



M Town of Melbourne Beach

REGULAR TOWN COMMISSION MEETING

WEDNESDAY, FEBRUARY 15, 2017

6:30 p.m.

COMMUNITY CENTER – 509 OCEAN AVENUE

MINUTES

Mayor Jim Simmons
Vice Mayor Tom Davis
Commissioner Wyatt Hoover
Commissioner Sherri Quarrie
Commissioner Steve Walters

Town Manager Tim Day
Town Clerk Gwen Peirce
Town Attorney Clifford Repperger, Jr.

The Town Commission conducted a
Regular Town Commission Meeting
at 6:30 p.m. on February 15, 2017
at the Community Center – 509 Ocean Avenue

Prior to the meeting being convened, Commissioner Walters stated that Mayor Simmons should not preside over the meeting because he had resigned his seat in December. Mayor Simmons stated that he didn't formally resign and had sent an email to the Town Clerk stating that he wasn't resigning. Town Attorney Repperger spoke regarding resignations in case law and stated that from what he had been told, he believes that Mayor Simmons did not formally resign and that even if he did, he had rescinded his resignation.

I. Call to Order – Led by Mayor Simmons

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

II. Roll Call

Town Manager Day led the roll call:

Commissioners Present:

Mayor Jim Simmons
Vice Mayor Tom Davis
Commissioner Sherri Quarrie
Commissioner Steve Walters

Staff Present:

Town Manager Timothy Day
Town Attorney Clifford Repperger, Jr.
Finance Manager Elizabeth Mascaro

Commissioners Absent:

Commissioner Wyatt Hoover

Staff Absent:

Town Clerk Gwen Peirce

III. Pledge of Allegiance and Moment of Silence

Led by Mayor Simmons

I. Special Presentations

There were no Special Presentations.

II. Boards and Committees

A. Board & Committee Reports

There were no Board & Committee Reports.

B. Appointments and Reappointments

1. Reappointment of Kelli Hunsucker to the Environmental Advisory Board for a term of two years, ending February 15, 2019

Vice Mayor Davis moved to reappoint Kelli Hunsucker to the Environmental Advisory Board, for a term of two years, ending February 15, 2019; seconded by Commissioner Quarrie. Motion carried 4-0 (Commissioner Hoover was absent).

2. Reappointment of Sheryl Alberga and Laurie Simmons to the History Center Board for a term of two years, ending February 15, 2019

Mayor Simmons disclosed that Laurie Simmons is his wife.

Commissioner Walters moved to reappoint Sheryl Alberga to the History Center Board, for a term of two years, ending February 15, 2019. Motion died for a lack of second.

Amended motion: Commissioner Quarrie moved to reappoint Sheryl Alberga and Laurie Simmons to the History Center Board, for a term of two years, ending February 15, 2019; seconded by Commissioner Walters. Motion carried 4-0 (Commissioner Hoover was absent).

4. Appointment of Jason Judge as an Alternate to the Parks Board for a term of two years, ending February 15, 2019

Vice Mayor Davis moved to appoint Jason Judge as an Alternate to the Parks Board, for a term of two years, ending February 15, 2019; seconded by Commissioner Quarrie. Motion carried 4-0 (Commissioner Hoover was absent).

III. Public Comments (00:24:33)

John Tanner, 321 Hibiscus Trail, stated that he had attended the Commission meeting on general items, but he expressed concern over the issue that was discussed prior to the meeting starting. He spoke in support of Mayor Simmons and stated that he supports the work that he has done for the Town.

Fran Weber, 602 Citrus Court, spoke in support of Mayor Simmons and stated that he attends all the Town functions and spoke in support of the job that he has done as Mayor.

Carol Mazzoni, 400 Andrews Drive, thanked Sheryl Alberga and Laurie Simmons for being willing to serve for another two years on the History Center Board and spoke regarding their excellent service on that Board.

Terry Williams, 423 Sixth Avenue, spoke regarding a previous issue that has occurred with the Town Attorney and spoke regarding an incident between herself, Ms. Dorfman and Mayor Simmons at her home and stated that he portrays a different side at times.

Margot Dorfman, 423 Sixth Avenue, stated that Mayor Simmons can work collaboratively but he portrays a different side at times. She expressed concern over the Mayor's treatment of Town staff.

