

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

June 13, 2022, 10:30 am  
Ocean Breeze Resort Clubhouse Pineapple Bay Room  
700 NE Seabreeze Way, Ocean Breeze, FL

***PLEASE TURN OFF CELL PHONES –  
WHEN SPEAKING PLEASE ANNOUNCE YOUR NAME AND ADDRESS***

- 1. Call to Order, President De Angeles**
  - Pledge of Allegiance
  - Roll Call
- 2. Approval of Minutes** – Regular Meeting, Monday, May 9, 2022  
(Motion, second, public comments, all in favor)
- 3. Request motion to Accept and Transmit F/Y 2020-2021 Audit Report to appropriate state level governmental agencies** – Mark Bymaster, Audit Manager, Nowlen, Holt & Miner, PA  
(Motion to accept and transmit, second, public comment, roll call)
- 4. Authorization to Negotiate a Lease Extension for the Town Office** – Mayor Ostrand and Terry O’Neil  
(Motion, second, public comment, roll call)
- 5. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA SUPPORTING UNITED STATES HOUSE RESOLUTION 7520 INTRODUCED BY U.S. CONGRESSMAN BRIAN MAST AND CITED AS THE “NORTHERN ESTUARIES RESTORATION PLAN (NERP) ACT;” PROVIDING FOR AN EFFECTIVE DATE.**  
(Motion, second, public comment, roll call)
- 6. Comments from the public on topics not on the Agenda**
- 7. Comments from the Council on topics not on the Agenda**
- 8. Comments from Town Management Consultant Terry O’Neil**
  - Discussion of Sun Communities’ proposal to convert an existing Bocci Ball court into a third Pickleball court
- 9. Comments from Mayor Ostrand**
  - Request for transfer of conference and travel funds
- 10. Adjourn** (Motion, second, all in favor)

**11. Convene Town of Ocean Breeze Zoning Board – Chairperson De Angeles**

- Roll Call

**12. Approval of Zoning Board minutes from February 8, 2021**

(Motion, second, all in favor)

**13. Quasi-Judicial Hearing: Consideration of proposed Ordinance No. 322-2022.**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA AMENDING THE *SANITARY SEWER, SOLID WASTE, DRAINAGE, POTABLE WATER & NATURAL GROUNDWATER RECHARGE ELEMENT* OF THE TOWN'S COMPREHENSIVE PLAN THEREBY ALLOWING A SINGLE RESIDENTIAL LOT, KNOWN AS "PARCEL A", TO FOREGO CONNECTION TO THE MARTIN COUNTY WASTE WATER SYSTEM IN FAVOR OF USING A SEPTIC TANK SYSTEM; AND FURTHER AMENDING THE *TRANSPORTATION ELEMENT* OF THE TOWN'S COMPREHENSIVE PLAN TO ADOPT AN UP-TO-DATE TRAFFIC CIRCULATION MAP; PROVIDING FOR TRANSMITTAL OF THE PROPOSED AMENDMENTS TO THE STATE LAND PLANNING AGENCY, AKA THE DEPARTMENT OF ECONOMIC OPPORTUNITY BUREAU OF COMMUNITY PLANNING, AS WELL AS OTHER RELEVANT AGENCIES; PROVIDING FOR A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND FOR OTHER PURPOSES. **Maria Camporeale, Forestar (USA) Real Estate Group, Inc., Applicant Representative**

(Motion to recommend approval, second, public comment, roll call)

**14. Adjourn Town Zoning Board**

(Motion, second, all in favor)

**15. Convene Town Council meeting, President De Angeles**

- Roll Call

**16. Quasi-Judicial Hearing. Consideration of proposed Ordinance No. 322-2022 on first reading.**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA AMENDING THE *SANITARY SEWER, SOLID WASTE, DRAINAGE, POTABLE WATER & NATURAL GROUNDWATER RECHARGE ELEMENT* OF THE TOWN'S COMPREHENSIVE PLAN THEREBY ALLOWING A SINGLE RESIDENTIAL LOT, KNOWN AS "PARCEL A", TO FOREGO CONNECTION TO THE MARTIN COUNTY WASTE WATER SYSTEM IN FAVOR OF USING A SEPTIC TANK SYSTEM; AND FURTHER AMENDING THE *TRANSPORTATION ELEMENT* OF THE TOWN'S COMPREHENSIVE PLAN TO ADOPT AN UP-TO-DATE TRAFFIC CIRCULATION MAP; PROVIDING FOR TRANSMITTAL OF THE PROPOSED AMENDMENTS TO THE STATE LAND PLANNING AGENCY, AKA THE DEPARTMENT OF ECONOMIC OPPORTUNITY BUREAU OF COMMUNITY PLANNING, AS WELL AS OTHER RELEVANT AGENCIES; PROVIDING FOR A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND FOR OTHER PURPOSES. **Maria Camporeale, Forestar (USA) Real Estate Group, Inc., Applicant Representative**

(Motion to approve on first reading, second, public comment, roll call)

**17. Quasi-Judicial Hearing. Consideration of Resolution No. 321-2022.**

A RESOLUTION OF THE TOWN OF OCEAN BREEZE, FLORIDA, AMENDING ORDINANCE NO. 170, ORDINANCE NO. 251-2017, ORDINANCE NO. 274-2017, RESOLUTION NO. 277-2018 AND RESOLUTION NO. 293-2019, TOGETHER COMPRISING THE OCEAN BREEZE WEST PLANNED UNIT DEVELOPMENT (PUD) AGREEMENT, HEREBY DELETING LANGUAGE IN DEVELOPMENT CONDITION K (5) REQUIRING THE VOLUNTARY DONATION OF PARCEL "A" TO THE TOWN, AS WELL AS LANGUAGE REQUIRING A "STUB OUT" FOR WATER AND SEWER CONNECTIONS TO THE SITE; APPROVING MINOR CHANGES TO THE PROJECT'S MASTER SITE PLAN, PHASING PLAN AND LANDSCAPE PLAN, AS WELL AS NEW DEVELOPMENT CONDITIONS ALLOWING FOR THE CONSTRUCTION OF A SINGLE-FAMILY HOME ON PARCEL "A"; REQUIRING THAT DEVELOPMENT WITHIN THE OCEAN BREEZE WEST PUD ADHERE TO MARTIN COUNTY WATER USE STANDARDS; DECLARING SAID AMENDMENTS TO BE CONSISTENT WITH THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR CONFLICT PROVISIONS AND A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES. **Maria Camporeale, Forestar (USA) Real Estate Group, Inc., Applicant Representative**

(Motion to approve, second, public comment, roll call)

**18. Approval of Proposed Budget Hearing Dates**

- Budget Workshop and Setting of Tentative Millage Rate, Tuesday, July 20, 2022 at 5:01 pm
- Proposed Budget and Tentative Millage Hearing, Wednesday, September 14, 2022 at 5:01 pm
- Final Budget and Millage Rate Hearing, Wednesday, September 21, 2022 at 5:01 pm

(Motion, second, public comment, roll call)

**19. Announcements** – Regular Town Council Meeting – Monday, July 11, 2022 at 10:30 am to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze

**20. Adjourn** (Motion, second, all in favor)

TOWN OF OCEAN BREEZE  
MINUTES REGULAR TOWN COUNCIL MEETING  
Monday, May 9, 2022, 10:30 a.m.  
Ocean Breeze Resort Clubhouse, Pineapple Bay Room  
700 NE Seabreeze Way, Ocean Breeze, FL

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

**2. Approval of Minutes** – Council Member Wagner, seconded by Council Member Arnold, made a motion to approve the minutes of the April 11, 2022 regular meeting.

President De Angeles asked for public comments.

There were none.

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

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

**4. Comments from the Council on topics not on the Agenda** – Council Member Docherty commented that the FPL lights along Indian River Drive are out.

Council Member Arnold offered his thanks to Pam and Terry for having the educational kiosk on Indian River Drive refurbished. He asked about having the marble monument marker cleaned.

Mr. O’Neil replied “yes.”

Council Member Docherty asked about the leaning, wooden FPL lighting poles and if these poles could be replaced with cement poles.

Mayor Ostrand replied that she spoke to FPL management about this issue, and was advised that they would look into the matter; she stated that all the wooden poles were to be replaced with cement poles. She stated that she would be speaking to FPL management again and would ask about the concerns regarding the wood poles, especially in light of the fact that hurricane season was approaching. She mentioned that the lights along the sidewalk on Indian River Drive needed to be painted.

Town Clerk, Pam Orr, commented that would be a Sun Community issue.

Council Member Wagner remarked that he recently had a need for EMS and he reported that they were able to turn right at the round-a-bout onto West End Boulevard.



Council Member Locatis reported that there were water pressure issues, particularly around Bay and Buoy. He stated that he had attempted to get the residents some answers. He read the answer from Sun Communities regarding this issue, “we are currently investigating for a water leak and for a temporary

solution. The engineering should be completed in ninety days, which includes significant water supply upgrade along the sewer drainage and roadways. The project was anticipated to be completed within the first quarter of 2023. Thanks for your patience as we make these corrections.” Council Member Locatis spoke about the roadway improvements and the speed bumps, specifically pooling water in the driveways.

Vice-President Gerold stated that the project was held up because of the PUD amendment process and questions arose regarding the fees.

Discussion ensued regarding a minor PUD amendment for the proposed speed bumps, engineering regarding the drainage around the speed tables, Sun being responsible for payment of the engineering and permitting, the waiver of the PUD application fees, Captec engineering, and a letter from Gena May regarding the water pressure issue, which was a priority over the roadways.

