

**TOWN OF OCEAN BREEZE
REGULAR TOWN COUNCIL MEETING
AGENDA**

April 12, 2021, 10:30 am
Ocean Breeze Resort Clubhouse Pineapple Bay Room
700 NE Seabreeze Way, Ocean Breeze, FL

***PLEASE TURN OFF CELL PHONES –
SPEAK DIRECTLY INTO MICROPHONE***

1. Call to Order, President De Angeles

- Pledge of Allegiance
- Roll Call

2. Approval of Minutes – Regular Meeting, Monday, March 8, 2021

(Motion, second, public comments, all in favor)

3. Habitat for Humanity of Martin County – Presentation by Margot Graff, Executive Director and Debb Fertal, Volunteer Coordinator/Faith Relations Liaison

4. Request for a Proclamation by LifeLink Foundation recognizing “Donate Life Month” – Presented by Mayor Ostrand

(Motion, second, public comment, all in favor)

5. Request for a Proclamation by The Inner Truth Project for “Sexual Awareness Month” – Presented by Mindi Fetterman, Founder and CEO

(Motion, second, public comment, all in favor)

6. Resolution #312-2021 – A RESOLUTION OF THE TOWN OF OCEAN BREEZE, FLORIDA URGING ALL MEMBERS OF THE FLORIDA LEGISLATURE TO OPPOSE UNWARRANTED OR OVERLY BROAD PREEMPTIONS OF MUNICIPAL HOME RULE POWERS; DIRECTING A COPY OF THIS RESOLUTION BE TRANSMITTED TO MEMBERS OF THE FLORIDA LEGISLATURE, THE FLORIDA LEAGUE OF CITIES, AND ANY OTHER INTERESTED PARTIES.

(Motion, second, public comment, roll call)

7. Request to Extend the Federal Families First Corona Response Act (FFCRA) Paid COVID Sick Leave Policy – Terry O’Neil

8. Comments from the public on topics not on the Agenda

9. Comments from the Council on topics not on the Agenda

10. Comments from Town Management Consultant Terry O'Neil

11. Comments from Mayor Ostrand-

- Update on Activities of the Florida Legislature

12. Announcements – Regular Town Council Meeting – Monday, May 10, 2021,
at 10:30 am, to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room,
700 NE Seabreeze Way, Ocean Breeze

13. Adjourn (Motion, second, all in favor)

TOWN OF OCEAN BREEZE
MINUTES REGULAR TOWN COUNCIL MEETING
Monday, March 8, 2021, 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 – Present: Mayor Karen M. Ostrand, President Kenneth De Angeles, Vice-President Richard Gerold, Council Members Bill Arnold, Kevin Docherty, Terry Locatis and David Wagner
 - Staff Present – Town Management Consultant, Terry O’Neil; Town Attorney, Rick Crary, Town Clerk, Pam Orr; and Bookkeeper/Clerical Assistant, Kim Stanton
2. **Approval of Minutes** – Council Member Wagner, seconded by Council Member Arnold, made a Motion to approve the Minutes of the February 8, 2021 regular meeting.

President De Angeles asked for any public comments.

There were none.

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

3. **Request for authorization for Town Council and Mayor to execute a Letter of Engagement with the firm Nowlen, Holt & Miner, PA for annual auditing services** – Mr. O’Neil gave a brief explanation of the process surrounding the Town’s request for proposals for auditing services. He stated that the top ranked firm was Nowlen, Holt & Miner, PA. He recommended that the Town Council authorize the Mayor and Council President to execute the Letter of Engagement.

President De Angeles invited Council Member Arnold to speak about his experience on the Audit Selection Committee.

Council Member Arnold discussed his role and the process of the Audit Selection Committee

Council Member Arnold, seconded Vice-President De Angeles, made a Motion to authorize the Mayor to execute the Letter of Engagement.

President De Angeles asked for public comments.

There were none.

Council Member Wagner asked about the expiration date of the licenses of the four firms that sent proposals. He suggested that some language be added regarding licenses being kept current.

Mr. O’Neil answered that the Town Council could ask the selected firm to add a provision to the Letter of Engagement that they would be properly licensed at all times.

Council Member Arnold, seconded by Council Member Wagner, made a Motion to approve execution of the Letter of Engagement with the additional language.

President De Angeles asked for comments from the public.

There were none.

Roll Call Vote: Yes: Wagner, De Angeles, Locatis, Arnold, Docherty & Gerold; No: None; Motion Passed: 6 – 0

4. Approval of License Agreement with owners of Ocean Breeze Plaza for the placement of two Town-limit identification signs – President De Angeles spoke about the two Town signs that would be placed at the entrance to Ocean Breeze Plaza off Jensen Beach Boulevard and the entrance to the west off Skyline Drive.

Council Member Wagner, seconded by Council Member Docherty, made a Motion to approve the License Agreement with the owners of Ocean Breeze Plaza.

President De Angeles asked for public comment.

Cathy Berry, resident of Ocean Breeze, asked if the signs were like the sign at the entrance of the Seawalk community.

President De Angeles answered “yes.”

Attorney Crary pointed out that the Motion should also include authorization for the Mayor to sign the License Agreement.

President De Angeles stated that this would be part of the Motion.

Roll Call Vote: Yes: De Angeles, Wagner, Gerold, Locatis, Docherty & Arnold; No: None; Motion Passed: 6 – 0

5. Resolution #311-2021 – A RESOLUTION OF THE TOWN OF OCEAN BREEZE, FLORIDA; OPPOSING THE ELIMINATION OF STATUTORY AUTHORIZATION FOR REGIONAL PLANNING COUNCILS IN FLORIDA AS PROPOSED IN SENATE BILL 62 OR IN SIMILARLY PROPOSED LEGISLATION; AND PROVIDING FOR AN EFFECTIVE DATE – Mayor Ostrand read the Resolution and provided an explanation.

Discussion ensued regarding the status of the Bill, the problem of pre-emption within the State of Florida, Gayle Harrell’s positive support of this bill and Representative Overdorf’s position concerning the bill.

President De Angeles asked for a Motion to approve Resolution #311-2021.

Council Member Locatis, seconded by Council Member Wagner, made a Motion to approve Resolution #311-2021.

President De Angeles asked for public comment.

Ann Kagdis, resident of Ocean Breeze, gave a brief history of Senate Bill 62 explaining regional planning councils and the importance of belonging to groups. She suggested sending strong letters opposing the elimination of planning councils to Representative Overdorf.

Discussion ensued regarding county, state and municipal jurisdictional rights.

President De Angeles asked for further public comments.

There was none.

Roll Call Vote: Yes: De Angeles, Gerold, Arnold, Docherty, Locatis & Wagner; No: None; Motion Passed: 6 – 0

6. Proclamation for “Problem Gambling Awareness Month” – Mayor Ostrand presented the Proclamation to bring about awareness and provide support.

President De Angeles mentioned that the Proclamation included a support HOTLINE.

Council Member Arnold, seconded by Council Member Wagner, made a Motion to approve the Proclamation during the month of March, 2021.

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

7. Comments from the public on topics not on the Agenda – Janet Galante, resident of Ocean Breeze, announced that today was International Woman’s Day and she proceeded to read the announcement. She thanked Mayor Ostrand for her time, interest and support for the betterment of the community.

Ann Kagdis, resident of Ocean Breeze, stated that she was a member of the Neighborhood Advisory Council and she provided an update regarding the proposed Riverwalk and gave an update on the Metropolitan Planning Organization’s plan for a bus route on Jensen Beach Boulevard.

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

Mayor Ostrand reported that the Town was contacted by Marcela Camblor, Planner regarding a survey.

Mr. O’Neil answered that the survey was being completed for the intersection at West End Boulevard and Jensen Beach Boulevard. He added that Ms. Camblor was urging the FEC and the County to provide that survey to the Town. He stated that he had asked Ms. Camblor to request the FEC to provide some times when they are planning to begin intersection improvements.

President De Angeles pointed out that the FEC can act quickly.

Mr. O’Neil added that Ms. Camblor also spoke to Commissioner Smith to obtain an update on the progress; and, to express the need to keep a two-way traffic pattern intact.

