

## REGULAR TOWN COMMISSION MEETING HELD MARCH 2, 2015

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, March 2, 2015, at 6:00 PM 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 none.

### CONSENT AGENDA

1. Minutes of Regular Town Commission Meeting of February 2, 2015
2. Approval of Poll Workers for the 2015 Municipal Election

Comm. Bonfiglio motioned to approve the Consent Agenda and Agenda. Comm. Allison seconded the motion.

Motion Carried – yea (5).

### ANNOUNCEMENTS AND PROCLAMATIONS

2. Proclamation Declaring March as “Myeloma Awareness Month”
3. 2015 Municipal Election/Eleccion Municipal 2015
  - a. Proclamation for Election Held on March 10, 2015/Proclamacion para eleccion sostenida el 10 de marzo de 2015
  - b. Two Commission Seats Open for a Three Year Term/Comision dos puesto para tres anos cada
  - c. Candidate Filing Dates run noon January 27, 2015 through noon on February 10, 2015/Las fechas de la clasificacion del candidatos recorren mediodia 27 de enero de 2015 de mediodia del 10 de febrero de 2015

### PUBLIC COMMENT

Gerry Magruder, 9 Ridge Blvd., suggested adding a monthly item on the agenda to discuss health and safety issues. She felt the mosquitos/noseums presented a health issue. She questioned the replacement of the Town’s current alarm monitoring system that has been budgeted for this year and questioned the status of the camera system. Mayor Pugh commented that two of the three items will be addressed later in the agenda.

Nancy Flinn, 5900 Old Ocean Blvd., announced the upcoming March 5, 2015 Art Show for the Coastal Artists. She stated that the art work would be displayed and offered for sale through the month of March. She commented that the art show is a non-profit event and she will continue to work with staff for possible future shows.

Bob Weisblut, 23 Sailfish Lane, reminded the public about the March 11<sup>th</sup> Lecture Series Event about global warming and the effect on barrier islands to be presented by Barry Heimlich.

James Low, 5700 Old Ocean Blvd., thanked the police department for the extra patrol provided due to the random act of violence that occurred 2 weeks ago. He also thanked the Town for the new sign by Adams and Old Ocean Blvd.

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Kristine de Haseth, 29 Sabal Island Drive, reminded the public about the Ocean Ridge Garden Club's Annual Public Meeting about Butterfly Gardening that would take place on March 16<sup>th</sup> at 6:30 PM.

### PUBLIC HEARINGS

None

### REPORTS

#### 5. Town Manager

Manager Schenck reported the following: 1) Spanish River Drive – water is ponding, and we have also discovered a broken storm pipe. We are analyzing the best way to solve the problem. 2) Marlin Drive – A broken stormwater pipe was replaced at a cost of \$10,800, adding that additional replacement of old corrugated metal pipes disintegrating from the brackish water are anticipated 3) FEMA Flood Maps – FEMA is still reviewing our maps, however; the Town is requesting that they remove an additional 80 properties from the flood zone. They have agreed to look at it for their major study but we would like them to make the changes in the present study. 4) PBA Contract Negotiations – The scheduled meeting was cancelled and has not been rescheduled. (Town Manager Schenck advised that an email was received today regarding rescheduling a meeting) 5) LPR Cameras – We are waiting for their new City Manager to determine his interest in the camera system. There is a proposed bill in Tallahassee (HB571) which will set some regulations on these cameras. (Town Manager Schenck advised that the proposed bill would make the camera lists public record) 6) Beach Signs – The signs have been sent to the manufacturer. 7) FDOT Bridge Inspection – the proposal to go out for bids will be addressed later in the meeting. 8) Woolbright Detention Pond – Town staff is reviewing this project and the original proposal will be modified. It appears the water in question is groundwater so the appropriate cure may be filling in the affected area. (Town Manager Schenck advised that the flap gate is broken and will be repaired which will then assist in determining the status in the area). 9) Wastewater Proposal – Staff was approached by several people involved with the wastewater plant at Crown Colony that currently serves 3 condos. They wanted to look into sending their wastewater to Boynton and abandoning their plant, thereby eliminating 3 package plants and odor complaints. Other surrounding buildings are also possibly interested. These plants are old and expensive to repair/operate properly. Boynton Beach is also enthused about treating the wastewater and suggested a route for the piping and staff is looking into the preliminary cost of the project. The units involved would pay the costs, however; Boynton or Ocean Ridge may have to front the funds. This may provide us with an avenue to sewer the south end of Town if and when the State decides to eliminate septic tanks. (Town Manager Schenck advised the estimated cost of the project is \$200-300,000 to hook into an existing pipe along A1A) All Aboard Florida – the proposed letter outlining the Town's concerns to Washington and the Governor regarding the train is attached.

