

**TOWN OF MALABAR
REGULAR TOWN COUNCIL MEETING
MONDAY APRIL 4, 2016
7:30 PM
2725 MALABAR ROAD
MALABAR, FLORIDA**

AGENDA

- A. CALL TO ORDER, PRAYER AND PLEDGE
 - B. ROLL CALL
 - C. **APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:**
 - D. **APPROVAL OF THE MINUTES:**
 - 1. **Regular Council Mtg of 3/07/16 and 3/21/16**
 - Exhibit: Agenda Report No. 1
 - Recommendation: Request Approval
 - E. **SHERIFF REPORT:**
 - F. **ATTORNEY REPORT:**
 - G. **STAFF REPORTS: ADMINISTRATOR: CLERK:**
 - 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:**
 - 2. **Discuss and Create Policy Guidelines for Working with Developers**
(Postponed from last mtg)
 - Exhibit: Agenda Report No. 2
 - Recommendation: Request Action
 - J. **UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)**
 - K. **ACTION ITEMS: ORDINANCES FOR FIRST READING: 0; RESOLUTIONS: 0; MISCELLANEOUS: 3**
 - 3. **Discuss Parity of Districts (population +/- 10%)**
 - Exhibit: Agenda Report No. 3
 - Recommendation: Request Action
 - 4. **Discuss Malabar Land Development Code Article V, Section 1-5.29 – Malabar Vernacular**
 - Exhibit: Agenda Report No. 4
 - Recommendation: Request Action
- COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME
- L. **DISCUSSION/POSSIBLE ACTION:**
 - 5. **Discuss process of “Piggy-backing”**
 - Exhibit: Agenda Report No. 5
 - Recommendation: Discussion
 - M. **PUBLIC COMMENTS: General Items (Speaker Card Required)**
 - N. **REPORTS – MAYOR AND COUNCIL MEMBERS**
 - O. **ANNOUNCEMENTS:**
 - (2) Vacancies on the Board of Adjustment; (3) Vacancies on the Park and Recreation Board;
 - (1) Vacancy on the Planning & Zoning Board
 - P. **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 4, 2016

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

SUBJECT: Approval of Minutes

BACKGROUND/HISTORY:

Attached are the summary minutes for the following meetings:

- Regular Town Council Meeting – 3/07/2016
- Regular Town Council Meeting – 3/21/2016

ATTACHMENTS:

Draft Minutes of the following meeting:

- Regular Town Council Meeting – 3/07/2016
- Regular Town Council Meeting – 3/21/2016

ACTION OPTIONS:

The Town Clerk requests approval of the minutes.

- D. APPROVE MINUTES – Meeting of 11/16/15**
1. **Approval of Minutes** Regular Council Minutes – 2/1/16
Exhibit: Agenda Report No. 1
Recommendation: Request Approval of Minutes

MOTION: CM Vail / CM Krieger moved to approve the minutes from February 1, 2016 as amended. CM Krieger, 1st para, sentence fragment. Needs completion. CM Korn pg 4 item 9, said when Jeff was here we need to start a little earlier. Start the budget process earlier – that is what he meant. Krieger, pg 2, 'did not have no' beer.- double negative; another one on pg 5. Pg 3, confusion – wants to leave it on the table. Look at verbatim and correct it. CM Ball said it needs clarification. Mayor Beatty was a regular attendee of CivMil (Civilian/Military organization). Clerk to make noted changes/clarifications. **VOTE: All Ayes.**

- E. SHERIFF'S REPORT:** no one here
F. ATTORNEY REPORT: nothing at this time. CM Korn asked about Painted Acres and Attorney said there is no agreement.

- G. 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.

Skip Hard, Hard Lane, wanted to commend Clerk for the abbreviated minutes.

- H. PUBLIC HEARINGS: 1**
2. **Review Site Plan for Commercial Development & Consider Recommendation from P&Z Board:** Parcel 28-38-31-00-00750- aka 1300 Highway 1, Malabar, FL 32950; Route One Motor Sports- Applicant: KellWill, LLC, represented by Mr. William Carmine & Mr. Vaheed Teimouri, Engineer
Exhibit: Agenda Report No. 2
Recommendation: Request Action

Applicant was asked to the podium to summarize his request.

Vaheed Teimouri Engineering, representing owner. Said they have been working on this project for a long time. The project grew as they put it together. They have met all the town's requirements. Obtained all outside permits except FDOT. FDOT requires town approval first, before submittal. There were some concerns regarding access. They went to poured concrete walls and fire separation between the repair area and the showroom. To bring water / sewer from Palm Bay is not feasible or necessary. Use will easily be accommodated by septic tank and well. The fire requirements for the NFPA do not require building to be sprinkled, but to get 3000psi for a 3-hour period they must have three 8" wells.

Access for delivery / off-loading of product meet/exceed code. There is adequate parking for employees, and longer parking spaces for customers with trailers.

Mr. Teimouri stated P&Z Board Member Bud Ryan voted against it at P&Z meeting. Mr. Teimouri asked Ryan after the meeting what he objected to or wanted added and he got no response.

Mr. Teimouri stated any commercial development done in the county where the proposed access is 24 feet wide is in excess of the required 20 feet. With a requirement of 30 feet access the potential to block access is more so than with a 24 foot access even with striping and

signage. It all comes down to planning, setting rules, training employees and enforcement of those rules by employees. Mr. Teimouri has done 1,200 commercial projects in Brevard County in the last 30 years. In some instances they don't even take the fire truck onto the property. He is not a fireman, but confers with them countywide on his projects to ensure safety. If you require access to be 30 feet, even with striping, there is more probability of illegal parking in that area.

They also agreed to put "no parking" signs on the side of the driveway. The building is accessed from the rear and most of the deliveries will be in the back. The showroom vehicles have no gas or batteries. There are fire rated walls between showroom and repair area.

CM Korn, asked about the end of the packet. (3rd Party reviewer) Brian Foster asked if there would be enough room in the cul-d-sac for delivery vehicles. Have all the questions been addressed to the satisfaction of the reviewers.

PH opened:

Skip Hard, went on the town website, and it announced the building would be a 10,000 sf building – referred to the advertisement, it has now become a larger project. He asked if there was an issue with the conflict. Chair said current notice does not mention the size. Attorney said all notices have been and are compliant.

Liz Ritter, Vice Chair, Planning and Zoning Board, said they had all these questions at their meeting and resolved those questions properly. They are proposing preformed concrete walls, stairs in the front and primary access at the south west end of building, with protection to the neighbors on north side. They went over everything on the plans, got answers and submitted their recommendation for council approval.

CM Krieger stated the back building does not have walls. Teimouri said it does now; the project has evolved. CM Krieger said he did the math on the MBC and came up with .205, which is a little more than the maximum the code allows. CM Korn has no problem with the walls for security and weather; they do not have an impact on the impervious surface runoff. CM Vail said what he is hearing as concerns is the landscaping on the property lines and the width of the access which should be under FDOT jurisdiction and the floor area ratio. The Engineer will determine the maximum building coverage and FDOT will determine width of access so only issue is tree location. CM Ball thought the issue was the 30 foot wide access the fire reviewer wanted. Attorney said that the NFPA requires 20 feet, and there is wiggle room if there are obstacles but they are providing 24 feet. Chair said the code requires 20 feet and they are proposing 24 feet and someone is suggesting the optimal of 30 feet. Chair said it is up to Council to require the optimal or accept the proposed. CM Krieger asked if there was a liability if you ask for an independent review and then don't follow his recommendation and then something goes wrong. Attorney said no because they followed code.

CM Krieger asked if it was normal for the some professional opinions to be reviewed but not followed. He said the legal ad with two meetings implies that it will be accepted at first meeting. He has tried to do his due diligence. The minutes weren't available until this morning. CM Krieger said that is where he is at. When this first presented to the public. Franklin said about the 20% is gross lot size, the Code provides in Article III District Provisions Table 1-3.3.A., Footnote 1 the applicant may use half of the adjacent road right of way in determining the gross lot size. In this case, half of East Railroad Avenue and half of Highway 1.

Milucky, 1280 Highway 1, last time he spoke in front of this body, he was against the proposed land use change and still thinks Council acted in error. He came to this meeting to support his neighbor to the south who is going to build an absolutely beautiful building. The only one to be affected would be him and he has no problem with it. He supports it and said there are already trees on the property line and Louise Smith's fence that has been there for 30 years. So if the people that are most likely to be affected don't have any issues.... He appreciates all the due diligence that Council has done, but asked for approval and not punt this football down the road. This is a good solid project. He had someone, an attorney in his office, vet this project and every one of his concerns has been answered. He has seen what Mr. Carmine has done with the site down in Grant and has every confidence that this will be even better. And its additional property tax.

No other speakers. Questions?

PH closed.

MOTION: CM Korn / CM Kohler to approve site plan as recommended by P&Z Board with the additional requirement to widen driveway an additional six feet to 30 feet or cut an access from East Railroad Avenue.