President De Angeles asked that Mr. O’Neil speak with Ms. Camblor about the Council’s extreme concern because this could start to move very rapidly.

Council Member Wagner stated that the guardrail, that he had mentioned at previous meetings had now become even more dangerous, especially at night.

Vice-President Gerold stated that he had spoken to a resident about a site-improvement form and it was discovered that there were some discrepancies. He stated that this resident was unable to attend the meeting, but that they would like the Town to look into the maps and surveys to find a solution because this discrepancy was affecting making some improvements on their home site.

Mr. O’Neil stated that he believed the question had to do with the exhibit which was submitted with the PUD amendment to allow the docks. He added that there was a question as to whether that exhibit was submitted with the proper scale and commented that any PUD exhibit should have been accurate. He commented that if there was a problem, that staff would speak with Sun Communities about their obligation to submit accurately scaled exhibits.

Vice-President Gerold announced the St. Patrick's Day activities and the parade.

Mayor Ostrand expounded on the parade information.

Council Member Wagner spoke about a Town golf cart.

Council Member Docherty spoke about the increase in police presence throughout the Resort and he thanked the police officers who were in attendance.

9. Comments from the Town Management Consultant Terry O'Neil – He had none.

10. Comments from Mayor Ostrand – Mayor Ostrand recognized Pam Orr and Kim Stanton for National Women's Day.

Mayor Ostrand asked Deputy Joe Angelico about cars traveling north on Indian River Drive approaching the light at Jensen Beach Boulevard. She commented that the cars in the right lane, heading north, were driving onto the grass and sidewalk.

Deputy Joe answered that he had witnessed it and that it was an issue. He stated that the Sheriff's Department would have a presence there as much as possible, but that there might be traffic calming in that area that could be discussed with the County.

Mayor Ostrand suggested putting a few cement triangles in that area to prevent cars from going onto the grass and the sidewalk.

Council Member Wagner spoke about the possibility of a Town patrol as had been done in the past. He stated he believed the patrol was rather affective.

Mayor Ostrand spoke about the times of the day and night in which this occurred.

Pam Orr, Town Clerk stated that Martin County Engineering was working on this issue.

Mayor Ostrand asked for an update on any progress being made by Martin County Engineering.

11. Announcements – President De Angeles announced the regular Town Council meeting Monday, April 12, 2021 at 10:30 am, 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 Wagner, made a motion to adjourn the meeting at 11:27 a.m.

Respectfully Submitted,

Pam Orr
Town Clerk

Minutes approved: _____



A Proclamation

- WHEREAS: One of the most meaningful gifts that a human being can bestow upon another is the gift of life; and
- WHEREAS: more than 39,700 Americans receive a lifesaving organ transplant every year; and
- WHEREAS: a new patient is added to the national patient waiting list for an organ transplant every 10 minutes; and
- WHEREAS: over 112,000 men, women and children are currently on the national waiting list for organ transplantation, of which nearly 5,400 are in the West and Southwest Florida area; and
- WHEREAS: an average of 22 people die every day awaiting an organ transplant that does not come in time; and
- WHEREAS: one organ, tissue and eye donor can save or enhance the lives of as many as 75 people; and
- WHEREAS: everyone is a potential organ, eye and tissue donor and can register their wish to save lives through organ and tissue donation at www.DonateLifeFlorida.org or on their driver license;

Now, therefore, the Town Council of Ocean Breeze, Florida does hereby proclaim the month of April 2021 as **Donate Life Month** in Ocean Breeze, Florida and encourage all residents to consider giving life through organ donation and to sign up on Florida's organ and tissue donor registry by visiting www.DonateLifeFlorida.org or when renewing their driver license or state identification card.

IN WITNESS WHEREOF, I have hereunder set my hand this 12th day of April, 2021.

PAM ORR, TOWN CLERK

KAREN M. OSTRAND, MAYOR



Item #5

A Proclamation

Declaring Sexual Assault Awareness Month in Ocean Breeze, Florida

- Whereas,** April is Sexual Assault Awareness Month and calls attention to the fact that sexual violence is a widespread public health problem; and
- Whereas,** every day, too many women, men, and children across Florida suffer the pain and trauma of sexual assault in all of its forms; and
- Whereas,** during National Sexual Assault Awareness Month, we recommit ourselves to lifting the veil of secrecy and shame surrounding sexual violence, expanding support and understanding for survivors, and strengthening our response; and
- Whereas,** at every level we must work to provide necessary resources to survivors of sexual assault, without judgment and with dignity, including medical attention, mental health services, relocation and housing assistance, and advocacy during the criminal justice process.

Now, therefore, be it proclaimed by Karen M. Ostrand, the Mayor of the Town of Ocean Breeze, Florida, that April is Sexual Assault Awareness Month in Ocean Breeze, Florida. Further, all residents, law enforcement agencies, health care providers, and community and private organizations are encouraged to support survivors of sexual assault and to work together to prevent these crimes in our community.

Presented this Twelfth Day of April 2021

Pam Orr
Town Clerk

Karen M. Ostrand
Mayor



RESOLUTION NO. 312-2021

A RESOLUTION OF THE TOWN OF OCEAN BREEZE, FLORIDA URGING ALL MEMBERS OF THE FLORIDA LEGISLATURE TO OPPOSE UNWARRANTED OR OVERLY BROAD PREEMPTIONS OF MUNICIPAL HOME RULE POWERS; DIRECTING A COPY OF THIS RESOLUTION BE TRANSMITTED TO MEMBERS OF THE FLORIDA LEGISLATURE, THE FLORIDA LEAGUE OF CITIES, AND ANY OTHER INTERESTED PARTIES.

WHEREAS, Municipalities are voluntarily created and chartered by their citizens as the embodiment of local self-determination; and

WHEREAS, in 1968, Florida voters amended the state constitution to confer broad "Home Rule" powers to municipal government, under Article VIII, Section 2(b); and

WHEREAS, numerous bills being considered by the Florida Legislature contradict the will of the people of Florida, who expressed an unequivocal desire for broad Home Rule powers in their state constitution; and

WHEREAS, these bills undercut the intent of the citizens of every municipality in Florida, who voted to incorporate their community and exercise the broad Home Rule powers granted by the Florida Constitution to govern themselves and, thereby, effectively address the unique concerns of their communities; and

WHEREAS, these bills would impair municipal charter and ordinance provisions specifically adopted and approved by local communities to define their preferred form of self-government and safeguard issues of perennial importance to their communities; and

WHEREAS, a municipality's ability to timely act on local problems and opportunities will be limited by these bills to a state Legislature that holds session only once a year, and whose ability to address local problems will be contingent on the relative effectiveness of its representative in the state Legislature; and

WHEREAS, under these bills, state legislators will find themselves spending increasing amounts of time arbitrating over local problems and legislating on local issues, and less time attending to pressing statewide needs; and

WHEREAS, the Town of Ocean Breeze believes opposing these bills is in the best interests of the residents and businesses of the municipalities in the State of Florida, and ultimately the state itself; and

WHEREAS, the Town of Ocean Breeze would respectfully ask the state legislature to be mindful that regulations enacted by local governments have to be enforced by those same governments and, if excessive or burdensome, the peoples' local elected representatives are quickly made aware of those burdens and any unintended consequences; and

WHEREAS, should these bills become law, and not be overturned, the ability of Florida's municipalities to narrowly address local issues of public concern would be destroyed.

NOW, THEREFORE, BE IT RESOLVED that the Town of Ocean Breeze opposes the State of Florida's overbroad attempt to repeal or restrict constitutional municipal home rule powers to protect the health, safety and welfare of citizens and urges all members of the Florida Legislature to oppose the adoption of unwarranted or overly broad preemptions.

BE IT FURTHER RESOLVED, that a copy of this Resolution be transmitted to members of the Florida Legislature, the Florida League of Cities, and any other interested parties.

THIS RESOLUTION shall become effective immediately upon passage.

PASSED AND ADOPTED at the regular meeting of the Town Council of the Town of Ocean Breeze, Florida, this 12th day of April, 2021.

