

Town of Melbourne Beach

REGULAR TOWN COMMISSION MEETING

**WEDNESDAY JULY 15, 2020 @ 6:30 pm
COMMUNITY CENTER – 509 OCEAN AVENUE**

MINUTES

Commission Members:

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

Staff Members:

Town Manager Elizabeth Mascaro
Town Clerk Jennifer Torres
Town Attorney Clifford Repperger

I. Call to Order

Vice Mayor Hoover called the meeting to order at 6:32 p.m.

II. Roll Call

Town Clerk Torres conducted roll call:

Commissioners Present:

Vice Mayor Wyatt Hoover
Commissioner Steve Walters
Commissioner Sherrie Quarrie
Commissioner Corey Runte (via Zoom)

Commissioners Absent:

Mayor Jim Simmons

Staff Present:

Town Manager Elizabeth Mascaro
Town Clerk Jennifer Torres
Town Attorney Clifford Repperger
Public Works Supervisor Tom Davis

III. Pledge of Allegiance and Moment of Silence

Led by Vice Mayor Hoover

IV. Presentations

V. Boards and Committees

VI. Public Comments

*Kate Wilborn
502 2nd Avenue*

Ms. Wilborn asked for an update on storm water issues at Pine and 2nd. Vice Mayor Hoover said Public Works had been doing updates in the area and Town Manager Mascaro added that Public Works Supervisor Davis installed swales on Pine and 1st that seem to be moving a majority of the water off the street – and as far as flooding goes they hadn't seen anymore.

Ms. Wilborn said she sent the Commission photos that show flooding and she didn't think the Town is supposed to use resident's property to percolate. She also said that swales seem like a nice idea - but they are more of a symbolic idea.

Town Manager Mascaro responded that the area is in the Town's right-of-way and the swales are not symbolic – they really work.

VII. Approval of the Agenda

Commissioner Quarrie moved to approve the Agenda; Commissioner Walters seconded; Motion carried 4-0.

VIII. Consent Agenda

- A. Approval of the June 17, 2020 Regular Town Commission Meeting Draft Minutes
- B. Site Plan Review for 408 Fifth Avenue, Melbourne Beach
- C. Site Plan Review for 410 Fourth Avenue Melbourne Beach
- D. Site Plan Review for 509 Sunset Boulevard Melbourne Beach

Commissioner Walters noted that edits were made to the June 17, 2020 RTCM draft minutes after the agenda packet was sent out.

Commissioner Walters moved to approve the Consent Agenda with the draft minutes approved as amended; Commissioner Quarrie seconded; Motion carried 4-0.

IX. Public Hearings

- A. First reading of Ordinance amending Section 7A-67, Appendix A, Town Code of Melbourne Beach, Florida (Land Development Code)

Commissioner Walters moved to table the Ordinance based on the recommendation not to approve made by the Planning & Zoning Board;

Vice Mayor Hoover asked the Town Manager if Planning & Zoning wanted to separate RVs and boats and Town Manager Mascaro said yes.

Vice Mayor Hoover said he still feels they have some work to do on the Ordinance and referenced a few areas that he felt needed edits. He pointed out that in one area it refers to a “reasonable amount of time” for loading and unloading – and in another area it states the time allowed is 48-hours. He also felt it needed stronger language than “substantially screened by vegetation” and that they should have additional privacy requirements in consideration of neighborhood comments they received.

Commissioner Walters said he made a motion to table it.

Commissioner Quarrie seconded;

Commissioner Quarrie said they need to wordsmith it a little better and go over the original minutes so they have a better understanding of what was discussed.

Commissioner Walters said he wants to table the Ordinance and send it back to Planning & Zoning asking for their advice because they don't accept it in its current structure and he felt they should let them make their suggestions and then send it back to the Commission.

Commissioner Quarrie said when they brought us the draft we discussed the idea of separating RVs and boats and making two separate Ordinances but the discussion was not in favor of that and before they send it back to Planning & Zoning she wanted to have a clear understanding of what was discussed.

Town Attorney Repperger said the Planning & Zoning Board felt 45-feet is appropriate for boats but not for RVs – the separation is in the size and the problem with the three that voted in favor of not recommending the Ordinance was the fact that RVs were included. He suggested the Commission table this until the next Commission meeting when they can look further into this issue.

Vice Mayor Hoover asked if the Planning & Zoning Board wanted to keep the length of RVs at 26-feet – or at another length – and then asked if the Board had made any other suggestions?

