

SPECIAL AND REGULAR COMMISSION MEETING HELD JULY 9, 2007

Special Town Commission Meeting of the Town of Ocean Ridge held on Monday, July 9th, 2007 at 5:30 PM in the Town Hall Meeting Chambers.

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

Commissioner Bingham	Commissioner Pugh
Commissioner Allison	Mayor Kaleel

Pledge of Allegiance

Clerk Hancsak noted that Commissioner Hogan was probably running a little late, and should be present in a few minutes.

PUBLIC HEARING

Manager Schenck reported that the Town had completed the Evaluation Appraisal Report which is the update to the comprehensive plan. The Planning & Zoning Board, acting as the Local Planning Agency, has reviewed and approved it last week. He introduced Marty Minor, is here from Urban Design Studio to answer any questions or changes to the report. Once approved it will be sent to the DCA for their approval. After DCA's approval the Comprehensive Plan can be amended.

Marty Minor, a planner with Urban Design Studio, reported that the State has a 2 Step process: 1) The EAR is the planning process procedure mandated by the State. 2) Comprehensive Plan Amendment Process. This updates the population, vacant land, and technical aspects also. The next step in the EAR approval will be receiving suggestions from Commission and working with staff to finalize it. There are 5 Major Issues identified on Page 3: Impact of the town through growth of surrounding towns, evaluation the impact of the housing market, access of public utilities, and public services, and last the redevelopment of the older parts of town.

Comm. Hogan requested that the 5 issues be clarified, and questioned if it included gas lines. She also asked to add Briny Breezes to Page 29 as part of the surrounding communities. Manager Schenck stated that the gas lines were part of the Public Utilities in the Comprehensive Plan. She questioned if the cost of the changes would affect the contract. Mr. Minor stated that these changes would be minimal and that their contract price is \$38,000 and 1/3 of it has been used to date. Comm. Bingham requested that on Page 19, the new Ocean Ridge Natural Area off Corrine Street be added.

There was no Public Comment.

Comm. Bingham motioned to approve RESOLUTION NO. 2007-11; A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF OCEAN RIDGE, PALM BEACH COUNTY, FLORIDA, ADOPTING THE EVALUATION AND APPRAISAL REPORT (EAR) OF THE TOWN'S COMPREHENSIVE PLAN; STATING THE INTENT OF THE COMMISSION TO AMEND THE COMPREHENSIVE PLAN ASED UPON RECOMMENDATIONS CONTAINED IN THIS REPORT; AND AUTHORIZING TRANSMITTAL OF THE REPORT TO THE STATE OF FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (DCA) IN ACCORDANCE WITH SECTION 163.3191, FLORIDA STATUTES, AND PROVIDING FOR AN EFFECTIVE DATE with the modifications of adding Briny Breezes to Page 29, and adding the Ocean Ridge Natural Area to Page 19. Comm Hogan seconded.

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Motion Carried - yea 5.

Meeting Adjourned 5:50pm.

Regular Town Commission Meeting began immediately following the Special Town Commission Meeting.

ADDITIONS, DELETIONS, MODIFICATIONS, AND APPROVAL OF AGENDA

Comm. Hogan requested to add item #14 to discuss Briny Breezes, and asked for Michael Tait to be mentioned with the Town Manager's Report. She also requested changes to the minutes and asked to pull Item #1.

CONSENT AGENDA

1. Minutes of the Regular Town Commission Meeting of June 11, 2007
2. Request to Obstruct the Thompson Street Right-of-Way with a Fence That Would Encroach 20' into the ROW By: Lisa and Ken Joy, 62 Harbour Drive North (POSTPONED TO THE 5/7/07, 6/11/07 MEETING AND REQUESTING FURTHER EXTENSION)

Comm. Bingham motioned to approve the Agenda and Consent Agenda as amended. Seconded by Comm. Allison.

Comm. Bingham questioned changing the minutes for substantial changes only like Action Items & Votes, and the rest is just generalized for public information only. It is not verbatim.

Motion Carried - yea 5.

Comm. Hogan thought that the minutes should reflect an accurate summary of what occurred, and asked for them to be finished earlier to allow her more time to review them. On Page 5 of the minutes under the Town Manager's Report she asked Manager Schenck if he had actually spoken to the Palm Beach County Health Dept regarding the safety of the chemicals used for no-seeum spraying. Manager Schenck affirmed that he had talked to the Palm Beach County Health Dept. Comm. Hogan stated that she was ready to approve the minutes, and would speak to him later regarding the results of the findings.

