

Regular Meeting of the Town Commission of the Town of Ocean Ridge held on Monday, May 6, 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 Schulte
Mayor Kaleel
Commissioner Bingham
Commissioner Willens

Pledge of Allegiance

Additions, Deletions, Modifications and Approval of Agenda

Comm Willens stated that he would like to add a discussion of the Town property at Beachway N and Old Ocean Blvd as Item #14.

Comm Aaskov stated that she would like to add discussions of the Garden Club trashcans and beautification as Items #15 and #16 respectively.

Town Clerk Hancsak requested to add an item regarding disbursement of funds to the City of Boynton Beach as Item #17.

Comm Bingham advised that she would like to amend the minutes of the April 1, 2002 meeting so it was removed from the consent agenda.

Consent Agenda

2. Minutes of Special Town Commission Meeting of April 26, 2002
3. Ocean Ridge Resolution No. 2002-12; Authorize execution of Interlocal Agreement between Palm Beach County and the Town for transfer of DEP funds from the County to the Town for assisting in the implementation of the stormwater improvement project – Phase I within the Town
4. Ocean Ridge Resolution No. 2002-13; Authorizing execution of the first amendment to the existing NPDES interlocal agreement between northern Palm Beach County Improvement District and the Town for the purpose of allocating duties, responsibilities, and costs associated with the NPDES permit

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

Motion carried - yea 5.

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Comm Bingham stated that she would like to amend the minutes of April 1, 2002 to include an additional comment of Stormet Norman's that was not included in the minutes. She also stated that she would like it included in Ms. Trotsky's comments that she (Ms. Trotsky) was trying to explain the push and pull that Mrs. Olanoff was in and the fact that if the agreement had gone through, she would lose her tenants and her house. Mayor Kaleel suggested that if she feels there is a discrepancy between the minutes and what she surmised from Ms. Trotsky's statement, Comm Bingham should suggest a correction. She suggested that it be added to Mr. Norman's statement that he suggested that the Kelso's buy the access to their property. Comm Bingham suggested that it be added that Ms. Trotsky felt that Mrs. Olanoff was being caught in a financial bind as a result of all the litigation as was her (Comm Bingham's) impression. Town Clerk Hancsak advised that sentiment was included in the last sentence of the paragraph including Ms. Trotsky's comments. Atty Spillias advised that it would be appropriate to add what is actually said by a resident, but not to include an impression that a Commissioner may have gotten from what a resident said. Town Clerk Hancsak advised that the tape would be reviewed for content of these residents.

Comm Bingham moved to include additional comments from Mr. Norman after review of the tape, seconded by Comm Aaskov.

Atty Spillias suggested that the minutes be approved subject to making the change of the statement of Mr. Norman's as supported by the review of the tape. Comms Bingham and Aaskov amended their motions to reflect the above motion suggested by Atty Spillias.

Mayor Kaleel questioned where the line would be drawn as this kind of review could be done to all of the minutes. He stated that the review should be if the minutes accurately reflect the summation of the meeting.

Comm Schulte stated that he felt there were several places in the minutes that did not reflect what he heard sitting at the meeting and suggested that the tape be reviewed. Atty Spillias stated that the staff is caught in a difficult position by presenting minutes that are between a summary of actions and a verbatim review and trying to capture the essence of the comments that residents have made. He said that he did not think that there was anything inappropriate about asking for a review of the tape to include comments that the Commissioners feel were important as long as it is supported by the tape.

Comm Willens stated that since he was not at the meeting he can not comment on the accuracy of the minutes, but he cautioned the other Commissioners that this type of review might start a slippery slope. He stated that if the minutes gave a good faith effort to capture the debate and unless there is a purposeful misrepresentation of the minutes, this type of review opens the door for everyone to request the same consideration of their comments.

Atty Spillias reminded the Commissioners that the tapes from the meetings are also available for anyone to review for two years.

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Roll call was taken on Comm Bingham's motion.

