

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, June 4, 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

Mayor Kaleel stated that he would like to add an item #13 to discuss pool enclosures.

Consent Agenda

1. Minutes of Town Commission Meeting of May 7, 2001
2. Authorize an Amount not to exceed \$750 from the contingency account for co-hosting the Palm Beach County League of Cities, Inc. June Meeting and the Palm Beach County Clerk's Association Meeting By: Gregory L. Dunham, Town Manager
3. Scheduling of Meeting date for the FY 2001/02 Proposed Budget during the week of July 16th By: Gregory L. Dunham

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

Motion carried – yea 5.

Announcements and Proclamations

4. The regular meeting for July will be held on July 2, 2001 and the administrative office will be closed Wednesday, July 4, 2001 for the official holiday

Mayor Kaleel read the above announcement.

Public Comment

5. Request to discuss windstorm insurance coverage for individual homeowners By: Bernard Ratner, 32 Harbour Drive N

Mr. Ratner advised that he had received a letter indicating that his rates for windstorm insurance would be increasing up to 118% over the next three years. He stated that he had received the financial statements from the Florida Insurance Commission for the

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windstorm association and he found that they are making a tremendous amount of money. He stated that he did not want any specific action on the part of the Town, but rather wanted to encourage everyone in the Town to write to the legislature about this problem. He stated that before the single association was formed, there was competition for windstorm insurance.

Comm Bingham suggested that he compile all of his information in a letter to the *Ocean Ridge Reporter* and encourage all the residents to write the legislature about their concerns.

Mayor Kaleel stated that the Town would write a letter to the Insurance Commissioner and Governor Bush regarding these concerns and also invite Jeff Atwater to attend a future meeting to discuss the issue.

There was no other public comment.

Public Hearings

None

Regular Agenda

Actions and Reports

6. Permission request for creation of obstruction in Edith St. right-of-way – Greg Young, new proposed home at 15 Hudson Ave. (Postponed Item)

Greg Young was not in the audience at the time, so the Town Commission decided to proceed with Item #7 and return to Item #6 when Mr. Young was present.

7. Request to modify dune landscaping at 6301 N Ocean Blvd – Randall Stoft, Architect, representing owner (Postponed Item)

Al LaSorte, attorney, was present at the meeting to represent Alvin Malnik, owner of 6301 N Ocean Blvd. Mr. LaSorte questioned if anyone giving testimony would need to be sworn in to which Atty Spillias stated that at present, the petition of the applicant is to review previous denial. He stated that he would need to know if this request is an extension of the petition or a settlement. He stated that he believed it was a settlement and as such would not require sworn testimony.

Robert Baron, landscape architect, described the new plan for the dune area. He stated that in order to improve the drainage, he wanted to add an additional 12' of dune area across the entire property adding some unusual, rare and endangered plant species. He stated that this would almost double the dune area behind the house.

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Mr. LaSorte stated that at the last meeting a design was brought before the Town Commission and denied adding that he thought this plan was much better than the previously denied plan and the original plan for the property. He explained that his client knows that the Town Commission feels it was a transgression to not follow the original plan and that Mr. Malnik is prepared for the consequences of that.

Comm Bingham stated that she felt the additional 12' area of dune would block much of the beach and not allow people to walk down the beach for half of the year. She stated that she also felt it would disturb the turtle nesting. Mr. Baron stated that there is no evidence that dune restoration would interfere with turtle nesting. Mr. LaSorte stated that the 12' could be reduced if turtle nesting is an issue. Mr. Baron stated that the plan has DEP approval which would not have been given if the turtle nesting would be disturbed by it.

Mayor Kaleel reiterated that the current design at the residence was done without the Town's permission although the owner had gotten approval from the state for the change. Mr. LaSorte stated that his client should have sought approval from the Town for the changes, but was requesting that the plan presented at this meeting be accepted.

Comm Willens stated that he had a problem with the area not being done to the original plans. Mr. LaSorte stated that there have been four different plans submitted by the resident: the originally approved plan, the plan approved by the State, the plan submitted to the Town Commission two months ago and the one presented at this meeting. Comm Willens questioned how similar this last plan is to the original plan to which Mr. LaSorte stated that the two plans were not similar.

Mayor Kaleel stated that he did not see the value of adding an additional 12' of dune to the back of the property to which Mr. Baron stated that the additional dune would not block the beach on most days and it would also stabilize more of the beach after a storm.

