



Town of Melbourne Beach

REGULAR TOWN COMMISSION MEETING
WEDNESDAY, JANUARY 16, 2019
6:30 pm
COMMUNITY CENTER – 509 OCEAN AVENUE

MINUTES

Mayor Jim Simmons
Vice Mayor Wyatt Hoover
Commissioner Steve Walters
Commissioner Sherri Quarrie
Commissioner Corey Runte

Town Manager Robert Daniels
Town Clerk Nancy Wilson
Finance Manager Elizabeth Mascaro
Town Attorney Clifford Repperger

PUBLIC NOTICE

The Town Commission conducted a Regular Town Commission Meeting
on Wednesday, January 16, 2019 to address the items below.

I. Call to Order – Led by Mayor Simmons

Mayor Simmons called the meeting to order at 6:30 p.m.

II. Roll Call

Town Clerk Wilson conducted the roll call.

Commissioners Present:

Mayor Jim Simmons
Vice Mayor Wyatt Hoover
Commissioner Steve Walters
Commissioner Sherri Quarrie
Commissioner Corey Runte

Staff Present:

Town Manager Bob Daniels
Finance Manager Elizabeth Mascaro
Town Clerk Nancy Wilson
Town Attorney Clifford Repperger

III. Pledge of Allegiance and Moment of Silence

Led by Mayor Simmons

IV. Presentations

1. MBVFD Inc. presentation of donation to the playground fund

Jim Turner, president of the Melbourne Beach Volunteer Fire Department, was made aware of a need for funds to build a new playground in Ryckman Park. The MBVFD decided to donate the proceeds from their pancake breakfast to the Town for this effort. A check was presented to the Commission in the amount of just over \$1,000.

Mayor Simmons commented that he liked the new route for the parade and heard favorable comments from other residents. Likewise, it was impressive how orderly and how many people they were able to serve at the pancake breakfast. Commissioner Walters suggested we somehow incorporate a fire engine in the playground equipment.

2. Alan Ross from Rotary presenting Special Event Permit application for a music festival to be held on March 2, 2019

At the January 9th Workshop, Alan Ross from the Rotary Club, asked the Town to consider allowing him to host an event in Ryckman Park. They said they'd readdress the issue at the following meeting at which time a special event permit application would have been submitted. Mr. Ross and his wife sponsor music festivals in order to give back to their communities. They pay for the bands but need a venue and this year they thought Ryckman Park would be the ideal location. Last year they had 230 attendees and raised almost \$7,000. This year, Mr. Ross hopes to attract 1,000 attendees. If approved, they are going to look for local sponsors to offset associated costs. The Rotary Club will have a beverage setup where beer will be served and they will provide the necessary insurance.

- Ticket price is \$25; between 10-18 years is \$10 and under 10 years is free

- Ticket sales would be limited to 1,000 people
- The 3 charities to which the profits will be donated are 40% to *Guitars for Vets*; 40% to Ryckman Park playground equipment and 20% to *Genesis House*. Rotary will oversee the distribution of proceeds
- The event will run from 11am – 9pm though setup will begin at 9am and cleanup will end at 11pm
- The performers include *Highway One*, Jimmy Buffet style; *Southern Drawl Band*, country/folk/blue grass; a rock band will also play
- The event will be called the *2nd Annual Southern Squall*

Vice Mayor Hoover made a motion to approve the special event permit application for the 2nd annual Southern Squall Music Festival to be held from noon-9pm on March 2nd; Commissioner Quarrie seconded. Motion carried 5-0.

V. Boards and Committees

Quarterly Departmental updates– Public Works

Public Works Supervisor Tom Davis passed out a cost breakdown on projects showing how much money they have saved over what was allocated for those projects.

Mr. Davis said his employees - Brian Vickers, Sean Hasner and Greg Schafer - work really well together and they have mutual respect for each other. They know each other's strengths and weaknesses which has helped streamline projects and activities. All 3 Public Works employee are now trained in traffic control.

