

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, February 3, 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
Mayor Kaleel
Commissioner Bingham
Commissioner Willens

Pledge of Allegiance

Moment of Silence in remembrance of the victims of the Space Shuttle Columbia tragedy

Additions, Deletions, Modifications and Approval of Agenda

Consent Agenda

1. Minutes of Town Commission Meeting of January 6, 2003
2. Minutes of Public Hearing of January 21, 2003
3. Approval of Annual Audit for Fiscal Year 2001/2002 Prepared by Bob Rives & Company By: Karen E. Hancsak, Town Clerk
4. Ratify Hiring of Serena Gomez, Deputy Town Clerk; Sharon McIntosh, Dispatcher/Clerk; and Kim Newsome, Dispatcher/Clerk

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

Motion carried - yea 5.

Announcements and Proclamations

5. Administrative Offices will be closed for the official holiday on Monday, January 20, 2003
6. 2003 Municipal Election
 - a. Date of election is February 11, 2003
 - b. Two commission seats for a three year term
 - c. Candidate refilling are Mayor Kenneth Kaleel, Comm Geoff Pugh, and Comm Jeffrey Willens
 - d. Polls will be open from 7 AM - 7 PM
 - e. Voting Machine demonstrations available until the election

Town Clerk Hancsak read above announcements.

7. Financial Summary By: Karen E. Hancsak, Town Clerk

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Town Clerk Hancsak advised that the Town had \$3,476,471 at the end of the Fiscal Year, however, \$65,632 in encumbrances will reduce that amount. She stated that the Town would still have an approximate \$2,000,000 fund balance if all debt in the amount of \$1,014,120 were paid off. She added that the General Fund fund balance of \$2,272,679 increased by \$78,377 from last year and the Capital Projects Fund fund balance of \$744,889 increased from last year's \$674,544. She stated that the total revenues for the year were \$2,712,485 and the total expenditures were \$2,588,664 (under the budgeted amount of \$2,752,888). The only accounts that exceeded the budget were the sanitation account due to increased dumpster fees. She concluded that the Town did not utilize any of the \$98,956 unappropriated budgeted monies in this years budget.

Comm Schulte questioned the sentence advising this was the final year of the Briny Breezes contract. Town Clerk Hancsak advised that the contract was only a one year contract and could still be renewed.

Comm Schulte commented on the current debt and asked about renegotiating or renewing at a lower rate than the current 7.1% and added that with the current market is much lower. Town Clerk Hancsak stated that the Commission discussed it in the last budget and decided against it. Mayor Kaleel added that the Town could incur costs in refinancing and stated that the Commission would rather have the cash for projects coming up. Town Clerk Hancsak stated that the pending construction loan could only be used strictly for the Drainage Project. Comm Schulte asked for more options to be reviewed.

Public Comment

None

Public Hearings

None

Regular Agenda

8. Request to Trim Vegetation on Dune Vegetation

Town Clerk Hancsak summarized a request by Mr. Richard Lucibella, 5 Beachway N, to trim +/- 56.78' of seagrapes down to 3' and window the remaining 86' of seagrapes on the 142.78' of beachfront property he owns across from 5 and 7 Beachway North. The plan also calls for the removal of sanseveria presently growing in the area and reducing and raising the canopy growing over Old Ocean Blvd. The drawing was submitted by Kevin Cavaioli, Green Space Design Assoc. who is a licensed Landscape Architect.

Town Clerk Hancsak also read the recommendation by the staff that since the windowing and trimming meet the guidelines of the Town Code, it was recommended that the trimming be approved as per the submitted drawing, provided that proof of a field permit

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is issued by DEP, the required bond is received by the Town, and the work is performed by a registered company in Town.

Comm Willens moved to approve the request to trim vegetation and the recommendation of the Town, seconded by Comm Aaskov.

Motion carried - yea 5.

