

**TOWN OF MALABAR
REGULAR TOWN COUNCIL MEETING
MONDAY JULY 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 THE MINUTES:**
 - 1. Regular Council Meeting of 6/20/16**
 - Exhibit:** Agenda Report No. 1
 - Recommendation:** Request Approval
- E. SHERIFF REPORT:**
- F. AUDITOR'S REPORT FOR FY 2014/15**
- G. ATTORNEY REPORT:**
- H. STAFF REPORTS: ADMINISTRATOR: CLERK: FIRE CHIEF:
BOARD REPORTS: P&Z, PARK & RECREATION, T&G COMMITTEE, EVENTS COMMITTEE**
- 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.**
- J. PUBLIC HEARINGS/SPECIAL ORDERS: 2**
 - 2. Referendum Question for Ballot – Single District Voting 2nd Reading of Ord 2016-01**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY FLORIDA; REPEALING ORDINANCE 2014-09; CALLING AND SCHEDULING A PERIODIC ELECTION TO DETERMINE IF THE TOWN SHOULD CONTINUE TO PARTICIPATE IN THE BREVARD COUNTY MUNICIPAL SERVICE TAXING UNIT (MSTU) FOR LAW ENFORCEMENT; CALLING AND SCHEDULING A PERIODIC ELECTION TO DETERMINE IF THE TOWN SHOULD AMEND THE CHARTER, SECTION 2.02 TO CHANGE THE CURRENT WAY TOWN COUNCIL MEMBERS ARE ELECTED FROM "AT-LARGE" TO BEING ELECTED BY DISTRICT; PROVIDING FOR THE MANNER IN WHICH SUCH ELECTION SHALL BE CONDUCTED; ESTABLISHING THE FORM OF THE BALLOT FOR SUCH ELECTION; PROVIDING AN EFFECTIVE DATE.

 - Exhibit:** Agenda Report No. 2
 - Recommendation:** Request Adoption on 2nd Reading
 - 3. Request to Vacate Portion of Johnston Avenue Reso 08-2016**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA VACATING AND ABANDONING AN UNDEVELOPED STREET RIGHT-OF-WAY MORE PARTICULARLY DESCRIBED IN THIS RESOLUTION AS EXHIBIT "A"; PROVIDING FOR AN EFFECTIVE DATE.

 - Exhibit:** Agenda Report No. 3
 - Recommendation:** Request Action on Reso 08-2016

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

L. **ACTION ITEMS:**

ORDINANCES FOR FIRST READING: 2;

4. **ORDINANCE NO. 2016-02 AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; REPEALING SECTION 13-38(c) RELATING TO VARIANCES AUTHORIZED BY THE BOARD OF ADJUSTMENT; PROVIDING FOR CODIFICATION, SEVERABILITY AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.**

Exhibit: Agenda Report No. 4

Recommendation: Request Approval of Ord 2016-01 for 1st Reading

5. **ORDINANCE NO. 2016-03– Recommendation from P&Z**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE III TABLE 1-3.2 ELIMINATING THE CONDITIONAL USE “C” FOR HOUSES OF WORSHIP WITHIN RESIDENTIAL ZONING DESIGNATIONS.; PROVIDING FOR CODIFICATION, SEVERABILITY AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 5

Recommendation: Request Approval of Ord 2016-03 for 1st Reading

RESOLUTIONS:

6. **Resolution Accepting the FY 2014/2015 Financial Audit (Reso 07-2016)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING ACCEPTANCE OF THE ANNUAL AUDIT REPORT PROVIDED FOR FISCAL YEAR 2014/2015 BY THE AUDIT FIRM OF WITHUM SMITH & BROWN, PC (FORMALLY KNOWN AS AVERETT WARMUS DURKEE; AND PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 6

Recommendation: Request Action

MISCELLANEOUS:

7. **Set Preliminary Maximum Millage and Date for 1st Public Hearing on the 2016/2017 Budget – DR-420**

Exhibit: Agenda Report No. 7

Recommendation: Request Action

8. **Select Voting Delegate for the FLC Conference**

Exhibit: Agenda Report No. 8

Recommendation: Request Action

9. **Response to DEO re: Comp Plan – Recommendation by P&Z**

Exhibit: Agenda Report No. 9

Recommendation: Request Action

10. **Request from West Melbourne to Change SCLC Hosting Month to June**

Exhibit: Agenda Report No. 10

Recommendation: Discussion

11. **Approve Stops Signs on Corey and Weber Roads**

Exhibit: Agenda Report No. 11

Recommendation: Discussion

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

DISCUSSION/POSSIBLE ACTION:

12. **Discuss Amending Code to Remove Subdivisions as Exempt from Excavating**
Exhibit: Agenda Report No. 12
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: July 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 – 6/20/2016

ATTACHMENTS:

Draft Minutes of the following meeting:

- Regular Town Council Meeting – 6/20/2016

ACTION OPTIONS:

The Town Clerk requests approval of the minutes.

MALABAR TOWN COUNCIL REGULAR MEETING
June 20, 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 7:35 pm by Council Chair Mayor Phil Crews. CM Kohler Vail led the prayer and pledge.

B. ROLL CALL:

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

For the Record, the Fire Chief Christopher Robinson was not present.
Tom and Joann Murdock were present.

C. APPROVE AGENDA - ADDITIONS/DELETIONS/CHANGES – none.

D. APPROVE MINUTES –

1. Regular Council Mtg of 6/6/16

Exhibit: Agenda Report No. 1

Recommendation: Request Approval

MOTION: CM Kohler / CM Vail to approve RTCM 6/6/16 as corrected. Discussion: CM Korn asked for clarification about restricted traffic – former council member and a current council member bottom of pg. 5. **VOTE:** All Ayes.

E. ATTORNEY REPORT: none

Lt. Burke Camin introduced himself. Has emailed and spoken with Mr. Hoyt and emailed. One of the two meetings will be a Sargent. Try to get someone here at every meeting. Receiving a monthly report. On the other hand, Mayor McCormick get a daily intelligence report. He can strip out the parts that are pertinent to the town and send it to TA. He noticed that from the minutes of the last meeting. CM Vail said for quite a while we had an in person report once a month. He supports that. 12 times a year. Speeders on Weber Road. CM Korn said he lives on Weber and most of the people that are speeding all the way through Town are not from here. How would it be enforced? He thinks Deputies and signs telling them no through traffic. Lt. said speed bumps work but local people do not like it. CM Korn said they got an electronic speed sign. CM Korn said the MSTU question is on the ballot. Lt. said they patrol from Pineda to south border of county. They have at least one mandatory 24/7 deputy plus 3 supervisors and two floating patrols in our area at any given time.

F. STAFF REPORTS: ADMINISTRATOR:

TA briefed Council –

1) Happy 1st day of summer.

2) Town does have one speed bump in Brook Hollow. Will be on the agenda for next meeting. Speed bump was put in with good intent. County said they need to be 6" and have at least two in close proximity. Lt. said we could also use them on Weber and Corey.

- 3) Sent Council bridge inspection. Will be going out to bid to at least four contractors and then bring back to council. It may be paid for by special assessment. CM Kohler asked about the email – is alternative access suitable.
- 4) Meeting tomorrow with EELp to discuss the heavy rains and standing water and also will be addressing the multimodal trail on north side of Malabar Road.

CM Korn asked about the I-95 project. TA said they initially thought there was one box culvert of 11' x 48" but went for an inspection with Engineer Smith and found there are two additional at 11' x 30" size and two others. FDOT said we can go up to Cocoa and review the engineering on those. It is a big contributing factor. He has been in contact with the state and federal agencies for assistance. Mayor did check for the digitized data and it is not available. TA said that they could borrow.

- 5) Crown Castle needs an answer by the 24th. If we continue with lease, we get rev it goes into the GF.

CLERK: Form 1 is due back to SOE by July 1. Provided information on ethics training that is required annually.

G. PUBLIC COMMENTS: Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required) **Five (5) Minute Limit per Speaker.**

Tom Murdock thanked Doug, Debby and Denine for all their help. Got a big investment there and have had a lot of water. Anything we can get to support their plan. This amount of business is detrimental to all of Malabar. Need to make it happen. If there is anything they can do as citizens, they are willing to do. They would like to have an open house and invite all of council. Any evening except 1st and 3rd Monday

- H. PUBLIC HEARINGS/SPECIAL ORDERS: 0**
I. UNFINISHED BUSINESS/GENERAL ORDERS: 0
J. ACTION ITEMS:

ORDINANCES FOR FIRST READING: 1:

2. Referendum Question for Ballot – Single District Voting (Ord 2016-01)
 AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY FLORIDA; REPEALING ORDINANCE 2014-09; CALLING AND SCHEDULING A PERIODIC ELECTION TO DETERMINE IF THE TOWN SHOULD CONTINUE TO PARTICIPATE IN THE BREVARD COUNTY MUNICIPAL SERVICE TAXING UNIT (MSTU) FOR LAW ENFORCEMENT; CALLING AND SCHEDULING A PERIODIC ELECTION TO DETERMINE IF THE TOWN SHOULD AMEND THE CHARTER, SECTION 2.02 TO CHANGE THE CURRENT WAY TOWN COUNCIL MEMBERS ARE ELECTED FROM "AT-LARGE" TO BEING ELECTED BY DISTRICT; PROVIDING FOR THE MANNER IN WHICH SUCH ELECTION SHALL BE CONDUCTED; ESTABLISHING THE FORM OF THE BALLOT FOR SUCH ELECTION; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Request Action on 1st Reading

MOTION: CM Vail / CM Kohler to approve 1ST reading of Ord 2016-01. Discussion: CM Vail said the MSTU is the obvious choice. Voting by District, he supports having the voters decide voting at large or by district.

CM Korn said there is a down side to this. All six of GV council are voted "at large" and they live at large. If we have single Districts, we will vie against each other. CM Korn said everything they do as council members affects every one of Malabar residents. We represent and act upon things for the benefit of the Town. CM Vail said the money is collected "at large". CM Korn does not want to divide the Town. CM Ball said he is for single district voting. He said you could have an ALF with 500 beds move into an area of town and if they wanted to run the Town, they could with current method. By having district voting they would only have influence over one vote.

CM Krieger had technical question. What if they want additional referendum questions they want to add; should they hold off on the legal advertising? Atty Bohne said Council would do another ordinance.

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

Chair asked for a Motion to suspend the rules and add an item to the agenda – re cell tower lease. **MOTION:** CM Korn / CM Kohler so moved.

MOTION: CM Vail / CM Kohler to entertain the one time selling of the cell tower lease. CM Vail said our reserves have been depleted over the past and this could be a mechanism to increase the reserves. It is a onetime shot. If there are additional users on the tower, we get additional money.

CM Korn said over the next 10 years, he does not see any change is that correct. TA opinion said it is easier to put a lump sum deposit. CM Krieger said get the best of both worlds and look at the contract. Mayor said they have made the offer for the buyout and the deadline is irrelevant. CM Korn said TA research showed the offer is in line.

VOTE: Ayes: 3; Nays: 2 (Ball, Krieger)

TA said he could make a counter offer, get back with the Chair/Mayor, and call a special meeting.

Mr. Murdock, Tom, asked to speak. He said this is his line of work and they are getting ready to reengineer from 4G to 5G. Everything is going wireless, house, cars, security, etc. Time is not your enemy. They are trying to lock in the leases. TA asked about satellites. They will not impact the cell towers. There will be more and smaller. Reiterate that time is not your enemy.

MOTION: Krieger / Ball to reconsider vote. CM Krieger said we are being rushed. Work on the chattel, increasing the rate. Give TA some parameters. Keep a revenue stream. How to protect the reserves. CM Korn said we should set meeting for Wednesday to meet posting requirements. CM Vail said he also has reserves with the time sensitivity of it. CM Ball said we are being asked to sell something without knowing what it is worth. CM Krieger said it goes back to bidding.

VOTE: All Ayes, to rescind the previous motion.

CM Krieger said they should still be looking at their options and not rush into this. CM Vail said that this was brought up last year during budget time by Franklin. CM Vail said we need to get somebody from a user end to give us a feel for this. What a buyout should be worth and what a monthly lease price should be. CM Krieger said what does it hurt to renegotiate the lease. CM Vail said find out when the lease renews, we may want to reconsider the monthly lease. TA said is he to contact them or not. Atty said let the vendor call. Tell them we are considering all of our options.

RESOLUTIONS:

3. Resolution Repealing Prior Resos re: Council Procedures (Reso 05-2016)
A RESOLUTION TO REPEAL PRIOR RESOLUTIONS PERTAINING TO COUNCIL PROCEDURES AND ADMINISTRATION TO INCLUDE BUT NOT BE LIMITED TO RESOLUTION 07-2014, RESOLUTION 30-2013, RESOLUTION 11-2012, RESOLUTION 104-2011, RESOLUTION 01-2009, RESOLUTION 13-2008, RESOLUTION 04-2007, RESOLUTION 5-97, AND OTHERS THAT MAY MEET THIS CRITERIA PRIOR TO RESOLUTION 04-2016, PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Request Action

MOTION: CM Vail / CM Krieger to approve Reso 05-2016. Discussion: none.

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

MISCELLANEOUS:

4. Repeal Section 13.38 of Chapter 13 re: Street Improvement Requirements

Exhibit: Agenda Report No. 4

Recommendation: Request Council Direction re: Code Amendment

CM Vail explained why these short roads create a burden to the next person developing. He suggested it be moved to next meeting.

CM Krieger said he read through the 1-6 criteria – didn't think it was followed at the BOA meeting.

MOTION: CM Vail / CM Ball to direct staff to draft an ordinance repealing Section 13-38(c) of Code. Discussion:

VOTE: All Ayes.

5. Revise Meeting Date for 1st Mtg in July

Exhibit: Agenda Report No. 5

Recommendation: Select Alternate Meeting Date for 7/4/16

MOTION: CM Korn / CM Vail to postpone until 7/5/16. Atty can't make it. Put only first meeting in July. Discussion: **VOTE:** Ayes, 1 (Korn); Nays, 4. More discussion.

MOTION: CM Korn / CM Kohler to cancel 1st mtg in July. **VOTE:** All Ayes.

6. Review of TA Purchasing Policy

Exhibit: Agenda Report No. 6

Recommendation: Direction to Adopt by resolution

TA said he is not looking for approval at this meeting. He will incorporate comments from CM Krieger received tonight. Wants to provide something agreed to by Council to the Attorney. CM Krieger read his handout into the record (attached). He suggested some of what TA is proposing should be in house policy, but he is focused on the language that will be put in the code. He gave example of assigning a unique identifier. Put the lower than 10K in the policy. Chair commends CM Krieger and asks him to work together with TA.

CM Vail stated that once Council approves expenditure at budget time then Staff should be able to spend it. Go get your purchase. A maintenance budget item of 10K that is not in the budget then that is what should come before Council.

