

Town of Melbourne Beach

REGULAR TOWN COMMISSION MEETING WEDNESDAY APRIL 17, 2019 COMMUNITY CENTER – 509 OCEAN AVENUE MINUTES

PUBLIC NOTICE

**The Town Commission conducted a Regular Town Commission Meeting
on Wednesday April 17, 2019 in the Community Center
to address the items below.**

Commission Members:

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

Staff Members:

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

I. Call to Order – Led by Mayor Simmons

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

II. Roll Call

Town Clerk Wilson conducted the roll call.

Commissioners Present:

Mayor Jim Simmons

Vice Mayor Wyatt Hoover (6:34pm)

Commissioner Steve Walters

Commissioner Sherri Quarrie

Commissioner Corey Runte

Staff Present:

Interim Town Manager Elizabeth Mascaro

Town Clerk Nancy Wilson

Town Attorney Clifford Repperger

III. Pledge of Allegiance and Moment of Silence

Led by Mayor Simmons

I. Presentations

1. Proclamation declaring April as Water Conservation Month

Mayor Simmons read the Proclamation and presented it to Abby Johnson, Intergovernmental Coordinator from St. Johns River Water Management District. Ms. Johnson thanked the Town for once again supporting water conservation endeavors.

2. FY18 Annual Audit Presentation

Zach Chalifour, Partner and Douglas Gillikan, Manager from James Moore CPA and Consultants gave the Commission a summary of the audit report.

Commissioner Walters asked what we do about being in violation of Florida Statute 166.241 that in part reads: *The adopted budget must regulate expenditures of the municipality, and an officer of a municipal government may not expend or contract for expenditures in any fiscal year except pursuant to the adopted budget.* He said that Mr. Chalifour writes in his audit: *During our audit, we know the expenditures of several departments within the general fund and stormwater fund exceeded the budget amount approved by the Commission.* Mr. Chalifour said that when they see this, they have to determine if this is an area where transactions weren't approved and money was just spent vs. a scenario where there were just budget amendments due to an invoice that came in later. This is something that would be looked at by the Commission from a policy standpoint. Commissioner Walters then asked if a budget amendment is required, does it have

to be amended by ordinance or resolution. Mr. Chalifour answered in the affirmative.

II. Boards and Committees

No members present

VI. Public Comments

Kevin Schoolfield
1904 Cedar Lane

Mr. Schoolfield and his neighbors met with the previous Town Manager to discuss basin 10, in particular, the area near the intersection of Cedar and Cherry. He gave pictures to the Commission to show that the storm drains are overflowing and there is flooding in his neighborhood. He would like to talk to the Town about raising funds to get this problem handled. He said the floods shown in the pics happen during normal rains. Mayor Simmons said this area is among the list of locations that will be discussed during budget meetings under stormwater project priorities. He added that the Town may be able to raise the millage rate to an amount that's higher than previously considered or float another bond; either option would provide funds to mitigate some of the stormwater issues.

John Tanner
321 Hibiscus

Mr. Tanner thanked Public Works for the "awesome" new playground. He then mentioned the *Coffee with a Cop* meeting several months back that the Town Manager and Police Chief attended. He had mentioned to them the traffic problem at Oak and Ocean where the traffic is backed up because of cars wanting to make a left turn and suggested changing the timing at the light to allow for a break in traffic flow. Mayor Simmons said the problem is that the northbound traffic would then use 1st, 2nd, and 3rd Avenues which is what the Town wants to avoid. Mr. Tanner said the delay would only need to be about 20 seconds. Mayor Simmons said he'd rather deal with the traffic on A1A than on residential streets but added that the Commission would look in to the matter further.

Vice Mayor Hoover said that he has had many conversations with officials from FDOT about the traffic and pedestrian safety issues on A1A. The Town is aware of the issues and they are high on the list of priorities; he's actively looking for solutions.

Commissioner Quarrie added that traffic is currently travelling down Pine to avoid the log jam at Ocean.