**5. Comments from Town Management Consultant, Terry O’Neil** – Mr. O’Neil explained that Forestar, the co-developer of the Seawalk project, came before the Council with a minor PUD amendment in which the Town established development standards for the “Parcel A”, which is on South Street. He continued that the Council agreed not to accept the donation of this lot, which set the course for the owner to propose a development plan for that single parcel in order to market the land for a single-family home. He commented that the process was approved by the Council and during that process, it was discovered that the County would not approve the connection of “Parcel A” to the County sewer system. He stated that the developer did not execute the document within a sixty-day period and that it was now void. He commented that the developer was going to come before the Council to reestablish what had already been approved and to clean-up the document in order to approach the health department for a septic system. He stated that Forestar would be coming before the Council to amend and reestablish the PUD amendment approved in August, 2021 and to amend the comprehensive plan to exempt Parcel “A” from the Town’s requirements that all new construction be connected to the County sewer. He advised that this would require a meeting of the Zoning Board and the Town Council on June 13<sup>th</sup> and another hearing on the comprehensive plan amendment in August, 2022. He added that the comprehensive plan amendment would have to be transmitted to the State for a thirty-day review.

**6. Comments from Mayor Ostrand** – Mayor Ostrand thanked Vice-President and Mrs. Gerold for making the basket for the Entrepreneurship Foundation; she also thanked the Council and Staff for remembering her during the recent loss of a family member. She spoke about the upcoming staffing changes.

Council Member Gerold asked Attorney Crary if there would be any changes needed to be made to the Town Charter to accomplish the reorganization of the Town staff.

Discussion ensued regarding the two positions of Town Clerk/Bookkeeper and Office Assistant, and their duties.

Attorney Crary answered that he did not believe a change would be necessary unless a separate position was being created in which that employee had the authority to act on behalf of the Town Clerk.

President De Angeles asked for further comments.

There were none.

**7. Announcements** – President De Angeles announced the regular Town Council meeting to be held Monday, June 13, 2022 at 10:30 a.m. at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze, Florida.

**8. Adjourn** – Council Member Arnold, seconded by Council Member Wagner, made a motion to adjourn the meeting at 12:07 a.m.  
(All in Favor: De Angeles, Arnold, Docherty, Locatis, Wagner)

Respectfully Submitted,

*Pam Orr*

Town Clerk

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



## NOWLEN, HOLT & MINER, P.A.

CERTIFIED PUBLIC ACCOUNTANTS

WEST PALM BEACH OFFICE  
NORTHBRIDGE CENTRE  
515 N. FLAGLER DRIVE, SUITE 1700  
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EVERETT B. NOWLEN (1930-1984), CPA  
EDWARD T. HOLT, CPA  
WILLIAM B. MINER, RETIRED  
ROBERT W. HENDRIX, JR., CPA  
JANET R. BARICEVICH, RETIRED, CPA  
TERRY L. MORTON, JR., CPA  
N. RONALD BENNETT, CPA, ABV, CFF, CPA  
ALEXIA G. VARGA, CFE, CPA  
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RYAN M. SHORE, CFP®, CPA  
WEI PAN, CPA  
WILLIAM C. KISKER, CPA  
RICHARD E. BOTTS, CPA

June 13, 2022

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

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

We have audited the financial statements of the governmental activities and the major fund of the Town of Ocean Breeze, Florida (the "Town") for the year ended September 30, 2021. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards and *Government Auditing Standards*, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated October 28, 2021. Professional standards also require that we communicate to you the following information related to our audit.

### Significant Audit Findings

#### *Qualitative Aspects of Accounting Practices*

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Town of Ocean Breeze, Florida are described in Note 1 to the financial statements. As described in Note 1 to the financial statements, the Town of Ocean Breeze, Florida changed accounting policies related to fiduciary activities by adopting Statement of Governmental Accounting Standards (GASB Statement) No. 84, *Fiduciary Activities* and GASB Statement No. 97, *Certain Component Unit Criteria, and Accounting and Financial Reporting for Internal Revenue Code Section 457 Deferred Compensation Plans—an amendment of GASB Statements No. 14 and No. 84, and a supersession of GASB Statement No. 32*, in 2021.

The application of existing policies was not changed during 2021. We noted no transactions entered into by the Town of Ocean Breeze, Florida during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

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

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

The financial statement disclosures are neutral, consistent, and clear.

#### *Difficulties Encountered in Performing the Audit*

We encountered no difficulties in dealing with management in performing and completing our audit. Management was helpful and cooperative throughout our audit.

#### *Corrected and Uncorrected Misstatements*

No misstatements were detected as a result of audit procedures.

#### *Disagreements with Management*

For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

#### *Management Representations*

We have requested certain representations from management that are included in the management representation letter dated June 2, 2022. A copy of the letter is presented in Appendix I.

#### *Management Consultations with Other Independent Accountants*

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the Town of Ocean Breeze, Florida's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

#### *Other Audit Findings or Issues*

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the Town of Ocean Breeze, Florida's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses are not a condition to our retention.

#### Other Matters

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

Restriction on Use

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

*Nowlen, Holt & Miner, P.A.*

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

## APPENDIX I





## *Town of Ocean Breeze*

June 02, 2022

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

This representation letter is provided in connection with your audit of the financial statements of the Town of Ocean Breeze, Florida, which comprise the respective financial position of the governmental activities and the major fund as of September 30, 2021, and the respective changes in financial position for the year then ended, and the disclosures (collectively, the "financial statements"), for the purpose of expressing opinions as to whether the financial statements are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP).

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

We confirm, to the best of our knowledge and belief, as of June 02, 2022, the following representations made to you during your audit.

### **Financial Statements**

- 1) We have fulfilled our responsibilities, as set out in the terms of the audit engagement letter dated October 28, 2021, including our responsibility for the preparation and fair presentation of the financial statements in accordance with U.S. GAAP and for preparation of the supplementary information in accordance with the applicable criteria.
- 2) The financial statements referred to above are fairly presented in conformity with U.S. GAAP and include all properly classified funds and other financial information of the primary government and all component units required by generally accepted accounting principles to be included in the financial reporting entity.
- 3) We acknowledge our responsibility for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.
- 4) We acknowledge our responsibility for the design, implementation, and maintenance of internal control to prevent and detect fraud.
- 5) Significant assumptions we used in making accounting estimates, including those measured at fair value, are reasonable.

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

- 6) Related party relationships and transactions, including revenues, expenditures/expenses, loans, transfers, leasing arrangements, and guarantees, and amounts receivable from or payable to related parties have been appropriately accounted for and disclosed in accordance with U.S. GAAP.
- 7) Adjustments or disclosures have been made for all events, including instances of noncompliance, subsequent to the date of the financial statements that would require adjustment to or disclosure in the financial statements.
- 8) The effects of all known actual or possible litigation, claims, and assessments have been accounted for and disclosed in accordance with U.S. GAAP.
- 9) Guarantees, whether written or oral, under which the Town of Ocean Breeze, Florida is contingently liable, if any, have been properly recorded or disclosed.
- 10) We have not completed the process of evaluating the impact that will result from adopting Governmental Accounting Board Statements (GASB) No. 87, 89, 91, 92, 93, 94, and 96 as discussed in Note 1 to the financial statements. The Town of Ocean Breeze, Florida is therefore unable to disclose the impact that adopting GASB No. 87, 89, 91, 92, 93, 94, and 96 will have on its financial position and the results of its operations when the Statements are adopted.

**Information Provided**

- 11) We have provided you with:
  - a) Access to all information, of which we are aware, that is relevant to the preparation and fair presentation of the financial statements, such as records (including information obtained from outside of the general and subsidiary ledgers), documentation, and other matters
  - b) Additional information that you have requested from us for the purpose of the audit.
  - c) Unrestricted access to persons within the Town of Ocean Breeze, Florida from whom you determined it necessary to obtain audit evidence.
- 12) Minutes of the meetings of Town Council or summaries of actions of recent meetings for which minutes have not yet been prepared.
- 13) All material transactions have been recorded in the accounting records and are reflected in the financial statements.
- 14) We have disclosed to you the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.
- 15) We have no knowledge of any fraud or suspected fraud that affects the Town of Ocean Breeze, Florida and involves—
  - Management,
  - Employees who have significant roles in internal control, or
  - Others where the fraud could have a material effect on the financial statements.
- 16) We have no knowledge of any allegations of fraud or suspected fraud affecting the Town of Ocean Breeze, Florida's financial statements communicated by employees, former employees, regulators, or others.
- 17) We have no knowledge of instances of noncompliance or suspected noncompliance with provisions of laws, regulations, contracts, or grant agreements, or waste or abuse, whose effects should be considered when preparing financial statements.


- 18) We have disclosed to you all known actual or possible litigation, claims, and assessments whose effects should be considered when preparing the financial statements.
- 19) We have disclosed to you the names of the Town of Ocean Breeze, Florida's related parties and all the related party relationships and transactions, including any side agreements.

**Government-specific**

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

- 29) The Town of Ocean Breeze, Florida has complied with all aspects of contractual agreements that would have a material effect on the financial statements in the event of noncompliance.
- 30) The financial statements include all component units, appropriately present majority equity interests in legally separate organizations and joint ventures with an equity interest, and properly disclose all other joint ventures and other related organizations.
- 31) The financial statements include all fiduciary activities required by GASBS No. 84.
- 32) The financial statements properly classify all funds and activities in accordance with GASBS No. 34, as amended.
- 33) All funds that meet the quantitative criteria in GASBS No. 34 and 37 for presentation as major are identified and presented as such and all other funds that are presented as major are particularly important to financial statement users.
- 34) Components of net position (net investment in capital assets; restricted; and unrestricted) and classifications of fund balance (nonspendable, restricted, committed, assigned, and unassigned) are properly classified and, if applicable, approved.
- 35) Investments are properly valued.
- 36) Provisions for uncollectible receivables have been properly identified and recorded.
- 37) Expenses have been appropriately classified in or allocated to functions and programs in the statement of activities, and allocations have been made on a reasonable basis.
- 38) Revenues are appropriately classified in the statement of activities within program revenues, general revenues, contributions to term or permanent endowments, or contributions to permanent fund principal.
- 39) Interfund, internal, and intra-entity activity and balances have been appropriately classified and reported.
- 40) Deposits and investment securities and derivative instruments are properly classified as to risk and are properly disclosed.
- 41) Capital assets, including infrastructure and intangible assets, are properly capitalized, reported, and, if applicable, depreciated or amortized.
- 42) We have appropriately disclosed the Town of Ocean Breeze, Florida's policy to first apply restricted resources when an expense is incurred for purposes for which both restricted and unrestricted net position is available and have determined that net position is properly recognized under the policy.
- 43) We are following our established accounting policy regarding which resources (that is, restricted, committed, assigned, or unassigned) are considered to be spent first for expenditures for which more than one resource classification is available. That policy determines the fund balance classifications for financial reporting purposes.
- 44) We acknowledge our responsibility for the required supplementary information (RSI). The RSI is measured and presented within prescribed guidelines and the methods of measurement and presentation have not changed from those used in the prior period. We have disclosed to you any significant assumptions and interpretations underlying the measurement and presentation of the RSI.
- 45) We have determined that the Town does not provide any benefits that qualify as significant other post employment benefits under GASB 75 and therefore did not obtain an evaluation of other post employment benefits.

