



Town of Melbourne Beach

TOWN COMMISSION WORKSHOP

WEDNESDAY, FEBRUARY 6, 2019

6:00 pm

MASNY ROOM – 507 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

PUBLIC NOTICE

The Town Commission conducted a Town Commission Workshop
on Wednesday, February 6, 2019 in the Masny Room
to address the items below.

I. Call to Order – Led by Mayor Simmons

Mayor Simmons called the meeting to order at 6:00 p.m.

II. Roll Call

Town Clerk Wilson led the roll call.

Commissioners Present:

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

Staff Present:

Town Manager Bob Daniels
Town Clerk Nancy Wilson

III. Pledge of Allegiance and Moment of Silence

Led by Mayor Simmons

IV. Boards and Committees

Interview Libby Brown-Brock who has submitted an application to be an alternate on the Planning & Zoning Board

Mayor Simmons explained that the Town Commission agreed there are four Town Boards that are policy making or quasi-judicial boards. Prior to being appointed to one of those Boards, the Commission decided they would like to talk to the prospective members prior to appointment to help them understand the role and responsibilities of each Board, to ensure that the candidates are willing to step into that position and that their thoughts are in line with the Commission. The Planning & Zoning Board, unlike the other three Boards where the Town Commission has no say in their determinations (Board of Adjustment, Code Enforcement and Police Pension), is an advisory board. It is included among the four because it is key in making recommendations for land development code changes and for preserving the character of the Town. Any recommendations made by the Planning & Zoning Board on site reviews, code changes and requests from the Commission, would be by majority vote and would then go to the Commission for action. The comments and decisions made by members of P&Z could be used in appeals during zoning changes so members need to be careful about what they say and how they frame their arguments. Decisions can set a board member at odds with friends, neighbors and others so it requires a strong spine at times. Members of the Board are bound by the Sunshine Law.

V. Public Comment (00:07:53)

*Doug Hilmes
443 Riverview Lane*

Mr. Hilmes thanked the Commission for the stormwater system upgrades that have occurred in Town recently.

He said that he has been complaining about the buildup of seaweed since the end of 2018 in the Harbor East subdivision. Currently, the horrible odor in Town is a result of that buildup. It turns out that rotten algae is the source of the smell - bacterial algae blooms. He explained that it is so thick that birds can walk on it and fish are dying. He recounted a similar situation in April 2017 at which time he entered the water in a $\frac{3}{4}$ wetsuit to rake some of the debris and subsequently suffered from hydrogen sulfide burns. It turns out that hydrogen sulfide is highly toxic to marine life. He said the bacterial algae bloom is an environmental hazard and he is requesting assistance from the Town to manage the problem. Mr. Hilmes estimated the size of the algae field to be 12,000 cubic feet. He added that the Town can't hide behind not owning that water; if this problem isn't mitigated, it will affect all home values in Town. He appreciates Mayor Simmons asking the Town Manager to contact state officials to help with the problem but the cleanup needs to happen now; we can discuss reimbursement afterwards.

Debra Marchese

310 1st avenue

Ms. Marchese said the *Sand on the Beach* dumpster at the beach access at the end of 1st Avenue smells and it's always left open. Also, the employees are still smoking and cleaning the restaurant mats at the crossover. She said there is plenty of room on the other side of the restaurant to put the dumpster. The Mayor said that the Town can't prohibit him from driving through our parking lot. Except for the dumpster being left open, he is compliant with the permit that a previous Commission granted. He is allowed to park four cars there per the terms of his Special Exception; it is designated parking for his business. The Town Manager said this problem had been taken care of and Mr. Pepaj had complied but it sounds like our Code Enforcement Officer needs to revisit the property.

Loraine Arbogast

1100 Atlantic

Ms. Arbogast's biggest concern is the buildup of water on Atlantic Street in front of *Sand on the Beach*. The trash from their dumpsters regularly blows into her yard. They are washing their greasy kitchen rugs then draping them over the fence such that the runoff is going into the storm drain. It smells and it's unsightly. After a rain event, there is standing water at the crossover that doesn't drain for days; the drain is compacted with sand and rocks. The Mayor said that drain is a dead end, there is no pipe. She added that a sign at that location was broken in a hurricane two years ago and it's still broken. The very first beach access in Town looks awful and makes a bad impression.

