

**TOWN OF MALABAR
TOWN COUNCIL MEETING
MONDAY AUGUST 24, 2015
7:00PM – Executive (Closed) Council Meeting
7:30PM Reconvene Regular Meeting
2725 MALABAR ROAD
MALABAR, FLORIDA**

AGENDA

A. CALL TO ORDER, PRAYER AND PLEDGE

B. ROLL CALL

C. RECESS FOR CLOSED ATTORNEY-CLIENT SESSION

Pursuant to Florida Statute 286.011(8), the Town Council will hold a private attorney-client session, **which will not be open to the public**, with the Town Attorney, Karl W. Bohne and outside Attorney John Conner to discuss pending settlement agreement in the PAINTED ACRE PARTERSHIP, LLP & TWILIGHT ZONE PROPERTIES, LLC, and DONALD E. FOLEY, Plaintiff vs. Town of Malabar, Case No. 12-CA-49753, filed in the Circuit Court of the Eighteenth Judicial Circuit, in and for Brevard County, Florida. The following persons will be present at said meeting:

Council Chair:	Mayor Carl A. Beatty
Council Vice-Chair:	Marisa Acquaviva
Council Member:	Grant Ball
Council Member:	Brian Vail
Council Member:	Don Krieger
Council Member:	Dick Korn
Town Attorney:	Karl W. Bohne, Jr.
Certified Court Reporter:	King Reporting Service

A verbatim transcript of this meeting shall be transcribed by King Reporting. The transcript will be filed with the Town Clerk and open to the public for inspection **after** the conclusion of the litigation.

Reopen and announce termination of Closed Session

D. ADDITIONS/DELETIONS/CHANGES:

- Approval of Minutes** Regular Council Minutes – 7/20/15 as clarified
TA Sel Com WS Minutes 7/27/15 w/ verbatim
Regular Council Minutes 8/03/15
TA Sel Com WS Minutes – 8/10/15
Special Council Minutes – 8/10/15
TC Budget WS Minutes – 8/11/15
Exhibit: Agenda Report No. 1
Recommendation: Request Approval of Minutes

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.**

F. PUBLIC HEARINGS: 3

2. RESOLUTION 15-2015 A RESOLUTION OF THE TOWN OF MALABAR, VACATING THE UNIMPROVED PUBLIC RIGHT OF WAY KNOWN AS JOHNSTON AVENUE EAST OF THE UNIMPROVED RIGHT OF WAY KNOWN AS JENNIE STREET TO THE FURTHEST POINT OF APPLICANTS PARCEL 18; AND PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2
Recommendation: Approval of Reso 15-2015

3. RESOLUTION 14-2015 A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING AN ANNUAL BUDGET FOR THE TOWNS STORMWATER UTILITY; PROVIDING CERTIFICATION OF ANNUAL STORMWATER UTILITY ASSESSMENT; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 3
Recommendation: Approval of Reso 14-2015

4. SECOND READING AND PUBLIC HEARING OF ORDINANCE 2015-03 AN ORDINANCE 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 DEFINITION; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 4
Recommendation: Approval of 2nd Reading of Ord 2015-03

G. ACTION ITEMS:

ORDINANCES FOR 1ST READING: 1

5. 1st READING OF ORDINANCE 2015-06 AN ORDINANCE OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE XIX OF THE LAND DEVELOPMENT CODE RELATING TO SIGNAGE REQUIREMENTS AS A RESULT OF RECENT SUPREME COURT RULING; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 5
Recommendation: Approval of 1st Reading of Ord 2015-06

RESOLUTIONS: 2

6. RESOLUTION 16-2015 A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, APPOINTING TOM TAYLOR AS A REGULAR MEMBER FOR A THREE YEAR TERM TO FILL THE OPENING ON THE VOLUNTEER ADVISORY BOARD FOR PARKS AND RECREATION AND PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 6
Recommendation: Approval of Reso 16-2015

7. RESOLUTION 17-2015 A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING AND SUPPORTING MALABAR DESIGNATED PORTION OF THE SPACE COAST LOCAL MITIGATION STRATEGY AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 7
Recommendation: Approval of Reso 17-2015

8. RESOLUTION 18-2015 A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, APPROVING AN ILA WITH BREVARD COUNTY E-911 DIVISION AT NO COST TO THE TOWN; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 8
Recommendation: Approval of Reso 18-2015

9. RESOLUTION 19-2015 A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, APPROVING A ONE-YEAR EXTENSION TO THE ILA WITH BREVARD COUNTY FOR STORMWATER MANAGEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 9
Recommendation: Approval of Reso 19-2015

MISCELLANEOUS:

10. Consider Mediation Agreement Discussed at Executive Session

Exhibit: Agenda Report No.10
Recommendation: Discussion and Action

11. Council to Qualify Candidates for District 4 & 5 for the 2015-2017 term

Exhibit: Agenda Report No. 11
Recommendation: Qualify Candidate

12. Performance Review of Clerk/Treasurer Franklin

Exhibit: Agenda Report No. 12
Recommendation: Discussion and Action

13. Consider TA Sel Committee Rankings and Approve Candidates to invite for Face to Face Interviews.

Exhibit: Agenda Report No.13
Recommendation: Discussion and Action

14. Consider Approval of Consultant Agreement to Present to Bonilyn Wilbanks

Exhibit: Agenda Report No. 14
Recommendation: Discussion and Action

H. DISCUSSION/POSSIBLE ACTION:

15. Consider Appointing a Malabar Rep to the County Charter Review Committee.

Exhibit: Agenda Report No. 15
Recommendation: Discussion and Direction

16. Discuss Hostile Work Environment re: Town Hall Staff being Harassed

Exhibit: Agenda Report No. 16
Recommendation: Discussion and Direction

I. STAFF REPORTS

J. REPORTS – MAYOR AND COUNCIL MEMBERS

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

L. ANNOUNCEMENTS:

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

M. ADJOURNMENT:

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to insure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105). The Town does not provide this service. In compliance with F.S. 86.26 and the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 1
Meeting Date: August 24, 2015

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

SUBJECT: Approval of Minutes

BACKGROUND/HISTORY:

Attached are the summary minutes for the following meetings:

- Regular Town Council Meeting – 7/20/2015, as clarified
- Regular Town Council Meeting – 8/03/2015
- Special Town Council Meeting – 8/10/2015
- Budget Workshop Meeting – 8/11/15
- TA Sel Committee Workshop Meetings – 8/10/15 & 7/27/15 (w/ verbatim)

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Draft Minutes of the following meeting:

- Regular Town Council Meeting – 7/20/2015, as clarified
- Regular Town Council Meeting – 8/03/2015
- Special Town Council Meeting – 8/10/2015
- Budget Workshop Meeting – 8/11/15
- TA Sel Committee Workshop Meetings – 8/10/15 & 7/27/15 (w/ verbatim)

ACTION OPTIONS:

The Town Clerk requests approval of the minutes.

MALABAR TOWN COUNCIL REGULAR MEETING

July 20, 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 Vice-Chair Acquaviva. CM Vail led the prayer and pledge.

B. ROLL CALL:

COUNCIL CHAIR:	MAYOR CARL BEATTY, excused
VICE-CHAIR:	MARISA ACQUAVIVA, Chaired Mtg
COUNCIL MEMBERS:	GRANT BALL
	BRIAN VAIL
	DON KRIEGER
	DICK KORN
TOWN ADMINISTRATOR:	BONILYN WILBANKS
TOWN ATTORNEY:	KARL BOHNE
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

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

C. ADDITIONS/DELETIONS/CHANGES – CM Krieger asked that he would like to keep

1.7. tabled. TA asked to pull #3. No objections.

- Approval of Minutes** Regular Council Mtg Minutes 7/6/15
TA Selection Workshop Minutes 7/9/15

Exhibit: Agenda Report No. 1
Recommendation: Request Approval of Minutes

MOTION: CM Vail / CM Krieger moved to approve the minutes from July 6, 2015 RTCM as corrected. Discussion: CM Krieger stated he did not say "he will get more info re: burn ord" in minutes; he said he was waiting for more info from legal. Clerk will check recording. (Note: Clerk listened to the recording and the comment CM Krieger referred to related to appointment of interim TA. Minutes have been clarified.) CM Korn said on pg 4 sb corridor re: speed on E-W state roads. Korn said SR514 is only east-west corridor that has 55 mph in Brevard County. Attorney Bohne said SR520 is 65. Attorney Bohne said maybe if you said east of I-95. CM Korn agreed. He got his info from a BCSO Deputy.

VOTE: All Ayes.

MOTION: CM Ball / CM Vail moved to approve the TA Sel Workshop minutes from July 9, 2015 as presented.

Discussion: CM Krieger asked if the committee minutes should be approved by the committee, not the council. Council doesn't approve the P&Z minutes. He did not get the 7/9/15 minutes. Franklin said all got the same package both in paper and electronically. Other Council Members confirmed they all had received the minutes. CM Krieger realized he had overlooked them in his package. Franklin said that they are not a standalone board like Park or P&Z; they are a committee appointed to be "part" of the committee that Council was on; it is appropriate for Council to approve the minutes. The committee will get copies of the approved minutes before the next meeting. CM Krieger questioned the 7/14 and 7/16 minutes mentioned on the agenda Report; Franklin said she was hopeful to have them done but was unable to produce them. Only RTCM 7/6/15 minutes & TA Sel Com workshop minutes of 7/9/15 are on agenda for approval. CM Krieger said he wasn't at the 7/9/2015 workshop anyhow.

VOTE: All Ayes.

D. 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.**

E. PUBLIC HEARING: 1

2. Approve Ord 2015-05 Florida Building Codes for 2nd 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 AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2
Recommendation: Approval of 2nd Reading of Ord 2015-05

Ordinance read by title only.

Chair opened the PH.

Hearing no comments from public:

Chair closed the PH.

MOTION: CM Vail / CM Korn to approve Ord 2015-05.

Discussion: Korn asked Attorney if this was housekeeping. Yes. **ROLL VOTE:** 1) CM Ball, Aye; CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Acquaviva, Aye. Motion approved 5-0.

F. ATTORNEY REPORT: Attorney Bohne stated closed door session (Executive Session) will be on for August 3, 2015 at 7pm. He will talk about sign ord later on the agenda. VC Acquaviva has a question re: last TA Sel Committee there was confusion on whether they were one or separate groups. CM Vail asked if they were committee as a whole or two separate. That was also influenced by the meeting of 7/6/2015 no matter how it is set up; they are all under the Sunshine Law. Attorney Bohne said he understood it was one committee. CM Acquaviva has been on the SpringFest committee and as a neighbor, her vote was not separated. She is looking at this as being a neighbor, a community effort.

Past Mayor Phil Crews said he looked at the timeline that indicated they were intended to be set up as two groups, making it a standalone committee; but the actions taken seemed to support that they intended all to be one committee. He was also asking for clarification. They need to stick to Robert's rules. Crews explained the different requirements for a one committee vs. two separate groups. Probably not an issue. Atty Bohne said he has some issues w/ Roberts Rules as they are applied to municipalities. CM Korn said back to first meeting Mayor Beatty suggested they appoint a Chair and it did not happen; that is why he talked about letting them operate independently and bring their findings; but he realizes they have operated as one group from the start. VC Acquaviva said all along everyone's input has been considered and it is better to have all of us hear the conversation rather than just read it in the meetings.

G. PUBLIC: ITEMS DIRECTLY RELATED TO RESIDENTS AND RECOMMENDATIONS FOR TOWN BOARDS/COMMITTEES PRESENT AT MEETING:

**This item pulled at request of TA
 PULLED**

3. Request to close Gilmore Street at Allen (unimproved ROW) Dave Beaudry
 (Clerk's note: It is not a ROW requested to be closed; it was a request to put a barrier up at the end of the ROW to prevent trespassing)

- 4. Approve Recommendation from TA Selection Committee: CM Vail to do Phone Interviews with Mayor Crews. Franklin stated this is to formalize the action recommended at the last workshop.

MOTION: CM Korn / CM Ball to approve CM Vail conducting TA Applicant phone interviews.
VOTE: All Ayes.

H. ACTION ITEMS:

RESOLUTION: 1

- i. 5. **Resolution 12-2015** A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF ANNELIE HARVEY TO THE TRAILS AND GREENWAYS COMMITTEE AS AN ALTERNATE MEMBER FOR A THREE YEAR TERM; PROVIDING REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 5
Recommendation: Staff Requests Approval of Reso. 12-2015

Chair Acquaviva read by title only.

MOTION: CM Korn / CM Krieger to appoint Annelie Harvey to T&G Committee for a three year term. Discussion: **ROLL VOTE:** CM Ball, Aye; 1)CM Vail, Aye, CM Krieger, Aye, CM Korn, Aye, CM Acquaviva, Aye.

MISCELLANEOUS:

- 6. **DR-420 Maximum Millage and Date of 1st Public Hearing on Budget**

Exhibit: Agenda Report No. 6
Recommendation: Action

Chair explained the annual process as explained in the agenda report.

MOTION: CM Vail / CM Krieger to set tentative maximum millage rate at 1.9300 and hold the first PH on 9/14/15.

Discussion: Krieger asked about the 10% increase cap. Franklin explained the special law that created the cap in 1974. It is supposed to be applied to the rolled-back rate. Since property values have increased slightly in order to get the same ad valorem as received last year at 1.8% we would only need to set millage at 1.7605 in order to collect the same amount. A 10% increase of that is 1.9300, rounded. CM Krieger said 10% would only be 1.9262. Franklin tried to explain the rounding. Motion was amended by motion maker and seconder to set the max tentative millage at 1.9262 and the date of the first PH at 9/14/15

VOTE: All Ayes

J. DISCUSSION ITEMS:

This item was pulled to remain tabled until CM Krieger receives more info.

- 7. ~~Amend Chapter 8 of Code re: Open Burning~~

~~N-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.~~

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

Exhibit: Agenda Report No. 8
Recommendation: Discussion and Direction

Chair Acquaviva said since this is discussion, it is not necessary to read by title only

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.

MOTION: CM Korn /CM Vail to direct staff to put on first reading at 8/3/15 .**VOTE: All Ayes.**

9. Amendment to Signage Code Article XIX of Land Development Code

Exhibit: Agenda Report No. 9

Recommendation: Discussion and Direction

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE CURRENT PROVISIONS OF ARTICLE XIX OF THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING SECTIONS 1-19.1, DEFINITIONS; 1-19.4, ADMINISTRATION REQUIREMENTS; AND 1-19.10, TEMPORARY PERMITS; NEW SECTION 1-19.19; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING AN EFFECTIVE DATE.

Chair Acquaviva explained why this was on for discussion and asked Attorney Bohne to explain Supreme Court ruling. Atty Bohne explained that Supreme Court language that sign codes cannot be content based. As you say political, commercial you are being content based. You can regulate size but not content. He said because it is in LDR it must go to the P&Z Bd first. He is asking for expedited action on this and then if P&Z wants to make further changes to the code they can do it separately with another ordinance than can be combined with whatever LDC ordinances are being amended. Atty Bohne suggested letting a bigger city create an ordinance on their dime and then we will use it and amend it to suit our needs; that will be cheaper. Make it fit our community.

CM Korn suggested waiting until after the conference as they may get some info re: sign issue.

MOTION: Council consensus to approve Attorneys recommendation and send to P&Z Board. Discussion: Atty Bohne would prefer that the P&Z focus on this short term amendment and not go over the entire Chapter at this time.

VOTE: All Ayes

J. REPORTS – Administrator & Clerk

TA said the slope mower update – defers to Brian. CM Vail said the repairs they made were adequate. It was done correctly. Welding was done correctly. After it came back the machine was cleaned and there was play in arm and in pivot. The discoveries were made by Tom after pressure washing it. You could see stress cracks in the boom. CM Vail should have looked more thoroughly. Everglades being the vendor should have also seen these. CM Vail mentioned to Bill (tech at Everglades) that it is a sensitive subject and needed to be repaired with minimal financial impact. CM Korn said there is an auction coming up later this month in Titusville. (Cliff Schuler Auctioneers house) He noticed they have a slopemower on the list; maybe we could get it for 10.00.

Clerk had no report.

K. MAYOR AND COUNCIL MEMBERS

CM Vail, he and Mayor Crews have started the telephone interviews and when they spoke to applicant Mr. Kutney they were informed of his minimum salary needs of 100K-125K.

Mr. Kutney proposed to them that they postpone the interview until they can get council input on salary to be offered. So they postponed until they get consensus from council. They are looking for guidance. TA said she was told by the labor Atty that applicants should all get asked the same questions or you could be liable. It was consensus of Council to still have Crews and Vail interview him. Do in a timely manner. Don't discuss salary. CM Vail said they would work out a time for the remaining interviews and let Clerk set up. CM Krieger said he fails to understand. How are you going to respond to applicant? TA explained that the interviewers do not respond the applicants inquiry; they simply state they are to complete the interview. If the applicant requests to stop interview or declines interview then town is not liable. CM Korn asked about letting the applicants set their own times for the interviews. No.

CM Vail wants millage table showing what each mil equals. Franklin will provide.

CM Krieger asked about how budget presentation is done. TA said she will provide the first budget showing the last several years budgets & actual and the proposed figures for 15/16. Clerk goes over the revenue estimates and then she will lead them through the expenditures, department by department. CM Acquaviva stated Mayor Tom brought his own budget.

CM Korn informed all that Mayor Carl Beatty is very much better.

CM Acquaviva asked about Mayor attending the FLC annual conference. She went two times and she did a report and so did Mr. Abare when he was on Council. She asked that whoever attends, bring back the information, in the form of a report that all of council can benefit; since it is taxpayer money.

L. PUBLIC COMMENTS: General Items (Speaker Card Required)

M. ANNOUNCEMENTS:

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

N. ADJOURNMENT:

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

MOTION: CM Vail / CM Ball to adjourn. **VOTE:** All Ayes. The meeting adjourned at 9:45 PM.

BY: _____
Marisa Acquaviva, Council Vice-Chair

(seal)

BY:

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

Date Approved: _____

MALABAR TA SELECTION COMMITTEE WORKSHOP MEETING
July 27, 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 Mayor Beatty. P&P were said by Committee Member Korn.

B. COUNCIL/COMMITTEE:

COUNCIL CHAIR:

VICE-CHAIR:

COUNCIL MEMBERS:

COMMITTEE MEMBERS:

MAYOR CARL BEATTY

MARISA ACQUAVIVA, *excused*

GRANT BALL

BRIAN VAIL

DON KRIEGER

DICK KORN

BOB WILBUR, *resigned*

JOHN SEYBOLD

DAVID STACK, *excused*

LIZ RITTER

WAYNE ABARE

BUD RYAN

JOE MANCINI

TOM TAYLOR

KARLENE CONROY

PATRICIA FOSTER

SKIP HARD

HANS KEMMLER

PHIL CREWS

DEBBY FRANKLIN

PAST MAYOR

TOWN CLERK/TREASURER:

C. WORKSHOP ACTION:

CM Vail stated that the telephone interviews have been done. They will now go over the comments from the two interviewers which have been provided. This should narrow list of candidates for face to face interviews.

VERBATIM:

"Crews had opening thoughts. Calls made in order they are in your packet. He thought the committee did a great job of ranking the candidates. He had about four that were in a class by themselves. He thought the next step would be to do background checks. Of those four, two applicants were terminated from their last job and they are very good but their employment history and references should be checked to verify the veracity of their statements."

Abare said if we have no intention of paying someone 100K why should we take up their time and ours on a face to face interview? Korn said the initial asking price is not always the final selling price.

The Interviewers went over the questions and their separate comments in the order they were placed in the packet. Those comments are made part of the minutes. Committee comments are in addition to the attachments.

Debra Krueger, both interviewers felt she held back during interview; they don't want to interject at this point.

Mark Kutney – Crews said this is one of the two that was terminated from previous employment. Korn said he was familiar with this area of Green Acres and asked if interviewers asked what he has done

since 2014. Crews said no, they stuck to the questions. Crews did state it was important to check the veracity of statement. 100-125K.

Timothy Day – Crews said he was articulate, confident and chatty; he was open and willing to elaborate. He is moving no matter the town's decision; he prefers the Atlantic Coast. 70K in salary, but savings on benefits.

David Wilkinson, Mayor in small town in Indiana – Crews said he was confident, articulate, sincere and personable.

Robert Kellogg Crews said he was confident and sincere but was also terminated from last employment – check job history and references. H asked what three things Malabar wanted to achieve in the next six months. Interviewers did not give answer. Kellogg believes in annual visioning meetings, setting department goals, merit increases based on meeting those goals. Salary negotiable – “we can work something out”

Drew Thompson – Crews said he was confident, articulate, known. He has an impressive resume and education background but felt he would be better suited to health care & IT positions. Wayne said he is a good man. Bud said but he doesn't live in rural area. Wayne said nobody does Excel as good as him. 100 to 125K. Vail understood him to say he was agreeable to budgeted amount. Crews thought he was pretty clear that he needed 100K-125K as that is what he makes now. They will clarify...

Jeff McKnight – Crews said confident, articulate, chatty. He works in IT for the County. Crews said he is an EE in electrical engineer and would have little trouble commanding his minimum salary as an electrical engineer.

Lisa Powers-Severson, Edwardsville, IL – Crews said this is a similar size town. Crews felt she was less confident and not fully open about how things work in her town or in her roles there. She was also unsure if she got the complete job description but knew what a town manager does. She is not happy with current job, council. Korn said his concern was would she be any happier with us. Vail said she was interested in job due to our climate and access to water. 90K

James Thomas – local, sister lives in Palm Bay so is familiar with area. He is the front man that deals with residents and customer complaints. This Administrator position is a career goal. He thought that is what he was hired for in Titusville, but after he came on the City Manager was fired and those plans never materialized. Liz asked what his title is now. Crews said he is PIO (Primary Information Officer) for EOC. Deals with departments mostly through citizen complaints. Korn said he was at last council meeting. Vail said he had access to “s” drive – Crews explained that he had access to labor laws. He asked about comment made at RTCM of 7/20/15 by CM Krieger about tabling until November. Multiple members made simultaneous comments. Krieger said he know how to win friends and influence people. Salary not a primary motivation.

Liz said she had problem with the telephone interviews were supposed to consist of anyone who scored 4 or higher. Andrew Thomas scored 4 and he is not on the list. Joshua Brown was on in error since his votes were intended for Eileen Clerk. Liz said it would only be fair to stop the process until this person could also be interviewed. Wayne questioned why when the person doesn't have a college degree. Liz said others don't either. Wayne said everyone on the phone interview list has a college degree. Why waste the time? Brain Vail said for whatever reason he was not included they agreed to interview him. Clerk will schedule just like the others.

Eileen Clark – local – when asked about moving to Malabar she said she would consider it. Skip asked what that meant. Vail said they took notes, they did not narrate or interpret. Liz said she lives in

Satellite Beach. Korn said former administrator Bill Hall also lived in Satellite Beach. Didn't know if that was a good thing. She is a CGFO. Salary negotiable.

VERBATIM:

Phil Crews then said " he will share his opinion; his general assessment, my recommendation moving forward that amongst this group he thinks there are four that are definitely worthy of a further interview and they are: Kruger, Wilkerson, Day, Kutney and Kellogg with the proviso that they verify the termination explanation for Kellogg and Kutney. He also recommends if Council is going to bring people in then there is no reason not to bring in Thompson and McKnight as they are in the area and they generally meet the requirements although both are priced a little high."

Korn said to be fair, they should vote to include in phone interview or to exclude. Much discussion among members, Liz said he has had government positions. Mayor said ask the attorney. Brian said Andrew Johnson was an oversight. He proposes they interview him.

Don Krieger said he questions making a list of top five. All members should rank all applicants. Wayne said they should all rank them on their own. Brian said he wants members to review all the comments and draw your own conclusions. Then bring those back to next workshop along with comments from Crews and Vail on the phone interview of Mr. Johnson.

Set up phone interview. Liz said it is the fair thing to do.

Then on the 10th bring the ranking and they can discuss.

D.

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

MOTION: Don / Bud moved to adjourn the meeting. **VOTE:** All Ayes.

This meeting adjourned at 9:25pm.

BY: _____
Mayor Carl Beatty, Council Chair

ATTEST BY:

Debby K. Franklin, Town Clerk/Treasurer

Date Approved: _____

MALABAR TOWN COUNCIL REGULAR MEETING
August 3, 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 7:31 pm by Council Chair Mayor Beatty. CM Vail 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
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 moved the Sheriff's report to top of the meeting and a report on the TA update as a discussion item before the minutes. CM Krieger suggested it be after the minutes and the oral reports. CM Vail said to make it H1; general consensus of Council.

At this time, the Sheriff came forward to give his report. Lt. Reyes came forward and stated that he reports on the serious crimes. There were two burglaries; one was a home burglary and the other was a vehicle burglary. This could have been prevented if the vehicle was locked. There was one narcotics arrest and one theft incident. We are relatively safe at this time; he said he wished he lived here. TA Wilbanks stated that she did not receive this month's crime report. Lt. Reyes stated he would let his office know; they have a new program. He gave TA Wilbanks his copy of the report.

- | | |
|--|---|
| 1. <u>Approval of Minutes</u> | Regular Council Minutes – 7/20/15
TA Sel Com WS Minutes – 7/16/15, 7/27/15
TC Budget WS Minutes – 7/14/15 |
| Exhibit: | Agenda Report No. 1 |
| Recommendation: | Request Approval of Minutes |

MOTION: CM Krieger / CM Vail moved to approve the minutes from July 20, 2015 as corrected.

Discussion: Vail stated on page 5, regarding slope mower, he spoke to Bill with Everglades and mentioned it is a sensitive subject and it needs to be repaired with minimal financial impact; strike "to the best of their ability".

CM Krieger stated the first page of the minutes should say "joint" committee (second motion). On page 5, put in FLC Conference for Marisa's comments.

CM Korn asked if the TA has the authority to close roads. Wilbanks stated that this was not the request made; there is a property (Mr. Mckool's property) with a driveway being used as a

throughway; THIS ITEM PULLED AT REQUEST OF TA. Take out "this will be handled under her authorization"; put under #3 item.

VOTE: All Ayes.

MOTION: CM Ball / CM Vail moved to approve the Workshop minutes from July 14, 2015 as presented.

Discussion: None

VOTE: All Ayes.

MOTION: CM Krieger / CM Vail moved to approve the Workshop minutes from July 16, 2015 as presented.

Discussion: None

VOTE: All Ayes.

MOTION: CM Krieger / CM Ball moved to approve the Workshop minutes from July 27, 2015 as presented.

Discussion: CM Krieger, page 3, Phil Crews gave 4 names given, not 5. Then he said to include Drew Thompson and Jeff McKnight because they are both local. CM Korn stated that is what he said. CM Krieger wants the verbatim of the minutes regarding what Mayor Crews said in the minutes.

AMENDED MOTION: CM Vail / CM Krieger moved to table approval of the minutes of July 27, 2015 until such time the verbatim minutes are reviewed. VOTE: All Ayes.

D. BCSO Report – see Sheriff's report before the approval of the minutes.

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.**

F. ORAL REPORTS – BOARDS

Park Board – CM Korn stated that Hans Kemmler called him as he would not be available this evening. He asked that CM Korn inquire about the status of the shade structure, said it needed to be replaced. TA Wilbanks gave a brief update to the status of this. What was recommended to Millore was to see if the piece could be fixed and they are looking at pricing for a new one. It will be in the FYI report. The structure has been shortened due to all the stitching. Pricing for a repair and a new structure will be brought to Council to be looked at. CM Korn asked about Playmore and if we are still looking at them for assistance. They sent a structure that wasn't what was ordered. TA Wilbanks asked why we accepted what we didn't order. CM Korn stated to ask her predecessor. Mayor Beatty gave a brief overview of the shade structure. We have made good use of the structure; they replaced the original structure with a new one when there were issues; replacing it under warranty. TA Wilbanks stated that the actual pieces of equipment have been replaced under warranty as well.

