



**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 1**  
**Meeting Date: July 6, 2015**

**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 meetings:

- Regular Town Council Meetings – 6/1/15 as corrected & 6/15/15
- Town Administrator Selection Committee Workshop Meetings – 6/22/2015 & 6/29/15

**FINANCIAL IMPACT:**

N/A

**ATTACHMENTS:**

Draft Minutes of the following meeting:

- Regular Town Council Meetings – 6/1/2015 & 6/15/15
- Town Administrator Selection Committee Workshop Meetings – 6/22/15 & 6/29/15

**ACTION OPTIONS:**

The Town Clerk requests approval of the minutes.

## MALABAR TOWN COUNCIL REGULAR MEETING

June 1, 2015

7:30 PM

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

### A. CALL TO ORDER:

The meeting was called to order at 7:30 pm by Council Chair Mayor Carl Beatty. CM Grant Ball led the prayer and pledge.

### B. ROLL CALL:

COUNCIL CHAIR:

MAYOR CARL BEATTY

VICE-CHAIR:

MARISA ACQUAVIVA, excused

COUNCIL MEMBERS:

GRANT BALL

BRIAN VAIL

DON KRIEGER

DICK KORN

TOWN ADMINISTRATOR:

BONILYN WILBANKS, excused

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN, excused

DEPUTY TOWN CLERK

CYNTHIA KELLEY

For the Record, the Fire Chief Christopher Robinson is also present.

**C. ADDITIONS/DELETIONS/CHANGES:** Mayor Beatty stated there were several things that needed to be added. The City of Melbourne is requesting a donation for fireworks this year; the fire ordinance and the interviews. CM Korn asked if we were going to discuss the sale of surplus items. Mayor Beatty stated it could be added; this will be heard after the attorney is excused as he doesn't need to be involved in this. The surplus items will be heard as Item 4A and the City of Melbourne's donation request will be heard as Item 4B.

Sargent Al Tolley from the BCSO came forward and gave Council a brief overview of what has taken place in Malabar over the last month. He also provided information on Grant Valkaria as well.

CM Vail asked if they will be stepping up the patrols as the kids are out of school now; he foresees some mischievous activities taking place while the ~~parent~~ parents are working. Sgt. Tolley stated that they will be patrolling a little more in the area.

CM Korn made mention of a patrolman who had his personal phone number posted on Facebook; he asked St. Tolley if there was anything we could do to assist in this. Sgt. Tolley stated that information is very easy to get ~~information~~ on law enforcement officers and fire personnel. Without a court order or injunction, there is nothing that can be done.

Mayor Beatty stated that there is an issue at the Yellow Dog Café with the cross walk and traffic. Sargent Tolley stated that most of the traffic stops are at this area. There is someone pulling people over at the north end as well as the south end of town. Ball asked what the comments are from the people being stopped. Tolley stated that they are trying to educate the people with the new cross walk. Korn asked how to expedite the continuous green light; it has to be funded. He stated that Council has that power; just keep on it as the squeaky wheel gets things done.

**D. MINUTES:**

- 1. **Approval of Minutes** Regular Town Council Mtg – 5/18/15
- Exhibit:** Agenda Report No. 1
- Recommendation:** Request Approval of Minutes

**MOTION: CM Vail / CM Ball moved to approve the minutes of May 18, 2015 as presented.**

Discussion: none

**VOTE: All Ayes.**

Motion carried 4 to 0.

**MOTION: CM Vail / CM Ball moved to approve the minutes from 05/26/15 Workshop as presented.**

Discussion: none

**VOTE: All Ayes.**

Motion carried 4 to 0.

**E. 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.**

David Kerns of Palm Bay, came forward and addressed Council. He asked if anyone knows who the State Representative is. He is running for District 53; thinks the train coming in with what is already here will be an issue. He is here with petitions and would appreciate any signatures. (NOTE: Per Reso. 07-2014, Section B5; no campaigning from the podium)

**ATTORNEY REPORT:**

Attorney Bohne stated that we need to select a representative for the mediation of the law suit on June 23, 2015. He stated that he will be in attendance along with TA Wilbanks and the attorney(s) for the other side as well. Attorney Bohne asked if Council wanted a representative there. This person will be able to report back to Council. If we can come up with a solution, it will be brought back to Council for their blessing. Mayor Beatty stated that he is available. CM Vail asked if anyone would be volunteering for this. ~~CM Krieger stated that we will be having a meeting with Mr. Connor and then a Council meeting on the 15<sup>th</sup> of this month. Why not meet with Mr. Connor and then decide who should be at the meeting on the 15<sup>th</sup>?~~ CM Krieger stated there is a meeting on the 15<sup>th</sup>; CM Korn stated we have a meeting with Mr. Connor on the 15<sup>th</sup>. DTC Kelley stated that CM Korn has a telephone meeting with Mr. Connor on the 15<sup>th</sup>, the rest of Council has meetings set for the 10<sup>th</sup> of June. CM Krieger stated we have another Council meeting on the 15<sup>th</sup>; why not meet with Mr. Connor as we will have more information, and then choose a person to attend the mediation at the Council meeting on June 15<sup>th</sup>.

Mayor Beatty stated that if we choose a person this evening, Mr. Connor can prepare that person for the mediation meeting. CM Korn stated that the week before is very busy for him but he could go if needed. He volunteered to be the back-up person if Mayor Beatty couldn't make the meeting for any reason.

Attorney Bohne stated that we are not obligated to settle the case; we are obligated to meet and see if this can be resolved. Any offer made will be brought back to Council for discussion and vote.

It is the general consensus of Council to have Mayor Beatty as the representative and CM Korn as the back-up person if Mayor Beatty cannot make the meeting for any reason.

**F. ACTION ITEMS:**

**ORDINANCE: 1<sup>ST</sup> Reading**

**2. Amend Chapter 8 of Malabar Code re: Open Burning – Ordinance 2015-02**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 8 FIRE PREVENTION AND PROTECTION; AMENDING ARTICLE II STANDARDS; AMENDING ARTICLE III, SECTION 8-73(B) RELATING TO BURN PERMITS; AMENDING SECTION 8-83(D) DELETING THE WORD "PROHIBITED"; AMENDING SECTION 8-83 BY DELETING SUB-PARA (e); AMENDING SECTION 8-83 TO ADD "YARD TRASH FIRES" AS PROHIBITED; PROVIDING FOR REPEAL, SEVERABILITY AND INCORPORATION INTO THE CODE OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 2

**Recommendation:** Request Approval of 1<sup>st</sup> reading of Ord 2015-02

Mayor read by title only.

**MOTION: CM Vail / CM Korn moved to approve Ord. 2015-02 as presented.**

Discussion: Mayor Beatty stated that it should be referred to as what the Fire Marshal has down as the permitted use and the Fire Chief has the power to over-ride. He doesn't want to see it as case by case. CM Vail stated that we are giving the ability to burn yard trash as on a case by case basis; it would be inspected by the fire department and blessed if the burn can take place. This would be decided by the Fire Chief or his representative. Mayor Beatty stated that it would be based on the code. Chief Robinson stated that the criteria is already there with the State of Florida. There is no need to change anything. CM Korn stated there are two things that he doesn't see here. What is the procedure for obtaining a permit; a new sign at the fire department that states whether it is a good day to burn or not. Chief Robinson stated that the sign will follow the State of Florida. CM Vail stated that there are many pages that go into the code for Malabar. CM Ball stated that this will be approved as long as it isn't a hazard for burning. CM Vail stated what he's asking is where to you go to obtain a burn permit. Chief Robinson stated they refer people to Town Hall for the paperwork. Attorney Bohne stated that there are regulations and it will be a case by case basis. CM Korn asked if this covers a barrel burn. Chief Robinson stated that a contained fire does not need to have a permit.

CM Krieger stated that we have the ordinance; does Attorney Bohne have the pages with the cross-outs. He wants to make sure they are saying the same thing. CM Krieger stated he wanted the enclosed fires to be mentioned; properly enclosed and protected. He wants people to know what doesn't require a permit as well as what does require a permit. They can't do anything in violation. CM Korn stated he had a suggestion; have an article written by fire personnel and put it in the Mailboat. CM Krieger wants the language in the ordinance. CM Vail stated that we need to get the code fine-tuned and then we can let the public know and educate them.

Attorney Bohne stated that there was a discussion at a previous Council meeting concerning Section 8-83; it discusses what types of burning can be done. Yard trash was moved to 8-83; which can be burned. Household trash was moved to 8-78; which cannot be burned. This is only being done to move things around to the right areas of the ordinance. The TC moved the two items that were being changed. CM Vail stated that the first page covers the burning of household trash, rubber trash and such. It is on the cover page of the ordinance. Attorney Bohne stated that we need to put the word "tires" back into the ordinance. CM Krieger stated that in section 8-80, he sees the words will and shall; he is looking for the word may. We are not touching on this area. CM Krieger stated that we are piece-milling piece-mealing instead of

looking at the whole. Attorney Bohne said let me defend this the best I can because this is the result of what was discussed months and months ago; took the minutes, so if you guys want additional stuff, now would be the time to let us know. CM Krieger stated that if you check the minutes from the previous meeting that this was discussed, he made a few suggestions and they are not here. CM Korn asked CM Krieger if he wants the wording to say “may” instead of shall. CM Korn asked Attorney Bohne if the resident would be charged or not. Attorney Bohne stated that they would be charged as that is how the code is written.

**MOTION: CM Krieger / CM Vail to table this until the minutes are reviewed for the suggestions from CM Krieger. VOTE: All Ayes.**

**MISCELLANEOUS:**

**3. Action on 5/26/15 Workshop Items 1–4.**

**Exhibit:** Agenda Report No 3

**Recommendation: Discussion and Action**

Discussion: Mayor Beatty stated that one of the questions that came up at the workshop was when the applications are received, are they public records. Attorney Bohne stated that they are public records. CM Vail stated that we need to wait until the closing date; once it's closed, then the applications can be reviewed all at the same time. Attorney Bohne stated that Council can give the Committee information as to how to do this. CM Krieger stated that if the applications come in and they are available to staff, he wants them available to him. CM Vail stated that the Committee shouldn't be discussing the applications until after the closing date. CM Krieger stated that we could go a different route and have the applications sent to the attorney. Attorney Bohne stated he is an agent to the Town; they would still be considered as public records. CM Korn asked if they had to be opened. Kelley, Attorney Bohne and CM Vail stated that they have to be opened and date stamped.

In reviewing the ad for the Town Administrator's position, Attorney Bohne stated he didn't know what a bachelor's degree in an appropriate field meant; what is the work relating to? CM Ball stated that we were trying to write the ad so it won't disqualify someone from applying for the position. CM Korn asked if he (Bohne) would feel better with the word “applicable”. CM Krieger stated to list appropriate degrees and education.

Attorney Bohne stated that you are looking for someone with managerial experience. CM Krieger stated why not a have a managerial degree. CM Korn stated management related education, training or experience. Council, after hearing CM Korn's thought, decided to remove bachelor's degree and replace it with the following wording: “Management related education, training or experience”. Upon further discussion, Council removed equivalent combination of training and replaced it with the following wording: “Managerial operations”.

DTC Kelley was having trouble keeping up with the change in wording so CM Vail read the ad, from the beginning, to make sure the correct wording is on record. The following is what was read into the minutes:

**TOWN OF MALABAR  
EMPLOYMENT OPPORTUNITY  
FOR TOWN ADMINISTRATOR ADMINISTRATOR**

Town Administrator – Town of Malabar. (pop. 2,766) Malabar, is located within the Space Coast area, south of Melbourne and has an annual budget of \$1.5 million with 18 full-time and part-time employees. Collaborative management style with people skills is required. Provides daily supervision and direction to all Town Departments. Management related education, training or experience. Minimum of five years' experience in municipal government or

managerial operations. Excellent benefits, salary DOQ. Telephone interviews will be conducted between July 16-19, 2015. Submit resumé with salary history, professional and personal references and cover letter to: Town Clerk, 2725 Malabar Road, Malabar, FL 32950; fax: (321) 722-2234. Open until July 15, 2015. The Town of Malabar is an EOE.

This above is the wording for the ad that will be provided to the Town Clerk tomorrow morning to place the ad in the newspapers and on the various agency websites.

