

PUBLIC HEARING AND REGULAR MEETING OF SEPTEMBER 3, 1996

PUBLIC HEARING AND REGULAR MEETING OF THE TOWN COMMISSION OF THE TOWN OF OCEAN RIDGE, FLORIDA HELD IN THE TOWN HALL ON TUESDAY, SEPTEMBER 3, 1996 AT 5:01PM.

The meeting was called to order by Mayor Digby Bridges. Following the Pledge of Allegiance, roll call was answered by the following:

Commissioner Aaskov
Commissioner O'Hare

Commissioner Kaleel
Mayor Bridges

It was noted that Commissioner Stamos was absent with notice.

IV. PUBLIC HEARING

A. Presentation of Tentative budget and proposed millage rate for Fiscal Year 1996-1997

Interim Town Manager Hancsak announced that there was an error in the budget in that the Ad Valorem tax was off by \$20,000 and should actually be \$1,082,000 and that this error would reduce the carryover necessary to \$179,040.00.

Comm Aaskov stated that she had a problem with the assessed value tax in that she was led to believe that the assessed was going down which was not happening.

Interim Town Manager Hancsak explained that the proposed millage was based on 4.0 mills, but that it would be reduced to 3.7466.

Comm O'Hare noted that he had reviewed the budget many times and noted that the vast majority of the budget was going to salaries of which he felt no changes could or should be made.

Mayor Bridges called for public response and there was none. He stated that he also felt that no changes should be made and that the protection in the Town was great as it is.

Comm O'Hare moved that a budget in the amount of \$2,275,025 be tentatively adopted for the 1886-97 Operating Fund, and a budget in the amount of \$143,630 be tentatively adopted for the 1996-97 General Obligation Debt Service Fund, seconded by Comm Kaleel.

Motion carried - yea 4.

Comm Kaleel moved that a millage of \$3.7466 per \$1,000 of assessed valuation be tentatively adopted for the 1996-97 general operating revenues, and that a millage of \$.4909 per \$1,000 of assessed valuation be tentatively adopted for the 1996-97 bond debt service for the General Obligation Water Improvement Bonds of 1991, seconded by Comm Aaskov.

Motion carried - yea 4.

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Mayor Bridges then announced that the percentage of the computed millage rate (3.7466) does not exceed the rolled back rate. He also announced that the date and time of the second and final public hearing is established as 5:01 PM on Tuesday, September 10, 1996. The 1996-97 operating and debt service budgets and corresponding millage will be finalized and adopted at that time.

The Public Hearing was closed and the regular meeting was started.

V. REQUESTS FOR ADDITIONS, WITHDRAWALS, DEFERRALS,
ARRANGEMENT OF ITEMS

Comm O'Hare requested the addition of Item VIII F1 to discuss the County's new parking lot and Item VIII F2 a modification of the consent agenda in that the minutes need to be corrected which was decided could be corrected prior to adopting the consent agenda.

VI. CONSENT AGENDA
A. Minutes

Comm O'Hare requested the minutes be amended to reflect that he abstained from the vote to appoint his wife, Shelly Childers, as a regular member to the Board of Adjustments. Interim Town Manager Hancsak said that she would make the change.

D. Announcements

Mayor Bridges acknowledged the years of service by Vera J. Klein. He said that she always adhered and upheld the codes of the Town and helped to make the Town the way it is now.

Interim Town Manager Hancsak read the proclamation and Mayor Bridges presented it to her.

Mayor Bridges acknowledged the years of service by Dorothy Knehr. It was decided that the presentation would not be made until a meeting at which Ms. Knehr would be present.

Comm Kaleel moved to approve the consent agenda as amended, seconded by Comm O'Hare.

Motion carried - yea 4.

Tom Dyer, 92 Island Dr. S, asked how long the property owners would have to remove noxious plants. Interim Town Manager Hancsak stated that they would have until Jan 1, 2000, however ORD 489 would not actually be on the agenda until September 10, 1996 for adoption.

VII. PUBLIC REQUESTS

- A. Request to trim Seagrapes and Saw Palmetto on the Dune at 5910 Old Ocean Blvd. - Liv. Designs, Inc., representing Mr. and Mrs. Shapiro

Louis Vlahos, Liv. Designs, Inc., introduced his presentation of the plans for the property at 5910 Old Ocean Blvd. Mr. Vlahos stated that their plans will not touch the crest of the dune seaward, only North end with the Brazilian Pepper. He said that they would underplant Cocoplum, remove Saw Palmetto, and make visual windows through the existing seagrapes. Mayor Bridges noted that the presentation was very nice and very well presented. Mayor Bridges asked about the planting of the Cocoplum and Mr. Vlahos assured him that it would be planted and that if they needed more they would plant more.

