

SPECIAL TOWN COMMISSION MEETING HELD MAY 2, 2013

Special Town Commission Meeting of the Town of Ocean Ridge held on Thursday, May 2, 2013, at 8:30AM 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	Mayor Pugh

Comm. Hennigan was absent with notice.

Discuss with Possible Action Regarding the Pedestrian Crosswalks at Woolbright (Beachway) and SR A1A.

Mngr. Schenck stated that a concern had been raised by the Commission in August 2011 concerning the safety of pedestrians crossing at the intersection of A1A and Woolbright Rd. The Commission directed staff to contact FDOT regarding the possibility of crosswalks for pedestrians. FDOT agreed with our concerns for pedestrian safety and undertook the task of designing the project. They completed the design and hired a contractor and were to start on April 22, 2013. Some of the residents in the Beachway area have raised objections to the crosswalks, and expressed their concerns to several Commissioners. This special meeting was scheduled to address and answer concerns and possibly make a formal decision. Mngr. Schenck immediately contacted FDOT and they reluctantly agreed to delay the project until the Town had this meeting. This intersection is FDOT property and the entire project is within their right of way. Therefore they have the legal right to complete the project whether we want it or not. FDOT has always worked well with Ocean Ridge and are willing to listen to the resident's concerns. Mngr. Schenck clarified that Ocean Ridge was not paying for this project - it was being funded by FDOT, and also that no sidewalks were being required. The project design was displayed.

Public Comment

Richard Lucibella, 5 Beachway North, thanked the Commission and FDOT for holding a public meeting and allowing them to speak. He was concerned that this would change the community feel and ambience of a sleepy town and promote the increase of foot traffic on Beachway Drive. It was already hard to drive down Beachway with existing foot traffic as there were no sidewalks. He also stated that the Town had received 19 e-mails of residents opposing the project, and asked the audience to stand up if they were in favor of the project (no one stood up). He then asked those to stand up if they were not in favor of the project (the majority of the audience stood). He asked that their tax dollars be spent elsewhere.

The following people spoke and agreed with Mr. Lucibella that they were also not in favor of the project and felt that this project would channel increased foot traffic into a private neighborhood on a narrow street: Lisa Allerton (76 Beachway), Steve Coz (2 Osprey Ct), Phil Bessler (32 Anna St), Stella Kolb (204 Beachway), Richard Dipietro (105 Dolphin Rd), Kathleen Macomber (5505 Osprey Dr), and Bernd Schulte (5 Osprey Ct). They also questioned the statistics of the three accidents provided by FDOT if they were pedestrian or bicyclists at that intersection, as most bicyclists do not stop to press the crossover button before proceeding through an intersection.

Terry Brown, 23 Harbour Dr So, stated that he had supported the Commission's decision for the existing pedestrian crosswalks. He stated that FDOT had done an evaluation/study, and was now ready to proceed before the Commission requested they put it on hold. He was concerned with legal issues that could potentially result from any future injuries if the project is not done. Whether this project is done or not there would always be foot traffic from the growth of Boynton Beach. He sits on the Palm Beach Metropolitan Planning Organization, and spoke with another FDOT representative. He quoted from their report. Florida is listed as one of the highest on record of Pedestrian and Bicycle accidents, and Palm Beach County is in the top 10 counties. Florida reported 600 bicyclist killed, and 10,000 pedestrian deaths a year. He felt the issue/goal of the project is to get people across in a safe manner. He urged the Commission to vote for safety. He presented to Clerk Hancsak the FDOT's safety report to be made part of the public record. He also suggested the possibility of selling Beachway Dr. to the residents to let it become a private road that could be closed off to the public. It would take the burden off the Commission and the residents would be responsible then for the maintenance of the road.

SPECIAL TOWN COMMISSION MEETING HELD MAY 2, 2013

Martin Gross, 5550 Osprey Drive, stated that he was new to Ocean Ridge, and felt that real documentation was missing as to the safety issues. If it was demonstrated as being an unsafe intersection then they should proceed with the project.

John Overton, FDOT representative, stated that most of his projects dealt with road traffic safety. This project is for pedestrian safety. A1A is a main road in South Florida, and Florida ranks #1 in pedestrian and bike crashes. This project would make it safer. The proposed crossover on the South side is long, and the pedestrian signal would acknowledge to the vehicles that someone wants to cross. Currently anyone who wants to cross over A1A has to wing it when the light is green. He stated that the project was for 4 pads, along with pedestrian signals that would provide a countdown display. The project did include one small sidewalk that would join the existing sidewalk on A1A to the new proposed pad. He also presented a display that showed A1A in Palm Beach County and the existing traffic lights. The intersection of Woolbright Rd and A1A showed that from 2009-2011 there had been 3 pedestrian/bicycle accidents; while the other intersections that currently had pedestrian signals had none.