Among the lengthy lists of accomplishments and upcoming projects:

- What remains for the pavilion to be completed is the electrical work which he decided should be outsourced so it will be to code which it isn't now.
- Disassembled and rebuilt porch in front of Ryckman Park bathrooms
- Removal and rehabilitation of old pier entrance sign
- Handled all decorations for Christmas with some help from some residents; received nothing but positive feedback.
- Ocean Park building has been painted; repaired shower by boardwalk utilizing less expensive PVC fittings
- Evaluated the tops over the tables at Ocean Park that are dangerously loose from insect infestation. The shingles don't wear well – maybe metal
- At Ocean Park, the sea grapes have grown so much the ocean isn't visible. DEP will issue 2 permits in one year to bring them to manageable level. The clearing will be contracted out and will include trimming the palms on Ocean Avenue
- Ryckman House has a new roof. During installation, rotted wood was encountered which Public Works replaced. Getting an estimate for the Community Center roof

- Ongoing project is the playground, all major components are up. The remaining parts are being ordered which will make the playground consist of about 95% new equipment. 150 yards of appropriate playground mulch was delivered and will be spread on January 19th
- March is the expected time for delivery of the new toddler playground equipment; it will be completely installed by GameTime. They will apply a rubber coating to the decks of this equipment
- Next major project beginning early February will be crossovers at Avenues A&B

The Public Works Supervisor's vision is to get a handle on major projects so that by October 2019, the department will be proactive and not reactive. He believes their budget is right on target for the year.

With the money that his department has saved, he'd like the Commission to consider buying a new Gator vehicle for Public Works. Their current utility vehicle is 11 years old and they've tried to restore it but the parts are obsolete. In the near future, Mr. Davis will bring forward a request to spend \$10,000 to buy a new utility vehicle.

Commissioner Walters asked if there is a mermaid in the new equipment – nobody knew but it will be looked into.

Vice Mayor Hoover said he appreciated the detail in the Public Works Supervisor's reports. With that detail, he is able to better respond to residents' questions. He then asked if there is an electric model of utility vehicle we could purchase. Mr. Davis said he has reviewed them and though they have come a long way, the gas powered one offers tow capability.

Commissioner Runte thanked the Public Works Supervisor and said the good work is obvious around Town.

Commissioner Quarrie asked about the electric at the pavilion and if we could add more power. The Public Works Supervisor said we have the capability to supply 8 20amp supplies which is adequate for any event we'd want to hold. The electrician said we should use heavy duty extension cords instead of receptacles on the ceiling. The current GFI's will be replaced with new ones.

Mayor Simmons said that in the Public Works report, it was stated that the irrigation repairs on Andrews have been problematic. Last month, the Town Manager was asked to get waivers from the residents; has that been done? Town Manager Daniels said he is working on the waivers whereupon the Mayor asked if he will go door-to-door with them and when he anticipated that the task will be completed. Town Manager Daniels responded that it will be completed within two weeks and he will work with the Public Works Supervisor to get the job done.

The Commission members again commended the Supervisor and the work performed by his department.

In conclusion, Mr. Davis said his guys take a lot of pride in their work and it shows.

VI. Public Comments (00:41:56)

John Tanner

321 Hibiscus Trail

Mr. Tanner said he was initially going to talk about the speeding issue in Town but there are a couple things going on regarding social media. He said this time of year with all the extra people in Town, there seems to be a non-stop flow of traffic which has been exacerbated by the closing of Riverside and Andrews and residential construction. People are speeding out of frustration. *Nextdoor* has suggestions regarding speed bumps, police rotations and the writing of more tickets. Regarding golf carts, Mr. Tanner hopes we move forward cautiously; it's naïve to think we are ready to have those in Town.

The Mayor told Mr. Tanner that we are going to be discussing golf carts at the February 20th meeting. Vice Mayor Hoover added that on February 27th, the Transportation Planning Organization will be meeting.

Mr. Tanner asked about having the Chief of Police attend the meetings. He asked if some residents could meet with her to better understand how they rotate their cars and how we can protect our kids and grandkids. The Town Manager said Mr. Tanner's suggestion to have a meeting was a good one. We have a very proactive Chief who likes to be out in the community meeting people. He said we can put something together.

