

REGULAR TOWN COMMISSION MEETING HELD MAY 4, 2015

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, May 4, 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

Comm. Aaskov requested a change to Item 6c from the April 6th minutes. The number of votes should have been 4 as she had recused herself. Comm. Lucibella requested a change to the Manager's Report from April 6th to clarify it was the "Delray" Town Manager. Clerk Hancsak requested to Add Item #21 – Request to transfer \$11,500 from the Contingency Account to the Legal Account to Appropriate Funding for the Recently Approved In-House Position.

CONSENT AGENDA

1. Minutes of Regular Town Commission Meeting of April 6, 2015
2. Approve Minor Changes to the Employee Handbook

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

Motion Carried – yea (5).

ANNOUNCEMENTS AND PROCLAMATIONS

3. The Administrative Offices will be closed on Monday, May 25, 2015 for the Official Holiday
4. Proclamation Declaring May 25, 2014 A "National Missing Children's Day"
5. Proclamation Declaring the Week of May 10-16, 2015 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
6. Proclamation Declaring May 17-23, 2015 as "National Public Works Week"
7. Proclamation Declaring May as "Civility Month"
8. Proclamation Declaring May 17-23, 2015 as "Water Reuse Week"

Mayor Pugh also announced that Bernd Schulte, 5 Osprey Drive, had recently passed away. He had served Ocean Ridge for over 20 years as Town Commissioner and member of the Board of Adjustment. He thanked him for his dedication, his inspiration and the many years of service to the Town of Ocean Ridge. Our thoughts and prayers go out to his wife and family, and he will be sorely missed by all.

PUBLIC COMMENT

9. Legislative Update Provided by Representative Bill Hager
Bill Hager, District 89 State Representative, thanked the Commission for allowing him to speak. He reported that the Legislation for 2015 was complete with the following changes: 1) The Sober Home Bill will be signed by the Governor. This provides that they register with a Level 2 of background checks. This bill will deal with 85% of the current issues. 2) Military - there is also a Florida Bill which will allow those in the Military under the age of 25 the ability to check into a hotel. 3) Taxes - this year's budget has decreased the State taxes; Florida is the 5th lowest in the U.S. 4) Education – Passed a law to limit testing to 5% of the student's time. 5) Teachers - their base salaries have been increased. 6) Growth – Florida is the 2nd highest state for job growth and the National Leader for female owned businesses. He

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thanked the voters for allowing him to represent Ocean Ridge. Mayor Pugh thanked Representative Hager for his service and for providing an update.

Jean Burling, 7 Osprey Drive, stated her concern for Boynton Beach's development changes to the old Winn Dixie Shopping Center at Woolbright Rd and Federal Hwy and the impact it would be to Ocean Ridge residents.

Ted Ritota, 7 Hudson Avenue, reported that on Sunday he had contacted the Police Department regarding shark fishing that was taking place near the Edith Street crossover. He spoke to the fishing group and he was told that they were part of a tournament. They were being disrespectful to the bathers and families on the beach. While he didn't want to ban fishing, he asked the Commission to restrict the hours of stationery fishing. Mayor Pugh stated that the Commission had reviewed it in the past, there were State Regulations that had to be followed. The Town does not have no jurisdiction over State property/waters. He stated staff would research it again.

Terry Brown, 23 Harbour Drive South, stated that he was a Commissioner at that time, and due to State Regulations, the town could not restrict shark fishing. He also stated that in regards to the Boynton Beach development, each municipality has the right to their own rules, and Ocean Ridge has no control.

Stella Kolb, 204 Beachway, thanked the Commission and Staff for flying the U.S. Flag at half mast in remembrance of Bernd Schulte on April 16th, 2015. He was a good friend and would be missed. She also thanked the Police Chief as the officers had been outstanding. She had also heard many compliments from her neighbors regarding the morale of the police officers. She also stated her concern with the impact of Boynton Beach's new development plans for the Winn Dixie Shopping Center.