Council Member _____ offered the foregoing resolution and moved approval. The motion was seconded by Council Member _____ and upon being put to a roll call vote, the vote was as follows:

KENNETH J. DE ANGELES, PRESIDENT
RICHARD GEROLD, VICE-PRESIDENT
KEVIN DOCHERTY, COUNCIL MEMBER
BILL ARNOLD, COUNCIL MEMBER
TERRY LOCATIS, COUNCIL MEMBER
DAVID WAGNER, COUNCIL MEMBER

YES	NO	ABSENT

KAREN M. OSTRAND
MAYOR

KENNETH J. DE ANGELES
PRESIDENT

APPROVED AS TO FORM:

ATTEST:

WILLIAM F. CRARY, II
TOWN ATTORNEY

PAM ORR
TOWN CLERK

Memorandum

TO: **TOWN COUNCIL AND MAYOR**

VIA: **TERRANCE O'NEIL, TOWN MANAGEMENT CONSULTANT**

FROM: **HOLLY VATH, FINANCIAL CONSULTANT**

SUBJECT: **COVID 19 SICK LEAVE**

DATE: **MARCH 29, 2021**

The Federal Families First Coronavirus Response Act (FFCRA), effective April 1, 2020, required certain employers to provide employees with up to 80 hours of paid sick leave for specified reasons related to COVID-19. These reasons may include the following:

- the employee or someone the employee is caring for is subject to a government quarantine order or has been advised by a health care provider to self-quarantine;
- the employee is experiencing COVID-19 symptoms and is seeking medical attention; or,
- the employee is caring for his or her son or daughter whose school or place of care is closed or whose child care provider is unavailable for reasons related to COVID-19.

However, the requirement to provide paid sick leave expired on December 31, 2020.

The Consolidated Appropriations Act of 2021 (CAA) enacted December 27, 2020 extended the paid sick leave when the employer **voluntarily** decided to continue to provide FFCRA paid sick leave through March 31, 2021. The American Rescue Plan Act of 2021 (Rescue Plan), enacted March 11, 2021, allows employers to continue to voluntarily offer 80 hours of paid sick leave through September 30, 2021.

Federal health privacy laws prohibit the Town from disclosing specific health information about employees of the Town. In order for the Town to provide the now-lapsed COVID sick leave benefit, **staff is requesting the Council's authorization to extend the FFCRA paid COVID sick leave through the end of this fiscal year, September 30, 2021.** The cost of extending the COVID paid sick leave benefit would have no impact on the 2021 budget.

townclerk@townofoceanbreeze.org

From: Keep It Local, Florida <info@keepitlocalflorida.org>
Sent: Friday, March 19, 2021 2:04 PM
To: dwagner@townofoceanbreeze.org
Subject: Tallahassee Is At It Again

Is this email not appearing correctly?
Click [here](#) to see it.

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Imagine you're about to enjoy a family dinner on the patio. The burgers and veggies are already sizzling on the grill; the sweet smell of peach cobbler fills the house. It's an idyllic scene—until the smell of motor oil and tire cord fills the backyard. The soundtrack for this Saturday afternoon isn't the familiar sizzle of the grill, it's the sound of air hammers and hissing drills from your neighbor's newly-opened auto body shop. Across the cul-du-sac, dark smoke billows from another neighbor's tree removal business, blanketing the entire street in a persistent haze.

Your subdivision—once a decent and neighborly place—is now dominated by commercial businesses. You’ve complained to your local government, but they’re powerless to fix it.

This story may seem ridiculous—but if some Tallahassee politicians have their way, ridiculous stories will become a conspicuous reality.

This year, state legislators filed over two dozen bills aimed at centralizing power in Tallahassee and, essentially, barring local governments from ... *governing locally*. As in years past, these power-grabs threaten the unique character of Florida’s local communities. However, some of the most troubling new bills threaten more than local self-government—they threaten public safety and local home values, too.

» HOME-BASED BUSINESSES

One proposed bill allows home-based businesses to operate in **neighborhoods**. We’re not talking about “working from home,” we’re talking about funeral homes, boat repair and car stereo installation shops operating in residential communities. This legislation would block local governments from enacting or enforcing common sense rules for home-based businesses. Communities throughout the Sunshine State could be deeply harmed if businesses best suited to commercial or industrial zones are permitted in residential areas, changing the character of Florida neighborhoods and dragging down local property values.

» EMERGENCY MANAGEMENT

It doesn’t stop there. In one of the most dangerous attempts to concentrate power in the hands of Tallahassee politicians and bureaucrats, Senate Bill 1924 would allow the state to arbitrarily invalidate a local emergency order for *any*

reason. Further, the bill would limit local emergency orders to ten days—regardless of whether an emergency lasts *longer* than ten days. This nonsensical (and even bizarre) power grab ignores the fact that public emergencies may (and often do) threaten different parts of the state in different ways, with different degrees of severity. As a result, different responses are required. Imposing one-size-fits all solutions on every community, from rural towns to big cities, is short-sighted and narrow-minded, especially in matters of public safety.

» SOLAR INFRASTRUCTURE

House Bill 761, and companion Senate Bill 1008, aims to severely limit the input of local towns and taxpayers when it comes to solar power. The bills would strip local communities of their voice in how super-sized solar farms are constructed in rural areas. Without the consent of locals, new solar installations could be built in nonsensical locations throughout Florida. Do we want massive solar farms slicing through sensitive wildlife habitats or cutting across the cattle grazing areas that dot our state's heartland—and do we want to deprive Florida's rural communities of a voice in the matter? Does anyone think Tallahassee bureaucrats are better equipped to make these decisions for small towns and villages they've never even heard of, let alone visited? Solar energy infrastructure decisions should be informed by sensible public planning and the general welfare—not the immediate financial gain of giant utilities.

Since our nation's founding, local self-government has been a fixture of *American* self-government—the success of the latter greatly depends on the former. The preservation of local self-government requires that politicians in Washington and Tallahassee exercise restraint; that they

avoid “sledgehammer” solutions; that they abstain from power-grabs; that they instead allow Floridians and the local leaders they choose to govern themselves, as much as possible.

Thomas Jefferson said that government closest to the people, serves the people best.

Do you agree? If so...

**CLICK HERE TO
SIGN THE PETITION**



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This email was sent to dwagner@townofoceanbreeze.org by Keep It Local Florida. If you no longer wish to receive email updates from us, please unsubscribe [here](#).

100 South Monroe St.
Tallahassee, FL 32301
info@keepitlocalflorida.org

Sponsored By Keep It Local, Florida.org

GENERAL INFORMATION ITEMS

The attached items (i.e.: correspondence, e-mails, reports, etc.) are provided as general information and are not necessarily subject to discussion during this meeting unless Council Members or the Mayor wish to do so.

FYI

townclerk@townofoceanbreeze.org

From: Marcela Cambor <marcela@marcelacambor.com>
Sent: Tuesday, April 6, 2021 11:06 AM
To: Ryan White
Cc: Terry O'Neil; townclerk@townofoceanbreeze.org; Kathleen Boden; Susan Kores; James Gorton; Kim Delaney; mayor@townofoceanbreeze.org
Subject: Jensen Beach - West End Boulevard Crossing

Ryan

I am following up on your response dated March 8th, 2021 where you stated you would rather not distribute the survey the Town of Ocean Breeze requested until you have a proposed design, which by your estimates would be about a month away (or just this week). Per our conversation it is my understanding that the information I requested was not provided to Martin County either.

The apparent increase in height - or height closer to the property line - that you mentioned the survey revealed is of extreme concern to the Town. Potential changes to traffic patterns resulting from this change in height could have significant impacts on one of only two access points in and out of the Town.

Given the above stated, I am asking for your and Brightline's assurance that both local governments will receive relevant proposals or conceptual plans early on in the process, in advance of any final determination, and before plans are too far ahead to allow for potential necessary changes.

Could you please let me know where you are in the design process? Any updates you can share?

