

Special Town Commission Meeting of the Town of Ocean Ridge held on Monday, February 25, 2003 at 3:00 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 Pugh	Commissioner Schulte
Mayor Kaleel	

Action Items

Ordinance No. 540; Adopting and enacting a new Land Development Code and a new Code of Ordinances for the Town Commission of the Town of Ocean Ridge, Florida; providing for the repeal of certain ordinances not included therein and in conflict therewith; providing a penalty for the violation thereof; providing for the manner of amending such code; providing for severability; and providing for an effective date (First Reading)

Town Clerk Hancsak read the Title of Ordinance.

Town Attorney Spillias advised that Attorney Bob Diffenderfer, who participated in rewriting, could not be present due to the birth of his child. Attorney Spillias advised that approximately 2 years ago the Commission requested the code be reviewed for ambiguities and to clarify the original intent of the code. Attorney Spillias stated that the Commission hired his firm to take recommendations from the Staff, the Planning and Zoning Board, the Town Commission and also from a workshop to draft the new code. Attorney Spillias also stated that the four Planning and Zoning meetings were public hearings which were advertised and open to public participation. Attorney Spillias advised that the Planning and Zoning Commission reviewed the proposed code page by page and took input from the public and made their recommendations to the Commission. Attorney Spillias stated that the next step in the process is the first reading before the Town Commission. Based on the revisions and decisions the Commission makes, the code is then passed and goes to second reading, which is also a public hearing. Attorney Spillias advised that the second reading must start after 5:01pm and if the code is passed it is then adopted.

Comm Schulte asked when the substance of the current code was adopted. Mayor Kaleel advised that in 1996 the Town went through changes in the Land Development Code. At that time the Town hired consultant Hank Skokowski with Urban Design Studios, who made recommendations to the Town and thereupon the code was changed to what exists today. Mayor Kaleel stated that there was no review on how that code would interplay with the rest of the code. Mayor Kaleel advised that the intent of these new revisions was to clear up the ambiguities and conform with current state law. Mayor Kaleel also stated that 95% of the code has not been touched but it has been re-titled to make it easier for people to understand. Mayor Kaleel advised that the FAR was changed long ago before

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1996 and that the bulk of the changes that were made took place during those extensive meetings that were open to the public.

Attorney Spillias stated that changes to the land use, zoning map and density are not being proposed today. Attorney Spillias also advised that this proposed Land Development Code is the same document as December 13, 2002. Attorney Spillias also stated that the General Code of Ordinances has some changes but not all are completed yet. He also mentioned that there is a code comparative table which corresponds the old and new code sections. Attorney Spillias summarized the minor changes to the General Code of Ordinance with the proposed staff revisions since December 13, 2002. Attorney Spillias explained that the major portions included a total revision to the alarm business code section by deleting a lot of outdated material. Attorney Spillias also stated that two of the major changes still to be addressed at a future date included the noise ordinance and the telecommunications ordinance.

Attorney Spillias continued reviewing the Land Development Code revisions made since December 13, 2002. Attorney Spillias stated there are changes on page 1, types of applications, defining major and minor developments for approving and/or amending site plans. Attorney Spillias advised that further changes added a provision clause to allow administrative approval if the plan does not deviate more than 5% cumulatively to the dimension of a particular section of the previously approved site plan approval. Town Clerk Hancsak clarified that this was separate from a variance and was only for site plan amendments that were already approved and meet all requirements.

Attorney Spillias reviewed section 64-24, development standards and suggested that RSE should be changed to designate 2 units per acre and RMM and RMF districts designated 3 to 4 units per acre to be clearer and avoid conflict. The Commission concurred.

Attorney Spillias stated that in section 64-42, (Swimming Pools), corner side yard was added to the permitted locations. Attorney Spillias also stated that in section 64-44, fences, walls and hedges, front yard setback was added to the four foot height limitation. Attorney Spillias also mentioned the changes to hedge height limitations. Comm Bingham asked if there was an area in the code that defines what a hedge is such as clipped straight up and down on the sides and from the top. Attorney Spillias advised it has been brought up at the workshops and they never got a clear direction. Attorney Spillias did state that there has always been a definition of a hedge in the code which is a domesticated wooded plant growth including bushes and shrubs with sufficiently dense and continuous foliage to create an architectural barrier. Attorney Spillias stated that Code Enforcement would have a sufficient definition for their purposes of determining a hedge.

