

TOWN OF MALABAR
REGULAR TOWN COUNCIL MEETING
TUESDAY OCTOBER 3, 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 Town Council Meeting Minutes 9/22/16**
Exhibit: Agenda Report No. 1
Recommendation: Request Approval
- E. SHERIFF REPORT:**
- F. ATTORNEY REPORT:**
- G. STAFF REPORTS: ADMINISTRATOR: CLERK: FIRE CHIEF: BOARDS**
- H. PUBLIC COMMENTS:** Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required) **Five (5) Minute Limit per Speaker.**
- I. PUBLIC HEARINGS/SPECIAL ORDERS: 2**
- 2. (Ord 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; CHANGING THE PERMITTED USE "P" TO CONDITIONAL "C" FOR HOUSES OF WORKSHIP WITHIN COMMERCIAL GENERAL (CG) AND RESIDENTIAL/LIMITED COMMERCIAL (R/LC); PROVIDING FOR CODIFICATION, SEVERABILITY AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.
Exhibit: Agenda Report No. 2
Recommendation: Adopt Ord 2016-03
- 3. (Ord 2016-02) DELETE SEC 13.38.C. CHAPTER 13, STREET IMPROVEMENT**
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 FOR AN EFFECTIVE DATE.
Exhibit: Agenda Report No. 3
Recommendation: Adopt Ord 2016-02
- J. ACTIONS: ORDINANCE FOR FIRST READING: 1**
- 4. (Ord 2016-07)**
AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BOARDS AND COMMITTEES; AMENDING CHAPTER 2, ARTICLE VIII OF THE CODE OF ORDINANCES OF THE TOWN; ADDING A DIVISION 6 CREATING THE EVENTS COMMITTEE; PROVIDING FOR THE ESTABLISHMENT AND PURPOSE; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.
Exhibit: Agenda Report No. 4
Recommendation: Adopt Ord 2016-07

RESOLUTIONS: 1

5. (Reso 10-2016)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; APPOINTING ALLEN RICE TO THE PLANNING AND ZONING BOARD FOR A PERIOD OF THREE YEARS BEGINNING 11/9/16; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 5

Recommendation: Adopt Reso 10-2016

MISCELLANEOUS: 1

6. (Approve Expenditure)

A REQUEST BY MALABAR PARKS & RECREATION BOARD AND THE TRAILS AND GREENWAYS TO EXPEND \$1,500.00 TO WILLIAM SUITER, LAND SURVEYOR, TO PRODUCE A SURVEY OF THE AREA AT THE NORTH END OF ROCKY POINT ROAD TO DETERMINE IF THE FDOT CAN LEASE THE AREA TO THE TOWN OF MALABAR FOR USE AS NON-MOTORIZED CANOE, KAYAK LAUNCHING AREA; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 6

Recommendation: Approve expenditure from General Government

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

K. DISCUSSION/POSSIBLE ACTION:

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

L. REPORTS – MAYOR AND COUNCIL MEMBERS

M. ANNOUNCEMENTS:

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

N. ADJOURNMENT:

ITEMS TABLED AT PRIOR MEETINGS:

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: October 3, 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 – 9/22/2016

ATTACHMENTS:

Draft Minutes of the 9/22/16 meeting

ACTION OPTIONS:

The Town Clerk requests approval of the 9/22/16 minutes.

MALABAR TOWN COUNCIL REGULAR MEETING

September 22, 2016 7:30 PM

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

A. CALL TO ORDER:

Council Chair Mayor Phillip Crews called the meeting to order at 7:30 pm. CM Ball led the P&P.

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, excused
TOWN ATTORNEY:	KARL BOHNE, excused
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

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

C. ADDITIONS, DELETIONS, CHANGES APPROVAL OF AGENDA

Chair stated he had a request for #8 to be removed. Chair was asked by P&R Chair Kemmler to add a request to expend \$1000.00 for a survey at the north end of Rocky Point Road. Without objection, done.

D. APPROVAL OF THE MINUTES:

1. Regular Council Meeting Minutes 09/06/2016

Exhibit: Agenda Report No. 1

Recommendation: Request Approval

Chair said without objection the minutes were approved.

E. STAFF REPORTS: ADMINISTRATOR: CLERK: FIRE CHIEF: none

F. PUBLIC COMMENTS: Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required) **Three (3) Minute Limit per Speaker.**

Dave Neddistrum, Former Mayor of Cocoa beach, now running for Clerk of Courts, wanted to introduce himself. He knew Former Mayor Carl Beatty and had served with him on many shared issues. Wanted Council to know he would be available to them.

G. PUBLIC HEARINGS/SPECIAL ORDERS: 3

2. Adopt Final Assessment for Non-Ad Valorum Stormwater Roll (Reso 10-2016)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING CERTIFICATION OF ANNUAL STORMWATER UTILITY ASSESSMENT ROLL; ADOPTING AN ANNUAL BUDGET FOR THE TOWN'S STORMWATER UTILITY; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Adopt Reso 10-2016

PH opened. None. PH closed.

MOTION: CM Vail / CM Kohler to certify the roll and approve the Stormwater Utility Budget for 2016/17 by approving Reso 10-2016. Discussion:

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

3. Adopt Millage (Ord 2016-05)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING THE MILLAGE RATE OF 2.0260 FOR THE LEVY OF AD VALORUM TAX WITHIN THE TOWN OF MALABAR FOR THE PERIOD FROM OCTOBER 1, 2016 THROUGH AND INCLUDING SEPTEMBER 30, 2017, PROVIDING FOR REPEAL AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 3
Recommendation: Adopt Ord 2016-05

PH opened.

Joel Date, 2170 Lineberry Lane, refers asked about TRIM notice with 5 mil proposed. Drew Thompson made a motivational comment – thinks TA has done a tremendous job. Stated the decision has been made to go with 2.026 but by not increasing, it is like going into war without ammunition, or driving a car on the highway with no oil.

PH closed.

MOTION: CM Vail / CM Korn to approve the levy of 2.0260 mil by adopting Ord 2016-05.

Discussion: CM Korn is still concerned about information getting to citizens. Asked if we could contact the Tax Appraisers Office to do a more complete explanation of the process. Malabar is raising taxes – article in paper. He has not seen article. Need to connect with media and be aggressive about it.

Chair said County was in the dark as we were. Brevard is the only county limited to 10% - he is surprised that the County allowed it to go on TRIM Notice. This only affects Brevard County. Chair is trying to research how that came about. Any other of the 66 counties can increase the millage with a unanimous vote. With the Special law passed in 1974, Brevard cities can only increase 10% over rollback rate with a super majority (4 of 5) vote. A simple majority (3 of 5) will only allow the levy of the rollback rate.

CM Vail said no one intended to go to 5%. He spoke with 100 people and half were ok with a levy around 3%. He sees the struggles first hand. He will try to get it on the ballot. Working with an insufficient amount of money. We are not talking tons of money. CM Korn said FLC puts out an informational paper yearly on city stats and Malabar is one of the 12 cities with the lowest millage.

CM Ball he is in favor of going to the 2.026. We sit here and make decisions on spending people's money. We have made mistakes and other councils have made mistakes. However, if we continue to increase it by 10%, it will compound. He is not willing to spend money on goods and services if the people do not want it. He would like to see it go on a referendum and see what the citizens want instead of it being the five of them guessing what they may want. He also said that the "grants" are not free money; they are made up of tax dollars paid to the state by taxpayers.

