

TOWN OF MALABAR
REGULAR TOWN COUNCIL MEETING
MONDAY, MAY 07, 2018, 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. CONSENT AGENDA:
1. Approve Regular Town Council Meeting Minutes 04/16/2018
- Exhibit: Agenda Report 1
- Recommendation: Request Approval
- E. ATTORNEY REPORT:
- F. BCSO REPORT:
- G. BOARD / COMMITTEE REPORTS: T&G Committee; Park & Recreation and P&Z Boards
- H. STAFF REPORTS: ADMINISTRATOR; CLERK
- I. PUBLIC COMMENTS: Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required) **Three (3) Minute Limit per Speaker.**
- J. PUBLIC HEARINGS/SPECIAL ORDERS: 0
- K. UNFINISHED BUSINESS/GENERAL ORDERS
- ORDINANCES FOR FIRST READING: 2;
2. Approve Budget Amendment to FY 2016/2017 Budget (Ord 2018-02)
- AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2016/2017 TO PROVIDE FOR ADDITIONAL REVENUES RECEIVED OVER BUDGETED AMOUNT; TO PROVIDE FOR THE ADDITIONAL EXPENDITURES OVER BUDGETED AMOUNT; TO DIRECT SURPLUS REVENUES TO RESERVED FUNDS ON DEPOSIT; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.
- Exhibit: Agenda Report 2
- Recommendation: Approve 1st Reading of Ord 2018-02
3. Approve Budget Amendment to FY 2017/2018 Budget (Ord 2018-03)
- AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2017/2018 TO PROVIDE FOR ADDITIONAL REVENUES FROM RESTRICTED RESERVES ON DEPOSIT; TO PROVIDE FOR THE ADDITIONAL EXPENDITURES TO COMPLETE NECESSARY ROAD IMPROVEMENT PROJECTS; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.
- Exhibit: Agenda Report 3
- Recommendation: Approve 1st Reading of Ord 2018-03
- RESOLUTIONS: 1
4. Adopt Resolution 02-2018 regarding 2018 Ballot Amendment 1 (Reso 02-2018)
- A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, CONCERNING AMENDMENT 1 TO THE FLORIDA CONSTITUTION, WHICH IF ADOPTED WOULD CREATE ADDITIONAL INEQUITIES IN FLORIDA'S TAX SYSTEM BY GRANTING CERTAIN TAX BREAKS TO SOME TAXPAYERS AT THE EXPENSE OF OTHER TAXPAYERS; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.
- Exhibit: Agenda Report 4
- Recommendation: Adopt Resolution 02-2018

MISCELLANEOUS: 3

5. Accept Lease Offer from Crowne Castle for 30 years with 20-year payout.

Exhibit: Agenda Report 5

Recommendation: Approve 30-yr lease with 20-yr payout

6. Approve Interlocal Agreement (ILA) with Palm Bay for Temporary Quarters At Fire Department

Exhibit: Agenda Report 6

Recommendation: Approve ILA for co-location for Temporary Quarter's

7. Direction on Repository for Materials handed in at Council Meetings

Exhibit: Agenda Report 7

Recommendation: Direction to Staff for a Study

L. DISCUSSION/POSSIBLE ACTION:

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

N. REPORTS – MAYOR AND COUNCIL MEMBERS

O. ANNOUNCEMENTS: Vacancies: 2 on Bd of Adj; 2 on Pk & Rec Bd; 3 on T&G Com.

P. ADJOURNMENT:

If a person decides to appeal any decision made by this board, agency or commission with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to ensure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105). The Town does not provide this service.

In compliance with F.S. 86.26 and the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 1
Meeting Date: May 07, 2018

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

SUBJECT: Approval of Minutes

BACKGROUND/HISTORY:

Attached are the summary minutes for the following meeting(s):

- Regular Town Council Meeting – 04/16/2018

The minutes are the official record of the actions taken by the Council.

ATTACHMENTS:

Draft Minutes of 04/16/18

ACTION OPTIONS:

The Town Clerk requests approval of the minutes.

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES
MONDAY, APRIL 16, 2018 **7:30 PM**

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

A. CALL TO ORDER:

Council Chair, Mayor Patrick Reilly called the meeting to order at 7:30 pm.

B. ROLL CALL:

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

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

D. CONSENT AGENDA:

1. Regular Town Council Meeting Minutes 3/19/18

Exhibit: Agenda Report No. 1

Recommendation: Request Approval

Chair stated that Council had two versions of the minutes – short covering just the actions of Council and a longer version that gave additional input.

Motion: CM Korn / CM White to accept the short version of the 3/19/18 minutes.

Vote: 5 to 0.

Discussion. CM Korn agreed that it should be only the council actions.

CM Mahoney is ok with the short version but has same issue with the corrections. She stated if you are looking at the 4/16 minutes, it wouldn't be for two more meetings. Citizens are represented. She had done the research.

CM Ball agreed it should only be the actions. If you leave everything in, at some point something will be left out and someone gets upset.

CM Korn asked about the extra stuff being submitted for the "record" and stated there should be another method for it to be submitted.

CM Mahoney said her opposition to the minutes are the opinions that are included; they should be removed. That is why there is an increase in things being submitted.

CM Rivet said he has never had issue with minutes including opinions but with the short version it avoids opportunities for opinion.

