

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

June 14, 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, May 10, 2021
(Motion, second, public comments, all in favor)
- 3. Discussion of Home Rule Powers and 2021 Legislative Update** – Senator Gayle Harrell
- 4. Request Motion to Accept and Transmit F/Y 2019-2020 Audit Report to appropriate State Level Governmental Agencies** – Mark Bymaster, Audit Manager
(Motion, second, public comment, roll call)
- 5. Request Authorization for Mayor to hire Maria Pierce for position of Bookkeeper/Assistant to Town Clerk** – Mayor Ostrand
(Motion, second, public comment, roll call)
- 6. Comments from the public on topics not on the Agenda**
- 7. Comments from the Council on topics not on the Agenda**
- 8. Comments from Town Management Consultant Terry O'Neil**
- 9. Comments from Mayor Ostrand**
- 10. Announcements** – Regular Town Council Meeting – Monday, July 12, 2021,
at 10:30 am, to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room,
700 NE Seabreeze Way, Ocean Breeze
- 11. Adjourn** (Motion, second, all in favor)

Item #2

TOWN OF OCEAN BREEZE
MINUTES REGULAR TOWN COUNCIL MEETING
Monday, May 10, 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, Terry Locatis, David Wagner
Absent: Council Member Docherty
 - Staff Present – Town Management Consultant, Terry O’Neil; Town Attorney, Rick Crary, Town Clerk, Pam Orr; and Bookkeeper/Assistant, Kim Stanton

Mayor Ostrand presented Pam Orr a beautiful plant for Municipality Clerks’ Week.

Martin County Sheriff’s Deputy Joe Angelico introduced his partner, Andy Adams and gave a brief overview of their role in Jensen Beach.

2. **Approval of Minutes** – Council Member Arnold, seconded by Council Member Locatis, made a Motion to approve the Minutes of April 12, 2021 regular meeting.

President De Angeles asked for public comments.

There were none.

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

3. **Budget to Actual** – Council Member Wagner, seconded by Council Member Arnold, made a motion to accept the quarterly financial report.

President De Angeles asked for comments from the public.

There were none.

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

4. **Request Authorization for the Mayor to Execute a Contract for Town Engineer Consulting Services with Scott T. Montgomery, PE, of C. Calvert Montgomery & Associates, Inc.** – Discussion ensued regarding the functions of the Town Engineer, the Town Charter and third-party engineers.

Mr. Montgomery introduced himself and gave a description of his background.

Council Member Arnold, seconded by Council Member Wagner, made a motion to approve the contract for the Mayor’s execution.

President De Angeles asked for public comments.

There were none.

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

5. Comments from the public on topics not on the Agenda – Ann Kagdis honored Pam Orr as Town Clerk and stated that the State of Florida honored Town Clerks during the month of May. She added that the Neighborhood Advisory Council met every two months and mentioned that no one from Ocean Breeze attended the last meeting. She stated that she believed it was important for at least one member of the Town Council attend these NAC meetings. She added that she was on the Board of Directors for the NAC and represents the region and not specifically Ocean Breeze. She announced that the meetings were every other month at 5:00 pm at the Community Center and encouraged participation.

President De Angeles stated that he would like to continue to attend the meetings. He asked Ms. Kagdis for a friendly reminder text.

Ms. Kagdis agreed.

President De Angeles asked for comments from the public.

Mr. Lamar Moore, EMS Contracting, introduced himself and gave some background regarding emergency contracting services.

President De Angeles suggested Mr. Moore speak to Chris Walters, Manager, at Sun Communities.

6. Comments from the Council on topics not on the Agenda - There were none.

7. Comments from Town Management Consultant, Terry O'Neil – He had none.

8. Comments from Mayor Ostrand – Mayor Ostrand stated that the Town bookkeeper had given her letter of resignation.

President De Angeles presented Kim Stanton with an award and flowers for her nine years of service with the Town of Ocean Breeze.

9. Announcements – President De Angeles announced the regular Town Council meeting to be held on Monday, June 14, 2021 at 10:30 am at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze, Florida.

10. Adjourn – Council Member Arnold, seconded by Council Member Wagner, made a motion to adjourn the meeting at 11:03 a.m.

Respectfully Submitted,

Pam Orr
Town Clerk

Minutes approved: _____



Town of Ocean Breeze

May 12, 2021

Senator Gayle Harrell
215 SW Federal Hwy, Suite 203
Stuart, FL 34994

Representative Toby Overdorf
151 SW Flagler Avenue
Stuart, FL 34994

Dear Senator Harrell and Representative Overdorf:

As indicated by the attached resolution, the Town of Ocean Breeze has joined local governments across Florida in expressing its long-standing concerns over the erosion of Home Rule powers. In the hopes that you are willing to engage in a dialogue about this important topic, I am writing in my individual capacity as President of the Ocean Breeze Town Council to invite you to attend our June 14, 2021 Council Meeting. The meeting takes place at 10:30 AM at the Ocean Breeze Resort Club House at 700 NE Seabreeze Way, Ocean Breeze. The main entrance is located at 3000 NE Indian River Drive.

Please let me know if you are able to attend, and I will ask that our discussion be scheduled first thing on the agenda. If the June 10th date is not possible, our subsequent Town Council meetings are scheduled for July 12th and August 9th.
I look forward to hearing from you.

Sincerely,

Kenneth J. De Angeles
Town Council President
(772) 334-6826

cc: Mayor and Town Council
Town Clerk



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 Locatis offered the foregoing resolution and moved approval. The motion was seconded by Council Member Arnold 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

2021 Environmental Highlights

Additional significant environmental investments include:

- ◆ \$2.5 million to coral reef restoration and protection.
- ◆ A significant amount of \$500 million for the Wastewater Grant Program.
- ◆ \$40 million for alternative water supply.
- ◆ \$10 million for innovative technology grants to fight harmful algal blooms.
- ◆ Over \$211 million appropriated for the Wastewater Revolving Loan Program and nearly \$137 million for the Drinking Water Revolving Loan Program.
- ◆ \$75 million towards the Petroleum Tanks Cleanup Program and \$50 million for Petroleum Underground Storage Cleanup Programs.
- ◆ \$9 million for hazardous waste cleanup.
- ◆ \$39 million to small county and community waste and wastewater grants.
- ◆ \$50 million for state parks maintenance and repairs.
- ◆ \$4.7 million funded for local parks.
- ◆ \$48 million in funding for the C-51 Reservoir

Senate Bill 2516: Water Storage North of Lake Okeechobee

- ◆ Requires the South Florida Water Management District (SFWMD) to expedite implementation of the Lake Okeechobee Watershed Restoration Project to provide water storage north of Lake Okeechobee.
- ◆ Expedites the implementation of the aquifer storage and recovery Science Plan developed by the SFWMD and Army Corps of Engineers.
- ◆ Provides a \$50 million annual appropriation from the Land Acquisition Trust Fund to the SFWMD for the Lake Okeechobee Watershed Restoration Project

Senate Bill 64: Reclaimed Water

- ◆ Creates a timeline and plan to eliminate nonbeneficial surface water discharge.
 - ◆ Incentivizes the development of potable reuse projects and residential developments that use graywater technologies.
 - ◆ Requires domestic wastewater utilities that dispose of effluent, reclaimed water or reused water by surface water discharge to submit a plan to eliminate nonbeneficial surface water discharge.
 - ◆ Specifies that potable reuse is an alternative water supply, for purposes of making reuse projects eligible for alternative water supply funding.
-



STATE SENATOR
DISTRICT 25



2021 LEGISLATIVE UPDATE

District 25 Budget Projects

- ◆ Alzheimer's Community Care – Critical Support Initiative ~ \$250,000
- ◆ GFNF4kids Okeechobee and Treasure Coast Child Advocacy Center ~ \$1,351,230
- ◆ Foster Family Recruitment and Stability Project ~ \$750,000
- ◆ Indian River State College Advanced Workforce Training Complex ~ \$10,628,108
- ◆ Building Hope for People with Autism on the Treasure Coast ~ \$1,340,000
- ◆ Stuart Alternative Water Supply Phase II ~ \$500,000
- ◆ Veterans' Nursing Home—Ardie R. Copas ~ \$2,000,000
- ◆ Port St. Lucie - St. Lucie River/C-23 Water Quality Restoration Project ~ \$1,024,862
- ◆ Fort Pierce Low Income Sewer Infrastructure Reconstruction ~ \$900,000
- ◆ Sewall's Point Business and Town Hall Sewer Conversions ~ \$185,000
- ◆ Martin County Port Salerno/New Monrovia Vacuum Sewer System ~ \$500,000
- ◆ Loggerhead Marineline Water Quality and Coastline Cleanliness ~ \$249,779
- ◆ Pahokee King Memorial Park Improvements ~ \$250,000
- ◆ Florida Boys & Girls Clubs Positive Youth Development Program ~ \$3,100,00
- ◆ University of Florida - Child Abuse Pediatrics Fellowship ~ \$300,000
- ◆ Place of Hope Child Welfare Services ~ \$500,000
- ◆ Village of Indiantown Uptown Drainage and Roadway Repair Design ~ \$350,000
- ◆ Sewall's Point Road Phase 2 Sewall's Point ~ \$900,000
- ◆ Lincoln Park Heritage & Education ~ \$50,000

District 25 Office

215 SW Federal
Highway, Suite 203

Stuart FL 34994

(772) 221-4019

District 25

Tallahassee Office

310 Senate Building
404 South Monroe
Street

Tallahassee, FL 32399

Bills Passed by Senator Harrell

SB 100 ~ M-CORES

SB 260 ~ Veterans Services

SB 262 ~ Dispensing Medicine

SB 354 ~ Restitution (Victims Rights)

SB 580 ~ Dyslexia - *Language Added to
HB 7011*

SB 590 ~ Baker Act - *School Safety Lan-
guage added*

SB 804 ~ Substance Abuse (Sober
Homes)

SB 7004 ~ FDOT Open Government

Sunshine Review

SB 1126 ~ Dept. of Transportation

SB 1134 ~ Dept. Highway Safety & Mo-
tor Vehicles

SB 1282/HB 419 ~ VPK Early Learning
& Early Grade Success (*passed as HB
419*)

SB 1324 ~ Digital Driver Licenses &
Identification Cards

SB 1326 ~ Dept. of Highway Safety &
Motor Vehicles: Public Records for Digi-
tal Drivers Licenses

Budget Summary for Fiscal Year 2021-2022

Total Budget: \$101.5 billion

[\$36.3 billion General Revenue; \$65.2 billion Trust Fund]

Reserves: \$6 billion

Federal Coronavirus Recovery Funds

- **\$6.7 billion total - contingent on receipt of Federal Coronavirus State Fiscal Recovery Funds**
- **Budget Stabilization Fund: \$350 million**

Public Schools/K12 FEFP

Total Appropriations: \$26.7 billion [\$17.7 billion GR; \$9 billion TF, excludes tuition]

Total Funding - Including Local Revenues: \$39.3 billion [\$26.7 billion state funds; \$12.6 billion local funds]

Health and Human Services

Total Budget: \$44,570.6 million [\$12,117.7 million GR; \$32,452.9 million TF]; 31,031.25 positions

- **Agency for Health Care Administration: Total \$35,441.2 million**
- **Department of Elder Affairs: Total \$405.1 million**
- **Department of Health: \$3,161.6 million**
- **Agency for Persons with Disabilities: \$1,653.2 million**
- **Department of Children & Families: Total \$3,756.6 million**

Criminal and Civil Justice

Total Budget: \$5,885.7 million

Transportation, Tourism and Economic Development

Total Budget: \$13.7 billion

- **Department of Economic Opportunity: \$1.1billion**
- **Department of Highway Safety & Motor Vehicles: \$506.1 million**
- **Department of Military Affairs: \$70.1 million**
- **Department of State: \$120 million**
- **Department of Transportation: \$10.3 billion**
- **Department of Emergency Management: \$1.7 billion**

Agriculture, Environment and General Government

Total Budget: \$6.7 billion

Department of Veterans Affairs

Total: \$153.0 million

- **Additional Medical and Nonmedical Equipment, and Recreational Equipment and Furniture in State Veterans' Nursing Homes - \$0.8 million GR**
- **Nursing Home Contracted Services Increase - \$4.2 million TF**
- **Initial Staffing and Startup for New State Veterans' Nursing Homes - 3 FTE; \$0.2 million TF**

Major Local Legislative Issues

House Bill 419 (Senate Bill 1282 by Senator Gayle Harrell): Signed by the Governor on 5/4/2021 -

VPK Early Learning and Early Grade Success:

Revamps accountability measures, increases transparency, and strengthens oversight of Voluntary Prekindergarten (VPK) providers to improve kindergarten readiness rates. Consolidates authority and oversight of early learning programs by establishing the Division of Early Learning within the Department of Education. Implements new screenings that evaluate if students are ready for kindergarten prior to enrolling in kindergarten, in order to allow for adjustments in a student's learning plan to ensure they are ready for kindergarten. Allows eligible child care providers on military installations to participate in early learning programs, and allows districts to use the research-based reading allocation to fund intensive interventions for VPK students with significant reading deficiencies.

Senate Bill 590: School Safety by Senator Gayle Harrell -

Implements better practices for public and charter schools to make a reasonable attempt to contact parents before a student is Baker Acted in order to decrease the amount of minor students subject to involuntary commitments under the Baker Act. Improves crisis training for school personnel and promotes awareness of available mental health services. Requires school safety officers to undergo crisis intervention training, and requires schools to contact health care practitioners capable of initiating a Baker Act in person or via telehealth prior to a Baker Act being initiated. Requires school districts to timely notify parents of emergency situations that occur on school grounds involving weapons, sexual offenses, natural emergencies, and murder or manslaughter. Authorizes school districts to provide accommodations for drills conducted by Exceptional Student Education centers. Requires any ID card issued by a public school for students in grades 6-12 to display telephone numbers for national or statewide crisis and suicide hotlines and text lines.

SB 90 - Elections - Signed by the Governor on 5/6/2021 -

This new law strengthens the language to signature verification on absentee ballots in the Supervisors office. Codifies statewide pre-emption to not have universal ballots. Drop Boxes: must have guard rails and structures around them. Must be monitored. Must show identity to drop off ballots. Boxes may only be open during open voting hours, be locked at night and must be emptied each night of early voting. Contains anti ballot harvesting language, & prohibits having paid ballot collectors however family members are permitted to drop off multiples. Absentee ballots must be requested every election cycle. It prohibits "Consent Decrees" by the courts and requires that any change to the elections procedures not already in statute must go back to the legislature. Florida has 45 days to vote. Hard to cheat and Easier to vote.



HOME RULE IN A STATE OF PREEMPTION

Florida League of Cities Annual Conference August 17, 2018

Rebecca O'Hara
Deputy General Counsel
Florida League of Cities
rohara@flcities.com



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State & Local Gov't Tension is Not New*

- History of larger gov'ts delegating responsibilities to smaller gov'ts; often without sufficient resources
- Increase in mandates; decrease in flexibility to meet them
- Gridlock at federal and state level - local gov'ts are left to solve their own problems
 - Policy vacuum: local gov't steps in to respond to constituent needs and desires
 - Local policy experimentation and innovation have flourished
 - Interest groups opposed to local policies turn to higher level of gov't for redress

*See Riverstone-Newell, "The Rise of State Preemption Laws in Response to Local Policy Innovation,"

47 J. Federalism 3, 403-425 (2017).



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State Preemption of Local Government

- Preemption is clearly authorized by Florida Constitution
- Preemption (state law prohibits action) distinguished from Conflict (state law sets standards or minimums and local regulation cannot be inconsistent)
- Traditionally, preemption used when policy necessitated a statewide regulatory scheme (e.g., uniform traffic laws, water permits, building code, fire code)
- Newer trend is “special interest preemption” – no state regulatory scheme or articulated state policy, only a prohibition



Special Interest Preemption – A National Trend

- 1980s – successful national effort by Big Tobacco to preempt local smoking restrictions and bans
- People noticed.....
- NRA soon followed suit and obtained preemptions in majority of states on local gun regulations
- Special interest preemptions are now the most predominant type of preemption we see in Florida
 - Fertilizer industry
 - Telecommunications & Utilities (cell towers, substations, small cell wireless)
 - Agribusiness (Right to Farm Act, Agritourism)
 - Retail & Restaurant industry (polystyrene, shopping carts, franchise conflicts)
 - Homebuilders and Realtors (septic tank inspections and permitting)



Special Interest Preemption – A National Trend

- Powerful special interest groups have the ear of state legislators and national political organizations
- Large corporate interests realized preemption is an efficient and covert way to eliminate unwanted regulations otherwise supported and desired by local citizens
 - Efficient – ready access to and influence on small group of state decision-makers
 - Covert – less public scrutiny of state legislative action (proximity; limited media coverage); the business interest avoids facing an angry public at a local meeting.
- National political groups realized preemption can squelch hot button or “progressive” issues taken up by larger metropolitan localities (e.g., sanctuary cities; LGBTQ issues; minimum wage regulations)



Political Group -- the ALEC Example

- ALEC (“American Legislative Exchange Council”) – a nonpartisan membership organization of state legislators “dedicated to the principles of limited government, free markets and federalism.”
- Membership – state legislators, governors, members of congress, corporations and not-for-profits
- Provides model legislation and model local gov’t resolutions
- American City County Exchange



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What's Next? "Super Preemptions"

- National trend – state preempts multiple areas with a single law or imposes financial penalties for violation by local gov't*
 - AZ law allows withholding funds from local gov'ts that pass regulations that contradict state law
 - TX sanctuary city bill provided financial penalties such as withholding grant money and removal of officials from office
 - OK bill prohibited local regulations that do not conform to state law
- Super Preemptions provide political "cover" – targets local regulations that may be popular with constituents (minimum wage laws, "puppy mill" bans, Styrofoam bans) under broad, general preemption
 - Avoids the NC bathroom backlash (NC lost millions in sports and tourism-based revenues following state preemption)
 - Avoids corporate black eyes

*See Riverstone-Newell, 47 J. Federalism at 408-18.



