

**TOWN OF MALABAR  
REGULAR TOWN COUNCIL MEETING  
MONDAY, APRIL 3, 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 3/20/17  
Town Council Workshop Mtg Minutes 3/27/17**
      - Exhibit:** Agenda Report No. 1
      - Recommendation:** Request Approval
  - E. BCSO REPORT:**
  - F. ATTORNEY REPORT:**
  - G. SPACE COAST TPO/TAC PRESENTATION**
  - H. BOARD/COMMITTEE REPORTS:**
  - I. STAFF REPORTS: ADMINISTRATOR: CLERK: FIRE CHIEF**
  - J. 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.
  - K. PUBLIC HEARINGS/SPECIAL ORDERS: 0**
  - L. UNFINISHED BUSINESS/GENERAL ORDERS**
    - ORDINANCES FOR FIRST READING: 0**
    - RESOLUTIONS: 1**
      - 2. Resolution 11-2017 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. 2
        - Recommendation:** Request Approval
- MISCELLANEOUS:**

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME
- M. DISCUSSION/POSSIBLE ACTION:**
  - 3. Policy to be used for Communications with Town Staff and Town Attorney**
    - Exhibit:** Agenda Report No. 5
    - Recommendation:** Request Approval

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

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

**P. ANNOUNCEMENTS:**

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

**Q. ADJOURNMENT:**

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

**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 1**  
**Meeting Date: April 3, 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 – 3/20/2017
- WS minutes 3/27/17

It was determined during the last year that the minutes should be a brief summary of what occurred in the meeting. This was confirmed again at the November 21, 2016 meeting. For specific details, audio of the meetings are available.

**ATTACHMENTS:**

Draft Minutes of the 03/20/2017 and 3/27/17 meetings

**ACTION OPTIONS:**

The Town Clerk requests approval of the minutes.

## MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

March 20, 2017

7:30 PM

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

### A. CALL TO ORDER:

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

### B. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL

LAURA MAHONEY

DICK KORN

RICHARD KOHLER

TOWN ADMINISTRATOR:

DOUGLAS HOYT

TOWN ATTORNEY:

KARL BOHNE

TOWN CLERK/TREASURER:

DEBBY FRANKLIN

For the record, Fire Chief Leonard Thomassen IS NOT in attendance.

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

CM KORN re: his response to Social Media – would like to add it to agenda and have read into record. No objection.

BCSO – sorry he missed last meeting: there were 334 calls for service in February. One theft. The crash stats were off by about half. Gave example of backing into mailbox. They are trying to weed those out.

### D. APPROVAL OF THE MINUTES:

#### 1. Regular Town Council Meeting Minutes 3/06/17

**Exhibit:** Agenda Report No. 1

**Recommendation:** Request Approval

**MOTION:** CM Korn / CM Kohler to approve RTCM minutes of 3/06/17.

Discussion: CM Kohler said both Item 5 and 6 have the same motion. Franklin will listen and clarify both motions. Done.

CM Mahoney thinks the information in the minutes is untrue; it doesn't represent the whole thing in relation to MCA. She said the minutes don't represent the citizens as well as it could be. The MCA is being slandered.

CM Korn said he can't understand what she is saying. CM Korn suggested to Council that if they want something substantial changed in minutes – something you feel strongly about - put it in a written form before coming to the meeting. That is the only way to understand. CM Mahoney said the Agenda report title "Cancellation of SpringFest Due to Lack of Response from MCA". Chair stated that is a correct statement. Town sent contract and got nothing back from MCA in writing. CM Mahoney said they said at the meeting they would not sign it. Chair said that is not the way to handle it. TA said the contract was revised to provide additional language if the MCA did not make the revenue the "rent" would be reduced. That was presented to MCA and handed to Ms. Ritter. Never received any comment back from the MCA. CM Mahoney asked if Ms. Ritter could speak. CM Korn call point of order. Chair called for the vote. CM Mahoney said she thought it was slanderous.

**Vote:** All Ayes, 4; Nay 1 (Mahoney).

### E. ATTORNEY REPORT: Nothing

**F. ATTORNEY LABOR:** Ford and Harrison Attorney Andy Hament spoke: Under PERC law volunteers are not eligible to vote. Any regular FTE or PTE would be eligible to vote. He has spoken to union and they are only looking to represent the 4 Lts.

