

TOWN OF OCEAN BREEZE
MINUTES REGULAR TOWN COUNCIL MEETING

Monday, May 13, 2019

Ocean Breeze Jensen Beach Clubhouse, Pineapple Bay Room – 10:30 a.m.
700 NE Seabreeze Way, Ocean Breeze, FL 34957

- 1. Call to Order** – President Ken De Angeles called the meeting to order at 10:30 a.m.
- Pledge of Allegiance – President De Angeles led the Pledge of Allegiance
 - Roll Call – President Ken De Angeles, Vice-President Ann Kagdis, Council Members Kevin Docherty, Richard Gerold, Terry Locatis
Absent – Mayor Karen Ostrand, Council Member David Wagner
 - Staff Present – Town Management Consultant, Terry O’Neil; Town Clerk, Pam Orr, and Bookkeeper/Clerical Assistant, Kim Stanton
Absent – Town Attorney, Rick Crary

President De Angeles announced that Mayor Ostrand and Vice-President Kagdis had been chosen to receive the Florida League of Cities Home Rule Hero Award.

Council Member Gerold stated that he would like to receive an update regarding the telephone poles on Ocean Breeze Drive.

Mr. O’Neil answered that approximately two and one-half months ago Staff met with representatives from Sun Communities and FPL. He added that FPL was committed to removal of the poles prior to the beginning of the hurricane season, which was June 1, 2019. He stated that Sun was pressing FPL to perform this task and that Sun had been working to resolve certain issues because these poles had implications from other utility providers whose lines were located on the poles. He spoke about correspondence sent to FPL from the Council and the invitations from the Council for FPL representatives to speak at public meetings.

Council Member Gerold asked about the meeting which had been scheduled, but was cancelled, for April 24, 2019 regarding the OBE PUD Amendments. He remarked that interest from the residents in the Resort was high, and that most of residents had now left for the summer. He asked when the next meeting would take place and that most of the residents would be returning in October, November and December.

Mr. O’Neil answered that due to the schedule of the Council Members and the OBE Representative, the PUD Amendment meeting would take place on July 8, 2019. He added that the Minor Amendment consisted of features Sun would like to add including the installation of the kayak launch. He stated that the Amendment also had a remedial aspect because there were components of the plan that may not match-up exactly with the master plan. He spoke about the location of parking spaces, traffic issues, a lighting plan and the need to address some design issues. He remarked that if these items were left undone, the issue would be compliance with the PUD. He commented that he would confer with the Town Attorney regarding these issues, and that it was conceivable that the amendments could wait until a later date. He stated that another option could be to break the Amendment up into smaller sets of Amendments to allow Sun to install the kayak launch and other “nice to have” items. He stated that the more substantive items could be addressed at a later date.

Council Member Gerold stated that the kayak launch would benefit everyone and the contractor would like to get paid. He added that he would not like issues such as lighting, parking and traffic patterns to be changed in his absence.

Mr. O'Neil answered that those items were not necessarily being changed, but rather to make sure they were being done properly. He added, that if directed by the Town Council, Staff would request the lighter items be addressed separately.

Council Member Gerold, seconded by Council Member Locatis, made a Motion directing Staff to contact Sun Communities and alert them that the Town Council would like to break-up the PUD Amendments into minor amendments with the other PUD amendments, which might involve the residents, postponed until October or November.

President De Angeles asked for comments.

Vice-President Kagdis stated that she was concerned about the lighting plan because it was a public safety issue and a long time had passed since it was originally discussed. She added that there were meetings with Sun about the dark areas at night and the possibility of people getting injured. She stated that she would like to have the lighting plan addressed.

Council Member Gerold stated that the Council could discuss which items to address first.

Mr. O'Neil stated that the PUD Amendment could consist of a single Resolution of all the various items, and conceivably the Council could approve some of the items and table others until the October meeting. He stated that the Resolution would reflect that fact and be truncated with a smaller list of items that would be brought back during a public hearing process in October.

Roll Call:

In favor: De Angeles, Kagdis, Docherty, Gerold, Locatis

Absent: Wagner

Opposed: None

Motion Passed: (5-0)

Council Member Gerold asked about an update for the speed limit signs.