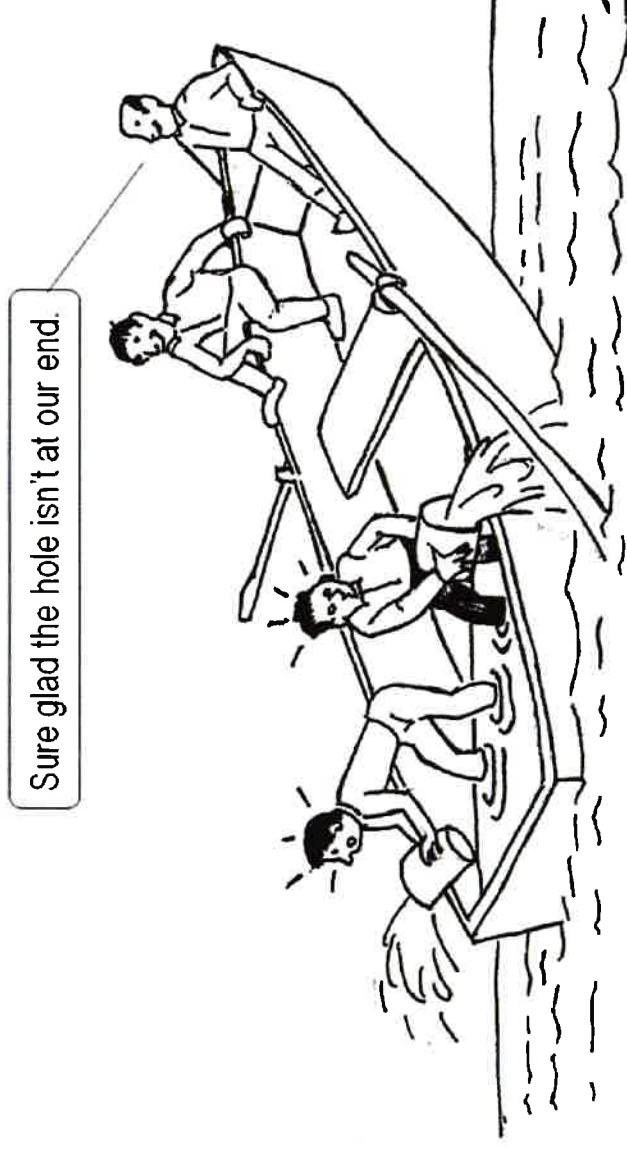
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What's Next? Local Self-Government's Death by 1000 Cuts

- Targeted removal of specific local powers happens every year
- Targeted preemptions divide and conquer: "this issue doesn't affect my city so I won't get involved"



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What Can YOU Do?

- Educate – yourself and others
- Counter hyperbole with facts, ask hard questions and tell your story
- Stay focused on municipal purposes and functions
- Ensure municipal contract lobbyists help, not harm
- Engage key influencers & citizens in your community
- Avoid partisanship but understand your audience
- Stick together and have each others’ backs on targeted preemptions

Any Don’ts?

- Doing nothing
- Starting your conversations with this is “an attack on Home Rule!” or “a war on cities!”



Educate Yourself & Others

- Many people do not understand Home Rule or the value of having the right to local self-government
- Many people do not understand the differences between state and local government
- Create opportunities to educate citizens and local groups about municipal government
- Create opportunities to educate your legislators about your city and find ways to be partners – not adversaries
- Citizens need to understand they have far greater access and influence at the local level
 - Open meetings laws for local govt vs state legislature
 - Frequency of meetings – year ‘round vs 60 days
 - Public testimony and “face time” at local level vs. state level
 - Public notice requirements for ordinances vs. bills and amendments



Counter With Facts, Ask Hard Questions & Tell Your Story

Claim: “Cities are out of control” This bill prevents “piecemeal” “patchwork” “duplicative regulation” or “over-regulation” that “hurts business”

Response:

- Request specifics – which regulation, ordinance and by whom
- Request data and facts on the alleged “harm”
- Use House Republican Conference Checklist as a guide
- Tell your story – why is this local regulation needed in your city? What steps did you take in getting there and why?
- Ask how the state plans to address the problem if locals are preempted
 - is there a state regulatory scheme in place? If not, why not?



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House Republican Conference

Checklist for Potential Legislation

- 1) What problems do you intend to solve?
- 2) How does this legislation solve those problems?
- 3) Is this legislation consistent with House principles?
- 4) If the legislation passes, will a financial gain be realized by the occupation, industry, employer, or business interests of you, your spouse, or your family?
- 5) Have you considered relevant information from multiple independent sources and thoroughly evaluated alternative solutions?
- 6) Have you sought out stakeholders who have different perspectives and considered their comments or concerns?
- 7) Is the legislation being driven by anecdote or a single occurrence? Is there evidence that the problems are recurring and on-going?
- 8) Are the problems of statewide public concern, or are they only important to a particular profession, industry, demographic subgroup, or constituent? If the problems are not statewide public concerns, why should the Legislature intervene?
- 9) Who wins and who loses if the legislation passes?
- 10) Has similar legislation been considered in the past? What's different this time?
- 11) Does the legislation create the need for a new public records or public meeting exemption? If so, why is creating such an exemption a public necessity?
- 12) Does the legislation require reporting of data so that future legislators can evaluate the effectiveness of the legislation? Would the legislation benefit from a sunset provision?
- 13) Does the legislation trigger the local government mandate provision or any other provision that requires a supermajority vote in order to pass the Legislature?



City Lobbyists Should Help and Not Harm

- Many local governments have lobbyists on retainer
- Require them to engage on preemption issues
- The same lobbyist that helps special interests and big business preempt you may also be your lobbyist!
- Protect against conflicts – require your lobbyist to notify you in advance of any potential conflict in representation – put it in the contract!!



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Stay Focused on Core Municipal Issues

- Just because the state or federal government is not acting on something does not make it a municipal issue
- If a special interest group wants your city to act, consider:
 - Is there a non-regulatory means to achieve the objective?
 - Does the issue directly concern core municipal services or functions?
 - Is there a factual or scientific basis for the action?
 - Have you solicited the involvement of those who will be impacted or burdened?
 - Does the action provide adequate standards to those affected?
 - What are the costs vs. benefits -- impacts to property values, impacts on businesses or commercial activity?



Avoid Partisanship

- City elected positions are non-partisan
- The delivery and performance of core municipal services and functions is non-partisan
- Florida's elected municipal officials are a mix of Rs, Ds and NPAs – we must stick together to protect local autonomy
- Preemption is not a partisan issue
 - Research suggests there is greater likelihood of preemption in a political “trifecta”* (one party controls both state chambers and governor’s office)
 - Political trifectas can be R or D and preemptions happen under both types
- Tailor your terminology to your audience
 - “Home Rule” can be a trigger term for some

*Swindell, et al., “Local Government Options in the Era of State Preemption,” Public Management (July 2018)



Key Influencers & Citizens As Allies

- Local civic and neighborhood groups have great networks
- Local business groups often differ on issues from state trade associations
- Local nonprofits have a stake in preemptions
- Corporate interests – hold them accountable/do not give them a pass when they use state organizations to preempt you
- Special Interest groups – can be excellent allies but take caution – they do not share your responsibility to balance competing interests



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Messaging – The Framework

- Big Government vs. Hometowns – Voters trust the government closest to them.
- Special Interests & Big Business vs. Local Interests – Voters already think corporate special interests hold too much power and prevent progress at state and federal levels, and many believe preemptions are driven by corporate special interests seeking to protect their profits.
- Economic Policy Choices – many people believe that communities should have the ability to determine their own economic policies and regulations without unwarranted state intrusion.
- Local Democracy – when state government prevents local communities from passing local laws, it threatens local democracy and silences the voices of the people.

*Portions of this slide are attributable to: *Protecting Local Democracy, A Messaging and Research* Local Solutions Support Center, <http://supportdemocracy.org>



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Key Messages

- Local Communities know best how to meet the needs of people living there and what their local economy needs to thrive. It is wrong for state government to come in and dictate to local citizens what is best for them.
- Property Rights of Big Business should not be more important than Property Rights of individuals and small businesses (Looking at you, vacation rental companies)
- Politicians & corporate special interests create gridlock at the state level – local governments are where things get done.
- It's tough for average people to have their voices heard by a state government that is miles away and meets infrequently. At least at the local level we can make our voices heard & demand change and accountability.

*Portions of this slide are attributable to: *Protecting Local Democracy, A Messaging and Research Toolkit*, Local Solutions Support Center, <http://supportdemocracy.org>



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Use Language That Connects to People

- Instead of “preemption” talk about “state interference”
- If you talk about preemption, talk about the “misuse” or “abuse” of preemption.
 - Most people believe some preemptions are necessary. But when preemption is misused, it walls off entire policy areas from local action, creating a policy vacuum. This leaves local communities powerless to do anything to help their citizens.
- Don’t disparage the role of state government or legislators
- Instead of “Home Rule” try terms like local democracy, local control
Local Self-Government, Local Autonomy, Local Decision-making, or
Citizen-centered Decision-making

*Portions of this slide are attributable to: *Protecting Local Democracy, A Messaging and Research Toolkit*, Local Solutions Support Center, <http://supportdemocracy.org>



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PARTNER



MUNICIPAL HOME RULE – Speaker Notes
Harry Morrison, Jr., Of Counsel
Florida League of Cities 92nd Annual Conference
August 16-18, 2018
Diplomat Beach Resort – Hollywood, Florida

Outline

I. History

- A. Statehood: Municipalities in Florida predated statehood.¹
- B. State Constitution/Pre-Home Rule: The Legislature shall have the power to establish municipalities, to prescribe their jurisdictions and powers, and to alter or amend the same at any time.²
- C. Municipalities Distinguished from Counties: Counties are an "agent or arm of the state." Their purpose is to promote the general public welfare of the state. Municipalities are primarily organized to promote the exclusive needs and conveniences of their citizens.³
- D. Dillon's Rule: Municipalities possess only those powers expressly granted by the state legislature, those fairly implied from the powers expressly granted, and those essential to the declared purposes of the corporation. If reasonable doubt exists as to whether a municipality can exercise a certain power, the doubt is, as a matter of law, resolved against the municipality.

- 1. City had no power to enter into lease whereby municipal property would be leased to a private individual for development as a hotel for private profit.⁴
- 2. City had no power to enact ordinance which made it unlawful for any person to possess, use, keep or store any submachine gun within the City of Jacksonville.⁵

II. The Home Rule Amendment

- A. The Home Rule Amendment/Municipal Home Rule Powers Act: Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct

¹ See, *State v. City of Avon Park*, 108 Fla. 641, 149 So. 409, *reh den* 117 Fla. 556, 151 So. 701, Mod. 117 Fla. 565, 158 So. 159 (1933).

² Art. VIII, Sec. 8, Fla. Const. (1885).

³ *Keggin v. Hillsborough County*, 71 Fla. 356, 71 So. 372 (1916); *City of Avon Park*, *Supra*, and *City of Clearwater v. Caldwell*, 75 So. 2d 765 (Fla. 1954).

⁴ *Caldwell*, *supra*.

⁵ *Rinzler v. Carson*, 262 So. 2d 661 (Fla. 1972).

municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law.⁶

B. Home Rule Powers: Every municipality in this state has the authority to conduct municipal government, or perform municipal functions, and render municipal services. The only limitation on that power is that it must be exercised for a valid "municipal purpose." It would follow that municipalities are not dependent upon the state legislature for further authorization. Legislative statutes are relevant only to determine limitations of authority.

1. City had the home rule authority to issue "double advance refunding bonds."⁷
2. City had the home rule authority to levy special assessments notwithstanding the fact the special assessments were not authorized by state law and the city failed to follow state law when levying the special assessments.⁸
3. City had the home rule authority to seek a total taking of property, rather than a partial taking of property, in order to eliminate a business damage claim notwithstanding the fact it did not need all of the property.⁹

III. Limitations on Home Rule Authority:

A. Municipalities may exercise any power for "municipal purposes," except when "expressly prohibited by law."¹⁰

B. Municipal Purpose: Any activity or power which may be exercised by the state or its political subdivisions. All activities essential to the health, morals, protection, and welfare of the community.¹¹

- I. Activities the courts have held serve a "municipal purpose."
 - a. Providing daycare educational facilities.¹²
 - b. Financing a convention center.¹³
 - c. Construction and operation of a marina and a civic auditorium.¹⁴
 - d. Construction and operation of a fishing pier.¹⁵

⁶ Art. VIII, Sec. 2(b), Fla. Const. (1968).

⁷ *State v. City of Sunrise*, 354 So. 2d 1208 (Fla. 1978).

⁸ *City of Boca Raton v. State*, 595 So. 2d 25 (Fla. 1992).

⁹ *City of Ocala v. Nye*, 608 So. 2d 15 (Fla. 1992).

¹⁰ Sec. 166.021(1), Fla. Stat.

¹¹ Sec. 166.021(2), Fla. Stat.; *State v. City of Jacksonville*, 50 So. 2d 532 (Fla. 1951).

¹² *City of Boca Raton v. Gidman*, 440 So. 2d 1277 (Fla. 1983).

¹³ *State v. City of Miami*, 379 So. 2d 651 (Fla. 1980).

¹⁴ *Panama City v. State*, 93 So. 2d 608 (Fla. 1957).

- e. Construction and operation of a parking garage.¹⁶
 - f. Ownership and operation of an auditorium.¹⁷
 - g. Maintenance and operation of a radio broadcasting system.¹⁸
 - h. Promoting the community.¹⁹
 - i. Acquisition and maintenance of a golf course.²⁰
 - j. Using public property for a sport stadium.²¹
 - k. Sale of souvenir photographs.²²
 - l. Furnishing catering services in a civic center.²³
2. Competition with Business Irrelevant: The fact the municipality competes with private business is not relevant to the question of whether the activity constitutes a municipal purpose.²⁴
 3. Activities that don't constitute a municipal purpose.
 - a. Borrowing money simply to reinvest the money and derive a profit on the investment.²⁵
 - b. Opting out of an otherwise valid county ordinance.²⁶
- C. Prohibited by Law: Florida law provides four fundamental limitations on the exercise of municipal home rule authority: the state legislature, the citizens of the municipality, the state constitution, and a county's charter.
1. The State Legislature

¹⁵ *Sunny Isles Fishing Pier v. Dade County*, 79 So. 2d 667 (Fla. 1955)

¹⁶ *Gate City Garage v. City of Jacksonville*, 66 So. 2d 653 (Fla. 1953)

¹⁷ *Starlight Corp. v. City of Miami Beach*, 57 So. 2d 6 (Fla. 1952)

¹⁸ *State v. City of Jacksonville*, 50 So. 2d 532 (Fla. 1951)

¹⁹ *City of Jacksonville v. Oldham*, 112 Fla. 502, 150 So. 619 (1933)

²⁰ *West v. Town of Lake Placid*, 97 Fla. 127, 120 So. 361 (1929)

²¹ *Rolling Oaks Homeowners Assoc. v. Dade County*, 492 So. 2d 686 (Fla. 3d DCA 1986)

²² *City of Winter Park v. Montesi*, 448 So. 2d 1242 (Fla. 5th DCA 1984)

²³ *Panama City v. Seven Seas Restaurant, Inc.*, 180 So. 2d 190 (Fla. 1st DCA 1965)

²⁴ See, *Montesi*, Supra; *Starlight Corp.*, Supra; *Gate City Garage*, Supra.

²⁵ *State v. City of Orlando*, 576 So. 2d 1315 (Fla. 1991)

²⁶ *City of Ormond Beach v. County of Volusia*, 535 So. 2d 302 (Fla. 5th DCA 1988)

- a. The power of the state legislature over municipal corporations in Florida is plenary. Therefore, city had no authority to pass an ordinance dissolving a utility authority created by special act of the legislature.²⁷
- b. Conflict/Preemption: Municipal ordinances must give way to state law to the extent the ordinance "conflicts with the law" and a municipality's power to regulate in a particular area may be "preempted by general law." The concept of conflict may be distinguished from the concept of preemption in that the latter effectively precludes all municipal regulation in a given area while the former permits regulation, but only to the extent it supplements state law.²⁸
- c. Preemption Doctrine: Preemption may be express or implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred. Express preemption of a field by the legislature must be accomplished by clear language stating that intent. In cases where the legislature expressly or specifically preempts an area, there is no problem with ascertaining what the legislature intended.²⁹

* * *

Preemption is implied when the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and where strong public policy reasons exist for finding such an area to be preempted by the legislature. Implied preemption is found where the state legislative scheme of regulation is pervasive and the local legislation would present the danger of conflict with that pervasive regulatory scheme. In determining if implied preemption applies, the court must look to the provisions of the whole law, and to its object and policy. The nature of the power exerted by the legislature, the object sought to be obtained by the statute at issue, and the character of the obligations imposed by the statute are all vital to this determination.³⁰

²⁷ *Lake Worth Utilities v. City of Lake Worth*, 468 So. 2d 215 (Fla. 1985).

²⁸ *City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006) and *Phantom of Brevard, Inc. v. Brevard County*, 3 So. 3d 309, 314 (Fla. 2008).

²⁹ *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880, 886 (Fla. 2010).

³⁰ *Id.*

1) The more a state legislative scheme regulating a particular topic permits local government to regulate aspects of the topic, the more likely the court will not imply preemption.³¹

2) The more the ordinance deals with a uniquely local issue, the more likely the courts will hold the ordinance is not impliedly preempted by state law.³²

d. Conflict: A conflict exists if the person must violate state law in order to comply with the municipal ordinance or violate the ordinance in order to comply with state law. No conflict exists if the person can satisfy both state law and the municipal ordinance.

The test of conflict between a local government enactment and state law is whether one must violate one provision in order to comply with the other.³³

1) Typically, a local ordinance will not conflict with a state law if the ordinance simply provides more stringent requirements than those contained in state law or provides additional requirements to those contained in state law.³⁴

2) Typically, a local ordinance will not conflict with state law where the local government simply chooses to legislate in an area where the legislature chose to remain silent.³⁵

3) The fact state law provides it is to be "applied uniformly throughout the state" doesn't automatically mean a local ordinance addressing the same topic conflicts with state law.³⁶

2. The Municipality's Citizens: A municipality's charter is like the state's constitution. It's the paramount governing instrument of the municipality and is the fundamental law of the citizens that are served by the municipality.

a. Charter Amendments: Florida law provides a process by which the citizens of a municipality may submit to the electors of the municipality a proposed amendment to its charter which amendment may place a limitation on the exercise of the municipality's home rule authority. Once approved by the electors, the amendment becomes a part of the municipality's charter and thus a part of the municipality's organic law.

³¹ *Sarasota Alliance for Fair Elections, Inc.*, *Supra*.

³² *Id.*

³³ *Id.* at 888.

³⁴ *Phantom of Brevard, Inc.*, *supra*; *Sarasota Alliance for Fair Elections, Inc.*, *supra*.

³⁵ *Mulligan, supra*; *Phantom of Brevard, Inc.*, *supra*.

³⁶ *Phantom of Brevard, Inc.*, *supra*.

Once the citizens of a municipality have spoken through their charter, the citizens are entitled to have the charter provision enforced.³⁷

Court upheld a charter provision that permitted citizens to initiate a referendum to repeal a zoning ordinance.³⁸

b. **State Law:** The citizens' power to use the charter amendment process to limit municipal home rule authority is limited in the same manner and to the same extent as the governing body's exercise of the municipality's home rule authority. A charter amendment that conflicts with state law will yield to the state law regardless of the fact the municipality's citizens voted in favor of the charter amendment.

1) Court held citizens' effort to use the initiative process contained in a city's charter to adopt an ordinance requiring binding arbitration in the city's collective bargaining process was invalid because it conflicted with the state's collective bargaining laws.³⁹

2) Court held citizens' effort to amend the city's charter to prohibit the Orlando Utilities Commission from constructing a coal-fire electric generating plant was invalid because it conflicted with state law establishing the Orlando Utilities Commission.⁴⁰

3. **The State Constitution:** Florida's Constitution places several fundamental limitations on the exercise of municipal home rule authority.

a. **Annexation:** The power to define the manner in which municipalities may annex unincorporated areas is vested with the state legislature.⁴¹

b. **Extra-Territorial Powers:** The power to define the manner in which municipalities may exercise extra-territorial powers is vested with the state legislature.⁴²

c. **Taxation:** A municipality may levy only those taxes authorized by general law of the state legislature.⁴³ Examples of taxes include public service taxes, business license taxes, local option sales taxes, and local option gas taxes.

