

REGULAR TOWN COMMISSION MEETING HELD JUNE 3, 2013

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, June 3, 2013, 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	Mayor Pugh

Comm. Hennigan was absent with notice.

Pledge of Allegiance

ADDITIONS, DELETIONS, MODIFICATIONS, AND APPROVAL OF AGENDA

Atty. Spillias requested a change to the May 6th, 2013 minutes. Page 5, #3rd Paragraph from the bottom – change it from “to seek the advice of consultant” to “review the south end of town to determine where to allow commercial properties”.

CONSENT AGENDA

1. Minutes of Special Town Commission Meeting of May 2, 2013
2. Minutes of Regular Town Commission Meeting of May 6, 2013

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

Motion Carried – yea (4).

PUBLIC COMMENT

Representative Bill Hager, District #89 thanked the Commission for allowing him to speak. He gave a short presentation summarizing that Florida had passed a balanced budget of \$74.5 Billion. There had been no tax increase or fee increase this year, and they had lowered business taxes to entice businesses to relocate to Florida. They had also provided funding to enlarge the ports to allow an increase of imported business.

Comm. Brookes stated his concern with Citizen Insurance and their wind insurance policies. Mr. Hager understood his concern as he personally had Citizen's for his home, and stated that Citizen's Insurance had been created after Hurricane Andrew. Their challenge is that Citizen's has become so large it's stability is threatened. While Citizen's Insurance has \$6-7 billion funds in the bank, their exposure is \$.5 trillion. That is only about 1% available to pay off potential claims. It is a balancing act, and the whole state of Florida is a peninsula with tremendous exposure to hurricanes.

Chief Yannuzzi, thanked Representative Hager for his continuous effort to finally have the “Texting Law” approved in Florida.

Daniel Spotts, 1 Sailfish Lane, stated that he had received a notice from the Police Department regarding tree trimming. The power lines in his ROW were primary power lines. He quoted from the FPL website a statement warning citizens to not attempt to trim trees out of their power lines, and that FPL would do it at no charge. Five years ago he had received this same request, and did not feel it was appropriate to make the residents pay for the trimming or to have the Police Officers deliver the notices. He asked the Town Commission to change the Ordinance. Mayor Pugh stated that our Police Department serves as our Code Enforcement Officers, and their purpose is to enforce the Code. He also stated that the Town Manager was looking into Mr. Spott's concerns and was waiting on a response from FPL.

Gerry Magruder, 9 Ridge Blvd, requested an update regarding alarm signs for the residents that have their alarms monitored by the Police Department. The 52 Association has a private beach that was being abused by outsiders. The “Private Beach” sign had disappeared/removed by the violators. It seems that they were parking at the Capri Apts. and also leaving trash on the beach. She asked the Police Department to ticket them or have the vehicles towed.

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Chief Yannuzzi stated that he was still getting bids from suppliers for the alarm signs. In regards to the private beach being abused, he was unaware of any problems. The Police Department is not allowed to go onto private property to ticket or tow without proper authority. Comm. Aaskov stated that the replacement sign for the private beach had just come in and would be installed as soon as possible; she would also contact Capri Apts. and inform them that non-residents were using their lot for beach parking.

Kristine DeHaseth, 29 Sabal Island Drive, stated her concern of the new 12 story project being built at Ocean Avenue and Federal Hwy. While she understood that Ocean Ridge has no authority regarding the construction projects in Boynton Beach, she asked the Commission to be proactive as Station House #1 serves as our primary fire station. She was concerned with the level of service Ocean Ridge would receive once the project was complete.

REPORTS

3. Town Manager

Manager Schenck reported the following: 1) Coconut Lane Drainage – The project is complete and working as designed. We have submitted to FDEP for our grant funds. 2) FDOT Discussions - we are still working on the flap gate issue to reduce the flooding on Ocean Ave during high tides. The original plans show that the pond discharge was not built in a way that a flap gate could be installed. FDOT is still reviewing the plans to find a solution. 3) Bonito Dr Drainage – The project is complete and will eliminate the flooding at the west end of Bonito Dr.; however with the housing construction at the end of Bonito complete, the road will need another layer of asphalt to facilitate better drainage. 4) Inlet Cay Batter Pile Replacement – The pilings are complete for the north side of the road. The south side has a conflict with the power line. The replacement of the pilings on the south side has presented some conflicts we're working on to correct. 5) Inlet Cay Island – We've received 3 bids - \$188,846, \$199,152.87 and \$206,083.04. It will be discussed later in the meeting. 6) Salary Survey – The surveys we want to use for the analysis have not been completed yet. Once complete, we will develop a report for the Commission. 7) A1A Crosswalk at Town Hall. The design has been completed and submitted to FDOT for a permit. Once we receive the permit we'll obtain bids for construction.

