



# REGULAR TOWN COUNCIL MEETING

Monday, July 1, 2019 at 7:30 pm

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

- a. **Approve Minutes of Regular Town Council Meeting of 06/17/2019**

Exhibit: Agenda Report Number 1A

Recommendation: Approve Minutes

**Attachments:**

- Agenda Report Number 1A (TownCouncilMinutes0617\_2019Draft.pdf)

- b. **Approve Minutes of Town Council Workshop of 06/24/2019**

Exhibit: Agenda Report Number 1B

Recommendation: Approve Minutes

**Attachments:**

- Agenda Report Number 1B (TownCouncilMinutes0624\_2018DraftBudget.pdf)

5. ATTORNEY REPORT
6. BCSO REPORT
7. BOARD / COMMITTEE REPORTS
  - a. T&G Committee
  - b. Park & Recreation Board
  - c. Planning & Zoning Board
8. STAFF REPORTS

- a. **Administrator**
- b. **Clerk**
- c. **Fire Chief**

**Attachments:**

- May Fire Summary (Copy\_of\_June\_meeting\_\_May\_2019\_Data\_.xlsx)

**d. Public Works Director**

**9. PUBLIC COMMENTS**

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

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

**10. PUBLIC HEARINGS (2) / SPECIAL ORDERS (0)**

**a. Ordinance 2019-07 Land Use and Zoning Change for Kellwill LLC - 2nd Reading**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING LAND USE MAP AND ZONING MAP FOR THE .82 ACRES (+/-) AT THE NORTHEAST CORNER OF MALABAR ROAD AND EAST RAILROAD AVENUE ADJACENT TO THE FLORIDA EAST COAST RAILROAD IN TOWNSHIP 28, RANGE 30, SECTION 31, SD 54, LOTS D-1, D-2, AND D-12, MALABAR, FLORIDA, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN LAND USE AND ZONING MAPS; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 2

Recommendation: Adopt Ordinance 2019-07 on 2nd Reading

**Attachments:**

- Agenda report Number 2 (Agenda\_Report\_2.pdf)

**b. Ordinance 2019-06 Amend Sign Regulations in Article XIX**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE TOWN; AMENDING IN FULL ARTICLE XIX; AMENDING DEFINITIONS; AMENDING SECTIONS RELATING TO EXEMPTIONS; PROVIDING FOR REGULATIONS OF TEMPORARY SIGNS; PROVIDING FOR PROHIBITED SIGNS AND EXCEPTIONS; PROVIDING FOR SIGN REGULATIONS FOR ALL ZONING DISTRICTS; PROVIDING FOR SIGNS EXEMPT FROM PERMITTING; PROVIDING FOR PROHIBITED SIGNS OR EXEMPTIONS; PROVIDING FOR ADMINISTRATION; PROVIDING FOR APPEALS AND VARIANCE; PROVIDING FOR REGULATIONS OF NONCONFORMING SIGNS;

PROVIDING REGULATIONS CONCERNING HAZARDOUS SIGNS; PROVIDING FOR PERMITS; PROVIDING FOR GENERAL SIGN REGULATIONS; AMENDING TABLE 1-19.18; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 3

Recommendation: Adopt Ordinance 2019-06 on 2nd Reading

**Attachments:**

- Agenda Report Number 3 (Agenda\_Report\_3.pdf)

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

(RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)

**12. ACTION ITEMS**

ORDINANCES: 0

RESOLUTIONS: 1

MISCELLANEOUS: 2

**a. Appoint New Member to the Planning and Zoning Board (Resolution 12-2019)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF \_\_\_\_\_ TO THE MALABAR PLANNING AND ZONING BOARD AS AN ALTERNATE MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 4

Recommendation: Approve Resolution 12-2019

**Attachments:**

- Agenda report Number 4 (Agenda\_Item\_4\_PZ\_alt\_2019062713093492.pdf )

**b. Accept 400 Feet of Linrose Lane Improvement**

Exhibit: Agenda Report Number 5

Recommendation: Approve 400' of Linrose Lane

**Attachments:**

- Agenda Report Number 5 (Agenda\_Item\_5\_Linrose.pdf)

**c. Approve Contract with Bill Barrett for Services**

Exhibit: Agenda Report Number 6

Recommendation: Action

**Attachments:**

- Agenda Report Number 6 (Agenda\_Item\_6\_contract.pdf)

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

**13. DISCUSSION/POSSIBLE ACTION**

1

**a. Discuss Section of Code Requiring Property Owners to Maintain R.O.W.**

Exhibit: Agenda Report Number 7

recommendation: Discussion and Direction to Staff

**Attachments:**

- Agenda Report Number 7 (Agenda\_Item\_7\_ROW.pdf)

**14. PUBLIC COMMENTS**

General Items (Speaker Card Required)

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

**16. ANNOUNCEMENTS**

(2) Vacancies on the Board of Adjustments; (2) Vacancies on the Parks and Recreation Board

**17. ADJOURNMENT**

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to ensure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105).

The Town does not provide this service. In compliance with F.S. 86.26 and the

Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

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Contact: Debby Franklin (townclerk@townofmalabar.org 321-727-7764)

**MALABAR TOWN COUNCIL REGULAR MEETING MINUTES**

**JUNE 17, 2019 7:30 PM**

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

**A. CALL TO ORDER:**

Chair, Mayor Patrick Reilly called the meeting to order at 7:30 pm. CM Rivet led P&P.

**B. ROLL CALL:**

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL

BRIAN VAIL

DICK KORN

DANNY WHITE

MATT STINNETT

KARL BOHNE

TOD MOWERY

DEBBY FRANKLIN

TOWN ADMINISTRATOR:

TOWN ATTORNEY:

TOWN PLANNER:

TOWN CLERK/TREASURER:

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

**D. CONSENT AGENDA:**

**1. Approval of Minutes**

**Regular Town Council Meeting Minutes 6/03/19**

**MOTION:** CM White / CM Vail to approve the 6/3/19 regular meeting minutes as submitted.

Discussion: none. **Vote:** 5 Ayes

**E. ATTORNEY REPORT:** Nothing currently.

**F. PRESENTATION:** Annual Audit – 2018 by Mr. Douglas Gillikin, James Moore CPA  
Went through the 6 pages over view. CM White asked about FRS liability. State would have to go broke for this to become a liability to the Town. CM Korn asked about the audit work, preparation and decisions and thought the Clerk and her staff should be recognized and thanked for their efforts. Matt was part of her staff before promotion to Administrator. Mr. Gillikin agreed and said he is absolutely correct. Audience applauded.

**H. STAFF REPORTS:**

**ADMINISTRATOR:** TA stated we will be getting back the John Deere tractor with box blade and the slopemower this week that were out for repairs. That will allow us to get caught up with the mowing and grading. They started cleaning the ditch on LaCourt Lane this morning.

**CLERK:** Remind Council of the need to complete and submit Form 1 to the Supervisor of Elections. Also, please check your mailbox for next Monday's agenda. Mayor asked about newsletter. We should have the layout back this week and once we have reviewed it we will forward to Council for comments before printing.

**I. PUBLIC COMMENTS:** Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required) Five **(5) Minute Limit per Speaker.** NONE

**J. PUBLIC HEARINGS/SPECIAL ORDERS:**

**2. Approve Vacate of East Railroad Ave spur – (Reso 09-2019)**

A Resolution of the Town of Malabar, Brevard County Florida, vacating and abandoning the 20-foot wide unimproved ROW known as East Railroad Avenue lying perpendicular to the remaining East Railroad Ave in Section 31, TWSP 28, Range 38 within Malabar a distance of 117 feet +/-; providing for conflict, providing for an effective date.

**Exhibit:** Agenda Report No. 2

**Recommendation:** Adopt Reso 10-2019

Reso read by title only.

Chair asked for staff comments. Franklin stated the P&Z Bd voted 5 to 0 and staff recommend approval. Change distance of ROW to 117' from 60' per the Engineer's sketch and memo.

Chair called on Town Planner Tod Mowery. Tod explained the adjacent properties are all owned by the applicant. He further explained the vacate process.

Chair called on applicant. William Carmine, Grant-Valkaria. As the planner mentioned he bought all the adjacent property. With the vacate it cleans up the lot lines. Helps for future development of the parcel.

CM Ball disclosed that he spoke to applicant after the P&Z meeting on June 10, 2019.

**PH OPEN:** none

**PH CLOSED:**

**MOTION:** CM Korn / CM White to approve Reso 09-2019 to vacate spur 20' x 117' +/-.

Discussion:

CM Vail said he understands this was for access to the saw mill. This is a good idea. CM Rivet all the parcels have access from a ROW. CM Korn said it cleans up the plot. CM Ball said in this case it is an intrusion into applicant's land and it doesn't make any sense to not vacate. CM White agreed.

**Roll Call VOTE:** CM Ball, Aye; CM Vail, Aye; CM Rivet, Aye; CM Korn, Aye; CM White, Aye.

Motion carried 5 to 0.

### **3. Approve 1st Read of FLUM & Zoning Map chg from RLC to CG (Ord 2019-07)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE LAND USE AND ZONING MAP FOR THE .82 ACRE (+/-) AT THE NE CORNER OF MALABAR ROAD AND EAST RAILROAD AVE ADJACENT TO THE FLORIDA EAST COAST RAILROAD IN TOWNSHIP 28, RANGE 38, SECTION 31, SD 54, LOTS D-1, D-2 AND D-12 MALABAR FLORIDA, FROM RLC TO CG; PROVIDING FOR PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN LAND USE AND ZONING MAPS; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 3

**Recommendation:** Approve First Reading of Ord 2019-07

Ord read by title only.

Chair called on staff. Clerk Franklin state the P&Z Board voted 5 to 0 and staff recommend approval. Chair called on Planner. Tod explained that Article XII lists the criteria to consider when discussing an applicant's request for land use and zoning changes. Everything is compatible to the criteria – it is about the land use and zoning change. He then went through the 3 C's (compatible, consistent and capable) and said it met those standards. He also mentioned the unity of title that would bind the parcels together. Chair called applicant. William Carmine thanked Council for opportunity to develop. They built Route1 Motor Sports and opened two years ago and have exceeded their growth expectations. He hopes to put in a second ingress/egress to prevent the U-turns we are currently doing from front entrance. This is an item the Fire Chief had requested before for life safety but at the time he did not own the property. Applicant intends to do the unity of title before development. Attorney recommended they incorporate the condition of a unity of title in their motion.

**PH OPEN:** none

**PH CLOSED:**

**MOTION:** CM Vail / CM Korn to approve first reading of Ordinance 2019-07 with the condition that the applicant provide the recorded unity of title.

Discussion:

CM Rivet said it is more appropriate that they provide commercial here than adjacent to rural residential.

**Roll Call VOTE:** CM Ball, Aye; CM Vail, Aye; CM Rivet, Aye; CM Korn, Aye; CM White, Aye.

Motion carried 5 to 0.

## **K. UNFINISHED BUSINESS/GENERAL ORDERS**

**L. ACTION ITEMS:****ORDINANCES for FIRST READING: 1****4. Approve first reading of Sign Ordinance (Ord 2019-06)****Exhibit:** Agenda Report No. 4**Recommendation:** Approve 1st reading of Ord 2019-06

Ord read by title only.

**PH OPEN:** none**PH CLOSED:****MOTION:** CM Ball / CM Rivet to approve 1st reading of Ordinance 2019-06.

Discussion: CM Korn said his concern was to keep it user friendly and the P&Z Board did that. This is very specifically detailed. It has remained user friendly. CM White said he has heard from the P&Z Board that they worked hard on this ordinance and the Town isn't going to enforce it. CM Ball said we changed this because the Atty said we had to. Atty said it was due to Supreme Court ruling. It has been a tough process and P&Z did a good job in updating it but keeping it simple.

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

**RESOLUTIONS: 2****5. Approve the 2018 Audit (Reso 10-2019)**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ACCEPTING THE 2018 AUDIT; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 5**Recommendation:** Adopt Reso 10-2019**MOTION:** CM Korn / CM Rivet to adopt Reso 10-2019.

Discussion:

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

**6. Approve Taylor Lane (Reso 11-2019)**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, APPROVING TAYLOR LANE; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 6**Recommendation:** Adopt Reso 11-2019**MOTION:** CM Rivet / CM Vail to adopt Reso 11-2019.

Discussion: CM Rivet asked why it was being changed. Clerk Franklin explained there is one house on ROW, the road builder and house builder has sold the property and the new owner wanted to change the name. They paid the fee and staff did the background work.

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

**MISCELLANEOUS: 0**

Chair excused the Attorney and Planner at this time.

