____. This motion was seconded by Council Member _____ and, upon being put to vote, the vote was as follows:

Council Member Marisa Acquaviva _____
Council Member Brian Vail _____
Council Member Steve Rivet _____
Council Member David Scardino _____
Council Member Danny White _____

This Resolution was then declared to be duly passed and adopted this 1st day of November, 2021.

TOWN OF MALABAR

By:

_____.
Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

(seal)

Approved as to form and content:

_____.
Karl W. Bohne, Jr., Town Attorney

RESOLUTION 28-2021

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF BOB WILBUR TO THE MALABAR TRAILS AND GREENWAYS COMMITTEE AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified of completed terms on the T&G Committee; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Bob Wilbur as a regular member of the T&G Committee for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the member, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____. This motion was seconded by Council Member _____ and, upon being put to vote, the vote was as follows:

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member David Scardino	_____
Council Member Danny White	_____

This Resolution was then declared to be duly passed and adopted this 1st day of November, 2021.

TOWN OF MALABAR

By:

Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

(seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

RESOLUTION 29-2021

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF ANNELIE HARVEY TO THE MALABAR TRAILS AND GREENWAYS COMMITTEE AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified of completed terms on the T&G Committee; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Annelie Harvey as a regular member of the T&G Committee for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the member, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____. This motion was seconded by Council Member _____ and, upon being put to vote, the vote was as follows:

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member David Scardino	_____
Council Member Danny White	_____

This Resolution was then declared to be duly passed and adopted this 1st day of November, 2021.

TOWN OF MALABAR

By:

Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

(seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

TOWN OF MALABAR

TOWN COUNCIL

AGENDA ITEM NO: 12.i.

Meeting Date: November 01, 2021

Prepared By: Debby K. Franklin, C.M.C. Town Clerk/Treasurer

SUBJECT: Appoint Barb Cameron to P&Z Board as Alternate – Reso 30-2021

BACKGROUND/HISTORY:

Barbara Cameron has been serving on the Trails and Greenways Committee and learned of the opening on P&Z Board due to the election of Mary Hofmeister. She submitted the application package and Code of Conduct.

CM Elect Mary Hofmeister will be sworn in as the Council Member for District 5 on November 4.

ATTACHMENTS:

12.j. Reso 03-2021 Barb Cameron to P&Z

ACTION OPTIONS:

Staff requests Action on this Resolution.

RESOLUTION 30-2021

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

WHEREAS, Malabar Town Council has been notified of a opening on the Planning & Zoning Board; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Barbara Cameron as an alternate member of the Planning & Zoning Board for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the member, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____. This motion was seconded by Council Member _____ and, upon being put to vote, the vote was as follows:

Council Member Marisa Acquaviva _____
Council Member Brian Vail _____
Council Member Steve Rivet _____
Council Member David Scardino _____
Council Member Danny White _____

This Resolution was then declared to be duly passed and adopted this 1st day of November, 2021.

TOWN OF MALABAR

By:

_____.
Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

(seal)

Approved as to form and content:

_____.
Karl W. Bohne, Jr., Town Attorney

Town of MalabarVolunteer Committee/Board ApplicationPlanning & Zoning Advisory Board ApplicationRESO
30-2021
11/1/2021

The Planning and Zoning Board is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The Planning and Zoning Board is advisory in nature. Members of the Board shall hold no other Town office. The affirmative vote of a majority of the regular and alternate board members present and voting (maximum of five votes) shall be necessary for the adoption of any motion. The Planning and Zoning Board deals with land use issues such as site plans, conditional uses, special exceptions, residential subdivision developments, plats, re-plats and zoning change requests. They also review and compile updates for the Comprehensive Plan and present to Council. They shall also draft land development code to conform to changes adopted by Council to the Comprehensive Plan. They shall annually prepare a Capital Improvement Projects list to submit to Council. Some of the issues that the Board considers will be quasi-judicial and staff will alert them to those situations.

1. Name: Barbara K Cameron Phone: 321-508-5565
 2. Home Address: 665 Hall Rd, Malabar, FL 32950
 3. Email Address: BKCameron, BC @ GMail . Com
 4. Are you a resident of the Town: Yes No
 5. How long have you been a resident of the Town of Malabar: Since 1974
 6. Are you currently involved with any other organization of the Town: Yes No
- If yes, which organization: T + G

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
 Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
 Website: www.townofmalabar.org

TOWN OF MALABAR

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE

NOTE: Florida's Public Records Law, Chapter 119, Florida Statutes states, "It is the policy of this state that all state, county, and municipal records shall at all times be open for a personal inspection by any person." Your application when filed will become a public record and subject to the above statute. In addition, any appointed member of a board of any political subdivision (except members of solely advisory bodies) and all members of bodies exercising planning, zoning or natural resources responsibilities are required to file a financial disclosure form within 30 days after appointment and annually thereafter for the duration of the appointment as required by F.S. Chap. 112.