CM Vail said the information Mayor Crews put out is on the website and is very informative. CM Korn takes exception with CM Ball statement. They have been very diligent. Squeezed very tight. Going over each individual item to a fault. Last year over optimistic with the revenues. This council over the years has not been irresponsible.

CM Kohler, he believes homeowners have a standard of living they want and Council should maintain that. CM Krieger said we will have a budget adjustment in January. In Dec we will have an adjustment. Process started way too late. CM Krieger said doing a budget by referendum could be a disaster, especially if it is done with at large voting and not single district voting. CM Krieger said we have a rural portion of Malabar and a progressive portion.

CM Vail said we all pay taxes to the State. If we do not apply for grant and get it, then some other city will and benefit from the grant money.

Chair just completed writing a grant for paving and piping Eva Lane, treating the water before Other cities have fulltime grant writers. We pay the same money into the federal government and should expect to get some of that back in grants; but you must apply. A grant was just awarded for 1.6mil. to "study" the IRL. The grant he just completed is for 1.8 mil to "do

something” about treating the runoff before it enters IRL. Mayor continued there is even private grant money and referred to a person that gives away 100mil a year.

Franklin stated that the DEP grant application for the ADA restroom was submitted six times, each time with Council approval and with their commitment for the financial match. Nothing was done without Council awareness, approval and financial commitment.

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

4. Adopt Budget (Ord 2016-06)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA ADOPTING THE BUDGET OF \$1,563,508.00 FOR THE TOWN OF MALABAR FOR THE PERIOD FROM OCTOBER 1, 2016 THROUGH AND INCLUDING SEPTEMBER 30, 2017; PROVIDING FOR REPEAL AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 4
Recommendation: Adopt Ord 2016-06

PH opened.

Skip Hard, 2560 Hard Lane, atty boy to CM Ball. Put to voters as referendum. Give you all an “aw shucks” you can’t put it on ballot this year. You are raising the taxes.

Pete Fusscus, 1855 Sandy Creek Lane, before he moved into town he looked at Town’s last five years budgets. Expenditures and employees went down. His compliments on past budgets. One of the things he likes to look at are budget to actuals. His understanding was that expenditures would be going up. Franklin explained the two items not typical are the 130K for Jordan Blvd railroad crossing work and the estimated 40K to complete the ADA restroom at the Sandhill Trailhead. Fusscus said it is not in personnel expenses, this year it is 1.2. He has no complaints. Compliments Council.

Drew Thompson referenced the 26 grant awards DEP made in 2014. Malabar’s was #12 of 26. He stated per his documents from DEP, 90K will coming back to us per the documents he has. He resents that people are saying that the project has cost overruns. CM Ball said the TA has gone back to DEP to ask for more money.

PH closed.

MOTION: CM Kohler / CM Vail to approve Ord 2016-06 setting budget for FY2016/2017.

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

H. UNFINISHED BUSINESS/GENERAL ORDERS

5. ACTION ITEMS:

ORDINANCES FOR FIRST READING: 1 Ord 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; CHANGING THE PERMITTED USE “P” TO CONDITIONAL “C” FOR HOUSES OF WORKSHIP WITHIN COMMERCIAL GENERAL (CG) AND RESIDENTIAL/LIMITED COMMERCIAL (R/LC); PROVIDING FOR CODIFICATION, SEVERABILITY AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 5
Recommendation: Adopt Ord 2016-03

MOTION: CM Krieger / CM Kohler to approve Ord 2016-03 amending Article III Table 1-3.2 in LDR on first Reading.

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

RESOLUTIONS: 0**MISCELLANEOUS: 2****6. Qualifying Candidates for Election:**

Exhibit: Agenda Report No. 6
Recommendation: Request Action

MOTION: CM Kohler / CM Korn to Qualify the candidates for the open seats in the 2016 election: Patrick Reilly for Mayor, Grant Ball for District 1, Brian Vail and Laura Mahoney for District 2, Don Krieger and Steve Rivet for District 3. VOTE: All Ayes.

7. Approve 10K Expenditure from Street & Roads for New Mower:

Exhibit: Agenda Report No. 7
Recommendation: Request Action

MOTION: CM Kohler / CM Vail to approve the expenditure for a new zero turn mower not to exceed 10K. VOTE: 4 Ayes; 1 Nay (Krieger)

I. DISCUSSION/POSSIBLE ACTION:**Added Agenda Item:**

Request to Spend \$1,000.00 on survey of north Rocky Point Road.

MOTION: CM Vail / CM Kohler to approve request for expenditure.

Discussion: Parks Chair Kemmler and T&G Chair Drew Thompson gave background on this item and why they are trying to maximize the funds available.

Franklin explained that if Council approves encumbering these funds for the survey then those funds would come from current fiscal year. The FY16/17 budget has \$1,000.00 in Dept. 572 is designated for the shelter in Cameron Preserve.

Kemmler explained they have been looking for access to river. They inquired about it. BCPAO said it belongs to FDOT. FDOT said they would lease it for 0. It is well defined on north and south and west side is defined. The east side is not defined. They said if we get it surveyed past the waterline then they will lease it to us. TA sent the criteria and the surveyor will give estimate tomorrow. T&G voted to spend the money on the survey if they can in this year. Asking for approval.

T&G Chair Drew Thompson, last night did the liaison report to the Park Board. Hans covered everything with feedback from the residents, both HOAs. More problems could be dealt with under the auspices of the town.

CM Ball mentioned this first to Drew because he grew up here. Have pix of boat on our seal but we have no access. It is very appropriate to have access. He spoke to F.I.N.D. and they have grants and they said we would get it. He is very much for this. CM Krieger is very much for this. But.. it is no mans land. What happens if we put a sign on it? It is not the \$1000, it is the leaps and bounds.

Chair allowed Hans to respond. The only way they will make a determination if there is a survey done and FDOT is not going to pay for it. Everyone from Rocky Point has opposed this project. Talking about 1000 coming from, but estimate is 1500, a few meetings ago the shade structure in Cameron Preserve. We don't know enough at this point. Chair has been with FDOT to meet with Hans. Language includes reversion. Little bit of ambiguity. CM Ball said Drew and Hans explained it very well. If there is no land left, then the upland water lands, the state can give it to them for 1 per year. Road was put in the late 1960's early 1970s, and that is why

MOTION: CM Ball / CM Korn to postpone. Discussion. CM Vail said they should encumber the money. Then we do not have to do a budget adjustment. **VOTE:** 3 Ayes; 2 Nays; (Kohler, Vail)

Next Item Postponed**8. Road Classifications and Existing Homes on Unaccepted Rights-of-Way (Krieger)**

Exhibit: Agenda Report No. 8

Recommendation: Discussion

Chair asked Council if they wanted to postpone this since CM Krieger was not present. Yes. Chair asked Council Members to keep this portion of the package and it will be placed on the next agenda when CM Krieger will be in attendance.

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

K. REPORTS – MAYOR AND COUNCIL MEMBERS

TA: excused

CM Kohler: none

CM Korn: Needed all five CM to be here and he could not on the 19th.