Tom Warnke, 2780 Worcester Dr, stated that the Coastal Star had displayed a preview of the intent of Mr. Swaim for developing the wetlands north of Town Hall. He was concerned for the environment, and felt it was in the Town's best interest to switch from septic tanks to sewers. He asked the Commission to get a price to change to sewers for a future budget wish list.

Betty Bingham, 1 E Ocean Avenue, asked the staff to research shark fishing, as she thought that 15-20 years ago Ocean Ridge had a provision to stop shark fishing.

PUBLIC HEARINGS

10. An Application submitted by Kenneth Kaleel, Esq., 54 NE 4th Ave., Delray Beach FL 33483, representing the owner, Immo Francois Marcil, Inc., 5001 Old Ocean Blvd., Ocean Ridge FL 33435, requesting a Land Development Permit from the provisions of the Land Development Code, Article 2; COASTAL CONSTRUCTION, Section 67-17; Coastal Construction and Excavation Setback Line; Sub-Paragraph (a); Setback Line Established; and Sub-Paragraph (h) Existing Structures to permit the construction of a new 3-story duplex with garages with a maximum finished floor elevation of 17.49' NGVD which would extend a maximum of 223'(+/-) east of the Coastal Construction Control Line (CCCL) located at 5001 Old Ocean Blvd. or legally described as Palm Beach Shores Acres Blk A, B, & Z Pt of Lots 19&20 Blk A Lying East of & Adjacent to Old Ocean Blvd. R/W in OR 18753P1269 A/K/A Southerly 120' of Lot 54 Blue Ocean Sub Unrecorded (exact description available for review in the Clerk's Office)

Clerk Hancsak explained that all fees had been paid, and 2 letters had been received and were given to the Commission before the meeting. They were a letter from Briny Breezes and a letter from the Florida Coalition. Both stated their concerns with the proposed project including: sewage, drainage, sand stability, traffic, etc.

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Atty. Spillias explained that this was a quasi-judicial hearing and asked the Commission if they had any ex parte-communications with the applicant. Both Comm. Bonfiglio and Mayor Pugh stated that they had gone to the property (separately) and had brief discussions with Atty. Kaleel. Comm. Allison and Comm. Aaskov stated that they also went to the property (separately), but had not spoken to anyone. He then swore in those who wished to give testimony.

Clerk Hancsak then read the application and summarized the request advising the plan was to raze the existing 6 unit structure and construct a duplex with garages that extend a maximum of 223'(+/-) east of the Coastal Construction Control Line (CCCL) at 5001 Old Ocean Blvd. The structure is located totally east of the CCCL. The Town Code of Ordinances, Section 67-17 requires a Land Development Permit for any construction east of the CCCL through a public hearing process prior to submittal to DEP, and that this was not a variance request but rather a request for a Land Development Permit. The applicant has provided draft site plans. The property is located within the RMM – Residential Medium Density District, which based on the size of the lot could be replaced with 2 units. However; Section 63-117(d)(2) permits replacement of up to 50% (3 units) for structures that were once residential/commercial. Upon review of the plans it appears that all of the zoning requirements have been met. The applicant plans on building on the existing foundation (obviously pending structural approval), which is grandfathered related to setbacks. The applicant will build at the 17.5' NGVD minimum first floor DEP Finished Floor Elevation (FFE) (DEP permits non-habitable area at a lower elevation, such as garage) and therefore does not need to seek a zoning variance. Per the Town Code at Section 64-2(3) the permitted height is 36' from the first floor finished elevation. The Commission may either approve the request contingent on DEP approval once it is verified that it meets all of the zoning regulations or deny it if it does not meet all our land development regulations. There are no legal issues. Staff recommends approval of the applicant's request for 5001 Old Ocean Blvd contingent on DEP approval and meeting all the zoning and building requirements upon actual building permit submittal and review.