Mayor Simmons said we have had code enforcement and a special exception actions against the owner of *Sand on the Beach* for a while. The power on a code enforcement action resides with a motivated scofflaw. The problem can be corrected once and still be brought back time and time again when the violation is repeated. We need to bring code enforcement action against Mr. Pepaj for his employees smoking and littering at the crossover and as part of his Board of Adjustment action and code enforcement, he needs to comply with keeping the opening to his dumpster closed. The law binds us in many ways; we can't make him live up to terms that are not in his special exception. Mayor Simmons explained the code action process saying that there's nothing we can do but be on his back about violations and levy fines which could lead to putting a lien on his property. Ms. Arbogast added that waiters from *Sand on the Beach* are serving alcohol and food to customers on the beach. This is not permitted and the Code Enforcement Officer will be notified of the infraction.

Steven Strauss
429 Riverview Lane

Mr. Strauss asked if he if he is allowed to rake seagrass out of the river and dispose of it. Turtle grass or seagrass that is growing on the river bed is what we want to keep and it should be protected but seaweed can be removed. The Mayor further clarified that anything with long green blades should not be removed.

Paul Zilka
411 Magnolia

Mr. Zilka said the situation with the river and the smells is the result of a series of things. The river is now a bacterial system which resulted from overloading it with nutrients. The issue is very complex and the solutions are even more complex so in order to address the issues we have to understand exactly what is happening and to do so at a personal level. There are only two things that cause turbidity: suspended particles and organisms (bacterial algae). The river is full of bacterial algae and not vascular plants. He encourages the Town to look at bringing this to the attention of all our citizens.

Mayor Simmons mentioned an event regarding projects that are underway to restore and protect the Indian River Lagoon. The event will be held at the Gleason Performing Arts Center at FIT on Tuesday, February 26th at 6:30pm.

Vice Mayor Hoover said that last year, the Town's Environmental Advisory Board began working on a Sustainability Plan. They hired an intern from FIT who is helping to write the Plan. For those who would like to learn more, the EAB Board meets on the 4th Wednesday of every month.

VI. Old Business

A. Discuss stormwater issues with Scott Glaubitz from B.S.E. Consulting

1. Stormwater issue at 2nd & Pine (00:31:10)

Mayor Simmons introduced Scott Glaubitz, Ana Saunders and Ken Ludwa all of whom are our civil engineer consultants. Mr. Glaubitz said he received from Brewer Paving, the contractor who performed the stormwater work on Andrews and Riverside, his near final invoice (there may be a couple delayed costs). The guaranteed maximum price we were given was around \$1 million. The contract is going to come in at a little over \$600,000 which is a 38-40% savings.

Mr. Ludwa summarized the analysis that B.S.E. performed on 2nd Avenue between Pine Street and the river. The problem is that flooding occurs both mid-block and at the intersection multiple times a year. B.S.E. looked at some solutions to the problem utilizing a hydraulic model. The bottom line is that the pipes aren't big enough to handle a 2 year storm which is about 3-3.5 inches per hour so it is easy to see why the problem exists. (He indicated on a map what is happening and where). Why it is happening is because the water from A1A flows down 1st Avenue and once it hits Pine Street, it turns and heads down 2nd Avenue which overwhelms the small pipes.

The first alternative was to put in new inlets and pipes on 1st Avenue to capture the flow from the east. However, this diversion would be limited by the downstream pipe and there would be new flooding on 1st Avenue and only slightly reduced flooding on 2nd Avenue. The second and preferred alternative involves installing a 42" pipe from Pine Street to the outfall at the river, installing 5 new drainage inlets and a new outfall. B.S.E. designs their plans to handle, at the very least, a 10 year storm so you'd need a 42" pipe all the way from Pine Street to the River to handle a 10 year up to a 25 year storm; this solution would eliminate the flooding problem. Also, included in the plan is a water treatment box at the river (water quality filtration box). The cost to implement this preferred alternative would be about \$180,000. If the Commission decides to remedy the problem this would be the best way to go.

