

REGULAR TOWN COMMISSION MEETING HELD NOVEMBER 4, 2013

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, November 4, 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 Commissioner Hennigan
Mayor Pugh

Pledge of Allegiance

ADDITIONS, DELETIONS, MODIFICATIONS, AND APPROVAL OF AGENDA

Clerk Hancsak stated that Atty. Spillias requested to change his comment on the first page of the minutes to read "...public comment will be allowed on any item throughout the meeting." Clerk Hancsak also requested to add Item #20, First Reading of Amendment #604.

CONSENT AGENDA

1. Minutes of Regular Town Commission Meeting of Oct. 7, 2013

Comm. Aaskov motioned to approve the agenda and minutes as amended. Seconded by Comm. Allison.

Motion Carried – yea (5).

ANNOUNCEMENTS AND PROCLAMATIONS

2. The Administrative Offices will be closed on Monday, Nov. 11, 2013 and Thursday, Nov. 28th and Friday, Nov. 29th, 2013 for the Official Holidays
3. The Annual "Holiday Celebration" will be held on Friday, Dec. 13th, 2013 from 5:30 PM to 7:30 PM – Light Snacks and Beverages will be served and Children can expect a visit from Santa and some added fun
4. The PBC Bookmobile will be in the Town Hall Parking Lot on the Following Fridays (Nov. 8 & 22, and Dec. 6 & 20th 2013) from 1:00-1:45 pm

It was discussed that a Palm Beach County Library Card would be needed to check out books from the PBC Bookmobile. The County Library system is completely separate from both our Library and Boynton Beach's. Ocean Ridge would not be accepting the returned items at Townhall.

Clerk Hancsak noted that it was discovered that the Boat Parade was scheduled the same night as our Holiday Celebration, Friday, December 13th 2013. The consensus was to reschedule our Holiday Celebration to Thursday, December 12th, 2013 (5:30PM to 7:30PM).

PUBLIC COMMENT

Kristine DeHaseh, 29 Sabal Island Drive, announced that the Garden Club was sponsoring a White Fly Presentation on November 11th, 2013 at 6:30pm at Townhall. It is open to the public and all are welcome.

REPORTS

5. Town Manager

Manager Schenck reported the following: 1) 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. 2) Inlet Cay Batter Pile Replacement – The project is complete except for the removal of the piling caps in the water. We are still working with the contractor on repairing the road. 3) Inlet Cay Island – The project is complete and turned out well. A request for approval of additional funds will be addressed later in the meeting. We are still trying to isolate the inflow coming in the discharge pipes. We'll have to wait about a month until the high tides go down to properly televisive the lines. 4) A1A Crosswalk at Town Hall – The project is complete. The project cost \$600 more than anticipated because FDOT changed the sidewalk to 6". We'll use this year's maintenance funds for the \$600. The pedestrian

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crossing sign has been installed. 5) Old Ocean Blvd Right of Way – It will be discussed later in the meeting. 6) Beach Renourishment Project – It has cleared all of the State and Federal requirements and is set to start in November or December. 6) Beachway Dr Beach Crossover Signage – The residents of the Beachway Drive area have a major concern about nonresidents misbehaving on beach and misusing private property. They erected 2 signs which we removed but the issue needs to be addressed. We are working with the resident to come to a satisfactory conclusion. 7) Palm Beach County Library Bookmobile – Starting November 8th, 2013, the Bookmobile will be at Townhall from 1:00-1:45pm and parked across from the handicap parking. 8) FEMA Flood Maps – Engenuity has compared the old flood maps with the new ones. Unlike some other communities that had more areas put in the flood zones, they took several of our parcels out of the flood zone. Most of the changes are in the south end of the Town. We are working with West Palm’s consultants to see what we have to submit to FEMA to make sense of the map changes. FEMA is using 20+ year old criteria, and it’s not correct. Whatever we submit it must be done by November 30th, 2013.

Manager Schenck announced that on November 16th the Town of Lantana will host a “Bridge Opening” for the Lantana Ocean Avenue Bridge.

Comm. Hennigan asked for the status of the Private Beach signs. Manager Schenck stated that he was working with the residents and that the signs would need to be posted east of the dune on their property.

6. Town Attorney

Atty. Spillias reported that on November 25th, the Inspector General would have a Summary Judgment Hearing. If approved, they would not have the authority to make the municipalities pay, they would have sovereign immunity.

