



# REGULAR TOWN COUNCIL MEETING

Monday, May 4, 2020 at 7:30 pm

**SOCIAL DISTANCING WILL BE IN PLACE AND REQUIRED -  
LIMITED SEATING**

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 03/02/2020  
Exhibit: Agenda Report Number 4a

**Attachments:**

- Agenda Report Number 4a (3.2.2020\_RTCM\_Minutes\_OCR.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. Fire Chief - Written Report
  - c. Public Works Director - Written Report
  - 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 / SPECIAL ORDERS
11. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING

(RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)

## 12. ACTION ITEMS

ORDINANCES: 0

RESOLUTIONS: 1

MISCELLANEOUS: 0

### a. A BOARD APPOINTMENT (Resolution 05-2020)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF CHRISTIAN SABATINO TO THE MALABAR BOARD OF ADJUSTMENT AS AN ALTERNATE MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12a

#### Attachments:

- Agenda Report Number 12a (Agenda\_Report\_12a\_Resolution\_05-2020.pdf )

### b. New Board Appointee Given Oath of Office (Mr. Charles Ryan to Board of Adjustments)

Exhibit: Agenda Report Number 12b

#### Attachments:

- Agenda Report Number 12b (Agenda\_Report\_12b\_Board\_Appointee\_Swear\_in.pdf)

### c. Approve Fee Schedule Adjustment When Private Provider is Hired by Permittee

Exhibit: Agenda Report Number 12c

#### Attachments:

- Agenda Report Number 12c (Agenda\_Report\_12c\_Permitting\_Fees.pdf)

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

## 13. DISCUSSION/POSSIBLE ACTION

### a. Town's Cost-Share Percentage when Paving Local Lanes

Exhibit: Agenda Report Number 13a

#### Attachments:

- Agenda Report Number 13a (Agenda\_Report\_Number\_13a\_Cost-Sharing.pdf)

## 14. PUBLIC COMMENTS

General Items (Speaker Card Required)

## 15. REPORTS - MAYOR AND COUNCIL MEMBERS

## 16. ANNOUNCEMENTS

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

Adjustments; (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.

## **SOCIAL DISTANCING WILL BE IN PLACE AND REQUIRED - LIMITED SEATING**

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Contact: Debby Franklin ([townclerk@townofmalabar.org](mailto:townclerk@townofmalabar.org) 321-727-7764) | Agenda published on  
04/29/2020 at 12:23 PM

## MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

MARCH 02, 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 7:31 pm. CM Ball led P&P.

**2. ROLL CALL:**

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET, excused

COUNCIL MEMBERS:

GRANT BALL

BRIAN VAIL

DAVID SCARDINO

DANNY WHITE

TOWN MANAGER: (TM)

MATT STINNETT, excused

TOWN ATTORNEY:

KARL BOHNE

TOWN PLANNER:

TOD MOWERY

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

Clerk said for the record the Fire Chief Mike Foley and PW Director Tom Miliore were also present.

**3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:** no changes

**4. CONSENT AGENDA:**

**4.a. Regular Town Council Mtg Minutes of 2/03/2020**

**4.b. Road Improvement Waiver Application Fee set at \$300.00 for Rivet Ln**

**4.c. Support Proclamation Naming March Irish American Heritage Month**

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

**5. ATTORNEY REPORT:** nothing

**6. BCSO REPORT:** Lt. Cline will have stats on the 16<sup>th</sup>.

**7. BOARD / COMMITTEE REPORTS:**

**7.a. Drew Thompson, Chair, T&G Com:** he had a brief report. Signs are up.

Palm Bay may be able to help us after all. Need more volunteers. Eagle Nest Trailhead (ENT) on south Marie Street on the north parcel of Town property is next project. Listed some of the signs at Sandhill trailhead going south to ENT that were installed last weekend. Signs may help create more eco-tourism. Technical difficulties prevent showing them tonight. North Corey trail entrance is the Swallow Tail trailhead. Malabartrails.org has link to pictures.

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

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

**8. STAFF REPORTS:**

**8.a. MANAGER:** Not present.

**8.b. PW DIRECTOR:** Gave a brief update – they have found a road grading training program offered by UF and have asked if there is interest from other agencies to participate. Brevard Cty, Palm Bay, Melbourne and Cocoa have all said they would send 22 participants. There will be classroom training but also hands on training in Malabar. Training covers those with no experience to experienced graders. PW Dept is also fabricating two catch basins in Rocky Point area. Low hanging wires finally have been removed from west Atz Road. Finished road refurb on Sandy Creek and Matthews Lanes. Tom also submitted a written report.

**8.c. TOWN PLANNER:**

He explained the RFQ process we conducted – had seven engineering firms respond. Committee members were Malabar resident and civil engineer Roger Walters, Jeff Rapolti of Brevard Cty Dept of Natural Resources, Mike MaCabe, Melbourne-Tillman Water Control District, Jennifer Spagnoli, Melbourne Utilities Engineer and Tod. He went over the requirements of the RFQ and showed

Council the packets submitted. The committee looked at experience. Most were located within a three-county area. Pre-selection process reduced it to five firms. Singhofen (SAI) was the strongest. Another of the top three had a member that lives in Town and related very well to committee. At the 2/27 mtg they heard presentations and performed a Q&A for the top five entries. They then ranked them and are submitting the recommendation that Council authorize TM to approve the committee recommendation of SAI (Singhofen & Assc Inc) to conduct the Stormwater Asset Inventory Master Plan. The also recommend TM set up continuing service contracts with SAI, EDC and Kimley-Horn to provide project design and construction consulting services for capital improvement projects. Town Planner asked one of the members to speak.