Election process:

In order to file a petition to ask – provide evidence that at least 30% are interested. PERC – April 6 is date set for phone hearing. If there is no dispute, then hearing is not necessary. Then there will be vote by mail ballots. If less than 51% for union, the union does not represent the group. If 51% or more vote to be represented by union, then PERC will issue a statement. This is a right to work state meaning an employee cannot be required to join a union or pay dues. However, if a majority of employees vote the union in, all of the employees in that group are represented by the union, whether they join the union or not.

If you are represented by union, they can participate in collective bargaining – but that does not mean that either the Town or the union have to agree to anything that is not in its best interests. If negotiations do not go well, there is an impasse procedure. PERC will appoint a special magistrate to hold a hearing and then make recommendations to the Council. The Council then makes final decision.

The union's petition lists Firefighter, Driver Engineer and Lieutenants. The union has since clarified that it is only interested in representing full-time employees – the four Lieutenants. Hament's recommendation is to go along with that. Once the unit is determined, PERC will mail out the ballots. You are free to speak to Lt and talk about the pro and cons. Free to speak your mind. You just can't coerce people. Or threaten or promise. Happy to answer any questions.

CM Ball – Bargain for wages, benefits, and retirement and health and safety of the individual. Hament said per the law – volunteers are not eligible.

CM Korn – the nature of this FD is historically volunteer; this is completely out of character. It is now a combination (paid and volunteer) department. He has heard they only want a guarantee that if the FD is disbanded this will enable them to get work elsewhere. There seems to be a lot of misinformation. This is not intended to be a threat. He will not vote for this.

This does not provide protection to outsourcing. This Council has that right. It is a mixed department now; they used to only have one paid person Chuck McClelland who got \$100.00 a month.

What you have is a psychological thing. Legally there is no protection there. The Council has a right to outsource the Fire Department but this is making employees feel insecure and causing morale issues. Recommends Council resolve the issue once and for all, one way or the other.

CM Rivet – Can the Special Magistrate (SM) impose a recommendation. Atty Hament said yes. **(Note: Clarification requested by Clerk to Attorney Hament and this is his response** *"If his question was can the SM impose his recommendations, then the minutes should read that I said no – if no final agreement is reached and ratified by the employees, the Council can impose its final decision on the items in dispute. The Special Magistrate only makes recommendations).*

TA said despite all the talk of outsourcing, he hasn't seen any written offers from Palm Bay or Brevard County. He will be requesting that information soon and will have that information by the next council meeting.

**G. STAFF REPORTS:**

• **ADMINISTRATOR:**

Sediments filtering IRL project – Eva Lane and treating water from 535-acre area. FDEP likes the project and is interested in funding 50%. Presented project to the CAC IRL group in hopes for partial funding from the County. It would cost no money from the Town. CM Rivet emphasized that this would be paid by grants not from taxpayers.

Atz Road drainage project is progressing – expect survey this week and then will finalize bid documents and post bid.

SR514 packet has been well received and we continue to get support from the various agencies we have presented to. Met with TPO and FDOT and their consultant and have they have a new plan that appears viable and they will give a full-blown presentation at the Malabar Council meeting of April 3, 2017.

CM Korn asked him if it would include the revised publication of the C2T manual defining the rural highway roads like SR514. He stated Council knows he has been working with the Malabar TPO TAC representative Mr. Don Krieger who had come by his house this afternoon. They have been working on this document about defining the roads and the 45 mph etc. and they would have it done in April and it will be more accurate than what we have now. CM Korn asked TA if the TPO had mentioned that to TA at his meeting. TA said no. CM Korn said he got the feeling from Mr. Krieger that April 3 was too early to have that document.

• **CLERK:**

Newsletter – received articles from G-V, Nanas House and from a resident on the Fire Dept. and did article on Fall Fest – nothing from Council or Boards

In an upcoming meeting, staff will be proposing an adjustment to the SW fee to better fund the proposed SW projects.