Mayor Kaleel questioned what it would cost to return the area to the original plan approved by the Town Commission to which Mr. LaSorte stated that it would cost approximately \$40,000 adding that this new plan would cost approximately \$40,000. Mayor Kaleel stated that he would be in favor of removing a row of pavers on the side closer to the residence and moving the additional dune back 2 ½' to 3', but that he also believes a penalty would be in order even though the change was not done maliciously. He suggested that the contractor be fined \$20,000 and the homeowner be asked for a \$100,000 donation to the Town. Mr. LaSorte advised that he was authorized to speak for the homeowner on the issue of a donation to the Town for beautification purposed, but that he was not authorized for the total of \$120,000. He stated that he could agree to \$20,000 fine for the contractor and a \$80,000 donation. Mr. Baron added that the design could be moved back 3' with the removal of a row of pavers. Mayor Kaleel stated that he would prefer to keep the total figure of \$120,000 to which Mr. LaSorte stated that he would have to bring that request back to his client for approval.

Comm Willens stated that he would like to see it restored to the original design.

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Comm Aaskov stated that she would rather see them implement the plan submitted today with the removal of a row of pavers.

Comm Bridges stated that he still believed considerable height had already been taken from the dune and that he would like the Town to receive the \$120,000, but that he would like the issue resolved at this meeting.

Atty Spillias advised that the Town Commission has three choices. He stated that the first choice would be to simply reject the idea of settlement and deny the modification and proceed with litigation advising that there have been several issues raised in their petition such as that of DEP's jurisdiction to approve plan modifications. He explained that the second option would be to accept the settlement that Mr. LaSorte is authorized to offer and accept the plan submitted today with the 3' modification. He added that the third option would be for the Town to issue a counter offer of a total of \$120,000 which Mr. Malnik could either accept or reject.

Comm Bingham moved to offer settlement and issue a counter offer of a \$20,000 fine to the contractor and a \$100,000 donation from the homeowner with the implementation of the plan submitted at this meeting with the modification of the removal of a row of pavers setting back the plan by 2 ½' to 3', seconded by Comm Aaskov.

Atty Spillias suggested that a time frame be specified to get their reply after which time he would need to have an executive session with the Town Commission to discuss the litigation.

Comm Bingham amended her motion to add that the resident would need to respond to the Town Commission by June 11, seconded by Comm Aaskov.

Comm Aaskov stated that she felt Mr. LaSorte could just call Mr. Malnik now and the issue could be resolved before the end of the meeting.

Comm Willens moved to table the motion, seconded by Comm Bridges.

Motion carried – yea 5.

The Town Commission returned to Item #6 while Mr. LaSorte tried to contact his client.

6. Permission request for creation of obstruction in Edith St. right-of-way – Greg Young, new proposed home at 15 Hudson Ave. (Postponed Item)

Comm Willens advised that he had a conflict with this item and would not be participating in the discussion or vote.

Town Manager Dunham advised that this item had been postponed at the April Meeting when the Town Commission wanted the Town Manager to research if the Edith Street

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right-of-way would be needed for the proposed drainage improvements. He advised that the engineers have determined that the Edith Street right-of-way would not be needed. He advised that the applicant has modified his request to scale the fence back 5'-7' from the wall at Pelican Cove. He added that the applicant would only be planting sod in the right-of-way and planting his hedge outside of the right-of-way on his property. He stated that the applicant is aware that he would need to enter into an agreement with the Town to construct and maintain the obstruction and that at any time the Town could request that he remove the obstruction.

Mayor Kaleel questioned what would be in the five feet from the wall at Pelican Cove to which Mr. Young answered that it would be the Australian Pine hedge which is already there.

Comm Bingham stated that she felt the right-of-ways should be open to all of the people in the Town to walk to the waterway. She stated that she was opposed to any obstructions in the right-of-ways.

Mayor Kaleel stated that the Town has no plans at this time to use that right-of-way. Mr. Young added that the area between his property line and the wall of Pelican Cove is so overgrown that no one could walk down it anyway. He added that he could pull his plans back to 7' from the wall of Pelican Cove.

Comm Bridges questioned if Mr. Young was denied his request, if the Town Commission would have to tell everyone else who has an obstruction in that right-of-way to remove theirs. Mayor Kaleel stated that the reality is that there are fences all down this right-of-way and no plans to use it.

