



# REGULAR TOWN COUNCIL MEETING

Monday, August 16, 2021 at 7:30 pm

1. CALL TO ORDER, PRAYER AND PLEDGE
2. ROLL CALL
3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES
4. CONSENT AGENDA

- a. **Approve Minutes of Regular Town Council Meeting of 08/02/2021**

Exhibit: Agenda Report Number 4a

**Attachments:**

- **Agenda Report Number 4a** (Agenda\_Report\_Number\_4a.pdf)

- b. **Request by SAI for Schedule Extension on Malabar Asset Database and Stormwater Master Plan - Change Order Request 002**

Exhibit: Agenda Report Number 4b

**Attachments:**

- **Agenda Report Number 4b** (Agenda\_Report\_Number\_4b.pdf)

5. ATTORNEY REPORT
6. STAFF REPORTS

- a. Manager
  - b. Fire Chief
  - c. Clerk

7. PUBLIC COMMENTS

Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required)

***Five (5) Minute Limit per Speaker***

- a. **Recognition of Gift of Framed Sandhill Crane Photo by Lloyd Behrendt**

Exhibit: Agenda Report Number 7a

**Attachments:**

- **Agenda Report Number 7a** (Agenda\_Report\_Number\_7a.pdf)

## 8. PUBLIC HEARINGS: 2

### a. Amend Chapter 13 to provide for a Recordable Document to Track Required Road Paybacks. (Ordinance 2021-13)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 13, SECTION 13-47 PROVIDING FOR A ROAD REIMBURSEMENT RESOLUTION TO RECORD ROAD PAYBACKS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 8a

#### Attachments:

- **Agenda Report Number 8a** (Agenda\_Report\_Number\_8a.pdf)

### b. Amend Code to Provide for Recreational Vehicle Parks. (Ordinance 2021-09)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; PROVIDING A NEW ZONING DESIGNATION FOR RECREATIONAL VEHICLE PARKS (RVP); AMENDING ARTICLE II, SECTION 1-2.2, TABLE 1-2.1, TO REFLECT SUCH NEW DESIGNATION; AMENDING ARTICLE III, SECTION 1-3.1, BY CREATING A NEW SUBSECTION 1-3.1 "P", RVP "RECREATIONAL VEHICLE PARK"; AMENDING SECTION 1-3.2, TABLE 1-3.2 TO INCLUDE RECREATIONAL VEHICLE PARKS AS A PERMITTED USE IN THE R-MH ZONING DISTRICT; AMENDING SECTION 1-3.3, SIZE AND DIMENSION CRITERIA, SUBSECTION "A", AND BY CREATING A NEW SUBSECTION "G"; PROVIDING FOR AN APPLICATION AND OPERATIONAL PROCEDURES FOR RECREATIONAL VEHICLE PARKS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 8b

#### Attachments:

- **Agenda Report Number 8b** (Agenda\_Report\_Number\_8b.pdf)

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

(RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)

## 10. ACTION ITEMS

ORDINANCES: 1

RESOLUTIONS: 1

MISCELLANEOUS: 2

### a. Amend Chapter 13 of Code to Provide for ROW Vacate Process. (Ordinance 2021-15)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 13, ADDING A NEW ARTICLE V, PROVIDING PROCEDURES FOR THE CLOSURE OR VACATION AND ABANDONMENT OF PUBLIC RIGHTS-OF-WAY; DELETING IN FULL SECTION 1-12.8 IN ARTICLE XII; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10a

#### Attachments:

- **Agenda Report Number 10a** (Agenda\_Report\_Number\_10a.pdf)

### b. Appoint Alternate Member to Trails & Greenways Committee (Resolution 06-2021)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR THE APPOINTMENT OF DANIEL WAITE TO THE MALABAR TRAILS AND GREENWAYS COMMITTEE 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 10b

**Attachments:**

- **Agenda Report Number 10b** (Agenda\_Report\_Number\_10b.pdf)

**c. Council to "Qualify" the Candidates for District 4 and 5.**

Exhibit: Agenda Report Number 10c

**Attachments:**

- **Agenda Report Number 10c** (Agenda\_Report\_Number\_10c.pdf)

**d. Capital Improvement Priorities (continued from Workshop)**

Exhibit: Agenda Report Number 10d

**Attachments:**

- **Agenda Report Number 10d** (Agenda\_Report\_Number\_10d.pdf)

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

**11. DISCUSSION/POSSIBLE ACTION: 2**

**a. New Mandated Property Rights Element to be added to Comp Plan.  
(Ordinance 2021-16)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ADOPTING THE COMPREHENSIVE PLAN SMALL SCALE AMENDMENT (SSA) NO. 2021-02; ADDING A PROPERTY RIGHTS ELEMENT WITH ASSOCIATED GOALS AND POLICIES GOVERNING PROPERTY RIGHTS; REQUESTING EXPEDITED STATE REVIEW; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 11a

**Attachments:**

- **Agenda Report Number 11a** (Agenda\_Report\_Number\_11a.pdf)

**b. Discuss/Approve Revised Employment Contract for Lisa Morrell.**

Exhibit: Agenda Report Number 11b

**Attachments:**

- **Agenda Report Number 11b** (Agenda\_Report\_Number\_11b.pdf)

**12. PUBLIC COMMENTS**

General Items (Speaker Card Required)

**13. REPORTS - MAYOR AND COUNCIL MEMBERS**

**14. ANNOUNCEMENTS**

(2) Vacancies on the Trails and Greenways Committee

**15. ADJOURNMENT**

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the

individual may need to ensure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105).

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

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Contact: Debby Franklin (townclerk@townofmalabar.org 321-727-7764) | Agenda published on 08/11/2021 at 1:44 PM

**TOWN OF MALABAR**

**COUNCIL MEETING**

**AGENDA ITEM NO: 4.a.**  
**Meeting Date: August 16, 2021**

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

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**SUBJECT: Consent Agenda**

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**BACKGROUND/HISTORY:**

Summary of Council actions at the Town Council Regular Meeting Minutes – 08/02/2021

**ATTACHMENTS:**

- a. Draft Minutes of 08/02/2021

**ACTION OPTIONS:**

Council Action on Consent Agenda

**MALABAR TOWN COUNCIL REGULAR MEETING MINUTES  
AUGUST 02, 2021, 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 meeting to order at 7:30 pm. CM White led P&P.

**2. ROLL CALL:**

CHAIR:	MAYOR PATRICK T. REILLY
VICE CHAIR:	STEVE RIVET Excused
COUNCIL MEMBERS:	MARISA ACQUAVIVA
	BRIAN VAIL
	DAVID SCARDINO
	DANNY WHITE
TOWN MANAGER: (ITM)	LISA MORRELL
TOWN ATTORNEY:	KARL BOHNE
TOWN CLERK/TREASURER:	DEBBY FRANKLIN Excused
DEPUTY TOWN CLERK/TREASURER:	RICHARD W. KOHLER

**3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES: None**

**4. CONSENT AGENDA:**

**4.a. Regular Town Council Mtg Minutes of 7/19/2021**

**4.b. Special Town Council Mtg Minutes of 7/26/2021**

**4.c. Authorize Execution of ARPA Agreement after legal review**

**MOTION: CM Vail / CM Acquaviva to approve. Vote: All Aye. 4-0**

**5. ATTORNEY REPORT:** Attorney stated he has no report

**6. BCSO REPORT:** none

**7. BOARD / COMMITTEE REPORTS:**

**7.a. T&G Committee:** Committee Chair Thompson explained the Trails and Greenways Committee is delaying their fence building trail day. After the completion of the root rake project, we discovered that the fence line was a low spot on the property. They appreciate the work from the PW. They will be drafting a SOW to complete the remainder of the project. CM White asked if the Public Works crew did a good job? Chair Thompson stated they did an excellent job. More work was required after their project. CM Scardino asked how much dirt they will need, and if the Town can provide it? Chair Thompson stated their goal is to use dirt without invasive species. We don't want "dirty dirt."

**7.b. Park & Recreation Board:** Chair Eric Bienvenu – None

**7.c. P&Z Board:** Vice Chair Ritter informed Council about the Boards discussion on the Capital Improvement Plan.

**8. STAFF REPORTS:**

**8.a. Town Manager – ITM Morrell** informed Council that she has submitted the NDPES report. It is data collection for stormwater and illicit discharge. Includes recommended changes to our procedures which will make the reporting easier. We have also been working on Solid Waste RFP. We are working on a temporary extension with Waste Management. Still working on the upcoming budget. Compiling CIP recommendations, staff ideas and state revenue projections. There are several new building projects on Malabar Road, and one on US 1. We finished open enrollment. ITM Morrell then gave a demonstration of the Malabar

Zoning Map, an interactive map with information on zoning and FLUM for every parcel in Malabar. CM Scardino asked if there was a wetlands map. ITM Morrell states that we do not, but we have a link to Brevard County's. Mayor Reilly gave a Certificate of Appreciation to ITM Morrell, TC/T Franklin, and Deputy TC/T Kohler. ITM Morrell then gave a Certificate of Appreciation to Mayor Reilly for his hard work on this project.

**8.b. Fire Chief:** Acting Chief, Lt. Barkley- Lt. Barkley gave an overview of the monthly calls. Also informed Council that they are working on restoring the kitchen at the Fire Department. They are always looking for new members. Also, they are working on the brush truck.

**8.c. Clerk –** we are halfway through candidate qualifying – Qualifying ends at 4:30 PM on 8/10.

**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.**

George Foster – 1205 Malabar Rd – Disclosed he is on the PZ Board. He is not here in any official capacity. He is here to show support to ITM Morrell. He believes she has a wealth of information in municipal government. She has had many successes, including the sale of Huggins Park, park improvements, stormwater, road planning and budgeting work. He wants to thank her and the Council for their work.

Mary Hofmeister – 2340 Corey Rd – Also on the PZ Board, is here to reiterate her support of ITM Morrell. She is an asset to the Town, and we should do what we can to keep her.

**10. PUBLIC HEARINGS: 2**

**10.a. Amended Code per new State Law on Home Businesses (Ord 2021-10)**  
AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; REPEALING SECTION 1-5.25 IN ARTICLE V OF THE LAND DEVELOPMENT CODE REGARDING HOME OCCUPATIONS; AMENDING ARTICLE II OF CHAPTER 14 BY ADDING A NEW SECTION 14.40.2 RELATING TO HOME BASED BUSINESSES; AMENDING SECTION 14-46 BY ADDING HOME BASED BUSINESSES TO THE BUSINESS TAX RECEIPT FEE SCHEDULE; AMENDING SECTION 14-45 REGARDING FEES FOR BUSINESSES NOT SPECIFICALLY INCLUDED IN THE FEE SCHEDULE; PROVIDING FOR REPEAL; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE.

**Exhibit:**

**Agenda Report No. 10.a.**

Ord read by title only.

Atty Bohne referenced House Bill 403 which severely restricted our rights to ask regulate this subject.

PH opened. None. PH closed.

Discussion:

**MOTION:** CM Vail / CM Acquaviva to Adopt Ord 2021-10.

Discussion: CM White asked how these rules will be enforced? Who counts traffic trips to residential houses? Atty states that comes directly from the State Code. CM Acquaviva stated that resident self-regulate that. If there are excessive trips to a residence, residents will call and complain. CM Scardino referenced report of high activity in Cocoa and it was resolved by the BCSO.

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

**10.b. Approve Amended Code related to Open Burning (Ord 2021-11)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 8 FIRE PREVENTION AND PROTECTION; AMENDING ARTICLE III SECTION 8-72 DEFINITIONS; AMENDING SECTION 8-73 REGARDING REQUIRED PERMITS; PROVIDING FOR REPEAL, SEVERABILITY AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:**

**Agenda Report No. 10.b.**

Ord read by title only.

PH opened. None. PH closed.

**MOTION:** CM Acquaviva /CM Vail to Adopt Ord 2021-11.

Discussion: no additional comments.

