

**MALABAR SPECIAL TOWN COUNCIL MEETING MINUTES**  
**August 14, 2017                      7:30 PM**

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road.

**A.     CALL TO ORDER:**

Chair, Mayor Patrick T. Reilly called the meeting to order at 7:30 pm. Mayor led the prayer and pledge.

**B.     ROLL CALL:**

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL

LAURA MAHONEY

DICK KORN

RICHARD KOHLER

TOWN ADMINISTRATOR:

DOUGLAS HOYT

TOWN ATTORNEY:

KARL BOHNE, excused

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

**Chair asked Clerk to explain the legal advertisement preceding this public hearing.**

Franklin stated that a legal ad was run on 5/25/17 for a PH on 6/19/17. There were several problems with that advertising. Because I was not here, the legal notices did not get sent out to property owners and the notice did not include a map in order for that hearing to take place. This was explained at the RTCM of 6/19/17 and further mentioned at subsequent meetings. At the last meeting, I explained under my report that there was a formatting issue that caused a "1" to display on residential properties. The billing Class code of "S" was correct and the dollar fee was not impacted – it just caused confusion. This office took over 200 calls from residents who asked for and received this explanation.

The Public Notices were advertised in the Florida Today newspaper on both July 26 and 27<sup>th</sup>. The individual notices were mailed out from the USPS on 7/21/17. The advertisements complied with Florida Statute 197 when a municipality desires to increase a non-ad valorem fee. The mailouts were certified by the United States Postal Service from the third-party vendor hired to produce and send the notices.

These hearing notices were done by outside vendor using information from the Brevard County Property Appraisers Office. If persons believe they did not get the notice then they should contact both the Brevard County Property Tax Office and the Brevard Tax Collector because the addresses used were from their database for annual property tax bills.

**C.     PUBLIC HEARINGS/SPECIAL ORDERS: 2**

**1.     Resolution 16-2017 Increasing Stormwater Utility Fee Used in Assessment Calculation:**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR AN INCREASE IN THE STORMWATER NON AD-VALORUM ASSESSMENT FROM \$36.00 PER ERU SET IN FY 2000 TO \$52.00 PER ERU FOR THE TAX YEAR 2017, 2018 and 2019 AND A FURTHER INCREASE TO \$64.00 PER ERU FOR THE TAX YEAR 2020 AND BEYOND; PROVIDING FOR THE USE OF THE SAME BILLING CLASSIFICATIONS APPROVED IN 2000; PROVIDING FOR A COPY OF THE RESOLUTION TO BE DELIVERED TO THE BREVARD COUNTY TAX COLLECTOR; PROVIDING FOR REPEAL OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:                      Agenda Report 1**

**Recommendation:      Approve Resolution 16-2017**

Resolution read by title only.

PH opened

Brian Vail, Smith Lane, his taxes are 3,500 per year. The proposed fee increase represents ½ of 1 percent in 17 years. He owns a business and knows what it costs. He would gladly pay 100-200 per year more to correct these long standing stormwater problems.

Gary Sandoe, Sandy Creek Lane, he doesn't have problem with money but with maintenance. He had to build the 850' road to build his home. Had to build it to Malabar standards and permitting from outside agencies. Then Malabar came in and dug ditches. His road cost 10% of the cost to build his house. The crown on the road is gone. He wants the ditches filled back in and make them swales. Now the ditches are cut down into the water table. How can you fix a road if it is flat and holds water? He has been here 33 years. All Malabar has done in the past is dig ditches. Fill them in so we don't have mosquitos. He then complemented Mr. Hoyt.

Liz Ritter, Orange Avenue, stated the fee is done by ERU which is based on 2,500 sf which is alright for homeowners, but as a business they get it stuck to them. They are required to do retention and detention. They contain their storm water. Enchanted lakes were supposed to be here. She then listed what some of the businesses pay in stormwater fees. A business is not the same as a home. She pays over \$36,000 in taxes and feels is a discrimination.

Skip Hard, Hard Lane, the dollar amount of these ERU is not that significant. Equate that with services he receives. He would pay more if Town would maintain the ditches and keep the water out of his property.

Karen Moravecky, Eva Lane, she understands what he (Mr. Sandoe) is saying. Eva Lane was built with swales and then a big ditch was dug in the 1980's. She also does not have a problem with the dollar amount, but do it with engineering. So, you know where the water is coming from and going to and what else it has to deal with along the way. Projects should have a priority not just because someone has complained more. When Eva was done, there were swales on both sides. If ditches flowed that would be one thing; but water sits in ditches. She thinks that engineering should be done first. Evaluate and make sure they are done properly. Need to set grades so ditches flow. They have a large culvert in front of their house and yet neighbors may have small culverts or no culvert. When you do the project, it will really improve the situation.

Karlene Conroy, stated that she put in a short written objection before the meeting and would like to do an addition. Brevard County went first with 36 then to 52 and 64. Why are you trying to lock in for the next three years.

Warren Dustin, Atz Road doesn't have problem with fees, but complains about maintenance. He has asked for the ditches to be mowed and ditch cleaned. His neighbor has a culvert that is a foot higher. He has talked to Mr. Hoyt. If Town will mow it he will weed wack it. Mr. Dustin then said it is now too wet for him to weed wack. He said he spoke to CM Korn and TA Hoyt.

CM Korn responded. It is a fact of life that they are all in a low area. Mentioned the new slope mower due this week. Pointed out the SW projects approved by Council in 2014. Need to put in an understandable format so we can publicize and share with residents.

Warren Dustin asked if the plan was still going thru D&D ranch. CM Korn said during the I-95 widening 11 culverts were added that add additional runoff into Malabar. Trying to get the water directly to Melbourne Tillman. Also, working with FIT. Need a plan that goes in a straight line to Melbourne Tillman canal.

CM Korn said we are doing work on private property. He has more water on his land on any other person. He can show aerial photos from 1928.

Gary Sandoe asked where does the water go when it leaves Eva and Sandy Creek Lanes. TA explained how Eva Lane drains under SR514 and out into Turkey Creek. There was a large collapsed pipe on the north side of Malabar Road that the Town recently replaced that should improve getting the stormwater to the 535-acre basin where this water is polished. Some of the water on Sandy Creek Lane makes it to Malabar Road. TA said 20% of Malabar is either wetland or swamp. Water table is anywhere between 4" to 40".

CM Korn said he hasn't been on that road (Sandy Creek Lane) for a while. He has lived here since late 19880's. Gary Sandoe said he has lived here since 1957. Malabar has not done a lot of good things with their money and their infrastructure. Is not intending to insult Council but over the years, there is not a good track record.

CM Korn explained the 10% of stormwater assessment fee that is paid to county to administer the utility - we could not hire someone for that money.

CM Rivet said all the projects now are engineered. He mentioned the demonstration project on east end of Atz Road that will take stormwater flow into Jordan. He said there have been errors in the past; they are trying to do better. Gary Sandoe appreciates Council - they are sacrificial lamb.

Carolina Alvarez wanted to state some corrections to misstatements made by public. She mentioned bi-annual inspections. She also clarified how the Camelot Park and other mobile home parks are calculated. It is based on several factors; not just sites, but all impervious surfaces within the park. Franklin added the county recently changed to annual inspections to those sites claiming credits. She added that Camelot gets a 20% maintenance credit and has inquired about a design credit. Ms. Alvarez stated the goal for all is to get the stormwater system working and keep it functional for everyone's benefit. Ms. Ritter requested advanced notice of future inspections.

Ms. Alvarez continued that the Town of Malabar doesn't have to collect it (stormwater assessment), but they will not get any grant assistance for stormwater projects without having it. She also explained that the ½ cent sales tax is not to clean ditches. It is to clean the water in the IRL. Projects must have a benefit ratio that makes sense to remove the maximum pollutants from the lagoon.

Ms. Alvarez corrected Karlene Conroy statements also. Brevard has one of the lowest stormwater assessments in the State. She talked about grants and the requirements of NCRS, for sediment control. Someone said FDOT is hard to work with. FDOT is willing to work together with communities for the betterment of stormwater as it relates to one of their projects. Contact FDOT with stormwater improvement projects that could be leveraged into one of their planned projects.