- 1.) Requirements for TA
- 2.) Duties/Responsibilities
- 3.) Wording for Job Posting/Time-frame
- 4.) Create time-line for review process

**MOTION: CM Vail/ CM moved to approve the advertisement for Town Administrator as amended. VOTE: All Ayes.**

Mayor Beatty stated that Mayor Crews has accepted the position to do the phone interviews. It is the consensus of Council to have Mayor Crews and Mayor Beatty complete the phone interviews. Attorney Bohne stated that since this is an action item, a motion would be needed from Council.

**MOTION: CM Krieger / CM Ball moved to assign the task of phone interviews to Mayor Beatty and Mayor Crews. VOTE: All Ayes.**

Attorney Bohne stated that he was not familiar with what items 1-4 on the agenda meant. Kelley advised him that the four items were: Requirements for the TA; Duties/responsibilities; wording for job posting/time frame and create a time-line for review process. After hearing this, Attorney Bohne stated that staff is asking Council to approve the draft time-line that is in the packet. He asked DTC Kelley if this is correct; she stated that it was. CM Vail stated that items 1 through 4 had been addressed in the job advertisement. Attorney Bohne said Council discussed the draft timeline and discussed it at the May 26<sup>th</sup> Workshop; Attorney Bohne suggested Town Council review what is in the package.

The question was raised by CM Krieger that there are two joint workshops in June; he didn't think the second workshop was really outlined as being needed. DTC Kelley asked if she could speak to this; Mayor Beatty stated yes. DTC Kelley stated that the first workshop on June 22<sup>nd</sup> is to meet with the Selection Committee and let them know what you, as Council, expect from them and to start working on the questions for the interview process. The workshop on June 29<sup>th</sup> is to meet and finalize the interview questions with the Selection Committee. DTC Kelley also stated that there is another workshop scheduled for August 10<sup>th</sup>; it's the same night as the SCLC dinner. CM Vail asked if the Selection Committee will be meeting on their own. DTC Kelley stated that it would be up to Council as to what they want to do. It was decided, after much discussion, to leave all scheduled workshops on the calendar; if they aren't needed, they can be cancelled but staff needs to know so we have time to prepare the necessary documents for the meetings and to post them as well.

**MOTION: CM Vail / CM Ball moved to approve the draft time-line. VOTE: All Ayes.**

Motion carried 4 to 0

Attorney Bohne excused at 8:50 pm. Upon realizing he left his keys, Attorney Bohne came back into the building. CM Krieger asked him not to leave as he had a question. It was asked what the procedure is for the contract. Attorney Bohne stated that the contract, once Council agrees with it, will be drawn up. When you have a candidate that you would like to offer the position to, the negotiations will be begin.

Attorney Bohne was excused, again, at 9:05 pm.

#### **RESOLUTIONS: 1**

##### **4. Budget Adjustment – Reso. 11-2015**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2014-2015; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 4

**Recommendation:** Request Approval of Reso 11-2015

Mayor read by title only.

**MOTION: CM Vail / CM Ball moved to approve Reso. 11-2015 as presented.**

CM Vail stated we are taking funds from training to cover operating costs. The training funds have not been used and they are needed to cover these other expenses. CM Krieger asked what operating costs consist of. CM Ball stated he is not comfortable moving funds until he knows what they are for.

**MOTION: CM Korn / CM Krieger moved to table this until next the meeting with more information as to what operating expense are.**

**THESE TWO ITEMS WERE ADDED TO THE AGENDA AT THE TOP OF THE MEETING:**

##### **4A. CITY OF MELBOURNE FOURTH OF JULY FUNDS**

Mayor Beatty advised Council that we made a donation of \$200 last year for the fireworks show that is put on by the City of Melbourne. CM Ball asked why we are doing this. CM Vail stated that, prior to Palm Bay getting so big, people went to Melbourne or were on their boats to see the fireworks show put on by Melbourne. CM Korn stated he is not comfortable with this; we are not Melbourne. Mayor Beatty stated that we gave a donation \$200 last year and nothing the year before. He stated he would have a letter drawn up and signed. CM Krieger stated TA would draft the letter and have Council review it at the next meeting. Mayor Beatty stated that the letter he received was to him from Mayor Meehan of the City of Melbourne. We don't need to jump through hoops; we will respectfully decline with a letter that comes from him.

**MOTION: CM Korn / CM Ball moved to wish them well but not to make a donation.**

**VOTE: All Ayes.** Motion carried 4 to 0.

##### **4B. SALE OF SURPLUS ITEMS**

CM Korn brought this to Council because it would seem that some of us discovered a bid opening that was taking place on Friday; he saw it was posted on the Town's website the night before. He stated that we don't know what we have listed as surplus. He had a conversation with TC Franklin this afternoon stating that Council wanted a list in January and then Council would decide how to dispose of it. He worked it out that a list would be provided to Council.

**MOTION: CM Korn / CM Krieger moved to not have a surplus sale until a comprehensive inventory list is provided to Council.**

Discussion: CM Korn stated that there was a misunderstanding; we hashed this out in January and there was a misunderstanding. We need to take the misunderstanding out of it. CM



Krieger stated he didn't think there was a misunderstanding; apparently members of staff think, with previous Councils, there is a surplus list and they can have an auction. He just came back and heard about it and it was already done. CM Korn stated that it was all over for everyone. CM Krieger asked, with something of this nature, doesn't it need to have a public notice? Mayor Beatty stated that the list of inventory is half of the equation; we need to have a policy, nothing happens until we have both.

CM Korn stated that we need to make a decision tonight; there are five bids on hold for the two items that were on the list. We need to let them know that they can purchase the items or that the auction has been cancelled. As of right now, he (Korn) would say it is cancelled. CM Krieger asked CM Korn to amend his motion to say that there will be no sale until a comprehensive inventory list is provided to determine what is surplus. Mayor Beatty stated that an inventory list and policy is needed; we need both as they go hand in hand. He also stated that as far as the above sale, cancel it.

CM Krieger stated you can't have surplus until you have inventory. CM Korn is asking Council to agree with him to have a list of surplus items at the next Council meeting. Then we will figure out how to dispose of the items. CM Korn wants a list of items that are no longer used by the Town. CM Ball agrees with both CM Korn and CM Krieger. He stated that you have to have an inventory list with a value. It is not decided by staff, it is decided by Council. We should have a list of inventory. We need to have a list of everything. We need to know the items that the Town owns now. Mayor Beatty stated that in January, we determined that we didn't have a policy for surplus items. The TA was going to bring information from Grant Valkaria as to what they do with surplus item. CM Ball stated that we need to have a value on the list; otherwise, you're going to be nickeling/diming staff on staplers, coffee mugs and such. CM Korn asked what Council wants to do with the bid that was going to happen on Friday; we have sealed bids and they were called and told the bid is on hold.

**AMENDED MOTION: CM Korn/ CM Krieger moved to not have a surplus sale until we have a comprehensive inventory list and a policy in place.**

Mayor Beatty stated that the bid that is on hold is now cancelled.

**VOTE: All Ayes.** Motion carried 4 to 0

CM Korn asked if we need to have a time on the list being provided to Council. Mayor Beatty stated he wants to have information on the list of what the item is, how much it was purchased for, when it was purchased and if it is in working condition or not. CM Vail stated that it sounds like we need a workshop. CM Ball stated we need to put a value on the property. The purchase price will be the determining factor. The general consensus of Council for the value is \$300; have the list as soon as possible. CM Ball stated it won't happen in the next two months; Council would like to have a preliminary list by August 14<sup>th</sup>.

**H. PROCLAMATIONS: Flag Day June 14 & National Flag Week June 14-20**

**I. STAFF REPORTS: CLERK** – Free CPR class at Fire Department 6/20/15 at 9 am; call department for more information, if needed.

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

1. Mayor Beatty – nothing at this time
2. Grant Ball – nothing at this time
3. Brian Vail – nothing at this time

4. Don Krieger – permits are good for a certain amount of time with without improvements made; is someone keeping up with this? Mayor Beatty stated Building Official keeps track of that. (NOTE: Building Permit software tracks this information.) Krieger would like to see something to show this information. Ball would like to know how many we have, what's completed, and such.

CM Krieger stated that the P&Z Board had made a recommendation to Council a while ago regarding the franchise agreement with Palm Bay for the water/sewer. This was to be a protection for the citizens of Malabar so they are not made to hook up to sewer when it comes to Malabar. We need to ask the TA if the documentation was ever provided by them; if it was, it needs to go to the attorney for review and a new franchise agreement must be written. This was discussed at a previous meeting and the minutes should be looked at to see what exactly the P&Z Board's recommendation was to Council. CM Korn asked who would be speaking to the TA about this. CM Krieger stated he would make contact with the TA. (NOTE: this was provided to Council by Clerk's office 6/12/15 via email.)

5. Dick Korn – reported to Council that he had a message from the Town Clerk regarding the contract for the new Town Administrator. The contract that was used for the current Town Administrator was the one used for Ed Booth. There was not a thought through contract for the current Town Administrator. The second life insurance policy for the Town Administrator has been taken out; it was an over-sight as it was given to Ed Booth because he was retired military and had excellent health insurance. He also asked if the Town Administrator, being hired with a contract, is considered as a contract employee or as an employee to the Town. Mayor Beatty stated that a person hired by contract is not the same as an employee for the Town. CM Korn urged all of Council to review the contract that was sent by TC Franklin, the one that has the red wording, and make their notes. CM Krieger stated he hadn't seen the contract. CM Korn asked that DTC Kelley put a copy of the draft contract in each of Council's mailbox. DTC Kelley advised Council that this was not included in their packet for tonight's meeting; it was sent under separate cover.

6. Marisa Acquaviva is excused

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

**L. ANNOUNCEMENTS:**

- Two (2) vacancies on the Board of Adjustment
- Three (3) vacancies on the Park and Recreation Board
- One (1) vacancy on the Trails & Greenways Committee
- One (1) vacancy on the Planning & Zoning Board

**M. ADJOURNMENT:**

There being no further business to discuss, Chair asked for a motion.

**MOTION: CM Ball/ CM Korn moved to adjourn. VOTE: All Ayes.** The meeting adjourned at 9:50 PM.

BY: \_\_\_\_\_  
Mayor Carl Beatty, Council Chair

(seal)

TRANSCRIBED BY:

\_\_\_\_\_  
Cynthia D. Kelley, C.M.C.  
Deputy Town Clerk

ATTEST BY:

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

Date Approved: \_\_\_\_\_

DRAFT

**MALABAR TOWN COUNCIL REGULAR MEETING**

**June 15, 2015 7:30 PM**

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

**A. CALL TO ORDER:**

The meeting was called to order at 7:30 pm by Council Chair Mayor Carl Beatty. CM Acquaviva led the prayer and pledge.

**B. ROLL CALL:**

COUNCIL CHAIR:	MAYOR CARL BEATTY
VICE-CHAIR:	MARISA ACQUAVIVA
COUNCIL MEMBERS:	GRANT BALL
	BRIAN VAIL
	DON KRIEGER
	DICK KORN
TOWN ADMINISTRATOR:	BONILYN WILBANKS, excused
TOWN ATTORNEY:	KARL BOHNE (Attendance not required)
TOWN CLERK/TREASURER:	DEBBY FRANKLIN, excused
DEPUTY TOWN CLERK	CYNTHIA KELLEY

For the Record, the Fire Chief Christopher Robinson is also present.

**C. ADDITIONS/DELETIONS/CHANGES:**

**D. MINUTES:**

- Approval of Minutes** Regular Council Minutes – 6/1/15
- Exhibit:** Agenda Report No. 1
- Recommendation:** Request Approval of Minutes

**MOTION: CM Korn/ CM Krieger to approve the minutes of June 1, 2015 as presented.**

Discussion: Ball stated that Vail Item C, 3 paragraphs down, parent should be parents; CM Korn should say it is Sgt. stated that it is very easy to get information; page 2 under attorney report, Mr. Connor then decided who should be at the meeting on the 15<sup>th</sup>; listen to tape for this section. Last paragraph, page 3, at the bottom, CM Krieger stated we are piece milling should be piece-mealing. CM Vail's comment regarding ability to burn yard trash as a case by case basis should state on a case by case basis. Page 4, Town Administrator needs "i" in Title. Krieger, page 8, sewer when it comes should be if it comes. Page 7, very bottom, Krieger stated certain amount of time with should state without.

