

Regular Meeting of the Town Commission of the Town of Ocean Ridge held in the Town Hall Meeting Chambers on Monday, May 3, 1999 at 6:30 PM.

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

Commissioner Bingham	Commissioner Bridges
Commissioner Kaleel	Commissioner Stamos
Mayor Aaskov	

Following the Pledge of Allegiance, an invocation was read by Atty Nicoletti.

Additions, Deletions, Modifications and Approval of Agenda

Atty Nicoletti requested to add a letter under the announcements as item 3a and an item 5a to be added as a request for fine reduction for 5907 N Ocean Blvd.

Comm Bridges requested to add a discussion of blowers and a personal statement as items #12 and #13, respectively.

Comm Stamos questioned if item #3 (Resolution No. 99-09) would tie in with Ordinance No. 520 regarding fire services to which Town Manager Dunham explained that the resolution dealt with EMS services and not fire adding that a separate agreement is being considered for supplemental fire suppression help.

Consent Agenda

1. Minutes of Town Commission Meeting of April 5, 1999
2. Minutes of Special Joint Commission Meeting of April 12, 1999
3. Ocean Ridge Resolution No. 99-09; Authorizing and directing the Mayor and Town Clerk to execute an Interlocal Agreement between the Town of Ocean Ridge and the City of Boynton Beach providing for Emergency Medical Services to the Town of Ocean Ridge by the City of Boynton Beach

Comm Kaleel moved to approve the consent agenda, seconded by Comm Bingham.

Motion carried – yea 5.

- 3a. Letter of Resignation By: Atty Nicoletti

Atty Nicoletti read his letter which advised the Town Commission and staff that he would be resigning effective May 6, 1999. He explained that he felt the Town was moving in a new direction and would be better represented by someone else. He advised that he has felt a sense of accomplishment with working for the town for so many years and that he would be available for any historic perspective that the Commission or staff would need.

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He stated that he chose May 6th as he would be leaving the country for Reserve Duty the next day and that it would give the town an opportunity to actively look for new representation.

Mayor Aaskov stated that she was very sad to see Atty Nicoletti resign adding that she feels he has always represented the town honorably. She questioned if the Town Commission should discuss their options at this meeting or have a special meeting to which Comm Bridges stated that it could be added as an item at this meeting.

Comm Bridges stated that he was proud of the representation that the town has received especially in regards to the South Lake Worth Inlet Management District and the Ocean Ave. bridge.

Comm Stamos commented that he was surprised at the announcement and that he, too, was sorry to see Atty Nicoletti resign.

Comm Kaleel stated that practicing law is not easy and dealing with a municipality is that much harder. He commented that he felt Atty Nicoletti has always done his best for the town, but the town is changing and becoming more tumultuous which does not make it easy for the attorney.

Mayor Aaskov advised that the Commission would discuss their options as item #14 on the agenda.

Announcements and Proclamations

4. Semi-Annual Financial Summary for FY 1998-99

Town Clerk Hancsak explained the summary which was distributed to the Town Commission and available for the public. She explained that as of the close of the first half of the year, the actual revenues are \$1,638,306, the actual expenditures are \$1,053,523 and the actual expenditures including the Capital Projects are \$1,128,903. She reminded the Town Commission that the expenditures from the capital projects includes the purchase of the Gurino property.

Charlotte Carle, 7 Harbour Drive S, questioned why the town has so much money in reserve to which Town Clerk Hancsak explained that most of the funds are in treasury bills adding that the Town Commission has always wanted a year's funding in the surplus in case of an emergency.

Public Comment

Vera Klein, 7 Sailfish Lane, questioned a letter which appeared in the Ocean Ridge Reporter from resident Earl Jones advising that the Board of Adjustment had approved a variance for a 42% floor area ratio to which Mayor Aaskov advised that the Town Commission would be discussing the Board of Adjustment later on the agenda.

