



Town of Melbourne Beach

**REGULAR TOWN COMMISSION MEETING
WEDNESDAY, DECEMBER 20, 2017
6:30 p.m.
COMMUNITY CENTER – 509 OCEAN AVENUE
MINUTES**

PUBLIC NOTICE

**The Town Commission conducted a Regular Town Commission Meeting
at 6:30 p.m. on Wednesday, December 20, 2017
at the Community Center 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:

Town Manager Bob Daniels

Town Clerk Nancy Wilson

Town Attorney Cliff Repperger

Finance Manager Elizabeth Mascaro

III. Pledge of Allegiance and Moment of Silence

Led by Mayor Simmons

IV. Special Presentations

- A. Dominick Montanaro, Councilman, City of Satellite Beach and Incoming President, Space Coast League of Cities

Mr. Montanaro said it was his first time in our Commission chambers. He has been going to Tallahassee for years because he's concerned about what's going on in our cities. He said the state legislature has filed five bills in 2017 dealing with vacation rentals, CRA's, tree ordinances and how we travel as cities. He said this mentality is continuing and some form of HB17 will be revisited in 2018; HB17 preempted us from being able to do anything with business regulations in our cities and towns including noise ordinances, lighting, parking, adult entertainment, etc. He wants to couple his initiative of engaging communities with a League of Cities program called *Let Cities Work* to operate more effectively and in a way they have never operated. Mr. Montanaro said that for any issues that come up pertaining to quality of life, the League of Cities is going to start tailoring messages to our residents to whom the issues pertain. An individual can call a representative but if more people are in the know about any given issue that is important to them, the volume of calls will increase and that volume will be more effective in letting our representatives know how the people feel. It will be a trial year for this initiative.

Commissioner Walters asked how we get around rogue municipalities who are responsible for why the state wants to take over. Mr. Montanaro replied that he doesn't know the answer but he is aware of the problem. A lot of legislators are being personally impacted by things they aren't able to change so, in the case of

vacation rentals for instance, legislators who have them want to get around the rules. Mr. Montanaro encouraged the Commission to get involved and to sit on the policy committee in 2018; that committee establishes our priorities.

- B. Proclamation recognizing Elizabeth Mascaro's excellence in her role as Interim Town Manager

Mayor Simmons read the proclamation and presented it to Ms. Mascaro. She was thanked by members of the Commission and audience.

V. **Boards and Committees**

Frank Thomas, representing the History Center Board, gave a report on that Boards' activities

Mr. Thomas reminded us about his annual walk on New Year's Day at 10am. He had a copy of the *History of Melbourne Beach* and displayed other Melbourne Beach history books and pamphlets. He explained how the Town nearly disappeared 50 years ago and the residents had to pressure the Town to write a resolution opposing any legislation by the State of Florida that would affect their sovereignty. The legislation, if passed, would have taken 180 square miles of land and made it one City called Brevard Beach.

VI. **Public Comments**

No public input

VII. **Approval of the Agenda**

Commissioner Walters made a motion to approve the agenda except for Item D. under New Business: Consideration of City Attorney's contract renewal because no background information was provided; Vice Mayor Davis seconded. Motion carried 5-0.

VIII. **Consent Agenda**

- A. November 13, 2017 Town Commission Workshop draft minutes
- B. Site Plan Review for 205 Third Avenue, Melbourne Beach, FL
- C. Site Plan Review for 401 Oak Street, Melbourne Beach, FL
- D. Police Pension Fund report

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

IX. Public Hearings

- A. Second Reading of Land Development Code Ordinance 2017-05 – Town Attorney Repperger

Town Attorney Repperger read Ordinance 2017-05 by title. The 3 changes requested at the November 15, 2017 meeting were noted and included in the final revision.

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

X. Old Business (00:25:06)

- A. Consideration of bid for Grounds Maintenance Services from Fertig's Sharper Cuts – Town Manager Daniels

Town Manager Daniels said he handed out about 10-15 packets in order to solicit bids and had only one response which was from Fertig's Sharper Cuts. The bid is higher than what we were paying Hunter Landscaping.

Commissioner Walters asked about a gentleman who had been interested in the position when we issued an RFP in 2016. He was told that the person is no longer in business. He also asked if we could hire somebody to do it for the approximately \$30,000 we would pay Mr. Fertig. The Town Manager responded by saying he's run the numbers and it wouldn't be cost effective.

