

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

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

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

- 1. Call to Order, President De Angeles**
 - Pledge of Allegiance
 - Roll Call
- 2. Approval of Minutes** – Regular Meeting, Monday, June 14, 2021
(Motion, second, public comments, all in favor)
- 3. Discussion of Home Rule Powers and 2021 Legislative Update**—Representative Toby Overdorf
- 4. Home Rule Hero Award Presentation to Mayor Ostrand by Jolien Caraballo, President
Treasure Coast Regional League of Cities and Second VP Florida League of Cities**
- 5. November 2021 Town Council Elections Proclamation**
(Motion, second, public comment, roll call)
- 6. Approval of dates for public hearings for Budget/Millage Adoption to be held at Ocean
Breeze Resort Clubhouse Pineapple Bay Room:**
 - Budget Workshop and Setting of Tentative Millage Rate, Tuesday, July 20, 2021 at 5:01 pm
 - Proposed Budget and Tentative Millage Hearing, Wednesday, September 15, 2021 at 5:01 pm
 - Final Budget and Millage Rate Hearing, Wednesday, September 22, 2021 at 5:01 pm
(Motion, second, public comment, roll call)
- 7. Comments from the public on topics not on the Agenda**
- 8. Comments from the Council on topics not on the Agenda**
- 9. Comments from Town Management Consultant Terry O’Neil**
- 10. Comments from Mayor Ostrand**
- 11. Announcements** – Regular Town Council Meeting – Monday, August 9, 2021,
at 10:30 am, to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room,
700 NE Seabreeze Way, Ocean Breeze
- 12. Adjourn** (Motion, second, all in favor)

TOWN OF OCEAN BREEZE
MINUTES REGULAR TOWN COUNCIL MEETING
Monday, June 14, 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, Kevin Docherty and David Wagner
Absent: Council Member Bill Arnold, Terry Locatis
- Staff Present – Town Management Consultant, Terry O’Neil; Town Attorney, Rick Crary, Town Clerk, Pam Orr; and Bookkeeper/Clerical Assistant, Kim Stanton

2. Approval of Minutes – Council Member Wagner, seconded by Council Member Docherty, made a Motion to approve the minutes of the May 10, 2021 regular Town Council meeting.

President De Angeles asked for public comments.

There were none.

All in Favor: Yes: De Angeles, Gerold, Docherty & Wagner; No: None; Motion Passed - 4 - 0

3. Discussion of Home Rule Powers and 2021 Legislative Update – Senator Gayle Harrell provided a verbal legislative update along with written material. She spoke about the state budget year, covid, economics of local funding for a manufacturing center at Indian River State College, Legacy Florida dollars for the local environment, best uses for water and infrastructure north of Lake Okeechobee, additional resources for schools, Home Rule issues and zoning issues.

She took questions from the Mayor, Town Council and members of the audience.

4. Request Motion to Accept and Transmit F/Y 2019-2020 Audit Report to appropriate State Level Governmental Agencies – Mark Bymaster, Audit Manager

Council Member Wagner made a Motion to accept and transmit the F/Y 2019-2020 Audit Report to the appropriate state level governmental agencies.

Mark Bymaster, CPA with Nowlen, Holt & Miner, PA gave reviewed the audit.

President De Angeles asked for public comments.

There were none.

President De Angeles asked for comments from the Council.

Mark Bymaster took questions from the Council.

Vice-President Gerold seconded the Motion to accept and transmit F/Y 2019-2020 Audit Report to the state agencies.

President De Angeles asked for comments from the public.

There were none.

Roll Call Vote: Yes: Wagner, De Angeles, Docherty, Gerold; No: None; Motion Passed: 4 – 0

5. Request Authorization for Mayor to hire Maria Pierce for position of Bookkeeper/Assistant to Town Clerk – Mayor Ostrand

Council Member Wagner, seconded by Council Member Docherty, made a motion to authorize the Mayor to hire Maria Pierce for the position of Bookkeeper/Assistant to Town Clerk.

President De Angeles asked for public comment.

There were none.

Roll Call Vote: Yes: De Angeles, Wagner, Gerold, Docherty; No: None; Motion Passed: 4 – 0

6. Comments from the public on topics not on the Agenda – Ann Kagdis, Ocean Breeze, announced the CRA Community meeting to be held on Wednesday, June 23, 2021, 5:30 – 7:00 pm at the Jensen Beach Community Center. She encouraged the Mayor and one town council member to attend. She added that any resident of the Town was welcome to attend.

Deidre Henry, Ocean Breeze, asked for an update on Brightline.

Mr. O’Neil proceeded to explain the ongoing discussion with Martin County regarding the railroads planned improvements and West End Boulevard. He stated that the current plan included a one-way traffic limitation. He added that Staff was inquiring of the County as to the amount of time the Town had to perform a review of the plan. He commented that the issue at hand had to do with the Americans with Disabilities Act requirements and that this activity was taking place outside of the Town limits.

Council Member Wagner asked about the guardrail on West End Boulevard and spoke about his belief that this guardrail was dangerous and an emergency situation.

Mr. O’Neil answered that Staff had made multiple efforts to address the situation with the guardrail. He stated that neither the railroad or the County would take responsibility. He added that the Town did not have the jurisdictional ability to make an emergency order to remove the guardrail. but that he would reach out to Martin Count and FEC again to fix this dangerous situation.

Vice-President Gerold asked about the new signs at the front entrance of the Resort and commented that one of the crosswalk signs was turned the wrong way and another had blinking lights out.

Pam Orr, Town Clerk, confirmed that a resident had contacted the Town office to report that a sign was turned. She stated that she did not get a report about the non-blinking lights on the crosswalk sign.

Vice-President Gerold confirmed that the location for this crosswalk with blinking lights out was at the exit from the Resort. He added that the southern-most crosswalk sign was working properly.

Vice-President Gerold asked about the positions of the docks and whether the residents are allowed to get docks. He added that he believed that the Town should work with Sun regarding clarifying of the positioning of the docks.

Mr. O'Neil commented that with the installation of the first dock, there was a need for clarification of the location of the docks. He stated that all the docks should be properly located so that it did not interfere with future docks and remarked that this was up to Sun Communities.

Vice-President Gerold stated that there was also a question in the PUD amendment about location of docks, frontage of different lots, what the frontage was concerning common ground, and location of docks.

Attorney Crary stated that the Ordinance that was adopted left this to the discretion of Sun but that Sun had to comply with what DEP required.

