

Town of Melbourne Beach

SPECIAL TOWN COMMISSION MEETING TUESDAY, MARCH 12, 2019 @ 5:30 p.m. MASNY ROOM – 507 OCEAN AVENUE

MINUTES

PUBLIC NOTICE

**The Town Commission conducted a Special Town Commission Meeting
on Tuesday, March 12, 2019 in the Masny Room
located at 507 Ocean Avenue 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:

Town Manager Robert Daniels
Town Clerk Nancy Wilson
Town Attorney Clifford Repperger

I. Call to Order – Led by Mayor Simmons

Mayor Simmons called the meeting to order at 5:30 p.m.

II. Roll Call

Town Clerk Wilson led the roll call.

Commissioners Present:

Mayor Jim Simmons

Vice Mayor Wyatt Hoover

Commissioner Sherrie Quarrie

Commissioner Steve Walters

Commissioner Corey Runte

Staff Present:

Town Manager Robert Daniels

Town Clerk Nancy Wilson

Town Attorney Cliff Repperger

III. Pledge of Allegiance and Moment of Silence

Mayor Simmons led the Pledge of Allegiance

IV. Public Comment

Neal Tompkins

2004 Neptune

Mr. Tompkins wanted to give the Commission an update on the condition of the canals (in Harbor East). The oxygen levels are still hypoxic at about 3% at the surface, in the canals the value is 0. He checked the previous day and the micro algae has sunk; at the entrance it's down to within 1 or 2 feet of the floor of the channel and is just sitting there rotting. Things are better and the Harbor East residents are proactively doing some activities to improve things long term. They've engaged with a number of entities and talked with Senator Mayfield and the Town Managers of Satellite Beach and Indian Harbour Beach to talk about what they have done. Thanks to Bob (Daniels), he has us involved with *Save Our Indian River Lagoon* who said, based on some calculations, that they would be eligible in the future for up to \$500,000 in matched funding. Senator Mayfield said they are eligible for some grants from the St. Johns River Water Management District but they would have to go through the Town. Vice Mayor Hoover asked if she suggested what kinds of grants for which they should apply but Mr. Tompkins did not get that information. There are also grants available from the Army Corp of Engineers. Mr. Tompkins said the presentation about the Indian River Lagoon at F.I.T. was very good. An "ah-ha" moment for him was when the presenter said close to 30% of the nutrients (nitrogen and phosphorus) that are going into the lagoon, are being sourced from the muck that already resides in the lagoon. If we terminated all the effluent from the ground out into the lagoon, it would probably take 50-100 years to get rid of the muck. He thinks there's a new realization that in addition to all the things

we need to do to avoid making the situation worse, we probably need to get rid of the muck. Mayor Simmons pointed out that the County Commission is cutting funds for demuckification. Mr. Tompkins said it's a long shot but is worth pursuing because at some point we're going to have to do something. On the previous day, they probed and determined that the muck is getting back to where it was about 10 years ago when they last dredged. It's growing. At some point, it's going to fill up and become a much bigger problem. He thanked Bob (Daniels) again for getting them involved with the *Save Our Indian River Lagoon*.

Edward Kenny
442 Sandy Key

Mr. Kenny said that they have been focusing internally and externally and he's trying to come up with a way that homeowners can actually participate in trying to correct the problems. At the F.I.T. Symposium, they were soliciting people to become citizen scientists. They would give out kits and provide training for citizens to use to take water quality measurements and report on a weekly basis what they were observing. The other thing he mentioned from the symposium were aeration systems for individual homeowners. He came up with a design that he's actually using at his dock that costs between \$400 and \$500. It consists of an air pump that pumps about 80 cubic liters per minute into three diffusers that aerate the canal. They took measurements after running the pump for a week and it got up to where it was only slightly hypoxic. They also had uniform flow from top to bottom because what the diffusers do is pull the water from the bottom and push it to the top then it settles back down. He now has a lot of mullet around his dock. On another note, he saw a manatee wearing a tracking beacon in the canal so someone, somewhere is tracking manatees. He's lived in Harbor East for 30 years and this is the first time he's seen that. Bottom line is, the Harbor East residents understand the message that funds aren't available and we need to work on that. He is working on trying to get homeowners involved and engaged in helping with a solution.

Vice Mayor Hoover asked Mr. Kenny if he'd been able to investigate a medium to short term solution by raking some algae out of the area. Mr. Kenny responded that he was looking at a catch mechanism that could be pulled behind boats through the channel and up to the boat ramp at which point it could be winched up onto a flat trailer and be addressed for disposal. He's working on a PVC cage apparatus for that purpose. He had asked Bob (Daniels) if it would be possible to get a dumpster for disposal of whatever is collected by volunteers over a weekend.

VI. New Business

A. Discussion and possible action regarding Town leadership

Mayor Simmons said he brought up this item to be addressed at a Special Meeting and then he read from a prepared statement:

When I ran for re-election in 2017, one of my two primary goals was to ensure that we assembled an excellent staff and that we instituted policies that allowed us to retain them. We have

largely achieved those goals; we have assembled a team, in each department, that functions at a high level, with commitment and dedication. The one area we seem to have struggled with is the position of Town Manager. Over the past year, and especially in the past few months, I have witnessed numerous issues that I believe reflect systemic problems in the Town Manager's leadership and follow through.

Also over the past year, and especially in the past few months, I have been approached by department heads several times at which they consistently stated their dissatisfaction with the Town Manager's leadership, planning, implementation and follow through.

As a result, on Friday, I requested a meeting with Bob and, at Bob's request, we met at Town Attorney Repperger's office. At that meeting, Bob and I discussed my concerns and my specific examples. I also told him of my intention to call a special Commission meeting to determine to what degree the other commissioners shared my concerns and to decide on a way forward.

Based on that, I open the floor to the Commission for discussion.

Vice Mayor Hoover said he was not in favor of renewing the contract in December and he has also been approached by multiple members of the Town staff with similar comments and concerns and his main concerns remain: inadequate project management, inadequate organizational management and inadequate team management. Those are his primary issues.

