

## REGULAR COMMISSION MEETING HELD AUGUST 14<sup>TH</sup>, 2006

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, August 14<sup>th</sup>, 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 Hogan
Commissioner Bingham	Mayor Kaleel

Commissioner Pugh was absent with notice.

Pledge of Allegiance

Additions, Deletions, Modifications and Approval of Agenda

Comm Bingham requested that Item #15 on the minutes for the Regular Town Commission meeting of July 11, 2006 be amended to state that she voted nay, due to her opinion of over-planting at Woolbright & A1A.

Comm Bingham motioned to approve the consent agenda as amended. Comm Allison seconded.

Motion Carried - yea 5

### CONSENT AGENDA

1. Minutes of the Regular Town Commission Meeting of July 11, 2006
2. Minutes of the Special Town Commission Meeting of July 17, 2006
3. Minutes of the Special Town Commission Meeting of July 21, 2006
4. Minutes of the Proposed Budget/Special Town Commission Meeting of July 25, 2006
5. Authorize Town Attorney to Draft an Ordinance Relating to Granting Double Time Overtime Pay for a Declared Emergency During the First 72 Hours that would be Reimbursable by FEMA
6. Authorize Execution of Resolution No. 2006-12 Approving Amendment #1 to the Federal 319 Grant of Agreement
7. Approve Minor Revisions to the Annual Audit Prepared by Henry Blakiston, CPA (along with Rives & Company) for Fiscal Year 2004/05

### ANNOUNCEMENTS AND PROCLAMATIONS

8. The Tentative Budget Adoption and Regular Town Commission Meeting will be held on Monday, Sept. 11, 2006 at 5:01 PM and Regular Meeting Immediately to Follow
9. The Administrative Office will be closed Monday, Sept. 4, 2006 for the Official Holiday

### PUBLIC COMMENT

Bruce Gimmy, 12 Ocean Avenue, stated that his personal flood insurance bill went up to over \$7000, a 300% increase, for his small, older home, and requested that the commissioners contact legislatures to ask for relief. He also thanked the commission and Town Engineer for the drainage improvements for the Coconut alleyway, as it had helped significantly, and commended them for accomplishing it under duress.

### REPORTS

10. Town Manager  
Manager Schenck stated that there is still a problem in choosing a location for the control panel on Tropical Drive. The temporary pump is installed until we solve the control panel problem, and the final asphalt overlay will still be needed on Tropical after work is complete.

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Manager Schenck noted that FEMA required Ocean Ridge personnel, including commissioners, to take classes regarding emergency management during disasters in order to obtain any FEMA funding. He was taking his classes online and would provide the website information to the commissioners.

Manager Schenck noted that at the July town meeting Mark Tomberg had been awarded the landscape contract for Woolbright & A1A and the contract provides for 60 days to complete. Comm Bingham noted that the plantings would need water, and stated that she still felt that the town was over-planting.

Manager Schenck noted that the leak on Tropical was still an on-going unknown source, and the water from the leak was being pumped to the detention area. A manhole north of Hersey Drive had been found bubbling up, and the repair was promised to be done on Saturday. After the break is found and repaired, the only pumping needed would be from rain storms.

Manager Schenck also noted that the clearing of trees and vegetation for the temporary road and parking lot for the portable buildings had started. After they cleared the vegetation, large pieces of concrete (approximately 10'x6') were found just north of the town-hall next to a large hole. The concrete needed to be removed, and new fill would be required. Comm Bingham warned that the rear of the property was used as a dump at one time. Clerk Hancsak noted that the area in reference was immediately north of the chambers and not the same location.

Atty Spillias stated that he had researched the legality of using a chain link fence on Woolbright & A1A around the pump station. The definition of the word "yard" references to residential properties. Woolbright & A1A is zoned as Public Conservation area, therefore "yard" is n/a, and the chain-link fence for the pump station is not in violation. It had been installed for security purposes.

Manager Schenck noted that the paving for Midlane Rd would be done in October, and that it will match-up to the existing driveways. He also mentioned a DERM letter was received from Palm Beach County and the planting of mangroves would be done on Sept 14, 2006 at the Ocean Ridge Mangrove Restoration area off Corrine St. Comm Hogan noted that the border hedge for the Boynton Beach Park had been removed and nothing had been replanted yet. She felt that Ocean Ridge should be consulted in the choices for replanting. Mayor Kaleel asked Manager Schenck to contact the City of Boynton Beach for a landscape plan of what was to be installed.

### 11. Town Attorney

Atty Spillias asked to defer his comments regarding Briny Breezes and the location of the control panel to Item #15 later in the meeting.

