

REGULAR TOWN COMMISSION MEETING HELD ON MONDAY JULY 07, 2003

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, July 7, 2003 at 6:30 PM in the Town Hall Meeting Chambers

The meeting was called to order by Mayor Aaskov and roll call was answered by the following:

Commissioner Bingham  
Commissioner Pugh  
Commissioner Kaleel  
Commissioner Schulte  
Mayor Aaskov

Pledge of Allegiance

Additions, Deletions, Modifications and Approval of Agenda

Consent Agenda

1. Minutes of Regular Town Commission Meeting of June 2, 2003

Comm Schulte requested to add an update of the Florida Department of Environmental Protection workshop on seagrasses held in Tallahassee. Comm Schulte also requested a review of the right-of-way's from Attorney Spillias.

Town Manager Dailey requested to add information regarding renewing employee Health Insurance.

Mayor Aaskov requested to add a discussion on Tropical Dr.

Announcements and Proclamations

2. The proposed FY 2003-04 Budget/Adopt proposed millage meeting will be held on Tuesday, July 29, 2003 at 8:00 am.

Public Comment

Lawrence O'Daly, 13 Hudson Avenue, stated that approximately three weeks ago he sent a nuisance complaint to Town Hall regarding the flooding on Hudson Avenue and has not received a reply.

Town Clerk Hancsak stated that she did not believe Town Hall had received a letter from Mr. O'Daly. Mayor Aaskov advised that the matter was being addressed. Mr. O'Daly questioned if the Commission knew when an answer would be available. Comm Kaleel stated that in all fairness to the Town Manager he should have a response within a week.

Mr. O'Daly questioned the status of the Edith Street easement agreements with Florida Power and Light. Attorney Spillias stated that he sent a letter to the appropriate person at FPL and is waiting for a response. Mr. O'Daly expressed his frustration with the issue.

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Mr. O'Daly questioned the State of Florida Ethics Commission case regarding Comm Schulte. Mayor Aaskov advised that the Commissioners were not commenting on the subject at this time. Mr. O'Daly commented that he felt Comm Schulte should step down or the Commission should ask him to. Attorney Spillias stated that without an outcome to the hearing, action is not required or necessary at this time.

Justus Brown, 39 Coconut Lane, stated his appreciation for the Injection Well test and felt they would work well.

George Berlin, 26 Hudson Lane, stated he made a nuisance complaint regarding standing stagnant water in the right-of-way on Hudson Lane. Mr. Berlin stated that it is a public hazard and the Town should fill the area in with dirt. Comm Kaleel stated that the Town has poured dirt on Hudson several times and also put in black top but added that the Town would look into resolving the problem.

3. Request for Lien Reduction and Release for 6480 N. Ocean Blvd. By: Maura Ziska, attorney representing owner, Harry Brown

Attorney Ziska requested an abatement of the fines for a Code Enforcement Final Order (CE#2000-04) and also release of the lien filed August 28, 2000. Attorney Ziska also requested to place funds in escrow with the Town in an amount sufficient to construct a new seawall in the event a building permit for construction and completion by December 17, 2003 is not achieved.

Attorney Ziska mentioned that there have been unique issues and circumstances pertaining to the property and summarized the events that have occurred over the past several years including several changes in property managers resulting in the work not being completed.

Town Clerk Hancsak commented that there has been no written correspondence to the Town regarding attempts to achieve compliance. Attorney Ziska stated that her client should have corresponded with the Town and again mentioned the issues involved with the property.

Comm Kaleel questioned what the selling price for the property is. Attorney Ziska stated she could not disclose the amount. Comm Kaleel believed it was a fair and reasonable question because the property owner is asking for a lien reduction based on a hardship. Comm Schulte stated that the violation has still not been resolved and the owner is now asking to relieve the lien for his own benefit.

Attorney Ziska stated that the property owner is requesting the fine be abated and release of the lien in order to get a clean title to sell the property. Attorney Ziska also mentioned that the property owner lives in New York and believed the code violations were being taken care of by the property manager. She also stated that the owner was not aware that the violation had not been corrected.