**M. DISCUSSION/POSSIBLE ACTION:****N. PUBLIC COMMENTS: General Items (Speaker Card Required) none****O. REPORTS – MAYOR AND COUNCIL MEMBERS**



CM Ball: Complemented the White's and said they did a beautiful job of painting and it looks more professional. Also, it is hurricane season. Who is the point of contact in case of an emergency?

CM Vail: Thanked Danny and Dorthea for the wow what a big difference in the renovation of town Hall.

CM Rivet: nothing

CM Korn: Also complemented the work done at Town Hall, it looks good. Regarding the MSTU for Law Enforcement, Malabar has their own agreement with BCSO and he feels it is not being met. They are not providing for us the level of service originally promised. It was most recently defined as 1.5 Deputy in a 24-hour period. He has noticed increased coverage on Weber at Atz. Also, there are warning signs prior to the stop signs. Need to get the BCSO to provide what they said they would provide.

CM White: Said Dorthea has wanted to improve the professional look of the Town Hall for a while. They just picked up on the energy and caught the wave from Matt and Debby. He reported the Town Sign is in the works. Then they will work on the PW sign and the south boundary sign next. Also went to a FLC meeting last week in Orlando. Polk Cty will be doing testing and development of autonomous vehicles. Discussion also on the rental scooter issues. State Leg did not pre-empt us on that. Legislation they did pass allows governing of regulations on these by municipalities. When they start passenger service along FEC. There is more to do here. They just followed the vision of Matt and Debby.

Mayor: Asked if Council was interested in doing the resolution sent out this afternoon by Clerk. He is not interested but if Council wants it let the Clerk know. It is about a request for adoption of a new emoji for a symbol of kindness.

**P. ANNOUNCEMENTS:** Openings on Board of Adjustment and Park and Recreation Board.

**Q. ADJOURNMENT:**

There being no further business to discuss and without objection, the meeting was adjourned at 8:18 PM.

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

ATTEST:

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

Date Approved: 7/1/2019

**MALABAR COUNCIL WORKSHOP MEETING**  
**June 24, 2019                      7:00 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 7:00 pm with P&P by Chair Mayor Reilly.

**B.    COUNCIL:**

COUNCIL CHAIR:	MAYOR PATRICK T. REILLY
VICE-CHAIR:	STEVE RIVET
COUNCIL MEMBERS:	GRANT BALL
	BRIAN VAIL
	DICK KORN
	DANNY WHITE
ADMINISTRATOR	MATT STINNETT
CLERK/TREASURER:	DEBBY FRANKLIN

Also present Bill Barrett, Chief Foley and PW Dir Tom Miliore.

**C.    BUDGET WORKSHOP FOR 19/20 Fiscal Year**

Chair said we are going to continue discussion on priorities and potential funding sources. Asked TA to take lead.

TA said we will start process with capital assets to acquire in the short term and gave example of a new bed for the dump truck at about 15K.

Projects to accomplish – ditch on Hall between Raulerson to the west to Flashy – put specific money in budget to finish that drainage project. It will be contracted out.

CM Korn said Hall and Weber. No longer have water there. TA said they pitched the ditch towards the west. There is a not a pipe under Raulerson. CM White said the point to address is make sure the homeowners are communicated with. Project consists of two driveway culverts plus ditch construction– about 30K; he will get tighter estimate.

TA said he would like to continue with Town Hall upgrades in Building Department. They took in more revenue than estimated in the last two years and need to spend some of that money down. Mayor said to include carpeting.

CM Korn said we will be asking residents for a millage increase we have to know specifically what to tell them it is for such as to improve the existing drainage. Must be projects that benefit the town, not so we can get new carpet. CM Ball said we need to get money to cap the paved roads before they fall apart.

CM Korn said the patches on roads in Palm Bay – they are much worse than any of our roads the they don't mind. Chief Foley stated he lives out there and the residents are complaining and want the roads repaved.

CM Vail if you let the road get to that state the cost will be triple what it would have been to cap before then. CM Rivet said what we need to do is set aside a reserve for road paving.

CM White said talking points would be to repave Corey and Weber within the next five years. Make it specific to the time – in 5 years pave Corey and in 7 years pave Weber.

TA said the largest short-term expense is the Stormwater Master Plan. Within the next year we could have the master plan in place for approximately 150K and that would allow us to go forward for matching grants. CM Rivet said for a master drainage plan we need to have it done by a professional civil engineering firm. We have gotten good information from others, but they are not the professionals. He is absolutely in favor in getting a professional plan done for the estimated cost of 150K +/-.

TA said the first phase would be an asset inventory and phase 2 would be to take that assessment and put it into a system that we could look at from high level – see the data and GIS information and plan from there for specific project priorities in phase 3 to seek funding for the actual engineering.

Phase 1 and 2 could be completed in the next year with 150K. Where we are and where we want to go. CM Vail said that alone would help. CM Korn said there are good ditches there and they just haven't been maintained. Others said subsequent development has altered the original course of some of those ditches.

Bill Barrett was recognized. He said you must have a measurable study example and show actual outcomes - that will get you funding. What he talked about at prior meeting were scored grants. There is one other way to get money that could help pay for phase 1 and 2 and that is by a legislative appropriation. Palm Bay just got one.

TA said he is looking for the spending priorities for the next year short-term and then the long-term priorities for actual projects based on the information gained in phase 1 and 2. CM Ball said the 150K is a big hit to the reserves.

TA said the rest is what level of service do you want us to provide – road grading – it takes us 1.5 months to make it around Town and get to all the roads graded. CM White brought up Matthews Lane and asked PW Dir Tom about it. Tom had graded it and was in the process when the resident stopped him. He explained that he was not through. CM Vail said he did a great job on Smith. CM White asked if there was training available and offered to PW to improve their skills.

CM Korn said we need a building like at John Rhodes Park that they can have community events.

CM Vail said to build a town hall in vicinity of fire station in conjunction of a hurricane shelter. Work with EELs and county. We have had committees and have funding in the EELs budget for their educational center as a cost share. This could also involve grant money for a shelter. That would give us a community building here at this building.

They discussed using the front acreage on the east side of Malabar Woods Blvd for a new combo town hall/educational center. CM White said the Town Hall is the face of our Town.

CM Rivet said what do you say about the new town hall when residents can't flush their toilets after a heavy rain. What face are we showing the residents?

CM White said he has three goals while serving – roads, drainage and a new town hall. The new town hall will not be a talking point for the increased millage.

Funding priorities.

Dump truck bed is needed for daily work. Is truck worth it? Yes 15 years old but it runs good. We have two dump trucks. The other one is more like a utility dump truck - about half the capacity. Getting a second dump truck would be great.

Do we have the funding now? This would be from reserves. Mayor agrees with Danny – get town hall done. Use excess BP money.

Also prioritize the Hall Road project and put this as a high priority. Get better numbers. Ed on Flashy Lane called CM Korn and asked about the completion of that project. TA said that is maintenance; the ditches need to be cleaned.

Franklin said another consideration is for storm shutters. We got an estimate for just under 5K for the panels and track for the entire building. We have the estimate. We also need to pay for the engineering study to get to the next step. We have plenty of money in reserves – just need Council to make the commitment to prioritize it as a necessary expense.

Funding priorities.

Master drainage study. We are trying to get funding help. CM Rivet said go for it – for the master plan. Mayor said the return on the investment makes it worth it. CM Rivet agrees with Mayor. CM Rivet said they could allocate funds to replenish the reserved funds on deposit. TA asked about timeline to replenish funds. How about 3 years or 50K a year.

Franklin did overview on the 2.5 mil voters approved for completion of FD  
Also got a 1.5 mil in early 1080's – for fire dept  
Asked for an additional 1 mil to be used for FD and streets and that failed.

Bill said to get grants for a building – convert a senior center to evacuation location you have to provide a study. First thing to look at for the package is to get a little money from each dept. FEMA and EELs are both good opportunities but are limited. Fire Dept and EOCs are easier.

CM Korn said to go after State funding for a building in the parks. People he talked to didn't understand how Bill got the funding. Give them a reason to say yes. Bill explained that the grant funding can be complicated- bigger cities have specialized staff and they may not even understand. Every grant we go for will have some strings attached. Short of a legislative appropriation there will be strings attached.

Bill handed out the package that included the approved budget from this legislative session on just some of the current budget that was appropriated. It lists the legislative appropriation and which cities got money. Gave example of page 3, feasibility study for muck removal of Turkey Creek in Palm Bay. There is 49mil in this one section of the budget. Go to page 5, line 1681, there was 25mil appropriated to DEP to allow them to appropriate funds for innovative water projects that reduce nitrogen and TMDL reductions in the IRL.

CM Vail mentioned retention/detention ponds to allow water to clean. TA where should be focusing our projects. Bill said you are going to need settling ponds. Because of the IRL you are not going to be allowed to accomplish grants without showing that you are providing these. Also get people off the septic tanks near the water. CM Vail said we could get some of this money. Bill said they don't have the rules on how DEP is going to disperse this money yet. Bill said Gov DeSantis also committed three billion for storm water, wastewater and water projects. Stop doing it piece meal and allow it to be project wide if it is a state-wide issue.

Could we use EELs land for settling ponds? Possible?

Mayor said what he wants to do now is ask Bill once we did phase 1 and 2. What else can you help our Town gets grants for? Bill said depending the timeline of the study – the legislative session starts in January and they are moving very quickly on that. I would ask for funding for the study. Spend 75K over the next 6 months – that is your match. Your cost match is 75K as a 50% cost. He has more flexibility on that showing your commitment. Go for legislative appropriation of 75K saying we need another 75K and then we can do scored grants. If we pull in 300K we use that as a match for another scored grant. Can't get planning money in scored grants.

Bill said there is 85Mil in State budget for transportation projects. Drainage is also in transportation money. Page 7, St Cloud, 300K for

Also funding for FD equipment. Last page shows funding for fire stations. Didn't print any pages for shelters. That gives you an idea from economic development, stormwater, roads. Your best chance is stormwater. Best chance of those money being granted. Town Hall would be the lowest priority.

As your list provides him the priority stormwater projects, there may also be some funding available for a road to be redone or fire equipment, this is one their list also. When you get beyond, water, WW, SW, roads and economic – as legislators change, their priorities change. Rank projects in order of the Town. He can go after SW funds in three areas, but it will take a year of planning before going after money for a new Town Hall. Start calling it a multi-purpose building. CM Korn said you are basically a lobbyist, going after legislative appropriations.

CM Rivet – do we have a consensus. Do we want to retain his services? We are not going to double the town's revenue but investment in a professional to work towards getting some of our big projects funded.

Have this as an agenda item on next agenda. FS 11.047 regarding contingency fee. He will not be violating state law. In 1993 they outlawed contingency fees. The contract states the percentage applies only for the scored grants. There is an administrative fee. CM White is impressed and we are talking about the master plan are the tools we need to get the outcome.

For agenda put the contract for Bill Barrett's services for the scored grants.

CM Ball said he is impressed with the lobbyist and thinks it is time for someone to represent the Town's needs in Tallahassee.

TA said we could go for phase 1 now and then phase 2 would be Oct 1. Get the ball rolling – take it out of reserves. CM Rivet said he agrees. TA said they would like to wait until the end of the rainy season to do the physical inventory. He will check with them.

CM Vail – said it is promising.  
Mayor said the field work could start in Sept.

Possibly add the Stormwater Master Plan to the agenda. TA will check with vendor and let Clerk know.

CM Bal asked for contract to review before meeting.

CM Vail also wants the section of code dealing with maintenance of ROW on agenda for discussion. Code needs more teeth.

Chair Reilly, without objection, adjourned the workshop meeting at 8:42pm.