CM Mahoney asked what constitutes a credit. Usually a commercial project and can go from 20% to 100%. Also, Ag properties receive a 100% credit. CM Mahoney asked about leveraged - what does that mean. Has to be water quality project not just flood water control such as a Non-point 319 grant at 60 / 40 cost share. CM Rivet said leveraging mean getting most benefit.

CM Ball said he has a concern mentioned by Ms. Ritter. MHP are commercial. They are assessed at ½ ERU per slab. They get fees for those slabs. The formula takes into account the impervious areas. Ms. Alvarez stated that the County hired a consultant to do the study and the produce the formulas based on all of the impervious areas. She is billed for 96.5 sites. She is not in position to discuss a particular site and its fee and/or credits.

CM Mahoney said it seems like there should separate benefit areas. Clerk Franklin was recognized to state that when the Town of Malabar created the Malabar Stormwater Utility they created the Malabar Stormwater Utility Benefit Area and it encompassed the entire town as the town has open ditch drainage that still for the most part travels through historical drainage flows through private property and needs to be relocated to the Town rights-of-way.

Ms. Alvarez stated the County administers the utility for Malabar – they do not do the work. She continued that most of the sites built before 1984 don't get a credit because the rules didn't go into effect until then. You don't get that many resident so not that much money to do the projects and pollutants and they have assisted with that NPDES permit and audit requirement.

CM Ball asked if the State pays into this for the stormwater created from state roads. Yes, they have to pay for their own permits. They do not pay the County.

Mayor asked TA to explain the ditch maintenance and stormwater fees.

TA had several comments to make. This \$16-dollar increase is not a *tax* increase; it is a *fee* increase. It is being responsible fiscally to keep up with inflation. The increase will net the Town 30K. To replace a culvert under a road such as Corey, Atz, etc. costs on average \$10,000.00. He listed at least ten culverts known to need replacement and that is nearly 100K that will need to be expended for replacements over the next two years.

TA also showed the engineered plans that have been drawn up for several projects previously presented to Council to show proof of concept that will provide positive drainage results and visible results to the residents. Some of these projects will require filling in the ditches on private property but we can't perform that. Went through the projects and explained the conceptual projects on raising the depth of the ditches.

TA had said that we currently have 186K plus in Stormwater Reserves in the money market account. TA said he met with Warren and he did say he would take care of it if we initially mowed it and it looked pretty good. The slope mower will provide maintenance for those areas that can't be maintained by the owners. The old slope mower is over 15 years old and is inoperable often. The new slope mower will provide us a more reliable way to keep the ditches clean.

TA said another good example of an area in need of stormwater improvement is the Hall Road from the approved projects in 2014 that were approved by Council and then stopped. The ditches do not connect to any town stormwater utility.

TA stated **that if the** east end of Atz Road was the only problem area, that would be great – easy to fix – cost some money but would improve drainage. Things have been done over the past years without the benefit of a survey or even a **builder's level**.

TA has spoken to Senator Nelson about Federal financial assistance for the Eva Lane Stormwater project. It is not a simple snap of fingers.

TA said SJRWMD (Saint Johns River Water Management District) say we have 72 hours after a stormwater event for stormwater flows to go back to normal levels. He then gave the 1 inch of rainfall math using 55-gallon drums as an example again.

CM Mahoney – read Patty Foster email statement in opposition to this increase. (attached)

Chair directed that if a Council Member makes the motion he must support it, the seconder does not have to. He requests a motion:

**MOTION:** CM Rivet / CM Kohler to approve Resolution 16-2017 increasing the Stormwater Fee to \$52.00 for the years of 2017, 2018, 2019 and a further increase to \$64.00 in 2020 and beyond.

Discussion: CM Mahoney hold off and get more public input; they need time to process. CM Korn said it amounts to 4 cents a day. CM Ball came in with Brian Vail's point of view. It is not a deal breaker for him. If you are a business owner it is a lot of money. Can't speak to what was done before. TA is working hard to get the drainage improvements. We would like to see what a grant can do there.

Put out his views on it is not an easy one to make. SW is the number one problem/priority. Mayor said the benefit with the whole town not individual businesses. Vote accordingly. CM Rivet said the biggest project is storm water issues – this is not an onerous increase. It is money well spent. This is the oldest single problem to be addressed by Town since incorporation. Malabar doesn't have a buracary. We need to provide the municipal service that the people that live here are entitled to.

CM Mahoney – what is really being done? At the workshop the ditches would not be filled in. That is a neighborhood meeting. Need a clear concise plan. CM Mahoney we should CM Mahoney asked to see the PW log and hasn't seen it. CM Korn said the Town engineer recommends. He sees what works when it works. Goes back to the 20's when this was tomatoes farming.

**ROLLCALL VOTE:** 1)CM Ball, Aye; CM Mahoney, Nay; CM Rivet, Aye; CM Korn, Aye; CM Kohler, Aye. Motion carried 4 to 1.

**2. Resolution 17-2017 Certifying the Stormwater Assessment Roll and approving the Stormwater Budget for FY 2017/2018**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR CERTIFICATION OF THE STORMWATER ASSESSMENT ROLL FROM BREVARD COUNTY; PROVIDING FOR A BUDGET OF \$105,000.00 IN THE STORMWATER REVENUE ACCOUNT TO FUND STORMWATER PROJECTS APPROVED BY COUNCIL FOR FY 2017/2018; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report 2

**Recommendation:** Approve Resolution 17-2017

**Resolution read by title only.**

**PH opened - Speaker's Card:**

Liz Ritter – biggest problem is communication. You can tell tell from the people that show up here. Gary Sandoe, this gentleman hit it on the head – it wasn't done back then so – you made poor choices – he appreciates us doing our job – but samo samo.

**MOTION:** CM Korn / CM Kohler to approve Resolution 17-2017 approving the assessment roll and budget for 2017/2018.

**Discussion:** none

**ROLLCALL VOTE:** CM Ball, Aye; 1)CM Mahoney, Nay; CM Rivet, Aye; CM Korn, Aye; CM Kohler, Aye. Motion carried 4 to 1.

**J. UNFINISHED BUSINESS/GENERAL ORDERS**  
**ORDINANCES FOR FIRST READING: 0**  
**RESOLUTIONS: 0**  
**MISCELLANEOUS: 0**

COUNCIL CHAIR MAY EXCUSE ATTORNEY NOW

**M. ANNOUNCEMENTS:**

- (1) Vacancy on the Board of Adjustment;
- (2) Vacancies on the Park and Recreation Board;

(1) Vacancy on the Trails & Greenways

**N. ADJOURNMENT:**

There being no further business to discuss and without objection, the meeting was adjourned by the Chair at 9:07PM.

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

ATTEST

Debby K. Franklin

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

Date Approved: 8/21/2017



Fw: Ordinances 2017-6, 2017-07, storm water tax increase

Laura Mahoney

Mon 8/14/2017 11:57 AM

→ To: Debby Franklin <townclerk@townofmalabar.org>;

This needs to be added for tonight as well.  
Apparently It was never passed on to you

→ From: Patty Foster <patricia.foster26@yahoo.com>

Sent: Wednesday, August 9, 2017 6:46 AM

→ To: Dick Korn

→ Cc: Pat Reilly

→ Subject: Ordinances 2017-6, 2017-07, storm water tax increase

Let this stand as notice to my opinion of Ordinance 2017-06, Ordinance 2017-7, the Storm water tax increase.

I respectfully request you vote NO on these 3 items. I believe the ordinances restrict and shift power from the town council and give it to town staff. They have enough power.

I respectfully request the storm water tax not be increased. We already pay the County for this service. 45% increase over 3 years is not acceptable.

These are my opinions.

→ Respectfully

Patricia Foster

2885 Weber Rd

Malabar, FL

32950

Read into record  
8/14/2017 mtg.

# Public Hearing

Debby Franklin

Mon 8/14/2017 5:25 PM

To: Pat Reilly <mayor@townofmalabar.org>;

📎 1 attachments (2 MB)

20170814172452.pdf;

Council approved Reso 03-2017 on 4/17/2017 which was titled "Intent to Increase Stormwater Fee" - passed 5 to 0. attached

Council workshop of 5/22/17 resulted in continued support of budgeting all stormwater projects approved in 2014 that have not been completed.

Legal Ad run May 25, 2017 not legally sufficient - it did not meet the legal requirements and the dataset to mail to individual property owners had errors that needed correcting by Brevard County before I could get the notices out to provide for the 20 days to file written objections. Clerk unexpectedly ill and notices did not get done.

