

**TOWN OF MALABAR
REGULAR TOWN COUNCIL MEETING
MONDAY APRIL 18, 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 MINUTES:**
- 1. Regular Council Mtg of 4/04/16**
- Exhibit:** Agenda Report No. 1
- Recommendation:** Request Approval
- E. SHERIFF REPORT:**
- F. ATTORNEY REPORT:**
- G. STAFF REPORTS: ADMINISTRATOR: CLERK: SpringFest**
- 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. Presentation: SR 514 widening project by Space Coast TPO, FDOT and Atkins Engineering.**
- 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: 1**
- 3. Policy Guidelines for Working with Developers**
- Exhibit:** Agenda Report No. 3
- Recommendation:** Request Action
- COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME
- L. DISCUSSION/POSSIBLE ACTION:**
- 4. Amend Code to Require Council approval of expenditures over \$1000.00 not identified in the budget.**
- Exhibit:** Agenda Report No. 4
- 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 18, 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 – 4/04/2016

ATTACHMENTS:

Draft Minutes of the following meeting:

- Regular Town Council Meeting – 4/04/2016

ACTION OPTIONS:

The Town Clerk requests approval of the minutes.

MALABAR TOWN COUNCIL REGULAR MEETING
April 4, 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. CM Kohler 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 was not present.

C. APPROVE AGENDA - ADDITIONS/DELETIONS/CHANGES – none – agenda is approved

D. APPROVE MINUTES – 3/7/16 & 3/21/16

MOTION: CM Krieger / CM Kohler to approve RTCM 3/7/16 as corrected.

Discussion: Krieger: item 3, 1st pg see corrections

Vote: All Ayes.

MOTION: CM Kohler / CM Ball to approve RTCM 3/21/16 as corrected.

Discussion: Krieger: pg

Franklin said that P&Z Member asked that for the record in the minutes where Teimouri stated he asked Ryan why he was against project Mr. Ryan did respond to him. Chair said that is not relevant to what was said in meeting.

Vote: All Ayes.

E. SHERIFF'S REPORT: no one present

F. ATTORNEY REPORT: none

G. STAFF REPORTS: ADMINISTRATOR:

TA briefed Council on ADA restroom that is now in place. Will go forward on septic and electrical. CM Korn asked about drinking water. TA explained the pump and pressure system if the stand alone. CM Vail said there was talk about putting water and Community Park. **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.**

I. PUBLIC HEARINGS / SPECIAL ORDER: 1

2. Discuss and Create Policy Guidelines for Working with Developers (Postponed at 3/21/16 meeting to this meeting.)

Exhibit: Agenda Report No. 2
Recommendation: Request Action

MOTION: CM Vail / CM toChair would have expected to be handed a motion by someone to read re: this issue. Chair explained the purpose of drafting a motion regarding the item you are discussing. If you have strong feeling about issue, propose a motion to start the discussion and then as the discussion proceeds the motion can be modified. This is a more efficient way of handling topics that have been postponed. The time between meetings is the time to focus on proposed wording of a motion. If it has been postponed, there should be something you had in mind that you wanted to see developed.

CM Vail said he doesn't want to formulate a motion until after he hears from the other council members. CM Ball also explained the benefit to having a motion in mind when an item is brought back.

CM Krieger / CM Korn to table. Ayes 3; Nay, 2 (Vail, Ball) Item tabled until 4/18/16.

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

K. ACTION ITEMS:

**ORDINANCES FOR FIRST READING: 0; RESOLUTIONS: 0
MISCELLANEOUS**

3. Discuss Parity in Districts

Exhibit: Agenda Report No. 3
Recommendation: Request Action

CM Krieger requested this item. He wanted to verify that the districts are evenly balanced. He got counts from the SOE and they do not appear to be balanced. Franklin explained that it is based on population, not registered voters. She has been working on this with the Council Property Appraiser's Office and their GIS Department to create map showing where the population lives.

Discussion:

MOTION: CM Korn / CM Kohler to table until that information is received. Vote: All Ayes

4. Discuss Malabar LDC Art V Malabar Vernacular

Exhibit: Agenda Report No. 4
Recommendation: Request Action

CM Vail asked for this to be put on the agenda. The Malabar Vernacular is intended to give curb appeal on our corridor and if it is a commercial structure it should look like this.

Discussion:

MOTION: CM Krieger / CM Korn to modify 1-5.29. 10. f. to state that all structures require design review and the following may petition for waiver from the vernacular.

CM Krieger said originally it would not include a Spanish structure. Franklin will provide pictures from the adopted ordinance. CM Krieger heard from two P&Z members that said they never saw the elevations. Atty Bohne said that it was not possible for the P&Z Board to review the site plan and not see the elevations. The Atty also said the additional cost to build vernacular styles on churches, synagogues and even hospitals would be challenging. Atty said if they amend the code to provide for a waiver; then anyone should be able to petition for a waiver.

Speaker's card, Marisa Acquaviva, Baywood Court. She was on Council when this site plan was reviewed and approved. She knows it came before P&Z before it went to Council and the elevations were part of the review. Pay attention and do your due diligence. When the building started to go up she knew it was a church but was asked by people who were involved in its approval what was being built.

CM Vail said there should be something to break up the front and give some curb appeal. He referenced John Rhodes Blvd and Ellis Road. The mini-storage across the street was the project that caused Malabar Council's interest in adopting the vernacular. CM Korn said the UPS building in Palm Bay is a metal building. Some have had the façade changed. Thinks we are exceeding our mandate. Just like Palm Bay exceeded theirs in requiring similar colors of paint. CM Krieger said how many more properties could be built on in this area.

MOTION: CM Krieger / CM Vail to table. **Vote:** All Ayes.

CM Vail said in reference to Item 2, he prefers to make a motion at the meeting and then discuss. And give direction to Atty and staff to resolve. He is confused. Chair said this is just a method to make the meeting more efficient. Chair if you formalize it it goes smoother.

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME – Consensus to have him stay.

L. DISCUSSION/POSSIBLE ACTION:

5. Discuss process of "Piggy-backing" on contracts

Exhibit: Agenda Report No. 5

Recommendation: Request Action

CM Krieger requested this item. He went through a presentation on his flash drive on stormwater projects that have been initiated and/or completed without the authorization by Council. TA said many of these were initiated by his predecessor. His opinion is that everything over a few thousand dollars should get three prices. He also agrees that any extraordinary expense be brought to council even if it has been approved by council.

CM Korn said the micro surfacing was piggy backed. He questioned the John Brown & Sons situation at D&D Ranch. He was led to believe that everyone else was knew what was going on. The difference in using our in house staff. This work needed to be done. It is going to cost well in excess. CM Vail said the amount of work done by Brown well exceeded our Malabar's equipment capabilities. It would have taken our staff six months what this machine did in three weeks. Until the follow the Raindrop Tour Council didn't know we did work on private land. When we went down Hall Road there was damage to the asphalt from Brown's equipment. CM Korn said the work they did on Weber was very good. Maybe establish a procedure going forward, be transparent.

Chair without objection, allow speaker.

Skip Hard, Hard Lane, how did George Washington die, he bled out. Their intentions were good but the outcome wasn't good. We need procedures on how this is done so it is codified. He has talked to Hoyt and he has great ideas.

CM Vail said we approved at budget time for certain expenditures. It has been common practice to then expend the monies; he asked if they are proposing going back before council before expending.