Sincerely,

Marcela Cambor-Cutsaimanis
for the Town of Ocean Breeze

Marcela Cambor-Cutsaimanis AICP | Principal
MARCELA CAMBLOR & ASSOCIATES, INC
47 W Osceola St.. #203 - Stuart, FL 34994
Tel: (772) 708.1108

Town of Ocean Breeze

To: Mayor and Town Council
From: Pam Orr, Town Clerk
cc: Terry O'Neil
Date: April 6, 2021
Re: West End Blvd. Lighting

Prompted by President De Angeles' inquiry, I spoke to James Murray at Go Local Electric regarding the possible installation of lighting on West End Blvd. He told me there were FPL power poles there and the most cost-effective route would be to have them install lights on their poles. He said he would provide us with the pole numbers (if they were available). I had a conversation with Kate Cotner at FPL and she was going to investigate the possibilities and get back to us. Please see the attached emails.

townclerk@townofoceanbreeze.org

From: townclerk@townofoceanbreeze.org
Sent: Monday, April 5, 2021 11:32 AM
To: 'Cotner, Kate'
Subject: FPL Poles on West End Blvd.
Attachments: 123_1.jpg; 123_1.jpg

Hi Kate:

We had Go Local Electric go by the poles on West End to see if they could be identified and they these pictures. He said normally they have a metal plate with a number but he could not find one on these. I hope it helps.

Have a great day!

Pam Orr
Town Clerk



Town of Ocean Breeze
P. O. Box 1025
Jensen Beach, FL 34957
772-334-6826 office
772-334-6823 fax
townofoceanbreeze.org

Please make note of our new email address.

From: 7728072557@vzwpix.com <7728072557@vzwpix.com>
Sent: Monday, April 5, 2021 11:17 AM
To: townclerk@townofoceanbreeze.org
Subject:

From: townclerk@townofoceanbreeze.org
Sent: Thursday, April 1, 2021 9:55 AM
To: 'Cotner, Kate'
Cc: Terry O'Neil
Subject: Lighting on West End Blvd.

Good Morning, Kate!

The link below will connect to a map of Ocean Breeze. We have had resident concerns that West End is very dark at night and there may be a safety issue. The Town is considering adding lights on West End Blvd, which runs from Jensen Beach Blvd (near the roundabout) into the gate of the Ocean Breeze Resort, where it becomes Coastal Drive. As Terry mentioned yesterday, some of the property is owned by Sun Communities which is outlined in red and the section closer to the roundabout is located in Martin County. Please take a look and if you have any questions, give us a call. We appreciate your assistance.

<https://goo.gl/maps/FkbqiYtjtZXrvus5>

Have a great day!

Pam Orr
Town Clerk



Town of Ocean Breeze
P. O. Box 1025
Jensen Beach, FL 34957
772-334-6826 office
772-334-6823 fax
townofoceanbreeze.org

Please make note of our new email address.

Memorandum

To: Town Council and Mayor

From: Terry O'Neil, Town Management Consultant

CC: Pam Orr, Town Clerk
Kim Stanton, Town Bookkeeper
Rick Crary, Town Attorney
Holly Vats, Town Financial Advisor

Date: April 6, 2021

Re: Town Council meetings

During last November's Council meeting, Member Docherty raised the issue of moving the Town's once-a-month Council meetings from 10:30 AM to 5 PM, or perhaps later. In prompting the discussion, Mr. Docherty pointed out that both the Resort and Seawalk communities are developing rapidly and that more and more of our new residents have jobs – thus making daytime meetings more difficult to attend (minutes attached). It was agreed that staff would look into the matter, particularly in terms of operations, and report back in April 2021. This memo has been drafted for that purpose.

At present, the Town Charter requires that the Council meet at least once a month at a date and time determined by ordinance. Ordinance No. 66, copy attached, requires that regular Council meetings be held on the second Monday of each month at 10:30 AM. Unlike Town Charter amendments, which require voter approval, ordinances may be changed by a simple majority vote of the Council upon two public hearings.

Staff/Operational Considerations

Both the Town Clerk and Bookkeeper were hired with the understanding that monthly meetings would take place during the day, which continues to be their preference, however, each is willing to adapt if need be. The Town Attorney prefers daytime meetings but is willing to attend evening meetings as circumstances permit. Mr. Crary cautions that his practice calls for him to appear before other local jurisdictions that hold night meetings and that scheduling conflicts may occasionally arise. Town Financial Consultant, Holly Vath, has no preference with regard to daytime or evening meetings. As the Town's Management Consultant, I prefer daytime meetings but can adjust if there's a change.

Under the Ocean Breeze East PUD agreement, Town meetings are held at the resort clubhouse. The owner, Sun Communities, offers no objection to evening meetings provided its options for holding other events, (i.e.: food and bar service, parties, group activities, etc.) are not curtailed. At present, Sun's restaurant/bar is not open on Mondays, but this is subject to change. In sum, if Council meetings are to be held in the evening, all parties should be aware that other events or activities elsewhere in the clubhouse may be occurring at the same time.

As for the meeting practices of neighboring jurisdictions, a list of other Treasure Coast local governments and their meeting schedules is attached.

Staff awaits any further direction on this matter.

Attorney Crary stated that the decision to accept the lot should be with the Mayor (conditionally authorized by the Council) and that he would certainly advise her of his opinions once the new title commitment arrives. He stated that the Council would authorize the Mayor, under these circumstances, to make the decision to accept and move forward.

Council Member Docherty asked Attorney Crary for an estimation of fees associated with accepting ownership of Parcel "A".

He commented that it was difficult to predict such a thing but that his costs are based on hours. He spoke about the strange complexity of this particular lot. He spoke about the poorly written de-annexation statute, possible obstacles regarding de-annexation and that he estimated a possible ten thousand dollar range outside of any litigation.

Discussion ensued regarding the background of the Seawalk exits, maintenance of the parcel, a possible de-annexation ordinance, possible uses for the parcel, history of the parcel and Ocean Breeze West, accepting the parcel with contingencies, possible closing issues, Forestar's unwillingness to extend the deadline to accept the parcel, easement with Martin County Utilities for the water main, procedures for accepting or not accepting the parcel, possible conditions for acceptance, maintenance of the parcel, septic conversion, PUD language, sewer connections to the site, size of the parcel not suitable for a Town office/meeting facility, possible long range plans for a Town office, possible future sewer assessments.

Mayor Ostrand stated that she believed the Council should not accept the property and stated her reasons.

Council Member Arnold, seconded by Council Member Wagner, made a motion to reject taking ownership of Parcel "A".

Roll Call Vote: Yes: Locatis, Wagner, De Angeles, Arnold, Gerold & Docherty; No: None; Motion Passed - 6 - 0

8. Discussion of Changing Time of Regular Town Council Meetings – Council Member Docherty spoke about the Town's growth, the Seawalk development and the possibility of moving the time of the regular town council meetings from 10:30 a.m. to an evening meeting. He added that he took a simply survey of forty residents over the past couple of weeks and asked them one simple question. He reported that 34 residents of those surveyed stated that they would be more inclined to attend an evening meeting versus 6 people who would leave the meeting time at 10:30 a.m. He also reported the meeting times of surrounding towns and cities were in the evening. He spoke about how he volunteered for Mayor Flynn and Mayor Menino of Boston and that city meetings were at 7:30 pm. He asked for a discussion to look into changing the meeting time to five, six or seven o'clock p.m. He spoke about the Seawalk community and the fact that it was not a 55 and older community. He spoke about full-time workers and how working during the day might interfere with attending town council meetings. He asked staff to look into the possibility of changing the meeting time sometime after April 1, 2021. He asked for comments from the Town Council in order to take the next step.

President De Angeles asked for comments from the Town Council.

Council Member Locatis stated that Seawalk would have a home owner's association and would be hiring a manager to enforce the rules, etc. and he did not believe those residents would be attending the Town meetings unless they wanted a PUD change. He added that he did not want to change the meeting time unless the residents of the resort wished to change the time.

Mayor Ostrand commented that the residents of Seawalk should be able to attend the meetings and that they would be more inclined if the meetings were in the evening.

Council Member Arnold stated that he believed the majority should rule, but that he was not for making that change.

Vice-President Gerold stated that he would like to think about the issue more and get more feedback from the residents before making a decision.

President De Angeles asked Pam Orr, Town Clerk, for her opinion on the matter.

Mrs. Orr stated that when she and Kim were hired it was with the understanding that the meetings were in the morning. She stated that would be something to think about.

President De Angeles asked Mr. O'Neil for his opinion.

