

Town Commission Meeting of the Town of Ocean Ridge held on Monday, December 1, 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

Comm Schulte requested to move item #5 after the consent agenda.

Town Manager Dailey requested to add an item regarding the landscaping at 6000 Old Ocean Blvd.

Comm Bingham requested to add a discussion regarding the Ordinance for cutting historical trees. Comm Bingham also requested to add a discussion regarding the placement of the new trash receptacles.

Consent Agenda

1. Minutes of Town Commission Meeting of Nov. 3, 2003
2. Minutes of Special Meeting/Executive Session Meeting of Nov. 3, 2003
3. Ocean Ridge Resolution No. 2003-18; Designating the Supervisor of Elections as a member of the Canvassing Board to be in Attendance for the Testing of the Computer Electronic System Tabulating Equipment to be used for the February 10, 2004 election, and to Canvass Returns of such election including absentee ballots and assigning the Supervisor of Elections to handle absentee ballots.
4. Authorizing the Administrative Offices to be closed on Friday Dec. 26, 2003 with the Staff using individual vacation days to create a four day weekend.

Comm Schulte moved to approve the agenda and consent agenda as amended, seconded by Comm Pugh.

Motion carried - yea 5.

Announcements and Proclamations

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6. Administrative offices will be closed for the official holidays on Thursday, Dec. 25, 2003 and Thursday, Jan. 1, 2004.
7. Light the Lights and Town BBQ will be held on Friday, December 5, 2003 from 5:30 PM to 8:30 PM.
8. 2004 Municipal Election
 - a. Date of Election is February 10, 2004
 - b. One Commission Seat for a three year term
 - c. Candidate filing dates run Dec. 23, 2003 through 3:00 PM on Jan. 17, 2004
9. Proclamation declaring December 1-7, 2003 as HIV/AIDS Awareness Week.

Town Clerk Hancsak read the above announcements.

Public Comment

Town Clerk Hancsak advised that she received a letter from Ellen Bierlin of 26 Hudson Avenue that was requested to be read into the record. Town Clerk Hancsak read that Mrs. Bierlin would like to know when the Commission would be removing the substantial private encroachment from the north-east corner of the Town owned property at Woolbright and A1A. She wrote that she did not believe that the part of the right-of-way issue and was an encroachment on public property that the public is being excluded from.

Mayor Aaskov requested that Town Manager Dailey discuss the issue with Mrs. Bierlin and determine an exact location and description of the encroachment she was referring to in her letter.

Justus Brown, 39 Coconut Lane, questioned what the status was of the drainage project. Mayor Aaskov stated that the item was on the agenda and would be discussed.

5. Authorize \$10,000 from the Contingency Account for the South Lake Worth Inlet Management Plan Review Services Provided by Coastal Tech, Corp. By: Kathleen Dailey, Town Manager

Comm Kaleel summarized the purpose of the South Lake Worth Inlet Management and Coastal Tech Plan Review. He advised that the Town has had an agreement with the County and Town of Manalapan since 1996 to provide marine engineering services. Comm Kaleel stated that typically no more than \$1,000 is spent in a year however the beach nourishment and sand transfer project will result in more work for Coastal Engineer. He mentioned that the Marine Engineer is needed to represent the interest and welfare of the Town.

Mayor Aaskov thanked Comm Kaleel for representing the Town during the meetings with the South Lake Worth Inlet and also requested a copy of the minutes during those meetings.

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Comm Schulte moved to authorize \$10,000 from the Contingency Account for the South Lake Worth Inlet Management Plan Review, seconded by Comm Pugh.

Motion carried - yea 5.

10. Request for timeline of when the Hudson Ave. Drainage Project will begin
By: George Bierlin, 26 Hudson Ave.

Dan Shalloway, of the Town's Engineering firm SFRN, stated that at the last Commission Meeting held November 18th, they were directed to proceed with the Hudson Phase of the drainage project. He stated that bids can go out near the end of January or beginning of February and if the project is continued to be authorized construction could start immediately after bidding.

