

REGULAR TOWN COMMISSION MEETING HELD MAY 7, 2012

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, May 7, 2012, at 6:00PM in the Town Hall Meeting Chambers.

The meeting was called to order by Mayor Pugh. The roll call was answered by the following:

Commissioner Aaskov Commissioner Allison
Commissioner Brookes Commissioner Hennigan
Mayor Pugh

Town Clerk Hancsak was absent with notice, and Deputy Town Clerk Hallahan was present.

Pledge of Allegiance

ADDITIONS, DELETIONS, MODIFICATIONS, AND APPROVAL OF AGENDA

Comm. Hennigan requested to add Item #18 to discuss the Agenda for the May 8th PBSO Workshop.
Comm. Brookes request to add Item #19 comments from the residents of Ocean Ridge.

CONSENT AGENDA

1. Minutes of Regular Town Commission Meeting of April 2, 2012
2. Ratify Change Order #1 to Anzco Inc. to Repair the Bridge Railing Cap, Sand and Paint the Water Line on South Side of Inlet Cay Bridge in a Total Amount of \$4,656 to be Funded from the Capital Projects Fund By: Kenneth Schenck, Town Manager

Comm. Brookes motioned to approve the agenda and consent agenda as amended. Seconded by Comm. Allison.

Motion Carried – Yea (5).

ANNOUNCEMENTS AND PROCLAMATIONS

3. The Administrative Offices will be closed on Monday, May 28, 2012 for the Official Holiday
4. Proclamation Declaring May 25, 2012 as “National Missing Children’s Day”
5. Proclamation Declaring the Week of May 13-19, 2012 as National Police Week and May 13, 2012 as Peace Officers Memorial Day and Encourage all Residents to Fly Their Flags at Half-Mast on That Day
6. Proclamation Declaring May 13-19, 2012 as “National Public Works Week”
7. Proclamation Declaring May as “Civility Month”
8. Proclamation Declaring May 20-26, 2012 as “Water Reuse Week”
9. ANNOUNCE WORKSHOP MEETING ON TUESDAY, MAY 8, 2012 AT 6:00 PM TO DISCUSS PALM BEACH COUNTY SHERIFF’S OFFICE PROPOSAL FOR POLICE SERVICES

Chief Yannuzzi requested a correction to Announcement #5 it should read that “May 15, 2012 as Peace Officers Memorial Day”. He also encouraged all residents to fly their flags at half-mast on that day in memory of the officers.

PUBLIC COMMENT

Christine DeHaseth, 29 Sabal Island Drive, presented to the Commission an information spreadsheet regarding the PBSO Workshop. She requested that they look at the level of service in relationship to the staffing and millage rate. She also asked the commission to have a joint effort with the other communities on the Intracoastal.

Rita Mesritz, 105 Bonito Drive, requested that the Commission do something about the roofing conditions of 110 Bonito Drive. The blue tarp on that roof has shredded into pieces and those pieces are found all over the neighbor’s property. She presented a full bag of the blue pieces tarp that had been collected from her yard/pool. Last month roof contractors appeared on the property taking measurements, and they informed her that they should be applying for a permit with Town Hall. She requested an update

REGULAR TOWN COMMISSION MEETING HELD MAY 7, 2012

as no work was being done. She asked for the Commission's assistance and asked if the old tarp could be removed and a new one placed. Manager Schenck replied that the property has been in the process of foreclosures for months. A roofing permit must be signed/notarized by the owner of the property. The Mortgage Company went to Court and a motion was granted for the Town to issue a permit for roof repair to the Mortgage Company in December 2011. The Mortgage Company has not taken any action to apply for or obtain a permit as of this date. Atty. Spillias stated that with the Special Assessment District there is a process for the Town to do repairs, and then assess the owner of record. Chief Yannuzzi stated that there is a current lien that is accruing daily fines. He stated that there was an issue of having a new code enforcement case to overlap and an existing lien. Mayor Pugh stated that sometimes with foreclosures, liens become hard to enforce, and asked that an assessment be done of the property, and if steps could be taken regarding the Special Assessment District.

Terry Brown, 23 Harbour Drive South, asked the Commission to allow public discussion with Item #14.

