



REGULAR TOWN COUNCIL MEETING

Monday, October 5, 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 09/17/2020
Exhibit: Agenda Report Number 4a

Attachments:

- Agenda Report Number 4a (Agenda_Report_Number_4a.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. Public Works Director
Written Report
 - c. Fire Chief
 - d. 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 : 0
11. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING : 0
(RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)
12. ACTION ITEMS
ORDINANCES: 0

RESOLUTIONS: 3

MISCELLANEOUS: 3

a. Resolution 14-2020 - Appoint to Board of Adjustment

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF CHARLES "CHUCK" FRAZEE TO THE MALABAR BOARD OF ADJUSTMENT 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 12a

Attachments:

- Agenda Report Number 12a (Agenda_Report_Number_12a__2_.pdf)

b. Resolution 15-2020 - Appoint to Planning and Zoning Board

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF WAYNE ABARE 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.

Exhibit: Agenda Report Number 12b

Attachments:

- Agenda Report Number 12b (Agenda_Report_Number_12b__2_.pdf)

c. Resolution 16-2020 - Appoint to Parks and Recreation Board

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF HANS KEMMLER TO THE MALABAR PARKS AND 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 12c

Attachments:

- Agenda Report Number 12c (Agenda_Report_Number_12c__2_.pdf)

d. Request by Waste Management for a \$0.36 increase to the monthly recycling rate due to changes in the law: by Waste Management Public Affairs Manager Dina Reider-Hicks

Exhibit: Agenda Report Number 12d

Attachments:

- Agenda Report Number 12d (Agenda_Item12d_rev.pdf)

e. Request for Clarification regarding Face Masks worn at Malabar Meetings

Exhibit: Agenda Report Number 12e

Attachments:

- Agenda Report Number 12e (Agenda_Report_Number_12e__2_.pdf)

f. Request to Process with FallFest 2020 on November 21, 2020

Exhibit: No Attachment

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

(1) Vacancy on the Parks and Recreation Board; (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.

**MALABAR TOWN COUNCIL REGULAR MEETING MINUTES
SEPTEMBER 17, 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 Scardino led P&P.

2. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL

BRIAN VAIL, arrived late

DAVID SCARDINO

DANNY WHITE

MATT STINNETT

KARL BOHNE excused

TOD MOWERY

DEBBY FRANKLIN

TOWN MANAGER: (TM)

TOWN ATTORNEY:

TOWN PLANNER:

TOWN CLERK/TREASURER:

For the record, the Interim TM Lisa Morrell was also present.

3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES: TM added the actual loan agreement with the DEP for 190K. Council adopted Reso 07-2020 in June authorizing this.

4. CONSENT AGENDA:

4.a. Regular Town Council Mtg Minutes of 9/17/2020

4.b. Renew Govt Relations Agreement with SPG – Bill Barrett

4.c. Approve the DEP Revolving Loan Agreement for 190K

MOTION: CM Rivet / CM White to approve consent agenda. **VOTE:** All Ayes.

5. ATTY: excused

6. STAFF REPORTS:

6.a. Manager: He will be available via phone and email after Oct 1. Lisa Morrell email will go live tomorrow. She will start on Oct 1.

6.b. Clerk: Nothing

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

8. PUBLIC HEARINGS: 4

8.a. Second Reading to Amend Zoning to be Consistent with the current FLUM (Ord 2020-09)

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 1.97+/- ACRE SITE LOCATED AT THE NW CORNER OF MALABAR ROAD AND MARIE STREET, ALSO KNOWN AS PARCEL 762 IN SECTION 36, TOWNSHIP 28 AND RANGE 37, MALABAR, FLORIDA FROM COMMERCIAL LIMITED (CL) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE TOWN ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 8.a.

Ord is read by title only – Second Reading.

Open Public Hearing: none. Closed Public Hearing.

MOTION: CM Ball / CM Scardino to adopt Ord 2020-09.

Applicant is called – He stated at first hearing he was representing the owner; he is now the owner and proud to be here and is looking forward to doing this project in Malabar.

Discussion: Chair asked staff – staff supports the request for consistency in FLUM. P&Z voted 5-0 to support request.

ROLLCALL VOTE: CM Ball, Aye; CM Vail, excused; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 4 to 0.

8.b. Second Reading: Approve Millage Levy for FY 2020/2021 (Ord 2020-10)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING THE MILLAGE RATE OF 2.3800 FOR THE LEVY OF AD VALOREM TAX WITHIN THE TOWN FOR THE PERIOD FROM OCTOBER 1, 2020 THROUGH SEPTEMBER 30, 2021, AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 8.b.**

Ord is read by title only – Second Reading.

Open Public Hearing: none. Closed Public Hearing.

MOTION: CM Rivet / CM White to adopt Ord 2020-11.

Discussion: as stated in agenda report

ROLLCALL VOTE: CM Ball, Aye; CM Vail, excused; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 4 to 0.

8.c. Second Reading: Approve Budget for FY 2020/2021 (Ord 2020-11)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA ADOPTING THE BUDGET OF \$2,350,633.00 FOR THE FOR THE FISCAL PERIOD FROM OCTOBER 1, 2020 THROUGH SEPTEMBER 30, 2021, AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 8.c.**

Ord is read by title only.

