

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, June 10, 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

Commissioner Bingham
Commissioner Willens

Mayor Kaleel

Pledge of Allegiance

Additions, Deletions, Modifications and Approval of Agenda

None

Consent Agenda

1. Minutes of Town Commission Meeting of May 6, 2002
- 1a. Revised Minutes for Item #4 of April 1, 2002 Meeting
2. Minutes of Special Town Commission Meeting of May 15, 2002
3. Minutes of Special Town Commission Meeting of May 20, 2002
4. Minutes of Special Town Commission Meeting of May 29, 2002
5. Ocean Ridge Resolution No. 2002-14; Authorize execution of Clean Water State Revolving Fund Loan Agreement between the State of Florida Dept. of Environmental Protection and the Town for the purpose of financing of pre-construction activities for stormwater pollution control facilities
6. Ocean Ridge Resolution No. 2002-15; Supporting an amendment to the State Constitution to repeal the provision that requires the development and operation of a Statewide high speed rail system

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

Motion carried – yea 5.

Announcements and Proclamations

7. Proclamation that June 14, 2002 be designated as National Small Cities Day

Mayor Kaleel read the above proclamation.

REGULAR TOWN COMMISSION MEETING HELD ON MONDAY, JUNE 10, 2002

Public Comment

Earl Jones, 14 Sailfish Lane, explained that he wrote a letter to the Commissioners after the last meeting in which he felt the Town Commission approved a plan for planting of the dune which is in conflict with Town Code 26-109. He stated that he felt the Commissioners should have the agendas a week before the meetings so that they have sufficient time to review the codes on issues such as this.

Mr. Jones continued stating that he had observed a beach cleaning service working in Town. He stated that this was the same company which spoke in front of the Town Commission a few months before. He stated that he observed him burying the trash rather than cleaning it up and even displayed a few pieces of trash that he picked up from the area of beach that had been completed. He added that the areas of beach which are being cleaned are receding faster than other areas. Comm Bingham questioned if the service stayed clear of the turtle nests to which Mr. Jones replied that he was within 3' to 5' of the nests. Comm Aaskov questioned how far he went into the vegetation to clean to which Mr. Jones replied that he did not clean in the vegetation at all.

Comm Willens requested to add a presentation from the Council of Environmental Preservation as Item #18. He stated that they were not present at the beginning of the meeting or he would have requested the addition to the agenda at the appropriate time. The Town Commission concurred to add the item.

Public Hearings

8. Application submitted by Turtle Beach Condominium, 5101 N Ocean Blvd., Ocean Ridge, FL 33435, requesting a modification of the Master Site Plan from the provisions of the Land Development Code, Article IX; Site Plan review Procedures, Section 26-135(a)(4) Site Plan approval of minor or major development application or modification and Section 26-135(b)(2) Major development review for what was originally known as Ocean Mayne, Sandcastles, Coventry Place and now a separate parcel of land currently owned by Republic Bank from the Turtle Beach Condominium Site Plan. The property originally approved for 27 units was approved in 197 and site plan applications submitted in 1981. The property is located at 5101 N Ocean Blvd. or generally described as portions of Lots 14 and 15, Block A of Palm Beach Shore Acres Subdivision (exact legal description located at Town Hall)

Mayor Kaleel read the above application by title.

All witnesses who intended to testify in this matter were sworn in by Atty Spillias.

Rod Tennyson, attorney, advised that he has represented Turtle Beach through at least four different developers for this Phase which was part of the original site plan, but is currently vacant. He advised that Wachovia Bank foreclosed on this parcel and sued Turtle Beach on ingress/egress rights, use of common elements, and sewage use. He

REGULAR TOWN COMMISSION MEETING HELD ON MONDAY, JUNE 10, 2002

stated that Wachovia Bank was given ingress/egress rights and use of the sewage facilities, but not rights to use the common elements such as the recreational facilities. He stated that they are requesting that the Town approve that Phase IV no longer be part of the condominium to conform with the court ruling. He added that they are not trying to adjudicate what can be built on the parcel. He concluded that the Planning and Zoning Commission had already approved this petition.

Comm Bingham questioned if the site plan was consistent with what was approved in 1983 to which Mr. Tennyson advised that it was not as Phase IV was never built. Mayor Kaleel advised that there were a number of items which were non-conforming such as the lighting.

