

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, November 4, 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

Town Clerk Hancsak advised that she was adding the minutes, previously distributed to the Town Commissioners, of the October 11, 2002 executive session as item 3a.

Consent Agenda

1. Minutes of the Town Commission Meeting of October 7, 2002
2. Minutes of the Special Town Commission Meeting of October 7, 2002
3. Authorize Execution of Garbage/Trash Liens and Town Attorney to file same
- 3a. Minutes of the Special Town Commission Meeting and Executive Session of October 11, 2002

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

Motion carried - yea 5.

Announcements and Proclamations

4. Administrative Offices will be closed for the official holiday on Monday, November 11, 2002 and November 28 and 29, 2002.
5. Light the Lights and Town BBQ will be held on Friday, December 6, 2002 from 5:30 PM to 8:30 PM
6. The polls will be open at the Town Hall on Tuesday, November 5, 2002 from 7:00 AM to 7:00 PM for the General Election

Mayor Kaleel read the above announcements.

Public Comment

There was no public comment.

Public Hearings

None

Regular Agenda

Actions and Reports

7. Request for Obstruction of Irrigation Line Recently Placed in the ROW on Edith St. (East of SR A1A) to Remain By: Doug Feurring, 6195 N Ocean Blvd

The Town Commission decided to postpone this item until the property owner, Mr. Feurring, was present and continue with item #9.

Town Commission Comments

9. Discuss GIS System Approved by the Commission By: Comm Bingham

Comm Bingham stated that this item had been approved previously on the consent agenda and she felt it should have been pulled so that the residents could have discussed the issue. She stated that she felt Shalloway, Foy, Rayman & Newell, who are putting the system in place for the Town, should come before the Town Commission before doing any part of the project that was not previously listed in the first part of the proposal. Mayor Kaleel stated that the staff had already advised that they would bring back the plan and proposal once Lisa Tropepe finalizes the outline.

Comm Bingham advised that she had a problem with too many items being placed on the consent agenda to which Mayor Kaleel advised that the Town Commission has discussed the GIS System many times in open meetings and that they have a habit of discussing an item to death in meetings. He also advised that she could have pulled it from the consent agenda for discussion at the time of the meeting.

7. Request for Obstruction of Irrigation Line Recently Placed in the ROW on Edith St. (East of SR A1A) to Remain By: Doug Feurring, 6195 N Ocean Blvd

Town Clerk Hancsak advised that the applicant was requesting to allow approximately 40' of an irrigation water line that had been previously installed in the right-of-way on Edith St. east of A1A. She advised that at the time, no permit had been applied for nor was one required by the City of Boynton Beach or Palm Beach County. She concluded that the water meter that the resident was attempting to hook into has been in the right-of-way for decades. She stated that the Town Commission would need to decide whether to permit this new obstruction in the right-of-way.

Mr. Feurring advised that the irrigation system for the house had previously used well water and that he wanted to hook into the city water. He stated that the water meter has been in the right-of-way for decades and that he could move the backflow preventor, the

only piece of equipment which is above ground, onto his property and out of the right-of-way.

Comm Willens questioned if the resident knew that his fence was also located partially in the right-of-way to which Mr. Feurring advised that he knew it was in the right-of-way by about 4'. Comm Willens stated that if the water meter was on the other side of the fence then the resident must have known that it was in the right-of-way as well. Mr. Feurring advised that they would be moving the only piece of equipment which is above ground and; therefore, not changing the current use of the right-of-way. Comm Schulte questioned if the water meter should be on the resident's property to which Comm Bingham advised that she thought most of the water meters throughout Ocean Ridge were in the right-of-way.

Mr. Feurring advised that he had asked about the fence when he purchased the house and was told that a permit had been approved although he was not told that the fence was not placed in the area that was approved. Comm Willens stated that the larger problem is with the residents continually encroaching into the rights-of-way.

Town Clerk Hancsak advised that Mr. Shibles, 6201 N Ocean Blvd., realized that he had trees and electrical equipment in that right-of-way as well when the staff was there looking at Mr. Feurring's fence and irrigation. She stated that Mr. Shibles apologized as he did not realize that he was encroaching and has already moved the electrical equipment onto his property.

Mayor Kaleel advised to Mr. Feurring that he also had a concrete pad in the NE corner of his property which is also encroaching and that he may have to remove it as well as part of his fence.

Glenn Siegel, contractor, stated that the beach path at the extreme end of the right-of-way to where it goes onto the beach narrows to only a few feet and that he felt that was a bigger liability than the encroachments in the wider area of the right-of-way.

Mayor Kaleel stated that now that the Town Commission and staff are aware of the encroachment and violation, they need to do something about it and cannot ignore it.

Atty Spillias advised that it is not unusual for meters to be in a right-of-way and that he did not think it would be inappropriate to allow an underground pipe for Mr. Feurring to hook up to the city water. Regarding the fence, he advised that since it was not on the agenda, it would not be fair to the resident to discuss it right now.

Mr. Feurring questioned if this type of enforcement was going to be done on all rights-of-way uniformly throughout the Town. Atty Spillias advised that the Town Commission enacted a process the year before for residents to request to allow encroachments.

George Bierlin, 26 Hudson Ave., stated that he had submitted a petition a year before requesting that the right-of-way on Edith to be returned to the public and that he was

submitting another one now. He stated that the fence in question had been rebuilt after Hurricane Irene in 1999.

Mayor Kaleel stated that they had decided to delay some of these decisions until after the Planning and Zoning Commission makes their recommendations regarding this issue.

Comm Schulte moved to allow access to the water meter contingent on the backflow preventer being moved to the resident's property and the signing of a right-of-way agreement, seconded by Comm Bingham.