Town Attorney Repperger said they felt 45-feet was too long for RVs.

Commissioner Quarrie said that's why she felt a review of the minutes would give the Commission a better understanding and the opportunity to re-read their notes to see how they responded the first time - she said it should be tabled until the next Commission meeting after they received those minutes.

Vice Mayor Hoover called for a vote on Commissioner Walters's motion to table the Ordinance.

Motion carried 4-0.

X. Old Business

- A. Consideration and possible action of BSE bid to write RPF for Orange Street project – Town Manager Mascaro

Commissioner Walters moved to table the decision on this bid until they receive a cost; Commissioner Quarrie seconded;

Commissioner Runte said he'd like to see a cost as well but thought they should agree to approve up to a certain amount so they don't slow down the process.

He suggested that amount be \$5,000 or less depending on what services are included and the scope of work.

Commissioner Walters said he wants the company to give us an actual number and then the Town Manager can call other municipalities to check and see if the price they quote is good.

Commissioner Runte said he was just saying they should authorize up to \$5,000 for now so the project can proceed and they don't have to wait a month.

Public Comments

*Tom Swenson
217 Surf Road*

Mr. Swenson said that he feels like there are more issues on Riverside and the Key streets than on Orange.

Town Manager Mascaro said the Town has a master plan and this particular roadway is part of the plan. The amount of water that goes down Orange and down the Key Streets and into the river has caused major issues and flooding and the only way to fix it is to re-engineer the road, add swales, remove the Miami curb, etc.

Vice Mayor Hoover said the purpose of Miami curb is to funnel stormwater directly into the river - so the Town is trying to remove Miami curb and put in micro-swales.

Public Works Supervisor Davis said there is a stormwater masterplan and it serves as the Town's game plan and Orange was carefully chosen.

Mr. Swenson said they should have a plan for the entire Town and execute it based on how much money we have to spend. He asked why they would put a bid out for something they don't have a complete scope on and suggested they get a comprehensive RFP for the whole Town.

Town Manager Mascaro said that is exactly what they are doing – but because of limited funds – they can only do one project per year.

Commissioner Quarrie said that they are obligated to get an RFP on any project.

Vice Mayor Hoover called for a vote on the motion to table this item made by Commissioner Walters and seconded by Commissioner Quarrie.

Motion carried 4-0.

B. Consideration and possible action to approve or amend Vacation Rentals Application Fee Schedule – Town Attorney Repperger

Town Attorney Repperger said that in order to implement the vacation rental process, they must adopt a resolution to adopt fees.

Commissioner Walters asked where he got the fees from and Town Attorney Repperger said they are comparable to what other local jurisdictions have done; adding that these are fees currently being used by Indian Harbour Beach.

Vice Mayor Hoover remarked that they seem a bit steep.

Town Attorney Repperger said the Commission is free to do what they want with them – keep them as is – adjust them, etc.

Commissioner Walters said he just wanted to know where the fees came from so the Town isn't gauging residents with exorbitant costs – and now that he is aware they are comparable to Indian Harbour Beach, he can explain where they came from.

Commissioner Quarrie suggested extending the deadline to complete the registration application to September 1, 2020.

Public Comments

*Ingrid Perkins
510 3rd Avenue*

Ms. Perkins said she has lived here 10 years and she and her husband are artists with three children and they are very proud to be members of this community. She then asked how soon the fee schedule would be implemented. She has a room in her house that she rents on occasion - mostly to locals. Her concern, aside from the fees, is having someone come in and inspect the room because she values her privacy. Town Manager Mascaro suggested she call or come to Town Hall to discuss the issue because her situation sounds more like a RB & B and that is a little different.

*Frank Lagrassa
412 1st Ave.*

Mr. Lagrassa said he supports the Town's effort to control vacation rentals.

*Lauren Hardman
320 6th Ave*

Ms. Hardman felt that if you lower the fees it would lower the level of people who are renting and she would hate to see someone trash a place because fees were lowered.

Commissioner Quarrie moved to approve the Resolution amending the vacation rentals application fee schedule; Commissioner Walters seconded; Motion carried 4-0.

Commissioner Runte moved to extend the registration date of vacation rentals to September 1, 2020; Commissioner Quarrie seconded; Motion carried 4-0.

XI. New Business

- A. Discussion and possible action of an emergency Ordinance related to Face Masks – Mayor Simmons

Commissioner Quarrie stated that she works in a business that deals with the public and in the last two weeks every single person in there has been from out of Town. She went on to say that she is very torn about the whole situation and would like to get public input doesn't want to be sued based on taking anyone's rights away.

