

REGULAR COMMISSION MEETING HELD JUNE 5TH, 2006

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, June 5th, 2006, at 6:00PM in the Town Hall Meeting Chambers.

The meeting was called to order by Mayor Kaleel and roll call was answered by the following:

Commissioner Allison
Commissioner Bingham
Commissioner Hogan
Commissioner Pugh
Mayor Kaleel

Pledge of Allegiance

Additions, Deletions, Modifications and Approval of Agenda

Atty Spillias requested to add an item under his report as 12C requesting an Atty/Client Executive Session to seek direction for involvement in the Boca Raton vs. Palm Beach County, and a request for action.

CONSENT AGENDA

1. Minutes of the Regular Town Commission Meeting of May 1, 2006
2. Minutes of the Special Town Commission Meeting of May 17, 2006
3. Confirm the Hiring of New Police Officer to Replace Departed Officer Michael Allen
4. Ocean Ridge Resolution No. 2006-07; Authorizing the Execution of a Contract Between Hy-Byrd, Inc. and the Town for a Three Year Term
5. Ocean Ridge Resolution No. 2006-08; Authorizing the Town Manager to Proceed with the Grant Application Process with the Florida Dept. of Community Affairs for a \$500,000 Award for Cultural Facilities and Further Authorizing the Town to Match at Least \$1,000,000 Towards Completion of the Project Upon Grant Award. Matching Funds Will Come From the Town's Fund Balance or any Other Source the Commission Deems Appropriate
6. Authorizing Execution of Interlocal Agreement to Promote Undergrounding Utility Facilities (\$2,000 approved at May 1, 2006)
7. Authorize Purchase of Generator for the Garage from Marine Engine Equipment Co. in the Amount of \$25,600 to be Funded with Excess FEMA Reimbursement Funds from Hurricane Jeanne and Frances in 2004 that are Still Being Received

Comm Bingham motioned to accept the consent agenda. Seconded by Comm Allison.

Motion Carried - yea 5

ANNOUNCEMENTS AND PROCLAMATIONS

8. Presentation of Plaque from the Keep Palm Beach County Beautiful Grant
9. The July Regular Town Commission Meeting will be held on Monday, July 10, 2006 at 6:00 PM and the August Meeting will be held on Aug. 14, 2006 at 6:00 PM

Comm Hogan presented to the Town a Plaque from the Palm Beach County Beautiful Grant of \$10,000. She made special thanks to Manager Mathis and Engineer Tropepe for all their hard work and due diligence in working together to be awarded the grant for the landscaping on Woolbright & AIA.

Clerk Hancsak mentioned that a few years ago Ocean Ridge had received another Palm Beach County Beautiful Grant for the same site.

PUBLIC COMMENT

Gerry MaGruder, 9 Ridge Blvd, stated that the detention pond seemed to be working well on Midlane Rd, but not behind her home. She distributed photos showing the standing water that had been behind her home for 3 days. She had spoken with Mitch the Project Coordinator, and had been told that the grading was complete. She stated her concern that this pit hole had water backing up into it, and a horrible stench, and was curious as to why it was there and why it did not drain out. She understood that at high tide or during heavy storms that the water would

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not be draining effectively, but during normal conditions it should not be happening. Her family could not enjoy their own backyard because of the smell. Their quality of life had also lessened drastically due to the several construction problems that had occurred during the project. She had heard of the possibility that the other generator may also be located on the same site. She noted that it was her understanding that only one building was requested and permitted at that site, and questioned if an amendment was needed to add another generator. The grate appeared to be an industrial type. She strongly felt that the Town Commission needed to be more concerned with the quality of life for the surrounding neighbors. Mayor Kaleel requested that Engineer Tropepe address these issues with her report later in the meeting.

Justis Brown, 39 Coconut Lane, thanked the town for the great job that had been done so far with their right-of-ways and alleyway. He had noticed however standing water at the end of the block, and thought that a floating check valve was to be installed to resolve the problem. Engineer Tropepe stated that there were funds in the budget for a check valve. Mayor Kaleel stated that it was not done yet.