David Layman, representing Wachovia Bank, stated that he objected to the application as he felt the owner of the parcel would have to be the party bringing forth any site plan amendments. He stated that they want to preserve the developability of the property adding that he received a letter from the Town in 2000 advising that the site plan was still valid. He stated that the Planning and Zoning Commission wanted the site plan to show the four phases which have been built with a vacant parcel showing as potential development. He stated that he agreed with the motion presented by the Planning and Zoning Commission. Town Clerk Hancsak read the motion of the Planning and Zoning Commission.

Atty Spillias advised that the recommendation of the Planning and Zoning Commission was to modify the site plan to separate this parcel from Turtle Beach, but not to delete it. He stated that there will be two site plans, one that shows Turtle Beach as it is built and one with a separate site plan for Phase IV. Atty Spillias suggested modifying the site plan to reflect the current situation which would no longer be treated as a unified development. He suggested that the Town Commission present the same motion as the Planning and Zoning Commission with the addition that Turtle Beach must comply with all other site plan requirements e.g. lighting.

Comm Schulte stated that he thought the Town Commission could not approve the request since the owner of the parcel did not bring forth the application to which Atty Spillias advised that the issue of vested rights is included in the motion to protect Wachovia. Mr. Layman agreed stating that the Town has assured him that a plan for five units can be approved since five units were included in the original site plan. Mr. Tennyson stated that he did not know what anyone may bring in for plans in the future and that was not the issue being brought before the Town Commission at this meeting. Mayor Kaleel stated that the motion would preserve Wachovia's rights. Mr. Layman advised that he had a letter from Atty Spillias which stated that five units could be built on the parcel to which Atty Spillias replied that it is his opinion that it can be five units and any problems with this opinion could be decided by a court at a later time. Atty Spillias advised that this approval would create a split of the two parcels which would have two separate site plans, but not change any rights.

REGULAR TOWN COMMISSION MEETING HELD ON MONDAY, JUNE 10, 2002

Mayor Kaleel questioned what would happen if the Town turns down the application to which Atty Spillias explained that the Town could be sued if action is taken which prevents construction of the property.

Mr. Jones stated that the recent parcel had been previously discussed as a retention area and questioned what is underneath the parcel to which Pat Colbert, representative from Turtle Beach, stated that there is a line running underneath it, but the leaching field is behind it on the common property.

Rich Lucibella, 5 Beachway N, questioned why the two owners are not allowed to settle this dispute on their own. He commended the Planning and Zoning Commission and Town Attorney for knowing that an application can be negotiated and not just approved.

Interim Town Manager Hancsak advised that all fees had been paid and there was no additional correspondence.

Atty Spillias asked the Town Commission if they had spoken to any representatives from Turtle Beach or Wachovia Bank to which they all advised that they had not.

Atty Spillias suggested that the Town Commission make a motion to approve the application as submitted provided that all provisions of the District Court of Appeals' opinions and conditions therein stand and by virtue of granting the site plan modification neither the association's rights nor Wachovia Bank or its successors' rights with regards to allowable and non-allowable development rights will be divested by virtue of this approval and that Turtle Beach comply with all other site plan requirements.

Comm Willens moved the above motion suggested by Atty Spillias, seconded by Comm Aaskov.

Comm Schulte stated that he was concerned over approval of this application in that both sides are not joined in the application. Mayor Kaleel advised that they would only be approving what the court has already ordered. Mr. Layman advised that they are not part of the condo by State statute and they do not dispute that.

Roll call was taken on Comm Willens' motion.

Motion carried - yea 5.

Regular Agenda

Actions and reports

9. Request for Unity of Title to join Lot 4, Block 6, Amended Plat of Part of Boynton's Subdivision and Lot 4A, Charles D Owens Subdivision with Lot 3, Block 6 of Amended Plat of Part of Boynton's Subdivision for the purpose of building a proposed principle residence on Lot 4A By: Thomas Carney, attorney representing owner, Elizabeth Susskind

Mayor Kaleel read the above application by title.

Thomas and Peter Carney were present as attorneys for the property owner and John Ballistrari, architect, was also present.