Attorney Spillias reviewed minor changes to section 64-51, satellite dish antennas; section 67-32, floor elevations, which has some deletions and language changes. Also Attorney Spillias reviewed minor changes in section 67-136, site work incidental to construction; section 67-174, maintenance and appearance standards; section 67-177, responsibility of owners, operators and occupants; and section 70-4, permitted signs.

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Attorney Spillias then reviewed the Planning and Zoning recommendations and stated that the P&Z put in a lot of time, thought and research and added that the workshops were very valuable. Attorney Spillias summarized the recommended changes made in the definition section. He stated that there was significant discussion on total floor area ratio and chimney height. There were also suggestions to change section 63-32, (Notice and Hearing), for appeal time to be changed from 30 days to 10 days and also to change the publication notice from 15 days prior to 5 business days prior to the hearing.

Attorney Spillias summarized the recommended changes to section 64-1, RSF and RSE single family residential districts. He stated that the recommendations include that the floor calculations, when calculating total floor, include that the second floor shall not exceed 75 percent of the first floor. Attorney Spillias also stated that when calculating the 75% requirement, the first floor areas will include those portions of a structure utilized in establishing the maximum finished floor elevation which are enclosed and which share at least one wall with the remainder of the structure. Attorney Spillias mentioned that the recommendations for maximum building height for chimneys, including caps, was not to exceed four feet in height from the ridge of the roof.

Attorney Spillias stated that it was recommended in the RSF district, for lots with 20,000 square feet or more, the FAR should be reduced from 36% to 32%. Attorney Spillias explained that bisected lots could not utilize both aspects of the lot to calculate floor area ratio, and that the recommendation is to allow the first 1,000 square feet of the un-built portion of the lot to be added to the buildable portion of the lot for the purpose of calculating floor area ratio, but still not exceed 36%.

Attorney Spillias summarized the minor recommendations and language changes to sections regarding golf courses, RMM district floor area requirements, fences, walls and hedges, off street parking, height limitations, sanitation facilities and floor elevations. Attorney Spillias stated that recommendations were made to add the term 'first floor living elevation' and put the term 'structure' back into the finished floor elevations section. Attorney Spillias explained the remaining minor recommendations from the Planning and Zoning Commission and stated that if the finished floor elevation recommendations are accepted by the Commission, paragraph (5) would be reinstated in sub-section C(2).

Mayor Kaleel thanked the Planning and Zoning Commission for all their work. James Bonfiglio, 5616 N. Ocean Blvd, vice-chair of the P&Z Commission, stated that all the recommendations were reflected correctly. Comm Schulte questioned the reason for reinstatement of paragraph (5). Mr. Bonfiglio stated that there is a need to control elevation areas and some areas would be penalized where such varying elevations exist.

Comm Bingham moved to adopt Ordinance 540 with the recommendations made by the Planning and Zoning Commission and recommendations by the staff today, seconded by Comm Schulte.

Public Comment

Mr. James McAndrew, 131 Island Drive, stated he appreciated all the hard work. Mr. McAndrew also stated that it is an excellent Town however, Towns are obligated to allow residential homes and that there are five areas of the code that he stated are hard to handle. The first section Mr. McAndrew mentioned was that of lots being separated by a street. Mr. McAndrew cautioned that although he agrees with the 1,000 square feet being utilized for FAR people with more than 1,000 square feet may resort to lawsuits. Mr. McAndrew mentioned the second problem he had was that the code was difficult to read and should be clearer. An example mentioned was that if a home is destroyed by natural means the code should be easier to comprehend on what can be rebuilt and also suggested that homeowners have the right to rebuild to the same size and square footage as immediately before destruction. Mr. McAndrew stated that the third issue was garages, covered porches and architectural features. Mr. McAndrew commented that the Planning and Zoning Commission had come had a long way but not far enough. He commented that these features should not be calculated in square footage because the values in property are diminished. Mr. McAndrew also stated that the tax base is going to be driven up and the larger homes will pick up the rising tax burden. Mr. McAndrew commented that he believed his rights are being disenfranchised because of the code. Mr. McAndrew advised his fourth problem with the code was that the RSF district should be raised from the 36% FAR to bring larger homes in the Town, thereby picking up the larger taxes. Mr. McAndrew stated his fifth concern with the code was the 75% rule. He mentioned that the second story only being allowed to be built to 75% of the first floor grabs at the size and the thinking should be focused ahead at how families want to live allowing taxes to shift where the burden is.