- 46) No Impact Fee Affidavit is required to be reported in compliance with Section 163.31801, Florida Statutes.
- 47) During the fiscal year ended September 30, 2021, the Town has not met any of the following financial emergency conditions specified in Section 218.503(1), Florida Statutes:
- a) Failure within the same fiscal year in which due to pay short-term loans or failure to make bond debt service or other long-term debt payments when due, as a result of a lack of funds.
  - b) Failure to pay uncontested claims from creditors within 90 days after the claim is presented, as a result of a lack of funds.
  - c) Failure to transfer at the appropriate time, due to lack of funds:
    - 1. Taxes withheld on the income of employees; or
    - 2. Employer and employee contributions for:
      - i. Federal social security; or
      - ii. Any pension, retirement, or benefit plan of an employee.
  - d) Failure for one pay period to pay, due to lack of funds:
    - 1. Wages and salaries owed to employees; or
    - 2. Retirement benefits owed to former employees.
- 48) During the fiscal year ended September 30, 2021 the Town expended less than \$750,000 in federal awards and less than \$750,000 in state financial assistance, and the Town is not required to have a Federal Single Audit or a State Single Audit.
- 49) We understand that it is management's responsibility to monitor the Town's financial condition, and that your financial condition assessment was based in part on representations made by management and the review of financial information provided by management.

  
Karen M. Ostrand  
Mayor

  
Pamela Orr  
Town Clerk

# **TOWN OF OCEAN BREEZE, FLORIDA**

**FINANCIAL STATEMENTS WITH INDEPENDENT  
AUDITOR'S REPORT THEREON**

**FISCAL YEAR ENDED SEPTEMBER 30, 2021**



TOWN OF OCEAN BREEZE, FLORIDA  
SEPTEMBER 30, 2021

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## NOWLEN, HOLT & MINER, P.A.

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### INDEPENDENT AUDITOR'S REPORT

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

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#### Report on the Financial Statements

We have audited the accompanying financial statements of the governmental activities and the major fund of the Town of Ocean Breeze, Florida as of and for the year ended September 30, 2021, and the related notes to the financial statements, which collectively comprise the Town of Ocean Breeze, Florida's basic financial statements as listed in the table of contents.

#### *Management's Responsibility for the Financial Statements*

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

#### *Auditor's Responsibility*

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

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

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

### ***Opinions***

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and the major fund of the Town of Ocean Breeze, Florida as of September 30, 2021, and the respective changes in financial position and the budgetary comparison for the General Fund for the year then ended in accordance with accounting principles generally accepted in the United States of America.

### ***Other Matters***

#### ***Required Supplementary Information***

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

#### ***Other Reporting Required by Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated June 2, 2022, on our consideration of the Town of Ocean Breeze, Florida's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing and not to provide an opinion on the effectiveness of the Town of Ocean Breeze, Florida's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Town of Ocean Breeze, Florida's internal control over financial reporting and compliance.

*Nowlen, Holt & Mims, P.A.*

West Palm Beach, Florida  
June 2, 2022

Town of Ocean Breeze, Florida  
Management's Discussion and Analysis  
September 30, 2021

As management of the Town of Ocean Breeze, Florida (Town), we offer readers of the Town's financial statements this narrative overview and analysis of the financial activities of the Town for the fiscal year ended September 30, 2021. The information contained in the Management's Discussion and Analysis is intended to highlight significant transactions, events and conditions and should be considered in conjunction with the Basic Financial Statements.

**Financial Highlights**

- The assets of the Town exceeded its liabilities at September 30, 2021 by \$693,998 (net position). Of this amount, \$452,645 (unrestricted net position) may be used to meet the Town's ongoing obligations.
- The Town's operations increased net position by \$163,611.
- Governmental fund balances increased by \$166,869 or 32.6 percent.

**Overview of the Financial Statements**

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

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

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

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

Town of Ocean Breeze  
Statement of Net Position – Governmental Activities  
September 30, 2021 and 2020

	<u>2021</u>	<u>2020</u>
ASSETS		
Current and other assets	\$ 683,220	\$ 522,834
Capital assets	<u>15,303</u>	<u>18,561</u>
Total assets	<u>698,523</u>	<u>541,395</u>
LIABILITIES		
Current liabilities	<u>4,525</u>	<u>11,008</u>
NET POSITION		
Invested in capital assets	15,303	18,561
Restricted	226,050	123,550
Unrestricted	<u>452,645</u>	<u>388,276</u>
	<u>\$ 693,998</u>	<u>\$ 530,387</u>

Town of Ocean Breeze  
Changes in Net Position – Governmental Activities  
September 30, 2021 and 2020

	<u>2021</u>	<u>2020</u>
REVENUES:		
Program revenues		
Charges for services	\$ 241,985	\$ 132,524
Operating grants and contributions	-	10,965
General revenues		
Property taxes	128,845	169,353
Other general revenue	70,464	50,909
Investment earnings	<u>604</u>	<u>856</u>
Total revenues	<u>441,898</u>	<u>364,607</u>
EXPENSES:		
Program expenses		
General government	229,425	240,177
Public safety	40,745	37,849
Transportation	<u>8,117</u>	<u>6,988</u>
Total expenses	<u>278,287</u>	<u>285,014</u>
Decrease in net position	163,611	79,593
Net position, beginning	<u>530,387</u>	<u>450,794</u>
Net position, ending	<u>\$ 693,998</u>	<u>\$ 530,387</u>

### **Governmental Activities**

The Town's net position increased by \$163,611 for 2021. Total revenues increased by \$77,291 while expenses decreased by \$6,727 from the prior year which is mainly attributed to the following:

- \$109,461 increase in charges for services due to permits for Ocean Breeze West - Seawalk.
- \$40,508 decrease in property taxes.
- \$10,752 decrease in general government

### **Governmental Funds**

The purpose of the Town's governmental fund financial statements is to provide information on near-term inflows, outflows, and balances of spendable resources. At September 30, 2021, the Town's Governmental Funds reported ending fund balance of \$678,695, which was a \$166,869 increase in comparison to the prior year. Of this amount, \$328,658 or 48 percent is unassigned fund balance, which is available for spending at the government's discretion. The remainder of fund balance is non-spendable (\$11,456) or restricted or assigned for specific purposes (\$338,581).

### **Budgetary Highlights**

The General Fund exceeded budget expectations by \$230,121. The General Fund expenditures were below appropriations by \$72,981 while revenue exceed expectations by \$157,140.

### **Capital Assets and Debt**

Capital assets. The Town's investment in capital assets for its governmental activities at September 30, 2021, amounts to \$15,303 (net of accumulated depreciation).

Town of Ocean Breeze  
Capital Assets  
(net of depreciation)

	<u>2021</u>	<u>2020</u>
Improvements and equipment	\$ 15,303	\$ 18,561
Total capital assets	<u>\$ 15,303</u>	<u>\$ 18,561</u>

Debt. The Town has no debt outstanding at September 30, 2021.



**Economic Factors and Next Year's Budgets and Rates**

For fiscal year 2022, the Town Council adopted a General Fund budget of \$324,755 representing a \$23,255 increase from the final budget for fiscal year 2021.

The Town will see an increase in the property tax base as the Ocean Breeze West homes are completed. Property taxes represent approximately 34 percent of the 2022 budgeted operating revenues of the Town. The balance of revenues comes from intergovernmental revenues, licenses, and permits.

**Requests for Information**

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

**TOWN OF OCEAN BREEZE, FLORIDA**  
**Statement of Net Position**  
**September 30, 2021**

	<u>Governmental Activities</u>
<b>ASSETS</b>	
Current assets	
Cash and equivalents	\$ 661,874
Accounts receivable	4,550
Due from other governments	4,390
Prepays	11,456
Total current assets	<u>682,270</u>
Noncurrent assets	
Deposits	950
Capital assets	
Improvements and equipment	28,023
Accumulated depreciation	<u>(12,720)</u>
Total noncurrent assets	<u>16,253</u>
Total assets	<u>698,523</u>
<b>LIABILITIES</b>	
Current liabilities	
Accrued liabilities	4,525
Total liabilities	<u>4,525</u>
<b>NET POSITION</b>	
Investment in capital assets	15,303
Restricted for transportation	86,352
Restricted for permits	139,698
Unrestricted	452,645
Total net position	<u><u>\$ 693,998</u></u>

See notes to the financial statements

**TOWN OF OCEAN BREEZE, FLORIDA**  
**Statement of Activities**  
**For the Year Ended September 30, 2021**

Function / Program Activities	Expenses	Program Revenues			Net (Expense) Revenue and Changes in Net Position
		Charges For Services	Operating Grants and Contributions	Capital Grants and Contributions	Total Governmental Activities
Governmental activities					
General government	\$ 229,425	\$ 241,805	\$	\$	\$ 12,380
Public safety	40,745	180			(40,565)
Transportation	8,117				(8,117)
Total governmental activities	<u>278,287</u>	<u>241,985</u>			<u>(36,302)</u>
General revenues					
Ad valorem taxes					128,845
Communications services taxes					2,711
State revenue sharing					14,844
Mobile home tags					2,711
1/2 Cent sales tax					40,082
Fuel taxes					4,243
Local option taxes					5,873
Investment earnings - unrestricted					604
Total general revenues					<u>199,913</u>
Change in net position					163,611
Net position, beginning of year					<u>530,387</u>
Net position, end of year					<u>\$ 693,998</u>

