

Regular Town Commission Meeting held in the Town Hall Meeting Chambers on August 3, 1998 at 7:00 PM.

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

Commissioner Aaskov
Commissioner Stamos

Commissioner O'Hare
Mayor Kaleel

It was noted for the record that Comm Bridges was absent with notice.

Pledge of Allegiance

Additions, Deletions or Modifications and Approval of Agenda

Atty Nicoletti advised that Dr. and Mrs. Smith have requested that Item #13 be withdrawn. Regarding Item #14, he stated that Mrs. Postma has agreed to change out the \$8,000 bond previously submitted by Dr. Lopez-Torres and that if the Commission was in agreement to extend the deadline to October 31, 1998, the item could be placed on the consent agenda. He also requested that Item #17 be tabled, as it needs further review.

Comm Stamos requested to place his Item #20 under action as Item #13.

Comm O'Hare requested to add a discussion of the sign contest as Item #20.

Comm O'Hare also requested that a correction be made to the minutes of the July 6, 1998 regular Town Meeting and they were removed from the consent agenda and added as Item 10a.

Comm Stamos moved to amend the agenda as requested including the approval of the new deadline for Mrs. Postma in Item #14 and the approval of the consent agenda with the removal of the minutes for July 6, 1998, seconded by Comm O'Hare.

Motion carried – yea 4.

Consent Agenda

1. Minutes of Special Town Commission Meeting of July 13, 1998
2. Minutes of Special and Budget Meeting of July 14, 1998
3. Minutes of Special Meeting of July 16, 1998
4. Minutes of Special Meeting of July 17, 1998
5. Resolution No. 98-12; Authorizing the Mayor and Town Clerk to Execute Interlocal Agreement with Palm Beach County for the Purpose of Converting Building Department duties to County
6. Resolution No. 98-13; Authorizing Fee Schedule for Building Permit Application Filing and Administrative Zoning Review

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7. Resolution No. 98-14; Authorizing Bridge Surplus Monies to be Combined with Other Loan Monies
8. Resolution No. 98-16; Establishing Audit Services with Rives & Company for a period not to exceed five years and acceptance of engagement letter
9. Action to direct Department of Public Safety to review all proposed ordinances prior to adoption
By: Commissioner O'Hare

10 A. Minutes of the Regular Town Commission Meeting of July 6, 1998

Comm O'Hare requested that the following be added as paragraph 3 under discussion of Ordinance No. 510:

Comm O'Hare questioned Attorney Nicoletti why the text in proposed Ordinance No. 510 regarding the setback requirements of dock piles was not underlined as is customary when documenting the addition of new language. Why he had not now notified the commission of this proposed new language and why this new language was even added since neither the Planning and Zoning Board nor the Town Commission had asked for it.

Comm O'Hare moved to approve the minutes as amended above, seconded by Comm Stamos.

Mayor Kaleel and Comm Aaskov advised that they had no recollection of Comm O'Hare's comments. Comm O'Hare suggested that the meeting be recessed so they could listen to the tape of the meeting to refresh their memories as he felt this amendment was significant in regards to issues that he would be bringing up later in the meeting. Neither Comm Aaskov nor Mayor Kaleel felt it necessary to review the tapes.

Roll call was made on Comm O'Hare's motion.

Motion carried – yea 4.

Announcements and Proclamations

Mayor Kaleel read the following announcement:

11. The administrative offices will be closed Monday, September 7, 1998 for the official holiday. The tentative adoption of the budget and regular meeting will be held Monday, September 14, 1998 commencing at 5:01 PM.

Public Comment – (15 minute maximum with 3 minute individual limit)

Vera Klein, 7 Sailfish Lane, advised that the light for walking across A1A at Beachway begins to blink “Don’t walk” when she and others are only halfway across the street making it difficult for them to cross. She added that she has spoken to Director Hillery and Lt. Katz about this and they have passed her concerns along to DOT. Director Hillery explained that the light gives eight seconds before it changes which warns those who have not yet begun to cross that they should wait. Mayor Kaleel commented that what the County might deem appropriate for an amount of time to cross the street might not apply. He suggested that Director Hillery monitor the situation and report back to the County, if necessary.

