

**TOWN OF MALABAR
REGULAR TOWN COUNCIL MEETING
MONDAY, APRIL 15, 2019
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 of 4/01/2019**
Exhibit: Agenda Report No. 1
Recommendation: Approve Minutes
- E. **ATTORNEY REPORT:**
- F. **BCSO 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: 0**
- 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: 1**
2. **Approve First Reading of Budget Amendment to FY 2018/2019 Budget (Ord 2019-05)**
- AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2018/2019 TO PROVIDE FOR REALLOCATION OF FUNDS WITHIN DEPARTMENTS; PROVIDING FOR ADDITIONAL FUNDS FROM UNRESTRICTED FUNDS ON DEPOSIT; TO PROVIDE FOR THESE ADDITIONAL EXPENDITURES AS APPROVED BY COUNCIL; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.
- Exhibit: Agenda Report No. 2
Recommendation: Approve First Reading of Ord 2019-xx
- RESOLUTIONS: 0**
- MISCELLANEOUS: 0**
- COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME
- L. **DISCUSSION/POSSIBLE ACTION:**
3. **Discuss Road Improvement Standards**
- M. **PUBLIC COMMENTS: General Items (Speaker Card Required)**

N. REPORTS – MAYOR AND COUNCIL MEMBERS

O. ANNOUNCEMENTS:

(2) Vacancies on the Board of Adjustment; (2) Vacancies on the Park and Recreation 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 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: April 15, 2019

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):

- Town Council Regular Meeting – 4/01/2019

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

ATTACHMENTS:

Draft Minutes of 4/01/19

ACTION OPTIONS:

The Town Clerk requests approval of the minutes.

MALABAR TOWN COUNCIL REGULAR MEETING MINUTES

APRIL 01, 2019 7:30 PM

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

A. CALL TO ORDER:

Vice-Chair, Steve Rivet called the meeting to order at 7:30 pm. CM Rivet led P&P.

B. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY, excused

VICE CHAIR/ACTING CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL

BRIAN VAIL

DICK KORN

DANNY WHITE

MATT STINNETT

KARL BOHNE

DEBBY FRANKLIN

TOWN ADMINISTRATOR:

TOWN ATTORNEY:

TOWN CLERK/TREASURER:

Clerk said the PW Director Tom Miliore was also present.

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

Acting Chair added the swearing in of Barbara Cameron to the agenda. She is the newest appointee to the Trails and Greenways Committee. He met Barb at the podium and performed the Oath of Office.

(Note: PROCLAMATION: April is Water Conservation Month was done and sent to SJRWMD).

D. CONSENT AGENDA: Acting Chair asked for a motion on the consent Agenda -

- Regular Town Council Meeting Minutes 3/18/19
- Town Council Workshop Meeting Minutes 3/14/19

MOTION: CM Vail / CM White to approve the Consent Agenda. Discussion: none. Vote: 5 Ayes.

E. ATTORNEY REPORT: nothing

F. BCSO REPORT: not present

G. BOARD / COMMITTEE REPORTS:

Drew Thompson, Chair, T&G Com: Provided hand out for this year proposed projects. Said the TPO will be announcing this year's lifetime achievement award at an upcoming meeting and wanted Council to know it is to go to Malabar's own Bob Wilbur. The handout is a list of projects the Committee will be presenting to TPO for support. They are the control point for grants and their support can advance the projects. Four different trail connections to connect Malabar to Palm Bay. He is presenting these to Council first to garner their support.

- 1) Go north on Al Tuttle Trail to the point where there is a sharp turn to the west. Construct a bridge across canal and then go east along a trail on the north side of ditch and then along RR to get to Goode Park.
- 2) The next is in the middle, within the Cameron Preserve, a connection to the pavement for ADA and parallel the Green trail for handicap to the CTS (Cameron Trail Shelter). The CTS was done with an ADA design. Continue paved trail past the CTS to the Al Tuttle Trail. This would connect Stillwater Preserve SD and Country Cove SD to the trails.
- 3) Adding a trail connector – Brook Hollow SD has sidewalks that end at the bridge. Do an ADA paved trail down to Glen Brook ALF. That pavement currently connects to the Al Tuttle Trail. More enhanced trail system and included use for ADA.
- 4) The last one is the power line at the west end of Town. Have an FPL trail as a paved with a bridge over Tillman canal. Connect south of Pt Malabar Blvd and continue on the paved trail to the Harris building.

He is looking for a nod from Town Council before they bring before the TPO.

MOTION: CM Korn / CM Vail to support the T&G Committee's four (4) suggestions for trail connections. Drew said the T&G Committee appreciates Council support. VOTE: All Ayes.

Eric Bienvenu, Chair Park & Rec Board: Went over report he submitted. Went over the bridge on the lake, and the ramp and then planted two new trees at the Huggins playground. They (the new trees) are named Bob and Luke. CM Korn said at one time there were charcoal grills at each pavilion. Park Board – think about replacing gazebo roof and handrail replacement.

Wayne Abare, Chair, P&Z Board: Gave update on sign ordinances. First update wrestled with animated signs. The Atty made recommendations based on the Supreme Court ruling. They beefed up the definition section. It was a collaborated work from all of P&Z. The Mayor and past P&Z Chair Liz Ritter did a lot of work on this.

H. STAFF REPORTS:

ADMINISTRATOR: TA has April schedule for PW. That will go up on website tomorrow. Update on Fern Creek and call with FDOT resulted with them including the pipe underneath Malabar Road. They will not do the additional piping that goes up to Corey Road. Closed on the cell tower easement. TAC – did resolution about causeways over IRL after looking at flushing paper. Goals and obj over the next five years to include resilience to sea level rise. Presentation on Intelligent management system. CM White said if they open 528 causeway, it will increase the flushing.

PW DIRECTOR: Tom Miliore, provided a printed list of the March accomplishments (attached) – read through list. Acting Chair thanked Tom for the work they have been doing and for his reports. CM Korn said Tom and crew have been doing a great job. Should notify FDOT via DBI. CM Korn wants it in writing. CM Vail is getting a lot of positive comments on the drainage. CM White said it is a marked improvement. Thanks,

CLERK: Reported that there will be an issue coming out of the MailBoat in July and asked for articles from each CM and the Mayor. Acting Chair said mid-May will be the deadline. Clerk will also ask for articles from the Boards.

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

Dawn Danielson, complemented Tom and the Council for the PW schedule. She mentioned the recent overlay zoning but said to set aside the funding for any zoning overlay until the stormwater plan and project and work with the – put ducks in water and see which way the duck flows. She volunteers to hand them out. It is show which way the water is really showing. She will give them out at MCA.