Mr. O'Neil commented that the PUD Ordinance had exhibits that were approved by the Town Council as part of the amendment.

Attorney Crary stated that there was some concern about the actual determination of location of the docks and also the usage of the docks.

Mr. O'Neil remarked that the use of the dock was limited to the tenant of the unit and the boat had to be registered at that location; that the docks could not be loaned out to a friend. He added that Sun was the entity as to how this was managed and commented that Attorney Crary was diligent in getting the PUD amendment just right, in that Sun Communities must manage how this dock program works.

Attorney Crary stated that if Sun Communities does not manage the dock program, they would be in violation of the PUD.

Vice-President Gerold asked if the residents questioning the dock situation should deal with the Town or deal with Sun Communities directly.

Attorney Crary answered that residents should deal with Sun Communities about their rights because this was Sun's property and Sun had decided to allow some docks and to follow the State rules. Sun didn't have an exact location and what they gave the Council to approve was conceptual. He added that Sun Communities was tagged with dealing with the matter.

Ann Kagdis, Ocean Breeze resident, stated that Doug Smith, Commissioner for this district, had "Coffee with a Commissioner" in the Jensen Beach Community Center every two months. She added that everyone was invited and everyone would have an opportunity to bring up specific concerns. She added that the next meeting would be in July.

President De Angeles asked Attorney Crary about more than one Council Member attending such a meeting but taking care that they do not discuss Town business.

Attorney Crary answered that they can be at the same meeting but he saw it as problematic.

Mayor Ostrand suggested rotating Council Members as it related to attending these meetings.

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

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

Janet Galante, Ocean Breeze resident asked what measures were being taken to include the residents at the new Seawalk development. She asked about posting the Town meetings in that community.

Pam Orr, Town Clerk, answered that the meetings are posted on the Town's website and that she had been in touch with their property management office to let them know about the Town's meetings.

Kim Stanton advised that during budget season, all the meetings were posted on the mailbox kiosks at Seawalk.

President De Angeles answered that he had visited Seawalk several times and met with management to let them know that they are a part of the Town of Ocean Breeze.

9. Comments from Mayor Ostrand – Mayor Ostrand stated that she thought we should ask if we could post meetings by the pool house. She spoke about the ages of the population at Seawalk. She spoke about having a workshop to discuss Town meeting times. She added that perhaps next month a discussion could take place to set a date for a workshop to change the meeting times so that everyone could participate.

10. Announcements – President De Angeles announced the regular Town Council meeting to be held on Monday, July 12, 2021 at 10:30 am at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze, Florida.

11. Adjourn – Council Member Wagner, seconded by Vice-President Gerold, made a motion to adjourn the meeting at 12:10 p.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

REP TOBY OVERDORF

Item #3

Session Review 2021

Highlights

- 11 Bills Passed
- All 5 projects funded
- \$839 Million secured



My Bills that Passed

- HB 77- Diesel Exhaust Fluid
 - Requires airports to develop a plan to prevent fuel contamination that can lead to plane crashes.
- HB 401- Florida Building Code
 - Curbs unnecessary regulations from local governments that increase housing costs and infringe on property rights.
- HB 461- Medicare Transportation Services
 - Requires Medicaid to pay all deductibles & coinsurance costs for Medicare-covered services provided by ambulances.
- HB 669- Largemouth Bass
 - Authorizes the sale of Florida largemouth bass by an aquaculture producer certified by DACS as long as the product of origin can be identified.
- HB 883- County Code Enforcement
 - Ends anonymous code enforcement complaints that are used as a weapon to harass neighbors.
- HM 1521- Disaster Public Assistance
 - Urges FEMA to not raise Disaster Thresholds during Hurricane Season.
- HB 217- Conservation Area Designation
 - Renames the Southeast Florida Coral Reef Ecosystem Conservation Area as Kristin Jacobs Coral Reef Ecosystem Conservation Area.
- HB 495- Determining Restitution Amounts for Crime
 - Allows courts to use additional means to determine the value of property when determining restitution amounts.
- HB 523- Human Trafficking
 - Changes the definition of Human Trafficking to allow for our police to combat Human Trafficking and protects victims during court proceedings.
- HB 783- Racketeering
 - Gives the Attorney General the ability to prosecute poachers under the RICO statute to end the illegal taking of our endangered species.
- HB 1309- Environmental Regulation
 - Ratifies FDEP rules regarding Biosolid Management and Monitoring, creates new standards for agricultural irrigation and long term protection of public water supply in Central Florida.

Funding for the Treasure Coast

Education



\$590 Million

Water Quality



\$167 Million

Health Care



\$43 Million

Infrastructure



\$31 Million

Research



\$7 Million

Including

\$1,340,000- Building Hope for People with Autism on the Treasure Coast

\$500,000- Stuart Alternative Water Supply Phase III

\$500,000- Martin County Port Salerno/New Monrovia Vacuum Sewer System

\$250,000- Children of Inmates: Family Strengthening and Reunification

\$185,000- Sewall's Point Business and Town Hall Sewer Conversion

Legislative Priorities

- **HB 1- Combating Public Disorder**
 - Creates one of the strongest anti-mob violence laws in the country to protect peaceful protests and law enforcement.
- **HB 3- Home Book Delivery for Elementary Students**
 - Establishes Florida's first-ever statewide delivery of free books to kids and support materials for parents.
- **HB 9- Protecting Consumers Against Pandemic-related Fraud**
 - Protects Floridians from vaccine-related scams and increases the penalties for pandemic-related fraud.
- **SB 50- Retail Sales Tax**
 - Provides an historic 700% tax break and reduction of the commercial rent tax by over half for Florida businesses.
- **SB 72- Civil Liability for Damages Relating to COVID-19**
 - Protects businesses, schools, nonprofits, religious organizations and health care providers that are following COVID protocols from frivolous lawsuits.
- **HB 1507- Workforce Related Programs and Services**
 - The single-largest statewide workforce revamp that will tear down barriers to success and create a worker-centric, accountable system to help students, workers and job seekers begin and advance in their careers.
- **SB 1954- Statewide Flooding and Sea Level Rise Resilience**
 - Creates the most ambitious plan in the nation to mitigate impacts of flooding and sea level rise.
- **HB 7045- School Choice**
 - Provides the largest expansion of school choice in the nation.
- **HB 7051- Law Enforcement and Correctional Officer Practices**
 - Builds policing confidence in Florida's communities by codifying best practices.
- **HB 7061- Taxation**
 - Creates a sales tax holiday (Freedom Week) from Thursday, July 1, through Wednesday, July 7, 2021, exempting certain purchases for outdoor activities – such as boating, camping and outdoor sporting events; also includes back-to-school and disaster preparedness tax holidays.



