

**TOWN OF MALABAR
REGULAR TOWN COUNCIL MEETING
MONDAY OCTOBER 17, 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 10/03/16**
Exhibit: Agenda Report No. 1
Recommendation: Request Approval
- E. **ATTORNEY REPORT:**
- F. **STAFF REPORTS: ADMINISTRATOR: CLERK:**
- G. **PUBLIC COMMENTS:** Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required) **Three (3) Minute Limit per Speaker.**
- H. **PUBLIC HEARINGS/SPECIAL ORDERS: 0**
- I. **UNFINISHED BUSINESS/GENERAL ORDERS**
- ORDINANCES FOR FIRST READING: 0**
- RESOLUTIONS: 7**
2. **Appoint Mary Hofmeister to P&Z Board (Reso 11-2016)**
A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF MARY 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.
Exhibit: Agenda Report No. 2
Recommendation: Adopt Reso 11-2016
 3. **Appoint George Foster to P&Z Board (Reso 12-2016)**
A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF GEORGE FOSTER TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR MEMBER FOR A THREE YEAR TERM; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.
Exhibit: Agenda Report No. 3
Recommendation: Adopt Reso 12-2016
 4. **Appoint Charles "Bud" Ryan to P&Z Board (Reso 13-2016)**
A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF CHARLES "BUD" RYAN TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR MEMBER FOR A THREE YEAR TERM; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.
Exhibit: Agenda Report No. 4
Recommendation: Adopt Reso 13-2016

5. **Appoint Joanne Korn to Board of Adjustment (Reso 14-2016)**
A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF JOANNE KORN TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR MEMBER FOR A THREE YEAR TERM; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 5

Recommendation: Adopt Reso 14-2016

6. **Appoint Donna Hanna to Board of Adjustment (Reso 15-2016)**
A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF DONNA HANNA TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR MEMBER FOR A THREE YEAR TERM; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 6

Recommendation: Adopt Reso 15-2016

7. **Appoint David Sowards to Board of Adjustment (Reso 16-2016)**
A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF DAVID SOWARDS TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR MEMBER FOR A THREE YEAR TERM; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 7

Recommendation: Adopt Reso 16-2016

MISCELLANEOUS: 1

8. **Authorization Requested to Advertise for a Town Initiated Vacate of ROW on W. Railroad Avenue and Johnston Avenue.**

Exhibit: Agenda Report No. 8

Recommendation: Request Approval

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

J. DISCUSSION/POSSIBLE ACTION:

9. **Road Classifications and Existing Homes on Unaccepted Rights-of-Way (Krieger)**

Exhibit: Agenda Report No. 9

Recommendation: Discussion

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 as of 10/17/16.

N. ADJOURNMENT:

ITEMS POSTPONED 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 14, 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 – 10/03/2016

ATTACHMENTS:

Draft Minutes of the 10/03/16 meeting

ACTION OPTIONS:

The Town Clerk requests approval of the 10/03/16 minutes.

MALABAR TOWN COUNCIL REGULAR MEETING
October 03, 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 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 also present.

C. ADDITIONS, DELETIONS, CHANGES APPROVAL OF AGENDA

Postpone #4. Without objection, agenda is approved.

D. APPROVAL OF THE MINUTES:

1. Regular Council Meeting Minutes 09/22/2016

Exhibit: Agenda Report No. 1

Recommendation: Request Approval

Without objection, minutes are approved.

E. SHERIFF REPORT: none

ATTORNEY REPORT: nothing going on with Painted Acre litigation

F. STAFF REPORTS: ADMINISTRATOR:

Proj 2A has been completed as of Friday last week. Headwalls and failed pipes have been replaced. Proj came in under budget at 33,400. Next project was repair of Lett Lane – estimated cost in May was 16,326.88 with no bidders. PW did it themselves with actual out of pocket 10,005.

CLERK: no

FIRE CHIEF: Chief Robinson went over stats. The ISO results were a 4/10. Anyone within 5 miles could see a reduction in home insurance. Over time the only way to improve is to add a hydrant.

BOARDS:

P&Z Pat Reilly, no meetings for last two meetings. Small houses will be discussed.

T&G Drew Thompson, brief thing to report. They did get authorization from council to purchase material for shade structure. Got most of structural material. Total was 50 cents under budget. Will be starting when cooler in winter months.

Events – Teresa to ad lib – who put them on agenda. They have not finished their mission statement – will do that at next meeting. Had question about using Facebook. Create a Facebook page for events committee. “they will use it to interface with community and use for marketing. She was not aware it had to be approved by council.

CM Korn related his class at FLC – social media not a good idea

Atty Bohne – concept of social media. Whatever that is produced by and responded by a member is a public record. That is another limitation.

TA said we had 29K hits on our website and over 100K downloads.

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

Skip Hard, Hard Lane, commented on TA report on Stormwater project.

H. PUBLIC HEARINGS/SPECIAL ORDERS:

2. Adopt (Ord 2016-03) CUP

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

PH opened. None. PH closed.

MOTION: CM Kohler / CM Ball to adopt Ord 2016-03. Discussion: ROLL CALL VOTE: CM Ball, Aye; CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Kohler, Aye. Carried 5 to 0.

3. Ament Code re: CUP (Ord 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. 3

Recommendation: Adopt Ord 2016-02

PH opened. None. PH closed.

MOTION: CM Vail / CM Kohler to adopt Ord 2016-02. Discussion: ROLL CALL VOTE: CM Ball, Aye; CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Kohler, Aye. Carried 5 to 0.

I. ACTION: ORDINANCE FOR FIRST READING

Removed from the agenda:

- ~~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.~~

RESOLUTIONS: 1

- 5. RESO 10-2016 APPOINT ALLEN RICE - 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.**

Exhibit: Agenda Report No. 5

Recommendation: Approve Reso 10-2016

MOTION: CM Vail / CM Kohler to approve Reso 10-2016. Discussion:

CM Ball said is there something we should put in place to get a wider variety of residents to represent. CM Korn explained his concern about turfdom.

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

MISCELLANEOUS: 1

6. Request approval to spend 1,500.00

MOTION: CM Vail / CM Kohler to approve expenditure for survey not to exceed \$1,500.00.

CM Krieger questioned – point of order – this was postponed; why back on agenda? Clerk said it was postponed until they had the estimate. Got estimate and P&R Chair requested it be put on agenda. CM Vail said it is a good idea. He is in favor of this.

Discussion:

Speaker's Card: Drew Thompson strongly supports this. The concerns that were voiced were about control. To know if this is possible. Should pay for itself – pay to play. There may be enough interest that money could be expended.

CM Ball is very much in support of this. His concern was with the survey. We only asked one person. He called Craig McKinnon why it is going to be 1,500. His response was that it would take a lot of work and that was a fair price. TA said he was asked by Park Board and he got one price. He also has some old maps from FDOT. Atty said you have to get a survey before the title search. CM Krieger asked why Malabar can't claim it and make it CM Krieger is also in support of this. Needs more leg work first. He questions allocating the funds for a survey without doing the other first. CM Korn was one that asked for this to be postponed. We are looking at spending 1500 to find out if there is any ability – not make a decision on the project.

VOTE: All Ayes.

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

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

J. REPORTS – MAYOR AND COUNCIL MEMBERS

TA: none

CM Kohler: none

CM Korn: none

CM Krieger: continued work being done on D&D Ranch. He will have to check his notes. He wants it to be brought back. CM Vail said he recalls that he was supposed to do the rip rap and solve and there was consensus there. Chair said and that was done. CM Korn said the council doesn't "start over" each November.

CM Ball: none

CM Vail: Huggins Park – could that become a dog park? Mayor said that property was mostly used by prostitution and drug deals.

Ordinance related to mowing ROW – wants it on agenda for discussion.

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

Clerk: none

Agenda items

Events committee at the first meeting in Nov

Road discussion.

CM Korn – create a dog park need fencing, shade structure and water and port-a-let. What about selling it.

K. ANNOUNCEMENTS:

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

L. 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: 10/14/2016

DRAFT

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: October 17, 2016

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

SUBJECT: 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 was appointed to the P&Z Board at the last meeting as an alternate. That filled the vacancy on the Board.

In November, P&Z Board Chair Pat Reilly will leave to assume his position of Mayor. That will create an opening on the Board.

The Board has discussed this and recommended that Alternate Doug Dial be moved up to fill the opening as a regular member when Pat moves off the P&Z Board.

That creates another opening for an alternate on the Board. Mary Hofmeister has submitted an application for consideration for this opening. The effective date of the Resolution appointing her would be set at November 9, 2016.

ATTACHMENTS:

Resolution 11-2016 Mrs. Hofmeister

ACTION OPTIONS:

Staff requests approval of Reso 11-2016.

RESOLUTION 11-2016

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF MARY 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 Mary 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 effective November 9, 2016.

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 17th 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

TOWN OF MALABAR

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE

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: Mary Hofmeister TELEPHONE: 321-298-1890
ADDRESS: 2340 Corey Rd
EMAIL: Coachmary01@yahoo.com

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

OCCUPATION: (If retired, please indicate former occupation or profession.)
Personal Trainer / Coach

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:
USATF Track & Field Coach / Athlete
ACA certified Soccer Coach
Space Coast Runners Org.

ADDITIONAL INFORMATION/REFERENCES:
Youth Soccer coach for Malabar Youth Soccer
for approximately 10 years. Recreational & Camp

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

- Board of Adjustment []
Planning & Zoning [X]
Parks & Recreation []
Trails & Greenways []

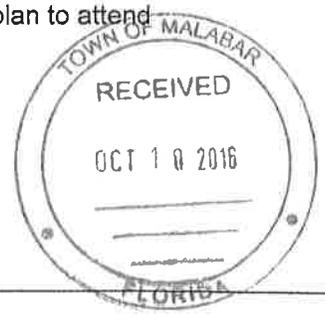
Per Town Code, Council shall require removal of members after 3 successive absences.

Mary Hofmeister
Signature of Applicant

10-5-2016
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.



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: Mary Hofmeister Phone: 321-298-1890
 2. Home Address: 2340 Corey Rd Malabar, FL 32950
 3. Email Address: coachmary01@yahoo.com
 4. Are you a resident of the Town: Yes [] No []
 5. How long have you been a resident of the Town of Malabar: Approx. 19 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

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

10-5-2016
Date

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 wavier, 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: Mary Hofmeister

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: 3, 4, 5, 6, 7

Meeting Date: October 17, 2016

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

SUBJECT: Appoint Members of Boards with Expiring Terms

George Foster and Charles "Bud" Ryan to P&Z

Joann Korn, Donna Hanna and Dave Sowards to BOA

BACKGROUND/HISTORY:

Adoption of Ordinance 2014-08 requires existing members with expiring terms to re-apply for a seat on the Board they wish to continue serving.

All members with terms expiring this month have submitted new applications. I have attached the listing of Town Boards, their members and their terms.

P&Z Board Secretary provided the attendance schedule for the last two years for that Board.

The BOA only meets when necessary and they had one meeting in 2015 and one meeting in 2016 and all members were present for those meetings.

ATTACHMENTS:

Reso 12-2016 George Foster to P&Z

Reso 13-2016 Bud Ryan to P&Z

Reso 14-2016 Joann Korn to BOA

Reso 15-2016 Donna Hanna to BOA

Reso 16-2016 David Sowards to BOA

ACTION OPTIONS:

Adopt Resolutions 12-16 2016.

MALABAR BOARDS

Members and Terms

as of September 13, 2016

All Terms run from November 1 to October 31



	District	Began	Expiration	Notes:
<u>PLANNING AND ZONING</u>				
Patrick Reilly, Chair	3	2001	2016	To Council 11/2016
Liz Ritter, V-Chair Reso37-2008	1	2008	2017	Reso 34-2014
Charles 'Bud' Ryan *	3	2002*	2016 ✓	Reso 35-2013
Wayne Abare	2	2014	2017	Reso 28-2014
George Foster	3	2013	2016 ✓	Reso 45-2013
Alt., Doug Dial	2	2015	2018	Reso 04-2015
Alt., Vacant				
<u>BOARD OF ADJUSTMENT</u>				
David Sowards, Chair	1	2010	2016 ✓	Reso 37-2013
Donna Hanna, Vice-Chair	4	2007	2016 ✓	Reso 01-2013
Charles Frazee	2	2010	2017	Reso 35-2014
Joanne Korn.	4	2010	2016 ✓	Reso 38-2013
Jim Clevenger	4	2009	2018	Reso 24-2015
Alt., Vacant				
Alt., Vacant				
<u>PARK AND REC BOARD</u>				
Hans Kemmler, Chair**7/15/13	1	2013	2017	Reso 38-2014
Vicki Thomas V-Chair 4/3/06	5	2006	2018	Reso 35-2015
Patricia Foster – 6/2/14	4	2014	2017	Reso 16-2014
Tom Taylor 8/24/15	4	2015	2018	Reso 15-2015
Vacant				
Alt., Vacant				
Alt., Vacant				
<u>TRAILS & GREENWAYS COMMITTEE***</u>				
Drew Thompson, Chair	5	2012	2018	Reso 39-2015
Murray Hann	5	2012	2017	Reso 37-2014
Bob Wilbur	2	2112	2018	Reso 31-2015
Collette Buffaloe	5	2012	2017	Reso 36-2014
Alt., Pat Voltaire	5	2015	2018	Reso 07-2015
Alt., Vacant				

All terms are for 3 years. If an alternate moves up they complete the remainder of the term of the regular member they are replacing. Subsequent terms are then 3-year terms. That keeps terms staggered for members of each Board.