Mr. Tanner then asked why we no longer have a full time Building Official and Code Enforcement Officer; he doesn't understand the logic. Mayor Simmons said Building Officials are very difficult to hire and retain because the demand for them is so high.

The Town has contracted with a company to perform inspections and review plans and has also hired a Code Enforcement Officer so the number of hours for those two positions is about the same as when we had the full-time employee.

VII. Approval of the Agenda

Commissioner Walters asked to move item E. *Policy & Procedure change regarding lunch breaks* from the Consent Agenda to New Business, item C.

Commissioner Walters made a motion to approve the agenda as amended; Vice Mayor Hoover seconded. Motion carried 5-0.

VIII. Consent Agenda

- A. April 3, 2019 Town Commission Workshop draft minutes
- B. Site Plan Review for 610 Citrus Court
- C. Site Plan Review for 406 Colony Street
- D. Appointment of Lally Collins to the Parks Board for a term of 2 years
- E. ~~Policy & Procedure change regarding lunch breaks~~ moved to New Business C.

Vice Mayor Hoover moved to approve the Consent Agenda as amended; Commissioner Quarrie seconded. Motion carried 5-0.

IX. Public Hearings

No public hearings

X. Old Business (00:38:15)

Discussion and possible action regarding golf cart use within Town limits – Interim Town Manager Mascaro

Interim Town Manager Mascaro said she discussed with FDOT Traffic Engineering and Operations in Deland what would be required to allow golf carts to cross A1A. They said it would require a traffic study that would cost about \$2,000. The Town would need to place warning signs at each location where crossing was permitted; mid-block crossings would require further studies. FDOT criteria includes maximum volume of vehicles which shouldn't exceed 15,000 on any given day. As an aside, recent traffic studies performed by our Police Department included one on Atlantic where 40,000 vehicles travelled over a three day period and on Oak where the volume was around 32,000 over the same period.

Chief Griswold is not in favor of golf carts because of safety issues which is similar to the sentiment offered by a deputy in Viera.

The Interim Town Manager then explained the process for getting a golf cart licensed as a low speed vehicle. The process includes ensuring all the safety equipment is

installed, providing proof of that installation to a state representative who reviews it then meets with the owner and his/her cart at the DMV in Titusville. Alternatively, the owner of a golf cart can pay a local golf cart dealership to install all the required equipment and provide transportation to Titusville.

Commissioner Quarrie asked if we only allow low speed vehicles that have all the safety equipment installed and are licensed, does the Town still need to get the studies required by DOT to cross A1A. The Interim Town Manager answered “no” adding that at the point a vehicle has the required safety equipment, is licensed/insured and has a VIN number, it is street legal and is treated like a regular automobile.

The process for licensing a golf cart, such that it becomes a low speed vehicle, was explained both for brand new carts and carts that need to be retrofitted to become street legal.

Commissioner Runte said the Town has evolved into wanting to permit only street legal vehicles, so if somebody buys a used one, all that is needed is a title transfer; transporting it to Titusville would not be necessary. DOT studies would only be required if the Town wanted to be designated as a golf cart community.

Commissioner Quarrie requested that the Town consider adding more low speed parking places throughout Town. This matter will be readdressed in six months.

The Commission consented to let die the issue of golf carts in Town. 5-0.

XI. New Business (01:00:29)

- A. Consideration of March 12, 2019 Special Town Commission Meeting minutes – Commissioner Walters

Town Clerk Wilson said that she abbreviated the minutes from the March 12th special meeting for the sole purpose of protecting Town Manager Daniels from humiliation adding that she did not have surreptitious intent; she felt it was a courtesy to him. Commissioner Walters said that the Commission had decided years ago to require comprehensive minutes and if the audio is destroyed and there aren't comprehensive minutes, nobody will know what happened. The balance of the Commission said they have no problem with the audio being transcribed as usual.