Lou Failla, 539 Sunset Boulevard, spoke regarding the Mayor's ill treatment of the Board of Adjustment at a Joint Workshop, which had caused him to resign from the Board several months later.

Gail Gowdy, 215 Ash Avenue, stated that she had also witnessed a different side of Mayor Simmons while she had served on the Town Commission with him.

IV. Approval of the Agenda (00:40:10)

Commissioner Walters moved to approve the agenda; seconded by Commissioner Quarrie. Motion carried 4-0 (Commissioner Hoover was absent).

V. Consent Agenda (00:40:44)

A. Site Plan Review – 309 Third Avenue

Commissioner Walters moved to approve Site Plan for 309 Third Avenue; seconded by Vice Mayor Davis. Motion carried 4-0 (Commissioner Hoover was absent).

VI. Public Hearing (00:41:04)

A. First Reading: Draft Ordinance 2017-01 Amending Section 1A-3, Code of Melbourne Beach, Amending "Bed and Breakfast Inns."

Town Attorney Repperger read the ordinance title.

Mayor Simmons disclosed that he has had a discussion on this item with Kim Rezanka, who represents the applicant.

Commissioner Walters stated that the ordinance mentions that the Planning & Zoning Board recommended this ordinance, but it was actually not recommended by the Board. He spoke regarding issues that the Planning & Zoning Board had with this proposed ordinance and stated that he did not support the proposed changes. Vice Mayor Davis stated that he also supports the Planning & Zoning Board and does not support the proposed changes. Commissioner Quarrie agreed that she supports the Planning & Zoning Board and does not support the proposed changes.

Mayor Simmons agreed that he supports the Planning & Zoning Board and stated that he feels that the proposed ordinance would not make bed and breakfast inns any different than a motel/hotel, which is not allowed in the Town and therefore does not support the proposed ordinance.

Commissioner Walters stated that the two Planning & Zoning Board members who voted in support of this ordinance are brand new members.

Kim Rezanka, representing the applicant, presented background information and additional documentation on the application and proposed ordinance. She explained the applicant's previous application for a Special Exception for a Bed & Breakfast Inn, but it was turned down by the Town Planner, therefore the applicant submitted the application for a zoning code change. She explained how this project would be different from a motel/hotel. She presented drawings of the proposed project to the Town Commission for review. She also presented Property Appraiser's information on the history of the property that shows that one of the buildings on this property has been multi-family housing and there had been a casino on that site that had furnished overnight accommodations. She spoke regarding the proposed code change and stated that the alternative would be that they can move forward with the special exception application considering the additional information that has been presented.

Town Attorney Repperger clarified that if the Town Commission does not want to move forward with the proposed ordinance, then the applicant is requesting that the Town Commission direct the Town Staff to reconsider the previously submitted Special Exception application with the new information that has been provided.

Vice Mayor Davis stated that he is hesitant to move forward with the proposed ordinance due to the fact that there may be other applications that come forward with other types of properties. He expressed concern over the state of the current property and the construction of the proposed project.

Commissioner Quarrie expressed concern over the validity of the documents showing that it was a single family dwelling. She spoke regarding her recollection of the casino being a hotel and not apartments. She expressed concern over bed and breakfasts being allowed on other commercial properties.

Commissioner Walters asked a question regarding "other allowable uses" and Ms. Rezanka explained the use of that language. He spoke in support of the Town Planner's work on the report.

Mayor Simmons spoke regarding his recollection of the casino that had been at that location. He stated that he isn't in opposition to that property being a bed and breakfast, but he is in opposition to changing the definition. He stated that he is not opposed to the restaurant being part of the bed and breakfast for the customers of the bed and breakfast only. He spoke regarding various issues with the restaurant and bar, including a lack of parking for their customers. He stated that he is not in opposition to the Town Planner reconsidering the application with the new information that has been presented.

Djon Pepaj, 1000 Riverside Dr., applicant, spoke regarding not being able to eliminate the restaurant.

Gail Gowdy, 215 Ash Avenue, agreed with the Mayor's comments and stated that either it becomes a full bed and breakfast, or it's fully commercial, but the two should not be mixed.

Jean Marshall, 410 Sixth Avenue, spoke in support of the Planning & Zoning Board's recommendation and does not support changing the language regarding bed and breakfast inns.