CM Krieger: Comment of date of meeting. Thought it was done improperly and reminded him of a prior meeting that was changed similarly. Request on removal of the speed bump. He wants the information on the history. (Note: Clerk provided after meeting)

CM Ball: none

CM Vail: They had approved the budget with the lawn mower. Why the redundancy when council already approved. Franklin said TA wanted to present each expenditure before council over 10K. CM Vail said regarding the budget hearings, it is important for all of council to be there. This is something when they went around the table.

Mayor: In July, they had to make decisions and that is how it all came about.

Clerk: none

L. ANNOUNCEMENTS:

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

M. ADJOURNMENT:

There being no further business to discuss and without objection, the meeting was adjourned by the Chair at 9:10PM.

BY: _____
Mayor Phillip R. Crews, Council Chair

ATTEST:

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

Date Approved: 10/03/2016

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 2
Meeting Date: October 3, 2016

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

SUBJECT: Amend Table 1-3.2 re: Houses of Worship (Ord 2016-03)

BACKGROUND/HISTORY:

This was discussed at several meeting in June and July and had a first reading on July 18, 2016.

FINANCIAL IMPACT:

ATTACHMENTS:

Ordinance 2016-023

ACTION OPTIONS:

Council Adopt 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; CHANGING THE PERMITTED USE "P" TO CONDITIONAL "C" FOR HOUSES OF WORKSHIP WITHIN COMMERCIAL GENERAL (CG) AND RESIDENTIAL/LIMITED COMMERCIAL (R/LC); 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. That Table 1-3.2 in Article III, District Provisions, attached as Exhibit "A" be amended to change the "P" to a "C" in the table in the commercial general and residential/limited commercial zoned areas for places of worship.

Section 3. 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 4. 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 5. All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

Section 6. 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 10/03/16

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" of ORDINANCE 2016-04

DISTRICT PROVISIONS

§ 1-3.2

EXHIBIT "A" of ORDINANCE 2016-04

TABLE 1-3.2. 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				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								P, A ¹	P	C ²	C ²			P
Clubs and Lodges (Not-for-Profit)														
Cultural or Civic Activities								P	P	P	P			P
Educational Institutions								C, A ¹						C
Golf Course Facilities	C													
Hospital and other Licensed Facilities								C						C
Nursing Homes and Related Health Care Facilities														C
Protective Services								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 ³				C	C								C
Level 2 (7 to 14 residents/beds)					C	C								
ASSISTED CARE COMMUNITIES														
I Assisted Living Facility														
Level 1 (1 to 5 residents/beds)		C	C	C	C ⁴	C ⁴								
Level 2 (6 to 15 residents/beds)					C ⁴	C ⁴					C			
Level 3 (16 or more residents/beds)						C ⁴								
II Adult Family-Care Homes (1 to 5 residents/beds)														
III Adult Day Care Centers	C ³	C	C	C	C	C		C			C			C
AGRICULTURAL ACTIVITIES														



TOWN OF MALABAR

MEMORANDUM

Date: July 28, 2016 16-AABO-012

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, Amending Art. III Table 1-3.2 eliminating the "Conditional Use" in residential areas & make "CG" & "R/LC" "Conditional Use" for places of worship within residential areas (Ord 2016-03)

The Planning and Zoning Board discussed this recommendation that was sent back from the Town Council to P & Z. The Chair Pat Reilly, who was at the Town Council Meeting at the time this was discussed explained to the P&Z Board the Towns concerns.

In response to this the Planning & Zoning made the following Recommendation:

Motion: Ryan/Abare To Recommend to Council to Amend Article III Table 1-3.2 to change "CG" & "R/LC" to Conditional Use for places of worship
All Vote: Aye

Motion passed 5 to 0

J. ACTION ITEMS:

ORDINANCES FOR FIRST READING: 2;

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

Exhibit: Agenda Report No. 4

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

CM Vail / CM Korn to approve 1st Reading

ROLL CALL VOTE: CM Ball, Excused; CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Kohler, Aye. Motion approved 4 to 0.

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

Motion: CM Vail / CM Kohler to send it back to P&Z to change the P to a C in R/LC. Vote on amendment. Vote: Ayes

MOTION: to approve the main motion.

ROLL CALL VOTE: CM Ball, Excused; CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Kohler, Aye. Motion approved 4 to 0.

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

ROLL CALL VOTE: CM Ball, Excused; CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Kohler, Aye. Motion approved 4 to 0.

Comment from Ricky Bisnath, Vice-Chair of Events Committee: The events committee wants more show cars with big trucks and motorcycles; wants to use more space at the park, introduce new things, and keep later hours use the SandHill Trailhead

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

MOTION: CM Vail / CM Korn to approve 5mil as the Preliminary Maximum Millage and set the date of 9/6/16 for the 1st PH.

Discussion:

VOTE: Ayes, 3; Nay, 1 (Krieger).

Memorandum

To: Debby Franklin

Date: July 19, 2016

From: Karl W. Bohne, Jr.

Re: Alcohol Sales near Religious Institution

Recently you brought a situation to my attention concerning the potential location of a private lodge near an existing Church or Religious Institution. You had indicated that the lodge would be serving alcohol to its members and could, depending on the particular event, be serving alcohol to non-members or guests of members.

The Town's Land Development Code, Table 1-3.2 provides that Bars and Lounges are conditional uses in the CG zoning category. Currently, churches and other places of worship are permitted uses in the CG zoning district and Private clubs and lodges (not for profit) are permitted uses in CG. Table 1-6.1(B) imposes a distance requirement on Bars and Lounges so that they cannot be located within 1000 feet of a religious institution...

We define a "Bar" in Article XX as any place *selling and dispensing* alcoholic beverages for consumption on premises. We do not define "Lounge".

We define a "Church or Other Places of Worship" as "Any structure and/or site legally approved for and used upon a permanent basis by a recognized and established religious sect or denomination as a place where such persons regularly assemble primarily for public worship". We do not define religious institution.

A "Private Club" is defined as "A property owned or leased and operated by a group of persons and maintained and operated solely by and for the members of such group and their guests and not available for unrestricted public access or use. Such a club may be either a profit making or a not-for-profit enterprise".

Despite the apparent lack of definition of a religious institution, as that term is used in Table 1-6.1(B), I am of the opinion that a Church or other place of worship would fall within the parameters of a religious institution. Also, any establishment, regardless of its label, which sells and dispenses alcohol must not be located within 1000 feet of a religious institution. This would mean that where there exists a current church no alcohol sales and dispensing may occur within 1000 of the church. While it would not be prohibited for a lodge to be located within 1000 feet of a church, etc., it would be impermissible for that lodge to sell and dispense alcohol within 1000 feet of the church, etc.

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 3
Meeting Date: October 3, 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 several meeting in June and July and had a first reading on July 18, 2016.

FINANCIAL IMPACT:

ATTACHMENTS:

Ordinance 2016-02

ACTION OPTIONS:

Council Adopt 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 deleted.

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 10/03/16

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: 4
Meeting Date: October 3, 2016

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

SUBJECT: Amend Chapter 2 to Provide for the Events Committee (Ord 2016-07)

BACKGROUND/HISTORY:

This is an item that has been w

FINANCIAL IMPACT:

ATTACHMENTS:

Ordinance 2016-07

ACTION OPTIONS:

Council Discussion and Approval of first reading.

