

REGULAR TOWN COMMISSION MEETING HELD JULY 6, 2015

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, July 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 Lucibella	Mayor Pugh

Comm. Allison was absent with notice.

Pledge of Allegiance

ADDITIONS, DELETIONS, MODIFICATIONS, AND APPROVAL OF AGENDA

Comm. Bonfiglio congratulated the United States Women's Soccer Team for winning the World Soccer Cup.

Clerk Hancsak announced that a Planning & Zoning Commission Meeting was being held on August 10th, 2015 and that it had been requested that they discuss the handling of blight of construction sites and abandoned properties. She asked if it could be added to their agenda. There was a consensus to add this to the Planning & Zoning Agenda.

CONSENT AGENDA

1. Minutes of Regular Town Commission Meeting of June 1, 2015

Comm. Bonfiglio motioned to approve the Agenda. Comm. Aaskov seconded the motion.

Motion Carried – yea (4).

ANNOUNCEMENTS AND PROCLAMATIONS

2. The Administrative Offices will be closed on Friday, July 3, 2015 for the Official Holiday
3. The FY 2015/16 Budget Presentation/Adopt Proposed Millage Meeting and Special Meeting will be held on Tuesday, July 21, 2015 at 8:30 AM.

PUBLIC COMMENT

Betty Bingham, 1 Ocean Ave, stated that it had been over a month since Manalapan had pumped the sand transfer. Manager Schenck stated that he would contact Palm Beach County for their pumping schedule since it had been a while since he had received any reports.

Terry Brown, 23 Harbour Dr. South requested that Planning & Zoning also discuss signage as a visual blight. There seemed to be many unpermitted signs in town such as “No Trespassing” that do not meet the code. There was no discussion by the Commission.

Jim Weege, 19 Sabal Island Drive, stated that there had been some problems with the rebuilt koi pond and the koi fish died. Hopefully within the next few weeks adjustments can be made, and new fish can be added to the pond. Mayor Pugh stated that they also intend to research a chiller for the pond to reduce and maintain the temperature and algae levels.

Jim Cerullo, 55 Douglas Drive, stated his concern for the traffic on Douglas Drive. Vehicles were going the wrong way on a one way street with a blind curve. He gave the Town Clerk a sample of a new proposed caution sign. The Town Manager advised they would look at the area.

REGULAR TOWN COMMISSION MEETING HELD JULY 6, 2015

Ken Kaleel, 86 Island Dr. South, requested that a provision be added to the Code that requires any construction over 25% of house value be fenced/screened. The Town used to demand that contractors/owners keep the roadways and construction sites properly maintained, but had become lax.

There was a consensus from the Commission to prepare an ordinance regarding proper screening of construction sites.

Nancy Hogan, 37 Hibiscus Way, requested that Ocean Ridge be respectful of government agencies and budget to pay off the balance owed to the Ethics Commission.

PUBLIC HEARINGS

4. An Application Submitted by Mark Timothy, Inc. 41 SE 5th Street, Boca Raton FL 33432, representing the owner, 6125 N Ocean Blvd. LLC, Mark T. Pulte, Member, 41 SE 5th Street, Boca Raton FL 33432, 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 single family residence with 4 car garage with a maximum finished floor elevation of 20.31' NGVD (same as structure to be demolished) which would extend a maximum of 128.40' (+/-) east of the Coastal Construction Control Line (CCCL) and also a new deck, pool, spa, and fire pit that will extend a maximum of 164.66' (+/-) east of the CCCL, and also repairing the existing dune crossover located at 6125 N Ocean Blvd. (corner of Anna St. and SR A1A) or legally described as Amended Plat of Boynton Sub sly 21.72' of Lot 10 and Lots 11 & 12, Blk 3 & the pt of Block 10 lying west of & adjacent to abandoned Ocean Blvd. (exact description available for review in the Clerk's Office)

Clerk Hancsak read the application. She stated that no additional correspondence had been received, and that all fees had been paid. She summarized the request advising the plan was to raze the existing single family structure & detached guest house, pool/deck and construct a new 2 story single family residence and attached 4 car garage/guest quarters. The request included a new deck pool, spa, fire pit and repairs to the crossover. The structure is located east of the CCCL with an exception of a portion of the garage/guest quarters. The Code requires a Land Development Permit for any construction east of the CCCL and that a public hearing be held for any work that requires submittal to DEP for formal permitting. This is not a variance request. The applicant has provided draft site plans. The property is located within the RSE District, which based on the size of the lot will meet the code requirements. Upon preliminary review it appears that all of the zoning requirements have been met, and as they will be utilizing the same finished floor elevation they will not need to seek a zoning variance. There are no legal issues in approving the request. Staff recommends approval of the applicant's request contingent on DEP approval and meeting all of the zoning and building requirements upon actual building permit submittal and review.