Richard Lucibella requested to comment on the seagrape trimming project. Mr. Lucibella stated that the job is \$1,800 worth of maintenance and an additional \$1,200 for drawings which turns it into a \$3,000 job due to the Town's ordinances. He stated that an ordinance to protect the seagrapes is good but that he thinks the Commission should review revising the current code on height limitation and trimming of seagrapes. Mr. Lucibella suggested that the residents should have a clear understanding of what they can do, such as trimming seagrapes no more than 1/3 of their height in a given year and following DEP regulations, which would protect the dune and prevent residents from having to come before the Commission. Mr. Lucibella concluded on an emphasis for a height limitation in order to protect the dune as well as the residents.

Town Manager Dailey advised the Commission of a renewed request to trim the seagrapes on part of the public property, which had come before the Commission before her employment and that the request had been tabled. Town Manager Dailey stated that at that time a workshop had been mentioned in order to discuss what the Commissioners wanted to do on the dunes. Town Manager Dailey asked if the Commission would like to set a date for a workshop to discuss the item.

Mayor Kaleel asked if the item was brought to the Planning and Zoning Board during the code rewrite meetings. He was advised that the Commission requested to address this item in the past. Comm Bingham stated that the residents should have a definite plan of what can be done on the dune and stated a workshop is needed. Town Clerk Hancsak mentioned that part of the DEP's concern was the trimming of seagrapes affecting the sea-turtle lighting. Mr. Lucibella added that trimming the seagrapes cannot be done without notifying DEP and abiding by their regulations. Mayor Kaleel stated that DEP could provide guidelines for the trimming. Comm Aaskov mentioned that Town Manager Dailey should set a date for a workshop.

All agreed that next month the Town Manager would set a date for a workshop following the workshops for right-of-way's and the new land development code.

9. Sivitilli Site Plan Modification

Orlando and Liliane Sivitilli of 5011 N. Ocean Blvd, Ocean Ridge FL 33435 requesting a modification of an existing 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 the 5011 Stores and now

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proposed to be converted to three two-store residential units primarily within the existing footprint. The property currently has four 2nd floor apartment units and 1st floor stores and was built in the late 1950's. The property is located at 5011 N. Ocean Blvd or generally described as Blocks A, B, & Z Palm Beach Shore Acres Pt of Lots 18 & 19 in OR1432 P282 (being Lot 13 of Unrec PL of Blue Ocean) Blk A (exact legal description located at Town Hall). Town Clerk Hancsak advised that the applicants paid all the initial fees and no other additional correspondence had been received.

Comm Aaskov excused herself from this item and the next item for a conflict previously stated and that she will fill out the appropriate conflict of interest form.

Town Manager Dailey pointed out the historical background of the location. Comm Bingham questioned the ability to approve the plans with the set back and roof line that may contribute to dumping water. Attorney Spillias stated that the Commission is being asked to approve the plans as they have been submitted and commented that Planning and Zoning had approved the plans. Attorney Spillias also advised that there are two variances that the Sivitilli's will need to retain from the Board of Adjustment. Town Attorney Spillias stated that the first item is an encroachment into the setback by awnings and a flat roof for a portion of the building. He also pointed out that the Commission was not being asked to consider the settlement agreement at this time (which is the next item on the agenda) and that if the Commission approved or disapproved the settlement agreement it would cause different circumstances to be explained. Attorney Spillias advised that if the site plan is approved, the Sivitilli's will be required to go before the Board of Adjustment with no guarantees that the Board of Adjustment will or will not approve the variances requested. He also stated that they will need to meet all other regulations by County Health, Florida Building Code etc.

Comm Bingham questioned the plans and asked for an explanation of the variance of 3 and 6 foot awnings. Town Manager Dailey explained that one awning extends 3 feet and another extends 6 feet into the setbacks. Town Manager Dailey advised that the staff has reviewed the plans and believe they are consistent with the Comprehensive Plan and the Land Development Code. Mayor Kaleel stated he felt the plan was beautiful and that it adds to the property.