CM White looked at the municipal guidelines and Roberts Rules. Similar to what CM Korn mentioned about having a method to deal with information that speakers at podium handed in. His review of other cities showed some minutes may reflect that there were 4 speakers and left it at that. The minutes did not mention what they talked about. Should be some way for persons to submit into the record without adding to the minutes. Same as what CM Korn was saying. Need an additional repository for that work.

Vote: Ayes, 5; Nay, 0.

E. ATTORNEY REPORT: He has heard from the FLC Atty John Conner regarding the Painted Acres litigation and they are looking at a trial date in early 2019. There was a settlement proposed but the representative failed to meet the agreement and it went to court and ruling was no agreement per the judge.

F. STAFF REPORTS:

ADMINISTRATOR: TA had placed some information in front of council. Crowne Castle leases the cell tower site at FD. Staff opinion that the 30-year lease is the most beneficial option. We would get ½ million financial gain by selecting the 30yr lease with Option "1.C." for payout over 20 years. TA said we are gambling away the 74K if we go with the 99-yr. lease.

CM Mahoney said this is the first time she has seen this. She would rather do more research and have it on future agenda. TA said they don't need to decide tonight. Put on for action on the next meeting. CM Ball said we have the option of going to a shorter period of 30 years.

TA said two weeks ago a group went to Palm Bay to see an attachment for the slope mower machine operate. It can clean 1000 feet of ditch a day. It costs 15K. They will do a demonstration in Malabar in our ditches and would want all of council to watch this.

CM White said that Palm Bay has three of them. He hears the most complaints about the ditch mowing just allows cuttings to fall into the ditch – this attachment kicks it up onto the bank or the yard. There is another worker that cleans either end of the culvert. They don't have to haul it off. TA said the flail mower the Town has is too big to get into the bottom of the ditch. This is a great tool. TA will pick a date and let them know so they can watch demo. CM White asked about the price comparison. TA will provide.

Executive meeting is set for next Monday 4/23/18 at 7pm here at town hall. Consensus for all to attend.

CM Mahoney asked TA for breakdown and log records and report on what was being done by PW. CM Mahoney asked what is going on at West Railroad Ave. TA said it is being paved by adjacent property owner at no cost to the Town.

CLERK: SpringFest this Saturday. We are preparing a budget amendment to the 2017/2018 Budget to address allocating additional funds from restricted reserve funds on deposit from the Transportation Impact Fees to complete repairs to Corey, Marie and Eva. It should be on the next meeting's agenda. Last item, in order to start the budget process earlier, I am proposing two additional workshops on June 11 and 25 to discuss the revenue estimates, referendum questions, impact fees, and capital improvement list.

CM Mahoney asked Clerk to send her the Jan thru Mar financial.

FIRE CHIEF: Chief made report. They got a grant for \$2500 for VHS radios. Total of 15 radios. PW also has been given five radios and they have their own channel. Contact with PB – they want to buy the little pumper and he wants to ask 15K.

Also asked Council to look at agreement with Palm Bay to share station while Palm Bay builds their new station. We also get 10 seats on future training. This is for six-month period to one year maximum while their new station is built.

He asked that this be on the agenda for action at the next meeting. No money to be exchanged – they will keep one fire truck, a brush truck, shift personnel and will bring their own stuff and gear.

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) **Three (3) Minute Limit per Speaker.**

Speaker Card: Randolph Alexander Rollins, 107 Valencia Road, Melbourne. He spoke about alienation between children and parents. David Henry's movement.

H. PUBLIC HEARINGS/SPECIAL ORDERS: 0
I. UNFINISHED BUSINESS/GENERAL ORDERS
ORDINANCES FOR FIRST READING: 0
RESOLUTIONS: 1

2. Reso 01-2018 Declaring and Creating a Special Assessment

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AUTHORIZING, DECLARING AND CREATING A SPECIAL ASSESSMENT FOR THE HARD SURFACING OF SMITH LANE, SOUTH OF ATZ ROAD FOR A DISTANCE OF 2,224 FEET; PROVIDING FOR THE ESTIMATE OF TOTAL COSTS OF SAID IMPROVEMENTS; DESIGNATING THE PORTION OF THE IMPROVEMENT TO BE PAID BY SPECIAL ASSESSMENT; DESIGNATING WHEN THE SPECIAL ASSESSMENT SHALL BE PAID; DESIGNATING THE LANDS UPON WHICH THE SPECIAL ASSESSMENT SHALL BE LEVIED; PROVIDING FOR AN ASSESSMENT PLAT AND THE CREATION OF A PRELIMINARY ASSESSMENT ROLL; PROVIDING FOR PUBLICATION AND NOTIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report 2
Recommendation: Request Approval

Read by title only.

MOTION: CM Rivet / CM Korn to approve Reso.01-2018.

Discussion: CM Mahoney had some questions that were just sent to her so she will read them. She read a series of questions (not provided).

Franklin said this is a citizen driven request per the code that was submitted by property owners on Smith Lane to pave an improved and accepted portion of Smith Lane as described. Per the code the owners are requesting this process that requires the adoption of this resolution.

Property owners on Smith have repeatedly asked for this special assessment; that is why the ordinance was created and adopted and codified. It is fairly applied based on the distance of the approved section of Smith Lane, south of Atz Road that includes 55 feet of road in front of the most southern parcel as provided with the granting of a variance by the Board of Adjustment.

