

Public Hearing and Regular Town Commission Meeting held on Tuesday, September 4, 2001 at 5:30 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

Commissioner Bingham
Mayor Kaleel

Commissioner Willens was not yet present at the meeting.

Pledge of Allegiance

Public Hearing

1. Presentation of Tentative Budget and Proposed Millage Rate for Fiscal Year 2001-2002
 - a. Comment from Commissioners and Public

Town Clerk Hancsak advised that the Board of Adjustment had requested an additional \$6,000 be budgeted for attorney's services for the board. She advised that this increase would raise the total operating expenses to \$2,885,223 from \$2,879,223 and the carryover would increase to \$98,956.

Comm Aaskov questioned if an attorney was present at every Board of Adjustment meeting to which Town Manager Dunham stated that an attorney would be present only when requested by the Board.

Comm Bridges moved to approve the \$6,000 increase in the Appointed Boards Professional Services Account and the appropriate increase to the carryover, seconded by Comm Aaskov.

Motion carried – yea 4.

There were no other comments from the Commission or the Public.

- b. Adoption of Tentative Budget for Fiscal Year 2001-2002

Comm Bingham moved that a budget in the amount of \$2,885,223 be tentatively adopted for the 2001-2002 Operating Fund and a budget in the amount of \$141,725 be tentatively adopted for the 2001-2002 General Obligation Debt Service Fund, seconded by Comm Aaskov.

Motion carried – yea 4.

- c. Adoption of Tentative Millage Rate for Fiscal Year 2001-2002

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Comm Bridges moved that a millage rate of \$4.0000 per \$1,000 of assessed valuation be tentatively adopted for the 2001-2002 general operating revenues and that a millage of \$.3491 per \$1,000 of assessed valuation be tentatively adopted for the 2001-2002 bond debt service for the General Obligation Water Improvement Bonds of 1991, seconded by Comm Bingham.

Motion carried – yea 4.

Mayor Kaleel announced that the computed millage rate exceeds the rolled back rate by 11.65%.

d. Public Hearing Date for Final Adoption

Mayor Kaleel announced that the date and time of the second and final public hearing is established as 5:01 PM (after 5:01 PM) on Tuesday, September 11, 2001. The 2001-2002 operating and debt service budgets and corresponding millages will be finalized and adopted at that time.

Additions, Deletions, Modifications and Approval of Agenda

Comm Bingham stated that she would like to pull item #6 from the consent agenda and discuss it as item #10b.

Town Manager Dunham advised that he would like to add an update regarding litigations against the Town as item #13.

Mayor Kaleel stated that he would like to make an additional comment as item #14.

Consent Agenda

2. Minutes of the Regular Town Commission Meeting of August 6, 2001
3. Ocean Ridge Resolution No. 2001-12; Approving and Adopting the Renewal Dental Services Agreement with Oral Health Services
4. Authorize \$50 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. Recommendation to amend code Re: Allowing the Town Administrator to Permit a Time Extension One Time for Approved Variances By: Karen E. Hancsak, Town Clerk/Secretary for Board of Adjustment

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

Motion carried – yea 4.

7. Proclamation Declaring September 2001 as Literacy Month

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Mayor Kaleel read the proclamation declaring September 2001 as Literacy Month.

Public Comment

Betty Kelso, 16 Sailfish Lane, advised that she would like a timetable for the dune replanting along Old Ocean Blvd where the Town had Australian Pine trees removed. She added that the head of sea turtle research at FAU has shown concern for some turtle disorientation in that area.

Town Manager Dunham explained that the Australian Pine tree is a very invasive tree and the State and County Environmental groups do not like them as no other vegetation can grow underneath them. He advised that there is an ordinance in place which prohibits trees which can fall on someone else's or public property. He explained that in July a slight tropical wave knocked down branches which necessitated the closure of Old Ocean Blvd and raised a concern to the staff. He advised that the staff had hired a contractor to remove three trees and contacted the adjacent property owners to see if they wanted to use the same contractor to remove their Australian Pines.

Regarding the replanting of the dune, Town Manager Dunham stated that one of the adjacent property owners already has a plan in to DERM. He also stated that another property owner in the south end is considering giving their dune property to the County. He added that the Town is also working on a landscape plan. He explained that since the removal of the trees was a public safety concern, the property owners have been given more than the ten days specified in the code to replant.

Comm Bridges stated that Australian Pines destroy the dune and soil the longer they are allowed to remain. He added that although it is taking more than ten days for the replanting, it is best not to rush the process.

