

Regular Meeting of the Town Commission of the Town of Ocean Ridge held in the Town Hall Meeting Chambers on June 5, 2000 at 6:30 PM.

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

Comm Bingham	Comm Bridges
Comm Kaleel	Comm Willens
Mayor Aaskov	

Following the Pledge of Allegiance, an invocation was read by Comm Willens.

### **Additions, Deletions, Modifications and Approval of Agenda**

Comm Bridges requested to add a discussion of the Palm Beach County Intergovernmental Clearinghouse as item #17.

Comm Bingham requested to discuss item #9 (Authorize \$1,428.50 from Beautification Reserve Account for Ridge Blvd. Median Planting Overage) before the approval of the consent agenda. She stated that she felt the plantings chosen would not be easy to take care of. Town Manager Dunham asked if she was satisfied with the plant materials used to which she replied that she was satisfied with the trees chosen, but that there should also be some leafy, flowering trees and rocks installed which would be easy to take care of. Town Manager Dunham advised her that there was a lot of resident input into the selection of material and the Town's xeriscape plan was also used as a guide.

Mayor Aaskov requested to add a discussion of the original Town Hall as item #18.

### **Consent Agenda**

1. Minutes of Town Commission Meeting of May 1, 2000
2. Minutes of Special Meeting of May 22, 2000
3. Minutes of Special Meeting of May 24, 2000
4. Authorize Changing the Regular Meeting Date for July from the 3<sup>rd</sup> to the 10<sup>th</sup>
5. Authorize Closing the Administrative Offices on Monday, July 3, 2000 with the Staff Utilizing a Vacation Day
6. Ocean Ridge Resolution No. 2000-11; Authorizing the Submission of an Application to KEEP PALM BEACH COUNTY BEAUTIFUL, INC. for Grant Funding to Beautify Woolbright Road from the Woolbright Bridge to State Road A-1-A and to Beautify Around the New Town Entry Signs on State Road A-1-A, Woolbright Road, and Ocean Avenue
7. Ocean Ridge Resolution No. 2000-12; Approving the Interlocal Agreement with the Municipal Public Safety Communications Consortium of Palm Beach County
8. Ocean Ridge Resolution No. 2000-13; Approving New Telephone Service

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9. Authorize \$1,428.50 from Beautification Reserve Account for Ridge Blvd. Median Planting Overage
10. Authorize \$1,083.50 from Contingency Account for Additional Work Performed from Shenendoah General Construction for Video and Cleaning Catch Basins and Drainage Pipes

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

Motion carried – yea 5.

**Announcements and Proclamations**

11. The administrative offices will be closed Tuesday, July 4, 2000 for the Official Holiday.

Town Clerk Hancsak read the above announcement adding that with the approval of the consent agenda, the offices will also be closed on Monday, July 3, 2000. She added that the South Florida Blood Bank would be at the Town Hall on June 8, 2000 at 2:30 if anyone wanted to donate.

**Public Comment**

Betty Kelso, 16 Sailfish Lane, stated that at the March 6, 2000 Town Commission Meeting, Comm Kaleel suggested that the Mayor and the staff meet with she and her husband to discuss their property. She stated that at the April Town Commission meeting, this meeting was again mentioned. She stated that at the May meeting, Comm Bridges once again brought up the idea of a meeting. She stated that she and her husband sent a letter to the Town Commission trying to open the dialogue, again with no response. She then questioned the closed meeting held by the Town Commission in May. Atty Spillias advised that there was an executive session meeting held which was properly noticed and a sealed transcript of the meeting has been filed with the Clerk. Comm Kaleel stated that he too was concerned that there has not been any dialogue with the Kelsos. Comm Bridges agreed adding that he would rather the Town not have to go to court on this issue. Atty Spillias advised that the Town is already involved in a lawsuit with the Kelsos and he would caution any Commissioner from meeting with anyone that the Town might be in litigation with. He stated that he would keep the Town Commission apprised of what is going on with the suit.