Commissioner Runte said there are obviously concerns dealing with lawsuits but they don't outweigh the negative repercussions and the cases of COVID going up.

Public Comments

*Nancy Haney
181 Ocean Ridge Drive*

Ms. Haney said that her understanding is that the Towns of Indialantic, Satellite Beach, and Cocoa Beach have mask mandates in place. She wanted to know if the Town of Melbourne Beach has conferred with them to see how they arrived at their decision and what the fines would be.

*Dan Brunger
400 6th Ave.*

Mr. Brunger wanted the Commission to consider a few things. There are people like his mother who has congestive heart failure and can't wear a mask and he would hate to see someone in town have those struggles. He asked if the Commission had considered the disposal of used masks, because he has seen them thrown on the ground – so they may want to consider providing extra trash receptacles. Mr. Brunger went on to ask if the original emergency order declared by the Mayor was still in effect.

Town Attorney Repperger said the Order was made by a Proclamation initially adopted on March 18, and it was adopted pursuant to Chapter 16. The Order says a Declaration of Civil Emergency shall remain in effect until Governor's Order expires –Sept 5, 2020.

*Cynthia Lagrassa
412 1st Ave*

Ms. Lagrassa said she thinks a mask ordinance just gives the police more to do and creates a burden for them because they have more important things to do. Commissioner Runte responded by saying that in reference to it being a burden on businesses, when an employee tests positive when there is no mask order and that business has to be closed for two weeks – that is a burden.

*Ingrid Perkins
510 3rd Avenue*

Ms. Perkins said that if they make a lot of small adjustments, it could work. She agreed with having a warning in place of a fine for a first infraction – so it’s more like a slap on the wrist and after the first infraction she feels the fine should be low – like \$10 – and masks should only be required where people can’t safely social distance 6-feet apart and not require masks outside. Town Manager Mascaro said the orders make it clear they are not directed at outside activities

Frank Lagrassa
412 1st Ave

Mr. Lagrassa said he is fundamentally opposed to the policy and he believes we I have reached a point of insanity with special interest groups having far too much to say.

Mike Granger
2103 Neptune Drive

Mr. Granger said he doesn’t wear a mask but if he has to do it – he will. He said he doesn’t have a problem with it. He agrees that a warning is better than a fine for infractions.

Gabor Kishegyi
221 Surf Road

Mr. Kishegyi said he doesn’t have strong thoughts either way but feels masks should be strongly suggested in a close environment.

Tom Winston
217 Surf Road

Mr. Winston said there is a CDC study from 2018 that said if you don’t have a N95 mask, the other kind does not help. He pointed to the Country of Sweden where he says, they never locked down and the death rate is lower. Vice Mayor Hoover responded by saying that recent studies show people who contract COVID still have significant impact after 60 days. It’s not just about death but also about continuous problems caused by the infection.

Scott Fishman
410 4th Avenue

Mr. Fishman said he echoes the comments from those on the fence and wondered how kids would be affected by a mask order. Vice Mayor Hoover said children 6-year-of-age and younger are not required to wear masks.

*Lauren Hardman
326 6th Avenue*

Ms. Hardman said she does not envy the Commission at all in the decisions they need to make. As a person who is high-risk, she is cautious but it's not OK to accept even one death from it. As far as the Town – she feels people should be required to wear masks if they go into Town Hall. She said it shows respect and we've lost that in our society right now.

*Nancy Haney
181 Ocean Ridge Drive*

Ms. Haney said Florida is very different than many other states – in that Florida is very relaxed when it comes to facemasks and social distancing. All the states treat it more seriously and people follow the common rules and guidelines. Whether we know if masks help or don't – we should start with wearing masks. If you have a health condition, you can get a doctor's note. Vice Mayor Hoover said he doesn't think it would be appropriate for local police to ask for exemptions for health conditions. There has to be a certain amount of good will and personal responsibility.

Town Manager Mascaro said she spoke to the Police Chief about enforcement and it really will be up to the store owner to enforce. The police are going to take a very practical approach to this. A lot of this will fall on the shoulders of the business owners.

Commissioner Quarrie asked if any local businesses offered feedback.

Town Manager Mascaro said the gas station had a few questions – but that's the only one.

Town Clerk Torres read two emails that were received for public comment.

