

REGULAR TOWN COMMISSION MEETING HELD JANUARY 6, 2014

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, January 6, 2014, 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

Town Clerk Hancsak advised that the title of Ordinance #605 under Item #16 has changed slightly for first reading.

CONSENT AGENDA

1. Minutes of Regular Town Commission Meeting of December 3, 2013

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

Motion Carried – yea (5).

ANNOUNCEMENTS AND PROCLAMATIONS

2. The Administrative Offices will be closed on Monday, Jan. 20, 2014 for the Official Holidays
3. 2014 Municipal Election/Eleccion Municipal 2014
 - a. Proclamation for Election Held on March 11, 2014/Proclamacion para eleccion sostenida el 11 de marzo de 2014
 - b. Two Commission Seats Open for a Three Year Term/Comision dos puesto para tres anos cada
 - c. Candidate Filing Dates run noon January 28, 2014 through noon on February 11, 2014/Las fechas de la clasificacion del candidatos recorren mediodia 28 de enero de 2014 de mediodia del 11 de febrero de 2014
4. The PBC Bookmobile will be in the Town Hall Parking Lot on the Following Fridays (Jan. 17th and 31st) from 1:00-1:45 pm
- 4a. Proclamation for “National Stalking Awareness Month” in January

PUBLIC COMMENT

None

REPORTS

5. Town Manager

Manager Schenck reported the following: 1) Inlet Cay Batter Pile Replacement – The project is complete except for the removal of the pile caps in the water. 2) Inlet Cay Island – The project is complete and turned out well. The lines cannot be properly televised, because the excessive water obstructs the camera, until the high tides go down. We are aware of problems with a break in the line at 88 feet and the valve leaks in the line on Bimini Cove. There may also be two other lines that have leaky valves. There is also a drainage problem with algae growth at the end of Eleuthera Drive that is an item further in this agenda. Staff has met with the residents to address the bridge approach and it is also on the agenda. 3) Old Ocean Blvd Right of Way – Engenuity is working on the surveys for the four properties that will be used to develop the property transfer documents. Ms. McGinn at 5518 has reassessed the proposal and decided to join in the property abandonment. 4) PBC Library Bookmobile – They have been to Town Hall several times but unfortunately have not had many visitors. 5) FEMA Flood Maps – Engenuity has prepared a disc with the Town’s drainage improvements and submitted it to FEMA in hopes that it will lead to changes in the flood map. We did have about 145 parcels removed from the flood zone; however, there should be more. It appears that FEMA will not be inclined to revise their original proposed changes 6)

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Thompson Street Repairs – the bids were accepted on Dec. 20th and three were received. It is an item later in the agenda. 7) Lecture Series – The next lecture to address marine life and shipwrecks off Boynton Beach will be held on January 9, 2014 at 7 PM.

Comm. Allison and Comm Brookes both encouraged the residents to attend.

6. Town Attorney

Atty Spillias provided an update to the Inspector General Lawsuit by advising that the Municipalities' Motion for Partial Summary Judgment was denied with no reasons cited. Therefore, the trial is set for Jan. 27, 2014. He stated that the attorneys that are spear heading the case will be conducting the background research but he felt a first round resolution should be known within the next couple of months.

He also advised that he would be out of the country for the February meeting but Tara Duhy from the firm will be present.

7. Police Chief

Chief Yannuzzi presented his monthly report and the monthly Boynton Beach Fire/EMS Activity Report. He also summarized the commendation that Dispatcher Brandi Gonsman received due to the assistance she provided during a serious medical call. He added that the Town has received two reimbursement checks from the County totaling in excess of \$22,000.

8. Town Engineer

Engineer Tropepe was absent with notice.

ACTION ITEMS

9. Request Site Plan Approval for New Entrance Sign for the Boynton Beach Oceanfront Park By: Wally Majors, Director of Boynton Beach Parks and Rec

Town Manager Schenck advised that Boynton Beach had voted to change the name of the park across the street to the "Boynton Beach Oceanfront Park". As a result they would like to replace the existing sign which will be 48" wider than the existing, however; 26" lower. Our Town Code requires that governmental signs must have site plan approval by the Town Commission. There are no size restrictions in the code.

