

REGULAR TOWN COMMISSION MEETING HELD APRIL 6, 2009

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, April 6th, 2009 at 6:00 PM in the Town Hall Meeting Chambers.

Pledge of Allegiance

The meeting was called to order by Mayor Kaleel and roll call was answered by the following:

Commissioner Bingham	Commissioner Allison
Commissioner Pugh	Mayor Kaleel

Comm. Brown and Clerk Hancsak were absent with notice.

ADDITIONS, DELETIONS, MODIFICATIONS, AND APPROVAL OF AGENDA

Comm. Allison requested to move Item#15 and discuss it with the Town Manager's Report, and to add Item #18 A Proposal to change Old Ocean to a One-Way Street.

CONSENT AGENDA

1. Minutes of Town Commission Meeting of March 2, 2009
2. Authorize Mayor Kaleel as Voting Delegate and Any One of the Commissioners or Town Manager as Alternate(s) for the Palm Beach County League of Cities

ANNOUNCEMENTS AND PROCLAMATIONS

3. Proclamation Declaring April as "Water Conservation Month"
4. Proclamation Declaring April as "Fair Housing Month"

Comm. Bingham motioned to approve the consent agenda as amended, and agenda as presented. Seconded by Comm. Allison.

Motion Carried - yea 5.

PUBLIC COMMENT

Robert Happ, 8 Inlet Cay, stated that at the January meeting he had brought a petition of 50 signatures, requesting that Ocean Ridge reinstate no-seeum spraying, and he was discouraged that no action had been taken. He felt that the no-seeums hindered his quality of life, as they could not be outside for any length of time in the evenings or morning. His contractor halted on the installation of his new garage door one morning, because no-seeums were so intense. He invited any of the Commissioners to his home to experience the problems of the no-seeums. At the January meeting he had also complained of the quality of paving at Inlet Cay, and he had seen no changes or improvement.

Manager Schenck reported that the paving contractor had repaired what they could without ripping it up and starting over. He stated that it was better than it was before, and had passed inspection. The contractor had not been paid in full yet. The cold weather had caused the larger stone to come to the top of the asphalt, and made it appear rough, and that over time it would blend in with the existing road. Both items will be discussed under his report.

PUBLIC HEARINGS

5. An Application Submitted by Bridges, Marsh, & Assoc., 18 Via Mizner, Palm Beach FL 33480, representing owner, Edward Simmons, Requesting a Land Development Permit from the Provisions of the Land Development Code, Article 2: COASTAL CONSTRUCTION; Section

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67-17; Coastal Construction and Excavation Setback Line; Sub-Paragraph (2); Setback Line Established; and Sub-Paragraph (h) Existing Structures to Permit the construction of a 215 sq ft Addition Consisting of an Extension to the Kitchen Area that will Extend a maximum of 52'2" East of the Coastal Construction Control Line Located at 6823 N Ocean Blvd. #3 or Legally Described as a Portion of the north 210.7 feet of the south 3723.35 feet as Measured at Right Angles of that Portion of Section 22, Township 45 South, Range 43 East, Palm Beach County Florida Lying East of the East Right of Way Line of SR A1A (exact legal description located in the Clerk's Office)

Atty. Spillias stated that as this was quasi-judicial meeting, he asked if there had been any exparte communications with the applicant or anyone else regarding this matter. Response was no. He then swore in those that would be giving testimony regarding this matter.

Mark Marsh, representative of Bridges, Marsh, & Assoc, representing owner, Edward Simmons reported that this was a standard request, as the property was east of the Coastal Construction Control Line it required the commission's approval. It was for the addition of 215 sq ft to the unit. He stated that other neighboring units had been also granted approvals for addition in the past.

Comm. Pugh motioned to accept the application submitted by Bridges, Marsh & Assoc, requesting a land development permit contingent upon DEP approval. Comm. Allison seconded.