The Commission consented to have the Town Clerk comprehensively transcribe the minutes from the March 12, 2019 meeting. 5-0.

- B. Consideration of March 20, 2019 Regular Town Commission Meeting minutes – Town Clerk Wilson

Vice Mayor Hoover made a motion to approve the March 20th draft minutes as amended; Commissioner Quarrie seconded. Motion carried 5-0.

- C. Consideration of Policy & Procedure change regarding lunch breaks – Vice Mayor Hoover (moved from Consent Agenda)

Vice Mayor Hoover said that at a previous meeting, he noticed that the lunch hour description in the Policies & Procedures manual was not detailed enough and suggested that it be changed to reflect what would be drafted by a Human Resources department following FSLA rules. Mayor Simmons said it looks like the policy is geared more toward non-exempt employees and explained the differences between non-exempt and exempt. Commissioner Walters said he had a problem with the following (*Should the day's schedule not allow for a lunch break of at least 30 minutes, the employee should not clock out*). because the employee would then have to be paid overtime. He also had a problem with including FSLA in the description because they frequently change their rules. The Interim Town Manager said the Commission should review the Policies & Procedures manual chapter by chapter; she wants to ensure that we are compliant with all laws and regulations.

The Commission consented to add to the Action List a complete review of the Policies & Procedure manual. 5-0.

XII. Staff Reports (01:17:22)

- A. Town Attorney Report – Town Attorney Repperger said he talked to Kim Rezanka (attorney for the owner of the Osceola Building) who said the owner is already aware of the non-compliance issue if his drive through window at BB&T is not utilized for six months. Mr. Repperger also mentioned an issue in the LDC where the language in Ordinance 2013-05 was not included in the Code. It was decided to turn this into an action item for further investigation.

Mr. Repperger reported that the Sand on the Beach special exception meeting scheduled for April 18th has been continued. Previous Town Manager Daniels had all the knowledge about the Special Exception so in order to be ready for the meeting, another party must observe the violations. There's documentation but it needs to be verified.

Commissioner Runte shared a picture of Sand on the Beach showing a very bright light shining on the beach. He knows that turtle season doesn't start until May 1st but that light is as bright as lights at construction sites. The Town Attorney said there is a code enforcement lien against the property for violating the turtle lighting ordinance. The fine is in the neighborhood of \$2,000 and will continue to accrue once turtle season begins. Ms. Rezanka (attorney for the owner of Sand on the Beach) also told the owner that he needs to cure the violation.

Regarding severance pay for Mr. Daniels, the Town Attorney reported that he sent the proposed waiver and release to him on March 19th via email and hard copy. Mr. Daniels has not responded nor has acknowledgement of the certified mailing been returned.

Commissioner Walters read from documents in his possession related to Ordinance 2003-02 adding that the Auditors recommended that the procedure be made clearer by modifying the ordinance. Mayor Simmons said that Commissioner Walters' interpretation is specifically not what the Auditors told him and he doesn't agree that we need to modify the ordinance to which Commissioner Walters said he would send it to the Auditor General. Mayor Simmons said that the language needs to be clarified but we should continue to do what we've been doing. The Auditors specifically said that either interpretation was correct and that they would defer to the Town Attorney's interpretation since it was unclear what the Commission, in 2003, intended. They also said we would be the only municipality to require a budget transfer for a line item. Another option they suggested is that we could carry a negative balance through the year in any department and do one budget amendment at the end of the year. The Auditors said they would help us rewrite that language so that it aligns with our intent. Commissioner Walters said he wants to know in advance when transfers are made. Mayor Simmons said we can continue doing what we're doing but we'll clarify the language so there's isn't any confusion. The Commission will also continue to approve the finance report at every meeting. At the end of the discussion, Town Attorney Repperger was tasked with codifying what the Commission is currently doing regarding budget transfers.

