

Public Hearing and Regular Town Commission Meeting of the Town of Ocean Ridge held in the Town Hall on Monday, October 2, 2000 at 6:30 PM.

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

Commissioner Bingham
Commissioner Willens

Commissioner Kaleel
Mayor Aaskov

It was noted for the record that Comm Bridges was absent with notice.

Pledge of Allegiance

Additions, Deletions, Modifications and Approval of Agenda

None

Consent Agenda

1. Minutes of the Regular Town Commission Meeting of September 11, 2000
2. Minutes of the Special Town Commission Meeting of September 20, 2000
3. Authorize Execution of Garbage/Trash Liens and Town Attorney to File Same
4. Authorize Excess 1999/2000 Funds to be Deposited into Beautification and Self-Insurance Account

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

Motion carried – yea 4.

Announcements and Proclamations

5. The Administrative Offices will be closed on Monday, October 9, 2000

Town Clerk Hancsak read the above announcement and added that the Bloodmobile would be at the Town Hall on Thursday, October 5, 2000.

Public Comment

Cheryl Olanoff, 566 David Lane, advised that she has suffered mental anguish due to the flooding of her street on Saturday morning, September 30, 2000. She commented that it took two hours for the Town to set up the pump adding that the water from the pump was sent over the dune thus eroding the dune area. Mayor Aaskov stated that she began listening to the police radio at 5:30 Saturday morning and was very impressed with the response of the Department of Public Safety. She stated that the officers on duty were out

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in the storm checking the drains while other officers were paged and had to come in to work in the storm. She commented that she felt they did a great job.

Director Hillery advised that he was out of town for the weekend and Lt. Katz was present at the meeting to give a synopsis of what happened Saturday morning. Reading from radio and phone logs, Lt. Katz reported what happened during the flooding. He advised that at 5:08 AM, the Town Manager called in to check the condition of the streets in Town at which time both Adams Rd and David Lane were dry and Tropical Drive was taking a little water. At 5:18, Lt. Katz called in to check the conditions and both Adams Rd and David Lane were still dry. He explained that from 5:20 to 5:43, both Adams Rd. and David Lane started to hold a lot of rain. Dispatch received the first call from a David Lane resident at 6:08 who advised that the water was one inch away from the door. He advised that at this same time, some residences on Tropical Drive were already taking water. He explained that David Lane and Adams Rd are lower than Tropical Drive, so the pump was taken to that area first. He stated that the pump was running at 6:32, twenty-four minutes after the first call from any residents on David Lane. He advised that three officers were sent to Tropical Drive to assist residents moving their cars or furniture.

Mrs. Olanoff questioned what the Town's flood plans were for tonight as it looked like it might rain again. Town Manager Dunham stated that heavy rains are currently over the Miami-Dade area and the pump is on the truck ready to go when needed. Mayor Aaskov advised that the Town has already ordered a second pump which was approved in the budget beginning October 1, 2000. She commented that the engineer is working on the drainage problem and will move as quickly as possible towards a solution.

Patricia DiStefano, 14 Tropical Drive, stated that Tropical Drive was already flooded when the pump was sent to Adams Rd and questioned if it would always be sent to Adams Rd. first simply because that street is lower. Town Manager Dunham advised that the decision was made by visual observation adding that historically Tropical Drive has had better drainage than Adams Rd.

Mrs. DiStefano advised that former Town Commissioner, Chris O'Hare, was pumping water from the property he owns on Tropical Drive back out onto the street and questioned if he was allowed to do this to which Town Manager Dunham advised that they would need to research that issue. Mrs. DiStefano added that she also felt someone should review the drainage of Turtle Beach which floods onto Tropical Drive.

Rosalee McKenna, 5109 N Ocean Blvd., Turtle Beach, advised that there are drains at Turtle Beach which also flood during heavy rains thereby adding to the street flooding.

Don Magruder, 9 Ridge Blvd., advised that the flooding on Ridge Blvd has been greatly impacted by the wall constructed around Ocean Harbour Estates. He questioned if a drain could be constructed from the wall to the Intracoastal.

