

ORDINANCE NO. 2012-52

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY FLORIDA; CALLING AND SCHEDULING AN ELECTION TO DETERMINE IF THE TOWN SHOULD PURCHASE LAND FOR FUTURE TOWN PURPOSES IDENTIFIED IN THE CAPITAL IMPROVEMENT PLAN OF THE TOWN OF MALABAR COMPREHENSIVE LAND USE PLAN, UPDATED IN 2011, MORE PARTICULARLY: A COMMUNITY CENTER, TOWN HALL, RIVERFRONT ACCESS OR FOR OTHER PARK AND RECREATIONAL PURPOSES AS IDENTIFIED IN SAID CAPITAL IMPROVEMENT PLAN; PROVIDING FOR FUNDING OF SAID PURCHASES THROUGH THE IMPOSITION OF AN ADDITIONAL 1 MIL COMMITTED TO SUCH PURCHASES FOR A PERIOD OF TWO YEARS; PROVIDING FOR THE MANNER IN WHICH SUCH ELECTION SHALL BE CONDUCTED; ESTABLISHING THE FORM OF THE BALLOT FOR SUCH ELECTION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes, 101.161 provides for the procedures to submit a public measure to a vote of the electors of a municipality; and

WHEREAS, The Town Council has directed that the electors of the Town should provide direction on future land purchases identified in the Capital Improvement Plan of the Town of Malabar Comprehensive Land Use Plan by funding of said purchases through the imposition of an additional 1 mil for a period of two years beginning in 2013. The 1 mill equals \$1.00 per \$1,000.00 of property value.

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

Section 1. A referendum election is hereby called and scheduled to be held concurrent with the general election on the 6th day of November, 2012, to determine whether the Town should pursue land acquisitions identified in the Capital Improvement Plan of the Town of Malabar Comprehensive Land Use Plan for future Town purposes by funding of said purchases through the imposition of an additional 1 mil for a period of two years beginning in 2013. Such referendum election shall be held and conducted in a manner prescribed by law for all general elections. The place for voting in such referendum election shall be the usual place for voting in the Town in the general election to be held on the 6th day of November, 2012.

The polls shall be open at such voting place on the day of such referendum election during the hours specified by the general laws of the State of Florida. All duly qualified electors residing within the Town shall be entitled to participate in and vote at such referendum election.

Section 2. The ballot to be used at such referendum election shall contain a statement of the proposed subject matter of the question and shall provide facilities for qualified electors to vote for or against land purchases for future land purposes using an additional millage committed to such purchases. Said ballot shall be in substantially the following form:

**Ballot
Town of Malabar, Florida**

Question 1. Purchase Land for Future Town Purposes.

Shall the Town pursue land acquisitions for future Town purposes as identified in the Capital Improvement Plan of the Town of Malabar Comprehensive Land Use Plan by funding of said purchases through the imposition of an additional 1 mil for a period of two years beginning in 2013?

Yes
 No

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

Section 3. The Town Clerk is hereby authorized and directed to instruct the Supervisor of Elections of Brevard County to include the above-described question on the ballot for the general election to be held on the 6th day of November, 2012.

Section 4. Notice of the said referendum election in substantially the form showing in **Exhibit A** to this Ordinance shall be published two times in a newspaper of general circulation according to the laws of the State of Florida. The first publication shall be during the fifth week prior to the week in which the referendum election is to be held and the second publication shall be during the third week prior to the week in which the referendum election is to be held. A minimum of five copies of this Ordinance shall be kept on file in the office of the Town Clerk for public inspection upon demand during normal business hours.

Section 5. If the referendum question is not approved by a majority of the votes cast in such referendum election Ordinance No. 2012-52 shall be deemed repealed without any further action of the Town Council.

Section 6.

This Ordinance shall take effect immediately upon its adoption.

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

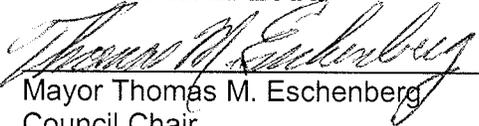
Council Member Carl Beatty	<u>Aye</u>
Council Member David White	<u>Excused</u>
Council Member Steve Rivet	Excused
Council Member Jeff McKnight	<u>Aye</u>
Council Member Marisa Acquaviva	<u>Aye</u>

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Passed and adopted by the Town Council, Town of Malabar, Brevard County, Florida this 16th day of April, 2012.

**BY:
TOWN OF MALABAR**



Mayor Thomas M. Eschenberg
Council Chair

First Reading: 3/19/2012
Second Reading: 4/16/2012

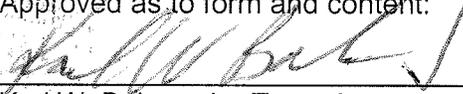
ATTEST:

By 

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

(Seal)

Approved as to form and content:



Karl W. Böhne, Jr., Town Attorney

**Exhibit A
NOTICE OF REFERENDUM ELECTION
TOWN OF MALABAR, FLORIDA**

Public notice is hereby given that on November 6th, 2012; the issue of whether the property owners in the Town of Malabar shall pay an additional 1 mill for the purpose of purchasing land for future Town purposes as identified in the Capital Improvement Plan of the Town of Malabar Comprehensive Land Use Plan more particularly: a community center, town hall, riverfront access or for other park and recreational purposes as identified in said capital improvement plan commencing in the year 2013 and continuing for a two year period will be submitted to the qualified electors of the Town of Malabar and will appear on the same election ballot as a referendum on that date as one separate ballot question.

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

AS TO QUESTION 1.

Shall the Town pursue land acquisitions for future Town purposes as identified in the Capital Improvement Plan of the Town of Malabar Comprehensive Land Use Plan by funding of said purchases through the imposition of an additional 1 mil for a period of two years beginning in 2013?

Yes
 No

The places of voting shall be the usual places of voting in the Town of Malabar during the general election scheduled on November 6th, 2012 and the polls shall be open from 7:00 a.m. to 7:00 p.m. on the said date. All duly qualified electors residing within the Town of Malabar shall be entitled to participate and vote in said referendum election.

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

**Ballot
Town of Malabar, Florida**

Question 1. Purchase Land for Future Town Purposes.

Shall the Town pursue land acquisitions for future Town purposes as identified in the Capital Improvement Plan of the Town of Malabar Comprehensive Land Use Plan using by funding of said purchases through the imposition of an additional 1 mil for a period of two years beginning in 2013?

Yes
 No

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

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