



# Town of Melbourne Beach

## **REGULAR TOWN COMMISSION MEETING WEDNESDAY, NOVEMBER 15, 2017 COMMUNITY CENTER – 507 OCEAN AVENUE**

### **MINUTES**

---

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

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

---

### **PUBLIC NOTICE**

**The Town Commission conducted a Regular Town Commission Meeting  
on Wednesday, November 15, 2017 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 the roll call.

Commissioners Present:

Mayor Jim Simmons

Vice Mayor Tom Davis

Commissioner Steve Walters

Commissioner Wyatt Hoover

Commissioner Sherri Quarrie

Staff Present:

Interim Town Manager Elizabeth Mascaro

Town Clerk Nancy Wilson

Town Attorney Cliff Repperger

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

Led by Mayor Simmons

**IV. Public Comments**

Mayor Simmons welcomed Troop 330 who attended to receive the *Citizenship in the Community* merit badge

Mayor Simmons congratulated Commission Hoover on being nominated as a finalist for the LEAD Brevard *4 under 40* award.

**V. Special Presentations**

**A. Administration of Oath of Office to newly elected members of the Town Commission**

Town Clerk Wilson read the oath of office to newly elected Sherri Quarrie and re-elected James Simmons

There was a 10 minute break to celebrate the new Commission members.

Meeting reconvened at 6:47pm

**Commission Quarrie made a motion to nominate Tom Davis for Vice Mayor. Commission Walters seconded. Motion carried 5.0.**

**B. Funding opportunity from St. John's River Water Management District Cost Share Program. Presenter - Abby Johnson, Intergovernmental Coordinator**

*Abby Johnson, Intergovernmental Coordinator  
St. Johns River Water Management District*

Ms. Johnson gave a presentation about the St. John's River Water Management cost-share program that is also available online:  
(<https://www.sjrwmd.com/localgovernments/funding/>)

Ms. Johnson said they are looking for construction ready projects that can be completed within 2 years. They offer several cost-sharing programs throughout the year for projects that assist in creating sustainable water resources, provide flood protection and enhance conservation efforts. In general, projects considered for funding shall benefit one or more of the four district core mission areas, including water supply, water quality, natural systems restoration and flood protection - projects that will improve the environment. Each year, their governing board makes available \$20 million for each cycle with the next cycle opening in January 2018 with a mid-February application due date.

The Town can apply for up to a 33% match and if the project is approved it is recommended that a contract be signed within 45 days with a start date of October 2018. Ms. Johnson explained the ranking and scoring criteria and emphasized timeliness in reporting and good communication. If asked for something by the District she said to be sure to provide it and to communicate any issues to the District. The Board is very serious about having the projects completed within 2 years. If you have an issue, communicate with the proper person to keep the process rolling along; they want to see completed projects.

Mayor Simmons said that looking at *Benefit to Core Missions (primary)* and *Benefit to Core Missions (secondary)*, they've upped the scores from previous years. We don't have areas for retention ponds so if one of your core issues is not putting water into the lagoon, that will hurt us. He asked if they are approving such projects.

*Melissa Diolosa, Project Manager*

*St. Johns River Water Management District*

Ms. Diolosa answered that they are looking for a net reduction in the nutrient levels and they would consider baffle box projects.

Mayor Simmons said he'd been told that Brevard County was removing filters on baffle boxes to allow water to flow more freely. That doesn't sound legal to him. She didn't know anything about that but said, if true, that would become a DEP issue.

Mayor Simmons said the Towns' finances are such that we have some maintenance needs. He asked if SJRWMD supports maintenance projects or just new projects. Ms. Johnson responded that they do not support maintenance projects. The Mayor said that would probably put us out until the



next budget year to which Ms. Johnson said they don't want anybody rushing into a funding cycle; the money is going to be made available for the foreseeable future so there isn't any urgency. The Mayor then said that we have a workshop in early December with our engineer who will give us a recommendation and that we need to receive that information before we can move forward.

