

Minutes of the Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, July 1, 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 Bingham
Commissioner Schulte	Commissioner Willens
Mayor Kaleel	

Pledge of Allegiance

Mayor Kaleel welcomed Kathleen Dailey, new Town Manager, to the Town. He introduced her at the meeting to the public and wished her all the best in her new position.

Additions, Deletions, Modifications and Approval of Agenda

None

Consent Agenda

1. Minutes of Town Commission Meeting of June 10, 2002
2. Minutes of Special Town Commission Meeting of June 14, 2002

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

Motion carried - yea 5.

Public Comment

George Bierlin, 26 Hudson Ave., stated that he was having problems with the noise coming from the Two Georges Restaurant in Boynton Beach. He stated that he has spoken to the manager of the restaurant and the Boynton Beach Police Department many times over this issue. Mayor Kaleel stated that the staff would look into the issue.

Public Hearings

4. Application submitted by Elizabeth Susskind, 5906 Old Ocean Blvd., Ocean Ridge, FL 33435, 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 (a) Finished Floor Elevations (1) and (3) 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 with a maximum finished floor elevation of 17.95' (replacing a demolished structure), pool

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and patio area which would extend approximately 77'8" east of the CCCL and a gazebo which would extend approximately 153'2" east of the CCCL located at 5906 Old Ocean Blvd or legally described as Lot 4A, Charles D Owens Subdivision with Lot 4, Block 6 and Lot 3, Block 6, Amended Plat of Part of Boynton's Subdivision (exact description available for review in the Clerk's Office)

Mayor Kaleel read the above application by title.

Atty Spillias swore in all who were going to testify in this matter.

Atty Spillias advised that he had met with Mr. Carney and Ms. Susskind after the previous Town Commission meeting and they had changed their plans so that they would meet the Town Codes with only lots 4 and 4A. He requested that the Town Commission discuss item #5 before making any decisions on item #4. The Town Commission concurred to move on to item #5.

5. Application submitted by Elizabeth Susskind, 5906 Old Ocean Blvd., Ocean Ridge, FL 33435, 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 (a) Finished Floor Elevations (1) and (3) 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 with a maximum finished floor elevation of 17.95' (replacing a demolished structure), pool and patio area which would extend approximately 77'8" east of the CCCL and a gazebo which would extend approximately 161'0" east of the CCCL located at 5906 Old Ocean Blvd or legally described as Lot 4A, Charles D Owens Subdivision with Lot 4, Block 6 Amended Plat of Part of Boynton's Subdivision (exact description available for review in the Clerk's Office)

Town Clerk Hancsak read the above application by title. She advised that there was no additional correspondence and that all fees had been paid.

Town Clerk Hancsak explained that the variance for the finished floor elevation was not relevant anymore. She advised that due to the Town's adoption of the Florida Building Code, the minimum elevation for the lowest horizontal structural member is 15.4' (east of the CCCL) and the lowest FFE would then be 17.95', according to the architect. She stated that Atty Spillias has given his opinion that the FL Building Code would supercede the Town's code and therefore not need a variance.

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Town Clerk Hancsak advised that after the last meeting, she met with the applicant and her representatives and determined that the plans submitted in item #5 would meet the zoning regulations provided the unity of title is approved for joining lots 4 and 4A. She explained that approval must be received by the applicant from the Town Commission to build seaward of the CCCL. She advised that the applicant would also be seeking a permit from the FL DEP and that it would also be subject to the normal zoning and building review by the Town and County.

Town Clerk Hancsak recommended approving item #5 subject to approval from the State DEP and the County Health Department.

Atty Spillias stated that on April 1, 2002 the Town adopted the FL Building Code which supercedes the Town codes in regards to FFE. He stated that if an applicant is not seeking to go higher than the minimum stated by DEP, no variance for the FFE is needed by the Town Commission.

