

Regular Town Commission Meeting of the Town of Ocean Ridge, Florida held on Monday, March 6, 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 Kaleel
Mayor Aaskov
Commissioner Bridges
Commissioner Willens

Following the Pledge of Allegiance, Comm Kaleel read an invocation.

Additions, Deletions, Modifications and Approval of Agenda

Mayor Aaskov requested to discuss the right-of-ways as item #14. Comm Bridges requested to add a discussion on the Bulletin News as item #15. Comm Kaleel requested to add a discussion on lighting as item #16 and Town Manager Dunham requested to add an item regarding future meeting dates as item #17.

CONSENT AGENDA

1. Minutes of the Regular Town Commission Meeting of Feb. 7, 2000
2. Minutes of the Special Town Commission Meeting of Feb. 11, 2000

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

Motion carried – yea 5

ANNOUNCEMENTS AND PROCLAMATIONS

3. Reminder – County Election on March 14, 2000 RE: Presidential Primary Polls will be open at Town Hall from 7:00 AM – 7:00 PM

Town Clerk Hancsak read the above announcements.

Public Comment

Vera Klein, 7 Sailfish Lane, questioned how the Bulletin News could be just thrown about the streets and questioned whether it was a littering violation. She was advised that this item would be discussed later in the agenda. She also stated that she would like to commend Officer Wohlfiel and Officer Rosenberg for their assistance when her husband, Joe, needed medical attention.

Dr. Martel, 46 Harbour Drive South, congratulated Comm Willens on his recent victory and then suggested that the residents are given the opportunity for public input during the item regarding the appointment of a Mayor.

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Rich Lucibella, 5 Beachway North, commented that during the weekend the new owner of the property located between Beachway North and Osprey Court had trespassed over private property to gain entry to their property. He advised they then proceeded to clear cut 50% of various trees, however, they have not been removed the debris. As a result Mr. Lucibella stated that the neighboring residents have been affected by several code violations including maintaining nuisances, cutting without a tree permit, and fire code violations. This cutting has caused an eyesore, and public health and safety hazards. He expressed his concerns with the staff earlier and now wanted to state them publicly. He added that he does not hold the public safety or commission responsible but something needs to be done for this total disrespect of the codes.

Bernd Schulte, 5 Osprey Court, concurred with Mr. Lucibella's comments and added that all the neighboring residents felt the same.

Cheryl Olanoff, 566 David Lane, commented that the responsibility of the trespass lies with the Kelsos and the town and she felt a tree permit should have been required. She added that she felt the trimming was done illegally, the property owner has jeopardized the health and safety of the neighborhood, and they have negatively affected the ecosystem with the trapping of animals and have worsened the current drainage problems. Ms. Olanoff stated that she felt the residents deserved a time action plan for when the drainage problems would be corrected and added that the 4-5 years quoted in the Sun Sentinel was too long.

Justus Brown, 39 Coconut Lane, commented that he was happy to hear that Town Manager Dunham has been meeting with representatives from Air Liquide regarding the noseeums.

Mike Phillips, 6090 N. Ocean Blvd., suggested that a report on flood control be given at each regular meeting. There was no discussion by the Commission.

Bob Katz, 5691 David Lane, advised that he recently met with the Town Manager and Town Attorney regarding David Lane and that a letter was subsequently forwarded to him. He wanted to convey that the town has never maintained the property and he would contest any taking of the property that was originally dedicated to the town. He added that the additional 10' would still be inadequate to access the Kelso property and he felt the Commission should take the responsibility of advising the owner of same.

Mayor Aaskov questioned whether the David Lane property was an easement to which she was advised that it was deeded to the town for public utilities and right-of-way.

Regarding the drainage on and around David Lane, Mr. Katz stated that the town has approved building permits thereby allowing further development in the surrounding area when the current system is inadequate.

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Comm Willens asked whether the police department was notified regarding the trespassing on Beachway North on Saturday. Mr. Lucibella advised that the police were notified three times on Saturday. He added that he has spoken with the Town Manager twice this date and was assured that the issue was being addressed and he would also be meeting with him on Tuesday. Comm Willens stressed that the town needed to be fair to all parties.

Concerning the drainage issue, Comm Bridges advised that the town was currently addressing this extremely costly issue. He stated that he felt a catch basin should be designed for David Lane and other targeted areas. He added that a special meeting was scheduled for 3/20/00 to short-list the engineers for the drainage project.