F.S. 197 dictates how legal notice are done when a city is requesting a fee increase to this tax.

RTCM 6/19/17 - under additions - Franklin explained that the PH for Stormwater fee increase would be re-advertised.

July 20, 2017 stormwater projects proposed to use stormwater funds - Skip Hard claimed the residents attending had a good case to sue the town.

WS 7/24/17 - TA explains how estimated stormwater revenue is shown on budget under 363 and carried for from prior years collections is shown under 389 in budget.

RTCM 8/7/17 Agenda Face Sheet listed the upcoming Public Hearings on 8/14/17 for Stormwater fee increase from \$36. to \$52.

RTCM 8/7/17 DRAFT minutes have explanation under Clerks Report on the "1" that showed up on residential notices.

I asked Doug to scan the 2016 council meeting minutes and tag meetings where taxes and CIP projects were discussed and specifically stormwater project.

**Debby K. Franklin**  
Certified Municipal Clerk



**TOWN OF MALABAR**  
**REGULAR TOWN COUNCIL MEETING**  
**MONDAY, APRIL 17, 2017**  
**7:30 PM**  
**2725 MALABAR ROAD, MALABAR, FLORIDA**

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**AGENDA**

- A. **CALL TO ORDER, PRAYER AND PLEDGE**  
B. **ROLL CALL**  
C. **APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:**  
  
D. **APPROVAL OF THE MINUTES:**  
1. **Regular Town Council Meeting Minutes 4/03/17**  
   **Council Workshop Meeting Minutes 4/04/17**  
   **Exhibit:** Agenda Report No. 1  
   **Recommendation:** Request Approval  
E. **ATTORNEY REPORT:**  
F. **STAFF REPORTS: ADMINISTRATOR, CLERK, FIRE CHIEF:**  
G. **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) Three (3) Minute Limit per Speaker.  
  
H. **PUBLIC HEARINGS/SPECIAL ORDERS: UNFINISHED BUSINESS/GENERAL ORDERS**  
  
**ORDINANCES FOR FIRST READING: 1**  
2. **Ordinance 2017-04: Redistricting Malabar Council Districts**  
AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR AMENDMENT TO CHAPTER SEVEN, ELECTIONS, OF THE CODE OF ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.  
   **Exhibit:** Agenda Report No. 2  
   **Recommendation:** Request Approval of 1<sup>st</sup> Reading of Ord 2017-04  
  
**RESOLUTIONS: 3**  
(2 Tabled Resolutions re: SR-514)  
3. **RESOLUTION 06-2017**  
(Tabled on 3/20/17 to this certain date & will require motion to remove from table.)  
A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, REQUESTING A REDUCTION OF SPEED TO 45 MPH ON STATE ROAD 514 ALSO KNOWN AS MALABAR ROAD FROM THE WEST END OF THE JURISDICTIONAL BOUNDARY EAST TO MARIE STREET; REQUESTING EXPEDITED INTERSECTION IMPROVEMENTS AT COREY AND WEBER ROADS TO INCLUDE TRAFFIC SIGNALS; SOLICITING SUPPORT FROM OTHER COMMUNITIES AND AGENCIES IN THIS REQUEST TO FLORIDA DEPARTMENT OF TRANSPORTATION; PROVIDING FOR DISTRIBUTION OF REQUEST; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.  
   **Exhibit:** Agenda Report No. 3  
   **Recommendation:** Request Action

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#### **4. RESOLUTION 11-2017**

(Tabled on 4/03/17 after TPO Presentation & will require motion to remove from table.)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A REQUEST FROM THE FLORIDA TRANSPORTATION PLANNING ORGANIZATION TO RECOMMEND A CONCEPT FOR THE WIDENING ON SR 514, MALABAR ROAD FROM THE WESTERN BOUNDARIES OF THE TOWN TO U. S. 1 (STATE ROAD 5) IN THE TOWN OF MALABAR; PROVIDING FOR DISTRIBUTION OF REQUEST; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 4

**Recommendation:** Request Action

#### **5. RESOLUTION 03-2017 – Intent to Increase Storm Water Fee**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR FINDINGS; PROVIDING FOR AN INCREASE IN THE STORMWATER NON ADVALORUM ASSESSMENT FROM \$36.00 PER ERU SET IN FY 2000 TO \$\_\_\_\_\_ PER ERU FOR THE TAX YEAR 2017 AND A FURTHER INCREASE TO \$\_\_\_\_\_ PER ERU FOR THE TAX YEAR 2018; PROVIDING FOR CLASSIFICATIONS OF PROPERTY; PROVIDING FOR CERTIFICATION OF ANNUAL STORMWATER UTILITY ASSESSMENT ROLL; ADOPTING THE UNIFORM AD VALOREM METHOD OF COLLECTION; PROVIDING FOR MASS MAIL OUT NOTIFICATION OF PUBLIC HEARING TO TAKE PLACE AT THE COUNCIL MEETING OF JUNE 19, 2017; PROVIDING FOR A COPY OF THE RESOLUTION TO BE DELIVERED TO THE BREVARD COUNTY TAX COLLECTOR; PROVIDING FOR REPEAL OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 5

**Recommendation:** Request Approval of Resolution to Move Forward with Public Notices

#### **MISCELLANEOUS: 1**

#### **6. Reconsider TPO/TAC Delegate (Mayor)**

**Exhibit:** Agenda Report No. 6

**Recommendation:** Request Action

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

#### **7. Updates to Capital Improvement Plan Projects (C.I.P.) Due Annually Prior to Budget Workshops**

**Exhibit:** Agenda Report No. 7

**Recommendation:** Request Direction to Staff

#### **J. PUBLIC COMMENTS: General Items (Speaker Card Required)**

#### **K. REPORTS – MAYOR AND COUNCIL MEMBERS**

#### **L. ANNOUNCEMENTS:**

(1) Vacancy on the Board of Adjustment; (2) Vacancies on the Park and Recreation Board.

(1) Vacancy on the Trails & Greenways

#### **M. 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.

REQUEST TO FLORIDA DEPARTMENT OF TRANSPORTATION; PROVIDING FOR DISTRIBUTION OF REQUEST; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 3

**Recommendation:** Request Action

Chair asked for a motion to take from table. None. Chair stated this resolution has died.

#### 4. RESOLUTION 11-2017

(Tabled on 4/03/17 after TPO Presentation & will require motion to remove from table.)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A REQUEST FROM THE FLORIDA TRANSPORTATION PLANNING ORGANIZATION TO RECOMMEND A CONCEPT FOR THE WIDENING ON SR 514, MALABAR ROAD FROM THE WESTERN BOUNDARIES OF THE TOWN TO U. S. 1 (STATE ROAD 5) IN THE TOWN OF MALABAR; PROVIDING FOR DISTRIBUTION OF REQUEST; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 4

**Recommendation:** Request Action

Chair asked for a motion to take from table. None. Chair stated this resolution has died.

#### 5. RESOLUTION 03-2017 – Intent to Increase Storm Water Fee

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR FINDINGS; PROVIDING FOR AN INCREASE IN THE STORMWATER NON ADVALORUM ASSESSMENT FROM \$36.00 PER ERU SET IN FY 2000 TO \$52.00 PER ERU FOR THE TAX YEARS 2017, 2018 and 2019 AND A FURTHER INCREASE TO \$64.00 PER ERU FOR THE TAX YEAR 2020; PROVIDING FOR CLASSIFICATIONS OF PROPERTY; PROVIDING FOR CERTIFICATION OF ANNUAL STORMWATER UTILITY ASSESSMENT ROLL; ADOPTING THE UNIFORM AD VALOREM METHOD OF COLLECTION; PROVIDING FOR MASS MAIL OUT NOTIFICATION OF PUBLIC HEARING TO TAKE PLACE AT THE COUNCIL MEETING OF JUNE 19, 2017; PROVIDING FOR A COPY OF THE RESOLUTION TO BE DELIVERED TO THE BREVARD COUNTY TAX COLLECTOR; PROVIDING FOR REPEAL OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 5

**Recommendation:** Request Approval of Reso to go Forward with Public Notices

Reso read by title only.