Comm O'Hare noted that the assessment said that the Saw Palmetto will be limbed up and cleaned and asked how high the Saw Palmetto is. Mr. Vlahos answered that it was at 6'. Comm O'Hare also asked if there were any bare spots anticipated. Mr. Vlahos answered that they would only be cleaning anything 4' and up. He stated that there would be no areas of bare soil except maybe in the area where there is a large amount of Brazilian Pepper and that that area should have a good understory within a year.

Comm Aaskov who also stated that it was a nice presentation moved to accept the plan as submitted, seconded by Comm O'Hare.

Motion carried - yea 4.

Mayor Bridges once again noted how wonderfully done the presentation was and Mr. Vlahos offered to donate the designs once the job is completed.

- B. BUILDING BOARD OF APPEALS-Request for variance to permit construction of a single family residence at 6301 N Ocean Blvd. with a finished floor elevation of 19 feet above sea level which would exceed the maximum floor elevation by 2'6"-Boca Contracting

Comm Kaleel questioned whether this item should be a matter for the Board of Adjustments. Town Attorney Nicoletti responded that since it was not a zoning code (Code 14-27) the Charter provides that the Town Commission sits as the Building Board of Appeals.

Al LaSorte, Attorney representing Boca Contracting, Inc., questioned whether or not the code is fair under present circumstances. He

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advised that the plans were given to Gary Lanker, the Building Official, who approved all but one point, which was the finished floor elevation. Mr. LaSorte explained that Randall Stofft, the architect, was present to explain why the 19' is necessary, in addition to Henry Handler, the engineer, who will explain the 100 year storm in determining standards of safety, and also Richard Iossi, Nutting Environmental, who will also explain why it must be at 19'. Mr. LaSorte believes that the maximum of 16.5' finished floor elevation is unfair because the neighboring houses are both higher than that.

Randall Stofft explained that he had preliminary discussions with Mr. Lanker and was told that 1' above the dune line would be at 18'.

Mr. Stofft stated that he had studied the neighboring houses and if his was at 19', all three houses would be within 2". He further explained that at 19' the view of the ocean is attained and any lower, the horizon would disappear. He added that if they had to build at 16.5', with the dune enhancements, there would only be a view from the second floor. He also stated that he had originally assumed that he could have it at 20' or 21' (as most oceanfront homes) and had already dropped it to 19'.

Henry Heller, Civil Engineer from Heller - Weaver and Cato, Inc., stated that he was hired for the engineering and for land surveying.

He explained the two criteria for determining floor elevation. The first was the study for the dune erosion profile based on the 100 yr storm event. The second criteria was the protection of the dune criteria established by the State of Florida. He passed out excerpts from the Rules and Procedures for Coastal Construction and Excavation State of Florida Administrative Code Chapter 62B-33 and explained how they would comply with them. Mr. Heller finished with saying that he also followed the Army Corps of Engineers modeling.

Mayor Bridges questioned if this elevation was just their best guess and was advised by Rick Iossi that they used the best means available.

Comm O'Hare advised for the record that he had a conversation prior to this meeting with Henry Heller to get a better understanding of storm surges and whether all of the dune would be affected or just the 200' for this variance. Mr. Heller replied that it was a model based on waves hitting the dune. Mayor Bridges asked if replenishment of the beach was taken into consideration to which Mr. Heller replied that they used the information that they had currently available. Comm O'Hare asked what was the wave height that was considered and was wondering if there would still be support at either 16' or 19'.

Mr. LaSorte stated that the applicant was only requesting that the Commission be as fair as that was applied to the neighboring homes.

He read the appeal section in the Building Code and stated that the Council should consider neighbors' height when deciding equitability.

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Comm O'Hare brought up that Mr. Heller stated that the 16' would make the house susceptible to flooding and that according to the graphs, the 100 yr storm would do the same to a 19' elevation. Mr. Iossi replied that they must also consider wave crest height and storm surge.

Mayor Bridges stated that the pool to the east of the house will take major pilings and a retaining wall thus preventing the waves from even reaching the house . Mayor Bridges also added that most of the ground floor is at 20' and only about 15% is at 19'. Mr. LaSorte stated that the main living area and library steps go down and that the perimeter areas elevate.

