

REGULAR TOWN COMMISSION MEETING HELD JULY 6, 2009

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, July 6th, 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 Pugh	Mayor Kaleel

Comm. Allison was absent with notice.

Mayor Kaleel announced that Kristine Puhalainen, a representative of the Palm Beach League of Cities was present. He stated that she was in charge of their outreach to the cities in Palm Beach County, and thanked her for her service to the community.

ADDITIONS, DELETIONS, MODIFICATIONS, AND APPROVAL OF AGENDA

Comm. Brown requested to pull Item #4 to discuss after the Town Manager's Report #6. He also requested to add a comment as #14.

Comm. Bingham requested to pull Item #2 and change it to Item #13.

Comm. Pugh requested to amend the minutes, Page 4, 2nd ¶ to last, to read "...affecting his property from government owned property, the government should take care of it".

Atty. Spillias requested to amend the minutes, Page 3 to change "final disclosure" to "financial disclosure".

CONSENT AGENDA

1. Minutes of Town Commission Meeting of June 1, 2009
3. Ocean Ridge Resolution No. 2009-04; Requesting Palm Beach County to Allow the Town of Ocean Ridge to Withdraw from the County's Library MSTU

ANNOUNCEMENTS AND PROCLAMATIONS

5. The FY 2009/10 Budget/Adopt Proposed Millage Meeting will be Held on July 29, 2009 at 8:30 AM

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

Motion Carried - yea 5.

PUBLIC COMMENT

Nancy Hogan, 37 Hibiscus Way, asked if public comment would be available during the discussion of the Fiscal Year End Audit. Mayor Kaleel responded that it was a report, and that any comment should be made at this time. Nancy Hogan stated that she had briefly reviewed the audit and felt it was very clear, but she had some concerns: over spending without encumbrances; a need for more internal control; high debt; the audit was done on an untimely basis, as it was

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dated 6/30/09 and the fiscal year ended 9/30/08; raising taxes to transfer to Capital Projects did not seem to be good business ethics; our reserves were too high at 36% and should be 20-25%. Mrs. Hogan also asked that the "No Wake Zone" be on the agenda at the next South Florida Inlet Committee Meeting, and that Ocean Ridge be represented at the meeting. She asked for Ocean Ridge to address maintenance of the trash and fallen trees at her neighbor's property not just through code enforcement fines.

Dr. Jeff Goltz, 8 Ocean Harbour Circle, asked if the budget meeting on July 29th, was to be a public meeting, and for a hard copy to be available for public review. He requested that if a 2-3 year overview could be prepared for the meeting, as he felt that property values would not be increasing. He was advised that the budget meeting is public, and copies will be available for review or purchase at town hall.

REGULAR AGENDA

REPORTS

6. Town Manager

Manager Schenck reported the following: 1) New Town Hall. FEMA has submitted a 90% pay request on our grant, and a payment for \$307,000 was received this week. Additional funds of \$86,000 have been requested, and it looks like we may get a portion of that also. 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 them on developing a plan for the dune to present to the Commission. 6) Inlet Cay Seawall. Repairs have been completed on the seawall. 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) Noseeum Spraying. Clarke Environment has started the spraying and we are only spraying in the back of homes where we have permission from the resident. Of the letters sent out, only 2 have declined. They are spraying once a week on Tues or Wed depending on the weather. 10) Pedestrian Street Signs. The permit application has been submitted to FDOT. 11) 16 Adams Avenue. The house has been demolished. 12) Police Report. The May police report was supplied.

Comm. Brown asked about the procedure for code enforcement of turtle lighting violations. Clerk Hancsak stated that DERM usually patrols the beach in March and notifies the police departments of any infractions for code enforcement. This allows residents enough time to respond before turtle season starts in June. Lieut. Yannuzzi stated that when manpower allows in the evenings, our officers also search for infractions of turtle lighting and street light outages while on patrol. Comm. Pugh clarified that manpower may be an issue so other resources have to be utilized.

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Comm. Brown stated that one property that had been under code enforcement for a pool barrier had come into compliance but since that time they have removed the pool barrier. He asked for code enforcement to be more attentive and not just reactive to complaints. Manager Schenck advised that law enforcement would check into it.

4. Confirm Hiring of Robert J. Massimino as New Police Officer to Fill an Open Position

Comm. Brown requested that salary information be included in the memo, and he felt that the street coverage at night was not adequate. Clerk Hanscak clarified that the open position came from the retirement of Lieut. Katz who had been at a 9H Step. Chris Yannuzzi was promoted to Lieutenant with one grade/step increase, and the new officer was being hired at 5B which is a much lower step than the leaving lieutenant. Therefore, the hiring of the new officer would be a savings to the town and a relief in manpower, as they had been a man short.

