

**TOWN OF MALABAR  
REGULAR TOWN COUNCIL MEETING  
MONDAY, MARCH 06, 2017  
7:30 PM  
2725 MALABAR ROAD, MALABAR, FLORIDA**

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**AGENDA**

- A. **CALL TO ORDER, PRAYER AND PLEDGE**
- B. **ROLL CALL**
- C. **APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:**
- D. **APPROVAL OF THE MINUTES:**
1. **Regular Town Council Meeting Minutes 2/06/17**
    - Town Council Workshop Meeting – 1/30/2017
    - Town Council Workshop Meeting – 2/27/2017

**Exhibit:** Agenda Report No. 1  
**Recommendation:** Request Approval
- E. **BCSO REPORT:**
- F. **TPO/TAC Report by Mr. Donald Krieger**
- G. **ATTORNEY REPORT: Social Media Policy**
- H. **PROCLAMATION DESIGNATING MARCH 2017 AS IRISH AMERICAN HERITAGE MONTH  
PROCLAMATION DECLARING APRIL AS WATER CONSERVATION MONTH**
- I. **BOARD/COMMITTEE REPORTS: Park & Rec; Planning & Zoning; Trails & Greenways**
- J. **STAFF REPORTS: ADMINISTRATOR: CLERK: FIRE CHIEF**
- K. **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.
- L. **PUBLIC HEARINGS/SPECIAL ORDERS: 0**
- M. **UNFINISHED BUSINESS/GENERAL ORDERS  
ORDINANCES FOR FIRST READING: 0  
RESOLUTIONS: 2**
2. **Repeat Request for Reduced Speed on SR514, Expedited Road Improvements and Support from Adjacent Communities (Reso 06-2017)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR SUPPORT TO REDUCE SPEED ON STATE ROAD 514 ALSO KNOWN AS MALABAR ROAD BETWEEN HIGHWAY 1 AND THE WEST END OF MALABAR JURISDICTIONAL BOUNDARY; REQUESTING EXPEDITED ROADWAY IMPROVEMENTS; SOLICITING SUPPORT FROM OTHER AGENCIES IN THIS REQUEST TO FLORIDA DEPARTMENT OF TRANSPORTATION; PROVIDING FOR DISTRIBUTION OF REQUEST; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 2  
**Recommendation:** Request Approval
  3. **Oppose HB 17 and SB 1158 That Would Strip Home Rule Authority from Municipalities Over Businesses, Professions and Occupations and Require a Special Law by the Legislature Regarding Any Business Regulation (pre-1968 State Constitutional Amendment) (Reso 04-2017)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR COUNCIL OPPOSITION TO HOUSE BILL 17 AND SENATE BILL 1158; PROVIDING FOR DISTRIBUTION OF THIS RESOLUTION; PROVIDING AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 3  
**Recommendation:** Request Approval

**MISCELLANEOUS: 4**

**4. Council Cancellation of March SpringFest due to Lack of Response from MCA**

**Exhibit:** Agenda Report No. 4  
**Recommendation:** Request Approval

**5. Date for Malabar Sponsored Fall Fest in Conjunction with Fire Prevention Week 10/14/17**

**Exhibit:** Agenda Report No. 5  
**Recommendation:** Request Approval

**6. Approve Signage for Route 1 MotorSports**

**Exhibit:** Agenda Report No. 6  
**Recommendation:** Request Approval

**7. Approve 65-Foot of South Portion of Quarterman Lane**

**Exhibit:** Agenda Report No. 7  
**Recommendation:** Request Approval

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

**N. DISCUSSION/POSSIBLE ACTION: 2**

**8. Article in Florida Today, Monday Night News Coverage & Letter to Governor re: SR514 (CM Mahoney)**

**Exhibit:** Agenda Report No. 8

**9. Memorial Wall at Malabar Community Park (Mayor)**

**Exhibit:** Agenda Report No. 9

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

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

**Q. ANNOUNCEMENTS:**

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

**R. 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.

Official  
**Proclamation**  
Town of Malabar,  
Florida

**APRIL IS WATER CONSERVATION MONTH**

**WHEREAS**, water is a basic and essential need of every living creature; and

**WHEREAS**, The State of Florida, Water Management Districts and (your name) are working together to increase awareness about the importance of water conservation; and

**WHEREAS**, the Town of Malabar and the State of Florida has designated April, typically a dry month when water demands are most acute, Florida's Water Conservation Month, to educate citizens about how they can help save Florida's precious water resources; and

**WHEREAS**, Malabar has always encouraged and supported water conservation, through various educational programs and special events; and

**WHEREAS**, every business, industry, school and citizen can make a difference when it comes to conserving water; and

**WHEREAS**, every business, industry, school and citizen can help by saving water and thus promote a healthy economy and community; and

**NOW, THEREFORE**, be it resolved that by virtue of the authority vested in me as Malabar Council Chair, I, Mayor Patrick T. Reilly of the Town of Malabar do hereby proclaim the month of April as

**Water Conservation Month**

Malabar, Florida is calling upon each citizen and business to help protect our precious resource by practicing water saving measures and becoming more aware of the need to save water.



## A MESSAGE FROM SAINT JOHN'S WATER MANAGEMENT...

### Simple steps to save water indoors and outdoors

Taking a few simple steps inside and outside can save water and money. Most of us turn off the water when brushing our teeth, and wait until the dishwasher is full before we run it. But there are lots of other ways to save water. Here are some tips.

#### Indoor Tips:

- Do not use running water to thaw meat or other frozen foods. Defrost food overnight in the refrigerator or by using the defrost setting on your microwave.
- Install instant or on demand hot water in the kitchen so you don't have to let the water run while it heats up.
- Insulate your water pipes. You'll get hot water faster plus avoid wasting water while it heats up.
- Avoid installing a water-to-air heat pump or air-conditioning system. Newer air-to-air models are just as efficient and do not waste water.
- Install water-softening systems only when necessary. Save water and salt by only running the minimum amount of regenerations necessary to maintain water softness. Turn softeners off while on vacation. Also, consider installing a system capable of using potassium instead of sodium with demand-based regeneration.
- Never put water down the drain when there may be another use for it, such as watering a plant or cleaning.
- Replace leaky drain plugs in sinks and bathtubs.
- Store drinking water in the refrigerator instead of letting the tap run while you wait for cool water to flow.

#### Outside Tips:

- Collect water in a rain barrel to use to water your plants. Rain water is free and is better for your plants because it doesn't contain hard minerals. Planter beds or flower gardens and potted plants can easily be irrigated with water from a rain barrel.
- Pay attention to your hose. Left unattended, a garden hose can pour out 8 to 12 gallons each minute, or hundreds of gallons of water in an hour. Check all hoses, connectors and spigots regularly to make sure they are in good working order. Use hose washers between spigots and water hoses to eliminate leaks. Replace or repair damaged or leaking hoses, nozzles, spigots and connectors.
- Use a broom to clean leaves and other debris from sidewalks and driveways rather than a hose. Using a hose to clean a driveway can waste hundreds of gallons of water.
- Outfit your hose with a spray nozzle that can be adjusted so water flows only as needed. When finished, turn it off at the faucet instead of at the nozzle to avoid leaks.
- Wash your car efficiently. Consider using a commercial car wash that recycles water. If you wash your own car, park on the grass and use a hose with a spray nozzle.
- If you install ornamental water features, such as fountains, make sure they are designed to recycle water.
- If you have a swimming pool, consider a new water-saving pool filter. Cover your spa or pool to reduce evaporation.

Official  
**Proclamation**  
Town of Malabar,  
Florida

Irish American Heritage Month

**WHEREAS**, by 1776 nearly 300,000 Irish nationals had emigrated to the American colonies and played a crucial role in America's War for Independence; and

**WHEREAS**, Irish Americans helped to fashion a system of government for our young Nation; and

**WHEREAS**, in 1943, The Sullivan brothers made the ultimate sacrifice for democracy and freedom in the world and later had the Destroyer USS Sullivan Commissioned in their memory, and

**WHEREAS**, eighteen Presidents have proudly proclaimed their Irish American heritage; and

**WHEREAS**, Irish born Commodore John Barry was recognized by the United States Congress in September of 2002 as the "First Flag Officer of the United States Navy"; and

**WHEREAS**, in 1872 Captain Oliver Perry achieved his major naval victory in the Battle of Lake Erie ; and

**WHEREAS**, the Irish first came to Spanish "La Florida" in the 1500s – first as missionaries and mercenary soldiers and then as planters, traders, businessmen, doctors and administrators; and

**WHEREAS**, three of the Spanish Governors of "La Florida" were actually Irish military officers; and

**WHEREAS**, Governors and Mayors of 37 states have or will designate March of this year as, "Irish American Heritage Month", and

**WHEREAS**, Andrew Jackson, whose family came from County Antrim, served as Florida's military governor following its acquisition by the United States, and

**WHEREAS**, Irish Americans, since America's inception, have provided and continue to provide leadership and service to this nation's political, business and religious establishments; and

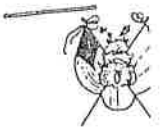
**WHEREAS**, it is fitting and proper to celebrate the rich cultural heritage and the many valuable contributions of the Irish Americans.

**NOW, THEREFORE**, be it resolved, by the Town Council of the Town of Malabar, that the month of March is proclaimed as "IRISH AMERICAN HERITAGE MONTH".

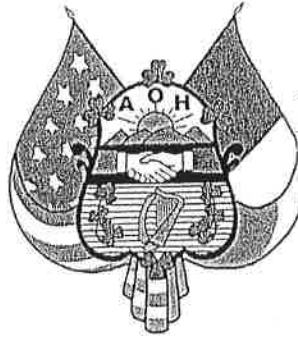




ANCIENT ORDER  
OF  
HIBERNIANS  
IN AMERICA



Edward P. Reilly  
Past President Brevard County, FL



701 W. Central Blvd.  
Melbourne, FL 32901

Res: 321/723-126  
Division

TARANILLAOHE@AOL.COM

January 2017

Mayor, City of Malabar

Your Honor,

Once again, the Florida's Irish American community will be celebrating its Irish heritage during the month of March. Ever since the military governorship of Irish American Andrew Jackson, Irish Americans in Florida have provided leadership and service to their state, counties, and local communities. Irish Floridians can look back with pride on the legacy of their Irish forebears, who have contributed significantly to the education, business, sports, literature, science, engineering, medicine, science and the arts. Today, we continue to recognize and honor the service of current State, County and Town/City Council leaders and the contributions of fellow Irish American Floridians.

In the past, March has been designated, "Irish American Heritage Month", throughout the United States to coincide with the celebration of St Patrick's Day on the 17<sup>TH</sup> of March. Across the State of Florida, the Ancient Order of Hibernians and other Irish American organizations will be conducting parades, celebrations and cultural events – including my own division in Melbourne.

The Florida Ancient Order of Hibernians respectfully request that your office issue a Proclamation designating March 2017 as, "Irish American Month", in recognition of the long history of Irish American contributions to the State of Florida. To assist you in this request, I have taken the liberty of providing a few, "WHEREAS", for your consideration and possible use.

On behalf of the Ancient Order of Hibernians in America, I would like to thank you for your kind consideration of this request. Should you have any questions or need additional information, please do not hesitate to contact me.

In Friendship, Unity and Christian Charity,

*Francis X Delaney*

Francis X Delaney

President, Division 2, AOH

RTCM 03/06/2017

AGENDA ITEM # J

Fire Department Report

Chief Leonard Thomassen

## Town of Malabar Fire Department Status (February 2017)

| Current Response (Minutes)                     |           |
|--|-----------|
| Cum 2016                                       | 5         |
| Malabar only response minutes                  | 5         |
|  |           |
| Active Members' Roster                         | 36        |
| Active Members' Additions                      | 3         |
| Active Members' Deletions                      | 3         |
| Department Growth                              | 0         |
| <b>New Roster</b>                              | <b>36</b> |
| Paid employees (not included in roster number) | 10        |
|  |           |
| Mutual Aid Calls                               |           |
| Given to Palm Bay                              | 0         |
| Received from Brevard                          | 0         |
| Given to Melbourne                             | 0         |
| Given to Brevard                               | 1         |
| Given to EELS                                  | 0         |
| <b>Total Mutual Aid Incidents</b>              | <b>1</b>  |

| Training Manhours              |            |
|--------------------------------|------------|
| In-house                       | 109        |
| Out-of house                   | 0          |
| <b>Total Training Manhours</b> | <b>109</b> |

| Incident Response                 |           | Percent |
|-----------------------------------|-----------|---------|
| Brush fire                        | 1         | 3%      |
| Building fire                     | 1         | 3%      |
| Prescribed fire                   | 1         | 3%      |
| Dispatched & canceled en route    | 1         | 3%      |
| Smoke scare                       | 2         | 5%      |
| EMS                               | 22        | 59%     |
| Vehicle accident with injuries    | 2         | 5%      |
| Vehicle accident without injuries | 2         | 5%      |
| Animal problem                    | 1         | 3%      |
| Public service                    | 3         | 8%      |
| Good intent call                  | 1         | 3%      |
|                                   |           |         |
|                                   |           |         |
| <b>Total Manhours</b>             | <b>47</b> |         |
| <b>Missed Responses</b>           | <b>0</b>  |         |
| <b>Total Calls</b>                | <b>37</b> |         |
| <b>Total Yearly Responses</b>     | <b>0</b>  |         |



**Town of Malabar  
Fire Department Status (February 2017)**

| Item | Vehicle ID #                      | County #  | Mileage    | Engine hours | Maintenance Completed                               | Status      |
|------|-----------------------------------|-----------|------------|--------------|---|-------------|
| 1    | Chief's Car<br>2015 Chevy pick up | Fire-1    | 22531.2    |              | PMI done  | Operational |
| 2    | Utility 99<br>Izuzu Trooper       |           | 102496.2   |              | Pm Completed  | Operational |
| 3    | Engine-1<br>1997 Eone             |           | No reading | 4591.3       | pump on truck leaks possible rebuild/replace        | Operational |
| 4    | Engine-2<br>1990 Eone             | Eng-299   | 11049.4    | 1398.6       | Some emergency lights not working, failed pump test | Operational |
| 5    | Ladder-1<br>1993 Sutphen          | L-99      | 102832     | 14575.3      | failed fuel line replaced -Failed pump test         | 40711.9     |
| 6    | Squad-1<br>2007 Ford F550         | SQ-99     | 40711.9    | 2586         |   | Operational |
| 7    | Tanker-1<br>2006 Freightliner     | Tanker-99 | 12691.1    | 1018.8       |   | Operational |
| 8    | Brush-1<br>2004 Ford F550         | B-99      | 9737.2     | 918.4        |   | Operational |
| 9    | Brush-3<br>1980 Military          | B-399     | 28270      | 1516.1       | Brake system cleaned and functional                 | Operational |
| 10   | Brush/Tanker-4<br>1977 Military   | B/T-499   | 9167.2     | 553.9        | possible motor problem                              | Operational |

**General Comments/Special Tasks**

|    |  |
|----|--|
| 1  | Another EVOC classes. COMPLETED  |
| 2  | Progression on inventory list  |
| 3  | firefighter 1 class Has Started and going well and they set to grad. March 18th    |
| 4  | Forrestry 50/50 grant for gear is going to be reapplied for                        |
| 5  | ISO AUDIT completed and our status is 4/10   |
| 6  | E99 having pump problems we are looking into ways to fix.                          |
| 7  | NEW BRUSH TRUCK, fabrication started. Majority of labor & materials being donated. |
| 8  | Annual hose testing is underway and will take a couple of months to complete       |
| 9  | Applied for grant to replace SCBAs which have 2 years left under NFPA 1852         |
| 10 | State Fire Marshall safety inspection for compliance March 10                      |

**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 1**  
**Meeting Date: March 6, 2017**

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

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**SUBJECT: Approval of Minutes**

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**BACKGROUND/HISTORY:**

Attached are the summary minutes for the following meetings:

- Regular Town Council Meeting – 2/06/2017
- Town Council Workshop Meeting – 1/30/2017
- Town Council Workshop Meeting – 2/27/2017

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 meetings are available.

**ATTACHMENTS:**

- Regular Town Council Meeting – 2/06/2017
- Town Council Workshop Meeting – 1/30/2017
- Town Council Workshop Meeting – 2/27/2017

**ACTION OPTIONS:**

The Town Clerk requests approval of the minutes.

**MALABAR TOWN COUNCIL REGULAR MEETING MINUTES**  
**February 6, 2017                      7:30 PM**

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

**A.     CALL TO ORDER:**

Vice-Chair, Steve Rivet called the meeting to order at 7:30 pm. CM Korn led the prayer and pledge.

**B.     ROLL CALL:**

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

For the record, Fire Chief Leonard Thomassen was also in attendance.

**C.     APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:** CM Mahoney asked for SpringFest to be moved after Item 2.

**D.     APPROVAL OF THE MINUTES:**

**1.     Regular Town Council Meeting Minutes 1/23/17**

**Exhibit:**                      Agenda Report No. 1

**Recommendation:**        Request Approval

**MOTION:** CM Korn / CM Kohler to approve RTCM minutes of 1/23/17.

**Discussion:**

CM Mahoney asked her District Report to also be attached to the minutes.

**Vote:** All Ayes.

**E.     BCSO REPORT:** none

**F.     ATTORNEY REPORT:** Atty spoke of the Social Media issue discussed at the last meeting. CM Rivet asked about prohibiting elected officials to use social media for town business. Attorney said he had a problem with a possible conflict with the First Amendment.

CM Mahoney said she got her information from the Florida League of Cities. They told her to keep them in her notebook. She knows now and will get them to Debby. Attorney said we need to have a policy.

**G.     BOARDS/COMITTEES REPORTS**

Drew Thompson, T&G Committee,

Went over the progress of the construction of the shade structure in the Cameron Preserve.

Hans Kemmler, Park and Recreation Board,

January – Malabar Madness 37 participants – Golf Disc looked great with help from OW.

Memorial – considering doing two walls by flag poles at the Malabar Community Park

Soccer field – referred to the estimate of 29K spent on the rehab of the soccer field in 2003.

Liz Ritter, P&Z Board

Reported that Council Chair Pat Reilly came to last P&Z Board mtg and went over the FLUM and the R/LC for the new members. Nothing else on agenda so next meeting is cancelled.

**H.     STAFF REPORTS: ADMINISTRATOR: CLERK: FIRE CHIEF**

Administrator- Marie Street Deeds are being straightened out and when that is complete, we will get it resurveyed.

Huggins, no answer yet from County  
ADA, getting close to grand opening  
Almost ready for bid for stormwater project including Smith Lane.

