

# **Town of Melbourne Beach**

**REGULAR TOWN COMMISSION MEETING  
WEDNESDAY AUGUST 21, 2019 at 6:30 p.m.  
COMMUNITY CENTER – 509 OCEAN AVENUE**

## **MINUTES**

### **PUBLIC NOTICE**

**The Town Commission conducted a Regular Town Commission Meeting  
on Wednesday August 21, 2019 in the Community Center  
to address the items below.**

#### **Commission Members:**

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

#### **Staff Members:**

Interim Town Manager Elizabeth Mascaro  
Town Clerk Nancy Wilson  
Town Attorney Clifford Repperger

**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:

Interim Town Manager Elizabeth Mascaro

Town Clerk Nancy Wilson

Police Chief Melanie Griswold

Town Attorney Clifford Repperger

Fire Chief Dave Micka

Deputy Fire Chief Gavin Brown

Deputy Town Clerk Walton Ray

**III. Pledge of Allegiance and Moment of Silence**

Led by Mayor Simmons

**IV. Presentations**

No presentations

**V. Boards and Committees**

No Board or Committee reports

**VI. Public Comments**

*Jane Huntsinger*

*507 Poinsettia Road*

Ms. Huntsinger said that she emailed all the Commissioners about the flooding and standing water that has been an issue in her area since at least 2011. There has been standing water in her yard for over a month and she's worried about the dangers and hazards that the water poses and is also worried about water soaked Oak tree roots during hurricane season. She and her neighbors have been promised, year after year, that the problem would be remedied but it hasn't been.

New pipes are needed and she asked the Commission to please take the matter seriously and do something about it.

Mayor Simmons said there were many projects that were supposed to be completed by 2015 but most of them have not been because of limited funds and emergency situations taking precedence. Interim Town Manager Mascaro said an issue was uncovered on August 8<sup>th</sup> when Public Works was trying to clean the drains on Poinsettia. They could hear running water which turned out to be a broken water main pipe; the City of Melbourne was then notified. The Town's engineering firm (B.S.E.) was called and it was determined that a stormwater pipe was broken and corroded and there was about 30 feet of pipe blocked by concrete. A trench was dug to prevent the intersection from flooding and then the drain and baffle boxes were vacuumed. Once Melbourne repaired their pipe, the area started to dry up until another of their pipes broke and that too was fixed. Melbourne is doing work in the same area which necessitates turning on/off the water and that puts added pressure on the drains, plus, their water pipe is lying on our pipe and tree roots are causing added problems. Ms. Mascaro said they have to go through a process but they are aware of the problem and are looking for a permanent solution.

Mayor Simmons added that if there is standing water after 3 or 4 days, that water is coming from somewhere, it's not just water that won't drain; it should percolate. The Interim Town Manager will keep Ms. Huntsinger updated.

## **VII. Approval of the Agenda**

Mayor Simmons asked that item D, under New Business, be moved to before Old Business so the people addressing that item don't have to wait for their topic to be discussed.

**Vice Mayor Hoover made a motion to move item D, under New Business, to before Old Business; Commissioner Quarrie seconded. Motion carried 5-0.**

## **VIII. Consent Agenda**

- A. June 26, 2019 Town Commission Workshop draft minutes
- B. Site plan review for 225 4<sup>th</sup> Avenue
- C. Site plan review for 509 3<sup>rd</sup> Avenue

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

## **IX. Public Hearings (00:18:15)**



A. First Reading of Ordinance 2019-04 – Town Attorney Repperger

Town Attorney Repperger read the Ordinance by title:

AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN OF MELBOURNE BEACH REGARDING LOT COVERAGE REQUIREMENTS; AMENDING SECTION 1A-3 BY CREATING THE DEFINITION OF PERVIOUS AREA AND AMENDING THE DEFINITION OF IMPERVIOUS SURFACE; AMENDING SECTION 7A-30 TO ADD A MINIMUM PERVIOUS AREA PERCENTAGE FOR THE 1-RS, 2-RS, AND 3-RS ZONING DISTRICTS; AMENDING SECTION 7A-31 TO ADD A MINIMUM PERVIOUS AREA PERCENTAGE FOR THE 1-RS ZONING DISTRICT; AMENDING SECTION 7A-32 TO ADD A MINIMUM PERVIOUS AREA PERCENTAGE FOR THE 2-RS ZONING DISTRICT; AMENDING SECTION 7A-33 TO ADD A MINIMUM PERVIOUS AREA PERCENTAGE FOR THE 3-RS ZONING DISTRICT; PROVIDING SEVERABILITY/INTERPRETATION CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE.