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

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

**12. ACTION ITEMS:**

**ORDINANCES for FIRST READING: 2**

**12.a. Amend Code to Provide for Recreational Vehicle Parks (Ord 2021-09)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; PROVIDING A NEW ZONING DESIGNATION FOR RECREATIONAL VEHICLE PARKS (RVP); AMENDING ARTICLE II, SECTION 1-2.2, TABLE 1-2.1, TO REFLECT SUCH NEW DESIGNATION; AMENDING ARTICLE III, SECTION 1-3.1, BY CREATING A NEW SUBSECTION 1-3.1 "P. RVP "RECREATIONAL VEHICLE PARK"; AMENDING SECTION 1-3.2, TABLE 1-3.2 TO INCLUDE RECREATIONAL VEHICLE PARKS AS A PERMITTED USE IN THE R-MH ZONING DISTRICT; AMENDING SECTION 1-3.3, SIZE AND DIMENSION CRITERIA, SUBSECTION "A", AND BY CREATING A NEW SUBSECTION "G"; PROVIDING FOR AN APPLICATION AND OPERATIONAL PROCEDURES FOR RECREATIONAL VEHICLE PARKS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

**Exhibit:**

**Agenda Report No. 12.a.**

Ord read by title only.

ITM Morrell gave an overview of the history of the project. There is new language included from the Attorney from the last time you saw this. The Town had no code for this, and a site plan was requested. This corresponds with the State code and provides the basic framework for RVPs. Applicants can always seek relief from the items. ITM Morrell then discussed the past PZ meetings that discussed this topic. Per attorney, include this in the R-MH zoning district. Item "G" there was a request to include different names for RVs. There was discussion of Public vs Private utilities. We wouldn't need an easement if its private. Public will require an easement, and we wanted to ensure access to them. Minimum size of 5 acres. Maximum density of 15 units per acre. Discussed the fence line, and noted if it isn't in the code, we can't enforce it. Discussed the size dimensions of back in parking vs drive through. Town already has a light restriction which will apply. You may never see this code, but at least you have it. CM Acquaviva asked what protections are in place for keeping waste out of the lagoon. ITM Morrell states the DEP and EPA will have their say. CM Vail states we need the correct land use and zoning, and this should provide that. Mayor Reilly stated ITM Morrell acknowledged the questions posed by himself, staff, and the PZ Board.



Liz Ritter – PZ Vice Chair – Begins by stating she is representing the Planning and Zoning Board. Also states that due to State Statute, if her business was destroyed, she could rebuild it as originally designed, therefore there is no conflict of interest in her position. After discussion with Mayor and Attorney about the lack of a motion from PZ directing her to address Council, Mrs. Ritter changed her position to just a resident. Gave out a handout (Attached). She discussed the state statues relating to RVPs. Section 5 includes the maintenance of vehicles, which she believes should not be included. On Page 42, principal uses, there should be additional definitions. Page 43/44 Section D, buffer strips, 3-2 vote from PZ to remove the necessity of a 6-foot fence. Buffering is already included in Town Code. G Design, minimum size. We shouldn't differentiate length and width, only total sq ft. General Council Consensus agrees. Liz says the same for both back in and pull through. CM Scardino asks what provisions are included to restrict storage? ITM Morrell states that is addressed in a separate part of the code. Page 44 Section h) Provisions of service in RVP mandates the inclusion of water and sewage. That is already covered by state statutes, so why have we included it? ITM Morrell states including this in the Ordinance will help staff create a checklist for future potential RVP development.

Atty recaps, Mrs. Ritter is requesting changes to 5g on page 41, section 1 on page 42, Buffer zone (Include waiver), Page 43/44 item G section 1 Size of the spaces (Remove dimensions) and page 44 item H sections 2 & 3 water/sewer provisions.

**MOTION: CM White / CM Vail to approve first reading of Ord 2021-09 subject to staff to include comments made tonight.**

Discussion: Atty explained why he is suggesting it be placed in the R-MH. We can not update our comp plan until we pass the property owner rights ordinance. ITM Morrell states that is one of the 95 new laws passed by the State Legislation this year, and we must adapt to it.

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

**12.b. Amend Chapter 13 of Code regarding tracking Road Paybacks  
Ord 2021- 13)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 13, SECTION 13-47 PROVIDING FOR A ROAD REIMBURSEMENT RESOLUTION TO RECORD ROAD PAYBACKS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

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

Ord read by title only.

Atty states this is housekeeping. This allows us to record the payback with the county, and a lien search will show it.

**MOTION: CM Vail / CM White to approve first reading of Ord 2021-13.**

Discussion: CM White asked if we have encountered this issue? ITM Morrell states yes, someone purchased land that was included in a road payback and learned about it after the purchase. CM Vail asks when is this collected, upon sale or pulling a building permit? Atty states that will be resolved in closing of each purchase.

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

**MISCELLANEOUS: 2**

**12.c. Set date for Executive Session to discuss FD Union Negotiations 8/10 or 8/17**

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

Discussion: Introduction by ITM Morrell. All agree evening, and CM White suggests the 10<sup>th</sup>. Mayor suggests 7:30 PM.

**MOTION: CM Vail /CM Acquaviva to set date for 8/10/2021 for executive meeting.**

**VOTE: All Ayes.**

**12.d. Solid Waste Bid Review Committee Members**Exhibit: **Agenda Report No. 12.d.**

Discussion: Introduction by ITM Lisa. The goal is to have a primary and secondary member from each district.

**MOTION:** CM White / CM Acquaviva to direct staff to contact the first two people on the list for each District and see if they are interested.

**VOTE:** All Ayes.

Chair released Attorney at this time.

**13. DISCUSSION/POSSIBLE ACTION: 1****13.a. Amend LDC Article XVI regarding Road Maintenance (Ord 2021-12)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING ARTICLE XVI SUBDIVISIONS; AMENDING SECTION 1 -16.4 PERTAINING TO ROAD DEDICATION AND REQUIRED LANGUAGE IN SUBDIVISION COMMUNITY ASSOCIATION RESTRICTIVE COVENANTS REGARDING MAINTENANCE OF ROADS, STREETS AND RIGHT OF WAYS; AMENDING SECTION 1-18.7 PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

Exhibit: **Agenda Report No. 13.a.**

Discussion: Introduction by ITM Morrell – This amends Article XVI in the LDC so it must go before P&Z Board before Council can act. This will eliminate the requirement to dedicate improved roads to the Town; they can remain the responsibility of the developer and/or HOA. In the past, the Town has accepted the responsibility of road maintenance in HOAs. This will keep the responsibility on the developer and/or residents.

**MOTION:** CM Acquaviva / CM Vail to direct this ordinance be sent to P&Z board for their review and recommendation.

**VOTE:** All Ayes.

**14. PUBLIC COMMENTS: General Items (Speaker Card Required) None:****15. REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Acquaviva: Gave a spotlight to the upcoming Malabar Community Market.

CM Vail: nothing

CM Rivet: nothing

CM White: Reiterated his support of ITM Morrell.

CM Scardino: nothing

Mayor Reilly: Nothing

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

**16. ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 8:55 P.M.

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

ATTEST:

\_\_\_\_\_  
Richard W. Kohler  
Deputy Town Clerk/Treasurer

Date Approved: 08/16/2021

# TOWN OF MALABAR

## COUNCIL MEETING

**AGENDA ITEM NO: 4.b**  
**Meeting Date: August 16, 2021**

**Prepared By: Lisa Morrell, Interim Town Manager**

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**SUBJECT:** Consideration of Malabar Asset Database and Stormwater Master Plan Change Order Request 002 – Schedule Adjustment

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### **BACKGROUND/HISTORY:**

Singhofen & Associates, Inc. (SAI) would like to request a Change Order to adjust the schedule for the Town of Malabar Asset Database and Stormwater Master Plan Project. Design Alternatives and model results were presented to the Town at a public Town Council Meeting on June 7, 2021. The design alternatives were also discussed with the Town Manager and Interim Town Manager on July 1, 2021. Feedback from both of these meetings is being used to evaluate additional areas and refine the conceptual design solutions. SAI is currently finalizing conceptual design solutions and preparing the Draft Summary Memorandum for the project. Proposed milestone dates are below:

**Draft Summary Memorandum:** August 30, 2021

**Final Summary Memorandum:** Within three (3) weeks of receipt of review comments from the Town. This change order includes no additional fees. SAI will continue to update you on the project status throughout the duration of the project.

**ATTACHMENTS:** 2021\_0809\_ChangeOrderRequest\_Schedule.PDF

**FISCAL IMPACT:** None

### **ACTION OPTIONS:**

Motion to approve requested schedule adjustment for the Malabar Asset Database and Stormwater Master Plan Project.



AUG 10 2021 AM 8:48

August 9, 2021

Lisa Morrell  
Interim Town Manager  
Town of Malabar  
2725 Malabar Road  
Malabar, Florida 32950

RE: Malabar Asset Database and Stormwater Master Plan  
Change Order Request 002 – Schedule Adjustment

Lisa,

Singhofen & Associates, Inc. (SAI) would like to request a Change Order to adjust the schedule for the Town of Malabar Asset Database and Stormwater Master Plan Project. Design Alternatives and model results were presented to the Town at a public Town Council Meeting on June 7, 2021. The design alternatives were also discussed with the Town Manager and Interim Town Manager on July 1, 2021. Feedback from both of these meetings is being used to evaluate additional areas and refine the conceptual design solutions. SAI is currently finalizing conceptual design solutions and preparing the Draft Summary Memorandum for the project. Proposed milestone dates are below:

**Draft Summary Memorandum:** August 30, 2021

**Final Summary Memorandum:** Within three (3) weeks of receipt of review comments from the Town

This change order includes no additional fees. SAI will continue to update you on the project status throughout the duration of the project.

If you should have any questions or require additional information, please contact me at (407) 679-3001.

Respectfully,

A handwritten signature in black ink, appearing to read "Allyson G. Hunt".

Allyson G. Hunt, P.E., CFM  
Project Manager

cc: Matthew Stinnett, Town Manager

**Malabar Asset Management and Master Plan**

SAI Project Manager: Allyson Hunt

Task Description		Current % Complete	Task Milestone Date	Status as of 3/12/2021
<b>1</b>	<b>Data Collection and Review</b>	100%	complete	
1.1	Data Collection	100%		Complete
1.2	Indetification of Topographic Voids	100%		Complete
1.3	Field Reconnaissance / Eng. Level Survey	100%		Field work within the Town limits is complete and data has been uploaded to the AGOL platform. Additional field recon for modeling purposes will be conducted as needed
1.4	Professional Survey	100%		Optional Task; Professional Survey not Required (AEI's field reconnaissance with RTK unit was deemed sufficient)
<b>2</b>	<b>Asset Management Geodatabase Development</b>	100%	complete	
2.1	Asset Management Geodatabase Development / Coordination	100%		Task Complete
<b>3</b>	<b>Stormwater Model Development</b>	100%	complete	
3.1	Model Network Developent	100%		Model network development completed
3.2	2D Region Development	100%		2D features development has been completed
3.3	Model Hydraulic and Hydrologic Parameterization	100%		Model Parameterization is completed. Model parameters will be updated as necessary throughout the project should new or better information become available.
<b>4</b>	<b>Model Setup, Execution, Debug and Stabilization</b>	100%	complete	
4.1	Generation of ICPRv4 Model using GWIS	100%		Complete
4.2	Model Debug and Stabilization	100%		Complete

SAI Project Manager: Allyson Hunt

4.3	QC of ICPRv4 Model	100%		Complete
4.4	Update Project GWIS	100%		Complete
<b>5</b>	<b>SWMP Model Validation</b>	<b>100%</b>	<b>complete</b>	
5.1	Model Validation	100%		Meetings held with Town and predicted flooding locations were given concurrence based on Town knowledge and past flooding issues.
5.2	Update Project GWIS	100%		Complete
<b>6</b>	<b>Final Model Execution and Floodplain Development</b>	<b>100%</b>	<b>complete</b>	
6.1	Model Execution	100%		Complete
6.2	Floodplain Development	100%		Complete
<b>7</b>	<b>Design Solution Development</b>	<b>97%</b>	<b>8/30/2021</b>	
7.1	Conceptual Design Alternative Meeting	100%		Virtual meeting held with the Town to present existing conditions model results and conceptual design locations, ideas, and proposed alternatives. Feedback incorporated into development of final design alternatives.
7.2	Design Solution Development	90%		Initial Design Solution Development complete; additional alternatives being evaluated based on feedback provided by the Town Manager in July 2021
7.3	Design Solution Presentation of Results	100%		Final design alternatives and model results were presented to the Town for concurrence and feedback prior to the public Town Council meeting.
<b>8</b>	<b>Report Documentation</b>	<b>8%</b>	<b>see below</b>	
8.1	Draft Summary Memorandum Report	15%	8/30/2021	Preparation of Draft Report in progress
8.2	Final Summary Memorandum Report	0%	3 weeks from receipt of comments	
<b>9</b>	<b>Meetings, Coordination, and Project Schedule</b>	<b>68%</b>	<b>Ongoing</b>	