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

(seal)

ATTEST:

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

Approved: 7/01/2019

## Town of Malabar Fire Department Status (May 2019)

<b>Current Response (Minutes)</b>	
Cum 2019	5
Malabar only response minutes	5
Active Members' Roster	26
Active Members' Additions	0
Active Members' Deletions	0
Department Growth	0
<b>New Roster</b>	<b>26</b>
Paid employees (not included in roster number)	10
<b>Mutual Aid Calls</b>	
Given to Palm Bay	1
Received from Palm Bay	1
Received from Palm Bay & Brevard	0
Given to Brevard	0
Given to Florida Forestry	0
<b>Total Mutual Aid Incidents</b>	<b>2</b>

<b>Training Manhours</b>	
In-house	96
Out-of house	0
<b>Total Training Manhours</b>	<b>224</b>

<b>Incident Response</b>		<b>Percent</b>
EMS	14	38%
Vehicle accident with injuries	3	8%
Vehicle accident without injuries	2	5%
Hazardous condition	1	3%
Public service	3	8%
Good intent call	2	5%
Dispatched & canceled	11	30%
Alarm system malfunction	1	3%
<b>Total Manhours</b>	<b>41</b>	
<b>Missed Responses</b>	<b>0</b>	
<b>Total Calls</b>	<b>37</b>	
<b>Total Yearly Responses</b>	<b>182</b>	

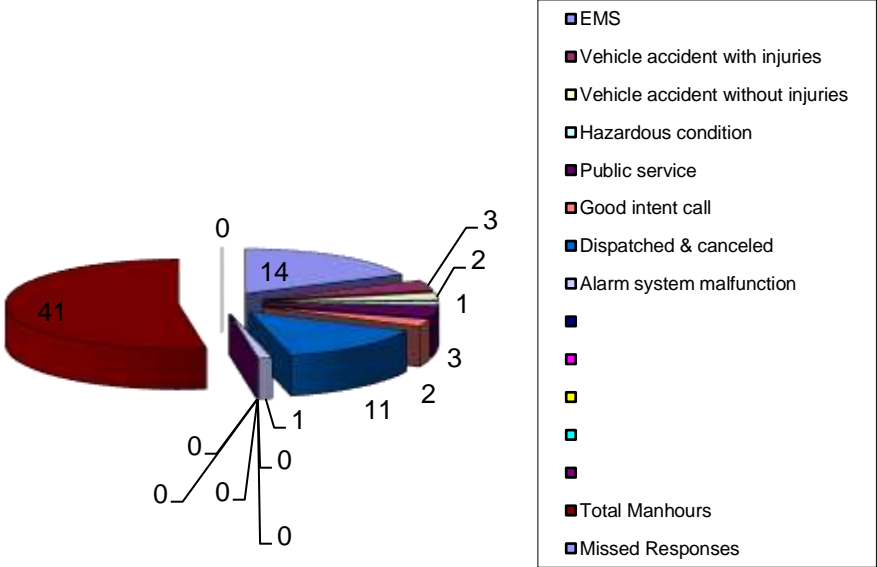
**Town of Malabar  
Fire Department Status (May 2019)**

Item	Vehicle ID #	County #	Mileage	Engine hours	maintenance done	Status
1	Chief's Car	(Fire-1)			PM Completed	Operational
	2015 Chevy pick up					
2	Utility 99		102870		Pm Completed	Operational
	Izuzu Trooper					
3	Engine-1		4539	391	In service	Operational
	2018 Pierce					
4	Engine-2	(Eng-299)	5301.3	3641.3	In Service as back up engine needs pump test done	Operational
	1997 E One					
5	Ladder-1	(L-99)	102856.2	12590.2	failed fuel line replaced -Failed pump test	OOS
	1993 Sutphen					
6	Squad-1	(SQ-99)	41572	2623.5	need new fire pump loosing cmpression	Operational
	2007 Ford F550					
7	Tanker-1	(Tanker-99)	14679.7	1264.3	in service need pump test	Operational
	2006 Freightliner					
8	Brush-1	(B-99)	11750.9	5023.1	in service lowner from DOF	Operational
	1995 Military					
9	Brush 299	( 299)	5703.9	9324.3		Operational
	1991 Military					
10	Brush 499 LMT	( 499)	work in progress			work in progress
	1977 Military					
<b>General Comments/Special Tasks</b>						
1	Lader 99 is out of service / will be going on Gov .Com for sale					pending /OFS
2	Progression on inventory list					up dating
3	Old Engine 299 is out of service / also put on Gov .com for sale					pending/ OFS
4	Forrestry 50/50 grant for gear is reapplied for					in progres
5	ISO AUDIT completed and our status is 4/10					same
6	Old Engine 99 in service for back up fire Engine					In Service

7	Brush Truck 99 in service	in service
8	Hydrant testing is currently taking place	completed
9	NEW Fire Truck in service	12/06/2018
10	State Fire Marshall safety held and 100% compliant	completed
11	New brush truck being Assembled right now	in progress
12	Engine 99 Pierce	completed
13	Hydraulic Tool	completed
14	engine 299	in progress



### Call Summary



<b>Fire Marshall Status</b>	
Inspections	
Re-Inspections	
Violations	
Refused Inspections	







**Compatibility Report for March meeting  
(February Data).xls  
Run on 3/14/2011 19:08**

The following features in this workbook are not supported by earlier versions of Excel. These features may be lost or degraded when opening this workbook in an earlier version of Excel or if you save this workbook in an earlier file format.

**Minor loss of fidelity**

	<b># of occurrences</b>	<b>Version</b>
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Some cells or styles in this workbook contain formatting that is not supported by the selected file format. These formats will be converted to the closest format available.
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3	Excel 97-2003
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Excel 97-2003
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# TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 2  
Meeting Date: July 1, 2019

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

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**SUBJECT: Land Use Map Amendment and Zoning Change for three parcels all in Township 28, Range 38, Section 31, Parcel 54-D-1, 54-D-2 and 54-D-12 in Malabar (Ordinance 2019-07)  
Applicant: Kellwill LLC, involving approximately .82 acres.**

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**BACKGROUND/HISTORY:**

This applicant's request to amend the future land use designation on the FLUM and the corresponding Zoning Map to Commercial General (CG) from the R/LC is due to the applicant's need for a larger building footprint than allowed in R/LC.

This was heard at the P&Z Board meeting on June 10, 2019. The request is consistent with the Comprehensive Plan, Compatible with the surrounding areas, and Conforms with the desire of Council to encourage commercial development along the main corridors. Their recommendation was to approve 5 to 0.

Council held a PH on this on June 17, 2019 and voted 5 to 0 in favor of adopting Ord 2019-07. Adoption of an ordinance requires another PH at the 2<sup>nd</sup> reading of the ordinance. This has been legally advertised on June 22, 2019.

**ATTACHMENTS:**

Ord 2019-07 Amendment to Comprehensive Plan Future Land Use Map and Zoning Change

**ACTION OPTIONS:**

Adoption of Ord 2019-07.

**ORDINANCE 2019-07**

**AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING LAND USE MAP AND ZONING MAP FOR THE .82 ACRE (+/-) AT THE NORTHEAST CORNER OF MALABAR ROAD AND EAST RAILROAD AVENUE ADJACENT TO THE FLORIDA EAST COAST RAILROAD IN TOWNSHIP 28, RANGE 38, SECTION 31, SD 54, LOTS D-1, D-2 AND D-12, MALABAR, FLORIDA, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN LAND USE AND ZONING MAPS; PROVIDING FOR AN EFFECTIVE DATE.**

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

**Section 1.** The Town Council has considered the recommendation of the Planning and Zoning Board and approves the land use and zoning change for the property described below and is hereby re-designated on the land use map and rezoned on the zoning map from *Residential/Limited Commercial (R/LC) to Commercial General (CG)*:

*The entire portion of Lots 54-D-1, 54-D-2 and 54-D12 in Township 28, Range 38, Section 31, Malabar, Brevard County, Florida. This property is located at the northeast corner of Malabar Road and East Railroad Avenue.*

**Section 2.** The Town Clerk is hereby authorized and directed to cause the revisions to the Land Use Map and Official Town Zoning Map as referenced in Article II of the Land Development Code to show the zoning change set forth above.

**Section 3.** The effective date of this ordinance shall be six (6) days following adoption by Council.

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 Steve Rivet

Council Member Dick Korn

Council Member Danny White

This ordinance will become effective and considered adopted by the Town Council, Town of Malabar, Brevard County, Florida six (6) business days from the date of this meeting: July 1, 2019.

(seal)

**BY:  
TOWN OF MALABAR**



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

(seal)

ATTEST:

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

Approved as to form and content:

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

Legally Advertised to Comply with FS 163 and 166.

Hearing at P&Z: 6/10/2019  
Ord First Reading: 6/17/2019  
Second Reading: 7/1/2019  
Effective Date: 7/09/2019

# TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 3  
Meeting Date: July 1, 2019

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

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**SUBJECT: Amend Sign Regulations in Article XIX (Ord 2019-06) 2<sup>nd</sup> Reading and PH**

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**BACKGROUND/HISTORY:**

The signage regulations in the Malabar Code are from the original edition in 1987. Council had directed the Planning and Zoning Board to review the table within the regulations and update it to provide for:

- Signage on Commercial zoned property
- Signage on Highway corridors
- Signage regulation updates

The P&Z Board submitted their recommendations to Council and it was then forwarded to the Attorney to change the word “license” to BTR in the ordinance.

It went for first reading on June 17, 2019 and has been legally advertised on June 26, 2019 for the PH on July 1, 2019.

**ATTACHMENTS:**

Ordinance 2019-06

**ACTION OPTIONS:**

Adoption of Ord 2019-06

**ORDINANCE 2019-06**

**AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE TOWN; AMENDING IN FULL ARTICLE XIX; AMENDING DEFINITIONS; AMENDING SECTIONS RELATING TO EXEMPTIONS; PROVIDING FOR REGULATIONS OF TEMPORARY SIGNS; PROVIDING FOR PROHIBITED SIGNS AND EXCEPTIONS; PROVIDING FOR SIGN REGULATIONS FOR ALL ZONING DISTRICTS; PROVIDING FOR SIGNS EXEMPT FROM PERMITTING; PROVIDING FOR PROHIBITED SIGNS AND EXEMPTIONS; PROVIDING FOR ADMINISTRATION; PROVIDING FOR APPEALS AND VARIANCE; PROVIDING FOR REGULATIONS OF NONCONFORMING SIGNS; PROVIDING REGULATIONS CONCERNING HAZARDOUS SIGNS; PROVIDING FOR PERMITS; PROVIDING FOR GENERAL SIGN REGULATIONS; AMENDING TABLE 1-19.18; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, The Town adopted a Sign Code which is part of the Town's Land Development Regulations; and,

**WHEREAS**, the United States Supreme Court issued a decision in *Reed v. Town of Gilbert*, \_\_\_ U.S. \_\_\_, 135 S. Ct. 2218, 192 L. Ed. 2d 236, 2015 U.S. LEXIS 4061, 83 U.S.L.W. 4444, 25 Fla. L. Weekly Fed. S 383 (U.S. 2015), whereby the Court held that content based sign regulations violate the First Amendment to the United States Constitution; and,

**WHEREAS**, the United States Supreme Court provided that local governments have ample content-neutral options available to resolve problems with safety and aesthetics, including, sign size, building material of signs, lighting, moving parts, portability, restricting location on public property, view obstruction, distraction to motorists, and such signs as traffic signs and signs identifying hazards, or street number signs may be justified by traditional safety concerns; and,

**WHEREAS**, the Town is amending its sign code to comply with the ruling of the United States Supreme Court to provide content-neutral regulations.

**SECTION 1.** Article XIX of the Land Development Code of the Town is amended in full to read as follows

**Section 1-19.1. - Definitions.**

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

***Abandoned Sign.*** A sign is considered abandoned if a business advertised on that sign is no longer holds a business tax receipt, no longer has a certificate of occupancy, or is no longer doing business on that location.

***Banner/Flag.*** A sign having characters, letters, illustrations or ornamentations applied to cloth, paper or fabric of any kind with only material for a backing. The term shall include any animated, inflatables, rotating and/or fluttering device designed to attract attention.

**District** shall mean the various zoning districts established and described by the land development code.

**Electric.** Any sign containing electric wiring. This does not include signs illuminated by an exterior floodlight source.

**Erect** shall mean to build, construct, attach, hang, place, suspend, affix and, this shall include the painting of wall signs.

**Freestanding.** A sign erected and maintained on a freestanding frame, mast or pole not attached to any building, and not including ground mounted signs.

**Government Sign.** A government sign is a sign that is constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government either directly or to enforce a property owner's rights.

**Ground Mounted.** A sign which extends from the ground or has support which places the bottom of the sign less than two (2) feet from the ground.

**Height.** Maximum height is the vertical distance between the uppermost portion of a sign and ground level and minimum height is the vertical distance between the lowermost point of a sign and ground level.

**Highway Sign.** A Freestanding sign or Integral Sign or Flat Mounted Sign that is erected and maintained within the view of motorists who are driving on a highway.

**Integral.** A sign that is embedded, extruded or carved into the material of a building façade. A sign made of bronze, brushed stainless steel or aluminum, or other material attached to the building façade.

**Non-Conforming** shall mean any existing sign which was lawful at the time of the enactment of the ordinance from which this article was derived but which does not conform to the provisions of this article and to the most recently enacted land development code of the Town.