Roll Call Vote: CM Ball, Aye; CM Mahoney, Aye; CM Rivet, Aye; CM Korn, Aye; CM White, Aye.
 Motion carried 5 to 0.

MISCELLANEOUS: 1

3. Possible Sale of Huggins Park

Exhibit: Agenda Report 3
Recommendation: Direction to Staff

CM Rivet said selling it and getting it on the tax roll is the purpose. CM Ball said if it makes sense to sell it and put it on the tax roll. So now why are we considering giving it away. Mayor said rezone it first to RS10 and make it marketable. CM Korn said it should be rezoned. Regarding the Huggins family name; utilize the name on other town infrastructure.

CM Mahoney has a different take on this. The intended gift was so the town would no longer have to maintain the park.

CM White said the restrictions that we were proposing to put on the property would only interest a particular buyer, then there will only be one buyer. The initial sale of the property is all that we would get out of this. Council needs to weigh the benefit to the Town to sell it as if it were developed residentially as RS-10.

CM Korn said he is not looking for any restrictions. Sell it the same way anything else in the community. Let's be fair to everybody.

MOTION: CM Korn / CM Rivet to direct staff to do an administrative rezoning to RS-10 and prepare a bid document to advertise the property for sale. **Vote:** All Ayes.

Atty left at 8:45pm

J. DISCUSSION/POSSIBLE ACTION:

4. Referendum Questions: Binding and non-binding on 2018 Ballot

Exhibit: Agenda Report 4

Recommendation: Discussion and Direction

We have the MSTU ballot question in 2018 unless Council directs to repeal the ordinance. The question has appeared on ballot every two years since 2008.

Discussion: Chair said Council should start thinking about questions for the ballot; binding and non-binding.

Consensus of Council to keep MSTU question on ballot every two years. Also, to keep council terms at two years.

CM White would like to discuss Impact fees for new construction as a consideration of Council.

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

L. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Ball: nothing

CM Mahoney: (report submitted) Thanked public for their input.

CM Rivet: Concerned about complaints about WM.

CM Korn: Don't put recycling material in bags.

CM White: nothing

Mayor: see you all on Saturday for SpringFest.

M. ANNOUNCEMENTS:

N. ADJOURNMENT:

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

BY: _____
Mayor Patrick Reilly, Council Chair

ATTEST:

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

Date Approved: 5/7/2018

**TOWN OF MALABAR
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 2
Meeting Date: May 07, 2018**

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

SUBJECT: FY 16/17 Budget Amendment (Ordinance 2018-02) 1st Reading

BACKGROUND/HISTORY:

In the wrap up of last fiscal year, staff brought a budget amendment to Council for the FY2016/2017 Fiscal Year. Council approved the amendment on the condition that no more than half of the needed amount come from reserves on deposit in the bank. That amendment increased the budgeted revenues and expenditures to \$1,593,072.00. In closing out the last fiscal year here is a broad summary of the year:

Revenues received over the budgeted amount referenced above were \$177,506.00. That was from a combination of delinquent and current ad valorem tax receipts in excess of the 95% budgeted amount, unusually high utility tax receipts, the commercial building permit fees, the DEP grant funding reimbursement and miscellaneous revenues coming in over the budgeted amounts.

This budget amendment proposes to recognize those *additional receipts* and direct them to specific expenditures.

There is an overall amount of \$20,718.00 in department overruns in the six departments identified in the ordinance: Legal (514), General Government (519), Fire Control (522), Protection Inspections (524), Emergency/Disaster Relief (525) and Stormwater (538).

Ordinance 2017-13 increased the budget to \$1,593,072.00 utilizing \$29,564.00 from receipts over budgeted revenues in the 2016/2017 year.

The remaining receipts over budgeted revenues collected in the 2016/2017 budget year equal \$177,506.00, minus \$20,718.00 to balance the aforementioned accounts, minus the remaining \$156,788.00 *surplus receipts to be deposited into the unrestricted reserves on deposit.*

Upon approval of the First Reading of the ordinance it will be legally advertised and the public hearing will be held on May 21, 2018.

FINANCIAL IMPACT:

Recognizing \$177,506.00 is revenues received over the budgeted amounts

ATTACHMENTS:

Ordinance 2018-02

ACTION OPTIONS:

Approval of Ordinance 2018-02 for 1st Reading

ORDINANCE 2018-02

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2016/2017 TO PROVIDE FOR ADDITIONAL REVENUES RECEIVED OVER BUDGETED AMOUNT; TO PROVIDE FOR THE ADDITIONAL EXPENDITURES OVER BUDGETED AMOUNT; TO PROVIDE FOR SURPLUS REVENUES TO RESERVED FUNDS ON DEPOSIT; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council has authorized recognition of revenue received over the budgeted amount in the FY 2016/2017 budget above and beyond the amount of the adjustment in Ordinance 2017-13; and

WHEREAS, the Town Council has directed that staff prepare a budget amendment to recognize additional revenue in the amount as \$177,506.00 in the General Fund; and

WHEREAS, the Town Council has directed that staff prepare a budget amendment to recognize the deposit into reserves of \$156,788.00 in the General Fund; and

WHEREAS, the Town Council has directed that staff prepare a budget amendment to recognize additional expenditures in the amount as \$20,718.00 in the General Fund; and

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

SECTION 1. Total Revenues.