SAI Project Manager: Allyson Hunt

9.1	Public Involvement - Public Meeting	100%		Design Solutions and Model results, along with cost estimates, were presented at a Public Town Council Meeting on June 7, 2021
9.2	Public Involvement - Initial Coordination	0%		Awaiting direction from the Town
9.3	PM, Status Reports, Client Updates	85%		Ongoing throughout the duration of the project
9.4	Project Schedule and Updates	85%		Ongoing throughout the duration of the project
<b>Project Total % Complete</b>		<b>86%</b>		

Notes

NTP Received: 6/16/2020

# Town of Malabar Certificate of Appreciation

*Presented to Lloyd Behrendt of Bluetooth Studio, Malabar, Florida for the Generous and Wonderful enlarged print of one of his Classic Photos of our Treasured Town Birds – the Sandhill Crane. Council Wishes to Recognize Lloyd's efforts in getting the Sandhill Crane Recognized as the Town Official Bird.*

*Lloyd Behrendt*



*Malabar Town Council*

*Awarded: August 16, 2021*

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*Mayor Patrick T. Reilly*



# TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 8.a.  
Meeting Date: August 16, 2021

Prepared By: Debby Franklin, Town Clerk/Treasurer

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**SUBJECT: 2<sup>nd</sup> Reading Amend Chapter 13 to Require Recordable Road Payback Record (Ord 2021-13)**

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## **BACKGROUND/HISTORY:**

This has been discussed many times over the years because there was no requirement to record the obligation of doing a road payback. We thought by providing the information in the lien search we were advising the buyer that there was a requirement for such payback in case the seller didn't disclose.

We recently found out when a parcel on Matthews sold, the Title company did not disclose that information to the buyer. When we asked why, they said they only disclose recorded obligations. In addition to learning this we realize that our paper and book tracking of who owes what needs improvement. This is the first step.

Then we will set up an internal electronic tracking report.

This was legally advertised for a PH at this meeting.

**ATTACHMENTS:**  
Ordinance 2021-13

**ACTION OPTIONS:**  
Action on 2nd Reading

## ORDINANCE 2021-13

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 13, SECTION 13-47 PROVIDING FOR A ROAD REIMBURSEMENT RESOLUTION TO RECORD ROAD PAYBACKS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

**WHEREAS**, the Town Council desires to update the Code of Ordinances relating to road improvement requirements by adopting this ordinance.

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

**SECTION 1.** Chapter 13, Article II, Division 2, Section 13-47 is amended as follows:

**Sec. 13-47. Reimbursement for expenses incurred by owner in connection with the construction of road improvement.**

The certified costs, as determined pursuant to Section 13-42 shall be reimbursed to the individual expending such monies to complete the improvement, or their assignees (provided such assignment is recorded as hereinbelow described), by monies obtained from property owners who subsequently apply for building permits on property adjacent to or abutting any street that has been improved by the owner seeking reimbursement, provided that such improvement has been accepted by the Town and further provided that the construction of the improvement was commenced after the effective date of this division [February 5, 2001] and in accordance with the terms and conditions of this division.

Upon such certification the Town Council shall adopt a Reimbursement Resolution. The resolution shall be recorded in the Public Records of Brevard County. The resolution shall contain the certified costs as determined above and shall identify those parcels which abut an improved street or section thereof, that had been previously completely improved pursuant to this division and which will be subject to a road reimbursement based upon the formula established herein.

The method of reimbursement shall be as follows: In order for any property owner to obtain a development permit for a property that abuts any street that had previously been fully or partially improved pursuant to the terms and conditions set forth in this division, such owner must, at the time of application for a development permit, pay the Town in accordance with the formula hereinbelow described.

An owner who wants a development permit for a parcel of property that abuts an improved street or section thereof, that had been previously completely improved pursuant to this division, shall pay an amount equal to their pro rata share of the total certified costs of the completed permitted section based upon a formula whereby the total certified costs of the improved sections are multiplied by a fraction, the numerator of which shall be the number of front feet of such owner's parcel that abuts the fully improved section, and the denominator of which shall be the number of total front feet of all parcels that abut such section. These monies shall be paid to the Town as a precondition for issuance of a building permit.

The monies received by the Town from such owner shall be disbursed to the owners of record, or assigns of record, who expended the certified costs to improve such street, pro rata, based upon the amount by which such reimbursed owners expended funds in excess of what would have been their pro rata share of the total improvement as determined by the same manner described hereinabove, less an amount equal to fifty dollars (\$50.00) or one (1) percent of the monies received from the owner making such reimbursement, whichever is greater, which monies shall be retained by the Town to cover its administrative costs. Such monies shall be disbursed to such owner within thirty (30) days after receipt of a written request for reimbursement by the owner.

**SECTION 2. Severability.** If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalid or unconstitutional portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the other portions of this ordinance, provided the remaining portions effectuate the purpose and intent of this ordinance.

**SECTION 3. Conflicting Provisions.** In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate federal, state, or town law, rule, code, or regulations, the more restrictive shall apply.

**SECTION 4. Inclusion in Code.** It is intention of the Town Council that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the Town of Malabar.

**SECTION 5. Effective Date.** This Ordinance shall take effect immediately upon passage and adoption.

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

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

This ordinance was then declared duly passed and adopted this 16 day of August 2021.

(seal)

**TOWN OF MALABAR**

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

**ATTEST:**

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

Approved for Legal Sufficiency:

\_\_\_\_\_  
Karl Bohne, Jr, Town Attorney

First Reading: 08/02/2021 Vote 4 to 0.  
Second Reading: 8/16/2021

# TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 8.b.  
Meeting Date: August 16, 2021

Prepared By: Lisa Morrell, Interim Town Manager

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**SUBJECT:** 2<sup>nd</sup> Reading of New Ordinance Creating a Recreation Vehicle Park (RVP)  
Zoning Designation (Ord 2021-09)

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## **BACKGROUND/HISTORY:**

This was discussed thoroughly at the first reading on 8/2/2021 and many questions were answered. It has been legally advertised for the PH at this meeting.

This provides for regulations that are currently lacking in the Code Book.

The red font are additions made by the Town Attorney for additional clarification.

## **ATTACHMENTS:**

Ordinance 2021-09

## **ACTION OPTIONS:**

Action on 2<sup>nd</sup> Reading of Ordinance 2021-09

**ORDINANCE 2021-09**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; PROVIDING A NEW ZONING DESIGNATION FOR RECREATIONAL VEHICLE PARKS (RVP); AMENDING ARTICLE II, SECTION 1-2.2, TABLE 1-2.1, TO REFLECT SUCH NEW DESIGNATION; AMENDING ARTICLE III, SECTION 1-3.1, BY CREATING A NEW SUBSECTION 1-3.1 "P. RVP "RECREATIONAL VEHICLE PARK" ; AMENDING SECTION 1-3.2, TABLE 1-3.2 TO INCLUDE RECREATIONAL VEHICLE PARKS AS A PERMITTED USE IN THE R-MH ZONING DISTRICT; AMENDING SECTION 1-3.3, SIZE AND DIMENSION CRITERIA, SUBSECTION "A", AND BY CREATING A NEW SUBSECTION "G"; PROVIDING FOR AN APPLICATION AND OPERATIONAL PROCEDURES FOR RECREATIONAL VEHICLE PARKS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

**WHEREAS**, in Florida State Statute, Chapter 513, entitled Mobile Home and Recreational Vehicle Parks, and Chapter 64E-15 of the Florida Administrative Code, the State of Florida regulates items pursuant to the permitting, fees, licensures, and operational components of mobile home and recreational vehicle park(s); and

**WHEREAS**, a local government agency has the authority to derive standards of placement, separation distance, setbacks, and fire protection of recreational vehicle parks upon initial approval by the building department and local government per Florida State Statute section 513.1115; and

**WHEREAS**, after the initial permitting and construction of the park, FSS Chapter 513 supersedes any local ordinances; and

**WHEREAS**, at present, there are no rules or regulations pertaining to Recreational Vehicle Parks and their operations in the Town Code; and

**WHEREAS**, on June 23, 2021, the Malabar Planning and Zoning Board held a publicly advertised meeting to discuss and recommend such amendments to the Town Code; and

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

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

**SECTION 1.** Article II, Section 1-2.2, Table 1-2.1 of the Town Land Development Code is hereby amended to provide a new Recreational Vehicle Park (RVP) Zoning District under the Future Land Use Designation High Density Residential (HDR), which shall read as follows:

...

Future Land Use Map Designations		Corresponding Zoning Districts	
OSR	Open Space and Recreation	CP INS	Coastal Preservation Institutional
RR	Rural Residential	RR-65	Rural Residential
LDR	Low Density Residential	RS-21	Single Family LDR
MDR	Medium Density Residential	RS-15 RS-10 RM-4	Single Family MDR Single Family MDR Multiple Family MDR
HDR	High Density Residential	RM-6 R-MH RVP	Multiple Family HDR Residential Mobile Home Recreational Vehicle Park
MRO	Multiple-family Residential or Office Space	RM-4 RM-6 OI	Multiple Family HDR Multiple Family MDR Office-Institutional
OI	Office-Institutional	OI INS	Office-Institutional Institutional
CL	Commercial Limited	CL	Commercial Limited
CG	Commercial General	CG	Commercial General
R/LC	Residential and Limited Commercial	R/LC	Residential and Limited Commercial
IND	Industrial	IND	Industrial
INS	Institutional	INS	Institutional
*PUD(R)	Planned Unit Development (Residential)	PUD(R)	Planned Unit Development (Residential)
*PUD(C)	Planned Unit Development (Commercial)	PUD(C)	Planned Unit Development (Commercial)
*PUD(I)	Planned Unit Development (Industrial)	PUD(I)	Planned Unit Development (Industrial)

...

**SECTION 2.** Article III Section 1-3.1, Purpose and Intent of Districts, is hereby amended to create a new subsection “P”, which shall read as follows:

...

*“P. RVP “Recreational Vehicle Park.” The RVP district is established to implement comprehensive plan policies for managing local zoning and site development design criteria on land specifically designated for Recreational Vehicle Park(s) as designated By Florida State Statute Chapter 513 entitled Mobile Home and Recreational Vehicle Parks, as well as Chapter 64E-15, Florida Administrative Code.”*

...

**SECTION 3.** Article III, Section 1-3.2, Table 1-3.2 Land Use by District is hereby amended to add and include Recreational Vehicle Parks (RVP) as a permitted use in R-MH, which shall read as follows:

...



COMMERCIAL ACTIVITIES										
Adult Activities									C	
Bars and Lounges								C		
Bed and Breakfast									p <sup>1</sup>	
Business and Professional Offices						P	P	P	P	P
Enclosed Commercial Amusement								P		
Arcade Amusement Center/ Electronic Gaming Establishment								C <sup>2</sup>		
Funeral Homes								P	P	C
General Retail Sales and Services								P		
Hotels and Motels								P		
Limited Commercial Activities								P	P	P
Marine Commercial Activities								C*		
Medical Services						P	P	P	P	
Mini Warehouse/Storage								C	P	P
Parking Lots and Facilities						P	P	P	P	
Recreational Vehicle Park						P				
Retail Plant Nurseries								P	P	P
Restaurants (Except Drive-Ins and fast food service)								P	P	P
Restaurants (Drive-ins)								P		
Service Station, Including Gasoline Sales								C*		C*
Trades and Skilled Services								P		P
Veterinary Medical Services						P	P	P	C	P
Vehicular Sales and Services								C*		P
Vehicular Services and Maintenance								C*		P
Wholesale Trades and Services								C*		P
INDUSTRIAL ACTIVITIES										
Kennels										C
Manufacturing Activities										P
Manufacturing Service Establishments										P
Vehicle and Other Mechanical Repair and Services								C*		P
Warehouse, Storage and Distribution Activities										P
WATER DEVELOPMENT										
NONCOMMERCIAL ACTIVITIES										
Noncommercial piers, boat slips, and docks										

C	=	Conditional Use
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P	=	Permitted Uses
A	=	Accessory Use
*	=	These uses are permitted only on sites abutting Babcock Street, US 1, West Railroad Avenue, Garden Street and Pine Street.
1	=	Allowing up to 1,000 square feet of a church or educational institution for the housing of a caretaker or security guard serving the church or educational institution. No such use shall be allowed unless administrative approval is granted by the Town.