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



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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)



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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)



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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.



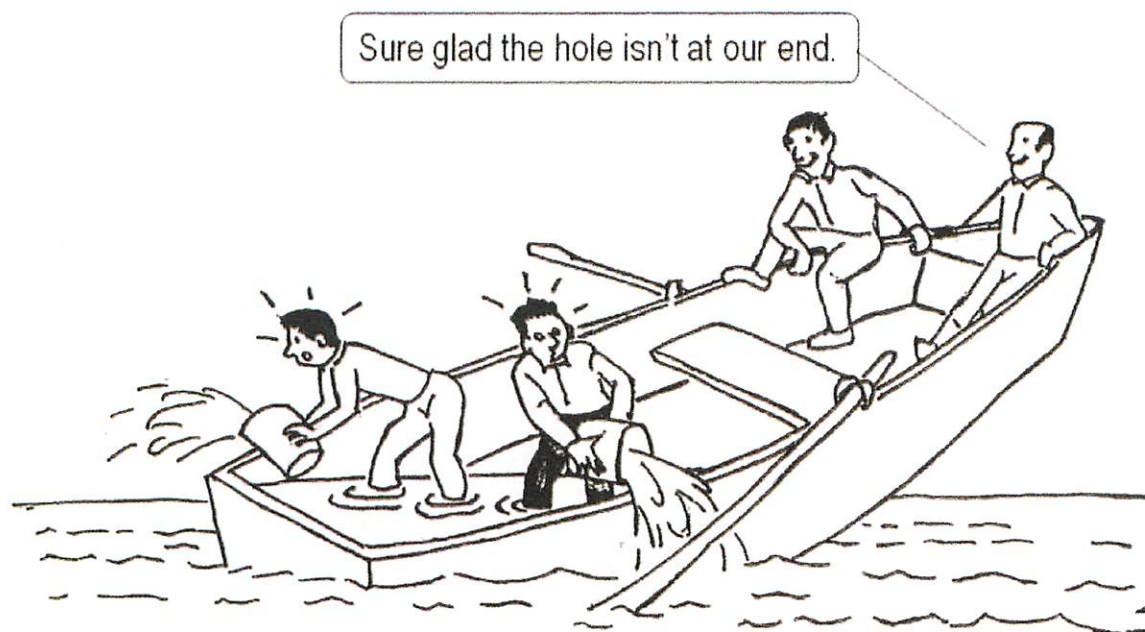
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What's Next? Local Self-Government's Death by 1000 Cuts

- 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!”



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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



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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?



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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?



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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)



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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 Toolkit*, 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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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

1. 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 *Guines 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 Dunedin*, 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. Water 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 *Collier 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).

TOWN OF OCEAN BREEZE, FLORIDA PROCLAMATION – 2021 TOWN ELECTION

ELIGIBILITY:

Persons eligible to run for Council Member must be a full-time resident of the Town of Ocean Breeze and a registered voter in Martin County.

CANDIDATES:

Candidates for office shall file for qualifying with the Town of Ocean Breeze Town Clerk between qualifying period of Monday, August 2, 2021 through Monday, August 23, 2021. All qualifying documents are provided by the Town Clerk and can also be accessed on the Town's web-site at: www.townofoceanbreeze.org

VACANCIES:

The positions of three (3) Council Members are open. Term is for two (2) years. The Council Members currently holding these positions are: Ken De Angeles, Kevin Docherty, and Bill Arnold.

REGULAR ELECTION:

The Regular Town Election will be held Tuesday, November 2, 2021.

ABSENTEE BALLOTS: Please Contact – Vicki, Davis, Supervisor of Elections

135 SE Martin Luther King Jr. Blvd.

Stuart, FL 34994

Phone: (772) 288-5637 Fax: (772) 288-5765

www.MartinVotes.com

VOTING PLACE & TIME: Langford Park, 2369 NE Dixie Highway, Jensen Beach, FL 34957. Polls are open from 7:00 a.m. to 7:00 p.m.

ELECTION RETURNS:

Election returns shall be furnished the morning after the Election at the Canvassing Board Meeting on Wednesday, November 3, 2021 at 10:00 am at: **Town of Ocean Breeze, 1508 NE Jensen Beach Blvd., Jensen Beach.**

DATE TO TAKE OFFICE: Monday, November 8, 2021

VOTER REGISTRATION:

The deadline for registering to vote in this November 2, 2021 Election, is Monday, October 4, 2021. Registration takes place at the Supervisor of Elections' office.

Town Office is located at: 1508 NE Jensen Beach Blvd., Jensen Beach, FL 34957
Office hours of operation: Monday – Friday, 9:00 a.m. – 2:00 p.m.

TRIM Timetable FY 2021/2022
For: Town of Ocean Breeze

July 1, 2021 (Thursday)	Property Appraiser certifies Tax Roll
July 20, 2021 (Tuesday, 5:01 pm)	Millage Rate & Budget Workshop/Special Meeting
August 4, 2021 (Wed)	Town certified the completed DR-420, DR-420MMP and any additional forms back to the property appraiser using e-trim system
Sept 15, 2021 (Wed, 5:01 pm)	Hearing – Setting of the Tentative Millage Rate & Budget
Sept 19, 2021 (Wed)	Advertise intent to adopt a final Millage Rate & Budget Advertise Budget Summary. Deadline for all advertisements.
Sept 22, 2021 (Wed, 5:01 pm) 5:01 pm)	Hold a public Hearing to adopt the final Millage Rate & Budget
By Sept, 2021 (Friday)	Send Resolution adopting the final Millage Rate to the Property Appraiser, the Tax Collector, and the Department of Revenue
	Within 3 days after receipt of Form DR-422 (and any other applicable forms) from the Property Appraiser, the Town completes and certifies millage back to the Property Appraiser using e-trim system.
By Oct 8, 2021	Within 30 days following adoption of the Millage Rate and Budget Resolutions, Town uses Form DR-487, Certification of Compliance, to certify compliance to the Property Tax Oversight Program.