In conclusion, the representatives said we need to evaluate what our project benefits will be giving the most consideration to a project that reduces the nutrient levels. We are in competition with everybody else and other factors such as past performance, project readiness, completion of submission and good communication are factored in when ranking.

## **VI. Public Comments**

*Frank Thomas*  
*606 Atlantic Street*

Mr. Thomas mentioned the *Historical Walk* that is being held on January 1<sup>st</sup> at 10am and sponsored by the History Center. He said about 25-30 people usually show up.

Mr. Thomas also mentioned that November 15<sup>th</sup> is the 50<sup>th</sup> anniversary of the Town almost disappearing. There was a battle in South Brevard regarding the consolidation of the entire area into one municipality. Instead of having a one square mile Town, we would have had a 181 square mile Town had the consolidation attempt prevailed.

## **VII. Approval of Agenda**

**Commissioner Walters made a motion to approve the agenda as presented; Vice Mayor Davis seconded. Motion carried 5-0.**

## **VIII. Consent Agenda (00:46:12)**

- A. October 30, 2017 Town Commission Workshop draft minutes
- B. November 2, 2017 Town Commission Workshop draft minutes
- C. Site Plan Review for 1901 Cedar, Melbourne Beach, FL

**Commissioner Walters made a motion to approve the Consent Agenda as presented; Commission Quarrie seconded. Motion carried 5-0.**

## **IX. Public Hearings (00:47:13)**

- A. Second Reading of Police Pension Board Ordinance 2017-04 – Town Attorney Repperger



Town Attorney Repperger read Ordinance 2017-04 by title.

**Commissioner Walters made a motion to adopt Ordinance 2017-04;  
Commissioner Hoover seconded. Motion carried 5-0.**

B. First Reading of Land Development Code Ordinance 2017-05 – Town Attorney Repperger

Town Attorney Repperger read Ordinance 2017-05 by title.

Commissioner Walters said that on page 100, Section 9, it reads “Review proposed land development regulations, the land development code, or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan or element or portion thereof.” He said that the Planning Board is simply an advisory board. In the past, we’ve had attorneys bring to us ordinances that cost thousands of dollars only to have the Town Commission reject them. He was hoping to see something that said the Planning & Zoning Board would come to the Commission with their recommendations and if the Town Commission decided they wanted to move forward with an ordinance, they would direct the Town Attorney to draft it. He said what has happened is that the Town Attorney, Town Planner or Town Manager have decided to move forward with drafting an ordinance before receiving approval from the Commission. Though he knows that the current Planning & Zoning Board knows they are an advisory board and that current staff knows not to move forward with drafting ordinances without Commission approval, this may not always be the case.

Commissioner Hoover questioned the location of Commissioner Walters’ requested change, suggesting that it would only apply to the Planning and Zoning Board if placed in Section 9.

Town Attorney Repperger said that the purpose of Section 9 is to define the duties and responsibilities of the Planning & Zoning Board. If you want to write in a code requirement that text changes or ordinances can only be proposed if they are approved by the Commission, it should be in section 1A, *Procedure to Amend Land Development Code* (page 91). You already have a process under that section that says how applications are to be processed. Commissioner Walters responded that said he doesn’t want a resident to be able to request a code change without Commission approval.

Vice Mayor Davis said that 2A-20 reads: “Town Commission shall appropriate funds, at its discretion, to the Local Planning Agency for expenses necessary in the conduct of its work.....” and he felt that covered any ambiguity.

Commissioner Walters said page 91 1A-5(b) reads: “An amendment to the text of the Land Development Code, excluding the text of the Comprehensive Plan, may be initiated by.... (multiple entities named).” He wants the language to be clearer such that only the Town Commission can initiate the preparation of ordinances.

