

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

January 10, 2022, 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, December 13, 2021  
(Motion, second, public comments, all in favor)
- 3. Comments from the public on topics not on the Agenda**
- 4. Comments from the Council on topics not on the Agenda**
- 5. Comments from Town Attorney, Rick Crary** - Update on “Emergency”  
Extensions to Time Tables for Development, declared by Florida’s Governor, as  
they pertain to the Ocean Breeze East PUD Agreement
- 6. Comments from Town Management Consultant Terry O’Neil**
- 7. Comments from Mayor Ostrand**
- 8. Announcements** – Regular Town Council Meeting – Monday, February 14, 2022 at  
10:30 am to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room,  
700 NE Seabreeze Way, Ocean Breeze
- 9. Adjourn** (Motion, second, all in favor)

TOWN OF OCEAN BREEZE  
MINUTES REGULAR TOWN COUNCIL MEETING  
Monday, December 13, 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 and Terry Locatis
  - Staff Present – Town Management Consultant, Terry O’Neil; Town Attorney, Rick Crary; and Bookkeeper/Assistant, Maria Pierce

President De Angeles introduced Martin County Sheriff Deputy Andy Adams. Deputy Adams spoke about various events in Downtown Jensen Beach. He added that there were some burglaries isolated in Jensen Beach and reminded citizens to keep their cars locked and devoid of valuables. He asked for questions.

There were none.

2. **Approval of Minutes** – Council Member Wagner, seconded by Council Member Docherty, made a motion to approve the minutes of the November 8, 2021 regular 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

Council Member Wagner, seconded by Council Member Docherty, made a motion to approve the minutes of September 15, 2021 Tentative Budget and Proposed Millage Rate Hearing.

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

Council Member Wagner, seconded by Council Member Docherty, made a motion to approve the minutes of September 22, 2021 Final Budget and Proposed Millage Rate Hearing.

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. **Budget to Actual Report: Fourth Quarter of Fiscal Year 2021** – Town Management Consultant, Terry O’Neil, explained that the increase in revenues was due to the accelerated pace of construction at the Seawalk development, and recommended accepting the report.

President De Angeles asked if any Council Members had any questions.  
There were none.

Council Member Wagner, seconded by Council Member Docherty, made a motion to approve the Budget to Actual Report for the Fourth Quarter of Fiscal Year 2021.

President De Angeles asked if there were any public comments.

There were none.

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

**4. Approval of Letter waiving staff review pass-through costs in the event Sun Communities seeks a minor PUD Amendment to allow for speed bumps** - President De Angeles introduced the request to approve a letter waiving the staff review pass through costs to Sun Communities in the event they seek a minor PUD Amendment to allow for speed bumps. He also stated that Vice President Gerold asked this letter be brought before the Council for approval.

President De Angeles asked if any Council Members had any questions.

Town Attorney, Rick Crary, provided an explanation of Sovereign Immunity.

Discussion ensued regarding sovereign immunity.

Mr. O'Neil stated that the letter would go to Sun Communities and it would be up to them whether or not they would apply for the amendment.

President De Angeles asked if Council Members had any questions.

Council Member Wagner stated he did not think it was in the Town's best interest to waive the fees for a potential, future event.

Discussion ensued regarding the matter.

Council Member Docherty, seconded by Vice President Gerold, made a motion to approve the Mayor to sign a letter waiving staff fees and costs associated with any future PUD amendment for speed bumps.

Resident Janet Galente thanked Vice President Gerold for bringing this to Council for consideration because she believed the matter to be a public safety concern.

Council Member Wagner stated that he was in favor of the speed bumps and that the issue was that it appeared that the Council was waiving fees as an admission that the Town was at fault.

Discussion ensued regarding fees, possible delays, the letter from the Mayor and waiving only staff pass-thru costs associated with a PUD amendment for installation of speed bumps.

President De Angeles asked for further comments from the Council.

There were none.

President De Angeles asked for further public comments.

There were none.

Roll Call Vote: Yes: Docherty, Gerold; No: Wagner, De Angeles; Vote 2 – 2 No Action Taken

**5. Approval of Letter supporting the Town of Sewall's Point in its application for Indian River Lagoon improvements grant funds** – Mayor Ostrand explained the background of the approval and support letter for the Town of Sewall's Point to obtain grant dollars for storm-water improvements.