Mr. O'Neil stated that if staff were to bring back a draft ordinance sometime in April, this would give the individual council members time to hear from residents. He added that the staff could do some research on the impacts of moving the meeting time to an evening time and bring forward a draft ordinance as a placeholder and that the Council could then deliberate to make a decision.

Council Member Arnold asked the audience to indicate if they would prefer evenings. He then asked the audience to indicate if they would prefer daytime.

President De Angeles asked the Town Clerk if everything (pertaining to the Town Council meetings) was on the Town website.

Pam Orr indicated "yes."

President De Angeles asked the Council if they would like to get a draft ordinance for a future meeting.

Council Member Docherty, seconded by Vice-President Gerold, who stated he did not agree but to get some research done and questions answered, made a Motion that the Town Manager and staff look into this and come back with a draft ordinance by April 1, 2021 and let the Council know the pros and cons of changing the regular town council meeting time from the morning to an evening time including any additional costs to the Town.

Attorney Crary stated that his rate would probably be the same even though it would be inconvenient for him to attend at night.

Pam Orr, Town Clerk asked if a draft ordinance was to be brought forth.

President De Angeles answered "no."

The Council Member concurred.

Mr. O'Neil stated that the motion mentioned by April 1, 2020 and asked if that meant for the first meeting in April, 2021.

Council Member Docherty answered "yes."

All in Favor: Yes: De Angeles, Gerold, Arnold, Docherty & Locatis; No: Wagner; Motion Passed - 5 - 1

ORDINANCE NO. 66

AN EMERGENCY ORDINANCE OF THE TOWN
OF OCEAN BREEZE PARK, FLORIDA
SETTING AND CONFIRMING THE TIME
AND PLACE OF REGULAR MEETINGS OF
THE TOWN COUNCIL;

WHEREAS, the revised Town Charter requires that regularly scheduled meetings of the Town Council be set by ordinance;

BE IT ORDAINED AND ENACTED BY THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE PARK, FLORIDA:

SECTION I: That an emergency exists within the Town of Ocean Breeze Park affecting the health, welfare and safety of the citizens of said town.

SECTION II: That regularly scheduled meetings of the Town Council shall be held at the Town Hall at 10:30 a.m. on the second Monday of each month, unless such day is a holiday, in which such event such meeting shall take place at the aforesaid time and place upon the next following Monday which is not a holiday.

SECTION III: Special meetings may be held as provided in the Charter.

SECTION IV: It is hereby acknowledged and confirmed that the foregoing schedule of regular meetings has been a longstanding procedure well known within the community.

SECTION V: This Ordinance shall become effective immediately upon its adoption.

PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 14th day of September, 1992.

TOWN COUNCIL
TOWN OF OCEAN BREEZE PARK

By: Kathleen Leech

Its President

ATTEST:

Sharon Chicky
Town Clerk

APPROVED:

Paul S. Leech
Mayor

APPROVED AS TO FORM:

[Signature]
TOWN ATTORNEY

Jurisdiction	Regular meeting(s) per month	Time
Martin County	2nd and 4th Tuesday	9:00 AM
City of Stuart	2nd and 4th Monday	5:00 PM
Village of Indian Town	2nd and 4th Thursday	6:30 PM
Town of Sewall's Point	2nd and 4th Tuesday	5:30 PM & 7:00 PM
Town of Jupiter Island	one (varies)	9:30 AM
Town of Ocean Breeze	2nd Monday	10:30 AM
St. Lucie County	1st and 3rd Tuesday	6:00 PM & 9:00 AM
City of Port Saint Lucie	2nd and 4th Monday	6:30 PM
City of Fort Pierce	1st and 3rd Monday	6:00 PM & 4:30 PM
St. Lucie Village	3rd Tuesday	6:30 PM
Indian River County	1st, 2nd and 3rd Tuesday	9:00 AM
City of Vero Beach	1st and 3rd Tuesday	8:30 AM
Indian River Shores	4th Thursday	9:00 AM
City of Sebastian	2nd and 4th Wednesday	6:00 PM
City of Fellsmere	1st and 3rd Thursday	7:00 PM
Town of Orchid	1st Wednesday	9:00 AM
Okeechobee County	2nd and 4th Thursday	9:00 AM
City of Okeechobee	1st and 3rd Tuesday	6:00 PM

townclerk@townofoceanbreeze.org

From: townclerk@townofoceanbreeze.org
Sent: Thursday, April 1, 2021 10:15 AM
To: 'James Gorton'
Subject: RE: Indian River Drive pictures

Good Morning, Jim:

The Town continues to receive complaints regarding traffic continuing to go around stopped traffic at Indian River Drive and Jensen Beach Blvd. The adjustments to the timing on the signal did not seem to have helped. Would Martin County consider some kind of physical barrier, i.e., reflective posts, etc.? Please let us know your thoughts.

Thank you!

Pam Orr
Town Clerk



Town of Ocean Breeze
P. O. Box 1025
Jensen Beach, FL 34957
772-334-6826 office
772-334-6823 fax
townofoceanbreeze.org

Please make note of our new email address.

From: James Gorton <jgorton@martin.fl.us>
Sent: Monday, February 15, 2021 3:47 PM
To: townclerk@townofoceanbreeze.org
Subject: RE: Indian River Drive pictures

Pam-

Lisa is back to work, and our Traffic Division has analyzed the traffic data at the IRD/Jensen Beach Blvd intersection to see if there are any available improvements to mitigate the issues that you described for the northbound traffic. They have maximized the west bound turn timing on that signal, and are monitoring the data to see if that helps reduce the queueing that led to drivers trying to go around on the grass. Ongoing effort & review.

Where on the west side are you speaking of? We have some curb replacement work that we are undertaking later this year, and can likely add this location to that project.

Jim Gorton

From: townclerk@townofoceanbreeze.org <townclerk@townofoceanbreeze.org>
Sent: Monday, February 15, 2021 3:08 PM
To: James Gorton <jgorton@martin.fl.us>
Subject: Indian River Drive pictures



Hi Jim:

It was brought to our attention that there is another problem area on the west side of Indian River Drive, which your Public Works department may have seen when they were out. I understand the ruts on the side of the road are so deep that cars have difficulty riding back up on the pavement. We just want to make sure we cover all the problem areas. I saw an email from Lisa, is she back to work in the office yet?

Talk to you soon.

Pam Orr
Town Clerk



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Jensen Beach, FL 34957
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townofoceanbreeze.org

Please make note of our new email address.

From: 7728072557@vzwpix.com <7728072557@vzwpix.com>
Sent: Monday, February 15, 2021 2:59 PM
To: townclerk@townofoceanbreeze.org
Subject:

This document may be reproduced upon request in an alternative format by contacting the County ADA Coordinator (772) 320-3131, the County Administration Office (772) 288-5400, Florida Relay 711, or by completing our accessibility feedback form at www.martin.fl.us/accessibility-feedback

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From: townclerk@townofoceanbreeze.org
Sent: Tuesday, February 16, 2021 9:35 AM
To: 'James Gorton'
Cc: Terry O'Neil; 'Terrance O'Neil'
Subject: RE: Indian River Drive pictures

Good Morning , Jim:

Glad to hear Lisa is doing so well!

I was told the ruts are located on the west side of Indian River Drive between the two speed bumps that are within the Town. When cars drive off the road on to the grass the ruts are so deep, the cars are not able to easily get back up on the road. It would be great, as you suggested, if this location could be added to the project list. We appreciate your assistance.

Have a great day!

Pam Orr
Town Clerk



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Jensen Beach, FL 34957
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772-334-6823 fax
townofoceanbreeze.org

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To: townclerk@townofoceanbreeze.org
Subject: RE: Indian River Drive pictures

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Where on the west side are you speaking of? We have some curb replacement work that we are undertaking later this year, and can likely add this location to that project.

Jim Gorton

From: townclerk@townofoceanbreeze.org <townclerk@townofoceanbreeze.org>
Sent: Monday, February 15, 2021 3:08 PM
To: James Gorton <jgorton@martin.fl.us>
Subject: Indian River Drive pictures



Hi Jim:

It was brought to our attention that there is another problem area on the west side of Indian River Drive, which your Public Works department may have seen when they were out. I understand the ruts on the side of the road are so deep that cars have difficulty riding back up on the pavement. We just want to make sure we cover all the problem areas. I saw an email from Lisa, is she back to work in the office yet?