Discussion: CM Vail asked to hear from the Chief

Chief said you have already set precedence with the church on Malabar Road, by requiring them to widen their driveway to 30 feet. It only takes one broken down or parked vehicle to impede fire access on a 24 foot wide access. Chief read from the NFPA code Section 18.2.3.3 and 18.2.3.1.4, the AHJ (agency having jurisdiction) can require multiple access roads if single access could impede their access. FS 633.266 states when there is a conflict between, the AHJ can refer plans to the State Fire Marshal. Even though the building is non-combustible, with a limited 24' road, if there is anything going on that could worst case scenario prevent them from accessing. He needs to have someone sit with him to make this alternative plan. Chief said you have already set precedent. Future access from the back of the property. He suggested they set a meeting so this can be worked out. P&Z reviews and recommends. Someone needs to talk to him. CM Krieger asked Attorney if we are liable. Attorney said no, not if it is per code. If we are not going to agree then it is going to have to go to the State Fire Marshal.

CM Vail said it is a very good project. And has been drug out far too long. Chief said his job is to reduce liability and protect the public.

Attorney said if you make it contingent on approval of Fire Chief and then there is no approval, then what – Attorney said the applicant and Fire Chief need to talk and postponing is his recommendation. Chair said you could postpone until there is an agreement and then Chair could call a special meeting to hear only this item.

Chair asked Chief how much time is needed. Chief said could be next day or the next. CM Vail wanted to hear from Chief. Engineer Teimouri also asked to speak again; perhaps they can work it out tonight. Chair said they could call a recess. CM Korn spoke of the good qualities of the existing Route 1 Motorsports business.

Chair called a 10 min recess at 8:40pm.

Chair called the meeting back to order 8:55pm. Chair asked if they had reached an agreement. Chief said yes. Chair asked one of them to come to podium and tell Council what they had agreed to. Engineer Vaheed Teimouri stated the applicant has agreed to either do the 30' opening or cut the secondary access, either / or and the Chief agreed. Teimouri then said they didn't have a choice – either make a 30-foot driveway or open East Railroad Avenue. If they do

not do one or the other then basically, they do not have a project. They submitted in December, before Christmas. Malabar had 60 days, January and February, to review the plans. And then always at the 11th hour, Malabar Fire Dept says do this or your project won't go through. He referred to the church project he had done on Babcock Street in 2013. Got all the way to construction and then the Fire Dept said it must be sprinkled and it shut down the project for two years. It is an opinion, a suggestion, not a requirement. That is not the way to do business. He is not just making money, he is licensed to read and interpret the code and follow that code when designing these projects with public safety in mind. CM Korn, do we have an agreement. Chair said yes, they will do either the widening or the second access. Teimouri said they would have to see which is more economically feasible.

ROLL CALL VOTE:

1)CM Ball, Aye; CM Krieger, Aye; CM Korn, Aye; CM Kohler, Aye; CM Vail, Aye. Motion carried 5 to 0.

I. ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS/COMMITTEE; RESIDENT GRIEVANCES; HOA REQUESTS)

#3 moved to top of agenda.

4. Recommendation from P&Z Board: amend LDC to require 500' radius notification for land use and 1000 feet for vacate and abandonment.

Exhibit: Agenda Report No. 4

Recommendation: Request Action

MOTION: CM Vail / CM Korn to direct staff to draft an ordinance expanding the radius for notification purposes before public hearing on land use items as recommended by P&Z.

Discussion:

CM Krieger "all affected" what does that mean? Ritter explained the abandoned and vacate and the public utilities could affect more than just the people within the radius. Put the responsibility on the Building Department to make someone responsibility. 500' of the perimeter not the center.

ROLL CALL VOTE: CM Ball, Aye; 1)CM Krieger, Aye; CM Korn, Aye; CM Kohler, Aye; CM Vail, Aye. Motion carried 5 to 0.

5. Recommendation from P&Z Board: Amend Ordinance 2014-01 re: ALF in OI

Exhibit: Agenda Report No. 5

Recommendation: Request Action

MOTION: CM Vail / CM Kohler to direct staff to draft an ordinance prohibiting ALF construction in OI Zoning.

Discussion: Council asked P&Z Vice Chair Liz Ritter to speak. When they first did the ALF regulations they used the Florida Statute and it has since changed and now it is allowed in a lot of zoning classifications. They want to limit the OI to defer to the preamble of the Charter. The definition of OI accommodate only non-residential. Since this was adopted ALF. No residential uses in OI. CM Krieger hasn't had enough time to read all of these. CM Krieger-- the directive they got from council when he was on zoning board, was to prohibit "residency" in OI zoning. Ritter explained they have changed the statutes in the last two years. If we state we are rural residential and the statute conflicts with our preamble, we would like to defer to the Charter. CM Vail asked Atty to look at and get back to council. Chair asked Attorney how much time he would need. Attorney said by next meeting. Chair entertained a motion to postpone until next meeting. CM Krieger referred to the motion on the floor. Chair said then they could do a motion to table.

MOTION: CM Korn / CM Kohler to table until next meeting. Vote: All Ayes.

**J. ACTION ITEMS:
ORDINANCES FOR FIRST READING: 0
RESOLUTIONS: 0**

(No action on this as it was improperly put on agenda. Once an item is tabled, it remains off the agenda until a motion is made and seconded and has a majority vote to take from table. It can then be acted on.)

~~6. **RESOLUTION 02-2016** – A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR REVISION OF RESOLUTION 04-2011 REGARDING PERMIT FEES FOR NEW RESIDENTIAL AND COMMERCIAL CONSTRUCTION; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.~~

MISCELLANEOUS:

7. **Set Next Workshop Date for Council re: FLUM & R/LC**
Exhibit: Agenda Report No. 7
Recommendation: Request Action

MOTION: CM Korn / CM Kohler to recommend workshop on Mar 31, 2016 to discuss the R/LC.

Vote: Ayes, 4; Nay, 1 (Krieger)

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

K. BOARD & COMMITTEE MONTHLY STATUS REPORTS:

P&Z Vice-Chair Liz Ritter had left

T&G Chair Drew Thompson gave PP presentation: Kohler recognized Drew and his group for the great work they are doing. Ball is out early in the morning and has come across walkers and another cyclist. Vail asked if EELp would help with lightning strike shelters. One on each side of Cameron. Build it once with minimal maintenance. Krieger asked if he had contacted FIND. Krieger is interested in the land beyond the ROW.

Park Chair Hans Kemmler – not present

L. DISCUSSION/POSSIBLE ACTION:

M. STAFF REPORTS:

ADMINISTRATOR: before you there are proposed articles for the newsletter. Sand Hill Trailhead restroom, the delay of the ADA restroom project is the potable water for the water fountain. 4 choices: do away with it. Put in water treatment, use the old school house, or put in a cooler and deliver the 5 gal jug. Krieger asked about a vending machine. The FD opens and closes the restroom. Trailhead will close and open automatically. To get this off of dead center, he would strongly recommend the alternative. Item 4 is very doable.

Drew said when the committee was working on grant, they anticipated having ADA users, people without water or they ran out of water. They wanted to encourage people that are not experts using the trails to get out and use them. Doug opposes the initial expense but also the monthly maintenance.

Doug, the fence around the ball park is falling down, been there over 20 years, he sent the breakdown to get it replaced. 6100.00 He would like to move ahead with this project. Korn said he saw it and it was in bad shape. He has contacted WM and other local businesses that will participate in donations toward this expenditure.

MOTION: CM Korn / CM Vail to extend 15 minutes

MOTION: CM Korn / CM Kohler to suspend the rules and approve the expenditure.

Vote: All Ayes

Doug frontend loader, needs brakes, council was furnished with all this information. Need to get this fixed. It took awhile to get this all pulled together. Called 8 vendors. Maudlin International, said they would take it apart. You are looking at 10K to fix frontend loader or spend 5,500 for a 30 day rental of equipment. He personally looked at the equipment. The emergency brake was locked. CM Krieger said this is Deja vu. It is a large expenditure. CM Korn said it is parked at Maudlin.

CLERK: nothing

N. REPORTS – MAYOR AND COUNCIL MEMBERS

1)CM Ball – Ball would like more information on agenda for the front end loader. One of the things is where is the money coming from.

2)CM Vail –

3)CM Krieger – discuss the order of the agenda reports.

4)CM Korn – next door, bit of discussion to a memorial to the former mayor.

5)CM Kohler – welcome and thanks to Phil

Interim Mayor - Crews said the ways we work the agenda, kick around the way you put the agenda together. This will give everyone 2 weeks to work on it. The Chair will help watch for this. It is really coming from you.

CM Vail said the resolution will be removed from table at next meeting. CM Vail said a good point brought up today. We have him cornered. Bring this information to developer before it comes to Council. Maybe have it as an agenda item to discuss and how it came to Council before it was resolved.

Chair will work with Clerk. CM Korn has addressed items to chair and a copying the clerk.

