



Town of Melbourne Beach

REGULAR TOWN COMMISSION MEETING

WEDNESDAY, NOVEMBER 14, 2018

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
Town Attorney Clifford Repperger, Jr.

PUBLIC NOTICE

The Town Commission conducted a Regular Town Commission Meeting
on Wednesday, November 14, 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 conducted the roll call.

Commissioners Present:

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

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

A. Swearing in of newly elected members of the Town Commission

Incumbent candidate Sherri Quarrie and newcomer Corey Runte were both sworn in as Commissioners. The Town is awaiting certification of the election from the Supervisor of Elections before swearing in either incumbent Steve Walters or newcomer Joyce Barton. Their race was too close to call and a recount is required.

A recess was called to welcome the new Commission members. The meeting reconvened at 6:47 p.m.

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

B. Introduction of new Public Works Supervisor, Tom Davis

Mayor Simmons combined the introduction of Mr. Davis with the presentation of a proposed mural to be painted on the back of the pier kiosk.

Tom Davis
318 6th Avenue

Mr. Davis was on the Commission in several capacities until recently when he resigned so he would be eligible for the Public Works Supervisor position; he was ultimately hired.

Mr. Davis presented a pencil drawing of a mural an 11 year old Melbourne Beach girl has drawn. With Commission approval, she will paint the mural on the back of the bulletin board located at the entrance to the pier. The top will read "Welcome to Our Town". Her art teacher will oversee the project and she can start within the month.

Commissioner Quarrie asked if the work is being done on location and, if so, there would be seams in the finished product and she'd have to use a ladder; her suggestion is that we provide the material and let her work at ground level. Commissioner Runte added that a clear coat should be applied after completion to prevent degradation of her work.

Frank Thomas
606 Atlantic Street

Mr. Thomas said he thinks it's a wonderful idea and he's 100% behind the project.

The Commission consented (5-0) to move forward with the project.

V. Boards and Committees

Frank Thomas from the History Board, has asked Bruce Morgan, also from the History Board, to ultimately fill his shoes as the Town Historian.

Both Mr. Thomas and Mr. Morgan will be conducting the New Years' Day historical walking tour starting at the pier. About 30/40 people usually attend. Mr. Thomas displayed some historical material and talked about Melbourne Beach's past adding that the Community Center was built in 1920 and cost \$5,200. He concluded by saying that Bruce Morgan is a good historian and a good writer.

VI. Public Comments

Lauren Hardman
320 6th Avenue

Ms. Hardman said that a trailer is parked at 313 6th Avenue and is connected to an electrical service adding that the person staying in it seems like a vagrant.

Public Works Supervisor Davis said the occupant has been given notice and he will be vacating the premises.

VII. Approval of the Agenda

Commissioner Quarrie asked to move the Finance Report to New Business, item G.

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

VIII. Consent Agenda

A. Site Plan Review for 413 Hibiscus, Melbourne Beach, FL

Town Manager Daniels said there is no drainage shown on the plans.

Commissioner Quarrie made a motion to approve the site plan for 413 Hibiscus subject to approval of a drainage plan; Vice Mayor Hoover seconded. Motion carried 5-0.

IX. Public Hearings

No public hearings

X. Old Business

A. Consideration of funding a toddler playground – Public Works Supervisor Davis

Mr. Davis did a lot of research and has provided several options in the agenda package. He recommended option 2, which is what the poster on display showed. *Game Time's* price is significantly more but he said less expensive bids are not always the way to go. The Town has had *Game Time* equipment in place for 17 years and it is solid as a rock. Mr. Davis is concerned with other vendors since they don't provide addresses where their equipment is located. He likes *Game Time's* equipment quality and our good history with them; plus, their setups are turn-key. The toddler playground will fit south of our other playground equipment in the grassy area near the tennis courts. Everything conforms to National Standards for Playground Safety requirements. The price also includes groundcover and a polypropylene surround. It's a stand-alone play area.

Commissioner Runte asked about the foundation on which the playground will be anchored. Mr. Davis said the playground equipment will be powder coated and installed on concrete. The company has good warranties and high standards.

Commissioner Quarrie pointed out that in both estimates, the two shadow play flowers (kaleidoscope effect) are included; this was good news since it was previously believed that those would be add-ons at an additional cost.

*Lauren Hardman
320 6th Avenue*

Ms. Hardman said the border of the play area may utilize big stakes to hold it down so we have to make sure the stakes don't cause a safety issue.

