

Regular Town Commission Meeting and Public Hearing of the Town of Ocean Ridge held on Monday, September 11, 2000 at 5:01 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

Commissioner Bridges  
Mayor Aaskov

It was noted for the record that Comm Willens was running late.

### **Pledge of Allegiance**

### **Public Hearing**

1. Presentation of Tentative Budget and Proposed Millage Rate for Fiscal Year 2000-2001
  - a. Comment from Commissioners and Public

Town Manager Dunham stated that no changes had been made to the budget since the last presentation in July and that he believed it was a responsible, fiscal budget.

Comm Kaleel stated that while he still wanted to devise an incentive program for the Town Manager, it would have to wait until the next fiscal budget year to be implemented. He advised that he would like to give an additional increase to the Town Manager's salary in this budget as he feels Town Manager Dunham has done a good job for the Town. Comm Kaleel read from a comparison of Town/City Manager's salaries in similar communities.

Comm Bridges questioned if there was any way that a straight bonus could be given to the Town Manager this year to which Town Clerk Hancsak advised that it could be taken out of the contingency account.

Comm Kaleel moved that the Town Manager's salary for FY 00/01 be increased to \$68,000 and related costs with the appropriate carryover increase needed to balance the budget, seconded by Comm Bridges.

Motion carried – yea 4.

- b. Adoption of tentative budget for fiscal year 2000-01

Comm Kaleel moved that a budget in the amount of \$2,915,827 be tentatively adopted for the 2000-01 operating fund, and a budget in the amount of \$143,275 be tentatively adopted for the general obligation debt service fund with the appropriate amendments made for the increase in the Town Manager's salary and other applicable costs, seconded by Comm Bingham.

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Motion carried – yea 4.

c. Adoption of tentative millage rate for fiscal year 2000-2001

Comm Bridges moved that a millage of \$4.0000 per \$1,000 of assessed valuation be tentatively adopted for the 2000-2001 general operating revenues, and that a millage of \$.4004 per \$1,000 of assessed valuation be tentatively adopted for the 2000-2001 bond debt service for the general obligation water improvement bonds of 1991, seconded by Comm Bingham.

Betty Kelso, 16 Sailfish Lane, questioned if a copy of the budget was available for the public to look at to which Town Clerk Hancsak advised that a copy has been available in the Clerk's Office since July.

Roll call was taken on Comm Bridges' motion.

Motion carried – yea 4.

Mayor Aaskov announced that the computed millage rate exceeds the rolled back rate by 7.25%.

d. Public hearing date for final adoption

Mayor Aaskov announced that the date and time of the second and final public hearing is established as 5:01 PM (after 5:01 PM) on Wednesday, September 20, 2000. The 2000-2001 operating and debt service budgets and corresponding millages will be finalized and adopted at that time.

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

Atty Spillias requested to add a request for an executive session meeting for litigation as item #10.

Comm Kaleel requested to add an item regarding a discussion of the landscaping on Ocean Ave. as item #11.

Mayor Aaskov wanted to add an update from the Town Manager regarding the party for the Ocean Ave. bridge opening as item #12.

Town Manager Dunham stated that the County would like to have another presentation of the proposed Corrine St. restoration adding that he was requesting that it be scheduled before the start of the October 2, 2000 regular meeting. The Town Commission agreed to allow it before the regular meeting, but requested that it be added to the September 20, 2000 agenda if possible.

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**Consent Agenda**

2. Minutes of the Regular Town Commission Meeting of August 7, 2000
3. Ocean Ridge Resolution No. 00-16; Approving and adopting the renewal dental services agreement with Oral Health Services
4. Authorize \$50.00 contribution for sponsorship for the “2000 Career Development Institute” to be held in Palm Beach County for the next three years from budgeted funds
5. Authorize creation of reserve liability account with remainder of budgeted funds for the Municipal Code Revisions

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

Motion carried – yea 4.

**Announcements and Proclamations**

6. Proclamation declaring September 2000 as Literacy Month
7. Proclamation declaring December 2, 2000 as YMCA Day

Town Clerk Hancsak read the above proclamations.