³⁷ Sec. 166.031, Fla. Stat.; *Dade County Classroom Teachers Assn. v. The Legislature*, 269 So. 2d 681 (Fla. 1972).
³⁸ *Florida Land Company v. City of Winter Springs*, 427 So. 2d 170 (Fla. 1983).

³⁹ *West Palm Beach Assn of Firefighters v. City of West Palm Beach*, 448 So. 2d 1212 (Fla. 4th DCA 1984).

⁴⁰ *Gidnes v. City of Orlando*, 450 So. 2d 1174 (Fla. 5th DCA 1984).

⁴¹ Art. VIII, Sec. 2(c), Fla. Const. (1968).

⁴² *Id.*

⁴³ *City of Tampa v. Birdsong Motors*, 261 So. 2d 1, 3 (Fla. 1972) and *Belcher Oil Company v. Dade County*, 271 So. 2d 118, 122 (Fla. 1972).

d. Fees: "Fees" aren't "taxes;" therefore, municipalities can raise revenues through fees under the municipality's home rule authority. Examples of fees include impact fees, service fees, regulatory fees, franchise fees, and special assessments.

1) City has the home rule authority to levy impact fees.⁴⁴

Raising expansion capital by setting connection charges, which do not exceed a *pro rata* share of reasonably anticipated costs of expansion, is permissible where expansion is reasonably required, *if use of the money collected is limited to meeting the costs of expansion*. Users 'who benefit especially, not from the maintenance of the system, but by the extension of the system . . . should bear the cost of that extension.'⁴⁵

2) A municipality has the home rule authority to levy fees designed to offset the cost of providing services to its citizens.⁴⁶

Implicit in the power to provide municipal services is the power to construct, maintain and operate the necessary facilities. The fixing of fair and reasonable rates for utility service provided is an incident of the authority given by the Constitution and statutes to provide and maintain those services.⁴⁷

In fact, nothing prohibits a city from deriving a modest profit from the operation of its utilities.⁴⁸

3) Cities have the home rule authority to levy fees designed to offset the cost of regulating activities undertaken within the municipality.⁴⁹

It is, of course, well settled that the power to regulate includes the power to license *as a means of regulating*, and that a reasonable license fee may be charged in an amount sufficient to bear 'the expense of issuing the license and the cost of necessary inspection or police surveillance connected with the business or calling

⁴⁴ *Contractors and Builders Assn v. City of Duneedin*, 329 So. 2d 314 (Fla. 1976).

⁴⁵ *Id.* at 320. (emphasis in original)

⁴⁶ *Cooksey v. Utilities Commission*, 261 So. 2d 129 (Fla. 1972).

⁴⁷ *Id.* at 130.

⁴⁸ *Pinellas Apartment Assn v. City of St. Petersburg*, 294 So. 2d 776 (Fla. 2d DCA 1974).

⁴⁹ *Tamiami Trail Tours, Inc. v. City of Orlando*, 120 So. 2d 170 (Fla. 1960).

license, and all the incidental expenses that are likely to be imposed upon the public in consequence of the business licensed.⁵⁰

- 4) A city has the home rule authority to levy special assessments.⁵¹

[A special assessment] is imposed upon the theory that that portion of the community which is required to bear it receives some special or peculiar benefit in the enhancement of value of the property against which it is imposed as a result of the improvement made with the proceeds of the special assessment. It is limited to the property benefited, it is not governed by uniformity and may be determined legislatively or judicially. . . . There are two requirements for the imposition of a valid special assessment. First, the property assessed must derive a special benefit from the service provided. Second, the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.⁵²

[S]ervices such as general law enforcement activities, the provision of courts, and indigent health care are . . . functions required for an organized society. However, unlike fire protection services, those services provide no direct, special benefit to real property. Thus, such services cannot be the subject of a special assessment.⁵³

Although a special assessment is typically imposed for a specific purpose designed to benefit a specific area or class of property owners, this does not mean that the cost of services can never be levied throughout a community as a whole. Rather, the validity of a special assessment turns on the benefits received by the recipients of the services and the appropriate apportionment of the cost thereof. This is true regardless of whether the recipients of the benefits are spread throughout an entire community or are merely located in a limited, specified area within the community.⁵⁴

⁵⁰ *Id.* at 172.

⁵¹ *City of Boca Raton v. State*, 595 So. 2d 25 (Fla. 1992).

⁵² *Id.* at 29.

⁵³ *Lake Co. v. Walter Oak Management Corp.*, 695 So. 2d 667, 670 (Fla. 1997).

⁵⁴ *Sarasota Co. v. Sarasota Church of Christ, Inc.*, 667 So. 2d 180, 183 (Fla. 1996).

5) A city has the home rule authority to impose franchise fees.⁵⁵

A franchise fee is a bargained for fee charged a private company for the privilege of using the city's rights-of-way. The franchise fee consists of three main components: it is fair rent for the use of the city's rights-of-way to derive a private profit; it is consideration for the city to agree not to compete with the private party during the term of the franchise agreement; and it is a fee paid the city to offset the costs incurred by the city as a result of the private party's disparate or exclusive use of public property.⁵⁶

e. Fee v. Tax: The amount of a "fee" must have some rational relationship to the cost of the service, or the cost of regulation, or the benefit derived by the payment. In other words, the payer receives a *quid pro quo* for the payment. A "tax" on the other hand is a forced extraction for the general benefit of the public. There is no *quid pro quo*; that is, the payer doesn't always derive a benefit from the payment.

[Fees] are charged in exchange for a particular governmental service which benefits the party paying the fee in a manner not shared by other members of society. . . . [Taxes] are an enforced burden imposed by sovereign right for the support of the government, the administration of law, and the exercise of various functions the sovereign is called on to perform.⁵⁷

[A] legally imposed special assessment is not a tax. Taxes and special assessments are distinguishable in that, while both are mandatory, there is no requirement that taxes provide any specific benefit to the property; instead, they may be levied throughout the particular taxing unit for the general benefit of residents and property. On the other hand, special assessments must confer a specific benefit upon the land burdened by the assessment.⁵⁸

4. County Charters: There are two fundamental forms of county government: non-charter counties and charter counties. The ordinances of a non-charter county apply within the municipalities located in the county except to the extent the county ordinance conflicts with one or more municipal ordinances. In charter

⁵⁵ *Santa Rosa County v. Gulf Power Company*, 635 So. 2d 96 (Fla. 1st DCA 1994).

⁵⁶ *City of Plant City v. Mayo*, 337 So. 2d 966 (Fla. 1976); *City of Hialeah Gardens v. Dade County*, 348 So. 2d 1174 (Fla. 3d DCA 1977); *Santa Rosa County v. Gulf Power Co.*, 635 So. 2d 96 (Fla. 1st DCA 1994), *rev. denied*, 645 So. 2d 452 (Fla. 1994); *Flores v. City of Miami*, 681 So. 2d 803 (Fla. 3d DCA 1996).

⁵⁷ *State v. City of Port Orange*, 650 So. 2d 1, 3 (Fla. 1994).

⁵⁸ *Cudler Co. v. State*, 733 So.2d 1012, 1017 (Fla. 1999).

counties, the county's charter must provide which ordinance will prevail in the event of conflict between county and municipal ordinances.⁵⁹

- a. County Charter Amendments: Florida law requires a county's charter provide a method for submitting future charter amendments to the electors of the county. Under this procedure, the electors of a charter county can amend the county charter to preempt a municipality from exercising its home rule authority.
- b. Regulations: A charter county may preempt a municipal regulatory power simply with an affirmative countywide vote of the electors.⁶⁰
- c. Services: A charter county can't preempt the authority of a municipality to provide services within the municipality without an affirmative vote of the electors of the municipality.⁶¹

IV. Advantages of Municipal Home Rule

- A. It leaves each community free to exercise its police powers in the manner best suited to the needs and conveniences of its citizens.
- B. With full responsibility resting upon the citizens, they have an opportunity to become educated in the principles and methods of municipal government and to develop common interests in community affairs.
- C. Unhampered local control permits prompt action in dealing with fresh municipal problems as they arise.
- D. It relieves the state legislature of the details of local government so it can concentrate on the pressing affairs of state.

⁵⁹ Art. VIII, Sec. 1(f) and (g), Fla. Const. (1968).

⁶⁰ *Broward County v. City of Fort Lauderdale*, 480 So. 2d 631 (Fla. 1985) (sale of handguns).

⁶¹ *Sarasota County v. Town of Longboat Key*, 355 So. 2d 1197 (Fla. 1988) (air and water pollution control services and functions, parks and recreation, roads and bridges, planning and zoning, and law enforcement).



NOWLEN, HOLT & MINER, P.A.

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June 14, 2021

The Honorable Mayor and Members of the Town Council
Town of Ocean Breeze, Florida

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We have audited the financial statements of the governmental activities, each major fund and the aggregate remaining fund information of the Town of Ocean Breeze, Florida (the "Town") for the year ended September 30, 2020. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards and *Government Auditing Standards*, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated March 8, 2021. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Findings

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Town of Ocean Breeze, Florida are described in Note 1 to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during 2020. We noted no transactions entered into by the Town of Ocean Breeze, Florida during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimates affecting the financial statements were:

- Management's estimate of depreciation expense which is based on the estimated useful lives using the straight-line method. We evaluated the key factors and assumptions used to develop the useful lives in determining that they are reasonable in relation to the financial statements taken as a whole.

Other Matters

We applied certain limited procedures to management's discussion and analysis which is required supplementary information (RSI) that supplements the basic financial statements. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI.

Restriction on Use

This information is intended solely for the information and use of the Town Council and management of the Town of Ocean Breeze, Florida, and is not intended to be and should not be used by anyone other than these specified parties.

Nowlen, Holt & Miner, P.A.

Very truly yours,
Nowlen, Holt & Miner, P.A.

Client: OCEAN BREEZE
Report: Journal Entry

Account	Description	Debit	Credit	Net Income Effect
AJE01				
ENTRY TO RECLASSIFY TRANSFER IN FROM SRF FUND				
001-275-210	Restricted Gas Tax	80,208.04	0.00	
001-381-000	Transfers In	0.00	80,208.04	
Total		80,208.04	80,208.04	80,208.04
AJE02				
ENTRY TO RECLASSIFY GRANT REVENUE				
001-322-004	Charges for Services	5,550.00	0.00	
001-322-004	Charges for Services	5,415.00	0.00	
001-361-100	Government Grants	0.00	5,550.00	
001-361-100	Government Grants	0.00	5,415.00	
Total		10,965.00	10,965.00	0.00
GRAND TOTAL		91,173.04	91,173.04	80,208.04

ALG-CX-12.2: Audit Difference Evaluation Form

Index

Governmental Unit:

Town of Ocean Breeze

Financial Statement Date:

9/30/2020

Completed by:

Date:

Opinion Unit:

General Fund

A Listing of Known Audit Differences Over \$400

Instructions: This form may be used to accumulate audit differences (AD) that are not considered trivial in amount or nature (documented at Step 5 of ALG-CX-2.1). This form should not include normal closing entries. At the end of the audit, evaluate all uncorrected audit differences, individually and in the aggregate, in the context of individual opinion units and conclude on whether they materially misstate the financial statements of an opinion unit taken as a whole. This form also provides a space to document any misstatements of disclosures (including quantitative and qualitative misstatements) that are considered when evaluating misstatements in aggregate. Before evaluating the effect of uncorrected misstatements, reassess whether materiality is still appropriate based on the entity's actual financial results. The notes following the table provide explanations and a listing of qualitative considerations in evaluating materiality. The form allows for quantifying the effect of misstatements, using both the rollover and iron curtain methods, as appropriate. You need to be familiar with the guidance in section 1010 before completing this form.

				Financial Statement Effect—Amount of Over- (Under-) statement of:						Change in
Description (Nature) of Audit Difference (AD)	Factual (F), Judgmental (J), or Projected (P)	Cause	W/P Ref.	Total Assets	Total Liabilities	Working Cap.	Fund Balance/Net Position	Revenues	Expen.	Fund Balance/ Net Position
Unavailable Revenue vs Revenue	F	Cash receipt for charge for service received after availability period (60 days) & recorded as revenue instead of unavailable revenue	GF C. 1		-7,852		7,852	7,852		7,852
Total				0	-7,852	0	7,852	7,852	0	7,852
Less audit adjustments subsequently booked										
Net unadjusted AD—current year (iron curtain method)				0	-7,852	0	7,852	7,852	0	7,852
Effect of unadjusted AD—prior years				0	-7,852	0	7,852	7,852	0	7,852
Combined current year and prior year AD (rollover method)				522,834	11,008	0.00%	511,826	444,815	283,967	160,848
Financial statement caption totals				0.00%	-71.33%	0.00%	1.53%	1.77%	0.00%	4.88%
Current year AD as % of F/S captions (iron curtain method)				0.00%	-71.33%	0.00%	1.53%	1.77%	0.00%	4.88%
Current and prior year AD as % of F/S captions (rollover method)										

Qualitative Factors: Describe qualitative factors that entered into your evaluation of whether uncorrected accumulated misstatements are material, individually or in the aggregate, in relation to specific accounts and disclosures and to the opinion unit financial statements as a whole, and the reasons why.

There were no qualitative factors that would cause the uncorrected misstatement listed above to be material.

Misstatements of Disclosures: Accumulate and describe any misstatements of disclosures, including qualitative and quantitative disclosures, that entered into your evaluation of whether uncorrected accumulated misstatements are material, individually or in the aggregate, in relation to specific accounts and disclosures and to the opinion on unit financial statements as a whole.

There were no misstatement of disclosures that would cause the uncorrected misstatement listed above to be material.

Conclusion: Based on the results of the evaluation performed above, as well as the consideration of qualitative factors and misstatements by nature or circumstances, we do not cause the financial statements of opinion unit taken as a whole to be materially misstated.



Town of Ocean Breeze

June 04, 2021

Nowlen, Holt & Miner, P.A.
Certified Public Accountants
515 North Flagler Drive, Suite 1700
West Palm Beach, FL 33401

This representation letter is provided in connection with your audit of the financial statements of the Town of Ocean Breeze, Florida, which comprise the respective financial position of the governmental activities, each major fund, and the aggregate remaining fund information as of September 30, 2020, and the respective changes in financial position for the year then ended, and the disclosures (collectively, the "financial statements"), for the purpose of expressing opinions as to whether the financial statements are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP).

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement. An omission or misstatement that is monetarily small in amount could be considered material as a result of qualitative factors.

We confirm, to the best of our knowledge and belief, as of June 04, 2021, the following representations made to you during your audit.

Financial Statements

- 1) We have fulfilled our responsibilities, as set out in the terms of the audit engagement letter dated March 8, 2021, including our responsibility for the preparation and fair presentation of the financial statements in accordance with U.S. GAAP and for preparation of the supplementary information in accordance with the applicable criteria.
- 2) The financial statements referred to above are fairly presented in conformity with U.S. GAAP and include all properly classified funds and other financial information of the primary government and all component units required by generally accepted accounting principles to be included in the financial reporting entity.
- 3) We acknowledge our responsibility for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.
- 4) We acknowledge our responsibility for the design, implementation, and maintenance of internal control to prevent and detect fraud.
- 5) Significant assumptions we used in making accounting estimates, including those measured at fair value, are reasonable.

- 18) We have no knowledge of instances of noncompliance or suspected noncompliance with provisions of laws, regulations, contracts, or grant agreements, or waste or abuse, whose effects should be considered when preparing financial statements.
- 19) We have disclosed to you all known actual or possible litigation, claims, and assessments whose effects should be considered when preparing the financial statements.
- 20) We have disclosed to you the names of the Town of Ocean Breeze, Florida's related parties and all the related party relationships and transactions, including any side agreements.

Government-specific

- 21) There have been no communications from regulatory agencies concerning noncompliance with, or deficiencies in, financial reporting practices.
- 22) We have identified to you any previous audits, attestation engagements, and other studies related to the audit objectives and whether related recommendations have been implemented.
- 23) The Town of Ocean Breeze, Florida has no plans or intentions that may materially affect the carrying value or classification of assets, deferred outflows of resources, liabilities, deferred inflows of resources, and fund balance or net position.
- 24) We are responsible for compliance with the laws, regulations, and provisions of contracts and grant agreements applicable to us, including tax or debt limits and debt contracts, and legal and contractual provisions for reporting specific activities in separate funds.
- 25) There are no violations or possible violations of budget ordinances, laws and regulations (including those pertaining to adopting, approving, and amending budgets), provisions of contracts and grant agreements, tax or debt limits, and any related debt covenants whose effects should be considered for disclosure in the financial statements, or as a basis for recording a loss contingency, or for reporting on noncompliance.
- 26) As part of your audit, you assisted with preparation of the financial statements, disclosures, and preparation of the Annual Financial Report to be filed with the Florida Department of Financial Services. We acknowledge our responsibility as it relates to those nonaudit services, including that we assume all management responsibilities; oversee the services by designating an individual, preferably within senior management, who possesses suitable skill, knowledge, or experience; evaluate the adequacy and results of the services performed; and accept responsibility for the results of the services. We have reviewed, approved, and accepted responsibility for those financial statements, disclosures, and the Annual Financial Report to be filed with the Florida Department of Financial Services.
- 27) In order to provide oversight of the financial statement preparation services provided by you at an appropriate level, we have established effective review policies and procedures including the performance of the following functions:
 - a) Reconcile general ledger amounts to the draft statements utilizing grouping schedules provided by you.
 - b) Review all supporting documentation and explanations for journal entries you proposed and approve the entries.
- 28) Review and approve schedules and calculations supporting amounts included in the notes to the financial statements.
- 29) The Town of Ocean Breeze, Florida has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets nor has any asset been pledged as collateral.

47) During the fiscal year ended September 30, 2020, the Town has not met any of the following financial emergency conditions specified in Section 218.503(1), Florida Statutes:

- a) Failure within the same fiscal year in which due to pay short-term loans or failure to make bond debt service or other long-term debt payments when due, as a result of a lack of funds.
- b) Failure to pay uncontested claims from creditors within 90 days after the claim is presented, as a result of a lack of funds.
- c) Failure to transfer at the appropriate time, due to lack of funds:
 - 1. Taxes withheld on the income of employees; or
 - 2. Employer and employee contributions for:
 - i. Federal social security; or
 - ii. Any pension, retirement, or benefit plan of an employee.
- d) Failure for one pay period to pay, due to lack of funds:
 - 1. Wages and salaries owed to employees; or
 - 2. Retirement benefits owed to former employees.

48) During the fiscal year ended September 30, 2020 the Town expended less than \$750,000 in federal awards and less than \$750,000 in state financial assistance, and the Town is not required to have a Federal Single Audit or a State Single Audit.

49) We understand that it is management's responsibility to monitor the Town's financial condition, and that your financial condition assessment was based in part on representations made by management and the review of financial information provided by management.


Karen M. Ostrand
Mayor


Pamela Orr
Town Clerk

TOWN OF OCEAN BREEZE, FLORIDA

FINANCIAL STATEMENTS WITH INDEPENDENT AUDITOR'S REPORT THEREON

FISCAL YEAR ENDED SEPTEMBER 30, 2020

TOWN OF OCEAN BREEZE, FLORIDA
SEPTEMBER 30, 2020

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NOWLEN, HOLT & MINER, P.A.

