

Regular Meeting of the Town Commission of the Town of Ocean Ridge held on Monday, April 2, 2001 at 6:30 PM in the Town Hall Meeting Chambers

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

Commissioner Aaskov
Commissioner Bridges
Mayor Kaleel
Commissioner Bingham
Commissioner Willens

Pledge of Allegiance

Additions, Deletions, Modifications and Approval of Agenda

Comm Bingham stated that she would like the Town Manager to explain items 4 and 5 from the consent agenda.

4. Ocean Ridge Resolution No. 2001-08; Authorizing the Execution of Financial Assistance Agreement for Town of Ocean Ridge Woolbright beautification improvements between the Town of Ocean Ridge and Palm Beach County for grant funding for landscaping on Woolbright Road from the Intracoastal Waterway bridge to North Ocean Blvd. (SR A1A)

Town Manager Dunham explained that it was an agreement between the Town and the County to enhance the entrance to the Town on the Woolbright Bridge. He stated that the County would be paying half of the costs, but that the Town would maintain the area once completed.

5. Ocean Ridge Resolution No. 2001-06; Authorizing the Execution of a Lease Agreement between the Town of Ocean Ridge and Palm Beach County for a mangrove restoration project within a portion of a Town of Ocean Ridge tract situated at the western terminus of Corrine St

Town Manager Dunham explained that this would be a ninety-nine year lease between the Town and Palm Beach County for the habitat restoration project that the County wishes to conduct at the western terminus of Corrine St. He stated that either the Town or the County would be able to terminate the agreement with ninety days notice at any time during the agreement. Once the agreement has been signed, permits and planning should be completed by August 2001 and design completed by February 2002. He stated that the actual construction should take about ten months.

Comm Bridges stated that he would like to add an item regarding pollution in Lake Okeechobee as item #13.

Consent Agenda

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1. Minutes of the Town Commission Meeting of March 5, 2001
2. Minutes of the Special Commission Meeting of March 23, 2001
3. Ocean Ridge Resolution No. 2001-07; Authorizing execution and adoption of State Mutual Aid Agreement for catastrophic disaster response and recovery
4. Ocean Ridge Resolution No. 2001-08; Authorizing the Execution of Financial Assistance Agreement for Town of Ocean Ridge Woolbright beautification improvements between the Town of Ocean Ridge and the Palm Beach County for grant funding for landscaping on Woolbright Road from the Intracoastal Waterway bridge to North Ocean Blvd. (SR A1A)
5. Ocean Ridge Resolution No. 2001-06; Authorizing the Execution of a Lease Agreement between the Town of Ocean Ridge and Palm Beach County for a mangrove restoration project within a portion of a Town of Ocean Ridge tract situated at the western terminus of Corrine St

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

Motion carried – yea 5.

Announcements and Proclamations

None

Public Comment

Cheryl Olanoff, 566 David Lane, questioned what type of enforcement was being done regarding grading of land for new construction specifically the Park's property at 7 Osprey Court. Town Manager Dunham explained that the grading of the property is inspected and if it does not meet the plans submitted, the certificate of occupancy will not be released until it does. Ms. Olanoff stated that she is concerned that it will flood her property during the time of construction. Comm Aaskov stated that she has also looked at this property and is concerned that it will flood David Lane. Town Manager Dunham stated that he would look at the property.

Public Hearings

None

Regular Agenda

Action and Reports

6. Action to fill appointments to Board of Adjustment, Planning and Zoning Commission and Advisory Board By: Karen E. Hancsak, Town Clerk (Postponed Item)

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Town Clerk Hancsak advised that this was a postponed item from the previous Town Commission meeting.

Comm Aaskov moved to appoint Terry Brown as a regular member and Bern Schulte and Geoff Pugh as alternates to the Board of Adjustment, seconded by Comm Willens.

Motion carried – yea 5.

There was no motion regarding appointments to the Planning and Zoning Commission. Mayor Kaleel advised that until a motion was made and carried that the Planning and Zoning Commission members would continue on as previously appointed.

7. Building Board of Appeals – Request for variance to permit construction of an addition to the dwelling at 4 Coconut Lane with a finished floor elevation of 5.42’ which is less than 8’ above 0 elevation – Dr. Robert DePalma

Town Manager Dunham explained that the variance was to permit construction at an elevation of 5.42’ rather than the required 8’. He recommended that if the variance is granted by the Town Commission that a hold harmless be executed by the property owner.