Public Hearings

5. An Application Submitted by Digby Bridges & Marsh, Inc., 124 NE 5th Ave., Delray Beach, FL 33483, Representing Ronald and Laverne Shipka, 6833 No Ocean Blvd. #11, Ocean Ridge, FL 33435, Requesting a Permit From the Provisions of the Land Development Code, Article VII; Coastal Construction Code, Section 26-108; Coastal Construction and Excavation Line; Sub-Paragraph (a); Setback Line Established; and Sub-Paragraph (h) Existing Structures to Permit the Construction of a +/- 300 SQ FT Addition (Bedroom/Bath) Extending 25' East of the Coastal Construction Control Line (CCCL) and Approximately 20' Shore Parallel to the CCCL Located at the Above Described Address or Legally Described as Mews South, Inc. in Acreage Section 22 (Ocean Club Villas)

Comm Bridges excused himself from the meeting at this point. Atty Nicoletti advised that Comm Bridges could not vote on this issue because of a conflict of interest and that he would sign a voter's conflict form.

Town Clerk Hancsak read the application by title. She advised that all fees were paid and there was no additional correspondence.

Atty Nicoletti explained that the request was only dealing with a breach of the Coastal Construction Control Line.

Comm Kaleel moved to approve the permit as presented contingent upon DEP and health department approval, seconded by Comm Bingham.

Town Manager Dunham explained that the applicant was concurrently applying for DEP approval.

Comm Bingham questioned if this request would violate the FAR to which Atty Nicoletti explained that the permit request only violates the CCCL.

Comm Stamos stated that he felt the Town Commission established the codes for a reason and that it is difficult when one of the Commissioners is requesting a variance from the code. He stated that he knows the request is not illegal, but that he feels it does not look good. Mark Marsh, representing Digby Bridges, Marsh and Associates for the applicants, advised that they are not requesting a variance and that they are merely fulfilling a code requirement that all permit applications of this type be approved by the Town Commission.

Mrs. Carle and David Berger, 45 Bimini Cove Drive, requested to see a drawing of the proposed permit and Mr. Marsh supplied a sketch for them. Mr. Berger questioned if all of the houses in the area were east of the CCCL to which Mr. Marsh explained that they were as most were built in the 1930's.

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Atty Nicoletti reiterated that it was simply a code requirement that these types of permits be approved by the Town Commission.

Roll call was taken on Comm Kaleel's motion.

Motion carried – yea 4 (Bridges abstain)

Comm Bridges was summoned back into the meeting.

Regular Agenda

Actions and Reports

5a. Discussion of fines on 5907 N Ocean Blvd. By: Atty Nicoletti

Atty Nicoletti advised that Bankatlantic which owns the house at 5907 N Ocean Blvd have filed an emergency motion hearing to demolish the house and have asked for an abatement of the liens levied by the Special Master. He suggested that the Town Manager negotiate the fine reduction and bring it back to the Town Commission contingent upon the court allowing the emergency motion.

Comm Kaleel moved that the Town Manager negotiate the fine reduction to bring to the Town Commission for approval contingent upon the court allowing the emergency motion, seconded by Comm Bridges.

Motion carried – yea 5.

RESOLUTIONS

6. No. #99-10; Abandoning the Twenty-Five (25') Foot Unimproved Right of Way of Midlane Road Lying East of Lots 24 and 25 and North of Hibiscus Way all of Which are Located in the Plat of Ocean Ridge Beach as Recorded in Plat Book 25, Page 24 Public Records of Palm Beach County, Florida; Reserving Unto the Town a Permanent Ten (10') Foot Utility Easement Over the East Boundary of Said Abandoned Right of Way; Providing for Repeal of Conflicting Resolutions; Providing for Recordation of This Resolution; and Providing for an Effective Date

Town Clerk Hancsak read Resolution No. 99-10 by title only.

Atty Nicoletti explained that this is being brought before the Town Commission at the request of the homeowners of 24 Hibiscus Way who are trying to sell the property. He advised that the east half of the road had been abandoned and recorded, but the west half never was. He advised that he recommended approval of the resolution.