Comm Bridges stated that he too was concerned with the debris generated by the cut trees at the Kelso property, however, a permit was not required for removal of Australian pine trees. He added that he felt it might have been done to intimidate the residents and town. He questioned how the debris will be removed and suggested that the town remove it and invoice the owners. Mr. Lucibella responded by stating that the town removing the trees would merely ease their burden and may encourage them to repeat it. Comm Bridges acknowledged that sewage was also a major problem that will need to be addressed in the future.

Bill Finley, 3 Beachway North, requested that Director Hillery explain the trespass law. Director Hillery stated that the statute is clear that an officer may issue a verbal warning and only cite the individual with a misdemeanor if a trespass after warning occurs or if the officer actually personally observes the trespass.

Town Manager Dunham stated that the staff and attorney are reviewing the legal aspects and the appropriate steps that will be taken.

Comm Kaleel reiterated that there were actually three issues being discussed which included: a civilian complaint, whether any answers were available from the attorney or Director Hillery and whether the property could be used as a natural buffer and drainage pond. He stated that unfortunately any resolution will be difficult and will not satisfy all of the parties involved. He suggested that the Town Attorney and Town Manager review the best uses for the properties and people involved.

Comm Willens stated that it appears that several of the codes have been violated and the town is reviewing them. Concerning the drainage, Comm Willens stated that while the study is being completed he felt the engineers should review the possibility of catch basins as a priority.

Director Hillery advised that he has walked the Kelso property and observed that several Australian pine trees and 2 cabbage palms have been cut and several large trees have been marked with red paint (usually signifying to save). He added that it appears that the property owner could be in violation of Section 34-6 if not corrected forthwith. He stated that it is proposed to cite them and bring the case before the Special Master. He added

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that he too was concerned with the dry season and what affect the drying pine branches may have. At this point Mr. Lucibella gave Director Hillery photographs of the Kelsos trespassing and of the cut trees.

Comm Kaleel recommended that all concerned parties meet so that arrests will not become necessary. Mr. Schulte advised that they have attempted conversations with the Kelsos to no avail. Comm Kaleel stated that there was still no harm in trying and the town should at least try to meet with them. Mr. Lucibella commented that he felt the meeting would not be productive.

Mayor Aaskov offered to meet with the Kelsos if they were willing in a meeting that would also include the Town Manager, Town Attorney, and Director Hillery if Town Manager Dunham thought it could be helpful.

Public Hearings

None

Regular Agenda

Actions and Reports

4. Action to Fill Appointments to Board of Adjustment, Planning & Zoning Commission, and Advisory Board By: Karen E. Hancsak, Town Clerk

Town Clerk Hancsak advised that there were several appointments that were expiring or vacant. These included Board of Adjustment and Planning & Zoning members. She added that the two expiring regular members of the Board of Adjustment were Bob Cunningham, who recently located out of town, and Dr. Victor Martel, who advised that he would be willing to serve as a regular member again. She added that the two alternates, Terry Brown and Geoff Pugh, expressed interest in serving as regular members first and alternates second.

Mayor Aaskov stated that she had a great concern that several of the regular and alternate members were from Harbour Drive, which did not provide good overall town representation.

Comm Kaleel moved to appoint Dr. Martel and Geoff Pugh as regular members to the Board of Adjustment for three-year terms and Terry Brown as an alternate member for a one-year term. There was no second to the motion.

Comm Bingham suggested hearing from each of the potential members. Town Clerk Hancsak advised that all of these members have already been through the resume and/or interview process.

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Comm Bingham moved to appoint Bruce Gimmy to the Board of Adjustment as a regular member for a three-year term. There was no second.

Comm Bridges stated that he felt this board was unbalanced and felt some of the actions were wrong and several of the codes disregarded in the past, and therefore, moved to postpone the Board of Adjustment appointments. There was no second to the motion.

Geoff Pugh, 35 Harbour Drive No., stated that at the time he was appointed the Commission had asked for volunteers and he submitted his resume. He added that he felt he understood the codes considering he has been a pool contractor for 20 years. He also stated that he felt the board did not disregard the codes but reviews each case and property individually. Comm Bridges stated that he was not degrading anyone, however, he stated that the Commission had been criticized for several Board of Adjustment decisions in the past and he felt the board should be more balanced.

Dr. Martel, 46 Harbour Drive So., stated that he did not appreciate it being implied that he was not capable of making a judiciary decision and he took Comm Bridges' comment as an insult. There was a slight heated exchange of words between Comm Bridges and Dr. Martel.

Comm Kaleel stated he felt the Commission had made a policy decision in the past to promote the alternates to open regular positions and he felt they should remain consistent and be fair to these individuals. He then suggested that there be districting for the Planning & Zoning Commission, Board of Adjustment and also the Town Commission. Comm Bridges stated that that may not be a bad idea.