Commissioner Walters made a motion to waive the Town requirement to bid anything over \$4000; Commissioner Quarrie seconded. Motion carried 5-0.

Commissioner Walters made a motion to approve the toddler playground from *Game Time*, option 2, in the amount not to exceed \$35,000; Vice Mayor Hoover seconded. Motion carried 5-0.

The Public Works Supervisor said there's about a 12-week turnaround.

Discussion then moved to the existing playground equipment and what will be replaced or refurbished.

Public Works Supervisor Davis said they have evaluated the parts that can't be refurbished and need to be replaced. If they are able to use all the funds available for the playground, he thinks they can replace more equipment than is absolutely necessary which would improve aesthetics. Mr. Davis said he has added about \$11,000 to his original parts list bringing the new total to about \$37,000 to make the old equipment "whole"; this does not factor in the cost of equipment being replaced and not refurbished. The \$37,000 includes an expression swing (playground swing that promotes intergenerational play as adults and children swing together). If popular, another expression swing could be easily added down the road. Also included in his estimate is an extension arm that would allow the expression swing to be off by itself. Mr. Davis was hoping we could save the frame of the swing set but it is badly rusted. Mayor Simmons commented that we were looking at over \$200,000 and we're now down to under \$100,000 which gets us all we want and need. Mr. Davis thinks it's doable. In response to a question, Mr. Davis said that everything *Game Time* sells that isn't polypropylene, is powder coated.

After further discussion about the costs associated with replaced/refurbished equipment, it was determined that the amount required would total about \$57,500. Our \$5,000 mulch allowance will allow us to purchase 100 yards for \$2,500. Mulch that is called "playground mulch" would cost \$6,400. American Playground Standards say that mulch can't be pressure treated but it doesn't have to be engineered. Mayor Simmons said he is concerned about splinters and added that our engineered mulch has held up well; he'd rather spend the money for that material. It was decided that staff would get prices for playground mulch.

Mayor Simmons asked about the manpower required to perform the work on the existing playground equipment. Public Works Supervisor Davis is hoping to get

volunteers to help. He said the Town brought in temporary workers to help with fish cleanup and they did a great job for around \$200. Mr. Davis said we could utilize volunteers for tasks requiring minimal skills.

Vice Mayor Hoover said he would like to see a staging timeline; it would help with scheduling. Mr. Davis said *Game Time* provides personnel to help with that. Commissioner Runte could help with planning.

Bottom line: The refurbishment/replacement of existing equipment is estimated to cost \$57,500. Combined with the \$35,000 approved for the toddler playground, the total cost of the playground projects is \$92,500.

Dave Micka
323 4th Avenue

Mr. Micka suggested that we contact big companies who often take on projects such as this one. We could contact them for some labor and/or donations

Joyce Barton
322 Third

Ms. Barton said her sister in Pennsylvania headed up 2 playground projects and she said a lot of the work was performed by organizations that provided volunteers. She added that people are willing to help if they know what is needed.

Commissioner Walters made a motion to waive the competitive bid process for the playground equipment; Vice Mayor Hoover seconded. Motion carried 5-0.

Commissioner Walters made a motion to approve the purchase of playground equipment in an amount not to exceed \$65,000 (allowing for contingencies); Commissioner Runte seconded. Motion carried 5-0.

Mayor Simmons thanked Commissioner Walters for driving this process.

Commissioner Walters said he's already seen an improvement in the Town since Mr. Davis was hired.

Mr. Davis commented that he is excited about a donation the Town received from Melbourne Beach Exxon for brand new Christmas decorations. He'd like to get sponsorships every year.

A recess was called at 7:50 p.m. The meeting reconvened at 7:57 p.m.

Town Clerk Wilson conducted the roll call.

Commissioners Present:

Staff Present:

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

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

B. Consideration of Town Manager contract – Town Manager Daniels (01:27:28)

Mr. Daniels said for part of the discussion on October 3rd regarding his contract, he was not present because he had to deal with other matters so he's not sure of all that was discussed and decided upon. However, after that meeting, he and the Town Clerk created a new redlined document with the changes suggested by the Commission. Two modifications to those changes were requested by the Town Manager:

- 1) The Town Manager will maintain his residence within a 30 mile radius of the Town (no homesteading required)
- 2) The Manager will receive 150 hours of annual leave since he is not eligible for compensatory time or compensation for unused sick leave.