Those that were going to present any testimony in this matter were sworn in by Atty Spillias. Dr. DePalma stated that the home was originally built in 1947 and the renovations would not work if the elevation had to be changed. Comm Bridges stated that he would like to see the plans for the house to which Dr. DePalma replied that he had a set in the car and would bring them in for him to see.

This item was tabled until after the next item.

8. Request to modify dune landscaping at 6301 N Ocean Blvd. – Randall Stofft, Architect, representing owner

Town Manager Dunham explained that the changes were a reduction of the dune crossover as required by the State of Florida, the substitution of twenty-four Majule and Canary Palms for twenty Coconut Palms, the authority to maintain an even height across the dune for the seagrapes and the addition of four copper planters on 4” thick stepped concrete pads. He advised that the staff was recommending to approve the modification subject to the requirement that the applicant allow a portion of the seagrapes to fill in and window (working with the staff to determine the areas to window).

Mr. Stofft advised that there was one clarification to the summary by the Town Manager and it was that the substitution was with twenty-four Date Palms and four Canary Palms and not Coconut Palms which was more consistent with the homes to the north and the south.

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At this time anyone who was going to give testimony in this request was sworn in by Atty Spillias.

Comm Bingham stated that there used to be a high area of sea grapes which were pushed in front of the neighboring pathway to the beach. Mr. Stofft advised that he was unable to state specifically where the sea oats and sea grapes had been moved, but there is currently dune vegetation all along the property line.

Comm Bridges emphatically stated that he felt Mr. Stofft should be ashamed of himself adding that this is the second time that the Town Commission has been asked to allow changes that were made after the fact. He stated that he felt the existing vegetation has been mutilated. He added that he feels they should have to adhere to the original landscape plans and he would not approve any modifications. Mr. Stofft advised that he did not design the original landscape plans for the property. He stated that he felt the new design was more formal than the originals and that he had information that all of the plants would be good for this area.

Comm Bridges stated that the owner should have come before the Town Commission much sooner for this modification. He stated that he was against the slashing of the natural vegetation. He also stated that he was against the property owner requesting and receiving permission for one thing, planting something different from what was approved and asking for permission for the change after the fact.

Comm Willens stated that he also had a problem with being asked to give permission for a modification after the fact. He stated that he would not be able to approve the request for this reason to which Comm Aaskov agreed.

Mayor Kaleel stated that he felt there was a huge difference in the two designs and that the first plan was more with the natural scheme of the area.

Mr. Stofft advised that he worked very closely with the Town on an architectural side on all issues. He stated that he felt this landscape plan was an oversight and not intentional on the part of the contractor or property owner.

Regarding the aerial photo of the back side of the residence at 6301 N Ocean Blvd. distributed by Mr. Stofft, Mayor Kaleel stated that it appeared to him that the fence along the side of the house is longer than what is represented in the original landscape plan and that about 20' – 30' of dune has been destroyed. Comm Bingham stated that she believed the contractor “just bulldozed” back the dune vegetation. Mayor Kaleel stated that the original plans were meant to enhance the dune and this plan does not. Mr. Stofft stated that he did not believe the dune was pushed back, but rather additional vegetation as previously planned was not planted.

Comm Bingham moved to reject the request to modify dune landscaping at 6301 N Ocean Blvd., seconded by Comm Bridges.

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Bud Aaskov was sworn in by Atty Spillias. Mr. Aaskov, 27 Hibiscus Way, stated that he felt the Town Commission was taking the right track as he has seen the Town Commission badgered into after the fact modifications before. He stated that he was glad they were making Ocean Ridge the way it should be.

Atty Spillias stated that the motion would deny the modification requested at this meeting, but the applicant could bring another plan before the Town Commission. Comm Willens questioned the consequence to this being denied to which Atty Spillias stated that it would now become a code enforcement matter.

Comm Bridges questioned if they could make it a condition that the original plans be enforced to which Atty Spillias stated that since the modification has been denied, the original is the only plan in effect. Mr. Stofft stated that his client would be willing to work with the Town. Mayor Kaleel advised Mr. Stofft that his client would be able to bring in another plan now that they know the feelings of the Town Commission.

Town Clerk Hancsak questioned if there would be a time limit before Code Enforcement issues notice to the homeowner to which Mayor Kaleel stated that he thought thirty days would be enough time to reapply.

Comm Bingham moved to give the applicant thirty days to resubmit without enforcement, seconded by Comm Willens.

Motion carried – yea 5.