ORDINANCE 2016-07

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BOARDS AND COMMITTEES; AMENDING CHAPTER 2, ARTICLE VIII OF THE CODE OF ORDINANCES OF THE TOWN; ADDING A DIVISION 6 CREATING THE EVENTS COMMITTEE; PROVIDING FOR THE ESTABLISHMENT AND PURPOSE; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

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

SECTION 1. Division 6 is hereby added to Chapter 2, Article VIII, to read as follows:

“Division 6. Events Committee.

Section 2-60.- Establishment and Purpose of Events Committee.

(a). Establishment and Purpose. The Events Committee is hereby established and shall consist of _____ () seats and _____ () alternate-seats. The alternate members shall alternate to act in the place and stead of a regular voting member.

The Events Committee is established to deal with any event sponsored by the Town of Malabar. The Events Committee shall have no policy or decision-making authority but shall have the authority to recommend, rank, reject, accept, classify or narrow any matter to be presented to the Town Council. The Events Committee shall gather information and present it the Town Council and the Town Council shall be the final determining body on any matters gathered, presented to it by the Events Committee.

The Committee is advisory in nature but may consult with other committees of the Town, consistent with the Florida Sunshine Law, on event issues and forwards the recommendations to the Town Council.

1. See Division 1, Section 2-211- 2-215 above for other applicable regulations.
2. The Events Committee shall only take direction from the Town Council and shall perform its missions on matters which have been authorized by the Town Council.
3. The Chairperson of the Parks and Recreation Committee shall appoint a member of that committee to serve as a non-voting liaison member of the Events Committee.”

SECTION 2. CODIFICATION. 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, Florida; that the sections of their Ordinance may be renumbered or re-lettered to accomplish such intention; and the word “Ordinance” may be changed to “Section,” “Article” or other appropriate designations.

SECTION 3. SEVERABILITY. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of the ordinance shall not be affected and it shall be presumed that the Town Council of the Town of Malabar did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the Town

Council would have enacted the remainder of this ordinance without said invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

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

SECTION 5. EFFECTIVE DATE. The ordinance shall take effect 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	_____

Passed and adopted by the Town Council, Town of Malabar, Brevard County, Florida this ___ day of _____, 2016.

TOWN OF MALABAR

By:

Mayor Phillip R. Crews, Council Chair

First Reading: _____

Second Reading: _____

(seal)

ATTEST:

Approved as to form and content:

By _____
Debby Franklin, Town Clerk/Treasurer

Karl W. Bohne, Jr., Town Attorney

ORDINANCE 2014-08

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, RELATING TO BOARDS AND COMMITTEES; AMENDING CHAPTER 2, ARTICLE VIII OF THE CODE OF ORDINANCES OF THE TOWN; AMENDING DIVISION 1 BY CREATING SECTION 2-211 GENERAL PROCEDURES FOR APPOINTING MEMBERS TO BOARDS AND COMMITTEES; CREATING SECTION 2-212 OPEN MEETINGS, PUBLIC COMMENT AND AGENDAS; CREATING SECTION 2-213 RELATING TO AD HOC COMMITTEES; CREATING SECTION 2-214 RELATING TO PUBLIC MONIES; CREATING SECTION 2-215 RELATING TO STAFF SUPPORT FOR BOARDS AND COMMITTEES; AMENDING DIVISION 2, SECTION 2-221 RELATING TO THE PARKS AND RECREATION BOARD; PROVIDING FOR ITS ESTABLISHMENT AND PURPOSE; PROVIDING FOR ALTERNATE MEMBER DUTIES; CREATING DIVISION 3 SECTION 2-230 CREATING THE TRAILS AND GREENWAYS COMMITTEE; PROVIDING FOR THE ESTABLISHMENT AND PURPOSE; PROVIDING FOR DUTIES; CREATING DIVISION 4 SECTION 2-240 RELATING TO THE BOARD OF ADJUSTMENT; PROVIDING FOR THE ESTABLISHMENT AND PURPOSE; CREATING DIVISION 5 SECTION 2-250 RELATING TO THE PLANNING AND ZONING BOARD; PROVIDING FOR THE ESTABLISHMENT AND PURPOSE; AMENDING ARTICLE XII OF THE MALABAR LAND DEVELOPMENT CODE; DELETING SECTION 1-12.2A, B, C, and D; AMENDING SECTION 1-12.3.C.4 RELATING TO DECISIONS OF THE PLANNING AND ZONING BOARD; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

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

SECTION 1. Chapter 2, Article VIII, Division 1 is hereby amended to add Sections 2-211, 212, 213, 214 and 215 to read as follows:

Section 2-211. General Procedures for all Boards and Committees. Citizen participation is vital to a democratic government. The Town of Malabar recognizes the unique contributions made by volunteers and encourages involvement in the policy-making process through service as an advisory board member. Boards and Committees are standing bodies established by Town ordinance and appointed by the Town Council to provide ongoing board/committee recommendations to Town Council on diverse matters of public concern. Included are zoning, municipal planning, parks and recreation, trails and greenways, public art, historic preservation and building codes, Boards handle a variety of issues within a subject range; Committees are delegated to consider, report and take action on specific issues, such as Trails & Greenways. Ad Hoc committees are short term with a limited period and have a particular purpose, such as the Taxpayer Budget Review Committee or the SpringFest Committee. Ad Hoc committees are appointed on an as-needed basis and the committee sunsets once the purpose is served. They do not take a special action by Council to terminate.

(a) All appointments, whether regular member appointments, alternate member appointments or appointments to fill any vacancies to any Town Boards or Committees is within the sole and absolute discretion of the Town Council. Applications for appointment are available in the Office of the Town Clerk and also on the Town's website. Completed applications shall be filed with the Town Clerk. The application shall be given to the respective Board or Committee for their review and recommendation to the Town Council. Such Board or Committee shall rank the applicants in order of preference, including the ranking of any alternates. The Town Council shall review the recommendation of the respective Board or Committee and make appointments as the Town Council desires. Nothing herein is intended to require the Town Council to accept any recommendation on such appointments from the respective Board or Committee. All Boards and committees shall have five (5) regular members presiding and two (2) alternate members. Both Alternates may participate in all discussion but only

five members vote. The Alternate Members shall alternate voting in the absence of a regular Board member.

(b) Requirements for Board/Committee Membership: Board members should have the expertise necessary to accomplish the Board's objectives; a reputation for integrity and community service; interest or experience in the area of Board service desired. All Boards shall be comprised of Town of Malabar residents who have lived within the Town for a minimum of one (1) year immediately preceding their appointment. All members shall also be registered electors of the Town. Most Boards require financial disclosure; and if appointed to one of these Boards, Section 112.3145, Florida Statutes, requires that you file a Form 1, Limited Financial Disclosure, with the Brevard County Supervisor of Elections within 30 days of your appointment. All appointed Members shall also be administered the Oath of Office by the Mayor or presiding officer in the absence of the Mayor at the Council meeting of their appointment. All Board/Committee members shall serve without compensation. Any member may be removed from office for cause by the Town Council upon written charge and public hearing.

(c) The Term of Service for all Board/Committee regular and alternate members begins November 1 and ends October 31. The initial term of appointment will be based on the term remaining for that seat. Upon successful reappointment the renewing term for all Boards/Committees will be three years. If the appointment is to fill a standing vacancy, the term for all Boards/Committees will be three years. The terms are staggered for continuity as established by Resolution.