**Off site-sign.** A sign which has no relation to the property it is located on.

**Placement** shall mean the location which a sign occupies on a lot or building.

**Public Body** shall mean any government or government agency of the Town, Brevard County, State of Florida, or the United States Government.

**Replacing** shall mean rebuilding, enlarging change in size, structure, or lettering other than maintaining original sign.

**Sign** shall mean a device which gives information to people that see it.

**Sign Area** shall mean that area within a line including the outer extremities of all letters, figures, characters, and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for

the sign background, whether it be columns, a pylon, or a building; or part thereof, shall not be included in the sign area. In measuring the area of a double-faced sign, only one face shall be calculated to determine the total area.

**Sign Construction Class** shall mean the manner in which any sign type is constructed and/or located, and in this article shall include as defined below:

- (1) *Animated, Spectacular or Intensely Lighted sign* shall mean any sign of which all or any part thereof revolves, swings or moves in any fashion whatsoever, and any sign which contains or uses for illustration any light, lights or lighting device or devices which change color, flash or alternate, shows movement or motion, or change the appearance of said sign or any part thereof automatically, including wind operated devices, this also includes Electronic, LED, and Digitally operated devices.
- (2) *Beacon Light* shall mean any light with one or more beams capable of being directed in any direction or directions, or capable of being revolved automatically, or capable of having any part thereof revolve automatically, or a fixed, flashing, or rotating high intensity light or beam, or light.
- (3) *Detached* shall mean a sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface such as a fence or wall not a part of a building, shall be considered a detached sign.
- (4) *Flashing* shall mean any sign on which the electrical lighting device or devices go on or off alternately, either all of such lights or lighting devices or part thereof. Any revolving illuminated sign shall be considered a flashing sign.
- (5) *Marquee* shall mean any sign attached to or projecting from a building, whether or not such a sign is capable of being raised or lowered to a position flat against a wall.
- (6) *Portable* shall mean any sign which is not securely and permanently attached to the ground or a building or other approved structure, such as banner/flag signs.
- (7) *Projecting* shall mean any sign that is affixed to any building, wall, or structure extending more than twelve (12) inches beyond such building, wall or structure. The term projecting sign includes a marquee sign.
- (8) *Snipe* shall mean any temporary sign of not over four (4) square feet in area.
- (9) *Wall* shall mean any sign which is erected on the wall of any structure or part of a structure and is not more than twelve (12) inches from that structure, including any sign which is painted or otherwise directly on the wall of any structure.

*Sign, Double-Faced* shall mean a sign with two (2) parallel or nearly parallel faces back to back and located not more than twenty-four (24) inches from each other at the nearest parts. A double-faced sign shall be considered a single sign.

*Sign, Directly Illuminated* shall mean a sign designed to give forth artificial light itself and/or designed to reflect light from one or more sources of artificial light that are part of the sign.

*Sign, Indirectly Illuminated* shall mean a sign which does not produce artificial light from within itself but which is opaque and backlighted or illuminated by spot lights or floodlights.

*Sign, Number* shall mean for the purpose of determining the number of signs, a sign shall be considered to be a display and/or display device containing elements organized, related, and/or composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign.

*Sign Structure* shall mean any construction designed to support a sign is considered separate from the sign itself.

*Sign Type* shall mean any one of the various signs as defined below:

- (1) *Accessory* shall mean a sign relating only to the premises on which the sign is located.
- (2) *Billboard* shall mean any sign or display that has no relation to the property it is located on, and over sixty (60) square feet.
- (3) *Construction* shall mean a temporary sign erected on a building site between the time of the issuance of the building permit and the completion and/or occupancy.
- (4) *Directional* shall mean any sign less than three (3) square feet in area used for public direction.
- (5) *Directory* shall mean signs which are located in close proximity to entrances of buildings generally used as a message board to assist visitors who desire to enter or use the building.
- (6) *Future Improvement* shall mean a temporary sign located on vacant land, parcel or lot prior to the issuance of a building permit on the site on which the sign is located.
- (7) *General Outdoor Advertising* shall mean any sign which is not herein described or limited by these definitions and regulations.
- (8) Temporary. Balloons, banners, flags, pennants, posters, portable signs, snipe or advertising displays constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and that appears to be intended to be displayed for a limited period of time.

### **Section 1-19.2. - Purpose and intent.**

The purpose of these regulations is to promote the public safety, comfort, convenience, aesthetics, amenities, prosperity and general welfare of the Town. More particularly, these regulations which control the location, type, size, height, and illumination of signage and displays are intended to establish compatible land use character, an orderly appearance and stabilize land values.

### **Section 1-19.3. - Exemptions.**

The following are exempted from the provisions of these regulations which require a permit, certificate, license or fee for erection or maintenance: Also, any and all allowed &/or required Federal, State, County, &/or Local Signage or Flags as covered per their regulations and as such shall abide by their rules and regulations relating to each. These may be regarding Public Display for; information, location, display protocol, public safety, traffic safety, etc.

The following signs are authorized in every area:

- (1) Signs not visible from areas other than the site on which they are located;
- (2) Integral decorative or architectural features of structures, except letter, trademarks, moving parts, or moving lights.
- (3) Memorial, historically signs, tablets or plaques or names of buildings and date of erection; when the same are permanent.

- (4) Changing the copy of a bulletin board, poster board, display encasement, or marquee provided, that the device upon which the copy is located meets all the requirements of this article;
- (5) Decals affixed to or signs painted on equipment used for dispensing retail products or services where such signs are not displayed in connection with a commercial promotion or as an advertising device;
- (6) Temporary signs as provided for in 1-19.10
- (7) Signs on motor vehicles while in use in the normal course of business. This section shall not be interpreted to permit parking of a vehicle or portable trailer on which signs are attached or painted in a manner or location where such signs are not permitted in order to avoid the requirements of this article.

▯

**Section 1-19.3. 1 (intentionally left blank)**

**Section 19.3.2 Prohibited Signs and Exceptions.**

The following signs and message devices shall be expressly prohibited in all zoning districts, except as otherwise authorized by this Ordinance:

The following signs are strictly prohibited:

**(A) Signs in public areas.** No sign shall be placed or permitted to be placed on any curb, sidewalk, post, pole, hydrant, bridge, tree or any other surface located on public property or right-of-way or over or across any street or public thoroughfare, except as may otherwise be authorized by this Ordinance. Signs shall be considered litter and removed by the town without notice.

**(B) Unclassified signs.** The following signs having no distinct classification shall be prohibited:

(1) Signs which bear or contain statements, words or pictures of an obscene or pornographic character or which contain advertising matter which is obviously untruthful or offensive.

(2) Signs which emit audible sound, odor or visible matter; and/or

(3) Signs which purport to be or are an imitation or resemble official traffic signs or signals or which bear the term “stop,” “go slow,” “caution,” “danger,” “warning” or similar term or which because of their size, location, movement, content, coloring or manner of illumination may be confused with or construed as traffic control signs, signals or devices or the light of an emergency or road equipment vehicle or which hide from view any traffic or street sign, signal or device.

**(C) Roof signs.** No roof signs shall be permitted.

**(D) Billboards.** Except as may be otherwise authorized by Town Code, billboards are prohibited.

**Section 1-19.3.3. Regulations Applicable to all Districts.** Additional All regulations relating to signs in all Zoning Districts are found in Table 1-19.18. Such regulations in Table 1-19.18 shall control over any conflicting provision of this sign code.

(E) In addition to the other types of signs permitted in this section a business establishment may erect one additional non-permanent ground sign, not exceeding four (4) square feet. Such sign may be double sided and shall have the sign face made of wood, metal or plastic. The post material for the sign shall be made of either steel or pressure treated wood. The top of the sign when installed into the ground shall not exceed ten (10) feet above the ground upon which it is placed. An application form provided by the Town along with a permit fee established by resolution of the Town Council and consent of the owner of the property shall be submitted to the Building Department for review. If the owner does not give their consent no such sign shall be permitted. Any similar signs, including any banner signs, which have been installed or placed on property without a permit shall be removed by the owner of said sign or the proprietor of the business for which such sign relates to within 10 days of written notification of the Town and such notice shall inform the owner of such sign of the provisions, see Table 1-19.18.

**Section 1-19.4. - Administration requirements.**

A. *Permits/Required Inspections.* Before any sign (other than temporary) is erected, constructed, posted, painted, altered, maintained, affixed, or relocated in the Town, a permit for such sign shall be obtained from the Building Official.

The contractor or owner securing the permit for any sign shall call the Building Official and request an inspection whenever any sign requiring a permit is being installed, and before any concrete is poured; a final inspection shall be requested upon completion. At the time of a request for final inspection, a photograph of the completed sign shall be taken by the inspector. (Minimum 2¼" × 2¼", maximum 3" × 5" for filing purposes.) No sign permit shall be approved unless it has been inspected by the Building Official and it is found to comply with this code, the building code, electrical code, and other applicable land development regulations. Unless otherwise provided herein, all signs shall meet the yard requirements of the zoning district in which the sign is located.

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:

- (a) Name, address and telephone number of the sign erector and the sign owner.
- (b) Written statement signed by landowner, or a lease or rental agreement, authorizing the placement of the proposed sign.
- (c) Location of building (or structure) and lot to which or upon which the sign is to be placed or maintained.
- (d) Purpose of sign.
- (e) Estimated value of sign.



(f) Position of the sign in relation to lot lines, nearby buildings or structures, sidewalks, streets and intersections.

(g) Type of sign and general description of structural design and construction materials to be used.

(h) Two (2) copies of detailed scaled drawings of the plans which shall contain specifications concerning structural details of the method of sign construction, installation, [and] anchoring to the building or ground. The specifications shall show height, perimeter and area dimensions, elevations, means of support, method of illumination and any other significant aspect of the proposed sign.

(i) A statement indicating whether or not an electrical permit is required for said sign and any support data required for the same.

(j) A layout with sign colors shown or specified.

(k) Any other information required by the Building Official in order to carry out the purpose and intent of this article.

(l) All signs having unusual structure features shall be designed by an engineer, who shall submit to the Building Official complete plans and calculations so as to determine whether the sign complies with the Town's Code.

C. *Permit Expiration.* All signs shall be erected on or before the expiration of thirty (30) days from the issuance date of the permit, otherwise the permit shall become null and void and a new permit and fee shall be required.

D. *Notice Required for Violations.* In case any sign shall be installed, erected, constructed, or maintained in violation of the terms of this article, the building inspector shall in writing, notify the owner thereof, to alter, change, or remove, such sign so as to comply with this article with ten (10) days notice.

E. *Revocations.* The Building Official may revoke a permit or approval, issued under the provisions of this Code, if it is found that there has been any false statement, concealment or misrepresentation as to any material fact in the application or plans on which the permit or approval was based.

#### **Section 1-19.5. - (intentionally left blank)**

#### **Section 1-19.6. - Appeals and variances.**

Matters involving appeal of an administrative decision or variance of these regulations shall be handled pursuant to Section 1-12.2 of Article 12 of the Land Development Regulations.

#### **Section 1-19.7. - Nonconforming signs.**

A. *Replacement of Nonconforming Signs.* Any replacement sign needs to meet current codes.

B. *Nonconforming Signs.* There presently exist certain signs that are not in compliance with current regulations, if they were to code when approved and are being maintained they are allowed to remain.

C. *Signs and Disrepair.* A sign should be removed or repaired to original condition. If not repaired within sixty (60) days of written notification, sign will be removed at owner's expense.

### **Section 1-19.8. - Fees for permits.**

A. *Status of Fees Required for Signs.* Fees for the issuance of sign permits or certificates and or business tax receipts shall be in addition to any other fees, charges, or obligations legally required by the Town.

B. *Schedule of Fees Set By Town Council.* The fee schedule for the issuance of sign permits, certificates of nonconformance, and business tax receipts and the inspections herein authorized or required shall be set by the Town Council and shall be maintained in the Town Clerk's office.

### **Section 1-19.9. (Intentionally left blank)**

### **Section 1-19.10. – Temporary Signs**

Regulations involving Temporary Signs

(1) The sign face of any temporary sign must not be larger than four (4) square feet.

(2) Temporary Signs shall not require a sign permit

(3) Also, any and all allowed and/or required Federal, State, County or Local Signage or Flags as covered per their regulations and as such shall abide by their rules and regulations relating to each. These may be regarding Public Display for; information, location, display protocol, public safety, traffic safety, etc.

### **Section 1-19.11. - General regulations.**

A. *Signs on Public Property.* No sign shall be placed on property owned or leased by any government agency except by a public body or as otherwise specifically provided herein.

B. *Signs Indicating Point of Public Interest.* Signs indicating points of local interest may be placed on public property only with the express consent and formal approval of the Council.