Mrs. Kelso questioned if the lights in the area could be shielded to which Director Hillery explained that the Department of Public Safety receives a weekly update from DERM on turtle disorientations and this area has not been on the list.

Gary McGee, 22 Hersey Drive, commented that he liked the trees at the end of his street. He stated that he felt the staff was hiding behind the ordinances because they did something hurtful and without thinking.

George Bierlin, 26 Hudson Ave., questioned if the Town should try and get the dune property that the resident is trying to donate to the County to which Mayor Kaleel stated that the Town Commission thought that would be a good idea and directed the staff to investigate the possibility.

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Public Hearings

8. An application submitted by Frank McKinney, Ocean Ridge Development LLC, 6275 N. Ocean Blvd., Ocean Ridge FL 33435, requesting a variance from the provisions of the Buildings and Building Regulations, Article II, Technical Codes and Other Constructions Standards, Section 14-27, Floor Elevations, Sub-Paragraph (c) Maximum Elevation 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 23', pool and patio area which would extend approximately 180' east of the Coastal Construction Control Line located at 6275 N. Ocean Blvd or legally described as the North 101.08' of South 270' of Unnumbered Block Lying Immediately North of Edith Street and East of Ocean Blvd. in the Boynton Beach Park Subdivision

Town Clerk Hancsak stated that there was no additional correspondence and that all fees have been paid.

Comm Bridges stated that since the north lot was given a 22' FFE, he had no problem granting this variance.

There were no additional comments from the public or Town Commission.

Comm Bridges moved to approve the variance request as submitted, seconded by Comm Aaskov.

Motion carried – yea 4.

Regular Agenda

Actions and Reports

9. Discuss Adelphia Cable Service

Mayor Kaleel stated that no representative was present at the meeting and they would delay this item until later in the meeting.

- 10a. Request to discuss the clearing of obstructions in the 15' alley between Ocean Ave. and Coconut Lane By: Bruce Gimmy, 12 Ocean Ave.

Mr. Gimmy stated that he is concerned because the area behind his house is so overgrown that the cable, power, and phone representatives have a hard time reaching the pole with the transformer. He stated that he can not get to the north side of the wall at the back edge of his property because of the obstructions behind it. He stated that when he was on the Planning and Zoning Commission, it was decided that the Town would maintain these

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rights-of-way. He added that the well behind his house can not be re-dug due to the lack of access. He suggested that the Town maintain the area so that there is access for utility vehicles and a proper swale.

Mayor Kaleel suggested that items 11 and 12 be discussed at this time as well.

11. Request to permit gate obstruction in 15' alley between Ocean Ave. and Coconut Lane By: James and Cheryl Vecchione, 6306 N Ocean Blvd.
12. Request to permit fence obstruction in 15' alley between Ocean Ave. and Coconut Lane By: Bill Morris, 2 Coconut Lane

Comm Aaskov stated that she believed the Planning and Zoning Commission wanted the Town to maintain and not abandon the right-of-way. Town Manager Dunham stated that the Planning and Zoning Commission minutes refer only to not abandoning this particular right-of-way and does not recommend maintaining it.

Comm Bingham stated that she felt everyone should be able to use the rights-of-way to walk to the Intracoastal.

Ron Erikson, 37 Coconut Lane, stated that he did not want someone walking down the right-of-way behind his house. He questioned who would police the areas as well as clean up from other people's dogs if they are walked in that area. He stated that he had received an anonymous letter which he gave to the Town Clerk.

Town Clerk Hancsak read the letter into the record. The intent of the letter was to inform the residents of the possibility that the rights-of-way would be opened and cleared for public use behind their homes.

Mayor Kaleel reiterated that the Town Commission had one request to clear a right-of-way and two requests to abandon a right-of-way to consider at this meeting. He stated that at the August Town Commission meeting, the right-of-way between Pelican Cove and Hudson Ave. was considered. The Town Commission decided at that meeting that it was the Town's obligation to maintain the rights-of-way or if all the residents along a right-of-way request abandonment of a right-of-way that the Town has no plans for, it would be considered.

W. Giesler, 37 Coconut Lane, stated that he did not want people walking their dogs behind his house or making a boat launch at the end of the right-of-way.

Comm Willens arrived at the meeting at 6:20 PM.

Sandra Morrison, 2 Coconut Lane, stated that Comm Bingham has gone on record as saying that she wanted the Town to put bike paths and boat launches down the rights-of-way. Comm Bingham replied that she did not want those things on this particular right-of-way.