**WITHDRAW MOTION: CM Korn/CM Krieger.**

**MOTION: CM Vail/CM Krieger to table the minutes.**

CM Acquaviva wanted to know if Council is good with the attorney being out tonight. She was not aware of the attorney not being in attendance tonight. Mayor stated that it is the first reading; if Council does not approve the first reading of the ordinance, it can be placed on the next meeting's agenda. CM Acquaviva asked if the attorney was notified and told not to be here this evening; Mayor Beatty stated that he absolutely was told not to be here tonight. CM Acquaviva asked who told him to tell the attorney not to come tonight; did we vote on this? She wasn't at the last meeting and was surprised when she was told that he wouldn't be here tonight; she has questions for him and the people in the audience may also have questions for him. CM Vail stated that it was his understanding that the attorney would be here at every meeting. Mayor Beatty stated that this was discussed and it was decided that he wasn't needed

for every meeting. Mayor Beatty started to pull up the minutes; CM Acquaviva stated the minutes can be pulled up all day long; she doesn't like that he's not here and this isn't how this has been done in the past. The attorney should be present for every Council meeting.

**MOTION: CM Korn / CM Vail moved to have the attorney here at every Council meeting.**

CM Ball stated that he doesn't have an issue with the workshops. He does have an issue when we have to vote on something. CM Krieger stated we are making a knee jerk reaction; we need to wait until the attorney is present to go over this. CM Acquaviva stated that it needs to be as it has been in the past. CM Vail stated this had been discussed.

CM Korn called for the question

**VOTE: All Ayes with the exception of CM Krieger who voted Nay.** Motion carried 4 to 1 for the attorney to be present at all regularly scheduled Council meetings.

- E. 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.**

Victoria Northrup, Palm Bay Chamber of Commerce, came forward to address Council. She invited everyone to come out to the first Friday by the Bay event; tickets were left on the table in Council Chambers. It is a free event and everyone is welcome; they have activities for all age groups and are bringing in name bands from the Orlando area. CM Vail asked how the first two events went as far as the number of people in attendance. Ms. Northrup stated that the first event had 1000 to 1200 people and the second event had 700 to 900 people; she believes it is the entertainment they are bringing in for the events.

**F. ORAL REPORTS – BOARDS**

**Park Board**-Chair Hans Kemmler came and addressed Council. The Thomas M. Eschenberg Memorial Park is being looked at; need help getting rid of the Brazilian Pepper trees. Gave a brief report on the parks to Council. Only issue is the shade structure for the playground equipment. CM Ball stated that it should be back by now, he will follow up on this. Kemmler asked about the Sand Hill Trail Head ADA restroom grant. He asked for assistance to remove the pepper trees at the Thomas M. Eschenberg Memorial Park. CM Korn asked about the parking for the cyclists; asked about expanding the park where it has been cleared. Kemmler stated the Board is looking at what can be done at the park and they will see about extending the parking area.

**T&G Committee**-Drew Thompson, Chair, came forward and addressed Council. We had a major update from the last meeting. Having a mission for the Trails & Greenways; he read the mission into the record. Added to the mission statement. June 18<sup>th</sup> there will be a meeting at GV and Murray Hann will be present to give an idea of how to connect the two towns together with the trail system. He gave a brief overview of the trails to Council. There is concerns with the ADA restroom; have not seen any activity at the Trail Head and the restroom is supposed to be delivered in June. If this isn't going to happen, the manufacturer should be notified. CM Korn stated that he should speak to TC Franklin about this as she is acting in the TA stead. DTC Kelley asked he had spoken to Morris Smith, the Town's engineer. Thompson stated that he did send an email to Engineer Smith to see what he knows.

CM Acquaviva asked about the signs at Briar Creek; Thompson stated that it is in Public Work's court; the road had been marked for the crossing. CM Acquaviva asked if the TA has been in communication; DTC Kelley stated that she is still in the hospital and may be out tomorrow but isn't sure about this. CM Korn stated that she would not be able to address this at this time;

Thompson should call TC Franklin and express his concerns regarding the ADA restroom delivery.

**G. PRESENTATION: Ike Heckler with Proposed Residential Project  
Code Name YODA**

A 2 minute break was taken to get the presentation ready to show to Council.

Prior to calling Ike Heckler to the podium, Mayor Beatty stated that this was a conceptual presentation only. There would be no discussion as this has not been presented to the P&Z Board for approval.

Ike Heckler came forward and addressed Council. He gave a brief overview of a new concept. This is a ten million dollar project; he's working with City of Palm Bay as well. He is looking to purchase 63 acres on Atz and Weber Roads; the engineer of record for the project will be Jake Weiss. Mr. Heckler stated that he would like to put a sign up; he needs to know what to do to do this. He stated that there will be no zoning change; he likes the 1.5 acre requirement. Copies of all executed paperwork for this project will be provided to the Clerk's office as the project comes together. He also stated that they do not clear cut the land; only cut for the roads, water and sewer, which will be accessible on the east side of Weber Road and will be capped at Atz Road.

Mayor Beatty brought it back into focus; Heckler is doing a sales pitch when this is supposed to be a short presentation of the concept. Heckler apologized and stated that the homes will be sold at a starting price of \$400,000 as they will be 3500 to 6500 square feet in size. They will be putting in a "country club" and making the area very nice and appealing to potential buyers.

CM Korn stated he had some questions; he represents District 4 and what he is proposing is not what people in his district want. He told Heckler that if any signs were put up, he would take them down himself. Heckler interrupted CM Korn and CM Korn told him to shut up and listen to what he was saying as he was speaking at this time.

CM Krieger and CM Vail both called Point of Order. This is a presentation and it is not to be discussed. CM Korn stated that if he can't speak for the people he represents, maybe he shouldn't be on Council. CM Vail stated that this is not what is being said; this has to go before the P&Z Board and steps must be followed.

**MOTION: CM Krieger / CM Vail moved to table.** No more discussion allowed at this time.

CM Krieger asked if item 6 could be moved up before any other business. CM Acquaviva stated that we didn't approve the consent agenda. It is the general consensus of Council to make this change to the agenda.

At this time, item 6 was heard for the TA Selection Committee. See #6 for discussion, motion and vote.

Krieger asked to move item 6 before the other business. Consensus to agree to make the changes.

**H. ACTION ITEMS:**

**RESOLUTIONS: 1**

**2. Budget Adjustment – Reso. 11-2015**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2014-2015; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 2  
**Recommendation:** Request Approval of Reso 11-2015

Mayor read by title only.

**MOTION: CM Vail / CM Krieger to approve Reso 11-2015.**

Discussion: Krieger asked about the additional information; Kelley stated that it was provided on the bottom of the pages.

**ROLL CALL: 1)CM Ball, Aye; CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Acquaviva, Aye.** MOTION carried 5 to 0. Vail stated that information was provided to Council as to the how's and why's of what we do.

**MISCELLANEOUS: 4**

**3. Voting Delegate at FLC Annual Conference**

**Exhibit:** Agenda Report No. 3  
**Recommendation:** Discussion and Action

**MOTION: CM Korn / CM Vail to appoint Mayor Beatty as the Voting Delegate.**

Discussion: none

**VOTE: All Ayes.**

**4. Executive Insurance for Council, Mayor, Administrator and Clerk AD&D**

**Exhibit:** Agenda Report No. 4  
**Recommendation:** Discussion and Action

**MOTION: CM Vail / CM Ball moved to continue the insurance.**

Discussion: Kelley stated that it is a cost of \$320/year for Council for traveling; TA & TC is covered 24 hours. It is general consensus of staff if Council wants to cancel the insurance, it would be fine. After discussing the cost and coverage for the year, Council chose to continue the insurance coverage.

**VOTE: All Ayes.**

**5. Administrator Evaluation**

**Exhibit:** Agenda Report No. 5  
**Recommendation:** Discussion and Action

**MOTION: CM Krieger/CM Ball moved to table this item.**

**6. Appoint Administrator Selection Committee Members**

**Exhibit:** Agenda Report No. 6  
**Recommendation:** Discussion and Action

**MOTION: CM Krieger / CM Acquaviva moved to approve the appointees submitted as part of the Town Administrator Selection Committee.**

Discussion: CM Acquaviva has been out of Town and just got confirmation on her two appointees; Joe Mancini and David Stack from District 4. CM Krieger chose Karlene Conroy and John Seybold from District 3. The first joint workshop meeting will be held at 7:30 on the 22<sup>nd</sup> of June. CM Korn asked if the Council is part of the committee. DTC Kelley stated that

Council is part of the Selection Committee and they will be present for the joint workshops. CM Krieger stated that a motion should be made naming the committee members and provide the information from the first workshop to them so they have the beginnings all the information that Council has.

Mayor Beatty read the names into the records as follows: Bud Ryan and Skip Hard for Mayor Beatty; Hans Kemmler and Liz Ritter for CM Ball; Bob Wilbur and Wayne Abare for CM Vail; Karlene Conroy and John Seybold for CM Krieger; Tom Taylor and Patricia Foster for CM Korn and Joe Mancini and David Stack for CM Acquaviva.

CM Krieger, again stated, the Selection Committee members should have a copy of all the information that was provided to Council at the May 26<sup>th</sup> workshop. CM Acquaviva asked about the applications being available on the 22<sup>nd</sup> for the first workshop. DTC Kelley stated that the applications will not be copied until after the 15<sup>th</sup> of July, when the position bidding closes; they will be given to Mayor Beatty and Mayor Crews so the telephone interviews can be held. Mayor Beatty stated that he and Mayor Crews will work out those details.

CM Korn stated that he made DTC Kelley aware of the ad with the FLC; there seems to be a link missing. It will be told to TC Franklin and it will be addressed. He also asked if we needed to advertise outside of the state. DTC Kelley stated that this did not need to happen. We have advertised the position for 11 days; Wednesdays and Sundays, in Florida Today; it is also on the FLC website and the FCCMA website. We have received 17 applications and they are coming from all over. We have received one from Maryland; one from Indiana and several from Florida and other states as well. There is no need to advertise outside the state of Florida. People interested in this type of position know how to find the job openings.

**VOTE: All Ayes.**

CM Vail asked when the packets for the Selection Committee would be available. DTC Kelley stated that they may be available by Wednesday or Thursday afternoon and of course, by Friday as the drop dead date. CM Krieger asked if the meeting dates are on the website; DTC Kelley stated they are as the calendar is posted on the website with all meeting dates available.

**DISCUSSION ITEMS:**

**7. Chapter 8 of Code re: Open Burning**

**Exhibit:** Agenda Report No. 7

**Recommendation:** Discussion and Direction

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO FIRE PREVENTION AND PROTECTION; AMENDING CHAPTER 8, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR AMENDMENTS RELATED TO BURN PERMITS, YARD TRASH FIRES AND LAND CLEARING FIRES; PROVIDING FOR SEVERABILITY, REPEAL AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

Chair read by title only.

Discussion: CM Krieger stated he didn't see his suggested changes for this ordinance, therefore, he is asking it to be tabled until the attorney is present.

**MOTION: CM Krieger / CM Vail moved to table until attorney is present.**

**8. Off-street Parking Article IX of Land Development Code**

**Exhibit:** Agenda Report No. 8

**Recommendation:** Discussion and Direction

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE IX OF THE LAND DEVELOPMENT CODE



RELATING TO OFF STREET PARKING; PROVIDING FOR COMPUTATION OF PARKING SPACES, ADDING A PROHIBITION OF NON-CONTIGUOUS AND OFF SITE PARKING; PROVIDING FOR OFF STREET LOADING; PROVIDING FOR SURFACING REQUIREMENTS; AMENDING ARTICLE XX PROVIDING FOR DEFINITIONS; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

Chair read by title only.

Discussion: CM Acquaviva stated that the attorney needs to be present to go over this information.

**MOTION: CM Korn / CM Acquaviva moved to table until the attorney is present.**

**H. (con't.) ACTION: ORDINANCE FOR FIRST READING**

**9. Off-street Parking Article IX of Land Development Code**

**Exhibit:** Agenda Report No. 9

**Recommendation:** Request Approval of Ord 2015-05 for 1<sup>st</sup> Reading

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BUILDING CODES; AMENDING CHAPTER 6, SECTION 6-1 OF THE CODE OF ORDINANCES OF THE TOWN; PROVIDING FOR ADOPTION OF CERTAIN MODEL BUILDING AND CONSTRUCTION CODES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.