REPORTS

10. Town Manager

Manager Schenck reported the following: 1) Coconut Lane Drainage – Construction is continuing on Coconut Lane and the project is scheduled for completion in May. The contractor has been behind schedule and we've reminded him of the possibilities of liquidated damages, hopefully they will be finished on time. 2) Inlet Cay and Sabal Island Bridge Repairs – Anzco Inc. had started repairs on the 2 bridges, and they expected to be complete in May. A change order is on the agenda for a problem found after they removed the sea wall cap, and the project is going well. 3) Entrance Signs – The final sign has been installed at the south end of Town. Briny Breezes has approved our connection to their electric for a light on the sign. 4) Energy Grants – County Grant: The contractor has ordered the lighting equipment for the parking lot. It will take about 8 weeks for delivery. The interior work in Town Hall and the garage is complete. State Grant: This has been extended to the end of July 2012. To date the consultant has approved 52 contracts for a total of \$44,376. 5) Capri Apts. – The washing machines have been abandoned and the drain capped. It is no longer a code violation. 5) FDOT Discussions - FDOT has agreed to construct a proper pedestrian crossing at Woolbright Blvd and A1A. The planning probably won't start until the summer. We haven't received a response to our request to look at the retention ponds on Ocean Ave regarding the tidal influence and flooding or to our question about their sidewalk policies. FDOT has installed the ne catch basin on A1A south of Ocean Ave, hopefully this will help with the flooding in that area.

Comm. Hennigan asked about the rest of the sidewalks in town that also needed repair, and Mayor Pugh requested the Town Manager to get pricing for Ocean Ridge to do the sidewalk repairs ourselves. Manager Schenck reported the Palm Beach County League of Cities is having their Annual Gala. Reservations must be in by May 14th, and the cost is \$50/person and he asked those who were interested to please contact him. On May 19th, there is also an IOG Meeting that he would be attending along with 1 Commissioner. Because of the Sunshine Law only one commissioner would be able to attend. He asked that the commission notify him if they had an interest. Ocean Ridge had received a preliminary tax notification from Palm Beach County. It appeared that the property values were up .8% (\$39,000) with a possibility of an increase 1-2% with the final report.

Comm. Allison thanked the Town Manager and Police Chief for keeping the Commissioners informed and up to date regarding the PBSO and the upcoming workshop.

11. Town Attorney

Atty. Spillias had nothing to report.

12. Police Chief

Chief Yannuzzi presented his monthly report from the new CAD System and the Boynton Beach Fire/EMS Activity Report. He also provided the Commission with a 2011 Annual Police Report. He stated that there were 779 more calls this year than last. There had been an increase in activity not in

REGULAR TOWN COMMISSION MEETING HELD MAY 7, 2012

crime however. Chief Yannuzzi stated that the new CAD System reported all activity. He felt that the numbers validated the number of patrol officers on the road.

Comm. Hennigan asked how many of the calls were from the 911 System? Chief Yannuzzi stated that any of the calls could have come from 911. Through our 911 program he could assemble the information and have it available. Comm. Allison congratulated the Dispatchers for their Certifications.

13. Town Engineer

Engineer Tropepe was absent with notice.

Comm. Aaskov advised that she was going to recuse herself from the next item, as she was a renter in the building at 5011 N. Ocean Blvd. Atty. Spillias asked that Deputy Clerk Hallahan have Comm. Aaskov complete the memorandum of voting conflict for public officers.

14. Request to Extend the Commercial Use for the 5011 Stores By: Orlando and Lialiane Sivitilli, Owners of 5011 N Ocean Blvd.

Lisa Sivitilli, daughter of Mr/Mrs Sivitilli, owners of 5011 N Ocean Blvd, was present. She stated that her parents had owned the property for 30 years, and due to a Settlement Agreement in June 2003, they were to convert their property into residential within a 10 year period by June 2013. There were plans drawn up to convert them into Townhomes and they are committed to comply with the settlement, but due to hard economic times, they are requesting a 2-3 year extension of time only. They are hoping there will be a turn-around in housing.

Atty. Spillias gave a summary citing that in 1969 Ocean Ridge passed an Ordinance for there to be no more commercial properties and provided an amortization period of 40 years. The Ordinance was rescinded/reinstated by Busch's Restaurant when they challenged it. All the rest of the businesses were motels and they converted to residential with the exception of Sun Deck. Sun Deck took us to court and got an estoppel and are operating as a Hotel by court order. In 2003 the Sivitilli's sued the Town for declaration to continue, and in the settlement negotiations Ocean Ridge gave them 10 years to convert to residential. The Sivitilli's took immediate steps and went to the Board of Adjustment with plans in preparation for June 2013. They are not contesting the agreement but are only asking for an extension due to the economy. Atty. Spillias stated that this was a contract and the Commission could either enforce the agreement or place an injunction. There is no provision for modification in the contract. We have the right to enforce or not enforce it. The Sivitilli's are being proactive.