CM Vail said piggy backing should be part of the consideration. Get three bids and then check with Palm Bay and County and see what they paid. He gave example of buying large number of vehicles at one time and getting a special discount. BCSO bought 50 new vehicles. They have the purchasing power of 50. We could be 51 and get the same deal.

CM Korn said piggy backing could be used as a competitive bid. The micro surfacing on Weber Road has pieces are coming off. The perception of the residents is that we got ripped off. We piggy backed from someone in St Augustine. We used Brown to mow the ROW and it looked like we spent 58K without authorization. CM Korn said we can wait a week or two for Council approval. Didn't know how the 10K came about but we won't always have a good TA that we agree with. We need to prepare for the future and have it spelled out. CM Vail said that is why we have a bill reviewer and check signer. That is their obligation to take it to staff and ultimately council.

CM Krieger, 24/54, sec 1 and 2 lot of good stuff in there. TA said it is easy to assign a master job number for projects; it is very standard procedure as many contracts require dozens of contractors.

CM Vail asked the Atty to participate. Atty Bohne said that piggy backing works. Attorney does not agree with Council. He has represented many cities and piggy backing has saved them much money.

Mayor said does TA have enough info? Yes. He'll bring it back. Put on Agenda for July 18.

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME 9:20pm.

K. DISCUSSION/POSSIBLE ACTION:

1. Limit Corey and Weber Roads to Local Traffic Only (CM Korn)

CM Korn asked for this. In late 2013, 2014 he brought up this item. If you live on Corey or Weber, there is a tremendous amount of traffic on those roads and it is not all local traffic. At least half of the traffic passing his house is using it to by-pass US1 or Babcock. We need slower traffic and need less of it. When they start widening Babcock it will get even worse. No one was on council when he brought it up they said how will it be enforced. Sign on each end and maybe a deputy patrolling. A lot of the speeders that go by his house southbound. He talked to Jason Mahaney who was on GV Council at the time. Cathy Dumont who is also another Council member and she supported it. The GV Mayor did not like the idea. Jason is no longer on Council.

Mayor said perhaps just limit it to truck traffic. CM Ball said how would you limit cars. Krieger Road gets beat up with heavy trucks. Does not know what solves it. You can't tell citizens to stay off local streets. With trucks, you get the tag number and call the BCSO. The road belongs to us. Would it be right to say to passenger cars? He doesn't know. CM Vail said the stop signs were put in, he wanted 6. Put them in Old Mission, Hall and Atz. Put two more on Corey and 2 more on Weber. Especially with enforcement. Put up no thru trucks or no thru traffic. He understands CM Ball concerns but all the people coming out of Palm Bay and using these streets. CM Ball said this would also apply to bikes and golf carts. CM Korn asked other council members to talk to citizens. TA likes the stop signs added. If we start limiting traffic. Put on next agenda.

2. Repeal SW Assessment (CM Krieger)

CM Krieger has been working on this. He brought them up last year when SW people were here. Businesses are being charged too much. Fixing that problems. Are we actually getting benefit from our storm water? He doesn't see any benefit. Suggests this be looked at before they renew the ILA for the County to handle the storm water administration.

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

N. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Krieger – purchasing and SW items
CM Vail - nothing

CM Korn – 2 items – slope mower – start planning ahead to purchase another piece of equipment. CM Vail said that is going to be his soapbox items at budget time. Couple different options and get with TA and PW Director and look at what other cities are doing.

The other item is the helter skelter culverts and no culverts. They weren't required to put in culverts in back in the 1970s. They pay the labor to put them in. TA said he and CM Vail have looked at 2/3 of town. There are over 100 entrances where there are no culverts, collapsed culverts, undersized culverts. TA has asked Attorney to pop over next week and take a look at several examples. Taking a look at where the water should go, and where it is coming from. Engineer Morris Smith is doing a good job for setting elevations and getting new construction to comply. TA said staff is getting ready to pursue a grant for north Corey Road storm water project by piping the entire area from outfall on north side of Malabar up to the Turkey tributary north of Stillwater Preserve SD. It would not carry more water but would dump it out of Town a little faster.

CM Kohler - nothing

CM Ball - nothing

Mayor

TA

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 10:15 PM.

BY: _____

Mayor Phil Crews, Council Chair

(seal)

ATTEST:

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

Date Approved: 7/18/2016

**TOWN OF MALABAR
AGENDA ITEM REPORT**

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

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

**SUBJECT: Referendum Questions for November 8, 2016 Election: MSTU & Single District
Voting (Ord 2016-01)**

BACKGROUND/HISTORY:

Council requested at the June 6, 2016 meeting the Attorney to draft the MSTU question that we put to the voters every two years using the ballot language from 2012. They also directed him to add another question regarding single district voting changing the language in the Charter, Section 2.02.

This is the 2nd reading and Public Hearing on this ordinance.

FINANCIAL IMPACT:

ATTACHMENTS:

Ordinance 2016-01 for 2nd Reading

ACTION OPTIONS: Council Adoption of Ordinance 2016-01.

ORDINANCE 2016-01

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY FLORIDA; REPEALING ORDINANCE 2014-09; CALLING AND SCHEDULING A PERIODIC ELECTION TO DETERMINE IF THE TOWN SHOULD CONTINUE TO PARTICIPATE IN THE BREVARD COUNTY MUNICIPAL SERVICE TAXING UNIT (MSTU) FOR LAW ENFORCEMENT; CALLING AND SCHEDULING A PERIODIC ELECTION TO DETERMINE IF THE TOWN SHOULD AMEND THE CHARTER, SECTION 2.02 TO CHANGE THE CURRENT WAY TOWN COUNCIL MEMBERS ARE ELECTED FROM "AT-LARGE" TO BEING ELECTED BY DISTRICT; PROVIDING FOR THE MANNER IN WHICH SUCH ELECTION SHALL BE CONDUCTED; ESTABLISHING THE FORM OF THE BALLOT FOR SUCH ELECTION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes, 101.161 provides for the procedures to submit a public measure to a vote of the electors of a municipality and Malabar has followed that procedure in the 2008, 2010 and 2012 elections with respect to participation in the Brevard County MSTU for Law Enforcement; and

WHEREAS, In, 2014, the Town Council recommended that the question to electors related to continuing participation in the Brevard County Law Enforcement MSTU be amended before being submitted for a vote of the electors to include the financial impact information of the MSTU to the Town; and,

WHEREAS, The Town Council has now directed that the question relating to continued participation in the Brevard County MSTU for Law Enforcement be simplified as it was prior to 2014; and,

WHEREAS, The Town Council has recommended that a referendum question be submitted to the electors of the Town to determine if the Town Charter should be amended to change from "at-large" voting to district voting as more particularly described herein.

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

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SECTION 1. Ordinance 2014-09 is hereby repealed.

SECTION 2.

A referendum election is hereby called and scheduled to be held concurrent with the general election in November, 2016, to determine whether the Town of Malabar shall continue participation in the Brevard County MSTU for Law Enforcement and a referendum election is also hereby called and scheduled to be held concurrent with the general election in November, 2016, to determine whether the Town of Malabar should adopt an amendment to the Town Charter, section 2.02 relating to how Town Council members are elected, as more particularly described in Exhibit A, shall be approved by a majority of the votes cast in such election in which the qualified electors residing in the Town shall participate. Such referendum election shall be held and conducted in a manner prescribed by law for all general

elections. The place for voting in such referendum election shall be the usual place for voting in the Town in the general election to be held in November, 2016.

SECTION 3.

The ballot to be used at such referendum election shall contain a statement of the proposed subject matter of the question and shall provide facilities for qualified electors to vote for or against continued participation in the Brevard County Law Enforcement MSTU and an amendment to Section 2.02 of the Town Charter relating to a change from "at-large" voting to district voting in two (2) separate ballot questions.

**Ballot 2016
Town of Malabar, Florida**

Question 1. Continued participation in the Brevard County Law Enforcement MSTU

Shall the Town continue to participate in the Brevard County Law Enforcement MSTU?

Yes
 No

Instruction to voters: If you are in favor of the continuing the MSTU with Brevard County for Law Enforcement Patrol Services, mark the space to the left of the word "YES". If you are not in favor of continuing the MSTU with Brevard County for Law Enforcement Patrol Services, mark the space to the left of the word "NO".

Question 2. Amendment to section 2.02 of the Charter relating to the election of the town council members

Shall Section 2.02 of the Charter be amended to change how the town council members are elected from "at-large" to being elected from the district in which the candidate resides?

Yes
 No

Instruction to voters: If you are in favor of the adoption of the foregoing amendment to the Charter mark the space to the left of the word "YES". If you are not in favor of the adoption of the foregoing amendment to the Charter, mark the space to the left of the word "NO".

SECTION 4.

The Town Clerk is hereby authorized and directed to instruct the Supervisor of Elections of Brevard County to include the above-described questions on the ballot for the general election to be held on the 8 day of November, 2016.

SECTION 5.

Notice of the said referendum election in substantially the form showing in Exhibit B to this Ordinance shall be published two times in a newspaper of general circulation according to the laws of the State of Florida. The first publication shall be during the fifth week prior to the week in which the referendum election is to be held and the second publication shall be during the third week prior to the week in which the referendum election is to be held. A minimum of five

copies of this Ordinance shall be kept on file in the office of the Town Clerk for public inspection upon demand during normal business hours.

SECTION 6.

If continued participation in the Brevard County Law Enforcement MSTU is not approved by a majority of the votes cast in such referendum election the Town Council shall repeal Ordinance No. 2007-05. If the amendment to the Town Charter described in Question No. 2, hereinabove is approved by the electors of the Town, then such amendment shall take effect with the general election of the Town at which such referendum was approved.

SECTION 7.

This Ordinance shall become effective five business days after its adoption.

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

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Don Krieger	_____
Council Member Dick Korn	_____
Council Member Richard Kohler	_____

This Resolution was then declared duly passed and adopted this ____ day of _____, 2016.

Town of Malabar

Mayor Phillip R. Crews, Council Chair

ATTEST:

Debby K. Franklin
Town Clerk/Treasure (Seal)

Approved as to Form and Content

Karl W. Bohne, Jr., Town Attorney

EXHIBIT A
Town of Malabar Language of Proposed Charter Changes
(In all cases, words crossed out with ~~strike-through~~ are to be deleted
and words underlined are to be added.)

REFERENDUM QUESTION:

1. Shall Section 2.02 of the Town Charter be amended as follows:

“Sec. 2.02. - Composition.

The Town Council Members shall be elected from five (5) separate districts to the election of Town Council members, who shall reside in five (5) separate districts, ~~but~~ and are who shall be elected at large- by the voters of the district where the candidate for Town Council resides. The Town shall also elect a mayor who is elected at large.

Exhibit B
NOTICE OF REFERENDUM ELECTION
TOWN OF MALABAR, FLORIDA

Public notice is hereby given that on November 8, 2016; the issue of whether the Town of Malabar shall continue participation in the Brevard County Law Enforcement MSTU and whether Section 2.02 of the Charter shall be amended will be submitted to the qualified electors of the Town of Malabar and will appear on the same election ballot as a referendum on that date as one separate ballot question.

The Town Council of the Town of Malabar has adopted an ordinance calling the said election on the following questions:

Question 1. Shall the Town continue to participate in the Brevard County Law Enforcement MSTU?

Question 2. Shall Section 2.02 of the Charter be amended to change how the town council members are elected from "at-large" to being elected from the district in which the candidate resides?

The places of voting shall be the usual places of voting in the Town of Malabar during the general election scheduled on November 8, 2016 and the polls shall be open from 7:00 a.m. to 7:00 p.m. on the said date. All duly qualified electors residing within the Town of Malabar shall be entitled to participate and vote in said referendum election.

The ballot containing the question to be so submitted to the electors shall be in substantially the following form:

2016 Ballot
Town of Malabar, Florida

Question 1. Continued participation in the Brevard County Law Enforcement MSTU

Shall the Town continue to participate in the Brevard County Law Enforcement MSTU?

Yes
 No

Instruction to voters: If you are in favor of the continuing the MSTU with Brevard County for Law Enforcement Patrol Services, mark the space to the left of the word "YES". If you are not in favor of continuing the MSTU with Brevard County for Law Enforcement Patrol Services, mark the space to the left of the word "NO".

Question 2. Amendment to section 2.02 of the Charter relating to the election of the town council members

Shall Section 2.02 of the Charter be amended to change how the town council members are elected from "at-large" to being elected from the district in which the candidate resides?

Yes
 No

Instruction to voters: If you are in favor of the adoption of the foregoing amendment to the Charter mark the space to the left of the word "YES". If you are not in favor of the adoption of the foregoing amendment to the Charter, mark the space to the left of the word "NO".

For further information regarding this referendum election, contact the Town Clerk of the Town of Malabar. A minimum of five copies of this Ordinance are on file at the office of the said Town Clerk at Town Hall, 2725 Malabar Road, Malabar, Florida, 32950, and are available for inspection upon request during normal business hours.

TOWN OF MALABAR

AGENDA ITEM REPORT

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

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

SUBJECT: Vacate Unimproved 30-foot wide right-of-way known as Johnston Avenue from West Railroad Avenue west 543.36 feet, adjacent to the furthest point of property owned by applicant. Applicant is Robert Marks individually and as President of AAA Malabar Storage, Inc., as co-applicant)

BACKGROUND/HISTORY:

This vacate was submitted by property owner, Robert Marks individually and as President of AAA Malabar Storage, Inc., as co-applicants who currently owns both parcels: 28-38-31-00-00264.0-000.00 (north vacant parcel) & 28-38-31-50-0000A.0-0003.00 (south AKA: 2700 Malabar Road, Malabar). It is at the owners request to join the two parcels together, further stating the unimproved 30-foot wide right-of-way serves no public purpose. Mr. Marks has been maintaining the unimproved right-of-way by way of mowing & picking up trash. Both parcels are zoned Commercial General "CG". The land area under consideration consists of approximately .37 of an acre.

Previous Councils have vacated over a dozen rights-of-way within the Town, not counting the roads within Malabar Scrub Sanctuary. The applicant owns the property on both sides of the right-of-way and wishes to join the two parcels. Council can, as a condition, require the applicant to record a Declaration of Unity of Title, joining the properties. This is a covenant that would run with the land and prohibit the applicant from separating the properties in the future.

The majority of land in this area is currently used for tree farms.