Comm Bingham commented that she felt it might be time to have new blood on the boards. Comm Willens stated that he would not be averse to postponing this item for a month to wait to see if any other individuals volunteer.

The Commission concurred to table this item until next month.

5. Action to Decide on Special Referendum RE: Commercial Uses
(Postponed Item) By: Gregory L. Dunham, Town Manager

Mayor Aaskov passed the gavel to Vice Mayor Kaleel declaring a Conflict of Interest regarding this item since she rents office space at the 5011 stores.

Town Manager Dunham summarized the events regarding this ordinance by stating that the Commission was interested in repealing the ordinance prohibiting commercial use and allow the existing uses until they are terminated or abandoned. He added that the attorney was confident there would be no potential grounds for liability towards the town from businesses that already phased out and that the ordinance could include aesthetic criteria to grandfathered motels and all commercial properties.

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Town Manager Dunham stated that this item was tabled at the last meeting, however, a suggestion was made to take the issue to the public by placing it on a referendum, the earliest being September or November and also to place a moratorium on enforcing the current ordinance.

Comm Willens questioned whether this would be a binding referendum. Atty Spillias advised that it would not be binding, however, the feelings of the residents would be made known. Comm Willens then asked if a less expensive quicker method could be used for this purpose.

Comm Bingham stated that she was uncomfortable with the sunset of this ordinance that has been in effect since 1969 because she felt it would provide motels an easier opportunity to rent out on a daily or weekly basis when their minimum stay should be longer. She also stated that the ordinance was originally implemented to upgrade the town and she felt property values would decrease due to the motels in town.

There was a brief discussion regarding the time frame for a moratorium and a request that the attorney develop some ballot verbiage. Comm Bridges stated that the Commission should be aware of the residents opinion on the issue and therefore made a motion to authorize the Town Attorney to draft a moratorium ordinance extending the operation of current businesses until six months after a referendum to be held in February 2001, seconded by Comm Bingham.

Mr. Jeff Siegel, renter at the 5011 apartments, was concerned with the granting of the multiple extensions and when the final determination would be made. Comm Kaleel summarized the ordinance and related events to date.

Marie Speed, 49 Douglas Drive, commented that she felt the existing commercial should be permitted to continue, however, she was concerned how the verbiage would be presented so as not to confuse the residents.

Motion Carried – Yea 4 (Mayor Aaskov abstained)

6. Report on Trees and Landscape On Ocean Ave. By: Gregory L. Dunham.
Town Manager

Town Manager Dunham advised that he has met with Frank Griffiths, a DERM representative, and FDOT regarding the condition of the Callophyllum trees on Ocean Ave. Mr. Griffiths advised him that he felt all of the trees would survive and seem to be recovering well from the cutting of the roots. He added that he felt the draught, noreasters, and the construction caused some of the stress to the trees. Mr. Griffiths did recommend that the town keep the trees because of their age, the shade they provide to the sidewalk area, and the noise buffer. However, he suggested that the town request long-term assurance from DOT that if a tree died in the future and it is evident it was caused by construction damage that DOT should remove and replace the tree. He stated that removing all the trees could result in substantial damage to the area considering the

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ROW area DOT has to work with. Mr. Dunham concluded by stating that the Commission had actually discussed keeping the Callophyllum trees at the time the landscape plan was being completed.

Mr. Dunham stated that he had received a letter this date from DOT advising that the park benches and waste receptacles have been removed from the plans, and they acknowledged that four of the Callophyllum trees sustained damage severe enough to warrant removal and stated that should any of the trees not survive due to the installation of the sidewalk on this project, the DOT is committed in the next three years to replace those trees in kind. Mr. Dunham added that DOT and the landscape architect are present to answer any questions.

Comm Bingham stated that she was still concerned with the roots and asked if DOT would be liable if the trees would fall towards the property owners causing damage. Clair Scott, Project Manager for DOT, stated that the trees will be pruned to minimize damage and they would be liable for any damage caused by property they own. Comm Bingham mentioned that this is actually the second time the roots have been cut in probably 10 years.

Comm Kaleel moved to accept the three-year commitment by DOT to replace the Callophyllum trees in kind if they did not survive due to the installation of the sidewalk, seconded by Comm Bridges.

Motion carried – Yea (5)

Resolutions

7. No. 2000-03; Electing a Mayor

Comm Bridges nominated Gail Aaskov for Mayor, seconded by Comm Bingham.

Comm Kaleel nominated Digby Bridges who stated that he did not want to be nominated.