Pat Kropp, 16 Tropical, gave an update of the project on Tropical Drive and stated that it everything was coasting along well, and that they were grading the street now. She was happy to report that there hadn't been any extensive flooding, and the neighbors were doing well.

PUBLIC HEARINGS

10. An application submitted by Ocean Breeze, LLC, % Ernie Varvarikos, 5582-A N Ocean Blvd., Ocean Ridge FL 33435, requesting a Public Hearing regarding the provisions of the Land Development Code at Chapter 63; General and Administrative Provisions, Article IV; Site Plan Review Procedures, Section 63-53; Major Development Application and Site Plan Requirements, Site Plan Review Procedures, Section 63-51(a)(4) Site Plan approval of minor or major development application or modification, Section 63-51(b)(2) Major Development review and Chapter 64; Zoning, Article 5; Subdivisions; Sections 64-100 through 64-105 pertaining to replatting requirements. The applicants, Ocean Breeze LLC, are requesting to replat the existing property, demolish the current four building, fifteen unit complex and rebuild seven three-story town home units with individual pools, and individual parking spaces, as per the recently adopted Ordinance 565. The property is located at 11 Adams Road or generally described as Lots 3-7, Ocean Shore Estates Subdivision (exact legal description located at Town Hall).

Clerk Hancsak stated that all fees had been paid, and 2 additional correspondences had been received opposing the project due to size. One correspondence was from Mr & Mrs Mahon, 5801 N. Ocean Blvd, Unit 101, Ocean Walk Condominium, stating a concern of the height on a small plot of land that abuts their property. They also requested dense vegetation to allow for screening between the project and their property. The second opposing correspondence was from Gail & Freddie Bernhein who live directly west of the property, regarding the drainage, height problems, and the size of the project compared to lot size.

Atty Spillias stated that this was a quasi-judicial hearing and asked for disclosure of any commissioners who had spoken with or reviewed the above mentioned project. Comm Hogan stated that as a real estate broker she had spoken with Ernie Varvarikos a year ago in regards to the project. Comm Allison stated that she had also spoken with Ernie Varvarikos and looked at the plans for this project. Atty Spillias requested clarification of influence. Comm Hogan and Comm Allison stated that they would be impartial. Atty Spillias then swore in those that would be giving evidence: Bruce Gimmy, Clerk Hancsak, Ernie Varvarikos, Greg Young, PA.

Greg Young, attorney for Ernie Varvarikos presented that: 1) The Planning & Zoning recommended the approval for 11 Adams and also the replat. The project was to change the existing 15 unit apt. complex that does not meet current setback requirements or current code to a 7 unit townhome that would. He presented drawings showing the existing 15 unit apt complex. He noted that currently the traffic for the existing apt. complex daily averaged 137 trips; this would be reduced with the new proposed, as there would only be 7 units. Taxes would also increase as the current taxes were only \$21,000 for the apt complex. The density would decrease while bringing in more high-end income owners. The new proposed project provided for 2 car front load garages and the driveways also could hold two cars. This would allow parking for 4 cars per unit. Each unit also has a pool, and a common tennis court provided behind the complex. There were plans to provide adequate landscape to buffer their project from adjoining properties. He felt this had a better curb appeal and was aesthetically pleasing. Planning & Zoning had recommended pervious pavers for the driveways.

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Comm Hogan asked about the pools. Greg Young stated that each had room for a dipping size pool. Comm Bingham questioned the chimneys. Greg Young stated that they were 4ft above and per code. Comm Pugh stated that he understood the biggest concern was of parking and guest parking allowance. Greg Young stated that currently there were 35 parking spaces for 15 units, and believed that the 2-car garage and driveway spaces would accommodate the 7 units. Ernie Varvarikos stated that these units would have approximately 3 full/time residents and the rest would be seasonal. Comm Hogan asked of the pricing of the townhomes. Greg Young responded the pricing was \$1.5 to \$2 million per townhome. Atty Spillias addressed the drainage calculations and lighting issues. Greg Young stated that the current apt complex had no drainage provided for. The new one had engineered drainage plans and a sewage treatment plant that had not been finalized yet. Ernie Varvarikos stated that the lighting provisions had been made.

