

Regular Meeting of the Town Commission of Ocean Ridge held in the Town Hall Meeting Chambers on Monday, October 4, 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, Comm Stamos read an invocation.

Additions, Deletions, Modifications and Approval of Agenda

Comm Bingham requested to discuss Item #5 immediately following the consent agenda.

Consent Agenda

1. Minutes of the Public Hearing and Regular Town Commission Meeting of Sept. 13, 1999
2. Minutes of the Public Hearing and Special Town Commission Meeting of Sept. 20, 1999
3. Authorize Execution of Garbage/Trash Liens and Town Attorney to File Same
4. Authorize Excess 1998/99 Funds to be Deposited into Beautification and Self-Insurance Account
6. Authorize Town Manager to Negotiate Contract with Lewis, Longman and Walker for Town Attorney Services

Comm Kaleel moved to approve the consent agenda as amended, seconded by Comm Bridges.

Motion carried – yea 5.

5. Ocean Ridge Resolution No. 99-20; Providing for Support of a Proposed Ordinance of the Palm Beach County Commission to Amend Chapter 28 of the Palm Beach County Code Pertaining to Discharge of Firearms, Firearm Sales and a Mandatory Waiting Period in Palm Beach County

Comm Bingham read Resolution No. 99-20 by title.

Comm Bingham stated that she felt this was a highly political issue and that everyone has a right to own firearms. She added that until firearms being brought illegally across the borders can be stopped, we should not micromanage this issue.

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Comm Stamos stated that he knew people who died defending the constitution and that he did not want the Town Commission to pass a resolution which “chips away” at people’s rights.

Comm Kaleel explained that the resolution is only requiring a five-day waiting period and not prohibiting anyone’s right to bear arms. He stated that anyone opposed to this additional waiting period would probably change their minds after seeing victims of domestic violence which may have been averted had there been more of a waiting and, consequently, “cooling off” period.

Comm Bridges agreed stating that England has some of the strictest gun control laws in the world and also one of the lowest murder rates. He explained that the policemen in England do not carry guns. He added that the resolution does not take away anyone’s right, but gives more time for the proper background checks to be made. Comm Bingham stated that she was not opposed to the background checks.

Comm Kaleel moved to adopt Resolution No. 99-20, seconded by Comm Bridges.

Comm Stamos questioned if the individual votes would be recorded on the resolution to which Town Clerk Hancsak replied that it would.

Bruce Gimmy, 12 Ocean Ave., stated that he was absolutely in favor of this as he had a gun pulled on him by someone who had gotten it legally.

Charlotte Carle, 7 Harbour Drive S, stated that she did not feel this would restrict anyone’s rights, but rather make the waiting period in line with that of Dade and Broward Counties.

Velden Colby, Boynton Beach resident and owner of Colby’s Barber Shop, 5011 N Ocean Blvd., advised that he had been shot four times. He stated that he was in favor of the right to bear arms and he feels this resolution is a step towards taking away this right.

Comm Kaleel reiterated that he did not believe this resolution was eroding any rights.

Roll call was taken on Comm Kaleel’s motion.

Motion carried – yea 3 (Aaskov, Bridges, Kaleel)  
nay 2 (Bingham, Stamos)

Announcements and Proclamations

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7. The Administrative Offices will be closed on Monday, October 11, 1999 for the Official Holiday

Town Clerk Hancsak read the above announcement and added that the Mayor and Town Commissioners were invited to the new Atlantis Municipal Complex on October 14<sup>th</sup> at 2PM. Comm Kaleel suggested that the town send a plant or similar item to Atlantis for this occasion.

Public Comment

George Bierlin, 26 Hudson Ave., stated that he was given the impression at the previous meeting that Hudson Ave. drainage would be discussed at this meeting. Town Manager Dunham explained that the town has engaged the services of an engineer to design a temporary fix for Hudson Ave. He stated that a plan was done several years ago and is now being modified.

Pat Doyle, 18 Hudson Ave., stated that he has concerns regarding the standing water and the new retention pond from the bridge project, both of which are large mosquito breeding areas. He recommended that the mangroves on the vacant lot be razed and placed on the retention pond to eliminate some of this area. Town Manager Dunham stated that most of the mangroves are on private property and for the town to move just the ones in the right-of-way would require significant funding as well as approval from both SFWMD and DEP. He added that he did not know if the private property owner is interested in the expense to mitigate and move the mangroves on his property. Mr. Doyle stated that he felt DEP might bend a little as it is a health and safety issue.