Open Public Hearing: none. Closed Public Hearing.

MOTION: CM Ball / CM White to approve second reading of Ord 2020-11.

Discussion:

ROLLCALL VOTE: CM Ball, Aye; CM Vail, excused; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 4 to 0.

8.d. Second 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. 8.d.**

Ord is read by title only.

CM Vail arrived 7:40pm.

Open Public Hearing: none. Closed Public Hearing.

MOTION: CM White / CM Scardino to approve second reading of Ord 2020-08.

Discussion:

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

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

9.a. Application for Temporary Location of Motor Home while Constructing Home, 1740 Highway 1, Malabar by owner, Mr. Balwant

Exhibit: Agenda Report No. 9.a.

MOTION: CM Rivet / CM Ball to approve the temp placement of motor home.

VOTE: All Ayes.

9.b. Request by WM for the Annual Rate Adjustment of \$0.24 to the monthly residential rate and a \$0.36 increase to the monthly recycling rate for a total of \$0.60 monthly increase by WM Public Affairs Manager Ms. Dina Reider-Hicks

Exhibit: Agenda Report No. 9.b.

Chair called Ms. Dina Reider-Hicks. CM White thanked her for the fantastic job they do. CM Rivet asked if this rate increase is permitted in the contract. Franklin said the annual CPI is built into the contract. The recycle increase is due to extraordinary conditions and staff thought it prudent to bring to Council. CM Rivet had concerns with voting on change to contract without input from Town Attorney. CM Scardino asked if they are recycling. Ms. Reider-Hicks stated WM is committed to recycling process. CM Scardino said other cities are using landfill instead of trying to recycle. Reider-Hicks said China has changed the laws, but India is taking a lot of our paper and there are now many recyclers stateside as well. They could not have foreseen this cost back in 2014. CM White asked if the rate is the same as in 2014. Reider-Hicks said yes except for annual CPI increases and one year it was actually reduced. CM Ball would want to see Attorney's comments on this. CM Vail agreed. Reider-Hicks referenced the part of the contract that provides for extraordinary increase.

MOTION: CM White / CM Scardino to approve the rate increase (no vote)

CM Rivet wants to hear from Bohne. CM Vail made motion to table until they can get a legal opinion. CM Rivet seconds motion. The cost to handle the recycle has increased. CM Scardino said it makes a difference that WM is actually recycling the material when other cities are just filling landfills. Postpone until Oct 5.

Chair asked for vote to table. VOTE: All Ayes.

9.c. Application for Commercial Retail Site Plan in CG zoning by Property Owner, Kellwill, LLC located at 2740 Malabar Road.

Exhibit: Agenda Report No. 9.c.

Chair called applicant to podium. William Carmine spoke, explained the site plan he submitted and addressed the comments regarding the landscaping on the east side. They will do whatever they need to do. The current building doesn't have any issue with the R/LC use to the north. As far as traffic, most of requirements will be per FDOT. Explained how they direct the truck traffic now. He has been in touch with the County and to join the parcels, it is a simple application and can be done online. That is joining just the parcels that make up 2740 Malabar Road. This is a standalone site plan. If there is a downturn in economy may need to sell. Mayor said it is an accessory use to the site on Highway 1. The plan looks beautiful.

Chair called Planner Tod Mowery up. The landscape requirements are for both sides per the Code. He proposed a Unity of Title created by the Town to lock the new parcels to the existing property on Highway 1 in perpetuity. We have an accessory use that would otherwise not be allowed in that zoning. Unity of title for site plan purposes. The easements can be looked at later. The plan looks great so the elevations will be looked at later.

Chair called Richard Kohler as he did the minutes for the P&Z Board meeting. Rich stated the Board had good comments, made two conditions and recommended Council approval with a vote of 5 to 0.

MOTION: CM White / CM Rivet to approve the site plan pending the two conditions are met.

VOTE: All Ayes.

Franklin asked Chair to get a Point of clarification on previous agenda item - the CPI increase is due to go into effect on Oct 1 – can it go forward? Next Council meeting is not until Oct 5. Consensus of Council to allow the CPI increase.

10. ACTION ITEMS: ORDINANCES for FIRST READING: 0

RESOLUTIONS: 0

MISCELLANEOUS: 0

11. DISCUSSION/POSSIBLE ACTION: 0

12. PUBLIC COMMENTS: General Items (Speaker Card Required) None:

13. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Ball: no

CM Vail: no

CM Rivet: status on Hall Road. TM said Atty Bohne should be getting back to us soon

CM White: no

CM Scardino: no

Mayor: wished Matt a safe journey and welcomed Lisa.

