



REGULAR TOWN COUNCIL MEETING

Monday, August 17, 2020 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 Regular Town Council Meeting of 08/03/2020**

Exhibit: Agenda Report Number 4a

Attachments:

- Agenda Report Number 4a (Agenda_Report_Number_4a.pdf)

- b. **Approve Minutes of Town Council Workshop of 08/10/2020**

Exhibit: Agenda Report Number 4b

Attachments:

- Agenda Report Number 4b (Agenda_Report_Number_4b.pdf)

5. ATTORNEY REPORT
6. STAFF REPORTS
 - a. Manager
 - b. Clerk

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

8. PUBLIC HEARING (1)

- a. **Second Reading: Amend Malabar Zoning Map to Match FLUM: 2525 Malabar Road (Ordinance 2020-07)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE ZONING MAP TO MATCH THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN FOR THE 4.72+/- ACRE SITE LOCATED AT 2525 MALABAR ROAD, ALSO KNOWN AS PARCEL B-4 IN SNEDEKERS SUBDIVISION IN SECTION 31, TOWNSHIP 28 AND RANGE 38, MALABAR, FLORIDA FROM RURAL RESIDENTIAL (RR-65) AND OFFICE INSTITUTIONAL (OI) TO RESIDENTIAL/LIMITED COMMERCIAL (R/LC); PROVIDING FOR AMENDMENT TO THE TOWN ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 8a

Attachments:

- Agenda Report Number 8a (Agenda_Report_Number_8a.pdf)

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

(RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)

10. ACTION ITEMS

ORDINANCES: 0

RESOLUTIONS: 1

MISCELLANEOUS: 1

a. Renew Audit Engagement for Outside Auditors - James Moore CPA (Resolution 13-2020)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR COUNCIL APPROVAL OF THE RENEWAL ENGAGEMENT FOR AUDIT SERVICES BY JAMES MOORE, CPA FOR THE TOWN OF MALABAR FOR FISCAL YEARS ENDING SEPTEMBER 20/21, 21/22, 22/23; PROVIDING FOR REMEDIES; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10a

Attachments:

- Agenda Report Number 10a (Agenda_Report_Number_10a.pdf)

b. Approval of "Qualified" Candidates for 2020 Election

Exhibit: Agenda Report Number 10b

Attachments:

- Agenda Report Number 10b (Agenda_Report_Number_10b.pdf)

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

11. DISCUSSION/POSSIBLE ACTION

12. PUBLIC COMMENTS

General Items (Speaker Card Required)

13. REPORTS - MAYOR AND COUNCIL MEMBERS

14. ANNOUNCEMENTS

(1) Vacancy on the Parks and Recreation Board; (1) Vacancy on the Board of Adjustments; (2) Vacancies on the Trails and Greenways Committee

15. ADJOURNMENT

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

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

Contact: Debby Franklin (townclerk@townofmalabar.org 321-727-7764) | Agenda published on 08/12/2020 at 1:24 PM

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES
AUGUST 03, 2020 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 the meeting to order at 7:30 pm. CM Ball led P&P.

2. ROLL CALL:

CHAIR:	MAYOR PATRICK T. REILLY
VICE CHAIR:	STEVE RIVET
COUNCIL MEMBERS:	GRANT BALL
	BRIAN VAIL
	DAVID SCARDINO
	DANNY WHITE
	MATT STINNETT, excused
	KARL BOHNE
	DEBBY FRANKLIN

TOWN MANAGER: (TM)

TOWN ATTORNEY:

TOWN CLERK/TREASURER:

For record, Malabar Fire Chief Mike Foley is not present.

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

4. CONSENT AGENDA:

4.a. Regular Town Council Mtg Minutes of 7/20/2020

4.b. Council WS Minutes of 7/27/2020

MOTION: CM Rivet / CM Vail to approve consent agenda.

VOTE: All Ayes. Motion carried 5 to 0.

