

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, January 6, 2003 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

Comm Aaskov stated that she would like to add a discussion of the Town sign in the south end as item #7a.

Town Manager Dailey stated she would like to remove item #7 and add an item regarding the replacement of the Deputy Town Clerk as item #7b.

Comm Aaskov stated that she would like to keep item #7 on the agenda for discussion.

Comm Willens requested to add a discussion about the fire services as item #9.

Consent Agenda

1. Minutes of Town Commission Meeting of December 02, 2002
2. Appointment of Poll Workers By: Karen E Hancsak, Town Clerk

Comm Schulte moved to approve the agenda as modified and the consent agenda, seconded by Comm Bingham.

Motion carried - yea 5.

Announcements and Proclamations

3. Administrative Offices will be closed for the official holiday on Monday, January 20, 2003
4. 2003 Municipal Election
 - a. Date of election is February 11, 2003
 - b. Two commission seats for a three year term
 - c. Candidate filing dates run December 30, 2002 through 3:00 PM on January 23, 2003

Mayor Kaleel read the above announcements.

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Public Comment

James McAndrew, 131 Island Drive, stated that he has recently been informed of proposed changes to the Land Development Code which he feels will have a negative impact on his real estate. He advised that he has formed a coalition that wishes to help and be part of the solution to this problem. Mayor Kaleel stated that there have been meetings on this issue previously and encouraged Mr. McAndrew to participate in the Planning and Zoning Commission meeting that will be held on Monday, January 13, 2003 to further discuss the changes. He added that some changes were as a result of ambiguities in the code which did not meet State Statutes. Mr. McAndrew questioned if a financial professional had been hired to evaluate the impact of these changes. Mayor Kaleel reminded him that nothing has been passed yet and again urged him to express his opinions at the Planning and Zoning Commission meeting. He also explained that in 1996 the Town Commission had hired an expert to help with the code revisions and some of the current changes are just closing loopholes that have been found in the previous changes.

Atty Spillias advised that he has supplied the Town Commissioners with a list of substantive changes that can be given to the residents who may not want to go through the whole Land Development Code to find the changes. Mayor Kaleel reminded the residents that the whole code is being reviewed and not just the land development code.

Tom Ambrose, 10 Hudson Ave., stated that he has noticed a lot of low flying airplanes over the beach. Director Hillery advised that the FAA would have jurisdiction over planes that may be flying too low and urged Mr. Ambrose to report them to the FAA when he sees them.

Public Hearings

None

Regular Agenda

5. Request to construct two decorative columns (with gas lanterns on top) east of the Inlet Cay bridge in the Town right-of-way By: Residents of Inlet Cay Subdivision.

Ed Kraus, 20 Eleuthera Drive, stated that he was present representing the Inlet Cay Subdivision residents. Town Manager Dailey outlined the plan by the residents of the Inlet Cay Subdivision to place decorative columns with gas lanterns east of the Inlet Cay bridge.

Director Hillery questioned where the gas tanks would be located to which Mr. Kraus advised that they would be buried next to the columns. Comm Schulte questioned what the liability would be to the Town if that were allowed. Mr. Kraus stated that low level electrical light could be used instead. Mayor Kaleel stated that he liked the idea, but

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suggested that the residents research the issues such as liability before proposing the plan to the Town Commission. Mr. Kraus advised that it does not even need to be a light on the top, but could be just a decorative ornament. Town Clerk Hancsak stated that this idea was proposed verbally approximately one year ago to the then Town Commission, but without lighting. Mayor Kaleel suggested that the idea be discussed with the Town Manager and plans brought to the Town Commission after further research and discussion.

