

REGULAR TOWN COMMISSION MEETING HELD JUNE 1, 2009

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, June 1st, 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 Allison
Commissioner Pugh	Commissioner Brown
Mayor Kaleel	

ADDITIONS, DELETIONS, MODIFICATIONS, AND APPROVAL OF AGENDA

CONSENT AGENDA

1. Minutes of Town Commission Meeting of May 4, 2009
2. Authorize Proposed FY 2009/10 Budget/Adopt Proposed Millage Meeting to be Held on July 29, 2009 at 8:30 AM

ANNOUNCEMENTS AND PROCLAMATIONS

3. The Administrative Offices will be closed on Friday, July 3, 2009 for the Official Holiday (July 4 falls on Saturday)

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

Motion Carried - yea 5.

PUBLIC COMMENT

Dr. Weege, 19 Sabal Island Drive, clarified that the police department was actively enforcing the laws pertaining to bicycles, especially riding 2-3 abreast. Chief Hillery advised that they enforce the traffic laws and have issued citations.

Joe Belamonte, 5572 N Ocean Blvd., commented that at the April meeting, questions were raised on whether to assist the Sand Sifters in the funding of T-Shirts. He stated that he was a member of the Sand Sifters and also the Garden Club and felt that Gary Solomon does a great job in attempting to keep the Town's beaches clean once a month and each Monday morning. He felt the Town should assist their organization when possible because they are strictly volunteers for the betterment of the community. He added that the Garden Club also cleans the beach twice a year and does not request funding. Comm. Allison announced that the Sand Sifters had a beach cleanup scheduled for this Saturday from 8:30 – 10:30 AM.

Steve Greenhut, 5907 N Ocean Blvd, reiterated his concerns regarding the enforcement of the 5' clearing and 4' high vegetation on the east side of Old Ocean Blvd. He stated that some property owners have not complied. He also mentioned a home approximately 3 houses north of Thompson St. that was overgrown with weeds and brush. Comm. Bingham mentioned that the Garden Club is currently working on a model dune and hopefully other homeowners will follow suit.

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Nancy Hogan, 37 Hibiscus Way, cited her concerns which included: hoping that the Town has been involved and assertive regarding the Growth Management Bill; the safety condition of the road at Midlane Rd.; the Commission appointee should ask that the Inlet Commission meetings not be cancelled as there are important issues such as the widening of the Inlet and the speed on the ICWW that should be discussed; concerns pertaining to the renewal date of the fire contract and how EMS service could be located on this side of the bridge; and also that the public be informed when the budget workshop will be scheduled and that extra copies be available for the residents to review.

REGULAR AGENDA

REPORTS

4. Town Manager

Manager Schenck reported the following: 1) New Town Hall. FEMA is reviewing the information we submitted for the grant, and we hope to receive the grant funds in the near future. 2) Coconut Lane Drainage. This project is on hold until Commission approval to proceed. We have submitted the project to the State for a 319 Grant that would pay for 30% of the cost, but we don't know how the project will rank. 3) Ocean Ave Landscape. We are working with the landscape company to develop a plan to improve the landscaping. They have submitted their ideas and we're working on reducing the cost. 4) Island Drive Bridge. Preconstruction meetings have been held, and we have issued the notice to proceed to the contractor, as FPL had moved their power lines out of the way on the north side. 5) Old Ocean Blvd. We have received the recorded deed from the County transferring the section of the dune to the Town. The Garden Club Committee has met with FDEP & DERM and they will be working with the State and DERM on developing a plan for the dune to present to the Commission. 6) Inlet Cay Seawall. Mark Smith Marine Construction, Inc. was authorized to make the repairs on the seawall, and they should be done by the end of June. 7) No Wake Zone. State & County has been contacted about a no wake zone for manatee protection, but at this time their concern is for boater safety. To reduce the speed zone, a written request would need to be sent to the FL Fish & Wildlife Conservation Commission. The Town Manager has spoken to them, and they will look into it, but they don't make changes often, and they must agree that there's a problem. According to the County and State they do not have the manpower for stronger speed enforcement. 8) Zoning Code Recommendations. They will meet again to discuss possible changes in the code, but a date hasn't been set yet. 9) Flood Insurance. We submitted documentation to the Federal Govt. to reassess the town's flood insurance rating. We were successful in changing the Town's rating from an 8 to a 7. This equates to a 15% discount in flood insurance premium instead of the previous 10%. Lisa Burns was instrumental in putting the documentation together. 10) Police Report. The April police report was supplied.

