

**TOWN OF MALABAR  
REGULAR TOWN COUNCIL MEETING  
MONDAY, JANUARY 07, 2019  
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. **CONSENT AGENDA:**
1. **Approve Regular Town Council Meeting Minutes of 11/11/2018 & 12/17/2018**  
Exhibit: Agenda Report No. 1  
Recommendation: Approve Minutes
- E. **ATTORNEY REPORT:**
- F. **BCSO REPORT:**
- G. **BOARD / COMMITTEE REPORTS:**  
T&G Committee; Park & Recreation Board; P&Z Board
- H. **STAFF REPORTS:**  
Administrator; PW Director; Clerk; Fire Chief
- I. **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.**
- J. **PUBLIC HEARINGS/SPECIAL ORDERS: 0**
- K. **UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)**
- L. **ACTION ITEMS: ORDINANCES: 0**  
**RESOLUTIONS: 1**
2. **Appoint Mr. Parnel Jean to Park and Recreation Board (Reso 01-2019)**  
A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF PARNEL JEAN TO THE MALABAR PARKS AND RECREATION BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.  
Exhibit: Agenda Report No. 2  
Recommendation: Adopt Reso 01-2019
- MISCELLANEOUS:**
3. **Request Cancellation of 2<sup>nd</sup> meeting in January and February for Federal Holidays**  
Exhibit: Agenda Report No. 3  
Recommendation: Action
- COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME
- M. **DISCUSSION/POSSIBLE ACTION:**
- N. **PUBLIC COMMENTS: General Items (Speaker Card Required)**
- O. **REPORTS – MAYOR AND COUNCIL MEMBERS**
- P. **ANNOUNCEMENTS:**  
(2) Vacancies on the Board of Adjustment; (2) Vacancies on the Park and Recreation Board  
(2) Vacancies on the Trails and Greenways Committee
- Q. **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.

**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 1**  
**Meeting Date: January 07, 2019**

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

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**SUBJECT: Approval of Minutes**

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**BACKGROUND/HISTORY:**

Attached are the summary minutes for the following meeting(s):

- Town Council Workshop Meeting – 12/11/2018
- Town Council Regular Meeting – 12/17/2018

The minutes are the official record of the actions taken by the Council.

**ATTACHMENTS:**

Draft Minutes of 12/11/18 and 12/17/18

**ACTION OPTIONS:**

The Town Clerk requests approval of the minutes.

**MALABAR TOWN COUNCIL WORKSHOP MEETING MINUTES**

**DECEMBER 11, 2018**

**7:00 PM**

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

**A. CALL TO ORDER:**

Chair, Mayor Patrick Reilly called the meeting to order at 7:00 pm and led P&P.

**B. ROLL CALL:**

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL

BRIAN VAIL

DICK KORN

DANNY WHITE

TOWN ADMINISTRATOR:

MATT STINNETT

PW DIRECTOR:

TOM MILIORE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

**C. WORKSHOP ACTION:**

**1. Discuss Public Works scheduled projects / new projects**

Mayor explained why the Council determined to meet and ask TA to start. TA presented an overview of the primary issues that the Malabar Public Works is responsible for and is currently working to address. At end of meeting they can go around and discuss what each district is looking at.

This is overview – high level review. Starting with Stormwater – each of the listed items are areas with several projects within each sector. One of the major ones is Corey Road – main artery of the Town. So much stormwater goes to that, that during rainy season it is overcome. They are looking at breaking it up and sending some to other outlets.

West of I95 – stormwater needs to make its way through Lett Lane to Booth Road and out to Babcock Street.

West of Weber – Hodge podge will go into the new area they are working on Hall Road. Some areas need new ditch, replaced culverts, new contouring.

Eva Lane basin, goes across and under Malabar Road but has to go through EELs property north of that.

Corey Road basin area – they are continuing to do in depth study. Working with the HOA in Stillwater Preserve. Met with St. Johns and discussed going into the easement area and removing exotics. Will be following up with them and they will support us going in and working in the conservation area.

Dick talked about area between Corey and Weber that fills up and has wetland areas. Some of the problems were caused by the pipes under I95 that drain the interstate. How to get it to Tillman canal.

TA said that is exactly what we are trying to do. Find as many outlets and re-direct it there instead of all of it going to Corey.

Tom said it was suggested many years ago to take it down Atz Road directly to Tillman. Brian said if we could extend Tillman Canal to the south it would take approximately a 40-50 foot easement. That would be in a master plan. Atz Road around Quarterman Lane goes from a large ditch to a small swale – make it go towards Tillman. Mayor said it flows east.