The Town Attorney said the Planning and Zoning Board recommended a change to the definition of *impervious surface*. The recommended change proposes to amend the definition of “Impervious Surface” to remove the language “~~with non-porous foundations~~” and to include “(excluding utility sheds)”. They wanted to capture all accessory structures in the definition regardless of their foundation. The ordinance has flip-flopped from originally specifying a maximum impervious requirement that excluded sheds to a minimum pervious requirement. Both are separate from lot coverage percentage which only applies to principal structures.

**Vice Mayor Hoover made a motion to approve Ordinance 2019-04 including the changes recommended by the Planning & Zoning Board; Commissioner Runte seconded. Motion carried 5-0.**

B. First Reading of Ordinance 2019-05 - Town Attorney Repperger (00:29:41)

Town Attorney Repperger read the Ordinance by title:

AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA RELATING TO RESIDENTIAL LIGHTING; CREATING SECTION 7A-71, ARTICLE IV OF CHAPTER 7A OF APPENDIX “A” OF THE TOWN OF MELBOURNE BEACH LAND DEVELOPMENT CODE; PROVIDING FOR

SEVERABILITY/INTERPRETATION; PROVIDING FOR  
REPEAL OF CONFLICTING ORDINANCES; PROVIDING  
AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION  
SCHEDULE.

**Vice Mayor Hoover made a motion to approve Ordinance 2019-05  
as presented; Commissioner Quarrie seconded. Motion carried 5-0.**

**X. Old Business (00:30:42)**

- A. *Moved from New Business, Item D:* Consideration of more tree planting along Oak by the Global Sustainability Group – Interim Town Manager Mascaro

*Luke Marzano  
442 Riverview Lane*

The Global Sustainability Group (GSG), represented by Mr. Marzano, planted 2 Oak and 2 Mahogany trees on Oak Street in May of this year. The trees are doing very well and they have asked to plant an additional 8-10 trees which will be mostly Oaks. A diagram was provided showing the proposed locations of the plantings. In May, the trees were donated by Sun Harbor Nursery but this time around they hope to receive a discounted price of between \$200 - \$300 per tree. GSG will be soliciting for donations to fund the project and will make up the shortfall. Public Works will ensure that utility lines are marked prior to planting. When Mr. Marzano was asked about the distance between trees he said they won't be planted too close together; he received information from the Arbor Society about how to keep the trees healthy. GSC will water the trees as necessary.

**Commissioner Runte made a motion to approve tree planting  
along Oak Street by the Global Sustainability Group; Vice Mayor  
Hoover seconded. Motion carried 5-0.**

- B. Consideration of formally approving Ditch Witch purchase – Interim Town Manager Mascaro

Interim Town Manager Mascaro said this was agreed to by consensus at a Workshop and it is being brought back for formal approval. (Note: *the purchase of the Ditch Witch was formally approved at the June 17, 2019 RTCM - **Commissioner Quarrie made a motion to authorize the prepayment of the stormwater vacuum/street sweeper not to exceed the budgeted amount of \$38,000; Vice Mayor Hoover seconded. Motion carried 5-0.***)



Ms. Mascaro said that all but 2 baffle boxes have been cleaned. Public Works is headed to the Key streets to service those boxes even though they are owned by the County.

*Neal Tompkins*

*2004 Neptune*

Mr. Tompkins commented that the decision to purchase the Ditch Witch was a very good one.

**Vice Mayor Hoover made a motion to suspend the normal competitive bidding process; Commission Quarrie seconded. Motion carried 5-0.**

**Vice Mayor Hoover made a motion to approve the purchase of the Ditch Witch for \$36,500 with prepaid Funds that will be reversed as of 10/01/2019; Commissioner Quarrie seconded. Motion carried 5-0.**

- C. Consideration of hiring Elizabeth Mascaro as the Town Manager –  
Commission (00:39:05)

Mayor Simmons said that the Commission agreed at the last meeting that the subject of hiring a Town Manager would be discussed at this meeting. The Commission discussed that the Town Manager position was appointed and advertising was not necessary. The Town Attorney was tasked with ensuring that was indeed the case and he subsequently sent the Commission members a memo saying it was true that they didn't need to advertise.