Thomas Carney, attorney representing Elizabeth Susskind, stated that he met with the staff and the plans submitted with item #5 meet with all Town Codes. Mayor Kaleel questioned what changes were made between items #4 and #5 to which Mr. Balistrari, architect, stated that two bedrooms were eliminated from the upstairs and the area turned into attic space. Mayor Kaleel stated that he was concerned that there was no change in the design of the home, only turning bedrooms into attic space which is not counted in the FAR. Ms. Susskind advised that the only entrance into the attic is through the garage. Mayor Kaleel advised that the Town Commission is only being asked to approve construction east of the CCCL and not the building plans.

Comm Willens questioned if she was planning construction soon to which Ms. Susskind stated that this will be her primary residence and she will begin construction as soon as the plans are approved.

Earl Jones, 14 Sailfish Lane, distributed a handout to all the Commissioners comparing the FAR and identical building envelope of the two plans in items #4 and #5 and also a list of his concerns over the proposed home such as drainage and the septic field. He stated that the Board of Adjustment has had two requests for fences on lots which have needed to have 3' retaining walls to handle their drainage. Mayor Kaleel stated that Mr. Jones had valid concerns which would be considered before a building permit is issued.

Sandy Foster, 5900 Old Ocean Blvd., questioned which lots were involved to which Mayor Kaleel gave her a copy of a survey of the lots.

Comm Willens questioned why the Town Commission is required to approve these types of applications to which Atty Spillias explained that the CCCL was drawn in order to help protect the dune by having construction pulled back from the dune. Comm Willens questioned why the Town Commission was being asked to approve something that may hurt the dune to which Atty Spillias stated that the State takes the responsibility for the dune and the Town is only giving a pro forma approval.

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Mayor Kaleel stated that he wants the applicant to know that some of the issues raised at this meeting will be brought up when they apply for their building permit.

Atty Spillias stated that the current code allows them to use lots 4 and 4A in their calculations and that the unity of title for those lots protects the Town in that they would not be able to sell off one lot after building the home.

Comm Aaskov moved to approve the application in item #5 to construct a two-story, single family residence, pool/patio and gazebo on the property east of the CCCL subject to approval from the State DEP and the County Health Department, seconded by Comm Bingham.

Motion carried - yea 5.

The Town Commission returned to item #4 on the agenda.

Atty Spillias advised that the unity of title does not have to be done at this meeting, only before the building permit is approved by the Town. Ms. Susskind stated that she wanted to ensure that the potential moratorium in item #12 does not effect them. Atty Spillias stated that item #12 would prevent the issuance of permits for separated lots, but that he would recommend that any applicants who have begun the formal process will not be effected. He suggested that this application be considered as in the process and that items #4 and #6 be moved to after item #12. The Town Commission concurred to move the items.

Regular Agenda

Actions and Reports

7. Request to trim/window and plant seagrapes and remove Brazilian Pepper from dune – Kevin Cavaoli, Landscape Architect, representing Lynne McGinn, 5518 Old Ocean Blvd

Town Clerk Hancsak advised that an application has been submitted which meets all Town requirements except there is no information for any temporary irrigation. She stated that the applicant has submitted a letter from the Tropical Shores Homeowner's Association that they have no objection to the application.

Comm Bingham moved to approve the application as submitted with the requirement that temporary irrigation be added to the application as well as a \$500 bond being posted until the work is completed and inspected, seconded by Comm Aaskov.

Comm Willens stated that at the previous Town Commission meeting, it was discussed whether windowing negatively impacted the seagrapes to which he was told that the plan meets the current code and changes are being considered for the code re-write.

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Motion carried - yea 5.

8. Discuss awarded re-roof proposal By: Comm Aaskov

Comm Aaskov stated that the contract approved at the previous meeting was for a color through white tile which when installed has a gray look to it. She suggested that the Town Commission approve an additional \$1,000 for a painted tile.

Comm Aaskov moved to approve an additional \$1,000 from the Contingency Account for painted tiles for the re-roof, seconded by Comm Willens.

Motion carried - yea 5.

9. Award proposal for storm drainage cleaning and video inspection services to be funded from budgeted monies in the Capital Project Fund By: Karen E. Hancsak, Town Clerk

Comm Willens moved to award the proposal for storm drainage cleaning and video inspection services to Rockline Vac Systems, Inc of Ft. Lauderdale in the amount of \$10,950 from budgeted funds in the Capital Project Fund and to authorize the Town Manager to negotiate and enter into a contract for these services, seconded by Comm Schulte.