T&G Committee – Drew Thompson came forward and made a short power point presentation. There is a full committee with no openings. He feels that they will be doing more for the Town and is very excited. Meetings are held the second Monday of each month. He spoke of the ADA restroom. There is some movement there and almost ready to have the structure delivered. TA Wilbanks stated that there are issues with the well; will need a new well, we have 2 companies and we are getting quotes from them. We are still looking for the plumber's input for this as well. Briar Creek Boulevard is a win for the Town; being used already. The lagoon

trail head at the north end of Rocky Point Road; they are working on this. Another trailhead as a lagoon at Nelson's Landing, north of Goat Creek. A letter is being sent out for a possible interest. Cameron Preserve with southern routes planned. Planning to put trees at the north end of Corey Road. They have a project list; working with the maps and the kiosks. Mayor Beatty gave information regarding the Nelson property. CM Korn gave information regarding the Nelson property as well. TA Wilbanks stated that TC Franklin would be able to give information regarding this. Hoping for the east side but will work to see what can happen with this. If he were to be interested, we would dub it Nelson's Landing. TA Wilbanks gave information regarding the platting of the property and a meeting held. It was 6 lots that was plotted out; the east side was part of this. CM Ball asked what the conditions of the trails are with all the rain; are they passible? Thompson stated that they are passible and being used. Need to have some pressure cleaning for the kiosk; muddied with someone spinning out before leaving.

P&Z Board – no one present to make a report

G. PRESENTATION BY CHIEF ROBINSON – STAFFING NEEDS

Chief Robinson came forward and gave his presentation; a brief overview of what was provided. This people are providing way more services they just fire. He went through this information. He stressed to Council the liability to the Town and to the Fire Department. TA Wilbanks provided information to Council for the 4 full timers and 4 part timers; it will be discussed at the next budget workshop. Full timers will have full benefits, part timers get FRS only. Mayor Beatty stated that he wants the full costs of fire truck that won't work. We don't have enough information tonight to make any decisions. Chief stated that what we are talking about right now is staffing to protect the residents. Mayor Beatty stated that there are many facets to this; PW has issues as well. Doesn't want to vote on 1 item and have to come back next week. He wants all the information; good or bad. Chief stated that he would like to see 30 to 40 volunteers that live in town and do away with the full time people but that's not going to happen. He understands that it's a big chunk to look at but it's a huge liability. We can't continue to sit on the fence to see which way the wind blows. We are planning to the future.

Korn made a suggestion for the budget workshop; establish a savings account that can be used for major equipment. That would address your concern with the equipment. We have a whale of a bargain with our fire department. He crunched figures several months ago; we would be spending over \$500,000 for the County. We would have to give up the property and equipment and building. CM Korn thanked him for doing whatever he's doing and keeping everyone happy. He's heard from PB that Malabar is doing great. CM Vail concurs with what CM Korn is saying; the most critical need right now is the staffing. TA Wilbanks stated that Chief Robinson will not be available; wanted the presentation done this evening so he could answer questions. He would like to know sooner than later if this is something Council is looking at. He anticipates losing 2 more people to career departments very soon. TA Wilbanks stated that he would know something after his trip.

Attorney gave a brief report, the reason for the cancellation of the executive session was to get a draft of the agreement and present it before the meeting. He wanted Council to be able to read it and ask questions. There was no written agreement; move the meeting to the 17th at 7:00 pm for executive session; will have a draft of the agreement before the meeting. Vail stated he would not be at that meeting. Can have a candid discussion without outside influence. You can't take formal action at the closed session; must be in an open meeting to do so. CM Krieger asked about having the executive session at the front of the TA selection committee workshop and then do the vote a week later. CM Vail will not be present. CM Krieger stated we could

have the meeting and vote on it later. The first meeting will be 9/8/15 as the 7th is Labor Day. Do executive session on 9/8/15 at 7:00 pm; hold the council meeting on 8/31/15 and cancel the 17th meeting.

(Clerk's note: The Council voted unanimously on July 20, 2015 to hold the first meeting in September on the 14th and that date would be printed on the TRIM notice.)

MOTION: CM Krieger / CM Vail move meeting of 8/17/15 to 8/31/15 as a RTCM.

AMENDED MOTION: CM Krieger / CM Vail to have RTCM 8/24/15 instead of 8/17/15 to include the closed executive session. **VOTE:** All Ayes.

H. ACTION ITEMS:

ORDINANCES FOR 1ST READING Ordinance 2015-03

2. AN ORDINANCE 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 DEFINITION; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2
Recommendation: Approval of 1st Reading

Mayor read by title only:

MOTION: CM Korn / CM Krieger to approve Ord 2015-03.

Discussion: None

ROLL VOTE: 1)CM Ball, Aye; CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Acquaviva, excused.

Motion carried 4 to 0.

MISCELLANEOUS:

3. ILA with Brevard County for E-911 Services

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

MOTION: CM Korn / CM Vail moved to approve the ILA less the address fees charged for the work that we are doing.

Discussion: TA Wilbanks gave a brief overview that allows for us to not pay a fee because we do the addressing ourselves. CM Krieger asked why we have to do anything. TA Wilbanks stated that a meeting was done in March; the agreement expires September 2015. CM Krieger asked who decided to write the letter; TA Wilbanks stated that it was TC Franklin

MOTION: CM Ball / CM Vail moved to table this discussion. **VOTE:** All Ayes.

CM Vail stated he wants this on the August 24th meeting. CM Krieger asked if TC Franklin has the authority to send this letter out. Bohne stated that it is not good to do legal services if you are not an attorney. CM Krieger stated he remembers a conversation at a Council meeting that Council doesn't want anything to happen without their knowledge. He knew nothing about this.

4. Appoint Town Representative to TAC/CAC Board to Replace TA

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

Discussion: Mayor Beatty stated that it should be for the quarter and then after the election choose a new member. The meetings are held once a month on the second Monday at 9 am in Viera. The meetings last until about noontime.

It is the general consensus of Council to have CM Krieger as interim representative.

5. Approve TA Sel Committee Recommendation to add additional person for phone interview

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

MOTION: CM Korn / CM Krieger moved to formally approve the TA Selection Committee action on July 27, 2015 providing for an additional interviewee.

Discussion: CM Krieger wants the written material from this interview as soon as possible. CM Vail stated that he is working on this and should have it to Town Hall by Wednesday.

VOTE: All Ayes.

MOTION: CM Krieger / CM Korn to disband the TA Selection Committee at the next meeting after collecting the homework of the committee and the last phone interview at the adjournment of the TA Selection Committee.

Bohne stated that Council could be criticized for having an action item that was not on the agenda. Vail asked if it would be better for a general consensus instead of a motion.

CM Vail stated he wants it on the agenda for the workshop to collect the ranking paperwork on the agenda. Bohne stated Council could have a special meeting following the TA Selection Committee Workshop to disband the committee. CM Korn stated that the committee should make their recommendations to Council; this can be a special meeting. Bohne stated that staff needs to know what to do to get ready for these meetings.

MOTION: CM Krieger / to call a special meeting after the TA Selection Committee.

AMENDED MOTION: CM Krieger / CM Korn moved to have a special meeting after the TA Selection Committee Workshop with the only subject of the agenda to disband the committee.

VOTE: All Ayes.

Kelley asked Council to allow her to repeat this information back to make sure that she has the correct information so staff can take care of the meetings. The topics for the agenda or the TA Selection Committee Workshop of 8/10/15 are: prayer/pledge; telephone conversation reviews and collection of the ranking homework from the Committee along with possible comments from the Committee Members.

It is the general consensus of Council to have staff prepare the agenda with these topics listed for the TA Selection Committee Workshop of 8/10/15.

Attorney Bohne was excused from the meeting at 9:40 pm.

I. STAFF REPORTS –

Clerk – nothing to report at this time.

TA – the budget pages will be coming out tomorrow; they will include the information for the additional staff for the Fire Department, both full-time and part-time numbers.

Since Council has changed the meeting date from the 17th to the 24th of August, tonight will be her last meeting. She will, if Council agrees to it, extend her resignation until the end of the month. If not, this will be her last meeting. CM Krieger stated that unless it is a contract as a consultant, he would not be for this. CM Korn asked why we don't hold her in standing. CM Krieger stated that the resignation was turned in and accepted; a new contract as a consultant needs to be presented to Council for consideration. She will not be held on as the Town Administrator. He wants to see a new contract from the attorney with the conditions spelled out and the type of consultant she would be. CM Korn stated that she offered to extend when this

first came about; why not just extend it. CM Krieger stated that he's had issues with doing this in the past; it's not a good idea and he would not support it. CM Ball spoke and was in agreement with CM Krieger. CM Vail stated he didn't see why it couldn't be extended to the 25th of August. CM Krieger stated the resignation has been accepted and there is no contract. TA Wilbanks stated that her contract doesn't have an end date on it. CM Krieger stated she is not the Town Administrator after the 19th of August. We could add this to the special meeting agenda for August 10th if a contract can be worked out and provided to Council for review prior to the meeting date.

MOTION: CM Korn / CM Ball to add consideration of a contract with Bonilyn Wilbanks as a consultant to the Town of Malabar at the special meeting of August 10th in addition to disband TA committee. VOTE: All Ayes.

J. REPORTS – MAYOR AND COUNCIL MEMBERS

- 1)CM Ball: nothing at this time
- 2)CM Vail: nothing at this time
- 3)CM Krieger: nothing at this time
- 4)CM Korn: nothing at this time
- 5)CM Acquaviva, excused

Mayor: stated he can set a special meeting; he will get with the attorney to make sure we have the wording correct and such.

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

L. ANNOUNCEMENTS:

- (2) vacancies on the Board of Adjustment;
- (3) vacancies on the Park and Recreation Board;
- (1) vacancy on the Planning & Zoning Board

M. ADJOURNMENT:

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

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

BY: _____
Mayor Carl A. Beatty, Council Chair

Minutes by:

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

(seal)

TOWN OF MALABAR
TOWN COUNCIL MEETING
MONDAY AUGUST 3, 2015
7:30PM
2725 MALABAR ROAD
MALABAR, FLORIDA


TRAILS AND GREENWAYS COMMITTEE REPORT

Plan, enhance, and maintain the trails and greenways of the Town of Malabar to assure the sustainability of our environmentally protected lands so that current and future generations are encouraged to get outside to safely enjoy nature. Coordinate these efforts by networking with neighboring communities so that the resulting trail system flows from one to another - serving all.

TRAILS AND GREENWAYS COMMITTEE REPORT

MEMBERSHIP – STRUCTURE – MEETINGS – WORK EVENTS

MEMBERSHIP – Now Fully Staffed!
 Draw Thompson – Chair & TOM Rep / TPO BPTAC
 Murray Hann – Vice Chair
 Annelie Harvey - Committee Member
 Hans Kemmer – Liaison, Parks & Recreation Board
 Cindi Kelly – TOM Recording Secretary
 Colette Buffalo – Committee Member
 Pat Vollaire – Committee Member
 Bob Wilbur – Committee Member



STRUCTURE
 T&GC submits fiscal impacting ideas via Parks & Recreation Board





MEETINGS
 Monthly – 2nd Monday 6:00 PM, TOM Town Hall

WORK EVENTS
 Scheduled at monthly meeting (next: Fri 7 Aug 5:00 PM @ N. Corey Rd TH)

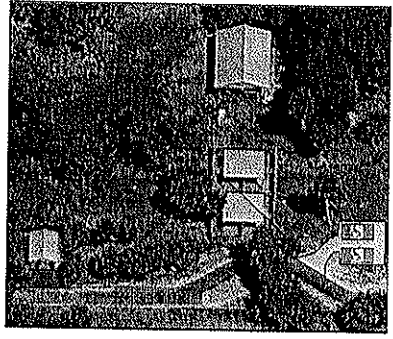
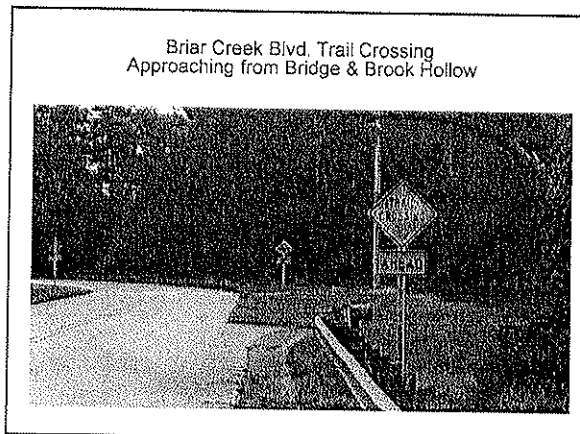
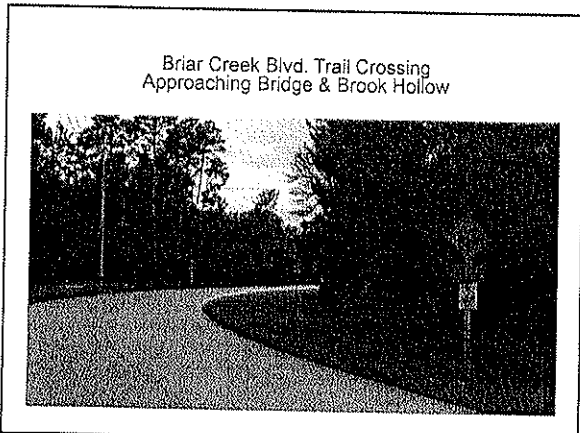
TRAILS AND GREENWAYS COMMITTEE REPORT

RECENT ACCOMPLISHMENTS

- ✦ ADA Restrooms Grant Award 2014 - Project Implementation Active
- ✦ Briar Creek Blvd. Trail Crossing - Complete Thanks EEL P & BMBAL
- ✦ Lagoon Trailhead - Triangle Property - Rocky Pt Rd - Active Research
- ✦ Lagoon Trailhead - Nelson's Landing - Query Letter Sent (after 5 drafts)
- ✦ Cameron Preserve - Southern Route - Trailhead Planned
- ✦ Cameron Preserve - Trees at N. - Trailhead Planned
- ✦ T&GC Project List - (ongoing)
- ✦ Maps & Info (Adobe) - www.townofmalabar.com/trails.asp & Kiosks (ongoing)

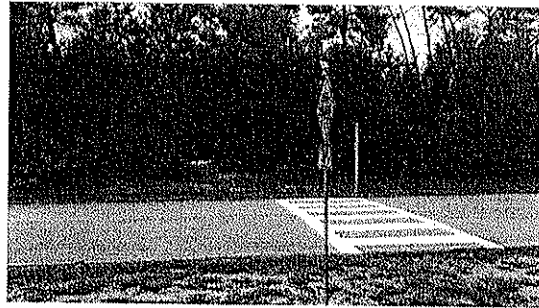
Sand Hill Trailhead ADA Restroom Project Underway

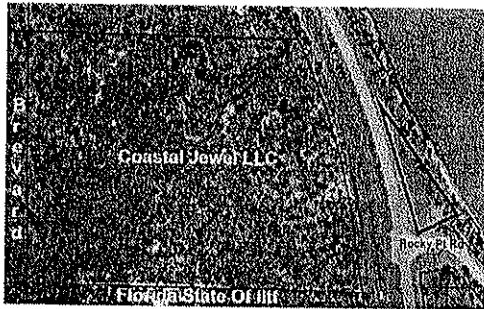
Briar Creek Blvd. Trail Crossing
Looking South



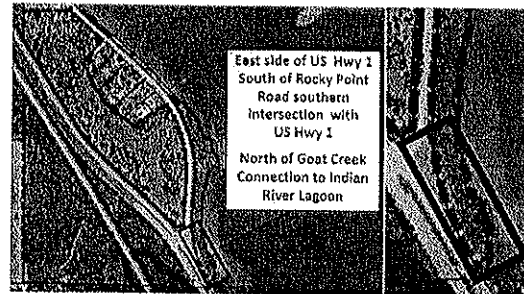
Briar Creek Blvd. Trail Crossing
Looking North



Lagoon Trailhead – "Triangle Property"
North of Rocky Pt. Rd.



Lagoon Trailhead – "Triangle Property"
North of Rocky Pt. Rd.



Cameron & Volunteers Preserve Trailhead
North End of Corey Rd. (Looking North)



Cameron & Volunteers Preserve Trailhead
North End of Corey Rd. (Looking South)



MALABAR TA SELECTION COMMITTEE WORKSHOP MEETING
August 10, 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 Mayor Beatty. Prayer & Pledge were said by Committee Member Grant Ball.

B. COUNCIL/COMMITTEE:

COUNCIL CHAIR:

VICE-CHAIR:

COUNCIL MEMBERS:

COMMITTEE MEMBERS:

MAYOR CARL BEATTY, *need*

MARISA ACQUAVIVA, *excused, need*

GRANT BALL, *need*

BRIAN VAIL ✓

DON KRIEGER, *need*

DICK KORN ✓

BOB WILBUR, *resigned*

JOHN SEYBOLD ✓

DAVID STACK, *not present*

LIZ RITTER ✓

WAYNE ABARE, *excused, need*

BUD RYAN, *arrived at 7:35 pm* ✓

JOE MANCINI ✓

TOM TAYLOR ✓

KARLENE CONROY ✓

PATRICIA FOSTER ✓

SKIP HARD ✓

HANS KEMMLER ✓

PHIL CREWS ✓

CYNTHIA KELLEY

PAST MAYOR:

DEPUTY TOWN CLERK:

C. WORKSHOP ACTION:

Mayor Crews stated that they did something a little different with this interview. They called during the work day and had TC Franklin take notes during the call. Both Mayor Crews and CM Vail took notes as well but this assisted in getting the notes completed quicker. In reviewing the notes TC Franklin took, neither Mayor Crews nor CM Vail made any significant changes at all. As they did with the other phone interviews, both took turns going over the questions and answers of Mr. Johnson.

Bud Ryan arrived at the meeting at 7:35 pm.

After going over the information for Mr. Johnson, Mayor Crews was going to provide his ranking order. He stated that Mr. Wilkinson would be his first choice; he got no further as he was asked to hand in the information. Council wants to review how the Committee viewed the candidates.

CM Korn stated he had a question for Mayor Crews about the education requirement. There was one candidate who had college listed on his resume but no degrees listed. CM Korn stated that this information would be needed. Mayor Crews stated that the candidate attended graduate school; without a bachelor's degree, you can't get into graduate school.

Mayor Beatty stated that the homework assignment of the ranking of the candidates needed to be collected; turn them into the Deputy Clerk. Hard asked if there was a ranking sheet. DTC Kelley stated she would make copies for everyone to have the names available to them. CM Krieger stated that the assignment was to have the members rank the candidates and turn the information in. It will be reviewed by Council.

CM Korn stated that he wasn't comfortable with ranking these people without meeting them. CM Krieger stated that the assignment given from the last meeting was to rank the candidates and bring to this meeting to have them turned in. CM Korn stated that he thought this meeting was set to go through everyone's rankings and narrow the list down to those Council wanted to have a face to face interview with. We don't want to leave the committee members in the lurch. CM Vail stated that the information collected this evening will be used to help make a decision. The list may or may not be used; Council makes the final decision and they could, if they chose, pick someone that isn't on the list right now.

CM Vail asked if the members of Council were supposed to hand in their rankings. CM Krieger stated that the committee members were the ones to hand in their information. DTC Kelley stated that the members of Council are part of the committee and their ranking sheets should also be turned in. Mayor Crews stated that this committee was set up to function as a whole; you can't change it now. Mayor Beatty stated that Council shouldn't put a ranking of the candidate in the mix. CM Krieger stated that Council would like to have a week or two to review what the committee came up with. Give your paperwork to DTC Kelley; you don't have to put your name on it if you don't want to. After the papers are turned in, we will take comments from the committee members. CM Krieger stated he would base his decision on what he hears from the committee, from Council comments and his own thoughts.

CM Vail stated that we are a committee as a whole and we need to operate as a committee as a whole. He stated that Council should participate in the ranking of the candidates. Skip Hard stated we should do the ranking as we have in the past with a show of hands; separating out the votes from Council.

MOTION: Hard/Vail moved to take a vote by show of hands as a group and separate the votes by Council Members.

John Seybold stated a better way to do this is to have two (2) lists; a ranking of the candidates and a yes/no vote from the committee members. There would be two ways to look at the information. CM Krieger stated that this meeting was to get the information on Mr. Johnson and to collect the ranking information. We will then open it up to comments regarding the candidates. He wants to see the raw data.

MOTION RESCINDED: Hard/Vail.

Mayor Beatty stated that if any committee member did research on any of the candidates and it wasn't favorable to please provide the website(s) to the Clerk's Office so it could be provided to Council for their review. CM Vail stated that when making comments this evening, please keep them in a positive light. Mayor Beatty stated that this would be good because we don't want to open ourselves up for liability.

CM Korn stated he did research on the towns for the candidates to see what the size of the towns were; he also spoke to people he knew in those towns to see where the candidates were coming from. Bud Ryan stated to CM Korn that he needs to be stating factual information and not hearsay information. CM Korn stated that he wasn't passing on any hearsay and asked Ryan why he would say that.

Mayor Beatty brought the meeting back to order. CM Vail stated that the comments should be based on what you have read and documentation that was seen. Let the source and the credibility be known for their comments; there is a huge difference between hearsay and facts. Please make sure you delineate between saying I've heard (we need to minimize that) and I've read when making comments about any of the candidates. CM Vail stated the decision he makes will be based on the information and the credibility of that information. He stressed to the members to be careful when making comments about the candidates. He asked that they provide the source of the information and the credibility to Council as well.

CM Korn stated that each candidate had to provide personal references. He asked when the references would be called and who would be making the calls. Mayor Crews cautioned too many people making

phone calls. He stated that this should take place when the list is narrowed down, possibly when background checks are being done and Council should appoint someone to do the calling. A background check is definitely necessary.

CM Krieger stated that when he came on the Council, he found that the Town's website was lacking in information; he made a call or brought it up at a meeting and it was corrected. If he looks at a website where one of the candidates may be employed and their website is lacking information, he would wonder who is operating that town. He also stated that if he goes to a website and sees a city picture of the area, he knows that's nothing like Malabar. These are just some examples of what he will be looking at when doing his research on the candidates.

Liz Ritter stated that sometimes the committees are not listened to when giving information and making recommendations. Council needs to give all the candidates the same playing field. Hopefully Council will give a little weight to what the Committee has to say; they know it is, ultimately, Council's choice. Hans Kemmler stated that he's been on a few boards; Council has always taken the recommendations and done what was asked, even if it had money costs involved. CM Vail stated that Council is listening more.

CM Ball stated that he is not horribly ready to rank the candidates. He hasn't had the face to face interviews. He wants to see how many people we're going to interview and then the process will start all over again. He felt it could be a possibility that the rankings could put a cloud on the interviews if everyone selects the same person with the rankings.

Tom Taylor, while looking at the faces at the dais, stated that there are two (2) home town boys in the top 11 listing. He is looking at the faces of Council and wants to know if they are friends or enemies. He felt that having someone from here would be good as they know what the issues are for Malabar: drainage; it has been since he moved here 20 years ago. He would like to see someone come in here and fix the issues; not say they can fix it and then it doesn't happen. Hans Kemmler stated that he knows both of the people; he would support either one.

Skip Hard stated that something that hasn't been explored are the local people; they will have a history with the town. Someone out of state may come in and blow smoke. Local people will have a history and will know what the issues are and what needs to be done; their heart is already in the town. Liz Ritter stated that someone coming from out of town will not be blowing smoke; they will have to make a move to get here and they will probably be doing their own findings about Malabar.

Bud Ryan stated that he has been deeply involved with the town for 20 years. We need somebody we know. He is voting for two (2) people only. The first choice is someone who has lived in Malabar since 1996, is a person of honesty and integrity and needs no learning curve. Changes are needed and this person knows what is needed and can get it done.

Karlene Conroy stated that we are speaking about the people in the town; how do you reconcile the issue of the salary requirements? Mayor Beatty stated that would be up to Council and the negotiations for the person. CM Korn stated that people that live within 20 miles, he would consider them to be local as well.

Bud Ryan stated that the person he is supporting was on Council for three (3) consecutive two-year terms. Liz Ritter stated that Council is a different position than the Town Administrator; just because someone has been on Council doesn't mean they are qualified as a Town Administrator. Bud Ryan stated that he disagreed with Ritter. Hans Kemmler stated that you have to deal with people on a day to day basis every day. Ryan stated that being on Council, the person is aware of all aspects; there's no substitutions. Kemmler stated that there's no way Council has supervised the Fire personnel and taken care of Human Resources issues.

Tom Taylor asked, again, what will happen if the salary is out of the budget. Mayor Beatty stated that it would be up to Council to make that decision. Kemmler stated that he feels they would offer a little more money but not a lot. CM Vail stated that Council is in the middle of budgeting now. Taylor stated that once the person is in; they are here. CM Korn stated he thought Council said something about a six month probationary period; the first 90 days would have no insurance coverage. CM Krieger stated 90 days for insurance but this is something that has to be discussed with the town's attorney. CM Korn stated that nothing is in stone right now. The job posting stated salary was DOQ (depends on qualifications). It will depend on Council's mood when this is decided on. CM Krieger stated that he is all for giving a mission and say this is what we want done; categorizing them and see what the results are. The list was 64 and has been narrowed down to 12. These could be for other positions; Council has been discussing an Assistant Town Administrator; there's all kinds of things that might occur when you say "change without change".

Bud Ryan spoke to his second choice for the Town Administrator. This person hasn't been on Council but is qualified to do the job. If there is ever a time for the Town to hire this person, they should jump on it. The person could be the Assistant TA or a replacement for the current Town Clerk or whatever.

John Seybold made a suggestion regarding salary one of the things that might be of interest to Council is considerable cost savings to the budget and maybe making this a condition of the salary. Tell them the base salary and this it will be this if they can come up with considerable cost savings to the Town. Mayor Beatty stated you mean "bonus". Skip Hard asked if he meant based on performance. Seybold stated yes. Liz Ritter stated that Council must perform reviews to the performance of the Town Administrator; Council had been very lax with the last three (3) Administrators with their reviews for the performance. CM Vail stated that the goals have to be set to have a review. Did they meet the goals or go over the goals. Mayor Beatty stated that we need to set things up for accountability. In the past, we have had a list of unfinished business that disappeared and projects that have not been completed and such. We need to charge the new Town Administrator with what we want done; they need to let Council know where they are with each project. Seybold stated that as long as Council and the Town Administrator are in agreement to the criteria. Mayor Beatty stated that they need to be reasonable. Hard stated its one thing to say you can do it and don't get it done as opposed to Council saying they want something done and the person says they don't think they can get it done. That way the person doesn't feel responsible because they didn't get it done.

CM Korn stated that a few years ago, we had an action report that faded out; it needs to be resurrected. Also, the current TA contract was done without detail. We have two (2) life insurance policies; we've got a \$600/month car allowance for her to drive 20 miles a day. His suggestion is to take that money and add it to the salary to make it more attractive and pay the TA a per diem. Ritter stated that most people list that as an expense. He thinks Council is prepared to pay attention to the detail of the contract.

Mayor Beatty brought the meeting back to order; Council needs to discuss what they want to do before hiring a new TA. Karlene Conroy asked about a town car for the TA. DTC Kelley stated that she has never had a town car; she's always had a car allowance. CM Korn stated that there are two (2) cars here at the town. Bill Hall used to have a car that he drove to beachside. The point is that we need to pay attention to the detail.

Joe Mancini asked if there are any more comments to be heard. CM Vail stated only with regards to the applicants. Mancini stated we've heard all there is; CM Krieger asked if he would like to make a motion. Mancini stated if you are going to disband the committee than yes he would like to make a motion. He started to make a motion to disband and he was told that Council must do this but he could make a motion to adjourn the meeting.

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

MOTION: Joe Mancini / Patricia Foster moved to adjourn the meeting. **VOTE:** All Ayes.

This meeting adjourned at 8:41pm.

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

MOTION: Joe Mancini / Patricia Foster moved to adjourn the meeting. **VOTE:** All Ayes.

This meeting adjourned at 8:41pm.

BY: _____
Mayor Carl Beatty, Council Chair

(seal)

TRANSCRIBED BY:

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

ATTEST BY:

Debby K. Franklin, Town Clerk/Treasurer

Date Approved: _____

DRAFT

MALABAR SPECIAL TOWN COUNCIL MEETING

August 10, 2015 8:30 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 8:50 pm by Mayor.

B. ROLL CALL:

COUNCIL CHAIR:	MAYOR CARL BEATTY
VICE-CHAIR:	MARISA ACQUAVIVA, <i>excused</i>
COUNCIL MEMBERS:	GRANT BALL
	BRIAN VAIL
	DON KRIEGER
	DICK KORN
TOWN ADMINISTRATOR:	BONILYN WILBANKS, <i>excused</i>
TOWN ATTORNEY:	KARL BOHNE, <i>excused</i>
DEPUTY TOWN CLERK:	CYNTHIA KELLEY

For the record, also present for this meeting was P&Z member Bud Ryan and resident Tom Taylor.