Mr. O'Neil stated that the Town Council authorized a Budget Amendment and that the Sheriff's Department was working on a traffic analysis. He continued that the Town had submitted a Permit Application to Martin County for the signs. He stated that Staff had contacted Sunshine Land Design for an estimate on the installation. He added that the company that builds these speed signs had given the Town roughly a two-week delivery time upon order.

Joe Angelico, Martin County Sheriff's Department, concurred with Mr. O'Neil and confirmed that the traffic survey was ongoing. He stated that the Sheriff's Department did not expect that the results from the survey would alter the plans of the Town. He commented that this type of traffic calming was successful at slowing down the traffic.

Council Member Gerold spoke about some incidences at the Resort pool and stated that he realized that this was a resort issue, however, he believed one issue with the pool may involve the health department. He spoke about the zoning for the liquor license and that there was no monitoring and added that about twenty people, who were uninvited, were in the pool with open jugs, glass bottles in the pool; he believed this was a safety issue because the crowd was drinking alcoholic beverages and they were uncontrolled. He asked if the Council Members personally could approach Sun Communities to ask about their plan for such situations.

Mr. O'Neil answered that the PUD language stated that the pool and amenities were for residents and their guests and suggested that Sun could be reminded of this language. He remarked that the Town

granted authorization for zoning approval for the liquor license issuance; there were strict conditions and there was a service area associated with the license. He added that if violations occurred, the Town could examine the agreement with Sun to consider if that agreement had been breached; and also report the violations to the State Beverage Division and seek revocation of their license.

Council Member Gerold spoke about the rat infestation issue and noted that there were bait traps around the Town and he continued that residents had to spend a lot of money for their personal protection. He mentioned a unit in the Resort without skirting and reminded the Council that units without skirting may harbor rats. He asked if this infestation issue and a residence without skirting could be brought to Sun's attention.

Mr. O'Neil answered that Staff would report this to Sun and that the minutes of the Meetings were on record. He stated that the Health Department and its enforcement of the rodent issue considered the Resort as a whole, and Town Staff agreed, that this was the responsibility of the property owner. He added that Staff would reinforce this with Sun Communities and ask them to take immediate steps.

2. Approval of Minutes – Vice-President Kagdis, seconded by Council Member Locatis, made a Motion to approve the Minutes of the April 8, 2019 Regular Meeting.

In favor: De Angeles, Kagdis, Docherty, Gerold, Locatis

Absent: Wagner

Opposed: None

Motion Passed: (5-0)

President De Angeles stated that he knew it was at Sun's discretion, but that he would like for the Town to indicate to Sun Communities that it was extremely important that they attend Town Council meetings. He stated that he believed that the Town Council should send Sun Communities a letter indicating that they should be in attendance at the Town Meetings.

Mr. O'Neil stated that attending a meeting was at any person's discretion but that it may be appropriate for the Council to approve a letter from the President making that request.

Vice-President Kagdis, seconded by Council Member Docherty, made a Motion to authorize a letter to be generated by President De Angeles inviting the representatives of Sun Communities to attend the Regular monthly meeting on the second Monday of each month.

In favor: De Angeles, Kagdis, Docherty, Gerold, Locatis

Absent: Wagner

Opposed: None

Motion Passed: (5-0)

President De Angeles stated that he would contact the Town Clerk on the content of the letter.

3. Legislative Session Final Report – Vice-President Ann Kagdis spoke about her time involved with the Florida Legislative Action Days and announced that the budget was passed. She spoke about the budget items to protect Florida's water, environmental protection, affordable housing initiatives, funding for the arts, preservation of Florida's tourism marketing agency "Visit Florida," and regional transportation planning. She stated that some disappointing bills were pushed through at the end of the session, one of which was permitting school districts to arm teachers.

Discussion ensued.

Vice-President Kagdis spoke about a bill that passed which was about accessing major, new toll road connectors in environmentally sensitive areas of the State. She updated the Council on the Neighborhood Advisory Council meeting and announced that the Jensen Beach Community Redevelopment Agency area would now be connected to sewer by Martin County at a very minimal cost to its residents and added sewers help protect the Indian River Lagoon. She spoke about the Marijuana and Hemp Industries Bill the legislature passed creating an industrial hemp program.