It was then open to the public for comment. There was no public comment.

Motion Carried – yea 5.

REPORTS

6. Town Manager

Manager Schenck reported as follows: 1) Town Hall. The building is complete and we are awaiting the grant monies.

15. Authorize \$5,153.75 Payment to EnviroDesign Assoc., for New Town Hall/Police Complex Related Expenditures to be Funded from the Town Hall Loan Monies

Manager Schenck reported that this was the final invoices for Civil Engineering Certifications for Phase II on the parking lot, the wetland setbacks and roadways created by FDOT and FDEP permits. These are being paid by us to avoid the contractor's markup. The total is \$5153.75 being paid from the construction account, and staff recommends approval.

Comm. Bingham motioned to authorize \$5,153.75 for payment to Enviro Design Assoc., for the New Town Hall/Police Complex to be funded from the Town Hall Loan Monies. Seconded by Comm. Pugh.

Motion Carried – yea 4.

Manager Schenck continued with this report: 2) Coconut Lane Drainage. The project is on hold until Commission approval to proceed. 3) Ocean Ave. Landscape. The new well is complete and the distribution system has been repaired. The operation permit has been received. FDOT has removed the mangroves from their drainage ponds on both sides of Ocean Ave, and they are to maintain them so they don't grow back. 4) Island Dr Bridge. A preconstruction meeting had

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been held and we are waiting for FPL to move the power line from the north side of the bridge to the south side of the bridge, as it is in the way of the construction of the pilings of the new bridge. 5) Old Ocean Blvd. We have met with Mark Taynton of FDEP and Paul Davis of DERM to develop educational information for the residents and their landscapers on dune maintenance. The County had agreed to transfer the section of the dune they own to the Town. The Garden Club Dune Committee will be developing a plan to landscape this section. They will be working with the State and DERM and will present the plan to the Commission for approval. We are continuing to work with our landscaper to remove the exotics on the dune walkovers. 6) Inlet Cay Paving Manager Schenck noted that the entrance and cul-de-sac were the 2 problem areas. It had been inspected and approved according to industry standards. It was discussed and agreed that it was not the same quality as the other roads that Ranger had done. As Ranger Construction had been our paving contractor for past projects, it would benefit them to satisfy us on Inlet Cay. Direction to staff was to contact Ranger Construction to repair the paving or possibly repave it.

Manager Schenck continued his report: 7) Inlet Cay Seawall. A proposal was received from Docks and Seawalls and would be brought up later in the meeting. 8) No Wake Zone. The County and State had been contacted regarding a no wake zone in the Intracoastal for manatee protection, but changes are only made if public safety or manatee safety are affective. Comm. Bingham asked marine patrol to enforce speed zones for a few months to slow boaters. 8) Zoning Code Recommendations. The Planning & Zoning Board will meet on April 20th to discuss possible changes in the zoning code. 9) Police Report. February Police report was supplied. 10) Chickasaw Linear Park. A meeting was held with Crown Colony and the Yacht Club to discuss the concern on the linear park. Comm. Bingham requested for Planning & Zoning to review and give a definition of "hedge/tree. Manager Schenck advised that he would mention it to Planning & Zoning at the next meeting.

Manager Schenck also advised that Jeff Lee had requested to provide Coconut Palms on the northeast corner and rear of Townhall. Manager Schenck also requested to sell one of the two drainage pumps and a Kohler generator that was not being used either. He also requested to get rid of the pile of wood (old decking for the construction trailers) and put this on the website. A consensus was given to sell off the old pump and generator, and then to put the wood on the Town's website. He also advised that 16 Adams Rd is scheduled for demolition, and it will be turned over to Code Enforcement if they don't follow through. Manager Schenck reported that the cost to have holiday lights put on Ocean Avenue would be \$8515, and then there is the cost of maintaining them. No action was taken due at this time.