Commissioner Walters asked if there was anywhere that says you shouldn't advertise. His issue is that she is being promoted from Finance Manager to Town Manager and if you look at the job description passed by the Town Commission in 1997 it states the minimum qualifications. Every person ever hired for the last 30 years has responded to an advertisement and gone through the interviewing process. When the subject was first brought up, everybody, except the Mayor, was for handling it that way again. Commissioner Walters thinks the position should be advertised and the minimum qualifications met unless they are waived; he read from the Town's recruitment policy. Commissioner Walters wanted it on the record that he wants to follow policy.

Mayor Simmons recommended, based on input from the Town Attorney, that a motion be made to add the following to our minimum qualifications:

*Or demonstrated ability to perform the essential job functions as identified above.*

He added that only one of the last 3 Town Managers met the required qualifications; neither Jamie Titcomb nor Bob Daniels did. Commissions have had poor success in interviewing candidates from afield and the Town's reputation needs to be reestablished. Each Town Manager left within a year so it's time to change the methodology so that the same mistakes aren't repeated over and over again. He added that Ms. Mascaro has a proven track record of success and she is a known quantity who lives locally; work is getting done, the team has been assembled and things are running smoothly. There's no sense in repeating the sins of the past. Ms. Mascaro is doing an exceptional job.

**Vice Mayor Hoover made motion to add “Or demonstrated ability to perform the essential job functions as identified above” to the job description; Commissioner Quarrie seconded.**

Commissioner Walters said if they're going to do that, they should open it up to a broader demographic because they may find candidates with more experience. He said the Mayor is upset because managers came here but didn't ultimately move here; Commissioner Walters doesn't blame them and said in their defense, they had problems, adding that he wouldn't have wanted to move here either if he was being yelled at and had problems with the Commission and staff. Commissioner Runte said when they accepted the position of Town Manager, they signed a contract requiring relocation.

Commissioner Quarrie said she agreed with the Mayor about doing the same thing over and over again with the same result. She added that Ms. Mascaro has done a superb job while serving as the Interim Town Manager; she's very well qualified, has the appropriate credentials and is getting things done. Commissioner Runte agreed saying that Ms. Mascaro has done more in her few months than Bob Daniels did during his entire tenure adding that she has a broad range of experience. Commissioner Quarrie was also disturbed that Bob Daniels didn't understand the budget, so again, they are lucky to have Ms. Mascaro because she understands it so well.

*Neal Tompkins  
2004 Neptune*

Mr. Tompkins recounted an experience he had with having to hire a CEO for his company. He utilized one of the biggest recruiting firms in the country who provided him with over 100 tremendously qualified candidates and he rejected them all. The VP of the recruiting firm said he was giving up the



search but he had one more candidate who was a friend of his. The friend wasn't "qualified" to be Mr. Tompkin's CEO but after interviewing him, he was hired immediately and he was the best hire he ever made. He is now the operating partner of one of the largest equity firms. Qualifications don't cover everything. The fact that Ms. Mascaro is working well with staff and the Town is running smoothly is something to be cherished.

**Motion carried 4-1 with Commissioner Walters casting the dissenting vote.**

The other motion to be entertained is to enter into contract negotiations with Ms. Mascaro to become the Town Manager.

**Commissioner Runte made a motion to enter into contract negotiations with Ms. Mascaro to become the Town Manager; Commissioner Quarrie seconded.**

Vice Mayor Hoover said Mr. Tompkins took the words out of his mouth. The Vice Mayor has hired people with outstanding resumes who became cancerous but on the flip side, he's hired people as interns who grew to be valuable employees. He was originally of the opinion that they go out to advertise but if something is working, there's no need to change it. Ms. Mascaro has had a 9 month interview, she's local and she's a known quantity; the Town couldn't ask for anything more.

**Motion carried 4-1 with Commissioner Walters casting the dissenting vote.**

Ms. Mascaro will work with the Town Attorney to draft a contract for Commission consideration.

## **XI. New Business**

- A. Consideration of the July 17, 2019 Town Commission Workshop minutes – Town Clerk Wilson
- B. Consideration of the July 17, 2019 Regular Town Commission Meeting minutes – Town Clerk Wilson
- C. Consideration of the August 7, 2019 Town Commission Workshop minutes – Town Clerk Wilson

**Vice Mayor Hoover made a motion to approve the minutes from the July 17, 2019 Workshop, the July 27, 2019 Regular meeting and the August 7, 2019 Workshop; Commissioner Quarrie seconded. Motion carried 5-0.**



- ~~D. Consideration of more tree planting along Oak by the Global Sustainability Group— moved to first item after Public Hearings.~~
- E. Consideration of Memorandum of Understanding from East Coast Florida Regional Planning – Interim Town Manager Mascaro

Town Manager Mascaro explained that East Coast Florida Regional Planning Council is the organization that helped the Town get 2 grants. They are simply asking us to support their vision and mission by signing the MOU to build a network of cities that address resiliency and work on ways to reduce their carbon footprint. There is no obligation to do this but they have been helpful and it would be nice to support their efforts. No costs will be incurred by the Town.