Danny said his concern is the elevation to make it go to Eva Lane ditch. Can we continue that to Weber? Can we make the elevation work to take some of the water? Relieve some of the water going down to Corey. Ditch on north side of Atz Road around Ski Lane goes from a big ditch to a small swale or to no ditch at all. Make that connection and put adequate pipe under Corey Road.

Steve said do more top level. Brian said we have two decent outlets. There are more but they are not positive outfalls. Grant said Matt came up with a great idea – clean the muck out of the ditches on both side of entrance road. Brian asked Matt if EELs would allow that. Across EELs land we have many areas (3-4) that go into those areas.

Mayor asked for 11 x 17 aerial maps for next WS.

Steve said what can we do with Fed govt? How do we pursue that? If we can get cooperation from feds – that could make the biggest impact to the quality of life. Danny asked about easement. Brian said we would have to acquire the easement.

TA said the target and focus is what can Malabar accomplish. There are certainly plenty of opportunities to find funding and cooperation from other agencies. He has met with Georgana Gillette of the TPO/TAC, and will be meeting with FDOT representatives.

Grant wanted to initially see what projects we are working on. If we come up with a list and timeline that are a priority and then there are three or four other projects under that. They are getting a lot of push back from people wanting to see what the money is being spent on. They don't see what we are doing in the budget.

Dick said every month they see a report from the Fire Chief – incident report. Let the PW Dept give a report every month of what they have accomplished and what the goals are. Steve agreed with Grant – that is part of the problem – they also need to lobby the outside agencies to get support, buy-in, and funding.

TA then went over Rocky Point – mostly maintenance issues. Culvert failing under Huggins at US1. Outlet on north part of Rocky Point that needs cleaning.

South end of LaCourt – to go out through Jordan Blvd instead of going north. Then again working the Glatter area east of Marie and out through the big ditch north of Glatter.

Eng is still working elevations – to get water from LaCourt to go south to get to Atz Road. Brian said the bottom of the ditches need recontouring.

Dick said some of these culverts get clogged up. Is that the responsibility of PW to unclog it? If the ditch is maintained the water will keep the culvert clean.

Danny said the Atz Road project done by contractor – the follow up work was never done. The sod was not pinned, and the dirt has washed right back into the ditch. Danny said for the project to be done properly it should have been done. Grant said that Malabar Woods Blvd was poured to certain standards and there are cracks all over that road.

Mayor asked if we could use the dirt to fill the edges. Tom said 2 or 4 loads per road in budget and barely fill the pot holes.

On the paved roads Tom said that the edges can be filled with dirt and then seeded. Brian said millings vs. road base. His recommendation is to use millings or road base. Brian explained how a dirt road disappears – in dry times as dust and wet as splashes.

Mayor asked Clerk to provide Council with list of accepted roads.

Brian asked if the growth inhibitor slows the growth of the tree to slow it down – would that also work with the roots? Ask arborist.

Tom said the arborist did come out to Brook Hollow – it will weaken the structure of the tree.

Shoreline and bridges. TA said there are several places along RPR – we have 33' from centerline. It is going to need immediate attention – they are big ticket items, but we need to do something very soon. Within 5 feet of the actual road. That would be a contractor job. TA said he could research the types of material and perhaps Eng could better speak to this.

Dick said this should be looked at during budget time. Steve said we need to address these and some of the items can be funded by special assessment. Brian said about the bridge could be spec assess. Steve said the bridge is life safety and road resurfacing is quality of life. Food for thought.

Parks and facilities –

Winter is for maintenance – spring is for mowing. They go over the list on page 3 – list of items and how much time it takes. The level of service do we want to establish?

Scheduled for once a month – mowing at Disc golf park

Tom said the mowing of ROW includes weed wacking street signs, mailboxes and both sides of culverts.

Danny said the intent was just the intersections and bus stops. Brian also said it was supposed to be one pass with flail mower.

MCP – tennis court – benches have been moved. Tom said we put new benches in and they are concreted in. Pressure washing is necessary. Both tennis and basketball need pressure washing by contractor with self contained unit. Bathrooms also need pressure washing but can be done by PW and repainted. Brian suggested an “adopt a park” process could be discussed at Council. Grant said G-V can do it all with volunteers and we must use PW and staff. Danny mentioned the book sharing/library and a group of people – we do have some of those people in Town. Put it in the MailBoat. Get a coordinator. Keep putting it in the paper until we have the group, and someone can be the coordinator. Matt can then delegate.