Mayor Simmons talked about residency. He said the Commission wants the Town Manager to be a member of the community. At the Workshop, specific wording was suggested that would remove any ambiguity but the contract presented at the current meeting (November 14, 2018), reintroduced that ambiguity. He wants that clarified to read that his *family* will live within a 30-mile radius. The Mayor said that if that clarification is not made, he won't vote for the contract. Town Manager Daniels said he didn't agree to that stipulation adding that homesteading within 30 miles of Melbourne Beach would create too high of a tax burden. He said he is here during the week, he is here on weekends when necessary and his wife has roots here. He can't afford to lose his homestead where his family resides. Mayor Simmons said, in recognition of that, it was agreed at the Workshop to give him until May 27th to homestead locally. The Mayor said Mr. Daniels was present for that discussion because he suggested that date. Town Manager Daniels responded that he has followed the terms of his contract; he is taking occupancy of a residence in Viera in the next few days and his family will be here but he needs a little slack.

Vice Mayor Hoover said his challenge with the changes is that the last time the contract was presented to the Commission, it wasn't made clear what the Town Manager had changed. He said Mr. Daniels was then asked to make the changes and put the contract on the next agenda. He asked, why, if changes beyond what we all agreed upon were made, are we just now seeing those changes 6 weeks later? Vice Mayor Hoover feels that we are up against the deadline of his contract and it's being used as leverage. Town Manager Daniels responded that he is not doing anything underhanded. He wants the job, he loves the

community and his family will be here as soon as possible. He doesn't want to sign something that he can't guarantee which is why he doesn't want a date certain for homesteading within a 30 mile radius.

(01:37:51)

Commissioner Runte asked for clarification from Commissioner Walters about the changes to Mr. Daniels' contract. Commissioner Walters said that Mr. Daniels was not given 60 days' notice prior to his contract expiring as stipulated in his contract. He also did not tell the Manager to add anything specifically to his contract but did suggest that he add anything that would make him more likely to stay because he thinks Mr. Daniels is doing a great job. Commissioner Walters recounted the conversation he had with Mr. Daniels regarding his contract. Commissioner Walters does have concerns about the Manager not being invested in the community but he doesn't think we can legally tell his wife to move here; he feels the homestead issue is a slippery slope.

Vice Mayor Hoover said that when the contract was first presented to the Commission, all the items that were modified should have been noted or red lined. Instead, there was a lack of transparency with saying that Commissioner Walters told him to add this and that. The Commission had a lengthy discussion when the \$40,000 of additional benefits was included in the contract. Now, 6 weeks later, the contract still doesn't reflect what the Commission requested.

Mayor Simmons, in response to Commissioner Walters' comment earlier about the Town Manager not being given 60 days' notice prior to his contract expiring, read from the contract: *The Commission and Manager will confer at least 60 days' prior to the end date of the Term to determine whether the parties are interested in extending or renewing the Agreement.* The Mayor said the Commission fulfilled that requirement when the contract was presented to them in mid-September.

Town Manager Daniels asked to clarify his intent regarding part of the \$40,000 benefit package. He said all he was asking for regarding salary was to receive what the previous Manager had received which is why he changed the salary from the budgeted amount of \$96,500 to \$98,000. Also, the contract included a typo that read \$24,000/year for insurance instead of \$2,000/year.

The Commission reviewed the contract:

Residency:

Residency is being left as written

Mayor Simmons said that regarding residency if he finds the tug is pulling the Town Manager home more and more, he'll be looking for termination without cause.

Compensation and Benefits:

- *Salary for additional years of employment becomes Salary for year 2 of employment and he will receive any percentage increase in wages received by (add: non-certified police) employees*

Benefits:

- Add dental eligibility
- Change 150 hours to 120 hours vacation and strike the word "since"

Expenses:

- Add \$200/month stipend for mileage in town; reimburse actual mileage rate for out of town travel; reimburse commercial insurance charge over and above regular car insurance rate
- Add that the Town will supply the Manager with a computer

Life Insurance:

- (b) *Life Insurance* verbiage moved to (f) after *Professional Organizations/Seminars*

Termination By Town Without Cause:

- Will read: *This agreement may be terminated during the Term without cause by a majority vote of the Town Commission*

Severance Pay:

- Removeand any other benefits normally received during that time
- Add *The Town may condition the payment in exchange for the Manager executing a general release of claims in favor of the Town, in a form acceptable to the Town Attorney*

Resignation by Manager:

- (added to end of paragraph) *The Manager will not take leave (paid or unpaid) during the notice period without permission of a majority of the Town Commission*

Vice Mayor Hoover made a motion to extend the Town Manager's existing contract for one month to December 27, 2018; Commissioner Quarrie seconded. Motion carried 5-0.

