

Regular Town Commission Meeting of the Town of Ocean Ridge, Florida held on Monday, February 7, 2000 at 6:30 PM in the Town Hall Meeting Chambers

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

Town Manager Dunham requested to add an item regarding an update on the trees on Ocean Ave.

#### CONSENT AGENDA

1. Minutes of the Regular Town Commission Meeting of Jan. 11, 2000
2. Authorize Funding for Shenandoah Co. to TV, Clean Drainage Pipes and Catch Basins on Adams Road and Tropical Drive By: Gregory Dunham, Town Manager
3. Authorize Advertisement for Civil Engineering/Surveying Services for Drainage Study By: Gregory Dunham, Town Manager

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

Motion carried – yea 5.

#### ANNOUNCEMENTS AND PROCLAMATIONS

4. 2000 Municipal Election
  - a. Date of Election is February 8, 2000
  - b. Two Commission Seats for Three Year Terms Each
  - c. Polls will be open 7:00 AM – 7:00 PM

Town Clerk Hancsak read the above announcements. She explained to the Commissioners that she would be bringing appointments to the Town boards at the next meeting. She stated that there would be one regular and two alternate appointments open on both the Board of Adjustment and the Planning and Zoning Commission. She requested that anyone who is interested in being a member should submit a brief resume. She added that she would inform the Commission which of the current members wished to remain in their current positions.

Public Comment

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Mary Lou Farr, Ocean Ridge Management, advised that she was having serious problems with Adelpia Cable and an associate of Ocean Ridge Management explained some of the particular problems. Manager Dunham stated that he would like to meet with her or her associate the next day to further discuss the specific problems and then he would follow-up with the cable company.

Robert Katz, 5691 David Lane, stated that the residents of David Lane and Adams Road are concerned with the drainage problems. He commended the Commissioners on their commitment to this issue. He stated that he was aware the solutions might take time and careful review to be solved correctly, but that the storm season was approaching and a plan was needed. He advised that the residents have obtained counsel to also express their concerns to the Town and Commissioners. Town Manager Dunham explained that included in the consent agenda was approval for Shenandoah Co. to vacuum the storm drains on Adams, Tropical, Inlet Cay and Spanish River which he believes may be half full of sand. He added that they would also be TVing some of the line to see if the catch basins are damaged. He added that they will also be advertising for civil engineer and surveying services for the drainage study and hoped to have proposals to bring before the Commission in March. Town Clerk Hancsak explained that some of the surveying for the drainage study had already been done by the ACOE.

Cheryl Olanoff, 566 David Lane, questioned if they would be replacing valves so that the Intracoastal does not back-up into the neighborhoods. Town Manager Dunham explained that the staff is in contact with a company which is in the process of engineering a valve that may solve that problem. He advised that other communities are having similar problems in locating a valve that will work continuously. Comm Bridges advised that he is also aware of other communities with similar problems.

Justus Brown, 39 Coconut Lane, stated that he believed a sump-pump placed at the end of Coconut Lane would solve the flooding problems for their street.

Mike Phillips, 6590 N Ocean Blvd., advised that he is representing a ten unit condo of disenfranchised voters, but have a lot of interest in the Town. He stated that they are concerned with the increase in windstorm insurance rates and requested that the Town help them confront this issue. Mayor Aaskov advised that the staff would review this issue.

Mike DuBose, 36 Oceanview Drive, advised that he had a name and phone number of a civil engineer who would be able to assist with any drainage study and this information was given to the Town Clerk.

Public Hearings

None

Regular Agenda

Actions and Reports

5. Discuss David Lane Right-Of-Way By: Gregory Dunham, Town Manager

Town Manager Dunham explained that he had received a letter from an attorney representing Mr. and Mrs. Kelso who have obtained the property on Beachway North formerly owned by the National Wildlife Federation. He advised that the only access to this property is a ten-foot lane of right-of-way on David Lane which has several encroachments on it. He advised that the staff is having a survey done to indicate what the encroachments are.

Atty Spillias advised that the Town would need to determine what type of access is needed. He advised that there is a public right-of-way at the end of David Lane which is locked and a strong position that the Town should make this passable. He added that the Town could be liable if there is a dangerous situation in this right-of-way (i.e. falling tree limbs as cited in the letter from the Kelso's attorney) which is not corrected by the Town once they have been made aware of it.