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Mayor Aaskov questioned why the home owner did not contact the Town himself.

Al Brown, representing the owner Harry Brown, stated that his brother is living in New York and had hired two different management companies for the property at 6480 N. Ocean Blvd. He also mentioned that both management companies took advantage of his brother, Harry Brown, who was diagnosed with cancer and cannot resolve these issues himself. Al Brown advised that he has contacted Town Clerk Hancsak in the past couple of months regarding the code violation. Mr. Brown also described the events regarding the case with the two former property managers and the State Attorneys Office.

Comm Kaleel stated that the property owner is asking for an abatement of a valid \$139,000 lien and he wants to know the purchase price. Comm Kaleel also suggested that the property representative meet with their counsel to discuss a reasonable solution as he felt a total abatement was not justified.

Comm Pugh added that the seawall should be repaired while still owned by Harry Brown. Attorney Ziska stated that the potential buyer is willing to provide enough bond money to repair the seawall.

Attorney Greg Young, representing potential purchaser, stated that all parties involved are Town residents who wish to have the violation corrected. Attorney Young mentioned that the property does not need to remain under the current ownership to repair the seawall. He also mentioned that there is an opportunity to resolve the issues and that it would be beneficial if it could be done tonight.

The item was temporarily tabled while the owner representative and their counsel adjourned to discuss a solution.

4. Action regarding purchase of two Ocean Ave properties owned by FDOT  
By: Kenneth Spillias, Town Attorney

Town Attorney Spillias summarized his memo regarding the Ocean Ave properties owned by Florida Department of Transportation. Attorney Spillias stated that he and Mayor Aaskov met with FDOT District Secretary, Rich Chesser, on June 9, 2003. He advised that the appraised value of the property on the north side of Ocean Avenue is \$345,000 and the empty lot on the south side of Ocean Avenue is valued at \$200,000. Attorney Spillias explained that FDOT made certain commitments at the time the property was purchased by FDOT that did not allow Mr. Chesser to accept less than the appraised value.

Attorney Spillias then stated that after further discussions Mr. Chesser presented two alternatives. The first proposal was to convey the property on the south side of Ocean Avenue to the Town for the appraised value of \$200,000 with FDOT then reimbursing the Town an additional \$36,000 for the balance of its share of the A1A stormwater drainage improvements. Attorney Spillias explained that while the Town would be required to articulate a public purpose for utilizing Town funds to purchase the property,

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it would not be bound to retaining the property for that purpose if, at some time in the future, it chose to sell the property.

Attorney Spillias stated that the second alternative with regards to the empty lot on the south side of Ocean Ave would be for FDOT to convey the lot to the Town for \$136,000 and FDOT would then reimburse the Town approximately \$100,000 towards its portion of the stormwater drainage project. He explained that if the Town chose this alternative there would be a covenant that the property would perpetually be used for public purposes.

Comm Schulte stated he did not see a reason to purchase either lot. Comm Kaleel advised that the intent was that the properties would be donated and not purchased.

Comm Schulte moved to not purchase either lot, seconded by Comm Bingham.

Motion carried - yea 5.

There was a consensus by the Commission for Town Attorney Spillias to write a letter to Mr. Chesser advising of the Town's intentions not to purchase the lots.

5. Direction on future Fire Service in Ocean Ridge By: Kathleen Dailey,  
Town Manager

Town Manager Dailey summarized the Fire/Rescue Service memo. Town Manager Dailey stated that the Town of Ocean Ridge provides fire service to its residents and also the residents of Briny Breezes. She explained that there are presently laws and standards in the fire industry that the Town of Ocean Ridge cannot economically meet without interlocal agreements with other agencies who supply fire and rescue services. Town Manager Dailey advised that the Department of Public Safety began to research other options for providing fire service that could meet industry standards. She advised that of the Fire Rescue Services in the area, only Boynton Beach responded with an offer for contract services for the Town and requested a response by August 1, 2003. She also mentioned that Palm Beach County wrote that they were not interested in providing service to the Town and that we were better served by Boynton Beach.