**Speaker's Card:** None.

**MOTION:** CM Rivet / CM Korn to approve Reso 03-2017.

Discussion: Chair said there are two missing values; staff is asking Council to determine what they should be.

CM Rivet did a compounded calculation on inflation and it would come up \$52. CM Korn said the County is at \$64 and he proposes \$52 also for 2017. These funds are used only to help with Storm Water projects which are the major concern in Malabar.


CM Mahoney, asked about how SW money is/can be spent. Clerk explained how the tax is assessed and the restrictions on how it can be spent.

CM Ball then what's the next number. CM Rivet said it could be 52 plus CPI for next year. TA said or have it adjusted every two or five years. CM Korn asked about keeping it at 52 and can be reviewed annually. Franklin explained that this is a multi-step process; once Council adopts the resolution with "intent" to increase the SW tax then the notice must be

sent out to all property owners of the 1,681 parcels. This is an expensive process that you don't want to undertake annually.

Consensus to set 2017 rate at \$52.00 for the tax years of 2017, 2018 and 2019 and then increase it to 64.00 in tax year 2020 until further revised by future council.

Chair asked for rollcall: Clerk stated that in previous Councils she had restated the CM that would vote first on multiple issues requiring rollcall votes. She asked if current council would support. Council said yes. Clerk said the "1)" would indicate the CM that votes first in Roll Call votes.

 ROLL CALL Vote: CM Ball, Aye; 1)CM Mahoney, Aye; CM Rivet, Aye; CM Korn, Aye; CM Kohler, Aye. Motion Carried 5 to 0.

#### MISCELLANEOUS: 1

##### 6. Reconsider TPO/TAC Delegate (Mayor)

**Exhibit:** Agenda Report No. 6

**Recommendation:** Request Action

Chair said many people have come up to him and asked for reconsider the TPO appointment of Mr. Krieger as our Town's representative. They felt it should always be a staff person or a member of council. We have a lot going on right now with the discussions on widening SR-514.

MOTION: CM Ball / CM none to appoint Mayor Reilly as new delegate to TPO/TAC and stated his reason. It should be an engineer type person.

Mayor declined. It is daytime meeting and it would be difficult to break away. CM Korn said when it was first discussed it was his belief that it ought to be a council member. He had forgotten that a previous Town Administrator served in that position for many years. He should have stated it should be Council or staff. This is not to say that Mr. Krieger has not shown interest. We got a report today, we got a report last month. He has not come to Council personally with these reports; he called him this afternoon; he guessed Mr. Krieger went around to each of them today passing the reports out.

When the council was meeting with the consultant to do the redistricting, the Deputy Clerk/Treasurer Matt Stinnett was working with him and CM Korn was amazed at the level of detail he was familiar with regarding the specifics of this town. He is impressed with him and thinks he would do a good job in this position.

MOTION: CM Korn / CM Rivet to appoint Matt Stinnett as new delegate to TPO/TAC.

Discussion: CM Korn said that TA was the delegate in the past and he had overlooked that. It is not to say that Mr. Krieger has not done anything wrong. He has not come to us directly. Need to commend him. And ask him to continue as a CAC.

CM Korn would recommend the Deputy Town Clerk. CM Korn was at town hall on April 4 before the workshop to meet with Mr. Tozier and he was amazed at how well versed Mr. Stinnett is with the town. CM Ball said it should be a member of the seated Council.

CM Mahoney said she contacted the TPO and spoke with Lisa Hickman who said previously that the nice thing about having Don Krieger this year is that Malabar had an engineer for their delegate. He would understand the technical side. The other thing is that he was elected by this council. The TPO consists of 26 voting members, 13 must be municipal representatives approved by the SCTPO. Then she called the league of cities, Stu from IHB and he said he reads that he (Krieger) is representative because we voted him into that, but this us up to us.

**RESOLUTION 03-2017**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR FINDINGS; ~~PROVIDING FOR AN INCREASE IN THE STORMWATER NON ADVALORUM ASSESSMENT FROM \$36.00 PER ERU SET IN FY 2000 TO \$52.00 PER ERU FOR THE TAX YEAR 2017, 2018 and 2019 AND A FURTHER INCREASE TO \$64.00 PER ERU FOR THE TAX YEAR 2020 AND BEYOND; PROVIDING FOR CLASSIFICATIONS OF PROPERTY; PROVIDING FOR CERTIFICATION OF ANNUAL STORMWATER UTILITY ASSESSMENT ROLL; ADOPTING THE UNIFORM AD VALOREM METHOD OF COLLECTION; PROVIDING FOR MASS MAIL OUT NOTIFICATION OF PUBLIC HEARING TO TAKE PLACE AT THE COUNCIL MEETING OF JUNE 19, 2017; PROVIDING FOR A COPY OF THE RESOLUTION TO BE DELIVERED TO THE BREVARD COUNTY TAX COLLECTOR; PROVIDING FOR REPEAL OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.~~

**WHEREAS**, the Town of Malabar Council began assessing a non-advalorum stormwater utility fee in 2000 and has not increased it since that time; and

**WHEREAS**, pursuant to Section 13.5-6 of the Code of Ordinances of the Town, the Town Council is authorized to adopt a rate resolution for the purposes of imposing a stormwater utility fee or assessment upon the owners of all real property located within the Town; and

**WHEREAS**, Section 197.3632, Florida Statutes and Section 13.5-6 of the Code of Ordinances of the Town, provides that on or before the fifteenth day of September of any year, the Town Council shall hold a public hearing to adopt a rate resolution for the purpose of imposing said schedule of annual stormwater utility fees or assessment, after proper notice and publication as necessary; and

**WHEREAS**, the Town of Malabar Council began budgeting for stormwater management projects that would begin the process of putting the stormwater drainage plan within the Town's rights-of-way where they can be properly maintained by the Town and this increase will assist in the required funding of such projects; and

**WHEREAS**, prior to September 15, 2017, the Town Council will hold a public hearing to adopt a budget for the operation and maintenance of the Town's stormwater management program for the ensuing fiscal year, and this rate resolution adopted by the Town Council provides sufficient revenues to fund the budget adopted for the operation and maintenance of the Town's stormwater management program; and

**WHEREAS**, this Resolution provides a Schedule of Stormwater Assessments and Classifications specifying the amount and calculation of annual stormwater utility fee and assessment imposed within the Town for the fiscal year beginning October 1, 2017; and

**WHEREAS**, the proposed new rates are similar to the rates approved by Brevard County when they proposed rate increases in 2014; and

**WHEREAS**, upon adoption of this resolution, the Town of Malabar Council will hold a public hearing after mailing out notices as required under state law when proposing a stormwater utility fee rate increase; and

**WHEREAS**, the Town Council is satisfied that the annual Stormwater Utility Assessment Roll has been prepared in conformity with the said Schedule of Stormwater Assessments and Classifications; and

**WHEREAS**, the Town of Malabar Council will take public comment on the proposed increase at this public hearing scheduled for June 19, 2017.

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

**SECTION 1. Findings.** The above "Whereas" statements are true and correct and incorporated herein.

**SECTION 2. Schedule.**

1. The Malabar Council adopts the Schedule of Stormwater Assessments and Classifications, attached hereto as Exhibit A, for Stormwater Benefit Areas within the Town of Malabar.
2. The Malabar Council hereby adopts stormwater utility fees incorporating the rate of \$52.00 per ERU for tax years 2017, 2018 and 2019 in the calculation formulas set forth in Exhibit A. The rate increase to \$64.00 per ERU for tax year 2020 and beyond.

**SECTION 3.** It is intended by the Town Council that this Resolution constitutes the rate resolution specified in Section 13.5-6 of the Code of Ordinances of the Town.

**SECTION 4.** The Town Council hereby ratifies, confirms, and certifies that the annual Stormwater Utility Assessment Roll for the fiscal year beginning October 1, 2017 is in conformity with the Schedule of Rates adopted by the town Council.

**SECTION 5.** A certified copy of this rate resolution shall be delivered to the Brevard County Tax Collector.

**SECTION 6.** Those stormwater utility assessments imposed during the fiscal year beginning October 1, 2017, shall be billed by the Town or its authorized representative, pursuant to the provisions of Chapter 13.5 of the Code of Ordinances of the Town and shall be due and payable on November 1 of each year, pursuant to law.

