



REGULAR TOWN COUNCIL MEETING

Monday, July 20, 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 07/06/2020

Exhibit: Agenda Report Number 4a

Attachments:

- Agenda Report Number 4a (Agenda_Report_Number_4a.pdf)

5. CERTIFICATION OF APPRECIATION - ANNELIE HARVEY
6. ATTORNEY REPORT
7. STAFF REPORTS
 - a. Manager
 - b. Clerk
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. Public comments do not require a Council response. (Speaker Card is Required)

Five (5) Minute Limit per Speaker

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

(RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)

11. ACTION ITEMS

ORDINANCES:0

RESOLUTIONS:2

MISCELLANEOUS:0

- a. Adopt a Deferred Compensation Plan - Resolution 11-2020

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE ADOPTION OF A DEFERRED COMPENSATION PLAN PURSUANT TO SECTION 457 OF THE INTERNAL REVENUE CODE; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT

HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 11a

Attachments:

- Agenda Report Number 11a (Agenda_Report_Number_11a.pdf)

b. Formally Appoint Interim Town Manager - Resolution 12-2020

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF AN INTERIM TOWN MANAGER; PROVIDING FOR A TERM; PROVIDING FOR REMUNERATION; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 11b

Attachments:

- Revised Agenda Report Number 11b (Revised_Agenda_Report_Number_11b.pdf)

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

12. DISCUSSION/POSSIBLE ACTION

13. PUBLIC COMMENTS

General Items (Speaker Card Required)

14. REPORTS - MAYOR AND COUNCIL MEMBERS

15. ANNOUNCEMENTS

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

16. ADJOURNMENT

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

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

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

JULY 06, 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. Mayor 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

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

3. **APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:** Clerk had asked the Chair to allow Reso 10-2020 be added. It is a preliminary requirement before we can legally proceed with the Special Assessment Map and Assessment List and provide for a comment period.

4. **CONSENT AGENDA:**

4.a. **Regular Town Council Mtg Minutes of 6/15/2020**

MOTION: CM White / CM Ball to approve consent agenda.

VOTE: All Ayes. Motion carried 4 to 0.

5. **ATTORNEY REPORT:** Reported on Code Enforcement July 1 SM hearing. Magistrate found in favor of Town and gave 15 days for compliance or daily fines for each of three violations can be assessed in addition to administrative fees. After three months of noncompliance we can foreclose on property.

6. **BCSO REPORT:** Lt. Cline was not present.

7. **BOARD / COMMITTEE REPORTS:**

7.a. **Drew Thompson, Chair, T&G Com:** not present no report

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:** Reported that one of the FD Lt. has fallen ill – not COVID-19 related, but not doing well. He has brought on two volunteers as temp employees.

8.b. **PW DIRECTOR:** Written Report

8.c. **FIRE CHIEF:** excused

8.d. **CLERK:** Only other thing is the upcoming FLC annual Conf in August. We need a voting delegate. Could I get consensus for it to be the SCLC delegate? The conference voting will be done electronically. Consensus to have CM White be the voting delegate.

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. Second Reading: Change Qualifying Dates for 2020 Election and beyond (Ord 2020-05)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, REPEALING AND REPLACING ORDINANCE 2019-10 AND AMENDING SECTION 2.03 OF THE TOWN CHARTER RELATING TO THE CANDIDATE QUALIFYING PERIOD; AMENDING SECTION 2.04 OF THE TOWN CHARTER RELATING TO THE MAYOR QUALIFYING PERIOD; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Ord read by title only. Open Public Hearing: none. Closed Public Hearing.

MOTION: CM Vail / CM Ball to adopt Ord 2020-04. Discussion: none

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

10.b. Second Reading: Amend Chapter 13 re: Special Assessment Process (Ord 2020-06)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA TO AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES; PROVIDING FOR A COST SHARE IN THE PAVING OF IMPROVED AND ACCEPTED DIRT ROADS THAT HAVE MET THE REQUIREMENTS FOR A SPECIAL ASSESSMENT IN SECTION 13.52.(2)b.; PROVIDING FOR NEW SUBSECTION 13.52.(2)c.; PROVIDING FOR THE FUNDING SOURCE FOR THAT COST SHARE; PROVIDING FOR SEVERABILITY, CODIFICATION; CONFLICTS AND AN EFFECTIVE DATE.