As this was a quasi-judicial hearing, Atty. Spillias advised that anyone who would be giving testimony must be sworn in at this time. Comm. Bonifiglio stated that he had seen the property but he had not spoken with anyone.

Terry Brown, 23 Harbour Dr. South, stated that the request included crossover repairs and a fire pit. He questioned the scope of the dune repairs and if the fire pit would be in violation during turtle season and without police approval. Benjamin Schreirer, Architect stated that the crossover repairs were for their private crossover only, and that the gas fire pit would be sensitive to Turtle Season and it operates similar to a gas grill

REGULAR TOWN COMMISSION MEETING HELD JULY 6, 2015

Comm. Bonfiglio motioned to approve the applicant's request for 6125 North 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. Aaskov.

Motion Carried – yea (4).

REGULAR AGENDA

REPORTS

5. Town Manager

Manager Schenck reported the following: 1) Spanish River Drive – water is ponding, staff is analyzing the best way to solve the concentration problems in the driveway. 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 staff would prefer them to make the changes in the present study. 3) 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. 4) FDOT Bridge Inspection – The approved bridge repairs have started. 5) Home Alarm Monitoring System – The new receiver/software has been installed and is working properly. 6) 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. 7) 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. 8) 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, without the normal permits. The judge ruled against Mr. Swaim so he does have to go through the regular permitting process.

6. Town Attorney

a. Update on Inspector General Lawsuit

Atty Spillias advised that the Cities have requested a 30 day extension.

b. Shark Fishing.

Atty Spillias advised that the search for implementing a ban on shark fishing was still in progress. He has only found 2 instances regarding shark prohibition: One involves a town pier, and the second is for a public park that forbids it within 50 ft. of the public beach. Neither would be applicable to Ocean Ridge. The Department of Fish/Wildlife controls state waters. He is continuing the research but not hopeful at this time. Mayor Pugh asked if Ocean Ridge could implement a time restriction. Atty. Spillias advised that this would limit a person's right to fish and either you have the right or you do not.

7. Police Chief

Chief Hutchins advised that his report was distributed. Both Sgt. Stang and Off. Kurz had received letters of commendation. There were no questions.

8. Town Engineer

Engineer Tropepe was absent with notice.

ACTION ITEMS

9. Request for Lien Reductions and Associated Fees for 40 Hibiscus Way. By Stellar Alon VP, LLC.

REGULAR TOWN COMMISSION MEETING HELD JULY 6, 2015

Clerk Hancsak summarized the request by Stellar Alon VP. LLC for a lien reduction for 3 Code Enforcement Liens: Case #2008-016: concrete deck and dock w/o permit; 2009-027: overgrown lot, and Case #2014-005: dock, 2nd story balcony and concrete deck. There are actually 7 liens on the property, however; Atty James produced a recorded Notice of Lis Pendens filed on November 24, 2009 which bars the other 4 liens. In June 2014 Stellar Alon Growth LLC was made aware of all the prior liens and Code Violations that were still in violation. They did however pay the several outstanding garbage/trash and alarm monitoring liens along with the current billing for garbage/trash and alarm services. Staff has spent many hours regarding these code enforcement issues during the ownership of both parties. The new owners chose to apply for other permits as their priority for the property rather than addressing the concrete deck violation, even though they advised at the Status Hearing on July 1, 2014 that they believed all work could be complete within 60 days. The concrete deck required the submittal of a drainage plan and landscaping plan which ultimately required site drainage modifications. This and the balcony were the most important issues to correct and the concrete deck and was not completed until May 28, 2015.

Clerk Hancsak stated that only the Commission has authority to reduce a lien, and if there is any consideration on reducing the liens, staff recommends that only the liens to the prior owner be considered because once they were notified they chose not to bring the property into compliance until May 28, 2015.

Comm. Bonfiglio disclosed that Atty Jame's Firm had retained him as an expert witness for a separate case. He asked if he had to recuse himself. Atty. Spillias clarified that it would not be necessary to recuse himself as this was not for his own gain.