6. Discuss recommendations and final report regarding the rights-of-way by the Planning and Zoning Commission and possible final action

James Bonfiglio, Vice Chair of Planning and Zoning Commission, stated that the Planning and Zoning Commission has recommended not to abandon any of the rights-of-way discussed and to maintain them all. He stated that the Planning and Zoning Commission has provided estimates for clearing and grubbing the areas which total less than \$20,000. Town Manager Dailey advised that the Planning and Zoning Commission has also recommended that all structural obstructions be cleared from the rights-of-way and that permits be obtained for all those who wish to keep any landscaping in them.

Atty Spillias advised the Commissioners that residents were notified when a right-of-way adjacent to their property was going to be discussed. He explained that approximately three years ago, the Planning and Zoning Commission made the same recommendation not to abandon the rights-of-way, but this current report includes costs for clearing and maintaining. He advised that since these are platted rights-of-way and not deeded rights-of-way, they should be abandoned if they are not going to be used for a public purpose. He stated that the Town Commission would need to take the additional step of actually clearing and maintaining the rights-of-way if they accept the recommendation of the Planning and Zoning Commission.

Mr. Bonfiglio stated that the recommendation also included a time limit on action for maintenance. He stated that there could be an additional yearly maintenance cost of \$7,000 if the work was done by an outside contractor or it could be absorbed by the Town's public works department. Mayor Kaleel thanked the Planning and Zoning Commission for all of their work.

Jim Vechione, 6306 N Ocean Blvd., stated that he was never notified of any meetings. He stated that he did not believe the estimate for clearing as he believed it would cost around \$20,000 to clear behind his home alone. He questioned if alleys were going to be placed in the rights-of-way, who would water and maintain the new sod being placed and asked if a study was done to assess how much additional tax revenue the Town would receive if the rights-of-way were abandoned.

Mr. Vechione stated that it was strange that the right-of-way behind his house can only be opened to behind the Chair of the Planning and Zoning Commission's house because of jurisdictional areas proceeding west to the ICWW.

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Corey Heith, 7 Hudson Ave., stated that he was also skeptical that the costs for clearing and maintaining were accurate. He stated that safety was a reason given by the Planning and Zoning Commission in their recommendation to maintain and questioned how it would increase the safety when the Public Safety Officers would have more area to patrol thus giving less time to other areas in Town. He advised that access to the Intracoastal is given as a reason for maintaining and questioned why anyone would want to use the right-of-way behind his house when there is a paved road they could use. He stated that access for emergency vehicles is also given as a reason to maintain and questioned why any emergency vehicle would come down an unpaved right-of-way when there is a paved street in front of his home. He also stated that many residents had requested that Chairman Gimmy not be involved in the process and that while he did not vote on the right-of-way behind his home, he voted and even made most of the motions for all of the others. Lastly, he advised that when voting to maintain Edith St., Mr. Bonfiglio stated that it may be used as a bargaining chip with a developer. Mr. Heith questioned whose interests were served by some of these decisions.

Justus Brown, 39 Coconut Lane, stated that he recommended that the rights-of-way be abandoned and maintained by the residents over a year ago and still does now. He advised that during a recent power outage, FP&L was able to easily get to the transformer near his home because his neighbor had been maintaining the right-of-way.

Lawrence O'Daly, 13 Hudson Ave., stated that he did not receive any notification of any meetings either. He suggested that the Town Commission ignore the recommendations of the Planning and Zoning Commission as he believes it is flawed by Mr. Gimmy being involved in the process. He stated that he doesn't understand why the Town would want to incur the additional costs that this would need. Town Clerk Hancsak advised that notices were hand delivered to all of the homes by the public safety officers and mailed to vacant lot owners according to their addresses in the tax roll.

Earl Jones, 14 Sailfish Lane, stated that while he is not involved on a personal basis, as he does not live near any of the rights-of-way, he would like an idea of the legal costs which will certainly be forthcoming from those residents who will be asked to give up areas of land that they have been using for many years. He added that if Mr. Gimmy was not to be involved as a member of the Planning and Zoning Commission, then Comms Bingham and Willens should not be involved as members of the Town Commission. He stated that he did not believe the residents would ever come to an agreement on this and suggested that it be given to an outside agency to decide.