Clerk – nothing

Fire Chief – Went over the Jan stats. Roster is -2 to 36 volunteers. Have a Fire I program going on. Got the gear with the VFA grant and will be applying for additional grants.

Got the ISO final cert from the auditor.

Four state certified instructors.

- 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.

Terry Rocks, Malabar resident. Here as a father and resident. Has been working with the Town regarding the soccer field. He did try and notify the prior TA and got no assistance. Went over the numbers, the fields and what they can do. They don't want to be part of the bigger soccer groups. Went over some pictures. Had a cook-off at the church. Showed pic showing the nice condition of the field in 2014. In 2015, the fire ants were everywhere. Town did not do anything. That does not show good for our town. He bought and treated it in 2015. Then he showed the status 2016. Bugs and weeds bare ground and muddy areas. Town cancelled the contract with Massey in 2015. Nail Farm and others are willing to donate materials and they are willing to do the work to get it back into shape.

TA agreed it should be done. CM Korn, this has been an item of his for a while. Lack of communication amongst themselves. He was surprised when he looked at it. Need to have ongoing communications. Treating this field is different from your own yard but we can work together. CM Korn said do we have their schedule. Terry said he had hoped to try to do this for last Nov. Move forward in May when season is over. Town will contract with vendor like Ecor to do the mass kill and then they will seed the heck out of it and control the watering.

TA said then we can budget this going forward. Chair said there was Council consensus to go forward to take care of this.

Brian Vail, spoke about social media.

- J. PUBLIC HEARINGS/SPECIAL ORDERS – 0
- K. UNFINISHED BUSINESS/GENERAL ORDERS

ORDINANCES FOR FIRST READING - 0  
RESOLUTIONS – 0  
MISCELLANEOUS - 5

- 2. **Cancel 2<sup>nd</sup> meeting in February – Presidents Day**  
**Exhibit:** Agenda Report No. 2  
**Recommendation:** Action

**MOTION:** CM Ball / CM Kohler to cancel the second RTCM in February.

Discussion: none

**Vote:** All Ayes.

- 3. **Appoint three-Member Audit Selection Committee**

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

Atty gave introduction. FS require this.

**MOTION:** CM Kohler / CM Korn to approve of the three members committee of Phil Crews, Wayne Abare and Matt Stinnett

Discussion: CM Mahoney has not had enough time.

**Vote:** Ayes, 4; Nay, 1 (CM Mahoney). Motion carried

**4. Approve modification to lunch period for Town Hall staff.**

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

Introduction by TA

**MOTION:** CM Kohler / CM Ball to approve of the change to the employee lunch break.

Discussion: CM Mahoney said they could take turns answering the phones and keep the building open. CM Kohler said for everyone working for eight hours is entitled to a 30 minutes break. CM Ball is with CM Kohler. Camaraderie. They are accommodating by working 30 minutes later. If you stagger, lunches they miss the camaraderie. CM Ball supports this. CM Korn said the lunches should be staggered.

TA explained the period to get citizens familiar with this. CM Kohler said also that the cell phones are posted on the door.

**Vote:** Ayes, 3; Nay, 2 (Mahoney, Korn) Motion carried

**5. Pulled**

**6. Approve ILA with the County to use 3<sup>rd</sup> party vendor as it relates to Homestead**

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

TA did introduction. He explained the 28% contingency basis. Third party will go through and try to find all the people that are erroneously filing Homestead. Some of those funds would come to the town. TA has a concern with where it may lead.

**MOTION:** CM Kohler / CM Korn to approve of the ILA with Brevard County

Discussion:

CM Mahoney asked if this was going to take staff time to do this.

Atty said it is a 12-month contract. There is a 90-day cancel period

CM Ball said he tried to read it. Just the opportunity for the overreaching government to allow other intrusions. Attorney said Clerk had raised a good point; isn't that the job of the PA? Yes. It does not add anything for us. CM Kohler said it feels like the right thing to do.

**Vote:** Aye, 2; Nay, 3; (CM Ball, CM Rivet, CM Mahoney) Motion failed.

**7. Approve Contract between Town and MCA**

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

Speakers, Liz Ritter, Make or break – we have been put off and put off – need to get going. They want to help the town have events. They want to move with the other boards. Need to get started with the funding. Have a core group of dedicated volunteers. Teresa Scannilli, - The citizens were asked to take over the SpringFest event. There were roadblocks. That led them to form a separate organization. The contract – who would sign that?

**MOTION:** CM Ball / CM Kohler to approve of the contract with MCA

Discussion: CM Korn, understanding from status report there has been much done; stop looking for reasons to postpone. Is the town going to donate to this non-profit? Are we going to loan this organization? A lot of work has been done. He supports this contract if the org does exist.

Attorney gave brief overview. Committee felt their hands were tied as a public body required to Sunshine so let them form organization and we draft a contract. Atty can't waiver on the insurance because they are running it. If town pays them to run the show then town needs to get as much back as they can. If net proceeds do not amount to that rent, amount then it can be reduced.

CM Rivet stated that in past years the SpringFest event has been revenue neutral. We paid \$5,000 and essentially got that back. Some years may have been more, some less. Do not have money in budget for a net expense.

CM Korn said he has to provide a two million dollar insurance policy to be a vendor at the dog shows. He was against the sale of beer because of the additional insurance cost of \$1400.

CM Ball said the town already has insurance. Atty said if someone is hurt, then first liability will be on him or her, then the town. The vendors should all have their own insurance as well as another level of protection. TA said the CMA officers should want that insurance anyway. You could be sued personally.

CM Rivet said the CMA org wants to put on the event without a financial liability cost responsibility. The Town is willing to pay the CMA for the expense to put on the event. CM Mahoney all of a sudden there was profit made. Every year it went over budget.

Liz we don't want to do this for free. Liz said the costs reflected. If we have money we can put on more events. It is not for ourselves. Down the future we can maybe have a community center because this group.

CM Rivet said this a net neutral in our budget. CM Mahoney asked when did that happen. Atty said you are already \$800.00 into him for the contract expense and it may not even happen. He must insist on the insurance.

CM Korn called the question.

Vote: Ayes, 4; Nay 1 (CM Mahoney) Motion carried

CHAIR MAY DISMISS THE ATTORNEY AT THIS TIME

L. **DISCUSSION/POSSIBLE ACTION:**

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

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

Mayor – excused

- 1) CM Ball – nothing
- 2) CM Mahoney – Stated her public records request.
- 3) CM Rivet –
- 4) CM Korn – COPs program – Develop something like that. For discussion at next mtg.
- 5) CM Kohler – nothing

Staff items for future agendas:

- Discussion Item: Expanding volunteer network to check on elderly
- TA said if so we should contact the immediate neighbors to Huggins Park to see if using it temporarily for soccer would create a problem.
- TA to provide written options for disposition or use of Huggins Park
- Provide Rev/Exp sheets from past SpringFests and Volunteer list and vendor commitment dates. This isn't supposed to be a competition – CM Ball was just trying to encourage more residents to participate.
- Statute, Code and Charter info related to bid requirements/thresholds
- Flood maps and codes for Benjamin current and historical.

**O. ANNOUNCEMENTS:**

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

**P. ADJOURNMENT:**

There being no further business to discuss and without objection, the meeting was adjourned by the Vice-Chair at 9:40PM.

BY: \_\_\_\_\_  
Vice-Chair Steve Rivet

ATTEST:

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

Date Approved: 3/6/2017

DRAFT

**MALABAR COUNCIL WORKSHOP MEETING**  
**January 30, 2017                      7:30 PM**

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

**A.     CALL TO ORDER:**

The meeting was called to order at 7:30 pm by Chair Mayor Reilly. Prayer & Pledge were said by Mayor.

**B.     COUNCIL/COMMITTEE:**

COUNCIL CHAIR:  
VICE-CHAIR:  
COUNCIL MEMBERS:

MAYOR PATRICK T. REILLY  
STEVE RIVET  
GRANT BALL  
LAURA MAHONEY  
DICK KORN, absent  
RICHARD KOHLER  
DOUG HOYT, excused  
DEBBY FRANKLIN

ADMINISTRATOR  
CLERK/TREASURER:

**C.     **WORKSHOP ACTION: POSSIBLE GHANGES TO FUTURE LAND USE MAP****

Mayor said he will go through the slides. Mayor said Grant and Laura were at the P&Z Board.

Important to have a good definition for R/LC.

Putting high density next to RR. Steve's interest concern is with having large parcels for R/LC. Pat, maintain the residential component. Then provide for LC.

Made language more concise.

Is the Council willing to consider changing some land use designations? Yes  
Grant said the town is going to grow.  
Compared to medical marijuana issue  
Look forward down the road.

Hold the next workshop on the 4<sup>th</sup> Monday of February.

Chair Reilly, without objection, adjourned the meeting at 9:00 pm.

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

(seal)

ATTEST:

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

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



**MALABAR COUNCIL WORKSHOP MEETING**  
**February 27, 2017                      7:30 PM**

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

**A.     CALL TO ORDER:**

The meeting was called to order at 7:30 pm by Chair Mayor Reilly. Prayer & Pledge were said by Council Chair, Mayor Patrick T. Reilly.

**B.     COUNCIL/COMMITTEE:**

|                  |                      |
|------------------|----------------------|
| COUNCIL CHAIR:   | MAYOR PATRICK REILLY |
| VICE-CHAIR:      | STEVE RIVET, absent  |
| COUNCIL MEMBERS: | GRANT BALL           |
|                  | LAURA MAHONEY        |
|                  | DICK KORN            |
|                  | RICHARD KOHLER       |
| ADMINISTRATOR    | DOUG HOYT, excused   |
| CLERK/TREASURER: | DEBBY FRANKLIN       |

**C.     WORKSHOP ACTION: DISCUSSION ON R/LC - Definition**

Chair recapped previous workshop meeting and the concerns voiced. As a result the Mayor sent a list of questions to the Town Attorney and those questions and the Attorney's answers are what is in front of Council for this workshop.

CM Korn questioned the Proposed Future Land Use Map change for the Babcock Street area that backs up to the current residential use on Lett Lane south of Booth Road. He suggested adding another classification between RLC and CG.

CM Ball raised CM Rivet's previously voiced concern about the 1,320 foot depth of two parcels between Malabar and Duncil Lane.

CM Korn referenced the applicants that proposed a Cheer gym on NE corner of Booth Road and Lett Lane and how the nearby residents came to meeting to oppose.

CM Mahoney had talked to a real estate broker and proposed that Council make it the limit. Keep it as it is but provide the FLUM suggestion for higher use; that would encourage buyers to buy now when it is less expensive.

Council discussed changing Slide 4 from OI to R/LC – north of Booth Road as well as south.

Slide 5 – 1,320' depth – presently RR and proposed to change land use to OI – 20-acre parcel closest to Palm Bay Hospital.

Slide 6 – 1,320' depth – presently RR and proposed to change land use to R/LC two each 10-acre parcels essentially north of the northern terminus of Duncil Lane.

Chair asked Clerk Franklin to explain what P&Z Board has proposed to Council regarding changing the land use designation and vs. zoning map designations.

- Town went through 7-year update of Comp Plan (called EAR) in 2007-2009 (Town had not done this since 1988). Council adopted those changes in 2010 which changed the narrative in the Comp Plan to allow R/LC on areas along Malabar Road and Babcock Street in addition to the west side of Highway 1. Council did not change the Comp Plan FLU (future land use) maps to reflect this narrative change.

- Florida Statute 163 also requires after a Comp Plan is changed, the municipality is required to update their Land Development Code so it supports and does not conflict with the Comp Plan. P&Z Board has worked on this and has brought updates to Council that they have "approved" multiple recommendations from P&Z Board but has held off "adopting" these with an ordinance so they would be incorporated into the Land Development Regulations.
- If Council approves these recommendations from P&Z then public hearings will be advertised and held and 1<sup>st</sup> class USPS notifications will be sent to all potentially affected property owners in addition to all property owners within 1000 feet.

Chair said as part of the Attorney review it was recommended to delete the proposed added table on the ratio of residential and limited commercial uses and instead just refer to the proposed two new bullets in the definition described in Art. III, District Provisions, Section 1.3.3(A) under subsection O.

Council took a straw vote to hold the next workshop on March 27, 2017 at 7:30pm.

Chair Reilly, without objection, adjourned the meeting at 8:52 pm.

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

(seal)

ATTEST:

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

Approved: RTCM 3/6//2017

RTCM 3/6/17  
Agenda Item F.

Space Coast Transportation  
Planning/TAC Delegate  
Report

Mr. Donald Krieger

RTCM 3/6/17  
Agenda Item G.

Attorney Report

Social Media Policy

# MALABAR POLICY

## **TOWN OF MALABAR USE OF SOCIAL MEDIA, ELECTRONIC COMMUNICATIONS AND OTHER DEVICES BY COUNCIL MEMBERS, BOARD MEMBERS AND COMMITTEE MEMBERS GOVERNED BY THE FLORIDA SUNSHINE LAW TO CONDUCT TOWN BUSINESS; PUBLIC RECORDS RETENTION REQUIREMENT.**

### **I. Identifying the need for the policy**

Some have expressed concern of the use by council members of social media, electronic communication devices, etc., to post their views concerning Town business outside the public meeting process. The issue would equally apply to the lesser boards and committees, but only to the extent that these types of communications relate to the business of that particular board or committee. The Town council of course has a broader range of issues that come before it and the members of the council need to be more aware of the potential for running afoul of the Florida Sunshine Law. Some have expressed a concern, especially as it relates to the use of social media that it is first come first served and if a person makes a post the others are squeezed out from making a post.

Additionally, the use of such communications would also require that the communication if in written or other hard form be turned over to the Town's Custodian of Record.

### **II. Overview of the Law**

#### **A. Florida's Public Records Law**

Access to public records is guaranteed by Fla. Const. art. I, §24 and F.S. Ch. 119. Specifically, Fla. Const. art. I, §24 states:

(a) Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution.

The constitutional protection afforded public records is further set forth in Florida's Public Records Law, F.S. Ch. 119. The purpose of Florida's Public Records Law is to memorialize that, unless a record is exempt, "[p]roviding access to public records is a duty of each agency."

Florida's Public Records Law applies to each "agency" of the state, which includes:

Any... municipal officer... acting on behalf of any public agency.

The obligation to produce public records attaches to the agency and the agency's employees and representatives, all of whom have an obligation under the Florida Public Records Law to produce public records in their possession. F.S. §119.07(1)(a) provides that "[e]very person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable

# MALABAR POLICY

conditions, and under supervision by the custodian of public record or the custodian's designee." The term "records custodian" under the Public Records Act means all agency personnel who have it within their power to release or communicate records. In order to have custody, a person must have supervision and control over the record or have legal responsibility for its care, keeping, or guardianship.

## 1. What Is a Public Record?

The term "public record" is broadly defined to include "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." The Florida Supreme Court has upheld an expansive interpretation of "public records" to encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate, or formalize knowledge. While the determination of what constitutes a public record is a question of law, the determining factor of whether a document is a public record subject to disclosure is the nature of the record, not its physical location or form. A document that is used and made or received in connection with public business is a "public record."

The Public Records Law has also been extended to website blogs and message boards irrespective of whether the message is created on a publicly or privately owned computer when the record is in connection with official business of the agency. See AGO- 08-07 (finding that postings by a city council member on a private Internet website about official business would be subject to the requirements of the Public Records Law); *National Collegiate Athletic Ass'n v. Associated Press*, 18 So. 3d at 1207 (stating that the Public Records Law is not limited to paper documents, it applies to documents that exist only in digital form as well.) In the context of websites and blogs, the Florida attorney general has opined that when public officials of a public agency create a public document by posting comments about official agency business, the individual is responsible for ensuring that the information is maintained in accordance with the Public Records Law and the policies and retention schedule adopted by the agency. AGO- 08-07

In April 2009, the Florida attorney general responded to an inquiry from the City of Coral Springs regarding whether the municipality could create and use a Facebook page in compliance with Florida's Sunshine and Public Records Laws. The Florida attorney general's opinion suggests that a city has the authority to establish a Facebook page pursuant to its home rule authority for a valid public purpose, but stated that any information on the city's Facebook pages made or received in connection with the transaction of official business by the city would be subject to Florida's Public Records laws. AGO- 09-19. Florida's attorney general stated that to the extent the information on the city's Facebook account communicated information made or received in connection with the transaction of official business, such information would constitute a public record, and the city would be under an obligation to follow the public record retention schedules.

It is without doubt that public business conducted through the use of social networks, email, text messaging and other forms of electronic technology creates a responsibility by the

## MALABAR POLICY

public official to retain such records, whether they are on a public or private system, and to make sure that the custodian of the record is provided a copy.

If these social media postings are being made from a private computer and the content is used to perpetuate, communicate, or formalize knowledge then it is the obligation of such public official to make sure that such record is saved and turned over to the Town's custodian of records, The Town Clerk. This includes anything authored by the public official but also any replies to it or original messages received by a public official.

### **B. The Florida Sunshine Law**

The Sunshine Law extends to the discussions and deliberations as well as the formal action taken by a public board or commission. There is no requirement that a quorum be present for a meeting of members of a public board or commission to be subject to the Sunshine Law.

Instead, the law is applicable to any gathering, whether formal or casual, of two or more members of the same board or commission to discuss some matter on which foreseeable action will be taken by the board or commission. The Sunshine Law covers every thought, affirmative act and the entire decision making process.

The use of memoranda to conduct city is subject to the Sunshine Law. The use of computers or in any case any type of electronic medium, emails twitter, Facebook, etc., to carry out public business, by members of a public board or commission to communicate amongst themselves on issues pending or which may come before the board is subject to the Sunshine Law. One can use a memorandum or such electronic media to post a position on a matter as long as there is no direct or indirect (conduit) discussion between council members.

### **III. Addressing a workable resolution to the issue. Creation of the Policy**

**A. Public Records.** This is a fairly easy issue to resolve. If any councilmember, board member or committee member participates in Social Media, text messaging, email or any other discussions resulting in written words, voice recording, photographs, etc., relating to the town business of such council, board or committee a copy of the post, as well as any replies must be turned over to the town's custodian of record' in the Town's case, the Town Clerk. Compliance can be attained by either copying the clerk with the message or printing or creating a hard copy and turning it into the clerk.