Mayor Kaleel questioned last month's minutes in regards to the cost of the no-seeum spraying of \$1000/month. Deputy Clerk Hallahan stated that this was for the road spraying only; the backpack spraying was more costly. The areas of spraying were discussed and the small number of homes that had received the backpack sprayings. It was noted that since we had stopped the spraying there were more complaints. Staff was directed to contact ERM and Clarke Mosquito Control and have them respond at the May meeting with information regarding the environmental impact of the spraying to plants and small animals.

7. Town Attorney

a. Discuss and Seek Direction RE: Cory Heith et al vs. Town of Ocean Ridge Case No. 50 2003CA010524XX0CAB

Atty. Spillias reported that the judge had lifted the stay and allowed the case to go forward. A status conference was schedule for April 13, 2009. We had been served with discovery requests

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for documents regarding the alleys as a new attorney is now involved. He is not requesting settlement direction at this time but maybe in the future, and we would continue to defend the case. He also noted that the Town Manager could serve as the Town Representative at the April 13th's meeting.

b. Discuss and Seek Direction RE: Occupational License Tax Class (for Attorneys) Class Action Law Suit

Atty. Spillias reported that attorney's occupational licenses were regulated by Supreme Court not local jurisdictions. Atty. Spillias did not feel that this law suit would impact Ocean Ridge directly, as we are phasing out commercial businesses. They are requesting \$1500 from all towns. No direct motion was given.

Atty. Spillias reported that the City of Melbourne had an ordinance regarding mortgage foreclosures, and the rights of the lender to go onto the properties. He stated that the mortgage verbiage would have to provide an allowance for the lender to maintain the property in case of a foreclosure. Comm. Bingham asked if an ordinance could supersede a mortgage agreement and have the lender assume the obligation of property maintenance. Atty. Spillias stated that there may be a question of liability if the lender assumed the responsibility. There is no precedence for this as these are new ordinances. No direction to staff was given.

8. Chief of Police

Chief Hillery advised that there had been several burglaries of unlocked cars, and garage doors left unlocked also. With the economic troubles and desperate times he asked the residents to stay alert and notify the police of any suspicious activities.

9. Town Engineer

Engineer Tropepe was absent with notice.

ACTION ITEMS

10. Request for \$1,100 Expenditure from the Contingency Account to Assist the Sand Sifters for the Purchase of T-Shirts with the Town Logo on the Back for the July 4, 2009 Cleanup from 8:00 – 10:30 AM By: Gary Solomon, Sand Sifters

Gary Solomon, representative of Sand Sifters, stated that in the last 4 years there had been over 16,500 hours of community service with a savings of \$262,000 to the communities. Their cleanups are on the first Saturday morning of each month, and his staff also cleans Boynton Park and Hammock Park each Monday morning. He also stated that their organization was not a "not for profit organization" but was based solely on volunteer service. He asked the Commission to please consider his request for t-shirts with the Town logo on the back for their July 4th, 2009 cleanup. The City of Boynton Beach was also purchasing shirts with their logo on them. The combined order would bring the cost down to \$3.50/shirt.

Mayor Kaleel thanked them for a great job, and stated that the Ocean Ridge Garden Club also does a cleanup once a year in April. He also noted that the Lake Worth Lagoon Initiative also had beach cleanups, and asked for the vote to be delayed, and that a policy decision be done for the best use of funds and budgetary decisions. Comm. Bingham asked the Commission to consider it as a budget item, and felt it a shame to have to give something to the public to have them come out and help. Gary Solomon commented that volunteers do show up without promotional items, and they are spreading out the items so it is not every month. He felt that the

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shirts were an inexpensive way of making the public aware of their service. Comm. Allison stated that the Sand Sifters were the only organization that was asking for monies, and that they have been dedicated to consistently cleaning the beaches. The Garden Club used to have beach cleanup every month, but it stopped 2 years ago. This April was to be the first cleanup since then.

