

## REGULAR TOWN COMMISSION MEETING HELD MAY 5, 2014

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, May 5, 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 Bonfiglio  
Commissioner Allison                      Commissioner Lucibella  
Mayor Pugh

Pledge of Allegiance

### ADDITIONS, DELETIONS, MODIFICATIONS, AND APPROVAL OF AGENDA

There were no additions, deletions or modifications of the Agenda.

### CONSENT AGENDA

1. Minutes of Regular Town Commission Meeting of April 7, 2014  
Comm. Allison motioned to approve the Agenda. Comm. Aaskov seconded the motion.

Motion Carried – yea (5).

### ANNOUNCEMENTS AND PROCLAMATIONS

2. The Administrative Offices will be closed on Monday, May 26, 2014 for the Official Holiday
3. Proclamation Declaring May 25, 2014 A “National Missing Children’s Day”
4. Proclamation Declaring the Week of May 11-17, 2014 as National Police Week and May 15, 2014 as Peace Officers Memorial Day and Encourage All Residents to Fly Their Flags at Half-Mast on That Day
5. Proclamation Declaring May 18-24, 2014 as “National Public Works Week”
6. Proclamation Declaring May as “Civility Month”
7. Proclamation Declaring May 18-24, 2014 as “Water Reuse Week”
8. The PBC Bookmobile will be in the Town Hall Parking Lot on the Following Fridays (May 9<sup>th</sup> and May 23<sup>rd</sup>) from 1:00-1:45 pm

### PUBLIC COMMENT

Dr. James Weege, 19 Sabal Island Drive, presented an update of the Koi Fish Pond Fund that had been established 4 years ago to help with the maintenance and upkeep of the pond. He thanked Townhall for keeping the koi fish fed on a daily basis, and Digby Bridges for supplying the fish food. He also thanked the many supporters including the Ocean Ridge Garden Club for their donations. Their current balance was \$1239, and the average annual costs is \$300/\$400 to replace the plants or fish as needed. He would welcome any comments or donations from the public. The Commission appreciated the great job he was doing and thanked him for his dedication; applause from the audience.

Mayor Pugh presented Robert Weisblut with a Certificate of Appreciation for establishing and organizing the lecture series held in Townhall. Applause from the audience.

Terry Brown, 23 Harbour Dr. South, stated that Chief Yannuzzi had given him a chart of police activity in Ocean Ridge since January 2014, and while Mr. Brown supported our Police Department 100%, he questioned the amount of time they were spending at the Boynton Beach Oceanfront Park. He suggested that we ask Boynton Beach to patrol their park or that they should be paying us for our time. He would like to see more street patrol through the rest of the Town.

Paul Johnson, 17 Spanish River Dr, was concerned with the amount of construction in his neighborhood and the size of the trucks that were coming over their bridge. Last week Mr. Cox had to wait 20 minutes

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for a large construction truck that was trying to turn into their street. He would like to see more traffic coordination between the construction companies and our police department for traffic flow especially with the larger construction vehicles. Chief Yannuzzi stated that they were made aware of the truck that held pilings for the new home on Spanish River, and they had responded.

Justus Brown, 39 Coconut Ln, requested that the Commission require all landscape companies to wear company shirts. He felt this would help identify suspicious activity in the neighborhood. Comm. Aaskov stated that many burglars do wear official vests or have clipboards saying they are performing a "survey" for various companies to distract residents as they case out the neighborhoods. Chief Yannuzzi reminded the public that they should immediately notify the police department of any suspicious activity in the neighborhood.

### PUBLIC HEARING

9. NOTICE OF PUBLIC HEARING FOR THE ADOPTION OF RESOLUTION NO. 2014-02; EVIDENCING ITS INTENT TO VACATE AND ABANDON ITS INTEREST IN A PORTION OF THE RIGHT-OF-WAY OF OCEAN BOULEVARD ACCORDING TO THE PLAT OF TROPICAL SHORES, AS RECORDED IN PLAT BOOK 23, PAGE 119, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID PORTION OF OCEAN BOULEVARD RIGHT-OF-WAY ABUTTING PORTIONS OF LOTS B AND C OF TROPICAL SHORES; THE ABANDONED PORTIONS OF OCEAN BOULEVARD ARE MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR RECORDING OF THIS RESOLUTION; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES (CONTINUED FROM APRIL 7, 2014)

Clerk Hancsak read the Resolution by title for the required Public Hearing. Manager Schenck reminded the Commission that they agreed to abandon 30' of a 40' ROW on Old Ocean Blvd., while retaining 15' as a utility easement, provided the 4 property owners fund all expenses related to the abandonment. The owners would then be responsible to remove the scavola, replant with non-evasive plantings, and maintain the property.