Town Manager Dailey stated that Boynton Beach, who contractually provides rescue service to the Town, has advised that they will no longer offer a contract for emergency medical service without also providing fire service. Town Manager Dailey said that a decision on fire service is necessary at this time to complete budget estimates and to meet Boynton Beach's timeline for a response from the Town.

Director Hillery stated that he prepared a cost comparison of the Boynton Beach proposed contract and an Enhanced OMAR (Ocean Ridge, Manalapan). Director Hillery stated that the Boynton Beach contract is for a Level I service at a cost of \$931,264, which equates to an actual budget increase of \$370,211 when deduction such as Briny Breezes portion of the contract, sale of equipment, and fire related deductions are taken into account. He also stated that an Enhanced OMAR system would be for a Level II

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service at a cost of \$1,257,000 due to necessary personnel and equipment needs, including an AMR contract for Emergency Medical Service.

Director Hillery summarized the draft contract from Boynton Beach and also described the difference in the levels of service. He also enclosed a cost comparison chart and explained other factors that should be considered such as fire insurance rates that would benefit residents and the average age of fire fighters in Ocean Ridge.

Comm Schulte stated that the contract from Boynton seemed different than what Director Hillery had described and questioned the details of the cost involved and the responsibility for liability.

Comm Kaleel stated that the Town is in the negotiation phase with Boynton Beach and stated five requirements he would like to see in the contract. Comm Kaleel said the first requirement is designated vehicles with the "Town of Ocean Ridge" stated on the vehicles. His second requirement was that the Town Staff be involved with the assignment of Boynton Beach personnel working in Ocean Ridge. The third requirement was a minimum standard regarding call time and response times. Comm Kaleel stated the fourth requirement was to create a committee including the Town Manager and Director of Public Safety to provide input and oversight on how the fire aspect is managed in Ocean Ridge. The fifth requirement Comm Kaleel mentioned was the Town to own its own equipment by purchasing or leasing and then deducting that from the fire service cost.

Mayor Aaskov questioned if Boynton Beach fire fighters stationed in Ocean Ridge would be responding for emergencies on the west side of the bridge into Boynton Beach.

Comm Kaleel stated that they would respond over the bridge if needed because Ocean Ridge would become a main fire station for Boynton Beach and that should also be considered during negotiations.

Comm Schulte suggested negotiating in good faith with a letter of intent to contract with Boynton Beach for fire rescue service.

Comm Bingham commented that the Town should own its own equipment because of the cost involved.

Director Hillery stated that the Boynton Beach contract is only a draft and the Town Attorney is responsible for reading and analyzing the contract. He also stated that there is a year to negotiate and finalize the contract however the deadline to notify Boynton Beach of the intent to continue negotiations is August 1, 2003.

Comm Kaleel volunteered to assist Town Manager Dailey and Director Hillery in negotiating with the City of Boynton Beach.

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Comm Schulte moved to progress forward with a letter of commitment and negotiate the terms of the Boynton Beach contract with Town Manager Dailey, Director Hillery, Town Attorney Spillias and also with Comm Kaleel being heavily involved in the negotiations, seconded by Comm Kaleel.

Motion carried - yea 5.

6. Approval of Turtle Emblems and Sign Colors: By Commissioner Bingham

Comm Bingham stated that she felt the turtle design for the Town signs was a hasty decision at the last meeting and she also felt the turtle was being pushed as the Town emblem. Comm Bingham also mentioned that a more simple design would be better for the Town signs and provided examples of other turtle designs.

Comm Kaleel stated he was satisfied with a turtle emblem because it specifies something environmental but agreed the design of the turtle could be changed.

Comm Kaleel moved to assign Comm Bingham to work with Town Manager Dailey on the turtle design for the Old Ocean signs, seconded by Comm Pugh.