B. Town Manager Report (01:42:10)

Aside from what was on her manager's report, the Interim Town Manager reported that a FEMA reimbursement of \$107,292 was received for the pier project. She reminded the Commission that the East Central Florida Planning Council workshop, at which sea level rise seaward of the coastal construction will be discussed, is coming up on April 24th. She added that she'd like to start scheduling budget meetings. It was decided that she'd get the budget to them in the middle of May and schedule the first meeting for early June.

Ms. Mascaro said the Fire Department asked if they could add two bands, food trucks and alcohol sales (vendor would have their own alcohol license, servers, etc.) to their July 4th picnic this year. The hours are 3pm – 9pm, the bands will stop playing once the fireworks begin. This is a charity event and the proceeds will be used to purchase first responder kits for each classroom at Gemini.

The Commission consented to allowing the Fire Department to hold the event. 5-0.

Commissioner Walters asked the Interim Town Manager if anybody on staff is doing research for a Commissioner who is going to college to which she responded she wasn't sure what he was talking about. He also asked her if she knew anything about Police Chief Griswold being in a car that was going 120 mph on Oak and being clocked by another officer. Ms. Mascaro said the Police Chief was in a car that was speeding but she immediately asked the driver to stop and let her out. This issue was handled by Town Manager Daniels; no disciplinary action was taken.

C. Town Clerk Report – no report

D. Departmental Reports:

1. Public Works Department

Public Works Supervisor Davis said the Rita Karpie plaque was found among the sea grapes during the *Trash Bash* event. It has been returned to its original location at the Ocean Park overlook.

He also reported that his guys finished replacing the stringers and steps at the Avenue B crossover; they did it in three days.

The gate motors for the gate between the police and public works departments are installed and should be operational on April 19th.

2. Building Department – no questions/comments

3. Code Enforcement – Commissioner Walters said he had a complaint about 406 Colony where the owner was not clearing debris piles, leaving dirt in the road that was getting in the storm drain. This is an open case that the Code Enforcement Officer is looking into.

4. Police Department – no questions/comments

5. Fire Department- Commissioner Quarrie referred to an email that was sent to the Commission from the Fire Department. Dave Micka said that Town Managers have filtered information about the fire department when discussing that department with the Commission. She was disturbed by the email and added that the Commission needs to be proactive with department heads and they should be able to come to them with issues. Mayor Simmons said a manager makes hard calls and we can't have a department head end running the Town Manager. He'd prefer that the manager go to the Commission with issues and let them know how those issues were handled.

The Commission asked the Fire Department to discuss any issues they are having at the May 1st Workshop.

6. Finance Department

Commissioner Quarrie made a motion to accept the finance report as presented; Commissioner Runte seconded. Motion carried 4-1 with Commissioner Walters casting the dissenting vote.

XIII. Town Commission Comments

A. General Comments

B. Review of Commission Action List

6 items added:

- 1st Avenue Swale - Public Works supervisor to provide plan to grade swale from Pine to Town retention area next to tennis courts
- Town Commission approval of fund transfers - Town Attorney to provide revision of Ordinance 2003-04 defining how Commission reviews and approves fund transfers.
- Online version of the LDC doesn't match codified print version - While researching the subject of non-conforming uses in the LDC, it was discovered that the version on-line doesn't include ordinance 2013-05.
- Riverside Park beautification including a pergola - PW Supervisor Davis will present options for the park during budget talks. Residents on the circle would need to be consulted prior to beginning any project.
- Hiring a grant writer- Commissioner Runte feels the Town is missing grant opportunities by not having a dedicated grant writer. Commissioner consensus to discuss during budget time.
- Review Policies & Procedures manual a chapter at a time - Interim Town Manager Mascaro suggested that the Commission perform a review of the employee policies manual including lunch breaks.

9 items closed

XIV. Adjournment

Commissioner Walters made a motion to adjourn; Commissioner Quarrie seconded. Motion carried 5-0.

The meeting adjourned at 9:45 pm

ATTEST:



James D. Simmons, Mayor



Nancy Wilson, Town Clerk