Richard Kovach, unsafe traffic – southbound on Corey he has been passed and they blew through the stop sign. Then they chased them. In reporting it to BCSO they can't do anything unless they witness it. Speeding complaints within Malabar are increasingly being posted on social media site Next Door Malabar. They are abusing the privilege of driving. CM Korn said the same problem on Weber Road and it is not unique to Malabar; BCSO deputies are patrolling. Acting Chair said if the speeding issues are at a certain time of day, noon to 3pm on Corey Road, they could ask for a specific traffic monitor. Put an article in Mailboat. CM White mentioned the solar powered speed limit. They are about 10K. The one he saw at conference also had a flash like a picture was taken.

2nd item – number of break ins reported on next door – Duncil, Lineberry and north Hall. Don't leave stuff in unlocked car in driveway. Education is one of the things we can do. We

the people out here are concerned about that. CM Vail saw the Deputy on two nights on Corey Road last week.

J. PUBLIC HEARINGS/SPECIAL ORDERS: 0

K. UNFINISHED BUSINESS/GENERAL ORDERS

L. ACTION ITEMS:

ORDINANCES FOR FIRST READING: 0

RESOLUTIONS: 1

- **Appoint Tom Taylor to the Park and Recreation Board (Reso 05-2019)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF TOM TAYLOR TO THE MALABAR PARKS AND RECREATION BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Adopt Reso 05-2019

MOTION: CM Korn / CM Vail to approve Reso 05-2019. **Rollcall vote.**

CM Ball, Aye; CM Vail, Aye; CM Korn, Aye; CM White, Aye; CM Rivet, Aye. Approved 5 to 0.

MISCELLANEOUS: 1

- **Determination of "Accepted" Portion of Linrose Lane for Permitting**

Exhibit: Agenda Report No. 3

Recommendation: Action

Vice-Chair requests the Town Attorney to stay during the sign ordinance discussion. Atty relayed the history. Found for Petitioner Hoene that Town was wrong for requesting ROW dedication without compensation. Town also had to pay 46K. There was an appeal filed but the Town later dismissed it. There are no records of the Town's reasoning or argument in court or for why the appeal was dismissed. The final judgment established the following: Town can't require those parcels on Linrose Lane to dedicate additional ROW. But it can require improvements to the 25' roadway per Town standards. Staff has not dug deeper into this issue regarding case study. Give staff sufficient time to determine how this may affect the other 39 ROWs that this judgement may impact. Attorney said he doesn't know what was argued in court. Drainage is a problem – the dedication also provides for drainage and better traffic flow and access for emergency vehicles. CM White said all of those things have a value. Attorney suggested a workshop later in this year.

CM Korn to Atty Bohne – If we require the improvement on Linrose Lane, will it cause a lawsuit? No. CM Korn asked if Council can make that requirement to improve the road. Yes, per the Attorney the Town Code provides reasonable requirements for road improvement standards. Per clarification it is for the 400' improvement within the 25-foot ROW between the end of the accepted portion and the northern most point of Parcel 21.

Acting Chair stated the other issue is how we should deal with the other 39 ROWs/roads that are under the 50-foot width. Acting Chair asked Atty Bohne for an estimate of cost for his research on this issue. Atty said it would be under 5K. Staff will make recommendations to change the Code to address these situations. Looking at doing a workshop. Atty needs to analyze the ruling and study case law.

MOTION: CM White / CM Ball to require Linrose Lane be improved for 400' from the point of acceptance north to the furthest point of parcel 21 using the 25-foot road improvement

standard, noting the three vacant parcels that will benefit will have to pay a road payback per the Code to the road builder. **Vote:** Ayes, 5; Nay, 0

CM Ball said there are many roads all over that are less than what is in the Code. CM Vail said the road payback portion of the Code works. The owner of Parcel 22 cannot be made to participate in the road pay back.

CM White going back to lawsuit. What is the likelihood of facing that type of lawsuit again? Do all lots about a ROW. Atty explained the original Florida Fruit and Lands (or Trucks) plat provided for 40-foot ROW on section lines and 25-foot ROW on half section lines. CM Korn said roads like Rivet Lane should have different requirements than for Corey Road (they do); have different improvement requirements for different road classifications. CM Vail said there is a safety standard that needs to be considered. Fire trucks and the tanker must be able to maneuver. If responding to a fire and the tanker needs to leave to refill, could be a problem on 25-foot roadway.

M. DISCUSSION/POSSIBLE ACTION:

- **Discussion on the Signage Regulations in the Land Development Code**

Atty said that page 4 – under 8) strike that part as a conflict with Supreme Court ruling. PZ Chair Wayne Abare is in favor of taking it out. Atty said the PZ Board simplified this ordinance. CM Korn said – encourage commercial growth. Use the keep it simple process. CM Vail said the topic mentioned during Route 1 Motorsports was the LED animated signs. He didn't see anything specific related to that; 4 seconds to 30 second refresh speed. Wayne said they need to have a minimum of 4 sec to refresh. CM Ball said they don't want signs streaming video. The applicant mentioned at council mtg that it would be 30 seconds, but it was not required or put into a developer's agreement. CM Korn asked Matt to ask FDOT for their standard. Do memo to send back to P&Z regarding refresh rates for animated signs.

- **Discuss Proposed Depth of Six Parcels on the south side of Malabar Road for both R/LC and OI Land Use Designations on FLUM before final adoption.**

CM Vail said splitting the lots on the south side would discourage development. Could do an overlay for these six parcels and require a 75-foot of no touch buffer and an additional 75-feet of greenspace or drainage buffer. CM Ball and White agreed. Intent of P&Z was to follow the property lines. CM Korn says stay with property lines. Go with property lines and make some requirements for consideration for the buffer to depending on whether it was a house of commercial.

CM Rivet said he was contacted by the residential property owners adjacent to these parcels and they oppose using the full depth.

Franklin went over the request from Ms. Hirsch (lot #5) to include her entire ten-acre site as R/LC. The property shown on the map as lot #4 opposes both the split designations and the land use designation of OI.

Acting Chair said bring this back to the first May meeting after notifying property owners.

N. PUBLIC COMMENTS: General Items (Speaker Card Required) none

O. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Ball: Gave Atta boy to T&G as they are doing tremendous work. Also gives an Atta boy to Matt, regarding PW schedule. This is exactly what they were looking for.

CM Vail: PW is really stepping up. What we do with the existing unimproved roads as far as maintenance and ditch cleaning – we need to stand our ground. Property owners must improve road if they want services. Make a discussion item for next meeting.

CM Rivet: Got a call re: the soccer field maintenance. Basically, we are going to do some work on field after season. Matt was on top of issue before he could have a conversation with him about it.