4. Town Attorney

Atty. Spillias stated that over the last few years, Winter Park and Coral Gables had been in litigation to have liens take priority when a property is in foreclosure, just like taxes. Litigation is over and the response from the State of Florida was no, mortgages trump over municipal liens. Special Assessment is now the only avenue for compensation for municipal liens when a house is in foreclosure. In regards to the Inspector General, both appeals are over, and the case will go to trial. There are current discussions of a settlement proposal by the municipalities.

Comm. Brookes was concerned with the conflict that Lake Worth was having with their rental Ordinance and the State Ordinance regarding limiting the number of rentals per year. The State Ordinance regulation grandfathers any rental ordinances prior to 2011. Atty. Spillias requested that caution be taken regarding Fl State Code Section 509.032. This code states that in regards to "public lodging" - a local law may not restrict or regulate them. If we change our current ordinance, we lose our grandfather status as our code was prior to 2011. Ocean Ridge has former motels that are now rentals and he would have to check to see if we start limiting the number of rentals a year if we would be conflict with this state statute.

5. Police Chief

Chief Yannuzzi presented his monthly report and the monthly Boynton Beach Fire/EMS Activity Report. He was preparing a draft response to Briny Breezes for police service. This proposal was due June 15th. He also regretfully announced that Sgt. Eubanks had retired effective May 31, 2013 after 15 years. Chief Yannuzzi stated that he had received a Thank You note from Bill Mathis' daughter, thanking Ocean Ridge for their participation at her father's funeral with the Honor Guard and as pall bearers. Comm. Allison thanked Chief Yannuzzi and Mayor Pugh for his comments made at the funeral service; she felt it was a wonderful tribute to Bill Mathis.

6. Town Engineer

Engineer Tropepe was absent with notice.

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ACTION ITEMS

7. Request to Obstruct the Right-of-Way with Potted Plants at 32 Anna Street
Manager Schenck summarized that the Beslers were requesting permission to place potted plants in the Town's Right of Way on Anna St. The pots are movable if necessary. The main reason for the request is that he has been having a problem with work trucks running over the edge of his yard and destroying his lawn and sprinkler system. The pots will not adversely impact anyone's line of site on the road, and staff recommends approval.

Phil Besler, 32 Anna St, stated that his property and sprinklers have been repeatedly damaged. The last time his sprinklers had been damaged he was out of town, and came back home to a \$400+ water bill. Comm. Brookes asked if this request would cause any problems with the police department. Chief Yannuzzi stated that he did not see any issue with the pots, as this street is a dead end with little traffic.

Comm. Aaskov motioned to approve the request to obstruct the right of way with potted plants at 32 Anna Street. Seconded by Comm. Allison.

Motion Carried – yea (4).

8. Approval of Contract with Anzco, Inc. in the Amount of \$188,845.80 for the Inlet Cay Cul-De-Sac Repairs, with additional costs of \$22,300 to Engenuity Group for Surveying and Engineering Construction Services to be Funded with a Transfer from the General Fund Reserves to the Capital Projects Fund (See Resolution No. 2013-05; Budget Amendment also on this Agenda)

Manager Schenck stated that we had received 3 bids for the cul-de-sac repairs, and Engenuity had reviewed the bids, and recommended Anzco for the project. Anzco was the lowest bidder in the amount of \$188,845.80 with additional costs of \$22,300 to Engenuity Group for surveying and engineering construction services. This project was not a budgeted item, and staff recommends transferring \$225,000 from reserves to the Capital Projects Account for this project. The project should start within 30 days, and they would do only one cul-de-sac at a time. Each one would take approximately 60 days.

Comm. Aaskov motioned to approve the contract with Anzco, Inc. in the amount of \$188,845.80 for the Inlet Cay Cul-De-Sac Repairs with additional costs of \$22,300 to Engenuity Group for Surveying and Engineering Construction Services to be funded with a transfer from the General Fund Reserves to the Capital Projects Fund. Seconded by Comm. Allison.