Atty Spillias explained that Florida State Statutes require someone to vote when there is not a matter of a monetary gain. He stated that Mr. Gimmy could only recuse himself from the discussion on the right-of-way abutting his property and had to vote on all the others. He stated that the same would apply to Comms Bingham and Willens.

Debbie Brooks, 15 Ocean Ave., stated that she is concerned over possible drainage problems if the right-of-way is opened and questioned if someone has researched the possible drainage consequences. She also stated that no one would walk down the right-

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of-way behind her home and advised that if it is opened, she would like lights placed there for safety reasons.

George Bierlin, 26 Hudson Ave., stated that there is currently no maintenance being done on the street in front of his home and questioned how much time and money the Town would spend on these rights-of-way when they don't maintain the areas that are currently used.

Chris Compton, 6 Hudson Ave., stated that he agreed with Mr. Bierlin adding that he has never seen the Town maintain any of the area behind his house. Mayor Kaleel stated that the issue was originally brought up because it was decided that the Town needed to maintain some of these areas.

Ann Syring, 50 Coconut Lane, stated that while she respects the Town Attorney's position regarding Bruce Gimmy voting, she stated that since he voted to retain all of the other rights-of-way discussed there was a pattern known to all the other Planning and Zoning Commissioners. She stated that she did not believe they were all considered individually. She stated that this issue has not cost the Town any money to date and the recommendations could potentially cost the Town quite a bit. She questioned how the issue could be put directly to the residents. Atty Spillias advised that there is no provision in the Town code for a binding referendum, but that an advisory referendum could be done. Mayor Kaleel stated that there would be the question of whether or not all of the residents of the Town would be qualified to vote on the issue of a right-of-way which would in no way effect their property.

Ed Brookes, 15 Ocean Ave., questioned who would pay for the surveys necessary for abandonment. He suggested that they be considered individually since there are different engineering concerns with each one.

Richard Levenstein, attorney representing the residents at 2 Coconut Lane, stated that the Town Commission would need to look at the public purpose served in not abandoning the rights-of-way. He advised that many residents who are present at this and other meetings are begging for abandonment or the right to maintain. He stated that he did not believe that Mr. Gimmy should have been allowed to participate. He advised that the Town Commission would need to consider the potential for increase in criminal activity that would occur in these newly cleared, unlit rights-of-way. He stated that many of them can not be cleared all the way to the Intracoastal because of the wetland area. He added that there is much potential for litigation especially since his clients have been the only residents cited for an obstruction in a right-of-way and they are neighbors to Mr. Gimmy.

Ted Ritota, 4 Hudson Ave., questioned if there was enough information given to the Town Commissioners to take action to which Atty Spillias advised that it was a policy decision and that if the Town Commission believes that there is a public purpose to maintain and utilize the rights-of-way, they may make a decision now.

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Tom Ambrose, 10 Hudson Ave., questioned if the Planning and Zoning Commission considered the cost of moving the power poles. Mr. Bonfiglio stated that the Planning and Zoning Commission was concerned that residents would install obstructions in the right-of-way that might impede FP&L, but that there was no consideration given to relocating power poles.

Mr. Ambrose asked if the rights-of-way would be converted to streets all the way down to the Intracoastal to which Mr. Bonfiglio replied that they could only go to the mangrove area. Mr. Ambrose stated that he did not think they would be of much use and although he was against abandoning them, he wanted them to stay as they are in an un-cleared state.

Mr. Levenstein suggested abandoning the rights-of-way, but retaining the current utility easements.

Rich Lucibella, 5 Beachway N, questioned if a unanimous group of homeowners came to the Planning and Zoning Commission to abandon any of the rights-of-way to which Mr. Bonfiglio stated that there were no unanimous requests. Mr. Lucibella stated that he felt when a group of homeowners come together to take something from the Town, it should be a unanimous request.