TA said this list includes improvements that aren't part of maintenance.

Example was the railings on the bridge – instead of nails spend some time to put 4x4 with bolts to keep them from being kicked in. TA said where do the priorities lie.

Gazebos – reach out to area businesses and residents. Need clay for ballfield.

Sandhill Trailhead – maintained by Town.

Equipment – personnel – TA said the list is for things that would make an improvement. A new front-end loader – it is 28 years old. A vibratory roller. Or rent it for a week at a time. It cuts road maintenance, especially if we add the water down. It is effective if you are grading, wet down and then roll. Not to be used for dust control.

Can an old fire truck be used?

Full size pick-up and a new dump truck and the attachment to use for the edges of the roads. Brian will check with contractor. It is like a concrete chute. Like dumping concrete.

Something to research. It would alleviate a ton of work. Flat bed with shovel is alternative.

TA said there is some repair work that needs to be done on PW building. The salt and chemicals for the water treatment equipment at the SE corner pulled the sides apart. There was also a roof leak over Tom's office. Need to see if there is grant money available to harden the building.

New PW building – TA said building plans are in place and will pursue a variance and the building will be 55K and then the pad. Also working with FD to train PW on the how to use the fire truck to clean the culverts.

Marie Street area is fenced mostly to keep out dumpers. The fence itself is in disrepair and is held up by vegetation.

TA said he is using Richard Kohler for 2 days here at Town Hall and would like to use him the other 3 days in PW. Right now, he has in the budget for one more MEO. Richard would use funds now from 513, 524 and 541. Would like to bring in Jim Roulston (has a CDL).

Parks Dept John needs more help. Tom said he could not do without him now. They are trying to get Hall Road project done.

Brian said in dry season – work on ditch work. Danny said contingent situation – he would like to see project completed to Weber and stage into Tillman. If there are too many culverts under driveways, then Atz Road ditch and then cleaning the ditches on EELS. Brian asked about Stillwater Preserve – TA said they have positive input from the HOA and the St Johns.

TA said the budget this year was intended to focus on maintenance and then work towards researching and prioritizing the new projects. Danny said what is Richard's position - Special Projects Mgr., special concerns completed, he has been very helpful at town hall and acts as coordinator. Danny said this isn't someone filling a slot. Danny said this is a whole new job that we weren't considering. Danny said the reason we are here is the residents don't see the work that we are getting done. TA said we specifically budgeted for Richard in Dept 513 and 524 as part time and could also utilize him in 541.

Dick said we need to budget for two more fulltime people in Public Works.

Last item is the roads – they reviewed the spreadsheet Doug Hoyt put together to show the cost for materials to bring dirt roads back to proper LOS (level of service). Tom said bring it up to where the road is higher than edges – it is not done.

TA said this is an idea of what it costs to really bring the roads back to standards.

Danny said the point Doug was trying to make was how much it would cost to bring the roads back to accepted standards. If we could use this to incentivize – we'll fix it and you pay for paving it.

Priorities:

What do you want to do first? Work on this.

Brian – focus on drainage while it is dry. Add the Hall Road ditch project from Flashy Lane to Weber Road with one culvert and open ditch will give most bang for the buck. TA said they are not ready to jump and do that without an engineering component. Then the ditch through Stillwater Preserve, do we have engineering – still working. The Jordan Preserve ditch/drainage project also needs engineering. So will the Atz Road to Tillman Canal. Ditch cleaning while it is dry. Stillwater will have to be done by hand.

Danny – we don't have a shovel ready job? That should be our priority. Complete the Hall Road project and then do the east end of Atz because it should be easy and then do the west end of Atz Road to the Tillman Canal. They need to bite the bullet and get these projects engineered. While Tom is working on this project the engineer can get the next project ready. Danny said he is not criticizing but we need to show them what good stuff Tom is doing.

Dick – get the existing ditches cleaned so they flow. West of Weber gets real wet. He asked if the cable lines are still hanging. Trying for two years to get them clear. Then start new projects.

Steve; Hall south side there is between LaCourt to Corey – big deep ditch except in front of one property. (old Krieger property) 1000' feet of ditch.

Grant is with Dick and Steve – let's try and get the projects underway (TA priority) Do the ones that will give the most bang for the buck. Show residents how we are spending their tax dollars.

Danny said let's start with the project on Hall Road with just a call for locates.