Mr. McAndrew mentioned that he was worried about a lawsuit due to the lot separated by a street issue. He also stated that the Town is not being fair and does not feel the Commission is organized correctly. Mr. McAndrew recommended the Town be divided by district and have an advocate for each district to be represented. Mr. McAndrew summarized his feeling on the 75% rule being unmanageable. He also stated that the code is difficult to interpret and was over-regulated. Mr. McAndrew also mentioned there were too many words and the code should be to the point. Mr. McAndrew concluded that the Town should protect the tax base with newer bigger homes and is opposed to the 32% and 36% code.

Mr. George Berlin, 26 Hudson Ave., stated that several months ago the Town Attorney stated the code would eliminate the problem with flag lots. Mr. Berlin stated that when he purchased his property it consisted of two lots that equal approximately 23,000 square feet. However they could not make it two lots today without having problems. Mr. Berlin stated that there was no other way to purchase the property due to the Intracoastal Waterways and he is glad for the flag lots elimination of permitting.

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Shane Ames, Architect in Delray Beach, stated he is representing several clients in Town. Mr. Ames commented that since October he has been at a standstill because of the Zoning-in-Progress. Mr. Ames questioned whether once the vote is taken does the recommendations of the Planning and Zoning become the Zoning-in-Progress and can he get back to work. Attorney Spillias stated that Zoning in Progress means that if a building permit is requested pending changes can be prohibited. Mr. Ames suggested that the RSF district be 36% FAR for 20,000 square feet and any additional square feet thereafter becomes 32%, as is done in the Town of Gulfstream. Mayor Kaleel felt it was a good suggestion. Mr. Ames stated he agrees with the floor area ratio comments made by Mr. McAndrew and also stated that one of the most difficult areas to work with are with septic systems because they take up a large area. Mr. Ames advised that the septic system creates problems because it determines how large a home can be and an increase in the floor area ratio would still be governed by Health Department requirements.

Christina De Angelo, 6115 N. Ocean Blvd, stated that she feels it should stay black and white in the code that a home can be rebuilt as it was immediately before a natural destruction. Mrs. De Angelo also advised that the 75% floor area ratio rule for the second floor affected her because she wanted to build a Georgian style house. Mrs. De Angelo also suggested that guidelines for the color of homes be addressed which she feels is very important to property value. Mrs. De Angelo mentioned that she did not agree with the 32% floor area ratio for lots over 20,000 square feet in the RSF district.

Comm Schulte stated he felt it is clear that homes can be rebuilt as they were and technical codes such as electrical and plumbing are the only codes that would have to be followed to date. Attorney Spillias read the definition that if any existing grandfathered structure provided for in the sub-section is destroyed by any means including fire, flood, etc., that the structure is permitted to be reconstructed according to the original development property construction. For example a 4,500 square foot home could be rebuilt to a 4,500 square foot home. Mayor Kaleel stated that it is clear that a home can be rebuilt as it was immediately before destruction and that if it needs to be made as an official interpretation he is in favor of that. Attorney Spillias stated he will make it a record of official interpretation of the definition and it will show in the minutes that a home can be rebuilt as it was immediately before destruction. Mayor Kaleel also clarified that exterior balconies and porches are not included in the floor area ratio and were taken out of the code.

Attorney Carl Casio, retained by Mr. McAndrew, stated that he sat in through all of the Planning and Zoning Meetings and felt they were moving in the right direction. Attorney Casio advised he was asked by his client to assess the impact the new code would have on residents and wishes to be proactive with the Town and not a threat. Attorney Casio stated he evaluated three areas of the code he felt could be a potential problem. The first section Attorney Casio mentioned was the reduction of 36% to 32% floor area ratio in the RSF district. The second section of concern was the elimination of utilizing adjacent lots for lots over 1,000 square feet in the FAR calculation.