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

P. ANNOUNCEMENTS:

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

Q. ADJOURNMENT:

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

MOTION: CM Korn / CM Korn to adjourn. **VOTE:** All Ayes. The meeting adjourned at 10:30 PM.

BY: _____
Council Chair

(seal)

ATTEST:

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

Date Approved: 4/4/2016

MALABAR TOWN COUNCIL REGULAR MEETING
March 21, 2016 7:30 PM

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

A. CALL TO ORDER:

The meeting was called to order at 7:30 pm by Council Chair Mayor Phil Crews. Vice-Chair CM Vail led the prayer and pledge.

B. ROLL CALL:

COUNCIL CHAIR:	Mayor PHIL CREWS
VICE-CHAIR:	BRIAN VAIL
COUNCIL MEMBERS:	GRANT BALL
	DON KRIEGER
	DICK KORN
	RICHARD KOHLER
TOWN ADMINISTRATOR:	DOUGLAS HOYT
TOWN ATTORNEY:	KARL BOHNE
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

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

C. APPROVE AGENDA - ADDITIONS/DELETIONS/CHANGES – CM KORN – take item on BP fees off table for action. Vote: All Ayes; add as J.3.

CM Korn re: Typo on Agenda Sec K.5. – Residential not recreational. No minutes.

MOTION: CM Korn / CM Ball approve agenda as amended. **VOTE:** 4 Ayes; 1 Nay (Krieger)

D. APPROVE MINUTES – postponed until next meeting

E. SHERIFF'S REPORT: no one present

F. ATTORNEY REPORT: none

G. STAFF REPORTS: ADMINISTRATOR:

TA briefed Council on status of ongoing projects. **CLERK:** nothing

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.**

Skip Hard, Hard Lane, wanted to know how these storm water projects got approved. Who authorized the expenditures and did Council know about it. CM Vail said give staff a chance to research. CM Krieger said he had talked to TA about this and asked TA to speak to Council. TA said he came on after this was started. The contractor did exactly what he was asked to do. He has stopped further work on the tree farm property until he gets easement from property owner so they can maintain it. In the meantime, he has a draft for an easement with D&D and once he gets positive response from the property owner he will run the resolution by the attorney.

TA said he got the water flows last week and intends to get back to FDOT regarding the sheet flow coming off of I-95. The water travels across two properties on south side on Atz Road and goes right into the ditch and culvert on D&D ranch. He has also contacted both of those property owners on the south side and had conversations and may be able to get easements so water can go due north directly into Melbourne Tillman canal.

CM Krieger, we are talking different issues. Since the 1980's, they don't run storm water through private property. He wants to know how that project happened. He doesn't know what piggy back means. Any project should be brought to Council attention. CM Vail contradicts that. The project had priority to relieve the storm water from I-95. That was the resolve. If swales were maintained they would connect.

Franklin said the entire storm water management was left to go through private properties and old drainage ditches and old farming ditches for crops. Further she said the ditch running through the tree farm was put in place by PW with verbal approval from the caretaker in the 1980s. But it wasn't put in to connect to the Melbourne Tillman canal. This project was rated A2 in priority by Council. When the property owner needed to have access to have his trucks turn around and couldn't because of the ditches put in by the town, the owner asked the town to pipe the ditch. Previous TA did not prioritize this and subsequently the owner placed 18" pipes through his property to carry Town storm water to the Melbourne Tillman canal. Chair said perhaps TA and Eng could get a presentation together to present to Council at a later date. TA agreed with CM Krieger – but vendor did exactly what he was asked to do. CM Krieger would like this on the next agenda - what is piggy backing.

TA re: piggy backing – whether it is allowed by local or State law, he feels it is contrary to best interest of the town. His position is we should always go out for 3 bids. It keeps everyone honest. CM Ball asked TA to contact property owner re: easement. TA said it is already in the works but wants the engineering done. CM Korn agrees with everything that is said. Allow enough time to put complete package together. This was approved same time north side of Hall Road at the same time. He doesn't remember any precise price. This was done to benefit the residents not the private property owner. He does remember the conversations. CM Korn said TA to continue to work with those people. CM Vail asked if TA could have information on the 1st meeting of May, 2016 agenda.

Clerk will produce the minutes and the plans from the engineer. CM Vail said Council is getting off topic. CM Krieger stated that things have not been done properly. CM Krieger asked if Mr. Hard could speak again. Hard said there are no check or balances.

I. PUBLIC HEARINGS: 0

J. UNFINISHED BUSINESS / GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS/COMMITTEE; RESIDENT GRIEVANCES; HOA REQUESTS)

2. Recommendation from P&Z Board: Amend Ordinance 2014-01 re: ALF in OI (Postponed at 3/7/16 meeting to get legal opinion.)

Exhibit: Agenda Report No. 2

Recommendation: Request Action

MOTION: CM Vail / CM Korn to approve. Vote: Ayes, 0; Nays, 5.

Discussion: CM Vail said the cost to town to respond to a non-profit ALF facility would be paid for by the residents of the town. Is there a price per call that can be charged by the Town for FD/EMS response to these facilities? The Town has to grow and the financial aspect is not being covered.

CM Korn – prisons, nursing homes, etc are institutional. CM Korn asked Chief if there is a charge sent by MFD to respond to these facilities. Chief said no, but the county does. What benefit we would have by not allowing it in institutional. CM Vail said the other thing is if it is a residence, if they use it as an independent living place. That is not institutional. Someone that

needs assisted care. If it was in institutional then it should only be for assisted living. Take the fully independent living out of it.

CM Korn said his mother-in-law lived at The Fountains. She could cook her own meals or go to dining hall to eat. His point is, if they are capable of independent living, they should not be in an ALF. CM Korn's point is that if council is going to use "rural residential" as a condition we should elaborate on requirements. Brook Hollow SD and the Country Cove SD do not comply with Rural Residential but they are approved. CM Ball asked when we differentiate between assisted and ambulatory care. CM Korn asked Chair said this is allowed in RM4 and RM6. Yes. CM Vail would support that. Not right to have it in OI.

Atty said there is still some dependency with checking if residents are taking their medicines. It will take more time for him to look at this. CM Vail asked if we could put in the code that certain levels of care will be allowed in OI. Attorney thinks yes but it could very difficult to determine who is who.

CM Krieger, his example, living in Glenbrook facility. First got a 2-bedroom apt with a garage. She was entirely on her own.

CM Korn, you can have hospitals in OI. CM Vail said he would limit ALF it to a max of 17 persons. Why are we bending over to allow these in rural residential. Atty said he would have to look at statutes. Atty said some of these things – some are specifically authorized in any zoning. CM asked if they can be looked at by density. Attorney said he thinks yes but must look at statutes.

CM Korn said if they need assistance, then it is ALF; if not, it is independent. At the meeting on 3/7/16 Council asked the Attorney to review the revised ordinance and provide comments. He has done that. CM Ball has a concern if they are 'residents'.

MOTION: CM Krieger / CM Kohler to postpone indefinitely. Vote: Ayes, 0; Nays, 5.

MOTION: CM Vail / CM Korn to revisit this at Council level at the 1st meeting in May, 2016.
Atty Bohne said he has to revisit each type of use. He said council can have a separation requirement, more open space, etc... Based on rural character you can limit number within a certain area. CM Krieger did some checking a couple of months ago, and there were 35 of these facilities within 5 miles.

**K. ACTION ITEMS:
ORDINANCES FOR FIRST READING: 0
RESOLUTIONS: 1:**

Added Reso 02-2016
Chair read by title only.

6. RESOLUTION 02-2016 - A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR REVISION OF RESOLUTION 04-2011 REGARDING PERMIT FEES FOR NEW RESIDENTIAL AND COMMERCIAL CONSTRUCTION; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

MOTION CM Korn / CM Vail to approve Reso 02-2016 as presented.

Discussion: CM Korn said a lot of homework has gone into this. The last table got what other neighboring charges and he is satisfied. CM Kohler, more important that the BD fees should be covering the costs. CM Ball would like to increase minimum to 5K. We don't want to burden the current residents who may see the BP fee and decide not to even pull a BP. He understands covering the Bldg Dept expenses.

TA said year to date thru Jan, 1 quarter. In that 4-month period we have lost 11K. Even with new costs we still be over but only by 1100. This dept is not supposed to make money but not lose money. Ball said we are charging. Maybe we should address impact fees. Vail is in favor of the impact fee. If they increase to 5k the town would lose only about Cost is admission to town. To maintain infrastructure. Korn relates back to a personal experience. Need a building permit. Building Insp said you need one more screw. Korn asked TA to change the document. How much would be lost. 20. Asked TA how many projects between 2500 and 5K. If we make it easy, maybe they will be more likely to get permit. Vail said it is not a deal breaker. He wants to consider implementing an impact fee. CM Krieger objects. He hasn't seen this document. He has seen consistently throughout the process. Bottom of page one says value, sb cost. Franklin explained the ICC table of valuation. Vail explained his cost vs value on his house. Franklin said

Speaker card: Skip Hard, trying to get money back for having building official to recoup the money to do the inspection. When you do it by value. If the house with less wiring would cost less money.

