

TOWN OF OCEAN BREEZE
MINUTES REGULAR TOWN COUNCIL MEETING
Monday, July 13, 2020, 10:30 a.m.
Ocean Breeze Resort Clubhouse, Pineapple Bay Room
700 NE Seabreeze Way, Ocean Breeze, FL

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

President De Angeles asked for all public speakers to stand in place at their seats to speak due to the covid-19 virus and social distancing requirements.

2. **Approval of Minutes** – Council Member Arnold, seconded by Council Member Docherty, made a Motion to approve the Minutes of the June 9, 2020 regular meeting.

President De Angeles asked for public comments.

There were none.

All in Favor: Yes: De Angeles, Gerold, Arnold, Docherty, Wagner: Absent: Locatis: No: None: Motion Passed - 5 - 0

3. AN EMERGENCY ORDINANCE OF THE TOWN OF OCEAN BREEZE, FLORIDA REVISING AND AMENDING SECTION 2 OF ORDINANCE NUMBER 276-2018 CLARIFYING THE COMMENCEMENT AND ENDING DATES OF THE CANDIDATE QUALIFICATION PERIOD AS SET FORTH THEREIN; PROVIDING FOR SEVERABILITY, APPLICABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. O’Neil explained the need for this emergency ordinance and stated that staff recommended approval.

Council Member Gerold, seconded by Council Member Arnold, made a Motion to adopt Ordinance #304-2020.

President De Angeles asked for public comments.

There were none.

Roll Call Vote: Yes: De Angeles, Gerold, Arnold, Docherty, Wagner: Absent: Locatis: No: None: Motion Passed - 5 - 0

4. **November 2020 Town Council Elections Proclamation** – President De Angeles read the 2020 Elections Proclamation into the record.

Council Member Arnold, seconded by Council Member Gerold, made a Motion to approve the Proclamation.

President De Angeles took questions from the public.

President De Angeles asked for further comments.

There were none.

All in Favor: Yes: De Angeles, Gerold, Arnold, Docherty, Wagner; Absent: Locatis; No: None; Motion Passed - 5 - 0

5. Approval of dates for public hearings for Budget/Millage Adoption to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room:

Town Clerk, Pam Orr, read the tentative meeting dates and times into the record:

- Budget Workshop and Setting of Tentative Millage Rate, Wednesday, July 22, 2020 at 5:01 pm
- Proposed Budget and Tentative Millage Hearing, Wednesday, September 16, 2020 at 5:01 pm
- Final Budget and Millage Rate Hearing, Wednesday, September 23, 2020 at 5:01 pm

Council Member Docherty, seconded by Council Member Arnold, made a motion to approve the three public hearings as presented on Item #5 of the Agenda.

President De Angeles asked for public comment.

Attorney Crary suggested reading the dates into the record again.

President De Angeles read the approved meeting dates and times into the record and asked for public comment.

There were none.

All in Favor: Yes: De Angeles, Gerold, Arnold, Docherty, Wagner; Absent: Locatis; No: None; Motion Passed - 5 - 0

6. Quasi-Judicial Hearing – RESOLUTION NO. 303-2020, PROVIDING FOR A MINOR AMENDMENT TO THE OCEAN BREEZE EAST PUD AGREEMENT ADOPTED BY ORDINANCE NO. 220-2015 AND AMENDED BY RESOLUTION NUMBERS 223-2015, 234-2016 AND 238-2016 AND BY ORDINANCE NO. 241-2016 AND BY RESOLUTION NO. 291-2019; THEREBY APPROVING MINOR CHANGES TO THE PROJECT’S REVISED MASTER SITE PLAN TO PERMIT THE RECONFIGURATION OF RESIDENTIAL DOCKS ALONG THE INDIAN RIVER LAGOON, INCLUDING CONDITIONS FOR THEIR USE; DECLARING SAID CHANGES TO BE CONSISTENT WITH THE TOWN’S COMPREHENSIVE PLAN; PROVIDING PENALTIES FOR PUD VIOLATIONS; PROVIDING FOR CONFLICT PROVISIONS AND A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES. – President De Angeles asked if any of the Council Members had any exparte communications to disclose.

There were none.

President De Angeles asked for those giving testimony to stand, raise their right hand, and be sworn in.

Attorney Crary administered oath to Marcela Camblor and Terry O’Neil.

President De Angeles asked staff to present testimony, including any evidence, and their recommendation on this case.

Mr. O'Neil gave a brief history of the dock issue and stated that staff supported Resolution No. 303-2020. He discussed the regulatory language and changes proposed by Sun's attorney. He commented that Sun might request a continuance of this item until the next regular Town Council meeting to allow the attorney's an opportunity to work on the regulatory language. He mentioned the issue of whether the general populous of the resort would have access to the docks and seawall and asked Ms. Cambor to discuss this issue. He introduced Marcela Cambor who represented Sun Communities.