John Tanner, 321 Hibiscus Trail, spoke in opposition to changing the language as proposed in the ordinance.

Vice Mayor Davis moved to direct the Town Planner to research the uses of the property to determine that it meets the current code definition, and if so, then move forward with the Special Exception process; seconded by Commissioner Quarrie.

Commissioner Walters moved to amend to require that the applicant pay for the Town Planner additional review.

Amended motion: Vice Mayor Davis moved to direct the Town Planner to research the uses of the property to determine that it meets the current code definition of bed and breakfast inn, and if so, then move forward with the Special Exception process and Mr. Pepaj would bear the cost of the additional research; seconded by Commissioner Quarrie. Motion carried 4-0 (Commissioner Hoover was absent).

Vice Mayor Davis moved to table the proposed ordinance, Ordinance No. 2017-01, Amending Section 1A-3, Code of Melbourne Beach, Amending "Bed and Breakfast Inns" until there is a recommendation from the Town Planner on the proposed project; seconded by Commissioner Quarrie. Motion carried 4-0 (Commissioner Hoover was absent).

VII. New Business

- A. January 18, 2017 Town Commission Regular Meeting Draft Minutes – Town Clerk Peirce (01:44:04)

Mayor Simmons mentioned his revisions to the draft minutes.

By consensus the Town Commission approved the revised January 18, 2017 Town Commission Regular Meeting Draft Minutes.

- B. February 1, 2017 Town Commission Special Meeting Draft Minutes – Town Clerk Peirce (01:45:45)

Commissioner Walters explained his revisions to the draft minutes.

Commissioner Walters moved to approve the revised February 1, 2017 Town Commission Special Meeting Draft Minutes. Motion carried 4-0 (Commissioner Hoover was absent).

C. Boat Ramp Repairs – Town Manager Day (01:47:42)

Town Manager Day read the report. He spoke regarding the proposed project and mentioned that Commissioner Hoover had spoken to him about installing a kayak rack at that location.

Vice Mayor Davis asked if there would be any environmental impact, and Town Manager Day stated that it's a repair of the current boat ramp and won't be changing the current footprint. A discussion ensued about a sign that is posted at the site.

Commissioner Walters asked about a hole that is adjacent to the boat ramp, and Town Manager Day stated that it will be taken care of as well. Commissioner Walters requested that a larger trash can also be installed at that site.

Jean Marshall, 410 Sixth Avenue, spoke regarding a tree stump that was cut down and needs to be removed.

Discussion ensued regarding the proposed kayak rack.

Ed Struttman, Parks Board, stated that residents have come to him regarding putting up kayak lockers and they would pay a rental fee in order to store their kayaks there.

Town Manager Day spoke regarding referring this issue to the Parks Board. Mayor Simmons spoke regarding the necessity for further research as well as a proposed fee structure.

Jean Marshall, 410 Sixth Avenue, spoke regarding taking parking into consideration when looking into the kayak racks.

Commissioner Walters moved approve the proposed repair of the boat ramp, with the addition of a new sign, stump removal, and a new trash can, in an amount not to exceed \$6,500, to be taken out of the contingency fund; seconded by Vice Mayor Davis. Motion carried 4-0 (Commissioner Hoover was absent).

D. Interlocal Agreement with Brevard County Property Appraiser and Tax Collector – Town Manager Day (02:04:00)

Town Manager Day read the report. Commissioner Walters expressed concern that the company would receive the fee regardless of whether or not they make a discovery. A discussion ensued regarding the process that the County will be using in conjunction with the company. Commissioner Quarrie stated that she

believes that the Town doesn't have the ability to change the terms of the agreement because the County has negotiated the agreement.

Commissioner Quarrie moved to accept the agreement for use of property tax collections to fund exemption audit services as presented to the Town by the Brevard County Property Appraiser's Office; seconded by Vice Mayor Davis. Motion carried 4-0 (Commissioner Hoover was absent).

E. Discussion regarding Founders Day – Town Manager Day (02:13:00)

Town Manager Day read the report and spoke regarding the Parks Board requesting to keep Founders Day open until 10:00 p.m.