Manager Schenck also mentioned that we received an ISO Fire Rating of 2.0, which is the same as the last review and also the same as Boynton Beach.

#### 6. Town Attorney

Atty Spillias mentioned that recent legislation passed requiring elected officials to take an ethics course. He mentioned that both Comm Allison and Bonfiglio recently took the course and that another one was offered in June.

Atty Spillias stated that a recent concern was raised on whether there is a Sunshine Law violation if the Town Manager asks for Commission opinion. He advised that as long as he does not convey information from one Commissioner to another then it is not a violation. He added that polling the Commissioners on a matter he is/or will be making a decision on is not a violation or inappropriate. He stated that there is a distinction between information gathering and utilizing someone such as the Town Manager as a go between, which sometimes may be difficult for the public to understand these differences.

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### 7. Police Chief

Interim Police Chief Hutchins advised the report had been distributed and he was available to answer any questions. He provided a brief summary regarding the recent robbery/kidnapping that occurred in the south end of Town. He stated with the assistance of Delray Beach and Boca Raton, they have identified 3 suspects and added that they felt this instance was a crime of coincidence, however; there have been numerous others that have taken place in other areas. The public were encouraged to proceed to the police department if they felt they were being followed.

### 8. Town Engineer

Engineer Tropepe was absent with notice.

## ACTION ITEMS

### 9. Further Discussion on Possible De-Annexation of 5011 N Ocean Blvd. (deferred from the Jan. 12<sup>th</sup> and Feb. 2<sup>nd</sup> Meetings)

Atty Weiner, representing the Sivitillis, stated that he had submitted a couple of draft documents that would hopefully answer a few of the questions raised at the meeting last month. An Interlocal Agreement between the Town, Briny Breezes and IVIS Properties LLC was included, along with a Restrictive Covenant that included a list a prohibited uses. He was available to answer any questions.

Atty Spillias commented that he has not discussed the documents with Atty Weiner but did have concerns with the form and he could not make recommendations at this time as to their content.

Kristine de Haseth, 29 Sabal Island Drive, stated that she had attended the Briny Breezes meeting when this was discussed and felt this would not benefit to either Town. She stated that Ocean Ridge did not need another Town to decide what it should have at the 5011 Building while Briny Breezes also expressed that if the building was annexed into their Town they did not want Ocean Ridge deciding what they would permit for the building. She concluded by stating that if the deannex is denied then the Town should begin the process to bring the property into compliance.

Steve Goindoo, 1 Tropical Drive, advised that while he doesn't want to see the 5011 building shut down, the ordinance did phase out commercial and deannexing to Briny Breezes would not assist because the building would still exist. He added that if the deannexing was approved there may be future requests. He felt the best solution was to create a commercial zone from Henri's Apts. to the Blue Ocean Lodge and felt there was no harm in re-discussing it. Atty Spillias mentioned that if the desire was to continue the use then creating a commercial zone should be the avenue to consider.

Betty Bingham, 1 Ocean Ave., stated that several of the properties in that area are a real problem and the P & Z should possibly look at the area to see what can be done. She felt septic would also be a problem.

Sue Thayer, president of the Briny Breezes Corp., stated that Briny Breezes considered the request at a meeting on Feb. 28, 2015 after which no vote took place. She stated there was little support or opposition, however; the Council did question what the pros would be other than the \$1,800 in taxes. She stated that Atty Scrandel felt strongly about not executing the Interlocal Agreement citing liability issues. She concluded by stating that Briny Breezes will meet again the last Thursday of the month and they are waiting to hear the views from Ocean Ridge.

Comm Bonfiglio questioned if Briny Breezes owns all the land with the residents as shareholders to which he was advised that all of the land is owned by the corporation. Comm Bonfiglio stated that the Sivitillis own the land which may present an issue. He felt this was another issue thereby creating more

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complicated legalities. Mrs. Thayer commented that a recent comprehensive plan change created a mixed use area but she is unsure of the code requirements.

Atty Weiner stated he appreciated the comments but felt that there has been some support at the various meetings. He also acknowledged that there may be some legal technicalities. He added that the covenant would be a binding and enforceable document, however; it could be altered prior to approval.