Mayor Simmons said the charter for the Planning & Zoning Board should be where expending funds is discussed; he wasn’t in favor of putting that language in the LDC. Town Attorney Repperger felt that the language in the Code was very clear on this issue. He said that the Code allows for individuals to apply for text changes. Mayor Simmons said that an individual filing an application is different from developing a draft ordinance. Town Attorney Repperger said to accomplish what Commissioner Walters is requesting, a change needs to be made to 1A-5.

Commissioner Quarrie asked what the process was previously for an application to result in an ordinance when it shouldn’t have. Town Attorney Repperger answered that the applicant came in with text change language provided and we are required under the Code to hold a public hearing on that text change request. Rather than advertise and hold a meaningless public hearing on that language, we put it in draft ordinance form.

Commissioner Quarrie asked if Planning & Zoning is supposed to give us their opinion of an application. The Town Attorney answered that the application comes in and it’s reviewed by the Town Manager “Following a determination by the Town Manager or his designee that the application is sufficient for consideration and meets the requirements of division (e) of this section, if applicable, the Town Clerk shall advertise a public hearing to be held by the Planning and Zoning Board/Local Planning Agency. The advertisement shall contain notice of the time, place, date and purpose of the public hearing.....” Commissioner Quarrie asked at what point the application is presented to the Commission to determine if they want to proceed with an ordinance. Mayor Simmons said there are 2 things that can happen: 1) an applicant can propose an LDC change and they pay all related expenses or 2) Planning & Zoning can decide to change something in the LDC and request the Town Attorney to draft an ordinance. Option 2 is what we are talking about here; we only want the Commission to determine if an ordinance should be drafted.

Commissioner Quarrie asked Commissioner Walters if the change would be to the procedure. Town Attorney Repperger said the clarification would be made in subsection (c) on page 91 of the LDC. A line would be added that read “prior to drafting an ordinance it shall come before the Town Commission.” That



change can be made prior to second read and he will come up with the proper wording.

Commissioner Walters had another question regarding (3) Fence height measurement (p. 246) which read, “A ~~sealed~~ survey prepared by a licensed Florida mapper and surveyor with reference elevations shall be submitted with all wall and fence permit applications. Fence height shall be measured from the surveyed elevation prior to placement of fill.” He said it sounds like if a storm knocks down your fence and prior to the owner putting it back up, he/she has to get a surveyor come out to tell the owner what the elevation is and submit that with the fence permit application. Previously, the fence would be put back up and the building inspector would check the height. Now, you have to pay \$200 for a survey to determine the elevation. He believes the Building Official should be able to handle this without requiring a survey. Commissioner Quarrie said the reason that was put in there is that in the past we’ve had a mound or berm added where the fence was going to be re-erected. This modification of the LDC prevents that practice from continuing. Commissioner Walters said if you repair or replace your fence, you have to have a permit; this is just for elevation. Mayor Simmons said nothing has changed; the only thing changed was the removal of *sealed* before the word survey and he added that this section of the code is referencing the elevation of the land, not the height of the fence. It was decided that the current language is adequate.

Commissioner Walters also addressed the dog friendly dining program (p.261). This issue was removed entirely in an earlier review of the document; nobody is grandfathered in for dog friendly dining. Commissioner Quarrie added that the County prohibits dog friendly dining.

Mayor Simmons suggested a correction on p. 96, paragraph (d) regarding quasi-judicial matters pending before the Town Commission with Town staff. He asked that the text following the semicolon, “provided that the Town official makes a disclosure pursuant to sub-section (c) (3)” be removed. The Commission agreed to the change. The Mayor also suggested a change on p.236 (f) (1), where it reads, “Deviations from the approved site plan being made are subject to the approval of the Town Manager and Building Official and will follow the site plan approval process.” He asked that “and will follow the site plan approval process” be stricken because Town Commission approval should only be required when substantial deviations from the approved site plan are made. The Commission agreed to the change.