7. Police Chief

Chief Yannuzzi presented his monthly report and the monthly Boynton Beach Fire/EMS Activity Report. It does show an increase of 1400 calls for service. This however is just the CAD System and its method of reporting the calls. The officers now record each time they patrol a district. Chief Yannuzzi also displayed the new Alarm Monitoring Signs which are now available in Dispatch. Once the current billing is paid, one sign is available per household at no charge. A second sign can be purchased for an additional \$15.00. Chief Yannuzzi announced that the “Take Back Initiative for Expired Drugs had collected 18lbs of prescriptions from Ocean Ridge thru October 26th. He thanked all the residents that had participated.

8. Town Engineer

Engineer Tropepe was absent with notice.

ACTION ITEMS

9. Update on the Partial Abandonment of Old Ocean Blvd. Immediately South of Beachway Drive

Manager Schenck reported that he had sent correspondence to each of the 4 residents. Mrs. McGinn, 5518 Old Ocean declined the offer, while Mr. McIntyre, 5514 Old Ocean, and Mr. Arcelay, 5516 Old Ocean, had agreed to the requirements of the abandonment. Mr. Gale, 5512 Old Ocean is interested but would like to see a more definite cost before committing. The 3 residents that are interested are adjacent to each other and 2 of the properties have scavola. The one that declined is on the northern edge and is already maintaining their property, and won’t affect the purpose of what we’re trying to accomplish. Staff recommends working with the 3 residents that are interested. There was a consensus by the Commission for staff to firm up the costs of the abandonment, and proceed with the 3 residents that are interested.

10. Ratify Change Order #1 for the Inlet Cay Cul-De-Sac Drainage Improvements in the Expended Amount of \$31,366 to be Funded from Monies in the Capital Projects Fund

Manager Schenck stated that additional costs had incurred due to problems of trying to make the construction fit the terrain. The bids of the asphalt were based on a 1 inch overlay. It turned out the

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existing asphalt was 8" thick in some areas, and the roads had to be built up with additional rock and at least a 1½" layer of asphalt. We also had to extend the asphalt farther into the remaining road to provide the proper drainage elevations. It was also discovered that a new catch basin was needed on Eleuthera Dr. There were other issues also such as matching the road to the multitude of paver brick driveways, rock base, valley gutters and concrete curbing. Considering the complicated construction the project went smoothly and quickly with minimal disruption to the residents. The required changes did however increase the cost of the project in the amount of \$31,366.

Comm. Brookes motioned to approve Change Order #1 for the Inlet Cay Cul-De-Sac Drainage Improvements in the Expended Amount of \$31,366 to be funded from the Capital Projects Fund. Seconded by Comm. Allison.

Motion Carried – yea (5)

11. Authorize Budget Amendment to the FY 2012/13 Budget

Clerk Hancsak reported that during the process of FY 2012/13 Year End Closing a very preliminary review of the various departments was performed. The General Fund reflected that three departments will be over budget. The Inspection Department had an original total budget (\$110,500). This department is offset by the revenue generated for building permits. In other words we generated more building permit revenue (\$151,000+ vs. the \$110,000 budgeted or 138%) which in turn generated additional inspections and review. The total year end budget is approximately \$9,500 over budget. This department has exceeded the budget in prior years for this very valid reason but was still noted in the affected audits with an explanation of the revenue compared to the expenditures.

Another department that exceeded the total budget of \$198,800 is the Other Physical Environment, specifically in the Town Engineer and the Other Contractual Services accounts. The Town Engineer account had an original budget amount of \$56,000 but at year end \$77,741+/- was expended (\$21,741+/-). The Other Contractual Services account had an original budget amount of \$111,800 but at year end \$125,105+/- was expended (\$13,305+/-). The other department that had exceeded the total original budgeted amount of \$105,000 was the Legal Department, specifically over in the special counsel account. This account had an original budget of \$20,000 but at year end \$49,560 was expended (\$29,560 over). The primary reasons were due to the Inspector General Suit and the Romano situation.

Clerk Hancsak explained that the Florida State Statute at Section 166.241 (4) permits municipal governments to amend their budget any time during the fiscal year or within 60 days following the end of the fiscal year provided the amendment is for appropriations for expenditures within the same fund and is completed by motion and the fund is not changed. Seeking a budget amendment will make these departments within the General Fund under budget and therefore will not necessitate the auditor to note it in the audited financial statements, thereby presenting a "cleaner" audit.