Comm Bingham stated that she felt the town needed to have DOT help with the breeding in the retention pond. Town Manager Dunham explained that the County is very reliable regarding spraying for the mosquitoes and knowing what areas to spray.

Comm Bridges stated that he felt the town should do what it can to help convince the private property owner to relocate the mangroves including putting pressure on DEP and SFWMD.

Town Manager Dunham stated that he would further discuss the issue with Mr. Doyle.

Steve Romanowski, Hudson Ave., stated that he would like to see the plan for the street before it is approved to which Town Manager Dunham explained that he would be notifying all the residents on the street when they can review the plan.

Public Hearings – None

Regular Agenda

Actions and Reports

8. Report on Commercial Zoning Issues By Ken Spillias, Interim Attorney

Mayor Aaskov advised that she would be passing the gavel to Vice Mayor Kaleel for this issue as she has a conflict of interest in that she has worked in the building at 5011 N Ocean Blvd for twelve years.

Interim Atty Spillias advised that a previous Town Commission had passed Ordinance No. 229 which prohibited commercial in the town and included an amortization schedule for those current commercial properties. He stated that the ordinance was challenged by Busch's Restaurant in the early 1980's and upheld by the courts. He stated that what commercial is left in town is a few hotels and the mixed use at 5011 N Ocean Blvd. He explained that a stipulation was entered into a few years back which provided June 30, 2000 as the amortization date for 5011 N Ocean Blvd. Mr. and Mrs. Sivitilli, the property owners at 5011 N Ocean Blvd., have now indicated that they do not believe the ordinance applies to their property. He advised that he was asked to research if their opinion was valid and if there would be any consequences to allowing some commercial to remain in the town. He stated that he feels the ordinance does apply to their property and that a court would uphold it. Regarding the issue of allowing commercial use in town, he explained that Ordinances 229 and 337 could be repealed and the existing commercial uses grandfathered in as long as there is no change or intensification of use. He added that another choice would be to amend the land use to allow for an area of commercial zoning. He concluded that he did not feel any of these options would open the town up to litigation for businesses already made to phase out.

Mr. Worsham, attorney representing M/M Sivitilli, advised that he has found case law, which would support his opinion that this property is distinct from all other commercial properties in town. He stated that the area is commercial surrounding the property and that unless this use creates a problem or is a hazard, he does not feel the town can change the use.

Comm Stamos stated that he did not agree with the decision of the Town Commission in 1969 and that he did not believe the ordinance would be upheld by the courts if the building were forced to revert to purely residential use.

Comm Bingham stated that the Blue Ocean subdivision requested to be annexed into the town and it was done with certain conditions.

Comm Bridges stated that they needed to review the issue of commercial zoning as a whole adding that he was not against having some commercial in the town. He added that if this decision would be detrimental to the town, he would not want it. He suggested that a special meeting be planned with all the commercial property owners in the town.

Vice Mayor Kaleel stated that he feels the Sivitilli's want their property looked at as different from all other commercial properties which have been forced to close. He stated that the Sivitilli's bought this property with full knowledge of this ordinance and

its consequences. He added that unless there was an overwhelming reason to reverse the earlier decision of the Town Commission, he would be against repealing Ordinance 229.

Earl Jones, 14 Sailfish Lane, stated that most of the hotels and motels in the town have small spaces and studio accommodations. He stated that when these cheap rentals are made into apartments, it would bring small groups of people to Ocean Ridge who are different than the current residents.

Interim Atty Spillias stated that Mr. Worsham makes some policy issues that he will have to review. He advised that he still feels the ordinance is valid and will be until the court decides otherwise. Regarding the hotels, he stated that he believes that as long as they remain with minimum monthly rentals, they are not included in the commercial use, but as multi-family, but he would research this matter further.

Vice Mayor Kaleel proposed that a special meeting to include the commercial property owners be scheduled to discuss this issue.

Mr. Colby submitted petitions from Ocean Ridge residents and residents of other municipalities who want the 5011 N Ocean Blvd stores to stay as they are. Vice Mayor Kaleel reiterated that the Town Commission would need to look at all commercial in town and not just at 5011 N Ocean Blvd.