# MALABAR POLICY

## B. Sunshine Law

The Town council recognizes that a balance between a person's right to be in touch with their constituents, the sunshine law and fairness to other members of the same council, board or committee must be taken into consideration when developing a policy. One of the most useful features of social media and other forms of communication is the ability for interaction between the public and the government. However, this interactive aspect can quickly become a potential minefield of legal issues for public officials in Florida. While there is no statutory prohibition against a public body member posting comments on a privately maintained website or blog, members of government boards or commissions must not discuss matters that foreseeably will come before the respective body. It would be incumbent upon the board or commission members to avoid any action that could be construed as an attempt to evade the requirements of the law. While there is not a prohibition against a board or commission member posting comments on social media, etc., members of the same public body must not engage in an exchange or discussion of matters that foreseeably will come before them for official action. New technology presents exciting and effective communication tools as well as some challenges maintaining transparency in government. While these small challenges should not deter public officials from using technology for the benefit of the people they serve, technology can't be an excuse for lack of transparency.

**1. Unable to attend Meeting.** In the instance where a public body member is unable to make a scheduled meeting, such member may issue a position statement on an issue and shall copy the chair and town clerk and may copy each member of that board. Such communication shall contain a statement that **no member of the council, board or committee as the case may be, shall respond to the position statement and should make any comments at the upcoming meeting at which the matter will be discussed.**

### **2. Use of Social Media, etc., to convey information.**

The Attorney General's Office stated that while it is not a "direct violation" of the Sunshine Law for members to circulate their own written position papers on the same subject as long as the board members avoid any discussion or debate among themselves except at an open public meeting, this practice is "strongly discourage[d]." AGO 07-35. See also AGO 01-21 (city council's discussions and deliberations on matters coming before the council must occur at a duly noticed city council meeting and the circulation of position statements must not be used to circumvent the requirements of the statute); AGO 08-07 (city commissioner may post comment regarding city business on blog or message board; however, any subsequent postings by other commissioners on the subject of the initial posting could be construed as a response subject to the Sunshine Law); and Inf. Op. to Jove, January 22, 2009 (posting of anticipated vote on blog).

Town councilmembers, board members and committee members have used social media and electronic communications before and after public meetings to communicate with the public. Under no circumstances shall such public officials communicate with member of the same public body outside of a properly held public meeting on matters which would reasonably come before them for action in the foreseeable future. In addition, any such public official using social media and electronic communications before and after public meetings to communicate with the public should do so with extreme caution. Each such post or message, shall contain a



## MALABAR POLICY

statement as stated in bold above. Such communication shall not disparage members of the public, staff or other members of the same public body, or member of any other town public body.

The author not to include any other member of the same board in the communication. The Town council does recognize that sometimes the author of a social media post does not necessarily know who is reviewing the post. That notwithstanding, of the post shall have the bolded language above on all such communications.

Any public body official who does receive or reviews such a communication shall not engage in a back and forth discussion with another council member, they should not reply directly nor indirectly (conduit) to the author of the communication, but they may provide a position on a matter with the same cautionary language bolded above. Such position must refrain from commenting upon any other comment made by a member of the same public body.

Any posting or communication outside of a public shall only contain the opinions of the author and shall not comment upon any other position or opinion of another member of the same body either directly or by implication.

Council members, board members and committee members are discouraged from making anonymous posts or communications or using pseudonyms when commenting upon public business. Such actions are hereby considered an attempt to circumvent both the Florida Public Records law and the Sunshine Law. Should a member of a public body receive an anonymous social media post or communication or the author is not identified as a member of the same body as the recipient, and the recipient cannot reasonably determine who authored such communication, then the recipient may with extreme caution reply to such communication.

### **IV. Penalty for violation**

The following violations of this policy shall subject the violator to the penalties enumerated herein:

1. Any violation of the Public Records Law or Sunshine Law shall subject the violator to all of the penalties imposed by Florida Law, the Town's charter or ordinances.
2. Disparaging comments about staff, or any other member of the same public body or other public body of the Town shall subject the public official to public censure for the first violation. For a second violation by any member of a board or committee other than the Town council shall subject such member to removal or suspension as provided by FS 112.501 as applicable or pursuant to the Town's code of Ordinances.
3. The making of anonymous posts or communications shall subject the public official to public censure for the first violation. For a second violation by any member of a board or committee other than the Town council shall subject such member to removal or suspension as provided by FS 112.501 as applicable or pursuant to the Town's code of Ordinances.

## MALABAR POLICY

4. Should any council member make disparaging comments about any member of the public staff, or any other member of the same public body or other public body of the Town or make anonymous posts or communications concerning Town business, they shall be subject to public censure. For a third violation herein a referral for suspension/removal shall be made pursuant to FS 112.51

I HAVE READ AND UNDERSTAND THIS POLICY AND AGREE TO COMPLY.

---

Elected/Appointed Member

**C. DOES THE SUNSHINE LAW APPLY TO TELEPHONE, ELECTRONIC, OR WRITTEN COMMUNICATIONS BETWEEN BOARD MEMBERS?**

**1. Application of the Sunshine Law to telephone conversations, written correspondence, and electronic communications media**

**a. Telephone conversations**

Private telephone conversations between board members to discuss matters which foreseeably will come before that board for action violate the Sunshine Law. *See State v. Childers*, No. 02-21939-MMC; 02-21940-MMB (Escambia Co. Ct. June 5, 2003), *per curiam affirmed*, 886 So. 2d 229 (Fla. 1st DCA 2004) (private telephone conversation during which two county commissioners and the supervisor of elections discussed redistricting violated the Sunshine Law).

**b. Written correspondence, e-mails, texts, and other electronic communications**

The Sunshine Law requires boards to meet in public; boards may not take action on or engage in private discussions of board business via written correspondence, e-mails, text messages or other electronic communications. *See* AGO 89-39 (members of a public board may not use computers to conduct private discussions among themselves about board business).

Similarly, city commissioners may not use an electronic newsletter to communicate among themselves on issues that foreseeably may come before the commission. *Inf. Op. to Syrkus*, October 31, 2000. *And see* AGO 09-19 (members of a city board or commission may not engage on the city's Facebook page in an exchange or discussion of matters that foreseeably will come before the board or commission for official action); and *Inf. Op. to Martelli*, July 20, 2009 (authority should discuss business at publicly noticed meetings "rather than in a series of letters between authority members"). *Cf. Inf. Op. to Galaydick*, October 19, 1995 (school board members may share laptop computer even though computer's hard drive contains information reflecting ideas of an individual member as long as computer is not being used as a means of communication between members).

Thus, a procedure whereby a board takes official action by circulating a memorandum for each board member to sign whether the board member approves or disapproves of a particular issue, violates the Sunshine Law. *Inf. Op. to Blair*, May 29, 1973. *And see Leach-Wells v. City of Bradenton*, 734 So. 2d 1168, 1171 (Fla. 2d DCA 1999) (selection committee created by city council to evaluate proposals violated the Sunshine Law when the city clerk unilaterally ranked the proposals based on the committee members' individual written evaluations; the court held that "the short-listing was formal action that was required to be taken at a public meeting"); *Schweickert v. Citrus County Port Authority*, No. 12-CA-1339 (Fla. 5th Cir. Ct. September 30, 2013) (*ad hoc* committee appointed by board violated the Sunshine Law when the members submitted individual written evaluations of the proposals to the staff, which then compiled the scores and ranked the proposals for submission to the board; the committee should have ranked the proposals at a public meeting); and AGO 93-90 (board not authorized to use employee evaluation procedure whereby individual board members send their individual written comments to the board chair for compilation and subsequent private discussion with the employee).

However, a commissioner may send a written report to other commissioners on a subject that will be discussed at a public meeting without violating the Sunshine Law, if prior to the meeting, there is no interaction related to the report among the commissioners and the report, which must be maintained as a public record, is not being used as a substitute for action at a public meeting. AGO 89-23. *And see* AGO 01-20 (e-mail communication of information from one council member to another is a public record but does not constitute a meeting subject to the Sunshine Law when it does not result in the exchange of council members' comments or responses on subjects involving foreseeable action by the council). *Cf. Inf. Op. to Kessler*, November 14, 2007 (procedural rule requiring county commissioner to make a written request to commission chair to withdraw an item from the consent agenda does not violate the Sunshine Law).

If, on the other hand, the report is circulated among board members for comments with

such comments being provided to other members, there is interaction among the board members which is subject to s. 286.011, F.S. AGO 90-03. *See also* AGO 96-35 (school board member may prepare and circulate informational memorandum or position paper to other board members; however, use of a memorandum to solicit comments from other board members or the circulation of responsive memoranda by other board members would violate the Sunshine Law).

In addition, the Attorney General's Office has expressed concern that a process whereby board members distribute their own position papers on the same subject to other members is "problematical" and should be discouraged. *See* AGO 01-21 (city council's discussions and deliberations on matters coming before the council must occur at a duly noticed city council meeting and the circulation of position statements must not be used to circumvent the requirements of the statute). *Accord* AGO 07-35. *And see* AGO 08-07 (city commissioner may post comment regarding city business on blog or message board; however, any subsequent postings by other commissioners on the subject of the initial posting could be construed as a response subject to the Sunshine Law); and *Inf. Op. to Jove*, January 22, 2009 (posting of anticipated vote on blog).

**2. Authorization to conduct public meetings via telephone, video conferencing, computer, or other electronic media**

**a. State boards**

In AGO 98-28, the Attorney General's Office concluded that s. 120.54(5)(b)2., F.S., authorizes state agencies to conduct public meetings via electronic means provided that the board complies with uniform rules of procedure adopted by the state Administration Commission. These rules contain notice requirements and procedures for providing points of access for the public. *See* Rule 28-109, F.A.C.

**b. Local boards**

**(1) Meetings**

As to local boards, the Attorney General's Office has noted that the authorization in s. 120.54(5)(b)2., to conduct meetings entirely through the use of communications media technology applies only to state agencies. AGO 98-28. Thus, since s. 1001.372(2)(b), F.S., requires a district school board to hold its meetings at a "public place in the county," a quorum of the board must be physically present at the meeting of the school board. *Id. And see* AGOs 09-56 (where a quorum is required and absent a statute to the contrary, the requisite number of members must be physically present at a meeting in order to constitute a quorum), and 10-34 (city may not adopt an ordinance allowing members of a city board to appear by electronic means to constitute a quorum). *Cf. s. 163.01(18)*, F.S., authorizing certain entities created by interlocal agreement to conduct public meetings and workshops by means of communications media technology.

However, if a quorum of a local board is physically present, "the participation of an absent member by telephone conference or other interactive electronic technology is permissible when such absence is due to extraordinary circumstances such as illness[;] . . . [w]hether the absence of a member due to a scheduling conflict constitutes such a circumstance is a determination that must be made in the good judgment of the board." AGO 03-41.

For example, if a quorum of a local board is physically present at the public meeting site, a board may allow a member with health problems to participate and vote in board meetings through the use of such devices as a speaker telephone that allow the absent member to participate in discussions, to be heard by other board members and the public and to hear discussions taking place during the meeting. AGO 94-55. *And see* AGOs 92-44 (participation and voting by ill county commissioner), and 02-82 (physically-disabled city advisory committee members participating and voting by electronic means).

**(2) Workshops**

The physical presence of a quorum has not been required where electronic media

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 02  
Meeting Date: March 6, 2017

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

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**SUBJECT:** Repeat Request for Reduced Speed on SR514, Expedited Road Improvements and Support from Adjacent Communities (Reso 06-2017)

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**BACKGROUND/HISTORY:**

This is a follow up resolution to keep the pressure on.

**FINANCIAL IMPACT:**

Unknown

**ATTACHMENTS:**

Reso 06-2017  
Florida Today articles  
Letters between Town and FDOT and Senator Nelson

**ACTION OPTIONS:**

Staff requests Adoption of Reso 06-2017

**RESOLUTION 06-2017**

**A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR SUPPORT TO REDUCE SPEED ON STATE ROAD 514 ALSO KNOWN AS MALABAR ROAD BETWEEN HIGHWAY 1 AND THE WEST END OF MALABAR JURISDICTIONAL BOUNDARY; REQUESTING EXPEDITED ROADWAY IMPROVEMENTS; SOLICITING SUPPORT FROM OTHER AGENCIES IN THIS REQUEST TO FLORIDA DEPARTMENT OF TRANSPORTATION; PROVIDING FOR DISTRIBUTION OF REQUEST; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, SR 514 Malabar Road is a State Road that intersects the Town of Malabar from Highway 1 westward to the Town limits; and,

**WHEREAS**, SR 514 Malabar Road from US Highway 1 to Babcock Street (in Palm Bay) is approximately three and a half miles of which three miles is within the jurisdiction of the Town of Malabar; and,

**WHEREAS**, SR 514 Malabar Road is used as a major collector and evacuation route and is used anytime there is an incident on I-95 requiring alternative routing; and

**WHEREAS**, SR 514 Malabar Road will require unique design in the widening in order to avoid negative effects on future commercial growth and the active disc golf course; and

**WHEREAS**, such design must include reducing the speed, reducing the severity of curve as well as incorporating a multimodal paved path on the north side of SR 514; and

**WHEREAS**, the townspeople have expressed a desire to expedite the already accepted and funded improvements to the Corey Road and Weber Road (project 413761) in order to improve traffic flow and alleviate current dangerous conditions.

**WHEREAS**, the townspeople and other users of SR-514 have expressed a desire to have traffic control signals included with the already accepted and funded improvements to the Corey Road and Weber Road intersections (project 413761) in order to improve traffic flow and safety of the users of this road.

**NOW, THEREFORE BE IT RESOLVED BY THE TOWN OF MALABAR OF BREVARD COUNTY, FLORIDA that;**

**SECTION 1. Findings:**

The whereas statements are true and correct.

**SECTION 2. Distribution:**

The Town Clerk is directed to send copies of this resolution to FDOT, the City of Palm Bay, Town of Grant-Valkaria, Brevard County, and the Space Coast League of Cities.

**SECTION 3. Severability.**

The provisions of this Resolution are declared to be severable and if any section, sentence, clause or phrase of this Resolution shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections,

sentences, clauses, and phrases of this Resolution but shall remain in effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

**SECTION 4. Conflict.**

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

**SECTION 5. Effective Date.**

This Resolution shall take effect immediately upon passage.

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

- Council Member Grant Ball
- Council Member Laura Mahoney
- Council Member Steve Rivet
- Council Member Dick Korn
- Council Member Richard Kohler

This Resolution was then declared to be duly passed and adopted this 6th day of March, 2017.

By: TOWN OF MALABAR

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

ATTEST:

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

(seal)

Approved for Legal Sufficiency:

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

3/1/17

# Malabar leaders tell FDOT to hurry up and fix Malabar Road

RICK NEALE  
FLORIDA TODAY

MALABAR — Town officials are lobbying political leaders across Florida to hurry up and widen the eastern end of Malabar Road — a project that has generated discussion for decades.

"This has been going on since 1976. It's 41 years in the making. And nothing's happened. It's been 41 years, and it's still the same road," Malabar Town Administrator Doug Hoyt said.

"They've had three or four different plans. But generally, the consensus of these meetings is, 'Well, we're going to have to go back and do some more studies.' I'm a little baffled about this," Hoyt said.

"(State Road) 514 is one of the few east-west roads in Brevard County that isn't four-laned, that doesn't have stoplights, and that doesn't



RICK NEALE/FLORIDA TODAY

Cars drive east on Malabar Road past the Corey Road intersection.

See Hurry, Page 5A

## Hurry

Continued from Page 3A

have safety measures that really are required here in this area," he said.

Last week, Hoyt sent a 37-page packet of Malabar Road information to Gov. Rick Scott, Florida Department of Transportation administrators, state legislators, city leaders in Palm Bay and Grant-Valkaria, Brevard Public Schools Superintendent Desmond Blackburn and other officials.

Town data shows Malabar Road crashes increased from 12 in 2012 to 48 last year. During that five-year span, the town reported a total of 73 non-injury crashes, 38 injury crashes and five fatalities on Malabar Road.

- Stoplights and turn lanes at the intersections of Weber and Corey roads.
- Lowering the speed limit from 55 mph to 45 mph from Babcock Street to U.S. 1.
- An emergency stop signal at the Malabar Fire Department to help speed up response times.
- A paved multi-use trail for walkers and bicyclists along the north side of Malabar Road.

In the meantime, FDOT engineers continue studying a future project that could widen Malabar Road from two to four lanes between Babcock Street and U.S. 1.

A development-environmental study started in 2013, was paused in 2015, and restarted in 2016, said Steve Olson, FDOT spokesman.

"A unique challenge is fitting a four-lane roadway between locations with a wildlife sanctuary and a public park on opposite sides of the roadway, while also being mindful of impacts to private landowners. A design alternative that takes all factors into consideration will be presented at a public hearing during the second half of this year," Olson said.

FDOT anticipates completing the development-environmental study in March 2018, and design work will begin in April 2020, Olson said. No construction date has been scheduled.

On a smaller scale, FDOT is working on a \$1.8 million Malabar Road project designed to upgrade the Weber and Corey road intersections. Plans call for turn lanes, milling and resurfacing, guardrail upgrades, drainage improvements, signage and pavement marking.

Construction is funded for 2019, Olson said.

"Both projects are following specific schedules — and specific steps — that are part of the process, to bring a project from concept to completion," Olson said.

Hoyt's 37-page packet included Malabar Town Hall historical research on widening Malabar Road:

**1976:** In Malabar's comprehensive land-use plan, town officials stated that Malabar Road should be enlarged to four lanes after 1995.

**1986:** FDOT sent Malabar officials a letter stating that Malabar Road would be widened east of I-95, with land acquisitions starting in 1987.

**1989:** The Greater South Brevard Area Chamber of Commerce endorsed the widening of Malabar Road as soon as possible, contending that traffic congestion impeded commercial interests.

**1989:** A FDOT engineering report determined that Malabar Road warranted widening east of Babcock Street soon after 1993.

**2014:** A FDOT newsletter stated that intersection safety upgrades at Corey and Weber roads were funded for design, right-of-way acquisition and construction.

"Every year that improvements to SR-514 are delayed continues to put drivers at risk and the cost of these improvements continues to escalate. Another 'study' is not required, in the writer's opinion. The State needs to move ahead NOW with the long promised upgrades and safety to this road through our Town," Hoyt wrote in his presentation.

In a letter to Malabar residents posted Monday on the Town Hall website, Hoyt estimated that Malabar residents have bought at least 46 million gallons of gasoline and paid at least \$9 million in gas taxes since 1976.

FDOT engineers discussed the Corey-Weber intersection project during an open house last July at Palm Bay Hospital.

Contact Neale at 321-242-3638, rneale@floridatoday.com or follow @RickNeale1 on Twitter.