MOTION: CM Korn / CM Vail to call for the question. Vote: Ayes, 3; Nays, 2 (Vail, Krieger). Super majority required. Motion failed. Discussion continues. CM Vail said compared to the old reso that was very complicated. Less room for people to contest. There are so many variables in the last reso. Keep it simple. CM Ball said trying to utilize the old fee structure was time consuming. It took a lot of time. But the revision would save staff time. TA said take out the subjective and make it more objective.

MOTION CM Korn / CM Vail to approve Reso 02-2016 as amended to increase minimum project value to 5K.

ROLL CALL Vote: CM Ball, Aye; CM Vail, Aye; CM Krieger, Nay; CM Korn, Aye; CM Kohler, Aye.
Motion carried 4 to 1.

MISCELLANEOUS

3. **Discuss and revise Council Procedures**

Exhibit: Agenda Report No. 3
Recommendation: Request Action

Chair requested this item. The resolution currently being used is in conflict with Charter and Roberts rules; the reso should not conflict with either.

Discussion: CM Vail said it should still be a guide. Chair said Council can do almost anything they want with unanimous consent. The Atty said the Charter says you "shall" follow Robert's Rules. Regarding submitting a Speaker card in middle of discussion is still allowed. Chair said he will follow the rules, but you can suspend the rules during the meeting with super majority or unanimous consent. CM Korn said he has gone to other cities meetings and we are looser even compared to Palm Shores. CM Korn stated when he makes a request it goes to the chair with a copy to town clerk. The Chair is ultimately responsible for the agenda. At the beginning of each meeting they have approval of agenda – add, delete and change. Chair said when council approves the agenda it is then set.

Chair said the four major items on this agenda were a result of the last meeting. Chair said Council can fix the next agenda at end of this meeting. If someone asks for something to be added then at the beginning of the meeting council can approve to add the items. Chair said the other items on general rules, such as setting the time of the meeting are appropriate in the

resolution because those type of procedural guidelines. Pg 2 Sec 2.A. CM Vail This Chair would use his discretion. Chair said they can discuss such items as they come up. Adding items without notice was a concern. Chair said the Clerk is well aware of the advertising requirements. Attorney said at some point he is concerned about sunshine. By sending requests to the Clerk that would be avoided.

CM Korn said he would rather have it on and if three member's people don't want then it goes away. Chair said or Council may want to put on the next agenda with additional background. CM Korn said if it is an item that requires substantial background research. Give the clerk fair opportunity to provide background. CM Ball said Robert's Rules says you can add any item the night of the meeting. Yes. Chair will do whatever Council wants. CM Vail said he would like to keep the ability to have council add items. CM Krieger, we got five pages and we are dancing around and can we go through procedure page by page. He went on website and tried to get the previous procedures and got stopped going back passed 2012 because the resolutions are not on the website. CM Krieger notes:

Pg 1 no problem

Pg 2 j. leave at majority. Do not change to unanimous

Any resident – leave as is.pg #3. Delete. Vail said stick to the 10 day rule.

4. Why is it deleted? Redundant

5. Does no harm

Pg 4

CM Krieger wants whole page deleted. Clerk should be last to notify. Franklin said she is Clerk of Council and a Charter officer. Attorney said go through staff. Clerk can copy to rest of council.

Sec 2.08c of charter – excusal goes thru staff, clerk and is approved by council.

The reason for excusal is not public. You can phone in and participate in the meeting. Chair and Attorney prefer the calls to go through staff. They are always here and it gets recorded. Attorney said if Council has called the Mayor and then they have to vote on the excuse there is potential for sunshine. Per Attorney Bohne, keep 1, 2 and 3 and the reason for absence is not required – just the notice.

Krieger said delete 4, 5, 6 and 7 and 8 and 9 become 4 and 5.

MOTION: CM Krieger / CM Kohler to approve amendment as stated... **Vote:** All Ayes

MOTION: CM Vail / CM Kohler to approve Resolution 04-2016 as amended.

ROLL CALL Vote: CM Ball, Aye; CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Kohler, Aye.

Motion carried 5 to 0.

4. **Discuss and Create Policy Guidelines for Working with Developers**

Exhibit: Agenda Report No. 4

Recommendation: Request Action

Franklin explained the process staff goes through for site plan approval. With what we have learned, we have modified the process so once each reviewer (Eng, planner, Atty, Bldg. Official, and Fire Review they will sign off on the stamped area on the plans. So by the time it goes to P&Z Board it will have all the reviewing staff initials. CM Vail said he would like to have staff emphasize the disclaimer to applicants that even if the conceptual plan is favorably supported, it does not guarantee a project will be approved. CM Vail said

MOTION: CM Vail / CM Korn to postpone until the next meeting. Chair said it would be a Special Order.

Vote: All Ayes.

5. **Reschedule Workshop Date for R/LC Discussion**

Exhibit: Agenda Report No. 5

Recommendation: Request Action

Consensus will be enough. CM Krieger said the substance is important. He has made notes and thinks if we can have a 30 min mtg before the RTCM on April 4, 2016. They won't solve it in 30 minutes because they also need to consider the densities. Chair asked if April 25, 2016 was good. Yes.

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

L. **DISCUSSION/POSSIBLE ACTION:**

Moved to next agenda

6. Discuss Memorial Options for past Mayor Carl Beatty

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

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

- 1)CM Ball –
 - 2)CM Vail – review code on Malabar vernacular on next mtg.
 - 3)CM Krieger – agenda items re: population in every district. Check parity. Franklin explained. Had rain and would like TA to check wash outs on Atz Road. He was surprised at how quickly the water in the ditches receded.
 - 4)CM Korn – gen comments memorial mtg for May meeting
 - 5)CM Kohler – nothing
- Interim Mayor - is still working on the procedures and methods so they can get through these meetings a little quicker. Chair stated we have three things for next agenda: any others? Franklin said if she gets the information from Engineer there may be Acceptance of Fins Lane on next agenda.

P. **ANNOUNCEMENTS:**

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

Q. **ADJOURNMENT:**

There being no further business to discuss, Chair stated without objection the meeting is adjourned. The meeting adjourned at 10:30 PM.

BY: _____
Council Chair

(seal)

ATTEST:

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

Date Approved: 4/04/2016

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 2
Meeting Date: April 4, 2016

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

SUBJECT: Working with Developers

BACKGROUND/HISTORY:

CMs Vail Korn made a motion to postpone until this meeting. The vote was all Ayes. The Chair directed that this would be under Special Orders for this meeting.

The guidelines for site plan review are well defined in the code. What we are requesting is a change in the approval process.

In the past when a site plan is approved by Council then staff gets all reviewing parties to sign off on the approved plan. We are proposing that as each reviewer completes his review and has no adverse comments they sign off on the plan. Until all reviewing parties have signed off, the plan does not go before P&Z. Once all reviewing parties sign off and P&Z makes a favorable recommendation then the P&Z Chair signs off and it goes to Council.

FINANCIAL IMPACT: none

ATTACHMENTS:

Article VII, Site Plan Review
Stamp used for sign off

ACTION OPTIONS:

Discussion and direction to staff

A. *General Site Plan Review Procedure.* In all cases requiring site plan review, no structure or parking area, or part thereof, shall be erected or used, or land or water used, or any change of use consummated, nor shall any building permit be issued therefor, unless a site plan for such structure or use shall have been reviewed by the Town Planning and Zoning Board.

1. *Filing.* Before such site plan shall be approved, an application for such approval shall be filed with the Town Clerk then directed to the Building Official and/or the Town Engineer or other designated officials for their recommendation. Town Engineer is defined as that Town employee, or outside Florida registered engineer contracted by

the Town, responsible for performing the duties specified herein as the Town Engineer.

2. *Application, Fee and Disclosure of Ownership.* Such application shall be in a form substantially in accordance with the form prescribed by the Town Clerk, copies of which may be obtained from the Town Clerk's office. A written power of attorney authorizing a person other than the owner(s) to sign such application must be attached to said application.

All applications shall include a verified statement showing each and every individual person having a legal and/or equitable ownership interest in the property upon which the application for site plan approval is sought, except publicly held corporations, in which case the name and address of the corporation and principal executive officers will be sufficient.

The fee schedule for site plan review shall be as determined by resolution of the Town Council.

3. *Review by Town Staff and Planning and Zoning Board.* The application shall be forwarded to the Building Official or Town Engineer and such other staff as may be pertinent. The Town shall proceed to make appropriate studies and/or reviews required to make an appropriate evaluation. The application with evaluative comment shall then be forwarded to the Town Planning and Zoning Board for their consideration and action. The site plan review process shall be carried out in accordance with procedures established by the Planning and Zoning Board, so as to prevent inconvenience and delay to the project.