ATTACHMENTS:

- Resolution 08-2016
- Petition for Vacating of Right-of-Way by owner (Robert Marks individually and as President of AAA Malabar Storage, Inc. as co-applicants)
- Application to Vacate and Abandon Public Right-of-Way
- Warranty Deed for north vacant parcel # 28-38-31-00-00-00264.0-000.00
- Property Appraisers Map & Information
- Radius Map 1,000'
- Notice of Public Hearing
- Public Notice & Picture of Sign
- Survey of Johnston Avenue (large map) attached
- Tax bill for both properties
- Example of a Unity of Title
- Staff Comments

ACTION OPTIONS:

Recommend Action

FINANCIAL IMPACT:

N/A

RESOLUTION 08 - 2016

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA VACATING AND ABANDONING AN UNDEVELOPED STREET RIGHT-OF-WAY MORE PARTICULARLY DESCRIBED IN THIS RESOLUTION AS EXHIBIT "A"; PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, be it resolved by the Town Council of the Town of Malabar, Brevard County, Florida as follows:

Section 1. The Town hereby vacates and abandons the following right-of-way:

SEE EXHIBIT "A"

Section 2. This vacate and abandonment shall be effective and will be recorded in the Public Records of Brevard County:

Section 3. Effective Date. This resolution shall take effect upon its recording in the Public Records of Brevard County, Florida

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

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Don Krieger	_____
Council Member Dick Korn	_____
Council Member Richard Kohler	_____

This Resolution was then declared duly passed and adopted this ____ day of _____, 2016.

Mayor Phillip R. Crews, Council Chair

ATTEST:

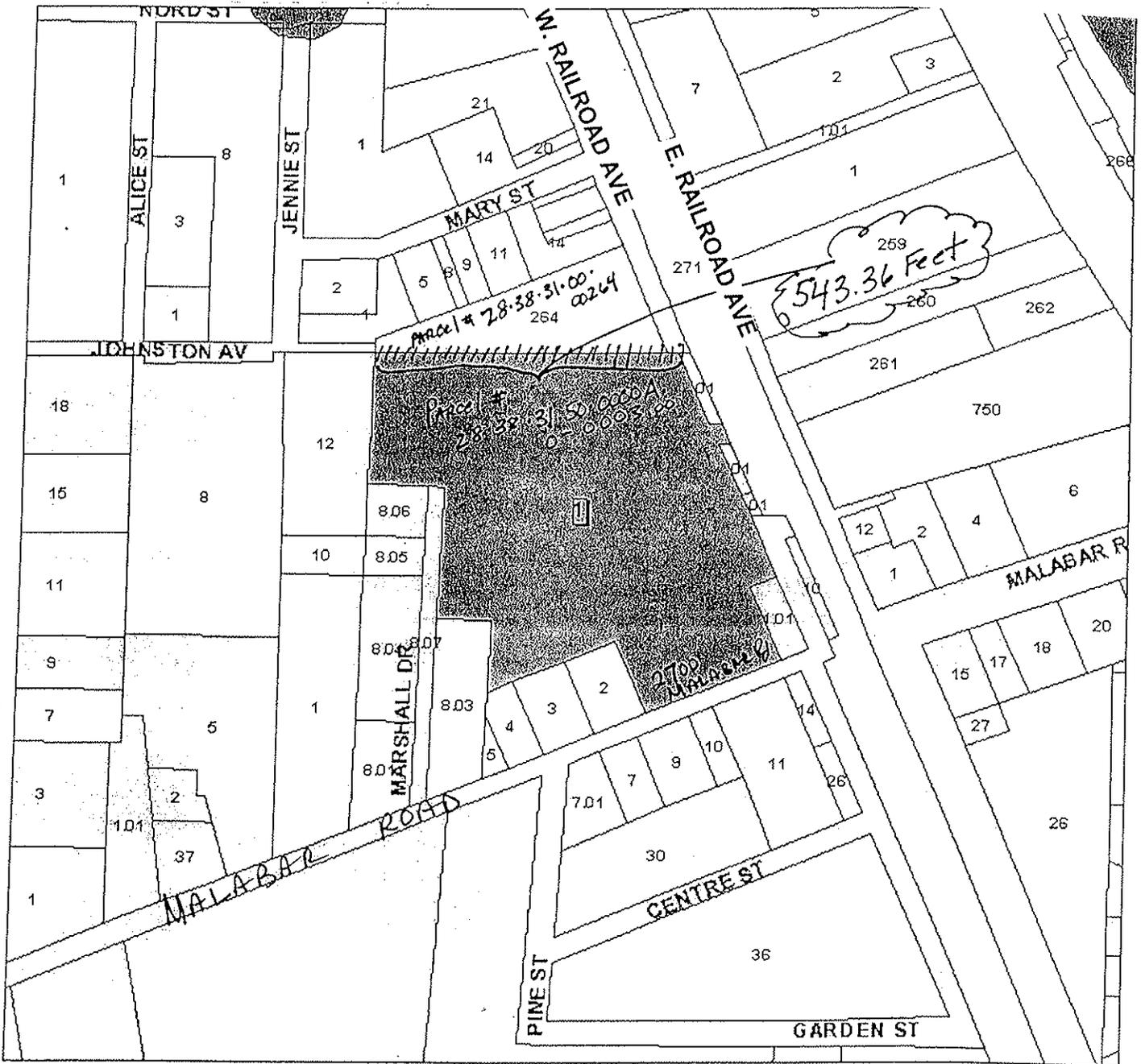
Debby K. Franklin, C.M.C.
Town Clerk/Treasurer

(Seal)

Approved as to Form and Content:

Karl Bohne, Jr., Town Attorney

EXHIBIT "A"



SOUTH



TOWN OF MALABAR
 2725 MALABAR ROAD
 MALABAR, FLORIDA 32950-4427
 3321-727-7764

PETITION FOR VACATING OF RIGHT-OF-WAY

Before completing this application, please refer to the attached.

- Petition for vacating right-of-way procedure
- Ordinance 01-06

This application must be completed, with required attachments, and returned to the Town Clerk's Office.

Name of Applicant(s) Robert Marks Telephone # (321) 704-3244

Mailing Address 2700 MALABAR RD, MALABAR, FL, 32950

Reason for Request I OWN ALL ADJACENT PROPERTY AND THE UNIMPROVED RIGHT OF WAY SERVES NO PUBLIC PURPOSE BOTH TO THE NORTH AND SOUTH OF MY PROPERTY

Parcel ID: 28-38-31-00-00264.0-0000.00 NORTH SIDE

Parcel ID: 28-38-31-50-0000A.0-0003.00 SOUTH SIDE

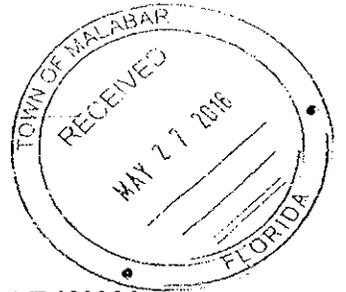
List of Property Owners Abutting said Public Right-of-Way:

Fees: \$425.00, which includes advertising, administrative time, mailing and initial review by the Town Engineer and Town Attorney. Any additional costs shall be paid by the applicant.

Robert Marks
 Signature of Applicant(s)

5/27/16
 Date

TOWN OF MALABAR
2725 Malabar Road
Malabar, FL 32950
Tel. 321-727-7764 FAX 321-722-2234



APPLICATION TO VACATE AND ABANDON PUBLIC RIGHT-OF-WAY

Before completing this application, please refer to Ordinance 01-06, attached.

This application must be completed, with required attachments, and returned to the Town Clerk's office.

Name of Applicant(s) AAA Malabar Storage, INC. Tel (321) 704-3244
Robert MARKS
Mailing Address: 2700 MALABAR RD, MALABAR, FLA. 32950

Legal description of public right-of-way covered by application:
Township 28, Range 38, Section 31, Lot/Block N/A,
Subdivision _____, Street Name Johnston Ave.
Other Legal 30' X 543.36' UNIMPROVED ROW

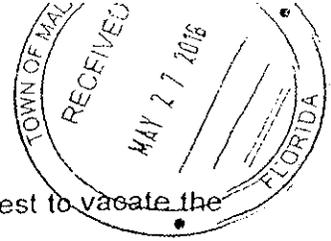
Required attachments:

- Petition to vacate
- Application fee of \$425 which includes advertising, administrative time and mailing. Any additional costs may include, but are not limited to, engineering fees, attorney fees, etc., and shall be paid by the applicant.
- Map of the total area of the public right-of-way:
- List of names, addresses and tax parcel numbers of property owners within 500 feet of the total length of the subject public right-of-way as prepared by a county office with access to public records, i.e. Brevard County GIS division of the Planning and Zoning Department (321-633-2060).

Robert MARKS
Applicant(s)

5/27/16
Date

TOWN OF MALABAR - VACATE REQUEST
(Page 2)



The undersigned submits as grounds and reasons in support of this request to vacate the following right of way:

Description: (can submit on separate paper)

- Length 543.36'
- Width Adjacent to Parcels 30' Between Parcels 264 + BLK "A" Lot 9
- In Township 28, Range 38, Section 31, and Lot/Block _____.

I, Robert Marks, being first duly sworn, depose and say that, the property described, which is the subject matter of this application and the owner of 2 of the 2 adjacent parcels; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

Robert Marks
Signature of Applicant(s)

5/27/16
Date

Signature of Applicant(s)

Date

Sworn and subscribed before me this 27 day of May, 2016.

Notary Public, State of Florida

Commission No. PF103020

My Commission Expires 3/17/18

Notary Vincent B. Weal

Name Printed Vincent B. Weal



**FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS**

Detail by Entity Name
Florida Profit Corporation

AAA MALABAR STORAGE, INC.

Filing Information

Document Number	P09000008872
FEI/EIN Number	90-0440023
Date Filed	01/28/2009
State	FL
Status	ACTIVE

Principal Address

 2700 MALABAR RD
MALABAR, FL 32950

Changed: 03/13/2010

Mailing Address

 2700 MALABAR RD
MALABAR, FL 32950

Changed: 03/13/2010

Registered Agent Name & Address

 MARKS, ROBERT D
1100 BROOK STREET NE
PALM BAY, FL 32905

Officer/Director Detail
Name & Address

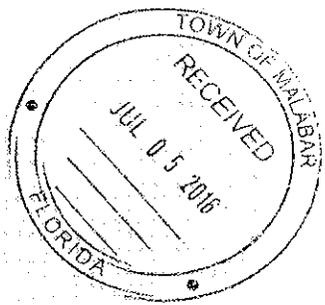
Title D

 MARKS, ROBERT D PRES
1100 BROOK STREET NE
PALM BAY, FL 32905

Annual Reports

Report Year	Filed Date
2014	04/21/2014
2015	06/09/2015
2016	03/28/2016

Recorded



This Instrument Prepared by and Return to:
Michelle McClure
Alliance Title of the Treasure Coast, LLC
725 Commerce Center Drive
Ste A
Sebastian, FL 32958
as a necessary incident to the fulfillment of conditions
contained in a title insurance commitment issued by it.

Property Appraisers Parcel I.D. (Folio) Number(s):
2850957 and 2850957
File No.: 1604913

WARRANTY DEED

R.M.

This Warranty Deed, Made the 27th day of May, 2016, by C. Randall Carmichael, whose post office address is: 609 Alden Pl, Melbourne Beach, FL 32951, hereinafter called the "Grantor", to AAA Malabar Storage, Inc., a Florida Corporation, whose post office address is: 2700 Malabar Rd, Malabar, FL 32950, hereinafter called the "Grantee".

WITNESSETH: That said Grantor, for and in consideration of the sum of Thirty Five Thousand Dollars and No Cents (\$35,000.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee, at that certain land situate in Brevard County, Florida, to wit:

That part of the following described property lying West of Florida East Coast Railroad right-of-way: Begin at the Southwest corner of Southeast quarter of Northwest quarter, Section 31, Township 28 South, Range 38 East; thence East to a stake set on the East side of railway right-of-way; thence Northeasterly to a post set on bank of Indian River about 20 feet and 6 inches North of cabbage palmetto tree marked "X"; thence along shore of Indian River North 26° West to a stake at the Southeast corner of land owned by R.A. Ward; thence South 69° 15' West 20.51-chains to the quarter section line; thence S. 16 1/2 feet to Point of Beginning.

(VACANT LAND)

The property is not the homestead of the Grantor(s) under the laws and constitution of the state of Florida in that neither Grantor(s) or any member of the household of Grantor(s) reside thereon.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to 2016, reservations, restrictions and easements of record, if any.

(The terms "Grantor" and "Grantee" herein shall be construed to include all genders and singular or plural as the context indicates.)

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

SIGNED IN THE PRESENCE OF THE FOLLOWING WITNESSES
TWO SEPARATE DISINTERESTED WITNESSES REQUIRED

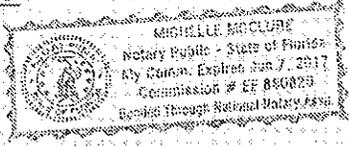
Witness Signature: [Signature]
Printed Name: Michelle McClure C. Randall Carmichael

Witness Signature: [Signature]
Printed Name: Jeff McClure

State of Florida
County of Indian River

The foregoing instrument was acknowledged before me this 27th day of May, 2016 by C. Randall Carmichael who is/are personally known to me or has/have produced driver license(s) as identification.

Notary Public Signature: [Signature] My Commission Expires: 6-7-17
Printed Name: Michelle McClure (SEAL)



2700 Malabar Road

Dana Blickley, CFA
Property Appraiser
Brevard County, FL



Property Details

General Parcel Information

Parcel ID:	28-38-31-50-0000A.0-0003.00	Millage Code:	34Z0	Exemption:		Use Code:	4810
Site Address:	2700 MALABAR RD, MALABAR 32950					Tax ID:	2851046

Site Address is assigned by Brevard County Address Assignment for E-911 purposes and may not reflect the postal community name.

Owner Information

Owner Name:	MARKS ROBERT
Second Name:	
Mailing Address:	1100 NE BROOK NE ST
City, State, Zipcode:	PALM BAY, FL 32905-4902

Abbreviated Description

Plat Book/Page:	0002/0023	Sub Name:	ARNOLDS PLAT OF MALABAR	LOTS 3,4,7,8 BLK A, ALL OF PB 2 PG 24 & LOT 1 BLK A OF UNREC RESUBD OF LOTS 5 & 6 BLK A PER DB 414 PG 470 ALL AS DESC IN ORB 5919 PG 3899
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Value Summary

Land Information

Roll Year:	2013	2014	2015
Market Value Total: ¹	\$1,550,000	\$1,595,000	\$2,065,000
Agricultural Market Value:	\$0	\$0	\$0
Assessed Value Non-School:	\$1,550,000	\$1,595,000	\$2,065,000
Assessed Value School:	\$1,550,000	\$1,595,000	\$2,065,000
Homestead Exemption: ²	\$0	\$0	\$0
Additional Homestead: ²	\$0	\$0	\$0
Other Exemptions: ²	\$0	\$0	\$0
Taxable Value Non-School: ³	\$1,550,000	\$1,595,000	\$2,065,000
Taxable Value School: ³	\$1,550,000	\$1,595,000	\$2,065,000

Acres:	8.43
Site Code:	381

1: Market value is established for ad valorem purposes in accordance with s.193.011(1) and (8), Florida Statutes. This value does not represent anticipated selling price for the property.

2: Exemptions are applicable for the year shown and may or may not be applicable if an owner change has occurred.

3: The Additional Homestead exemption does not apply when calculating taxable value for school districts pursuant to Amendment 1.