CM Korn: He is an advocate of the fire department. They have 4 FT Lts and 4 PT driver/eng and the PT are not eligible for health insurance. They are going to lose two of those PT due to the lack of insurance. Talk up recruiting more volunteers. Need more local residents. Also need to consider making those 4 part time positions fulltime to encourage retention. It would be worth it to pay for keeping the best fire protection. Need to support our fire department. Making the 4 PTE FT and do a budget amendment now. The FD has earned our support. Put on agenda for next meeting. Bring Chief or one of the Lts to discuss the need for this. CM Vail said the economy is good now and people are getting paid well and they are going to other departments with more pay and benefits being offered.

CM White: Spoke with Scot Nelson, Director of Space Coast Area Transit (SCAT). They did a ride and he gave him several minutes of his time to discuss getting a bus stop in town. Bus must run on a schedule, and if you add a stop then the timing is changed, and schedules are changed. Each bus route costs about 150K. His point was that it is problematic and not justifiable. He recommended we talk with County Commissioner John Tobia. CM White will attempt to make an appointment. CM White thinks it can be done. Use the call feature to get handicap pickups.

Mayor: excused

P. ANNOUNCEMENTS: Openings on Bd of Adjustment and Park and Recreation Bd.

Q. ADJOURNMENT:

There being no further business to discuss and without objection, the meeting was adjourned at 9:23 PM.

BY

CM Steve Rivet, Council Vice-Chair

ATTEST:

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

Date Approved: 4/15/2019

**TOWN OF MALABAR
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 2
Meeting Date: April 15, 2019**

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

SUBJECT: FY 18/19 Budget Amendment (Ordinance 2019-05) - 1st Reading

BACKGROUND/HISTORY:

It is within normal governmental accounting practices to adopt budget amendments during the fiscal year when the legislative body determines they are necessary.

An amendment to the budget is done by ordinance whenever the bottom line of the budget is either increased or decreased. It is also required when funds are moved between departments.

At the last meeting, Council discussed the possibility of amending the current budget to upgrade the four (4) part-time Driver/Engineers to full-time positions in order to offer insurance benefits. CM Korn requested this be added to this agenda for immediate action in the hopes of retaining existing trained personnel that are considering offers from other agencies that provide insurance benefits. He further requested Chief Foley and/or one of the Lieutenants to attend and speak to this issue.

CM Vail spoke at the last meeting about the tight employment environment and how offering health insurance benefits could make a difference.

The additional costs to promote the four positions to full-time is \$37,298.00. That includes wages, FICA, FRS and health and dental premiums.

If Council supports such an amendment, Staff is prepared to transfer \$11,000.00 from other departments, shift \$10,000.00 within the fire department budget and pull \$16,298.00 from unrestricted reserve funds on deposit.

These actions would have no impact on the investment program.

Staff would reiterate the need to educate and explain the need for a referendum question on the 2019 ballot to increase the ad valorem over the 10% cap we are held to under the Special Law.

FINANCIAL IMPACT: for remainder of current fiscal year

\$22,000.00 from current budget

\$16,298.00 funds from reserves on deposit

\$37,350.00 TOTAL

ATTACHMENTS:

Ordinance 2019-05

ACTION OPTIONS:

Approval of first reading of Ordinance 2019-05.

ORDINANCE 2019-05

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2018/2019 TO PROVIDE FOR REALLOCATION OF FUNDS WITHIN DEPARTMENTS; PROVIDING FOR ADDITIONAL FUNDS FROM UNRESTRICTED FUNDS ON DEPOSIT; TO PROVIDE FOR THESE ADDITIONAL EXPENDITURES AS APPROVED BY COUNCIL; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council has approved promoting the four part-time Driver/Engineers to full-time positions to be eligible for benefits as of the date of the promotion; and

WHEREAS, the funds necessary to meet the additional payroll and insurance benefits has been determined to be \$37,298.00; and

WHEREAS, \$11,000.00 of that will be transferred in from other departments and the balance of \$16,298.00 being brought in from reserve funds on deposit; and

WHEREAS, the Town Council has directed that staff prepare a budget amendment to increase the funding source total to \$1,924,571.00 and the expenditures total to \$1,924,571.00 in the General Fund.

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 2018/2019 Fund 001 General Fund be amended from \$1,908,273.00 to \$1,924,571.00 to reflect the increase in the revenues for the General Fund by \$16,298.00.

SECTION 2. Total Disbursements.

Total disbursements in the 2018/2019 Fund 001 General Fund be amended from \$1,908,273.00 to \$1,924,571.00 to reflect the increase in the expenditures for the General Fund by \$16,298.00.

SECTION 3. Funding Source.

The funds necessary to provide for this Budget Amendment to the FY 2018/2019 budget are from reserved funds on deposit.

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 Brian Vail
Council Member Steve Rivet
Council Member Dick Korn
Council Member Danny White

This ordinance was then declared to be duly passed and adopted this 6th day of May, 2019.

TOWN OF MALABAR

By

Mayor Patrick T. Reilly, Council Chair

First Reading: 4/15/2019 Approved ___ to ___
Second Reading: 5/06/2019

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: April 15, 2019**

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

SUBJECT: Discussion of Town's Road Improvement Process

BACKGROUND/HISTORY:

This issue was requested by CM Vail after the discussion on Linrose Lane.

Malabar does have a road improvement standard in Chapter 13. It has been amended over the years with resolutions to provide alternative improvement methods for different types of roadways.

We have created a packet with this information and with an application and a list of engineers and contractors to assist our customers.

We have not had any issues that have needed Council action related to new road construction.

ATTACHMENTS:

Portion of the Road Improvement Packet
Road Paving Packet

ACTION OPTIONS:

Direction to Staff

Portion of
Road Improvement Package



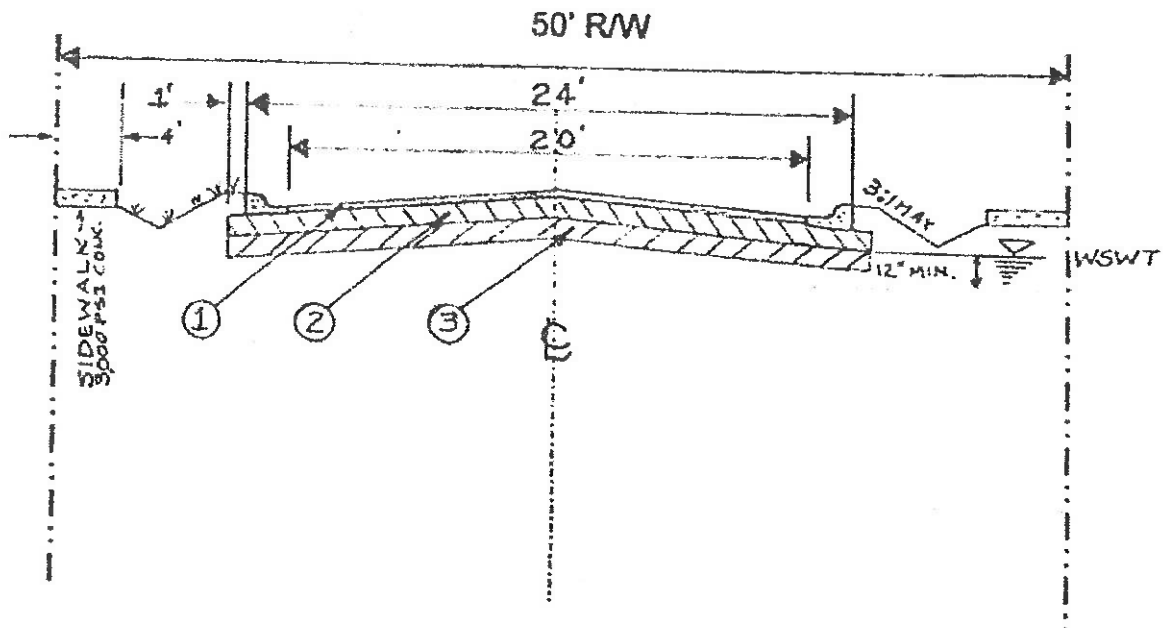
PROCEDURE: Checklist for Right-of-Way Improvement Permits

This page outlines the procedure for improving a TYPICAL right-of-way in Malabar.

Your circumstance may not fall directly into this procedure.

- _____ 1. You must own the land abutting the right-of-way that you are applying to improve. (You do not have to own the land prior to your lot or across from your lot.)
- _____ 2. Fill out a ROAD IMPROVEMENT APPLICATION form.
- _____ 3. Take the Road Improvement Regulations and your completed application to a civil engineer of your choice for surveying and design of roadway and drainage improvements.
- _____ 4. Submit completed application and fee along with three (3) sets of engineering, surveys and other agency permits.
- _____ 5. The applicant is responsible for obtaining permits from other jurisdictions (such as St. John's River Water Management District, Army Corp of Engineers or DEP)
- _____ 6. The contractor is selected by the applicant and approved of by the Town Engineer.
- _____ 7. A copy of the contract with the contractor must provided prior to permitting.
- _____ 8. The packet is reviewed by the Town Engineer for Code compliance. This could take up to 14 business days. The permit is then issued.
- _____ 9. A pre-construction meeting is held at the Town Hall with applicant, contractor and Building Dept Staff to review inspection steps, number of inspections and call in process. **ALL INSPECTION REQUESTS WILL BE SCHEDULED THROUGH THE BUILDING DEPARTMENT. THE CONTRACTOR OR APPLICANT ARE NOT TO CONTACT THE TOWN ENGINEER DIRECTLY. CONSTRUCTION START AND PROPOSED FINISH DATE ARE RECORDED ON THE PERMIT.**
- _____ 10. The construction begins. Copies of moisture compaction and LBR soil tests are to be submitted to the Town and reviewed for compliance by the Town Staff and the Town Engineer. Town Engineer will also perform the agreed upon inspections.
- _____ 11. The Town Engineer approves the completed project and reviews the 'As-Built' drawings for compliance to specifications. Two copies of "As-Built" are furnished to Malabar for the permanent file.
- _____ 12. Evidence of payment for all related costs to the improvement of the right-of-way is submitted to the Town Clerk's office to determine the final costs of the road. Examples of these costs may be: payment to contractor, payment for fill, St. Johns permit fee, lab testing, engineering and surveying. The cost of mitigation is not eligible for inclusion for this purpose. These costs will be certified by Town Council to determine the payback amount per Malabar Code Chapter 13, Section 13-47.
- _____ 13. The ROW improvement is accepted for maintenance by the Town Council (during a regular Council meeting), and a payback schedule is recorded with the Town Clerk.
- _____ 14. A building permit can now be issued for the development of the parcel.

EXHIBIT "A"
TYPICAL PAVED ROAD SECTION WITH CURBS FOR 50' WIDE R/W



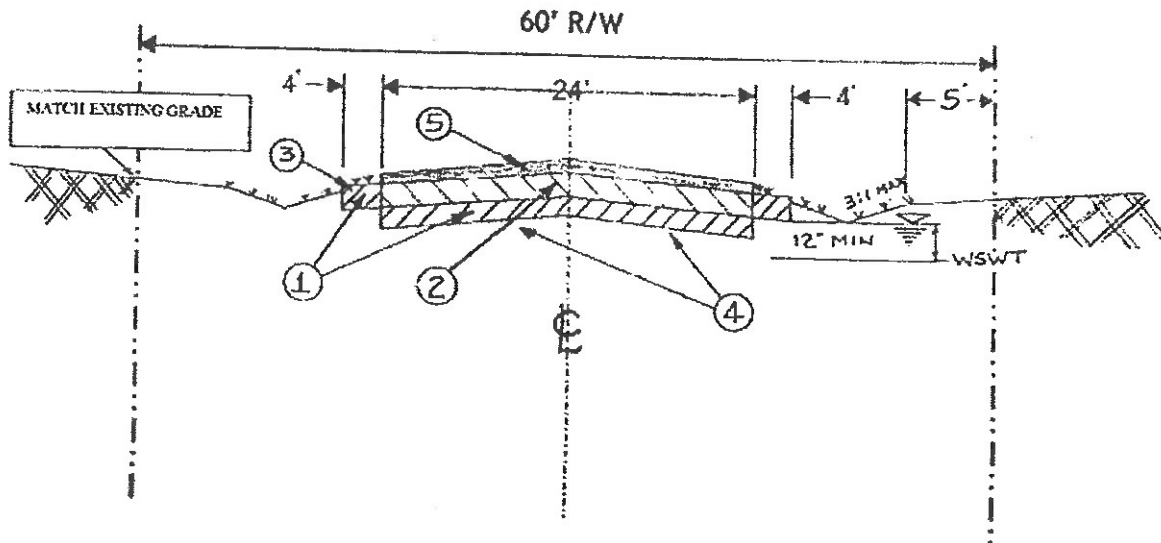
CLEAR & GRUB 50' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES

- 1 CAP ROAD W/MINIMUM 1.5" THICK TYPE S-1 OR TYPE III ASPHALTIC CONCRETE SURFACE (MINIMUM 1500 PSI MARSHALL)**
- 2 BASE MINIMUM 6" THICK COMPLYING WITH FDOT "BASE THICKNESS AND OPTION CODES"**
- 3 STABILIZED 8" THICK SUB-BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40**
- 4 STABILIZED SHOULDERS BOTH SIDES AND SOD ADJACENT TO THE PAVEMENT MINIMUM 2' WIDE**
- 5 CURB & GUTTER TO BE 3,000 PSI MIN. CONCRETE**
- 6 DRAWING IS NOT TO SCALE**

Exhibit A

EXHIBIT "B-1"

TYPICAL PAVED ROAD SECTION FOR 60' WIDE R/W

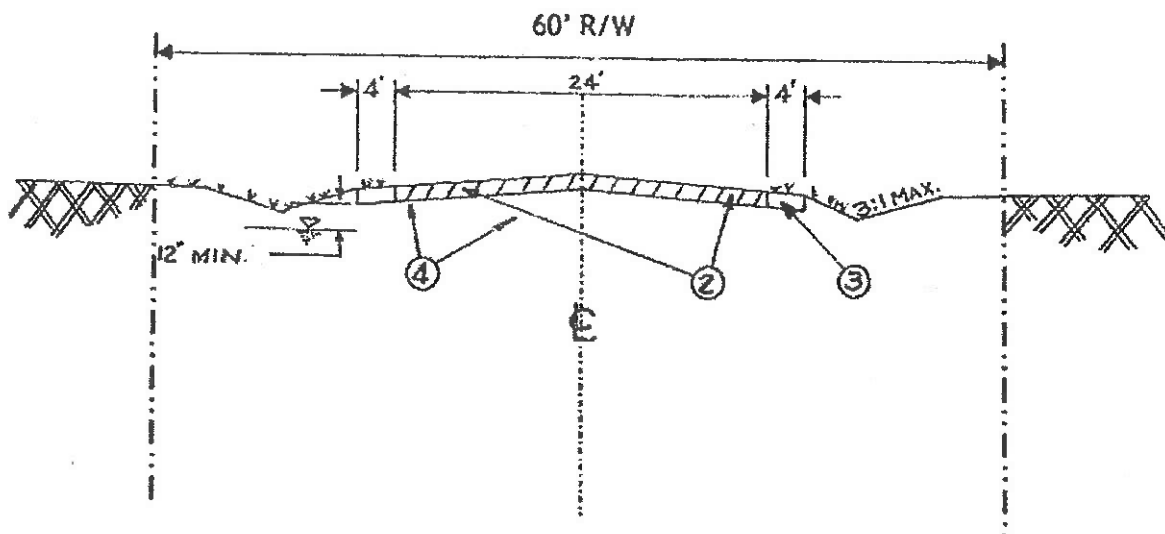


- CLEAR & GRUB 60' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES. DISPOSE OF ALL DEBRIS OFF SITE.
1. STABILIZED & MECHANICALLY MIXED 8" THICK ROAD SUB-BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40
 2. BASE MINIMUM 6" THICKNESS (COMPLY WITH FDOT BASE THICKNESS AND OPTION CODES)
 3. STABILIZED SHOULDERS BOTH SIDES AND SOD ADJACENT TO THE PAVEMENT MINIMUM 2' WIDE AND ON SWALE BANKS. SWALE SIDE SLOPES MAX 3:1.
 4. SUITABLE SOILS FREE OF ORGANICS. COMPACT TO 98% DENSITY PER AASHTO T-180
 5. CAP ROAD W/MINIMUM 1.5" THICK TYPE S-1 OR TYPE III ASPHALTIC CONCRETE SURFACE (MIN. 1500 PSI MARSHALL).
 5. DRAWING IS NOT TO SCALE

Exhibit B-1

EXHIBIT "B-2"

TYPICAL UN-PAVED ROAD SECTION FOR 60' WIDE R/W

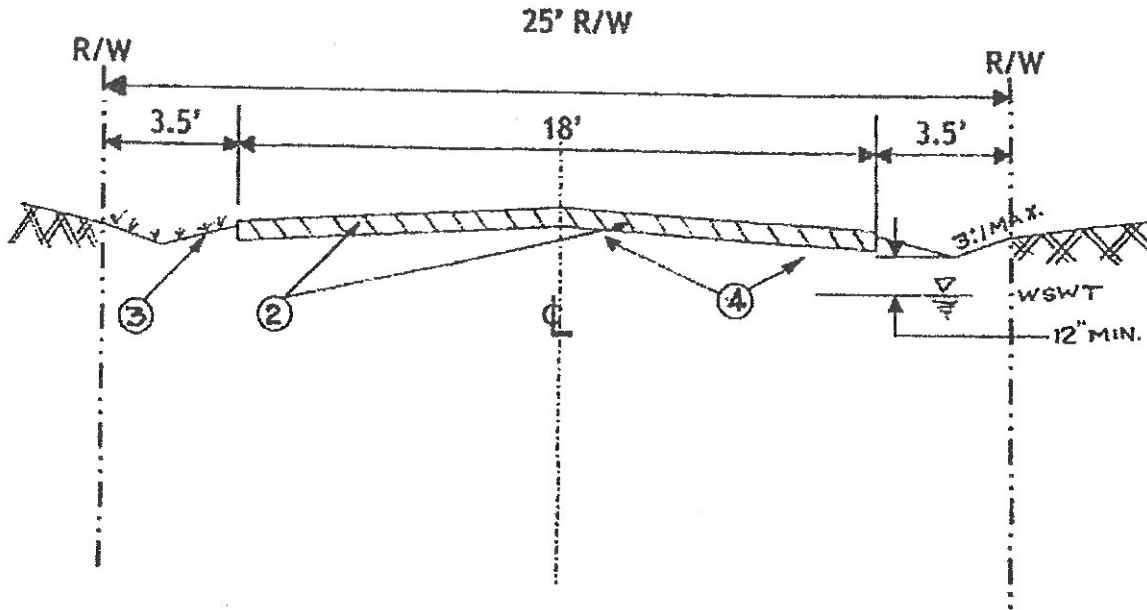


1. CLEAR & GRUB 60' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES. DISPOSE OF ALL DEBRIS.
2. STABILIZED AND MECHANICALLY MIXED 8" THICK ROAD-BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40
3. STABILIZED SHOULDERS BOTH SIDES. SOD ADJACENT TO THE PAVEMENT MINIMUM 2' WIDE AND ON SWALE SLOPES.
4. SUITABLE SOILS FREE OF ORGANICS. COMPACT TO 98% DENSITY PER AASHTO T-180
5. DRAWING IS NOT TO SCALE

Exhibit B-2

EXHIBIT "B-3"