Atty. Ken Kaleel, representing the owners of 5001 Old Ocean Blvd, stated that this was a 6 unit property that was being reduced to a 2 unit duplex to be used as a home for the owner and his son and family.

Ernie Varvarikas explained the project and displayed site plans showing the proposed improvements. The existing building was 10 bedrooms with parking for 12 cars. The proposed project is to be built on the existing footprint with a 2 car garage for each. The proposed septic and drainfield would be in the front of the property. Chad Gruber, Civil Engineer, has designed the drainage to flow into an exfiltration trench with no adverse impact to the Ocean or the street.

Bob Weisblut, 23 Sailfish Lane, stated that he was the prior owner of the property, and he was impressed with the proposed project. He felt it would help the tax base, and that the south end of town needed this improvement. Steve Coz, 2 Osprey Ct, was also in favor of the proposed project, but was concerned of the seawall.

Diedra Sheer Gross, Osprey Drive requested clarification of the roof height, setbacks and lot coverage of the proposed project.

Tom Warnke, 2780 Worcester Dr, stated that he was relieved that the new owners were not requesting a variance. He was in favor of the project, however he mentioned that this area was one of the lowest in Palm Beach County and in the event of a storm would be washed over. He was also concerned that if the existing seawall had to be changed, that it could prompt a lawsuit similar to the Singer Island suit regarding the impact to turtles.

Terry Brown, 23 Harbour Drive So, stated that while the existing building was in need of replacement the new project would not blend with the neighborhood.

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Demon Gasser PA, representative of Joseph Mussachio, 5000 Old Ocean Blvd, stated that his client had concerns with the roof pitch, possible decking on the roof top, and was also concerned that its height would tower over his client's garden and limit the sunlight on his property. His client also felt that this project would reduce the value of his home. He was not notified of this project until 14 days ago, he therefore asked that this item be tabled for environmental safety concerns.

Mr. Varvarikos responded to their questions, and clarified that the existing roof height is 12-18ft while the proposed roof height is 36ft. While the first floor's setbacks will not change (10ft), the setback for the second floor will be 15ft. The lot coverage is 40%. It will have a pitched roof with no deck on top,

Atty. Spillias reminded the public that this was not a Planning & Zoning Hearing, but a request for a Land Development Permit before the Commission so it could be sent on to FDEP for their review and approval. The footprint is staying the same, they could not increase the non-conformity.

It was discussed that the Commission has 2 choices, to approve the request contingent on DEP approval or deny it if it does not meet all our land development regulations. It was also noted that the purpose of the zoning changes in 2000-2001 for the south end was to encourage projects just like this.

Comm. Lucibella motioned to approve the applicant's request for 5001 Old Ocean Blvd contingent on DEP approval and meeting all of the zoning and building requirements upon actual building permit submittal and review. Seconded by Comm. Bonfiglio.

Motion Carried – yea (5).

REGULAR AGENDA

REPORTS

10. 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 – The PBA Contract has been approved by the Officers and signed by PBA. It is a 3 year contract with a wage opener the third year. 4) LPR Cameras – FDOT has a present ban on the addition of new cameras in their right of way. Three of our four entrances are affected by this. The Police Chief's Association is looking to address this in the legislature next year. 5) Beach Signs – The signs have been installed on the 8 beach entrances. 6) FDOT Bridge Inspection – The approved bridge repairs will start in May. 7) Home Alarm Monitoring System – The new receiver has been installed and the new software is presently being installed. 8) Woolbright Detention Pond – We have repaired the flap valve that prevents the tidal water from entering the detention area. Since these 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. 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 their package plant. Other condominium 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. Staff is looking into the preliminary cost of the project to see if the residents want to continue with the project. At present it appears favorable. 10) All Aboard Florida – A hearing was held in Tallahassee to consider the issuance of bonds for the project. The Board that is to make this decision was not present but they sent their staff. He will keep the Commission updated. 11) Spanish River, Swaim Project – The SFWMD

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and Mr. Swaim went to court to determine if he can complete his project, which includes mangrove removal and filling in an existing waterway, without the normal permits. 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 advised.

