

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, January 7, 2002 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 Willens

Commissioner Bingham  
Mayor Kaleel

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

Pledge of Allegiance

Additions, Deletions, Modifications and Approval of Agenda

Comm Willens requested to add item #9 regarding beach cleaning.

Town Manager Dunham requested to add item #10 regarding a date for the joint meeting between the Town Commission and the Planning and Zoning Commission. Town Clerk Hancsak advised that there is an opening for a regular member on the Planning and Zoning Commission and that item would be on the February agenda.

Consent Agenda

1. Minutes of the Public Hearing and Regular Town Commission Meeting of December 3, 2001
2. Appointment of Poll Workers By: Karen E. Hancsak, Town Clerk

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

Motion carried – yea 4.

Announcements and Proclamations

3. The administrative offices will be closed on Monday, January 21, 2002 for the Official Holiday

Mayor Kaleel read the above announcement.

4. 2002 Municipal Election
  - a. Date of Election is February 12, 2002
  - b. Two Commission Seats for a Three-Year Term
  - c. Candidate Filing Dates run through 3:00 PM on January 24, 2002

Town Clerk Hancsak read the above announcement.

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## Public Comment

Earl Jones, 14 Sailfish Lane, advised that he had four issues he would like to discuss. The first issue was that at present, there was still no landscaping around the Woolbright Rd. Town entrance sign while there was landscaping recently planted around the three other entrance signs. He stated that less than 40% of the Town's property at the end of Hersey Drive, where the Australian Pines had been removed, has any vegetation or tree replacement. He advised that at the same time he suggested the idea behind Ordinance No. 536, which was on the agenda for second reading at this meeting, he also made other suggestions regarding pools and lot coverage which have not been put in ordinance form for the Town Commission to consider. He questioned the Town Manager in not presenting this issue to the Town Commission when law suits may arise as a result of the interpretation of the code. He also stated that in a letter from the Town Manager, it is stated that there is no public crossover at the end of Hersey or Sailfish to which Mr. Jones stated that the Diamond Beach Crossover, 50' down from the end of Hersey Drive, is a public crossover. He questioned why the Town Manager did not know this information and if the Town was checking the crossover as it is public. Lastly, Mr. Jones suggested that an outside agency be hired to evaluate the staff.

Town Manager Dunham explained that when he was responding to Mr. Jones' question about a crossover, he did respond that there was no crossover adjacent to Sailfish or Hersey, as he did not consider 50' away to be adjacent.

Regarding ordinances not being brought before the Town Commission, Town Manager Dunham stated that the issue has been brought before the Town Commission and it was decided that it would be discussed when the code revisions were being done. Atty Spillias stated that the joint meeting between the Planning and Zoning Commission and Town Commission would be held at the end of the month to start revisions regarding the building and land development codes.

Town Manager Dunham explained that the landscaping had not been done in front of the Woolbright Rd. entrance sign due to a problem with the water meter. He states the Town will now have to dig a well in that location for irrigation. He advised that this landscaping is also part of a larger project being done at Woolbright and A1A. He stated that the company doing the landscaping for the entrance signs is also looking into the vegetation for the dune and will be replanting it within two weeks.

Joe Ward, 5 Sailfish Lane, questioned if the Woolbright Rd. beautification would include the NW corner to which Town Manager Dunham advised that it would as it is all part of the Keep Palm Beach County Beautiful grant project that has already been approved by the Town Commission.

Mr. Ward also advised that there is a right-of-way across the dune in his deed and he can no longer cross it as there are seagrapes in his way, which are growing from Town property. Town Manager Dunham advised that the sea grape in question would be cut back.

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Atty Spillias stated to Mr. Jones that he had a different recollection of the pool issue in that both the Planning and Zoning Commission and the Town Commission felt that the code was inadequate in the issue of pervious area and that the whole issue would be discussed at once during the code revision. He added that any appeal of the Town Manager's interpretation of the code can be heard in front of the Board of Adjustment as an appeal and not go to civil court as Mr. Jones had implied.

Scott Kelso, 16 Sailfish Lane, questioned if there was a provision in the Town code, which would not allow someone to run for Town Commission if they were currently involved in litigation with the Town. Regarding the upcoming election, Mr. Kelso added that he would like to thank Comms Bingham and Bridges for their service to the Town. Atty Spillias advised that there was no provision in the code for this matter adding that he believed such a provision would be unconstitutional. He stated that it would be difficult to include this prohibition, as it would be punishing an individual for exercising their right to go through the courts. Mayor Kaleel stated that it would be up to the individual voter to decide what person they want as a Commissioner.