See notes to the financial statements

**TOWN OF OCEAN BREEZE, FLORIDA**

**Balance Sheet**

**Governmental Funds**

**September 30, 2021**

	General Fund
ASSETS	
Cash and cash equivalents	\$ 661,874
Accounts receivable	4,550
Due from other governments	4,390
Prepaid expenses	11,456
Deposits	950
Total assets	<u>\$ 683,220</u>
LIABILITIES	
Accrued liabilities	<u>\$ 4,525</u>
Total liabilities	<u>4,525</u>
FUND BALANCES	
Nonspendable	11,456
Restricted for transportation	86,352
Restricted for permits	139,698
Assigned to subsequent year's budget	112,531
Unassigned	<u>328,658</u>
Total fund balances	<u>678,695</u>
Total liabilities and fund balances	<u>\$ 683,220</u>

See notes to the financial statements

**TOWN OF OCEAN BREEZE, FLORIDA**  
**Reconciliation of the Balance Sheet – Governmental Funds**  
**to the Statement of Net Position**  
**September 30, 2021**

Fund balances total governmental funds	\$ 678,695
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Amounts reported for governmental activities in the statement of net position are different because:

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

Governmental capital assets	\$ 28,023	
Less accumulated depreciation	<u>(12,720)</u>	<u>15,303</u>
Net position of governmental activities		<u><u>\$ 693,998</u></u>

See notes to the financial statements

**TOWN OF OCEAN BREEZE, FLORIDA**  
**Statement of Revenues, Expenditures, and Changes in Fund Balances**  
**Governmental Funds**  
**For the Year Ended September 30, 2021**

	General Fund
REVENUES	
Ad valorem taxes	\$ 128,845
Licenses and permits	218,530
Intergovernmental revenues	72,618
Charges for services	21,301
Investment Earnings	604
Total revenues	<u>441,898</u>
EXPENDITURES	
Current	
General government	227,759
Public safety	40,745
Transportation	6,525
Total expenditures	<u>275,029</u>
Net change in fund balances	166,869
Fund balances, beginning of year	511,826
Fund balances, end of year	<u><u>\$ 678,695</u></u>

See notes to the financial statements



**TOWN OF OCEAN BREEZE, FLORIDA**  
**Reconciliation of the Statement of Revenues, Expenditures, and Changes in Fund**  
**Balances of the Governmental Funds to the Statement of Activities**  
**For the Year Ended September 30, 2021**

Net change in fund balances - total governmental funds	\$	166,869
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Amounts reported for governmental activities in the statement of activities are different because:

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

Expenditures for capital assets	\$		
Less: current year depreciation		(3,258)	(3,258)
		(3,258)	(3,258)
Change in net position			\$ 163,611

See notes to the financial statements

**TOWN OF OCEAN BREEZE, FLORIDA**  
**Statement of Revenues, Expenditures, and Changes in Fund Balance-Budget and Actual**  
**General Fund**  
**For the Year Ended September 30, 2021**

	Original Adopted Budget	Final Revised Budget	Actual	Variance With Final Budget Positive (Negative)
<b>Revenues</b>				
Ad valorem taxes	\$ 127,658	\$ 127,658	\$ 128,845	\$ 1,187
Licenses and permits	85,900	85,900	218,530	132,630
Intergovernmental revenues	65,200	65,200	72,618	7,418
Charges for services	5,000	5,000	21,301	16,301
Investment Earnings	1,000	1,000	604	(396)
Total revenues	<u>284,758</u>	<u>284,758</u>	<u>441,898</u>	<u>157,140</u>
<b>Expenditures</b>				
Current				
General Government	276,810	276,810	227,759	49,051
Public Safety	66,200	66,200	40,745	25,455
Transportation	5,000	5,000	6,525	(1,525)
Total expenditures	<u>348,010</u>	<u>348,010</u>	<u>275,029</u>	<u>72,981</u>
Net change in fund balances	<u>\$ (63,252)</u>	<u>\$ (63,252)</u>	166,869	<u>\$ 230,121</u>
Fund balance, beginning of year			<u>511,826</u>	
Fund balance, end of year			<u>\$ 678,695</u>	

See notes to the financial statements

**TOWN OF OCEAN BREEZE, FLORIDA**  
**Notes to the Financial Statements**  
**September 30, 2021**

**NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

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

**Reporting Entity**

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

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

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

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

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

**TOWN OF OCEAN BREEZE, FLORIDA**  
**Notes to the Financial Statements**  
**September 30, 2021**

**NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

*Government-wide Financial Statements*

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

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

*Fund Financial Statements*

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

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

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

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

**TOWN OF OCEAN BREEZE, FLORIDA**  
**Notes to the Financial Statements**  
**September 30, 2021**

**NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

*Measurement Focus and Basis of Accounting*

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

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough afterwards to pay liabilities of the current period. The Town considers revenues collected within 60 days of the year end to be available to pay liabilities of the current period. Charges for services, intergovernmental shared revenues, licenses, business taxes, and interest associated with the current fiscal period are all considered to be susceptible to accrual and so have been recognized as revenues of the current fiscal period. Revenues for expenditure driven grants are recognized when the qualifying expenditures are incurred. All other revenue items are considered to be measurable and available only when cash is received by the Town. Expenditures are generally recorded when a liability is incurred, as under accrual accounting. However, debt service expenditures, as well as expenditures related to compensated absences, are recorded only when payment is due. Amounts expended to acquire capital assets are recorded as expenditures in the year that resources are expended, rather than as fund assets.

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

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

**TOWN OF OCEAN BREEZE, FLORIDA**  
**Notes to the Financial Statements**  
**September 30, 2021**

**NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

*Cash and Cash Equivalents*

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

*Investments*

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

*Accounts Receivable*

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

*Prepaid Items*

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

*Capital Assets*

Capital assets are defined by the Town as assets with an estimated useful life in excess of one year and a value at the date of acquisition in excess of \$500. Capital assets are reported in the government-wide Statement of Net Position and include improvements and equipment. Purchased capital assets are recorded at cost. Donated capital assets, donated works of art and similar items, and capital assets received in a service concession arrangement are reported at acquisition value.

**TOWN OF OCEAN BREEZE, FLORIDA**  
**Notes to the Financial Statements**  
**September 30, 2021**

**NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

Capital Assets (Continued)

Depreciation is computed using the straight-line method over the estimated useful lives for all reported capital assets, except land and construction in progress. The estimated useful lives range from five (5) to thirty (30) years.

Unearned Revenue

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

Unavailable Revenue

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

Deferred Outflows of Resources

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

Deferred Inflows of Resources

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

Interfund Transactions

Transactions between funds consist of loans, services provided, reimbursements, or transfers. Interfund loans are reported as Due From Other Funds and Due To Other Funds as appropriate and are subject to elimination in the government-wide financial statements. Services deemed to be



**TOWN OF OCEAN BREEZE, FLORIDA**  
**Notes to the Financial Statements**  
**September 30, 2021**

**NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

**Interfund Transactions** (Continued)

reasonably equivalent in value are treated as revenues and expenditures. Reimbursements occur when one fund incurs a cost, charges the appropriate benefiting fund and reduces its related cost. All other interfund transactions are presented as transfers.

**Fund Balances**

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

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



**TOWN OF OCEAN BREEZE, FLORIDA**  
**Notes to the Financial Statements**  
**September 30, 2021**

**NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

**Fund Balances** (Continued)

5. Unassigned fund balance – Includes the residual classification for the general fund. This classification represents fund balance that has not been assigned to other funds and that has not been restricted, committed, or assigned to specific purposes within the general fund. The general fund should be the only fund that reports a positive unassigned fund balance amount. In other governmental funds, it may be necessary to report a negative unassigned fund balance if expenditures incurred for specific purposes exceeded the amounts restricted, committed, or assigned to those purposes.

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

**Net Position**

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

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

**Budgetary Data**

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

**TOWN OF OCEAN BREEZE, FLORIDA**  
**Notes to the Financial Statements**  
**September 30, 2021**

**NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

*Property Taxes*

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

The tax levy of the Town is established by the Town Council prior to October 1 of each year, and the Martin County Property Appraiser incorporates the Town's millage into the total tax levy, which includes Martin County and Martin County School Board tax requirements. The millage rate assessed by the Town for the year ended September 30, 2021, was 3.0800 (\$3.0800 for each \$1,000 of assessed valuation), which does not include the Fire Rescue Municipal Services Taxing Unit ("MSTU") millage rate of 2.7001.

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

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

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

*Use of Estimates*

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

**TOWN OF OCEAN BREEZE, FLORIDA**  
**Notes to the Financial Statements**  
**September 30, 2021**

**NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

Use of Estimates (Continued)

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

Implementation of Accounting Pronouncements

The Town implemented the following Governmental Accounting Standards Board Statements during the current fiscal year.

GASB Statement No. 84, *Fiduciary Activities*. This Statement improves guidance regarding the identification of fiduciary activities for accounting and financial reporting purposes and how those activities should be reported.

GASB Statement No. 97, *Certain Component Unit Criteria, and Accounting and Financial Reporting for Internal Revenue Code Section 457 Deferred Compensation Plans—an amendment of GASB Statements No. 14 and No. 84, and a supersession of GASB Statement No. 32*. The requirements of this Statement will result in more consistent financial reporting of defined contribution pension plans, defined contribution OPEB plans, and other employee benefit plans, while mitigating the costs associated with reporting those plans. The Town implemented the provisions of this statement related to GASB Statements No. 14 and No. 84 in the current fiscal year.

Recently Issued Accounting Pronouncements

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

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

In June 2018 the GASB issued Statement No. 89, *Accounting for Interest Cost Incurred before the End of a Construction Period*. This Statement will enhance the relevance and comparability of information about capital assets and the cost of borrowing for a reporting period and simplify accounting for interest cost incurred before the end of a construction period. This Statement is effective for the fiscal year ending September 30, 2022.