President De Angeles asked for public comments.

Discussion ensued regarding some of the controversial views amongst the Town of Sewall's Point Commissioner's, prior grants, prior/current referendum, House Bill 2123, House Bill 2059 and local delegation support.

Council Member Wagner, seconded by Council Member Docherty, made a motion to approve the letter to the Town of Sewall's Point.

President De Angeles asked for public comment.

There were none.

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

**6. Comments from the public on topics not on the agenda** – There were none.

**7. Comments from the Council on topics not on the Agenda** – Council Member Wagner stated that there was an accident involving a train and an automobile at the downtown Jensen Beach round-a-bout. He commented that several residents had shared their concern about vehicles traveling east, making a right-hand turn onto West End Blvd at the railroad tracks when a pedestrian was present. He suggested that the timing of the train track crossing arms be adjusted to prevent a vehicle from being stuck on the tracks while waiting for a pedestrian to cross. He remarked that this was out of the Town's jurisdiction, but that he believed Martin County should be made aware of this issue.

Mayor Ostrand commented that she would be in at the Florida League of Cities Advocacy meeting in Tallahassee on January 18<sup>th</sup> and that she would have an opportunity to discuss this issue with the state representatives.

President De Angeles asked for further comments from the Council.

There were none.

**8. Comments from Town Management Consultant, Terry O'Neil** – Mr. O'Neil stated that the Town had received a letter from Florida Department of Revenue that stated that the millage process had been completed properly. He added that the Town also received a letter from the Florida Department of Economic Opportunity stating that the Department was issuing a Notice of Intent to find the Town's EAR based Comprehensive Plan Amendment in compliance.

**9. Comments from Mayor Ostrand** – Mayor Ostrand wished everyone a Merry Christmas and Happy New Year. She also thanked the audience for attending the meeting.

President De Angeles echoed Mayor Ostrand's sentiments.

**10. Announcements** – President De Angeles announced the regular Town Council meeting would be held on Monday, January 10, 2022 at 10:30 a.m. at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze, Florida.

**12. Adjourn** – Council Member Wagner, seconded by Council Member Docherty, made a motion to adjourn the meeting at 11:13 a.m.

Respectfully Submitted,

Pam Orr  
Town Clerk

Minutes approved: \_\_\_\_\_

**townclerk@townofoceanbreeze.org**

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**From:** Raynes, Robert <RRaynesJr@gunster.com>  
**Sent:** Monday, January 3, 2022 3:05 PM  
**To:** Rick Crary II  
**Cc:** townclerk@townofoceanbreeze.org; Terry O'Neil; Maria C. Makozy  
**Subject:** RE: Town of Ocean Breeze Park Letter

Hi Rick,

Happy New Year. Thank you for your response below.

Bob

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**From:** Rick Crary II <RCII@crarybuchanan.com>  
**Sent:** Monday, January 3, 2022 1:11 PM  
**To:** Raynes, Robert <RRaynesJr@gunster.com>  
**Cc:** townclerk@townofoceanbreeze.org; Terry O'Neil <twoneil@aol.com>; Maria C. Makozy <MMakozy@crarybuchanan.com>  
**Subject:** Re: Town of Ocean Breeze Park Letter

Dear Bob,

Per our telephone discussions, I have indicated that I believe your calculations are correct. I had hoped that one of us might be able to find some clarifying opinion from a court or the Attorney General. In the absence such guidance, I have done the math again to double-check, and I have come up with the same November 20, 2023 date that you did.

I have previously opined to the Town Council that it was my opinion that the Governor's emergency declarations would likely result in a lengthy extension within the range that you have calculated. In the absence of case law arising to the contrary, that will continue to be my opinion. Any issues of noncompliance referenced as being excluded per the statute would not be affected by the extension.

As you state in your most recent letter, extensions for toll periods under Florida Statutes Section 252.363 occur as a matter of law. As far as I am aware, a municipality has no obligation or jurisdiction to take further action to formally extend or revise the statutory time period. However, I have asked Town Management Consultant Terry O'Neil to ask the Town Clerk to forward a copy of your correspondence and this email of mine to the Town Council for their review to determine whether they wish to further respond.