Atty Spillias suggested that if the site plan is approved, it be contingent on the approval of the new Ordinance 567 which amended the PRD 44' height limitation and setbacks pertaining to the zoning district. Nothing had been submitted so far that exceeded it.

Bruce Gimmy, 12 Ocean Avenue, and a member of the Planning & Zoning Board, stated that at the April Meeting all of the Planning & Zoning Board liked it, except one. He did like the project, however after the meeting, he had objected to the parking allowance. He noted that parking affects the neighborhood overall. He asked for a smaller floor area ratio. They were 4 bedroom units with 4400 sq ft. He saw a potential problem with guest parking on Holidays. He suggested a purchase of an empty lot to provide for overflow parking.

Justis Brown, 39 Coconut Lane, thought highly of the new project and that it would develop very nicely, and would be a good change for the town. He also felt that there would be no problem with parking.

Mayor Kaleel stated that the parking would be the same as any other street or resident in town. Everyone falls into that dilemma when planning for a party or having company. Comm Allison stated that she thought the improvement to the town outweighed the potential parking problem. Mayor Kaleel agreed with the recommendation of the Planning & Zoning. Comm Bingham suggested that if not with this project, then at a future time to look into new parking accommodations for town residents.

Comm Allison moved to accept the Planning & Zoning recommendation of site plan for 11 Adams Road, subject to approval of Ordinance 567. Comm Pugh seconded.

Motion carried - 5 yea

Mayor Kaleel welcomed Ken Schenck as our new Interim Town Manager to Ocean Ridge and hoped he would enjoy working here.

11. Town Manager

Interim Manager Schenck stated that Engineer Tropepe would be giving an update for the drainage and Tropical Drive projects. He stated that he had held a meeting with prospective landscapers for the bid on Woolbright & AIA. All bids would be due on June 13th, 2006 by 2pm. He also stated that he needed approval of an additional \$27,500 from the current Fund Balance as an additional payment for the State Revolving Loan.

Comm Pugh motioned to approve an additional \$27,500 from the current Fund Balance to pay the additional loan amount. Comm Bingham seconded.

Motion Carried - yea 5

Interim Manager Schenck noted that an additional \$33,502 had been received from FEMA for Hurricane Relief, bringing the total reimbursement up to \$486,213. He thanked Manager Mathis and Michael Tait for all the hard work and effort involved. With the new hurricane season just starting he noted that a new Townhall is urgently needed. The first step involved is the housing of the police department and Townhall for the duration of the construction, either by portables or a concrete building. With portables, there is a choice of one triple-wide unit or 2 double-wide units. The portables are 1000 sq ft each. He was obtaining prices, and would be meeting with an architect tomorrow regarding demolition of the existing Townhall. He suggested that we move quickly once pricing is obtained.

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Interim Manager Schenck noted that the Town's sign on A1A by the Inlet had been vandalized and he was obtaining pricing to have it repaired. He also stated that he was chosen to be arrested by Muscular Dystrophy as a fund raiser this month.

12. Town Attorney

a. Scheduling of Atty/Client Executive Session Meeting re: Cory Heith v. Town of Ocean Ridge for June 28, 2006 at 8:00 AM

Atty Spillias requested an attorney client session regarding Case#502003012XXOCAB on June 28th, 2006 that would last approximately 30 minutes.

Comm Pugh motioned that an Atty/Client Executive Session re: Cory Heith v. Town of Ocean Ridge for June 28, 2006 at 8:00 AM, Case #502003012XXOCAB. Comm Allison seconded.

Motion carried - yea 5.

b. Scheduling of Atty/Client Executive Session Meeting re: Briny Breezes/FDOT for June 8, 2006 at 9:00 AM

Atty Spillias requested guidance as to the Atty/Client Executive Session re: Briny Breezes/FDOT for June 8th, as Comm Allison had a conflict, and may not be able to attend the whole meeting. Comm Allison stated that she would stay as long as possible.

Comm Hogan motioned to hold an Atty/Client Executive Session Meeting re: Briny Breezes/FDOT for June 8, 2006 at 9AM. Comm Pugh seconded.

Motion carried - yea 5.

c. Update of Boca vs Palm Beach Co. regarding the challenging of cities against using Palm Beach County Dispatch System.