5. ATTORNEY REPORT: none

6. BCSO REPORT: Lt. Cline was not present but will be at next meeting.

7. BOARD / COMMITTEE REPORTS:

7.a. T&G Com: V-Chair Murray Hann presents – printout provided. It is intended to expand the trail system. They got approval for EELs to work on their property. Looking for approval from Council for the actual part under the ROW. This would be the second item on their activity list and may take six months before they get to it and have it complete. It would be built by volunteers from T&G and BMBA and ask for private donations at this time. Mayor asked about the height between the platform and the top of the bridge. CM Scardino is concerned about homeless using it to sleep. Murray said their trail system doesn't have homeless problem; it is very well used. Same with Cameron Preserve shelter. CM White asked about the cost – between 4K and 6K and use of good southern pine it will last 10-12 years. CM Ball asked Atty about liability. Attorney Bohne said none on construction but maybe on maintenance but would be no more so than other boardwalks. Attorney asked about ADA compliance. Murray said regarding the ADA compliance – they must offer people a similar experience and they have some less than a mile away at Turkey Creek Sanctuary and in the Cameron Preserve. Every part of trail doesn't have to be – just offer a similar experience. Mayor asked for Council consensus. All of Council supports this project to proceed.

7.b. Eric Bienvenu, Chair Park & Rec Board: not present

7.c. Wayne Abare, Chair, P&Z Board: not present

8. STAFF REPORTS:

8.a. MANAGER: excused.

8.b. PW DIRECTOR: Written Report

8.c. FIRE CHIEF: Written report

8.d. CLERK: Incumbents have declared intentions. No other candidates yet

Census is doing training here daily this week. The County EOC has been activated for 151 days now, mostly for COVID-19 but also with the rocket launch last week, the tropical storm and then splash down of the SpaceX Dragon capsule. Also wanted to put in the record that the Fire Chief met

with the County personnel at the Elohim church on Malabar Road and resolved the free flowing well issue. Would like to propose that we renew with James Moore CPA for the performance of our audit for the FY 21, 22, 23. Can have it on an upcoming Sept agenda if directed by Council. Otherwise FY 20 will be the last of the three years and we would have to go through the bid process again. Council consensus to direct staff to move forward with another three-year contract with James Moore CPA.

CM White asked about what happens if no one steps up to run. Can CM Ball continue? Should we change Charter? Attorney explained that changes to Charter would need to be a referendum question to voters. Council discussed term limits. Consensus is to keep the term limits. Clerk said we have until the 11th. CM Ball said term limits have a real value.

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. (Speaker Card is Required) Five (5) Minute Limit

10. PUBLIC HEARINGS: 2

10.a. First Reading: Amend Malabar Zoning Map to Match FLUM: 2525 Malabar Road (Ord 2020-07)

Questions read: Property Owner Nicholas Shalton Requests a Zoning Map Amendment for the 4.72+/- acre parcel located at 2525 Malabar Road from Office Institutional (OI) and Rural Residential (RR) to Residential Limited Commercial (R/LC) to achieve consistency with the Future Land Use Map in the Comprehensive Plan. Property is in Section 31, Township 28 and Range 38 in the Town of Malabar. This is described in Ord 07-2020 for first reading.

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE ZONING MAP TO MATCH THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN FOR THE 4.72+/- ACRE SITE LOCATED AT 2525 MALABAR ROAD, ALSO KNOWN AS PARCEL B-4 IN SNEDEKERS SUBDIVISION IN SECTION 31, TOWNSHIP 28 AND RANGE 38, MALABAR, FLORIDA FROM RURAL RESIDENTIAL (RR-65) AND OFFICE INSTITUTIONAL (OI) TO RESIDENTIAL/LIMITED COMMERCIAL (R/LC); PROVIDING FOR AMENDMENT TO THE TOWN ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 10.a.

Request is read by title only.

Chair called applicant to podium. Clerk said the applicant called and is sick. Chair asks staff. Staff supports request. P&Z Recommends approval.

Open Public Hearing: none. Closed Public Hearing.

Ord read by title only.

MOTION: CM Vail / CM Ball to approve first reading of Ord 2020-07. Discussion: CM Rivet said he has heard no opposition from residents.