**TOWN OF OCEAN BREEZE, FLORIDA**  
**Notes to the Financial Statements**  
**September 30, 2021**

**NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

**Recently Issued Accounting Pronouncements** (Continued)

In May 2019 the GASB issued Statement No. 91, *Conduit Debt Obligation*. This Statement will provide a single method of reporting conduit debt obligations by issuers and eliminate diversity in practice associated with commitments extended by issuers, arrangements associated with conduit debt obligations, and related note disclosures. This Statement is effective for the fiscal year ending September 30, 2023.

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

In March 2020 the GASB issued Statement No. 93, *Replacement of Interbank Offered Rates*. This Statement will enhance comparability in the application of accounting and financial reporting requirements and will improve the consistency of authoritative literature by addressing the accounting and financial reporting implications that result from the replacement of an Interbank Offered Rate (IBOR) for agreements in which variable payments made or received depend on an IBOR. The requirements of this Statement related to the removal of LIBOR as an appropriate benchmark interest rate are effective for the fiscal year ending September 30, 2022.

In March 2020 the GASB issued Statement No. 94, *Public-Private and Public-Public Partnerships and Availability Payment Arrangements*. This Statement will improve financial reporting by establishing the definitions of public-private and public-public partnership arrangements (PPPs) and availability payment arrangements (APAs) and providing uniform guidance on accounting and financial reporting for transactions that meet those definitions. This Statement is effective for the fiscal year ending September 30, 2023.

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

**TOWN OF OCEAN BREEZE, FLORIDA**  
**Notes to the Financial Statements**  
**September 30, 2021**

**NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

*Recently Issued Accounting Pronouncements* (Continued)

In June 2020 the GASB issued Statement No. 97, *Certain Component Unit Criteria, and Accounting and Financial Reporting for Internal Revenue Code Section 457 Deferred Compensation Plans—an amendment of GASB Statements No. 14 and No. 84, and a supersession of GASB Statement No. 32*. The requirements of this Statement will result in more consistent financial reporting of defined contribution pension plans, defined contribution OPEB plans, and other employee benefit plans, while mitigating the costs associated with reporting those plans. The City implemented the sections of this statement related to GASB Statements No. 14 and No. 84 during the current fiscal year. The sections of the statement related to Section 457 deferred compensation plans is effective for the fiscal year ending September 30, 2022.

**NOTE 2 – BUDGETARY INFORMATION**

*Budget Policy and Practice*

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

*Basis of Budgeting*

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

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

**NOTE 3 – DEPOSITS AND INVESTMENTS**

*Deposits*

Deposits are either covered by insurance provided by the Federal Depository Insurance Corporation or are held in banking institutions approved by the Treasurer of the State of Florida. Under Florida Statutes, Chapter 280, *Florida Security for Public Deposits Act*, the State Treasurer requires all Florida qualified public depositories to deposit with the Treasurer or other banking

**TOWN OF OCEAN BREEZE, FLORIDA**  
**Notes to the Financial Statements**  
**September 30, 2021**

**NOTE 3 – DEPOSITS AND INVESTMENTS** (Continued)

**Deposits** (Continued)

institution eligible collateral. In the event of failure of a qualified public depository, the remaining public depositories would be responsible for covering any resulting losses. The Town's deposits at year end are considered insured for custodial credit risk purposes. As of September 30, 2021, the bank balance of the Town's deposits was \$115,813 while the carrying amount was \$81,377.

**Investments**

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

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

At September 30, 2021, the Town held investments of \$580,497 in the Florida Cooperative Liquid Assets Securities System (FLCLASS) which is administered by the Public Trust Advisors. The investment in FLCLASS does not meet the requirements of GASB Statement No. 79 and is exempt from reporting under the fair value hierarchy requirements of GASB Statement No. 72. FLCLASS is measured at net asset value (NAV) and reported as fair value in accordance with GASB Statement No. 31. FLCLASS has no unfunded commitments and provides same day or next day redemption. The investment in FLCLASS is reported as cash and cash equivalents for financial statement purposes.

**Credit Risk**

Credit risk is the risk that an issuer or other counter party to an investment will not fulfill its obligations. The Town's investment policies limit its investments to high quality investments to control credit risk. FLCLASS was rated AAAM by S&P Global Ratings at September 30, 2021.



**TOWN OF OCEAN BREEZE, FLORIDA**  
**Notes to the Financial Statements**  
**September 30, 2021**

**NOTE 3 – DEPOSITS AND INVESTMENTS** (Continued)

**Interest Rate Risk**

Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. The Town does not have a formal investment policy that limits investment maturities as a means of managing exposure to fair value losses arising from increasing interest rates. The dollar weighted average days maturity (WAM) of FLCLASS at September 30, 2021, was 47 days.

**Custodial Credit Risk**

For an investment, custodial credit risk is the risk that, in the event of the failure of the counterparty, the Town will not be able to recover the value of its investments that are in the possession of an outside party. At September 30, 2021, all the Town's deposits were insured or collateralized. The investment in the FLCLASS is not insured by FDIC or any other governmental agency.

**NOTE 4 – CAPITAL ASSETS**

Capital asset activity for the year ended September 30, 2021, was as follows:

<b><u>Governmental Activities</u></b>	<b><u>Beginning Balance</u></b>	<b><u>Additions</u></b>	<b><u>Deletions</u></b>	<b><u>Ending Balance</u></b>
Capital assets being depreciated				
Improvements and equipment	\$ 28,023	\$	\$	\$ 28,023
Less accumulated depreciation				
Improvements and equipment	(9,462)	(3,258)		(12,720)
<b>Capital assets, net</b>	<b>\$ 18,561</b>	<b>\$ (3,258)</b>	<b>\$</b>	<b>\$ 15,303</b>

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

**Governmental activities:**

General government	\$ 1,666
Transportation	1,592
	<u>\$ 3,258</u>

**TOWN OF OCEAN BREEZE, FLORIDA**  
**Notes to the Financial Statements**  
**September 30, 2021**

**NOTE 5 – INTERLOCAL AGREEMENTS**

*Right of Way Maintenance Agreement*

In 2012, the Town entered into an Interlocal Agreement with Martin County for the purpose of assigning each party its responsibilities for the design, permitting, and construction of certain traffic improvements along NE Indian River Drive, which is a County road within Town limits. In July 2016, the agreement was amended to incorporate stormwater management and treatment components to the traffic calming project. The Project includes enhanced landscaping and irrigation, a stormwater treatment facility with a bioswale, decorative lighting and textured pavement. All maintenance, repair, and replacement of the aforementioned enhanced landscape improvements and the bioswale shall be the sole responsibility of the Town. All maintenance, repair, and replacement of the irrigation system shall be the sole responsibility of the Town, including, but not limited to, ensuring that the irrigation system is kept in proper working order. All aesthetic maintenance of the roadway textured pavement shall be the sole responsibility of the Town. Should the Town be unable or unwilling to complete the required maintenance work, the County may complete or contract to have such maintenance performed and bill the Town for all costs incurred. The County agrees to provide written notice of its intent to perform such maintenance at least five days in advance of performing the work.

*Fire Protection and Emergency Medical Services*

The Town has opted into the Martin County's Fire-Rescue Municipal Services Taxing Unit ("MSTU") for the provision of fire rescue, fire protection, and related services from the County commencing on October 1, 2019. The tax for the MSTU is included in the maximum 10 mills the Town is legally allowed to assess. On September 30, 2021, the MSTU millage rate was 2.7001.

**NOTE 6 – LEASES**

The Town has entered into an office space lease for a term of five years and five months, commencing on August 15, 2017 and ending January 31, 2023. The Town will occupy the premises rent free from August 15, 2017 to January 31, 2018, with payments commencing in February 2018. The lease has a base monthly payment of \$950 with annual increases of 3% culminating in a monthly payment of \$1,069 for the period ending January 31, 2023.

The Town has also entered into a copier lease with a monthly rental payment of \$236 through 2025. Lease expense for the year ended September 30, 2021 was \$13,920.



**TOWN OF OCEAN BREEZE, FLORIDA**  
**Notes to the Financial Statements**  
**September 30, 2021**

**NOTE 6 – LEASES** (Continued)

Future minimum rental payments are as follows:

<u>Year Ended September 30</u>	<u>Minimum Lease Payments</u>
2022	\$ 15,538
2023	7,109
2024	2,832
2025	1,652
	<u>\$ 27,131</u>

**NOTE 7 – RISK MANAGEMENT**

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

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

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



## NOWLEN, HOLT & MINER, P.A.

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

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

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POST OFFICE BOX 338  
BELLE GLADE, FLORIDA 33430-0338  
TELEPHONE (561) 996-5612  
FAX (561) 996-6248

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

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, the financial statements of the governmental activities and the major fund of the Town of Ocean Breeze, Florida, as of and for the year ended September 30, 2021, and the related notes to the financial statements, which collectively comprise the Town of Ocean Breeze's basic financial statements and have issued our report thereon dated June 2, 2022.

#### **Internal Control Over Financial Reporting**

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

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

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

### **Compliance and Other Matters**

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

### **Purpose of this Report**

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

*Nowlen, Holt & Mimes, P.A.*

West Palm Beach, Florida  
June 2, 2022



## NOWLEN, HOLT & MINER, P.A.

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

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BELLE GLADE, FLORIDA 33430-0338  
TELEPHONE (561) 996-5612  
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To the Honorable Mayor and Member of the Town Council  
Town of Ocean Breeze, Florida  
Jensen Beach, Florida

#### Report on the Financial Statements

We have audited the financial statements of the Town of Ocean Breeze, Florida, as of and for the fiscal year ended September 30, 2021, and have issued our report thereon dated June 2, 2022.

#### Auditor's Responsibility

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

#### Other Reporting Requirements

We have issued our Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of the Financial Statements Performed in Accordance with *Government Auditing Standards* and Independent Accountant's Report on an examination conducted in accordance with *AICPA Professional Standards*, AT-C Section 315, regarding compliance requirements in accordance with Chapter 10.550, Rules of the Auditor General. Disclosures in those reports, which are dated June 2, 2022, should be considered in conjunction with this Management Letter.

