



# Town of Melbourne Beach

**REGULAR TOWN COMMISSION MEETING  
WEDNESDAY, OCTOBER 17, 2018  
6:30 pm  
COMMUNITY CENTER – 509 OCEAN AVENUE**

## **MINUTES**

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Mayor Jim Simmons  
Commissioner Steve Walters  
Commissioner Wyatt Hoover  
Commissioner Sherri Quarrie

Town Manager Robert Daniels  
Town Clerk Nancy Wilson  
Town Attorney Clifford Repperger, Jr.

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## **PUBLIC NOTICE**

The Town Commission conducted a Regular Town Commission Meeting on Wednesday, October 17, 2018 at the Community Center located at 509 Ocean Avenue 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 led roll call.

Commissioners Present:

Mayor Jim Simmons

Vice Mayor Wyatt Hoover

Commissioner Steve Walters

Commissioner Sherri Quarrie

Staff Present:

Town Manager Bob Daniels

Town Clerk Nancy Wilson

Town Attorney Clifford Repperger

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

Led by Mayor Simmons

**IV. Special Presentations**

**A. Official swearing in of Steven Kino**

After passing difficult written and oral board exams, Corporal Kino is now Sergeant Kino and he was sworn in by the Town Clerk. Mr. Kino thanked his family, friends and the Town of Melbourne Beach

**B. Introduction of new Deputy Town Clerk Maddison Mercer**

Ms. Mercer was introduced to the Town Commission. She is currently working as a temporary employee to fill in while another employee is out on leave. Her Deputy Town Clerk duties as a part time employee should begin on November 12<sup>th</sup>. She has been working on our new website as time permits.

**C. Introduction of new Public Works Supervisor Tom Davis**

Mr. Davis was unable to attend the meeting. Mayor Simmons said that Mr. Davis was the Town's Vice Mayor and mentioned some of the projects on which he has worked in his short time as Public Works Supervisor.

**The Town Commission Meeting broke at 6:39pm so those in attendance could mingle and enjoy the refreshments; the meeting resumed at 7:50pm**

**D. Presentation by Chris Maslow and Jerin Eisenberg regarding art installations in Melbourne Beach (add-on)**

Chris Maslow and Jerin Eisenberg introduced themselves. Ms. Eisenberg said they have a mural concept to present for the east facing wall at Ocean 302. She and Mr. Maslow have worked together for 2.5 years on 14+ murals throughout Melbourne. Mr. Maslow said he was born and raised in Melbourne Beach and currently resides in downtown Melbourne. He's been painting for the majority of his life and his specialty is large scale murals. They have a concept in mind depicting an historic Melbourne Beach mural that includes the Indian River Lagoon which he hopes will



bring awareness to the importance of protecting the lagoon. He projected his proposed concept for the audience that included water birds, mangroves, our pier, sailboats and manatees on an Indian River backdrop. Alongside the mural would be an informational plaque. He then displayed images of his other work.

Ms. Eisenberg said they have received support from the property owners of Ocean 302 and Mr. Maslow went over specifics of the project: the wall is 14 feet tall by 65 feet high equaling 910 square feet; it will take 28 days to paint; the labor fee is \$6,000; paint and supplies will cost \$1,500 along with \$800 for a lift rental. Ms. Eisenberg added that they have both been very successful in building public/private partnerships to support the murals and make them become a reality. What they are looking for from the Commission is support which would let them move forward with creating a sponsorship package and start talking to the community about the project in order to raise funds.

*Joe Marchese*  
*310 First Avenue*

Mr. Marchese asked what type of paint will be used that will ensure durability. Mr. Maslow answered that he uses 100% acrylic paint made by *Richard's Paint* which is the best paint he has found for painting murals. He added that after the mural is finished, a clear coat is applied. *Richard's Paint* is a huge supporter of his projects.

Vice Mayor Hoover said when he first saw Mr. Maslow's murals, he knew they were something he wanted to see throughout Brevard County and he's very excited that one will be in his own Town. He said when he was in graduate school for Marine Biology, he was introduced to a concept called shifting baselines and he hopes, in the near future, to present to the Town of Melbourne Beach what the baseline should be for a healthy lagoon and to raise awareness of the importance of maintaining that healthy state.