Total revenues in the 2016-2017 Fund 001 General Fund be amended from \$1,593,072.00 to \$1,770,578.00 to reflect the increase in the revenues for the General Fund by \$177,506.00.

SECTION 2. Total Disbursements.

Total disbursements in the 2016-2017 Fund 001 General Fund be amended from \$1,593,072.00 to \$1,770,578.00 to reflect the increase in the expenditures for the General Fund by \$177,516.00.

SECTION 3. Funding Source.

The funds necessary to provide for this Budget Amendment to the FY 2016/2017 budget are from additional revenues received during the budget year from grant funding, additional building permit fees, ad valorem taxes, utility taxes and other miscellaneous revenues over the budgeted amounts.

SECTION 4. Total Disbursements.

Total disbursements in the 2016-2017 Fund 001 General Fund be amended from \$1,593,072.00 to \$1,770,578.00 to reflect the increase in the expenditures for the General Fund departments: Legal, General Government, Fire Control, Protective Inspections, Emergency/Disaster Relief and Stormwater totaling \$20,718.00 with the remaining surplus revenues of \$156,788.00 being deposited to unrestricted surplus funds on deposit.

SECTION 5. Conflict.

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

SECTION 6. This ordinance shall become effective immediately upon its adoption after the second reading and public hearing.

This ordinance was moved for adoption by Council Member _____ and was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

Council Member Grant Ball	—
Council Member Laura Mahoney	—
Council Member Steve Rivet	—
Council Member Dick Korn	—
Council Member Danny White	—

This ordinance was then declared to be duly passed and adopted this ____ day of May 2018.

TOWN OF MALABAR
By

Mayor Patrick T. Reilly, Council Chair

First Reading: 05/07/2018 Approved ___ to ___
Second Reading: 05/21/2018

ATTEST:

Debby K. Franklin, CMC,
Town Clerk/Treasurer

(Seal)

Approved as to Form and Content:

Karl W. Bohne, Jr.,
Town Attorney

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 3
Meeting Date: May 07, 2018

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

SUBJECT: FY 17/18 Budget Amendment (Ordinance 2018-03) 1st Reading

BACKGROUND/HISTORY:

As reported at the April 16, 2018 meeting, there is a need to amend the current budget to allocate additional funds in the Streets and Roads Department within the General Fund. The Cost benefit of having several road projects completed with minimal mobilization and set-up costs make this a very beneficial opportunity for the Town.

This will allow the budgeted funds in 001-541.4610 to be used to correct the dip from improperly compacted road base on Marie Street, a similar problem on Corey Road and the intersection of Hall Road and Corey Road. It will enable the Town to purchase base material to use on roads throughout the Town.

The Eva Lane expenses will be met with this amendment by adding \$100,000.00 to account 001-541.6300. The Transportation Impact Fee collected on all new construction funds this account. We did not budget any expenditure from these funds in the current budget. The funds can only be used on projects that increase or improve transportation capacity. Some of these funds have been used in the past to recap LaCourt Lane and add the turn lane at the Post Office.

Due to the moratorium the County place on Transportation Impact Fees from 2007 until January of 2018 there has been no new revenue in this Restricted Fund. The current balance is \$168,751.75. Any new commercial or residential development since January will result in additional monies in this restricted Fund.

Staff is recommending approval of this budget amendment.

FINANCIAL IMPACT:

Increasing the General Fund Revenues from \$1,879,053.00 to \$1,979,053.00
Increasing the General Fund Expenditures from \$1,879,053.00 to \$1,979,053.00

ATTACHMENTS:

Ordinance 2018-03

ACTION OPTIONS:

Approval of Ordinance 2018-03 for 1st Reading

ORDINANCE 2018-03

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2017/2018 TO PROVIDE FOR ADDITIONAL REVENUES; TO PROVIDE FOR THE ADDITIONAL EXPENDITURES; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council has authorized a restricted reserved fund for the monies received from Transportation Impact Fees collected on new construction; and

WHEREAS, the project proposed to complete this budget year includes the paving of the collector known as Eva Lane and those restricted funds have been approved for this project; and

WHEREAS, the Town Council has directed that staff prepare a budget amendment to recognize additional revenues from the restricted reserve fund in the amount of \$100,000.00 and expenditures in the amount of \$100,000.00 in the General Fund; and

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

SECTION 1. Total Revenues.

Total revenues in the 2017/2018 Fund 001 General Fund be amended from \$1,879,053.00 to \$1,979,053.00 to reflect the increase in the revenues for the General Fund by \$100,000.00.

SECTION 2. Total Disbursements.

Total disbursements in the 2017/2018 Fund 001 General Fund be amended from \$1,879,053.00 to \$1,979,053.00 to reflect the increase in the expenditures for the General Fund by \$100,000.00.

SECTION 3. Funding Source.

The funds necessary to provide for this Budget Amendment to the FY 2017/2018 budget are from restricted reserve funds on deposit from Transportation Impact Fees collected on new construction.

SECTION 4. Conflict.

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

SECTION 5. This ordinance shall become effective immediately upon its adoption after the second reading and public hearing.

