

# **Town of Melbourne Beach**

## **REGULAR TOWN COMMISSION MEETING**

**MONDAY, OCTOBER 21, 2020, 6:30 p.m.  
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 Cliff Repperger  
Finance Manager Jennifer Kerr

**1. Call to Order**

Mayor Simmons called the meeting to order at 6:30 p.m.

**2. Roll Call**

Commissioners Present:

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

Staff Present:

Town Manager Elizabeth Mascaro  
Town Clerk Jennifer Torres  
Finance Manager Jennifer Kerr  
Town Attorney Cliff Repperger

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

Led by Mayor Simmons

**4. Presentations**

**5. Boards and Committees**

A. Review of Volunteer application to fill Board vacancy

**Vice Mayor Hoover moved to recommend appointing Karen Fenaughty as an alternate member of the Environmental Advisory Board; Commissioner Quarrie seconded; Motion carried 5-0.**

**6. Public Comments**

*Thomas Flavin  
406 Ocean Ave.*

**7. Approval of the Agenda**

**Commissioner Quarrie moved to approve the agenda; Commissioner Runte seconded; Motion carried 5-0.**

**8. Consent Agenda**

- A. Site Plan Review for 316 Avenue A Melbourne Beach
- B. Reappointment of Bruce Morgan to the History Center Board for a term of two (2) years
- C. Reappointment of Joseph Tracy to the History Preservation & Awareness Board for a term of 2 years

**Commissioner Runte moved to approve the Consent Agenda;**  
**Commissioner Quarrie seconded; Motion carried 5-0.**

**9. Public Hearings**

- A. Second Reading of Ordinance 2020-03, related to Boats and Recreational Vehicles, amending Section 7A-67, Appendix A, Town Code of Melbourne Beach, Florida (Land Development Code)

Town Attorney Repperger read Ordinance No. 2020-03

**AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN OF MELBOURNE BEACH REGARDING TRAILERS, BOATS AND RECREATIONAL VEHICLES; AMENDING SECTION 7A-67; AMENDING THE MAXIMUM LENGTH OF TRAILERS, BOATS, AND RECREATIONAL VEHICLES STORED ON ANY LOT WITHIN THE TOWN TO FORTY-FIVE (45) FEET; PROVIDING THAT TRAILERS, BOATS, AND RECREATIONAL VEHICLES MAY BE CONNECTED TO ELECTRICAL POWER SOURCES FOR MAINTENANCE PURPOSES; AMENDING THE CONDITIONS FOR STORAGE OF TRAILERS, BOATS, AND RECREATIONAL VEHICLES ON CORNER LOTS TO REQUIRE SAID TRAILERS, BOATS, AND RECREATIONAL VEHICLES TO BE SUBSTANTIALLY SCREENED BUT NOT COMPLETELY SHIELDED FROM VIEW; PROVIDING THAT EXTERNAL SIDE-ROOM EXTENSIONS ON RECREATIONAL VEHICLES CAN ONLY BE EXTENDED FOR LOADING AND UNLOADING; AMENDING THE ALLOWABLE PERIOD OF ACTIVE LOADING AND UNLOADING OF TRAILERS, BOATS, AND RECREATIONAL VEHICLES TO FORTY-EIGHT (48) HOURS IN ANY SEVEN (7) DAY PERIOD; PROVIDING A SERVERABILITY/INTERPRETATION CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE.**

Mayor Simmons explained the second reading was tabled and sent to the October Town Commission Workshop for a joint meeting where additional public comment was taken. Two edits were made, one that requires that side extensions must be collapsed between the hours of 11 a.m. to 7 p.m. and another clarifying length.



## Public Comments

*Doug Hilmes  
443 Riverview Lane*

Mr. Hilmes said he is fine with allowing boats to have a longer length allowance but not the RVs. He thanked Vice Mayor Hoover for his recommendations at the last meeting and would have supported them if they were added. Unfortunately, he said, those ideas were discarded.

*Chris Schultz  
409 Hibiscus Trail*

Mr. Schultz said he was disappointed because he felt the Town didn't support his code enforcement complaint. His wife received a citation for going over the time allowed for loading and unloading and he felt she was treated unfairly.

*Mike Ottomanelli  
570 Avenue A*

Mr. Ottomanelli also liked Vice Mayor Hoover's suggestions but didn't think they went far enough. He disagrees with the Ordinance.

Commissioner Quarrie asked for clarification from the Town Attorney on a few issues within the Ordinance.

**Commissioner Quarrie moved to approve Ordinance 2020-03 as revised; Commissioner Runte seconded; Motion carried 4-0 with Commissioner Walters in dissent.**

- B. Second Reading of Ordinance 2020-05, amending various sections of the Town Code of Melbourne Beach to establish a Special Magistrate to handle Code Enforcement for the Town of Melbourne Beach.