...

**SECTION 4.** Article III, Section 1-3.3, Subsection “A”, shall be amended to include specific direction for criteria regarding Recreational Vehicle Parks (RVP), which shall read as follows:

...

“A. *Minimum Lot or Site Requirements for All Uses.* Table 1-3.3(A) incorporates required size and dimension regulations which shall be applicable within each respective zoning district, except for Recreational Vehicle Park District, which is specifically described within section 1-3.3, Item G. All developments shall have a total land area sufficient to satisfy all standards stipulated within the land development code, including but not limited to:

...

**SECTION 5.** Article III, Section 1-3.3, Size and Dimension Criteria, is hereby amended to include a new Subsection “G”, which shall read as follows:

...

“G. Recreational Vehicle Park zoning district shall be to locate and establish areas within the Town which are deemed to be uniquely suited for the development of Recreational Vehicle Parks and land use activities, i.e., travel trailers, motor homes, camping tents, and trailers occupied as temporary living quarters; to designate those uses and services deemed appropriate and proper for location and development within the zoning district; and to establish such development standards and provisions as are appropriate to ensure proper development and functioning of uses within the district consistent with Florida State Statute Chapter 513 entitled Mobile Home and Recreational Vehicle Parks, as well as Chapter 64E-15, Florida Administrative Code, as amended from time to time.

(1) Principal uses and structures:

a) A recreational vehicle-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Recreational vehicle-type units: travel trailer, camping trailer, camping trailer, motor home, private motor coach, van conversion, park trailer (this would include a 500sq stud wall constructed, yet transportable), fifth-wheel trailer, as defined by Florida Statute 320.01 (1)(b), as amended from time to time.

b) Management offices and residence (a mobile home may be allowed for a manager's residence only).

(2) Accessory uses include:

a) Grocery store.

b) Bottled/Metered gas sales.

c) Laundry facilities.

d) Recreational facilities such as playgrounds, picnic areas, swimming pools, game courts, and recreation hall.

e) Public & Private utility equipment and facilities.

(3) Conditional uses:

a) Marina and boat rental including bait, fishing, and sports accessories sales serving guests of the park and/or the general public.

(4) Design standards for recreational vehicle parks.

a) Minimum size: five (5) acres.

b) Maximum density: fifteen (15) travel trailer/R.V. sites per gross acre of land. This shall also apply to any tent camping areas.

c) Streets and parking:

1. Direct access to the recreational vehicle park shall be from an arterial roadway. The administrative office of the park shall be so located as to assure that no recreational vehicles are parked in the right-of-way during the check-in process or while waiting for others to be checked in.

2. Width of streets. Streets or driveways in a recreational vehicle park shall be private and shall have the following widths:

(a) A one-way street/drive shall be at least twelve (12) feet in width.

(b) A two-way street/drive shall be at least twenty-four (24) feet in width.

3. Street surfacing. All roads or driveways shall be paved meeting town standards.

4. Road curves. All road curves shall have a minimum turning radius of fifty (50) feet. All culs-de-sac shall have a maximum length of five hundred (500) feet and terminate in a turning circle having a minimum radius of fifty (50) feet.
  5. Parking. Each R.V./travel trailer site shall have off-street parking pads for both recreational vehicles and for towing vehicles. The pads shall be composed of a stabilized material meeting town standards to accommodate the size of the vehicle and be composition of materials examples: asphalt, cement, gravel, pavers, or LID methods (pervious asphalt, pervious concrete, etc.)
- d) Buffer strips. A twenty-five (25) foot minimum yard setback shall be provided from all exterior property lines and rights-of-way for the rear and sides of the property and a minimum of fifty (50) foot for and roadway frontage of the property. The recreational vehicle park shall be entirely enclosed, exclusive of driveways, at its external boundaries by a solid wall, wood or PVC fence, or evergreen hedge not less than six (6) feet in height. The buffer strip shall be separate from recreational areas, streets, driveways, travel trailer sites (R.V. sites) and utility sites but may be utilized for stormwater drainage and retention purposes. The provisions for buffer strips may be waived or reduced by the Town Council taking into consideration the use of abutting properties. Furthermore, any portion of the property which fronts a public right of way will not be required to be enclosed along such right of way.
  - e) Recreational areas. A minimum of ten percent (10%) of the total land area of a Recreational Vehicle Park shall be devoted to one (1) or more common use areas for recreational activity. In addition, for every travel trailer and tent site, there shall be allocated an additional one hundred (100) square feet of land for recreational activity.
    1. However, this requirement is not necessary when the proposed development is a density of ten (10) sites per gross acre or less. Such recreational areas shall be exclusive of recreational vehicle sites, buffer strips, street right-of-way and storage areas; however, the periphery of such areas may contain utility sites, and other non-recreational service buildings, the area of which will be subtracted from the computed "recreational area." Recreational areas shall be easily accessible to all Park users and management. Although the required space for recreational usage may be met through more than one (1) recreational site, the minimum size of any such area shall be ten thousand (10,000) square feet. Provision for all common open space and the construction of recreational facilities which are shown on the site plan shall proceed at an equivalent, or greater, rate as the construction of individual recreational vehicle sites.
  - f) Tent camping. Areas may be set aside for tent camping in accordance with all provisions of this section, except:
    1. There shall be a stabilized pad on the site for parking of the transportation vehicle.
    2. Tent camping may be permitted on a travel trailer site.
  - g) Design requirements for recreational vehicle site.
    1. Minimum size.

- (a) Back-in parking sites shall have a minimum area of one thousand five hundred (1,500) square feet.
    - (b) Pull-through parking sites shall have a minimum area of one thousand two hundred (1,200) square feet.
  2. Access. Each R.V. site shall abut on at least one (1) street or driveway within the boundaries of the Recreational Vehicle Park and access to the site shall be only from such an internal street or driveway.
  3. Setback requirements. No part of a travel trailer placed on a travel trailer site shall be closer than five (5) feet to any site line and ten (10) feet to any street or driveway.
  4. Appurtenances. Temporary appurtenances, such as cabanas and awnings, may be erected on a travel trailer site as long as such appurtenances do not violate the setback requirements as set forth in this section and as long as such appurtenances are capable of being dismantled and stored within four (4) hours.
- h) Provisions of service in recreational vehicle parks.
1. Service buildings. All service buildings shall comply with the building code and regulations concerning buildings, electrical installations, plumbing and sanitation systems. Service building are intended to accommodate the servicing equipment used for the park maintenance and are not intended to service any recreational vehicle, trailer, camper or equipment of a park guest. No major service or repair of a recreational vehicle shall occur on the park site. For the purposes of this section the term "major service or repair" shall mean any service or repairs to a recreational vehicle which is anticipated to take more than 4 (four) hours to accomplish.
  2. Water supply. An adequate supply of water shall be provided in accordance with the regulatory agencies, Department of Environmental Protection and/or the Department of Health.
  3. Sewage disposal.
    - (a) All sewage disposal facilities shall be provided in accordance with the regulatory agencies, Department of Environmental Protection and/or the Department of Health.
    - (b) At least one (1) sanitary dumping station shall be provided in every Recreational Vehicle Park. Such station shall be readily accessible and well-lighted. The following schedule shall be used in determining additional dumping stations based on the number of sites which are not connected individually to sewer lines: for every fifty (50) sites or fractional part thereof, beyond the first (50) sites, one (1) sanitary dumping station shall be provided.
    - (c) At least one (1) central bathhouse-restroom facility shall be located within three hundred (300) feet of all camping units which are either not supplied with sewer connections or not capable of utilizing such connections (e.g., tents, camper trailers). Any dispersed bathhouse-restroom facility provided

to meet the distance requirement of three hundred (300) feet shall have at least two (2) of each of the following fixtures for men and women: Toilets, urinals, lavatories and showers. Recreational areas shall be located within three hundred (300) feet of a bathhouse-restroom facility.

- (d) The minimum number of bath and toilet facilities shall be determined by the latest adopted Florida Building Code.
4. Lighting. All entrances, exits, streets, and service buildings shall be well lighted during the hours of darkness. Site Lighting shall conform to the Town's adopted Land Development Code, Article V – General Provisions, Section 1-5.28 entitled Site Lighting. All recreational facilities which are to be utilized during the hours of darkness shall be adequately lighted to ensure the safety of all users of such facilities.
  5. Electricity. All requirements of the National Electrical Code as referenced in Chapter 6 of the Code of Ordinances, Building and Building Regulations must be met.
  6. Service and utility lines. All service utility lines in a recreational Vehicle Park shall be installed underground and at a minimum depth of eighteen (18) inches.
  7. Fire protection. The park and park buildings and facilities shall be subject to the rules and regulations of adopted codes and/or of the Fire Department.
  8. Fuel supply and storage. All installations and tanks furnishing and/or storing any type of gaseous fuels to be used by the occupants of the park shall comply with the Fire Prevention Code of the National Fire Prevention Association, as adopted.
  9. Storage. Outdoor storage of travel trailers is permitted that such storage takes place within an area especially set aside for such use as depicted on the approved site plan.
  10. Signs. Those signs necessary for directional or safety purposes are permitted. Stop signs shall be required at all egress points onto public roads and may be required internally as required by the Town's Planner. All other signs as per the sign regulations set forth in Article XIX of this code of ordinances.
- i) Development site plan review. As part of the supplementary data required to complete an application for a public hearing for a Recreational Vehicle Park development, a scaled and dimensioned plot or site plan of the development shall be submitted as part of such site plan application pursuant to Article VII (if the site plan is greater than eleven (11) inches by seventeen (17) inches, two (2) copies are needed, as well as a digital copy); and if the application is approved, the Recreational Vehicle Park shall be built in accordance with such a plan. The site plan shall include, but not be limited to, location of all R.V. sites, service areas, drives, streets, signs, buildings, parking, recreational space, setbacks, public utility locations and any other pertinent information. Site plan approval is limited to one (1) year by the Town Council. **The provisions of Section 1-7.5 shall apply.**

j) Prohibited uses and Structures. All other uses and structures not specifically or provisionally permitted herein."

...

**SECTION 6. Severability.** If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalid or unconstitutional portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the other portions of this ordinance, provided the remaining portions effectuate the purpose and intent of this ordinance.

**SECTION 7. Conflicting Provisions.** In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate federal, state, or town law, rule, code or regulations, the more restrictive shall apply.

**SECTION 8. Inclusion in Code.** It is intention of the Town Council that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the Town of Malabar.

**SECTION 9. Effective Date.** This Ordinance shall take effect immediately after the adoption of this Ordinance.

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

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

This ordinance was then declared duly passed and adopted this \_\_ day of \_\_\_\_ 2021.

**TOWN OF MALABAR**

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

**ATTEST:**

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

(seal)

Approved for Legal Sufficiency:

First Reading: 8/2/2021 Vote: 4 to 0

Second Reading: 8/16/2021

\_\_\_\_\_  
Karl Bohne, Jr, Town Attorney

# TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 10.a.  
Meeting Date: August 16, 2021

Prepared By: Debby Franklin, Town Clerk/Treasurer

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**SUBJECT: First Reading Amend Chapter 13 to Provide for Road Closure and Vacate Procedures (Ord 2021-15)**

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## **BACKGROUND/HISTORY:**

This topic has been discussed many times over the years but recently Staff has received numerous requests to "close" a section of public right-of-way for nuisance, trespass, and illegal dumping issues. This can only occur with the authorization of the legislative body.

This ordinance provides guidelines for staff to present such requests to Council.