This ordinance was moved for adoption by Council Member _____ and was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

Council Member Grant Ball	—
Council Member Laura Mahoney	—
Council Member Steve Rivet	—
Council Member Dick Korn	—
Council Member Danny White	—

This ordinance was then declared to be duly passed and adopted this ____ day of May 2018.

TOWN OF MALABAR

By

Mayor Patrick T. Reilly, Council Chair

First Reading: 05/07/2018 Approved __ to __
Second Reading: 05/21/2018

ATTEST:

Debby K. Franklin, CMC,
Town Clerk/Treasurer

(Seal)

Approved as to Form and Content:

Karl W. Bohne, Jr.,
Town Attorney

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 4
Meeting Date: May 07, 2018

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

SUBJECT: Adopt Resolution 02-2018 regarding 2018 Ballot Amendment 1 (Reso 02-2018)

BACKGROUND/HISTORY:

After the last RTCM, the Town received educational information from the Florida League of Cities on the impact Amendment 1 will have on municipal budgets. The information was intended to give elected officials accurate facts to share with voters on this amendment.

The City of Indialantic adopted a resolution regarding the impact of Amendment 1 and sent it out to other cities. I forwarded it to Malabar Council and the Mayor directed I place this on the agenda for action at this meeting.

The approval of Amendment 1 will exempt the 25K of assessed value of homesteaded property between 100K and 125K from all levies except school district levies.

FINANCIAL IMPACT:

Property Appraiser has estimated 30K or greater negative impact to Malabar

ATTACHMENTS:

Reso 02-2018

ACTION OPTIONS:

Adoption of Reso 02-2018

RESOLUTION 02-2018

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, CONCERNING AMENDMENT 1 TO THE FLORIDA CONSTITUTION, WHICH, IF ADOPTED, WOULD CREATE ADDITIONAL INEQUITIES IN FLORIDA'S TAX SYSTEM BY GRANTING CERTAIN TAX BREAKS TO SOME TAXPAYERS AT THE EXPENSE OF OTHER TAXPAYERS; PROVIDING A CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a proposed constitutional amendment sponsored by the Florida Legislature will be placed on the 2018 general election ballot as "Amendment 1"; and

WHEREAS, this proposed constitutional change exempts the assessed valuation of homestead property greater than \$100,000 and up to \$125,000 for all levies other than school district levies; and

WHEREAS, Amendment 1 is expected to cost \$644.7 million per year-resulting in either service reductions or tax hikes; and

WHEREAS, local communities may be forced to increase local property tax rates to offset revenue reductions; and

WHEREAS, changing local property taxes should be done locally, not through a constitutional amendment; and

WHEREAS, instead of fixing Florida's complicated tax system, Amendment 1 makes it more complicated and less fair; and

WHEREAS, Florida's tax system should work for all homeowners, and most of Amendment 1's benefits go to only a handful of homeowners; and

WHEREAS, Amendment 1 exposes local businesses to a much higher tax burden, and this one-size-fits-all scheme is made to look like a tax cut but it is really a tax shift that will further disenchant millions of already-skeptical Florida voters.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Malabar, Florida:

SECTION 1. The Town of Malabar will evaluate the impact Amendment 1 will have on its property taxes.

SECTION 2. The Town of Malabar urges its residents to carefully consider the potential adverse consequences of Amendment 1 before voting in the November 2018 general election.

SECTION 3. A copy of this resolution will be provided to the Florida League of Cities and other interested parties.

SECTION 4. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

SECTION 5.

This resolution shall take effect immediately upon its adoption.

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

Council Member Grant Ball	_____
Council Member Laura Mahoney	_____
Council Member Steve Rivet	_____
Council Member Dick Korn	_____
Council Member Danny White	_____

PASSED AND ADOPTED by the Town Council, Town of Malabar, Brevard County, Florida this ____ day of _____, 2018.

BY: TOWN OF MALABAR

Mayor Patrick T. Reilly, Council Chair

ATTEST:

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

(seal)

Approved as to form and
legal sufficiency by:

Karl W. Bohne, Jr.
Town Attorney

**TOWN OF MALABAR
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 5
Meeting Date: May 07, 2018**

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

SUBJECT: Accept Lease Offer from Crowne Castle for 30 years with 20-year Payout

BACKGROUND/HISTORY:

At the last RTCM, the TA presented a memo to Council regarding an offer from Crowne Castle to provide a new lease that would substantially increase the revenues from the cell tower site lease.

After review by staff, we would recommend Council accept the Option 1-C for a thirty-year lease term with a twenty-year payout.

FINANCIAL IMPACT:

\$10,000.00 down payment with monthly payment of \$2,415.00 for a total payout at 20 years of \$589,600.00

ATTACHMENTS:

Memo dated 4/16/2018
Email dated 4/2/2018

ACTION OPTIONS:

Approval of Lease Offer Option 1C for 30 years with a twenty-year payout.



Town of Malabar

2725 Malabar Road
Malabar, FL 32950
321.727.7764 (Office) 321.722.2234 (Fax)
www.townofmalabar.org

Monday, April 16, 2018

Mayor Reilly, Council Members, Attorney Bohne

Crown Castle has reminded us that it is time to renew our lease agreement with them. They are offering a thirty (30) year lease term and a ninety-nine (99) year lease agreement. In addition to the two different lease terms each term offers four (4) payment options.

It is staffs considered opinion that the best option is the thirty (30) year lease with option 1-C with twenty years as the payout term.