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Greg Van Vliet, 17 Tropical Drive, distributed a letter to the Commissioners and summarized his concerns. He questioned if lift stations could be installed at the existing outfalls and if two pumps would be enough for the town until the drainage system is improved. He also commented that the residents in the south end of Town were not warned of the flooding.

Victor Fowler, 11 Tropical Drive, stated that the residents on Tropical Drive were not even aware of the flooding until after the water was in their residences. Mayor Aaskov suggested that the residents devise a warning system where the Town notifies one or two people on the street who would then notify everyone else.

Mr. Van Vliet continued by suggesting that a moratorium on building be placed until the Town has accomplished flood prevention measures. He also addressed what he feels to be a safety hazard at the pump station located at 15 Tropical Drive. Lastly, he suggested that the residents be kept informed of the progress of the flood control study and drainage plan with schedules, information and completion dates presented to the residents perhaps in the Ocean Ridge Reporter.

Mayor Aaskov advised that the Town is moving as quickly as possible in regards to the drainage plan. Town Manager Dunham stated that the Town has already applied for grant funds for improvements that will need to be made. Mayor Aaskov explained that it might seem like the Town is moving slowly as a result of the bureaucracy. Comm Kaleel added that the Town is also involved in lawsuits regarding the study which also slow down the process.

Comm Kaleel advised that the officers were risking their lives on Saturday while knee deep in water in a lightning storm helping with the drainage problems. He stated that he felt this risk went beyond the call of duty. He stated that the primary concern of the officers is life safety (both that of the residents and the officers) and the secondary concern is property. He added that it will be interesting to see how many residents support the drainage plan when their taxes are increased to cover the cost.

Foster Kneeland, 6530 N Ocean Blvd., Wellington Arms, stated that he was interested in the dredging of Spanish Creek. He advised that boats could not get through during low tide. He questioned what the Town could do regarding getting bids and special assessments. Town Manager Dunham explained that there has been some communication between staff and Wellington Arms. He stated that Spanish Creek is owned by the State and that he contacted the County who had done similar projects for over \$100,000. He added that the State and County have already told the Town that they will not do the dredging. Mr. Kneeland questioned if there was anything the Town could do for this. Mayor Aaskov advised there were no funds budgeted for such a project to which Comm Kaleel added that Wellington Arms would be responsible to dredge the canal. Mr. Kneeland asked if the staff would be able to give some direction to them for solving this problem to which Town Manager Dunham advised that he would help them as much as possible.

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PUBLIC HEARINGS

6. An application submitted by Patricia Pugliese, 800 Andrews Ave., #8, Delray Beach, FL 33483, requesting a variance from the provisions of the Buildings and Building Regulations, Article II, TECHNICAL CODES AND OTHER CONSTRUCTION STANDARDS, Section 14-27, Floor elevations, Sub-Paragraph (a)(3) Maximum Finished Floor Elevation (FFE) shall be no higher than 1' above the established minimum FFE, Sub-Paragraph (a)(5) Garages are not prohibited provided that all enclosed areas shall have a minimum FFE of not less than 8' above zero elevation and no artificial filling of land is used to create same and the Land Development Code, Article VII; COASTAL CONSTRUCTION CODE, Section 26-108; Coastal Construction and Excavation Setback Line; Sub-Paragraph (a); Setback Line Established; and Sub-Paragraph (h) Existing Structures to permit the construction of a new single family home, with a maximum finished floor elevation of 17.3' and a garage with a floor elevation of 7.3' which would extend approximately 140' east of the Coastal Construction Control Line located at 35 Hersey Drive (extreme southeast end of Hersey Dr.) or legally described as the Southerly Portion of Lot "A" and Lot "B" of Shoreview Subdivision

Town Clerk Hancsak read the application by title and advised that all fees had been paid. She advised that the Town has received three pieces of additional correspondence. She read the first which was a letter from the Palm Beach Countywide Beaches and Shores Council advising of their unanimous approval of the project presented by Patricia Pugliese. A letter was also received from Martin Lizerbram, 38 Hersey Drive. Dr. Lizerbram stated that he did not feel the proposed home would preserve the safety and character of the neighborhood. He expressed his concern over the scale of the home, perceived potential drainage problems and the break away garage walls.