**Vice Mayor Hoover made a motion to approve the Memorandum of Understanding with the East Coast Florida Regional Planning; Commissioner Quarrie seconded. Motion carried 5-0.**

## **XII. Staff Reports**

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

Town Attorney Repperger said they made a motion to amend the job description for the Town Manager. He pointed out that in the job description under supervisory and management responsibilities, it says that the Town Manager will supervise all Town employees except the Town Clerk. The Town Attorney would like a motion to remove the wording “Town Clerk” from that sentence.

**Vice Mayor Hoover made a motion to remove “Town Clerk” from the sentence thus placing that position under the direction of the Town Manager; Commissioner Runte seconded. Motion carried 5-0.**

In addressing issues related to the contract negotiation with the Town Manager, Town Attorney Repperger asked if the Commission would like him to assume the form and content of the last agreement. He suggested that any comments regarding the agreement be forwarded to him but he’d like a point person with whom to work – Mayor Simmons agreed to work with the Town Attorney to update the contract which would be brought back to the Commission for approval.

**The Commission consented to having Mayor Simmons work with Town Attorney Repperger on a draft contract for the Town Manger. Commissioner Walters dissented.**

Commissioner Walters asked the Town Attorney about mediation hearings regarding Morris vs. ToMB and about a lawsuit stemming from an accident on Founder's Day? Town Attorney Repperger said those lawsuits were being handled by the Town's carrier – Florida League of Cities.

**B. Town Manager Report**

Town Manager Mascaro said we have received \$79,000 from FEMA which was for the Riverside outfall project. She also received confirmation that another \$51,939 that we will receive for the generator; that money had not been obligated until now. Mayor Simmons said they owe Reserves \$91,000 and there is a depleted Stormwater Fund so he asked the Town Manager what she suggested they do with the money and she responded that it should be put in the Stormwater Fund. Commissioner Walters wanted to put it back in Reserves. Ms. Mascaro said the Reserve Fund is healthy but they can put it there and if it's needed they can always pull it out.

**The Commission consented to paying back Reserves in the amount of \$91,000. 5-0.**

The balance of approximately \$40,000 will go into the Stormwater Fund.

The Town Manager next reported that the GoFundMe account for the SRO at Gemini Elementary has collected \$1,460 of the \$12,000 goal from 22 contributors. The school year has just begun so she's hoping more money comes in.

Ms. Mascaro also talked to the insurance coordinator for the Town. An adjustment was made to the premiums; they are based on age and the average age of Town employees has risen. The plan has not changed, it is just more expensive.

The Town Manager attended her first Code Board meeting. She explained how much effort goes into a meeting and how difficult it is to get the Board members to comply with the Code and follow the proper procedure. Mayor Simmons commented that it's a tough thing to ask a resident to judge another resident. Town Attorney Repperger suggested that the Commission consider hiring a Special Magistrate which would streamline the process. A Special Magistrate would streamline the process and would cost about \$125-\$150 per hour; the hearings are currently being conducted in an unprofessional



manner. Any fees associated with the Magistrate could be assessed to the resident. A Code change would be required.

**The Commission consented to having the Town Manager research the matter further and come back to the Commission with options.**

**5-0.**

Vice Mayor Hoover likes the expanded role of the Parks Board and how they are taking on more events; they strengthen the community. He said the local business owners are members of the community and he'd like to support and engage them. The Town Manager said the Parks Board members suggested having a cement chess or checkers table in Ryckman Park. Commissioner Runte said that chess and checker pads were installed in Melbourne recently and they are utilized a lot.

Mayor Simmons said he has tried for several years to get a band from Hoover Middle School for the Christmas parade and now that Vice Mayor Hoover is a member of the faculty, he may be able to help us get them to play in Melbourne Beach.

The Fire Department is attending the September 4<sup>th</sup> Workshop to discuss stipend plans.