Funding: TA is looking at options.

Set targets for next workshop. TA said let's aim for a Monday in Feb. Feb 25, 2019 at 7pm.

**D. ADJOURNMENT:**

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

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

ATTEST:

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

Date Approved: 1/7/2019

**MALABAR TOWN COUNCIL REGULAR MEETING MINUTES  
DECEMBER 17, 2018                      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 Reilly called the meeting to order at 7:30 pm. CM Rivet led P&P.

**B. ROLL CALL:**

CHAIR:	MAYOR PATRICK T. REILLY
VICE CHAIR:	STEVE RIVET
COUNCIL MEMBERS:	GRANT BALL
	BRIAN VAIL
	DICK KORN
	DANNY WHITE
	MATT STINNETT
	KARL BOHNE
	DENINE SHEREAR
	TOD MOWERY
	MORRIS SMITH
	MIKE FOLEY
	DEBBY FRANKLIN

TOWN ADMINISTRATOR:  
TOWN ATTORNEY:  
ADMIN ASST TO B.O.  
TOWN PLANNER  
TOWN ENGINEER  
MALABAR FIRE CHIEF  
TOWN CLERK/TREASURER:

There was also a BCSO Deputy in attendance.

**C. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES: none**

**D. CONSENT AGENDA:**

**1. Regular Town Council Meeting Minutes of 12/03/18**

Exhibit: Agenda Report No. 1

Recommendation: Request Approval

**MOTION:** CM Vail / CM Rivet to approve the 12/3/2018 minutes as presented.

Discussion: Vote: All Ayes.

**E. ATTORNEY REPORT:** None.

**F. STAFF REPORTS:**

**ADMINISTRATOR:** Noted that PW has paused on the Hall Road project. They will be doing maintenance projects and catching up on road grading. CM White asked about the other Hall Road project that was mentioned in the workshop that just needed locates. TA is working with Engineer to prioritize projects.

**FIRE CHIEF:** Year to date they have responded to 480 calls for service. Chief reported that the five sets of self-contained breathing apparatus (SCBA) they submitted a grant for have been received. The State Department of Financial Services funded this grant at 100%. Chief reported they had a structure fire Friday night.

**CLERK:** Christmas Tree Lighting was held on Wednesday, December 5, 2018 at 6PM and was a great success. Residents enjoyed posing with Santa and the new fire truck. The State Department of Economic Opportunity has completed their review of the Comprehensive Plan Amendment to Town submitted in October. They had one objection to the language in the Coastal Management Element and recommended the Town add redevelopment regulations in flood prone areas to the *Goals, Objectives and Policies* in the Comprehensive Plan. The Town's Planner has begun working on this. The State had one comment related to the Future Land Use Map and that was to add a legend and a planning horizon. The Planner will add those items. When those items are complete it will be ready to go before Council.

**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)  
**Five (5) Minute Limit per Speaker.** Speaker card: none

#### H. PUBLIC HEARINGS/SPECIAL ORDERS: 2

##### 2. Land Use and Zoning Change Request at 2405 and 2415 Malabar Road Ordinance 2018-07

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING LAND USE MAP AND ZONING MAP FOR THE FIVE (5.18+/-) ACRES AT THE SOUTHEAST CORNER OF MALABAR ROAD AND MARIE STREET IN TOWNSHIP 28, RANGE 38, SECTION 31, LOT 54-B AND 54-B-1.01, AKA 2405 AND 2415 MALABAR ROAD, MALABAR, FLORIDA, FROM OFFICE INSTITUTIONAL AND RURAL RESIDENTIAL TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAP; PROVIDING AN EFFECTIVE DATE.

Applicant: Slate Property Management LLC, represented by Mr. & Mrs. Slate

**Exhibit:**

Agenda Report No. 2

**Recommendation:**

Action on Ord 2018-07

Chair read Ordinance by title only.

Chair asked applicant to present their request. No one was present to speak for the applicant.

Chair asked Staff to speak. The Attorney said although the applicant is not present, Council should still proceed with the review. Attorney advised Council this is a legislative action of the Town Council to consider a change to the Future Land Use Map and Zoning Map change. Attorney explained the *Fairly debatable standard* that is used in such cases. Reasonable persons could consider the request consistent with the Comprehensive Plan, capable and compatible and not in conflict with the items listed in the Land Development Code (LDC). The Attorney referenced the Comprehensive Plan and the general policy statement. Council should consider the compatibility with the surrounding area. Commercial General would permit anything listed in the Land Development Code in Article II or Article III under Commercial General. He read from part of the code stating what commercial general is not intended to allow. Attorney stated that the applicant opened this up since they posted a picture of the proposed use on the sign on the property announcing this public hearing; they have interjected their intended use.