Elaine James, Atty, representing Stellar Alon Growth LLC, thanked the Town staff for their assistance, and clarified that they were only requesting a reduction of the 2 liens. The deck was substantially more complex than originally realized to correct, and they had gone through 3 engineers to adequately address the problems. She noted that over \$365,000 in improvements had been done to the property. They were requesting a 90% reduction in liens. If the Commission approved a lien reduction they felt this would encourage developers to come to Ocean Ridge and buy delinquent properties and bring them up to code.

It was discussed that the property was currently under contract and that they had only pulled permits for \$140,000 of improvements not \$365,000. The Commission questioned the other \$200,000 of unpermitted work. They felt the company should have done due diligence and performed a lien search before they purchased the property. The neighbors of 40 Hibiscus had suffered ostensibly over the years with the neglected property. However, the Commission were now satisfied with the improvements of the property. Comm. Aaskov stated that she would not be in favor of any lien reductions.

Comm. Bonfiglio motioned to assess Stellar Alon Growth VP LLC \$98,100 (the total daily fines) for the 1st lien, and \$8600 (the total daily fines) for the second lien and \$21,978 (the total cost) for the third lien for 40 Hibiscus Way. Seconded by Mayor Pugh.

Public Comment.

Nancy Hogan, 37 Hibiscus Way, stated that over the last 5 years she had been coming to meetings announcing her concern of the neglected property and asked the Commission for assistance. Mr. Kafka the prior owner had extended the deck and raised the soil elevation, causing a hole in the seawall. While Stellar Homes had worked very hard to improve the property, she did not feel the property was in a position to be sold. Mayor Pugh stated this was a request for a lien reduction only and not about the construction. All permits had been inspected and closed by the Town Building Official and the Town Engineer.

REGULAR TOWN COMMISSION MEETING HELD JULY 6, 2015

Terry Brown, 23 Harbour Dr. South, requested that they withdraw their motion and to have the attorneys excuse themselves to make a deal.

Martha DeNavea, new prospective owner, introduced herself stating that they already had plans for additional improvements to the property. Her family was excited to move into the property, and asked the Commission to come to a fair agreement.

Ken Kaleel, 86 Island Dr. South, stated that in the past the Commission has considered lien reductions based on hardships. He noted that Mrs. Hogan had consistently attended meetings regarding this property and that performing a record search should have been easily done by the Stellar Homes.

Atty. Spillias stated the Town's responsibility is that the property meets the code. Sometimes there can still be adverse impact to neighboring property. That would leave the neighbor with a civil matter. The Town can't require someone to do more than the code has required.

Motion Carried – Yea (3). Nae (1) Comm. Aaskov.

10. Approve and Confirm the Hiring of Two Police Officers (Richard Ermeri and Jimmy Pilon)
Chief Hutchins stated that the Police Dept. had advertised for 4 open positions. Two of the applicants appear to be good candidates. Hopefully within 2 weeks the final background checks would be complete. Both candidates have current employment and will have to give 2 week notice to their current employer. He would introduce them at the August meeting.

Comm. Bonfiglio motioned to approve the hiring of Richard Ermeri and Jimmy Pilon contingent upon final completion of background checks. Seconded by Comm. Lucibella.

Motion Carried – yea (4).

11. Authorize An Amount Not to Exceed \$25,000 from the Contingency Account to Fund the Demolition of 110 Bonito Drive as Authorized by Ordinance 592.

Manager Schenck reported that notices were sent to the owner and lienholders of 110 bonito of the Town's intention to demolish the property and include the demolition costs as a non-ad valorem assessment on the County's 2015 tax bills. We had received one response from a lienholder requesting an extension. He was informed that only the property owner could request an extension, and he has not done so. The next step is to contract with a demolition company to demolish the structure; we estimate the cost to be \$23,000-\$25,000. After the property is demolished the following steps need to be taken: 1) Hire contractor and authorize the Town Manager to execute a contractor for immediate demolition. 2) Authorize an amount not to exceed \$25,000 from the contingency Account to fund the cost of demolition. 3) Schedule a public hearing either at the July 21st or Aug 3rd meeting to be held prior to September 15 to adopt a non-ad valorem assessment roll.

Comm. Bonfiglio motioned to authorize an amount not to exceed \$25,000 from the Contingency Account to Fund the Demolition of 110 Bonito Drive, and authorize the Town manager to seek demolition bid proposals and approve the lowest bid and schedule a public hearing to adopt a non-ad valorem assessment roll. Seconded by Comm. Aaskov.