Mayor Pugh asked if the footprint would stay the same and Comm. Allison asked how many businesses are in the strip. Ms. Sivitilli stated that the footprint would stay the same and currently 4-5 businesses. Comm. Hennigan stated that during the last 10 years the economy has had good times and bad, and questioned granting them an extension. Ms. Sivitilli stated that 10 years ago there was a petition signed by 1600 residents requesting the property to stay the same. With the high amount of vacant housing, they were asking for an extension to allow the market a chance to recover.

Comm. Brookes asked about the idea of changing the code to allow for Commercial Properties in Ocean Ridge. Different times call for different tax funding. He questioned the downside of changing the property? Comm. Allison commented that in hindsight residents may have liked Busch's Restaurant to stay. Ms. Sivitilli stated that their businesses on 5011 N Ocean Blvd are local businesses and do not attract customers that are not local or bring in undue traffic like a restaurant would.

Mayor Pugh stated that there are 2 choices: 1) to Grant a 2-3 Year Extension or not. 2) Have P&Z review to change the Ordinance to allow Commercial Properties. Comm. Hennigan questioned the issue of having to force the other business to close or change to residential, and it would open up the Town to liability? Atty. Spillias stated that there would be no liability, only if the Commission continued to grant extensions and never chose to enforce the contract.

Comm. Allison motioned for Atty. Spillias to prepare a draft to grant the extension to June 2016. Seconded by Comm. Brookes.

REGULAR TOWN COMMISSION MEETING HELD MAY 7, 2012

Terry Brown, 29 Harbour Drive South, stated that he disagreed with Atty. Spillias, and felt that the settlement agreement prohibited any changes. He asked that a poll or a vote be taken by the residents as to who wanted Commercial Properties in Ocean Ridge. Voters can change their opinions in 15-20 years. He did not feel that an extension should be granted.

Penny Kosinski, 6000 Old Ocean Blvd, stated that her family loved having small local business down the street from their home. She was concerned of broader implications, like the unknown of future tenants, or transient housing. She was in favor of keeping the local businesses rather than risk the unknown.

Mark Hanna, 5 Sailfish Lane, stated that the extension was being requested because things change. This property was bought by the Sivitilli's after the Ordinance. There were also issues with the septic and zoning also. Because of the septic it could not be residential downstairs. He felt that the Sivitilli's in the last ten years were caught between the possibility of a new Briny Breezes development and the real estate crash. Even though Briny Breezes just rejected their last proposal, they may not the next one. Mr. Hanna was in favor of granting the extension. Ocean Ridge is going through changes, and asked to leave the property status quo. He was concerned if TD Bank moved out, what would be put in its place. He also saw potential problems with the south end, and asked to strengthen our position with the County Pocket across the street. The existing businesses are low impact to Ocean Ridge.

Comm. Brookes felt that it was kept commercial if would be a hedge against the unknown. He was not in favor of removing the current businesses and having a shuttered building while finding new tenants.

Betty Bingham, 1 E Ocean Avenue, stated that her father was on the Commission in 1969, and was concerned of the low class apartment buildings and cheap hotels. She was in favor of making the south end commercial property instead of a dual purpose.

Neil Hennigan, 91 Island Drive South asked that the Commission wait a month before making a decision and to not be rushed.

Stella Kolb, 204 Beachway, was upset and disheartened - when she purchased her home there had been a decision for no commercial business in town, and now the Commission is thinking of changing it back. She asked the Commission to not play games with Ocean Ridge.

Comm. Allison was concerned with the legality/liability to Ocean Ridge. Atty. Spillias stated that it is An agreement and it could remain the same or be changed. There are no third party rights. The Sivitilli's cannot amend the agreement; however the Commission have the right to amend it. Just like it is the right of a Police Officer to enforce or not enforce an Ordinance and to be allowed discretion. The Commission can also choose for P&Z to look into commercial use. There were concerns that if a Commercial Pod was allowed that would open the town up for liability or a potential to create a domino effect. It would not because those were valid ordinances at the time. Also it would not set a precedent for the neighboring property to become a commercial too.

Comm. Hennigan didn't feel the urgency to make an immediate decision. Mayor Pugh was in favor of giving it another month to review all questions.

Motion failed – Comm. Brookes (yae), Comm. Allison (yae), Comm. Hennigan (nae), Mayor Pugh (nae).