**SECTION 7.** The Town Council adopts the uniform ad valorem method for the levy, collection and enforcement of non-ad valorem assessments pursuant to section 197. 3632, Florida Statutes.

**SECTION 8.** The Clerk is hereby directed to provide mail out notice of the public hearing to take place at the council meeting of June 19, 2017.

**SECTION 9.** All resolutions or parts of resolutions in conflict herewith are hereby repealed.

**SECTION 10. Effective Date.**

This Resolution shall not take effect until after the Public Hearing set for June 19, 2017.

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

Council Member Grant Ball	Aye
Council Member Laura Mahoney	Aye
Council Member Steve Rivet	Aye
Council Member Dick Korn	Aye
Council Member Richard Kohler	Aye

This Resolution was then declared to be duly passed and adopted this 17th day of April, 2017.

By: TOWN OF MALABAR

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

ATTEST:

Debby K. Franklin  
Debby K. Franklin  
Town Clerk/Treasurer

(seal)

Approved for Legal Sufficiency:

Karl Bohne, Jr., Town Attorney

Plus  
Attachments



Malabar could pay for the water to come down Malabar Road but that would be a capital investment with an unknown return. CM Mahoney said we want to remain rural. Keep building the trail systems.

CM Rivet said there are three options:

- Encourage commercial development along Babcock, Malabar Road and Highway 1
- Extend water and sewer along Malabar Road
- Raise taxes.

↙ Actions resulting from this workshop:

- 1) Get estimate of cost of topographic map of Town with detailed elevations of culverts and intersections and drainage ditches – an updated one from 1988.
- 2) Get cost of outsourcing the ditches and mowing for CM Mahoney.
- 3) Ask Drew (T&G) to contact the upland property owner re: donating the land at north end of Rocky Point Road – CM Ball
- 4) Put new slope mower in budget at 140K-150K – CM Kohler
- 5) Budget for road repaving, not resurfacing or tarring – 81K is not enough - Mayor
- 6) Budget all the approved stormwater projects from 2014 that have not been completed – CM Rivet
- 7) Get prioritized list of Fire Dept needs from the Chief for the next five years.
- 8) Come up with ideas to encourage commercial development
- 9) Carry forward all 2017 CIP to 2018
- 10) Eliminate the items that will be accomplished when SR514 is widened – Corey and Weber intersections, multi-modal along Malabar
- 11) Joint use of a new structure at Malabar Scrub Sanctuary with EEL program. Process should be a separate three-year project with bond money and information to citizens. Old TH can then become a community center.
- 12) Get list of roads with conditions from Tom and Morris so priority list can be created for recapping
- 13) Get document from Mayor from 1988 to show Morris re: topo info

Chair Reilly, without objection, adjourned the meeting at 9:06 pm.

BY: \_\_\_\_\_

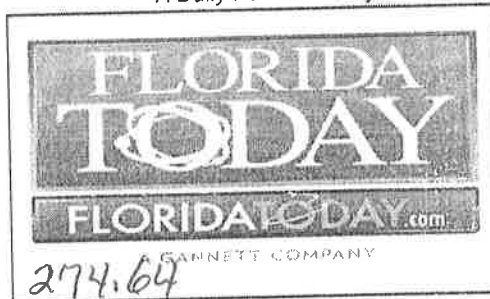
Patrick T. Reilly  
Mayor Patrick T. Reilly, Council Chair

ATTEST

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

Approved: RTCM 6/5/2017 after verification of audio as noted above.



MAY 1  
2017RAN  
TOO SOON  
NO MAPTOWN OF MALABAR  
2725 MALABAR RD

MALABAR, FL 32950

STATE OF FLORIDA COUNTY OF BREVARD:

Before the undersigned authority personally appeared Kim Curro, who on oath says that he or she is a Legal Advertising Representative of the FLORIDA TODAY, a daily newspaper published in Brevard County, Florida that the attached copy of advertisement, being a Legal Ad in the matter of

## Notice Public Hearing

as published in FLORIDA TODAY in the issue(s) of:

05/25/17

Affiant further says that the said FLORIDA TODAY is a newspaper in said Brevard County, Florida and that the said newspaper has heretofore been continuously published in said Brevard County, Florida each day and has been entered as periodicals matter at the post office in MELBOURNE in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 25th of May 2017, by Kim Curro who is personally known to me

*Ruby Royer*  
\_\_\_\_\_  
Ruby Royer  
Notary Public for the State of Florida  
My Commission expires January 30, 2018

Publication Cost: \$161.20  
Ad No: 0002135050  
Customer No: BRE-6TO207



RUBY ROYER  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# FF088043  
Expires 1/30/2018

AD# 2135050  
NOTICE OF PUBLIC HEARING ON PROPOSED STORMWATER UTILITY FEE INCREASE  
THIS IS NOT AN INVOICE

5/25/2017

May 10, 2017

Dear Property Owner:  
The Malabar Town Council will hold a public hearing on June 19, 2017 at 7:30 P.M. at Malabar Town Hall Council chambers to consider a proposed increase in the rate per Equivalent Residential Unit (ERU) to be used in the formulas for calculating your Stormwater Utility Fee.

All affected property owners have:

- The right to appear at the hearing
  - To file written comments or objections to the town within 20 days of the date of this notice to the address noted above.
- If the proposed increase in the rate used to calculate your stormwater utility fee is approved, that increased rate will result in an increase of your Stormwater Utility Fee non-ad valorem assessment when it appears on your property tax bill in November, 2017 and in subsequent years. (One ERU is based upon a single-family residence with 2,500 square feet of impervious area.)

The Town of Malabar is proposing an increase in the rate per ERU that is used in a formula to calculate your Stormwater Utility fee. The rate per ERU that is used in the formula is proposed to increase from \$36.00 to \$2.00 for the upcoming Fiscal Years of 17/18, 18/19 and 19/20. The increased fee is proposed to generate \$92,076.00 for Town stormwater projects. The further increase to \$64.00 for 20/21 and thereafter will generate \$112,141.00 for Town stormwater projects. The Town has not requested an increase in this non-advalorem assessment for the last 17 years.

If approved by the Malabar Council, the amount of your Stormwater Utility Fee will be calculated from existing Land Use Bill Class Formulas, which are based upon the number of ERU's established for your parcel and the rate (dollar amount per ERU) that is approved by Malabar Council at the Public Hearing. Those existing formulas will also be incorporated in any amended rate resolution adopted at the hearing. The Resolution 03-2017 with Exhibit "A" provides the classifications and formulas used and is available at the Town Clerk's Office Monday through Friday 8:30 to 5:00 P.M.

Failure to pay the fee will cause a tax certificate to be issued pursuant to Chapter 197, Florida Statutes, which may result in a loss of title to the property. If you have any questions, please contact the Town of Malabar at 321-727-7764.

Sincerely,  
Debby Franklin, Malabar Town Clerk/Treasurer  
Malabar Town Hall, 2725 Malabar Road, Malabar, FL 32950  
321-727-7764 www.townofmalabar.org

AD# 2135050  
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Debby Franklin, Malabar Town Clerk/Treasurer  
Malabar Town Hall, 2725 Malabar Road, Malabar, FL 32950  
321-727-7764 www.townofmalabar.org

Dataset of City  
BREVARD  
Needs work.

# RE: Town of Malabar Stormwater Assessment Fee Increase

Valliere, Christine V <Christine.Valliere@brevardfl.gov>

Tue 5/30/2017 11:43 AM

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

Cc: Bessler, Paul G <Paul.Bessler@brevardfl.gov>; Citta, Valerie <Valerie.Citta@brevardfl.gov>;

Ms. Franklin,

I understand there is a question about the notice requirements for the town's stormwater assessment increase. The county is also considering an increase to its solid waste collection special assessment. Section 197.3632(4)(a) establishes the notice requirement. Courts have applied this subsection to fee increases. If there are any further questions, Mr. Bohne can contact me directly.

(4)(a) A local government shall adopt a non-ad valorem assessment roll at a public hearing held between January 1 and September 15, or between January 1 and September 25 for any county as defined in s. 125.011(1), if:

1. The non-ad valorem assessment is levied for the first time;
2. The non-ad valorem assessment is increased beyond the maximum rate authorized by law or judicial decree at the time of initial imposition;
3. The local government's boundaries have changed, unless all newly affected property owners have provided written consent for such assessment to the local governing board; or
4. There is a change in the purpose for such assessment or in the use of the revenue generated by such assessment.