Kind regards,

Rick Crary, Town Attorney

On Dec 23, 2021, at 9:44 AM, Raynes, Robert <[RRaynesJr@gunster.com](mailto:RRaynesJr@gunster.com)> wrote:

**CAUTION: EXTERNAL MAIL. DO NOT CLICK ON LINKS OR OPEN ATTACHMENTS YOU DO NOT TRUST**

Good morning Rick,

I hope all is well with you. I am just following up on the attached letter that was hand delivered to your office on October 14, 2021, regarding our request for confirmation of the extension of the timeline to November 20, 2023, per the Executive Orders issued by Governor DeSantis for the COVID-19 pandemic. Can you please give me an update on when we might expect a response from the Town of Ocean Breeze Park to the attached letter. Your assistance and cooperation regarding this matter is greatly appreciated. I hope you and your family have a Merry Christmas and a Happy New Year.

Bob

<image001.png>

**Robert S. Raynes Jr.**

Shareholder

800 S.E. Monterey Commons Boulevard, Suite 200

Stuart, FL 34996

P 772-288-1980 C 772-285-5287 F 772-288-0610

[gunster.com](http://gunster.com) | [View my bio](#)

Email me: [r-raynes@gunster.com](mailto:r-raynes@gunster.com)

<20211223091111195.pdf>



File Number: 53628.00001  
Writer's Direct Dial Number: (772) 288-1980  
Writer's E-Mail Address: rraynes@gunster.com

October 14, 2021

**VIA HAND DELIVERY**

William F. Crary, II, Esq.  
Crary Buchanan  
759 SW Federal Hwy Suite 106  
Stuart, FL 34994

**RE: PUD Tolling/Extensions for the Ocean Breeze East Planned Unit  
Development Agreement (the "PUD")**

Dear Rick:

Our Firm is representing Sun Communities, Inc. regarding the filing of certain notices to the Town of Ocean Breeze. The notices were filed pursuant to the numerous Executive Orders issued by Governor Ron DeSantis declaring a State of Emergency concerning the COVID-19 pandemic.

The following letters filed on behalf of Sun Communities, Inc. provided the Town of Ocean Breeze with the required notice that Sun Communities, Inc. was exercising its right to toll the time periods under the PUD, pursuant to Section 252.363 of the Florida Statutes:

- Letter from Brian C. Chase to Terry O'Neil, dated August 10, 2020;
- Letter from Brian C. Chase to Terry O'Neil, dated August 14, 2020;
- Letter from Brian C. Chase to Terry O'Neil, dated August 24, 2020;
- Letter from Gena May to Terry O'Neil dated, May 4, 2021; and
- Letter from Brian C. Chase to Terry O'Neil, dated September 24, 2021.

For your convenience I have enclosed copies of these letters.

The Executive Order and all extensions issued by Governor DeSantis, for COVID-19, expired on June 26, 2021. Accordingly, the tolling period for the Executive Orders for the COVID-19 pandemic totaled four hundred seventy-four (474) days plus six (6) months.

The purpose of this letter is to confirm the extension of the deadline for the use of lots for motorhomes. Previously, the deadline was scheduled to permanently cease in January 2022,



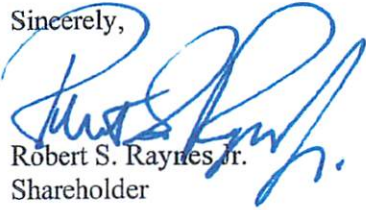
William F. Crary, II, Esq.  
October 14, 2021  
Page 2

pursuant to Section 1.1 of Ordinance Number 241-2016. That deadline is now extended to November 20, 2023.

Although we recognize that these extensions are automatic, pursuant to Florida law, with the submission of the required notification to the Town of Ocean Breeze, we would appreciate written acknowledgment, from the Town of Ocean Breeze, of the extension of the timeline to November 20, 2023. Our hope is that this will ensure that no issues or disputes will occur in the future regarding the date that motorhomes are no longer permitted except in the areas designated to accommodate motorhomes on the approved Ocean Breeze East PUD Master Site Plan.