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

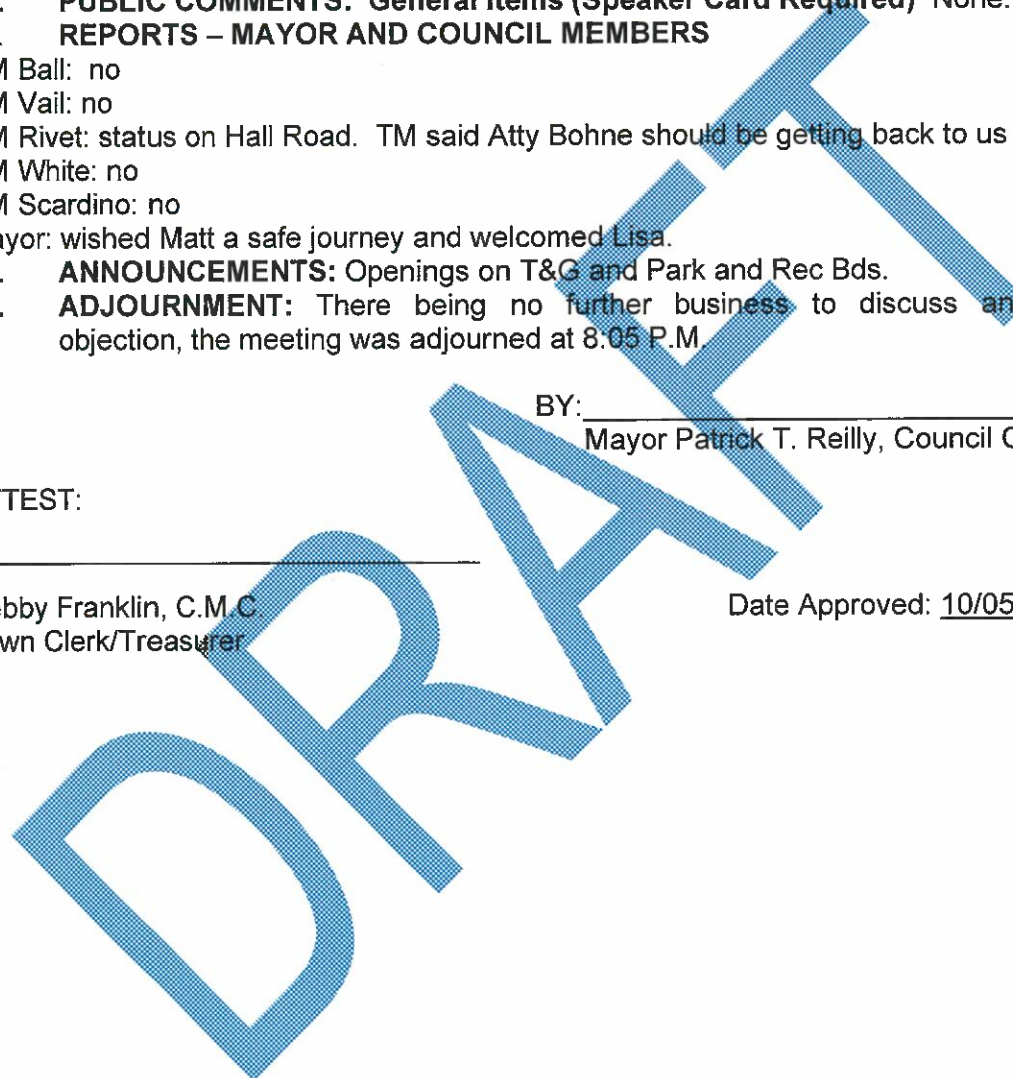
15. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 8:05 P.M.

BY: _____
Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

Date Approved: 10/05/2020



RESOLUTION 14--2020

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF CHARLES "CHUCK" FRAZEE 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 Charles "Chuck" Frazee 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 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 5th day of October 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

Board of Adjustment Application

The Board of Adjustment is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The quorum for the Board of Adjustment is four (4) members. The Board shall meet only on an as needed basis when a property owner requests a variance to the Land Development Code or the Street Improvement Code. They shall also hear and consider challenges to the administrative decisions by the Town Building Official or Town Engineer. The Board of Adjustment shall have the authority to compel attendance of witnesses at hearings or meetings and to administer oaths. Any appeal of the decision of the Board of Adjustment shall be made through the Circuit Court and must be made within thirty (30) days of the finding by the Board of Adjustment.

1. Name: CHARLES J. FRAZEE Phone: 407-448-2409
 2. Home Address: 2860 ROCKY PT. RD. MALABAR, FL. 32950
 3. Email Address: CJ.FRAZEE@FRAZEEINC.COM
 4. Are you a resident of the Town: Yes No
 5. How long have you been a resident of the Town of Malabar: 28 YRS
 6. Are you currently involved with any other organization of the Town: Yes No
- If yes, which organization: _____

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

SEP 8 2020 9:52

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: CHARLES J FRAZEE TELEPHONE: 407-448-2409
ADDRESS: 2860 Rocky Pt. Rd. MALABAR, FL 32950
EMAIL: CJFRAZEE@FRAZEEINC.COM

RESIDENT OF TOWN FOR 12 MONTHS OR LONGER: [X] YES [] NO

OCCUPATION: (If retired, please indicate former occupation or profession.)
RETIRED - FRAZEE, INC.

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

ADDITIONAL INFORMATION/REFERENCES:

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

[X] Board of Adjustment [] Planning & Zoning
[] Parks & Recreation [] Trails & Greenways

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

Charles J Frazee
Signature of Applicant

9-8-2020
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.

Town of MalabarVolunteer Committee/Board ApplicationApplicant 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.