4. Comments from the public on topics not on the Agenda – Pat Ostradick, 121 NE Bay Drive, Ocean Breeze Resort, spoke about alcohol violations and large numbers of unregistered guests invited to the pool. She stated that these unregistered guests brought coolers of alcohol and food, and this wasn't the first time. She commented that her concern was the unlimited amounts of forgiveness for residents acting this way. She added that within the past couple of days, a renter was in the pool drinking alcohol and when someone from the Resort came to check on the matter, the individual proceeded to get out of the pool and hide the alcohol before it could be detected. She remarked that the resident reporting the complaint was told by a Sun representative that because they had not seen the infraction personally, they could not address the matter. She asked about cameras and their use in policing these matters. She added that this same individual was smoking in the café area and when confronted with the rules of the pool, he protested. She asked about enforcement.

President De Angeles answered that he did not believe the Town Council had any involvement in the operation of the pool or café.

Mr. O'Neil stated that to the extent that alcohol was being consumed, the Town Council had a role because of the Town's agreement with Sun Communities. He remarked that the Town could explore whether the license was to be maintained because of the poor stewardship of that license. He stated that from earlier discussions, the Town would be talking to Sun and to the State to find out if there were enforcement opportunities and also, the Sheriff's Department to see if there was a role they could play.

President De Angeles stated the importance of advising Sun Communities that the Town of Ocean Breeze was very concerned about this.

Mr. O'Neil commented that if the issues arose to the level of a PUD violation, it could be serious.

Candi McKenzie, 30 NE Nautical Way, spoke about the frustration of the residents regarding safety issues and the fact that there was no representation from Sun management at the meeting. She stated that residents had to go to great lengths to email Tom O'Branovic and Gina May when management was on site. She remarked that when management was approached with the pool, café and alcohol problems with owners of RVs, the response was "well they'll be gone soon; they're temporary." She added that this was not a resolution. She asked about security and stated that the gentleman who was performing security, had left and she did not believe that the safety of the residents was of paramount importance and it was being compromised. She stated that there was not a pool attendant after 3:30 p.m., and, in discussion with management those hours had been reassigned from 6:30 to 3:30. She reiterated that the events spoken about happened after 3:30 and the pool was open until 10:00 p.m. She spoke about the PUD, the amendments and the public hearing schedule. She added that most residents living in the Resort full-time were away in July and she felt it was in the best interest of the residents to have the PUD meeting in June. She asked about guarantees that Sun Communities would abide by the PUD Agreement and the Amendments.

President De Angeles asked Mrs. McKenzie about the specific safety and security issues.

Mrs. McKenzie answered the lighting, the pool...

Council Member Gerold added that an accident took place in the pool and because there was no one on duty to monitor it, it was not shut down and the other issue was that when there were afternoon lightning storms there was no one there to close the pool.

Mrs. McKenzie spoke about the changing of the gate code and the ability for people to enter the Resort. She stated these issues were ongoing and she does not want to have to go to Tom O'Branovic and Gena May. She continued that Sun Communities had plenty of time to prepare for these amendments.

Cathy Berry, 31 NE Nautical Drive, Ocean Breeze Resort, stated that she would reiterate everything that was said by Pat Ostradick and Candi McKenzie. She commented that management should be at the Town Council Meetings and that the managers were also residents.

Vice-President Kagdis directed her comment to residents who were not in Ocean Breeze before Sun Communities took over. She stated that when Sun Communities took over after Carefree, they wanted a resident association to which Sun was amenable but, the residents voted it down. She added that some of the issues brought forth were Town issues, but many were not. She remarked that many issues were strictly resident issues related to Ocean Breeze Resort. She stated that the residents should consider a resident association which would deal directly with management on resident issues; and continue to bring forth to the Town Council potential PUD issues.

President De Angeles stated that the Town Council would impress upon management the need to be at the Town Council Meetings.

5. Comments from the Council on topics not on the Agenda – Council Member Locatis stated that he received information in the packet for this meeting that said “this was general information not necessarily subject to discussion during the mornings meeting unless Council Members or the Mayor wish to do so.” He spoke about the communication letter from the CPA firm regarding the Audit and that he believed last year’s financial audit was performed well, it was clear and concise. He asked if this was the same firm that performed the audit last year.

Mr. O’Neil answered “yes.”

Council Member Locatis asked if the audit would be the same type of audit and would the costs be the same as last year.