Motion failed – yea 2 (Aaskov, Bingham)
nay 3 (Kaleel, Schulte, Willens)

Comm Schulte moved that the minutes be reviewed to include the intention and the statements of the residents. Mayor Kaleel clarified if Comm Schulte wanted the minutes accepted as presented with the exception of the statements that were made by the residents to be reviewed by the staff to which Comm Schulte amended his motion to reflect Mayor Kaleel's clarification. Comm Bingham seconded the motion.

Atty Spillias cautioned the Town Commission against motions that ask the staff to glean the intent of speakers. He stated that Comm Bingham's motion requested a specific addition to one person's comments, but that what Comm Schulte was requesting would necessitate an almost verbatim transcript as that would be the only way to address their concerns. Comm Willens stated that was his concern as well.

Roll call was taken on Comm Schulte's motion.

Motion carried - yea 3 (Aaskov, Bingham, Schulte)
nay 2 (Kaleel, Willens)

Announcements and Proclamations

5. The administrative office will be closed Monday, May 27, 2002 for the official holiday
6. Proclamation that the month of May be declared as Civility Month

Mayor Kaleel read the above announcements.

Betty Kelso, 16 Sailfish Lane, stated that she found it amusing that Comm Schulte could amend minutes regarding an issue in which he did not even participate. She stated that there has been a lot written about her by a Commissioner in the local paper some of which she believed was confidential information. She suggested that it was a conflict of interest when a Town Commissioner was writing in her newspaper about a lawsuit in which the Town is involved. She stated that there was no attempt to get information from her family on the other side of this issue and now all the residents of Ocean Ridge have information on an issue that is not complete. She suggested that any articles written about a current lawsuit be reviewed by the Town Attorney before publication.

Herbert Stolzky, 47 Spanish River Drive, stated that he was promised a red valve on the pipe near his property which would stop some of the flooding. He stated that he was told it would be done after the holidays after some other work was completed. He advised that it had not yet been done. Town Clerk Hancsak advised that on Thursday she had a meeting with the Town Engineer and requested that the slip lining and TVing of the lines begin as soon as possible as funds have been allocated in this budget for these activities.

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She stated that this must be done before the red valve can be replaced. She stated that some red valves had been ordered that day.

Mr. Stolitzky also advised that there was a hole in the cul-de-sac near his home which would be a problem if not repaired before the rainy season. Town Clerk Hancsak advised that she would have the maintenance staff look at the hole.

Jerry MaGruder, 9 Ridge Blvd., stated that at the January Town Commission Meeting, Comm Willens made a motion to abate the litigation regarding 5011 N Ocean Blvd until after an investigation of the annexation of County property in the south end of Town can be completed. She stated that in the February issue of the *Ocean Ridge Reporter* a letter was written to the editor in which the editor replied that the litigation was abated until after the election. She advised that she researched the summary judgement and was told that it would put an end to the litigation and that it would most likely not be able to be appealed. Comm Willens stated that the proposal of annexation was brought up by other Commissioners and would have affected that outcome of the issue of the 5011 N Ocean Blvd. Comm Aaskov stated that the *Ocean Ridge Reporter* cites Mr. Sivitilli as wanting the litigation postponed until after the election.

Mrs. MaGruder questioned who was doing the study of annexation. Mayor Kaleel stated that the Town has currently lost the Town Manager and is now short one person on the staff. He advised that the County is going to have a discussion on how to manage some areas such as the County pocket near the south end of Town. He advised that the topic needs more time to develop.

Rich Lucibella, 5 Beachway North, stated that he thought it was unfair for Mrs. Kelso to criticize Comm Schulte in his comment that he felt the minutes should be reviewed. He stated that he felt Comm Schulte should be commended for speaking his mind and that he did not think it was unusual in a case like this to ask for the tape to be reviewed. Regarding the *Ocean Ridge Reporter*, Mr. Lucibella stated that he felt it was a factual article regarding the Kelso property. He stated that he understood that the Kelso's might feel uncomfortable to have it mentioned in the paper that they had asked the Town for \$1.4 million for a piece of property that they had purchased a year before for \$300,000. He stated that he believed the confidentiality of the mediation was only in regards to his ability to influence a court proceeding and not his ability to explain the situation to his neighbors.