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: Dennis McManus <dmcmanus@martin.fl.us>
Sent: Wednesday, July 7, 2021 2:24 PM
To: townclerk@townofoceanbreeze.org
Cc: twoneil@aol.com; Lukas Lambert
Subject: RE: Crosswalk Flashers

Pam,
We will bring all this to the County Engineer's attention when she returns from vacation next week. We will be in touch.

Sincerely,

Dennis McManus

Traffic Sign & Marking Supervisor
Public Works Dept.
Martin County BOCC
2485 SE Avenger Circle
Stuart, FL 34996
772-221-1392

From: townclerk@townofoceanbreeze.org <townclerk@townofoceanbreeze.org>
Sent: Tuesday, July 6, 2021 2:13 PM
To: Dennis McManus <dmcmanus@martin.fl.us>
Cc: twoneil@aol.com
Subject: Crosswalk Flashers

**Caution: This email originated from an external source.
Be Suspicious of Attachments, Links, and Requests for Login Information**

Dear Dennis:

Thank you again for looking into the matter of broken bulbs in the crosswalk flasher on Indian River Drive at Ocean Breeze Drive in the Town. Checking our records, we find that the Town did not directly purchase the flashes, but rather they were installed as part of the recently-completed Indian River Drive project administered by the County.

Assuming MC owns and maintains these items, we are aware of your department's policy the flashers are not replaced until all the bulbs in the unit are out. Further, we understand that the units in question do not permit for the replacement of the individual bulbs, but rather require replacement of the entire apparatus at a cost of approximately \$1500.

Again, assuming the County owns the units, it is our understanding that you will check to see if they are still under warranty and if so, you will seek their replacement by the warrantor.

Finally, if the units are yours and they are not under warranty, will you consider replacement if the Town agrees to pay the cost?

Again, we very much appreciate your help and look forward to hearing from you when time permits.

Regards,

Pam Orr
Town Clerk



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

Please make note of our new email address.

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

The comments and opinions expressed herein are those of the author of this message and may not reflect the policies of the Martin County Board of County Commissioners. Under Florida Law, email addresses are public records. If you do not want your email address released in response to a public records request do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

From: Marcela Cambor
Sent: Tuesday, June 8, 2021 1:31 PM
To: Terry O'Neil; townclerk@townofoceanbreeze.org; mayor@townofoceanbreeze.org
Subject: West End Blvd Update

Dear Mayor and Town

Attached please find the latest design proposal for West End Blvd. by Brightline.

This plan accommodates the County's request to allow a right-turn out of the roundabout for southbound traffic on NE West End Boulevard.

Traffic is southbound only for the portion of the County's ROW.

As you can see, the difference in elevation to allow for ADA crossing is substantive. This is the reason a lane is being eliminated.

The proposal accommodates the Town's request to maintain the town's (Sun Communities') ROW as is and for two-way traffic.

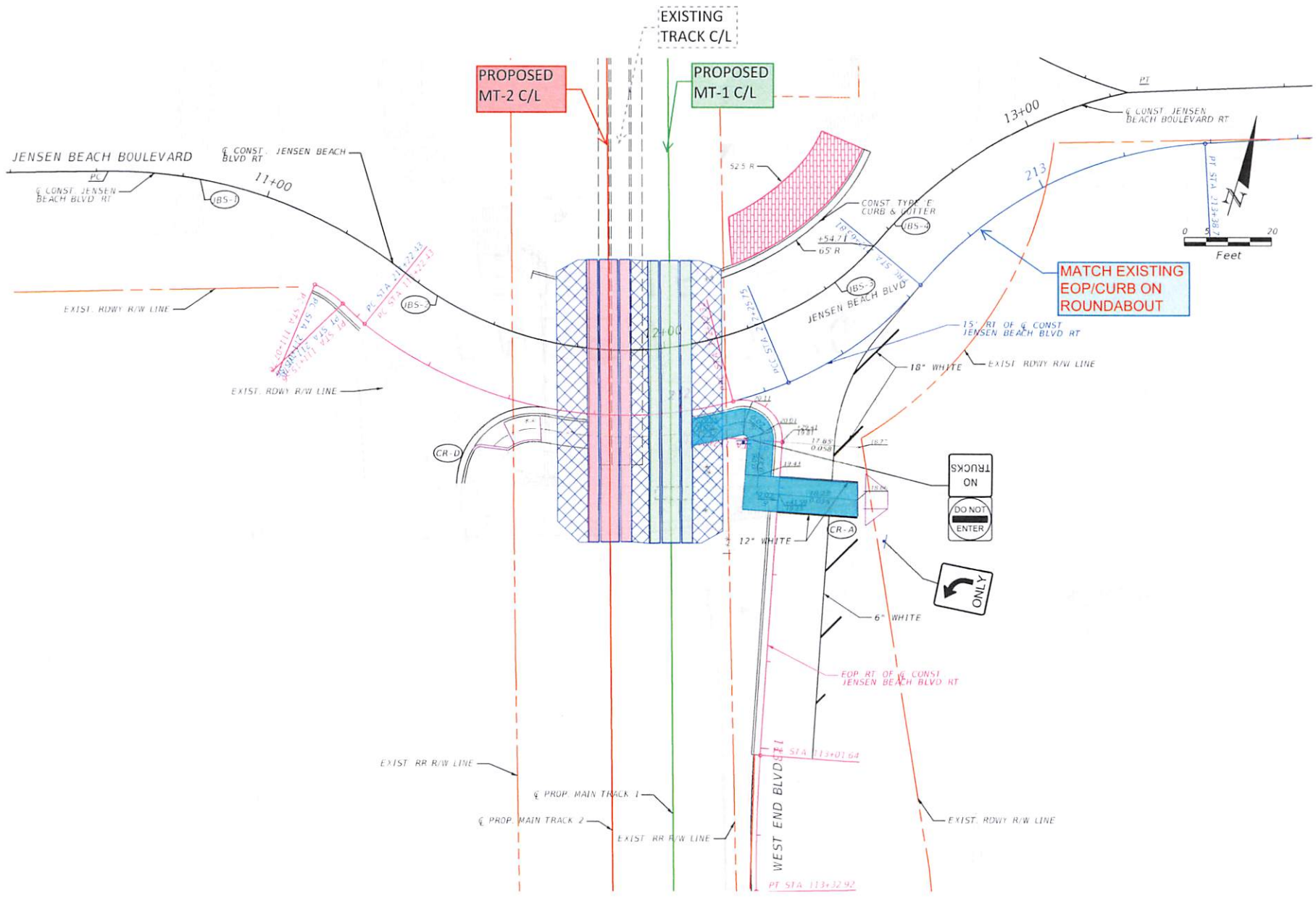
The County is in agreement with the current design and is committed to continuing to monitor the process and propose revisions in their portion of the ROW should they deem those necessary.