Comm. Brown motioned to confirm the hiring of Robert J. Massimino as New Police Officer. Seconded by Comm. Pugh.

Motion Carried – yea (4).

7. Town Attorney

Atty. Spillias reported the following: 1) The Treasure Coast Council was meeting on July 17th and our Comp Plan Amendment is on the consent agenda. 2) Election Date Change. State Law does provide for change of our election day by Ordinance only. It does not require a referendum and there can be further dissection at the August meeting to move forward. 3) Hedges/Trees. He had researched other city ordinances and found that Palm Bch Shores' definition of a hedge is for a continuous border and as long as it's shaped as a barrier it would be deemed a hedge. North Palm Beach and Boca Raton only define shrubs and trees, and does not give a height restriction for the shrub. Boca Raton requires that a "tree" has a 2" diameter at a point 4-1/2 ft above ground.

Comm. Bingham noted that these towns state that a hedge is solid and that it be trimmed/shaped as a hedge, while a tree is free standing and supports itself. She noted that some residents are planting hedges that become trees because of a lack of trimming. She also asked for hedges to not be planted on property lines as their overgrowth can infringe on neighboring properties. She asked that Planning & Zoning address these issues and put them in our code. A consensus was agreed upon for the Commission to review and bring up at a later date.

8. Chief of Police

Chief Hillery was absent with notice. Lieut. Yannuzzi was present and had nothing further to report.

9. Town Engineer

Engineer Tropepe was absent with notice.

ACTION ITEMS

10. Presentation of the Annual Audit by Nowlen, Holt & Miner, PA for Fiscal Year 2007/08
Ron Bennett, CPA for Nowlen, Holt & Miner, PA, thanked the Town and Staff for their assistance in the preparing of the audit. The purpose of the audit was to render an opinion of financial status, and found that the financial status present fairly the financial position of the governmental activities and the Town was in conformity with U.S. generally accepted accounting principle. He summarized that our reserve ratio is 31%. His recommendation to clients prior to

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the major hurricanes was to retain only 60 days in reserve; now he recommends municipalities to maintain a reserve of 25% to 50%. He stated that our 31% is on track and realistic. He provided a graph of revenues and expenses of the last 5 years showing that the revenues had stayed the same the last 2 years, and that the expenses also stayed close to the same the last 4 years. He stated that money was transferred from Fund Balance to Capital Projects. Capital Projects Accounts are created to report the expenditures of the projects. Grant monies do reimburse a portion of them. In response to public comment he noted that some towns have specific revenues pledged for the projects. He did not consider it improper to transfer money from fund balance for Capital Projects in fact it is typically done that way. He noted that the rules had changed in the last year for Government Auditing Standards and a new SAS report is required regarding internal control over financial reporting. They reported a deficiency in internal control and recommended to improve the segregation of duties of cash receipts and payments, although, he stated that these rules are geared for larger corporations, and is very difficult to adhere to all of the internal control rules with a small staff, but he is still required to state the deficiency. All of the smaller municipalities were given this recommendation. Some municipalities only have 1 person performing these tasks, which makes it impossible to segregate duties.

In response to the Public Comment, Mr. Bennett stated that the State allows 12 months to complete it. There are 10 new audit standards that they now have to comply with, which has increased their workload by 20%. They have other municipalities that are trying to finish their 2006 & 2007 audits. He apologized for not being able to submit the report earlier, but it was earlier than last year, and hopes to improve next year. He also stated that a business should not be managed from an audit report. He did feel that the staff had done a good job. Clerk Hancsak read the responses to the 5 comments made in the report regarding internal control: 1) Cash Receipts & 2) Cash Disbursements. In regards to segregation of duties, our small staff limits us in regards to checks/balance, but any further segregation would be reviewed. 3) Loan Covenants. The Local Government ½ Sales Tax fell short of the anticipated revenues as did the Utility Svc Tax. Effective Jan 2009, we raised the Utility Svc Tax from 8.5% to 10% which should prevent any future pledged revenue shortfalls.

4) Excess of Expenditures over Appropriations. The Inspections Dept is directly related to the actual bldg permits generated. Although expenditures exceeded the budget, the building Permit Revenue received offsets these costs. 5) Garbage & Solid Waste Dept also exceeded the budgeted amount due to the issuance of 11 additional Certificates of Occupancy. The revenues received from Garbage/Trash offset these costs, and the 2009/2010 fiscal year has been adjusted to reflect these additions.

Comm. Brown questioned the proper use of the Contingency Account and whether expenditures should be part of the general government or if its use was at the discretion of the municipality. Mr. Bennett stated that funds can be moved to any account needed, but most towns budget a contingency account for emergencies. Mayor Kaleel stated that there was more control having a contingency fund; as any payments made from this account must be authorized by the commission.

Comm. Pugh motioned to accept the audit report for the fiscal year 2007/2008. Seconded by Comm. Bingham.