**Commissioner Walters made a motion to support the efforts of Christopher Maslow and Jerin Eisenberg to establish public/private partnerships with the ultimate goal of funding a mural at Ocean 302; Vice Mayor Hoover seconded. Motion carried 4-0.**

## **V. Boards and Committees**

No Board reports

## **VI. Public Comments (00:34:30)**

*Deborah Webster*  
*406 Oleander Lane, Melbourne*

Ms. Webster is the Research Director for the *Florida Space Coast Office of Tourism*. She brought with her copies of their publication to give to the Commission members. They have just published their fourth issue; each issue is broken down into three parts:

- 1) ongoing, intense research on visitors to our area
- 2) feature stories
- 3) economic impact special events

She suggested calling on her if we have any research needs regarding impacts on business, etc.

**VII. Approval of the Agenda (00:37:35)**

**Commissioner Walters made a motion to approve the agenda as presented; Commissioner Quarrie seconded. Motion carried 4-0.**

**VIII. Consent Agenda (00:37:56)**

- A. September 22, 2018 Special Town Commission Meeting draft minutes
- B. Site Plan Review for 411 Magnolia, Melbourne Beach, FL
- C. Site Plan Review for 901 Riverside, Melbourne Beach, FL
- D. Appointment of Andrew McKay to the Parks Board as an alternate member
- E. Appointment of Kim Adkinson-Cowles to the Code Enforcement Board as an alternate member

**Commissioner Walters made a motion to approve the Consent Agenda as presented; Commissioner Quarrie seconded. Motion carried 4-0.**

**IX. Public Hearings**

There were no public hearings.

**X. Old Business (00:39:08)**

- A. Consideration of bill submitted by Robin Petersen for destroyed plants on Andrews Drive – Mayor Simmons

Mayor Simmons said a check has already been delivered to Mr. Petersen to reimburse him for the plants that were wrongly removed from his property at the beginning of the stormwater project on Andrews Drive.

**Commissioner Walters made a motion to approve payment to Robin Petersen in the amount of \$950.16 for plants that were wrongly removed from his property; Vice Mayor Hoover seconded. Motion carried 4-0.**

- B. Ratification of approval to fund the modification of structures and pipe type for the Andrews Drive stormwater project (approved at the emergency meeting held on October 12, 2018) – Town Manager Daniels



At the October 12, 2018 emergency meeting, the Commission was asked to consider the emergency allocation of funds for Brewer Paving to modify structures and pipe type for the Andrews Avenue stormwater project:

**Commissioner Quarrie made a motion authorizing the additional cost of \$43,388 for the Andrews Drive project to be taken out of reserves; Vice Mayor Hoover seconded. Motion carried 3-0.**

Per resolution 2016-12, action taken at emergency meetings must be ratified at the next regularly scheduled meeting of the Town Commission.

**Commissioner Walters made a motion ratifying the action taken at the October 12, 2018 emergency meeting that authorized expending funds from the reserve account for an additional, not to exceed amount of \$43,388 for the Andrews Drive project; Vice Mayor Hoover seconded. Motion carried 4-0.**

## **XI. New Business (00:40:58)**

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

**Commissioner Walters made a motion to approve the minutes as amended; Vice Mayor Hoover seconded. Motion carried 4-0.**

- B. Consideration of October 3, 2018 Town Commission Workshop draft minutes as amended – Town Clerk Wilson

**Commissioner Walters made a motion to approve the minutes as amended; Vice Mayor Hoover seconded. Motion carried 4-0.**

- C. Discussion regarding 311 Ocean Avenue site and structure – Town Manager Daniels

Town Manager Daniels said the certified/return receipt letters for the properties at 309 and 311 Ocean Avenue were mailed on October 17<sup>th</sup>; there was a delay because the Building Official had to sign off on them. Mr. Daniels said he attempted on three separate occasions, without success, to contact the owner of 311 Ocean Avenue. The letter states that the owner has ten days to get in touch with the Building Official to find out what their next steps should be to rectify the situation. Town Manager Daniels said that further investigation is needed prior to discussing condemnation proceedings for the property at 309 Ocean Avenue. Commissioner Quarrie asked what will happen if the owner of 311 Ocean doesn't want to tear down the building but the Building Official condemns it? Town Manager Daniels answered that another letter would be sent and then a course of formal proceedings would follow. In response to a question asked by Commissioner Quarrie, Town Manager Daniels answered that we notified the owner of 311 Ocean that the structure is unsafe and needs to be condemned which is similar to the letter sent to the owner of 309 Ocean

but without the threat of imminent condemnation. More information will be provided regarding both properties at the next regular meeting.