Comm. Allison motioned to adopt Resolution 2014-02. Seconded by Comm. Aaskov.

Atty. Spillias clarified that the documents include the easement deeds and the quitclaim deeds, and each showed 30' utility easement for the Town.

Betty Bingham, 1 Ocean Ave, asked if it would become the responsibility of the homeowners to maintain the landscaping to the street. Mayor Pugh confirmed that it would become the homeowner's responsibility.

Comm. Bonfiglio was concerned that our Code allowed evasive plants, and suggested that Planning & Zoning revise the code to control evasive plants.

Motion carried – Yea (5).

### REGULAR AGENDA

#### REPORTS

10. Town Manager

Manager Schenck reported the following: 1) Inlet Cay Island – We've corrected the problem with the valve at the end of the discharge pipe on Bimini Cove Drive. We've authorized a contractor to inset a sealer to correct the leak in the line to correct the flooding problems with the pipe. We'll be advertising

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for bids to redo Eleuthera Dr. We expect bids in May and plan to put it on the June agenda for discussion and approval. 2) FEMA Flood Maps – FEMA has accepted our map revisions and will include them in their evaluations. However since they're revising the overall rates, it's impossible to tell what the final results will be. 3) Old Ocean Right of Way – The Resolution for transmittal of the right of way is on the agenda. 4) Beach Crossovers – the review status will be discussed at a workshop on May 6<sup>th</sup>. We've replaced the small sign that shows the distances to the beach parking with 2 larger signs that are much more readable.

Manager Schenck announced to the Commission that the League of Cities was hosting a Gala Luncheon on May 21st, and if any of the Commissioners wished to attend to please contact him by May 12<sup>th</sup>, 2014.

11. Town Attorney  
Atty Spillias had nothing to report.

12 Police Chief  
Chief Yannuzzi presented his monthly report and the monthly Boynton Beach Fire/EMS Activity Report. The battery life of the radar sign is 3-4 years, and depending on use could last up to six years. They had received the second radar sign and it was already in the field on Beachway Drive and Spanish River Drive. In regards to personnel, we are now short one dispatcher and one officer. Fourteen dispatch applications had been received, and they were in the process of doing background checks. One of our officers resigned and moved to Tennessee, and in order to cover his shift, we shifted the cover officer. Comm. Lucibella requested that future monthly police reports include all intended updates at time of distribution, similar to the Town Manager monthly report.

Mayor Pugh stated that he had discussed with Chief Yannuzzi the possibility that Ocean Ridge residents could request an officer conduct a home safety check.

Chief Yannuzzi reported that he had met with several agencies in regards to a group effort for police cameras. Their next meeting would be held on 5/20/14. As a test program for 10 days there will be a trailer at the Ocean Ave Bridge for license plate recognition whose wireless system immediately goes to dispatch for their review. Comm. Bonfiglio requested to see the false positive reports regarding accuracy, and was concerned with the Town's liability. Chief Yannuzzi stated that they are 95% accurate. It is a first alert program to be followed up by dispatch to see if the vehicle is still "stolen".

Manager Schenck stated that Chief Yannuzzi had received a Letter of Commendation from Captain Mahoney for his assistance with the "Tip a Cop" and the Special Olympics.

13. Town Engineer  
Engineer Tropepe was absent with notice.

### ACTION ITEMS

14. Presentation of the Annual Audit by Nowlen, Holt & Miner, PA for Fiscal Year 2012/13

Ron Bennett, Nowlen, Holt & Miner, thanked the Commission for allowing their firm to serve Ocean Ridge. The audit consisted of 2 reports and a management letter with all the required comments. There were no notes or findings to report and he added that this doesn't happen often among municipalities. He thanked the management and staff for their help and assistance during the audit. He presented a bar chart showing the financial highlights of Ocean Ridge's Revenues and Expenses for the past 5 years. With the exception of the new Townhall expenses in 2009, there were few variations, and it showed that Ocean Ridge was consistent showing incredible stability.

Comm. Lucibella asked if specific funds were assigned for Capital Projects. Mr. Bennett explained that that the Fund Balance had 4 categories: 1) Unassigned – available funds. 2) Assigned – Town set aside

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for specific use. 3) Restricted – legally restricted and considered not available. 4) Nonspendable funds - Assets. Ocean Ridge has 47% of unassigned funds which he considers an acceptable level for risk tolerance. He feels that municipalities should have between 25% - 50%, and with Ocean Ridge being on a barrier island our funds need to be easily accessible in the event of a storm. Mr. Bennett stated that most people only think of auditors at year-end; however they were available to the Commission or staff all year long.