James Bonfiglio, 5615 N Ocean Blvd. and Vice Chair of the Planning and Zoning Commission, advised that the Planning and Zoning Commission had decided to recommend not abandoning any of the beach access rights-of-way.

Mr. Bierlin questioned if it would be possible to get a time certain as to when the request for the fence encroachment would be brought before the Town Commission to which Mayor Kaleel advised that it would now be a code enforcement issue. Director Hillery advised that he has been told by the last three town managers that the issue was being reviewed by the Town and that he was not to enforce this until it was resolved. Mayor Kaleel advised that they should have the recommendations by December 15th and discussion, along with Mr. Feurring's application, at the January regular meeting.

Mr. Feurring questioned if all residents with encroachments have brought in applications to which Mayor Kaleel advised that they have not.

Atty Spillias advised that there would not be any need for Mr. Feurring to sign the agreement for the waterline as it all will be underground once the backflow is relocated. Comm Schulte amended his motion to remove the contingency of the agreement.

Roll call was taken on Comm Schulte's motion.

Motion carried - yea 5.

Resolutions

8. Resolution No. 2002-21; Declaring the existence of a pending zoning ordinance; delaying the issuance of building permits

Mayor Kaleel read Resolution No. 2002-21 by title only.

Atty Spillias stated that there was a suggested change in Section 3 to change the date to "prior to October 7" when the zoning in progress was first passed. He advised that this was not a moratorium, but a zoning in progress which will allow a permit not to be approved if there is active and documented work being done to change an applicable zoning code. He advised that any permits which were submitted to any government agency before the October 7th meeting would be subject to the code as written before any

revisions had been suggested or made. He advised that new applications brought in would be subject to the pending changes as they are made by the Town Commission, but not any further changes that may be made after the date of application. He advised that they hoped to have all the zoning changes done by November 21, 2002 so that it can go before the Planning and Zoning Commission in December. He stated that he felt it could be before the Town Commission for second reading in February. He added that the proposed code is available on CD and all the changes thus far are available in a summary form.

Rich Lucibella, 5 Beachway N, stated that there could still be additional changes made by the Planning and Zoning Commission or on first reading that will affect plans being brought in now. Atty Spillias advised that the zoning in progress is specific and permits can be submitted before some changes are made while a full moratorium could hold up many permits that may be allowed under either code.

Earl Jones, 14 Sailfish Lane, stated that there is clearly no intent to develop the property at the end of Hersey Drive. He advised that they started minimal building so that their variance would not lapse. He stated that there are changes to the code which would limit the amount of time allowed for construction to take place and questioned if this new code could apply to this piece of property.

Mr. Jones also reiterated that there is a home being built which has 100% second floor coverage and stated that action needed to be taken against this. He stated that the architect must have known that it was not a legal offering and that it will be difficult for the new zoning person in the Town to review plans while not being sure of what is in the new code vs. the old code. He advised that he would like to have a moratorium on building so that it will put pressure on the Town Commission to complete and pass the new code.

Christine D'Angelo, 6115 N Ocean Blvd., stated that she did not feel it was good to approve permits on changes that may or may not be implemented.

Comm Schulte questioned what problems would come from a full moratorium to which Atty Spillias stated that it is more likely to place hardships on residents and developers and depending upon the amount of the hardship, it could open up the Town to some liability especially if it is discovered that a zoning in progress would have worked as opposed to a moratorium. He stated that the Town Commission should be looking for the least drastic remedy. Mayor Kaleel stated that most of the changes have been to close up loopholes found by architects and that the intent of the code has not changed.

Mr. Lucibella questioned if the Town Commission could institute a full moratorium and then allow permits to be approved during that time by the Board of Adjustment or Planning and Zoning Commission if that board feels that it meets with the intent of the code so that it will not hold up anyone who really needs a permit.

Comm Willens advised that he was uncomfortable with a zoning in progress and allowing the permits to be approved under a "moving target" of code revisions. Town Manager Dailey advised that she does not have any problem with the zoning in progress

and plans submitted so far, adding that most of the new house plans were submitted before the October 7th cut off date.

Mayor Kaleel questioned if a moratorium could be implemented at this meeting to which Atty Spillias advised it would have to be an emergency moratorium since there is not time to go through the proper channels with the ordinance and it would apply to all new construction.

Comm Aaskov moved to approve Resolution No. 2002-21 with the change suggested by Atty Spillias, seconded by Comm Bingham.

Mayor Kaleel stated that if they did a moratorium it would be for approximately 120 days and questioned if they would meet the standard needed for an emergency to which Atty Spillias stated that he has not researched that as of yet. He stated that the Town Commission would need to articulate what public good they are seeking to assure by a moratorium. Mayor Kaleel stated that they would need to decide if health, safety and welfare needs constitute an emergency moratorium. Atty Spillias stated that he has checked with Palm Beach and reviewed a copy of one of their zoning in progress which was done by memo. He explained that the Burke-Harris Act stated that if a municipality inordinately burdens someone else's property rights, the municipality could be liable. He advised that he could bring back a moratorium at the next meeting and keep the zoning in progress for the interim.

The Town Commission concurred to have Atty Spillias research an emergency moratorium for the December Town Commission Meeting.

Roll call was taken on Comm Aaskov's meeting.

Motion carried - yea 5.

Digby Bridges, 36 Sabal Island Drive, wanted to give public comment following the vote and was told by Mayor Kaleel that much public comment was taken before he had arrived. He then stated that he was sending out a letter to all of the residents.

Adjournment

The meeting was adjourned at 8:25 PM.

Attest By:

Town Clerk

Mayor Kaleel

Commissioner Aaskov

Commissioner Bingham

Commissioner Schulte

Commissioner Willens