Greg Schaefer

208 Fir Avenue

Mr. Schafer said as the Commission knows, 6 months ago his son lost his mother. Prior to the Christmas Tree Lighting event, Mr. Schafer asked if his son could light the tree which was agreed to. He wanted to thank everybody involved because it meant the world to his son.

VII. Approval of the Agenda (00:51:10)

Vice Mayor Hoover made a motion to approve the agenda with the addition of the FDEP Resiliency Grant under New Business – D; Commissioner Quarrie seconded. Motion carried 5.0.

VIII. Consent Agenda (00:51:47)

- A. Site Plan Review for 444 Sandy Key, Melbourne Beach
- B. Site Plan Review for 404 Sixth Avenue, Melbourne Beach
- C. Brevard County Sheriff's Office Mutual Aid Agreement 2019-2021

Commissioner Walters made a motion to approve the Consent Agenda as presented; Commissioner Runte seconded. Motion carried 5-0.

IX. Public Hearings

No Public Hearings

X. Old Business

No Old Business

XI. New Business (00:52:33)

- A. Consideration of December 19, 2018 Regular Town Commission Meeting draft minutes as amended – Town Clerk Wilson

Vice Mayor Hoover made a motion to approve the minutes as amended; Commissioner Quarrie seconded; Motion carried 5-0.

- B. Consideration of Resolution 2019-01 endorsing the East Coast Greenway Route through Melbourne Beach – Town Manager Daniels

Mayor Simmons said this resolution simply designates existing bike routes. Commissioner Quarrie asked that *equestrian* be removed from the third *whereas* because it doesn't apply in Melbourne Beach.

Commissioner Quarrie made a motion to adopt Resolution 2019-01 endorsing the East Coast Greenway Route through Melbourne Beach striking the word *equestrian*; Commissioner Runte seconded. Motion carried 5-0.

- C. Consideration of Indian River Lagoon Interlocal Agreement – Town Manager Daniels

The Town Manager said this is an agreement that didn't make it to us in 2017. He said it's a standard agreement stating that the Town would get credits that deal with the nutrients in our water and certain allowances. Mayor Simmons said the agreement looked familiar to him so he did some research and found that we got an email back in May that referenced an earlier email asking us to take action on this and another email in November referencing the same agreement. He asked why we hadn't already addressed this. Town Manager Daniels said he didn't know why he hadn't seen the previous emails. The Mayor said we almost fell out of the loop and if that had happened, we wouldn't have been entitled to any of the available dollars. The Mayor was concerned that something this important would slip through the cracks. That's why he is concerned about the due dates for the comprehensive plan update.

Vice Mayor Hoover commented on the importance of documenting calls and emails.

Mayor Simmons explained that this agreement relates to the credit sharing from the half cent sales tax and how it's disbursed to the various municipalities based on population.

Vice Mayor Hoover made a motion to approve the Indian River Lagoon Interlocal Agreement; Commissioner Quarrie seconded. Motion carried 5-0.

D. Consideration of Florida Department of Environmental Protection Resiliency Grant – Town Manager Daniels

Town Manager Daniels said that the Vice Mayor has been involved with pedestrian and bicycle planning matters. We have worked in partnership with the East Central Florida Regional Planning Council (ECFRPC) and the Town Manager is requesting authorization to apply for the DEP resiliency grant which requires no match. The grant application is due on February 4th and a lot of the work has already been done.

*John Tanner
321 Hibiscus Trail*

Mr. Tanner asked for an explanation about the pedestrian/bike path. Vice Mayor Hoover said he brought this matter to Indialantic as a way to collaborate with them. He said we have needed upgrades for stormwater and pedestrian infrastructure. From a town planning perspective, when things can be done that signal to drivers that pedestrians are in an area or frame the roadway so that it appears narrower, roadways become safer for those travelling on foot. Since Indialantic does not want sidewalks, we are taking a bigger picture approach by applying for a grant to get funding to hire an urban planner who specializes in pedestrian infrastructure. We would be presented with a range of options.

This grant has nothing to do with the smell coming from the Indian River. The smell is coming from the dead seagrass when we have a westerly wind.