NAME: Barbara K Cameron TELEPHONE: 321-508-5565
ADDRESS: 465 Hall Rd Malabar FL 32950
EMAIL: BKcameron.BC@gmail.com

RESIDENT OF TOWN FOR 12 MONTHS OR LONGER: YES NO

OCCUPATION: (If retired, please indicate former occupation or profession.)
Retired Dental office Representative

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:
Exercise instructor BCC
Hair dresser 1969 - 1993

ADDITIONAL INFORMATION/REFERENCES:

Please select the Board that you would like to serve on by indicating first choice & second choice:

- Board of Adjustment
- Planning & Zoning
- Parks & Recreation
- Trails & Greenways

Per Town Code, Council shall require removal of members after 3 successive absences.

Barbara K Cameron
Signature of Applicant

8-26-2021
Date

Please return this form to: Town Clerk
Town of Malabar
2725 Malabar Road
Malabar, FL 32950-4427
Email: townclerk@townofmalabar.org

Note: If you need more information concerning the duties of these Boards, please contact the Town Clerk. Please attach a copy of your resume to this application. You will be notified of the date of the Town Council Meeting that your application will be considered for appointment. You will need to plan to attend the Council Meeting.

Applicant Certification

By completing this application with the Town of Malabar and placing my signature below, I do hereby acknowledge the following:

- This application, when completed and filed with the Office of the Town Clerk, is a PUBLIC RECORD UNDER Chapter 119, Florida Statute, and is open to public inspection.
- I am responsible for keeping the information on this form current and that any changes or updates will be provided to the Office of the Town Clerk.
- I acknowledge that I am a resident of the Town of Malabar.
- I consent to filing the Statement of Financial Interest as required by Chapter 112, Florida Statutes.
- If appointed to a Committee or Board, I acknowledge that it is my obligation and duty to comply with the following:
 - Malabar Code of Conduct
 - Code of Ethics for Public Officials (F.S., Chapter 112, Part III)
 - Florida Sunshine Law (F.S., Chapter 286)

I understand the responsibilities associated with being a Committee or Board member and I will have adequate time to serve on this Committee or Board.

The information provided on this form is true and correct and consent is hereby given to the Town Council or its designated representative to verify any and/or all the information provided.

Barbara K. Cameron
Signature

8-26-2021
Date

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org



TOWN OF MALABAR

2725 MALABAR ROAD • MALABAR, FLORIDA 32950
(321) 727-7764 OFFICE • (321) 722-2234 FAX
www.townofmalabar.com

Town of Malabar Board Member Code of Conduct

(Malabar Code Chap 2. – Code of Conduct) In addition to adhering to the requirements of State Law, any person appointed to serve as a Member of a Town Board or Committee shall commit to the following Code of Conduct by written affirmation, which shall remain on file with the Town Clerk, as follows:

I affirm that the proper Statutory and Town Charter role of Members of appointed Town Boards and Committees, as with any Member of an appointed government body, is to act collectively, not individually, to apply the Town's governing policies, and that the Town Administrator and Staff administer such policies.

I understand that an appointed Board or Committee Member does not manage the affairs of the Town. I will not intrude into daily operations or spheres of responsibility designated by Florida Statutes, Town Code, and Town Charter to the Town Administrator as the Chief Executive Officer; or undermine the Town Administrator's lawful authority. Further, I understand that the Town Administrator is responsible for administering the policy direction established by a majority vote of the Town Council and not the individual wishes of Board or Committee Members.

I will represent the interests of the entire Town when making decisions and will rely upon available facts and my independent judgment. In my capacity as an appointed Board or Committee Member, I will avoid conflicts of interest and avoid using my official position for personal, professional, or partisan gain.

I will demonstrate dignity, respect, and courtesy toward those whom I am in contact with in my capacity as an appointed Board or Committee Member. I will refrain from intimidation and ridicule of fellow Board or Committee Members, Town Council Members, Town Administrator, Town Attorney, Staff, citizens of the Town, and those conducting business with the Town.

In my capacity as an appointed Board or Committee Member, I will refrain from inappropriate language including statements that are malicious, threatening, slanderous, disparaging, mean-spirited, vulgar or abusive. All disagreements, concerns or criticisms shall be framed in language that is in keeping with the dignity and professionalism of an appointed official and the honor of my respective Town Board or Committee.

I will focus on solving problems. I will maintain appropriate decorum and professional demeanor in the conduct of Town business and work cooperatively and conscientiously with others as I request or receive information, examine data or weigh alternatives in the decision-making process.

I will demonstrate patience and refrain from demanding, interruptive access to Staff or immediate responses or services when requesting information that requires significant Staff time in research, preparation or analysis or that will result in Staff neglect of urgent duties. Such requests will be made through the Town Administrator for scheduling and prioritizing through consensus of my respective Town Board or Committee.

I will devote adequate time for preparation prior to my respective Town Board or Committee meetings and as much as possible, I will be in attendance at such meetings and all other scheduled events where my participation is required.

I will respect diversity and encourage the open expression of divergent ideas and opinions from fellow Board or Committee Members, Town Council Members, Town Administrator, Town Attorney, Staff, citizens of Malabar. I will listen actively and objectively to others' concerns or constructive criticisms.