Comm. Bonfiglio motioned to accept the Annual Audit by Nowlen, Holt & Miner, PA for Fiscal Year 2012/13. Seconded by Comm. Lucibella.

Motion Carried – Yea (5).

15. Request for Access and Utility Easement Around Town Hall By: William Swaim, Contractor Purchaser for Two Parcels located west and north of Town Hall

William Swaim stated that he has a contract to purchase 2 parcels located west and north of Town Hall. There is a 50' public road and utility easement that was never vacated when the new Town Hall was constructed. This access easement serves the majority of the underdeveloped properties behind Town Hall and is now preventing proper legal access to those properties. He is proposing the Town grant a 15' access/utility easement to the public, on the south property line, additional to the existing 15' alley, and a 30' easement for access/utilities on the entire western line of the Town's property to correct the situation. He is also proposing the termination of the existing 50' easement that is currently partially under Town Hall. He is requesting the Commission to authorize staff to undertake the necessary corrective actions to facilitate a speedy resolution in order for him to go forward with permitting.

Atty. Spillias stated that he had met with Mr. Swaim and the Town Manager regarding this situation, and they had requested that as a first step, Mr. Swaim present his request to the Commission. There were legal issues, such as did they want a road or just an easement. Since the Town paved/built over the access, it is possible that we will need to provide them with new access, but further research is required. He also stated that when building Town Hall it was discussed that this could be problem in the future, and now it needs to be addressed.

Comm. Allison authorized the Town Manager and Town Attorney to do the necessary research and analysis regarding the potential access to the properties behind Town Hall. Seconded by Comm. Aaskov.

Motion Approved – Yea (5).

16. Appoint Open Positions to the Board of Adjustment and Planning & Zoning Commission (Deferred from the April 7, 2014 Meeting) By: Karen E. Hancsak, Town Clerk

Clerk Hancsak stated that several appointments to the various boards had either lapsed or have become open due to resignations and needs to be filled. They are as follows: Board of Adjustment, 3 Regular Members: Donald Magruder, Betty Bingham, Bruce Gimmy have all volunteered to serve again. There is one additional regular seat to be filled if the existing members are re-appointed. The current alternate members are Jeff Lee and Hans Kahlert, both are willing to serve again, however Mr. Kahlert would rather serve as the regular appointment over the alternate, and he was open to either board. Mr. Lee advised he would be open to serve as a regular on the P&Z Board also. In regards to the Planning and Zoning Commission, there are 2 regular member appointments: Mark Marsh and Gerald Goray who have volunteered to serve again. There is also one additional regular member seat to be filled. There are 2 alternate appointments: Penny Kosinski and Terry Brown (both would serve as a regular members, and Mr. Brown would serve on either board).

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Since the last meeting the following new individuals have submitted their names and brief resumes: Dr. Joseph Finley, JR, 5450 Old Ocean Blvd, for P&Z as a regular or alternate member. Kimberlee Marshall, 5905 N Ocean Blvd for P&Z as an alternate member, Steve Coz, 2 Osprey Court for either P&Z or Board of Adjustment.

It was discussed to choose from the alternate members to the regular member seats; and to start out any new individuals as alternate members, so they can become familiar with the duties of each board and the Town Code and gain experience.

Comm. Lucibella motioned to reappoint Donald Magruder, Betty Bingham, Bruce Gimmy and to appoint Jeff Lee as a regular member of the Board of Adjustment, and to appoint Hans Kahlert and Joseph Finley as the alternate members. Seconded by Comm. Allison.

Motion Carried – Yea (5).

Comm. Allison motioned to reappoint Mark Marsh, Gerald Goray, and to appoint Penny Kosinski as regular members of the Planning & Zoning Commission, and to appoint Steve Coz and Kimberlee Marshall as alternate members. Seconded by Comm. Bonfiglio.

Motion Carried – Yea (5).

17. Approve Payment Not to Exceed \$6,000 from the Contingency Account to Engenuity Group for the Work Related to FEMA Flood Insurance Rates By: Kenneth Schenck, Town Manager

Manager Schenck stated that the Town used to be rated Class 8 for the determination of flood insurance premiums by FEMA. Over the last couple of years we had reviewed the program and have been able to raise our classification to a Class 7. This resulted in a savings to the Town residents of approximately \$25 per policy. Town wide the savings are about \$34,000 a year. This year they have revamped the criteria and point system for rating communities, and made it more difficult to maintain our present rating. Staff met with FEMA to go over our standing and review the new regulations. The new criteria has required a lot more work and Engenuity had to revise a number of maps, develop new maps, and complete drainage and flooding documentation. The new information has been submitted to FEMA for their review. Hopefully we'll retain our present ratings. The work required from Engenuity was not considered in the budget as at the time we were not made aware of the new requirements. This additional work totaled about \$5000. I am requesting the Commission's approval to pay for this out of the contingency account rather than from the current engineering budget.