Mr. O’Neil answered that the costs would be what was allocated in the budget.

Council Member Locatis asked about the Code Enforcement Officer and if the Town had ever had a Code Enforcement Officer.

Mr. O’Neil answered “no,” and in this instance, the officer was a Building Code Enforcement Officer and was a 30-year retired police officer who also worked for Martin County. He stated the role of this officer would be to seek out construction without permits and other building related activities. He commented that the Town had some recent problems with contractors performing work either without a permit, failing to call for proper inspections and not building in accordance with the approved plan. He stated that Staff received permission from the Town Council to hire this individual using building permit fee proceeds, not general fund proceeds; he worked on an assignment basis by performing

sweeps, checks on licenses, etc. He remarked that the Code Enforcement Officer's rate was \$65.00 per hour and he believed it was money well spent to have this officer on call. He stated that in the past, the Town did not have a need for code enforcement and that building permit proceeds were more than ample to cover this cost.

Council Member Locatis stated that he was curious why the Town needed one and he pointed out that Sun Communities was doing the vast majority of construction; he asked why Sun wasn't paying for a code enforcement officer.

Mr. O'Neil answered that the activities of the Code Enforcement Officer were being paid for exclusively by building permit fees paid by Sun Communities. He added that some of the construction issues had not been related to Sun's building activities but after units were purchased, the Town had contractors performing work on owner units that was not proper. He commented that the Code Enforcement Officer function was being covered by building permit dollars and enforcement was part of the Town's responsibility.

Council Member Locatis asked if the Town would be budgeting an amount for the Code Enforcement Officer.

Mr. O'Neil answered that any dollars spent by the Town for Code Enforcement must be budgeted.

Council Member Locatis asked that if the Town chose not to use the Code Enforcement Officer, the Town would nevertheless get the permit dollars.

Mr. O'Neil explained that the Town was expanding services to perform regular enforcement of the Building Code.

Council Member Locatis asked about the Stipulation and Agreement given to a homeowner on Bay Street that had electrical issues that would cost \$2,500 to correct and the individual does not have the money to correct; this was an Agreement that the Town would pay the \$2,500 in exchange for a Promissory Note and he added that he believed this was a dangerous precedent. He stated that he believed the Town should look into other options to resolve the issue. He spoke about this possibly being a safety issue because a fire in one home could spread to another home; he stated any home could catch on fire for any number of reasons and that this particular home was fifteen feet from the nearest other structure. He pointed out that his home was forty-three inches from the next home as were a lot of other homes. He stated that individuals should be responsible for their own property.

President De Angeles stated that when this issue was brought forth, he shared Mr. O'Neil's concerns but that he was not in favor of the Town getting involved with financing residents' improvements to their homes. He added that the matter should be looked into.

Mr. O'Neil acknowledged the concerns and clarified the process. He stated that the Building Official had been on the site and found the wiring to be grossly under code and a danger. He remarked that the issue would be "what does the Town do about this?" He stated that the first and easiest order of business would be to condemn the unit and prohibit occupancy and that would mean the individual would have to remove himself from the unit. He commented that he understood this resident to be a veteran and was quite ill and there were questions as to whether he had the resources to make this repair. He continued that this was an option and that the Town did not believe this was the best option. He added that the Stipulation was not a loan but an Agreement by the resident, for public safety purposes, the Town would be allowed to enter onto that property, in lieu of eviction or condemnation

of the unit, and make the necessary repairs. The stipulated agreement would need to be executed because the agreement preserves the Town's lien rights against the property which would mean the Town could file liens and at any point, perfect the lien by foreclosing on it. He added that most likely, in these instances, and in his experience of years with the City of Stuart working in code enforcement, those dollars were usually recouped when the individual transfers the unit because the Town had filed all the proper paperwork to recapture its costs. He stated this was not a loan but a public safety issue and he did not agree that the fire issue was minimal. He added that Staff had been in touch with the Veterans Administration and advised them entirely of this individual's situation and had sent paperwork to them to apply for financial assistance from the VA. He stated that at any time in the process, if the resident executes this stipulation, he could pay the Town for its costs before the Town would file liens and seek to foreclose its lien rights. He added that the Town choose Plan B which was more considerate of the individual's circumstances. He stated that if the Council wished to say "no" to the Stipulation approach, which he stated he did not recommend, they could do that and then the options would be condemnation of the unit.

