

## REGULAR TOWN COMMISSION MEETING HELD JANUARY 5, 2009

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, January 5<sup>th</sup>, 2009 at 6:00 PM in the Town Hall Meeting Chambers.

Pledge of Allegiance

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

Commissioner Bingham	Commissioner Brown
Commissioner Allison	Commissioner Pugh
Mayor Kaleel	

### ADDITIONS, DELETIONS, MODIFICATIONS, AND APPROVAL OF AGENDA

Comm. Bingham requested to add Item #14 Chickasaw Linear Park, and to pull Item #3 The Resolution for Citizenship for further discussion as Item #15.

Comm. Brown requested to correct the spelling in the December minutes for Valentin and Georgeta Fodor, and to change Item #19, CWA was working on the removal of non-native plants, and to correct Item #20, to add “not” working turbines.

Clerk Hancsak stated that minor error not announcing the Palm Beach County Fire Dispatch Suit under the Town Attorney Report was already corrected.

### CONSENT AGENDA

1. Minutes of Regular Town Commission Meeting of Dec. 1, 2008
2. Appointment of Poll Workers
- 3.a. Ocean Ridge Resolution No. 2009-02; Approving the First Amendment to the Interlocal Agreement to Promote Undergrounding of Utility Facilities and Related Implementation Activities Between the Town and Florida Municipalities

Comm. Bingham motioned to approve the consent agenda as amended, and agenda as presented. Seconded by Comm. Pugh.

Motion Carried - yea 5.

### ANNOUNCEMENTS AND PROCLAMATIONS

1. The administrative offices will be closed on Monday, Jan. 19, 2009 for the Official Holiday
2. 2009 Municipal Election/Eleccion Municipal 2009
  - a. Proclamation for Election held on February 10, 2009/Proclamacion para eleccion sostenida el 10 de febrero de 2009
  - b. Two Commission Seats Open for Three Year Terms Each/Comision dos puestos para tres anos cada uno
  - c. Candidate Filing Dates run Dec. 22, 2008 through 3:00 PM on January 16, 2009/Las fechas de la clasificacion del candidate corren el 22 de diciembre de 2008 por 3:00 p.m. el 16 de enero de 2009

### PUBLIC COMMENT

Pat Kropp, 16 Tropical Drive, presented invitations to the commission and staff for an Open House of The Boynton Woman’s Club. It was a celebration of their Centennial Year.

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John Wootton, 5907 N. Ocean Blvd, requested to start an Ocean Ridge Book Club to meet monthly in the Community Room. By consensus they approved the concept provided it was private and separate from the Town and to schedule with Town Hall for availability of the Community Room.

Robert Happ, 8 Inlet Cay Drive, presented a petition of 70 signatures urging the commission to reinstate the spraying for No-Seeums. He reported that the No-Seeums were back in full force, affecting their quality of life, and he also felt it had a negative impact on their property values. The signatures had come from both the north and south end of town, and he felt that he could get more if needed. Mayor Kaleel reported that it had been discontinued due to budget constraints, and requests from residents, but it could be reviewed again at a future date. Manager Schenck advised he would contact the company for information.

Nancy Hogan, 37 Hibiscus Way, agreed that the no-seeums were very bad this year, and suggested that a different kind of spraying may be needed. She stated her concern of emergency transports during the Boat Parade and the limited access of the bridges. She had contacted several agencies for information, but found a lack of communication as to any emergency plan. She also requested that Ocean Ridge request South Lake Worth Inlet Advisory meetings not be cancelled so Ocean Ridge could relate their concerns. Lieutenant Yannuzzi reported that this year during the Boat Parade, they had coordinated with EMT and the Boynton Fire Dept, and had them on standby at the Boynton Beach Park. If needed, the bridges would go down immediately for any emergencies.

Zoanne Hennigan, 91 Island Drive South, stated that on a recent Saturday she had seen the bridge go down, and let a Fire Truck over. She requested that the holiday lights be left up year round, as it enhanced the Town. It cost the Town to remove/replace holiday lights each year, and felt that it may be cheaper to leave them up. Mayor Kaleel stated that it would become a constant maintenance issue to replace outages and increased electrical costs, but would have the staff look into a cost analysis.

### REPORTS

#### 6. Town Manager

Manager Schenck reported the following: 1)Townhall. FEMA had inspected the building for the grant monies, and are reviewing it. Phase 2, The parking area was complete. 2) Coconut Lane Drainage. This project is on hold at this time. 3) Ocean Ave. Landscape. The test was completed and found good water at 30ft. The pump and electric should be complete by January 9<sup>th</sup>, and the operation permit had been submitted to the SFWMD. Once the well was operational, they could proceed with the new landscaping. 4) Island Drive Bridge. The contract has been forwarded to Anzac Contractors for approval. Once received, we could authorize the start of construction. 5) Old Ocean Blvd. All of the properties south of Corrine St and all of the corner properties have complied with the clearance requirements. The Town has sent a second letter to the property owners regarding the east side of Old Ocean, and will follow up to bring the east side into compliance. 6) Inlet Cay. Work done by DBF Construction is complete, and Ranger had completed the paving, and we're working with them to clean up a few areas such as the bridge.