C. *Signs Affixed to Public Property or Infrastructure.* No signs shall be attached to or painted on utility poles, seawalls, retaining walls or other supporting structure.

D. *Signs On or Over Public Streets.* No sign shall be erected or located on or over any public street, sidewalk, alley, or right-of-way other than duly approved traffic signs authorized by a governmental entity.

E. *Illuminated Signage.* The lighting of illuminated signs shall be controlled in direction, focus, and intensity so as to prevent glare on surrounding streets or property, or any objectionable illumination of nearby property or buildings.

F. *Beacon Light.* No beacon light shall be permitted on a sign in the Town.

G. *Billboards.* No billboards shall be permitted in the Town.

H. *Multiple Street Frontage.* The regulations contained in this article shall apply separately and individually to each street frontage of a premises.

### **Section 1-19.12. - Construction standards.**

All signs shall comply with all applicable standards of the Town's building code, fire code, health code, and all other applicable codes.

**Section 1-19.13. - Maintenance.**

All signs, together with all their support braces, guys, and anchors, shall be maintained in good repair and appearance. The Building Official may, upon written notice, cause to be removed within sixty (60) days any sign which becomes a safety hazard, or which shows gross neglect or becomes dilapidated or where the area around such sign is not well maintained. Such removal shall be at the expense of the owner or lessee of any sign that is not properly maintained.

**Section 1-19.14.** (Intentionally left blank)

**Section 1-19.15. - Obstructing exits prohibited.**

No sign, including guys wires and supports, shall be erected, constructed or maintained so as to obstruct any fire escape, or any window or door opening, used or required as a means of ingress, egress or ventilation, or so as to prevent free passage from one part of a roof in any form, shape, or manner to a fire escape.

**Section 1-19.16. - Signs not to constitute a traffic hazard.**

No sign shall be placed at any location in the Town where it may interfere with or obstruct the view of any motorist, or be confused with any authorized traffic sign, signal or device. The Town Council shall have the authority to refuse the erection, or to order the removal by the Building Official, if any signs constituting an obstruction to motorists or pedestrians or otherwise are viewed to be impediments to traffic safety or traffic flow.

**Section 1-19.17. - Signs not to encroach into electric utility clear zone.**

No sign shall be placed closer than eight (8) feet from the nearest part of any utility pole which supports electrical transmission lines. No sign shall be placed closer than eight (8) feet from the nearest part of any electric transmission line. If the National Electric Safety Code is now or hereafter more restrictive than the provisions of this subsection, its more restrictive provisions shall supersede the provisions herein.

**Section 1-19.18. - District sign regulations.**

The provisions of Table 1-19.8 "Zoning District Sign Regulations" shall apply to each lot or parcel of land, and/or each business establishment as may be applicable in each case. In the following zoning classifications, the specified sign types and construction classes shall be permitted subject to the restrictions and limitations contained herein.

Also, any and all allowed &/or required Federal, State, County, &/or Local Signage or Flags as covered per their regulations and as such shall abide by their rules and regulations relating to each. These may be regarding Public Display for; information, location, display protocol, public safety, traffic safety, etc.

**TABLE 1-19.18. ZONING DISTRICT SIGN REGULATIONS**

Sign Regulations Within Residential Zoning Districts: (1)

Sign Type	Accessory	Construction	Directory	Directional
Construction Class	Wall or Detached	Wall or Detached	Wall or Detached	Wall or Detached
Maximum Number	1	1	1	1
Maximum Area	4 sq. ft.	32 sq. ft.	10 sq. ft.	3 sq. ft.
Maximum Height	10 ft.	Detached: 10 ft. Wall: Roof line of building	10 ft.	Detached: 3 ft. Wall: 12 ft.
Placement	Must observe all yard regulations	Front setback: 10 ft. Side and Rear: 25 ft.	Must observe all yard regulations	Non-Restricted
Illumination	None	None	Indirect	None
Special Regulations	Permitted only in conjunction with a permitted home occupation. See Footnote 1.	Must be removed immediately upon completion of construction or occupancy	None	None

Sign Type	Future Improvement	General Outdoor Advertising
Construction Class	Detached	Wall or Detached
Maximum Number	1	1
Maximum Area	10 sq. ft.	32 sq. ft.
Maximum Height	10 ft.	10 ft.
Placement	Front setback: 10 ft. Side and Rear: 25 ft.	No signs to impede vision at any intersection
Illumination	None	None
Special Regulations	None	See Footnotes 1 and 2

Sign Regulations Within Non-Residential Zoning Districts: (2)

Sign Type	Accessory	Accessory	Temporary
Construction Class	Wall	Detached, Marquee, and Projecting	Snipe/Signs
Maximum Number	3	2 total from this group	4
Maximum Area	10% of the wall area, and no more than 60 sq. ft. of cumulative area	60 sq. ft. total cumulative area	4 sq. ft. each
Maximum Height	Roof line of building	Detached: 25 ft. Others: Roof line of building	Roof line of building
Placement	Non-Restricted	Must observe yard regulations and Front setback: 10 ft.	Must observe yard regulations
Illumination	Direct, Indirect	Direct, Indirect	None
Special Regulations	See Footnotes 1, 3, and 4	See Footnotes 4 and 5	See Footnote 7

Sign Type	Construction	Directory	Directional	General Outdoor Advertising
Construction Class	Wall or Detached	Wall or Detached	Wall or Detached	Wall or Detached
Maximum Number	1	2	2	1
Maximum Area	32 sq. ft.	Sum of 30 sq. ft.	3 sq. ft. each	Detached: 3 sq. ft. Wall: 10 sq. ft.
Maximum Height	Detached: 10 ft. Wall: Roof line of building	10 ft.	Detached: 3 ft. Wall: 10 ft.	10 ft.
Placement	Front Setback: 10 ft. Rear and Side: 25 ft.	Must observe all yard regulations	Non-Restricted	Front setback: 10 ft. Rear and Side: 25 ft.
Illumination	Indirect	Indirect	Indirect	Indirect
Special Regulations	Must be immediately removed upon completion of construction or occupancy	None	None	See Footnotes 1 and 2

Sign Regulations Within Non-Residential Zoning Districts: (3)

Sign Type	Future Improvement
Construction Class	Detached
Maximum Number	1
Maximum Area	32 sq. ft.
Maximum Height	10 ft.
Placement	Front setback: 10 ft. Side and Rear: 25 ft.
Illumination	Indirect
Special Regulations	None

Footnotes to charts:

- (1) All inside signs within five (5) feet of a window shall be counted as wall signs and in addition shall not exceed twenty (20) inches of the glassed area of the window in which the sign is located.
- (2) Only permitted are those signs which may be off the premises for which they relate and are within two hundred (200) feet of the property for which they relate to. However, if the sign is three (3) square feet or less in area, the property to which the sign relates may be within one (1) mile of the sign.
- (3) Apartment complexes and dwellings of up to ten (10) units are permitted thirty-two (32) square feet. For excess of ten (10) units, one (1) square foot may be added for each unit, up to a maximum of forty-eight (48) square feet in cumulative area.
- (4) If illumination/animation is permitted a minimum refresh rate is six (6) seconds
- (5) One additional sign of this construction class up to thirty (30) square feet in area shall be permitted for each two hundred (200) feet of street frontage.
- (6) For a group of more than four (4) sites and in lieu of the nine (9) square foot individual lot sign, one thirty-two (32) square feet shall be permitted.
- (7) minimum distance between Temporary Signs shall be 20 feet.

**SECTION 2. Conflicting Provisions.** In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule code or regulation, the more restrictive shall apply.

**SECTION 3. Severability.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

**SECTION 5. Inclusion in Code.** It is the intention of the Town Council of Malabar that the provisions of this ordinance shall become and be made a part of the Town Code, and that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 6. Effective Date.** This ordinance shall take effect upon adoption.

**SECTION 7.** 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 Steve Rivet	_____
Council Member Dick Korn	_____
Council Member Danny White	_____

Passed and adopted by the Town Council, Town of Malabar, Brevard County, Florida this \_\_\_\_ day of \_\_\_\_\_, 2019.

TOWN OF MALABAR

BY:

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

ATTEST:

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

(seal)

Approved as to form and content:

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

Ord First Reading: 6/17/19  
Ord 2<sup>nd</sup> Reading: 7/15/19

# TOWN OF MALABAR

## AGENDA ITEM REPORT

**AGENDA ITEM NO: 4**  
**Meeting Date: July 1, 2019**

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

---

**SUBJECT: Appoint P&Z Board Recommendation to opening as Alternate (Reso 12-2019)**

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### **BACKGROUND/HISTORY:**

Board and Committee terms are for three years. There is one opening for Alternate on the P&Z Board and we have received two applications. We provided both applications to P&Z and asked for a recommendation. Typically, these appointments are made based on first come, first served.

Ms. Susan Shortman submitted an application for this Board on 6/17/2019.  
Mr. Jeff Rinehart submitted an application for this Board on 6/21/2019.

### **ATTACHMENTS:**

Reso 12-2019 Appointment to P&Z Board as Alternate  
Application package from Ms. Shortman and Mr. Rinehart  
Recommendation from P&Z Board

### **ACTION OPTIONS:**

Adopt Resolution 12-2019



**RESOLUTION 12-2019**

**A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF \_\_\_\_\_ TO THE MALABAR PLANNING AND ZONING BOARD AS AN ALTERNATE MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Malabar Town Council has been notified of an opening on the Planning and Zoning Board and has received two applications; and

**WHEREAS**, Malabar Town Council desires to fill this opening based on the recommendation of the Planning and Zoning Board.

**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 \_\_\_\_\_ as an Alternate Member of the Planning and Zoning Board for a three-year term.

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

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

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

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

- Council Member Grant Ball \_\_\_\_\_
- Council Member Brian Vail \_\_\_\_\_
- Council Member Steve Rivet \_\_\_\_\_
- Council Member Dick Korn \_\_\_\_\_
- Council Member Danny White \_\_\_\_\_

This Resolution was then declared to be duly passed and adopted this 1st day of July 2019.

**TOWN OF MALABAR**

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

(seal)

ATTEST:

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

Approved as to form and content:

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

Town of Malabar

Volunteer Committee/Board Application

Planning & Zoning Advisory Board Application

The Planning and Zoning Board is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The Planning and Zoning Board is advisory in nature. Members of the Board shall hold no other Town office. The affirmative vote of a majority of the regular and alternate board members present and voting (maximum of five votes) shall be necessary for the adoption of any motion. The Planning and Zoning Board deals with land use issues such as site plans, conditional uses, special exceptions, residential subdivision developments, plats, re-plats and zoning change requests. They also review and compile updates for the Comprehensive Plan and present to Council. They shall also draft land development code to conform to changes adopted by Council to the Comprehensive Plan. They shall annually prepare a Capital Improvement Projects list to submit to Council. Some of the issues that the Board considers will be quasi-judicial and staff will alert them to those situations.

Name: Susan Shortman Phone: 706-768-5419

Home Address: 2240 Ivey Lane Malabar FL 32950

Email Address: woodnfiber@gmail.com

Are you a resident of the Town: Yes  No

How long have you been a resident of the Town of Malabar: 1 yr. (7/2)

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

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

TOWN OF MALABAR

JUN 17 2019 11:14

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE

NOTE: Florida's Public Records Law, Chapter 119, Florida Statutes states, "It is the policy of this state that all state, county, and municipal records shall at all times be open for a personal inspection by any person." Your application when filed will become a public record and subject to the above statute. In addition, any appointed member of a board of any political subdivision (except members of solely advisory bodies) and all members of bodies exercising planning, zoning or natural resources responsibilities are required to file a financial disclosure form within 30 days after appointment and annually thereafter for the duration of the appointment as required by F.S. Chap. 112.

NAME: Susan Shortman TELEPHONE: 706-768-5419

ADDRESS: 2240 Ivey Lane Malabar FL 32950

EMAIL: woodnfiber@gmail.com

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

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

retired- entomologist, End of Life Doula

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

End of Life Specialist

Fiber groups, Woodturning groups

ADDITIONAL INFORMATION/REFERENCES:

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

- 2 Board of Adjustment 1 Planning & Zoning
Parks & Recreation Trails & Greenways

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

Susan L Shortman

Signature of Applicant

6-17-19

Date

Please return this form to: Town Clerk, Town of Malabar, 2725 Malabar Road, Malabar, FL 32950-4427, Email: townclerk@townofmalabar.org

Note: If you need more information concerning the duties of these Boards, please contact the Town Clerk. Please attach a copy of your resume to this application. You will be notified of the date of the Town Council Meeting that your application will be considered for appointment. You will need to plan to attend the Council Meeting.