Ed Struttman, Chairman of the Parks Board, spoke regarding the Parks Board position on Founders Day staying open until 10:00 p.m.

Commissioner Quarrie asked a question regarding whether or not alcohol would be served after 8:00. Chairman Struttman spoke regarding the process that the Rotary does for the beer tent and stated that it is a fundraising endeavor for the Rotary. A discussion ensued regarding the Police Chief's report and potential issues with staying open later due to alcohol consumption. Mayor Simmons spoke regarding the fact that the 2016 report was much better than previous years' reports, partially due to the police department staffing that had been changed. Town Manager Day stated that the Police Chief has the authority to close down the event in case things get out of control. Chairman Struttman spoke regarding Parks Board members patrolling the event during the day. Commissioner Walters spoke regarding previous years' problems and expressed concern over staying open later if the Police Chief doesn't want it to stay open later because of safety issues. Vice Mayor Davis stated that he would support ending alcohol sales at 9:00 p.m. and staying open until 10:00 p.m. Mayor Simmons stated that he would also support that timeframe. Commissioner Quarrie spoke regarding the importance of being aware of any issues and re-evaluating the hours for future years.

Jean Marshall, 410 Sixth Avenue, stated that the Rotary does a good job, but she expressed concern over not taking the Chief's recommendation. She stated that it takes two hours after closing to get people out of Town.

Lisa Venanzi, 505 Harland Avenue, spoke in support of the hours for Founders Day being extended to 10:00 p.m. and stated that others are also supportive.

Doug Hilmes, 443 River View Lane, spoke in support of the hours for Founders Day being extended to 10:00 p.m.

Jean Hilmes, 443 River View Lane, spoke in support of the hours for Founders Day being extended to 10:00 p.m.

John Tanner, 321 Hibiscus Trail, spoke in support of the hours for Founders Day being extended to 10:00 p.m.

Mayor Simmons spoke regarding the entertainment changing from years' past and that the entertainment that has been chosen in recent years has been more conducive to a family event.

Mayor Simmons passed the gavel to Commissioner Walters.

Vice Mayor Davis moved to extend the hours of Founders Day until 10:00 p.m. and ending alcohol sales at 9:00 p.m.; seconded by Mayor Simmons. Motion failed 2-2 (Commissioners Quarrie and Walters voted no; Commissioner Hoover was absent).

Chairman Struttman spoke regarding the alcohol sales ending earlier and stated that the Parks Board would be supportive if the event would go until 10:00 p.m. and alcohol sales ending at 8:00 p.m. He requested that the Town Commission would re-visit this issue next year to see if it would be appropriate to extend the hours of alcohol sales as well.

Commissioner Quarrie moved to extend the hours of Founders Day until 10:00 p.m. and the alcohol sales end at 8:30 p.m.; seconded by Vice Mayor Davis. Motion carried 3-1 (Commissioner Walters voted no; Commissioner Hoover was absent).

- F. Town of Melbourne Beach Budget Amendment 2017-02 – Finance Manager Mascaro (02:54:35)

Finance Manager Mascaro explained that the Budget Amendment is as a result of the grant for the Fire Department's SCBA gear.

Commissioner Walters moved to approve Budget Amendment 2017-02; seconded by Commissioner Quarrie. Motion carried 4-0 (Commissioner Hoover was absent).

- G. Paving Plan – Town Manager Day

Town Manager Day provided information on the report. Commissioner Walters spoke in support of starting repaving immediately by doing 5-10 miles of road, depending on costs. Mayor Simmons asked about the amount that is in the storm water fund and if there are any upcoming projects that will utilize that money. Town Manager Day spoke regarding the fund and a potential project on First. Commissioner Walters spoke in support of using half of the storm water fund (\$500,000) and going out to bid to determine how much paving can be done with that amount.

Commissioner Walters moved to direct the Town Manager to go out to Request for Proposals to repair the streets that are determined by the Town Manager, in the amount not to exceed \$500,000 from the Storm Water Fund (after confirmation that the fund can be used for street paving); seconded by Commissioner Quarrie. Motion carried 4-0 (Commissioner Hoover was absent).

H. Town Clerk Search – Mayor Simmons (03:05:10)

Vice Mayor Davis stated that he would like to offer the position to Nancy Wilson, who had been the Interim Clerk last year and was the #2 candidate in the previous Town Clerk search and stated that he has spoken with her and she is available. Commissioner Quarrie spoke in support hiring her on a permanent basis since she had previously been vetted.

