

# **Town of Melbourne Beach**

## **REGULAR TOWN COMMISSION MEETING**

**MONDAY, SEPTEMBER 16, 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

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**

**6. Public Comments**

*Thomas Flavin  
406 Ocean Ave.*

Mr. Flavin requested that the Town consider entering into an agreement or approving a variance that would allow his HOA to keep the trees they planted in the Town's right-of-way.

*Doug Hilmes  
443 Riverview Lane*

Mr. Hilmes asked for clarification on the number of Commission seats up for election.

*Kevin Scanlon  
408 Ocean Ave*

Mr. Scanlon agreed with the first speaker, Mr. Flavin, in wanting the Town to consider allowing the trees their HOA planted in the Town's right-of-way.

**7. Approval of the Agenda**

**Commissioner Runte moved approve the agenda with one change to place item C under New Business to the end of the list; Vice Mayor Hoover seconded; Motion carried 5-0.**

## **8. Consent Agenda**

**Vice Mayor Hoover 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 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.**



Vice Mayor Hoover spoke about the fact that he appreciates homeowners who want to do what they want to do on their own property, but also understands those who are unhappy with a neighbor whose vehicle interferes with their view. He read his issues and suggestions from a prepared statement:

- Issues:
  - inability of code enforcement to measure length of RV/Boat on owner's property
  - many residents do not want to see large RVs parked right on their lot line, extending 10' or higher
  - current code allows some boats/RVs to be parked in a driveway but is still behind the front line of part of the house
- Suggestions:
  - Leave vehicles 26' or smaller as they are currently regulated (behind front line of house & behind setback)
  - Modify language regarding requirement for vehicles being behind front edge of house to include "...and not obstruct any part of the house that faces the street" or something similar – this would keep people from exploiting a technical loophole that allows them to park boats/RVs in their front yard/driveway
  - Regulate visibility of larger vehicles by height instead, which might be more easily measured from the road or an adjacent property (via complaint)
  - I.e. any part of a vehicle that continually exceeds 10' in height for more than 26' must be fully shielded by vegetation of at least 10' in height.
  - This allows the folks who have had larger vehicles for years to still have them and it gives some compromise to neighbors who find those vehicles unsightly. A shielding hedge will also ensure that the vehicle is not so close to the property line. It would also close the loophole allowing people to park vehicles in their front yards/driveways in some situations.
  - If the code can be enforced this way, I think it would be a nice compromise for all parties and still maintain the desired identity of many within the community.

Commissioner Walters said he received a lot of emails from residents who were opposed to the Ordinance.

Commissioner Quarrie said she feels a lot of the Town Code is outdated and needs to be changed including the permitted length of boats and RVs – adding that they have put a lot of effort and money into making sure our codes are family friendly and RVs and boats promote outdoor, family activities.

Commissioner Runte said he felt the issue had been discussed at length and after hearing from everyone, it appears the majority are in favor of the Ordinance.

The Mayor asked the Town Attorney to explain what is involved in recusal and expressed his opinion that there is no one on the Commission who is legally

allowed to recuse themselves from a vote unless there is an economic benefit to that member of the Commission.

The Town Attorney said the Mayor is correct and that in his opinion Commission members are required to vote unless there is a financial benefit to that member.

Mayor Simmons suggested they table further discussion of the Ordinance to the October workshop to consider suggestions and then have the second reading at the October RTCM.

### **Public Comments**

*Christopher Shultz  
409 Hibiscus Trail*

Mr. Schultz said a 13.5 foot-high RV is taller than a house and effects property value. He believes the Ordinance should be discussed further.

*Doug Hilmes  
445 Riverview lane*

Mr. Hilmes said that RVs are different from boats and read a prepared statement that indicated he believes RVs and boats should be separated into two different Ordinances.

*Dian Croce  
414 Fifth Avenue*

Ms. Croce said she does not like the idea of increasing the length of boats or RVs.