Charles J. Frasier
Signature

9-8-2020
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

SEP 8 2020 9:53

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.

Charles J. Frazee
Signature

9-8-2020
Date

CHARLES FRAZEE
Print Name

Paul W. Koll
Witness



September 3, 2020

Sent via Email: cjfrazee@frazeeinc.com

Chuck Frazee
2860 Rocky Point Road
Malabar, FL 32950

Dear Mr. Frazee:

You hold a seat on the Board of Adjustment that will expire on October 31, 2020.

The Town Council has adopted new procedures regarding anyone wishing to keep the seat they hold at this time. If you are interested in continuing to serve on the Board of Adjustment, you will need to complete a new application; it will be presented to Council at the first meeting in November for appointment to the Board. I have attached a copy of the application for your completion if you are still interested. Please complete the form and return it to the Clerk's Office as soon as possible.

The Council has also adopted an ordinance creating a Code of Conduct for Board Members. I have attached a copy. Please return the last page, signed, with your application for consideration by Council.

The Town appreciates your dedication and your willingness to serve your community.

Sincerely,

Debby K. Franklin

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

Enc: Board Application
Board Code of Conduct

RESOLUTION 15--2020

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF WAYNE ABARE TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR; 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 and 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 Wayne Abare as a regular member of the Planning and 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 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 5th day of October 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

Volunteer Committee/Board Application

Planning & Zoning Advisory Board Application

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.

Name: Wayne Abare Phone: 321-727-8559

Home Address: 2530 Rocky Point Rd., Malabar, FL 32950

Email Address: wabare@cfl.rr.com

Are you a resident of the Town: Yes No

How long have you been a resident of the Town of Malabar: Oct, 1998

Are you currently involved with any other organization of the Town: Yes No

If yes, which organization: _____

TOWN OF MALABAR

SEP 4 2020 8:40

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: Wayne Abare TELEPHONE: 321-727-8559
ADDRESS: 2530 Rocky Point Rd, Malabar, FL 32950
EMAIL: wabare@cfl.rr.com

RESIDENT OF TOWN FOR 12 MONTHS OR LONGER: YES NO

OCCUPATION: (If retired, please indicate former occupation or profession.)

Elec. Engr, Harris Corp.

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

Served on council and currently am chairman of P&Z

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.

Wayne Abare
Signature of Applicant

Sept 3, 2020
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.

Wayne Abau
Signature

Sept 3, 2020
Date



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, and Town utility customers. 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.

Wayne Abare
Signature

Sept 3, 2020
Date

Wayne Abare
Print Name

Katie Abare
Witness

Katie Abare



SEP 4 2020 8:39

September 3, 2020

Sent via Email: wabare@cfl.rr.com

Wayne Abare
2530 Rocky Point Road
Malabar, FL 32950

Dear Mr. Abare:

You hold a seat on the Planning & Zoning Advisory Board that will expire on October 31, 2020.

The Town Council has adopted new procedures regarding anyone wishing to keep the seat they hold at this time. If you are interested in continuing to serve on the Planning & Zoning Advisory Board, you will need to complete a new application; it will be presented to Council at the first meeting in November for appointment to the Board. I have attached a copy of the application for your completion if you are still interested. Please complete the form and return it to the Clerk's Office as soon as possible.

The Council has also adopted an ordinance creating a Code of Conduct for Board Members. I have attached a copy. Please return the last page, signed, with your application for consideration by Council.

The Town appreciates your dedication and your willingness to serve your community.

Sincerely,

Debby K. Franklin

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

Enc: Board Application
Board Code of Conduct

RESOLUTION 16--2020

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF HANS KEMMLER 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 and Recreation 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 Hans Kemmler as a regular member of the Park and Recreation 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 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 5th day of October 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

Volunteer Committee/Board Application

Park & Recreation Advisory Board Application

The Park & Recreation Board is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The 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 Board discusses matters relating to the acquisition, development, maintenance, rehabilitation and operations of parks and recreation properties and facilities within the Town of Malabar and forward their recommendations to the Town Council for their consideration.

1. Name: Hans Kemmler Phone: 321-223-6222
 2. Home Address: 2785 Malabar Rd, Malabar FL 32950
 3. Email Address: ib@hanskemmler.com
 4. Are you a resident of the Town: Yes [] No []
 5. How long have you been a resident of the Town of Malabar: 18 years
 6. Are you currently involved with any other organization of the Town: Yes [] No []
- If yes, which organization: N/A

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

SEP 8 2020 11:39

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE

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NAME: Hans Kemmler TELEPHONE: 321-223-6222
ADDRESS: 2785 Malabar Rd Malabar FL 32950
EMAIL: ib@hanskemmler.com

RESIDENT OF TOWN FOR 12 MONTHS OR LONGER: YES NO

OCCUPATION: (If retired, please indicate former occupation or profession.)

Electronics Sr. Design Engineer

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

Radar Engineering, Disc Golf Sanctuary
Build + Maintenance, Cameron Trail Shelter,
Playground Shade structure.

ADDITIONAL INFORMATION/REFERENCES:

Brian Vail of Veilabar.

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

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

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


Signature of Applicant

08 SEP 2020
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.

Town of MalabarVolunteer Committee/Board Application**Applicant Certification**

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 - Malabar Code of Conduct
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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.