Public Hearings – None

Regular Agenda

(Items which require Town Commission action that must be filed with the Town Clerk one week prior to meeting – public comment permitted)

Actions and Reports

12. Report on Update on Beach Replenishment Project and Inlet Management Study – Dept. of Environmental Resource Management

Jim Barrett, Palm Beach County DERM, explained the planting which will be associated with the beach renourishment project. He advised that from the Ocean Mews to south of the Oceanfront park there would be a 10’-15’ wide area of planting adjacent to the existing dunes and 20’-30’ wide in the area across from the Hammock Park. He stated that the plantings would be mostly sea oats although there are five other native salt-tolerant species which will be included. He stated that the schedule has been somewhat delayed due to the lack of rainfall adding that they did not want to use an irrigation system because of the possibility of disturbing the turtle nests. He concluded that the latest the planting would be installed would be September 30, 1998.

Mr. Barrett added that no planting would be done within 10’ of any sea turtle nest and that ropes would be installed near the crossovers so that no one would walk across the new vegetation. He requested that the Town Commission approve the plan.

Comm Stamos moved that the County’s plan for dune planting be approved as submitted, seconded by Comm O’Hare.

Director Hillery questioned if the ropes would be placed near all the walkovers. Mr. Barrett advised that they would be placed near the most active walkovers and suggested that they meet to discuss the best places for the barriers.

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Comm O'Hare advised that 10' of planting does not seem like enough. Mr. Barrett explained that the reason for the plantings to be only 10' wide is that the beach will soon narrow.

Comm O'Hare questioned if the new vegetation will start right next to the current vegetation or if there would be a trench in between to which Mr. Barrett explained that it would start adjacent to the current vegetation.

Roll call was taken on Comm Stamos' motion.

Motion carried – yea 4.

Regarding the Inlet Management Plan, Mr. Barrett explained that CP&E is developing a plan and that the engineering plan is moving along pretty well. He advised that any outstanding issues from the Town must be submitted by mid-August. He concluded that barring any major problems, the final document would be ready in mid-September, a public workshop will be held in early October and final approval in November. He stated that he was uncertain when they would get the final approval from DEP although he felt certain it would be before the deadline of March 1999.

Mr. Barrett explained that the workshop could be in their offices in West Palm Beach or could be held in either Ocean Ridge or Manalapan. Mayor Kaleel advised that he would prefer to have the meeting in Ocean Ridge to which Director Hillery advised that the Town Hall chambers only holds 66 people. Town Manager Lanker commented that Manalapan would have more available space.

Mayor Kaleel advised that he had noticed sand building up at the mouth of the Inlet and the boats have to be very cautious moving out. Mr. Barrett advised that he was unaware of this problem, but that he would investigate the problem.

Regarding the groins on the north end, Comm O'Hare questioned if it was the objective to have them fully covered with sand. Bob Klinger, DERM, stated that the intent was to leave the rocks exposed and that the sand being pumped would assist in keeping sand in the scalloped areas.

Director Hillery advised that sand is filling up at the Inlet bridge at Island Drive to which Mr. Klinger responded that he was aware of that situation. Director Hillery responded that it has been getting worse and that the sand is beginning to fill up the canal. Mr. Klinger suggested that DOT be notified so that the outfall pipe can be cleared. Director Hillery advised that the outfall pipe is clear, but the sand is still there. He added that the same problem is happening at the Inlet Park. Mr. Klinger advised that they have a coastal engineer looking at the problem, but they would need a more in-depth study to fully understand the problem. Mayor Kaleel stated that perhaps more analysis needs to be done.

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Comm Aaskov questioned what is to be expected with the rocks at the south end of Town which she thought were planned to be covered with sand. Mr. Klinger explained that the original plan done in 1978-80 included the full length of the Town in which everything near the shore would have been covered by sand. He explained that the project was changed in the 1990's to include only part of the Town. Comm Aaskov advised that she was under the impression that even the revised project would cover that area. Mr. Barrett explained that there would be some impact, but not what she was describing.