The Redistricting Project is moving forward. We have contracted with a firm that specializes in redistricting for agencies throughout the country. They were recommended by the Brevard Elections Office. We have sent them the Shape files with the current district lines and the new residential population by house since 1/1/10 and they have populated the map. Mr. Ken Tozier will be sending out a tentative agenda for the workshop as well as a briefing paper on how this process is going to work. Workshop is proposed for early April so I will be contacting each of you.

After consensus at the workshop Council will formally approve the revised district lines and District map and it will be sent to the Supervisor of Elections so they can create the five new “precincts” for voting purposes. We will continue to use only one polling location so there is no intent to change that location.

I will be contacting each of you to determine what day is best for the workshop. Tentative dates are early April. Please check your calendars and let me know.

CM Rivet and CM Korn will submit something tomorrow for newsletter.

• **FIRE CHIEF**

none

- H. **PUBLIC COMMENTS:** Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required) Three (3) Minute Limit per Speaker.

**Speaker's Card:**

Ms. Abby Johnson: SJRWD Intergovernmental Agent – Excited about your support for the proclamation. The District has released the cost share 25mil on the street. They will fund up to 33% of constriction costs for selected alternative water supply, water quality, flood protection and natural projects and up to 50% for water conservation projects. Projects need to be construction ready that can be completed within two years.

- I. **PUBLIC HEARINGS/SPECIAL ORDERS: 0**

- J. **UNFINISHED BUSINESS/GENERAL ORDERS  
ORDINANCES FOR FIRST READING: 0  
RESOLUTIONS: 6**

2. **Reconsideration of Brevard County request to Sign Interlocal Agreement to Allow 3<sup>rd</sup> Party Vendor to Pursue and Report Invalid Homestead Exemptions to Property Appraisers Office (Reso 09-2017)**

**MOTION:** CM Rivet / CM Korn to reconsider. Discussion: Rivet was really on the fence on this issue. **Vote:** Ayes, 4; Nay 1 (CM Mahoney)

Chair directed Clerk to read by title only.

Reso 09-2017 A RESOLUTION OF THE TOWN OF MALABAR BREVARD COUNTY FLORIDA PROVIDING FOR APPROVAL OF INTERLOCAL AGREEMENT WITH BREVARD COUNTY TO ALLOW OUTSIDE THIRD PARTY VENDOR TO INVEWSTIGATE AND REPORT ON INVALID HOMESTEAD EXEMPTION CLAIMS TO PROPERTY APPRAISERS OFFICE; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 2

**Recommendation:** Request Approval

**MOTION:** CM Korn / CM Kohler to adopting Resolution 09-2017 Approving the ILA

Mr. Milo Zonka gave overview of project. This is not a revenue source for the PA office. The 22 taxing authorities will recover some revenue. He then introduced Property Appraiser Dana Blickley. She explained that the vendor would help the P.A. Office do their job; it is another tool. The vendor will do the data mining that the PA Office can't afford or doesn't have access to and if a questionable case is identified, it is sent to the P.A. office to do the investigation. They might ask you to complete a questionnaire. CM Mahoney said since they need to do inquiry – will there be a hardship on the person. Dana gave example of a husband and wife each seeking and getting homestead exemptions. Yes, they would have to show evidence. In many instances, they have already had to show this evidence. The questionnaire would ferret out most of the issues. CM Mahoney so is there a reason why we have to give our approval. Dana said if they do not get Malabar approval they will still go forward. They are going to do their job. They are not going to exclude Malabar. Dana said in terms of intrusion, to make an application for exemption they ask a lot of questions that may offend some. If you have done that recently, it is an invasive process. It is better to have them slightly offended at the application step rather than get slapped with a large penalty for improper exemptions.

CM Rivet said he voted against this initially and after this additional information he is in favor of this.