We have remaining funds in the Contingency Account (\$20,000) and the Law Enforcement Regular Salary Account (\$43,000) and request that those funds be transferred to the Inspection Professional Services Account (\$10,000), Physical Environment Town Engineer Account (\$21,000), Physical Environment Other Contractual Services Account (\$10,000), and the Legal Special Counsel Account (\$22,000) as budget amendments. Transfers would be strictly internal and not affect the overall budget. These amendments will total \$63,000.

Comm. Brookes questioned why the Inspection Department was over. Manager Schenck explained that our permit revenue increased as a result of a higher number of permits. The additional permits caused additional reviews and inspections fees. The building inspections were \$6000 over budget, and the increased permit revenue offsets this expense. The Town Engineer account requires an adjustment of \$21,000. Additional engineer expenses were also due to the evaluation of the drainage issues on Thompson St, and the evaluation of the revised FEMA flood maps and also additional surveys for Inlet Cay and Thompson St. The Other Contractual Services Account includes several outside services including landscaping and no-seeum spraying. The \$10,000 adjustment resulted from the need for

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additional tree trimming and coconut removal prior to hurricane season and a white fly spraying program that involved most of the Town. The \$22,000 adjustment of the Legal Dept was a result of the Romano code problem (\$20,000) and the Inspector General lawsuit (\$7,000) and the PBA negotiations (\$5000).

Comm. Allison motioned to authorize the internal budget amendment for FY 2012/13 and also approve amending the budget to reflect the contingency expenditures to the various departments during FY 2012/2013. Seconded by Comm. Aaskov.

Motion Carried – yea (5).

12. Authorize Bidding for Thompson Street Drainage Improvements

Manager Schenck stated that staff has been reviewing the options to correct the flooding on Thompson Street. The road is constructed so that there is a belly in the middle between Old Ocean and A1A. The water constantly collects there and eats away the asphalt and causes flooding problems in the street. To correct the problem, we have designed a trench drain system to collect the water underground that would need to be constructed. The funding would come from the Capital Improvement Acct that was approved as a part of this year's budget. The estimated construction cost is \$62,000 which includes record drawings, engineering during construction and inspection and a 25% contingency. Engenuity's cost to develop the bidding documents and handle the bidding approvals is \$3200. Staff was requesting approval to go out to bid and the authorization for Engenuity to assist. Manager Schenck stated that he had spoken with the residents on Thompson Street and shown them the proposed plans for the project. He also stated that he originally budgeted \$25,000 for this project so the additional funds will need to come from one of the other budgeted items.

Comm. Allison motioned to authorize bidding for Thompson Street Drainage Improvements and \$3200 for Engenuity to assist with the bidding approval to be funded from the Capital Projects Fund. Seconded by Comm. Hennigan.

Motion Carried – yea (5).

13. Review of the Rental Fee Ordinance (#603)

Comm. Aaskov had requested a review of Ordinance 603 as it affects rental fee registration. Several apartment owners have stated that they feel the fee per lease is excessive.

Robert Weisblut, 5001 Old Ocean Blvd, stated that he had just recently been informed of the Ordinance, and while he had no problem with the goal/purpose of the Ordinance, he questioned why condominiums and co-ops were exempt and not apartment buildings. He is the owner of a 6 unit apartment building, and stated that they are state regulated and registered as a non-transient property. He felt he could not go back and request more money from his existing renters. With his 6 units, the cost would be \$300, and he felt it would be a burden. He had also reviewed the previous commission meeting minutes and felt that the intent of this ordinance was directed toward single family properties not apartment buildings.

Comm. Aaskov stated that condominiums and co-ops are non profit, while apartment buildings are not. Condos and co-ops also have a board that regulates them. She did however feel it would be hard to regulate the few motels (apartments) that we have in town and it could potentially be \$6000/yr if they had 10 units that were rented out monthly. She stated that the Boynton Beach charges rental properties only \$35/yr.

Comm. Hennigan stated that they had voted for the Ordinance, and was unsure why it was being discussed again. The purpose of the Ordinance was to keep the Town under control and for the safety of the residents. She felt the \$50 per lease was a reasonable fee. Comm. Brookes agreed that the Ordinance was designed as a safety factor. However he would be in favor of the registration fee to be designated for new leases only. Comm. Allison agreed with Mr. Weisblut concerning the possibility of exempting existing leases. In the beginning the purpose of the Ordinance was to restrict short term rentals for single family homes but was changed at first reading.