Talk to you soon.

Pam Orr
Town Clerk



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To: townclerk@townofoceanbreeze.org
Subject:

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From: townclerk@townofoceanbreeze.org
Sent: Monday, February 1, 2021 2:43 PM
To: 'James Gorton'
Subject: RE: Indian River Drive Pics (1 of 2)

Hi Jim:

They are driving on the grass to pass the vehicles that are turning. In at least one of the pictures, you can see the bicyclist on the sidewalk. On the Mayor's I-phone, you can see in the "live" pictures other instances of cars and trucks close to bicyclists on the side walk. I hope that helps, feel free to give us a call if you need any further information.

Thank you!

Pam Orr
Town Clerk



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Jensen Beach, FL 34957
772-334-6826 office
772-334-6823 fax
townofoceanbreeze.org

Please make note of our new email address.

From: James Gorton <jgorton@martin.fl.us>
Sent: Monday, February 1, 2021 2:18 PM
To: townclerk@townofoceanbreeze.org; jangelic@sheriff.martin.fl.us
Cc: 'Chris Walters' <CWalters@suncommunities.com>; Lukas Lambert <llambert@martin.fl.us>
Subject: RE: Indian River Drive Pics (1 of 2)

Thanks Pam.

To Clarify, are the vehicles driving on the grass or are they pulling over so they can see around traffic ahead of them? I am trying to understand what you are describing.

Thanks-

Jim

From: townclerk@townofoceanbreeze.org <townclerk@townofoceanbreeze.org>
Sent: Monday, February 1, 2021 2:15 PM
To: jangelic@sheriff.martin.fl.us

Cc: James Gorton <jgorton@martin.fl.us>; 'Chris Walters' <CWalters@suncommunities.com>

Subject: Indian River Drive Pics (1 of 2)



Good Afternoon, Deputy Joe:

As indicated by the attached pictures, there seems to be a reoccurring problem with north bound motorist driving off the roadway onto the grass and sidewalk as they approach the intersection at Jensen Beach Blvd. Are there any steps the Sheriff's Department can take to address this problem? You will note we are copying Jim Gorton at Martin County Engineering to ask whether they might have a design solution as well. Please give us a call when you have time to discuss it. Talk to you soon.

Thanks!

Pam Orr
Town Clerk



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Please make note of our new email address.

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Pam - this email addresses recent questions regarding the Ocean Breeze East PUD and State declared "extensions" to the PUD's January 2022 deadline for discontinuing

townclerk@townofocceanbreeze.org

From: Rick Crary II <RCII@crarybuchanan.com>
Sent: Tuesday, April 6, 2021 11:34 AM
To: Terry O'Neil
Cc: townclerk@townofocceanbreeze.org
Subject: Emergency Declaration toll period

RV's on scattered lots.
Please include in the
"blue sheet" section of
the Agenda packet.

Terry O.

Terry:

"Tolling" is a legal doctrine which allows for the pausing or delay of the running of a period of time (usually a statute of limitations). Florida Statutes Section 252.363 provides that the declaration of a state of emergency tolls the remaining time to exercise rights under a permit or other authorization "for the duration of the emergency declaration," plus 6 months. Governments do not have to automatically extend time periods involved; the party holding the permit or authorization must notify the issuing authority within 90 days after the termination of the emergency declaration of its intent to exercise the tolling and extension granted under the statute.

I have not yet seen a case where the courts have confirmed how tolling periods under the statute are calculated. Until the courts clearly weigh in, the issue will be somewhat muddled. Some guidance as to what the State has in mind can be obtained from Department of Economic Opportunity's website. DEO has taken the position that overlapping periods of different emergencies are not counted twice, except for their separate 6-month extensions. (That makes sense, but DEO's interpretation would not be binding on the court).

At this point, provided a party complies with the notice requirements of the statute, it appears that the time period remaining for compliance with a permit or other authorization would cease to run for the duration of a state of emergency. (That would be similar to what happens when a statute of limitations is tolled). The remainder period would be displaced until the termination of the emergency declaration, and then it would begin to run from the date of such termination. The easiest way to conceptualize the extension would be to take the original deadline and add the number of days that the time for compliance was tolled. Plus, you would add an additional 6 months.

Because Florida is the land of many states of emergency, it becomes more complicated when you have to determine whether any of those emergencies are partially overlapping. But if DEO is correct, even if they are completely overlapping, the 6-month additions are supposed to be stacked (provided the party requesting the benefit of the statute has timely given notice as to multiple emergencies).

In conclusion, the statute appears to operate as a mechanism whereby the State has allowed developers (and other permit holders) to extend time periods set by municipalities for compliance with permits and other authorizations (like PUDs). Perhaps we will get more guidance from the courts or the Attorney General's office as governments around the state grapple with the effects of a year-long Covid state of emergency; but it looks as if time for PUD compliance periods may be statutorily extended by at least a year and a half, if not longer.

Best regards,
Rick

- e. reduction of the number of sites from 515 to 499 as depicted in Exhibit "A" attached;
- f. rebuilding of a dock that was removed to allow for the reconstruction of the seawall and allowing for individual, private docks to be built adjacent to waterfront sites at the request and expense of each individual waterfront resident as depicted in Exhibit "A" attached;
- g. increase of materials and height permitted for fencing along the FEC corridor to allow for sound walls to be erected if necessary as depicted in Exhibit "F" attached;
- h. up to 20,000sf of commercial uses consistent with the commercial guidelines as established in the PUD and depicted in Exhibit "F" "Commercial Standards", majorly outside the development's gates and will result in innovative design that will support and increase the Town's tax base and improve the health of the Indian River Lagoon;
- i. amending the OBE PUD to allow approval of the Ocean Breeze Island by means of a future minor amendment to the OBE PUD with the understanding that approval of ultimate design and permitting by the Town Council and other Agencies will be necessary before proceeding with this proposed development as depicted in Exhibit "A" attached and that such minor amendment will not be pursued until completion of the Infill Phase as outlined in Exhibit "G" attached; AND
- j. allowing individual unit owners to install solar panels at their own expense provided that such panels are flat, roof mounted, not visible from the street, not overhanging the unit's roof and of a size not to exceed 20% of the total roof area of the unit.
- k. allowing for such revisions to the OBE PUD as may be reasonably necessary to match and incorporate plans created, and field conditions to be set in place, if and when a presently anticipated project to make improvements to Indian River Drive proceeds. Such revisions shall become effective upon written approval by the Town's planning staff of an exhibit, or exhibits, regarding such revisions.
- l. Use of lots for motorhomes to be discontinued: Except for the area shown on the Ocean Breeze East PUD Master Site Plan specifically designated to accommodate motorhomes, the placement of motorhomes or any other similar vehicles on land elsewhere on the Ocean Breeze East property shall permanently cease by January 2022. In the meantime, motorhomes or any other similar vehicles which are placed on lots within the northern and waterfront areas of the property, as shown by the map exhibit below, shall not be allowed for less than (90) ninety consecutive days.

SECTION 2. Applicant hereby ratifies and confirms all terms and conditions of the PUD as set forth in Ordinance Number 220-2015 and the minor amendments thereto set forth in Resolution Nos. 223-2015, 234-2016 and 238-2016.

SECTION 3: Except as specifically modified herein, all terms and conditions of the said PUD as previously amended shall remain in full force and effect.

Memorandum

To: Town Council and Mayor

From: Terry O'Neil, Town Management Consultant

Cc: Pam Orr, Town Clerk

Date: April 2, 2021

Re: Vice President's inquiry regarding Resolution No. 303-2020, which amended the Ocean Breeze East PUD and allowed for the reconfiguration of multiple docks along the Indian River Lagoon.