(d) Attendance: Most Boards/Committees meet monthly with meeting times varying in length according to agenda items to be addressed. A quorum is three members on all Boards except the Board of Adjustment. Regular attendance is required by regular members and alternates. If a Board/Committee member's (regular or alternate) absences exceed 25% of the scheduled meetings in a Fiscal Year, (Oct. 1 – Sept. 30) the **Board Secretary shall send memo to Clerk. Clerk will place item on next Council agenda for action on termination or special exception.** A Board member is considered absent if not present for at least 75% of a scheduled meeting.

(e) Vacancies: The Board/Committee shall find that a vacancy exists upon:

1. Receipt of a resignation in writing from one of its members or
 2. Death, removal or disqualification or
 3. Absence in excess of 25% of scheduled meetings within a fiscal year (Oct. 1 – Sept. 30)
- Only Council can declare the seat vacated.

(f) Each Board/Committee shall elect its Chair and Vice-Chair from among its members annually at the first meeting in November. The term will begin on the date of appointment and run for one year. The Chair shall set the agenda and facilitate the meeting. The Vice-Chair shall act in the absence of the Chair.

(g) Reappointments: Board/Committee Members whose terms are expiring may submit an application for reappointment no later than October 1. The Clerk will place the Board appointments on the second meeting agenda in October for Council action. Once the appointments are made, the members will take their seat at the first meeting in November. Appointees may be administered the Oath of Office either at the Council meeting when they are appointed or at a subsequent Council meeting.

Section 2-212. Open meetings, public comment and agendas. All meetings of any advisory board or committee created by the Town Council to assist in the council's decision-making process, including committee and subcommittee meetings of such boards or committees are declared to be public meetings and open to the public at all times. Open meetings of advisory boards and committees shall be governed by the following standards:

(1) The minutes of such meetings shall be recorded by a recording secretary who is a member of staff and shall be promptly made available for public inspection.

(2) Reasonable notice must be given to the public of the time and place of such meetings. Responsibility for providing such notice is delegated to the staff person assigned to assist the advisory board or committee and act as their secretary.

(3) Each advisory body shall allow for public comment at the beginning and end of all meetings.

(4) The Advisory Board/Committee Chair along with the assigned staff member shall prepare the meeting agenda and any back-up material which shall be made available for inspection during regular business hours prior to each meeting.

(5) All Boards/Committees shall use Robert's Rules as a guide in meeting protocol.

Section 2-213. Ad hoc committees. From time to time the Town Council may establish ad hoc committees which are designed to assist the town council in its decision making process on limited topics and issues. Such committees are designed for a limited purpose and duration and can be dissolved or inactivated by the town council at any time. Such committees shall be governed by the provision of this Division. Such committees are not quasi-judicial authorities. There are no durational residency requirements for appointments to any ad hoc committee; however, members shall be residents of the town. The town council shall have the sole discretion to determine the number of members and make up of such committees.

Section 2-214. Spending authority for boards and committees. At no time shall any Boards or Committees, except for the Town Council, have any authority to independently authorize the expenditure of public funds. The Town Council may, from time to time, budget public funds for such boards or committees; however, such board or committee may only advise or recommend to the town council projects or purposes for the expenditure of such funds. The authority to expend any such funds and the purpose of the expenditure rests solely with the Town Council. The Town Council may authorize Town staff to expend such funds for any project or purpose recommended by such board or committee. Any such expenditure shall be logged on an expense report. At no time shall expenditures exceed the amount authorized by the Town Council unless such excess expenditure has been authorized by the Town Council.

Section 2-215. Staff Support for Boards and Committees. The Town shall provide to every Board/Committee necessary technical and administrative assistance as follows:

1. Preparation and posting of public notices as required by Florida Statute, ensuring that all notices to the public are provided in the same manner as notices regarding meetings of the Town Council;

2. Provision of a meeting room including any necessary audio/visual equipment;

3. Preparation and copies of any documentary meeting materials requested by the Board to assist in their evaluation and review of subject project;

4. Staff research and background on land use issues in front of Planning and Zoning Board are invaluable to Board members not familiar with the pertinent laws, ordinances, regulations, policies and practices. Effective Staff/Board relations are vital to the overall success of planning decisions.

5. Attendance of all meetings by Staff and Consultants as appropriate in order to report on the status of projects and compliance with State and local regulations;

6. Retention of all Board records, and providing public access to same."

SECTION 2. Chapter 2, Article VIII, Division 2, Section 2-221 of the Malabar Code of Ordinances is hereby amended to read as follows:

“Section 2-221 Establishment and Purpose of Park and Recreation Board. (a). *Establishment and Purpose.* The Park and Recreation Board is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The Park and Recreation board is advisory in nature. Members of the Board shall hold no other Town office. The affirmative vote of a majority of the regular and alternate board members present and voting (maximum of five votes) shall be necessary for the adoption of any motion. It is the purpose and intent of the Town Council to authorize an advisory board to discuss matters relating to the acquisition, development, maintenance, rehabilitation and operations of parks and recreation properties and facilities within the Town of Malabar and forward their recommendations to the Town Council for their consideration. The Board shall conduct such investigations, studies and hearings which, in the judgment of the Board, will aid in effectuating its general purposes.

1. **Alternate Member Duties.** The alternate member of the Park and Recreation Board may attend all meetings of the Park and Recreation Board but shall act only in the absence, disability, abstention from voting or disqualification of a regular member thereof. When an alternate member acts, the minutes of the Park and Recreation Board shall reflect the name of the absent, disabled or disqualified member in whose place and stead the alternate is acting. Alternate members may always participate in board deliberations and debate, but they may make motions and vote only in the absence or voting disqualification of a regular member or the vacancy in a regular member's seat. The alternate members shall alternate acting in the place and stead of a regular voting member.

2. **Absences.** The absence of a member, including the alternate member, per Section 2-211(d) above.

3. **Vacancies.** Vacancies are defined in Section 2-211(e) above. Vacancies shall be filled for the unexpired term of any members whose term becomes vacant. The Town Council shall fill any vacancy within thirty (30) days after the vacancy occurs or as soon thereafter as possible. The Board shall recommend an alternate for Council consideration to fill the remainder of the term of the regular member. See Section 2-211(a) above.”

SECTION 3. Chapter 2, Article VIII, is hereby amended to add Divisions 3, 4 and 5 to read as follows:

“Division 3. Trails & Greenways Committee.

Section 2-230 Establishment and Purpose of Trails & Greenways Committee.

(a). *Establishment and Purpose.* The Trails & Greenways Committee is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The alternate members shall alternate to act in the place and stead of a regular voting member.

The Trails & Greenways Committee is established to deal with the specific subject of Trails & Greenways within Malabar and how they connect to the South Brevard Linear Trail System. The Trails and Greenways Committee shall have no policy or decision-making authority but shall have the authority to recommend, rank, reject, accept, classify or narrow any matter. The Trails and Greenways Committee shall gather information and present it to the Park and Recreations Board and the Town Council shall be the final determining body on any matters gathered, presented or reported to the Park and Recreations Board by the Trails and Greenways Committee.

The Committee is advisory in nature but consults with trail groups from other agencies on trail related issues and forwards their recommendations to the Parks and Recreation Board for their consideration and recommendation to Council. It is recognized that the nature of this committee shall require work parties for the members and other volunteers on trail clean-up and rehab projects from time to time. Such work parties shall be advertised similar to a meeting giving the location of the work site.