**ROLLCALL Vote:** CM Ball, Aye; CM Mahoney, Aye; CM Rivet, Aye; CM Korn, Aye; CM Kohler, Aye. Motion approved 5 to 0.

- 3. Repeat Request for Reduced Speed on SR514 to 45mph; Expedited Intersection Improvements at Corey and Weber to include Traffic Signals; Support from Adjacent Communities (Reso 06-2017)**

**MOTION:** CM Rivet / CM Korn to untable. Vote: 4 Ayes; to Nay, 1 (Mahoney)

**MOTION:** CM Korn / CM Mahoney to table this Reso to 2<sup>nd</sup> meeting of April. Vote: 5 to 0.

- 4. Oppose SB 330 and HB 487 Which Would Restrict the Ability of Municipalities and Counties to Issue New BTR and Further Limit Amount of each BTR to \$25.00 causing a 75% loss in revenue; (Reso 05-2017)**

Chair directed Clerk to read by title only.

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, OPPOSING SB 330 AND HB 487 WHICH WOULD RESTRICT THE ABILITY OF MUNICIPALITIES AND COUNTIES TO ISSUE NEW BUSINESS TAX RECEIPTS AND FURTHER LIMIT THE AMOUNT TO CHARGE TO NO MORE THAN \$25.00 PER BTR CAUSING A 75% REDUCTION IN THAT REVENUE SOURCE PROVIDING FOR DISTRIBUTION OF THIS RESOLUTION; PROVIDING AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 4

**Recommendation:** Request Approval

**MOTION:** CM Rivet / CM Kohler to approve Reso 05-2017 opposing HB 487 and SB 330.

Discussion: Clerk said this is scheduled for Community Affairs Committee on 3/22/17 at 1:30pm.

**ROLL CALL VOTE:** CM Ball, Aye; CM Mahoney, Aye; CM Rivet, Aye; CM Korn, Aye; CM Kohler, Aye. Motion carried 5 to 0.

- 5. Oppose PCB WMC 17-02 That Would Prohibit Municipalities from setting Maximum Millage Rates that Exceeded the RBR; (Reso 08-2017)**

Chair directed Clerk to read by title only.

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR COUNCIL OPPOSITION TO PROPOSED COMMITTEE BILL THAT WOULD FURTHER ERODE MUNICIPAL HOME RULE BY PROHIBITING MUNICIPALITIES FROM SETTING AD VALORUM RATES THAT EXCEEDED THE ROLL BACK RATE (PRIOR YEARS AD VALORUM) REVENUE; PROVIDING FOR DISTRIBUTION OF THIS RESOLUTION; PROVIDING AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 4

**Recommendation:** Request Approval

**MOTION:** CM Rivet / CM Kohler to approve Reso 08-2017 opposing PCB WMC 17-02.

Discussion: CM Kohler keep Home Rule local and get information to Tallahassee.

**ROLL CALL VOTE:** CM Ball, Aye; CM Mahoney, Aye; CM Rivet, Aye; CM Korn, Aye; CM Kohler, Aye. Motion carried 5 to 0.

- 6. Adopt Social Media Policy (Reso 07-2017)**



Chair directed Clerk to read by title only.

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR COUNCIL ADOPTION OF A SOCIAL MEDIA POLICY; PROVIDING AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 6

**Recommendation:** Request Approval

**MOTION:** CM Kohler / CM Korn to approve Reso 07-2017 adopting a Social Media Policy.

Discussion: CM Korn said he was in Davie over weekend and got a post and he responded to him and it was on Malabar Next Door. Read statement into record. CM Mahoney said you can use the social media within the parameters of the public records law. This is not going to change what they are currently doing. CM Rivet said there is a reason the AGO strongly urges elected officials to limit use; misuse can lead to criminal charges – you can go to jail. Attorney said this policy also provides protection for staff and the attorney from the “they didn’t tell me” defense. If your Council adopts the policy, you have to comply with it.

CM Mahoney said after the last council meeting she left, but everyone else stayed after the last meeting and talked – sunshine? Attorney said they should avoid the appearance of impropriety... CM Rivet and CM Korn said they can talk socially which they did. Mayor said they were talking about Patriots.

**ROLL CALL Vote:** CM Ball, Aye; CM Mahoney, Nay; CM Rivet, Aye; CM Korn, Aye; CM Kohler, Aye. Motion carried 4 to 1 (Mahoney).

#### 7. Oppose SB 596 (Reso 2-2017)

Chair directed Clerk to read by title only.