Mr. Glaubitz answered several questions by referring to the map that was on display.

Paul Zilka
411 Magnolia

Mr. Zilka said that B.S.E. is using a baffle box instead of a retention area and asked how long water is held in a baffle box and does it go back into the ground. Mr. Glaubitz answered that water enters the baffle box and drops through grates where debris is retained, then the water comes back up through another set of grates and flows out. Sometimes, the first

flush can accumulate a lot of debris which is why baffle boxes have to be cleaned periodically. Mr. Zilka said the issue is not debris such as leaves, rather, it's the micronutrients. Mr. Ludwa said baffle boxes do not address finer, dissolved material such as nutrients but catching leaves, etc., is still beneficial to the river. There are nutrient filtration systems that absorb dissolved nutrients but the cost of installing that kind of system wasn't included in the price. The first step is to solve the flooding problem and consider that upgrade at a later date. Mr. Zilka thinks we are in a situation where the smell is bad enough such that we need to solve the problem by preventing nutrients from going into the river. Commission Quarrie said the Town has already put in motion some water retention measures to keep water on an individual owner's property. The best pollution control is source control. She added that we are trying to retain water at our green spaces where water could sit, filtrate and not go into the lagoon. Mayor Simmons said we don't have the money for comprehensive solutions

Sue Tompkins

2004 Neptune

Ms. Tompkins asked who is responsible for cleaning the baffle boxes. The answer was that the Town is responsible and they were last cleaned about 2 months ago; they are cleaned 5 times per year. She said the city cites people for illegally parked cars so why can't we cite people for blowing grass into the canals. In order for us to enforce this, we'd need to hire a lot more people.

Conversation ensued about whether or not there is an HOA in Harbor East. One gentleman said the canals in Harbor East are public waterways.

Kate Wilborn

502 2nd Avenue

In response to a question asked by Commissioner Runte, Ms. Wilborn said during one storm, water was up to her knees in the house. She said 4 homes did flood and 3 more would have flooded had the rain continued. The water from Ocean and 1st Avenue all flows downhill to her intersection.

Commissioner Runte said the Town has limited resources and he's not sure spending \$180,000 to help 4 people would be a good use of Town funds. He said holding residents accountable would be the most effective way to mitigate the flooding problems and added that there's no immediate fix.

Vice Mayor Hoover was told that the difference in cost between a 36" and 42" pipe was negligible. He concurred with Commissioner Runte that we need to hold our residents accountable in order to help solve flooding and pollution problems. Commission Quarrie was told that a baffle box that chemically treats water would cost about \$30,000 - \$50,000.

Jeff Eble
399 Riverview

Mr. Eble asked about nutrient abatement in the baffle boxes. Scott Glaubitz answered that chemical treatment and baffle boxes are not combined and added that there is regular maintenance required with chemical treatment that is expensive. In fact, Palm Bay had a grant for water treatment but their plans were abandoned because of the cost.

There was Commission consensus to have the Town Manager provide a proposal at the February 20th RTCM that addresses the flooding issue on 2nd/Pine.

2. P& Z Board Land Development Code Action Items (01:21:47)

The issues that B.S.E. was tasked with addressing were:

- Minor fill, minor grading
- Determine standard maximum lot slope to achieve minimum floor elevation
- Retention of water on one's own property
- Verbiage for 3A-80 in the LDC

Town Manager Daniels said regarding sea level rise and flooding issues, the Town is addressing them through our Comprehensive Plan updates. There will be a public meeting on April 24th where experts from planning councils will talk about what they think we can expect in the years to come.

Mayor Simmons said the Town is trying to do things, no matter how small, to deal with stormwater. Melbourne Beach was developed piecemeal, there were no comprehensive plans so at times we become overwhelmed by stormwater. Any changes made would only affect new builds and renovations where the cost is more than 50% of the cost of the house.