1. See Division 1, Section 2-211 above for other regulations.
2. The Trails and Greenways Committee shall only take direction from the Town Council and shall perform its missions on matters which have been authorized by the Town Council.
3. The Trails and Greenways Committee may advise the Park and Recreation Board on the availability of grants and funding sources.
4. The Trails and Greenways Committee members shall not be prohibited from performing any action concerning the trails and greenways located within the Town under the Town's jurisdiction and authority on their own. The Trails and Greenways Committee may vote to recommend to the Park and Recreations Board to recommend to the Town Council any approval or disapproval of any work or services of a Trails and Greenways Committee member on the trails and greenways in the Town. The Town Council shall be the final decision-maker concerning such requests by Trails and Greenways Committee members for any donative services they wish to give to the Town. Nothing herein shall prevent more than one (1) Trails and Greenways Committee member from performing donative services to the Town at the same time. However, during the course of such donative services, the members of the Trails and Greenways Committee who are performing such services shall not discuss any Trails and Greenways Committee business while performing such donative services.

Division 4. Board of Adjustment

Section 2-240 Establishment and Purpose of Board of Adjustment.

(a). *Establishment and Purpose.* The Board of Adjustment is hereby established which shall consist of five (5) seats and two (2) alternate seats. The Board of Adjustment shall meet only on an as needed basis when a property owner requests a variance to the Land Development Code or the Street and Road Improvement Code. They shall also hear and consider challenges to the Administrative Decisions by the Town Building Official or Town Engineer. The quorum for the Board of Adjustment is four (4) members. The Board of Adjustment sits in a quasi-judicial position when considering variances to the Land Development Code. The Board of Adjustment shall have the authority to compel attendance of witnesses at hearings or meetings and to administer oaths. Any appeal of the decision of the Board of Adjustment shall be made through the circuit court and must be made within 30 days of the finding by the BOA. The Town Council shall establish by resolution the appropriate application fee to be submitted.

1. **Alternate Member Duties.** The alternate member of the Board of Adjustment may attend all meetings of the Board of Adjustment but shall act only in the absence, disability or disqualification of a regular member thereof. When an alternate member acts, the minutes of the Board of Adjustment shall reflect the name of the absent, disabled or disqualified member in whose place the alternate is acting. The alternate members shall alternate to act in the place and stead of a regular voting member.
2. **Criteria for Review of Administrative Order.** The Board of Adjustment may reverse or

3. affirm, wholly or partly, or may modify the order made by an administrative official in the enforcement of any land development code or regulation and shall memorialize their decision in a Final Order.

4. **Findings of Board of Adjustment.** Final Orders of the Board of Adjustment shall be recorded at the Brevard County Clerk of Court and filed in the property file, with a copy kept with the meeting minutes and a copy to the applicant.

5. **Majority Vote Required.** The concurring vote of a majority of all the members of the Board of Adjustment shall be necessary to reverse any administrative order or decision. Decisions in favor of an applicant's request for a variance shall also require a majority vote of all the members.

6. **Criteria for Determining Variances.** In order to authorize any variance from the terms of this ordinance, the Board of Adjustment must find the following:

- a) Existence of Special Conditions or Circumstances which are peculiar to the land, structure or building and are not applicable to other lands, structures or buildings in the same zoning district.
- b) Conditions Not Created by Applicant
- c) Special Privilege Not Conferred to Applicant not entitled to others in same zoning.
- d) Hardship Conditions Exist. The literal interpretation of the provisions of the Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would cause unnecessary and undue hardship on the applicant.
- e) Only the Minimum Variance Granted. Variance granted shall be the minimum variance that will make possible the reasonable use of the land, building or structure.
- f) Not Injurious to the Public Welfare or Intent of Code. Variance granted shall be in harmony with the general intent and purpose of the Comprehensive Plan or Code and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- g) Conditions and Safeguards May Be Imposed. Variance granted may have conditions imposed in conformity of Chapter 163 Florida Statutes, the Comprehensive Plan or the Land Development Code and shall be written into the Final Order before applicant signs and the document is recorded at the Brevard County Clerk of Courts.
- h) Time Limit May be imposed.
- i) No "Use" Variance Permitted in Specified Instances. Under no circumstances shall the Board of Adjustment grant a variance to permit a use not generally or by special exception permitted in the zoning district involved or any use expressly or by implication prohibited in the zoning district involved. Existence of nonconforming use of neighboring lands, structures or buildings in the same zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

7. **Procedures for Processing Matters Before the Board of Adjustment.**

a) Any aggrieved person or any person affected by any decision of the Building Official or succeeding administrative officer may appeal the decision. Such appeals shall be submitted within 30 days of such decision and shall be heard within 60 days. The appeal shall be submitted on an application form provided by the Town. In addition, the applicant must submit a radius package

produced by Brevard County listing all properties within 500 feet of the property involved in the application. The applicant may also include a cover letter explaining the reasons for the appeal or request. These all become part of the hearing package. The administrative officer, upon notification of said appeal, shall transmit to the Secretary of the Board all papers or materials constituting the record upon which the action appealed from was taken. These shall also become part of the hearing package for the Board of Adjustment. Before the hearing package is assembled, the application shall be reviewed by the appropriate Town staff and a written recommendation shall be submitted and shall be part of the record of the application.

b) **Hearing of Appeal, Notice Required.** All meetings of the Board of Adjustment are held only after public notice has been given providing the date, time and place of the meeting; name of the Board holding the meeting; a brief description of the matter to be considered; and a legal description of the property or other appropriate information identifying the property involved. The meeting notice shall be published at least two (2) times in a newspaper of general circulation in the Town, the first publication of which shall be at least 15 days before the hearing. The Board Secretary shall also mail a copy of the notice to all property owners within five hundred (500) feet of the property involved in the application. If the property involved in the application is a condominium association or a Home Owners Association, the required notice shall be sent by certified mail to the association and by regular mail to the individual owners. The applicant is required to post the property involved in the application with a sign of approximately a total of two (2) square feet placed so as to be visible from the adjacent dedicated public road right-of-way, or private access easement. The sign should contain the same information as the notice.

8. Judicial Review of Decisions of Board of Adjustment. An applicant aggrieved by any decision of the Board of Adjustment may apply to the circuit court in the judicial circuit where the Board of Adjustment is located for judicial relief. Said application must be made within thirty (30) days after the decision by the Board of Adjustment. The election of remedies shall lie with the appellant.

9. See Division 1, Section 2-211 above for other regulations.

Division 5. Planning and Zoning Board

Section 2-250 Establishment and Purpose of the Planning and Zoning Board.

(a). *Establishment and Purpose.* The Planning and Zoning Board is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The Planning and Zoning Board is advisory in nature. Members of the Board shall hold no other Town office. The affirmative vote of a majority of the regular and alternate board members present and voting (maximum of five votes) shall be necessary for the adoption of any motion. The Planning and Zoning Board deal with land use issues such as site plans, conditional uses, special exceptions, residential subdivision developments, plats, replats and zoning change requests. They also review and compile updates for the Comprehensive Plan and present to Council. They shall also draft land development code to conform to changes adopted by Council to the Comprehensive Plan. They shall annually prepare a Capital Improvement Projects list to submit to Council. Some of the issues that the Board considers will be quasi-judicial and staff will alert them to those situations.