Discussion:

TA explained his visit to Nelson and if funds are available then discuss where to put those monies. In his opinion, it is better to get culvert pipes installed to carry the stormwater.

CM Korn / any expenditure over 1000.00 must be approved by council. No second.

CM Krieger asked Council to review his presentation. Look at his suggestions.

MOTION: CM Krieger / CM Kohler to postpone item until next meeting. To talk about it at the next meeting. **Vote:** All Ayes. Vail would like legal opinion on expenditures put in the budget. Present something for next meeting.

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

N. REPORTS – MAYOR AND COUNCIL MEMBERS

Hoyt: 4/18 FDOT put them right after approval of minutes.

3/1)CM Ball – If you have something want on the agenda, make the motion and get it started for discussion. If you bring it and give your reasons and then listen to others and may change. He sees what the Mayor is talking about. Make some money of bucket dump; do it right in pairs. \$5 for three balls. Make it fun and work for the fun. Grant volunteered to donate beer, 2 lite and 1 yengling.

2/2)CM Vail – piggy backing and approved budget are two separate items for agenda; as far as motions he tries to prepare for each meeting. He doesn't have a resolve he wants to hear from fellow council. Chair is just trying to get everyone's mind working. Doesn't want the impact fees to be forgotten. Don't let it slip away. Chair said it can go on a future agenda. He will try to make it to 18th meeting. Bucket dump done

1/3)CM Krieger – Discussion on expenditures approved; ask questions put his item on agenda. Repeal of all previous reso dealing with council procedures. Franklin will provide to all.

4)CM Korn – thought the memorial was on for tonight. Forgot it was set for May meeting. Got a couple of negative. Talk to residents at SpringFest. He cautions council to abide sunshine. Wants this time to complement the work accomplished in the TA position. Part of his hiring was to have a probation. Would like to acknowledge he has met the probationary period.

5)CM Kohler – nothing

Interim Mayor - Pleasure working with you all. Doing very well.

Franklin pointed out the pamphlet from Juliana. Chair said bring your thoughts to the 4/18

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:

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

BY: _____
Mayor Phil Crews, Council Chair

(seal)

ATTEST:

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

Date Approved: 4/18/2016

PRESENTED BY CM DON KRIEGER
AT THE REGULAR TOWN COUNCIL MEETING
APRIL 4, 2016

22 pages

PURCHASING

&

Piggy Backing

OBJECTIVE

- Discuss the process known as “piggy backing”
- Suggest an ordinance change
- Present some concerns about recent expenditures that did not follow our ordinances
- Discuss corrective actions going forward

QUESTIONS

- Does the interpretation of piggy back in the CURRENT TOWN CODE provide :
 - Purchases limited to a maximum of the \$10,000.00 threshold W/O Council approval
 - Contract copy maintained on-site
 - Numerical tracking of ALL contract documentation
 - Written agreement between ALL parties
 - Time, scope, and expense limit

NONE of the itemized expenses listed in the right hand column were approved by the Council.

Paid to
John Brown & Sons, Inc.

Piggy Back expenditures based on
Palm Beach County Piggy Back contract

Although individual expenses are BELOW the \$10,000.00 threshold, the TOTAL for the job EXCEEDS the threshold

- 07/13/2015 \$3250.00
- 07/14/2015 \$4900.00
- 07/28/2015 \$4900.00
- 10/05/2015 \$5200.00
- 10/12/2015 \$5200.00
- 10/19/2015 \$6500.00
- 10/26/2015 \$3900.00
- 11/02/2015 \$5200.00
- 11/02/2015 \$5200.00
- 11/02/2015 \$6500.00
- 11/12/2015 \$3900.00

- Total **\$54,650.00**

Town Code – ARTICLE V, - PURCHASING (Current)

- 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)

Town Code – ARTICLE V, - PURCHASING (Proposed)

- **Sec. 2-101, - Competitive bids**
- Every expenditure of the town which exceeds ten thousand dollars (\$10,000.00) must be first approved by the Council.
- Every contract entered into by the town, which exceeds the ten thousand dollar (\$10,000.00) threshold, shall first have bids solicited from three (3) reputable bidders, or advertised as a request for bids online. Contracts shall be awarded, if at all, to the lowest and best bidder.
- Bid specifications shall include a comprehensive description of the goods, supplies, or materials to be furnished. No contracts for personal services will be allowed.
- Each contract will contain the exact scope of work, duration of the contract, and rates or fixed prices associated with the scope of work.
- Every contract entered into by the town will be assigned a unique, serialized job number which includes a year designator. This job number will also be affixed to all documentation associated with every job, which includes, but is not limited to, invoices, correspondence, and checks. This shall also apply to piggy back contracts.

Town Code – ARTICLE V, - PURCHASING (Proposed)

- **Sec. 2-101, - Competitive bids (Continued)**
- Piggy-backing contracts with Federal, State, and Municipal governments shall be allowed with the following additional requirements:
 - Written authorization shall be obtained from both the vendor and the governmental agency to allow the piggy-backing.
 - A copy of the original contract shall be maintained in the Town and the contract shall clearly state the scope of work, duration of contract, and rates or fixed prices associated with the scope of work.
 - The scope of work in the original contract shall be the same as the work to be contracted with the Town.
 - An agreement must be signed by designated signatories of the Town and Vendor based upon the original contract. The agreement cannot have a period of performance beyond the expiration of the original contract.
 - If the aggregate amount of the contracted work to be done is expected to exceed \$10,000, it must be approved by Council.

Double-D Ranch

What Happened?

Initial Job Objectives

- Replace under-sized culverts on Double-D Ranch, which is PRIVATE property.
- Alleviate severe stormwater drainage problems in the southwestern section of town.

PROBLEMS

- No written agreement for this work between the Town of Malabar and the owners of the Double-D Ranch
- No written contract between Town of Malabar and CDM Trucking, Inc. (performed work)
- Job was never publicly advertised for bids although the cost of job exceeded the \$10,000.00 threshold specified in Town Code - Sec. 2-101. - Competitive bids
- Double-D project was “started” by the Town Clerk (see attached CDM “bid” 7/29/2015)
- Payment was “approved” by the Town Engineer. (see attached CDM Invoice #1391)
- Town has paid CDM trucking , Inc. \$28,548.00 by check #58849, which is 90% of the total bill. Check was signed by Town Clerk and Town Administrator (see attached photo of check #58849)
- NO on-going written agreement between the town and the Double-D Ranch landowner that would allow the town to MAINTAIN the new culvert or the ditches to and from the culvert

Authorization to Start?

Letter dated September 29, 2015, from CDM Trucking, Inc. to Debby Franklin, Town Clerk/Treasurer, itemizing the costs of individual elements of the job for the Double-D Ranch, as well as the total cost of \$31,720.00

Hand written notation at top right indicates it is for the "A2 Project" (Double-D Ranch) and "P.O. 3649"

Official circular "APPROVED" stamp near center bottom contains what appears to be the initials "DKF"

Hand written notation near bottom right asks, "Can you mobilize & start 10/1/15 or soon there after?" This includes the signature of Debby Franklin and the number 321-727-7764

CDM TRUCKING, INC.
 P.O. Box 290 • Grant, FL 32949
 TELEPHONE: (321) 509-3297 FAX (321) 984-7899

Project A2
P.O. 3649

Debby Franklin, C.M.C.
 Town Clerk / Treasurer
 Town of Malabar
 2725 Malabar Road
 Malabar, FL 32950-4427

September 29, 2015

Project: 36" Storm Pipe Extension - Dr. Cronin Property

DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
Mobilization	1	LS	\$2,250.00	\$2,250.00
Collars to connect pipe (Dissimilar materials)	2	EA	\$1,050.00	\$2,100.00
Dewatering	1	LS	\$8,500.00	\$8,500.00
Filter stone	42	TN	\$60.00	\$2,520.00
Filter fabric	2	RL	\$350.00	\$700.00
36" ADS pipe	180	LF	\$80.00	\$14,400.00
Rip rap rubble for pipe end discharge	1	LS	\$1,250.00	\$1,250.00
Total				\$31,720.00

CDM Trucking, Inc.