Mayor Kaleel advised that the Town would be mailing a newsletter to the residents soon and requested that DERM have a brief summary which can be added to it to which Mr. Barrett advised that he would do.

Mayor Kaleel commented that the Town appreciated the help from the County.

13. Discuss Invocation at beginning of each meeting
By: Commissioner Stamos

Comm Stamos commented that the Senate and State government include invocations at the beginning of meetings. He commented that this would be helpful to remind the Commission that there is a greater good for which they should all be striving. He suggested that each Commissioner say a few words before each meeting.

Comm Stamos moved that a short invocation be included in future meetings contingent upon compliance with constitutional safeguards, seconded by Comm O'Hare.

Comm O'Hare commented that a little inspiration could only help their meetings. Mayor Kaleel suggested that it be limited to thirty seconds.

Comm Aaskov questioned the need for separation between church and state to which she was informed that the invocation was acceptable if it complied with constitutional safeguards.

Roll call was made on Comm Stamos' motion.

Motion carried – yea 3 (O'Hare, Stamos, Kaleel)
nay 1 (Aaskov)

14. Action to discuss resurrection of original draft of Ordinance No. 509
By: Commissioner O'Hare

Comm O'Hare distributed a statement describing his feelings regarding the issue of Ordinance No. 509 which was passed on first reading by a vote of the Town Commission (with Comm O'Hare abstaining from the vote) at the June 1st Regular Town Commission meeting. He advised that the Town Attorney returned a modified version of the ordinance for first reading at the July 6th meeting which he felt "unfairly granted privileges unequally among the citizens of Ocean Ridge." The Town Commission

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unanimously rejected this modified version. He further stated that he felt Atty Nicoletti was wrong for modifying the original Ordinance No. 509 and for not allowing the original version to be placed on the agenda for the August 3rd meeting. He concluded by stating that the Board of Adjustment had recently approved a variance request for an expansion of a non-conforming structure which he felt they would not have approved if the Board was aware of the illegality of the request.

Comm O'Hare moved that the original Ordinance No. 509 (from the June 1st meeting) be included for second reading on the next regular agenda, seconded by Comm Stamos.

Atty Nicoletti advised that only part of Comm O'Hare's statement was correct and advised that he disagreed with Comm O'Hare's perception that he had done anything improper. He stated that at the June meeting, there was discussion over the content of the Ordinance which was passed on first reading over the objection of Comm O'Hare. He advised that in the time between the June and July regular meetings, he reviewed the ordinance and found that it should have applied only to single family. He stated that as a result of the Town Commission voting down the ordinance at the July meeting, it would have been improper for him to place it on the agenda again. He suggested that once the South end of Town is dealt with in regards to special zoning consideration, this ordinance be revisited. He added that he would try to have the drafts of ordinances prepared soon enough for the Commissioners and staff to comment on before the meetings.

Comm Stamos advised that he thought passing an ordinance, which only deals with one use, is too narrow. He concurred that once the issue of the South end is dealt with, it will be time to discuss this ordinance again.

Mayor Kaleel reminded the Commission that Comm O'Hare's motion is to resurrect the original ordinance. He stated that Comm O'Hare had felt there was trouble with the original ordinance and he now tended to agree with that assessment. He suggested listening to Hank Skokowski's (Urban Design Studios) comments during the last land development revisions regarding the South end of Town and bring the ordinance back when it would be less confusing.

Comm O'Hare remarked that many residents have told him about building permits which have been issued that increase a non-conformity in a grandfathered structure with the Board of Adjustment granting similar variances. He added that he felt the Board of Adjustment was getting false information from the staff regarding these requests which could potentially bring about a lawsuit. He suggested that the Town place a moratorium on this type of variance.

Mayor Kaleel stated that he felt a moratorium would place a hardship on the resident.

Atty Nicoletti advised that the Board of Adjustment gives relief from the zoning code and even an ordinance in progress would not force a variance request to be rejected.