Commissioner Runte made a motion to move forward with the FDEP Resiliency Grant as presented; Commissioner Quarrie seconded. Motion carried 5-0.

XII. Staff Reports (01:06:10)

A. Town Attorney Report

Town Attorney Repperger discussed the ongoing Florida Retirement System (FRS) issue. He had sent an email to the Commission members just prior to the meeting that includes correspondence that summarizes where we are. He and Finance Manager Mascaro have been working with FRS and have had a number of communications with FRS representatives. There were 3 findings in the audit. The first finding has to do with past Town Managers and their non-participation in FRS.

The second finding has to do with Town Manager Daniels and his position as a non-participant in FRS and his receipt of benefits as a retired participant in FRS. The third finding is a technical finding related to the grouping of reported leave.

Finding #1: Regarding the first finding and the past Town Managers' and their non-participation in FRS, which was the biggest concern, it looks like there is a positive resolution. Staff provided information to FRS indicating the prior Town Managers' desire to opt out of FRS; you can opt out if you fall in a senior management level classification. The Bureau Chief that handles that issue has confirmed with us that they are inclined to accept that those members opted out of FRS. The Town, however, has to provide documentation regarding the contributions that would have been made and the reporting of those contributions but there will be no financial consequence and no penalty. Hopefully, we will have confirmation by the next meeting. The Town Attorney said that upon hiring anybody else, the administrative head has the option of participating in FRS or opting out. Town Attorney Repperger then gave some background information about when we first opted to go with FRS in 2006.

Finding #2: This relates to our current Town Manager, Mr. Daniels, and his previous retirement benefit. He retired from FRS in July 2017 and began drawing benefits at that time. He was hired by the Town within the 6 month look-back window for retirement benefits from FRS. Because of that fact and Mr. Daniels' intention not to be part of FRS, he drew down benefits until the audit finding in November 2018. The Bureau of Retirement that handles contributions has reinstated Mr. Daniels as an active member of FRS as if he never retired; he has since filed form SMS-3 to opt out of FRS. His retirement benefit has been terminated and the Bureau of Retirement Calculations is seeking \$42,551 from Mr. Daniels in paid retirement benefits that has to be refunded because the retirement was terminated. Mr. Daniels can file an administrative petition within 21 days of receiving the notice.

Finding #3: This technical finding will be resolved consistent with the audit findings. Town Manager Daniels said that over and above the \$42,551 he owes to FRS, another consequence of this is \$3,000/month of lost retirement. All he did was accept a job that he didn't know was in FRS so he's hoping to receive help from the Town. Mayor Simmons asked what he is looking for but since he just received the letter, Mr. Daniels said he doesn't know yet. Mayor Simmons said that where the interests of the Town diverge from the interests of Mr. Daniels, he has to recognize that Mr. Repperger is our attorney and he can't represent both sides. The Town Manager said this was an action that came out of his employment with the Town and he's just asking for cooperation; the Mayor said he has no problem cooperating. Finance Manager Mascaro said this was a very complicated issue and our Town Attorney was able to handle it without hiring outside counsel who specializes in such matters. He most likely saved the Town tens of thousands of dollars.

B. Town Manager Report

The Town Manager said we have a lot of volunteer activities coming up. Sea oat planting is scheduled for February 9th. There will be another meeting regarding our comprehensive plan on April 24th and the survey provided by the East Central Florida Planning Council has been posted on our website.

C. Town Clerk Report – no report

D. Departmental Reports:

1. Public Works Department – report given under *Boards and Committees*
2. Building Department – no comments or questions
3. Code Enforcement – Commissioner Walters recounted a situation years ago when a resident refused to abide by our Code and fines accumulated to over \$200,000. The Town Commission at the time ultimately settled for \$400. The same person, at the last Code Enforcement Board meeting, cost us \$1,000. Mr. Walters said that if we are going to impose fines, we should collect them. Helping a resident didn't do the Town any good. Mayor Simmons attended that meeting many years ago and gave his input. Commissioner Runte asked if there's a threshold that triggers further action. Town Manager Daniels answered that the violator is given a certain period of time to come into compliance which is up to the Code Enforcement Board but is usually about 30 days. After that period of time, a fine is assessed.