Comm Bridges moved to approve the request subject to getting everyone else using the Edith St. right-of-way to seek Town Commission approval for their obstructions so that they all have a clear understanding that the right-of-way is still Town property.

Atty Spillias advised that the ordinance passed in July 2000 gave 180 days for residents to file for approval of their obstructions in the right-of-way or they would receive a notice to remove it. He suggested that the motion be modified to include that the staff notify those with obstructions in the Edith St. right-of-way that they will be brought before code enforcement.

Comm Bingham again stated that she did not think that any resident should be allowed to place obstructions in the right-of-way. Mayor Kaleel reminded her that this was supposed to be done on a case by case basis and questioned if she would just be denying all of the requests to which Comm Bingham stated that she would. Mayor Kaleel stated that he felt if the applicant comes before them with a plan in an area which the Town does not plan to use the request should be approved.

Atty Spillias advised that this ordinance was a result of findings that there are encroachments on David Lane which have been there for many years. He stated that the

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ordinance makes it clear that the Town still owns the property and that the Town Commission wanted to review these on a case by case basis.

Comm Bingham stated that she had a problem with the fences taking away use of the right-of-way by others.

Director Hillery stated that if the Town is going to be made to maintain the area by the wall, they would need more than 5'.

Bruce Gimmy, 12 Ocean Ave., stated that he is on the Planning and Zoning Commission and that he felt the right-of-ways were to be used for utilities. He stated that when a transformer blew in the right-of-way behind his house, it took four and a half hours to fix because it was so overgrown. He stated that he felt the right-of-ways should be maintained by the Town and not used by any of the residents.

There was no second to Comm Bridges' earlier motion.

Mr. Young withdrew his request for his right-of-way obstruction.

Town Manager Dunham stated that he would bring a list of those using the Edith St. right-of-way to the Town Commission at the next meeting.

7. Request to modify dune landscaping at 6301 N Ocean Blvd – Randall Stoff, Architect, representing owner (Postponed Item)

The Town Commission resumed the discussion of Item #7. Mr. LaSorte advised that he had spoken to his client who would accept the \$100,000 donation and \$20,000 fine to the contractor, but requested that the Town Commission not force the plan back 3'.

Atty Spillias advised that they should remove the time limit from the previous motion.

Comm Bingham modified her motion to move to settle the litigation between Mr. Goldstein and his successors for the modification, the Town Commission accept the modified proposal with the additional modification of the plan being moved 3' westward, a \$20,000 fine on the contractor for not seeking Town Commission approval and a \$100,000 donation from the homeowner for beautification of the Town, seconded by Comm Aaskov.

Motion carried – yea 5.

Mayor Kaleel asked Chuck Johnson, President of Boca Contracting, if he accepted the settlement to which Mr. Johnson said that he did.

Mayor Kaleel asked Mr. LaSorte if he accepted the settlement on behalf of the homeowner to which Mr. LaSorte said that he did.

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Mayor Kaleel suggested that payment be made to the Town within thirty days to which Mr. LaSorte and Mr. Johnson agreed.

Mayor Kaleel suggested that the new landscaping and the moving back of the pavers 3' begin within thirty days to which Mr. Baron advised that it would.

Mr. LaSorte thanked the Town Commission for their consideration in this matter.

8. Request for removal of invasive, exotic vegetation and re-planting of native vegetation – Gary Kosinski, 6013 N Ocean Blvd.

Town Manager Dunham explained that the applicant would be removing seven Australian Pines and Scaevola from the dune and replanting all native and draught tolerant species. He added that they would also be windowing a portion of the seagrapes. He stated that the proposal includes plans for a deck and an on-ground dune crossover and steps for which a field permit has already been issued by the DEP. He explained that the Town Code allows for approval to be done administratively for construction east of the CCCL in case of a field permit already being issued.

Town Manager Dunham stated that he recommends that the Town Commission approve the dune landscaping plan.

Comm Bridges stated that he would like to see more Beach Lavender in the plan, but that he felt the plan was well done.

Comm Bridges moved to approve the dune landscaping plan at 6013 N Ocean Blvd., seconded by Comm Aaskov.

Motion carried – yea 5.