#### Prior Audit Findings

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

### **Official Title and Legal Authority**

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

### **Financial Condition and Management**

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

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

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

### **Special District Component Units**

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

### **Additional Matters**

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

**Single Audits**

The Town of Ocean Breeze, Florida expended less than \$750,000 of federal awards and less than \$750,000 of state financial assistance for the fiscal year ended September 30, 2021 and was not required to have a federal single audit or a state single audit.

**Purpose of this Letter**

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

*Nowlen, Holt & Mimes, P.A.*

West Palm Beach, Florida  
June 2, 2022



## NOWLEN, HOLT & MINER, P.A.

CERTIFIED PUBLIC ACCOUNTANTS

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

BELLE GLADE OFFICE  
333 S.E. 2nd STREET  
POST OFFICE BOX 338  
BELLE GLADE, FLORIDA 33430-0338  
TELEPHONE (561) 996-5612  
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The Honorable Mayor and Members of the Town Council  
Town of Ocean Breeze, Florida  
Jensen Beach, Florida

We have examined the Town of Ocean Breeze, Florida's compliance with Section 218.415, Florida Statutes during the year ended September 30, 2021. Management of the Town of Ocean Breeze, Florida is responsible for the Town of Ocean Breeze, Florida's compliance with the specified requirements. Our responsibility is to express an opinion on the Town of Ocean Breeze, Florida's compliance with the specified requirements based on our examination.

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

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

In our opinion, the Town of Ocean Breeze, Florida complied, in all material respects, with Section 218.415, Florida Statutes for the year ended September 30, 2021.

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

*Nowlen, Holt & Miner, P.A.*

West Palm Beach, Florida  
June 2, 2022



## Memorandum

**To:** Town Council

**From:** Terry O'Neil, Town Management Consultant

**Via:** Mayor Ostrand

**Cc:** Rick Crary, Town Attorney  
Pam Orr, Town Clerk

**Date:** June 7, 2022

**Re:** Authorization for the Mayor to execute an extension to the Town's office lease

The Town's five-year lease with JOTT Properties for an 800 sq.ft. office space at 1508 NE Jensen Beach Boulevard expires on January 31, 2023. JOTT has been an excellent landlord and notwithstanding today's inflationary market, has agreed to stand by the terms of a five-year lease extension it offered the Town in January of 2021. At staff's request, JOTT has also provided lease extension terms based on a three-year, with two one-year options scenario. A summary of existing and proposed annual lease terms is as follows:

Dates	Annual Rent (\$)	Monthly Rent (\$)	Annual Increase (%)	Optional year(s)
08/15/17 - 01/31/18		Free rent		
02/01/18 - 01/31/19	11,400.00	950.00	3	
02/01/19 - 01/31/20	11,742.00	978.50	3	
02/01/20 - 01/31/21	12,094.26	1,007.85	3	
02/01/21 - 01/31/22	12,457.08	1,038.09	3	
02/01/22 - 01/31/23	12,830.79	1,069.23	3	
<b>Five-Year Extension:</b>				
02/01/23 - 01/31/24	13,215.71	1,101.31	3	
02/01/24 - 01/31/25	13,612.18	1,134.35	3	
02/01/25 - 01/31/26	14,020.54	1,168.38	3	
02/01/26 - 01/31/27	14,441.16	1,203.43	3	
02/01/27 - 01/31/28	14,874.39	1,239.53		
<b>Three-Year Extension with two one-year options:</b>				
02/01/23 - 01/31/24	14,400.00	1,200.00	3	
02/01/24 - 01/31/25	14,832.00	1,236.00	3	
02/01/25 - 01/31/26	15,276.96	1,273.08	3	
02/01/26 - 01/31/27	15,735.27	1,311.27 est.	Minimum 3 or the CPI <sup>1</sup>	X
02/01/27 - 01/31/28	16,207.32	1,350.61 est.	Minimum 3 or the CPI	X

**Staff recommendation:** Subject to the Town Attorney's favorable review as to form, authorize the Mayor to execute either a five-year lease extension, or a three-year lease extension, with two one-year options, based on the terms outlined above.

**Attached documents:**

- May 25, 2022 lease extension email from JOTT
- January 21, 2021 lease extension email from JOTT
- Copy of existing lease agreement

<sup>1</sup> Consumer Price Index



**From:** Joyce M <joycemiser@gmail.com>  
**Sent:** Wednesday, May 25, 2022 9:26 AM  
**To:** Pam Orr  
**Subject:** Re: Lease Renewal

Good morning, Pam,

Yes, I will honor the renewal option I sent you in January, 2021 with the understanding that you exercise this option at least ninety days before the expiration of our current lease agreement.. I never anticipated the cost increases we're experiencing but that's my problem for leaving that offer so open ended. Lesson learned.

As far as a three-year lease is concerned, I would be willing to offer an initial annual rent of \$14,400 which is \$1,200.00 a month with the same 3 percent annual increase. You guys are good tenants. The two additional one-year lease options would be subject to any increase in the Consumer Price Index or a minimum increase of 3 percent for each additional year.

Please let me know if you have any questions or concerns. Have a great Memorial Day weekend!

Best regards,

Joyce Miser  
JOTT Properties, Inc.

On Fri, May 20, 2022 at 10:54 AM <[townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org)> wrote:

Perfect, thank you, Joyce!

---

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](http://townofoceanbreeze.org)

**Please make note of our new email address.**

**From:** Joyce M <[joycemiser@gmail.com](mailto:joycemiser@gmail.com)>

**Sent:** Friday, May 20, 2022 10:42 AM

**To:** Pam Orr <[townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org)>

**Subject:** Re: Lease Renewal

Good morning Pam,

I hope everything is going well with you too.

I'll take a look at things and try to get back to you next week on the lease renewal.

Have a great weekend,

Joyce

On Thu, May 19, 2022 at 1:16 PM <[townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org)> wrote:

Hi Joyce:

We hope all is well with you and the family.

We are approaching budget time and need to lock in a lease renewal term and rates. In January 2021 you sent us an outline of a five-year renewal option. Would those figures still apply; and, would you consider a three-year lease with two one-year options? When you have a minute, 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

[townofocceanbreeze.org](http://townofocceanbreeze.org)

**Please make note of our new email address.**

**From:** Joyce M <joycemiser@gmail.com>  
**Sent:** Thursday, January 21, 2021 11:12 AM  
**To:** townclerk@townofoceanbreeze.org  
**Subject:** Option to Renew

Good morning Pam,

It was good talking to you yesterday. It's been a while!

We would be happy to offer the Town of Ocean Breeze an option to renew the lease for an additional term of 5 years under the same terms and conditions of the current lease. The lease payments for the additional term would be according to the following schedule.

Dates	Annual Rent	Monthly Rent
02/01/23-01/31/24	\$13,215.71	\$1,101.31
02/01/24-01/31/25	\$13,612.18	\$1,134.35
02/01/25-01/31/26	\$14,020.54	\$1,168.38
02/01/26-01/31/27	\$14,441.16	\$1,203.43
02/01/27-01/31/28	\$14,874.39	\$1,239.53

This is the same rate of increase annually as is in the current lease.

We would ask for a ninety day notice if you choose to exercise this option to renew your lease.

Best regards,

Joyce Miser  
JOTT Properties, Inc.

the basis of exterior dimensions. Because Lessee's rent is fixed per Section 3.01, Lessee shall not be charged any pro rata share under this Lease.

1.12 Repairs. Includes the words "replacement and the restoration", "replacement or restoration", "replace and restore", or "replace or restore", as the case may be.

1.13 Lessee's Agents. Includes Lessee's employees, servants, licensees, tenants, subtenants, assignees, contractors, successors, legatees, and devisees, heirs and Lessee's Guarantor.

1.14 Lessee's Work. Any construction, installations and other work designated as Lessee's work in any plans and specifications submitted to Lessor for approval.

## Article 2 – Term

2.01 Term. The initial term of the Lease shall be for a period of Five (5) year(s), and Five (5) months commencing the 15th day of August, 2017, and terminating the 31st day of January, 2023. The term shall expire on the date designated as the Expiration Date of Section 1.04. The date on which the Term commences is the "Commencement Date". If construction of Tenant Improvements is not complete by the Commencement Date, the Commencement Date shall be the date that all improvements are completed by Lessor, and the Leased Premises are available for Lessee.

## Article 3 – Rent, Security, Tax Increases

3.01 Rent. Lessee hereby agrees to pay the Lessor during the term of the Lease according to the following schedule :

<u>DATES</u>	<u>ANNUAL RENT</u>	<u>MONTHLY RENT</u>
08/15/17-01/31/18		Free Rent
02/01/18-01/31/19	\$11,400.00	\$950.00
02/01/19-01/31/20	\$11,742.00	\$978.50
02/01/20-01/31/21	\$12,094.26	\$1,007.85
02/01/21-01/31/22	\$12,457.08	\$1,038.09
02/01/22-01/31/23	\$12,830.79	\$1,069.23

Rent is payable in advance on the first day of each month, commencing with the first payment due upon execution of this lease. NOTE: Lessee is exempt from sales tax.

### 3.02 Security.

(a) Lessee has deposited, or will deposit upon the execution of this Lease, with Lessor the sum of \$950.00 as security for the full and faithful performance of all obligations of Lessee under this Lease or in connection with this Lease ("Deposit"). If Lessee is in default under Article 15, Lessor may use, apply or retain all or any part of the Deposit as payment of (i) any rent or any other sum of money which Lessee was obligated to pay but did not pay, (ii) any sum expended by Lessor on Lessee's behalf in accordance with the provisions of this Lease, or (iii) any sum which Lessor may expend or be required to expend as a result of Lessee's default, including any damages or deficiency in the reletting of the Demised Premises. The use, application or retention of the Deposit or any portion thereof by Lessor shall not prevent Lessor from exercising any

**From:** Joyce M <joycemiser@gmail.com>  
**Sent:** Thursday, January 21, 2021 11:12 AM  
**To:** townclerk@townofoceanbreeze.org  
**Subject:** Option to Renew

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02/01/27-01/31/28	\$14,874.39	\$1,239.53

This is the same rate of increase annually as is in the current lease.