9. Presentation on proposed entrance signs and subsequent funding for same from beautification reserve account

Town Manager Dunham explained that not many people realize they are in Ocean Ridge even as they drive through it. He advised that the Environmental Resources Advisory Board (ERAB) has recommended two designs for entrance signs for the town.

Glen Weldon, Bright Image Signs, showed the illustrations of the proposed signs. He explained that they would be made from natural material with the borders and the base made from a coquina stone and the center in a natural tile. He added that the sea turtle logo would be taken from a casting supplied by the town.

Jerry Goray, member of the ERAB, stated that they were directed to review the signage of the town and they wanted to look at signs, as an overall program so there would be continuity in design, color and other standards throughout the town. He advised that the ERAB wanted an elegant sign which would convey the character of the community. He stated that they did not believe the signs would have to be placed at the exact entrance points in the town. He added that the ERAB had asked the sign company for rough-ins on electric and irrigation for the landscaping around the signs.

Comm Bridges questioned the size of the signs to which Mr. Weldon advised that the wider one (design A) would be no taller than 4' and the other (design B) would be no taller than 5'. He advised that the back of the sign would be the same as the front without any lettering.

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Comm Stamos stated that he felt there should be a theme for all the signs in town to which Mr. Goray stated that the ERAB was considering standards for all signs within the town.

Mr. Goray stated that the ERAB had considered using the wider design A in the entrances in town which would accommodate a sign of that size and design B in the others. It was the consensus of the Town Commission to only use design B. They were also in favor of two signs on Ocean Ave.

Comm Kaleel moved that design B be approved with the rough-in for electric and irrigation funded from the economic environment account in an amount not to exceed \$18,000, seconded by Comm Bridges.

Motion carried – yea 5.

10. Report regarding complaints on Garbage/Trash Service with BFI By:  
Commissioner Bridges

Comm Bridges presented a picture of the trash cans thrown across his driveway after BFI had picked up his trash adding that he had a pile of vegetation which was not picked up for two weeks. He stated that he believes that the service from BFI has deteriorated. Town Manager Dunham explained that the staff had met with Dan McGinnis from BFI earlier that day and was assured that the problems would be corrected.

Comm Stamos stated that the trucks drive through town very fast. Dan McGinnis, representing BFI, advised that according to Ocean Ridge ordinances, the collection must be done between 8AM and 6PM. He advised that he has only been with BFI for five weeks and has discussed these issues with the truck driver and his supervisor earlier in the day.

Comm Kaleel stated that the pick-up days were changed on a trial basis at the request of BFI with the condition that the service would improve. He suggested that the town set a time period for these issues to be corrected and then change the days back if they are not.

Marie Hornberger, representing BFI, stated that they will be randomly following the routes during the next month as there have been discrepancies between what the Town Commission and staff are stating and the information they are receiving from the drivers.

Both BFI and the Town Commission concurred that BFI would appear at the next Town Commission meeting with an update.

11. Recommendation to Create Architectural Review Board By: Commissioner Kaleel

Comm Kaleel advised that he has been discussing this issue with neighboring municipalities and that he would be willing to discuss the issue even though the Town Commission has previously opposed it. He stated that he felt this could help with contractor issues and suggested that Manalapan, Palm Beach and Gulf Stream be invited to discuss the issues they have faced with their boards.

Comm Bridges agreed stating that he would support a system similar to Gulf Stream. He stated that the board does not take anything away from the applicant if there is a good architect.

Comm Stamos stated that he has worked with architectural review boards and that they need to be given very specific guidelines. He stated that he believes if they are not carefully guided, they can become very authoritarian. Comm Bridges stated that the town would not have to continue with the board if it got out of hand.

It was the consensus of the Town Commission to schedule a special workshop and get information from other municipalities regarding their boards.

12. Recommendation to implement rules and regulations for construction sites  
By: Commissioner Kaleel

Comm Kaleel stated that he felt some of the construction sites were getting out of control. He cited garbage which has piled up for weeks at a time. He stated that the town needs to provide teeth to the code which would allow the sites to be closed down when violations occur.

Town Manager Dunham explained that they would be reviewing codes from other towns and how to provide the ability to suspend jobs into the town's code. He explained that the code does not currently even require a commercial dumpster on the site. He stated that he would also like to see the code cover the issue of debris in the roadway.