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WEI PAN, CPA
WILLIAM C. KISKER, CPA
RICHARD E. BOTTS, CPA

INDEPENDENT AUDITOR'S REPORT

The Honorable Mayor and Members of the Town Council
Town of Ocean Breeze, Florida
Jensen Beach, Florida

BELLE GLADE OFFICE
333 S.E. 2nd STREET
POST OFFICE BOX 338
BELLE GLADE, FLORIDA 33430-0338
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Report on the Financial Statements

We have audited the accompanying financial statements of the governmental activities, each major fund, and the aggregate remaining fund information of the Town of Ocean Breeze, Florida as of and for the year ended September 30, 2020, and the related notes to the financial statements, which collectively comprise the Town of Ocean Breeze, Florida's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, each major fund, and the aggregate remaining fund information of the Town of Ocean Breeze, Florida as of September 30, 2020, and the respective changes in financial position and the budgetary comparison for the General Fund for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the Management's Discussion and Analysis on pages 3 through 6 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated June 4, 2021, on our consideration of the Town of Ocean Breeze, Florida's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing and not to provide an opinion on the effectiveness of the Town of Ocean Breeze, Florida's internal control over financial reporting or on compliance.

That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Town of Ocean Breeze, Florida's internal control over financial reporting and compliance.

Nowlen, Helt & Mimes, P.A.

West Palm Beach, Florida
June 4, 2021

Town of Ocean Breeze, Florida
Management's Discussion and Analysis
September 30, 2020

As management of the Town of Ocean Breeze, Florida (Town), we offer readers of the Town's financial statements this narrative overview and analysis of the financial activities of the Town for the fiscal year ended September 30, 2020. The information contained in the Management's Discussion and Analysis is intended to highlight significant transactions, events and conditions and should be considered in conjunction with the Basic Financial Statements.

Financial Highlights

- The assets of the Town exceeded its liabilities at September 30, 2020 by \$530,387 (net position). Of this amount, \$388,276 (unrestricted net position) may be used to meet the Town's ongoing obligations.
- The Town's operations increased net position by \$79,593.
- Governmental fund balances increased by \$80,640 or 18.7 percent.

Overview of the Financial Statements

This discussion and analysis is intended to serve as an introduction to the basic financial statements. The basic financial statements are comprised of three components: (1) government-wide financial statements, (2) fund financial statements, and (3) notes to the financial statements.

Government-wide financial statements. The government-wide financial statements are designed to provide readers with a broad overview of the Town, in a manner similar to a private-sector business. The statement of net position presents information on all of the Town's assets and liabilities, with the difference between the two reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the Town is improving or deteriorating. The statement of activities presents information showing how the government's net position changed during the most recent fiscal year. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods.

Fund financial statements. A fund is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. The Town, like other state and local governments, uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. The fund financial statements consist of the balance sheet of the governmental funds as well as the statement of revenues, expenditures and changes in fund balance of the governmental funds. The Town consolidated the two governmental funds, the General Fund and Special Revenue Fund, into the General Fund. The governmental fund financial statements focus on near term inflows and outflows of spendable resources, as well as on balances of spendable resources available at the end of the fiscal year. Such information may be useful in evaluating a government's near term financing requirements.

Notes to the financial statements. The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements.

Town of Ocean Breeze
Statement of Net Position – Governmental Activities
September 30, 2020 and 2019

	<u>2020</u>	<u>2019</u>
ASSETS		
Current and other assets	\$ 522,834	\$ 441,057
Capital assets	<u>18,561</u>	<u>19,608</u>
Total assets	<u>541,395</u>	<u>460,665</u>
LIABILITIES		
Current liabilities	<u>11,008</u>	<u>9,871</u>
NET POSITION		
Invested in capital assets	18,561	19,608
Restricted	123,550	80,208
Unrestricted	<u>388,276</u>	<u>350,978</u>
	<u>\$ 530,387</u>	<u>\$ 450,794</u>

Town of Ocean Breeze
Changes in Net Position – Governmental Activities
September 30, 2020 and 2019

	<u>2020</u>	<u>2019</u>
REVENUES:		
Program revenues		
Charges for services	\$ 132,524	\$ 190,485
Operating grants and contributions	10,965	95,980
General revenues		
Property taxes	169,353	183,987
Other general revenue	50,909	35,261
Investment earnings	<u>856</u>	<u>1,594</u>
Total revenues	<u>364,607</u>	<u>507,307</u>
EXPENSES:		
Program expenses		
General government	240,177	271,304
Public safety	37,849	99,128
Physical environment	-	32,121
Transportation	<u>6,988</u>	<u>1,444</u>
Total expenses	<u>285,014</u>	<u>403,997</u>
Decrease in net position	79,593	103,310
Net position, beginning	<u>450,794</u>	<u>347,484</u>
Net position, ending	<u>\$ 530,387</u>	<u>\$ 450,794</u>

Governmental Activities

The Town's net position increased by \$79,593 for 2020. Total revenues decreased by \$142,700 while expenses decreased by \$118,983 from the prior year which is mainly attributed to the following:

- \$85,015 decrease in operating grants and contributions.
- \$61,279 decrease in public safety expenses.
- \$32,121 decrease in physical environment expenses.
- There was \$14,634 decrease in property tax revenue.
- Charges for services decreased by \$57,961 or 30.4 percent.

Governmental Funds

The purpose of the Town's governmental fund financial statements is to provide information on near-term inflows, outflows, and balances of spendable resources. At September 30, 2020, the Town's Governmental Funds reported ending fund balance of \$511,826, which was a \$80,640 increase in comparison to the prior year. Of this amount, \$312,846 or 61 percent is unassigned fund balance, which is available for spending at the government's discretion. The remainder of fund balance is non-spendable (\$12,178) or restricted or assigned for specific purposes (\$186,802).

Budgetary Highlights

There Gas Tax Special Revenue Fund was consolidated into the General Fund. This was the change from the original budget and the final budget. The General Fund exceeded budget expectations by \$85,000. The General Fund expenditures were below appropriations by \$58,848 while revenue exceed expectations by \$26,152.

Capital Assets and Debt

Capital assets. The Town's investment in capital assets for its governmental activities at September 30, 2020, amounts to \$18,561 (net of accumulated depreciation).

Town of Ocean Breeze
Capital Assets
(net of depreciation)

	<u>2020</u>	<u>2019</u>
Improvements and equipment	\$ 18,561	\$ 19,608
Total capital assets	<u>\$ 18,561</u>	<u>\$ 19,608</u>

Debt. The Town has no debt outstanding at September 30, 2020.

Economic Factors and Next Year's Budgets and Rates

For fiscal year 2021, the Town Council adopted a General Fund budget of \$348,010 representing a \$5,195 increase from the final budget for fiscal year 2020.

The Town will see an increase in the property tax base as the Ocean Breeze West homes are completed. Property taxes represent approximately 49 percent of the 2021 budgeted operating revenues of the Town. The balance of revenues comes from intergovernmental revenues and licenses and permits.

Requests for Information

This financial report is designed to provide a general overview of the Town's finances and to demonstrate the Town's accountability. Questions concerning information provided in this report or requests for additional financial information should be directed to the Town Clerk at the Town of Ocean Breeze, Florida, PO Box 1025, Jensen Beach, Florida 34958 or telephone (772) 334-6826.

TOWN OF OCEAN BREEZE, FLORIDA

Statement of Net Position

September 30, 2020

	<u>Governmental Activities</u>
ASSETS	
Current assets	
Cash and equivalents	\$ 488,875
Accounts receivable	7,965
Due from other governments	13,816
Prepays	11,228
Total Current Assets	<u>521,884</u>
Noncurrent assets	
Deposits	950
Capital assets	
Improvements and equipment	28,023
Accumulated depreciation	(9,462)
Total noncurrent assets	<u>19,511</u>
Total assets	<u>541,395</u>
LIABILITIES	
Current liabilities	
Accounts payable	2,219
Accrued liabilities	4,862
Due to other governments	3,927
Total liabilities	<u>11,008</u>
NET POSITION	
Net investment in capital assets	18,561
Restricted for transportation	82,713
Restricted for permits	40,837
Unrestricted	388,276
Total net position	<u><u>\$ 530,387</u></u>

See notes to the financial statements

TOWN OF OCEAN BREEZE, FLORIDA
Statement of Activities
For the Year Ended September 30, 2020

Function / Program Activities	Program Revenues				Net (Expense) Revenue and Changes in Net Position
	Expenses	Charges For Services	Operating Grants and Contributions	Capital Grants and Contributions	Total Governmental Activities
Governmental activities					
General government	\$ 240,177	\$ 132,124	\$ 10,965	\$	\$ (97,088)
Public safety	37,849	400			(37,449)
Physical environment					
Transportation	6,988				(6,988)
Total governmental activities	285,014	132,524	10,965		(141,525)
General revenues					
Ad valorem taxes					169,353
Communications services taxes					5,275
State revenue sharing					14,196
Mobile home tags					2,151
1/2 Cent sales tax					19,148
Fuel taxes					4,154
Local option taxes					5,985
Investment earnings - unrestricted					856
Total general revenues					221,118
Change in net position					79,593
Net position, beginning of year					450,794
Net position, end of year					\$ 530,387

See notes to the financial statements

TOWN OF OCEAN BREEZE, FLORIDA

Balance Sheet

Governmental Funds

September 30, 2020

	General Fund	Non-Major Governmental Fund	Total Governmental Funds
ASSETS			
Cash and cash equivalents	\$ 488,875	\$	\$ 488,875
Accounts receivable	7,965		7,965
Due from other governments	13,816		13,816
Prepaid expenses	11,228		11,228
Deposits	950		950
Total assets	<u>\$ 522,834</u>	<u>\$</u>	<u>\$ 522,834</u>
LIABILITIES			
Accounts payable	\$ 2,219	\$	\$ 2,219
Accrued liabilities	4,862		4,862
Due to other governments	3,927		3,927
Total liabilities	<u>11,008</u>	<u></u>	<u>11,008</u>
FUND BALANCES			
Nonspendable	12,178		12,178
Restricted for transportation	82,713		82,713
Restricted for permits	40,837		40,837
Assigned to subsequent year's budget	63,252		63,252
Unassigned	312,846		312,846
Total fund balances	<u>511,826</u>	<u></u>	<u>511,826</u>
Total liabilities and fund balances	<u>\$ 522,834</u>	<u>\$</u>	<u>\$ 522,834</u>

See notes to the financial statements

TOWN OF OCEAN BREEZE, FLORIDA
Reconciliation of the Balance Sheet – Governmental Funds
to the Statement of Net Position
September 30, 2020

Fund balances total governmental funds	\$ 511,826
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Amounts reported for governmental activities in the statement of net position are different because:

Capital assets used in governmental activities are not financial resources and therefore are not reported in the governmental funds.

Governmental capital assets	\$ 28,023	
Less accumulated depreciation	<u>(9,462)</u>	<u>18,561</u>
Net position of governmental activities		<u><u>\$ 530,387</u></u>

See notes to the financial statements

TOWN OF OCEAN BREEZE, FLORIDA
Statement of Revenues, Expenditures, and Changes in Fund Balances
Governmental Funds
For the Year Ended September 30, 2020

	General Fund	Non-Major Governmental Fund	Total Governmental Funds
REVENUES			
Ad valorem taxes	\$ 169,353	\$	\$ 169,353
Licenses and permits	109,198		109,198
Intergovernmental revenues	53,063		53,063
Charges for services	21,172		21,172
Government grants	10,965		10,965
Private contributions			
Investment Earnings	856		856
Total revenues	<u>364,607</u>		<u>364,607</u>
EXPENDITURES			
Current			
General government	236,931		236,931
Public safety	37,849		37,849
Physical environment			
Transportation	6,988		6,988
Capital outlay	2,199		2,199
Total expenditures	<u>283,967</u>		<u>283,967</u>
Excess (deficiency) of revenues over (under) expenditures	<u>80,640</u>		<u>80,640</u>
Other financing sources (uses)			
Transfers in	80,208		80,208
Transfers out		(80,208)	(80,208)
Total other financing sources (uses)	<u>80,208</u>	<u>(80,208)</u>	
Net change in fund balances	160,848	(80,208)	80,640
Fund balances, beginning of year	<u>350,978</u>	<u>80,208</u>	<u>431,186</u>
Fund balances, end of year	<u>\$ 511,826</u>	<u>\$</u>	<u>\$ 511,826</u>

See notes to the financial statements

TOWN OF OCEAN BREEZE, FLORIDA
Reconciliation of the Statement of Revenues, Expenditures, and Changes in Fund
Balances of the Governmental Funds to the Statement of Activities
For the Year Ended September 30, 2020

Net change in fund balances - total governmental funds	\$	80,640
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Amounts reported for governmental activities in the statement of activities are different because:

Governmental funds report capital outlays as expenditures. However, in the statement of activities, the cost of capital assets is allocated over their estimated useful lives and reported as depreciation expense.

Expenditures for capital assets	\$	2,199	
Less: current year depreciation		<u>(3,246)</u>	(1,047)
Change in net position			<u><u>\$ 79,593</u></u>

See notes to the financial statements

TOWN OF OCEAN BREEZE, FLORIDA
Statement of Revenues, Expenditures, and Changes in Fund Balance-Budget and Actual
General Fund
For the Year Ended September 30, 2020

	Original Adopted Budget	Final Revised Budget	Actual	Variance With Final Budget Positive (Negative)
Revenues				
Ad valorem taxes	\$ 167,755	\$ 167,755	\$ 169,353	\$ 1,598
Licenses and permits	111,350	111,350	109,198	(2,152)
Intergovernmental revenues	38,350	48,350	53,063	4,713
Charges for services	10,000	10,000	21,172	11,172
Government Grants			10,965	10,965
Investment Earnings	1,000	1,000	856	(144)
Total revenues	<u>328,455</u>	<u>338,455</u>	<u>364,607</u>	<u>26,152</u>
Expenditures				
Current				
General Government	274,915	274,915	236,931	37,984
Public Safety	51,200	51,200	37,849	13,351
Transportation		10,700	6,988	3,712
Capital Outlay	6,000	6,000	2,199	3,801
Total expenditures	<u>332,115</u>	<u>342,815</u>	<u>283,967</u>	<u>58,848</u>
Excess (deficiency) of revenues over (under) expenditures	<u>(3,660)</u>	<u>(4,360)</u>	<u>80,640</u>	<u>85,000</u>
Other financing sources (uses)				
Transfers in			80,208	80,208
Net change in fund balances	<u>\$ (3,660)</u>	<u>\$ (4,360)</u>	160,848	<u>\$ 165,208</u>
Fund balance, beginning of year			<u>350,978</u>	
Fund balance, end of year			<u>\$ 511,826</u>	

See notes to the financial statements

TOWN OF OCEAN BREEZE, FLORIDA
Notes to the Financial Statements
September 30, 2020

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The financial statements of the Town of Ocean Breeze, Florida (the “Town”) have been prepared in conformity with generally accepted accounting principles (GAAP) as applied to government units. The Governmental Accounting Standards Board (GASB) is the accepted standard setting body for establishing governmental accounting and financial reporting principles. The Town’s significant accounting policies are described below.

Reporting Entity

The Town of Ocean Breeze, Florida is a municipal corporation organized in 1960 under the authority of Chapter 165, Florida Statutes. The town has a mayor-council form of government and operates under a charter that was amended in 1991. The fiscal year of the Town is from October 1 to September 30, as established pursuant to section 166.241(2), Florida Statutes. The governing body of the Town is the Town Council which is comprised of a maximum of six council members elected at large.

As required by generally accepted accounting principles, these financial statements include the Town (the primary government) and its component units. Component units are legally separate entities for which the Town is financially accountable. The Town is financially accountable if:

- a) the Town appoints a voting majority of the organization’s governing board and (1) the Town is able to impose its will on the organization or (2) there is a potential for the organization to provide specific financial benefits to or impose specific financial burdens on the Town, or
- b) the organization is fiscally dependent on the Town and (1) there is a potential for the organization to provide specific financial benefits to the Town or (2) impose specific financial burdens on the Town.

Organizations for which the Town is not financially accountable are also included when doing so is necessary in order to prevent the Town’s financial statements from being misleading.

Based upon application of the above criteria, management of the Town has determined that no component units exist which would require inclusion in this report. Further, the Town is not aware of any entity that would consider the Town to be a component unit.

TOWN OF OCEAN BREEZE, FLORIDA
Notes to the Financial Statements
September 30, 2020

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Government-wide Financial Statements

The government-wide financial statements (i.e., the statement of net position and the statement of activities) report information on all the non-fiduciary activities of the primary government. For the most part, the effect of interfund activity has been removed from these statements. Governmental activities, which normally are supported by taxes and intergovernmental revenues, are reported separately from business-type activities, which rely on fees and charges for support. The Town does not have any business-type activities.

The statement of activities demonstrates the degree to which the direct expenses of a given function are offset by program revenues. Direct expenses are those that are clearly identifiable with a specific function. Program revenues include 1) charges to customers or applicants who purchase, use, or directly benefit from goods, services, or privileges provided by a given function and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function. Taxes and other items not included among program revenues are reported instead as general revenues.

Fund Financial Statements

The underlying accounting system of the Town is organized and operated on the basis of separate funds, each of which is considered to be a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, deferred outflows of resources, liabilities, deferred inflows of resources, fund equity, revenue and expenditures or expenses, as appropriate. Governmental resources are allocated to and accounted for in individual funds based upon the purposes for which they are to be spent and the means by which spending activities are controlled.

Fund financial statements are provided for governmental funds. Governmental Fund Financial Statements include a Balance Sheet and a Statement of Revenue, Expenditures and Changes in Fund Balance. The Town has no fund types other than governmental funds. Major individual governmental funds are reported in separate columns in the fund financial statements.

The Town reports the General Fund as a major governmental fund. The General Fund is the general operating fund of the Town. It is used to account for all financial resources except those required to be accounted for in another fund.

The Town reports the Special Revenue Fund as a nonmajor governmental fund. The Special Revenue Fund was closed in fiscal year 2020.

When both restricted and unrestricted resources are available for use, it is the Town's policy to use restricted resources first, then unrestricted resources as needed.

TOWN OF OCEAN BREEZE, FLORIDA
Notes to the Financial Statements
September 30, 2020

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Measurement Focus and Basis of Accounting

The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses recorded when a liability is incurred, regardless of the timing of related cash flows. The Town does not accrue property tax revenues since the collection of these taxes coincides with the fiscal year in which levied, and since the Town consistently has no material uncollected property taxes at year end. Grants and similar items are recognized as revenue as soon as all eligibility requirements imposed by the provider have been met. Amounts paid to acquire capital assets are capitalized as assets, rather than reported as capital expenditures.

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough afterwards to pay liabilities of the current period. The Town considers revenues collected within 60 days of the year end to be available to pay liabilities of the current period. Expenditures are generally recorded when a liability is incurred, as under accrual accounting.

Under the current financial resources measurement focus, only current assets and current liabilities are generally included on the balance sheet. The reported fund balance is considered to be a measure of "available spendable resources". Governmental fund operating statements present increases (revenues and other financing sources) and decreases (expenditures and other financing uses) in net current assets. Accordingly, they are said to present a summary of sources and uses of "available spendable resources" during a period.

