

## REGULAR TOWN COMMISSION MEETING HELD APRIL 6, 2015

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

Clerk Hancsak read the official election results for the March 10, 2015 Municipal Election. Registered voters total 1543, Town Hall Ballots totaled 443, Absentee Ballots totaled 46 and Under Votes totaled 132, and Total Ballots cast were 489. The results were Gail Aaskov – 285 (33.69%), Ed Brookes – 278 (32.86%) and Geoff Pugh – 283 (33.46%).

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

Manager Schenck requested to Add Item #13A, Authorize Purchase of House Alarm Monitoring System for the Town of Ocean Ridge. At the last meeting there was a request for job descriptions from other municipalities for Town Manager and Town Clerk, this information will be presented at the May meeting.

### CONSENT AGENDA

1. Minutes of Regular Town Commission Meeting of March 2, 2015
- 1a. Ratify the Transfer of Budgeted Funds from the Professional Services Account to the newly Created Personnel Related Accounts in the Town Attorney Department

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

Motion Carried – yea (5).

### ANNOUNCEMENTS AND PROCLAMATIONS

2. Proclamation Declaring Week of April 12-18<sup>th</sup> as “National Public Safety Telecommunicators Week
3. Proclamation Declaring April as “Child Abuse Prevention Month”
4. Proclamation Declaring April as “Water Conservation Month”

### PUBLIC COMMENT

Cheryl Olanoff, 566 David Lane, felt that Ms. Joyce in a recent news article had misconstrued the facts regarding Comm. Lucibella. Mrs Olanoff stated that Comm. Lucibella had served Ocean Ridge for about 15 years, and that he cares for the Town of Ocean Ridge not himself. She questioned how many residents had researched the facts, and she felt that the prior chief had crossed the line, and needed to be removed. She asked the residents to move forward and avoid potential costs to the tax payers.

Bob Weisblut, 5001 Old Ocean Blvd, announced that the final lecture series would be held on Thursday, April 9 at 7pm, and invited the public to hear Steve Carr regarding the Seminole Indian Wars. Mr. Weisblut also mentioned his concern of public access to his e-mail through Town Hall. He asked the staff to send out a notice informing the residents that their email addresses were public records.

Gerry Magruder, 9 Ridge Blvd, was concerned that neither the cameras nor the new alarm system were on the Agenda. Mayor Pugh commented that both items will be addressed later in the meeting.

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Jay Magee, 6530 N Ocean Blvd #210, stated that a new developer was taking steps to fill in the lagoon behind Wellington Arms. He noted that the South Florida Water Management District was attempting to slow down the process, but if proper permits were received from FDEP, it could be developed within the 6-8 months. He was concerned with protecting the manatees. On April 7<sup>th</sup>, at 7pm, Wellington Arms would host a meeting regarding the possible development that would be open to the public. Beth Sloat, 6550 N Ocean Blvd, was also concerned and asked what part the Town could play to help protect the lagoon. Mayor Pugh noted that this has been brought up in the past, and the Town Manager would give them an update later in the agenda.

Terry Brown, 23 Harbour Drive South, congratulated both Mayor Pugh and Commissioner Aaskov for winning the election. He stated his concern that it seemed that some of the employees were trying to influence the residents with the election. He also stated that the Town did not have a permit to expand the detention area for the increased outflow for the Villas of Ocean Ridge. He noted that the Villas of Ocean Ridge were private lands, and Ocean Ridge should not be using public funds for private improvement.

Justice Brown, 39 Coconut Lane, thanked the Commission for the drainage repairs to their street, Lately however the noseums had been very heavy, and it seemed that the company may have watered down the solution as it did not seem to be working.

Merilee Lundquist, stated her concern for the All Aboard Train and it seemed that many people are not aware of the impact it will have to our area. It would be traveling up to 120 mph through West Palm Beach on old train tracks along Federal Highway. Mayor Pugh announced that on April 20<sup>th</sup>, there is a public hearing at the Court House.

Daniel Spotts, questioned the impact that All Aboard would have to our Fire/Rescue as the Boynton Fire House is on the other side of the train tracks. He asked what efforts Ocean Ridge had done to oppose it. As Hurricane Season is a few months away, he asked that Ocean Ridge contact FPL first to clear the trees from the utility lines before contacting the residents. He also asked the Town to make an effort to reconcile the Code concerning trimming trees from the utility lines.