Wally Majors, Director of Parks and Recreation, reiterated the Town Manager's summary and asked if there were any questions. Comm Allison questioned if it would be in the same location to which she was advised it would be just 4' wider in the same location.

Merilee Lundquist, 6277 N Ocean Blvd., requested that Boynton Beach place additional signs at the beach advising that the dunes are protected because they are being continually damaged. He advised that he would investigate the issue and the extent of the problem. He suggested that both Town Managers discuss the issue.

Ken Kaleel, 86 Island Drive So., suggested that the staff research whether there were any stipulations on the name when the special exception was granted.

Gary Kosinski, 6000 Old Ocean Blvd., mentioned that trolleys now transport and drop off citizens to the Oceanfront Park and questioned whether they are licensed. He added that he did not believe that they only travel to Oceanfront Park.

Comm Allison moved to table the item until the next meeting so staff can research whether there were any stipulations for the verbiage on the sign. Comm Hennigan seconded the motion.

Motion carried – Yea (5)

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10. Request to Obstruct the Right-of-Way (ROW) at the Extreme East End of Fayette Drive to Allow a Paver Walkway Leading from Ocean Manor, 5500 Old Ocean Blvd., to Fayette Drive By: Bill Osler, Ocean Manager Representative

Town Clerk Hancsak advised that Ocean Manor was requesting permission to install a five foot wide patch of pavers across a ten foot wide ROW between the back (west side) of their property line and Fayette Drive. They plan to remove a portion of the concrete wall and erect a gate to provide an ingress/egress for emergency resident pedestrian traffic and also an access point for the sanitation workers to remove the garbage filled dumpster. The dumpster is located in the rear of their complex and it would be easier for the sanitation workers to enter the gate and roll the dumpster out to Fayette Drive for pick up. Staff does not foresee any issues regarding this request other than approving it contingent on the execution of the Agreement to Obstruct the ROW, thereby holding the Town harmless.

Robert Thompson, 5500 Old Ocean Blvd., representing Ocean Manor, stated that in addition to the access for pedestrians and the sanitation workers it would also assist the fire department if necessary because there is a fire hydrant located adjacent to the proposed pathway. It would also provide a safer environment if the sanitation trucks did not have to pass through the parking area.

Comm Aaskov questioned whether the Fayette Drive residents were contacted to which she was advised that they had contacted the unofficial "Mayor" of the street who stated they would not be opposed. Clerk Hancsak also stated that they were advised that the garbage pickup would be on a trial basis to determine whether there were any spills, containers left out, or odors that may occur.

Comm Aaskov moved to approve the request for a ROW Obstruction Agreement provided that the new location for the dumpster pickup be changed back through their parking lot if complaints are received. Comm Allison seconded the motion.

Motion carried – Yea (5).

11. Discuss Erecting a New Sign to Include "Public Access" at the Beachway Drive Crossover

Manager Schenck started by stating that the Coastal Star had misquoted him in an article relating to this issue by reporting that he was not aware of the signage proposed by the residents when in fact he was.

Mayor Pugh commented that he was not in favor of placing "Public Access" back on the sign and went on to explain that this issue actually had two main concerns. The first concerned an immediate increase in police pressure on beach and the second involved a long term plan to manage our beaches so our residents can enjoy a clean, safe environment where they reside. He suggested the P & Z Commission do a complete study on how to manage the crossovers, research liability issues, and issues that involve the residents and provide recommendations in a comprehensive study.

Comm Allison and Comm Hennigan thanked the residents for their input since last meeting outlining the beach problems and abuses and Comm Allison commented this has changed her feeling also on the signage. Comm Allison agreed with Mayor Pugh and suggested a possible joint committee. Comm Hennigan added that the issue actually extends to all of the crossovers and the study should include input from the Town Atty, Police Chief, Town Manager and also the community citing that the Town needs to balance the needs of our residents and our liabilities. Comm Hennigan questioned if the Sunshine Law would apply if the Town created a committee.