Comm. Brown requested that a monthly update of the removal of the non-evasive plants on the dunes be added to the Manager's report. A discussion was held as to what authority Ocean Ridge had vs. DEP in regards to the code enforcement and maintenance of the dunes. A consensus was made for Manager Scheck to find a consultant to list guidelines for dune maintenance.

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### 7. Town Attorney

Atty. Spillias reminded the Commission that in the Fire Dispatch litigation with the County the decision of the Appellate Court was against the municipalities. On Dec. 30<sup>th</sup>, the cities' request for a rehearing had been denied. The cities do have the right for a Supreme Court review if filed by January 29<sup>th</sup>, 2009. He had not spoken yet to the other municipalities as to their desire to proceed further with the case, but would keep the commission advised.

Atty. Spillias stated that he reviewed the forms regarding artwork display in Townhall. He advised that Sunshine Laws would not apply if it was formed as a private Community Group, and the commission could still have veto power. If it was a Town appointed group, then the Sunshine Laws would apply. An Indemnity Insurance Clause was discussed in regards to town's liability as a result of negligence. There were no definitive decision.

Comm. Allison asked Manager Schenck for an update of the David Lane house and the Ocean Avenue property. Mngr. Schenck reported that the homeowner on Ocean Avenue was scheduled for Code Enforcement. The David Lane homeowner had not applied for a demolition permit yet. A discussion was held as to obtaining a mandatory injunction to foreclose on properties in violation and expedite the situation to assist neighboring properties. Atty. Spillias reported that the Town could not go on the property without court approval, and would review the Code to see if special action by a magistrate or if a special court was required.

Comm Brown stated that he wanted have a discussion of the issue of extra employee compensation or bonuses, but would defer any discussion until a later time.

### 8. Director of Public Safety

Chief Hillery reported that 300 bicyclists were scheduled to have an annual charitable bike-a-thon through town from 7-9am on January 11<sup>th</sup>, 2009. Comm. Brown asked for a monthly police report of break-ins or any impending investigations in town, and Comm. Allison agreed. Chief Hillery replied that in the past, a written report was verbally presented at the commission meetings, but that the commission had asked him to stop, as it became repetitive, and for him to report through the Town Manager. He also noted that as the economy decreases, crime increases, and that all crime has been increasing throughout Palm Beach County. If they desired, he could reinstate a monthly written report.

### 9. Town Engineer

Engineer Tropepe was absent with notice.

Comm. Brown questioned why Engineer Tropepe was not present at meetings, as he was concerned with the swales at new construction sites. Comm. Bingham stated that due to budget constraints, it was a decision of the Commission to only have the engineer present when needed. Eng. Tropepe makes herself available whenever needed, and she has always been helpful and informative. Mngr. Schenck stated that he and the engineer would get with Comm. Brown and address any drainage or driveway swale concerns.

## ACTION ITEMS

### 10. Discuss Investment Options

Clerk Hanscak reported that most of the Town's funds in the past had been invested in Treasury Bills. However with the decline in the economy, T-Bill's are now in the negative, and after speaking with the auditor, it was determined that all of the Town's monies are fully protected

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because they are placed in Qualified Public Depositories. Until Treasury Bill interest rates improve, a portion of the funds would remain in our General Operating Check Account, and disperse the rest into Certificates of Deposit and Money Market accounts for a higher return.

11. Approve Town Hall Change Orders By: Kenneth Schenck, Town Manager
  - a. Additional \$6,784 for Water Feature to be Funded from the McGinty Bequest

Mark Marsh, Bridges, Marsh & Assoc., stated that original amount of the change order for the Water Feature had been negotiated, and the profit, overhead and the liability insurance had been removed bringing the additional cost down to \$6784. Comm. Bingham noted her concern of the high cost of the pond.

Comm. Pugh motioned to approve the Additional \$6784 for Water Feature to be Funded from the McGinty Bequest. Seconded by Comm. Allison.

Motion Carried – yea 5.

11.
  - b. Additional \$10,122 for Architectural Services to Bridges, Marsh & Assoc. (Insurance Reimbursement Possible for \$4,547)

Manager Scheck reported that the Bridges, Marsh & Assoc have requested an increase in their original fee for Townhall. The original base fee was 7% of the original estimated cost of \$2.8mil. This fee did not include the costs of engineering, geotechnical and surveying disciplines and the FDEP required landscape modifications which totaled \$70,904. They are requesting an increase of \$10,122 to cover additional work such as that required by FDEP and the Health Dept, and unforeseen site problems during construction. Of this cost, we hope to be reimbursed for \$4547 by the insurance company for the plane crash. As the normal fee for a project of this size would be 8-9% of the construction cost, we believe this request to be reasonable.