Mayor Bridges explained that the neighboring houses were constructed before the current codes and that the pool and deck should protect the house. He also felt that they were violating the false basement code. Mayor Bridges felt that the lower floor should be at 17.5' and that although they would still need a variance for the basement, he would be willing to grant that if they lowered the floor elevation.

He added that the maximum that he would agree to was 18', but that he did not feel that this height was necessary. Mayor Bridges said that the height of the neighboring houses at their lower ends was not taken into consideration.

Mr. LaSorte said that Mayor Bridges was correct in that the other houses are lower in some areas and that they have been fortunate that they have not had any major storms. He further stated that his point was to show what the eye level view will be when the house is done and it will be too late to change. He also feels that the houses that were built lower would not have been built as such if they had known what studies have shown now.

Mr. Iossi agreed that there will be some level of buffering with the pool and deck, but that it was actually viewed as sacrificial. Mayor Bridges replied that if this was true then he felt it was a bad design and an injustice to their client.

Mr. Stofft replied that he would like to compromise, but the elevation at the lower level would cause their flood insurance to increase. He said that he also set the elevation as such because of the view of the horizon with the dune for the applicant and that he can not understand why this is not acceptable since he created further setbacks and made a bigger window between this house and the neighboring houses.

Comm Kaleel inquired as to whether or not this code was in effect when they purchased the property to which Mayor Bridges and Mr. Nicoletti replied that it was. Comm Kaleel also asked why they did not use due diligence at that time to see if the house could be built the way they want.

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Mr. LaSorte said that the Harris Act states that if there is a reduction in the value of a lot then the public would have to bear the full cost. Comm Kaleel replied that he felt this Act would not apply with this case because the code was in effect when the property was purchased. Comm Kaleel further explained that this code was made so that the sea breeze could flow through.

Comm Kaleel then asked if the finished floor elevation of the house is at 19', is the overall height of house higher to which Mr. Stofft replied yes. Comm Kaleel then asked if the Commission granted a higher elevation, if the overall height could be lowered. Mr. Stofft replied that he felt that they have been compromising from the beginning and that this was never an issue until the Town Attorney came back. Mayor Bridges disagreed and stated that he was told by the Building Official that they had been notified from the start that this would be a violation.

Mr. Stofft said that he has completed 4 or 5 different versions of the home and has reduced it significantly. He continued by saying that he felt that Mayor Bridges would design the same house in the same situation. Comm Kaleel said that the Town was being asked to grant an exception and that it is their responsibility to look at what impact this would have in the future.

Comm Aaskov asked if they built the house at 19', if they were still within the height requirement to which Mr. Stofft explained that the height is from the FFE (finished floor elevation) and therefore the height requirement starts from the 19' and would be at the maximum permitted by code.

Mr. Nicoletti said that from the return of his vacation, Mr. Lanker called and told him that there were two problems with the house. One was the elevation and the other was the basement.

Mayor Bridges said that the Town was trying to stop the enormous height of houses. Mr. Stofft said that in the spirit of events he felt confident that he could convince his client that they could reduce the height by 1' and the FFE by 6". Mayor Bridges replied that he would like to see the FFE drop to 18' and the house height by 1' to which Mr. Stofft replied that he could not speak for his client, but that he thought they had no choice. Mayor Bridges said that the net effect of this would be an overall 2' lowering. Mayor Bridges then added that he felt that the Commission could grant a variance on the basement to which Mr. Nicoletti added that they should include the basement variance in the motion.

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Comm O'Hare said that he felt that there were two major concerns. One was the view and the second was the flooding. He added that he did not feel that a decision should be made on a view because no one can predict what the dune will be like in the future. He further stated that the house is very imposing. Mr. LaSorte replied that they increased the setbacks so that the house would not be as imposing.

Bruce Gimmy, 12 Ocean Ave., agreed that the view is very important, but wanted to know if there was a consideration made for an upside down house meaning the bedrooms would be on the first floor and the other rooms on the second floor.

Comm O'Hare again stated his feelings that 18' may still be too much. Comm Kaleel asked if this meant that they were willing to do this for all future houses to which Mr. Nicoletti replied that this decision does not set precedence.

Comm O'Hare moved to approve the variance request for the finished floor elevation provided that the FFE be established at not more than 18', the height of the roof not exceed 1' less than submitted application, and that appropriate fill be permitted in accordance with 14-27(a5), seconded by Comm Aaskov.