### 12. Director of Public Safety

Chief Hillery noted that a letter had been received from Mrs. Randel at 15 Hersey Drive thanking Sgt Eubanks, and Officer Yannuzzi for their professionalism and help after a break-in of her home. Her dog had turned up missing from the break-in, and within 24 hours, the police had found and returned her pet home. Chief Hillery mentioned that 4 homes on the street had been burglarized that day. Chief Hillery noted that Lieutenant Katz was also commended by the US Dept of Justice for finalizing a 4 year investigation, cooperating with the FBI, on a fraud case involving Ed Garnett, a resident of Ocean Ridge. Ed Garnett was found guilty and was charged 5 years in jail and \$1million restitution.

### 13. Town Engineer (SFRN, Inc.) – Drainage Update

Engineer Tropepe stated that a leaking pipe was present between Tropical & Hersey Drive. Rockline would be utilizing a TV camera to locate the break. It was believed that a manhole was leaking into a box on Tropical.

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Engineer Tropepe also noted that the South Phase was close to completion. New asphalt and final grading would be needed for the bottom of Woolbright. There were still 3 residents with outstanding issues that they were trying to resolve. A final electrical hookup to Tropical was needed also. In regards to the FEMA update of the injection well on Coconut, they had received comments from FEMA. Rebuttal information had been sent to FEMA, and they were now waiting on a response back from FEMA. The Coconut Lane Injection Well was estimated at approximately \$950,000.

### ACTION ITEMS

14. Approve Proposal for Annual Auditing Services with Nowlen, Holt & Miner, PA. to Perform the Annual Audit Services for FY 2005/06 in the Amount of \$24,000 and to Allow for Four Additional Years Pending Satisfactory Services

Manager Schenck noted that only one proposal had been received from Nowlen, Holt & Miner PA. The review committee had met and evaluated the proposal, and recommended approval of the contract pending final review by the Town Attorney. Both Manager Schenck and Comm Bingham noted that they had checked there references and had found them to be favorable.

Comm Bingham motioned to approve the Proposal for Annual Auditing Services with Nowlen, Holt & Miner, PA. to perform the Annual Audit Services for FY 2005/06 in the amount of \$24,000 and to allow for four additional years pending satisfactory services and pending final review by the Town Attorney. Comm Allison seconded.

Mr. Ed Holt, PA thanked the commission for the upcoming job whether it be 5 years, or 1 year with options. He had brought an engagement letter with him for approval for 1 year with an option of 4 more.

Comm Hogan questioned the reason for a discount for year one, and then a 3% increase for the next 4 years. Ed Holt noted the total cost of the 5 years is amortized as the first year had a higher startup cost. Comm Hogan asked for types of internal control. She also noted that Ocean Ridge had major capital projects that were a burden on the taxpayers for revenues, and asked for ratio, and an average of other municipalities. Mr. Holt stated that for internal controls he used check lists, interviews and walk-throughs. He also noted that some towns have a fund balance of only 25% of their revenues. Many towns had to finance capital projects while waiting for FEMA reimbursements, and they had no monies in reserve.

Berne Schulte, 5 Osprey Court, asked for an estimated time of the audit from the fiscal year end. Mr Holt estimated that only 60 days would be needed to produce the audit once town staff completed their closing.

Comm Hogan asked why only 1 proposal had been received. Mr. Holt explained that new federal guidelines and rules had been changed and that a lot of auditors were not continuing governmental audits. They were becoming more selective. He mentioned that when Orange County had gone out to bid, they had only received 2 proposals and they were a much larger entity than ours. He summarized by stating that they would do a good job for the town, and felt their proposal was solid.

Motion Carried, yea 5.

15. Discussion of Placement of Control Panel for Tropical Drive on A1A or an alternate site at Turtle Beach

Manager Schenck stated that he felt that DOT had overstepped their bounds, in saying that we don't have a valid permit. We could fight it, however in the meantime, the pumps needed to be put in.

Atty Spillias noted that the information he had given at the last Commission meeting was inaccurate in that FDOT says the permit is not valid because it is not currently active. He stated that he reported the administrative hearing was scheduled for July 27<sup>th</sup>, however, the FDOT and Briny Breezes attorneys met

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prior and both agreed to a continuance which was granted. He added that the hearing was ultimately cancelled and placed back into the hands of FDOT, based on negotiations continuing. He also stated FDOT has apologized for this newest development and had advised him that unless there are favorable negotiations it will be referred back to the administrative hearing process. He commented that Mr. Wolfe, FDOT, would not permit installing the control panel at least through the hurricane season because he said the town cannot move forward without a permit.