↓  
(b) At least 20 days prior to the public hearing, the local government shall notice the hearing by first-class United States mail and by publication in a newspaper generally circulated within each county contained in the boundaries of the local government. The notice by mail shall be sent to each person owning property subject to the assessment and shall include the following information: the purpose of the assessment; the total amount to be levied against each parcel; the unit of measurement to be applied against each parcel to determine the assessment; the number of such units contained within each parcel; the total revenue the local government will collect by the assessment; a statement that failure to pay the assessment will cause a tax certificate to be issued against the property which may result in a loss of title; a statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice; and the date, time, and place of the hearing. However, notice by mail shall not be required if notice by mail is otherwise required by general or special law governing a taxing authority and such notice is served at least 30 days prior to the authority's public hearing on adoption of a new or amended non-ad valorem assessment roll. The published notice shall contain at least the following information: the name of the local governing board; a geographic depiction of the property subject to the assessment; the proposed schedule of the assessment; the fact that the assessment will be collected by the tax collector; and a statement that all affected property owners have the right to appear at the public hearing and the right to file written objections within 20 days of the publication of the notice.

Thanks,

Christine Valliere, Esq.  
Brevard County Attorney's Office

Town of Malabar, 2725 Malabar Road, Malabar, FL 32950  
321.727.7764 (Office) 321.727.9997 (Fax) [www.townofmalabar.org](http://www.townofmalabar.org)

To: [brelegals@gannett.com](mailto:brelegals@gannett.com)

July 24, 2017

From: Debby Franklin, Town Clerk, Town of Malabar  
[townclerk@townofmalabar.org](mailto:townclerk@townofmalabar.org)

Please place the following Notice of Public Hearing two times: **Wednesday, July 26, 2017 and Thursday, July 27, 2017**. Please put the heading in **BOLD** font. Please send proof via email to: [townclerk@townofmalabar.org](mailto:townclerk@townofmalabar.org) and mail **ONE** affidavit to 2725 Malabar Road, Malabar, FL 32950.

Thank you,

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

**TOWN OF MALABAR  
NOTICE OF PUBLIC HEARING**

The Town Council of the Town of Malabar, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Monday, August 14, 2017 at 7:30 pm or as soon thereafter as the matter can be heard, for a public hearing on a rate Resolution and Resolution certifying the non-ad valorem Stormwater Utility Assessment roll.

**A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR AN INCREASE IN THE STORMWATER NON ADVALORUM ASSESSMENT FROM \$36.00 PER ERU SET IN FY 2000 TO \$52.00 PER ERU FOR THE TAX YEAR 2017, 2018 and 2019 AND A FURTHER INCREASE TO \$64.00 PER ERU FOR THE TAX YEAR 2020 AND BEYOND; PROVIDING FOR THE USE OF THE SAME BILLING CLASSIFICATIONS APPROVED IN 2000; PROVIDING FOR A COPY OF THE RESOLUTION TO BE DELIVERED TO THE BREVARD COUNTY TAX COLLECTOR; PROVIDING FOR REPEAL OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.**

**AND**

**A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING AN ANNUAL BUDGET FOR THE TOWN'S STORMWATER UTILITY; PROVIDING CERTIFICATION OF ANNUAL STORMWATER UTILITY ASSESSMENT ROLL; PROVIDING AN EFFECTIVE DATE.**

The Malabar Town Council will hold a public hearing on August 14, 2017 at 7:30 P.M. at Malabar Town Hall Council chambers to consider a proposed increase in the rate per Equivalent Residential Unit (ERU) to be used in the formulas for calculating your Stormwater Utility Fee.

All affected property owners will have this notice mailed to them with Exhibit I and will have:

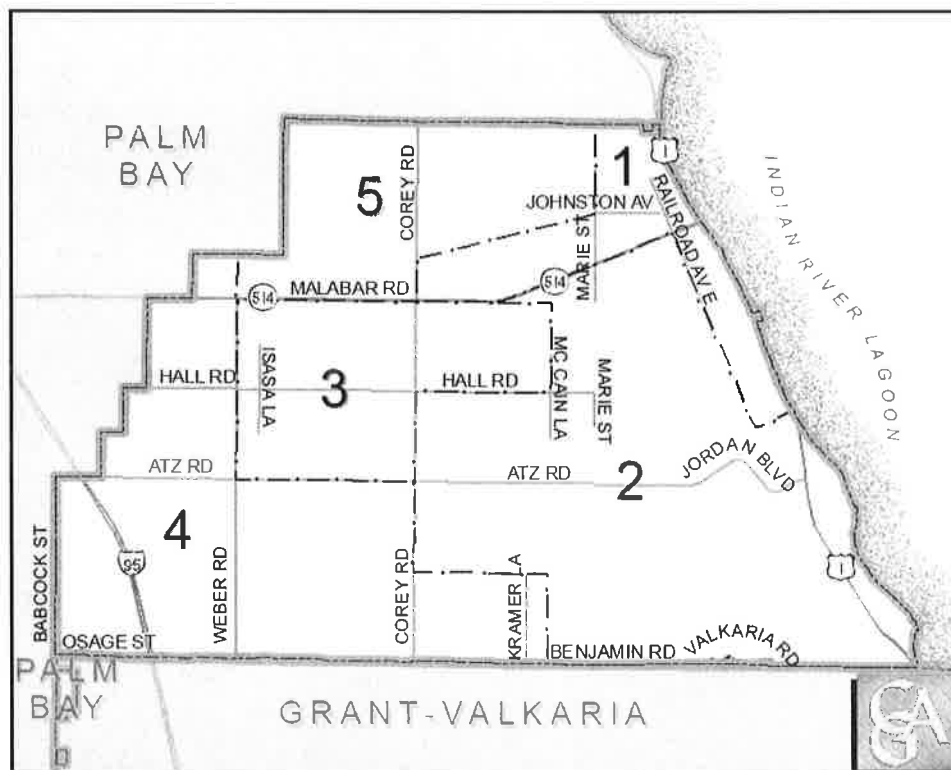
- The right to appear at the hearing
- To file written comments or objections to the town within 20 days of the date of this notice to the address noted above.

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If approved by the Malabar Council, the amount of your Stormwater Utility Fee will be calculated from existing formulas identified in the Land Use Bill Class Formulas, which are based upon the number of ERU's established for your parcel and the rate (dollar amount per ERU) that is approved by Malabar Council at the Public Hearing. Those existing formulas will also be incorporated in any amended rate resolution adopted at the hearing.

Failure to pay the fee will cause a tax certificate to be issued pursuant to Chapter 197, Florida Statutes, which may result in a loss of title to the property. The billing amount is subject to the same discounts and penalties for early and later payments that apply to ad valorem taxes that appear on your property tax bill.



The proposed resolutions may be inspected by the public at the Town Clerk's Office between the hours of 8:30AM and 4:30PM weekdays. All interested parties may appear and be heard at this meeting of the Town Council with respect to these topics. Persons with disabilities needing assistance to participate in any of these proceedings should contact the Clerk's Office, ADA Coordinator, 48 hours in advance of the meeting at 321-727-7764. Debby K. Franklin, C.M.C., Town Clerk/Treasurer.

Mailed to:

Town of Malabar  
2725 Malabar Rd  
Malabar, FL 32950

A daily publication by:



STATE OF FLORIDA  
COUNTY OF BREVARD

Before the undersigned authority personally appeared Becky Holland,  
who on oath says that she is LEGAL ADVERTISING SPECIALIST of the FLORIDA TODAY, a  
newspaper published in Brevard County, Florida; that the attached copy of advertising being a

LEGAL NOTICE

Ad # (	592369	\$	1,705.40
TOW060 )			
TOWN OF MALABAR			
the	Court	NOTICE OF PUBLIC HEARING	

as published in the FLORIDA TODAY in the issue(s) of:

July 26 & 27, 2017

Affiant further says that the said FLORIDA TODAY is a newspaper in said Brevard County, Florida, and that the said newspaper has heretofore been continuously published in said Brevard County, Florida, regularly as stated above, and has been entered as periodicals matter at the post office in MELBOURNE in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Becky Holland  
(Signature of Affiant)

Sworn to and subscribed before this:



RUBY ROYER  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# FF068043  
Expires 1/30/2018

27th day of July 2017  
Ruby Royer  
(Signature of Notary Public)  
Ruby Royer  
(Name of Notary Typed, Printed or Stamped)

Personally Known X or Produced Identification \_\_\_\_\_  
Type Identification Produced: \_\_\_\_\_



# TOWN OF MALABAR NOTICE OF PUBLIC HEARING

The Town Council of the Town of Malabar, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Monday, August 14, 2017 at 7:30 pm or as soon thereafter as the matter can be heard, for a public hearing on a rate Resolution and Resolution certifying the non-ad valorem Stormwater Utility Assessment roll.