*Marcus Fertig
Owner/Operating of Fertig's Sharper Cuts
314 Hibiscus Trail
Melbourne Beach, FL*

Mr. Fertig, in response to a question from Commissioner Walters about his bid, said he received a bid packet from the Clerk's office and that was what he filled out. Mr. Fertig said he would fertilize twice a year and mow 42 times a year. Town Manager Daniels said Mr. Fertig's bid is about \$3,900 more than what Hunter Landscaping charged. Mr. Fertig said he is familiar with the Town's parks; he mowed them for about four years before Scott Hunter took over.

Mayor Simmons said what bugs him about contractors is when they blow grass clippings into the roads and gutters; Mr. Fertig said he will blow the grass back into the turf area and said that he uses mulching mowers. Also, the Mayor asked if the current contract states an hourly rate for other services; Mr. Fertig's hourly rate is \$45/hour.

Commissioner Quarrie asked about workers' compensation for Mr. Fertig's employees to which the Town Manager replied that the requirement for workers' compensation will be included in the contract.

Commissioner Walters made a motion to accept the bid from Fertig Sharper Cuts in the amount not to exceed \$29,813; Commissioner Quarrie seconded.

Town Attorney Repperger said that the Town should enter into a standard agreement with an initial term of 21 months with annual renewals of 12 months. Mayor Simmons said that by accepting the bid, the Commission is authorizing the Town Manager to negotiate a contract and then bring it back to them for approval.

Commissioner Walters withdrew his motion.

Commissioner Walters made a motion to direct the Town Manager to continue negotiations with Fertig's Sharper Cuts in the amount not to exceed \$29,813 annually for grounds maintenance and bring a contract back to the Commission; Commissioner Quarrie seconded. Motion carried 5-0.

- B. Consideration of removing "planter" on 300 Atlantic Street located in the Town right-of-way – Town Manager Daniels (00:36:47)

Town Manager Daniels said the agenda packet has pictures that show what part of the planter has been cut back and the rocks and sprinkler system that have also been removed from the right-of-way. The safety concern previously discussed has been mitigated by those efforts. Mr. Arocena was present and he was looking for more of an access and delineation for his driveway and Ms. Baccus was also present along with her attorney Kim Rezanka.

Mayor Simmons said this wasn't a quasi-judicial proceeding so we didn't need to rehash all that was discussed last month. The situation couldn't be resolved amicably so it is back before the Commission to make a decision.

Commissioner Walters said he agreed with Mr. Edelstein, 325 Atlantic, who said that too much time has been taken up by this issue. He thinks that Ms. Baccus has made an effort to clear out the planter, which he added looks horrible, but he thinks there is ample access to the Arocena property. He said if we are going after Ms. Baccus for plantings in the right-of-way, there are many other areas that we have to go after. Vice Mayor Davis agreed with Commissioner Walters. Commissioner Hoover said there was not an issue until somebody needed access to their driveway. If somebody complained in those other areas, we would take

action there too. Commissioner Quarrie was conflicted. She didn't know how much more of the planter should be removed but feels the Arocenas have clear access to their property at this point.

Mayor Simmons said the only access to the Arocena property is through a deeded flag lot adding that all that was ever approved were pavers, the planter was never approved so the Town does have the right to remove it. Further, the permit for the pavers does not preempt us from removing them either; the driveway and planter are in the Town right-of-way and like any other area in Town, we have the right to remove whatever we deem inappropriate. The problem was initially presented to the Commission as a safety issue which has been resolved and he thinks the driveway is accessible without driving on Mr. Edelstein's driveway. The area is not attractive but it's functional. The Mayor proposed that the seagrape tree and other plantings be maintained as they are today. The Town Manager will be given authority to determine if the plantings have become an issue again and if the planter needs to be removed. The Baccus family is to be given notice this week that they have been in violation of our Code. In the future, if they are in violation, the issue will be referred to the Code Enforcement Board and the Baccus family may be subject to fines. The bottom line is that no new plants or growth of current plants is permitted. Also, access to the Arocena's property will not be impeded by any cars. "No Parking" signs should work to keep people from blocking the entrance to the Arocena property but if not, the cars may be towed. Further, if either party wants to change the ugly planter area, they need to go through the permitting process.

Shirley Baccus
300 Atlantic

Ms. Baccus said that the only comment she is going to make is that since 1971 she has never planted anything in the planter area but maybe an hibiscus.

Kim Rezanka (representing Ms. Baccus)
Cantwell & Goldman, P.A.

Ms. Rezanks said it is no longer an access issue and that Ms. Baccus has done what she was asked to do. The planter was cut back 10 feet which amounted to about two-thirds of it. If her client wants to do anything else in the area, she will come to the Town first.