Roger Walters – sat on committee – all five were extremely qualified. Had depth and length of experience. SAI is a premier firm. Look at existing projects, what we want to do and what we plan to do. The top three, SAI had a preliminary plan model started at presentation. Committee support for the other two firms for continuing services or other small projects.

Atty said to approve the recommendation contingent with a successful negotiation with the top ranked firm

**MOTION:** CM Vail / CM Scardino to approve Committee recommendation as submitted and direct TM to negotiate with SAI for this and continuing service contracts with top three. **VOTE:** All Ayes.

**8.d. FIRE CHIEF:** Gave brief report. 30 calls, 18 ems. Riley and he went to large animal rescue class thru UF. Asked for residents who have large animals to contact Fire Dept and let them know who they use for vets. Another grant will be submitted. CM Scardino asked about large human rescue – Chief said they have provisions for up to 600 lbs. CM Scardino asked about fire danger from mulch pile out front. Chief is prepared.

**8.e. CLERK:** Nothing.

**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**

**10. PUBLIC HEARINGS: 3**

**10.a. Ord 2020-02 - Amend Article III, District Provisions, Table 1-3.2**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE AMENDMENT TO TABLE 1-3.2 IN ARTICLE III OF THE LAND DEVELOPMENT CODE, PROVIDING FOR FINDINGS; PROVIDING FOR TRADES AND SERVICES IN COMMERCIAL GENERAL (CG) ZONING TO BE A PERMITTED USE INSTEAD OF A CONDITIONAL USE AND PROVIDING FOR THE ADDITION OF GARDEN AND PINE STREETS TO THE FOOTNOTE WHERE THESE USES ARE ALLOWED; PROVIDING FOR CODIFICATION AND REPEAL OF ORDINANCES OR PART OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Ord read by title only.

PH open – none

PH closed

**MOTION:** CM Vail / CM Scardino to adopt Ord 2020-02.

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

**10.b. Action on Road Improvement Waiver Request – Rivet Lane**

A REQUEST FOR A WAIVER TO THE ROAD IMPROVEMENT REQUIREMENTS IN CHAPTER 13 OF THE MALABAR CODE OF ORDINANCES REGARDING THE NORTH END OF RIVET LANE IN SECTION 01, TOWNSHIP 29 AND RANGE 37 WITHIN THE TOWN OF MALABAR. REQUEST BY CHRIS AND NICOLE WILKERSON TO BUILD THE ROAD SHORT.

Franklin explained how Council essentially adopted the variance procedure and changed the name to waiver; BOA is quasi-judicial and required a public hearing; this is a legislative action and does not but still requires professional review so fee is accurate but code could be changed to eliminate public hearing requirement. Franklin read comment from CM Rivet.

**MOTION:** CM White / CM Vail to approve the waiver request of applicant Wilkerson regarding Rivet Lane granting a 3-foot waiver to the width and a 175' +/- waiver to the length of the improved section.

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

Reminder to Council to finalize the findings at the ROW workshop regarding reducing the widths for accepted road types, i.e., local from 60' to 50'.

**10.c. Action on Notice – Reconsider Appointment of Charles Ryan to Board of Adjustment**

ANY MEMBER MAY BE REMOVED FROM OFFICE FOR CAUSE BY COUNCIL BY WRITTEN CHARGE AND PUBLIC HEARING.

**Exhibit:** Agenda Report No. 10.a.

Mayor explained the process to be used. He explained this is a meeting in the public – recuse himself from voting in the case of a tie. He passed the gavel as Chair to CM Vail. He will read the charge and then only Mr. Ryan can ask him questions. Later others can speak in support of the charges but will be limited to three minutes. Then there will be the rebuttal and Mr. Ryan, or his representative can speak and then others opposed to the charge can speak but only for three minutes.

Mayor then stepped to podium and read the charge from the notice mailed to Charles “Bud” Ryan. Read the notice and explained that it was sent certified and first-class mail. He presented evidence to Council:

- Exhibit A – applicant’s certification
- Exhibit B – Trespass on Ms. Danielson
- Exhibit C – Picture of Ms. Danielson by a newer model Mustang
- Exhibit D – Trespass on Bud Ryan
- Exhibit E – photo of tire burn out on new pavement
- Exhibit F – email dated 2010 to Nancy Borton from Mr. Ryan –

Mr. Ryan – asked Pat about skid marks – who provided pictures. The address is wrong – the date is 19<sup>th</sup> and mailed on 25<sup>th</sup>. Did anyone look into this – did anyone verify. What Mr. Borton verifies. Sent an email today to Clerk for records. Franklin said those were questions, not a PRR. Pat said staff provided pictures. Bud said it was tire tracks not skid marks. Bud asked why the 2010 email was included. Why have it in package? He did apologize at the time to Borton. Franklin read CM Rivet’s comment. Atty said the comment is more of a summation – not evidence in support of the charge. No others.

Called Mr. Ryan to present his defense – he asked if council knew name of Hoke Colburn – name of chauffeur in movie Driving Miss Daisy. He gave Dawn a ride. She wanted a ride to

Yellow Dog – thought something was being done illegally. Dropped her off, turned around and picked her up and took her home.