C. ACTION:

For the record, Mayor stated that he never knew the consultant contract was a part of the meeting. He didn't put it on the agenda.

1. Disband the TA Selection Committee

MOTION: CM Vail / CM Ball moved to disband the TA Selection Committee

Discussion: None

VOTE: All Ayes.

2. Review Consultant Contract for Bonilyn Wilbanks

Mayor stated that he is uncomfortable with this, he didn't see this until Friday evening. CM Krieger stated he made some comments. When asked about the salary of \$40/hour, DTC Kelley stated that she makes \$35.0072 as the Town Administrator. When DTC Kelley asked about the increase, she was told that Wilbanks will have to pay her own taxes. CM Korn stated that the taxes would be higher and this makes sense.

CM Ball stated that he didn't understand item 6; since the attorney isn't present, maybe someone can try to explain it to him. CM Vail tried to explain this to Council.

CM Krieger stated that this contract is not for a consultant; as a consultant she wouldn't be able to supervise Code Enforcement. At this time, it became aware that Council didn't have a copy of the contract. DTC Kelley asked CM Krieger to wait to speak on this for a few minutes while she printed the contract and handed it out to Council.

Upon returning to the meeting, DTC passed out the contract. She stated to Mayor Beatty that she followed Council's direction from the RTCM of August 3rd; CM Krieger stated that if a contract could be drawn up and provided to Council, it could be added to the Special Town Council Meeting of August 10th. Mayor Beatty was at the RTCM of August 3rd when the direction was given to staff.

CM Krieger went through the contract with his concerns for each of the numbered items of the contract. He went over each item, listing the recommended changes that he made to the contract. There were no changes to items 4 and 5.

CM Korn stated that he wanted to have budget preparation added to the contract. CM Vail stated that Council should list the duties that the consultant would be doing; asking if we should use the list of Town Administrator's duties in the code or just list what we want done. CM Krieger stated that after August 19th, she will no longer be the Town Administrator. We will have her as a consultant to advise on items relating to and described in Article IX of Chapter 2, section 2-300 (d), Administration with the following respect to the following: Code Enforcement, Stormwater management and supervise PW, Building Department and the Fire Department. He suggested that if Council wasn't familiar with this portion of the Town's code, they should read it. CM Krieger stated that the contract he provided this evening should be sent to the attorney for his review and advice. DTC Kelley stated that it would be sent to him and to Council so they could also see the suggestions made.

CM Korn stated we are in the middle of budget preparations, TC Franklin is already busy with everything she has to do. Sometimes, because she's helping others, we don't receive the council packets when they are due to be out. CM Krieger stated that Wilbanks would be a phone call away; who does the work when she's out on vacation or for another reason. DTC Kelley stated that TC Franklin does it when Wilbanks isn't here, TC Franklin is put in charge while Wilbanks is away. CM Korn asked if she is qualified to do this. DTC Kelley stated of course she is; she's the Financial Officer or her title is Town Clerk/Treasurer. She's been involved in the budget process for a very long period of time.

CM Krieger and CM Ball stated that CM Korn is going back to the Town Administrator and having her here in that capacity. The Council wants her as a consultant; this is what she offered to the Town. CM Korn stated that if we can't use her in the capacity that we have her in now, then on August 19th, we should be done with Wilbanks.

MOTION: CM Korn / moved to end all contact with Bonilyn Wilbanks as of August 19, 2015.

Both CM Krieger and CM Ball stated no; they want to have a contract with Wilbanks as a consultant to provide information on issues on an as needed/on call basis up to 25 hours a week; CM Ball stated that Council needs to remember that she is charging \$40/hour when we ask for her to provide services to the Town. CM Krieger stated to send his changes to Attorney Bohne and have him advise Council. **Motion failed due to lack of a second.**

CM Vail is looking for an understanding of what Council is looking for; in his opinion, a consultant or an interim Town Administrator. If Council wants a consultant, we should have an interim Administrator to deal with stuff in between Council meetings. We, Council, need to officially appoint an Interim Administrator. CM Ball stated this isn't necessary. CM Krieger asked who would take care of things until a new Town Administrator is hired. DTC Kelley stated that it would be TC Franklin who handles the day to day operations. CM Korn, again, stated that she is already busy. DTC Kelley stated that she is the next in line and handles things and takes care of what is needed when the Town Administrator is out of the office. That's the way it's been handled as she is next in line. CM Vail asked about an "emergency" that may happen in between Council meetings. This is why we need to appoint someone here at Town Hall. CM Krieger stated it isn't necessary, we have the Town Clerk who would take care of things. CM Vail stated that we need to plan; you wouldn't drive a car without insurance or not have homeowners insurance in place on your home; that would be stupid.

Mayor Beatty stated that when Bill Hall got sick, the Town hired the Engineer; doesn't know how long he was out. {Clerk's Note: When Administrator Bill Hall got sick (May 1 through October 31, 1992), Council expanded the duties of existing Town Engineer Messersmith to include administrator duties and increase his monthly salary to \$4,000; he was already receiving \$2,500.} {2nd Clerk's Note: Bill Hall was terminated on 6/20/02; Susan Kabana and Debby Franklin handled day to day operations until Ed Booth was hired 11/22/02.} When Ed Booth left, Booth set us up with Bill Stephenson, the Town Engineer. That wasn't the best idea because he came in part-time at his engineer fees; all the funds were used up. He's not advocating that. CM Korn asked Mayor Beatty if he knew of anyone who would be available for this. CM Ball stated he didn't know why Council is going around with this; doesn't see why Council can't hire Wilbanks as a consultant with no powers in play. If powers are needed, TC Franklin has those and will be able to take care of what is needed. As a consultant, she can answer questions and give direction just as a consultant with no executive powers. He doesn't see any problem with that at all. We don't need to name someone specifically in this capacity; we don't even have to have a Town Administrator, do we? CM Vail stated that we can function without one. CM Ball asked why we can't use her during this time until we hire the Town Administrator. CM Krieger stated that is what she offered to Council. CM Ball stated that is what he thought she offered and now we are writing a contract to put her right back into being the Town Administrator, which he doesn't think that is what Council wants. CM Korn stated it isn't what we want but wants to know who would have the authority to request her for consultation at \$40/hour. CM Krieger stated it would probably be the Town Clerk and Council. CM Korn asked if we wanted to empower the Town Clerk to spend that money or the Mayor or the entire Council. CM Ball asked both CM Korn and DTC Kelley if we can call the attorney; both answered yes. He then asked if we are charged for the calls; both said yes. CM Ball asked what the difference is then. CM Krieger stated that we have a Chair and Mayor as well who are a phone call away. DTC Kelley stated she would send the amended contract to the attorney tomorrow and to Council as well. When he gets the document completed; she will send it to Council for their review as well. CM Krieger stated that the Town Administrator wasn't at the meeting tonight; was she in the office today? DTC Kelley stated she took the day off today. {Clerk's Note: Town Administrator had medical appointments.}

At this time, Council took no action on this item. The contract will be sent to Attorney Bohne on Tuesday morning, August 11th for his review and advice/comments to Council.

N. 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 9:37 PM.

BY: _____
Mayor Carl Beatty, Council Chair

(seal)

TRANSCRIBED BY:

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

ATTESTED BY:

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

Date Approved: _____

DRAFT

MALABAR BUDGET WORKSHOP MEETING
August 11, 2015 7:15 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 7:15 pm by Chair Carl Beatty. P&P were said by Committee Member Wayne Abare.

B. COUNCIL:

COUNCIL CHAIR:	MAYOR CARL BEATTY
VICE-CHAIR:	MARISA ACQUAVIVA, <i>excused</i>
COUNCIL MEMBERS:	GRANT BALL, arrived 7:45
ACTING CHAIR:	BRIAN VAIL
	DON KRIEGER
	DICK KORN
TOWN ADMINISTRATOR	BONNIE WILBANKS
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

C. WORKSHOP ACTION:

BUDGET STATEMENT:

TA went over numbers in Budget Statement and gave an overview of the changes (+ / -) by department. She explained that the amount in 389.9500 is the amount we put in from reserves to balance the budget. This statement is made part of these minutes. We must have a balanced budget. 522 goes up by 21K to cover our match for two grants. 524 change of savings is FTE changed her health plan from family to individual and the amount went down dramatically.

CM Vail and CM Korn started talking about putting money aside for specific purposes. TA said we also need to pay back reserves from when council directed that the capital expenses be paid off early to save on the interest payments since our reserves were not getting anything close to that rate. CM Ball said it is an obligation. Staff will get information on how much is still left to repay reserves by department. CM Korn saw the zeroed out line items on the definition page and assumed it was paid back. CM Vail said Council needs to read the definition. It would help understand what the line item covers. Good homework would be to read through budget definitions.

CM Korn said re: page showing millage rates for other cities – we are just about at the bottom. They need to be conservative but still be responsible to the residents by keeping the infrastructure operational. TA said the younger generation moving into town is more used to having more services. Need to be responsible.

Council recognized person in audience that asked to comment.

Jeff McKnight, 2005 Flashy Lane, said he looked though the vehicle status of PW and FD and the sheet provided by clerk showing 1+M in reserves looks like a big number until you consider how much you need in vehicles replacements; it would wipe out most of that. Council should have a replacement plan. Budget annually – buy a vehicle that will be usable for 10 years and budget a portion each year so at end of ten years, you have the money available. CM Vail said council has not done that for many, many years.

CM Vail said there is a potential grant that has been applied for that would only require a 5% cost share for a new fire truck; maybe 10-15K. This year needs to reflect planning for the future. TA said the replacement is not always 1 to 1; in case of this grant they would retire two vehicles and save by getting them off the insurance.

Franklin then went over the past millage rates and population counts. Also went over how Malabar millage rate compare with other municipalities. CM Korn asked about rolled back rate. Franklin explained that the maximum millage rate that is mailed out to all property owners in the Truth in Millage statement (TRIM). It must be based on the "rolled back rate". She explained that the rolled back rate is the millage required to get about the same amount as the previous year. Last year 1.8000 brought in 362K; this year our property value has increased so it would only require 1.7625 in order to bring in a similar amount of ad valorem. That is the rate we must use in calculating the maximum millage. That is how council approved the 1.9256 maximum millage. The only way to levy a higher millage is by putting a referendum question on the ballot for the voters. That would require a lot of communication and education to the residents.

REVENUES:

Franklin said the only revenues the Town has control over are the Ad Valorem, BTRs, BPs, user fees (park rental) and franchise fees that are set by contract. The Local Option Gas Tax, CST, ½ cent Sales tax, Revenue Sharing are all based on formulas determined by the State and based on our population. This year, our population has increased to 2735. Last year we had moving out of Malabar.

EXPENDITURES:

511.4000 – Mayor leave it the same.

511.5400 - Books/Memberships: this is set by the annual memberships that the Council and Mayor belong to.

511.6400 – Machinery/Equipment: new chairs for guest in chambers. Multiyear project.

DEPT. 512:

TA 512.4000 add 2000 for travel cost for job related for new total of 3500. CM Korn said whatever number we put in it may change. CM Vail said that depending on who is hired as next administrator this whole department may change. There are some applicants that have stated they don't need benefits so this discussion should be left until one is hired. Then a budget amendment can be made.

DEPT. 513:

This department is the accounting, auditing, Debby, Cindi and Jackie as contractor. Ask Jackie if she would stay on as contractor. TA explained she works for us through the cloud. TA said there are many positions that are filled through the computer. Franklin said we went through many accounting clerks until we found her and she is invaluable. Franklin communicates with her daily. She inputs budget into QB, does AR, reconciles bank statements, inputs payroll. CM Vail asked TA and Clerk if she is capable of performing the duties from Alabama. TA and Clerk both say yes, definitely. Consensus is to find out she will do it as contractor. CM Korn maintains his concern not having a body in seat; in no way implies he does not support Jackie, he likes her and would like to have her here.

DEPT. 514:

This department is legal services – no change. Expand on definition for other legal.

DEPT. 515:

This department is the comp planning. Franklin stated that this budget is very conservative. P&Z Board is as close as they have ever been to bringing something to Council regarding FLUM revisions and a planner will be needed if that happens. It also provides funds for the invaluable training provided by the American Planning Assc in conjunction with the Univ of Florida. It was offered in 2013 and clerk, TA and Denine all attended with one P&Z member and it was the most educational 8 hours. Clerk has copied the handbook and provided one to every council person and P&Z member.

Workshop stopped here at 10:15pm.

D. ADJOURNMENT

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

MOTION: CM Vail / CM Ball moved to adjourn the meeting. VOTE: All Ayes.
This meeting adjourned at 10:15 pm.

BY: _____
Mayor Carl A. Beatty,
Council Chair

ATTEST BY:

Debby K. Franklin, Town Clerk/Treasurer

Date Approved: _____

DRAFT

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: August 24, 2015

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

SUBJECT: Action on Request to Vacate – Portion of Johnston Avenue

BACKGROUND/HISTORY:

See Attachments

This is a Public Hearing

FINANCIAL IMPACT:

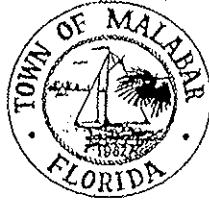
N/A

ATTACHMENTS:

Petition and Application from Alisha Cline
Radius Map, list of property owners within 500', Notice of legal ad to residents on radius list
Memo from Denine Sherear, AABO re: P&Z Board Comments
Question and Answers between Staff and Attorney Bohne re: Tabling of Public Hearing Item
LDC, Article 12, Section 1-12.8 re: Vacates
List of Accepted Streets showing Johnston Ave as 306'
Map showing accepted and unaccepted roadways
Reso 15-2015 vacating portion of Johnston w/ Exhibit A
PA color maps showing applicant's parcels (2)
Letter from Mr. Cirelli opposing vacate request w/ PA map showing parcels he owns
Letter from Mr. Carnichael opposing vacate w/ PA map showing parcel he owns

ACTION OPTIONS:

Action by Council



TOWN OF MALABAR
PH #9
#2

TOWN OF MALABAR
2725 MALABAR ROAD
MALABAR, FLORIDA 32950-4427
3321-727-7764

PETITION FOR VACATING OF RIGHT-OF-WAY

Before completing this application, please refer to the attached.

- Petition for vacating right-of-way procedure
- Ordinance 01-06

This application must be completed, with required attachments, and returned to the Town Clerk's Office.

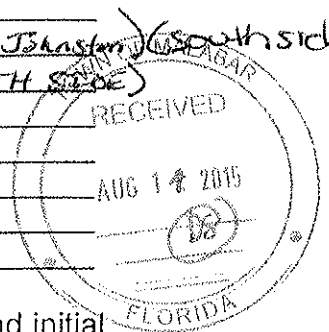
Name of Applicant(s) Alisha Cline Telephone # 321-693-6972

Mailing Address 2585 Johnston Ave, Malabar, FL 32950

Reason for Request I own all adjacent property and the property serves no public purpose (both to the North and South of Johnston Ave.)

Parcel ID: 28-38-31-54-0001.0-0012.0 (2585 Johnston) (south side)

Parcel ID: 28-38-31-26-0002.0-0001.0 (NORTH SIDE)

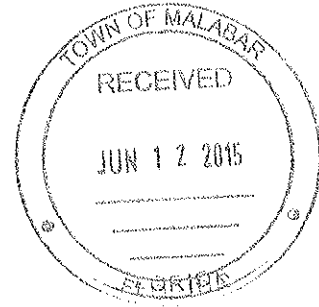


Fees: \$425.00, which includes advertising, administrative time, mailing and initial review by staff, Town Engineer and Town Attorney. Any additional costs shall be paid by the applicant.

[Signature]
Signature of Applicant(s)

8/12/15
Date

TOWN OF MALABAR
2725 Malabar Road
Malabar, FL 32950
Tel. 321-727-7764 FAX 321-722-2234



APPLICATION TO VACATE AND ABANDON PUBLIC RIGHT-OF-WAY

Before completing this application, please refer to Ordinance 01-06, attached.

This application must be completed, with required attachments, and returned to the Town Clerk's office.

Name of Applicant(s) Alisha Cline Tel 321-693-6972

Mailing Address: 2585 Johnston Ave, Malabar FL 32950

Legal description of public right-of-way covered by application:

Township _____, Range _____, Section _____, Lot/Block _____,

Subdivision _____, Street Name _____.

Other Legal _____

172.69 feet by 40' wide unimproved right of way
east of ~~J~~ Jewiest Row to terminus at 28-3831-00-
264.

Required attachments:

- Petition to vacate
- Application fee of \$425 which includes advertising, administrative time and mailing. Any additional costs may include, but are not limited to, engineering fees, attorney fees, etc., and shall be paid by the applicant.
- Map of the total area of the public right-of-way.
- List of names, addresses and tax parcel numbers of property owners within 500 feet of the total length of the subject public right-of-way as prepared by a county office with access to public records, i.e. Brevard County GIS division of the Planning and Zoning Department (321-633-2060).

encl

Alisha Cline

6/12/15

Applicant(s)

Date

RADIUS MAP

CLINE, ALISHA





cline500



1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

CLINE, Alisha

ALFORD, KIM
ALFORD, LISA H/W
2545 JOHNSTON AVENUE
MALABAR FL 32950-0000

24
27
TOTAL

ARNOLD, EILEEN TRUSTEE
9600 RIVERVIEW DR
MICCO FL 32976-0000

BAZ JR LLC
1582 MANZANITA ST NW
PALM BAY FL 32907-0000

BROOKS, TOMMIE R
56 BOSSIEUX BLVD
W MELBOURNE FL 32904-0000

BROOKS, TOMMIE RUTH MARSHALL
BROOKS, TOMMY A H/W
56 BOSSIEUX DR
W MELBOURNE FL 32904-0000

CARMICHAEL, C RANDALL
609 ALDEN PLACE
MELBOURNE BCH FL 32951-0000

CDA SOLUTIONS INC
P O BOX 500070
MALABAR FL 32950-0070

CIRELLI, EMILIO
354 PINEWOODS RD
ORMOND BCH FL 32174-0000

CLINE, ALISHA
2585 JOHNSTON AVE
MALABAR FL 32950-0000

DEBELLAS, JOSEPH TRUSTEE
MARKS, ROBERT D
1100 BROOK ST NE
PALM BAY FL 32905-0000

GERLACH, DOUG
8865 CENTRAL AVE
MICCO FL 32976-0000

HERRIN, DAVID A
2610 MALABAR RD
MALABAR FL 32950-0000

LIFESTYLES MANAGEMENT CO INC TR
252 WEST ARDICE AVE STE 428
EUSTIS FL 32726-0000

LIND, ERICK
7 REIMERS
OGALLALA NE 69153-0000

~~MALABAR, TOWN OF
2725 MALABAR RD
MALABAR FL 32950-0000~~

~~MALABAR, TOWN OF
1803 AIRPORT BLVD
MELBOURNE FL 32901-0000~~

MARSHALL, JIMMIE A TRUSTEE
P O BOX 500176
MALABAR FL 32950-0176

MATHEWS, TERRY D
7665 OAK ST N
MELBOURNE FL 32904-0000

MELLO, DIEGO
1369 FLORENCE ST
MALABAR FL 32950-0732

MILLER, WILLIAM E
WISE, EDITH S
2530 MALABAR RD
MALABAR FL 32950-0000

~~POULOS, VERA
1175 N MARIE STREET
MALABAR FL 32950-0000~~

POULOS, VERA
1175 N MARIE ST
MALABAR FL 32950-0000

~~POULOS, VERA
1175 N MARIE STREET
MALABAR FL 32950-6919~~

PROPST, DONNA M B
BROOKS, TOMMIE R ET AL
56 BOSSIEUX BLVD
W MELBOURNE FL 32904-0000

RHINE, JAMES G
RHINE, GREGORY J
8411 FLIGHT AVE
LOS ANGELES CA 90045-0000

MAS, CHRISTOPHER B
299 LACHINE ST SW
PALM BAY FL 32908-0000

THOMAS, GEORGE
3009 E CORTEZ CT
IRVING TX 75062-0000

THOMAS, GEORGE A
THOMAS, BETTY JO
1435 FLORENCE ST
MALABAR FL 32950-0000

cline500
Page2

TOWNSEND, JAMES H
TOWNSEND, ANNA M H/W
1401 FLORENCE ST
MALABAR FL 32950-0000

WHITE, ALICE ANN
1345 FLORENCE STREET
MALABAR FL 32950-0000

WOOD, MELVIN C
WOOD, REBECCA
726 ROYAL PALM PL
VERO BEACH FL 32960-5140



TOWN OF MALABAR

2725 MALABAR ROAD • MALABAR, FLORIDA 32950
(321) 727-7764 OFFICE • (321) 722-2234 FAX
www.townofmalabar.com

Please place the following legal ad one time on **July 30, 2015**. Please put the title in **BOLD** font.
Please send proof to TOWNCLERK@TOWNOFMALABAR.ORG

Thank you,

Debby Franklin, CMC
Clerk/Treasurer

**TOWN OF MALABAR
TOWN COUNCIL
NOTICE OF PUBLIC HEARING
FOR RESOLUTION VACATING RIGHT-OF-WAY**

The Town Council of the Town of Malabar, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on August 17, 2015 at 7:30 pm for a public hearing on Resolution 13-2015, a request Alisha Cline to vacate the unimproved 40 foot wide right-of-way shown as Johnston Avenue from Jennie Street east to the terminus of the right-of-way adjacent to Parcel 28-38-31-00-264, a distance of 195.02 feet. Copies of this request is available in the Clerks office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may appear and be heard at this meeting of the Town Council with respect to this request.

Debby Franklin, CMC
Town Clerk/Treasurer

YOU ARE RECEIVING THIS NOTICE BECAUSE YOUR PROPERTY LIES IN THE 500' RADIUS OF THIS REQUESTED VACATE. MALABAR LAND DEVELOPMENT CODE STATES IN ARTICLE XII, SECTION 1-12-8, I, THAT ALL PROPERTY OWNERS WITHIN 500' OF A VACATE REQUEST SHALL BE SENT A COURTESY COPY OF THE LEGAL AD FOR THE PUBLIC HEARING THAT WILL BE HELD TO DISCUSS THIS REQUEST.

THIS REQUEST WILL FIRST BE PRESENTED TO PLANNING AND ZONING AT THEIR MEETING OF AUGUST 12, 2015 AT 7:30PM. THE APPLICANT IS REQUESTING A FAVORABLY RECOMMENDATION TO BE FORWARDED TO COUNCIL FOR THEIR ACTION ON AUGUST 17, 2015.

INTERESTED PARTIES ARE ENCOURAGED TO ATTEND BOTH MEETINGS.

HZ

TOWN OF MALABAR

MEMORANDUM

Date: August 14, 2015 15-AABO-025

To: Debby Franklin, Town Clerk/Treasurer
Town Council

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

Ref: Comments from PZ Board: Vacate of ROW on Johnston Avenue, East of Jennie Street (Applicant Alisha Cline)

The last meeting that PZ had on 8/12/15 there was an Action Item to Petition to Vacate ROW on Johnston Avenue, East of Jennie Street the Applicant (Alisha Cline) who resides at 2585 Johnston Avenue. The reason Alisha Cline petitioned for this request is she owns adjacent properties and the property serves no public purpose, and she has been maintaining the right-of-way. Ms. Cline would like to join these properties together for tax purposes and fence these properties.

At the PZ Meeting on 8/12/15 Ms. Cline explained to the Board that traffic comes down Johnston Avenue and turns around at her property on a regular basis she was told by Brevard County Sheriff that before she purchased the residence (2011) at 2585 Johnston Avenue that it was a known house for drug activity.

Mr. Kim Alford who resides at 2545 Johnston Avenue spoke from the "Public" voicing his concerns that the Boards should go on the side of caution and research all options before making a final recommendation for this request to vacate this portion of Johnston Avenue.

The Chair summarized Board Member's requests for clarification:

- To determine is Johnston Ave. a ROW?
- If the improved road stops at Jennie? (as per our road list Johnston Ave is improved 1,164 ft. east from center line of Marie Street- the last 306 feet is payback under 01-01)
- Applicant to modify application to put fence across Johnston Ave. to stop people from coming up driveway and give Town a key. (if the vacate is not approved)

The PZ Board discussed the Vacate of Right-of-Way extensively and made this Motion:

Motion: Abare/ Ritter To Table the Vacate of ROW and Applicant bring back more information VOTE: All Ayes

8/13/15 Question:

Karl,

The vacate that was requested on Johnston Avenue that I sent you the info on and you agreed with engineer Morris that the vacate should start at the east side of Jennie Street. It was legally posted and notices were sent to 500' radius alerting them that the two public hearings were to be held on 8/12/15 at P&Z and 8/24 at TC.

Here is the problem. P&Z tabled the item last night because a resident on the WEST side who complained that if the vacate was granted then Jennie would be improved for access and he would have traffic turning north at the end of his property. I have attached a map showing the location of resident to west of applicant's property. See blow for other reasons they gave for tabling.

As far as I have heard from Denine that was a factor in the Board tabling the request. They want to bring it back at their next meeting. My problem is that the posting and notices and legal ad all have been done with 8/24/15 date for Council. Can it still go to Council with comment that this went before P&Z and they took no action or do we have to go through the expense of re-advertising and reposting and resending notices?

The following concerns of the PZ Board should be added to reason of Tabling this Agenda Item at PZ 0812 2015.

Chair summarized Board Member's requests for clarification:

- To determine is Johnston Ave a ROW? *s/s survey PROVIDED*
- If the improved road stops at Jennie? (as per our road list Johnston Ave is improved 1,164 ft. east from center line of Marie Street- the last 306 feet is payback under 01-01)
- Applicant to modify application to put fence across Johnston Ave, to stop people from coming up driveway and give Town a key. (if the vacate is not approved)

Debby and Denine

8/13/15 Answer:

Staff,

In order to save an extra advertising fee the matter should be brought to the council with an explanation of what happened and it is being forwarded to council to hold their public hearing and at the end the council should table their vote and send it back to P&Z for further discussion/analysis... I do not think we need to advertise the 2 subsequent meetings but courtesy notices should be mailed to those who are interested. The notice can identify both meetings. Each board can, if they want, reopen the public hearing.

My suggestion for the future, because we incur expenses in advertising, if this occurs the P&Z should recommend denial and state the reasons which should be sent to council. The council would then hold the public hearing and close it and "table" their vote until further comment and recommendation is received from P&Z. This will save cost, but at a minimum mailed notice of the subsequent meetings should be made. The notice can identify both the P&Z meeting and Council meeting.