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Attorney Casio stated that the RSF district for lots over 20,000 square feet was also a potential problem and also the inclusion of bay windows, chimneys and other non-habitable architectural features which are going to be included in the floor area ratio. Attorney Casio stated the third section of concern is the 75% rule for second stories which puts more restrictions on the architectural features. Attorney Casio feels all three sections will continue to provide ambiguities in the future. Attorney Casio also stated that the language in the code could be tightened up further and stated he has spoken with Town Attorney Spillias on changing the language. Attorney Casio also stated that he sent a letter to the Town on February 3, 2003 addressing some of the issues discussed today and concluded by stating there are better ways to achieve certain objectives rather than reducing the floor area ratio and he felt some of the items are actionable.

Town Attorney Spillias clarified section 64-1 sub-paragraph 6, that when calculating floor area ratio roofed porches and balconies are exempt in that calculation and interior features, such as chimneys, are included. Attorney Spillias stated that the section concerning replacing a grandfathered structure due to natural causes was already in the code, however, he can add 'original structure' and any additions thereto to the grandfathered section.

Linda Essig, 12 Inlet Cay Dr., stated she was concerned with the language regarding rebuilding property if destroyed and mentioned it would be impossible to do by the new code. Mayor Kaleel advised that the language in the code will be clarified and the issue should be put to rest. Mrs. Essig stated that the terminology should include the square footage that currently exists with all approved additions. Mayor Kaleel again advised that the language will be clarified. Mrs. Essig also commented that the Town had a knee jerk reaction to change the code because of two resident's houses. Mrs. Essig mentioned that larger square footage should be allowed with the same setbacks because property owners want the highest price for their homes and the code is stopping the process of growing over the next 10 to 30 years. Mrs. Essig stated that she felt 42% and 46% floor area ratio were more reasonable. Mrs. Essig concluded by stating that she has a petition with multiple signatures of residents in agreement with Mr. McAndrew and will present more in the future to show the majority of people agree.

Carol Harris, 127 Marlin Dr., stated it would be a courtesy to the audience to hand out literature at the meetings for people to follow along and understand. Mrs. Harris advised she picked up a CD of the proposed code rewrite and attended all four of the Planning and Zoning meetings. Mrs. Harris mentioned she had a problem with page 2 of the Planning and Zoning recommendations which does not reflect what the minutes state regarding public notices. Mrs. Harris stated that a motion was passed on January 16, 2003 that no changes be made to the paragraph in the code regarding the time to appeal of five business days. Mrs. Harris also advised she does not feel that changing from two advertisements to one advertisement and from five business days to five days is adequate time to appeal a public notice. Mayor Kaleel stated that this was done to reduce the expense on the homeowner.

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Town Clerk Hancsak advised that when a permit is approved by the County a sign is posted for thirty days which states what the permit is for and anyone can come into Town Hall and see the permit to make sure they are comfortable that it meets all the codes. Mrs. Harris questioned how long the meetings have to be advertised. Town Clerk Hancsak advised that the time depends on what the meeting is, for example, this First Reading by law was advertised seven days prior, and an ordinance must be advertised ten days prior to the meeting and agendas are posted three days prior to the meeting. Attorney Spillias stated that the minutes from January 16, 2003 state that a notice be advertised five calendar days prior to a meeting. Mayor Kaleel stated that he does agree that there should be two publications in the newspaper to allow people to be notified. Attorney Spillias clarified that two advertisements are not mandatory. Attorney Spillias stated that one publication is required and there is also a courtesy notification to the surrounding residents within 300 feet. Mrs. Harris asked if the times could be reversed to one publication fifteen days prior instead of two notices fifteen and five days prior to the meeting. Mayor Kaleel stated that it will be discussed at a later time.

Hank Green, 101 Bonito Dr., stated that he moved to Ocean Ridge in 1985 and at that time the homes were small. Mr. Green commented that since that time he has seen the homes and the Town grow. Mr. Green also mentioned that now you see children on bicycles, families on the street and the people have made great effects on the Town. Mr. Green also stated that because of the code the Town is not allowing families to grow and the Town is reverting back to the 1980's by keeping the homes small. He also stated that the Constitution mentions the pursuit of happiness and that he loves the Town however he feels somebody has made a mistake by limiting the size of homes. Mr. Green read the Town's mission statement and concluded with the comment, "why monkey around with success".