7. Building Board of Appeals – Request for variance to permit construction of an addition to the dwelling at 4 Coconut Lane with a finished floor elevation of 5.42' which is less than 8.0' above 0' elevation – Dr. Robert DePalma

Comm Bridges advised that he had reviewed the plans for the renovations. He stated that he would have no objections as long as Dr. DePalma accepts the fact that his property may flood at the lower elevation. He added that he felt this plan had less impact on neighboring properties.

Comm Bridges moved to accept the variance request provided a hold harmless is executed with indemnifications by the applicant, seconded by Comm Bingham.

Motion carried – yea 5.

9. Permission request for creation of obstruction in Edith Street right-of-way – Greg Young, new proposed home at 15 Hudson Ave.

Greg Young, property owner of 15 Hudson Ave., stated that he was intending to build at 15 Hudson Ave. which backs up to Edith Street. He advised that the plans for the home have been approved by the Town and are currently under review at the County Building

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Department. He stated that he would like to tie a fence into the wall of Pelican Cove at the back of his property. Town Manager Dunham explained that there are four other walls or fences obstructing the right-of-way in that area.

Comm Bingham stated that she felt if the Town approves this, the right-of-way should just be abandoned all together. She stated that she thought people used to use it to walk to the Intracoastal. Mr. Young stated that there are already four property owners blocking a path to the Intracoastal adding that he would maintain the vegetation that he plants and the Town property which is currently not being maintained. Comm Aaskov advised that the other four property owners would have to come before the Town Commission to ask permission to keep their obstruction in the right-of-way.

Mayor Kaleel stated that he felt comfortable granting licenses for bushes or vegetation in the rights-of-way, but not walls and fences. He stated that the Town may need that area for a swale in the future.

Comm Willens advised that he would not comment on the current request, but that when he purchased his home on Hudson Ave., he was told that the fence in the right-of-way could not be improved upon.

Mr. Young stated that he did not object to having to remove the obstruction at any time if the Town requests that he do it. He stated that if his request were denied, he would not want to maintain the Town property or remove the Australian Pines in the right-of-way as he plans to do.

Comm Bridges stated that he would not mind Mr. Young's use of the property if he placed swinging gates in the back for those who may be walking through.

Atty Spillias stated that the Town Ordinance provides that the license for use can be revoked at any time. He added that the license is recorded so that the future property owner is not misled into thinking that they will be purchasing the property in the right-of-way.

Comm Bingham questioned if Pelican Cove would be responsible for the removal of the Australian Pines to which Town Manager Dunham stated that he would look into it.

Mayor Kaleel stated his concern over the possible use of this right-of-way for drainage. Comm Willens stated that it was already swaled from A1A to the property east of 15 Hudson Ave. Mayor Kaleel stated that he would like to take the next month to review the other properties on the street. Comm Bridges suggested that the surveyor check if the swale is already existing along the right-of-way.

Comm Bridges moved to defer the request for thirty days, seconded by Comm Bingham.

Motion carried – yea 4 (Willens abstain)

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Town Manager Dunham announced to the Town Commission that there are many existing obstructions that will need to be brought before the Town Commission. He stated that the staff would begin to place them on the agendas in May. Mayor Kaleel stated that he just wanted to ensure that the obstructions did not interfere with drainage.

10. Request for Code Enforcement lien reduction for 5907 N Ocean Blvd.

Atty Andrew Blasi, representing the foreclosing lender of the property Florida Family Mutual Insurance Co., was present at the hearing to request the lien reduction. He stated that he would like to give the Town Commission some background on the history of the property. He began by explaining that Direndra Kesavalu bought the property in August 1998 and mortgaged it through BankAtlantic. His client then insured the property, which was destroyed by fire four months later. He stated that his client is denying the loss based on the suspicion of arson and misrepresentations made by the property owner. His client does not have this same option with the mortgage holder and; therefore, had to pay \$600,000 to BankAtlantic. His client then took on the assignment of foreclosure in April 1999 rather than allowing the property owner to have the property free and clear. In July 2000, his client bought out the mortgage from BankAtlantic in companion to the arson proceedings. He stated that his company was completely unaware of the code enforcement liens (CE 99-05 and CE 00-14). He stated that there was a lien letter sent by the Town to BankAtlantic which advised of older liens and a reference to the CE 99-05 lien, but his client did not receive a copy of this letter from BankAtlantic until July 2000. He stated that he felt his client was misrepresented to by BankAtlantic. He stated that he had received an emergency order from BankAtlantic dated for April 1999 for them to have permission to go onto the property and demolish the house to correct the violation. His client believed that they had corrected the violation and knew nothing of the continuing lien and fine.