Justus Brown, 39 Coconut Lane, questioned if a bike lane could be added on A1A throughout Ocean Ridge to which Mayor Kaleel advised that DOT had determined two years ago that A1A would be widened where possible, but that there would be no bike path totally throughout the Town.

Gary McGee, 22 Hersey Drive, stated that it would be the responsibility of the easement owners on Hersey and Sailfish to submit a plan to the Town for what to do with their easement.

#### Regular Agenda

5. Building Board of Appeals – Request for variance to permit construction of an addition to the dwelling at 15 Ridge Blvd with a finished floor elevation of 7.62' which is less than 8' above 0 elevation – Edward Buxton, owner

Mayor Kaleel read the application by title.

Town Manager Dunham advised that the design meets all other Town building and zoning codes.

Comm Bingham moved to approve the variance as requested, seconded by Comm Aaskov.

Mr. Jones suggested that a hold harmless be included to which he was informed that it was included in the variance request.

There was no further public comment.

Motion carried – yea 4.

6. Discuss acquisition of FDOT property on north and south side of Ocean Ave. By: Gregory L. Dunham, Town Manager

Town Manager Dunham stated that the FDOT has provided the Town with the right of first refusal to purchase the properties at 21 and 60 Ocean Ave. DOT has informed the staff that they have donated property to government entities for use as a public purpose. However when DOT has paid a large sum of money for properties as they have with these properties, they require compensation even if it is used for a public purpose. He suggested that the Town Commission express their interest in the properties to keep the DOT from going into a formal appraisal and auction process. He stated that even turning the property into green space would fit under the DOT interpretation of use for public purpose.

Comm Bingham moved that Town Manager Dunham express an interest in purchasing one or more of the properties located on Ocean Ave. on behalf of the Town, seconded by Comm Willens.

Comm Bingham stated that she felt the south property was supposed to be turned into green space in accordance with the DOT bridge plans. Comm Willens stated that he felt the south property would look nice as green space at the entrance to the Town. Town Manager Dunham added that adding green space to the Town also decreases the fire insurance.

Bruce Gimmy, 12 Ocean Ave., stated that he always believed that both houses were going to be torn down and that Dezzie Lerner who owned the property next to 21 Ocean Ave. sold her home with the understanding that it would be an end home on the street.

George Bierlin, 26 Hudson Ave., stated that the house at 60 Ocean Ave. still has a commercial sign on it nine months after the completion of the bridge. He added that this sign is in violation of the Town codes. Mayor Kaleel advised that the staff would request that the sign be removed.

Roll call was taken on Comm Bingham's motion.

Motion carried – yea 4.

Resolutions

None

First Reading of Ordinances

None

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#### Second Reading of Ordinances

7. No. 536; Amending the Code of Ordinances at Chapter 26, Article XV, Section 26-233, Regarding Board of Adjustment; authorizing the Town Manager, prior to the expiration of the six month grace period following the granting of a variance, to grant an extension of time up to an additional six months to initiate building construction, in accordance with the plans for which such variance was granted

Mayor Kaleel read the above ordinance by title only.

Comm Bingham moved to approve Ordinance No. 536, seconded by Comm Aaskov.

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

Motion carried – yea 4.

#### Town Commission Comments

8. Discuss Annexation of County Pockets By: Mayor Kaleel

Mayor Kaleel explained that if the Town were to annex a number of commercial properties at the south end of Town which are currently in the County pocket, a commercial zone could be created to include these properties plus 5011 N Ocean Blvd. He stated that he has discussed this issue with Comm Mary McCarty and any processes are in the preliminary stage, as the County would need to upgrade the properties before the Town would agree to the annexation.

Mr. Jones advised that the Town would be acquiring a lot of problems with these properties as he feels there was illegal construction done on them.

Mayor Kaleel stated that the Town would need to decide if they want to control this area and possibly create a nice, commercial district or have no control and watch the area possibly deteriorate. He explained that currently he was only suggesting the commercial area and not the residential although that would be reviewed in the future.

Atty Spillias advised that there would be meetings for public comment before any of this would happen and also public meetings for any comprehensive plan amendments to allow a commercial district. Atty Spillias advised that the Sivitilli's have requested an abatement of the litigation if the Town is going to seriously consider the annexation and the creation of a commercial district. He stated that there is a hearing scheduled for February 1, 2002 and he would need direction from the Town Commission regarding possible abatement.

