

Regular Town Commission Meeting of the Town of Ocean Ridge held on, Monday October 6, 2003 at 6:63 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
Mayor Aaskov

Comm Schulte was absent with notice

Pledge of Allegiance

Additions, Deletions, Modifications and Approval of Agenda

Town Manager Dailey requested to table item 9 until the November Commission Meeting as requested by Mr. Brown who could not attend due to the Yom Kippur holiday.

Mayor Aaskov requested to add item 14 regarding an employee retirement policy.

Consent Agenda

1. Minutes of Special Town Commission Meeting of Aug. 19, 2003
2. Minutes of Special Town Commission Meeting of Sept. 9, 2003
3. Minutes of Public Hearing/Regular Commission Meeting of Sept. 9, 2003
- 3a. Confirmation of New Public Safety Officer

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

Announcements

4. Administrative offices will be closed for the official holiday on Monday, October 13, 2003.
5. Proclamation Declaring November as National Epilepsy Awareness Month.

Town Clerk Hancsak read the above announcements.

Public Comment

George Bierlin, 26 Hudson Avenue, questioned Mayor Aaskov if she was in favor of the drainage project. Mayor Aaskov answered that she was in favor of part of the project. Mr. Bierlin asked if Mayor Aaskov was personally in favor of moving forward with the drainage project. Mayor Aaskov answered that she is in favor of moving forward however she has concerns with the size of the detention area pond.

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Mr. Bierlin also questioned if the size of the detention pond was known at the beginning of the project. Mayor Aaskov stated that the detention size questions should be directed to Town Engineer Tropepe who was not present.

Attorney John Randolph, representing several homeowners, stated that his clients have concerns with the drainage project. Atty Randolph stated that he would like to have their questions answered tonight if possible and are asking for the project to be delayed until the concerns are addressed. Atty Randolph mentioned that his clients were not aware that "Alternate B" was going to be so drastic and they thought it would remain in it's natural state. He stated that the plan now includes the removal of a large amount of trees and installing diesel engines. Atty Randolph again stated that his clients have real genuine concerns and are requesting the project not move forward.

Mayor Aaskov stated she would like to see all of the questions and concerns in written form.

Town Manager Dailey mentioned that the bid packet is in the process of going out which is a 90 day process and there is no contract at this point.

Town Attorney Spillias suggested that the bid process not be delayed as it could have an impact on the funding. He explained that there is plenty of time to address questions and concerns and to delay the project would be problematic.

Digby Bridges, 36 Sabal Island Drive, felt that the detention area design is poor and stated that he felt the engineers oversized the area. Mr. Bridges also stated that he felt the project design could be done better and removing trees that have taken hundreds of years to grow was appalling. Mr. Bridges mentioned that he was in favor of a plan that preserved the trees and only removed the exotic vegetation. He stated that going out to bid and then putting in change orders could be expensive.

Patrick Doyle, 18 Hudson Avenue, advised he had conflicting interests and would like to keep the priority straight. Mr. Doyle stated that there are health concerns from the stagnant water that develops during high tide and rain fall on Hudson Ave. He mentioned that the parents are concerned with the children who live in the area contracting malaria and feels that something should be done quickly and they were promised the work would be done.

Mayor Aaskov stated that the project takes time but it is moving forward.

Loraine Volpe, 5650 N Ocean Blvd., stated that the drainage problem is not going away and feels that delaying the project will be a missed opportunity.

Betty Kelso, 16 Sailfish Lane, questioned if David Lane is part of the bid for drainage. Town Manager Dailey answered that David Lane is a separate project. Mrs. Kelso asked if she could be informed of the project that involves her property. Town Manager Dailey

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stated that when the Engineer's draft is finished, the Town Attorney will work with Mrs. Kelso on easement agreements.

James Bonfiglio, 5616 N Ocean Blvd., stated that he attended the previous meetings and felt the questions and concerns of the detention pond should be answered. Mr. Bonfiglio also mentioned that he has concerns with trucks fueling the diesel tanks and also the size of the design of the detention area. Mr. Bonfiglio believed that the original plan for the detention area would have retained all the vegetation as it exists.

Lawrence O'Daly, 13 Hudson Avenue, requested that the Ocean Ridge Reporter have fair coverage on the matters that occur in Town and questioned who decides what is reported on in the paper. Mayor Aaskov answered that she makes the decisions for the Ocean Ridge Reporter and has had numerous compliments and always attempts to report accurately. He stated that he felt her paper falsely implied that right-of-way issues for Hudson and Edith had been settled and there was also no mention regarding the discussion on the Town Manager.

Town Attorney Spillias stated that it is not appropriate to discuss matters regarding a privately published paper during a public Town Commission meeting.

Public Hearings

None

Regular Agenda

Actions and Reports

6. Request for Fountain in Anna Street Median and Improvements to the Cul-De-Sac
By: Philip Barlage, 35 Anna Street (Postponed Item).

