



**TOWN
OF
MALABAR**

AGENDA PACKET

January 23, 2017

Council Meeting
7:30 PM

**TOWN OF MALABAR
REGULAR TOWN COUNCIL MEETING
MONDAY, JANUARY 23, 2017
7:30 PM
2725 MALABAR ROAD, MALABAR, FLORIDA**

AGENDA

- A. CALL TO ORDER, PRAYER AND PLEDGE**
- B. ROLL CALL**
- C. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:**
- D. APPROVAL OF THE MINUTES:**
 - 1. Regular Town Council Meeting Minutes 1/9/17**
 - Exhibit:** Agenda Report No. 1
 - Recommendation:** Request Approval
- E. CERTIFICATE OF APPRECIATION: Good Citizen Recognition
PROCLAMATION JAN 22-28, 2017 SCHOOL CHOICE WEEK**
- F. ATTORNEY REPORT:**
- G. STAFF REPORTS: ADMINISTRATOR: CLERK: FIRE CHIEF**
- H. PUBLIC COMMENTS:** Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required) Three (3) Minute Limit per Speaker.
- I. PUBLIC HEARINGS/SPECIAL ORDERS: 1**
 - Moratorium Ordinance Related to Medical Marijuana (Ord 2017-01) Public Hearing**
 - 2. AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MALABAR, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON THE SUBMITTAL, PROCESSING, AND ISSUANCE OF LOCAL BUSINESS TAX RECEIPTS OR LAND USE PERMITS, DEVELOPMENT ORDERS, MODIFICATIONS OR APPROVALS FOR MARIJUANA DISPENSING ORGANIZATIONS OR MEDICAL MARIJUANA TREATMENT CENTERS AND RELATED FACILITIES AND ESTABLISHMENTS FOR A PERIOD SPECIFIED; PROVIDING FOR LEGISLATIVE FINDINGS; THE GEOGRAPHIC AREA COVERED; REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY AND AN EFFECTIVE DATE.**
 - Exhibit:** Agenda Report No. 2
 - Recommendation:** Approve Ord 2017-01
- J. UNFINISHED BUSINESS/GENERAL ORDERS
ORDINANCES FOR FIRST READING: 0
RESOLUTIONS: 0**
 - MISCELLANEOUS: 3**
 - 3. Detailed Progress Report on SpringFest 2017 from Events Committee Chair**
 - Exhibit:** Agenda Report No. 3
 - Recommendation:** Action
 - 4. R/LC and Land Use Maps – Set Workshop Dates**
 - Exhibit:** Agenda Report No. 4
 - Recommendation:** Action

5. Discuss Possible Purchase of Billie/Durak Property 2715 Malabar

Exhibit: Agenda Report No. 5

Recommendation: Action

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

K. DISCUSSION/POSSIBLE ACTION:

6. Discuss Possible Sale or Lease of Surplus Park Land

Exhibit: Agenda Report No. 5

Recommendation: Discussion and Direction

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

L. REPORTS – MAYOR AND COUNCIL MEMBERS

M. ANNOUNCEMENTS:

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

N. ADJOURNMENT:

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

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 1
Meeting Date: January 23, 2017

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

SUBJECT: Approval of Minutes

BACKGROUND/HISTORY:

Attached are the summary minutes for the following meeting:

- Regular Town Council Meeting – 1/23/2017

It was determined during the last year that the minutes should be a brief summary of what occurred in the meeting. For specific details, audio of the meeting is available.

ATTACHMENTS:

Draft Minutes of the 1/23/17 meeting

ACTION OPTIONS:

The Town Clerk requests approval of the minutes.

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES
January 9, 2017 7:30 PM

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

A. CALL TO ORDER:

Chair, Mayor Pat Reilly called the meeting to order at 7:30 pm. CM Mahoney led the prayer and pledge.

B. ROLL CALL:

CHAIR:	MAYOR PATRICK T. REILLY
VICE CHAIR:	STEVE RIVET
COUNCIL MEMBERS:	GRANT BALL
	LAURA MAHONEY
	DICK KORN
	RICHARD KOHLER
	DOUGLAS HOYT
	KARL BOHNE
	DEBBY FRANKLIN
TOWN ADMINISTRATOR:	
TOWN ATTORNEY:	
TOWN CLERK/TREASURER:	

For the record, Fire Chief Leonard Thomassen was also in attendance with a large portion of the Malabar Fire Department.

C. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES: Discussion.

MOTION: CM Korn / CM Kohler to accept agenda as presented. **Vote:** All Ayes.

D. APPROVAL OF THE MINUTES:

1. Regular Town Council Meeting Minutes 12/05/16

Exhibit: Agenda Report No. 1

Recommendation: Request Approval

MOTION: CM Rivet / CM Ball to approve RTCM minutes of 12/05/16.

CM Mahoney would like to add her comments: Minutes should not show bias and some comments should not be in print ex: "twisting Massey's arm".

CM Korn said this has been discussed before. He was not in favor of abbreviating the minutes but was ok since there was audio. Attorney stated there is no requirement for audio. The written minutes are the official record of the meeting.

Vote: All Ayes.

E. BCSO REPORT: no one from BCSO

F. ATTORNEY REPORT: Nothing at this time

G. BOARD/COMMITTEE REPORTS:

Drew Thompson, Chair T&G – Thanked TA for the ADA restroom. He has pictures but since there is a pretty heavy agenda, he will defer. Starting on a storm shelter in Cameron Preserve. Will be showing some pictures in the future. They expect to be done by late Spring. CM Mahoney asked where that was. Thompson described follow the green trail within the Cameron Preserve, below the circular trail that connects the Malabar Scrub with Malabar West Sanctuary.

H. STAFF REPORTS:

Administrator:

- First item was that each CM has received a copy of the "Budget to Actual" for quarter ending December 31, which is the end of the 1st quarter of the Fiscal Year and said the Town is in black for this first quarter of this FY. (CM have also received on monthly basis the "Budget to Actual" at end of each month (Oct-Dec).