Prompted by a resident's call, during last month's meeting Vice President Gerold asked staff to confirm that the most recent amendment to the Ocean Breeze East PUD, which allowed for the reconfiguration of multiple docks along the Indian River Lagoon, includes a site plan exhibit that accurately reflects the number and location of docks and is properly drawn to scale. Staff has spoken with Marcela Cambor, the exhibit's creator, who verifies that her work is precise as to the number and location of docks and is properly dimensioned. Thus, staff can dispel any concerns that the exhibit is merely conceptual or that it can be altered without Town Council approval. Finally, it should be noted that while the exhibit governing docks allows for their construction, a decision on whether to seek a building permit from the Town ultimately rest with Sun Communities as the landowner.

A copy of Resolution No. 303-2020, including amended site plan Exhibit "A", is attached.



BEFORE THE TOWN COUNCIL OF THE
TOWN OF OCEAN BREEZE, FLORIDA

RESOLUTION NO. 303-2020

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.

WHEREAS, on January 27, 2015, the Town of Ocean Breeze, Florida (hereinafter referred to as the "Town") adopted Ordinance No. 251-2015, thereby approving the Ocean Breeze East Planned Unit Development (PUD) Agreement, which Ordinance and its several amendments are recorded in the Official Records of Martin County, Florida; and

WHEREAS, NHC FL143 LLC, a Florida Limited Liability Company, (hereinafter referenced as "OWNER") the property governed by Ordinance No. 220-2015 and its amendments, has applied for a minor PUD amendment to permit the reconfiguration of several residential docks fronting the Indian River Lagoon, as depicted by Exhibit "A" attached hereto; and

WHEREAS, it is understood that the Florida Department of Environmental Protection ("FDEP") also has jurisdiction to determine the actual minimum lengths and locations of the docks as the same extend over lands submerged beneath mean high water; and

WHEREAS, the Town Council wishes to make reasonable adjustments to the configuration of said docks in order that they may fully comply with environmental regulations established by FDEP; and

WHEREAS, FDEP may require that the said docks be made to extend eastward of a line shown in the PUD revised master site plan in order to reach the depth of water required; and

WHEREAS, it appears unlikely that DEP shall require any such docks to exceed a length of 30 feet, and in no event more than 35 feet; and

WHEREAS, as a condition of this minor amendment, the OWNER has agreed to abide by the conditions stated hereinbelow; and



WHEREAS, on July 13, 2020, the Town Council held a properly noticed quasi-judicial public hearing to consider the OWNER'S application, recommendations made by Town Staff, as well as comments by the Public; and

WHEREAS, the OWNER has committed to the Town that its development will comply with all development codes, plans, standards and conditions approved by the Town Council; and that it will bind its successors in title to any such commitments made upon approval of the revised plans; and

WHEREAS, at the hearing, the OWNER's representatives showed by substantial competent evidence that the application is consistent with the Town of Ocean Breeze Comprehensive Plan and Land Development Code, and the procedural requirements of law; and

WHEREAS, the foregoing recitals are true and adopted as findings of fact and conclusions of law.

NOW, THEREFORE, THE OCEAN BREEZE TOWN COUNCIL HEREBY RESOLVES:

SECTION 1. Provided the OWNER abides by conditions set forth below, the docks and marginal piers referenced in the PUD, as attached to units, may be reconfigured in accordance with the diagram attached hereto as Exhibit "A."

- a. Owner shall be responsible for designating and confirming the location of any dock or marginal pier to be constructed per Exhibit "A" attached hereto. All such docks and marginal piers shall be leased to the unit to which they are attached as shown on the said exhibit. In any event, Owner shall be the arbiter of disputes between tenants regarding such location and tenant disputes regarding any other matters related to the use of docks and marginal piers, or the feasibility of constructing the same.
- b. In the event Owner gives a tenant the right to make application to construct a dock or marginal pier, Owner must provide Town with written proof that Owner has approved said tenant's application for such permit, either by joining in the application, or executing a consent in form and content satisfactory to the Town.
- c. Prior to the issuance by the Town of a permit for construction of a dock or marginal pier, Owner and its applying tenant shall provide the Town with sufficient proof of the dimensions required by the Florida Department of Environmental Protection (FDEP), and thereafter Owner shall be responsible for making sure that Owner's tenant constructs the dock or marginal pier in accordance with such dimensions and all other conditions as may be imposed by FDEP (and other governmental entities having marine jurisdiction, if any).
- d. In no event shall any dock be permitted to exceed a length of 35 feet, unless and until Sun Communities shall first obtain a minor amendment to the Ocean Breeze East PUD.
- e. No dock or marginal pier shall be used for any commercial purposes whatsoever.
- f. No dock or marginal pier shall be leased to or used by anyone other than the tenant or subtenant approved by Owner, to whose unit the dock or marginal pier is attached as depicted on Exhibit "A," and their family and temporary guests. No dock or marginal pier, or any portion thereof, may be leased or subleased or licensed to anyone other than occupants (authorized by Owner) residing in the unit to which the same is attached as depicted on Exhibit "A".

- g. Upon application for permit by Owner or Owner's approved tenant, Owner and said tenant shall agree to indemnify and hold the Town harmless from and against any and all claims, damages and other liabilities of any kind whatsoever related to the dock or marginal pier, said indemnity and hold harmless agreement to be in such form and content as the Town shall provide with the permit application.
- h. Upon transfer of a unit to which a dock or marginal pier is attached, it shall be the responsibility of Owner to make sure that Owner's new tenant is in compliance with any documentation related to such transfer as may be required by the FDEP and other governmental agencies having jurisdiction.
- i. At all times, Owner and Owner's tenants whose units include a dock or a marginal pier, jointly and severally, shall comply with this Resolution 303-2020, the PUD and other laws of the Town and with all applicable federal and state laws and rules and regulations, and all conditions imposed by FDEP and/or other federal, state or local governmental agencies having jurisdiction over the permitting of the dock or marginal pier.
- j. In the event the Town learns that any tenant or other occupant of a unit to which a dock or marginal pier is attached is in violation of the conditions set forth herein, the Town shall notify Owner thereof, and Owner shall be provided with reasonable time to bring such tenant or other occupant into compliance.
- k. It is the Owner's responsibility to achieve compliance by any tenant or other occupant with the terms of this Resolution 303-2020. The Town shall notice Owner for a due process hearing on one or more violations of conditions set forth herein, prior to imposing a fine or penalty against the Owner. The Town shall have the power to impose fines of up to \$100.00 per day for the violations of conditions set forth herein, if not corrected after notice and a reasonable time for Owner to bring such tenant or other occupant into compliance. The Town shall otherwise have any and all other remedies available under this Resolution and the PUD, in addition to all remedies as may otherwise be available under Florida law.
- l. The terms hereof shall be binding upon Owner and its successors and assigns (including tenants).

SECTION 2. Town ordinances and Town resolutions or parts thereof, and other parts of the Zoning and Land Development Code of the Town of Ocean Breeze in conflict with this resolution are hereby superseded to the extent of such conflict.

SECTION 3. If any provision of this resolution or the application thereof to any person or circumstance is held to be unconstitutional, invalid or ineffective, this holding shall not affect the remaining portions of this ordinance. If this resolution or any provision thereof shall be held to be inapplicable to any person, property, or circumstance by a court of competent jurisdiction, such holding shall not affect its applicability to any other person, property or circumstance.

SECTION 4. The PUD is hereby amended as set forth above, and all of the terms and conditions of Ordinance No. 220-2015, as amended by Resolution Numbers 223-2015, 234-2016 and 238-2016 and Ordinance No. 241-2016, and by Resolution No. 291-2019, that are not specifically amended or revised by this Amendment are hereby ratified and affirmed and shall remain in full force and effect as stated therein.

SECTION 5. This resolution shall become effective immediately upon adoption by the Town Council and acceptance by the OWNER.

SECTION 6. The complete execution and recording of this resolution by the Town Clerk, which shall be paid for by the OWNER, shall occur no later than sixty (60) days from the date of this approval, failing which this resolution shall become void.

SECTION 7. This resolution shall be recorded in the public record of Martin County, the cost of which shall be paid by the applicant.

APPROVED AND ADOPTED this 10TH day of August, 2020.