Town of MalabarVolunteer Committee/Board ApplicationApplicant Certification

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

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

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

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

Susan L. Shortman

Signature

6-17-19

Date

I will maintain the confidentiality of privileged information and will abide by all laws of the State applicable to my conduct as a Board or Committee Member, including but not limited to the Government in the Sunshine Law, the Florida Code of Ethics for Public Officers, and Town Rules of Procedure and Codes of Conduct.

I will promote constructive relations in a positive climate with all Members of the Town Council, Town employees, Town Attorney, and Town contractors and consultants consistent with my role as a Board or Committee Member, as a means to enhance the productivity and morale of the Town. I will support the Town Administrator's decision to employ the most qualified persons for Staff positions. I will recognize the bona fide achievements of the Town Council, Town Administrator, Staff, Town Attorney, Town contractors and consultants, business partners, and others sharing in, and striving to achieve, the Town's mission.

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

I will value and assist my fellow Board or Committee Members by exchanging ideas, concerns, and knowledge through lawful means of communication. I will help build positive community support for the Town's mission and the policies established by the Town Council.

I will support and advocate for my beliefs, but will remain open to understanding the views of others. I recognize that I share in the responsibility for all Town decisions that my respective Board makes and will accept the will of the majority.

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

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

Susan L. Shortman

Signature

Susan L. Shortman

Print Name

6-17-19

Date

Dahly K. Frank

Witness

JUN 21 2019

RECEIVED

Town of Malabar Volunteer Committee/Board ApplicationPlanning & Zoning Advisory Board Application

The Planning and Zoning Board is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The Planning and Zoning Board is advisory in nature. Members of the Board shall hold no other Town office. The affirmative vote of a majority of the regular and alternate board members present and voting (maximum of five votes) shall be necessary for the adoption of any motion. The Planning and Zoning Board deals with land use issues such as site plans, conditional uses, special exceptions, residential subdivision developments, plats, re-plats and zoning change requests. They also review and compile updates for the Comprehensive Plan and present to Council. They shall also draft land development code to conform to changes adopted by Council to the Comprehensive Plan. They shall annually prepare a Capital Improvement Projects list to submit to Council. Some of the issues that the Board considers will be quasi-judicial and staff will alert them to those situations.

Name: Jeff Rinehart Phone: 407-738-9155Home Address: 2395 Corey RoadEmail Address: Jdrinehart2000@yahoo.comAre you a resident of the Town: Yes  No How long have you been a resident of the Town of Malabar: 2 yearsAre you currently involved with any other organization of the Town: Yes  No 

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

TOWN OF MALABAR

JUN 21 2019

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE

RECEIVED

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NAME: ~~Jeff Rinehart~~ Jeff Rinehart TELEPHONE: 407-738-9155  
ADDRESS: 2395 Corey Road  
EMAIL: jrinehart0000@yahoo.com

RESIDENT OF TOWN FOR 12 MONTHS OR LONGER:  YES  NO

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

Self employed

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

None

ADDITIONAL INFORMATION/REFERENCES:

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

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

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

  
Signature of Applicant

6/20/19  
Date

Please return this form to: Town Clerk  
Town of Malabar  
2725 Malabar Road  
Malabar, FL 32950-4427  
Email: townclerk@townofmalabar.org

Note: If you need more information concerning the duties of these Boards, please contact the Town Clerk. Please attach a copy of your resume to this application. You will be notified of the date of the Town Council Meeting that your application will be considered for appointment. You will need to plan to attend the Council Meeting.



JUN 21 2019

Town of Malabar Volunteer Committee/Board Application RECEIVED

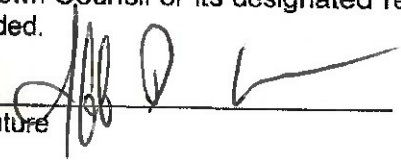
**Applicant Certification**

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

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

Signature 

9/20/19  
Date



TOWN OF MALABAR

JUN 21 2019

RECEIVED

**Town of Malabar**

**Board Member Code of Conduct**

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

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

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

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

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

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

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

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

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

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

I will refrain from any individual action that could compromise lawfully authorized decisions of the Town or the integrity of the Town and my fellow Board or Committee Members. I will delineate clearly for any audience whether I am acting or speaking as an individual citizen or in my capacity as a Town Board or Committee Member.

JUN 21 2019

RECEIVED

I will maintain the confidentiality of privileged information and will abide by all laws of the State applicable to my conduct as a Board or Committee Member, including but not limited to the Government in the Sunshine Law, the Florida Code of Ethics for Public Officers, and Town Rules of Procedure and Codes of Conduct.

I will promote constructive relations in a positive climate with all Members of the Town Council, Town employees, Town Attorney, and Town contractors and consultants consistent with my role as a Board or Committee Member, as a means to enhance the productivity and morale of the Town. I will support the Town Administrator's decision to employ the most qualified persons for Staff positions. I will recognize the bona fide achievements of the Town Council, Town Administrator, Staff, Town Attorney, Town contractors and consultants, business partners, and others sharing in, and striving to achieve, the Town's mission.

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

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I will support and advocate for my beliefs, but will remain open to understanding the views of others. I recognize that I share in the responsibility for all Town decisions that my respective Board makes and will accept the will of the majority.

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

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

\_\_\_\_\_  
Signature

Joe Rinchart  
Print Name

6/20/19  
\_\_\_\_\_  
Date

Hockenji Rinchart  
Witness

Town

JUN 21 2019

RECEIVED

# TOWN OF MALABAR

## MEMORANDUM

---

**Date:** June 24, 2019 2019-TC/T-014  
**To:** Denine Sherear, P&Z Board Secretary  
**From:** Debby K. Franklin, C.M.C., Town Clerk/Treasurer  
**Ref:** Applications for Alternate Seat on P&Z Board

---

We received an application packet from a resident on June 16 for the Planning and Zoning Board. We received a second packet from another resident on June 21, 2019.

The Mayor asked that I convey to you that typically when more than one application is submitted we consider the date of receipt in the consideration.

Council will consider the Board's recommendation at their meeting of July 1, 2019.

Thank you.

# TOWN OF MALABAR

## MEMORANDUM

---

**Date:** June 27, 2019 19-AABO-013

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

**From:** PZ Board  
Denine M. Sherear, Administrative Assistant to the Building official ~~D~~

**Ref:** Recommendations to Council from P & Z Board for Alternate PZ Board Member

---

The Planning and Zoning Board discussed two potential applicants for an alternate position on this Board.

- Susan Shortman (submitted application on 6/17/2019)
- Jeff Rinehart (submitted application on 6/21/2019)

There was no formal "Motion", the Chair, Wayne Abare and PZ Board after talking to both applicants discussed who they Recommended to Council and the consensus of the Board was as follows:

PZ Member Foster: Recommended Jeff Rinehart  
PZ Member Dial: Recommended Susan Shortman  
PZ Member Ritter: Recommended Susan Shortman  
PZ Member Abare: Recommended Jeff Rinehart  
Alternate PZ Member Rice: Recommended Susan Shortman  
PZ Member Hofmeister: Excused

Abare stated Rinehart: two (2) votes & Shortman: three (3) votes.

# TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 5  
Meeting Date: July 01, 2019

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

---

**SUBJECT: Accept 400' of Road Improvements on Linrose Lane**

---

**BACKGROUND/HISTORY:**

This issue of a portion of Linrose being approved by the Town due to the result of a lawsuit caused staff to bring this issue before you on April 1, 2019. There was a lot on the market to the north of the "accepted" portion and staff needed direction on what to require a new property owner if they purchased the parcel and proceeded to develop.

Council ruled that 400 feet of Linrose Lane would have to be improved to the Town's dirt road standards for a 25-foot ROW.

The property owner applied for the permit and paid the application fee for 400' of road improvement. The property owner hired contractor to bring in material and clear out the drainage ditch on the west side of the ROW and had density and compaction tests performed per direction of the Town Engineer.

- It is staff's recommendation that the 400' of improved road be accepted by the Town Council and that it be added to our "Accepted Streets List" for future maintenance by the Town's Streets and Roads Department.

**ATTACHMENTS:**

Memo from Town Engineer Morris Smith  
Approved portion of RTCM minutes of 4/1/19  
Road improvement application and fee paid by property owner

**ACTION OPTIONS:**

Approve the improved 400' of Linrose Lane

**TOWN OF MALABAR**  
**MEMORANDUM**

Date: June 19<sup>th</sup>, 2019  
To: Debby Franklin, Town Clerk/Treasurer  
From: Morris Smith, Town Engineer  
Ref: Linrose Lane – Recommendation of Acceptance to Towns Approved Roadway System

Memo: 19-CE-03  
Project No.  
Variance No.:

Subject Parcel: Brevard County Property Appraiser's Account: 2922420  
Brevard County Property Appraiser's Parcel ID:29-37-02-00-21

---

I have reviewed the results of the Town requested Geotechnical Soils Inspection and Testing Reports, provided by KSM Engineering and Testing, Sebastian, FL, their Projects No. 192012-1d and No. 192012-1lbr.

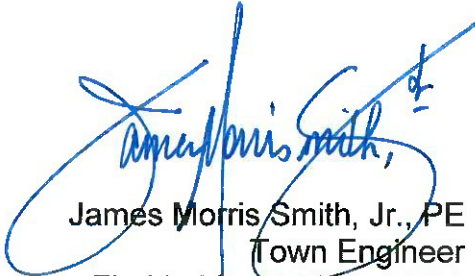
These reports demonstrate that the roadway material placed onto Linrose does meet and exceed the Town's requirements of Load Bearing Ratio (LBR) of 40 @ 98% Maximum Dry Density.

The reports state that the LBR is 52 @ 113.4% Maximum Dry Density.

Based upon the reports delivered to the Town, I recommend that this 400 feet of improved roadway be added to the Town's approved/accepted roads inventory.

(See Attached Aerial Photograph)

Very Truly Yours,

  
James Morris Smith, Jr., PE  
Town Engineer  
Florida License No. 45392

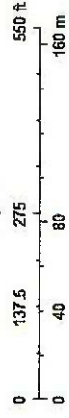
Improved Area

Brevard County Property Appraiser



June 19, 2019

1:2,000



2848950  
Esri/View Platform/BCFPAO

For illustration only. Not a survey. Map layers may not precisely align.  
© BCPAO 2018



**MISCELLANEOUS: 1**

- **Determination of “Accepted” Portion of Linrose Lane for Permitting**  
**Exhibit:** Agenda Report No. 3  
**Recommendation:** Action

Vice-Chair requests the Town Attorney to stay during the sign ordinance discussion. Atty relayed the history. Found for Petitioner Hoene that Town was wrong for requesting ROW dedication without compensation. Town also had to pay 46K. There was an appeal filed but the Town later dismissed it. There are no records of the Town’s reasoning or argument in court or for why the appeal was dismissed. The final judgment established the following: Town can’t require those parcels on Linrose Lane to dedicate additional ROW. But it can require improvements to the 25’ roadway per Town standards. Staff has not dug deeper into this issue regarding case study. Give staff sufficient time to determine how this may affect the other 39 ROWs that this judgement may impact. Attorney said he doesn’t know what was argued in court. Drainage is a problem – the dedication also provides for drainage and better traffic flow and access for emergency vehicles. CM White said all of those things have a value. Attorney suggested a workshop later in this year.

CM Korn to Atty Bohne – If we require the improvement on Linrose Lane, will it cause a lawsuit? No. CM Korn asked if Council can make that requirement to improve the road. Yes, per the Attorney the Town Code provides reasonable requirements for road improvement standards. Per clarification it is for the 400’ improvement within the 25-foot ROW between the end of the accepted portion and the northern most point of Parcel 21.

Acting Chair stated the other issue is how we should deal with the other 39 ROWs/roads that are under the 50-foot width. Acting Chair asked Atty Bohne for an estimate of cost for his research on this issue. Atty said it would be under 5K. Staff will make recommendations to change the Code to address these situations. Looking at doing a workshop. Atty needs to analyze the ruling and study case law.

**MOTION: CM White / CM Ball to require Linrose Lane be improved for 400’ from the point of acceptance north to the furthest point of parcel 21 using the 25-foot road improvement standard, noting the three vacant parcels that will benefit will have to pay a road payback per the Code to the road builder. Vote: Ayes, 5; Nay, 0**

CM Ball said there are many roads all over that are less than what is in the Code. CM Vail said the road payback portion of the Code works. The owner of Parcel 22 cannot be made to participate in the road pay back.