Signage for new stop sign at Corey and Benjamin is up and stop sign should be up at end of this month. New stop signs on Corey and Weber are a positive aspect to the traffic.

ADA restroom at trailhead is in good shape; almost complete; painted ADA striping today.

Huggins Park – in early 2000's it was brought to Council that it was not being used and should be closed. The swing set was scrapped; the pagoda went to Disc Park. Currently have two people interested in the property. In either case if, the town wanted to get rid of it. Brevard County is also getting rid of surplus park property. There is one issue clouding the title. There is a reverter clause. Suspect they will issue a letter to clear it up. There is interest by someone that wants to build a home on it and there is someone interested in a 99-year lease to preserve the natural land.

CM Rivet: put on for Discussion item for next meeting. CM Korn said park was closed by TA not by Council. CM Korn said Council should continue the remembrance. Take the name Huggins and apply it to something else. Do not forget the descendants.

TA said Stormwater drainage is next topic. Gave background and then narrated a video of Atz Road ditch issues; on private land, too deep in places and nonexistent in places; not functioning. Then Eng Morris Smith went over a Power Point describing the test to prove the purpose of TA drainage plan. Have the Stormwater on north side of Atz Road east of Candy Lane flow to the east into existing ponds. Stormwater flowing west from Candy Lane would proceed west to Corey and flow north to Turkey Creek. The stormwater drainage system needs to be within the Town's ROW for maintenance purposes. It can no longer be expected to work while going through private property the town can't maintain.

TA said another benefit of the improvements at the east end of Atz Road would allow an alternative method to cross the FEC railroad crossing if necessary.

CM Ball asked about hydrology – Engineer explained once ground is saturated it will not hold any more water.

CM Korn said this project area of Candy Lane east is a sample site to show residents what can be done but there are areas west of Weber that are more impacted. Would not want people to think that you are picking this project because it was easy. TA said this is a stormwater project that can be done within our budget that will have positive impact on a large area. The stormwater project proposed on the west side of Weber to direct stormwater into the Melbourne Tillman is estimated to cost millions and will require funding assistance, which we are pursuing.

CM Rivet has talked to many residents and stormwater is number 1 issue. It is said how do you eat an elephant – one bite at a time. This is a project that can be done and see the results. Then move on to the next doable project.

Start a grid and set up a schedule of projects.

Chair asked if they have enough info to go out to bid. Engineer said not yet, he has to make actual surveying.

CM Mahoney asked if it is the both sides. It is on the north side. She said they need to get the information out to residents. Agreed with CM Korn that Weber Road has major drainage issues.

TA did a very rough estimate of how to get the water west of Weber to go west and it was 2-4 Million. TA said this one is very visible and would not break the bank.

TA said they plan to go house to house and explain the project to the people.

Chair asked what he is asking from Council. To continue working on biddable documents. Looking for approval to proceed.

MOTION: Rivet / Kohler to approve continued activity to get biddable documents. Vote: all Ayes.

Clerk: Planner's Training opportunity is highly recommended for P&Z Members, Council and staff. We have eight persons signed up. The American Planning Association offers this training annually at a very reasonable cost.

Fire Chief: Apologized for having to leave earlier – had a bad accident on SR514. FF Blanch was here from up north to support him and he helped with the bad accident. He then went over the yearend type of numbers: response times and numbers of volunteer hours and types of mutual aid given. Upward trend in calls for service up 24% from 2014. Fire Fighter 1 class going on at station currently. He referenced the revenue brought in for these classes. They offer these classes to Malabar volunteer fire fighters for free if they commit to give us one year of service. Bringing new truck up to standards at no cost to residents.

- 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) Three (3) Minute Limit per Speaker.

Bill Withers, Candy Lane said Huggins Park was used by 2-5 years of age. Roads are the only commonality among Malabar residents. This town is never going to grow unless you raise the taxes. He would be willing to pay double of his Malabar taxes. There is a way to figure out which roads are hard surfaced first. Mayor Beatty said we should set aside 2 mil a year. Why shouldn't we do that? Length of road times the numbers of driveways. The streets with the most houses would be done first. He then referred to the new stop signs and read from Chap 2B, stop signs guidance – they should not be used to control speed. Not on major street unless a traffic engineering study has been done.

- J. PUBLIC HEARINGS/SPECIAL ORDERS: 0**
K. UNFINISHED BUSINESS/GENERAL ORDERS
ORDINANCES FOR FIRST READING: 1

- 2. Moratorium Ordinance Related to Medical Marijuana (Ord 2017-01)**
 AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MALABAR, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON THE SUBMITTAL, PROCESSING, AND ISSUANCE OF LOCAL BUSINESS TAX RECEIPTS OR LAND USE PERMITS, DEVELOPMENT ORDERS, MODIFICATIONS OR APPROVALS FOR MARIJUANA DISPENSING ORGANIZATIONS OR MEDICAL MARIJUANA TREATMENT CENTERS AND RELATED FACILITIES AND ESTABLISHMENTS FOR A PERIOD SPECIFIED; PROVIDING FOR LEGISLATIVE FINDINGS; THE GEOGRAPHIC AREA COVERED; REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY AND AN EFFECTIVE DATE.

Chair directed Clerk to read by title only.

MOTION: CM Rivet / CM Kohler to approve Ord 2017-01. Discussion:

Attorney Bohne said several years ago Legislature adopted FS 381, allowing for low THC provision for some medical treatments. At that time he had asked Council if they wanted to adopt

an ordinance – no interest. The recently passed Amendment II flat out prohibits banning them. We have already had inquiries. Health Department has six months to make rules. His recommendation is to do this and then adopt ordinance establishing zoning regulations. He has done three of them now. They have put them in industrial areas, with distances from residences, schools etc. This is not an anti-medical marijuana ordinance. Without this ordinance, we have no protection. There will be legal challenges if you try and prohibit them by zoning. Do similar to what we did with adult entertainment. Security procedures must also be included. CM Ball said P&Z should start working on this. Atty will provide a draft to get it started and give to P&Z Board.