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Comm Kaleel asked for clarification that the west abandonment was never approved to which Atty Nicoletti advised that it was not. Comm Kaleel asked how they were ever allowed to build on the property to which Atty Nicoletti advised that the survey at the time showed the area as an abandoned right-of-way. Comm Bingham questioned where the 10' easement would be to which Atty Nicoletti explained that a small part of it would be in their driveway. Comm Bingham advised that she saw a problem with homeowners or surveyors who make mistakes and then try and claim the land as their own.

Richard Kohl, 24 Hibiscus Way, stated that the property was previously owned by the Martin family who gave the land back to the town. He stated that if this was not approved, he did not feel that he could ever sell his house as the driveway is on the right-of-way.

Atty Nicoletti advised that he did not see any reason to deny the request as it gives the residents half of the right-of-way, but retains the utility easement needed by the town.

Comm Bridges moved to approve Resolution No. 99-10, seconded by Comm Stamos.

There was no comment from the public.

Motion carried – yea 5.

First Reading of Ordinances

7. No. 509; Amending the Code of Ordinances at Chapter 26; Article XIV. Nonconforming and Grandfathered Uses, by Amending the Provisions Regarding Grandfathered Uses, Lots and Structures; Providing for Codification; Providing for Repeal of All Ordinances in Conflict; Providing for Severability; and Providing for an Effective Date.

Town Clerk Hancsak read Ordinance No. 509 by title only.

Atty Nicoletti advised that the ordinance was returning for a first reading because of a language change on page five which includes a public notice requirement and a fifteen day waiting period for any resident to respond. He added that a variance denied by the administrator could still be taken to the Board of Adjustment.

There was no comment from the public.

Comm Bingham moved to approve Ordinance No. 509 on first reading, seconded by Comm Bridges.

Motion carried – yea 5.

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8. No. 520; Amending the Code of Ordinances at Chapter 1, General Provisions; and at Chapter 2, Article III. Departments, by Amending the Provisions Regarding Appointment and Promotion of (Public Safety) Members; Providing for Codification; Providing for Repeal of All Ordinances in Conflict; Providing for Severability; and Providing for an Effective Date.

Town Clerk Hancsak read Ordinance No. 520 by title only.

Town Manager Dunham explained that it has been the practice of the town that all full time officers be dual certified in police and fire. He stated that the code contains an ambiguity in that the definition of a Public Safety Officer states that the individual be dual certified and that the authority of a PSO is defined as police or fire. He stated that the ordinance also requests that the Public Safety Director be allowed to have 25% of the full time officers be volunteer firefighters which would just legitimize the way officers have been selected in the past. He explained that the ordinance would give the director a little more flexibility and is in no way an attempt to lower the level of service that the town has always enjoyed.

Director Hillery explained that he would always encourage employees to complete the full academy which would in turn give them a 5% pay increase and the opportunity for promotion. Comm Kaleel asked if this ordinance could also be included in the formal policy of the Department of Public Safety to which Director Hillery advised that it could.

Comm Kaleel questioned if Director Hillery could guarantee that one fully certified officer would be on duty at all times to which Director Hillery explained that the schedule would be made with that in mind, but there may be circumstances where an officer on duty is hurt and a fully certified replacement could not be found.

Comm Bridges advised that the State and the County are now getting more involved in fire protection and new standards may be issued which are more stringent than current ones. He suggested that the town start negotiating now to join with Boynton Beach in regards to fire protection. Comm Bingham stated that she felt the town would be best served by staying with their own service, but if changes were needed in the future, she suggested that the town look into joining with Manalapan and Gulf Stream.

Comm Stamos stated that he has a problem with the officers not being dual certified. He stated that the community wants the Department of Public Safety to be the best and it is an advantage to the taxpayers to have officers who are dual certified.

There was no comment from the public.

Comm Kaleel moved to approve Ordinance No. 520 on first reading, seconded by Comm Bingham.