While the Town would not generate quite the amount of income as the ninety-nine-year lease, it would give the Town the ability to lease the site two more times within the ninety-nine year period. This, of course, assumes that cell and other digital technology would continue on into the future.

If the lease terminates in thirty years and is not renewed the potential shortfall vs the ninety-nine-year lease is \$74,000.00.

However, if the Town is able to renew the lease for two more 30-year lease periods the benefit would amount to \$1,104,800.00.

I would urge Council to agree to the thirty-year lease period with option 1-C with the 20 year payout.

Douglas C. Hoyt
Administrator
Town of Malabar

Douglas C. Hoyt

From: Joan Javier <jjavier@lyleco.com>
Sent: Tuesday, January 09, 2018 2:09 PM
To: Douglas C. Hoyt
Subject: RE: Crown Castle 805998

OK, here is an update for you. We now have 2 easements within 2.5 miles of this tower. Those weren't there in 2016. I stand by the easement program because it allows you to secure your money and lock in the revenue share payments so if they come off the tower, it won't affect your money. I'm providing pricing here 2 ways; one is a 30 year term easement and the other is a 99 year. Both are tied to the use language but you get more money with the 99 year easement because there will be no renegotiations. The 30 year term easement is popular because it allows you to secure your money but also, if the tower is successful in the future, it allows for renegotiation. I wanted to price both because I believe the 30 year term easement will be going away this year and I wanted you to look at it again before it does. Otherwise the shortest timeframe will be 40 years and even that is being scrutinized. Again, these are both tied to the use language so they will only be there for as long as the tower can be used for telecommunication purposes. You would just get more money for the 99 year easement because as I'd mentioned, there is no renegotiations. Here is the pricing;

1. 30 YEAR TERM EASEMENT:

Option	Option 1 A	Option 1B	Option 1C	Option 1C
Term (5 - 20 Years)	7 yrs	12 yrs	17 yrs	20 yrs
Down Payment	\$50,000	\$25,000	\$15,000	\$10,000
Installment Monthly Payments	\$3,571.90	\$2,785.00	\$2,475.00	\$2,415.00
TOTAL PAYOUT	\$350,040	\$426,040	\$519,900	\$589,600

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 6
Meeting Date: May 07, 2018

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

SUBJECT: Approve Interlocal Agreement (ILA) with Palm Bay for Temporary Quarters Arrangement

BACKGROUND/HISTORY:

At the last RTCM, the TA presented a draft interlocal agreement between Palm Bay and Malabar. It would provide space at the Malabar Fire Department for Palm Bay to locate a fire apparatus and staff while the City builds a new station. It was discussed and Council had no adverse comments.

Since the meeting, the TA, Town Attorney, both fire departments and the Palm Bay legal staff have revised and agreed on the attached ILA.

It would be for a period not to exceed one year and cost Malabar no extra operating costs. Palm Bay would provide their own staff, bunks and operating equipment.

FINANCIAL IMPACT:

No financial impact to Malabar

ATTACHMENTS:

ILA

ACTION OPTIONS:

Approval of ILA between Malabar and Palm Bay.

INTERLOCAL AGREEMENT REGARDING CO-LOCATION BETWEEN TOWN OF MALABAR AND THE CITY OF PALM BAY

THIS AGREEMENT (the "Agreement"), entered into this ___ day of _____ 201_, by and between **Town of Malabar**, a township incorporated under the laws of Florida (hereinafter referred to as the "**Town**"), and the **City of Palm Bay**, a municipality incorporated under the laws of Florida (hereinafter referred to as the "**City**").

WITNESSETH:

WHEREAS, the City and Town desire to enter into this Agreement for the purpose of allowing the Town and the City to provide the City operational use space at one (1) of the Town's fire station to better protect the lives and property of their citizens; and

WHEREAS, the Town and the City find that it is in their respective best interests, and that it is in the best interest of the public health, safety and welfare of their citizens, for the Town and City to share emergency response resources; and

WHEREAS, this Agreement is authorized pursuant to §163.01, Florida Statutes, as an interlocal agreement.

NOW, THEREFORE, in consideration of the premises and mutual promises contained herein, the parties hereto agree as follows:

SECTION 1. TERM:

This Agreement will commence and be effective upon its approval and execution by the elected governing bodies of both the Town and the City and filing with the Clerk of the Circuit Court in and for Brevard County, Florida. This Agreement shall be effective for an initial one (1) year period. All terms and conditions hereof shall remain in full force and effect during the initial term and any renewal periods unless this Agreement is amended as provided in Section 2 below.

SECTION 2. TERMINATION/AMENDMENT OF AGREEMENT:

- 2.1 This Agreement may be terminated upon written notice by both parties with an effective date of termination at least forty-five (45) days prior to the date of such termination.
- 2.2 Either party may request that this Agreement be revised. To be deemed effective, the revision must be approved by the respective governing bodies of the Town and the City, and filed with the Clerk of the Circuit Court in and for Brevard County, Florida.

SECTION 3. SERVICES PROVIDED:

Except to the extent provided herein, the Town and the City agree that their respective fire rescue departments will provide primary emergency services within their own jurisdictions.