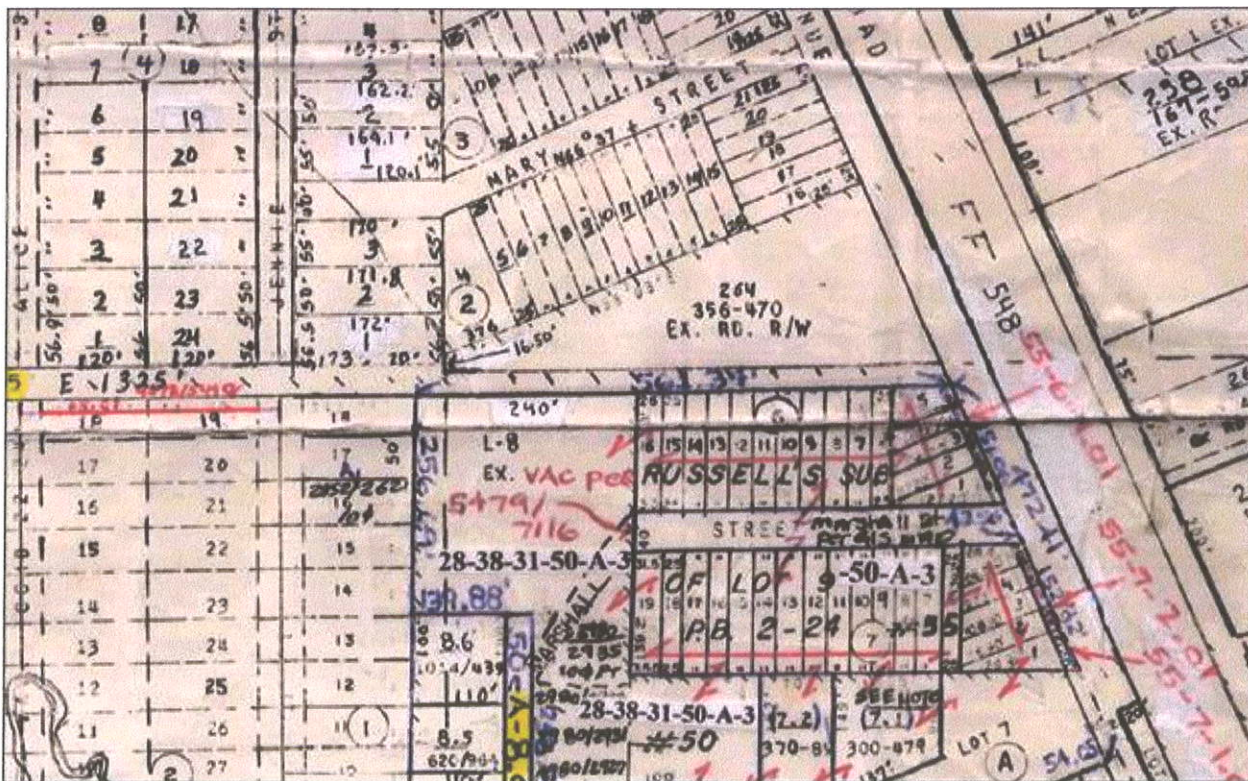
Karl Bohne

Debby Franklin

From: Jeff Hahn <jeff.hahn@bcpao.us>
Sent: Friday, August 21, 2015 10:53 AM
To: Debby Franklin
Subject: RE: Malabar Question

Hi Debby,

I concur with your findings. I checked our worksheet (inserted) and the tax roll and could not locate any records that vacate the subject portion of Johnston Ave. Our digital map in this area contains less accurate digitized work and is in need coordinate geometry (Cogo) remapping.



Sorry if this threw you off,

Best Regards,

Jeff

Jeffery L. Hahn, GISP, CCF
Sr. Director, GIS & Cadastral Services Department
Brevard County Property Appraiser's Office
400 South Street, 4th Floor
P.O. Box 429
Titusville, Florida 32781-0429

Phone: (321) 264-6707
Fax: (321) 264-6983

jeff.hahn@bcpao.us
www.bcpao.us

From: Debby Franklin [mailto:townclerk@townofmalabar.org]
Sent: August 20, 2015 10:47 AM
To: Jeff Hahn
Subject: Malabar Question

Hi Jeff,

I have another question on a completely new subject.

We have received a request to vacate a portion of Johnston Ave in Sec 31, Township28, Range 38. It looks like the center line of the ROW divides the two subdivisions Snedekers on the south side and John J Pollaks on the north. My question is this:

The PA map does not show any ROW east of lot 2. The survey provided by the applicant shows a 40' ROW that goes all the way to W. Railroad Ave. I don't have any records showing that it was vacated. Can you offer any insight?

Thanks,

Debby K. Franklin, C.M.C.

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

Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing

Section 1-12.8. - Vacate and abandonment.

- A. *Definitions:* For purposes of this Section the following terms shall have the following meanings:
 - 1. *Vacate and abandon* shall mean vacate, abandon, close, renounce, disclaim or any other term that indicates the relinquishment of the Town's right, title or interest in a public right-of-way.
 - 2. *Public right-of-way* shall mean public road, street, highway, easement, way, thoroughfare.
- B. The Town Council may by resolution vacate and abandon any public right-of-way.
- C. All requests for a vacate and abandonment of any public right-of-way shall be by petition and shall state the name and address of all persons owning property abutting said public right-of-way and shall give a description of the public right-of-way sought to be vacated and abandoned.
- D. Petitions for a vacate and abandonment shall be submitted to the Town at least twenty-one (21) days prior to a regularly scheduled Planning and Zoning Board meeting. Meetings are the second Wednesday of each month. The following information shall be submitted with the petition:
 - 1. List of all property owners within five hundred (500) feet of the total length of the subject public right-of-way. Such list shall be prepared by a county office with access to public records, i.e. property appraiser. *letters sent out 7/30/15*
 - 2. A map of the total area of the public right-of-way and property owners with the area requested to be vacated and abandoned identified.
- E. The petition and all associated documents shall be forwarded to the Building Official for distribution to the appropriate Town staff. Staff shall review the request and determine if any conflict may exist or if there may be any reason that the Town should not grant the request. Written staff comments shall be forwarded to the Building Official within ten (10) working days following receipt of the vacate request.
- F. The Building Official shall present the vacate and abandon request and staff comments to the next regularly scheduled Planning and Zoning Board meeting for consideration and recommendation to the Town Council. *8/12/15*
- G. The request and Planning and Zoning Board recommendation shall be forwarded to the Town Council for authorization to proceed. *originally 8/17/15 RTCM CANCELLED RESCHEDULED 8/24/15 RTCM "Public Hearing"*
- H. Before the adoption of any resolution vacating and abandoning any public right-of-way, the Town Clerk shall cause to be published in a newspaper of general circulation in the Town a notice that the Town Council shall hold a public hearing regarding said resolution. Said notice shall be published at least fourteen (14) days prior to the date of said public hearing.
- I. A courtesy copy of the notice shall be mailed to all property owners identified in subparagraph D. above and to all utility companies serving south Brevard County. *7/30/15 - 8/7/15 8/10/15*
- J. Any decision by the Town Council concerning a vacate and abandonment shall be a legislative decision and governed by the fairly debatable standard.
- K. Notice of the adoption of the resolution vacating and abandoning any public right-of-way by the Town Council shall be published one (1) time within thirty (30) days following its adoption in a newspaper of general circulation in the Town.
- L. The proof of publication of notice of the public hearing, the resolution adopted by the Town Council, and the proof of publication of the notice of adoption of the resolution all shall be recorded in the public records of Brevard County after same has been completed.

submitted 6/12/15

✓

✓

✓

✓





Town of Malabar - Public Right-of-Ways Accepted Streets 5/10/2004

NOTE: THIS LIST DOES NOT INCLUDE ALL TOWN-OWNED RIGHT-OF-WAY

- ...s Trail (Brook Hollow) (1,219 ft. paved from center line Briar Creek Boulevard to center line Briar Creek Boulevard)
- First Lane (240 ft. paved north from center line Riverview Drive)
- Flashy Lane (1,275 ft. north from Hall Road to dead end)
(530 ft. x 25 ft. south from center line Hall Road)
- Florence Street (1,200 ft. paved north from center line Malabar Road)
- Garden Street (528 ft. east from center line Pine Street to dead end)
- Gilmore Street (1,280 ft. north from center line Malabar Road to center line Allen St.)
- Glatter Road (1,584 ft. east from center line Malabar Road)
(2,640 ft. east from center line Elaine Lane)
- Hall Road (13,200 ft. west from center line Marie Street to town limits)
(5,280 ft. of total--paved; 7,920 unpaved)
- Hard Lane (500' south of center line of Atz Road)
- Hard Way Lane (730 ft. north from center line Old Mission Road) (plus 400 ft. north from Old Mission--payback under 90-3)
- Hawthorne Avenue (150 ft. west from center line US#1)
- Hollow Brook Lane (Brook Hollow) (2,045 ft. paved north from center line Briar Creek Boulevard)
- Holloway Trail (Brook Hollow) (324 ft. paved west from center line Briar Creek Boulevard)
- Homestead Lane (Sugar Pines) (1,200 ft. paved north from center line Atz Road to dead end)
- Howell Lane (1,100 ft. north from center line Hall Road to dead end)
(528 ft. south from center line Hall Road).
- Huggins Drive (808 ft. paved east from center line US#1).
- Hunter Lane (1,320 ft. north from center line Atz Road)
(1,500 ft. south from center line of Atz Rd.--payback under 90-3)
- Isasa Lane (730 ft. south from center line of Hall Road)
- Ivey Lane (800 ft. south from center line of Hall Road)
- Johnston Avenue * (1,164 ft. east from center line Marie Street) (the last 306 feet is a payback under 01-01) ←
- Jordan Boulevard (1,010 ft. paved west from the center line US#1)
- ...ly Lane (1,483 ft. south from the center line of Atz Road)
- Kramer Lane (1,322 ft. north from center line of Benjamin Road--payback under 91-2)

Dana Blickley, CFA
Brevard County Property Appraiser - MAP SEARCH



Parcel Identifier	Address	Millage Code	Exemption Code	Use Code	Tax Account
1Aerial28-38-31-26-00004.0-0001.0		34Z0		10	2851021

Red = improved/accepted streets
 Green = unimproved but platted ROW
 Blue = Applicants property

RESOLUTION 15-2015

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA VACATING AND ABANDONING 172 FEET OF UNIMPROVED RIGHT OF WAY KNOWN AS JOHNSTON AVENUE IN SECTION 31, TWSP 28, RNG 38 BETWEEN SD 54 LOT 1, PAR 12 AND SD 26, LOT 2, PAR 1, A DISTANCE OF 172 FEET, BEGINNING AT THE EAST SIDE OF JENNIE STREET RUNNING EAST TO THE END OF PAR 12. LOCATED IN THE TOWN OF MALABAR; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Malabar has determined to partially vacate and abandon a certain right-of-way located in the town corporate limits. The portion of the right-of-way being abandoned is described in Section 1 of this Resolution and is hereinafter referred to as the "Right of Way"; and,

WHEREAS, the Town Council of the Town of Malabar has considered the petition to vacate as the applicants own the parcels to the north and south and wish to join them for their homestead; and,

WHEREAS, the Town Council has considered the access to Parcel 264 from the existing West Railroad Avenue; and,

WHEREAS, the Right-of-Way south of the centerline of Johnston Avenue, approximately 172 foot right-of-way will become part of Parcel 12; and north of the centerline will become part of Parcel 1; and,

WHEREAS, the Town Council deems it does not serve any public need to require the right-of-way to be improved and will also prevent Johnson Avenue from becoming a collector between West Railroad Avenue and Marie Street and that it is in the best interest of the Town to vacate and abandon the said Right-of-Way; and,

WHEREAS, the Town desires to vacate and abandon to the adjacent property owners the 172 foot right-of-way more particularly described in Section 1 of this Resolution.

NOW THEREFORE, be it resolved by the Town Council of the Town of Malabar, Brevard County, Florida as follows:

Section 1. Right-of-Way Abandoned. The Town hereby vacates and abandons the following property:

The 25' - 40' wide right-of-way between Parcels 1 and 12 a distance of 172 feet beginning at the east point of Jennie Street and running east to the eastern most point of parcel 12.

Section 2. A map showing the area vacated is attached hereto as **Exhibit "A."**

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

Section 4. Effective Date. This resolution shall take effect upon the recording at the Clerk of Courts.

This Resolution was moved for adoption by Council Member _____ and was seconded by Council Member _____ and, upon being put to a vote, the vote was as follow:

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Don Krieger	_____
Council Member Dick Korn	_____
Council Member Marisa Acquaviva	_____

This Resolution was declared duly passed and adopted this ____th day of August, 2014.

Town of Malabar

Mayor Carl A. Beatty, Council Chair

ATTEST:

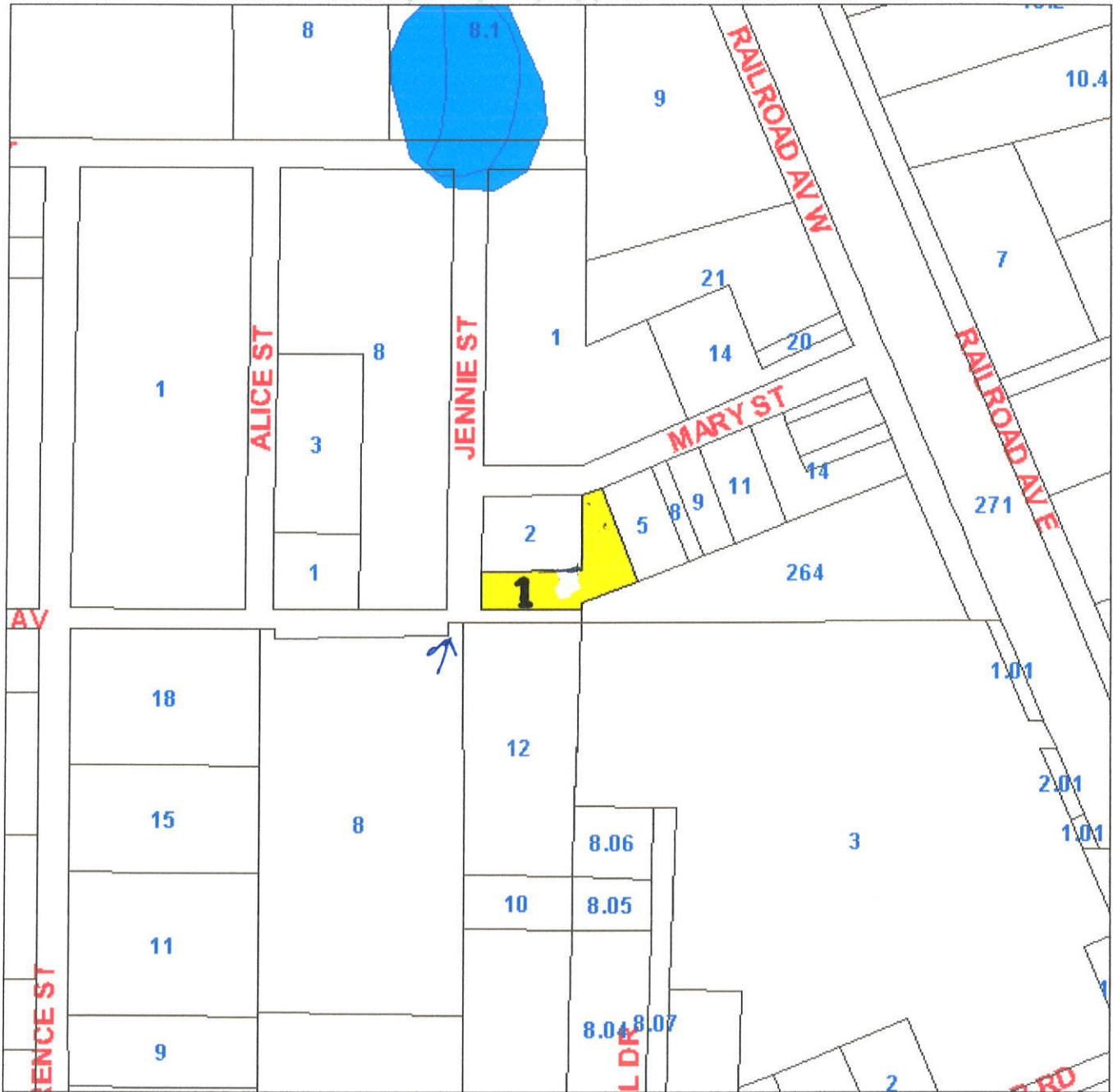
Debby K. Franklin, C.M.C.
Town Clerk/Treasure

(Seal)

Approved as to Form and Content:

Karl W. Bohne, Jr.
Town Attorney

Dana Blickley, CFA
Brevard County Property Appraiser - MAP SEARCH

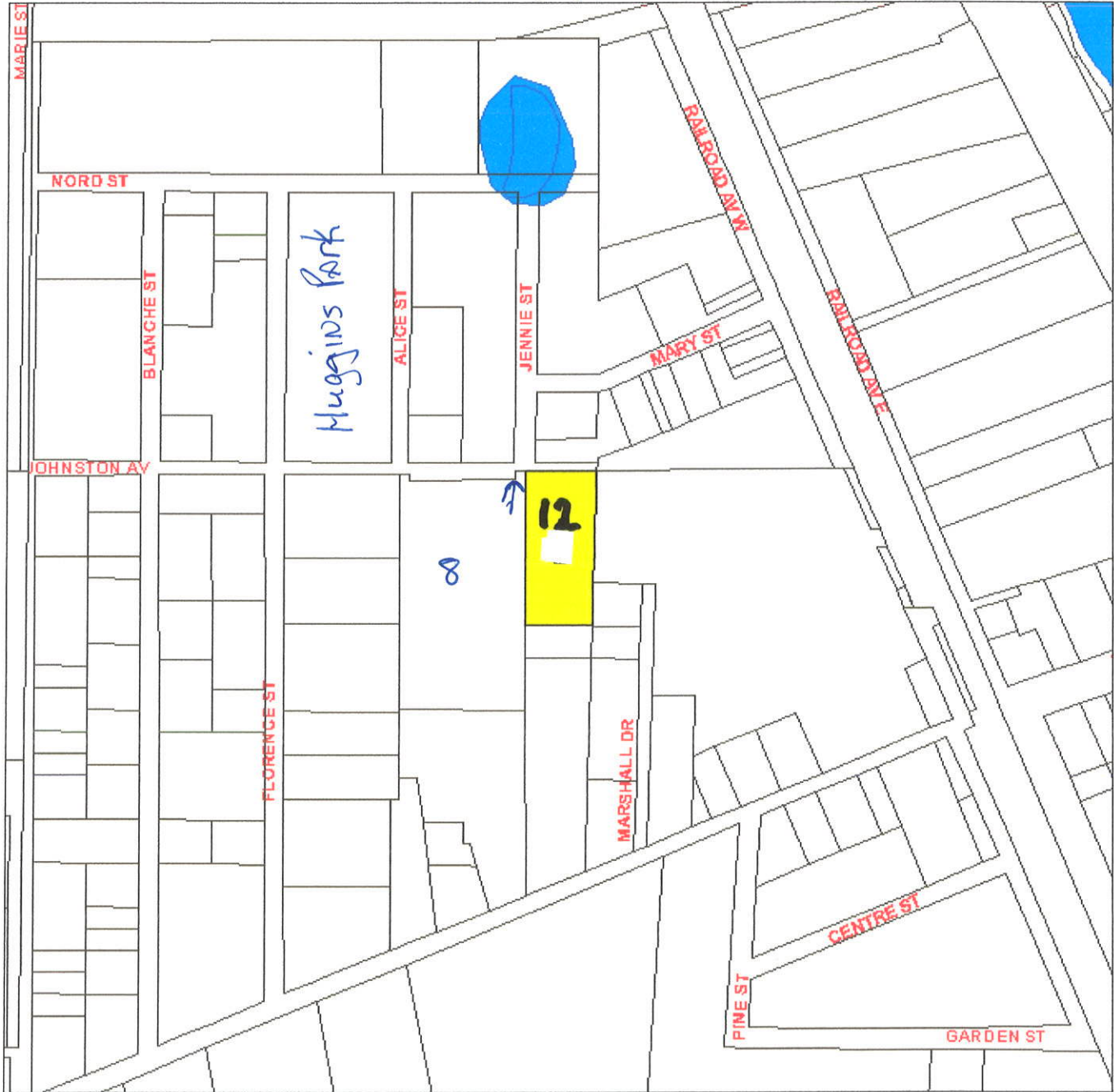


	Parcel Identifier	Address	Millage Code	Exemption Code	Use Code	Tax Account
1	Aerial28-38-31-26-00002.0-0001.0	3420			10	2851010

↑ John J Pollaks S/D

Dana Blickley, CFA

Brevard County Property Appraiser - MAP SEARCH



	Parcel Identifier	Address	Millage Code	Exemption Code	Use Code	Tax Account
1	Aerial 28-38-31-54-00001.0-0012.0	2585 JOHNSTON AVE	3420	1	110	2851112



SNEDEKERS S/D

8.3.2015

To Whom this May Concern,

As the Owner of Properties near by Requested
Vacating Right of Way I hereby OBJECT!
I do wish to keep accessing by Properties
via JOHNSTON AVE.

Mr. Emilio Cirelli
354 Pine Woods Rd.
Ormond Beach, FL 32174-8042

Thank you.
Emilio Cirelli
EMILIO CIRELLI



TOWN OF MALABAR

2725 MALABAR ROAD • MALABAR, FLORIDA 32950
(321) 727-7764 OFFICE • (321) 722-2234 FAX
www.townofmalabar.com

Please place the following legal ad one time on July 30, 2015. Please put the title in BOLD font.
Please send proof to TOWNCLERK@TOWNOFMALABAR.ORG

Thank you,

Click Action: Parcel Info Distance 0

Decrease Zoom Bar | Aerial View Range Increase

264 267.1 10.1 10.3 10.2 10.4 268 271 269 280 282 281 760 12 10 11 16 18 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

ALICE ST JENNIE ST MARY ST MARSHALL DR MALABA RAILROAD AVE W CENTRAL AVE E FLORENT ST

28-38-31-26-00002.0-0009.0

View
 Map Aerial
Change

Locate
Parcel ID

Zoom to
Brevard County

Printable Version
Map Preview

Check below then
 Parcels
 Schools
 RoadNames
 Water

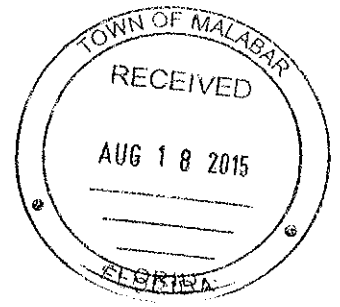
Update

Help [Legende](#)

Attention: The bro
level must be 100'
click to select the
parcel.

Mr Cirelli
parcels

P&Z Board Member Wayne Abare
Town of Malabar
c/o Town of Malabar
2725 Malabar Rd.
Malabar, FL 32950-4427



August 13, 2015

RE: Pending Request to Vacate Johnston Ave. Right of Way

I am the owner of a property in the Town of Malabar described as Parcel 28-38-31-00-264. My property is situated adjacent to the east end of the unimproved right of way for Johnston Avenue. This letter is to express my objection in the strongest possible terms to the approval Resolution 13-2015 requesting the vacating of a portion of the Johnston Ave. right of way. My property will suffer severe adverse effects and de-valuation if this Resolution is approved, since it will eliminate fully half of the current access to my property.

The first notice I received of this pending matter arrived in my mail on Wednesday August 12, 2015 and was opened by me this morning. I have the envelope bearing its August 10 postmark. By the time I opened my mail this morning the 8/12 P&Z Board meeting at which this matter came up, and was apparently tabled, had obviously already occurred. I received no prior notification of this matter from the Town of Malabar. Rest assured I would have attended the meeting to respectfully express my objection had I but known that it was scheduled.

I will attend any future meetings at which this matter is scheduled to come up, as long as I know in advance that they are scheduled, and if unable to attend personally will be represented at same by legal counsel.

I urge first that this matter receive the full and open consideration it deserves under law and according to the Charter of the Town of Malabar before any action is taken. I further request that you vote against resolution 13-2015 if it should come before your board or council. Should you desire to discuss my position in this matter I can be reached at my home address, by e-mail to randy@glennstire.com, or on my cell phone at (321)543-1425. Thank you very much for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "C. Randall Carmichael". The signature is stylized and cursive.

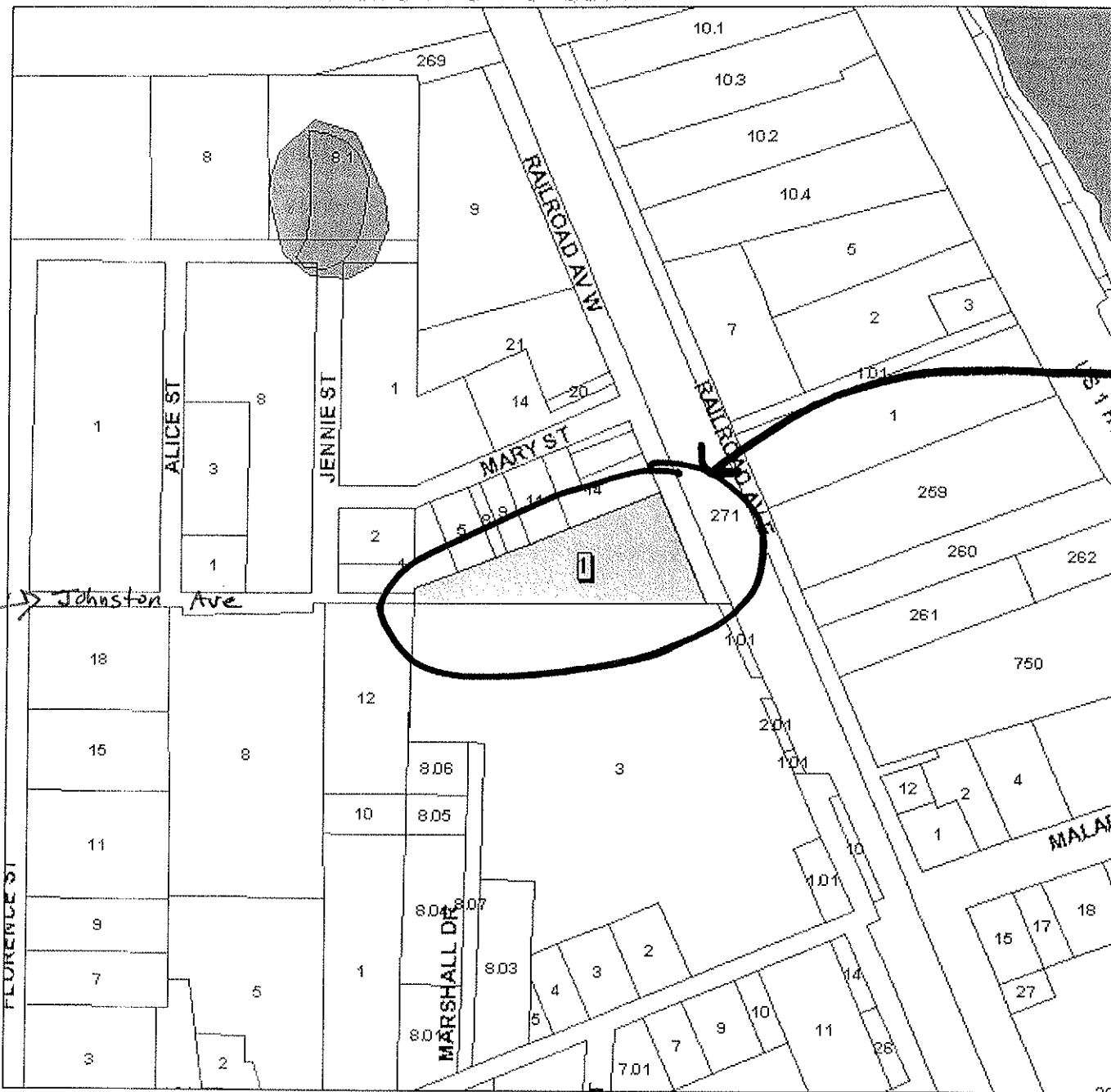
C. Randall (Randy) Carmichael
609 Alden Place
Melbourne Beach, FL 32951

North

Dana Blickley, CFA

Brevard County Property Appraiser - MAP SEARCH

Mr Carmichael's PROPERTY



East

Parcel Identifier	Address	Millage Code	Exemption Code	Use Code	Tax Account
1 Aena 28-38-31-00-00264.0-0000.0		3420		1000	2850957

South

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: August 24, 2014

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

SUBJECT: Certification of Assessment Roll and Approve Amount (Reso 14-2015)

BACKGROUND/HISTORY:

The certification of the assessment roll for stormwater and the estimated amount to be assessed must be approved by Council prior to the collection by the Tax Collector. Malabar Ordinance 1992-4 requires legal advertising before a Public Hearing can be held to approve the Stormwater Budget.

The action of Council for this meeting is to certify the tax roll to the County Tax Collector and the amount they estimate. The actual budget for the Stormwater Fund will be approved with the budget as part of that Public Hearing process on September 28, 2015.

FINANCIAL IMPACT:

\$70,998.70

ATTACHMENTS:

Resolution 14-2015

Assessment Notice from Brevard County Stormwater Department

ACTION OPTIONS:

Town Clerk requests approval of Resolution 14-2015 Certifying the Assessment Roll and amount.