Commissioner Quarrie made a motion to have the Town Manager's contract updated with the proposed changes from this meeting and to present it at the December 19th Regular Town Commission meeting; Vice Mayor Hoover seconded. Motion carried 5-0.

XI. New Business (02:42:00)

- A. Consideration of October 12, 2018 Emergency Town Commission draft minutes as amended – Town Clerk Wilson
- B. Consideration of October 17, 2018 Regular Town Commission draft minutes as amended – Town Clerk Wilson
- C. Consideration of October 29, 2018 Special Town Commission draft minutes as amended – Town Clerk Wilson

Commissioner Quarrie made a motion to approve the minutes from the October 12th Emergency Town Commission meeting, the October 17th Regular Town Commission meeting and the October 29th Special Town Commission meeting; Vice Mayor Hoover seconded. Motion carried 5-0.

- D. Consideration of a new Code Enforcement Board attorney – Town Attorney Repperger

Town Attorney Repperger said that the Code Enforcement Board is meeting more frequently and they do not have a Code Enforcement Board attorney. The previous Board attorney is no longer practicing law. He suggested to the Commission that the Town find a new Board attorney. We can go out to bid or the Town Attorney can make some inquiries and bring his findings back to the Commission. The Town Attorney said that the Board members struggle at times so it would be nice for them to have their own Counsel which shouldn't be for more than a couple hours a month.

Mayor Simmons explained why Mr. Repperger doesn't represent the Code Enforcement Board.

Commissioner Quarrie made a motion to direct the Town Attorney to recommend attorneys to represent the Code Enforcement Board; Commissioner Runte seconded. Motion carried 5-0.

- E. Consideration of Resolution 2018-10, final budget amendment – Finance Manager Mascaro

Ms. Mascaro said Resolution 2018-10 authorizes the final adjustments to the budget. There were a few overruns in several departments. We are required to make sure that each department in the General Fund is not overrun. She's asking to make interdepartmental transfers. The bottom line of the budget has not been changed.

Commissioner Walters asked that the departments in which transfers were made be included in the resolution. He also said that other than in the case of an

emergency, no staff member can change the budget without Commission permission.

There was some discussion about transfers of funds so the Town Attorney read from 15-7 Transfers of Appropriations:

The Town Manager may, with the approval of the Town Commission, transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within any office, department or agency.

Commissioner Quarrie asked to discuss the transfer from the Fire Department and asked if the \$12,000 transferred from them could be returned to their budget. The Finance Manager said the budget is closed and the amount transferred was what was left over after everything was purchased and paid for. It is money that wasn't spent and is going back to the Town. The Commission can put the money into a long term capital account in the Fire Department for a specific purpose. Mayor Simmons added that their budget was increased by 9.6%. Commissioner Quarrie is not sure what the Fire Department didn't get but she'd like them to have access to the \$12,000 for what they need; it was allocated to them so she thinks the money should be set aside for whatever they need. Mayor Simmons said if you have a year to spend the money and you don't, you didn't need to. Commissioner Walters commented that the Fire Department rarely spends their budget; the budget is closed so whatever is left goes back to the Town in order to balance the budget. If there is an urgent need for something, the money comes out of contingency.

*Lauren Hardman
320 6th Avenue*

Ms. Hardman said she's sat on the Planning & Zoning Board, has lived here for over 20 years, has been with the Fire Department for 14 years and her heart is in safety. All she wants, is for the Commission members to watch a powerpoint presentation to better educate themselves about what the Fire Department does and how they service the Town. Mayor Simmons said the presentation could be shown at a Workshop.

Vice Mayor Hoover made a motion to approve Resolution 2018-10 noting on the Resolution what the departments are and why the transfers were made; Commissioner Runte seconded. Motion carried 5-0.

- F. Consideration of moving reserve funds to the Local Government Surplus Fund – Finance Manager Mascaro

Ms. Mascaro said that she'd like the Commission to consider moving reserve funds to the Local Government Surplus Fund to earn a higher rate of interest than that offered by BB&T bank. The SBA Local Government Surplus Fund is currently paying a rate of 2.97% vs. our current rate of 1.45%. If the change is

made, the Town could generate \$42,719 in additional income vs. \$14,500 at BB&T on an annual basis. The funds in the SBA account can be moved at any time without penalty vs. an interest penalty if moved in the first 3 months at BB&T. The money would be totally liquid. The SBA interest rate is variable, however, in the current rate environment, the rate should remain stable. If the interest rate drops below a certain threshold, the funds can be removed and placed back in BB&T.