Atty Spillias stated that other cities had also intervened and requested clarification of scope on May 31st. The court had granted a motion and clarified that the towns make individual complaints. The case is heating up and the costs would also be going up. The current costs total \$4200, and a final figure could not be estimated at this time. Mayor Kaleel mentioned that we should contact the other towns and get their suggestions as how to proceed and continue this discussion on June 8th, 2006. Atty Spillias clarified that he would need final direction by June 20th, 2006.

Comm Pugh motioned to schedule an Atty/Client Executive Session Meeting to discuss the Boca Raton/Delray Beach vs Palm Beach Co challenging of cities against using Palm Beach County Dispatch System of which the Town of Ocean Ridge is an intervener, to discuss litigation costs, on June 8th 2006 at 9AM. Seconded by Comm Allison.

A consensus was for Atty Spillias to investigate other municipalities as to their methods of addressing said issue.

Motion Carried - yea 5

13. Director of Public Safety

Chief Hillery had nothing to report. Comm Pugh asked that since the aggressive beach patrol if there had been any new problems along the beach. Chief Hillery stated that there had been no vagrants. All "No Parking" signs were posted, and the no parking had been enforced. Atty Spillias stated that with further research, the amount of our parking fines were firmly established in FSS Code 316 & 318. The maximum fee for a parking violation is \$30, and could not be increased by the Commission. If a violator parked on private property they could be towed at the discretion of the property owner.

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Comm Bingham motioned to rescind the \$100 Parking Fee Violation due to the State Statue requirement. Seconded by Comm Pugh.

Motion Carried - yea 5

Steve Coz, 2 Osprey Ct, thanked Chief Hillery for the police presence. When violators see the police coming, they leave. He requested a 20 mph speed limit sign for Old Ocean Avenue, as trucks and cars travel too fast down the street for the safety of their families and children.

Comm Allison motioned that the 20 mph speed limit sign be posted on Old Ocean Avenue. Seconded by Comm Pugh.

Motion Carried – yea 5

Comm Pugh asked if the extra beach presence involved overtime for the police department. Chief Hillery responded that it did involve overtime of 16 hours weekly.

Lisa Allerton, 76 Beachway Drive, questioned the overtime, and asked if it could continue. She had seen someone violate a beach rule and had confronted them. Chief Hillery stated that she should never confront anyone, and if she sees a problem she should notify the police department immediately, and not put herself at risk.

Michelle Smith, 105 Dolphin Drive asked if they had looked into speed bumps. Chief Hillery stated that Beachway had been measured and pricing was being obtained to install one speed bump with 4 big signs. Michelle Smith also asked if a sign for “Children at Play” could be installed. Atty Spillias noted that he didn’t feel that such a sign would increase the town’s liability if was installed.

14. Town Engineer

Engineer Tropepe stated that the South Phase Project was moving slowly with attention to detail and, they were currently matching grades, and the pavement should be starting this week. The pumps on Woolbright would be performing a startup later this week also. The Woolbright site is not complete or at final grading. Once complete there would be no water flowing back. The Landscape bid had went out. In regards to the Coconut right-of-way, Chief Hillery had suggested that we utilize the mobile pump for the end of the street at the cul-de-sac. The mobile pump could be dropped into a box with a valve. There is money in the budget for this. The alleyway was proceeding slower as one homeowner has not signed the Hold Harmless Agreement. Comm Allison asked if the commission could be taking steps to help facilitate this. Engineer Tropepe noted that this homeowner could be bypassed. Mayor Kaleel asked that a letter be sent to this homeowner advising them that they would be bypassed if they were not heard from within 10 days. Engineer Tropepe stated that the alleyway would not impact this property. The homeowner would impact their own property. Comm Hogan was concerned that this decision be documented. Comm Allison stated that a letter would be sent documenting this decision.