She trotted up to car and said let's go. He pulled out on road. Borton was taping him on his cell phone. Started backing up – taping them – bizarre behavior. Dropped Dawn off. Two days later was visited by Deputy about a trespass. Since found out he can trespass anyone he wants – so don't put any value into that. There was no burnout there. He never did get out of the car and was never at 905 or across the street at warehouse where Mr. Borton lives.

Only three people involved in this. Town used Mr. Borton's side and that is not true. No malfeasance – did not do at all. Misfeasance – did not. Wants to be made whole. Date of notice was Feb 19. Not mailed until the 25<sup>th</sup>. Not to sit on BOA is an excuse not a reason. He is interested and wants to be sworn in. Kept asking Denine and never got a response.

CM White – asked about email from 10 years ago – pretty hateful. Demonstrates you have a real issue.

CM Ball – was there any damage done? Bud said no. They cover the paving with sand. A burnout to him is tires are smoking. We've had a recent land use issue – there was passion on both sides of that issue. Passion by Ms. Danielson and a council member. Not adult behavior but it does not rise to the level for action.

Attorney said for Council to focus on questions. CM Scardino asked how long he was there. 5-10 minutes. When you went there you thought there was illegal paving going on. He just drove and parked. And never got out of the car. Any other questions?

CM Vail asked Attorney if the last letter in packet was relevant. Attorney said it should not be the basis – CM Vail asked Mr. Ryan if he would be able to be impartial if Yellow Dog Café had a request come up on a future agenda. Yes, he has years of experience.

Chair called on speakers in support.

Dawn Danielson - Jan 7 called Bud to take her to town hall to speak with Matt Stinnett. Asked him to take her to Yellow Dog to visit first. Borton's body language was such that if his phone had been a gun she may not have been here – look at this map of site plan and she pointed out on map and they were not on Borton's property at all.

Skip Hard – central issue is whether Bud is going to serve on BOA. Borton is wanting to load BOA – Atty said that is not relevant. Anybody can have anyone else trespassed – don't have to have a reason at all. This should have no bearing. Dawn said it means nothing. Rivet has always supported Bortons.

Jose Merino, this is shame – go thru all this trouble to bring this against Bud but when evidence was brought against Councilmember, you blew it off.

Bud said he got no copies of the evidence. Not the way it should be done.

Chair asked for a motion to remove him based on evidence.

**MOTION: CM *died for lack of a motion* ..**

11. **UNFINISHED BUSINESS/GENERAL ORDERS:**  
12. **ACTION ITEMS: ORDINANCES FOR FIRST READING: 0**

**RESOLUTIONS: 3**

**12.a. Amend Administrative Fees adding Road Improvement Waiver Application Fee (Reso 02-2020)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO THE AMENDMENT OF ADMINISTRATIVE AND PERMIT FEES REQUIRED TO BE ESTABLISHED BY VARIOUS ORDINANCES OF THE TOWN OF MALABAR; PROVIDING FOR AN APPLICATION FEE TO APPLY FOR A ROAD IMPROVEMENT WAIVER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Read by title only.

**MOTION:** CM White / CM Scardino to adopt Reso 02-2020 as submitted.

Discussion: Franklin explained the fee covers staff time, review by professional staff and any mailing or advertising requirements.

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

#### **12.b. Adopt Resolution 03-2020 Supporting the 2020 Census**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, SUPPORTING THE 2020 CENSUS; PROVIDING FOR COMMITMENT TO SUPPORT THE GOALS AND IDEALS OF THE 2020 CENSUS; COMMITTING TO ENCOURAGE PARTICIPATION BY CITIZENS AND ASSISTANCE TO CENSUS TAKERS; AND PROVIDING AN EFFECTIVE DATE.

Read by title only.

**MOTION:** CM Vail / CM Ball to adopt Reso 03-2020 as presented.

Discussion: Ball is interested why Angela was hired by t

**Rollcall VOTE:** CM Ball, Aye; CM Vail, Aye; CM Rivet, Excused; CM Scardino, Aye; CM White, Aye. Motion carried 4 to 0.

#### **12.c. Adopt Resolution 04-2020 Authorizing Loan Application**

A RESOLUTION OF TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO THE STATE REVOLVING FUND LOAN PROGRAM; MAKING FINDINGS; AUTHORIZING THE LOAN APPLICATION; AUTHORIZING THE LOAN AGREEMENT; ESTABLISHING PLEDGED REVENUES; DESIGNATING AUTHORIZED REPRESENTATIVES; PROVIDING ASSURANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.

**Exhibit:** **Agenda Report No. 12.c.**

Read by title only.

**MOTION:** CM White / CM Vail to approve Resolution 04-2020.

Discussion: none

**Rollcall VOTE:** CM Ball, Aye; CM Vail, Aye; CM Rivet, Excused; CM Scardino, Aye; CM White, Aye. Motion carried 4 to 0.

#### **MISCELLANEOUS: 0**

#### **13. DISCUSSION/POSSIBLE ACTION: 1**

##### **13.a. Amend Code to Provide for Outside Storage in Commercial General (CG)**

Franklin introduced the proposal to amend the code to permit extensive outside storage in CG under regulations in code already related to mini storage. Atty drafted an ordinance. Staff would like to forward to P&Z after TM has a chance to review and then bring back to Council Planner Tod said there should be other conditions like buffering and setbacks. Atty said this is preliminary. Franklin said we are trying to work with existing property owners and businesses in the area. Council supports sending to P&Z.