Comm Kaleel advised that there is a potential for serious problems for the Town. He stated that he felt it was unfortunate that land, which has been preserved for all these years, will no longer be a preservation area. He stated that the Town needs to realize that it is a valuable parcel in regards to drainage and/or preservation.

Comm Stamos stated that the letter from Kelso's attorney advising of liability from rabid animals was a bit extreme.

Mayor Aaskov reminded the residents that it is unlawful to trap animals in the Town without the consent of the Director of Public Safety.

Comm Bingham stated that she felt the letter from the attorney was a threat adding that she does not feel that any of the trees in the right of way were unstable.

Town Manager Dunham stated that he wanted the Commissioners to be aware of the situation as it will be an issue to be faced in the future.

Rich Lucibella, 5 Beachway N, stated that he would like it clarified that the Kelso's do not own any property on Beachway North. He stated that their property has been kept in its natural state and while it is home to some animals, he has never seen any rabid animals on the property. He stated that there has been trapping on the property and he does not believe any sick animals have been removed.

Town Manager Dunham stated that the issue of the rabid animals and unstable trees would only relate to the right-of-way and not to the Kelso's property.

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Mr. Katz stated that the right-of-way would go through his porch adding that he felt the easement was given for utility and drainage. He added that his home was built in the 40's prior to the easement. Atty Spillias stated that he would need to review the use as it would make a difference if it were not given as a road/access easement.

Comm Bingham questioned what would be done regarding the trapping of the animals to which Director Hillery advised that he would look into it.

### 6. Discuss Boynton Beach Owned Property Adjacent to Town Hall By: Kenneth Kaleel, Commissioner

Comm Kaleel advised that on Tuesday, February 1, 2000, the city of Boynton Beach struck their resolution concerning the sale of the property adjacent to the Town Hall. He added that at that same meeting, there was an allegation made that he and others had violated the Sunshine Law and suggested that Atty Spillias respond to that allegation. Atty Spillias advised that he reviewed the resolutions from the Town regarding the condemnation and purchase of the property and discussed the events leading up to the deal with Comm Kaleel. He explained that Comm Kaleel was charged by the Town Commission to make known to Boynton Beach the desires of the Town. He stated that Boynton Beach then had a survey and appraisal done of the property and their City Commission and City Manager wanted to ask for 10% above the appraised value which would total \$270,000.

Comm Kaleel advised that Boynton Beach Atty Cheroff has requested that the Sun Sentinel print a retraction to their article concerning the alleged Sunshine Law violations. Concerning the history of the property, he explained to the public that everything located just outside of the Town Hall is actually the property of Boynton Beach. He advised that the two municipalities have fought over this property for decades. He stated that through a space needs study, the Town has determined that they need both of the parcels for its future. He advised that in March, 1999 this Town Commission had passed a resolution and retained attorneys to begin the process of eminent domain and also decided to give negotiations with Boynton Beach one more try.

Comm Kaleel stated that he was instructed by the Town Commission to convey the sentiment of the Town to Boynton Beach and talks began with the Mayor. He stated that in August 1999 Henderson Tillman had been appointed in Boynton Beach for the same purpose. He advised that the Town completed a space needs study and the City expressed their concern about overflow parking and special events at Oceanfront Park. He stated that on December 21, 1999 an interlocal agreement involving the issues of special events and overflow parking and contract for \$270,000 was presented and approved by the Boynton Beach City Commission and subsequently by the Town on December 22, 1999. Comm Kaleel then read the first line of the interlocal agreement citing its importance in saying that the two cities were going to cooperate and work through all related issues. He explained that the Town is aware that the parking lot at Oceanfront Park is full at most a dozen times a year and overflow parking at the Town Hall would be available to them for these situations as long as it does not interfere with working hours, Town meetings or the

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health safety and welfare of the residents (i.e. blocking the lot so that a fire truck could not get through). He explained that the Town was also going to be involved with the special events at the park and possibly co-sponsor some of them. He explained that the Town wanted more involvement in the events in regards to the safety of the residents who have homes near the park.

Regarding the 180 day cancellation clause in the agreement, Comm Kaleel advised that there would be no incentive for either municipality to cancel it. He stated that the Town approved the agreement and the contract the day after it was approved by Boynton Beach. He advised that the Town did not balk at the price that was requested by the City.