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

10.b. First Reading: Amend FLUM to Revert to RR Designation (Ord 2020-08)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ADOPTING THE COMPREHENSIVE PLAN LARGE SCALE AMENDMENT (LSA) NO. 2020-01; AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE TOWN FROM OI (OFFICE INSTITUTIONAL) TO RR (RURAL RESIDENTIAL) FOR A 24.73 +/--ACRE PARCEL IN THE TOWN LYING ON THE SOUTH SIDE OF MALABAR ROAD AND EAST OF WEBER ROAD; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 10.b.

Ord is read by title only.

Chair calls applicant to podium. Mr. Moia of MBV is here for questions only. Came to you before subdivision was started and FLUM was being worked on. Council said it wouldn't be changed and then it was changed. Applicant wanted to put it back to the original RR designation.

Chair asked staff. Staff supports request. P&Z Recommended approval 5 to 0.

Open Public Hearing: none. Closed Public Hearing.

MOTION: CM Rivet / CM White to approve first reading of Ord 2020-08 for transmittal to State.

Discussion: none

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

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

12. ACTION ITEMS:

ORDINANCES for FIRST READING: 0

RESOLUTIONS: 0

MISCELLANEOUS: 0

13. DISCUSSION/POSSIBLE ACTION:

13.a. Direction to staff for a Town Initiated Zoning/Land Use Change for Consistency

Exhibit:

Agenda Report No. 13.a.

Mayor explained his call from P&Z Board Chair Wayne Abare. Since Council changed the FLUM there have been several requests. Perhaps the Town wants to look at this again. They suggested letters be sent to parcel owners to ask:

Option 1 – change land use to match zoning; or

Option 2 - change zoning to match land use designation; or

Option 3 – no opinion or do nothing

Mayor said he has talked to multiple landowners and they want Council to change the zoning.

Franklin said there are approximately 99 parcels that would be sent notifications. Staff did not support Option 1 as it would incur much more cost to the Town. Atty explained legal requirements to change the Comp Plan would be involved in Option 1. Consensus of Council to disregard Option 1.

MOTION: CM Vail / CM Ball to send letter to ask property owners if they support the Town doing a blanket Zoning change to match FLUM. Vote: All Ayes.

13.b. Direction to staff for Property Owner Input on Depth of Five Parcels on south side of Malabar Road for both R/LC and OI

Exhibit:

Agenda Report No. 13.b.

Mayor said the P&Z Board voted 7 to 0 to keep the parcels intact when changing the land use designations. That was the five regular and two alternates.

CM Rivet said these two discussion items are interrelated. Council at that time agreed with the 660' depth. Changing the depth on the FLUM for these parcels extended the RLC for 1/4 mile. Mayor said commercial development would want to build up close to Malabar Road.

CM Vail voted to follow the lot lines on the original presentation by P&Z – it did not change it. The last action by Council was a 3 to 1 vote. (CM Korn was excused) The parcels are the only ones to have the impact. Lots 1,2,3 are across from the hospital. We have already had legal challenges if we split the property with two separate land use designations.

CM Vail had suggested previously to add enhanced buffering requirements for these parcels. The Council then discussed areas of the Land Development Code that could be amended or

strengthened to provide for additional buffering depth and/or requirements when commercial land use is developed adjacent to Rural Residential. CM Rivet said it is about balancing the interests of existing residents with some commercial development. That is why he agreed to the 660 for commercial development. CM Scardino agreed with CM Rivet. CM Ball doesn't agree with splitting the land. He agrees with CM Vail. Let's make sure we have plenty of setbacks and greenspace. CM Rivet's concern is for the current residents that border these commercial properties. They bought properties that bordered RR land. Those people should not be subjected to living next to commercial property. The specific properties he is more interested in are the ones that reach 1320'. None of the other Land Use Designation changes they made go that deep. Much discussion about the difficulty existing property owners have had with OI in the front and RR in the back – we don't allow flag lots, and no one has successfully developed in these areas. CM Vail said we can meet in the middle. Make the buffer "X" feet and make it more when it abuts Rural Residential. Council agreed this was a good discussion.