Planner Tod Mowery stated for the record the applicant, Slate Property Management LLC and that the request was properly advertised in Florida Today on 11/29/18 and 12/6/18 for the public hearings before Malabar Planning and Zoning and Council. He further explained the applicant's request involved only the two parcels closest to Marie Street. The Town had already submitted to the State Dept of Economic Opportunity (DEO) a request to change those parcels from the existing OI and RR to a mixed use designation of residential limited commercial (R/LC) and that is why some of the references in the notices mailed to residents within 500' of the subject parcels referred to change from R/LC to CG but the sign posted on the property refers to both the existing land use and zoning designations and the Town's proposed changes. Planner again reminded Council that the request to change the land use and zoning, if approved, would allow any permitted use currently listed in the Land Development Code for Commercial General. That is why, for this request, Council should consider the permitted uses for this area and not the applicant or user. He also referred to the three "C's" – consistency, compatibility and capability. Are those the uses you would feel comfortable with any of the CG uses. Size of building is not relevant. This is not the site plan stage.

Planner Mowery then went through the colored map on the overhead and showed the two lots on the application. He referred to the three "C's" of the Comprehensive Plan and the ten items in the LDC that the P&Z Board used for their factual basis supporting their motion for Council to deny. He stated that Council should also word their motion with supporting rationale.

Chair opened the PH.

*Jeff Darby*, 1285 Hall Road. Strongly opposes request.

*Colleen Nowlin*, 1285 Hall Road, sent letter opposing this request. Why does Peay's want them to change this unless they want to flip it. Enjoy eco-tourism. Stick with the Comprehensive Plan Amendment submitted by Council to the State. Malabar insists on keeping it rural. Please deny rezoning.

*Drew Thompson*, 940 Holloway Trail, is the Chair of Trails & Greenways Committee and they have put a lot of effort on the trails and trail system and connectivity, and undisputed support to their approach to the trails. They are holding the line. Sept 14, 2018, they went to Titusville and challenged the State on why the natural trails are important – preserve the rural residential concept. This is the Town the residents wanted. The land use and zoning change can be anything allowed on CG. They told the State that they do have a downtown, it just isn't developed yet. Implore Council to consider the people that elected them.

*Karen Moser*, 1775 Atz Road, agrees with Drew and the others. The vision of Malabar is the rural concept – that is why they all moved here. Would like to see small businesses that would support the people that come here to hike the trails. Accommodate the environment and the wildlife they want to see. Drainage is what they all complain about. Keep in mind the vision they want to keep for the town.

*Holly Yolles*, 2365 Corey Road, Murray Hann, took a picture of her and her neighbor on their horses and ride to a nearby trail. As far as revenue Peay's have land that currently have schools on which don't pay tax.

*Glen Williams*, 1346 Positano Drive, moved here because he likes trees.

*Richard Kovach*, 1690 Hall Road, the land use and zoning change flies in the face of the Comp Plan and Zoning and preamble to the Charter. Such a use should only be allowed on sites that abut Babcock Street, West Railroad Avenue and Highway 1. Warehouse is only allowed in Industrial Zoning. With the P&Z Board's 5 to 0 vote to deny, please take it to heart. If you ignore the vote of the P&Z Board, you will be renegeing on the voice of the people.

*Dorthea White*, 1770 Atz Road, loves this Town. Opposes request. So proud that we are a trail town. If we start putting big commercial development next to trails, it is not creating a pretty site.

*Scott Lurkin*, 700 Hall Road, Been in Malabar ten years. Lost a family member who was waiting to turn left onto Weber Road from Malabar Road and was rear-ended and killed. Moved here to get out of Palm Bay. Enjoys the rural acreage. That is the passion he brings to this meeting. Commercial development brings problems. Hopes it is denied.

*Barb Cameron*, 665 Hall Road, wants Council to know the rural residential character. Was thinking about her options to simplify and decided she wants to die here. No commercial. Keep it rural.

*Mike Kiefer*, 1957 Positano Drive, neighbor of Glen. Elected to keep his yard as natural and native as possible. Loves to see the horses riding through on the trails.