11. Request to determine who owns the plant material in the ROW's especially plants that exist prior to new ownership
By: George Bierlin, 26 Hudson Ave.

George Bierlin, 26 Hudson Ave., thanked the Commission and Engineers and also mentioned that his wife, Ellen Bierlin, was referring to the wood pool deck at the NE corner of Woolbright along A1A. Mr. Bierlin asked Town Atty Spillias who would be responsible to remove plant material placed in the right-of-way. Atty Spillias answered there was not a specific answer and that the Town has the right to allow or deal with what is in a right-of-way. Mr. Bierlin questioned what course of action is taken if a property owner is advised to remove something from a right-of-way and does not comply. Atty Spillias stated that the Town has the right to remove anything in a right-of-way however if a property owner places something in the right-of-way as part of a license agreement with the Town, the property owner is obligated to remove it.

Public Hearings

12. An application submitted by Randall Stofft, 42 N. Swinton Ave., #1, Delray Beach, FL, representing Krishna Triporaneni, requesting a variance from the provisions of the Land Development Code, Article 2; Coastal Construction, Section 67-17; Coastal Construction and Excavation Setback Line; Sub-Paragraph (a); Setback Line Established; and Sub-Paragraph (h) Existing Structures to permit the construction of a single family home (after demolition of existing home), which would extend approximately 136' east of the Coastal Construction Control Line (CCCL), and pool and patio area extending approximately 165' east of the CCCL located at 6393 N Ocean Blvd. or legally described as south 125' of north 175' of unnumbered block lying east of Ocean Blvd. in the Boynton Beach Park Subdivision (exact legal description located in the Clerk's Office)

Town Clerk Hancsak read the request.

Mayor Aaskov questioned why the applicants must request a variance from the Town. Atty Spillias stated that it is an Ordinance that the Commission wanted to keep in order to be aware of what was being built east of the Coastal Construction Line

Comm Pugh moved to approve the variance request, seconded by Comm Schulte.

Motion carried - yea 5.

Regular Agenda

13. Request for obstruction in the right-of-way on the west side of Old Ocean Blvd. to remain By: Gail Riggs, 5929 N. Ocean Blvd.

Patrick Riggs, 5929 N. Ocean Blvd, stated that he and his wife purchased the property approximately a year ago and that the gate is needed to help protect their two small children and dog. He mentioned that there were hedges and a gate in the right-of-way when they purchased the property and that the existing 4' gate was in poor condition and needed to be replaced. He stated that they contacted a contractor who advised they would obtain the necessary permits but then advised the Riggs that they did not believe a permit was needed to replace an existing gate. Mr. Riggs then submitted photos of the new gate which is 8'8" high.

Comm Bingham questioned who removed some of the scavola hedges and double planted new ficus further back on the west side. Mr. Riggs advised that it was done before they purchased the property.

Comm Schulte questioned the status of the P&Z review of obstructions in the rights-of-way. He also mentioned that there should be consistency in the policy for right-of-way obstructions. Atty Spillias stated that he conducted an informal survey of other Town codes and it should be ready to send to P&Z. He also mentioned that most Towns generally allow landscaping if it is determined it is consistent with safety issues and the nature of the neighborhood. Atty Spillias stated that he was not ready to recommend an informal policy but could probably schedule a meeting within the next month. He advised that the difference with the Rigg's issue is that it is a structure and not just landscaping. Atty Spillias commented that if the gate was on the property line or setback it could only be 4' high and that the code does not address fences, hedges or gate heights that are in the right-of-way.

Comm Pugh stated that at the last meeting the Kosinski's at 6000 Old Ocean Blvd were requesting to keep landscape obstructions in the right-of-way that were planted without permission and there was a 4 to 1 vote to remove the obstruction. Comm Pugh felt that the policy should be consistent whether it is landscaping or a structure. He also suggested that the gate be reduced to the 4' high, moved back onto their property and to install a fence if they are concerned for the safety of their children.