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Signature

08 SEP 2020
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:

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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.

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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.

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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.


Signature

Hans Kemmler
Print Name

08 SEP 2020
Date


Witness

12.d.
Revised



Waste Management Inc. of Florida
7382 Talona Drive
West Melbourne, FL 32904

October 2, 2020

Ms. Lisa Morrell
Interim Town Administrator
Town of Malabar
2725 Malabar Road
Malabar, FL 32950-4427

Dear Ms. Morrell:

Thank you for the opportunity to provide solid waste collection services to the Town of Malabar.

As a follow-up to our original letter dated June 19, 2020, please accept this correspondence as providing for additional information per your request. In accordance with the franchise agreement granted to Waste Management Inc. of Florida, please accept this notice to reflect changes in the cost of doing business.

Waste Management Inc. of Florida ("WM") is writing to share with you a review of issues that have had negative impacts on our Recyclable Materials operations, and to begin a dialogue with you regarding adjustments to the Solid Waste Agreement ("Agreement") to help address those impacts.

Since entering into the Agreement, uncontrollable circumstances have resulted in the costs of providing processing, transportation and marketing services for Recyclable Materials to increase dramatically. The primary driver of these significant adverse changes has been changes in laws governing these activities, which were outside of WM's control. Section 8, Item F, of the "Town of Malabar Solid Waste and Recyclables Collection Agreement," defines "Change in Law" as "...the adoption, promulgation, or modification after the date of this Agreement of any law, regulation, order, statute, ordinance, or rule that was not adopted, promulgated, or modified on or before the date of this Agreement..." thus encompassing international law. The provision of change in "any law" serves as the contractual basis for our request.

Most noteworthy were changes in laws and regulations imposed by the People's Republic of China. In accordance with the Law of the People's Republic of China on Prevention and Control of Environmental Pollution by Solid Waste, starting in 2017, the government of China adopted

standards that have had a devastating impact on the recycling industry. See, for example, National Standards of the People's Republic of China GB 16487.4-2017 related to paper recyclables. The biggest impact of this standard was that it established a new quality specification of 0.3% contamination by weight for any imported wastepaper. The prior standard had been 10% contamination.

For plastics, the contamination specification was established at 0.5% (GB 16487.12-2017 related to plastic recyclables). The prior standard had been 10% contamination. Even worse, in 2018, Announcement No. 6 of the Announcement on Adjustment to the Catalogue for the Administration of Import Solid Waste banned the import of "scraps of plastics," effective December 31, 2018.

While China served as the catalyst for these regulatory changes, more nations have followed China's lead, including North American domestic markets. Regulations and rules within the U.S. recycling industry now mirror those initially imposed by China. Additionally, Florida Statute Chapter 2020-41, enacted July 1, 2020, outlines specific requirements for municipalities regarding actions to reduce recycling contamination. Moreover, there has been growing concern over the issue of plastic waste in the environment, and the impact of plastics transported to less developed countries. This has led WM's parent, Waste Management, Inc., to adopt a policy in August 2019 that its operating subsidiaries would no longer ship collected and processed plastics outside of North America. As such, Waste Management must follow industry regulatory changes for quality specifications that have been adopted within North America.

Processing Costs

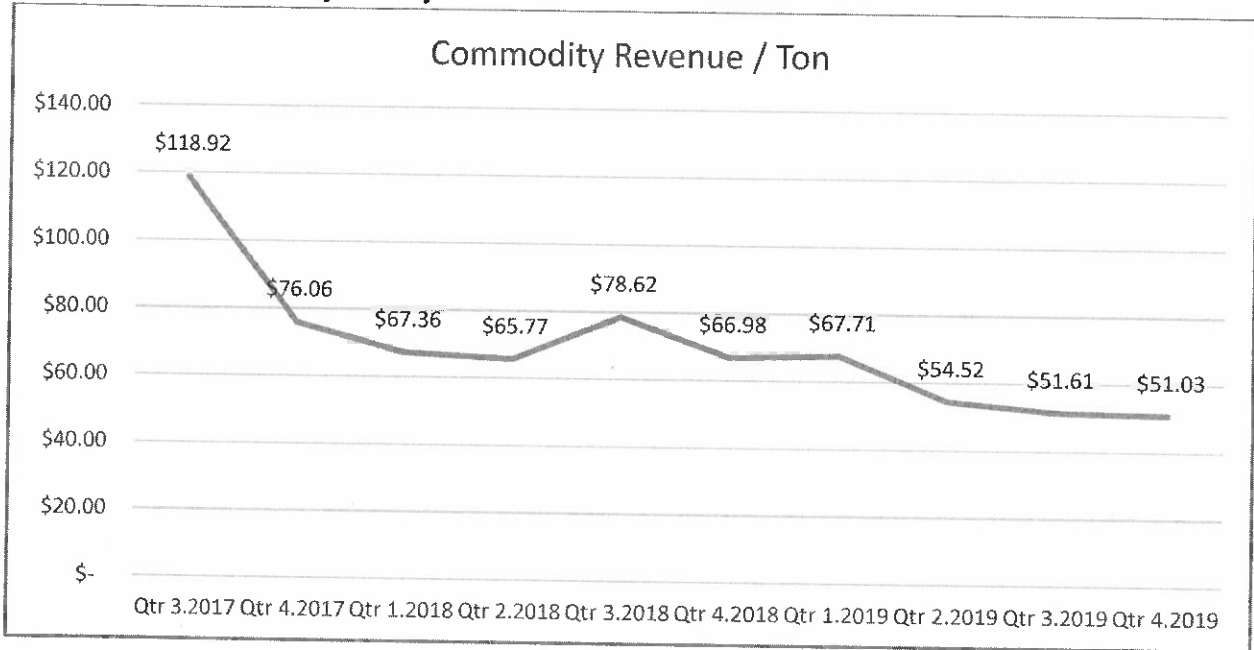
The adoption of more stringent quality specifications has increased the cost of processing collected Recyclable Materials. In order to meet the new specifications, the material has had to undergo additional sorting, which has reduced the tons per hour of material that can be processed and readied for market at our Cocoa Material Recovery Facility (MRF). It has also increased labor costs due to the need for additional hand sorting. The Town of Malabar 2019 Composition Study at our Cocoa MRF revealed a contamination rate of 30.9%, meaning that nearly one third of Malabar's residential recyclable material was actually non-recyclable, contributing to higher processing costs. Please see the attached Study for details.