Comm Bonfiglio stated that after conducting further research on a similar case and having already voiced his other concerns he was not in favor of the deannexation. He added that if the Town entered into an agreement it would be a difficult road on anything against the agreement. He added that the three townhouses could still be approved. Atty Weiner requested to see the case law that Comm Bonfiglio was referring to.

Mayor Pugh stated he still does not see any benefit for Ocean Ridge to deannex. He stated that there is an option for the P & Z to look at creating a commercial zone.

Comm Allison commented that it appears that deannexing is more complicated than originally thought and she did not want the relationship with Briny Breezes to suffer. She concluded by stating that there was no advantage to anyone to deannex.

Comm Lucibella agreed with the other comments stating that what was supposed to be a simple solution would prove to create more difficulties. He added that if the Ocean Ridge residents do not want commercial then it may be worse because the Town cannot control the zoning in another municipality.

After asking if there was a consensus for the P & Z to look at a commercial zone for the south end, Comm Aaskov moved to direct the P & Z Commission to meet and make recommendations on a possible commercial or mixed use area in the south end along A1A. Comm Allison seconded the motion.

Atty Spillias commented that in the past Comm Aaskov has recused herself but this motion was for a general interest for a potential commercial/mixed use area and therefore can vote.

Gerry Magruder, Zoanne Hennigan, Kristine de Haseth, and Don Magruder felt the Town should stand by the original decision and move forward.

Comm Lucibella commented that this subject has continued each month and now it may go to P & Z. He suggested a date certain when commercial will no longer be allowed in the building. Town Manager Schenck stated that the Commission did vote to discontinue the commercial use. However; since then the other options of grandfathering, deannexing or asking P & Z to review a commercial area has created a delay in code enforcement action. He added that staff would need direction on whether the commercial can remain while P & Z did their research. Comm Lucibella suggested a total phase out by Jan. 1, 2016 if the P & Z reviews and makes a recommendation for no commercial/mixed use in the Town.

Comm Bonfiglio stated he felt the Town needed to come to a decision. Atty Spillias reminded the Commission that there were actually two items that needed action which included: the motion for P & Z to make recommendations on a possible commercial/mixed use area and also whether the Town Manager should begin the code enforcement process, and the deannexation issue.

Ed Brookes, 15 Ocean Ave., stated that he agreed with Comm Lucibella on taking a vote on the deannexation and to enforce the vote previously taken regarding the phase out.

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Comm Bonfiglio commented that the P & Z has already discussed 2 or 3 times the possibility of a commercial area and each time they recommended not to permit commercial.

Mauro Walker, 108 Dolphin Road, and member of the P & Z Commission, stated they have discussed it several times and the last time Ken Kaleel had suggested hiring a consultant to study the south area but the Commission wanted to address only the 5011 Building. He stated they could re-discuss it but it would again be a delay tactic.

Town Clerk Hancsak reiterated that there were several meetings in the past by both the P & Z and Town Commission and the Commission did not favor a commercial area and wanted to address only the 5011 Building. Atty Spillias mentioned that at that time he advised the Commission that he did not feel considering the 5011 Building only was a viable option.

Betty Bingham advised that she served on both the P & Z and Town Commission when some of these discussions took place and felt that it did not move forward because it was cost prohibitive. Manager Schenck advised that the majority of the cost to do the study is done. Atty Spillias commented that a partial study was done to create a commercial zone, however; it was determined that the 5011 Building would not meet most of the criteria and it was not developed for a larger area.

Mayor Pugh stated the Town has been talking about this commercial phase out for the past 12 years and the Town has tried to accommodate the Sivitilli's but a vote was approved to keep the property strictly residential. He added that there shouldn't be commercial in the building now. He did not find fault with the property owner doing all they can to try to retain the current status but he did not feel it was right to delay any decisions.

Motion (regarding P & Z review) – yea (Aaskov, Allison)  
Nay (Bonfiglio, Lucibella, Pugh)

Motion failed.

Comm Bonfiglio moved to recommend against de-annexation of 5011 N Ocean Blvd. and notifying the Town of Briny Breezes of same. Comm Allison seconded the motion.

Motion carried – yea (5).

Regarding the third issue of terminating the existing commercial use within the building, Comm Bonfiglio moved to direct the Town Manager to start the process to terminate the commercial use and strongly recommend compliance within 90 days or code enforcement action would occur. There was no second to the motion.

Comm Lucibella moved to amend the motion to include a six (6) month time frame. There was no second.

Town Clerk Hancsak mentioned that if it was scheduled before the Special Magistrate first they would impose a time frame for compliance. Atty Spillias stated that code enforcement is actually in the province of the police department.