1. *Alternate Member Duties.* The alternate member of said Planning and Zoning Board may attend all meetings of the Planning and Zoning Board but shall act only in the absence, disability, abstention from voting or disqualification of a regular member thereof. The alternate members shall alternate to act in the place and stead of a regular voting member. When an alternate member acts, the minutes of the Planning and Zoning Board shall reflect the name of the absent, disabled or disqualified member in whose place and stead the alternate is acting. Alternate members may always participate in board deliberations and debate, but they may make motions and vote only in the absence or voting disqualification of a regular member or the vacancy in a regular member's seat.

2. *Local Planning Agency.* The Malabar Planning and Zoning Board is hereby designated the Local Planning Agency in accordance with F.S. 163, the Local Government Comprehensive Planning Act and as such shall conduct the comprehensive planning program and prepare the elements or portions of the Comprehensive Plan for presentation and approval by the Town Council.

3. *Authority and Functions of Planning and Zoning Board.* The authority of the Planning and Zoning Board is intended to be advisory only. Nothing herein shall be construed to grant to the Planning and Zoning Board final decision making authority. The Planning and Zoning Board shall review proposed site plans, developments, subdivisions, zoning or land use changes for consistency with the Town Code and Comprehensive Plan and forward their recommendations to Council in writing. If any such application is recommended for denial, the written recommendation shall state specifically what provision of the Code or Comprehensive Plan was not met. The Planning and Zoning Board shall review and recommend updates to the Capital Improvement Plan annually. They shall also undertake any other duties assigned to them by Council.

4. *Land Development Regulations.* The Planning and Zoning Board shall be familiar with the Malabar Land Development Regulations contained in the Land Development Code portion of the Malabar Code. These regulations are found in the Chapters identified as Article I (Preamble) Article XX (Definitions) as updated from time to time. F.S. 163 mandates that local governments adopt and enforce land development regulations. Those regulations shall be consistent with their adopted Comprehensive Plan. That statute also requires that the provisions set forth in the Comprehensive Plan be implemented through adoption of ordinances.

5. *Administrative Staff.* The Planning and Zoning Board shall consult with Town staff as well as other outside professionals in preparing recommendations for amendments to the Comprehensive Plan. They should also use staff to assist in preparing proposed ordinances and regulations designed to promote orderly development.

6. See Division 1, Section 2-211 above for other regulations."

SECTION 4. Sections 1-12.2.A, B, C and D of Article XII of the Malabar Land Development Code is hereby deleted in its entirety (moved to Chapter 2, Article VIII, Division 4). **(Note to codifier: Section 1-12.2 shall be relettered to accomplish this repeal).**

SECTION 5. Sections 1-12.3.A, B, C and D of Article XII of the Malabar Land Development Code is deleted in its entirety (moved to Chapter 2, Article VIII, Division 5) and 1-12.3.C. 4 of the Malabar Land Development Code is hereby amended to read as follows: **(Note to codifier: Section 1-12.3 shall be relettered to accomplish the repeal of Section 1-12.3.A-D and the amendment to 1-12.3.C.4)**

• • •

C. *Authority, Powers and Proceedings.*

• • •

4. *Decisions of the Planning and Zoning Board.* Decisions of the Planning

and Zoning Board shall not be binding upon the Town of Malabar until approved by majority vote of the Town Council.

SECTION 6. CODIFICATION. 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, Florida; that the sections of their Ordinance may be renumbered or re-lettered to accomplish such intention; and the word "Ordinance" may be changed to "Section," "Article" or other appropriate designations.

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

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

SECTION 9. EFFECTIVE DATE. The ordinance shall take effect immediately upon its adoption.

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

Council Member Jim Milucky	<u>Aye</u>
Council Member Wayne Abare	<u>Aye</u>
Council Member Steve Rivet	<u>Aye</u>
Council Member Dick Korn	<u>Aye</u>
Council Member Marisa Acquaviva	<u>Aye</u>

Passed and adopted by the Town Council, Town of Malabar, Brevard County, Florida this 21 day of JUNE, 2014.

TOWN OF MALABAR

By:

Steve Rivet
Steve Rivet, Council Chair

First Reading: 06/02/2014

Second Reading: 06/16/2014



(seal)

ATTEST:

By Debby Franklin
Debby Franklin, Town Clerk/Treasurer

Approved as to form and content:

Karl W. Bohne, Jr.
Karl W. Bohne, Jr., Town Attorney

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 5
Meeting Date: October 03, 2016

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

SUBJECT: Appointment of Allen Rice to Planning and Zoning as an Alternate Member for 3-year term. (Reso 10-2016)

Appointment of Mrs. Hofmeister as an Alternate Member to Planning and Zoning Board for a 3-year term. (Reso 11-2016)

BACKGROUND/HISTORY:

Mr. Rice applied for the position open on the Planning and Zoning Board advertised throughout the Town. Currently there is one opening. I have prepared a resolution for your consideration and it is included in the package.

When Pat Reilly is sworn in as Mayor there will be another opening. We currently have another interested party, Mrs. Hofmeister who lives on south Corey Road. She came by and picked up the application package last week and said she would drop it off on Monday morning. If I received her application on Monday morning I will send it out to Council. I have prepared a resolution for your consideration and it is included in the package.

ATTACHMENTS:

Resolution 10-2016 Mr. Rice
Resolution 11-2016 Mrs. Hofmeister

ACTION OPTIONS:

Staff requests approval of Reso 10-2016 and Reso 11-2016.

RESOLUTION 10-2016

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF ALLEN RICE TO THE MALABAR PLANNING AND ZONING BOARD AS AN ALTERNATE MEMBER FOR A THREE YEAR TERM; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has two seats open on their P&Z Board; and

WHEREAS, Malabar Town Council desires to make this appointment.

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 approves the appointment of Allen Rice as an alternate member of the Planning and Zoning Board for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the member, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect upon adoption by Council.

This Resolution was moved for adoption by Council Member _____. This motion was seconded by Council Member _____ and, upon being put to 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 3rd day of October, 2016.

TOWN OF MALABAR

By: _____,
Mayor Phillip R. Crews, Council Chair

ATTEST:

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

(seal)

Approved as to form and content:

Karl W. Bohne, Jr.
Town Attorney

RESOLUTION 11-2016

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF Mrs. HOFMEISTER TO THE MALABAR PLANNING AND ZONING BOARD AS AN ALTERNATE MEMBER FOR A THREE YEAR TERM; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has two seats open on their P&Z Board; and

WHEREAS, Malabar Town Council desires to make this appointment.

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 approves the appointment of Mrs. Hofmeister as an alternate member of the Planning and Zoning Board for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the member, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect upon adoption by Council.

This Resolution was moved for adoption by Council Member _____. This motion was seconded by Council Member _____ and, upon being put to 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 3rd day of October, 2016.

TOWN OF MALABAR

By: _____
Mayor Phillip R. Crews, Council Chair

ATTEST:

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

(seal)

Approved as to form and content:

Karl W. Bohne, Jr.
Town Attorney

RTCM 10/3/16

TOWN OF MALABAR

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE



Reso 10-2016

NOTE: Florida's Public Records Law, Chapter 119, Florida Statutes states, "It is the policy of this state that all state, county, and municipal records shall at all times be open for a personal inspection by any person." Your application when filed will become a public record and subject to the above statute. In addition, any appointed member of a board of any political subdivision (except members of solely advisory bodies) and all members of bodies exercising planning, zoning or natural resources responsibilities are required to file a financial disclosure form within 30 days after appointment and annually thereafter for the duration of the appointment as required by F.S. Chap. 112.