Mayor Kaleel questioned how long the Commissioners thought it would take to resolve the issue of the South end of Town. Comm Stamos advised that he felt two to three workshops would solve the problem. Comm O'Hare stated that Boynton Beach and Delray Beach have solved similar problems and that with their help, the Town could resolve it quicker. Mayor Kaleel concurred suggesting that a meeting be set up for late September or early October.

Comm O'Hare withdrew his motion.

Betty Bingham, 1 Ocean Ave., suggested that the Town also research how much more building the South end can stand to comply with the current septic system requirements.

Mayor Kaleel suggested that a joint workshop be set-up with the Planning and Zoning Commission and Hank Skokowski, if available.

Comm Stamos withdrew his second to Comm O'Hare's motion.

Resolutions

(Possibly requiring discussion)

15. No. 98-15; Authorizing Mayor and Town Clerk to execute EMS contract with Boynton Beach

Mayor Kaleel read Resolution No. 98-15 by title only.

Town Manager Lanker explained that the new five-year contract provides annual three percent cap increases based on CPI increases. He stated that he felt everyone was impressed with Boynton Beach and that they were the best choice both economically and service-wise.

Director Hillery advised that he had no hesitation in recommending Boynton Beach. He added that the contract included a per-use fee schedule for fire back up for any major event. He stated that even with the current increase, the contract is less than when he came to Ocean Ridge five years ago and that he can not think of any complaints regarding the service.

Mayor Kaleel questioned the response time from Boynton Beach to the northern end of Town to which Director Hillery replied that it was between six and eight minutes. Director Hillery added that Ocean Ridge receives a better response time than parts of Boynton Beach.

Atty Nicoletti advised that there were some rough spots in the contract and that he has made some language changes to what he finds acceptable.

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Comm Stamos moved to authorize the Mayor and the Town Clerk to execute the contract for EMS services with Boynton Beach, seconded by Comm O'Hare.

Motion carried – yea 4.

Town Manager Lanker commented that the issue would not be final until approved by Boynton Beach at their August 18, 1998 meeting.

First Reading of Ordinances

None

Second Reading of Ordinances

16. Ordinance No. 511
Amending the Code of Ordinances at Section 14-26, adoption of technical codes and countywide amendments; repealing the exemption of the Town from enforcing certain countywide amendments

Mayor Kaleel read Ordinance No. 511 by title only.

Atty Nicoletti advised that this was the final ordinance needed to turn the building department over to Palm Beach County.

Comm O'Hare moved to approve Ordinance No. 511 on second reading, seconded by Comm Aaskov.

There was no public comment.

Motion carried – yea 4.

Comm O'Hare questioned if the County would be getting any fees for current projects to which Town Manager Lanker advised that current projects would be transferred with no additional charges.

Town Manager Lanker advised that there would be a meeting between staff and County representatives to discuss all current projects turned over to the County. Mayor Kaleel advised that he would like to have a summary of that meeting.

Town Commission Comments
(Information Items Only – 3 minute limit per item)

17. Discuss recent Board of Adjustment decisions
By: Commissioner O'Hare

Comm O'Hare advised that his item was mistitled, as he did not want to discuss the Board of Adjustment decisions, but rather the recommendations of the Town Manager and Town Atty to the Board. He stated that he felt the two variances approved at the last Board of Adjustment meeting were in direct conflict of the wishes of the Town Commission adding that Atty Nicoletti did not inform the Board of these wishes at the hearing. He commented that he did not blame the Board of Adjustment for these decisions, but rather the intentional misrepresentations of the Town Manager and Town Atty. He commented that he hoped Town Manager Lanker did not influence the new Town Manager and that he was really concerned over the actions of Atty Nicoletti such as adding language to ordinances and his lack of instruction to the Board of Adjustment. He concluded that he was not requesting any action, but rather making the Town Commission aware of his concerns.