Comm Schulte moved to approve the plans as submitted subject to approval by the Board of Adjustment, seconded by Comm Bingham

Motion carried - yea 5.

10. Discuss Proposed Settlement Agreement – Sivitilli vs. Town of Ocean Ridge By: Kathleen Dailey, Town Manager

Town Attorney Spillias pointed out the copy of the summary agreement and mentioned that it had been discussed in various meetings in the past. Town Attorney Spillias stated that he worked with Gary Hunter, Attorney for the Sivitilli's, and has now come forward

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to the Commission with a settlement agreement. Attorney Spillias advised that the basic elements of the agreement are that the Sivitilli's will have 10 years to convert the property to a complete residential use. Spillias mentioned that it is irrespective of whether or not they implement the conversion plan the Commission has just approved. He also stated that the conversion plan is vested for the 10 year period provided the Sivitilli's not come back with any major modifications that would require approval of the Town Commission under the present Code. Attorney Spillias added that the Sivitilli's could still come before the Commission in the future for changes to the plan, however, they will need to comply with all other regulations and codes at that time, and not necessarily the Codes that exist at this time. Attorney Spillias also stated that the Commission is being asked to accept the Settlement Agreement as it is being submitted with the plans and variances requested and by doing so the Commission will be agreeing to recommend to the Board of Adjustment approval of the variances. Town Attorney Spillias advised that the Sivitilli's are required to obtain the variances within (90) days and that if they do not obtain it within the next (90) days that they may either notify the Commission of their intention to continue with the plan as it exists or they may notify the Commission of their intention to consider the Settlement Agreement null and void.

Attorney Spillias also mentioned that the Sivitilli's are agreeing that they will not, during the next 10 years, come back to this Commission or any other Commission and request a setting aside of the Agreement and permission to continue to use the property commercially. He also stated that if the Sivitilli's do make such an effort, any expenses the Town engenders such as attorney's fees in dealing with the request, then the Sivitilli's are liable for those fees. Attorney Spillias added that should the Town consider creating a commercial district then the Sivitilli's are not precluded from coming before the Commission and arguing that their property be included in such a district. Attorney Spillias concluded that once the Agreement is approved the Mayor will be authorized to sign after the Sivitilli's sign it and that there are a variety of provisions within it including the dismissal of the litigation and similar standard provisions.

Comm Bingham asked if any significant changes are made to the plans if the Sivitilli's will need to abide by the new codes as they are adopted. Attorney Spillias advised that any change that would require a site plan modification by the Town Commission would be governed under new codes, however, any minor modification that would not require coming before the Town Commission would be under the code as it presently exists. Attorney Spillias added that this applied only to the Site Plan and not to Building Code issues, and that at the time the permit is obtained, those building requirements must be met.

Comm Bingham moved to accept the Settlement Agreement as submitted and authorized the Mayor to sign, seconded by Comm Willens

Gary Hunter, Attorney for Orlando and Liliane Sivitilli, stated that Mayor Kaleel and Attorney Spillias have worked diligently for years with them on a resolution. Attorney Hunter thanked the Commission for accepting the settlement agreement and also gave

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appreciation to Town Manager Dailey for working with him and his clients to get the site plans approved.

Motion carried - yea 4. (Aaskov abstained)

11. Discuss Proposals for Signage for Old Ocean Blvd By: Kathleen Dailey, Town Manager

Town Manager Dailey advised that in July 2000 the Commission was presented a report for a sign project along Old Ocean Blvd and that the Commission had asked for more information. Since that time the project has been inactive. Town Manager Dailey included two sign design proposals along with the sign design presented in 2000 in the Commissioners packets. Town Manager Dailey stated that it was her opinion that all sign companies can create basically the same sign with the same poles. She also advised that the cost estimates from different companies were in the same range of what a sign and pole would cost. It was Town Manager Dailey's recommendation that the Town hire Guidance Pathway Systems, which is not only a sign company but also planners and engineers that have experience working with Florida Cities and Coastal Communities. She also suggested that a small committee be formed to decide on the final design, pole type and scope of the initial project.