Commissioner Quarrie said she would like to see a complete timeline of the code enforcement process as it relates to 309 and 311 Ocean such as when the certified letters were sent, the dates by which they must respond, dates of follow-up, etc.

*Heidi Hughes*  
*508 Ocean Avenue*

Ms. Hughes said 309 Ocean is for sale and she'd like to know what is going on with that property. Mayor Simmons said the house is dilapidated, falling apart and is being used as a playhouse. With the property at 311 Ocean, it's been in its current condition for three or four years and for sale for six to eight months so the time has come for issues at both properties to be resolved.

- D. Consideration of an agreement for Comp Plan Updates not covered by the grant already authorized in the amount not to exceed \$35,000 – Town Manager Daniels

In August 2018, the Town received a grant from the Florida Coastal Management Program (FCMP) in the amount of \$37,782 which is to be used for Melbourne Beach coastal flooding comprehensive plan amendments related to sea level rise and sustainability and ensures we conform to state statutes. \$31,000 of that grant will be paid to East Florida Regional Planning Council. There are other updates required that aren't covered by the grant and those will be performed by Place Planning. Town Planner O'Gorman oversees an assistant in his office who specializes in comp plan updates. Their portion of the update has to do with the preparation of an Evaluation and Appraisal Report and the cost is a NTE amount of \$35,000.

Commissioner Quarrie clarified that \$31,000 is going to East Florida Regional Planning Council so there is a balance of grant dollars in the amount of \$6,782. The total cost of the project is \$72,000, we received a \$37,782 grant so that leaves a \$35,000 deficit that needs to be funded in order to pay Place Planning for their portion of the project. Town Manager Daniels said that when we got the grant, he didn't realize that there was additional work that would necessitate hiring Mr. O'Gorman.

Mayor Simmons asked where the money was coming from since we were told that the entire cost was covered by the grant. The Town Manager said that the Finance Manager set aside dollars for planning services and he's looking into getting another grant, though the project deadline is May 2019. Most of the funds required for the Town Planner will be paid during the second and third quarters of FY19. When asked how long the Town Planner would need to complete his portion of the project, Mr. Daniels answered that the evaluation reports are done after the sea level rise work is completed. There was confusion among the Commission members about the specifics of the project.



Town Manager Daniels was asked to provide timelines for grant reporting and timelines from both Place Planning and East Florida Regional Planning Council for the project. He was also asked to get input from the Finance Manager about where the money is coming from. Vice Mayor Hoover asked for details about grant money expenditures. This information is to be provided to the Commission as soon as possible at which time it will be determined at what meeting the issue should be readdressed.

E. Consideration of prohibiting the use of some plastics in Town facilities – Mayor Simmons

Shortly before Founder's Day 2018, the Town asked vendors not use plastic/expanded polystyrene products during the event, but due to the short notice, it wasn't a hard line request. Mayor Simmons said at the time that use of those products should be restricted altogether on Town property and we should establish a hard line policy. The Commission didn't think this policy would be difficult to implement and opted not to have an ordinance drafted in order to save money. Utilizing information provided in the agenda packet, staff would add a page to the facility rental application, requiring a separate acknowledgment page, that plastics and expanded polystyrene are not permitted in our facilities and properties.

The Commission agreed to grandfather in those who have already scheduled events; they should be told about the new policy but we won't make them adhere to it. Mayor Simmons added that we can't prohibit the use of plastic bags per state law but we can ask them not to use them.

**Commissioner Walters made a motion authorizing the Town Manager to draft a policy prohibiting single use plastic and polystyrene products from Town Facilities and Parks; Vice Mayor Hoover seconded. Motion carried 4-0.**

F. Consideration of James Moore contract renewal for audit services– Town Manager Daniels

Town Manager Daniels is recommending that we continue receiving audit services from James Moore for two more years. He said we receive good work from them, communication is good and they aren't just a rubber stamp.