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**AND**

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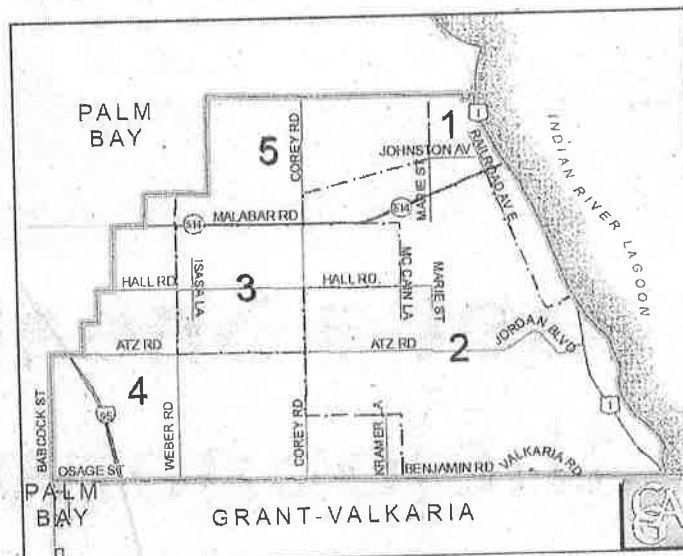
- The right to appear at the hearing
- To file written comments or objections to the town within 20 days of the date of this notice to the address noted above.

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

Town of Malabar  
2725 Malabar Road  
Malabar, FL 32950

July 20, 2017

Legal  
Notice



NULL JOINT REVOCABLE LIVING TRUST  
000543  
018

**NOTICE OF PUBLIC HEARING ON PROPOSED STORMWATER UTILITY FEE INCREASE**  
**THIS IS NOT AN INVOICE**

Dear Property Owner:

The Malabar Town Council will hold a public hearing on June 20, 2017 at 7:30 P.M. at Malabar Town Hall Council chambers to consider proposed increase in the rate per Equivalent Residential Unit (ERU) to be used in the formulas for calculating your Stormwater Utility Fee.

All affected property owners have:

- \* The right to appear at the hearing
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If the proposed increase in the rate used to calculate your Stormwater Utility Fee is approved, that increased rate will result in an increase of your Stormwater Utility Fee non-ad valorem assessment when it appears on your property tax bill in November, 2017 and in subsequent years. (One ERU is based upon a single-family residence with 2,500 square feet of impervious area.)

The Town of Malabar is proposing an increase in the rate per ERU that is used in a formula to calculate your Stormwater Utility Fee. The rate per ERU that is used in the formula is proposed to increase from \$36.00 to \$52.00 for the upcoming Fiscal Years of 17/18, 18/19 and 19/20. The increased fee is proposed to generate \$92,076.00 for Town stormwater projects. The further increase to \$64.00 for 20/21 and thereafter will generate \$112,141.00 for Town stormwater projects. The Town has not requested an increase in this non-ad valorem assessment for the last 17 years.

If approved by the Malabar Council, the amount of your Stormwater Utility Fee will be calculated from existing formulas identified in the attached Exhibit 1 – Land Use Bill Class Formulas, which are based upon the number of ERU's established for your parcel and the rate (dollar amount per ERU) that is approved by Malabar Council at the Public Hearing. Those existing formulas will also be incorporated in any amended rate resolution adopted at the hearing.

Failure to pay the fee will cause a tax certificate to be issued pursuant to Chapter 197, Florida Statutes, which may result in a loss of title to the property. If you have any questions, please contact the Town of Malabar at 321-727-7764.

Property Identification Number: 29 3711-00-757	Tax Account Number: 2931691	Current Stormwater Bill Class: S
Category/Number of ERU Units: 1 Residential 1 Commercial 0 Vacant		
Site Address: 3060 COREY RD MALABAR 32950		
Billing Amount Fiscal Year 17-18,18-19,19-20: \$52.00		Billing Amount Fiscal Year 20-21: \$64.00

The billing amount is subject to the same discounts and penalties for early and later payments that apply to ad valorem taxes that appear on your property tax bill.

**EXHIBIT I**

**SCHEDULE OF CLASSIFICATIONS AND CALCULATIONS FOR ANNUAL STORMWATER UTILITY ASSESSMENT  
ROLL FOR COUNTY FISCAL YEAR BEGINNING OCTOBER 1, 2014.**

<b>BILLING CLASSIFICATIONS</b>		
A	Agricultural	Any property which is used for commercial agricultural pursuits, and is designated as commercial agricultural on the Brevard County Property Appraiser's records.
B	Condominium and Manufactured Housing	Any property identifying an individual condominium or townhouse unit or any property upon which is located a manufactured home.
D	Multiple Single Family Dwelling Units	Any property upon which is located more than one building or structure, each of which is designed and constructed for, and capable for use as a residence for one family.
E	Commercial	Any lot or parcel upon which is located any structure or facility designed for business related uses.
I	Industrial	Any lot or parcel upon which there is a structure or building for use as productive enterprises and/or manufacturing activities.
M	Multifamily Dwelling	Any property upon which is located any building or structure, consisting of more than one dwelling unit, each designed for occupancy for one family.
N	Non-Billable	Those parcels or lots which are right of way, local Government-Owned lands or properties not billable by state, and local laws.
R	Mixed Use Residential	Any lot or parcel which contains more than one use, including one or more Single family dwellings in conjunction with more than one multi-family unit, each unit being assessed at its corresponding billing class ERU calculation.
S	Single Family Dwelling	Any property upon which is located any building or structure designed or constructed for, and capable for use as a residence for one family and is erected on a separate lot or parcel.
T	Vacant Natural	Any lot or parcel that is unaltered, contains no structures, and has not been designated as Agricultural (A) or Non-Billable (N).
V	Vacant Altered	Any lot or parcel that contains no structures, is not designated as Agricultural (A) or, Non-Billable (N), and has been modified from its natural state, including lots within platted subdivided areas.
Y	Vacant Improved	Any lot or parcel which is not designated as Agricultural (A) or Non-Billable (N), and has been either graded, cleared, compacted and/or excessively landscaped.



BILL CLASS	CALCULATION FORMULA
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#### LAND USE Bill Class Formulas

One **ERU**, or Equivalent Residential Unit, for the purpose of calculating service charge rates has been determined through engineering analysis to be 2,500 square feet of effective impervious area.

List of terms used in the rate calculation formulas

TERM	DEFINITION
G	Gross Area of Parcel in Square Feet
I	Impervious Area of Parcel in Square Feet
M	Mitigation Factor with a range of 0.2 to 1.0 and an increment of 0.01
N	Number of Dwelling Units or Hook-Ups
NI	Adjustment Factor for Alteration of Pervious Surfaces
0.20	Pervious Factor Coefficient
0.90	Impervious Factor Coefficient
0.03	Pervious Factor Coefficient for Agricultural, Vacant Altered, Industrial Use Only
0.40	Infiltration Factor for Agricultural Land Use Cover for Good Soil Conditions (same question as prevs)
0.60	Average Runoff Coefficient for Open Space for Average Soil Conditions
DF	Melbourne Tillman Drain Fee
RATE	Per ERU. This is set by the taxing authority. (County or city with inter-local agreement)
Billing	Stormwater assessment amount