Manager Schenck added that FPL would begin hardening the lines along A1A from River Drive to Thompson Drive, and installing new poles and trimming trees. Comm. Brown requested that FPL inspect the wooden power pole at the end of Ocean Harbour Estates as it was hit by lightning last week and the power had been out 3-4 hours.

Manager Schenck stated that he had received a letter from the County concerning our new library. They requested a lot of information, but the main issue is that the residents must purchase library cards. The cost of the cards may be more than the savings on the taxes. A consensus was made to prepare the library package and submit it to the County.

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Manager Schenck stated that the Sandsifters were erecting signage at the Boynton Beach and Palm Beach County parks stating these areas as “No Smoking”. The Sandsifters were requesting we place the signs at our crossovers. Comm. Bingham was not in favor of more signs without enforcement. A consensus was made to not approve the signs.

Manager Schenck also noted that we had received a copy of the EAR for Briny Breezes and was available for review.

Manager Schenck reported that he had received a letter from Helena Fernandez, 16 Adam Rd, stating that she did not have the funds at this time to demolish her house. She requested for Ocean Ridge to demolish her home, and she authorized a lien to be placed on the property for the amount of the demolition (\$7260). The lien would be paid off when the property was sold. Atty. Spillias stated that the costs could be made part of the final order as it was going before Code Enforcement tomorrow. It was discussed that this home was a health hazard with mildew and rodent infestation, and it had been a blight to the neighborhood for years since the hurricanes.

Comm. Allison motioned to approve the demolition of 16 Adams Rd and a lien placed on the property with an amount not to exceed \$7500 to be paid from the Contingency Account. Seconded by Comm. Bingham.

It was discussed that the proper permitting had been done, and that all care be taken at the time of demolition. Atty. Spillias stated that Ms. Fernandez’ letter would be presented to the Special Magistrate.

Motion Carried – yea (5).

Manager Schenck finalized his report stated that he had received a \$9000 bid for the generator and pump. We were hoping that the monies received for this equipment would offset the price of the day tank (\$11,000). A consensus was made to not approve the price of \$9000.

5. Town Attorney

a. Report on Art in Town Hall Issues

Atty. Spillias commented that the County utilizes a license agreement to allow art to be hung with the County Commission having final authority. Comm. Brown commented that they have an art committee that approves the artwork.

Atty. Spillias stated that he felt the Sunshine Law would apply if the Commission would appoint a committee and they give opinions and recommendations, however, he would need to research whether they would be required to file Financial Disclosures.

The consensus was to permit the artwork through a loan agreement and designate the Town Manager to approve same, similar to the Facility Use Agreement, and to obtain pricing on the display.

Comm. Bingham moved to appoint the Town Manager as the designee to approve the display of artwork through an agreement, seconded by Comm. Allison.

Motion carried – Yea (5)

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b. Proper Use of Public Funds-Attorney General Opinion: Is it Legal for the Town to Use Public Funds for a Private Use? (Per Request by Comm. Brown)

Atty. Spillias commented that he submitted a memo to Comm. Brown and copied to the rest of the Commission and he felt it speaks for itself. Atty. Spillias commented that the Attorney General would probably not offer an opinion regarding this issue and after research his opinion was that if the Commission makes a finding that the noseem spraying is in furtherance of the health, safety and welfare of the public then the public expenditure would be for a valid public purpose and authorized under the Town's municipal home rule powers.

Comm. Brown advised that he concurred with the conclusion by Atty. Spillias that projects can be designated as public but he did not envision that this project meets a public purpose. He added that it can be discussed further under Item #8.

6. Chief of Police

Chief Hillery had nothing to report.

7. Town Engineer

Engineer Tropepe was absent with notice.

ACTION ITEMS

8. Proposal for NoSeeum Spraying from Clarke Mosquito Control to be Funded from the Contingency Account By: Kenneth Schenck , Town Manager

Town Manager Schenck summarized his memo by stating that the truck spraying had been eliminated from both options presented by Clarke Mosquito Control. Option 1 was similar to last year with 42 homes sprayed from Harbour Drive South to Inlet Cay Drive and averaging 35 treatments, except increasing it to 42 treatments at an annual cost of \$54,621, varying \$35 a home depending on actual homes sprayed. Option 2 would be a larger area thereby making a more continuous barrier at a cost of \$56,905. He added that they offered a 5% discount with a 3 year contract. He concluded by stating that to spray for the rest of the fiscal year would either be \$17,300 (Option 1) or \$18,653 (Option 2) funded from the contingency account.

