

ORDINANCE 2016-01

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

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

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

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

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

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

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SECTION 1. Ordinance 2014-09 is hereby repealed.

SECTION 2.

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

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

SECTION 3.

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

**Ballot 2016
Town of Malabar, Florida**

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

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

Yes
 No

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

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

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

Yes
 No

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

SECTION 4.

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

SECTION 5.

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

third week prior to the week in which the referendum election is to be held. A minimum of five copies of this Ordinance shall be kept on file in the office of the Town Clerk for public inspection upon demand during normal business hours.

SECTION 6.

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

SECTION 7.

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

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

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

Excused
Aye
Aye
Aye
Aye

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

Town of Malabar
Phillip R. Crews
Mayor Phillip R. Crews, Council Chair

1st Reading: June 15, 2016
2nd Reading: July 18, 2016

ATTEST:

Debby K. Franklin
Debby K. Franklin
Town Clerk/Treasure (Seal)

Approved as to Form and Content
Karl W. Bohne, Jr.
Karl W. Bohne, Jr., Town Attorney

EXHIBIT A

Town of Malabar Language of Proposed Charter Changes

(In all cases, words crossed out with ~~strike-through~~ are to be deleted and words underlined are to be added.)

REFERENDUM QUESTION:

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

“Sec. 2.02. - Composition.

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

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

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

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

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

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

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

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

**2016 Ballot
Town of Malabar, Florida**

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

Yes
 No

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

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

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

Yes
 No

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

For further information regarding this referendum election, contact the Town Clerk of the Town of Malabar. A minimum of five copies of this Ordinance are on file at the office of the said Town

Clerk at Town Hall, 2725 Malabar Road, Malabar, Florida, 32950, and are available for inspection upon request during normal business hours.