*Bud served on BOA 2002-2005; switched to P&Z 2005-06; then resigned to run; then back to P&Z 2006-2010; then appt again in 2011

**Hans served previously as Park Bd Chair before he took a leave of absence

*** T&G started as community group in 1990's; formalized in Reso 06-2008; Committee recognized in Reso 29-2012; added to Code in Ord 2014-08.

Town of Malabar

PZ Member Attendance 2015

DRAFT

11/19

Names	1/14	1/28	2/11	2/25	3/11	3/25	4/8	4/22	5/13	5/27	6/10	6/24	7/8	7/22	8/12	8/26	9/9	9/23	10/14	10/28	11/11	4425*	12/9	12/23
Pat Reilly-Chair	C	A	X	A	A	U	A	A	A	C	X	A	A	A	A	A	A	A	C	X				
Liz Ritter-V Chair	C	A	A	A	A	U	A	A	A	C	A	A	A	A	A	A	A	A	C	A				
Wayne Abare	C	A	A	A	A	U	X	A	A	C	A	A	A	A	A	A	A	A	C	A				
George Foster	C	A	A	X	A	U	A	A	A	C	X	X	A	A	A	A	A	A	C	A				
Bud Ryan	C	A	X	A	A _{10:10}	U	A	A	X	C	A	X	X	A	X	A	A	X	C	A				
Alternate							A	A	A	C	A	A	A	A	A	A	A	X	C					
Alternate																								

A = Attended
 X = Excused
 C = Meeting Cancelled
 O = Not on Board yet

↑ No Quorum

DOUG DIAL 1st MEETING

6/10/15
left early
8:15pm

10/2

Cancelled

Cancelled

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.

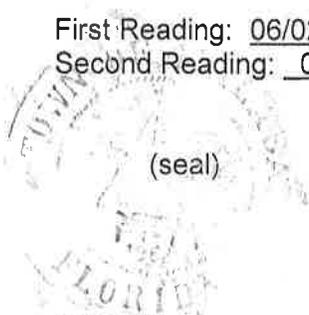
TOWN OF MALABAR

By:


Steve Rivet, Council Chair

First Reading: 06/02/2014

Second Reading: 06/16/2014

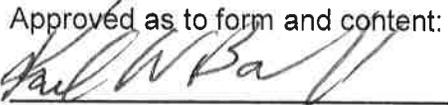


(seal)

ATTEST:

By 
Debby Franklin, Town Clerk/Treasurer

Approved as to form and content:


Karl W. Bohne, Jr., Town Attorney

RESOLUTION 12-2016

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF GEORGE FOSTER TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR 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 with expiring terms 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 George Foster as a regular 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 17th 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



September 13, 2016

Sent via Email: georgesfoster@bellsouth.net

George Foster
1205 Malabar Road
Malabar, FL 32950

Dear Mr. Foster: *George,*

You hold a seat on the Planning & Zoning Advisory Board that will expire on October 31, 2016.

The Town Council has adopted new procedures regarding anyone wishing to keep the seat they hold at this time. If you are interested in continuing to serve on the Planning & Zoning Advisory Board, you will need to complete a new application; it will be presented to Council at the second meeting in October for appointment to the Board. I have attached a copy of the application for your completion if you are still interested. Please complete the form and return it to the Clerk's Office as soon as possible.

The Town appreciates your dedication and your willingness to serve your community.

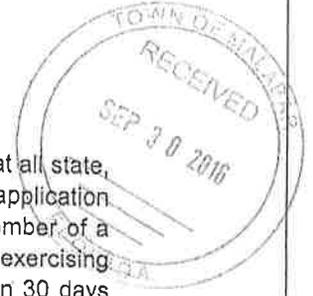
Sincerely,

Debby K. Franklin DR

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

TOWN OF MALABAR

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE



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: George Foster TELEPHONE: 321-223-4442
ADDRESS: 1205 Malabar Rd Malabar FL 32950
EMAIL: GeorgeFoster@bellsouth.net

RESIDENT OF TOWN FOR 12 MONTHS OR LONGER: YES NO

OCCUPATION: (If retired, please indicate former occupation or profession.)
Heavy Equipment Contractor, Registered Nurse

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

ADDITIONAL INFORMATION/REFERENCES:
Brian Vail. I have been a resident and Business owner for 12 years. I'm currently semi retired which allows me

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

time to participate in the P+Z Board.
I have a major interest in the future of Malabar. I appreciate the support of council.

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

George Foster
Signature of Applicant

9/30/16
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.

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: GEORGE FOSTER

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

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.

George Fuchs
Signature

9/30/14
Date

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: George Foster Phone: 321-223-4442
2. Home Address: 1205 Malabar Rd
3. Email Address: George.Foster@bellsouth.net
4. Are you a resident of the Town: Yes [] No []
5. How long have you been a resident of the Town of Malabar: 12 years
6. Are you currently involved with any other organization of the Town: Yes [] No []
If yes, which organization: P + Z

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

RESOLUTION 13-2016

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF CHARLES "BUD" RYAN TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR 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 with expiring terms 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 Charles "Bud" Ryan as a regular 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 17th 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



September 13, 2016

Sent via Email: malabarbud@yahoo.com

Charles "Bud" Ryan
1923 Howell Lane
Malabar, FL 32950

* I HAVE NO RECORD OF THIS
BEING E-MAILED TO MR. P
9/19/16

Dear Mr. Ryan:

You hold a seat on the Planning & Zoning Advisory Board that will expire on October 31, 2016.

The Town Council has adopted new procedures regarding anyone wishing to keep the seat they hold at this time. If you are interested in continuing to serve on the Planning & Zoning Advisory Board, you will need to complete a new application; it will be presented to Council at the second meeting in October for appointment to the Board. I have attached a copy of the application for your completion if you are still interested. Please complete the form and return it to the Clerk's Office as soon as possible.

The Town appreciates your dedication and your willingness to serve your community.

Sincerely,

Debby K. Franklin

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

RE- TOWN OF MALABAR

PAGE 1 OF 1

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE

~~PAID TO~~
~~DOWN~~
~~CLERK~~
9/29/16

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: CHARLES RYAN TELEPHONE: 676-5418
ADDRESS: 1923 HOWELL LANE
EMAIL: MALABAR BUD@YAHOO.COM

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

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

RET'D ELECTRONIC TECH.

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

P&Z BOARD 10 YEARS - CITIZENS ADVISORY BOARD - BUDGET (2X)
" " " " T.A. (2X)

TOWN HALL SELECTION COMMITTEE - 1 OF 10 TO PRESENT? + A LOT I
ADDITIONAL INFORMATION/REFERENCES: PROBABLY FORGOT!

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.

C Ryan

Signature of Applicant

9/19/16

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.

Page 2 of 4
Case 9/1/14
D
~~T. Clark~~

Town of Malabar

Volunteer Committee/Board Application

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: CHARLES RYAN Phone: 676-5418
 - 2. Home Address: 1925 Howell Lane
 - 3. Email Address: MALABAR BOB DYALOO.COM
 - 4. Are you a resident of the Town: Yes [] No []
 - 5. How long have you been a resident of the Town of Malabar: + 20 yrs
 - 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

~~PAID~~
T. Clerk
9/29/11

Town of Malabar

Volunteer Committee/Board Application

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.

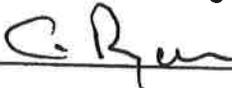
WAIVER OF LIABILITY

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: Charles Ryan

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

RESOLUTION 14-2016

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF JOANNE KORN TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR 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 three seats with expiring terms on their Board of Adjustment; 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 Joanne Korn as a regular member of the Board of Adjustment 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 17th 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



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

September 13, 2016

Via Email addresses below

RE: Board of Adjustment Term Expirations

To:

Mrs. Joanne Korn – lucky-acres@bellsouth.net
Mrs. Donna Hanna – djhanna1950@cfl.rr.com
Mr. David Sowards – dmsowards@aol.com

Dear BOA Members:

Your terms on this Board expire on October 31, 2016. Council adopted new procedures regarding the Volunteer Boards in 2014 with Ordinance 2014-08 (attached). Per Section 2-11(g) you are welcome to complete an application for reappointment. I would encourage you to do so at your earliest convenience. I have attached a copy of the application for your use.

Council will take action on this at their second meeting of the month (October 17) and the new terms will start on November 1 for a period of three years.

The Town is fortunate to have had your services and appreciates your dedication and your willingness to serve. I would sincerely hope you complete the application and return it to the Clerk's office as soon as possible. I look forward to continuing to work with you for the betterment of Malabar.

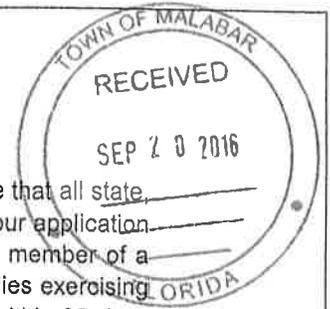
Sincerely,

Debby K. Franklin

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

TOWN OF MALABAR

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE



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: JOANNE KOHN TELEPHONE: 321-463-4901
ADDRESS: 315 WEBER RD
EMAIL: lucky-ares@bellsouth.net

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

OCCUPATION: (If retired, please indicate former occupation or profession.)
USPS - MAIL CARRIER - CLERK - SECRETARY - RETIRED

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:
N/A

ADDITIONAL INFORMATION/REFERENCES:
ASKING FOR REAPPOINTMENT

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

- [X] Board of Adjustment [] Planning & Zoning
[] Parks & Recreation [] Trails & Greenways

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

Signature of Applicant: JOANNE KOHN

Date: 9-20-16

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.

Board of Adjustments Application

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 to hold a Board of Adjustment Public Hearing is four (4) members. The Board of Adjustment sits in a quasi-judicial position when considering variances to the Land Development Code. 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.

- 1. Name: Joanne Korn Phone: 321-403-4901
723-5463
 - 2. Home Address: 3115 Weber Rd
 - 3. Email Address: waky-aenes@bellsouth.net
 - 4. Are you a resident of the Town: Yes No
 - 5. How long have you been a resident of the Town of Malabar: 46+ 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 321-727-9997 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org

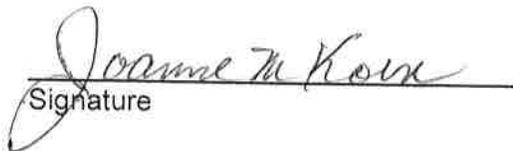
Applicant Certification

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 under 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

9-20-16
Date

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.

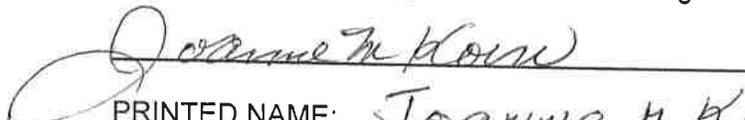
WAIVER OF LIABILITY

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: Joanne H Korn

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-727-9997 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org



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

September 13, 2016

Via Email addresses below

RE: Board of Adjustment Term Expirations

To:

✓ Mrs. Joanne Korn – lucky-acres@bellsouth.net
Mrs. Donna Hanna – djhanna1950@cfl.rr.com
Mr. David Sowards – dmsowards@aol.com

Dear BOA Members:

Your terms on this Board expire on October 31, 2016. Council adopted new procedures regarding the Volunteer Boards in 2014 with Ordinance 2014-08 (attached). Per Section 2-11(g) you are welcome to complete an application for reappointment. I would encourage you to do so at your earliest convenience. I have attached a copy of the application for your use.

Council will take action on this at their second meeting of the month (October 17) and the new terms will start on November 1 for a period of three years.

The Town is fortunate to have had your services and appreciates your dedication and your willingness to serve. I would sincerely hope you complete the application and return it to the Clerk's office as soon as possible. I look forward to continuing to work with you for the betterment of Malabar.

Sincerely,

Debby K. Franklin

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

RESOLUTION 15-2016

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF DONNA HANNA TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR 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 three seats with expiring terms on their Board of Adjustment; 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 Donna Hanna as a regular member of the Board of Adjustment 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 17th day of October, 2016.

TOWN OF MALABAR

By: _____
Mayor Phillip R. Crews, Council Chair

ATTEST:

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

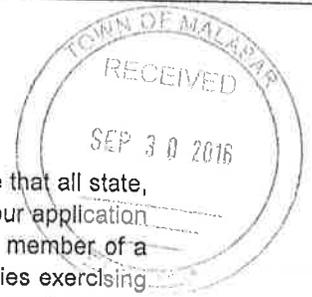
(seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

TOWN OF MALABAR

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE



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: Donna J. Hanna TELEPHONE: 321-676-3561
ADDRESS: 2195 Wilson Lane Malabar FL 32950
EMAIL: djhanna1950@cfl.rr.com

RESIDENT OF TOWN FOR 12 MONTHS OR LONGER: YES NO

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

Assembly Specialist

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

President of Trail Riders Activities Group for 5 years.
Have served on the Board since May, 2007.

ADDITIONAL INFORMATION/REFERENCES:

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.

Donna J. Hanna
Signature of Applicant

9/30/16
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.

Board of Adjustments Application

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 to hold a Board of Adjustment Public Hearing is four (4) members. The Board of Adjustment sits in a quasi-judicial position when considering variances to the Land Development Code. 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.

1. Name: Donna J. Hanna Phone: 321-676-3561
2. Home Address: 2195 Wilson Lane
3. Email Address: djhanna1950@cfl.rr.com
4. Are you a resident of the Town: Yes [] No []
5. How long have you been a resident of the Town of Malabar: 22 years
6. Are you currently involved with any other organization of the Town: Yes [] No []
If yes, which organization: Trail Riders Activities Group

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 under 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

9/30/10
Date

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.

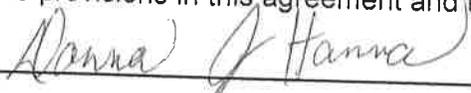
WAIVER OF LIABILITY

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: Donna J. Hanna

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-727-9997 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org

RESOLUTION 16-2016

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF DAVID SOWARDS TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR 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 three seats with expiring terms on their Board of Adjustment; 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 David Sowards as a regular member of the Board of Adjustment 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 17th day of October, 2016.

TOWN OF MALABAR

By: _____
Mayor Phillip R. Crews, Council Chair

ATTEST:

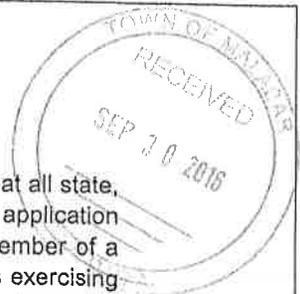
Debby K. Franklin, C.M.C.
Town Clerk/Treasurer

(seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

TOWN OF MALABAR



APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE

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: David Sowards TELEPHONE: 321-987-5492
ADDRESS: 1565 Corey Rd Malabar FL 32950
EMAIL: Dmsowards@aol.com

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

OCCUPATION: (If retired, please indicate former occupation or profession.)
Self Employed - Alpine Tree Service of Brevard

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:
Palm Bay Fraternal Order of Eagles
Served BOA Since July 2010

ADDITIONAL INFORMATION/REFERENCES:

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.

Signature of Applicant: [Signature] Date: 9/30/16

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.

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1. Name: David Sowards Phone: 321-987-5492
2. Home Address: 1565 Corey Rd Malabar FL 32950
3. Email Address: Dmsowards@aol.com
4. Are you a resident of the Town: Yes [] No []
5. How long have you been a resident of the Town of Malabar: 11 years
6. Are you currently involved with any other organization of the Town: Yes [] No []
If yes, which organization: BOA

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-727-9997 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org

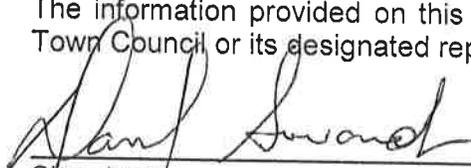
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- I acknowledge that I am a resident of the Town of Malabar.
- I consent to filing the Statement of Financial Interest as required under Chapter 112, Florida Statutes.
- If appointed to a Committee or Board, I acknowledge that it is my obligation and duty to comply with the following:
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 - 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

9/30/16

Date

PERMISSION TO PARTICIPATE FOR ADULTS (18 AND OVER)

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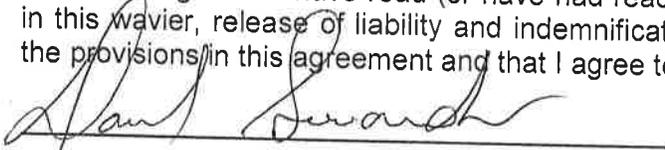
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I agree that in consideration for me being permitted to participate in the activity, I assume full responsibility for any loss of property, accident, bodily injury or death as a result of my participation in this activity.

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: David Sowards

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-727-9997 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 8
Meeting Date: October 17, 2016

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

SUBJECT: Request Council Authorization to Advertise for a Town Initiated Vacate of Portions of West Railroad Avenue and Johnston Avenue.

BACKGROUND/HISTORY:

The vacate request submitted by property owner, Robert Marks individually and as President of AAA Malabar Storage, Inc., as co-applicants was denied by Council.

Subsequently new information related to potential financial benefits to the Town have been realized. Staff recommends that Council pursue the steps in the Code to do a Town initiated vacate of certain portions of ROW along West Railroad Avenue and Johnston Avenue.

Once the notice is mailed out to the surrounding property owners and publicly noticed in the paper, a public hearing can be held at the second meeting in November to hear from interested parties before Council taking action.

ATTACHMENTS:

- Property Appraisers Map & Information
- Radius Map 1,000'
- Article 12, Section 9 of Land Development Code

ACTION OPTIONS:

Staff Recommends Approval to Proceed

**Section 1-12.9. Town-initiated vacate and abandonment.**

A. Nothing in this Section shall be construed to limit, abrogate, deny or otherwise impose restrictions on the Town from vacating and abandoning any public right-of-way of the Town. Notwithstanding any provision of this Section the town shall have the absolute legislative right to vacate and abandon any public right-of-way in the Town. Any decision to vacate and abandon any public right-of-way of the Town which was initiated by the Town shall be governed by the fairly debatable standard. 

B. Before the adoption of any resolution vacating and abandoning any public right-of-way, the Town Clerk shall cause to be published in a newspaper of general circulation in the Town a notice that the Town Council shall hold a public hearing regarding said resolution. Said notice shall be published at least fourteen (14) days prior to the date of said public hearing. 

Supp. No. 13

687

§ 1-12.9

MALABAR LAND DEVELOPMENT CODE

C. The Town may send a courtesy notice of the Town Council's intent to vacate and abandon any public right-of-way to all property owners within five hundred (500) feet along the said right-of-way to be vacated and abandoned.

D. Notice of the adoption of the resolution vacating and abandoning any public right-of-way by the Town Council shall be published one (1) time within thirty (30) days following its adoption in a newspaper of general circulation in the Town.
(Ord. No. 01-06, § 1, 3-4-02)

Supp. No. 13

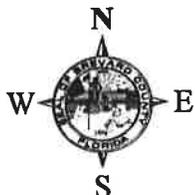
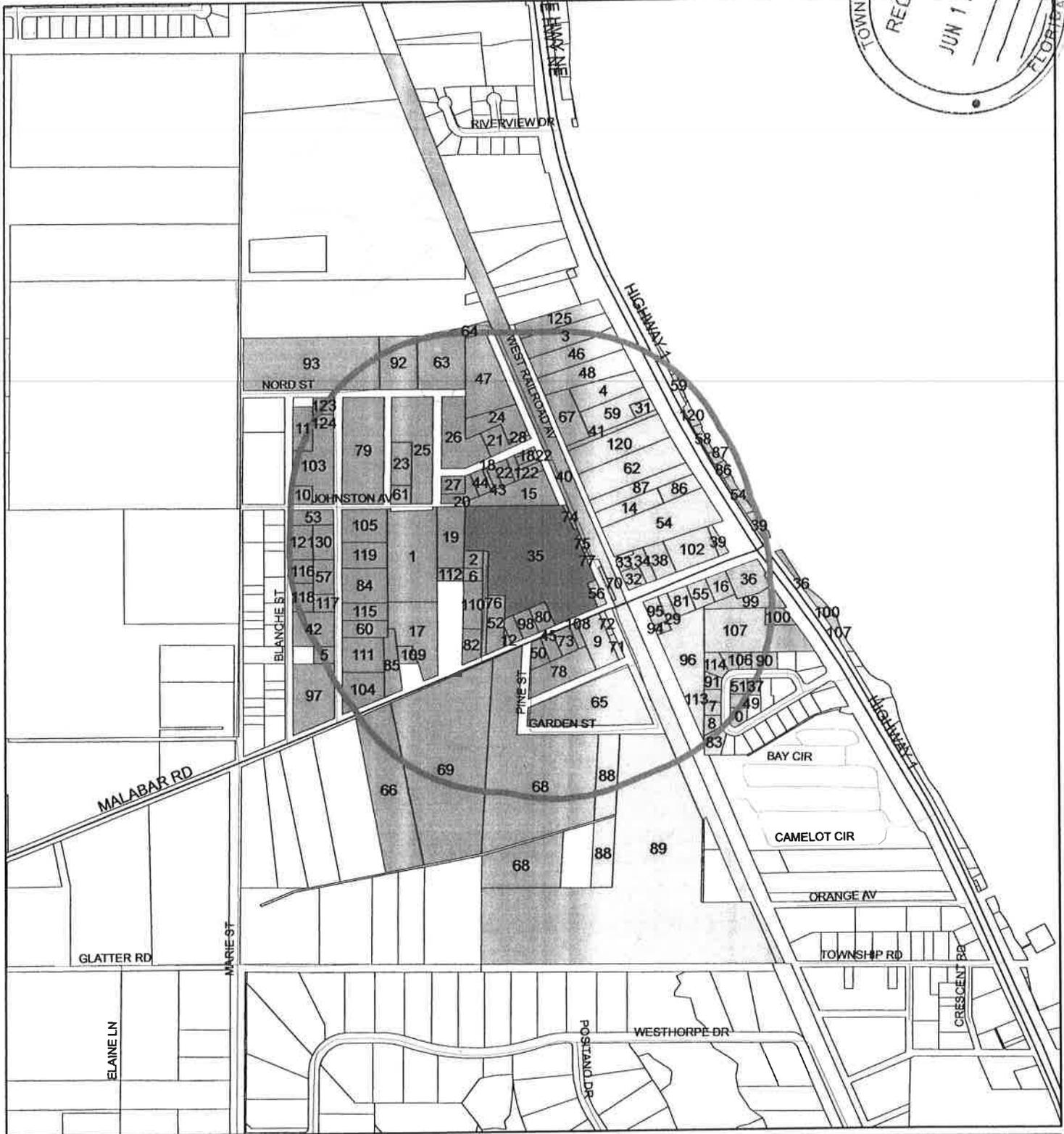
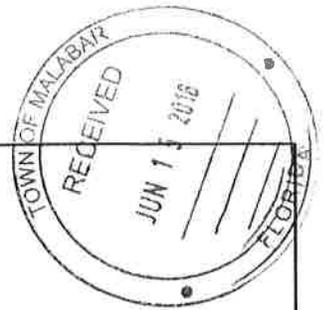
688

[The next page is 737]

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.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 6/15/2016

marks1000
Page1

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
WINKELMANN, 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

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

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

CLINE, ALISHA
2585 JOHNSTON AVE
MALABAR FL 32950-0000

COBB, CARL
COBB, SUSAN
1921 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
COREY, LOIS A
1212 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
1360 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 H/W
4525 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

KELLWILL LLC
P O BOX 587
GRANT FL 32949-0587

KEMMLER, HANSEL C
KEMMLER, BARBARA B H/W
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
1360 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

LIFESTYLES MANAGEMENT CO INC TR
252 WEST ARDICE AVE STE 428
EUSTIS FL 32726-0000

LIND, ERICK
7 REIMERS
OGALLALA NE 69153-0000

LINNELL, MICHAEL L
DOUGLAS, CONNIE S H/W
2275 GRANT RD
GRANT FL 32949-8104

~~LINNELL, MICHAEL LLOYD
2275 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

LUNDY, STEPHEN
4711 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
2948 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
1280 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

OAKMONT PRESERVE SUBDIVISION
HOMEOWNERS ASSOCIATION INC
300 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
1175 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
5792 DE SOTO ROAD
LAKE 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

R & L VENDING LLC
440 E 19TH ST
PATERSON 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

ROULSTON, JAMES K
ROULSTON, 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

SMITH, DEBRA A
1410 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

marks1000
Page4

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 H/W
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 H/W
1401 FLORENCE ST
MALABAR FL 32950-0000

TYLER, ROBERT
TYLER, SANDRA H/W
1361 BLANCHE ST
MALABAR FL 32950-0000

WALSH, WILLIAM A
WALSH, LOIS E H/W
1376 FLORENCE ST
MALABAR FL 32950-0000

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

WHITE, ALICE ANN
1345 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
726 ROYAL PALM PL
VERO BEACH FL 32960-5140

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

WORMUTH, LILA
2490 NORD STREET
MALABAR FL 32950-0000

ZEMKOSKI, JEAN A TRUSTEE
1401 MARIE STREET
MALABAR FL 32950-0000



TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 9

Meeting Date: October 17, 2016

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

SUBJECT: Road Classifications and SFR's on Unaccepted ROWs

BACKGROUND/HISTORY:

CM Krieger asked for information on these two subjects. Regarding existing homes on unaccepted ROWs he specifically referenced Mr. Szalanski on Quarterman Lane. Technically, his property does not even abut Quarterman Lane; there is a 25-foot ingress/egress easement that was granted. We have approximately 38 homes located on rights of way that have no evidence of ever being improved and accepted by the Town for maintenance.

Council adopted the "Cinderella" ordinance in 1992 that allowed residents living on unaccepted roads to get their road on the accepted list by paying a small application fee of \$100.00 and bringing the road up to a minimum safety standard. Many roads were accepted this way – it became known as the "street of the week" program but the request had to begin with the residents.

The information attached with the Quarterman Lane Research include sections of adopted Codes that were in place well before many of the 38 homes were built. Regulations for minimum elevations, road improvement specifications, drainage facility requirements and structural building requirements were adopted by Council in the mid 1970's.

ATTACHMENTS:

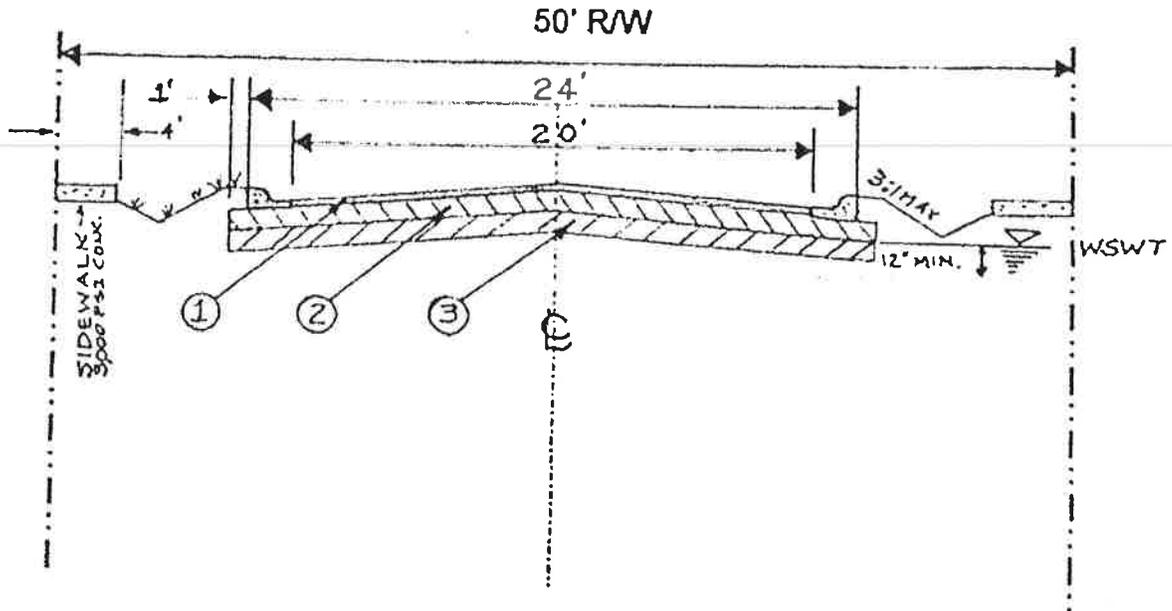
Roads types from the Street Improvement Code
Quarterman Lane Research
Mayor Eschenberg Road Inspection Report from 2007 and 2010
RTCM from 1998 regarding accepting unimproved roads

ACTION OPTIONS:

Discussion and Direction

ROAD CLASSIFICATIONS

EXHIBIT "A"
TYPICAL PAVED ROAD SECTION WITH CURBS FOR 50' WIDE RW



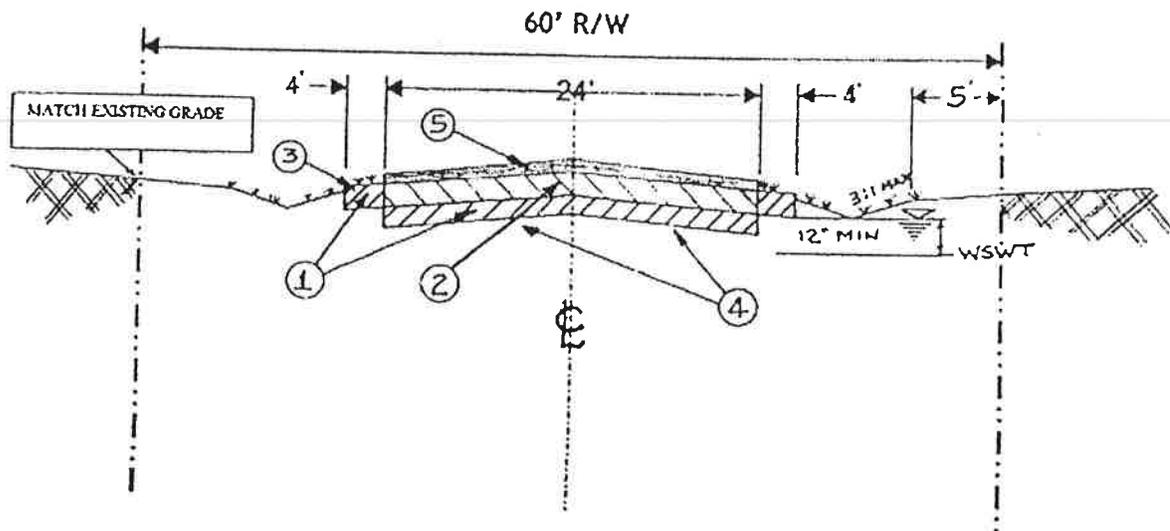
CLEAR & GRUB 50' RW EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES

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

Exhibit A

EXHIBIT "B-1"

TYPICAL PAVED ROAD SECTION FOR 60' WIDE R/W



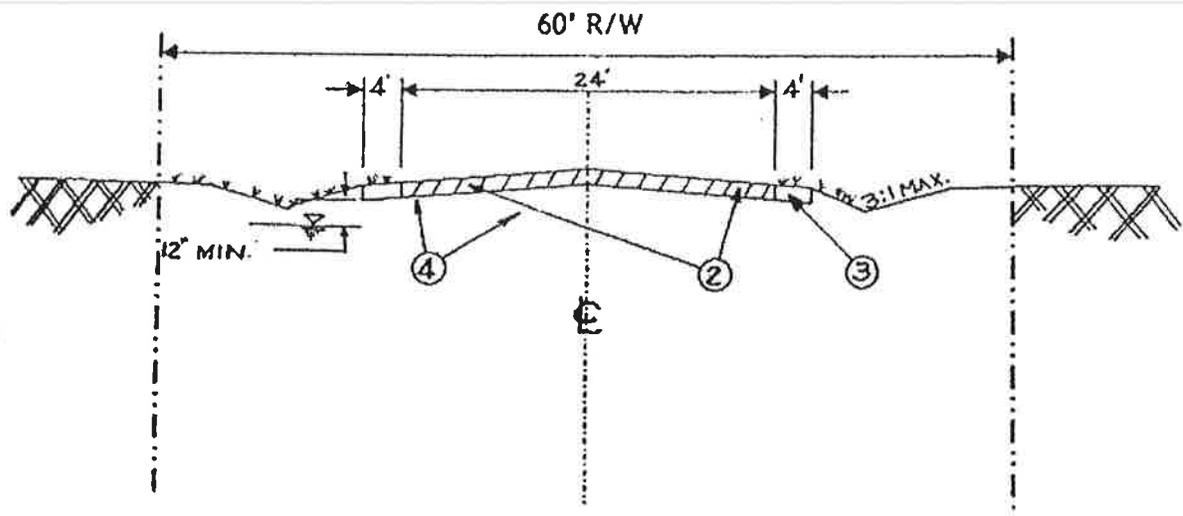
CLEAR & GRUB 60' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES. DISPOSE OF ALL DEBRIS OFF SITE.

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

Exhibit B-1

EXHIBIT "B-2"

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

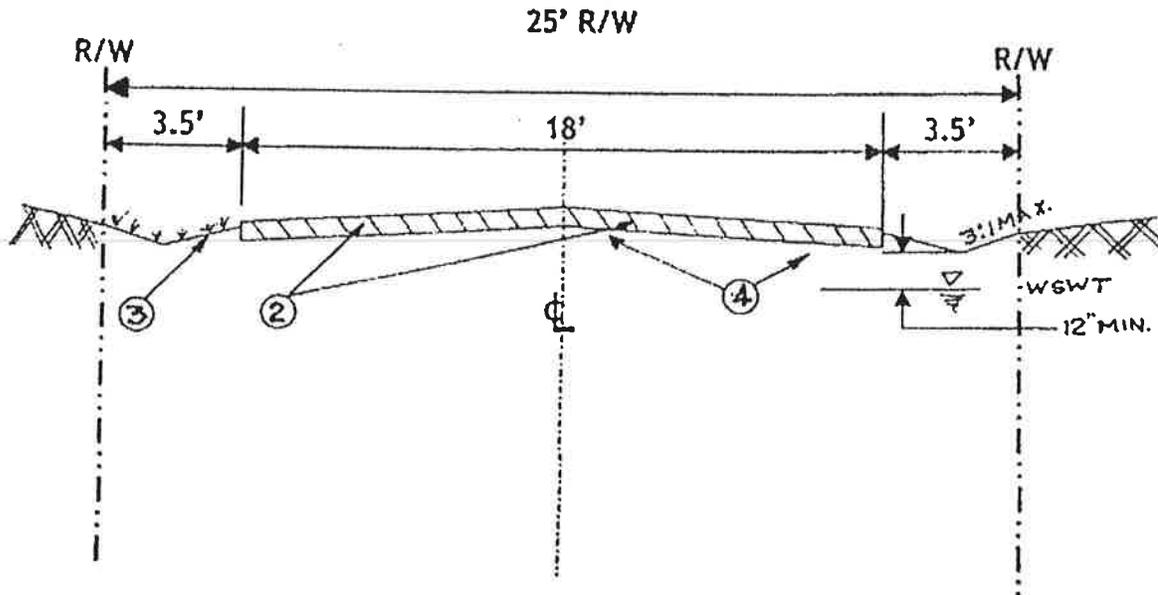


1. CLEAR & GRUB 60' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES. DISPOSE OF ALL DEBRIS.
2. STABILIZED AND MECHANICALLY MIXED 8" THICK ROAD-BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40
3. STABILIZED SHOULDERS BOTH SIDES. SOD ADJACENT TO THE PAVEMENT MINIMUM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

Exhibit B-2

EXHIBIT "B-3"

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



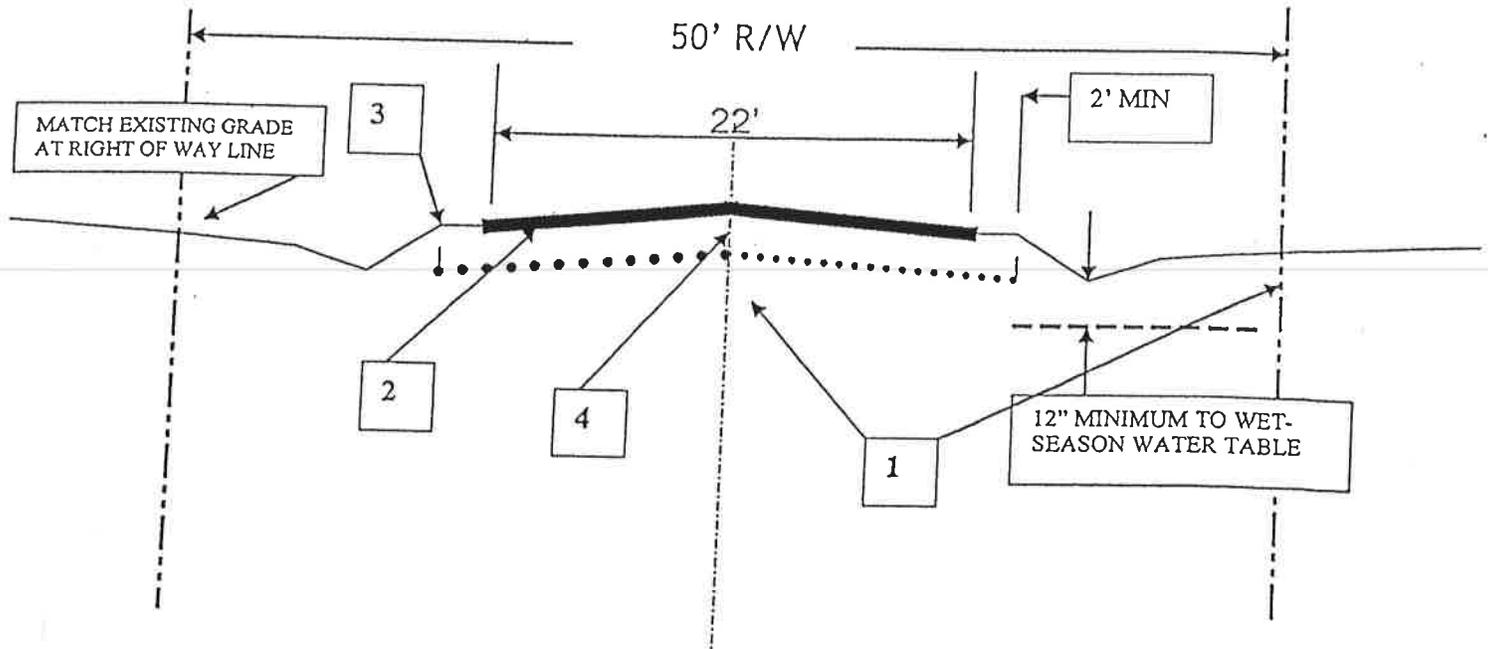
1. CLEAR & GRUB 25' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES
2. STABILIZED & MECHANICALLY MIXED 8" THICK ROAD-BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40
3. SOD ADJACENT TO THE PAVEMENT MINIMUM 2' WIDE AND ALONG SWALE SLOPES
4. SUITABLE SOILS FREE OF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

Exhibit B-3

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

EXHIBIT "B-4"

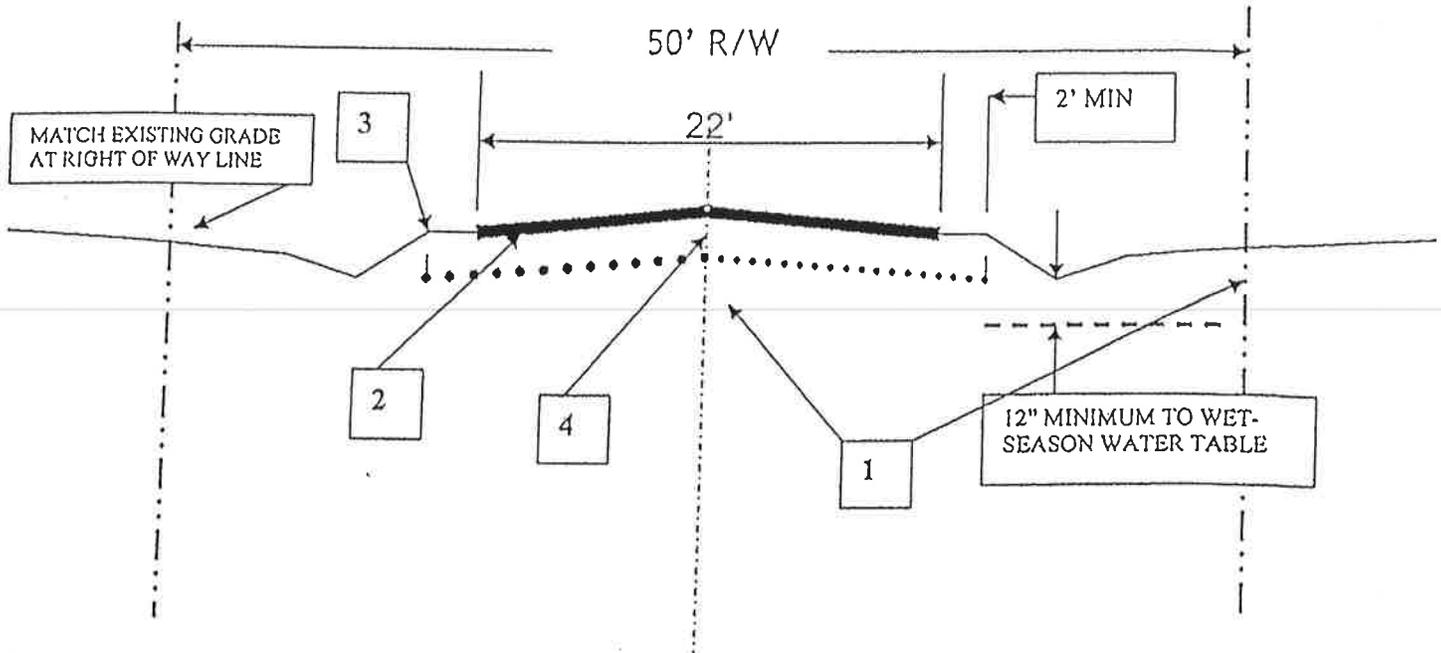
TYPICAL UNPAVED ROADWAY SECTION FOR 50' WIDE R/W



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

EXHIBIT "B-5"

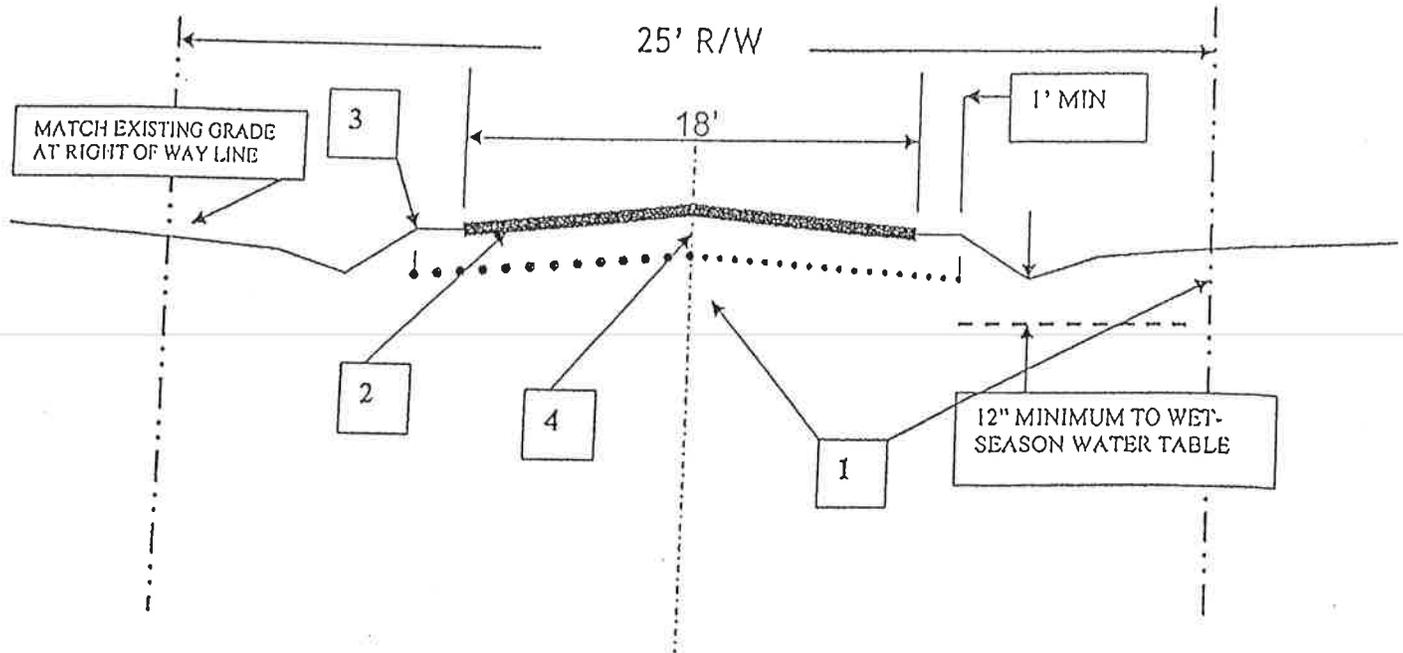
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3. STABILIZED SHOULDERS BOTH SIDES AND SOD ADJACENT TO THE TRAVELWAY ON EACH SIDE A MINIMUM 4' WIDE; SOD A MINIMUM OF 2' WIDE IN CENTER OF RIGHT-OF-WAY; SOD SWALE BANKS. SWALE SIDE SLOPES MIN. 3:1. BACKSIDE OF SWALES MAY BE SEEDED. SOD OR SEED OF THE ENTIRE ROADWAY SHALL BE AS APPROVED BY TOWN ENGINEER.
4. SUITABLE SOILS FREE OF ORGANICS. COMPACT SOILS TO 98% DENSITY PER AASHTO T-180.

EXHIBIT "B-6"

TYPICAL UNPAVED ROADWAY SECTION FOR 25' WIDE R/W



1. CLEAR & GRUB 25' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES AND DISPOSE OF ALL DEBRIS OFF SITE.
2. STABILIZED & MECHANICALLY MIXED 8" MINIMUM THICKNESS ROAD BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40. USE FDOT APPROVED MATERIALS OR LOCAL MATERIALS APPROVED BY TOWN ENGINEER.
3. STABILIZED SHOULDERS BOTH SIDES AND SOD ADJACENT TO THE TRAVELWAY ON EACH SIDE A MINIMUM 2' WIDE; SOD A MINIMUM OF 2' WIDE IN CENTER OF RIGHT-OF-WAY; SOD SWALE BANKS. SWALE SIDE SLOPES MIN. 3:1. BACKSIDE OF SWALES MAY BE SEEDED. SOD SHALL BE AS APPROVED BY TOWN ENGINEER.
4. SUITABLE SOILS FREE OF ORGANICS. COMPACT SOILS TO 98% DENSITY PER AASHTO T-180.

Dana Blickley, CFA

Brevard County Property Appraiser - MAP SEARCH



Zoom To	Account	Owner	Property Address	Parcel Identifier
1	Aerial 2922652	SZALANSKI, DONNA MARIE	2425 QUARTERMAN LN	29-37-02-00-00792.0-0000.0

Mr. Szalanski has no legal access to his property from Quarterman Lane

Click Action: Parcel Info Distance 0

Decrease Zoom Bar Aerial View Range Increase

View
 Map Aerial
 Change

Locate
 Parcel ID []

Zoom to
 Brevard County

Printable Version
 Map [] Prev

Check below then
 Parcels []
 Schools []
 RoadNames []
 Water

Update

Help [Legende](#)

Attention: The br level must be 100' click to select the parcel.

MR. SZALANSKI

V = VACANT

I = IMPROVED

↓ = END OF APPROVED ROAD

Codes in affect during the period when portions of Quarterman Lane were "approved"

Ord 7-1-76, adopted October, 1976 creating Land Development Regulations (pages 1, 61, 62 attached)

Ord 8-1-76, Subdivision Regulations and Road Improvement regulations (page 12 attached)

Ord 11-9-77 emergency ordinance setting date for special election on 12/13/77 to put referendum to voters to increase millage from .5 to 1.5 for Roads and Fire Dept. starting in 1978. Approved 117 to 42. (minutes of 12/20/77 attached)

Council Minutes of August 5-6, 1986 approving Quarterman

Road Ratings by Mayor Eschenberg done in 2007 and again in 2010
Stormwater Projects approved in 2014 listing Quarterman Lane as Project 8B at cost of \$95,900.00

While considering how to resolve the situation of homes on unaccepted streets, staff has identified approximately 38 single family homes that have been built on roads that were never improved to town standards and accepted for maintenance.

TOWN OF MALABAR

ORDINANCE NUMBER 7-1-76

AN ORDINANCE OF THE TOWN OF MALABAR, FLORIDA, ESTABLISHING GENERAL ZONING REGULATIONS FOR THE TOWN, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 163, FLORIDA STATUTES, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, Chapter 163, Florida Statutes, empowers the Town to enact a zoning ordinance and to provide for its administration, enforcement and amendment; and

WHEREAS, the Town Council deems it necessary, for the purpose of promoting the health, safety, morals, or general welfare of the town to enact such an ordinance; and

WHEREAS, the Town Council, pursuant to the provisions of Chapter 163, Florida Statutes, has appointed a Planning and Zoning Board to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein; and

WHEREAS, The Planning and Zoning Board has divided the town into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan and designed to lessen congestion in the streets, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and

WHEREAS, the Planning and Zoning Board has given consideration to the character of the districts and their particular suitability for certain uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality, among other things; and

WHEREAS, the Planning and Zoning Board has made a preliminary report and held public hearings thereon, and submitted its final report to the Town Council; and

WHEREAS, the Town Council has given due public notice of hearings relating to zoning districts, regulations, and restrictions, and has held such public hearings; and

WHEREAS, all requirements of Chapter 163, Florida Statutes, with regard to the preparation of the report of the Planning and Zoning Board and subsequent action of the Town Council have been made;

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

7.0 ADMINISTRATION AND ENFORCEMENT - BUILDING PERMITS AND CERTIFICATES OF ZONING COMPLIANCE.

7.1 Administration and Enforcement. The building inspector shall administer and enforce this ordinance. He may be provided with the assistance of such other persons as the City Council may direct.

If the building inspector finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

7.2 Building Permits Required. No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefor, issued by the building inspector. No building permit shall be issued by the building inspector except in conformity with the provisions of the ordinance, unless he received a written order from the Board of Adjustment in the form of an administrative review, special exception, or variances as provided by this ordinance.

7.3 Application for Building Permit. All applications for building permits shall be accompanied by plans in triplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon, the exact size and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the building inspector, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this ordinance.

Application for a new structure or substantial improvement located within the identified flood plain area having special flood hazards, will be reviewed to determine whether proposed building sites will be personably safe from flooding and designed or modified and anchored to prevent flotation, collapse or lateral movement of the structure, use of construction materials and utility equipment that are resistant to flood damage and use of construction methods and practices that will minimize flood damage; shall contain the elevation (in relationship to mean sea level) of the lowest floor (including basement) of the structure, and where the lowest is below grade on one or more sides, the elevation of the floor immediately above. The building official shall maintain a record of all such floor elevations.

One copy of the plans shall be returned to the applicant by the building inspector, after he shall have marked such copy either as approved or disapproved and attested to same by his signature on each copy. The original similiarly marked shall be filed in the office of the town clerk and one copy shall be retained by the building inspector.

ADOPTED 10-5-1976

7.4 Administrative Permits; Conditions Governing Applications; Procedures. To hear and decide only such administrative permits the Planning and Zoning Board is specifically authorized to pass only the terms of the ordinance; to decide such questions as are involved in determining whether administrative permits should be granted; and to grant administrative permits with such conditions and safeguards as are appropriate under the ordinance or to deny administrative permits when not in harmony with the purpose and intent of this ordinance, an administrative permit shall not be granted by the building inspector (or subcommittee of Planning and Zoning Board) unless and until:

a) A written application for an administrative permit is submitted indicating the section of this ordinance under which the administrative permit is sought and stating the grounds of which it is requested.

b) Before any administrative permit shall be issued, the Planning and Zoning Board shall make written findings certifying compliance with the specific rules governing individual administrative permits and that satisfactory provision and arrangement has been made concerning the following where applicable:

- 
- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - (2) Off-street parking and loading areas where required; with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the administrative permit on adjoining properties and properties generally in the district;
 - (3) Refuse and service areas with particular reference to the items in (1) and (2) above;
 - (4) Utilities, with reference to locations, availability and compatibility;
 - (5) Screening and buffering with reference to type, dimensions, and character;
 - (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effects, and compatibility and harmony with properties in the district;
 - (7) General compatibility with adjacent properties and other property in the district.

7.5 Site Plan Approval for Multiple Family Dwelling Districts. The purpose of these provisions is to permit a desirable living environment for the residents of multiple family dwellings and to encourage a harmonious relationship between dwelling and surrounding developments by providing for a review and evaluation by the Planning and Zoning Board of all site plans for projects of five (5) units or more. The review is intended to permit maximum flexibility in evaluating each plan on its merits and encourage

G. ENGINEERING STANDARDS & GUIDE SPECIFICATIONS FOR SECONDARY ROADS AND RESIDENTIAL STREETS

1. Standards listed below ~~supplement~~ ~~Subdivision Ordinance No. 176~~ and are to be used by engineers as a guide in preparing plans and specifications for construction of improvements located within city right-of-ways. All plans for construction of said improvements must be signed and sealed by an engineer registered in the State of Florida and submitted for approval to the Town Engineer before start of construction.

2. These specifications shall apply to all work done or being done for the Owner within the corporate limits of the Town of Malabar, Brevard County, Florida.

3. Definitions:

a. "Owner" - The Owner refers to the individual company or corporation owning the land to be developed.

b. "Contractor" - The word Contractor shall be interpreted to mean either the work forces of the Owner, an individual or firm leasing equipment and/or personnel to the Owner, or an individual or firm doing work for the Owner under a contract, verbal or written. *as defined in the Town of Malabar*

c. "Engineer" - A professional engineer authorized to practice in the State of Florida by the virtue of registration or his appointed representative. He will be retained by the Owner to supervise the construction of the work covered by these specifications.

d. "Testing Laboratory" - A recognized laboratory licensed to do business in the State of Florida.

e. "Work" - The term "work" as used herein refers to all construction called for as shown on the development plans.

Section 1----- General

1.1 Streets



1. Specifications for preparation of roadbed, base and surface course shall be equal to minimum standards as specified for secondary roads by the Florida State Road Department, Standard Specifications for Road and Bridge Construction including Supplements (latest edition) ~~and/or as shown in the guide specifications attached hereto.~~

2. Base course shall consist of a 6" compacted thickness of soil cement* or limerock properly controlled and tested by a reputable testing laboratory.

3. Surface course shall consist of 1" minimum compacted thickness of asphaltic concrete.*

* See attached guide specifications.

ADOPTED 12/21/76

... PROVIDING AND PROVIDING FOR A
REFERENDUM ELECTION ON DECEMBER 13, 1977
IN THE TOWN OF MALABAR, FLORIDA TO DETERMINE
WHETHER SUCH TOWN SHALL LEVY AN AD VALOREM
TAX IN 1978 AND ALL SUBSEQUENT YEARS; PRO-
VIDING FOR PASSAGE AS AN EMERGENCY ORDINANCE;
AND PROVIDING AN EFFECTIVE DATE.

APPROVED
11/9/1977

11-9-77

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR,
FLORIDA, THAT:

SECTION 1. This ordinance is enacted pursuant to the require-
ments of Article VII, Section 9(b) of the Constitution of the
State of Florida and Section 100.342, Florida Statutes.

SECTION 2. It is hereby found, determined and ascertained
that:

- (a) Fire protection services, road and highway con-
struction and maintenance services, and other
similar services have, in past years, been rendered
to and in behalf of the Town of Malabar by the
County of Brevard.
- (b) The aforesaid services are no longer being rendered
by the County of Brevard and it is necessary for
the Town of Malabar to provide for the financing
of such services from its own resources.
- (c) It is necessary, desirable and in the best interest
of the general health and welfare of the Town of
Malabar and its inhabitants that an ad valorem tax
be levied upon the assessed value of **real estate**
and tangible personal property within the corporate
limits of the Town in order to provide the monies to
finance the aforesaid municipal services.
- (d) It is necessary, desirable and in the best interest
of the general health and welfare of the Town and
its inhabitants that such an ad valorem tax not

\$1,000.00 of assessed valuation) for the year 1978; and that such ad valorem tax not exceed the maximum rate established by the Constitution and laws of the State of Florida in all subsequent years.

(e) An emergency exists within the Town by reason of the necessity to levy such ad valorem tax to provide the monies for fire protection services in the year 1978, and to provide other municipal services heretofore furnished by the County of Brevard. It is further necessary to call a special referendum election prior to January 1, 1978, for the purpose of adopting the said ad valorem tax for the year 1978. It is, therefore, necessary that this ordinance be passed as an emergency measure to take effect immediately upon its enactment in order to provide for the immediate calling of such a special referendum election.

SECTION 3. A special referendum election is hereby called to be held in the Town on the 13th day of December, 1977, to determine whether or not the ad valorem tax, at the rates hereinabove designated and provided for, 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 special referendum election shall be held and conducted in the manner prescribed by law for holding general elections, except as herein provided. The place of voting in such special referendum election shall be the usual place of voting in the Town in general elections,

The polls shall be open at such voting place on the day of such special referendum election from seven a.m. to seven p.m. upon the said day. All duly qualified electors residing within the Town shall be entitled to participate in and vote at such special referendum election.

SECTION 4. The Town Council of the Town of Malabar, Florida shall, before the date of such election, appoint the clerks, inspectors and poll workers to conduct such election and shall certify a list of such clerks, inspectors and poll workers which shall be published in accordance with the law and shall be recorded in the Minutes of the Meetings of the Town Council.

SECTION 5. The ballots to be used at such election shall contain a statement of the proposed ad valorem taxation rates for 1978 and all subsequent years and shall provide facilities for qualified electors to vote for or against the levying of such ad valorem tax. Said ballots shall be in substantially the following form:

BALLOT

TOWN OF MALABAR, FLORIDA
Special Referendum Election
December 13, 1977

Shall the Town of Malabar, Florida, levy an ad valorem tax upon the assessed value of real estate and tangible personal property within the limits of the Town of Malabar at a millage rate not to exceed 1.5 mills (\$1.50 per \$1,000.00 of assessed valuation) for the year 1978; and not to exceed the maximum millage rate provided by the Constitution and laws of the State of Florida in all subsequent years?

117 For Ad Valorem Tax

42 Against Ad Valorem Tax

Instructions to voters: If you are in favor of the levying of an ad valorem tax, place an "X" mark in the space to the left of the words "For Ad Valorem Tax".

If you are NOT in favor of the levying of an ad valorem tax, place an "X" mark in the space to the left of the words "Against Ad Valorem Tax".

SECTION 6. The Clerk of the Town is hereby authorized and directed to have printed on plain white paper, a sufficient number of the aforesaid paper ballots and deliver them to the inspectors and clerks on or before the date and time for opening of the polls for such election.

SECTION 7. The Town Clerk shall be authorized and directed to obtain from the Supervisor of Elections of Brevard County, Florida a list of all qualified electors residing in the Town who are determined to be qualified to vote therein. A certified copy of such list shall be furnished to the inspectors, clerks and poll workers of the election at the place where the votes are to be cast in the said special referendum election and a certified copy of such list shall be filed and preserved within the records of the Town.

SECTION 8. Notice of said special referendum election shall be published in a newspaper of general circulation according to the laws of the State of Florida, each week for four consecutive weeks, the first publication to be not less than thirty days prior to the date of said special referendum election. Pursuant to the requirements of Section 100.342, Florida Statutes, copies of this ordinance shall also be posted in at least ten different places within the territorial limits of the Town.

SECTION 9. This ordinance, enacted as an emergency measure, shall take effect immediately upon its adoption.

PASSED AND ADOPTED at a meeting of the Town Council of the Town of Malabar, Brevard County, Florida, held on the 9 day of November, 1977.

John E. Gust
Mayor

ATTEST:

Ethel Scabarozz
City Clerk

The meeting was opened by Council Chairman Radencic.

The prayer and the pledge were given.

The minutes of the previous meeting were approved on a motion by Councilwoman Todd, seconded by Councilman DeCaro, all in favor.

→ The Council canvassed by results of the of the Special Referendum Election held on December 13, 1977. The results showed there were 159 votes cast with 117 votes in favor of the referendum and 42 against the referendum. The results were prepared by the Elections Clerk Melba Marshall, and Inspectors Helen Schmitt and Margaret Blazak, the results were approved on a motion by Councilman Richards, seconded by Councilman DeCaro, all in favor. Chairman Radencic read the Resolution Certifying the Enactment of Ad Valorem Taxation in the Town of Malabar, Florida, being Resocution #12-6-77. Councilman Richards made a motion to accept Resolution #12-6-77, Councilman DeCaro seconded the motion, all in favor.

→ The Clerk reported that information received from the Brevard County Tax Assessor and the Brevard County Tax Collector was that their offices would not charge the Town a fee for the assessing and collecting of Ad Valorem taxes that the town would assess on Malabar property starting in January, 1978.

A bill from Agent Frank Wier of the Nationwide Insurance Company covering Policy #61 CS 312-767-0001, a multi purpose policy in the amount of \$868.00 was discussed Councilwoman Todd suggested that Mayor Yust contact the insurance agent for a breakdown of this charge.

→ A letter to be sent to the division office of the Division of Forestry was discussed. This was to confirm that the tax referendum had passed in the town, and that part of the income from the taxation would be used to start the Malabar Volunteer Fire Department, and would show that the Town is desirous of obtaining a fire fighting truck from the Division of Forestry as previously discussed. A telephone call from the Division of Forestry prior to the meeting offered an old vehicle formerly used by the City of Union Park, but it was explained that the rebuilding of the truck would be quite expensive to the town. The Council felt it was better to proceed with the idea of obtaining a functional vehicle. Mayor Yust reported that a group had met in the town hall on Monday December 19th to discuss the formation of a volunteer fire department, and Leo Pacheck had been named Chairman of the group.

Mayor Yust reported that he had interviewed three persons to fill the two openings on the Planning & Zoning Board, namely Charles McClelland, Grant Ball and Ross MacDonald. The Council members voted by paper ballot and the outcome was Charles McClelland and Ross MacDonald, who are to be sworn in prior to the next meeting.

TOWN OF MALABAR

MEMORANDUM

Date: October 3, 2014 2014-TC/T-039
To: Honorable Council, Mayor Beatty
From: Debby K. Franklin, C.M.C., Town Clerk/Treasurer
Subject: Research re: Quarterman Lane

The recent heavy rains have taken a toll on the residents of Central Florida but this research centers on Quarterman Lane in Malabar. There are 12 houses on Quarterman Lane south of Hall Road. They were mostly put on the tax roll between 1979-1987; one in 1991 and one in 1998.

The Flood Zone for all of the properties is "A" meaning flood insurance is required. This is not a new designation; the surveys in the property files I reviewed indicated Flood Zone "A". None of the property files had any information regarding requests to or requirements for elevating their buildings and all of them had approvals from Brevard County Health Department for their septic systems.

Almost all of the properties have subsequently added improvements to their properties that further reduced the permeable land. The property showing two houses was permitted as one house in 1979 and a detached garage in 1985. It was cited by the Building Official and Code Enforcement in 1996 and directed to return it to its original use, but there is no evidence in the file indicating they complied. It is now clearly shown on the Property Appraiser's website as two homes with one tax bill and two stormwater assessments.

If you ~~adding~~ all the permit fees together for all permits issued on Quarterman Lane it does not exceed \$2000.00. Our Stormwater assessment has been in place since 2000 and for those properties on Quarterman Lane paying it since the year 2000 the total for the last 14 years assessments is \$6,600.60. We have spent twice that amount on rock and fill two times to rebuild the "approved" section of Quarterman Lane (Hall Road south 1800 feet) or just before 2415 Quarterman Lane. Unfortunately, other culvert pipe failures and related issues took priority both times so materials need to be used. According to the stormwater plan recently approved, this work was classified under the "B" ranking. When Mayor Eschenberg drove for the Eagle Corp he would "grade" the roads and he consistently placed Quarterman as a "C" under Substandard Dirt Roads.

The southern most four homes: 2415, 2425, 2445 and 2465 were allowed to be built without improving the road. The Land Development Code adopted on 10/5/1976 contains regulations and direction to Town staff that new construction within a floodplain had to include engineering to ensure it would be personably safe from flooding. This ordinance that was adopted after

many months of public meetings and I believe Mayor Beatty stated it was actually read in full over the course of one full day. Council also adopt Ord 29-1-75 charging the P&Z Board with the responsibility of compliance with the Comp Plan Act of 1975.

When the new property owner of 2450 Quarterman Lane (vacant) attempted to get a road permit from SJRWMD and Army Corp of Engineers he was bankrupted and eventually lost the property. Both agencies stated then that the entire area was a wetland.

In 1986 Mr. Quarterman asked for the first 900 feet of Quarterman Lane to be approved and Council complied. No record of any payment or improvement made has been found.

In 1998, Mr. Kendall paid \$100.00 and asked for the next 930 feet to be approved under Ordinance 92-5 (the Cinderella Ord that was adopted in 1992 and was supposed to sunset in 1994). Council approved the next 930' +/- to the end of parcel 823 (2355 Quarterman)

Because of these actions the Town's Public Works Dept has maintained the first 1830'.

Additional info: in the last two years, stormwater issues have been on the RTCM agendas no less than ten times. We have had articles regarding stormwater in our newsletters. We had flooding in 1994 with TS Gordon; flooding again in 2004 with Hurricanes Charlie, Frances and Jean and in 2005 with Wilma; more flooding in 2008 with TS Fay; and in 2012 we had more rain than we had this year we have had over 52" of rain YTD. The average elevation in Malabar is at 22'. In the best of conditions at dry season the water table will be appx 48" below grade; in the wet season it is 10". The roadway on Quarterman is lower than the adjacent properties. According to SJRWMD, 2465 is lower than most of the other properties on Quarterman.

In October of 1997 Malabar opened up Quarterman to the south to connect with Atz Road. This was done at the request of the property owner at the south end. The area clearly is shown as wetlands. For health and safety reasons the Council again closed the south end to through traffic in January 1998.

This research is not intended to place blame or deflect responsibility. The Town accepted the road and the Town needs to bring the accepted portion up to standards. The drainage problems have already been identified and prioritized. Perhaps the residents at the south end would be willing to share in the cost to bring their section of road up to standards so it can be accepted and maintained.

A better plan should be put in place to address road maintenance after the road is accepted. Dirt, fill, base material and rock are not cheap. Our PW Dept does a phenomenal job with the challenges they are presented with daily.