Town Manager Day stated that he would like for her to start working early in order for her to catch up, and the Commission provided consensus to do so. A discussion ensued regarding the CMC requirement.

Vice Mayor Davis moved to offer and/or hire Nancy Wilson as the Town Clerk on a permanent basis at the same salary and benefits as the current Town Clerk; seconded by Commissioner Quarrie. Motion carried 4-0 (Commissioner Hoover was absent).

VIII. Reports (03:11:30)

A. Town Attorney Report

Town Attorney Repperger stated that he had nothing to report.

B. Town Manager / Public Works Report

Town Manager Day stated that he would like to schedule a Special Meeting with the Town Commission on Tuesday, February 21 in order to approve the contractor for the Town Pier project. Commissioner Quarrie spoke regarding her friendship with owners of dock building companies. Town Attorney Repperger stated that as long as there is no benefit to Commissioner Quarrie, a family member or business she owns, then there is no conflict.

The Commission concurred to schedule the Special Meeting on Tuesday morning at 9:00 a.m.

Commissioner Walters stated that Commissioners should not be having discussions with the Town Attorney after Town Commission meetings.

Commissioner Walters spoke regarding poor audio during the Planning & Zoning Board meeting and spoke in support of wireless microphones. Town Manager Day stated that he will call the audio company to look into the issue.

C. Town Clerk Report

Town Clerk Peirce was not present.

D. Departmental Reports:

1. Building Department

The Building Department report was provided in the meeting packet, and no questions were asked by the Commission.

2. Code Enforcement

The Code Enforcement report was provided in the meeting packet. Mayor Simmons asked if there is anything being done on getting a lot cleaned up on Redwood that has been under Code Enforcement. Town Manager Day stated that there is a lien on the property and explained the issue. Mayor Simmons requested that a report on the property be added to the Action Items list.

3. Police Department

The Police Department report was provided in the meeting packet, and no questions were asked by the Commission.

4. Fire Department

The Fire Department report was provided in the meeting packet, and no questions were asked by the Commission.

5. Finance Department

The Finance Department report was provided in the meeting packet, and no questions were asked by the Commission.

XIII. Town Commission Comments

A. General Comments

Commissioner Walters stated that he would like consensus from the Commission to have Town staff be able to go home within 10 minutes after Town Commission meetings end. The Commission provided consensus.

Commissioner Walters announced that he will be bringing forward language to put charter amendments on the November ballot to put the Town Clerk under the supervision of the Town Manager and to clean up the Town Commission resignation portion of the Town Charter. He stated that he will also be bringing forward an item to revise the Land Development Code to change the section regarding having outside individuals submit an application to write an ordinance to change the Zoning Code. He spoke in support of individuals coming before the Town Commission to request an ordinance and then have the Board or Commission direct Town staff to do so. Town Attorney Repperger spoke regarding the background of the Town's current process under the Code.

B. Review of Commission Action List (03:29:45)

- a. Policy and Procedures Manual – Commission consensus to close this item.
- b. Renewal of WastePro contract – Town Manager Day stated that he is awaiting the final signed contract and will provide a status in March.
- c. Repair of Ryckman Park Gazebo – Town Manager provided an update on the scope of the project. He will provide an update in March.
- d. ~~Replace BBQ Grills~~ and re-stain picnic table “huts” at Ocean Park – Town Manager Day stated that he will provide an update in March.
- e. Installing cameras on poles for viewing osprey nest on Avenue B – Town Manager Day will provide an update in March.
- f. Land Development Code update – The Planning & Zoning Board approved the ordinance. The Town Attorney will be bringing it forward in ordinance form by June. The Town Attorney will provide a status in April.

Mayor Simmons requested that a reference to the January 9, 2017 Workshop meeting be added to the LDC action items for Planning & Zoning Board and Town Attorney.

Mayor Simmons requested that an item be added to the Action Items list regarding cleaning up the dilapidated property on Redwood, to be due in March.

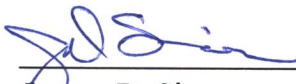
Commissioner Walters spoke in support of asking officers if they would like to work overtime to do Code Enforcement.

