

PUBLIC HEARING/SPECIAL TOWN COMMISSION MEETING HELD
SEPTEMBER 10, 2007

Public Hearing/Special Town Commission Meeting of the Town of Ocean Ridge held on Monday, September 10, 2007, at 5:00PM in the Town Hall Meeting Chambers.

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

Commissioner Bingham Commissioner Pugh
Commissioner Allison Commissioner Hogan
Mayor Kaleel

Pledge of Allegiance

PUBLIC HEARING

Presentation of Tentative Budget and Proposed Millage Rate for Fiscal Year 2007-2008

Manager Schenck reported that the suggestions and comments from the last budget meeting had been incorporated into the budget. He also noted that Briny Breezes did not renew the police contract. From the last meeting the budget had been reduced \$50,471, and with the additional recommended deduction of \$30,000 from emergency preparedness account, brings the total reduction of \$80,471. He also submitted a salary survey of several municipalities in Palm Beach County showing Ocean Ridge as one of the lowest. These changes bring the budget to \$5,480,829. This includes the \$250,000 for the Town Hall loan which will be sufficient for this year; however subsequent years will be \$311,171.

Based on the above changes in the budget, there would still be a shortfall of \$824,784 using the rolled-back rate minus 9% (4.0770); there would be a shortfall of \$488,499 using the rolled-back rate (4.4803); and a shortfall of \$263,614 using last year's rate (4.7500). The funds to balance the budget will come from the reserve account.

Manager Schenck explained that to use the rolled-back rate (4.4803) it will require a two-thirds vote of the Commission. To use last year's rate (4.7500) it will require a unanimous vote of the Commission. If the commission decides to use last year's rate and doesn't have a unanimous vote, we loose the income from the sales tax, or \$124,200. If we use last years rate without the unanimous vote the shortfall will be \$387,814. However, it is still \$100,685 less than the shortfall if we use the rolled-back rate. The sales tax amount has been pledged for payment of the State loan for the drainage improvements. Staff's recommendation is to adopt last year's rate of 4.7500.

a. Comment from Commissioners and Public

Earl Jones, 14 Sailfish Lane, questioned if there was an amount in contingency for Briny Breezes, which is now a dead issue, thereby possibly reducing the budget. Mayor Kaleel noted that he had spoken to the mayor of Briny Breezes and there were 2 new developers that had offers ready. Those funds may still be needed. Mayor Kaleel also noted that next year there would be a 10% cap on the property taxes raised this year. Comm. Hogan noted that per her conversation with the League of Cities, that if Ocean Ridge went back to the rollback, that it would be the same for next year. Mayor Kaleel noted that for 2 years it would have to be used as the base rate.

Comm. Bingham reported that last year, she had pushed to hold the rate steady, knowing that there would be a surplus this year. However to be fiscally responsible, Ocean Ridge could not afford to keep taking out \$400,000 from reserves for the next 5 years. If she had known about the tax changes, she would not have voted for holding the rate last year.

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Comm. Hogan stated that her experience came from the fiscal side, and that she had spent the last 2 weeks trying to get additional information on the legislation side to understand it. Since she has been on the commission she felt the town had two problems: 1) there was a need for the town to have strong financial fiscal side personnel, and that 2) spending was an issue. She felt that if the town had been more prudent with projects and spending over the last few years, it wouldn't have been so bad. She asked for the tax rate to be cut. Comm. Pugh requested that Comm. Hogan show where the town had been fiscally irresponsible, and received no comment. Mayor Kaleel reported that not a penny had been spent that was unnecessary; including the last two years that she had been on the commission. Ocean Ridge's income was higher, but our spending was higher too. Comm. Allison questioned Comm. Hogan that in the four hours that she had reviewed the budget with Manager Schenck, had she found any areas to cut the budget to cover the millage rate that Comm. Hogan was recommending or where spending was done irresponsibly. Mayor Kaleel gave a list of the roll back rates of several other municipalities in Palm Beach County. Ocean Ridge had one of the lowest rollback rates with no tax revenue from commercial business and properties. He felt that Ocean Ridge was being penalized for drainage repairs and other improvements. Comm. Hogan suggested taking from reserves. Mayor Kaleel reported that the total reserves were \$2.9 mil. \$800,000 is to be used toward Townhall, bringing the reserves down to \$2.1mil. Insurance cost is \$160,000, bringing the reserves down to \$1.9mil. The cost to replace the bridge on Island Drive would be approximately \$800,000, bringing the reserves down to \$1.1mil. That is a reserve of 4 months. He felt 3-6 months was being fiscally responsible. Mayor Kaleel stated that since the millage was proposed, he had not received any complaints from residents, because they understood the price to keep their suburban atmosphere. It was the residents choice for drainage repairs and a new townhall and other improvements in town. Comm. Hogan reported that she felt that the reserves were too high and according to GASB should only be 5-15% of the annual budget. Comm. Bingham replied that in the next 3-5 years the reserves would be depleted. Clerk Hancsak reported that coastal communities may have a higher risk, and higher reserves maybe necessary. Ocean Ridge was now on a continual drainage maintenance program, and now had a road paving project of which we were in our fourth year (out of 5) that added \$50,000 to \$70,000.