Jeff Lyle
 Estimator



Can you mobilize + start 10/1/15 or soon there after?
Debby Franklin
321-727-7764

Authorization to Pay?

CDM Trucking, Inc. Invoice #1391 for \$31,720.00, dated 12/7/2015

"A/P Approval/Payment Process" stamp with signatures of "C. Kelly/D. Franklin"

Hand written notation "Job 2A"

Circled, Hand written notation near bottom center with date "01.06.16." Includes "O.K. 2. pay-" and initials that appear to be "JMS" (Town Engineer?)

The payment check is dated 12/11/2015 and posted 12/14/2015. But this project was not "approved" until January 6th, 2016

CDM Trucking, Inc.
 P.O. Box 290
 Grant, FL 32049
 FL Lic.# CDC1224459
 Fire Cont.# FPC11-000060

Invoice

Date	Invoice #
12/7/2015	1391

Bill To
 Town of Seaboard
 2720 Mablew Rd
 Mablew, Florida 32056
 Phone: 321-922-2164
 Fax: 321-922-2254

A/P Approval/Payment Process
 TC/TA & P.D. # [Signature]
 TA: [Signature]
 C.M. Review: [Signature]

Job 2A

Date Paid: _____
 Check #: _____
 Acct: ~~5261300~~ 175000
 P.O. # 3649

Item	Quantity	Description	Rate	Service	Amount
Mobilization	1	Mobilization	2,250.00	12/22/15	2,250.00
Man	4	Collar to Connect Pipe (Dissimilar Material)	1,910.00		2,100.00
De-waxing	1	De-waxing	8,500.00		8,399.00
57 Rock	42	Filter Stone	79.02		2,329.00
Man	2	Filter Fabric	350.00		260.00
Stone/Drain	180	36" ADS Pipe	80.00		14,400.00
Reg. Rep	1	Rubble for Pipe End Discharge	1,250.00		1,250.00
Total					\$31,720.00
Payments/Credits					\$0.00
Balance Due					\$31,720.00

01.06.16
 O.K. 2. pay-
 JMS

Phone #	Fax #	E-mail
321-924-7959	321-924-7859	CDMTruckingInc@gmail.com

Partial Payment

Town of Malabar check # 58849, dated 12/11/2015, payable to CDM Trucking, Inc., in the amount of \$28,548.00

Check is signed by the Town Clerk, "D. Franklin" and apparently has the initials of the Town Administrator, Douglas Hoyt, "D M C H"

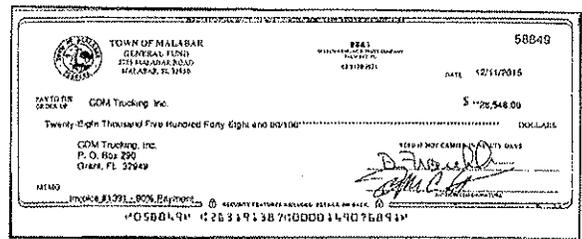
Check #58849 was posted on 12/14/2015

BB&T Check Images

Check Number	Amount	Date Posted	Account Type	Account Number
58849	\$28548.00	12/14/2015	Checking	149076891

Front View

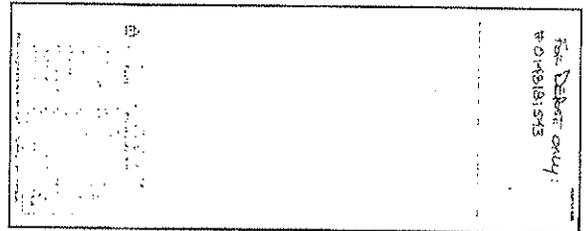
[How to save this image](#)



[Click Image to Enlarge](#)

Back View

[How to save this image](#)



[Click Image to Enlarge](#)

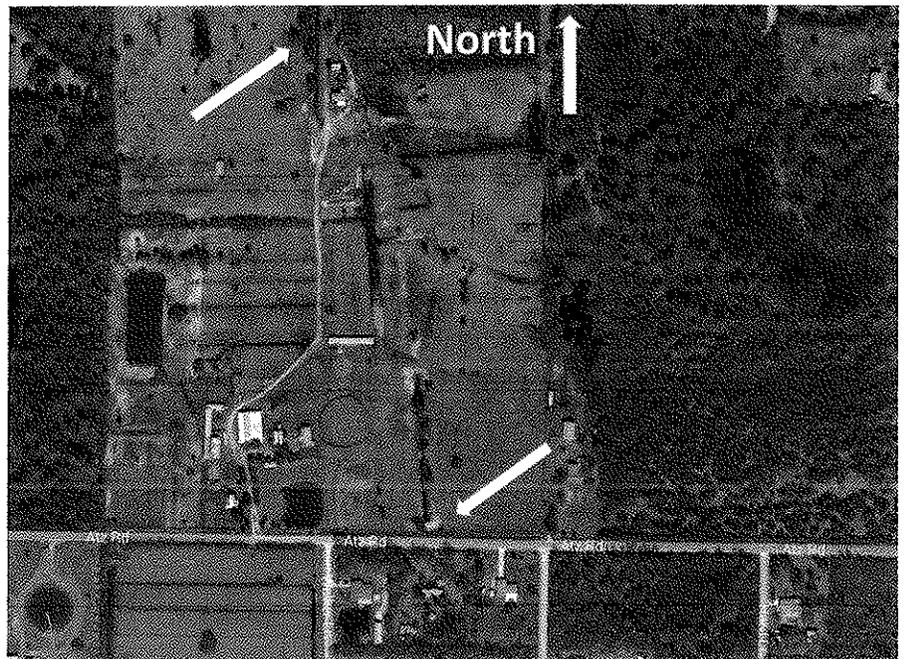
Location of Double-D

The Double-D Ranch is located near the western end of ATZ Road on the north side. ATZ Road is shown along the lower portion of the photo.

The arrow near the bottom of the photo indicates the junction of the ATZ Road ditch and the beginning of the Double-D Ranch ditch.

The arrow near the top of the photo indicates the tree-lined southern end of the Tillman Canal where the Double-D ditch connects.

Water flows from bottom to top (south to north).



Outfall End of Culvert

This end of the new culvert (north) dumps water into a ditch approximately 200 yards from the southern end of the Tillman Canal. It is weed-choked and in need of maintenance

The tree line in the distance indicates the location of the southern end of the Tillman Canal.



Input End of Culvert

This end of the culvert (south) accepts water from an open ditch that extends across the Double-D Ranch to the ditch on the north side of ATZ Road.

Although the culvert is three feet in diameter, it has silted in almost halfway by sand that has eroded from the surrounding bank.