Scott Kelso stated that the meeting between the staff and them should have happened before the litigation. He then stated that the Ocean Ridge Reporter had an article about their Special Master Hearing and a letter to the editor which stated that the Kelsos are a nuisance. He stated that he felt the paper should have reported that the Special Master rescinded the fine. Mayor Aaskov stated that the meeting which rescinded the fine was on May 16<sup>th</sup> which was after her paper went to print so it would be reported in the next issue of the Ocean Ridge Reporter.

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Town Clerk Hancsak advised that all minutes from the Special Master meetings relating to the Kelsos were included in the Town Manager's report to the Town Commission.

**Public Hearings**

None

**Regular Agenda**

**Actions and Reports**

12. Update of Flood Control Study – Shalloway, Foy, Rayman and Newell, Inc.

Lisa Tropepe and Dan Shalloway were present to speak on behalf of Shalloway, Foy, Rayman and Newell, Inc.

Ms. Tropepe explained that they had met with DOT who could only find a 1947 right-of-way map for A1A which shows the outfall pipe within a 37' right-of-way. She stated that according to the Town's flood map, most of the South end of Town is at an elevation 7', when in actuality, 40% of the South end is below 7'.

Regarding the issue of swales along A1A brought up by Comm Bridges at the previous meeting, Ms. Tropepe explained that it would be difficult in some parts of A1A to now construct swales and this issue would need to be discussed further with DOT.

Ms. Tropepe stated that the Town Commission directed them to review options A and B. She explained that she felt almost 85% of the current system would need to be replaced. She stated that there were still legal ingress and egress issues to be resolved. She stated that option A's costs would range from \$3.5 to \$4.5 million, which could be reduced significantly (to between \$1.5 and \$2.5 million) if less than 85% of the current system would need to be replaced. She stated that option B which is basically the same as option A with the addition of a drainage pump would cost between \$4 and \$5 million, reduced to between \$2 and \$4 million if less than 85% of current system needs to be replaced. She explained that land purchases, grant of easement costs, legal and administration expenses for land acquisition are not included.

Ms. Tropepe stated that their next step would be to survey the north end of Town and bring those alternates to the Town Commission.

Mr. Shalloway described the systems which would be involved in alternates A & B. He explained that A is a gravity system which would require two new drainage lines along A1A and in the Beachway/Adams area. He stated that two park/detention areas would be utilized at the Town property at the northwest corner of Woolbright and A1A and the vacant property located just west of Beachway North. He stated that A would not alter the

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current outfall pipe, but would include a flap gate at the end of the outfall to eliminate backflow during high tides.

Mr. Shalloway explained that B would be similar to A, but include a pump at the existing outfall. He stated that this system would substantially increase the level of protection from A. He explained that the pump would be a submersible pump and run by electricity with a backup generator in case of power failures. He stated that the pump would be very quiet and require little maintenance. He suggested that the Town may want to purchase an additional pump to further increase the level of protection.

Comm Bridges questioned the destruction of the historical catch basin at Ocean Harbour Estates. He stated that there used to be a large catch basin at 5840 N Ocean Blvd. and now A1A floods when it rains. He questioned the approval by SFWMD because the development is not designed to hold historic amounts. Mr. Shalloway stated that in the last thirty days, he has found that the system was built to permit. He explained that they would have to investigate to see if the permit should have been issued as it was and if there is anything that could be legally done now that it has been approved. Town Manager Dunham questioned if SFWMD is supposed to review historic drainage to which Mr. Shalloway stated that SFWMD is supposed to review it, but it is not always done.

Town Manager Dunham stated that the staff and engineering firm will be researching and filling out grant opportunities and determining what to put in the budget for next year.

Comm Kaleel stated that he would like the engineers to break the costs down a little more to illustrate the costs if the project is done in phases.