Thomas Carney stated that the unity of title has been requested by the Town. He stated that his client had met with Interim Town Manager Hancsak three years before purchasing Lots 4 and 4A. Mr. Ballistrari stated that he always believed it was one property and designed the house on that assumption. Ms. Susskind stated that she was never aware that the properties were not joined by unity of title as the three parcels are included on the same deed. Interim Town Manager Hancsak stated that the Town was never aware of a third parcel, only the ones on the east and west side of Old Ocean Blvd. which were always in one ownership. Thomas Carney advised that all three parcels were bought at the same time.

Atty Spillias explained that lots in Charles D Owens subdivision also included property on the east side of Old Ocean Blvd that was divided into six 50' parcels. Lot 3 east was then sold to the owners of 4 and 4A and they want to add it to their property for FAR purposes. He stated that the two east lots square off with the west lot.

Mr. Jones questioned if this construction would be east of the CCCL and if the FFE would be 15.6' similar to that of the Pugliese lot on Hersey to which he was told it was. Mr. Jones informed the Town Commission that the Pugliese lot is up for sale.

Comm Aaskov moved to approve the unity of title contingent upon the third lot not being used in the FAR calculations. There was no second to her motion.

Comm Schulte stated that he did not believe the lots were contiguous as there is a street between them. Atty Spillias advised that according to the Town Code, a lot is still contiguous if there is a public street dividing it adding that the permit would still have to meet all other zoning and health department regulations. He stated that the Town Commission has directed that this part of the code be changed with the code revisions, but the change has not yet been made.

Atty Spillias advised that a unity of title would be required even if it is only lots 4 and 4A so that 4 could not be sold off after the house has been built. Thomas Carney advised that until the code is modified, their request is still allowable.

REGULAR TOWN COMMISSION MEETING HELD ON MONDAY, JUNE 10, 2002

Comm Willens moved to defer the item to the July 1st agenda.

Comm Schulte stated that he felt this item should go to the Planning and Zoning Commission for their opinion first.

Comm Willens amended his motion to defer this item until after advice has been given by the Planning and Zoning Commission, seconded by Comm Schulte.

Atty Spillias advised that the Planning and Zoning Commission meeting would not have to be legally advertised as the Town Commission is only asking for their advice. Comm Schulte stated that he did not feel the Town Commission should be hearing this request as he felt it is a variance request for the FAR.

Comm Aaskov advised that the application is only a request for unity of title. Mayor Kaleel stated that the Town Commission is making a jump from the request to unify the titles to judging what may be done with the development. Thomas Carney stated that the FAR they are proposing may still be under the maximum FAR allowed using only lots 4 and 4A in the calculations. He stated that the addition of Lot 3 would allow for more open space.

Roll call was taken on Comm Willens' motion.

Motion carried - yea 5.

10. Discuss recommendations for Corrine Street crossover By: Comm Aaskov

Comm Aaskov advised that she met with Robert Barron and stated that she now has mixed emotions over the canopy of sea grapes and the recommendation by Mr. Barron. Mr. Barron advised that he built the Corrine St. crossover. He stated that seagrapes are not a strong part of the dune and if blown over in a storm will cause significant damage. He suggested that they be maintained at knee to hip height. He added that the seagrapes from this crossover are killing a Black Bean tree and that is another reason to cut back the seagrapes. Mayor Kaleel stated that the Town needed a consistent, reasonable approach.

Digby Bridges, 36 Sabal Island Drive, stated that he agreed with Mr. Barron regarding the windowing of seagrapes. He stated that seagrapes absorb energy in a storm and it is best to let them grow. He stated that once they have grown over 6' and are cut back down to 3', they will die. He added that the seagrapes catch sand in a storm which will fall back onto the dune. Comm Aaskov stated that the seagrapes at the end of Anna St. are still alive and they have always been at a short height to which Mr. Bridges stated that the seagrapes will flourish if continually trimmed to a height of 3', but not if they are allowed to grow over 6' and trimmed down to half their size.

Mr. Jones stated that the owner of the house next to the crossover wanted the seagrapes there before he built his house.

REGULAR TOWN COMMISSION MEETING HELD ON MONDAY, JUNE 10, 2002

Comm Bingham moved to defer this item until after the Town Commission has a discussion on a total dune plan, seconded by Comm Aaskov.

Motion carried - yea 5.