Comm. Allison motioned to approve the \$1100 expenditure for t-shirts with town logos to be paid from contingency. Seconded by Comm. Pugh.

Motion Carried – yea 3. Comm. Bingham voted nae.

It was directed to staff that during the budgetary process there be an allowance for promotional items added to the budget.

11. Authorize Repairs by Docks and Seawalls to the Inlet Cay Seawall in the Amount of \$18,650 from the Drainage Surplus Loan Monies in the Capital Projects Fund

Manager Schenck reported he had received a proposal for Docks and Seawalls to repair the seawall in lieu of replacing it. Comm. Bingham asked that there be a warranty included with the repair.

Comm. Bingham motioned to authorize repairs by Docks and Seawalls to the Inlet Cay Seawall in the amount of \$18,650 from the drainage surplus loan monies in the capital projects fund pending a year warranty. Seconded by Comm. Allison

Mayor Kaleel asked the Town Manager to get other bids, and for the town manager to use his discretion to not exceed \$20,000.

Motion Withdrawn.

Comm. Bingham motioned to allow the Town Manager to receive 3 bids and to grant him the authorization to choose a contractor with an amount not to exceed \$20,000, and to include a warranty. Seconded by Comm. Allison.

Motion Carried – yea 4.

12. Authorize Settlement of Insurance Payment for Plane Crash

Manager Schenck reported that the latest settlement offer from the insurance company for the plane crash totaled \$94,307.97. This was a reduction of \$35,000. They reduced the cost by \$12,395 (BSA's administrative costs), \$10,000 deductible, and the cost of the towing of the plane was reduced to \$200 from the price of \$12,104. He asked the commission if they wished to have a \$35,000 law suit against the pilot or owner.

Mayor Kaleel disclosed that he had represented Zuccala Towing in the past. He also asked if the insurance company was requesting a release with the acceptance of this payment. Atty. Spillias stated that this payment probably would come with a release. It could go to court. The policy of the insurance company is to reimburse us for "reasonable costs". He noted that they denied the towing price because their interpretation of "debris" was parts of building only, not the plane itself. Ocean Ridge could get an independent adjuster, but he recommended that we not proceed with a lawsuit.

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Lieut. Yannuzzi, Ocean Ridge police officer, stated that in the initial meeting with the insurance company, they had never asked to bring in their own contractor for the repairs. They were content with BSA being available, and to have 2 companies working in Town Hall simultaneously, and still trying to complete the building would have been unmanageable.

Comm. Pugh asked if Zuccala Towing had the plane, and if it had any salvage value. He stated that some towing company may take the salvage value in lieu of payment. Lieut. Yannuzzi stated that the engines were last reported with the FAA, but that the FAA was complete with their investigation however, and both engines were in working condition, and he would try to check into it.

Comm. Allison motioned to accept the \$94,307.97 as an insurance settlement for the plane crash of July 22, 2008. Seconded by Comm. Pugh.

Motion Carried – yea 4.

Atty. Spillias stated that he would keep in contact with Lieut. Yannuzzi as to the possibility of suing either the owner or pilot for liability, and would keep the Commission advised.

13. Authorize Approval of Deed Transfer of Dune Parcel in the 5000 Old Ocean Blvd. from Palm Beach County to Town of Ocean Ridge

Manager Schenck stated that we had requested a deed transfer of 2 parcels from Palm Beach County, and one was granted. The County stated that they are unable to transfer the Harbour Drive property because FDOT had objected.

Comm. Bingham motioned to approve the Deed Transfer of the Dune Parcel on Old Ocean Blvd from Palm Beach County to the Town of Ocean Ridge. Seconded by Comm. Allison.

Manager Schenck advised the Commission that Comm. Brown had sent a written notice that he recommended the deed transfer.

Earl Jones, 14 Sailfish Lane stated his objection to the Town taking over the dune property and thought the neighboring property should have the opportunity to take over the parcel.