TYPICAL UN-PAVED ROAD SECTION FOR 25' WIDE R/W



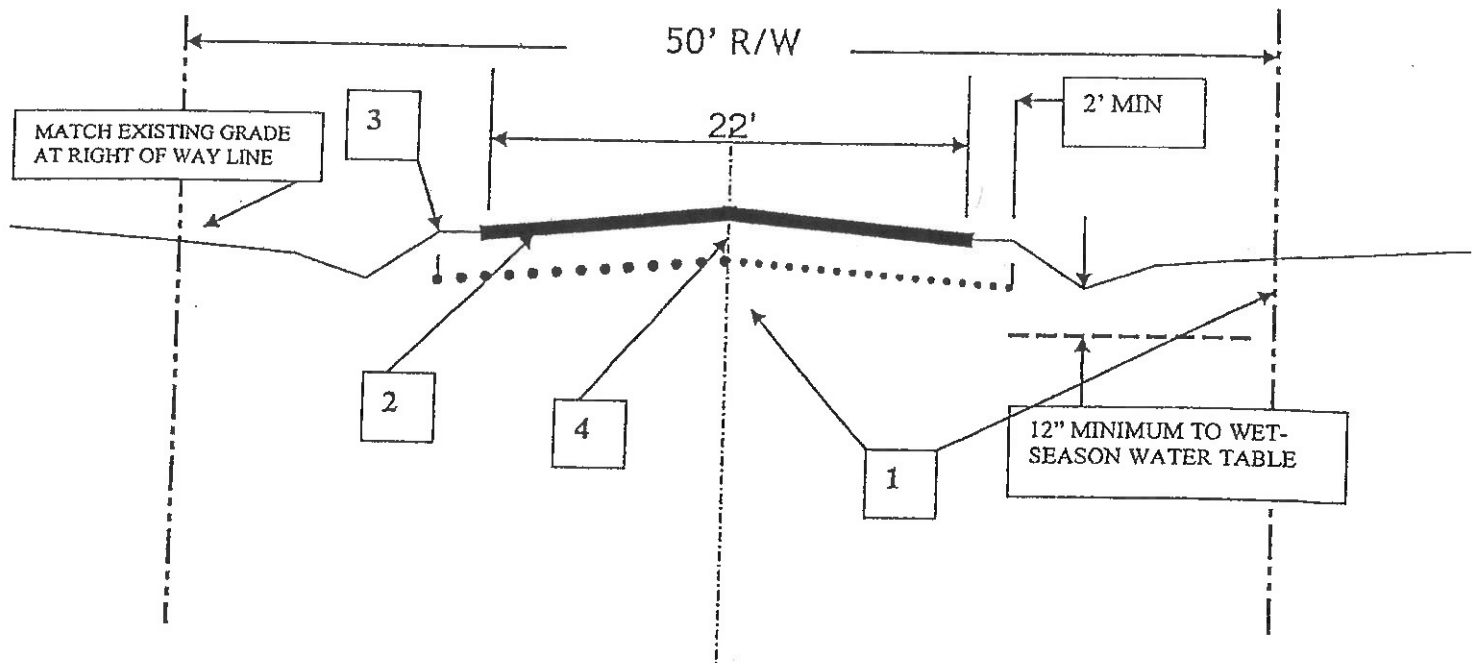
1. CLEAR & GRUB 25' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES
2. STABILIZED & MECHANICALLY MIXED 8" THICK ROAD-BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40
3. SOD ADJACENT TO THE PAVEMENT MINIMUM 2' WIDE AND ALONG SWALE SLOPES
4. SUITABLE SOILS FREE OF ORGANICS. COMPACT TO 98% DENSITY PER AASHTO T-180
5. DRAWING IS NOT TO SCALE

Exhibit B-3

(Res. No. 14-02, § 2, 8-19-02; Res. No. 12-04, § 1, 10-18-04)

EXHIBIT "B-4"