Mayor Simmons would still like a code enforcement report that shows how we are doing instead of the seemingly random numbers provided on the current report. Commissioner Quarrie asked about 415 Sixth. Town Manager Daniels said there has been an ongoing stop work order since they have been working without permits; the fine has been accruing at \$75/day. The homeowners have ignored all of our requests regarding permits. The house has been in foreclosure for 6 years and there are renters coming and going; the house can't be sold but it can be rented.

4. Police Department – Commissioner Quarrie recounted a reckless driving incident on December 29th and commented that it was amazing that nobody was hurt or killed. She thanked Sgt. Dovale and our police department. Commissioner Walters asked if all the officers have gone to active shooter training - they all have except the newest officer. He asked the Town Manager to define *call for service* and to get an explanation about how that information is compiled.
5. Fire Department – Commissioner Quarrie asked if Acme barricades was recognized for their contribution of cones. Town Manager Daniels said he will find out.
6. Finance Department - Mayor Simmons said he asked the Finance Manager about something in her report that read, *The Finance Department has a 75.9% expenditure rate for Professional Services - This line item has been completely expended.* That sounds ominous but it only means that was the only expense for

this year and it totaled 75.9% of the budgeted amount. She was asked to rephrase that in the future.

Commissioner Quarrie asked about the 201% for Code Enforcement. Finance Manager Mascaro answered that the postage budget was exceeded because we've sent out so many certified letters. That figure will be adjusted in next years' budget. Also, she was charging our Town Attorney's time against the Code Board instead of against Professional Services; the amount budgeted is for a Code Board attorney. Also, law enforcement holiday pay was underestimated in 2018. We pay in arrears for holiday pay so it was paid in 2019.

Vice Mayor Hoover asked the Town Manager if he'd looked into the grant opportunity for high visibility enforcement for pedestrian/bicycle safety. Town Manager Daniels said he will follow up with Chief Griswold.

XIII. Town Commission Comments

A. General Comments

Commissioner Quarrie wanted to make everybody aware of several bald eagle sightings. She put together a map of where/when the bald eagles had been sighted and passed them out. No nesting material has been seen yet. She asked that something be put on our website and facebook page about these sightings and whom to call if they are spotted.

Commissioner Walters asked the Town Manager about cell tower reception. The Town Manager called ATT and Verizon and they are supposed to send him their coverage schematics. At this point, they don't have any new towers planned. Vice Mayor Hoover described power boosters that emit a 5G signal for a 100-yard radius. This would be a better solution for us. It's also possible that our tower could be updated.

Commissioner Runte said there's a house facing Miami Road and they park on Riverside; he feels that's a liability and asked the Town Manager to check into it.

Mayor Simmons said the League of Cities is emphasizing social media training adding that there can be tremendous liability if its use is not properly preserved.

There was consensus that sky lanterns or luminaries are illegal.

Mayor Simmons said that he read in the January 9th workshop minutes that the Town Manager mentioned paving the parking lots at the crossovers. He's pretty sure that if we do that, we'll have to become ADA compliant.

The Mayor also asked about performance reviews saying that they should be completed annually. The Town Manager said he has not performed any performance reviews. The Mayor stated that the Town Manager, who has been here for 14 months,

is in violation of the Town policy . The Commission directed that these be completed not later than April 2019.

B. Review of Commission Action List (02:00:08)

4 new items

- Set up resident meeting with Police Chief regarding speeding issues, traffic, etc.
- Employee performance reviews, completed no later than April 30th
- LED Conversion Plan
- Road Repaving Plan

1 closed item

- Pothole at Ocean Park

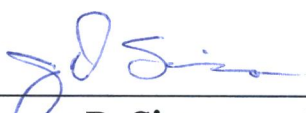
19 updated items

XIV. Adjournment

Meeting adjourned at 9:04 pm

Vice Mayor Hoover made a motion to adjourn; seconded by Commissioner Quarrie. Motion carried 5-0.

ATTEST:



James D. Simmons, Mayor



Nancy Wilson, Town Clerk