11. Discuss illegal fence and vegetation in right-of-way north of 12 Ocean Ave. By: Bruce Gimmy, 12 Ocean Ave.

Bruce Gimmy stated that he wanted some action on this issue. Interim Town Manager Hancsak stated that previous Town Manager Greg Dunham had made arrangements for Mr. Gimmy to get access to fix the wall behind his house through a neighbor's property. Mr. Gimmy stated that he was led to believe that this problem would be taken care of.

Comm Bingham stated that she felt the Town should clear the right-of-way. Mayor Kaleel stated that there are differing opinions on this issue. Comm Willens stated that he felt the Town Commission should deal with this on a case by case basis adding that Mr. Gimmy is only one house in from the end of the right-of-way. Mr. Gimmy reiterated that the fence in the right-of-way is illegal.

Interim Town Manager Hancsak reminded the Town Commission that all the residents of the south side of Coconut Lane had come before the Town Commission to request the abandonment of the right-of-way and only one resident from Ocean Ave. is requesting that it be cleared.

Atty Spillias stated that the issue of the fence was clear in that it is illegal and the Town has the right, but not the obligation, to ask that the fence be removed. He added that the Town does not have the obligation to clear any right-of-way, but once it is improved, the Town must do it in a way that does not harm others.

Comm Willens moved that the fence be removed, seconded by Comm Schulte.

George Bierlin, 26 Hudson Ave., stated that he would like fences on Edith St. to be included in the motion.

Mr. Lucibella stated that Mr. Gimmy is only asking that the Town clear a right-of-way. He added that the Planning and Zoning Commission recommended that the Town keep and maintain all its right-of-ways. He stated that he felt the Town had an obligation to maintain all its own property.

Mr. Gimmy stated that there is also a tree in the right-of-way which he would like removed so that trucks can access the utility pole. He stated that he felt the right-of-ways were created to allow access for utilities and garages.

Mayor Kaleel questioned if the Town would be obligated to clear all the way to the Intracoastal to which Mr. Gimmy stated that he only wants it cleared to his house.

REGULAR TOWN COMMISSION MEETING HELD ON MONDAY, JUNE 10, 2002

Atty Spillias stated that the Town Commission needs to make a decision at some point on what they want to do with the right-of-ways. He stated that they are under no obligation to make any of them traversable. He strongly suggested that the Town Commission decide which right-of-ways they want for access and maintain those and enter into agreements with property owners to either maintain or abandon the remaining ones.

Comm Willens asked if the increase in the budget and subsequent increase in property taxes that would accompany clearing and maintaining the right-of-ways was considered.

Mr. Jones reiterated that the Town Commission needs to make a decision on this issue.

Roll call was taken on Comm Willens' motion. Interim Town Manager Hancsak clarified that the motion only included the fence to which the Town Commission agreed.

Motion carried - yea 5.

12. Discuss Re-roof proposals and authorize approval of proposal By: Karen Hancsak, Interim Town Manager

Interim Town Manager Hancsak summarized her memorandum by stating that the four proposals received were as follows: Reliable Roofing \$29,725.00, Gulfstream Roofing \$34,163.00, Rooftec Corp. \$36,600.00, and AAM Industries \$48,900.00. She stated that replacement of any decayed wood would be an additional expense and the work could be completed within three to four weeks. She added that based on the information provided and speaking with other municipalities the staff recommends that proposal be awarded to Gulfstream Roofing in the amount of \$34,163.00 with \$25,000.00 from budgeted funds and the remainder including an additional \$2,000.00 for decayed wood replacement taken from the Contingency Account.

The Commission asked if it was necessary to complete this work now to which Interim Town Manager Hancsak advised that there is a very bad leak in the area above the dispatch center and when it rains the computers get soaked and have to be covered with plastic bags. Director Hillery added that tiles are also falling off the side of the building.

Comm Aaskov moved to authorize the proposal submitted by Gulfstream Roofing with additional funds over the \$25,000 budgeted to be taken from the contingency account, seconded by Comm Schulte.

Motion carried - yea 5.

REGULAR TOWN COMMISSION MEETING HELD ON MONDAY, JUNE 10, 2002

13. Discuss election candidate procedure By: Karen Hancsak, Interim Town Manager

Interim Town Manager Hancsak advised that she had given the information from Belle Glade and Greenacres to the Town Commission regarding election procedure. She stated that if the Town Commission is seriously considering changing this, it would need to go on a ballot as a referendum. Comm Willens stated that he was in favor of the current system and felt no reason to change it. There was no further action taken on this issue.