- 3.1 **Statement of Reciprocity** - The City and the Town agree to share both unique and common emergency response resources for expeditious and effective emergency service delivery to City and Town citizens alike. In that the services are provided by both the City and Town in a mutually beneficial manner, there shall be no monetary payments to either the City or the Town for services identified in this Agreement.

3.2 **Fire Station Facility Usage** - The Town hereby agrees to provide the City none exclusive use space at the Town's fire station:

Station 99 located at 1840 Malabar Road, Malabar, FL 32950

The City shall utilize the identified Town fire station facility to support the operations of a City staffed emergency response fire engine.

- (a) Apparatus Space - The Town hereby agrees to provide an apparatus stall space for an engine and a brush truck in the Town fire station identified herein above.
- (b) Living Quarters - The town hereby agrees to provide a bunkroom for City employees with a minimum of three (3) beds provided by the Town and two (2) beds provided by the City for sleeping, office space, use of kitchen facilities, use of restrooms and use of day/training room at the Town fire station identified herein above.
- (c) Maintenance - The City agrees to assist the Town with any maintenance (including preventive) in equitable proportion to those areas utilized a majority of the time by the City in the Town's fire station identified herein above.
- (d) Insurance, Costs, Independent Contractors, Liability - Sections 11, 12, and 13 of the Interlocal Agreement between the Town and the City shall govern insurance, costs, the relationship and status of the Town and the City and their employees, and their liability for the actions of their respective employees and agents.
- (e) Damage - The Town agrees to repair, replace and/or reimburse the City for any and all damages caused to property and equipment owned by the City and resulting from the actions of Town employees. The Town shall cause such repair, replace and/or reimbursement to occur within a reasonable amount of time thereby affording no undue hardship to the City. The City agrees to repair, replace and/or reimburse the Town for any and all damages caused to property and equipment owned by the Town and resulting from the actions of City employees. The City shall cause such repair, replace and/or reimbursement to occur within a reasonable amount of time thereby affording no undue hardship to the Town.
- (f) Supplies - The Town and City shall be responsible for their own medical supplies and station supplies.

SECTION 4. PAYMENT:

There shall be no payment to either the City or the Town for services identified in this Agreement. The City Fire Department will reserve 5 openings for the future pump operator class offering for Town personnel.

SECTION 5. ADDITIONAL EQUIPMENT:

There may be circumstances in which the Town and City mutually agree to locate assets belonging to one party in a station or stations belonging to the other party for coverage purposes on a temporary basis. Subject to agreement these units may be staffed by either agency to provide expeditious or efficient first responder and fire-rescue protection for the citizens of both

parties.

SECTION 6. NOTIFICATION:

Any required notice to be provided by either party to this Agreement, other than an emergency call and dispatch, shall be delivered to the other party's representative at the following locations:

Anthony Gianantonio, Acting Fire Chief
Palm Bay Fire Rescue
899 Carlyle Avenue SE
Palm Bay, FL 32909

Michael Foley, Fire Chief
Malabar Fire Department
1840 Malabar Road
Malabar, FL 32950

With a copy to:

Gregg Lynk, City Manager
City of Palm Bay
120 Malabar Road SE
Palm Bay, FL 32907

Douglas Hoyt, Town Manager
Town of Malabar
2725 Malabar Road
Malabar, FL 32950

Any notice to be sent to the Town or the City under the provisions of this Agreement shall be deemed to have been properly sent when personally delivered or mailed, postage prepaid, first class U.S. mail, or by nationally recognized overnight courier to the last known address of the said City or the Town with appropriate copies as set forth above. A mailing is deemed received at the time of hand delivery or five (5) days after mailing. Either party hereto may unilaterally change the person to whom a mailing is to be sent or the address of said person by giving notice to the other party as provided for herein.

SECTION 7. AUDITING, RECORDS AND INSPECTION:

- 7.1 In the performance of this Agreement, the City shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures, as adopted by the Department of Financial Services, as set forth in Rule 691-61.0012, Florida Administrative Code, as amended or superseded from time to time, or the Auditor General. Books, records, and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the office and shall be retained by the City for a period of three (3) years after termination of this Agreement for accounting related records and for other public records, five (5) years after termination of this Agreement, unless otherwise required by law to be held for a longer period. All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable provisions of Chapter 119, Section 401.30, Florida Statutes.
- 7.2 No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the Town, under this Agreement shall be subject to copyright by the City in the United States or any other country.
- 7.3 The Town and the City agree to comply promptly with any request for public records or documents made in accordance with Section 119.07, Florida Statutes.
- 7.4 Upon a request for public records related to this Agreement, the Town or the City will

inform promptly the other party of the request and, upon request of the other party, provide electronic copies of the responsive public records provided, at no additional cost to the Town or the City.

SECTION 8. JURISDICTION. VENUE AND CHOICE OF LAW:

All questions pertaining to the validity and interpretations of this Agreement shall be determined in accordance with the laws of the State of Florida. Any legal action by either party against the other concerning this Agreement shall be filed in the Circuit Court in and for Brevard County, Florida, which shall be deemed proper jurisdiction and venue for the action, and any trial shall be nonjury.

SECTION 9. SEVERABILITY:

If any section, paragraph, sentence, clause, phrase, or word of this Agreement, is for any reason held by the Town to be unconstitutional, inoperative, or void, such holding will not affect the remainder of this Agreement. The remainder of this Agreement shall be effective and shall remain in full force and effect, unless amended or modified by mutual consent of the parties.