Mayor read by title only.

**MOTION: CM Korn / CM Ball to approve Ord 2015-05 on 1<sup>st</sup> reading.**

Discussion: CM Krieger asked if the attorney had seen this; DTC Kelley stated yes as he provided the verbiage regarding the saving of money for public hearings and codifications.

**ROLL CALL: 1)CM Ball, Aye; CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Acquaviva, Aye.** MOTION carried 5 to 0.

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

- 1) **Acquaviva**-Atz & Corey Road, the trees, going east, can't see the stop signs, needs to be trimmed. Ball stated on Malabar Road, heading east, can't see the speed limit sign at 30 mph. She did miss the attorney tonight; that's all she will say on this subject.
- 2) **Korn**-nothing at this time
- 3) **Ball**-what's the progress on US 1 at the north end. There have been several incidents; is anyone handling this? People are asking about this. CM Vail stated that GV is making an appeal to DOT; don't know where we are on that. DTC Kelley will check with Debby on this; GV was to bring us something. We have some concerns. Korn stated that DOT has approved changing the continuous light; but they have delayed this pending funding. Should we ask them to expedite this due to safety? CM Korn stated we need an explanation from the State regarding the safety of our residents. Vail stated that we need to get our concerns to FDOT; however we want to do this. CM Korn asked if it would be appropriate to invite FDOT to come and hear our concerns. Krieger researched and this was not in the 5 year plan; he searched the contract # and it wasn't there. The minutes need to be reviewed at the next meeting to see how we came to signing the contract for the light and cross walk on US 1. CM Krieger asked if the Town had paid and received the funds back for the \$22,000 to FPL. DTC Kelley stated that the Town still has the open PO for this; it has not been paid or CM Korn would have

questioned the expense. CM Acquaviva stated to call TC Franklin; this is a safety issue and shouldn't wait until the next meeting.

- 4) **Krieger**-stated that he was given a task to ask the TA about the franchise agreement with Palm Bay regarding the sewer hook-up; he will wait until the TA is present as he doesn't have the letter he sent to her. He asked if DTC Kelley could get it for him; she stepped down and pulled the documents from TC Franklin's office as it was a public records request from CM Krieger. CM Krieger read the letter he sent to TA into the record; he then stated that he didn't get a response. DTC Kelley said "time out"; this information was sent via email to al Council and the Mayor on Friday, June 12<sup>th</sup> by her. If Council didn't get it, she needs to know so she can re-send it in the morning. Everyone, with the exception of CM Acquaviva, stated they didn't receive it. CM Acquaviva stated that this information with all the related minutes were sent to all of us; you need to read the information and see what was provided to you. It states, in the contract, that Palm Bay will not mandate the sewer hook-up unless the State mandates it. Right now, the State is in agreement with Palm Bay. CM Acquaviva stated that the Council worked very hard on this contract and didn't sign anything until all conditions were met and agreed upon. This took several years and Executive Sessions before the agreement was reached by both parties. Dan Roberts from Palm Bay, came and addressed the concerns that were expressed by the P&Z Board to this Council. Palm Bay will not make anyone hook up to the sewer unless it is mandated by the State; any resident who wants to hook up to it must go to Palm Bay and make their request known. Council stated that they will read the information and be ready to discuss this at the next Council meeting. CM Krieger stated that he's been over the contract several times; it doesn't say anything that Palm Bay will not mandate hook-up to the sewer.
- 5) **Vail**-nothing at this time.
- 6) **Beatty**-nothing at this time.

Clerk-asked Council to please start thinking about whether you will be attending the FLC conference in August; it will cost \$1,300 to attend from Wednesday through Saturday night; cost includes registration, room & travel per diem.

The first stage of the interview process for the Fire Lt. position was conducted today; the top three, all very good candidates, will be interviewed by the Fire Chief. The interviews will be held on Wednesday of this week.

The application/resumes received for the Town Administrator's position have come into Town Hall via hand-carried, email, regular mail and faxes; they have been kept in the format that they have been received. There is a total of 17 thus far.

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

**L. ANNOUNCEMENTS:**

- Two (2) vacancies on the Board of Adjustment
- Three (3) vacancies on the Park and Recreation Board
- One (1) vacancy on the Trails & Greenways Committee
- One (1) vacancy on the Planning & Zoning Board

**M. ADJOURNMENT:**

There being no further business to discuss, Chair asked for a motion.

**MOTION: CM Ball / CM Korn to adjourn. VOTE: All Ayes.** The meeting adjourned at 9:30 PM.

BY: \_\_\_\_\_  
Mayor Carl Beatty, Council Chair

(seal)

TRANSCRIBED BY:

\_\_\_\_\_  
Cynthia Kelley, C.M.C.  
Deputy Town Clerk

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

Date Approved: \_\_\_\_\_

DRAFT

## MALABAR TOWN COUNCIL WORKSHOP MEETING

June 22, 2015

7:30 PM

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

### A. CALL TO ORDER:

The meeting was called to order at 7:30 pm by Chair Carl Beatty. P&P were said by Council Member Brian Vail.

### B. COUNCIL:

COUNCIL CHAIR:

MAYOR CARL BEATTY

VICE-CHAIR:

MARISA ACQUAVIVA

COUNCIL MEMBERS:

GRANT BALL

BRIAN VAIL

DON KRIEGER

DICK KORN, *was here and left before meeting was called to order*

COMMITTEE MEMBERS:

BOB WILBUR, *arrived @ 7:33*

JOHN SEYBOLD

DAVID STACK

LIZ RITTER, *excused for vacation*

WAYNE ABARE

BUD RYAN

JOE MANCINI

TOM TAYLOR

KARLENE CONROY

PATRICIA FOSTER

SKIP HARD

HANS KEMMLER

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

DEPUTY TOWN CLERK

CYNTHIA KELLEY

Also present, as a guest, is Mayor Phil Crews.

### C. WORKSHOP ACTION:

#### 1. **Formulate Questions for Interview**

Mayor asked if anyone has any questions. Mayor wanted to add to the agenda. CM Krieger stated the agenda was a one line agenda and he wrote a list of things that needs to be looked at. CM Acquaviva stated that Council did approve the time-line. We are here to discuss and formulate the questions. CM Ball was also under the impression that we are here to discuss the questions.

Mayor Beatty stated that the Selection Committee needs to select a Chair and Vice-Chair; that way they will be separate from Council and they can discuss information outside of the open meetings. He doesn't want Council to be a part of the Selection Committee; they need to be able to discuss information when it comes. He has opted out as being a part of the Selection Committee. CM Vail stated that he is under the impression that this does fall under Sunshine and it's his opinion that we will not be able to discuss outside of the opening meetings. He asked staff to get a legal opinion on this. CM Krieger is in agreement with Mayor Beatty regarding the selection of a Chair and Vice-Chair for the Selection Committee. Mayor Beatty stated that the most important part of the Selection Committee will be to review the applications, rank them and "weed" them out for Council.

Seybold asked what the role of the Selection Committee is. Mayor Beatty stated that the role of the committee is to review the applications and give input to Council about their findings on the applicants. They can Google, and they should, all the applicants and see what information they find. If something comes up that isn't/doesn't look or sound right, the Committee members need to advise Council.

Council will also have the applications to do their homework as well. Mayor Beatty stated that Council has the final pick for the position but the input of the Committee is very valuable.

Ryan asked if all the members of the Committee will receive all the applications. Mayor Beatty stated he asked for copies received so far today via email as a public records request. CM Acquaviva stated she thought they wouldn't be available until after the 15<sup>th</sup> of July. Mayor Beatty stated they are public record and he asked for copies today; we can have them now. Both the Clerk and Deputy Clerk, at the time of the meeting, were not aware of an email sent by the Mayor. Ryan asked if they are to be requested via public records request; Mayor Beatty stated yes.

Abare asked if the Committee is under the Sunshine Law. DTC Kelley stated that yes you all do fall under this. CM Vail stated that Council is a part of this Committee and we cannot talk to anyone about this. His opinion is that until a legal opinion is obtained, we cannot discuss outside the public meetings.

Franklin stated, for the record, that the whole idea behind the Sunshine Law is to be fair and transparent; that is the reason we gave you the information on the Sunshine Law. Kemmler stated to Mayor Beatty that he didn't understand what the meaning of getting with Council outside the public meetings was about; what is the purpose? CM Vail is in agreement with Kemmler; there should be no "behind the scenes" discussions. This should be a Sunshine Committee with Council included. TC Franklin stated that we have to have a fair and transparent process; CM Krieger stated that Council doesn't have to be fair.

Seybold stated that there should be a joint meeting for formulating the questions. The Selection Committee should meet and go through the applications; bring their findings back to Council. Council should then do their own assessment and the two groups meet in the middle. He asked if telephone interviews should be conducted. Mayor Beatty stated this will be handled by himself and Mayor Crews after the applications have been narrowed down. Mayor Crews stated that all discussions must be held in open meetings. You can discuss anything you want about the applications and applicants in the open meeting; just not outside the meetings.

Hard asked if anyone drafted a job description for the Selection Committee. Mayor Beatty stated that this was not done. CM Acquaviva stated that we need to get to the task at hand; the people know why they are here. We were going to work together to form the interview questions. CM Vail stated that he understood it is the task of the Committee to come up with the questions.

Abare asked when the ad for the position went out; the first of June? TC Franklin said it was around the 3<sup>rd</sup> of June. Abare stated we need to see the advertisement so we know what questions to ask of the candidates. TC Franklin stated that it should be in the packet. After reviewing the packet, it was found that it wasn't included. TC Franklin made copies for everyone and passed them out. She stated, for the record, the job description wasn't in packet because it was discussed at the workshop of the 26<sup>th</sup>; it was also discussed at the first of June's meeting; that is why it wasn't in your packet for tonight. Also, the reason you have the current contract and the proposed contract is because a committee member asked for the information; if one gets it, you all get it. TC Franklin was also asked to give the job description for the Town Administrator to each of the Selection Committee members and Council. TC Franklin provided the job description to all present members of Council and TA Selection Committee this evening; Resolution 26-2013.

Conroy stated she has prepared questions; does she need to pass them out to all here this evening? Mayor Beatty stated we could hash them out tonight or we can collect them all and see what we get. Everyone's questions should be considered. CM Vail asked if we need to have a definite number for the questions; this should be done. Mayor Crews stated that the references and background checks should be done later in the process.

Ryan stated he would like to have the applications that are available now. He said he would put it in the form of a public records request. Seybold stated, from the sound of the discussion this evening, we may need to come up with two different sets of questions; questions for the telephone interviews and questions for the face to face interviews. He stated that there are certain qualifications that are showing in the ad. We really should make phone calls before the telephone interviews as some people will be disqualified.

CM Vail asked how much time is needed for the telephone interviews. Mayor Crews stated that a half hour to an hour should be allotted for each. He won't rush through them but he doesn't want to be on the phone all day either. He stated that is why we have the committee; to get the applications sorted out for Council. Abare stated that whatever you do for one applicant must be done for all of them. We have to be fair and neutral in this.

CM Krieger stated that he has issues with the timeline; there is a P&Z meeting on July 15<sup>th</sup>, a Council meeting on the 20<sup>th</sup> of July and the telephone interviews are supposed to be conducted between July 16<sup>th</sup> and July 19<sup>th</sup>. We need to be looking at the applications now. We need to categorize the questions and send them out to the applicants; ask them to complete the form and send back to the Clerk's office so that Mayor Beatty and Mayor Crews have this information for the telephone interviews. Mayor Crews stated that the time for each telephone interview will be dictated by the applicants; it will depend on the answers received from the questions asked. CM Ball stated that the interview process will go both ways; while we are looking to them for information, they should be looking to us for information as well. The telephone interview will also be for the applicants to ask their questions as well. If a person doesn't ask questions back of the Mayors, do we want to hire that person anyway?

Abare stated that he was on the panel of people who did the interviews for the Fire Chief; it was a panel of three people and they did face to face interviews. It was a very good process; it also brings more questions to the table as questions are asked of the applicants.