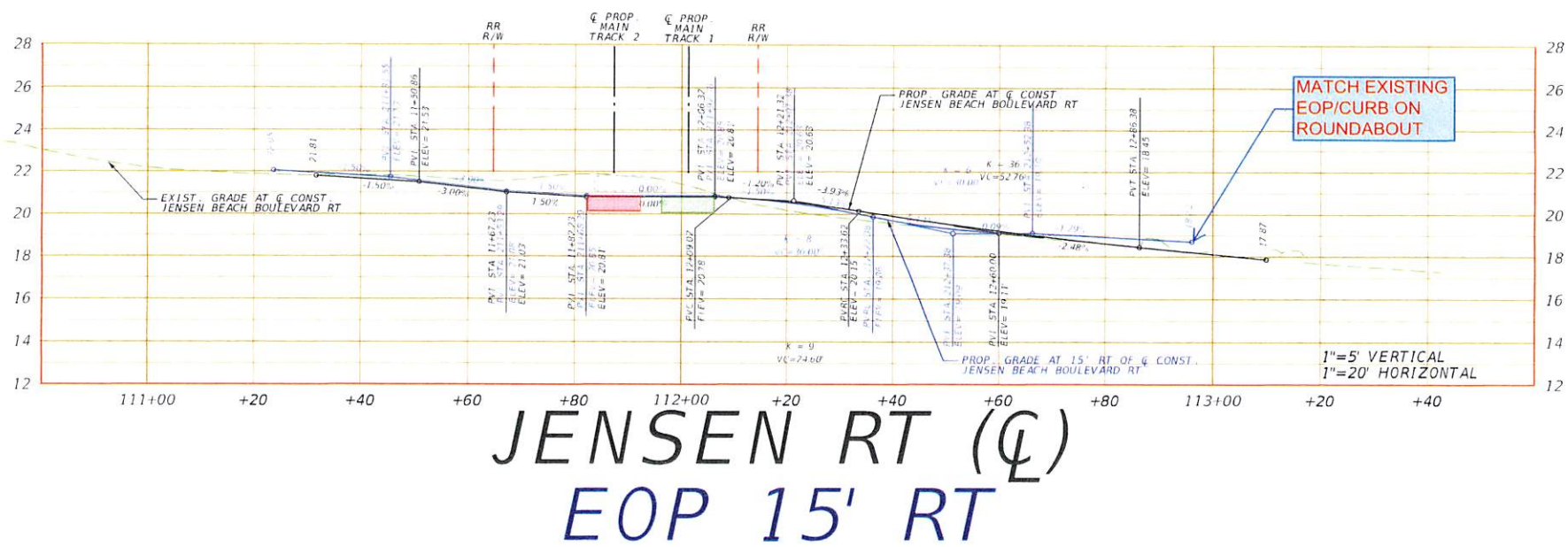
I am available to discuss this proposal with you at your convenience, as well as to show it discuss it during your next meeting.

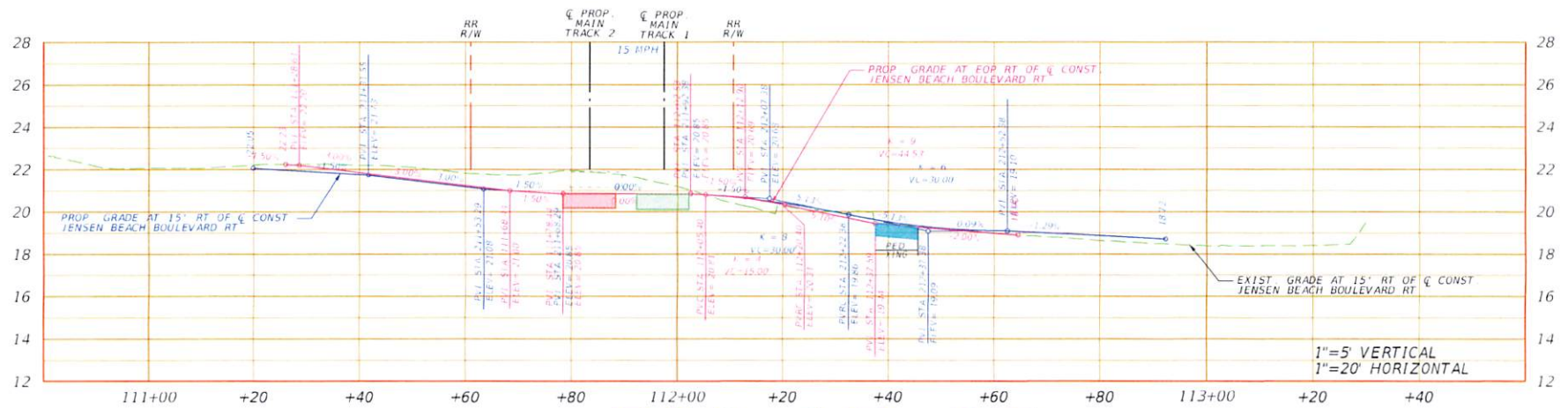
Sincerely,

Marcela

Marcela Cambor-Cutsaimanis, AICP
Principal, MC&A, Inc.
marcela@marcelacambor.com







EOP 15' RT
EOP RT (TO SOUTH)

From: Gena May <GMay@suncommunities.com>
Sent: Thursday, June 17, 2021 7:36 PM
To: townclerk@townofoceanbreeze.org
Cc: Chris Walters; Gena May
Subject: Re: Dock at 428 E. Intercoastal Drive

Just for the sake of discovery, I went by the site in question today to see the concern for myself, I took a small measuring tape with me.

Give or take a few inches, the dock built seems to be square in the middle of the site. That is what the PUD requires. I'm thinking someone is thinking / mistaking the placement for center of the house - of which they would be incorrect, that placement would be wrong.

It looks properly placed to me.