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

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



CM Ball: concerned with riverfront clean up – big draw in Malabar to have that river view.  
TM was working on that.

CM Vail: nothing

CM Rivet: Excused

CM White: State legislature wants to put municipalities on a grading scale. He is a proud Irishman and he will be there with Mayor tomorrow.

CM Scardino: nothing.

Mayor: nothing

16. **ANNOUNCEMENTS:** Openings on Bd of Adjustment, T&G and Park and Rec Bds.

17. **ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 9:15 PM.

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

ATTEST:

\_\_\_\_\_

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

Date Approved: 5/4/2020

DRAFT

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 12.a.

Meeting Date: May 04, 2020

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

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**SUBJECT:** Appoint Alternate to Board of Adjustment (Reso 05-2020)

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**BACKGROUND/HISTORY:**

Board and Committee terms are for three years. There is one opening for Alternate on the Board of Adjustment and we have received one application.

**ATTACHMENTS:**

Reso 05-2020 Appointment to Board of Adjustment as Alternate  
Application package from Christian Sabatino

**ACTION OPTIONS:**

Action on Reso 05-2020

RESOLUTION 05-2020

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

WHEREAS, Malabar Town Council has been notified of an opening 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 Christian Sabatino as an alternate 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 Dave Scardino	_____
Council Member Danny White	_____

This Resolution was then declared to be duly passed and adopted this 4th day of May, 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

RTCM  
4/4/20

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: CHRISTIAN SEBASTIAN Phone: 321 482 1336
  2. Home Address: 2995 Home Ship Rd
  3. Email Address: Capt Christian III Gmail
  4. Are you a resident of the Town: Yes [] No [ ]
  5. How long have you been a resident of the Town of Malabar: 1999
  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](mailto:townclerk@townofmalabar.org)  
Website: [www.townofmalabar.org](http://www.townofmalabar.org)

TOWN OF MALABAR

RECEIVED

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: Christian Sebastian TELEPHONE: 321 482-1336  
ADDRESS: 2995 Four Ship Rd  
EMAIL: Capt Christian III@gmail.com

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

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

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:

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

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

[Signature]  
Signature of Applicant

3/23/2020  
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.

MAR 23 2020

RECEIVED

Town of MalabarVolunteer Committee/Board Application**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.

  
SignatureDate 3/24/2020

Town of Malabar 2725 Malabar Road Malabar, Florida 32950  
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: [townclerk@townofmalabar.org](mailto:townclerk@townofmalabar.org)  
Website: [www.townofmalabar.org](http://www.townofmalabar.org)



# TOWN OF MALABAR

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

## Town of Malabar Board Member Code of Conduct

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

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

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

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

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

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

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

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

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

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

Malabar Board Member Code of Conduct

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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.

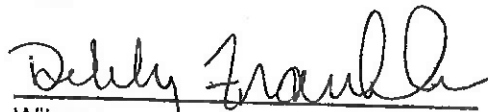
As a Board or Committee Member, I will always hold the best interests of the citizens of the Town and the public health, safety and welfare of the community in the highest regard. I will seek to provide appropriate leadership that nurtures and motivates Town citizens to be stakeholders in the affairs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

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

  
Signature

3/23/2020  
Date

Christy Sabatini  
Print Name

  
Witness



# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 12.b.

Meeting Date: May 04, 2020

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

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**SUBJECT:** Swear in New Board Appointee as Alternate to Board of Adjustment (Charles Ryan appointed 11/18/19)

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### **BACKGROUND/HISTORY:**

Mr. Ryan was not present at the November 18, 2019 meeting when he was appointed by Council to fill one of the two Alternate seats on the Board of Adjustment.

Historically, a new or returning Board Member would then take the Oath of Office at the next scheduled Board meeting. The Board of Adjustment only meets when required and there has not been a meeting since his November appointment.

Mr. Ryan requested to be placed on the agenda to be administered the Oath of Office.

### **ATTACHMENTS:**

Mr. Ryan email dated 3/30/20.

### **ACTION OPTIONS:**

Administer Oath

RTCM ~~4/20/20~~  
5/4/20

**Agenda item request**

**Bud Ryan <malabarbud@yahoo.com>**

Mon 3/30/2020 6:47 PM

**To: Debby Franklin <townclerk@townofmalabar.org>**

Ms. Franklin,

Please add: "Swearing in of Charles Ryan to the Board of Adjustment" as an agenda item for the next Regular Town Council Meeting.

Thank You,

Charles Ryan



## *OATH OF OFFICE*

"I, Charles 'Bud' Ryan, do solemnly swear that I will support, protect, and defend the Constitution and Government of the United States, the State of Florida and the Town of Malabar; that I am duly qualified to hold office under the Constitution of the State; and that I will faithfully perform the duties of Malabar Board of Adjustment Member on which I am about to enter. So help me God."

---

Charles 'Bud' Ryan  
Malabar Board of Adjustment  
November 18, 2019



Town Seal

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*Patrick T. Reilly*  
Mayor Patrick T. Reilly,  
Council Chair

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 12.c.