### 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) 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. 3) PBA Contract Negotiations – We met with the PBA and have agreed on a 3 year contract, which will be addressed later in the agenda for approval. 4) LPR Cameras – We are waiting for Delray Beach's 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. 5) Beach Signs – The signs were received this week and are now installed. 6) FDOT Bridge Inspection – We received 2 bids which will be addressed later in the meeting. 7) Woolbright Detention Pond – We will clear out the area near the pumps to facilitate flows, and the flap valve has been repaired. Since the repairs the water behind Ridge Blvd has dried up and the water in the discharge pond has been reduced. We need heavy rains to determine if further work will be required. 8) 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 their package plant. Other condominium buildings are also possibly

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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. Staff is looking into the preliminary cost of the project. The condo 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 on A1A.) 9) All Aboard Florida – We met with the AAF representatives to discuss the resident’s concerns. They assured us that it will be a double track from Miami to West Palm and that all crossings will be constructed as quiet zones. They expect it to be functional by the end of 2016. 10) Spanish River, Swaim Project – The SFWMD and Mr. Swaim went to court to determine if he can complete his project, which includes mangrove removal and filling in an existing waterway, The judge is reviewing the case and according to the SFWMD it may take a couple of months to reach a decision. He will keep the Commission updated.

Gerry Magruder, 9 Ridge Blvd, requested that the installation of the cameras be pushed forward, and asked how long before FDOT might approve the camera locations. The Woolbright Detention Area gets full frequently and if more water is directed toward it, she was concerned for the 5 homeowners that back up to it,

Beth Sloat, 6550 N Ocean Blvd, was concerned that if the Judge did not rule favorably, what the Town could do to fight the development of Spanish River. Atty. Spillias stated that we have our Codes, and it is zoned single family, he would have to research it.

Terry Brown, 23 Harbour Drive South, reported that the beach sign at Diamond Beach is missing the letter “s” on the word Ordinances and that Beachway had 2 signs. Manager Schenck stated that a corrected sign has been ordered, and the 2<sup>nd</sup> sign on Beachway is being removed. He was also concerned that the new sewer line at the south end, would allow for 20 story buildings if the Zoning was changed. Mayor Pugh stated that the current waste treatment centers are in disrepair with strong odors.

Daniel Spotts, 1 Sailfish Ln, stated that “All Aboard” had started with an environment assessment survey 2 years ago. There is a bond hearing coming up that Ocean Ridge needs to be present to oppose it.

Orly Korat, 2 Ocean Harbour Circle, commented that lines have been painted along A1A showing the existing drainage piping, and was concerned for the condition of their property. Manager Schenck stated that the contractor would replace her sod when complete at his expense.

Dom Pallaria, 5530 N Ocean Blvd, stated their existing sanitary system for their condos services 290 units. He feels that at some time the Health Dept. would mandate that sewers be put in. Boynton Beach is interested in serving us and the revenue it would generate to them. Mr. Pallaria felt that changing to sewers makes the most environmental sense.

### 6. Town Attorney

#### a. Update on Municipal Recall Lawsuit

Atty Spillias summarized the recent lawsuit filed by Comm. Lucibella (Case #50215CA003061XXXXMB). He advised that after the termination of Chris Yannuzzi and the Municipal Election a 2<sup>nd</sup> Municipal Recall Petition was circulated and submitted to the Town Clerk on March 13, 2015. The first petition, which was filed in February, did not contain the requisite number of signatures. He commented that a recall petition must cite at least one of seven specific grounds outlined in FSS 100.361 for a recall and both petitions cited the exact verbiage alleging criminal liability. On March 17<sup>th</sup> the Supervisor of Elections certified that the 2<sup>nd</sup> petition contained 167 qualified signatures, thus meeting the 10% (155) signature requirement. On March 17<sup>th</sup> Comm. Lucibella’s counsel filed an action with the court requesting an injunction to stop the petition citing that it did not meet the requirements of FSS 100.361. The lawsuit names Haley Joyce, as Chair of the Recall Committee, and Karen Hancsak and

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Susan Bucher in their official capacities (because their actions would need to halt if the injunction is granted). He added that his research has determined that the Town Clerk's duties are strictly ministerial and she cannot review the petition for its sufficiency. Atty Spillias stated that because both the plaintiff and defendant are Town Officials a Waiver of Conflict was executed so that he could represent Town Clerk Hancsak.