After reviewing a site plan and staff recommendations, the Planning and Zoning Board shall recommend approval or disapproval. The Planning and Zoning Board shall provide written comments documenting any conditions of approval. If site plan is recommended for disapproval, the Planning and Zoning Board shall specify in writing the reasons for recommending denial. All recommendations of the Planning Board together with the written record shall be forwarded to the Town Council for final action.

4. *Action by the Town Council.* The Town Council shall consider the recommendations of staff and the Planning and Zoning Board and approve with or without conditions, or disapprove the site plan. The Town Council may attach to its approval of a site plan any reasonable conditions, limitations or requirements which are found necessary, in its judgement, to effectuate the purpose of this Section and carry out the spirit and purpose of the Zoning Ordinance.

Any condition shall be made a written record and affixed to the site plan as approved. If the Town Council disapproves a site plan, the reasons shall be stated in writing and the appeal shall be to the Court of appropriate jurisdiction.

Engineer, Planner, Building Official, Attorney and Fire Department all initial stamp before it goes to P&Z Board. Their initial indicates that the plan meets the requirements of the code.

**SITE PLAN REVIEW
TOWN OF MALABAR**

REVIEWED FOR CODE COMPLIANCE BY:

Engineer: _____ Building Official: _____
Planner: _____ Fire Marshal: _____
Attorney: _____ Council Chair: _____
P&Z Bd: _____
Approved By Town Council on: _____

**Approval of Plans and Specifications does not permit the
violation of any section of the Florida Building Code.
State Law or Town Ordinances.**

TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: April 04, 2016

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

SUBJECT: Discuss Parity of Districts (population +/- 10%)

BACKGROUND/HISTORY:

Council Member Krieger asked that this be placed on the agenda. The University of Florida Bureau of Economic and Business Research calculates all the municipalities' population for the State. The State then uses that number in their formula for revenue sharing.

In 2000 the population in Malabar was 2,622.

In 2006 the population was 2,872.

In 2010 it fell to 2,757.

In 2011 it fell to 2,738.

For 2015 the estimate was 2,765.

Engineer Morris Smith has created Shape files that can be utilized by the Property Appraiser's Office to identify where the population resides. Those were sent to their office late last year. Once we receive that back from the County Council will have the information needed to determine if a re-districting is necessary.

I started working on this last August with Jeff Hahn of the Property Appraiser's office. At that time I told him there was no rush but I have since communicated to him that we are ready for the file.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Map of Malabar showing District lines

Chapter 7, Section 7-6 and 7-7 of Malabar Code

Population count per UF BEBR

Demographic of Malabar as of 2010

ACTION OPTIONS:

Discussion and Direction

TOWN OF MALABAR

Brevard County, Florida

Districts by 2000 Census data

PALM BAY

5

1

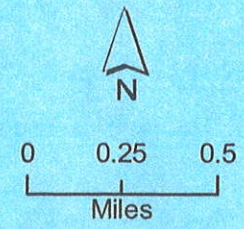
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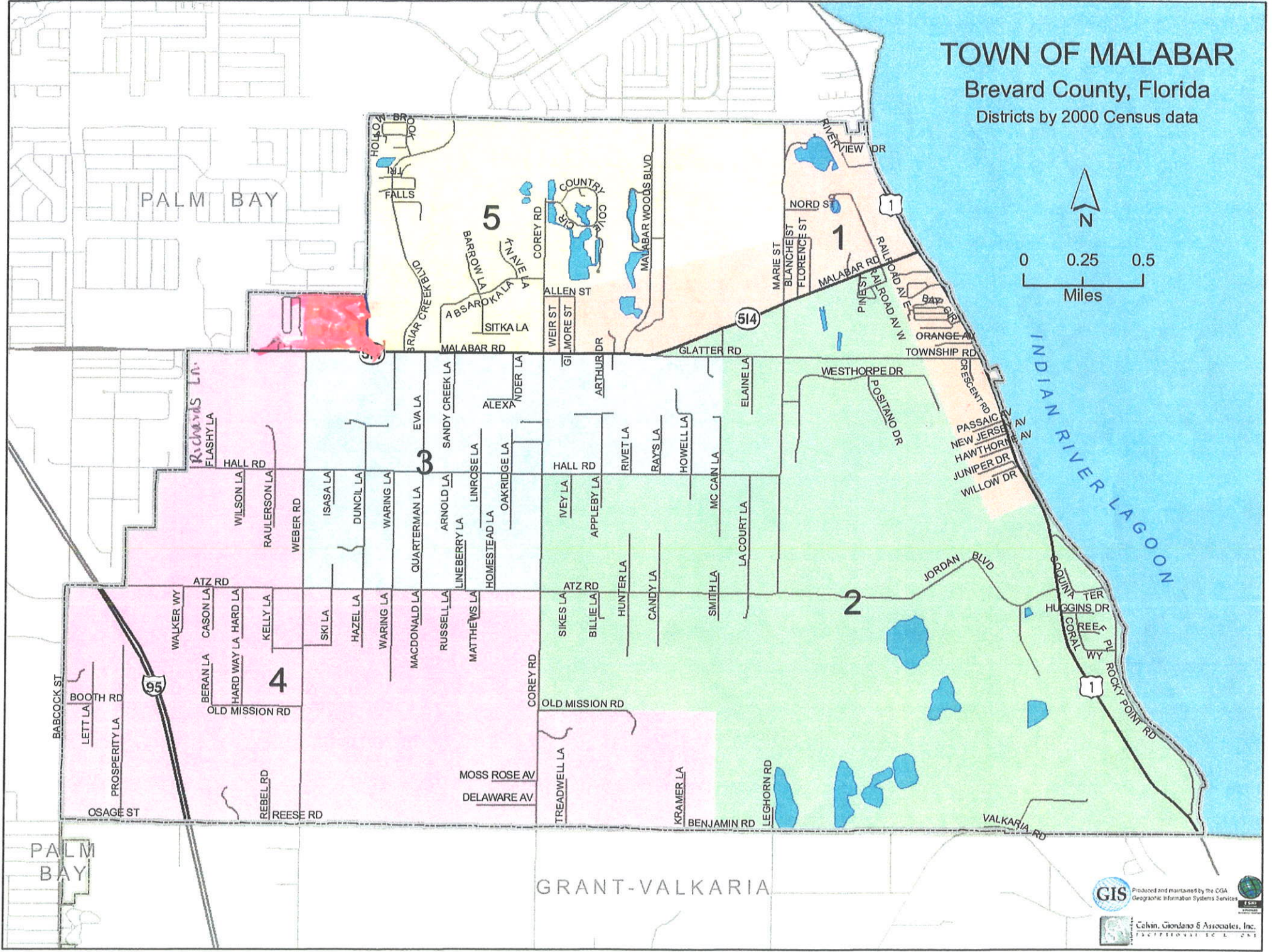
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PALM BAY

GRANT-VALKARIA



INDIAN RIVER LAGOON



Sec. 7-6. District designation.

The Town of Malabar hereby designates new boundaries for Districts 1 through 5 in the Town of Malabar. Each district is hereby reapportioned as set forth in Exhibit "A" attached hereto and for all purposes, incorporated as part of this chapter.

(Ord. No. 91-6, § 2, 9-3-91; Ord. No. 02-04, § 4, 7-15-02)

Editor's note—It should be noted that Exhibit "A" as referenced above is not set out herein, but is on file and available for inspection in the offices of the town.

Sec. 7-7. Population determination.

District 1 through 5 of this chapter have been determined in accordance with the data provided to the Town of Malabar in the 2000 United States Census. For the purpose of determining compliance with subsection 1 of this ordinance, the 2000 United States Census data shall be deemed to accurately reflect the population distribution throughout the Town of Malabar and is the sole purpose for determining the districts as established by section 7-2 of this chapter.