Mayor Simmons said that after Planning & Zoning reviewed the 8 page report submitted by the Town Planner addressing proposed changes to the LDC, they found those changes to be consistent with the Comprehensive Plan.

Town Attorney Repperger requested leaving the reference to *Appendix A* on the cover page intact since that's what it is and would cause confusion if removed. The Commission agreed to the change.

**Commissioner Quarrie made a motion to approve Ordinance 2017-05 as amended; Vice Mayor Davis seconded. Motion carried 5-0.**

The Commission took a 5 minute break and reconvened at 8:08 p.m.

**Roll Call**

Town Clerk Wilson led the roll call.

**Commissioners Present:**

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

**Staff Present:**

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

**X. Old Business (01:42:13)**

**A. Consideration of removing “planter” on 300 Atlantic Street located in the Town right-of-way – Interim Town Manager Mascaro**

Interim Town Manager Mascaro sent Shirley Baccus a certified letter on October 24<sup>th</sup> requesting proof of entitlement to have the “planter” that is on the Town right-of-way. Ms. Mascaro said that one of the reasons stated as to why they didn't want to move the plantings is that they were native but that was shown not to be the case. Also, according to two surveys, the plantings are clearly in the Town right-of-way. The Towns' fire truck was unable to access Mr. Arocena's driveway which is a safety issue. The lack of access was indicated in pictures along with pictures showing how cars belonging to the Baccus family also prevented access. In conclusion, Ms. Mascaro doesn't think that the documentation presented on the Baccus' behalf, indicates that the “planter” was previously allowed or is currently permitted.

Commissioner Walters asked what the outcome was of the discussion held between the two parties involved. Interim Town Manager Mascaro said that Ms. Baccus wasn't amenable to suggestions proposed by Mr. Arocena. Ms. Mascaro added that even if there weren't codes in place to prevent the plantings in the 1980's, it is in the Town right-of-way; there is no adverse possession of government property.

Mayor Simmons said that the permission given years ago was not to allow the “planter”, it was to allow pavers to be put in the right-of-way. He added that



there is no indication that permission was given, at any time, to put anything in the right-of-way except for the pavers. The Mayor also read our Town Code definition of *Vested Rights* that was provided in Ms. Rezankas' letter dated November 8, 2017. "Preexisting rights of use that are specifically authorized to continue to exist, subject to the same limitations and conditions initially placed upon the preexisting use, but which preexisting use has, subsequent to the approval and establishment of the preexisting use, been prohibited by the Land Development Code. Vested Rights shall not apply to any prohibited use that is not specifically authorized to continue to exist by the Land Development Code. Vested Rights shall not allow for the expansion, in size or scope, of any preexisting use." This takes away the right to vested rights in this case.

Vice Mayor Davis said we have to look at all safety concerns first. He said there's no doubt that the "planter" is in the Town right-of-way. He said that's the business side of him but the other side of him tries to put himself in the same situation. The Baccus' have maintained that area for many years but it is vastly different from how it was originally.

Commissioner Walters pointed out that even if the "planter" was moved, a fire truck still couldn't get down Mr. Arocena's driveway.

Mayor Simmons said that he has plants in the right-of-way near his property and if a neighbor said he couldn't see past them while pulling out of his driveway, he would trim them or remove them, and that, if he refused, he would expect the Town to remove them.

Commissioner Walters said that if he were in this situation he would want to be neighborly and he'd just use the other ingress/egress location on the property but the Mayor said the owners would like to separate one of the properties from the other 2 and, when that happens, they'll have to use the access point that we're talking about. He added that the Town cannot deny a property owner access to his property.

Commissioner Quarrie said the question is if we are going to allow this "planter" in our right-of-way. Whether or not Mr. Arocena can get out of his driveway is another matter. The property owner has the right to use the easement, indicated on the surveys, as a driveway. The easement was grandfathered in but the "planter" should not have been allowed. Just because nobody was concerned about it in the past doesn't mean it's OK now. She questioned how the Town can permit anything in the right-of-way that's become a safety hazard.