Town Manager Lanker advised that the ordinances to which Comm O'Hare was referring to were rejected at the previous regular meeting. He reminded the Commissioners that the Board of Adjustment is an independent body which needs to judge each case on its own merit. He stated that the inference that either himself or the Town Atty had done anything improper or were wrongfully misrepresenting issues to the Board of Adjustment were ridiculous.

Atty Nicoletti advised that individual intent has no relevance until an ordinance is adopted. He added that he feels his representation to the Board has been both correct and accurate.

Comm O'Hare suggested that the Town Commission have a workshop with the Board of Adjustment to inform them of the Commission's intent in regards to the code to which Atty Nicoletti explained that such a workshop would be improper. Mayor Kaleel advised that the Town Commission has no control over the Board except in who is appointed to serve on it and the laws passed.

Comm Stamos advised that the Board needed to be careful about selective enforcement. He stated that he knows they have to prove a hardship, but that he did not believe needing more room was an acceptable hardship. Mayor Kaleel advised that proving the hardship is within the discretion of the Board. Comm Stamos commented that a decision by the Board of Adjustment could cause a liability situation and that it needed to be stressed to the Board that their decisions are extremely important.

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Mayor Kaleel suggested that before a person starts on either the Board of Adjustment or Planning and Zoning Commission, their responsibilities should be explained to them. He added that none of the comments from this meeting should be reflected badly on the Board members as they are doing a good job.

Comm O'Hare remarked that he resented the implication that he is criticizing the Board of Adjustment, as he, too, believes they are doing a good job. He advised that he resented the administrative comments of the Town Manager on a variance application. He stated that in a prior variance hearing Town Manager Lanker's comments stated that he found that there would be no adverse effects from the approval of a variance in which there was a neighbor who was against approval. He stated that he felt staff was recommending approval on "scanty" information adding that perhaps staff should be instructed on how the Town Commission would like these issues addressed and the enforcement of the code.

Town Manager Lanker advised that his administrative comments were only one item out of many which are given to the Board of Adjustment for their consideration in a variance request.

Comm Stamos suggested that perhaps a pamphlet be given to new members outlining their duties and responsibilities.

18. Sign Contest
By: Commissioner O'Hare

Comm O'Hare apologized that it has taken so long for the winner of the sign contest held at the Light the Lights in December 1997. He advised that Carlos Plaza's design had received the most votes for a sign condensing all of the regulations regarding Old Ocean Blvd. He suggested that this sign be brought to the attention of the new beautification committee. Comm Aaskov stated that she had thought the winner was supposed to be approved by the Town Commission.

Jerry Lower, member of the Beautification Task Force, stated that it was advertised in the Ocean Ridge Reporter that there would be a \$100 prize given to the sign that was approved by the Town Commission. He added that they had not brought Mr. Plaza's sign before the Town Commission yet, although it had received the most votes.

19. Discuss action for residence located at 63 Spanish River Drive
By: Commissioner Stamos

Comm Stamos advised that this location has been discussed for the past two years and that they should be given a definite deadline. Town Manager Lanker advised that the resident has already gone before the Special Master and has been fined approximately \$1500 with an additional \$800 pending. He added that the resident is waiting for health department approval for the septic system. He explained that the owners had decided to

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“max” out the plans for building at the last minute and therefore had to request health dept approval.

Comm Stamos questioned what action the Town could take to which Atty Nicoletti advised that the Special Master had included a demolition contingency in his last ruling and that the Town could request that it be brought before him for implementation. Comm O’Hare questioned why the Town staff is not bringing these problems to the attention of the Town Commission.

Dave Berger, 47 Bimini Cove Dr., advised that there was construction equipment at the residence earlier in the week.

20. Discuss National Wildlife Letter of July 21, 1998
By: Mayor Kaleel

Mayor Kaleel advised that the National Wildlife Federation along with Mrs. Whitney would like to donate an additional 420’ of dune in addition to the property located at Beachway and A1A. He thought the Town should accept this offer. He also stated that the National Wildlife Federation offered to sell a parcel in Beachway N to the Town. He added that the National Wildlife Federation has also requested that a plaque be placed near the donated area. The Town Commission concurred to place a plaque recognizing the gift to the Town.