Comm. Bingham stated she had a problem with funding the spraying by Harbour Drive South because she felt the property owners throughout the years have intentionally tried to make the ROW impassable by planting trees. She also questioned whether 42 sprays per year were necessary. Comm. Pugh agreed and felt that the sprays should be reviewed. Mayor Kaleel stated that they attempted to cut back the spraying in the past but ended up adding more soon after.

Comm. Brown questioned if the property being sprayed was County property to which Comm. Bingham commented that she believed the mangroves were the Towns. Comm. Brown stated that he had a problem with spraying a natural area and also requiring property owners to sign releases. Mayor Kaleel commented that the government is asking the property owners and their willingness to sign the release is permission to do the spraying. He added that spraying 46 homes affects a lot more homes. Comm. Pugh stated that if there was an environmental problem affecting his property from government owned property then the government should take care of it.

Comm. Brown questioned if spraying is for a public purpose to which Mayor Kaleel stated that not spraying could affect public health. Comm. Brown cited the \$60,000 per year and felt that

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neighborhoods could form groups to spray individually. Mayor Kaleel stated that the funding was an economic issue but he felt it meets the public purpose if the Town wants to take action.

Mark Hanna, 5 Sailfish Lane, stated he shared Comm. Brown's concern on the environmental impact and whether it meets the public purpose. He distributed an Attorney General's Opinion (79-4) where they found it was not a public purpose concerning private sewer systems. He felt the spraying would not be done for a public purpose and he also felt there was a liability issue.

Dr. Wooton, 5907 N Ocean Blvd., agreed with Mayor Kaleel that the spraying of 46 homes impacts many more people.

Joe Belamonte, 5572 N Ocean Blvd., stated that he believed noseums only travel 200' in a life cycle.

Comm. Pugh moved to approve spraying using Option 2 in an amount not to exceed \$18,653 from the contingency account based on a per spraying basis through Sept. 30, 2009 with the condition that price quotes and a recommended treatment schedule be obtained for the upcoming budget discussions. Comm. Allison seconded the motion.

Comm. Brown questioned the time frame if new releases had to be signed to which Atty. Spillias advised that the current releases are still valid unless they were revoked and only first time releases need to be obtained.

Mayor Kaleel commented that he was in favor of the spraying on a temporary basis for 3 months and that is all he would commit to at this time.

Motion carried – Yea (4)
Nay (Brown)

9. Discuss Garbage/Trash Collection Renewal By: Kenneth Schenck, Town Manager

Town Manager Schenck summarized his memorandum by stating that the current contract expires Sept. 30, 2009. He included rates that reflect increases across the board that other communities have received. He stated it was difficult to compare because other communities usually have a combination of commercial and residential.

The consensus was to go out to bid.

10. Approval of Hurricane Debris Collection Contract By: Kenneth Schenck, Town Manager

Town Manager Schenck stated that the Town has contracted with Waste Management in the past and has received good prompt service. He commented that their quote was \$18.74 per cubic yard compared to AshBritt, Inc. at \$10.25 per cubic yard; however, the Town may not get the immediate service we have received in the past because AshBritt would address the hardest hit areas first. He added that the cost was 87.5% reimbursable in the past and should be this year also.

The Commission all agreed that Waste Management provided good service in the past.

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Comm. Pugh moved to approve a Hurricane Debris Contract with Waste Management with an amount of \$18.74 per cubic yard. Comm. Bingham seconded the motion.

Motion carried – Yea (5)

11. Approval of Pedestrian Crossing Signs in an Amount Not to Exceed \$2,000 from the Contingency Account By: Kenneth Schenck, Town Manager

Manager Schenk stated that he had checked with the Town of Lantana as they had small signs in the middle of Ocean Avenue. FDOT regulations require them to be 7ft off the ground, and to be 12” wide & 36” high and to say “Stop” not “Yield”. If we include the crossing at the Inlet Bridge the cost would be about \$2000. There would be 8 signs with 2 at each location. Lantana reported that their signs are hit approximately 4-5 times a year.