Cheryl Olanoff, 566 David Lane, felt that the drainage project was long coming, and had been delayed because Comm. Hogan's neighborhood had been against it. She felt that Ocean Ridge had done a wonderful job, and asked why Comm. Hogan was always against the other commissioners, and took up too much time at the meetings.

John Wooten, 5907 N Ocean Blvd, felt that last year Ocean Ridge should have raised the millage rate. The commissions in the past have been too conservative, and that has led to problems. He asked that we spend money for infrastructure on our town, and does not feel anyone would be evicted because of \$200. It pained him to hear that the staff was not paid as well as other towns. He appreciated the voice of Comm. Hogan, and her questioning, but doesn't agree with her on this issue.

Bruce Gimmy, 12 Ocean Avenue, noted that for over 25 years, he had seen various commissions, and felt that they had been too conservative in the past. He did not feel that Ocean Ridge had over spent or had any fat to cut, and asked the commission to make the tough decision and vote as a block and carry on.

b. Adoption of Tentative Budget for Fiscal Year 2007-2008

Comm. Bingham moved that a budget in the amount of \$5,480,829 be tentatively adopted for the 2007-2008 Operating Fund. Seconded by Comm. Allison.

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Motion carried – yea 4 (Kaleel, Allison, Bingham, Pugh)
nay 1 (Hogan)

c. Adoption of Tentative Millage Rate for Fiscal Year 2007-2008
Comm. Allison moved that a millage of \$4.7500 per \$1,000 of assessed valuation be tentatively adopted for the 2007-2008 general operating revenues. Seconded by Comm. Bingham

Motion carried – yea 4 (Kaleel, Allison, Bingham, Pugh)
nay 1 (Hogan)

d. Mayor Kaleel announced that the Computed Millage Rate Exceeds Rolled Back Rate by 6.02%

e. Mayor Kaleel announced that the Public Hearing Date for Final Adoption is Monday, Sept. 17, 2007 at 5:01 PM

Public Hearing ended at 5:40pm.

Short recess for 3 minutes, then continued with regular meeting.

REGULAR MEETING

ADDITIONS, DELETIONS, MODIFICATIONS, AND APPROVAL OF AGENDA

CONSENT AGENDA

1. Minutes of Regular Town Commission Meeting of Aug. 6, 2007

ANNOUNCEMENTS AND PROCLAMATIONS

2. Proclamation Declaring September as “National Sickle Cell Month”

Mayor Kaleel also commented that a daughter of a police officer of Boynton Beach was diagnosed with leukemia, and needed Type O-Negative blood. She was at the Miami Children’s Hospital. There would be a blood drive, and if you were interested to please contact town hall.

Comm. Bingham motioned to approve the agenda and consent agenda. Seconded by Comm. Pugh.

Motion carried – 5 yea.

PUBLIC COMMENT

Earl Jones, 14 Sailfish Lane, thanked Manager Schenck for repairing the shadow box. He commented that he had also sent Ocean Ridge a letter concerning bicycle safety and state law requiring autos to stay 3 feet from cyclists. He had requested for tickets to be issued, and asked how other municipalities deal with this problem. He was told it would be hard to prove, and that tickets had not been issued by Ocean Ridge or other municipalities. He was disappointed with the Town’s response, as he and his family ride their bikes often. Mayor Kaleel replied that he will contact FDOT for a warning sign to post, asking traffic to keep their distance from bicyclists.