The vacate of rights-of-way is presently in the Land Development Code (LDC) in Article XII, Administrative Procedures. This part of the LDC provides regulations and procedures for adopting and amending the LDC, violations of the code, and information on vacating rights-of-way. All other references to streets and roads is in the front of the Code under Chapter 13.

Staff has recommended that this section be stricken from Article XII and updated and placed in Chapter 13.

This ordinance accomplishes that.

## **ATTACHMENTS:**

Ordinance 2021-15

## **ACTION OPTIONS:**

Action on 1st Reading

## ORDINANCE 2021-15

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 13, ADDING A NEW SECTION 13-26 PROVIDING DEFINITIONS AND PROCEDURES FOR THE TEMPORARY CLOSURE AND/OR VACATION AND ABANDONMENT OF PUBLIC RIGHTS-OF-WAY; DELETING IN FULL SECTIONS 1-12.8. AND 9. IN ARTICLE XII; PROVIDING FOR, SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

**WHEREAS**, the Town Council desires to update the Code of Ordinances relating to a closure and vacate process for public rights-of-way by adopting this ordinance for placement within the Chapter related to Streets and Roads.

**WHEREAS**, the Town Council desires to locate these regulations within the Chapter that deals with streets and roads regulations recognizing that the current location of these regulations in Article XII is illogical.

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

**SECTION 1.** Chapter 13, Article II, Division 1, Section 13-26 is amended as follows:

**“Sec. 13-26. Close, Vacate and Abandonment.**

- A. Definitions: For purposes of this ordinance the following terms shall have the following meanings:
1. Close a public right-of-way shall mean the Town’s authority to close, fence, gate off access to a public right-of-way without vacating same.
  2. Vacate and abandon shall mean vacate, abandon, renounce, disclaim or any other term that indicates the relinquishment of the Town’s right, title, or interest in a public right-of-way.
  3. Public right-of-way shall mean public road, street, lane, thoroughfare or travelway that has been platted or dedicated for public purposes such as roads, utilities, or stormwater.
- B. The Town Council may by resolution “close” a portion of public right-of-way.
1. All requests to close any public right-of-way shall be by petition and shall state the name and address of requestor and the reason for the request.
    - a. Such requests can come from residents or Town Staff.
    - b. A Radius Package from the Brevard County Property Appraiser or Planning and Zoning Department that includes a list of all property owners within five hundred (500) feet of the proposed closure of public right-of-way under request. Such list shall include a map of the radius area, mailing addresses for all affected property owners and a list by parcel ID and owner.
  2. Before the adoption of any resolution “closing” any public right-of-way, the Town Clerk shall cause to be published in a newspaper of general circulation in the Town a notice that the Town Council shall hold a public hearing regarding said



resolution. Said notice shall be published at least fourteen (14) days prior to the date of said public hearing.

3. A courtesy copy of the notice shall be mailed to all property owners identified in subparagraph 1.b. above and to all utility companies serving south Brevard County.

4. The Requestor will present their petition at the Public Hearing meeting.

5. Any decision by the Town Council concerning a vacate and abandonment shall be a legislative decision and governed by the fairly debatable standard.

6. Notice of the adoption of the resolution vacating and abandoning any public right-of-way by the Town Council shall be published one (1) time within thirty (30) days following its adoption in a newspaper of general circulation in the Town.

7. The proof of publication of notice of the public hearing, the resolution adopted by the Town Council, and the proof of publication of the notice of adoption of the resolution all shall be recorded in the public records of Brevard County after same has been completed.

C. The Town Council may by resolution vacate and abandon any public right-of-way.

1. All requests for a vacate and abandonment of any public right-of-way shall be by petition and shall state the name and address of all persons owning property abutting said public right-of-way and shall give a description of the public right-of-way sought to be vacated and abandoned.

a. Such requests can come from residents or Town Staff.

2. Petitions for a vacate and abandonment shall be submitted to the Town Clerk's office with an explanation of why the vacate is being sought and how the road right-of-way is currently being used and what the purpose of the vacated right-of-way will be used for if vacate is granted. The petition package shall also include the following information:

a. A Radius Package from the Brevard County Property Appraiser or Planning and Zoning Department that includes a list of all property owners within five hundred (500) feet of the total length of the subject public right-of-way under request. Such list shall include a map of the radius area, mailing addresses for all affected property owners and a list by parcel ID and owner.

b. A map of the total area served or accessed by the public right-of-way and the area requested to be vacated and abandoned clearly identified.

3. The petition and all associated documents shall be distributed to the appropriate Town staff. Staff shall review the request and determine if any conflict may exist or if there may be any reason that the Town should not grant the request. Written staff comments shall be forwarded to the Town Clerk within ten (10) working days following receipt of the vacate request.

4. Before the adoption of any resolution vacating and abandoning any public right-of-way, the Town Clerk shall cause to be published in a newspaper of general circulation in the Town a notice that the Town Council shall hold a public hearing regarding said resolution. Said notice shall be published at least fourteen (14) days prior to the date of said public hearing.

5. A courtesy copy of the notice shall be mailed to all property owners identified in subparagraph 2.a. above and to all utility companies serving south Brevard County.

6. The applicant will present their petition at the meeting and Town staff will present their recommendation.

7. Any decision by the Town Council concerning a vacate and abandonment shall be a legislative decision and governed by the fairly debatable standard.

8. Notice of the adoption of the resolution vacating and abandoning any public right-of-way by the Town Council shall be published one (1) time within thirty (30) days following its adoption in a newspaper of general circulation in the Town.

9. The proof of publication of notice of the public hearing, the resolution adopted by the Town Council, and the proof of publication of the notice of adoption of the resolution all shall be recorded in the public records of Brevard County after same has been completed.

D. The Town Council shall establish by resolution the appropriate schedule of fees, charges and expenses and a collection procedure."

**SECTION 2. Deletion.** Section 1-12.8 in Article XII shall be deleted in full:

~~A. *Definitions:* For purposes of this Section the following terms shall have the following meanings:~~

~~1. *Vacate and abandon* shall mean vacate, abandon, close, renounce, disclaim or any other term that indicates the relinquishment of the Town's right, title, or interest in a public right-of-way.~~

~~2. *Public right-of-way* shall mean public road, street, highway, easement, way, thoroughfare.~~

~~B. The Town Council may by resolution vacate and abandon any public right-of-way.~~

~~C. All requests for a vacate and abandonment of any public right-of-way shall be by petition and shall state the name and address of all persons owning property abutting said public right-of-way and shall give a description of the public right-of-way sought to be vacated and abandoned.~~

~~D. Petitions for a vacate and abandonment shall be submitted to the Town at least twenty-one (21) days prior to a regularly scheduled Planning and Zoning Board~~

meeting. Meetings are the second Wednesday of each month. The following information shall be submitted with the petition:

1. List of all property owners within five hundred (500) feet of the total length of the subject public right-of-way. Such list shall be prepared by a county office with access to public records, i.e., property appraiser.

2. A map of the total area of the public right-of-way and property owners with the area requested to be vacated and abandoned identified.

E. The petition and all associated documents shall be forwarded to the Building Official for distribution to the appropriate Town staff. Staff shall review the request and determine if any conflict may exist or if there may be any reason that the Town should not grant the request. Written staff comments shall be forwarded to the Building Official within ten (10) working days following receipt of the vacate request.

F. The Building Official shall present the vacate and abandon request and staff comments to the next regularly scheduled Planning and Zoning Board meeting for consideration and recommendation to the Town Council.

G. The request and Planning and Zoning Board recommendation shall be forwarded to the Town Council for authorization to proceed.

H. Before the adoption of any resolution vacating and abandoning any public right-of-way, the Town Clerk shall cause to be published in a newspaper of general circulation in the Town a notice that the Town Council shall hold a public hearing regarding said resolution. Said notice shall be published at least fourteen (14) days prior to the date of said public hearing.

I. A courtesy copy of the notice shall be mailed to all property owners identified in subparagraph D. above and to all utility companies serving south Brevard County.

J. Any decision by the Town Council concerning a vacate and abandonment shall be a legislative decision and governed by the fairly debatable standard.

K. Notice of the adoption of the resolution vacating and abandoning any public right-of-way by the Town Council shall be published one (1) time within thirty (30) days following its adoption in a newspaper of general circulation in the Town.

L. The proof of publication of notice of the public hearing, the resolution adopted by the Town Council, and the proof of publication of the notice of adoption of the resolution all shall be recorded in the public records of Brevard County after same has been completed.

M. The Town Council shall establish by resolution the appropriate schedule of fees, charges and expenses and a collection procedure.

(Ord. No. 01-06, § 1, 3-4-02)

**~~Section 1-12.9. – Town-initiated vacate and abandonment.~~**

~~A. Nothing in this Section shall be construed to limit, abrogate, deny, or otherwise impose restrictions on the Town from vacating and abandoning any public right-of-way of the Town. Notwithstanding any provision of this Section the town shall have the absolute legislative right to vacate and abandon any public right-of-way in the Town. Any decision to vacate and abandon any public right-of-way of the Town which was initiated by the Town shall be governed by the fairly debatable standard.~~

~~B. Before the adoption of any resolution vacating and abandoning any public right-of-way, the Town Clerk shall cause to be published in a newspaper of general circulation in the Town a notice that the Town Council shall hold a public hearing regarding said resolution. Said notice shall be published at least fourteen (14) days prior to the date of said public hearing.~~

~~C. The Town may send a courtesy notice of the Town Council's intent to vacate and abandon any public right-of-way to all property owners within five hundred (500) feet along the said right-of-way to be vacated and abandoned.~~

~~D. Notice of the adoption of the resolution vacating and abandoning any public right-of-way by the Town Council shall be published one (1) time within thirty (30) days following its adoption in a newspaper of general circulation in the Town.~~

**SECTION 3. Severability.** If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalid or unconstitutional portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the other portions of this ordinance, provided the remaining portions effectuate the purpose and intent of this ordinance.

**SECTION 4. Conflicting Provisions.** In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate federal, state, or town law, rule, code, or regulations, the more restrictive shall apply.

**SECTION 5. Inclusion in Code.** It is intention of the Town Council that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the Town of Malabar.

**SECTION 6. Effective Date.** This Ordinance shall take effect immediately upon passage and adoption.

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

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

This ordinance was then declared duly passed and adopted this \_\_\_\_ day of \_\_\_\_\_2021.

**TOWN OF MALABAR**

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

**ATTEST:**

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

(seal)

Approved for Legal Sufficiency:

\_\_\_\_\_  
Karl Bohne, Jr, Town Attorney

First Reading: 08/16/2021 Vote \_\_\_\_ to \_\_\_\_

Second Reading: 9/14/2021

# TOWN OF MALABAR

## COUNCIL MEETING

AGENDA ITEM NO: 10.b.

Meeting Date: August 16, 2021

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

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**SUBJECT: Resolution to appoint New Member to Trails & Greenways Committee**

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### **BACKGROUND/HISTORY:**

There are currently two openings on the T&G Committee for alternates. A resident has expressed interest in becoming a member and has attended a recent meeting of their Committee. He has expressed interest in participating in the work parties as well..

### **ATTACHMENTS:**

- a. Resolution 06-2021 appointing Daniel Waite to T&G Committee as an Alternate
- b. Memo from T&G Committee Secretary

### **ACTION OPTIONS:**

Council Action on Committee Appointment

RESOLUTION 06-2021

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF DANIEL WAITE TO THE MALABAR TRAILS AND GREENWAYS COMMITTEE 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 applicant for the opening on the Trails and Greenways Committee; 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 Daniel Waite as an alternate member of the Trails and Greenways Committee 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 Committee Chair and the Committee 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 \_\_\_\_\_ and a second by Council Member \_\_\_\_\_ and the vote was as follows:

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

This Resolution was then declared to be duly passed and adopted this 16th day of August 2021.

