

**Town of Melbourne Beach**  
**REGULAR TOWN COMMISSION MEETING**  
**JANUARY 19, 2022 at 6:00 p.m.**  
**COMMUNITY CENTER – 509 OCEAN AVENUE**

**MINUTES**

**Commission Members:**

Mayor Wyatt Hoover  
Vice Mayor Joyce D. Barton  
Commissioner Sherrie Quarrie  
Commissioner Corey Runte  
Commissioner Marivi Walker

**Staff Members:**

Town Manager Elizabeth Mascaro  
Town Attorney Cliff Repperger  
Town Clerk Jennifer Torres

## **1. Call to Order**

Mayor Hoover called the meeting to order at 6 p.m.

## **2. Roll Call**

Town Clerk Torres conducted the roll call

### **Commission Members Present**

Mayor Wyatt Hoover

Commissioner Sherrie Quarrie

Commissioner Marivi Walker

### **Commissioner Members Absent**

Vice Mayor Joyce Barton

Commissioner Corey Runte

### **Staff Members Present**

Town Manager Elizabeth Mascaro

Town Clerk Jennifer Torres

Finance Manager Jennifer Kerr

Town Attorney Clifford Repperger

Public Works Director Tom Davis

## **3. Pledge of Allegiance**

Mayor Hoover led the Pledge of Allegiance

## **4. Public Comments**

After being acknowledged by the Mayor, members of the public should state their name and address for the record. The Commission encourages citizens to prepare their comments in advance. Each individual will have three (3) minutes to address the Commission on any topic(s) related to Town business not on the Agenda.

## **5. Approval of the Agenda**

Due to the excused absence of Vice Mayor Barton, her item under New Business 9-A, Consideration of Proclamation to Recognize Human Trafficking Awareness Month, will

be taken of the agenda and postponed until the February RTCM. Mayor Hoover requested that Item 6-D under the Consent Agenda, Site Plan Approval for 419 Avenue B, be removed from the Consent Agenda and set under New Business 9-A, replacing the former item. He stated that information had come to his attention that required further discussion related to this site plan.

**Commissioner Quarrie moved to approve the Agenda with the changes noted; Commission Walker seconded; Motion carried 3-0.**

## **6. Consent Agenda**

- A. Approval of December 15, 2021 RTCM Draft Minutes
- B. Site Plan Approval for 407 3<sup>rd</sup> Avenue

**Commissioner Quarrie moved to approve the Consent Agenda as edited; Commissioner Walker seconded; Motion carried 3-0.**

## **7. Old Business**

- A. Approval of tentative S.E.A. Project F/K/A Beautification Project Vision Statement  
– Town Manager Mascaro

During the recent workshop, Town Manager Mascaro said, the Commission decided the term “beautification” did not cover all aspects of what the Town wanted the project to encompass and express. Melbourne Beach resident, Neil Tompkins who attended the workshop, has since assisted with preparing a new vision statement which states – “The vision of this project is to sustain the Town’s character while addressing its needs.” Resident, Alison Dennington, who also attended the workshop, came up with the acronym S.E.A. to stand for Safe, Environmental and Ecological and Attractive and Accessible. Town Manager Mascaro asked the Commission for approval of this vision statement, so they can move forward with the concept and go to the next step in the process which would include contacting other agencies.

**Commissioner Quarried moved to approve the vision statement and go forward with the project; Commissioner Walker seconded; Motion carried 3-0.**

Town Manager Mascaro thanked Mr. Tompkins and Ms. Dennington for their contributions.

## **8. New Business**

- A. Site Plan Approval for 419 Avenue B

Mayor Hoover said the reason he requested this site plan was taken off the consent agenda was due to some significant irregularities in the process and in the way the information was presented. Work has begun on the project because of an

inappropriately approved tree removal permit. As a result the current site plans do not reflect what the site currently looks like. There is a concern related to subverting the authority of the Commission to have oversight over building project approval.

Mayor Hoover asked Town Manager Mascaro to explain the situation.

Town Manager Mascaro introduced Robert Bitgood – who will serve as the new Building Official. She recently accompanied him to look at the site. They pulled the plans and assessed what happened. In the past the Building Department has issued tree removal permits prior to the Commission reviewing site plans. That process has now been changed. Nothing should be done to any property without advance Commission approval. The process will now include a site plan visit and a survey of the tree line.

Further discussion ensued.

The next concern was the interpretation of the code based on what was done. There has been citizen concern over the removal of trees. She had conversations with the Town Attorney and recommends the Commission fine tune the code.

Town Attorney Repperger said there was a tree removal permit filed – although it did not articulate the basis for why the trees were removed. Under Section 9-A which deals with tree removal – provides the reasons why trees can be removed. He reviewed them.

In this case, the site plan that's submitted is code compliant – although the separate application for tree removal does not state the rational – which is a required element – but he would assume they were in the buildable area.