Comm. Hogan motioned to approve the minutes of the June 11th, 2007. Seconded by Comm. Pugh.

Motion Carried - yea 5.

ANNOUNCEMENTS AND PROCLAMATIONS

3. The Proposed FY 2006/07 Budget/Adopt Proposed Millage Meeting will be held on Thursday, July 26, 2007 at 8:30 AM

PUBLIC COMMENT

No Public Comment

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REPORTS

4. Town Manager

Manager Schenck reported that Tropical was working, and that no flooding was reported with the heavy rains. The connection for the emergency generator will be tied into the control panel with 125ft of cable. The plantings for the detention area were almost complete, and the approval from Water Management District is pending. Comm. Hogan was about concerned of the heavy brown silt coming from the drainage pipes. Comm. Allison noted that SFRN, Inc. had responded to this concern in a June 15th, 2007 memo to the Commissioners. Comm. Hogan presented new photos showing heavy brown silt coming from the drainage pipes from the heavy rains this week, after the memo SFRN had prepared. Her attempts to meet with Manager Schenck and Engineer Tropepe regarding this situation had not materialized. Manager Schenck responded he had tried to coordinate a meeting, but was unable to correlate everyone's schedule last week. Friday morning he had tried to contact Comm. Hogan to schedule an afternoon meeting, but Comm. Hogan was out of the area and not available. Manager Schenck stated that there was a sampling program as part of the grant with Water Management District. He would try again to schedule a time for Comm. Hogan, Engineer Tropepe and himself to meet. Comm. Hogan also questioned why the Detention area was still holding water, she had understood that this would be a dry retention area. Manager Schenck explained that it was from the heavy rains and the ground water forced up from high tides forces into the pond. The new plantings would absorb most of the water once they took hold. Comm. Bingham stated that the area had been a wetland area for the last 40 years, even before the project.

Comm. Allison mentioned the memo from a resident on Harbour Drive having 6ft of water. Comm. Bingham asked the Town Manager to check whether the pipe was too small and whether the red valve was working. Engineer Tropepe noted that there had been a sink hole on Harbour Drive North, caused from a collapsed drainage pipe across the road. The hole was 3 ft wide, and could only be fixed half of it at a time. The repair also had to be worked around the high tides to avoid flooding.

Manager Schenck continued his report by stating that the move into the portables was almost complete. The 911 line for the dispatch is scheduled to be moved on Tuesday, and by Friday everything should be out of the building and ready for the asbestos removal, which is scheduled for Monday. The building would then be ready for demolition. He would also be meeting Wednesday with the South Florida Water Management District regarding Coconut Lane and the use of their retention area to drain excess water. FDOT was moving slowly with the repairing of A1A, by repairing small areas at a time. Manager Schenck reported that Michael Tait, an employee, had been in the hospital with pneumonia in CCU and on a respirator for the last 4 weeks. Clerk Hancsak reported that she had visited him on Friday afternoon and they were going to try to change from the respirator to the tracheotomy within the next few days. Comm. Hogan reported that she had also seen him earlier in the week, and was concerned for his health, and prayed for a speedy recovery.

5. Town Attorney

Atty. Spillias reported that Palm Beach County had filed a long motion for consideration regarding the lawsuit of the Palm Beach County Dispatch, and the cities were directed to respond. The bicyclists had also filed a brief with the 1st District Court of Appeals, and his brief would be due in 15/16 days. He would be preparing a 2nd brief to focus on the Town's position and status.

Comm. Hogan had requested a report regarding the lobbyist efforts, and asked if their contract was complete and the total cost accrued to date. Manager Schenck replied that he did not have the total costs, but he could obtain them. Atty. Spillias replied that they were working on 2 levels: Meeting with various planning agencies and in Tallahassee they had been monitoring the legislation for any relating concerns. There was one item of interest, the Growth Management

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Legislation if stayed in would have exempted Briny Breezes from DCA Review, if the town population was under a certain amount, but it was dealt with, and is now not an issue. Comm. Hogan mentioned that she felt responsible to review the monies spent on legal fees, and felt attorneys and their firms charged governments higher rates. Mayor Kaleel objected and stated that it was the exact opposite. Comm. Hogan asked to continue - she didn't like lobbyists who were attorneys, and felt it was wrong that judges and attorneys were running the government. They should be elected officials. Atty Spillias responded that he gave a discounted rate for governments, 15%; and 30% under that for Ocean Ridge. His normal billing rate of \$330/hr is reduced to \$185/hr for Ocean Ridge. He added that the legislative work was being charged at the regular discounted governmental rate. Mayor Kaleel thanked Atty. Spillias and his law firm for the wonderful job they had done in dealing with a tough situation, and that it had been handled very appropriately.