Atty Spillias suggested that we go to FDOT. Our original FDOT Permit was for 2 generators, a control panel and an above ground tank. The notice to challenge was 30 days. Briny Breezes challenged it 1 year later, and we had 21 days to respond to their challenge. Mayor Kaleel had met with Mr. Wolfe and an agreement was made that FDOT would partially reimburse the town and the town would make some modifications to the permit. The 21 days were suspended to allow for modifications. A new permit was applied for 1 generator, 1 control panel and an underground tank. FDOT issued the new permit, and Atty Spillias attached an additional memo reserving our right to challenge if we could not accomplish our goal that the permit would be void and would revert back to the original permit. FDOT issued this new permit for 1 generator, 1 control panel, and 1 underground tank. Briny Breezes filed a challenge. Atty Spillias took the position that the old permit was "amended" and not to be considered as a new permit, and therefore Briny Breezes had no right to challenge as the 21 days had expired. It would have to go before an administrative judge for him to motion to dismiss the Briny Breezes challenge, and could be quite lengthy (from a couple of months to years).

Manager Schenck noted that he had found 2 alternate locations for the control panel: 1) South Wall at Turtle Beach, and the other at Hersey Drive. He felt that the Turtle Beach location was better, and Turtle Beach approved that the antenna could be placed over the wall next to their treatment plant. A FDOT Permit would be required and could be obtained within a few weeks, and the costs should stay under \$100,000. Mayor Kaleel suggested that we do both, legally go on ahead and preserve our rights and also attempt to obtain a permit for the alternate location. Once costs were outlined, schedule a meeting with Mr. Wolfe, and ask that FDOT pay for changes. Atty Spillias stated that he had asked for 2 times the cost of any changes. Manager Schenck suggested that the cost should include the new lines from Tropical to Woolbright of \$250,000 and the other changes be added also.

A consensus was made to do both, to preserve our rights, and apply for a new permit also.

Engineer Tropepe asked Atty Spillias the ramifications of immediately proceeding with the control panel in the location of the original permit stating that the old system was no longer in place and expressed her concerns that the health, safety and welfare of the south end of town could be in serious jeopardy. Atty Spillias stated that FDOT wouldn't agree and might consider us as trespassing.

### 16. Approve Contract with Kenneth Schenck, Jr. for the Town Manger Position

Manager Schenck noted that he felt it would be unfair to ask the town to purchase a new vehicle for his daily travel. Instead of a new vehicle, he thought the \$600 monthly vehicle allowance that the previous manager received and one tank of gas a week would be adequate.

Comm Allison motioned to approve the 2<sup>nd</sup> contract presented with Kenneth Schenck, Jr. for the Town Manager Position. Comm Bingham seconded.

Comm Hogan noted again her disappointment of not advertising for the position locally, or interviewing the applicants that did apply for the position, although she was happy with Ken Schenck. Comm Allison stated that she felt extremely lucky to find someone as experienced as Ken Schenck, and that he was hired after a 60 day trial.

Motion Carried – yea 5.

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RESOLUTIONS (Possibly Requiring Discussion)

17. No. 2006-11; Authorizing Execution of Interlocal Agreements with the Municipalities of Gulf Stream, Manalapan, South Palm Beach, and Palm Beach for Coordinating and the Payment of Fees for Intervening in the Action with the Florida Department of Transportation Opposing Five Foot Bike Lanes Along A1A

Mayor Kaleel read the resolution. Atty Spillias stated that all 4 municipalities agreed to participate, and would be meeting on August 22<sup>nd</sup> for recommendations.

Comm Bingham motioned to approve Resolution No. 2006-11; Authorizing Execution of Interlocal Agreements with the Municipalities of Gulf Stream, Manalapan, South Palm Beach, and Palm Beach for Coordinating and the Engagement Letter for the payment of fees for intervening in the action with the Florida Department of Transportation Opposing Five Foot Bike Lanes Along A1A. Seconded by Comm Allison

Motion Carried – yea 5

SECOND READING, PUBLIC HEARING AND ADOPTION OF ORDINANCES

18. Ordinance 569; Amending chapter 34, Article 1, of the Town’s Code of Ordinances, by Adding a New Section 34-8, Prohibiting Certain Business and Contracting Activities within the town on Sundays and Federal Holidays

Mayor Kaleel read Ordinance 569 by title only.

Comm Bingham motioned to adopt Ordinance 569 on 2<sup>nd</sup> reading, seconded by Comm Allison

Motion Carried - yea 5

Meeting Adjourned at 7:30 p.m.

Attest By:

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Town Clerk

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Mayor Kaleel

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Commissioner Allison

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Commissioner Bingham

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Commissioner Hogan

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Commissioner Pugh