Town Clerk Hancsak advised that a petition of objection signed by seven different residents was also received and she read the addresses of those on the letter. Earl Jones, 14 Sailfish Lane, advised that he would summarize the letter he submitted during the public comment portion of the hearing.

All those who were present and intending to present testimony at the hearing were sworn in by Atty Spillias.

Jeff Kurtz, attorney for Mrs. Pugliese, advised that he had two engineers, Jim White and Joe Pike, and the architect, Jose Obesa, present at the meeting to answer any questions.

Mr. Obesa advised that the purpose of the hearing is to approve variances for the finished floor elevation (FFE) of 17.3' and a garage elevation of 7.3' for construction east of the coastal construction control line (CCCL). He explained that structures east of the CCCL must be built to withstand a hundred-year storm and Jim White had calculated that the FFE would have to be at 15' to meet this requirement and they were asking for an additional 2' for floor establishment.

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Regarding the second variance request for the FFE for the garage, he explained that the elevation of Old Ocean Blvd is 9' and Hersey Drive is 6'. He advised that they would need a minimum of 8' to have the garage which from a FFE of 7.3' would put the first floor FFE at a minimum of 15.3'. He advised that they are bound by DEP recommendations to have a FFE of 15.4'. He added that fill would not be brought to the site.

Jim White discussed the DEP storm surge model and its effect on this property. He advised that they are required to have break away walls which would mean in a hundred year storm, the walls would break up into pieces and the waves would either move them off shore or leave them in the area of the property.

Town Manager Dunham explained that the Town has experienced two one hundred-year storm events in the past two years and questioned the effect another would have on the dune. Mr. White explained that the dunes in Town have held up well to the storms, but the models run by State guidelines show losing the dune. He added that it would depend on the waves and storm surge specific to the storm.

Comm Kaleel questioned if there were any requirements of the entire garage floor to which Mr. White advised that a slab would have to break away. Comm Kaleel questioned if there had to be a slab to which Mr. White advised there is no requirement for a slab.

Comm Kaleel questioned if the walls had to be built to break away to which Mr. Obesa advised that they must be built to withstand 140-MPH winds, be reinforced into the ground below, but to break away if the waves reach them.

Comm Kaleel questioned what alternatives there were to the walls to which Mr. Kurtz advised that they could bring in fill to the 15.4', but that he did not think the Town would allow that. Atty Spillias added that if there were no walls, it would be stilt construction which is not allowed by Town Code.

Comm Kaleel questioned if the walls could be designed to withstand 200-MPH winds. Mr. Obesa explained that the walls would have openings on either side to release some of the pressure, but that they are only designed to withstand 140-MPH winds. He advised that if they do not break away, it would cause more damage as the structure will stand and the water will surge around it. He stated that the State wants everything under the habitable structure to break away with the storm surge. Comm Kaleel again asked if they could be designed to withstand higher winds to which Mr. Kurtz advised he was unsure.

Joe Pike, EnviroDesigns, advised that he has read the letters of objection and is aware of the concerns of neighboring residents. He advised that in his calculations, he had to conform to the Town's drainage requirements as well as ensuring that the current drainage is not adversely affected. He explained that the property has been a historic collection basin and it is still at its natural grade. He stated that the proposed structure would have a detention area in front of the home and a swale along the side. He stated

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that he has addressed issues so that the amount of water currently draining off the property does not increase after construction and that it contains the first inch of rainfall.

Comm Kaleel questioned how much the retention pond would hold to which Mr. Pike stated that the pond would be at an elevation of 5' from 6'6" surrounding it.

Comm Willens questioned if this was a standard analysis and was the same used for Ocean Harbour Estates to which Mr. Pike advised that it was mainly the same as the criteria used for Ocean Harbour Estates adding that he has never gone into this much detail for a single family residence.

Comm Bingham questioned if the analysis included the property east of Old Ocean Blvd. as well to which Mr. Pike replied that it did include maintaining the first inch of rainfall of that property as well which actually made his calculations stricter and more difficult.