Comm Bridges stated that he felt earlier Town Commissions put this off because of the costs. He stated that he did not think the north end of the Town would be as bad as the South. He commented that he felt the project would be completed in three phases of the south, middle and north. He suggested that DOT be contacted to help with the costs along A1A adding that he felt the Town had some "arm twisting" capability in regards to the bike path. Ms. Tropepe advised that she could provide the name of someone at DOT to speak the next Town Commission meeting.

The Town Commission thanked Ms. Tropepe and Mr. Shalloway for the update on the drainage project.

13. Discuss Commercial Uses By: Commissioner Willens

Mayor Aaskov advised that she had a conflict on this issue and passed the gavel to Vice Mayor Bingham.

Comm Willens explained that he requested this item be added to the agenda because he did not know the history of this topic or the views of the other Commissioners.

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Comm Kaleel stated that a few months ago, it was the consensus of the Commissioners to grandfather the current uses with conditions. He added that there has also been discussion of a non-binding referendum on the subject, but that he feels the Town Commission has heard what the residents have to say on the issue. Comm Kaleel moved to draft an ordinance to grandfather the five properties to keep within the intent of the original ordinances with conditions regarding aesthetics and signage. He stated that he felt the properties should be grandfathered as opposed to repealing the ordinance because he felt if it were repealed; the Town would be open to lawsuits. He added that in deference to a referendum, an ordinance would allow residents two chances to speak on the subject before it is approved. Comm Willens seconded Comm Kaleel's motion.

Comm Bridges stated that he agreed that a referendum was no longer necessary, but that he had spoken to residents over the previous weeks and found that approximately 80% of them wanted to leave the ordinance as is and let the businesses be shut down. He stated that not enforcing the ordinance would be similar to opening a can of worms in terms of lawsuits. He explained that he would not vote to deviate from the original ordinance. He added that he had spoken to the Town Atty and some of the Commissioners who passed the original ordinance who feel that the ordinance should be enforced.

Vice Mayor Bingham stated that she had spoken to many residents on both sides of the issue, but that there was a strong feeling to enforce the ordinance and allow Ocean Ridge to become a bedroom community. She stated that she felt if the ordinance were changed, the Town would open itself up to having hotels along the beach.

Comm Kaleel stated that he had not spoken to many people who were in favor of enforcing the ordinance and suggested that they be given a chance to speak.

Comm Bridges stated that he felt those who want to change the ordinance might change their minds if they were made aware of the possible consequences.

Comm Kaleel advised that he would only be in favor of grandfathering the five current non-conforming properties with conditions.

Comm Willens stated that he agrees with the original intent of the ordinance and was always concerned with eliminating the commercial use at 5011 N Ocean Blvd. as it is only a small part of the commercial uses in that area. He added that he did not mind the hotels operating in Town, but that he would like to see the signage changed.

Comm Bridges reiterated that he felt the Town Commission would bring about a lot of problems for the Town by not enforcing the ordinance.

Atty Spillias stated that an ordinance which grandfathers some properties and not others as suggested by Comm Kaleel may be difficult as it would be a zoning change. Regarding the comments by Comm Bridges, Atty Spillias stated that the Town Commission can pass, modify, amend or repeal ordinances as they see fit at the time. He explained that one Town Commission might see circumstances differently than another. He stated that

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no matter what is done by this Town Commission, there is the risk of a lawsuit, but that he thinks it is a lower risk if the ordinance is enforced.

Comm Willens questioned if the Town Commission could zone one area of the Town as commercial to which Atty Spillias explained that the Town Commission would have to conduct a study of where commercial uses would be appropriate. He added that then there would be comprehensive plan amendments, zoning map amendments and zoning plan amendments which would be subject to many public hearings.

Comm Kaleel stated that the comprehensive plan has included the elimination of commercial according to the ordinance and questioned if the comprehensive plan would have to be changed if the properties were grandfathered to which Atty Spillias advised that it would not.

George Bierlin, 26 Hudson Ave., stated that he believed a person who owns property next to a commercial use could petition the court to also claim that commercial use. He questioned what would prohibit the Town from annexing the entire County pocket in the south end of Town and eliminating the commercial use from the whole area. He also questioned if those hotels with minimum thirty-day rentals were allowed to continue their use with the ordinance to which Atty Spillias replied that they could.