Motion carried - yea 5.

Mayor Aaskov questioned the name of the colors for the new Town signage and if the Commission was happy with the colors.

Town Manager Dailey stated that she and Mayor Aaskov had compared color swatches with the Town signs. Manager Dailey showed color samples of pale linen and paisley blue and advised that they most closely match the current Town signs.

Comm Bingham moved to approve pale linen and paisley blue as the sign colors for Old Ocean Blvd, seconded by Comm Schulte.

Motion carried - yea 5.

7. Discuss vacant lot maintenance By: Commissioner Bingham

Comm Bingham stated that some of the vacant lots in Town were in deplorable condition and that section 34-6 of the code is adequate but doesn't clearly state that the vacant lots must be maintained. Comm Bingham also suggested adding lot size to the code or directing the Town to mow the lots to keep them maintained.

Mayor Aaskov stated that the issue has been mentioned before and it has been difficult for the Town to enforce owners to maintain the lots.

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Town Attorney Spillias stated that the code does not distinguish between wooded lots and lots that have been previously cleared. He added that the Department of Public Safety made the determination in the past to enforce the code on particular lots. Attorney Spillias advised that there is nothing to prevent all of the lots in Town, whether wooded or cleared, to be enforced. He suggested that Staff be given direction to enforce maintenance of the lots uniformly and added that there must be a rational basis for distinction of any exemption.

Comm Kaleel questioned how the lots in Town could be distinguished between those that are overgrown and those that are truly natural vegetation. Comm Kaleel suggested a possible solution is to add a provision that applies to all lots unless a letter is provided to the Town that states the lot will remain natural vegetation for at least 10 years.

Comm Bingham stated that the distinction between the lots could be made.

Comm Schulte felt that it would be difficult to have property owners sign a letter or an agreement for the lots.

Attorney Spillias mentioned that the code does not differentiate between zoning districts.

All concurred for the Town to cite overgrown lots and for Town Attorney Spillias to draft an ordinance regarding exceptions and maintaining vacant lots.

3. Continued - Request for Lien Reduction and Release for 6480 N. Ocean Blvd. By: Maura Ziska, attorney representing owner, Harry Brown

Attorney Ziska stated that calculations depict the owner is losing \$150,000 on the property and they are willing to offer \$35,000 as payment towards the code enforcement violation and for the potential purchasers to post a bond for the seawall repair with a construction completion by December 15, 2003.

Mayor Aaskov stated she was not willing to negotiate an offer less than 50% of the lien amount of \$139,000.00.

Comm Pugh questioned the seawall repair bond. Attorney Ziska stated the purpose of the bond was to allow the change of ownership and provide the Town funding should the repairs not be completed.

Attorney Spillias stated that if the Commission agrees to a bond amount and the sale of the property does not occur, the DEP permit will expire and the seawall will still not be repaired. Attorney Young stated that the permit is not likely to change and it is possible to receive an extension. Attorney Spillias clarified that the funds in escrow would be enforceable for the repair of the seawall. Attorney Young stated that the perspective buyers wish to receive a credit at the closing for the bond money to repair the seawall.

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Comm Kaleel stated he would be willing to accept \$70,000 as payment for the code violation lien and a \$70,000 bond in escrow for the repair of the seawall.

After conversing with the owner representative, Attorney Ziska stated her clients were willing to agree to \$70,000 as payment.

Comm Kaleel moved to reduce the fine to \$70,000 and to put an additional \$70,000 in escrow, to be prepared by them subject to Town Attorney approval, for the seawall repair of which a building permit must be applied for by August 15, 2003 and commence construction within two weeks of the permit issuance and total completion by December 15, 2003 as per the DEP permit, and all payments must be received by July 31, 2003 at which time the lien could be released and the funds in escrow could be released after an approved final inspection. Comm Bingham seconded the motion.

Motion carried - yeas 5.