Mancini asked if the applicant has seen the full job description. TC Franklin stated that this was not part of the links for the job position on the websites. Mancini stated that each person should see the job description because this is very ambitious and you may find that some people, after seeing this, will call and asked to be removed from the process. In doing this, you may save someone from being hired and leaving after three weeks because they didn't have a full understanding of what is being asked of them to do. There are only 8 to 10 categories that we need to make sure we get a person who can do all the jobs; this will also allow for more questions. We need to allow each candidate to give an opening and closing statement; they may hit on something that we didn't even think of. We are all here for a reason and live in Malabar for specific reasons; we are passionate and we need to hear passion in the answers that they provide to our questions.

Taylor asked who would be doing the final checking and how will it be done. You need to be real careful how you get information on the applicants. CM Krieger stated, with this process, there is no real hurry to hire someone.

Ryan stated that we need to be careful and be in the proper sequence of what we are doing; we could be setting a precedence for the future by sending out the questions ahead of time. Also, when checking the applicants, you can find things with Google; check their Facebook page as well and newspaper articles from their home towns. Abare stated that the chance of getting someone who can fulfill all of the areas in the job description is zero. You want to find someone who can do most of them.

Hard stated that the applications received to date may be under-qualified based on the information they have seen. They need to see the full job description. TC Franklin stated that the same information will be sent to each applicant and added to the links for the websites.

Krieger stated, again, that he doesn't agree with the timeline. Get the applications to the Committee members and have them weed them out. We are meeting again next week. Taylor stated we can get the timeline done if we meet and communicate with each other. Abare stated he will re-write the job description to 3 to 4 paragraphs and get it to the Town Clerk to distribute to the applicants and websites.

Taylor asked who is going to do the final checking and how will it be done. You have to be real careful how you get information. Krieger stated that there is no real time frame or hurry to hire an administrator. Head of HR, explain what that means.

Ryan stated we need to be careful and be in proper sequence of what we are doing, could be setting a precedence for the future. Abare stated that chance of getting someone that is proficient in all these areas is zero. You want someone who can do most of them. Hard stated that the applicants we have may be underqualified based on the information that they have seen, they need to see the job description. The same information will be provided to all the applicants and placed on the links to the websites.

Mancini stated that the Selection Committee can look at the same applications with the job description and come up with 10 applicants. At the next meeting, we will get the questions done. Seybold stated, from a legal standpoint, that this is a good idea to have a yardstick to follow.

CM Vail stated that the applicants, looking at the ad, knows that the telephone interviews will be a certain time; they know this and we need to have things in line to get the telephone interviews done in that time frame.

Seybold stated that we need to make provisions for the applicants when they come; the applicants should be taken around the town and shown the different things along with a stop at the fire department. We need to get to the hard-hitting questions based on the job description. He also asked what information would disqualify an applicant. The Committee needs some guidelines on this. He asked if a bad credit score would turn someone away. It was said that information found out needs to be brought to the next meeting and then we can narrow the field down.

After discussion, it was determined to send out the full job description of the Town Administrator to each applicant and the links for the websites. DTC Kelley stated that TC Franklin and herself would be scanning in the applicants' information that has been received thus far in the morning and sending out to Council and the TA Selection Committee Members. CM Krieger asked when this would be done; DTC Kelley stated that it would be done tomorrow morning. Ryan asked if it would be sent to the Committee or if a public records request would need to be filed. TC Franklin stated that he is part of the Committee and a public records request would not be necessary. Ryan stated he was only asking the question.

TC Franklin asked, for the record, if everyone would be calling the applicants references. CM Vail stated that no one should be calling anyone's references. Mayor Crews stated that this will be done when the field is narrowed down to the top few applicants and two chosen people will be taking care of this step of the process. Mayor Beatty stated that the material that the Committee and Council gets will be what is used. Ryan stated that no one should be calling anyone's present employer at all.

As the meeting was coming to a close, CM Vail asked to recap so everyone knows what is to take place between now and next week. Based on the applications received, each Council and Committee member are to put their questions to the Town Clerk by Friday, June 26<sup>th</sup>. The Clerk's office will compile the questions and have them ready for Monday night's meeting on the over-head projector. The Clerk's office will send out soft copies of the applicants' information on Tuesday morning.

Kemmler stated, as written in the job description, that the threshold for termination is spelled out.

At the next joint workshop meeting of June 29<sup>th</sup>, future dates for workshops will also be looked at. Both Mayor Beatty and Mayor Crews will get the phone interviews done in the specified time. TC Franklin suggested another workshop to make sure all timeline items are met. Seybold stated that, when the time comes, emails with phone interview information should be sent to the applicants so they are sure to be available. The next meeting, June 29<sup>th</sup>, will be to focus on the questions for the interviews. If they are on the over-head, we can go through them and vote as to which ones we like and line through the ones we don't want to use.

**D. ADJOURNMENT**

Mayor Beatty, without any further discussion, asked for a motion to adjourn.

**MOTION: CM Acquaviva / CM Vail moved to adjourn the meeting. VOTE: All Ayes.**

This meeting adjourned at 9:20 pm.

BY: \_\_\_\_\_  
Mayor Carl A. Beatty, Council Chair

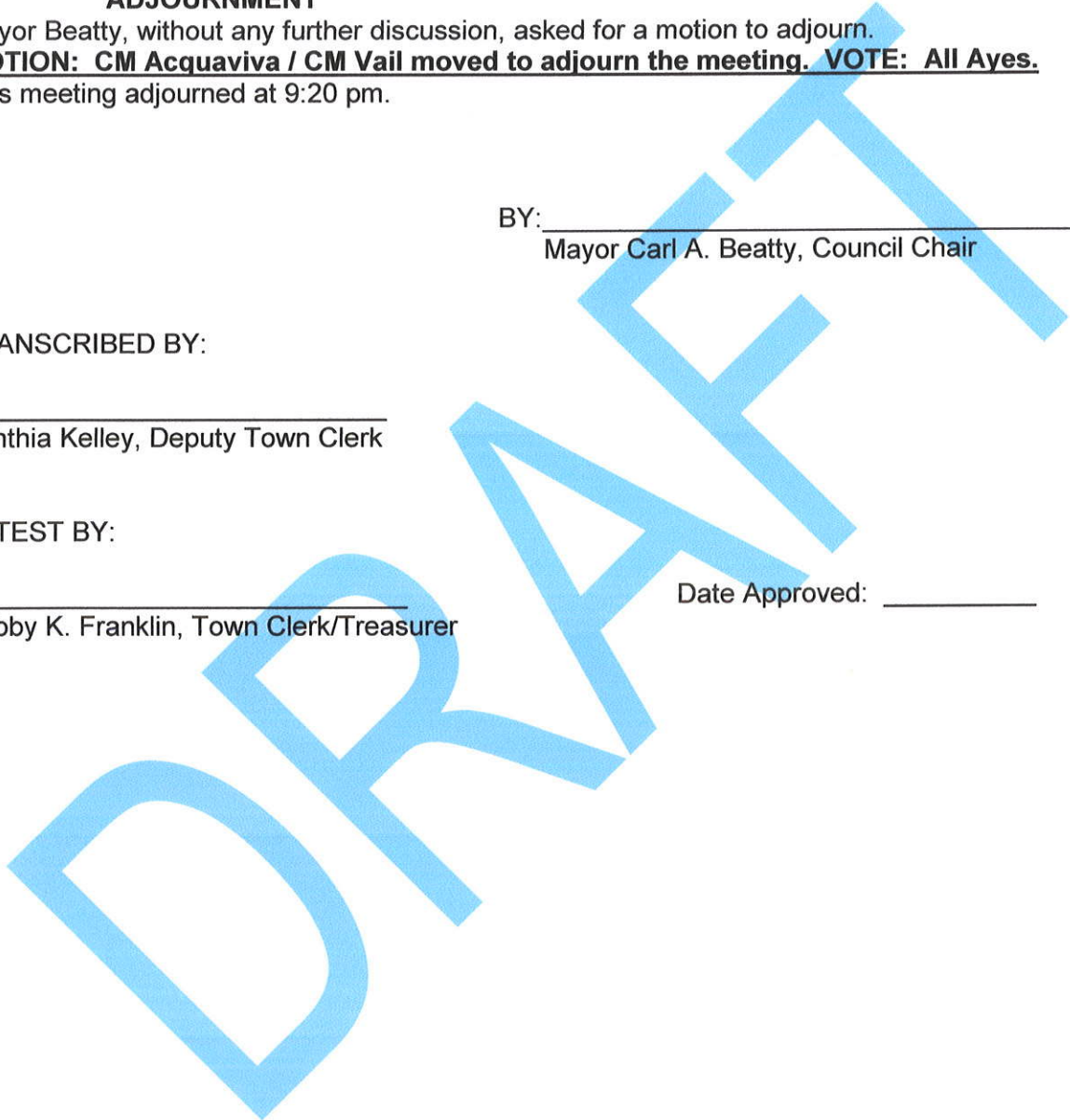
TRANSCRIBED BY:

\_\_\_\_\_  
Cynthia Kelley, Deputy Town Clerk

ATTEST BY:

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

Date Approved: \_\_\_\_\_





**MALABAR TA SELECTION COMMITTEE WORKSHOP MEETING**

**June 29, 2015**

**7:30 PM**

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

**A. CALL TO ORDER:**

The meeting was called to order at 7:33 pm by Chair Carl Beatty. P&P were said by Committee Member Wayne Abare.

**B. COUNCIL:**

COUNCIL CHAIR:

MAYOR CARL BEATTY, *not present*

VICE-CHAIR:

MARISA ACQUAVIVA, *excused*

COUNCIL MEMBERS:

GRANT BALL

ACTING CHAIR:

BRIAN VAIL

DON KRIEGER, *was present and left to see*

*if he could locate the Mayor. He received a call while he was out; could not return to the meeting so he marked excused from the meeting.*

COMMITTEE MEMBERS:

DICK KORN

BOB WILBUR, *excused*

JOHN SEYBOLD

DAVID STACK

LIZ RITTER

WAYNE ABARE

BUD RYAN

JOE MANCINI, *excused*

TOM TAYLOR

KARLENE CONROY

PATRICIA FOSTER

SKIP HARD

HANS KEMMLER

DEBBY FRANKLIN, *excused*

CYNTHIA KELLEY

TOWN CLERK/TREASURER:

DEPUTY TOWN CLERK

**C. WORKSHOP ACTION:**

**1. Finalize Questions for Interview**

Seybold stated he had some questions; CM Vail asked that they be held until the end. Taylor asked about all the duplicate questions; DTC Kelley stated that she put all the questions received from each Committee member. It will be up to the Committee to go through the questions and "weed" them out and re-categorize them if they so choose to do so.

Conroy stated she had a question regarding the health insurance but wasn't sure if it could be asked. She wanted to know, since the Town provides health insurance for the employees, if we could ask an applicant if they are a smoker. CM Korn stated that it is a group insurance policy; DTC Kelley stated that she has never completed any forms regarding health issues regarding the health insurance the Town provides. CM Vail stated that this could be a legal issue and we can't ask that type of question. Conroy also asked about the life insurance policy and if it had been eliminated. DTC Kelley stated the additional insurance policy for the TA had been eliminated; CM Korn asked if they knew the history behind this. DTC Kelley stated she didn't know but he could provide the information if he wanted to. CM Korn stated the additional policy had been provided to the previous TA because he had excellent insurance provided by the US government as retired military. When the contract for the current TA was signed, this policy was inadvertently missed; it has since been removed for the new TA that will be coming on board with the Town.

Kemmler asked how long the interviews would be; how many questions do we need to have in place? Vail stated we need to boil them down to the most 20 to 25 important questions.

Abare stated he wanted to make some general comments prior to going through the questions. When the Council put the ad together for the position, it was very vague. The Committee instructed TC Franklin to send out the full job description to each applicant and to place it on the websites with the ad as well. In doing so, we have changed the job qualifications; we must be fair to all the applicant and review each and every one. The full job description now calls for a BA degree and 9 years' experience in the field. If the applicant doesn't have these qualifications met, they don't meet the job description. He is not saying that the Committee did anything wrong, but we have to play by the new rules. We have a herculean task here to hire a new TA. Abare stated that the current TA is the HR person for the Town; Mayor Beatty stated to choose a Chair and Vice-Chair at the last workshop and that wasn't done. Abare has an idea and would like the committee to vote on it. The person best to help with this process would be TA Wilbanks; she knows the job and the questions that need to be asked of the applicants. He felt she should facilitate these meetings and assist with this process.