Veldon Colby, business owner at 5011 N Ocean Blvd., stated that he would like the Town to de-annex the building back into the County to solve the problem. He stated that he has a petition of 1200 citizens who want to keep the stores at 5011 N Ocean Blvd. as they are.

Don MaGruder, 9 Ridge Blvd., stated that he feels the Pink Dolphin Apartments which conform to the minimum thirty-day rentals have been good neighbors to those on their street for thirteen years. He stated that he felt some commercial in the Town may be good, but that he felt the stores at 5011 N Ocean Blvd. need repair and are not very representative of Ocean Ridge. He stated that he felt they should have a special referendum so that the residents could have their say.

Phil Gaines, lives in county pocket near south end of Ocean Ridge, stated that he felt the stores at 5011 N Ocean Blvd. provide great services and that they should be allowed to remain as they are.

Rich Lucibella, 5 Beachway N, stated that most of the people he has spoken to would like to grandfather the current properties. He stated that he did not know of anyone who would be in favor of a referendum. He commented that he felt the biggest issue was that of litigation and that he has not heard the Town Atty saying that there is a huge danger of litigation. He added that he was concerned with the future deterioration of the property at 5011 N Ocean Blvd if they were forced to change from commercial to residential.

Rob Sivitilli, son of owner of 5011 N Ocean Blvd., thanked the Town Commission for reviewing this issue. He stated that he felt a lot of people find the services offered from

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the stores at 5011 N Ocean Blvd. beneficial. He questioned why the Town would want to eliminate the commercial use in this one building which is surrounded by other commercial buildings. He added that he has a petition signed by 388 Ocean Ridge residents who want to keep to commercial use at 5011 N Ocean Blvd.

Vice Mayor Bingham stated that she did not feel phasing out commercial would decrease property values in that area. She stated that when Blue Ocean was annexed into the Town, the intent was for the property owners to improve the area.

Gay Bridges, 36 Sabal Island Drive, stated that hotels are being sold for very high prices and she feels they increase property values when they are rebuilt. She added that she did not believe she would miss the stores at 5011 N Ocean Blvd. if they were forced to change to residential. Comm Kaleel asked her what she thought would happen if the Town enforced the current ordinance to which Mrs. Bridges stated that she believed some of the local properties would be converted or rebuilt as Townhouses and further increase property values.

Jerry MaGruder, 9 Ridge Blvd., stated that the current owners of 5011 N Ocean Blvd. bought the property while this ordinance was in effect and were aware that they would have to phase out the commercial use at that time.

Comm Kaleel questioned what would happen to the property at 5011 N Ocean Blvd. if it were sold and if anyone would want to build a single-family home or townhomes on that property.

Myrtle Volpe, 5615 N Ocean Blvd. and owner of Pink Dolphin apartments, stated that she felt the reason there were any empty stores at 5011 N Ocean Blvd. was that the owner of the property would have trouble renting the store when the future of the property is so uncertain.

Comm Kaleel stated that he wanted to know if it would be possible to grandfather the properties with conditions and if it is the consensus of the Town Commission to do so. He stated that if it was not the consensus, any further discussion would be a waste of time.

Comm Kaleel then withdrew his earlier motion and Comm Willens withdrew his second.

Lisa Sivitilli stated that when Busch's Restaurant sued the Town as a result of the ordinance and lost, they sued on the wrong grounds. She stated that she felt there was still a case to be made that the ordinance is unconstitutional. She explained that the County has told them that the septic system can not be increased so she believes a strictly residential use of the current building is not possible. She stated that their lawsuit would be based on the fact that the Town is not allowing them use of the property. Comm Bridges questioned if they were aware of this when they purchased the property to which Ms. Sivitilli replied that the property was purchased in 1982 and the Health Department made their determination in 1992.