*Ian Kennedy
511 Magnolia Drive*

Good evening Commissioners and residents of Melbourne Beach, My name is Ian Kennedy. I'd like to begin by introducing myself: I am 21-years-old and currently a senior at Florida State University. I was born and raised in Melbourne Beach, so I am back here under my parent's roof due to the university closure. My mother and father are both around the age of 60, putting them at a higher risk of severe illness from COVID-19. This is why you don't see my face today, you only hear my words. Despite the suggested use of masks and social-distancing, I did not feel comfortable attending this meeting out of fear of jeopardizing my parents' health. Like I said, I am young and I am healthy. For many people in my generation, COVID-19 may be just flu – something we can

fight off with Vitamin C and a couple days of Netflix in bed. But this isn't just about me. It's about all of us. This is not the reality for the majority of the people in America, in Florida, and in Melbourne Beach. This is why it is crucial to have a mask mandate in our town. Defeating COVID-19 must be a collective effort. Each of us must do our own part for the greater good of humanity. Despite the political controversy, both the scientific and medical communities have proven the efficacy of masks and recommend wearing them to reduce the transmission of COVID-19. But a recommendation is not enough. If wearing a mask remains up to personal discretion, then positive cases will continue to rise and our precious community will continue to be in danger. Other towns, other cities, other states, and other countries have required masks and have then seen a decrease in COVID-19 cases. There is a direct correlation between mandated prevention and protection. Why is Melbourne Beach still behind? Our rates are continuing to climb as a result of negligence and a lack of compassion for our neighbor. On Monday, July 13 (two days ago), Florida Today reported 32 positive Coronavirus cases in Melbourne Beach. While this is about 1% of our town's population, the number is still too high. Even one positive case was too high. Melbourne Beach is not safe from the horrors of this virus and we cannot pretend that it is. Commissioners, science has given you a powerful, effective, and simple tool that will protect your community. So please enforce it. Please protect us. Lastly, I'll leave you with a quote from Dr. Anthony Fauci, director of the National Institute of Allergy and Infectious Diseases. He said: "It's really in our hands as a community, as a nation, as a populace to make this happen. It does not have to be 100,000 cases a day." Thank you for your time.

*Kathleen Tesi
2005 Neptune Drive*

I would very much like to come to the meeting but do not wish to be in a crowd, particularly since there is only encouragement and no requirement to wear masks. I am asking that you please step up as Town leadership and approve the requirement to wear masks. I understand that it is a difficult thing to enforce, but even having the requirement would make a difference. Right now there are different rules in our local communities, which makes an already confusing situation more so. Additionally, it is hard to go anywhere and feel safe. I now know many people who have the virus, that it seems just a matter of time before the entire county is infected and our medical services are overrun. A good friend's 13 year old daughter tested positive. She has lost her sense of smell and taste, a very frightening thing for her to experience. Both of my neighbor's parents have now tested positive as well as friends, local business owners, grocery store staff and a host of others. We need to do this one simple thing to support each other and keep things safe. It is not fair to any of us, but folks like my senior parents, in particular, that cannot even do simple life tasks like going to the grocery or hardware store without the possibility of contracting a disease that will kill them. The lack of public health safety measures in our state, and our county and town in particular, force seniors like my parents to remain locked in their homes. This is very difficult for their wellbeing and also seems to be taking a toll on their

cognitive functioning as well. I feel like we are leaderless in the midst of a public health emergency. Instead of things getting better, they are getting so much worse. Please do what is right for the health and wellbeing of our community. We need a mask requirement if we are to have any hope. It is already so late in the game. Please do something!

Commissioner Walters asked for clarification on the number of the orders:

Town Attorney Repperger said they would be Emergency Order 2020-06 and Emergency Order 2020-07.

Commissioner Quarrie said she thinks Emergency Order 2020-06 should be adopted with the penalties changed. She suggested a first infraction is a warning with a complimentary mask provided to them, second is \$50 and third and thereafter is \$100.

Commissioner Quarrie said she would recommend the same changes in fines to Emergency Order 2020-07.

Vice Mayor Hoover had a few small edits in wording on each Order and then asked the Town to provide businesses the signs they can post.

He suggested the effective date could be this Friday as 12:01 p.m. and the end date would be at Midnight on August 20, 2020. It would be a 30-day Order to start and then the Commission can continue it if they choose to.

Commissioner Quarrie moved to accept Emergency Order 2020-06 with changes as specified; Commissioner Walters seconded;

Town Attorney Repperger said – in regard to both Emergency Orders - he would amend the third “whereas” clause to say “as extended by the Governor’s Executive Order.”