XIV. Adjournment


Commissioner Walters moved to adjourn; seconded by Vice Mayor Davis. Motion carried 4-0 (Commissioner Hoover was absent).

Meeting adjourned at 10:05 p.m.

ATTEST:



James D. Simmons
Mayor



Gwen Peirce, CMC
Town Clerk



M Town of Melbourne Beach

TOWN COMMISSION SPECIAL MEETING WEDNESDAY, FEBRUARY 1, 2017

MINUTES

Mayor Jim Simmons
Vice Mayor Tom Davis
Commissioner Wyatt Hoover
Commissioner Sherri Quarrie
Commissioner Steve Walters

Town Manager Tim Day
Town Clerk Gwen Peirce

The Town Commission conducted a
Town Commission Special Meeting
at 5:30 p.m. on February 1, 2017
in the Masny Room – 507 Ocean Avenue

I. Call to Order – Led by Mayor Simmons

Mayor Simmons called the meeting to order at 5:30 p.m.

II. Roll Call

Town Clerk Peirce led the roll call:

Commissioners Present:

Mayor Jim Simmons
Vice Mayor Tom Davis
Commissioner Wyatt Hoover
Commissioner Steve Walters

Staff Present:

Town Manager Timothy Day
Town Clerk Gwen Peirce

Commissioners Absent:

Commissioner Sherri Quarrie

III. Pledge of Allegiance and Moment of Silence

Led by Mayor Simmons.

IV. Public Comments

No one indicated a desire to speak.

V. New Business

A. Town Pier – Town Manager Day

Town Manager Day explained that two contractors are interested in bidding on the Town Pier project, although he spoke with approximately 14 companies. He stated that he feels that the route to take is to go out to RFP for this project. He explained the changed process for FEMA reimbursement and that it does not look like the Town will be able to receive the amount of funds that had previously been anticipated.

Commissioner Walters spoke regarding the Town Pier being repaired several years ago. He stated there may be a problem finding maintenance records as some Town records were destroyed due to flooding during the 2004 Hurricane. He asked about whether or not an RFP for Engineering Services has been done yet. Town Manager Day stated that he will be working on that.

Mayor Simmons asked questions regarding the FEMA process and how the project will be handled.

Commissioner Walters moved to direct the Town Manager to go out to RFP for the repair and/or replacement of the Town Pier; seconded by Vice Mayor Davis. Motion carried 4-0 (Commissioner Quarrie was absent).

B. Speed Limit on A1A at the curve – Town Manager Day

Town Manager Day stated that he received a speed study from 2013 a short time prior to the meeting and provided copies to the Commission. He stated that the item is only requesting whether Commissioner Hoover and Town Manager Day can meet with Florida Department of Transportation (FDOT) representatives regarding this issue.

Commissioner Hoover stated that he sent an email to Town Manager Day regarding the issue with being able to pull out of driveways in that area on A1A and that it is a dangerous situation for pedestrians as well as drivers.

Mayor Simmons stated that he feels that the study that was done in 2013 doesn't really focus on the correct area, and that it should focus farther back, facing north.

The Commission provided consensus to authorize Commissioner Hoover and Town Manager Day to meet with FDOT to re-do the study and expand it from Magnolia, south to Acacia to enhance the safety in that area.

C. Big Brothers Big Sisters Cooking from the Heart Fundraiser – Commissioner Hoover

Commissioner Hoover spoke regarding the program. He requested that this item be placed on the agenda to see if there would be interest from another Commissioner or Town staff in joining him. Discussion ensued regarding potential participants from Town staff.

The Commission provided consensus to allow Commissioner Hoover to participate on behalf of the Town.

Mayor Simmons spoke regarding a group who is working on compiling a map for bicyclists from Key West to Maine and is seeking support from the communities. He stated that they are looking to get consensus for sponsorship from the Space Coast League of Cities and an item of support may be coming to the Town from the League in the future.

VI. Adjournment

Commissioner Walters moved to adjourn; seconded by Vice Mayor Davis. Motion carried 4-0 (Commissioner Quarrie was absent).

Meeting adjourned at 6:10 p.m.

ATTEST:



James D. Simmons
Mayor



Gwen Peirce, CMC
Town Clerk