Because of their spending measurement focus, expenditure recognition for governmental fund types excludes amounts represented by non-current liabilities. Since they do not affect net current assets, such long-term amounts are not recognized as governmental fund type expenditures or fund liabilities.

Amounts expended to acquire capital assets are recorded as expenditures in the year that resources are expended, rather than as fund assets.

Cash and Cash Equivalents

Cash and cash equivalents include amounts on deposit in demand accounts. The Town considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents.

TOWN OF OCEAN BREEZE, FLORIDA
Notes to the Financial Statements
September 30, 2020

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Investments

Investments are stated at fair value. Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Fair value is a market-based measurement, not an entity-specific measurement. For some assets and liabilities, observable market transactions or market information might be available; for others, it might not be available. However, the objective of fair value measurement in both cases is the same, that is, to determine the price at which an orderly transaction to sell the asset or to transfer the liability would take place between market participants at the measurement date under current market conditions. Fair value is an exit price at the measurement date from the perspective of a market participant that controls the asset or is obligated for the liability. The Town categorizes investments reported at fair value in accordance with the fair value hierarchy established by GASB Statement No. 72, *Fair Value Measurement and Application*.

Accounts Receivable

Accounts receivable of the General Fund consists of billed receivables. The Town has not established an allowance for doubtful accounts because the Town considers all receivables to be collectible.

Prepaid Items

Certain payments to vendors reflect costs applicable to future accounting periods and are recorded as prepaid items in both government-wide and fund financial statements. In the governmental funds, prepaid items are recorded using the consumption method and are offset by the nonspendable fund balance component which indicates they do not constitute available spendable resources, even though they are a component of current assets.

Capital Assets

Capital assets are defined by the Town as assets with an estimated useful life in excess of one year and a value at the date of acquisition in excess of \$500. Capital assets are reported in the government-wide Statement of Net Position and include improvements and equipment. Purchased capital assets are recorded at cost. Donated capital assets, donated works of art and similar items, and capital assets received in a service concession arrangement are reported at acquisition value. Depreciation is computed using the straight-line method over the estimated useful lives for all reported capital assets, except land and construction in progress. The estimated useful lives range from five (5) to thirty (30) years.

TOWN OF OCEAN BREEZE, FLORIDA
Notes to the Financial Statements
September 30, 2020

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Unearned Revenue

The government reports unearned revenue on its government wide Statement of Net Position and governmental funds balance sheet. Unearned revenue arises when resources are obtained prior to revenue recognition. In subsequent periods, when revenue recognition criteria are met the unearned revenue is removed and revenue is recognized.

Unavailable Revenue

The government reports unavailable revenue on its governmental funds balance sheet for resource inflows that do not qualify for recognition as revenue in a governmental fund because they are not yet considered available.

Deferred Outflows of Resources

The government-wide Statement of Net Position and the Governmental Funds Balance Sheet will sometimes include a separate section for deferred outflows of resources. This financial statement element represents a consumption of net position applicable to future periods and will not be recognized as expenditures until the future period(s). The Town does not currently have any deferred outflows of resources.

Deferred Inflows of Resources

The government-wide Statement of Net Position and the Governmental Funds Balance Sheet will sometimes include a separate section for deferred inflows of resources. This financial statement element represents the acquisition of net position applicable to future periods and will not be recognized as revenue until the future period(s). The Town does not currently have any deferred inflows of resources.

Interfund Transactions

Transactions between funds consist of loans, services provided, reimbursements, or transfers. Interfund loans are reported as Due From Other Funds and Due To Other Funds as appropriate and are subject to elimination in the government-wide financial statements. Services deemed to be reasonably equivalent in value are treated as revenues and expenditures. Reimbursements occur when one fund incurs a cost, charges the appropriate benefiting fund and reduces its related cost. All other interfund transactions are presented as transfers.

TOWN OF OCEAN BREEZE, FLORIDA
Notes to the Financial Statements
September 30, 2020

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Fund Balances

In the fund financial statements, governmental funds report fund balance classifications that comprise a hierarchy based primarily on the extent to which the Town is bound to honor constraints on the specific purposes for which amounts in those funds can be spent. Fund balance is reported under the following categories:

1. Nonspendable fund balances – Includes amounts that cannot be spent because they are either (a) not in spendable form or (b) legally or contractually required to be maintained intact. The “not in spendable form” criterion includes items that are not expected to be converted to cash, for example, inventories and prepaid amounts. It also includes the long-term amount of loans and notes receivable, as well as property acquired for resale. However, if the use of the proceeds from the collection of those receivables or from the sale of those properties is restricted, committed, or assigned, then they should be included in the appropriate fund balance classification (restricted, committed, or assigned), rather than the nonspendable fund balance. The corpus (or principal) of a permanent fund is an example of an amount that is legally or contractually required to be maintained intact.
2. Restricted fund balance – Includes amounts that are restricted to specific purposes when constraints placed on the use of resources are either (a) externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments, or (b) imposed by law through constitutional provisions or enabling legislation.
3. Committed fund balance – Includes amounts that can be used only for specific purposes pursuant to constraints imposed by an ordinance, the Town’s highest level of decision making authority. Those committed amounts cannot be used for any other purpose unless the Town removes or changes the specified use by taking the same type of action employed to previously commit those amounts.
4. Assigned fund balance – Includes amounts intended to be used by the Town for specific purposes, but are neither restricted nor committed. In accordance with the Town’s fund balance policy, assignments may be made by formal action of the Town Council.
5. Unassigned fund balance – Includes the residual classification for the general fund. This classification represents fund balance that has not been assigned to other funds and that has not been restricted, committed, or assigned to specific purposes within the general fund. The general fund should be the only fund that reports a positive unassigned fund balance amount. In other governmental funds, it may be necessary to report a negative unassigned fund balance if expenditures incurred for specific purposes exceeded the amounts restricted, committed, or assigned to those purposes.

TOWN OF OCEAN BREEZE, FLORIDA
Notes to the Financial Statements
September 30, 2020

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Fund Balances (Continued)

When an expenditure is incurred for purposes for which both restricted and unrestricted (committed, assigned, or unassigned) amounts are available, it is the Town's policy to reduce restricted amounts first. When an expenditure is incurred for purposes for which amounts in any of the unrestricted fund balance classifications could be used, it is the Town's policy to reduce committed amounts first, followed by assigned amounts, then unassigned amounts.

Net Position

Net position is the residual of all other elements presented in a statement of financial position. It is the difference between (a) assets plus deferred outflows of resources and (b) liabilities and deferred inflows of resources. Net position is displayed in the following three components:

1. Net investment in capital assets – Consists of capital assets including restricted capital assets, net of accumulated depreciation and reduced by the outstanding balances of any bonds, notes or other borrowings that are attributable to the acquisition, construction or improvement of those assets.
2. Restricted net position – Consists of net position with constraints placed on the use either by: (1) external groups such as creditors, grantors, contributors, or laws or regulations of other governments; or (2) law through constitutional provisions of enabling legislation.
3. Unrestricted net position – All other net position that does not meet the definition of "restricted" or "net investment in capital assets."

Budgetary Data

Formal budgetary integration is employed as a management control device during the year for the General Fund and the Special Revenue Fund. All budgets are legally enacted. Budgets are adopted on a basis consistent with generally accepted accounting principles. Budgeted amounts are as originally adopted, or as amended by appropriate action.

TOWN OF OCEAN BREEZE, FLORIDA
Notes to the Financial Statements
September 30, 2020

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Property Taxes

Under Florida law, the assessment of all properties and the collection of all county, municipal, and school board property taxes are consolidated in the offices of the County Property Appraiser and County Tax Collector. The laws of the State regulating tax assessment are also designed to assure a consistent property valuation method statewide.

The tax levy of the Town is established by the Town Council prior to October 1 of each year, and the Martin County Property Appraiser incorporates the Town's millage into the total tax levy, which includes Martin County and Martin County School Board tax requirements. The millage rate assessed by the Town for the year ended September 30, 2020, was 4.8008 (\$4.8008 for each \$1,000 of assessed valuation), which does not include the Fire Rescue Municipal Services Taxing Unit ("MSTU") millage rate of 2.7889.

All property is reassessed according to its fair market value January 1 of each year, which is also the lien date. Each assessment roll is submitted to the Executive Director of the State Department of Revenue for review to determine if the rolls meet all the appropriate requirements of state statutes.

All taxes are due and payable on November 1 of each year or as soon thereafter as the assessment roll is certified and delivered to the Tax Collector. All unpaid taxes become delinquent on April 1 following the year in which they are assessed. Discounts are allowed for early payment at the rate of 4% in the month of November, 3% in the month of December, 2% in the month of January and 1% in the month of February. The taxes paid in March are without discount.

Delinquent taxes on real property bear interest of 18% per year. On or prior, to June 1 following the tax year, certificates are sold for all delinquent taxes on real property. After the sale, tax certificates bear interest of 18% per year or any lower rate bid by the buyer. Application for a tax deed on any unredeemed tax certificates may be made by the certificate holder after a period of two years. Delinquent taxes on personal property bear interest of 18% per year until the tax is satisfied either by seizure and sale of the property or by the five-year statute of limitations.

Use of Estimates

The financial statements and related disclosures are prepared in conformity with accounting principles generally accepted in the United States. Management is required to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements, and revenue and expenses during the period reported. These estimates include assessing the collectability of accounts receivable, the use and recoverability of inventory, and useful lives and impairment of tangible and intangible assets, among others. Estimates and assumptions are reviewed periodically, and the effects of revisions are

TOWN OF OCEAN BREEZE, FLORIDA
Notes to the Financial Statements
September 30, 2020

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Use of Estimates (Continued)

reflected in the financial statements in the period they are determined to be necessary. Actual results could differ from the estimates.

Recently Issued Accounting Pronouncements

A brief description of new accounting pronouncements that might have a significant impact on the Town's financial statements is presented below. Management is currently evaluating the impact of adoption of these statements in the Town's financial statements.

In January 2017 the GASB issued Statement No. 84, *Fiduciary Activities*. This Statement will improve guidance regarding the identification of fiduciary activities for accounting and financial reporting purposes and how those activities should be reported. This Statement is effective for the fiscal year ending September 30, 2021.

In May 2017 the GASB issued Statement No. 87, *Leases*. This Statement will increase the usefulness of governments' financial statements by requiring recognition of certain lease assets and liabilities for leases that previously were classified as operating leases and recognized as inflows of resources or outflows of resources based on the payment provisions of the contract. It establishes a single model for lease accounting that is based on the foundational principle that leases are financings of the right to use an underlying asset. This Statement is effective for the fiscal year ending September 30, 2022.

In January 2020 the GASB issued Statement No. 92, *Omnibus 2020*. This Statement will enhance comparability in accounting and financial reporting and improve the consistency of authoritative literature by addressing practice issues that have been identified during the implementation and application of certain GASB Statements. This Statement addresses a variety of topics. The requirements of this Statement related to the effective date of Statement No. 87 and Implementation Guide 2019-3, reinsurance recoveries, and terminology used to refer to derivative instruments are effective upon issuance. The remaining requirements are effective for the fiscal year ending September 30, 2022.

In May 2020 the GASB issued Statement No. 96, *Subscription-Based Information Technology Arrangements*. This Statement provides guidance on the accounting and financial reporting for subscription-based information technology arrangements (SBITAs) for government end users (governments). This Statement is effective for the fiscal year ending September 30, 2023.

TOWN OF OCEAN BREEZE, FLORIDA
Notes to the Financial Statements
September 30, 2020

NOTE 2 – BUDGETARY INFORMATION

Budget Policy and Practice

Budgets are prepared in accordance with the Town Charter and the Florida Budget Act. The budget is presented to the Town Council for review, and public hearings are held to address priorities and the allocation of resources. In September, the Town Council adopts the annual fiscal year appropriated budgets for the Town funds. Once approved, the Town Council may amend the legally adopted budget when unexpected modifications are required in estimated revenues and appropriations.

Basis of Budgeting

The General Fund's appropriated budget legal level of budgetary control is at the fund level. Expenditures may not exceed appropriations at this level. Budget revisions at this level are subject to final review by the Town Council.

The budget for the General Fund is prepared on the basis of generally accepted accounting principles in the United States of America. The budget and actual financial statements are also reported on this basis. All budgeted appropriations lapse at fiscal year-end.

NOTE 3 – DEPOSITS AND INVESTMENTS

Deposits

Deposits are either covered by insurance provided by the Federal Depository Insurance Corporation or are held in banking institutions approved by the Treasurer of the State of Florida. Under Florida Statutes, Chapter 280, *Florida Security for Public Deposits Act*, the State Treasurer requires all Florida qualified public depositories to deposit with the Treasurer or other banking institution eligible collateral. In the event of failure of a qualified public depository, the remaining public depositories would be responsible for covering any resulting losses. The Town's deposits at year end are considered insured for custodial credit risk purposes. As of September 30, 2020, the bank balance of the Town's deposits was \$130,103 while the carrying amount was \$84,753.

TOWN OF OCEAN BREEZE, FLORIDA
Notes to the Financial Statements
September 30, 2020

NOTE 3 – DEPOSITS AND INVESTMENTS (Continued)

Investments

The Town has not adopted a written investment policy. Florida Statutes authorize units of local government electing not to adopt a written investment policy to invest in the following instruments:

- a. The Local Government Surplus Funds Trust Fund, or any intergovernmental investment pool authorized pursuant to the Florida Interlocal Cooperation Act of 1969.
- b. Securities and Exchange Commission registered money market funds with the highest credit quality rating from a nationally recognized rating agency.
- c. Interest-bearing time deposits or savings accounts in qualified public depositories.
- d. Direct obligations of the U.S. Treasury.

At September 30, 2020, the Town held investments of \$404,122 in the Florida Cooperative Liquid Assets Securities System (FLCLASS) which is administered by the Public Trust Advisors. The investment in FLCLASS is reported at amortized cost in accordance with GASB Statement No. 79, *Accounting and Financial Reporting for Certain Investments and for External Investment Pools* (GASB 79). FLCLASS has no unfunded commitments and provides same day or next day redemption. The investment in FLCLASS is reported as cash and cash equivalents for financial statement purposes.

Credit Risk

Credit risk is the risk that an issuer or other counter party to an investment will not fulfill its obligations. The Town's investment policies limit its investments to high quality investments to control credit risk. FLCLASS was rated AAAM by S&P Global Ratings at September 30, 2020.

Interest Rate Risk

Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. The Town does not have a formal investment policy that limits investment maturities as a means of managing exposure to fair value losses arising from increasing interest rates. The dollar weighted average days maturity (WAM) of FLCLASS at September 30, 2020, was 51 days.

Custodial Credit Risk

For an investment, custodial credit risk is the risk that, in the event of the failure of the counterparty, the Town will not be able to recover the value of its investments that are in the possession of an outside party. At September 30, 2020, all the Town's deposits were insured or collateralized. The investment in the FLCLASS is not insured by FDIC or any other governmental agency.

TOWN OF OCEAN BREEZE, FLORIDA
Notes to the Financial Statements
September 30, 2020

NOTE 4 – PREPAID EXPENSES

The Town's prepaid expenses as of September 30, 2020, are as follows:

Prepaid Expenses	\$ 450
Prepaid Insurance	<u>10,778</u>
Total	<u>\$ 11,228</u>

NOTE 5 – CAPITAL ASSETS

Capital asset activity for the year ended September 30, 2020, was as follows:

<u>Governmental Activities</u>	<u>Beginning Balance</u>	<u>Additions</u>	<u>Deletions</u>	<u>Ending Balance</u>
Capital assets being depreciated				
Improvements and equipment	\$ 25,824	\$ 2,199	\$	\$ 28,023
Less accumulated depreciation				
Improvements and equipment	<u>(6,216)</u>	<u>(3,246)</u>	<u></u>	<u>(9,462)</u>
Capital assets, net	<u>\$ 19,608</u>	<u>\$ (1,047)</u>	<u>\$</u>	<u>\$ 18,561</u>

Depreciation expense was charged to functions and programs of the primary government as follows:

Governmental activities:

General government	\$ 3,246
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NOTE 6 – INTERLOCAL AGREEMENTS

Right of Way Maintenance Agreement

In 2012, the Town entered into an Interlocal Agreement with Martin County for the purpose of assigning each party its responsibilities for the Design, permitting, and construction of certain traffic improvements along NE Indian River Drive, which is a County road within Town limits. In July 2016, the agreement was amended to incorporate stormwater management and treatment components to the traffic calming project. The Project includes enhanced landscaping and irrigation, a stormwater treatment facility with a bioswale, decorative lighting and textured pavement. All maintenance, repair, and replacement of the aforementioned enhanced landscape improvements and the bioswale shall be the sole responsibility of the Town. All maintenance, repair, and replacement of the irrigation system shall be the sole responsibility of the Town, including, but not limited to,

TOWN OF OCEAN BREEZE, FLORIDA
Notes to the Financial Statements
September 30, 2020

NOTE 6 – INTERLOCAL AGREEMENTS (Continued)

Right of Way Maintenance Agreement (Continued)

ensuring that the irrigation system is kept in proper working order. All aesthetic maintenance of the roadway textured pavement shall be the sole responsibility of the Town. Should the Town be unable or unwilling to complete the required maintenance work, the County may complete or contract to have such maintenance performed and bill the Town for all costs incurred. The County agrees to provide written notice of its intent to perform such maintenance at least five days in advance of performing the work.

Fire Protection and Emergency Medical Services

The Town has opted into the Martin County's Fire-Rescue Municipal Services Taxing Unit ("MSTU") for the provision of fire rescue, fire protection, and related services from the County commencing on October 1, 2019. The tax for the MSTU is included in the maximum 10 mills the Town is legally allowed to assess. On September 30, 2020, the MSTU millage rate was 2.7889.

NOTE 7 – LEASES

The Town has committed to an office lease space for a term of five years and five months, commencing on August 15, 2017 and ending January 31, 2023. The Town will occupy the premises rent free from August 15, 2017 to January 31, 2018, with payments commencing in February 2018. The lease has a base monthly payment of \$950 with annual increases of 3% culminating in a monthly payment of \$1,069 for the period ending January 31, 2023. The Town has also committed to a copier lease with a monthly rental payment of \$236 through 2025. Lease expense for the year ended September 30, 2020 was \$13,081. Future minimum rental payments are as follows:

<u>Year Ended September 30</u>	<u>Minimum Lease Payments</u>
2021	\$ 15,168
2022	15,538
2023	7,109
2024	2,832
2025	<u>1,652</u>
	<u>\$ 42,299</u>

TOWN OF OCEAN BREEZE, FLORIDA
Notes to the Financial Statements
September 30, 2020

NOTE 8 – RISK MANAGEMENT

The Town is exposed to various risks of loss related to torts; theft of, damage to and destruction of assets; errors and omissions; injuries to employees, and natural disasters for which the Town carries commercial insurance. Retention of risks is limited to those risks that are uninsurable and deductibles. The Town has not significantly reduced insurance coverage from the prior year, and there were no settled claims which exceeded insurance coverage during the past three fiscal years.