Comm. Bonfiglio motioned to approve payment not to exceed \$6000 from the Contingency Account to Engenuity Group for the Work Related to FEMA Flood Insurance Rates. Seconded by Comm. Lucibella.

Motion Carried – Yea (5).

18. Approve Landscaping for Town Entrance Signs in an Amount Not to Exceed \$3,500 from the Contingency Account

Manager Schenck stated that he was directed by the Commission to get a price to improve the landscape around the entrance signs at Ocean Ave and Woolbright. Our landscape contractor made a couple of drawings to show the improvements. The cost to improve the landscape for both signs would not exceed \$3500.

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Comm. Aaskov was concerned that \$3500 was high for the plantings, and that these plants would require a lot of maintenance. Mayor Pugh and Manager Schenck both felt it to be a fair price for the work.

Comm. Allison motioned to approve landscaping for Town Entrance Signs in an Amount Not to Exceed \$3500 from the Contingency Account. Seconded by Comm. Bonfiglio.

Motion Carried – Yea (5).

19. Discuss Scheduling the Meeting Dates (2 minimum) for September

It was discussed and a consensus was made to approve scheduling the September Regular Meeting/Tentative Budget Adoption for either September 8 or 9<sup>th</sup> and the Final Budget Adoption for either September 15<sup>th</sup> or 16<sup>th</sup> once the County and School Board Meeting dates are determined.

20. Request for Extension to Settlement Agreement RE: 5011 N Ocean Blvd. and Update on Rezoning Request By: Lisa Sivitilli, representing her parents, 5011 N Ocean Blvd.

Comm. Aaskov requested to recuse herself from the discussion as she was a tenant of the 5011 Building.

Lisa Sivitilli, representing her parents, 5011 N Ocean Blvd, stated that per the Commission's request she hired a Land Use Planner in order to prepare the application for rezoning to continue the mix use of the property. They had secured funds to do the study with Urban Design & Kilday Studios, and prepared an engineer report. Minor repairs had been made to the building, parking lot, and roof. She was requesting for a 90 day extension of the Settlement Agreement.

Comm. Bonfiglio was not in favor of granting them another extension, as the Sivitilli's last extension agreement in 2011 stated that there would be no further extension requests and one of the provisions of the agreement was that they would not request to continue the use of the property. He was also concerned that the Town would permit a Defacto Zoning if the Commission granted them a second extension. He was not willing to consider the extension unless they reimbursed the Town's legal costs from the original lawsuit in 1997.

Comm. Lucibella was not satisfied with the cosmetic repairs of the 5011 Building, and would partially be in favor of the Town being reimbursed for their legal costs.

Ms. Sivitilli stated that she had spoken with the Town Attorney and it was determined that because the Town Commission had brought up the idea of continuing the mixed use, it could be done and did not violate the conditions of the agreement. The Sivitilli's were willing to pay for the Comp Plan Change, but the Commission had not mentioned being reimbursed for the legal fees too.

Atty. Spillias stated that back in 2013, the Commission had originally discussed keeping the area as commercial, and hiring a land planner, but then had scaled it back to just the 5011 Building for mixed use. To leave the property as is violates our current Comp Plan and Zoning Code. It was also discussed that the property might become derelict if converted to Townhomes because it may not aesthetically pleasing to live across the street from the Texaco Station.

Comm. Lucibella motioned for the approval of a 3 month extension to the Settlement Agreement with the Sivitilli's for the Mixed Use for 5011 N Ocean Blvd, provided they adhere to the timetable provided by Urban Design/Kilday Studios to apply for the Rezoning and Comprehensive Plan Amendment and also that structural/engineering drawings be supplied within the 3 month period. Seconded By Comm. Allison.

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Marty Minor, Urban Design/Kilday Studios stated the rezoning plans should be complete within 3 week, and that they would have to get with the architect regarding the building plans for permits, however he felt everything should be complete within 90 days.

Motion Carried – Yea (3), Nae (1) Comm. Bonfiglio.

Comm. Lucibella asked if approving the mixed use of the 5011 Building would make the Town obligated for other properties within Ocean Ridge. Atty. Spillias stated that it would not.

Meeting Adjourned at 7:48 pm.

Attest By:

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Town Clerk

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Mayor Pugh

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Commissioner Aaskov

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Commissioner Allison

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Commissioner Bonfiglio

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Commissioner Lucibella