I will refrain from any individual action that could compromise lawfully authorized decisions of the Town or the integrity of the Town and my fellow Board or Committee Members. I will delineate clearly for any audience whether I am acting or speaking as an individual citizen or in my capacity as a Town Board or Committee Member.

I will maintain the confidentiality of privileged information and will abide by all laws of the State applicable to my conduct as a Board or Committee Member, including but not limited to the Government in the Sunshine Law, the Florida Code of Ethics for Public Officers, and Town Rules of Procedure and Codes of Conduct.

I will promote constructive relations in a positive climate with all Members of the Town Council, Town employees, Town Attorney, and Town contractors and consultants consistent with my role as a Board or Committee Member, as a means to enhance the productivity and morale of the Town. I will support the Town Administrator's decision to employ the most qualified persons for Staff positions. I will recognize the bona fide achievements of the Town Council, Town Administrator, Staff, Town Attorney, Town contractors and consultants, business partners, and others sharing in, and striving to achieve, the Town's mission.

I will enhance my knowledge and ability to contribute value to the Town as a Board or Committee Member by keeping abreast of issues and trends that could affect the Town through reading, continuing education and training. I will study policies and issues affecting the Town, and will attend training programs if required by the Town. My continuing goal will be to improve my performance as a Board or Committee Member.

I will value and assist my fellow Board or Committee Members by exchanging ideas, concerns, and knowledge through lawful means of communication. I will help build positive community support for the Town's mission and the policies established by the Town Council.

I will support and advocate for my beliefs, but will remain open to understanding the views of others. I recognize that I share in the responsibility for all Town decisions that my respective Board makes and will accept the will of the majority.

As a Board or Committee Member, I will always hold the best interests of the citizens of the Town and the public health, safety and welfare of the community in the highest regard. I will seek to provide appropriate leadership that nurtures and motivates Town citizens to be stakeholders in the affairs and achievements of the Town.

I will be accountable to the Town Council for violations of this Code of Conduct.

Barbara K Cameron
Signature

8 - 26 - 2021
Date

BARBARA K CAMERON
Print Name

Paul W. Tholl
Witness

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO: 12.k.
Meeting Date: November 01, 2021

Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer

SUBJECT: Amendment 1 to State Revolving Fund Loan Agreement SW051400

BACKGROUND/HISTORY:

This amendment provides for the repayment process and period for the \$190,000.00 the Town used for Master Stormwater Planning. The need for a Stormwater Master Plan is a preliminary requirement before any further grant can be applied for.

Singhofen and Associates requested an extension so they can finalize and submit their last items on the Contract. We subsequently requested an extension to begin the reimbursement. This request was approved and is entered into with the Amendment.

It provides for the first semiannual loan payment in the amount of \$5,170.00 shall be due on August 2022 instead of the previous December 2021. From then forward the payments will be in February and August of each year to complete the repayment of the 20-year loan.

ATTACHMENTS:

- Amendment 1

ACTION OPTIONS:

Council Action on this item

**STATE REVOLVING FUND
AMENDMENT 1 TO LOAN AGREEMENT SW051400
TOWN OF MALABAR**

This amendment is executed by the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (Department) and the TOWN OF MALABAR, FLORIDA, (Local Government) existing as a local governmental entity under the laws of the State of Florida. Collectively, the Department and the Local Government shall be referred to as "Parties" or individually as "Party".

The Department and the Local Government entered into a State Revolving Fund Loan Agreement, Number SW051400; and

Loan repayment activities need rescheduling to give the Local Government additional time to complete planning activities; and

Certain provisions of the Agreement need revision.

The Parties hereto agree as follows:

1. Unless repayment is further deferred by amendment of the Agreement, Semiannual Loan Payments as set forth in Section 10.05 shall be received by the Department beginning on August 15, 2022, and semiannually thereafter on February 15 and August 15 of each year until all amounts due under the Agreement have been fully paid.

2. The items scheduled under Section 10.07 of the Agreement are rescheduled as follows:

(2) Completion of all Planning Activities for all Project facilities proposed for loan funding no later than February 15, 2022.

(3) Establish the Loan Debt Service Account and begin Monthly Loan Deposits no later than February 15, 2022.

(4) The first Semiannual Loan Payment in the amount of \$5,170 shall be due August 15, 2022.

3. All other terms and provisions of the Loan Agreement shall remain in effect.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

This Amendment 1 to Loan Agreement SW051400 may be executed in two or more counterparts, any of which shall be regarded as an original and all of which constitute but one and the same instrument.

IN WITNESS WHEREOF, the Department has caused this amendment to the Loan Agreement to be executed on its behalf by the Secretary or Designee and the Local Government has caused this amendment to be executed on its behalf by its Authorized Representative and by its affixed seal. The effective date of this amendment shall be as set forth below by the Department.

for
TOWN OF MALABAR

Mayor

Attest:

Approved as to form and legal sufficiency:

Town Clerk
SEAL

Town Attorney

for
STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Secretary or Designee

Date