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Ted Ritota, 4 Hudson Ave., stated that he would like to have the issue resolved as the right-of-way behind his house needs to be maintained.

Comm Bridges reiterated that the Town Commission decided at the last meeting that if all residents along a right-of-way request abandonment of a right-of-way that the Town has no plans for, it will be considered. Otherwise, the right-of-way will be cleared. He stated that the Town Commission should set a time limit for these requests.

Atty Spillias explained that this new policy as stated by Comm Bridges is an attempt by the Town Commission to resolve the issue of the rights-of-way and to allow all neighbors to express their opinions about each one. He added that the final choice would be the Town Commission's on whether or not any area would be abandoned. Town Clerk Hancsak emphasized that each one had to be decided on a case by case basis.

Jim Vecchione, 6306 N Ocean Blvd., stated that there is a gate across the right-of-way behind his house which was there when he bought the property. He commented that he was told when he purchased the property that the Town would deed him over the right-of-way if requested by him. He advised that the gate was a security issue and that he maintained the area.

Comm Bingham stated that when the issue of the Corrine St. property came up, it was placed on a ballot and brought before the residents. She stated that she feels the rights-of-way belong to everyone in Town and not just the residents who live alongside them.

Comm Bridges stated that at the next meeting the Town Commission should come up with specific plans and time tables. Mayor Kaleel suggested that Shalloway, Foy, Rayman and Newell be included for any drainage ideas/plans that they might have.

Mayor Kaleel advised that items 10a, 11, and 12 were deferred until plans are brought to the Town Commission and the staff makes its recommendations.

- 10b. Request to abandon 15' alley that runs north and south between lots 1 – 4 and 9-12 of Briny Breezes Add. No. 2 Subdivision and Southerly ½ of Chickasaw By: James Drotos, PE

Mayor Kaleel advised that the Town staff has recommended for this issue to be heard before the Planning and Zoning Commission. Town Clerk Hancsak advised that the request for abandonment had been previously heard by the Planning and Zoning Commission at which time they asked to see a site plan before making a decision. The applicant never came back with a site plan. She advised that now there is a developer who would like to bring a site plan before the Planning and Zoning Commission.

Atty Spillias suggested that the Planning and Zoning Commission review the site plan before the Town Commission.

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Comm Bridges moved to direct the applicant to the Planning and Zoning Commission for review, seconded by Comm Willens.

Comm Bridges stated that the applicant will need to bring more information to the Planning and Zoning Commission than was given to the Town Commission for this meeting such as information on its effects on the neighboring properties.

Motion carried – yea 4 (Aaskov, Bridges, Willens, Kaleel)
nay 1 (Bingham)

Comm Aaskov stated that she believed the developer wanted to share the sewer plant with the one at the Ocean Ridge Yacht Club. She stated that she was putting the Town on notice that the plant at ORYC can not handle the extra work. Town Manager Dunham acknowledged the information stating that the County Health Department would make any decisions about sharing a sewer plant.

9. Discuss Adelphia Cable Service

Mike Ligouri, General Manager for Adelphia Cable, was now present at the meeting.

Mayor Kaleel stated that there are still problems in Town with the cable service adding that in May, Mr. Ligouri advised that improvements would be made. Mr. Ligouri stated that the fiber optic cable is now in about 75% of the Town and should be completed within the next few days. He stated that when this is done, there should be an improvement in picture quality and less outages. He explained the way that the new cable lines will run which is straight from the main line in Delray Beach to the Town with less chance of an outage. Mayor Kaleel advised that the Town would give him a thirty day reprieve to complete the new cable installation.

Mr. Ligouri stated that once this is completed, trucks would need to come back into Town to remove the old cable, but then work in Town would be complete.

13. Litigation Updates By: Atty Spillias

Atty Spillias stated that the suit of Olanoff vs Kelso in which the Town has been brought into would be going to trial in November.

Regarding the Sivitilli lawsuit, he stated that the Town did obtain a judgement that the Ordinance regarding commercial properties does apply to their situation. He stated that he was given a notice that the Sivitilli's are going to ask to be placed on a bill to allow them to de-annex their property back into the County.

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14. Additional Comment By: Mayor Kaleel

Mayor Kaleel stated that he attended a meeting regarding the Parks and Recreation Tax from the City of Boynton Beach. He advised that he did not make any comment on the issue, but would bring any new information to the attention of the residents.

Mayor Kaleel

Commissioner Aaskov

Attest By:

Commissioner Bingham

Town Clerk

Commissioner Bridges

Commissioner Willens