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, OPPOSING SENATE BILL 596 WHICH WOULD EVISERATE LOCAL CONTROL FOR FLORIDA CITIES WITH RESPECT TO WIRELESS INFRASTRUCTURE ON PUBLIC STRUCTURES AND IN PUBLIC RIGHTS-OF-WAY; PROVIDING FOR CONFLICT; PROVIDING AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 7

**Recommendation:** Request Approval

**MOTION:** CM Kohler / CM Rivet to approve Reso 02-2017.

Discussion:

**ROLL CALL Vote:** CM Ball, Aye; CM Mahoney, Aye; CM Rivet, Aye; CM Korn, Aye; CM Kohler, Aye. Motion carried 5 to 0.

#### MISCELLANEOUS: 1

#### 8. Council Position on boy Scout Troop 37

**Exhibit:** Agenda Report No. 8

**Recommendation:** Request Approval

#### Speaker Card:

Liz Ritter, Orange Avenue, Malabar, gave history on BS Troop 37. Said that Town Chartered them and then church and state issue so went to Malabar Volunteer Fire Department Incorporated (non-profit not part of Town) but then they dissolved, so they then went to the Baptist Church for Charter until the decision was made regarding allowing gays in the Scouts and they went to the Valkaria Aviation Association. Malabar Council agreed they can use the Town logo when Bonnie was here (as Administrator). Council said the Troop could also use the yard to secure their equipment.

Paul Goetsch, Troop 9613 of Trail Life, his troop is in Malabar (Baptist Church), and he works in Malabar (Data Management). Why can't Trail Life and BS Troop 37 work together. He knows a lot of the history in the area. If he can be of assistance, just call.

CM Korn, would like to introduce a resolution in support of Troop 37. Paul Goetsch said if you do it for one do it for both groups.

Chair said the concerns are the use of logo and the equipment being stored at PW and FD. Wants Council to make a decision on this. TA said he is a BSA supporter and a supporter of Trail Life. BS Troop 37 is Chartered with Valkaria Aviation Assc. CM Korn asked if they were still called Malabar BS Troop 37. Liz said yes.

TA said ACLU brought lawsuit - If we are storing for one group – do so for all.

Atty said just allow one organization to use then it should be for all organizations. CM Korn asked if they can make motion to support BS Troop 37 and since they have a historical connection to the town.

CM Ball said BS Troop have gotten a rotten deal. We can't support you politically and then from the church. Take care of all these little issues. They can be addressed. The Town of Malabar should have a Boy Scout troop affiliation. If there is room for it, and if there is insurance they should support it.

Chair said there is a difference between Chartered and Support. Paul said the request to store as there are constraints for storing outdoors. They don't object to that for the Troop. They can store at his work and the airport. CM Ball asked about outdoor storage. Chair said this is just a discussion. Storage

On agenda for next meeting, resolution, supporting BS Troop 37. Between now and then Ms. Ritter and Mr. Hoyt can resolve. They had the east side of the PW yard with their own Key to the gate.

CM Korn said that Ms. Julianna Hirsch gave a trailer to the soccer organization to use at the field for storage. Chair said the issue is the storage. Atty – Council to give direction to TA on what we need to know. Maybe we can create that list for Council to approve. The open policy – it is your call to allow your symbol to be used.

CM Mahoney pointed to back row and said Kevin is here – he handles the insurance. CM Mahoney said she gave a COI but she would have to look for it and get it to TA. TA said his job is to protect the town. He needs a copy of the insurance and evidence that the trailers are not registered to Town.

Pleasure of Council to have on the next agenda.

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

**K. DISCUSSION/POSSIBLE ACTION: 1**

**9. Amend Public Records Policy (Reso 10-2017)**

Chair said this was on for Discussion and possible action. He felt that the deposit amount wasn't adequate for work that has to be done to prepare some documents for copying. CM Mahoney asked if it was about her recent request. Chair said it has nothing to do with that; it simply needs to be updated. Malabar is small town with small budget and small staff.

CM Ball asked what other cities do? Franklin would have to check. He agrees with the Mayor. Some protection for the town while completing the request. In good faith, you put half down.

Chair directed Clerk to read by title only.