Herb Stolitsky, 47 Spanish River Drive, stated his concern that this project would cause additional flooding to Spanish River and into his driveway, especially when the tide is up and the valve is closed. No water can get out and the water can rise up 3 to 4 inches in the gutter and into his lawn and his neighbors' lawn. He suggested that a new storm drain be put into the 2 empty lots on their street. He did not feel that changing the grade of the cul-de-sac would solve the drainage problem. Manager Schenck stated that the Town Engineer had reviewed the problem, the water is already flowing to the drains, and raising the cul-de-sac would help to facilitate the flow, and would work. To install an additional storm drain through other yards would not be economical.

Motion Carried – yea (4).

9. Discuss July Regular Meeting Date and also the Proposed Budget Meeting Date/s in July and the Two Required Meeting Dates in September

Clerk Hancsak stated that the Commission meetings were usually the 1st Monday of the month, however many may be on Vacation the first week of July, and asked if the commission would want to change it to the 8th of July. The budget meetings cannot be held on July 16th or the 31st, as they would be in conflict with the Palm Beach County meetings, and the Appraiser's office is requesting that we hold the meeting no later than the week of July 22nd. Comm. Hennigan would not be available on July 1st, and Comm. Allison would not be available on July 1st or the 8th.

The September meeting must also be changed because the offices are closed Monday Sept 2nd, for Labor Day. We always hold the Tentative Budget Adoption/Regular meeting together and the Final Adoption a minimum of one week later. The meeting cannot be held on Sept. 9th or the 11th.

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A consensus was made for July 1st for the regular commission meeting, to hold the budget meeting the week of July 22nd, and September 10th for the Tentative Budget Adoption/Regular meeting.

10. Authorizing Closing the Administrative Office on Friday, July 5, 2013 with Staff Utilizing a Vacation Day

Clerk Hancsak stated the administrative staff was requesting to take individual vacation days on Friday, July 5th, 2013, and closing Town Hall. The Police Department operation would be maintained as usual through this period.

There was a consensus by the Commission to allow the administrative staff to take an individual day and close Town Hall on July 5th, 2013.

11. Report on Mixed Used Zoning in South End of Town

Manager Schenck stated that he had received a proposal from Urban Design Kilday Studios to evaluate the south end of Town for mixed use zoning. The study includes the 3 properties of 5001, 5011, and 5019 N Ocean Blvd, and the cost is \$4300. If the Commission chose that only the 5011 would be commercial then no study would be required. The cost to change the Comp Plan would be \$9000 - \$10,000.

Lisa Sivitilli, 5011 N Ocean Blvd, stated that their property had always been a mixed use, and it seemed logical to keep it the same. This issue has caused a hardship, as they are unable to make improvements such as new awnings and repairing the parking lot until a final decision is made. Some of their tenants have been there over 16 years. They have no intention of selling the property, their family has been there over 31 years.

Atty. Spillias stated that if they ever tried to sell the property; there would be a problem as the current zoning is for residential only. If the Commission allowed the property to stay residential/commercial, they would have to revise the Comp Plan, and the Town Code to allow for mixed use to make the property legal. If the Comp Plan or Town Code was not changed, it might set a precedent for Code Enforcement cases. It would implicate that even the Town Commission doesn't abide by the Town Code.

Comm. Brookes was in favor of spending the \$10,000 to have the Comp Plan changed, as he felt it was monies well spent over the long term, and then this could be put to rest.

Mayor Pugh asked that the Sivitilli's present to the Commission at the next meeting, their proposed improvements for the 5011 Building considering that the Town was willing to fund the entire cost of the Comp Plan amendment and rezoning costs.

There was a consensus for the Town manager to obtain a contract not to exceed \$10,000 (for the total process) for rezoning the 5011 N Ocean Blvd site.

RESOLUTIONS

12. Resolution No. 2013-05; Amending Budget to Include a Transfer of Funds from the Unassigned Funds within the General Fund to the Capital Projects Fund

Manager Scheck summarized stating that these funds will be utilized for the Inlet Cay Island Drainage Improvement.

Comm. Brookes motioned to approve Resolution No. 2013-05. Seconded by Comm. Allison.

Motion Carried – yea (4).

SECOND READING AND ADOPTION OF ORDINANCES

13. Ordinance 603; Amending its Code of Ordinances, at Chapter Thirty, Licenses and Business Regulations, by Creating a New Article VII, Business Permit Section 30-157, Residential Rental Registration and Section 30-158, Fee; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification and Providing for an Effective Date

Clerk Hancsak read Ordinance No. 603 by title only.