Comm O’Hare moved to accept the dune parcel contingent upon it being a free and clear donation, seconded by Comm Aaskov.

Rich Lucibella, 5 Beachway N, advised that he had received permission from the National Wildlife Federation to trim their dunes near his residence in order to preserve his view which he would like to continue. He advised that he has been pursuing the purchase of the Beachway N parcel and that he would continue that pursuit.

Roll call was taken on Comm O’Hare’s motion.

Motion carried – yea 4.

Comm Stamos moved that a sign be erected at the area acknowledging the donation of the land by the National Wildlife Federation and Mrs. Whitney, seconded by Comm O’Hare.

Motion carried – yea 4.

Regarding the other Beachway N property, Comm O’Hare advised that the only reason the Town might want to purchase the property would be for drainage.

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Mayor Kaleel disclosed that he previously had inquired into obtaining the Beachway N property. Comm Stamos advised that he felt this would make a sticky situation, as he knew there were also builders interested in the property. Mayor Kaleel advised that he was no longer pursuing the purchase.

21. Discuss Starting Future Meetings at 6:30 PM
By: Mayor Kaleel

Mayor Kaleel suggested that the Regular Town Commission meetings start at 6:30 PM in order to end earlier. Comm Aaskov suggested that if this works, the meetings could possibly be started as early as 6 PM.

Comm O'Hare moved that the Regular Town Commission meetings start at 6:30 PM beginning with the October meeting, seconded by Comm Aaskov.

Motion carried – yea 4.

Alene Dennis, 5006 Old Ocean Blvd., requested to speak. Mayor Kaleel advised her that she should have spoke during the time for public comment, but the Town Commission agreed to allow her to speak out of turn.

Mrs. Dennis advised that she was planning some construction at her property at Tropical and Old Ocean Blvd. She stated that her architect had received a letter from the Town which included four stipulations including that she agree not to build on the beach and that she should give 5'-10' of her right-of-way to the Town. She added that she had torn down a gazebo on the beach with the understanding that she would be able to replace it. She questioned why she was given these stipulations. Atty Nicoletti advised that the recommendations were given to the architect who would be requesting site plan approval. He stated that they had suggested fairly stringent restrictions and that he would agreeable to discuss all this with her. He added that the site plan would eventually come before the Town Commission for approval.

Mrs. Dennis stated that she would like to know what her legal options are before going through the expense of preparing a site plan. She explained that she wanted to put four units on the property and possibly discuss other plans she had for the property. Mayor Kaleel reminded her that there was nothing that the Town Commission could do for her that evening.

Mrs. Dennis advised that she wanted to know what to do in regards to the list of stipulations sent by the Town. Comm Stamos advised that he remembered that the Town Commission had intended for her to be able to rebuild her gazebo on the beach.

Mayor Kaleel asked if she had met and discussed this with Town Manager Lanker and Atty Nicoletti. Town Manager Lanker advised that he had last heard from her architect two-three weeks prior and was waiting for him to return with information regarding the

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size of the property in order to discuss how she could use the property. Mrs. Dennis again questioned the stipulation that she donate her right-of-way to the Town. Atty Nicoletti advised that if the easement were donated to the Town, it could possibly be used as a public access. He added that it remains to be seen whether or not the board will require her to donate the easement and that it will be dependent upon the plans submitted.

Mayor Kaleel suggested that Mrs. Dennis meet with Town Manager Lanker and Atty Nicoletti to discuss what all the rules and laws are as the Town Commission can not help her at this point.

Mayor Kaleel advised that this would be Town Manager Lanker's last meeting and thanked him and wished him luck in the future. Town Manager Lanker stated that he appreciated the opportunity adding that the residents and the staff had been wonderful to him.

Adjournment

The meeting was adjourned at 9:05 PM.

Mayor Kaleel

Commissioner Aaskov

Commissioner Bridges

Attest By:

Commissioner O'Hare

Town Clerk

Commissioner Stamos