Marcela Cambor, Planner for Sun Communities, explained the background of the configuration of the docks. She reviewed the exhibit provided regarding the change in the shape of the docks and spoke about the piers, marginal piers and their configuration which were in accordance with the DEP standards. She stated that the piers, marginal piers and seawall were not publicly accessible, nor was it a public boardwalk. She added that the seawall was located at the rear of a private site and that each unit had exclusive rights to their site and to the waterfront. She explained how the docks and piers were used and rules and regulations. She reminded the Council that the attorneys were working on one outstanding issue. She remarked that if the design could be agreed upon, Sun would ask for a continuance to the next regularly scheduled Town Council meeting in order to allow for the attorneys more time to come to an agreement on the language for enforceability.

President De Angeles asked if any Council Members had any questions for the petitioner.

Council Member Gerold asked about enforceability of the PUD versus the Prospectus?

Ms. Cambor stated that the Prospectus equated to an HOA and the Town governed zoning. She continued that Sun had the ability to enforce rules through their Prospectus but the Town did not have the Prospectus as part of their zoning. She stated that the two must be kept separate. She added that zoning for this property was the PUD and that assurances had to be embedded in the language of the PUD.

Council Member Gerold asked if she was referring to zoning violations.

Ms. Cambor answered that the issues were listed in the PUD language.

Mr. O'Neil answered that construction without permit would be a building code violation and citations would be issued under certain circumstances. He added that the use of the docks should be included in the Amendment because use was a provision of zoning and that zoning provided that the docks were used by the residents exclusively.

Attorney Cray spoke about his numerous discussions with Sun's attorney to put forth language that was agreeable to all parties. He stated that Sun would like to make sure that the Town would not hold them in violation as long as they were proceeding to enforce. He spoke about language which would encourage Sun to enforce issues and added that this was to ensure that Sun would be policing this adequately.

Ms. Cambor explained that upper Management at Sun had not been able to review the most recent language.

President De Angeles asked Ms. Cambor if the owners of the pier or dock would be allowed to lease to other parties.

Ms. Cambor answered the docks were not for use by the general public, and that the only people allowed to use the docks were the occupants of that unit. President De Angeles asked about visitors.

Ms. Camblor stated that she believed that if the occupants of the unit had friends that were visiting, and the friends had a boat, as long as they were occupying the unit, they could use the docks.

Attorney Crary stated that the primary issue or condition was that the docks not turn into a commercial marina use.

Ms. Camblor further explained the concerns regarding the language.

President De Angeles asked for further questions from the Council Members.

Council Member Wagner asked who would be responsible for policing and enforcing the regulations on the docks.

Ms. Camblor answered that this was the issue in question.

Mr. O'Neil commented that enforcement would be gradual and informal at the beginning of any violation and progressively become more pronounced if a resolution could not be reached. He stated that it would be similar to enforcement of all other aspects of the PUD Agreement.

Council Member Arnold stated that he was aware of residents who would like to install docks and that the main concern was that the area would not become a commercial marina.

Attorney Crary pointed out that Sun would be ultimately responsible because they were the property owner.

Council Member Gerold asked for clarification on the drawings as presented. He asked about piers and marginal docks.

Marcela Camblor clarified the location of certain piers and marginal docks.

President De Angeles asked for further questions from the Council Members.

There were none.

President De Angeles asked if staff had any questions for the petitioner.

There were none.

President De Angeles asked the petitioner if she wished to offer any rebuttal testimony.

Ms. Camblor asked for a continuation of this hearing to a date certain.

President De Angeles asked for comments from the public.

Janet Galante asked about language regarding height restrictions, commercial fishing and enforcement.

Ms. Camblor stated that height restrictions were not part of the proposal because the waters were very shallow and that there was no dredging being proposed to allow for a mega yacht. She added that the boats would each be placed centered on the property and each one of those properties would be the first element

blocking any views from anyone behind the property. She commented that at this time, no size restrictions were being proposed because of the size of the dock, the proposed lift and the shallow depth of the water.

President De Angeles asked what would happen if Sun Communities were to request a permit for dredging.

Ms. Cambor answered that would be determined by the DEP and that she would conduct some research regarding boat height restrictions. She added that the lift already had a size restriction and only a certain size boat could be placed on it. She remarked that she believed this size lift would accommodate a 25–26 foot boat and a boat that would be able to navigate the shallow water. She commented on the difficulty of enforcement of a height restriction.

Mayor Ostrand spoke about the Indian River Lagoon, its depths, and what the DEP would approve.

Ms. Galante asked what size boat a lift of the size proposed would sustain.

Ms. Cambor stated that there was a maximum size lift allowed and that she would check into the size and weight of boats allowed for the lift size.

Council Member Gerold asked about shape and structures on the docks.