RESOLUTION NO. 14-2015

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

WHEREAS, an annual assessment roll has been prepared by Brevard County, a summary of which is attached to and made part of this Resolution by reference and labeled Exhibit "A"; and

WHEREAS, a copy of such Annual Stormwater Utility Assessment Roll has been sent to the Brevard County Tax Collector for collection ~~in the same manner as ad valorem taxes are collected pursuant to the uniform ad valorem method for the levy, collection and enforcement of non-ad valorem assessments pursuant to section 197. 3632, Florida Statutes;~~ and

WHEREAS, the Town Council is satisfied that the annual Stormwater Utility Assessment Roll has been prepared in conformity with the Schedule of Rates and Classifications adopted by the Town Council on August 7, 2000; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby ratifies, confirms, and certifies that the annual Stormwater Utility Assessment Roll for fiscal year beginning October 1, 2015, is in conformity with the Schedule of Rates adopted by the Town Council on August 7, 2000.

Section 2. Those stormwater utility assessments imposed during fiscal year beginning October 1, 2015, shall be billed by the Town of Malabar or its authorized representative, pursuant to the provisions of Section 13.5-8 of the Code of Ordinances, Town of Malabar, and shall be due and payable on November 1st of each year, pursuant to law.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this Resolution is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holdings shall not effect the validity of the remaining portions of the Resolution.

Section 4. That a certified copy of this Resolution shall be delivered to the Tax Collector of

Brevard County, Florida.

Section 5. This Resolution shall take effect immediately upon its adoption.

This Resolution was moved for adoption by Council Member _____.

This motion was seconded by Council Member _____ and, upon being put to vote, the vote was as follows:

- Council Member Grant Ball
- Council Member Brian Vail
- Council Member Don Krieger
- Council Member Dick Korn
- Council Member Marisa Acquaviva

This Resolution was then declared to be duly passed and adopted this 24th day of August, 2015.

TOWN OF MALABAR
By:

Mayor Carl A. Beatty,
Council Chair

Legal Ad ran for Public Hearing on 8/13 and 8/20

ATTEST:

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

(seal)

Approved as to Form and Content:

Karl Bohne, Jr., Town Attorney



2015 Totals for Stormwater Billing

Count	District - City	Billing Amount
1,680	Malabar	70,998.70

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 4
Meeting Date: August 24, 2015

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

SUBJECT: Off-Street Parking (Ord 2015-03) for 2nd Reading and Public Hearing

BACKGROUND/HISTORY:

Council considered the Planning & Zoning (P&Z) Board's responses to comments provided by Attorney Bohne at their July 6 meeting and voted 5 to 0 to approve. The Attorney has incorporated these changes and requested one final review at the July 20 meeting and was approved 5 to 0 to place on the August 3, 2015 agenda for first reading. Ordinance was approved 5-0 at first reading.

ATTACHMENTS:

Ordinance 2015-03

ACTION OPTIONS:

Staff requests Approval of 2nd Reading of Ord 2015-03

ORDINANCE 2015-03

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO LAND DEVELOPMENT; AMENDING ARTICLE IX RELATING TO PARKING; AMENDING SECTION 1-9.1 APPLICABILITY; AMENDING SECTION 1-9.3, COMPUTATION OF PARKING SPACES; AMENDING SECTION 1-9.5, DESIGN AND SPECIFICATIONS FOR PARKING AND LOADING AREAS; AMENDING ARTICLE XX, DEFINITIONS; PROVIDING FOR SEVERABILITY, REPEAL, CODIFICATION AND AN EFFECTIVE DATE.

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

SECTION 1. Sections 1-9.1, 1-9.3, and 1-9.5 of Article IX of the Land Development Code of the Town are amended in to read as follows:

“Article IX - OFF-STREET PARKING AND INTERNAL TRAFFIC CIRCULATION

Section 1-9.1. - Applicability.

Parking shall be designed to promote traffic and pedestrian safety, and shall be provided in all districts at the time any building or structure is erected, ~~or~~ enlarged, or increased in capacity by a change of use or with the addition of dwelling units, floor area, seats, employees, or other factors determinative of parking demand as stated in this Article IX.

• • •

Section 1-9.3. - Computation of parking spaces.

In computing the number of required parking spaces the following rules shall govern:

1. *Floor Area Calculation.* Floor area means the total gross floor area of a particular use.
2. *Interpretation of Computation with Fractions.* Where fractional spaces result, the number of spaces required shall be construed to be the next whole number.
3. *Requirements for Uses Not Identified.* The parking requirement for any use not specified shall be the same as that required for a use of a similar nature as recognized herein or where not recognized herein, shall be based on criteria published by the American Planning Association or similarly recognized standards of their profession and such standard shall be approved by the Town Council.
4. *Requirements for Mixed Uses.* In the case of mixed uses the parking spaces shall be equal to the sum of the several uses computed separately.
5. *Applicability of Standards to Expanding Uses.* Whenever a building or use is enlarged in floor area, number of dwelling units, seating capacity or in any other manner so as to create a need for a greater number of parking spaces than that existing such spaces shall be provided in accordance with this Section. Any parking deficiency shall be brought into conformity concurrently with the enlargement or change of use.
6. *Location of Off-Street Parking Spaces.* Except as otherwise prescribed for dwelling units, off-street parking spaces required by this section shall be located on the site on

which the main building or use is located. For buildings or uses located in a commercial district, parking spaces may be located not more than five hundred (500) feet from the subject site if approved by the Town Council. Such parking space will be within a commercially zoned district and appropriate legal documents including any required restrictive covenants, necessary to implement conditions imposed by the Town Council shall be filed as an integral part of the approved site plan.

7. Non-Contiguous & Off-Site Parking Spaces are not permitted unless proper engineering and approved safety standards are implemented as approved by the Building Official

7.8. Combined Parking Spaces. The required parking spaces for any number of separate uses may be combined in one (1) lot but the required space assigned to one (1) use may not be assigned to another use at the same time.

Section 1-9.5. - Design and specifications for parking and loading areas.

- A. *Stalls, Aisles, and Driveways.* Parking stalls shall be ten (10) feet wide by twenty (20) feet long for angle parking; and shall be nine (9) feet wide by twenty-three (23) feet long for parallel parking stalls. Aisle dimensions shall be in accord with standard specifications on file with the Building Official. Angle parking shall be restricted to angles of ninety (90) degrees, sixty (60) degrees, or forty-five (45) degrees. The following criteria are applicable to all parking spaces, excepting single family homes.
1. Each parking stall shall be accessible from an aisle or driveway and designed so that no automobile shall back into a public street in order to exit a parking stall. The internal design of the parking lot shall be designed to facilitate vehicular circulation and avoid conflict between pedestrian and vehicular movements. Internal circulation also shall be designed so as not to create conflict with access into or egress from the site and shall be consistent with the landscape requirements of this Code.
 2. No door or pedestrian entrance at ground level shall open directly upon any driveway or access aisle unless the doorway or pedestrian entrance is at least three feet or more from said driveway or access aisle and appropriate improvements are provided to allow for safe pedestrian access to the door.
 3. All paved parking spaces shall have lines between spaces to indicate individual stalls, and each stall may be required to be equipped with wheel stops if deemed appropriate by the Town Council based on recommendations of the Building Official. ~~Town Staff.~~
 - (a) Wheel stops for stalls adjacent to landscaped strips shall be located two and one half (2½) feet from the front end of the stall to prevent encroachment into required landscaped areas. The front two (2) feet of the stall may be kept as a maintained vegetative ground cover area although no credit will be extended toward the open space requirements of this Code.
 - (b) Wheel stops for stalls not adjacent to landscaped strips shall be located three and one-half (3½) feet from the front end of the stall. The front three (3) feet of the stall may be kept as a maintained vegetative ground cover area although no credit will be extended toward the open space requirements of this Code.
 4. Parking lots with twenty (20) or more spaces may be comprised of a maximum of fifteen (15) percent compact car parking stalls. Such compact car stalls shall be seven

and a half (7½) feet wide by fifteen (15) feet long and marked for use by small vehicles. The markings shall be maintained in perpetuity. The intent is to deter larger cars from using compact car spaces.

5. All publicly maintained and operated parking facilities intended for public use and all businesses, firms, or other persons licensed to do business with the public shall comply with requirements for access established in the Accessibility Requirements Manual published by the Department of Community Affairs, Florida Board of Building Codes and Standards.
- B. *Entries, Exits, Drives and Vehicle Maneuvering Areas.* All uses which are required to provide three or more off-street parking spaces shall have entry and exit ways and drives at least eighteen (18) feet in width to accommodate two-way traffic unless a one-way traffic system is utilized, in which case entry and exit ways and drives shall be at least nine (9) feet in width. In the event a one-way traffic system is utilized, appropriate traffic direction markers shall be installed. The internal circulation system, including drives and maneuvering areas, shall be designed to permit convenient maneuvering of cars and service vehicles into and out of each parking and loading space, and shall be arranged so that no vehicle need back onto a public right-of-way. No occupied parking or loading space shall interfere with access to any other parking or loading space, or with any pedestrian walkway. The design of parking facilities shall also comply with landscape requirements of Article XIII [Article XIV].
- C. *Restricted Use of Off-Street Parking Areas.* All parking areas shall be used for automobile parking only, ~~with no sales, and are not intended for sales,~~ dead storage, non-emergency repair work, dismantling or servicing of any kind. Where lighting is provided, it shall be arranged to reflect away from residential areas and public ways.
- D. *Off-Street Loading Regulations.* The following spaces shall be provided for the uses indicated:
1. Every hospital, institution, hotel, commercial or industrial building or similar use having a floor area in excess of five thousand (5,000) square feet or fraction thereof requiring the receipt or distribution by vehicle of materials and merchandise, shall have at least one permanently maintained off-street loading space for each five thousand (5,000) square feet of gross floor area or fraction thereof.
 2. Retail operations, wholesale operations and industrial operations with a gross floor area of less than ten thousand (10,000) square feet, shall provide sufficient space so as not to hinder the free movements of vehicles and pedestrians over a sidewalk, street or alley.
 3. Each space shall have a direct access to a public right-of-way and shall have the following minimum dimensions:
 - (a) Length: Twenty-five (25) feet; a larger length upward to thirty-five (35) feet may be required upon recommendation by the Town Building Official, ~~the City Engineer and approval of the Planning and Zoning Commission.~~
 - (b) Width: Twelve (12) feet.
 - (c) Height: Fourteen (14) feet & six (6) inches.All subject to site plan approval.

- E. *Surfacing Requirements for Parking and Loading Spaces.* In all zoning districts, surfacing of all off-street parking areas and drives, except within the RR-65 zoning district having single family uses exclusively, shall be as follows:
 - 1. *Nonporous Surfaces.* All parking areas and approaches thereto shall require a minimum surfacing material of four (4) inches reinforced concrete, or six (6) inches of lime rock, after compaction or a comparable material with one (1) inch minimum asphaltic topping except as other [otherwise] provided herein.
 - 2. *Porous Surfaces.* The term "Porous Surface" shall mean any surface, material or technique, which allows for the movement of water through it. Part-time or temporary use such as but not limited to Church, Park, Fair, and Festival parking. All parking areas must be up to specifications of the Town Engineer, Town Planner, and/or Building Official as to composition, compaction, and drainage/ grade.
- F. *Modifications.* The Town Council may approve modifications to the specifications of Section 1-9.5 upon demonstrated need by the applicant and based on recommendations of the Town Staff and the Planning and Zoning Board. In considering modifications to the specifications required by this Section, the Town Council shall be guided by the current edition of the Architectural Graphic Standards by Ramsey and Sleeper, or an equivalent commonly accepted source of standards.
- G. *Parking Areas not to be reduced in Area.* Area designated for off-street parking or loading in accordance with the requirements of this Code shall not be reduced in area or changed to any other use unless the permitted use which it served is discontinued or modified, except where equivalent parking or loading space is provided and approved pursuant to Article VII ~~III~~ [Article VII] "Site Plan Review."

SECTION 2. Article XX of the Land Development Code of the Town is amended to read as follows:

"Article XX - LANGUAGE AND DEFINITIONS

Section 1-20.2. - Definitions of terms.

Terms not otherwise defined herein shall be interpreted first by reference to the Comprehensive Plan and this Code; secondly, by reference to generally accepted engineering, planning, or other professional terminology if technical; and otherwise according to common usage, unless the context clearly indicates otherwise.

For the purpose of enforcing and administering this Code, the following words shall have the definitions and meanings herein ascribed:

Motor Vehicle. As defined by Title XXIII Florida Statutes, specifically Chapter 320.01(1) (a) and (b).

Parking.

Off-Site Parking. Parking which is not on the same location or property as the Business's Building.

Off-Street Parking. Parking which is not on any Roadway or any Right of Way or within any "Right of Way Line".

On-Site Contiguous Parking. Parking which is in the same location and on the same property as the Business's Building and has the same owner(s).

On-Street Parking. Parking which is abutting a Roadway, which is any public path used by vehicle as a way of getting somewhere. ie; Lane, road, Street, Trail, etc.

• • •

Parking Space, Off-Street shall mean a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walkway or alley, and so that any automobile may be parked and unparked without moving another.

For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the Town.

• • •

Recreational and Landscaped Open Space. Unroofed or screen roofed ornamental landscaped areas and recreational areas which are easily accessible and regularly available to occupants of all dwelling units on the lot wherein the open space is located. Not calculated as open spaces are rooftops, porches, raised decks, parking spaces, driveways, utility and service areas are not calculated as open space.

• • •

Swimming Pool. A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen (18) inches below the level of the surrounding land, or an above-surface ground pool, having a depth of more than thirty (30) inches, designed, used and maintained for swimming and bathing.

Section 3. Severability. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of this ordinance shall not be affected and it shall be presumed that the Town Council, of the Town of Malabar, did not intend to enact such invalid or unconstitutional provision. It shall be further assumed that the Town Council would have enacted the remainder of this ordinance without said invalid and unconstitutional provision, thereby causing said remainder to remain in full force and effect.

Section 4. Repeal. All other ordinances or resolutions to the extent that conflict with this ordinance are hereby expressly repealed.

Section 5. Codification. The provisions of this ordinance shall become part of the code of ordinances of the Town of Malabar.

Section 6. This Ordinance shall become effective immediately upon its adoption.

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

- Council Member Grant Ball _____
- Council Member Brian Vail _____
- Council Member Don Krieger _____
- Council Member Dick Korn _____
- Council Member Marisa Acquaviva _____

PASSED AND ADOPTED by the Town Council, Town of Malabar, Brevard County, Florida this _____ day of _____, 20____.

BY:

TOWN OF MALABAR

Mayor Carl A. Beatty
Council Chair

First Reading:
Second Reading:

ATTEST:

By _____

Debby K. Franklin, C.M.C.
Town Clerk/Treasurer
(Seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney



Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: TOWN OF MALABAR
Address: 2725 MALABAR RD
MALABAR FL 32950
USA

Ad No.: 0000649306
Pymt Method Invoice
Net Amt: \$75.63

Run Times: 1

No. of Affidavits: 1

Run Dates: 08/13/15

Text of Ad:

AD#649306 8/13/2015

TOWN OF MALABAR
NOTICE OF PUBLIC HEARING
The Malabar Town Council, Brevard
County, Florida will convene in the Town
Hall, 2725 Malabar Road, Malabar, Flori-
da on Monday, August 24, 2015 at 7:30
PM or as soon thereafter as the matter
can be heard, for a public hearing on
the following ordinance:

ORDINANCE NO. 2015-03
AN ORDINANCE OF THE TOWN OF MA-
LABAR, BREVARD COUNTY, FLORIDA,
RELATING TO LAND DEVELOPMENT;
AMENDING ARTICLE IX RELATING TO
PARKING; AMENDING SECTION 1-9.1 AP-
PLICABILITY; AMENDING SECTION 1-9.3,
COMPUTATION OF PARKING SPACES;
AMENDING SECTION 1-9.5, DESIGN AND
SPECIFICATIONS FOR PARKING AND
LOADING AREAS; AMENDING ARTICLE
XX, DEFINITIONS; PROVIDING FOR
SEVERABILITY, REPEAL, CODIFICATION
AND AN EFFECTIVE DATE.

The proposed ordinance may be inspect-
ed by the public at the Town Clerk's Of-
fice between the hours of 8:30AM and
4:30PM weekdays. Interested persons
are encouraged to appear at these hear-
ings and provide comments regarding
the proposed ordinances. Persons with
disabilities needing assistance to partici-
pate in any of these proceedings should
contact the Clerk's Office, ADA Coordi-
nator, 48 hours in advance of the meet-
ing at 321-727-7764. Debby K. Franklin,
Town Clerk

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 5
Meeting Date: August 24, 2015

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

SUBJECT: Amend Sign Ordinance (Art XIX) per Attorney First Reading of Ord 2015-06

BACKGROUND/HISTORY:

The Attorney revised the language in the Code after Supreme Court case. It has been reviewed by P&Z Board and voted 5 to 0 to recommend Council approve as submitted.

ATTACHMENTS:

Ordinance 2015-06

ACTION OPTIONS:

Staff requests approval of Ord 2015-06 for first reading

TOWN OF MALABAR

MEMORANDUM

Date: August 14, 2015 15-AABO-025

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 the Amended Signage Code Article XIX that was recommended by Town Council & Town Attorney

The last meeting that PZ had on 8/12/15 Debby Franklin, Town Clerk/Treasurer provided the Town Attorney Karl Bohne's comments of the necessary changes to our Signage Code Article XIX to be compliant with the recent Supreme Court ruling. The Council directed the PZ Board to review his revised Ordinance 2015-06 and return to Council for Adoption.

The PZ Board went over the Ordinance 2015-06 and discussed the changes made and made the motion:

Motion: Ritter/Dial To Recommend Approval of Attorneys changes to Signage Code Article XIX- Ordinance 2015-06. VOTE: All Ayes

ORDINANCE 2015-06

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE CURRENT PROVISIONS OF ARTICLE XIX OF THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING SECTIONS 1-19.1, DEFINITIONS; 1-19.4, ADMINISTRATION REQUIREMENTS; AND 1-19.10, TEMPORARY PERMITS; NEW SECTION 1-19.19; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council for the Town of Malabar has determined the need to update and revise its Land Development code relative to signs, in light of the recent United States Supreme Court case of *Reed v. Gilbert*; and

WHEREAS, the Court in *Reed* held in part that content based sign regulations were presumptively unconstitutional; and

WHEREAS, the Town Council desires to comply with the *Reed* holding and amend the Town sign code; and,

WHEREAS, the Town Council finds that protecting and preserving aesthetics, traffic safety, and pedestrian safety are compelling interests and to protect these compelling interested regulations governing such things as size and placement of signs are necessary

NOW THEREFORE, be it ordained by the Town Council of the Town of Malabar, Brevard County, Florida as follows:

Section 1. Section 1-19.1 of Article XIX of the Town's Land Development Code relating to Signs, is hereby amended to add the following definition:

"Section 1-19.1. - Definitions.

For the purposes of this article certain words and terms shall be interpreted as follows:

...

Political or Campaign Sign. Shall mean a sign or poster advertising either a candidate for public office or a political cause, subject to election."

...

Section 2. Section 1-19.4.B(d) of Article XIX of the Town's Land Development Code relating to Signs, is hereby amended as follows:

"Section 1-19.4. - Administration requirements.

B. Filing of Application. Before any permit is issued, an application provided by the Building Official shall be filed in triplicate together with two (2) sets of drawings and/or specifications as may be necessary to fully advise and acquaint the Building

Official with the location, construction, materials, manner of illumination, securing, ~~wording of the sign~~, and any other data that may be required to ensure the enforcement of these regulations. One (1) set of drawings and/or specifications will be returned to the applicant with the permit. A separate application shall be made for each and every sign.

As a minimum the sign application shall include the following information:

...

(d) ~~Purpose~~Type of sign."

...

Section 3. Section 1-19.10.A(3) and Section 1-19.10.B.(3)(d) of Article XIX of the Town's Land Development Code relating to Signs, are amended and a new subsection 1-19.10.B.(3)(f) is hereby added as follows:

"Section 1-19.10. - Temporary permits.

A. The building inspector upon application, may issue temporary permits for the following signs and displays for a period not exceeding thirty (30) days, when in the building inspector's opinion, the use of such signs and displays would be in the public interest and would not result in damage to private property. There will be no license or license fee for these signs, but the regular permit fee shall apply. Temporary signs shall not be illuminated except for holiday signs which may be illuminated or special event signs approved by the Town Council. Such signs shall be located in private property outside of a public right-of-way or easement.

...

(3) Special sale promotion displays in a district where such sales are permitted if such signs are not within five (5) feet inside a store window. Such signs shall be placed not more than fourteen (14) days prior to the special sale promotion and must be removed not later than twenty-four (24) hours after termination of the special sale promotion. A waiver regarding the timing of the sign placement and/or removal may be requested in accordance with the procedures in subparagraph A (2) (c) above.

B. A permit fee for the following signs will not be required:

...

(3) A permit fee for political signs and posters will not be required, provided that said signs are subject to the following regulations:

...

d. Political or campaign signs may be allowed in a public or private right-of-way but shall be located no closer than 3 feet from the edge of pavement or in the case of a dirt road from the edge of the dirt of a public or private street or five feet from the edge of a sidewalk, bike-path, or ped-way. ~~Further any such sign allowed in a public or private right of way may not be placed any~~

~~sooner than 81 days before the election.~~ Such signs shall not be placed closer than 50 feet to a sign of the same candidate.

f. Political sign(s) may not be placed any sooner than 81 days before the election. A waiver regarding the timing of the sign placement and/or removal may be requested in accordance with the procedures in subparagraph A (2) (c) above.

Section 4. Severability. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of this ordinance shall not be affected and it shall be presumed that the Town Council, of the Town of Malabar, did not intend to enact such invalid or unconstitutional provision. It shall be further assumed that the Town Council would have enacted the remainder of this ordinance without said invalid and unconstitutional provision, thereby causing said remainder to remain in full force and effect.

Section 5. Repeal. All other ordinances or resolutions to the extent that conflict with this ordinance are hereby expressly repealed.

Section 6. Codification. The provisions of this ordinance shall become part of the code of ordinances of the Town of Malabar.

Section 7. This Ordinance shall become effective immediately upon its adoption.

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

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Don Krieger	_____
Council Member Dick Korn	_____
Council Member Marisa Acquaviva	_____

PASSED AND ADOPTED by the Town Council, Town of Malabar, Brevard County, Florida this _____ day of _____, 20____.

TOWN OF MALABAR

BY: _____

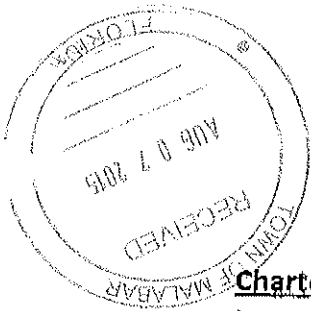
Mayor Carl A. Beatty

Council Chair

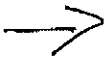
P&Z Meeting:

RTCM First Reading:

RTCM Second Reading:



Space Coast League of Cities
Board of Directors Meeting Minutes
July 13, 2015



Charter Review Meetings: President Eley advised that she has asked Mayor Jim Tulley to monitor the meetings in behalf of the League; he has accepted. The issue of concern is the County looking at mandating the Cities/Towns to use their fire services. President Eley stated that she had a talk with the Florida League of Cities Legal department to asked their opinion if the County could do a mandate if we don't agree? Their response is that there is a provision in the Charter that if a municipality do not agree with their proposal, they can opt out of the referendum based on Article 8 – Section 4 in the Charter (if there is a transfer of power), or there must be both County and Municipalities together to do a referendum. They think the Cities may be OK. 1st Vice President Stu Glass advised that Attorney Gougelman recommends that the League stay in a proactive role to ensure the League gets it desired outcome. Also, Attorney Kendall Moore is on the Charter Review committee, and he is an advocate for the League. Courtney Barker expressed the League should look at issues to put on the Charter Review. She is concerned that there could be a cost shift to municipalities since their Charter has a 3% limit on taxing. She feels that it is important the County does not pre-empt the Cities.



Legislative Sign Regulations: President Eley stated that Attorney Gougelman's memo was stating that we have to be consistent with all signs ordinances and show no discrimination. Criteria's established must apply to all signs not type of sign. She advised everyone to check their "Sign Ordinances" to ensure they are in compliance.

FYI

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 6
Meeting Date: August 24, 2015

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

SUBJECT: Appointment of Tom Taylor to Parks & Recreation Advisory Board for a three-year term as a Regular Member (Reso. 16-2015)

BACKGROUND/HISTORY:

The Clerk's office is in receipt of an application from Tom Taylor to be appointed to the Parks & Recreation Advisory Board. Staff is requesting approval and adoption of Reso. 16-2015.

ATTACHMENTS:

Resolution 16-2015 appointing Tom Taylor as a regular member of Park Board
Mr. Taylor's application

ACTION OPTIONS:

Staff requests action.

RESOLUTION 16-2015

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF TOM TAYLOR TO THE MALABAR PARKS & RECREATION ADVISORY BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified of an opening on the Park and Recreation Board; and

WHEREAS, Malabar Town Council desires to fill this appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Tom Taylor as a regular member of the Parks & Recreation Advisory Board.

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

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

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

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

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Don Krieger	_____
Council Member Dick Korn	_____
Council Member Marisa Acquaviva	_____

This Resolution was then declared to be duly passed and adopted this 40th day of August, 2015.

TOWN OF MALABAR

By: _____,

Mayor Carl Beatty, Chair

ATTEST:

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

(seal)

Approved as to form and content:

Karl W. Bohne, Jr.
Town Attorney

Town of Malabar

Volunteer Committee/Board Application

Parks & Recreation Advisory Board Application

The Park and Recreation Board is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The Park and Recreation board is advisory in nature. Members of the Board shall hold no other Town office. The affirmative vote of a majority of the regular and alternate board members present and voting (maximum of five votes) shall be necessary for the adoption of any motion.

It is the purpose and intent of the Town Council to authorize an advisory board to discuss matters relating to the acquisition, development, maintenance, rehabilitation and operations of parks and recreation properties and facilities within the Town of Malabar and forward their recommendations to the Town Council for their consideration. The Board shall conduct such investigations, studies and hearings which, in the judgment of the Board, will aid in effectuating its general purposes.

1. Name: Tom A. Taylor Phone: 321-676-4748

2. Home Address: 2755 Waring Ln Malabar FL 32950

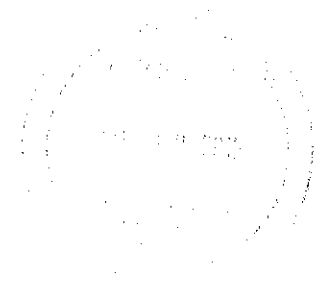
3. Email Address: TATAYLOR@CFL.TX.COM

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

5. How long have you been a resident of the Town of Malabar: 13 YEARS

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

If yes, which organization: Springfest Committee, TA Selection Committee



Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org

PERMISSION TO PARTICIPATE FOR ADULTS (18 AND OVER)

Read this form completely and carefully. You are agreeing to engage in volunteer service to benefit the community and the Town of Malabar, Florida. You are agreeing that, even if the Town of Malabar, its departments, employees, contractors, volunteers, specialists and agents (hereinafter "Released Parties") use reasonable care in providing this activity, there is a chance you may be harmed by participating in this activity because there are certain dangers inherent in the activity which cannot be avoided or eliminated.

By signing this form, you are giving or forever releasing your right to recover from any or all of the Released Parties in a lawsuit for any personal injury, including death, to you or any property damage that results from the risks that are a natural part of the activity. You have the absolute right to refuse to sign this form with the understanding that you will not be permitted to participate in any volunteer activities for the Town of Malabar Volunteers.

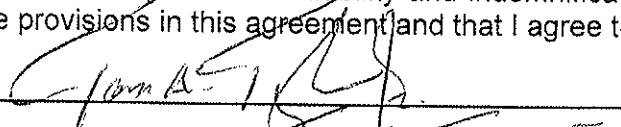
WAIVER OF LIABILITY

I agree that in consideration for my participation in the Town of Malabar Volunteers, I shall hold harmless and fully indemnify and defend the Town of Malabar, Florida, its departments, employees, officials, coaches, volunteers, contractors, specialists and agents (hereinafter "Released Parties") from any and all causes of action, claims, damages, costs including but not limited to attorney's fees and costs, which may arise from any cause of action made by me or my estate, even if the damage, injuries or death are caused in whole or in part by the negligence of the Released Parties.

I agree that in consideration for me being permitted to participate in the activity, I assume full responsibility for any loss of property, accident, bodily injury or death as a result of my participation in this activity.

I expressly agree the Release and Waiver of Liability is intended to be as broad and inclusive as is permitted by the laws of the State of Florida and that if any portion thereof is held invalid, I agree that the balance shall, notwithstanding, continue in full legal force and effect.