Comm Kaleel mentioned that during this same item last year the Commission discussed limiting the Mayor appointment to one year as had been historically done in the past and he felt they should be consistent. He felt that if the Commission wanted to change the policy an ordinance should be adopted because flip-flopping was neither a good business or government practice, citing the previous confusion concerning the board appointments.

Comm Bridges stated that he felt both Ken Kaleel and Gail Aaskov had done a good job as Mayor, however, he wanted to nominate Gail Aaskov. Comm Kaleel again stated that the Commission was being inconsistent and hypocritical and the policy should be put in writing to avoid any problems.

Comm Bridges went on to suggest that the town institute the old method of electing a Mayor by the residents, with agreement from Comm Kaleel. Town Clerk Hancsak

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explained that state law now prohibits a Commissioner from running for another office unless they resign their current position. She added that the charter provided that only a Commissioner who has served at least one year could run for Mayor. Comm Kaleel then suggested that any resident be permitted to run for Mayor in addition to the Commissioners. Town Clerk Hancsak advised that a possible problem could arise by losing one or more current Commissioners if this was permitted.

Dr. Martel, 46 Harbour Drive So., suggested that the residents provide a straw type ballot response during the municipal election each year or perhaps attend the meeting and let their nominations be known prior to the vote being taken.

Gay Bridges, 36 Sabal Island Drive, suggested a 2-year term for the appointed Mayor in order to provide more continuity.

The Commission directed that Atty Spillias explore the possibilities for appointing the Mayor without changing the Charter by reviewing other municipalities charters.

Town Clerk Hancsak read Resolution No. 2000-03 in its entirety.

There being no other nominations Comm Bridges moved to adopt Resolution No. 2000-03 appointing Gail Adams Aaskov Mayor, seconded by Comm Bingham.

Motion carried – Yea 4 (Bingham, Bridges, Willens, Aaskov)
Nay 1 (Kaleel)

8. No. 2000-04; Electing a Vice Mayor

Comm Bridges nominated Kenneth Kaleel as Vice Mayor, however, he declined. Comm Bridges then nominated Betty Bingham.

Town Clerk Hancsak read Resolution No. 2000-04 in its entirety.

There being no other nominations Comm Bridges moved to adopt Resolution No. 2000-04 appointing Betty Bingham as Vice Mayor, seconded by Comm Willens.

Motion carried – Yea 5

9. No 2000-05; Designating Depositories, Authorizing Treasurer or Deputy Treasurer to Sign Town Checks; Authorizing any One of the Five Town Commissioners to Countersign Town Checks

Town Clerk Hancsak read Resolution No. 2000-05 by title and summarized the remainder of the resolution.

Comm Bingham moved to adopt Resolution No. 2000-05, seconded by Comm Bridges.

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Motion carried – Yea 5

10. No. 2000-06 Initiating the Conflict Resolution Procedures Provided by Chapter 164, Florida Statutes, Prior to Initiating Judicial Proceedings Against the City of Boynton Beach Regarding the Purchase of Land

Town Clerk Hancsak read Resolution No. 2000-06 by title only.

Comm Bingham moved the adoption of Resolution No. 2000-06, seconded by Comm Bridges.

Atty Spillias advised that Chapter 164, Florida Statutes, provided that certain criteria be met prior to initiating judicial proceedings and this resolution was the first step taking into consideration that the eminent domain resolution has already been adopted. He summarized that it will be necessary to forward a certified letter to schedule a meeting between both parties to try to resolve the dispute. Once the initial meeting has taken place and a possible agreement has been reached then both Commissions would meet or use a mediator to attempt a resolution. If after these meetings an agreement could not be reached then the town could institute a suit by either eminent domain or breach of contract.

Comm Kaleel agreed with the resolution, however, he suggested the possibility of postponing it until the April meeting since Boynton Beach's election was in two weeks. Atty Spillias explained that the first meeting would be held at the staff level with the subsequent joint meeting following and stated that he felt there was ample time to initiate the process at this meeting.

Town Manager Dunham questioned whether he any authority to discuss any changes to the original approved agreement. The Commission concurred that if Boynton Beach wanted a change it would be their option to suggest it.

Motion carried – Yea 5

First Reading of Ordinances

None

Second Reading and Adoption of Ordinances

None

Town Commission Comments

11. Discuss Section 26-36 of the Code RE: Parking of Commercial Vehicles, Boats, Motorhomes, Trailers and Trucks By: Commissioner Bridges

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Comm Bridges advised that he had spoken to Director Hillery regarding violations to this code and the fact that numerous verbal warnings are given without any additional enforcement of fines. Director Hillery advised that after discussing the code with Atty Spillias they would schedule the violator to appear before the Special Master, however, they would be researching the code to see if any amendments were necessary.