Motion carried 4-0.

Commissioner Quarrie moved to accept Emergency Order 2020-07 with changes specified including attorney changes; Commissioner Runte seconded; Motion carried 3-1 with Commissioner Walters in dissent.

B. Consideration of Impact Fee Funding - Stephen M. Swanke, Brevard County Planning & Development Department

Vice Mayor Hoover said he feels that libraries are generally underfunded so the impact fees should go toward the libraries but he is not in favor of impact fee for the correctional facilities.

Commissioner Runte explained that this money has already been collected and will go toward correctional facilities and the libraries – the ballot is asking for approval on how they each have decided to spend it.

Public Comments

*Ashley Link
Brevard County Public Libraries*

Ms. Link explained that the impact fees have already been collected and what the libraries would like to spend the money on is large print books because they will really impact the community in a positive way.

*Ingrid Perkins
510 3rd Avenue*

Ms. Perkins said she is in support of impact fees for the library – but thinks the impact fees could be better spent by Sheriff Ivey on psychological services, reeducation and on re-assimilating.

Commissioner Walters moved to recommend approval of Library Impact Fees as stated on the ballot; Commissioner Quarrie seconded; Motion carried 4-0.

Commissioner Runte moved to reject approval of Correctional Facilities Impact Fees as stated on the ballot; Commissioner Walters seconded; Motion carried 4-0.

XII. Staff Reports

- A. Town Attorney Report – No report
- B. Town Manager Report

Vice Mayor Hoover asked the Town Manager to tell them about the Loggerhead Stewardship Report – TM Mascaro said the Town is now in compliance with the requirements of the grant.

In other updates, TM Mascaro said the parking kiosks wouldn't arrive for approximately ten more weeks and said the Town has handed out about 480 resident parking decals so far.

- C. Town Clerk Report
- D. Departmental Reports:
 - 1. Building Department
 - 2. Public Works Department

3. Code Enforcement
4. Police Department
5. Fire Department

Fire Chief Brown said he put a Fire Department stipend update into the agenda packet and then proceeded to give a short overview. He said the program is working and since we started there has been a 200-percent increase in membership, which is a huge increase and the program is working the way they wanted it to – he then thanked the Commission.

Vice Mayor Hoover explained that the stipend program was created due to a big decrease in participation and volunteers.

6. Finance Department

Commissioner Quarrie moved to approve the Finance Report; Commissioner Runte seconded;

Commissioner Walters said that since 2004 the Town had a good Ordinance that mandated when you went over your budget or had to switch something around, you had to explain why – but last year that changed and now we get this Finance Report each month. He said an internal audit said there were expenditures in the law enforcement fund in the general fund and stormwater funds exceeded budget – which means we violated state law and he wanted to know what was going to happen.

Town Manager Mascaro said they had explained the reason that happened – and it was due to police cars. She said they were not prepared to replace police cars and one was involved in an accident while another caught on fire.

Commissioner Walters said the stormwater budget has been over expended in the past.

Motion carried 4-1 with Commissioner Walters in dissent.

XIII. Town Commission Comments

A. General Comments

Commission Walters congratulated Public Works Supervisor Tom Davis on a job well done.

B. Review of Commission Action List

Closed

- EAB Projects for 2020
- Town Manager Evaluation
- Investigate grant opportunities for water retention along Oak and County Roads
- Create a Special Event permit for restaurants to have additional outdoor seating/signage

Updates

- **Collaborate with Indialantic to make joint request to FDOT for reduction in speed limit on A1A to 35 mph** – Town Manager attended workshop with Indialantic Town Manager. Waiting on FDOT to make a decision and will update in August if any developments.
- **Street paving and repaving plan** – The Commission asked the Town Manager and Public Works Supervisor to create a color-coded master plan indicating projected dates/timeline of future projects.
- **Charging Stations** – Town Manager shared that Tesla is no longer available, meaning the charging stations are no longer free. They cost \$500. TM is looking at other options and will return in August with more information: Commission asked TM to look for similar offers and/or grants as Tesla was offering.
- **Employees 6-month Evaluations** – Town Manager has not received all evaluations and will update in August.
- **Code Enforcement Magistrate** – Town Attorney Repperger said first reading will be at August RTCM.

XIV. Adjournment

Commissioner Walter moved to adjourn; Commissioner Quarrie seconded; Motion carried 4-0.

Meeting adjourned at 9:12 p.m.