*Vicki Easterling*, 1400 Blanche Street, 30 years ago drove through Malabar to get to work. She recalled the family that used a satellite dish for a pond in their front yard on Malabar Road. There were old buildings that were boarded up. There were pepper trees along river blocking the view. They took a chance and bought a house on Blanche – they are in the old residential neighborhood. Many new homes have been built in the neighborhood and the new growth is improving the overall area. The Town demolished the boarded up building. The Town fixed the drainage in 2000. The pepper trees were removed from the riverfront, so you could see the river when stopped at the light at Malabar and Highway 1. The school house had peeling paint and now the Banyan Estate is a beautiful asset. Same with the Palm House. The Town is moving in the right direction. She walks Marie Street. Having a big business will be uncharacteristic for the rural desire. They seem to be a good family business but not here. Stick to the proposed Comprehensive Plan amendment that P&Z Board worked on for so many years.

*Jose Merino*, 1720 Benjamin Road, strongly opposes this.

*Pat Picornell*, 1500 Delaware Avenue, most business run good, repeatable causes. The P&Z Board decided this did not fit. Hope they listen to the Board's recommendation, if they vote for this what is the benefit to the Town and the people? If you allow, you will open a can of worms. What about Parcel 2? Do not consider rezoning.

*Evelyn Maddox*, 233 Harvey Ave NE Palm Bay. She is the buyer of Parcel 2 on the map. She lives in Palm Bay and she wants to build her home in this rural community.

*Bob Wilbur*, 2500 Glatter Road, turned in some historical maps with old homes and old trails from a long time ago. He thinks the request is a big mistake. The CG to the west was done in the 1980's when FDOT was going to widen Malabar Road and do a fly over the tracks and then build a causeway. That then went away. He was on P&Z Board for 20 years and during that time did all the applications for the trails and conservation land and eco-tourism and now the trial town certification. Finally, are seeing it happening in his time. We need to keep this mixed use district and have shops, bike hostels and a walkable community. He went through the unintended consequences.

*Larry Davis*, 1475 Marie Street. That is what he will see if he looks south. Once you allow this it is all downhill. Opposes request.

*Dawn Danielson*, 1690 Hall Road, requested the Chair to do a show of hands similar to what was done at P&Z meeting to show the residents were against the request.

Chair closed the PH.

Chair requested a Motion to approve – none made.

**MOTION: CM Rivet / CM Korn to disapprove Ord 2018-07 to change Land Use and Zoning request from OI and RR to CG for parcels at 2405 and 2415 Malabar Road for the following, but not limited reasons: it does not meet the compatibility to the existing area and not consistent with the Comprehensive Plan and is inconsistent with the recommendation of PZ and the ten points listed in LDC. Attorney Bohne added language from his memo to add to the grounds for denial and the applicant's failure to meet the requirements.**

The Attorney stated the presentation by the applicant provided information and made a part of this process to the Council on the actual use they desire if the rezoning and future land use map amendment is approved. The proposed use and as voluntarily supplied by the applicant is not permitted in the CG zoning and land use.

Article XII, Section 1-12.5 C of the Code provides in part the following considerations:  
*Consistency with Plan.* Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service (LOS) standards and the concurrency management program. Any inconsistencies shall be identified by the Planning and Zoning Board.

*Conformance with Ordinances.* Whether the proposal is in conformance with all applicable requirements of the Town of Malabar Code of Ordinances.

*Land Use Compatibility.* Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.

The Comprehensive Plan Provides:

1-2.2.4 Policy:

*General Commercial Development (CG)* The general commercial areas are designated on the Future Land Use Maps for purposes of accommodating **general retail sales and services...**

The areas designated for general commercial development are specifically not adaptive to permanent residential housing...

This policy returns us back to the Town's zoning policy which is the zoning/land development code. Section 1-3.1 provides an overview of the zoning policy as it relates to all zoning districts including CG. Section 1-3.1L provides:

The general commercial district **is not intended to accommodate manufacturing, processing, or assembly of goods, sales and services of heavy commercial vehicles and equipment, or related services or maintenance activities; warehousing; uses requiring extensive outside storage; or other activities or trades which may generate nuisance impacts, including glare, smoke, or other air pollutants, noise, vibration or major fire hazards.** Finally, no permanent residential housing shall be located within the general commercial district.

The Attorney said furthermore, the Code states, as it relates to the general commercial activities, provides us to consider:

- Compatibility with and impact on other surrounding commercial activities;
- Relationship to surrounding land uses and natural systems as well as other considerations as the general zoning policy for CG.

Attorney said therefore the foregoing is part of the basis for the motion to deny.