Consensus of Council to not seek input from these property owners. Only have four.

14. **PUBLIC COMMENTS: General Items (Speaker Card Required)** none:

15. **REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Ball: wants to thank staff about the free-flowing Sulphur well at the church. He is very happy about that. Still wants the river front cleared of pepper trees. Since we made it CP and we ought to preserve it. CM Rivet said the Pepper trees are invasive and they need to be gotten rid of. CM Vail said grind them down and then treat it with herbicide and then monitor and treat as necessary.

CM Vail: nothing

CM Rivet: nothing

CM White: he keeps his party politics out of this office. He told about his flag being torn down and later his flagpole broken by vandals.

CM Scardino: asked about landscaping – yard waste stuff. Franklin explained about the COVID-19 effects on WM staff – we have been understanding. She was copied on emails between WM and TM – they have kept Matt up to date and remain in touch with status and even used outside vendors to assist in getting the yard waste picked up. CM Ball said they got missed. A two week before that the recycle didn't get picked up. Everyone is being affected by COVID-19.

Mayor: nothing

16. **ANNOUNCEMENTS:** Openings on T&G and Park and Rec Bds.

17. **ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 9:00 P.M.

BY: _____
Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

Date Approved: 8/17/2020

MALABAR COUNCIL WORKSHOP MEETING
August 10, 2020 7:00 PM

This meeting of the Malabar Town Council was held at the Malabar Town Hall, 2725 Malabar Road, Malabar, Florida.

A. CALL TO ORDER:

The meeting was called to order at 7:00 pm with P&P led by Chair Mayor Reilly.

B. COUNCIL:

COUNCIL CHAIR:	MAYOR PATRICK T. REILLY
VICE-CHAIR:	STEVE RIVET
COUNCIL MEMBERS:	GRANT BALL
	BRIAN VAIL
	DAVID SCARDINO
	DANNY WHITE EXCUSED
	MATT STINNETT
MANAGER:	
DEP CLERK/TREASURER:	RICHARD KOHLER

For the record Fire Chief Michael Foley and future Interim Town Manager Lisa Morrell were in attendance.

C. BUDGET DISCUSSION

Chair turned it over to TM.

Revenues: Millage of 2.3800 will produce a 10% increase over the funds received this year or the rolled back rate (RBR), approximately 57K. CM Rivet states he is okay with this. The general consensus of Council is in agreement.

Revenue sharing (335.1200), the ½ cents sales tax (335.1800) and the CST (315.1000) are all lower estimates than previous years.

Expenditures:

511: No Comments

512: TM Gave brief overview, and received no comments.

513: No comments

514: CM Rivet commented on the seeming reduction of costs here.

515: TM explained that this department is anything we need the planner for that isn't related to a specific Building Permit.

519: No Comments

522: TM gave brief overview. Included raise for Chief, life scan service for physicals, building repairs and future vehicle replacement fund.

524: Mayor asked about PT permitting clerk. TM Explained that the position would help the Building Department Manager with her paperwork.

525: No comments

538: CM Rivet asks why there is almost 50% of this department's current FY funds unspent? TM explains that we are doing a lot of inexpensive work while the stormwater master plan is completed. We are saving money to do big capital projects when that plan is completed.

541: TM begins by explaining the .6410 "Equipment Replacement" account. A front-end loader, replacement dump truck, and road grader are the biggest needs. We would like to purchase used equipment. The biggest question is how do we want to fund this? Do we want to pay cash up front, or do we want to finance? CM Scardino states that the interest rates are very low, we should try to finance it. CM Ball agrees that financing a piece of equipment like this makes the most sense, especially with today's low interest rates. He also wishes to match funds in reserves for payments in a financing agreement to prepare for replacement. He mentions that in the past, Malabar has had bad experience with buying used equipment. CM Scardino suggests buying from a rental company who will continue to service the equipment as part of the financing agreement. CM Rivet and Vail agree that we should buy and finance. CM Scardino and Vail agree buying from a rental company, as their product generally is gently used. CM Vail asks how much of this \$200,000 have we put in reserves? TM states that in the last two years alone we have deposited over \$250,000 into the reserves. CM Rivet and Ball agree that while we can spend from reserves, we should try to finance it. TM reminds council that any purchase will have to be presented and approved at a Council Meeting.