RESOLUTION 06-2016

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A REQUEST FROM THE FLORIDA TRANSPORTATION PLANNING ORGANIZATION TO RECOMMEND A CONCEPT FOR THE WIDENING ON SR 514, MALABAR ROAD FROM THE WESTERN BOUNDARIES OF THE TOWN TO U. S. 1 (STATE ROAD 5) IN THE TOWN OF MALABAR; PROVIDING FOR DISTRIBUTION OF REQUEST; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Road is a State Road that intersects the Town of Malabar from east to west at Township lines 28 and 29 in South Brevard County; and,

WHEREAS, SR 514 Malabar Road from US Highway 1 to Babcock Street (in Palm Bay) is approximately three and a half miles of which three miles is within the jurisdiction of the Town of Malabar; and,

WHEREAS, The Transportation Planning Organization has asked their input for multiple concepts as well as review of the currently accepted no-build two to three lane concept at the RTCM of April 18, 2016 and,

WHEREAS, the two four lane alternatives had negative effects on, future commercial growth, an active disk golf course, private lands, and the closure of a current through road serving the community and multimodal transportation and,

WHEREAS, the three lane alternative did not utilize land from the north side of the curve that is EELs and county lands, and did not implement a multimodal path on the north side of SR514, and not effect the active disk golf course on the south side of SR514; and,

WHEREAS, the townspeople have expressed a desire to expedite the already accepted and funded improvements to the Corey Road and Weber Road (project 413761) in order to improve traffic flow and alleviate current dangerous conditions..

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

**SECTION 1. Findings:**

1. The two lane (currently accepted) concept or a three lane modified concept be designed without south-side road closures and with north-side bike paths.
2. The state lands on the north side of the Malabar SR514 curve be utilized to enhance multimodal use.
3. Glatter Road (old Township Road) not be closed as it is currently accommodating horse, bike and multimodal traffic. Explore improvement of this road as an alternate downtown route.
4. Investigate fast tracking the improvements of Weber Road and Corey Road intersections.
5. Protect the current Disc Golf course.

**SECTION 2. Severability.**



The provisions of this Resolution are declared to be severable and if any section, sentence, clause or phrase of this Resolution shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Resolution but shall remain in effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

**SECTION 4. Conflict.**

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

**SECTION 5. Effective Date.**

This Resolution shall take effect immediately upon passage.

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

- Council Member Grant Ball
- Council Member Brian Vail
- Council Member Don Krieger
- Council Member Dick Korn
- Council Member Richard Kohler

This Resolution was then declared to be duly passed and adopted this 6th day of June, 2016.

By: TOWN OF MALABAR  
Phil Crews  
Mayor Phil Crews, Council Chair

ATTEST:

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

(seal)

Approved for Legal Sufficiency:

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

Palm Bay is dedicating a new park on east side of Babcock Street. Olin Johnson. CM Kohler said it is already a trail but it is not official.

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

- I. **PUBLIC HEARINGS/SPECIAL ORDERS: 0**
- J. **UNFINISHED BUSINESS/GENERAL ORDERS: 0**
- K. **ACTION ITEMS: ORDINANCES FOR FIRST READING: 0**  
**ORDINANCES FOR FIRST READING: 0;**  
**RESOLUTIONS:**

2. **Resolution Repealing** Prior Resos re: Council Procedures (Reso 05-2016)  
 A RESOLUTION TO REPEAL PRIOR RESOLUTIONS PERTAINING TO COUNCIL PROCEDURES AND ADMINISTRATION TO INCLUDE BUT NOT BE LIMITED TO RESOLUTION 07-2014, RESOLUTION 30-2013, RESOLUTION 11-2012, RESOLUTION 104-2011, RESOLUTION 01-2009, RESOLUTION 13-2008, RESOLUTION 04-2007, RESOLUTION 5-97, AND OTHERS THAT MAY MEET THIS CRITERIA PRIOR TO RESOLUTION 04-2016.

**Exhibit:** Agenda Report No. 2  
**Recommendation:** Request Action

MOTION: CM Vail / CM Krieger to approve Reso 05-2016. Discussion: Some confusion over the question of whether that left any resolution in place to provide guidelines.  
 MOTION: CM Vail / CM Krieger to table until confusion is clarified.

3. **Resolution Expressing Malabar's Position** re: SR514 Widening (Reso 06-2016) A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A REQUEST FROM THE FLORIDA TRANSPORTATION PLANNING ORGANIZATION TO RECOMMEND A CONCEPT FOR THE WIDENING ON SR 514, MALABAR ROAD FROM THE WESTERN BOUNDARIES OF THE TOWN TO U. S. 1 (STATE ROAD 5) IN THE TOWN OF MALABAR; PROVIDING FOR DISTRIBUTION OF REQUEST; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 3  
**Recommendation:** Request Action

MOTION: CM Vail / Krieger to approve Reso 06-2016  
 Discussion: CM Vail – summed up his constituent's ideas. CM Krieger said he presented the reso at the last meeting and the reso in package was changed and had additional stuff by Doug. He handed out revised reso with his comments in italics. Line throughs and underlines are shown.

Krieger said they should get the intersections improved first and take the traffic signals out of the resolution. Chair asked if he wanted to amend the motion. CM Krieger wants to amend the reso to take out the lights. Utilize land on north side. Did not implement – last line has italics. Under findings – use. He doesn't envision the discussion

Motion is to replace pg. 1 with new pg. 1. Krieger and Ball. Krieger said this is a sharp stick in the eye. Where is this going. More has to be done but this is a start. First do the two intersections.

MOTION: CM Krieger / Ball to approve Reso 06-2016 with new page 1.

CM Korn agrees with 80-90% of what CM Krieger has said. But we need to get their attention. The presentation they gave to us at last meeting was a scam. My suggestion to them is honor your promise on 2014 to improve intersections and reduce speed. After you have done that in good faith. CM Krieger thinks this reso will do that.

CM Vail asked about funding. CM Krieger said he went to the meetings at the hospital it was their interpretation to improve the intersections was a done deal.

CM Ball said he supports Krieger's reso but still thinks traffic lights are necessary. TA agrees with Krieger but had talked to the BCSO MSTU deputies and they felt the traffic lights were needed. The turn lanes will cause more accidents. Also with the high speed the Chief said it is hard to get rescue vehicles. He spoke with the FDOT and they said tell him what they really want. We need a reso that is unified.

CM Vail said he went through the same thing in front of his shop. It was 2-lane. Since they widened there are more T-bone accidents. Overall and exposure to it, during high traffic times, it is worse.

Voting on amendment first: take lights out. CM Ball said his concern is  
CM Ball, Aye; CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Kohler, Aye. Motion carried 5 to 0.

Voting on Reso: approve as amended - replacing pg. 1.  
CM Ball, Aye; CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Kohler, Aye. Motion carried 5 to 0.

**MISCELLANEOUS:**

**4. Malabar's Position on All Aboard Florida High Speed Passenger Rail**

**Exhibit:** Agenda Report No. 4  
**Recommendation:** Request Action

MOTION: CM Krieger / CM Kohler to table this item as there is no urgency. Krieger/Kohler.  
Vote: All Aye. TA said DEP has raised new questions so there is a delay.

**5. Direction on Cell Tower Land Lease**

**Exhibit:** Agenda Report No. 5  
**Recommendation:** Request Action

Motion:  
Discussion. TA currently have a lease with Crown Castle. They have come to us near the end of the 5-year multiple renewals.

Option: larger amount – if they added new carrier and we get nothing.

Option 2: lesser amount but if they get new carrier we get 200 each.

Right now we get a smaller amount monthly and it just goes into the general fund. CM Vail said what is the amortization schedule. TA said in 10 years. Also if technology changes

MOTION: CM Korn / CM Vail to take the larger amount now.

Discussion: CM Korn believes that the technology is changing so fast and the satellites will be replacing towers.

CM Ball said he doesn't have a problem with onetime payment. CM Vail said what kind of interest. 2 basis points. TA has investigated some investments for government funds. CM Krieger said the towers are going to be around for a long time and why aren't we looking at other cell tower vendors.

Mrs. Ritter, Orange Avenue asked what are we doing to replace the monthly amount? CM Vail said that getting the reserves built back up is more important. He has been asking about this for a long time. If they have been pulling from reserves to meet budget, then it is a double shortfall. CM Krieger said there is more information we want. CM Korn asked if TA

Town councilwoman Marisa Acquaviva is concerned that the plan doesn't call for lowering the current 55 mph speed limit on the road, which had a daily average of more than 12,000 vehicles last year.

"I'm very excited we are going to get our road improved, but at the same time a lot of the residents have spoken up about lowering the speed and adding a traffic light at Corey and Malabar roads," Acquaviva said.

She worries that a wider road will make it even more difficult for motorists to negotiate the intersection. The three-term

See MALABAR, Page 5A

### IF YOU GO

- » **What:** Malabar Road alternatives public meeting
- » **When:** 5 p.m. Tuesday
- » **Where:** Palm Bay Hospital auditorium, 1425 Malabar Road, Palm Bay

## Malabar

Continued from Page 3A

councilwoman frequently uses the Corey Road intersection and has had three family members involved in accidents there.

"That is a very tough road to come out on Malabar Road," Acquaviva said.

Traffic accidents have become a commonplace near First Baptist Church of Malabar, which is on the southeast corner of the intersection of Corey and Malabar roads, according to Kenneth Bukowski, office manager for church.

"It's dangerous and especially for the church," Bukowski said. "Every time we turn around there is an accident."

He also suggests a traffic light at Corey Road could make the road safer.

"It's very difficult to

pull out of Corey Road," Bukowski said. "That is really where most of our accidents take place."

Councilman Dick Korn also advocates lowering the speed on Malabar Road and contends the current 55 mph speed limit is unsafe for the amount of residential and business access points along the road.

"The speed limit is out of character with the rest of the county," Korn said.

Acquaviva hopes FDOT representatives at the public meeting Tuesday at Palm Bay Hospital will consider the town's appeal for additional safety measures.

"I will attend and tell people to attend if they are going to listen to our input," Acquaviva said. "I feel like sometimes they don't."

Contact Gunnerson at [twitter.com/scottgunnerson](https://twitter.com/scottgunnerson), [sgunnerson@floridatoday.com](mailto:sgunnerson@floridatoday.com), 321-360-1016.

MONDAY, MAY 5, 2014 3A



A Florida Department of Transportation study suggests widening Malabar Road to three lanes in downtown Malabar.

SCOTT GUNNERSON/FLORIDA TODAY

# Malabar's wider road plan drives speed issue

Town officials say intersection already unsafe at 55 mph limit

By Scott Gunnerson  
FLORIDA TODAY

Transportation planners want to widen a state road through Malabar, but town leaders say the options don't go far enough to make Malabar Road safe.

The Florida Department of Transportation will present alternatives for three sections of Malabar Road from Babcock Street to U.S. 1 at a public meeting Tuesday.

The plans would convert the two-lane road to a four-lane divided roadway, except through the area near U.S. 1, which would be expanded to three lanes with the center lane for turning. Sidewalks and bike paths would be added to the entire 3.6-mile project.

RESOLUTION 05-2014

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A REQUEST TO FLORIDA DEPARTMENT OF TRANSPORTATION TO REDUCE THE SPEED ON SR 5, U.S. HIGHWAY 1 TO 45 MPH WITHIN THE JURISDICTION OF THE TOWN OF MALABAR THAT IS CURRENTLY 55MPH; REQUESTING FDOT REPLACE THE THROUGH LANE SIGNAL WITH FULL SIGNALIZATION ON THE OUTSIDE LANE ON THE NORTHBOUND SIDE OF SR 5; PROVIDING FOR DISTRIBUTION OF REQUESTS; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, State Road 5, U.S. Highway 1, traverses the Town of Malabar from north to south along the Indian River Lagoon in South Brevard County; and,

**WHEREAS**, the distance along SR 5, U.S. Highway 1 within the jurisdiction of Malabar is approximately three miles with two traffic control devices (traffic lights) within its jurisdiction; and,

**WHEREAS**, the traffic control device at SR 5, US Highway 1 and Malabar Road (SR514) provides a continuous traffic signal for northbound traffic on SR 5 encouraging traffic to maintain high rates of speed within its jurisdiction; and,

**WHEREAS**, the right of the Town of Malabar to determine the safety needs of their community should be up to the governing body of the Town of Malabar; and,

**WHEREAS**, the Town of Malabar receives calls and requests from it's citizens regarding reducing the speed along SR 5, U.S. Highway 1; and,

**NOW, THEREFORE BE IT RESOLVED BY THE TOWN OF MALABAR OF BREVARD COUNTY, FLORIDA that;**

**SECTION 1. Request for Reduced Speed on State Road 5, U. S. Highway 1.**

The Town Council of the Town of Malabar hereby submits to the Florida Department of Transportation a request for a reduced speed limit to 45 MPH along SR 5, U.S. Highway 1 within the jurisdiction of Malabar that is currently 55MPH.

**SECTION 2. Request Replacement of Continuous thru lane Signal with Full Signalization on Northbound Lane of State Road 5, U. S. Highway 1.**

The Town Council of the Town of Malabar hereby submits to the Florida Department of Transportation a request for replacement of the through lane signal with full signalization requiring both northbound lanes to stop.

**SECTION 3. Distribution.**

The Town Council of the Town of Malabar hereby directs the Town Clerk to distribute a copy of this resolution to the following: Secretary of the Florida Department of Transportation Mr. Ananth Prasad, Governor Rick Scott, U.S. Senator Bill Nelson, U.S. Senator Marco Rubio, Congressman Bill Posey, State Senator Thad Altman, and State Representative John Tobia.

SECTION 4. Severability.

The provisions of this Resolution are declared to be severable and if any section, sentence, clause or phrase of this Resolution shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Resolution but shall remain in effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

SECTION 5. Conflict.

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

SECTION 6. Effective Date.

This Resolution shall take effect immediately upon passage.

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

|                                 |            |
|---------------------------------|------------|
| Council member Jim Milucky      | <u>Aye</u> |
| Council member Wayne Abare      | <u>Nay</u> |
| Council member Steve Rivet      | <u>Aye</u> |
| Council member Dick Korn        | <u>Aye</u> |
| Council member Marisa Acquaviva | <u>Aye</u> |

This Resolution was then declared to be duly passed and adopted this 3rd day of February, 2014.

**TOWN OF MALABAR**

By:

Steve Rivet

**Steve Rivet, Council Chair**

ATTEST:

Debby K. Franklin

Debby K. Franklin, CMC  
Town Clerk/Treasurer

(seal)

Approved as to Form and Content:

Karl W. Bohne, Jr.

Karl W. Bohne, Jr.,  
Town Attorney



United States Senate  
WASHINGTON, DC 20510-0905



BILL NELSON  
FLORIDA

March 11, 2014

Ms. Bonilyn Wilbanks  
2725 Malabar Road  
Malabar, Florida 32950

Dear Ms. Wilbanks:

In response to my inquiry on your behalf, I am enclosing a copy of the correspondence I received from the U.S. Department of Transportation. I appreciate you giving me the opportunity to look into this issue.

If I can assist you with any other matter, please do not hesitate to let me know.

Sincerely,

BN/jm

Enclosure



U.S. Department  
of Transportation  
Federal Highway  
Administration

Florida Division

545 John Knox Road, Suite 200  
Tallahassee, Florida 32303

March 3, 2014



[www.fhwa.dot.gov/fldiv](http://www.fhwa.dot.gov/fldiv)

In Reply Refer To:  
HDA-FL

The Honorable Bill Nelson  
United States Senator  
Landmark Two  
225 East Robinson Street, Suite 410  
Orlando, Florida 32801

Dear Senator Nelson:

Thank you for your February 19, 2013, letter to the U.S. Department of Transportation on behalf of Bonilyn Wilbanks from Malabar, Florida. The Florida Division of the Federal Highway Administration (FHWA) was asked to respond to your constituent's concerns related to the speed limit along SR5/US1 and the intersection of US1 and SR514 (Malabar Road).

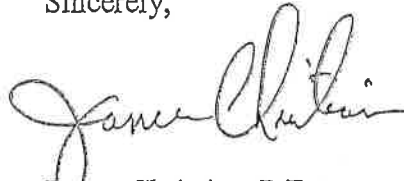
Since the Florida Department of Transportation (FDOT) is the lead state agency in operating and maintaining the State Highway System, we informed Mr. Richard B. Morrow, FDOT District Five Traffic Operations Engineer, of Ms. Wilbanks' concerns. Mr. Morrow informed us that his office had received a similar request directly from Ms. Wilbanks and that his office would review and study the request.

FDOT's study will incorporate field reviews with operational observations during both peak and off-peak hours. FDOT will also review the corridor's crash history and conduct a speed study in accordance with FDOT's Speed Zoning Manual. Based on the study results, FDOT will determine whether changes to the posted speed and/or the signal operation would be appropriate. FDOT expects to have completed the study within 60 days.



We hope this information is helpful in addressing your constituent's request. If you have any additional concerns, please contact us.

Sincerely,

A handwritten signature in cursive script, appearing to read "James Christian".

James Christian, P.E.  
Division Administrator

cc: Noranne Downs, District Five Secretary  
Richard B. Morrow, District Five Traffic Operations Engineer

## Town Clerk / Treasurer

---

**From:** Cairns, Christopher [Christopher.Cairns@dot.state.fl.us]  
**Sent:** Monday, December 12, 2011 12:46 PM  
**To:** Town Clerk / Treasurer  
**Cc:** Keyser, George; Tumlinson, Fonz; Morrow, Rick; Sanders, Michael  
**Subject:** Malabar Question

Section 70180 – State Road 514 (Malabar Road)  
Brevard County

Ms. Franklin:

✓ Thank you for relaying the Town Council's desire to consider reducing the 55 mph speed limit on Malabar Road from the entrance to Malabar Park eastward through the curve. In order to objectively evaluate whether reducing the speed limit is justified, an engineering study is required. We will conduct a speed study to evaluate free flowing speeds, road conditions, and safety history to determine the need for changes. We will advise you of our findings within the next 60 days.

Sincerely,

Christopher Cairns, PE, PTOE  
Florida Department of Transportation  
Assistant District Traffic Operations Engineer  
District Five  
386-943-5328

---

-----Original message-----

**From:** "Keyser, George" <George.Keyser@dot.state.fl.us>  
**To:** "Morrow, Rick" <Rick.Morrow@dot.state.fl.us>  
**Cc:** "Cooper, Cindy" <Cindy.Cooper@dot.state.fl.us>, "Tumlinson, Fonz" <Fonz.Tumlinson@dot.state.fl.us>, Steve Ralston <sralston@dbiservices.com>, "townclerk@townofmalabar.org" <townclerk@townofmalabar.org>  
**Sent:** Mon, Dec 12, 2011 15:39:07 GMT+00:00  
**Subject:** FW: Malabar Question

Town of Malabar requests a speed limit change on SR 514 from the entrance to the Town Community Park, the State's Malabar Scrub Sanctuary and the Town's Disc Golf Park in addition to the Malabar Fire Department driveway (1840 Malabar Road). Ms. Franklin is the current contact person for the Town @321-727-7764x12 or [townclerk@townofmalabar.org](mailto:townclerk@townofmalabar.org).