Commissioner Quarrie apologized for being late. She said she had typed up some things that she thought were let downs. She was very disappointed about the handling of the Andrews Avenue project regarding the management of the process and the interaction with the residents. She was surprised by the Indian River Lagoon interlocal agreement that the Mayor discovered had gone unaddressed or overlooked by the Town Manager for such a long period. She was also disappointed that the Town Manager, after being on the job for 14 months, had not given any of the staff their performance reviews which affects everyone; that is a basic management task. Most recently, Commissioner Quarrie was disappointed that the engineer said, at 2 different meetings, that our Town Attorney needed to be contacted to change some language regarding stormwater issues but he was never contacted. That was extremely disappointing because stormwater is such a sensitive subject and what they were trying to do was something that needed to be communicated. She said she basically had lost confidence that our Town Manager is going to perform tasks in a timely fashion. Timeliness is essential to our Town and residents. She added that he is more distracted now, by issues other than Town related issues, than when he was first hired. She concluded by saying she is disappointed.

Commissioner Walters said that when the Town Commission signed a contract with Bob (Daniels) a few months ago, the Commission agreed that they'd give him some goals and objectives and so the Commission is remiss in that a meeting hasn't even been scheduled to give him any goals and objectives although he has been given more than 100 action items to accomplish. If you look around the community, the Commission should agree that there's been a lot done. He said he hadn't talked to a single employee that has anything negative to say about Bob (Daniels) at all but he added that he's not down at Town Hall everyday sticking his nose in either so he didn't know what was going on that regard. He said he asked Bob (Daniels) to keep him informed of any unpleasantness with any members of the staff or Commission and he hadn't said there'd been any. Commissioner Walters felt that the Commission should give the Town Manager goals and objectives and give him the opportunity to comply with those goals and objectives and then give him an evaluation. He said there's a lot of good coming out and there's a lot being done. Stormwater has been a continuing issue on Andrews Drive, Riverside Drive, holes in the pavement on Cherry; it's one thing after another. Then there's the dredging issue and a hundred other things going on and the Town Manager is responsible for every single one of them; it's easy to nit-pick a few things. Could he have done things better? Yes. He said he could have done things better as a Commissioner as could every other Commission member. He hasn't been given his goals and objectives and Commissioner Walters would like that to be done and then within 6 months, give him an evaluation. In conclusion, he said he'd like to hear from Bob (Daniels) and that he doesn't have any problem with him at all; he's doing a really good job. There have been some issues but he's talked to about them and they're done.

Commissioner Runte said he was elected back in November (2018) and he kept quiet during contract negotiation talks with the Town Manager because he wanted to listen and see what the expectations were. Overall, for someone with a background in construction, engineering and project management, he is less than thrilled about the lack of accountability. He hasn't seen much productivity; it's been almost 99% reactivity to requests from the Commission and citizens. Just based on Commission meetings, he's seen a lot of follow-up questions that can't be answered properly or sufficiently. Commissioner Runte has seen some positive things such as working with citizens on important issues. The living situation has bothered him from the start; he's never been crazy about the exceptions the Commission made about residency requirements. The biggest thing that hit home for him was the Andrews construction project. He didn't believe our risk was managed properly for the Town between the FEMA dollars, beginning the project on the wrong side of the road, not getting everything signed off on and not having a planning logistics meeting with all the neighbors. He said he has been involved in similar projects and nothing was done on the Andrews project to mitigate risk. Fortunately, there weren't any liquidated damages but there was no schedule in the contract so it was open ended. He wasn't aware of the performance reviews until a few months ago. For the compensation package and what he has seen done, he's not sure it all adds up. He doesn't think the Town can afford a learning curve; we have some very big projects ahead of us that are going to require a lot of thinking and planning. On top of all of

that, he was contacted by 5 Town staff members, all heads of departments and all of whom were dissatisfied with the Town Manager. He asked them all the same question: "Do you think our Town Manager can meet or exceed the expectations of a Town Manager to get the job done?" They all answered "no": Chief of Police, Finance, Town Clerk, Beth (Building Department) and Public Works.

Mayor Simmons said when he met with Bob (Daniels), it was a difficult discussion because there are areas in which he has seen improvement especially regarding community relations; we are probably going to hear about that under Public Comments. When people call him, he responds to and meets with them, shows the proper level of concern and brings recommendations back to the Commission. He's a caring person who definitely wants a positive outcome and always seems to try to work toward that. The examples the Mayor provided to him during their meeting were: 1) the generator building. We've been working on this since he started working here and back in the summer after he'd been here 6 months, when we were on hold for the generator because of the priority given to assisted living facilities, we were back-burnered by the generator manufacturers. One of the things the Commission said, starting before September, was that they didn't want to get in a posture where the generator is ready but the generator building is not. At that time, there was plenty of time to get the generator building built. At a meeting on 9/12/2018, Town Manager Daniels said the generator building construction will be coordinated and will not impact generator installation. The Town Manager later reported that work on the building should begin during the week of 10/22/2018 and the generator should be delivered during the first week of November, 2018. On 11/9/2019, the Town Manager reported that the permit was ready and the site clearing would start the following week. Also, the generator was available and the building trusses would be completed after Thanksgiving. On 12/12/2018, he reported that the pad was inspected and the concrete pour was scheduled for 12/14/2018. On 12/19/2019, he reported that the block wall had been built and the project should take 30 more days. On 1/11/2019, the trusses were being delivered and installed during the week of 1/14/2019. On 2/12/2019, he reported that the generator building was nearing completion and the wiring is being installed; the old generator was also in the process of being disconnected. On 3/6/2019, Mr. Daniels reported that the project should be completed during the week of March 10th. We went all winter when we could have had a major storm event where we would have ended up exactly like we were after the previous hurricane. That was one issue the Mayor had with the Town Manager. Another issue had to do with the interlocal agreement. Had the Mayor not found out about that, we would have lost our 4% of Indian River Lagoon fund. Also, had the Mayor not asked about personnel reviews, we'd still be waiting for them. When Commissioner Runte asked for an update regarding the reviews, Mr. Daniels answered that he had until April. April was the drop dead date because they were already at least 4 months overdue. Regarding funding for the playground, the Commission asked repeatedly and made many suggestions about approaching companies like GE and Grumman and Harris, who have residents in Melbourne Beach, to help us with that \$250,000 bill that had been discussed for new playground equipment. Thanks to Public Works, that bill dropped