Meeting Date: May 04, 2020

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

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**SUBJECT: Approve Fee Schedule Adjustment When Private Provider is Hired by Permittee**

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### BACKGROUND/HISTORY:

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

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

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

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

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

### ATTACHMENTS:

F.S. 553.781

### ACTION OPTIONS:

Action on Fee Schedule Adjustment on Plan Review Fee and Inspection Fee by 25% when performed by Private Providers.

# The Florida Senate

## 2019 Florida Statutes

<u>Title XXXIII</u> REGULATION OF TRADE, COMMERCE, INVESTMENTS, AND SOLICITATIONS	<u>Chapter 553</u> BUILDING CONSTRUCTION STANDARDS  <u>Entire Chapter</u>	<b>SECTION 791</b> <b>Alternative plans review and inspection.</b>
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### → 553.791 Alternative plans review and inspection. —

(1) As used in this section, the term:

(a) “Applicable codes” means the Florida Building Code and any local technical amendments to the Florida Building Code but does not include the applicable minimum fire prevention and firesafety codes adopted pursuant to chapter 633.

(b) “Audit” means the process to confirm that the building code inspection services have been performed by the private provider, including ensuring that the required affidavit for the plan review has been properly completed and affixed to the permit documents and that the minimum mandatory inspections required under the building code have been performed and properly recorded. The local building official may not replicate the plan review or inspection being performed by the private provider, unless expressly authorized by this section.

(c) “Building” means any construction, erection, alteration, demolition, or improvement of, or addition to, any structure or site work for which permitting by a local enforcement agency is required.

(d) “Building code inspection services” means those services described in s. [468.603\(5\)](#) and (8) involving the review of building plans as well as those services involving the review of site plans and site work engineering plans or their functional equivalent, to determine compliance with applicable codes and those inspections required by law of each phase of construction for which permitting by a local enforcement agency is required to determine compliance with applicable codes.

(e) “Duly authorized representative” means an agent of the private provider identified in the permit application who reviews plans or performs inspections as provided by this section and who is licensed as an engineer under chapter 471 or as an architect under chapter 481 or who holds a standard certificate under part XII of chapter 468.

(f) “Immediate threat to public safety and welfare” means a building code violation that, if allowed to persist, constitutes an immediate hazard that could result in death, serious bodily injury, or significant property damage. This paragraph does not limit the authority of the local building official to issue a Notice of Corrective Action at any time during the construction of a building project or any portion of such project if the official determines that a condition of the building or portion thereof may constitute a hazard when the building is put into use following completion as long as the condition cited is shown to be in violation of the building code or approved plans.

(g) “Local building official” means the individual within the governing jurisdiction responsible for direct regulatory administration or supervision of plans review, enforcement, and inspection of any construction, erection, alteration, demolition, or substantial improvement of, or addition to, any structure for which permitting is required to indicate compliance with applicable codes and includes any duly authorized designee of such person.

(h) “Permit application” means a properly completed and submitted application for the requested building or construction permit, including:

1. The plans reviewed by the private provider.
2. The affidavit from the private provider required under subsection (6).
3. Any applicable fees.
4. Any documents required by the local building official to determine that the fee owner has secured all other government approvals required by law.

(i) “Plans” means building plans, site engineering plans, or site plans, or their functional equivalent, submitted by a fee owner or fee owner’s contractor to a private provider or duly authorized representative for review.

(j) "Private provider" means a person licensed as a building code administrator under part XII of chapter 468, as an engineer under chapter 471, or as an architect under chapter 481. For purposes of performing inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term "private provider" also includes a person who holds a standard certificate under part XII of chapter 468.

(k) "Request for certificate of occupancy or certificate of completion" means a properly completed and executed application for:

1. A certificate of occupancy or certificate of completion.
2. A certificate of compliance from the private provider required under subsection (11).
3. Any applicable fees.
4. Any documents required by the local building official to determine that the fee owner has secured all other government approvals required by law.

(l) "Site work" means the portion of a construction project that is not part of the building structure, including, but not limited to, grading, excavation, landscape irrigation, and installation of driveways.

(m) "Stop-work order" means the issuance of any written statement, written directive, or written order which states the reason for the order and the conditions under which the cited work will be permitted to resume.

→ (2)(a) Notwithstanding any other law or local government ordinance or local policy, the fee owner of a building or structure, or the fee owner's contractor upon written authorization from the fee owner, may choose to use a private provider to provide building code inspection services with regard to such building or structure and may make payment directly to the private provider for the provision of such services. All such services shall be the subject of a written contract between the private provider, or the private provider's firm, and the fee owner or the fee owner's contractor, upon written authorization of the fee owner. The fee owner may elect to use a private provider to provide plans review or required building inspections, or both. However, if the fee owner or the fee owner's contractor uses a private provider to provide plans review, the local building official, in his or her discretion and pursuant to duly adopted policies of the local enforcement agency, may require the fee owner or the fee owner's contractor to use a private provider to also provide required building inspections.

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

→ (3) A private provider and any duly authorized representative may only perform building code inspection services that are within the disciplines covered by that person's licensure or certification under chapter 468, chapter 471, or chapter 481. A private provider may not provide building code inspection services pursuant to this section upon any building designed or constructed by the private provider or the private provider's firm.