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**From:** Town Clerk / Treasurer [<mailto:townclerk@townofmalabar.org>]  
**Sent:** Saturday, December 10, 2011 1:38 PM  
**To:** Tumlinson, Fonz  
**Subject:** Malabar Question



## Florida Department of Transportation

RICK SCOTT  
GOVERNOR

719 S. Woodland Blvd.  
DeLand, FL 32720

ANANTH PRASAD, P.E.  
SECRETARY

November 22, 2011

The Honorable Marisa Acquaviva  
Council Member, Town of Malabar, District 5  
2725 Malabar Road  
Malabar, Florida 32950

Re: Section 70180 – State Road 514 (Malabar Road)  
Brevard County

Dear Council Member Acquaviva:

Thank you for your letter dated September 28, 2011 to Secretary Prasad regarding the intersection of Malabar Road and Corey Road in Malabar. The Secretary has asked me to respond on his behalf as this location is in our district. I am sorry to hear of the tragic crash that occurred just east of this intersection on September 28. I am always saddened to hear of a life lost on our state highway.

We share a common goal of safety. Our "vision" is to be "congestion and fatality free." Every traffic operational study we conduct is focused on achieving the best safety overall for conditions. At Malabar Road and Corey Road, a traffic signal would not be appropriate with current traffic patterns. Traffic volumes on Corey Road are below thresholds required to justify a traffic signal. Also, there is not a crash pattern to indicate a safety problem by installing a traffic signal. Most of the crashes occurring at this intersection are related to motorists waiting to turn left onto Corey Road without the benefit of a left turn lane. While a traffic signal may seem like a solution for traffic concerns, a traffic signal would not prevent these crashes. In fact, we have found that the majority of crashes on state roads occur at intersections with traffic signals.

As development in the region continues, we understand that traffic volumes will likely increase on Corey Road. We will certainly consider signalization in the future when conditions are appropriate. Regarding the need for left turn lanes on Malabar Road, we will program a project to construct these lanes. It is likely that we will need to purchase right-of-way for this project, so this project will not be built in the very near future. With that noted, in order to follow up on this most recent crash, we will revisit crash history on Malabar Road in the vicinity of Corey Road. As part of this investigation, we will conduct a speed study to evaluate whether the 55 mph speed limit should be reduced. We will advise you of our findings within the next 60 days.

Thank-you for sharing your concerns and if you have any questions, please call me at 386-943-5474.

Sincerely,

*For*   
Noranne Downs, P.E.  
District Five Secretary

NBD:ccc

cc: Mr. Rick Morrow  
Mr. Jim Stroz, Jr.



# TOWN OF MALABAR

2725 MALABAR ROAD • MALABAR, FLORIDA 32950

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

www.townofmalabar.org

September 28, 2011

Ananth Prasad, P.E., Secretary  
Department of Transportation  
605 Suwannee Street  
Tallahassee, Florida 32399-0450

Dear Sir:

I am writing today to discuss the traffic accident that occurred today in the Town of Malabar. At 7:30 a.m. this morning I drove upon a horrific scene as I was pulling out from the north side of Corey Road where it intersects Malabar Road. I saw the rescue vehicles and looked to the east and witnessed the Paramedics working on someone in the ditch and saw what was left of his bicycle lying on the road. I was informed by my husband and neighbors that life-flight was on the scene soon after I left. Sadly to say, a Malabar resident lost his life when a deputy on a motorcycle could not help but hit him. A tragedy occurred in our small town today on this road, a road that is plagued with many accidents at or near this intersection; a road that has a 55mph speed limit.

I have been a resident of the Town of Malabar for 16 years and have personally had three accidents in my own family at the intersection of Corey Road and Malabar Road. The accidents seem too frequent on this portion of road. It is a major juncture for homes located off of Corey Road that have to turn onto Malabar Road to get to work, schools etc. I became a member on Town Council two years ago in 2009 and I have heard of many complaints and concerns from Malabarians on this matter. I have brought these concerns to the Town Administrator and there was a traffic study done in 2010. We received the results of that traffic study in January 2011 and they were not in favor of either traffic signage/traffic light. On May 2nd of this year I voted in favor of a speed reduction of Malabar Road. I feared that this day would come when there would be a fatality on this part of Malabar Road.

This Malabar resident is not a statistic; he was our neighbor and deserved to be on a safe highway. The road condition with little or no shoulder on either side and with deep ditches on both sides should prohibit a speed limit of 55mph. The drivers deserve to be able to make safe turns at this intersection with a regulated traffic light and reduced speed.

Please reconsider the results of the traffic study with our highway safety concerns in mind - our lives may depend on it.

Sincerely,

A handwritten signature in cursive script that reads "Marisa Acquaviva".

Marisa Acquaviva, Council Member  
District 5, Town of Malabar

cc: Malabar Council  
District 3 FDOT Office

## Town Clerk / Treasurer

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**From:** Marisa Acquaviva [marisa-cq@msn.com]  
**Sent:** Friday, October 07, 2011 3:49 PM  
**To:** cliton43@bellsouth.net; punkinwf@cfl.rr.com; awollard@cfl.rr.com; renstice@yahoo.com; R Stack; Vicky; Itgrits@aol.com; Bonilyn Wilbanks; Town Clerk / Treasurer; Vickie Thomas; Bmisner410@aol.com; nyjn16@aol.com; theresacastrillo@aol.com  
**Subject:** Malabar Road Safety Concerns  
**Attachments:** Marisa re Malabar and Corey.doc

Good Afternoon,

I am writing this note to inform my neighbors in Malabar that are impacted by the traffic at the intersection on Corey and Malabar Roads, that I have been active trying to raise awareness through Town Hall about the dangerous aspects of this intersection. As some of you may know or not know, recently there was a fatal accident last week very close to Corey and Malabar where a fellow Malabarian has lost his life. My own family has been in three accidents at or near this intersection in the past 15 years and I personally know others in my neighborhood who have experienced the same. Everyday we pull out onto Malabar Rd. from Corey, whether making right or a left, coming from the South or North, it is my opinion that it can be very dangerous more often than not. The Speed, the ditches with no shoulders and illegal drivers that swing around cars making turns makes for a unsafe and I now fear deadly intersection. I believe now more than ever is the time to speak up and voice our concerns to FDOT as well as your local elected officials and Town Staff. I have included in this email the letter that I recently sent to FDOT. We deserve to drive on safe highways in Malabar. I will do all I can to shed a light on the concerns regarding this very important matter.

Thank You,  
Marisa Acquaviva  
Town of Malabar Council Member

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 03  
Meeting Date: March 6, 2017

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

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SUBJECT: Oppose HB 17 and SB 1158 (Reso 04-2017)

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### BACKGROUND/HISTORY:

This bill would strip Home Rule Authority from Municipalities over Businesses, professions and occupations and require a Special Law from the Legislature regarding any Business related regulation.

The Florida Constitution was amended in 1968 to allow municipalities Home Rule Authority and did away with Dillon's Rule.

This bill would take us back to that era.

### FINANCIAL IMPACT:

Unknown

### ATTACHMENTS:

Reso 04-2017  
Full text of each bill  
Information on Dillon's Rule

### ACTION OPTIONS:

Staff requests Adoption of Reso 04-2017

RESOLUTION 04-2017

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA OPPOSING SENATE BILL 1158 AND HOUSE BILL 17 WHICH WOULD STRIP HOME RULE AUTHORITY FROM MUNICIPALITIES TO REGULATE OVER BUSINESSES, PROFESSIONS AND OCCUPATIONS AND REQUIRE SPECIAL LAW BY THE STATE LEGISLATURE REGARDING ANY BUSINESS REGULATION; PROVIDING FOR DISTRIBUTION OF THIS RESOLUTION, AND AN EFFECTIVE DATE; AND PROVIDING FOR ADOPTION.

WHEREAS, the Town of Malabar provides the local services and facilities to its citizens which are not provided by the State of Florida; and

WHEREAS, these services include the provision for roads, drainage, fire, emergency services, code enforcement, zoning and permitting that are required for the continued operation of businesses within the Town as well as the health, safety and welfare of Malabar's residents; and

WHEREAS, this legislation if it becomes law would be contrary to the Home Rule Doctrine and cities and counties would be denied the ability to protect the health, welfare and safety of our residents and businesses; and

WHEREAS, Senate Bill (SB) 1158 and House Bill (HB) 17 seek to preempt all municipalities ability to regulate over businesses, professions and occupations to the State; and

WHEREAS, the effect of House Bill (HB) 17 will repeal any new or existing local regulation not authorized by the General Laws of Florida by July 1, 2020; and

WHEREAS, Senate Bill (HB) 17 would abolish height restrictions for businesses overriding local Code as well as Noise regulations, and Zoning matters exclusively to the State.

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

**SECTION 1.** The Town of Malabar opposes proposed bills SB1158 and HB17 as the regulations over businesses, professions and occupations should be done at the local level.

**SECTION 2.** The Town of Malabar Town Clerk is directed to forward copies of this resolution to each member of the Brevard County Legislative Delegation, Florida House of Representatives Commerce Committee, Senate Community Affairs Committee, Senate Appropriations Committee; Senate Finance and Tax Subcommittee; to the Speaker of the House; to the Florida League of Cities; and to all Brevard County municipalities.

**SECTION 3.** This Resolution shall become effective immediately upon its adoption.

This Resolution was moved for adoption by Council Member \_\_\_\_\_, This motion was seconded by Council Member \_\_\_\_\_, and 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 \_\_\_\_\_

This Resolution was declared to be duly adopted at a regular meeting of the Town of Malabar Town Council on the 6<sup>th</sup> day of March, 2017.

---

Mayor Patrick T. Reilly, Council Chair

ATTEST:

---

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

(seal)

Approved as to form and Content:

---

Karl W. Bohne, Jr., Town Attorney



# Narrow Government Authority: Dillon's Rule

Dillon's Rule is derived from the two court decisions issued by Judge John F. Dillon of Iowa in 1868. It affirms the previously held, narrow interpretation of a local government's authority, in which a substate government may engage in an activity only if it is specifically sanctioned by the state government. Dillon's Rule was challenged by Judge Thomas Cooley of the Michigan Supreme Court in 1871, with the ruling that municipalities possess some inherent rights of local self-government. Cooley's Rule was followed for a short time by courts in Indiana, Iowa, Kentucky and Texas until the U.S. Supreme Court upheld Dillon's Rule in 1903 and again in 1923. Since then, the following tenets have become a cornerstone of American municipal law and have been applied to municipal powers in most states:

- ▶ A municipal corporation can exercise only the powers explicitly granted to them
- ▶ Those necessarily or fairly implied in or incident to the powers expressly granted
- ▶ Those essential to the declared objects and purposes of the corporation, not simply convenient, but indispensable

State constitutions vary in the level of power they grant to local governments. However, Dillon's Rule states that if there is a reasonable doubt whether a power has been conferred to a local government, then the power has not been conferred.



## DILLON'S RULE IN PRACTICE

Dillon's Rule allows a state legislature to control local government structure, methods of financing its activities, its procedures and the authority to undertake functions.

Thirty-nine states employ Dillon's Rule to all municipalities: Arizona, Arkansas, Connecticut, Delaware, Georgia, Hawaii, Idaho, Kentucky, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Texas, Vermont, Virginia, West Virginia, Washington, Wisconsin and Wyoming.

The following eight states employ the rule for only certain municipalities: Alabama, California, Colorado, Illinois, Indiana, Louisiana and Tennessee.



The only exception to the exclusive selection of home rule or Dillon's rule is the state of Florida, which employs home rule but reserves taxing authority for the state.

# Broad Government Authority: Home Rule

The ability of local governments to respond effectively to local conditions in the late 1800s was severely limited by Dillon's Rule; no local action could be undertaken without permission from the state legislature, which only met for short, biennial sessions. As such, Dillon's Rule generally requires that local officials spend a considerable amount of time lobbying the state legislature to approve bills granting local authority and disapprove bills imposing restrictions on them. In Florida, for example, it was not uncommon for more than 2,000 special acts to be filed by municipalities in a single session of the state legislature. The inflexibility of this system is the reason that many states began to adopt "home rule" provisions in the early 1900s that conferred greater authority to their local governments. Home rule is a delegation of power from the state to its sub-units of governments (including counties, municipalities, towns or townships or villages). That power is limited to specific fields, and subject



CITY OF  
**INDIAN HARBOUR BEACH**

---

Florida

2055 SOUTH PATRICK DRIVE  
INDIAN HARBOUR BEACH, FL 32937  
PHONE (321) 773-3181  
FAX (321) 773-5080

March 1, 2017

Representative Randy Fine  
Florida House of Representatives, District 53  
1401 The Capitol  
402 South Monroe Street  
Tallahassee, FL 32399-1300

Dear Representative Fine:

Thank you for your kindness in helping get me the opportunity to speak at the House of Representatives Careers & Competition Subcommittee on House Bill 17 on Wednesday, February 22, 2017. I also thank you for meeting with the Mayors, City Council Members, and me on Monday, February 27<sup>th</sup> concerning this legislation.

As you are aware, when I testified in Tallahassee my speaking time was reduced to 1 minute due to the lengthy recess in the meeting to allow the Chairman to return from another commitment, and the second recess of the meeting to obtain and distribute to the members of the committee a second amendment to the bill. I complied with the Chairman's request to limit my testimony to one minute; however, in doing so I had to omit significant information.

The city is pleased that the second amendment to this legislation would make the effective date of this legislation July 1, 2017; however, this legislation still states any new or existing local law not authorized by the General Laws of Florida would be repealed in three years (July 1, 2020).

This is contrary to the Home Rule Doctrine and cities and counties would be denied the ability to protect the health, welfare, and safety of our residents and businesses.

You will recall I testified, in my opinion, this legislation is vague and has had numerous interpretations of the impact on local government. For example: cities and counties have local laws establishing the allowable location of businesses, such as Adult Entertainment and Sexually Oriented Businesses. These regulations include the local code of conduct for such establishments. We believe this legislation nullifies these regulations. I respectfully disagree with your opinion that the city and county's rights to set zoning regulations is established by the general laws of the State of Florida.

Our City Attorney, Karl W. Bohne, Jr., who also represents the Towns of Grant-Valkaria, Malabar, and Palm Shores, has opined that there is no specific general law in the State of Florida that provides that municipalities have the right to zone property within their jurisdictional boundaries. Such a right is derived from Article III, s. 2(b) of the Florida

Constitution, by way of the Municipal Home Rule Powers Act, s. 166.021(4), F.S., both which recognize the Home Rule rights of municipalities.

It is also important to note the Code of Conduct for Adult Entertainment/Sexually Oriented Businesses is not part of our zoning code. The language in this legislation is extremely vague. We would respectfully request the citation in Florida Statutes ("the general law") granting zoning power.

Many cities and counties throughout Florida have adopted moratoriums related to the siting of medical marijuana dispensaries while the Florida Legislature debates the implementation regulations. If the Florida Legislature concludes this debate and adopts these rules, and provided there is no preemption in these new state rules, local governments would have until July 1, 2017 to adopt local regulations affecting these businesses. It is unclear if cities and counties can meet the advertising requirements to adopt such regulations. Regardless, those local regulations would expire in three years (July 1, 2020).

Those communities that have adopted regulations, such as prohibiting drive-thru windows and security provisions would be nullified on July 1, 2020. Citizens throughout the state look to their local government to properly regulate and provide protections with these facilities.

Communities in Florida have varying height restrictions, some of which are voter approved charter restrictions. HB 17 would abolish these height restrictions for businesses such as hotels on July 1, 2020 and would ignore the will of the citizens who voted for such charter restrictions.

Noise ordinances are another example of local laws adopted by cities and counties not addressed or allowed as a general law in Florida. Imagine for a moment you are back in your district. It is an early July Saturday morning and you and your family are attempting to sleep in. In my community the sun will rise at 6:30 a.m. Suddenly, you are awakened by a loud gasoline powered leaf blower operated by XYZ Lawn Care Service tending to a neighbor's yard. Infuriated, you call your Mayor, County Commissioner, City Council Member, or City Manager stating why isn't there a noise ordinance to prevent this annoyance. The answer on July 1, 2020 will be: NO, the Florida Legislature has eliminated a city or county's ability to ensure your peace and tranquility and establish reasonable hours of operation for noise generators. The good news will be if the violator is not a commercial lawn care business, but a home owner, the city or county can enforce a noise ordinance. This legislation will create two sets of property rights: business property rights and residential property rights. No one will win!

Florida's cities and counties regulate commercial vehicles in residential areas. HB 17 will help these businesses by removing these protections for the neighborhoods and would allow vehicles, such as tow trucks and semi-trailers to be parked in residential developments. Additionally, cities adopt regulations, at the request of citizens, to regulate door to door solicitation, and in particular the hours such solicitation may occur. Again, as a result of HB 17 these regulations are nullified in three years (July 1, 2020).

On January 28, 2017, three days before HB 17 was filed, our community adopted an Extended Hours Permit Ordinance to allow local establishments to sell and serve alcoholic beverages between the hours of 11:00 p.m. and 2:00 a.m. while providing protections for residential properties from potential adverse impacts on their quality of life. Establishments will be provided, at no cost, an Extended Hours Permit, but are expected to comply with laws such as noise, sale of alcoholic beverages to underage persons, illegal activities on the premises, or parking in adjoining neighborhoods. The establishments will be given opportunities to correct the issue(s) or risk having the privilege of selling alcoholic beverages after 11:00 p.m. suspended for varying number of days, following a due process hearing, for numerous offenses in certain time periods. This regulation will go away on July 1, 2020 with the passage of HB 17.

These are just a few of the examples of how HB 17 is a bad public policy. This bill would nullify regulatory ordinances meant to protect our businesses and citizens. I believe this legislation creates two classes of property rights in Florida; the business or commercial property rights versus the residential property rights. This legislation will lead to lawsuits which is a waste of taxpayer money.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Mark K. Ryan". The signature is written in a cursive style with a large, looped "R" at the end.

Mark K. Ryan  
City Manager

1                   A bill to be entitled  
 2           An act relating to local regulation preemption;  
 3           creating s. 163.20, F.S.; providing definitions;  
 4           prohibiting certain local governments from imposing or  
 5           adopting certain regulations on businesses,  
 6           professions, and occupations after a certain date;  
 7           preempting the regulation of businesses, professions,  
 8           and occupations to the state; providing exceptions to  
 9           such preemption; providing an effective date.