I acknowledge that I have read (or have had read to me) each and every one of the provisions in this wavier, release of liability and indemnification agreement and that I understand each of the provisions in this agreement and that I agree to abide by them.


PRINTED NAME: Tony A. Taguiri Jr.
8-10-15

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 7
Meeting Date: August 24, 2015

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

SUBJECT: Approve Reso 16-2015 Adopting and Supporting the Malabar Portion of the Space Coast Local Mitigation Strategy

BACKGROUND/HISTORY:

We have participated with the County in the past on having our part of the Space Coast Local Mitigation Strategy included in the report to the State. In the past if funds became available we applied for projects that would mitigate future losses, such as hurricane shutter for town hall and the fire department. We also applied for a back up generator for town hall. The fire department already has one.

A representative from the County's Natural Resources Management Office will be in attendance to answer any questions.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Reso 17-2015
Agenda Report from the County staff
Updated Mitigation-Related Strategies

ACTION OPTIONS:

Staff requests Action on Reso 17-2015

RESOLUTION 17-2015

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING AND SUPPORTING MALABAR'S DESIGNATED PORTION OF THE SPACE COAST LOCAL MITIGATION STRATEGY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar is vulnerable to the human and a economic costs of natural, technological and societal disasters; and

WHEREAS, the Town Council of Malabar recognizes the importance of reducing or eliminating those vulnerabilities for the overall good and welfare of the community; and

WHEREAS, Malabar has been an active participant in the preparation of the Space Coast Local Mitigation Strategy. Which establishes a comprehensive coordinated planning process to eliminate or decrease these vulnerabilities; and

WHEREAS, Malabar's representatives and staff identified, justified and prioritized a number of proposed projects needed to mitigate the vulnerabilities of Malabar to the impacts of future disasters; and

WHEREAS, these proposed projects and programs have been incorporated into the initial 1999 edition of the Space Coast Local Mitigation Strategy that has been prepared and issued for consideration and implementation by the communities of Brevard County.

NOW, THEREFORE BE IT RESOLVED BY THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, THAT:

SECTION 1. The Malabar Town Council accepts and approves Malabar's designated portion of the Space Coast Local Mitigation Strategy.

SECTION 2. The Town Administrator is directed to pursue available funding opportunities for implementation of the proposals designated therein.

SECTION 3. The Town of Malabar will, upon receipt of said funding or other necessary resources, seek to implement the proposals contained in its section of the strategy; and

SECTION 4. The Town of Malabar will continue to participate in the updating and expansion of the Space Coast Local Mitigation Strategy in the years ahead, and

SECTION 5. The Town of Malabar will further seek to encourage the businesses, industries and community groups operating within and/or for the benefit of Malabar to also participate in the updating and expansion of the Space Coast Local Mitigation Strategy in the years ahead.

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

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Don Krieger	_____
Council Member Dick Korn	_____
Council Member Marisa Acquaviva	_____

This Resolution was then declared to be duly passed and adopted this 15th day of May, 2000.

TOWN OF MALABAR

By:

ATTEST:

Mayor Carl A. Beatty, Council Chair

Debby Franklin, CMC
Town Clerk/Treasurer

(seal)

Meeting Date
8/18/15



AGENDA	
Section	Consent
Item No.	II. C. 6.

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Resolution: Brevard County Local Hazard Mitigation Strategy (LMS)
DEPT/OFFICE:	Emergency Management

Requested Action:

It is requested the Board approve a resolution adopting the Brevard Prepares Local Hazard Mitigation Strategy.

Summary Explanation & Background:

Every five years, the Local Mitigation Strategy (LMS) is required to be updated and submitted to the Federal Emergency Management Agency (FEMA) for review and approval. In this cycle, that review and approval process was delegated from FEMA to the Florida Division of Emergency Management (FDEM). FDEM has determined that Brevard County has developed and submitted all the necessary plan revisions, is compliant with federal standards, and is ready for formal community adoption. Each participating municipality must pass a resolution for their jurisdiction approving the LMS.

An approved and adopted LMS is a requirement for state and local governments, in order to receive Hazard Mitigation Grant Program funding following a Presidential Disaster Declaration, per the Robert T. Stafford Disaster Relief Act and the Code of Federal Regulations.

Additional benefits to having a local hazard mitigation strategy are that it:

1. Increases public awareness and understanding of vulnerabilities as well as support for specific actions to reduce losses from future natural disasters.
2. Builds partnerships with diverse stakeholders increasing opportunities to leverage data and resources in reducing workloads as well as achieving shared community objectives.
3. Expands understanding of potential risk reduction measures to include structural and regulatory tools, where available, such as ordinances and building codes.
4. Allows for development, prioritization, and implementation of mitigation projects. Projects are designed to accrue cost benefits and increase community resiliency, as losses are reduced after each hazard event.

Fiscal Impact: None

Clerk to the Board Instructions:

Exhibits Attached: LMS Resolution, LMS Executive Summary, LMS Approval Pending Adoption letter from FDEM, LMS

Contract /Agreement (If attached): Reviewed by County Attorney		Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager	Assistant County Manager	Department Director / Extension					
Stockton Whitten	Frank Abbate						

Thanks,
Kimberly

Development Trends

Malabar

There have been several stormwater upgrades and projects over the last five years in the town of Malabar that have decreased the potential flooding while improving water quality. Regular maintenance of culverts, ditches, and catch basins has also decreased flooding potential. The Town also promotes wildfire awareness through outreach to residents. These items have decreased the overall vulnerability of the Town.

1.15.1 Mitigation-Related Strategies & Mechanisms by Jurisdiction

Malabar

Building Department

The Building Department is responsible for reviewing site plans, subdivisions and building permits. The City has adopted and continues to adopt updates to support the various codes including the Florida Building Code. It, also, reviews development requests as they relate to consistency with the Zoning and the Comprehensive Plan. The Building Official also enforces the Floodplain Management regulations.

Volunteer Fire Department

Malabar Fire Rescue provides emergency services to the resident of Malabar Florida. This Department is on standby during emergency situations and assists with hurricane evacuation and post-disaster operations.

Public Works Department

The Public Works Department provides a variety of service to the residents of Malabar including: vehicle and equipment maintenance, building maintenance, road and sign maintenance, and parks and grounds maintenance. The Department repairs and performs preventative maintenance and modifications to all Town structures, cleans and repairs all storm drain inlets, cleans storm drain swales, maintains Town streets, replaces damaged signs, and installs new signs as required.

1.15.2 Mitigation-Related Policies & Programs by Jurisdiction

Malabar

Capital Improvement Plan

IE.4-4.1.1	Require retention of open space for all development to preserve aquifer***	All areas
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Code of Ordinances

9.3.2	Minimize expenditure of public money for costly flood control projects.***Refers to alterations of isolated 100-year floodplain	All areas
9.3.6	...providing for the sound use and development of flood-prone areas...***	All areas
9.3.7	Ensure ... home buyers are notified that property is in a flood area.***	All areas
9.5	Basis for establishing areas of special flood hazard.***	All areas
9.5	Variances shall not be issued within any designated floodway ...***	All areas
9.5.11	The costs of providing gov. services during and after flood conditions...***	All areas
9.5.3	The susceptibility of the proposed facility ... to flood damage ...***	All areas
9.5.9	The safety of access to the property in times of flood ...*** Refers to alteration of isolated 100-year floodplains	All areas

9.91	General standards for all areas of special flood hazard.***	All areas
9.91	(1) Residential construction ... no lower than the base flood elevation... ***	All areas
9.91.(3)b	Electrical, plumbing ... prohibited below the base flood elevation.***	All areas
9.91.(4)a	(4) Floodways ... Prohibit encroachments ... ***refers to alteration of isolated 100-year floodplains	All areas
9.91.3	New construction ... shall be constructed ... resistant to flood damage.***Refers to alteration of isolated 100-year floodplains	All areas
9.91.4	New construction ... shall be constructed [to] ... minimize flood damage.***	All areas
9.93	... areas of special flood hazard...designated as shallow flooding areas.***Refers to alteration of isolated 100-year floodplains	All areas
9.93.1.a	All subdivision proposals shall ... minimize flood damage.***	All areas
9.93.1.b	All subdivision [utilities] ... constructed to minimize flood damage.***Excepting parks and recreation	All areas
9.93.1.c	... adequate drainage to reduce exposure to flood hazards.***	All areas
9.93.1.d	Base flood elevation data shall be provided for subdivision proposals ...***	All areas
III.1.3.3.1	Individual septic tanks ... must receive development orders ...***	All areas
III.1.3.3.3	Regulating Use of Septic Tanks and Wastewater Disposal Fields***	All areas
IV.1.4.1.1	stormwater/flood protection permits required for all development***	All areas
IV.1.4.1.4	Conserve and protect the natural environment ...***	All areas
IV.1.4.1.G	Flood Prone Land and Wetland Preservation...***	All areas
VIII.1.8.11	Surface water management permit application and review procedures.***Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize flood blight areas.	All areas
VIII.1.8.2	...responsible stormwater management and flood protection practices...***	All areas
VIII.1.8.5	Surface water management permit application and review procedures.***Ensure that potential home buyers are notified that property is in a flood area.	All areas
VIII.1.8.8	Additional stormwater management policy for flood hazard zones...***	All areas
VIII.1.8.8.1	Additional stormwater management policy for flood hazard zones...***	All areas
VIII.1.8.8.2	The velocity of the regulatory flood must not be adversely altered...***	All areas
VIII.1.8.8.5	The flood protection elevation shall be set for each project...***	All areas
VIII.1.8.8.6	... lowest floor elevated to the flood protection elevation ...***	All areas
VIII.1.8.8.7	... lowest floor elevated to the flood protection elevation ...***	All Permit Applications
VIII.1.8.8.9	Sewage, potable water supply systems ... flood protection elevation.***	All areas
XVII.1.17.1	Requirements for Central Water Systems***The areas of special flood hazard identified by the Federal Emergency Management Agency in its report entitled "Flood Insurance Study for the Town of Malabar," dated March, 1979, with accompanying flood boundary-floodway map, and the flood insurance study including wave heights...	All areas


Comprehensive Plan

CE.6-1.2.2	Agricultural activities shall not be conducted adjacent to waterways***	All areas
CE.6-1.2.3	New development in service area must connect to wastewater system***	All areas
CE.6-1.2.4	Require new development to preserve shoreline vegetation***	All areas
CE.6-1.2.7	Where non-potable water is available for irrigation must be used***	All areas
CE.6-1.4.1	No wetland development except passive recreation, open space, etc.***	All areas
Chapter 4 p. 4.6 Drainage Analysis	Install baffle boxes along lagoon	Required Retrofit Only
Chapter 4 p. 4.6 Drainage Analysis	Retrofit ditches	Required Retrofit Only
CME..5-1.1.1.1	Implement policies to protect the Indian River Lagoon***	All areas
CME.1.1.3	Incorporate criteria in land regs that no native vegetation be removed***	All areas
CME.5-1.1.1	Adopt wetlands protection ordinance to prohibit development***	All areas

CME.5-1.1.5	Coastal development shall not alter tidal flushing/circulation patterns***	All areas
CME.5-1.3.1	Town-funded public facilities shall not be built in CHHA***	All areas
CME.5-1.4.1	Incorporate policies to direct population concentrations away from CHHA***	All areas
CME.5-1.7.5	Structures receiving damage of more than 50% must meet current laws***	Redevelopment
FLUE.1-1.3.3	New industry shall not endanger groundwater quality or potable water supply***	All areas
FLUE.1-3.1	Management of land will be coordinated with natural systems, infrastructure***	All areas
FLUE.1-3.1.3	Development regs revised to regulate flooded areas, drainage, recharge***	All areas
FLUE.1-3.5.2	Land development code will protect Indian River Lagoon, drainage, recharge***	All areas
FLUE.1-3.5.5	Developer/owner responsible for managing on-site runoff***	All areas
FLUE.1-3.5.6	Potable water supply conserved by enforcing standards of development	All areas
HE.3-1.3.1	Prohibit structures including mobile homes not hurricane resistant***	All areas
IE.4-1.3.1	Septic tank and package treatment plants stay in service until centralized***	All areas
IE.4-2.1	Reconcile existing service deficiencies with coordinative projects***	All areas
IE.4-3.1.3	Town shall implement adopted master stormwater drainage plan***	All areas
IE.4-4.1.3	Amend stormwater regs to require runoff retention to recharge groundwater***	All areas
Land Development Code		
94-4Sec.IX.P	Proposed use shall not generate hazardous waste without approved	All areas
Or.94-3.Sec.	Residential sites in aquifer recharge area without central water, 2/u/acre***	All areas
Ord.94-3.Sec	Impervious surface ratio of 50% for single family residence and 50% open***	All areas

Regards,

*Debbie Coles
Emergency Management Coordinator
Brevard County Office of Emergency Management
1746 Cedar Street
Rockledge, Florida 32955-3133
(321) 637-4073
Fax: (321) 633-1738
Mobile: (321) 863-7952
<mailto:debbie.coles@brevardcounty.us>*

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TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 8
Meeting Date: August 24, 2015

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

SUBJECT: Consider ILA with Brevard County for E-911 Services (Reso 18-2015)

BACKGROUND/HISTORY:

This was tabled from the August 3, 2015 meeting. The County Attorney wanted all the ILA to be the same with the same start and end dates. We first signed an ILA for this in 1981 to mutually cooperate in maintaining the flow of communications necessary to properly maintain the E-911 database. In 2000, we again signed a similar ILA stating the same thing. Neither of those agreements referenced any fees.

When Ms. Mahaney from E-911 came down and met with Denine and me, the first draft of the ILA included an annual fee payable to the County of nearly \$800.00. We did not feel the need to proceed with this as we do our own address assignments. We later discussed this with the Administrator who concurred. I told Ms. Mahaney that we were not interested and then followed up with a letter.

We were then informed that the ILA was revised to provide exemption from fees for those municipalities that do their own addressing. Since the TA was leaving shortly, I wanted Council to approve the revised agreement that clearly stated if do our own addressing, we do not have to pay the annual fee. This has always been handled by the staff in the Building Department.

The Emergency Management Director, Ms. Kimberly Prosser will be attending this meeting to answer questions.

FINANCIAL IMPACT:

NONE

ATTACHMENTS:

Reso 18-2015

ILA for Centralized Addressing Authority

Signature pages from previous two ILA showing no review by Counsel

ACTION OPTIONS:

Staff requests Action

RESOLUTION 18-2015

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR COUNCIL APPROVAL OF THE INTERLOCAL AGREEMENT WITH BREVARD COUNTY E-911 DIVISION AT NO COST TO THE TOWN; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Malabar has participated in the previous Interlocal Agreements with Brevard County since 1981; and

WHEREAS, this Agreement provides language that exempts the Town from paying the annual addressing fee because we perform these functions; and

WHEREAS, the Town of Malabar desires to participate in the Interlocal agreement to provide a coordinated process for assignment of addresses in order to provide an effective countywide Automatic Location Identification Database for 9-1-1 Emergency telephone system for Brevard County, Florida.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves and directs that the Mayor sign the Interlocal Agreement attached as Exhibit "A"

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby directs that the Clerk forward the executed document to Brevard County E9-1-1 Administration.

Section 3. This Resolution shall take effect immediately upon its adoption.

This Resolution was moved for adoption by Council Member _____.

This motion was seconded by Council Member _____ and, upon being put to vote, the vote was as follows:

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Don Krieger	_____
Council Member Dick Korn	_____
Council Member Marisa Acquaviva	_____

This Resolution was then declared to be adopted this 24th day of August, 2015.

By: TOWN OF MALABAR

Mayor Carl A. Beatty, Council Chair

ATTEST:

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

(seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

INTERLOCAL AGREEMENT
BETWEEN
BREVARD COUNTY, FLORIDA
AND
THE CITY (TOWN) OF TOWN OF MALABAR, FLORIDA
PROVIDING A CENTRALIZED ADDRESSING AUTHORITY

THIS INTERLOCAL AGREEMENT, entered into this _____ day of _____, by and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, hereinafter referred to as the "County," and THE CITY/TOWN OF **TOWN OF MALABAR** _____, FLORIDA, a municipal corporation created under the Laws of Florida, hereinafter referred to as the "City."

WHEREAS, the purpose of this Interlocal Agreement is to establish a coordinated process for the assignment of addresses throughout the County (both incorporated and unincorporated areas) to provide for an effective countywide Automatic Location Identification Database for the 9-1-1 emergency telephone system;

WHEREAS, the Board of County Commissioners of Brevard County, Florida in regular session on August 21, 1980, issued a letter of intent that allowed Southern Bell Telephone and Telegraph Company (a.k.a. BellSouth/AT&T) to proceed with the implementation of the enhanced emergency telephone system for Brevard County, Florida:

WHEREAS, this emergency telephone system, known as the "Enhanced 911 Telephone System" was implemented in the incorporated and unincorporated areas of Brevard County;

WHEREAS, the County and City have previously entered into various Interlocal Agreements, dated 12/03/81, 03/14/00, and/or 07/24/07, providing for the exchange of information necessary to implement and maintain the emergency telephone system throughout Brevard County;

WHEREAS, the parties wish to replace all current Interlocal Agreements with the various Cities by executing this new agreement;

WHEREAS, the City has the option in this Agreement to handle all addressing responsibilities for the City or to delegate responsibility for assigning addresses to properties within the City's jurisdiction to the County (which includes the responsibility for coordinating with developers and property owners);

WHEREAS, in order to effectively maintain the accuracy and consistency of the countywide Automatic Location Identification (ALI) Database used with the emergency telephone system and to avoid addressing duplication and confusion, certain address information approved and under the control of the City shall be transmitted to the County and the City hereby authorizes the County to coordinate addressing information; and

WHEREAS, the County and the City have determined that it is in the best interest of the health, safety and welfare of all citizens of and visitors to Brevard County to enter into this Interlocal Agreement.

NOW THEREFORE, it is agreed between the County and the City as follows:

1. **TERM AND RENEWAL:** The Term of this Agreement shall begin on October 1, 2015 and end on September 30, 2020; however, the Agreement shall automatically renew for an additional 5 years unless either party gives the other party at least sixty (60) days advance written notice of its intent to terminate the agreement at the end of the then existing term.

2. **SCOPE OF SERVICES:**

2.1 The City and County hereby agree to mutually cooperate in exchanging information and data in order to allow the County to properly and effectively update the Enhanced 911 ALI Database and the E911 Mapping System which is maintained by Brevard County for Brevard County, Florida, its municipalities and emergency responders, etc.

2.2 The City shall provide the necessary addressing information, as further provided herein, to the County prior to the permanent assignment or change of street names within the City allowing the County to review and provide comment to the City to avoid addressing duplication and confusion in the same geographic/community area.

2.3 The City may request the County, through the E911 Addressing Section (hereafter referred to as the 'Section'), to assume the addressing responsibilities for the City.

(A) Such request shall be submitted in writing to the Brevard County Emergency Management Department, E911 Administration Office, E911 Addressing Section at 2725 Judge Fran Jamieson Way, Suite C201, Viera, Florida 32940.

(B) The County agrees to assume addressing responsibilities for the City, if requested to do so by the City in writing, subject to the City paying the County the annual addressing fee (as billed by the County) and providing all requested information needed by the County to perform the addressing function.

2.4 The parties agree that the structures requiring addresses include:

- Residential structures
- Commercial structures
- Utility equipment/cabinets
- Lift stations
- Docks
- Boat houses
- Communications towers
- Subdivision lighting
- Development fencing/signage/gates
- Development recreational facilities
- Accessory structures (barns, sheds, garage/apartments)

3. ADDRESSING:

3.1 CITY RESPONSIBILITIES (generally):

(A) Submit to the County one copy of each of the following documents for the purpose of proper identification and location of addresses within the E911 ALI Database:

(i) Any City Ordinance/Resolution currently authorizing/regulating addressing.

(ii) Any future amendments to such ordinances.

(iii) Any City Ordinance or regulation relating to Annexation or Detachment of property.

(iv) Any City Ordinance/Resolution relating to roadway vacating.

(v) Any correspondence related to numbering or renumbering of private or public streets located within their municipal boundaries.

(vi) Will notify the City agencies needing access to updated/new addresses of new addresses that have been assigned to individual properties, to newly recorded plats, because of change due to street naming and/or renaming, by owner request or for 911 purposes.

3.2 CITY PERFORMS ADDRESSING FUNCTION:

(A) CITY RESPONSIBILITIES:

(i) Assign and/or change addresses within the City jurisdiction, along with all notification correspondence and provide assistance to all inquiries (phone/email/walk-in customers) made directly to the City or forwarded by the Section.

(ii) Notify all external concerned agencies on the Concerned Agencies List (see paragraph 4.2(B)), in addition to their City internal agencies, of new, updated or changed addresses.

(iii) Submit to the County, or require applicants for street names within the City to submit to the County, prior to any permanent assignment of street names, all subdivision plans and/or site plans regarding development projects within its municipal boundaries.

(iv) Submit to the County for review and comment any and all addresses proposed for assignment by the City in order to avoid addressing discrepancies.

(v) Provide any proposed street names for private or public streets located within the City's municipal boundaries for review and approval by the County.

(vi) Require all private streets located within all mobile home parks, condominium complexes and/or business complexes to be named and proper documents recorded with the Clerk of the Courts.

(vii) Provide the County with copies of any correspondence that propose changes or corrections to the addresses or street names within their municipal boundaries.

(B) COUNTY RESPONSIBILITIES:

(i) County directs all persons who contact the County about any addressing issues within the City to the City.

(ii) The County will notify the City in writing of any discrepancies in the naming or numbering of streets located within their municipal boundaries for the purpose of verification and correction.

3.3 COUNTY PERFORMS ADDRESSING FUNCTION:

(A) CITY RESPONSIBILITIES: In addition to the information to be provided under paragraph 3.1, above, the City will perform as follows:

(i) Provide the Section any and all documents pertinent to new subdivisions, site plans and/or preliminary annexations submitted to the City for review and comment.

(ii) Submit to the Section for review and approval any and all street names submitted for use within said municipal boundaries.

(iii) Submit all newly recorded subdivisions and approved site plans to the Section for addressing.

(B) COUNTY RESPONSIBILITIES:

- (i) Assignment of all addresses to individual properties.
- (ii) Assignment of all addresses to utility equipment.
- (iii) Assignment of all addresses to and within subdivision plats (residential and commercial).
- (iv) Assignment of all addresses to commercial site plans.
- (v) Provide the City and Developers a copy of the recorded subdivision plat and/or approved site plan with addresses indicated thereon, along with an address table, if applicable.
- (vi) Issue any necessary address change and/or verification letters.
- (vii) Conduct site visits as necessary.
- (viii) Produce street naming/renaming (includes resolution, mapping, recording and issuing all necessary correspondence.
- (ix) Respond to all telephone/email/walk-in inquiries received from the City or citizens and perform any necessary research to respond.
- (x) Process submitted annexations completed by City; update County records.
- (xi) Process submitted vacatings completed by City; update County records.
- (xii) Notify all external concerned agencies on the Concerned Agencies List (see paragraph 4.2(B)) needing access to updated/new addresses listed, in addition to the City, of any new addresses that have been assigned to individual properties or to newly recorded plats or are changed due to street naming and/or renaming or by owner request or for 911 purposes. The County will update this agency list from time to time as needed, advise the City of the updates and make this list available on-line through its website.

4. ALI DATABASE and 911 MAPPING SYSTEM:

4.1 CITY RESPONSIBILITIES:

- (A) Cooperate with the maintenance of the E911 ALI Database by providing for the timely updates and corrections of any addressing discrepancies located in the ALI Database or errors located in the mapping system and/or errors located in any Annexation, Detachment or Ordinance submitted by the City.

(B) Respond to the County in writing within ten (10) working days from receipt of written notice (paragraph 4.2(C) below) from the County of any discrepancies in the naming or numbering of streets in the City.

(C) The City agrees to be responsible for any or all errors within the ALI Database System that are not resolved or corrected by the City within the (10) working days from the receipt of notice or within the approved grant extension time frame as provided for below.

(D) Upon correction and recording of any and all City Annexations, Detachments, Ordinances or Resolutions, the City shall provide a recorded copy of the revised document to the County E911 Addressing Section in a timely manner.

4.2 COUNTY RESPONSIBILITIES:

(A) Maintain and update the addresses in the ALI Database System and 911 Mapping System (the Systems) and the County's Property Management System, along with regular updated addressing information to the Property Appraiser and the Supervisor of Elections for use in the records/databases of those offices.

(B) Maintain and revise as needed the "Concerned Agencies List" which includes all agencies/entities needing access to the updated Systems.

(C) Notify the City in writing of any discrepancies the County identifies in the naming or numbering of streets located within the City's municipal boundaries for the purpose of verification and correction in order to avoid duplication and confusion.

(D) Upon written notice from the City indicating an error cannot be resolved within the approved time frame, the Brevard County E911 Addressing Section may grant an extension on a case-by-case basis.

(E) Process annexations and vacatings submitted by the City, including incorporation of address changes into the Systems.

(F) Provide maps and mapping updates to the City on an 'as requested' basis.

5. FEES:

5.1 CITY RESPONSIBILITIES:

(A) Remit an annual 911 Addressing fee to the County by October 1 for the upcoming fiscal year if the City requests the County to assume Addressing responsibilities for the City.

(B) Require the Developer to pay the fee set per address for newly recorded plats for 911 address assignment to the Section in order to defer the administrative cost of this function.

(C) Require the Developer or Citizen to pay fees to the Section should the City request the E911 Addressing Section to provide street naming or renaming or address change notification services.

(D) All fees provided for herein as set by Resolution shall be made payable to the Brevard County Board of County Commissioners and sent to the attention of:

Brevard County Board of County Commissioners
Attn: E911 Addressing Section
2725 Judge Fran Jamieson Way
Suite C201
Viera, FL 32940

(Any change in the address of the Section shall be made to the City in accordance with paragraph 8.).

(E) Require the Developer to pay said fees directly to the Section at the time address assignment is completed and available for use.

5.2 COUNTY RESPONSIBILITIES:

(A) Adopt fees by Resolution for the services as provided for in Section 5.1 above. The County may revise the fees from time to time.

(B) Notify the City of any proposed change to the annual 911 addressing fee Section 5.1 (A) no less than six months prior to September 30, in order for the City to consider the fee as part of its budgetary process for the next fiscal year.

(C) The County will advise the City from time to time of any changes to fees charged to the City or Developers or citizens for various addressing services provided by the County.

6. MODIFICATIONS TO AGREEMENT: Other than as previously approved, this Agreement, together with any exhibits, task assignments and schedules constitute the entire Agreement between the County and the City and supersedes all prior written or oral understandings. This Agreement and any exhibits, task assignments and schedules may only be amended, supplemented or canceled by a written instrument duly executed by the parties hereto.

7. INDEPENDENT CONTRACTOR: City and County are independent contractors under this Agreement. Services provided by City pursuant to this agreement shall be subject to the supervision of City and services provided by County pursuant to this Agreement shall be subject to the supervision of County.

In providing such services, the City, its officers, employees, or agents are not authorized to and shall not act as officers, employees, or agents of County and the County, its officers, employees, or agents are not authorized to and shall not act as officers, employees, or agents of City. This Agreement shall not constitute or make the parties hereto a partnership or joint venture.

8. NOTICE: Documentation, notices, changes in addresses or representatives of the parties shall be made by providing notice as follows:

To the City/Town:

To the County:

Brevard County Emergency Management Department
E911 Administration Office, E911 Addressing Section
2725 Judge Fran Jamieson Way, Suite C201
Viera, FL 32940

9. GOVERNMENTAL IMMUNITY. The city is a municipality as defined in Section 768.28, Florida Statutes, and agrees to be responsible for acts and omissions of its agents or employees when required by law. Nothing herein is intended to serve as a waiver of sovereign immunity by the City to the extent sovereign immunity may be applicable. Nothing herein shall be construed as consent by the City to be sued by third parties in any matter arising out of this Agreement or any other contract. Likewise, the County is a political subdivision of the State of Florida, as defined in Section 768.28, Florida Statutes, and agrees to be responsible for acts and omissions of its agents or employees when required by law. Nothing herein is intended to serve as a waiver of sovereign immunity by the County to the extent sovereign immunity may be applicable. Nothing herein shall be construed as consent by County to be sued by third parties in any matter arising out of this Agreement.