Commissioner Hoover added that, ultimately, residents have to have access to their property

## Public Comments

*Shirley Baccus*

*300 Atlantic Street*

Ms. Baccus invited council members to come see where she is living and to see why the greenery is there. When they built their house in 1982, Atlantic Street ended at her property. The “planter” was put there for safety reasons so people would know that Atlantic Street ended and wouldn’t drive into their house. The circular driveway was put in around the greenery. She said Mr. Arocena created his own problems by putting in his driveway the way he did. She said the Commission needs to understand the safety issue that she would have without the greenery in place. She said she did not plant the greenery, she just maintained what was there.

Mayor Simmons said he understands the issue from both sides. The Commission is stuck between a rock and a hard place because no matter how we decide this matter, somebody is going to be unhappy.

*Kim Rezanka, representing Shirley Baccus*

*Cantwell and Goldman*

Ms. Rezanka said a lot of things were said before the public comments and it seems to her that a lot of the Commission has already made up their minds on the matter.

Mayor Simmons requested that a member of the Commission make a motion giving Ms. Rezanka more time than the normally allowed 3 minutes for public comments.

**Commissioner Walters made a motion allowing Ms. Rezanka to speak longer than 3 minutes; Commissioner Hoover seconded. Motion carried 5-0.**

Ms. Rezanka said she understands the basic concept that the “planter” is in the right-of-way and therefore shouldn’t be there but Ms. Baccus got permission a long time ago to put in the driveway and “planter”. She said trees have been in that location for many years. She also said that the “planter” is being used as a pawn, that our Town is emphatic about keeping trees and that there are plants in a lot of the rights-of-way in Town. Ms. Rezanka feels the Town has been misdirected by the owner of Serene Blue LLC to take the quick and easy way out and added that Mr. Arocena wants the “planter” removed to enhance the value of his property. She continued to outline the reasons why the “planter” should be left in place, citing dates and actions that have taken place over the last 40+ years. Also, a 46 page document was presented to the Commission members to



support her position and its contents were reviewed, page by page, with them. Ms. Rezanka said there are numerous legal reasons why the Town should not demand the removal of the “planter” and added that Ms. Baccus is willing to compromise by removing some pavers and trimming some trees. Some suggestions Ms. Rezanka made to mitigate the problem were to have Serene Blue LLC prove that they don’t have access to Atlantic Street, require all obstructions on the east side of Atlantic to be removed, post no parking signs, trim the “planter” back by 3 feet and trim the bird of paradise.

Mayor Simmons said he thought Mr. Arocena’s initial request was to just trim back the bushes but Ms. Baccus refused. Ms. Rezanka said she didn’t know about that and added that there’s more to this issue than just the “planter” in the right-of-way and asked that the Commission not place all the blame on Ms. Baccus.

Commissioner Quarrie said that the replat of lots 15 and 16 was approved in 1960 and shows the easement and the lines being changed to make those 3 lots. Part of lot 13 was given to 14 and 15. Being that it is a 1960 replat it doesn’t go against our code because our code was written in 1972. So, any of the non-conforming issues mentioned by Ms. Rezanka wouldn’t apply. She said that lot 15 is a legal lot because it was replatted in 1960. Ms. Rezanka responded that it became illegal when they separated the lots in 2011. Commissioner Quarrie said the original replat separated the lots to begin with providing ingress, egress and an easement. Commissioner Quarrie concluded by saying that Ms. Rezanka’s statement saying those lots are non-conforming is incorrect.

Commissioner Walters is interested in the solution that was offered by Ms. Rezanka: remove the coquina rock, trim back the planter and trim the bushes. If Mr. Arocena is not satisfied after that work is completed, he can call Ms. Rezanka and decide on the next step to take. Commissioner Walters said it seems like a real estate problem not a neighbor problem since Mr. Arocena’s property might not seem as attractive to some buyers if they notice the limited access caused by the “planter” and the coquina rock.