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

Ord read by title only. Open Public Hearing: none. Closed Public Hearing.

MOTION: CM White / CM Vail to adopt Ord 2020-04. Discussion: CM White – said of the eight that replied regarding paving Hunter Lane, two may not have agreed without the Town doing a cost share.

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

10.c. Public Hearing on Road Improvement Waiver Request – Right of Way known as Beekeeper Lane

Title read by title only. Open Public Hearing: none. Closed Public Hearing.

A REQUEST FOR A WAIVER TO THE ROAD IMPROVEMENT REQUIREMENTS IN CHAPTER 13 OF THE MALABAR CODE OF ORDINANCES REGARDING THE UNIMPROVED/UNACCEPTED RIGHT OF WAY EAST OF COREY ROAD KNOWN AS BEEKEEPER LANE IN SECTION 12, TOWNSHIP 29 AND RANGE 37 WITHIN THE TOWN OF MALABAR. REQUEST BY ADAM HAYWARD.

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

Chair called applicant to podium to state the request. Adam Hayward, 2735 Woodside Ave, Winter Park FL. Seeking a waiver because if it is developed as the 70' roadway, it will cut into a garage of an existing home facing Corey. It exists as 12' now and some of it is wider and it is currently used as a travelway. If he is required to contact the other property owners facing Beekeeper and ask them to dedicate ROW to the Town; there is no incentive for them to dedicate a portion of their parcels. He has listened to the Malabar Town Road workshop where the Attorney discussed the problems in defending the challenges to the Town's ROW requirements when there are so many existing approved roads that do not have such widths.

MOTION: CM White / CM Vail to approve for discussion.

CM Vail said you must stand firm on the requirements.

TM said he understands the issue of having to widen the road into a minor collector – this ROW, when improved and approved, will serve a large number of potential parcels for future property development. This is intended to be a similar classification of roadway as Hall and Atz Roads. While we go through this discussion, we must consider the potential impacts of having a narrow travelway now may be more consequential for future development. CM White said this gentleman is required to improve the road – should the Town ask for the additional ROW needed instead of this person. Clerk explained the road improvement regulations. The Town has the authority to require the needed additional ROW to be dedicated when a parcel owner applies for a development permit. If these are vacant lots facing Beekeeper, they have not applied for a development permit. CM White said that seems like a short coming. You can't just tell people to give part of their land. Clerk explained the discussion at the road workshops for Council to consider reducing the widths for the road classifications. That would give direction to staff. Attorney said such a change would also require a Comp Plan Large Scale Amendment because it would change the text of the Transportation Element. It would also first have to go to P&Z.
CM White / CM Vail withdraw the motion.

Council discussed the need to finalize the work they began on updating the Transportation Element. Attorney Bohne stated that the amendment would require a large-scale amendment (LSA) to the Comprehensive Plan and would need to be reviewed by Planning and Zoning.

Council discussed the need to provide the reasonable and defensible guidelines for roadway development before, so future residents/taxpayers are not burdened with court costs. The regulations need to provide adequate width for travelway, drainage, emergency response, and for collectors to provide proper connections to local lanes. Council consensus was to require a property owner to build to the end of the parcel to be developed to prevent some of the issues they are dealing with now.

MOTION: CM Ball / CM Vail to “table” the waiver request for a three-month period to provide additional time for Council to consider amendments to the Transportation Element of the Comp Plan and Land Development Regulations for streets.