Town Attorney Repperger read Ordinance 2020-05:

**AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, AMENDING VARIOUS SECTIONS OF THE CODE OF MELBOURNE BEACH TO ESTABLISH A SPECIAL MAGISTRATE TO HANDLE CODE ENFORCEMENT CASES IN THE TOWN OF MELBOURNE BEACH; SPECIFICALLY AMENDING SECTION 11-15, AUTHORITY TO ESTABLISH; PURPOSE; AMENDING SECTION 11-16 DEFINITIONS; AMENDING AND RENAMING SECTION 11-17, ORGANIZATION; AMENDING SECTION 11-18, POWERS; AMENDING AND**

RENAMING SECTION 11-19, ENFORCEMENT PROCEDURES; HEARINGS; AMENDING AND RENAMING SECTION 11-20, FAILURE TO COMPLY WITH ORDER OF BOARD; AMENDING AND RENAMING SECTION 11-21, APPEALS; AMENDING AND RENAMING SECTION 11-22, NOTICE REQUIREMENTS; AMENDING THE FOLLOWING CODE OF MELBOURNE BEACH SECTIONS TO CHANGE REFERENCES FROM "CODE ENFORCEMENT BOARD" TO "SPECIAL MAGISTRATE:" SECTION 1-26, MINUTES; SECTION 27-34, VIOLATIONS; ENFORCEMENT; PENALTIES; SECTION 46-20, ENFORCEMENT BY CODE ENFORCEMENT BOARD; PENALTIES FOR VIOLATION; SECTION 49-3, DISCHARGE OF CERTAIN WATER INTO PUBLIC SEWER SYSTEM AND STREETS PROHIBITED; ENFORCEMENT; SECTION 49-54, PENALTIES; SECTION 49-55, REGISTRATION OF REAL PROPERTY MORTGAGEES HOLDING MORTGAGES IN DEFAULT; SECTION 49-56, MAINTENANCE REQUIREMENTS; SECTION 49-57, SECURITY REQUIREMENTS; AND SECTION 65-6, DUE DATE FOR ANNUAL BUSINESS TAX; DELINQUENT PAYMENTS; PENALTY FOR FAILURE TO PAY ANNUAL BUSINESS TAX; PROVIDING A SERVERABILITY/INTERPRETATION CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE.

Mayor Simmons summarized what the Ordinance entails.

**Commissioner Runte moved to approve Ordinance 2020-05 as amended; Vice Mayor Hoover seconded; Motion carried 5-0.**

- C. Second Reading of Ordinance 2020-06, amending Section 11-54, Town Code of Ordinances, related to Police Officers Retirement System

Town Attorney Repperger read Ordinance 2020-06:

**AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, RELATING TO THE POLICE OFFICERS' RETIREMENT SYSTEM; AMENDING SECTION 11-54, TOWN CODE, RETIREMENT; AMENDING SECTION 11-54 (k)(2), TOWN CODE, REQUIRED DISTRIBUTIONS, TO AMEND THE REQUIRED MINIMUM DISTRIBUTION AGE; AMENDING SECTION 11-54 (l)(4), TOWN CODE, MISCELLANEOUS PROVISIONS, TO ADD A NEW SUBSECTION ENTITLED QUALIFICATION OF SYSTEM; PROVIDING FOR**



**SEVERABILITY AND INTERPRETATION; AND PROVIDING AN  
EFFECTIVE DATE.**

**Vice Mayor Hoover moved to approve the second reading of Ordinance  
2020-06; Commissioner Quarrie seconded; Motion carried 5-0**

**10. Old Business**

- A. Review of Sollensys Corp. Block Chain security program – Town Manager Mascaro

Town Manager Mascaro researched and presented her review. Vice Mayor Hoover said that after receiving this information, he is of the opinion they should not go forward with the company.

**11. New Business**

- A. Discussion and possible action related to Beach Access Parking following Brevard County Natural Resources Management Department briefing on the potential impacts to future beach re-nourishment funding – Mayor Simmons

**Public Comment**

*Pete Peterson  
305 6<sup>th</sup> Avenue*

Mr. Peterson asked about the kiosk's ease of use.

Mayor Simmons reviewed information shared by Brevard County related to resident-only parking:

At the Sept 2, 2020 Workshop, Mike McGarry of Brevard County Natural Resources Management Department briefed the Commission on potential impacts to future beach re-nourishment funding if the Town restricted street-end access/crossover parking to residents only. He explained that Federal and State funding, which comprises  $\frac{3}{4}$  of Brevard County's re-nourishment funds, were predicated upon beach owners providing public access, including dedicated parking, to municipal beaches. Per the funding formula, all street-end access parking spaces, combined with Ocean Park parking spaces, are required to meet the minimum number of spaces necessary for Melbourne Beach. (Per Mr. McGarry, this does not affect the resident-only restrictions for on-street parking since these spots have never been included in the parking spot calculations.) He further explained that the Town would likely be liable to repay the past 10 years of funding if these restrictions were left in place.