We would ask for a ninety day notice if you choose to exercise this option to renew your lease.

Best regards,

Joyce Miser  
JOTT Properties, InC.



## LEASE AGREEMENT

THIS LEASE, enter into this 12<sup>th</sup> day of August, 2017 by and between JOTT PROPERTIES, INC., whose principal place of business is 2336 S East Ocean Blvd. #151, Stuart, FL 34996, as "Lessor", and TOWN OF OCEAN BREEZE, as "Lessee". Lessor leases to Lessee and Lessee rents from Lessor the Demised Premises (as defined in Section 1.03). Intending to be legally bound under this Lease and for good and valuable consideration, Lessor and Lessee agree as follows:

### Article 1 – Definitions

As used herein, the following words have the following meanings:

- 1.01 Business Center. The property owned by JOTT PROPERTIES, INC., known as Highlands Plaza.
- 1.02 Common Area. The entire Business Center except the portions of the Business Center upon which buildings, structures or other Improvements have been erected or areas which have been designated for other uses.
- 1.03 Demised Premises. 800 square feet located at 1508 NE Jensen Beach, Blvd. Jensen Beach, FL.
- 1.04 Expiration Date. If the Lessee's term has been extended or if the Lease is renewed, the Expiration Date shall be the last day of the term as extended or renewed. If the Lease is cancelled or terminated prior to the originally fixed Expiration Date, then the Lease is cancelled or terminated due to Lessee's default, Lessee's liability under the Lease shall continue until the date the term would have expired if the cancellation or termination had not occurred.
- 1.05 Force Majeure. Any period of delay which arises from or through Acts of God; strikes, lock outs, or labor difficulty; explosion, sabotage, accident, riot, or civil commotion, act of war, fire or other casualties, legal requirements; delays caused by Lessee; and causes beyond the Lessor's reasonable control.
- 1.06 Insurance Requirements. The applicable provisions of the insurance policy carried by Lessor covering the Demised Premises, the Business Center, or any part of either; all requirements of the insurer or any such policy; and the applicable regulations and other requirements of the National Board of Fire Underwriters, any applicable local board of fire underwriters, and any other body exercising a similar function.
- 1.07 Mortgage. Any mortgage, deed to secure debt, trust indenture, or deed of trust which may now or later encumber or be made upon the Demised Premises or Business Center, the real property of which the Business Center forms a part, or Lessor's interest in any of them; and any spreading agreements, renewals, modification, consolidations, replacements, and extensions of any instrument referred to in this section.
- 1.08 Mortgagee. The holder of any Mortgage.
- 1.09 Parking Area. The portion of the Business Center which is designated as a parking area by Lessor from time to time.
- 1.10 Person. An individual, share, estate, trust, partnership, firm association, corporation, or other organization, or a government or government authority.
- 1.11 Pro Rata Share. The proportion that the floor area of the Demised Premises bears to the floor area of all the rented space of the Business Center (excluding any parts of the building used as common facilities). Floor area should be computed on

the basis of exterior dimensions. Because Lessee's rent is fixed per Section 3.01, Lessee shall not be charged any pro rata share under this Lease.

1.12 Repairs. Includes the words "replacement and the restoration", "replacement or restoration", "replace and restore", or "replace or restore", as the case may be.

1.13 Lessee's Agents. Includes Lessee's employees, servants, licensees, tenants, subtenants, assignees, contractors, successors, legatees, and devisees, heirs and Lessee's Guarantor.

1.14 Lessee's Work. Any construction, installations and other work designated as Lessee's work in any plans and specifications submitted to Lessor for approval.

## Article 2 – Term

2.01 Term. The initial term of the Lease shall be for a period of Five (5) year(s), and Five (5) months commencing the 15th day of August, 2017, and terminating the 31st day of January, 2023. The term shall expire on the date designated as the Expiration Date of Section 1.04. The date on which the Term commences is the "Commencement Date". If construction of Tenant Improvements is not complete by the Commencement Date, the Commencement Date shall be the date that all improvements are completed by Lessor, and the Leased Premises are available for Lessee.

## Article 3 – Rent, Security, Tax Increases

3.01 Rent. Lessee hereby agrees to pay the Lessor during the term of the Lease according to the following schedule :

<u>DATES</u>	<u>ANNUAL RENT</u>	<u>MONTHLY RENT</u>
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02/01/18-01/31/19	\$11,400.00	\$950.00
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02/01/21-01/31/22	\$12,457.08	\$1,038.09
02/01/22-01/31/23	\$12,830.79	\$1,069.23

Rent is payable in advance on the first day of each month, commencing with the first payment due upon execution of this lease. NOTE: Lessee is exempt from sales tax.

### 3.02 Security.

(a) Lessee has deposited, or will deposit upon the execution of this Lease, with Lessor the sum of \$950.00 as security for the full and faithful performance of all obligations of Lessee under this Lease or in connection with this Lease ("Deposit"). If Lessee is in default under Article 15, Lessor may use, apply or retain all or any part of the Deposit as payment of (i) any rent or any other sum of money which Lessee was obligated to pay but did not pay, (ii) any sum expended by Lessor on Lessee's behalf in accordance with the provisions of this Lease, or (iii) any sum which Lessor may expend or be required to expend as a result of Lessee's default, including any damages or deficiency in the reletting of the Demised Premises. The use, application or retention of the Deposit or any portion thereof by Lessor shall not prevent Lessor from exercising any



other right or remedy provided for under this Lease or at law and shall not limit any recovery to which Lessor may be entitled otherwise.

(b) The deposit shall bear no interest. If legally permissible, Lessor shall be entitled to commingle the Deposit with other funds of Lessor.

(c) If Lessee shall fully and faithfully comply with the provisions of this Lease, the Deposit or any balance thereof shall be returned to Lessee after the Expiration Date or upon any later date after which Lessee has vacated the Demised Premises.

(d) If Lessor transfers its interest in the Demised Premises, it shall have the right to transfer the Deposit to the transferee of its interest. In such event, Lessor shall be deemed released by Lessee from all liability for the return of the Deposit; and Lessee agrees to look solely to the transferee for the return of the deposit.

(e) The Deposit shall not be mortgaged, assigned or encumbered by Lessee. No action of Lessor in enforcing its rights with respect to a default shall be deemed to be a termination of this Lease so that Lessee shall be entitled to a return of the Deposit.

3.03 Additional Rent. If the Lease requires Lessee to make any payment to Lessor, such payment shall be treated as additional rent and all penalties applicable to non-payment of rent shall be applicable thereto.

3.04 No Offset. Rent and additional rent shall be paid without counterclaim, offset, deduction or defense.

3.05 Place of Payment. All payments Lessee must make under this Lease shall be payable at Lessor's address or to any other place Lessor so directs.

#### Article 4 – Quiet Enjoyment

4.01 Quiet Enjoyment. Upon the observance and performance of all covenants, terms and conditions on Lessee's part, Lessee shall peaceably and quietly hold and enjoy the Demised Premises in accordance with the terms of the Lease and any extension thereof.

#### Article 5 – Use and Operation

5.01 Use. Lessee may use the Demise Premises as a general office, subject to applicable legal requirements, and for no other purpose.

5.02 Operation.

(a) Cleanliness. Lessee shall keep the Demised Premises (including interior portions of all windows, doors and all other glass) in a neat and clean condition.

(b) Taxes. Lessee shall pay before delinquency any and all taxes, assessments and public charges levied, assessed or imposed upon Lessee's business or upon Lessee's fixtures, furnishings or equipment in the Demised Premises.

(c) License Fees. Lessee shall pay when and as due all license fees, permit fees and charges or a similar nature for the conduct by Lessee or any subtenant of any business or undertaking authorized hereunder to be conducted in the Demised Premises.

(d) Garbage. Lessee agrees not to permit the accumulation (unless in concealed garbage containers) or burning of any rubbish or compound on or about any part of the Demised Premises or Business Center, and, if Lessor so requests, not to permit any garbage or rubbish to be collected or disposed of from the Demised Premises except

by Lessor or its designees, other than in the trash containers provided for by Lessor on the grounds of the Business Center.

5.03 Restriction's on Lessee's Activities at Business Center.

(a) Display. Lessee shall not use the Common Area, sidewalks, or open areas in front of or in the rear of the Demised Premises for display, sale or any other similar undertaking.

(b) Loudspeaker Use. Lessee shall not use any medium which may be heard outside the Demised Premises.

(c) Plumbing Facility Use. Lessee shall not use the plumbing facilities on the Demised Premises for any purpose other than that for which they were constructed. Lessee shall not dispose of any substance in such facilities which may clog, erode, or damage the plumbing pipes, lines or conduits of the Business Center whether through the utilization of "garbage disposal" units or otherwise. If Lessee uses the Demised Premises for the sale, preparation or service of food for on-premises consumption, Lessee shall install any grease traps that may be necessary or desirable to prevent the accumulation of grease or other wastes in the plumbing facilities servicing the Demised Premises. The foregoing shall not be deemed to permit Lessee to use the Demised Premises as provided in the preceding sentence unless such use is specified in Subsection 5.01.

(d) Roof Exterior. Lessee shall not use the roof of the Demised Premises for any purpose. Lessee shall not use exterior walls of the Demised Premises except that the Lessee may use show windows of the Demised Premises upon approval of Lessor, and except that Lessee may maintain a sign in connection with section 6.04.

(e) Cooling System. Lessee may not install any air conditioning, refrigeration, or other equipment that requires a water-to-water cooling system. Lessee may not install a heat pump, or any equipment using a heat pump, without Lessor's prior written consent.

(f) Pollutants. Lessee shall not use, store, dispose of, or distribute any chemicals, toxic or hazardous materials or other pollutants, including but not limited to oil, grease, gasoline or other similar substances, on the Demised Premises without first obtaining the prior written consent of Lessor. Such written consent shall be given at Lessor's sole discretion and only if Lessee requires the chemicals or materials in its business and discloses to Lessor how it shall safeguard the Demised Premises and the Business Center from damages caused by chemicals or materials.

