



Town of Melbourne Beach

TOWN COMMISSION WORKSHOP WEDNESDAY, AUGUST 2, 2017

MINUTES

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

Town Manager Timothy Day
Town Clerk Nancy Wilson
Town Attorney Cliff Repperger

PUBLIC NOTICE

**The Town Commission conducted a Town Commission Workshop
on Wednesday, August 2, 2017 in the Masny Room
located at 507 Ocean Avenue to address the items below.**

I. Call to Order – Led by Mayor Simmons

Mayor Simmons called the meeting to order at 6:51 p.m.

II. Roll Call

Town Clerk Wilson led the roll call.

Commissioners Present:

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

Staff Present:

Town Manager Timothy Day
Town Clerk Nancy Wilson
Town Attorney Cliff Repperger
Finance Manager Elizabeth Mascaro

Commissioner Absent:

Commissioner Sherri Quarrie

III. Old Business

A. Discussion regarding vacation rentals

Mayor Simmons said numerous residents have expressed concern regarding vacation rentals in Melbourne Beach. The State Legislature prohibits restrictions on duration but we may be able to mitigate impacts by enacting rules related to safety, maximum occupancy, etc. The Town Attorney previously provided information regarding what other government entities have done to address short term rental issues. The Commission should discuss whether the regulations and restrictions outlined in that information are adequate and enforceable.

Vice Mayor Davis asked if the property appraiser's office is doing anything about short term rentals in the way of homestead exemption. Town Manager Day said he has not heard about short term rentals being targeted but he knows that the property appraiser's office is reviewing short term rental websites and going after those who are wrongly claiming homestead exemption.

Commissioner Hoover said we don't have a lot of support at the state level and he doesn't want to do anything drastic such that we end up in court. He added that in Flagler County they have very detailed regulations for vacation rentals.

Commissioner Walters said he can argue for both sides of the issue. His concern is how we would enforce any regulations and would it put a burden on homeowners. He said that there are problem people and they can create a disturbance.

Mayor Simmons said that he doesn't want Melbourne Beach to turn into a Horseshoe Beach where 75-85% of the island consists of weekend occupiers. Renting out rooms on a short term shouldn't be allowed because we don't allow boarding houses. Regarding the Flagler County Ordinance, the Mayor said that all the "Whereas's" have a specific purpose related to safety, impacts to neighbors, infrastructure impacts and the added costs to the city; the vast majority are related to safety items. He read through the "Whereas's" and noted what had been included and stricken. The Town should have addressed this issue prior to 2011 but who thought the state would take the power away from us. The Mayor's suggestion was to ask the Town Attorney to draft an ordinance using Flagler County's Ordinance 2016-01 as a model. It would require a Land Development Code change.

Vice Mayor Davis said the Town has to do something and he agrees that the best option is to draft an ordinance.

IV. PUBLIC COMMENT

Greg Durham
511 Andrews Drive

Mr. Durham told the Commission about his unpleasant experiences with a vacation rental next door to his residence. He also talked about other short term rentals in Melbourne Beach and how they are negatively impacting our community adding that the Town needs to get a handle on this before we become overrun with them. He said renters are not going to be sending their children to Gemini Elementary, where the number of students is dwindling. He said property is being purchased in Melbourne Beach with the sole purpose of turning the properties into rentals and because we have few restrictions, we have become a target for these commercial enterprises. He urged the Commission to give this problem serious consideration. Mr. Durham concluded by saying you never know who is going to show up to occupy these rentals.

Mayor Simmons said that Flagler's Ordinance 2016-01, addresses many of the concerns voiced by Mr. Durham.

Jean Marshall
410 6th Avenue

Ms. Marshall suggested that we require the owners of short term rentals to get an occupational license.

Mayor Simmons said that Flagler County's application for short term vacation rental certificates is extensive and covers much of what has been discussed.

Jennifer Ottomanelli
510 Avenue A

Ms. Ottomanelli said that those who are renting short term are impacting our services and she thinks the Town should be charging fees to cover the wear and tear placed on our Towns equipment and amenities. She doesn't feel that the fees charged by Flagler County are high enough. Mayor Simmons added that fees cannot be onerous.

Town Attorney Repperger said that when this was first discussed, it was decided that a Workshop would be scheduled and his directive was to identify specifics in ordinances that they would like to include if one were to be drafted for Melbourne Beach. He said that during the drafting process of this ordinance, it would be the facts behind the "Whereas" clauses that would be different and we would need backup/background information and data to support those facts in case we were ever challenged. Fees assessed will be based on actual cost and cannot be used as a revenue generator. The Town Attorney said the directive from the Commission is clear enough for him to put together a draft that, when completed, will be brought back before the Commission. He will only include items from Flagler's ordinance that relate to Melbourne Beach and will indicate the items for which we need justification.

Mayor Simmons said that in the interim, while this issue is being addressed, if residents have any problems they should call the police.