The silting problem could have been prevented if the job were properly specified, and the finished job inspected.



Input End of Culvert

This view is looking south toward ATZ Road from the south end of the new culvert.

More of the erosion problem and partial blockage of the ditch at the south end of the culvert is evident.



Another Culvert

This view shows another culvert on the Double-D Ranch. Located mid way between the new culvert and the north side of ATZ Road. It is heavily rusted and has a significant hole at the top, near the end of the pipe.



Overgrown Ditch

This view shows another section of unmaintained ditch ON the Double-D Ranch. This section is located approximately 200 yards north of ATZ Road.



Junction with ATZ

This view shows another culvert that is located ON the Double-D Ranch, but it accepts stormwater directly from the ditch along the north side of ATZ Road



**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 2
Meeting Date: April 18, 2016

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

SUBJECT: Presentation by Lance Decuir on PD&E Alternatives re: SR514 widening

BACKGROUND/HISTORY:

FINANCIAL IMPACT: none

ATTACHMENTS:

Summary of 3/24/16 meeting at Town Hall

ACTION OPTIONS:

No action required at this time

TOWN OF MALABAR

PUBLIC NOTICE

THURSDAY, MARCH 24, 2016

10:30 A.M.

MALABAR TOWN HALL

2725 MALABAR ROAD

MALABAR, FLORIDA

AGENDA

FDOT AND AIKENS ENGINEERING WILL BE AT TOWN HALL TO INFORM THOSE PRESENT OF THE STATUS OF THE PD&E FOR THE WIDENING OF MALABAR ROAD, SR514.

SPACE COAST TPO MEMBERS WILL ALSO BE IN ATTENDANCE. AIKENS ENGINEERING WOULD LIKE FEEDBACK ON THEIR OPTIONS FOR THE ROAD WIDENING BETWEEN GILMORE STREET AND MARIE STREET.

THEY HAVE ASKED FOR AS MANY OF COUNCIL ATTEND AS POSSIBLE.

THIS IS TO ADVISE THAT THERE MAY BE TWO OR MORE TOWN ELECTED OFFICIALS IN ATTENDANCE

THERE MAY ALSO BE TWO OR MORE APPOINTED MEMBERS OF TOWN VOLUNTEER BOARDS IN ATTENDANCE

Summary for Malabar Road (SR 514) PD&E Alternative Meeting

March 24, 2106

1. Introductions

- Town of Malabar – Mayor Phil Crews, Doug Hoyt – Town Administrator, Bromley Ball, Charles “Bud” Ryan, Don Krieger, Christopher Robinson
- Brevard County – John Denninghoff, Corrina Gumm
- Space Coast TPO – Bob Kamm, Georganna Gillette
- FDOT – Jazlyn Heywood
- Atkins – Vic Poteat, Lance Decuir
- Citizens - Wayne Abare

2. Refresh of previous alternatives and reason for meeting – No-Build Alternative with multi-use path

- A presentation was given by Vic Poteat and Lance Decuir discussing the current status of the project. Previously, the recommended alternative was presented to Malabar and the Space Coast TPO. There was concern with the No-Build Alternative (Alternative 1), which included leaving SR 514 as a two-lane road from east of Corey Road through Marie Street, where it would then transition to a three-lane urban typical section going to US 1. There was concern voiced over this No-Build section so the study team developed more alternatives.
- Selection of the appropriate typical section from Gilmore Street to Marie Street consists of several factors
 - Future traffic demand throughout the corridor - Given the nature of long term, 30-year traffic projections, the study team decided to analyze a range of typical sections, including a No Build (2-lanes), 3-lanes, and 4-lanes. The study team will look to apply the typical section that is most appropriate considering all factors.
 - Public Lands – The Malabar Scrub Sanctuary and the Malabar Disc Golf Course are the two primary points of concern. To widen SR 514 to four lanes beyond Corey Road, one of these recreation/environmental lands would be impacted, requiring mitigation and thorough coordination.

3. Review Additional Alternatives (in addition to the No Build, Alternative 1)

- Four-Lane Suburban Typical Section with impacts to Disc Golf Course – Alternative 2
 - This alternative consisted of a four-lane suburban typical section that avoided impacts to the Malabar Scrub Sanctuary. By avoiding the Scrub Sanctuary, 0.7 acres of the Malabar Disc Golf Course would be impacted and mitigation with the Florida Communities Trust and the Town of Malabar would need to occur. This alternative would likely not allow for an 18-hole disc golf course that is satisfactory to local users.
- Four-Lane Suburban Typical Section with impacts to Scrub Sanctuary – Alternative 3
 - Alternative three presented a similar four-lane suburban typical section, but with 2.4 acres of impacts to the Malabar Scrub Sanctuary on the north side of

the road. By impacting the Scrub Sanctuary and potentially impacting federally listed species and habitat (Florida Scrub Jay), coordination would need to occur with Environmentally Endangered Lands (EELS) management. This alternative would also require Section 10 consultation with United States Fish and Wildlife Services for mitigation of potential impacts to federally listed species.

- Three-Lane Urban Typical Section – Alternative 4
 - The three-lane urban typical section consists of a similar typical section to that currently proposed for downtown Malabar, which would include a 14-foot center turn lane/paved median, 12-foot travel lanes, and a 7-foot bike lane. This alignment would avoid the scrub sanctuary and impact .12 acres of the disc golf course, which would allow the course to continue as an 18-hole course with only minor modifications.
3. Topics of Discussion during the meeting
- Is Glatter Road viable as an alternative? This has been discussed several times during the course of presentations during the study, but the main issue with Glatter Road as a viable option is that in order to construct a new at-grade crossing at the Florida East Coast Railroad, two existing crossings would need to be closed. Additionally, the future traffic forecasts do not warrant a four-lane bridge over the railroad and the associated impacts to residences.
 - Is four lanes through downtown Malabar viable? This was an alternative that was pursued initially in the study, but with the future traffic volumes not warranting four-lanes in downtown Malabar, costs associated with a four-lane urban typical section, and numerous impacts to adjacent properties, this was ruled out as the preferred alternative.
 - Are we aware of issues of traffic congestion along US 1 caused by trains? The study team is aware that SR 514 and turn lanes on US 1 back up due to trains. Dual west-bound receiving lanes on SR 514 are proposed to accommodate dual northbound left turns from US 1, which will help the traffic caused at the intersection with US 1. An additional east-bound left turn lane is recommended east of the railroad tracks. This will allow for more storage in the eastbound direction.
 - Could a right turn lane from SR 514 to Glatter Road be provided in the four-lane alternatives? This can be considered as alternatives move into later stages of development, but there are safety factors to consider.
4. Plan of Action
- It was determined at the conclusion of the meeting that the study team would present the same alternatives to the Malabar Town Council on April, 18th to obtain the Council's preferences for alternatives.
5. Update of concepts on Website
- It was noted that the project website seemed to be dated. The project website www.SR514Malabar.com has been updated. A brief update of the project status was added and the alternatives presented at the meeting on March 24th added. These same alternatives will be presented in more depth at the Town Council meeting on April 18. An updated schedule is also available on the SR 514 website.

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 3
Meeting Date: April 18, 2016

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

SUBJECT: Policy Guidelines for Working with Developers

BACKGROUND/HISTORY:

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:

Memo from Attorney

ACTION OPTIONS:

Request approval for this policy change

Memorandum

To: Town Council, Mayor Crews

Date: April 8, 2016

From: Karl W. Bohne, Jr.