9. Reconsideration of release of unity of title for Lot 44, Inlet Cay Subdivision By: Kenneth Spillias, Town Attorney

Atty Spillias stated that Carl Forbes was present at the last meeting to request a lien reduction which was denied by the Town Commission. The Town Commission agreed to release the unity of title contingent upon the removal of the dock and the payoff of the lien. Atty Spillias explained that in the time since the last meeting while doing the title search, he has found information which has caused him to need to do more research. He suggested that the item be postponed another month.

Comm Aaskov moved to reconsider the previous action by the Town Commission, seconded by Comm Bingham.

Motion carried – yea 5.

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Atty Spillias stated that Joel Strawn (attorney for the potential buyers of Lot 44) has provided him with some information, but that he would like another month to continue researching the issue.

Mark Butler, attorney for Carl Forbes, advised that the additional delay would cause problems as the closing for Lot 44 is scheduled in a few days. Mr. Forbes stated that the mortgages on the property are being taken care of when the new buyer takes over. He stated that the outstanding liens which were not paid prior to his purchase would also be paid prior to the new owner. He added that if he removes the dock and the purchase does not go through, then he has lowered the value of his property.

Comm Bridges moved to defer the issue for thirty days, seconded by Comm Aaskov.

Mr. Butler stated that he would like to address Atty Spillias' concerns at this meeting to which Atty Spillias advised that he could not discuss them at this time.

Roll call was taken on Comm Bridges' motion.

Motion carried – yea 5.

Resolutions

None

First Reading of Ordinances

None

Second Reading, Public Hearing and Adoption of Ordinances

10. No. 533; Amending the Code of Ordinances at Chapter 2, Administration, Article VI, Finance, Division 1, Generally, Section 2-216, establishing a purchasing and bidding threshold for the purchase of commodities and/or contractual services

Mayor Kaleel read Ordinance No. 533 by title only.

Comm Willens moved to adopt Ordinance No. 533, seconded by Comm Bingham.

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

Motion carried – yea 5.

11. No. 534; Amending Chapter 16, Code Enforcement, Article II, Supplemental Code Enforcement Procedures, Section 16-24 of the Code

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of Ordinances, establishing a schedule of fines for code enforcement citations

Mayor Kaleel read Ordinance No. 534 by title only.

Comm Aaskov moved to adopt Ordinance No. 534, seconded by Comm Bridges.

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

Motion carried – yea 5.

Town Commission Comments

13. Pool enclosures By: Mayor Kaleel

Mayor Kaleel advised that the Town Commission had received a copy of the opinion of Atty Spillias regarding lot coverage and pool enclosures. He questioned if the Town Commission wanted a review of whether screened enclosures should be included in lot coverage and suggested that they turn the issue over to the Planning and Zoning Commission. It was the consensus of the Town Commission to have the Planning and Zoning Commission review the issue.

12. Discuss Town Hall By: Comm Aaskov

Comm Aaskov stated that Wilson Eike created a scale model of the original Town Hall and that she would like to build a reproduction of it on Town property with donated money. She stated that she would place much of the memorabilia that she has collected in it. She stated that she had four places in mind to place it which are by the shadowbox in the Town Hall parking lot, the 50' of beach property, A1A and Woolbright, or on the original slab on Ocean Ave.

Comm Bingham suggested that the Town use the McGinty money to fund this project.

Comm Bridges stated that he felt it was a good idea and suggested using the Town Hall parking lot location.

Comm Aaskov stated that she wanted to know if this was something the Town Commission was interested in so that she could start soliciting funds.

Comm Bridges moved to start with the plans for the new Town Hall reproduction, seconded by Comm Bingham.

Comm Bridges stated that he would offer his architectural services free of charge for this project.

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Comm Aaskov stated that she would also like to use some of the McGinty money and perhaps try to get some of the McGinty shell collection back for the Town.

Mayor Kaleel asked if they would be able to get a waiver from having to build the reproduction to current ADA standards to which Atty Spillias advised that they would not.

Comm Aaskov stated that she felt the location of the original foundation would be unsafe.

Comm Bridges stated that he thought it would be a good idea if the reproduction were linked to something more useful.

Roll call was taken on Comm Bridges' motion.

Motion carried – yea 5.

Adjournment

The meeting was adjourned at 8:20 PM.

Mayor Kaleel

Commissioner Aaskov

Attest By:

Commissioner Bingham

Town Clerk

Commissioner Bridges

Commissioner Willens