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Comm Kaleel advised that allowing obstructions to remain in a right-of-way allows people to take Town owned property and make it part of their own. Comm Kaleel also felt that the decisions should be consistent and that the gate should be removed.

Comm Pugh moved to deny the request to allow the gate to remain in the right-of-way, seconded by Comm Bingham.

Motion carried - yea 5.

Public Comment

Earl Jones, 14 Sailfish Lane, suggested that the Commission not approve anything in the right-of-way that would otherwise require a variance from new construction.

14. Discuss questions and concerns on the technical issues regarding the Drainage Project with the Residents and Engineers and provide direction to Staff (Continued from November 18, 2003).

Town Engineer Shalloway, SFRN, reviewed the issues that he was directed to look into during the Nov. 18th meeting and advised that the permits are in place for the South Phase. Engineer Shalloway stated that the Tropical and Coconut phases are not permitted as of yet and that it will be difficult to obtain the permits because of the pre-treatment requirements.

Mayor Aaskov questioned why there would be a problem for Coconut and if an alternative plan could be used. Engineer Shalloway stated that there is no plan for an exfiltration system. He also mentioned that it would be slow to obtain a permit during the holidays.

Engineer Shalloway stated that the next item was to review the possibility of changing from diesel to electric pumps and also to make the detention area smaller. He advised that those changes would not be a permitting problem and are possible. Engineer Shalloway stated that the bottom could be raised and he is 80% confident that the hammock vegetation could be saved as much as possible. He also mentioned that he met with Engineer Stewart Cunningham, representing the Ridge Blvd. residents, and they did not have any major disagreements but he wanted to make it clear that the design done by SFRN was economically the best system to provide the level of service the Commission requested. Engineer Shalloway commented that there are always going to be other alternatives but they need direction from the Commission on how to proceed.

Comm Pugh questioned if the original intent for the Lake Worth Lagoon grant was to abate pollutants in the water and if some of the grant can be saved. Engineer Shalloway stated that if the original plan would be completely changed he did not feel the money from the Lake Worth Lagoon or the Federal grants could be kept.

Comm Bingham questioned how many injection wells would be needed. She also asked if machinery would still be needed. Engineer Shalloway stated that more than one well would be needed and the total would not be known until they sink a test well. He also commented that 6 injection wells were used in the south end. Engineer Shalloway advised that the wells must go in by gravity and there could possibly be up to 30 wells needed. He mentioned that machinery would still be needed too with electric or diesel and they would need to be placed where the soil and geology are correct. Engineer Shalloway also stated that a system could not be developed without using pumps to meet the level of service requested.

Public Comment

Attorney John Randolph, representing several homeowners, commended the Commission on the manner in which they were handling the drainage concerns and it was clear the Commission was paying heed to all the residents.

Comm Kaleel asked Atty Randolph how many homeowners he is representing. Atty Randolph answered that he did not have an exact number and mentioned his clients include Mr. & Mrs. MaGruder, Mr. Buxton and Mr. Bonfiglio.

Atty Randolph stated that he felt it was possible to permit an alternative design that would not have an adverse affect on the homeowners and requested that the Commission look into exploring alternatives. He mentioned that the Engineers for the Town and residents have met and he believed that the Town Engineers plan would still adversely affect the homeowners. Atty Randolph requested that the Commission give their Engineer, Stewart Cunningham, an opportunity to discuss some alternatives.

Engineer Stewart Cunningham, representing several homeowners, stated that he met with Town Engineers Dan Shalloway and Lisa Tropepe. Engineer Cunningham felt that alternatives should be considered and proposed a system that would help prevent sediments and remove 50-90% of the solids before being discharged. He advised that the alternative is using cylinder basin pipes that would be placed in the ground in a series. Engineer Cunningham described the design and functions of the cylinder pipe system.