Zoanne Hennigan, the President of the Ocean Ridge Garden Club, stated that a committee had been assigned to organize the project: John Wootton, Jerry Lower and Penny Kosinski. There is a plan to make this dune a role model for the community. In April it would be staked off, and a comprehensive plan designed. There were monies in their budget and they would work with the Town to have it done properly.

Motion Carried – yea 4.

Mayor Kaleel requested staff to set some of the wood aside for the crossover before it is put on the website.

14. Excess Flood Insurance Coverage for the New Town Hall/Police Complex from the Contingency Account

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Manager Schenck reported that he had received 2 quotes, one from the League of Cities and the other from Plasteridge Insurance. Plasteridge had the lowest rates with excess flood coverage at \$4239.80/year and terrorism at \$1075/year.

Comm. Pugh motioned to approve excess flood insurance coverage for the new Town Hall/Police Complex in the amount of \$4239.80/year to be taken from the contingency account. Seconded by Comm. Allison.

Motion Carried – yea 4.

SECOND READING, PUBLIC HEARING AND ADOPTION OF ORDINANCES

16. Ordinance No. 582; Establishing a Lump Sum Bonus Payment Program to Reward Outstanding Employees Whose Performance Exceed Standards in Accordance with Florida Statutes, Sections 166.021(7) and 215.425

Comm. Pugh motioned to approve Ordinance No. 582; Establishing a Lump Sum Bonus Payment Program to Reward Outstanding Employees Whose Performance Exceed Standards in Accordance with Florida Statutes, Sections 166.021(7) and 215.425. Seconded by Comm. Allison

Zoanne Hennigan, 91 Island Drive South, asked how “standards” was defined from the Florida Statutes, and if all employees were being evaluated. Atty. Spillias stated that there is no “State Standard” established for municipal employees. Manager Schenck stated that annual employee evaluations are being done for all employees by their supervisors.

Motion Carried – yea 4.

TOWN COMMISSION COMMENTS

17. Update on Boynton Inlet Committee Meeting

Comm Pugh stated that the Boynton Inlet Committee had their final meeting on March 20th, and a consensus was to send to the County recommendations for signage, lights, warning systems and boater education. Due to the efforts of Ocean Ridge, Briney Breezes, and Manalapan a “Status Quo Option” was chosen to keep the inlet as is. There was another recommendation for long term like changing the bridge or widening the inlet, but that further study would be needed to determine environmental and flooding issues. They gave the responsibility back to the County. The study, or grant was \$165,000 to keep the inlet as is.

He also noted that at the last meeting of South Lake Worth Inlet Committee recommended that the County make repairs to the sand transfer plant and fix the seawalls. They also approved for new signage and lighting at Boynton Inlet.

James Bonfiglio, asked for more information regarding the upcoming work with the transfer station, when it would start and what kind of impact it would be to Ocean Ridge. Comm. Pugh stated that it would take 1-2 years starting June 1st, and the fishing piers and parking would be closed periodically. They would be pumping sand and then building a structure around it. There were going to be seawall repairs and jetty repairs too.

Comm. Allison stated that she got a report from John May that he took an informal poll to make Old Ocean Blvd one-way, and he did not find any objections. The request is to make from south to north. Mayor Kaleel noted that it had been discussed 3 times, and went to Planning & Zoning

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2 times. We even paid a company to review the plan. There was no motion to go further with this concept.

Mayor Kaleel encouraged the audience to look at the Lake Worth Lagoon Initiative's website. It had information regarding a comprehensive approach to the environmental concerns of the coastal waterways from Boca to Lake Worth. It is a new effort to make serious changes to the area of beaches, lagoons, and reefs, and felt it was a great collaboration of several municipalities.

Adjournment at 8:23 p.m.

Attest By:

Town Clerk

Mayor Kaleel

Commissioner Allison

Commissioner Bingham

Commissioner Brown

Commissioner Pugh