Comm Bingham advised that she was not impressed with the drawings and would have liked to have seen numbers attached with the drawings. She also suggested contacting Jeff Industries but stated she was not willing to accept a company without figures.

Comm Schulte stated that he did not think the Commission was being asked to accept the presentation but to come up with a committee to work on a plan.

Comm Bingham again stated that she would not accept one company without any figures. Comm Schulte asked if the Commission was being asked to accept one company and Town Manager Dailey advised that she was requesting to work with one company because her opinion was that any sign company can do any design. She also advised that she did not present cost proposals because they would be in the public and she would not be able to go back to negotiate. Town Manager Dailey stated that there were many sign companies but that she preferred this sign company because they have planners who are familiar with looking at the Town as a whole.

Comm Schulte asked if the Town Manager would be open to also include alternative options. Mayor Kaleel asked if there was a cost involved with hiring the company to develop a design and Town Manager Dailey advised that there was not a cost or commitment. Comm Willens stated that as long as there were no costs or commitments he would like to see the Town Manager work with a design firm that she feels comfortable with. He also stated that he would also like to see Comm Bingham on the Committee. Mayor Kaleel stated that the Committee would have to make a recommendation to the Town subject to the Sunshine Law and that there would have to

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be public meetings. The Mayor suggested that the Town Manager work with the company she prefers and come back to the Commission as a whole and let them approve it. Comm Schulte commented it should be the Manager's choice which company she talks to and that she should bring back recommendations and choices. Mayor Kaleel also mentioned that he would like to see what the alternatives are. Comm Willens stated that he would like to see Comm Bingham and Comm Aaskov work together in a small group to come up with a recommendation.

Comm Aaskov moved to hire Guidance Pathway Systems. There was no second to the motion.

Mayor Kaleel stated that the Town Manager can work with a company herself. Town Manager Dailey agreed but advised that she would be spending a lot of time with the company and that they would not work with her without the intent of a contract. Town Manager Dailey also stated that you cannot have one company come up with a proposal that is their proprietary right and put it out for bid. Comm Schulte then stated that Town Manger Dailey could use the company to consult with and develop a plan and to let the company know up front that there is not a commitment.

Comm Schulte moved that Town Manager Dailey work on a plan without a commitment to a sign manufacturer and come back with a proposal, seconded by Comm Bingham.

Comm Willens stated that the sign company should look at it as a means of marketing their products. Comm Bingham also advised that she would like to see more mediums and more balance. Director Hillery commented that certain requirements for height and size may make it difficult to make the sign attractive.

Motion carried - yea 5.

12. Update on Code Revisions and Scheduling of Public Hearings By: Ken Spillias, Town Attorney

Town Attorney Spillias advised that the Planning and Zoning Board completed the review of the proposed Land Development Code and it is now ready to be submitted for both first and second readings. Attorney Spillias also stated that the original plan was to present the entire code including the general code of ordinances as well as the Land Development Code at the same time. However it is now their opinion that it would be better to do the Land Development Code first due to the long time frame. Attorney Spillias also mentioned that the time frame being recommended is for the first public hearing to be the last week of February to give the option of a second public hearing at the March Commission meeting and also that at least one of the meetings must be scheduled for 5:01PM or later.

Attorney Spillias stated that the first reading and the public hearing is when significant changes can still be made and brought back to the second reading but if significant

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changes were made at the second reading the process would have to start from the beginning. Attorney Spillias also mentioned that the first hearing will probably be the longer meeting in terms of public participation and input and will be more significant. Attorney Spillias advised that the Planning and Zoning Board took (4) meetings to process and review the code page by page. He also stated that the process that is being recommended is to provide an updated version including section numbers and editing revisions of the code. Attorney Spillias advised that the draft will be presented individually by separate pages and that each recommendation be considered first and then available to the public. Attorney Spillias concluded that the first meeting could be a long meeting.