NAME: Allen Rice TELEPHONE: 321 - 698 - 1325
ADDRESS: 2580 Coral Way Malabar, FL 32950
EMAIL: allen.rice5@gmail.com

RESIDENT OF TOWN FOR 12 MONTHS OR LONGER: [] YES [] NO

OCCUPATION: (If retired, please indicate former occupation or profession.)

Realtor, Property manager

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

owner Happy Tub; Tile 22 yrs. Bathroom Refinishing 1988 - 2010

Married to Alicia 20 years 2 Sons Timothy & Daniel

ADDITIONAL INFORMATION/REFERENCES: Rocky Point HOA Board member

Bachelor Degree from CA State Univ. Northridge

"Business - Finance & Real Estate"

Please select the Board that you would like to serve on by indicating first choice & second choice:

- Board of Adjustment
- Planning & Zoning
- Parks & Recreation
- Trails & Greenways

Per Town Code, Council shall require removal of members after 3 successive absences.

Allen Rice
Signature of Applicant

9/21/16
Date

Please return this form to: Town Clerk
Town of Malabar
2725 Malabar Road
Malabar, FL 32950-4427
Email: townclerk@townofmalabar.org

Note: If you need more information concerning the duties of these Boards, please contact the Town Clerk. Please attach a copy of your resume to this application. You will be notified of the date of the Town Council Meeting that your application will be considered for appointment. You will need to plan to attend the Council Meeting.

Applicant Certification

By completing this application with the Town of Malabar and placing my signature below, I do hereby acknowledge the following:

- This application, when completed and filed with the Office of the Town Clerk, is a PUBLIC RECORD UNDER Chapter 119, Florida Statute, and is open to public inspection.
- I am responsible for keeping the information on this form current and that any changes or updates will be provided to the Office of the Town Clerk.
- I acknowledge that I am a resident of the Town of Malabar.
- I consent to filing the Statement of Financial Interest as required by Chapter 112, Florida Statutes.
- If appointed to a Committee or Board, I acknowledge that it is my obligation and duty to comply with the following:
 - Code of Ethics for Public Officials (F.S., Chapter 112, Part III)
 - Florida Sunshine Law (F.S., Chapter 286)

I understand the responsibilities associated with being a Committee or Board member and I will have adequate time to serve on this Committee or Board.

The information provided on this form is true and correct and consent is hereby given to the Town Council or its designated representative to verify any and/or all the information provided.



Signature

9/21/16
Date



Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org

PERMISSION TO PARTICIPATE FOR ADULTS (18 AND OVER)

Read this form completely and carefully. You are agreeing to engage in volunteer service to benefit the community and the Town of Malabar, Florida. You are agreeing that, even if the Town of Malabar, its departments, employees, contractors, volunteers, specialists and agents (hereinafter "Released Parties") use reasonable care in providing this activity, there is a chance you may be harmed by participating in this activity because there are certain dangers inherent in the activity which cannot be avoided or eliminated.

By signing this form, you are giving or forever releasing your right to recover from any or all of the Released Parties in a lawsuit for any personal injury, including death, to you or any property damage that results from the risks that are a natural part of the activity. You have the absolute right to refuse to sign this form with the understanding that you will not be permitted to participate in any volunteer activities for the Town of Malabar Volunteers.

WAIVER OF LIABILITY

I agree that in consideration for my participation in the Town of Malabar Volunteers, I shall hold harmless and fully indemnify and defend the Town of Malabar, Florida, its departments, employees, officials, coaches, volunteers, contractors, specialists and agents (hereinafter "Released Parties") from any and all causes of action, claims, damages, costs including but not limited to attorney's fees and costs, which may arise from any cause of action made by me or my estate, even if the damage, injuries or death are caused in whole or in part by the negligence of the Released Parties.

I agree that in consideration for me being permitted to participate in the activity, I assume full responsibility for any loss of property, accident, bodily injury or death as a result of my participation in this activity.

I expressly agree the Release and Waiver of Liability is intended to be as broad and inclusive as is permitted by the laws of the State of Florida and that if any portion thereof is held invalid, I agree that the balance shall, notwithstanding, continue in full legal force and effect.

I acknowledge that I have read (or have had read to me) each and every one of the provisions in this waiver, release of liability and indemnification agreement and that I understand each of the provisions in this agreement and that I agree to abide by them.



PRINTED NAME: Allen Rice

Town of Malabar 2725 Malabar Road Malabar, Florida 32950

Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org

Website: www.townofmalabar.org

Planning & Zoning Advisory Board Application

The Planning and Zoning Board is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The Planning and Zoning Board is advisory in nature. Members of the Board shall hold no other Town office. The affirmative vote of a majority of the regular and alternate board members present and voting (maximum of five votes) shall be necessary for the adoption of any motion. The Planning and Zoning Board deals with land use issues such as site plans, conditional uses, special exceptions, residential subdivision developments, plats, re-plats and zoning change requests. They also review and compile updates for the Comprehensive Plan and present to Council. They shall also draft land development code to conform to changes adopted by Council to the Comprehensive Plan. They shall annually prepare a Capital Improvement Projects list to submit to Council. Some of the issues that the Board considers will be quasi-judicial and staff will alert them to those situations.

- 1. Name: Allen Rice Phone: 321 - 698-1325
 - 2. Home Address: 2580 Coral Way Malabar, FL 32950
 - 3. Email Address: allen.rice5@gmail.com
 - 4. Are you a resident of the Town: Yes [] No []
 - 5. How long have you been a resident of the Town of Malabar: 5 years
 - 6. Are you currently involved with any other organization of the Town: Yes [] No []
- If yes, which organization: _____

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 6
Meeting Date: October 3, 2016

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

SUBJECT: Authorize Expenditure of \$1,500.00 for Survey of area north of Rocky Point Road.

BACKGROUND/HISTORY:

This is an item that has been discussed multiple times at previous meetings. Park and Rec Chair Hans Kemmler explained at the last meeting that if the survey confirms that it belongs to FDOT as unused ROW, then they will lease it to the Town for \$1.00 per year.

FINANCIAL IMPACT:

\$1,000.00 is available in the 511.4100 leaving \$4,500 for printing/postage of newsletters
\$ 500.00 is available in 572.4930 leaving \$500.00 for T&G expenses.

ATTACHMENTS:

Estimate from Surveyor

ACTION OPTIONS:

Request Approval for Expenditure.



WJS WILLIAM J. SUITER
LAND SURVEYING, INC.

1849 CANOVA STREET SE ~ PALM BAY, FLORIDA 32909 ~ 321-728-0553

September 23, 2016

Mr. Douglas C. Hoyt
Town of Malabar, Fl

RE: Survey (US 1 and Rocky Point Rd.)

Dear Mr. Hoyt,

The fee for a Specific Purpose Survey of the Northeast corner of US Highway No. 1 and Rock Point Road is \$1500.00. The Survey will show the Right of Way line of Highway 1 and the Mean Water Level Line of The Indian River.

Please let me know if you would like me to do the Survey.

Sincerely yours,

A handwritten signature in black ink, appearing to read "William J. Suiter".

William J. Suiter
William J. Suiter Land surveying, Inc.