Mayor Simmons presented a few recommendations that included the installation of a paid parking kiosk (similar to those planned for Ocean and Ryckman Parks) dedicated to end-of-street parking accesses.

**Commissioner Runte moved to approve Town Commission agenda item A, number three and purchase an additional new kiosk dedicated to end-of-street parking; Vice Mayor Hoover seconded; Motion carried 5-0.**

- B. Consideration of ending Emergency Order 2020-10 and 2020-11 and extending face covering regulations within Town by approving Emergency Order 2020-12 and 2020-13– Mayor Simmons

Some discussion took place over changing the orders into Resolutions but the Town Attorney recommended against that.

**Vice Mayor Hoover moved to approve draft Emergency Order 2020-12; Commissioner Runte seconded; Motion carried 5-0.**

**Vice Mayor Hoover moved to approve draft Emergency Order 2020-13; Commissioner Runte seconded; Motion carried 5-0.**

- C. Discussion and possible action related to The Avenue of Melbourne Beach Homeowners Association request for approval (or variance) for the trees to remain on the right-of-way, as planted – Commissioner Runte

Commissioner Runte provided a hand out to the Commission which was an email from a resident related to the issue. Town Manager Mascaro said the issue is the weight of the plants on pipes and repair can be very costly – citing an \$800,000 repair in the past.

## **Public Comment**

*Kevin Scanlon  
408 Ocean Ave.*

Mr. Scanlon said the HOA would be willing to take on some liability if there was damage related to the trees and said the HOA would agree to maintain the palms.

Town Manager Mascaro said the Town recently had to pay \$800,000 for drainage repairs caused by Coconut Palms planted overhead. Mayor Simmons agreed and said these are the rules and he is not in favor of making an exception.

*Thomas Flavin, HOA president  
406 Ocean Ave*



Mr. Flavin thanked Commissioner Runte for his support. He reminded the Commission that this street is not just residential it is the Town's main street and what people see what they first enter Town. Everyone agrees they look great and it would create a good impression for visitors.

Further discussion ensued among the Commission and Town Attorney Repperger.

Commissioner Runte said almost all Main Streets and downtowns everywhere have plantings in the right of ways – and they look great.

*Pete Peterson*  
*506 6<sup>th</sup> Ave*

Mr. Peterson said he has seen this issue get litigious in other communities and cautioned the Commission to review it carefully.

Vice Mayor Hoover asked the HOA President (Tom Flavin) if he would take responsibility by HOA agreement.

Mr. Flavin said he has no doubt the HOA would agree to pay for legal fees.

**Commissioner Runte moved to approve The Avenue of Melbourne Beach Homeowners Association request for approval for the Coconut trees to remain in the right-of-way, as planted pending an agreeable contract between The Town of Melbourne Beach and the HOA regarding maintenance, including costs, schedules, potential relocation costs to remove trees at their expense in the event of some interference with Town facilities, compensation for potential utility damages, and all legal fees required to draft the agreement; Vice Mayor Hoover seconded; Motion carried 3-2 with Mayor Simmons and Commissioner Quarrie in dissent.**

- D. Consideration and possible action of submitted art work for Pier Kiosk – Town Manager Mascaro

Town Manager Mascaro presented several selections of art work for consideration. The Commission consensus was to go forward with the Pelican but substitute out the Hibiscus flower. Commission Quarrie suggested the pelican is painted with more natural colors and with a native flower and native vegetation – everyone on the Commission concurred

Town Manager Mascaro submitted an invoice for the mural costs. The artist agreed to donate her time and service at no charge and is only asking for payment of the acrylic paints and other necessary supplies at a total cost of \$198.



**Commissioner Walters moved to approve mural with the changes indicated and approve payment of the invoice in the amount of \$198 to the artist; Commissioner Runte seconded; Motion carried 5-0.**

- E. Consideration of approving proposed Resolution 2020-12 related to transferring funds from short-term capital to long term capital – Finance Manager Kerr

Finance Manager Jennifer Kerr read Resolution 2020-12:

**A RESOLUTION OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, AMENDING THE BUDGET FOR THE FISCAL YEAR 2019-2020; AMENDING RESOLUTION NO 2020-05 AMENDING EXPENDITURES FOR THE TOWN'S GENERAL FUND; ESTABLISHING AUTHORITY FOR THE TOWN MANAGER TO IMPLEMENT THE BUDGET; AND PROVIDING FOR ADOPTION.**

**Commissioner Quarrie moved to approve Resolution 2020-12; Vice Mayor Hoover seconded; Motion carried 5-0.**

- F. Consideration of approving proposed Resolution 2020-13 related to carrying forward revenue fund balances for utilization from FY2020 to FY 2021– Finance Manager Kerr