Mr. Doyle stated that the debris and open containers need to be considered during times when a hurricane is approaching. Town Manager Dunham explained that issue would need to be addressed countywide adding that another problem then occurs when Solid Waste Authority closes the dump and there is nowhere to empty the container.

Comm Bingham questioned if the code currently addressed this issue to which Interim Atty Spillias stated that in emergency situations the Department of Public Safety can act to ensure that the sites are cleaned up. He added that in any other situation, it would become a code enforcement process which could take several weeks. He stated that they would look into revising the code to allow for a site to be red-tagged or shut down until violations are corrected. He advised that he would bring a draft to the next Town Commission meeting.

13. Recommendation to amend building height requirements By: Commissioner Bridges

Comm Bridges stated that he would like to see the building height better controlled, the FAR increased, and stricter regulations on the size of the second floor. He suggested that a special meeting be scheduled to discuss these proposed changes after the Town Manager has had a chance to review the codes of neighboring municipalities. He added that he would like to commend the Town Manager for finding some abuses of the code that were submitted by architects.

Comm Stamos stated that he felt the Town Commission needed to stop revising the building codes to which Comm Bridges stated that he felt they were nearly there and that only some refining needed done.

14. Report on Tropical Drive road conditions By: Commissioner Bridges

Comm Bridges distributed a picture of a pothole on Tropical Drive stating that although it is a private road, he feels something needs to be done about this nine-inch deep pothole. Director Hillery stated that Mr. Pace advises that he does not own the street in front of his lot where one of the large potholes exists and the other is in front of a lot which now has a new owner which he is attempting to contact. Interim Atty Spillias stated that the town would need to contact the correct owners as the town can not make the repairs on private property. The staff advised that they would investigate the ownership of the street.

Resolutions

None

First Reading of Ordinances

15. No. 522; Amending the Code of Ordinances at Chapter 26, Article III, by Adding a New Section 26-49, Regarding Underground Location of Utility Service Lines; Amending the Code of Ordinances at Chapter 26, Article VIII, Section 26-121, Amending the Definition of “Substantial Improvement”

Town Clerk Hancsak read Ordinance No. 522 by title only.

Comm Kaleel moved to approve Ordinance No. 522, seconded by Comm Bridges.

There was no public comment.

Motion carried – yea 5.

Second Reading and Adoption of Ordinances

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16. No. 521; Amending the Code of Ordinances at Chapter 26, Article XIV, Nonconforming and Grandfathered Uses, Creating an Oceanview Special Area for Certain Small Lots; Creating a Town Floor Area Ratio Overlay for Residential Lots of Less than 7,500 Square Feet (ADDITIONAL CHANGES)

Town Clerk Hancsak read Ordinance No. 521 by title only.

Comm Kaleel moved to adopt Ordinance No. 521, seconded by Comm Bingham.

Mr. Jones questioned what the additional changes were for second reading to which Interim Atty Spillias advised that the only changes made were in the verbiage and not in the context or intent.

Roll call was taken on Comm Kaleel's motion.

Motion carried – yea 5.

17. No. 523; Amending The Code of Ordinances at Chapter 2, Article VI, Finance, Division 2. Fees, Providing an Official Filing Fee and Deposit Against Extraordinary Costs and Expense for Application for Administrative Variances, Increasing the Deposit Against Extraordinary Costs and Expenses for Applications and Petitions for the Town Commission, the Planning and Zoning Commission, the Zoning Board of Adjustment and the Construction Board of Appeals

Town Clerk Hancsak read Ordinance No. 523 by title only.

Comm Kaleel moved to adopt Ordinance No. 523, seconded by Comm Bridges.

Comm Stamos stated that he was opposed to this resolution because it would raise the costs associated with variances and other applications. Town Clerk Hancsak explained that the ordinance would only increase the deposit given which is used to cover all related fees including postage and newspaper advertisements. She stated that the ads had been averaging over \$200.

Craig Baskin, 6490 N Ocean Blvd., stated that he felt the ordinance made complete sense adding that the fees were not being increased.

Roll call was taken on Comm Kaleel's motion.

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

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Adjournment

The meeting was adjourned at 8:45 PM.

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Mayor Aaskov

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Commissioner Bingham

Attest By:

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Commissioner Bridges

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Town Clerk

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Commissioner Kaleel

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Commissioner Stamos