Sherry Jones, 14 Sailfish Lane, questioned if Comm Aaskov authored the article in the paper to which Comm Aaskov advised that she did.

Public Hearings

7. Application submitted by Lester Miller, Trustee of the Miller Property Trust, 3100 S. Ocean Blvd., Palm Beach, FL 33480, 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 (c) Maximum Elevation and a development permit from 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 and guest house with a maximum finished floor elevation of 22', replacing a demolished structure, pool and patio area which would extend approximately 227' east of the Coastal Construction Control Line located at 6133 North Ocean Blvd. or legally described as the Amended Plat of Boyntons Sub South ½ of Lot 8, Lot 9 & 10 (less Sly 21.72') Block 3 and the point of Block 10 lying west and adjacent to and abandoned Ocean Blvd. (exact description available for review in the Clerk's Office)

Mayor Kaleel read the above application by title only. Town Clerk Hancsak advised that there was no additional correspondence and that all fees had been paid. She stated that there were actually two requests: one being construction east of the CCCL and the other was the issue of the FFE. She advised that the staff was recommending approval of both requests.

Eugene Lawrence, architect for the project, stated that the two requests are for issues that the developer can not change.

Comm Bingham questioned the second structure on the plans to which Mr. Lawrence advised that it was a guesthouse. Comm Bingham stated that she felt the height of the houses would cut off some of the air flow from the Ocean to which Mr. Lawrence stated that the guest house and one wing of the main house would be only a single story and that the side setbacks would be increased from those of the current home.

Earl Jones, 14 Sailfish Lane, stated that he would like to see the footprint, which is currently at 22' FFE, remain the same size adding that he also felt Mr. Lawrence was incorrect in stating that the State required the FFE to be at 22'. Mr. Lawrence responded that they are being required by the State to keep what footprint is at 22' at that height. Mr. Jones stated that he would not like to see the footprint increased to which Mr. Lawrence replied that he did not believe that it did.

Comm Schulte stated that he did not know what competence the Town Commission had to approve this. Atty Spillias advised that the State gives approval based on the Town's approval.

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Digby Bridges, 36 Sabal Island Drive, stated that he felt the plan for the new home is no worse than what is currently on the property and that there are only minute changes. He suggested that the Town Commission approve the request.

Mr. Lucibella questioned which section of the code gave the Town Commission the right to approve this request to which Atty Spillias advised that it is Chapter 14-73 which gives the Town Commission the responsibility for variances to Chapter 14 of the code. Mr. Lucibella stated that he felt Chapter 14-73 only refers to Article 3 of Chapter 14 and does not refer to the issue of FFE. Mr. Lucibella then referred to Section 14-52 which advises that the FFE appeal should be heard in front of the Construction Board of Adjustments and Appeals or the Palm Beach County Construction Board of Adjustments and Appeals, if the Town does not appoint its own board. He continued that he was concerned that the Town would get sued if the wrong body approves this request. Atty Spillias advised that this has been a concern of the Town Commission regarding the code although Chapter 14 does call for the Town Commission to sit until the creation of the Construction Board of Adjustments and Appeals. Mr. Lucibella suggested that the code be clarified adding that he was concerned about a future lawsuit against the Town. He stated that the issue of the FFE should be heard in front of the Palm Beach County Construction Board of Adjustments and Appeals. Mayor Kaleel stated that the code had been interpreted this way since long before any of the current Commissioners were elected adding that he would be in favor of postponing the item until a clarification or correction had been made. Mr. Lawrence reminded the Town Commission that the State also approves this issue.

Atty Spillias questioned if the Town Commission would want to retain the responsibility for these requests or if they would want to create the new board. He suggested that it remain the responsibility of the Town Commission at least until the code revisions are completed and do an emergency ordinance, if needed.