6. Director of Public Safety
Chief Hillery had nothing to report.

7. Town Engineer (SFRN, Inc.) – Drainage Update
Engineer Tropepe reported that in the month of June, Ocean Ridge had received 16” of rainfall and on 7/1/07 another 2” of rainfall for a total of 18” since last month's commission meeting. She reported that all systems were in place and working. Over the 7 yr process, they had addressed all the town's issues and had responded accordingly by priority. Current complaints are minor compared to 7 years ago of homes under water, etc. She understood Comm. Hogan's concerns, but did not feel it would be money well spent on testing of water samples. There could be many reasons for the discharge - the difference of salt water & fresh water discolors the water also, and there are also construction issues from the South Phase and from A1A also, but would keep an eye on it and monitor it. Comm. Hogan voiced her disappointment that more was not being done, and felt Engineer Tropepe was minimalizing the issue. She had never seen it that bad since the beginning of construction. Comm. Pugh mentioned that Engineer Tropepe had already issued a memo to the commission in reply to Comm. Hogan's concerns. It stated that from the weeks of drought, the pipes had filled with dirt and debris. The first heavy rains that we received caused what is called a “first flush”, flushing out the silt/debris that had been gathering in the drain. Comm. Hogan showed new photos taken this week, showing the dark silt discharge, and questioned why it was still occurring. Engineer Tropepe reiterated that she felt the discharge was minimal, but would continue to monitor the discharge for problems. As the Professional Engineer she was going to sign off when the project is complete, as they were now 95% complete, with only 2 items that still needed to be done. One item was the connection of the generator and the other is a mechanical part that just needed be adjusted to be in accordance of the approved plans.

Manager Schenck noted that on Harbour Drive North, they needed to enlarge the catch basins and replace the valve on the pipe. Comm. Pugh mentioned that there was a resident on Harbour Dr. No., who subsequently moved, that voluntarily maintained the grates, and cleared out leaves and debris on weekends or nights as necessary and no one has taken his place since. Also when the house on Harbour Drive North was demolished, the drainage pipes were damaged. Comm. Bingham stated that they also need gate valves. Mayor Kaleel requested Comm. Hogan to schedule a time to meet with Manager Schenck and Engineer Tropepe to continue her assessment of the drainage problem, and allow the meeting to continue.

Engineer Tropepe continued her report stating that FDOT had sent comments back to them regarding A1A near River Dr., and she will forward them to the commission. On July 11, 2007, her firm will present a seminar regarding creating storm water utilities, assessing them as a user fee rather than a budget amount.

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ACTION ITEMS

8. Approval of Health Insurance Renewal for Employees

Manager Schenck reported that a comparison had been done between Blue Cross and several other companies, but none were less expensive than Blue Cross. The present plan would have increased \$94.61 per employee/per month, and based on other plans available, felt it was too expensive. He was also looking at cheaper HMO's. He asked for a special meeting to review all plans. A consensus was made to hold a Special Town Commission Meeting on July 16th, 2007 at 4pm to discuss the health insurance, the BSA Contract for the new Townhall, and Bank of America Financing of the Townhall.

9. Request to Permit Underground Utilities on Old Ocean Blvd. between Anna St. and Corrine St. within the Town Easement to be Funded Entirely by the Affected Property Owners By: Anthony Mauro, Mauro Brothers, LLC, representing the residents

Manager Schenck reported that a letter was received from Mauro Brothers, LLC requesting approval to put the utilities on Old Ocean Blvd between Anna St and Corrine St. underground. The residents will pay all of the costs, but the lines will be within the town's easements. Two of the homes have vegetation within the 6ft of the road, and should be required to remove it as a part of the agreement. He recommended approval providing there is an agreement with the property owners. He was concerned of any agreement that we may have to sign with FPL that has a hold harmless clause.

James Bonfiglio, 5616 N Ocean Blvd, and a member of the Planning & Zoning Committee noted that Planning & Zoning had discussed easements on Old Ocean Blvd, and had recommended 15ft. A letter was sent out to the homeowners requesting a 6ft right of way. He asked for a consistency of either 15ft or 6ft. Mayor Kaleel 15ft was not feasible with all the homes, and 6 ft was requested.

Polly Joa, 38 Hersey Drive, did not believe that all residents were in agreement to pay for it. Mayor Kaleel responded that it did not matter, as long as the other property owners would pick up the balance of the costs. It was the resident's request to install them underground, and would be their choice if they decided not to.