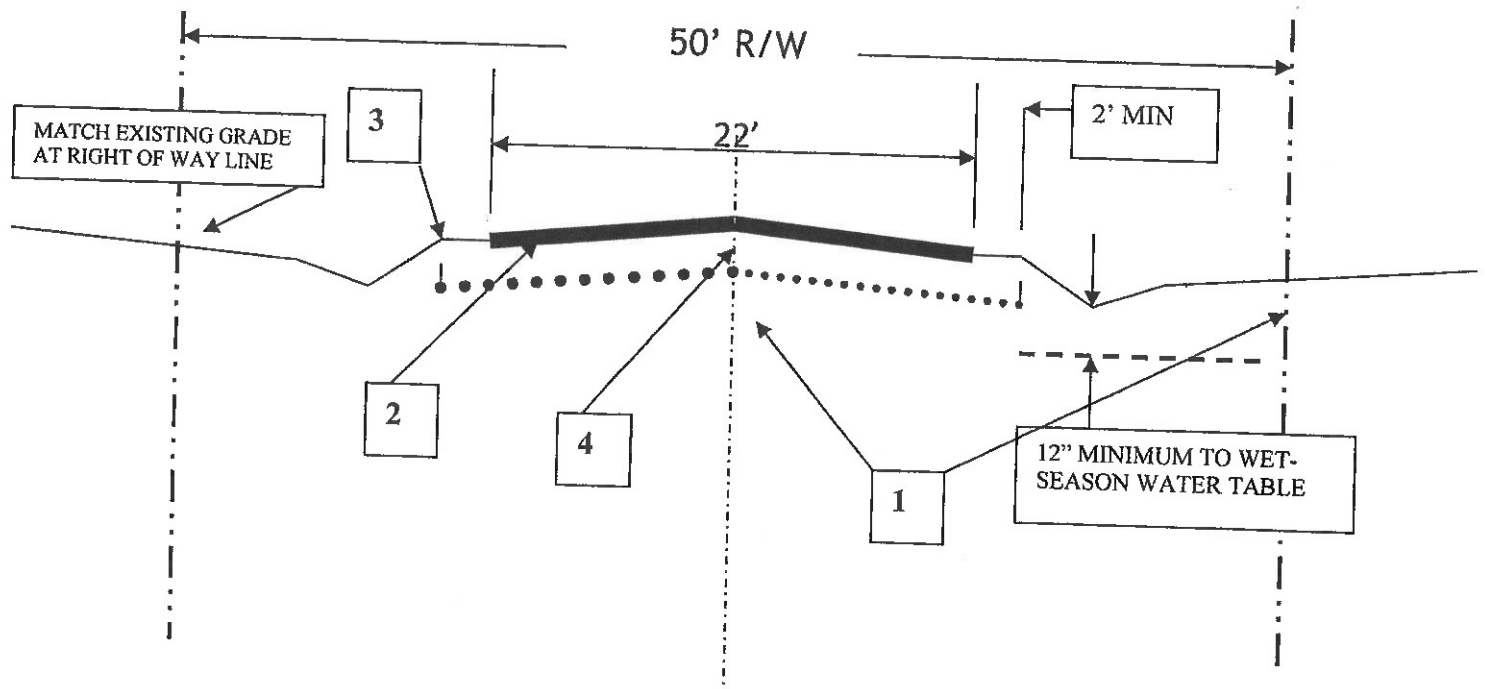
TYPICAL UNPAVED ROADWAY SECTION FOR 50' WIDE R/W



1. CLEAR & GRUB 50' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES AND DISPOSE OF ALL DEBRIS OFF SITE.
2. STABILIZED & MECHANICALLY MIXED 8" MINIMUM THICKNESS ROAD BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40. USE FDOT APPROVED MATERIALS OR LOCAL MATERIALS APPROVED BY TOWN ENGINEER.
3. STABILIZED SHOULDERS BOTH SIDES AND SOD ADJACENT TO THE PAVEMENT MINIMUM 2' WIDE AND ON SWALE BANKS. SWALE SIDE SLOPES MIN. 3:1. BACKSIDE OF SWALES MAY BE SEEDED.
4. SUITABLE SOILS FREE OF ORGANICS. COMPACT SOILS TO 98% DENSITY PER AASHTO T-180.
5. DRAWING IS NOT TO SCALE.

EXHIBIT "B-5" Country Lane

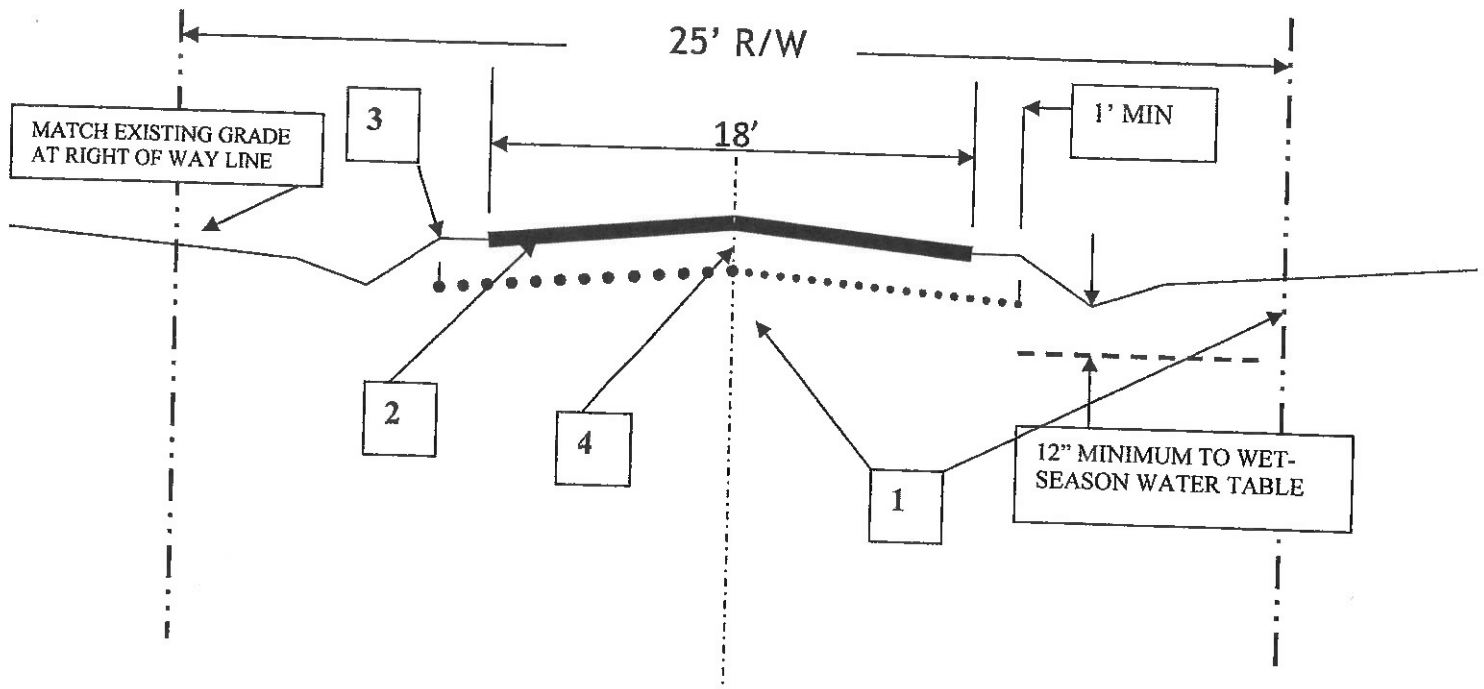
TYPICAL UNPAVED ROADWAY SECTION FOR 50' WIDE R/W



1. CLEAR & GRUB 50' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES AND DISPOSE OF ALL DEBRIS OFF SITE.
2. STABILIZED & MECHANICALLY MIXED 8" MINIMUM THICKNESS ROAD BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40. USE FDOT APPROVED MATERIALS OR LOCAL MATERIALS APPROVED BY TOWN ENGINEER.
3. STABILIZED SHOULDERS BOTH SIDES AND SOD ADJACENT TO THE TRAVELWAY ON EACH SIDE A MINIMUM 4' WIDE; SOD A MINIMUM OF 2' WIDE IN CENTER OF RIGHT-OF-WAY; SOD SWALE BANKS. SWALE SIDE SLOPES MIN. 3:1. BACKSIDE OF SWALES MAY BE SEEDED. SOD OR SEED OF THE ENTIRE ROADWAY SHALL BE AS APPROVED BY TOWN ENGINEER.
4. SUITABLE SOILS FREE OF ORGANICS. COMPACT SOILS TO 98% DENSITY PER AASHTO T-180.

EXHIBIT "B-6" Country Lane

TYPICAL UNPAVED ROADWAY SECTION FOR 25' WIDE R/W



1. CLEAR & GRUB 50' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES AND DISPOSE OF ALL DEBRIS OFF SITE.
2. STABILIZED & MECHANICALLY MIXED 8" MINIMUM THICKNESS ROAD BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40. USE FDOT APPROVED MATERIALS OR LOCAL MATERIALS APPROVED BY TOWN ENGINEER.
3. STABILIZED SHOULDERS BOTH SIDES AND SOD ADJACENT TO THE TRAVELWAY ON EACH SIDE A MINIMUM 2' WIDE; SOD A MINIMUM OF 2' WIDE IN CENTER OF RIGHT-OF-WAY; SOD SWALE BANKS. SWALE SIDE SLOPES MIN. 3:1. BACKSIDE OF SWALES MAY BE SEEDED. SOD OR SEED OF THE ENTIRE ROADWAY SHALL BE AS APPROVED BY TOWN ENGINEER.
4. SUITABLE SOILS FREE OF ORGANICS. COMPACT SOILS TO 98% DENSITY PER AASHTO T-180.