572: Mayor commented that the Trails and Greenways Committee has not spent much of their funds. TM explained that their Chair has reservations about COVID-19, these funds will carry over.

574: No comments.

CM Ball thanks TM for his hard work and good planning. This is a very streamlined budget. CM Rivet echoed CM Balls comments. CM Vail comments that we have a great Town Hall team.

CM Rivet reiterates that if it comes between paying cash and financing, he would prefer to finance.

Chair Reilly, without objection, adjourned the workshop meeting at 7:38 pm.

BY: _____
Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard Kohler
Deputy Town Clerk/Treasurer

Approved: 8/17/2020

ORDINANCE 2020-07

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE ZONING MAP TO MATCH THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN FOR THE 4.72+/- ACRE SITE LOCATED AT 2525 MALABAR ROAD, ALSO KNOWN AS PARCEL B-4 IN SNEDEKERS SUBDIVISION IN SECTION 31, TOWNSHIP 28 AND RANGE 38, MALABAR, FLORIDA FROM RURAL RESIDENTIAL (RR-65) AND OFFICE INSTITUTIONAL (OI) TO RESIDENTIAL/LIMITED COMMERCIAL (R/LC); PROVIDING FOR AMENDMENT TO THE TOWN ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1. The Town Council has considered the request from the property owner, Mr. Nicholas Shalton and the recommendation of the Planning and Zoning Board and approves the Zoning change for the property described below to be consistent with the Future Land Use Map designation of *Residential/Limited Commercial (R/LC)*:

The entire portion of Block B, Lot 4 of Snedekers Subdivision in Township 28, Range 38, Section 31, Malabar, Brevard County, Florida. This property is located at 2525 Malabar Road and consists of 4.72 acres +/-.

Section 2. The Town Clerk is hereby authorized and directed to cause the revision to the Official Town Zoning Map as referenced in Article II of the Land Development Code to show the zoning change set forth above.

Section 3. The effective date of this ordinance shall be six (6) days following adoption by Council.

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 Grant Ball	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member David Scardino	_____
Council Member Danny White	_____

This ordinance will become effective and considered adopted by the Malabar Town Council six business days from the date of adoption at second reading.

BY:

(seal)

TOWN OF MALABAR

Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

P&Z PH: 7/22/2020
1st Reading: 8/03/2020
2nd Reading: _____

TOWN OF MALABAR

TOWN COUNCIL MEETING

AGENDA ITEM NO: 10.a.

Meeting Date: August 17, 2020

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

SUBJECT: Renew Audit Engagement with James Moore, CPA (Reso 13-2020)

BACKGROUND/HISTORY:

In 2017 Malabar Town Council directed we advertise for proposals from audit firms as recommended by governmental accounting principles. Council appointed a three-member audit selection committee to review, score and recommend an audit firm from the four submittals.

James Moore, CPA has performed the last three years audits. We can renew the terms of Engagement for an additional three-year term up to two additional times before it is again recommended to perform the periodic solicitation.

Staff sought direction from Council on August 3, 2020 to proceed with the renewal.

FINANCIAL IMPACT:

The 2020 audit is in the contract to be done for \$20,000.00. The proposed fees for the next three years are:

2021 - \$20,500.00

2022 - \$21,000.00

2023 - \$21,500.00

ATTACHMENTS:

Resolution 13-2020 renewing engagement with James Moore, CPA for another three-year term

ACTION OPTIONS:

Request Action on Resolution 13-2020

RESOLUTION 13-2020

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR COUNCIL APPROVAL OF THE RENEWAL ENGAGEMENT FOR AUDIT SERVICES BY JAMES MOORE, CPA FOR THE TOWN OF MALABAR FOR FISCAL YEARS ENDING SEPTEMBER 30 2021, 2022, 2023; PROVIDING FOR ADMINISTRATION AND FEES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council performed the recommended periodic solicitation for Proposals for the annual auditing services in 2017 in accordance with best practices of Governmental Accounting Principles; and