CM White going back to lawsuit. What is the likelihood of facing that type of lawsuit again? Do all lots abut a ROW. Atty explained the original Florida Fruit and Lands (or Trucks) plat provided for 40-foot ROW on section lines and 25-foot ROW on half section lines. CM Korn said roads like Rivet Lane should have different requirements than for Corey Road (they do); have different improvement requirements for different road classifications. CM Vail said there is a safety standard that needs to be considered. Fire trucks and the tanker must be able to maneuver. If responding to a fire and the tanker needs to leave to refill, could be a problem on 25-foot roadway.

email: Joe.Nolis@hotmail.com  
348



TOWN OF MALABAR  
ROAD IMPROVEMENT APPLICATION

MAY 30 2019 9:57

Owner: Joe Nolis Date: 5/23/2019

Present Address: 3493 Gowan Ave. Grant-Valkaria FL 32950  
(Street) (City) (State) (Zip)

Telephone: 321-508-1695

Property Address: 2025 Linrose Lane. Malabar, FL 32950

Section: 29 Township: 37 Range: 02 Lot: 00 Block: 21

Description of Project: Road inspection for improvement

Length of improvement: 400 ft. Permit Fee: \_\_\_\_\_ (see schedule below)

ROW width (in feet) from center line is: \_\_\_\_\_ your side; \_\_\_\_\_ opposite side.

Amount of ROW dedication to the Town \_\_\_\_\_ ft wide by \_\_\_\_\_ ft long.

The permit fee and 3 sets of the following are required when turning in this application.

1.  Signed and sealed survey showing right-of-way for street to be improved. And separate survey and legal description for ROW dedication (if necessary).
2.  Design plans prepared by a State of Florida licensed civil engineer including existing and proposed grades, proposed cross-sections, drainage plan & structures, existing and proposed utilities, driveways, culverts, headwalls, etc.
3.  Soil borings in accordance with Town code.
4.  Recorded property deed.
5.  Applicant is responsible for obtaining permits from other jurisdictional agencies.

I have read and understand and will comply with the instructions provided with this application.

Owner Signature: [Signature] Date: 5/30/2019

ROAD APPLICATION FEE SCHEDULE  
effective 4/21/03

Street Length	Fee
Up to	
200 feet	\$740.00
400 feet	\$770.00
600 feet	\$840.00
800 feet	\$880.00
1,000 feet	\$960.00
1,200 feet	\$1,030.00
1,400 feet	\$1,070.00

These fees cover the cost of engineering fees incurred by the Town and are a good faith estimate. *Additional engineering fees will be paid by the applicant.*

Road improvement regulations pertaining to this application:  
Ordinance 01-01      Ordinance 03-05  
Ordinance 03-01      Resolution 12-03      Resolution 2004-04

JOSEPH A NOLIS  
DAYLA M NOLIS  
3493 GOVAN AVENUE  
MALABAR, FL 32950

5/30/2019

2230

63-7790/2631  
29

Pay to the Order of Town of Malabar

Date

CHECK AMOUNT  
TRADE COLLECTION

Seven-hundred & seventy dollars  $\frac{100}{100}$  \$ 770.00  
Dollars



Palm Bay, FL 32909

For Linrose Rd. App. Fee

Joe Nolis

⑆ 2631 77903⑆ 5990000346873⑆ 2230

Harland Clarke

<b>RECEIPT</b>		No. 496706	
DATE	<u>5/30/19</u>		
FROM	<u>Joe Nolis</u>	<u>\$770.00</u>	
<u>400' ROAD Application</u>		DOLLARS	
<input type="radio"/> FOR RENT	<u>2025 Linrose Lane</u>		
<input type="radio"/> FOR	<u>#2230</u>		
ACCT.	<input type="radio"/> CASH	FROM	TO
PAID	<input checked="" type="radio"/> CHECK	BY <u>A. Herrera</u>	
DUE	<input type="radio"/> MONEY ORDER	A-1152	
	<input type="radio"/> CREDIT CARD	T-4161	

**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 6**  
**Meeting Date: July 01, 2019**

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

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**SUBJECT: Approve Contract with Bill Barrett for Services**

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**BACKGROUND/HISTORY:**

Full service contract as discussed at the Budget Workshop 6/24/19.

**ATTACHMENTS:**

Contract for Services

**ACTION OPTIONS:**

Approve the Contract

This agreement is between the Town of Malabar Florida, herein referred to as "Town" and SPG, Inc., hereafter referred to as "SPG."

Whereas, the Town desires to engage the services of an individual or firm to provide government relations services; legislative services; grant services; and outside funding services for the Town.

Whereas, the Town desires to enter into a contract with SPG to provide government relations services; legislative services; grant services; and to seek and administer outside funding for special projects.

**SERVICES:** SPG will provide the following services:

**Legislative Services:** Represent the Town before the Florida Legislature as a registered lobbyist; Coordinate the legislative agenda of the Town; Solicit support from legislators in order to advance the legislative agenda of the Town; Draft legislation; Draft appropriation documents; Identify possible appropriations and legislation; Attend Committee and Sub-committee meetings; Provide data and testimony to the Members and staff of the Florida Legislature.

**Government Relations:** Provide consulting services to the Town on coordination of special projects; Represent the Town before appropriate regional and statewide agencies.

**Grant Administration:** Identify sources of outside funding for special projects; Prepare grant applications; Provide information and data to Federal, State and Regional Agencies; Coordinate and solicit support from appropriate Federal, State and Regional Agencies; Administer all grants and outside funding.

**COMPENSATION:**

SPG shall be paid \$7,500 upon the execution of this agreement.

SPG shall be paid \$2,500 on October 1, 2019, \$2,500 on January 1, 2020 and \$2,500 on April 1, 2020.

SPG shall be paid an administrative fee of 7% on all grant funding obtained through the services of SPG. Such administrative fee shall be invoiced upon the Town receiving notification that such funding has been awarded. This administrative fee shall not apply to any legislative appropriation.

All invoices shall be paid by the Town within 30 days. A late fee of 5% shall be applied to any invoice not paid within 30 days.

**TERM:** This agreement shall be effective from the date of the execution of this agreement until September 30, 2020. Such termination shall not deprive the Town of work products that are complete or substantially complete. Such termination shall not deprive SPG from invoicing the Town for the administrative fee for such grants or outside funds that are approved, under consideration for approval, or substantially complete.

**TERMINATION:** Termination of this contract may be made by either the Town or SPG with a thirty (30) day written notice except for during such times when the Florida Legislature is in session. This agreement may not be terminated during such times that the Florida Legislature is in session. Such termination shall not deprive the Town of work products that are complete or substantially complete. Such termination shall not deprive SPG from invoicing the Town for the administrative fee for such grants or outside funds that are approved, under consideration for approval, or substantially complete.

**WARRANTY:** SPG cannot and does not make, nor imply, any form of warranty or guarantees regarding the outcome of any grant or other outside funding, legislation, or appropriation request.

**PUBLIC INFORMATION:** SPG agrees to follow the rules as set forth in Chapter 119 Florida Statutes.

Dated this the \_\_\_\_\_ day of \_\_\_\_\_ 2019.

**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 7**  
**Meeting Date: July 01, 2019**

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

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**SUBJECT: Discuss Section of Code Requiring Property Owner to Maintain ROW**

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**BACKGROUND/HISTORY:**

This was requested by CM Vail.

**ATTACHMENTS:**

Sections of Code from Malabar, Satellite Beach, West Melbourne and Rockledge

**ACTION OPTIONS:**

Discussion and Direction to Staff

1 of 2 pages

**Sec. 11-5. Accumulation of debris declared nuisance.**

Any unauthorized accumulation of refuse on any premises in the town is declared to be a nuisance and is prohibited. Failure to remove any existing accumulation of refuse, within thirty (30) days after the effective date of this chapter, shall be deemed a violation of this chapter.

(Ord. No. 96-5, § 1, 6-17-96)

**Sec. 11-6. Unlawful deposit of waste.**

It shall be deemed unlawful and a violation of this chapter for any person to deposit or cause to be deposited any waste as defined herein upon any lot, parcel of land, public or private, whether vacant or improved, occupied or unoccupied, or upon any other premises, street, alley, roadway, park, stream, canal or other waterway within the town, without first obtaining all required and necessary town, state, and federal licenses and permits to do so. Compost piles on private property shall be excluded from the provisions of this subchapter.

(Ord. No. 96-5, § 1, 6-17-96)

**Sec. 11-7. Removal of garbage and the like.**

It shall be unlawful for any person to accumulate, burn or bury any garbage, litter, refuse, building materials, or garden and yard trash, household trash, on any private or public property in the town and such person must arrange for the removal of same in accordance with the revisions of this chapter, to a designated disposal facility at no cost to the Town, except that total land clearing of debris and pasture improvements may be burned on-site upon obtaining a written permit from the fire chief or designee and the division of forestry under the provisions of [F.S. §§ ] 33.40 et seq. and 33.55 et seq.

(Ord. No. 96-5, § 1, 6-17-96; Ord. No. 04-02, § 2, 7-12-04)

Chapter

**Sec. 11-8. Residential requirements.**

(a) *Maintenance of private property.* All owners and/or tenants, agents, lessors, lessees, or occupants of property within the town shall maintain their property in a clean and litter-free condition including sidewalks, grass strips, and contiguous alleys, curbs, and rights-of-way to the edge of the pavement. AND OR ROAD SURFACE

(b) *Sweeping.* No person shall sweep into or deposit on any street or sidewalk the accumulation of litter from any property or building.

(c) *Prohibition of public nuisance.* The accumulation of refuse within the town to the extent that such accumulation of refuse causes infestation by rodents or other wild animals, or breeding of mosquitoes and vermin, or threatens or endangers the public health, or adversely affects adjacent property is declared to be a public nuisance and is prohibited. A violation of this provision is subject to the enforcement provisions of this chapter.

(Ord. No. 96-5, § 1, 6-17-96)

(12) Any species found on the Florida Exotic Pest Plant Council's List of Florida's Most Invasive Species.

(Ord. No. 04-02, § 6, 7-12-04)

Chap. 11

**Sec. 11-41. Removal of certain growth of vegetation and weeds.**

(a) It shall be unlawful for the owners of real property located within the boundaries of a platted subdivision in which twenty-five (25) percent or more of the lots have been improved by the construction of residences or other building to either permit weeds, noxious vegetation or grass to grow thereon to a height of more than sixteen (16) inches.

(b) It shall be unlawful for the owners of all real property whose property line adjoins or abuts improved or unimproved real property to either permit weeds, noxious vegetation or grass to grow thereon to a height of more than sixteen (16) inches for a minimum distance of twenty-five (25) feet of such adjoining or abutting land.

(c) Owners of improved or unimproved property adjacent to unimproved property may petition for exemption from this subsection by providing a sworn affidavit on forms provided by the town, from all adjacent unimproved property owners that said property owners do not object to the encroachment of weeds, grass, or other vegetation from the improved or unimproved property upon the property owned by the affiant.

(d) It shall be unlawful for owners of improved or unimproved located within the town to allow weeds, noxious vegetation or grass to grow thereon to a height of more than sixteen (16) inches for a minimum distance of fifteen (15) feet from a road or drainage right-of-way line. Owners of such property shall keep the said fifteen-foot area clear of any obstruction that will interfere with the town's maintenance of roadway or drainage facilities.

(e) Owners of property shall not be required to remove weeds, noxious vegetation or grass if such removal would destroy the habitat of the Florida Scrub Jay, gopher tortoise, black indigo snake or any other state or federally endangered species.

(Ord. No. 04-02, § 6, 7-12-04)

**Sec. 11-42. Notice of violation to owner.**

(a) If the code enforcement officer finds any property in violation or apparent violation of this article he or she shall cause written notice to be delivered to the owner of the property on which such violation or apparent violation is found. Such notice shall contain the following:

- (1) A description of the property on which such violation or apparent violation exists.
- (2) A description of the violation or apparent violation and sufficient detail to reasonably permit the owner to be able to correct the violation described.
- (3) The names of any occupants of the property, if known.



publicly-owned conservation areas do not need to be cut as long as they are healthy and free of pests and weeds and do not constitute a fire hazard.

c. Landscaping shall not interfere with overhead utility lines or underground utility cables or pipes.

(2) Except where the city regularly maintains landscaping in the right-of-way, property owners shall be responsible for maintaining landscaping in the right-of-way abutting their property. The area required to be maintained shall extend to the street pavement, including easements and rights-of-way on the property, regardless of the placement of any fence on the property.