CM White, came here a few years ago, the realtor wanted them to look at property in Titusville, but they had to drive by a huge abandoned industrial structure and they didn't want to have to drive by that every day. Even a good place can fall into disrepair. The area across is bounded by roads. This Town is so unique. Has to show visitors Ribbons, the zebra. That is what this Town is. Need more volunteers. Commented on all of the residents turning out tonight and last Wednesday and asked them to make it a little more regular in your life to attend meetings. Council can't meet everyone's expectations.

CM Vail agreed with CM White, without residents input, they don't know what they want – Council needs to hear from residents. He knows everyone is busy. Help us make good decisions. Supports motion to deny based on – Consistency, Compatibility and Public interest.

CM Ball, the public interest is overwhelming – drive it home further – go through it month after month after month. It would be so nice to get 15-20 people at the rest of the Council meetings. Council is here to serve the people and they need your input. Should be like this at every meeting.

**Roll CALL Vote:** CM Ball, Aye; CM Vail, Aye; CM Rivet, Aye; CM Korn, Aye; CM White, Aye.  
Motion carried 5 to 0

### 3. Budget Amendment for FY 2017/2018 (Ord 2018-08)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2017/2018 TO PROVIDE FOR ADDITIONAL REVENUES RECEIVED; PROVIDE FOR UNSPENT FUNDS REMAINING IN CERTAIN DEPARTMENTS; PROVIDE FOR ALLOCATION OF THOSE FUNDS TO THE DEPARTMENTS OVER BUDGET DUE TO EXPENDITURES AS APPROVED BY COUNCIL; PROVIDE FOR CONFLICT; AND PROVIDE FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 3  
**Recommendation:** Adopt Ord 2018-08

Chair asked for the Ordinance to be read by title only.

Chair opened the PH.

none

Chair closed the PH.

**MOTION:** CM White / CM Vail to adopt Ord 2018-08. Discussion: TA explained the need for the amendment. Kudos to staff.

**Roll CALL Vote:** CM Ball, Aye; CM Vail, Aye; CM Rivet, Aye; CM Korn, Aye; CM White, Aye.  
Motion carried 5 to 0.

#### I. UNFINISHED BUSINESS/GENERAL ORDERS

##### ACTION ITEMS:

ORDINANCES for first reading: 0

RESOLUTIONS: 0

MISCELLANEOUS: 0

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

#### L. DISCUSSION/POSSIBLE ACTION:

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

#### N. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Ball: WS with PW – wildly successful. Have plans around those meetings. Be more transparent to the people so they can tell the public. Before they didn't have that. TA is working to improve that.

CM Vail: Noting

CM Rivet: Stated the Town has not changed much from 30 years ago. Slow to change. Boarded up buildings have been torn down, but the character of Town has stayed.

CM Korn: Has been here 31 years. Town has not changed much. Need to concentrate on that. Times when they can all be together.

CM White: nothing.

Mayor: Thank town staff for the tree lighting and open house. The packet was 80 pages. Thanked staff.

O. **ANNOUNCEMENTS:** There are openings on volunteer advisory boards and committees.

P. **ADJOURNMENT:**

There being no further business to discuss and without objection, the meeting was adjourned at 8:50 PM.

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

ATTEST:

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

Date Approved: 1/07/2019

DRAFT

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 2  
Meeting Date: January 7, 2019

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

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**SUBJECT: Appointment Mr. Parnel Jean to Park and Recreation Board (Reso 01-2019)**

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### **BACKGROUND/HISTORY:**

Board and Committee terms are for three years. Mr. Jean applied to sit either on the Park and Recreation Board or the Planning and Zoning Board. There are currently no openings on the Planning and Zoning Board.

### **ATTACHMENTS:**

Reso 01-2019 Parnel Jean to Park and Recreation Board

### **ACTION OPTIONS:**

Staff requests Action on Resolution 01-2019.

RESOLUTION 01-2019

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF PARNEL JEAN TO THE MALABAR PARKS AND RECREATION BOARD AS A REGULAR 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 openings on the Parks and Recreation Board; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment of a new member.

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 Parnel Jean as a regular member of the Park and Recreation Board for a three year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the member, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

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

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member Dick Korn	_____
Council Member Danny White	_____

This Resolution was then declared to be duly passed and adopted this 7th day of January, 2019.