Finance Manager Kerr read Ordinance 2020-13:

**A RESOLUTION OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, AMENDING THE BUDGET FOR THE FISCAL YEAR 2020-2021; AMENDING RESOLUTION NO 2020-10 RELATED TO THE USE OF ALL BALANCE CARRY FORWARDS FOR ALL FUNDS INCLUDING THE GENERAL FUND; ESTABLISHING AUTHORITY FOR THE TOWN MANAGER TO IMPLEMENT THE BUDGET; AND PROVIDING FOR ADOPTION.**

**Commissioner Quarrie moved to approve Resolution 2020-13; Vice Mayor Hoover seconded; Motion carried 5-0.**

## **12. Staff Reports**

- A. Town Attorney – None  
B. Town Manager:

The parking fee in Indialantic is \$2.50 per hour if the Town wants to match this. Commissioner Walters would like the fee to be \$2.00. Town Manager

Mascaro advised the fee can be changed to meet the season, time of day, etc. The issue will be discussed further and decided at the November RTCM.

Commissioner Walters wanted to clarify whether there would be a Town Commission Workshop in November.

After some discussion, the November Workshop was cancelled.

C. Town Clerk:

Town Clerk Torres shared that she is planning to create and distribute a special Election Issue of the Beachcomber – that also includes Voting and Election information.

D. Departmental Reports

1. Building – None
2. Public works:

Public Works Supervisor Davis took a moment to say he believes the Mayor has brought back civility to the Town meetings – as well as a commitment to implementing procedures to retain staff.

3. Code Enforcement - None
4. Police Department

Mayor Simmons asked that his congratulations to Amber Garrity be passed along.

5. Fire Department

Commissioner Walters asked Chief Brown about \$1,000 that was spent on two uniforms. Chief Brown said that Officer's coats are \$400 each. General members get a uniform after two years that are \$250 that are reissued if unstained. Commissioner Runte asked about a search in September from the Pier. Chief Brown confirmed the missing kayaker was found.

Town Manager Mascaro noted that with the start of the new fiscal year, Chief Brown is officially the first paid Fire Chief for the Town of Melbourne Beach

6. Finance Department

Vice Mayor Hoover asked if next month the Town Manager and Finance Manager would be presenting suggestions for preventing another shortfall – they agreed.



**Vice Mayor Hoover moved to approve the September Finance Report; Commissioner Quarrie seconded; Motion carried 4-1 with Commissioner Walters in dissent.**

**13. Town Commission Comments**

**A. General Comments**

There was some discussion on the bike trail. Handouts were provided and the Public Works Supervisor recommended not going forward with road markings – saying he would prefer signs on posts rather than on streets.

Mayor Simmons suggested Riverside, Ocean, Oak and Atlantic

Vice Mayor Hoover suggested they focus on Shannon, Palm, Pine, and Orange – and added that they need to talk about it further. He suggested adding it to the Action Items so they can discuss options like stencils, signs, or something else.

Simmons suggested the Commission Workshop it. He also mentioned a Fire Truck he saw in the dark morning but it was flashing red lights and as he passed it - he realized it was a school bus. He said that the U.S. Congress has suggested Florida go to daylight savings time year-round - making it dark year-round. He suggested a Resolution to the FLC saying the Town is against this.

**B. Review of Commission Action List**

**Items closed**

- Get formal bid for Blockchain Server
- Collaborate with Indialantic to make joint request to FDOT for reduction in speed limit on A1A to 35 MPH
- Street Paving/repaving Plan
- Establish Salary Ranges

**Updates**

- **Charging Stations:** Commission approved cost to replace breaker box and TM was asked to get vendor contacts from Comm. Runte
- **Research Availability and Compensation for Building Official:** Commission agreed to let TM create plan to move money from General Fund to support position
- **FDOT Traffic Light Stanchion:** Move to January 2021 RTCM
- **Sheds on Corner Lots:** Heading to Planning & Zoning for Review. Discuss again at December RTCM.

Items added

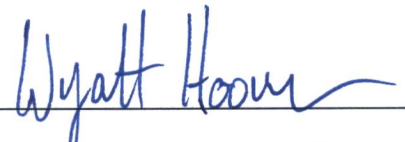
- Options for bike paths

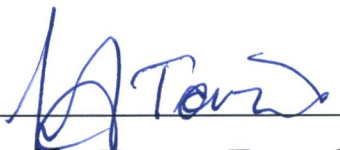
Town Manager Mascaro noted that there are now only two items on the Action List.

**Commissioner Walters moved to adjourn; Vice Mayor Hoover seconded;  
Motion carried 5-0**

Meeting adjourned at 8:32 p.m.

**ATTEST:**

  
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**Wyatt Hoover, Mayor**

  
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**Jennifer Torres, Town Clerk**