Motion carried - yea 5.

Town Clerk Hancsak advised that the lines would be cleaned and TVed on Inlet Cay, Spanish River Drive, Bimini Cove Drive, Harbours Drive N and S, and Eleuthera Drive.

10. Discuss Court Order Regarding David Lane Access By: Kenneth Spillias, Town Attorney

Atty Spillias advised that on June 13th, the court gave a decision on the issue regarding access for the Kelso's on David Lane. He stated that the Judge determined that the 20' north of the Kelso property is a public right-of-way, 10' of which has been deeded to the Town and the other 10' is not deeded, but the Town has access over it. He stated that the staff has spoken to Lisa Tropepe, Town Engineer, regarding the issue of the turnaround that will be necessary at this property.

Atty Spillias stated that Mr. Marod, attorney for Cheryl Olanoff, has filed for a re-hearing which has not been ruled upon at this time. He stated that he had received a letter from Mr. Marod who felt that the judgment is suspended until the re-hearing to which Atty Spillias stated that his opinion is that the judgment was still in effect until a stay is issued by the Court. He explained that Ms. Olanoff has not filed for a stay and at this point, the Town must comply with the judgment.

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Atty Spillias explained that the obstructions on the right-of-way are those of Mr. Katz who has not filed for a stay or a re-hearing. He stated that the town needs to begin on the action that the court has issued regarding this 10'. He explained that there needs to be actual access to the property before the Kelso's can apply for a building permit. He stated that Ms. Tropepe has given the Town an estimate of between \$12,000 and \$15,000 for construction access to the property. He stated that when the Town received the deed from the predecessor for this right-of-way, the obstructions (patio, trees) were already in place and therefore it is most likely the Town that would be financially responsible for their removal. He stated that authority needs to be given so that the Town Engineer can get formal proposals to make the 10' available. He stated that this section of right-of-way is not related to any that would be involved in a re-hearing.

Comm Willens moved to allow Lisa Tropepe to obtain bids with funds not to exceed \$15,000 from the contingency account, seconded by Comm Aaskov.

Comm Schulte advised that he would be abstaining from this vote and would sign a voter's conflict form.

Motion carried - yea 4 (Schulte abstain).

Betty Kelso, 16 Sailfish Lane, questioned when this would be finished to which Atty Spillias stated that the final contract would need to be approved by the Town Commission. Mrs. Kelso stated that the trees on the end of Hersey Drive were removed within a matter of days to which Atty Spillias advised those were a code enforcement matter as there was a safety issue involved.

Resolutions

11. No. 2002-15; Re-establishing an Environmental Resource Advisory Board
By: Mayor Kaleel

Mayor Kaleel read Resolution No. 2002-15 by title only.

Comm Aaskov stated that she had read the summary from the previous Environmental Resource Advisory Board and out of the fifteen items that they reviewed, the Town Commission only acted on two or three. She stated that she felt at this time, the board was a waste of staff's time. She suggested to delay the re-establishment of the board to which the rest of the Town Commission concurred.

12. No. 2002-17; Declaring the existence of a pending zoning ordinance with respect to allowable floor area ratios for lands defined as "contiguous" separated by streets, alleyways and other public or private rights-of-way; delaying the issuance of building permits; providing for exemptions; providing for an effective date By: Atty Spillias

Mayor Kaleel read Resolution No. 2002-17 by title only.

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Atty Spillias advised that the code re-write is taking longer than previously anticipated and may be available for first reading in November. He stated that he has gotten direction from the Town Commission in regards to separated lots. He advised that it was suggested to have an across-the-board moratorium, but that it was decided that the moratorium would create a hardship on those who want to submit for a building permit and would not be affected by the changes in the code. He explained that he was presenting a “zoning in progress” resolution which would only effect those building permits with a separated lot issue. He stated that the resolution does provide for an exemption for those permits already in the formal application process. He read from the section on exemptions and explained that it would be applicable to Ms. Susskind and her applications for construction east of the CCCL.