*Helen Nealon  
414 Ocean Avenue*

Ms. Nealon suggested the Town use a drone or other such technology in order to assess and enforce code enforcement issues with RVs and boats. She is also happy to see the second reading is being tabled.

*Lauren Hardman  
320 6th Ave*

Ms. Hardman noted that she has been in attendance at meetings for this issue from the start, many months ago and noted that most everyone here tonight is here for the first time. She wanted to know where they were before this and why they didn't attend any of the other meetings.

*Elena Altevogt  
407 Anchor Key*



Ms. Altevogt said she thinks this decision is a very important decision and should be on the ballot for voters to decide.

*Frank LaGrassa*  
*412 First Avenue*

Mr. LaGrassa said that if the Town doesn't do something to allow more modern RVs and boats they will see a lot of RV garages and storage.

*Dan Brunger*  
*400 6<sup>th</sup> Avenue*

Mr. Brunger said the issues go back to November 2018 when he received a fine. He believes enforcement is selective and more time is needed for loading and unloading.

*Pete Peterson*  
*305 Sixth Avenue*

Mr. Peterson said his company designs marina and boat ramps and they don't look at boats for storage or slips for anything less than 30-feet, adding that a 21-foot boat is ridiculous.

*John England*  
*514 Avenue B*

Mr. England said from prop to toe his boat is just over 26-feet. He said a lot of homes here are built on setbacks so it's very easy to be in violation of current rules.

*Walter Hardman*  
*320 6<sup>th</sup> Avenue*

Mr. Hardman said he lives on a corner lot and has a boat that's been sitting there for 20 years. He only received a citation a year ago.

*Thijs Stelling*  
*617 Mango Drive*

Mr. Stelling said boats get bigger and people have different demands.

*Frank LaGrassa*  
*412 First Ave.*

Mr. Lagrassa agreed with the previous comment adding that we are a community of many different interests and needs.

*David Stein*  
*507 Andrews*

Mr. Stein said the 26-foot restriction is unworkable and unsafe and is in support of the amendment as written.

Comments ended and the issue went back to the Commission for further discussion.

Mayor Simmons said he feels the minority opinion is important too – not just the majority – and he will work to protect that.

Commissioner Walters said that just because a law is over 30 years old doesn't mean it should be changed.

Commissioner Runte thanked everyone for coming and said moving forward it's important that if we have a code we enforce it, and that our code should match what our life looks like now.

Mayor Simmons said he wished he'd seen more members of the public at meetings over the last seven years.

**Vice Mayor Hoover moved to table the Second Reading of Ordinance 2020-03 to the October 21, 2020 Regular Town Commission Meeting and have discussion on it scheduled for the October 7, 2020 Town Commission Workshop; Commissioner Quarrie seconded; Motion carried 5-0.**

- B. Second Reading of Ordinance 2020-04, related to Binding Development Agreements, amending Section 7A-102, Appendix A, Town Code of Melbourne Beach, Florida (Land Development Code) – Town Attorney Repperger

Town Attorney Repperger read Ordinance 2020-04:

**AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN OF MELBOURNE BEACH, AMENDING SECTION 7A-102 TO AUTHORIZE THE CONSIDERATION OF CONDITIONS, LIMITATIONS, OR REQUIREMENTS IN A PROPOSAL FOR ZONING CHANGE OR AMENDMENT VOLUNTARILY PROFFERED AS PART OF A BINDING DEVELOPMENT AGREEMENT; CREATING SECTION 7A-103; AUTHORIZING BINDING DEVELOPMENT AGREEMENTS; 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.**

**Commissioner Runte moved to approve Ordinance 2020-04 on second reading; Vice Mayor Hoover seconded; Motion carried 5-0.**

Mayor Simmons recessed the meeting at 8:12p.m.

Mayor Simmons called the meeting to order at 8:16 p.m.