Regarding the second lien (CE 00-14), Mr. Blasi advised that notice for the Code Enforcement hearing was sent to BankAtlantic and the lien placed without his client's knowledge. He stated that his client was the mortgage holder of record at the time. He explained that BankAtlantic was not present at the hearing nor did they notify his client of the hearing. He stated that his client would like to proceed with the foreclosure so they can sell the property.

Comm Aaskov moved not to entertain reducing the liens or fines on the property, seconded by Comm Bridges.

Comm Aaskov explained that the residents of Ocean Ridge had to look at the burnt house for nine months. She stated that it was unsafe and an eyesore.

Comm Bridges told Mr. Blasi he felt his client's problem was with BankAtlantic rather than the Town. Mr. Blasi stated that he felt that only his client is trying to do something to correct the problems even in the few weeks since they have assumed the mortgage. Mayor Kaleel stated that when his client assumed the mortgage, they also took on the right to go after the property owner. Mr. Blasi stated that he felt his client could take the

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“lashing” for the first lien, but that they should not be held responsible for the second lien.

Town Clerk Hancsak explained that in the lien letter written to BankAtlantic there is a reference to the lien which was at that time still accumulating at a rate of \$250 per day which had been further explained to the representative of BankAtlantic. She added that for the second code enforcement hearing, the owner of record in the Palm Beach County Taxroll still showed Kesavelou and that the Town had passed an ordinance that would have required Kesavalu and BankAtlantic to notify any new owner of any possible code enforcement problems. Mr. Blasi advised that his client is not the owner of the property, only the mortgage holder.

Mayor Kaleel stated that he felt the consensus of the Town Commission was not to reduce the liens at this time. He suggested that Mr. Blasi and Atty Spillias discuss the matter and bring a recommendation before the Town Commission.

Comm Aaskov withdrew her earlier motion.

Comm Bridges moved to have Atty Spillias negotiate the fines with Mr. Blasi and bring a recommendation before the Town Commission at the next regular meeting, seconded by Comm Willens.

Motion carried – yea 5.

Resolutions

None

First Reading of Ordinances

None

Second Reading, Public Hearing and Adoption of Ordinances

None

Town Commission Comments

11. Discuss scheduling Workshop/Special Meeting for 5 on 5: By Mayor Kaleel

Mayor Kaleel stated that the Town Commission needed to schedule a time to discuss each member’s five priorities for the next year and five priorities for the next five years. Town Manager Dunham suggested the week of April 23rd. Mayor Kaleel stated that he would like the staff to have the list in advance. Town Clerk Hancsak advised that she would poll the Commissioners for a meeting time.

12. Discuss Adelphia Services: By Comm Aaskov

Comm Aaskov stated that Adelphia has been tearing up some properties while putting in their new cable lines. She stated that they dug up holes and some driveways in the condo areas. Town Manager Dunham stated that he had only received one resident complaint, which was corrected to which Comm Aaskov stated that she would get with him to discuss other areas. Town Manager Dunham stated that he would contact Adelphia to correct the problems.

13. Pollution in Lake Okeechobee: By Comm Bridges

Comm Bridges advised that a resident had brought this topic to his attention. Mayor Kaleel stated that an article in the Palm Beach Post had advised of pollution (backflow) being pumped into Lake Okeechobee.

Lillian Ratner, 32 Harbour Drive N, commented that she felt SFWMD should discontinue using polluted water during times of drought and should address the availability of water during future droughts.

Mayor Kaleel advised that the staff would draft a letter to SFWMD with copies to Jeff Atwater and Governor Bush to get on record the Town's opposition to this practice. Mr. Ratner suggested that the town encourage other communities to write similar letters.

Mayor Kaleel presented outgoing Mayor Aaskov a plaque recognizing her efforts as Mayor for the previous two years and thanking her for hard work and dedication to the Town. There was applause from the audience.

Mayor Kaleel noted that the Town's 70th Anniversary would be May 15th. He stated that there would be a small party in the Town Hall Chambers after the May 7th Regular Town Commission Meeting.

Dave Berger, 45 Bimini Cove Drive, stated that he would like the drought restrictions vigorously enforced to which Director Hillery advised that they were being enforced.

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Adjournment

The meeting was adjourned at 8:10 PM.

Mayor Kaleel

Commissioner Aaskov

Commissioner Bingham

Commissioner Bridges

Commissioner Willens

Attest By:

Town Clerk