11. UNFINISHED BUSINESS/GENERAL ORDERS:

12. ACTION ITEMS:

ORDINANCES FOR FIRST READING: 0

RESOLUTIONS: 1 (added at beginning of meeting)

12.pre. Adopt Resolution 10-2020 Special Assessment re: Paving Hunter Lane

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AUTHORIZING, DECLARING AND CREATING A SPECIAL ASSESSMENT FOR THE HARD SURFACING OF HUNTER LANE, NORTH OF ATZ ROAD FOR A DISTANCE OF 1,100 FEET; PROVIDING FOR THE ESTIMATE OF TOTAL COSTS OF SAID IMPROVEMENTS; DESIGNATING THE PORTION OF THE IMPROVEMENT TO BE PAID BY SPECIAL ASSESSMENT; DESIGNATING WHEN THE SPECIAL ASSESSMENT SHALL BE PAID; DESIGNATING THE LANDS UPON WHICH THE SPECIAL ASSESSMENT SHALL BE LEVIED; PROVIDING FOR CREATION OF AN ASSESSMENT PLAT AND A PRELIMINARY ASSESSMENT ROLL; PROVIDING FOR PUBLICATION AND NOTIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit:

Agenda Report No. 12.pre. added item

Reso read by title only.

MOTION: CM White / CM Scardino to adopt Reso 10-2020 as submitted. Discussion: Clerk explained that this is the preliminary step required before developing the assessment map and roll and advertising the adopted resolution to start the comment period.

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

MISCELLANEOUS: 2**12.a. Form DR-420 – Tentative Maximum Millage and Public Hearing Date****Exhibit: Agenda Report No. 12.a.**

MOTION: CM Ball / CM Vail to set the tentative maximum millage at 2.3810 and the date for the first PH on September 3, 2020. This is based on the prior FY19/20 millage of 2.2680 and the calculated current year rolled back rate (RBR) of 2.1627.

VOTE: All Ayes. Motion carried 4 to 0.

12.b. Clarification on Land Use Designation & Zoning Consistency**Exhibit: Agenda Report No. 12.b.**

Discussion: Mayor read his statement. It was the Planning and Zoning Board's understanding that a property owner could develop under the existing zoning or change to match the FLUM designation. The intent was to make it easier but not mandatory. Attorney Bohne explained that existing developed properties could continue to exist under the existing zoning and would be "grandfathered" in. Buyer is motivated to change the land use map.

Vacant land would need to request a zoning change to match the FLUM or both a zoning change and land use designation change to go to another land use.

Mayor asked why they are making this change. Atty Bohne said buyer wants assurance that there will be no conflicts in the future. The existing owner would have no problem proceeding under the "grandfather" clause. Clerk explained that this is for clarification of why this will be before P&Z on 7/22/20 for a public hearing and then to Council on 8/3/20 for a public hearing in order to send to the State and request expedited review. If there are no adverse comments, after the review, Council can advertise the ordinance for second reading and final adoption.

CM White is OK with the new buyer's concern for consistency. He asked about all the other properties that the Town changed the land use designation. This could crop up again and again. Current owners of vacant land don't have the option to develop if the zoning is not consistent with the land use designation. Existing, developed properties can continue under their current zoning.

CM Vail said similar requests have the potential to come before them again. Yes.

13. DISCUSSION/POSSIBLE ACTION: 0**14. PUBLIC COMMENTS: General Items (Speaker Card Required) none:****15. REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Ball: Referred to the Malabar FD Lt with medical issue – keep him and his family in your thoughts and prayers

CM Vail: nothing

CM Rivet: excused

CM White: Do we have any FD staff with confirmed COVID-19? TM said yes, one volunteer and three paid staff. CM White relayed the incident last Tuesday when he was in Publix and two members on duty, in uniform were inside with no masks. He then came by Town Hall to sign bills and saw the two cleanings that were done at the fire house. If we are going through that kind of effort for the FD, they need to take some personal responsibility to wear masks.

TM said they are supposed to wear the masks while on duty. TM said the issue was addressed and policies reiterated. They adjusted those policies after the first positive case to require masks and arriving and leaving differently to avoid cross contamination. They are not currently bringing in volunteers – any time they are in close quarters they are to be masked

CM Scardino: agreed with him. Florida is reporting 10K a day.