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Chief Yannuzzi stated the safety issue started with the sober homes, transient housing, and then the Romano residence. Ocean Ridge does not have a utility department to keep track of renters like other municipalities. He felt that \$50/lease was reasonable over the long term. Most occurrences are at night or the week-end and the police department needs some notification as to who is/isn't allowed on the properties. Notice of the new Ordinance was sent out with the Garbage/Trash billing in October 2013 and 40 registrations have been received to date. The Police Department was waiting until January to allow residents sufficient time to register. At that time notices would be sent out to the known rental owners, and enforcement would begin. He requested direction from the Commission stating that the Police Department will enforce whatever rulings approved by the Commission.

Atty. Spillias questioned if existing leases were subject to the Ordinance as the "fee is to be paid in advance". He clarified that the Ordinance is meant for any new leases going forward or those listed as month to month or indefinite. He also stated that the lease does not have to be submitted with the rental registration. If the property went for Code Enforcement then the lease would become evidence and public record.

Stella Kolb, 204 Beachway, stated that she was renting her home on Osprey and that she had no written lease. She was renting it month to month until the renters would be able to move into their new home that was being built. Atty. Spillias stated that as the lease was being renewed month to month she would have to register the property. Ms. Kolb stated that she would register then.

Brandon Caldwell, suggested enforcing the Ordinance through a business tax license. Mayor Pugh stated that this dealt with residential and it should have different regulations.

Betty Bingham, 1 E Ocean Avenue, requested that when the notices were sent they include verbiage that a heavy fine could be assessed if they don't comply.

14. Discuss P & Z Commission's Recommendation to Permit an Allowance for Garages in the Floor Area Ratio (FAR) Calculation

Manager Schenck stated that P&Z had met on October 28th to discuss Far regulations in the Town Code. Their recommendation was for a 50% allowance with a cap of 300 sq. ft. for garages for lots that are less than 20,000 sq. ft. provided they are not converted to living space.

Comm. Hennigan stated that she had reviewed the minutes of the P&Z meeting, and requested that James Bonfiglio, Chairman of the P&Z Board clarify their proceedings and their recommendation..

James Bonfiglio, Chairman of the P&Z Board, 5616 N Ocean Blvd, stated that FAR had been discussed at their meetings several times over the past years. Speaking personally, he did not feel that it should be changed as the existing ambiance and reflection of the town was a result of the current FAR. He did state that a majority of the Commission however that felt this recommendation would be a fair compromise to allow for more living space.

Berndt Schulte, P&Z Commissioner, stated that the recommendation was 3-2 and was approved and he felt only the recommendation should be addressed.

Mauro Walker, P&Z Commissioner, stated that in the past he had voted against changing FAR. Only Gulfstream and Ocean Ridge use FAR as a guide for their zoning requirements. The current code allows for 200 sq. ft. to be used for 2nd floors, and to allow 300 sq. ft. for garage area, was not a big change and a fair compromise.

Mark Marsh, P&Z Commissioner, stated that the Commission has asked P&Z to review the idea of changing the FAR many times over the past few years and usually only 1 member of the public attend these meetings. He was not in favor of increased massing. He felt that a 300 sq. ft. allowance was a compromise but would ultimately chip away at the character of the Town.

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Brandon Caldwell, 66 Spanish River Dr., stated that many of the residents in Ocean Ridge park their cars in the driveways and felt this was a result of not having enough living area in their homes for storage, and had to use their garage for storage. Even though adding the 300 sq. ft. was not alot; he hoped it would encourage more families to build in Ocean Ridge.

The Commission thanked the members of the P&Z Board for their expertise is reviewing and their recommendation.

Comm. Brookes motioned to approve the recommendation of a 50% allowance with a cap of 300 sq. ft. for garages for lots that are less than 20,000 sq. ft. provided they are not converted to living space, and to permit the Town Attorney to draft an Ordinance to change the Zoning Code.

There was no second, and the motion died.