TOWN OF MALABAR

(seal)

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

ATTEST:

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

Approved as to form and content:

\_\_\_\_\_  
Karl W. Bohne, Jr., Town Attorney

# TOWN OF MALABAR

## MEMORANDUM

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**Date:** August 11, 2021 2021-DTC/T-08  
**To:** Honorable Mayor Patrick T. Reilly, Town Council, Town Manager  
**From:** Richard W. Kohler, Deputy Town Clerk/Treasurer  
**Ref:** Trails and Greenways Committee Application for Appointment

---

On August 9<sup>th</sup>, I received via email an application for appointment to the Trails and Greenways Committee from Mr. Daniel Waite. Mr. Waite has been a Malabar resident for over one year and has extensive experience in park management. Below are some of his listed accomplishments:

- Previous Park and Recreation employee in Miami-Dade County
- B.S. in Recreation and Sports Management
- C.P.R.P. (Certified Perks & Recreation Professional)

Mr. Waite attended the August 9<sup>th</sup> Trails and Greenways Committee meeting and was well received by the existing members. He spoke at length about his experience and about stated he is very interested in this position.



AUG 09 2021

RECEIVED

*RWK  
8/9/21*

TOWN OF MALABAR

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: Daniel Waite TELEPHONE: 305-877-0051

ADDRESS: 2440 Rocky Point Road

EMAIL: VK22DS@gmail.com

RESIDENT OF TOWN FOR 12 MONTHS OR LONGER:  YES  NO

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

Electrical Apprentice

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

Previous Parks experience in miami-dade county

ADDITIONAL INFORMATION/REFERENCES:

B.S. - Recreation & Sport Management

CPRP - Certified Parks & Recreation Professional

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

8-7-21  
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.

AUG 09 2021

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Town of MalabarVolunteer Committee/Board ApplicationTrails & Greenways (T&G) Committee Application

The T&G Committee is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The Committee is established to deal with the specific subject of trails and greenways within Malabar and how they connect to the South Brevard Linear Trail system. The Committee shall gather information and present it to the Park and Recreation Board for referral to the Town Council. The Committee is advisory in nature but consults with trail groups from other agencies on trail related issues and forwards their recommendations to the Parks and Recreation Board for their consideration and recommendation to Council.

1. Name: Daniel Waite Phone: 305-877-0051
2. Home Address: 2440 Rocky Point Road
3. Email Address: VK22D3@gmail.com
4. Are you a resident of the Town: Yes [] No [ ]
5. How long have you been a resident of the Town of Malabar: ~1.5 years ~19 months
6. Are you currently involved with any other organization of the Town: Yes [ ] No []
- If yes, which organization: \_\_\_\_\_

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

AUG 09 2021

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Town of Malabar

Volunteer 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:
  - o Malabar Code of Conduct
  - o Code of Ethics for Public Officials (F.S., Chapter 112, Part III)
  - o 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.



\_\_\_\_\_  
Signature

8-7-21  
\_\_\_\_\_  
Date

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

AUG 09 2021

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## 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.

RECEIVED

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

8-7-21  
Date

Daniel Waite  
Print Name

  
Witness

# TOWN OF MALABAR

## TOWN COUNCIL MEETING

**AGENDA ITEM NO: 10.c.**

**Meeting Date: August 16, 2021**

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

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**SUBJECT: Approval of Qualified Candidates for Office 2021 Election**

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### **BACKGROUND/HISTORY:**

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

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

Council District Seats 4 and 5 were open during this two-week 2021 Qualifying period of 7/27/21 - 8/10/2021.

The Candidates for District 4 and District 5 submitted qualifying paperwork required by the State Election Laws and the Town of Malabar and consisted of:

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

Candidate for District 4: incumbent David Scardino is unopposed and will be sworn in on 11/04/2021.

Candidate for District 5: incumbent Danny White has submitted the proper paperwork.

Candidate for District 5: Mary Hofmeister has submitted the proper paperwork.

Malabar Code, Chapter 7 states there shall be meeting held within three days of the Election for the Malabar Council to "certify" the Election results (unofficial) and swear in the members. This meeting date is set for **Thursday, November 4, 2021.**

### **ATTACHMENTS:**

Candidate Oaths  
Charter Section 2.06

### **ACTION OPTIONS:**

Town Clerk Requests Council to "qualify" the candidates.



JUL 28 2021 AM 10:20

2725 Malabar Road  
Malabar, FL 32950

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

### Sworn Statement 2021

Before me, an officer authorized to administer oaths, personally appeared DAVID SEARDINO to me well known , OR produced identification N/A, who being sworn that he/she is a qualified elector of the Town of Malabar, Brevard County, Florida, and that he/she is qualified under the Town Charter of the Town of Malabar, Florida, and the Florida Statutes to hold the office of COUNCIL MEMBER District 4 or 5 (circle one) of the Town of Malabar, Florida, for which he/she desires to be elected/appointed. Said qualifications are as follows, to wit:

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

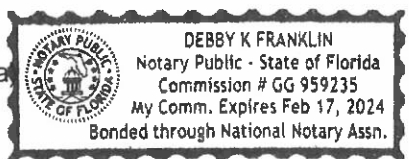
[Signature]  
Signature of Candidate

3105 Litt Ln  
Address

Occupation: Contractor

Sworn to and subscribed before me in person, this 28 day of July, 2021.

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



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

Personally Known  OR Produced Identification :

Type of Identification Produced: \_\_\_\_\_



AUG 6 2021 AM 9:05

2725 Malabar Road  
Malabar, FL 32950

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

### Sworn Statement 2021

Before me, an officer authorized to administer oaths, personally appeared DADDY WHITE to me well known N/A, OR produced identification \_\_\_\_\_, who being sworn that he/she is a qualified elector of the Town of Malabar, Brevard County, Florida, and that he/she is qualified under the Town Charter of the Town of Malabar, Florida, and the Florida Statutes to hold the office of COUNCIL MEMBER District 4 of 5 (circle one) of the Town of Malabar, Florida, for which he/she desires to be elected/appointed. Said qualifications are as follows, to wit:

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

[Signature]  
Signature of Candidate

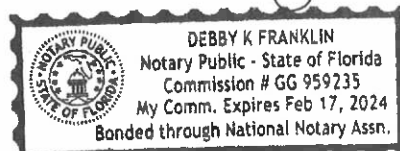
1770 ATZ RD MALABAR FL 32958  
Address

Occupation: RETIRED AIR TRAFFIC CONTROL SPECIALIST

Sworn to and subscribed before me in person, this 6 day of August, 2021.

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

DEBBY K. FRANKLIN  
(Print, Type, or Stamp Commissioned name of Notary Public)



Personally Known  OR Produced Identification \_\_\_\_\_

Type of Identification Produced : N/A





AUG 10 2021 PM 2:52

2725 Malabar Road  
Malabar, FL 32950

Tel: 321-727-7764

Fax: 321-727-7779

### Sworn Statement 2021

Before me, an officer authorized to administer oaths, personally appeared Mary Hofmeister to me well known  OR produced identification N/A, who being sworn that he/she is a qualified elector of the Town of Malabar, Brevard County, Florida, and that he/she is qualified under the Town Charter of the Town of Malabar, Florida, and the Florida Statutes to hold the office of COUNCIL MEMBER District 4 or 5 (circle one) of the Town of Malabar, Florida, for which he/she desires to be elected/appointed. Said qualifications are as follows, to wit:

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

Mary Hofmeister  
Signature of Candidate

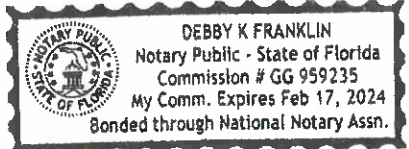
2340 Corey Rd. Malabar, FL 32950  
Address

Occupation: Caregiver <sup>10 DK</sup>

Sworn to and subscribed before me in person, this 20 day of August, 2021.

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

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



Personally Known  OR Produced Identification \_\_\_\_\_

Type of Identification Produced : N/A

# TOWN OF MALABAR

## COUNCIL MEETING

AGENDA ITEM NO: 10.d.

Meeting Date: August 16, 2021

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

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**SUBJECT: Capital Improvement Priorities (con't. from Budget Workshop)**

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### **BACKGROUND/HISTORY:**

Staff solicited and received recommendations from the Boards and Committees on items to consider in planning the spending forecast for Capital projects. This is a required document of the State and should be updated annually to keep it meaningful.

Staff has also recommended in the Budget presentation Capital items and projects that are needed to be considered in allocating funds for such projects.

### **ATTACHMENTS:**

- a. 5 year CIP by department
- b. Memos from Boards, Committee
- c. Pie charts from budget package