Please let me know if you have any questions or need anything else from me. Your assistance and cooperation regarding this matter is greatly appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert S. Raynes, Jr.", is written over the word "Shareholder".

Robert S. Raynes, Jr.  
Shareholder

RSR/st

cc: Brian C. Chase, Esq.  
Ms. Gena May  
Matthew Chosid, Esq.



**AtlasLaw**

**Brian C. Chase**  
Managing Attorney  
brian@atlaslaw.com

P 813.241.8269  
F 813.840.3773

August 10, 2020

**Via U.S. Certified Mail, R.R.R.,  
and First-Class Mail**  
Mr. Terry O'Neil  
Town Manager, Town of Ocean Breeze

**Re: PUD Tolling/Extension**

Dear Mr. O'Neil,

As representative for NHC-FL143, LLC (the "Applicant") hereby provides notice to the Town of Ocean Breeze that Applicant intends to exercise the tolling and extension of all obligations pertaining to deadline submissions pursuant to the Planned Unit Development associated with Applicant's property. Applicant is providing this notification pursuant to §252.363 Fla. Stat. and Governor DeSantis' State of Emergency declaration, as issued by Executive Order 20-152, dated March 9, 2020, further extended by Executive Order 20-114 dated May 8, 2020, and further extended by Executive Order 20-166 dated July 7, 2020. The impact of COVID-19 continues to pose threat to the health, safety and welfare of the residents of Ocean Breeze and to the state of Florida, and limits the Applicant's ability to execute as intended the commitments outlined in the OBE PUD. This tolling and extension applies to all dates, schedules and deadlines outlined in Resolution 219-2019 including but not limited to Item 25 – Development Timetable, and all subsequent schedule amendments as outlined in amended Resolutions number 223-2015, 234-2016 and 238-2016, and Ordinances No. 241-2016 and 291-2019.

The above-mentioned emergency declaration effectively extends the period to exercise the rights under a permit, authorization or other regulatory obligation for 6 months in addition to the tolled period outlined in each of the outlined Resolutions.

I want to take this opportunity to inform the Town that the applicant is working diligently towards satisfying all commitments as expeditiously as possible.

Please do not hesitate to contact me if you have any questions.

Very truly yours,  
ATLAS LAW

Brian C. Chase

BCC/hm  
cc: Community Manager

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front.

Mr. Terry O'Neil  
Town Manager, Town of Ocean Breeze  
P. O. Box 1025  
Jensen Beach, FL 34957

*Ocean Breeze*



9590 9402 5249 9154 5662 64

2. Article Number (Transfer from service label)

7017 2280 0002 0888 5480

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

Address different from item 1? ☐ Yes  
delivery address below: ☐ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☐ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

or

☐ Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Return Receipt for Merchandise

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery



**AtlasLaw**

**Brian C. Chase**  
Managing Attorney  
brian@atlaslaw.com

P 813.241.8269  
F 813.840.3773

August 14, 2020

Via U.S. Certified Mail, R.R.R.,  
and First-Class Mail  
Mr. Terry O'Neil  
Town Manager, Town of Ocean Breeze  
P. O. Box 1025  
Jensen Beach, FL 34957

**Re: PUD Tolling/Extension**

Dear Mr. O'Neil,

As representative for NHC-FL143, LLC (the "Applicant") hereby provides notice to the Town of Ocean Breeze that Applicant intends to exercise the tolling and extension of all obligations pertaining to deadline submissions pursuant to the Planned Unit Development associated with Applicant's property. Applicant is providing this notification pursuant to §252.363 Fla. Stat. and Governor DeSantis' State of Emergency declaration, as issued by Executive Order 20-152, dated March 9, 2020, further extended by Executive Order 20-114 dated May 8, 2020, and further extended by Executive Order 20-166 dated July 7, 2020. The impact of COVID-19 continues to pose threat to the health, safety and welfare of the residents of Ocean Breeze and to the state of Florida, and limits the Applicant's ability to execute as intended the commitments outlined in the OBE PUD. This tolling and extension applies to all dates, schedules and deadlines outlined in Resolution 219-2019 including but not limited to Item 25 – Development Timetable, and all subsequent schedule amendments as outlined in amended Resolutions number 223-2015, 234-2016 and 238-2016, and Ordinances No. 241-2016 and 291-2019.