10  
 11   Be It Enacted by the Legislature of the State of Florida:

12  
 13           Section 1.   Section 163.20, Florida Statutes, is created to  
 14   read:

15           163.20 Regulation of businesses, professions, and  
 16   occupations preempted to the state.-

17           (1) DEFINITIONS.-As used in this section:

18           (a) "Local government" means a county, municipality,  
 19   special district, school district, or political subdivision of  
 20   the state.

21           (b) "Regulation" means a rule or regulation, license,  
 22   permit, or requirement, along with any associated fee.

23           (2) LOCAL GOVERNMENT REGULATION.-On or after July 1, 2017,  
 24   a local government may not adopt or impose a new regulation on a  
 25   business, profession, or occupation unless the regulation is

CODING: Words stricken are deletions; words underlined are additions.

CS/HB 17

2017

26 expressly authorized by general law.

27 (3) PREEMPTION OF REGULATION TO THE STATE.-Notwithstanding  
 28 any law to the contrary, this section expressly preempts the  
 29 regulation of businesses, professions, and occupations to the  
 30 state and supersedes any local government regulation of  
 31 businesses, professions, and occupations with the exception of  
 32 the following:

33 (a) A regulation adopted prior to July 1, 2017, without  
 34 general law authority. Any such regulation expires on July 1,  
 35 2020.

36 (b) A regulation expressly authorized by general law.

37 (4) EXISTING REGULATION LIMIT.-A local government with a  
 38 local regulation concerning a business, profession, or  
 39 occupation that is retained pursuant to paragraph (3)(a) may not  
 40 impose additional regulations on that business, profession, or  
 41 occupation or modify such regulation except to repeal or reduce  
 42 the regulation.

43 (5) REGULATIONS NOT AUTHORIZED.-Any local regulation of a  
 44 business, profession, or occupation that is not authorized under  
 45 this section or expressly authorized by general law does not  
 46 apply and may not be enforced.

47 Section 2. This act shall take effect July 1, 2017.



By Senator Passidomo

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1                   A bill to be entitled  
2           An act relating to regulation of commerce, trade, and  
3           labor; creating ss. 125.003, 166.015, and 189.0125,  
4           F.S.; reserving to the state the exclusive right to  
5           regulate matters of commerce, trade, and labor under  
6           certain circumstances; prohibiting counties,  
7           municipalities, and special districts from engaging in  
8           specified actions that regulate commerce, trade, or  
9           labor, unless otherwise expressly authorized to do so  
10          by special or general law; providing that an  
11          ordinance, rule, or regulation that violates a  
12          specified provision is null and void; authorizing a  
13          local government to seek nullification of an  
14          ordinance, rule, or regulation of another county,  
15          municipality, or special district upon the affirmative  
16          vote of the governing body of the local government  
17          that the ordinance, rule, or regulation violates a  
18          specified provision; requiring the local government to  
19          notify the county, municipality, or special district  
20          that the local government is initiating the process of  
21          nullification; specifying requirements for such  
22          notification; requiring the county, municipality, or  
23          special district to provide certain responses to the  
24          local government within specified periods, subject to  
25          certain requirements; requiring the local government  
26          to notify the county, municipality, or special  
27          district that adopted the ordinance, rule, or  
28          regulation that it intends to submit a copy of the  
29          ordinance, rule, or regulation to the Legislature for

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30 its nullification within a specified period, subject  
 31 to certain requirements; requiring the local  
 32 government to submit a copy of the ordinance, rule, or  
 33 regulation and a certain written explanation of how  
 34 the ordinance, rule, or regulation violates a  
 35 specified provision to the Legislature within a  
 36 specified period; providing that such submission is  
 37 void under certain circumstances; providing that the  
 38 ordinance, rule, or regulation is nullified and  
 39 repealed on the last day of the next regular session  
 40 if the Legislature does not ratify it on or before the  
 41 last day of that regular session; providing for  
 42 retroactive application; providing applicability;  
 43 providing an effective date.

44  
 45 WHEREAS, the Constitution of the State of Florida and the  
 46 Florida Statutes establish the authority of the Legislature to  
 47 define and fix the scope of the power of local government, and

48 WHEREAS, local governmental entities are given broad  
 49 authority to adopt ordinances relating to issues that include,  
 50 but are not limited to, zoning, local law enforcement, code  
 51 inspection and enforcement, alcoholic beverage regulations,  
 52 solid waste management, and finance and taxation as detailed in  
 53 general law, and

54 WHEREAS, it is in the best interest of this state to  
 55 protect and encourage the exercise of home rule power and local  
 56 authority on issues such as those described, and

57 WHEREAS, the increasingly interconnected nature of our  
 58 society and economy may result in local ordinances having a far-

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59 reaching impact beyond the locality where they are adopted, and

60 WHEREAS, some local ordinances are becoming increasingly  
61 burdensome and creating considerable and costly challenges to  
62 businesses, and

63 WHEREAS, local governmental entities should continue to  
64 enjoy the ability to govern their localities as they see fit;  
65 however, this exercise of authority at the local level should  
66 not be allowed to impede, unchecked, commerce, trade, and labor  
67 throughout the state outside the boundaries of the local  
68 governmental entities, and

69 WHEREAS, although the State of Florida has a vested  
70 interest in facilitating the strong and active governance of  
71 local governmental entities by their respective governing  
72 bodies, such governance should not impede or encroach on the  
73 self-governance of other local governmental entities or the  
74 orderly conduct of business throughout this state, and

75 WHEREAS, the Legislature hereby clarifies its authority  
76 with regard to the regulation of commerce, trade, and labor for  
77 the purpose of preserving the authority of each local  
78 governmental entity while encouraging efficiency and economic  
79 growth through the reduction of inconsistent and costly  
80 regulation, NOW, THEREFORE,

81

82 Be It Enacted by the Legislature of the State of Florida:

83

84 Section 1. Section 125.003, Florida Statutes, is created to  
85 read:

86 125.003 Regulation of commerce, trade, and labor;  
87 preemption.-

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88 (1) (a) The state expressly preempts the regulation of  
89 matters relating to commerce, trade, and labor under the  
90 conditions set forth in this section.

91 (b) Unless otherwise expressly authorized by special or  
92 general law, the legislative and governing body of a county may  
93 not regulate commerce, trade, or labor by:

94 1. Banning the sale of a good or service;

95 2. Imposing a penalty on the sale of a good or service;

96 3. Requiring an employer to pay any or all of its employees  
97 a wage rate not otherwise required under a special, general, or  
98 federal law; or

99 4. Adopting an ordinance, rule, or regulation on commerce,  
100 trade, or labor which:

101 a. Interferes with the regulation of commerce, trade, or  
102 labor outside the territorial boundaries of the county; or

103 b. Has an adverse impact on economic growth; private sector  
104 job creation or employment; private sector investment; business  
105 competitiveness, including impeding the ability of persons doing  
106 business in the county or state to compete with persons doing  
107 business in other areas of the state or in other domestic  
108 markets; productivity; or innovation within the county or  
109 outside its territorial boundaries.

110 (c) An ordinance, rule, or regulation that violates this  
111 subsection is null and void.

112 (2) Upon the affirmative vote of the governing body of a  
113 local government that an ordinance, rule, or regulation of a  
114 county violates subsection (1), the local government may seek to  
115 nullify such ordinance, rule, or regulation. In order to begin  
116 the process of nullification, the local government must notify

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117 the county in writing that the local government is initiating  
118 the process of nullification under this section. Such  
119 notification must include:

120 (a) A copy of the ordinance, rule, or regulation;

121 (b) A written explanation of how the ordinance, rule, or  
122 regulation violates subsection (1), including any adverse impact  
123 that the ordinance, rule, or regulation has on the local  
124 government or other area outside the territorial boundaries of  
125 the county; and

126 (c) A request to the county to repeal the specific  
127 ordinance, rule, or regulation or to amend it so that it does  
128 not violate subsection (1), specifically identifying the  
129 amendments needed to bring the ordinance, rule, or regulation  
130 into compliance.

131 (3) The county must respond in writing to the local  
132 government within 5 days after receipt of the notice, stating  
133 that the county:

134 (a) Is in receipt of the notice required under subsection  
135 (2); and

136 (b) Will review and respond with specificity to the notice  
137 within 30 days after receipt of the notice.

138 (4) Within 30 days after receipt of the notice required  
139 under subsection (2), the county shall respond to the local  
140 government in writing that it has reviewed the notice and the  
141 assertions of the local government regarding the ordinance,  
142 rule, or regulation that the local government asserts is in  
143 violation of subsection (1) and state whether the county:

144 (a) Intends to repeal the ordinance, rule, or regulation;

145 (b) Intends to amend the ordinance, rule, or regulation,

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146 including specifying the amendments that will be made to bring  
147 the ordinance, rule, or regulation into compliance with  
148 subsection (1); or

149 (c) Refuses to repeal or amend, stating with specificity  
150 the reasons why the county asserts the ordinance, rule, or  
151 regulation does not violate subsection (1).

152 (5) If the county refuses to repeal or amend the ordinance,  
153 rule, or regulation and the local government continues to assert  
154 the ordinance, rule, or regulation is in violation of subsection  
155 (1) and wishes to nullify the ordinance, rule, or regulation,  
156 the local government must, no later than 90 days before the next  
157 regular session of the Legislature:

158 (a) Notify, in writing, the county that adopted the  
159 ordinance, rule, or regulation that it intends to submit a copy  
160 of the ordinance, rule, or regulation to the Legislature for its  
161 nullification and include the materials provided in paragraphs  
162 (b) and (c) in such notification;

163 (b) Submit a copy of the ordinance, rule, or regulation to  
164 the President of the Senate and the Speaker of the House of  
165 Representatives; and

166 (c) Submit a written explanation of how the ordinance,  
167 rule, or regulation violates subsection (1), including any  
168 adverse impact that the ordinance, rule, or regulation has on  
169 the local government or other area outside the territorial  
170 boundaries of the county, to the President of the Senate and the  
171 Speaker of the House of Representatives.

172 (6) Failure to provide the required notice to the county  
173 before submission of the nullification request to the  
174 Legislature renders such submission void.

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175 (7) If the Legislature does not ratify the ordinance, rule,  
 176 or regulation on or before the last day of the next regular  
 177 session, it is nullified and repealed on the last day of that  
 178 regular session.

179 (8) This section is retroactive to January 1, 2017;  
 180 however, any ordinance, rule, regulation, or law enacted and  
 181 made effective before January 1, 2017, which conflicts with this  
 182 section prevails.

183 Section 2. Section 166.015, Florida Statutes, is created to  
 184 read:

185 166.015 Regulation of commerce, trade, and labor;  
 186 preemption.-

187 (1)(a) The state expressly preempts the regulation of  
 188 matters relating to commerce, trade, and labor under the  
 189 conditions set forth in this section.

190 (b) Unless otherwise expressly authorized by special or  
 191 general law, the legislative and governing body of a  
 192 municipality may not regulate commerce, trade, or labor by:

193 1. Banning the sale of a good or service;  
 194 2. Imposing a penalty on the sale of a good or service;  
 195 3. Requiring an employer to pay any or all of its employees  
 196 a wage rate not otherwise required under a special, general, or  
 197 federal law; or

198 4. Adopting an ordinance, rule, or regulation on commerce,  
 199 trade, or labor which:

200 a. Interferes with the regulation of commerce, trade, or  
 201 labor outside the territorial boundaries of the municipality; or

202 b. Has an adverse impact on economic growth; private sector  
 203 job creation or employment; private sector investment; business

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204 competitiveness, including impeding the ability of persons doing  
205 business in the municipality or state to compete with persons  
206 doing business in other areas of the state or in other domestic  
207 markets; productivity; or innovation within the municipality or  
208 outside its territorial boundaries.

209 (c) An ordinance, rule, or regulation that violates this  
210 subsection is null and void.

211 (2) Upon the affirmative vote of the governing body of a  
212 local government that an ordinance, rule, or regulation of a  
213 municipality violates subsection (1), the local government may  
214 seek to nullify such ordinance, rule, or regulation. In order to  
215 begin the process of nullification, the local government must  
216 notify the municipality in writing that the local government is  
217 initiating the process of nullification under this section. Such  
218 notification must include:

219 (a) A copy of the ordinance, rule, or regulation;

220 (b) A written explanation of how the ordinance, rule, or  
221 regulation violates subsection (1), including any adverse impact  
222 that the ordinance, rule, or regulation has on the local  
223 government or other area outside the territorial boundaries of  
224 the municipality; and

225 (c) A request to the municipality to repeal the specific  
226 ordinance, rule, or regulation or to amend it so that it does  
227 not violate subsection (1), specifically identifying the  
228 amendments needed to bring the ordinance, rule, or regulation  
229 into compliance.

230 (3) The municipality must respond in writing to the local  
231 government within 5 days after receipt of the notice, stating  
232 that the municipality:



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233       (a) Is in receipt of the notice required under subsection  
234 (2); and

235       (b) Will review and respond with specificity to the notice  
236 within 30 days after receipt of the notice.

237       (4) Within 30 days after receipt of the notice required  
238 under subsection (2), the municipality shall respond to the  
239 local government in writing that it has reviewed the notice and  
240 the assertions of the local government regarding the ordinance,  
241 rule, or regulation that the local government asserts is in  
242 violation of subsection (1) and state whether the municipality:

243       (a) Intends to repeal the ordinance, rule, or regulation;  
244       (b) Intends to amend the ordinance, rule, or regulation,  
245 including specifying the amendments that will be made to bring  
246 the ordinance, rule, or regulation into compliance with  
247 subsection (1); or

248       (c) Refuses to repeal or amend, stating with specificity  
249 the reasons why the municipality asserts the ordinance, rule, or  
250 regulation does not violate subsection (1).

251       (5) If the municipality refuses to repeal or amend the  
252 ordinance, rule, or regulation and the local government  
253 continues to assert the ordinance, rule, or regulation is in  
254 violation of subsection (1) and wishes to nullify the ordinance,  
255 rule, or regulation, the local government must, no later than 90  
256 days before the next regular session of the Legislature:

257       (a) Notify, in writing, the municipality that adopted the  
258 ordinance, rule, or regulation that it intends to submit a copy  
259 of the ordinance, rule, or regulation to the Legislature for its  
260 nullification and include the materials provided in paragraphs  
261 (b) and (c) in such notification;

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262 (b) Submit a copy of the ordinance, rule, or regulation to  
 263 the President of the Senate and the Speaker of the House of  
 264 Representatives; and

265 (c) Submit a written explanation of how the ordinance,  
 266 rule, or regulation violates subsection (1), including any  
 267 adverse impact that the ordinance, rule, or regulation has on  
 268 the local government or other area outside the territorial  
 269 boundaries of the municipality, to the President of the Senate  
 270 and the Speaker of the House of Representatives.

271 (6) Failure to provide the required notice to the  
 272 municipality before submission of the nullification request to  
 273 the Legislature renders such submission void.

274 (7) If the Legislature does not ratify the ordinance, rule,  
 275 or regulation on or before the last day of the next regular  
 276 session, it is nullified and repealed on the last day of that  
 277 regular session.

278 (8) This section is retroactive to January 1, 2017;  
 279 however, any ordinance, rule, regulation, or law enacted and  
 280 made effective before January 1, 2017, which conflicts with this  
 281 section prevails.

282 Section 3. Section 189.0125, Florida Statutes, is created  
 283 to read:

284 189.0125 Regulation of commerce, trade, and labor;  
 285 preemption.-

286 (1) (a) The state expressly preempts the regulation of  
 287 matters relating to commerce, trade, and labor under the  
 288 conditions set forth in this section.

289 (b) Unless otherwise expressly authorized by special or  
 290 general law, the legislative and governing body of a special

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291 district may not regulate commerce, trade, or labor by:  
 292 1. Banning the sale of a good or service;  
 293 2. Imposing a penalty on the sale of a good or service;  
 294 3. Requiring an employer to pay any or all of its employees  
 295 a wage rate not otherwise required under a special, general, or  
 296 federal law; or  
 297 4. Adopting an ordinance, rule, or regulation on commerce,  
 298 trade, or labor which:  
 299 a. Interferes with the regulation of commerce, trade, or  
 300 labor outside the territorial boundaries of the special  
 301 district; or  
 302 b. Has an adverse impact on economic growth; private sector  
 303 job creation or employment; private sector investment; business  
 304 competitiveness, including impeding the ability of persons doing  
 305 business in the special district or state to compete with  
 306 persons doing business in other areas of the state or in other  
 307 domestic markets; productivity; or innovation within the special  
 308 district or outside its territorial boundaries.  
 309 (c) An ordinance, rule, or regulation that violates this  
 310 subsection is null and void.  
 311 (2) Upon the affirmative vote of the governing body of a  
 312 local government that an ordinance, rule, or regulation of a  
 313 special district violates subsection (1), the local government  
 314 may seek to nullify such ordinance, rule, or regulation. In  
 315 order to begin the process of nullification, the local  
 316 government must notify the special district in writing that the  
 317 local government is initiating the process of nullification  
 318 under this section. Such notification must include:  
 319 (a) A copy of the ordinance, rule, or regulation;

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320 (b) A written explanation of how the ordinance, rule, or  
321 regulation violates subsection (1), including any adverse impact  
322 that the ordinance, rule, or regulation has on the local  
323 government or other area outside the territorial boundaries of  
324 the special district; and

325 (c) A request to the special district to repeal the  
326 specific ordinance, rule, or regulation or to amend it so that  
327 it does not violate subsection (1), specifically identifying the  
328 amendments needed to bring the ordinance, rule, or regulation  
329 into compliance.

330 (3) The special district must respond in writing to the  
331 local government within 5 days after receipt of the notice,  
332 stating that the special district:

333 (a) Is in receipt of the notice required under subsection  
334 (2); and

335 (b) Will review and respond with specificity to the notice  
336 within 30 days after receipt of the notice.

337 (4) Within 30 days after receipt of the notice required  
338 under subsection (2), the special district shall respond to the  
339 local government in writing that it has reviewed the notice and  
340 the assertions of the local government regarding the ordinance,  
341 rule, or regulation that the local government asserts is in  
342 violation of subsection (1) and state whether the special  
343 district:

344 (a) Intends to repeal the ordinance, rule, or regulation;

345 (b) Intends to amend the ordinance, rule, or regulation,  
346 including specifying the amendments that will be made to bring  
347 the ordinance, rule, or regulation into compliance with  
348 subsection (1); or

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349 (c) Refuses to repeal or amend, stating with specificity  
350 the reasons why the special district asserts the ordinance,  
351 rule, or regulation does not violate subsection (1).