to \$100,000, so we didn't need the money but no approaches were ever made to secure donations. Another issue was the turtle lighting ordinance. The Mayor talked to Code Enforcement Officer Kerr in December and she said she'd told the Town Manager in September that the Town should copy the County's ordinance which is very clear; that information was never relayed to the Commission. The Mayor pointed out that the Action Item list is now 20 pages long and the Town Manager has asked for repeated deferrals on most of the bigger issues. There is often no follow up on many of the comments/requests made at meetings. Mayor Simmons said he's gotten in the habit of requesting that the simplest items be added to the list so they don't get lost or forgotten; those are often issues that could be handled by a simple phone call. Most of the tangible progress and improvements that Commissioner Walters speaks of, the Mayor believes, has been made because of the changes in Public Works. In the past, the Town had generated a prioritization plan for the roads which has now been deferred to our Civil Engineer at a cost to the Town. The MSR form, which had always been completed by the Town Manager, was subcontracted to B.S.E. Consulting. The Mayor believes that the goal he had when he came on, of a stable and high functioning staff, has been jeopardized. He has heard on numerous occasions that some staff members are very dissatisfied and if offered another job, they would accept it. He doesn't believe the Town can allow that to happen; we've come too far in 5 years. There's no evidence that the situation with the Town Manager will significantly change or improve given more time. Bob (Daniels) has told the Mayor that he is new at this and needs to be given more time. Mayor Simmons said he was an Interim Town Manager for 9 months prior to being hired by Melbourne Beach, and he's been with the Town for 14 months. That was where the Mayor stood on the matter of the Town Manager adding that the last thing he wants to do is make a change that shakes up the Town. He quoted Henry Kissinger: "Whatever must happen ultimately, should happen immediately" adding that he is disappointed, disturbed and dissatisfied.

Commissioner Walters said that he hasn't missed very many of the regular meetings, if any, in the last 15-18 years. He said that Bob Daniels is our fourth Town Manager in 6 years and what he's listening to now is that rather than trying to work with the Manager to get issues resolved, we're going to let the Manager go and then we are going to go out and everybody is going to be a year behind because the new Manager will come in and it will take months, it has taken months in the past, he's sat in the audience for a lot of interviews, and we're going to put everything on hold because he's not going to know what to do, when to do it or how to do it. Then he has to get used to all the staff. He said he wasn't aware that the staff was unhappy with the Manager; nobody ever told him that they were unhappy but having worked in the Town for 30 years, show me a staff that's happy every day with the Manager and I'll show you a dysfunctional place because that never happened when he was Chief of Police, a police officer or with anybody over in that building (Town Hall). There are always 1 or 2 or 3 that aren't happy. He said he is willing to work with whatever we need to do, give the Manager some goals and directives, and if he doesn't meet them, we'll find another manager.

Vice Mayor Hoover said that the Commission isn't hearing nit-picks from random staff, rather, the complaints are coming from department heads. Putting the Town in a position of possibly losing department heads by holding on to the Town Manager would not be a good decision. Further, a lot of the performance issues that other Commissioners have alluded to include minor things that are discussed but there isn't any follow through by the Town Manager. These are matters that could be resolved in a day or two. Since November, Vice Mayor Hoover has had to maintain an ongoing list of all the things he has mentioned and must continually follow-up on them. If he doesn't follow-up, they don't get addressed. Some requests have been very simple such as evaluating our roads to determine which ones need to be addressed first. When residents ask about when their roads will be paved, it's important to have some kind of plan available so they'll know that we are doing something. That Action Item has been on the agenda since June 2018. The Town Manager indicated that he was going to enlist the support of our Town Engineer for that project. Part of that Action Item included identifying whether or not it would be fiscally advantageous to pave 1 mile per year or 2 miles every other year or 3 miles every 3rd year – whichever would yield the best price. These are not issues that take an extensive amount of time or experience; they only require any action whatsoever. At this point, a number of issues have been addressed, but the Town Manager's behavior and performance have not improved and he's seen no indication that it will. The Vice Mayor said he also doesn't have confidence that Mr. Daniels is the right person for the job.

The Town Manager said that most people in the room know him as Bob Daniels not as the Town Manager. He said he is part of the community and even though he doesn't reside in Melbourne Beach, he is part of the heart and soul of it. He is the same Bob Daniels who stood before the Town Commission in the summer of 2017 because he wanted to be the next Town Manager of Melbourne Beach. He is the same Bob Daniels who attended the Commission meetings so he could learn about the Town and the Town could learn about him. He is the same Bob Daniels who applied to and competed for the job and was appointed shortly after midnight in November 2017 by unanimous vote. He was ecstatic and was so ecstatic that he agreed to all the terms of the agreement with the Town that was presented to him and he jumped at the chance to start work, on short notice, on November 27, 2017. He's the same Bob Daniels who stressed teamwork, responsibility, pride and serving the residents of Melbourne Beach. He started a mentoring process with staff which would result in utilizing after-action reports as a norm for better evaluation of programs and events. He's the same Bob Daniels who cared enough about the plight of residents that he walked the neighborhoods, met the residents and addressed their concerns. He's the same Bob Daniels who developed open communications and stressed fairness by offering help with individual workloads. He's the same Bob Daniels who not only had an open door policy with his team members, but with residents as well, utilizing every opportunity to promote the Town and the achievements that the Town was able to accomplish. He's the same Bob Daniels who shared a tear at a funeral for a long time resident and hugged an employee over a personal loss. He's the same Bob Daniels who chose to hire the Police Chief from