The above-mentioned emergency declaration effectively extends the period to excise the rights under a permit, authorization or other regulatory obligation for 6 months in addition to the tolled period outlined in each of the outlined Resolutions.

I want to take this opportunity to inform the Town that the applicant is working diligently towards satisfying all commitments as expeditiously as possible.

Please do not hesitate to contact me if you have any questions.

Very truly yours,  
ATLAS LAW

Brian C. Chase

BCC/hm  
cc: Community Manager



**AtlasLaw**

**Brian C. Chase**  
Managing Attorney  
brian@atlaslaw.com

P 813.241.8269  
F 813.840.3773

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August 24, 2020

**Via U.S. Certified Mail, R.R.R.,  
and First-Class Mail**  
Mr. Terry O'Neil  
Town Manager, Town of Ocean Breeze  
P. O. Box 1025  
Jensen Beach, FL 34957

**Re: PUD Tolling/Extension-Second Notice**

Dear Mr. O'Neil,

As representative for NHC-FL143, LLC (the "Applicant") hereby provides notice to the Town of Ocean Breeze that Applicant intends to exercise the tolling and extension of all obligations pertaining to deadline submissions pursuant to the Planned Unit Development associated with Applicant's property. On August 14, 2020, our office mailed correspondence to your office detailing the impact that COVID-19 continues to pose threat to the health, safety and welfare of the residents of Ocean Breeze and to the state of Florida, and which limits the Applicant's ability to execute as intended the commitments outlined in the OBE PUD. Further, applicant is providing a copy of Governor DeSantis' State of Emergency declaration, as issued by Executive Order 20-152, dated July 31, 2020 which also limits the Applicant's ability to execute as intended the commitments outlined in the OBE PUD.

The above-mentioned emergency declaration effectively extends the period to excise the rights under a permit, authorization or other regulatory obligation for 6 months in addition to the tolled period outlined in each of the outlined Resolutions.

I want to take this opportunity to inform the Town that the applicant is working diligently towards satisfying all commitments as expeditiously as possible.

Please do not hesitate to contact me if you have any questions.

Very truly yours,  
ATLAS LAW

Brian C. Chase

BCC/hm  
cc: Community Manager



May 4, 2021

Via U.S Certified Mail

Mr. Terry O'Neil

Town Manager, Town of Ocean Breeze

Re: PUD Tolling/Extension

Dear Mr. O'Neil,

As a representative for NHC-FL143, LLC (the "Applicant") hereby provides notice to the Town of Ocean Breeze that Applicant intends to exercise the tolling and extension of all obligations pertaining to the deadline submissions pursuant to the Planned Unit Development associated with Applicant's property. Applicant is providing this notification pursuant to 252.363 Fla. Stat. and Governor DeSantis' State of Emergency declaration, as issued by Executive Order 20-52 dated March 9, 2020, and further extended by Executive Order 21-94 dated April 27, 2021. The impact of COVID-19 continues to pose threat to the health, safety and welfare of the residents of Ocean Breeze and to the state of Florida, and limits the Applicant's ability to execute as intended the commitments outlined in the OBE PUD. This tolling and extension applies to all dates, schedules and deadlines outlined in Resolution 219-2019 including but not limited to Item 25 – Development Timetable, and all subsequent schedule amendments as outlined in amended Resolutions number 223-2015, 234-2016 and 238-2016, and Ordinances No. 241-2016 and 291-2019.

The above-mentioned emergency declaration effectively extends the period to excise the rights under a permit, authorization or other regulatory obligation for 6 months in addition to the tolled period outlined in each of the outlined Resolutions.

I want to take this opportunity to inform the Town that the applicant is working diligently towards satisfying all commitments as expeditiously as possible.

Please do not hesitate to contact me if you have any questions.