There was a consensus for the staff to investigate a proper time frame and avenue to enforce the termination of the commercial use at the 5011 Building.

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10. Approval to Advertise for Bids for the Inlet Cay and Sabal Island Bridge Repairs (also Seawall Repairs to Inlet Cay)

Town Manager Schenck advised that Bridge Design Assoc. has completed the design for the bridge repairs recommended by FDOT and the preliminary cost estimate is \$46,500 (which includes \$25,000 for seawall repairs). Staff is requesting approval to advertise for bids to complete the repairs. He stated the seawall repairs are needed to prevent further erosion problems while the bridge repairs are not as critical but will worsen with delay. Funding is recommended to come from the Capital Projects Fund with funds that were set aside for paving.

Comm Bonfiglio moved to approve the bid advertisement for the Inlet Cay and Sabal Island Bridge Repairs (which include seawall repairs). Comm Allison seconded the motion.

Motion carried – yea (5).

11. Approval of Amount Not to Exceed \$7,995 to Engenuity Group for Surveying and Permitting Costs for the Stormwater Connection for the Villas of Ocean Ridge to the Town's System from Budgeted Monies in the Capital Projects Fund

Town Manager Schenck advised that the Town had originally budgeted \$5,000 for the survey/permitting costs for the project; however the proposal is \$7,995. He stated that the Villas of Ocean Ridge will fund the design and construction on their property while the Town will fund the force main construction on A1A. He also mentioned that their lower garage level flooded with the rain from this past Saturday.

Comm Bonfiglio moved to approve an amount not to exceed \$7,995 to Engenuity Group for the proposal as submitted. Comm Aaskov seconded the motion.

Don Magruder, 9 Ridge Blvd., cited his concern for the negative effect the additional stormwater will have on the detention pond area at Woolbright. He added that the drain located on the east side of A1A is higher than the property at 5615 N Ocean Blvd. Manager Schenck stated that the force main will be either a 2" or 3" pipe. He added that he would investigate the higher drain.

Gerry Magruder, 9 Ridge Blvd., stated that the surrounding residents were originally told that the detention area was strictly for the south end only because it can only hold a certain amount of water. Mayor Pugh commented that the staff should ensure that the detention area would be adequate for the additional stormwater and provide some sort of documentation.

Motion carried – yea (5).

12. Approve Salary Adjustment for Appointment of Hal Hutchins as Interim Police Chief

Town Manager Schenck complimented Hal Hutchins' performance while he has been Acting Police Chief and felt he had good ideas for positive change to the department. His appointment as Interim Police Chief effective March 2, 2015 was approved at a prior meeting and he was recommending a salary increase from \$78,894 to \$84,689 (midway between his salary and Chief salary) effective immediately, along with a take home vehicle due to being on call 24/7.

Comm Lucibella moved to approve the recommended salary increase as submitted by the Town Manager for Interim Police Chief Hal Hutchins. Comm Allison seconded the motion.

Motion carried – yea (5).

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13. Discuss Town Manager Evaluation Process

Comm Allison stated that she requested this be placed back on the agenda to clarify that although the Commission voted to discontinue the public portion of the evaluation process, a written evaluation should still be completed on an annual basis. She felt she needed feedback from the other Commissioners in order to set performance criteria or salary adjustments.

After some discussion reiterating the public portion of the evaluation the consensus was to provide written evaluations.

Zoanne Hennigan, 91 Island Drive So, stated that the HR policy calls for annual performance evaluations and if it differs it should be changed. She felt it was the Commissions' responsibility to provide or receive ongoing feedback to determine strengths and weaknesses. She added that the residents were entitled to know the Commission feedback.

Don Magruder, 9 Ridge Blvd., stated it was important to highlight critical instances and questioned whether the evaluations could be turned into the Town Attorney who could then review each with the other Commissioners. He was advised that this could not be done, however; a written evaluation is public record and can be reviewed by everyone.

Comm Allison moved to require an annual written evaluation due by October 1<sup>st</sup> of each year. Comm Bonfiglio seconded the motion.

Motion carried – yea (5).

The Commission also requested that job descriptions/duties for the administrative staff be submitted for the April meeting.

Meeting Adjourned at 8:05 PM.

Attest By:

\_\_\_\_\_  
Town Clerk

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Mayor Pugh

\_\_\_\_\_  
Commissioner Aaskov

\_\_\_\_\_  
Commissioner Allison

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Commissioner Bonfiglio

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Commissioner Lucibella