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

RESOLUTIONS: 1

3. (Reso 01-2017)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPROVAL OF CONTRACT FOR FIRE CHIEF LEONARD THOMASSEN; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 3

Recommendation: Approve Reso 01-2017

Chair directed Clerk to read by title only.

MOTION: CM Kohler / CM Korn to approve Reso 01-2017. Discussion:

CM Mahoney has no problem with Fire Chief Thomassen but is uncomfortable with the resolution. Attorney stated the only thing the resolution does is adopt the contract. She does not believe there should be severance. CM Ball has same problem with the severance payout. That would not be normal in most employment. That is his issue. Atty said Chief proposed this clause; that is his offer to Council. Council can renegotiate. Chair recognized TA who spoke regarding this. There is no severance for cause, only if Council dissolves the fire dept. Malabar had 21,000 of volunteer hours. If you were to pay them the average salary of 23.00/hr plus 23% for benefits there is no way we could afford this. There is no way that Brevard County can provide this level of service and response. He then went over statistics about cost to residents for County. CM Ball said the severance clause does not make sense to him; can't see tying future council's hands.

CM Korn said it makes perfect sense to him. When Chief Robinson came in then it got in line. His insurance was just renewed and he saved 500 because the ISO rating improved. Because of the progress this fire dept has done. He spoke with TA and he said they would be ok. They have a good good good Fire Dept. We are doing in house training that they used to have to get from outside agencies. The point is the severance. He said there is a bad history for support of the fire dept. He said the Chief is staking the next three years of his life on this town and wants some level of support. CM Kohler said he agrees with CM Korn.

Chair called for a vote on Item 7; if it does not have the support then they can possibly make an amendment.

CM Kohler asked Chief to speak. Chief said that time and time again there has been talk of getting rid of FD. If the Council supports the Chief, then the Lts and the members can be calm and know they are supported. You are giving a vote of confidence, saying yes we are behind our Fire Dept.

CM Mahoney problem is that Council has ignored the citizens. She had problem with citizens not being heard.

CM Korn – if you take the salary and the 50K and you still don't reach the amount that his relative is making as a Captain at a fire dept in south Florida.

Vote on Item 7: Aye, 3; Nay, 2 (Ball, Mahoney).

ROLL CALL VOTE (on Reso 01-2017): CM Ball, Nay; 1)CM Mahoney, Nay; CM Rivet, Aye; CM Korn, Aye; CM Kohler, Aye. Carried 3 to 2.

MISCELLANEOUS: 2

- 4. **Cancel RTCM 2/20/17** (Postpone to 1st mtg of Feb)
Exhibit: Agenda Report No. 4
Recommendation: Request Approval

- 5. **Approve Park and Recreation Board Recommendation for a Memorial to Mayor Carl Beatty**
Exhibit: Agenda Report No. 5
Recommendation: Request Approval

MOTION: CM Korn / CM Kohler to approve Carl Beatty PW Complex with a metal sign.

CM Mahoney design something that would have several like CM Ball had strong and weak points – make it the Carl Beatty PW Complex.

Vote: All Ayes.

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

L. DISCUSSION/POSSIBLE ACTION: 2

- 6. **R/LC and Land Use Workshop Status**
Exhibit: Agenda Report No. 6
Recommendation: Discussion

Chair asked what is the status. He suggested Council read the packet that was prepared for them and put on agenda for next meeting to set workshop date.

- 7. **Allowing Volunteers to Maintain Soccer Field**
Exhibit: Agenda Report No. 7
Recommendation: Request Approval

CM Korn asked Bill Withers to speak. He took the Dept of Agriculture Pesticide Public Applicator License course when he maintained the park and paid for it himself; thought it was \$85.00. Problem recently is over use. Originally had special grass on it known as 417 that requires special care. It comes in from Tampa. Go out to Lesco and get weed and feed. Then close it and let it rest. Huggins Park would make a good volleyball place.

CM Mahoney said they have had volunteer help. The Boy Scouts have done a tremendous amount of work. CM Ball asked if it only costs \$85 and takes one day, someone from PW should hold that certificate. Consensus to accept volunteer work.

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

Brain Vail, potential of selling Huggins Park. Propose Billie property to be improve town's complex. Put on the next agenda. Money received from the sale of park can be put towards the purchase.

N. REPORTS – MAYOR AND COUNCIL MEMBERS

- Mayor – nothing
- 1) CM Ball – nothing

- 2) CM Mahoney – document roads being worked on. Figure out where the edges of the roads need fixing. Then work on publishing the maintenance schedule.
- 3) CM Rivet – Concerns with preparations for SpringFest. He has not heard anything. Would like an update. CM Mahoney said the committee decided to move right into a private entity and will have the flyers out soon. They are going to have to meet every week.
- 4) CM Korn – SCLC next meeting will formalize their legislative priority list. When Legislature goes back into session then the Advocacy committee speaks to those priorities. Tomorrow’s County Commission meeting will discuss Mr. Tobia’s agenda item that would require anyone speaking on behalf of any group would have to be registered as a lobbyist. SCLC did not vote on this but no one spoke in support of it.
- 5) CM Kohler – nothing

Staff items for future agendas: possible purchase of Billie property (2715 Malabar Road)
 possible sale or lease of Huggins Park
 set date for workshop on R/LC and FLUM