Mr. Jones advised that he had submitted a letter outlining his areas of concern for the design of the house and the reasons he does not think it should be approved. He stated that he felt by allowing a garage under a two-story house, a three-story structure would be built which is not permitted under the current Town Code. He questioned the DEP's calculation of 15.4' and requested that the Town Manager confirm this with the DEP. He stated that the DEP based their decision on information submitted by the applicant and requested that the Town resubmit it with their own information. He stated that the beach is different in the wintertime and a survey completed then would be different and thus decrease the area of the property which is involved on the east side of Old Ocean Blvd. He commented that he felt the FAR should only be based on the area west of Old Ocean Blvd. He concluded by commenting that he felt a three-story house which allows huge pieces of concrete to fly around during a storm would threaten his safety. Mr. Jones also pointed out that there is an elevator running from the garage to the second floor which he feels also shows that it is a three-story house.

As there was no other public comment, the public hearing portion of the variance was closed.

Regarding the finished floor elevation, Mr. Obesa explained that the grade beams are required to be at 15.4' and they must have a certain thickness and depth to hold the structure. He stated that this would add 18" on top of the 15.4' and then there is a certain amount of concrete on top of that.

Regarding the elevator, Mr. Obesa advised that it is one way to ease the resident from walking from the garage to the main floor of the house.

Mr. Kurtz questioned if the purpose of the break away walls was so that there would be smaller pieces floating around after a storm to which Mr. Obesa explained that in a storm the tie beams would stay intact and with the house while the walls broke into smaller pieces and were carried out to the ocean.

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Mr. Kurtz explained that they were attempting to lessen the impact of the structure by putting the garage under the first FFE of 15.4', but that would also put the FFE of the garage at 7.4' which is below Town Code. He stated if the Town Commission does not approve the variance request for construction east of the CCCL, the lot will be unbuildable. He also stated that the variance request for the FFE of 17.3' is so that they will be able to comply with DEP guidelines.

Comm Bingham questioned how high the house would be from the level of the cul-de-sac to the top of the house to which Mr. Obesa advised that it would be approximately 43'.

Atty Spillias advised that the state has established the Beaches and Shores Preservation Act which controls building east of the CCCL. He advised that the DEP rules would prevail over the Town's Code except where the Town would be more restrictive.

Atty Spillias advised that the Town's requirements for setbacks, FAR and drainage apply. He explained that even though the two parcels are separated by a right-of-way, it does not mean that they can not both be used for calculating the FAR. He stated that he can not speak as to how much area there is east of Old Ocean Blvd., but that surveyors take into account certain variances in properties.

Atty Spillias advised that the Town Code does allow height of the house to be 36' from the FFE of the first floor which would allow the height requested by the applicant. He explained that the Town Code does allow for a garage under a two-story home under certain conditions. He stated that the Town Code requires drainage calculations from a certified engineer similar to those presented by the applicant.

Regarding the Unity of Title which was the next item on the agenda, Atty Spillias stated that it is a requirement of the Town so that the parcel east of Old Ocean Blvd could not be sold as separate from the parcel to the west.

Comm Willens questioned if there was anything in the state law that would allow the Town Commission to deny a variance if they thought there would be a public safety hazard to which Atty Spillias replied that only if there was competent, substantial evidence that a hazard exists. Comm Willens questioned if the Town Commission could deny a request because they "just don't buy it" to which Atty Spillias reiterated that there would have to be competent, substantial evidence in conflict. Atty Spillias explained that if there was opposing testimony presented which the Town Commission believed to be competent and substantial, then he would be able to support the Town Commission's decision in court.

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Comm Willens questioned if he could simply advise that he has not heard enough evidence to make a decision either way to which Atty Spillias advised that he felt there were only two issues that the Town Commission needed clarified which were the calculation of the area of the parcel east of the CCCL and the drainage calculations. He explained that neither of these issues affect the variance requests being brought before the Town Commission at this meeting. Atty Spillias commented that the Town Commission was not approving the building plans which have been presented.

Comm Kaleel stated that he did not find sufficient evidence to prove a hardship for this variance approving a FFE of 15.4'.

Mr. Kurtz advised that there was also a variance request to build east of the CCCL.

Comm Kaleel advised that he would rather give the applicant an opportunity to come back before the Town Commission and offer answers to their concerns.