Gilbert Panzer, 6810 N. Ocean Blvd, supported the recommendation of the change of 36% up to 20,000 square feet and 32% over 20,000 square feet. Mr. Panzer also commented that the Town should not legislate the colors of homes.

Steve Greenhart, 2015 S. Ocean Blvd, Delray Beach, owner of a 103' x 108' lot at Thomson and A1A, stated that he is looking to build a house that has architectural integrity. Mr. Greenhart advised that he feels garages should not be included in the square footage because it cuts his square footage down significantly. Mr. Greenhart also asked the Commission to consider not downsizing the community or reducing the value of the property.

Jeff Lee, 15 Sabal Island, stated that the history of the Town wanted smaller homes and that has changed. Mr. Lee commented that people want families and larger homes and any restrictions placed on building reasonable sized homes, is unfair to the residents.

Linda Essig, 12 Inlet Cay Dr., stated that Ocean Ridge has an opportunity to be on the cutting edge and has finally come around in a good way.

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Gerry Goray, 130 Island Dr., stated his appreciation for everyone's effort in all of the meetings. Mr. Goray also stated that since 1996 a notion has become popular in the community that bigger is bad and today many people do not feel that way. Mr. Goray commented that bigger within reason has created an increase in values. Mr. Goray suggested that the market dictates that bigger up to a certain point is better and property values increase the tax base. Mr. Goray also stated that the setbacks, the height restrictions and the drainage safeguards provide adequate protection. Mr. Goray mentioned that he is pleased with the Planning and Zoning recommendations and also gave examples of the covered porches and garages being included in the floor area ratio and how the deduction of square footage under air conditioning is below today's market. Mr. Goray suggested doing an analysis of the impact the code change will have and possibly contacting professionals before the proposed code changes in the floor area ratio are adopted. Mr. Goray stated he agrees with most of the comments regarding the size of houses and appreciated the Town Commission.

Earl Jones, 14 Sailfish Lane, stated that he has lived in Ocean Ridge for many years. Mr. Jones advised that the floor area ratio he had when he designed his home twenty four years ago was 36%. Mr. Jones also stated that the comments of house sizes shrinking are not true and things have not changed significantly. Mr. Jones commented that houses are much larger now than they were twenty-three years ago and he believes things should remain the way they are.

Comm Schulte stated that there is only one major change in the code which is the change from 36% to 32% floor area ratio. Comm Schulte also commented that the code is not being changed to reduce the size. Comm Schulte advised that houses and styles will change and the code is in place for everyone's protection. Mr. McAndrew commented that it is time for the Town to recognize some revisions are too much and unfair.

Comm Pugh stated that he is an evolutionary and when he built his home he went through a variance process. Comm Pugh also mentioned that the septic systems are based on total area and will constrain the size of the house which has nothing to do with the floor area ratio. Comm Pugh advised that the houses being built do not seem to be small or unattractive and have conformed to the 36% rule. Comm Pugh also mentioned the Planning and Zoning members who made the recommendations are all residents and neighbors.

Mr. McAndrew commented that a resident should not have to seek a variance to build a residential property in a residential town. Comm Pugh stated that he believes in the setback and floor area ratio calculations.

Attorney Casio stated that in section 64-1, page 8, of the Planning and Zoning recommendations, it reads that the floor area occupied by bay windows, chimneys or other non-habitable architectural features, shall be included and shall be subject to the provision.

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Attorney Casio questioned if the inclusion of bay windows, chimneys and other non-habitable architectural features is going to decrease the amount of square footage under air. Attorney Spillias stated that they were included because they were under roof. Attorney Casio questioned the covered porches and balconies not being included in the floor area ratio and why exterior balconies had not been addressed. Town Clerk Hancsak advised the non-roofed exterior balconies were never included in the floor area ratio. Attorney Spillias also stated that exterior balconies shown in the exclusions can be put back in. Mayor Kaleel stated that exterior balconies should be clarified in the definition section.

Christina De Angelo suggested that garages not be included in the floor area ratio and that it would make most people happy.