(3) It shall be prohibited to create nuisances or safety hazards such as any vegetation growing in or upon improved roadways, gutters, or sidewalks; standing pools of water; holes; or windblown soil or soil erosion caused by the absence of landscaping.

(4) Correction of violations by city.

a. Failure to comply with notice of violation, authority of code enforcement officer. Upon the failure, neglect or refusal of any owner, or agent of such owner, to comply with an order from the code enforcement officer to eliminate a violation of section 30-702 (b) within:

- (1) Fifteen days after receipt of written notice of violation;
- (2) Fifteen days after the date of such notice if the notice is returned to the city because of inability of the postal service to make delivery thereof, provided that the notice was prop-

erly addressed to the last known address of the owner, or the agent of such owner; or

(3) Fifteen days of personal service of such notice upon the owner, or the agent of the owner;

the code enforcement officer may authorize the removal of such violations by the city and the code enforcement officer may authorize payment for the services necessary to remedy the violation. The city and its agents, employees or contractors are authorized to enter upon the property described in this notice to remedy the violations. The code enforcement officer shall invoice the owner of the property for the services rendered pursuant to this section. The remedies provided in this section are cumulative to those otherwise provided by law.

b. Lien for payment of costs. Where the amount due the city is not paid by such owner within 30 days after the services are performed to remedy the violation by or on behalf of the city under section 30-763, 30-768 or 30-769 the city manager shall cause to be recorded in the public records of the county a sworn statement showing the cost and expenses incurred for the work done and the date, place and property on which such work was done. The recordation of such sworn statement shall constitute a lien on the property for the amount due in principal labor, administrative costs and fees incurred by the city, plus interest and costs of court, if any, for collection, including reasonable attorney's fees, until payment has been made. The effective date of such lien shall

**Sec. 26-62. Purpose and intent.**

The purpose and intent of this article is to:

- (1) Improve the health, sanitation, safety and cleanliness of the city;
- (2) Aid in the prevention of fires, diseases and other casualties by the elimination of trash, garbage, and other debris from streets, alleys, lots, yards, commercial areas, waterways, and recreation areas, in all classifications of the city;
- (3) Decrease the public expense incident to the littering of streets, public places, and private property; and
- (4) Provide for the concomitant beautification of the city through control of litter and trash and maintenance of private and public properties.

(Code 1980, § 8-20(A); Ord. No. 85-22, § 2, 6-4-1985)

**Sec. 26-63. Penalties and enforcement.**

(a) Any person violating any section of this article, upon conviction, shall be punishable as provided in section 1-16.

(b) Violations of this article which are also violations of the Florida Litter Law, F.S. § 403.413, may be enforced in accordance with those powers outlined in the Florida Litter Law, which law is incorporated in this article by this reference.

(c) Violations of this article may be referred to the code enforcement board for disposition. The board shall adhere to its established procedure for notice, timely compliance, and the setting of hearing dates. When violations are referred to the code enforcement board, the penalties for violations shall be in accordance with the provisions for enforcement of its orders. The code enforcement board shall issue findings based on evidence in the record of its hearing and conclusion of law and shall issue an order affording proper relief, consistent with the powers granted to the board by F.S. ch. 162. A person violating this subsection may be punished by a fine not to exceed \$250.00 per day, per incident.

(Code 1980, § 8-20(H); Ord. No. 85-22, § 2, 6-4-1985)

**Sec. 26-64. Property maintenance.**

*West Melbourne*

(a) *Lot maintenance.* Every owner, lessee, or occupant of property within the city shall maintain his property in a clean and litterfree condition. Areas such as sidewalks, grass strips, and contiguous alleys, curbs, and rights-of-way to the edge of the pavement on any public street shall be maintained by the abutting property owners.

(b) *Sweeping.* No person shall sweep into or deposit on any street or sidewalk the accumulation of litter from any property or building.

(Code 1980, § 8-20(D)(1)(a), (D)(1)(b); Ord. No. 85-22, § 2, 6-4-1985)

**Sec. 26-65. Commercial, business and institutional establishment trash.**

(a) *Commercial containerization.* All commercial, business and institutional establishments shall store their trash in containers so as to eliminate wind-driven debris and unsightly litter in

## ARTICLE II. NUISANCES\*

Rockledge 1 of 3 pages

\*Cross references: Nuisance animals, § 5-16; wrecked, abandoned and derelict property, § 13-14; storage of wrecked or dismantled motor vehicles, § 13-15.

↓  
**Sec. 10-16. Definitions.**

As used in this article, the following words, terms or phrases shall have the meanings set forth below:

*Board* means the nuisance abatement board of the city.

*City* means the City of Rockledge.

*City Council* means the city council of the City of Rockledge.

*Code enforcement officer* means any authorized agent or employee of the city whose duty it is to assure compliance with provisions of this Code.

*Improved lot* means any lot on which improvements have been made, including, but not limited to, construction of a building or structure, change of grade through filling or excavation, platted residential subdivision, with installed water or sewer lines, clearing of property to begin construction, or any other physical alteration which has significantly disturbed the natural vegetation on the site.

*Invoice for cost of abatement of nuisance* means a written notice served by the city manager upon a property owner informing the property owner of the cost incurred by the city in causing the abatement of a nuisance as described in this article upon such property owner's failure to abate such nuisance within the time prescribed for abatement by the owner in a notice of violation or in an order of the nuisance abatement board.

*Notice of violation* means a written notice from a code enforcement officer to a property owner informing such property owner of the existence or presence of a nuisance described in this article.

*Nuisance* means any condition, occurrence, event, happening or thing declared to be a nuisance by any provision of this article.

*Nuisance abatement board* means the administrative board created by the city council by the provisions of section 10-19 of this Code.

↙ *Package* is that space between the private property survey line of the property owner and the paved or graded portion of the public street adjacent thereto and includes that area between the sidewalk and street.

*Property owner* means the owner or owners of the fee simple title to real property in the city upon which property a public nuisance is alleged to exist.

*Request for hearing* means a written request from a property owner to the nuisance abatement board requesting said board to conduct a hearing on the issue of the existence or nonexistence of an alleged nuisance described in a notice of violation, or a written request from a property owner to the city council requesting a hearing on the amount of an invoice from the city for nuisance abatement costs.

*Undergrowth* means herbaceous plants, plants and grasses with stems that wither away annually as distinguished from trees or shrubs with woody stems that live from year to year.

*Unimproved lot* means any lot which remains undisturbed and in a natural vegetative state.

*Untended vegetation* shall mean grass, weeds or undergrowth in excess of twelve (12) inches in height from the ground, dead trees, hedges, or dense growth of trees, vines, or other vegetation which tends to create a danger to public health, safety and welfare by creating a fire hazard; by providing a nesting, breeding or feeding area for insects, rodents, snakes, or other species of pest or vermin, or disease-bearing organisms; by impairing the vision of motorists or bicyclists or impeding pedestrians to the extent that traffic and pedestrian safety is impaired; or by adversely affecting the aesthetic appearance of the property upon which the vegetation is found, and adjacent properties.

(Ord. No. 832-87, § 2, 5-20-87; Ord. No. 1152-97, § 1, 12-3-97)

### Sec. 10-17. Maintenance of undergrowth and untended vegetation.

(a) *Maintenance of improved residential lots/parcels, with a building or structure.* The owner of an improved lot or parcel in a residential zone with a lot size of one (1) acre or less shall keep such lots free and clear of all fallen trees and limbs. All untended vegetation, grass and undergrowth shall be cut to a height not exceeding twelve (12) inches. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots, one acre or more, to be cut to a height less than twelve (12) inches within such areas.

(b) *Maintenance of improved residential lots/parcels, without a building or structure.* The owner of an improved lot or parcel in a residential zone shall keep such lot/parcel of land and that portion of his property abutting and within ten feet of any improved lot/parcel, sidewalk, street or bicycle path and free and clear of all fallen trees and maintain all untended vegetation, grass and undergrowth therein shall be cut to a height not exceeding of twelve (12) inches.

(c) *Maintenance of unimproved residential lots/parcels.* The owner of an unimproved lot in a residential zone with lot sizes of one (1) acre or less shall keep that portion of his property abutting and within ten feet of any improved lot, sidewalk, street or bicycle path free and clear of all fallen trees and limbs and all untended vegetation, grass and undergrowth therein shall be cut to a height not exceeding of twelve (12) inches.

(d) *Maintenance of non-residential zoned lots/parcels.* The owner of every lot, piece and parcel of land located within a non-residential zone within the city shall keep such lot, piece, or parcel of land and that portion of his property abutting and within ten feet of any improved lot/parcel, sidewalk, street or bicycle path and free and clear of all fallen trees and maintain all untended vegetation, grass and undergrowth therein shall be cut to a height not exceeding of twelve (12) inches.

(e) *No property maintenance permit required; other restrictions and requirements applicable.* No permit shall be required for limited property maintenance required by this section; however the requirements, restrictions, and limitations imposed by other sections of this Code and applicable provisions of the land development regulations pertaining to environmental preservation, tree removal, change of grade, etc. shall be effective. In the event of any conflict between this section and other provision of this Code or applicable provision of the land development regulations, the other sections of this Code or applicable provisions of the land development regulations shall prevail and govern.

(f) *Abutting property owner maintenance of parkages.* It shall be the responsibility of every owner of real property within the city to at all times cause to be cut and mowed the undergrowth, grass and untended vegetation, and to cause to be cut and trimmed the flowers, vines, grasses, shrubbery and trees, in a manner that protects and promotes the public health, safety and welfare and presents an aesthetically pleasing appearance in those areas of the parkage most nearly abutting their properties. Parkages abutting improved residential or commercial lots/parcels shall be maintained as provided in this subsection (a) of this section for improved residential lots/parcels. Parkages abutting unimproved residential lots/parcels shall be

maintained as provided in subsection (b) of this section for maintained portion of the unimproved residential lot/parcel. At all times this area shall be maintained in order to provide clear and safe visibility for pedestrian and vehicle movement. Every property owner shall have the duty of removing any refuse or other debris existing within the adjacent parkage, but the placement of refuse for collection in a manner and in containers specified by other provisions of this code is not prohibited.

(Ord. No. 832-87, § 2, 5-20-87; Ord. No. 1152-97, § 2, 12-3-97)

#### **Sec. 10-18. Garbage, refuse, dead animals, debris, other accumulations constituting a nuisance.**

Uncontained and exposed garbage, refuse, surface closets, dead animals, trash, waste and unused lumber or metals, or other waste materials, sawdust, or debris of any kind, are things that attract flies and insects, harbor rodents, vermin and dangerous reptiles, increase the danger of fires and the spread thereof, produce unpleasant odors, stench and smells, and are otherwise dangerous to the health, comfort, convenience and general welfare of residents of the city, and any of such things, separately or severally, is hereby declared to be a public nuisance. No owner of any lot, place or area in the city shall cause, permit or allow to be placed, deposited, stored, kept or allowed to exist upon such lot, place or area any uncontained and exposed garbage, refuse, surface closet, dead animal, trash, waste lumber or metal, or other waste materials, sawdust, or debris of any kind. Any public nuisance as described in this section may be abated by the city in the manner hereinafter provided in this article.

(Ord. No. 832-87, § 2, 5-20-87)

**Cross references:** Garbage and trash, Ch. 9.

#### **Sec. 10-19. Nuisance abatement board created.**

There is hereby created the nuisance abatement board of the city, hereinafter referred to as the "board," composed of the city manager, fire chief and director of public works, all of the city, the purpose, duty and function of which board is to serve as a quasijudicial administrative board of the city to hear and determine the issue of the existence or nonexistence of any alleged violation of the provisions of this article as charged in a notice of violation presented by a code enforcement officer of the city when a hearing on such issue is timely requested in writing by a property owner, and to perform such other duties and functions as the city council may from time to time prescribe by ordinance to further the objectives of this article. The city manager shall be the chairman of the board. Two (2) members of the board will constitute a quorum, and the concurring vote of two (2) members will be necessary to carry any motion, action or ruling of the board. All meetings of the board shall be open to the public and reasonable advance public notice shall be given of all meetings of the board. The board shall cause a written record to be prepared and maintained of its proceedings and actions. The board shall adopt rules of procedure for the conduct of its affairs and shall meet as often as required to effectively discharge its duties. In all hearings conducted by the board strict rules of evidence shall not be imposed, however, substantive rights of due process shall be observed and protected.

(Ord. No. 832-87, § 2, 5-20-87)

#### **Sec. 10-20. Notice of violation.**

When any code enforcement officer of the city finds and determines that any public nuisance as described in this article exists, he shall serve the owner of record of the property upon which the nuisance exists with a written notice of violation, which notice shall contain the following information: