

**TOWN OF MALABAR
REGULAR TOWN COUNCIL MEETING
MONDAY NOVEMBER 21, 2016
7:30 PM
2725 MALABAR ROAD
MALABAR, FLORIDA**

AGENDA

- A. CALL TO ORDER, PRAYER AND PLEDGE**
- B. ROLL CALL**
- C. SUNSHINE LAW OVERVIEW BY ATTORNEY**
- D. NOMINATIONS FOR CHAIR AND VICE CHAIR**

- E. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:**

- F. APPROVAL OF THE MINUTES:**
 - 1. Regular Town Council Meeting Minutes 11/07/16**
 - Exhibit:** Agenda Report No. 1
 - Recommendation:** Request Approval

- G. ATTORNEY REPORT:**
- H. STAFF REPORTS: ADMINISTRATOR: CLERK:**

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

- J. PUBLIC HEARINGS/SPECIAL ORDERS: 1**
 - 2. Town Council Initiated Vacate of Unaccepted Portions of W. Railroad Avenue and Johnston Avenue Rights-of-Way for the Overall Benefit of the Town**
 - Exhibit:** Agenda Report No. 2
 - Recommendation:** Request Council Approval

- K. UNFINISHED BUSINESS/GENERAL ORDERS**
ORDINANCES FOR FIRST READING: 0

RESOLUTIONS: 1
 - 3. Appoint Eric Bienvenu to Park and Recreation Board (Reso 18-2016)**
A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF ERIC BIENVENU TO THE MALABAR PARK AND RECREATION 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:** Request Council Approval

- MISCELLANEOUS: 5**
 - 4. Selection of Bill Reviewer for 2016/2017**
 - Exhibit:** Agenda Report No. 4
 - Recommendation:** Request Action
 - 5. Selection of Council Signatory for 2016/2017**
 - Exhibit:** Agenda Report No. 5
 - Recommendation:** Request Action
 - 6. Selection of SCLC Delegate & Alternate**
 - Exhibit:** Agenda Report No. 6
 - Recommendation:** Request Action

7. Selection of Town Representative to Transportation Advisory Committee (TAC) that advises the Transportation Planning Organization (TPO)

Exhibit: Agenda Report No. 7

Recommendation: Request Action

8. Establish an Ad Hoc Committee that Reports to Council to Produce SpringFest 2017.

Exhibit: Agenda Report No. 8

Recommendation: Request Action

L. DISCUSSION/POSSIBLE ACTION:

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

N. REPORTS – MAYOR AND COUNCIL MEMBERS

O. ANNOUNCEMENTS:

(2) Vacancies on the Board of Adjustment; (2) Vacancies on the Park and Recreation Board;

P. ADJOURNMENT:

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to 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: C
Meeting Date: November 21, 2016

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

SUBJECT: Sunshine Review

BACKGROUND/HISTORY:

The Attorney does this annually at the first regular meeting after the election.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Memo from Attorney Bohne

ACTION OPTIONS:

No Action Required – Information only

MEMORANDUM

To: Town Council, Mayor Reilly
From: Karl W. Bohne, Jr.
Date: November 1, 2016
Re: Sunshine Law/Public Records Law/Quasi-Judicial Proceedings/Voting Conflicts

I. The Florida Sunshine Law is contained in Chapter 286 of the Florida Statutes.

A. What public agencies are covered by the Sunshine Law?

The courts have expressed a view that the legislature intended to extend the application of the Sunshine Law so as to bind every board or commission of the state or of any county or political subdivision over which it has dominion and control. This means that the Sunshine Law is applicable to any government at the municipal as well as the state and county levels. The Sunshine Law applies to the Town Council

1. What is meeting subject to the Sunshine Law?

The Sunshine Law extends to the **discussions** and **deliberations** as well as the formal action taken by a public board or commission. There is no requirement that a quorum be present for a meeting of members of a public board or commission to be subject to the Sunshine Law.

Instead, the law is applicable to any gathering, whether formal or casual, of two or more members of the same board or commission to discuss some matter on which foreseeable action will be taken by the board or commission. The Sunshine Law covers every thought, affirmative act and the entire decision making process.

2. Can the Sunshine Law apply to a single individual or a situation where two members are not actually present?

While ordinarily Florida Statutes 286.011 is applicable to two or more members of the same board or commission, certain factual situations have arisen where the presence of two individuals may not always be necessary in order for a violation of law to occur. Courts have expressed a view that the Statute should be construed so as to frustrate all evasive devices.

In one case, the use of memoranda to conduct city business was held to be subject to the Sunshine Law. A member of a city commission initiated a memorandum reflecting his thoughts on a given subject, and appended to this memo a writing space for other members to concur or disapprove

in the position taken. The originator of the memorandum then placed it in a receptacle at the offices of the public body. It was determined that this was a violation of the Sunshine Law and constituted a meeting between two or more members.

A meeting between individuals who are members of different boards is not subject to the Sunshine Law unless one or more of the individuals has been delegated the authority to act on behalf of his respective board. For example, an individual town council member may meet privately with an individual member of the code enforcement board to discuss town issues. Since two or more members of either board are not present, there was no violation because no delegation of the decision making authority had been made and neither member was not acting as a liaison between members of the respective boards.

Additionally the use of non-members as liaisons between board members of the same board is a violation of the Sunshine Law. These generally create *de facto* meetings in violation of the sunshine law.

B. To what agency actions or activities is the Sunshine Law directed?

1. Does the term "meeting" include such things as briefing sessions, workshop meetings, informal discussions and other meetings of the public body where no formal vote is taken?

The answer to this question is probably "yes". The law is applicable to any gathering where the members deal with some matter on which foreseeable actions will be taken by the board. The attorney general has determined that gatherings such as workshop meetings, conference sessions or meetings, conciliation conferences, fact finding decisions, executive work sessions, and courtesy meetings are all subject to the commands of the Sunshine Law. Additionally, the law is applicable to all deliberations of the public body.

C. May public officials meet together at luncheon meetings, social gatherings, and inspection trips?

Luncheon meetings, social gatherings and the like would not be subject to the Sunshine Law merely because of the presence of two or more members of a board or commission IF there was no discussion among the public officials relating to public business or foreseeable action which would be taken by the board.

1. Are telephone conversations within the scope of the Sunshine Law?

Telephone conversations between members of a public body are illegal if the conversation is held to discuss public business in a place inaccessible to members of the public and press for the specific purpose of avoiding public scrutiny.

2. Are the uses of computers subject to the Sunshine Law?
The use of computers or in any case any type of electronic medium, emails twitter, Facebook, etc., to carry out public business, by members of a public board or commission to communicate amongst themselves on issues pending before the board is subject to the Sunshine Law.
3. Are consultations with legal counsel subject to the Sunshine Law?
 - (a) A governmental body may meet in private with its attorney to discuss pending litigation to which the entity is presently a party for a court or administrative agency, provided that the following conditions are met:
 - i. The entity's attorney shall advise the entity at a public meeting that he desires advice concerning litigation.
 - ii. The subject matter of the meeting shall be confined to settlement negotiations or strategy sessions related to litigation expenditures.
 - iii. The entire session shall be recorded by a certified court reporter. Thereafter, the court reporter's notes shall be fully transcribed and filed with the entity's clerk within a reasonable time after the meeting.
 - iv. The entity shall give reasonable public notice of the time and date of the attorney/client session and the names of persons who will be attending the session.
 - v. The transcript shall be made part of the public records upon conclusion of the litigation.
4. Inaudible discussions.
A violation of the sunshine law may occur if, during the meeting or during a recess, board members discuss issues before the board in a manner not generally audible to the public attending the meeting. Discussions of public business which are audible to a select few at the dais may violate the openness requirements of the law.

D. Appearance at Council meeting via telephone

Based on several Attorney General Opinions a Council member who is unable to attend a Council Meeting due to illness or physical disability or with a finding of extra-ordinary circumstances by the respective board may do so via telephone and may also cast a vote via telephone. It has been determined that an absence due to illness or physical disability is an "extraordinary circumstance" which justifies such attendance via telephone. But those are not the only 2 circumstances which constitute extra-ordinary circumstances. The attendance via telephone cannot be used to establish a quorum. So there must be a quorum present (in our case 3 members). If the quorum is present then the telephone appearance is acceptable. The Council member appearing by phone must be

able to hear the meeting and must be able to be heard by the public. The minutes must reflect that the Council member is appearing via telephone due to illness or physical disability or other extra-ordinary circumstances, as the case may be.

E. Curing Violations

It has long been held that Sunshine law violations can be cured by independent, final action done completely in the sunshine. However, such meetings must be more than a perfunctory or ceremonial ratification. Based on numerous cases discussing the ability to cure a violation it has been the thought that if you "cure" the matter the violation no longer exists.

When a violation of the sunshine law occurs the act taken is void. The "act" can be cured at a subsequent meeting. The curing of the act does not absolve the public body of its responsibility for violating the sunshine law. The "cure" merely is a way to salvage a void act by reconsidering it in the sunshine. This seems to mean that the criminal and non-criminal sanctions may still apply to the violators.

II. Florida's Public Records Law is contained in Chapter 119 of the Florida Statutes.

A. Materials of Public Records

In 119.011(1) of the Florida Statutes defines Public Records to include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

Therefore, any material regardless of form which is used to perpetuate or communicate or formulize knowledge and is received by and agency in connection with official business is a public record.

Any documentation an individual member receives from any source and the documentation is for the purpose of communicating public business this document must be a public record and given to the clerk of the Town. This applies to records received by a member at Town hall or anywhere else. So long as the record is intended to communicate official business it must be maintained as a public record.

Any communication that can be saved in a hard format would also be a public record. This includes emails, twitter messages, texted messages, Facebook postings, or any similar type of communications. The fact that you may have received such a communication on a private account does not exempt it from being a public record. If the contact relates to public business then it is a public record. Purely private matters are not public records.

Information stored in a public agency's computer "is as much a public record as a written page in a book or a tabulation in a file stored in a filing cabinet"

"E-mail" messages made or received by agency employees in connection with official business are public records and subject to disclosure in the absence of an exemption.

The nature of information--that is, that it is electronically generated and transferred--has been determined not to alter its character as a public record under the Public Records Act. Thus, the e-mail communication of factual background information and position papers from one official to another is a public record and should be retained in accordance with the retention schedule for other records relating to performance of the agency's functions and formulation of policy. *Id.* Similarly, e-mails sent by city commissioners in connection with the transaction of official business are public records subject to disclosure even though the e-mails contain undisclosed or blind recipients and their e-mail addresses.

The Florida Supreme Court has ruled that private e-mail stored in government computers does not automatically become a public record by virtue of that storage. "Just as an agency cannot circumvent the Public Records Act by allowing a private entity to maintain physical custody of documents that fall within the definition of 'public records,' . . . private documents cannot be deemed public records solely by virtue of their placement on an agency- owned computer." The Court cautioned, however, that the case before it did not involve e-mails "that may have been isolated by a government employee whose job required him or her to locate employee misuse of government computers."

B. Response to Request.

Any person requesting the examination/copying of a public record need not disclose their identity. Furthermore, a request can be anonymous. The request does not have to be written. The motivation behind the request is not relevant. Production of public records may not be conditioned upon a requirement that the person seeking inspection disclose background information about himself or herself. A custodian, however, may request information which will facilitate the receipt or delivery of copies of public records if such information has not been provided. For example, if hard copies of documents are requested, the custodian may inquire how such copies should be provided or if a deposit is required for the production and copying of public records, the custodian may inquire how such information may be communicated to the requestor.

Also, a records request cannot be denied because it is "overbroad". Section 119.07(1)(c), Florida Statutes (2013), requires both prompt acknowledgement of the request and a prompt good faith response: "A custodian of public records must acknowledge requests to inspect or copy records promptly and respond to such requests in good faith." Section 119.07(1) provides that a delay in making public records available is only permissible under limited circumstances. Section 119.07(1)(c) permits a delay for a records custodian to determine whether the records exist; however, unjustified delay in making non-exempt public records available violates Florida's public records law... An unjustified delay in complying with a public records request amounts to an unlawful refusal under section 119.12(1). It is not only the length of the delay, but also whether the delay was

unreasonable or excused under Chapter 119.

C. Redaction.

The plain language of the statute does not require the agency to state the basis of the exemption applicable to "each redaction." Instead, the statute simply requires the agency to "state the basis of the exemption that [the agency] contends is applicable to the record" and to provide a statutory citation for the exemption. § 119.07(1)(e), Fla. Stat. (2014) (emphasis added). Thus, section 119.07(1)(e) plainly requires only record-by-record not redaction-by-redaction identification of the exemptions authorizing the redactions in each record.

D. Attorney Fees.

The Florida Supreme Court has stated that if the actions of the public body were unlawful then the attorney fees provision of the statute applies. There is no requirement that the public body acted unreasonably or in bad faith.

III. Quasi Judicial Proceedings

The Town Council will be asked on occasions, to decide matters that come before it as a quasi-judicial body. The council sits as the Judge of the evidence and makes its determination based on competent substantial evidence. An example of matters that are considered as quasi-judicial, include, but are not limited to, site plan decisions, subdivision plat decisions, permitting decisions, special exceptions, certain rezonings, etc.

The evidence that meets this standard is more than mere opinion. It must be fact based opinion. This usually comes in the form of expert testimony. Unsupported opinions do not rise to the level of competent substantial evidence. Put another way, opinions that are not based on facts are generally not regarded as competent substantial evidence.

Furthermore, as a fact finding body you must abide by certain rules. You cannot prejudge a matter. You must hear all the evidence before you came to a conclusion. You should refrain from exparte communication. This means you should refrain from viewing property, talking to witnesses, or receiving documents outside the public hearing. If you are presented with an exparte communication such communication should be revealed and disclosed at the beginning of the quasi-judicial hearing. This gives all interested parties notice of the communication and a chance to further inquire.

Your decision must be based on what the code states. You must refrain from interjecting your opinions on the wisdom of what a code prescribes. Your opinions are irrelevant. Furthermore, the opinions of others on the wisdom of a code are equally irrelevant. Ambiguities in a code must be interpreted in favor of a property owner and construed against the Town.

IV. Voting Conflicts

A voting conflict arises when an official is called upon to vote on:

any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

If a voting conflict exists and the appointed local official will not participate in the measure then the official must:

- a. Abstain from voting;
- b. Before the vote, publically state the nature of the conflict; and
- c. Within 15 days of the vote, file a voting conflict memorandum.

If the official desires to participate in the discussions then the official must:

- a. Abstain;
- b. File the voting conflict memorandum prior to the meeting in which case a copy must be provided to the other members and it must be read at the next meeting after the filing; or
- c. If the disclosure is not made prior to the meeting or the conflict was unknown prior to the meeting; the official must make the disclosure prior to participating followed by the memorandum within 15 days after the disclosure which shall be given to the other members and read at the next meeting.

If you are faced with a situation that involved a quasi-judicial matter and you are so biased that you can not be fair an objective you should abstain from voting. This is not a true voting conflict under Florida's Voting conflict law but it is a matter of Due Process for an applicant. As I previously stated an applicant who presents a quasi-judicial matter to the Council is entitled to have the matter reviewed by a fair and impartial council. If a council member is biased against a matter then they should not vote on it.

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: D
Meeting Date: November 21, 2016

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

SUBJECT: Nominate Chair and Vice Chair

BACKGROUND/HISTORY:

The Town Charter provides that the selection of the Chair and Vice-Chair is done annually at the first regular Council meeting after the election. It also provides that it should only be done if there is a full Council present. In 1995 the Charter was changed to allow the Mayor to also be considered as candidate for Chair. Prior to that, the Chair was selected from the Council Members only. The Chair sets the agenda with the Clerk and presides over the meetings.

Interim Mayor Phillip R. Crews served as Chair Jan 2016 to present
Mayor Carl Beatty served as Chair from 2014-Jan 2016
Council Member Steve Rivet served as Chair from 2012-2014
Mayor Eschenberg served as Chair from 2005-2012
Council Member Bobbi Moccia served as Chair from 2003-2005
Mayor Crews served as Chair from 1998-2003
Mayor Durand served as Chair in 1996-1998

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

none

ACTION OPTIONS:

Nomination and Selection of the Chair and Vice-Chair for 2016/2017.

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 1
Meeting Date: November 21, 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 – 11/07/2016
- Special Town Council Meeting – 11/10/2016
- Workshop Meeting on 11/17/16

It was determined during the last year that the minutes should be a brief summary of what occurred in the meeting. For specific details, audio of the meetings are available.

ATTACHMENTS:

Draft Minutes of the 11/03, 11/10, 11/17 meetings

ACTION OPTIONS:

The Town Clerk requests approval of the minutes.

MALABAR TOWN COUNCIL REGULAR MEETING
November 7, 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 Kohler led the prayer and pledge.

B. ROLL CALL:

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

For the Record, the Fire Chief Leonard Thomassen was also present.

C. ADDITIONS, DELETIONS, CHANGES APPROVAL OF AGENDA

Without objection, agenda is approved.

D. APPROVAL OF THE MINUTES:

1. Regular Council Meeting Minutes 10/17/2016

Exhibit: Agenda Report No. 1

Recommendation: Request Approval

Without objection, minutes are approved.

E. SHERIFF REPORT: not present
ATTORNEY REPORT: not present

F. STAFF REPORTS: ADMINISTRATOR:

Several items:

- In 1983, Jordan Davidson gave town 3 parcels of land on south Marie St. He and Attorney have worked on correcting the deeds to remove cloud from titles. Atty said it should take 60 days for paperwork to go through. The 3 lots add up to 600' of frontage on Marie Street and 285' deep.
- TA said staff had placed the legal notification for the paper and the mail out for the Town initiated vacate and abandonment. This is on agenda for action at next meeting and will clear up a long-standing issue.
- Government Planet, met rep at FLC Conference last August in Hollywood Florida – there is a listing agreement with some equipment that is no longer used by PW. GP gets 15% and Town gets 85% of sale. TA would like authorization to proceed with this.

MOTION: CM Ball / CM Kohler to authorize signing agreement. CM Vail asked how they advertise. Mayor said they advertise worldwide. It is open to public bidding. Mayor gave example, Costa Rica – new vehicle has 100% tariff; for a 5-year old vehicle, there is no tariff. So they buy used equipment and vehicles from all over world.

- Going out for bid for concrete parking space for ADA at Sandhill Trailhead as final part of the DEP grant for the restroom. Price to be in the 10-12K range. Then it is just clean up, landscaping and a little fill.

- Staff has gone out for bids for pest control as the work Massey has done in past year has not been satisfactory and will not be renewed.
- Stop signs are now up at Corey & Hall and were installed earlier at Weber & Hall. It seems to have helped reduce speed along these streets.

CLERK: Special mtg on November 10, at 7:00 PM. Please attend and invite your friends.

FIRE CHIEF: Chief Thomassen went over stats. NFPA stds he will soon have a piece of equipment to replace. Have applied for grants in the past and will try again. Please keep in mind need for new equipment. Class A pumper – 1st line of defense. Cannot skirt around – has to be addressed. He has been making contact with different vehicle manufacturers to get the cost of new trucks. Gave example of Pierce equipment used by NASCAR for only one year and then they sell vehicles – problem is there are 1000 other fire stations also applying for those same vehicles. His second class A pumper, the ladder truck will be the next one that terms out. He will keep Council up to date.

BOARDS:

Park Bd: Nothing available.

P&Z Bd: Nothing available.

T&G Com: Nothing available.

Events: Meghan Wolfram reported she has attended all their meetings and does the meeting minutes. They would like to help with Christmas Tree Lighting event.

MISCELLANEOUS: 1

2. Action on Events Committee

Exhibit: Agenda Report No. 2

Recommendation: Request Staff Direction

Discussion: Meghan gave overview of Events Committee Chair. CM Korn said he thought they should have some inclusiveness by being a subcommittee of Parks & Recreation Board similar to the T&G Committee. CM Korn feels Council needs to pull the Events Committee back into the fold of the Parks and Rec Board. Chair suggested a workshop and all agreed on that. Meghan said their Nov mtg was changed to Nov 17 and suggested a joint workshop at 7PM and then the Events Committee could continue with their regular meeting. Council will agree to one on that date at 7pm.

Clerk will send out agenda.

A. DISCUSSION/POSSIBLE ACTION:

3. Potential Cooperative Plan to Co-locate a New Town Hall with the EEL Educational Center

Exhibit: Agenda Report No. 3

Recommendation: Discussion

Discussion: CM Vail supports this. CM Korn said this was discussed years ago at Park & Rec Board to include in this new building a gym that could double as a shelter using grant funds from another agency. CM Vail agreed. CM Krieger and CM Ball wasn't to hear and see more information. Mayor explained that the SMC of the EELp had planned to construct an educational center at the Malabar Scrub years ago but it never happened and instead, the EELp spent money on new educational center at the Melb Beach Sanctuary. Mayor said the EELp has 700-800K to spend on an educational center and Malabar Scrub was to have been the third to build but it did not happen. Mayor said this is a very good idea.

TA said he heard from EELp that this has not moved forward because of a lack of interest on the part of the Town. If the Town does not support this then the money could go to another sanctuary or another EEL Program project.

K. PUBLIC COMMENTS: General Items (Speaker Card Required) None

J. REPORTS – MAYOR AND COUNCIL MEMBERS

TA & TC: nothing

CM Korn: Thanked Mayor Crews for his service again. Would like to see the town recognize him somehow. Mayor Crews said thanks is enough; his pleasure to serve.

CM Vail: thank you

CM Ball: thank you

CM Krieger: thank you

CM Kohler: Firm thank you for being a steady voice and calming hand.

Standing ovation for the municipal services provided by Mayor Crews recently and for past service as elected CM, elected Mayor and his stepping forward after deaths of Mayor Tom Eschenberg and Mayor Beatty.

Mayor – great experience. Thanked Council for their support and willingness to follow the Robert Rules of Order for meeting proceedings; there were no floor fights.

K. ANNOUNCEMENTS:

- (1) Vacancy on the Trails & Greenways Committee;
- (2) Vacancies on the Board of Adjustment;
- (3) Vacancies on the Park and Recreation Board;

L. ADJOURNMENT:

There being no further business to discuss and without objection, the meeting was adjourned by the Chair at 8:20PM.

BY: _____
Mayor Phillip R. Crews, Council Chair

ATTEST:

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

Date Approved: 11/21/2016

"The following draft minutes are subject to changes and/or revisions by the Town Council and shall not be considered the official minutes until approved by the Town Council."

**MALABAR TOWN COUNCIL SPECIAL MEETING
NOVEMBER 10, 2016 7:00 PM**

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

A. CALL TO ORDER:

The meeting was called to order at 7:00 pm by Mayor Crews. The P&P were led by CM Ball.

B. ROLL CALL:

MAYOR/CHAIR	PHILLIP R. CREWS
VICE-CHAIR:	BRIAN VAIL
COUNCIL MEMBERS:	GRANT BALL
	DON KRIEGER
	DICK KORN
	RICHARD KOHLER
TOWN ADMINISTRATOR:	DOUG HOYT
TOWN CLERK/TREASURER:	DEBBY FRANKLIN
ATTORNEY	KARL BOHNE, excused

C. ACTION ITEMS: Certification of Unofficial Election Results:

Chair directed Clerk to proceed. Clerk said before the election results CM Vail wanted to present Certificate of Appreciation to Mayor Crews for stepping in again to help the Town. CM Vail read and presented Certificate to Mayor Phillip R. Crews.

Franklin explained that on November 8, 2016 there were elections held for Council seats in District 2 and District 3 and two (2) ballots questions for Malabar. These are the UNOFFICIAL election results. The SOE does not provide the OFFICIAL results until November 18. Council seat District 1 was unchallenged and Grant Ball will be sworn in for another term. The Office of Mayor was unchallenged and Patrick T. Reilly will be sworn in for a four (4) year term. District 2, the unofficial report lists Laura Mahoney as the winner. District 3, the unofficial report lists Steve Rivet as the winner.

- Ballot Question 1, binding: Continue participation in Brevard County Law Enforcement MSTU, the unofficial report lists this as approved 88% to 11%.
- Ballot Question 2, binding: Charter change from "at-large" voting to "by district" voting, the unofficial report lists this as approved 63% to 36%.

MOTION: CM Vail / CM Kohler to accept the unofficial Election results. Vote: All Ayes.

Mayor then asked new P&Z Board Member Allen Rice and returning Members George Foster and Bud Ryan to stand and be administered their Oaths.

Franklin then asked Steve Rivet and Laura Mahoney to stand and take their oaths.

Franklin then asked Patrick T. Reilly to stand and take his oath.

D. ADJOURNMENT

MOTION: CM Kohler / CM Korn to adjourn this meeting. VOTE: All Ayes. The meeting adjourned at 7:19 PM.

BY: _____
Mayor Patrick T. Reilly

ATTEST BY:

Debbly K. Franklin, Town Clerk

Date Approved

**MALABAR TOWN COUNCIL JOINT WORKSHOP W/ MALABAR EVENTS COMMITTEE
MEETING
NOVEMBER 17, 2016 7:00 PM**

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

A. CALL TO ORDER:

Mayor Patrick Reilly called the meeting to order at 7:00 pm.

B. ROLL CALL:

COUNCIL CHAIR:	Mayor PATRICK REILLY
COUNCIL MEMBERS:	GRANT BALL LAURA MAHONEY DICK KORN, EXCUSED STEVE RIVET RICHARD KOHLER
TOWN ADMINISTRATOR:	DOUGLAS HOYT, EXCUSED
TOWN ATTORNEY:	KARL BOHNE, EXCUSED
TOWN CLERK/TREASURER:	DEBBY FRANKLIN, EXCUSED
RECORDING SECRETARY	DOROTHY CARMEL

MALABAR EVENTS COMMITTEE MEMBERS:

MEGHAN WOLFGRAM
THERESA SCHENILLI
REBECCA WALDORF

C. DISCUSSION:

General discussion on how Malabar Events Committee was to operate:

- Ad hoc
- Stand Alone
- Part of the Park Board

After much Discussion it was unanimously voted to be an Ad hoc Committee for the upcoming Springfest on March 25, 2017.

Return at a later date to discuss the future of the Malabar Events Committee

J. ADJOURNMENT:

There being no further business to discuss and without objection the meeting was adjourned by the Chair at 8:30PM.

BY: _____
Mayor Patrick Reilly, Council Chair

Dorothy Carmel, Recording Secretary

ATTEST:

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

Date Approved: _____

TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: November 21, 2016

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

SUBJECT: Town Initiated Vacates (Reso 17-2016)

BACKGROUND/HISTORY:

Benefits to Town:

- Clears up survey Discrepancies once and for all.
- Restores the right-of-way lines to the 1914 survey for W. Railroad Ave
- Eliminates a non-conforming 15 foot wide right-of-way (Johnston) that is preventing desirable development along FEC Railroad
- Eliminates the potential dumping of commercial traffic into a high density residential area
- Provides additional buildable property for increased ad valorem potential greater than 10 SFR can provide
- Supports a local business that is an asset to the Town

Response to Statement that the Town does not like "dead-in" roads:

There are 76 DEAD-IN roads within Malabar. The **only** streets that do have cul-d-sacs are located in the Subdivisions: Sugar Pines, Brook Hollow Phase I, Stillwater Preserve, Country Cove, Oakmont Preserve, Rocky Point and Coquina Point. I did not include the roads within the MH zoning.

FINANCIAL IMPACT:

Potential increase of Ad Valorum from \$48. To \$1,013 and additional SW Assessment

ATTACHMENTS:

Reso 18-2016 with Exhibits A, B and C
Supporting Documents

ACTION OPTIONS: Council Action

MOTION:

I move to approve the Town Initiated Vacate of Portions of Johnston and West Railroad Avenue as depicted in Exhibits "A", "B", and "C" of Resolution 17-2016.

RESOLUTION 17 - 2016

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA VACATING AND ABANDONING AN UNDEVELOPED NON-CONFORMING 15 FOOT WIDE RIGHT-OF-WAY MORE PARTICULARLY DESCRIBED IN THIS RESOLUTION AS EXHIBIT "A"; AND AN UNDEVELOPED NON-CONFORMING 35 FOOT WIDE RIGHT-OF-WAY MORE PARTICULARLY DESCRIBED IN THIS RESOLUTION AS EXHIBIT "B"; AND AN UNDEVELOPED NON-CONFORMING 20 FOOT WIDE RIGHT-OF-WAY MORE PARTICULARLY DESCRIBED IN THIS RESOLUTION AS EXHIBIT "C"; PROVIDING FOR FINDINGS AND AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Malabar has determined that providing for these vacates for the overall benefit of the Town. The portions of road rights-of-way being vacated and abandoned are described in Exhibits A, B and C attached hereto; and,

WHEREAS, the Town Council has determined that the portions of the road rights-of-way described herein are of no need to the Town and have never served a public purpose and vacating such road rights-of-way will not be injurious to the public; and

WHEREAS, the Town Council has the absolute legislative right to vacate and abandon these public rights-of-way.

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

Section 1. The above findings in the "WHEREAS" clauses are true and correct and incorporated herein

Section 2. The Town hereby vacates and abandons the following right-of-way:

SEE EXHIBITS "A" "B" & "C" (attached)

Section 3. These vacates and abandonments shall be effective and will be recorded in the Public Records of Brevard County:

Section 4. Effective Date. This resolution shall take effect upon its recording in the Public Records of Brevard County, Florida.

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

Council Member Grant Ball _____
Council Member Laura Mahoney _____
Council Member Steve Rivet _____
Council Member Dick Korn _____
Council Member Richard Kohler _____

EXHIBIT "A"



8

9

7

F.E.C.R.R.

West Railroad Avenue

The following legal description vacates the South 15 feet of the existing Right-of-Way of Johnston Avenue to that certain parcel of land assigned Tax Account Number 2851112 by the Property Appraiser's Office of Brevard County, Florida.

All that portion of the South 15 Feet, as measured perpendicularly to the South Right-of-Way Line for Johnston Avenue, of Lot 18 Block "1" as depicted on the "Map of the Snedeker's Subdivision of the Town of Malabar" as recorded in the Public Records of the Clerk of the Court of Brevard County Florida at Plat Book 01 and Page 97, July 9th, 1912.

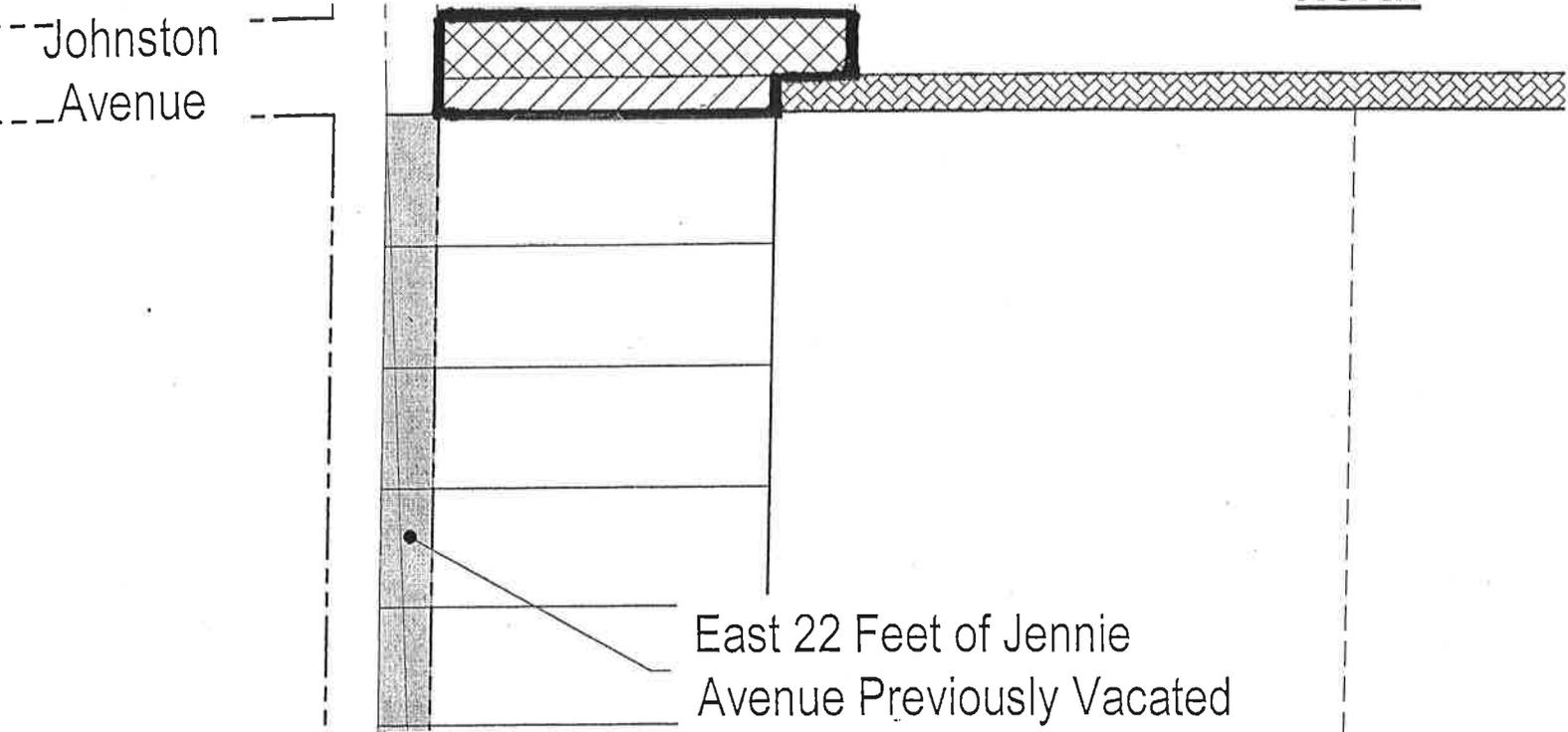
EXHIBIT "B"



North

Jennie Street

Johnston Avenue



East 22 Feet of Jennie Avenue Previously Vacated

Resolution 17-2016

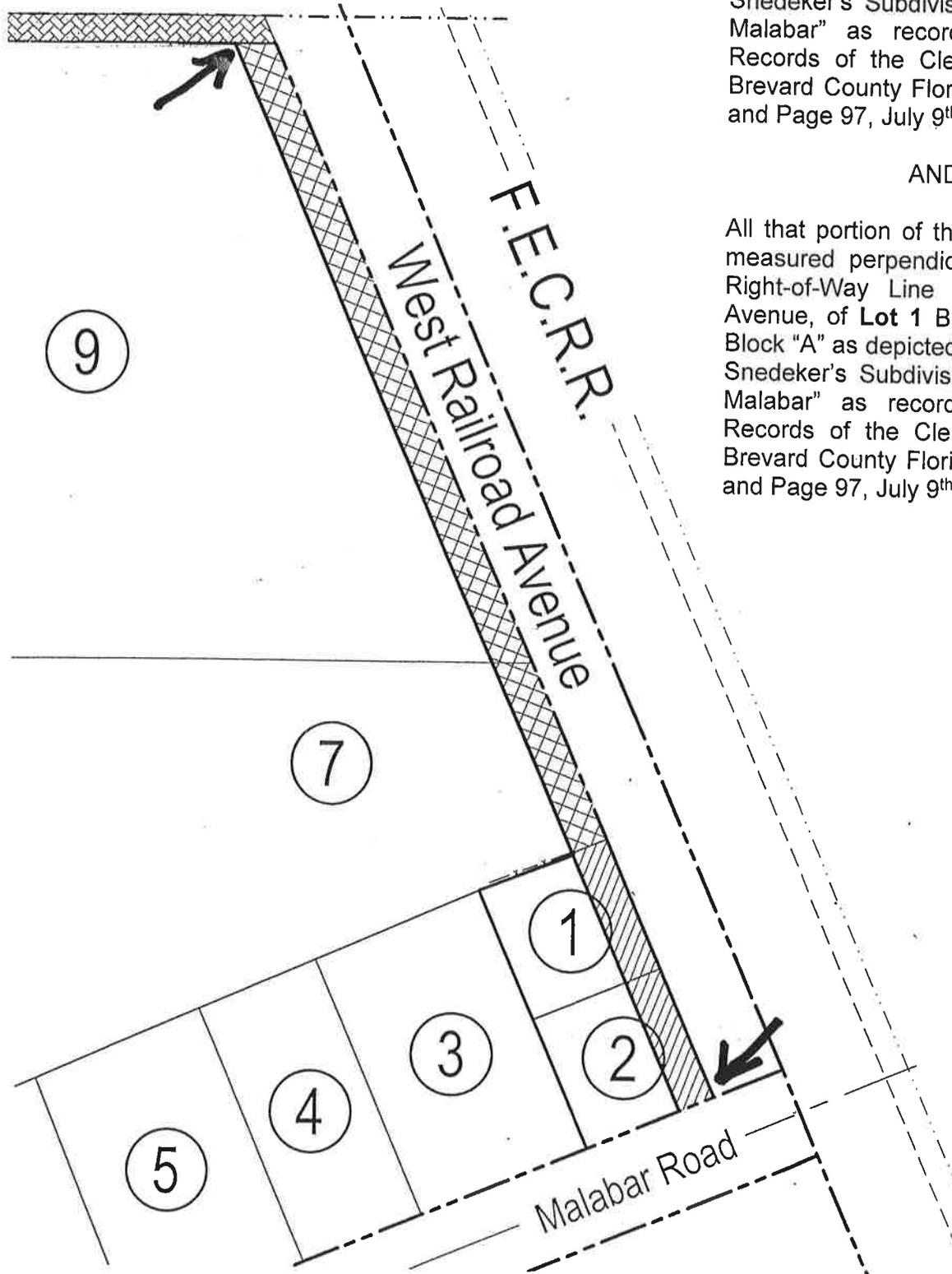
All that portion of the **North 25 Feet**, as measured perpendicularly to the North Right-of-Way Line for Johnston Avenue, of Lot 1 Block "2" as depicted on the Map of the John J. Pollack's Plat as recorded in the Public Records of the Clerk of the Court of Brevard County Florida at Plat Book 02 and Page 26.

AND

All that portion of the **South 15 Feet**, as measured perpendicularly to the South Right-of-Way Line for Johnston Avenue, of Lot 8 Block "A" and Lot 9 of Block "A" as depicted on the "Map of the Snedeker's Subdivision of the Town of Malabar" as recorded in the Public Records of the Clerk of the Court of Brevard County Florida at Plat Book 01 and Page 97, **July 9th, 1912.**

Jennie

EXHIBIT "C"



All that portion of the East 20 Feet, as measured perpendicularly to the West Right-of-Way Line for West Railroad Avenue, of Lot 7 Block "A" and Lot 9 Block "A" as depicted on the "Map of the Snedeker's Subdivision of the Town of Malabar" as recorded in the Public Records of the Clerk of the Court of Brevard County Florida at Plat Book 01 and Page 97, July 9th, 1912.

AND

All that portion of the East 20 Feet, as measured perpendicularly to the West Right-of-Way Line for West Railroad Avenue, of Lot 1 Block "A" and Lot 2 Block "A" as depicted on the "Map of the Snedeker's Subdivision of the Town of Malabar" as recorded in the Public Records of the Clerk of the Court of Brevard County Florida at Plat Book 01 and Page 97, July 9th, 1912.



TOWN OF MALABAR

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

Dear Residents:

TOWN OF MALABAR NOTICE OF PUBLIC HEARING RESOLUTION 17-2016

The Malabar Town Council, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Monday, November 21, 2016 at 7:30 PM or as soon thereafter as the matter can be heard, for a public hearing on the following topic:

TOWN INITIATED RIGHTS-OF-WAY VACATE

The Town Council of the Town of Malabar, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on November 21, 2016 at 7:30 pm for a public hearing on a Town Initiated vacate (Resolution 17-2016) of certain rights-of-way in Section 31, Township 28, Range 38, more particularly described as the eastern 20 feet of Lots 1 and 2 adjacent to Kempfer's Feed Store, 2728 Malabar Road AND the eastern 20 feet of Lots 7 and 9 adjacent to AAA Storage, 2700 Malabar Road. In addition, the Town intends to vacate a 15-foot right-of-way from the western edge of West Railroad Avenue westward for a distance of 545 feet; and a 35-foot wide section for an additional 195 feet westward to the eastern edge of Jennie Street.

Copies of Resolution 17-2016 and drawing of the proposed vacates are available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may appear and be heard at this meeting of the Town Council with respect to these topics. Debby Franklin, CMC, Town Clerk/Treasurer

YOUR ARE RECEIVING THIS NOTICE BECAUSE YOUR PROPERTY LIES IN THE 1000 FOOT RADIUS OF THIS TOWN INITIATED VACATE. MALABAR LAND DEVELOPMENT CODE STATES IN ARTICLE XII, SECTION 1-12-9, THAT A LEGAL AD BE PUBLISHED NOTIFYING THE PUBLIC OF THE COUNCIL INTENT TO ADOPT A REOSLUTION TO VACATE THESE PULBIC REIGHTS-OF-WAY. IN ADDITION, THE CODE STATES THAT THE TOWN "MAY" SEND NOTICES TO PROPERTY OWNERS.



TOWN OF MALABAR
2725 MALABAR RD

MALABAR, FL 32950

STATE OF FLORIDA COUNTY OF BREVARD:
Before the undersigned authority personally appeared Kim Curro, who on oath says that he or she is a Legal Advertising Representative of the Florida Today, a daily newspaper published in Brevard County, Florida that the attached copy of advertisement, being a Legal Ad in the matter of

Legal Notices

Florida Today

as published in Florida Today in the issue(s) of:

11/04/16

Affiant further says that the said Florida Today is a newspaper in said Brevard County, Florida and that the said newspaper has heretofore been continuously published in said Brevard County, Florida each day and has been entered as periodicals matter at the post office in MELBOURNE in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or coporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 4th of November 2016, by Kim Curro who is personally known to me

Ruby Royer

Ruby Royer
Notary Public for the State of Florida
My Commission expires January 30, 2018

Publication Cost: \$108.19
Ad No: 0001708484
Customer No: BRE-6TO207



RUBY ROYER
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF088043
Expires 1/30/2018

AD#1708484 11/4/16

TOWN OF MALABAR
NOTICE OF PUBLIC HEARING
RESOLUTION 17-2016

The Malabar Town Council, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Monday, November 21, 2016 at 7:30 PM or as soon thereafter as the matter can be heard, for a public hearing on the following topic:

TOWN INITIATED RIGHTS-OF-WAY
VACATE

The Town Council of the Town of Malabar, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on November 21, 2016 at 7:30 pm for a public hearing on a Town Initiated vacate (Resolution 17-2016) of certain rights-of-way in Section 31, Township 28, Range 38, more particularly described as the eastern 20 feet of Lots 1 and 2 adjacent to Kempfer's Feed Store, 2728 Malabar Road AND the eastern 20 feet of Lots 7 and 9 adjacent to AAA Storage, 2700 Malabar Road. In addition, the Town intends to vacate a 15-foot right-of-way from the western edge of West Railroad Avenue westward for a distance of 545 feet; and a 35-foot wide section for an additional 195 feet westward to the eastern edge of Jennie Street.

Copies of Resolution 17-2016 and drawing of the proposed vacates are available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may appear and be heard at this meeting of the Town Council with respect to these topics. Debby Franklin, CMC, Town Clerk/Treasurer

E. The petition and all associated documents shall be forwarded to the Building Official for distribution to the appropriate Town staff. Staff shall review the request and determine if any conflict may exist or if there may be any reason that the Town should not grant the request. Written staff comments shall be forwarded to the Building Official within ten (10) working days following receipt of the vacate request.

F. The Building Official shall present the vacate and abandon request and staff comments to the next regularly scheduled Planning and Zoning Board meeting for consideration and recommendation to the Town Council.

G. The request and Planning and Zoning Board recommendation shall be forwarded to the Town Council for authorization to proceed.

H. 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.

I. A courtesy copy of the notice shall be mailed to all property owners identified in subparagraph D. above and to all utility companies serving south Brevard County.

J. Any decision by the Town Council concerning a vacate and abandonment shall be a legislative decision and governed by the fairly debatable standard.

K. 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.

L. The proof of publication of notice of the public hearing, the resolution adopted by the Town Council, and the proof of publication of the notice of adoption of the resolution all shall be recorded in the public records of Brevard County after same has been completed.

M. The Town Council shall establish by resolution the appropriate schedule of fees, charges and expenses and a collection procedure.
(Ord. No. 01-06, § 1, 3-4-02)



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.

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)

https://legacy.bcpao.us/1943Book/jpg/1943_28%203831.jpg



TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: November 21, 2016

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

SUBJECT: Appointment of Mr. Eric Bienvenu as an Alternate Member to Park and Recreation Board for a 3-year term. (Reso 18-2016)

BACKGROUND/HISTORY:

The Board has discussed this and recommended that Mr. Bienvenu be appointed to fill the opening as an Alternate Member to the Park and Recreation Board.

ATTACHMENTS:

Resolution 18-2016 Mr. Bienvenu

ACTION OPTIONS:

Staff requests approval of Reso 18-2016.

RESOLUTION 18-2016

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF ERIC BIENVENU TO THE MALABAR PARK AND RECREATION 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 three seats open on their Park & Recreation 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 Eric Bienvenu as a regular member of the Park & Recreation 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 22, 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 Laura Mahoney	_____
Council Member Steve Rivet	_____
Council Member Dick Korn	_____
Council Member Richard Kohler	_____

This Resolution was then declared to be duly passed and adopted this 21st day of November, 2016.

TOWN OF MALABAR

By: _____
Mayor Patrick T. Reilly

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: Eric Bienvenu TELEPHONE: 321 652 4070
ADDRESS: 2480 Rocky Pt. Road Malabar, FL 32950
EMAIL: eric@smittmt.com

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

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

Business Owner - Auyon Parts

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

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

11/17/16
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.

Debby Franklin

From: Loredana Kalaghchy <lkalaghchy@cityofcocoabeach.com>
Sent: Thursday, November 17, 2016 4:54 PM
To: Wells, Wanda; Amber Boerner (DeputyClerk@Melbournevillage.org); Angela Ferguson - City of Cocoa (aferguson@cocoafll.org); Betsi Beatty Moist (cityclerk@cityofrockledge.org); Carie Shealy (cshealy@cocoafll.org); Cathy Wysor (Cathy.Wysor@MLBFL.org); Daniel LeFever (d.lefever@cityofcapecanaverall.org); Debby Franklin; Deborah Maliska (dmaliska@indianharbour.org); Donhoff, Jolynn; Gail Griswold (townclerk@melbournevillage.org); Gwen Pierce (townclerk@melbournebeachfl.org); Jennifer Small - Town of Indialantic (jsmall@indialantic.com); Jessica Keenan (info@grantvalkaria.org); Joan Clark (jclark@indialantic.com); Kevin McKeown (Kevin.McKeown@MLBFL.org); Leonor Olexa (lolexa@satellitebeach.org); Matt Stinnett; Mia Goforth (m.goforth@cityofcapecanaverall.org); Pat Burke (townhall@townofpalmshores.org); Sherry Cazessus (scazessus@cityofrockledge.org); Sue Frank (SFrank@WESTMELBOURNE.ORG); Sue Krueger (clerk@grantvalkaria.org); Terese Jones (terese.jones@pbfl.org); Terri Lefler (terri.lefler@pbfl.org); Town of Melbourne Beach (deputytownclerk@melbournebeachfl.org)
Subject: RE: City Board

We have had husband and wife teams serve on boards, so long as they are clear about the Sunshine Law.

loredana Kalaghchy, Master Municipal Clerk (MMC) | city clerk | city of cocoa beach | p.o.box 322430 | cocoa beach | fl 32932-2430 | tel: 321.868-3235 | www.cityofcocoabeach.com
E-mails are considered a public record, and are subject to disclosure.

From: Wells, Wanda [mailto:wanda.wells@Titusville.com]
Sent: Thursday, November 17, 2016 4:29 PM
To: Amber Boerner (DeputyClerk@Melbournevillage.org); Angela Ferguson - City of Cocoa (aferguson@cocoafll.org); Betsi Beatty Moist (cityclerk@cityofrockledge.org); Carie Shealy (cshealy@cocoafll.org); Cathy Wysor (Cathy.Wysor@MLBFL.org); Daniel LeFever (d.lefever@cityofcapecanaverall.org); Debby Franklin (townclerk@townofmalabar.org); Deborah Maliska (dmaliska@indianharbour.org); Donhoff, Jolynn; Gail Griswold (townclerk@melbournevillage.org); Gwen Pierce (townclerk@melbournebeachfl.org); Jennifer Small - Town of Indialantic (jsmall@indialantic.com); Jessica Keenan (info@grantvalkaria.org); Joan Clark (jclark@indialantic.com); Kevin McKeown (Kevin.McKeown@MLBFL.org); Leonor Olexa (lolexa@satellitebeach.org); Loredana Kalaghchy; Matt Stinnett (mstinnett@townofmalabar.org); Mia Goforth (m.goforth@cityofcapecanaverall.org); Pat Burke (townhall@townofpalmshores.org); Sherry Cazessus (scazessus@cityofrockledge.org); Sue Frank (SFrank@WESTMELBOURNE.ORG); Sue Krueger (clerk@grantvalkaria.org); Terese Jones (terese.jones@pbfl.org); Terri Lefler (terri.lefler@pbfl.org); Town of Melbourne Beach (deputytownclerk@melbournebeachfl.org); Wells, Wanda
Subject: City Board

Do any of you know if it is considered a conflict of interest for a spouse to serve on a city board if their wife is the recording secretary? Thanks.

Wanda F. Wells, MMC
City Clerk
City of Titusville
P.O. Box 2806
Titusville, FL 32781-2806
Phone (321) 567-3682
Fax (321) 383-5704
Email: wanda.wells@titusville.com

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: MISC 4, 5, 6, 7
Meeting Date: November 21, 2016

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

SUBJECT: Appoint Town Representatives

BACKGROUND/HISTORY:

The Town Council annually appoints members to serve for the following year in these capacities:

3. Bill Reviewer
4. Council Signatory
5. SCLC Delegate and Alternate
6. Space Coast TPO

FINANCIAL IMPACT:

None

ATTACHMENTS:

none

ACTION OPTIONS:

Apoinments for 2016/2017.

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: MISC 8
Meeting Date: November 21, 2016

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

SUBJECT: Appoint Ad Hoc Committee for 2017 SpringFest Event

BACKGROUND/HISTORY:

This has been added after the Joint Workshop held last night (11/17/16)

FINANCIAL IMPACT:

Unknown

ATTACHMENTS:

Minutes from 11/17/16
Email from Attorney Bohne

ACTION OPTIONS:

Council Direction

Debby Franklin

From: kbohne@fla-lawyers.com
Sent: Thursday, November 17, 2016 4:24 PM
To: Debby Franklin
Subject: Events Committee

You have asked me for an opinion concerning the events committee. You advised it has not been officially created by the council, however, there does appear to be some indications that it is acting as an arm of the town. If this is truly an arm of the town and it acts in a capacity which is greater than a fact finding body, it is a sunshine board and there may be issues relating to council members serving on the committee and the council.

A pure fact finding board makes no recommendations, it does not rank potential vendors or proposals and it has no authority to commit funds of the town. If any of these exists it is a sunshine board. a traditional fact finding board gathers data and merely submits it to the town for the town to make a decision. A fact finding board does not recommend or rank.

Karl W. Bohne, Jr.

Schillinger & Coleman, P.A.

1311 Bedford Drive

Melbourne, FL 32940

321-255-3737 Telephone

321-255-3141 Facsimile

Office Hours:

8:30 a.m. to 5:00 p.m. Monday thru Thursday

8:30 a.m. to 12 Noon on Friday

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