A	Agricultural (same as Vacant Altered)	# ERU's = $G \times 0.03 \times 0.4 / 2,500$ sq. ft. Billing = [ #ERU's x RATE x M ] – DF
B	Condominium	Billing = [ 1 ERU x .50 x RATE x M ] - DF
D	Multiple Single Family Dwelling Units	Billing = [ 1 ERU x N x RATE x M ] - DF <i>(If number units is unavailable this defaults to calculating with 2.)</i>
E	Commercial	NI = $I \times 1.25$ # ERU's Commercial = $\{ [(NI - I) \times 0.2] + (I \times 0.9) \} / 2,500$ sq. ft. # ERU's Vacant Altered = $[ (G - NI) \times 0.03 \times 0.40 ] / 2,500$ sq. ft. <i>(If Vacant Altered LT 0 then this defaults to 0)</i> Billing = [ {(# ERU's Commercial x RATE) + (# ERU's Vacant Altered x RATE)} x M ] – DF
I	Industrial	NI = $I \times 1.25$ # ERU's Commercial = $\{ [(NI - I) \times 0.2] + (I \times 0.9) \} / 2,500$ sq. ft. # ERU's Vacant Improved = $[ (G - NI) \times 0.03 \times 0.60 ] / 2,500$ sq. ft. <i>(If Vacant Improved LT 0 then this defaults to 0)</i> Billing = [ {(# ERU's Commercial x RATE) + (# ERU's Vacant Improved x RATE)} x M ] - DF
M	Multifamily Dwelling	Billing = [ 1 ERU x 0.50 x N x RATE x M ] – DF
N	Non Billable	Billing = 0. No bills generated for these land uses
R	Mixed Use Residential	Billing = [ (Sum of S, M, B, D ERUs) x RATE x M ] – DF <i>Sum explained – Mixed Use Residential accounts will have more than one structure on the account. To each individual structure the Property Appraiser Office assigns a number of units and a use code. Each use code has a calculation factor of either 0.5 or 1.0. An amount for each structure is computed by multiplying the number of units times the calculation factor times the rate. The sum of these amounts for the account is then used in the Bill Class R calculation.</i>
S	Single Family Dwelling	Billing = [ 1 ERU x RATE x M ] – DF
T	Vacant Natural	Billing = 0. No bills generated for these land uses
V	Vacant Altered (same as agricultural)	# ERU's = $G \times 0.03 \times 0.4 / 2,500$ sq. ft. Billing = [ #ERU's x RATE x M ] – DF
Y	Vacant Improved	# ERU's = $[ (G \times 0.03 \times 0.4) + (I \times 0.9) ] / 2,500$ sq. ft. Billing = [ #ERU's x RATE x M ] – DF
	Minimum Bill Amount	The minimum billing is set at \$2.35 per parcel

**4. ORDINANCE 2017-08 MORITORIUM on MEDICAL MARIJUANA DISPENSARIES**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MALABAR, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON THE SUBMITTAL, PROCESSING, AND ISSUANCE OF LOCAL BUSINESS TAX RECEIPTS OR LAND USE PERMITS, DEVELOPMENT ORDERS, MODIFICATIONS OR APPROVALS FOR ANY MEDICAL MARIJUANA TREATMENT CENTER AND/OR ANY MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY, AS THOSE TERMS ARE USED AND DEFINED IN SB 8A; PROVIDING REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY AND AN EFFECTIVE DATE.

**Exhibit:**

Agenda Report No. 4

**Recommendation:** Request Approval of First Reading of Ord 2017-08

**5. ORDINANCE 2017-09: MORITORIUM on WIRELESS INFRASTRUCTURE WITHIN MALABAR RIGHTS-OF-WAY**

AN ORDINANCE OF THE TOWN OF MALABAR, FLORIDA ESTABLISHING AND IMPOSING A TEMPORARY MORATORIUM WITHIN THE TOWN OF MALABAR ON THE EFFECTS OF COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 687 PASSED BY THE FLORIDA LEGISLATURE DURING THE RECENTLY ENDED 2017 LEGISLATIVE SESSION AND APPROVED BY THE GOVERNOR; PROHIBITING ANY AND ALL APPROVALS DURING THE MORATORIUM PERIOD FOR ANY RIGHT-OF-WAY LOCATED WITHIN THE TOWN OF MALABAR IN ORDER TO ALLOW AN OPPORTUNITY FOR THE TOWN TO REVIEW THE REQUIREMENTS OF THE SAID BILL AND TO DEVELOP AN ORDINANCE, AS APPROPRIATE, RELATING TO THE IMPACTS OF THE LEGISLATION; PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS; PROVIDING FOR GEOGRAPHIC AREA ENCOMPASSED BY THE MORATORIUM; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:**

Agenda Report No. 5

**Recommendation:** Request Approval of First Reading of Ord 2017-09

**RESOLUTIONS: 1**

**6. RESOLUTION 15-2017 – SUPPORT PROPOSED CONCEPT for WIDENING of SR514**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, SUPPORTING PERTAINING TO A REQUEST FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION TO SUPPORT A CONCEPT FOR THE WIDENING OF SR 514, MALABAR ROAD FROM THE WESTERN BOUNDARIES OF THE TOWN TO U.S. HIGHWAY 1 (SR 5) IN THE TOWN OF MALABAR AND TO PROVIDE ONGOING MAINTENANCE OF THE MULTI-USE TRAIL INCLUDED IN THE RECOMMENDED ALTERNATIVE FROM MALABAR WOODS BOULEVARD TO MARIE STREET; PROVIDING FOR DISTRIBUTION OF REQUEST; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:**

Agenda Report No. 6

**Recommendation:** Request adoption of Reso 15-2017

**MISCELLANEOUS:**

**7. Action on Request to Accept 416 feet of Corey Road (north end)**

**Exhibit:**

Agenda Report No. 7

**Recommendation:** Request Action

**M. DISCUSSION/POSSIBLE ACTION:**

- Upcoming Public Hearing on 8/14/17 at 7:30PM re: Stormwater Fee Increase from \$36 to \$52
- Upcoming Public Hearings being prepared for advertisement at P&Z and Council re: FLUM

Fire Chief then explained the circumstances of such a tragic fire and thanked Council for recognition of the efforts of the Malabar Fire Department responders.

**H. BOARD/COMMITTEE REPORTS:**

**Trails and Greenways Committee:** Drew Thompson short presentation. Will be doing something in the south as presented at earlier meetings. Will be talking with Doug to give access to Jordan scrub. Working on concept. Brevard County has park land north of Valkaria Road.

**Planning and Zoning Board: Liz Ritter**

Still working on the sign code. They had to go through the definitions first; then go back to the table.

**Park and Recreation Board: Hans Kemmler**

Hans informed them about the memorials and have gone through several suggestions. Low maintenance and style. They had a presentation by Formmasters in Deland. Rick Basso came and left example of poured concrete polished. 4 x 8 and 4" thick. They don't have all the details and price ranges. \$75 per square foot. If they cast it and we pick it up it could be for 3K. Will have some options with a lower and higher cost. With them pouring the columns.


Things are going well at the golf disc sanctuary.

Re: Huggins Park: they have gone through so many ideas that they may want to sell the land and use the money for parks and recreation.

TA said hopefully he will have two sails up by the end of the year. The decision has been made to have separate sails. Yes. Greater chance of them surviving. CM Korn asked on the memorial wall, would the existing memorials be included? Yes.

**I. STAFF REPORTS: ADMINISTRATOR: CLERK: FIRE CHIEF**

**ADMINISTRATOR:** TA - nothing



**CLERK: Re:** The proposed Stormwater fee increase advertisement has run in the paper and the individual notices were mailed out as required by statute so Council can hold a Public Hearing on August 14, 2017 regarding the increase. There was a formatting issue when the dataset was inserted into the Notices mailed out that caused a "1" to be printed under "commercial" on all residential notices. It in no way had any effect on the bill classification. We have appreciated all the calls from property owners that requested clarification. A resident on Sandy Creek Lane delivered a request to speak at the 8/14/17 public hearing. Council was copied on the request. Also, another call resulted in a request for a stormwater credit for their stormwater system and that will probably be successful.

**FIRE CHIEF:** Went over July report – FF1 class will be offered. Applied for the SCOTT Paks for grants. That is paid for by DOF at 100%.

Chief said regarding the question that came up at the Budget WS he wanted to provide the background for the increase under "radios" in the budget. The County is going to digital radios. They have 14 portable radios. He only has three that are digital. The rest are analog. They must rely on the radios. The county will switch over entirely in 2019 or 2020. The radios in the vehicles can be modified.

**J. 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) Three (3) Minute Limit per Speaker.