SECTION 10. INDEMNIFICATION/HOLD HARMLESS:

To the extent permitted by law and subject to the limitations contained in Section 768.28, Florida Statutes, the City shall indemnify and hold harmless the Town and its agents and employees from and against any and all claims, damages, losses, bodily injuries (including death), and expenses, including attorney's fees, arising out of or resulting from any services provided pursuant to this Agreement, but only to the extent such claim, damage, loss, or expense is caused in whole or in part by the negligence of the City.

To the extent permitted by law and subject to the limitations contained in Section 768.28, Florida Statutes, the Town shall indemnify and hold harmless the City and its agents and employees from and against any and all claims, damages, losses, bodily injuries (including death), and expenses, including attorney's fees arising out of or resulting from any services provided pursuant to this Agreement, but only to the extent such claim, damage, loss, or expense is caused, in whole or part, by the negligence of the Town.

In agreeing to this provision, neither party intends to waive any defense of sovereign immunity, or limits on damage to which it may be entitled under Section 768.28, Florida Statutes or otherwise provided by law. Nothing herein shall be construed as consent by the Town or the City to be sued by third parties in any matter arising out of any contract. The parties acknowledge that specific consideration has been exchanged for this provision.

SECTION 11. INDEPENDENT CONTRACTORS:

The Town and the City are each Independent Contractors of one another. It is specifically understood and agreed to by and between the parties hereto that a material provision in this Agreement is that the relationship between the Town and the City is one in which each party and its employees are independent contractors of the other party, and not as agents, employees, joint ventures, or other partners and neither are entitled to any benefits of the other party. Nothing contained herein shall be construed to be inconsistent with this relationship or status.

SECTION 12. LIABILITY FOR EMPLOYEES/AGENTS:

Each jurisdiction shall bear responsibility for any injury or loss caused by its agents, representatives, officials, employees or volunteers (hereinafter "agents") while such agents are acting outside their jurisdiction. In no event shall either party's liability for damages exceed the monetary limits, or the type of damages recoverable, under Section 768.28, Florida Statutes, as that section may be amended from time to time.

SECTION 13. ASSIGNMENTS:

Neither the City nor the Town, their assigns or representatives, shall enter into any agreement with third parties to delegate any or all the rights and responsibilities herein set forth without the prior written approval of the other party.

SECTION 14. ENTIRE AGREEMENT:

This Agreement, including exhibits, riders, and/or addenda, if any, attached hereto, sets forth the entire Agreement between the parties. This Agreement shall not be modified except in writing and executed by all parties, except that the fire chiefs of the Town and the City are authorized to mutually agree in writing to predefined unit response assignments as established or agreed upon.

SECTION 15. INTERPRETATION:

Both the City and the Town have had the opportunity to consult with legal counsel and to participate in the drafting of this Agreement. Consequently, this Agreement shall not be more strictly or more harshly construed against either party as the drafter hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

ATTEST:

TOWN OF MALABAR, FLORIDA

Debby Franklin, CMC, Town Clerk

By: _____
Patrick Reilly, Mayor

Reviewed for Legal Form and Content: _____
Karl Bohne, Town Attorney

ATTEST:

CITY OF PALM BAY, FLORIDA

Terese Jones, City Clerk

By: _____
William Capote, Mayor

Reviewed for Legal Form and Content: _____
Patricia Smith, City Attorney

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 7
Meeting Date: May 07, 2018

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

SUBJECT: Direction on Repository for Materials handed in at Council Meetings

BACKGROUND/HISTORY:

This was discussed at the last meeting.

Since the documents are public records we could collect them in a separate book in the Clerk's Department labeled "Public Records Submitted at Council Meetings"

FINANCIAL IMPACT:

Unknown

ATTACHMENTS:

Email from Attorney

ACTION OPTIONS:

Direction to Clerk

Re: Malabar Question from last Mtg

kbohne@fla-lawyers.com

Thu 4/26/2018 3:11 PM

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

Its up to the council. When they give it to you its a public record and your legal obligation stops there unless council directs otherwise

Sent from my Sprint Samsung Galaxy S® 6.

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

From: Debby Franklin <townclerk@townofmalabar.org>

Date: 4/26/18 2:55 PM (GMT-05:00)

To: kbohne@fla-lawyers.com

Subject: Re: Malabar Question from last Mtg


What about when they stand at podium and hand me "stuff" and say they ar erequesting it be attached to the minutes?

Debby K. Franklin

Certified Municipal Clerk

Town Clerk Treasurer

townclerk@townofmalabar.org

 1488484132659_tom.jpg

Town of Malabar

2725 Malabar Road

Malabar, FL 32950

www.TownofMalabar.com

From: kbohne@fla-lawyers.com <kbohne@fla-lawyers.com>

Sent: Thursday, April 26, 2018 1:13:07 PM

To: Debby Franklin

Subject: RE: Malabar Question from last Mtg

There is no such legal requirement to have it included as part of the minutes.

Karl W. Bohne, Jr.

Schillinger & Coleman, P.A.

1311 Bedford Drive

Melbourne, FL 32940

321-255-3737 Telephone

321-255-3141 Facsimile

Office Hours:

8:30 a.m. to 5:00 p.m. Monday thru Thursday

8:30 a.m. to 12 Noon on Friday

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