**Commissioner Walters made a motion to approve the two year renewal contract with James Moore for auditing services in the amount of \$21,900 for FY19 and \$22,300 for FY20; Commissioner Quarrie seconded. Motion carried 4-0.**

**XII. Staff Reports (01:10:58)**

A. Town Attorney Report

Town Attorney Repperger spoke to Satellite Beach attorney, Jim Beadle regarding the city's interpretation of 74-430 which has to do with the 10% over rollback restriction.



Mr. Repperger had taken the position that 74-430 had been widely repealed; that's not necessarily the position of the City of Satellite Beach. They say 74-430 is very limited in its application. Section 2 of the law reads: "if the ad valorem tax revenues for a proposed budget of a governmental unit within Brevard County for operating funds exceed by ten percent the ad valorem tax revenues for operating funds of the preceding year, exclusive of the revenues to be raised from new construction and improvements not appearing on the previous year's assessment roll, then the governmental unit must seek the approval of the voters for such an increase." Satellite Beach has taken the position that the application is limited to operating funds so the cap only applies to operating funds within the budget but not to anything else other than what they are limited to under existing law 215. Because Satellite Beach did not exceed the cap for operating funds, they don't feel they are in violation. Mr. Beadle doesn't think 74-430 has been repealed and Mr. Repperger thinks Chapter 74-430 is more limited than he originally thought. Mayor Simmons added that operating funds make up most of our budget which is not the case in Satellite Beach. In response to a question from Mayor Simmons, Town Atty Repperger stated that he still believed his original opinion was correct (that the subject limit law had been superseded and was no longer applicable) and still valid and that the Town was not subject to the "10% above rollback max millage" rule.

**B. Town Manager / Public Works Report**

On October 16<sup>th</sup>, the first structure for the drainage project on Andrews was set. The FPL pole on Andrews is being moved at 9am on October 19<sup>th</sup>, there has been no word regarding the FPL pole on Riverside. The project is moving along as planned. The Town Manager said he was approached by a group that sponsors the Blue Tube project and they want to place their tubes near the river and in the park. The tubes contain plastic bags that people can use to pick up and dispose of trash or where bags can be donated. Due to our soon to be implemented plastics ban and the initiative to discourage use of plastic bags, the Commission decided not to add anymore blue tubes in Melbourne Beach. Commissioner Quarrie said she'd like to see receptacles for recycling fishing line and the Town Manager said he would look into it. In response to a question asked about all the water in the road on Andrews, the Town Manager responded that it is ground water that is being pulled up and fed back into the stormwater system and ultimately ends up in the river; there is enough flow for that water to make it through the collapsed pipe. The Mayor asked about the new house being built and stated that he's worried that the property will be undermined during the Riverside Dr/Andrews outflow project. The contractor is working with the homeowner and there doesn't seem to be a problem.

**C. Town Clerk Report – no report**

**D. Departmental Reports:**

1. Building Department – no questions/comments
2. Code Enforcement – no questions/comments
3. Police Department – no questions/comments
4. Fire Department – no questions/comments



5. Finance Department – no questions/comments

### **XIII. Town Commission Comments (01:27:15)**

Commissioner Quarrie suggested having a police presence on Election Day to keep the peace. **The Commission concurred.**

#### **A. General Comments**

Legislative Priorities for 2018

Mayor Simmons said the Space Coast League of Cities set their legislative priorities for 2019. They are asking that we review them and provide any comments by next month.

Other matters of interest:

- Florida League of Cities will be offering Social Media Training in January or February and it is recommended that Commissioners, Managers and staff attend.
- The League of Mayors is trying to determine the financial impact of blue-green algae and red tide.
- Once again, Jerry Sansom (Florida Inland Navigation District) returned money so they are looking for projects to fund next year. It's a 50% match.

#### **B. Review of Commission Action List**

1 item was added

1. Survey of every sign in Melbourne Beach; replace/repair as needed

2 items were closed

1. Indian River Shoreline Repair at Riverside Drive and Avenue A
2. Pier Repairs

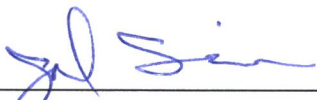
20 items were updated

### **XIV. Adjournment**

The meeting adjourned at 8:26 pm.

**Commissioner Walters made a motion to adjourn; Vice Mayor Hoover seconded. Motion carried 4-0.**

**ATTEST:**

  
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**James D. Simmons, Mayor**

  
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**Nancy Wilson, Town Clerk**