There was a discussion on scheduling both hearing dates and starting times. Attorney Spillias reminded the Commission that the greatest portion of the code has already been reviewed and the minutes will be available.

Commissioner Schulte mentioned that the Planning and Zoning meetings were terrific and they became very productive. Comm Schulte gave thanks to Mr. Earl Jones and stated he also did a great job. Comm Willens also mentioned that he was pleased with the Planning and Zoning meetings and agreed with a lot of their recommendations.

The board directed that Town Clerk Hancsak schedule a meeting for the last week of February beginning at 3PM.

13. Discuss Scheduling for Meeting on Rights-of-Ways

Mayor Kaleel mentioned that a special workshop would be scheduled for the rights-of-ways in the near future. There was a discussion regarding all the recent meetings and all agreed that a date would be set for the end of March.

RESOLUTIONS

14. Ocean Ridge No. 2003-01; Adopting Right-of-Way Procedures for the Town

Town Attorney Spillias summarized the right-of-way abandonment procedures. Attorney Spillias stated that he saw that the Town had no written policies as to how to go forward with a right-of-way abandonment. Attorney Spillias advised that upon checking the Florida State Statute there is a statute that governs counties but not municipalities. Attorney Spillias recommended that the Commission adopt policies and procedures and added that it not need be done by ordinance or in the code. Attorney Spillias stated that there are several costs involved to the applicant for requesting the abandonment. Mayor Kaleel advised that the Commission could always refer the request back to the Planning and Zoning Commission.

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Comm Willens advised that he did not have a problem with the resolution but that he was uncomfortable and felt the need to recuse himself from discussion and the vote because he may be applying for a right-of-way abandonment. Attorney Spillias stated there is nothing in the procedure that would affect the applicability to him alone and that it is a general guideline.

Comm Bingham moved to adopt Ocean Ridge Resolution No. 2003-01; Right-of-Way Abandonment Procedures, seconded by Comm Aaskov.

Earl Jones, 14 Sailfish Lane, mentioned that the Commission may not be the same during the next meeting due to the election on February 11, 2003. Mr. Jones questioned if a new Commissioner was elected if they would be brought in at that point in time. Mayor Kaleel advised that if there is a new Commissioner, they would be notified of the meeting.

Motion carried - yea 5.

15. Ocean Ridge No. 2003-02; Authorizing the Mayor and Town Clerk to Execute a Grant Agreement Pursuant to an Environmental Protection Agency Grant Award between the State of Florida Dept. of Environmental Protection and the Town of Ocean Ridge for the purpose of funding assistance for the Town's Stormwater Drainage Improvement Project.

Comm Schulte moved to adopt Ocean Ridge Resolution No. 2003-02, seconded by Comm Aaskov

Motion carried - yea 5.

Town Commission Comments

Mayor Kaleel noted that the permit has been issued from South Florida Water Management for the south phase of Hudson Drainage Project.

First Reading of Ordinances

None

Second Reading of Ordinances

None

16. Discuss Motorcycle noise By: Comm Bingham

Comm Bingham stated that the motorcycle noise is awful and questioned if something could be done about it. Director Hillery advised that motorcycle noise is generally louder than a vehicle's noise and also that the motorcycles cause noise because they must excel

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from a stop light or stop sign. Director Hillery also stated that the Department of Public Safety has a reputation of stopping motorcycles. He did advise that if there was an infraction appropriate action would be taken.

Adjournment

The meeting was adjourned at approximately 7:55 PM.

Attest By:

Town Clerk

Mayor Kaleel

Commissioner Aaskov

Commissioner Bingham

Commissioner Schulte

Commissioner Willens