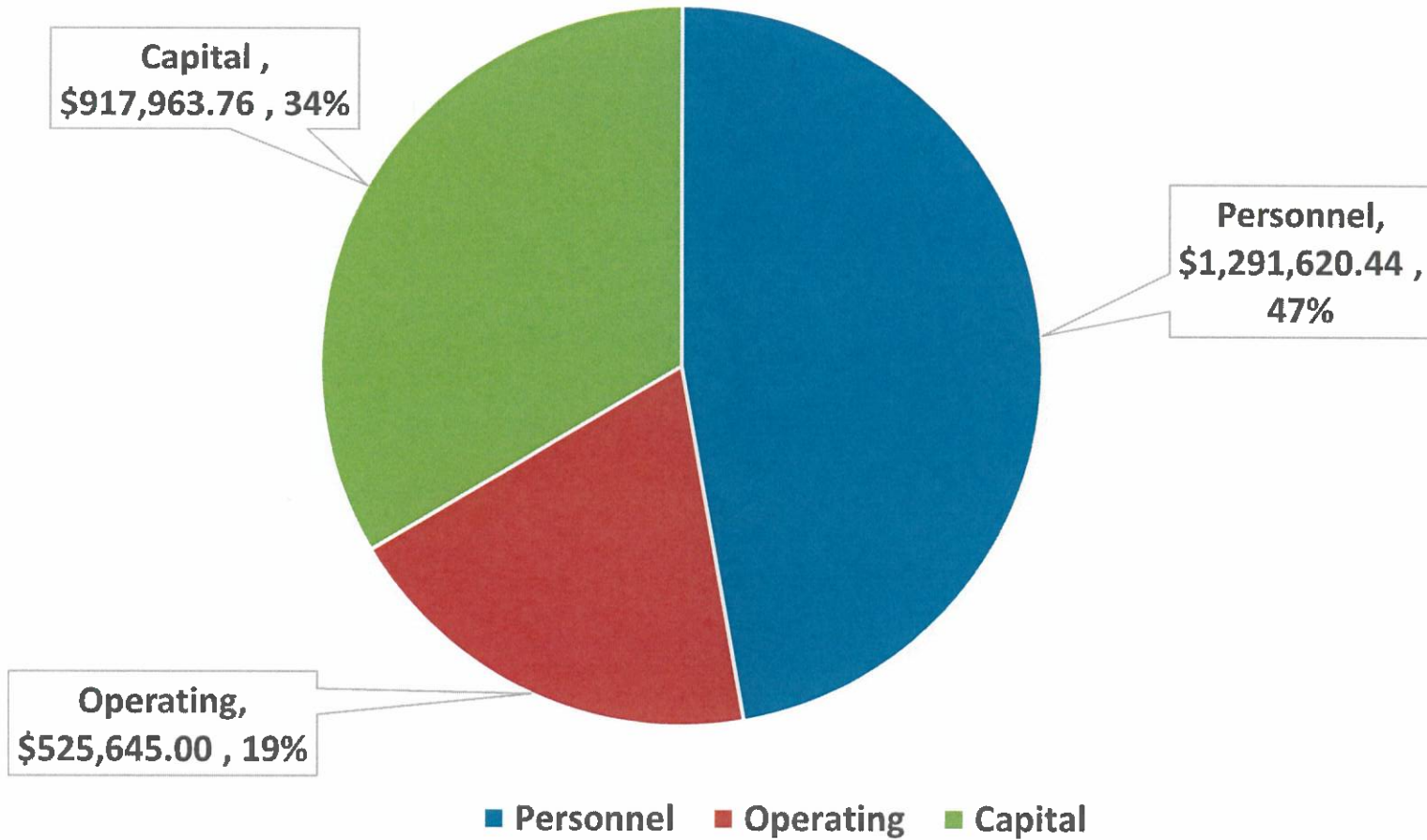
### **ACTION OPTIONS:**

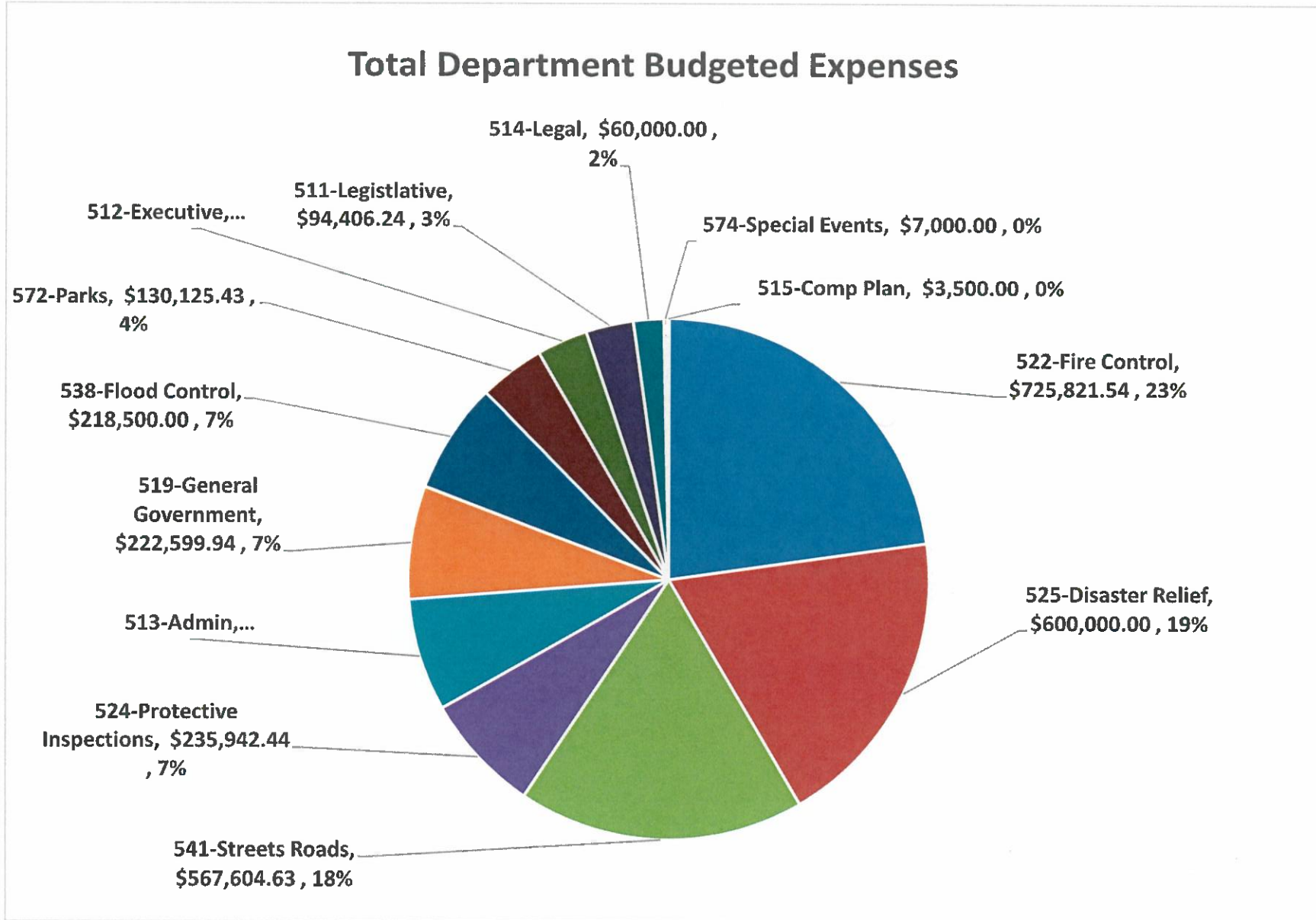
Council Direction to Staff

## Capital Improvement Plan

- Need to be Prioritized
- Needs Funding allocated based on Estimates in Plan Years
- Needs to include any ongoing costs/personnel/annual maintenance after improvement.
- Capital Projects Thresholds - \$5K+, Fixed Tangible Asset, or a useful life of 7+ years.

### General Fund Expense Allocation





CAPITAL IMPROVEMENT PLAN								
ACCT	ACCOUNT DESCRIPTION	Proposed	Year 2	Year 3	Year 4	Year5	Future	Notes
NO.		FY 21/22	FY22/23	FY23/24	FY24/25	FY25/26		
	<b>Capital Projects</b>							
519.6400	Shared Town Hall w/EEL	0	0	0	0	0	0	2018-2022 CIP
522.6300	Lease Purchase Eng 99	49,696	49,696	49,696	49,696	49,696	49,696	Matures FY26/27
522.6400	LifePak	70,000	0	0	0	0	70,000	1 time CIP, Plus Annual Mtnc
522.6400	Replacement FD	30,000	0	0	0	0	30,000	1 time CIP, Plus Annual Mtnc
522.6400	FD Flashing ER Signal	0	0	0	0	0	0	2018-2022 CIP
522.6400	Scott Air Pacsk 5/year	0	0	0	0	0	0	2018-2022 CIP
522.6400	Combo Squad/Tanker Vehicle	0	0	0	0	0	0	2018-2022 CIP
522.6400	Refurb Tanker99	0	0	0	0	0	0	2018-2022 CIP
522.6400	Artesian Hydrant	0	0	0	0	0	0	2018-2022 CIP
525.3020	ARPA Relief	527,693	600,000	0	0	0	0	
541.6400	Gradall	37,075	37,075	37,075	37,075	37,075	37,075	Matures FY26/27
541.6400	Mini-Excavator	19,500	0	0	0	0	0	1 time CIP, Plus Annual Mtnc
541.6400	Road Paving Fund Balance	160,000	0	0	0	0	0	
541.6400	Corey Right Turn Lane	0	0	0	0	0	0	2018-2022 CIP
541.6400	Weber Right Turn Lane	0	0	0	0	0	0	2018-2022 CIP
541.6400	Resurface Old Mission	0	0	0	0	0	0	2018-2022 CIP
541.6400	S/E Rocky Point Rd ROW Repair	0	10,000	0	0	0	0	2018-2022 CIP
572.6400	Community Center	0		0	0	0	0	2018-2022 CIP
572.6400	Baseball Field Dugout & Concession	0		0	0	0	0	2018-2022 CIP
572.6400	Toro Mower Replacement	24,000		0	0	0	0	1 time CIP, Plus Annual Mtnc

CAPITAL IMPROVEMENT PLAN								
ACCT	ACCOUNT DESCRIPTION	Proposed	Year 2	Year 3	Year 4	Year5	Future	Notes
NO.		FY 21/22	FY22/23	FY23/24	FY24/25	FY25/26		
538.6300	SW Projects from 2014	50,000		0	0	0	0	2018-2022 CIP
538.6300	RFP - Pipe Cleanout Mtnce	0		0	0	0	0	50K in FY22 Operating VacTruck, 2018-2022 CIP
538.6300	Maintain Existing SW Infrastructure	0		0	0	0	0	50K in FY22 Operating Mtnce, 2018-2022 CIP
538.6300	Replace Steel Culverts under Roads	0	30,000	0	0	0	0	2018-2022 CIP
538.6300	Atz Southside Ditch, Smith to Jordan/Twin Lakes	0	85,000	0	0	0	0	2018-2022 CIP
538.6300	Cason Lane, West side to Atz	0	2,500	0	0	0	0	2018-2022 CIP
538.6300	Sandy Creek to SR-514 east side	0	17,000	0	0	0	0	2018-2022 CIP
538.6300	Ditch North side Hall, Flashy Lane to Tillman Canal	0	10,000	0	0	0	0	2018-2022 CIP
538.6300	Ditch North side Hall, Weber to Flashy	0	60,000	0	0	0	0	2018-2022 CIP
538.6300	Ditch North side Hall, Duncil to Weber	0	25,000	0	0	0	0	2018-2022 CIP
538.6300	Ditch North side Atz, Candy to Corey	0	60,000	0	0	0	0	2018-2022 CIP
538.6400	Mini-Excavator	45,500	4,527	6,000	1,395	7,000	7,000	1 time CIP, Plus Annual Mtnce
	<b>Total CIP Expenses</b>	<b>1,013,464</b>	<b>990,798</b>	<b>92,771</b>	<b>88,166</b>	<b>93,771</b>	<b>193,771</b>	

# TOWN OF MALABAR

## MEMORANDUM

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**Date:** July 30, 2021 21-BDM-019

**To:** Town Council  
Lisa Morrell, Interim Town Manager  
Debby Franklin, Town Clerk/Treasurer

**From:** PZ Board  
Denine M. Sherear, Building Department Manager DS

**Ref:** Advisement to Council Suggestions for Capital Improvement Plan  
2022 (CIP)

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At the Planning and Zoning Meeting of 7/28/2021 the Board discussed the Capital Improvement Plan (CIP) & Advisement to Town Council, the following suggestions as noted in the Draft Minutes of 7/28/2021.

To Add the following to the Table:


- Mail Boat Quarterly News- to get information out to residents
- Hire an Economic Development Recruiter- to obtain Grants, Market Commercial area of Town (pay salary & commission)
- Research a River front access for a non-motorized boat launch area (north end of Rocky Point Road)
- Jordan Blvd- to construct a through road due to highspeed train eventually coming through Town
- Pursue City Water and start with arterial roads & connectors'
- Paving Roads start with those roads that have the most houses
- Community Center- construct
- Reprioritize monies for ditches



# TOWN OF MALABAR

## MEMORANDUM

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**Date:** August 4, 2021 2020-PB-02  
**To:** Debby Franklin, C.M.C., Town Clerk/Treasurer  
**From:**  Dorothy Carmel, Park Board Secretary  
**Re:** Park Board Requests

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The Park Board met on Wednesday, 7/21/21. The list of Capital Improvement Projects they have are as follows.

1. Pavilion at the North end of Corey
2. Memorial Wall
3. Digital Sign in front of Fire House
4. New signs for all of the parks
5. Dog Park

# TOWN OF MALABAR

## MEMORANDUM

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**Date:** July 13, 2021 2021-DTC/T-06  
**To:** Town Clerk/Treasurer, Debby Franklin  
**From:** Richard W. Kohler, Deputy Town Clerk/Treasurer  
**Ref:** Trails and Greenways Committee Capital Improvement Plan Recommendations

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During the July 12<sup>th</sup> Trails and Greenways Committee Meeting, the Committee discussed their goals for the next 5 years. The Committee agreed that over the next five years, they would make every reasonable effort to fully utilize their budgeted funds and any available grant funding to complete the following:

- Completion of Eagles Nest Trailhead (ENT)
  - to include restrooms and a potable well (Trail Users & Horses)
- Completion of the "Zig-Zag Trail" in Cameron Preserve
- Continuation of the South Brevard Linear Trail to Grant-Valkaria
- Rehabilitation and Continued Maintenance of the Sandhill Trailhead
- Connection of the Brook Hollow Sidewalk to the Al Tuttle Paved Trail
- Addition of a Second Trail Shelter in the Cameron Preserve near the Swallow-Tailed Kite Trailhead (North Corey Road)

# TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 11.a.  
Meeting Date: August 16, 2021

Prepared By: Debby Franklin, Town Clerk/Treasurer

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SUBJECT: Amend Comp Plan with New Property Rights Element (Ord 2021-16)

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## BACKGROUND/HISTORY:

Discussion Item for direction to P&Z Board.

This is the result of a new law that became effective for any land use considerations received after July 1, 2021. It requires us to add new language to the Comprehensive Plan and then add the corresponding regulations in the LDC. This is for information only at this point. It will need to go to P&Z for review and then their recommendation before Council considers it for transmittal to the State DEO.

ITM Lisa has previously briefed on this new law.

## ATTACHMENTS:

Ordinance 2021-16

## ACTION OPTIONS:

Direction to Staff to route to P&Z.