Re: Legal opinion regarding Working with Developers

The way this agenda item was phrased it seemed fairly straight forward what staff was requesting. As I see it prior to any development request, usually a site plan for commercial or plat for a subdivision is formally presented to the P&Z all staff would have needed to "sign off" on the development plan.

I also believe that any and all staff comments will need to be addressed before it goes to P&Z. After P&Z review the P&Z chair signs off and sends it to Council with a recommendation. That seems like a reasonable and very straight forward request. So what this ensures is that before it goes to council all the "T-s" will be crossed and the "I-s" dotted.

MALABAR LAND DEVELOPMENT REGULATIONS GENERAL INFORMATION

Florida Statute 163 governs how municipalities regulate their land use and zoning. This is accomplished through the use of a Comprehensive Land Use Plan and corresponding Land Use Regulations.

Requests for land use and/or zoning changes, site plans for projects other than single family residential, right-of-way vacates, subdivisions and commercial developments all follow these general steps in the project review:

Applicants request a pre-submittal meeting. At this meeting Malabar staff inform the applicant of all the requirements that must be met and all the information that must be provided on the application. They are also directed to the Brevard County GIS Department to request a radius package of all property owners within 500 or 1000 feet from the perimeter of the project site.

Application is submitted with all required information to the Building Department. Town staff meet with the applicant and determine the 30 day posting period and based on that, determines the date for the hearing at Planning and Zoning and Council. Regulations for the signage required to be posted on the property providing the dates of the hearings is given to the applicant. Town staff draft the legal notice for the newspaper and copies are sent to the adjacent property owners prior to the hearings at Planning and Zoning and Council. The submittal is routed to the Town Building Official, Engineer, Planner, Fire Chief and Town Attorney. If the Town does not have a Fire Marshal licensed to do plan review, then the Town is responsible to have a third party certified fire inspector do the plan review. The Town has 30 days to provide comment back to the Building Department. Those comments are then forwarded to the applicant. The applicant may choose to revise his plan or proceed to the Planning and Zoning Board Public Hearing. As each Town Department completes the review and determines the plan submitted meets all State and Local regulations, they sign off on the original set of plans. Example below:

**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 Ordinance.

The Planning and Zoning Board, during its meeting, will receive comment from the applicant and any other interested persons. In addition, the Board will review the written comments of the Town's professional staff, which may include the Engineer, Attorney, Planner, Fire Inspector, and Building Official. The Board will then make written recommendations to the Town Council. If the Board recommends approval, then after the close of the meeting, the Board Chair will also sign off on the original set of plans.

The Town Council will conduct the public hearing on the request, providing for presentation by the applicant and comments from all persons interested in the matter.

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 4
Meeting Date: April 18, 2016

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

**SUBJECT: Amend Code to Require expenditures not identified in the budget > \$1,000
be brought before Council for approval**

BACKGROUND/HISTORY:

CM Korn asked for this to be on agenda for discussion.

FINANCIAL IMPACT: none

ATTACHMENTS:
Memo from Attorney

ACTION OPTIONS:
Discussion and Direction to Staff

Memorandum

To: Town Council

Date: April 5, 2016

From: Karl W. Bohne, Jr.

Re: Malabar Vernacular, Piggy Back and Bidding and Budget

At the Town council meeting of April 4, 2016 the town Council asked me for a review of the above items. Below are my comments, opinions and analysis.

II. Piggy Back and Bidding

The purpose of this type of bid is outlined in section 2-101 of the code:

“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.”¹

My reading of this paragraph authorizes, but does not require, the TA to use a bid to another governmental agency for any eligible purchase as long as that bid process has met the minimum criteria of our code:

- it can be for any eligible purchase over \$2,000.00;
- the process used by the other governmental agency either got 3 reputable bids or advertised a request for bids; and,
- if at all to the lowest and best bidder.

So as written the TA may use a piggy back bid for any purchase over \$2,000 and yes up to and over \$10,000. As written it seems the piggy back process is designed to by-pass the 3 bid or advertising requirement. Mr. Hoyt has proposed that if piggy backing is used he will also solicit at least 3 reputable bids. I think he can do that the way the code is written because piggy backing is not mandatory so the TA can be creative and use a piggy back and 3 bids as a way to solicit bids. Piggy backing probably still needs to be an available alternative so I would not recommend eliminating it completely.

¹The piggyback process has been described as a competitive alternative to bidding and to competitive sealed proposals that saves time and work because the local government can avail itself of a contract for a given product or service already entered into by another government entity with the same vendor the local government wishes to use. The local government uses the piggyback process when it already knows which vendor's product or service it prefers. If another government entity has already purchased that product or service and as long as the other entity used procedures “substantially equivalent” to those of the Code to do so, the local government need not go through its own competitive process but can utilize the other entity's contract with the vendor. See, ACCELA INC CRW v. SARASOTA COUNTY CSDC (2nd DCA 2008)

IV. Budget

The budget and bidding have some overlap which I will discuss below. There is no direct Florida Statute on the implementation of a municipal budget and it is generally governed by local ordinances and policies.

The Town Council approves and is responsible for the administration of the budget. *See, Article III, section 3.01(3), Town Charter.* The budget is a financial plan for all municipal funds and activities for the ensuing fiscal year. *Article IV, Section 4.02, Town Charter.* The TA prepares and submits the budget to the town Council. *2-300 (d) (6), Town Code of Ordinances.*

As stated in the code the budget is a plan. The mere fact that something is budgeted for does not automatically mean it is going to be spent. Just because the item is budgeted does not mean the staff goes out and buys it. However, usually staff has already gone through a bid process to come up with a number and commitment in order to put the item in the budget so the funding of the budget is necessary to purchase that item. Generally, you make sure the money is there in the budget. I also believe it is staff's regular practice to inform council that the purchase will be made for the budgeted item.

ARTICLE IV. ORDINANCE ADOPTION PROCEDURE*

Secs. 2-76—2-100. Reserved.

ARTICLE V. PURCHASING†

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.

ARTICLE VI. EMPLOYEE BENEFITS

DIVISION 1. GENERALLY

Secs. 2-126—2-150. Reserved.

***Charter reference**—Ordinances, § 2.16.

Cross reference—Procedures for adopting, supplementing or amending the Land Development Code, § 1-12.5, Land Development Code, Vol. II.

State law reference—Procedure for adoption of ordinances, F.S. § 166.041.

†**State law references**—Consultants Competitive Negotiations Act, F.S. § 287.055; insurance, competitive bids, F.S. § 112.08.

Memorandum

To: Town Council

Date: April 5, 2016

From: Karl W. Bohne, Jr.

Re: Malabar Vernacular

At the Town council meeting of April 4, 2016 the town Council asked me for a review of the above items. Below are my comments, opinions and analysis.