O. ANNOUNCEMENTS:

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

P. ADJOURNMENT:

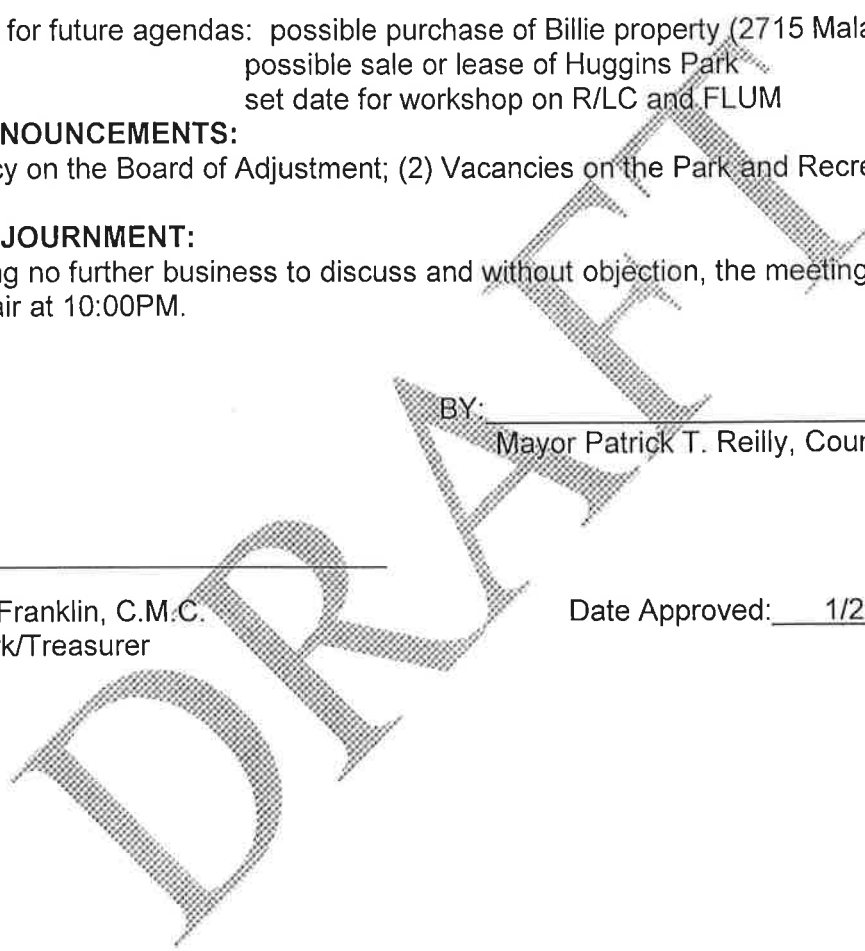
There being no further business to discuss and without objection, the meeting was adjourned by the Chair at 10:00PM.

BY: _____
 Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

Date Approved: 1/23/2017



MALABAR PROCLAMATION

School Choice Week January 22-28, 2017

WHEREAS, all children in Malabar should have access to the highest-quality education possible; and,

WHEREAS, Malabar recognizes the important role that an effective education plays in preparing all students in Malabar to be successful adults; and,

WHEREAS, quality education is critically important to the economic vitality of Malabar; and,

WHEREAS Brevard County is home to a multitude of high-quality traditional public schools, public magnet schools, public charter schools, and nonpublic schools from which parents can choose for their children; and,

WHEREAS, educational variety not only helps to diversify our economy, but also enhances the vibrancy of our community; and,

WHEREAS, Brevard County has many high-quality teaching professionals in traditional public schools, public magnet schools, public charter schools, and nonpublic schools who are committed to educating our children; and,

WHEREAS, School Choice Week is celebrated across the country by millions of students, parents, educators, schools and organizations to raise awareness of the need for effective educational options;

NOW, THEREFORE, I, Patrick T. Reilly, Mayor of the Town of Malabar, do hereby recognize January 22-28, 2017 as MALABAR SCHOOL CHOICE WEEK in BREVARD COUNTY, FLORIDA and I call this observance to the attention of all of our citizens.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of January 2017.

(Seal)

Mayor Patrick T. Reilly

Attest:

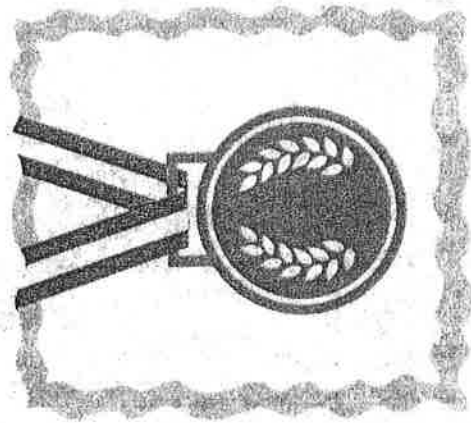
Town Clerk/Treasurer

Town of Malabar Certificate of Appreciation

*For your Interest and Involvement in "Making a Difference" in Malabar by
Collecting Roadside Rubbish on your Daily Walks*

The Town truly appreciates your efforts.

RONALD & SHARON JOHNSON



Malabar Town Council

Presented: January 23, 2017

Mayor Patrick T. Reilly, Council Chair

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 2
Meeting Date: January 23, 2017

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

SUBJECT: Town Initiated Moratorium (Ord 2017-01)

BACKGROUND/HISTORY:

Second Reading of Ordinance 2017-01. The Town Attorney Karl Bohne has strongly recommended this ordinance be adopted ASAP since the referendum was approved in November related to medical Marijuana.

FINANCIAL IMPACT:

Unknown at this time.

ATTACHMENTS:

Ord 2017-01

ACTION OPTIONS: Council Action

ORDINANCE 2017-01

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MALABAR, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON THE SUBMITTAL, PROCESSING, AND ISSUANCE OF LOCAL BUSINESS TAX RECEIPTS OR LAND USE PERMITS, DEVELOPMENT ORDERS, MODIFICATIONS OR APPROVALS FOR MARIJUANA DISPENSING ORGANIZATIONS OR MEDICAL MARIJUANA TREATMENT CENTERS AND RELATED FACILITIES AND ESTABLISHMENTS FOR A PERIOD SPECIFIED; PROVIDING FOR LEGISLATIVE FINDINGS; THE GEOGRAPHIC AREA COVERED; REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Florida Right to Medical Marijuana Initiative was on the November 8, 2016 ballot as Amendment 2 under the title "Use of Marijuana for Certain Medical Conditions," and, it passed and become Section 29 to Article X of the Florida Constitution; and,

