

REGULAR TOWN COMMISSION MEETING HELD ON MARCH 3, 2003

Regular Town Commission Meeting of the Town of Ocean Ridge held on March 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 Pugh
Commissioner Bingham
Commissioner Schulte
Mayor Kaleel

Pledge of Allegiance

Additions, Deletions, Modifications and Approval of Agenda

Comm Pugh advised he would like to have a short discussion on the new Town Hall building.

Comm Bingham requested to pull Item 4, Resolution No. 2003-05

Consent Agenda

1. Minutes of Regular Town Commission Meeting of February 3, 2003
2. Minutes of Special Town Commission Meeting of February 14, 2003
3. Ocean Ridge Resolution No. 2003-04; Authorizing the Execution of the NPDES Second Term Permit Interlocal Agreement Between Northern Palm Beach County Improvement District and the Town for the Purpose of Allocating Duties, Responsibilities, and Costs Associated with the NPDES Permit
4. Ocean Ridge Resolution No. 2003-05; Urging that the Florida Legislature oppose any Legislative Efforts to Amend Existing Law Which Allocates \$30,000,000 annually in Certain Documentary Stamp Tax Revenues to the Ecosystem Management and Restoration Trust Fund for the Purposes of Beach Preservation and Repair
5. Ratify Decision of Town Manager to Remove Concrete Slab and Scaevola at the Dune of Property Owned by the 52 Property Owners of Ocean Shores Estates and Ocean Ridge Beach Property Owners

Comm Bingham moved to approve the agenda as modified and the consent agenda without #4, seconded by Comm Schulte.

Motion carried - yea 5.

Announcements and Proclamations

6. Special Meeting and Public Hearing for 2nd Reading and Adoption of Ordinance #540 will be held on March 13, 2003 at 5:01 P.M.

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Public Comment

None

Comm Bingham stated she felt the resolutions are micromanaging and she questioned telling the State where to spend funds when balancing the budget.

Comm Aaskov moved to adopt resolution 2003-05, seconded by Comm Pugh.

Motion carried - yeah (Aaskov, Pugh, Kaleel, Schulte)
- nay (Bingham)

Public Hearings

7. Ocean Ridge Resolution No. 2003-03; Vacating and Abandoning its Interest in +/- 145' of an Unimproved Twenty (20) Foot Wide, Platted Right of Way Located on the Property Within the Town of Ocean Ridge Situated Northerly of Lot 15 of Ridge Harbour Estates Plat Recorded in Plat Book 18, Page 45 in the Public Records of Palm Beach County; the Right of Way is Located Generally North of Harbour Drive North; Providing for Recording of this Resolution for an Effective Date and for other purposes Request made by Joe Pike, representing Marilyn Hamilton (Trustee of the Trust of Adelaide Jockel), 62 Harbour Drive North

Mayor Kaleel read the above Resolution title.

Joseph Pike, Enviro Design, welcomed back Comm Kaleel and welcomed Comm Pugh after the recent election. Mr. Pike stated that he was under a contract to purchase property in Ocean Ridge since mid last year. Mr. Pike also advised that he has met with a number of different agencies including the Town Staff, Department of Environmental Protection, Federal Government Army Corp of Engineers, the County Attorney's Office and several others. Mr. Pike stated that the County was very interested because of the wetland area. Mr. Pike commented that he was advised the probability of approval was very low because of the Planning and Zoning Commission's recent recommendation on Thompson Street and other right-of-ways. Mr. Pike stated he felt this section of Thompson Street is unique and warrants special attention and also that he felt he has created a win/win situation. Mr. Pike distributed material to the Commission to show the right-of-way, submerged wet-land and lot area. Mr. Pike pointed out the dock on the property in the right-of-way from an aerial photograph in 1965 of the lot. Mr. Pike then pointed out on a photograph from 1989 which showed the receding of the shore line from the lot. Mr. Pike mentioned that if the Town granted the abandonment of the right-of-way it would do a number of things for the Town including providing an easement for utilities, increase in revenue tax and stabilizing the shoreline. Mr. Pike suggested his interest in a rip rap or seawall on the north end of the lot to prevent erosion.

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Theresa Iglehart, 58 Harbour Dr North, questioned if the abandonment rights would be acceptable for the rest of the residents in Town. Mrs. Iglehart also stated that the request sounds great but should be equal for everyone. She also mentioned her concerns of putting in a seawall and the sand drifts moving the water east and damaging other homes.

Mr. Pike stated that it would be beneficial to the property owners to gain ownership of the right-of-ways rather than the County controlling them. He added the County plans on rip rapping the shoreline to the east.

George Berlin, 26 Hudson Avenue, mentioned that Town Attorney Spillias stated that public right-of-ways were required to be for public use and public purposes. Mr. Berlin also stated that if the abandonment is granted for Mr. Pike, he will be next in line for a request to abandon a right-of-way.

Town Attorney Spillias stated that there are no requirements to improve a right-of-way. Attorney Spillias also stated that it must be determined that a right-of-way would no longer be needed for public use in order to abandon and also that the law puts no deadline on the determination.