I. Malabar Vernacular

Currently the code requires a Malabar Vernacular style to be applied to new structures located in certain zoning districts, with the exception of public utility buildings, communication towers, hospitals and churches. The Code citation for Malabar Vernacular is 1-5.29. This is in addition to the Site planning requirements contained in Article VII of the Land Development Regulations. The vernacular requirement would apply to an existing non-vernacular structure if there is an addition, renovation or redevelopment that exceeds 50% of the square footage of the existing structure. *See 1-5.29 (c).*

The concern is basically the exemption for churches and hospitals from the vernacular requirements. The code requires that the items detailed in 1-5.29 (a) 1-10 must be adhered to. There may be some practical issues with applying all 10 requirements to churches and hospitals as well as other "commercial" structures. May be we should consider that all structures need to only adhere to some but not all of the 10 requirements at the option of the applicant. What this does is apply the code to all and gives all the ability choose what architectural requirements are to be applied. The other alternative is to create a waiver procedure to waive some but not all of the architectural requirements and limit the waiver to a specific number of the requirements, for instance no more that 4 or 5 requirements can be waived. The waiver request would need to be presented to the P&Z for a recommendation.

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MALABAR VERNACULAR

Ordinance

Minutes

Pictures

ORDINANCE NO. 2007-02

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING ARTICLE III, SECTION 1-3.1.I. OFFICE INSTITUTIONAL, TO INCLUDE DESIGN REQUIREMENTS FOR A MALABAR VERNACULAR ARCHITECTURAL STYLE IN OI (OFFICE INSTITUTIONAL) ZONING ALONG ARTERIAL ROADWAYS; AMENDING ARTICLE III, SECTION 1-3.1.K. TO INCLUDE DESIGN REQUIREMENTS FOR A MALABAR VERNACULAR ARCHITECTURAL STYLE IN CL (COMMERCIAL LIMITED) ZONING ALONG ARTERIAL ROADWAYS; AMENDING ARTICLE III, SECTION 1-3.1.L. TO AMEND THE DEVELOPMENT STANDARDS TO INCLUDE DESIGN REQUIREMENTS FOR A MALABAR VERNACULAR ARCHITECTURAL STYLE IN CG (COMMERCIAL GENERAL) ZONING ALONG ARTERIAL ROADWAYS; AMENDING ARTICLE III, SECTION 1-3.1.O. TO AMEND THE DEVELOPMENT STANDARDS TO INCLUDE DESIGN REQUIREMENTS FOR A MALABAR VERNACULAR ARCHITECTURAL STYLE IN R/LC (RESIDENTIAL/COMMERCIAL LIMITED) ZONING ALONG ARTERIAL ROADWAYS; AMENDING ARTICLE V, ADDING SECTION 1-5.29; PROVIDING FOR THE DESIGN REQUIREMENTS FOR A MALABAR VERNACULAR ARCHITECTURAL STYLE IN THE CG, CL, OI AND R/LC ZONING ALONG ARTERIAL ROADWAYS; AMENDING ARTICLE XX, DEFINITIONS, ADDING A DEFINITION FOR MALABAR VERNACULAR STYLE; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

SECTION 1. The Town of Malabar Code of Ordinances, Land Development Code, Article III, Section 1-3.1.I., is amended to add the following:

“A Malabar Vernacular Style is required for all development along arterial roadways.”

SECTION 2. The Town of Malabar Code of Ordinances, Land Development Code, Article III, Section 1-3.1.K is amended to add the following:

“A Malabar Vernacular Style is required for all development along arterial roadways.”

SECTION 3. The Town of Malabar Code of Ordinances, Land Development Code, Article III, Section 1-3.1.l is amended to add the following:

“A Malabar Vernacular Style is required for all development along arterial roadways.”

SECTION 4. The Town of Malabar Code of Ordinances, Land Development Code, Article III, Section 1-3.1.O is amended to add the following:

“A Malabar Vernacular Style is required for all development along arterial roadways.”

SECTION 5. A new section 1-5.29 is hereby added to The Town of Malabar Code of Ordinances, Land Development Code to read as follows:

“Section 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 façade. 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 400 square feet of contiguous blank wall area on any front façade 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 façade that has greater than 100' lineal feet of run without a minimum 16" 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 façade. 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 percent (50%) of the square footage of the existing structure(s). A mirror building, defined as a building meant to compliment a pre-existing structure 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.

(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.”

SECTION 6. The Town of Malabar Code of Ordinances, Land Development Code, Article XX, Section 1-20.2 is amended to add the following:

“Florida Vernacular Style. An architectural style representing historical influences from the development of Florida. These include the simple wooden Cracker or the mellow wooden Caribbean dating to the turn of the 19th century that include elements of elevated first floors, porches, verandas and overhangs and that create a relationship to the street at human scale. The design standards provided in Section 1-5.29 of the Land Development Code of the Town shall apply to any structure required to be built in the Florida Vernacular style.”

SECTION 7. Severability. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of this ordinance shall not be affected and it shall be presumed that the Town Council of the Town of Malabar did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the Town Council would have enacted the remainder of this ordinance without said invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

SECTION 8. Conflicts. All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

SECTION 9. Effective Date. This Ordinance shall become effective immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Councilmember Mallera.
The motion was seconded by Councilmember Borton and, upon being put to a vote, the vote was as follows:

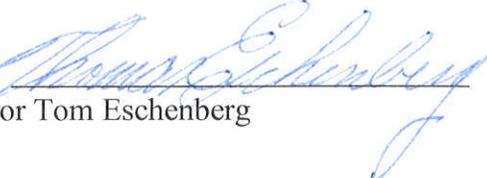
Councilmember Nancy Borton	<u>Aye</u>
Councilmember Brian Vail	<u>Aye</u>
Councilmember Chuck McClelland	<u>Aye</u>

Councilmember Bobbi Moccia
Councilmember Pat Dezman

Aye
Aye

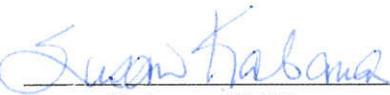
This Ordinance was then declared to be duly passed and adopted this 2nd day of April, 2007.

TOWN OF MALABAR

BY: 
Mayor Tom Eschenberg

First Reading: 02/05/07
Second Reading: 04/02/07

ATTEST:


Susan Kabana, CMC
Town Clerk/Treasurer

Approved as to form and content:


Karl W. Bohne, Jr.,
Town Attorney

PORTION OF APPROVED COUNCIL MINUTES 2/5/2007

1. FIRST READING ORDINANCE 2007-02, ADOPTING FLORIDA VERNACULAR

Without objection, Mayor Eschenberg read by title only.

Pat Reilly-1985 Howell Lane-came forward and addressed Council. It is not the government's role to decide what the buildings should look like in the municipality. He asked if there was a recommendation from the Planning & Zoning Advisory Board regarding this ordinance. He didn't think they made a recommendation. He is speaking against the passing of this ordinance.

Stuart Borton-141 Riverview Drive-came forward and addressed Council. He didn't like it when Palm Bay put this into ordinance. They are having problem after problem with this in place. He spoke against this ordinance and hopes that Council will not pass it.

Mr. Bohne stated that Mr. Reilly brought up a very good point. This ordinance is an amendment to the land development code. Mr. Booth stated that it went to the Planning & Zoning Advisory Board and they couldn't come to an agreement and they took no action; it's now back to Council.

MOTION: Moccia/Dezman to approve Ordinance 2007-02 as presented.

Mr. Vail stated that we are trying to keep a theme going throughout the town. He is in favor of this ordinance. Mrs. Moccia stated that she is thinking of the town and what we want our town to look like. She feels that there needs to be guidelines in place for the new commercial construction that will be coming into the town. Mr. Vail stated if we don't set a standard, we will have a lot of different types and styles of construction happening. He has spoken to some people and they also feel that standards should be set. He did state he has a problem with the colors; why are earth tones not being used? Mrs. Borton stated we have been looking to beautify the town; she's in favor of this ordinance as well. Mrs. Moccia stated that the colors were discussed when this came about. The Building Department looks at the plans; they go to the Planning & Zoning Advisory Board, they should choose the colors. Mr. Vail stated he would like to see the colors be added at Council's discretion.