WHEREAS, Florida Statute sect. 381.986 as well as passage of Amendment 2 legalized the medical use of marijuana, allows for the creation of medical marijuana treatment centers, and allows for licensed caregivers to dispense medical marijuana; and,

WHEREAS, Amendment 2 directs the Florida Department of Health to promulgate regulations for the registration of medical marijuana treatment centers, and to establish procedures for the issuance of patient and personal caregiver identification cards; and,

WHEREAS, the Town of Malabar regulates the use of land within the Town of Malabar in accordance with the Future Land Use Map designations in the Comprehensive Plan and the Land Development Regulations; and,

WHEREAS, the Town is considering an ordinance to regulate medical marijuana dispensing under its Code; and,

WHEREAS, the Town desires to wait to issue any permits, development orders, modifications or approval for a medical marijuana dispensary or treatment center and until passage of an ordinance regulating these establishments and facilities and until the Florida Department of Health promulgates all appropriate regulations, so that the Town has time to review applicable regulations for the avoidance of regulatory conflict; and

WHEREAS, the Town desires to protect the public health, safety and welfare of the Town by adopting the referenced ordinance and by reviewing the impact of Amendment 2 and all applicable Florida Department of Health regulations prior to issuing any permits, development orders, modifications or approvals.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Town Council of the Town of Malabar, Florida, as follows:

Section 1. Legislative Findings.

That the above recitals are true and correct and are incorporated herein by reference.

Section 2. Intent and Purpose.

The intent and purpose of this Ordinance is to provide the Town of Malabar with the opportunity to adopt an ordinance regulating, through zoning and land use, medical marijuana dispensing facilities and related establishments and to review the impact of a constitutional amendment legalizing medical marijuana and the impact of Department of Health regulations that have yet to be enacted prior to issuing any permits, development orders, modifications or approvals.

Section 3. Moratorium Imposed.

The Town council hereby prohibits the issuance of any permit, development order, modification or approval for the operation of any medical marijuana dispensary or medical marijuana facility in any area subject to the jurisdiction of the Town and a moratorium is declared effective as follows:

1. The Town of Malabar shall not accept, process or approve any application or other request for business tax receipts, licenses, building permits, land use permits, or any development permits concerning or related to a medical marijuana treatment center, medical marijuana dispensary, personal caregiver or any other marijuana related activity or use within the corporate limits of the Town.

2. The Town of Malabar shall not accept, process or approve any licenses, permits, modifications or approvals for any property, entity, or individual for the sale or dispensation of marijuana, or for the operation of any medical marijuana treatment center or medical marijuana dispensary, or to operate as a personal caregiver so long as this ordinance is in effect. No person, entity or partnership shall establish, operate or engage in the operation of a medical marijuana treatment center or medical marijuana dispensary within the corporate limits of the Town.

Nothing in this temporary moratorium shall be construed to prohibit the medical use of marijuana or low-THC cannabis by a qualifying patient, as determined by a licensed Florida physician, pursuant to Amendment 2, Fla. Stat. § 381.986 or other Florida law.

Section 4. Duration of Moratorium.

The moratorium imposed by this ordinance shall be effective upon adoption of this Ordinance and shall remain in effect until the Town adopts a zoning and land use ordinance concerning medical marijuana treatment centers and/or medical marijuana dispensaries and related facilities and establishments and the final rules have been adopted by the Florida Department of Health for the registration of medical marijuana treatment centers, and to establish procedures for the issuance of patient and personal caregiver identification cards as well as other rules which may be adopted by the Department of Health and for a period of for two hundred eighty (280) days from the final adoption of the rules by the Florida Department of Health, unless rescinded sooner. Prior to the expiration of the moratorium, the town may extend the moratorium for an additional eighty (80) days.

Section 5. Ordinance to Be Liberally Construed.

This ordinance shall be liberally construed to carry out its purposes, which are deemed to be in the best interest of the public health, safety, and welfare of the citizens and residents of the Town of Malabar.

Section 6. Severability.

Should any section, phrase, sentence, provision, or portion of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 7. Effective Date

This Ordinance shall take effect immediately upon its final adoption by the Town council.

Section 8. 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 Laura Mahoney _____
- Council Member Steve Rivet _____
- Council Member Dick Korn _____
- Council Member Richard Kohler _____

Passed and adopted by the Town Council, Town of Malabar, Brevard County, Florida this ____ day of _____, 2017.

TOWN OF MALABAR

By: _____

Mayor Patrick T. Reilly, Council Chair

APPROVED AS TO FORM AND CONTENT:

Karl W. Bohne, Jr., Town Attorney

ATTEST:

Debby K. Franklin, CMC
Town Clerk/Treasurer

(seal)

1st Reading: _____
2nd Reading: _____

Should
Be Blank

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 3

Workshop Meeting Date: January 23, 2017

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

SUBJECT: Detailed Progress Report on SpringFest 2017 from Events Committee Chair

BACKGROUND/HISTORY:

The Chair, Mayor Reilly, requested that this item be on the agenda and for me to contact the Events Committee Chair to make this request verbally. He wants a detailed report on the following:

- What band(s) have been selected
- What food vendors have been selected
- Hours and date of the event
- Who is doing the Car show
- Will there be an MC – has that person been selected

FINACIAL IMPACT:

Unknown

ATTACHMENTS:

none

ACTION OPTIONS:

Discussion and Action

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 4

Workshop Meeting Date: January 23, 2017

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

SUBJECT: Set Workshop Date(s) for R/LC and Land Use Map Workshops

BACKGROUND/HISTORY:

Council Chair Pat Reilly asked for Council to review the notebook that was handed out last meeting and be prepared to set workshop dates.

ATTACHMENTS:

Calendar showing Council Meeting Dates

ACTION OPTIONS:

Action

2017

JANUARY							FEBRUARY							MARCH							APRIL															
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S									
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SEPTEMBER							OCTOBER							NOVEMBER							DECEMBER							
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TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 5

Workshop Meeting Date: January 23, 2017

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

SUBJECT: Possible Purchase of Billie/Durak Property, 2715 Malabar Road

BACKGROUND/HISTORY:

In the past, the purchase of this one-acre parcel had strong council support. It would connect the public works property with the town hall property.