Manager Schenck stated that since we have been working with the PBA, the Commission has agreed that all employees should be treated the same when it comes to salary raises etc. As we were working with different percentages in the beginning of the fiscal year then what was finally approved we have to make a few adjustments with some of employees because their anniversary date came prior to the final contract. For those employees that are not topped out, the increase for this year and next year will be 5% on their anniversary date based on a satisfactory review. Those employees that received less than 5% because of their early anniversary date will be brought up to the 5% level. A few employees that have already reached the cap received a 3% increase as approved in the budget. The agreement was finalized with a 2% increase for this year and next. In order to keep everything equal we will make the correction next year to 1% for those affected employees rather than adjust it this year. There was a consensus from the Commission to approve the administrative decision by staff to equalize the pay increases as described.

Comm. Lucibella asked how many of Ocean Ridge residents had alarms and which portion were single family or multifamily. He was informed that there are over 280 alarms that are being monitored by the Police Dept. Chief Hutchins stated that overall approximately 50% of the single family residences have alarms, but was unsure which were single family or multi-family units.

12. Town Attorney

a. Request for Commission Direction/Action Regarding Plaintiff's Request for the Town to Intervene in Municipal Recall Lawsuit

Atty. Spillias updated the Commission regarding the Municipal Recall Suit. He stated that Judge Blanc granted a motion to for a partial temporary injunction, meaning that the petition could still be circulated, however; if received the Supervisor of Elections could take no further action. The trial is set for May 6th. Comm. Lucibella's attorney deposed Haley Joyce last week, and submitted the witness and exhibit lists. Mrs. Joyce has objected to the submittals and filed for a Motion to Dismiss. He anticipated that her motion may be considered first and the trial may or may not be delayed.

Atty. Spillias advised he submitted claims to our two insurance companies regarding Clerk Hancsak and Comm. Lucibella. One insurance carrier has assigned a defense attorney as co-counsel for the Town Clerk, while ACE Insurance sent a letter declining coverage because the Plaintiff and Defendant are both Town Officials and also citing that there is an exclusion in the policy. Atty Spillias has written a reply, stating that they have misread the policy and quoted a Supreme Court case regarding Fort Walton. The result of the case was that if the commissioner prevailed then the Town becomes obligated to reimburse the Commissioner.

Atty Spillias mentioned that Comm Lucibella's attorney has again requested that the Town intervene in the suit citing that there was a public interest for the Town if the petition is insufficient because there will either be an election or possible reimbursement costs to Comm Lucibella. He added that one invoice has already been provided with costs exceeding \$30,000 and they will be significantly higher soon. He added if the Commission voted to intervene he would then represent the Town while Lyman Reynolds, attorney for the insurance company, would represent the Town Clerk. Atty Spillias advised that after reviewing the entire case it was his opinion that the petition is legally insufficient citing that there were two petitions based on the same alleged grounds and the factual basis is not alleged. He stated that he felt Comm Lucibella's suit has merit.

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Comm Allison questioned why the Town would intervene if the case will be heard on May 6th anyway to which Atty Spillias advised that the Town's interests would be most protected by intervening in the suit because it would permit the Town the ability to participate in any discovery matters, attend depositions, and make objections.

Comm Bonfiglio stated that after reviewing the case he felt the Town should intervene because it would provide rights and participation to the Town. He felt the Town has a responsibility to intervene.

Mayor Pugh stated that morally the Town has a responsibility to intervene.

Comm Bonfiglio moved to authorize the Town Attorney to file a motion to intervene as a Plaintiff in the suit. Comm Aaskov seconded the motion.