Commissioner Walters wanted to remind everybody that there is another side of this coin and we need to steel ourselves against arguments from those who own vacation rentals.

Commissioner Hoover said we are a small community and want to be respectful. He said the phenomenon of vacation rentals resulted from social media and we can provide resistance via the same media.

Gerald Naradis
7904 Hwy 1
Satellite Beach

Mr. Naradis said there are a lot of short term rentals in the county and they are not being regulated. He said Melbourne Beach is not a party place and he doesn't think people who stay in short term rentals here disturb those around them and

added that the vacationers bring in revenue. Mr. Naradis said if the regulations are too severe, they will be contested.

It was agreed by consensus to have Town Attorney Repperger create a draft ordinance related to short term rentals, modelled after Flagler County's Ordinance 2016-01, and to present it at the October 2017 meeting.

B. Discussion regarding the suggestion from our Town Attorney that agenda items be voted on rather than having no motion/vote (00:56:43)

Mayor Simmons said that during the July 19, 2017 meeting, there was an item on the agenda that "died for lack of a motion". He questioned the Town Attorney about whether it would have been better to have a motion to vote on rather than having it die for lack of a motion. The Town Attorney said this situation was unusual because it was applicant driven. He thinks it would be better, when possible, to have a motion to deny when the reason is that the Commission just doesn't like the item being voted on. Not voting left the applicant in a quandary as to where it left him. Town Manager Repperger said that no motion was fine but this situation was a little different.

Commissioner Walters said that there is not a difference between no motion and motions without a second. The Town Attorney responded that if there wasn't support to move it, why wasn't there a motion to deny it just to end it. He added that this wasn't a big deal but he would have liked to see something more definitive.

C. Discussion regarding unpaid leave (01:04:29)

Mayor Simmons explained that in December 2014, the Town Commission revised the unpaid leave policy to reduce the available unpaid leave from 12 weeks to 8 weeks as a result of a Family Medical Leave Act issue with an employee. An FMLA consultant told the Commission that the Town is required to have an unpaid leave policy but having less than 50 employees, the Town isn't required to implement the provisions of FMLA and he recommended that we not call our policy "FMLA". It was at that time that the Commission reduced unpaid leave from 12 weeks to 8 weeks. The Mayor thinks that not having a 12 week unpaid leave policy is unfair to the employees and employer and is requesting that the Commission restore employee paid leave to 12 weeks, leaving the remainder of the policy intact. The only benefit available to an employee during unpaid leave is health insurance.

Commissioner Walters said the policy was horribly written and isn't inclusive enough. He is in favor of 12 weeks unpaid leave if the policy is corrected and he is willing to update the policy and address the issue further at the August 16th meeting.

The Commission agreed to have Comm Walters provide a revised policy for review.

D. Discussion regarding budget to maintain our buildings, the status of current repairs and fundraising activities (01:13:45)

Town Manger Day said that we were going to wait on final budget numbers to refinish the 2nd floor flooring and replace the roof at the Ryckman House. The estimate for the roof is about \$20,000. He thinks that fundraising activities should be determined on a case-by-case basis. Mayor Simmons suggested that we give the Historic Preservation Board an idea of the kinds of repairs/maintenance that the Commission would approve. The Commission was in agreement that they don't want HPAB to have an Octoberfest event. Commissioner Walters said that he doesn't want to see any more events and feels we currently have enough of them adding that they end up costing a lot more than expected. He thinks we should support the History Center and the Ryckman House with taxpayer dollars.

The Commission members discussed Town events and the related pros and cons. Also discussed was the chasm between what Board members want and what the Commission is able to provide. Mayor Simmons said that Boards want to have fundraisers because they say the Town isn't supporting them the way they think they should be supported. Commissioner Walters pointed out that they are advisory boards and the Commission makes the final decision on what maintenance/repairs are performed and if events can be held; he's asking for patience from the Boards.

Commissioner Hoover said that we could improve communication between Boards and Commission members if we establish a formal way to communicate. For instance, the Chairman from each Board should be the point person, and he/she would discuss their concerns and issues with the Town Manager with the ultimate goal being to come up with plans to keep our buildings maintained and not have to act in a reactionary way. Mayor Simmons recommended that we invite the Chairman of the Historic Preservation Board to September's workshop to determine how we can better work together.

Commissioner Walters said again that he doesn't want any more events or fundraisers; he'd rather pay outright for maintenance/repairs to Town structures.

Mayor Simmons said that those who'd like to have a fundraiser should come to us with a plan on how they'd like to conduct it. He'd like to give the Boards some parameters by which to operate.


It was decided that the Commission would hold one more budget workshop on August 8th at 6 pm.

V. Adjournment

Commissioner Walters made a motion to adjourn; Vice Mayor Davis seconded. Motion carried 4-0.

Meeting adjourned at 8:32 p.m.

ATTEST:



James D. Simmons, Mayor



Nancy Wilson, Town Clerk