Ms. Cambor stated that Sun was not proposing any structures. She spoke about uniformity, style and character of the entire resort.

Mr. O’Neil stated that research should be done with design professionals and marine industry experts to determine the configuration for the boat lifts and size. He added that staff would bring the information back before the Council.

Duncan Koreivo asked for a definition of a marginal pier.

Ms. Cambor answered that term was used by the DEP for the platforms that run parallel to the shore. She clarified the width and location of marginal piers and stated they were on the exhibit.

Duncan Koreivo asked if two lifts were allowed on marginal piers.

Ms. Cambor answered that the exhibit states “it may have an elevator lift” and, that the word “single” could be added to clarify only one lift.

Discussion ensued regarding the piers, lifts, timing and processes for applicants. Ms. Cambor stated that the maximum number of lifts allowed for the piers was on the exhibit.

Discussion ensued regarding the application process for two lifts.

Janet Galante asked about the maximum number of boats allowed.

Ms. Cambor answered that she believed the maximum number of boats was thirty-one (31).

Duncan Koreivo asked if the docks were deeded with the lots.

Ms. Cambor answered that the docks would be part of that site.

Attorney Crary stated that a separate lease was involved with the docks and ultimately, that would be between Sun and the tenant.

Ms. Cambor stated that upper management was working on this issue.

Council Member Arnold asked if a unit were to be sold to another individual, would the dock be included with the unit.

Attorney Crary answered that the PUD would not allow transfer of a dock without the unit. He added that Sun had agreed to transfer conditions. He stated that Section 1.e. stated that no dock or marginal pier shall be used for any commercial purposes whatsoever.

Ms. Cambor answered that the PUD stated that the docks would be used by the occupant of the unit to which that pier was attached.

President De Angeles asked for further questions or comments.

There were none.

President De Angeles asked for the Council to consider a motion to approve the Resolution; a motion to approve the conditions; a motion to deny the request; or, a motion to continue the hearing to a date certain.

Council Member Wagner made a motion to approve the conditions as presented.

Mr. O'Neil stated that the applicant was requesting that the amendment be continued to the next regular town council meeting in order to give the applicant an opportunity to refine the PUD Amendment language with Mr. Crary.

Vice-President Gerold, seconded by Council Member Arnold, made a motion to continue the hearing to the next regular Town Council meeting to be held on Monday, August 10, 2020.

Roll Call Vote: Yes: De Angeles, Gerold, Arnold, Docherty, Wagner; Absent: Locatis; No: None; Motion Passed - 5 - 0

7. Comments from the public on topics not on the Agenda – An individual asked about why the steam room was locked.

Vice-President Gerold directed him to talk to the Resort manager and stated that the issue was not a Town issue.

Janet Galante spoke about a celebration of the Town's 60th year and suggested doing a Proclamation.

President De Angeles asked for further comments from the public.

There were none.

8. Comments from the Council on topics not on the Agenda – Council Member Wagner asked about the status of West End Boulevard.

President De Angeles answered that Ms. Cambor was in the process of contacting and receiving approval from the various land owners that would be affected.

Council Member Wagner asked Mr. O'Neil about the blower issue.

Mr. O'Neil answered that he spoke with the Mayor and that she had a conversation with Sun and he contacted the Department of Environmental Protection and the local health department. He gave a brief history of the issue which was particulate matter being blown around during Sun's lawn maintenance routines. He commented that the DEP directed him to the Department of Agriculture. He talked about the difficulty in getting a state agency to enforce such a matter. He stated that the complaint was valid and that the Town would impress upon Sun Communities that the maintenance workers take more precautions not to blow the particulate matter all around. He stated this was a work in progress and that staff would keep pressing for a solution.

9. Comments from Town Management Consultant - Terry O'Neil – Mr. O'Neil gave a brief history of the town's annual auditing function and that the time had come to commence planning the Request for Proposal (RFP) to gather quotes from interested auditing firms. He added that staff would come back to the Council at the August meeting with more detail. He mentioned that the statute required a member of the Council sit on the three-person Audit Selection Committee. He spoke about the possibility of the Finance Director of the City of Stuart sitting on the committee.

Council Member Arnold volunteered to sit on the Audit Selection Committee.

10. Comments from Mayor Ostrand – Mayor Ostrand thanked everyone for wearing masks. She encouraged everyone to participate in the U.S. Census 2020.

11. Announcements – Council Member De Angeles announced the next regular Town Council meeting on Monday, August 10, 2020 at 10:30 a.m. to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze, Florida.

12. Adjourn – Council Member Arnold, seconded by Council Member Docherty, made a motion to adjourn the meeting at 11:57 a.m.

All in Favor: Yes: De Angeles, Gerold, Arnold, Docherty, Wagner; Absent: Locatis; No: None; Motion Passed - 6 - 0

Respectfully Submitted,

Pam Orr
Town Clerk

Minutes approved: August 10, 2020