Ryan stated that he disagreed with Abare; several people felt the same. CM Vail stated that Abare had the floor and to let him finish his thoughts. Abare stated that he felt she, TA Wilbanks, could do this and he has spoken to her about it. She is in agreement to help if the Committee would like her to. Ritter asked if she could come up with the questions for the Committee. Abare stated that she more than likely could.

CM Korn stated that there is a reason we are meeting this evening. We are here to make a change. There has been several people (residents) that want a change as well. He doesn't think she's qualified to speak for the Town; she doesn't know the Town or the residents. Ritter state that it wouldn't hurt to have her come up with the questions needed for the position. Taylor stated, after 8 years, she's done very little for the last 3 years. We need to get progressive in the hunt for the new TA.

**MOTION: Abare/ moved to have TA Wilbanks facilitate the workshop meetings, not as a voting member, to guide the Committee towards the selection of the new TA.**

MOTION DIES FOR LACK OF A SECOND.

At this time, the Committee started working on the questions. They started with the category of General questions and worked their way through the list. DTC Kelley kept the votes of each question with the Aye/Nay votes.

Ryan received a phone call and stepped out of the Council Chambers at 8:27 pm; he returned to the meeting at 8:36 pm. Ryan left the meeting at 8:40 pm for the evening.

The Committee continued working on the questions. At the end, it was suggested to have another workshop for the Committee to review the remaining questions once more. The date suggested was Tuesday, July 7<sup>th</sup> at 7:30 pm. DTC Kelley asked to speak; stating there is a Council meeting on the 6<sup>th</sup> of July and you want a workshop on the 7<sup>th</sup> as well. With staff out of the office on Friday, the 3<sup>rd</sup>, it will be very hard to get two packages out at one time. Would the Committee think of moving the workshop to the 9<sup>th</sup>? CM Korn stated he would not be able to make the workshop on the 9<sup>th</sup>. DTC Kelley stated that the packet should be out by Tuesday; he could email her with his comments and she would make sure that everyone on the Committee was made aware of his input. DTC Kelley also stated that the Committee needs to be mindful of the calendar as Council will be having budget workshops coming up as well. She is thinking of everyone here this evening but she is also thinking of staff and the time it takes to put the information together for each meeting. It would be most helpful if they could consider the 9<sup>th</sup> for the workshop. It is the general consensus of the Committee to have the workshop on the 9<sup>th</sup>.

Another workshop was set for July 16<sup>th</sup> as well; this workshop will be for the Committee to go through their findings for the applications received. With the telephone interviews being held between 7/16-7/19/15, the Committee needs time to go through them and make their recommendations to Council.

CM Vail stated, with the way the information is coming in and being reviewed, we may need to let the applicants know that the phone interviews may need to be put for a little bit so we aren't rushed into anything.

It was suggested and the general consensus of the Committee to put another workshop for the 21<sup>st</sup> of July on the calendar. If it is needed, the date is already saved and we don't need to "look" for a date that may not be available. There is also a workshop scheduled for the 27<sup>th</sup> of July; this is also on the calendar and will be used only if necessary.

Ritter stated she didn't like the scoring sheets and asked if they could be changed. CM Korn stated he didn't feel comfortable using them and asked where they came from. DTC Kelley stated that they came from the Clerk's office; we were trying to put something together as a helpful tool for the Committee based on conversations and what you were looking for in the applications.

Abare stated, with the time frame, he has placed the out town people at the bottom of the list. It could take some time to put someone from out of town into the position and he stated he is looking at the local people first. CM Korn stated that he intends to bring up at the next Council meeting the interim time that we may not have a TA and who needs to fill that function. Conroy stated that it's in the Code; if the TA isn't here, it is up to Council to take care of the duties. CM Korn stated that Council still needs to address this and assign someone whether it be a staff member or a Council member or someone else.

CM Vail stated that the Committee needs to take their time and get the person that they want for the job. Council needs to have a plan. Seybold stated we need to take some time and not rush into anything. Conroy asked if the Committee will be addressing the contract for the TA. DTC Kelley stated that part of the process is up to Council; CM Vail stated that this is a legal contract and if anyone on the Committee would like to come to the open meetings and express their thoughts or opinions, they may do so.

Hard stated that someone who is local will be more up on what has been going on in and around the Town. CM Vail stated he is in agreement but it will be up to the applicants. Taylor stated that a lot of people have been let go from Palm Bay recently; the question of why you left your prior position should be double underlined. CM Korn stated that some new leaderships want their own people in place. CM Ball stated that we are all saying the same thing; location and history is important as well as qualifications. We need to look at all the aspects of the hiring process.

Conroy asked about some of the applicant's information being blacked out. DTC Kelley stated that those people are or were in the law enforcement, fire-fighting or public health fields and their information is to be redacted by State laws. CM Ball stated when the new TA comes in and if they were one of those people, their information would then be public. DTC Kelley stated that they are exempt for life. CM Korn asked how we are supposed to truly know if they were in those fields. Seybold stated their resumes have their work history listed.

CM Vail stated the phone interviews should be shorter and we should have about 12 people; then from there it should be narrowed down. DTC Kelley stated that when it comes time for the interviews, anyone from out of state will be provided \$450 towards travel expenses and applicants within the state will be provided \$150 towards travel expenses. She stated that this was told to Council and they didn't dispute or change any information; this is what they came up with and it will be provided for this go round of applicants. CM Vail commented on the phone interviews; if we have issues getting 12 to 15 people, we can postpone the interviews due to a turn in the process. Once we boil the applications down, we will postpone so we aren't rushed. We will need to extend the phone interviews. Seybold stated he has a sense that we may be moving too fast; need to work on the questions and get them in line. CM Vail stated to keep the phone interviews to a ½ hour to 45 minutes. CM Korn stated that Mayors Beatty and Crews should have a say in this; don't want to put constraints on them.

Seybold asked the Committee to think about adding a question of "Do you have any questions for us". DTC Kelley stated that was in there and then removed before you saw the list of questions; she added it back into the mix. The question of salary came up; CM Vail stated the ad said DOQ. However, we need to know if they have a figure in mind and aren't willing to take less. Hard stated that you may have someone who needs a job and takes the position. CM Korn stated we have a base salary of \$69,000 with a \$600/month car allowance. Some of the resumes are showing around that much or less. Taylor stated to do away with the phone interviews and use the computer. Conroy stated you can do face-time or skype. She also said we need to keep in mind the size of the town when it comes to the salary. A copy of the contract for Sebastian was sent out; they have a much larger city and citizenship than we do and are paying over \$100,000 in salary and benefits for the City Manager. "What are your salary constraints?" should also be a question that is asked of the applicants as well.

**D. ADJOURNMENT**

CM Vail, without any further discussion, asked for a motion to adjourn.

**MOTION: Foster / CM Ball moved to adjourn the meeting. VOTE: All Ayes.**

This meeting adjourned at 9:17 pm.

BY: \_\_\_\_\_  
 Mayor Carl A. Beatty, Council Chair

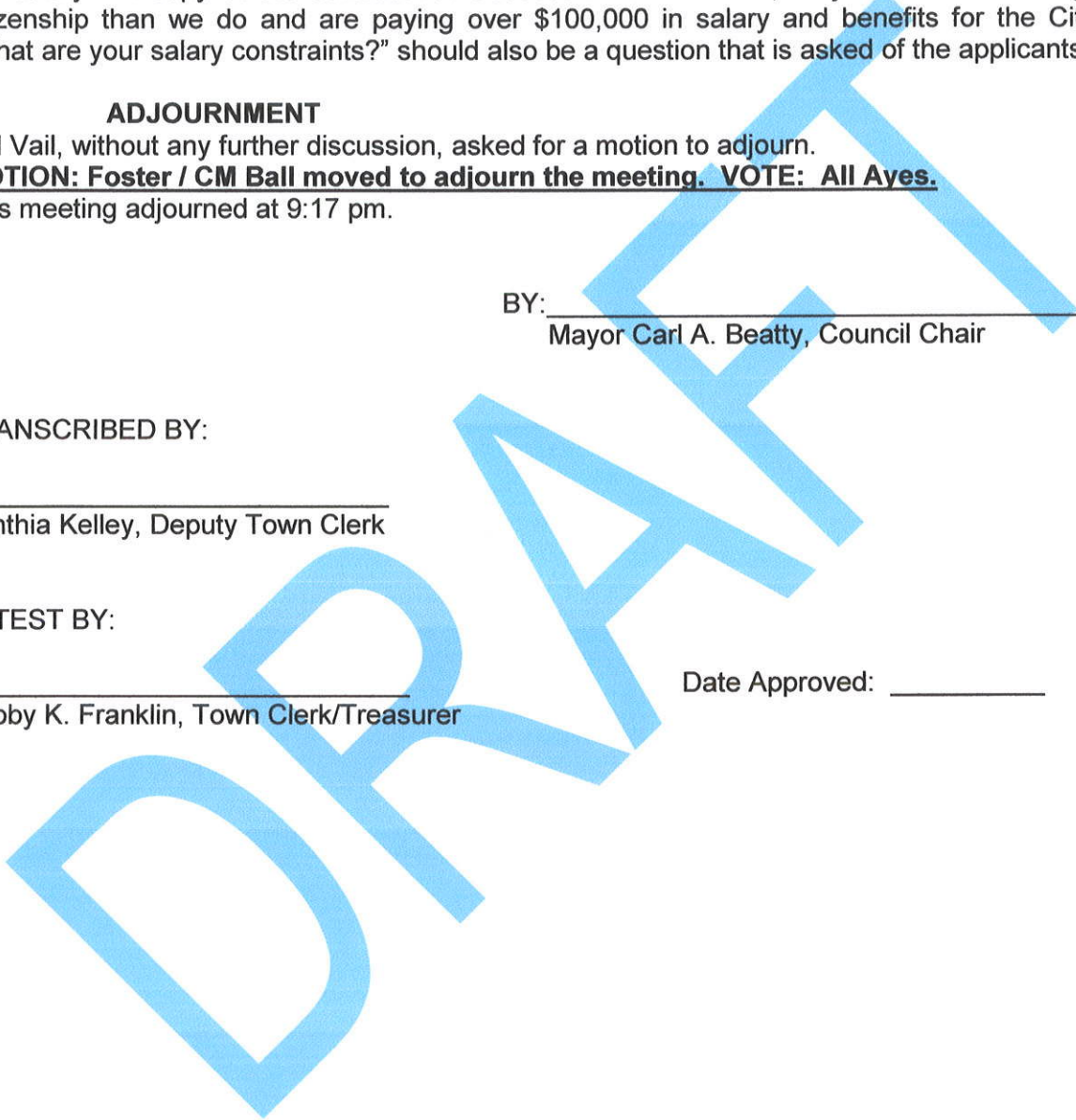
TRANSCRIBED BY:

\_\_\_\_\_  
 Cynthia Kelley, Deputy Town Clerk

ATTEST BY:

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

Date Approved: \_\_\_\_\_



# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 2  
Meeting Date: July 6, 2015

Prepared By: Debby Franklin, CMC, Town Clerk/Treasurer

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**SUBJECT:** Recommendation from P&Z Board re: Off-Street Parking

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### **BACKGROUND/HISTORY:**

Council considered the P&Z Board's recommendation regarding off-street parking and had previously approved the Board's recommendation to require any off-site parking to comply with all proper engineering and approved safety standards. Council sent it back to the P&Z Board with the comments provided by Attorney Bohne.

The Board referenced each point in the memo.

### **ATTACHMENTS:**

Memo from Denine Sherear, P&Z Board Secretary

Email from Attorney

### **ACTION OPTIONS:**

Staff requests Action

# TOWN OF MALABAR

## MEMORANDUM

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**Date:** June 24, 2015 15-AABO-021

**To:** Debby Franklin, Town Clerk/Treasurer  
Town Council

**From:** Denine M. Sherear, Administrative Assistant to the Building official DS

**Ref:** Recommendation from P&Z to Council to Clarify Off-Street Parking & Internal Traffic Circulation Parking (Article IX) & Definitions (Article XX)

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The last meeting that PZ had on 6/24/15 Debby Franklin, Town Clerk/Treasurer provided the Town Attorney Karl Bohne's comments/email suggesting changes to the recommendations that PZ to clarify Off-Street parking.