(Ord. No. 91-6, § 2, 9-3-91; Ord. No. 02-04, § 5, 7-15-02)

Census Population Counts by County and City in Florida, April 1, 2000 and 2010

State, County and City	April 1, 2010	April 1, 2000	Total change	Percent change
Malabar	2,757	2,622	135	5.1
Melbourne	76,068	71,382	4,686	6.6
Melbourne Beach	3,101	3,335	-234	-7.0
Melbourne Village	662	706	-44	-6.2
Palm Bay	103,190	79,413	23,777	29.9
Palm Shores	900	794	106	13.4
Rockledge	24,926	20,170	4,756	23.6
Satellite Beach	10,109	9,577	532	5.6
Titusville	43,761	40,670	3,091	7.6
West Melbourne	18,355	9,824	8,531	86.8
UNINCORPORATED	206,469	188,918	17,551	9.3
Broward	1,748,066	1,623,018	125,048	7.7
Coconut Creek	52,909	43,566	9,343	21.4
Cooper City	28,547	27,914	633	2.3
Coral Springs	121,096	117,549	3,547	3.0
Dania Beach	29,639	20,061	9,578	47.7
Davie	91,992	75,720	16,272	21.5
Deerfield Beach	75,018	64,585	10,433	16.2
Ft. Lauderdale	165,521	152,397	13,124	8.6
Hallandale Beach	37,113	34,282	2,831	8.3
Hillsboro Beach	1,875	2,163	-288	-13.3
Hollywood	140,768	139,368	1,400	1.0
Lauderdale-By-The-Sea	6,056	3,221	2,835	88.0
Lauderdale Lakes	32,593	31,705	888	2.8
Lauderhill	66,887	57,585	9,302	16.2
Lazy Lake	24	38	-14	-36.8
Lighthouse Point	10,344	10,767	-423	-3.9
Margate	53,284	53,909	-625	-1.2
Miramar	122,041	72,739	49,302	67.8
North Lauderdale	41,023	32,264	8,759	27.1
Oakland Park	41,363	30,966	10,397	33.6
Parkland	23,962	13,835	10,127	73.2
Pembroke Park	6,102	5,384	718	13.3
Pembroke Pines	154,750	137,427	17,323	12.6
Plantation	84,955	82,934	2,021	2.4
Pompano Beach	99,845	78,191	21,654	27.7
Sea Ranch Lakes	670	734	-64	-8.7
Southwest Ranches	7,345	0	7,345	(X)
Sunrise	84,439	85,787	-1,348	-1.6
Tamarac	60,427	55,588	4,839	8.7
Weston	65,333	49,286	16,047	32.6
West Park	14,156	0	14,156	(X)
Wilton Manors	11,632	12,697	-1,065	-8.4
UNINCORPORATED	16,357	130,356	-113,999	-87.5

Table DP-1. Profile of General Demographic Characteristics: 2010

Geographic Area: Town of Malabar, Brevard County

[For information on confidentiality protection, nonsampling error, and definitions, see <http://www.census.gov/prod/cen2010/doc/dpsf.pdf>]

Subject	Number	Percent	Subject	Number	Percent
Total population	2,757	100.0	SEX AND AGE (continued)		
AGE			16 years and over.....	2,336	84.7
Under 5 years.....	122	4.4	Male.....	1,215	44.1
5 to 9 years.....	122	4.4	Female.....	1,121	40.7
10 to 14 years.....	141	5.1	18 years and over.....	2,251	81.6
15 to 19 years.....	184	6.7	Male.....	1,168	42.4
20 to 24 years.....	93	3.4	Female.....	1,083	39.3
25 to 29 years.....	78	2.8	21 years and over.....	2,160	78.3
30 to 34 years.....	88	3.2	Male.....	1,121	40.7
35 to 39 years.....	111	4.0	Female.....	1,039	37.7
40 to 44 years.....	154	5.6	62 years and over.....	670	24.3
45 to 49 years.....	282	10.2	Male.....	340	12.3
50 to 54 years.....	350	12.7	Female.....	330	12.0
55 to 59 years.....	267	9.7	65 years and over.....	518	18.8
60 to 64 years.....	247	9.0	Male.....	264	9.6
65 to 69 years.....	187	6.8	Female.....	254	9.2
70 to 74 years.....	118	4.3			
75 to 79 years.....	88	3.2	RACE		
80 to 84 years.....	65	2.4	Total population	2,757	100.0
85 years and over.....	60	2.2	One race.....	2,690	97.6
SEX AND AGE			White.....	2,527	91.7
Male	1,442	52.3	Black or African American.....	107	3.9
Under 5 years.....	72	2.6	American Indian and Alaska Native.....	13	0.5
5 to 9 years.....	68	2.5	Asian.....	26	0.9
10 to 14 years.....	72	2.6	Asian Indian.....	5	0.2
15 to 19 years.....	94	3.4	Chinese.....	5	0.2
20 to 24 years.....	58	2.1	Filipino.....	7	0.3
25 to 29 years.....	41	1.5	Japanese.....	2	0.1
30 to 34 years.....	45	1.6	Korean.....	5	0.2
35 to 39 years.....	52	1.9	Vietnamese.....	0	0.0
40 to 44 years.....	74	2.7	Other Asian ¹	2	0.1
45 to 49 years.....	149	5.4	Native Hawaiian and Other Pacific Islander.....	1	0.0
50 to 54 years.....	191	6.9	Native Hawaiian.....	0	0.0
55 to 59 years.....	142	5.2	Guamanian or Chamorro.....	0	0.0
60 to 64 years.....	120	4.4	Samoan.....	1	0.0
65 to 69 years.....	103	3.7	Other Pacific Islander ²	0	0.0
70 to 74 years.....	66	2.4	Some other race.....	16	0.6
75 to 79 years.....	45	1.6	Two or more races.....	67	2.4
80 to 84 years.....	27	1.0	White; American Indian and Alaska Native ³	14	0.5
85 years and over.....	23	0.8	White; Asian ³	12	0.4
Female	1,315	47.7	White; Black or African American ³	19	0.7
Under 5 years.....	50	1.8	White; Some other race ³	9	0.3
5 to 9 years.....	54	2.0	Race alone or in combination with one or more other races: ⁴		
10 to 14 years.....	69	2.5	White.....	2,588	93.9
15 to 19 years.....	90	3.3	Black or African American.....	132	4.8
20 to 24 years.....	35	1.3	American Indian and Alaska Native.....	32	1.2
25 to 29 years.....	37	1.3	Asian.....	44	1.6
30 to 34 years.....	43	1.6	Native Hawaiian and Other Pacific Islander.....	4	0.1
35 to 39 years.....	59	2.1	Some other race.....	30	1.1
40 to 44 years.....	80	2.9			
45 to 49 years.....	133	4.8	HISPANIC OR LATINO BY ORIGIN		
50 to 54 years.....	159	5.8	Total population	2,757	100.0
55 to 59 years.....	125	4.5	Hispanic or Latino (of any race).....	114	4.1
60 to 64 years.....	127	4.6	Mexican.....	21	0.8
65 to 69 years.....	84	3.0	Puerto Rican.....	36	1.3
70 to 74 years.....	52	1.9	Cuban.....	21	0.8
75 to 79 years.....	43	1.6	Other Hispanic or Latino ⁵	36	1.3
80 to 84 years.....	38	1.4	Not Hispanic or Latino.....	2,643	95.9
85 years and over.....	37	1.3			
Median age (years).....	50.0	(X)			
Male.....	49.9	(X)			
Female.....	50.2	(X)			

Table DP-1. Profile of General Demographic Characteristics: 2010 (continued)

Geographic Area: Town of Malabar, Brevard County

[For information on confidentiality protection, nonsampling error, and definitions, see <http://www.census.gov/prod/cen2010/doc/dpsf.pdf>]

Subject	Number	Percent	Subject	Number	Percent
HISPANIC OR LATINO AND RACE			HOUSEHOLDS BY TYPE (continued)		
Total population	2,757	100.0	Nonfamily households ⁷	319	28.4
Hispanic or Latino.....	114	4.1	Householder living alone.....	253	22.5
White alone.....	74	2.7	Male.....	151	13.4
Black or African American alone.....	10	0.4	65 years and over.....	46	4.1
American Indian and Alaska Native alone.....	0	0.0	Female.....	102	9.1
Asian alone.....	1	0.0	65 years and over.....	56	5.0
Native Hawaiian and Other Pacific Islander alone.....	0	0.0	Households with individuals under 18 years.....	283	25.2
Some other race alone.....	16	0.6	Households with individuals 65 years and over.....	365	32.5
Two or more races alone.....	13	0.5	Average household size.....	2.45	(X)
Not Hispanic or Latino.....	2,643	95.9	Average family size ⁷	2.87	(X)
White alone.....	2,453	89.0	HOUSING OCCUPANCY		
Black or African American alone.....	97	3.5	Total housing units	1,239	100.0
American Indian and Alaska Native alone.....	13	0.5	Occupied housing units.....	1,124	90.7
Asian alone.....	25	0.9	Vacant housing units.....	115	9.3
Native Hawaiian and Other Pacific Islander alone.....	1	0.0	For rent.....	16	1.3
Some other race alone.....	0	0.0	Rented, not occupied.....	1	0.1
Two or more races alone.....	54	2.0	For sale only.....	14	1.1
RELATIONSHIP			Sold, not occupied.....	7	0.6
Total population	2,757	100.0	For seasonal, recreational, or occasional use.....	42	3.4
In households.....	2,757	100.0	All other vacants.....	35	2.8
Householder.....	1,124	40.8	Homeowner vacancy rate (percent) ⁸	1.4	(X)
Spouse ⁶	692	25.1	Rental vacancy rate (percent) ⁹	12.5	(X)
Child.....	643	23.3	HOUSING TENURE		
Own child under 18 years.....	429	15.6	Occupied housing units	1,124	100.0
Other relatives.....	167	6.1	Owner-occupied housing units.....	1,013	90.1
Under 18 years.....	63	2.3	Renter-occupied housing units.....	111	9.9
65 years and over.....	38	1.4	Total Population in Households	2,757	100.0
Nonrelatives.....	131	4.8	In owner-occupied housing units.....	2,492	90.4
Under 18 years.....	14	0.5	In renter-occupied housing units.....	265	9.6
65 years and over.....	17	0.6	Average household size of owner-occupied units.....	2.46	(X)
Unmarried partner.....	72	2.6	Average household size of renter-occupied units.....	2.39	(X)
In group quarters.....	0	0.0	HOUSEHOLDS BY TYPE		
Institutionalized population.....	0	0.0	Total households	1,124	100.0
Male.....	0	0.0	Family households (families) ⁷	805	71.6
Female.....	0	0.0	With own children under 18 years.....	242	21.5
Noninstitutionalized population.....	0	0.0	Husband-Wife families.....	692	61.6
Male.....	0	0.0	With own children under 18 years.....	203	18.1
Female.....	0	0.0	Male householder, no wife present.....	37	3.3
			With own children under 18 years.....	14	1.2
			Female householder, no husband present.....	76	6.8
			With own children under 18 years.....	25	2.2

(X) Not applicable.