Atty Spillias advised that there was a typographical error in the second paragraph of the Literacy Month Proclamation and it should read Palm Beach County.

**Public Comment**

There was no public comment.

**Regular Agenda**

**Actions and Reports**

8. Report and consideration RE: Commercial Zoning recommendation

Mayor Aaskov passed the gavel to Vice Mayor Bingham.

Atty Spillias summarized his and Town Manager Dunham’s memo regarding their recommendation for all commercial use and for the property at 5011 N Ocean Blvd. being treated separately. He advised that he believed under any of the options available to them including repealing or enforcing the ordinance, he felt the Town would be able to prevail in any type of litigation that would follow. He advised that it was their opinion that the ordinance be enforced and the commercial use at 5011 N Ocean Blvd. be stopped. He explained that repealing the ordinance would cause problems in regards to the various motels in Town operating under different rules. He added that he believed it would be questionable to amend the ordinance to allow for the continuation of the current use at the 5011 stores only.

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Atty Spillias advised that if the Town Commission did decide to allow the mixed use to continue at the 5011 stores that they will need to consider two alternatives. The first alternative being an amendment to the Comprehensive Plan and the Code of Ordinances allowing for the commercial potential and a mixed use or commercial zoning district. The second option would be allowing the property to be de-annexed back into the County.

Comm Willens arrived at the meeting at 5:25 PM.

Gary Hunter, attorney for Lillian and Orlando Sivitilli, property owners at 5011 N Ocean Blvd., advised that the Sivitillis were disappointed that the Town Manager and Town Atty were recommending to enforce the ordinance. He stated that the Sivitillis did not want to have to pursue this matter through litigation. He suggested that the area be re-zoned as commercial as there are commercial uses all around the property adding that it would be the cleanest way to preserve the use. He added that he believed the Town was using selective enforcement in regards to this ordinance as the snack bar at the Oceanfront Park has been allowed to continue its use.

Atty Hunter stated that the original owners of the property at 5011 N Ocean Blvd. advised that they would only agree with the annexation of their property from the County if they would be allowed to continue their commercial use.

Atty Hunter advised that conversion of the property to residential would be a hardship on the Sivitillis as they are unable to expand the residential use because of the septic capacity. He added that even if they could convert the downstairs to living space, they would have to add ten more parking spaces which they do not have the room for.

Atty Hunter advised that the Town could also choose to de-annex the area back to the County. He said that although it is rarely done, County Comm McCarty and the County Atty have already expressed her approval of the de-annexation. He advised that the Sivitillis would like to stay in Ocean Ridge, but their main concern is keeping the current use of the building.

Atty Hunter commented that he felt the Town could simply find that the ordinance does not apply to the property at 5011 N Ocean Blvd. He advised that technically the ordinance requires the amortization to occur from the date a building permit was issued by the Town and in the case of the 5011 stores, the County and not the Town issued the permit. He added that the ordinance does not address multi-use buildings such as this one, which has both residential and commercial uses. He added that this could also be reason to find that the ordinance does not apply to this property.

Atty Hunter stated that leases on the businesses have been put on hold because of this situation. He added that improvements have not been made to the property for this same reason and if the ordinance is enforced, the building will become a blight when the businesses in the downstairs closed.

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Comm Kaleel stated that he did not believe de-annexation was the answer for a variety of reasons. He also commented that the ordinance was in effect long before the Sivitillis bought the property and that there is no reason to believe that they were not aware of it at the time of purchase. Atty Hunter advised that the Sivitillis were aware of the ordinance, but not of the capacity to renovate the property.

Comm Kaleel advised that he feels it would be in the best interest of the Town to abate enforcement of the ordinance until such time as the Town receives a declaratory judgment thus saving the Town from taking action and costly litigation. He added that the Sivitillis would also avoid some risks using this process. Atty Hunter advised that although the Sivitillis do not want to go into litigation, he agrees that this would avoid some costs to them.

Atty Hunter reiterated that if the Town does prevail in litigation, they would be left with a property and the eyesore that it will become. Comm Bridges stated that he felt a new building could be put on the property to meet current health dept. regulations adding that it could be the spark that lights up the area. Atty Hunter advised that he wanted it on the record that the Town wants the property to change to fit their agenda to which Comm Bridges stated that he was merely stating an option available to the Sivitillis.