The PZ Board took each paragraph that Karl Bohne (email dated 6/14/15) did individually:

- 1.) Regarding paragraph one, the consensus of the PZ Board is to use the Attorney's wording for Section 1-9.1 in the Applicability
- 2.) Section 1-9.3 Computation of Parking Spaces #7 Non-Contiguous & Off-Site Parking Spaces are not permitted unless engineer and safety standards are implemented as approved by Building Official.
- 3.) Section 1-9.4 Design & Specification for Parking and Loading Areas 5(C) ...and are not intended for sales. (sales is added to this sentences)
- 4.) Section 1-9.4 Design & Specification for Parking and Loading Areas E (2) after *Porous Surface* Porous surface means any surface, material or technique which allows for the movement of water through it. (Then continue on with present definition).
- 5.) PZ Board approves with suggestions.

The Consensus of the PZ Board is to approve the following as stated above.

## Debby Franklin

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**From:** Karl Bohne <KBohne@fla-lawyers.com>  
**Sent:** Friday, June 12, 2015 9:26 AM  
**To:** Debby Franklin  
**Subject:** RE: ord for discussion offstreet parking  
**Attachments:** Ord 2015-03 Article XX off street parking.docx

1) Not sure I agree with the inclusion of in the best interest of the health, safety, and welfare of the general public in the promotion and preservation of traffic safety as written. All codes and ordinances are designed to promote the health safety and welfare of the public. May be it would be better to say "Parking shall be designed to promote traffic and pedestrian safety..."

2) We define "contiguous" in the definition section. So I assume non-contiguous is anything not contiguous. Also continuing on with that what would be the "proper engineering and approved safety standards" be? Seems like that phrase is ambiguous and is open to a subjective determination as to what the "approved standards" are. May be the Town engineer has some input on these standards.

3) With respect to the section dealing with restricted use, I suggest you include no sales or display of merchandise as a restricted use.

4) The term porous surface is used. That term should be defined. Is the surface to be porous? For instance pavers are not porous but they may provide some water seepage if they are installed in a way to allow seepage. May be we should say ("Porous surface means any surface, material or technique which allows for the movement of water through it.")

5) In the definition section for parking I inserted the word "which" in each type of parking. I did not make any of the changes I suggest above.

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**From:** Debby Franklin [mailto:townclerk@townofmalabar.org]  
**Sent:** Thursday, June 11, 2015 3:00 PM  
**To:** Karl Bohne  
**Subject:** ord for discussion offstreet parking

*Debby K. Franklin, C.M.C.*

Town Clerk/Treasurer  
Town of Malabar  
2725 Malabar Road  
Malabar, FL 32950  
[townclerk@townofmalabar.org](mailto:townclerk@townofmalabar.org)  
321-727-7764 x12  
321-722-2234 Fax  
321-536-5657 Cell  
Town Website: [www.townofmalabar.org](http://www.townofmalabar.org)

*Please Note: Florida has a broad public records law. As a result, any written communication created or received by Town of Malabar officials and employees will be made available to the public and media, upon request, unless otherwise exempt. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this office. Instead, contact our office by phone or in writing.*

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 3  
Meeting Date: July 6, 2015

Prepared By: Debby Franklin, Town Clerk/Treasurer

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**SUBJECT: Consider ILA with Brevard County for CDBG Grant Program**

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**BACKGROUND/HISTORY:**

The County has asked us to join them in this program as the grant funds are determined by population and by including our population with the county's the program gets funded at a little higher level. The County manages the program and qualified residents can apply directly at the County. Municipalities can also apply for infrastructure improvements in a low-income area.

The deadline of June 30, 2015 to return the signed ILA has been extended for Malabar as we got the request on June 15 and the next Council meeting is 7/6/15.

Malabar has participated in this agreement since 1994.

**FINANCIAL IMPACT:**

NONE

**ATTACHMENTS:**

Community Development Block Grant (CDBG) Program letter and ILA

**ACTION OPTIONS:**

Staff requests Action





**Housing & Human Services Department**

2725 Judge Fran Jamieson Way  
Building B, Suite 103  
Viera, Florida 32940

**BOARD OF COUNTY COMMISSIONERS**

June 12, 2015

Mr. Carl Beatty, Mayor  
Town of Malabar  
2725 Malabar Road  
Malabar, FL 32950-4427

Subject: Community Development Block Grant (CDBG) Program  
Urban County Qualification Period FY 2016, 2017, 2018

Dear Mayor Beatty:

As you are aware, your city has been instrumental in Brevard County obtaining and maintaining an "Urban County" designation from the U.S. Department of Housing & Urban Development (HUD). Brevard County has been successful in obtaining CDBG Grant funding. These monies have been used to provide funding for drainage and paving improvements, sidewalks, construction of community centers, housing rehabilitation, demolition/clearance, economic development activities, etc., for low- and moderate-income people within Brevard County's unincorporated and selected incorporated areas, such as your municipality.

By participating in the Urban County Program, the City will also be participating in the County's HOME Program which provides funds to qualified first-time homebuyers, as well as the Replacement Housing Program. This will not preclude your City or the County from applying for funding under the State of Florida's HOME Program. However, by participating in the CDBG Urban County program, your city may not apply for the State's Small Cities CDBG funds from the State of Florida Department of Economic Opportunity.

This year HUD has notified us of additional language (Section 5d) that must be added to your existing agreement. Therefore, a revised agreement is included for review and signature by your municipal official. As required by HUD, if you wish to continue as a partner of the CDBG Cooperative Agreement for fiscal years 2016, 2017, and 2018 please sign and return the attach agreement or if you wish to terminate you must notify HUD in writing and this office. The action you choose must be completed no later than June 30, 2015.



**Housing & Human Services Department**

2725 Judge Fran Jamieson Way  
Building B, Suite 103  
Viera, Florida 32940

**BOARD OF COUNTY COMMISSIONERS**

If you wish to terminate this amended agreement, please be advised that HUD and this office must receive your letter of termination by June 30, 2015. The addresses for termination of the agreement are as follows:

Mr. Gary Causey, C.P.D., Director  
C/o Ms. Floretta Green, C.P.D., Representative  
U. S. Department of Housing and Urban Development  
Jacksonville Area Office  
400 West Bay Street, Suite 1015  
Jacksonville, FL 32202

Mr. Ian Golden, Director  
C/o Ms. Chenita Joiner, CDR, Resource Manager  
Brevard County Housing and Human Services Department  
2725 Judge Fran Jamieson Way  
Building "B" Suite B-103  
Viera, FL 32940

We encourage you to consider continuing to participate in this worthwhile program that improves infrastructure and affordable housing stock throughout Brevard County. Without your cooperation, the County will be unable to expend federal funds in your municipality to assist homeowners and homebuyers or to provide infrastructure improvements. We look forward to working with you again.

Should you have any questions regarding this letter, please contact me at (321) 633-2076.

Sincerely,

Chenita Joiner, Community Development and Resource Manager  
Housing and Human Services Department

c/c: Ms. Floretta Green C.P.D. Representative  
File  
Enclosures

**COMMUNITY DEVELOPMENT BLOCK GRANT  
INTERLOCAL COOPERATION AGREEMENT**

**THIS AGREEMENT** is made and entered into the \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the **TOWN OF MALABAR**, a municipal corporation (hereinafter referred to as “**MUNICIPALITY**”), and **BREVARD COUNTY**, a political subdivision of the State of Florida (hereinafter referred to as “**COUNTY**”).

**WITNESSETH**

**WHEREAS**, the Housing and Community Development Act of 1974, as amended, makes provisions whereby urban counties may enter into cooperation agreements with certain units of local government to undertake or assist in undertaking essential activities pursuant to Community Development Block Grants; and

**WHEREAS**, this Agreement covers both the Community Block Grant Entitlement and the HOME investment Partnership programs; and

**WHEREAS**, it is the desire of the parties to this Agreement that the COUNTY undertake activities to plan and carry out the Community Development Block Grant and HOME Investment Partnership Programs (hereinafter referred to as “HOME”) for the benefit of the residents of Brevard County; and

**WHEREAS**, interlocal agreements of this type are authorized by Part 1, Chapter 163, Florida Statutes, as well as other applicable law.

**NOW, THEREFORE**, the parties hereto do mutually agree as follows:

**SECTION 1. RECITALS**

The above recitals are true and correct and form a material part of this Agreement upon which the parties have relied.

**SECTION 2. COUNTY ADMINISTRATION**

The COUNTY agrees to provide, at no cost to the MUNICIPALITY, the staff, resources, and other services necessary to plan and administer Community Development Block Grant, (hereinafter referred to as “CDBG”), and HOME Investment Partnership Programs.

**SECTION 3. MUTUAL COOPERATION**

The COUNTY and MUNICIPALITY agree to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities, specifically urban renewal and publicly assisted housing.

#### **SECTION 4. PROJECTS FUNDED**

(a) The COUNTY agrees to facilitate, encourage and allow municipal officials and the citizens of the MUNICIPALITY to have the full and open opportunity to submit projects for funding consideration.

(b) The MUNICIPALITY understands and agrees that the COUNTY will have final and ultimate responsibility for selecting activities to be funded through the CDBG Program and for annually filing the Consolidated Action Plan with HUD.

#### **SECTION 5. MUNICIPALITY OBLIGATIONS**

(a) The MUNICIPALITY and the COUNTY agree that pursuant to the provisions of Title 24, Code of Federal Regulations, including, but not limited to, Section 570.501(b), the MUNICIPALITY is subject to the same requirements applicable to sub-recipients, including but not limited to, the requirement for a written agreement set forth in Title 24, Code of Federal Regulations, Section 570.503.

(b) The MUNICIPALITY may not apply for grants under the Small Cities or State CDBG Programs from appropriations for fiscal years during the period in which it is participating in the Urban County Program.

(c) The MUNICIPALITY may not participate in a HOME consortium except through the Urban County Program, regardless of whether the Urban County Program receives a HOME formula allocation. By participating in the Urban County Program, the MUNICIPALITY will also be participating in the COUNTY's HOME program; however, this will not preclude the MUNICIPALITY from applying for funding under the State of Florida's HOME Program.

(d) The MUNICIPALITY and the COUNTY pursuant to the Consolidated and Further Continuing Appropriations Act of 2015, Publication L 113-235, may not sell, trade, or otherwise transfer all or any portion of such funds to a metropolitan city, urban county, unit of local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under Title I of the Housing and Community Development Act of 1974, as amended.

#### **SECTION 6. GRANT OF AUTHORITY AND TERM OF AGREEMENT**

(a) This Agreement covers CDBG and HOME appropriations for fiscal years 2016, 2017, and 2018; starting October 1, 2015 through September 30, 2018. This Agreement remains in effect until the CDBG and HOME funds and program income received with respect to funding for fiscal years 2016, 2017, and 2018 and successive three year qualification periods, are expended and the funded activities completed. The COUNTY and the MUNICIPALITY may not terminate or withdraw from the Agreement while the Agreement remains in effect.

(b) This Agreement will automatically be renewed for participation in successive three-year qualification periods, unless the COUNTY or the MUNICIPALITY provides written notice it elects not to participate in a new qualification period. The COUNTY will notify the MUNICIPALITY in writing of its right to make such election by the date specified in the next urban county qualification notice.

(c) Failure by either party to adopt an amendment to the Agreement incorporating all changes necessary to meet the requirements for cooperation agreements set forth in the Urban County Qualification Notice applicable for a subsequent three-year urban qualification period, and to submit the amendment to HUD as provided in the Urban County Qualification Notice, will void the automatic renewal of such qualification period.

## **SECTION 7. PERFORMANCE OF SERVICES/CONTRACTS**

(a) As to the use of the CDBG and HOME funds received by the COUNTY, the COUNTY may either carry out the CDBG and HOME Programs for the MUNICIPALITY or, in the event that the parties jointly determine that it is feasible for the MUNICIPALITY to perform any services in connection with the CDBG and HOME Programs, the COUNTY may contract with the MUNICIPALITY for the performance of such services.

(b) Any contracts entered in to pursuant to Section 7(a) above shall contain provisions which obligate the MUNICIPALITY to undertake all necessary actions to carry out the CDBG Program, HOME Program, and the Consolidated Plan, where applicable; within a specified time frame and in accordance with the requirements of Title 1 of the Housing and Community Development Act of 1974, as amended, and any and all other applicable laws and implementing regulations.