Comm Pugh questioned what the maintenance and cost would be for the alternate system. Engineer Cunningham stated that the system would need to be vacuum cleaned after every major storm event and he advised that cost for the cylinders is approximately \$250,000 to \$500,000 each. Engineer Shalloway advised that he did not think he could get permits for the cylinder system.

Comm Bingham questioned where the cylinders could be placed and how many would be needed. Engineer Cunningham stated that they would need to be underground and the electrical or diesel pumps would be needed.

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David Collier, 5 Midlane Rd., suggested again that the residents have a simple workshop with the Engineers to allow an opportunity to agree on aspects of the project and address their concerns and questions.

Comm Schulte stated that the Town has had many meetings regarding the drainage over the past three to five years. He mentioned that he has not heard an alternative plan that would be beneficial and has only heard of changing the mechanism and spending more money.

Ernie Varvaricas, 5582 N Ocean Blvd., questioned if the all of the drainage from the north goes into the Lake Worth Lagoon and also if there would be more outfalls after the project. Engineer Tropepe answered that the north drainage does discharge into the Lagoon and after the project that outfall would be cut off and the other outfall would be used.

Earl Jones, 14 Sailfish Lane, asked what happens in the cylinder design when they fill up. Engineer Cunningham advised that the sediments go to the bottom of the structure and the top continues to flow out. Mr. Jones mentioned that hurricane season has just ended and commented that the Town has been lucky to not have had a serious storm event in the past few years.

George Bierlin, 26 Hudson Ave., mentioned that he had obtained a petition signed by 195 residents who wish to go forward with the drainage project. Mr. Bierlin also asked the Town Engineers how much money has been spent on permitting. Engineer Tropepe advised it is approximately \$250,000. Mr. Bierlin stated that the plan had been designed and a few modifications can be made or the project can be started over and the grant money could be lost.

Robert Burrow, 3 Waterview Dr., commented that he should have been legally notified of the change to the land use. He also questioned how the oversight by the Town of the land use could have occurred.

Randy Allen, 18 Adams Rd., mentioned that either way the project goes someone will not be satisfied. He also commented that the Engineer stated it was the most practical design and a few modifications could be made. Mr. Allen felt that the opposing residents should be more willing to compromise.

Gerald Goray, 130 Island Dr., stated that the groups opposing the project need to give a little to get a little and to follow the path of give and take to work with the community.

Comm Kaleel stated that the path chosen at the Special Commission Meeting in November was good and that a pump system is necessary. Comm Kaleel advised that the modifications that he would like to see were to keep as much hammock as possible, enhance a shallower dry pond, to use electrical pumps, and move the pump station back away from the residents as much as possible. He also advised that he had not heard anything that would make him change his opinion that the design by SFRN was faulty.

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Mark Choberka, 8 Midlane Rd., felt that the dry detention pond and electrical pumps would be better. He also mentioned his concern with preventing other areas becoming flooded if the pumps need to be shut down when the area is filled. Comm Schulte stated that the intention of the project is to improve the flooding problem.

Engineer Shalloway stated that if the Commission decides to continue with the project design the engineers will try to create a detention area so that no one would ever know it was there. Engineer Shalloway also advised that part of the hammock could be preserved. They could try to move the pump station back away from the residents with a 20' access way for vehicles and the detention area would only be wet during the rain and for a short time after.

Edward Buxton, 15 Ridge Blvd, stated that his property abuts the Woolbright property. He commented that he feels the grant funding could be extended and he also felt that there should be other alternatives than rezoning the Woolbright area.

Joe Belmonte, 5572 N Ocean Blvd., stated that he likes the project but commented that diesel pumps would not be good and preferred electric pumps.

Comm Kaleel moved to confirm the consensus of the November 18th meeting and give direction to SFRN, Inc., to pursue a more shallow dry detention area with engineering devices to keep it as dry as possible, diesel pumps replaced with accessible submersible electric pumps with a backup generator located further south for the least impact, retain as much of the hammock area as possible and pursue planting vegetation that requires minimal maintenance, attempt to obtain a 30' visual buffer, bid the Hudson Ave. portion of the project as soon as possible, continue pursuing the permitting for the injection wells for Tropical Drive and Coconut Lane, and to pursue extending the deadline of the grant. Comm Schulte seconded the motion.

Motion carried - yea 5.

16. Approval of Comprehensive Plan Amendment Schedule-2004 By: Ken Spillias, Town Attorney

Town Attorney Spillias introduced Attorney Erin Deedy, a new member of the firm who will be assisting with the land use law issues. Atty Spillias stated that as part of the Town's stormwater drainage improvement program, it would be unlikely that the Town's Comprehensive Plan would need to be amended. He advised that in order to move forward with the drainage project in the form presently contemplated, even if modified, the Town will at least need to amend the Capital Improvements Element of its plan. Atty Spillias commented that based on the Planning and Zoning meeting held November 18th, he felt it would be risky to move forward with a Special Exception which could open up the Town to court challenge. He mentioned that there are two alternatives. The first alternative would be to amend the zoning code to conservation to provide a broader use of the land. He explained that the process would take approximately four months.

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Atty Spillias stated that the second alternative would be to rezone the area to public ownership which would require a comprehensive plan amendment. He also mentioned that the amendment must be sent to the Department of Community Affairs for approval which he is still reviewing.

Atty Erin Deedy stated that the Department of Community Affairs has a certain amount of time to respond to applications for Comprehensive Plan Amendments and construction cannot begin until a response is received.

Engineer Shalloway commented that the grant money must be spent by the deadline or it will be lost. Atty Spillias commented that the only issue is the zoning code and mentioned the safest course is to rezone the area. Atty Spillias also mentioned that the request to extend the deadline for the grant money needs to be done no matter what direction is chosen.

Comm Kaleel moved to direct Atty Spillias to explore and pursue both a Special Exception rezoning and also a Comprehensive Plan Amendment revision, seconded by Comm Schulte.

Motion carried - yea 5.

15. Discuss Elected Official E-Mail Policy By: Kathleen Dailey, Town Manager

Town Manager Dailey requested direction on distributing e-mails to Commissioners that are delivered to the Town e-mail address.

Comm Kaleel suggested that staff should check with the Florida League of Cities regarding e-mail policies. He also mentioned that he does not prefer e-mails to be forwarded to his personal e-mail address.

Comm Schulte moved to direct staff to distribute hard copies of e-mails to Commissioners and review the Florida League of Cities policies, seconded by Comm Bingham.

Motion carried - yea 5.

18. Comm Bingham requested to add a discussion regarding cutting historical trees.

Comm Bingham commented that the tree ordinance for cutting historical trees should be tightened up. She felt that lots should not be cleared without a tree survey and that valuable trees have been lost.

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Atty Spillias stated after reviewing different sections of the code, it is his view that the ordinance requires a tree survey for new construction and the intent is to preserve historical trees. He advised that from this point forward all property owners will be required to submit tree surveys before clearing lots.

19. Comm Bingham requested to add a discussion regarding the new trash receptacles.

Comm Bingham asked if the trash receptacles could be placed on top of the dune. Town Manager Dailey stated that staff was checking with the Department of Environmental Protection.

Mayor Aaskov questioned how the trash receptacles were being placed at their locations. Town Manager Dailey stated that the Town will need to use special machinery to lift and place the receptacles at the locations chosen.

17. Town Manager Dailey requested direction regarding the landscaping in the right-of-way at 6000 Old Ocean Blvd.

Town Manager Dailey stated that she received a letter from the Attorney for Mr. and Mrs. Kosinski of 6000 Old Ocean Blvd regarding holding off on citing the landscaping in the right-of-way.

Comm Bingham stated that the Town should proceed with code enforcement action.

Adjournment

Meeting adjourned at 9:35 PM

Attest By:

Town Clerk

Mayor Aaskov

Commissioner Bingham

Commissioner Kaleel

Commissioner Pugh

Commissioner Schulte