Comm Kaleel moved that the applicant be given the opportunity to readdress these issues and postpone the decision on the public hearing until the next regular Town Commission meeting on November 6, 2000 at 6:30 PM, seconded by Comm Willens.

Mr. Jones questioned if the public would be able to bring in experts to the next meeting and present additional public comment to which Atty Spillias advised that if the applicant brings back the same plans, neither the applicant nor public should be allowed to open up the same issues. The staff advised that the code has a provision which allows an independent engineer to review certain issues at the applicant's expense.

Comm Willens advised that it disturbed him that the public would not be able to bring in their own expert witnesses to which Atty Spillias advised that he would research his opinion on the subject. He suggested that those who would wish to present expert testimony leave their request with the Town Clerk and he will notify them if they will be able to present opinions.

Mr. Kurtz requested that if the Town Commission was going to hire an engineer to review the plans presented including the drainage at the expense of the applicant that he should see a cost estimate before the engineer is hired. The Town Manager agreed that he would present Mr. Kurtz with an estimate.

Comm Kaleel amended his motion to include that the Town Manager provide an estimate to the applicant to retain an engineer at the applicant's cost to review the plans, seconded by Comm Willens.

Town Manager Dunham reiterated that the applicant should be reviewing the plans for drainage, public safety issues, possible injuries to the area and FAR calculation.

Roll call was taken on Comm Kaleel's motion.

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Motion carried – yea 4.

Comm Kaleel questioned if a Board of Adjustment variance would be needed if the permit is submitted and it does not meet the FAR to which Town Manager Dunham replied that it would.

Comm Kaleel moved that the public hearing portion of the variance request be reopened at the next meeting if the Town Attorney determines it is possible, seconded by Comm Willens.

Motion carried – yea 4.

Atty Spillias requested that agenda item #7 (request for Unity of Title – Pat Pugliese, 35 Hersey Drive) be postponed until the November 6, 2000 Regular Town Commission Meeting.

Comm Kaleel moved that agenda item #7 be postponed until November 6, 2000, seconded by Comm Willens.

Motion carried – yea 4.

Mr. Jones questioned when the residents would know if they would be allowed to present expert testimony at the next meeting to which Atty Spillias replied that he should have an answer within a week.

Regular Agenda

Actions and Requests

8. Discuss the Posting of Construction Permit Signs By: Commissioner Bingham

Comm Bingham requested to postpone this item until the November 6, 2000 Regular Town Commission Meeting.

Resolutions

None

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First Reading of Ordinances

9. No. 530; Amending Chapter 16 of the Code of Ordinances, Concerning Code Enforcement Procedures: Establishment of a Special Master: Establishment of Supplemental Enforcement Procedures

Town Clerk Hancsak read Ordinance No. 530 by title only.

Comm Kaleel moved to adopt Ordinance No. 530 on first reading, seconded by Comm Bingham.

There was no public comment.

Motion carried – yea 4.

10. No. 531; Amending the Code of Ordinances at Chapter 14, Article I, Section 14-1, Regarding Responsibility for Construction Site Maintenance and Appearance; Providing for Additional Remedies; Article I, Section 14-3, Regarding the Removal and Securing of Roof Tiles and Other Construction Materials During Tropical Storm and Hurricane Warnings and Watches, Providing for the Tie-Down of Roofing Materials During Hurricane Season

Comm Kaleel moved to adopt Ordinance No. 531 on first reading, seconded by Comm Bingham.

Second Reading of Ordinances

None

Town Commission Comments

11. Request for update on Ocean Ave. bridge opening By: Mayor Aaskov

Town Manager Dunham advised that the bridge was due to open around November 14, 2000.

Comm Kaleel requested that the Town Commission get a copy of any variance applied for in addition to the notification made to those within 300'. He also requested that applicants give notice of any expert witnesses that they are going to provide. Atty Spillias advised that the public would also have to give notice of any witnesses that they intend to bring to a hearing and he suggested that five days be used as a guideline for giving notice.

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Adjournment

The meeting was adjourned at 9:10 PM.

Mayor Aaskov

Commissioner Bingham

Attest By:

Commissioner Kaleel

Town Clerk

Commissioner Willens