Sale Information

Official Records Book/Page	Sale Date	Sale Amount	Deed Type	Vacant/Improved
7444/0749	9/1/2015	\$1,237,500	WD	I
5919/3899	3/13/2009	\$192,900	WD	I
5919/3896	3/13/2009	\$100	WD	I

12/39
25/66

LISA CULLEN, CFC

NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS

BREVARD COUNTY TAX COLLECTOR

2015 PAID REAL ESTATE

Corrected

TAX ACCOUNT NUMBER	ESCROW CD	MILLAGE CODE
2851046		34Z0

Pay your taxes online at www.brevardtc.com

MARKS ROBERT
1100 NE BROOK NE ST
PALM BAY, FL 32905-4902

2700 Malabar

28 383150 A 3
2700 MALABAR RD
ARNOLDS PLAT OF MALABAR
MALABAR
LOTS 3,4,7,8 BLK A, ALL OF PB 2
PG 24
See Additional Legal on Tax Roll

AD VALOREM TAXES							
TAXING AUTHORITY	MILLAGE RATE	ASSESSED VALUE	EXEMPTION	TAXABLE VALUE	TAXES LEVIED		
COUNTY GENERAL FUND	4.5497	2,065,000	0	2,065,000	9,395.13		
BREVARD LIBRARY DISTRICT	0.5555	2,065,000	0	2,065,000	1,147.11		
BREVARD MOSQUITO CONTROL	0.1995	2,065,000	0	2,065,000	411.97		
SCHOOL - BY STATE LAW	5.0270	2,065,000	0	2,065,000	10,380.76		
SCHOOL - BY LOCAL BOARD	0.7480	2,065,000	0	2,065,000	1,544.62		
SCHOOL - CAPITAL OUTLAY	1.5000	2,065,000	0	2,065,000	3,097.50		
TOWN OF MALABAR	1.9256	2,065,000	0	2,065,000	3,976.36		
LAW ENFORCEMENT MSTU	1.2691	2,065,000	0	2,065,000	2,620.69		
ST JOHNS RIVER WATER MGMT DST	0.3023	2,065,000	0	2,065,000	624.25		
FLA INLAND NAVIGATION DIST	0.0320	2,065,000	0	2,065,000	66.08		
SEBASTIAN INLET DISTRICT	0.1069	2,065,000	0	2,065,000	220.75		
ENV END LD/WTR LTD 05-24	0.0543	2,065,000	0	2,065,000	112.13		
ENV END LD/WTR LTD(DBTP) 05-24	0.1102	2,065,000	0	2,065,000	227.56		
TOTAL MILLAGE					16.3801	AD VALOREM TAXES	\$33,824.91

NON-AD VALOREM ASSESSMENTS			
LEVYING AUTHORITY	RATE	AMOUNT	
112 STORMWATER MALABAR		1,706.99	
158 SOLID WASTE DISPOSAL		164.51	
PAY ONLY ONE AMOUNT IN BOXES BELOW		NON-AD VALOREM ASSESSMENTS	\$1,871.50

If Paid By	Nov 30, 2015				
Please Pay	\$34,268.55				

LISA CULLEN, CFC

NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS

BREVARD COUNTY TAX COLLECTOR

2015 PAID REAL ESTATE

Corrected

TAX ACCOUNT NUMBER	ESCROW CD	MILLAGE CODE
2851046		34Z0

Pay your taxes online at www.brevardtc.com

RETURN WITH PAYMENT

MARKS ROBERT
1100 NE BROOK NE ST
PALM BAY, FL 32905-4902

28 383150 A 3
2700 MALABAR RD
ARNOLDS PLAT OF MALABAR
MALABAR
LOTS 3,4,7,8 BLK A, ALL OF PB 2
PG 24
See Additional Legal on Tax Roll

PLEASE PAY IN U.S. FUNDS THROUGH U.S. BANK TO BREVARD COUNTY TAX COLLECTOR, PO BOX 2500, TITUSVILLE, FL 32781-2500

If Paid By	Nov 30, 2015				
Please Pay	\$34,268.55				

Paid 11/30/2015

Receipt # 310-16-00000509

\$34,268.55 Paid By AAA MALABAR STORAGE INC

Vacant Parcel

Dana Blickley, CFA
Property Appraiser
Brevard County, FL



Property
Details

General Parcel Information

Parcel ID:	28-38-31-00-00264.0-0000.00	Millage Code:	34Z0	Exemption:	Use Code:	1000
Site Address:					Tax ID:	2850957

Site Address is assigned by Brevard County Address Assignment for E-911 purposes and may not reflect the postal community name.

Owner Information

Owner Name:	CARMICHAEL, C RANDALL
Second Name:	
Mailing Address:	609 ALDEN PLACE
City, State, Zipcode:	MELBOURNE BCH, FL 32951

Abbreviated Description

Sub Name:	PART OF SE 1/4 OF NW 1/4 AS DES IN DB 356 PG 470 EX RD R/W
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Value Summary

Roll Year:	2013	2014	2015
Market Value Total: ¹	\$25,380	\$25,380	\$25,380
Agricultural Market Value:	\$0	\$0	\$0
Assessed Value Non-School:	\$25,380	\$25,380	\$25,380
Assessed Value School:	\$25,380	\$25,380	\$25,380
Homestead Exemption: ²	\$0	\$0	\$0
Additional Homestead: ²	\$0	\$0	\$0
Other Exemptions: ²	\$0	\$0	\$0
Taxable Value Non-School: ³	\$25,380	\$25,380	\$25,380
Taxable Value School: ³	\$25,380	\$25,380	\$25,380

Land Information

Acres:	1.41
Site Code:	1

1: Market value is established for ad valorem purposes in accordance with s.193.011(1) and (8), Florida Statutes. This value does not represent anticipated selling price for the property.

2: Exemptions are applicable for the year shown and may or may not be applicable if an owner change has occurred.

3: The Additional Homestead exemption does not apply when calculating taxable value for school districts pursuant to Amendment 1.

Sale Information

Official Records Book/Page	Sale Date	Sale Amount	Deed Type	Vacant/Improved
3170/2645	12/30/1991	\$100	WD	V
1158/0609	1/2/1971	\$100		I

Sale screening and sale screening source codes are for assessment purposes only and have no bearing on potential marketability of the property.

Data Last Updated: Thursday, November 19, 2015- Printed On: Tuesday, July 05, 2016.

LISA CULLEN, CFC

NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS

BREVARD COUNTY TAX COLLECTOR

2015 PAID REAL ESTATE

TAX ACCOUNT NUMBER	ESCROW CD	MILLAGE CODE
2850957		34Z0

Pay your taxes online at www.brevardtc.com

CARMICHAEL, C RANDALL
609 ALDEN PLACE
MELBOURNE BCH, FL 32951

VACANT Parcel

28 383100 264
PART OF SE 1/4 OF NW 1/4 AS DES
IN DB 356 PG 470 EX RD R/W

AD VALOREM TAXES						
TAXING AUTHORITY	MILLAGE RATE	ASSESSED VALUE	EXEMPTION	TAXABLE VALUE	TAXES LEVIED	
COUNTY GENERAL FUND	4.5497	25,380	0	25,380	115.47	
BREVARD LIBRARY DISTRICT	0.5555	25,380	0	25,380	14.10	
BREVARD MOSQUITO CONTROL	0.1995	25,380	0	25,380	5.06	
SCHOOL - BY STATE LAW	5.0270	25,380	0	25,380	127.59	
SCHOOL - BY LOCAL BOARD	0.7480	25,380	0	25,380	18.98	
SCHOOL - CAPITAL OUTLAY	1.5000	25,380	0	25,380	38.07	
TOWN OF MALABAR	1.9256	25,380	0	25,380	48.87	
LAW ENFORCEMENT MSTU	1.2691	25,380	0	25,380	32.21	
ST JOHNS RIVER WATER MGMT DST	0.3023	25,380	0	25,380	7.67	
FLA INLAND NAVIGATION DIST	0.0320	25,380	0	25,380	0.81	
SEBASTIAN INLET DISTRICT	0.1069	25,380	0	25,380	2.71	
ENV END LD/WTR-LTD 05-24	0.0543	25,380	0	25,380	1.38	
ENV END LD/WTR LTD(DBTP) 05-24	0.1102	25,380	0	25,380	2.80	
TOTAL MILLAGE	16.3801			AD VALOREM TAXES	\$415.72	

NON-AD VALOREM ASSESSMENTS		
LEVING AUTHORITY	RATE	AMOUNT
112 STORMWATER MALABAR		10.61
PAY ONLY ONE AMOUNT IN BOXES BELOW		NON-AD VALOREM ASSESSMENTS \$10.61
If Paid By	Nov 30, 2015	
Please Pay	\$409.28	

LISA CULLEN, CFC

NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS

BREVARD COUNTY TAX COLLECTOR

2015 PAID REAL ESTATE

TAX ACCOUNT NUMBER	ESCROW CD	MILLAGE CODE
2850957		34Z0

Pay your taxes online at www.brevardtc.com

CARMICHAEL, C RANDALL
609 ALDEN PLACE
MELBOURNE BCH, FL 32951

28 383100 264
PART OF SE 1/4 OF NW 1/4 AS DES
IN DB 356 PG 470 EX RD R/W

RETURN WITH PAYMENT

PLEASE PAY IN U.S. FUNDS THROUGH U.S. BANK TO BREVARD COUNTY TAX COLLECTOR, PO BOX 2500, TITUSVILLE, FL 32781-2500

If Paid By	Nov 30, 2015			
Please Pay	\$409.28			

Paid 11/30/2015

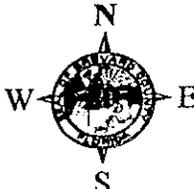
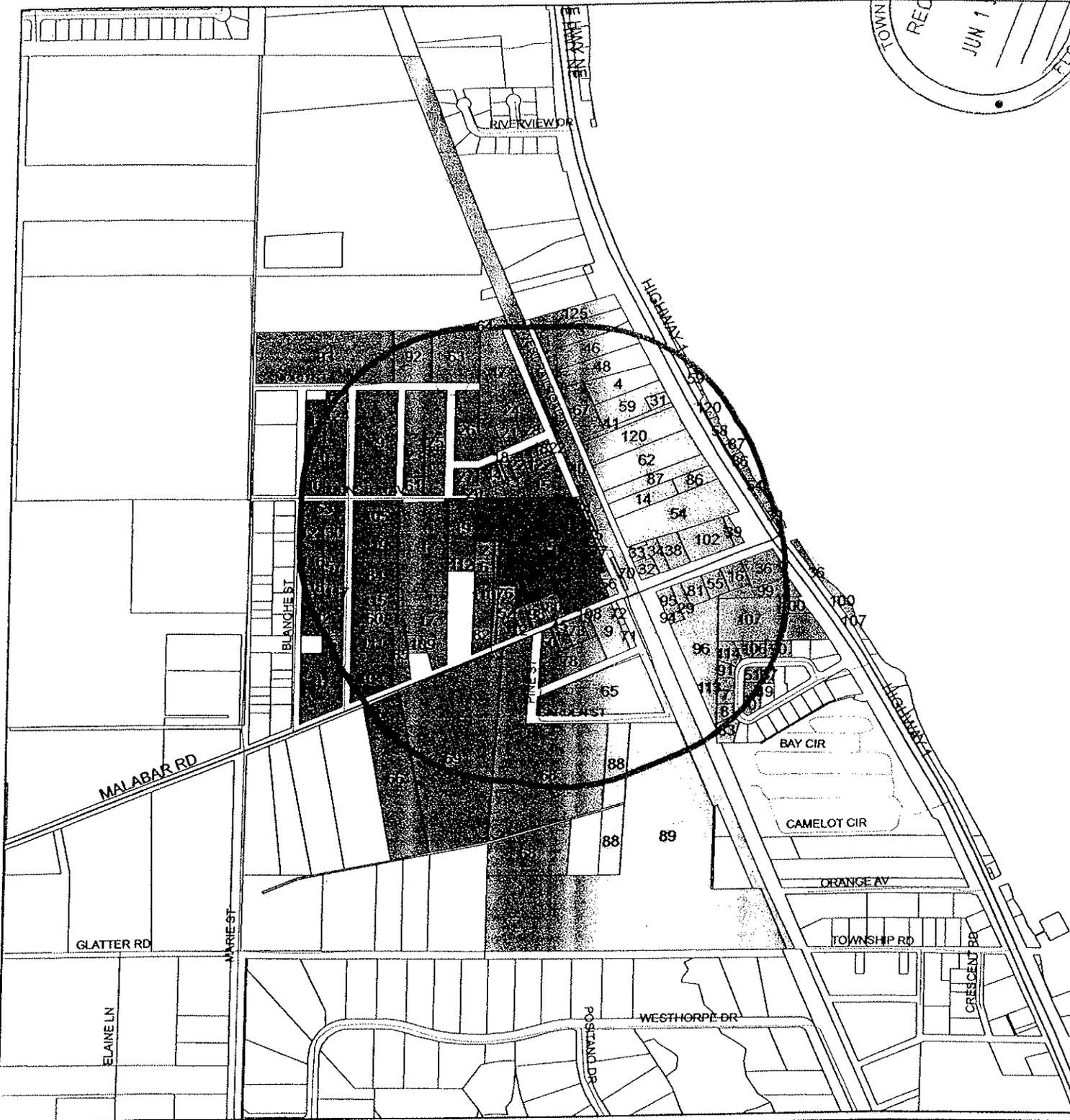
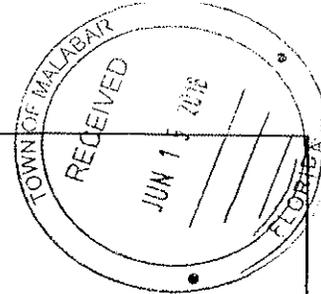
Receipt # 002-16-00022856

\$409.28 Paid By

RADIUS MAP

MARKS, ROBERT

marks1000



1:9,600 or 1 inch = 800 feet
Buffer Distance: 1000 feet

- Buffer
- Subject Property
- Notify Property
- Parcels

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.



TOWN OF MALABAR

2725 MALABAR ROAD • MALABAR, FLORIDA 32950
(321) 727-7764 OFFICE • (321) 722-2234 FAX
www.townofmalabar.com

**TOWN OF MALABAR
TOWN COUNCIL
NOTICE OF PUBLIC HEARING
FOR RESOLUTION VACATING RIGHT-OF-WAY**

The Town Council of the Town of Malabar, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on JULY 18, 2016 at 7:30 pm for a public hearing on Resolution 08-2016, a request by Robert Marks to vacate the unimproved 30-foot wide right-of-way known as Johnston Avenue from Railroad Avenue west 543.36 feet, adjacent to the furthest point of the property owned by the applicant. The right-of-way is located between Parcel ID 28-38-31-00-264 and Parcel ID 28-38-31-50-0000A.0-003, both owned by the applicant.