Christina De Angelo, 6115 N. Ocean Blvd, stated that Mr. Pike has a wonderful idea for the property and questioned why someone could not pay for the right-of-way rather than the residents abandoning them. Mayor Kaleel advised that the law states you cannot charge for a right-of-way. Mayor Kaleel stated that the right-of-way is a right for the Town to use and that the underlying land would revert back to property owners on either side is abandoned.

Attorney Spillias stated that the right-of-way is the exclusive right of the Town and that the property owner can do nothing to interfere with that exclusive right.

Comm Bingham questioned Staff if the property owner for the section of Thompson St. twenty years ago agreed to maintain the right-of-way and if the Town had stopped taking care of it. Town Clerk Hancsak advised that she had no recollection of such an agreement.

Comm Bingham questioned that if the land was burned and cleared would there be a mangrove problem and receding of the property?

Mayor Kaleel stated the County is currently in the permitting stage for the mangrove restoration project on the Town owned land and they were hopeful to acquire the land to the south (N of Thompson) to add to the proposed project.

Mr. Pike advised he is open for other options and has looked into a variance for the setback and is also concerned with liability from public access. Mr. Pike stated he would like some control regarding public access and feels it would also be an exposure for the Town.

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Comm Aaskov stated she felt the issue should be put off until the upcoming scheduled right-of-way meeting.

Comm Schulte questioned the staff recommendation for denial. Town Manager Dailey advised that the staff did look at the request for abandonment and stated that there could be mutual benefits but she summarized the reasons for the denial. These included a failure to demonstrate a significant hardship to preclude the rebuilding/renovation of a reasonably sized structure. There are variance procedures and other methods the owners can pursue to make an effort to construct a larger home which would not require the Town to abandon public lands. The Planning and Zoning Commission recommended that no ROWs be abandoned. The portion of Thompson Street ROW requested for abandonment is functional for direct public access or future access of citizens to area waterways. The offer to grant the Town an access and use easement through the property is for governmental/public utility agencies use only.

Mr. Pike stated that he did not feel the need to show a hardship in this case. Mr. Pike mentioned that because of the lot size, setbacks, and restrictions, it puts limits on positioning a home. Mr. Pike also advised he felt a variance was not the way to go.

Comm Pugh commented that there was an upcoming meeting for the right-of-ways and Mr. Pike's request is too early. Comm Pugh questioned the determination of what can be done with property now and twenty years from now. Comm Pugh also stated that it is not fair to abandon one piece for one person without showing a hardship.

Comm Pugh motioned to accept the recommendation of the staff not to abandon the right-of-way, seconded by Comm Aaskov.

Mayor Kaleel questioned the impact of the denial. Attorney Spillias stated that the right-of-way remains a public access. Mayor Kaleel also questioned if there were any preclusions to coming back to the Commission with a request once a decision has been made. Attorney Spillias advised that there was no limitation and that it could be considered for abandonment as many times as needed.

Mayor Kaleel stated he envisions problems with neighbors and property owners and the Town should keep the right-of-way in case there is ever a decision to provide public access. Mayor Kaleel also stated that this does not preclude Mr. Pike from reapplying at the upcoming right-of-way meeting.

Motion carried, yea 5.

Town Clerk Hancsak advised that she had spoken to some of the Commissioners and Monday March 24th was agreeable for the right-of-way meeting.

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As a point of information Mayor Kaleel stated that the Town is in receipt of the permit for the drainage project from the Army Corp of Engineers.

Mr. Berlin asked if there was an estimated time for moving dirt. Town Manager Dailey advised that at this point a bid package is put out for construction which is usually returned within 60-90 days and in her opinion the project would begin in six months if everything went as planned.

Actions and Reports

8. Action to Fill Appointments to Board of Adjustment and Planning and Zoning

Mayor Kaleel advised that there were a couple of openings on the Board of Adjustment and Planning and Zoning Commission. Mayor Kaleel commented that Comm Pugh's position on the Board of Adjustment was open as well as Rich Lucibella's and Earl Jones' seats.

Town Clerk Hancsak advised that Earl Jones was stepping down but if needed would serve at the March 12th meeting. Town Clerk Hancsak suggested swapping Mrs. Souther, a regular member, and Mr. Hanna, an alternate because Mrs. Souther has difficulties attending all the meetings.

Comm Bingham moved to table the appointments to both boards so the seats could be advertised as a request for volunteers. Town Clerk Hancsak also advised that Mr. Walker was interested in serving as a regular member but may have difficulty attending all meetings during the summer months, seconded by Comm Schulte.

Motion carried, yea 5.

9. Discuss Building Official Services

Town Manager Dailey summarized the memo regarding the contract with Palm Beach County for building official services and the contract with Hy-Byrd, Inc. for zoning and building services.