Comm Kaleel advised that on January 18, 2000, the Boynton Beach City Commission unanimously passed the agreement and contract once again. On February 1, 2000, the City took up the issue again and this time struck down the deal. Comm Kaleel explained that for those who may have felt that the agreement was bad, there was no incentive for either side to cancel the agreement. He advised that all interlocal agreements have cancellation clauses (e.g. the Town's EMS and water agreements with Boynton Beach) and the clause only makes the two municipalities work together better.

Comm Kaleel explained that some in Boynton Beach fear that the Town will resell the property to a developer for a higher price and move the Town Hall to the National Wildlife Property at Woolbright and A1A. He advised that the property is a preserve and a Town Hall could not be placed there adding that there is no other place in Town for a new Town Hall either.

Comm Kaleel also advised that some in Boynton Beach believe that the Town should add all or part of the money that the Town would have spent pursuing eminent domain to the price of the properties. He advised if the Town does pursue eminent domain, there will be no overflow parking given and participation in the special events. He added that Boynton also mentioned concerns with the evaluation of the property considering whether or not the mangroves affected the appraisal.

Comm Kaleel stated that the Town feels there was a valid contract adding that the Town has a copy of the interlocal agreement signed by Boynton Beach.

Comm Kaleel moved that the Town Atty send a letter to Boynton Beach that the Town is ready willing and able to close the deal that has been presented and approved by the Town and have the Town Atty proceed with whatever steps necessary to obtain the property should the City not honor the current contract, seconded by Comm Bridges.

Comm Bridges questioned if the Town would pursue eminent domain if the contract is not approved to which Atty Spillias advised that the Town Commission has already approved to pursue eminent domain and they must now decide if they would like to pursue the contract if Boynton Beach refuses or directly pursue eminent domain. Regarding pursuit of the contract, he advised that Boynton Beach believes that since there is no signed contract, they could still reconsider the vote. He explained that while the

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contract has not been signed, the interlocal agreement had been signed and they are both part of the same deal. He advised that there are also issues regarding Boynton Beach's motion of reconsideration in that it had been reconsidered in January and could not be reconsidered again. He added that a contract could not be reconsidered once the other side has been told that it has been approved. He concluded that he felt the Town had a strong case in pursuing the contract.

Comm Bridges questioned how long it would take to pursue the contract to which Atty Spillias explained that if Boynton Beach did not delay the process, it could be done within six months, but if they did delay, it could be up to a year. Comm Bridges expressed his desire that the City of Boynton Beach reconsider on their own and approve the contract without the need for legal action; however, he added that he felt it would end up in eminent domain proceedings.

Ed Garnett, 32 Spanish River Drive, questioned if there is a clause which would allow either side to back out of the contract within 180 days to which Atty Spillias advised that the clause applies only to the interlocal agreement and not the contract.

Comm Stamos stated that he did not want to go to court over the contract. He advised that he felt eminent domain was a clear cut attempt for the Town to get the property and that he feels if Boynton Beach does not proceed with the current contract, the Town should pursue eminent domain. Comm Kaleel reiterated that if the Town pursues eminent domain, there would be no interlocal agreement. Comm Bingham agreed stating that she felt Boynton Beach would lose with this option.

Atty Spillias questioned if he should pursue contract negotiation or eminent domain if Boynton Beach refuses to honor the current contract to which Comm Bridges stated that he felt the Town should send a letter and then decide what avenue to pursue at the next meeting following Boynton Beach's reply.

Comm Kaleel amended his motion to include that the Town Atty take all actions to pursue obtaining the property short of eminent domain, seconded by Comm Bridges.

Bernard Schulte, 5 Osprey Court, advised that the letter being sent should have some bite to it to convey how strongly the Town feels regarding this issue.

Atty Spillias questioned if the motion was that he prepare a lawsuit for contract litigation if Boynton Beach refuses the agreement and allow the Town Commission decide whether or not to file it at the next regular meeting to which he was told that was the motion.

Comm Stamos advised that he did not think this would be as forceful as eminent domain and that he felt the Town should proceed directly with it if Boynton Beach refuses the agreement.

Comm Bridges asked Comm Kaleel his thought on which way to proceed. Comm Kaleel advised that the Town should still send the letter and prepare for eminent domain.

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Comm Kaleel advised that he would like to impress upon Boynton Beach that the Town still is in a cooperative state.

Roll call was taken on Comm Kaleel's amended motion.

Motion carried – yea 4.