FINACIAL IMPACT:

Current asking price is \$159,000.00

ATTACHMENTS:

Past council meeting handouts regarding this property.

ACTION OPTIONS:

Action

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 5
Meeting Date: July 15, 2013

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

SUBJECT: Approve Purchase of 2715 Malabar Road

BACKGROUND/HISTORY:

Ms. Genevieve Billie stopped by Town Hall to thank the Town for the card we sent at the passing of her husband, George Billie Jr. She stated that the family was now ready to sell the property. Since 2005 Malabar has been interested in the property. In 2008 Council adopted a resolution authorizing the purchase of the property for \$175,000.00. At that time, the family had requested we hold off but would have first offer when they are ready.

She is asking if the Town is still interested in purchasing it. We can negotiate the sale with the Town demolishing the structures or the owners.

The property is valued and taxed currently as a residence. It is located in CG zoning. Purchasing this property would allow the Town to expand the building and would also connect Town Hall to the Public Works property.

ATTACHMENTS:

Correspondence from prior Council discussions
Property Appraiser information

ACTION OPTIONS:

Staff requests Action

TOWN OF MALABAR

MEMORANDUM

Date: April 22, 2011 2011-TC/T-071
To: Honorable Council, Mayor Eschenberg
From: Debby K. Franklin, Town Clerk/Treasurer
Ref: Contact with Property Owner – 2715 Malabar Road

I called and spoke with Mrs. Billie regarding the property next door. She explained that her husband was not doing well health wise and they don't have any plans to put it on the market at this time or in the near future. She explained that he enjoys coming to the property and putting and the family did not want to take that away from him at this time.

She acknowledged that there is still belongings in the house and outbuildings they want to remove and that they will probably handle the demolition and land clearing before they put it on the market.

She said the family has spoken about selling the property and they agreed to allow Malabar to have first offer. They would like to wait until the economy improves and also until they have had a chance to clean out the buildings and clean up the property. They have not discussed the asking price at this time.

She did say a lady realtor stating she represented the Town called her awhile back and wanted her to meet her at the property so she could walk through the buildings. Mrs. Billie declined. I told her there had been discussions about what the Town could do with the property but all of them involved clearing the land.

I sent Mrs. Billie a note memorializing our conversation. She said she would be in touch.



2725 Malabar Road
Malabar, FL 32950
321-727-7764 (Office) 321-722-2234 (Fax)
www.townofmalabar.org
townclerk@townofmalabar.org

April 22, 2011

Mrs. Genevieve Billie
912 Darwin Lane NE
Palm Bay, FL 32905

Dear Mrs. Billie:

Thank you for speaking with me on Thursday. As I explained on the phone, Malabar Council at their regular meeting on April 18, 2011 asked that I contact you to get a status on the property next to Town Hall where your parents-in-law lived.

From our conversation, I learned that your family is not nearly ready to market the property. There are still belongings that you want to remove from the house and buildings. You also shared with me that your husband has not mentioned selling the property and you and your children also have no immediate desire to market it. In addition to that, you stated the market is not favorable at this time.

Malabar Council has expressed a strong interest in purchasing the one-acre property to connect Town Hall with the Public Works Complex property. You did confirm that when your family is ready to sell the property you and your family would let the Town of Malabar have first offer.

You also shared with me your family's idea of possibly naming the property after the two long time families in Malabar history. Mrs. Mary Durak Billie's father built the houses on the property next door. I was told that Mrs. Billie was born in the house on the west side. We have purchased the two books written by the Duraks and displayed them at our recent public events.

In March of 2012, we will hold our next Spring Fest event and will feature a booth with Malabar history to help celebrate the 50th anniversary of the Town's incorporation. We hope to have several sets of the Durak's books available for that event.

If you are ever contacted by someone stating they are acting on behalf of the Town, please feel free to contact me to verify their intent. Malabar shares your concerns with the current economy and the real estate market and is happy to know that you will give them first offer when the time is right.

Sincerely,

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

OFFICE OF THE TOWN CLERK
PHONE (321) 727-7764
FAX (321) 722-2234



TOWN HALL
2725 MALABAR ROAD
MALABAR, FLORIDA 32950-4427



Letter of Intent

January 25, 2006

Dear Mr. George Billie,

This letter, when countersigned by the Seller in the space provided below, will constitute a non-binding letter of intent and outline, pursuant to which the undersigned and Seller would propose to purchase the Property.

Our tender is as follows:


1. Purchase Price: The Purchase Price shall be the total sum of \$150,000.00 (One Hundred Fifty Thousand dollars and no cents).
2. Manner of Payment:
 - A. A deposit of \$1,500.00 (One Thousand Five Hundred dollars and no cents) upon the full execution of a formal Purchase Agreement.
 - B. Further deposits as follows:
(none)
 - C. Cash at closing of \$148,500.00 (One Hundred Forty-Eight Thousand Five Hundred dollars and no cents)
 - D. Purchase Money Note and Mortgage to be executed in favor of the Seller as follows:
(none)
 - E. Third party financing with terms as follows:
(none)
3. Closing: Closing shall take place on July 1, 2006
4. Investigation: We shall have the following rights of inspection and investigation as to the Property:
60 days from the date of this Letter of Intent, to determine if property is suitable for Buyers intended purposes, whatever those purposes may be.
5. Real Estate Commission: Seller shall pay the Real Estate Commission relative to this transaction to the Broker, (none), either in accordance with Seller's agreement with said Broker or based upon a percentage of the purchase price.
6. Marketing of Property: From the date of your countersignature hereto, until such time as we enter into a binding Purchase Agreement, but in no event later than 90 days or until it becomes obvious that we will not enter into a binding Purchase Agreement because of a fundamental disagreement, the Seller and Seller's agents, brokers, employees and/or other representatives will remove the Property from the market, and agree not to show or otherwise offer the Property to any other party.