within the agency, recognizing an individual who had paid her dues and who could make a difference in our police department. He's the same Bob Daniels who hired a former Town Commissioner as the Public Works Supervisor because he saw firsthand the leadership and skills that the individual possessed. He never promised the individual the job until the process was completed and every internal candidate who wanted to compete for that job got that opportunity. He's the same Bob Daniels who worked with the Town consulting engineers to provide a not-to-exceed price for stormwater repairs with a secondary option to spend only expenses plus a 20% profit margin. The cost to the Town was far less than that not-to-exceed number and so almost \$200,000 was saved on the Andrews project. He made the effort of being there every day watching things and doing the job the best that could be done. He's the same Bob Daniels who has utilized cost saving measures. One example was partnering with the City of Melbourne – Utilities for the use of their electronic message boards to announce the Riverside road closure. That saved the Town \$10,000 – money that never came out of the Town's pockets. It was attributed to his contacts and being able to negotiate. He's the same Bob Daniels who looked at the bones of an aging playground and recommended rehabilitation of 2 existing playgrounds while purchasing a 3rd playground. Through the teamwork of Public Works and Town volunteers, \$100,000 was saved. Buying all new playground equipment would have meant more junk in our landfill. It was a win-win. He's the same Bob Daniels who was able to get the Town's pier restoration project completed \$3,000 under budget and the roof and windows of the Ryckman House also replaced under budget. He's the same Bob Daniels to whom the Mayor stated "Don't make the best hire for today, make the best hire for the future. I want someone who will find it hard to leave." He was told the Town wanted continuity. He said he was that continuity, he took the Mayor at his word and he never wanted to leave which is why he would not resign the previous Friday when the Mayor asked him to. Mayor Simmons stopped the discussion to say that this did not happen and said that he told the Town Manager at a meeting in December that he had issues with the Town Manager lying to the Commission and that, if he tells a lie in a future meeting, he'll be called out on it. He repeated that he did not ask the Town Manager to resign but he did offer the opportunity. The Town Manager said he had a witness but that person doesn't want to get involved and that he is going to be professional and not stoop to that level. Mr. Daniels said he found it hard to believe that the future the Mayor talked about in his quote was just 16 months (longevity). He said he never applied somewhere else for a job since being in Melbourne Beach and all he's done is look for ways to promote the Town by holding a hurricane preparedness seminar, that's never been done in the past; by having a ribbon cutting ceremony for the pier to celebrate our success; by having a ribbon cutting ceremony for the grand opening of the pavilion; and promoting events like the pancake breakfast, the music festival, public meetings to get resident input on important issues. He said he put his blood, sweat and tears into his work with Melbourne Beach and he deserves a future greater than ending it at the meeting that evening. He said there were some statements made earlier that he'd like to address in order to clarify some of the issues:

Performance reviews: He checked. According to our policy that starts with our HR function, the performance review sheets go out to the department heads. He asked for copies of the last 2 reviews for each employee and he was told by the Finance Manager that most of the reviews don't exist so, basically, all the managers prior to him had not completed performance evaluations. He said he's worked hard with staff and he's really shocked, he could understand 1 person being upset with him, but he has reached out to them, asking if there's something he could do to help, i.e., audit scheduling, help coordinate FEMA paperwork - but it was retained. Anything he asked to do to help, he got push back. He said he's been open with the employees and he's invited them to come in if there's an issue to work it out just like he would work out issues with them. Why they never came to him, he doesn't know. It should never have come to this.

Indian River Lagoon interlocal agreement: He said there is a misconception – 4% of the funds are not distributed; they are credited based on nutrient reduction utilizing things like baffle boxes. So the Town doesn't receive dollars, only credits are based on that agreement.

Funding for the playground: He said he did reach out and spoke personally to a VP from Harris and tried to get involved with their foundation. He reached out on 3 occasions to the gentleman who lives on Colony but he couldn't get through that nut. He sent a letter and he and the Mayor talked about it at an SCLOC meeting at Harris. He wrote a letter and, again, no response.

Roads: He said you can't just go out and repave roads. That was done at one point and it didn't work. The Town has roads that were paved and paid for that are now cracking and there's stuff growing through them and that's because nobody looked at the base. They just went out and paved over the road that was there or re-milled over a lousy base. He said the Mayor knew that because he talked to VA Paving. So, it's more than just doing the roads, an engineer needs to be involved, they have to do borings and tests so you'll know how big the project is. He said the Town can't go do a road and repave it if we're going to tear it up for a stormwater project. There are some roads that are high on the list that would help our stormwater solutions. Those are things that have come up in recent months. He said he'd have a list of roads but he can't guarantee when they can be paved because he doesn't know what each road is going to cost to do.

Generator: He said he pushed. Every comment on the Action List is him calling Eau Gallie Electric to get an update on the generator. He got a commitment from the manufacturer that if we did have a problem (weather event) that they would supply us with a generator and hook it into our system so we wouldn't be without power. Short of creating a generator, there wasn't anything he could do. The dates provided were dates he got directly from them and he said they could call Eau Gallie Electric for confirmation.

In conclusion, the Town Manager said he made the commitment to this Commission and this community that he was going to be the Town Manager long term.

The Mayor said he's not going to debate every issue adding that they have talked on numerous occasions so there were no surprises when he got his performance review in August at which time all the issues mentioned above were highlighted. Here it is 6-8 months later and those issues are still concerns. He believes they are also concerns for the Town staff.

Commissioner Runte said he's talked to all the department heads, Commissioner Walters says he hasn't but he doesn't know if Vice Mayor Hoover and/or Commissioner Quarrie have talked to staff.

