

## REGULAR COMMISSION MEETING HELD MAY 1<sup>ST</sup>, 2006

Regular Town Commission Meeting of the Town of Ocean Ridge held on Monday, May 1<sup>st</sup>, 2006, at 6:00PM 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                      Commissioner Pugh  
Mayor Kaleel

Pledge of Allegiance

Additions, Deletions, Modifications and Approval of Agenda

Atty Spillias requested to add an item under his report regarding the need for an attorney/client executive session meeting pertaining to the FDOT/Briny Breezes matter.

### CONSENT AGENDA

1. Minutes of the Regular Town Commission Meeting of April 3, 2006
2. Minutes of the Special Town Commission Meeting of April 14, 2006
3. Authorize Scheduling the July Regular commission Meeting for Monday, July 10, 2006 and Permitting Administrative Offices to be Closed on Monday, July 3, 2006 Utilizing Employee Vacation Days; Also Changing the August Regular Meeting to Aug. 14, 2006 and the September Regular Meeting/Tentative Budget Adoption to Sept. 11, 2006 (Provided there are no County or School Board budget meetings).

Comm Bingham motioned to accept the consent agenda as amended. Seconded by Comm Allison.

Motion Carried - yea 5

### ANNOUNCEMENTS AND PROCLAMATIONS

4. Proclamation declaring May as "Civility Month"

Mayor Kaleel announced the Proclamation.

### PUBLIC COMMENT

Stella Colb, 204 Beachway Drive, thanked Chief Hillery for their extra presence in their neighborhood and on the beach. It was greatly appreciated.

Jonathan May, 5512 Old Ocean Blvd, stated that the beach was the town's greatest asset and it was being misused. The traffic in their neighborhood had greatly increased and the beaches needed more care. He represented at least 9 owners on Old Ocean Blvd, and they had 2 ideas 1) Make Old Ocean Blvd a one-way street. 2) Resolve the problem of too much trash on the beach. Using a private source for the occasional beach clean-up was not working. He suggested that for \$20,000 a new tractor could be purchased and the beach could then be graded on a more regular basis. Mayor Kaleel stated that the problems on Old Ocean had been referred to Planning & Zoning for their review and recommendations.

### PUBLIC HEARINGS

5. An application submitted by Randall Stofft Architects, 42 N Swinton Ave., Delray Beach FL 33444, representing owner, Alvin Malnik, requesting a Land Development Permit from the provisions of the Land Development Code, Chapter 67; BUILDING AND BUILDING REGULATIONS; Article 2; COASTAL CONSTRUCTION, Section 67-17; Coastal Construction and Excavation Setback Line;

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Sub-Paragraph (a); Setback line Established; and Sub-Paragraph (h) Existing Structures to permit the construction of a 12,126 sq ft guest house consisting of an 8 car garage/storage area, 4 bedroom, 7 bathroom, gallery, rec room and theater that will extend a maximum of 109'8" east of the Coastal Construction Control Line (CCCL) located at 6307 North Ocean Blvd. (proposed to be joined with 6301 N. Ocean Blvd. through a Unity of Title) or legally described as the south 125' of north 421' of that certain unnumbered block lying east of Ocean Blvd. in the Boynton Beach Park Subdivision (exact legal description located in the Clerk's Office)

Clerk Hancsak stated that all fees had been paid and that a letter from Pelican Cove had been received stating their concern of a residence that size. The letter also stated that Ocean Ridge was slowly eliminating commercial businesses, and making the town solely residential. They feel that this proposed construction would take away the feeling of a small intimate neighborhood.

Atty Spillias stated that as this was a quasi-judicial hearing, he swore in those that would be giving evidence. Mayor Kaleel stated that as long as all requirements had been met, it could not be deterred. Comm Bingham requested a clarification as to where the footprint was placed.

Comm Hogan motioned to approve the Land Development Permit as submitted. Comm Pugh seconded.

Motion Carried - yea 5

5a. Request for Unity of Title to Join as One Parcel of Land – 6307 N Ocean Blvd. into 6301 N Ocean Blvd. (Discussion can occur concurrently with Item #5)

Comm Pugh clarified that the Unity of Title would join the properties as one property. Clerk Hancsak also requested that the original Recorded Title be held here at Town Hall.

Comm Bingham motioned to accept the Request for Unity of Title to Join as One Parcel of Land – 6307 N Ocean Blvd. into 6301 N Ocean Blvd, provided the original Unity of Title was filed in the Clerk's office. Seconded by Comm. Hogan

Comm Bingham stated her concern that its primary function remain for family members or guests and not used commercially.

Motion Carried - yea 5

6. An application submitted by Billy Locker, Project Manager for Worth Builders, 1137 Clare Ave., West Palm Beach FL 33401, representing owner, Lester S. Miller Trust, requesting a Land Development Permit from the provisions of the Land Development Code, Chapter 66; ENVIRONMENTAL REGULATIONS; Article IV; Landscaping, Division 4; Dune Preservation, Section 66-161; Vegetation, (a) permit required for planting or removal of vegetation and (f) seagrape trimming and windowing, to permit the removal of seagrapes and installation of approximately 585 sq ft of seagrape and coccoloba uvifera along the north and south sides of the property and also the installation of approximately 384 sq ft (8'by 48') of seaside pasapalum to a maximum distance of 242 seaward of the CCCL located at 6133 North Ocean Blvd. or legally described as the South ½ of Lot 8, Lots 9-12, of Blocks 3 and 10 in the Boynton's Subdivision (exact legal description located in the Clerk's Office)

Clerk Hancsak stated that no further correspondence had been received, and that all fees had been paid. Atty Spillias stated that as this was a quasi-judicial hearing, he swore in those that would be giving testimony.

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Louis Yuahos, Landscape Architect for Blakely & Associates stated that on Feb 21, 2006, they were given a Notice to Proceed by D.E.P., and that the work must be completed by may 15<sup>th</sup>, 2006. He was seeking approval to remove 12% of the seagrapes and cololoba uvifera along the north and south sides of the property to be replaced by pasapalum. They would be imposed a fine if the job was not completed in time. Comm Bingham asked if the grass was to stabilize the dune. Louis Yuahos stated that it would stabilize the dune, and that the pasapalum was a smaller plant with a different height and leaf type. Comm Allison requested a visual drawing to help define the project. Louis Yuahos presented a drawing and plan showing the areas that would be affected, and explained the project.

Comm Pugh motioned to approve the request for a Land Development Permit. Seconded by Comm Allison.

Motion Carried - yea 5

### REPORTS

#### 7. Town Manager

Manager Mathis stated that this would be his last official meeting as a full time staff member. He thanked the Town and Commission for the opportunity to serve the community. He also stated that he would be staying on as part time as a transition to the new interim Town Manager and to help prepare the budget for the next fiscal year.

Manager Mathis stated that Engineer Tropepe would be giving an update of the Storm Drainage Project and Coconut Lane right of way and alleyway in her reports. The \$10,000 Palm Beach County Beautification Grant for the trees had been awarded. In regards to a sign at Beachway showing beach parking, an application form had been received, and he requested a motion to submit the parking sign application. The sign would list the 3 public beaches and direct them north or south on AIA with estimated miles given. Comm Hogan asked why Boynton Beach Park was not included on the sign. Mayor Kaleel stated that it was not a free public beach. Comm Bingham stated that there were already too many signs along AIA, and felt that if additional police presence were available on Old Ocean that the work would get out that public parking on private streets was prohibited.

Stella Colb, 204 Beachway Drive, stated that she had documented that she had contacted the police department 6 times for parking offenses within the last few weeks. There was definitely a parking problem, and the police had come immediately after being contacted.

Comm Bingham asked Chief Hillery if there were parking tickets issued. She also encouraged the newspapers to write an article regarding parking violations along the beach. Chief Hillery responded that they had been giving out \$30 parking tickets. Comm Allison asked if the parking sign could be placed on a trial basis of 90 days to see if it resolved the parking problems along Old Ocean. Comm Hogan requested that the Ocean Front Park be added to the sign also.

Comm Allison motioned for the sign application to be completed and placed at Beachway, and State Road AIA, and to include Ocean Front Park on the sign. Seconded by Comm Pugh.

Motion Carried - yea 5

#### 8. Town Attorney

Atty Spillias requested advice and counsel regarding the litigation and potential strategy of Cory Heith & others, Case #2003 CA 010524AB. He had received a proposed settlement and felt it was at the

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stage for a final settlement agreement. He requested an executive Attorney/Client meeting to be scheduled on May 31 thru June 2<sup>nd</sup>, and if not then after June 17<sup>th</sup>. A consensus was made to defer scheduling to the next Town Commission meeting in June.

### 9. Director of Public Safety

Chief Hillery suggested that the price of the parking ticket be raised to \$50.

Comm Bingham motioned to raise the price of the parking ticket up to \$100. Seconded by Comm Pugh.

Motion Carried - yea 5

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

Engineer Tropepe stated that the South Phase was proceeding along as planned. The area was passable now. The water line is installed, and they are currently setting the water meters. Chaz Equipment presented a revised contract for the Coconut alleyway that was in line with the revised budget figures. The roadway would be finished first, then the alleyway would start. Herbicide would be put down first to clear out the vegetation. The Keep Palm Beach county Beautification Grant had been awarded and a landscape plan was shown. The grant would include the following: 4 pigeon plums, 5 sea grapes, 3 silver buttonwoods, and 29 sabal palmettos. These were marked red on the landscape plan, and the trees marked in black would be going out to bid within the next 7-10 days.

Jerry McGruder, 9 Ridge Lane, complimented the landscaping, but was concerned with the upcoming hurricane season. She suggested that the planting of trees be postponed until after the hurricane season was over. Otherwise the monies may be wasted on replanting from any hurricane damage. She also mentioned that the electric poles behind her house were cracked and listing and may have to be replaced.

Pat DeStafano, 14 Tropical Drive, asked of the status of the generator placement at Tropical. Mayor Kaleel stated that no final decision had been made, and that it had been delayed until July. Other options were being explored at that time.

### ACTION ITEMS

#### 11. Report by Clarke Mosquito Control on Spraying for Noreeums By: Doug Wilson

Doug Wilson, Clarke Mosquito Control, reported that for the past year they had been spraying both from trucks and barrier backpacks. Even though most pest control sprays do say that they are harmful to humans, pets or fish, the amount needed to cover one acre of land is minimal. It only takes 1-1/2 oz to cover one acre. Spraying is done at dusk as the sun is setting, if they wait too late, the noreeums retreat back to their breeding area. The smell is from the mineral water that is added to it. EPA states that this is safe, as long as the labeling is followed. They spray a chemical named Anvil 22. All their equipment was computerized to disallow for any human error, and their employees were not in direct contact with the chemicals used.

Mayor Kaleel stated that a resident was told that Biomist was used in town. Doug Wilson stated that she had been given the wrong information. Biomist is a cheaper product and has a 100ft setback from water required. They were not using Biomist in town.

Comm Bingham asked what kind of affect the product had on small birds or animals. Doug Wilson stated that after 12 hours it dissipated and that it was designed to kill only small mosquitoes. Comm Hogan asked what was being done in the Hibiscus or Midlane area as the noreeums were very bad in

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that area. Doug Wilson stated that only the truck was used in that area. Backpack barrier spraying could not be done. The spraying has to be done in a circle, and there needed to be hedges, foliage or something for the spray to adhere to for it to be effective. It can't be done there. Comm Hogan stated that she was disappointed to finally find this out. Three times she had notified the Commission that this area needed to be included in the test area, with no response that barrier spraying could not be performed because there was no barrier or foliage to spray against.

12. Request to Permit Obstruction in ROW by Permitting the Planting of Landscape at 8 Hudson Avenue By: Douglas Hauck, 8 Hudson Ave.

Doug Hauck requested a temporary permit of 4 palm trees in his swale. He hadn't noticed any drainage problems, and he would maintain the trees. Comm Pugh stated that he had noticed a For Sale sign on his property, if this permit was granted, would the permit also be transferred over to the new owner, and why the trees could not be moved to the backside of the swale. Doug Hauck stated that it was a For Rent sign that was posted, not a For Sale sign.

Engineer Tropepe recommended that the trees be moved back approximately 10ft. the approved trees are the existing trees closer to the home. Mayor Kaleel asked why he planted the 4 palm trees in the swale and why couldn't they be moved back. Doug Hauck stated that he was under the opinion that once the project was complete, he could replant. Mayor Kaleel mentioned that \$1million was spent to fix the drainage problem on Hudson Avenue. The town had worked with the residents and allowed them to replant on the far side of the swale. To allow residents to replant in the swale area would set a precedent for other residents and overtime make the problem reoccur. Doug Hauck asked if there was a difference of trees vs. grass in the swales. Engineer Tropepe stated that his trees were in the trough and all the others are on the upside of the swale.

Comm Bingham motioned to deny his request of a temporary permit and license for the planting in the row in front of 8 Hudson Avenue. Comm Pugh seconded.

Motion Carried - yea 5

13. Report on Recommendation by the P & Z Commission Regarding Permitting the Installation of Generators in the Setback Areas By: Karen Hancsak, Town Clerk

Clerk Hancsak summarized the memo by stating that the Planning & zoning had met and recommended an ordinance similar to Gulf Stream provided there is no other available physical location.

Atty Spillias stated that it may be at the discretion of administration on the placement of generators, as long as drainage in the swales would not be impeded. He suggested that other suitable locations be identified and discussed with Zoning and the town Engineer along with drainage and setback requirements. Both Gulfstream and the town of Palm Beach have an allowance of 5 ft from setback for permanent generators, if there can be no other location suitable found.

A consensus was made for the Town Attorney to draft an ordinance to amend the location of permanent generators.

14. Hiring of an Interim Town Manager and Discuss Process of Hiring Full-Time Manager

Ken Schenck introduced himself and his wife Amy Schenck. He stated that he was interested in becoming the interim Town Manager for the next 3-6 months. He had 17 years experience with engineering and had been the City Manager of Pahokee for 12 years. Manager Mathis highly

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recommended hiring Ken Schenck, and stated that he believed he would work well with the Town. He had known him 28 years and would be a great asset.

Comm Pugh motioned to hire Ken Schenck as the interim Town Manager. Seconded by Comm Bingham.

Mayor Kaleel stated that the Town Manager & Town Attorney would negotiate the financial arrangements. Manager Mathis stated that the combination of the two salaries would stay in line with the existing budget.

Motion Carried - yea 5

Town Clerk Hancsak advised that the open position of a permanent Town Manager could be placed in the City Manager Magazine and the League of cities with a deadline of July 1<sup>st</sup>, 2006 for a response time. They could also contact the Range Rider to see if available. Comm Hogan mentioned that a local advertisement should be done also. The other commissioners agreed that the last time the local papers were used for the town Manager position, many people responded but very few were experienced or qualified.

Comm Allison motioned that advertisement for a permanent Town Manager should be placed in the League of Cities, FCMA and Datagram with a cut off date of July 1<sup>st</sup>. Seconded by Comm Bingham.

Motion Carried - yea 4, Comm Hogan voted no.

15. Discuss Participating in a Municipal Underground Utilities Consortium By: D. Bill Mathis, Town Manager

Manager Mathis stated that the Town had been asked to join a consortium regarding underground utilities in our town. If the town would be interested in underground utilities for the town, he suggested that we join, and that we could drop out if it became too expensive. The costs should run about \$2000 to \$4000 total. They had hired an engineering firm, and approximately 10-12 cities were involved. Comm Allison thought that studying underground utilities should be implemented, and that it would be a wise course of action. Mayor Kaleen and Town Clerk Hancsak reminded the commission that the majority of Palm Beach County is underground. Comm Bingham mentioned that it would cost the town substantially more if a private engineering firm was hired to research it.

Comm Pugh motioned to join the municipal underground utilities consortium with a cost not to exceed \$2000 to be paid for out of Professional Services, General Government. Comm Bingham seconded.

Motion Carried - yea 5

16. Authorize \$1,700 to Remove Abandoned Vessel from the Beach By: D. Bill Mathis, Town Manager

Manager Mathis stated that a derelict 24' boat had been abandoned on the beach on March 30, 2006. It was considered a hazard as it contained diesel fuel. He had received two bids to remove the vessel, and the lowest was \$1700. Comm Bingham questioned why this was the Town's responsibility. Chief Hillery stated that it was on the Town's property, and it could become a nuisance of liability if anyone got hurt on it. Rather than waiting for the owner to respond, he requested that the vessel be removed immediately, and then the owner would be liable to reimburse the Town for all incurred costs. Comm Bingham requested the Town take special precautions so that removal did not cause fuel spillage. Chief Hillery assured them that special care would be taken.

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Comm Bingham moved to authorize \$1700 to remove the abandoned vessel from the beach to be funded from Current Charges, General Government. Seconded by Comm Allison.

Motion Carried - yea 5

### FIRST READING OF ORDINANCES

17. Ordinance No. 567; Amending Chapter 63, Section 63-117; Providing for Codification; Providing for Repeal of all Ordinances in Conflict; Providing for Severability and an Effective Date

Atty Spillias stated that Ordinance 565 passed for incentives of grand-fathered commercial properties under the PRD regulations for under 10 acres. When the ordinance passed it required greater setbacks & height restrictions which was not the intent of the commission. The ordinance is now amended to clean up issues to make those requirements what the Zoning District allows.

Comm Pugh motioned to approve the First Reading of Ordinance #567. Seconded by Comm Bingham.

Comm Bingham asked if when decreasing density, did the population decrease also. Atty Spillias said not necessarily. There are Zoning Codes that correlate with Building codes. The zoning Code doesn't address available parking, and parking is not based on the number of bedrooms. Comm Bingham asked if there was any control of the number of living units. Atty Spillias said presently no, but the Board could look into it, and that other towns tried to limit the density by the number of bedrooms, but it was very difficult to enforce. Comm Allison felt that as the value of the homes increased, the less chance of transient residents would be available.

Mauro Walker, 108 Dolphin Drive mentioned that at the last Planning & Zoning meeting there was a case involving Adams Road, where they had tried to reduce the number of residences. He suggested that the "finished floor space" of a building be used to control density.

Bruce Gimmy, 12 Ocean Avenue, stated that the project on Adams was a great project to reduce the density of the small hotel down to a 7 unit townhouse, but he was concerned of the limited available parking. If guests were involved, the parking would be a minimal, which would affect neighboring properties. He suggested that Planning & Zoning and the Town commission look at the parking allowance of such proposed projects and the effect on the neighboring properties in the future.

Motion Carried - yea 5

### SECOND READING, PUBLIC HEARING AND ADOPTION OF ORDINANCES

18. Ordinance No. 566; Amending Chapter 16, Article I, Sections 16-1 through 16-12 of the Code of Ordinances Providing for (1) Substituting "SPECIAL MAGISTRATE" for "SPECIAL MASTER"; (2) the Ex Officio Appointment of Special Magistrates; and (3) Fine Assessment Hearings; Providing for Codification; Providing for Repeal of all Ordinances in Conflict; Providing for Severability and an Effective Date

Comm Bingham motioned to approve the Second Reading of Ordinance 566. Seconded by Comm Pugh.

No Public Comment

Motion Carried - yea 5

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19. Comment on Beach Clean Up By: Comm Hogan

Comm Hogan thanked Susan Miller for all her hard work and coordinating the beach clean up day. It was a job well done, even the Girl Scouts joined in. Beer bottles, cans, shoes and even aluminum gutters were found on the beach. She was surprised on the volume of trash and the different types of trash found on the beach. Again thanks for all those who volunteered, it was very successful. She understood the concerns of residents regarding density, and asked that there be a diligence of continued enforcement.

Bernd Schulte, 9 Osprey Drive, thanked Manager Mathis for a job well done and that he and been a God-send for the past 3 years. Gail Askew, 27 Hibiscus Drive agreed with Bernd Schulte and also thanked Manager Mathis for a wonderful job, and that he would be very much missed. Applause followed.

Meeting Adjourned at 7:55 p.m.

Attest By:

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Town Clerk

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Mayor Kaleel

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Commissioner Allison

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Commissioner Bingham

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Commissioner Hogan

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Commissioner Pugh