Loss of Commodity Value

The series of events discussed above has resulted in large reductions in commodity values, and current trends are not encouraging. This can best be seen by looking at commodity values for paper products, which nationally make up about 60% of Recyclable Materials received and processed. The largest paper commodity is mixed paper. Prices have fallen dramatically from \$88.00 per ton in 2017 to **negative \$5.00-20.00** per ton in November 2019. This means that WM must pay to have this material recycled following processing. The second commodity is cardboard, which has similarly fallen from well above \$100.00 per ton to \$30-35 per ton in November 2019. One example of this loss of value is in the Southeast, where values have plummeted from \$180.00 per ton in 2017 to \$30.00 per ton in 2019, but that same trend generally exists throughout the United States.

To demonstrate the overall loss of commodity value specific to your community, the following table is presented. This sets forth the revenue per ton of all residential Recyclable Materials collected and processed at the Cocoa Material Recovery Facility from 3Q 2017 through 4Q 2019. This is the destination for Residential Recyclable Materials or Commercial Recyclable Materials collected in the Town of Malabar.

Cocoa Material Recovery Facility



As seen above, overall commodity values have declined by a staggering \$67.89 per ton from October 2017 through December 2019, an approximately 57% reduction. For the Town of Malabar, based on the tonnage of Recyclable Materials collected, monthly revenue for Residential Recyclable Material has decreased by \$0.36 per customer per month. The chart below represents the calculation for this decrease.

Tons / Month / Recycle	9
Billable Units / Month - Homes	1,109
Services / Month	4.33
Tons / Service	0.002
Lbs / Home / Service	3.69
Lbs / Home / Month	15.96

Avg. Commodity Value / Tons Sold - Current	\$ 84.64
Avg. Commodity Value / Ton Sold - Prior	\$ 129.83
Change / Ton	\$ (45.19)
Change / Lb	\$ (0.023)

Per Home Impact (15.96 * .023)	\$ (0.36)
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Furthermore, the fee that WM pays for marketing of recyclables is based on a calculation of commodity value less processing cost. Currently, the processing costs significantly exceed commodity value, which means that WM has to pay a tipping fee for processing and marketing to the Material Recovery Facility.

Our company carefully evaluates market conditions and has provided guidance that commodity values are not likely to recover significantly in the foreseeable future, as supply will continue to outstrip demand. These events have proven devastating for the recyclables industry, and at this point, WM's recycling operations are marginally sustainable. WM wants to make it clear that the purpose of this request is to align the rates with our recycling costs on a going forward basis, and not to retroactively recover prior increased costs or decreased commodity revenues.

As a result, WM respectfully requests an extraordinary increase of \$0.36 per Residential customer per month for recycling.

The attachment on page 5 outlines current market-viable single stream Recyclable Materials for the Town's review.

Thank you in advance for your consideration.

Sincerely,



Dina Reider-Hicks
Public Affairs Manager

cc: Karl Bohne, Esq., Town Attorney
Debby Franklin, Town Clerk, Town of Malabar
Lisa McNeight, Public Sector Director, North Florida
Christopher Bolyard, Pricing Management, Florida Area
Michael Lewis, Sr. District Manager, Brevard County Area

Attachment

RECYCLABLES SPECIFICATIONS

RECYCLABLES must be dry, loose (not bagged), unshredded, empty, and include **ONLY** the following:

Aluminum cans	Newspaper
PET bottles with the symbol #1 – with screw tops only	Mail
HDPE plastic bottles with the symbol #2 (milk, water bottles detergent, and shampoo bottles, etc.)	Uncoated paperboard (ex. cereal boxes; food and snack boxes)
PP plastic bottles and tubs with symbol # 5 - empty	Uncoated printing, writing and office paper
Steel and tin cans	Old corrugated containers/cardboard (uncoated)
Glass food and beverage containers – brown, clear, or green – empty*	Magazines, glossy inserts and pamphlets