The Mayor said that, whatever the Town Manager may have walked out of the meeting on the previous Friday thinking, he did not ask him to resign. He told him that he was going to call a special meeting to discuss the way forward based on his concerns. He believed either Town Attorney Repperger or he said that the Town Manager had some things to think about over the weekend but he did not ask him to resign. Talking to the Town Manager after that meeting, the Mayor agreed to not present a case for termination at the special meeting but to ask where the other Commissioners stood. He did that. The things that the Town Manager is bringing up, he'll address the roads first. He said one year ago, we had in the budget enough money to pave 1 mile of road in FY18. In discussions with the Commission, because of VA Paving and some of the things we ran into with the previous Town Manager, we figured we might be better off doing 2 miles a year and decided to step back and see if it was more cost effective to pave 2 miles a year but the roads needed to be prioritized first; none of our roads have been prioritized and we're halfway into FY19 so we'll be looking at doing 3 miles next year and we'll keep rolling over the money until we decide which roads to do. Yes, we've had problems with storm drains and it makes sense to evaluate which storm drains are problem areas and overlap those areas with a map of the road prioritizations so we don't have to tear up any roads once they're paved but we don't have a plan. Part of it is the responsibility of our Town Engineer but there is work that can be done on that prioritization. Regarding Commissioner Walters' comment about giving the Town Manager goals and objectives, he is given goals and objectives every month. The Commission takes the Town Manager's suggestion about the due dates on the Action List. Referring to a comment made by Commissioner Walters when he said "show me a staff that's happy every day with the Manager and I'll show you a dysfunctional workplace", the Mayor said the workplace is even more dysfunctional if all the employees are dissatisfied, which they are.

The Mayor recounted a trip to Town Hall on a Saturday when the Town Manager told the Mayor he would be present during the switchover of the generator. Town Manager Daniels said he was present but the Mayor responded that at 11:30am, the Public Works employees said they hadn't seen him. The Town Manager responded that he was scheduled to arrive in the afternoon. Mayor Simmons said the employees bent his ear for a long time and not just about being absent for the generator switchover. He said he's been in situations where he's had to come in to an environment of non-functioning or dysfunctional staff and had to turn it around, been the bad guy and had a lot of dissatisfied people. The Town isn't in that

situation, we have a very good staff which has taken the Town a long time to build and we're in danger of losing that staff now. The Mayor said that the Town Manager emphasized that he cared and the Mayor doesn't disagree; he knows the Manager cares a lot but that's not what the job is. The job is planning, implementing, follow-through....and that's where he's failing. The issue on Andrews where the Town Manager said he saved the Town \$200,000. The price was jacked up because the contractors weren't sure what they might find once the job began. The contractors freely admitted that they jacked up the price to cover contingencies but if they don't run into any, the cost would be significantly less. The Mayor said the Town Manager did negotiate a good way of looking at that with them when doing it cost plus and we did save quite a bit of money. But the residents weren't notified that their yards were going to be torn up. There was no accounting for having to rework sprinkler systems or for the sod on Riverside Circle. There were a whole bunch of angry residents, screaming at the Commission one night because they weren't notified that the contractor was going to dig up heritage plants. Vice Mayor Hoover interjected that there were also liability issues that weren't addressed. The Mayor said that all of the Town Manager's points about caring and outreach he agrees with 100%, that was why there were people in the audience. And while it is technically true that the Commission voted unanimously to hire him, there was a heck of a pause between the first 3 votes and the 4th vote and an even longer pause before the 5th vote. Town Manager Daniels said he wasn't in the room but Mayor Simmons said that he was in the room and was sitting in the room for the whole discussion. Town Manager Daniels then recollected that he was in the room but left when salary was discussed. The Mayor said this was similar to the discussion at a meeting where the Town Manager said he wasn't present when the residency requirement was discussed but he was indeed present. The Mayor said the Town Manager was present and the Town Manager insisted he was not, adding that he doesn't want to stoop.... The Mayor said that's one of the problems with Mr. Daniels – the Town Manager was at the meeting and it's on the record yet he denies his presence during the residency part of the conversation.

Commissioner Walters said, in response to the Mayor saying the streets hadn't been prioritized, that the previous Town Manager Day had prioritized every street; he gave a grade to every single street in Town. He wouldn't have repeated the effort either and would have just used what Mr. Day had drawn up. The bottom line is, when it comes to the money, problems have to be addressed when they happen. Commissioner Walters said that Mr. Day did prioritize the roads and that information is public record if anybody would like to see it. The contract that was signed with Mr. Daniels said that the Commission would meet with him and set goals and objectives. You can sit there all day long and say "can we get some fill down the street and call it a goal or objective?" but the Commission has not sat down with him which is what should have been done before it got to this point. Maybe this is partially the Commission's fault since they could have addressed employee dissatisfaction as it occurred not waited until everybody is dissatisfied. Commissioner Walters doesn't think the Town Manager has had a fair shot and that the Commission should sit down and give him goals and directives.

Mayor Simmons said all the reviews performed in August 2018 laid out performance objectives. Commissioner Walters asked the Town Manager if he received any bad reviews to which he responded he did not. Mayor Simmons said Mr. Daniels received a *Satisfactory* from him; he didn't receive any bad reviews.

Commissioner Runte said he respects Commissioner Walters' history with the Town and his knowledge but it says something that he was the only Commissioner not approached by any of the employees; that is a problem. Commissioner Walters said he would have told them to go see the manager. In response, Commissioner Runte said the employees are clearly uncomfortable communicating with him since he received 6 calls from staff, most of whom were from department heads saying they don't trust the Town Manager, they don't think he can get the job done, there are ethical questions and the fact that Commissioner Walters was not approached by any of them is a larger picture issue. Also, regarding the Andrews project, when a contractor signs a not-to-exceed agreement the cost is always bumped up by a large amount. He doesn't feel that savings should be credited to the Town Manager. The Commissioner felt the whole project was a disaster. The road closure date was moved 4 times; the detour was on his road. He said he asked the Town Manager 4 times for the detour map but never got it. It was posted on facebook without the attachment and when asked where the attachment was, he said he was working on it – he still never received it. Two months later, after text/call/email, he still couldn't say when the road would be opened. The neighbors were never met with prior to the Andrews project to let them know about the project and the schedule. We never got anything signed off by the neighbors saying they agreed with or were satisfied with our plan. Why? Signage was also an issue as was the stormwater protection at the inlets. The Public Works Supervisor should be credited with accomplishments that Bob (Daniels) is claiming were his doing. He thinks Mr. Daniels is doing the best he can do but for \$96,500 plus benefits, they aren't getting what the Town needs. Commissioner Runte doesn't see a remedy and the staff doesn't have confidence that there is a remedy either.