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Motion carried – yea 4 (Aaskov, Bingham, Bridges, Kaleel)
nay 1 (Stamos)

Comm Kaleel moved that the ordinance incorporated into policy be presented to the Town Commission at the next meeting, seconded by Comm Bingham.

Motion carried – yea 5.

Second reading, public hearing and adoption of ordinances

9. No. 502; Amending Chapter 26 of the Code of Ordinances at Article IV, Landscaping, by Establishing a Division 2, Water-Efficient Landscape (Xeriscape), and Division 3., Tree Permits; Providing for Repeal of Conflicting Ordinances; Providing for Severability; Providing for Codification; and Providing for an Effective Date

Town Clerk Hancsak read Ordinance No. 502 by title only.

Comm Bingham moved to adopt Ordinance No. 502 on second reading, seconded by Comm Bridges.

Atty Nicoletti stated that the only change made in the ordinance since first reading was in the definition of “hat-racking.” Comm Kaleel requested to move the phrase “unless the tree or other plant material is approved by the respective utility” to the beginning from the end of the fourth sentence under section 6a on page two as he felt it would read better with that change.

There was no comment from the public.

Comm Bingham amended her motion to include the change suggested by Comm Kaleel and Comm Bridges amended his second.

Motion carried – yea 5.

Town Commission Comments

10. Discuss Land Development Regulations Re: Floor Area Ratio (FAR) and Building Envelope By: Comm Bridges

Comm Bridges stated that he felt this item would be covered by Comm Bingham’s item #11 and that he would comment then.

11. Discuss Board of Adjustment Procedures By: Comm Bingham

Comm Bingham questioned what the responsibility is of the board members to follow the wishes of the commissioners. Atty Nicoletti advised that the Town Commission only

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appoints the board members and can not influence the policy or decisions of the board members in any way. He stated that the Town Commission can create the laws that must be followed, but that it was up to the Board of Adjustment to determine hardship.

Comm Bingham stated that she felt the variances granted were out of line and they were setting up future variances to be approved which may also be out of line. Atty Nicoletti advised that variances are looked at case by case and there are no precedents.

Regarding the last variance approved by the Board of Adjustment, Comm Bridges stated that he found it hard to believe that the board voted against their Chairman and allowed such a large variance to the FAR. He questioned if the Town Commission could challenge the decisions of the Board of Adjustment. Atty Nicoletti advised that such a situation is rare, but has happened elsewhere. He stated that it would have needed to be done within thirty days after the variance approval though.

Atty Nicoletti advised that the Town Commission could set parameters for what the Board of Adjustment could approve. Comm Kaleel stated that he did not want the Town Commission to have a “knee jerk” reaction to the last variance hearing and suggested that they re-examine the rules and regulations regarding the board.

Phil Barlage, 35 Anna St. and Chairman of the Board of Adjustment, commented to Atty Nicoletti that he felt Atty Nicoletti has always been more than a professional in his dealings with the Board of Adjustment and in guiding him adding that he was sorry to see him leave.

Mr. Barlage stated that he felt he was given a situation which was beyond his control in regards to the balance of the board. He suggested that a candidate for the board submit an application of qualifications and that they be selected geographically and not just from those who volunteer at a meeting. He stated that he felt there needed to be a better definition of hardship and that he did not believe the last hearing was in any way a hardship.

Atty Nicoletti agreed that there had been many appointment changes to the board without a lot of guidance and stated that it may be a good idea to meet with the new members administratively and explain the hardship requirements. He stated that he knows the board members are very well intentioned, but that he can see their misunderstandings in that they sometimes ask questions which have no relevance.

Comm Kaleel stated that the town needed a policy which would require an orientation for any new board or commission members as the better the learning curve for the new members, the more the town will benefit. He added that the Board of Adjustment is quasi-judicial and stands in judgement over the residents.

Comm Bridges stated that he felt an orientation would be a very good idea and that notice should be given when a seat is being vacated so a stockpile of interested residents could be built up.