Atty Spillias advised that the Town Commission under Article 8, Flood Damage Prevention, could grant the FFE.

Mr. Jones advised that he was also concerned that the Town could be sued for future flooding problems as the code requires a FFE of 8' and this request is for almost three times that requirement.

Comm Willens moved to approve the construction east of the CCCL, seconded by Comm Schulte.

Motion carried - yea 5.

Comm Willens moved to approve construction at a FFE of 22', seconded by Comm Aaskov.

Motion carried - yea 5.

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Regular Agenda

Actions and Reports

8. Appointment of Interim Town Manager and Status Update

Mayor Kaleel advised that the Town Commission had received copies of all the resumes submitted for Town Manager and requested that everyone get their short lists of ten candidates to Town Clerk Hancsak by Wednesday, May 8th.

Comm Aaskov moved to appoint Karen Hancsak as Interim Town Manager with an increase in salary equal to what Greg Dunham was receiving at the time of his resignation, seconded by Comm Schulte.

Motion carried - yea 5.

9. Request to plant vegetation on the dune across from 35 Hersey Drive/Pugliese By: Grant Thornbrough, Landscape Architect

Mike Phillips, architect with Grant Thornbrough, was present at the meeting on behalf of the applicant.

Interim Town Manager Hancsak questioned if the Australian Pine stumps would be removed to which Mr. Phillips stated that their removal would remove part of the dune. Interim Town Manager Hancsak questioned if something could be done to prohibit them from growing back to which Mr. Phillips stated they could if the Town Commission required them to do so.

Mr. Jones stated that these trees were removed because they were a safety hazard according to the Ocean Ridge Department of Public Safety. He questioned where the trees were to be planted to replace the shade that has been lost. Mr. Phillips stated that the Australian Pines are a nuisance tree and are typically not mitigated or replaced. Atty Spillias advised that the request for removal was made by the Department of Public Safety and that the applicants are requesting to replant with approved plantings.

Comm Aaskov moved to approve the plans as submitted with the addition that the regrowth of the Australian Pines be prevented, seconded by Comm Schulte.

Motion carried - yea 5.

Comm Bingham questioned if there would be a temporary irrigation system installed to which Comm Aaskov advised that anything that dies must be replanted according to the plan.

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10. Request to discuss trimming the vegetation adjacent to the Corrine St. on ground crossover within the right-of-way By: Lothar Mayer, 6009 Old Ocean Blvd

Mr. Mayer distributed pictures of the area in the request and stated that there is very little growth at the bottom height and the vegetation is more of a canopy effect. He suggested that he take the responsibility of trimming this area of the right-of-way so that there will be growth on the lower portion. Comm Schulte stated that he knew there is a canopy for the crossover, but that he did not know what the benefit was for the rest of the right-of-way. Mayor Kaleel stated that this issue had been brought up years before and many of the neighbors wanted to keep the canopy effect.

Comm Aaskov stated that she did not like the idea of a resident taking over maintenance of Town property although she would like to see the area re-worked. She stated that she believed that the higher the trees, the more damage is done to the dune. Mayor Kaleel agreed that he did not want the trees to be so high or have a resident responsible for it. He suggested that the Town hire someone to create a plan for that area. Comm Aaskov suggested that Robert Barron be hired for this and stated that she wanted to participate in his consultation.

Atty Spillias stated that he did not think it would be inappropriate for the Town to include Mr. Mayer's 4' of property which is adjacent to the 20' right-of-way into the plan. He added that since the Town has an inherent authority to maintain Town property, any plan that meets the code does not have to go to the Town Commission for approval.

Comm Willens moved to get a proposal from Robert Barron for plan to include the 20' of Town right-of-way and 4' of Mr. Mayer's adjacent property and get some suggestions for what to do with the area, seconded by Comm Aaskov.

Motion carried - yea 5.

Mr. Jones stated that he would like to see any changes made to Town property be approved at a public meeting.

Mr. Bridges stated that he disagreed with the idea of hiring Robert Barron and suggested that the Town Commission seek opinions of other landscape architects as well. He added that he felt the dune should remain natural and untouched.