He explained that while the Commission may disagree with a site plan – if it is code compliant – they can voice opinion but they can't deny it just based on that opinion.

Mayor Hoover said the tree removal permit was improperly approved given the criteria provided.

From a process standpoint moving forward, Mayor Hoover said there must be a reason listed for the removal of each tree.

He went on to say that it's important to preserve the mature trees in Town because they serve an important purpose. A mature Oak tree – such as the ones removed on this property – have a root system that provides a habitat. They also help with stormwater percolation, and create less runoff into lagoon – in addition they assist the environment with a process known as transpiration. From an erosion standpoint, a mature root structure is very beneficial to the community.

He said trading trees for swales is counterproductive. His suggestion is to include items A-D from the tree permit which lists the circumstances under which trees can be removed - in a building site review.

Town Attorney Repperger said if there is a tree permit and a site plan approval coming in together – they should move together. If staff had seen this many trees being removed on this particular site plan they would have required them to submit a tree removal permit.

Some discussion ensued as to site plan reviews vs. tree permits and the Town Attorney said in this case – the rationale for the tree removal was not indicated – but it's safe to assume they were in the buildable area.

Commissioner Quarrie went over a few details of the original paperwork – and said it does reference the fact that new construction is the reason they wanted to get rid of the trees. The failure was to bring together the drainage information and the percolation information in order to save the trees. Instead they bulldozed over them and put in a swale.

Town Attorney Repperger said the current tree permit removal does not give the applicant an opportunity to adequately describe the circumstances of the removal.

Mayor Hoover said in regard to “no net loss” – two hardwoods does not comply and he asked the Town Attorney if they can say that and send it back to applicant to cure.

Town Attorney Repperger said the Commission could say - We want the applicant to explain or demonstrate why there is no net loss here – or in the alternative modify the plan to include the concept of no net loss.

Commissioner Walker asked for clarification on the process. Town Attorney Repperger said if the site plan is code compliant, the Commission cannot deny the plan based on its own judgement. However, asking for clarification or a reworking of the plan based on noncompliance is permissible. Replacement being sufficient is a different issue – and the Commission can ask about that.

The Town Manager asked if they can they put in place – stronger language based on tree age, height, etc.

Mayor Hoover said the code needs to have some specificity over what trees should be protected.

He went on to make the suggestion that they add this site plan and issue to the workshop next month to address, clarify and streamline the intent of the code as it pertains to the building process and amend the tree removal application to include the language in the code, individual articulation of each tree removed. He suggested they

table this site plan and give the owner the opportunity to identify with how they are moving forward with respect to mitigation of their tree removal permit and how they will comply with no net loss.

Commissioner Quarrie added – and also that they cannot do anything further to the lot.

Town Manager Mascaro said she does not consider the builder to be at blame – their intent was not to subvert the process. The current situation is more a factor of the current building process in place at Town Hall.

Commissioner Quarrie wondered by the Planning & Zoning Board did not catch this. She added she had every confidence in the Chairman but questioned what happened.

Mayor Hoover said Planning & Zoning and Board of Adjustment are volunteers serving these roles and perhaps they need to have more training and resources from Town Hall.

**Commissioner Quarrie moved to table the application of 419 Avenue B and to require the owner/builder to demonstrate the mitigation associated with the tree removal application and compliance with the no net loss requirements in 9A6-B2; Commissioner Walker seconded; Motion carried 3-0.**

B. Consideration of updating the Town Code of Ordinances to include a Definition of Kitchen - Town Manager Mascaro

The Commission was presented with a definition of the term “kitchen” which was formulate by the Planning & Zoning Board for consideration of inclusion in the Town Code.

The definition read:

*Kitchen means any indoor room or area containing all of the following equipment,: Sink and/or other device for dish washing, stove or other device for cooking, refrigerator or other device for cool storage of food, cabinets and/or shelves for storage of equipment.*

Town Manager Mascaro explained that the Planning & Zoning Board felt it was important to define “kitchen” in the code in an effort to help prohibit single-family residences from turning into multi-family units.

Commissioner Quarrie said she felt the definition was good – however they must be careful about granny suites. This is a tax relief for those with elderly parents who live with them. These suites may include kitchens and the definition should state that these granny suites are exempt.

Mayor Hoover said he feels that the definition will have the effect desired because there is no way to regulate it. He pointed to the inclusion of the wording – “or other devices” which he felt is vague.

He went on to say that for the expense it would take to modify the code – some additional research for specific ways they can identify what they are trying to prohibit through the inspection process would need to occur. In addition, there would need to be a lot for specificity as opposed to using the language “and other devices.”

Commissioner Walker said she does not see the problem with a second kitchen in the house. If her mother came to live with her – she would want to add another sink, etc. Multi-generational living is life right now.

Commissioner Quarrie said she understands the intent Planning & Zoning had.