Doug Hilmes
443 Riverview Lane

Mr. Hilmes said we need a definition of what somebody is allowed to do related to drainage. He said that somebody can offset drainage 10 years

after owning the house by getting a truckload full of dirt. Mayor Simmons questioned where the line should be drawn.

After a great deal of conversation among the Commission members and input from B.S.E., it was decided that on page 184J, paragraph (1) would be removed: *Minor grading and the placement of minor quantities of nonstructural fill will be permitted for landscaping and for drainage purposes under and around buildings.* Also, a requirement will be added to provide a civil engineer stamped retention plan and a civil engineer stamped as-built (plans created after construction of the building is completed) with a topographic survey.

Regarding the wording on page 159, 3A-80 paragraph (c) *Single family residential lots within a subdivision which was platted prior to January 1, 1990, are exempt from this requirement*, Mr. Glaubitz recommended that we get a legal interpretation from our Town Attorney. Grandfathering issues are very hard to overturn. Commissioner Quarrie suggested that we just say that single family residential lots are not exempt from this requirement, if the Town Attorney Repperger concurs.

Also on page 159, 3A-80 under paragraph (b), the following change will be made: *Stormwater management facilities shall meet the adopted minimum level of service standard of retention of the first ~~1/2 inch of runoff from a 25-year/24-hour~~ 8 inches of runoff from a 10-year/24 hour storm event; that the additional runoff generated by this storm event in excess of the predeveloped runoff is retained on site and that the discharge rate shall not exceed the pre-developed rate with the overflow treated prior to disposal into the drainage system.*

Mayor Simmons then moved on to the issue of maximum lot slope and minimum floor elevation. Floor elevation is required to be 18" over the crown of the road but the lot doesn't need to be filled to achieve that requirement. Mr. Glaubitz said the slope doesn't make any difference as long as the slope is directing the runoff to a retention area on site that complies with the 10-year/24 hour storm event. Existing homes are going to be exempt from this requirement. It was decided that this issue would not be addressed in the LDC because it is mitigated by the topographic survey and the retention of water on the property

*Edward Kenny
442 Sandy Key*

Mr. Kenny said that on the morning of February 1st in Harbor East, the canals turned a milky white. A neighbor saw feces in the water and later dead fish were floating. The Town wasn't aware of the problem. Public Works Supervisor Tom Davis was sent out to evaluate the situation. He

subsequently contacted the County because it was believed to be a sewage issue. The source of the "sewage" was not located and Brevard County denied that the problem was theirs but did say that there had been a sewage leak at a local church which was not reported to the Town.

Mr. Macado
416 Anchor Key

Mr. Macado gave the Commission pictures of the floating material that was found in the water. He said water samples were taken on the night of February 1st by Brevard County.

When the Town Manager was asked for an update, he said the County is still investigating the issue and he has yet to receive any updates. A dead manatee was also found and the Florida Wildlife Commission (FWC) will be performing an autopsy to determine the cause of death.

Mr. Kenny continued: On the night of February 1st, a resident used a dissolved oxygen meter that showed there was no oxygen in the water. He was frustrated by the number of calls he has had to make that have yielded very little help or information. Town Manager Daniels said that FWC was more concerned about the fish kill than the raw sewage. Mr. Kenny said the poor water conditions have most likely been caused by multiple issues. He would like to see a plan put in place so the residents will know how to deal with this kind of event in the future.

Sue Tompkins
2004 Neptune

Ms. Tompkins talked to Sarah Wappes who is a biologist from FWC and she is who picked up the manatee. The manatee was transported to St. Petersburg; the autopsy should take about a week. She also talked to Terry Williamson from Brevard County Natural Resources. He said it was an algae bloom and the canal is choked off by the dead grass at the channel entrance. They did not test for fecal matter. Mr. Williamson added that there are bacteria in the water and the white film is caused by the algae that has attached to that bacteria.