On March 23<sup>rd</sup> Comm Lucibella submitted his recall defense statement on and the Town Clerk prepared and submitted the Recall and Defense Petition to Mrs. Joyce on March 30<sup>th</sup>. Mrs. Joyce has sixty days (60) days to submit the petition containing at least 15% (233) of the voter signatures back to the Town Clerk. If the requisite number of signatures is certified by the SOE then the Chief Judge from the Circuit Court would determine a special date for a municipal election. He advised the Commission that the Town would be responsible for all of the costs. He stated that a Status Conference is scheduled for April 22<sup>nd</sup>, however; Comm. Lucibella's counsel has also filed for an emergency hearing regarding an emergency motion for temporary injunction citing the petition is not legally sufficient on its face. He stated that the request for a quick hearing may be granted due to the time sensitive nature of the recall process.

Atty Spillias read an email from Comm. Lucibella's counsel requesting that the Town either forward a letter to the Judge or intervene in the suit with the hopes that it will expedite the hearing process. A quicker decision would assist the Town in determining if a special election and the associated costs will be necessary.

Mayor Pugh questioned if the Town will be responsible for Comm. Lucibella's attorney fees. Atty Spillias advised that both insurance carriers have been noticed. He stated that they are in the process of reviewing the documents since two Town Officials are involved. He stated that litigation reimbursements are almost always covered by the Town if the official/employee prevails either way. He cited then Comm. Schulte's ethics complaint in which he prevailed and the Town reimbursed him his costs, which actually prompted the funding of secondary insurance coverage. He added that if Comm. Lucibella prevailed he would argue with the insurance companies that he be reimbursed. He stated that since he was representing the Town Clerk there would be no legal exposure there.

Comm. Bonfiglio commented that he was not sure that any Commission action other than to intervene would assist with the tolling of the times for the hearing process. He also stated that after reading the statute he believes it only allows for a one time petition and if it was originally determined that it was insufficient it should not be permitted again other than if it was filed on a different basis. He questioned the cost of a special election. He was advised that shared municipal elections cost between \$5,000-6,000 and a special election could run \$10k(+). Comm. Bonfiglio stated that either way it will cost the Town either by reimbursing Comm. Lucibella or holding a special election. He suggested that the Town Attorney file a motion to intervene based on possibly moving the process quicker.

Comm. Allison stated that she did not feel the Town should become involved in the lawsuit, adding that either way the Town will have costs.

Comm. Bonfiglio moved to authorize the Town Attorney to enter into a stipulation as outlined in the email provided by Comm. Lucibella's counsel. There was no second to the motion.

Nan Yablong, 108 Bonito Drive, stated that Atty Spillias did a good job explaining the Recall Petition, however; if Comm. Lucibella were to resign within 5 days after the petition is returned there would be no costs to the Town.

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Gail Breman, 5590A N Ocean Blvd., stated that she has been a resident for 26 years, and she was grateful for the work that the Commission does. She stated that she felt this entire situation was shameful and disgusting and gives the Town a negative attitude. She felt the litigious actions should end. She also stated that she was not against Comm. Lucibella but she was against the unprofessional attitude displayed. She felt that more litigation will result.

Mayor Pugh commented that the residents should keep in mind that signing the petition is against one person not the Town. He stated that while the last election was a little contentious he felt the days ahead will be better, citing that the police morale has changed already and there is a whole different view. He felt all of the new construction in Town would also assist with the tax base.

### b. Update on Inspector General Lawsuit

There has been a final judgement and Palm Beach County prevailed against the 14 municipalities. West Palm Beach will be appealing and continuing the case with the District Court. The League of Cities is getting heavily involved as this may shift the power to the County which could negatively affect municipalities' budgets. Atty. Spillias recommended that we stay with West Palm Beach and appeal. Currently West Palm Beach is paying for the litigation.

Comm. Bonfiglio motioned to authorize the Town Attorney to keep Ocean Ridge in the Inspector General Litigation, Case. Seconded by Comm. Allison.

Motion Carried – yea (5).

### c. Update of 5011 Building.

Comm Aaskov recused herself due to fact that she rents a unit at 5011 N Ocean Blvd. The appropriate Voting Conflict Form will be executed.

Atty. Spillias stated that last month there was a consensus from the Commission that directed him to create a time frame and avenue to enforce the discontinuance of the multi-use. Atty Spillias recommended that we go the County Court to expedite the procedure rather than the local magistrate because we may have quicker results.