PUBLIC HEARINGS

3. An Application Submitted by Bridges, Marsh & Assoc., PA, 18 Via Mizner, Palm Beach FL 33480, Representing Owner, Carolyn Danforth, Requesting a Land Development Permit from the provisions of the Land Development code, Article 2; COASTAL CONSTRUCTION, Section

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67-17; Coastal Construction and Excavation Setback Line; Sub-Paragraph (a); Setback Line Established; and Sub-Paragraph (h) Existing Structures to Permit the Construction of a 383 sq ft Addition Consisting of a New Bedroom/Bath that will Extend a Maximum of 169'3" east of the Coastal Construction Control Line located at 6823 North Ocean Blvd. #1 or Legally Described as Unit #1 of that Portion of the North 210.7' of the South 3723.35' as Measured at Right Angles of that Portion of Section 22, Township 45 South, Range 43 East, Palm Beach County, Florida, Lying East of the East Right of Way Line of Florida State Road A1A (exact legal description located in the Clerk's Office)

Atty Deady swore in those who would be giving testimony, and asked if there had been any exparte communications. The response was no.

Clerk Hanscak noted that all fees had been paid, and no further correspondence had been received. Mark Marsh reported that since the addition was east of the Coastal Construction Line, this was a formality issue to apply for a permit for a land development permit to be submitted to D.E.P. There were no zoning issues.

Comm. Pugh motioned to approve the Application Submitted by Bridges, Marsh & Assoc., PA, 18 Via Mizner, Palm each FL 33480, Representing Owner, Carolyn Danforth, Requesting a Land Development Permit. Seconded by Comm. Bingham.

No Public Comment

Motion Carried – yea 5

REGULAR AGENDA

REPORTS

4. Town Manager

Manager Schenck reported that the drainage project was 99.9% complete. Turtle Beach had requested that the antenna be moved, and that was done today. The switch was to be completed tomorrow and then it would be fully operational. Aquagenix had completed the plantings in the bottom of the detention pond. Once the plantings take hold and grow, the detention area would be complete, and Water Management District will be contacted to sign off on the project. Comm. Hogan asked how the water was being monitored. Manager Schenck reported that per the requirements of the Grant 319 it was being monitored. Geosyntec had done four sets of samples, and 3 more would be done later, but they were waiting on rains. Comm. Hogan asked for a copy of their report when they were complete. Comm. Bingham asked for 2 more trees to completely block the generator.

Manager Schenck reported that the relocation of Town Hall and the Police Complex was complete, and the bank note had been finalized for the financing of the new building. The contractor would be starting soon.

He continued his report and noted that for several years there had been discussion about redoing the landscaping of Ocean Ave. This included replacing the Hawthorne with grass which would be much easier to maintain, removing the calofilum trees and moving the palms behind the sidewalk. He asked for the commissioners' direction if this was still their desire. A discussion was held, and they requested for Manager Schenck to come back with a proposal.

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Manager Schenck reported that the repairs for Harbour Drive South would be funded from the loan monies received. Chaz Equipment Company's contract has been amended to construct the improvements to the drainage. They would be adding 4 new catch basins and connection drainage pipes. Construction should start the end of September and take about a month to complete. Comm. Hogan questioned why it had not gone out to bid. Engineer Tropepe stated that Ocean Ridge has an existing contract with Chaz Equipment. Chaz Equipment had done an excellent job on other drainage projects, and has held their budget. Rather than going out to bid, we piggy-backed this project off the existing contract. A process for the original bid had been followed at the beginning of the project, and they did qualify for the town. Manager Schenck reported that full drawn plans and specs and would cost an additional \$10,000 to go out to bid for a new contractor.

Manager Schenck stated that they were evaluating ways to alleviate the flooding at the western end of Coconut Lane and on Harbor Drive North. He is also evaluating the Island Drive Bridge to determine if it must be replaced or if it can be repaired. Thirteen red valves had been cleaned, 4 are missing, and 2 other pipes need red valves. They will be replaced when the evaluation is complete. The red valves help prevent the intracoastal water from entering the storm drain system during a high tide.

