

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, May 2, 2005 at 6:00 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 Allison
Commissioner Hogan

Commissioner Bingham
Comm Pugh

Mayor Kaleel

Pledge of Allegiance

Additions, Deletions, Modifications and Approval of Agenda

Mayor Kaleel requested to move item #14, Ordinance #556 regarding Telecommunication Facilities before the reports.

Manager Mathis requested to move item #4 regarding street paving before #11 in the action items.

Consent Agenda

1. Minutes of the Regular Town Commission Meeting of April 4, 2005
2. Authorize Funding in the Approximate Amount of \$500 for Commissioner Hogan to Attend Institute for Elected Municipal Officials in June 2005 from the Commission Travel Budget
3. Authorize Scheduling the July Regular Commission Meeting for Monday, July 11, 2005 at 6:00 PM and Changing the August 1, 2005 Meeting to August 8, 2005 at 6:00 PM

Comm Allison moved to approve the agenda and consent agenda as amended, seconded by Comm Bingham.

Motion carried - yea 5.

Announcements and Proclamations

5. Town Commission will hold an Open Town Hall Meeting on Monday, May 23, 2005 from 6:00 PM to 7:30 PM
6. Proclamation Declaring May 2005 as "Civility Month"

Mayor Kaleel read the above announcements.

Public Comment

There was no public comment

Regular Agenda

First Reading of Ordinances

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14. Ordinance #556; Creating Chapter 14 of the Town Code to Provide the Terms and Conditions for the Erecting, Constructing, and Maintaining of Telecommunications Facilities in the County's Public Rights-of-Way for the Provision of Telecommunications Service; Providing Intent and Purpose; Providing Definitions; Providing Registration; Providing for Fees and Payments; Providing for Reports and Records; Providing an Underground Installation and Relocation Clause; Providing an Involuntary Termination of Registration Clause; Providing a Police Power Clause; Providing for Transfer of Control, Sale or Assignment; Providing for Insurance, Surety, and Indemnification; Providing a Construction Bond Clause; Providing a Security Fund Clause; Providing for Enforcement Remedies; Providing for Reservation of Rights; Providing a Codification Clause; Providing a Conflicts Clause; Providing a Severability Clause

Manager Mathis introduced Attorney Ila Feld of Leibowitz and Associates who was representing the Town regarding the Telecommunications Ordinance. Atty Feld explained the context of the ordinance and stated that there may be several providers that want to come into or through the Town. She advised that there are four categories including wired telephone companies, wireless operators, cable operators and satellite companies. Atty Feld explained that they need to be classified because they are regulated differently and it is necessary to have an ordinance to regulate telephone providers. She also mentioned that the Town can request registration fees, application fees and updates, however the Town cannot request franchise, rental or leasing fees.

Atty Spillias advised that the Chapter of the ordinance would be 14 and that there were minor grammatical changes. He stated that on pg. 13 regarding security funds the amount would be added to read, "no less than \$5,000", and also on pg. 37 regarding the security fund would be changed to \$5,000 from \$25,000.

Comm Bingham questioned if bonds and fees would impact the cost of service. Atty Feld advised that the fees requested are on the lower end of what municipalities request and the service providers could answer any questions regarding rate changes.

Comm Pugh moved to approve Ordinance #566 on first reading, seconded by Comm Bingham.

Motion carried - yea 5.

REPORTS

7. Town Manager

Manager Mathis advised that he and Mayor Kaleel met with representatives from FDOT and the Landscaping representative that will be working along N Ocean Blvd. He stated that FDOT will begin construction in March 2006 on widening the road and constructing a swale. Manager Mathis also advised that FDOT assured that any landscaping that was disturbed would be replaced and that the right-of-way would be enhanced as per the original meeting two years ago.

Comm Allison questioned if the widening would be 3' and Manager Mathis advised it would be. Comm Bingham asked if Manager Mathis received a survey from FDOT and he answered that he had not. Comm Bingham felt a survey would be beneficial to the residents to see where the widening would be done.

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8. Town Attorney

Atty Spillias stated that he received the Pubic Officials policy from AIG and compared it to the current policy provided by Florida League of Cities. He advised that the policies were similar and explained the differences were that the AIG policy provided a broader range of coverage and that AIG would not enter into a settlement agreement without consent but the FLOC can enter into a settlement without consent.

Mayor Kaleel requested that staff bring back a complete breakdown of the coverage and costs between the policies.

Atty Spillias gave an update on the Cantor/Abercrombie code enforcement case. He advised that the Special Master had requested that both attorneys submit their final presentations in writing. He stated that he received a draft settlement agreement submitted by Mr. Cantor's attorney which he revised to stipulate that the present use of the property was in violation and would end December 31, 2005 failing which could constitute a \$250 daily fine. Atty Spillias also wanted separate stipulation agreements so that Abercrombie and Kent agree they are jointly liable for code enforcement violations. He added that if the case continued into litigation the current use of the property would still remain through December. Atty Spillias advised that staff was working on scheduling the case with the Special Master on May 10th.

Comm Allison questioned what length of time was considered residential use and Atty Spillias advised that anything over 30 days was interpreted as residential use but it should be discussed as a policy issue in the future.

Mayor Kaleel requested that Atty Spillias bring back suggestions for amendments to the code and definitions for non residential use.

Public Comment

James Bonfiglio, 5616 N Ocean Blvd, questioned if the same thing could happen again if deeded to someone else. Atty Spillias advised that the violations in all sections are laid out for the Special Master and the violation finding is attached with the property and the property owner.

9. Chief of Police

Police Chief Hillery was absent with notice.

10. Town Engineer (SFRN, Inc.) – Drainage Update

Engineer Dan Shalloway was present and stated that the South Phase Drainage Project had recently started and nothing unexpected has happened. He advised that there would be more to report next month when they are well into the project.

Comm Allison questioned if the area would stay at the current elevation. Engineer Shalloway stated that Engineer Tropepe would be able to answer the technical questions but that where there is vegetation the elevation would remain the same.

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Public Comment

James Bonfiglio, 5616 N Ocean Blvd., questioned if the slab of concrete would be removed from behind his residence. Manager Mathis advised that he spoke with the contractors who left the concrete and they advised it would be removed.

ACTION ITEMS

4. Authorize Phase I of Paving Utilizing the \$50,000 of Budgeted Monies By: D. Bill Mathis, Town Manager

Manager Mathis stated that if the Commission approves both the Paving project and Mosquito/No Seeum spraying there would not be enough funds in the contingency account to fund both projects.

Mayor Kaleel asked what the balance was in the fund balance. Town Clerk Hancsak advised that there is approximately 2 million in fund balance and the balance could be funded from the fund balance.

Comm Allison moved to approve Phase I of Paving utilizing the \$50,000 of budgeted monies and the remaining \$22,810 from fund balance, seconded by Comm Pugh.

Motion carried - yea 5.

12. Discuss and Authorize Expenditure of \$41,000 from the Contingency Account to Fund Midge (No Seeum) Control in an Amount of \$41,000 from the Contingency Account for Six Months (Weekly) in 2005 By: D. Bill Mathis, Town Manager

Douglas Wilson, Clarke Mosquito Control, explained that the process is not 100% and it is a system that works over time. He advised that the program utilizes truck spraying and barrier applications in and around the most affected areas.

Comm Allison question what chemicals are used in the treatment. Mr. Wilson advised that all pesticides used will be in the synthetic pyrethroid family of products. He explained that pyrethroids are derived from the Chrysanthemum plant, which is a natural toxin to mosquitoes and no seeums.

Mayor Kaleel questioned if access would be needed to private property. Mr. Wilson stated that he would need to have access onto some of the properties in order to reach the mangroves behind homes and to do the barrier treatments. Manager Mathis asked if a hold harmless agreement should be obtained for the properties that need to be accessed for barriers. Atty Spillias advised that agreements should be obtained before entering on private property.

Comm Hogan moved to employ Clarke Mosquito Control at a cost of \$34,250 for the remainder of this fiscal year from the contingency account to spray for mosquito's and no seeums as outlined in their proposal subject to the Town Attorney approving the contract and to begin barrier treatments once the hold harmless agreements are executed, seconded by Comm Pugh.

Motion carried - yea 5.