MOTION: Dezman/Moccia to approve Ordinance 2007-02 as presented with a change made to Section 5, #3 to state: The predominant exterior color shall be pastel shades, white or light earth tones; dark earth tones are acceptable in brick and stone.

THE ROLL WAS CALLED: Borton, Vail, McClelland, Moccia and Dezman – All Ayes.

Mr. Vail asked this affects Section 7, Trim Colors? Mrs. Moccia stated it is covered and it doesn't need to be changed. Mr. Vail asked about hospitals and churches. Mrs. Moccia stated it should stay as is. MOTION PASSES UNANIMOUSLY.

the meeting early (8:50 P.M.) and that alternate member #2, Zindel, would be voting in her place. Krieger called for the Vote: All Ayes.

ACTION ITEMS:

#2. ORDINANCE 2007-02 FLORIDA VERNACULAR RECOMMENDATION. This agenda package contained the ordinance that was going to Council on April 2 for final reading, pictures on power point from Booth's earlier presentations, and a handout listing additional styles to consider in defining "Florida vernacular".

Reilly explained that this went to first reading and all five members of Council voted for it. At the Public Hearing it was sent back to P&Z. Krieger said that he spoke to Town Council and that is why it is back with P&Z. Ryan said he called Palm Bay and they have a "Palm Bay" vernacular. We should have a "Malabar vernacular".

Mills understood Ryan to say he doesn't want it all one style. He sees Sebastian and it has become pretty artificial. Ryan thinks we need a cohesive mix of style. Krieger said that the proposed ordinance is all wrong and we should start over. This is important and we should not limit ourselves to a narrow scope of this ordinance. He does not understand the need for the ordinance. Ryan was trying to find out what an architectural board does. Wilbur went through the handout secretary supplied. Malabar doesn't have any "theme" that is reflective. He thinks we should do a Florida fishing community – tin roof, front porch. Old existing homes along the river. Ryan mentioned commercial and if new structures will outlast old houses. Wilbur likes the buildings down by Bayside, and the Surveyor new office, the Oaks 10 shops on Hibiscus. This came out of the brainstorming we had for what can be done. He suggests that all members take pictures of designs they think appropriate and bring them back.

The pictures in the power point presentation are ones that Booth got for this ordinance. Krieger stated that they do not match the ordinance. Krieger pointed out that most of the pictures don't match and some are in clear opposition of the ordinance. The picture of the Mediterranean style building with tile roof is not even permitted in the proposed ordinance.

The ordinance mentions arterial roads – that may change; it says facing and should say fronting. The ordinance needs a major reworking. If you add these other styles you may be doing more damage. Wilbur suggests different styles for different zoning classifications.

MOTION: Krieger/ Reilly strongly recommend Council not adopt Ordinance 2007-02 creating a Florida Vernacular style at this time due to inconsistencies discovered in this proposed ordinance by this Board. The Board felt further research and refinement is needed and that passing the ordinance in its present state would be premature.

Discussion. This ordinance requires major revisions: the definition of Florida Vernacular is incorrect, additions, renovations or redevelopment must also meet these requirements, the ordinance is not enforceable. Wilbur referenced the handout and says the different styles are for different areas of Florida. Krieger disagrees. Wilbur would also like to look at other cities ordinances – from central Florida east coast communities to see what they consider Florida vernacular.

Wilbur said we will have expertise soon with the architect and possibly a planning consultant. We will be designing a gateway requirement. Our Charter states that Malabar will be rural residential community. The Planning and Zoning Board did not get a chance to review this ordinance after Booth first presented it. He would like that in the minutes.

VOTE: All Aye.

OLD BUSINESS:

NEW BUSINESS:

Wilbur got a invite to the ribbon cutting on Sat April 7, 2007 at 8:00AM at the north end of the concrete drive known as Malabar Woods Blvd. Free pancake breakfast from 8 to 9:30. There is a good Krieger asked about the fencing at the Butterfly Park. What is the intent? There is no defined boundaries. The disc park needs to be fenced. Who should he talk to? The Interim Administrator or Council? The property is owned by the State and managed by the Town. There is a management plan.

Kreiger

ADJOURN:

MOTION: Reilly / Ryan to adjourn. Vote: All Aye. Meeting adjourned at 10:30PM

 Debby Franklin, Secretary

 Bob Wilbur, Chairman

 Date approved

PUBLIC HEARINGS:

**1. SECOND READING ORDINANCE 2007-02, ADOPTING FLORIDA VERNACULAR
ORDINANCE NO. 2007-02**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING ARTICLE III, SECTION 1-3.1.I. OFFICE INSTITUTIONAL, TO INCLUDE DESIGN REQUIREMENTS FOR A MALABAR VERNACULAR ARCHITECTURAL STYLE IN OI (OFFICE INSTITUTIONAL) ZONING ALONG ARTERIAL ROADWAYS; AMENDING ARTICLE III, SECTION 1-3.1.K. TO INCLUDE DESIGN REQUIREMENTS FOR A MALABAR VERNACULAR ARCHITECTURAL STYLE IN CL (COMMERCIAL LIMITED) ZONING ALONG ARTERIAL ROADWAYS; AMENDING ARTICLE III, SECTION 1-3.1.L. TO AMEND THE DEVELOPMENT STANDARDS TO INCLUDE DESIGN REQUIREMENTS FOR A MALABAR VERNACULAR ARCHITECTURAL STYLE IN CG (COMMERCIAL GENERAL) ZONING ALONG ARTERIAL ROADWAYS; AMENDING ARTICLE III, SECTION 1-3.1.O. TO AMEND THE DEVELOPMENT STANDARDS TO INCLUDE DESIGN REQUIREMENTS FOR A MALABAR VERNACULAR ARCHITECTURAL STYLE IN R/LC (RESIDENTIAL/COMMERCIAL LIMITED) ZONING ALONG ARTERIAL ROADWAYS; AMENDING ARTICLE V, ADDING SECTION 1-5.29; PROVIDING FOR THE DESIGN REQUIREMENTS FOR A MALABAR VERNACULAR ARCHITECTURAL STYLE IN THE CG, CL, OI AND R/LC ZONING ALONG ARTERIAL ROADWAYS; AMENDING ARTICLE XX, DEFINITIONS, ADDING A DEFINITION FOR MALABAR VERNACULAR STYLE; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

Without objection, Mayor Eschenberg read Ordinance 2007-02 by title only.

The public hearing was opened for comments:

Bud Ryan, 1923 Howell Lane, came forward and addressed Council. He is a member of the P&Z Advisory Committee but is speaking as a resident this evening. He is asking that Council table this ordinance for several reasons. The new administrator should be involved in this ordinance; he suggested we do like Palm Bay did with their ordinance for this issue, include several different styles; put in parameters and call it Malabar Vernacular. We should come up with what the essence of Malabar is. Sebastian has adopted the Key West look. He would like to see a little more variety. Whatever is decided, it will have a major impact on Malabar. He would like to see something in the charter of what Malabar is all about.