Road Paving Package

TOWN OF MALABAR

ROAD PAVING PROCESS

There have been multiple requests on how residents on a dirt road can petition to get their road paved. The following based on the current Malabar Code and Florida Statutes on Special Assessments.

Reference Chapter 13 of the Malabar Code of Ordinances and Florida Statute 170.

Chapter 13, Section 13-52 of the Code of Ordinances of the Town provides for the use of Special Assessments to fund road paving. The Town may initiate a special road paving assessment, which it has not done, or the Town will pursue a special road paving assessment by petition. The petition option involves the following:

First, the dirt road must already have been improved and on the accepted streets list for maintenance. These are the steps:

- Complete the information in the Petition heading regarding location and distance for paving improvements.
- Interested person circulates the Petition and gathers supporting signatures along the proposed area
- Petition is submitted to the Town
- Town verifies the road is on the accepted street list and pulls records of road improvement to confirm the distance and frontage of parcels on the roadway.
- Town requests a preliminary estimate of the cost to pave the proposed length of subject roadway
- Town creates a rough estimate of the total cost to pave to include, paving, base material, testing, stormwater improvements, grading, surveying, administrative, legal and miscellaneous costs.
- Letters are sent out to all property owners within the subject Petition area providing the preliminary cost estimate "NOT TO EXCEED" and a request to sign approval to continue and support such a special assessment, or decline
- If property owners of 2/3 of the frontage under consideration return letters in support of the pavement, the Special Assessment will go forward. Town Staff will get formal cost estimates, testing will be performed, base material costs will be attained, surveying of any culvert upgrades will be performed and a final estimate will be created.
- Town includes all information in the Special Assessment Resolution. The meeting for its adoption is advertised as a Public Hearing and notices are sent to all property owners on the roadway. If it is approved, an assessment map and assessment roll are drawn up and recorded and letters to property owners are sent with the final cost per parcel and the options available to pay. We have the due date for first payments after the paving is complete.
- Town proceeds with the road paving.

Each road is unique and so these are not hard and fast steps, but this should provide a good example. Parcels that are accessed from another roadway, are not included in the calculation. If they have a second access from the roadway they would be included. If you have any questions during the process, feel free to call Town Hall.

Makbar Code

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

§ 13-52

owner may file with the town clerk a notice of assignment on a form approved by the town, which notice of assignment shall be recorded by the clerk in the official certified costs records, in which case the clerk shall pay such monies over to the assignee upon reimbursement as set forth hereinabove. Such assignee shall have the same obligation to keep the town clerk informed of any changes of address and the same procedure shall be utilized in the event that reimbursed monies are not deliverable to such assignee, after which time such monies shall be forfeited as described hereinabove. No assignment to such funds may be made to any individual other than a successor in interest to the real property that abuts such street upon which the improvement was made.

(Ord. No. 01-01, § 1-16, 2-5-01)

Sec. 13-52. Levy of special assessments for street paving, construction or hard surfacing.

(1) Pursuant to F.S. Ch. 170, the town council may, from time to time, levy special assessments for paving, hard surfacing, and construction of streets, as well as other purposes permitted by F.S. Ch. 170. The town reserves the right to levy such special assessments from time to time.

(2) As an alternative to the provisions of subsection (1) above, upon petition signed by the owners of two-thirds ($\frac{2}{3}$) or greater of the front footage on any street or road requesting the town council to construct, pave, or hard surface such street or road, the town council of the town shall, upon a finding by the council that the petition is in sufficient form, substance and execution, direct town staff to determine the preliminary cost for such construction activity. Within thirty (30) days of notice sent to the owners, via regular mail to the address appearing on the petition, signing the petition of the preliminary determination of such construction cost an owner may notify the town of their desire to be excluded from the petition. If an owner timely requests they be excluded from the petition then their name shall not be considered as joining the petition.

- a. At the expiration of the thirty-day notice period above and if there are enough owners removed from the petition to drop below the two-third ($\frac{2}{3}$) threshold requirement the petition shall be deemed rejected and no further action shall be required.
- b. At the expiration of the thirty-day notice period above and if there are enough owners to meet the two-third ($\frac{2}{3}$) threshold requirement the town council may approve the construction and order a special assessment imposed in accordance with the procedures of F.S. Ch. 170. Notwithstanding any owner whose name is excluded from the petition, if the town council determines to approve the construction and the imposition of the special assessment for such construction, all owners of property benefited from the construction improvement shall be subject to the special assessment.

(3) The form of the petition provided for herein shall be supplied by the town.

(4) Provisions for the pay back of any special assessment imposed pursuant to this section shall be set forth in the resolution required by F.S. Ch. 170. *Reso 15-2012*
(Ord. No. 01-01, § 1-17, 2-5-01; Ord. No. 12-54, § 1, 7-16-12)

RESOLUTION 15-2012

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR METHOD OF COLLECTING THE ASSESSMENT WHEN LOCAL STREETS ARE HARD SURFACED AT THE REQUEST OF PROPERTY OWNERS; PROVIDING FOR THE REPEAL OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the code provides for a method of petitioning Council to make certain road improvements to local streets and assess the property owners that benefits from such improvements; and

WHEREAS, the Council has determined that property owners with large amounts of frontage may require more time to pay the assessment and desire to provide a time frame for repayment; and

WHEREAS, after a review of the method used by other municipalities Malabar Town Council has determined that a assessment pay schedule spanning one to three (1 to 3) years is appropriate at this time.

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

SECTION 1. That the following assessment schedule is established and will be provided to property owners seeking to petition Council for road improvements, namely hard surfacing of dirt roads in the Town of Malabar.

Assessments of \$2,500.00 or less	1 year from assessment date.
Assessments of \$2,501.00 - \$6,000.00 ,	2 years from assessment date.
Assessments of \$6,001.00 - \$10,000.00.	3 years from assessment date.

The assessment amount is determined by adding all expenses related to the road improvement and dividing by the frontage improved. Once a per-foot cost is determined, then each property owner's assessment is determined and invoices will be sent out. Property owners will be provided one to three years to pay the assessment to the Town based on the above schedule. All such properties assessed will be subject to a lien to be recorded in the Public Records of Brevard County, Florida until the assessment is paid in full. Once the assessment is paid in full the lien will be satisfied by the Town.