Town of Malabar - Public Right-of-Ways Accepted Streets 9/12/2016

NOTE: THIS LIST DOES NOT INCLUDE ALL TOWN-OWNED RIGHT-OF-WAY

<u>Absaroka Lane</u>	(Stillwater Preserve SD – 3200 lf paved - private)
<u>Arnold Lane</u>	(870 ft south of the center line of Hall Road in 2006)
<u>Atz Road</u>	(13,728 ft. west from center line LaCourt Lane)(+114 ft east of LaCourt
<u>Appleby Lane</u>	(1,322 ft. x 25 ft. north from center line Hall Road) (800 ft. south from center line Hall Road)
<u>Barrow Lane</u>	(Stillwater Preserve SD – 980 fl paved - private)
<u>Baywood Court</u>	(Country Cove) (200 ft. paved)
<u>Bee Keeper Ln</u>	NOT AN ACCEPTED STREET – NAMED FOR FIRE FIGHTING LOCATION PURPOSES ONLY
<u>Benjamin Road</u>	(3,325 ft. x 40+ ft. east from center line Corey Road to Kramer Ln. only))
<u>Beran Lane</u>	(730 ft. north from center line Old Mission) (plus next 200 ft. north Old Mission-- payback under 90-3)
<u>Billie Lane</u>	(500 ft.south from center line Atz Rd.) (Plus next 200 ft.--payback under 91-2)
<u>Blanche Street</u>	(1,060 ft. paved north from Malabar Road)
<u>Bluff View Place</u>	(Brook Hollow) (115 ft.paved west from center line Pemberton Tr.)
<u>Booth Road</u>	(630 ft. east of Babcock Street right-of-way)
<u>Briar Creek Blvd.</u>	(Brook Hollow) (2,875 ft. paved south from Malabar town limit)
<u>Briar Run Circle</u>	(Brook Hollow) (85 ft. paved west from center line Briar Creek Boulevard)
<u>Brookshire Circle</u>	(Brook Hollow) (334 ft. paved west from center line Hollow Brook Lane)
<u>Candy Lane</u>	(1322' x 50' north from Atz Road) (South of Atz – No records in file of approval)
<u>Cason Lane</u>	(1,330 ft. south of center line Atz Road).
<u>Centre Street</u>	528' between Pine and W. Railroad Ave.
<u>Century Oak Circle</u>	(1,260 ft. paved)
<u>Christian Lane</u>	(350) ft. "country lane" under construction as of Jan 2011
<u>Coral Way</u>	(1,550 ft. paved south from center line Huggins Drive south and east to center line Rocky Point Road).
<u>Corey Road</u>	(10,560 ft. paved south from center line Malabar Road to south town limit, and 3,553 ft. north from center line Malabar Road)
<u>Coquina Terrace</u>	(1,350 ft. paved west from center line Rocky Point Road)
<u>Country Cove Circle</u>	(Country Cove) 3,085 ft. paved
<u>Crescent Road</u>	(460 ft. x 40 ft. south from center line Township Road)
<u>Delaware Avenue</u>	(1,293 ft. west from center line Corey Road)
<u>Duncil Lane</u>	(2,440 ft. south from Hall Road; 1,055 ft. north from Hall Road)
<u>Duane Lane</u>	(1,310 ft. south from center line Glatter Road to dead end)
<u>Eva Lane</u>	(2,640 ft. from center line Malabar Road to center line Hall Road)



Town of Malabar - Public Right-of-Ways Accepted Streets 9/12/2016

NOTE: THIS LIST DOES NOT INCLUDE ALL TOWN-OWNED RIGHT-OF-WAY

<u>Falls Trail</u>	(Brook Hollow) (1,219 ft. paved from center line Briar Creek Boulevard to center line Briar Creek Boulevard)
<u>Fins Lane</u>	previously known as <u>Mussell Shoal Lane</u> (name changed in 2006 – 425' road + 125' in 2015)
<u>First Lane</u>	(.240 ft. paved north from center line Riverview Drive)
<u>Flashy Lane</u>	(1,275 ft. north from Hall Road to dead end) (530 ft. x 25 ft. south from center line Hall Road)
<u>Florence Street</u>	(1,060 ft. paved north of Malabar Road)
<u>Garden Street</u>	(528 ft. east from center line Pine Street to dead end)
<u>Gator Way</u>	South from Hall St.
<u>Gilmore Street</u>	(220' paved + 940' dirt. north from Malabar Road to Allen St.)
<u>Glatter Road</u>	(925' east from Marie Street (2,600' west of Marie to Malabar Rd)
<u>Hall Road</u>	(13,200 ft. west from center line Marie Street to town limits) (5,280 ft. of total--paved; 7,920 unpaved)
<u>Hard Lane</u>	(500' south of center line of Atz Road) (+64 ft per BOA variance – Waters, yr 2006)
<u>Hard Way Lane</u>	(730 ft. north from center line Old Mission Road) (plus 400 ft. north from Old Mission--payback under 90-3)
<u>Lawthorne Avenue</u>	(150 ft. west from center line US#1)
<u>Hollow Brook Lane</u>	(Brook Hollow) (2,045 ft. paved north from center line Briar Creek Boulevard)
<u>Holloway Trail</u>	(Brook Hollow) (324 ft. paved west from center line Briar Creek Boulevard)
<u>Homestead Lane</u>	(Sugar Pines) (1,200 ft. paved north from center line Atz Road to dead end)
<u>Howell Lane</u>	(1,100 ft. north from center line Hall Road to dead end) (728 ft. south from Hall Road; plus 200 lf payback on lot 829 under Ord 03-01).
<u>Huggins Drive</u>	(808 ft. paved east from center line US#1).
<u>Hunter Lane</u>	(1,320 ft. north from center line Atz Road) (1,500 ft. south from center line of Atz Rd.--payback under 90-3)
<u>Isasa Lane</u>	(730 ft. south from center line of Hall Road)
<u>Ivey Lane</u>	(800 ft. south from center line of Hall Road)
<u>Johnston Avenue</u>	(1,164 ft. east from Marie Street) (the last 306 feet is a payback under 01-01)
<u>Jordan Boulevard</u>	(1,010 ft. paved west from the center line US#1)
<u>Kelly Lane</u>	(1,483 ft. south from the center line of Atz Road)
<u>Knave Lane</u>	(Stillwater Preserve SD – 1000 lf paved - private)
<u>Kramer Lane</u>	(1,322 ft. north from Benjamin Road--payback under 91-2)
<u>LaCourt Lane</u>	(2,640 ft. south from Hall Rd. to Atz Rd.)
<u>Leghorn Road</u>	(1,000' north of Section 12) (the last 600 feet is a payback under 01-01)



Town of Malabar - Public Right-of-Ways Accepted Streets 9/12/2016

NOTE: THIS LIST DOES NOT INCLUDE ALL TOWN-OWNED RIGHT-OF-WAY

<u>Lett Lane</u>	(1,712 ft. south from Booth Road) (last 400 ft.--payback under 91-2)
<u>Lineberry Lane</u>	(Sugar Pines) (1,200 ft. paved north from center line Atz Road to dead end)
<u>Linrose Lane</u>	(528' x 25' north from Hall Road & 1,300' south of Hall Road)
<u>MacDonald Lane</u>	(600 ft. south from center line Atz Road) (the last 200 feet is a payback under 01-01)
<u>Marie Street</u>	(970 ft. x 35 ft. north from center line of Johnson Avenue) (5,280 ft. south from center line Johnston Avenue to center line Hall Road--includes 1,150 ft. paved north of Malabar Road) (780 ft. x 25 ft. south from center line Hall Road)
<u>Marshall Lane</u>	(528 ft. north from center line Malabar Road to dead end)
<u>Matthews Lane</u>	(1610 ft south from of Atz Road April 2, 2007 with payback under 01-01)
<u>McCain Lane</u>	(1,100 ft. north and 1,385 ft. south from center line Hall Road)(+50 from south end per BOA variance – Kaye yr 2006)
<u>Moss Rose Avenue</u>	(1,015 ft. west from center line Corey Road)
<u>New Jersey Avenue</u>	(528 ft. west from center line US#1)
<u>Nome Lane</u>	(Stillwater Preserve SD 920 lf – private)
<u>Nord Street</u>	(528 ft. east from center line Marie Street)
<u>Oak Harbour Lane</u>	(Country Cove) (338 ft. paved)
<u>Jak Tree Place</u>	(Brook Hollow) (389 ft. paved north from center line Falls Trail)
<u>Oakridge Lane</u>	(700 ft. x 50 ft. north from center line Hall Road plus 350 feet x 25 feet) (1,130 ft. south from center line Hall Road)
<u>Old Mission Road</u>	(1,950 ft. west from center line Weber Road to center line Beran Lane)
<u>Orange Avenue</u>	(1,260 ft. west from center line US#1 toward railroad)
<u>Passaic Avenue</u>	(782 ft. west from center line US#1)
<u>Pemberton Trail</u>	(Brook Hollow) (1,053 ft. paved east from center line Briar Creek Boulevard)
<u>Pine Street</u>	(528 ft. south from center line Malabar Road to center line Garden Street)
<u>Prospect Ave</u>	renamed Christian Lane in Jan 2011
<u>Prosperity Lane</u>	(930 ft north from centerline of Osage Road in 2006)
<u>Quarterman Lane</u>	(1830 ft. south from center line Hall Road)
<u>Rebel Lane</u>	(1000 ft. north from Reese Road)
<u>Reef Place</u>	(510 ft. paved east from center line Coral Way)
<u>Reese Road</u>	(685 ft. x 25 ft. west from center line Weber Road)
<u>Richards Lane</u>	(807 ft. north from center line Hall Road)
<u>Riverview Drive</u>	(780 ft. paved west from center line US#1)
<u>ivet Lane</u>	(700 ft. x 25 ft. north from center line Hall Road)
<u>Rocky Point Road</u>	(7,590 ft. paved from US#1 to US#1)



Town of Malabar - Public Right-of-Ways Accepted Streets 9/12/2016

NOTE: THIS LIST DOES NOT INCLUDE ALL TOWN-OWNED RIGHT-OF-WAY

<u>Russell Lane</u>	(400 ft. south from center line Atz Road)
<u>Samantha Lane</u>	(300 ft south of Hall Road (payback under Ord 03-01) approved 2006 w/ condition name w/b changed to Candy when the roads connect)
<u>Sandy Creek Lane</u>	(1,500 ft. south from center line Malabar Road)
<u>Shiflett Lane</u>	(528 ft. south from center line Malabar Road to dead end)
<u>Ski Lane</u>	(564 ft. north of center line Atz Road--payback under 91-2)
<u>Smith Lane</u>	(2244 ft. south of Atz Road) (the first 475 ft. is no payback; the next 125 ft. is a payback under 91-2; the next 400 ft. is a payback under 91-2; the next 644 ft. is a payback under 91-2; *the next 600 ft. is a payback under 01-01)
<u>Steeplechase Circle</u>	(Brook Hollow) (358 ft. paved west from center line Briar Creek Boulevard)
<u>Stika Lane</u>	(Stillwater Preserve SD – 840 lf - private)
<u>Township Road</u>	(1,056 ft. paved east from railroad to center line US#1)
<u>Waring Lane</u>	(1,290 ft. north of center line Atz Road) (2,035 ft. south of center line Atz Rd.) (plus 400 ft.--payback under 91-2)
<u>Weber Road</u>	(10,560 ft. paved south from center line Malabar Road to town limits)
<u>Weir Street</u>	(1,260 ft. north from Malabar Road to Allen Street)
<u>West Railroad Avenue</u>	(630 ft. paved south from center line Malabar Road)
<u>Westhorpe</u>	(Oakmont Preserve SD ?? If paved east from Marie Street - private)
<u>Wilson Lane</u>	(1,052 ft. south from center line Hall Road)

NOTES:

- A. Ordinances 90-3, 91-2 & 01-01 require fees be collected from prospective homebuilders on certain parcels of property as payback to original road builder. These portions of streets are indicated.
- B. Any road not on this list of accepted streets may be maintained from time to time, at the Public Works Department's discretion, to allow accessibility of emergency vehicles. This in no way implies that this maintenance constitutes acceptance of any road not on this list.

(Previous Updates 9/21/98, 12/1/99, 3/24/00, 12/29/00, 7/2/01, 10/15/03, 5/10/04, 2011, 2012, 2014)