Comm. Bingham moved to approve the burying of underground utilities on Old Ocean Blvd, between Anna Street and Corrine Street by Mauro Brothers, LLC, in the Town's easements provided the shrubbery is moved back per the Town's guidelines, at the cost of the property owners. Seconded by Comm. Allison

Motion Carried - yea 5.

10. Approval of Contract for Construction of New Town Hall/Police Complex with BSA Corp. By: Ken Schenck, Town Manager

Atty Spillias noted that they were within 1 provision of finalizing the contract, and the FEMA Contract would have to be appended to it, and he should have it by Friday or Monday. This item was deferred to the July 16th meeting at 4pm.

11. Discuss Scheduling of Meeting with Bank of America Representatives for the Financing of the New Town Hall/Police Complex By: Ken Schenck, Town Manager

This item was deferred to the July 16th meeting at 4pm.

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12. Approval of Settlement Agreement with James Bonfiglio RE: Encroachment on Town Property

Atty Spillias reported that Ocean Ridge obtained the Woolbright Property at the corner of Woolbright Road and A1A from the National Wildlife Federation Endowment, Inc in 1998. In the early 1990's James Bonfiglio, whose home abuts the property on the northeast corner, built a deck that encroached the Town's property to the extent of approximately 355sqft. Mr. Bonfiglio has claimed and consistently maintained that the National Wildlife Federation Endowment, Inc. did not allow him to exercise his right of first refusal. He had indicated that if the Town were to attempt to require him to remove the deck, it could lead to litigation over his right to that property. It was decided to negotiate with Mr. Bonfiglio in an effort to resolve the issue. The proposed Settlement Agreement is based on the concept of Mr. Bonfiglio purchasing the property from the Town as well as a small portion abutting the deck for the price of \$10,000. Upon closing on the property, Mr. Bonfiglio would be required, at his own expense, to file for the necessary comprehensive plan and zoning amendments to bring the additional property into compliance with Town Codes.

Mayor Kaleel requested a change to #7, that if Mr. Bonfiglio chose not to buy, that he remove the encroachment. Comm. Bingham asked how the amount of \$10,000 was decided upon. Mr. Bonfiglio stated that it was a compromise, and was prorated for the square footage. Comm. Hogan stated that she calculated the property is worth approximately \$350,000 and his portion at about \$1750, so she felt all parties benefited. Mr. Bonfiglio stated that he would be glad to pay to finally get it finalized.

Comm. Bingham motioned to approve the Settlement Agreement subject to the revision of Paragraph 7, and to move forward. Seconded by Comm. Allison.

Motion Carried.

TOWN COMMISSION COMMENTS

13. Discuss Creation of Committee for New Town Hall By: Comm. Hogan

Comm. Hogan requested a committee of residents to help assist and oversee the construction of the new Townhall and Police Dept. This committee would have the financial ability to track the costs and spending of the contractors. Comm. Bingham asked who would be responsible for any overruns of the project, as the last time the residents were asked for input, the cost of the project escalated greatly. Comm. Allison felt that the current staff was more than competent to handle the job, and was not in favor of having a committee. Comm. Pugh noted that the contract with the General Contractor has a firm price. It is very difficult as a contractor to have to deal with more than one person responsible for making the decisions, and the contractor can be caught in the middle. Mayor Kaleel also noted that with the Sunshine Law in force, all meetings would have to be documented, and the residents would be required to disclose financial records. It was not felt that a committee of residents was necessary to oversee the construction of the new town hall.

14. Discussion of Briny Breezes By: Comm. Hogan

Comm. Hogan was discouraged that Briny Breezes was not mentioned in any reports or on the agenda. A discussion was then held, that the Town was prepared to counter whatever they do, and felt that the Mayor was maintaining his leadership throughout, and letting the concerns of Ocean Ridge be publicized. Everything was on hold until Briny Breezes makes a decision regarding the negative responses from the DCA. The newspapers had done a fine job in keeping the public informed also. Atty Spillias reported that they will have someone at each of their workshops, and would be on alert. Briny Breezes option is scheduled for August 1st, and then we have 60 days to respond after their last workshop, and 21 days from their date of adoption to let

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objections be known. After they adopt, DCA will determine if they are in compliance. Mayor Kaleel encouraged all to contact Atty. Spillias for any updates or questions.

Meeting was recessed until July 16, 2007 at 4pm.

Attest By:

Town Clerk

Mayor Kaleel

Commissioner Allison

Commissioner Bingham

Commissioner Hogan

Commissioner Pugh