Chief Yannuzzi, read into public record his memo to the Commission and Town Manager, stating that as the Chief of the Police, he was the Town's Traffic Engineer. It was his duty to plan and direct the operation of traffic and conduct investigations of traffic conditions. Since the August 2011 meeting monthly updates have been provided on a regular basis to the Commission and made part of the minutes. While he respected the concerns of the citizens in the area and agreed that the foot traffic in this area had increased, it did not alter his opinion that this project was in the best interest of both vehicular and pedestrian traffic. The benefit to the safety of the public at large should be the primary concern.

Penny Kosinski, 6000 Old Ocean Blvd, asked that in lieu of the project there be directional signs for the pedestrians instructing them to go down an eighth of a mile and use the existing pedestrian crosswalk area.

Ken Kaleel, 86 Island Dr, stated that 2 years ago when Ocean Ridge requested pedestrian crosswalks throughout Town, FDOT excluded the Woolbright intersection for safety reasons - there was not enough easement on the east side of A1A. He felt this was a dangerous intersection and that the project would promote additional foot traffic. He suggested that in lieu of the project, FDOT post a warning sign stating "DO NOT CROSS". He felt that the project was promoting additional foot traffic and creating a bigger liability. He noted that there is a blind spot at the South East corner caused by tall hedges and a bend in A1A down towards Briny Breezes. Also when a pedestrian is leaving Beachway, and trying to cross over to Woolbright, you cannot see oncoming traffic until you are out in the intersection because of the blind spot. He felt the "DO NOT CROSS" sign was a simple solution and would divert people to other existing pedestrian crosswalks.

Julia Walker, 108 Dolphin Dr, thanked FDOT for delaying the project and thanked the Commission for allowing the meeting. She felt everyone is concerned and anxious for safety of the neighborhood, stating there had also been an increase of break-ins in the area. She presented 3 points: 1) The Woolbright Bridge is the only bridge that extends into residential neighborhoods, while every other bridge either ends at A1A or has a public beach access at the end of it. 2) As you drive north on A1A it hugs the Atlantic Ocean all the way until the George Bush Blvd in Delray Beach, then it curves out. She feels Ocean Ridge is a jewel and a dream of many to live in a small house by the Ocean. 3) Because of the residential growth in the area the Woolbright Bridge is a pull straight through their small neighborhood to the Ocean. She proposed to the Commission that they delay a decision until after the summer.

John Overton summarized his presentation stating that FDOT has been taking a more focused look at bike safety, markings and pedestrian signals in the past 3 years. This project would not eliminate all the safety issues; however it would allow them time to cross in safety. FDOT was not interested in waiting much longer. Their contractor has bought the equipment and is ready to proceed. Ocean Ridge is a sister agency and as it is a state road, FDOT has the final authority.

Mayor Pugh thanked Mr. Overton for his presentation and Public Comment was closed.

Comm. Allison stated that this was a tough issue, the Commission is elected to protect the community, and she thanked the public for their concerns and alternative ideas for a crossover sign. As the town is at its

SPECIAL TOWN COMMISSION MEETING HELD MAY 2, 2013

11th Hour, she asked Mr. Overton if anything the Commission chose to say or do would change FDOT's decision to proceed. She felt it was urgent for the Commission to decide now and not delay.

Comm. Aaskov did not feel the locations of the cement pads were safe. She was not in favor of the project. She felt that more signs would confuse the drivers, and may be creating other safety issues in the future.

Comm. Brookes stated that this intersection was dangerous with a blind spot, and the fact that one resident even stated that she would rather jaywalk further south than cross over at Woolbright demonstrates it. The reality was that Ocean Ridge already has people coming over the bridge to nowhere, and we can't change Boynton's growth. He was not sure that new signage would correct the problem or to deterring them to use current pedestrian crosswalk signs would either. The current pedestrian crosswalk signs are not "safe" as they frequently get knocked down already. In the future maybe the Town could consider turning over the ROW on Beachway or the street itself, but for now he was voting for safety and the project.

Mayor Pugh stated that the intersections currently have signs directing people north and south to the beach. He requested that FDOT do further traffic studies as Woolbright is a dangerous intersection already. As you come over the bridge there is no left turn arrow, and it is hard to determine which direction the oncoming traffic is taking. He felt that a new signal button would give a false feeling of safety to the pedestrians. Ocean Ridge has more parks than most cities, but Ocean Ridge is not a tourist site - it is a small town, and this project may be creating a bigger problem. As a Commissioner he was representing the safety of Ocean Ridge's citizens not Boynton Beach's. He was in favor of writing a letter to FDOT requesting that they cancel the project – as citizens don't want it.