Gerry MaGruder questioned why water was still backing up as she thought a valve was to be installed to resolve this problem. Engineer Tropepe noted that when it rains, water does settle in the detention area, but otherwise it would be predominately dry. She also noted that final grading was not complete yet. The contractors had been testing the pumps one at a time. The original plan was for a backflow in the catch basin on Ixora by the seawall that would require a maintenance man. The backflow had been installed for several months now and was working well. Gerry MaGruder questioned what was causing the smell, as it had caused a rash, made her nauseous, and gagging. Engineer Tropepe stated that it may be coming from across the street from the package treatment plant to the south. The discharge box was not complete yet also. Gerry MaGruder mentioned that she had contacted South Florida Water Management regarding the smell. Engineer Tropepe stated she was aware of this and had met with the South Florida Water Management regarding this situation.

Lisa Allerton, 76 Beachway Drive, stated that a backflow preventer cannot be placed underground. Engineer Tropepe stated that it was not a “backflow preventer”, but a flapper valve. It was only a term she was using.

Comm Hogan stated that she would personally walk around the site to check on the smell, and asked what the purpose was in having sod installed, then removed, and then installed again on the job site. Engineer Tropepe stated that Chaz Equipment was trying to create a berm using different methods, but without much success to date.

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15. Discuss Recommendations by the P & Z Commission Regarding Amending the Noise Ordinance Pertaining to Permanent Generators, Permitted Work Hours, and Shower Installation/Old Ocean Blvd./Crossovers/Beachway Dr. Potential Solutions for Resident Concerns By: Karen Hancsak, Town Clerk

Clerk Hancsak stated that Planning & Zoning had recommended that work only be performed Mon-Sat 8AM to 6PM. They also recommended that no showers be installed on the beaches, as this could potentially create new problems to the current beach troubles. They also recommended 20mph, installation of "No Parking" signs at the beach, and that the "Public Beach Access" signs be removed.

There was a consensus to request that Atty Spillias draft an Ordinance regarding the work hours of the town.

Comm Pugh suggested that the beach showers be implemented as it would benefit the residents of the town.

Steve Coz, 2 Osprey Court, was concerned that the commission was ignoring the recommendations of Planning & Zoning. He definitely did not want showers, especially south of Beachway Drive.

Pat Kropp, 16 Tropical Drive, was in favor of showers as they would be on the street side and policed, and requested that one be placed by Tropical Drive. Clerk Hancsak noted that Tropical Drive was private property. Comm Hogan stated that Town funding could not be used for a private crossover. Pat Kropp felt her neighbors would be open to pay a portion of the cost for a shower. Comm Hogan questioned if legally the town could spend their money on a public access. Atty Spillias stated that he would need to research to see if the town could partially fund it.

Penny Kosinski, 6000 Old Ocean, lived on the west side of Old Ocean, and was completely opposed to showers as one would be right in front of her home.

Mayor Kaleel reminded everyone that there was no funding this year for showers, as it was not budgeted.

17. Resolution No. 2006-09; Authorizing Execution of Amendment #3 to the Clean Water State Revolving Fund Loan Agreement SWG12073004P Between the FDEP and the Town for the Purpose of Financing of Construction Activities for Stormwater Pollution Control Facilities

Comm Pugh motioned to approve Resolution No. 2006-09 Authorizing Execution of Amendment #3 to the Clean Water State Revolving Fund Loan Agreement SWG12073004P Between the FDEP and the Town for the Purpose of Financing of Construction Activities for Stormwater Pollution Control Facilities. Seconded by Comm Bingham.

Motion Carried - yea 5

FIRST READING OF ORDINANCES

18. Ordinance No. 568; Amending Chapter 34, Section 34-91, Air Conditioning or Air Handling Equipment, by Adding new Provisions Relating to Noise Abatement and Control for Permanent Generators; Amending Chapter 64, Section 64-50, Location of Exterior Residential Equipment and Accessories, by Including a New Section 64-50(c) Relating to Location of Permanent Generators

Atty Spillias read Ordinance No. 568 and stated that minor changes had been made to the first version. Section 2 addresses the noise portion, and decibel rating. Section B, he referenced the Gulfstream ordinance with regards to the location of generators and how loud they can be heard from the property line. In Section 3 he suggested to change the location of generators. Currently the distance is 10ft from property line and residence. Atty Spillias suggested adding Section 4 regarding propane tanks for generators and that they could not be placed in setback areas unless it was underground.