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Comm Kaleel suggested that although there are no districts in town, the Town Commission could each take a seat of the Board of Adjustment that they replace when the time comes up to keep the diversity.

Regarding the last variance request approved by the board, he explained that the existing building was a horseshoe shape and that they were only filling in the open area. He stated that he did not feel the board would have approved it if this were not the case.

Atty Nicoletti stated that he felt that an orientation, having Commissioners nominate individuals for board vacancies, and obtaining a pool of candidates before making a decision were all good suggestions. It was the consensus of the Town Commission to use these suggestions for future board vacancies.

12. Discussion regarding use of blowers in town By: Comm Bridges

Comm Bridges advised that he was including this item for discussion as a result of a letter sent to the Ocean Ridge Reporter in which the resident stated that he found the blowers to be very noisy and that the lawn maintenance people use them to blow debris onto the street or neighboring property. Comm Bridges stated that he, too, has seen blowers being used to move debris off one resident's property onto another.

Don Schipske, 5505 N Ocean Blvd. and author of the letter to the Ocean Ridge Reporter, advised that leaf blowers had been banned in California. He advised that after one resident in his neighborhood is done using his blower every week, the debris flies around so much it even gets in the engine of his car and has to be cleaned.

Town Manager Dunham stated that he would look into the policies of other municipalities regarding the leaf blowers.

13. Personal statement By: Comm Bridges

Comm Bridges advised that he felt the Town Commission was very disjointed and not accomplishing as much as they should, but had recently been coming together. He stated that he felt the information regarding the zoning codes which were discussed at a joint Town Commission/Planning and Zoning Commission meeting should have been brought back to the Town Commission for first reading of an ordinance at this meeting, but instead the Town Commission decided to send it back to the Planning and Zoning Commission for another review. He stated that he did not feel that the two advisory boards were necessary as they would only be investigating what the Town Commission already knows. He commented that he felt the Town Commission needed to start acting as a whole on issues such as the building code and land purchases. He advised that he felt the Town Commission should increase their support of the Garden Club to help improve the town, but not to the point where the cost of maintenance becomes enormous. He concluded by reiterating how disappointed he was that the zoning code changes were referred back to the Planning and Zoning Commission.

Comm Stamos stated that he thought the Planning and Zoning Commission was to have their recommendations presented to the Town Commission in ordinance form at this meeting to which Town Manager Dunham explained that Urban Design Studios has not gotten the changes back to the town staff.

Comm Kaleel commented that he disagreed with Comm Bridges' assessment in that he felt this Commission has accomplished a lot for the town.

14. Discussion of Town Atty situation

Atty Nicoletti advised that he had given May 6th as his last day in order to give the town the most flexibility, but that he could stay until the Commission appoints someone. Comm Kaleel stated that the Town Commission should take this opportunity to evaluate the town's needs and conceive a definitive plan for the future.

Comm Bridges suggested that the search should be done similar to the manner in which the town manager was hired. Atty Nicoletti advised that the search would not be as broad as there are very few attorneys who are qualified for this type of work. Comm Bridges suggested a special meeting to get started on the search.

Comm Kaleel moved that for the 60 days after Atty Nicoletti's departure, the town hire the firm of Louis, Longman and Walker as interim town attorney. Comm Stamos suggested that he amend the motion to make it contingent upon the town manager's approval of the fee schedule to which Comm Kaleel agreed to amend his motion. The motion was seconded by Comm Bridges.

Town Manager Dunham advised that there may be times when he needs to contact Atty Nicoletti with questions requiring historical perspective to which Atty Nicoletti stated that he would be available via e-mail while he is out of the country.

Roll call was taken on Comm Kaleel's motion.

Motion carried – yea 5.

Adjournment

The meeting was adjourned at 8:15 PM.

Mayor Aaskov

Commissioner Bingham

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Attest By:

Town Clerk

Commissioner Bridges

Commissioner Kaleel

Commissioner Stamos