Atty Spillias advised that this is not a new issue in Florida as a lot of smaller towns on the east and west coast experience these same concerns. The legal aspect must balance the law, property rights and the public's rights to the access below the mean high water mark. He stated the towns must provide access to the public area. He suggested that the staff research what other communities have done when their public beach is affected with problems by those that use it, possibly through the Florida League of Cities or the

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Beach & Shore Preservation. He added that State agencies urge not just to listen to local residents but also other members of the public. Atty Spillias suggested sending the issue to the P & Z Commission after staff had done some research in order to guide them, adding the public is encouraged to come. He also suggested that staff possibly meet with the Boynton Beach staff to discuss the issues.

Comm Brookes stated that he has received calls on both sides of the issue and felt at a minimum that the 2 signs on private property should face the beach instead because when people walk onto the beach from the crossover they would normally proceed closer to the water and upon returning they would be made aware that the other areas were private. He stated the signs are definitely misleading and intimidating in the current direction. He added that he has no problem with not adding "Public Access" to the sign. He further stated that most of the issues are enforcement issues.

Gary Kosinski, 6000 Old Ocean Blvd, stated that he felt the Town signs that state "Public Access" were the ones that were misleading and should be removed because they provide a false sense that there is a public beach with facilities and lifeguards present. He stated that there has been weddings and drinking in addition to other abusive things on the beaches. He felt if the Town needs to advertise they should post that the public access is below the mean high water line (MHWL). He concluded by stating that in the next ten years the density in Boynton Beach will at least double and the Town should plan for it now. Comm Hennigan agreed that the Town should possibly educate individuals where the MHWL is through police education and a marketing campaign.

Lucy Brown, Harbour Drive South, stated that it is important to keep the two concerns (public access issue and people abusing the beach) separate. She commented that there were two court cases involving Palm Beach, possibly in 1974 and 1990, similar to this public access issue whereby the court said that failing to put signs up or the placement of barriers (similar to the current private signs) hides the fact that it is a public access. She cautioned the Town being vulnerable to litigation.

Steve Coz, 2 Osprey Court, was in favor of the P & Z Commission and a committee of residents working together. Atty Spillias advised that he was not suggesting a Citizen Committee at this time but the Town Manager can surely meet with those on both sides and encourage them to submit their concerns.

Chief Yannuzzi stated he was always available to discuss the issues at the crossovers or on the beach. He stated that he needed to clarify that complaints regarding trespassing must come directly from the owner involved. Atty Spillias stated that in order to be guilty of trespass there is specific criteria and he read the definition under the Florida State Statutes. Comm Hennigan questioned whether a letter submitted from the property owners to the Chief would be sufficient to which Atty Spillias advised they would not.

There was a consensus for the staff to develop a time frame to research various aspects relating to all of the public access beach crossovers; such as liabilities, legal ramifications, resident concerns, and enforcement issues, also schedule a future meeting with the P & Z Commission, and to place this topic on each regular agenda item until further notice.

12. Approval of Thompson Street Drainage Improvements in a Total Amount Not to Exceed \$82,150 Which Includes \$74,600 to Anzco, Inc. for the Construction and \$7,550 to Engenuity Group for the Related Professional Services from the Capital Projects Fund

Manager Schenck advised that the three bids received were opened on Dec. 20th. The bidders were Anzco, Inc. (\$74,600), Foster Marine (\$83,802.50), and Hardrives (\$106,037.50). Anzco has done several projects for the Town and is capable to undertake the project. Based on the bids and Anzco's abilities staff recommends approval with funding from the Capital Projects Fund. He explained that the original estimate prior to the design being completed was \$25,000, therefore, the higher cost will impact

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the account anticipated for paving projects. He stated Engenuity Group will provide the engineering and surveys at a cost not to exceed \$6,550 and physical testing will not exceed \$1,000.