Florida Statutes limit the Town's maximum loss for most liability claims to \$200,000 per person and \$300,000 per occurrence under the Doctrine of Sovereign Immunity. However, under certain circumstances, a plaintiff can seek to recover damages in excess of statutory limits by introducing a claims bill to the Florida Legislature. The limits addressed in Florida Statutes do not apply to claims filed in Federal courts.

The Town is involved in various litigation and claims arising in the ordinary course of operations, the ultimate outcomes of which cannot be presently determined. It is the opinion of management, in consultation with legal counsel, that any final settlement in these matters will not result in a material adverse effect on the financial position of the Town.



NOWLEN, HOLT & MINER, P.A.

CERTIFIED PUBLIC ACCOUNTANTS

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INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

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The Honorable Mayor and Members of the Town Council
Town of Ocean Breeze, Florida
Jensen Beach, Florida

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, the financial statements of the governmental activities, each major fund, and the aggregate remaining fund information of the Town of Ocean Breeze, Florida, as of and for the year ended September 30, 2020, and the related notes to the financial statements, which collectively comprise the Town of Ocean Breeze's basic financial statements and have issued our report thereon dated June 4, 2021.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered the Town of Ocean Breeze, Florida's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Town of Ocean Breeze, Florida's internal control. Accordingly, we do not express an opinion on the effectiveness of the Town of Ocean Breeze, Florida's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Town of Ocean Breeze, Florida's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Nowlen, Holt & Mines, P.A.

West Palm Beach, Florida
June 4, 2021



NOWLEN, HOLT & MINER, P.A.

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MANAGEMENT LETTER IN ACCORDANCE WITH THE RULES OF THE AUDITOR GENERAL OF THE STATE OF FLORIDA

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To the Honorable Mayor and Member of the Town Council
Town of Ocean Breeze, Florida
Jensen Beach, Florida

Report on the Financial Statements

We have audited the financial statements of the Town of Ocean Breeze, Florida, as of and for the fiscal year ended September 30, 2020, and have issued our report thereon dated June 4, 2021.

Auditor's Responsibility

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and Chapter 10.550, Rules of the Auditor General.

Other Reporting Requirements

We have issued our Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of the Financial Statements Performed in Accordance with *Government Auditing Standards* and Independent Accountant's Report on an examination conducted in accordance with *AICPA Professional Standards*, AT-C Section 315, regarding compliance requirements in accordance with Chapter 10.550, Rules of the Auditor General. Disclosures in those reports, which are dated June 4, 2021, should be considered in conjunction with this Management Letter.

Prior Audit Findings

Section 10.554(1)(i)1., Rules of the Auditor General, requires that we determine whether or not corrective actions have been taken to address findings and recommendations made in the preceding financial audit report. No findings and recommendations were made in the preceding financial audit report.

Official Title and Legal Authority

Section 10.554(1)(i)4., Rules of the Auditor General, requires that the name or official title and legal authority for the primary government and each component unit of the reporting entity be disclosed in this Management Letter, unless disclosed in the notes to the financial statements. This information was disclosed in Note 1 to the financial statements. There are no component units included in the Town of Ocean Breeze, Florida's financial statements.

Financial Condition and Management

Sections 10.554(1)(i)5.a. and 10.556(7), Rules of the Auditor General, require us to apply appropriate procedures and communicate the results of our determination as to whether or not the Town of Ocean Breeze, Florida met one or more of the conditions described in Section 218.503(1), Florida Statutes, and to identify the specific condition(s) met. In connection with our audit, we determined that the Town of Ocean Breeze, Florida did not meet any of the conditions described in Section 218.503(1), Florida Statutes.

Pursuant to Sections 10.554(1)(i)5.b. and 10.556(8), Rules of the Auditor General, we applied financial condition assessment procedures for the Town of Ocean Breeze, Florida. It is management's responsibility to monitor the Town of Ocean Breeze, Florida's financial condition, and our financial condition assessment was based in part on representations made by management and review of financial information provided by same. Our assessment was done as of the fiscal year end. The results of our procedures did not disclose any matters that are required to be reported.

Section 10.554(1)(i)2., Rules of the Auditor General, requires that we communicate any recommendations to improve financial management. In connection with our audit, we did not have any such recommendations.

Special District Component Units

Section 10.554(1)(i)5.c, Rules of the Auditor General, requires, if appropriate, that we communicate the failure of a special district that is a component unit of a county, municipality, or special district, to provide the financial information necessary for proper reporting of the component unit within the audited financial statements of the county, municipality, or special district in accordance with Section 218.39(3)(b), Florida Statutes. In connection with our audit, we did not note any special district component units that failed to provide the necessary information for proper reporting in accordance with Section 218.39(3)(b), Florida Statutes.

Additional Matters

Section 10.554(1)(i)3., Rules of the Auditor General, requires us to communicate noncompliance with provisions of contracts or grant agreements, or abuse, that have occurred, or are likely to have occurred, that have an effect on the financial statements that is less than material but warrants the attention of those charged with governance. In connection with our audit, we did not note any such findings.

Single Audits

The Town of Ocean Breeze, Florida expended less than \$750,000 of federal awards and less than \$750,000 of state financial assistance for the fiscal year ended September 30, 2020 and was not required to have a federal single audit or a state single audit.

Purpose of this Letter

Our Management Letter is intended solely for the information and use of the Legislative Auditing Committee, members of the Florida Senate and the Florida House of Representatives, the Florida Auditor General, Federal and other granting agencies, the Town Council, and applicable management, and is not intended to be and should not be used by anyone other than these specified parties.

Nowlen, Holt & Mines, P.A.

West Palm Beach, Florida
June 4, 2021



NOWLEN, HOLT & MINER, P.A.

CERTIFIED PUBLIC ACCOUNTANTS

WEST PALM BEACH OFFICE
NORTHBRIDGE CENTRE
515 N. FLAGLER DRIVE, SUITE 1700
POST OFFICE BOX 347
WEST PALM BEACH, FLORIDA 33402-0347
TELEPHONE (561) 659-3060
FAX (561) 835-0628
WWW.NHMCPA.COM

EVERETT B. NOWLEN (1930-1984), CPA
EDWARD T. HOLT, CPA
WILLIAM B. MINER, RETIRED
ROBERT W. HENDRIX, JR., CPA
JANET R. BARICEVICH, RETIRED, CPA
TERRY L. MORTON, JR., CPA
N. RONALD BENNETT, CVA, ABV, CFF, CPA
ALEXIA G. VARGA, CFE, CPA
EDWARD T. HOLT, JR., PFS, CPA
BRIAN J. BRESCIA, CFP®, CPA

MARK J. BYMASTER, CFE, CPA
RYAN M. SHORE, CFP®, CPA
WEI PAN, CPA
WILLIAM C. KISKER, CPA
RICHARD E. BOTTS, CPA

INDEPENDENT ACCOUNTANT'S REPORT ON COMPLIANCE WITH SECTION 218.415, FLORIDA STATUTES

BELLE GLADE OFFICE
333 S.E. 2nd STREET
POST OFFICE BOX 338
BELLE GLADE, FLORIDA 33430-0338
TELEPHONE (561) 996-5612
FAX (561) 996-6248

The Honorable Mayor and Members of the Town Council
Town of Ocean Breeze, Florida
Jensen Beach, Florida

We have examined the Town of Ocean Breeze, Florida's compliance with Section 218.415, Florida Statutes during the year ended September 30, 2020. Management of the Town of Ocean Breeze, Florida is responsible for the Town of Ocean Breeze, Florida's compliance with the specified requirements. Our responsibility is to express an opinion on the Town of Ocean Breeze, Florida's compliance with the specified requirements based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Town of Ocean Breeze, Florida complied, in all material respects, with the specified requirements referenced above. An examination involves performing procedures to obtain evidence about whether the Town of Ocean Breeze, Florida complied with the specified requirements. The nature, timing, and extent of the procedures selected depend on our judgement, including an assessment of the risks of material noncompliance, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

Our examination does not provide a legal determination on the Town of Ocean Breeze, Florida's compliance with the specified requirements.

In our opinion, the Town of Ocean Breeze, Florida complied, in all material respects, with Section 218.415, Florida Statutes for the year ended September 30, 2020.

This report is intended solely for the information and use of the Legislative Auditing Committee, members of the Florida Senate and Florida House of Representatives, the Florida Auditor General, applicable management, and the Town Council, and is not intended to be and should not be used by anyone other than these specified parties.

Nowlen, Holt & Miner, P.A.

West Palm Beach, Florida
June 4, 2021

Memorandum

To: Town Council
From: Mayor Ostrand
Via: Pam Orr, Town Clerk
Date: June 8, 2021
RE: Request authorization to hire Ms. Maria Pierce for the position of Bookkeeper/Assistant to Town Clerk

With Kim Stanton's retirement fast approaching, staff has undertaken a recruitment process to fill her position. Notice of the vacancy was posted on the Town's web site and on the web site of the Florida Association of City Clerks. Ads were placed in the Stuart News and on the internet-based "Zip Recruiter" site. A total of 22 applications were received. Based on the job posting's call for bookkeeping knowledge with local government experience preferred, three candidates met the minimum qualifications and were selected for interviews. Ms. Orr and I jointly conducted the interviews during the week of May 31. We both found Ms. Maria Pierce, the only applicant with extensive bookkeeping and local government experience, to be the superior candidate.

Accordingly, subject to a successful background check which is now underway, I am requesting that the Town Council authorize me to hire Ms. Pierce for the position Bookkeeper/Assistant to the Town Clerk.

If approved, her starting date will be August 2, 2021 and includes a 90-day probationary period. There will likely be opportunities for Maria to do some training with Kim before her official start date. Thanks Kim! The rate of pay is \$26.00 per hour. Unlike the current arrangement with Ms. Stanton, the position will not include health insurance coverage, which is clearly understood by Ms. Pierce. In terms of budget, \$26.00 per hour is well within the funds currently allocated for this position.

Attached documents:

- Ms. Pierce's Resume
- Job posting

MARIA PIERCE

1848 Miller Drive, DuPont, WA 98327
Wantsun247@hotmail.com • Cell: (253) 307-7797

CAREER HIGHLIGHTS

- Dynamic, results-oriented, problem solver with 9+ years of experience at CFO level successfully managing a budget of \$20M.
 - Developed and maintained a system of internal controls that insured accuracy and compliance with all state and federal laws in all areas, resulting in five consecutive clean financial audit reports from the Washington State Auditor's office.
 - Led the selection and implementation of an organization-wide IT solution. Gained leadership support and approval for the project.
 - Mentored and coached team members which resulted in both their personal and professional development.
 - Achieved an AA bond rating for the City of Milton during the economic downturn.
-

PROFESSIONAL EXPERIENCE

Self-Employed

May 2016 - Current

Accounting & Bookkeeping Services

Currently work with private business owners to provide timely and accurate financial reports. Responsible for coding monthly deposits and expenses, monthly bank reconciliations and general ledger balancing. Prepare monthly, quarterly, and annual sales tax returns. Prepare payroll for employers and employees. Responsible for all payroll tax remittances and quarterly payroll tax filings. Also, contracted with the City of Tumwater to assist with the preparation of the 2019-2020 bi-annual budget.

Accela

July 2015 – April 2016

Professional Services Consultant, Portland OR

Provided direct and indirect customer service to Springbrook clients and Accela's internal customers. Responsible for financial software conversions from client's old system into the new Springbrook's financial software. Utilized excel spreadsheets for daily work to include downloading data, verification of data, and importing data into databases. Responsible for training customers on new software applications both in person and web-based training sessions. Worked independently from a home-based office. Responsible for setting up all travel arrangements for onsite visits to clients.

City of Tumwater

April 2012 – July 2015

Accounting/Utilities Manager

Oversee and manage one Cashier/Receptionist, two Accounting Assistants that are responsible for utility billing, one part time Accounting Assistant that is responsible for Business Licensing and B&O Taxes, and one part-time Accounting Assistant that is responsible for the Violations Division for a total of five employees. Provide technical expertise to resolve problems, provide information, explain procedures and communicate operating information with other city employees/departments as it relates to utility billing. Provide direct and indirect customer service for utility accounts, such as analyzing and auditing accounts; approving account adjustments, explaining policies and billing procedures to customers in response to billing adjustments and service interruptions. Prepare monthly utility balancing reports to ensure all entries are posted to the general ledger correctly. Prepare daily deposits for multiple departments and process electronic and web-based payments as a back up to the Accounting Technician. Post miscellaneous treasurer's receipts into the general ledger, monthly reconciliation of parks and recreation financial activity as well as monthly reconciliation of the golf course financial activity.

...continued...

Significant Accomplishments:

- Developed new web pages for the utility billing portion of the City's website, increasing the amount of information available online to citizens.
- Project Manager for the successful implementation of a new integrated cashiering system.
- Project manager for the implementation of the Business License module upgrade that was integrated with the financial system.
- Assisted the Parks and Recreation department in the implementation of a new online class registration program and establishing correct general ledger accounts for reconciliation purposes.

City of Pacific**September 2011 – April 2012****Finance Director**

Contracted to work with the Mayor, Council, and department directors to develop the 2012 budget. During this time also assisted with providing financial information for union negotiations. Appointed to Full-time Finance Director on December 27th, 2011. Responsible for all financial activity within the city, including grant management for several public works grants, union negotiations, and emergency management.

City of Milton**March 2004 – January 2011****Finance Director/City Clerk**

Led all Finance and Accounting activity for the City of Milton. Responsible for payroll, tax reporting, accounts payable, accounts receivable, general ledger, treasury, cash management, grant management, fixed assets, investment, risk management, information technology, and portions of Human Resources. Staff included one Senior Financial Analyst, one Finance Technician II, two Finance Technicians I, and one Deputy City Clerk. Developed and managed the city-wide budget, analyzed revenues and expenditures, prepared and distributed monthly, quarterly, and yearly financial reports to both internal and external stake holders. Analyzed potential organizational financial impacts of new state and federal legislation. Responsible for overseeing agency wide purchasing agreements and contracts. Analyzed and recommended to City Council utility rates and fiscal policy for the electric and water divisions. Prepared long-term financial forecast to assist in budget development and policy decisions. Developed and maintained a system of internal controls that insured accuracy and compliance with all state and federal laws in all areas. Served as a liaison to external and governmental auditors and agencies.

Significant Accomplishments:

- Reconciled and prepared the city's annual report for 2003, achieving the city's first clean financial audit after the Washington State Auditor's office disclaimed the 2002 financial statements. Four additional consecutive clean financial audit reports were obtained from the Washington State Auditor's office, two of them being for a bi-annual time frame.
- Provided fiscal guidance to the Mayor in an effort to re-establish a positive general fund balance, resulting in a reserve account of \$900k in a five-year period.
- Led the organization in a collaborative effort to select an IT firm that would oversee the city's IT needs.
- Developed financial reports, forecasting and financial policy guidance that resulted in an AA bond rating from Standard and Poors.
- Received a Public Funds Investment Manager Certification.

ORGANIZATIONS AND AFFILIATIONS

Former Springbrook Westsound User Group member and President
Former Pierce County Clerk's and Finance Officers Association member and Vice President
Former Washington Finance Officers Association member
Former Puget Sound Finance Officers Association member

EDUCATION BACKGROUND

Bachelor of Arts, Business Administration, Accounting emphasis • University of Washington, Seattle, WA 1998

TOWN OF OCEAN BREEZE

Bookkeeper/Assistant to Town Clerk

Local government experience
preferred, Quick Books required,
strong communication and
customer service skills,

Excel helpful, 30 hours/week,
paid holidays, vacation, \$20+/hour
commensurate w/experience,
probationary period, references
and background check.

Tobacco free work place.

Email resume to:

townclerk@townofoceanbreeze.org

Only applicants selected to interview
will be contacted. Position open until
filled. Equal Opportunity Employer
Office located at 1508 NE Jensen
Beach Blvd, Jensen Beach, FL

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.

From: Jeff Hochman <hochman@jambg.com>
Sent: Tuesday, June 8, 2021 2:40 PM
To: twoneil@aol.com; townclerk@townofoceanbreeze.org; RCII@crarybuchanan.com
Cc: David Banciella; Iris Garrido; PL Mail
Subject: Paul C. Brown v. Ocean Breeze; Case No. 21-440-CA; GC2021100116
Attachments: Motion to Dismiss dated June 8 2021.pdf

Mr. O'Neil; Ms. Orr; Mr. Carry:

I have attached a copy of the **Town's June 8, 2021, Motion to Dismiss** filed in response to the initial complaint in the Paul Brown matter.

The Motion raises two different sovereign immunity defenses and cites the supporting cases. I will now attempt to contact the attorney for the Plaintiff (Zachary A. Karber, Esq.) to secure a possible voluntary dismissal of the negligence claim directed against the Town in Count VI or, alternatively, to coordinate a hearing date on the Town's Motion.

If you have any questions about the status of this case, please call me.

Jeff
Jeffrey L. Hochman, Esq.
Johnson, Anselmo, Murdoch, Burke, Piper & Hochman, P.A.
2455 East Sunrise Blvd., Suite 1000
Fort Lauderdale, FL 33304
Office: (954) 463-0100 ext. 2917
Fax: (954) 463-2444
Hochman@jambg.com

IN THE CIRCUIT COURT OF THE
19TH JUDICIAL CIRCUIT IN AND
FOR MARTIN COUNTY, FLORIDA

CIVIL DIVISION

PAUL BROWN, and individual;

Case No. 21-440-CA

Plaintiff,

v.

SUN COMMUNITIES INC., a foreign
corporation;

NHC FL 143 LLC, a foreign limited
liability company;

NHC FL 143 LLC dba OCEAN BREEZE
JENSEN BEACH, a Florida fictitious
business name;

TOWN OF OCEAN BREEZE, a
municipal corporation;

JOHN DAVID SIMMERMAN, an
individual;

JDC CUSTOMS LLC, a Florida limited
liability company;

Defendants.

DEFENDANT TOWN OF OCEAN BREEZE'S MOTION TO DISMISS

The Defendant, TOWN OF OCEAN BREEZE ("Town"), by and through undersigned counsel, moves to dismiss the April 23, 2021, Complaint ("Complaint") by the Plaintiff, PAUL BROWN, and states as follows:

I. Introduction

1. The Plaintiff's negligence claim against the Town in Count VI is barred by sovereign immunity. The Town requests the dismissal of Count VI with prejudice.

2. The Plaintiff asserts a single claim against the Town arising from the operations of the Town's building department. See Complaint at p. 24 (¶127). Specifically, the Plaintiff alleges that the Town's building department improperly issued construction permits "even though the applications for those permits **should have all been denied**" See Complaint at p. 24 (¶127) (emphasis added).

3. To support its negligence claim, the Plaintiff asserts that the Town owed a duty (i) to "read, review, and analyze all applications for building permits" and (ii) to "deny applications for building permits that are incomplete, inaccurate, and/or improper" See Complaint at p. 24 (¶128). The Plaintiff seeks relief in the form of a judgment for "the Completion Costs (i.e., costs to complete alleged open permits), the Other Damages (i.e., unspecified forms of damage caused "as a result of the Open Projects"), lost profits, costs of additional travel and accommodation, and other additional damages" See Complaint at p. 25 (¶132), p. 13 (¶68); p. 14 (¶69). Absent from the Complaint is any claim that the Plaintiff suffered damage to any property. Moreover, despite the absence of a contract or statutory fee shifting provision, the Plaintiff seeks attorney's fees and prejudgment interest. See Complaint at p. 26 (¶134).