Comm Willens stated that the property was surrounded by other commercial uses when the ordinance was enacted and that he believes it should be allowed to remain with its current use.

Comm Kaleel stated that he wanted the Town to get a legal answer to their rights in this matter.

Comm Kaleel moved that the Town abate enforcement of the ordinance on the property at 5011 N Ocean Blvd and move towards a declaratory judgement to find out the rights of both parties, seconded by Comm Bridges.

Atty Hunter suggested that motion be amended to include six months from the time of the final judgment until time of enforcement so that the Sivitillis would have a chance to deal with their tenants in the event that the judgement is in favor of the Town.

Comm Kaleel moved to amend his motion to include a six-month delay of enforcement of the ordinance from the date of final judgement in the event that it is found to be in favor of the Town, seconded by Comm Bridges.

Comm Bingham questioned if this motion dealt only with the property at 5011 N Ocean Blvd. to which Comm Kaleel advised that it did, as there are arguments which are unique to this property.

Atty Spillias agreed with the motion advising that the Town is really not giving anything to the Sivitillis as they would probably get a temporary injunction against enforcement anyway.

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Comm Kaleel amended his motion also to include that Atty Spillias move forward toward obtaining the declaratory judgement, seconded by Comm Bridges.

Atty Hunter stated that he does have such a lawsuit already prepared and thanked the Town Commission for their consideration of this issue on behalf of the Sivitillis.

Roll call was taken on Comm Kaleel's motion.

Motion carried – yea 3 (Bingham, Bridges, Kaleel)  
nay 1 (Willens)  
abstain 1 (Aaskov)

**Resolutions**

None

**First Reading of Ordinances**

None

**Second Reading of Ordinances**

None

**Town Commission Comments**

9. Discuss Adopt-A-Highway Signs By: Mayor Aaskov

Town Clerk Hancsak advised that she had spoken to DOT, which has two signs in Town for Art of Framing and Palm Beach Trim. She advised that they must clean four times a year and both companies reportedly have consistently done their cleaning. She advised that both have contracts for the service through March 2002. She advised that she left a message with the County in regards to their sign and contract with Boynton Memorial Chapel, but that she did not hear back from the County.

Town Clerk Hancsak advised that the Town of Palm Beach has signed a litter agreement and was able to take over the expired contracts of those who had the signs in their Town adding that she would call them and ask for a copy of it.

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10. Request for executive session meeting with Town Commission By: Atty Spillias

Atty Spillias advised that he would need to meet with the Town Commission and Town Manager regarding the Olanoff and Katz lawsuit and suggested it be on September 14, 2000 at 8:30 AM. He stated that only the Town Commission, Town Manager, Town Attorney and a court reporter would be present. The Town Commission agreed to the time and date suggested by Atty Spillias.

11. Ocean Ave. landscaping By: Comm Kaleel

Comm Kaleel questioned if the Town had sent a letter to DOT as of yet indicating what a poor job the Town feels they have done with the landscaping. Town Manager Dunham explained that the Town has hired a landscape architect (one suggested by Comm Bingham) who will be meeting with him and DOT the next morning. Town Manager Dunham suggested that a discussion on this issue be postponed until after this meeting.

Comm Bingham questioned if the paver brick sidewalk was going to be leveled to which Town Manager Dunham replied that it would.

Comm Bingham stated that if DOT has to replant anything on the street, she wanted to be reassured that they would replant what was originally planned and not cheaper materials.

12. Ocean Ave. bridge party By: Mayor Aaskov

Town Manager Dunham explained that the Mayor had previously suggested some sort of celebration for the bridge opening along the lines of a block party. He advised that Boynton Beach has a much grander party planned for which they will be seeking sponsorship. He stated that his response from the Town Commission has not been supportive of such a large event. He added that Boynton Beach has not asked for money from the Town for their event.

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**Adjournment**

The meeting was adjourned at 6:25 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:

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Town Clerk