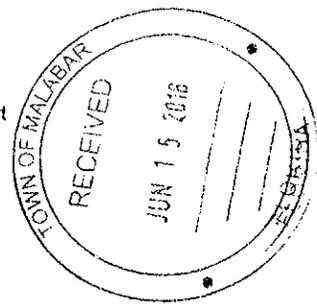
Copies of this request is available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may appear and be heard at this meeting of the Town Council with respect to this request.

Debby Franklin, CMC
Town Clerk/Treasurer

YOUR ARE RECEIVING THIS NOTICE BECAUSE YOUR PROPERTY LIES IN THE 1000 FOOT RADIUS OF THIS REQUESTED VACATE. MALABAR LAND DEVELOPMENT CODE STATES IN ARTICLE XII, SECTION 1-12-8.1, THAT ALL PROPERTY OWNERS WITHIN 1000 FEET OF A VACATE REQUEST SHALL BE SENT A COURTESY COPY OF THE LEGAL AD FOR THE PUBLIC HEARING THAT WILL BE HELD TO DISCUSS THIS REQUEST.

THIS REQUEST WILL FIRST BE PRESENTED TO THE PLANNING AND ZONING BOARD AT THEIR MEETING OF JULY 13, 2016 AT 7:30pm. INTERESTED PARTIES ARE ENCOURAGED TO ATTEND BOTH MEETINGS.

MARKS, Robert



ADAMS, HOWARD J
ADAMS, FRIEDA G H/W
P O BOX 500233
MALABAR FL 32950-0233

ALFORD, KIM
ALFORD, LISA H/W
2545 JOHNSTON AVENUE
MALABAR FL 32950-0000

ARNOLD, EILEEN TRUSTEE
9600 RIVERVIEW DR
MICCO FL 32976-0000

BABER, STEVE A
BABER, CHARLENE R
P O BOX 500026
MALABAR FL 32950-0026

BALL, BROMLEY GRANT
BALL, DEBRA HOPKINS H/W
P O BOX 500025
MALABAR FL 32950-0025

BATCHER, MICHAEL A
871 COTORRO RD SE
PALM BAY FL 32909-0000

BAZ JR LLC
1582 MANZANITA ST NW
PALM BAY FL 32907-0000

~~BEATTY, CARLA
P O BOX 500001
MALABAR FL 32950-0001~~

~~BEATTY, CARL ALAN
P O BOX 500001
MALABAR FL 32950-0001~~

BILLIE, GEORGE SR TRUST
912 DARWIN LN NE
PALM BAY FL 32905-0000

BOES, CHRISTOPHER L
MINKELMANN, HELEN JANOSIK
10917 GRAND JOURNEY AVE
RALEIGH NC 27614-0000

~~BROOKS, TOMMIE R
56 BOSSIEUX BLVD
W MELBOURNE FL 32904-0000~~

BROOKS, TOMMIE RUTH MARSHALL
BROOKS, TOMMY A H/W
56 BOSSIEUX DR
W MELBOURNE FL 32904-0000

BROWN, LOUISE E TRUSTEE
P O BOX 500151
MALABAR FL 32950-0151

CARMICHAEL, C RANDALL
609 ALDEN PLACE
MELBOURNE BCH FL 32951-0000

CARMINE LLC
P O BOX 600835
MALABAR FL 32950-0835

CELESTIA SOLUTIONS INC
P O BOX 500070
MALABAR FL 32950-0070

CIRELLI, EMILIO
354 PINWOODS RD
ORMOND BCH FL 32174-0000

CLINE, ALISHA
2585 JOHNSTON AVE
MALABAR FL 32950-0000

COBB, CARL
COBB, SUSAN
121 MUIRFIELD WAY SE
PALM BAY FL 32909-0000

COCHRANE, PAULINE
COCHRANE, ROY H/W
P O BOX 500833
MALABAR FL 32950-0833

COOKE, BEATRICE MOORE
P O BOX 500264
MALABAR FL 32950-0264

CROWELL, WANDA R
DREY, LOIS A
12 US HIGHWAY 1
MALABAR FL 32950-0000

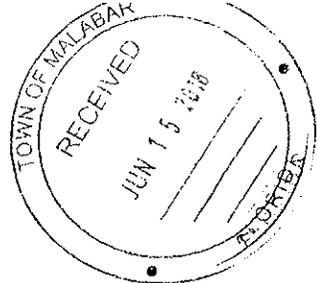
CURRI PROPERTIES LLC
2893 N HARBOR CITY BLVD
MELBOURNE FL 32935-6224

DEBELLAS, JOSEPH TRUSTEE
MARKS, ROBERT D
1100 BROOK ST NE
PALM BAY FL 32905-0000

DEVVRAT CORPORATION INC
60 HIGHWAY 1
MALABAR FL 32950-0000

DOUGLAS, BRUCE S
2917 CENTURY OAK
MALABAR FL 32950-0000

EASTON, RICHARD
EASTON, MARY K H/W
8514 DAMASCUS DRIVE
PALM BEACH GARDENS FL 33418-0000



EDGER PROPERTIES LLC
1672 WEST HIBISCUS BLVD
MELBOURNE FL 32901-0000

FLORIDA EAST COAST RAILWAY LLC
7411 FULLERTON ST SUITE 300
JACKSONVILLE FL 32256-3629

FRANCO, HECTOR I
WIEHL, SAMANTHA SUSAN
1230 US HIGHWAY 1
MALABAR FL 32950-0000

GASPERINI, ROSITA
1405 BLANCHE ST
MALABAR FL 32950-0000

GERLACH, DOUG
8865 CENTRAL AVE
MICCO FL 32976-0000

GOURLAY, ROBERT E JR
GOURLAY, ROBERT E III
2655 MALABAR ROAD
MALABAR FL 32950-0000

~~GREIMEL, JOHN A
1150 US HIGHWAY 1
MALABAR FL 32950-0132~~

GREIMEL, JOHN ANTHONY
GREIMEL, MARY G
1150 HIGHWAY US 1
MALABAR FL 32950-0132

GROVER, ALAN
215 ALLEN LN
MELBOURNE BCH FL 32951-0000

GUNN, JOHN
2937 CENTURY OAKS CIR
MALABAR FL 32950-0208

HALL-RUSSELL, ANGELA
18433 SW 87 PLACE
MIAMI FL 33157-0000

HEIN, ROBERT C
HEIN, STARR NADINE HW
525 BERRY RD
GRANT FL 32949-0000

HERRIN, DAVID A
2610 MALABAR RD
MALABAR FL 32950-0000

HOLM, TAMIN D
1313 BLANCHE ST
MALABAR FL 32950-0000

HELLWILL LLC
P O BOX 587
GRANT FL 32949-0587

KEMMLER, HANSEL C
KEMMLER, BARBARA B HW
2785 MALABAR RD
MALABAR FL 32950-0000

KEMPFER'S FEED & SEED INC
2728 MALABAR ROAD
MALABAR FL 32950-0000

KIERNAN, JOHN
KIERNAN, PATRICIA A TRUSTEES
360 FLORENCE ST
MALABAR FL 32950-0000

KRIEGER, DONALD E
2345 LINEBERRY LANE
MALABAR FL 32950-0000

LENKE, SCOTT P
P O BOX 500838
MALABAR FL 32950-0838

LESTYLES.MANAGEMENT CO INC TR
2 WEST ARDICE AVE STE 428
JUSTIS FL 32726-0000

LIND, ERICK
7 REIMERS
OGALLALA NE 69153-0000

LINNELL, MICHAEL L
DOUGLAS, CONNIE S HW
2275 GRANT RD
GRANT FL 32949-8104

~~LINELL, MICHAEL LLOYD
75 GRANT RD
GRANT FL 32949-8104~~

~~LINNELL, MICHAEL LLOYD
2275 GRANT RD
GRANT FL 32949-1804~~

LOTUS GROUP INVESTMENTS INC
P O BOX 500928
MALABAR FL 32950-0928

LONDY, STEPHEN
11 N AUSTRALIAN AVE STE 24
WEST PALM BEACH FL 33407-2392

~~MALABAR CEMETERY, TRUSTEES OF
0
MALABAR FL 32950-0000~~

MALABAR PROPERTIES LLC
P O BOX 23023
TAMPA FL 33623-0000



~~MALABAR, TOWN OF
2725 MALABAR RD
MALABAR FL 32950-0000~~

~~MALABAR, TOWN OF
1803 AIRPORT BLVD
MELBOURNE FL 32901-0000~~

MARSHALL, JIMMIE A TRUSTEE
P O BOX 500176
MALABAR FL 32950-0176

MARSHALL, LORRAINE LIFE ESTATE
P O BOX 500031
MALABAR FL 32950-0031

MATHEWS, TERRY D
7665 OAK ST N
MELBOURNE FL 32904-0000

MC KIERNAN, DONALD J
1948 CENTURY OAKS CIR
MALABAR FL 32950-0000

MELLO, DIEGO
1369 FLORENCE ST
MALABAR FL 32950-0732

MILLER, WILLIAM E
WISE, EDITH S
2530 MALABAR RD
MALABAR FL 32950-0000

MILUCKY, JAMES J
280 HIGHWAY 1
MALABAR FL 32950-0000

MILUCKY, JAMES J
SAYLORS, LEEANNE J H/W
1280 HIGHWAY 1
MALABAR FL 32950-0000

NANA'S CHILDREN'S HOME INC
TRUSTEE
P O BOX 500885
MALABAR FL 32950-0885

WAKMONT PRESERVE SUBDIVISION
HOMEOWNERS ASSOCIATION INC
100 E NEW HAVEN AVE
MELBOURNE FL 32901-0000

OLSON, ALLAN C
OLSON, DINAH MARIE H/W
2912 CENTURY OAKS CIRCLE
MALABAR FL 32950-0000

PAXTON, DUANE R
2932 CENTURY OAK CIR
MALABAR FL 32950-0000

~~POULOS, VERA M
75 MARIE ST
MALABAR FL 32950-0000~~

POULOS, VERA M
1175 N MARIE ST
MALABAR FL 32950-0000

PROCTOR, DOUGLAS K
2460 MALABAR ROAD
MALABAR FL 32950-0000

PROCTOR, DOUGLAS K
192 DE SOTO ROAD
WAKE WORTH FL 33463-0000

PROPST, DONNA M B
BROOKS, TOMMIE R ET AL
56 BOSSIEUX BLVD
W MELBOURNE FL 32904-0000

QUINBY SNYDER LLC
P O BOX 7696
PORT ST LUCIE FL 34985-0000

REILLY VENDING LLC
100 E 19TH ST
ROKERSON NJ 07524-0000

RAY, DEANNE HUGGINS
P O BOX 500175
MALABAR FL 32950-0175

ROBISON, BRETT M
CONTOUPE, JOHN
P O BOX 500357
MALABAR FL 32950-0357

SCOTT, JAMES K
SCOTT, CAROL K H/W
P O BOX 500067
MALABAR FL 32950-0067

RUPERT, KYLE MICHAEL
242 COUNCIL BLUFFS DR
DELTONA FL 32725-0000

SCOTT, WILLIAM R
2924 CENTURY OAKS CIR
MALABAR FL 32950-0000

THOMAS, DEBRA A
100 HIGHWAY 1
MALABAR FL 32950-0000

TD BANK NA
1660 SW ST LUCIE W BLVD 2ND FL
PORT ST LUCIE FL 34986-0000

THOMAS, CHRISTOPHER B
299 LACHINE ST SW
PALM BAY FL 32908-0000

marks 1000
Page 4

THOMAS, GEORGE
3009 E CORTEZ CT
IRVING TX 75062-0000

THOMAS, GEORGE A
THOMAS, BETTY JO
1435 FLORENCE ST
MALABAR FL 32950-0000

THOMPSON, WILLIAM A
THOMPSON, DUSTYN K HW
2936 CENTURY OAKS CIR
MALABAR FL 32950-0000

TOOD, BRITNEY BETH
2928 CENTURY OAKS CIR
MALABAR FL 32950-0000

TOWNSEND, JAMES H
TOWNSEND, ANNA M HW
1401 FLORENCE ST
MALABAR FL 32950-0000

CYLER, ROBERT
CYLER, SANDRA HW
1361 BLANCHE ST
MALABAR FL 32950-0000

WALSH, WILLIAM A
WALSH, LOIS E HW
1376 FLORENCE ST
MALABAR FL 32950-0000

WELSH, CARLA A
WELSH, JOHN C
1836 MAIN STREET
CONCORD MA 01742-0000

WHITE, ALICE ANN
345 FLORENCE STREET
MALABAR FL 32950-0000

WIEHL, SAMANTHA S
1230 US HIGHWAY 1
MALABAR FL 32950-0000

WITT, VERA L LIFE ESTATE
1319 BLANCHE ST
MALABAR FL 32950-0439

WOOD, MELVIN C
WOOD, REBECCA
26 ROYAL PALM PL
ERO BEACH FL 32960-5140

~~WORMUTH, LILA
2490 NORD ST
MALABAR FL 32950-0000~~

WORMUTH, LILA
2490 NORD STREET
MALABAR FL 32950-0000

EMKOSKI, JEAN A TRUSTEE
101 MARIE STREET
ALABAR FL 32950-0000



6/16/16



PUBLIC NOTICE

CASE NO. VA-1-2016

The Public Hearings will be conducted at:
Town of Malabar Council Chambers
2725 Malabar Road

Planning and Zoning Board Meeting:
Wednesday, JULY 13, 2016 @ 7:30 pm

Town Council Meeting:
Monday, JULY 18, 2016 @ 7:30 pm

APPLICANT: ROBERT MARKS

REQUEST: TO VACATE THE UNIMPROVED PORTION OF
JOHNSTON AVE. BETWEEN HIS PARCEL ID 28-38-31-00-
00264.0-0000.00 & PARCEL ID 28-38-31-50-0000A.0-
0003.00; 30 FEET WIDTH BY 543.36 FEET IN LENGTH,
FOR COMMERCIAL DEVELOPMENT

FOR MORE INFORMATION
CONTACT THE BUILDING DEPARTMENT
AT (321) 727-7764 X 14

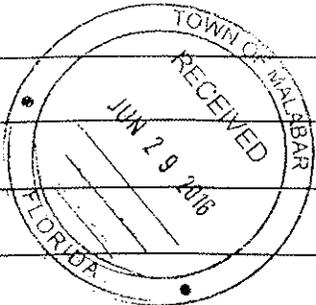
**Town of Malabar
BUILDING DEPARTMENT REVIEW SHEET**

PROJECT:	AAA MALABAR STORAGE, INC 2700 MALABAR ROAD MALABAR, FL 32950	DATE ROUTED:	06/29/2016
BP.:		DATE TO BE RETURNED*:	07/06/2016
APPLICANT	MR. ROBERT MARKS (OWNER) 321-704-3244	DEPT.:	<input checked="" type="checkbox"/> KEITH MILLS, TOWN PLANNER <input checked="" type="checkbox"/> MORRIS SMITH, TOWN ENGINEER <input checked="" type="checkbox"/> CHRISTOPHER ROBINSON, FIRE CHIEF <input checked="" type="checkbox"/> DARYL MUNROE, BUILDING OFFICIAL

MARK IF NO COMMENTS:	REVIEWER'S SIGNATURE:
PLEASE RETURN WITHIN 5 BUSINESS DAYS	
TOTAL HOURS WORKED ON REVIEW	
Included: REVIEW FOR VACATE OF ROW ON UNIMPROVED JOHNSON AVE. 543 36 IN LENGTH X 30' WIDE	

COMMENTS:

I HAVE REVIEWED THE SURVEY SUBMITTED FOR THE PURPOSE OF VACATING PART OF THE JOHNSON RIGHT-OF-WAY AND HAVE NO OBJECTION *Daryl Munroe*



to the deadline requirements, if there is no response within allotted time frame it will be considered as No Comments.