WHEREAS, Malabar Audit Selection Committee reviewed and scored the proposals based on criteria identified in Florida Statute 218 and then forwarded their recommendation to Council to select James Moore, CPA; and

WHEREAS, Malabar Town Council considered the proposals and the Committee's recommendation and selected James Moore CPA to produce the audit of the Town's financial statements starting with the Fiscal Year ending 9/30/17 and continuing through 9/30/2020.

WHEREAS, Malabar Town Council desires to renew the engagement for an additional three-year period as stated in the attached Engagement Agreement dated August 4, 2020 (Exhibit "A") that details the duties, responsibilities and fees charged to produce the audit of the Town's financial statements each of the years 2021, 2022 and 2023.

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

Section 1. The above recitals are true and correct and are considered an integral part of this resolution.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify James Moore, CPA and provide them with a signed copy of this resolution and the Engagement Agreement for their audit services for the Fiscal Years ending September 30, 2021, 2022 and 2023.

Section 3. 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 vote, the vote was as follows:

Council Member Grant Ball _____
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 17th day of August 2020.

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 MEETING

AGENDA ITEM NO: 10.b.
Meeting Date: August 17, 2020

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

SUBJECT: Approval of Qualified Candidates for Office 2020 Election

BACKGROUND/HISTORY:

Per the Charter, the Town Clerk is the Elections Officer for Malabar and handles the qualifying requirements of Malabar, Brevard County and the State of Florida. Once those requirements have been met, the Council formally "Qualifies" the candidates for Malabar elected offices after the close of the qualifying period.

In November 2016, Malabar Electors voted to approve Single District Voting, meaning not only do the Candidates live within the Five (5) Districts that make up Malabar, but only those electors living within those Districts may vote for their Candidate. Prior to 2017 there was at-large voting for both the Mayor and each District Seat.

Council District Seats 1, 2 and 3 and the Mayor were open during this two-week 2020 Qualifying period of 7/28/20 - 8/11/2020. CM Grant Ball is completing his third term and is not eligible to run again.

The Candidates for Mayor, District 1, District 2 and District 3 submitted qualifying paperwork required by the State Election Laws and the Town of Malabar and consisted of:

- Minimum Residency was stated
- Oath of Candidate - willingness to serve
- Statement of Candidate – receipt and understanding of the Election Laws of Florida (F.S. 106)
- Form 1 – Financial Disclosure
- DS-DE-9 naming their Campaign Treasury and Treasurer
- Petitions with a minimum of 15 registered voters from within the Candidate's District and in the case of the Mayor, Town wide.

Candidate for Mayor: incumbent Patrick T. Reilly is unopposed and will be sworn in on 11/05/20.

Candidate for District 2: incumbent Brian Vail is unopposed and will be sworn in on 11/05/20.

Candidate for District 3: incumbent Steve Rivet is unopposed and will be sworn in on 11/05/20.

Candidate for District 1: Marisa Acquaviva is unopposed at the close of qualifying and will be sworn in on 11/05/20.

Malabar Code, Chapter 7 states there shall be meeting held within three days of the Election for the Malabar Council to "certify" the Election results (unofficial) and swear in the new members. This meeting date is set for **Thursday, November 5, 2020.**

ATTACHMENTS:

Candidate Oaths
Charter Section 2.06

ACTION OPTIONS:

Town Clerk Requests Council to "qualify" the candidates.