Mayor: nothing

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

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

BY: _____
Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

Date Approved: 7/20/2020

DRAFT

RESOLUTION 11-2020

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE ADOPTION OF A DEFERRED COMPENSATION PLAN PURSUANT TO SECTION 457 OF THE INTERNAL REVENUE CODE; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council desires to establish an eligible deferred compensation plan to be made available to all eligible employees pursuant to Section 457 of the Internal Revenue Code ("Code") and;

WHEREAS, Nationwide Retirement Solutions, Inc. a Delaware corporation and an affiliate and subsidiary of Nationwide Financial Services, Inc. ("NRS") offers an eligible deferred compensation program pursuant to Code Section 457 (the 457 Program) that allows Employer to offer a Code Section 457 eligible deferred compensation plan to Eligible Employees; and

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 adopts the documents necessary to implement the 457 Program thereby establishing the Town of Malabar Deferred Compensation Plan for the participation of Eligible Employees.

Section 2. The Town of Malabar selects the Nationwide Financial Services Inc. ("NRS") to administer the 457 Program.

Section 3. The Town of Malabar directs the appropriate staff to take the actions necessary to implement this resolution.

Section 3. 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 20th day of July 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

COUNCIL MEETING

AGENDA ITEM NO: 11.b

Meeting Date: July 20, 2020

REVISED

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

SUBJECT: 11.b Reso 12-2020 Formally Appoint Interim Town Manager

BACKGROUND/HISTORY:

This Resolution would provide authorization to add Lisa Morrell to the Town's employment roll as the Interim Town Manager to oversee the daily operations of the Town as well as the long-range programs begun under current Town Manager Matt Stinnett.

The current Town Manager Matthew Stinnett is being called up to active duty for an upcoming military operation outside of the State of Florida beginning in October for approximately one-year.

Matt has negotiated an employment contract proposal with Mrs. Lisa Morrell that would provide fulltime employment with the Town as an Interim Town Manager for the duration of his mobilization. In addition, TM Matt Stinnett will continue to act as Town Manager in a limited capacity consulting remotely with the Town Council, staff and contractors to ensure the stability of current operations and a smooth transition with the Interim Town Manager assuming most of the day to day responsibilities.

The proposed employment terms consist of a transfer of current salary (\$65k annually) and benefits for the approximately one-year period beginning in October. The benefits would also be the same for health, dental, life insurances and the car allowance of \$300.00 per month.

~~The savings would be in the non-participation in the Florida Retirement System (FRS) by Lisa Morrell. The value of the current FRS contribution will be repurposed to provide a limited salary to the Town Manager Matt Stinnett of \$500.00 per pay period and the corresponding FRS contribution for the reduced salary.~~

We have learned from the Florida Retirement System that the position requires participation in the retirement program even though it is a temporary appointment. The Town will also continue to participate in the monthly contributions on Matt's reduced wages of \$500.00 per pay period.

Matt would then be able to stay in touch periodically with Council, the Interim Town Manager and Staff.

ATTACHMENTS:

b. Reso 12-2020

ACTION OPTIONS:

Council Action on Reso 12-2020

RESOLUTION 12-2020

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF AN INTERIM TOWN MANAGER; PROVIDING FOR A TERM; PROVIDING FOR REMUNERATION; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified that the current Town Manager is being called up for an active duty for approximately one year; and

WHEREAS, Malabar Town Council desires to temporarily fill this position with an interim Town Manager.

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 Lisa Morrell as the interim Town Manager to begin on October 1, 2020 for approximately one year as described in Exhibit "A".

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the contract for these services to be executed with the annual salary and benefits afforded the current Town Manager with the exception of the participation in the Florida Retirement System.

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 20th day of July 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.
Karl W. Bohne, Jr., Town Attorney

July 16, 2020

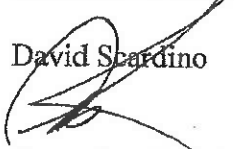
To: Town of Malabar

From: David Scardino
Councilor, District 4

RE: Subject 11.b Reso 12-2020
Agenda: Formally Appoint Interim Town Manager

I have reviewed the resolution to add Lisa Morrell to the Town's employment roll as interim Town Manager and I fully support this temporary measure.

David Scardino



Councilor, District 4

EMPLOYMENT AGREEMENT FOR INTERIM TOWN MANAGER

THIS AGREEMENT made and entered into on the ___ day of _____, 2020, by and between the Town of Malabar, Florida, a municipal corporation of the State of Florida, Brevard County (hereafter the "Employer"), and Lisa Morrell (hereafter the "Employee").