Motion carried - yea 4.

- C. Discuss Landscape plans for Ocean Ave. in relation to the new bridge - Betty Bingham, 1 Ocean Ave

Mayor Bridges stated that he appreciated Ms. Bingham's concerns regarding this issue; however, he believed that the Commission had spoken on this issue. He added that he has received calls stating that the petition was misrepresented to them. Mayor Bridges stated that he favors DOT's plans because it is a beautiful gateway to the Town and added that he believed that Betty's proposals are not sound.

Betty Bingham, 1 Ocean Ave, said that she went to about seven different streets and got about a 50/50 split on their thoughts. She stated that she believed the Town is hiding things from the people such as the cost for our personnel to maintain the plantings everyday. She further stated that she believes Coconut trees to be a liability and hard to maintain and that palm trees would not provide the proper shade for pedestrians.

Comm O'Hare stated that he has about 30 palm trees and that while they are very shady, they do require maintenance. He also noted that they still need to determine the type of tree and that the plants won't change.

VIII.COMMISSION ACTION

A. Appointments to Town Boards

Interim Town Manager Hancsak advised that she asked Earl Jones if he was interested in serving as a regular member on the Planning and Zoning Committee and he said that he would, but he wanted to relay that he may have very different views from the other Commissioners.

Town Attorney Nicoletti stated that the appointment of Shelly Childers to the Board of Adjustments was not possible based on the change in law concerning appointments of relations to various boards.

Mayor Bridges nominated Bruce Gimmy for the Planning and Zoning Board. Comm Kaleel made a moved to appoint Mr. Gimmy as a regular member to the Planning and Zoning Board, seconded by Comm O'Hare.

Motion carried - yea 4.

Comm Kaleel moved to appoint Dr. Luis Vinas as an alternate to the Board of Adjustments, seconded by Comm O'Hare.

Motion carried - yea 4.

Interim Town Manager Hancsak noted that they now needed an alternate to the Board of Adjustments. The Commission concurred to defer this item until the next meeting.

B. Ordinances

1. No. 488; Establishing a Temporary Building Moratorium, Establishing Exemptions; Providing an Appeal Process (2nd reading and adoption)

Mayor Bridges commented that he does not think that the Moratorium is worthwhile and that the old code merely needs some cleaning up.

He felt that the only changes necessary would involve where the bulk of the building is located and flat roofs. He also stated that he thought that all applicable items should be in one section of the code. He further stated that he wanted to look into the setbacks of smaller buildings and make the code architecturally pleasing (i.e. enhance buildings, but not allow massing).

Mr. Valibus, 100 Island Dr S, asked when the survey would be available from UDS.

Mayor Bridges advised him that UDS made a presentation last week. He added that he wanted to drop the moratorium. Comm Aaskov stated that she was very glad that Mayor Bridges felt that way and that she

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would also like to drop it. Comm O'Hare also agreed.

Comm Aaskov moved to reject Ordinance 488, seconded by Comm O'Hare.

Motion to reject carried - yea 4.

Interim Town Manager Hancsak announced that a tentative Planning and Zoning Meeting was scheduled for Sept. 11 at 8:30.

Mr. Gustafsen, 18 Adams Rd., stated that he is deaf and concerned about the moratorium. He was advised that it had been rejected.

C. Resolutions

1. No 96-18; Approving and adopting the renewal dental services agreement with Oral Health Services
2. No 96-19; Designating depositories and authorizing the Treasurer or Deputy Treasurer to sign checks and one of the five Town Commissioners to countersign Town checks.
3. No 96-20; Approving/Adopting the leasing of a Communications Logging recorder from Dictaphone Corp.

Comm Kaleel moved to adopt Resolutions 96-18, 96-19, and 96-20, seconded by Comm O'Hare.

Motion carried - yea 4.

Comm O'Hare asked if the leasing of the recorder was a total reimbursement and was told by Director Hillery that it was.

4. 96-21; Adopting an Amended Interlocal Agreement between the Town of Ocean Ridge, the Town of Manalapan and Palm Beach County, and Implementing an Amended Settlement Agreement which were earlier adopted by Resolutions No. 96-12 and No. 96-16

Town Attorney Nicoletti stated that the change was only to one sentence requested by Manalapan and that the change is that it is not the Advisory Committee that will deal with erosion, but the County. He noted that the Settlement Agreement has already been approved by the State and that the Interlocal Agreement has been approved by Manalapan and the County.