14. Discuss the re-establishment of the Environmental Resource Advisory Board By: Mayor Kaleel

Mayor Kaleel stated that he felt the board needed to be re-established to discuss issues such as vegetation that was discussed earlier at this meeting. Interim Town Manager Hancsak suggested that each of the Commissioners bring the names of two people for the board to the next meeting. She added that one of the previous problems with the board was that they were discussing the same issues as the Planning and Zoning Commission and their opinions were conflicting. Atty Spillias advised that there should be an ordinance defining the responsibilities of the Environmental Resource Advisory Board as opposed to those of the Planning and Zoning Commission.

Interim Town Manager Hancsak advised that she would send out information of the findings of the previous Environmental Resource Advisory Board to all the Commissioners.

Comm Bingham moved that each Commissioner submit the names of two candidates for the Environmental Resource Advisory Board at the July 1st meeting, seconded by Comm Willens.

Motion carried - yea 5.

15. Appointment of Town Manager

Mayor Kaleel suggested that the Town Commission have a Special Meeting on Friday, June 14, 2002 to resolve the hiring of the Town Manager. The Town Commission concurred to have a Special Meeting on June 14, 2002 at 8AM.

16. Discuss and authorize funding for Palm Beach County Juvenile Assessment Center By: Edward Hillery, Director of Public Safety

Director Hillery advised that the Palm Beach County Juvenile Assessment center is where juveniles are taken after being arrested. He stated that previously the larger municipalities took the responsibility to fund this. He stated that in future years, he will have this as a budgeted item and each community is being assessed based on population.

REGULAR TOWN COMMISSION MEETING HELD ON MONDAY, JUNE 10, 2002

Comm Aaskov moved to approve \$4755 from the contingency account for the Palm Beach County Juvenile Assessment Center, seconded by Comm Schulte.

Motion carried - yea 5.

Resolutions

None

First Reading of Ordinances

17. Ordinance No. 538; Amending the Code of Ordinances at Chapter 62, Waterways, at Article I, Section 62-1 adding the definition of the term Vehicle, and at Article II, Beaches, Section 62-27, declaring the stopping, standing, parking or operation of any motor vehicle or vehicle upon the ocean beaches or the banks and dunes adjacent thereto within the limits of the Town as a nuisance per se, adding the term Vehicle to the list of prohibitions, and Section 62-27 adding the term Motor Vehicle

Mayor Kaleel read Ordinance No. 538 by title only.

Comm Willens moved to approve Ordinance No. 538 on first reading.

Atty Spillias explained that previously the definition of motor vehicles only addressed a vehicle that has wheels and has now been expanded. He stated that governmental vehicles and those authorized by a government agency are exempted.

Mr. Bierlin questioned if parasails would be included in this ordinance to which Atty Spillias advised that motorized parasails or any mechanized equipment which transports people will be covered.

Mr. Jones stated that he did not want to see the people using the parasails stopped as he enjoys watching them. Mayor Kaleel advised that he does not enjoy the prolonged noise that comes from those parasailing on the beach and he has received complaints to this effect.

Comm Schulte seconded Comm Willens' motion.

Motion carried - yea 5.

Second Reading, Public Hearing and Adoption of Ordinances

None

Town Commission Comments

REGULAR TOWN COMMISSION MEETING HELD ON MONDAY, JUNE 10, 2002

18. Presentation by the Council for Environmental Preservation

Comm Willens advised that he had met with Pam Crawford, the president of the Council for Environmental Preservation, and requested that she speak at the Town Commission meeting.

Ms. Crawford advised that she currently does plant research to monitor for invasive species. She stated that she felt there is a problem with the Palm Beach County Ordinance regarding invasives in that it does not do a good job of helping to finance their removal from private property. She gave a presentation on the County's ordinance covering costs and a possible state plan for invasive removal.

Mayor Kaleel thanked Ms. Crawford for her presentation. No action was taken.

Adjournment

The meeting was adjourned at 9:15 PM.

Attest By:

Town Clerk

Mayor Kaleel

Commissioner Aaskov

Commissioner Bingham

Commissioner Schulte

Commissioner Willens