15. Appoint Open Positions to the Board of Adjustment and Planning & Zoning Commission (Deferred from April 2, 2012)

Comm. Aaskov motioned to appoint Bernd Schulte and Richard Lucibella as regular members, Jeff Lee as an alternate member, and Don Magruder as a regular member and Hans Kahlert as an alternate member. Seconded by Comm. Allison

Motion Carried – yea (5).

REGULAR TOWN COMMISSION MEETING HELD MAY 7, 2012

Comm Aaskov motioned to appoint Dr Bajakian and Penny Kosinski as alternate members on the Planning & Zoning Commission. Seconded by Comm. Hennigan.

Motion Carried – yea (5)

16. Discuss Changing the July Regular Meeting from July 2nd to July 9th, 2012 and Discuss Remaining July (Budget and Proposed Millage) Meeting Date and also the Two September Budget Meeting Dates

Comm. Hennigan motioned to change the July Regular Meeting from July 2nd to July 9th, 2012. Seconded by Comm. Allison.

A consensus was made for the scheduling of the remaining July meetings and the two September Budget Meetings be discussed at the June meeting. This would allow time for the Commission to check their schedules and also Clerk Hancsak could be available at the June meeting.

Motion Carried – yea (5)

FIRST READING OF ORDINANCES

17. Ordinance No. 597; Opting Out of the Amended Palm Beach County Lobbyist Registration Ordinance 2011-039

Atty. Spillias clarified that this Ordinance only opts us out of the Palm Beach County Lobbyist Registration and not out of the ethics ordinance regarding lobbyist registration.

Comm. Hennigan motioned to approve Ordinance No. 597; Opting Out of the Amended Palm Beach County Lobbyist Registration Ordinance 2011-039. Seconded by Comm. Brookes.

Motion Carried – yea (5).

18. Agenda for PBSO Workshop

Comm. Hennigan requested that the order of the Agenda for the PBA Workshop be changed and that after the presentation made by the Sheriff's Dept, that the Commission ask their questions first, and then the public ask new questions that have not been asked by the Commission, and the Town Attorney and Town Manager follow. She requested that the PBSO be asked to leave while the Commission has their discussion. Atty. Spillias stated that the workshop was a public meeting, we could request someone to leave, but the Commission cannot require that they leave.

Comm. Brookes stated that if the residents were going to be asking question to the PBSO directly that the Deputy Clerk having a timing device to hold the residents to the 3 minute limit. Deputy Clerk Hallahan stated that she acquire a timing device for the workshop. He felt that the PBSO should be there to hear the town's concerns, and felt it would help move the process along if the PBSO stayed to hear the concerns and questions of the residents and address them.

Comm. Allison stated that she had heard opinions from many residents, and that they as Commissioners are to represent the residents. There will be no voting at the workshop. She did not care if the PBSO left the workshop or not.

Mayor Pugh stated that the purpose of the workshop was to gather information. The proposed agenda was for the PBSO to show a video and give their presentation. The Town Staff would then explain the level of current service, and then the residents could have their questions, followed by the Commission. At the next meeting, a decision would be made as to what the next steps would be. He did feel the need to move the process along. He felt that the workshop was small town government at its finest. He wanted the workshop to be a group effort by the whole town.

Comm. Aaskov was in favor of the Workshop Agenda as presented. Comm. Hennigan asked if we went with the PBSO it would be done as a referendum or would it be the Commission making the decision?

REGULAR TOWN COMMISSION MEETING HELD MAY 7, 2012

Atty. Spillias stated that if it was not a referendum, then the Commission could pass it as a resolution or ordinance. If it was to be a referendum, time would be needed to get it to the election office.

Chief Yannuzzi announced that we were expecting a large crowd at the workshop and informed the residents that there would be additional parking across the street at the Boynton Beach Park.

19. Communication with the Residents

Comm. Brookes stated that Ocean Ridge is doing as much as possible to keep the residents informed through the Town's Newsletters, and Website, and e-mails. Out of 2500 residents, only 200 are on the e-mail list, so he asked the residents to talk to their neighbors. He had even asked the staff if Ocean Ridge could be on Facebook. There are problems however with the firewall, and it cannot be done at this time. He felt it important that all residents stay informed with current events.

Stella Kolb, 106 Beachway, stated that Penny Kosinski had asked a question at the beginning of the meeting, and did not get a response from the Commission. Comm. Pugh stated that her concern was addressed by the Town Attorney during the meeting.

Meeting Adjourned at 7:32pm.

Attest By:

Deputy Town Clerk

Mayor Pugh

Commissioner Aaskov

Commissioner Allison

Commissioner Brookes

Commissioner Hennigan