II. Argument

4. As a pure matter of law, the claim in Count VI is facially deficient and should be dismissed. As a sovereign entity, see Complaint at p. 1, p. 3 (¶8), the Town is immune from tort claims except those for which sovereign immunity has been waived under section 768.28, Florida

Statutes. First, sovereign immunity has not been waived for the type of tort claim asserted in Count VI because that claim does not involve a personal injury, a wrongful death, or damage to the Plaintiff's property. Second, Count VI involves the purely governmental function of permitting for which the Town cannot be subjected to tort liability.

A. The Complaint Suffers from an Economic Loss Problem

5. The Complaint limits the alleged damages to: (i) damages “to complete all the Open Permits,” (ii) damages “as a result of the Open Projects,” (iii) lost profits, (iv) costs of additional travel and accommodation, and (iv) other additional damages” See Complaint at p. 25 (¶132), p. 13 (¶68); p. 14 (¶69). These allegations assert a typical claim for **economic** harm for which sovereign immunity has not been waived. Two recent Fourth District cases confirm that sovereign immunity has not been waived for a tort claim seeking economic damages. See City of Pembroke Pines v. Corrections Corp. of America, Inc., 274 So. 3d 1105 (Fla. 4th DCA 2019) and Margate Community Redevelopment Agency v. New Urban Communities, LLC, Case No. 4D20-1763, 2021 WL 1657672 (Fla. 4th DCA, April 28, 2021); see also County of Brevard v. Miorelli Engineering, Inc., 677 So. 2d 32 (Fla. 5th DCA 1996), quashed on other grounds, 703 So. 2d 1049 (Fla. 1997). Given the economic nature of the damages at issue, sovereign immunity bars the Plaintiff's claim. See City of Pembroke Pines, 274 So. 3d at 1110 (reversing trial court order that failed to apply sovereign immunity and dismiss various “state law tort claims which do not seek damages for injury or loss of property, personal injury, or death, but instead seek **damages for economic losses** in the form of lost profits ... and ... supplemental relief in the form of economic damages.”) (emphasis added).

B. The Complaint Suffers from a Governmental Function Problem

6. As an entirely independent matter, the Town is also protected by sovereign immunity because the conduct at issue amounts to a “purely governmental” function -- the review, approval, and denial of building permits. See Complaint at pp. 25 (¶130) (“TOWN/Building Department breached its Duty to Review Permit Applications.”); compare City of Pembroke Pines, 274 So. 2d 23 at 1113 (confirming that in the “granting or withholding of a building permit ... a municipality exercises a **purely governmental function**, and thus the municipality could not be held liable in a tort action for damages for the wrongful refusal to issue such a permit.”) (citation omitted; emphasis added).

7. Florida Courts have regularly applied sovereign immunity to bar the recovery of damages against a municipality relating to the issuance of building permits. See Akin v. City of Miami, 65 So. 2d 54 (Fla. 1953). In Akin, the claimant asserted the same kind of “improper permitting decision” claim that the Plaintiff asserts here, and received a flat rejection from the Florida Supreme Court:

While the appellant concedes that the matter of the issuance of a building permit by a municipality is the exercise of a purely governmental function, she contends, nevertheless, that a municipality may be held liable in an action for **damages if in the pursuance of this lawful police power the municipality acts in an unlawful or unauthorized manner.**

We must **reject** this contention.

Id. at 55 (emphasis added); see also, City of Live Oak v. Arnold, 468 So. 2d 410, 410 (Fla. 1st DCA 1985) (finding that sovereign immunity barred claims against a city accused of “arbitrary and capricious actions in first denying, then granting, then revoking ...” a building permit); City of Cape Coral v. Landahl, Brown & Weed Assocs., Inc., 470 So. 2d 25, 27 (Fla. 2d DCA), rev.

denied, 480 So. 2d 1294 (1985) (addressing claim for “the wrongful refusal or revocation of a building permit” and finding that “those actions of a municipality are immune from an action for damages.”); Paedae v. Escambia Cty., 709 So. 2d 575, 578 (Fla. 1st DCA 1998) (“Thus, there has never been and there is no present state tort liability imposed for peculiarly governmental functions such as permitting.”); Disser v. City of Tampa, Case No. 8:13-cv-885-T-24-EAJ, 2013 WL 3975759 *9-10 (M.D. Fla. July 31, 2013) (“... given Paedae’s holding that ... the plaintiff had no cause of action for damages under Florida law[,] ... the Court grants Defendants’ motion to dismiss Plaintiffs’ count I’s claim for **supplemental relief** in the form of **money damages**.”) (citation omitted; emphasis and alteration added).

8. This fundamental bar to tort liability in the area of permitting was also recognized by the Florida Supreme Court in Trianon Park Condo. Ass’n, Inc. v. City of Hialeah, 468 So. 2d 912, 919 (Fla. 1985) (“Clearly, the legislature, commissions, boards, city councils, and executive officers, by their enactment of, or failure to enact, laws or regulations, or **by their issuance of**, or refusal to issue, licenses, **permits**, variances or directives, are acting pursuant to **basic governmental functions** performed by the legislative or executive branches of government.”) (emphasis added). Nothing in the Complaint allows these binding precedents from the Fourth District and the Florida Supreme Court to be ignored.

C. The Complaint Suffers from Other Fundamental Problems

9. The Complaint is also defective because it asserts a claim for interest that is barred by section 768.28(5), Florida Statutes (“... liability shall not include ... interest for the period before judgment.”), and a claim for attorney’s fees that is not supported by a statute or contract. See Bidon v. Dep’t of Prof’l Regulation, 596 So. 2d 450, 452 (Fla. 1992) (“[A]ttorney’s fees

incurred while prosecuting or defending a claim are not recoverable in the absence of a statute or contractual agreement authorizing their recovery.”). These elements of Count VI are improper and subject to dismissal.

IV. Conclusion

10. The Town’s entitlement to immunity must be determined on a motion to dismiss. See Huff v. Goldcoast Jet Ski Rentals, Inc., 515 So. 2d 1349, 1351 (Fla. 4th DCA 1087) (“Accordingly, we hold that Huff’s third amended complaint fails to state a cause of action against the City because the City is immune from liability in tort arising out of the exercise of its licensing and permitting functions.”); Florida Highway Patrol v. Jackson, 288 So. 3d 1179, 1185-86 (Fla. 2020) (“... courts should determine entitlement to sovereign immunity as early as the record permits.”). Dismissal with prejudice is the proper remedy, and the Town requests that relief.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been served and filed through the Florida Court E-Filing Portal this **8th** day of June 2021 upon **Zachary A. Karber, Esq.**, KARBER, P.A., Zachary@KarberPA.com, 26082 Lake Lindsey Road, Brooksville, FL 34601.

/s/ Jeffrey L. Hochman
JEFFREY L. HOCHMAN
FLA. BAR NO. 902098
Attorney for Town of Ocean Breeze
JOHNSON, ANSELMO, MURDOCH,
BURKE, PIPER & HOCHMAN, P.A.
2455 E. Sunrise Blvd., Suite 1000
Fort Lauderdale, FL 33304
954-463-0100-Tel./954-463-2444-Fax
hochman@jambg.com garrido@jambg.com

townclerk@townofoceanbreeze.org

From: Jeff Hochman <hochman@jambg.com>
Sent: Monday, May 24, 2021 2:33 PM
To: townclerk@townofoceanbreeze.org
Cc: Rick Crary II; Iris Garrido; David Banciella; PL Mail; twoneil@aol.com
Subject: Brown v. Ocean Breeze; Case No. 21-CA-440; GC2021100116

Ms. Orr:

Thank you for transmitting the **Summons, Complaint, and related filings** in the Brown matter.

My file now confirms that the Town of Ocean Breeze received the initial complaint today (May 24, 2021). The case number going forward in this matter is now **Case No. 21-CA-440**.

I will contact the attorney for the Plaintiff to discuss the defective nature of the claim for negligence in Count VI in an effort to resolve this dispute. If that effort is unproductive, my office will be filing a motion seeking to dismiss the claims asserted against the Town.

If you have any questions, please call me.

Jeff
Jeffrey L. Hochman, Esq.
Johnson, Anselmo, Murdoch, Burke, Piper & Hochman, P.A.
2455 East Sunrise Blvd., Suite 1000
Fort Lauderdale, FL 33304
Office: (954) 463-0100 ext. 2917
Fax: (954) 463-2444
Hochman@jambg.com

On Mon, May 24, 2021 at 1:34 PM <townclerk@townofoceanbreeze.org> wrote:

Good Afternoon, Jeff:

Please see attached the Summons, etc. delivered to the office today. The Notice of Filing, etc. will follow in a separate email. Please let us know if you need anything more from us.

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

townofocceanbreeze.org

Please make note of our new email address.

CIVIL ACTION SUMMONS
**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR MARTIN COUNTY, FLORIDA
CIVIL DIVISION**

PAUL BROWN, an individual;

Plaintiff;

vs.

SUN COMMUNITIES INC., a foreign
corporation;

NHC FL 143 LLC, a foreign limited
liability company;

**NHC FL 143 LLC dba OCEAN BREEZE
JENSEN BEACH**, a Florida fictitious
business name;

**TOWN OF OCEAN BREEZE CARE OF
MAYOR KAREN OTRAND**, a city/town
within the State of Florida;

JOHN DAVID SIMMERMAN, an
individual;

JDC CUSTOMS LLC, a Florida limited
liability company;

Defendants;

Case No.: 21-440CA

5/24/21
2:53pm
ME
8923.

SUMMONS

**STATE OF FLORIDA
TO EACH SHERIFF OF THE STATE**

YOU ARE HEREBY COMMANDED to serve this Summons and a copy of the Complaint,
as well as the exhibits to said Complaint, upon the Defendant:

**TOWN OF OCEAN BREEZE CARE OF MAYOR KAREN OTRAND
1508 NE Jensen Beach Blvd.
Jensen Beach, FL 34957**

Each Defendant is hereby required to serve written defenses to said Complaint on: **Zachary A. Karber, ESQUIRE, Karber P.A., 26082 Lake Lindsey Road, Brooksville, Florida 34601, 813-557-2266 (phone), 813-447-7485 (fax)**, within twenty (20) days after service of this Summons upon you, exclusive of the day of service, and to file the original of said written defenses with the Clerk of Court of Marion County, Florida either before service on Plaintiff's attorney or immediately thereafter. If you fail to do so, a default will be entered against you for the relief demanded in the Complaint.

Dated this 20th day of April, 2021. **CAROLYN TIMMANN**

CLERK OF CIRCUIT COURT



By: [Signature]
As Deputy Clerk, Civil Division
P.O. Box 1030
Ocala, Florida 34478

JOHNSON, ANSELMO, MURDOCH, BURKE, PIPER & HOCHMAN, P.A.

DAMIAN H. ALBERT, P.A.
SCOTT D. ALEXANDER, P.A.
MICHAEL T. BURKE *
SELENA A. GIBSON
HUDSON C. GILL, P.A.
JEFFREY L. HOCHMAN, P.A.
DUCHANT JOHNSON

A PROFESSIONAL ASSOCIATION
2455 EAST SUNRISE BOULEVARD
SUITE 1000
FORT LAUDERDALE, FL 33304

(954) 463-0100 Broward
(305) 945-2000 Dade
(561) 640-7448 WPB

TELECOPIER (954) 463-2444

E. BRUCE JOHNSON *
MELISSA L. JOHNSON
W. HAMPTON JOHNSON IV, P.A.
MICHAEL R. PIPER *
JONATHAN H. RAILEY
DAVID M. SCHWEIGER, P.A.
CHRISTOPHER J. STEARNS, P.A.

RETIRED:
RONALD P. ANSELMO
BURL F. GEORGE
ROBERT E. MURDOCH

* BOARD CERTIFIED CIVIL TRIAL LAWYERS

March 2, 2021

Pamela Orr
Town Clerk
Town of Ocean Breeze
1508 N.E. Jensen Beach Boulevard
Jensen Beach FL 34957

VIA EMAIL

Re: Paul C. Brown et al. v. Town of Ocean Breeze
Claim No. GC2021100116
Our File 00640/41048
Case No. Not in Suit; Claim Letter dated January 27, 2021

Dear Ms. Orr:

Thank you for speaking with me yesterday regarding the above-referenced matter. As discussed, the Florida League of Cities, Inc., on behalf of the Florida Municipal Insurance Trust, has engaged my office to represent the Town of Ocean Breeze ("Town") in connection with the matters asserted by Paul C. Brown and Paul C. Brown, Inc., in their Notice of Claim letter dated January 27, 2021 ("Claim Letter").

The Town does not need to respond to the Claim Letter. Instead, my office will coordinate with you and with the Town's Management Consultant, Terry O'Neil, about the preparation of an appropriate response. In the interim, I would encourage the Town's employees and officials to refrain from commenting publicly about the matters set forth in the Claim Letter.

We have scheduled a conference call at 2:00 p.m. on March 18, 2021, and I look forward to discussing the relevant issues with you and Mr. O'Neil at that time. If a summons or other court document is served upon the Town, please call me at 954-463-0100 and please send each item to me promptly by email: Hochman@jambg.com.

Very truly yours,


Jeffrey L. Hochman
For the Firm

cc: Terry O'Neil, by email
William Frederick Crary, II, Esq., by email
David Banciella, by email

From: Critchfield, Marshall <Marshall.Critchfield@fpl.com>
Sent: Monday, June 7, 2021 2:53 PM
To: townclerk@townofoceanbreeze.org
Subject: Re: Lighting West End Blvd. Ocean Breeze FPL

Hi Pam, Kerry is sending you an update - we're definitely working on it.

Thank you,
Marshall

Sent from my iPhone

On Jun 7, 2021, at 11:19 AM, townclerk@townofoceanbreeze.org wrote:

Good Morning, Marshall:

It is a pleasure speaking with you today.

We are looking for an update on the situation with the lighting on West End Blvd for the Town Council meeting on June 14, 2021. Please let us know where the issue stands.

Have a great day!

Pam Orr
Town Clerk
<image001.jpg>
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: TERRANCE O NEIL <twoneil@aol.com>
Sent: Tuesday, May 25, 2021 2:23 PM
To: townclerk@townofoceanbreeze.org
Cc: Elysse Elder; Rick Crary
Subject: Fwd: Opioid Litigation
Attachments: Martin.pdf; Untitled attachment 00526.htm; Enclosures.pdf; Untitled attachment 00529.htm

Pam, it may be that we'll be considering a county-requested Memorandum of Understanding (MOU) or similar document regarding opioid litigation settlement funds at our July town council meeting. Please place the matter on our tentative schedule. In the meantime, we'll await further direction from Elysse.

Thanks

Terry

Sent from my iPhone

Begin forwarded message:

From: Rick Crary II <rcii@crarybuchanan.com>
Date: May 25, 2021 at 12:46:12 PM EDT
To: Terry O'Neil <Twoneil@aol.com>, townclerk@townofoceanbreeze.org
Subject: Fwd: Opioid Litigation

FYI

Begin forwarded message:

From: Elysse Elder <eeelder@martin.fl.us>
Subject: FW: Opioid Litigation
Date: May 25, 2021 at 9:44:51 AM EDT
To: "RCII@crarybuchanan.com" <RCII@crarybuchanan.com>

Good Morning Rick,

Attached is correspondence the County received from the Attorney General's Office regarding a proposed settlement for the opioid litigation in the State of Florida. The Attorney General is requesting that each County adopt a resolution approving participation in a global settlement for the State of Florida and its counties and municipalities. This issue will be discussed at the June 22, 2021 Martin County BOCC meeting. We wanted to provided the attached for your review. Depending on the final version of the MOU, Martin County may need approval from the municipalities within Martin County to have funds allocated on their behalf. I am not sure if you are the proper contact for Ocean Breeze, but if not, please pass this along.

Please feel free to give me a call to discuss this further.
Thanks,
Elysse

Elysse A. Elder
Senior Assistant County Attorney
Martin County Attorney's Office
Martin County Board of County Commissioners
2401 SE Monterey Road
Stuart, FL 34996
772-288-5925 (o) 288-5439 (f)

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From the office of Jenny Fields, CFA *Blue Sheet Item #4*
Martin County Property Appraiser

May 28, 2021

Town of Ocean Breeze
c/o Pam Orr, Town Clerk
Post Office Box 1025
Jensen Beach, FL 34958

Re: 2021 Estimated Preliminary Taxable Value - Town of Ocean Breeze

Dear Ms. Orr:

Pursuant to F.S. 200.65(8), the Estimated Taxable Value of the above referenced taxing authority is 47,807,360. This value is an estimation of line 4 on the DR-420 (Current year gross taxable value for operating purposes) that will be certified by July 1.

Please note the values are preliminary and, like every other year, the estimate reflects a work in progress and values will change somewhat.

Although our next report to you is not due until on or about July 1, we will keep you informed on any changes which may affect your budget process.