Commissioner Runte said we have a life safety issue on our hands. It's a big problem and he wants to look at an immediate solution. The odor in our Town is terrible and it's embarrassing.

Town Manager Daniels talked to somebody in Representative Altman's office who told him to reach out to Abby Johnson from the St. John's River Water Management. Ms. Johnson said they can't talk about funding sources until they know what caused the problem.

Commissioner Quarrie suggested that since the bigger concern by various organizations was the fish kill, we should find a funding source from an entity interested in helping with that issue.

Mayor Simmons commented that he doesn't want the Town to get involved in cleaning the river because it's not the Town's responsibility. It would also not be fiscally responsible to do so and he doesn't think it would be effective anyway.

Conversation continued about the sources of the problem and possible solutions.

Commissioner Walters said that the Town Manager should be given time to talk to the experts to determine what can be done and then report his findings to the Commission. Vice Mayor Hoover agreed that we should have an idea of cost then look into possible state and county resources.

The Town Manager will be in regular contact with Sue Tompkins and she will disseminate whatever she learns to the other Harbor East residents.

3. General stormwater issues

General stormwater issues were not discussed at this meeting.

B. Discussion regarding rain gardens at Riverside Circle and Bicentennial Parks to help mitigate stormwater issues – Town Manager Daniels (02:52:55)

Mr. Glaubitz said that anything the Town can do to mitigate stormwater runoff is good, however, Riverside Circle is not a feasible solution. Bicentennial Park has better possibilities but trees would have to be removed which would change the look of the area and residents wouldn't be pleased. A solution to drainage issues near Bicentennial Park would require performing underground work. Mr. Glaubitz said that a problem on the horizon is the storm sewer that's ready to collapse at Cherry and Rosewood; the remedy will involve about 250 feet of pipe. He added that he thinks we're going to see the rate of collapse on our streets accelerate and the Town will be chasing maintenance issues.

The Commission decided to put stormwater retention at Riverside Circle and Bicentennial Parks on the back burner.

Mayor Simmons asked the Town Manager if he had discussed *Watergoats* (an external filter on the outflow) with *Keep Brevard Beautiful*. Mr. Daniels responded that he talked to Brian Bobbitt who said that the company who supplies the *Watergoat* is no longer offering the product and he thought it would be too big for our storm drains anyway.

C. Discussion regarding FPL LED lighting plan and fixtures - Town Manager Daniels (03:09:20)

Initially, the LED conversion discussion was about whether the Town was interested in converting the regular bulbs in our street light to LED's. Later, the conversion included light fixtures in Ryckman Park. Regarding the 3000K vs 4000K lights, DOT requires that 4000K lights be used. Mayor Simmons asked the Town Manager if he had shared with them that the 4000K lights are recommended only for 55+mph zones adding that 3000K lights are more effective in fog and at lower speeds. Mr. Daniels answered that he had but they weren't interested.

The Commission consented to converting all Town lights to 3000K LED's by taking advantage of FPL's conversion program

The Town Manager received a catalog from FPL of light fixtures that could be used in Ryckman Park. Each of the 13 light fixtures in Ryckman Park would cost approximately \$800 to replace. It was asked if the conversion of Town lights has to occur all at once to which Mr. Daniels said he would find out and report back to them at the February 20th meeting. Mayor Simmons said he preferred to wait until the next budget year to address lighting in the Park. The Commission also asked the Town Manager to keep pushing DOT to use 3000K lights.

Vice Mayor Hoover said he was concerned that it took the Town Manager so long to get in touch with DOT about their lights. Mr. Daniels answered that he wasn't sure when he first contacted them and said there is a lot going on and he is following up on everything he possibly can.

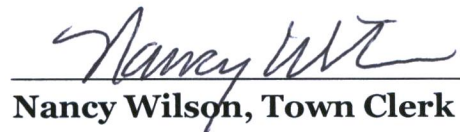
VII. Adjournment

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

The meeting adjourned at 9:27 pm

ATTEST:


James D. Simmons, Mayor


Nancy Wilson, Town Clerk