(c) The MUNICIPALITY agrees to undertake and accomplish all necessary actions, as determined by the County, in order to carry out the CDBG Program, the HOME Program, and the Consolidated Plan, for the purposes of complying with the law.

## **SECTION 8. APPLICABLE LAWS/COMPLIANCE**

(a) The MUNICIPALITY and the COUNTY agree to take all required actions to comply with the COUNTY'S certification required by Section 104(b) of Title 1 of the Housing and Community Development Act of 1974, as amended, including but not limited to, Title VI of Civil Rights Acts of 1964, The Fair Housing Act, Section 109 of Title 1 of the Housing and Community Development Act of 1974, The Americans with Disabilities Act of 1990 and all other applicable laws, rules and regulations. The MUNICIPALITY agrees to comply with all auditing requirements imposed by law, rule, regulation or the COUNTY.

(b) The MUNICIPALITY acknowledges and understands that noncompliance by the MUNICIPALITY with all applicable provisions of laws, rules or regulations may constitute

noncompliance by the entire Urban County Program and the COUNTY as the grantee and the MUNICIPALITY assumes responsibility therefore.

#### **SECTION 9. FAIR HOUSING**

The MUNICIPALITY acknowledges that the COUNTY will prohibit urban county funding for activities in, or in support of the MUNICIPALITY, if the MUNICIPALITY does not affirmatively further fair housing within the MUNICIPALITY'S jurisdiction and/or if the MUNICIPALITY impedes the COUNTY'S actions to comply with its fair housing certification.

#### **SECTION 10. LAW ENFORCEMENT**

The MUNICIPALITY has adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations. Furthermore, the MUNICIPALITY has adopted and is enforcing a policy of enforcing applicable state and local laws against physically barring entrance to, or exit from, a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction. In furtherance of this provision, specifically, and all other provisions of this Agreement, generally, the MUNICIPALITY agrees to indemnify and hold the COUNTY harmless to the fullest extent provided by the law.

#### **SECTION 11. STATUS OF MUNICIPALITY**

Pursuant to 24 CFR 570.501(b), as well as all other applicable law, the MUNICIPALITY agrees that it is, at a minimum, subject to the same requirements applicable to grantee sub-recipients.

#### **SECTION 12. REAL PROPERTY**

The MUNICIPALITY and the COUNTY agree with the following standards regarding real property acquired or improved in whole or in part using the CDBG funds:

(a) The MUNICIPALITY shall notify the COUNTY, in a timely manner, of any modification or change in the use of real property from that intended at the time of the acquisition or improvement including disposition thereof.

(b) The MUNICIPALITY shall reimburse the COUNTY in an amount equal to the current fair market value (less any portion thereof attributable to expenditure of non-CDBG funds) of property acquired or improved with CDBG funds that is disposed of or transferred for use incongruent with CDBG regulations.

(c) In the event of the COUNTY'S failure to qualify as an urban county or a change in status of the MUNICIPALITY, any program income generated from the disposition or transfer of property shall be paid to the COUNTY.

**SECTION 13. EFFECTIVE DATE**

This Agreement shall take effect upon execution of the Agreement by the parties.

**SECTION 14. COUNTERPARTS**

This Agreement may be executed in counterparts each of which shall be deemed an original.

**IN WITNESS WHEREOF**, the **MUNICIPALITY** and the **COUNTY** do hereby authorize and have executed this Agreement as the date first hereinbefore written.

ATTEST:  
COUNTY OF BREVARD

TOWN OF MALABAR

BY: \_\_\_\_\_  
CITY CLERK

BY: \_\_\_\_\_  
CITY MAYOR

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

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BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Scott Ellis, Clerk of Courts

\_\_\_\_\_  
Robin Fisher, Chairman

AS APPROVED BY THE BOARD

ON: \_\_\_\_\_

The terms and provisions of this Agreement are fully authorized under State and local Law. This Agreement provides full legal authority for Brevard County to undertake, or assist in undertaking, essential community development and housing assistance activities, specifically urban renewal and publicly-assisted housing.

\_\_\_\_\_  
Scott Knox, County Attorney

Date

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COMMUNITY DEVELOPMENT BLOCK GRANT  
INTERLOCAL COOPERATION AGREEMENT

THIS AGREEMENT is made and entered into the 7<sup>th</sup> day of June, 1994, by and between the Town of Malabar, a municipal corporation (hereinafter referred to as "MUNICIPALITY"), and BREVARD COUNTY, a political subdivision of the State of Florida (hereinafter referred to as "COUNTY").

WITNESSETH

WHEREAS, the Housing and Community Development Act of 1974, as amended, makes provisions whereby urban counties may enter into cooperation agreements with certain units of local government to undertake or assist in undertaking essential activities pursuant to Community Development Block Grants; and

WHEREAS, this Agreement covers both the Community Development Block Grant Entitlement and the HOME Investment Partnership programs; and

WHEREAS, it is the desire of the parties to this Agreement that the COUNTY undertake activities to plan and carry out the Community Development Block Grant and the HOME Investment Partnership Programs (hereinafter referred to as "HOME") for the benefit of the residents of Brevard County; and

WHEREAS, interlocal agreements of this type are specifically authorized by Part 1, Chapter 163, Florida Statutes, as well as other applicable law.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

COPY

## SECTION 1. RECITALS

The above recitals are true and correct and form a material part of this Agreement upon which the parties have relied.

## SECTION 2. COUNTY ADMINISTRATION

The COUNTY agrees to provide, at no cost to the MUNICIPALITY, the staff, resources, and other services necessary to plan and administer Community Development Block Grant, hereinafter "CDBG", and HOME.

## SECTION 3. MUTUAL COOPERATION

The COUNTY and the MUNICIPALITY agree to cooperate to undertake or assist in undertaking community renewal and lower income housing assistance activities; specifically urban renewal and publicly-assisted housing.

## SECTION 4. PROJECTS FUNDED

(a) The COUNTY agrees to facilitate, encourage and allow municipal officials and the citizens of the MUNICIPALITY to have the full and open opportunity to submit projects for funding consideration.

(b) The MUNICIPALITY understands and agrees that the COUNTY will have final and ultimate responsibility for selecting activities to be funded through the CDBG Program and for annually filing Final statements with HUD.

## SECTION 5. MUNICIPALITY OBLIGATIONS

(a) The MUNICIPALITY and the COUNTY agree that pursuant to the provisions of Title 24, Code of Federal Regulations, including, but not limited to, Section 570.501(b), the MUNICIPALITY is subject to the same requirements applicable to subrecipients, including but not limited to, the requirement for a

written agreement set forth in Title 24, Code of Federal Regulations, Section 570.503.

(b) The MUNICIPALITY may not apply for grants under the Small Cities or State CDBG Programs from appropriations for fiscal years during the period in which it is participating in the Urban County Program.

(c) The MUNICIPALITY may not participate in a HOME consortium except through the urban county, regardless of whether the urban county receives a HOME formula allocation.

#### SECTION 6. GRANT OF AUTHORITY

(a) This Agreement covers CDBG and HOME appropriations for fiscal years 1995, 1996 and 1997; starting October 1, 1994 through September 30, 1997. This Agreement remains in effect until the CDBG and HOME funds and income received with respect to the three-year qualification period and successive qualification periods, are expended and the funded activities completed. The COUNTY and the MUNICIPALITY may not terminate or withdraw from the Agreement while the Agreement remains in effect.

(b) This Agreement will automatically be renewed for participation in successive three-year qualification periods, unless the COUNTY or the MUNICIPALITY provides written notice it elects not to participate in a new qualification period. The COUNTY will notify the MUNICIPALITY in writing of its right to make such election by the date specified in the next urban county qualification notice.

(c) Failure by either party to adopt an amendment to the Agreement incorporating all changes necessary to meet the requirements for cooperation agreements set forth in the Urban County Qualification Notice applicable for a

subsequent three-year urban qualification period, and to submit the amendment to HUD as provided in the Urban County Qualification Notice, will void the automatic renewal of such qualification period.

#### **SECTION 7. PERFORMANCE OF SERVICES/CONTRACTS**

(a) As to the use of the CDBG and HOME funds received by the COUNTY, the COUNTY may either carry out the CDBG and HOME Programs for the MUNICIPALITY or, in the event that the parties jointly determine that it is feasible for the MUNICIPALITY to perform any services in connection with the CDBG and HOME Programs, the COUNTY may contract with the MUNICIPALITY for the performance of such services.

(b) Any contracts entered into pursuant to Section 7 (a) above shall contain provisions which obligate the MUNICIPALITY to undertake all necessary actions to carry out the CDBG, HOME Program and Comprehensive Housing Affordability Strategy Plan, where applicable; within a specified time frame and in accordance with the requirements of Title I of the Housing and Community Development Act of 1974, as amended, and any and all other applicable laws and implementing regulations.

(c) The MUNICIPALITY agrees to undertake and accomplish all necessary actions, as determined by the County, in order to carry out the Community Development Block Grant Program, the HOME Program, and the Comprehensive Housing Affordability Strategy.

#### **SECTION 8. APPLICABLE LAWS/COMPLIANCE**

(a) The MUNICIPALITY and the COUNTY agree to take all required actions to comply with the COUNTY'S certification required by Section 104(b) of Title I of

the Housing and Community Development Act of 1974, as amended, including but not limited to, Title VI of the Civil Rights Acts of 1964, the Fair Housing Act, Section 109 of Title I of the Housing and Community Development Act of 1974, The Americans with Disabilities Act of 1990 and all other applicable laws, rules and regulations. The MUNICIPALITY agrees to comply with all auditing requirements imposed by law, rule, regulation or the COUNTY.

(b) The MUNICIPALITY acknowledges and understands that noncompliance by the MUNICIPALITY with all applicable provisions of laws, rules or regulations may constitute noncompliance by the entire urban county program and the COUNTY as the grantee and the MUNICIPALITY assume responsibility therefore.

#### SECTION 9. FAIR HOUSING

The MUNICIPALITY acknowledges that the COUNTY will prohibit urban county funding for activities in or in support of the MUNICIPALITY if the MUNICIPALITY does not affirmatively further fair housing within the MUNICIPALITY'S jurisdiction and/or if the MUNICIPALITY impedes the COUNTY'S actions to comply with its fair housing certification.

#### SECTION 10. LAW ENFORCEMENT

The MUNICIPALITY has adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations. Furthermore, the MUNICIPALITY has adopted and is enforcing a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within

its jurisdiction. In furtherance of this provision, specifically, and all other provisions of this Agreement, generally, the MUNICIPALITY agrees to indemnify and hold the COUNTY harmless to the fullest extent provided by law.

#### SECTION 11. STATUS OF MUNICIPALITY

Pursuant to 24 CFR 570.501(b), as well as all other applicable law, the MUNICIPALITY agrees that it is, at a minimum, subject to the same requirements applicable to grantee subrecipients.

#### SECTION 12. REAL PROPERTY

The MUNICIPALITY and the COUNTY agree with the following standards regarding real property acquired or improved in whole or in part using the Community Development Block Grant funds:

(a) The MUNICIPALITY shall notify the COUNTY, in a timely manner, of any modification or change in the use of real property from that intended at the time of the acquisition or improvement including disposition thereof.

(b) The MUNICIPALITY shall reimburse the COUNTY in an amount equal to the current fair market value (less any portion thereof attributable to expenditure of non-Community Development Block Grant funds) of property acquired or improved with Community Development funds that is disposed of or transferred for use incongruent with Community Development Grant regulations.

(c) In the event of the COUNTY'S failure to qualify as an urban county or a change in status of the MUNICIPALITY, any program income generated from the disposition or transfer of property shall be paid to the COUNTY.

#### SECTION 13. EFFECTIVE DATE

This Agreement shall take effect upon the execution of the Agreement by the parties.

**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 4**  
**Meeting Date: July 6, 2015**

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

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**SUBJECT: Appointment of Interim Administrator (CM Korn)**

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**BACKGROUND/HISTORY:**

CM Korn asked that this item be on the agenda for discussion. If a person has not been selected by August 19, 2015 he would like Council to discuss the appointment of an interim Administrator.

**FINANCIAL IMPACT:**

Unknown

**ATTACHMENTS:**

None

**ACTION OPTIONS:**

Discussion