RESOLUTIONS

15. Resolution No. 2013-09; Amending the 2013/14 Budget to Include a Transfer from the General Fund Restricted Fund Balance and the Unassigned Fund Balance to the General Fund Operating Budget (to fund a Building Permit Refund)

Atty. Spillias stated that there was a request in September for a refund of permits fees for a proposed new single family residence at 6161 N Ocean Blvd. He had spoken with the prior owner's attorney and they have agreed to the attached Full and Final Release for a total amount of \$36,773.65. State Law does allow for municipalities to refund permits at their discretion. A policy should be developed for refunds. Palm Beach has a provision to keep administration fees within a time frame. If approved no litigation would be necessary however no funds would be issued until signed releases were received. Our costs totaled over \$20,000 for review. Permit fees are for services performed therefore we are deducting costs that have not yet occurred.

Comm. Allison moved to approve Resolution No. 2013-09; Amending the 2013/14 Budget to Include a Transfer from the General Fund Restricted Fund Balance and the Unassigned Fund Balance to the General Fund Operating Budget (to fund a Building Permit Refund) and to request the Town Attorney to review a policy for refunding permit fees. Seconded by Comm. Aaskov.

Motion Carried – yea (5).

16. Resolution No. 2013-13; Providing for Public Participation Guidelines in Accordance with Newly Adopted Senate Bill 50 Which is Codified at Sec. 286-0114, Florida Statutes, as Well as General Rules of Procedure Governing the Town's Public Meetings Including Telephonic Participation by Commissioners

Atty. Spillias stated that per the Commission's request he had drafted language to permit telephonic participation under certain circumstances such as emergencies. It would allow the process of participation, but not the ability to vote over the phone. Per the Sunshine Law it is necessary to be in the municipality for voting purposes. The attached resolution will replace Resolution 2013-07 in its entirety.

Comm. Allison motioned to approve Resolution No. 2013-13. Seconded by Com. Hennigan.

Motion Carried – yea (5).

17. Resolution No. 2013-14; Urging Members of the Florida Legislature to Oppose Legislation that Would Mandate the Use of a Uniform Chart of Accounts for All Governmental Entities to Report Financial Information

Manager Schenck stated that the Florida League of Cities and the Florida Government Finance Offices Assoc. are both opposed to this mandate. They are requesting all municipalities adopt this resolution. To change to a uniform chart of accounts would be at the cost of the municipalities.

Comm. Brookes motioned to approve Resolution No. 2013-14. Seconded by Comm. Allison.

Motion Carried – yea (5).

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18. Resolution No. 2013-15; Designating the Supervisor of Elections and the Town Clerk as the Canvassing Board, to be in Attendance for the Testing of the Computer Electronic Systems Tabulating Equipment to be Used for the General Election Scheduled for March 11, 2014 and to Canvass Returns of Such Election Including the Absentee Ballots; Assigning Supervisor of Elections to handle the Absentee Ballots

Comm. Brookes motioned to approve Resolution No. 2013-15. Seconded by Comm. Allison.

Motion Carried – yea (5).

19. Resolution No. 2013-16; Authorizing the Mayor and Town Clerk to Execute the Agreement for Vote Processing Equipment Use and Election Services by and Between the Palm Beach County Supervisor of Elections (SOE) and the Town of Ocean Ridge

Comm. Allison motioned to approve Resolution No. 2013-16. Seconded by Comm. Hennigan.

Atty. Spillias disclosed that he represents Palm Beach County Supervisor of Elections, however he had no participation in the creation of the agreement.

Motion Carried – yea (5).

FIRST READING OF ORDINANCES

20. Ordinance #604; An Ordinance of the Town of Ocean Ridge, Florida, amending Article V, Sections 2-191(a), 2-191(b) and 2-193 of the Code of Ordinances to amend the code of Ordinances language regarding the applicability of State Law Generally; Remove the exemption of the Town from uniform filing dates and election dates; conform the qualifying time for candidates for the Office of Town Commissioner to the time provided in Laws of Florida Chapter 8e-498; providing for codification; providing for repeal of all Ordinances in conflict; providing for severability; and providing for an effective date.

Clerk Hancsak explained that this would make the election filing dates of Ocean Ridge uniform with other municipalities considering we have changed our election date.

Comm. Allison motioned to approve the First Reading of Ordinance #604. Seconded by Comm. Hennigan.

Motion Carried – yea (5).

Meeting Adjourned at 7:35pm.

Attest By:

Town Clerk

Mayor Pugh

Commissioner Aaskov

Commissioner Allison

Commissioner Brookes

Commissioner Hennigan