**TOWN OF MALABAR
MEMORANDUM**

Date: July 6, 2016 Memo: 16-CE-06
To: Denine Sherear, Assistant to Building Official Project No.:
From: Morris Smith, Town Engineer Variance No.:
Ref: Request to Vacate a Portion of Johnston Avenue

I have reviewed several document for this request, including but not limited to, the Plats of Record from the Office of the Clerk of the Court, archived Site Plans from the Town and present day boundary surveys.

I walked the area that is requested to be vacated on Wednesday June 29th and took photos of the portion of Johnston Avenue that is requested to be vacated.

There is evidence that this portion of the Johnston Avenue is already being used by the petitioner since the date of their site plan approval for the storage warehouse.

This section of Johnston Avenue contains as many as 12 Oak Trees that were required for the Site Plan of the storage house, Bahia Sod and irrigation pipes/heads to keep these items watered.

Outside of the most westerly end of this portion the right-of-way there is a Florida Power & Light (FP&L) wooden power pole which has a guy wire on the east side of the pole. This guy wire is in the public right-of-way of Johnston Avenue.

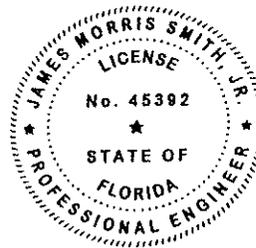
If this portion of Johnston is not vacated then the Town should require the petitioner to relocate the Oak trees and irrigation system components from the Towns right-of-way and onto their private property, south of the existing chain link fence.

If this portion of Johnston is vacated then the petitioner shall contact FP&L to make arrangements to create an easement, in favor of FP&L, for the guy wire that will then be on private property.

I do not have any objections to the petitioners request to vacate.

Very Truly Yours,

Digitally signed by James M Smith Jr
DN: C=US, O=IdenTrust ACES Business Representative,
OU=JAMES MORRIS SMITH JR PE PSM LLC, CN=James M
Smith Jr,
OID.0.9.2342.19200300.100.1.1=A01097C00000144C2E806330
000A6CA
Reason: Review a Petition for Vacating Portion of Johnston AV
Location: Johnston Avenue, Town of Malabar, Brevard Co.,
Florida
Date: 2016-07-06 06:13:12



James Morris Smith, Jr., P.E.
Town Engineer
Florida License 45392
July 6, 2016

Declaration of Unity of Title

SAMPLE

KNOW ALL MEN BY THESE PRESENTS, that pursuant to the applicable requirements of the Brevard County Health Department, pertaining to the issuance of a septic permit, the undersigned Town of Malabar, a Florida municipal corporation, being the fee owner of the following described real property lying, being and situate in the Town of Malabar, County of Brevard and State of Florida, to wit:

- 1) Lot 14, Block B, Snedeker's Subdivision of Malabar, according to the plat thereof, as recorded in Plat Book 1, Page 97 of the Public Records of Brevard County, Florida.
- 2) Lot 26, Block B, Snedeker's Subdivision of Malabar, according to the plat thereof, as recorded in Plat Book 1, Page 97 of the Public Records of Brevard County, Florida

does hereby make the following declarations of conditions, limitations and restrictions on said lands:

- 1. The aforesaid plot, parcel or combinations of separate lots be and the same is hereby established and declared to be unified as an indivisible site.
- 2. This Declaration of Unity of Title shall constitute a covenant running with the land, as provided by law, and shall be binding upon the undersigned, its successors and assigns, and all parties claiming thereunder and no portion shall be sold, assigned, transferred, conveyed or devised separately except in its entirety as one plot of parcel until such time as the same may be release in writing under the order of the Brevard County Health Department.
- 3. The undersigned does further agree that this instrument shall be filled for record among the Public Records of Brevard County, Florida.

IN WITNESS WHEREOF, the undersigned has caused this Declaration of Unity of Title to be executed in appropriate manner and its seal to be affixed this 8th day of March, 2013.

Signed, Sealed and Delivered in the presence of:

Town of Malabar

By: Carl A. Beatty
Carl A. Beatty, Mayor
Print Name and Title

Witness Print Name: Cynthia Kelley

Witness Print Name: Debby Franklin

State of Florida)
County of Brevard)

BEFORE ME the undersigned authority, personally appeared Carl A. Beatty, to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same as the act and deed of said corporation and for the uses and purposes set forth therein.

WITNESS my hand and official seal at Malabar, Brevard County, Florida this 8th day of March, 2013.

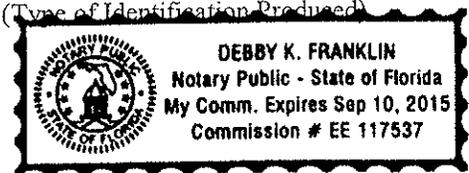
Debby Franklin
NOTARY PUBLIC, STATE OF FLORIDA

(Name of Notary Public: Print, Stamp, or Type as Commissioned.)

- Personally known to me, or
- Produced identification: _____

(Type of Identification Produced)

My Commission Expires:



CFN 2013051134, OR BK 6821 PAGE 878,
Recorded 03/08/2013 at 03:10 PM, Scott Ellis, Clerk of
Courts, Brevard County
Pgs: 1

7-11-16

CERTIFIED MAIL



To: Whom it MAY concern.

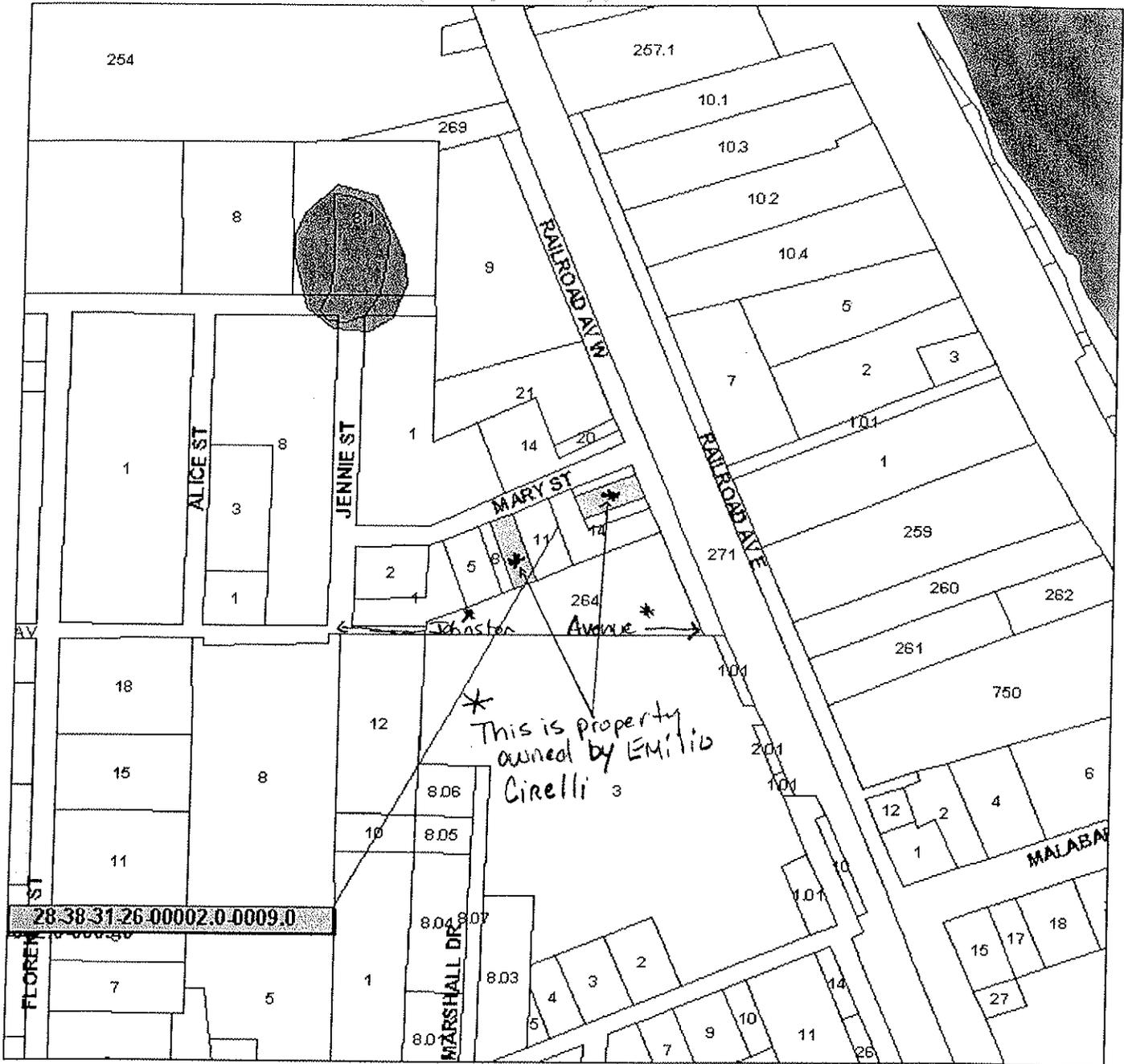
I Emilio Cirelli Do NOT Wish To lose
 MY access in which I have had since
 I Purchased my Property Over 25 Years ago
 Please Do NOT Grant Vacating Right of Way!
 Please DO NOT TAKE AWAY MY Right of Enjoyment.

Yours Truly
Emilio Cirelli
 Emilio Cirelli

Lot owner 28-38-31 000020.000900
 Emilio Cirelli
 354 Pine Woods Rd
 Ormond Beach FL 32174
 386-290-3983

Dana Blickley, CFA

Brevard County Property Appraiser - MAP SEARCH



Zoom To	Account	Owner	Property Address	Parcel Identifier
1	Aerial	2851014 CIRELLI, EMILIO		28-38-31-26-00002.0-0009.0

Debby Franklin

From: kbohne@fla-lawyers.com
Sent: Tuesday, July 12, 2016 2:01 PM
To: Debby Franklin
Subject: RE: Malabar please review
Attachments: Reso 08 2016 Vacate Johnston.doc

Generally a municipality has no power to sell, or barter the right of ways which are held in trust for the benefit of the public. However, a municipality is empowered to vacate streets only when the vacation is in the public interest or when the street is no longer required for public use and convenience. If the general public is using the roads and streets in question (including public service vehicles such as garbage trucks, police, fire or emergency vehicles), then the municipality should not close or vacate the roads or streets in question as such vacation would be injurious to the public welfare or violate individual property rights.

A municipal council should not undertake to vacate any streets in the absence of a determination that the general public would benefit from the vacation *or* that such streets are no longer required for the public use and convenience.

I would suggest that the Vacate Resolution contain a finding by the council that the right of way to be vacated serves no public purpose. Here is a redraft.

Karl W. Bohne, Jr.

Schillinger & Coleman, P.A.

**TOWN OF MALABAR
AGENDA ITEM REPORT**

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

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

SUBJECT: Amend Chapter 13 to Prohibit short roads (Ord 2016-02)

BACKGROUND/HISTORY:

This was discussed at the last two meetings and staff was directed to draft an ordinance.

FINANCIAL IMPACT:

ATTACHMENTS:

Ordinance 2016-02 for 1st Reading

ACTION OPTIONS: Council Approval of 1st Reading of Ordinance 2016-02.

ORDINANCE NO. 2016-02

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; REPEALING SECTION 13-38(c) RELATING TO VARIANCES AUTHORIZED BY THE BOARD OF ADJUSTMENT; PROVIDING FOR CODIFICATION, SEVERABILITY AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 13-38(c) of the Code of Ordinances of the Town of Malabar is hereby repealed.

Section 2. It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Malabar.

Section 3. Should any Section, Clause, or Provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the remaining provisions or parts of this Ordinance.

Section 4. All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

Section 5. This Ordinance shall become effective immediately upon its adoption.

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

- Council Member Grant Ball
- Council Member Brian Vail
- Council Member Don Krieger
- Council Member Dick Korn
- Council Member Richard Kohler

This ordinance was then declared to be duly passed and adopted this ____ day of _____, 2016.

TOWN OF MALABAR

Mayor Phillip R. Crews, Council Chair

First Reading 7/18/16
Second Reading _____

Approved as to form and
legal sufficiency by:

Karl W. Bohne, Jr.
Town Attorney

ATTEST:

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

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 5
Meeting Date: July 18, 2016

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

SUBJECT: Amend Article III, Table 1-3.2 eliminating the conditional use for places of worship within residential areas. (Ord 2016-03)

BACKGROUND/HISTORY:

This was discussed at the December 2015 meeting by P&Z and they recommended Council amend the code. Council met on January 4, 2016 and approved a motion to eliminate the conditional use for places of worship in residentially zoned areas.

FINANCIAL IMPACT:

ATTACHMENTS:

Ordinance 2016-03 for 1st Reading

ACTION OPTIONS: Council Approval of 1st Reading of Ordinance 2016-03.

ORDINANCE NO. 2016-03

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE III TABLE 1-3.2 ELIMINATING THE CONDITIONAL USE "C" FOR HOUSES OF WORSHIP WITHIN RESIDENTIAL ZONING DESIGNATIONS.; PROVIDING FOR CODIFICATION, SEVERABILITY AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.

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

Section 1. That Table 1-3.2 in Article III, District Provisions, attached as Exhibit "A" be amended to eliminate the "C" in the table in the residentially zoned areas for places of worship.

Section 2. It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Malabar.

Section 3. Should any Section, Clause, or Provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the remaining provisions or parts of this Ordinance.

Section 4. All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

Section 5. This Ordinance shall become effective immediately upon its adoption.

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

- Council Member Grant Ball
- Council Member Brian Vail
- Council Member Don Krieger
- Council Member Dick Korn
- Council Member Richard Kohler

This ordinance was then declared to be duly passed and adopted this ____ day of _____, 2016.