¹ Other Asian alone, or two or more Asian categories.

² Other Pacific Islander alone, or two or more Native Hawaiian and Other Pacific Islander categories.

³ One of the four most commonly reported multiple-race combinations nationwide in Census 2000.

⁴ In combination with one or more of the other races listed. The six numbers may add to more than the total population, and the six percentages may add to more than 100 percent because individuals may report more than one race.

⁵ This category is composed of people whose origins are from the Dominican Republic, Spain, and Spanish-speaking Central or South American countries. It also includes general origin responses such as "Latino" or "Hispanic."

⁶ "Spouse" represents spouse of the householder. It does not reflect all spouses in a household. Responses of "same-sex spouse" were edited during processing to "unmarried partner."

⁷ "Family households" consist of a householder and one or more other people related to the householder by birth, marriage, or adoption. They do not include same-sex married couples even if the marriage was performed in a state issuing marriage certificates for same-sex couples. Same-sex couple households are included in the family households category if there is at least one additional person related to the householder by birth or adoption. Same-sex couple households with no relatives of the householder present are tabulated in nonfamily households. "Nonfamily households" consist of people living alone and households which do not have any members related to the householder.

⁸ The homeowner vacancy rate is the proportion of the homeowner inventory that is vacant "for sale." It is computed by dividing the total number of vacant units "for sale only" by the sum of owner-occupied units, vacant units that are "for sale only," and vacant units that have been sold but not yet occupied; and then multiplying by 100.

⁹ The rental vacancy rate is the proportion of the rental inventory that is vacant "for rent." It is computed by dividing the total number of vacant units "for rent" by the sum of the renter-occupied units, vacant units that are "for rent," and vacant units that have been rented but not yet occupied; and then multiplying by 100.

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 4
Meeting Date: April 04, 2016

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

SUBJECT: Discuss Malabar Vernacular Requirements Art V, Sec 105.29

BACKGROUND/HISTORY:

Council Member Vail asked that this be placed on the agenda. The Code currently exempts churches from the requirement to follow the Malabar Vernacular regulations.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Article V, Sec 1-5.29

ACTION OPTIONS:

Discussion and Direction

2. Pole mounted lighting. Site lighting mounted onto poles or any device intended for the mounting of lighting shall not exceed the maximum height allowed for street lighting.
3. Lights mounted to buildings or structures. Site lighting mounted onto buildings or other structures shall not exceed the highest point of the roof of the building or structure upon which such lighting is located, however; lighting attached to residential structures or accessory structures thereto shall not exceed the height of the eave.
4. The Town recognizes that some indirect off site illumination may occur. To that extent, site lighting meeting the criteria in this section shall be presumed in compliance with this Code.

(Ord. No. 06-01, § 1, 1-12-06; Ord. No. 07-04, § 1, 6-4-07)

Sec. 1-5.29. Design requirements for development within office institutional, commercial limited, commercial general and residential/limited commercial along arterial roadways.

(a) A Malabar Vernacular architectural style for each structure is required. This shall include the following architectural elevations facing public rights-of-way on arterial roadways:

1. A metal panel, 5-seam or metal shake roof is acceptable. A 5-tab twenty-five (25) year dimensional shingle roof or manufactured equivalent of a wood shake roof is acceptable. 3-tab roof shingles, barrel vaulted tiles, or corrugated roof systems are not permissible.
2. Pitch of main roof, hipped or gable, shall be no greater than 5:12; mansard roof shall be no greater than 9:12; porch roof shall be a lower pitch than the main roof. A minimum 6" overhang is required for any roof structure. All structures must have a minimum 3:12 slope roof. Multiple roof systems with matching roof slopes are permissible. Low slopes ("Flat") roof systems are permissible when screened by a mansard roof or parapet wall meeting the design requirements.
3. The predominant exterior color shall be pastel shades, white or light earth tones. Dark earth tones are acceptable in brick or stone.
4. Manufactured brick or materials that have the appearance of brick are acceptable. Horizontally struck stucco, exterior insulated finish system stucco panels, board and batten, wood or vinyl siding, and stained hardwood panels shall also be considered acceptable finishes.
5. Front porch. The front porch must encompass an area greater than fifty percent (50%) of the front facade. The porch must be a minimum of 60" in depth.
6. Gingerbread trim and/or porch railings, columns or posts shall have the appearance of light frame wood construction.

7. Trim colors shall be white or light pastels. (Trim shall be considered railings, columns, door and window surrounds, soffits, shutters, gutters and downspouts, and other decorative elements.) Trim finishes shall be of a contrasting lighter color than that of the primary building color with the exception of white as a primary building color.
8. There shall be no area greater than four hundred (400) square feet of contiguous blank wall area on any front facade that remains unadorned by architectural features that include, but are not limited to, windows, doors, lights, banding trim or porch elements.
9. There shall not be any singular facade that has greater than 100' lineal feet of run without a minimum sixteen-inch break, by using a directional or material change.
10. Metal-clad structures are permissible. Internal bracing must be certified to accept additional finishes or structures applied to the exterior metal panels. No external "X" bracing is to be visible on any front facade. Finish panels must be able to accept a painted finish. All exterior wall finishes must match the primary building color. The use of corrugated, synthetic or fiberglass panels is prohibited on any front wall or any front roof surface. All design requirements must be met for metal-clad structures as for any other new structure.

(b) The predominant exterior color shall be applied to all sides of the structure.

(c) The design requirements listed above shall be applicable to all new construction in these zoning districts, and in the case of additions or renovations to, or redevelopment of, an existing building or project, where such addition, renovation or redevelopment exceeds fifty (50) percent of the square footage of the existing structure(s). A mirror building, defined as a building meant to compliment a pre-existing structure, of adjacent or connected properties, by use of identical material finishes, scale and form, shall be exempt from the design requirements. New buildings that are part of an overall campus plan that has an established architectural theme may be exempt from the design requirements herein with the approval of Town Council.

(d) The design requirements listed above shall be applicable to all accessory structures not exempted by division (10)(c). Any accessory structure not meeting this requirement shall be screened so as to be not visible from the public right-of-way. Mechanical equipment such as gasoline pumps, air and vacuum machines, drive-through menu boards and speaker stations, drive-through teller stations, ATMs, and similar appliances which require direct access by the public shall be exempt from the design review requirements of this section.

(e) Compliance with the requirements set forth in this subsection shall be demonstrated by submittal of building front elevations and color and material samples at the time of site plan review. By way of illustration and not by way of limitation the styles depicted in illustration numbers E(1)-E() are deemed "Malabar Vernacular Style".

(f) Structures in the following use categories are exempt from the design review requirements of this subsection, including: public utility equipment, commercial towers, hospitals and churches.

(g) The Town-wide Sign Code shall be adhered to with the following exceptions:

1. *Materials.* The color, construction and material of each sign should be compatible with the architecture on the site.
2. *Design.* Every sign frame or support shall be designed as a sympathetic architectural element of the building(s) to which it is principally related.
3. Free standing signs shall have landscaping at the base.

(h) Structures having a federal or state historic site status shall be exempt from this subsection.

(i) The Town Council may, by resolution, adopt such administrative policies, manuals and/or fees as necessary to implement the design requirements identified above.

(Ord. No. 07-02, § 5, 4-2-07; Ord. No. 08-13, § 1, 10-20-08)

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 5
Meeting Date: April 04, 2016

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

SUBJECT: Discuss Process of "Piggy Backing"

BACKGROUND/HISTORY:

Council Member Krieger asked for this to be on the agenda.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Chap 2 of Malabar Code
Florida Statue 255

ACTION OPTIONS:

Discussion and Direction

TOWN OF MALABAR

Code Chap 2

ARTICLE V. - PURCHASING

FOOTNOTE(S):

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State Law reference— Consultants Competitive Negotiations Act, F.S. § 287.055; insurance, competitive bids, F.S. § 112.08.

Sec. 2-101. - Competitive bids.