Motion carried – yea (Pugh, Aaskov, Bonfiglio)
Nay (Allison)

13. Police Chief

Chief Hutchins announced the following promotions and gave a brief employment background of their qualifications: Steve Wohlfiel to Lieutenant effective April 27, 2015, Off. Richard Jones to Police Investigator effective April 27, 2015, Off. Gary Roy and Off. Frederick Stang to Sergeants effective May 11, 2015 and June 8, 2015 respectively. He also announced that Off. David Kurz would be assuming the responsibilities of Community Police Officer, Evidence Custodian and Field Training Officer.

Mayor Pugh congratulated each of the officers on their promotions and thanked them for their service and dedication to Ocean Ridge.

Clerk Hancsak announced that the Annual Shredding Event resulted in shredding 65 boxes, and that it would continue to be an annual event. She thanked the residents that utilized the shredding service.

14. Town Engineer

Engineer Tropepe was absent with notice.

ACTION ITEMS

15. Appoint Open Positions to the Board of Adjustment (Deferred from the April 6, 2015 Meeting)

Clerk Hancsak summarized that several appointments were filled at the last Commission Meeting; however there was still a Board of Adjustment alternate member vacancy that was advertised in the Tidings. Unfortunately with the passing of Bernd Schulte, a Board of Adjustment regular member position is now also vacant, thus creating 2 vacancies. The Commission had appointed Hans Kahlert as an alternate member again; however, he has advised that he would rather serve as a regular member. Since the last meeting we have received 2 requests. Steve Coz, currently an alternate member on the P & Z Commission has offered to serve on the Board of Adjustment. Susan Hurlbert, 5111B N Ocean Blvd, has also submitted a resume to serve on the Board of Adjustment. If the Commission decides to appoint Steve Coz to the Board of Adjustment it will create an opening for a P & Z Commission alternate.

Comm. Bonfiglio motioned to approve Steve Coz as a regular member to the Board of Adjustment and to approve Susan Hulbert as an Alternate member of the Board of Adjustment, and to advertise for the Planning & Zoning Commission. Seconded by Comm. Allison.

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It was also discussed that Mauro Walker, a member of our Planning & Zoning Commission was recovering from a quadruple bypass. The Commission requested that flowers/donation be sent to him along with the family of Bernd Schulte.

Motion Approved – yea (5).

Dr. James Weege, 19 Sabal Island Dr, thanked Mayor Pugh for his offer to rebuild the koi pond. He was very happy with the progress of the repairs He also thanked Comm. Bonfiglio and Comm. Lucibella for their donations to the koi pond. He felt that the pond added to the ambiance of the Town, and noted that Digby Bridges was looking after the Town's koi fish for the duration of the repairs.

Ken Kaleel, 86 Island Dr. South, stated that Ocean Ridge had lost a good friend when Bernd Schulte passed away. The Town was lucky to have someone like him to serve the Town. Up until his death he was still very concerned with Ocean Ridge and his friend Mauro Walker. Bernd felt it was wrong with what happened to Comm. Lucibella and the lawsuit. Mr. Kaleel asked that the Commissioners look at the big picture and to support each other as Commissioners. When appointing members to the boards they should choose someone who will be as dedicated and committed to Ocean Ridge as Bernd Schulte.

16. Approval of Police Chief Contract with Hal Hutchins

Manager Schenck distributed to the Commission a proposed contract for Chief Hutchins that had been reviewed by himself and Atty. Spillias. They felt it met the purpose intended and recommended approval.

Comm. Bonfiglio motioned to approve the proposed contract for Hal Hutchins as the Chief Police effective April 6, 2015. Seconded by Comm. Allison.

Comm. Lucibella had concerns with verbiage in the contract as this contract may set a precedent for any future police chiefs. Several minor revisions were approved.

Comm. Bonfiglio revised his motion to include the minor amendments to the proposed contract. Seconded by Comm. Allison.

Motion Carried – yea (5).

Chief Hutchins expressed his appreciation to the Commission for their confidence in appointing him to Police Chief.