Manager Schenck also mentioned that he received a proposal from Gary Kosinski (one of three residents on Thompson St.) to undertake the project if the Town abandoned the street to private ownership.

Comm Hennigan moved to approve the Thompson Street Drainage Improvements as outlined by the Town Manager. Comm Allison seconded the motion.

Motion carried – Yea (5).

13. Approval of \$15,000 from the Capital Projects Fund to Seal the Gutters on Eleuthera Drive

Town Manager Schenck stated that there are problems in the gutters on Bimini Cove and Eleuthera Drive. On Bimini Cove ground water springs are discoloring the gutters with iron residue and sealing the concrete will provide better flow and reduce the staining. It may not cure the problem but should help. He stated there is a serious algae problem in the gutter on Eleuthera due to the inflow from the high ground water. The cul-de-sac and adjoining road have sunk and are now below the high ground water level. The ground water leaks onto the road and because it doesn't drain it creates stagnant water. Fertilizer and septic tank drain field leakage contribute to the problem. The only way to totally get rid of the problem would be to raise the road at a very expensive cost. He was recommending cleaning and sealing the concrete gutter to provide better flow and inhibit the algae sticking to the road. The Town also needs to correct a driveway issue to provide better sealing and inhibit the inflow from groundwater. He advised he received a proposal from Anzco, Inc. in an amount not to exceed \$15,000 and staff recommends approval, although this project would also reduce the funds set aside in the Capital Projects Fund set aside for paving.

Mayor Pugh commented that he felt \$15,000 was too expensive for a solution that will only last 1-3 years adding that staff could pressure clean the affected areas at a much lower cost. Town Manager Schenck advised that this would probably need to be conducted weekly. Mayor Pugh also felt the proposal was not specific enough. The other Commissioners agreed. Manager Schenck stated it may be easier to take out the valley gutters and replace with asphalt.

Comm Hennigan moved to seek a more comprehensive bid explaining how to solve the problems, seconded by Comm Allison.

Motion carried – Yea (5).

14. Approval of Additional \$9,000 from the Capital Projects for Repaving and Landscaping for the Inlet Cay Bridge Approach

Manager Schenck stated that the seawall repairs completed last fiscal year have created problems with the road and the adjacent vegetation. Staff has coordinated with the Inlet Cay residents to ensure that the repairs when completed are functional and aesthetically pleasing. He advised that the road needs to be stabilized and repaved from the bridge to the electric boxes east of the bridge. The plan is to add a concrete curb and flumes to facilitate drainage and the paving will be asphalt. Sprinkler line and conduits for water and electric will be replaced/repared. Six palm trees along the bridge will be removed and replaced with Bismark palm trees and the good trees will be replanted. Hasthorne bushes will fill in the existing gaps and Bougainvillae will cover the guardrail.

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Manager Schenck stated that the Commission already approved Anzco, Inc. for the initial repaving at a cost of \$21,000, however; the scope and cost has changed. The total cost is now \$29,530 which includes Anzco's additional \$3,530 cost and \$6,000 to Chris Wayne and Assoc. for the vegetative portion.

Mayor Pugh commented that when the trees are removed it will leave a gap and it was a wise decision to suggest the planting instead of erecting additional guardrail.

Comm Brookes moved to approve the additional \$9,000 for the repaving and landscaping at the Inlet Cay Bridge as outlined by the Town Manager from the Capital Projects Fund. Comm Allison seconded the motion.

Motion carried – Yea (5).

Mayor Pugh rearranged item 15 and 16 on the agenda.

#16. Ordinance #605; Amending Chapter 6, Article V of the Code of Ordinances Adding New Section 6-108 Through 6-111 to Conform the Code of Ordinances Language Regarding the Permitting and Installation of Low-Voltage Alarm Systems to the Florida State Statutes; Providing for the Repeal of all Ordinances in Conflict; and Providing for an Effective Date

Clerk Hancsak read the new title of Ordinance #605.

