



REGULAR TOWN COUNCIL MEETING

Monday, December 21, 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 12/07/2020**
Exhibit: Agenda Report Number 4a

Attachments:

- **Agenda Report Number 4a** (Agenda_Report_Number_4a.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 HEARINGS: 1
 - a. **Ordinance 2020-14 Mobile Food Vendors Regulations**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; RELATING TO MOBILE FOOD DISPENSING OPERATIONS; AMENDING ARTICLE II, SECTION 1-2.6.C.14 OF THE LAND DEVELOPMENT CODE OF THE TOWN PROVIDING FOR DEFINITIONS, RULES AND REGULATIONS REGARDING LOCATIONS FOR MOBILE FOOD DISPENSING OPERATIONS; AMENDING ARTICLE XX, LANGUAGE AND DEFINITIONS, OF THE LAND DEVELOPMENT CODE; AMENDING CHAPTER 14 OF THE TOWN CODE BY ADDING A NEW SECTION 14-40.1; PROVIDING FOR AN APPLICATION AND OPERATIONAL PROCEDURES FOR MOBILE FOOD DISPENSING OPERATIONS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND 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

10. ACTION ITEMS : 3

ORDINANCES for FIRST READING:1

RESOLUTIONS:1

MISCELLANEOUS:1

a. Adopt Building Codes per 2020 Florida Building Commission (Ordinance 2020-15)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; RELATING TO BUILDING CODES; AMENDING CHAPTER 6, SECTION 6-1 OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR ADOPTION OF CERTAIN MODEL BUILDING AND CONSTRUCTION CODES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10a

Attachments:

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

b. Budget Adjustment to Increase Interim Town Manager Salary (Resolution 21-2020)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2020/2021; PROVIDING FOR SALARY INCREASE FOR THE INTERIM TOWN MANAGER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10b

Attachments:

- **Agenda Report Number 10b** (Agenda_Report_Number_10b.pdf)

c. Reschedule 2nd Meetings in January and February 2021

Exhibit: Agenda Report Number 10c

Attachments:

- **Agenda Report Number 10c** (Agenda_report_Number_10c.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 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 12/16/2020 at 4:15 PM

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO: 4.
Meeting Date: December 21, 2020

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

SUBJECT: 4. Consent Agenda

BACKGROUND/HISTORY:

- a. Town Council Regular Meeting Minutes – 12/21/2020

ATTACHMENTS:

- a. Draft Minutes of 12/21/2020

ACTION OPTIONS:

Council Action on Consent Agenda

**MALABAR TOWN COUNCIL REGULAR MEETING MINUTES
DECEMBER 07, 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 Prayer & Pledge.

2. ROLL CALL:

CHAIR:	MAYOR PATRICK T. REILLY
VICE CHAIR:	STEVE RIVET
COUNCIL MEMBERS:	MARISA ACQUAVIVA
	BRIAN VAIL
	DAVID SCARDINO
	DANNY WHITE(Excused)
	LISA MORRELL
	KARL BOHNE (via phone)
	DEBBY FRANKLIN

TOWN MANAGER: (ITM)

TOWN ATTORNEY:

TOWN CLERK/TREASURER:

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

4. CONSENT AGENDA:

4.a. Regular Town Council Mtg Minutes of 11/16/2020

4.b. Holiday Schedule for Christmas and New Year's

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

5. ATTORNEY REPORT: nothing.

6. BCSO: Report – Lt. Cline gave overview for November. CM Acquaviva asked about local firearm discharges. Lt. Cline explained the process that BCSO follows when they receive reports of shots fired, CM Rivet asked about fireworks during New Year's period. BCSO Department will record one report and list all the complaints within that report. There will continue to be a Sgt at Arms at all meetings into next year.

6. BOARD / COMMITTEE REPORTS: - none present

6.a. T&G Committee

6.b. Park and Recreation Board

6.c. P&Z Board:

7. STAFF REPORTS:

7.a. Manager: Provided written report in package. Waste Management has provided several PDF handouts, such as "When in doubt throw it out." Hunter Lane paving is being pushed out. Asphalt delays due to holidays. Attended webinar on DEP for stormwater and FSA certifications. Those with certifications expiring will renew certifications and new employee can start in January. Cares Act improvements are due by Dec 30, HVAC will be provided even though not approved by Cares Group.

Received appraisal back on Friday re: Marie St and will review and submit a report to Council separately. Mayor asked about the latest update on SAI stormwater work. Have not received an update since last report.

7.b. PW Director: written

7.c. Fire Chief: written – Chief went over written report. Doing pre-plans and hydrants inspections. He will travel Town on New Year's Eve to patrol for unsafe discharge of fireworks.

7.d. Clerk: Followed up on end of year status. Surplus funds over operating costs are being submitted for investment per our policy. We as the employees of the Town are working on improving our processes and updating our policies. ITM Lisa has been instrumental in helping us make these improvements and showing the department heads how these improvements benefit not only the employees but improve transparency for the residents and Council.

8. 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

John Diamico. – 635 Hall Road – Can a speed hump be added on Hall Road? There are way too many people going too fast. Not the same vehicle. Staff will investigate it and get back to Council. Also, he could call BCSO and ask for specific enforcement.

Tom Trembly, 1085 Atz Road at Waring Lane. Regarding cleaning the culverts. Once it is cut down the ditch must be cleaned out instead of just mowing. He has been trying to get his ditch cleaned since Labor Day. Check call sheet.

ITM Lisa has spoken with him and has looked at it and checked the ditch. She asked his process. Tom had not been there since 2019. Also dealing with a backlog of projects. Atz Road needs to be cut and scooped.

9. PUBLIC HEARINGS: 0

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

11. ACTION ITEMS:

ORDINANCES for FIRST READING: 1

11.a. Ordinance 2020-14

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; RELATING TO MOBILE FOOD DISPENSING OPERATIONS; AMENDING ARTICLE II, SECTION 1-2.6.C.14 OF THE LAND DEVELOPMENT CODE OF THE TOWN PROVIDING FOR DEFINITIONS, RULES AND REGULATIONS REGARDING MOBILE FOOD DISPENSING OPERATIONS LOCATIONS AMENDING ARTICLE XX, LANGUAGE AND DEFINITIONS, OF THE LAND DEVELOPMENT CODE; AMENDING CHAPTER 14 OF THE TOWN CODE BY ADDING A NEW SECTION 14-40.1; PROVIDING FOR AN APPLICATION AND OPERATIONAL PROCEDURES FOR MOBILE FOOD DISPENSING OPERATIONS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 11.a.

Ord read by title only.

Intro by ITM: As stated in the Agenda Report has been in work for a little while – unanimous vote by P&Z. Where they can and can't be located. Town owned property. Would not be able to operate on the side of the road. Allowed on improved privately owned properties but not on vacant properties, even if it is properly zoned. Construction areas ok until CO is issued. Went through hours of operations. Can be stationary but can't drive around like an ice cream truck. Focus on "improved" commercial property. Lengthy staff report went to P&Z and they reduced it to the intent. Operating on Town property will require insurance. Minimal use of the outside surround area like for a sandwich board. No alcohol. This will come back to you for a 2nd reading. Since there are operating mobile food dispensing operations now, Council could make the Ordinance effective after 90 days to allow the Town to reach out and contact them about the changes. Discussed the effective date sometime in March 2021 to get provide time for existing mobile food dispensing operations to prepare for compliance to the regulations.

Attorney Bohne – nothing to add. Amendment to LDR. Can't impose extra fees and license requirements, but can require a BTR

MOTION: CM Rivet / CM Scardino to approve 1st Reading of Ord 2020-14.

Discussion: Mayor states that the Town of Malabar currently has five (5) Mobile Food Dispensing Operations. CM Vail asked about the ones on unimproved properties? Attorney Bohne states there will be no grandfathering allowed. CM Acquaviva asked about how the ability to move would affect the BTRs. The BTR is to have the ability to operate in our Town. ITM Lisa explained

to Attorney Bohne that per the Florida Statute requirements, they must have self-contained utilities in order to be considered a Mobile Food Dispensing Operation.

Mayor believes it should be take-away only. If it is restaurant then they can sit down. They may have health certification for food but not the amenities. CM Scardino said it is being turned into an outside dining. The ordinance only allows two trash bins, one recycle bin and a sandwich board. CM Vail asked about plugging in to power instead of having self-contained. ITM Lisa explained the self-contained meant washing, wastewater containment, electric, gas, etc.

Mayor asked about CM Scardino's question no accessories – no lights, table chairs, etc. - Correct

CM Acquaviva asked about mobile food vendors that drive to events. CM Scardino asked about limiting the size – could it be a tracker trailer? We need to have regulations.

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

RESOLUTIONS: 2

11.b. Resolution 17-2020 – Extend or Sunset Face Covering Policy

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PURSUANT TO THE GENERAL POWERS RESERVED TO THE TOWN COUNCIL IN THE TOWN CHARTER; MAKING LEGISLATIVE FINDINGS; PROVIDING FOR DEFINITIONS; REQUIRING ALL PERSONS TO WEAR FACE COVERING AT DESIGNATED TOWN FACILITIES; PROVIDING FOR EXCEPTIONS; PROVIDING FOR SUNSET; PROVIDING FOR SEVERABILITY, CONFLICTS AND EFFECTIVE DATE.

Exhibit: **Agenda Report No. 11.b.**

Clerk explained that this resolution does not require a rollcall vote as it has already been adopted on 10/19/20 with an effective date of 10/5 but will sunset at midnight tonight unless extended. The motion should be to extend or sunset the date of effectiveness.

MOTION: CM Vail / CM Scardino to extend the date in this resolution to January 5, 2021.

VOTE: All Ayes.

11.c. Resolution 20-2020 – Appointment to Park and Recreation Board

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF EVAN HALL TO THE MALABAR PARK AND RECREATIONAL BOARD AS AN ALTERNATE MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 11.c.**

MOTION: CM Rivet / CM Acquaviva to adopt Resolution 20-2020. Discussion: None

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

MISCELLANEOUS: 1

11.d. Social Media Use for Public Information and Outreach and Approve Archive Social Agreement for social media archiving solution

Exhibit: **Agenda Report No. 11.d.**

Staff has been working on outreach for social media for posting information where residents are more likely to see it.

The Town's website only has 330+ subscribers and only 30 for newsletter. A social media page would be outbound only. This vendor would provide the records retention requirement. If staff were to move forward, this would provide the archiving solution for said page. It would cost \$1,700 for rest of the current fiscal year. The next annual payment would be \$2,100. This company was the most affordable and is used widely by other Brevard municipalities.

This could be a great tool to encourage participation in Fall in love with SpringFest, Tree Lighting, or other community events.

CM Vail asks what the costs of this is compared to mailing a MailBoat Newsletter?

Clerk states that each edition cost about \$2,500 and traditionally we published 4 per year.

CM Rivet said we have a responsibility to communicate with our residents and regardless of our feelings towards social media, this appears to be the best way to do it. That is the way the world stays informed. We need to participate in that. Cost is less than what we are spending on the Mailboat.

CM Acquaviva asked who would be posting content? CM Vail asks how much staff time it takes. ITM Morrell states that staff will post to website and share on Facebook. In setting up the account it will require minimal time. It is not intended to engage in dialog with residents. Staff will only take down hate speech. CM Acquaviva and CM Vail state Council Members should not post to social media.

Attorney Bohne reminded Council not to conduct town business on social media.

MOTION: CM Vail/ CM Rivet to approve Town Staff to enter into an agreement with Archive Social. **VOTE:** All Ayes.

Chair may excuse Attorney at this Point

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

CM Acquaviva: great job by staff at the tree lighting – great turn out.

CM Vail: no

CM Rivet: no

CM White: excused.

CM Scardino: no

Mayor: no

15. **ANNOUNCEMENTS:** Openings on T&G

16. **ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 8:43 P.M.

BY: _____
Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

Date Approved: 12/21/2020

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO: 8.a.

Meeting Date: December 21, 2020

Prepared By: Richard W. Kohler, Deputy Town Clerk/Treasurer

SUBJECT: Ordinance 2020-14 Mobile Food Dispensing Vehicles – Public Hearing

BACKGROUND/HISTORY:

With the passing of Florida Senate Bill 474 in January of 2020, the State barred local governments from prohibiting the operations of Mobile Food Dispensing Vehicles.

The Malabar Planning and Zoning Board began to review rules and regulations pertaining to Mobile Food Dispensing Vehicles. During their discussions, the Board agreed an ordinance should be passed which contain the following items:

- Approved Zoning Designations of Operation
- Permitted Property Types
- Traffic Concerns
- Product Dispensing
- Noise Restrictions
- Hours of Operation
- Enforcement

In November they recommended Council adopt this ordinance. Council considered it at their meeting on December 7, 2020 and voted to approve the first reading. It has been legally advertised in Florida Today on December 9, 2020 for a public hearing at this meeting. If adopted, it will become effective 90 days after this date, March 21, 2021.

This will provide sufficient time for the Town to notice the property owners and vendors currently operating Mobile Food Dispensing Vehicles within Malabar.

FINANCIAL IMPACT: NONE

ATTACHMENTS:

- Ordinance 2020-14

ACTION OPTIONS: Action on 2nd reading of Ordinance 2020-14

ORDINANCE 2020-14

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; RELATING TO MOBILE FOOD DISPENSING OPERATIONS; AMENDING ARTICLE II, SECTION 1-2.6.C.14 OF THE LAND DEVELOPMENT CODE OF THE TOWN PROVIDING FOR DEFINITIONS, RULES AND REGULATIONS REGARDING LOCATIONS FOR MOBILE FOOD DISPENSING OPERATIONS; AMENDING ARTICLE XX, LANGUAGE AND DEFINITIONS, OF THE LAND DEVELOPMENT CODE; AMENDING CHAPTER 14 OF THE TOWN CODE BY ADDING A NEW SECTION 14-40.1; PROVIDING FOR AN APPLICATION AND OPERATIONAL PROCEDURES FOR MOBILE FOOD DISPENSING OPERATIONS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, Mobile food dispensing is a growing industry in the United States and serves as a means for individuals to start businesses or to supplement existing businesses; and

WHEREAS, there is an increasing demand for a greater variety of food options than are present in the Town; and

WHEREAS, at present, there are no rules or regulations pertaining to mobile food dispensing vehicle, vendors and operations in the Town Code; and

WHEREAS, on November 17, 2020, the Malabar Planning and Zoning Board held a publicly advertised meeting to discuss and recommend such amendments to the Town Code; and

WHEREAS, Town Council has determined that the proposed amendments serve the public health, safety and welfare of the citizens of the Town of Malabar, Florida.

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

SECTION 1. Article II SECTION 1-2.6-C. 14 of the Town Land Development Code is hereby amended to include new subsections (c), (d) and (e) to read as follows:

...

“(c) Mobile Food Dispensing Vehicle means any vehicle that is licensed by the State of Florida as a public food service establishment {See F.S. 509.013 (5) for definition of a public food service establishment} and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

(d) Mobile Food Dispensing Vendor – The operator of a Mobile Food Dispensing Vehicle.

(e) Location of mobile food dispensing vehicle/vendor. A mobile food dispensing vendor may operate a mobile food dispensing operation in the following locations:

1. Town-Owned Property

- A. On the following Town-owned property, total operation must be contained within the area designated for their operation by the Town Manager or designee:
1. Malabar Community Park
 2. Sandhill Trailhead Park
 3. Town Hall
- B. Access. A mobile food dispensing vendor shall not operate or park in any location that impedes the ingress or egress of traffic, building entrances, pedestrian ingress or egress, emergency exits, or access to businesses. Notwithstanding anything to the contrary herein, a mobile food dispensing vendor may only operate on Town-Owned Property in areas so designated by the Town.
- C. Conflict. A mobile food dispensing vendor may not operate on or at any location where the Town Manager or designee determines that a conflict exists between a mobile food dispensing vendor's vehicle or operation and an existing license or franchise agreement, contractual obligation, or any other public health or safety concern, including but not limited to a special event or rental facility.

2. Improved Property

- A. A mobile food dispensing vendor may operate on improved private property located within the following zoning districts, only with the written permission of the property owner(s). Evidence of a property owner's written permission must be available for inspection by the Town upon request while the mobile food dispensing vendor is operating.
1. Commercial General (CG)
 2. Industrial (IND)
 3. Residential/Limited Commercial (R/LC)
 4. Office Institutional (OI)
 5. Commercial Limited (CL)

6. Institutional (INS)

- B. Set-back Requirement. When operating on private property, a mobile food dispensing vendor may operate only if set-back at least fifty feet (50') from any abutting residential district and at least one hundred and fifty feet (150') from any exclusively single family residential structure, unless the owner(s) of the residential structure immediately abutting such proposed location provides the mobile food dispensing vendor with express written permission to operate. The one hundred and fifty-foot (150') set-back requirement is reduced to fifty feet (50') where an intervening non-residential building, such as a commercial building, screens the operation from the direct view of the single-family residential structure.
- C. Access. A mobile food dispensing vendor shall not operate or park in any location that impedes the ingress or egress of traffic, pedestrian ingress or egress, building entrances, blocks a public or private right-of-way, emergency exits, or access to businesses. A mobile food dispensing vendor may locate upon a public or private utility easement area; provided, however, that such location may be terminated by the town Manager if it is determined that such location has cause a deterioration to such easement or utility service needs unrestricted access to the easement area.
3. Construction areas. A mobile food dispensing vendor may operate on private property that has an active building permit as part of a commercial or multi-family construction site. Such operation may also occur on a site undergoing master infrastructure construction within a single-family subdivision until the first certificate of occupancy is issued.
4. Principal structure requirement. A mobile food dispensing vendor may only operate on a lot that has a permitted principal structure.

Stationary location requirement. A mobile food dispensing vendor must operate from a stationary location, but may operate from multiple locations throughout the day, except as otherwise permitted in this article."

SECTION 2. ARTICLE XX of the TOWN Land Development Code is hereby amended to include the following definition:

“Improved Property - property upon which a principal residential, commercial, or other principal building has been built”

SECTION 3. Chapter 14 of the TOWN Code of Ordinances is hereby amended to include a new Section 14.40.1:

“Section 14-40. 1 Application process for Mobile Food Dispensing Vendors; Operational Procedures for Mobile Food Dispensing Vendors.

(a) A mobile food dispensing vendor must submit a complete application to obtain or renew a business tax receipt. The application must include all the following:

1. The name, address, phone number and email address of the mobile food vendor;
2. Proof of a valid license issued by the Florida Department of Business and Professional Regulation, a mobile food establishment permit issued by the Florida Department of Agriculture and Consumer Services, and a license or permit from any other state agency having jurisdiction over the mobile food dispensing vendor or the products sold therein as applicable to the mobile food dispensing vendor’s intended operation;
3. Confirmation from the Town of Malabar Fire Department indicating that the mobile food dispensing vendor has passed a fire and safety inspection based on the applicable Florida Fire Prevention Code; and
4. Proof of any insurance required by this section if applicable

(b) Operational Procedures for Mobile Food Dispensing Vendors

1. Hours. A mobile food dispensing vendor may only operate during the posted hours on the authorized Town-Owned property, or for all other approved locations between the hours of one-half hour before sunrise and nine (9) p.m. the same day. Operating hours include the time required for setup and breakdown of the mobile food dispensing operation.

2. Noise requirements. Mobile Food Dispensing Vendors shall comply with Article X of this Land Development Code.
3. Placement of items. Except as otherwise provided herein, the placement or storage of any items is prohibited on the public/private right-of-way, street, sidewalk, or ground area immediately surrounding the an mobile food dispensing operation. The following are the only items which may be placed in the immediate area of such operation as long as they do not impede, endanger, or interfere with pedestrian or vehicular traffic:
 - a. Two (2) trash receptacles;
 - b. One (1) recycling receptacle; and
 - c. One (1) menu board no larger than thirty inches by fifty inches (30" x 50") in height.
4. Waste collection. A mobile food dispensing vendor must provide receptacles for trash and recycling. The area immediately surrounding an operating mobile food dispensing vendor shall always be kept neat and orderly and garbage or trash shall be removed prior to departure of the mobile food dispensing vendor. Mobile food dispensing vendors are responsible for the proper disposal of all waste generated on-site. No grease, waste, trash, or other by-product from a mobile food dispensing vendor's business may be deposited or released onto Town-Owned property, included but not limited to the streets, sidewalks, into the gutter or storm drainage system, etc.

(c) Limitation on sales.

1. The sale of alcoholic beverages is prohibited unless authorized by a special event permit.
2. The sale of non-food related items is prohibited, such as, but not limited to, T-Shirts, ball caps and hats, novelty items, etc.

(d) Insurance

1. When operating on Town-owned property, a mobile food dispensing vendor must maintain insurance and coverage in occurrence form, as required by this section. The mobile food vendor must also have a current certificate of insurance on file with the Town, naming the Town of Malabar, Florida as an additional insured.

- a. Commercial General Liability Insurance. The policy must include a minimum limit of \$300,000 for each accident, \$600,000 for general aggregate, \$600,000 for products and completed ops, and \$100,000 damage to rented premises.
 - b. Commercial Auto Liability Insurance. The policy must include a minimum limit of \$1,000,000 for each accident for property damage and bodily injury with contractual liability coverage.
2. Upon the cancellation or lapse of any policy of insurance required by this section a mobile food vendor is prohibited from operating on Town-owned property. A mobile food vendor must notify the Town within three (3) business days of any changes in the insurance coverage required by this section.
 3. At all times, a mobile food dispensing vendor must maintain all insurance policies required by local, state, and federal law and regulation.

(e) Enforcement

1. The location of a mobile food dispensing operation on Town-Owned property or on any public right of way or public easement without the permission of the Town is deemed a trespass. Upon the discovery of such violation the Town Manager or designee may enlist the assistance of a law enforcement officer to cause the mobile food dispensing operation to cease and be removed from such unauthorized location and should the mobile food dispensing vendor remain and disobey the command to cease and remove the operation then the continued trespass shall be deemed a trespass after warning and enforced according to law.
2. Any mobile food dispensing operation located on property which is not either Town-Owned property or public property without the proper authority is hereby deemed to present a serious threat to the public health, safety, and welfare. The Town Manager or designee may immediately notify the violator that a violation exists and demand the operation cease and desist and may immediately schedule a code enforcement magistrate hearing. Any mobile food dispensing operation found in violation herein shall be fined by the Code Enforcement Special Magistrate in the amount of \$250.00, plus administrative expenses which shall include attorney fees.
3. Upon a violation being found by the Special Magistrate, the Town Manager shall provide a copy of such Finding and Order to the State Agency which regulates mobile food dispensing vendors.

(f) In the event that the State of Florida determines that a mobile food dispensing operation does not need a business tax receipt, any mobile food dispensing operation desiring to operate within the corporate limits of the town, shall submit documentation containing the information required in section 14-40.1 (a); and shall comply with the remaining provisions of Section 14-40.1 and shall in all respects comply with Article II SECTION 1-2.6 C.14 (e) of the Town Land Development Code.

SECTION 4. Severability. If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalid or unconstitutional portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the other portions of this ordinance, provided the remaining portions effectuate the purpose and intent of this ordinance.

SECTION 5. Conflicting Provisions. In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate federal, state, or town law, rule, code or regulations, the more restrictive shall apply.

SECTION 6. Inclusion in Code. It is intention of the Town Council that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the Town of Malabar.

SECTION 7. Effective Date. This Ordinance shall take effect ninety (90) days after the adoption of this Ordinance.

The foregoing Ordinance was moved for adoption by Council Member _____. The motion was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

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

This ordinance was then declared duly passed and adopted this 21st day of December 2020.

TOWN OF MALABAR

Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

(seal)

Approved for Legal Sufficiency:

Karl Bohne, Jr, Town Attorney

Heard at P&Z: 11/17/2020

First Reading: 12/07/2020 Vote: 4 to 0.

Second Reading: 12/21/2020

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO: 10.a.
Meeting Date: December 21, 2020

Prepared By: Lisa Morrell, Interim Town Manager

SUBJECT: Adopt Building Codes per 2020 Florida Building Commission (Ord 2020-15)

BACKGROUND/HISTORY:

The Florida Building Commission updates the various codes per F.S. 553 and become the latest revision for municipal building departments to comply with in reviewing, processing, and inspecting building permit applications every 3 years.

The Town of Malabar adopts the Florida Building Codes and any other applicable codes within The Town of Malabar's Code of Ordinances, Part II, Chapter 6, entitled Buildings and Building Regulations.

The ordinance includes the adoption of the updated Florida Building Code, Fire and Electrical Codes, and a Dictionary of Architecture and Construction per the Building Official.

The 2020 7th Edition, Florida Building Code, Building and the following volumes:

- The 2020 7th Edition, FBC, Residential
- The 2020 7th Edition, FBC, Accessibility
- The 2020 7th Edition, FBC, Energy Conservation
- The 2020 7th Edition, Florida Existing Building Code
- The 2020 7th Edition Florida Building Code, Plumbing
- The 2020 7th Edition Florida Building Code, Mechanical
- The 2020 7th Edition Florida Building Code, Fuel Gas
- The 2020 7th Edition Test Protocols for High Velocity Hurricane Zones

Additionally, the following:

- The Florida Fire Prevention Code, 2018 7th Edition, Chapter 9
- The National Electric Code (2018 Edition) N.F.P.A. 70* (* with Florida Amendments)
- Dictionary of Architecture and Construction, 4 Edition

All other Codes referenced in Chapter 6 remain in force.

FINANCIAL IMPACT:

Typical legal cost to advertise the public hearing before final adoption and then operational codification costs as adopted ordinances are included in the Land Development Code.

ATTACHMENTS:

Ord 2020-15

ACTION OPTIONS:

Approval of First Reading of Ord 2020-15

ORDINANCE NO. 2020-15

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BUILDING CODES; AMENDING CHAPTER 6, SECTION 6-1 OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR ADOPTION OF CERTAIN MODEL BUILDING AND CONSTRUCTION CODES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is the desire of the Town Council to adopt in all respects the various building and construction codes identified herein to provide for the health, safety and general welfare of the public; and

WHEREAS, the adoption of these codes is to facilitate proper inspection activities relating to construction and maintenance of buildings within the Town; and

WHEREAS, the existing codes and ordinances governing such activities are outdated; and

WHEREAS, such regulation and administration are in the best interest of the public.

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

SECTION 1. Sections 6-1 of Chapter 6 of the Malabar Code of Ordinances is hereby amended as follows and all other codes referenced in Chapter 6 remain in force unless found to be in conflict with Florida Statute 553:

“Section 6-1. Codes and amendments adopted

As of December 31, 2020, the Florida Building Code supersedes all local building codes which are developed and maintained by the Florida Building Commission. It is updated every three years and may be amended annually to incorporate interpretative and clarifications. The **2020 7th Edition**, Florida Building Code, Building, and the following volumes:

- **The 2020 7th Edition**, FBC, Residential
- **The 2020 7th Edition**, FBC, Accessibility
- **The 2020 7th Edition**, FBC, Energy Conservation
- **The 2020 7th Edition**, FBC, Florida Existing Building Code
- **The 2020 7th Edition**, FBC, Plumbing
- **The 2020 7th Edition**, FBC, Mechanical
- **The 2020 7th Edition**, FBC, Fuel Gas
- **The 2020 7th Edition**, FBC, Test Protocols for High Velocity Hurricane Zones

Additionally, the following:

- The Florida Fire Prevention Code, **2018 7th Edition**, Chapter 9
- The National Electric Code (**2018 Edition**) N.F.P.A. 70*
- **Dictionary of Architecture and Construction, 4th Edition**”

SECTION 2. Codification.

It is the intention of the Town Council of the Town of Malabar, Brevard County, that the provisions of Section 1 of this Ordinance become part of the Code of Ordinances of the Town of Malabar. The Town Clerk is hereby authorized and directed to cause the provisions of Section 1 of this ordinance to be incorporated into the Code of Ordinances.

SECTION 3. Severability.

In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of this ordinance shall not be affected and it shall be presumed that the Town Council of the Town of Malabar did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the Town Council would have enacted the remainder of this ordinance without said invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

SECTION 4. Conflicts.

All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

SECTION 5. Effective Date.

This Ordinance shall become effective immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Council Member _____.
The motion was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

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

PASSED AND ADOPTED by the Town Council, Town of Malabar, Brevard County, Florida this _____ day of _____, 2020

BY:
TOWN OF MALABAR

Mayor Patrick T. Reilly, Council Chair

First Reading Approved: 12/21/2020: Vote: __ to __
Second Reading: 01/04/2021

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

(Seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO: 10.b.

Meeting Date: December 21, 2020

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

SUBJECT: Budget Adjustment to Increase Interim Town Manager Salary (Reso 21-2020)

BACKGROUND/HISTORY:

It is within normal governmental accounting practices to adjust budgetary department expenses throughout the year to properly record and reflect actual expenses. This can be done with a resolution approved by Council if the *bottom line* of the budget is not increased or decreased.

As discussed separately with most of Council and the Town Manager Matt Stinnett, it is my request to increase the salary of the Interim Town Manager by \$12,000.00 with funds from the Building Department. A new executive account #001-524.1110 would be added to the department budget and funded with a transfer of \$12,000.00 from 001-524.1210. This permitting clerk account has been budgeted and funded for the last two years but to date has still not been filled. The transfer of \$12,000.00 would leave a balance of \$12,960.00 to support a new hire if filled.

Paying executive pay from this department is appropriate since so much of her recent activity has gone into creating and improving the processes, workflows, project review policies and overall job duties and descriptions within this department that are above and beyond normal activities of a Town Manager.

The Budget Adjustment I am requesting would increase the ITM salary to \$77,000.00. Understanding that Ms. Morrell accepted this position as offered without negotiation and did not request I bring this increase before you. It has been my observation since her acceptance in July to fill in as Interim while Matt is serving active duty in the US Army that she is a consummate professional, taking initiative to come in regularly before October to meet with staff, elected officials residents, vendors, contractors, developers and anyone else that expressed an interest. She has read the past minutes, reviewed commercial development plats, the new subdivision plat and familiarized herself with the ongoing stormwater master plan grant and met with those Engineering partners. She has already resolved a touchy stormwater drainage issue at Enchanted Lakes MHP that satisfied all parties.

The improvements and policies she has already brought before Council that have been approved and adopted will provide better transparency to the public and provide better guidance to staff.

I have worked with every Town Administrator the Town has hired and Ms. Morrell is the best qualified, most experienced, most interested in customer service and always has Malabar's best interest in mind. The varied skill sets that the previous Administrators brought served the Town's immediate needs but did little to set policies and long-term improvements. Matt's education and passion for finance will serve the Town well and with Ms. Morrell as Interim will provide the framework to assist him when he returns to be even better prepared the retake the reins as Town Manager.

As a matter of comparison for budget purposes, past Administrator Wilbanks was paid a salary of \$69,293.00 in 2008.

FINANCIAL IMPACT:

No increase to the approved budget. Reallocation of \$12,000.00 from regular salaries to executive salaries within the Building Department.

ATTACHMENTS: Resolution 21-2020

ACTION OPTIONS: Action on Resolution 21-2020

RESOLUTION 21-2020

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2020/2021; PROVIDING FOR SALARY INCREASE FOR THE INTERIM TOWN MANAGER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is necessary from time to time to adjust the budget to record adjustments approved by Council and to accurately reflect the departmental expenditures.

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

SECTION 1. Amend the Budget Amount in Protective Inspections (Building-524) Department.

Transfer from and to the Accounts indicated on the attached Budget Transfer Authorizations to accurately record the revisions to the Building Department expenditures while not increasing the Department's total expenditures.

SECTION 2. Conflict. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

SECTION 3. Effective Date.

This Resolution shall take effect immediately upon passage and will provide the increase in salary starting with the pay period ending January 5, 2021.

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

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

This Resolution was then declared to be duly passed and adopted this 21st day of December 2020.

TOWN OF MALABAR

By:

(seal)

Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

Approved as to Form and Content:

Karl W. Bohne, Jr.,
Town Attorney

Budget Adjustment Reconciliation Department 524

Town of Malabar Budget Transfer Authorization
FY 2020/2021

DEPT 524							
Account No.	Description	Approved Budget	Balance Through 11/30/2020	Transfer Dec	Transfer Inc.	Adjusted Balance	
001-524.1210	Permit Clk Salary	24,960.00	\$24,960.00	\$12,000.00	0	12,960.00	
001-524.1110	Executive Salary	00.00			\$12,000.00	\$12,000.00	

Department Explanation: (Give reason for transfer to/from each account)

Transfer funds from regular salaries to executive salaries to provide budgeted amount of \$12,000.00 for Interim Town Manager. This portion would be paid directly from Dept 524 over the next 26 pay periods at the rate of \$461.54 per pay to appropriately charge the department where expenses are incurred. This will bring ITM total annual salary to \$77,000.00. The \$65,000.00 originally approved will continue to be expended from Dept 512, in addition to the car allowance of \$500.00 per month (\$6,000.00 annually).

Town Clerk/ Treasurer : _____ Date: _____

Approved by Town Manager: _____ Date _____

Approved by Council at RCTM: 12/21/2020

Special Notes:

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO: 10.c.
Meeting Date: December 21, 2020

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

SUBJECT: Reschedule 2nd meetings in January and February 2021

BACKGROUND/HISTORY:

Malabar Council has cancelled the 2nd meeting in January and February in the past due to the federal holidays of MLK Jr. Day in January and Presidents Day in February.

This upcoming January we anticipate having action items for Council would suggest an alternative meeting date of the following day, Tuesday, January 19, 2021.

If there are additional items for the 2nd meeting in February we would suggest the following day, Tuesday, February 16, 2021.

This will allow us to post the potential alternative dates on your website prior to the holidays so the public is informed of the possible change of meeting dates.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

January and February calendars

ACTION OPTIONS:

Direction to Staff

January 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4 RTCM	5	6	7	8	9
10	11	12	13	14	15	16
17	18 MILK Holiday	19 proposed RTCM 7:30	20	21	22	23
24	25	26	27	28	29	30
31						

FEBRUARY 2021

SUN	MON	TUE	WED	THU	FRI	SAT
	1 RTC	2	3	4	5	6
7	8	9	10	11	12	13
14 Valentine's Day	15 Presidents' Day Holiday	16 Proposed RTC M 7:30 if needed	17	18	19	20
21	22	23	24	25	26	27
28						