Council Member Gerold offered the foregoing resolution and moved approval. The motion was seconded by Council Member Docherty and upon being put to a roll call vote, the vote was as follows:


KENNETH J. DE ANGELES, PRESIDENT
RICHARD GEROLD, VICE-PRESIDENT
KEVIN DOCHERTY, COUNCIL MEMBER
BILL ARNOLD, COUNCIL MEMBER
TERRY LOCATIS, COUNCIL MEMBER
DAVID WAGNER, COUNCIL MEMBER

YES	NO	ABSENT
X		
X		
X		
X		
		X
X		


KAREN M. OSTRAND
MAYOR


KENNETH J. DE ANGELES
PRESIDENT

APPROVED AS TO FORM:


WILLIAM F. CRARY, II
TOWN ATTORNEY

ATTEST:


PAM ORR
TOWN CLERK



ACCEPTANCE AND AGREEMENT

BY SIGNING THIS ACCEPTANCE AND AGREEMENT, THE UNDERSIGNED HEREBY ACCEPTS AND AGREES TO ALL OF THE TERMS AND CONDITIONS CONTAINED IN THE FOREGOING RESOLUTION, AND ALL EXHIBITS, ATTACHMENTS AND DEVELOPMENT DOCUMENTS, INTENDING TO BE BOUND THEREBY, AND THAT SUCH ACCEPTANCE AND AGREEMENT IS DONE FREELY, KNOWINGLY, AND WITHOUT ANY RESERVATION, AND FOR THE PURPOSES EXPRESSED WITHIN THE FOREGOING RESOLUTION. IF IT IS LATER DISCOVERED THAT THE UNDERSIGNED, OR ITS SUCCESSORS OR ASSIGNS HAVE FAILED IN ANY MATERIAL WAY TO COMPLY WITH THIS COMMERCIAL PLANNED UNIT DEVELOPMENT ACCORDING TO THE ORDINANCES AND RESOLUTIONS REFERENCED IN SECTION 4 OF THIS RESOLUTION NUMBER 303-2020 AND THEIR CONDITIONS, AND THE DEVELOPMENT DOCUMENTS, AS AMENDED IN THIS RESOLUTION, THE UNDERSIGNED UNDERSTANDS AND AGREES THAT THIS RESOLUTION MAY BE AMENDED OR REPEALED BY THE TOWN COUNCIL, AND THAT OTHER ADMINISTRATIVE ACTIONS AND PENALTIES MAY BE TAKEN AGAINST THE UNDERSIGNED, ITS SUCCESSORS OR ASSIGNS, BY THE TOWN, INCLUDING BUT NOT LIMITED TO SANCTIONS DESCRIBED IN THIS RESOLUTION, AND IN THE ORDINANCES AND RESOLUTIONS REFERENCED IN SECTION 4 HEREOF, CODE ENFORCEMENT ACTIONS, PERMIT AND LICENSING SUSPENSIONS OR REVOCATIONS, AND ANY OR ALL OTHER APPLICABLE CIVIL AND CRIMINAL ACTIONS.

IN WITNESS WHEREOF THE UNDERSIGNED HAS EXECUTED THIS ACCEPTANCE AND AGREEMENT:

WITNESSES:

NHC-FL143, LLC,
a Delaware limited liability company

Melissa Bridges
Print Name: Melissa Bridges

By: NRVC-Holding Co. LLC,
a Delaware limited liability company, Sole Member

By: National RV Communities, LLC,
a Delaware limited liability company, Sole Member

Kimberly C. Dotson
Print Name: KIMBERLY C. DOTSON

By: Carefree Communities Inc.,
a Delaware corporation, Sole Member

By: John McLaren
John McLaren, President & Chief Operating Officer

OWNERS ACKNOWLEDGMENT

STATE OF Michigan
COUNTY OF Oakland

The foregoing instrument (Acceptance and Agreement of Resolution 303-2020) was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 15 day of September 2020, by John McLaren as President and Chief Operating Officer Carefree Communities, Inc. a Delaware corporation, Sole Member of National RV Communities, LLC, a Delaware limited liability company, Sole Member of NRVC-Holding Co., LLC, a Delaware limited liability company, Sole Member of NHC FL143, LLC, a Delaware limited liability company (PLEASE CHECK ONE OF THE FOLLOWING) ☒ who is personally known to me or ☐ who has produced _____ (TYPE OF IDENTIFICATION) as identification.

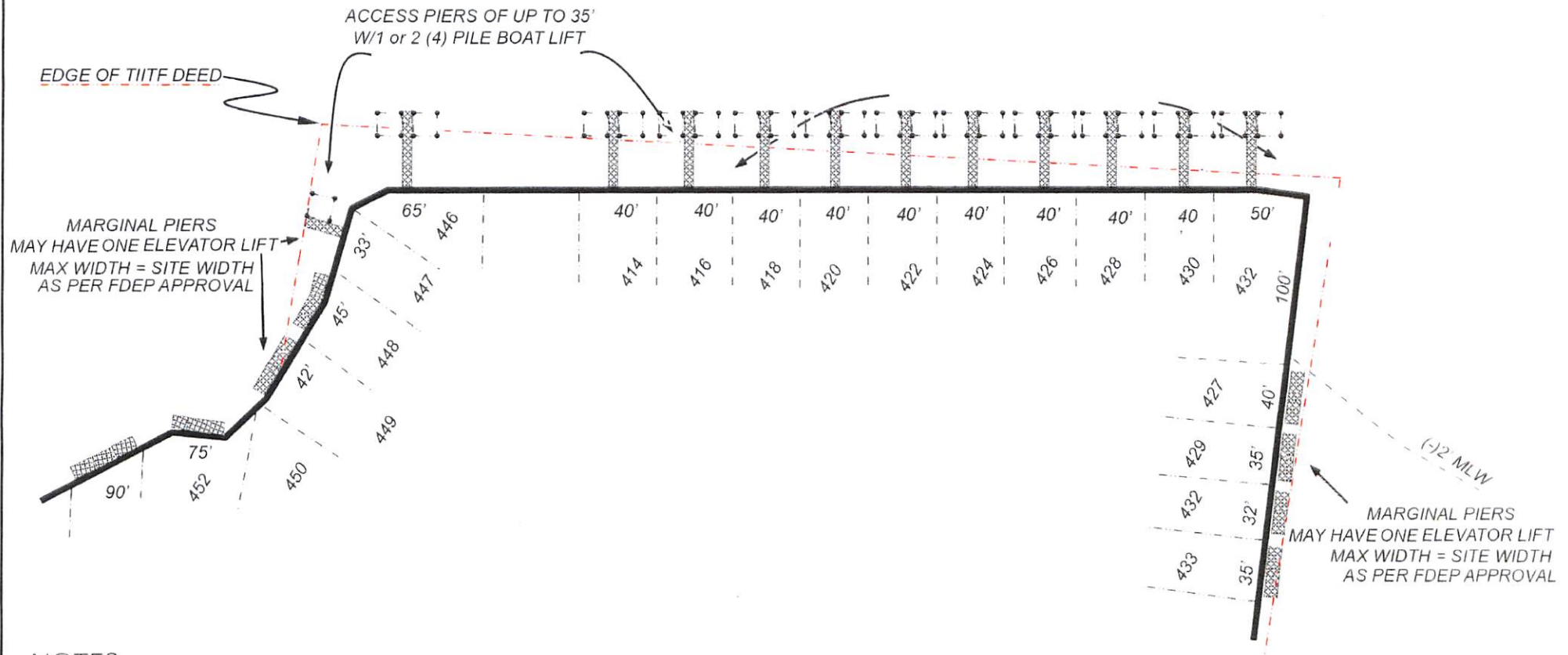
Stacey Ann Green
Print Name

Notary Public State of Michigan
Commission No. _____
My Commission Expires: _____

STACEY ANN GREEN
Notary Public, State of Michigan
County of Oakland
My Commission Expires Jun. 25, 2027
Acting in the County of Oakland



INDIAN RIVER LAGOON



NOTES

- Access piers shall be generally centered within each site so as to avoid encroachment on neighboring sites.
- Max- pier length protruding into water is 35'.
- Marginal piers shall have a 5' side set back to ensure a minimum 10' separation exists between marginal piers.

OCEAN BREEZE RESORT
3000 NE INDIAN RIVER DR.
JENSEN BEACH

OCEAN BREEZE EAST
PUD
EXHIBIT A
AUGUST 2020