TOWN OF MALABAR

Mayor Phillip R. Crews, Council Chair

First Reading 7/18/16
Second Reading _____

Approved as to form and
legal sufficiency by:

Karl W. Bohne, Jr.
Town Attorney

ATTEST:

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

Exhibit "A"

DISTRICT PROVISIONS

§ 1-3.2

TABLE I-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
RESIDENTIAL USES														
Duplex					P	P					P			
Mobile Homes							P							
Multiple Family Dwelling					P	P					P			
Single Family Dwellings	P	P	P	P	P	P					P			
COMMUNITY FACILITIES														
Administrative Services (Public and Not-for-Profit)								P	P	P	P		P	
Child Care Facilities								C			C		C	
Churches, Synagogues and Other Places of Worship	X	X	X	X	X	X		P, A ¹	P	P	P		P	
Clubs and Lodges (Not-for-Profit)									P	P				
Cultural or Civic Activities								P	P	P			P	
Educational Institutions								C, A ¹					C	
Golf Course Facilities	C													
Hospital and other Licensed Fa- cilities								C					C	
Nursing Homes and Related Health Care Facilities					C	C		C					C	
Protective Services					C	C	C	C	C	C	C	C	C	C
Public Parks and Recreation	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Public and Private Utilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C
COMMUNITY RESIDENTIAL HOME														
Level 1 (1 to 6 residents/beds)					C	C								
Level 2 (7 to 14 residents/beds)					C	C								C
ASSISTED CARE COMMUNITIES														
I Assisted Living Facility														
Level 1 (1 to 5 residents/beds)		C	C	C	C ⁴	C ⁴					C			
Level 2 (6 to 15 residents/beds)					C ⁴	C ⁴								
Level 3 (16 or more residents/ beds)					C ⁴	C ⁴								
II Adult Family-Care Homes														
(1 to 5 residents/beds)		C	C	C	C	C					C			
III Adult Day Care Centers					C	C		C			C		C	
AGRICULTURAL ACTIVITIES														

TOWN OF MALABAR

MEMORANDUM

Date: December 11, 2015 15-AABO-036

To: Debby Franklin, Town Clerk/Treasurer
Town Council

From: Denine M. Sherear, Administrative Assistant to the Building official DS

Ref: Recommendation from P&Z to Council for Article III District Provisions
Table 1-3.2 Land Use by Districts Community Facilities RE: Churches &
Conditional Uses.

The PZ Board discussed Table 1-3.2 at the last few PZ Meetings, they reviewed this Table 1-3.2 and made suggestions to remove the "C's" which represents Conditional Use that are listed under the Community Facilities in reference to Churches, Synagogues, and Other Places of Worship in the Town of Malabar.

This suggestion came as a result of persons walking into PZ Meetings presenting a scenario of purchasing a residential home in a designated residential area and converting it into a place of Worship. The PZ Board explained the issues of roads, water/septic availability, traffic flow, and the process of the Board of Adjustment for a Conditional Use and notification of the 500 ft. radius package. The Board explained that adjacent neighbors to this projected use do not want traffic and commercial buildings in a residential area. The PZ Board always presented to the "scenario seekers" that there are plenty of areas in Malabar that do permit these use. It was after this that the PZ Board suggested to have this as an Agenda Item to revise/remove the conditional use in residential areas for Churches, Synagogues and Other Places of Worship and those that wish to have this use would look under permitted areas.

It is the suggestion of the PZ Board to remove the "C's" (Conditional Use) in the following residential zoning districts RR-65, RS-21, RS-15, RS-10, RM-4, and RM-6. There were also corrections made on Table 1-3.2 Land Use by Districts under "Community Facilities" under the, "OI" zoning for Churches, Synagogues and Other Places of Worship (P,A,1) per foot notes, and Educational Institutions (C,A,1) to make larger #1's not small #1's per footnotes. This is noted on attached Table 1-3.2.

Motion from the December 9, 2015 PZ Meeting:

Motion: Abare/Foster: Recommendation to Council Amending Article III- District Provisions Table 1-3.2 Land Use by District to remove the Condition Uses "C" out of the following Residential Zoning Districts RR-65, RS-21, RS-15, RS-10, RM-4, and RM-6, All Vote; Aye
Motion Carried: 4 to 0

ATTACHMENTS:

- Table 1-3.2 Land Use by District, with corrected recommendations

He related the possibility of going to the county. Malabar's average response time is 4-5 minutes and for brush fires and medical calls, and in most cases, rapid intervention solves the problem. They do not sit at station with feet up on the desk. If County station 87 gets toned out, they have one person on the tender, one on the engine, and one in truck.

Chief said there are only a handful of people that are disgruntled. CM Korn said the homework he has done, the bunker gear had not been brought up to date. TA (at the time) said money was tight or not available. Chief and his staff applied for 50/50 grants from Forestry to get proper bunker gear and hose. CM Korn stated the responsibility this man has taken on is incredible. He is amazed with what Chief has accomplished. The paid FF supplement the volunteers.

Chief explained how the grant process works. They asked for 463K for a new engine last year. The same vehicle this year is quoted at 476K. When he asked why they didn't make the rank, he was told because we have such a small population.

The ISO rating is a factor insurance companies use to determine premiums and Malabar has a very good rating. That may not be the case if the County is running calls from G-V. Chief stated these ladies and gentlemen are your Fire Dept. He asked residents to take more interest. Applause

3. Recommendation from Planning & Zoning Board re: Removing CUP from Residential Zoning for Churches

Exhibit: Agenda Report 3
Recommendation: Request Action

Speaker Cards: Wayne Abare, has been on the P&Z Board since leaving Council. There are five voting members and the presentation, Pat Reilly is the Chair. Abare stated as the code is currently written, churches can be in all residential zones as a conditional use. He related a recent request of the Board by this pastor who wanted to convert a house (single family) to a church. All five members were against it. They asked what about AC? Where are you going to park those people's vehicles? They convinced that pastor he would be better served in another zoning. He actually brought this topic up after that request and asked the Board to take the "C" out of the residential zones. He said this would save time for everyone.

Mr. Reilly does his presentation with handout. The P&Z Board felt that churches in Residential Zoning Districts would not be a good fit and would like to recommend that Table 1-3.2 be amended to eliminate "C" for churches in residential areas. Four reasons they want to do this:

- 1) Wednesday eve and Sun services – would be like party time 2 x weeks.
- 2) Parking for 50 people; some residential zones are as small as 1000sf.
- 3) Septic installed for single family would not be adequate for large groups
- 4) Allowing a Conditional Use in a Residential Zoning gives the false impression that Churches are allowed in the residential neighborhoods. They see this as a commercial use, not Residential use.

CM Krieger questioned the minimum acreage. Atty said to use the phrase "places of worship -- not just churches".

CM Korn asked about the prayer meeting, men's club meeting, that would not be affected. Correct said the Attorney. Those places would still pay taxes.

 MOTION: CM Korn / CM Vail to approve removing of "C" from residential zonings in Article III, District Provisions, Table 1-1.1(A).

VOTE: 4 Ayes; 1 Nay (Krieger).

4. Agenda Request from Resident Wayne Abare: Reject Proposed Non-motorized Boat Launching Area north of Rocky Point Road

Exhibit: Agenda Report 4

Recommendation: Request Action

Mr. Abare went through presentation. He had submitted disc with pictures of multiple access points just south of Malabar town limit that already provide launching of non-motorized and motorized recreational equipment. Clerk could not find pictures at the time. (Note: they were found later and attached to the minutes.)

Speakers Card:

Jerry Kikla, Rocky Pt Road, said the signs were put up by town after a petition went around by Charlene Horton (CM) to get the "no trespassing" signs and also two street lights back then. Since learning of the canoe launching idea, there were concerns by the neighbors in Coquina, so they got 54 signatures against this. He said the "no trespass" signs never were enforced.

CM Vail said it would not be for motor boats, no trailers, this is the concept that is being discussed. Kikla, who enforces this now? CM Vail said Malabar doesn't have control over the area but with a lease they would.

CM Korn is concerned that no one from the Park Board was here. Was there anyone from this group at the last P&R meeting? He would like to see them all get together and establish an authority and get signage, have an agreement that this area will be under the control of Malabar. Let's explore that at a later meeting.

Kathleen Pitts, 2660 Rocky Pt Rd, reiterated what Jerry Kikla just said. As she understands that CP zoning classification, only residential boat docks are permitted. She thinks Council and the Board is overlooking this. If it just gets approved to put in a canoe launch area, as Mayor Beatty said, *sometimes Malabar "just does stuff"*. DEP and USACE (US Army Corp of Engineers) would both have to approve any change in use. Only one use in CP – residential docks (after primary structure)

She has lived there over 30 years; her dock has been destroyed 3 times. Had to restore her frontage after storms. The people illegally using the northern piece have disturbed and eroded the property to the point that in future storms, more harm will come to their properties.

Annie Lee Harvey, 2445 Quarterman Lane, long time resident, enjoys the many recreational areas we have. If G&T would keep it under control; they would have the authority to keep the property safe and not become an eyesore. She would support having an access to the river in Town

James Mountjoy, talked about the crime; launching pad for thieving. Staging area for crime in the neighborhood. It is a launching pad for kayaking and parasailing in a commercial venture. There are multiple better suited locations just 500' past the southern end of Rocky Pt Road. This is the last priority for BCSO. Mr. Alexander owns first lot and he will lose value on his property if this goes forward. He can see this property from his house. He sees the homeless living in the woods now. They have a shopping cart they keep in the woods. He asked Council to concentrate on the FD and spend time there instead of cramming this down the throats of this neighborhood. They don't want it.

E. PUBLIC HEARING: none
F. ACTION:

- 2. Recommendation to Council: Amending Assisted Living Facilities (ALF) Ordinance 2014-01 ref: to Office/Institutional (OI) Zoning.
Exhibit: Agenda Report No. 2
Recommendation: Action

Reilly said to go through this "Action" Item for Discussion to clarify question to the attorney, in reference to nonprofit & not for profit.

Ritter would like to also ask attorney about adding service fees like for example:

- road service fees if they are going be a resident

There should be some way they contribute to the expense of the Town. Abare discussed about the county getting taxes and then giving the portion of taxes to the Town.

Ritter suggested if there is any way to get a special assessment from the ALF Residents, as they are a resident of the town using our services. If the business is a nonprofit or not for profit, the resident's still pay the ALF facility and don't pay taxes.

Question for the Attorney:

Can the Town require a nonprofit or not for profit in ALF's and be excluded from our tax base, can we (the Town) include a statement in the Ordinance for the ALF i.e. for profit ALF only. How can this be enforced? Can the ALF change after it has been in business awhile to a nonprofit?

Foster asked the Board about his wife coming to a meeting to talk about ALF; she has had 20 + years' experience. The concern was home care ALF's 5 residents or less. Foster said she (his wife) can come in next meeting.

Reilly said on page 35/95 all agreed to change Part 1 Long Term Care Facilities

Board discussed that all changes are accepted, the Board is waiting to hear from attorney about "nonprofit" & "not for profit" to see if changes can be added in reference to a special assessment for services that the Town provides to ALF residents.

No Action back to Discussion

- 3. Recommendation to Council: Amending Article III- District Provisions Table 1-3.2 Land Use by District Community Facilities- Reference to Churches & "Conditional Uses"
Exhibit: Agenda Report No. 3
Recommendation: Action

Motion: Abare/Foster: Recommendation to Council Amending Article III- District Provisions Table 1-3.2 Land Use by District to remove the Condition Uses "C" out of the following Residential Zoning Districts RR-65, RS-21, RS-15, RS-10, RM-4, and RM-6, All Vote; Aye Motion Carried: 4 to 0

Send to Council

G. DISCUSSION:

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 6
Meeting Date: July 18, 2016

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

SUBJECT: Acceptance of the FY 2014 / 2015 Financial Audit (Reso 07-2016)

BACKGROUND/HISTORY:

The audit process for FY 2014/2015 began in October with in house testing of our processes and procedures for all departments. The process was dragged out because there was no Administrator to assist and my Deputy had quit in January so it was left to me to get all the documents the auditors requested.

Normally the Audit review for the prior year is presented to Council in March. Due to these unforeseen circumstances, the preliminary report was not received until early July. You should have received the report last week.

Once the audit is accepted by Council, it will be placed on the website.

Mr. Warmus again extended his offer to talk with or meet individually with Council to go over any aspect of the report. His contact information is jwarmus@withum.com or 407-849-1569.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Resolution 07-2016
FY 2014/2015 Financial Report (via email)

ACTION OPTIONS:

Staff requests Approval of Resolution 07-2016 accepting the Audit Report for FY 2014/2015.

RESOLUTION 09-2016

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING ACCEPTANCE OF THE ANNUAL AUDIT REPORT PROVIDED FOR FISCAL YEAR 2014/2015 BY THE AUDIT FIRM OF WITHUM SMITH & BROWN, PC (FORMALLY KNOWN AS AVERETT WARMUS DURKEE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, an audit was conducted from November 2015 to May 2016, and all areas of the Town operations were tested; and

WHEREAS, a copy of such Audit Report is attached as Exhibit "A" to this resolution; and

WHEREAS, the Town Council is satisfied that the audit report accurately reflects the financial condition of the Town's finances for the FY ending September 30, 2015.

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

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby ratifies, confirms, and certifies the annual audit report for the FY 2014/2015 attached to this resolution and identified as Exhibit "A".

Section 3. That a certified copy of this Resolution shall be delivered with the audit report to the State Auditor General per Auditor General Rule 10-558(3).

Section 4. This Resolution shall take effect immediately upon its adoption. This Resolution was moved for adoption by Council Member _____ The motion was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Don Krieger	_____
Council Member Dick Korn	_____
Council Member Richard Kohler	_____

This Resolution was then declared to be duly passed and adopted this 18th day of July, 2016.

TOWN OF MALABAR

By:

Mayor Phillip R. Crews,
Council Chair

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: 7
Meeting Date: July 18, 2016**

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

SUBJECT: Form DR-420 – Tentative Maximum Millage and Public Hearing Date

BACKGROUND/HISTORY:

This is the first step in the Truth in Millage process. Council must set the maximum proposed millage they wish to consider during their discussions and also set the date for the first public hearing on the proposed millage and budget. This information is then sent to the Property Tax office and they include it on the TRIM Notice that is mailed to every Malabar property owner.

The ten percent cap we are held to due to Special Law 74-430 is based on the rolled-back rate, not the millage rate. Based on this, the maximum millage rate we are permitted to set is 2.02.

We can go higher if we have a unanimous vote of all Council or put the question to the voters.

Our millage rate was 1.9256 in 2016, 1.800 in 2015, and 1.6630 for 2011-2014. In 1978 when we set the first millage rate for ad Valorem collection the millage was set at 1.5. So in 40 years, we have only increased it by .43

In order to start the budget process we should set the preliminary rate high and as you go through the budget workshops, you may determine that we can decrease it, but if we set it low now and then decide we need to increase it, we must do so at a great expense.