Comm Bingham stated that she felt everyone had worked very hard on the code and feels that the code will create a place for children to play and will also eventually increase property values.

Mayor Kaleel commented that it is an advantage to have history and knowledge of what happened in the past and it is important not to overlook that. Mayor Kaleel stated that there was a big push in 1996 to increase the FAR and that the 36% came out to be the right size. Mayor Kaleel commented that if the floor area ratio was increased to 42% that people would want 45% and it would be a never ending scale. Mayor Kaleel also stated that the architecture since the 1996 code has been very good and that overall the dimensions and styles have been a positive experience. Mayor Kaleel stated that the Planning and Zoning Commission looked at and examined the 75% rule. Mayor Kaleel also mentioned that he is open to the concept of a modified or controlled increase of size if done tastefully. Mayor Kaleel stated that it is important not to get overbuilt and that the changes in the proposed code have not been extreme.

Mr. Bonfiglio stated that the Planning and Zoning Commission spent a lot of time discussing the 75% rule and considered abolishing it. Mr. Bonfiglio said he would be glad to look at it again but did not know if it would change the opinion of the Board. Mayor Kaleel stated that when joining two lots there is a potential to overbuild and the sanctity of the residential neighborhood must be considered. Mayor Kaleel commented that Architect Shane Ames had a good idea of 36% for the first 10,000 square feet and lower for the next 10,000 square feet. Mayor Kaleel also advised that it would be something for Planning and Zoning to look at in the future.

Attorney Spillias advised that in the RSE district of 20,000 square feet or more, the floor area ratio is 32% and the concern is in the RSF district of 20,000 square feet or greater, two lots could be purchased and the floor area ratio can be 36%. Attorney Spillias stated that there is more incentive in a RSF than in a RSE district. Town Clerk Hancsak stated that it is 36% floor area ratio in the RSE and 32% lot coverage.

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Mayor Kaleel stated that you cannot compare Ocean Ridge to Manalapan or Gulfstream. Mayor Kaleel also advised that the septic fields do provide a restriction on what can be built and cannot be relied upon. Mayor Kaleel mentioned that a self contained septic unit has been approved, technology is changing and the Health Department cannot be relied upon for restrictions. Mayor Kaleel commented that the overall code is evolving and changing constantly to a level of reasonableness.

Mrs. Essig asked if there is a rush to accept the changes and reduce the size of square footage. Mayor Kaleel stated that the process has not been rushed and that it has been worked on for over two years. Mr. McAndrew asked the Commissioners to recognize that there are people in the Town that see a different way.

Mr. Ames questioned what the code and rule is as of this date and also stated that in terms of massing the floor area ratio does not matter to an Architect who is dealing with lot size and setback. Town Clerk Hancsak stated that what is in the proposed book is the code now. Mr. Goray stated that 98% to 99% of the proposals are necessary and efficient. Mr. Goray also mentioned that past judgment of the 36% floor area ratio was not focused on by the Planning and Zoning Commission because it was not a proposed change. Mr. Goray advised that the Planning and Zoning Commission did discuss the 75% second floor ratio at great length and also stated that he agrees with Mayor Kaleel for the need to go forward.

Attorney Spillias summarized the three amendments to be changed. Attorney Spillias stated the first item is the change in the floor area ratio definition to put back in the term exterior balconies as excluded from the calculations. The second change Attorney Spillias stated was to include in grandfathered provisions - any permitted additions thereto. Attorney Spillias advised the third change was the publication time for Planning and Zoning Meetings to be ten business days.

Comm Bingham amended her motion to adopt Ordinance No. 540 with the P&Z and staff recommendations and include the three amendments as suggested by Attorney Spillias, seconded by Comm Schulte.

Attorney Spillias stated that any subsequent changes cannot be made at the second reading.

Attorney Spillias stated that a date needs be set for the second reading at least ten days after today's date and requires at least five days notice. Town Clerk Hancsak stated she will make the calls and set the second reading.

Motion carried - yea 5.

Meeting was adjourned at 6:45pm

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Attest By:

Town Clerk

Mayor Kaleel

Commissioner Aaskov

Commissioner Bingham

Commissioner Pugh

Commissioner Schulte