Yours truly,

Gena May

cc: Community Manager

Ocean Breeze RV Resort  
3000 NE Indian River Dr, Jensen Beach, FL



**AtlasLaw**

**Brian C. Chase**  
Managing Attorney  
brian@atlaslaw.com

P 813.241.8269  
F 813.840.3773

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September 24, 2021

**Via E-mail** (townclerk@townofoceanbreeze.org)

Mr. Terry O'Neil  
Town Manager, Town of Ocean Breeze  
P. O. Box 1025  
Jensen Beach, FL 34957

**Re: PUD Tolling/Extension**

Dear Mr. O'Neil,

As you are already aware, this firm serves as representative for NHC-FL143, LLC (the "Applicant"). Our office previously sent correspondence to the Town of Ocean Breeze providing notice that the Applicant intends to exercise the tolling and extension of all obligations pertaining to deadline submissions pursuant to the Planned Unit Development associated with Applicant's property. Since submitting the prior notice, additional Executive Orders have been released by Governor DeSantis. This correspondence serves as an additional notice with specific citations to Governor DeSantis' subsequent Executive Orders.

Applicant is providing this notification pursuant to §252.363 Fla. Stat. and Governor DeSantis' State of Emergency declaration, as issued by Executive Order 20-52, dated March 9, 2020, further extended by Executive Order 20-114 dated May 8, 2020, further extended by Executive Order 20-166 dated July 7, 2020, and further extended by Executive Orders 20-213, 20-276, 20-316, 21-45 and 21-94. The impact of COVID-19 posed a threat to the health, safety and welfare of the residents of Ocean Breeze and to the state of Florida and limited the Applicant's ability to execute as intended the commitments outlined in the OBE PUD. This tolling and extension applies to all dates, schedules and deadlines outlined in Resolution 219-2019 including but not limited to Item 25 – Development Timetable, and all subsequent scheduled amendments as outlined in amended Resolutions number 223-2015, 234-2016 and 238-2016, and Ordinances No. 241-2016 and 291-2019.

The above-mentioned emergency declaration effectively extends the period to excise the rights under a permit, authorization or other regulatory obligation for 6 months in addition to the tolled period outlined in each of the outlined Resolutions.

I am again taking this opportunity to inform the Town that the applicant is working diligently towards satisfying all commitments as expeditiously as possible.

PUD Tolling/Extension  
September 24, 2021

Please do not hesitate to contact me if you have any questions. You can reach me at (813) 241-8269 or [brian@atlaslaw.com](mailto:brian@atlaslaw.com).

Very truly yours,  
ATLAS LAW

A handwritten signature in black ink, appearing to read 'B. Chase', written over the printed name.

Brian C. Chase

cc: Client



Provided at the April 12, 2021 Council meeting.

[townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org)

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

Terry:

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

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

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

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

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

Best regards,  
Rick

# **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.**



## Town of Ocean Breeze

January 3, 2022

Mr. Ryan White, P.E.  
Project Engineer – Zone 4  
Brightline  
300 North Drive  
Melbourne, FL 32934

Mr. James Gorton  
Public Works Director  
Martin County  
2401 SE. Monterey Rd.  
Stuart FL 34996

Re: Public Concerns Regarding the Jensen Beach Boulevard/FEC Right-of-Way of Intersection

Dear Mr. White and Mr. Gorton:

During the Town Council meeting on December 13, 2021, the Ocean Breeze Town Council was made aware of public concerns regarding eastbound traffic at the intersection of the FEC right-of-way and Jensen Beach Boulevard. More specifically, there appears to be some fear that in the event of an oncoming train, drivers yielding to pedestrians in the West End Boulevard crosswalk may become trapped between the railroad crossing gates.

The Town feels obliged to pass this information along and trusts that any such risk is being addressed as the design for the soon-to-be-altered intersection proceeds.

Sincerely,

Karen M. Ostrand  
Mayor

cc: Town Clerk  
Town Council  
Taryn Kryzda  
Don Donaldson  
Lisa Wichser  
Terry O'Neil Town Management Consultant

*P. O. Box 1025 • Jensen Beach, FL 34958  
Office: 772-334-6826 • Fax: 772-334-6823*

*email: [townclerk@townofoceانبreeze.org](mailto:townclerk@townofoceانبreeze.org) • website: [townofoceانبreeze.org](http://townofoceانبreeze.org)*