Town Clerk Torres conducted 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

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

**Public comment**

*Robert Baldwin  
446 Riverview Lane*

As a former member of the Code Enforcement Board, Mr. Baldwin said he is a big fan of using a special magistrate because no one on the previous board had any real code enforcement experience.

*Dan Brunger  
400 6<sup>th</sup> Avenue*

Mr. Brunger asked the Commission to make sure the Town Ordinances comply with state and federal statutes.

*Gail Gowdy  
215 Ash Avenue*

Ms. Gowdy asked a question that was answered by Commissioner Runte.

**Commissioner Runte moved to approve the first reading of Ordinance 2020-05 subject to minor changes to determine the terms of a lien; Vice Mayor Hoover seconded; Motion carried 5-0.**

- C. First 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 first reading of Ordinance 2020-06; Commissioner Quarrie seconded; Motion carried 5-0.**

**10. Old Business**

**11. New Business**

- A. Consideration of extending or ending Emergency Order 2020-08 and 2020-09 – Mayor Simmons

**Public comment**

*Lauren Hardman  
320 6<sup>th</sup> Avenue*

Ms. Hardman said she would like to see the order stay in place.

**Vice Mayor Hoover moved to approve Emergency Order 2020-10; Commissioner Runte seconded; Motion carried 5-0.**

**Vice Mayor Hoover moved to approve Emergency Order 2020-11; Commissioner Runte seconded; Motion carried 5-0.**

- B. Consideration and possible action to approve purchase of the Sollensys Blockchain Server to improve the Town's data security and replace our current cloud storage services – Vice Mayor Hoover

Vice Mayor Hoover explained the technology behind a Blockchain server and the protection they can provide. Matthew Helmtoller, a representative from Block Integration Network was on hand to speak about the program which has an outlay of approximately \$45,000 and \$200 per month.

Mayor Simmons suggested the Commission direct the Town Manager to speak to Computer Experts about the program and also to reach out to the Town of Indialantic to find out if they have interest in the program.



C. *Discussion and possible action related to Civility, Respectful Communication and Accountability for creating hostile environment – Commissioner Quarrie (Item moved to end of New Business)*

D. Discussion and possible action of request to install a swing in Ryckman Park – Public Works Supervisor Davis

Public Works Supervisor Davis said a longtime resident has requested that we install a porch type swing in Ryckman Park near the river. The resident expressed that this type of swing would likely get considerable use.

Research revealed a swing of that style is available in a very heavy wooden frame rated for up to 800 lbs. The resident offered to donate the swing but the PWS felt it was better to purchase the swing. The cost for the swing with shipping would be approximately \$400. Material for the heavy frame on which the swing would hang is estimated to cost approximately \$100.

The Commission gave unanimous consent for Public Works Supervisor Davis to use \$500 from his current budget for the purchase and installation of a swing.

E. Discussion and possible action to renew lawn service contract – Public Works Supervisor Davis

Public Works Supervisor Davis said the lawn maintenance agreement between the Town and Fertig's Sharper Cuts will expire in December 2020. He is very satisfied with their service. The current annual cost is \$29,813. Because we would be adding additional new areas to be mowed and edged in Ryckman Park, a small area in front of the Post Office and the newly reclaimed area along Oak Street that cost would be \$32,613, which would be a \$2,800 a year increase.

Because of the good service that has been consistently provides, Public Works Supervisor Davis asked the Commission to waive the RFP and process and allow the Town to renew a contract with Fertig Sharper Cuts.

**Vice Mayor Hoover moved to approve Public Works Supervisor to renew the service contract for two years with a 12 month extension not to exceed \$36,300 annually; Commissioner Quarrie seconded; Motion carried 5-0.**

F. Discussion and possible action to commence a Storm Water Swale Program – Public Works Supervisor Davis



Public Works Supervisor Davis said the Town wanted to initiate a program titled "Swale People Live Here" implementing a marketing and educational program via our website and printed material that would describe how we can reduce our impact on the Lagoon by reducing the sediment and other pollutant material dumping into the Lagoon. The department would offer to dig a 3' X 4" swale near the street in front of a residence and if the resident desired sod in the swale we would place it.