Motion Carried – yeas (4).

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11. Informal Request to Abandon Town Right-of-Way at the End of Edith Street By: George Liddy, Property Owner at end of Hudson Ave. on South Side

Manager Schenck summarized the request of Mr. Liddy to abandon the 20ft wide strip known as Edith Street. Mr. Liddy wanted to know if the Commission may be in favor of it prior to a formal request considering the pending litigation. Comm. Brown was in favor, and would like to see it added to the tax base, while Comm. Bingham was not in favor of abandoning the right of way as it used by the public as access to the intra-coastal. The pending lawsuit about the Edith St abandonment was discussed, and if it would be a problem for the Town to consider this request before a final decision was made. This lawsuit has been going on for 6 years, and now a new lawyer is involved which could delay their decision further. No consensus was reached to accept his informal request.

12. Approval of Health Insurance Renewal for Employees

Manager Schenck reported that the staff had met with Steve Olsen, our insurance agent, and was presented several plans for the employee health plan. The present plan increased the premiums from \$496.61 to \$582.97 per employee with a deductible of \$1500/\$3000 would increase the deductible of \$2100/\$4200 per employee and the cost would be \$524.70 per employee. Staff was recommending keeping the same plan coverage a lower premium but a higher deductible, and funding \$1100 towards the \$2100 annual deductible.

Mayor Kaleel asked if there were monies left over in the budgeted HRA Accounts that could be used. Clerk Hancsak stated that probably half was remaining, but it goes through the calendar year and there were 5 more months remaining. Comm. Brown suggested that the employee pay the first \$1000, and the town pay the last \$1100 of the deductible.

Comm. Pugh motioned to approve the new 3068/3069 Plan with the Town funding the remaining 3 months of the calendar year for the 2009 \$1500 deductible. Seconded by Comm. Bingham.

At the budget meeting it would be discussed further how the future deductible would be paid and by whom.

Motion Carried – yea (4).

13. Ocean Ridge Resolution No. 2009-03; Requesting the Assistance of Governor Crist and Florida Department of Transportation Secretary Kopelousos to Prioritize the Intercity Rail Component of the FEC Corridor Project (From Jacksonville to Miami) as Part of the Federal Economic Stimulus Package for the State of Florida

Comm. Brown stated that this was an effort to get coastal cities to support the continuation of public transit to Jacksonville. There were no funds requested at this time. Comm. Bingham stated that once approved there would be an obligation to continue services, and she felt it would be a drain on the economy. She also felt it would be competing with Am-Trak which is struggling at this time. Mayor Kaleel stated that he could see the merits of it, but it would also cause more density along the east coast which would impact local communities.

Comm. Brown motioned to accept Ocean Ridge Resolution No. 2009-03; Requesting the Assistance of Governor Crist and Florida Department of Transportation Secretary Kopelousos to Prioritize the Intercity Rail Component of the FEC Corridor Project (From Jacksonville to Miami) as Part of the Federal Economic Stimulus Package for the State of Florida. Seconded by

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Comm. Pugh.

Motion Carried – yea (3)

Comm. Bingham – nae (1)

TOWN COMMISSION COMMENTS

#14. Discussion of Senate Bill 360 By: Comm. Brown

Comm. Brown stated that he was concerned with the impact this Senate Bill would have to Ocean Ridge. Atty. Spillias presented a letter from the Fl Legislature with a list of jurisdictions that meet the total population and density criteria necessary for designation as a dense urban land area. Comm. Brown felt that Ocean Ridge should consider the possibility of a hostile takeover and annex Briny Breezes to Ocean Ridge. He felt that once Senate Bill 360 goes through we may not have any control over it. Atty. Spillias stated that he believed that Briny Breezes would not be able to take advantage of the bill due to traffic concurrency and if it could qualify for DRI review. The City of Weston has filed a law suit challenging the bill and requests for others to join in at a cost of \$2500 per municipality. Comm. Bingham asked of the possibility of annexing the County Pocket area. Atty. Spillias noted that it could not be done alone; it would have to be done in conjunction with Briny Breezes. Boynton Beach may feel that they would be a better candidate and therefore pursue to merge with Briny Breezes than us because the City of Boynton supplies their water utilities.

Comm. Brown motioned to join the lawsuit challenging the Senate Bill 360 at a cost of \$2500 from the contingency account.

There was no second. Motion died.

Mayor Kaleel stated that we have to make a decision based on the best interest for each municipality, and was not in favor of a hostile takeover or annexation.

A consensus was made to ask the Town Attorney to look at all options available to Ocean Ridge.

Adjournment at 7:55 p.m.

Attest By:

Town Clerk

Mayor Kaleel

Commissioner Bingham

Commissioner Brown

Commissioner Pugh