Respectfully,

Gena May

Regional Vice President, Operations & Sales
Sun Communities

[27777 Franklin Rd. Suite 200 | Southfield, MI 48034](#)

Email: gmay@suncommunities.com

*Pam, not true. In the future
We need to remind Sun of Section 1 a.
of Resolution # 303-2020 which clearly
states "Owner shall be responsible for
designating and confirming the
location of any dock or marginal
pier to be constructed per
Exhibit "A" attached hereto."*

Terry

COMMITMENT – INTENSITY – EMPOWERMENT – ACCOUNTABILITY – CUSTOMER SERVICE

From: Gena May <GMay@suncommunities.com>
Sent: Thursday, June 17, 2021 11:42:38 AM
To: townclerk@townofoceanbreeze.org <townclerk@townofoceanbreeze.org>
Cc: Chris Walters <CWalters@suncommunities.com>; Gena May <GMay@suncommunities.com>
Subject: FW: Dock at 428 E. Intercoastal Drive

Pam,

I hate to hear this, but please inform Terry that Sun's position on this matter is fairly simple... It would be Sun's position that this is a private building matter between the town and the home owner and it would be the responsibility of the Town of Ocean Breeze and the building inspector to determine compliance of the building permit issued, the construction that took place (which includes location) and to take necessary action if the build was not per the approved permitted plans.

Respectfully,

Gena May

Regional Vice President, Operations & Sales
Sun Communities

27777 Franklin Rd. Suite 200 | Southfield, MI 48034
Email: gmay@suncommunities.com

COMMITMENT – INTENSITY – EMPOWERMENT – ACCOUNTABILITY – CUSTOMER SERVICE

From: Chris Walters <CWalters@suncommunities.com>
Sent: Thursday, June 17, 2021 10:37 AM
To: Gena May <GMay@suncommunities.com>
Subject: FW: Dock at 428 E. Intercoastal Drive

From: Chris Walters
Sent: Tuesday, June 15, 2021 2:07 PM
To: Gena May <GMay@suncommunities.com>
Subject: FW: Dock at 428 E. Intercoastal Drive

I have printed this communication and attachments for us to discuss on your visit Thursday for response.

From: townclerk@townofoceanbreeze.org <townclerk@townofoceanbreeze.org>
Sent: Tuesday, June 15, 2021 1:45 PM
To: Chris Walters <CWalters@suncommunities.com>
Cc: RCII@crarybuchanan.com
Subject: Dock at 428 E. Intercoastal Drive

EXTERNAL EMAIL - Verify sender before opening links or attachments!

Hi Chris:

Terry asked me to forward the email below to you.

Have a great day!

Pam Orr
Town Clerk



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

Dear Chris,

A Town Council member has been approached by several constituents who have questioned whether the dock installed at 428 East Intercoastal Drive (lot 428) is properly centered on the lot. This same question was raised earlier during the dock's installation and the marine contractor assured the Town that the dock is where it should be. In that Sun established the boundaries of lot 428 when the modular home was installed, to help clear this up, we are asking that you physically identify the side lot lines in the field and that you confirm that the dock in question is properly located.

Attached is Resolution No. 303-2020, which governs the dock's location as well as a copy of the site plan exhibit, submitted by Harbor Bay Marine, the contractor, in obtaining a building permit, which clearly shows 18 feet on each side of the 4-foot-wide "grated deck" surface.

Thank you for addressing this issue. Please advise if you have any questions.

Sincerely,

Terry



Inst. # 2838159
Bk: 3158 Pg: 2119 Pages: 1 of 5
Recorded on: 9/16/2020 2:17 PM Doc: GOV
Carolyn Timmann
Clerk of the Circuit Court & Comptroller
Martin County, FL
Rec Fees: \$44.00



Inst. # 2831873
Bk: 3150 Pg: 1028 Pages: 1 of 5
Recorded on: 8/13/2020 3:12 PM Doc: GOV
Carolyn Timmann
Clerk of the Circuit Court & Comptroller
Martin County, FL
Rec Fees: \$44.00

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

RESOLUTION NO. 303-2020

RESOLUTION NO. 303-2020, PROVIDING FOR A MINOR AMENDMENT TO THE OCEAN BREEZE EAST PUD AGREEMENT ADOPTED BY ORDINANCE NO. 220-2015 AND AMENDED BY RESOLUTION NUMBERS 223-2015, 234-2016 AND 238-2016 AND BY ORDINANCE NO. 241-2016 AND BY RESOLUTION NO. 291-2019; THEREBY APPROVING MINOR CHANGES TO THE PROJECT'S REVISED MASTER SITE PLAN TO PERMIT THE RECONFIGURATION OF RESIDENTIAL DOCKS ALONG THE INDIAN RIVER LAGOON, INCLUDING CONDITIONS FOR THEIR USE; DECLARING SAID CHANGES TO BE CONSISTENT WITH THE TOWN'S COMPREHENSIVE PLAN; PROVIDING PENALTIES FOR PUD VIOLATIONS; PROVIDING FOR CONFLICT PROVISIONS AND A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


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

YES	NO	ABSENT
X		
X		
X		
X		
		X
X		



KAREN M. OSTRAND
MAYOR


KENNETH J. DE ANGELES
PRESIDENT

APPROVED AS TO FORM:


WILLIAM F. CRARY, II
TOWN ATTORNEY

ATTEST:


PAM ORR
TOWN CLERK



ACCEPTANCE AND AGREEMENT

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

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

WITNESSES:

NHC-FL143, LLC,
a Delaware limited liability company

Melissa Bridges
Print Name: Melissa Bridges

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

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

Kimberly C. Dotson
Print Name: KIMBERLY C. DOTSON

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

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

OWNERS ACKNOWLEDGMENT

STATE OF Michigan
COUNTY OF Oakland

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

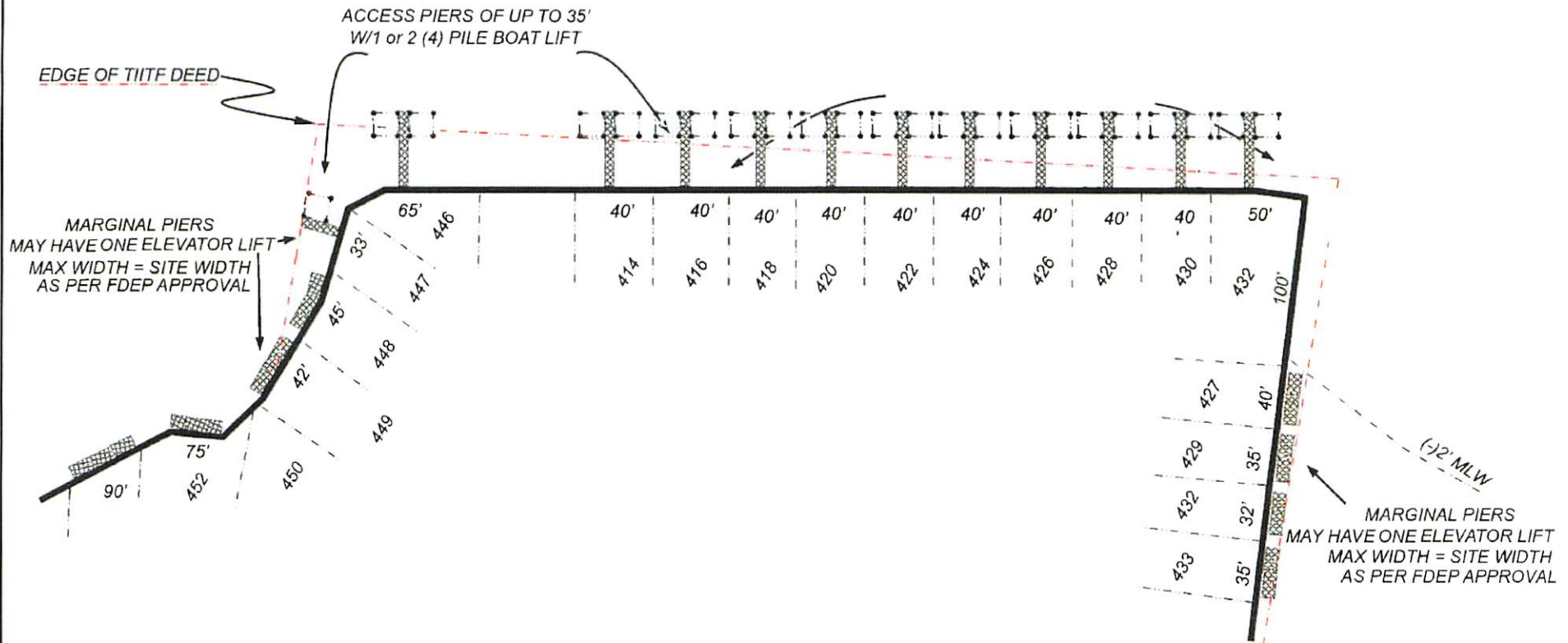
Stacey Ann Green
Print Name

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

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



INDIAN RIVER LAGOON

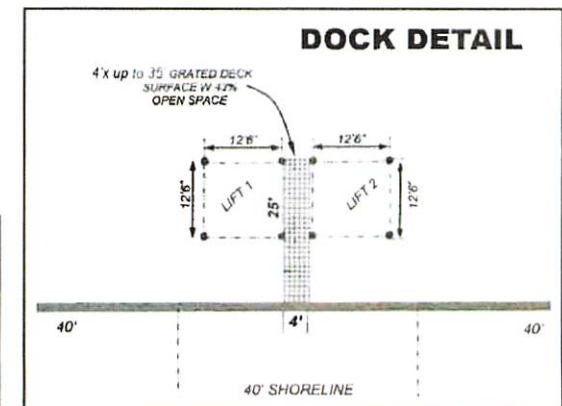


NOTES

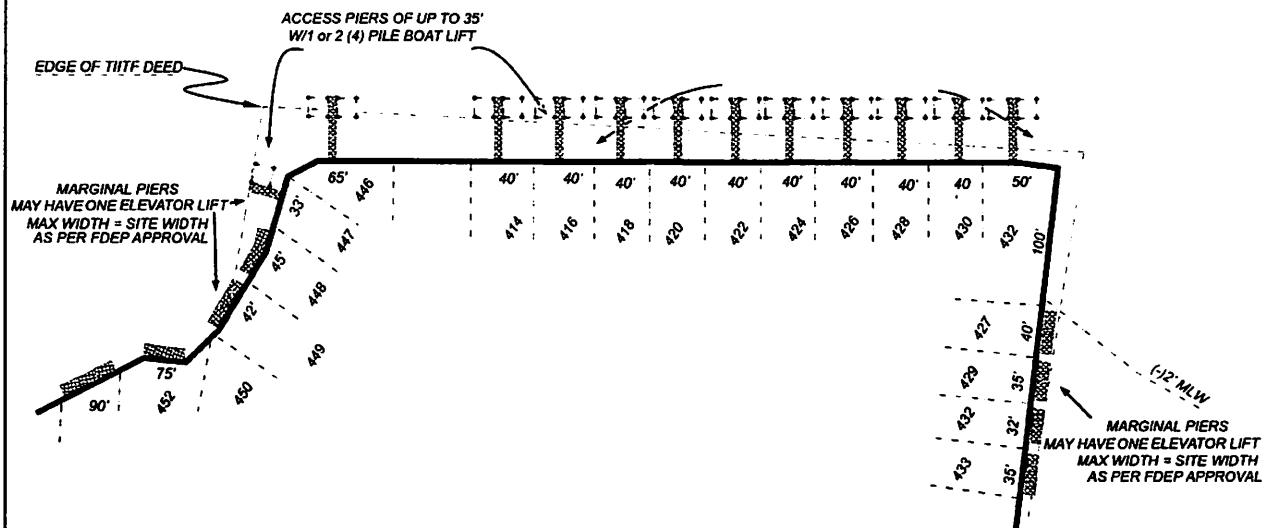
- Access piers shall be generally centered within each site so as to avoid encroachment on neighboring sites.
- Max- pier length protruding into water is 35'.
- Marginal piers shall have a 5' side set back to ensure a minimum 10' separation exists between marginal piers.

OCEAN BREEZE RESORT
3000 NE INDIAN RIVER DR.
JENSEN BEACH

OCEAN BREEZE EAST
PUD
EXHIBIT A
AUGUST 2020



INDIAN RIVER LAGOON

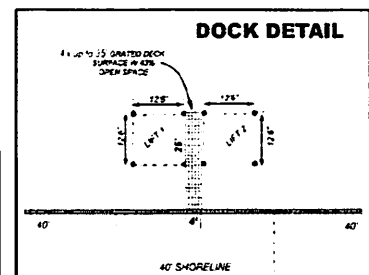


NOTES

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

OCEAN BREEZE RESORT
3000 NE INDIAN RIVER DR.
JENSEN BEACH

**OCEAN BREEZE EAST
PUD
EXHIBIT A
AUGUST 2020**



From: bookkeeper@townofoceanbreeze.org
Sent: Tuesday, July 6, 2021 11:10 AM
To: 'anthony.Straley@fpl.com'
Cc: 'townclerk@townofoceanbreeze.org'; 'Terry O'Neil'; Terry O'Neil (terracewoneil@gmail.com)
Subject: Vacant Light Poles
Attachments: FP&L Lights Town of Ocean Breeze.pdf

Hi Anthony,

It was nice to speak with you last week regarding the FP&L lighting for our Account #: 40616-22736. As per your instructions, attached is a FP&L lighting map which depicts all the lights running along Indian River Drive in the Town of Ocean Breeze (Martin County's right-of-way). As you can see, we have placed and circled in "red" the three light poles which do not currently have light fixtures. This area runs along a sidewalk where residents walk regularly and it is dark.