Respectfully submitted,

Caitlin Blair, CFE

Tax Roll Manager

Representing Jenny Fields, CFA ♦ Martin County Property Appraiser

772.223.7953 ♦ Caitlin.blair@pa.martin.fl.us

3473 SE Willoughby Blvd., Suite 101, Stuart, FL 34994

Website: www.pa.martin.fl.us

Website: pa.martin.fl.us

Hobe Sound Office

11726 SE Federal Highway
Hobe Sound, FL 33455
(772) 546-1309

Stuart Main Office

3473 SE Willoughby Blvd. Suite 101
Stuart, FL 34994
(772) 288-5608

Indiantown Office

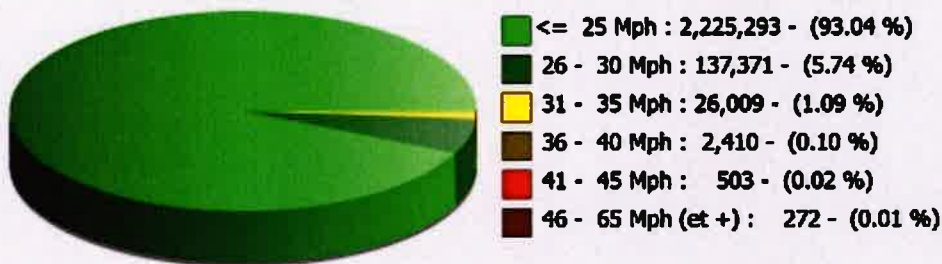
16550 Warfield Blvd.
Indiantown, FL 34956
Call for office hours (772) 288-5608

Sent to Hobbie - 6/1/2021

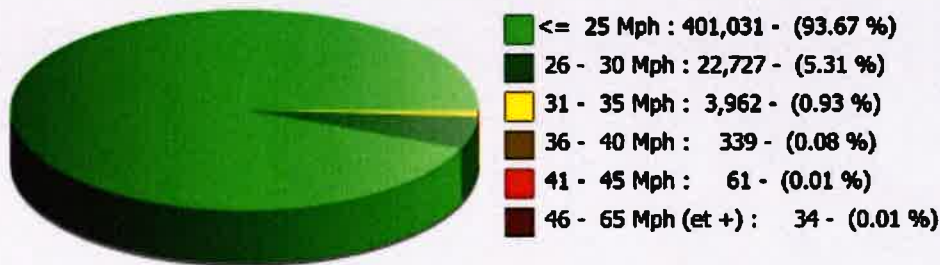
North Speed Sign Data

(Located north of city – catching southbound cars)

- October 2019 – March 2021 (1.5 years)
 - Total Number of Cars: 2.39M – 4,363 cars per day
 - % Cars <= 30mph: 98.78% (2.36M) – 4,310 cars per day
 - % Cars 31-35mph: 1.1% (26K) – 47 cars per day
 - % Cars >35mph: .13% (3.2K) – 6 cars per day



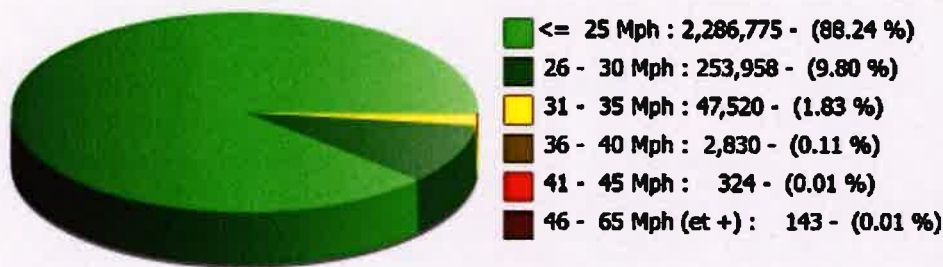
- January 2021 – March 2021 (most recent 3 months)
 - Total Number of Cars: 428.4K – 4,760 cars per day
 - % Cars <= 30mph: 98.98% (424K) – 4,711 cars per day
 - % Cars 31-35mph: .9% (4K) – 44.4 cars per day
 - % Cars >35mph: .1% (400) – 4.4 cars per day



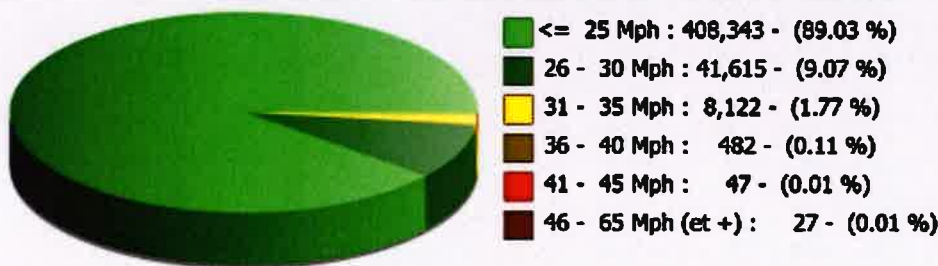
South Speed Sign Data

(Next to Environmental Studies Center – catching northbound cars)

- October 2019 – March 2021 (1.5 years)
 - Total Number of Cars: 2.59M – 4,734 cars per day
 - % Cars <= 30mph: 98.04% (2.54M) – 4,641 cars per day
 - % Cars 31-35mph: 1.83% (47.5K) – 87 cars per day
 - % Cars >35mph: .13% (3.3K) – 6 cars per day



- January 2021 – March 2021 (most recent 3 months)
 - Total Number of Cars: 458.6K – 5096 cars per day
 - % Cars <= 30mph: 98.98% (450K) – 5001 cars per day
 - % Cars 31-35mph: .9% (8K) – 89 cars per day
 - % Cars >35mph: .1% (556) – 6.2 cars per day



From: Carlos Rodriguez
Sent: Thursday, June 3, 2021 11:57 AM
To: M Berger@sewallspoint.org; terrancewoneil@gmail.com; townclerk@townofcanebreeze.org
Cc: Houman Assari; Naiem, Adham; Lisa Wichser
Subject: RE: 440473-1: SR 732/Jensen Beach Causeway | Martin County Coordination Meeting

Good Morning Michelle/Terrance,

The Florida Department of Transportation District 4 (FDOT D4) is planning mobility improvement to SR 732/Jensen Beach Causeway. In order to do so, it will require the Contractor to detour traffic for a total of six nights (3 nights in each direction) in order to complete the work. This project, tentatively, will be let to construction on April 1, 2022; with construction likely starting in mid/end summer. The County and your respective Town's will all be notified well in advance before the detour takes place and you will all be invited to the Pre-Construction conference.

Attached, you will find a schematic drawing of the proposed Detour route. Closures/Detours of the causeway will only be allowed Monday - Friday from 10pm-6am.

Pursuant to Lisa's email below, would you please let us know if you respective Town's have any objection to this? In addition, are there any other special events we should be aware of so that we can ensure the detours do not coincide with those?

If you need any additional information, please let me know and we can certainly provide it or set up a meeting to discuss in more detail.

Best,
Carlos M. Rodriguez, P.E.

ASA Consultants, Inc. | 510 Shotgun Road, Suite 402, Sunrise, FL 33326
Office: 754.216.2027 | Cell: 786.315.6351 | crodriguez@asaconsultants.us
www.asaconsultants.us

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From: Lisa Wichser <lwichser@martin.fl.us>
Sent: Thursday, June 3, 2021 11:13 AM
To: Carlos Rodriguez <CRodriguez@asaconsultants.us>
Cc: Houman Assari <hassari@asaconsultants.us>; Naiem, Adham <Adham.Naiem@dot.state.fl.us>
Subject: RE: 440473-1: SR 732/Jensen Beach Causeway | Martin County Coordination Meeting

Good morning everyone –

I'm sorry for the delayed response.

Martin County does not object to the Florida Department of Transportation proposing to use Martin County's NE Sewall's Point Road and NE Indian River Drive for a total of six nights (three nights in each

direction) during the course of the project, provided, however, that the Florida Department of Transportation coordinate and receive concurrence from the Town of Sewall's Point and the Town of Ocean Breeze prior to the decision being finalized. Martin County will require notification 14 days prior to the planned closure / detour.

The Jensen Beach Fine Art & Craft Show is typically held on the second weekend of January and the Jensen Beach Pineapple Festival is typically held on the third weekend of November.

Contact Information:

Town of Sewall's Point:

Michelle Lee Berger

Town Manager

Town of Sewall's Point

1 South Sewall's Point Road

Sewall's Point, FL 34996

MBerger@sewallspoint.org

www.sewallspoint.org

772-287-2455 ext 12

Town of Ocean Breeze:

Terrance O'Neil

Town Management Consultant

772 486 2190

Town of Ocean Breeze

Post Office Box 1025

Jensen Beach, FL 34958

Telephone: (772) 334-6826

Fax: (772) 334-6823

terrancewoneil@gmail.com

townclerk@townofoceanbreeze.org

www.townofoceanbreeze.org

Florida Power & Light:

Mrs. Alfreda Wooten | Sr. Customer Advisor – Government & Major Accounts

Office: 772-337-7094 | Cell: 772-206-1429 | email: alfreda.wooten@fpl.com

Address: 1050 SE Brandon Circle, Port St Lucie, FL 34952

Lisa A. Wichser, P.E., CFM

County Engineer

Public Works Department

Martin County Board of County Commissioners

772-223-7945 (office)

From: Carlos Rodriguez <CRodriguez@asaconsultants.us>

Sent: Thursday, May 27, 2021 1:38 PM

To: Lisa Wichser <lwichser@martin.fl.us>

Cc: Houman Assari <hassari@asaconsultants.us>; Naiem, Adham <Adham.Naiem@dot.state.fl.us>

Subject: RE: 440473-1: SR 732/Jensen Beach Causeway | Martin County Coordination Meeting

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Good Afternoon Lisa,

Just wanted to follow up on the few action items. Please advise:

- concurrence e-mail to allow for the use of NE Indian River Drive as part of the proposed Detour Route.
- provide a list of Special Events to ensure the Contractor will not perform any work during the scheduled events.
- provide contact information for FPL (SLC) to coordinate the planned outages that may conflict with SR 732 detour period.

Best,

Carlos M. Rodriguez, P.E.

ASA Consultants, Inc. | 510 Shotgun Road, Suite 402 | Sunrise, FL 33326
Office: 754.216.2027 | Cell: 786.315.6351 | crodriguez@asaconsultants.us
www.asaconsultants.us

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From: Houman Assari <hassari@asaconsultants.us>

Sent: Tuesday, May 18, 2021 3:14 PM

To: Naiem, Adham <Adham.Naiem@dot.state.fl.us>; Lisa Wichser <lwichser@martin.fl.us>; jpuerta@martin.fl.us

Cc: Carlos Rodriguez <CRodriguez@asaconsultants.us>

Subject: FW: 440473-1: SR 732/Jensen Beach Causeway | Martin County Coordination Meeting

Good Afternoon Attendees,

Attached please find the minutes for the Coordination meeting with Martin County for the referenced project. Kindly provide any comments you may have regarding the content of the minutes by May 26, 2021.

Thank you and best regards,

Houman Assari, P.E.

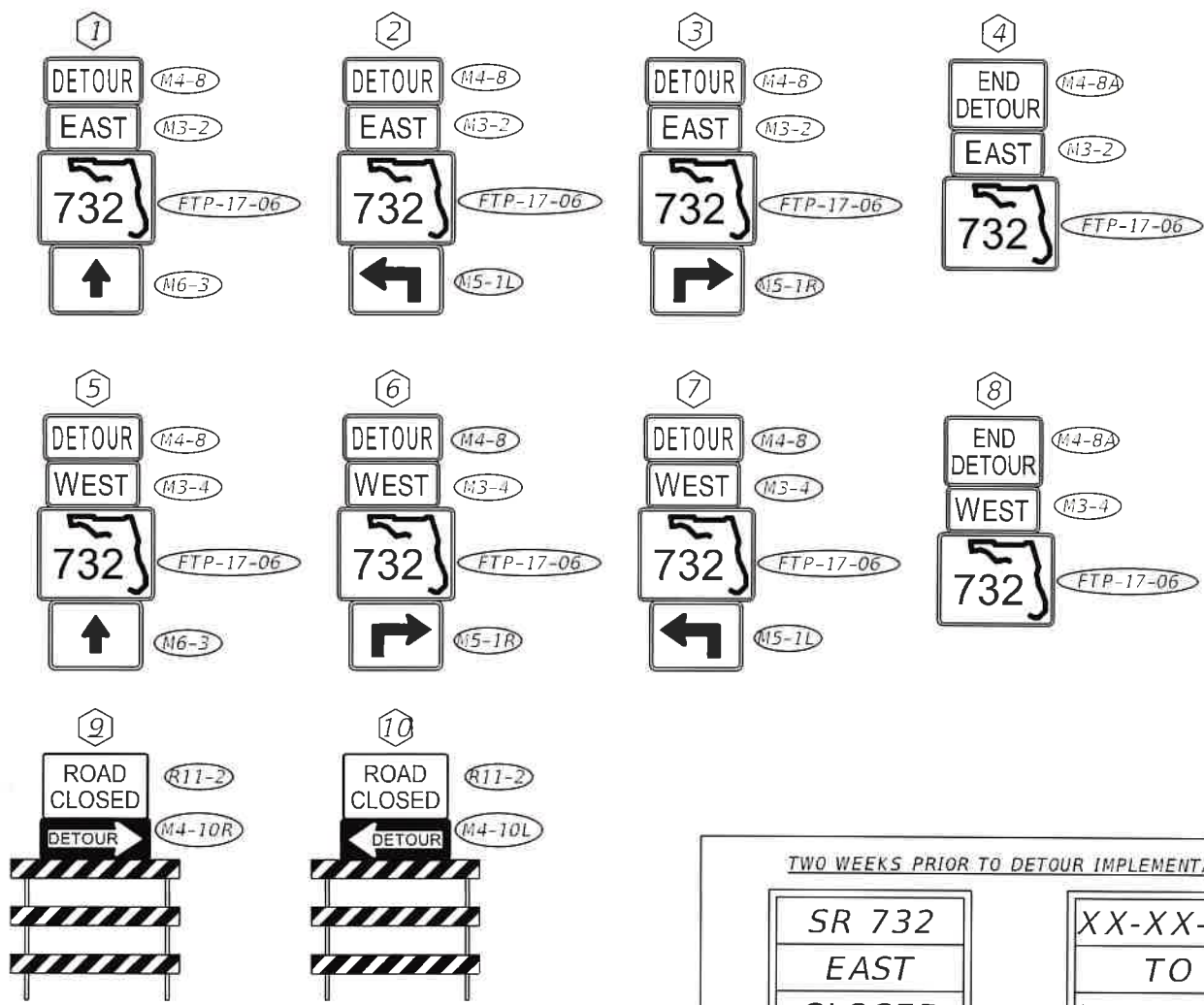
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Office: 754.216.2027 | Direct: 954.328.3590 | hassari@asaconsultants.us

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1. THIS DETOUR IS TO BE USED FOR THE MILLING AND RESURFACING OPERATIONS ONLY AND SHALL BE IMPLEMENTED IN ONE DIRECTION AT A TIME. THE DETOUR IS LIMITED TO THREE (3) NIGHTS PER DIRECTION FOR A TOTAL OF 6 NIGHTS.
2. PLACE THE PCMS SHOWN ON EACH APPROACH 500' UPSTREAM OF THE SR 732 INTERSECTION. PLACE DETOUR SIGNS 250' DOWNSTREAM OF THE PCMS AND AT SUBSEQUENT 1/2 MILE INTERVALS.
3. THE PCMS SHALL BE PLACED TWO (2) WEEK PRIOR TO IMPLEMENTATION OF THE DETOUR.
4. AT EACH END OF THE PROJECT, ON THE DETOURED LANE, PROVIDE ROAD CLOSED SIGNS IN CONJUNCTION WITH TYPE III BARRICADES.
5. IMPLEMENT THE SR 732 EASTBOUND DETOUR AND MAINTAIN SR 732 WESTBOUND OPEN TO TRAFFIC. SR 732 WESTBOUND DETOUR SIGNS SHALL REMAINED COVERED UNTIL THE DETOUR IS IMPLEMENTED.
6. UPON COMPLETION OF THE EASTBOUND PHASE, IMPLEMENT THE SR 732 WESTBOUND DETOUR AND MAINTAIN SR 732 EASTBOUND TRAFFIC OPEN. COVER THE SR 732 EASTBOUND DETOUR SIGNS WHILE NOT IN USE.



LEGEND

- WORK ZONE
- VEHICULAR DETOUR
- WORK ZONE SIGN
- PORTABLE CHANGEABLE MESSAGE SIGN (PCMS)
- EASTBOUND SR 732 DETOUR
- WESTBOUND SR 732 DETOUR
- WORK ZONE SIGN ON TYPE III BARRICADE

TWO WEEKS PRIOR TO DETOUR IMPLEMENTATION:

SR 732
EAST
CLOSED

XX-XX-XX
TO
XX-XX-XX

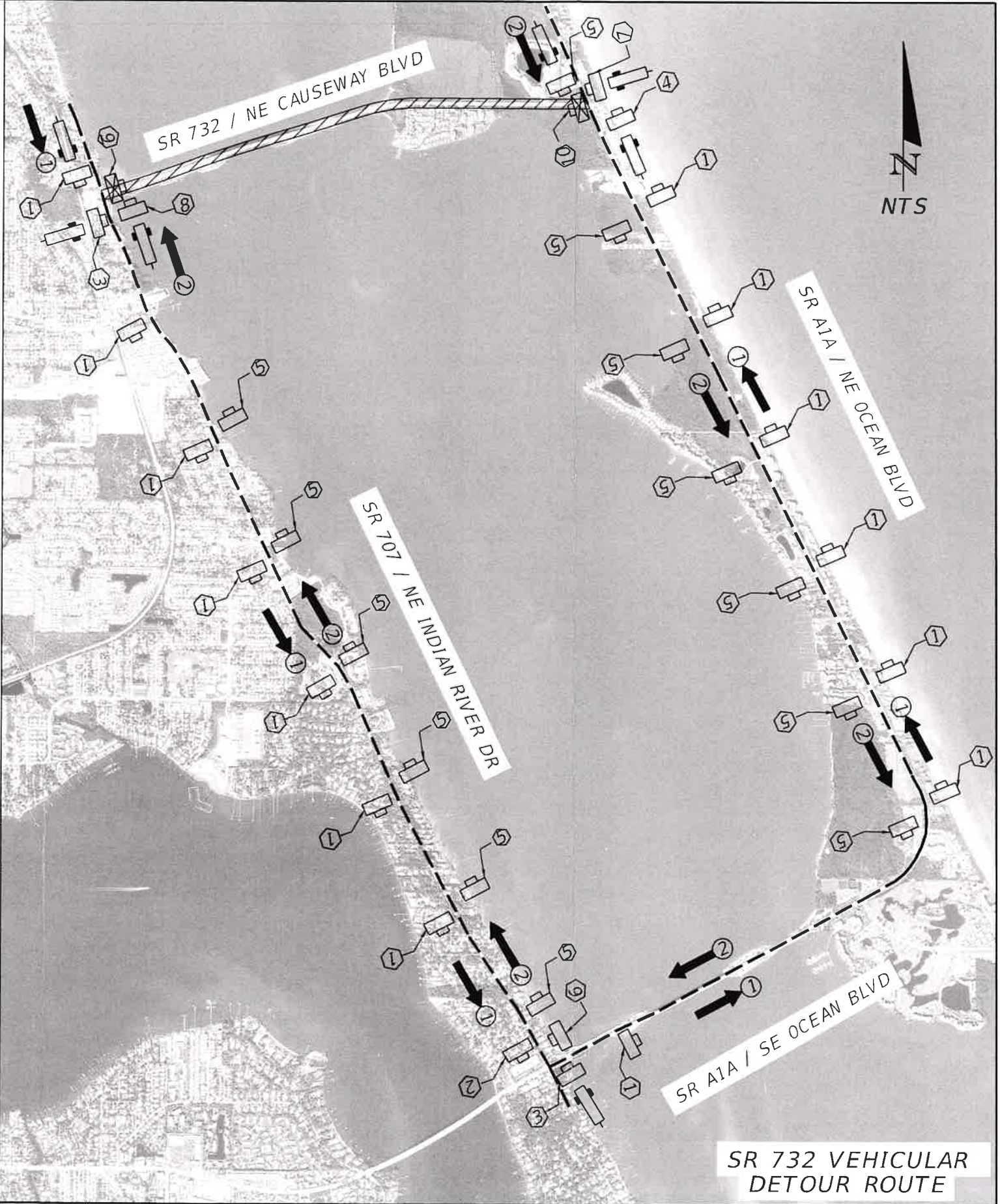
MESSAGE 1 MESSAGE 2
"EAST" SHOWN ON MESSAGE 1; "WEST" SIMILAR.

MESSAGE DURING CONSTRUCTION:

SR 732
EAST
CLOSED

FOLLOW
DETOUR
AHEAD

MESSAGE 1 MESSAGE 2
"EAST" SHOWN ON MESSAGE 1; "WEST" SIMILAR.



REVISIONS				CARLOS M. RODRIGUEZ, P.E. P.E. LICENSE NUMBER 79134 ASA CONSULTANTS, INC. 510 SHOTGUN ROAD, SUITE 402 SUNRISE, FL 33326	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			TEMPORARY TRAFFIC CONTROL PLAN	SHEET NO. 39
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
					SR 732	MARTIN	440473-1-52-01		

4/5/2021 5:58:20 PM Default

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