Atty Spillias stated that the new sections in this ordinance will not change the user permits as it relates to property owners but will change the building permit process. He explained that this ordinance is a result of a State mandate that permits low-voltage alarm systems to be installed without the need to wait for a permit and the requirements are outlined in the ordinance.

Comm Aaskov moved to adopt Ordinance #605 on first reading. Comm Brookes seconded the motion.

Motion carried – Yea (5).

15. Town Manager Evaluation

Comm Hennigan commented that she reminded the Commission of the evaluation at the last meeting and stated that she felt each employee is entitled to an evaluation to be made aware of the good areas and also the areas that may need improvement. Each Commissioner provided comments based on the previous outline.

Comm Brookes commented that Manager Schenck's overall skills in each area were satisfactory. He commented that his Communication skills have improved and has exceeded expectations. He felt the Policy/Procedures Skills were conditional and requires improvement, citing the item for the Boynton Beach sign as an example. He stated there should be more contact with Boynton Beach. He felt the Planning and Organization skills went from a 2 to a 4 but he needed to be more proactive. He stated that the Town Manager had good relations with the Commissioners and he was outstanding with Personal Traits.

Comm Hennigan commented that Manager Schenck's overall skills were satisfactory and there has been improvement from last year. She felt his Leadership skills were more visible and he was more willing to listen. She felt he still was not perceived to be the leader of the Town and he needed to be more proactive but she stated she felt it was lower in the past. She felt the Town Manager may still delegate too much. The written communications has improved but oral messages are still not complete. The Planning and Organization skills need improvement because he still shows no evidence of planning for future needs.

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She did acknowledge the development of the “Wish List” but it needs to be prioritized. She stated that he has a great relationship with the Commissioners but as the conduit he needs to drive some issues of knowledge and provide opinions. She also felt he was reactionary with the residents, citing the Beachway crossover as an example. Regarding Intergovernmental Relations she commented that he is well connected with his constituents but not proactive in using these other resources, again citing the beach issues. She concluded by stating he had great Interpersonal Skills but he could use them more effectively and he was more confident and open minded since the last evaluation.

Mayor Pugh stated he was not a fan of public evaluations and if he had a concern he has addressed it directly with the Town Manager. He stated he felt Manager Schenck has had improvements since last year and has done a good job but agreed he is still more reactive than proactive. He commented that his job, at least in this Town, is the same from year to year and the Commission has selected him to perform it and if there were to be changes it would actually be in the form of the Commission doing so. He requested that if the manager planned on retiring he should provide enough notice so proper planning could be done. He did state that he felt the manager should make himself more present around Town to see what is happening. Overall he stated that Manager Schenck performs the job he is supposed to do and thanked him for his service.

Comm Allison stated that Town Managers teeter on an interesting fence with trying to satisfy all the Commissioners as well as the residents. She agreed with Mayor Pugh regarding the Manager as being more reactive than proactive and if the Commissioners want a stronger personality it would be up to the Commission to make a change. She felt he has gotten out around Town more in this past year and he is well respected by the residents and staff. She stated staff worked well together as a team and felt he was more familiar with the budget this year. She agreed that he should converse more with other communities, such as Boynton Beach. Concerning future planning she stated that it appears evident that he is not proficient at strategic planning and the Town may need to hire outside assistance for that. She concluded by stating that she likes working with him and it has been a good year.

Comm Aaskov stated that she agreed with Mayor Pugh’s comments about evaluations at a public meeting. She also stated that she agreed with the compliments and she doesn’t necessarily agree with the negative ones. She stated the residents appreciated what he has been doing for the community.

Town Manager Schenck thanked the Commissioners for their input.

Meeting Adjourned at 7:45 pm.

Attest By:

Town Clerk

Mayor Pugh

Commissioner Aaskov

Commissioner Allison

Commissioner Brookes

Commissioner Hennigan