Vice Mayor Davis said he agreed with Commissioner Walters and though we have the authority to remove the “planter” he thinks we could negotiate a resolution to the problem.

Mayor Simmons said there was an issue brought to us by a resident who wants access to his property across our property not the Baccus property. He met with Ms. Baccus first, then Mr. Arocena. Ms. Baccus wasn’t willing to give an inch to the point that she was doing things that were making the situation worse. The real problem with that access is non-native plants. If you can work out a deal to

remove the plants for better access, the Mayor would prefer that solution. He disagreed that permission was given for the “planter”. Permission was only given for the pavers.

*Frederico and Valerie Arocena*

*315 Atlantic Street*

Mr. Arocena said he has identified when and why the problem happened. He presented pictures that gave a timeline of trees that were planted on the subject property. He said that the pictures Ms. Baccus provided show that when she purchased the house, she was given permission to install a driveway not a planter. The woman who owned 315 Atlantic purchased 325 Atlantic and one entrance existed for both houses. The problem occurred when the houses were sold separately. Mr. Arocena purchased 3 adjacent houses. Two of the houses have an entrance on A1A and the third house has an entrance on Atlantic. If access to the property that uses the Atlantic entrance is not clear, he will be unable to sell the property. He added that all the lots have always been legal lots. The Arocena’s went to Ms. Baccus to discuss removing some of the plants but Ms. Baccus said the greenery was not to be touched. Mr. Arocena said he does not have bad intentions, he just wants Atlantic Street access for his property at 315.

Commissioner Quarrie and Mr. Arocena discussed access to his properties based on the exhibits in the agenda package found on pages 317, 318 and 320. He addressed her questions by examining those pages with her at the dais. After considerable discussion on this matter, Mayor Simmons asked if what Commissioner Quarrie was asking is if the plat says that lot 15 has access to A1A through lot 13 and 20? She answered in the affirmative then asked if that is going to be changed and if that legal description is going to be changed, would that not constitute a replat? There was no response to Commissioner Quarrie’s question.

Commissioner Walters asked if Mr. Arocena is willing to get with Ms. Rezanka to trim back the plantings and remove the coquina rocks and then determine whether or not he is satisfied. Mayor Simmons said that Ms. Rezanka, on behalf of Ms. Baccus, has offered to revisit Mr. Arocena’s original request. They will take out the plantings back to the native trees, remove the rocks, not block the driveway with their cars to give him better access before proceeding further. Mr. Arocena said he is willing to try that if Ms. Baccus will remove the bird of paradise and hibiscus plantings. If that doesn’t work and the two parties can’t come to a resolution, the issue will come back to the Commission.

The Commission viewed the “planter” on page 5 to get an idea of what could be removed. The Mayor said that Mr. Arocena believes he can live with the



removal of the plantings to the east of the palm trees which consist of birds of paradise and hibiscus. He asked Ms. Rezanka if they are willing to start with removing those plantings and then determine if further action is required to which she responded in the affirmative. How far back the greenery would be cut was discussed next. Mr. Arocena suggested cutting back at least 12 feet to which Ms. Rezanka responded that removing 12 feet would be half of the “planter”. Mr. Arocena said that all they want is clear access.

*Kyle Lieneck*  
*300 Atlantic*

Ms. Lieneck, who was given authority to speak on behalf of Ms. Baccus, said she would have to measure to determine how much they’d be willing to remove.

Mr. Arocena said, again, that all they want is clear access so that they can drive in and out without being blocked.

Mayor Simmons reiterated that the property in question does not belong to Ms. Baccus and that he is not seeing willingness on her part to compromise and accommodate Mr. Arocenas’ right to access his property.

There was further negotiation between the Town Commission and Ms. Lieneck at which point Vice Mayor Davis suggested that Mr. Arocena, Ms. Lieneck and Ms. Rezanka get together during a break in the meeting to discuss what will and won’t be removed.