A RESOLUTION OF THE TOWN OF MALABAR BREVARD COUNTY FLORIDA PROVIDING FOR AN AMENDMENT TO EXHIBIT "A – PUBLIC RECORDS POLICY"; PROVIDING FOR AN INCREASED COST FOR DEPOSITS ON LARGE VOLUMINOUS OR TIME CONSUMING PUBLIC RECORDS REQUESTS TO REFLECT HALF OF THE ESTIMATED COST; PROVIDING FOR AN INCREASE TO .15 PER PAGE FOR PAPER COPIES; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 9

**Recommendation:** Request Approval

**MOTION:** CM Korn / CM Kohler to approve Reso 10-2017, amending Public Records Policy. Discussion:

**ROLL CALL Vote:** CM Ball, Aye; CM Mahoney, Aye; CM Rivet, Aye; CM Korn, Aye; CM Kohler, Aye. Motion carried 5 to 0.

**L. PUBLIC COMMENTS:**

Teresa Scannelli, 373 Camelot Circle, made recommendation to Council. The Council Members need to use their microphones. The purpose of the council meeting is to share with the people in the audience. Thanks,

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

CM Dist 1: nothing

CM Dist 2: suggestion on website – put orange cones at Weber Road. There is still no drainage agreement on DD Ranch. She has problems getting information. To save town staff and to save money the agenda created and volunteer minutes. Town kept hiring people in between. Didn't use county volunteers. Actual figures for SpringFest and has not gotten figures. Two towns she called and got all the information with no problems. Pay increases and FD doubled. Roads used to be graded regularly.

If you have low level of citizens attending meetings it is because the people are not heard. Is council complicit with this?

CM Korn asked her about her referrals to FLC; who is she talking to? She makes phone calls. She calls Stu at SCLC. She has also taken several classes online. Mr. Payne's online courses.

CM Dist 3: nothing

CM Dist 4: nothing

CM Dist 5: nothing

Mayor: for a future meeting – policy for communicating to Attorney. All council should first ask questions to staff and then if it is not in place put it in place.

**N. ANNOUNCEMENTS:**

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

**O. ADJOURNMENT:**

There being no further business to discuss and without objection, the meeting was adjourned by the Chair at 9:43PM.

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

ATTEST:

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

Date Approved: 4/03/2017

**DRAFT**

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.

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RTCM 3/06/2017

## MALABAR COUNCIL WORKSHOP MEETING

March 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:

COUNCIL CHAIR:

MAYOR PATRICK REILLY

VICE-CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL, not present

LAURA MAHONEY

DICK KORN

RICHARD KOHLER

ADMINISTRATOR

DOUG HOYT, excused

CLERK/TREASURER:

DEBBY FRANKLIN

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

Chair recapped their homework assignment.

Referred to the Council Member Notebook each got for the FLUM and R/LC issue. Use Code, Section 1, definition "O" - current and proposed language - see what you like and what you don't like.

P&Z wanted to make residential use first and then limited commercial below it. Then they created a table if you wanted to put multiple uses of R/LC. It is plus or minus one. The attorney suggested that they take it out but he believes it should remain in. This is the key thing on what R/LC. CM Rivet does not have a problem with the words.

CM Korn does not like the quotas. Do not need to be so tight on the rules. Built reputation on live and let live in this rural community. CM Korn said it is hard to regulate. Chair gave example of current residential and adjacent property owner wants to put in six LC. That was P&Z thinking.

CM Mahoney asked about the four units vs six units. Maximum height in R/LC. Mahoney said it should be two stories. Can they have that in R/LC? Chair said the regulations are the same for all zonings.

Ask Atty – can they have different regulations for R/LC re: parcels on Hwy 1 vs. parcels on Babcock and Malabar Roads? (Note: Attorney's response: Generally, I think the answer is yes if we have a rational basis so if privacy, aesthetics, compatibility, and any other rational reason is a concern then they can. You might want to consider a height adjustment if they want to go higher as a conditional use but you would need to establish objective criteria for the conditional use for instance height of the neighboring structure, distance from neighboring structure, etc.)