Non-Recyclables include, but are not limited to the following:

Plastic bags and bagged materials (even if containing Recyclables)	Microwavable trays
Porcelain and ceramics	Mirrors, window or auto glass
Light bulbs	Coated cardboard
Soiled paper, including paper plates, cups and pizza boxes	Plastics not listed above including but not limited to those with symbols #3*, #4*, #6*, #7* and unnumbered plastics, including utensils
Expanded polystyrene	Coat hangers
Glass and metal cookware/bakeware	Household appliances and electronics
Hoses, cords, wires	Yard waste, construction debris, and wood
Flexible plastic or film packaging and multi-laminated materials	Needles, syringes, IV bags or other medical supplies
Food waste and liquids, containers containing such items	Textiles, cloth, or any fabric (bedding, pillows, sheets, etc.)
Hazardous/Medical Waste or containers which contained such materials	Napkins, paper towels, tissue, paper plates, and paper cups
Any paper Recyclable materials or pieces of paper Recyclables less than 4" in size in any dimension	Propane tanks, batteries
Cartons*	Aseptic Containers*

* These materials may be deemed Recyclables upon written consent of Contractor, which may be withdrawn upon notice to City if there is no commercially viable market.



Aggregated Customer Audit Report

Monday, September 21, 2020

5:21:35 PM

Location WM Recycling Brevard

Sample Confidence 50% Shift From 1/1/2019 To 12/31/2019
 Customer WM MELB HAULING-Malabar SS-Day 4_123, WM MELB HAULING-Malabar SS-Day 4_517, WM MELB HAULING-

Status	# of Audits	Total Audit Time (hr.min)	Avg Audit Time (hr.min)	Total Weight (lbs)	Avg Weight (lbs)
Complete	1	1.25	1.25	213.1	213.1

Material	Sub Type	Shape	Color	Min (lbs)	Max (lbs)	Avg (lbs)	Sum (lbs)	% of Total
Fiber	OCC			31.3	31.3	31.3	31.30	14.7%
Fiber	Mixed Paper 54			14.0	14.0	14.0	14.00	6.6%
Fiber	Sorted Resi Pprs			28.3	28.3	28.3	28.30	13.3%
Plastic	1 PET	Bottles-Jars-		6.7	6.7	6.7	6.70	3.1%
Plastic	2 HDPE	Bottles-Jars-	Natural	2.9	2.9	2.9	2.90	1.4%
Plastic	2 HDPE	Bottles-Jars-	Colored	3.5	3.5	3.5	3.50	1.6%
Plastic	Plastics 3, 6 and 7			1.9	1.9	1.9	1.90	0.9%
Plastic	MRF Film Plastic			1.0	1.0	1.0	1.00	0.5%
Plastic	Tubs and Lids -4-			2.2	2.2	2.2	2.20	1.0%
Plastic	Bulky Rigid Plasti			0.0	0.0	.0	.00	0.0%
Metal	Aluminum	UBC		3.1	3.1	3.1	3.10	1.5%
Metal	Steel-Tin	Can		9.0	9.0	9.0	9.00	4.2%
Metal	Scrap Metal			2.0	2.0	2.0	2.00	0.9%
Glass	Three Mix Glass >			41.3	41.3	41.3	41.30	19.4%
Residue	Plastic Bagged Ma			18.3	18.3	18.3	18.30	8.6%
Residue	Contamination			47.6	47.6	47.6	47.60	22.3%
Total Sample Weighed							213.1	100.0%

RE: Malabar

* kbohne@fla-lawyers.com <kbohne@fla-lawyers.com>

Mon 9/21/2020 8:53 AM

To: Debby Franklin <townclerk@townofmalabar.org>

Cc: Matt Stinnett <TownManager@townofmalabar.org>

They do have the right to ask for such an increase but the Town council needs to approve it as well. It appears that the ground for this request is partially pursuant to the "Change in Law" provision in Section 8 F of the franchise. However, it is not clear that the "Change in Law" provision was intended to apply where another country created a Change in Law affecting the franchise. In the explanation from the Franchisee they indicate that the Peoples Republic of China changed its laws or regulations. For example the explanation states:

"...The primary driver of these significant adverse changes has been changes in laws governing these activities, which were outside of WM's control...

Most noteworthy were *changes in laws and regulations imposed by the People's Republic of China*. In accordance with the Law of the People's Republic of China on Prevention and Control of Environmental Pollution by Solid Waste, starting in 2017, the government of China adopted standards that have had a devastating impact on the recycling industry."

So there is a significant question regarding the explanation where the change in laws of a foreign country are involved. It could be argued that a change in law must be a change in domestic law. How much of their proposed increase was the result of the foreign country law change? How much of the increase is due to domestic changes in law? It is not clear.

Also, the Franchise requires a request for increase to be made within 120 days of the occurrence necessitating the request. It is unclear from the request when the occurrence occurred.