7. Action to Direct Town Attorney to Prepare Commercial Use Ordinance By: Gregory Dunham, Town Manager

Mayor Aaskov stated that she was going to pass the gavel to Vice Mayor Kaleel because of a conflict of interest.

Town Manager Dunham stated that at the December 13, 1999 Special meeting, the Commission decided to have Atty Spillias research an ordinance which would include encouraging proper maintenance of rental properties.

Atty Spillias stated that the Town Commission would have to decide how to deal with the property at 5011 N Ocean Blvd. and the motels in town. He advised that the Town Commission had expressed a desire to repeal the ordinance prohibiting commercial use and allow the existing uses until they are terminated or abandoned. He added that he felt there would be no potential liability towards the Town from those businesses which previously conformed to the ordinance.

Atty Spillias explained that the new ordinance could include aesthetic regulations for commercial properties. He added that he felt this should apply not only to grandfathered motels, but to all commercial properties.

Comm Bingham questioned if the hotels in Town could revert to daily rentals to which Atty Spillias that they could only continue with their current use.

Comm Bingham moved that the Town Commission address the issue of aesthetics of the commercial properties and the size of the signs allowed to which there was no second.

Comm Bridges requested that the issue be tabled until the next month after the election of a new commissioner. He added that he would have liked to have included this question on the ballot.

Comm Bridges moved to table this issue until the March regular meeting, seconded by Comm Stamos.

Atty Spillias advised that a referendum could be done at a special election or the next available election.

Roll call was taken on Comm Bridges' motion.

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Motion carried – yea 4 (Aaskov abstain).

Resolutions

None

First Reading of Ordinances

None

Second Reading and Adoption of Ordinances

None

Town Commission Comments

8. Discuss Final FDOT Landscape Plan for Ocean Ave. By: Commissioner Bingham

Comm Bingham stated that the Town Commission had previously approved 80% complete landscape plans for Ocean Ave. She stated that she has since been notified that there are plans to place cement slabs with park benches and trash cans on Ocean Ave and requested that the Town Commission discuss whether or not they wish to have them. Town Manager Dunham explained that he had recently been given plans which showed a bench and trash can on the north and south side of Ocean Ave. at the corner of Ocean Ave. and A1A. Comm Bingham stated that she felt a bench and trash can would restrict those who are walking or biking on the sidewalk. Town Manager Dunham explained that FDOT has held up on pouring the concrete until the Town Commission had a chance to discuss the issue adding that he did not feel they would object to deleting the items from Ocean Ave.

Comm Kaleel moved that the Town request that FDOT not install trash cans and benches on Ocean Ave. seconded by Comm Stamos.

Justus Brown, 31 Coconut Lane, stated that he felt vagrants would sleep on the benches if they were installed Ocean Ave.

Roll call was taken on Comm Kaleel's motion.

Motion carried – yea 5.

9. Trees on Ocean Ave. By: Town Manager Dunham

Town Manager Dunham explained that as a result of Comm Bingham's concern at the previous meeting, he had requested that Palm Beach County ERM assess the situation regarding the Calycophyllum trees on Ocean Ave. ERM's assessment noted that they did

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believe the trees would survive although any time roots are cut, the tree's ability to withstand storm force winds is impacted. ERM has advised that they would re-evaluate the situation in mid to late March. Town Manager Dunham stated that DOT has been put on notice regarding the concerns of the Town and what the Town will expect once a determination has been made.

Comm Stamos stated that he would like to thank all of the people who supported him during his terms as Town Commissioner. He commented that he felt all the candidates running in the election would do a good job for the Town. He advised that he was proud of the Department of Public Safety in that two officers had saved the life of a Briny Breezes' man whose heart had stopped. There was applause from the public for Comm Stamos.

Mayor Aaskov stated that she would like to thank Comm Stamos for his years as Town Commissioner and Mayor. She also commented on the performance of the Department of Public Safety in response to the explosion in Manalapan the night before. She stated that she felt the interlocal agreement between Ocean Ridge, Manalapan and South Palm Beach was working fine as there was tremendous participation from the municipalities.

Mayor Aaskov reminded the public of the Ocean Ridge Municipal Election which would be held the following day from 7AM to 7PM.

Adjournment

The meeting was adjourned at 8:40 PM.

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Mayor Aaskov

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Commissioner Bingham

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Commissioner Bridges

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Commissioner Kaleel

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Commissioner Stamos

Attest By:

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Town Clerk