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

ATTEST:

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

(seal)

Approved as to form and content:

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



Town of Malabar

Volunteer Committee/Board Application

Park & Recreation Advisory Board Application

The Park & Recreation Board is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The Board is advisory in nature. Members of the Board shall hold no other Town office. The affirmative vote of a majority of the regular and alternate board members present and voting (maximum of five votes) shall be necessary for the adoption of any motion. The Board discusses matters relating to the acquisition, development, maintenance, rehabilitation and operations of parks and recreation properties and facilities within the Town of Malabar and forward their recommendations to the Town Council for their consideration.

1. Name: PARNEL JUAN Phone: (917) 826-2038

2. Home Address: 3285 COREY RD

3. Email Address: PARNELJ@hotmail.com

4. Are you a resident of the Town: Yes  No

5. How long have you been a resident of the Town of Malabar: Close to 3 YEARS

6. Are you currently involved with any other organization of the Town: Yes  No

If yes, which organization: \_\_\_\_\_

RTCM 1/7/19  
RESO 01-2019

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)

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE

DEC 21 2018

RECEIVED

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: PARNEL JEAN TELEPHONE: (917) 826-2038
ADDRESS: 3285 Corey Rd Malabar FL 32950
EMAIL: PARNELJ@HOTMAIL.COM

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

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

ENGINEERING

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

Church in Palm Bay

ADDITIONAL INFORMATION/REFERENCES:

Please select the Board that you would like to serve on by indicating first choice & second choice:

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

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

Signature of Applicant

Date 12/20/2018

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.

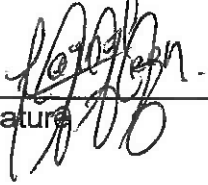
Applicant Certification

By completing this application with the Town of Malabar and placing my signature below, I hereby acknowledge the following:

- This application, when completed and filed with the Office of the Town Clerk, is a PUBLIC RECORD UNDER Chapter 119, Florida Statute, and is open to public inspection.
- I am responsible for keeping the information on this form current and that any changes or updates will be provided to the Office of the Town Clerk.
- I acknowledge that I am a resident of the Town of Malabar.
- I consent to filing the Statement of Financial Interest as required by Chapter 112, Florida Statutes.
- If appointed to a Committee or Board, I acknowledge that it is my obligation and duty to comply with the following:
  - Malabar Code of Conduct
  - Code of Ethics for Public Officials (F.S., Chapter 112, Part III)
  - Florida Sunshine Law (F.S., Chapter 286)

I understand the responsibilities associated with being a Committee or Board member and I will have adequate time to serve on this Committee or Board.

The information provided on this form is true and correct and consent is hereby given to the Town Council or its designated representative to verify any and/or all the information provided.

  
 \_\_\_\_\_  
 Signature

12/20/2018  
 \_\_\_\_\_  
 Date



# TOWN OF MALABAR

2725 MALABAR ROAD • MALABAR, FLORIDA 32950

(321) 727-7764 OFFICE • (321) 722-2234 FAX

[www.townofmalabar.com](http://www.townofmalabar.com)

## Town of Malabar Board Member Code of Conduct

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

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

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

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

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

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

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

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

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

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

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.

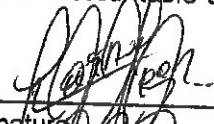
I will enhance my knowledge and ability to contribute value to the Town as a Board or Committee Member by keeping abreast of issues and trends that could affect the Town through reading, continuing education and training. I will study policies and issues affecting the Town, and will attend training programs 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.

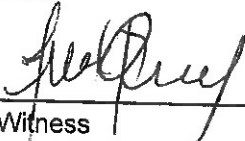
As a Board or Committee Member, I will always hold the best interests of the citizens of the Town and the public health, safety and welfare of the community in the highest regard. I will seek to provide appropriate leadership that nurtures and motivates Town citizens to be stakeholders in the affairs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

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

  
\_\_\_\_\_  
Signature

Pamela Jean  
\_\_\_\_\_  
Print Name

12/20/2018  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Witness

**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 3**  
**Meeting Date: January 07, 2018**

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

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**SUBJECT: Cancel 2<sup>nd</sup> meeting in January and February**

---

**BACKGROUND/HISTORY:**

Malabar Council has cancelled the 2<sup>nd</sup> meeting in January and February in the past due to the federal holidays of MLK Jr. Day on January 21<sup>st</sup> and Presidents Day on February 18<sup>th</sup>.

**FINANCIAL IMPACT:**

N/A

**ATTACHMENTS:**

January and February calendars

**ACTION OPTIONS:**

Direction to Staff

# January

# 2019

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