Comm. Bonfiglio motioned to authorize the Town Attorney to file the appropriate motions to enforce the settlement agreement with the Palm Beach Court and to file for associated costs. Comm. Allison seconded.

Motion Carried – yea (4).

## 7. Police Chief

Interim Chief Hutchins advised the report had been distributed and he was available to answer any questions. He also presented the new bicycle that was donated to the Police Department by the Support Group and several residents. It is complete with lights and a siren. The bicycle was first introduced to the community 3 weeks ago, and has been very well received and is a great asset in our community policing efforts.

There were also 3 Commendations: Dispatcher Courtney Guiddy was commended for her professionalism and assistance with a 911 Call concerning a victim of a domestic abuse. Off. Kurz and Off. Jones were also commended for their assistance of a bicycle accident across from the Boynton Beach Park.

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Comm. Allison asked for an update of any promotions for the open lieutenant, sergeants, and investigator positions. Chief Hutchins stated that no promotions had been made at this time, and he would keep them advised.

Gerry Magruder, 9 Ridge Blvd, reported that 2 young girls had been seen riding a golf cart on the sidewalk down A1A. Chief Hutchins advised the law requires an individual to be 16 years old to operate a golf cart, and that no golf carts are authorized for Ocean Ridge.

8. Town Engineer  
Engineer Tropepe was absent with notice.

### ACTION ITEMS

9. Appoint Open Position to the Board of Adjustment and Planning & Zoning Commission.  
Clerk Hancsak summarized her memo by stating that there were 2 regular member seats open on the Board of Adjustment (Bernd Schulte and Jeff Lee) and 2 alternate seats (Hans Kahlert and Joseph Finley). The 2 regular members would like to serve again. She added that Mr. Kahlert volunteered to serve either but preferred the regular seat, while Mr. Finley had resigned several months ago. Which provides one open position.

The Planning & Zoning Commission had 2 alternate member seats open (Steve Coz and Kimberlee Marshall). Both have indicated that they would like to serve again. In years past the Commission has deferred the item one month in the event additional residents wanted to submit a resume. A motion would be necessary to appoint members for each board separately.

Comm. Aaskov motioned to approve Bernd Schulte and Jeff Lee as regular members and Hans Kahlert as an alternate member of the Board of Adjustment. Seconded by Comm. Lucibella.

Motion Carried – yea (5).

Comm. Aaskov motioned to approve Steve Coz and Kimberlee Marshall as alternate members on the Planning and Zoning Commission. Comm Allison seconded the motion.

Motion Carried – yea (5).

10. Authorize Contract with Anzco, Inc. in an Amount not to Exceed \$61,400 for the Repairs to the Inlet Cay and Sabal Island Bridges (to include \$24,000 for seawall repairs adjacent to the bridges) and an additional \$2500 to Bridge Design Assoc. for Engineering/Inspection During Construction to be Funded from the Capital Projects Fund

Manager Schenck reported that we had received 2 bids on the Inlet Cay and Sabal Island Bridge. They were from Anzco Inc. at \$61,400 and Coston Marine Services at \$68,751.08. Based on the low bid and the engineer's recommendation, we request that the Commission award the bid to Anzco Inc. for \$61,400 to be funded from monies set aside for paving. We also received a safety report from the FDOT on the Island Drive Bridge. It showed that minor repairs were needed, and he would like to add these repair costs to the contract and will bring the cost estimate back to the Commission.

Comm. Bonfiglio motioned to approve the Contract with Anzco, Inc. in an Amount not to Exceed \$61,400 for the Repairs to the Inlet Cay and Sabal Island Bridges (to include \$24,000 for seawall repairs adjacent to the bridges and an additional \$2500 to Bridge Design Assoc. for Engineering/Inspection During Construction to be Funded from the Capital Projects Fund. Seconded by Comm. Allison.

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Motion Carried – Yea (5).

11. Authorize an Amount Not to Exceed \$12,000 to Anzco, Inc. for Repairs to the Valley Gutters on Inlet Cay Drive to be Funded from the Capital Projects Fund.

Manager Schenck reported that 200ft of valley gutters on Inlet Cay Drive were in disrepair and hazardous. We have requested/received a quote from Anzco in the amount of \$9580. Funds would come from monies set aside for paving. Anzco is already in the area for the bridge repairs, so it would save with mobilization cost.