WITNESSETH:

WHEREAS, Employer desires to employ the services of said Employee as Town Manager for an interim period of approximately one year beginning October 1, 2020; and,

WHEREAS, it is the desire of the Town Council to provide certain benefits, to establish certain conditions of employment, and to set working conditions of said Employee; and

WHEREAS, Employee desires to accept employment as Interim Town Manager of the Town of Malabar.

ARTICLE I

Term of Employment

- 1.01 The Town employs Employee, and Employee has accepted employment with Town upon the conditions set forth herein for a one-year term beginning October 1, 2020. During the first 90 days of employment, the Employee shall be considered a probationary employee for the position of Town Manager and she shall accrue benefits under Article IV; however, she may be terminated without cause during the said 90 day period with no entitlement to any severance except Employee shall be entitled to be compensated for work performed before the effective date of the termination under this article.

ARTICLE II

Employee's Duties

- 2.01 The Employee is hereby employed as the Interim Town Manager of the Town of Malabar, Florida. Employee shall perform those duties specified in the Code of Ordinances of the Town as amended by Council, Personnel Policies/Employee Manual and job descriptions of the Town. The Employee shall be required to be a member of the FCCMA within the first 180 days of being employed by the Town if they are not already a member.
- 2.02 In addition to the duties specified in the Town Code, Personnel Policies/Employee Manual and job descriptions of the Town Employee shall also perform such additional duties and functions as may be assigned to the Town Manager by the Town Council.

- 2.03 Employee agrees to perform these duties to the best of her ability, and to perform those duties in a manner consistent with the best interests of the Town and in a professional and ethical manner.
- 2.04 The Employee shall devote substantially all of her productive time, ability, and attention to the business of the Town, both during normal business hours and outside normal business hours as the business of the Town may require, such as attending Council, Board and Committee meetings. To that end, it is agreed, that as compensation for time spent on Town business during non-business hours, the Employee shall be entitled to take compensatory time off as they shall deem appropriate during normal business hours within same pay period. This compensatory time off shall have no cash value as outlined in the Employee Manual. Employee shall not be involved in non-employee connected business for remuneration without approval of the Town Council.

ARTICLE III

Compensation

- 3.01 The Town agrees to pay Employee for their services rendered an annual base salary of \$65,000.00, payable in installments at the same time as other employees of the Town are paid. The Employee shall be required to keep a time sheet and submit it to the Clerk each pay period to track regular, vacation, sick and compensatory time off.
- 3.02 ~~After the 2018/2019 fiscal year and during continued employment, the Employee may be entitled to a salary increase as an adjustment to base salary at the discretion of Council.~~
- 3.03 The Town shall not at any time during the term of the Agreement reduce the salary, compensation or other financial benefits of Employee, except as part of an across-the-board reduction for all employees of the Town. In such event, the Employee's salary reduction shall be proportioned to the reduction for other Town employees.

ARTICLE IV

Employee Benefits

- 4.01 Employee shall be entitled to participate in any Employee benefit plan established by the Town. (Note: this includes life insurance policies equal to (1X) the annual wages and is provided to all FT employees at Town's expense.)
- 4.02 The Town agrees to pay the required contribution for Senior Management Class of the Employer portion for inclusion in the Florida Retirement System. The employee shall be required to pay the employee portion just as other Town employees.
- 4.03 Employee shall annually accrue sick leave on the same basis and at the same rate as other Town employees and is held to the same limits per the Employee Manual. Employee may participate in any refunding program for sick leave offered to other employees.
- 4.04 Employee will earn 18 days' vacation annually, accrued at 1-1/2 days per month. The Employee shall be required to take five consecutive days off each year per the

Employee Manual. The Employee shall get Town Council approval of the taking of vacation time by the Employee