7. Formal Agreement: This Letter of Intent is non-binding, and represents only a statement of our current intention to negotiate for and, provided such negotiations conclude successfully, enter into a definitive and binding Purchase Agreement in a form mutually acceptable. In all events, our decisions whether or not to enter into a binding Purchase Agreement is expressly subject to and contingent upon a more complete review of all of the relevant physical and economic factors concerning the Property, and therefore, the parties acknowledge that additional information and/or negotiations may be necessary to enter into or consummate a formal Purchase Agreement. If the parties cannot reach an agreement and enter into a formal Purchase Agreement by March 20, 2006, for whatever reason, there shall be no liability to either party as a result of the execution of this Letter of Intent. It is the intent hereof that this letter is an expression of interest of the parties to enter into a formal Purchase Agreement, and is not a binding or enforceable document. No party, agent, broker or employee shall have any liability hereunder if we fail to execute a definitive Purchase Agreement for any reason.


If these fundamental terms and conditions hereof are acceptable, the Seller should please sign in the space indicated below and return a fully executed copy to us. Upon receipt of same we will commence preparation of a Purchase Agreement to document the specific terms and conditions upon which we will enter into an agreement to purchase the Property.

AGREED TO AND ACCEPTED BY:

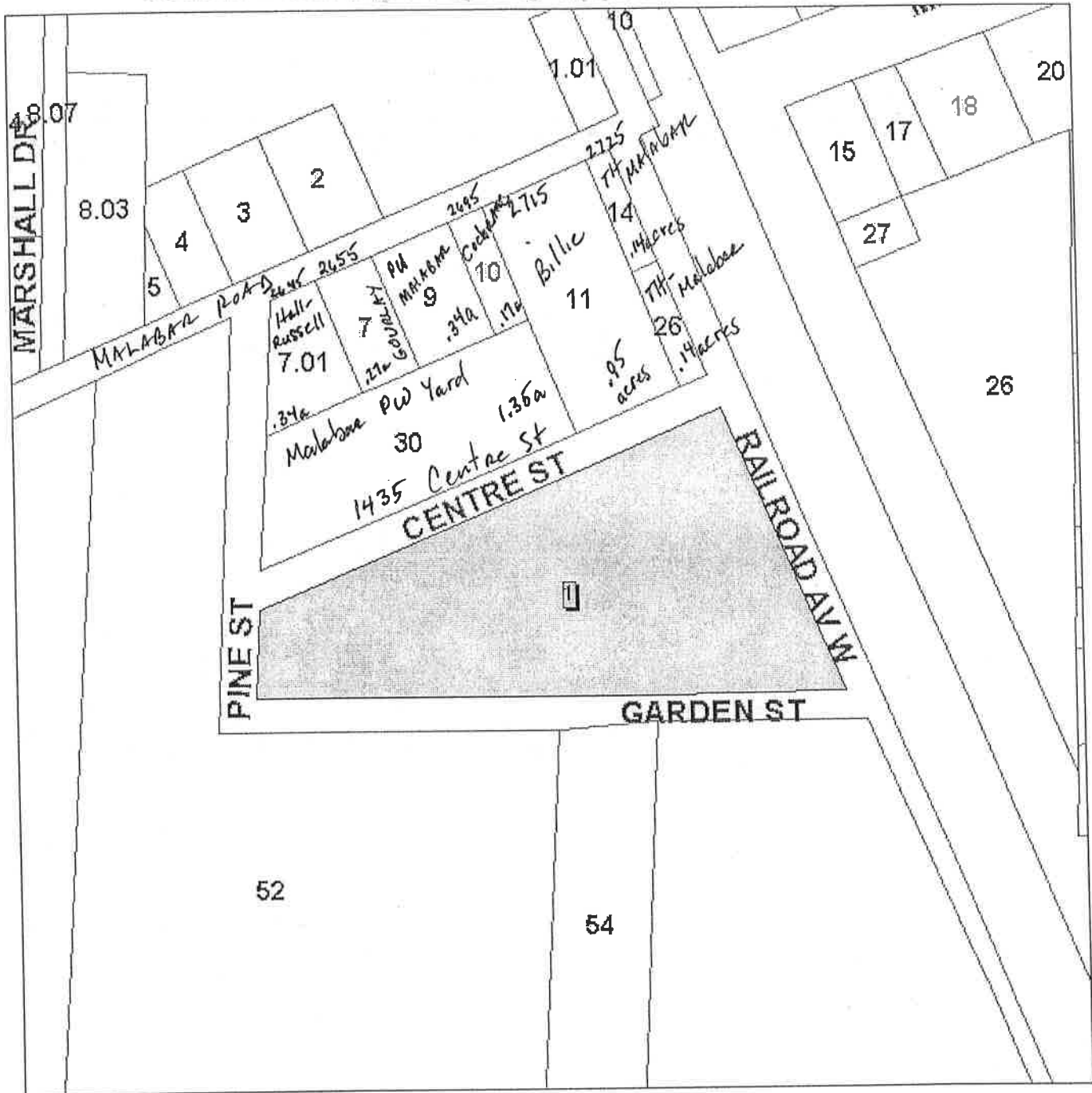
By:

	<u>1/25/06</u>	_____	_____
Seller	Date	Edwin Booth	Date
		Town Administrator	
		Town of Malabar	

Attest:

_____	_____		_____
Seller	Date	Susan Kabana, MMC	Date
		Town Clerk/Treasurer	
		Town of Malabar	

Jim Ford, CFA
 Brevard County Property Appraiser - Map Search



Parcel Identifier	Address	Millage Code	Exemption Code	Use Code	Tax Account
1 Aerial 28-38-31-54-0000B.0-0036.0	1450 WEST RAILROAD AVE	3420		4810	2851086

RESOLUTION NO. 04-2008

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR AUTHORIZATION TO PURCHASE .95 ACRE PARCEL AT 2715 MALABAR ROAD, MALABAR; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified by the property owner, Mr. George Billie of his interest to sell his property to the Town; and

WHEREAS, Malabar Town Council ordered and received a property appraisal for the property with a value of \$135,000.00; and

WHEREAS, Malabar Town Council directed the Town Administrator to explain the appraisal process and negotiate with Mr. George Billie on an acceptable price and Mr. George Billie stated his price is \$175,000.00, with \$50,000.00 down.