(4) A fee owner or the fee owner's contractor using a private provider to provide building code inspection services shall notify the local building official at the time of permit application, or by 2 p.m. local time, 2 business days before the first scheduled inspection by the local building official or building code enforcement agency for a private provider performing required inspections of construction under this section, on a form to be adopted by the commission. This notice shall include the following information:

- (a) The services to be performed by the private provider.
- (b) The name, firm, address, telephone number, and facsimile number of each private provider who is performing or will perform such services, his or her professional license or certification number, qualification statements or resumes, and, if required by the local building official, a certificate of insurance demonstrating that professional liability insurance coverage is in place for the private provider's firm, the private provider, and any duly authorized representative in the amounts required by this section.

(c) An acknowledgment from the fee owner in substantially the following form:

I have elected to use one or more private providers to provide building code plans review and/or inspection services on the building or structure that is the subject of the enclosed permit application, as authorized by s. [553.791](#), Florida Statutes. I understand that the local building official may not review the plans submitted or perform the required building inspections to determine compliance with the applicable codes, except to the extent specified in said law. Instead, plans review and/or required building inspections will be performed by licensed or certified personnel identified in the application. The law requires minimum insurance requirements for such personnel, but I understand that I may require more insurance to protect my interests. By executing this form, I acknowledge that I have made inquiry regarding the competence of the licensed or certified personnel and the level of their insurance and am satisfied that my interests are adequately protected. I agree to indemnify, defend, and hold harmless the local government, the local building official, and their building code enforcement personnel from any and all claims arising from my use of these licensed or certified personnel to perform building code inspection services with respect to the building or structure that is the subject of the enclosed permit application.

If the fee owner or the fee owner's contractor makes any changes to the listed private providers or the services to be provided by those private providers, the fee owner or the fee owner's contractor shall, within 1 business day after any change, update the notice to reflect such changes. A change of a duly authorized representative named in the permit application does not require a revision of the permit, and the building code enforcement agency shall not charge a fee for making the change. In addition, the fee owner or the fee owner's contractor shall post at the project site, before the commencement of construction and updated within 1 business day after any change, on a form to be adopted by the commission, the name, firm, address, telephone number, and facsimile number of each private provider who is performing or will perform building code inspection services, the type of service being performed, and similar information for the primary contact of the private provider on the project.

(5) After construction has commenced and if the local building official is unable to provide inspection services in a timely manner, the fee owner or the fee owner's contractor may elect to use a private provider to provide inspection services by notifying the local building official of the owner's or contractor's intention to do so by 2 p.m. local time, 2 business days before the next scheduled inspection using the notice provided for in paragraphs (4)(a)-(c).

(6) A private provider performing plans review under this section shall review the plans to determine compliance with the applicable codes. Upon determining that the plans reviewed comply with the applicable codes, the private provider shall prepare an affidavit or affidavits on a form reasonably acceptable to the commission certifying, under oath, that the following is true and correct to the best of the private provider's knowledge and belief:

(a) The plans were reviewed by the affiant, who is duly authorized to perform plans review pursuant to this section and holds the appropriate license or certificate.

(b) The plans comply with the applicable codes.

(7)(a) No more than 20 business days after receipt of a permit application and the affidavit from the private provider required pursuant to subsection (6), the local building official shall issue the requested permit or provide a written notice to the permit applicant identifying the specific plan features that do not comply with the applicable codes, as well as the specific code chapters and sections. If the local building official does not provide a written notice of the plan deficiencies within the prescribed 20-day period, the permit application shall be deemed approved as a matter of law, and the permit shall be issued by the local building official on the next business day.

(b) If the local building official provides a written notice of plan deficiencies to the permit applicant within the prescribed 20-day period, the 20-day period shall be tolled pending resolution of the matter. To resolve the plan deficiencies, the permit applicant may elect to dispute the deficiencies pursuant to subsection (13) or to submit revisions to correct the deficiencies.

(c) If the permit applicant submits revisions, the local building official has the remainder of the tolled 20-day period plus 5 business days from the date of resubmittal to issue the requested permit or to provide a second written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes, with specific reference to the relevant code chapters and sections. Any subsequent review by the local building official is limited to the deficiencies cited in the written notice. If the local building official does not

provide the second written notice within the prescribed time period, the permit shall be deemed approved as a matter of law, and the local building official must issue the permit on the next business day.

(d) If the local building official provides a second written notice of plan deficiencies to the permit applicant within the prescribed time period, the permit applicant may elect to dispute the deficiencies pursuant to subsection (13) or to submit additional revisions to correct the deficiencies. For all revisions submitted after the first revision, the local building official has an additional 5 business days from the date of resubmittal to issue the requested permit or to provide a written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes, with specific reference to the relevant code chapters and sections.

(8) A private provider performing required inspections under this section shall inspect each phase of construction as required by the applicable codes. The private provider shall be permitted to send a duly authorized representative to the building site to perform the required inspections, provided all required reports are prepared by and bear the signature of the private provider or the private provider's duly authorized representative. The duly authorized representative must be an employee of the private provider entitled to receive reemployment assistance benefits under chapter 443. The contractor's contractual or legal obligations are not relieved by any action of the private provider.

(9) A private provider performing required inspections under this section shall provide notice to the local building official of the date and approximate time of any such inspection no later than the prior business day by 2 p.m. local time or by any later time permitted by the local building official in that jurisdiction. The local building official may not prohibit the private provider from performing any inspection outside the local building official's normal operating hours, including after hours, weekends, or holidays. The local building official may visit the building site as often as necessary to verify that the private provider is performing all required inspections. A deficiency notice must be posted at the job site by the private provider, the duly authorized representative of the private provider, or the building department whenever a noncomplying item related to the building code or the permitted documents is found. After corrections are made, the item must be reinspected by the private provider or representative before being concealed. Reinspection or reaudit fees shall not be charged by the local jurisdiction as a result of the local jurisdiction's audit inspection occurring before the performance of the private provider's inspection or for any other administrative matter not involving the detection of a violation of the building code or a permit requirement.