10. ATTORNEYS FEES/COSTS; NONJURY TRIAL: In the event of litigation to enforce the terms of this agreement, each party shall be responsible for its own costs and attorney's fees. Any trial to enforce or interpret the terms of this agreement should be non-jury.

This Agreement shall be deemed to have been entered into under the provisions of Section 163.01, Florida Statutes, "the Florida Interlocal Cooperation Act of 1969," and shall be effective upon filing with the Clerk of the Circuit Court, Brevard County pursuant to Subsection 11 of said Act.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Scott Ellis, Clerk

Robin Fisher, Chairman
Brevard County Board of County Commissioners

As Approved by the Board on _____

ATTEST:

City/Town of

City/Town Clerk

Mayor or (his/her designee)

1981

4. The City and County hereby agree to mutually cooperate in maintaining the flow of communication necessary to properly and effectively institute the E-911 Emergency Telephone System throughout Brevard County, Florida.

5. This Agreement shall be deemed to have been entered into under the provisions of Section 163.01, Florida Statutes, the "Florida Interlocal Cooperation Act of 1969," and shall be effective pursuant to subsection 11 of said Act.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

ATTEST:

Lee Steele

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

BY: *Val M. Steele*
Val M. Steele, Chairman

ATTEST:

Ethel Scabarzi

TOWN OF MALABAR

BY: *M. J. Rademan*

MAR 14 2000

- c) After proper notice by the County, the City agrees to be responsible for any or all errors within the emergency ALI database system that are not resolved or corrected by the City within 10 working days of notice.
5. The City and County hereby agree to mutually cooperate in maintaining the flow of communication necessary to properly and effectively maintain the E 9-1-1 ALI database throughout Brevard County, Florida.
- a) This document supersedes and replaces any and all previous agreements regarding 9-1-1 addressing interlocal agreements.
- b) Documentation to the County shall be submitted to:
- Brevard County Code Compliance Department
Address Assignment
2725 Judge Fran Jamieson Way, Building A
Melbourne, FL 32940
- c) Documentation to the City shall be submitted to:
- City of: Town of MALABAR
2725 MALABAR Rd.
MALABAR, FL 32950-4427
6. This Agreement shall be deemed to have been entered into under the provisions of Section 163.01, Florida Statutes, "The Florida Interlocal Cooperation Act of 1969," and shall be effective pursuant to subsection 11 of said Act.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

ATTEST:

Sandy Crawford, Clerk

ATTEST:

Susan Kabma
City Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Nancy N. Higgs, Chairman
Brevard County Board of County Commissioners

AS APPROVED BY THE BOARD ON March 14, 2000

CITY OF

Phillip R. Crews
Mayor-Commissioner

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 9
Meeting Date: August 24, 2015

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

SUBJECT: Consider One Year Extension of ILA with Brevard County for Administration of Malabar's Stormwater Program (19-2015)

BACKGROUND/HISTORY:

The County has asked us to approve a one-year extension to the three-year ILA we signed in 2012. Brevard County administers, trains, inspects and coordinates with us in completing the required reports associated with our NPDES (National Pollution Discharge Elimination System) Permit. The permit requires reporting to the State and showing evidence of corrective actions taken when necessary and also showing the State the information we have for our community in methods to reduce pollutants going into the IRL (Indian River Lagoon) and restrictions on the types of fertilizer during certain times of the year. Denine, all of the PW staff and me hold current Stormwater Inspector cards. We also conduct annual housekeeping training and refreshers to stay current on BMP for vehicle maintenance and pollutant prevention methods.

The County has administered our SW program since 2000 and we have never increased the costs. Most single family homes pay \$36.00 annually. Those developments that have an approved Stormwater System are charged a reduced rate.

The Town pays the County Natural Resources Management Office four quarterly payments for handling the administration of this program. These are the monies that can only be used for stormwater projects.

A representative from the County's Natural Resources Management Office will be in attendance to answer any questions.

FINANCIAL IMPACT:

Budgeted Item for 2015-2016 estimate of \$7,000.00

ATTACHMENTS:

Reso 19-2015
ILA for 1-year extension
Full ILA from 2012

ACTION OPTIONS:

Staff requests Favorable Action on reso 19-2015

RESOLUTION 19-2015

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR COUNCIL APPROVAL OF THE ONE-YEAR EXTENSION TO THE INTERLOCAL AGREEMENT WITH BREVARD COUNTY FOR STORMWATER PROGRAM ADMINISTRATION AND MANAGEMENT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Malabar has participated in the previous Interlocal Agreements with Brevard County since 2001; and

WHEREAS, and this Agreement authorizes Brevard County to administer and manage the Town's Stormwater Program consistent with the policies, procedures, and practices of the County's Natural Resource Management Office Stormwater Program; and

WHEREAS, the Town of Malabar desires to extend this Intergovernmental Agreement for the one-year period from 2015 to 2016 per the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves and directs that the one-year extension to the Interlocal Agreement attached as Exhibit "A" to be signed by the Mayor.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs that the signed one-year extension to the Interlocal Agreement be forwarded to the Brevard County Department of Natural Resources.

Section 3. This Resolution shall take effect immediately upon its adoption.

This Resolution was moved for adoption by Council Member _____.

This motion was seconded by Council Member _____ and, upon being put to vote, the vote was as follows:

Council Member Grant Ball _____

Council Member Brian Vail _____
Council Member Don Krieger _____
Council Member Dick Korn _____
Council Member Marisa Acquaviva _____

This Resolution was then declared to be duly passed and adopted this 24th day of August, 2015.

By: TOWN OF MALABAR

Mayor Carl A. Beatty, Council Chair

ATTEST:

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

(seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney



BOARD OF COUNTY COMMISSIONERS

" A "

Natural Resources Management Department
2725 Judge Fran Jamieson Way
Building A, Room 219
Viera, Florida 32940

August 13, 2015

Bonilyn Wilbanks
Town Administrator
Town of Malabar
2725 Malabar Road
Malabar, Florida 32950-4427

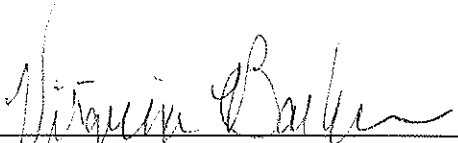
RE: Stormwater Utility Interlocal Agreement

Dear Ms. Bonilyn:

This is to notify you that in accordance with the Stormwater Interlocal Agreement entered on September 4, 2012, by and between Brevard County and the Town of Malabar, for services related to the administration of the City's stormwater utility, the agreement three year term will expire on September 4, 2015. Per the terms of the agreement (attached) Section 22, Duration of Agreement, stipulates that the County may extend this agreement in one year increments beyond the initial three year period, by mutual written consent of both parties.

By signing below the Brevard County Natural Resources Director, and the Town of Malabar Mayor agree to extend the agreement for a period of one year until September 4, 2016.

Carl A. Beatty, Mayor
Town of Malabar
(As Approved by the Town Council on
August 6, 2012)



Virginia Barker, Interim Director
Brevard County
Natural Resources Management Department
(As approved by the Board on
September 4, 2012)

C: Stockton Whitten, County Manager
Debbie Franklyn, City Clerk

**NATURAL RESOURCES MANAGEMENT OFFICE, STORMWATER PROGRAM
INTERLOCAL AGREEMENT**

THIS AGREEMENT is made and entered into this 7th day of August, 2012, by and between the BREVARD COUNTY, FLORIDA (hereinafter referred to as "County") and the CITY OF WEST MELBOURNE, a Florida municipal corporation, (hereinafter referred to as the "City,")

WITNESSETH:

WHEREAS, the County currently operates and manages a Stormwater Program under the authority of Chapters 403 and 197, Florida Statutes; and

WHEREAS, the City currently operates and manages a Stormwater Program under the authority of Chapters 403 and 197, Florida Statutes; and

WHEREAS, the County and City recognize that there are benefits associated with a regional approach to the management of stormwater issues; and

WHEREAS, the Board of County Commissioners has authorized expansion of the County's Stormwater Program for administration and operation of municipally adopted benefit zones; and

WHEREAS, the City Council of West Melbourne, Florida has determined that the County's administration of the City's Stormwater Program will best serve the interests of its citizens.

NOW, THEREFORE, in consideration of the premises and the covenants herein contained, it is mutually agreed between the parties as follows:

SECTION 1. STATUTORY AUTHORITY

This agreement shall be considered an Interlocal Agreement pursuant to the authority of Section 163.01, Florida Statutes.

SECTION 2. PROGRAM ADMINISTRATION

The County shall administer and manage the City's Stormwater Program consistent with the policies, procedures, and practices of the County's Natural Resources Management Office Stormwater Program in effect on the effective date of this agreement. For the purpose of this agreement the authority to make minor adjustments in procedures and practices not affecting policy

Town or County ordinances. Procedural amendments shall be in writing executed by the County Manager and Town Administrator. Administration of the Town's Stormwater Program will include but not necessarily be limited to:

- Management of the parcel database including coordination with the County Property Appraiser, Tax Collector, and Information Technology offices.
- Administration of the Credit Policy Program (after initial maintenance credit assignment).
- Drafting of required Ordinances, Rate Resolutions, and annual assessment rolls as necessary. All such actions must be reviewed by the Town Administrator and approved by the Town Attorney. All such actions shall be adopted by the Town Council, as required by law.
- Review and adjustment of Stormwater Assessment bills where appropriate, through the Error and Insolvency process.
- Coordination with the Town Administrator and staff to identify and select capital improvement projects which are consistent with County policies and procedures and have benefit to the Malabar Stormwater Management System Benefit Area (MSMSBA).
- Providing information and coordination related to billing inquiries to the citizens within the MSMSBA.
- Management of technical staff employed by the County's Stormwater Program.
- Educational activities for the public and/or Town staff to meet the minimum NPDES requirements.
- Activities related to the coordination of the Town of Malabar Stormwater Management Program (SWMP) required under the Generic Permit for Discharge of Stormwater from Phase II, Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) permit.
- Participation in the Stormwater Education and Outreach Interlocal Agreement (Live Blue), as long as the Live Blue Agreement between the County and Keep Brevard Beautiful, is in effect.

SECTION 3. ASSESSMENT REVENUE

Special assessment revenues as budgeted by Town Council and collected within the Town for the Stormwater Program will be used only for administering, planning, constructing, operating, and maintaining stormwater management systems benefiting the Town.

SECTION 4. CUSTODIAN OF FUNDS

During the period covered by this Interlocal Agreement, the Town shall be the custodian of funds generated within the MSMSBA.

SECTION 5. ADJUSTMENT OF ASSESSMENTS AND EXPENDITURE OF COSTS

In the event that an adjustment or individual calculation of an annual Stormwater Assessment is required, the County's Natural Resources Management Office Director [Director] or his/her designee shall have authority to make such adjustment in accordance with County policies and procedures. Any appeals related to credit issuance, exemptions from, or adjustments to, any stormwater assessment will be resolved utilizing the County Stormwater Program Appeals Committee and Appeals Committee procedure as outlined in Chapter 110, Article V, Section 110-373(c) of Brevard County Code. The Town shall be given notice of any request for adjustment and/or appeal and has the right, but not the obligation, to participate in any hearing requesting an adjustment or an appeal.

All expenditures of funds pursuant to this agreement which are collected within the MSMSBA shall require the approval of the Director and the Town Administrator. In the event of a disagreement as to the approval of expenditure, the decision of the Town Administrator shall prevail. It is recognized that during the period covered by this Interlocal Agreement, services of Town Departments/Divisions, such as purchasing, financial, or legal services, may require reasonable compensation, and if required, will be set forth in the annual program operating budget.

SECTION 6. PURCHASING AND FINANCIAL PRACTICES

During the period covered by this Interlocal Agreement, purchasing and financial processes shall be in accordance with the Town's policies and procedures, as amended from time to time.

SECTION 7. ADMINISTRATIVE COSTS

The Town will pay a pro rata share of the County's Stormwater Program administrative costs. These costs shall be estimated annually for the forthcoming fiscal year (i.e. October 1st to September 30th) by the County's Natural Resources Management Office based on the annual assessment roll. Prior to the adoption of the Town's annual budget, the County's Natural Resources Management Office shall advise the Town in writing of the proposed administrative budget for the forthcoming year. The Town's share of administrative costs shall be calculated as a lump sum constituting ten percent (10%) of the Town's assessment roll revenue to be billed in November of that year. Invoicing for the County's services will be on a quarterly basis. Final administrative costs will be adjusted in the fourth quarter's billing based upon the actual assessments billed. Adjustments will be performed in accordance with Section 9 of this Interlocal Agreement. As used in this Agreement, the term "administrative costs" when used in reference to the administrative costs of the County's Natural Resources Management Office, Stormwater Program shall refer to administrative costs as outlined in Section 2 of this Interlocal Agreement.

The proposed annual budget, including administrative costs, direct costs, and all other costs and list of projects, will be coordinated with the Town for review and approval. In the event of a disagreement as to the budget or list of projects by the Town and County, the Town Administrator and the Director shall meet and resolve the disagreement.

SECTION 8. DIRECT COSTS

In addition to administrative costs, the Town will pay direct labor and related costs incurred for project or program related efforts pre-approved in scope and budget by the Town. The County will invoice the Town quarterly for the direct cost of environmental, engineering, and project management labor based upon time spent on identified projects. These costs will be charged on an hourly rate, to be submitted to and approved by the Town, to include associated cost of supplies and expenses and capital equipment. The County will maintain appropriate records in a

format acceptable to the Town, to support these charges. Direct costs may include but are not necessarily limited to:

- Project management of engineering or environmental consultant contracts.
- Project management of construction contracts.
- Onsite inspection of construction projects.
- Compliance inspection of stormwater management systems receiving Stormwater credit.
- Monitoring or environmental assessments.
- Public education related to water quality or flooding projects implementation (outside of services related to Live Blue and/or NRMO provided Public/staff Education on Pollution Prevention).
- Stormwater Structure inventory and mapping of stormwater structures such as pipes, ditches, ponds, etc.
- Investigation of environmental or water management concerns.
- In-house design, drafting, or graphic services.
- Preparation of SWMP activities directly related to the NPDES permit requirements for the elements specified in Exhibit A. This activities shall include collection of documentation related to annual reporting as well as preparation of the annual permit renewal and any other request for additional documentation by the FDEP Stormwater Section as deemed necessary to meet their requirements.

SECTION 9. REMITTANCE OF ADMINISTRATIVE AND OTHER COSTS

The Town will remit to the County one quarter (1/4) of the estimated annual administrative costs at the beginning of each calendar quarter, i.e., October 1 to December 31, January 1 to March 31, April 1 to June 30, and July 1 to September 30. Fourth (4th) quarter payment (final payment) will be due September 1st, after any adjustments are completed based on actual revenues. The estimate shall be based upon ten percent (10%) of the Town's assessment roll revenue to be billed in November of that year. During the fourth (4th) quarter, the estimated administrative costs for the Town's Stormwater Management System Benefit Area will be adjusted based on the actual revenue collected and the final payment for that year will be adjusted accordingly.

Administrative costs and direct costs will be billed quarterly and shall be processed for payment within thirty (30) days of receipt.

SECTION 10. LEGAL SERVICES

During the period covered by this agreement, the Town agrees that any claims or suits involving operation of the stormwater program within the Town limits will be defended by and at the expense of the Town. However, the County may at the request of the Town defend the Town against all claims arising out of decisions relating to adjustments or credits to an individual fee; or appeals to or from the Stormwater Program Appeals Committee as set forth in Section 5, including actual attorney fees for the County Attorney's office at \$250.00 per hour of attorney's time. For internal control and auditing purposes, time records will be kept by the County Attorney's office for all time charged against Town stormwater assessments. Time records will include who performed the individual task [e.g.-draft letters, research], date task performed; time expended for each task expressed in tenths of an hour; and total amount billed. Costs of such defense shall be paid from the funds received from the stormwater assessment imposed by the Town.

SECTION 11. SELECTION OF PROJECTS

The County Stormwater Program staff will work with the Town's staff and the Town Council to select projects, which benefit the MSMSBA. It is recognized that, in general, program operation costs, capital improvements, and the maintenance of capital improvements constructed by the program are the primary uses allowable for revenue collected. In addition, it is recognized the parties will endeavor to apply the funds identified for capital improvements projects that would equally benefit and improve both water quality and flood control in the Town.

SECTION 12. CONTINUING CONSULTANTS

The Town shall have available for its use the services of continuing consultants as selected by the County under the Competitive Consultant Negotiation Act (CCNA).

SECTION 13. REPRESENTATIONS OF THE TOWN

The Town makes the following representations to the County:

- a) The Town is duly organized and in good standing under the laws of the State of Florida, and is duly qualified and authorized to carry on the governmental functions and operations set forth in this Interlocal Agreement.
- b) The Town has the power, authority, and legal right to enter into and perform the obligations set forth in this Interlocal Agreement, and the execution, delivery, and performance hereof the by Town (i) has been duly authorized by the Town Council of the Town of Malabar; (ii) does not constitute a default under, or result in the creation of any lien, charge, encumbrance or security interest upon the assets of the Town, except as otherwise provided herein.

SECTION 14. REPRESENTATION OF THE COUNTY

The County makes the following representations to the Town of Malabar:

- a) The County is duly organized and in good standing under the laws of the State of Florida, and is duly qualified and authorized to carry on the governmental functions and operations under the laws of the State of Florida, and is duly qualified and authorized to carry on the governmental functions and operations set forth in this Interlocal Agreement.
- b) The County has the power, authority, and legal right to enter into and perform the obligations set forth in this Interlocal Agreement, and the execution, delivery, and performance hereof by the County (i) has been duly authorized by the Board of County Commissioners of Brevard County; (ii) does not constitute a default under, or result in the creation of any lien, charge, encumbrance, or security interest upon the assets of the County, except as otherwise provided herein.

SECTION 15. RECORDS REVIEW

It is hereby specifically agreed that any record, document, computerized information and program, audio or video tape, photograph, or other writing of the County's Stormwater Program relating to this Agreement shall be deemed to be a "Public Record," whether in the possession or control of the County's Stormwater Program or one of its consultants, as defined in Section

119.011, Florida Statutes. Said record, document, computerized information and program, audio or videotape, photograph, or other writing shall be subject to the provisions of Chapter 119, Florida Statutes. Upon request by the Town and without posing an exemption to the Town's rights set forth in Section 119.07(1), Florida Statutes, the County shall permit inspection of the foregoing public records by the Town, and the Town may obtain copies of said public records. All books, cards, registers, receipts, documents, and other papers in connection with this Agreement shall at any and all reasonable times during the normal working hours of the County be open and freely exhibited by the County for the purpose of examination and/or audit by the Town.

SECTION 16. NOTICE

All notices, demands, annual renewals or other writings in this Agreement are to be given, made or sent, or which may be given or made or sent, by either party through this Agreement to the other, shall be deemed to have been given, made or sent when made in writing and deposited in the first class United States mail, certified, return receipt requested and postage prepaid, and addressed as follows:

TO COUNTY: **Director, Natural Resources Management Office**

 Brevard County Government Center
 Building "A", Suite 219
 2725 Judge Fran Jamieson Way
 Viera, Florida 32940

With a copy to: **County Manager**
 Brevard County Government Center
 Building "C"
 2725 Judge Fran Jamieson Way
 Viera, Florida 32940

TO TOWN: **Town Administrator**
 TOWN OF MALABAR
 2725 Malabar Road
 Malabar, Florida 32950

With a copy to: **Town Clerk**
 TOWN OF MALABAR
 2725 Malabar Road
 Malabar, Florida 32950

The person or address to which any notice or other writing may be given, made or sent, as above provided, may be unilaterally changed by written notice given as above provided.

**SECTION 17. THIRD-PARTY BENEFICIARIES;
PARTNERSHIP**

(a) No Third-Party Beneficiaries. It is expressly agreed to by the parties, and it is the expressed intent of the parties that there are no intended or unintended, expressed or incidental, third-party beneficiaries of this Agreement. Consequently, this Agreement may NOT be relied upon by any person or entity other than the County or the Town.

(b) Partnership. The County and the TOWN shall not be deemed to be partners or co-joint ventures of one another by virtue of this Agreement.

SECTION 18. DEFAULT

(a) It is expressly agreed between the parties hereto that in the event the Town determines the County, or the County determines the Town, to be in default of any of the conditions, covenants, or agreements of this Agreement, the Manager of the party hereto alleging a default will provide written notice thereof to the Manager of the party hereto alleged to be in default. Default with regard to any provision hereof shall be construed as a material breach of this Agreement, the intent of the parties being that all terms of this Agreement are material. The party alleged to be in default shall, within fifteen (15) days of the receipt of such notice, initiate action to correct such default and promptly and diligently prosecute such corrective action to completion; provided, however, that during said fifteen (15) day period if the Manager of the entity alleged to be in default disagrees with the determination of the entity alleging a default, then in such event both Managers shall meet and discuss the alleged default and possible correction thereof. In the event the two Managers cannot agree on whether or not a default exists or how to resolve the default, they shall each present an agreed upon statement of the issue(s) outstanding to their respective governing bodies, together with alternatives proposed by both Managers for any corrective action to be undertaken. At this point, both parties shall immediately coordinate with one another to simultaneously satisfy the requirements of subsection (b) and Section 164.103, Florida Statutes, in a prompt manner.

(b) (1) If the governing body of the entity alleging a default determines no default to have occurred, no further action by the entity claimed to be in default shall be necessary.

(2) If the governing body of the entity alleging a default determines a default to have occurred, but the governing body of the entity alleged to be in default determines no default to have occurred, then the entity alleging a default shall retain all legal and equitable rights and remedies available, but unless otherwise terminated by either party, this Agreement shall continue in full force and effect during any judicial proceeding initiated by the entity alleging a default. If the governing body of the entity alleging a default is dissatisfied with the remedy elected by the party alleged to be in default or the progress in remedying the default, the entity alleging a default shall retain all legal and equitable rights and remedies available.

(3) If a majority vote of each of the governing bodies determines a default to have occurred and agrees upon a method for the prosecution of corrective action and appropriate corrective action, the entity in default shall initiate corrective action within fifteen (15) days of the date of final determination of such default by both governing bodies and promptly and diligently prosecute such corrective action to completion. Thereafter, the parties to this Agreement shall retain all legal rights and remedies available to them, but unless otherwise terminated by either party hereto, this Agreement shall continue in full force and effect during any judicial proceeding initiated by either party.

(c) Remedies Cumulative; Waiver. All remedies conferred on either party shall be deemed cumulative, and no one remedy is exclusive of the other or of any other remedy conferred by law. Waiver by the Town or the County of, or failure of the Town or the County to take action with respect to, any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition or subsequent breach of the same, or any other term, covenant, or condition herein contained. In no event shall the County be deemed liable for costs, damages, or attorney's fees incurred as a result of services provided herein.

SECTION 19. SEVERABILITY

If any part of this Interlocal Agreement is found invalid, unconstitutional, or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Interlocal Agreement if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can be accomplished. This agreement shall be enforced and interpreted as if such invalid, unenforceable, or unconstitutional provision did not exist.

SECTION 20. ENTIRETY

This Interlocal Agreement, including exhibits, if any, represents the understanding and agreement of the parties in its entirety. There shall be no amendments to this Interlocal Agreement unless such amendments are in writing, signed by all the parties, and filed with the Brevard County Clerk of the Circuit Court.

SECTION 21. TERMINATION

This Agreement shall remain in effect until the date specified in Section 22 of this Agreement, or upon termination by either party. Either the Town or County may serve written notice to the other party to terminate the contract upon not less than one hundred twenty (120) days' notice. Should termination of the agreement occur within less than one hundred and twenty (120) days Notice the Town shall be responsible for all outstanding costs as permitted by this agreement. Upon termination the County shall turn over to the Town all pertinent data and records received, gathered, obtained or produced by the County through the effective date of the termination concerning the NPDES within fifteen days (15) from the effective date of Termination.

SECTION 22. DURATION OF AGREEMENT

This agreement shall remain in full force for a period of three (3) years after its date of execution by both parties, unless this agreement is terminated as otherwise provided herein. In addition, this agreement may be extended by the County in one (1) year increments for up to two (2) years beyond the initial three (3) year period of the Agreement. Annual extensions shall be made by mutual written consent of both parties and as authorized by the Director and the Town Administrator, and proper notification per Section 16.

SECTION 23. EFFECTIVE DATE

The effective date of this Interlocal Agreement shall be the date on which this fully executed agreement has been filed with the Brevard County Clerk of the Circuit Court.

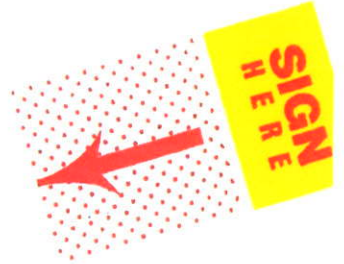
SECTION 25. GOVERNING LAW

The laws of the State of Florida shall govern the validity and interpretation of this Interlocal Agreement. Venue shall be in Brevard County.

IN WITNESS THEREOF, the parties have hereunto set their hands and seals on the date and year aforementioned.

ATTEST:

BREVARD COUNTY, FLORIDA



Mitch Needelman, Clerk

By: _____


Check Nelson, Chairman
(As approved by the Board on _____, 2012

Reviewed for Legal form and content


Scott Knox, County Attorney

ATTEST:

TOWN OF MALABAR




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



Phillip R. Crews, Mayor
(As approved by the Town Council on

August 6, 2012

Reviewed for Legal form and content



Karl Bohne,
Town Attorney

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: **10**
Meeting Date: August 24, 2015

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

SUBJECT: Action on Mediation Agreement Discussed in Executive Session

BACKGROUND/HISTORY:

Attorney Bohne will speak to this.

FINANCIAL IMPACT:

Unknown

ATTACHMENTS:

None

ACTION OPTIONS:

Action by Council

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 11
Meeting Date: August 24, 2015

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

SUBJECT: Approval of Qualified Candidates for Office 2015 Election

BACKGROUND/HISTORY:

Per the Charter, the Council "Qualifies" the candidates for Malabar elected offices. In 2015, Council District Seats 4 and 5 were open. In District 4, Incumbent Dick Korn submitted the proper paperwork and petition showing he met the requirement of registered electors within his district.

In District 5, CM Marisa Acquaviva has completed her third two-year term. Mr. Richard Kohler has submitted the required paperwork and necessary signatures from within his district.

Qualifying paperwork required by the State Election Laws and the Town of Malabar was submitted by the these candidates. Residency was stated, oaths were notarized, petition names were verified as being registered electors and all necessary paperwork was submitted to me as the Local Filing Officer.

Council Seat District 4 incumbent Dick Korn

Council Seat District 5: no incumbent – Candidate Richard Kohler

Chapter 7 of the Code states there shall be meeting held within three days of the Election for the newly elected officials to take office. That date is Thursday, November 5, 2015.

ATTACHMENTS:

Candidate Oaths
Charter Section 2.06

ACTION OPTIONS:

Town Clerk requests Council to "qualify" the candidates.



2725 Malabar Road
Malabar, FL 32950

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

Sworn Statement

Before me, an officer authorized to administer oaths, personally appeared Dick Koen to me well known OR produced identification _____, who being sworn that he/she is a qualified elector of the Town of Malabar, Brevard County, Florida, and that he/she is qualified under the Town Charter of the Town of Malabar, Florida, and the Florida Statutes to hold the office of District 4 Councilman of the Town of Malabar, Florida, for which he/she desires to be elected/appointed. Said qualifications are as follows, to wit:

- ✓ He/She is eighteen (18) years of age or older (30 years of age for Mayor).
- ✓ He/She is not presently adjudicated mentally incompetent under the laws of any state.
- ✓ He/She has never been convicted of a felony without having his/her civil rights restored.
- ✓ He/She has registered to vote in Brevard County, Florida.
- ✓ He/She is now and has been for at least one (1) year consecutively and immediately prior to this date, a permanent resident of the Town of Malabar, Brevard County, Florida within the District the candidate is running.
- ✓ He/She is willing to serve if elected/appointed.

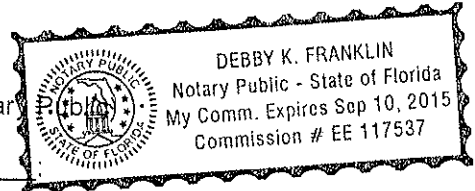
Dick Koen
Signature of Candidate

3115 WEBER Rd - Malabar FL
Address

Occupation: Self Employed

Sworn to and subscribed before me this 6 day of August, 2015.