Comm. Brown asked if this was their final billing. Manager Schenck confirmed that it was. Atty. Spillias reported that invoices had been submitted to the insurance adjuster, and they were awaiting approval.

Comm. Brown motioned to approve the additional \$10,122 for Architectural Services to Bridges, Marsh & Assoc. Seconded by Comm. Allison.

Motion Carried – yea 5.

11.
  - c. Additional \$77,806 to BSA for Change Orders #56-65 (Excluding Water Feature and Associated Plane Crash Expenses) Funded from General Fund Reserve Account (Some of these costs will be reimbursed from FEMA Grant when received)

Manager Schenck reported that BSA change orders through #55 had remained below the approved contract amount with the exception of one for \$8300, and asked approval of this with these final change orders. He presented Change Orders #56-65, that include additional cost for rock removal while excavating the drain field, and a time extension request which involved the plane crash, design changes created by FDEP because of surrounding wetlands and mangroves, and time delay of moving from trailers to the building. Staff recommends approval of these Change Orders considering they total less than 2% of the total cost.

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Comm. Bingham did not feel that all of the additional \$20,173 costs were justified, as the contractor should have been aware of the coral. Comm. Pugh agreed, and felt the soil tests should have discovered it. Mark Marsh, Bridges, Marsh & Assoc. reported that soil tests were done with the Health Dept, and that the Health Dept had changed the scope of work, and requested more tests to be done and these costs would still have changed either earlier or later.

Comm. Bingham motioned to approve the Additional \$77,806 to BSA for Change Orders #56-65 Funded from General Fund Reserve Account along with the \$10,122 for Item 11.b). Comm. Allison Seconded.

Motion Carried – yea 5.

12. Approval of Change Order #1 with Delta Petroleum in the Amount of \$20,088 Related to the Purchase of a 75 Gallon Day Tank for the Town Hall Emergency Generator, Running a Fuel and Electric Line to the Garage, and Approving Funding of a Temporary Tank while the 1,000 Gallon Tank was Installed – All to be Funded from Surplus Drainage Loan Monies in the Capital Projects Fund.

Comm. Pugh motioned the Approval of Change Order #1 with Delta Petroleum in the amount of \$20,088 to be Funded from the Surplus Drainage Loan Monies in the Capital Projects Account. Seconded by Comm. Allison.

Motioned Carried – yea 5.

13. Discuss Condition of Seawall at Inlet Cay Drive and Approve Design of Inlet Cay Seawall Repairs by Bridge Design Associates in an Amount of \$17,500 Funded from the Capital Projects Fund Surplus Drainage Loan Monies and also Approve Bidding Process Once the Design is Complete.

It was discussed that this price to design a seawall seemed excessive. A consensus was formed requesting the Town Manager to review this pricing with other contractors.

14. Ocean Ridge Resolution No. 2009-01; Recognizing the “Building Citizenship in the Community: Back to Basics” Initiative of the Florida League of Cities, Inc. and Pledging Support for this Statewide Effort.

Comm. Bingham requested a cover letter be sent to the Florida League of Cities, requesting School Boards make civic’s teaching/testing a priority in our public schools.

Comm Bingham motioned to approve Ocean Ridge Resolution No. 2009-01; Recognizing the “Building Citizenship in the Community: Back to Basics” Initiative of the Florida League of Cities, Inc, and Pledging Support for this Statewide Effort with a cover letter to the League of Cities. Seconded by Comm. Brown.

Motioned Carried – yea 5.

### TOWN COMMISSION COMMENTS

Comm. Brown asked Manager Schenck for an update of the impending lawsuit regarding an injury they received from a pothole. Manager Schenck reported that Ocean Ridge was served along with a Condominium Association in regards to a personal injury received from a pothole. It had been forwarded to the League of Cities asking them for counsel. Comm. Brown also

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mentioned a power outage of street lights at Woolbright & A1A, and Lieutenant Yannuzzi stated that it had been reported two times.

15. Chickasaw Linear Park.

Comm. Bingham stated her concern of the pending lawsuit in regards to an injury from a pothole, that the Chickasaw landing area be clear of rocks and debris, and added that the staff should check to see if a landing was required. She was advised that access was to be provided not necessarily a floating dock. Manager Schenck stated that he would request the owner keep up the maintenance on the area.

Comm. Bingham also requested that a letter to DERM or DEP be sent regarding the safety of breeding manatees in that area and making it a “No Wake Zone”. It was discussed that with our “preserve area”, it could probably qualify as a No Wake Zone area.

Mayor Kaleel thanked Lewis, Longman & Walker, PA, and Engenuity Group Inc. for the new clock in the Town Hall Chambers.

Adjournment at 7:38 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 Brown

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Commissioner Pugh