Town Attorney Repperger said he also viewed the definition as broad – and suggested they remove the verbiage “or other devices.” He said typically the trigger that alerts to a kitchen is the installation of a stove – not a microwave, etc.

Town Manager Mascaro said that Planning & Zoning Board also tasked her with looking at the definition for multi-generational living.

Mayor Hoover suggested they remove the “or other device” language and stick to things that can be identified through the permitting process.

Town Attorney Repperger said if the Commission is interested in amending the code to include a definition of kitchen – they can modify what’s here, send it back to Planning & Zoning, or state that they are not interested in moving forward with a change at this time. The process for changing the code would entail the creation of an Ordinance.

Mayor Hoover suggested sending it back to the Board for research and rewording.

Commissioner Quarrie disagreed and said they should table it and consider whether the Commission would like to reword it at a future workshop.

Mayor Hoover agreed.

Town Manager Mascaro offered to conduct some research on the term multi-generational and the use of granny suites in other municipalities.

**New Action Item:** Research multi-generational, granny suite situation.

- C. Consideration of Finance Resolution 2022-01 -Budget Amendment related to Transfer Expenditures within the General Fund – Finance Manager Kerr

Finance Manager Kerr gave a brief overview of Resolution 2022-01.

**Commissioner Quarrie moved to approve Resolution 2022-01; Commissioner Walker seconded; Motion carried 3-0.**

- D. Consideration of allowing temporary structural donation to Fire Department for firefighter training purposes before demolition – Fire Chief Brown

Due to illness, Fire Chief Gavin Brown was not present at the meeting. Town Manager Mascaro explained the agenda item in his absence. When a house is scheduled to be torn down, the Fire Department could use the property for training. This request is for approval to include a one page letter in the demolition permit soliciting the request for a temporary structural donation to the Fire Department for the purpose of training.

The Commission unanimously agreed it was a good idea.

**Commissioner Quarrie moved to approve the request for a temporary structural donation; Commissioner Walker seconded; Motion carried 3-0.**

## **12. Staff Reports**

### **A. Town Attorney Report**

Town Attorney Repperger stated that at the last meeting he was tasked with looking at restrictions at Ryckman Park related to I-9. After review, his opinion is that the lots are restricted for park use but that doesn't mean they are restricted from commercial activity. They are required to be kept open for park use – but I-9 describes what is allowable. Some discussion ensued related to special events and restrictions on commercial use.

### **B. Town Manager Report**

Town Manager Mascaro said the software the Town recently purchased is fantastic and will allow for the automation of accounting and reporting. She thanked the Commission for approving its purchase.



She went on to ask for clarification related to Parks Board requests and events and whether she was required to get Commission approval ahead of time – or if she had authority to approve these items.

Mayor Hoover felt the items should come before the Commission for approval and asked the other Commissioners what their feeling were.

Commissioner Walker felt the Town Manager should have the authority to approve these items considering they are already budgeted for.

Further discussion ensued and the Commission reached a consensus that the Town Manager should have the authority to oversee decisions related to Parks Department events and issues that are budgeted for.

### C. Town Clerk Report

Mayor Hoover asked for an update on the sound system in the Community Center. Town Clerk Torres said she has previously presented the Commission with an estimate and at the time it was presented the Commission thought it was too expensive.

Mayor Hoover asked to have replacement of the Community Center sound system added to the **Action Items**.

### D. Departmental Reports

1. Building Department
2. Public Works Department

Public Works Director Davis gave an update on the recently obtained bike racks and picnic tables. He also ordered filters that are placed in the storm curb that will stop large debris. If they are successful, he would like to get them for every storm cover.

3. Code Enforcement
4. Police Department

The Commission welcomed new police officer Leon Bennet to the department.

5. Fire Department

Town Manager Mascaro said Dave Micka has been named Space Coast Volunteer Fire Fighter of the Year and will receive an award January 28, 2022. She went on to say he has been with the department forever and does a lot for the Town. He submits many of the grants the Fire Department has won – and he gives a lot to the Town.

6. Finance Department

**Commissioner Quarrie moved to approve the Finance Report;  
Commissioner Walker seconded; Motion carried 3-0.**

**13. Town Commission Comments**

- A. General Comments
- B. Review of Commission Action List

**Updated Items**

- Change the name of Action Item: Research Ocean Avenue Beautification & Landscaping to: The S.E.A. Project – update again at February RTCM.
- Research Golf Cart Parking & Bike Racks: PWD gave update and asked for input.

**Closed Items**

- Research Crosswalks – completed
- Research Pool Installation Process – completed

**14. Adjournment**

**Commissioner Quarrie moved to adjourn; Commissioner Walker seconded;  
Motion carried 3-0.**

Meeting adjourned at 9 p.m.

**ATTEST:**

  
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**Wyatt Hoover, Mayor**

  
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**Amber Brown, Interim Town Clerk**

Minutes were approved but not signed.