Vice Mayor Hoover made a motion to approve moving reserve funds from BBT to the Local Government Surplus Fund in the amount of \$1 million plus interest that was earned; Commissioner Quarrie seconded. Motion carried 5-0.

(moved from staff reports)

- G. Finance report – Ms. Mascaro said we collected more revenues than projected by \$21,000. We received 95.7% of our ad valorem taxes and we usually budget 97% so that's a good return; money will trickle in as people pay their taxes late. She read through her report and concluded by saying the Town's budget is in very good shape; the departments managed their money well. Commissioner Walters asked about funding from Brevard County School Board for the School Resource Officer. The Finance Manager said they are going to keep funding it.

XII. Staff Reports

- A. Town Attorney Report – The Town Attorney said the election recount will take place on the following morning. Commissioner Walters asked the Town Attorney to look at older resolutions and minutes to determine, once and for all, if transfers can be made within departments without Town Commission approval. His position is that staff can't transfer money within or between departments without Town Commission approval. The Mayors' position is that money can be transferred within a department without Town Commission approval.
- B. Town Manager Report – The Town Manager talked about dates for upcoming events. He also announced that we will be receiving the new police cars in January or February. Commissioner Walters wanted to ensure that complainants in Code Enforcement cases are notified once a violation has been handled. The Town Manager responded that when the complaint isn't made anonymously, the complainant is notified of the outcome. Vice Mayor Hoover asked about the contact/action report for anything having to do with the Andrews Avenue project. Town Manager Daniels said he would have Maddison send it. Vice Mayor Hoover added that he'd like to know what residents are contacting us about and how we are responding. He said we should log calls and have a tracking system for any issues. Commissioner Runte said he may know of some software that could help with that. Commissioner Quarrie said

she'd like to receive reports from department heads. After some discussion, it was decided to start asking one department head per quarter to attend a Workshop.

C. Town Clerk Report – no report

D. Departmental Reports:

1. Public Works Department – no comments
2. Building Department – no comments
3. Code Enforcement – Mayor Simmons requested that the format be improved to show if we are doing better or worse and to show what issues are outstanding
4. Police Department – no comments
5. Fire Department – Dave Micka announced that engines 58 and 258 have a/c problems and explained the challenges they have had with fixing them. He said they ran out of time in the budget year to get them fixed. Also discussed were radios that will be needed in the near future.
6. Finance Department – moved to New Business, item G

XIII. Town Commission Comments

A. General Comments

Mayor Simmons said that SCLOC is offering social media training on January 17th. The training is strongly recommended for entities with any social media presence. They are also hosting an orientation for newly elected officials in late January/early February. They accepted the FLC priorities that the Commission reviewed last month and will review the Space Coast TPO priorities at the SCLOC meeting in December. The Mayor received several calls from a reporter at *Hometown News* who is trying to understand our new plastics ban policy which the Town Manager is working on for the Commission to review. Regarding the Sunshine Law and Ethics, Mayor Simmons suggested that we conduct a presentation for our Board members and Commission before January.

Vice Mayor Hoover said he emailed the Town Manager about a tree that was removed on the dune between 301 & 303 Oak and would like to know what he found. Mr. Daniels sent the information to the Florida Department of Environmental Protection and he'll follow up with them.

Curtis Byrd from the Environmental Advisory Board asked about financial assistance for Scott Parker's composting program. *Green Earth Composting* is providing a valuable service for which he is not receiving any reimbursement for his expenses. The Town Manager said he will come back with a proposal.

B. Review of Commission Action List

1. Draft ordinance addressing Low Speed Vehicles (last page of Action List)

Commissioner Quarrie pointed out an error on page 158 at the bottom that should read “Further, such use does not allow entry or parking upon ~~any property owned by~~ any property owned by another public or.....” Another error was on page 159 where the word “cap” should be “capacity”. The dates on page 161 need updating. Mayor Simmons questioned whether the renewal amount of \$50 is sufficient to cover expenses. He also suggested adding specifics regarding the enumerated safety requirements listed on page 160 or add “must meet Florida statute requirements”. The Commission consented to make the suggested changes and present the ordinance in January.

Action List:

- 1 item was closed
- 2 items were added – *Reimburse Green Earth Composting for expenses & Plastics/EPA policy*
- 14 items were updated

XIV. Adjournment

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

Meeting adjourned at 10:50 p.m.

ATTEST:



James D. Simmons, Mayor



Nancy Wilson, Town Clerk