Atty. Spillias stated the Commission directed him to prepare this Ordinance to include all residential property owners, with the exception of condominiums or cooperatives, who usually have their own rules.

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He stated that the fees had to be reasonable. A condo has an application process, and they charge registration fees to their renters. The purpose of the ordinance is to keep track of the rental homes and to establish administration fees for registration and fines for those who are not in compliance.

Betty Bingham, 1 E Ocean Avenue, felt that this would not stop those who were violating the code by short-term renting. Atty. Spillias explained that this Ordinance would allow the Town to penalize repeat violators.

Debbie Brookes, 15 Ocean Avenue, stated that the Town was already issuing fines to violators, and the violators were not stopping. She felt that the Ordinance should have more teeth and that the fines should be higher.

Atty. Spillias stated that the State Statute limits the fines, and for repeat offenders it is \$500/day.

Gerry Magruder, 9 Ridge Blvd, stated that one of her neighbors is overseas most of the time. However several times a year their "family members" arrive and stay for a few days, and she was unsure if they belonged on the property or are renters. After a few days of loud partying they leave.

Gary Kosinski, 6000 Old Ocean Blvd, felt that this Ordinance was a good starting point, and would allow the police to know who is on the property. He was in favor however of limiting the number of rentals a year.

It was discussed that this Ordinance would legally assist the Police with repeat violators such as 6011 N Ocean Blvd. The main purpose of this Ordinance was to promote neighborhood safety. It was also discussed that there were other methods of penalizing those who were short term renting as this was considered commerical, such as notifying the Appraiser's Office that they are abusing the Homestead Exemption. Palm Beach County also has a bed tax that could be charged to the homeowner, and change their property taxes status. Our Police Department is dependent on residents to notify them of offenders in their neighborhood.

Comm. Brookes motioned to adopt Ordinance #603 on Second Reading. Seconded by Comm. Allison.

Bernd Schulte, 5 Osprey Court, agreed with Mrs. Brookes, that only the honest homeowners would register their properties, the ones who were doing short-term rentals would not.

Motion carried – Yea (4).

Commission Comments

Comm. Allison stated that there seemed to be an increase of dogs on the beach in public areas. She asked the Police Department to walk along the crosswalks and ticket the violators. Chief Yannuzzi stated that last month there were 3 people ticketed for dogs on the beach, and 7 were issued for dogs at large.

Comm. Allison stated that Ocean Ridge had a new policy regarding employee bonuses. It allowed for a retirement bonus of \$100/year for those with over 20 years of service. Sgt Eubanks just retired after 15 years, and she felt that her service was above the call of duty and that a retirement bonus was deserving.

Chief Yannuzzi stated that at time of retirement, the officer does get their weapon, a retirement badge and ID Card.

Atty. Spillias stated that the Ordinance was adopted to implement the State Law for services beyond the expectation of the position and job description. Our policy specifies 3 types of bonuses: 1) Annual Bonus, 2) Exception Bonus - for those working during Emergency Services 3) Retirement Bonus - for those with excellent performance duty. The last paragraph of the policy states that the final decision of merit shall remain with the Town Commission. Atty. Spillias stated that this request could fall under this catch all phrase.

Comm. Allison motioned to authorize a retirement bonus of \$1000 to Sgt. Eve Eubanks for excellent performance duty. Seconded by Comm. Aaskov.

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Comm. Brookes stated that the issue of bonuses has been discussed several times over the last 2 years, and that the Policy was established for a reason. He did not feel it was the Commission's position to request a bonus and that it should come from her supervisor.

Chief Yannuzzi stated that with all due respect to Sgt. Eubanks, the overall review of her evaluations did not support anything more than average. He felt that if she was awarded a bonus that it would diminish others who were more deserving.

Comm. Allison stated that it was mentioned at the retirement luncheon that her file held 24 letters of commendations from the residents and that the community felt differently for Sgt Eubanks than her supervisor. Comm. Pugh was also confused it was not mentioned at the luncheon that she was just an "average" employee.

Motion Carried – yea (3). Nae (1) Comm. Brookes

Meeting Adjourned at 7:43pm.

Attest By:

Town Clerk

Mayor Pugh

Commissioner Aaskov

Commissioner Allison

Commissioner Brookes