Atty Spillias stated that he must advise the Town Commission on the potential for litigation and suggested that they consider each right-of-way individually. He reiterated that if the decision is made to maintain these platted rights-of-way, there must be a continuing public purpose to them. He explained that if a right-of-way is abandoned, litigation against the Town would be difficult if someone claimed they had no access as the resident would almost have to prove that the Town denied them any access to their property. He concluded by stating that if the public purpose cannot be established for a platted right-of-way, it must be abandoned to the abutting homeowners.

Comm Aaskov moved to have a special Town Commission meeting to discuss these rights-of-way one at a time, seconded by Comm Bingham.

Motion carried - yea 5.

Atty Spillias advised that any abandonments would be done at a Public Hearing at a Regular Town Commission meeting.

7. Discuss beautification proposals for Ocean Ave. By: Kathleen Dailey, Town Manager

Comm Aaskov stated that she felt the amount of money that the Town spends on landscaping which is not adequately taken care of, is disgraceful. She suggested that some of the plantings on Ocean Ave. be moved and that not every bed needs to be planted, e.g. around the Palm Trees.

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Mayor Kaleel suggested that Comm Aaskov and Town Manager Dailey get together to further discuss and plan options for Ocean Ave.

Comm Aaskov stated that she is not convinced that the mangroves in the retention ponds need to be removed to which Town Manager Dailey replied that the Town has already been approached by SFWMD to mitigate.

Mayor Kaleel suggested that Town Manager Dailey also research what recourse the Town may have with DOT regarding all the landscaping and detention areas.

7a. Sign at South end of Town By: Comm Aaskov

Comm Aaskov stated that the electrical is scheduled to be installed at this sign soon and she was not convinced that its current location is the proper one. She questioned if it could be placed in the same location as the last sign to which the Commission by consensus requested that the Town Manager would look into it.

7b. Hiring of new Deputy Town Clerk By: Town Manager Dailey

Town Manager Dailey requested permission to hire a new Deputy Town Clerk at a salary not to exceed \$33,000 with the individual being ratified at the next Regular Town Commission meeting. Director Hillery requested permission to hire one or two new dispatchers to replace ones in current positions to also be ratified at the next Regular Town Commission meeting. The Town Commission concurred to allow the hiring for replacement positions.

Resolutions

None

First Reading of Ordinances

None

Second Reading of Ordinances

None

Town Commission Comments

8. Discuss FDOT properties on Ocean Ave. By: Comm Bingham

Comm Bingham questioned when a decision was going to be made regarding this property adding that she believes there are vagrants sleeping behind it. Comm Schulte stated that DOT had wanted to tear it down and did not at the request of the Town Commission. He stated that if the Town now requests that they maintain it, they will

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more than likely proceed with their plans to demolish. Director Hillery stated that he would personally check for vagrants adding that he has had no other reports of them.

9. Fire Service By: Comm Willens

Comm Willens asked for the status of the fire services issue. Director Hillery advised that the change in law, which is causing problems for the current system, mandates that four firefighters must be present at the scene of a fire before anyone can enter the structure. Atty Spillias advised that the liability on the part of the Town is increased if the Town is not up to this new standard. Director Hillery explained that the staff is looking into two options of either hiring out the fire service or adding new employees to the Town staff to meet this requirement. He advised that either option will cost the Town a lot of money.

Mayor Kaleel stated that he will be speaking to representatives from Manalapan soon regarding the mutual aid agreement adding that there may be other avenues than previously stated.

Comm Willens stated that he just wanted the residents to be aware of what is going on as it may have a serious effect on the budget.

Adjournment

The meeting was adjourned at 9:10 PM.

Attest By:

Town Clerk

Mayor Kaleel

Commissioner Aaskov

Commissioner Bingham

Commissioner Schulte

Commissioner Willens