WHEREAS, Malabar Town Council determined that they can pay more than the appraised value of the property due to the public purpose the property serves by being adjacent and abutting the current Town Hall property and Public Works Complex property.

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 authorizes and directs the Town Attorney to draft a Contract for Sale for the purchase of Mr. George Billie's property located at 2715 Malabar Road, Malabar, Florida.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Administrator to finalize the offer to purchase with Mr. George Bille and to execute, on behalf of the Town, the Contract for Sale with Mr. George Billie.

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

This Resolution was moved for adoption by Council Member Vail. This motion was seconded by Council Member Borton and, upon being put to vote,

the vote was as follows:

Council Member Nancy Borton	<u>Aye</u>
Council Member Brian Vail	<u>Aye</u>
Council Member Charles (Chuck) McClelland	<u>Aye</u>
Council Member Jeffrey (Jeff) McKnight	<u>Aye</u>
Council Member Patricia D. Dezman	<u>Aye</u>

This Resolution was then declared to be duly passed and adopted this 7th day of January, 2008.

By: TOWN OF MALABAR

Thomas M. Eschenberg
Mayor Thomas M. Eschenberg

Approved as to form and content:

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

ATTEST:

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

(seal)

My Homepage

Home

Town Council

Next Meeting

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New Town Hall

News

Future Need ?

NEW TOWN HALL

Since the Town Council has voted to purchase the property on the west side of the town hall, it is time to begin a discussion. The requirement for a new town hall is in our current comprehensive plan. The comprehensive plan will be amended over the next 18 months. The State requires that this be done periodically. One of the Council responsibilities is to plan for the future. The requirement for a new town hall will most certainly stay in the plan. The general standard for town hall size is one square foot per resident. Malabar will have a build out population of eight to nine thousand. The existing town hall is about 3000 square feet. That is almost adequate for today, but not for the future.

SOME HISTORY

I was elected to the Town Council in 1995. During my six years service until termed out in 2001, a new town hall was rarely mentioned. Even though the council was aware of the comprehensive plan requirement, no serious discussion took place. It was generally felt that Malabar could not afford a new town hall at the time. A new Town Administrator was hired in 2003. One of his goals was to move forward with a new town hall. A town hall site committee was established to identify possible locations. The committee's first choice was EEL's property just to the east of the fire station. The State owns the land and it is under the management of the Brevard County EEL's. I was in attendance at one of the meetings and the committee asked me, as the Mayor, to contact the State and investigate the possibility of Malabar obtaining 15 acres fronting on Malabar Road. I discussed this with Representative Mitch Needleman and he said when he got back to Tallahassee he would contact the Department of Environmental Protection to see what could be done. In March of 2007, I met with three people from DEP in Mitch's office in Tallahassee. They were receptive to the transfer of the land to the Town of Malabar if there were no environmental restrictions. About three weeks later DEP sent three people, one of them was a biologist, to Malabar to inspect the land. I met them at Town Hall and we all went over and walked the 15 acres. The decision from DEP was that the land was disturbed and the State would approve transfer to Malabar for a new Town Hall site. However, it would require approval from EEL's. Subsequently, the Town Council appointed Councilwoman Borton as liaison for the EEL's so I became uninvolved due to possible sunshine law conflicts. It is my understanding that Councilwoman Borton along with the Town Administrator have had a couple of meetings with Mike Knight, the EEL's program manager. They have failed to reach an agreement and my perception is the Town has abandoned the effort to procure this 15 acres. The town has gone through the bid and selection process and the Council has chosen an architectural firm to design a new town hall.

MY POSITION

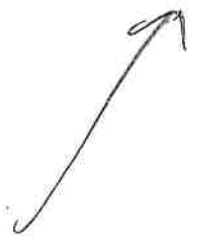
Malabar could use expanded Town Hall facilities now. The town is currently renting a trailer facility for the Building Department at a cost of about one thousand dollars per month. The town hall is fully occupied except for a small conference room and one office. There is not enough room in the town hall for the engineer, the building official, two building dept. employees and all the files and plans.

I have never been a supporter of spending three to four million dollars on a new town hall. With the stalemate on the EEL's land, you can add another half million or so to purchase a site.

I approve the Council's decision to purchase the land immediately to the west of the town hall only if it will be used for future town hall expansion. This is the lowest cost option. I see no benefit to the town buying any more land in the block with the possible exception of the small 49 ft wide lot between the new acquisition and town property to the west if it could be shown as beneficial. I also believe it is necessary to hear from the people. It could be that the majority wants a brand new town hall somewhere other than the current location. We should have a town meeting like we had for the MSTU to hear the desires of the people.

TABLE 16
COSTS AND TIMING OF NEEDED CAPITAL IMPROVEMENTS
Town of Malabar, Florida

<u>Project</u>	<u>Estimated Cost</u>	<u>Est. Scheduled Completion</u>
Paving of Corey and Weber Streets	\$ 70,000.00 (1)	1988-9
Drainage and Road Paving Master Plan	\$200,000.00	1990
Construction of New Town Hall	\$240,000.00	1991



1) Cost reflects Town of Malabar pro rata share of project costs pursuant to an interlocal Agreement.

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 6

Workshop Meeting Date: January 23, 2017

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

SUBJECT: Possible Sale or Lease of Huggins Park

BACKGROUND/HISTORY:

As shown in the past, the 20 acre Malabar Community Park and the 7.5 acre Disc Gold Park met and exceed our 5-acre per 1,000 residents formula well into the future.

The legal process to sell the property would be initiated by holding a public hearing to state that the land is considered surplus and does not serve a public purpose,

FINACIAL IMPACT:

Unknown

ATTACHMENTS:

none

ACTION OPTIONS:

Discussion