(10) Upon completing the required inspections at each applicable phase of construction, the private provider shall record such inspections on a form acceptable to the local building official. The form must be signed by the provider or the provider's duly authorized representative. These inspection records shall reflect those inspections required by the applicable codes of each phase of construction for which permitting by a local enforcement agency is required. The private provider, before leaving the project site, shall post each completed inspection record, indicating pass or fail, at the site and provide the record to the local building official within 2 business days. The local building official may waive the requirement to provide a record of each inspection within 2 business days if the record is posted at the project site and all such inspection records are submitted with the certificate of compliance. Records of all required and completed inspections shall be maintained at the building site at all times and made available for review by the local building official. The private provider shall report to the local enforcement agency any condition that poses an immediate threat to public safety and welfare.

(11) Upon completion of all required inspections, the private provider shall prepare a certificate of compliance, on a form acceptable to the local building official, summarizing the inspections performed and including a written representation, under oath, that the stated inspections have been performed and that, to the best of the private provider's knowledge and belief, the building construction inspected complies with the approved plans and applicable codes. The statement required of the private provider shall be substantially in the following form and shall be signed and sealed by a private provider as established in subsection (1):

To the best of my knowledge and belief, the building components and site improvements outlined herein and inspected under my authority have been completed in conformance with the approved plans and the applicable codes.

(12) No more than 2 business days after receipt of a request for a certificate of occupancy or certificate of completion and the applicant's presentation of a certificate of compliance and approval of all other government



approvals required by law, the local building official shall issue the certificate of occupancy or certificate of completion or provide a notice to the applicant identifying the specific deficiencies, as well as the specific code chapters and sections. If the local building official does not provide notice of the deficiencies within the prescribed 2-day period, the request for a certificate of occupancy or certificate of completion shall be deemed granted and the certificate of occupancy or certificate of completion shall be issued by the local building official on the next business day. To resolve any identified deficiencies, the applicant may elect to dispute the deficiencies pursuant to subsection (13) or to submit a corrected request for a certificate of occupancy or certificate of completion.

(13) If the local building official determines that the building construction or plans do not comply with the applicable codes, the official may deny the permit or request for a certificate of occupancy or certificate of completion, as appropriate, or may issue a stop-work order for the project or any portion thereof as provided by law, if the official determines that the noncompliance poses an immediate threat to public safety and welfare, subject to the following:

(a) The local building official shall be available to meet with the private provider within 2 business days to resolve any dispute after issuing a stop-work order or providing notice to the applicant denying a permit or request for a certificate of occupancy or certificate of completion.

(b) If the local building official and private provider are unable to resolve the dispute, the matter shall be referred to the local enforcement agency's board of appeals, if one exists, which shall consider the matter at its next scheduled meeting or sooner. Any decisions by the local enforcement agency's board of appeals, or local building official if there is no board of appeals, may be appealed to the commission as provided by this chapter.

(c) Notwithstanding any provision of this section, any decisions regarding the issuance of a building permit, certificate of occupancy, or certificate of completion may be reviewed by the local enforcement agency's board of appeals, if one exists. Any decision by the local enforcement agency's board of appeals, or local building official if there is no board of appeals, may be appealed to the commission as provided by this chapter, which shall consider the matter at the commission's next scheduled meeting.

(14) For the purposes of this section, any notice to be provided by the local building official shall be deemed to be provided to the person or entity when successfully transmitted to the facsimile number listed for that person or entity in the permit application or revised permit application, or, if no facsimile number is stated, when actually received by that person or entity.

(15)(a) A local enforcement agency, local building official, or local government may not adopt or enforce any laws, rules, procedures, policies, qualifications, or standards more stringent than those prescribed by this section.

(b) A local enforcement agency, local building official, or local government may establish, for private providers and duly authorized representatives working within that jurisdiction, a system of registration to verify compliance with the licensure requirements of <sup>1</sup>paragraph (1)(i) and the insurance requirements of subsection (16).

(c) This section does not limit the authority of the local building official to issue a stop-work order for a building project or any portion of the project, as provided by law, if the official determines that a condition on the building site constitutes an immediate threat to public safety and welfare.

(16) A private provider may perform building code inspection services on a building project under this section only if the private provider maintains insurance for professional liability covering all services performed as a private provider. Such insurance shall have minimum policy limits of \$1 million per occurrence and \$2 million in the aggregate for any project with a construction cost of \$5 million or less and \$2 million per occurrence and \$4 million in the aggregate for any project with a construction cost of over \$5 million. Nothing in this section limits the ability of a fee owner to require additional insurance or higher policy limits. For these purposes, the term "construction cost" means the total cost of building construction as stated in the building permit application. If the private provider chooses to secure claims-made coverage to fulfill this requirement, the private provider must also maintain coverage for a minimum of 5 years subsequent to the performance of building code inspection services. The insurance required under this subsection shall be written only by insurers authorized to do business in this state with a minimum A.M. Best's rating of A. Before providing building code inspection services within a local building official's jurisdiction, a private provider must provide to the local building official a certificate of insurance evidencing that the coverages required under this subsection are in force.

(17) When performing building code inspection services, a private provider is subject to the disciplinary guidelines of the applicable professional board with jurisdiction over his or her license or certification under chapter 468, chapter 471, or chapter 481. All private providers shall be subject to the disciplinary guidelines of s. ~~468.621~~(1)(c)-(h). Any complaint processing, investigation, and discipline that arise out of a private provider's performance of building code inspection services shall be conducted by the applicable professional board.

(18) Each local building code enforcement agency may audit the performance of building code inspection services by private providers operating within the local jurisdiction. However, the same private provider may not be audited more than four times in a calendar year unless the local building official determines a condition of a building constitutes an immediate threat to public safety and welfare. Work on a building or structure may proceed after inspection and approval by a private provider if the provider has given notice of the inspection pursuant to subsection (9) and, subsequent to such inspection and approval, the work shall not be delayed for completion of an inspection audit by the local building code enforcement agency.

(19) The local government, the local building official, and their building code enforcement personnel shall be immune from liability to any person or party for any action or inaction by a fee owner of a building, or by a private provider or its duly authorized representative, in connection with building code inspection services as authorized in this act.

**History.**—s. 17, ch. 2002-293; s. 106, ch. 2005-2; s. 11, ch. 2005-147; s. 1, ch. 2005-216; s. 6, ch. 2006-65; s. 6, ch. 2007-187; s. 141, ch. 2008-4; s. 77, ch. 2012-30; s. 7, ch. 2017-149; s. 12, ch. 2019-86; s. 14, ch. 2019-165.

<sup>1</sup>**Note.**—Redesignated as paragraph (1)(j) by s. 14, ch. 2019-165.

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes.

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# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 13.a.

Meeting Date: May 04, 2020

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

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**SUBJECT: Town's Cost-share Percentage when Paving Local Lanes**

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### **BACKGROUND/HISTORY:**

We have received a Petition/request to pave a local lane in Malabar. The signatures represent more than 2/3 of the owners' roadway frontage. We have received the estimates on the paving expense and gathered estimates on paving prep costs from local sources. The next step is send a letter out to the interested property owners with an estimate on what their per linear foot cost for paving would be and a request for signature indicating to proceed. In order to send out that letter, we need to know if Council intends to cover any percentage of the paving cost.

Council has discussed offering a cost share percentage as an incentive to pave dirt lanes.

The Town could use Transportation Impact Fee monies to pay a percentage of the paving costs in order to encourage paving of those local lanes that residents request to be paved.

Realizing there are only limited monies budgeted for this cost share in any given year, what percentage would Malabar Council consider as appropriate.

Benefit to Malabar is ultimate reduction in road maintenance costs.

### **ATTACHMENTS:**

Portion of RTCM Minutes from 6/11/18

### **ACTION OPTIONS:**

Direction to Staff

The TA said he will show pictures of PW and FD vehicles to show how much better the FD equipment fares as it is kept inside a building.

Deputy Matt said he is hearing Council wants priority for focus on PW assets – staff will come back to them with solutions. Council tells staff what is important to them. The details staff can hash out.

CM White said we should do a similar annual set aside to prepare for the railroad maintenance bill that we get every seven years. It can range from 37K to 100K. Mayor suggested dedicating the tax from Harris Corp and Data Mgmt to that set aside. CM Mahoney said Harris should pay more. CM Ball suggested a special assessment. Mayor recognized Clerk. Franklin said that Jordan Blvd is a public road that Harris built and dedicated to the Town that roadway and that it is used by private property owners to access their land, State agents to use to access their State lands and that the County uses to access and maintain their lands. It is not just used by Harris employees. Also, Harris did agree to help pay the railroad maintenance costs for ten years initially to allow for other industries to come in and be built and share in this cost. In the meantime, the State mandated the purchase of land areas for conservation and the industrial park was sold for conservation.

Harris Corp and Data Management pay 35K in property tax and an additional large amount in the law enforcement for MSTU and the Town provides minimal services. The other regular users of Jordan Blvd roadway to access and maintain their properties pay no taxes.

Mayor suggested a list of the paved and unpaved roads be prepared with the status and homes served.

→ General discussion on benefits of paving some dirt roads, process to be used if residents on a dirt road want it paved and possible Town incentives. CM White said Council could create a fund to provide an incentive to have some of the lanes paved. First come and first serve until money runs out for that fiscal year.

→ Resident Brian Vail was recognized and said when the property sells it is more valuable. He said if the Town would participate with a 10-20% cost share, that may encourage others to participate. CM White said it is worth a one-year experiment. You would get your money back because it would no longer need maintenance. CM Ball said the Town's portion could be to bring the road base back into shape in order to pave the road. Residents then pay for the paving. CM Rivet said the Town could calculate what it costs to maintain the dirt road for a five-year period and that is the cost share the Town will contribute.

CM White stated Council's duty is to make people's life better – paving the roads may encourage a few more homes to be constructed while reducing the dust people breathe.

CM Ball doesn't want to forget about drainage. CM Rivet said proper protection of vehicles in a maintenance barn will allow the drainage projects to proceed without vehicle breakdowns.

CM White said buy the Gradall, ditcher and the building this year. Then start a budgeting for vehicle replacement.

CM Mahoney said after the last meeting, Weber and Corey turn lanes using safety money. TA said we will be meeting Georgiana and actually show her the Town and get a little more support.