352 (5) If the special district refuses to repeal or amend the  
353 ordinance, rule, or regulation and the local government  
354 continues to assert the ordinance, rule, or regulation is in  
355 violation of subsection (1) and wishes to nullify the ordinance,  
356 rule, or regulation, the local government must, no later than 90  
357 days before the next regular session of the Legislature:

358 (a) Notify, in writing, the special district that adopted  
359 the ordinance, rule, or regulation that it intends to submit a  
360 copy of the ordinance, rule, or regulation to the Legislature  
361 for its nullification and include the materials provided in  
362 paragraphs (b) and (c) in such notification;

363 (b) Submit a copy of the ordinance, rule, or regulation to  
364 the President of the Senate and the Speaker of the House of  
365 Representatives; and

366 (c) Submit a written explanation of how the ordinance,  
367 rule, or regulation violates subsection (1), including any  
368 adverse impact that the ordinance, rule, or regulation has on  
369 the local government or other area outside the territorial  
370 boundaries of the special district, to the President of the  
371 Senate and the Speaker of the House of Representatives.

372 (6) Failure to provide the required notice to the special  
373 district before submission of the nullification request to the  
374 Legislature renders such submission void.

375 (7) If the Legislature does not ratify the ordinance, rule,  
376 or regulation on or before the last day of the next regular  
377 session, it is nullified and repealed on the last day of that

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378 regular session.

379 (8) This section is retroactive to January 1, 2017;  
380 however, any ordinance, rule, regulation, or law enacted and  
381 made effective before January 1, 2017, which conflicts with this  
382 section prevails.

383 Section 4. This act shall take effect upon becoming a law.

**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 4**  
**Meeting Date: March 6, 2016**

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

---

**SUBJECT: Council Cancellation of SpringFest Event for March 25, 2017**

---

**BACKGROUND/HISTORY:**

Council directed that a contract be drawn up to provide authority for the Malabar Community Association to conduct the annual festival at the Malabar Community Park and provide up front funding to pay for the expenditures associated with preparing for such an event. The contract stipulated that they would be required to provide their own general liability insurance policy naming the Town of Malabar an additional insured. At the conclusion of the event and the financial reconciliation the Town would be reimbursed the initial up front funding.

Provision was made that if the event did not generate revenue equal to the up front funding, the payback would be reduced accordingly.

Although the Town has not received written response to the contract it is staff's understanding that the contract was not going to be signed.

**ATTACHMENTS:**

- **Schedule of Events in Brevard Covering March and April**

**ACTION OPTIONS:**

Town Staff requests formal action by Council to cancel this event. After that we can tell interested parties that the event has been put off but that a Fall Fest is planned. We would also want to feature a front page article in the newsletter that thanks all the volunteers of past events, sponsors of past events and local businesses that have donated raffle prizes in the past. We would also feature the article on the website and mail it to the contributors.

**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 5**  
**Meeting Date: March 6, 2016**

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

---

**SUBJECT: Set Date for 10/14/17 for Fall Fest in Conjunction with Fire Prevention Week**

---

**BACKGROUND/HISTORY:**

We have held a fall fest twice before and they were both a lot of fun. By coordinating it with the annual Fire Prevention Safety Week it would be a great opportunity to showcase the Fire Department.

**ATTACHMENTS:**

- No Conflicts with any other events

**ACTION OPTIONS:**

Town Staff requests formal action by Council to cancel SpringFest and announce that the Town will be Sponsoring a Fall Fest in conjunction with the Fire Prevention Week.

After that we can tell interested parties that the event has been put off but that a Fall Fest is planned.

Town Staff, the Fire Department and many of our volunteers and residents are looking forward to this event.





## NATIONAL FIRE PROTECTION ASSOCIATION

The leading information and knowledge resource on fire, electrical and related hazards

# PUBLIC EDUCATION

Public Education / Campaigns / Fire Prevention Week



## Fire Prevention Week

G+1 220

This year's Fire Prevention Week campaign, "Don't Wait – Check the Date: Replace Smoke Alarms Every 10 Years," represented the final year of our three-year effort to educate the public about basic but essential elements of smoke alarm safety.

Why did we focus on smoke alarms three years in a row? Because NFPA's survey data shows that the public has many misconceptions about smoke alarms, which may put them at increased risk in the event of a home fire. For example, only a small percentage of people know how old their smoke alarms are, or how often they need to be replaced. [Read more from NFPA Journal.](#)

As a result of those and related findings, in 2016, we addressed smoke alarm replacement this year with a focus on these key messages:

- Smoke alarms should be replaced every 10 years.
- Make sure you know how old all the smoke alarms are in your home.
- To find out how old a smoke alarm is, look at the date of manufacture on the back of the alarm; the alarm should be replaced 10 years from that date.

Get the answers to some frequently asked questions about [replacing your smoke alarms](#).

### Teach FPW

You can still take the opportunity to introduce Fire Prevention Week to students, members of your community and high-risk populations. NFPA has several free downloads for you to use, including:

RTCM 3/6/17

Agenda Item 6.

Signage for Route 1  
Motor Sports

# TOWN OF MALABAR

## MEMORANDUM

---

**Date:** February 21, 2017 2017-BO-012

**To:** Honorable Mayor and Town Council

**From:** Daryl Munroe, Building Official

**Ref:** Approval for Signs in CG Zoning – Route 1 Motor Sports  
1300 Highway 1, Malabar

---

KellWill Inc. has received Site Plan approval and the Building Permit has been issued for construction of their 25,000 sf retail and service facility known as Route1 Motorsports.

The height of the building is 25 feet and is being constructed towards the back of the 2.97 acre lot with a finished floor elevation (FFE) of 28 feet. The applicant is now ready to contract with a sign company to begin the advertising portion of the development.

The size, color, material and type of signage was not provided as part of the site plan review. Because of this staff desires Council approval of the proposed construction of the signage so the building permit package is complete.

The applicant is requesting a 20-foot tall freestanding sign near the driveway entrance and then the manufacturers logos on the mansard roofline. Illustrations for these signs are attached.

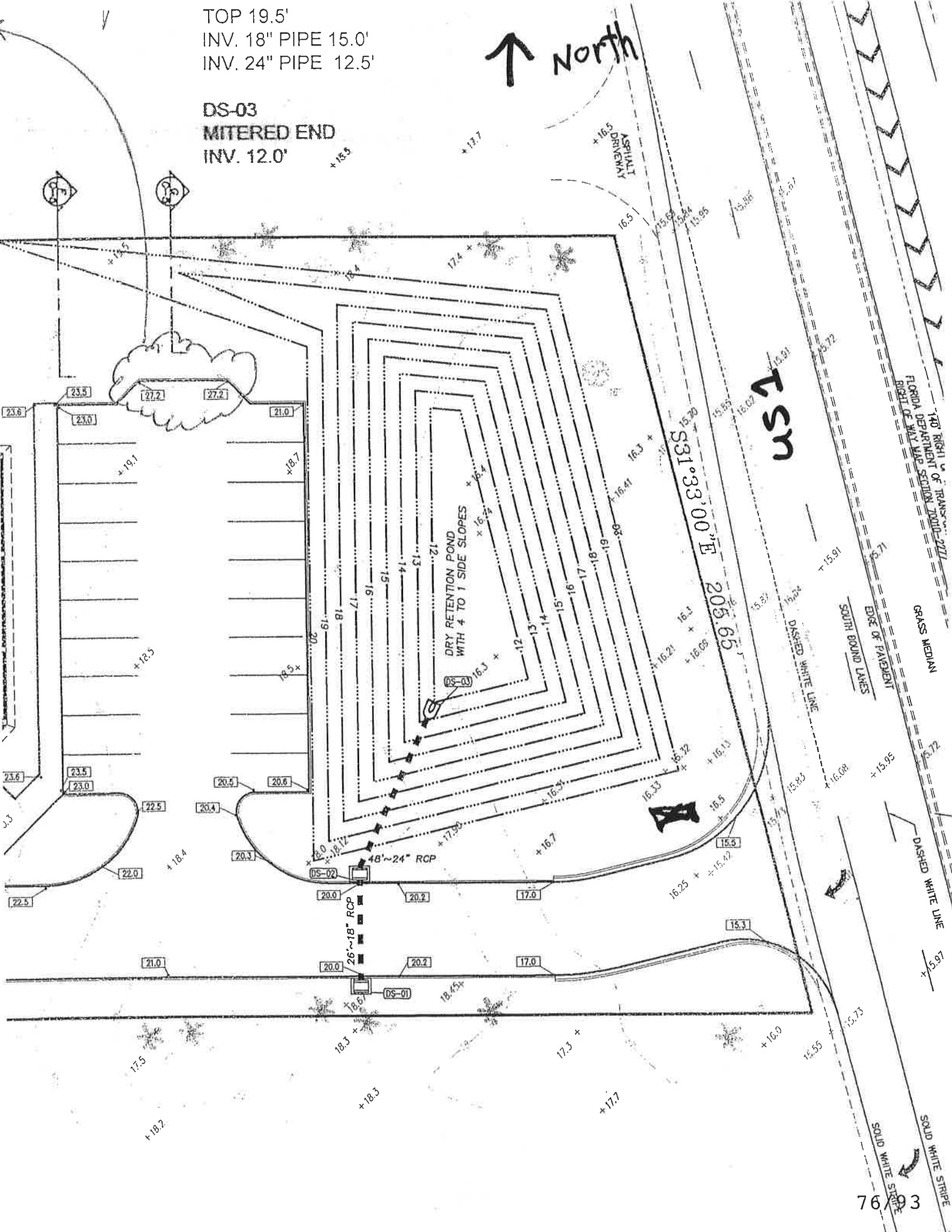
The proposed signs comply with the Malabar Code for height and setbacks. There is language in the Code that restrict the sign "faces" from exceeding a maximum of 60 *cumulative* square feet.

Staff is requesting Council approval of the proposed signs, noting that this restriction in the Malabar Sign regulation dates to the original code and is not based on the size of the building or parcel. It would be staff's recommendation to delete this restriction from the Code. Such a restriction is not consistent with commercial development on a major arterial roadway like Highway 1.

TOP 19.5'  
INV. 18" PIPE 15.0'  
INV. 24" PIPE 12.5'



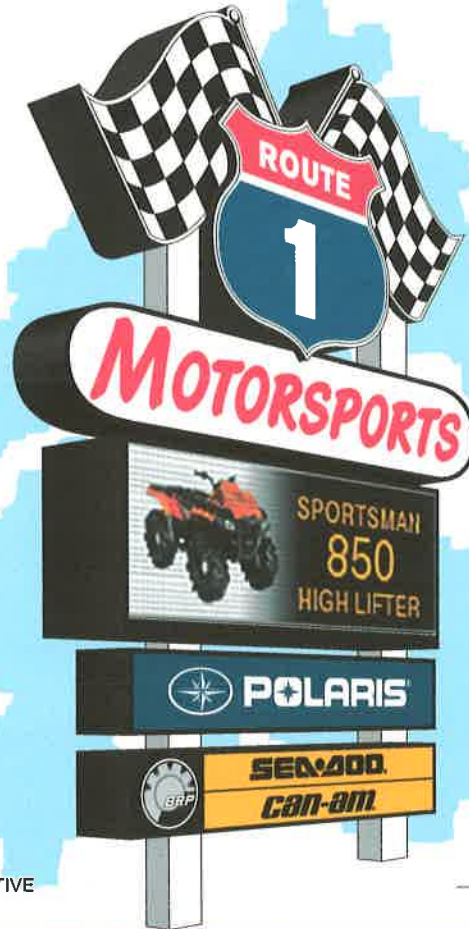
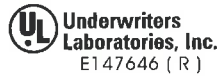
DS-03  
MITERED END  
INV. 12.0'



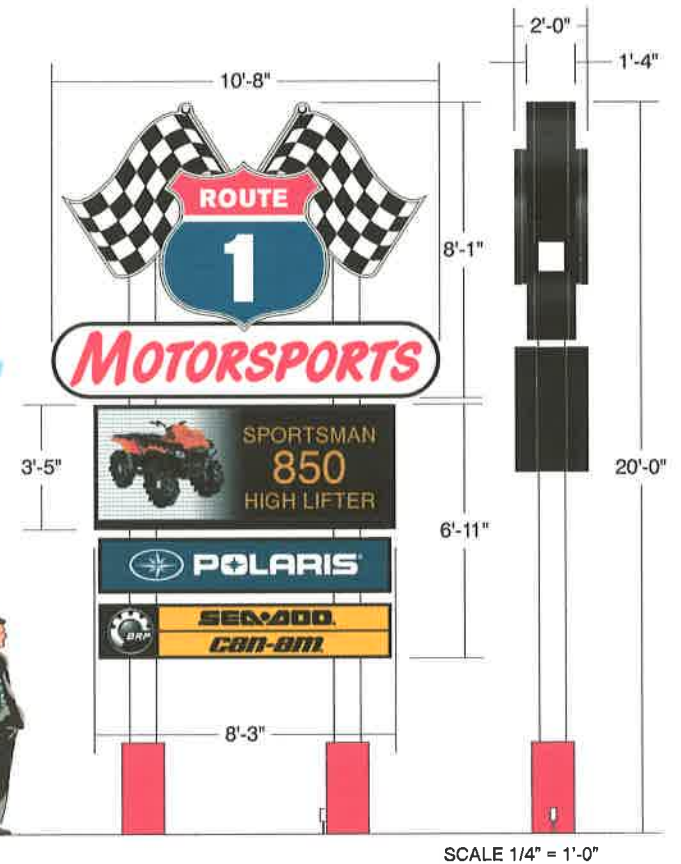
ROUTE 1 MOTORSPORTS  
 US.HWY. 1 & MALABAR RD.  
 MALABAR, FL

**DOUBLE SIDED PYLON SIGN**

ALL CABINETS FABRICATED ALUMINUM CONSTRUCTION WITH ALUMINUM RETAINER SYSTEMS  
 3/16" THICK TRANSLUCENT WHITE ACRYLIC FACES WITH VINYL DECORATION  
 BRP LOGO DIGITALLY PRINTED MULTICOLORED VINYL CABINETS TO HAVE INTERNAL WHITE "LED" ILLUMINATION  
 SIGNS INSTALLED OVER ( 2 ) 8" SQUARE SUPPORT POLES SIGN TO HAVE DIRECT BURIAL CONCRETE FOUNDATIONS  
 MESSAGE UNIT TO BE WATCHFIRE "TWINPAK" 16mm 54 x 144 MATRIX, FULL COLOR RGB DISPLAYS MOUNTED BACK TO BACK TO VERTICAL SUPPORT PIPE WITH CUSTOM MOUNTING BASKET



PERSPECTIVE  
 NTS



**ART-KRAFT SIGN COMPANY, INC.**

ART-KRAFT SIGN COMPANY IS NOT RESPONSIBLE FOR PRIMARY ELECTRICAL HOOK UP OF SIGN

|                              |                  |                |                   |      |
|------------------------------|------------------|----------------|-------------------|------|
| CUSTOMER ROUTE 1 MOTORSPORTS | DESIGN NO. 31633 | REVISION       | CUSTOMER APPROVAL | DATE |
| SALES REP. DON               | DESIGNER WAYNE   | SCALE AS SHOWN | DATE 4 - 6 - 16   |      |

www.Art-Kraft.com  
 f ArtKraftSigns



squeegie|studios

| <i>Sign Type</i>    | <i>Future Improvement</i>                      | <i>General Outdoor Advertising</i>            | <i>Real Estate</i>                             | <i>Subdivision</i>                            |
|---------------------|--|---|--|---|
| Construction Class  | Detached                                       | Wall or Detached                              | Detached                                       | Wall or Detached                              |
| Maximum Number      | 1  | 1   | 1  | 1 per public entrance                         |
| Maximum Area        | 10 sq. ft.                                     | 32 sq. ft.                                    | 5 sq. ft.                                      | 32 sq. ft.                                    |
| Maximum Height      | 10 ft.   | 10 ft.  | 4 ft.  | 10 ft.  |
| Placement           | Front setback: 10 ft.<br>Side and Rear: 25 ft. | No signs to impede vision at any intersection | Front setback: 10 ft.<br>Side and Rear: 25 ft. | No signs to impede vision at any intersection |
| Illumination        | None   | None  | None   | Indirect                                      |
| Special Regulations | None   | See Footnotes 1 and 2                         | None   | None  |

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

| <i>Sign Type</i>    | <i>Accessory</i>   | <i>Accessory</i>  | <i>Accessory</i>              |
|---------------------|--|---|-------------------------------|
| Construction Class  | Wall   | Detached, Marquee, and Projecting                       | Snipe                         |
| 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                        | 1 1/2 sq. ft. each            |
| Maximum Height      | Roof line of building  | Detached: 25 ft.<br>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                                   | None                          |

| <i>Sign Type</i>    | <i>Construction</i>   | <i>Directory</i>                  | <i>Directional</i>              | <i>General Outdoor Advertising</i>             |
|---------------------|---|-----------------------------------|---------------------------------|--|
| 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.<br>Wall: 10 sq. ft.        |
| Maximum Height      | Detached: 10 ft.<br>Wall: Roof line of building             | 10 ft.                            | Detached: 3 ft.<br>Wall: 10 ft. | 10 ft.   |
| Placement           | Front Setback: 10 ft.<br>Rear and Side: 25 ft.              | Must observe all yard regulations | Non-Restricted                  | Front setback: 10 ft.<br>Rear and Side: 25 ft. |
| Illumination        | Indirect  | Indirect                          | Indirect                        | Indirect                                       |
| Special Regulations | Must be immediately removed upon completion of construction | None                              | None                            | See Footnotes 1 and 2                          |

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

| <i>Sign Type</i>   | <i>Future Improvement</i> | <i>Real Estate</i> | <i>Subdivision</i>    |
|--------------------|---------------------------|--------------------|-----------------------|
| Construction Class | Detached                  | Wall or Detached   | Wall or Detached      |
| Maximum Number     | 1                         | 3                  | 1 per public entrance |
| Maximum Area       | 32 sq. ft.                | 9 sq. ft. each     | 12 sq. ft.            |

Town of Malabar - Signs for Commercial Services

| Item                               | Description                              | Length | Width | No. of Sides | Total Sq.Ft. |
|------------------------------------|--|--------|-------|--------------|--------------|
| 1                                  | Scrub Jay Sign                           | 5      | 4     | 1            | 20           |
| 2                                  | Town "Events Sign"                       | 7.5    | 5     | 2            | 75           |
| 3                                  | Ace Hardware                             | 8      | 8     | 2            | 128          |
| 4                                  | Knights of Columbus                      | 8      | 5     | 2            | 80           |
| 5                                  | Mr. K Citgo Gas Station (Babcock Street) | 5      | 8     | 2            | 80           |
|                                    |  | 4      | 8     | 2            | 64           |
|                                    |  | 4      | 40    | 1            | 160          |
|                                    |  | 3      | 3     | 1            | 9            |
| <b>Total Mr. K Citgo</b>           |  |        |       |              | <b>313</b>   |
| 6                                  | Calagy Tires                             | 16     | 4     | 2            | 128          |
|                                    |  | 11     | 2.5   | 6            | 165          |
| <b>Total Calagy Tires</b>          |  |        |       |              | <b>293</b>   |
| 7                                  | Indoor RV/Boat Storage                   | 9      | 5     | 2            | 90           |
| 8                                  | Citgo Gas Station (US 1)                 | 7      | 14    | 2            | 196          |
|                                    |  | 4      | 40    | 1            | 160          |
|                                    |  | 4      | 20    | 2            | 160          |
| <b>Total Citgo Gas Station US1</b> |  |        |       |              | <b>516</b>   |

In 1979 at Calagy Tires on US 1 (Present Day Yellow Dog Warehouse 1 Sign was 192 Sq.Ft.