Clerk Hancsak reported that this would deplete the Contingency Account.

Motion Carried – yea (4).

REGULAR TOWN COMMISSION MEETING HELD JULY 6, 2015

RESOLUTIONS

12. Resolution No. 2015-04; Amending the 2014/15 Budget to Include a Transfer from the Unassigned Fund Balance to the General Fund Operating Budget (for the purpose of reimbursement of legal fees to Commissioner Lucibella.

Atty. Spillias stated that Comm. Lucibella had requested reimbursement for his legal fees required to defend him against the recall petition. The court determined that the petition was legally insufficient. Additionally the petitioners weren't able to obtain the necessary signatures under the relevant statute to call for a recall election. He has researched the issue of the Commission's authority/obligation to reimburse Comm. Lucibella in the circumstances presented. There is a Supreme Court Case which shows that a municipality has a public interest to intervene in a case where a recall petition is legally insufficient and the municipality is obligated to reimburse its elected officials for the cost of having to defend against an insufficient recall petition. Atty. Spillias has reviewed the invoices from Comm. Lucibella's counsel through May 2015 which total \$82,081.22. Overall the invoices are reasonable, however there were 6 hours for which both Comm Lucibella and Atty Spillias agreed that did not directly address the defense against the recall petition. This would reduce the request to \$79,171.22. He is contesting the decision from our D&O insurer that is claiming an exclusion in the policy precludes our claim for reimbursement for his fees and costs paid by the Town to indemnify Comm. Lucibella for his successful defense. If we are successful and they approve our claim there is still a \$50,000 deductible. If they deny the claim, the Commission could decide as to whether to file a legal action for breach of the policy. The reimbursement is not a budgeted item, and the funds will have to be transferred from the reserve account. One smaller invoice is still anticipated.

Comm. Bonfiglio motioned to restructure the resolution to pay the \$50,000 deductible, and then wait for a final decision from the insurance company regarding the balance. Seconded by Comm. Aaskov.

Comm. Lucibella questioned the first paragraph in the Resolution, "successfully obtained the necessary certified signatures" and that it should be changed to a recall attempt. He also requested that this item be tabled to the August meeting as Comm. Allison was not present to express her opinion.

Comm. Bonfiglio withdrew his motion, and Comm. Aaskov withdrew her second.

Terry Brown, 23 Harbour Dr. South, thanked Atty. Spillias for his analysis. He suggested that Comm. Lucibella's attorney go back to the judge and request an order for reimbursement or have the Inspector General review the invoices, which may happen anyway.

Ken Kaleel, 86 Island Dr. South, stated that he was in full support of the Town reimbursing Comm. Lucibella for reasonable fees. He felt that Ocean Ridge should have taken a harder stance on the recall. He felt it was an unwarranted egregious attack to the Commission and damaging to the election process. He also felt that the Town Attorney should take any steps possible to recoup any fees.

Comm. Bonfiglio motioned to defer the Resolution 2015-04 to the August 3rd meeting and to direct the Town Attorney to review the language of the resolution. Seconded by Comm. Aaskov.

Motion Carried – yea (4).

SECOND READING AND ADOPTION OF ORDINANCES

13. Ordinance #611; Providing for the Date of the Annual Town Election in March 2015 to Coincide with the Presidential Primary; Establishing the Proposed Qualifying Period for Candidates; Providing for Supremacy of This Ordinance Over All Ordinances Inconsistent with or in Conflict with Ordinance.

REGULAR TOWN COMMISSION MEETING HELD JULY 6, 2015

Clerk Hancsak reported that the Town's Municipal Election in March 2015 must be changed to coincide with the Presidential Primary to be held on March 15th, 2015. Unfortunately this will also change the qualifying dates to a much earlier period in order to meet the required state and federal laws for overseas and military absentee ballots to be mailed 45 days prior to said election. The qualifying dates will begin at noon, November 24, 2015 and run through noon, December 8, 2015.

Comm. Bonifiglio motioned to approve Ordinance #611 on Second Reading. Seconded by Comm. Lucibella.

Motion Carried – yea (4).

Meeting Adjourned at 8:13 PM.

Mayor Pugh

Commissioner Aaskov

Commissioner Allison

Commissioner Bonfiglio

Commissioner Lucibella

Attest by:

Town Clerk