AUG 10 2020

RECEIVED



2725 Malabar Road
Malabar, FL 32950

Tel: 321-727-7764
Fax: 321-727-7779

Sworn Statement 2020

Before me, an officer authorized to administer oaths, personally appeared Patrick T. Reilly to me well known OR produced identification N/A, who being sworn that he/she is a qualified elector of the Town of Malabar, Brevard County, Florida, and that he/she is qualified under the Town Charter of the Town of Malabar, Florida, and the Florida Statutes to hold the office of MAYOR of the Town of Malabar, Florida, for which he/she desires to be elected/appointed. Said qualifications are as follows, to wit:

- He/She is thirty (30) years of age or older.
- He/She is not presently adjudicated mentally incompetent under the laws of any state.
- He/She has never been convicted of a felony without having his/her civil rights restored.
- He/She has registered to vote in Brevard County, Florida.
- He/She is now and has been for at least one (1) year consecutively and immediately prior to this date, a resident of the Town of Malabar, Brevard County, Florida.
- He/She is willing to serve if elected/appointed.

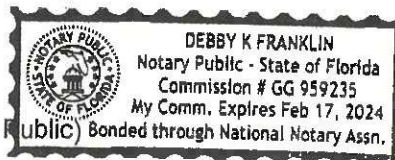
Patrick T. Reilly
Signature of Candidate

1985 Howell Ln. Malabar FL 32950
Address

Occupation: Systems Engineer

Sworn to and subscribed before me this 10 day of Aug, 2020.

Debby K. Franklin
(Signature of Notary Public - State of Florida)



(Print, Type, or Stamp Commissioned name of Notary Public)

Personally Known OR Produced Identification :

Type of Identification Produced : _____



AUG 10 2020 10:47

2725 Malabar Road
Malabar, FL 32950

Tel: 321-727-7764
Fax: 321-727-7779

Sworn Statement 2020

Before me, an officer authorized to administer oaths, personally appeared MARISA ACQUAVIVA to me well known , OR produced identification Marisa Acquaviva, who being sworn that he/she is a qualified elector of the Town of Malabar, Brevard County, Florida, and that he/she is qualified under the Town Charter of the Town of Malabar, Florida, and the Florida Statutes to hold the office of COUNCIL MEMBER District 1, 2, 3 of the Town of Malabar, Florida, for which he/she desires to be elected/appointed. Said qualifications are as follows, to wit:

- He/She is eighteen (18) years of age or older.
- He/She is not presently adjudicated mentally incompetent under the laws of any state.
- He/She has never been convicted of a felony without having his/her civil rights restored.
- He/She has registered to vote in Brevard County, Florida.
- He/She is now and has been for at least six (6) months consecutively and immediately prior to this date, a resident of the Town of Malabar, Brevard County, Florida within the District the candidate is running.
- He/She is willing to serve if elected/appointed.

Marisa Acquaviva
Signature of Candidate

1120 Baywood Ct. Malabar FL 32950
Address

Occupation: Pharmacy Owner

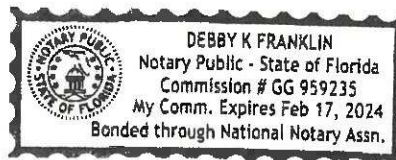
Sworn to and subscribed before me this 10 day of August, 2020.

Debby K. Franklin
(Signature of Notary Public - State of Florida)

(Print, Type, or Stamp Commissioned name of Notary Public)

Personally Known OR Produced Identification _____:

Type of Identification Produced : _____





AUG 10 2020 13:39

2725 Malabar Road
Malabar, FL 32950

Tel: 321-727-7764
Fax: 321-727-7779

Sworn Statement 2020

Before me, an officer authorized to administer oaths, personally appeared Brandon Carl to me well known OR produced identification N/A, who being sworn that he/she is a qualified elector of the Town of Malabar, Brevard County, Florida, and that he/she is qualified under the Town Charter of the Town of Malabar, Florida, and the Florida Statutes to hold the office of COUNCIL MEMBER District 1 (2,3) of the Town of Malabar, Florida, for which he/she desires to be elected/appointed. Said qualifications are as follows, to wit:

- He/She is eighteen (18) years of age or older.
- He/She is not presently adjudicated mentally incompetent under the laws of any state.
- He/She has never been convicted of a felony without having his/her civil rights restored.
- He/She has registered to vote in Brevard County, Florida.
- He/She is now and has been for at least six (6) months consecutively and immediately prior to this date, a resident of the Town of Malabar, Brevard County, Florida within the District the candidate is running.
- He/She is willing to serve if elected/appointed.