Mr. Overton stated that FDOT would only consider not going forward if the Commission sent a letter signed by the Mayor requesting that the Ocean Ridge did not want the safety improvement at this intersection. However if there was an accident in the future, FDOT would pull out this letter during the lawsuit showing that it was at the direction of Ocean Ridge that the project not be performed. There was a strong possibility however that this decision may be sent on to the State FDOT and from there to the Governor. FDOT would be compelled to answer whatever letter we presented. However, a pedestrian crosswalk is standard FDOT procedure to resolve dangerous intersections.

Atty. Spillias stated that the issue of government liability is not crystal clear as there are discretionary activities and planned activities which have sovereign immunity. If there was a law suit – FDOT would be listed and Ocean Ridge would be made a part of it with provision for liability. FDOT could shift the liability to Ocean Ridge. It is a State Road in our Town. Ocean Ridge is in a current lawsuit regarding a slip/fall injury that includes FDOT. Someone fell over a sprinkler head; and it is being handled by our insurance company. Atty. Spillias stated that if this crosswalk project was cancelled, Ocean Ridge would be exposed to liability. His advice is to assume the least amount of risk. On the other hand, if this crosswalk project proceeds, once it is in place and if an accident occurs for not working properly, then FDOT would be responsible.

Comm. Aaskov motioned to have a letter drafted to FDOT urging them to not proceed and that further traffic studies be performed at the intersection of A1A and Woolbright Road. Seconded by Comm. Allison.

Manager Schenck suggested that a separate motion be made if they want a traffic study.

Comm. Aaskov and Comm. Allison withdrew their motion.

Comm. Allison motioned for a letter to be drafted requesting that FDOT not proceed with the pedestrian crosswalk project at A1A and Woolbright. Seconded by Comm. Aaskov.

Motion Carried – Yea (3). Nay (1) Comm. Brookes.

Atty. Spillias advised Mr. Overton that the letter would be presented to FDOT by Monday.

Mayor Pugh requested a break at 10:35am before the second item on the agenda. Meeting resumed at 10:43am.

REQUEST FOR DIRECTION REGARDING THE CODE VIOLATIONS AT 6011 NORTH OCEAN BOULEVARD

Atty. Spillias stated that Keri Ann Baker, his associate, had been taking the lead regarding the short term rental violations occurring in Ocean Ridge. He asked that this item be added to the Agenda as she would not be available for the May 6th Commission Meeting, and if further research was required, this would allow time for it to be done before the Monday meeting.

Keri Ann Baker, associate of Lewis Longman & Walker, PA, stated that for the past 6 years she had been representing Ocean Ridge in our code enforcement cases. The number of short term rental in Ocean Ridge was increasing. Our police department is diligent in prosecuting, and following the proper steps for Code Enforcement, however it has been determined that the violations occurring at 6011 N Ocean will not be resolved without taking further legal steps. Since 2009 the owners have been renting out their properties as short term rentals. There have been 5 cases that could be proven, and probably more that cannot be proved and the owner has informed Ocean Ridge that they plan to continue. She suggested that the Commission to authorize them to draft a complaint injunction to send a message to other violators. If the injunction was ignored, they would be in contempt, and it would result in a court order.

Atty. Spillias explained that the Romano’s rental fees for this property were \$8,000/week. Our small code enforcement fines have no impact and are just a cost of doing business for them. He advised the Commission that this litigation would be at an additional cost and depending on how the Romano’s choose to fight, the total cost to Ocean Ridge could not be determined at this time. We could try a temporary injunction but if not then it would go to court. If found in violation, the court could sanction them or even incarcerate.

Penny Kosinski, 6000 Old Ocean Blvd, asked what the penalty would be and could we tighten the current code by increasing the fines or limiting them to only renting 4 times a year or have the renters register with Ocean Ridge. Ms. Baker stated that we are predicting that the Romano’s will ignore any future code enforcement, and a legal court has more teeth and can institute heavier fines, and possibly take away some of their profits. It was discussed that Ocean Ridge is currently drafting an Ordinance for Renter Registration, and possibly limit the number of rentals a year and ways the Police Department stop them. Atty. Spillias stated that the injunction could possibly be against the realty companies that are listing the rentals along with the property owners, and even possibly the renters.

Comm. Brookes motioned the approval of moving forward with legal action against 6011 N Ocean Blvd for the code violation of short term renting. Seconded by Comm. Allison.

Motion Carried – yea (4).

Meeting Adjourned at 10:55am.

Attest By:

Town Clerk

Mayor Pugh

Commissioner Aaskov

Commissioner Allison

Commissioner Brookes