Mr. Barlage advised that at the Regular Commission Meeting of September 9th, a request was made to upgrade the cul-de-sac and install a decorative fountain and lighting in the median on Anna Street. He stated that at that time it was determined the proposed fountain was too large and he was asked to bring the item back with a more conforming size. Mr. Barlage stated that the design of the fountain was reduced and would require less maintenance than the original proposal. He mentioned that Comm Pugh assisted with the design which would cut back the curbing, use minimal water and require a small pump. Mr. Barlage stated that he will also sign the indemnification agreement and return it to Town Hall.

Comm Kaleel stated that he has concerns with the cost of maintaining the fountain and the cost of repairing anything that is damaged or destroyed. Mr. Barlage stated that fountain is not large and would required minimal cost and time to maintain. Comm Kaleel advised that he was in favor of improving the median but felt the maintenance would cost more than \$100.00 per year.

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Comm Bingham moved to accept the installation of the proposed fountain at the Anna Street median provided the Indemnification Agreement is executed, seconded by Comm Pugh.

Motion carried - yea 4.

8. Authorize Funding for Ridge Boulevard median not to exceed \$16,581 from the Beautification Reserve Account By: Kathleen Dailey, Town Manager

Town Manager Dailey stated that one of the Town's landscape projects planned for fiscal year 2002/03 was to install upgrades to the Ridge Boulevard median. She advised that staff met with the residents of Ridge Blvd, the Mayor, the Town's Landscape Contractor Lewis Graham and Jeff Livergood, a traffic engineer with the City of Boynton Beach on the evening of Wednesday, September 3, 2003 to discuss the landscape of the median. Town Manager Dailey mentioned it was the consensus of the residents to install the irrigation and landscaping of the median as proposed by the Town's landscape contractor, to extend the landscaped median to help to alleviate u-turns and not to install brick pavers but have grassed parking areas.

Town Manager Dailey explained that in order to install an irrigation system a water meter from the City of Boynton Beach must be purchased and installed. She stated that the cost of the 1-inch water meter is \$255.00 and the impact fee is \$46.59 per 100 square feet for the area that is to be irrigated and the approximate square footage to be irrigated is 4200 square feet. Town Manager Dailey stated that the cost for the irrigation system is \$3,127.00 which includes the controller, valves, valve boxes, rain switch, sprinkler heads, piping and installation. Town Manager Dailey stated that the total cost to upgrade the median is \$16,580.38.

Mayor Aaskov stated that it seemed like a waste to put soil and grass over existing grass to create a parking area and that there seems to be too many trees proposed for the area. Town Landscaper Lewis Graham advised that the existing area of grass is very small and the soil is not good. He also stated that he used the original plan from 2000 and it is only a proposal. Mr. Graham said he would only plant enough trees and plants that are needed and will only bill for what is planted.

Comm Bingham mentioned that she would like to see a plan for the proposed flowers for the area. She mentioned that some of the plants lose leaves often and do not hold up well. Mr. Graham stated that the residents wanted to plant flowers that were more colorful and seasonal. He also mentioned that most of the leaves that fall are replaced with flower blooms and will do well in the location.

Mayor Aaskov stated that the cost for the project seemed too high and she would like it reduced. Mr. Graham advised that the right plants need to be planted that will work well with each other and that will actually lower the cost of maintenance and replacement.

Public Comment

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Bruce Gimmy, 12 Ocean Ave., stated that there is a well being used on Ocean Ave and suggested the same be done for Ridge Blvd and added that filters could be used to avoid rust stains. Mr. Graham stated that he is currently investigating a unit to eliminate rust on Woolbright Rd. Mayor Aaskov suggested that the Town Manager further investigate the well option.

George Bierlin, 26 Hudson Ave., stated he had a problem with spending public funds to pay for a parking area on private property.

Mayor Aaskov mentioned that there is no parking available for contractors and that it would not be a large expense to provide a parking area without pavers.

James Bonfiglio, 5616 N Ocean Blvd., felt that the Town would be best served by eliminating the median and paving over the vegetation. Mr. Bonfiglio mentioned that the breeze blows the salt water to the area and kills the vegetation. He stated that the maintenance to keep up with the vegetation could be very expensive.

Mr. Graham stated that the plant selection is important and some salt will not hurt certain plants that have been selected.

Donald Magruder, 9 Ridge Blvd., disagreed with Mr. Bonfiglio and stated he would like to have the median and is willing to deal with the u-turn situation. He also mentioned that he had a well and did not have a problem with it.

Edward Buxton, 15 Ridge Blvd, stated he was neutral and was not in favor of removing the median, nor removing the vegetation for the detention area behind his residence.

Mayor Aaskov mentioned that the cost for the median should be reduced. Comm Bingham added that a complete expense report should also be kept.