Comm Bingham motioned to approve the First Reading of Ordinance No 568; Amending Chapter 34, Section 34-91, Air Conditioning or Air Handling Equipment, by Adding new Provisions Relating to Noise Abatement and Control for Permanent Generators; Amending Chapter 64, Section 64-50, Location of Exterior Residential

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Equipment and Accessories, by Including a New Section 64-50(c) Relating to Location of Permanent Generators with amendments suggested by the Town Attorney. Seconded by Comm Pugh

Lisa Allerton, 76 Beachway Drive, questioned as to the method for checking the decibel level of the generators, and how it would be enforced. Atty Spillias stated that there were two methods to check the noise level. We could utilize an outside source or another town's equipment, or we now have the mechanism based on a noise factor without a reader.

Motion Carried - yea 5

SECOND READING, PUBLIC HEARING AND ADOPTION OF ORDINANCES

19. Ordinance No. 566; Amending Chapter 16, Article I, Sections 16-1 through 16-12 of the Code of Ordinances Providing for (1) Substituting "SPECIAL MAGISTRATE" for "SPECIAL MASTER"; (2) the Ex Officio Appointment of Special Magistrates; and (3) Fine Assessment Hearings; Providing for Codification; Providing for Repeal of all Ordinances in Conflict; Providing for Severability and an Effective Date

Comm Bingham motioned to approve the Second Reading of Ordinance No. 566; Amending Chapter 16, Article I, Sections 16-1 through 16-12 of the Code of Ordinances Providing for (1) Substituting "SPECIAL MAGISTRATE" for "SPECIAL MASTER"; (2) the Ex Officio Appointment of Special Magistrates; and (3) Fine Assessment Hearings; Providing for Codification; Providing for Repeal of all Ordinances in Conflict; Providing for Severability and an Effective Date. Seconded by Comm Pugh

Motion Carried - yea 5

20. Ordinance No. 567; Amending Chapter 63, Section 63-117; Providing for Codification; Providing for Repeal of all Ordinances in Conflict; Providing for Severability and an Effective Date

Comm Bingham motioned to approve the second reading of Ordinance No. 567; Amending Chapter 63, Section 63-117; Providing for Codification; Providing for Repeal of all Ordinances in Conflict; Providing for Severability and an Effective Date. Seconded by Comm Allison.

Motion Carried - yea 5

Comm Allison motioned to nominate Karen Hancsak as Town Clerk of the Year at the next Annual League of Conference. She advised that she would write up the verbiage for submittal. Seconded by Comm Hogan

Motion Carried - yea 5

Steve Coz, 2 Osprey Court, stated that he felt the problems on the beach had not been resolved, and requested a "Residents Only" sign be posted on Old Ocean & Beachway Drive. Atty Spillias stated that a "Residents Only" sign or "No Public Access" sign could not be posted. There was however no reason why the words "Public Access could not be removed from the existing sign.

Comm Hogan motioned to remove the Public Access Signs from the Beach. No Second.

Comm Hogan motioned to remove the Public Access Signs from the Beach and to install new signs with all other pertinent information from the beach. Comm Bingham seconded for discussion.

Interim Manager Schenck noted that cheap metal signs could be quickly made and installed. Manager Mathis stated that to have new signs made up like the ones that were currently posted, would be very expensive, and would take awhile to make.

Atty Spillias suggested if the public access portion was removed, leaving all other elements on the sign, it could be enforced. Steve Coz, 2 Osprey Court, asked if the top could be cut off, and the rest left in tact. Mayor Kaleel suggested that it be painted over. The current lettering was embossed and could not be painted over. Manager Mathis stated that something could cover the phrase "Public Access", like a small piece of wood, leaving the rest of the sign in tact.

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Motion Defeated.

Comm Allison motioned to remove the portion of the sign that held the phrase "Public Beach Access" and replace it with "By Order of the Ocean Ridge Police Dept." Seconded by Comm Pugh

Motion Carried - yea 5

Meeting Adjourned at 8:40 p.m.

Attest By:

Town Clerk

Mayor Kaleel

Commissioner Allison

Commissioner Bingham

Commissioner Hogan

Commissioner Pugh