Debby Franklin
(Signature of Notary Public - State of Florida)



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

Personally Known OR Produced Identification _____

Type of Identification Produced : N/A



2725 Malabar Road
Malabar, FL 32950

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

Sworn Statement

Before me, an officer authorized to administer oaths, personally appeared Richard Kohler to me well known OR produced identification FLDL, who being sworn that he/she is a qualified elector of the Town of Malabar, Brevard County, Florida, and that he/she is qualified under the Town Charter of the Town of Malabar, Florida, and the Florida Statutes to hold the office of Council Dist 5 of the Town of Malabar, Florida, for which he/she desires to be elected/appointed. Said qualifications are as follows, to wit:

- He/She is eighteen (18) years of age or older (30 years of age for Mayor).
- He/She is not presently adjudicated mentally incompetent under the laws of any state.
- He/She has never been convicted of a felony without having his/her civil rights restored.
- He/She has registered to vote in Brevard County, Florida.
- He/She is now and has been for at least one (1) year consecutively and immediately prior to this date, a permanent resident of the Town of Malabar, Brevard County, Florida within the District the candidate is running.
- He/She is willing to serve if elected/appointed.

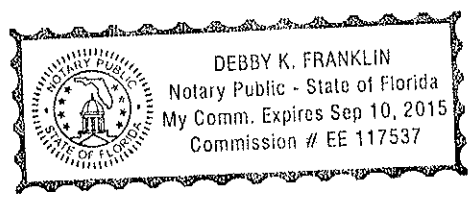
Richard W Kohler
Signature of Candidate

995 Falls Trail, Malabar, FL 32950
Address

Occupation: Grocery Store

Sworn to and subscribed before me this 19 day of August, 2015.

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



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

Personally Known OR Produced Identification :

Type of Identification Produced : FLDL

procedure herein. The Mayor shall be elected to a four-year (4) term. A candidate for the office of Mayor may qualify for the office by presenting to the Town Clerk a petition signed by fifteen (15) valid signatures of qualified electors of the Town. The petition must be signed by fifteen (15) valid signatures of qualified electors of the Town and by paying a filing fee if required, not less than seventy-six (76) days and not more than ninety (90) days prior to the date of such election. The candidate for office of the Mayor shall submit with the petition a sworn statement containing the candidate's name, address, occupation and willingness to serve if elected.

(c) The Mayor shall perform all duties that are delegated to the Mayor by vote of the Town Council and shall be responsible to the Town Council for the performance of these duties. The Mayor shall preside as the ceremonial chief officer of the Town at all ceremonial functions. (Ord. No. 95-3, § 1, 7-17-95; Amd. of 3-25-03; Ord. No. 03-07, § 2(Exh. A), 9-8-03/11-4-03; Ord. No. 08-06, § 1, 5-19-08)

Sec. 2.05. Form of Petition.

The signatures on the nominating petition need not all be affixed to one paper. Each separate page of a petition shall include an affidavit executed by the circulator stating the number of signatures, that each signature was affixed in the circulator's presence, and that the circulator believes each signature to be the genuine signature of that person. The signature shall be executed in ink or indelible pencil. Each signer shall indicate the date and the signer's address next to the signer's signature. (Ord. No. 95-3, § 1, 7-17-95; Amd. of 3-25-03)

Sec. 2.06. Judge of Qualifications.

The Council shall be the judge of the qualifications in this Charter of the candidates for election to the Council and for the office of mayor and for that purpose shall have the power to subpoena witnesses and require the production of evidence. The decision of the Council shall be subject to review by the courts. Review by the Council of each candidate's qualifications shall be conducted at a Council meeting after the candidate's qualifying papers are filed. (Ord. No. 95-3, § 1, 7-17-95; Amd. of 3-25-03)

Sec. 2.07. Election and Terms.

The regular election of the Town Council members, including the Mayor, shall be held on the Tuesday after the first Monday of November each year to fill the expired terms as presently established and shall be for two (2) year terms for Council members and four (4) year terms for Mayor. Two (2) council seats shall be elected in odd years and the remaining three (3) council seats in even years. The Mayor shall be elected to no more than two consecutive four-year terms. If only one (1) candidate qualified for any one of the Council seats or the office of Mayor, the name shall not appear on the ballot, and the candidate is automatically elected. In any election, the person having the highest number of votes in the election shall be elected. In the event of a tie, the winner shall be selected by draw. Beginning with the terms commencing with November 1986 election and thereafter, an elected Council member shall not serve more than

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 12
Meeting Date: August 24, 2015

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

SUBJECT: Council Annual Review of Town Clerk/Treasurer

BACKGROUND/HISTORY:

Council was given the Evaluation Reports last week for the Clerk. Since I report to Council it is appropriate to have these evaluations done. Our employee manual provides that employees are evaluated annually. I review Cindi, Roger evaluates Denine, Tom evaluates his workers, Fire Chief evaluates his Lts and Blanca, and TA evaluates Tom and Chief.

In the past these evaluations were done one on one by each council member. At the July 2014 RTCM council directed that the evaluations be distributed to Council and the Mayor so they can perform the evaluations for me in August. I have only received the evaluation back from CM Korn.

We have very distinct duties and should be evaluated on them. Since this is a small town and things need to get done, there will always be times when TA has to step into my area and vice versa. This does not mean we are trying to run an end run around the other person.

We are trying to serve the residents of Malabar by keeping the operations of the Town moving forward.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Evaluations by CM Korn
Blank evaluations for others

ACTION OPTIONS:

Clerk requests feedback on the evaluations.

TOWN OF MALABAR

PERFORMANCE EVALUATION REPORT

Last Name	First Name	Department	Position	Evaluation Date
Franklin	Debby	Clerk/Treasurer	SAME	8/17/19

Date of Employment	<input checked="" type="checkbox"/> Annual <input type="checkbox"/> Probationary	Period Covered	Next Review Date
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PERFORMANCE FACTOR SCORES	5: Outstanding 4: Exceeds Requirements 3: Meets Acceptable Requirements, Satisfactory 2: Does Not Meet Minimum Acceptable Requirements 1: Far Below Acceptable Requirements
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PERFORMANCE FACTORS	SCORE	X	WEIGHT	=	SCORE
---------------------	-------	---	--------	---	-------

QUALITY					
1 Accuracy	4	X	5	=	20
2 Thoroughness	5	X	3	=	15
3 Judgment	4	X	5	=	20
4 Adaptability	5	X	3	=	15
5 Leadership	5	X	5	=	25
6 Oral Expression	5	X	3	=	15
7 Written Expression	5	X	3	=	15

JOB KNOWLEDGE					
8 Skills/Application of Knowledge	5	X	5	=	25
9 Mastery of Technical and/or Professional Techniques	5	X	5	=	25
10 Policy and Procedures	5	X	5	=	25

WORK HABITS					
11 Interest and Enthusiasm	5	X	5	=	25
12 Attitude and Loyalty	5	X	5	=	25
13 Personal Relations	4	X	4	=	16
14 Courtesy	5	X	4	=	20
15 Cooperation	5	X	3	=	15
16 Growth Potential	5	X	3	=	15
17 Amount of Work Performed	5	X	5	=	25
18 On Schedule	4	X	5	=	20

SUPERVISORY CAPABILITY (SUPERVISORY ONLY)					
19 Planning	5	X	5	=	25
20 Organization	5	X	3	=	15
21 Delegating	5	X	3	=	15
22 Controlling	5	X	4	=	20
23 Decision Making	5	X	5	=	25
24 Training Others	5	X	4	=	20
25 Developing Employees	5	X	3	=	15
26 Economy	4	X	3	=	12

QUALITY POINT AVERAGE	TOTAL WEIGHTED SCORE (TWS)	<u>508</u>
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TWS divided by 76 (Non-Supervisory) = 6.7
 TWS divided by 106 (Supervisory) = 4.8

EVALUATOR'S COMMENTS

Quality: Very good - if it suffers at all it is because she has spread herself thin helping other

Job Knowledge: Excellent

Work Habits: Works hard not only to do her job but to help other including council members

She is a definite asset to our Town.

[Signature]
 Evaluator's Signature

8/18/15
 Date

Reviewed by: _____

 Date

IN SIGNING THIS REPORT, I DO NOT NECESSARILY AGREE WITH THE CONCLUSIONS OF THE RATER. I UNDERSTAND THAT I MAY WRITE MY COMMENTS ON A SEPARATE PAGE ATTACHED HERETO.

Employee's Signature: [Signature]

8/18/15
 Date

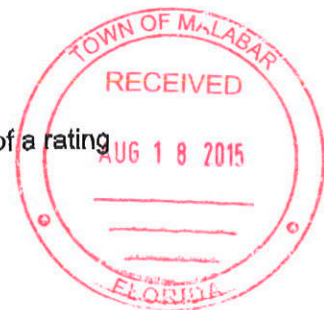
Employee's Comment Sheet Attached Yes

No

DKF
 Employee's Initials

TOWN OF MALABAR

PERFORMANCE EVALUATION REPORT



Note: (Comments and supportive documentation must be provided for any instance of a rating of unsatisfactory on these items)

Safety Consciousness:

Satisfactory Unsatisfactory

Comments: _____

Attendance:

Satisfactory Unsatisfactory

Comments: _____

Punctuality:

Satisfactory Unsatisfactory

Comments: _____

Appearance:

Satisfactory Unsatisfactory

Comments: _____

Precision of Work Product:

Satisfactory Unsatisfactory

Comments: _____

Evaluator's Signature: *Desh...*

Date: 8/17/15

Employee's Signature: *D. Frank...*

Date: 8/18/15

TOWN OF MALABAR

PERFORMANCE EVALUATION REPORT

Last Name Franklin	First Name Debby	Department Clerk/Finance	Position Clerk/Treasurer	Evaluation Date 8/24/2015
-----------------------	---------------------	-----------------------------	-----------------------------	------------------------------

Date of Employment 3/13/1995	<input checked="" type="checkbox"/> Annual <input type="checkbox"/> Probationary	Period Covered 2014/2015	Next Review Date 8/24/2016
---------------------------------	---	-----------------------------	-------------------------------

PERFORMANCE FACTOR SCORES	5: Outstanding 4: Exceeds Requirements 3: Meets Acceptable Requirements, Satisfactory 2: Does Not Meet Minimum Acceptable Requirements 1: Far Below Acceptable Requirements
----------------------------------	---

PERFORMANCE FACTORS	SCORE	X	WEIGHT	=	SCORE
---------------------	-------	---	--------	---	-------

QUALITY					
1 Accuracy		X	5	=	0
2 Thoroughness		X	3	=	0
3 Judgment		X	5	=	0
4 Adaptability		X	3	=	0
5 Leadership		X	5	=	0
6 Oral Expression		X	3	=	0
7 Written Expression		X	3	=	0

JOB KNOWLEDGE					
8 Skills/Application of Knowledge		X	5	=	0
9 Mastery of Technical and/or Professional Techniques		X	5	=	0
10 Policy and Procedures		X	5	=	0

WORK HABITS					
11 Interest and Enthusiasm		X	5	=	0
12 Attitude and Loyalty		X	5	=	0
13 Personal Relations		X	4	=	0
14 Courtesy		X	4	=	0
15 Cooperation		X	3	=	0
16 Growth Potential		X	3	=	0
17 Amount of Work Performed		X	5	=	0
18 On Schedule		X	5	=	0

SUPERVISORY CAPABILITY (SUPERVISORY ONLY)					
19 Planning		X	5	=	0
20 Organization		X	3	=	0
21 Delegating		X	3	=	0
22 Controlling		X	4	=	0
23 Decision Making		X	5	=	0
24 Training Others		X	4	=	0
25 Developing Employees		X	3	=	0
26 Economy		X	3	=	0

QUALITY POINT AVERAGE	TOTAL WEIGHTED SCORE (TWS)	<u>0</u>
------------------------------	-----------------------------------	----------

TWS divided by 76 (Non-Supervisory) = 0.0
 TWS divided by 106 (Supervisory) = 0.0

EVALUATOR'S COMMENTS

Quality:

Job Knowledge:

Work Habits:

Evaluator's Signature

Date

Reviewed by: _____

Date

IN SIGNING THIS REPORT, I DO NOT NECESSARILY AGREE WITH THE CONCLUSIONS OF THE RATER. I UNDERSTAND THAT I MAY WRITE MY COMMENTS ON A SEPARATE PAGE ATTACHED HERETO.

Employee's Signature: _____

Date

Employee's Comment Sheet Attached

Yes

No

Employee's Initials

TOWN OF MALABAR

PERFORMANCE EVALUATION REPORT

Note: (Comments and supportive documentation must be provided for any instance of a rating of unsatisfactory on these items)

Safety Consciousness:

Satisfactory Unsatisfactory

Comments: _____

Attendance:

Satisfactory Unsatisfactory

Comments: _____

Punctuality:

Satisfactory Unsatisfactory

Comments: _____

Appearance:

Satisfactory Unsatisfactory

Comments: _____

Precision of Work Product:

Satisfactory Unsatisfactory

Comments: _____

Evaluator's Signature: _____

Date: _____

Employee's Signature: _____

Date: _____

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: **13**
Meeting Date: August 24, 2015

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

SUBJECT: Selection of TA Applicants to Invite for Interview

BACKGROUND/HISTORY:

At the workshop of July 27, 2015 it was suggested that all committee members submit their rankings at the WS on 8/10/15. The ones that were submitted were scanned in and forwarded to Council.

FINANCIAL IMPACT:

UNKNOWN

ATTACHMENTS:

Rankings

ACTION OPTIONS:

Staff requests Action

TOWN OF MALABAR

TOP 12 CANDIDATES - RANKING SCORING GUIDE

LEGEND = FL Malabar Resident

NAME

RANKING CATEGORIES (please rank each applicant on the following w/a score of 1-5)

	College Ed.	H.R. Exp.	Yrs. Exp.	Mgr. Style	Fin./Budget	Grant Wrt.	F.D.	P.W.	S.W.	Civic Invol.	Total Score
Bud Ryan *											
#2 Krueger, Debra-FL ←	COULD BE A PERFECT ASST. TIA OR TOWN CLERK										6/3
Kutney, Mark-FL											5/4
Day, Timothy-FL											5/4
Wilkinson, David-IN											5/2
Kellogg, Robert-FL											6/1
Thompson, Andrew-FL*											2/4
#1 McKnight, Jeff-FL* ←	THE BEST CHOICE FOR TIA.										3/3
Powers-Severson, Lisa-IL											5 to 0
Thomas, James-FL											5/2
Clark, Eileen-FL											3/1
Johnson, Andrew-DE											3/1
Brown, Joshua-TX	withdrew										1 to 0
Frances, Bob	withdrew										3/1
* THE ONLY (2) I WOULD WANT TO SEE AS T.A.											
(BR)											

Karlene Conroy

TOWN OF MALABAR

Ranking of my top 10 choices

TOP 12 CANDIDATES - RANKING SCORING GUIDE

LEGEND - FL = Malabar Resident

NAME

RANKING CATEGORIES (please rank each applicant on the following w/a score of 1-5)

	College Ed.	H.R. Exp.	Yrs. Exp.	Mgr. Style	Fin./Budget	Grant Wrt.	F.D.	P.W.	S.W.	Civic Invol.		Total Score
Krueger, Debra-FL											1	6/3
Kutney, Mark-FL	<i>Need to check termination circumstances</i>										5	5/4
Day, Timothy-FL											2	5/4
Wilkinson, David-IN											4	5/2
Kellogg, Robert-FL	<i>Need to check termination circumstances</i>										6	6/1
Thompson, Andrew-FL*	<i>Salary too high</i>										X	2/4
McKnight, Jeff-FL*	<i>Salary too high</i>										X	3/3
Powers-Severson, Lisa-IL											X	5 to 0
Thomas, James-FL											7	5/2
Clark, Eileen-FL											3	3/1
Johnson, Andrew-DE											8	3/1
Brown, Joshua-TX	withdrew										X	1 to 0
Frances, Bob	withdrew										X	3/1

Please remember to ask questions on health & ethics that the Town Attorney has outlined that may be asked in the in-person interviews.

Dick Korn

Malabar Town Council

District 4

August 10, 2015

At the last workshop meeting of the Town Administrator Joint Research Committee

It was determined that each member would come prepared to present their ranking of the 12 applicants having received 4 votes or more previously.

I am uncomfortable putting these rankings in a specific order at this time but have done so as a requirement of my participation on this committee. However, I do reserve my prerogative to change the order of these rankings upon my receiving any further information concerning any candidate and/or any personal interview or conversation with any applicant(s).

/ Kellogg, Robert
2 Krueger, Debra
3 McKnight, Jeff
4 Day, Timothy
5 Kutney, Mark
6 Thompson, Drew
7 Thomas, James
8 ~~7~~ Wilkinson, David
8 Johnson, Andrew *Robert Korn*
10 Clark, Eileen
11 Powers-Severson, Lisa

(Robert Francis has withdrawn)

Dick Korn

Liz Ritter

Top

1 Wilkerson

2 Kellogg

3 Johnson

4 Day

5 Krueger

6 Clark

Bottom

All others - No

8-10-15

TOWN OF MALABAR

TOP 12 CANDIDATES - RANKING SCORING GUIDE

LEGEND = FL = Malabar Resident

NAME

RANKING CATEGORIES (please rank each applicant on the following w/a score of 1-5)

	College Ed.	H.R. Exp.	Yrs. Exp.	Mgr. Style	Fin./Budget	Grant Wrt.	F.D.	P.W.	S.W.	Civic Invol.	Total Score
Krueger, Debra-FL	#1										6/3
Kutney, Mark-FL	X										5/4
Day, Timothy-FL	#2										5/4
Wilkinson, David-IN	#5										5/2
Kellogg, Robert-FL	#3										6/1
Thompson, Andrew-FL*	X										2/4
McKnight, Jeff-FL*	X										3/3
Powers-Severson, Lisa-IL	X										5 to 0
Thomas, James-FL	X										5/2
Clark, Eileen-FL	X										3/1
Johnson, Andrew-DE	#4										3/1
Brown, Joshua-TX	withdrew										1 to 0
Frances, Bob	withdrew										3/1

#'s lower is higher

orig

TOWN OF MALABAR																	
2015 TA SELECTION COMMITTEE APPLICANT RANKING SCHEDULE																7/22/15	
Committee Name	hans	david stack	wayne	joe	tom	Liz	karlene	bud	skip	patty	grant	brian	don	dick	marisa	totals for Com	totals for TG
Abatemarco, Lisa																0	0
Aiken, Scot																0	0
Anderson, Sue Ann																0	0
Bassett, Elizabeth																0	0
Bieniek, Peter																0	0
Black, Jack							x									1	0
Brown, Joshua	x															1	0
Clark, Eileen		x					x			x					x	3	1
Cordier, Michael																0	0
Daniels, Robert																0	0
Davis, Alan																0	0
Day, Timothy-FL		x	x	x			x			x				x	x	5	3
Earl, Jason-FL															x	0	1
Ekberg, Lacey-FL											x					0	1
Ellegood, Alicia-FL																0	0
Farley, John-FL																0	0
Francis, Jr., Robert		x				x	x									3	1
Gebbia, Arthur-MS	x															1	0
Hebert, Deborah-FL																0	0
Hewett, Doug-NC		x				x					x					2	1
Hough, Sandy-FL																0	0
Hoyt, Douglas-FL										x						1	1
Johnson, Andrew		x			x	x										3	1
Kellogg, Robert-FL		x	x	x		x	x			x					x	6	1
Krueger, Debra-FL			x	x	x		x	x		x				x	x	6	3
Kutney, Mark-FL		x	x	x	x	x	x				x	x		x	x	5	4
Lundstrom, Matt																0	0

27

TOWN OF MALABAR

	hans	David Stack	wayne	Joe	tom	Liz	Karlene	bud	skip	patty	Grant	Brian	Don	Dick	Marisa	totals for Com	totals for IG
Mayberry, John	x											x	x			1	2
McFarland, Jim																0	0
McKnight, Jeff	x							x	x		x		x			3	3
Mercier, Lynne																0	0
Mihaychuk, Chery																0	0
Miller, Sharon																0	0
Miller, Susan																0	0
Murtaugh, Ronald														x		0	1
Northrup, Victoria		x										x		x		1	2
Paradez, Donald			x													1	0
Pehaim, Bill		x												x	x	1	2
Petty, Steven																0	0
Powers-Severson	x		x	x		x	x									5	0
Ragsdale, Sam												x		x		0	2
Raymond, Thomas				x												1	0
Rosen, Michael																1	0
Saintsing, Eric																0	0
Skinner, David																0	0
Sley, George	x									x						2	0
Smith, James																0	0
Spence, Joe																0	0
Stallings, James																0	0
Stanley, Kenneth																0	0
Stovall, Vincent																0	0
Taylor, Danny				x		x	x									3	0
Tebo, Stacy			x				x					x				2	1
Thomas, James		x		x		x					x	x				3	2

TOWN OF MALABAR

2015 TA SELECTION COMMITTEE APPLICANT RANKING SCHEDULE

	Hans	David	Wayne	Joe	Tom	Liz	Karlene	Bud	Skip	Patty	Grant	Brian	Don	Dick	Marisa		
NAME																	
Thompson, Andrew	x		x								x	x		x	x	2	4
Tibbs, Larry																0	0
Tucker, Kris																0	0
Villa, Fred														x		0	1
Victor, Mark									x							1	0
Westin, Dan											x					0	1
Whisnant, Angie	x									x						2	0
Whitmire, Tyler						x										1	0
Wilkinson, David	x	x	x	x		x							x		x	5	2
Wuerstle, Margaret	x			x												2	0
Yonce, Sr., William									x							1	0
Vance, Wayne																0	0
TOTALS	10	10	10	10	2	10	10	2	6	4	8	10	5	10	10		

INDEPENDENT CONTRACTOR/CONSULTING AGREEMENT

THIS INDEPENDENT CONTRACTOR/CONSULTING AGREEMENT is made and entered into this ___ day of _____, 2015 by and between the TOWN OF MALABAR, FLORIDA, a Florida municipal corporation (hereinafter referred to as "the Town"), whose address is _____, and Bonilyn Wilbanks as a town consultant (hereinafter referred to as "Consultant").

IN CONSIDERATION of the mutual covenants, premises, and promises set forth herein, the sufficiency all of which is acknowledged, the Town and the Consultant, desiring to be legally bound, do agree as follows:

- 1. Retention of Consultant. Bonnie Wilbanks will serve the Town Council and/or it's designee as a Consultant, on an as needed basis, in order to maintain current operations of the Town, and to facilitate a smooth transition for the new town administrator for the town, and will give consultation and advice to the Town Council and/or it's designee during the existence of this agreement. To that extent the Consultant may have contact with any member of the Town Council and the Mayor, The Town Clerk and Deputy clerk, the Town Attorney, Department Heads, _____ (fill in the blank)
- 2. Duties of consultant. The duties of the Consultant are as to advise on items relating to and described ~~provided for~~ in Article IX of Chapter 2, section 2-300 (d), Administration, and with respect to the following and as follows:
 - a. Code Enforcement; and
 - b. Stormwater management; and,
 - e. ~~Supervise Public Works, Building Department and Fire Department.~~ {deleted (e) because its already a duty listed in 2-300 (d) (3)}

The Consultant shall be available by phone, fax or email and may need to be at Town Hall for a maximum of 3 business days a week. The Consultant shall be given at least ___ days notice of the need for her attendance at Town Hall.

The Consultant agrees to return all Town owned property to the Town upon termination of this Agreement which Town owned property is as follows: _____ (list property here).

- 3. Compensation. For services performed, compensation shall be billed at the rate of \$40.00 per hour up to a maximum number of hours per week of 25 unless the Town Council and the Consultant have agreed upon a separate lump sum contract or other payment arrangement for a specific project. All work and invoices shall be approved by the Town Council. Consultant shall not be entitled to accrue any benefits or retirement participation from the town except as may be specifically enumerated herein and not merely incorporated by reference. There are no guaranteed minimum hours per week in this Agreement. The Consultant shall keep detailed records of her time and shall submit these records along with a request for payment to the Town council for approval
- 4. Independent Contractor. The Town and the Consultant agree that the Consultant is a professional, independent consultant, who is not an employee of the Town and that during the

term of this Agreement, the Consultant may accept, continue with, or perform any other consulting or independent contracting work, provided that said consulting or independent contracting work does not create a "conflict of interest" with Town related work or responsibilities. A "conflict of interest" shall be defined as: i) a "conflict of interest" or violation of the code of ethics as set forth in Part III, Chapter 112, Florida Statutes, or ii) any employment, consultant work, or activity that will be inconsistent with the duties of the Consultant of the Town or that interferes with the timely and professional performance of those duties.

5. Terms of Agreement. This Agreement shall be effective from the date of execution until either party terminates the contract according to Item #8 of this agreement.

6. Attorney's Fees. In the event any action or proceeding is brought for the failure to comply with any of the covenants of this agreement, the prevailing party shall be liable for reasonable attorney's fees (including paralegal fees) and costs in said suit, action, or proceeding. ~~This provision shall not be construed to be or to permit a pledge of ad-valorem tax revenues of the Town.~~

7. Venue. This Agreement shall be construed under the law of the State of Florida and venue for any disputes shall be in the courts of Brevard County, Florida.

8. Termination of Agreement. This Agreement may be terminated for any reason by either party upon ~~fourteen days (14) days~~ written notice or ~~upon the hiring of a~~ by the Town Administrator of the Town of Malabar, which ever is sooner. Compensation for services performed shall be due and payable up to the date of termination.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands this day and year first above written.

ATTEST:

TOWN OF MALABAR

TOWN CLERK

MAYOR

WITNESS:

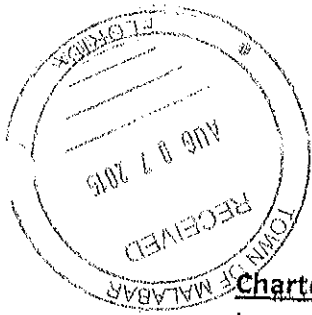
CONSULTANT

Bonilyn Wilbanks.

Approved at a meeting of the Town Council on _____

15

**Space Coast League of Cities
Board of Directors Meeting Minutes
July 13, 2015**



Charter Review Meetings: President Eley advised that she has asked Mayor Jim Tulley to monitor the meetings in behalf of the League; he has accepted. The issue of concern is the County looking at mandating the Cities/Towns to use their fire services. President Eley stated that she had a talk with the Florida League of Cities Legal department to ask their opinion if the County could do a mandate if we don't agree? Their response is that there is a provision in the Charter that if a municipality do not agree with their proposal, they can opt out of the referendum based on Article 8 – Section 4 in the Charter (if there is a transfer of power), or there must be both County and Municipalities together to do a referendum. They think the Cities may be OK. 1st Vice President Stu Glass advised that Attorney Gougelman recommends that the League stay in a proactive role to ensure the League gets its desired outcome. Also, Attorney Kendall Moore is on the Charter Review committee, and he is an advocate for the League. Courtney Barker expressed the League should look at issues to put on the Charter Review. She is concerned that there could be a cost shift to municipalities since their Charter has a 3% limit on taxing. She feels that it is important the County does not pre-empt the Cities.

Legislative Sign Regulations: President Eley stated that Attorney Gougelman's memo was stating that we have to be consistent with all signs ordinances and show no discrimination. Criteria's established must apply to all signs not type of sign. She advised everyone to check their "Sign Ordinances" to ensure they are in compliance.

FUTURE MEETING LOCATIONS DISCUSSION:

2nd Vice President William Capote advised the Board members that they need to remember when they select a location that the venue must accommodate the Speaker being heard. Due to the noise and talking, most people could not hear the speaker last month. Rand Carroll suggested that the League invite Eric Garvey back to speak; everyone agreed.

Meeting Adjourned at 6:45 pm.

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 16
Meeting Date: August 24, 2015

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

SUBJECT: Hostile Work Environment re: Town Hall Staff being Harassed

BACKGROUND/HISTORY:

CM Acquaviva asked for this to be placed on the agenda for discussion.

FINANCIAL IMPACT:

Unknown

ATTACHMENTS:

None

ACTION OPTIONS:

Discussion