Mayor Simmons said there's a clause in the contract regarding termination for cause which he is not in favor of. He doesn't believe it would be in the best interest of either party. The termination without cause clause reads:

The Town Commission may terminate this Agreement without cause by majority vote of the Town Commission.

The Manager, if terminated without cause, will be paid severance in the amount of three (3) months' base salary in exchange for the Manager executing a general release of claims in favor of the Town, in a form acceptable to the Town Attorney. The execution of this release of claims shall be made and received by the Town prior to any payment by the Town.

Mayor Simmons said he agreed with Commissioner Runte that the Town Manager has done the best he can do adding that he cares, that he has met all of the caring commitments that he said he would. The Mayor said Mr. Daniels is a good person but he's not the right leader for the Town of Melbourne Beach.

Town Manager Daniels said, to clarify the record, that after the meeting that was held the previous Friday at the Town Attorney's office, the Mayor told him that he needed to make a decision by the end of the day.

Town Attorney Repperger said he doesn't want to get involved in a dispute or argument between the Mayor and the Town Manager. However, now that Mr. Daniels has mentioned twice a request by the Mayor for him *to make a decision by the end of the day* he does need to clarify, for the record and for the other Commissioners, the purpose of setting the meeting at the Town Attorney's office. The day following the last meeting, he learned that the Mayor was trying to set up a special meeting and the Town Attorney recommended that Mayor Simmons reach out to the Town Manager to discuss some of the issues and concerns he had prior to setting a special meeting and to find out if there was anything Mr. Daniels could say that would avoid the need for such a meeting. The Town Attorney was asked to attend the meeting as a witness. The meeting took place and the Mayor did express his concerns that are the same as the ones discussed in this meeting (March 12, 2019). At no time in that meeting, did Mayor Simmons ask Mr. Daniels to resign. At no point did anybody ask him to resign nor was the suggestion made that he should resign. There was the idea of providing an additional period of time to cure but when the meeting ended, the only decision to be made was by the Mayor who needed to determine if the answers given by Mr. Daniels were sufficient such that a special meeting would not be scheduled; later that afternoon, the Mayor decided to schedule the special meeting. In conclusion, the Town Attorney repeated that at no time was the Town Manager asked to resign.

Another issue Town Manager Daniels had was related to the sod on Riverside Circle. Riverside Circle was a staging area that the contractor was liable for returning to the condition in which it was in prior to their work. Initially, the Town Manager wanted to lower the grade so there could be a detention area for water and hopefully change the flow of the water. The project was abandoned because it would have been too costly, so sod needed to be laid. Also, the cost to repair sprinklers wasn't covered in the contract. The Manager talked to the Public Works Supervisor who said he could repair some of them but some would have to be farmed out.

Commissioner Quarrie said that, to date, the Town has only received 5 signed releases from the residents affected by the Andrews project. The Commissioners had been asking for those releases since October 2018 and the Town Manager should have been more proactive about getting them. She said the Commission didn't want Public Works down there every Monday repairing sprinklers because they were run over with their lawnmowers. She's disappointed because she provided him with all the names and addresses of the people who would be affected by the project and still, nothing was done. The Town also had to give Robin Petersen almost \$1,000 to replace plantings that he didn't remove because he wasn't given adequate notice. There was a similar issue with Mr. Stelling. Town Manager Daniels said the project ended in January and he didn't want to get releases until all the work had been completed; there were only 4 houses remaining where signed releases were needed and he'd sent certified letters to them. Commissioner Runte said the sign off sheets

and contact logs were suggested by the Commission; the Town Manager wasn't proactive at all.

Neal Tompkins

2004 Neptune

Mr. Tompkins said he likes Bob (Daniels) and he has been very responsive. He said he can't get into any of the specifics because he has no knowledge of those specifics. He wanted to talk about leadership because it's something he understands. In his view, the Commissions' goal should be to do everything in their power to make sure the people who work for them have everything they need to succeed. It's clear there are issues that he didn't have knowledge of. His concern was that given the history of Melbourne Beach, there's something broken about resources. A question Mr. Tompkins didn't hear asked was if Mr. Daniels had all the resources he needed to meet all his goals. Providing resources is part of leadership. Mr. Tompkins said if Bob (Daniels) leaves, this same discussion will be had in a year or two. The reputation of Melbourne Beach is notorious for short tenures of Town Managers. He'd like to see from the Commission, something clear and compelling that says they understand how to fix the problem. He believes a systemic fracture exists. The Commissioners, with the exception of Commissioner Walters, said they feel the Town Manager has been given all the resources necessary to do his job. Commissioner Runte said the most important thing Town residents can do is support the candidates they feel will make the best decisions and are on the Commission for all the right reasons

Edward Kenny

442 Sandy Key

Mr. Kenny said he's heard all the stories about Melbourne Beach for years. He's seen projects going on in his neighborhood by individual homeowners and right now it's a tough market for an employer. At Harris and where he works now, they are using new tools that perform metrics. He's not throwing shade on the Commission but he can't stand 4.5 hour meetings. Melbourne Beach hasn't changed its methods for the last 30 years; maybe the Town needs to hire an HR consultant or provide more tools for the employees.

