



# **Town of Melbourne Beach**

## **SPECIAL TOWN COMMISSION MEETING**

**FRIDAY SEPTEMBER 1, 2017**

**12:30 p.m.**

**MASNY ROOM – 507 OCEAN AVENUE**

### **MINUTES**

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

Interim Town Manager Elizabeth Mascaro  
Town Clerk Nancy Wilson  
Town Attorney Clifford Repperger, Jr.

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**The Town Commission held a Special Meeting  
on Friday, September 1, 2017**

**I. Call to Order – Led by Mayor Simmons**

Mayor Simmons called the meeting to order at 12:30 p.m.

**II. Roll Call**

Town Clerk Wilson led the roll call.

Commissioners Present:

Mayor Jim Simmons  
Commissioner Sherri Quarrie  
Commissioner Wyatt Hoover

Staff Present:

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

Commissioner Absent:

Vice Mayor Tom Davis  
Commissioner Steve Walters

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

Led by Mayor Simmons

**IV. Public Comments - none**

**V. New Business**

A. Confirm Qualified Candidates and Order Names to be printed on the November 7, 2017 Municipal General Election Ballot – Town Clerk Wilson

Town Clerk Wilson said that the Mayor is running unopposed so his name will not be placed on the ballot. The candidates for the open Commission seat are Doug Hilmes, Jay Maguire and Sherri Quarrie. All their paperwork is in order and is available for public review.

Town Attorney Repperger said that the Charter does not provide that the confirmation of qualified candidates needs to be done by an affirmative vote. All it says is that the Commission makes the determination regarding qualifications. The present issue is that there are three Commission members at the meeting, two of whom are qualified candidates. The Charter provides that if you are going to take an affirmative vote, it needs to be by three members for an official action. The Town Attorney felt that there was a potential conflict with the candidates voting for themselves as qualified but after conducting some research, he was unable to find direct authority on point that a candidate cannot vote for him/herself as qualified. In order to allow the Town Clerk to forward the qualified candidate names to the Supervisor of Elections, he suggested that the Commission, by a two member vote, deal with the candidates separately. He said there is no other way around the Charters' general requirement of a three member vote. Mayor Simmons asked about the possibility of an appeal that says we didn't obtain the three member majority. The Town Attorney said that he didn't see anything in our Charter that



requires that the qualification determination be done by a regular, three member vote. He added that what the Commission would be doing is indicating to the Town Clerk by consensus that you agree with her determination that these are the qualified candidates. The Mayor said that in past elections, candidates have voted for themselves and he wondered if that established any precedent. Town Attorney Repperger said he would advise, in an abundance of caution, not to rely on precedent. He added that we could contact the Commission on Ethics but that's only if the Commission wants to move forward with a three member vote, however, he is deeming under our Charter, that is unnecessary for purposes of implementation of the qualification section of the Charter. Both Commissioners Quarrie and Hoover felt comfortable moving forward with a two person vote such that neither of the two candidates votes for him/herself. Commissioner Hoover added that if this was how the Commission was to proceed, he'd like to ensure that the minutes be very detailed on the matter.

Town Attorney Repperger said he's made the determination that the Commissioners can't vote specifically for themselves because of a potential conflict. Under section 2.02 in the Charter, where it talks about the Commission and qualifications, the relevant language is: *"The Commission shall be the judge of the qualifications of candidates for election to the Commission and for such purpose, shall have the powers to subpoena witnesses and require the production of evidence, but the decision of the Commission in any such case, shall be subject to review by the courts."* It doesn't say a vote is required or that you need to evaluate the qualifications of each candidate. Thus, the Town Attorneys' suggestion to the Commission is to delegate to the Town Clerk, who is knowledgeable of the process, the authority to make the determination as to qualification and then send those qualified candidate's names to the Supervisor of Elections.

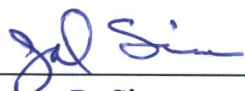
**Commissioner Hoover made the motion to delegate the responsibility of confirming the qualification of candidates to Town Clerk Wilson and have her forward those names to the Supervisor of Elections; Commissioner Quarrie seconded. Motion carried 3-0.**

## VI. Adjournment

**Commissioner Quarrie made a motion to adjourn; seconded by Commissioner Hoover. Motion carried 3-0.**

Meeting adjourned at 12:23 p.m.

ATTEST:

  
James D. Simmons, Mayor

  
Nancy Wilson, Town Clerk