CM Korn said we are known as "Rural living at its best". Need to develop business districts. They could have different requirements in Palm Shores and Grant Valkaria have designated business districts. We should develop something similar. CM Rivet does not have problem with business on arterials. Problem when it encroaches into the rural areas.

Then they started reviewing the maps. Map 4: consensus to continue the OI along Babcock only the depth of one lot until Osage and then continue east to Prosperity.

Map 5: north side of Malabar Road: consensus to support the proposed changes.

Map 5: south of Malabar Road. Consensus to keep as indicated on the "Present land use" on the parcels west of Weber Road.

Map 6: For the parcels, east of Weber Road change to 660' maximum depth but make them R/LC not OI. CM Kohler stated his notes indicate the property owner of one of the large lots wanted her entire parcel to become R/LC. CM Mahoney wants to protect existing houses from being peered into by adjacent higher commercial structures.

Map 7: Go with P&Z recommendation

Map 8: Go with recommendation on north side. On south side change depth to 660'

Map 9: Go with recommendation

Maps 10 and 11: Go with recommendation

Map 12: parcel identified as RR should be Conservation – same issue on Maps 113 and 14.

CM Rivet appreciates members agreeing to compromise on the depth to retain the rural characteristics.

Council took a straw vote to hold the next workshop on April 24, 2017 at 7:30pm. CM Korn will be out of town.

Chair Reilly, without objection, adjourned the meeting at 8:45 pm.

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

(seal)

ATTEST:

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

Approved: RTCM 3/6//2017

**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 2  
Meeting Date: March 20, 2017**

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

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**SUBJECT: Resolution 11-2017 Support for TPO/TAC Plan for SR514 (Reso 11-2017)**

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**BACKGROUND/HISTORY:**

There will be a presentation by the Space Coast TPO/TAC on the latest plan for SR514 at this meeting.

**FINANCIAL IMPACT:** none

**ATTACHMENTS:**

- Reso 11-2016

**ACTION OPTIONS:** Council Approval of Reso 11-2017

**RESO 11-2017**

**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 Florida Department of Transportation has asked their input for the recommended concepts including a four lane alternative and two lane alternative at the RTCM of April 3, 2017 and,

**WHEREAS**, the recommended alternatives support the Town's desired goals to limit impacts to private property and the Disc Golf Park by utilizing lands within the Malabar Scrub Sanctuary for improvements to Malabar Road and,

**WHEREAS**, the recommended alternative between Corey Road and Marie Street includes a paved, multi-use trail on the north side of Malabar Road.

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

**SECTION 1. Findings:**

1. The Town of Malabar supports the recommended alternatives and alignments of Malabar Road, including updated sections from Weber Road to Marie Street, as follows:
  - a. Weber Road to Corey Road: Four-lane suburban typical section that features two (2) vehicular lanes in each direction of travel, a bike lane in each direction of travel, and a sidewalk on both sides; and,
  - b. Corey Road to Marie Street: Two-lane rural typical section that features one (1) vehicular lane in each direction of travel, paved seven (7)-foot shoulders on both sides, and a multi-use trail on the north side.
  - c. Roundabouts at the intersections of Malabar Road with Weber Road and Corey Road.
2. The Town of Malabar supports the use of a paved multi-use trail on the north side of the improved Malabar Road from Malabar Woods Boulevard to Marie Street to enhance multimodal use and connectivity among public facilities and parks.
3. The Town of Malabar will provide ongoing maintenance to the paved multi-use trail on the north side of Malabar Road from Malabar Woods Boulevard to Marie Street.

**SECTION 2. Severability.**

**SECTION 3. Conflict.**



**SECTION 4. Effective Date**

This resolution was moved for adoption by Council Member \_\_\_\_\_  
The motion was seconded by Council Member \_\_\_\_\_ and, upon being put to  
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 3rd day of April, 2017

By TOWN OF MALABAR

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

ATTEST:

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

(seal)

Approved for Legal Sufficiency:

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

**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 3**  
**Meeting Date: April 3, 2017**

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

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**SUBJECT: Discussion – Policy on Communicating with Town Attorney**

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**BACKGROUND/HISTORY:**

Mayor requested this item for discussion.

**ATTACHMENTS:**

None

**ACTION OPTIONS:**

Direction to Staff