Mike Krajic

2103 Neptune Drive

Mr. Krajic said Melbourne Beach has a bad reputation. He said that everyone gets second chances and that he'd heard on the street that Vice Mayor Hoover wants the Town Manager job. Mr. Hoover said he did not. Mr. Krajic said he would like to hear from the Board and Committee members and other staff and he thinks the best thing to do would be to give Mr. Daniels at least 6 months and work on communication. He agrees with Commissioner Walters and said the Town should give him 6 more months with objectives. If he doesn't live up to those expectations then after 6 months; he's gone. Mr. Krajic moved on to talk about getting funds to mitigate the issue with the canals in Harbor East.

Sue Tompkins

2004 Neptune Drive

Ms. Tompkins went to the last meeting to ask the Commission to do something about the canals in Harbor East and Mr. Daniels has since helped that community so much and has been very responsive. Mayor Simmons said he doesn't want to get into a discussion about Harbor East.

Sheryl Atkinson

442 Sandy Key

Ms. Atkinson said she's lived in Melbourne Beach for 35 years and the solution the Commission is suggesting is not a solution. They are looking to fire Bob (Daniels) and hire someone else and probably make the same mistake because the Town has gone through 4 Town Managers in the last several years. That's not the Town Managers' problem but what she heard is that the Commission said that nobody in this whole building cares or respects Bob (Daniels). She would not let her employees run her business. The employees are judging him when they don't walk in his shoes and she thinks that's absurd and ridiculous. Commissioner Walters said he agreed.

Bill Cox

Indialantic

Mr. Cox said Bob (Daniels) is a manager and his job is crisis management. He's an outstanding executive. It's a stress filled job and the Commission can't allow staff to go to them. The Commission should back the Town Manager.

Mayor Simmons wanted to explain some misperceptions. There has been 1 Town Manager who resigned for medical reasons; 1 Town Manager who had intended to move his family to Melbourne Beach but they didn't move and the tug to go home was stronger than staying, so he resigned to take a higher paying job near his family; 1 Town Manager made the commitment to move to Town but after 1.5 years, his family didn't move and he took a job near his family. Then the Town hired Bob (Daniels) from out-of-town – he had a residency requirement in his contract that was to be fulfilled within a year and was later extended by 6 months. Since at least 2013, there hasn't been a Town Manager fired in Melbourne Beach, so the reputation that some have alluded to is not the reputation that currently exists.

Mayor Simmons said that after meeting with Bob (Daniels) several times over the last month, he's at the point where he feels the skill set that he would like the Town Manager to have (planning, pre-planning, coordination, implementation and follow through) are skills that are brought to a job; they aren't learned on the job. There are contacts, processes and tangible tasks that are learned at any job. Some tasks do take time but 1.5 years is long enough to learn them. The 9 months that Mr. Daniels sold us on as being an Acting Town Manager brings that skill set level expectation up to 2-2.5 years so there has been plenty of time to understand what is required. That is a reasonable amount of time to believe certain things shouldn't be happening. There are things beyond his control such as due dates but the Mayor said he purposely didn't mention those. We have negotiated every due date with him; it's not been driven from the top down. We've also negotiated terms of his contract.

The terms were negotiated openly with the Town Manager in attendance; some terms have not been fulfilled, some have. The Mayor was not proposing that we terminate for cause. We have a bad fit that we have been living with for quite a while. It's not a matter of Town staff sandbagging him; the Town is not functioning the way it has in the past. It's not a good day, it's not something we take any satisfaction in. The Mayor was looking for a long term commitment from a Town Manager who could fulfill the responsibilities and if the Mayor believed we had a Town Manager who could fulfill those responsibilities, in a broad sense and with a skill set he believes every top leader should bring (planning, organization, follow-up, implementation, follow through), he'd want him here long past when he leaves office in 1.5 years. He made a commitment to the residents when he ran that we would have a stable Town Commission and a stable Town staff. We've had the Town Clerk position turn over regularly and now we've had a Town Clerk for some time. We had turnover with Public Works supervisors; we now have one who is committed and who is part of the community. We have a new police chief who is a great fit and he complimented the Town Manager with that decision. Things that are important to the job, things that save money, things that protect the Town and provide services are complex and they have to be managed in a systematic fashion – much like what is expected from a project manager. The Mayor said he doesn't know how things will work out at that evening's meeting but he wishes Bob (Daniels) well.

Commissioner Walters said he encourages members of the audience to pull Commissioner Runte's and Commissioner Quarrie's campaign flyers where they talk about positivity. After 8 or 9 meetings, we've got a Commissioner who has decided that the Town Manager is no good. We made promises to you folks (audience) to get some stuff done and we just keep going through staff. The Town Clerk has been here awhile because she left and came back but we've had many others and we're going to pay the price again. It's going to take months to hire another Town Manager and it will take months more to get that person up-to-speed. What happens then if the employees don't like that person, we start over again? He's happy the employees don't call him and complain. If they did, he'd tell them to go talk to their manager. It's ridiculous to have employees go to the Commission and complain unless it's some kind of criminal act. We've had a lot of turnover through the years because we're a small community and there's no room for advancement. We raised salaries significantly in order to retain employees; our Finance Manager got a 28% raise 1.5 years ago. We significantly raised salaries because we were told that's why we're losing people so here are again with no positivity in the room and we've had 3 Commissioners who were just elected – please, go read their promises to you.

Commissioner Runte said that he has not complained because the Town needs positivity; certainty and leadership - so lead by example. He's not going to sit for 4 hours, 2 or 3 times a month, and bitch about things he doesn't agree with. He addresses issues as they come up in a professional and positive manner. He hasn't been unhappy or dissatisfied with the Town Manager during his time in office. The Commissioner gave Bob (Daniels) resources, contacts and he's sat down with him in

the office. He likes Bob (Daniels), he's done an OK job but he won't settle for less. It's not his position or role to bring negativity to every meeting; it's not who he is.