By August 4, 2016, we must tell the Property Appraiser the following:

- prior year's millage rate (1.9256)
- current year's proposed maximum millage rate 2.02 (based on the 10% cap)
- **current year's proposed maximum millage by staff is 5.000**
- current year's rolled-back rate (1.8400)
- the date, time and meeting place of the first tentative budget hearing (9/12/16 at 7:30pm)

We suggest using the regular meeting on August 15 as a budget workshop and have a second workshop on August 29.

1st PH 9/6/16

FINANCIAL IMPACT:

As listed

ATTACHMENTS:

TRIM Timetable

TRIM Flow Chart

Calendars for August and September

ACTION OPTIONS:

Staff seeks Motion to set the millage at Action on setting the Maximum Tentative Millage for the first Public Hearing and setting the date for the first Public Hearing.

TOWN OF MALABAR – 2725 MALABAR ROAD, MALABAR, FL 32950
 (321) 727-7764 (O) (321) 727-9997 (F) EMAIL: TOWNCLERK@TOWNOFMALABAR.ORG

AUGUST 2016

SUN	MON	TUE	WED	THU	FRI	SAT
	1 Regular Town Council Mtg 7:30pm	2	3	4	5	6
7	8 T&G Committee 6pm SCLC	9	10 P&Z Bd Mtg 7:30pm	11	12	13
14	15 Council Budget Workshop 7:30pm	16	17 Park & Rec Bd Mtg 6pm	18	19	20
21	22	23	24 P&Z Bd Mtg 7:30pm	25 Events Committee 6pm	26	27
28	29 Council Budget Workshop 7:30pm	30	31			

TOWN OF MALABAR - 2725 MALABAR ROAD, MALABAR, FL 32950
 (321) 727-7764 (O) (321) 727-9997 (F) EMAIL: TOWNCLERK@TOWNOFMALABAR.ORG

SEPTEMBER 2016

SUN	MON	TUE	WED	THU	FRI	SAT
				1	2	3
4	5 TOWN HALL CLOSED Labor Day	6 Malabar Council Budget PH 7:30pm	7	8	9	10
11	8 T&G Committee 6pm SCLC	13 Brevard County Budget PH	10 P&Z Bd Mtg 7:30pm	15	16	17
18	19 Malabar Council Budget PH 7:30	20	10 Park & Rec Bd Mtg 7:30pm	22	23	24
25	26	27 Brevard County Budget PH	10 P&Z Bd Mtg 7:30pm	29	30	

History and Facts About Truth in Millage

In 1980, the legislature passed the "Truth in Millage" (TRIM) act. This law is designed to inform taxpayers which governmental entity is responsible for the taxes levied and the amount of tax liability owed to each taxing entity. The Notice of Proposed Property Taxes is known as the TRIM notice.

TRIM establishes the statutory requirements that all taxing authorities levying a millage must follow, including all notices and budget hearing requirements. These requirements were revised in 2007 to provide for maximum tax levies for counties, municipalities and independent special districts. For fiscal year 2009-10, and thereafter, the maximum tax levy allowed by a majority vote of the governing body will be based on the rate of growth in per capita personal income in Florida. Ad valorem taxes may be increased at a greater rate only with a supermajority or unanimous vote of the local government governing body.

The Notice of Proposed Property Taxes (TRIM notice) enables the taxpayer to compare the prior year assessed value and taxes with the present year assessed value and proposed taxes, and the amount of taxes if there is no budget change for the upcoming year. The notice lists the date, time, and location of all budget hearings at which the taxing authorities will hear from the public. The notice also shows the deadline for filing a petition to protest the assessment and any denial of exemption.

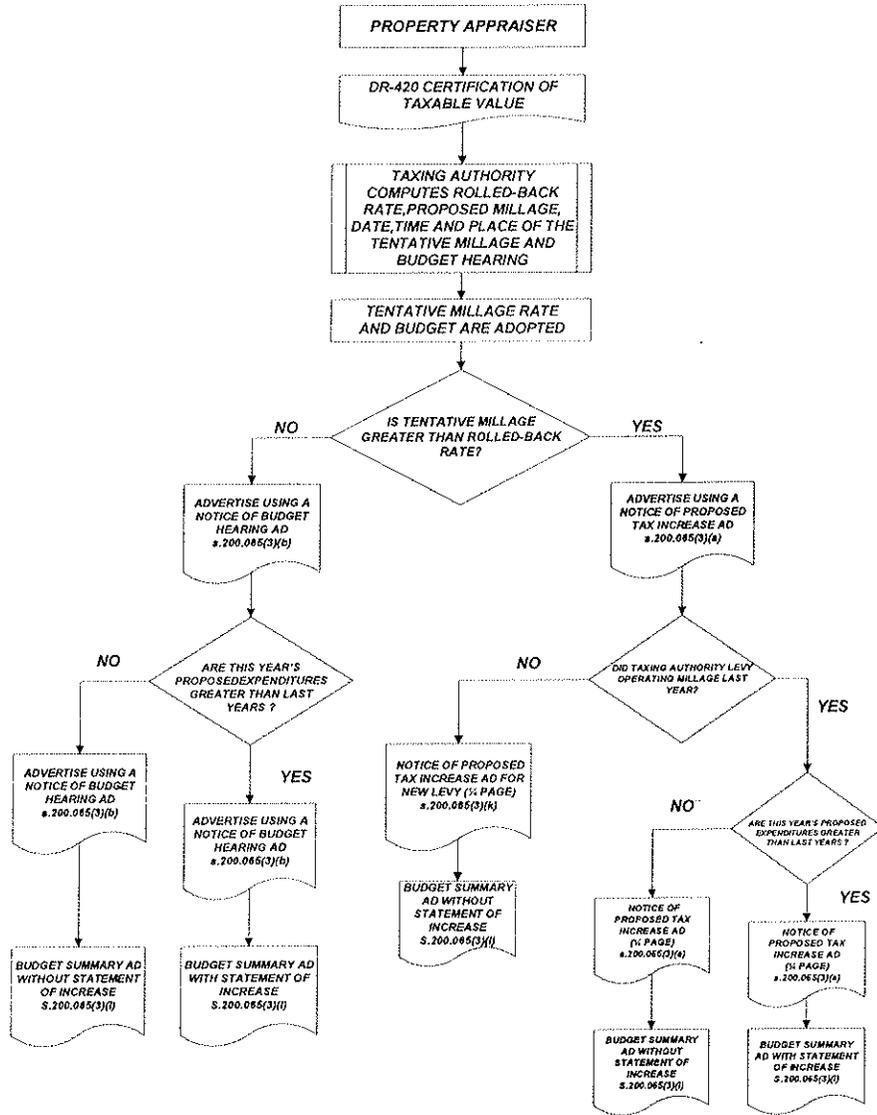
Taxing authorities establish the millage to be levied against the parcel of land shown on the TRIM notice at the budget hearings. The millage and budget hearings are the best opportunity for taxpayers to provide input into the budgets established by taxing authorities, and the procedures are monitored by the department to ensure compliance with the law. The hearings are designed to ensure taxpayer awareness of the proposed millage changes, the proposed budget changes, and, if any, the percent of change in the rolled-back rate. Rolled back rate is defined as that millage rate which provides the same property tax revenue for each taxing authority as was levied during the previous year (exclusive of New Construction, Additions, Rehabilitative Improvements Increasing Assessed Value By At Least 100%, Annexations, Deletions). Non compliance by the taxing authority could result in the loss of revenue sharing funds.

About the TRIM Process

[TRIM process map](#)

TRIM ADVERTISEMENT FLOWCHART

R. 06/11



**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 8, 9, 10, 11
Meeting Date: July 18, 2016

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

SUBJECT: Multiple Items

BACKGROUND/HISTORY:

8. Select Voting Delegate for the FLC Conference
- 9.. Response to DEO re: Comp Plan – Recommendation from P&Z Board
10. Request from W. Melbourne to trade hosting months for SCLC Dinner
11. Approve additional Stop Signs on Corey and Weber – CM Korn

FINANCIAL IMPACT: Cost of Stop Signs estimated to be \$70.00

ATTACHMENTS:

Recommendation from P&Z Board re: letter from DEO

ACTION OPTIONS:

Request Action

#9

TOWN OF MALABAR

MEMORANDUM

Date: July 7, 2016 16-AABO-010
To: Debby Franklin, Town Clerk/Treasurer
Town Council
From: Denine M. Sherear, Administrative Assistant to the Building official DS
Ref: Recommendation from P&Z to Town Council, anything related to Schools be removed from Comp Plan.

The Planning and Zoning Board discussed the EAR Comp Plan- Letter from Department of Economic Opportunity (DEO) at their meeting of 6/22/2016.

In response to this DEO letter sent to the Mayor date 6/9/2016 Planning & Zoning made the following Recommendation:

Motion: Ritter/Ryan To Recommend to Council to have all things related to Schools be remove from the Comp Plan. i.e. as applicable to Schools in Chapter 8 & 9, etc. in the Comp Plan

All Vote: Aye

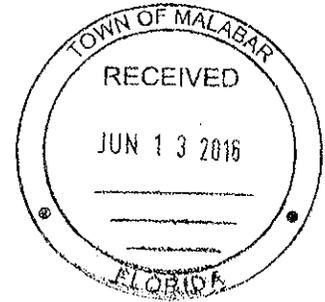
Rick Scott
GOVERNOR



Cissy Proctor
EXECUTIVE DIRECTOR

June 9, 2016

The Honorable Phillip Crews, Mayor
Town of Malabar
2725 Malabar Road
Malabar, Florida 32950-4427



RE: Malabar Evaluation and Appraisal Notification Letter Due Date

Dear Mayor Crews:

As you know each local government in the State of Florida is required to regularly review its comprehensive plan pursuant to Section 163.3191, Florida Statutes (2015). The Department of Economic Opportunity, Bureau of Community Planning created a submittal schedule for the Evaluation and Appraisal Notification Letters which was posted on the Department's website on July 1, 2011.

The purpose of this letter is twofold: first to remind you that your Evaluation and Appraisal Notification Letter is due on **August 1, 2016**; and second, to make you aware of the implications of not timely submitting your notification letter.

The Legislature made three processing changes to Section 163.3191, Florida Statutes, regarding the evaluation and appraisal process. The law eliminated the need to adopt an Evaluation and Appraisal Report. The law requires local governments to evaluate its comprehensive plan to determine if plan amendments are necessary to reflect changes in state requirements and notify the Department by letter to its determination. If local governments determine amendments are necessary to their comprehensive plan, the local government shall prepare and transmit amendments within one year of notification letter. Further, the law provides that a local government will be prohibited from amending its comprehensive plan if it fails to timely submit its notification letter or transmit proposed amendment to update its plan within one year of notification if necessary.

It is important to complete the Evaluation and Appraisal notification process and you are encouraged to comprehensively evaluate and, as necessary, update your comprehensive plan to reflect changes in local conditions. Department staff is available to assist and provide technical guidance to your questions concerning this new process.

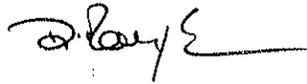
Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
850.245.7105 | www.floridajobs.org
www.twitter.com/FLDEO | www.facebook.com/FLDEO

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.

62/66

If you have any questions concerning the processing of the Evaluation and Appraisal Notification Letter or the submittal of proposed Evaluation and Appraisal based amendments, please contact Mr. Ray Eubanks, Plan Review Administrator, at (850) 717-8483 or Ms. Brenda Winningham Regional Planning Administrator at (850) 717-8516.

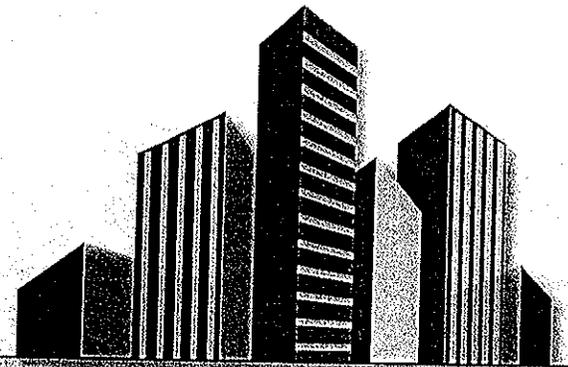
Sincerely,



D. Ray Eubanks
Plan Processing Administrator

DRE/me

8



FLORIDA CITIES: UNITED & STRONG

Florida League of Cities 90th Annual Conference

August 18-20, 2016

Diplomat Resort, Hollywood, Fla.

Registration Information

**Paid registration
is required to receive
housing information,
so sign up early!
See page 11
for details.**

Hotel Registration Deadline: July 22, 2016

Conference Registration Deadline: August 1, 2016

#FLCities2016



**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 12
Meeting Date: July 18, 2016

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

SUBJECT: Discussion

BACKGROUND/HISTORY:

When Oakmont Preserve was being developed there were multiple complaints about the heavy dump truck traffic leaving Town full of dirt from the subdivision.

When we checked the Code, it specifically exempts "subdivisions" they are not considered excavation.

I recently found my note and mentioned it to CM Ball and he suggested we get this before Council.

Staff could easily draft an ordinance amending that language.

FINANCIAL IMPACT:

ATTACHMENTS:

ACTION OPTIONS:

Request Direction

↙
Sec. 7.5-29. Exemptions.

The following activity shall not be considered excavation:

- (1) Any activity for which a tree removal permit has been issued by the town.
- (2) Any activity for which a land clearing permit has been issued by the town.
- (3) Any activity for which a pond permit has been issued by the town.
- (4) Any activity which results in the creation of a pond on residential real property not exceeding one-fourth ($\frac{1}{4}$) acre in size and not exceeding twelve (12) feet in depth.
- (5) Any activity for which a pool permit has been issued.
- ↙ (6) Any excavation done pursuant to approval of a subdivision.
- (7) Any excavation authorized as a result of the issuance of a building permit.
- (8) Installation of utilities.
- (9) Any activity designed for the cleaning out and maintaining of retention ditches, canals, swales or ponds.
- (10) Excavation in conjunction with the agricultural use of lands, where no excavated materials are sold; whether directly or indirectly, or transferred from the excavated parcel of land to a parcel of land not owned by the owner of the excavated parcel.

(Ord. No. 03-11, § 1, 12-1-03)

Sec. 7.5-30. General requirements; prohibitions.

Any materials, except muck, which is excavated from a parcel of land, shall be deposited on the excavated parcel or on other land owned by the owner of the excavated parcel located within the town. No land in the Town of Malabar may be mined nor is it permitted that any mining activities occur on any land within the Town of Malabar.

(Ord. No. 03-11, § 1, 12-1-03)

Secs. 7.5-31—7.5-39. Reserved.

ARTICLE III. FERTILIZER USE AND APPLICATION

Sec. 7.5-40. Short title and purpose and intent.

These regulations shall be known as the "Town of Malabar Fertilizer Use and Application Code". These regulations regulate the proper use of fertilizers by any applicator; requires proper training of commercial and institutional fertilizer applicators; establishes training and licensing requirements; establishes a prohibited application period; specifies allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones, and exemptions. These regulations require the use of best management practices which provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers. These secondary and cumulative effects have been