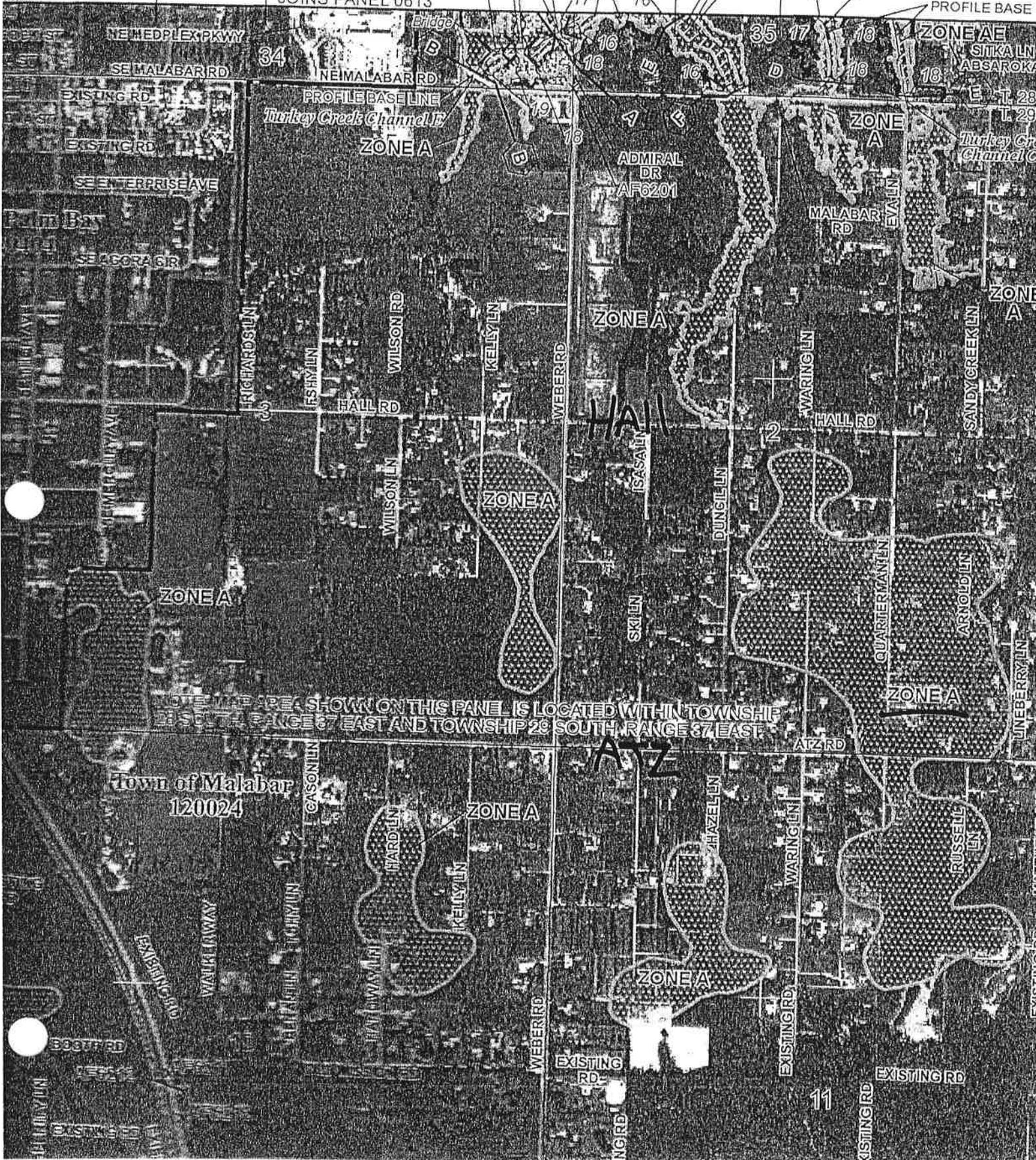
	A	B	C	D	E	F	G	H
1	TOWN OF MALABAR							
2	QUARTERMAN LANE STATS							
3								
4								
5	Parcel	I/V	Prop Tax	Stormwater Assessment	Site Code	Year Built	Flood Zone	Notes
6	Address							
7	575	V	\$55.88	\$10.54	1	N/A	"A"	
8	763	V	\$4.16	\$18.82	1	N/A	"A"	
9	821	V	\$22.67	\$0.00	999	N/A	"A"	Per PA "Marginal Land"
10	805	V	\$21.15	\$0.00	999	N/A	"A"	Per PA "Marginal Land"
11	543	V	\$83.00	\$0.00	1	N/A	"A"	
12	822	V	\$55.88	\$10.54	1	N/A	"A"	
13	2420	V	\$8.05	\$0.00	1	N/A	"A"	Property Owner attempted to build - failed
14	2450	V	\$7.67	\$0.00	1	N/A	"A"	Property Owner attempted to build - failed
15	2180	I	\$192.66	\$36.00	1	1987	"A"	3 separate ordinances in place since 1984
16	2215	I	\$124.74	\$36.00	1	1998	"A"	Ord 91-2 replaced previous road regulations
17	2220	I	\$110.49	\$36.00	1	1991	"A"	Comp Plan adopted in 1988 requiring ROW imp
18	2250	I	\$62.33	\$36.00	1	1981	"A"	
19	2310	I	\$218.12	\$72.00	1	1979	"A"	2 HOMES (permitted for home + garage)
20	2315	I	\$226.62	\$36.00	1	1982	"A"	
21	2355	I	\$108.88	\$36.00	1	1998	"A"	Last House on "APPROVED" Lane
22	2415	I	\$41.58	\$36.00	1	1979	"A"	NOT ON APPROVED ROAD
23	2425	I	\$89.29	\$36.00	1	1979	"A"	NOT ON APPROVED ROAD
24	2445	I	\$214.19	\$36.00	1	1979	"A"	NOT ON APPROVED ROAD
25	2465	I	\$76.73	\$36.00	1	1979	"A"	NOT ON APPROVED ROAD
26	Total annual x 14 years =			\$6606.60				
27								
28								
29	Per PA Site Code "1" = No other code applies; I = Improved; V = Vacant; Fld Zone "A" = Flood Ins required							

Quarterman Lane South Of Hall Road

- Flood Zone A (worse flood zone category)
- 1986 first 900 feet accepted by Council
- Oct 1997 Quarterman opened to Atz
- Jan 1998 closed to Atz thru traffic (health & safety)
- 1998 next 930 feet accepted under Ordinance 92-5
 - \$100 Cinderella Ordinance 1992-1994?
- Currently the first 1830 of Quarterman feet is maintained by the Town
- Southern four homes NOT ON APPROVED ROADWAY
 - Lots 2415, 2425, 2445, 2465 (the lowest lot)
 - If funded road this section can be improved and accepted by Town
 - Funding would be by Special Assessment (3 year payments)
 - Raise roadway
 - Cut ditches
 - Add driveway culverts
- There are many homes in Malabar on unapproved roadways
- The Town's goal is to maintain drivable access to your driveway
- The County Health Dept permits your Septic System not the Town



E STARDUST DR Bridge
 W STARDUST DR Unnamed Road
 JOINS PANEL 0613
 38°00'00"E
 39°00'00"E
 Turkey Creek Channel D
 PROFILE BASE LINE
 ZONE AE
 Turkey Creek Channel G
 PROFILE BASE LINE
 ZONE AE



THE MAP AREA SHOWN ON THIS PANEL IS LOCATED WITHIN TOWNSHIP 29 SOUTH RANGE 87 EAST AND TOWNSHIP 29 SOUTH RANGE 87 EAST

Town of Malabar
 120024

4. PUBLIC (continued)

Don Hill and Ken Wyle from Banyon Tree Management Corporation introduced themselves and explained their intentions for building a golf course in Malabar.

5. REPORTS

MOTION by Conlon/Dow to approve acceptance of West Railroad Avenue (J. Losch) contingent upon receipt of a letter from Peninsula Engineering & Testing Company. Vote 4 ayes; motion carried.

MOTION by Conlon/Dow to approve acceptance of Quarterman Street (J. Quarterman) contingent upon receipt of a letter from Peninsula Engineering & Testing Company. Vote 4 ayes; motion carried.

MOTION by Burns/Conlon to appoint Ralph Turnberg to the Roads and Drainage Committee. Vote 4 ayes; motion carried.

MOTION by Burns/Conlon to schedule a joint workshop for Council and the Planning and Zoning Committee for Ordinance 2-14-86/Stormwater Management on August 20, 1986 and if time is available to review Ordinance 2-20-86/Preservation of Trees. Vote 4 ayes; motion carried.

MOTION by Burns/Conlon to have on the agenda for August 19, 1986 Ordinance 8-05-86/Dissolving Town as the first item under Public Hearing and to have a court reporter present to record this portion of the meeting. Vote 4 ayes; motion carried.

MOTION by Burns/Conlon to give the owners of the travel trailer parks in town a draft copy of the ordinance at no charge prior to the second public hearing. Vote 4 ayes; motion carried.

6. CORRESPONDENCE

The letters from Ms. Oishi and Mr. Turnberg regarding dissolving the town in the August newsletter were acknowledged by Council.

7. OLD BUSINESS

MOTION by Dow/Burns to table Ordinance 2-20-86/Preservation of Trees until some time in the future. Vote 4 ayes; motion carried.

MOTION by Burns/Dow to have a workshop on August 25, 1986 to review the 1986-87 budget. Vote 4 ayes; motion carried.



TOWN COUNCIL SPECIAL MEETING
MINUTES
NOVEMBER 5, 1986

1. CALL TO ORDER

The meeting was called to order at 7:40 p.m., by Chairman Witt followed by a prayer and the Pledge of Allegiance.

PRESENT:

Councilwoman Z. Burns
Councilman S. Conlon
Councilwoman S. Dow
Chairman E. Witt

Vice Chairman J. Gentry
Mayor C. Beatty
Attorney M. Kahn

NEWLY ELECTED OFFICIALS:

Councilwoman S. Theriault
Councilman E. Wenger
Chairman J. Quarterman

The DeCaros made a video tape at this meeting.

2. ELECTION RESULTS

Conlon	215	Gentry	235	Dow	229
Theriault	359	Wenger	315	Quarterman	327

Fire Department Referendum: Yes - 290
No - 287

Should Malabar remain a town: Yes - 449
No - 138

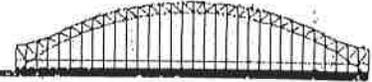
MOTION by Wenger/Burns to elect John Quarterman as chairman.
Vote 3 ayes; motion carried.

MOTION by Quarterman/Burns to elect Ed Wenger as Vice
chairman. Vote 3 ayes; motion carried.

MOTION by Wenger/Theriault to accept Mr. Witt's verbal
resignation contingent upon a written letter in the morning.
Vote 4 ayes; motion carried.

FRAZIER ENGINEERING, INC.

Consulting Civil and Structural Engineers



Mr. William Hall, Town Administrator
Town of Malabar
2725 Malabar Road
Malabar, Florida 32950

January 27, 1998

Subject: Acceptance of a Portion of Quarterman Road

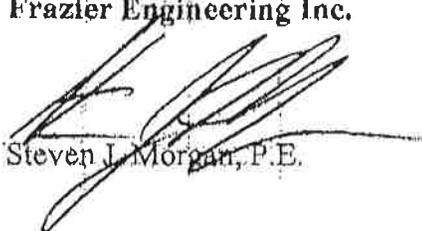
Dear Bill,

Mr. Howard Kendall has made application to the Town for a portion of Quarterman Road be accepted under Ordinance 92-5. The portion of roadway begins approximately 900 feet south of Hall Road and is approximately 980 feet in length.

A survey has been provided by the applicant and I have inspected this portion of roadway. This section of roadway meets the criteria for acceptance under Ordinance 92-5, I therefore recommend approval of this portion of roadway.

If you have any questions, please call me at 253-8131.

Very Truly Yours
Frazier Engineering Inc.



Steven J. Morgan, P.E.

RECEIVED JAN 27 1998

TOWN OF MALABAR

Graded Road Condition Rating

Inspected By: Mayor Eschenberg

Inspection Date: December 2007

Millings Upgraded Roads				Substandard Dirt Roads			
A	B	C	D	A	B	C	D
None	Arnold Lane	Elaine Lane		None	Crescent Road	Duncil Lane	Appleby Lane
	Beran Lane	Gilmore Street			Prosperity Lane	Flashy Lane (N)	Billie Lane
	Candy Lane	Shiflett Lane				Hawthorne Avenue	Flashy Lane (S)
	Cason Lane					Howell Lane (S)	Garden Street
	Delaware					Isasa Lane	Hunter Lane (S)
	Eva Lane					Marie Street (S)	Johnston Avenue
	Glatter Road					McCain Lane	Leghorn Road
	Hard Lane					Oakridge Lane (S)	Linrose Lane (N)
	Hard Way Lane					Orange Avenue	Marie Street (N)
	Howell Lane (N)					Passaic Avenue	Marshall Lane
	Hunter Lane (N)					Quarferman Lane	Nord Street
	Kelly Lane					Richards Lane	Pine Street
	Kramer Lane					Russell Lane	Shiflett Lane
	Lett Lane					Ski Lane	
	Linrose Lane (S)					Wilson Lane	
	MacDonald Lane						
	Matthews Lane						
	Moss Rose Avenue						
	New Jersey Avenue						
	Oakridge Lane (N)						
	Osage						
	Rebel Lane						
	Reese Road						
	Rivet Lane						
	Samantha Lane						
	Sandy Creek Lane						
	Smith Lane						
	Waring Lane						
	Weir Street						

had. Mr. Torpy said the Town can seek conjunctive relief or possibly revoke the CO or the Town can make the necessary improvements and place a lien on the property for the amount it cost us. Councilman Dekker called for the question.

VOTE: All Aye.

Councilman Detwiler asked if we needed a more definitive minimum safety standard ordinance drafted. Mr. Torpy explained the difficulties the Town had in the past. Ord. 92-5 was drafted in the spirit of compromise. After the Town passed Ord.91-2 many people found when they went to sell their homes that potential buyers couldn't get loans because the homes were on unaccepted streets. Mr. Messersmith was asked to establish minimum safety criteria in order for emergency vehicles to have ingress and egress to existing homes. Mr. Hall said there was a time when the Town considered a blanket acceptance for all roads that had homes on them and then sun setting this ordinance and starting fresh. Councilman Dekker said Council needs to be very, very careful in carte blanche acceptance of roads; it would be a great expense to maintain those roads. Mr. Torpy mentioned the liability side - Town would have to first survey those roads, straighten as necessary and bring up to the minimum safety standards.

ACTION #2. QUARTERMAN LANE - REQUEST FOR APPROVAL

Little discussion on the area being requested for approval. It is the consensus of Council that the road is in excellent shape.

MOTION: Detwiler/Dekker to approve Quarterman.

VOTE: All Aye.

ACTION #3. ORDINANCE 98-1: First reading, amends chapter 3, Sec. 3-2(a), hours of sale for alcoholic beverages not consumed on premises.

MOTION: Eschenberg/Detwiler to read by title only.

VOTE: All Aye.

ORDINANCE 98-1

An ordinance of the Town of Malabar, Brevard County, Florida, amending ordinance Nos. 8-26-81, S.2, S.3, 9-15-81, Section 3-2(a), pertaining to the prohibition of the sale of alcoholic beverages during specified hours; providing to shorten the Sunday hours during which the sale of alcohol for off the premises consumption is prohibited; providing for codification; providing for severability; providing for repeal of ordinances or parts of ordinances in conflict herewith; and providing for an effective date.