Comm Kaleel moved to transfer the \$17,000 not utilized for this project in fiscal year 2002/03 into the Beautification Reserve Account and authorize funding for the Ridge Blvd median not to exceed \$16,500 from the beautification reserve account and to direct Town Manager Dailey to research using a well and reducing the amount of plantings, seconded by Comm Pugh.

Comm Bingham requested a progress report on the expended funds.

Motion carried - yea 4.

Comm Kaleel suggested that the comments from the Commission regarding the landscaping should be mentioned while the landscaper was present at the meeting. Comm Kaleel stated that during the September 9th meeting the Town Manager took the heat from the Commission regarding the problems with the landscaping. He felt that Mr. Graham should accept some of the responsibility for the comments and concerns.

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Lewis Graham stated that part of the problem with the landscaping is the choice of vegetation and trees that were planted before he took over the Town landscaping. Mr. Graham mentioned that he has been compiling a plan of recommendations that will improve the maintenance and cost. He also mentioned he accepts the responsibility for maintenance and may need to improve his supervision.

Comm Bingham mentioned a dead tree in need of removal on Ocean Ave and three other possibly diseased trees and requested it be investigated.

9. Discuss Right-Of-Way Litigation By: Kenneth Spillias, Town Attorney

Town Attorney Spillias advised that the code enforcement hearing for October 7th was cancelled because an action was filed against the Town on September 30, 2003. Atty Spillias read the title of the action and stated that the parties are asking for a temporary or permanent injunction relief from clearing the right-of-ways, particularly the Edith and Hudson right-of-ways. Atty Spillias also stated that the parties are requesting a judgment be declared by virtue of common law and that the right-of-ways have already been abandoned according to Florida State Statute. He suggested having an attorney/client session to discuss litigation costs and strategies.

Mayor Aaskov asked if item #10, discussion of obstructions to the right-of-ways, could be tabled due to the litigation. Atty Spillias stated that it could be tabled. Atty Spillias also mentioned that an answer to the complaint is due by October 23rd.

There was a consensus that the Department of Public Safety would not take code enforcement action on the right-of-ways and alleyways until further notice. There was also a consensus to have an Attorney/Client executive session to discuss the litigation on Monday, November 3rd at 5:30.

10. Discuss Obstructions to the Rights-of-Way By: Kathleen Dailey, Town Manager

Comm Kaleel moved to table the item due to the pending litigation, seconded by Comm Bingham.

Motion carried - yea 4.

Public Comment

Cory Heath, 7 Hudson Avenue, stated that the homeowners involved in the litigation are asking the Town to maintain status-quo until a court decision. He added that he agreed with Mr. O'Daly's comments regarding the Ocean Ridge Reporter. Town Atty Spillias advised that discussions regarding the newspaper were not appropriate during Town hours and should be discussed privately with the publisher.

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Second Reading of Ordinances

11. Ordinance No. 542; Amending Section 67-58 of the Code of Ordinances, to Reduce the Minimum Permit Fees

Town Clerk Hancsak read the above Ordinance.

Comm Bingham moved to approve Ordinance No. 542 on second reading, seconded by Comm Kaleel.

There was no public comment.

Motion carried - yea 4.

Town Commission Comments

12. Request Update on Ocean Ave. Landscape By: Comm Bingham

Comm Bingham stated that Town Landscaper Lewis Graham had already answered her questions appropriately.

13. Request Discussion on Rights of Property Owners and the Town on the ROW's along Old Ocean Blvd. By: Comm Bingham

Comm Bingham asked Town Atty Spillias for the definition of "grandfathered". Atty Spillias stated that the term means for a use that was permitted at the time it was begun but later declared to be impermissible and because it was allowed it cannot be removed as long as it is not expanded or changed.

Comm Bingham stated that Old Ocean Blvd has encroachments in the right-of-ways and the signs are covered by hedges. She stated that the areas need to be reclaimed on the east and west sides and asked that the Commissioners view Old Ocean Blvd and bring the discussion back to the November Commission meeting.

14. Retirement Policy

Mayor Aaskov stated that Lt. James Olejniczak retired from the Department of Public Safety on September 30, 2003 after 25 years of service. Mayor Aaskov suggested that a retirement bonus of \$2500.00 be given to Lt. Olejniczak representing \$100 for each year of service. She did not feel that a policy was needed and that future retirements could be evaluated on a case by case basis.

Comm Kaleel moved to approve a retirement bonus for Lt. Olejniczak in the amount of \$2500.00 to be paid from the contingency account, seconded by Comm Bingham.

Motion carried - yea 4.

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Adjournment

Meeting adjourned at 8:30 PM

Attest By:

Town Clerk

Mayor Aaskov

Commissioner Bingham

Commissioner Kaleel

Commissioner Pugh

Commissioner Schulte