We spoke about the price to add these lights and understand the fees will correlate directly with the Town's existing charge for the lights currently in place which equates to roughly an additional \$11.08 per month

We also spoke about the change-over to led lighting and we forwarded those documents to you with the Mayor's signature several weeks ago in order to assist you in moving forward with this change. We understand these changes may take between 60 – 120 days.

Thank you for all your help, Anthony; if you have any questions please contact our offices.

Kim Stanton
Assistant to Pam Orr, Town Clerk
Bookkeeping



Town of Ocean Breeze
Post Office Box 1025
Jensen Beach, FL 34958
Telephone: (772) 334-6826
Fax: (772) 334-6823
www.townofoceanbreeze.org

ISEN BEACH
COMMERCIAL

MAPLE

Indian River Drive

Acct #: 40616-22736

Town of Ocean Breeze's FPL Account:

#s 1, 4, 6, 7, 8, 9,

12, 15, 17, 21, 22

Indian River Drive Lights

11TH WEST END

1 Add 25

BROAD

11TH

10TH

9TH

8TH

7TH

4TH

3RD

2ND

1ST

5TH

PEPPER

ALMOND

MANGO

COCOA

POINCIANA

MELALEUCA

CYPRESS

ARBORVITAE

OCEAN BREEZE O BREEZE

BAY

KEY LIME

KEYLIME

KUMQUAT

TWO-BIT

PALM

NE Coastal Dr

CIRCLE

LIL-BIT Pier Way

Three vacant poles

15 ✓

7 ✓

4 ✓

10 END 2 BIT

9 ✓

8 ✓

17 ✓

21 ✓

6 ✓

12 ✓

CYPRESS

22 ✓

townclerk@townofoceanbreeze.org

From: Terry O'Neil <terrancewoneil@gmail.com>
Sent: Thursday, July 8, 2021 1:25 PM
To: townclerk@townofoceanbreeze.org; Terry O'Neil; Ryan White
Subject: RE: Dangerous situation of FEC property adjacent to West End Boulevard. Urgent!

Dear Ryan,

Installation of the water barriers as a stopgap measure is appreciated, however, their placement encroaches onto the paved surface such that a southbound driver must now shift rather close to oncoming traffic. Removing and relocating the barrier as soon as possible seems the best course of action.

Please advise.

Sincerely,
Terry

Sent from [Mail](#) for Windows 10

From: townclerk@townofoceanbreeze.org
Sent: Thursday, July 8, 2021 1:12 PM
To: [Terry O'Neil](#); [Terrance O'Neil](#)
Subject: FW: Dangerous situation of FEC property adjacent to West End Boulevard. Urgent!

Pam Orr
Town Clerk



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

Please make note of our new email address.

From: TERRANCE O NEIL <twoneil@aol.com>
Sent: Tuesday, June 15, 2021 4:13 PM
To: Ryan White <rmwhite@hntb.com>
Cc: Marcela <marcela@marcelacambor.com>; Lisa Wichser <lwichser@martin.fl.us>;

townclerk@townofoceanbreeze.org

Subject: Re: Dangerous situation of FEC property adjacent to West End Boulevard. Urgent!

Thank you. And we look forward to the ultimate fix.

Sent from my iPhone

On Jun 15, 2021, at 3:56 PM, Ryan White <rmwhite@hntb.com> wrote:

I've spoken to our contractor and they will have water filled barrier out there today to protect the end while we come up with a long term solution.

Ryan White, P.E. | Project Engineer – Zone 4

Brightline | 300 North Drive

Melbourne, FL 32934

C: 407.304.8432

From: Terry O'Neil <twoneil@aol.com>

Sent: Monday, June 14, 2021 1:12 PM

To: Ryan White <rmwhite@HNTB.com>

Cc: Marcela <marcela@marcelacambor.com>; Lisa Wichser <lwichser@martin.fl.us>;
townclerk@townofoceanbreeze.org

Subject: Dangerous situation of FEC property adjacent to West End Boulevard. Urgent!

Dear Ryan,

I'm requesting your assistance in dealing with a dangerous situation on railroad property adjacent to West End Boulevard. Specifically, I'm referring to a derelict guardrail that is extremely unsafe. The exhibit below is from the property appraisers web site and shows that the structure in question is within railroad's right of way.

<image001.png>

The image below is from Google Earth and shows the guardrail when driving southbound on West End. The photo is a bit dated, but clearly that shows that the structure presents a poorly-lighted collision hazard just inches from the edge of pavement.

<image002.png>

Finally, the photo below was provided to me today by one of the Town Council members and shows that the barricade has been struck, and not for the first time!

<image004.jpg>

I realize you are a consultant to FEC/Brightline and that you are not the specific person to get this resolved, however, I am hoping that you can point me to the right person, or even better forward this

email to that individual as well? Sorry for the cliché, but this really is a serious accident just waiting to happen.

Please let me know if you're able to address my request.

Regards,

Terry O'Neil
Town Manager
Town of Ocean Breeze

Sent from [Mail](#) for Windows 10

This e-mail and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to whom they are addressed. If you are NOT the intended recipient and receive this communication, please delete this message and any attachments. Thank you.

townclerk@townofoceanbreeze.org

From: townclerk@townofoceanbreeze.org
Sent: Tuesday, July 6, 2021 3:00 PM
To: 'Lavette, Kerry'
Subject: FW: Lighting West End Blvd. Ocean Breeze FPL

Hi Kerry:

Is there any progress on the lighting on West End Blvd? We are having the Town Council meeting on the 12th of July and would like to give an update. Please let us know.

Thank you,

Pam Orr
Town Clerk



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

Please make note of our new email address.

From: 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

townofoceانبreeze.org

Please make note of our new email address.