The Commission took a break at 10:06pm (03:35:33) and reconvened at 10:15pm.

### **Roll Call**

Town Clerk Wilson led the roll call.

#### **Commissioners Present:**

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

#### **Staff Present:**

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

Mr. Arocena said he outlined what plants need to go but said there is still an issue of cars blocking access to his property. Ms. Lieneck said that since Ms. Baccus is not present, she doesn’t have permission to agree to his request and she would like to give her grandmother more time but does have permission to remove the bird of paradise and some plants on the southeast corner of the “planter”. She cannot agree to the amount of greenery that Mr. Arocena would

like to have removed. Mayor Simmons asked the parties if they are willing to wait a month to work it out or would they like a forced decision at the current meeting. Ms. Lieneck said she would like to work on the issue over the next month. Mr. Arocena said they have been waiting 1.5 years to have the issue resolved. He said we need to start cutting and testing and he would like the “testing” to begin within a week from this meeting. It was agreed that the work would begin two days following the meeting. Mayor Simmons said the Towns’ Public Works employees and the Interim Town Manager will be at the Baccus residence on Friday at 9:30 am to work with both parties.

*Ted Edelstein*  
*325 Atlantic Street*

Mr. Edelstein said that he has one entrance that is 15 feet wide that he would like to preserve. He’d like to be a 3<sup>rd</sup> party to the agreement. He added that the Town has the right to remove anything from their right-of-way and that the Baccus mailbox is in the middle of the right-of-way also.

**Vice Mayor Davis made a motion to continue this item until the December meeting and give authority to the Town Manager to conduct activities as outlined above; Commissioner Hoover seconded. Motion carried 5-0.**

**XI. New Business (03:55:11)**

- A. Consideration of October 18, 2017 Town Commission Regular Meeting draft minutes – Town Clerk Wilson
- B. Consideration of October 23, 2017 Town Commission Workshop draft minutes – Town Clerk Wilson
- C. Consideration of November 1, 2017 Town Commission Workshop draft minutes – Town Clerk Wilson

**Commissioner Walters made a motion to approve the October 18, 2017 minutes, the October 23, 2017 minutes and the November 1, 2017 minutes as amended; Commissioner Quarrie seconded. Motion carried 5-0.**

- D. Consideration of Computer Experts contract renewal – Interim Town Manager Mascaro

Interim Town Manager Mascaro said the contract renews in February but she wanted to bring it to the Commission now. She said that Computer Experts



is quick to respond and we have been very satisfied with their service. The current monthly rate is \$1,299 for Town Hall and the Police Department (28 units). The Fire Department is billed an additional \$100. All services are included in the contract except after hours' service and our annual licensing fees. We meet with them quarterly to review the computer logs from the server and discuss any areas of concern and they also clean and maintain the machines on a regular basis.

Commissioner Walters said the monthly rate doesn't include anti-virus software. He said they are asking for a 20% increase and he thinks it would be ridiculous to approve this without going out to bid. Also, according to the charter, anything over \$4,000 must be bid.

Ms. Mascaro said anybody we contract with has to be FDLE certified.

Commissioner Quarrie suggested that we model the RFP after Computer Experts contract.

**Commissioner Walters made a motion to send out an RFP for computer services; Commissioner Hoover seconded. Motion carried 5-0.**

E. Consideration of Burton Paving estimate for striping the roads – Interim Town Manager Mascaro

Interim Town Manager Mascaro said she requested proposals to strip the streets paved by VA Paving. Burton Paving was the only company to respond. After doing an evaluation, they said we need 33 single stopbars, 2 double stopbars and 50 linear feet of 6 inch yellow striping which would cost \$4,800. They will use a thermoplastic material for durability.