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Mr. Jones questioned how 5011 N Ocean Blvd would be included in this new commercial district when it is not contiguous with the County pocket. Atty Spillias advised that is a matter that the Town would need to research. Mayor Kaleel advised that all the research would take quite a bit of time, possibly up to a year. He stated that he felt it would be beneficial to the Town to control this area. He suggested that litigation with the Sivitilli's be abated until future discussion is made regarding this issue.

Atty Spillias stated that if the issue were removed from the docket now, he would suggest abating for six months and then requesting to have it returned to the court's docket.

Comm Willens moved to abate the litigation for six months and if the Commission decides not to go forward with the annexation then the Town would reinstitute action and give the Sivitilli's six months to cease the commercial use from any judgement given, seconded by Comm Bingham.

Atty Spillias stated that if the judge would deny their motion to abate, he would bring alternatives before the Town Commission in February.

Jerry MaGruder, 9 Ridge Blvd., questioned who would pay for the area to be cleaned up before annexation to which Mayor Kaleel stated that the County would be responsible prior to any annexation. Mrs. MaGruder questioned if additional businesses could then move into the area to which Mayor Kaleel stated that it would depend on how the Town directed the zoning. He stated that it could be written so that the density of the district could not increase.

Mr. Bierlin suggested that the Town proceed with the litigation and then postpone enforcement of it against 5011 N Ocean Blvd. for a year if the Town prevails. Mayor Kaleel stated that it would be better to abate as it could possibly save both the Town and the Sivitilli's money spent in legal fees. Atty Spillias advised that if the Town goes forward with the litigation and loses, the 5011 stores would be grandfathered as they are and the Town would lose control on any future restrictions.

James Bonfiglio, 5616 N Ocean Blvd., questioned what the benefits would be for the Town by this annexation to which Mayor Kaleel stated that it would increase the tax base and allow for the Town to control this area. Mr. Bonfiglio warned that with control would come responsibility to which Mayor Kaleel responded that the Town would develop a code to restrict or allow things as the residents wanted in this area.

Mr. Bonfiglio questioned if the Town would then have to go through another code re-write as they are doing now to which Atty Spillias stated that currently residential changes are being made and commercial additions or changes would be made in the future.

Mr. Bonfiglio stated that he did not see the advantage to abating the litigation to which Atty Spillias advised that it would only be a policy decision on behalf of the Town Commission and not a legal issue.

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Roll call was taken on Comm Willens' motion.

Motion carried – yea 3 (Aaskov abstain)

Town Clerk Hancsak advised that Comm Aaskov would submit a voter's conflict form for this issue.

9. Beach Cleaning By: Comm Willens

Comm Willens stated that he felt the Town volunteers were doing a good job in their beach cleanings, but that he believed the Town should look into getting the public portions of the beach professionally cleaned. He stated that he would like to see this item on a Town Commission agenda within the next couple months. He added that he would also like to see plans for the crossovers that the Town is going to build at Thompson and Edith Sts. Comm Bingham suggested that something be placed along the sides of crossovers to keep people from walking alongside of them instead of on them. Town Clerk Hancsak stated that previously the on ground crossovers that were planned for Edith and Thompson Sts. had to have full State approval where now that lengthy approval process is no longer necessary. Comm Willens stated that he wanted these items on the March agenda.

Scott Kelso questioned the Town Commission the status of Australian Pines in the Town to which Director Hillery stated that the Town Ordinance states that any Australian Pine which has the capability to fall on a neighboring property must be removed or cut down to a hedge of no more than 10' in height and that this ordinance is being enforced throughout the Town.

10. Joint Planning and Zoning Commission and Town Commission Meeting

Town Manager Dunham stated that the staff would like to schedule the meeting for the week of January 28<sup>th</sup> and advised that it would be a half-day meeting to start. Town Clerk Hancsak stated that she would be suggesting a 2:00 to 6:00 meeting. Atty Spillias advised that they would be discussing Chapters 14 and 26 of the Code and that a separate workshop with the Town Commission would be needed for the rest of the Code.

Town Clerk Hancsak advised that she would poll all the members of the two commissions for a meeting date.

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Adjournment

The meeting was adjourned at 8:15 PM.

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Mayor Kaleel

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Commissioner Aaskov

Attest By:

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Commissioner Bingham

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Town Clerk

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Commissioner Willens