Mrs. Kelso wanted to thank the Town Commission for affirming their responsibility to maintain Town owned property.

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11. Provide a status report on code re-write By: Atty Spillias

Atty Spillias advised that he is now in the position of having the initial draft completed. He stated that the Town Commission would need to decide if they want to move ahead right now or wait until the new Town Manager has been hired and bring him or her into the process. The Town Commission concurred to have the new Town Manager involved in the review.

12. Discuss Public Safety Issues By: Director Edward Hillery

Director Hillery stated that there is a new FL Administrative Code regarding fire service which would require hiring additional officers to meet the new requirements. He advised that South Palm Beach is looking into contracting out their fire services in which case the Town would not be able to maintain its fire services since the three neighboring communities have a mutual aid agreement. He stated that he would be requesting information from both Palm Beach County and Boynton Beach regarding costs for contracting with them for fire services. Mayor Kaleel requested that Director Hillery keep the Town Commission informed on the status of this issue.

Resolutions

None

First Reading of Ordinances

None

Second Reading of Ordinances

None

Town Commission Comments

13. Discuss Election Candidate Procedures By: Mayor Kaleel

Mayor Kaleel explained that the current process is that every year either one or two seats are voted on in an at large election with those receiving the highest vote count winning the seat. He suggested that the election be done in a more democratic way with voting done for individual seats. Interim Town Manager Hancsak advised that she has asked other municipalities to send copies of their charters if they have seat voting without districts.

Atty Spillias advised that the Town Commission would have to decide what percentage of the votes would be needed for a win.

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Mr. Lucibella stated that he was concerned that seat voting would create more animosity and encourage mudslinging adding that it would be too easy for the person when only one seat is on the ballot. Mayor Kaleel stated that the Town Commission would also have to look into electing three seats one year and two the next.

14. Landscaping at Old Ocean Blvd & Beachway Drive By: Comm Willens

Comm Willens stated that the Garden Club had inquired to him why the property at the corner of Old Ocean Blvd and Beachway Drive has not been maintained. Interim Town Manager Hancsak advised that the area was originally planted by the Garden Club and was supposed to be maintained by the neighbor to the south. Mayor Kaleel stated that the site was not properly maintained and managed. Comm Willens stated that he would respond to the Garden Club with the above information. Interim Town Manager Hancsak explained that the area was supposed to be xeriscape.

15. Garden Club TrashCans By: Comm Aaskov

Comm Aaskov stated that she wanted the Town Commission to approve the design and placement of the trashcans suggested by the Garden Club before their purchase. Mayor Kaleel agreed stating that it would be approved by the Town Commission before they are installed.

16. Beautification By: Comm Aaskov

Comm Aaskov stated that Anna St. west at the circle looks terrible in an area where the Town has paid for the plantings. Interim Town Manager Hancsak stated that she would speak to the Town's landscape contractor regarding the area.

17. Disbursement of funds to the City of Boynton Beach By: Interim Town Manager Hancsak

Mayor Kaleel stated that the Town has received \$37,500 for the payoff of fines for 5907 N Ocean Blvd. He stated that the Town Commission previously discussed giving some money to Boynton Beach for their help at the fire. Director Hillery stated that since that incident there is now a process in place where the City of Boynton Beach can charge the Town for assistance at fires.

Comm Bingham moved to send \$4,000 to the appropriate department at the City of Boynton Beach for past services, seconded by Comm Willens.

Motion carried - yea 5.

Mayor Kaleel proposed that the next regular meeting be held on June 10th instead of June 3rd as two commissioners will be out of Town on June 3rd.

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Comm Schulte moved to have the June regular Town Commission meeting on June 10th, seconded by Comm Aaskov.

Motion carried - yea 5.

Adjournment

The meeting was adjourned at 8:45 PM.

Mayor Kaleel

Commissioner Aaskov

Commissioner Bingham

Attest By:

Commissioner Schulte

Town Clerk

Commissioner Willens