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Comm Kaleel moved for a 90 day moratorium on the ordinance so that the Commissioners could receive additional input from the residents such as those who want to enforce the current ordinance, to consider what would happen to the stores at 5011 N Ocean Blvd. if the ordinance were enforced and to have a recommendation from the staff on what action to take regarding the commercial properties.

Atty Spillias suggest that Comm Kaleel amend his motion to direct the Town Atty and staff to suspend enforcement of the ordinance for 90 days as opposed to a moratorium. Comm Kaleel amended his motion as such. Comm Willens seconded the amended motion.

Motion carried – yea 4 (Aaskov abstain)

**Resolutions**

None

**First Reading of Ordinances**

- 14 No. 527; Amending the Code of Ordinances at Chapter 16, Article I, Section 16-9, Concerning procedures to request that fines of liens be reduced

Town Clerk Hancsak read Ordinance No. 527 by title only.

Comm Kaleel moved to adopt Ordinance No. 527, seconded by Comm Bingham.

There was no further discussion from the public or the Town Commission.

Motion carried – yea 5.

15. No. 528; Amending the Code of Ordinances at Chapter 34, Nuisances, by the addition of a new Article IV regarding obstruction of roads or rights-of-way, adopting the provisions of Sections 861.01 and 861.011, Florida Statutes, declaring obstruction to be a nuisance, providing for a procedure to request permission to continue the obstruction

Town Clerk Hancsak read Ordinance No. 528 by title only.

Comm Willens stated that he would abstain from the discussion and voting of this ordinance because he had a conflict of interest as he currently has a right-of-way abutment.

Comm Kaleel moved to adopt Ordinance No. 528, seconded by Comm Bridges.

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Atty Spillias explained that this ordinance creates a procedure for those residents using a right-of-way. It would declare a right-of-way obstruction as a nuisance and require any resident who wants to use a right-of-way to get permission from the Town Commission for a temporary use. He added that anyone currently using a right-of-way would have 180 days to request permission. He stated that the ordinance does not give the resident the ownership to the right-of-way and allows the Town to remove the obstruction, if necessary. He explained that approval of use can also include conditions by the Town Commission such as the requirement of the resident to maintain that portion of the right-of-way.

Bruce Gimmy, 12 Ocean Ave., complimented the writing of this ordinance.

There was no further discussion from the public or the Town Commission.

Roll call was taken on Comm Kaleel's motion.

Motion carried – yea 4 (Willens abstain)

**Second Reading, Public Hearing and Adoption of Ordinances**

None

**Town Commission Comments**

16. Discuss Ocean Ave. block party near bridge completion By: Mayor Aaskov

Mayor Aaskov stated that some residents have expressed interest in a block party for the bridge completion. Comms Bingham and Willens both stated that they favored the idea of a block party.

Comm Kaleel stated that the Boynton Beach Chamber of Commerce would like to coordinate something with the Town for the bridge opening.

It was the consensus of the Town Commission for Comm Kaleel and Town Manager Dunham to work with Boynton Beach on this project.

17. Palm Beach County Intergovernmental Clearinghouse By: Comm Bridges

Comm Bridges stated that he can not always attend these meetings. He explained that they are informative meetings as they allow a better understanding on what other municipalities in the County are thinking. He suggested that Comm Willens be appointed as an alternate to this committee.

Comm Bridges moved that Comm Willens be appointed as alternate to the Palm Beach County Intergovernmental Clearinghouse, seconded by Comm Kaleel.

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Motion carried – yeas 5.

18. Original Town Hall Discussion By: Mayor Aaskov

Mayor Aaskov stated that she had previously suggested that the Town reproduce the original Town Hall on the slab on Ocean Ave. She suggested that the Town do this through donated money and place memorabilia in it. Comm Bingham stated this project might be a good use of the McGinty money. There was no further discussion on this item.

**Adjournment**

The meeting was adjourned at 9:10 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 Willens

Attest By:

\_\_\_\_\_  
Town Clerk