Commissioner Quarrie said the Commission interviewed some highly qualified candidates for the Town Manager job but she felt they would have only stay in Melbourne Beach until the next big opportunity came along. We all labored over selecting Bob (Daniels). He showed a high level of commitment by attending our meetings and she felt extremely positive when we hired him. However, in the last 4-5 months, Bob (Daniels) has been gradually slipping away. The commitment he had so overzealously shown prior to getting the job, is gone. Maybe he's being drawn back to his family in South Florida; maybe it's too much to be away from them. Commissioner Quarrie said she feels a lack of commitment and a lack of what he was and what we need on some of our big issues. She agreed with the Mayor that some skills should have been garnered throughout his working career. She cares for him and she's championed for him but in the last 6 months, he has not given to the Town what we need.

Vice Mayor Hoover addressed the audience saying that it's important that they know that this wasn't a flippant decision that was decided on a few weeks ago. This was not rushed into and isn't based on staff complaints. The Vice Mayor said a wide range of issues concern him, most of which affect the core function of the job adding that Mr. Daniels doesn't show the executive leadership or organizational management that is needed in our Town Manager. Staff becoming dissatisfied was the straw that broke the camel's back and is not what led him down this path. He was not in favor of renewing the Bob (Daniels) contract in December for all the reasons that have been discussed at that evening's meeting.

Vice Mayor Hoover made a motion to terminate Town Manager Daniels without cause in accordance with the terms of his contract, effective immediately; Commissioner Runte seconded.

Mayor Simmons said he documented concerns he had in August and periodically throughout the intervening 6 months. The staff complaints were validation of the observations he had made; they were not the impetus. The evaluation the Mayor gave him was comprehensive and it outlined the good and the bad plus it cited specific examples and how they could be remedied. This was a long time coming. The last thing he wanted to do during his last 2 years in office was go through the process of hiring another Town Manager.

Commissioner Walters asked Town Manager Daniels if he had anything else to say to which he responded that he didn't. He then asked Mr. Daniels how long he had worked for the Town to which he responded that it had been around 15 months.

Motion carried 4-1 with Commissioner Walters casting the dissenting vote.

A break in the meeting was taken at 7:18 p.m.

The meeting resumed at 7:28 p.m. and the Town Clerk called roll:

Commissioners Present:

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

Staff Present:

Town Clerk Nancy Wilson
Town Attorney Cliff Repperger

Mayor Simmons said we need to pick an Interim Town Manager. We had an Interim Town Manager who got us through until Bob (Daniels) was hired so he suggested offering the interim position again to Elizabeth Mascaro at the same salary we paid Bob (Daniels) when he was hired which is \$86,000. She did a reasonable enough job to get us through during the 4 months she served in that role. Commissioner Quarrie said there are a lot of things that weren't done so if that decision is made should we also hire some accounting help? Mayor Simmons said the Deputy Town Clerk is helping with some of the financial work and we could bring in temporary help. Commissioner Runte said Ms. Mascaro would be a great interim replacement but we should consult with her to see what type of help she will need.

Loren Hardman

326 Sixth Avenue

Ms. Hardman disagreed with the choice of Elizabeth Mascaro because she would have too much leverage – HR, Finance and Town Manager responsibilities. She said she didn't have anything against Bob (Daniels) but if there's a deeper issue here, she thinks someone else should be chosen for the job so it could be determined if there's a problem in Town Hall. She suggested assigning Public Works Supervisor Tom Davis to the interim position because he doesn't have any connections, he works well with others and he is well known. Mayor Simmons said Mr. Davis isn't interested in the position to which Commissioner Walters commented that he'd like to hear that from Mr. Davis himself.

Mayor Simmons said there are a couple reasons why he was suggesting Ms. Mascaro, one reason is because the Finance Manager has a whole lot of insight into the Town and she's done it before. He added that Public Works Supervisor Tom Davis was one of the strongest advocates for making the change regarding the Town Manager so he is not a neutral observer. Ms. Hardman said her concern is that the last time Ms. Mascaro served as the Interim Town Manager, she reached out to 2 other fire departments to put in a bid to have our fire department dissolved. Mayor Simmons said that was not her doing; that process had been initiated by the previous Town Manager.

Commissioner Walters was opposed to appointing Ms. Mascaro to the interim position because we just got out of a bind with the state for 3 bad years of audits; we finally got it right last year. Her job is finance not management. He said he would like to see if there is someone else available who would be able to do the job

temporarily; he doesn't think Ms. Mascaro is qualified. The Commissioner said that this decision has apparently already been made; the Mayor has something written up and it's a done deal. He then said that the Town Clerk and the Finance Manager bad-mouthed the Town Manager because every single staff member did.

Commissioner Runte asked Commissioner Walters, because he respects his input, if we were to wait, what happens between now and when we ultimately figure it out. Commissioner Walters asked if that wasn't something we should have decided before the Town Manager was fired? Commissioner Runte commented that Commissioner Walters didn't come to the meeting prepared and is just fighting everything. Commissioner Walters said he voted no to which Commissioner Runte responded that he voted no so he could come back in 2 years and say his was a no vote. Commissioner Walters said we should have kept the Town Manager for 30 days in order to have time to find his replacement. Commissioner Runte said that would not have been productive.

Commissioner Walters' solution is to see if there is anybody available who has experience.....perhaps we could borrow the Assistant Town Manager from Melbourne or Palm Bay for a short period of time.

Vice Mayor Hoover made a motion to offer Finance Manager Mascaro the position of Interim Town Manager at the same starting pay as Mr. Daniels of \$86,000/year; Commissioner Runte seconded.

Libby Brown-Brock
536 Sunset

Ms. Brown-Brock said she would like an opportunity to submit a resume for the Town Manager, Interim Town Manager or Finance Manager positions.

Motion carried 4-1 with Commissioner Walters casting the dissenting vote.

Town Attorney Repperger said that because of termination without cause, Bob Daniels is entitled to 3 months severance under the contract. The contract provides that he needs to sign a release before he can collect that money. There is no time limit on when he must sign and thus when the money can be disbursed.

VII. Adjournment

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

The meeting adjourned at 7:34 pm

ATTEST:


James D. Simmons, Mayor


Nancy Wilson, Town Clerk