Frederico Arocena
315 Atlantic Street

Mr. Arocena said he keeps hearing about his other entrance on A1A; once he erects a wall to physically divide the properties, his only access will be from Atlantic Street. His problem is that Mr. Edelstein doesn't want him to drive on his right of way. He said there is no identity to his entrance. He would like to remove the

pavers and put concrete in front of his property to delineate it. He said because of the pavers in the right-of-way, people think it belongs to the Baccus family and they park there.

Mayor Simmons said he should bring what he wants to do to the Town Manager and Town Planner to seek their approval. He added that Ms. Baccus' granddaughter said to him that she had deliberately blocked the driveway and she also placed rocks in the way to impede the Arocena's ingress and egress.

Valerie Arocena
315 Atlantic Street

Ms. Arocena said she doesn't want to continue bothering the Commission but asked if it would be all right to contact the Town if the plants get too big.

Vice Mayor Davis made a motion to authorize the Town Manager to insure that the plantings are maintained as they are today, that there be no new plantings in the area that was just cleared out and that "no parking" signs may be erected with violators being towed; Commissioner Quarrie seconded. Motion carried 5-0.

XI. New Business (01:15:03)

- A. Consideration of November 15, 2017 Regular Town Commission draft minutes as amended – Town Clerk Wilson
- B. Consideration of November 15, 2017 Special Town Commission draft minutes as amended – Town Clerk Wilson
- C. Consideration of December 6, 2017 Town Commission Workshop draft minutes as amended – Town Clerk Wilson

Commissioner Quarrie made a motion to approve the draft minutes as amended from November 15, 2017 Regular Meeting, November 15, 2017 Special Meeting and December 6, 2017 Workshop; Commissioner Walters seconded. Motion carried 5-0.

- ~~D. Consideration of City Attorney's contract renewal – Town Attorney Repperger~~

XII. Staff Reports (01:18:10)

- A. Town Attorney Report – no questions/comments
- B. Town Manager / Public Works
Mr. Daniels said that SJRWM has suggested that everybody skip a week of watering every month during the winter; this information has been placed on our website. Commissioner Walters asked the Town Manager to clean up an area in the park with dead palms and debris and said that our budget isn't posted where

he looked for it on the website. Mayor Simmons said the boots of palm trees are where bats live so we shouldn't be stripping them. The Town Manager has the authority to place any items on the Action List that he feels should be there. The Action List is just a mechanism to make sure nothing falls through the cracks.

C. Town Clerk Report – no report

D. Departmental Reports:

1. Building Department – no questions/comments
2. Code Enforcement – Commission Quarrie said a lot of people don't know that they still need to get a permit for work resulting from the hurricane damage. It's just the fee that has been waived. There was discussion about how to deal with people who didn't get permits. The consensus (minus Commissioner Walters) was that if a person didn't pay for a permit for repairs resulting from storm damage, they must pay the permit fee thus the fee is not waived.
3. Police Department – no questions/comments
4. Fire Department – Commissioner Quarrie said she is not comfortable about the mold and something must be done to remedy the situation. The Town Manager said the cupola that ventilates the attic is where the rain entered. Wood was installed to cover the cupola openings but the windows beneath had never been sealed. He is getting a price to seal the windows at which point he will address the mold issue.
5. Finance Department –no questions/comments

XII. Town Commission Comments (01:36:50)

A. General Comments

Mayor Simmons said an SCLOC voting delegate and an alternate need to be elected.

Commissioner Walters made a motion to elect Commissioner Hoover as the voting delegate; Commission Quarrie seconded. Motion carried 5-0.

Commissioner Walters made a motion to elect Mayor Simmons as the alternate; Commission Quarrie seconded. Motion carried 5-0.

The Mayor announced that a Workshop is being held on January 10th to discuss a proposal from B.S.E. Consulting regarding the Town's stormwater issues.

The Mayor commented on the inappropriateness of a politician campaigning in our Children's Christmas Parade. The Town Attorney said we can't prohibit someone from being in a parade. Commissioner Walters suggested that we ask him not to do that in the future. The Town Manager added that the Volunteer Fire Department is looking at changing their rules to prevent this in the future because they didn't like it either.

B. Review of Commission Action List

1 item was closed

5 items were updated

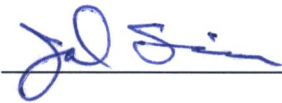
1 item was added: establish facebook page

XIII. Adjournment

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

Meeting adjourned at 8:30 p.m.

ATTEST:



James D. Simmons, Mayor



Nancy Wilson, Town Clerk