**ORDINANCE 2021-16**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ADOPTING THE COMPREHENSIVE PLAN SMALL SCALE AMENDMENT (SSA) NO. 2021-02; ADDING A PROPERTY RIGHTS ELEMENT WITH ASSOCIATED GOALS AND POLICIES GOVERNING PROPERTY RIGHTS; REQUESTING EXPEDITED STATE REVIEW; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, Section 163.3167, Florida statutes, requires the Town of Malabar to maintain a Comprehensive Plan to guide its future development and growth; and

**WHEREAS**, Section 163.3177(6)(i)1., Florida statutes, requires the Town of Malabar to maintain a Comprehensive Plan to include a Property Rights Element; and

**WHEREAS**, The Town of Malabar respects judicially acknowledged and constitutionally protected private property rights; and

**WHEREAS**, The Town of Malabar respects the rights of all people to participate in land use planning processes; and

**WHEREAS**, this ordinance will amend the Town of Malabar's Comprehensive Plan by adding a Property Rights Element.

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

**SECTION 1.** The Comprehensive Plan of the Town is hereby amended by adding a Property Rights Element attached as Exhibit "A" and made a part of this ordinance as if set forth in full.

**SECTION 2.** It is the intention of the Malabar Town Council to adopt the amendment to the Comprehensive Plan. The Clerk of the Town is hereby directed to incorporate the approved Comprehensive Pain Amendment into the Comprehensive Plan of the Town.

**SECTION 3.** Town Staff is directed to send three full copies of the adopted amendment to the State Department of Economic Opportunity and request Expedited Review.

**SECTION 4.** All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

**SECTION 5.** The effective date of this plan amendment, if the amendment is not timely challenged, shall be the date the state land planning agency posts a notice of intent determining that this amendment is in compliance. If the amendment is timely challenged, or if the state land planning agency issues a notice of intent determining that this amendment is not in compliance, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective.

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

Council Member Marisa Acquaviva

Council Member Brian Vail

Council Member Steve Rivet

Council Member David Scardino

Council Member Danny White

This ordinance was then declared to be duly passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 2021.

**TOWN OF MALABAR**

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

(seal)

**ATTEST**

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

Council Discussion: 8/16/2021  
P&Z Board Review: \_\_\_\_\_  
Transmittal Council Reading: 9/14/2021  
Adoption Second Reading \_\_\_\_\_

Approved as to form and  
legal sufficiency by:

\_\_\_\_\_  
Karl W. Bohne, Jr.  
Town Attorney

EXHIBIT "A"

Small Scale Amendment (SSA) 2021-02ESR

August 2021

Malabar Comprehensive Plan

Element 10 – Property Rights

**Goal:** The Town of Malabar will make planning and development decisions with respect for private property rights with respect for people's right to participate in decisions that affect their lives and property.

**Objective 1.** The Town of Malabar will respect judicially acknowledged and constitutionally protected private property rights.

**Policy 1.1. Property Interests.** The Town of Malabar will consider in its decision-making the right of a property owner to physically possess and control his or her interests in the property including easements, leases, or mineral rights.

**Policy 1.2. Property Usage.** The Town of Malabar will consider in its decision-making the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to State law and local ordinances.

**Policy 1.3. Privacy and Exclusion.** The Town of Malabar will consider in its decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

**Policy 1.4. Disposition of Property.** The Town of Malabar will consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.

**Objective 2.** The Town of Malabar realizes that people have the right to participate in planning and development decisions that affect their lives and property. The Town of Malabar will be transparent so that all people may participate in decisions that affect their lives and property. Land Development Regulations may be provided for additional processes and standards.

**Policy 2.1.** Decisions for which the Town of Malabar must follow policies 2.2 – 2.4. The Town of Malabar will follow the procedures in policies 2.2 – 2.4 when it amends the Comprehensive Plan, changes the Zoning designation or property; or approves a development order for more than nine (9) residential dwelling units, for more than 9,999 square feet of non-residential development, governing more than five (5) acres of land, requiring a variance, or requiring an exception.

**Policy 2.2. Public Hearing Required.** Whenever any issue listed in Policy 2.1 is put before the Town, such decision shall be made in a Public Hearing. Any affected person may participate in and be a party to a hearing on a decision this policy governs. The Town of Malabar will provide every affected person an equal opportunity, to present and rebut evidence, and to be informed of all information on which the Town bases its decision. The Town of Malabar will not grant any affected person, including the applicant, a greater opportunity to be heard than any other affected person.

**Policy 2.3.** The Town of Malabar must mail notice. At least thirty (30) days prior to the Public Hearing the Town of Malabar will mail notice of the hearing to all property owners within 1,320 feet of the real property to which the decision relates.

**Policy 2.4. Public pre-application meeting.** The applicant for any issue listed in Policy 2.1, or the Town if Town initiated, shall hold a public pre-application meeting prior to applying for or initiating the decision-making process. The party holding the meeting must request, at least 30 days before the meeting, that the Town of Malabar provide notice of the meeting in the normal manner that the Town provides notice of public meetings and the Town will comply with this request. The party holding the meeting must mail notice of the meeting to residents and owners of real property within 1,320 feet of the real property to which the proposal relates. In the meeting, the party holding the meeting must: present its proposal, provide time for all people attending to ask questions and share their perspectives, and record notes which it will provide to the Town of Malabar and which Malabar will make part of the record related to its decision on the proposal.

**Objective 3.** The Town of Malabar recognizes that people rely on the Town's Comprehensive Plan and on the zoning designations of properties when deciding how to use property.

**Policy 3.1.** The Town will follow the policies 3.2 and 3.3 when Malabar amends this Comprehensive Plan or changes zoning designation of property.

**Policy 3.2.** The Town may only make a decision policy 3.1 identifies by the affirmative vote of a majority plus one of the Malabar Town Council.

**Policy 3.3.** The Town of Malabar respects the rights of people, including elected officials, to fairly evaluate proposed decisions this objective governs. The Town may only make a decision policy 3.1 identifies ten (10) or more days after the Town of Malabar has made available to the public the specific decision the Council will consider and the written record which will support the decision. If The Town Council adds information to the written record or revises a proposed decision within ten (10) days of a planned public hearing, the Town council must postpone its decision until enough time has passed to satisfy this policy.

**TOWN OF MALABAR**  
**COUNCIL MEETING**

**AGENDA ITEM NO: 11.b**  
**Meeting Date: August 16, 2021**

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

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**SUBJECT: Discuss/Approve Revised Employment Contract for Lisa Morrell**

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**BACKGROUND/HISTORY:**

This Employment Contract would provide authorization to add Lisa Morrell to the Town's employment roll as the Malabar Special Projects Manager reporting directly to Town Council. The position would be as an employee that performs highly responsible administrative work and provides project oversight on a variety of complex Town operations.

This is an additional executive employment position separate from the Town Manager and Town Clerk/Treasurer who also report directly to Town Council.

The daily operations of Town management would continue to be necessary until the return of the Town Manager from military duty. Ms. Morrell is willing to continue to handle these duties in addition to her new assignment as Malabar Special Projects Manager.

The Employment Contract spells out the annual employee compensation of \$100,000.00 in salary plus health, dental and vision coverage paid by the Town. These costs are allocated to Department 511, Legislative, and 525, Disaster Relief (ARPA) funds.

The term of the contract is for two years. The contract has been modified from the previous one to capture the new duties, salary, benefits, FRS rate reduction from Senior Management to Regular employee and retain the same vacation and sick accruals as before.

If the Employment Contract is agreeable to Ms. Morrell and Town Council it will come before Council on September 14, 2021, as an attachment to a Resolution to formally adopt.

**ATTACHMENTS:**

- a. Employment Contract

**ACTION OPTIONS:**

Council Action



**EMPLOYMENT AGREEMENT FOR SPECIAL PROJECT MANAGER**

THIS AGREEMENT made and entered into on the 14<sup>th</sup> day of September, 2021, 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 Special Projects Manager for an period of two (2) years beginning October 1, 2021; and,

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

**WHEREAS**, Employee desires to accept employment as Special Projects 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 two-year term beginning October 1, 2021. During the first 90 days of employment, the Employee shall be continue to act as the Interim Town Manager until Town Manager Matthew Stinnett returns from Military Duty, in addition to the new projects. As an Employee with the title of Special Projects Manager, she shall accrue benefits under Article IV.

ARTICLE II

Employee's Duties

- 2.01 The Employee is hereby employed as the Special Projects Manager of the Town of Malabar, Florida as discussed at the Council meeting on July 26, 2021. Such assignments will be bulleted here:
- Employee shall perform those duties specified in the meeting of 7/26/2021
  - Complete the RFP process for Solid Waste Collection
    - Complete the negotiation, transition and propose funding options
  - Economic Recovery and Development Projects
    - Propose projects that encourage non-point access
  - ARPA projects – propose and oversight
    - extend city water to Malabar Community Park (future town hall)
  - Charter Review and Update (hasn't been done since 2003)
  - Stormwater Masterplan follow-up with actual stormwater projects (five proposed)
  - Scheduling and prioritizing capital road paving projects (Corey, Weber, Rocky Pt)
  - Oversee the completion of the LDC and Code updates
  - Grants Administrator
    - Pursue funding through F.I.N.D. for riverfront access
- 2.02 In addition to the assignments specified in 2.01, the Town Employee with the title of Special Projects Manager shall continue acting as the Interim Town Manager until the return of Town Manager Matthew Stinnett.

- 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 as well as other offsite business 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 \$100,000.00, 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 The Town shall not at any time during the term of the Agreement reduce the salary, compensation or other financial benefits of Employee.

### ARTICLE IV

#### Employee Benefits

- 4.01 Employee shall be entitled to participate in any Employee benefit plan established by the Town. This includes Health, Dental, Vision insurance for family coverage paid 100% by the Town; a Life insurance policy equal to (1X) the annual wages; and Short-term and Long-term Leave provided to all FT employees at Town's expense.)
- 4.02 The Town agrees to pay the required contribution for Regular Class of the Employer portion for inclusion in the Florida Retirement System. This reduction from Senior Management is due to the new Employment classification not having any control over subordinate employees. 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 a 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, GFOA, FCCMA 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 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. 443.036 (29)* and for misfeasance or malfeasance, or the conviction of any crime involving dishonesty, or the conviction of any crime designated as a felony under the laws of the jurisdiction imposing the penalty, breach of this Agreement, violation of the Town Charter, code of ordinances, resolutions and rules or employment policies of the

town. For purposes of this section the term "conviction" shall mean a plea of no contest, a plea or adjudication of guilt or withholding guilt, or any plea involving entry into or participation in any diversion program. The Town Council may terminate the Employee without full pay and benefits at any time during the term of this Agreement based upon the grounds in this section, but only if after a public hearing a majority of the Council (3 members) votes to terminate Employee, "for cause", provided; however, that Employee shall have been given written notice setting forth any charges at least 10 days prior to such hearing.

- 5.03 In the event Employee voluntarily resigns their position with the Town, then Employee shall give the Town thirty (30) days written notice in advance, unless the parties otherwise agree. Employee will be entitled to full pay for all accumulated vacation and accrued sick leave at their then-current salary up to the caps as set forth in the Employee Manual. The employee shall be entitled to compensation for work performed before the effective date of their resignation.
- 5.04 Suspension: The Town Council may suspend the Employee without full pay and benefits at any time during the term of this Agreement, but only if after a public hearing a majority of the Council (3 members) votes to suspend Employee, "for cause", as defined in section 5.02 above, provided; however, that Employee shall have been given written notice setting forth any charges at least 10 days prior to such hearing.
- 5.05 Disability: If Employee is permanently disabled or is otherwise unable to perform their duties because of sickness, accident, injury, mental incapacity or health for a period of four successive weeks beyond any accrued sick leave, The Town shall have the option to terminate this Agreement, subject to the severance pay requirements of Section 5.01. Nothing herein is intended to override the provisions of the Family Medical Leave Act.

## ARTICLE VI

### Performance Evaluation

- 6.01 ~~The Town Council shall conduct a performance review of the Employee during the first 120 days of employment. The purpose of the review is to identify the Employee's progress during the first 120 days of the employment and is not intended to replace the annual review and evaluation required under sections 6.02 and 6.03 of this Agreement~~
- 6.02. The Council shall review and evaluate the performance of the Employee at least annually. Said review and evaluation shall be in accordance with specific criteria developed jointly by the Town and Employee. Said criteria may be added to or deleted from as the Council may from time to time determine in consultation with the Employee. Further, the Town shall provide the Employee with a summary written statement of the findings of the Council and provide an adequate opportunity for the Employee to discuss his evaluation with the Council. The evaluation shall be used as a consideration by the Council in its deliberations and determinations for salary and benefit increases or decreases.
- 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