RTCM 3/6/17

Agenda Item 7

Approve 65' of Quarterman  
Lane

Requested by Morris Smith,  
Town Engineer

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

Date: January 11<sup>th</sup>, 2017  
To: Doug Hoyt, Town Administrator  
From: Morris Smith, Town Engineer  
Ref: **2340 Quarterman Lane – Approved/Accepted Roadway – Extension Request**

Memo: 17-CE-01  
Project No.:  
Variance No.:

---

Hi Doug...

A new home is proposed to be built on Parcel 543 at the above referenced address.

In the process of my archived document review for issuing a driveway culvert and a land clearing permit I discovered that the approved/accepted roadway for Quarterman Lane stopped approximately 67 feet north of the south boundary line of Parcel 543.

In my conversations at Town Hall with the property owner I stated that as of September 2016, the Town no longer allows land owners to build a roadway "short" of the furthest extent of their parcel. In this case I stated to the property owner that they would be required to build an approximately 67 feet long section of roadway.

Subsequently, I made a field inspection of the roadway and I found that this approximately 67 feet of Quarterman was indeed constructed and presently exists with drainage ditches on both the east and west side of Quarterman Lane. This cross section of the roadway mimics the cross section of Quarterman Lane, north to Hall Road.

After visiting the site I reached out to the owner and proposed to the owner to have the soils of the existing unpaved areas of Quarterman tested for strength. I explained to the owner that all the financial responsibility would be at their risk. I recommended that the owner contact a Geotechnical Engineering company and have Florida Limerock Bearing Ratio (LBR) soil tests performed.

Limerock Bearing Ratio (LBR) testing is a way to provide strength references for roadway base rock prior to placing asphaltic cement roadway surface.

The proposed locations for the three (3) tests would be 100 feet south of Hall Road, the midway point between the owner's property and Hall Road and in the middle of the approximately 67 feet of roadway.

I stated to the owner that there is a risk that this approximately 67 feet long section of Quarterman Lane may test with a lower LBR than the other location and reminded him that if it did he would have to permit and construct a new roadway section for this approximately 67 feet section of Quarterman Lane.

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

The owner has provided the results of the Geotechnical Engineering LBR testing as requested by the Town. A copy of the report is attached.

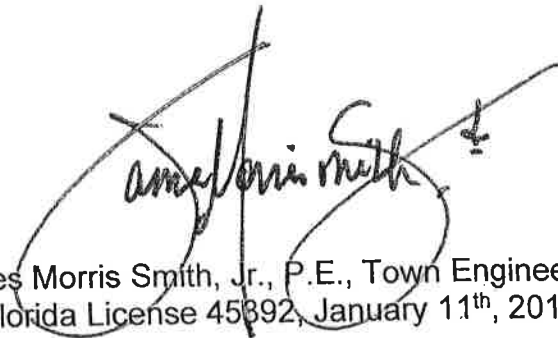
The LBR test results are as follows:

|  |    |
|--|----|
| 100' South of Hall Road                                    | 57 |
| Midway Between Hall and the Project Site                   | 56 |
| At the Project Site – Inside the Approx. 67 Feet Long Area | 62 |

As you can see this section of roadway is stronger than the areas tested north of it.

Based upon a visual roadway site inspection, knowing that roadway ditches are constructed in place and the LBR testing of this soil, I request that you place this item on the agenda for the Town Council requesting a relocating of the southern limit of the approved/accepted roadway of Quarterman Lane to be the easterly extension of the south line of Parcel 543.

Very Truly Yours,



James Morris Smith, Jr., P.E., Town Engineer  
Florida License 45892, January 11<sup>th</sup>, 2017



**KELLER, SCHLEICHER & MacWILLIAM ENGINEERING AND TESTING, INC.**  
 MARTIN (772) 337-7755 P.O. BOX 78-1377, SEBASTIAN, FL 32978-1377 SEBASTIAN (772) 589-0712  
 PALM BEACH (561) 845-7445 www.ksmengineering.net MELBOURNE (321) 768-8488  
 FAX (561) 845-8876 E-Mail: KSM@KSMENGINEERING.NET ST. LUCIE (772) 229-9093  
 C.A.: 5693 FAX (772) 589-6469

December 30, 2016

Jeff Guarino  
 40-B Hibiscus Avenue  
 Satellite Beach, Florida 32937

**Re: 2340 Quarterman Lane  
 Malabar, Florida  
 Permit #:  
 KSM Project #: 163575-1lbr .**

Dear Mr. Guarino:

Enclosed, please find the Limerock Bearing Ratio (L.B.R.) test results on the unpaved stabilized subgrade at the above referenced project.

If you have any questions, please feel free to contact us.

Respectfully,



*Parcel 543*



KELLER, SCHLEICHER & MacWILLIAM ENGINEERING AND TESTING, INC.  
 MARTIN (772) 337-7755 P.O. BOX 78-1377, SEBASTIAN, FL 32978-1377 SEBASTIAN (772) 589-0712  
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 FAX (561) 845-8876 E-Mail: KSM@KSMENGINEERING.NET ST. LUCIE (772) 229-9093  
 C.A.: 5693 FAX (772) 589-6469

LIMEROCK BEARING RATIO

FM 5-515

DATE TESTED : December 30<sup>th</sup>, 2016  
 CLIENT : Jeff Guarino  
 JOB LOCATION : 2340 Quarterman Lane  
 Malabar, Florida  
 PERMIT # :  
 PROJECT # : KSM 163575-1lbr  
 TESTED BY : ES  
 ITEM TESTED : Unpaved Stabilized Subgrade  
 MATERIAL : A.) Brown Sand with Marl (Samples 1 & 2)  
 B.) Brown Sand with Marl and Cruched Concrete (Sample 3)

| <u>SAMPLE</u> | <u>LOCATION</u>   | <u>LBR VALUE</u> |
|---------------|---|------------------|
| 1             | Center of Quarterman Lane,<br>the South 67' section of Guarino Property   | 62               |
| 2             | Center of Quaterman Lane Midway between<br>clients property and Hall Road | 56               |
| 3             | Center of Quarterman Lane, 100' South of<br>Hall Road                     | 57               |

RTCM 3/6/17

Agenda Item 8

Florida Today Article

Monday Night's new  
coverage

Letter to Governor on Town  
website

Requested by CM Mahoney

# Re: Agenda discussion on the Letter and the news coverage

Pat Reilly

Thu 3/2/2017 8:33 AM

To: Laura Mahoney <cmdist2@townofmalabar.org>; Debby Franklin <townclerk@townofmalabar.org>;

Please add to the March 6th agenda.

Pat

**From:** Laura Mahoney

**Sent:** Wednesday, March 1, 2017 4:40 PM

**To:** Pat Reilly

**Subject:** Agenda discussion on the Letter and the news coverage

If not already on the Agenda, please add a discussion about the letter on the town website to the Governor and the front page Florida Today article and the Monday night news coverage.

Thank you,

Laura

3/1/17

# Malabar leaders tell FDOT to hurry up and fix Malabar Road

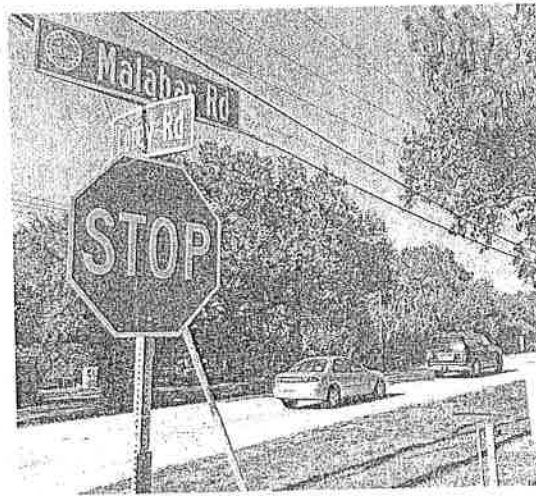
RICK NEALE  
FLORIDA TODAY

MALABAR — Town officials are lobbying political leaders across Florida to hurry up and widen the eastern end of Malabar Road — a project that has generated discussion for decades.

"This has been going on since 1976. It's 41 years in the making. And nothing's happened. It's been 41 years, and it's still the same road," Malabar Town Administrator Doug Hoyt said.

"They've had three or four different plans. But generally, the consensus of these meetings is, 'Well, we're going to have to go back and do some more studies.' I'm a little baffled about this," Hoyt said.

"(State Road) 514 is one of the few east-west roads in Brevard County that isn't four-laned, that doesn't have stoplights, and that doesn't



RICK NEALE/FLORIDA TODAY  
Cars drive east on Malabar Road past the Corey Road intersection.

See Hurry, Page 5A

## Hurry

Continued from Page 3A

have safety measures that really are required here in this area," he said.

Last week, Hoyt sent a 37-page packet of Malabar Road information to Gov. Rick Scott, Florida Department of Transportation administrators, state legislators, city leaders in Palm Bay and Grant-Valkaria, Brevard Public Schools Superintendent Desmond Blackburn and other officials.

Town data shows Malabar Road crashes increased from 12 in 2012 to 48 last year. During that five-year span, the town reported a total of 73 non-injury crashes, 38 injury crashes and five fatalities on Malabar Road.

- Stoplights and turn lanes at the intersections of Weber and Corey roads.
- Lowering the speed limit from 55 mph to 45 mph from Babcock Street to U.S. 1.
- An emergency stop signal at the Malabar Fire Department to help speed up response times.
- A paved multi-use trail for walkers and bicyclists along the north side of Malabar Road.

In the meantime, FDOT engineers continue studying a future project that could widen Malabar Road from two to four lanes between Babcock Street and U.S. 1.

A development-environmental study started in 2013, was paused in 2015, and restarted in 2016, said Steve Olson, FDOT spokesman.

"A unique challenge is fitting a four-lane roadway between locations with a wildlife sanctuary and a public park on opposite sides of the roadway, while also being mindful of impacts to private landowners. A design alternative that takes all factors into consideration will be presented at a public hearing during the second half of this year," Olson said.

FDOT anticipates completing the development-environmental study in March 2018, and design work will begin in April 2020, Olson said. No construction date has been scheduled.

On a smaller scale, FDOT is working on a \$1.8 million Malabar Road project designed to upgrade the Weber and Corey road intersections. Plans call for turn lanes, milling and resurfacing, guardrail upgrades, drainage improvements, signage and pavement marking.

Construction is funded for 2019, Olson said. "Both projects are following specific schedules — and specific steps — that are part of the process, to bring a project from concept to completion," Olson said.

Hoyt's 37-page packet included Malabar Town Hall historical research on widening Malabar Road:

**1976:** In Malabar's comprehensive land-use plan, town officials stated that Malabar Road should be enlarged to four lanes after 1995.

**1986:** FDOT sent Malabar officials a letter stating that Malabar Road would be widened east of I-95, with land acquisitions starting in 1987.

**1989:** The Greater South Brevard Area Chamber of Commerce endorsed the widening of Malabar Road as soon as possible, contending that traffic congestion impeded commercial interests.

**1989:** A FDOT engineering report determined that Malabar Road warranted widening east of Babcock Street soon after 1993.

**2014:** A FDOT newsletter stated that intersection safety upgrades at Corey and Weber roads were funded for design, right-of-way acquisition and construction.

"Every year that improvements to SR-514 are delayed continues to put drivers at risk and the cost of these improvements continues to escalate. Another 'study' is not required, in the writer's opinion. The State needs to move ahead NOW with the long promised upgrades and safety to this road through our Town," Hoyt wrote in his presentation.

In a letter to Malabar residents posted Monday on the Town Hall website, Hoyt estimated that Malabar residents have bought at least 46 million gallons of gasoline and paid at least \$9 million in gas taxes since 1976.

FDOT engineers discussed the Corey-Weber intersection project during an open house last July at Palm Bay Hospital.

Contact Neale at 321-242-3638, rneale@floridatoday.com or follow @RickNeale1 on Twitter.





## Town of Malabar

2725 Malabar Road  
Malabar, FL 32950  
321.727.7764 (Office) 321.722.2234 (Fax)  
[www.townofmalabar.org](http://www.townofmalabar.org)

Thursday, November 03, 2016

Honorable Rick Scott  
Governor, State of Florida  
The Capitol  
400 S. Monroe Street  
Tallahassee, Fl. 32399-0001

Re: The Lack of Improvement to SR-514 (Malabar Rd.) east of SR-507 (Babcock St) to US-1.

Governor Scott.

Our Town is in need of your assistance accelerating the nearly 40-year-old proposed improvements to the referenced State Roadway - a brief history ensues.

1. 12/1986, letter from FDOT stating that Malabar Rd. east of I-95 would be 4 – lane with land acquisitions starting 2/1987. **This did not take place.**
2. 2013 FDOT engaged Moffatt & Nichol to perform a study with several “what if” approaches to improving the traffic flow on SR-514. To this date a final plan **has not been adopted.**
3. 2014 FDOT engaged Atkins Engineering to perform a study and proceed with construction of two left turn lanes from SR-514 onto Corey Rd. and Weber Rd., respectively. This project is funded **but does not include turn signals.** Moreover, the proposed bid/construct/completion date is in the 2019 – 2022 range.
4. 06/2016 Malabar Town Council adopted a resolution requesting/affirming turn lanes in an effort to improve traffic flow through this Community and improve safety for the residents of Malabar, Grant-Valkeria, Palm Bay and others using this roadway.

As the population in Florida increases, the vehicle loading on SR-514 has increased as well. **Concurrent with this is an increase in traffic incidents.** In 2012 there were 12 incidents – while increasing to 23 incidents in 2015. This year by the end of 2016, there were 48 incidents - more than twice the amount in 2015. During the five-year period from 2012 to 2015 **five fatalities occurred.** The federal government (NHTSA) and AAA Auto Club both indicate that the average cost to the community at large relating to a single fatality is \$6, M (\$30M) not to mention the costs relating to the 112 non-fatal incidents during this time period.

Brevard County has experienced a 4.5% growth over the past 5 years. During this time many of the state roads have been improved to accommodate the resultant increase in traffic. SR-514 has been improved WEST of the Town Boundary, but this highway within the Town of Malabar **continues to be ignored.**

FDOT indicates that they have funding targeted for this project not including traffic control lights. Note: the expected cost of this entire project, even with the addition of traffic control lights, is less than the expense of one fatality.


The Town of Malabar respectfully requests **immediate attention** to the following:

- A. Finalized plans for the two turn lane areas (Corey & Weber) with **traffic control signals.**
- B. Construction to begin concurrent with the immediate acquisition of right of way, not 2019-2021.
- C. An Emergency Stop signal to be installed at the juncture of the Malabar Fire Department entrance to SR-514.
- D. Multimodal lane on the north side of SR-514

Benefits to the surrounding communities would include: reduced traffic incidents including fatalities. Safer access to and from Corey Rd. and Weber Rd. onto SR-514, improved StormWater management and Accommodation to the influx of citizens migrating to Florida.

Assistance on your part in accelerating this thirty-year-old proposed improvement to the portion of SR-514 would be greatly appreciated. The Safety of our Citizens and Visitors to our State deserve nothing less.

Sincerely,



Douglas C. Hoyt  
Administrator,  
Town of Malabar

Enc.

RTCM 3/6/17

Agenda Item 9

Memorial Wall in Malabar  
Community Park

Requested by Mayor

RTCM 03/06/2017

Requested by CM Mahoney  
to include in agenda package

RTCM 3/4/17

Debby Franklin

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**From:** Laura Mahoney  
**Sent:** Tuesday, February 21, 2017 10:28 AM  
**To:** Debby Franklin  
**Cc:** Douglas C. Hoyt; Pat Reilly  
**Subject:** District 2 Report for February  
**Attachments:** District 2 report February.doc

Good Morning,

Please include in Agenda packet for our first March RTCM.



Sincerely,  
Laura Mahoney

## 1. Springfest

>At least one years' full wage \*(man-year) has been voluntarily invested in order to put on Springfest 2017. Advertising, personal canvassing a years' worth of community events, meetings (agendas set, minutes taken, flyers composed)

*\*Since last years Springfest, the volunteers donating efforts, adds up to at least one man-year of free time given toward this 2017 Event.*

>The Malabar Community Association (MCA) developed with Council knowledge in order to coordinate Springfest and other events the Town wished to support. Later, the Council provided requirements not previously eluded to the Springfest committee members who had now disbanded to create the MCA not-for profit organization. The immediate problems were:

- a. all budgeted town funds used would need to be returned after event
- b. extra fee to rent park
- c. private insurance needed
- d. Inability to confirm the level of cooperation

> Unfortunately, there are time constraints and a lacking of the mutual understanding needed to complete Springfest by MCA. The staff would have to continue and complete the work already started in order to make this year's event a reality. Of course, with cooperative effort, we could all chip in to assist an event we have all come to love.

“If we can but prevent the government from wasting the labors of the people under the pretense of taking care of them, they must become happy.”

Quote of Thomas Jefferson in a letter to Thomas Cooper from November 29, 1802.

## 2. Agenda Packet

>Needs to be made available to the public and published on town website no later than the Friday after each previous council meeting.

- a. Council needs this added time to spend researching agenda packet to prepare.
- b. public needs plenty of time to be involved and aware and contact CMs

### 3. Unnecessary attorney inquiries need to be limited -expense fees

>Excessive public funds are used in attorney fees to protect town entity

- a. laws on severance are clear and do not need seconded by a second attorney.
- b. mining - bring all decisions before council while attorney is present instead of additional calls, time and money used after the fact.

### 4. Roads and Drainage

> **Propose:** we post a loose schedule on the town's website and continue this upkeep as we work on a better solution. It will also help ensure transparency of our Public Works Department.