12. Discuss Woolbright Bridge By: Commissioner Bridges

Comm Bridges expressed his dismay that the County has not provided emergency bridge traffic control considering the construction of the new Ocean Ave. bridge. He added that Palm Beach and Delray Beach both have timed openings and by the time their study would be completed the new bridge will be open.

Mayor Aaskov stated that a letter from the County stated that they would not do a study until the new bridge was opened at Ocean Ave. She further stated that she has talked with PBCty Commissioner Mary McCarty who stated that she was under the impression that Ocean Ridge was requesting permanent timing of the Woolbright bridge but would look into a temporary relief. However, the Mayor stated that the season will be over and agreed with Comm Bridges, as did the rest of the Commissioners, that the new bridge will probably be open before the study is completed.

13. Discuss Code Regarding Hedges vs. Trees By: Commissioner Bingham

Comm Bingham commented that she felt that the issue concerning the definition of a hedge vs. tree and the invasive species should be re-addressed by the Planning and Zoning Commission. She added that she felt some of the ficus hedges have grown out of control and a height limitation should be discussed.

The Commission agreed to refer this item to the Planning & Zoning Commission.

14. Discuss Right-of-Ways By: Mayor Aaskov

Overlooked and discussed later in the agenda.

15. Discuss the Bulletin News By: Comm Bridges

Comm Bridges questioned why the editor of this new circulation lived in town if he was so displeased. He commented that he did agree with a couple of items within the circulation, however, he feels that the paper as a whole upsets the residents and feels property values can be affected. He added that he felt it was wrong to criticize Comm Kaleel for summarizing the issue concerning the Boynton Beach property and he felt he did a marvelous job of explaining the issue. He also stated that he felt it was wrong to criticize Director Hillery and the police force for performing their duties, citing that he felt they did a good job. There was applause from the audience.

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Comm Bridges concluded by stating that he felt this new circulation did nothing constructive and only provided an injustice to the community.

Ed Garnett, 32 Spanish River Drive, responded by stating that he started the paper with only good in mind and he thanked Comm Bridges for recognizing it.

Rich Lucibella commented that he felt the Bulletin News has received all the publicity necessary considering it was a gossip column and not journalism. He did add that he felt if any individuals were wronged or slandered in this paper they should follow up in a judicial fashion. He concluded by stating that the paper has provided him with great comic relief as it was probably designed to do. Mr. Garnett responded by stating that it was not comic relief he was providing.

Craig Baskin, 6490 N. Ocean Blvd., stated that individual efforts could be better concentrated by volunteering for a committee or a charity and he was sorry that all of this hateful energy is wasted on something so counterproductive.

Mr. Garnett stated that his first issue of the paper was created due to unpleasant incidents involving the police department, adding that he has never been treated so badly by a police or code enforcement department.

Dr. Martel apologized for his previous behavior with Comm Bridges, as did Comm Bridges. Regarding the Bulletin News, Dr. Martel stated that while he may not agree with its contents he does have a right to circulate same, and added that if he was dissatisfied with the direction of the town then he should possibly volunteer on the various boards to provide constructive input.

Mayor Aaskov stated that any resident should feel comfortable in contacting the staff or Commission in regards to explaining any issue of concern to them.

14. Discuss Right-of-Ways By: Mayor Aaskov

Mayor Aaskov requested that the staff comprise a list of all the right-of-ways located within the town to be given to the Commission.

Town Clerk Hancsak stated that she would provide such a list and the minutes or report where the Commission approved of the Planning & Zoning's recommendation regarding this issue.

16. Discuss Lighting By: Commissioner Kaleel

Comm Kaleel suggested that the Commission consider an ordinance that prohibits or limits lighting that shines directly onto other properties and requested that the staff review codes from other municipalities.

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Concerning the lighting issue, Town Manager Dunham advised that Ocean Harbour Estates plans to place aluminum backing on the lighting within the development to shield the neighbors from the bright lights. He added that they attempted to paint one side of the light, however, it was too hot and burned off.

17. Future Meeting Dates By: Town Manager Dunham

Town Manager Dunham advised that it would be necessary for the Commission to meet on either the 15th or 16th to shortlist the proposals received for the engineering services related to drainage.

The Commission concurred that the Town Clerk would coordinate the meeting date.

Adjournment

The meeting was adjourned at 9:15 PM.

Mayor Aaskov

Commissioner Bingham

Commissioner Bridges

Commissioner Kaleel

Commissioner Willens

Attest By:

Town Clerk