No contract for any purpose, when the stipulated consideration thereunder to be paid by the town shall exceed ten thousand dollars (\$10,000.00), shall be let by the town council or under its authority without first soliciting bids from at least three (3) reputable bidders, or advertising a request for bids online calling for bids upon the work to be done, or upon the goods, supplies or materials to be furnished and in each case such contract shall be awarded, if at all, to the lowest and best bidder; provided, that nothing in this section shall be held to apply to contracts for personal services. In cases of articles or goods manufactured exclusively by one maker, the council may declare by resolution, if such is the case, that no other or similar articles or goods will properly serve the purpose intended, whereupon such articles or goods may be purchased from the sole maker thereof direct or from the sole agent of such sole maker authorized to sell in the territory in which the town lies.

The town administrator is authorized to piggy back contracts for any purpose where the stipulated consideration thereunder to be paid by the town exceeds two thousand dollars (\$2,000.00) awarded by any other governmental entity so long as the bidding process utilized by the other governmental entity in awarding such contract is consistent with the competitive bid procedures outlined in this section.

(Ord. No. 18-68, § 1, 5-27-68; Ord. No. 88-25, § 1, 6-7-88; Ord. No. 04-03, § 2, 4-5-04; Ord. No. 03-06, § 1, 9-8-03; Ord. No. 09-23, § 1, 5-4-09)

Secs. 2-102—2-125. - Reserved.

Piggy
Backward
since 1968

Select Year: 2015 Go

The 2015 Florida Statutes

Title XVIII
PUBLIC LANDS AND
PROPERTY

Chapter 255
PUBLIC PROPERTY AND PUBLICLY OWNED
BUILDINGS

View Entire
Chapter

255.20 Local bids and contracts for public construction works; specification of state-produced lumber.—

(1) A county, municipality, special district as defined in chapter 189, or other political subdivision of the state seeking to construct or improve a public building, structure, or other public construction works **must competitively award to an appropriately licensed contractor each project that is estimated in accordance with generally accepted cost-accounting principles to cost more than \$300,000. For electrical work, the local government must competitively award to an appropriately licensed contractor each project that is estimated in accordance with generally accepted cost-accounting principles to cost more than \$75,000.** As used in this section, **the term "competitively award" means to award contracts based on the submission of sealed bids, proposals submitted in response to a request for proposal,** proposals submitted in response to a request for qualifications, or proposals submitted for competitive negotiation. This subsection expressly allows contracts for construction management services, design/build contracts, continuation contracts based on unit prices, and any other contract arrangement with a private sector contractor permitted by any applicable municipal or county ordinance, by district resolution, or by state law. For purposes of this section, cost includes the cost of all labor, except inmate labor, and the cost of equipment and materials to be used in the construction of the project. Subject to the provisions of subsection (3), the county, municipality, special district, or other political subdivision may establish, by municipal or county ordinance or special district resolution, procedures for conducting the bidding process.

(a) Notwithstanding any other law, a governmental entity seeking to construct or improve bridges, roads, streets, highways, or railroads, and services incidental thereto, at a cost in excess of \$250,000 may require that persons interested in performing work under contract first be certified or qualified to perform such work. A contractor may be considered ineligible to bid if the contractor is behind by 10 percent or more on completing an approved progress schedule for the governmental entity at the time of advertising the work. A prequalified contractor considered eligible by the Department of Transportation to bid to perform the type of work described under the contract is presumed to be qualified to perform the work described. The governmental entity may provide an appeal process to overcome that presumption with de novo review based on the record below to the circuit court.

(b) For contractors who are not prequalified by the Department of Transportation, the governmental entity shall publish prequalification criteria and procedures prior to advertisement or notice of solicitation. Such publications must include notice of a public hearing for comment on such criteria and procedures prior to adoption. The procedures must provide for an appeal process within the authority for making objections to the prequalification process with de novo review based on the record below to the circuit court within 30 days.

(c) The provisions of this subsection do not apply:

1. If the project is undertaken to replace, reconstruct, or repair an existing public building, structure, or other public construction works damaged or destroyed by a sudden unexpected turn of events such as an act of God, riot, fire, flood, accident, or other urgent circumstances, and such damage or destruction creates:
 - a. An immediate danger to the public health or safety;
 - b. Other loss to public or private property which requires emergency government action; or
 - c. An interruption of an essential governmental service.
2. If, after notice by publication in accordance with the applicable ordinance or resolution, the governmental entity does not receive any responsive bids or proposals.
3. To construction, remodeling, repair, or improvement to a public electric or gas utility system if such work on the public utility system is performed by personnel of the system.
4. To construction, remodeling, repair, or improvement by a utility commission whose major contracts are to construct and operate a public electric utility system.
5. If the project is undertaken as repair or maintenance of an existing public facility. For the purposes of this paragraph, the term "repair" means a corrective action to restore an existing public facility to a safe and functional condition and the term "maintenance" means a preventive or corrective action to maintain an existing public facility in an operational state or to preserve the facility from failure or decline. Repair or maintenance includes activities that are necessarily incidental to repairing or maintaining the facility. Repair or maintenance does not include the construction of any new building, structure, or other public construction works or any substantial addition, extension, or upgrade to an existing public facility. Such additions, extensions, or upgrades shall be considered substantial if the estimated cost of the additions, extensions, or upgrades included as part of the repair or maintenance project exceeds the threshold amount in subsection (1) and exceeds 20 percent of the estimated total cost of the repair or maintenance project using generally accepted cost-accounting principles that fully account for all costs associated with performing and completing the work, including employee compensation and benefits, equipment cost and maintenance, insurance costs, and materials. An addition, extension, or upgrade shall not be considered substantial if it is undertaken pursuant to the conditions specified in subparagraph 1. Repair and maintenance projects and any related additions, extensions, or upgrades may not be divided into multiple projects for the purpose of evading the requirements of this subparagraph.
6. If the project is undertaken exclusively as part of a public educational program.
7. If the funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent.
8. If the local government competitively awarded a project to a private sector contractor and the contractor abandoned the project before completion or the local government terminated the contract.
9. If the governing board of the local government complies with all of the requirements of this subparagraph, conducts a public meeting under s. 286.011 after public notice, and finds by majority vote of the governing board that it is in the public's best interest to perform the project using its own services, employees, and equipment. The public notice must be published at least 21 days before the date of the public meeting at which the governing board takes final action. The notice must identify the project, the components and scope of the work, and the estimated cost of the project using generally accepted cost-accounting principles that fully account for all costs associated with performing and completing the work, including employee compensation and benefits, equipment cost and maintenance,

exempt from this section when performing repairs or maintenance on the buildings, structures, or public construction works of the public transit system, public transportation system, or mass transit system using the local government's own services, employees, and equipment.

(m) Any contractor may be considered ineligible to bid by the governmental entity if the contractor has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects such as safety, tax withholding, workers' compensation, reemployment assistance or unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years.

(2) The threshold amount of \$300,000 for construction or \$75,000 for electrical work, as specified in subsection (1), must be adjusted by the percentage change in the Engineering News-Record's Building Cost Index from January 1, 2009, to January 1 of the year in which the project is scheduled to begin.

(3)(a) All county officials, boards of county commissioners, school boards, city councils, city commissioners, and all other public officers of state boards or commissions that are charged with the letting of contracts for public work, for the construction of public bridges, buildings, and other structures must specify in the contract lumber, timber, and other forest products produced and manufactured in this state, if wood is a component of the public work, and if such products are available and their price, fitness, and quality are equal.

(b) This subsection does not apply:

1. To plywood specified for monolithic concrete forms.
2. If the structural or service requirements for timber for a particular job cannot be supplied by native species.
3. If the construction is financed in whole or in part from federal funds with the requirement that there be no restrictions as to species or place of manufacture.
4. To transportation projects for which federal aid funds are available.

(4) Any qualified contractor or vendor who could have been awarded the project had the project been competitively bid has standing to challenge a local government's actions to determine if the local government has complied with this section. The prevailing party in such action is entitled to recover its reasonable attorney's fees.

History.—s. 1, ch. 61-495; s. 1, ch. 94-175; s. 4, ch. 95-310; s. 5, ch. 95-341; s. 1, ch. 99-181; s. 62, ch. 2002-20; s. 9, ch. 2003-286; s. 1, ch. 2009-210; s. 54, ch. 2012-30; s. 4, ch. 2013-193; s. 81, ch. 2014-22.

Calendar for year 2016 (United States)

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Holidays and Observances:

Jan 1 New Year's Day	May 30 Memorial Day	Nov 11 Veterans Day
Jan 18 Martin Luther King Day	Jun 19 Father's Day	Nov 24 Thanksgiving Day
Feb 14 Valentine's Day	Jul 4 Independence Day	Dec 24 Christmas Eve
Feb 15 Presidents' Day	Sep 5 Labor Day	Dec 25 Christmas Day
Mar 27 Easter Sunday	Oct 10 Columbus Day (Most regions)	Dec 26 'Christmas Day' observed
Apr 13 Thomas Jefferson's Birthday	Oct 31 Halloween	Dec 31 New Year's Eve
May 8 Mother's Day	Nov 8 Election Day	