17. Authorize an Amount Not to Exceed \$10,000 from the Capital Projects Fund Surplus Monies to Anzco, Inc. for the Repairs to the Island Dr Bridge

Manager Schenck stated that Bridge Design, Inc., reviewed the FDOT structural report on the Island Drive Bridge and developed a program for the repairs shown in the report. Anzco Inc. reviewed the scope and presented a proposed repair cost. After review and discussion with the engineer we agreed on a cost of \$6900. Additional engineering costs for the third bridge are \$2000. Staff requests approval of the additional funds for the bridge repairs. This will be an addendum to Anzco contract for the other 2 bridges with funding coming from the Capital Projects Acct.

Comm. Bonfiglio motioned to authorize an amount not to exceed \$10,000 from the Capital Projects Fund Surplus Monies to Anzco, Inc. for the Repairs to the Island Dr. Bridge. Seconded by Comm. Aaskov.

Motion Carried – yea (5).

18. Discuss Meeting Dates for the July and September Meetings

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Clerk Hancsak requested the Commission consider dates for the July proposed budget/proposed millage meeting and the meetings in September. The Property Appraiser's Office is requesting that we hold the meeting no later than the week of July 20th. The anticipated budget distribution date is July 10th. Staff is proposing to hold this meeting on July 20th or July 21st at 8:30am. The September meeting must also be changed because the office is closed on Monday Sept 7th. The Tentative budget Adoption/Regular Meeting together and the Final Adoption is a minimum of 1 week later.

The consensus was to schedule the July Proposed Budget/Proposed Millage Meeting on July 21st 2015 at 8:30am and the September Tentative Budget Adoption/Regular Meeting on September 10th, 2015 at 5:01pm, and the Final Budget Adoption on September 17th, 2015 at 5:01pm.

19. Approve an Amount Not to Exceed \$18,000 to Repave Adams Road

Manager Schenck reported that the new condos on Adams Rd are almost complete. As a part of the project they are required to repave a part of the road about 3 feet wide, however; they have agreed to pave it to the center line of the road. The contractor provided prices to pave the road in front of their property and also the entire road with the Town paying for the other half. The total cost would be \$21,500. This would be more aesthetically pleasing and more serviceable than just paving half the road.

Don Magruder, 9 Ridge Blvd, was concerned that the price seemed high, and that not all of the road needed repairs. Cheryl Olanoff, 566 Ridge Ln agreed and felt that the Contractor had made a mess of the road with oil spills, and that the contractor should pay a bigger portion.

Betty Bingham, 1 Ocean Avenue, felt that the Town should impose Impact Fees to contractors for larger projects for any reparations that the Town may incur as a result of the project.

Comm. Bonfiglio motioned to approve funding a portion of the cost less \$11,500 to be paid by Ocean Breeze to repave Adams Rd from A1A to Old Ocean Blvd from the Capital Projects Fund. Seconded by Comm. Allison.

Motion Carried – yea (5).

20. Discuss Succession Planning

Manager Schenck presented to the Commission the job descriptions for the administration staff, including Town Manager, Town Clerk, Deputy Town Clerk, and Typist/Receptionist.

The Commission directed staff to schedule a workshop to discuss succession planning.

21. Request Budget Amendment to Appropriate \$11,500 from Contingency to Operating for the Legal Department

Clerk Hancsak summarized that at the February meeting the Town Commission approved the hiring of Ken Spillias as the In-House Town Attorney at an annual salary of \$90,000. At the April meeting the Commission also authorized the internal department budget amendments. However because the salary is from March to March, additional monies need to be transferred into the Legal Department for this fiscal year. Staff is requesting that \$11,500 be transferred from the Contingency Acct in to the Legal Accts.

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Comm. Lucibella motioned to approve the Budget Amendment to transfer \$11,500 from the Contingency Acct into the Legal Department Accounts. Seconded by Comm. Allison.

Motion Carried – yea (5).

Meeting Adjourned at 8:20 PM.

Attest By:

Town Clerk

Mayor Pugh

Commissioner Aaskov

Commissioner Allison

Commissioner Bonfiglio

Commissioner Lucibella