Comm Aaskov moved to approve Resolution No. 2002-17 with an immediate effective date, seconded by Comm Schulte.

Motion carried - yea 5.

Mr. Jones stated that he would like to add that the exemption only applies when the building permit is submitted by the original submitter so that the property can not be sold and the exemption given to the subsequent property owner. Atty Spillias stated that could not be done as the exemption goes with the property and not the owner.

Comm Willens questioned if a time limit can be placed on the exemption to which Atty Spillias replied that it could not in the case of a permit which has already been approved (i.e. Pugliese) and that there was only one that has been submitted, but not approved (i.e. Miller). Mayor Kaleel stated that Miller will still need to go for State and County approval and that he did not think adding a time limit would be fair.

Mr. Carney stated that he wanted it clarified for the record that their application is in the formal process and therefore protected by the exemption to which Atty Spillias advised that it was exempted.

4. Application submitted by Elizabeth Susskind, 5906 Old Ocean Blvd., Ocean Ridge, FL 33435, 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 (a) Finished Floor Elevations (1) and (3) 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 with a maximum finished floor elevation of 17.95’ (replacing a demolished structure), pool and patio area which would extend approximately 77’8” east of the CCCL and a gazebo which would extend approximately 153’2” east of the CCCL

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located at 5906 Old Ocean Blvd or legally described as Lot 4A, Charles D Owens Subdivision with Lot 4, Block 6 and Lot 3, Block 6, Amended Plat of Part of Boynton's Subdivision (exact description available for review in the Clerk's Office)

Mr. Carney stated that he was aware that they would need a unity of title for either item #4 or #5, but that he knew there was reluctance on the part of the Town Commission to approve #4 which would use all three lots in the calculations. He stated that he would like to preserve his client's rights for either #4 or #5 by postponing item #4.

Ms. Susskind stated that she has a vested interest in this project as she does not want an ugly house built and they are only requesting what is allowed by code at this time. She stated that she does not want to fight over the attic space, but that she does not want to move the roof line.

Atty Spillias suggested that the item be postponed until December 2 when they will have a better idea of the completion of the code re-write.

Comm Aaskov moved to postpone item #4 until December 2, 2002, seconded by Comm Schulte.

Mayor Kaleel reiterated that the item being postponed was the request which included three lots in the FAR calculations.

Motion carried - yea 5.

6. 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 property owner, Elizabeth Susskind

Atty Spillias suggested that this item #6 also be postponed until December 2, 2002 and the applicants submit a separate request for the unity of title for lots 4 and 4A only.

Comm Aaskov moved to place a request for unity of title for lots 4 and 4A on the August 5th agenda and postpone item #6 until December 2nd, seconded by Comm Schulte.

Motion carried - yea 5.

First Reading of Ordinances

None

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Second Reading, Public Hearing and Adoption of Ordinances

- 13. 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

Comm Aaskov moved to adopt Ordinance No. 538, seconded by Comm Schulte.

Mrs. Kelso questioned if this ordinance would apply to wave runners to which Atty Spillias advised it would only apply to their operation on the beach.

Director Hillery questioned if this would include wheeled vehicles which move boats onto the beach, but are not motor powered. Comm Willens questioned if the Town Commission could add the phrase "self propelled" into the ordinance to which Atty Spillias advised that the ordinance would then have to return for first reading.

There was much discussion on this issue to which the Town Commission then concurred to add the phrase "self propelled" in the ordinance.

Comm Willens moved to postpone Ordinance No. 538 to the August 5th meeting for first reading with the requested change, seconded by Comm Aaskov.

Motion carried - yea 5.

Mayor Kaleel stated that on behalf of the Commission, he would like to thank Karen Hancsak for her work as Interim Town Manager for the last two months.

Adjournment

The meeting was adjourned at 8:25 PM.

Attest By:

Town Clerk

Mayor Kaleel

Commissioner Aaskov

Commissioner Bingham

Commissioner Schulte

Commissioner Willens