**Commissioner Walters made a motion to waive the requirement to go out for bid to stripe the roads with 33 single stopbars, 2 double stopbars and 50 linear feet of 6 inch yellow striping; Commissioner Quarrie seconded. Motion carried 5-0.**

**Commissioner Walters made a motion to approve the bid from Burton Asphalt not to exceed \$4,800 to install thermoplastic white stopbars – 33 single stops, 2 double stops and 50 linear feet of 6 inch yellow striping; Commissioner Quarrie seconded. Motion carried 5-0.**

F. Consideration of Resolution 2017-10, Final Budget Amendment – Finance Manager Mascaro

Interim Town Manager Mascaro said that the Town Commission may amend the adopted budget or transfer any unencumbered balance, or portion thereof, from one fund, office, department or agency to another by approval of a resolution. Also, the Town Manager, with Town Commission approval, may transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within any office, department or agency. The reasons for the transfers are to cover FY17 Hurricanes Matthew and Irma expenses.

Commissioner Walters said we are going to receive a great deal of money back from FEMA and Ms. Mascaro concurred adding that we have already received confirmation of 2 payments. She said that part of the holdup in receiving payment was that FEMA had a problem paying double time but the state is going to pay the difference.

**Commissioner Walters made a motion to approve Resolution 2017-10, Final Budget Amendment; Commissioner Hoover seconded. Motion carried 5-0.**

**XI. Staff Reports**

- A. Town Attorney Report – Mr. Repperger said the marijuana ordinance will go to Planning & Zoning and the Commission next month and the Town Commission will also be getting the ordinance for emergency meetings. The short term rental ordinance will come in January.
- B. Town Manager / Public Works Report  
Commissioner Walters said it was his understanding that when we refinanced the bond, there were no additional years. Ms. Mascaro said he was correct. He also asked if we ever got the paving done in front of Ryckman Park and the Community Center because we added \$5,000 to the amount paid to VA Paving to do that. Commissioner Walters' last comment was to invite everybody to look at the beautiful new playground on the river. It's .5 miles south of the Melbourne Causeway.
- C. Town Clerk Report – no report
- D. Departmental Reports:
  - 1. Building Department – no comments
  - 2. Code Enforcement  
The Mayor asked if the Interim Town Manager found out what the 4 non-compliance reports were. She responded that 2 of them have been closed and the other 2 weren't a big deal.



The Mayor then asked if the Animal Clinic on Ocean Avenue and his neighbor resolved their fence problem. She answered that the issue will be taken care of soon.

3. Police Department – no comments

4. Fire Department

Commissioner Walters asked about the water and ice rescue.

Interim Town Manager answered that there was a paddle boarder who was adrift and he was not found.

A felony assault at 302 Ocean Avenue was described by Vice Mayor Davis.

5. Finance Department – no comments

## **XII. Town Commission Comments**

### **A. General Comments**

The Mayor heard from the SCLOC Board of Directors that Jerry Sansom had \$450,000 left over from last year that he had to give back and he's asking people to give him some ideas on how to spend the money on inland navigation projects.

The Mayor also said that municipalities should expect more attacks on Home Rule in 2018.

The Mayor said that Virginia Barker gave a long talk on the Indian River Lagoon.

### **B. Review of Commission Action List (04:21:56)**

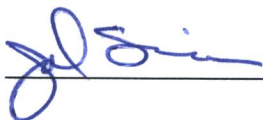
3 items were closed and no new items were added.

## **XIII. Adjournment**

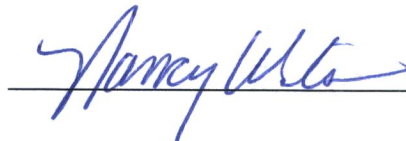
**Commissioner Quarrie made a motion to adjourn;**  
**Commissioner Hoover seconded. Motion carried 5-0.**

Meeting adjourned at 11:07 p.m.

ATTEST:



James D. Simmons, Mayor



Nancy Wilson, Town Clerk