Comm. Allison asked for an update of Elizabeth Ackerly's neighbor on Coconut Lane and the proximity of the generator to her property. It had been determined that it could be located within the proper setbacks. Clerk Hancsak reported that a certified letter had been sent to the owner asking him to relocate it to 10 feet. The owner has until October 1st to comply.

Comm. Hogan requested an update of Debbie Brook's complaint against her neighbor on Ocean Avenue. Clerk Hancsak reported that the property was mowed and the health department met with the home owner who corrected any problem.

5. Town Attorney
- a. Discuss Challenge Regarding Occupational License Tax Imposed on Attorneys

Mayor Kaleel introduced Erin Deady from Lewis Longman & Walker, PA representing Ken Spillias. He commented that Atty Deady was instrumental on representing the Town regarding the proposed Briny Breezes Development and thanked her for all her assistance.

Atty Deady commented that Florida League of Cities, Inc. had forwarded some information regarding a suit filed by a class of attorneys objecting to an imposed occupational license tax. She advised that at this point the correspondence was disseminated for information purposes in the event the Town is asked to participate as a defendant in a class of all cities and counties imposing such a tax.

Dr. Richard Bajakian, 37 Harbour Dr. No., questioned why attorneys are different from other occupations. Mayor Kaleel and Atty. Deady advised that the attorneys contend that they are exempt because they are part of and answer to the Judiciary Branch of government and therefore they should be exempt from taxes from other branches of government.

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

7. Town Engineer

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Engineer Tropepe had nothing to report, and introduced Andre Raymond, the new President of SFRN, Inc. Andre Raymond reported that the company was still going strong, they had hired a new GIS specialist, and he looks forward to more projects for Ocean Ridge.

10. Discuss SFRN Engineering Services By: Mayor Kaleel

Mayor Kaleel asked to discuss #10 at this time. He commented how difficult the last month had been for Dan Shalloway and Warren Newell and the comments from the press. It was his understanding that Dan Shalloway had retired, and complimented Andre Raymond for the excellent letter to the editor of the Palm Beach Post. He had read all articles pro and con. He thanked SFRN, Inc. for the services performed to the town and doesn't believe everything written in the paper. He said their work has been exceptional and has given great advice and has changed Ocean Ridge for the better. Mr. Raymond reported that they had not lost any employees in fact they had hired one, and they were keeping their contracts with Lake Clark Shores, Lake Worth, Greenacres, North Palm Beach, Manalapan, and Highland Beach. Comm. Allison commented that she had felt bad about the press coverage, and cautioned those finding them guilty, especially since Dan Shalloway had never been charged. She felt their service from the firm had been great. Comm. Bingham agreed and had researched with other towns on the costs of similar projects, and felt that they had gotten their monies worth.

Comm. Hogan stated that there is a difference of being an engineer and a professional engineer, in that a professional engineer has a code of ethics. A few weeks ago, Lisa Tropepe had previously asked Comm. Hogan "What would you do?" Comm. Hogan requested for Lisa Tropepe to step back, seek legal advice, take time off, and step out of office. There was an "appearance" that must be upheld. Comm. Hogan requested the firm to step down from the public sector and asked Ocean Ridge to go out to bid. It was also her understanding that their request to work with Palm Beach County had been denied.

Mr. Raymond responded by asking the commission to judge them on the service they had provided for the town. SFRN, Inc has not worked for Palm Beach County since 1992. They did apply to them as a subcontractor or consultant, which is the first step before doing a project for them.

Comm. Pugh stated that SFRN, Inc had given us invaluable experience and was always available whenever needed. They have performed a high level of service for Ocean Ridge. He would consider it a sad day to lose the services of Lisa Tropepe or their firm.