Comm. Lucibella motioned to authorize \$9580 to Anzco, Inc. for Repairs to the Valley Gutters on Inlet Cay Drive to be funded from the Capital Projects Fund. Seconded by Comm. Aaskov.

Motion Carried – yea (5).

12. Approve and Authorize Execution of the PBA Contract.

After several negotiations between the PBA and the Town staff we have come to an agreement on a renewal contract for 3 years. Staff requests approval of the Contract as presented.

Comm. Allison motioned to approve and authorize execution of the PBA Contract. Seconded by Comm. Aaskov.

Motion Carried – Yea (5).

13. Authorize Negotiation of a Contract with Hal Hutchins for the position of Police Chief and Also Advertise to Fill the 3 Budgeted Police Officer Vacancies

Manager Schenck stated that he recommended Hal Hutchins for the permanent appointment of Police Chief. He felt that he had proven himself worthy of the position and has the background and experience.

The need for a contract to outline the description of work expected of a Police Chief and to prevent any future problems was discussed.

Comm. Allison motioned to approve the Appointment of Hal Hutchins as Police Chief effective immediately, and to prepare a contract for approval. Comm. Aaskov seconded.

Motion Carried – Yea (5).

Manager Schenck stated that there were presently 3 vacancies in the Police Department. Staff is proposing to promote 2 of the present officers to fill the Sergeant's positions and one officer to the Lieutenant position with a 5% increase. We are also proposing to split the investigative duties from the Lieutenant position with a 2.5% increase for the officer. We are also proposing to utilize one Officer as the Community Patrol Officer, Training Officer and Police Reserve Liaison. This would allow for a more individualized resident service, beach patrol and organizing an increased Reserve presence. We believe this division of duties will provide the Town with the most effective Police service which is what the residents expect and deserve. All of this movement of personnel will be accomplished with staff already budgeted and approved by the Commission. These promotions will create 3 vacancies for officers. We are therefore requesting Commission approval to advertise for 3 officers. These new hires will be phased in over the next 5 months to facilitate training. These positions are already in the budget and approved by the Commission.

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Chief Hutchins thanked the Commission for their vote of confidence, and a chance to serve Ocean Ridge as Police Chief.

13a. Purchase of Alarm Monitoring System

Manager Schenck reported that the home alarm monitoring system we presently use in dispatch is obsolete and needs to be replaced. The proposal for the new system consists of the following: 1) Receiver at a costs of \$2490. 2) Software – at a cost of \$4565, and backup to the software for an additional cost of \$1695. 3) Computer at a cost of \$760 through our current IT provider. 4) Tech Support and set up – at a cost of \$250. The total cost is about \$10,000. There is \$20,000 in the present budget for this system. Staff recommends approval of the purchase of this alarm system.

Comm. Bonfiglio motioned to authorize the purchase of the proposed Home Alarm System to be funded from the current budget. Comm. Allison seconded the motion.

Gerry Magruder, 9 Ridge Blvd, asked if the package included updates and training. She asked that the Town buy the state of the art equipment. Chief Hutchins stated that it did include a support package and that \$750 would be budgeted for the next fiscal year.

Motion Carried – Yea (5).

RESOLUTIONS

14. Resolution No. 2015-01; Electing a Mayor

Comm. Allison nominated Geoff Pugh and there being no other nominations she moved to appoint Geoff Pugh as Mayor through the adoption of Resolution No. 2015-01, seconded by Comm Aaskov.

Motion carried – Yea (5).

15. Resolution No. 2015-02; Electing a Vice Mayor

Comm. Aaskov nominated Lynn Allison and there being no other nominations she moved to appoint Lynn Allison as Vice Mayor through the adoption of Resolution No. 2015-02. Mayor Pugh seconded the motion.

Motion carried – Yea (5).

16. Resolution No. 2015-03; Designating Depositories, Authorizing Treasurer or Deputy Treasurer to Sign Town Checks; Authorizing any One of the Five Town Commissioners to Countersign Checks

Comm. Lucibella moved to adopt Resolution No. 2015-03, seconded by Comm. Bonfiglio.

Motion carried – Yea (5).

Meeting Adjourned at 8:09 PM.

Attest By:

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Town Clerk

\_\_\_\_\_  
Mayor Pugh

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

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Commissioner Allison

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Commissioner Bonfiglio

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Commissioner Lucibella