D. Authorize funding for repair of Storm Drain Line on Inlet Cay Drive

Interim Town Manager Hancsak read the memo from Bill Mathis which stated the problem that was occurring in the attempt to repair the storm drain. Mayor Bridges questioned the urgency of the issue and was told by Mrs. Hancsak that the owner is due back in October and that it has been torn up since he left several months ago.

Comm O'Hare questioned the difference in the price for the sod replacement from Harvel's price and the cost of doing it in-house. He asked if this could mean that the other price could also be inflated.

Town Attorney Nicoletti replied that Harvel Utilities has done work for the Town before and that their prices have always been fair. He believes that the price for the sod replacement may be so high because they would have to subcontract the work.

Comm O'Hare then asked if they could do the repair to the road at the same time to which Mr. Nicoletti advised the Interim Town Manager to investigate a combined price.

Comm O'Hare moved to approve the placement of a new storm drain line at 14 Inlet Cay Dr. with funding not to exceed \$8,579.50 from the contingency account, seconded by Comm Aaskov.

Motion carried-yea 4.

E. Discuss Town Manager Applicants

As requested by the Commission, Bill Mathis has provided a short list of 10 applicants for the Commission to consider. Comm Aaskov asked if it wouldn't be better to short list to seven instead of five. Comm Kaleel responded that he thought it was better to stay with five. Town Attorney Nicoletti informed her that they could always add to the five later, if necessary. Each Commissioner will provide Interim Town Manager Hancsak with their list.

There was a brief discussion of when to conduct the interviews and it was decided that they would be held on a weekday in the midafternoon and Interim Town Manager Hancsak would coordinate the interviews and meeting date.

F. Items by Commissioners

Comm O'Hare asked why we are parking in the lot owned by the County

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to be used when it has not been issued a Certificate of Occupancy the Building Official. He further added that he hoped that when it is done that a new sign would be erected that is less obtrusive because he felt the one that is there now is ugly.

Mayor Bridges said that he thought that there was no harm in allowing people to currently use the parking area because the paths are used anyway.

Comm O'Hare stated that he felt that the County has always been permitted to do and take whatever they want. Comm Kaleel agreed with Comm O'Hare and felt that we should not treat the County any different than we would treat our citizens. Comm Kaleel further added that a letter should be sent to the County notifying them that they have not been CO'd.

Interim Town Manager Hancsak suggested that they wait to discuss situation with Gary Lanker before sending out a letter.

Mayor Bridges stated that he can not understand why everyone has such an antagonistic attitude towards the County and that the Town has saved hundreds of thousands of dollars with the help they have been given from the County.

Vera Klein commented that residents may question why the County may be given special privileges.

Director Hillery stated that the gate is currently locked every night at sundown by the County.

IV. Public Comment

Stefan Belev, 17 Coconut Lane, asked the status of the Sabal Island Bridge. Interim Town Manager Hancsak told him that last week Bond Counsel and a bid was accepted. Mr. Belev asked when the work would be starting and he was advised that the proposal called for the work to be finished 240 days after commencement.

Mr. Belev also stated he felt that it was not a good idea for the Town to stop the lot mowing as most of the lot owners do not even reside in Town and they would have to deal with gardeners who would not mow the right of ways. He advised that when the right is way is done by the Town it will create an imbalance in the mowing and added that he felt that it would be more practical for the Town to maintain the appearance. Mr. Belev further stated that if it was an issue of money, he would not be opposed to an increase in price for the service.

Comm Aaskov cited the reasons that the Commission decided to discontinue the service which included: the maintenance men were

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too tied up during the summer neglecting other duties; the service was not a viable revenue service; the lots were only being mowed; and the Commission felt it was not practical.

Director Hillery advised that in the past, off-duty police officers used to assist with the mowing for overtime.

Comm O'Hare explained that he had some of the same concerns, but that he saw that the lot mowing only brought in \$9,000 revenue which was 1/3 of the maintenance cost.

Comm Kaleel requested an update on the Nuisance code and the Hearing Officer. Town Attorney Nicoletti stated that the Nuisance Code was on the next agenda for the Planning and Zoning Commission and that to date they have not found anyone to become the Hearing Officer.

X. Adjournment

The meeting was adjourned at 7:30PM.

Mayor Bridges

Commissioner Aaskov

Commissioner Kaleel

Commissioner O'Hare

Commissioner Stamos

Attest By:

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Town Clerk