**Vice Mayor Hoover moved to approve the Swale Program; Commissioner Quarrie seconded; Motion carried 5-0.**

- G. Consideration of the June 24, 2020 and July 1, 2020 Town Commission Workshop draft minutes – Town Clerk Torres

**Commissioner Quarrie moved to approve the June 24, 2020 and July 1, 2020 Town Commission Workshop Draft Minutes; Vice Mayor Hoover seconded; Motion carried 5-0.**

- H. Consideration of Proclaiming September 17-23 as Constitution Week – Janine Jordan, Daughters of the American Revolution.

**Commissioner Runte moved to approve the request to proclaim September 17-23 as Constitution Week; Commissioner Quarrie seconded; Motion carried 5-0.**

- I. Consideration of proclaiming August 2020 as Florida Water Professionals Month - Florida Water & Pollution Control Operators Association

**Vice Mayor Hoover moved to approve the request to proclaim August 2020 as Florida Water Professionals Month; Commissioner Runte seconded; Motion carried 5-0.**

- C. (Moved from earlier in the agenda) Discussion and possible action related to Civility, Respectful Communication and Accountability for creating hostile environment – Commissioner Quarrie

Commissioner Walters made a few statements and asked for guidance from the Town Attorney. Commissioner Quarrie presented a few points. After an extended debate between Commission members, the Commission agreed to end the discussion and close the issue without further action.

## **12. Staff Reports**

- A. Town Attorney Report

The Town agreed to waive the appointment of a Special Magistrate with the PBA. He said an impasse hearing has been scheduled for September 21, 2020. The Town Attorney explained the format and procedures of the meeting and asked the Town Commission for approval to proceed.

**Commissioner Runte moved to approve the stated procedures for the impasse hearing; Vice Mayor Hoover seconded;**

Commissioner Walters asked if the police officers who have been terminated were allowed to speak. Town Attorney Reppeger said they are allowed to speak during public comment.

**Motion carried 5-0.**

The Town Attorney reminded the Commission not to discuss substantive issues that may come up before the hearing

**B. Town Manager Report**

Town Manager Mascaro shared that a change in the speed limit on A1A was imminent. She also gave an update on a Halloween event – movie and candy hand-out in the park that was being planned with social distancing.

The Commission agreed it was a great idea.

**C. Town Clerk Report**

The Town Clerk shared a request for the extension of a Special Event application and deposit for the Baird wedding to October 22, 2022.

The Commission agreed that was acceptable.

The Town Clerk also shared that she had created an ADA compliant agenda packet and planned to begin created them in this way going forward.

**D. Departmental Reports:**

1. Building Department
2. Public Works Department
3. Code Enforcement
4. Police Department

Commissioner Walters said the he would always be there for the police department and asked Officer Smith to please let them know he would be there for any of them if they needed him.

5. Fire Department

6. Chief Brown gave a quick update on the floors – which are coming along. He also noted his department was awarded a grant to help offset cost of washer and dryer and also said he appreciated the Commission working with the department so well on their many improvements.

7. Finance Department

**Vice Mayor Hoover moved to approve the Finance Report; Commissioner Quarrie seconded; Motion carried 4-0 with Commissioner Walters in dissent.**

### **13. Town Commission Comments**

- A. General Comments
- B. Review of Commission Action List

#### **Closed**

- Employee 6—month evaluations
- Code Enforcement Magistrate

#### **Added**


- Request Town Manager to research Blockchain program, discuss with Indialantic and bring before the Commission again during the October RTCM.


### **14. Adjournment**

**Vice Mayor Hoover moved to adjourn the meeting; Commissioner Runte seconded; Motion carried 5-0.**

The meeting adjourned at 10:36 p.m.

**ATTEST:**

  
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**Wyatt Hoover, Mayor**

  
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**Jennifer Torres, Town Clerk**