There was a discussion regarding the fee schedules for the County and the Town. Comm Schulte advised he would like to see a fee schedule developed. Town Manager Dailey advised that a fee schedule must be developed that will cover costs. Mayor Kaleel stated the issue is whether to privatize the service to have more control or keep the contract with the County and either way it should be budget neutral.

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Mr. Lucibella, 5 Beachway N, stated that if the County provides the service at no cost to the Town and in turn charges their own fees in advance, the fee schedule must already be in place. Mr. Lucibella stated it is impossible to set a fee schedule in advance to cover costs and that you will either make or lose money; therefore, it cannot be totally budget neutral. Mayor Kaleel stated it is a service that is being provided to the Town.

Town Manager Dailey advised that aggressive research is being done tracking the Town Attorney's time, staff time and the engineer's time and the determination is not just a matter of how many permits are issued in a year. Town Manager Dailey also stated that it will probably be a couple of months before a fee schedule is developed.

Mr. Lucibella questioned if the Town had an estimate of how much money was coming in from permits. Town Clerk Hancsak advised that it ranged from 30 to 50 thousand and that currently 45 thousand is budgeted this year for zoning review without building review.

Attorney Spillias stated that an analysis needs to be done of the neighboring municipalities as well as the building activity in the Town. Attorney Spillias stated he would be surprised if other Town's were making money from permit fees because it is not permitted by law. Attorney Spillias stated that the costs of administering a permit can include the fees for Hy-Byrd, Inc., administrative time, engineering time, and revision costs. Attorney Spillias also mentioned that the current zoning review has involved Town Clerk Hancsak's time and Town Manager Dailey's time with a cost factor for efficiency and also that his time is being spent more than it should be on interpreting the code. Attorney Spillias advised that the costs could be raised or dropped each year and fees collected could be utilized for planning and zoning purposes.

Comm Schulte moved to approve the recommendation of the Town Manager with an analysis of an intended fee schedule along with projected costs and assumptions of what utilizations are going to be as well as notifying the County the Town is canceling the contract for building official services. The motion seconded by Comm Bingham. Town Manager Dailey stated she has every intention to provide an analysis with a fee schedule.

Motion carried - yea 5.

Resolutions

10. No. 2003-06; Electing a Mayor

Comm Bingham, nominated Comm Aaskov for Mayor, Comm Schulte moved to close nominations, seconded by Comm Pugh.

Comm Bingham moved to approve resolution No. 2003-06 appointing Gail Aaskov as Mayor, seconded by Comm Schulte.

Motion carried - yea 5.

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Town Clerk Hancsak read resolution title No. 2003-06, electing Gail Aaskov as Mayor of the Town of Ocean Ridge until the next election of 2004.

11. No. 2003-07; Electing a Vice Mayor

Comm Schulte moved to appoint Ken Kaleel as Vice Mayor, seconded by Comm Pugh.

Motion carried - yea 5.

12. No. 2003-08; Designating Depositories, Authorizing Treasurer or Deputy Treasurer to sign Town checks, Authorizing any one of the five Town Commissioners to countersign Town checks

Town Clerk Hancsak read the above Resolution title and summarized same.

Comm Bingham moved to accept Resolution No. 2003-08, seconded by Comm Schulte

Motion carried - yea 5.

13. Discussion of new Town Hall building

Comm Pugh questioned if the Town's residents could make donations specifically for the new Town Hall building and would it be tax deductible. Attorney Spillias stated that donations can be made and he will look into tax deductions. Comm Kaleel recommended establishing an organization or foundation that would incur some of the tax expense and possibly making it a historical society. Comm Kaleel also stated that it would have to be a function of the Staff and the Town could possibly apply for grant money.

Comm Pugh questioned when the architectural designs will be done. Town Manager Dailey advised she planned on having it on the next agenda with the authorization to request for qualifications of architects. Town Manager Dailey stated once an architect is on board, figures can be developed for new building costs. There was a consensus to have Attorney Spillias further research the issue and bring back direction when an architect is on board. Comm Kaleel mentioned that the State will be cutting local municipalities sources of revenue dramatically. Comm Kaleel also mentioned his concern on the impact it will have this year and next year and there will be challenges ahead regarding the drainage project and other projects in plan.

Town Clerk Hancsak stated she was in receipt of a letter for Wellington Arms requesting sanitary sewer systems be installed during the Department of Transportation repaving and will fax the letter to the Commissioners.

Mr. Lucibella mentioned that donations for a new Town Hall is a wonderful idea. Mr. Lucibella suggested offering the residents a chance to "sponsor" different portions of the building with naming opportunities. Comm Pugh mentioned paver bricks. There was a short discussion on ideas for donations.

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First Reading of Ordinances

None

Second Reading, Public Hearing and Adoption of Ordinances

None

Town Commission Comments

Comm Schulte stated that Ken Kaleel did a fine job during his term as Mayor.

Adjournment

Meeting was adjourned at 7:50pm

Attest By:

Town Clerk

Mayor Kaleel

Commissioner Aaskov

Commissioner Bingham

Commissioner Schulte

Commissioner Pugh