Chief Hillery stated that 7ft high would be easier to see from a longer distance, but felt that clearance might prove difficult with bikers along A1A if the signs were placed in the middle of the road. There was discussion if the smaller signs in Lantana were FDOT approved, and if the signage could be placed on the sides of the street instead. Manager Schenck reported that the 7ft signs were FDOT approved but was unsure of the smaller signs or lower height signs.

Comm. Brown motioned to install the smaller signage at the 4 crosswalks with an amount not to exceed \$2000 from contingency. Seconded by Comm. Pugh.

Motion Carried – yea 5.

12. Approval of Telecommunications Cost Recovery Contract through the Florida League of Cities at no Expense Cost to the Town By: Kenneth Schenck, Town Manager

Town Manager Schenck’s memo proposed contracting with the Florida League of Cities to review our telecommunication costs to ensure that the Town was not being overcharged. If they find any overcharges or ways to save money they would receive 45% of the initial savings and 45% of the first year savings. He mentioned that another company has also approached the staff with this same type of request but they wanted 50% and the 50% for the first two years.

Comm. Bingham moved to approve the contract with the Florida League of Cities for Telecommunications Cost Recovery. Comm. Allison seconded the motion.

Motion carried – Yea (5)

13. Approval of Building/Zoning Duties and Inspections Contract with Hy-Byrd Inspections for a Three-Year Period Covering Period of August 1, 2009 – July 31, 2012 Without Changes to Existing Contract or Fees By: Kenneth Schenck, Town Manager

The proposed contract extends the existing contract for a three year period with no rate increase.

Comm. Pugh moved to approve the Three Year Building Inspection Contract with Hy-Byrd Inspection Services. Seconded by Comm. Allison.

Motion carried – Yea (5)

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FIRST READING OF ORDINANCES

14. Ordinance No. 583; Amending Article V, Section 2-193 of the Code of Ordinances to Reduce the Qualifying Time for Candidates for the office of Town Commissioner from Twenty-Five Days to Fourteen Days

Mayor Kaleel read Ordinance No. 583 by title only.

Comm. Bingham moved to adopt Ordinance 583 on first reading. Comm. Allison seconded the motion.

Motion carried – Yea (5)

Mayor Kaleel mentioned that the new Supervisor of Elections plans on charging each municipality for their election costs and therefore the Town should change its election date to coincide with the other municipalities either in March or November. Atty. Spillias advised that he would review the legislation and the Town Charter and report back to the Commission on whether it may require a Charter Amendment on the ballot.

TOWN COMMISSION COMMENTS

15. Discuss Amending Section 66-151 regarding Tree Permits Relating to Hedges

Comm. Bingham commented that Ficus Trees are now prohibited but hedges are permitted and she felt that property owners are allowing their hedges to grow into trees, some as high as 50'. She added that there does not have to be height limitation but they should be maintained similar to the appearance of a wall.

Mayor Kaleel suggested that the Town Atty. review Palm Beach's ordinances because the hedges there are extremely manicured. Atty. Spillias stated he would review their code and also check to see if there were other municipalities with a similar type ordinance. He added that his concern is that the police department and citizens would need to have a clear understanding of the difference of a tree vs. hedge.

Patricia DiStefano, 14 Tropical Drive, stated that she felt the existing hedges should be grandfathered.

Mark Hanna, 5 Sailfish Lane, believed that requiring an owner to be responsible for both sides of a hedge could be a problem. He suggested possibly mandating a width and height requirement.

The consensus was for the Town Attorney to review pertinent codes from other municipalities.

Comm. Allison mentioned that she would be away for the latter part of September which may present problems for the Final Budget Hearing. After a brief discussion the Commission agreed to schedule the Tentative Budget Adoption/Regular Meeting on Sept. 10, 2009 at 5:01 PM and the Final Budget Adoption on Sept. 17, 2009 at 5:01 PM.

Mayor Kaleel asked the staff what the approximate ad valorem revenue loss would be for next year. Town Clerk Hancsak advised that the total taxable value reduced from 838 million to approximately 710 million which would equate to a 6.1110 millage rate next year to generate the same amount of revenue as this year. She also reported that the revised estimates for the State revenues reflects an approximate \$20,000 reduction, however, the building permit revenue is

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extremely below the anticipated amount. Mayor Kaleel stated that he just wanted the Commission and residents to be aware that the budget will be very challenging this upcoming year.

Adjournment at 8:05 p.m.

Attest By:

Town Clerk

Mayor Kaleel

Commissioner Allison

Commissioner Bingham

Commissioner Brown

Commissioner Pugh