The Town's denial of such a request cannot be unreasonable. That of course is an undefined term and in my opinion I think you can take into consideration the quality of service provided, frequency of complaints, responsiveness to complaints, cooperation in resolving complaints, timeliness of request, sufficiency of explanation for the request, applicability of the events justifying the request under the terms of the franchise and any other reasonable factors. Also, from the best I can tell the Franchise does expire in 2021

Karl W. Bohne, Jr.
Schillinger & Coleman, P.A.
1311 Bedford Drive
Melbourne, FL 32940
321-255-3737 Telephone
321-255-3141 Facsimile

Office Hours:

8:30 a.m. to 5:00 p.m. Monday thru Thursday

8:30 a.m. to 12 Noon on Friday

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From: Reider-Hicks, Dina <dreider@wm.com>
Sent: Monday, September 21, 2020 10:05:31 AM
To: Lisa Morrell <LMorrell@townofmalabar.org>
Cc: Matt Stinnett <TownManager@townofmalabar.org>
Subject: WM Malabar Annual CPI Adjustments 2015-Present

Good morning, Lisa,

Per your request, I have attached the Town of Malabar CPI adjustments for the past 6 years. The Town's solid waste contract was last issued for RFP in 2014; the CPI adjustments are from 2015 to present.

Below is an at-a-glance view of the annual CPI adjustments:

2015 = (-0.42%)
2016 = 0.47%
2017 = 2.27%
2018 = 2.25%
2019 = 1.64%
2020 = 1.13%

The average of the adjustments over the past 6 years is 1.22%

To provide another perspective, Waste Management was the low bidder in the 2014 RFP, with a residential rate of \$19.65 per month. The residential rate starting October 1, 2020 will be \$21.15 per month. This represents an increase of \$1.50 over the span of 6 years, or an average of \$0.25 per year.

The \$0.36 recycling extraordinary cost adjustment that we are requesting is the result of global law and regulatory changes with recycling that have taken place largely since 2017. No one could have foreseen these changes in 2014 when the contract was last placed out for RFP. Section 8, Item F, of the solid waste franchise agreement addresses unusual or unanticipated increases in the cost of doing business. The attached letter outlines the analysis and documentation for the request, which is specific to Malabar.

Please do not hesitate to call or email if you should have any questions. I am happy to discuss the letter further if you would like.

Thank you!

Best,

Dina

DINA REIDER-HICKS

Public Affairs Manager

Waste Management Inc. of Florida

dreider@wm.com

T: 321.409.6604

C: 321.537.4273

7382 Talona Drive

Re: Wearing Masks at P&Z Meetings

Pat Reilly <mayor@townofmalabar.org>

Mon 9/28/2020 10:53 AM

To: Debby Franklin <townclerk@townofmalabar.org>

Debby,

Let's add it to Discussion at the next Council Meeting. Let's see what they have to say in the matter. It would affect all boards.

Pat

From: Debby Franklin <townclerk@townofmalabar.org>

Sent: Monday, September 28, 2020 8:47 AM

To: Pat Reilly <mayor@townofmalabar.org>

Subject: Fw: Wearing Masks at P&Z Meetings

I need direction from you on this agenda item request.

Debby K. Franklin

Certified Municipal Clerk

Town Clerk Treasurer

townclerk@townofmalabar.org



Town of Malabar

2725 Malabar Road

Malabar, FL 32950

www.TownofMalabar.com

From: wayne abare <wabare@cfl.rr.com>

Sent: Monday, September 28, 2020 8:35 AM

To: Debby Franklin <townclerk@townofmalabar.org>

Cc: Wabare@cfl.rr.com <Wabare@cfl.rr.com>

Subject: Wearing Masks at P&Z Meetings

Debby: Please share this email with the Mayor to see if he wants to put it on the Council agenda. I believe there will be alternate P&Z members in attendance so I wanted a chance to tell the whole story.

The door leading to Council Chambers has Covid19 guidelines posted which includes wearing face masks. After Denine contracted Covid19 the absenteeism at P&Z jumped up. When I showed up for the September 9th P&Z meeting two voting board members were absent and everybody but alternate board member Jeff Rinehart was wearing a mask. After the meeting started I asked Mr. Rinehart

to put on a mask. He refused and started giving me reason why he felt face masks were not effective. I asked him to leave after expressing my concern to him about his fellow board members, he refused. I continued on with the meeting with him not wearing a face mask. I ended the meeting earlier than usual. After the above meeting I contacted one of the absent voting members. I was told two members of his family died recently from Covid19. I asked if he would attend the next P&Z meeting if everybody was wearing a mask. He said yes.

I requested a sheriff deputy attend the next P&Z meeting. On the September 23rd when I entered Council chambers all five voting members and both alternate members were present. In addition, a Deputy and our Fire Chief were also in attendance. Everybody but alternate member Susan Shortman was wearing a mask. I asked her to put on a mask. She refused and said she had trouble breathing with a mask. I commented she wore a mask at our last meeting. She said that was a short meeting. I told her I had promised a P&Z board member everybody would wear a mask. I then asked her to leave.

I have a voting board member that may stop coming if masks are not worn by all. I have an alternate board member that will wear a mask if I have a deputy present.

I have an alternate board member that has breathing issues with wearing a mask. I have four voting board member who are OK wearing masks until the Covid 19 guidelines are relaxed.

I know that Town Council appoints board member and we serve at the pleasure of Council. So I am asking for Council guidance on this issue.

Sincerely, Wayne Abare Planning and Zoning Chairman