ACTION ITEMS

8. Presentation of the Annual Audit Prepared by Nowlen, Holt & Miner, PA for Fiscal Year 2005/2006

Ed Holt summarized the audit, and stated that it was required by the State Statute and GASB 34. They audit a lot of government entities, and out of 15 towns excluding the 2 inland, their fund balance ranges from 25% to over 100% in reserves. Each individual town has to justify their reserves, based on upcoming projects or their own comfort levels, especially after the hurricanes that have hit Palm Beach County. He reported that some towns had \$2mil in hurricane damage and had to apply for a letter of credit because they did not have it in reserves.

Comm. Hogan stated that she was shocked municipalities had their reserves that high, and questioned whether it met GASB requirements to which Mr. Holt advised it did meet the requirements but he also agreed that some municipalities had too much reserves. It did not matter what the percent is, it is not up to an auditor to determine and percentage amount to be in fund

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balance, it is up to the commission. He did know that Palm Beach County has very high reserves. If he had a private customer, he would tell them to keep 3-6 months of salary in savings for emergencies.

Comm. Bingham stated that Ocean Ridge has \$700,000 in debt on a yearly basis, and asked for a projection as to how long before the town could operate in the black again. Mr. Holt stated that he would work with Manager Schenck, and come up with a best estimation.

Mr. Holt stated that Ocean Ridge had a single audit that was required since we had federal and state funds over a certain amount. Their opinion found no reportable conditions. There were 2 items of mention found. 1) Fixed Asset Inventory does not provide for depreciation. New software may be needed. 2) Excess of expenditures in certain departments. Manager Schenck had responded in a letter, stating that they were in the process of upgrading the server to allow for the new computer program for fixed assets. He also responded that the excess expenditures were hurricane expenditures placed in the fiscal year, however they were also offset with reimbursement funds from FEMA.

Comm. Pugh motioned to accept the audit as presented. Seconded by Comm. Bingham.

Motion Carried – yea 5.

9. Ratify Payment for Builders Risk Property and Wind Insurance Premium for New Town Hall/Police Complex By: Kenneth Schenck, Town Manager

Manager Schenck reported that the Builder's Risk insurance coverage was necessary for the construction site of the new town hall and police complex. This had to be done prior to construction, and before any major storms or hurricanes get close.

Comm. Bingham motioned to ratify the payment for builders risk property and wind insurance premium for the new town hall/police complex. Seconded by Comm. Allison.

Motion Carried – yea 5.

TOWN COMMISSION COMMENTS

11. Discuss Boynton Inlet Study By: Comm Bingham

Comm. Bingham reported that most of the attendees at the Boynton Inlet Study Meeting felt that the Boynton Inlet should be left alone. At the meeting it was discussed to increase the inlet to allow for the Palm Beach Princess to maneuver around the sand bar. She was concerned that they wanted to accomplish the study within 3 months, which she feels is not enough time for a thorough study. She would keep the town apprised of any outcome.

12. Discuss Bidding Procedures By: Comm Hogan

Comm Hogan stated that she had questioned the staff whether there were bidding procedures in the Town's ordinances and was advised that there was not and suggested implementing a procedure on allowing the State's guidelines. Manager Schenck commented he thought she had asked about amounts to bid. He added that the Town Manager can approve expenditures under \$10,000 provided that they are budgeted items. Chief Hillery and Clerk Hancsak advised that the town is permitted to piggyback off of State or county contracts that have already gone out to bid, using the police vehicles and paving as examples. Manager Schenck advised that professional services are included in the proposed budgets that the commission adopts.

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Earl Jones, 14 Sailfish, suggested that we find out what procedures are used by other towns or municipalities for their bidding process. Manager Schenck noted that he would contact other municipalities and ask for their bidding process.

The consensus was to review our town ordinances and that of other municipalities.

13. Authorize Attendance to Florida League of Cities Workshop Hosted by the Town of South Palm Beach By: Comm Allison

Comm. Allison asked to attend a workshop and request payment for the registration fee. Clerk Hanscak noted that in the past, it had to be approved by the commission.

Comm. Pugh motioned the approve payment of \$45.00 for Comm. Allison to attend the Florida League of Cities Workshop. Seconded by Comm. Bingham.

Motion carried – yea 5.

Meeting adjourned at 7:00pm.

Attest By:

Town Clerk

Mayor Kaleel

Commissioner Allison

Commissioner Bingham

Commissioner Hogan

Commissioner Pugh