8. Approval of evaluation process and form By: Mayor Aaskov

Mayor Aaskov stated that Town Manager Dailey had recently had her one year anniversary as Town Manager and there was not a formal evaluation form for the Town Manager and other staff outside of public safety. Mayor Aaskov suggested that a form be created for each Commissioner to complete and returned to the Town Clerk by a certain date and then given to the Mayor to compile.

Comm Pugh questioned if other municipalities have an evaluation process for Town Managers. Attorney Spillias advised that some Towns hold evaluations open to the public and some have one-on-one evaluations.

Comm Kaleel stated that a Commissioner should speak to the Town Manager directly if they feel they need to discuss an issue and there should not be a written form which would be part of a permanent record and open to the public. He felt the form was one-sided and not open for a rebuttal.

Mayor Aaskov commented that she was not in favor of a public meeting.

Town Clerk Hancsak advised that a few years ago the Town Manager, Town Clerk and Director completed their own evaluations. She also mentioned that the three positions have been appointed positions by the Commission.

Attorney Spillias mentioned that the Town Manager should have an opportunity to comment on a Commissioner's evaluation form. He also clarified that a form that is given to the Town Clerk is public record and suggested that a Commissioner use the form as personal notes to discuss issues with the Town Manager which would then not be public record.

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Comm Kaleel suggested using the form as notes to speak to the Town Manager on an individual basis and if there is a serious issue to have a public meeting.

Comm Schulte was also in favor of a combination of sitting down with the Town Manager and also then having a public meeting.

There was a discussion on written forms and what could be considered public record.

Attorney Spillias stated that if the Commission has a public meeting the Town Manager should be able to review the forms and comments before the meeting in order to be prepared with a response. He also clarified that a public meeting does not have to be open for public comment.

There was a consensus for each Commissioner to individually evaluate the Town Manager and if there is a serious issue that cannot be discussed and resolved to bring it back at the August meeting.

9. Discuss letters from citizens regarding SR A1A widening By: Mayor Aaskov

Mayor Aaskov stated that she has received several letters from citizens outside of Ocean Ridge regarding the widening of SR A1A. Mayor Aaskov commented that she is not responding to these letters and did not feel the other Commissioners should either.

Comm Kaleel stated that the project is in the control of the Department of Transportation and not Ocean Ridge jurisdiction.

All agreed to not respond or answer out of Town letters regarding the widening of SR A1A.

10. Update on Department of Environmental Protection meeting regarding seagrapes

Comm Schulte requested an update on the status of the seagrape meeting held by DEP on June 10, 2003.

Town Manager Dailey stated that she has not received any information from Tallahassee regarding the seagrape meeting, however, she has a message in for Mark Taynton of FDEP.

11. Update on 35 Hersey Drive Code Enforcement Violation

Comm Schulte requested an update of the code violation at 35 Hersey Drive. Director Hillery advised that the item was scheduled for code enforcement but the lot is now in compliance.

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12. Employee health insurance rates By: Kathleen Dailey, Town Manager

Town Manager Dailey summarized the renewal rates for health insurance which is currently provided by United HealthCare. Town Manager Dailey advised that the current health plan would not be available for renewal and distributed a cost comparison chart with comparable plans offered by other providers. She advised that the employees had reviewed the plans and voted on an HMO Plan 8 provided by Blue Cross Blue Shield.

There was a discussion about the disadvantages of an HMO plan but that the majority of employees wanted the proposed plan.

Comm Kaleel moved to approve Blue Cross Blue Shield Plan 8 for employee health insurance, seconded by Comm Schulte.

Motion carried - yea 5.

Mayor Aaskov mentioned that Town Manager Dailey, Town Attorney Spillias and Town Engineer Tropepe met with the residents of Tropical Drive to discuss the drainage improvements. Mayor Aaskov stated that updates would be forthcoming.

Adjournment

Meeting adjourned at 10:15 PM

Attest By:

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Town Clerk

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Mayor Aaskov

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Commissioner Bingham

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Commissioner Kaleel

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Commissioner Pugh

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Commissioner Schulte