Commissioner Walters asked if the Town would like to consider purchasing the house on the corner of Pine and 1<sup>st</sup> Avenue, behind the Fire Department, for \$350,000; it could be used for drainage. Vice Mayor Hoover said it's in a good location and it may be something for which we'd like to pursue a grant. Commissioner Quarrie suggested working out a deal with the church and Commissioner Runte said that \$350,000 is too much money; he, the Town Manager and the Public Works Supervisor are working on a budget for an underground stormwater retention system which he feels would be much cheaper and more effective. The Mayor still believes that digging a swale along 1<sup>st</sup> Avenue then going under the road to the retention area by the tennis courts, is the best option. The Public Works Supervisor said he'd look into that further.

C. Town Clerk Report – no report

D. Departmental Reports:

1. Building Department – Town Manager Mascaro said the Building Department was tasked with looking into determining “industry best practices” so Building Clerk Crowell called several municipalities in Brevard County. One of the problems we sometimes have with our contractors is that we do require that every time they request a permit, we require they provide a certificate of insurance. Brevard County maintains

a database with licensing information that we can access. They will be updating that so that contractors won't have to provide it to us each time they apply for a permit. Another complaint is that we ask for a lot of information up front (other municipalities request it on the backend) which we do to ensure that installation adheres to the specifications provided so inspections go smoothly. (Note: What most municipalities don't require that we require is that all residential renovations and new builds have to go through the Planning & Zoning Board and Town Commission approval process; that can add about 6 weeks to the timeline.) Commissioner Runte explained that deferring the required paperwork until the day of inspection would be inefficient in our Town. If the paperwork isn't correct, our inspector would lose that time and another inspection would have to be scheduled; he's already on a tight schedule. Requiring the necessary paperwork upfront is more efficient.

Town Manager Mascaro said that the Building Official and the Building Clerk edited the job description for the Building Official position and it is ready for the Commission to review.

2. Public Works Department – no report
3. Code Enforcement – no report
4. Police Department – Commissioner Walters asked Chief Griswold about the “Patrol Area Residential” line on her report where the number in June and July jumped to 439 but in January it was 137 – why such a difference? She explained that those figures are monthly totals reflecting house checks or that an officer was patrolling in the area. The Chief also reported that a Lieutenant had been hired. The position was posted and was open for internal and external candidates. Four applications were submitted; 2 backed out and 2 were interviewed. Swearing in of the new Lieutenant will occur at the September 18<sup>th</sup> meeting.
5. Fire Department – The 4<sup>th</sup> of July Fundraiser was a big success. Sean Hasner (Public Works), Gavin Brown (Fire Department) and others did a great job presenting life saving techniques and CPR.
6. Finance Department – Commissioner Walters asked if anything was taken from any line item and transferred to another line item. Town Manager Mascaro said errors were made last month when 2 items were posted, one was related to the Comprehensive Plan and the other was related to legal expenses. Journal adjustments were made to put those expenses where they belong.



**Vice Mayor Hoover made a motion to accept the finance report as presented; Commissioner Quarrie seconded.**

Commissioner Walters said that since the transfers are not happening as outlined in Ordinance 2003-02 he will vote no. That ordinance requires, and the Town Attorney has stipulated, that transfers be made by resolution; money can only be transferred with Town Commission approval. Those voting to approve the finance report when transfers have been made are in violation of our ordinance. Town Manager Mascaro said the funds in question did not need to be approved by the Commission. Expenditures were put into the wrong general ledger accounts so all that happened is that the expenditures were transferred back to the proper accounts.

**Motion carried 4-1. Commissioner Walters cast the dissenting vote.**

**XIII. Town Commission Comments**

A. General Comments

B. Review of Commission Action List (01:48:09)

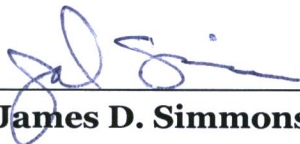
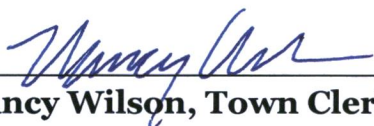
- Added 2 new items
  - Schedule Duane DeFreese, Indian River Lagoon Council, to make presentation about the lagoon health and related issues
  - Consider Code Enforcement Magistrate in place of Code Board
- Removed 7 items

**XIV. Adjournment**

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

The meeting adjourned at 9:04 pm

**ATTEST:**

  
James D. Simmons, Mayor  
Nancy Wilson, Town Clerk