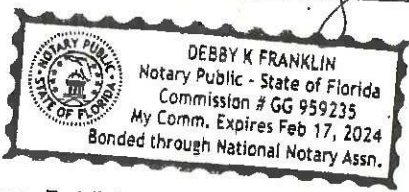
[Signature]
Signature of Candidate

2700 Smith Ln
Address

Occupation: Business Owner

Sworn to and subscribed before me this 10 day of Aug, 2020.

[Signature]
(Signature of Notary Public - State of Florida)



(Print, Type, or Stamp Commissioned name of Notary Public)

Personally Known OR Produced Identification :

Type of Identification Produced : _____



AUG 5 2020 9:32

2725 Malabar Road
Malabar, FL 32950

Tel: 321-727-7764
Fax: 321-727-7779

Sworn Statement 2020

Before me, an officer authorized to administer oaths, personally appeared Steve Rivet to me well known , OR produced identification NSA, who being sworn that he/she is a qualified elector of the Town of Malabar, Brevard County, Florida, and that he/she is qualified under the Town Charter of the Town of Malabar, Florida, and the Florida Statutes to hold the office of COUNCIL MEMBER District 1, 2, 3 of the Town of Malabar, Florida, for which he/she desires to be elected/appointed. Said qualifications are as follows, to wit:

- He/She is eighteen (18) years of age or older.
- He/She is not presently adjudicated mentally incompetent under the laws of any state.
- He/She has never been convicted of a felony without having his/her civil rights restored.
- He/She has registered to vote in Brevard County, Florida.
- He/She is now and has been for at least six (6) months consecutively and immediately prior to this date, a resident of the Town of Malabar, Brevard County, Florida within the District the candidate is running.
- He/She is willing to serve if elected/appointed.

Steve Rivet
Signature of Candidate

2005 Rivet Lane, Malabar, 32950
Address

Occupation: Professor

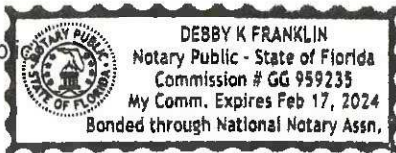
Sworn to and subscribed before me this 5th day of August, 2020.

Debby K. Franklin
(Signature of Notary Public - State of Florida)

Debby K. Franklin
(Print, Type, or Stamp Commissioned name of Notary Public)

Personally Known OR Produced Identification :

Type of Identification Produced : _____



PART I CHARTER*

*Editor's note--Printed herein is the Charter of the Town of Malabar adopted in a referendum on November 5, 1985, and by ordinance number 2-04-86 adopted on March 4, 1986, and as adopted on March 25, 2003. Style and capitalization have not been made uniform. Obviously misspelled words have been corrected without notation. Words added for clarification have been added in brackets. Amendments have been included and are indicated by a history note immediately following the amended section. Additional changes were made after the Election Referendum of 11/8/2016 that created single district voting.

Art. I. General Provisions, §§ 1.01--1.06

Art. II. The Town Council, §§ 2.01--2.16

Art. III. Administration, §§ 3.01--3.06

Art. IV. Financial Matters, §§ 4.01--4.03

Art. V. Initiative and Referendum, §§ 5.01--5.07

Art. VI. Recall; Conduct of Officials in Office, §§ 6.01, 6.02

Art. VII. Transition Provisions, §§ 7.01--7.05

Art. VIII. Severability and Effective Date, §§ 8.01, 8.02

Art. IX. Amendment to Charter, § 9.01

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Sec. 2.06. Judge of Qualifications.

The Council shall be the judge of the qualifications in this Charter of the candidates for election to the Council and for the office of Mayor and for that purpose shall have the power to subpoena witnesses and require the production of evidence. The decision of the Council shall be subject to review by the courts. Review by the council of each candidate's qualifications shall be conducted at a council meeting after the candidate's qualifying papers are filed.
(Ord. No. 95-3, § 1, 7-17-95)

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