Council Member Locatis stated that he believed there were more choices. He spoke about an individual's unit, a year or so ago, that needed repair and the previous management was able to find that person another affordable option to relocate. He added that there were several empty units in the Resort at the present time and asked why this particular unit could not be condemned and provide this individual with another unit.

Mr. O'Neil answered that Staff had spoken to Sun Communities about this and stated that this legacy individual happens to own the unit and was moved from his original cottage to this current unit. He explained that Sun was asked about the electrical work on the unit and they pointed out that they were sorry but that this was performed when Carefree owned the Resort.

Council Member Locatis asked about moving this resident into another unit.

Mr. O'Neil explained that the resident owned the unit he occupied and paid rent for the lot. He further explained that one of the beauties of the VA approach was that the individual had to fill out the paper work and demonstrate his financial situation. He stated there was not another unit into which this resident could be moved.

Council Member Locatis stated he was not in favor of going this way.

Mr. O'Neil stated that anybody in a similar situation, and he did not believe there were very many, that the Town's obligation was safety and Staff would not have put this forward except for the issue of the extremely faulty wiring and the safety issue it presented. He further explained that once the Town was made aware of the issue, it had to act. He stated that the direction of the Council would be followed.

President De Angeles stated that he understood Attorney Crary was looking into the legality of this matter and the procedure.

Mr. O'Neil answered that Attorney Crary drafted the Stipulation Agreement and recommended that if the Town was going this route, short of condemning the unit, the Town was going to go onto the property and make these necessary repairs. He added that the Stipulation Agreement was the recommendation of Attorney Crary.

President De Angeles asked if the Stipulation had to come before the Council.

Mr. O'Neil answered it did not and it would have to be executed by the individual to preserve the Town's lien rights to recoup its funds. He stated this may not be the route the Council wished to take. He remarked that he had alerted the Council of the problem at last month's meeting and given the Council a recommended course of action. He added that the Council made policy and if the Council choose not to assist in fixing the unit, the Building Official would need to make the determination to condemn the unit.

Candi McKenzie asked why Sun could not take care of this issue because they inherited the problem from Carefree and, if the situation would be different if this resident was a renter.

Mr. O'Neil replied, "yes," that if this were a Sun owned unit, the solution would be simple; the Town would order Sun to fix the electric. He commented that this individual had been in the unit for four or five years and was just now coming to the attention of the Town, and Sun had said this was not their problem.

Candi McKenzie asked for clarification about legacy residents.

Council Member Gerold clarified who were the legacy residents.

(Indistinguishable) stated all residents were responsible for their homes and the legacy units were old.

(Indistinguishable), Buoy, Ocean Breeze, stated that he had two problems with the issue at hand; the Town setting precedents that anytime someone had an issue, they could go to the Town and say they cannot afford to do the repair. He remarked that part of owning something was knowing that it will, over time, need repairs and improvements. He stated he believed the Town was making a big mistake by pushing forward with this because there were numerous people, within the community, that fall into this same situation and would want to use dollars from the Town. He stated he was very concerned that this was a safety issue and stated that residents should be removed from the unit and the unit should be condemned; especially if there were renters in the unit besides the owner.

(Indistinguishable) asked if this action by the Town would be opening a door that would become much more than this initial issue.

(Indistinguishable) asked if anyone knew if this man was a Veteran.

President De Angeles stated he was and that he was applying to the Veterans Administration.

(Indistinguishable) stated that he should go to the Veterans Administration and fill out the paperwork because sometimes they donate money to an individual.

President De Angeles stated that he believed it was the sentiment of the populous and perhaps the Council that this issue should be looked into further and maybe not consummate the Stipulation Agreement.

Mr. O'Neil stated that Staff would withdraw the offer made to execute the Stipulation Agreement and instruct the Building Official to take what other steps were available.

Council Member Locatis asked if the Town Council should wait until this individual had an opportunity to work with the Veterans Administration.

Mr. O'Neil answered that condemning the unit means that everyone must get out of the building. He added that the Stipulation Agreement was put forth in order to keep the issue moving. He stated that the Town would act accordingly.

Council Member Gerold asked about the responsibility of the Town should a fire occur.

Mr. O'Neil answered he did not know.

President De Angeles remarked that Attorney Crary stated that the Town was responsible if something should happen in the meantime.

Mr. O'Neil answered that was the reason the Town was forced to act and this route was taken because a condemnation had not yet occurred and the Town was pushing its luck while the issue was trying to be resolved.

Vice-President Kagdis stated that this resident was mistreated by Carefree and that this agreement was not a loan. She added that years ago money was donated to the Town for the benefit of people who were in need. She stated that she believed that in this instance this was a safety and liability issue. She commented that if she were terminally ill, she would hope that someone would do the same for her.

Mr. O'Neil asked for a Motion that Staff discontinue with the Stipulation procedure and take steps necessary under the Building Code, including the condemnation of the unit if necessary, to resolve the matter.

(Indistinguishable), stated that she agreed with Vice-President Kagdis and there were other options besides evicting this gentleman and she spoke about the stress the legacy residents have had to endure for the past eight years. She believed that extreme thought had gone into this issue.

(Indistinguishable) suggested setting up a "Go-Fund-Me Account."

Council Member Locatis, seconded by Council Member Gerold, made a Motion that Staff discontinue with the Stipulation procedure and take steps necessary under the Building Code, including the condemnation of the unit if necessary. He stated he would like to find ways, though the Town's Attorney, to provide some time to work with the Veterans Association, set up a "Go-Fund-Me" account, to inquire of Sun to provide another empty home, or find some other option; he stated there had to be a better way than setting this precedent.

Mr. O'Neil asked the Town Council to clarify if Staff was not to proceed with the Stipulation Agreement and that the Town will, again, approach Sun Communities and ask them to step in to resolve the matter. He stated that he did not know if the Town was in a legal position to establish a "Go-Fund-Me" account; that would have to come from the community. He stated that the Building Official would have to make a determination of safety. He announced that the State of Florida gave the Building Official discretion as to determination of condemnation so he will have to make that determination. He stated that Staff would continue to work with the Veteran's Administration and encourage and coach as much as possible to see if the agency can step in and help. He added that the Town would keep the contractor on base so that if everything fell together, the repair could be made quickly.

Council Member Locatis asked about the "Go-Fund-Me" account.

Mr. O'Neil answered that the "Go-Fund-Me" account would have to come from the community or individual; the Town would not establish a "Go-Fund-Me" account; that would have to come from a citizen.

Council Member Locatis spoke about finding a citizen who could set up such an account.

President De Angeles asked about Vice-President Kagdis.

Vice-President Kagdis stated that she believed, in this circumstance, the Town should invest the \$2,500 and make the unit safe. She added that there would be no cost to the Town and she did not believe this action would set much of a precedent. She stated that the whole idea was that the Town did not want anything to happen to a human being in this community when we know there is an imminent danger.

Council Member Locatis stated the matter should be put to a vote.

Roll Call:

In favor: De Angeles, (Council Member Docherty stated "abstain;" Mr. O'Neil explained that Council Member Docherty must vote), Docherty, Gerold, Locatis

Absent: Wagner

Opposed: Kagdis

Motion Passed: (4-1)

6. Comments from Town Management Consultant Terry O'Neil – Mr. O'Neil spoke about the past approval of a Budget Amendment using transportation dollars to perform mangrove planting in the vicinity of the Town's baffle box near the Environmental Studies Center. He added that this matter had been investigated with an Environmental Consultant, Mr. Bob Weigt and that he believed there was too much wave action in that area to warrant the mangrove planting initiative. He stated that he met with Mayor Ostrand and Mr. Weigt and the planting was shelved due to likely outcome of failure. his description of high wave action likely outcome would be failure shelves this initiative.

7. Comments from Mayor Ostrand – absent.

8. Announcements – President De Angeles announced the following meetings to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room.

- Regular Town Council Meeting – Monday, June 10, 2019 at 10:30 a.m.

9. Adjourn – Council Member Gerold, seconded by Vice-President Kagdis, made a Motion to adjourn the meeting at 11:45 a.m.

In favor: De Angeles, Kagdis, Docherty, Gerold, Locatis

Absent: Wagner

Opposed: None

Motion Passed: (5-0)

Respectfully Submitted,

Pam Orr,

Town Clerk

Minutes approved: June 10, 2019