- 4.05 The Town agrees to provide health and dental insurance coverage at the same rate as other Town employees per the Employee Manual. Such insurance coverage shall be effective immediately and without interruption.
- 4.06 A. The Town hereby agrees to budget for and to pay the travel and subsistence expenses for travel outside Brevard County of Employee for official travel, meetings, conferences and seminars to adequately pursue the necessary official and other functions for the Town, based on the miles recorded for Town business on an Employer provided mileage log similar to what other employees complete based on Florida Statutes limits as currently set at .445 cents per mile and as defined in Florida Statutes 112.012, including but not limited to the Annual Conferences of the Florida League of Cities, GFAO and such other national, regional, state and local government organization groups and committees thereof-which Employee serves as a member.
- B. The Town also agrees to budget and to pay for the registration fees of Employee for short courses, institutes and seminars that are necessary for their professional development and for the good of the Town.
- C. The Town shall pay 100% of the Employee's annual professional organizational dues.
- D. Town agrees to budget and to pay Employee a car allowance of \$300.00 per month.
- 4.07 The Town shall defend, save harmless and indemnify Employee pursuant to F.S. 111.07 and 111.071. The Town shall be required to provide independent legal representation at the Town's expense to the Employee for any matter for which this indemnity shall apply. Legal representation, provided by the Town for Employee, shall extend until a final determination of the legal action including any appellate proceedings. Employee recognizes that the Town shall have the right to compromise and settle any claim or suit. Such payments shall continue beyond Employee's service to the Employer as long as litigation is pending.

ARTICLE V

Termination, Severance Pay, and Suspension

- 5.01 Except as provided for in Article I, in the event employment of Employee is terminated at the pleasure of the Town or for any reason other than those set forth in paragraph 5.02 of this article, the Employee shall receive a lump sum cash payment equal to two (2) months aggregate salary computed as of the time of termination. Employee shall also receive full pay for unused vacation and accrued sick leave up to the caps provided in the Employee Manual.
- 5.02 In the event Employee is terminated for cause then the Town shall have no obligation to pay aggregate future salary but shall pay accumulated vacation above up to the caps provided in the Employee Manual. For purposes herein the Term "for cause" shall mean the grounds for removal from office in F.S. 112.51, misconduct as defined in F.S.

6.02. Annually, the Council and Employee shall define such goals and performance objectives that they determine necessary for the proper operation of the Town and in the attainment of the Council's policy objectives and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

ARTICLE VII

General Provisions

7.01 A. The text herein shall constitute the entire Agreement between the parties along with a copy of the current Employee Manual.

B. This Agreement shall be binding upon and inure to the benefit of the Employee heirs at law and executors of Employee.

C. This Agreement shall become effective on the date of its approval by the Town Council.

7.02 If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable the remainder of the Agreement or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

IN WITNESS WHEREOF, this Agreement has been entered into the day and year first written above.

Witness

Lisa Morrell

Witness

THE TOWN OF MALABAR

By: _____
Mayor Patrick T. Reilly

ATTEST:

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

2020/2021 Draft Budget

512 - EXECUTIVE									
ACCT NO.	ACCOUNT DESCRIPTION	FYE 9/2018	FYE 9/2019	BUDGET FY 19/20	FYTD* 7/17/2020	Proposed FY 20/21	Notes FY 20/21		
	Personnel Services						Updated		
512.1100	Town Manager	0	45,481	65,000	52,154	13,000			
512.1110	Interim Manager	56,090	7,827	0	0	65,000	Previous/Interim TM Salary		
512.1600	Retiree Pay	0	16,670	0	0	0	Paid when previous TA Retired		
512.2100	FICA Taxes	4,256	5,279	4,208	4,533	5,967			
512.2200	Retirement Contribution - FRS	0	11,648	16,517	12,617	21,286			
512.2300	Health & Dental Insurance	0	5,480	7,975	7,999	8,500			
512.2400	Workers Compensation	308	308	480	480	480			
	Total Personnel Services	60,654	92,693	94,180	77,783	114,233			
	Operating Expenses								
512.4000	Travel, Train & Per Diem	1,695	3,274	6,100	3,437	5,000	Continuing education/car allowance		
512.5200	Operating Supplies	0	0	0	0	2,500	New Computer, office supplies		
	Total Operating Expenses	1,695	3,274	6,100	3,437	7,500			
	Capital Outlay								
512.6400	Machinery & Equipment	0	0	0	0	0			
	Total Capital Outlay	0	0	0	0	0			
	TOTAL EXECUTIVE	62,349	95,967	100,280	81,220	121,733			