Stuart Borton, 141 Riverview Drive, came forward and addressed Council. He feels that there was not enough thought put into this ordinance; didn't like it the first time it came about.

Pat Reilly, 1985 Howell Lane, came forward and addressed Council. He feels this ordinance is not enforceable; a lawyer could pick it apart. He is asking that Council vote against it; it's not for the betterment of Malabar.

Don Krieger, 2345 Lineberry Lane, came forward and addressed Council. He is speaking as a member of the P&Z Advisory Committee. He feels that Florida Vernacular is the incorrect term; it never came before P&Z properly, he asked the former administrator to provide pictures. P&Z didn't get enough time to look at this ordinance. His view as a citizen is if Council isn't going to listen to the committees/boards, why have them? They try to save time for Council with their

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input and suggestions. Mr. Krieger doesn't feel this ordinance will stand a legal fight. It's not helping the town. We are about to work on the Land Use Plan; we should get more views before making a mistake.

With no other comments, the public hearing was closed and brought back to Council for discussion.

MOTION: Moccia/Borton to approve Ordinance 2007-02 as presented

The question was asked of Mr. Bohne regarding the enforceability of the ordinance. Mr. Bohne stated that this ordinance was taken from another jurisdiction, not sure which one, and made to fit Malabar's needs. He is not sure what the legal issues are, so he cannot say at this time. Florida Vernacular is defined in the ordinance, which can be changed to whatever Council deems necessary.

Mrs. Moccia stated this ordinance has not been done lightly; it has been going on for a while. She wants to see the new places being built have some beauty. For those of you who have not attended the Council meetings, read the minutes and you will see this has been happening for a long period of time. Mrs. Borton stated that pictures were attached to the ordinance and there are many different styles included in this ordinance. This ordinance will protect the town for now; it can be added to at a later date. It's pointing us in the right direction. Mrs. Dezman does like the suggestion made by Mr. Ryan for having it be "Malabar Vernacular". Mr. Bohne stated that we will change "Florida Vernacular" to "Malabar Vernacular", the definition will need to be changed leaving the substance of the definition the same. If you change the substance of the definition, you will have to have another reading. Mr. Vail stated "Malabar Vernacular" works. Mrs. Dezman stated the pictures encompass all that they are looking for in styles of buildings.

AMENDED MOTION: Moccia/Borton to approve Ordinance 2007-02 accepting the change from "Florida Vernacular" to "Malabar Vernacular". The Roll was called: Borton, Vail, McClelland, Moccia and Dezman, All Ayes. MOTION CARRIES UNANIMOUSLY.

Mayor Eschenberg made a suggestion, this ordinance gives Malabar immediate protection, to send it back to P&Z to take their time to review the ordinance and come back to Council with the recommended changes. Mrs. Dezman asked if there should be a time frame for this. Since P&Z seem to be opposed, they will more than likely move on this.



E 1



E2



E 3



E 4



E5



E6



E7

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Florida Vernacular Architecture

By Erick Valle



Spanish architectural influence in Coral Gables, Florida.
Photo by Richard McLaughlin.

The vernacular architecture of Florida is a product of many distinct influences. Four vernacular styles of architecture stand out: the easily recognized, simple wooden [Cracker](#); the mellow, wooden [Caribbean](#); the graceful masonry and stucco [Mediterranean Revival](#); and the playful masonry and stucco [Modern](#). Each represents a period in which the architectural values were linked to the community values that made memorable places. The evidence exists in the rural landscape of northern Florida and in Naples; in cities that started as suburbs, such as Palm Beach and Coral Gables; and in the urban landscapes of historic towns such as St. Augustine, Key West and Miami Beach. Building type plays a prevalent role in making these places extraordinary. Furthermore, the massing, detailing and placement of these buildings prevail as the critical rules—not the buildings' architectural style. Therefore, the Florida-vernacular buildings (indeed, *all* of the homes found at [TNDhomes.com](http://www.tndhomes.com)) are not just interpretations of a particular style; they use a new architectural vocabulary that is both traditional and modern.

The affinity among the aforementioned Florida vernacular architectures is clearly seen in their common ability to moderate the tropical climate, to define public space, to create a relationship to the street at human scale and to clearly establish an identity for the neighborhood.

Climatically, the Cracker and Caribbean styles take advantage of the hot, humid climate of Florida through roof-vented systems, large vertical openings and roof overhangs, while the Mediterranean Revival style uses thick walls, small openings and courtyards. All four vernaculars encourage the occupant to participate in the daily events that occur on the street through use of porches, verandas and loggias. The appropriate use of any of the homes from TNDhomes.com will depend upon the neighborhood situation. Following is a brief description of the origins and adaptability of each of the vernacular types.



A classic Cracker-style home.
Photo by Erick Valle.

Cracker

The Florida Cracker is a type historically experienced in three arrangements: the farmhouse (one room deep by two rooms wide), the townhouse (one room deep by one room wide) and the unpretentious plantation house (two rooms deep by two rooms wide). In Florida, this type, dating from around the turn of the 19th century, is found in the rural countryside and in the farmlands. The architectural characteristics that distinguish this type are wood-frame construction, an elevated first floor, a large attached front porch, a revealed fireplace, horizontal wood siding in both the exterior and interior, double-hung vertical windows and a steep roof. A unique condition of this type is that as the family grows, the simplicity of the plan easily allows for rooms to be attached in the rear of the house or as independent buildings, forming a compound.

Elements: Porch, veranda, overhang, crawlspace

Material: Wood

Attitude: Cross-ventilated, locally crafted, civic-minded

Typology: Single-pen, Dogtrot, I-house, foursquare Georgian

Examples: Naples and northern Florida



A magnificent Mediterranean-style home in Palm Beach, Florida.
Photo by Erick Valle.

Mediterranean Revival

The Florida Mediterranean is a unique adaptation of Spanish and Moorish architecture. The splendor of this architecture can truly be enjoyed in Palm Beach and Coral Gables. The popularity of this vernacular has kept it in practice today.

Elements: Main-entry, courtyard, balcony, loggia, tower

Material: Masonry and stucco

Attitude: Romantic spirit, proportional, cross-ventilated,
highly crafted, civic-minded

Typology: Cottage and Villa

Examples: Palm Beach and Coral Gables



A Caribbean-style home. Note the relaxed porch.
Photo by Erick Valle.

Caribbean

The Florida Caribbean has had its greatest influence from the Bahamas and adopted many of its details from the shipping industry. This vernacular architecture dates from 1825 through the 1890s.

Elements: Main entry, courtyard, balcony, loggia, tower

Material: Wood and masonry

Attitude: Laid-back spirit, proportional, local craftsmanship, civic-minded

Typology: Cottage

Examples: Key West



An Art Deco façade and trimmings cloak this Modern building in Miami Beach.

Photo by Richard McLaughlin.

Modern

Florida Modernism is a vernacular dating from the late 1920s to the 1940s, a period in southern Florida that celebrated the spirit of its time through Art Deco architecture. The largest concentration of this architecture is found in Miami Beach. In that location, it averages 16 units per acre and is typically two rooms wide (with a central hall) and four rooms deep. The height is maintained at three stories, with the fourth story for penthouse use.

Elements: Main entry, signs

Material: Metals, masonry, plastics, glass blocks, glass panels

Attitude: Expressive of the times, kinetic, playful, civic-minded

Typology: Courtyard, side yard, L-shaped

Examples: Miami and Miami Beach