(g) Nuisance. Lessee shall not permit any nuisance upon or in the vicinity of the Demised Premises. Lessee's failure to eliminate any activity that Lessor, in its sole discretion, deems to be a nuisance, within two (2) days after Lessor notifies Lessee to eliminate the activity, shall be a default of the Lease. "Nuisance" means any activity Lessor reasonably determines to be detrimental to the Business Center and/or its tenants.

Article 6 – Condition of Premises, Improvements

6.01 No Representations. Lessor makes no representations, covenants, or warranties with respect to the Demised Premises other than as expressly set forth in the Lease.

6.02 Alterations. Lessee may not alter the Demised Premises without the Lessor's prior written consent. Authorized alterations shall be performed at Lessee's



expense in a good and workmanlike manner in accordance with all applicable legal requirements and insurance requirements.

6.03 Mechanic's Liens. If any mechanic's lien or materialman's lien is filed against the Demised Premises or any part thereof, during the term of this Lease as a result of any work or act of the Lessee or its agents, Lessee shall discharge the lien within twenty (20) days after the filing of same. If Lessee shall fail to discharge the lien or liens, Lessor may, at its option, bond or pay the lien or claim without inquiring into the validity thereof, and Lessee shall reimburse Lessor for any sums so expended within seven (7) days of Lessor's demand thereof.

6.04 Signage.

(a) Lessor shall provide and install, at Lessee's expense, all standard signage. All such signage shall be in the standard graphics for the Business Center and no other signage shall be used or permitted on the Demised Premises. Tenant agrees to conform to Lessor's building standard signage.

(b) Lessee shall not install or maintain any other signs on the Demised Premises or at the Business Center.

6.05 Insurance Covering Lessee's Work. Lessee shall not make alterations, repairs or perform any work to the Demised Premises unless prior to the commencement of the work, Lessee obtains Lessor's approval and public liability and workman's compensation insurance to cover every contractor to be employed. The policy shall be cancelable with ten (10) days notice to Lessor. The policies must be purchased from companies reasonably satisfactory to Lessor. Copies of the policies shall be delivered to Lessor prior to commencement of the work.

#### Article 7 – Repairs & Maintenance

7.01 Lessor's Obligations. Upon reasonable notice from Lessee, Lessor shall make necessary structural repairs to the roof, foundation, exterior walls and any load bearing walls. Lessor shall not be required to repair any damage caused by the negligence of Lessee or Lessee's agents.

7.02 Lessee's Obligations. Except for Lessor's obligations set forth in Section 7.01, Lessee shall make all repairs to the Demised Premises which are necessary to keep the Demised Premises in good repair and in a safe, dry and tenantable condition. Lessee's responsibilities for repair include, but not limited to, (i) any pipes, lines, ducts, wires or conduits contained within the Demised Premises; (ii) to windows, plate glass, doors, and fixtures composed of glass, floors, interior walls, drop ceilings, and plumbing fixtures; (iii) to Lessee's signs (Lessee is responsible for the cost and placement of its own signage); (iv) to any air conditioning equipment installed in the Demised Premises as limited per Section 9.03 below; and (v) to the Business Center or Demised Premises when repairs result from damages caused by any act or omission of Lessee or Lessee's agents or their failure to perform their obligations under the Lease. Lessee shall at all times keep the Demised Premises in a clean and sanitary condition and free from offensive odors, insects, and vermin.

#### Article 8 – Compliance, Surrender

8.01 Compliance. Lessee shall observe and comply promptly with all present and future requirements of all county, municipal, federal and other applicable

governmental authorities and insurance requirements relating to or affecting the Demised Premises, or any sign of Lessee, or the use and occupancy of the Demised Premises.

8.02 Emergency Repairs, Keys. If, in an emergency, it shall become necessary to make promptly any repairs or replacements required to be made by Lessee, or which affect the Demised Premises or the Business Center, Lessor may re-enter the Demised Premises and proceed to have the repairs or replacements made and pay the costs thereof. Within thirty days after Lessor renders the bill thereof, Lessee shall reimburse Lessor for the costs for making the repairs if such repairs would have been required by Lessee under the Lease. Lessor shall retain a key to the Demised Premises, and if Lessee wants to change or alter the locks, it must first obtain Lessor's written consent and immediately provide Lessor with a new key.

8.03 Surrender of Premises. Upon the Expiration Date, Lessee shall quit and surrender the Demised Premises, broom clean and in good condition and repair together with all alterations, fixtures, installations, additions and improvements which may have been made in or attached on or to the Demised Premises. Upon surrender, Lessee shall remove its trade fixtures, and Lessee shall repair any damage to the Demised Premises so the demised Premises shall be as they were on the Commencement Date.

#### Article 9 – Services and Utilities

9.01 Electric Service. Lessee shall be responsible for the paying of all electric service to the Demised Premises.

9.02 Water and Sewer Service. Lessor shall provide water and sewer services to the Demised Premises. Lessee shall take no action which interferes with Lessor's ability to provide water and sewer to the Demised Premises, including, but not limited to, depositing any materials on, over or in Lessor's septic system and drain field or interfering with the operation of Lessor's well-pumping facilities.

9.03 Heat, Air Conditioning. The Demised Premises are equipped with air conditioning, and Lessee shall be responsible for the routine maintenance thereof; provided however, that Lessor shall be responsible for the repair and expense of air conditioning equipment over \$200.00, and Lessor shall be responsible for timely replacement of air conditioning equipment, if needed.

#### Article 10 – Transfer of Interest, Priority of Lien

##### 10.01 Assignment or Sublet.

(a) Lessee shall not transfer or assign this Lease or sublet the Demised Premises. Any attempted transfer, assignment or subletting shall be void and confer no rights upon any third person. No assignment or subletting shall relieve Lessee of any obligation under this Lease. The consent by Lessor to any transfer, assignment or subletting shall not be deemed to be a waiver on the part of Lessor of any prohibition against any future transfer, assignment or subletting.

(b) If Lessor consents to any transfer, assignment or subletting, that consent shall not be effective until and unless Lessee gives notice of the assignment and sublessee delivers to Lessor a written agreement in form and substance satisfactory to Lessor pursuant to which such transferee, assignee or sublessee assumes all the obligations and liabilities of Lessee under this Lease.

10.02 Mortgagee's Rights. If Lessor shall notify Lessee that the Demised Premises or the Business Center is encumbered by a Mortgage, and shall notify Lessee of the name and address of the Mortgagee; the following shall apply, notwithstanding



anything to the contrary: No notice intended for Lessor shall be deemed properly given unless a copy of the notice is simultaneously sent to the Mortgagee by certified or registered mail, return receipt requested. If any Mortgagee shall perform any obligation that Lessor is required to perform under this Lease, the performance by the Mortgagee shall be deemed to be the performance on behalf of the Lessor in so far as Lessee is concerned, and the performance shall be accepted by Lessee as if performed by Lessor.

#### Article 11 – Waste and Maintenance of Demised Premises

11.01 Lessee shall not commit any waste upon the Demised Premises. If Lessor is required to make repairs to the structural portions of the Demised Premises by reason of Lessee's negligent acts or omission to act, Lessor may add the cost of such repairs and additional rent which shall thereafter become due.

#### Article 12 – Destruction

12.01 Rent Abatement. If all or part of the Demised Premises are damaged by fire, windstorm, or other hazard not caused by the neglect or negligence of Lessee or Lessee's Agent, Rent shall abate in the proportion that the unusable portion of the Demised Premises bears to the entire area of the Demised Premises. The period of rent abatement shall commence when the damage occurs and when the Demised Premises have been repaired. Lessee shall have no right to cancel this Lease due to any damage to or destruction of the Demised Premises unless Lessor notifies Lessee that it is not going to repair the Demised Premises. Lessor may cancel the Lease upon ninety (90) days written notice to Lessee if all or a substantial part of the Demised Premises is damaged by fire or other event.

#### Article 13 – Insurance, Indemnity

13.01 Upon the Commencement Date, and throughout the Lessee's term, Lessee shall maintain in force the following insurance coverage:

(a) A policy of commercial general liability insurance, including public liability, personal injury and property damage, that will insure Lessee and Lessor against liability for claims of damage arising from injuries to persons or property and for the death of any persons occurring at or about the Demised Premises with coverage limits of at least \$1,000,000.00 combined single limit liability.

(b) The policy is to be written by a good and solvent insurance company satisfactory to Lessor. Prior to the Commencement Date, and before the expiration of any policy, Lessee shall deliver to Lessor adequate proof of insurance, together with evidence of payment therefor.

(c) All insurance policies required to be carried by or on behalf of Lessee shall name Lessor or its designee as addition insureds. The policies shall certify and provide that Lessor shall be given ten (10) days written notice of any cancellation or failure to renew, or any material change in the policy. "Policy" shall mean any extensions or renewals of an insurance policy.

13.02 Indemnity. Lessee shall indemnify Lessor and any Mortgagee and save it harmless from and against any and all claims, actions for damages, responsibility, judgements, demands, suits, liability and expense which either (I) arise from or are in connection with the Lessee's possession, use occupation, management, repair,

maintenance, or control of the Demised Premises; (ii) arise from any act or omission of Lessee or Lessee's Agents; (iii) result from any default, breach, violation, or nonperformance of this Lease by Lessee; or (iv) result in injury to property or person or loss of life sustained on the Premises.

13.03 Defend. If Lessor shall be made a party to any litigation commenced by or against the Lessee, then Lessee shall protect and hold Lessor harmless and shall pay all costs, expenses, and reasonable attorney's fees incurred or paid by Lessor in connection with such litigation. Lessee shall also pay all costs, expenses, and reasonable attorney's fees that may be incurred or paid by Lessor in enforcing the covenants and agreements of this Lease.

13.04 Insure Personally. Lessee shall insure all personal property, equipment and inventory located or brought onto or about the Demised Premises and owned by the Lessee. Lessor shall not be liable in any manner or subject to any claim or demand by Lessee or any secured creditor of Lessee or any other person, firm or corporation for any loss, theft, damage or destruction, partial or complete, to any property owned by Lessee or other located upon or about the Demised Premises.

13.05 Plate Glass Insurance. Lessee must carry plate glass insurance with a company satisfactory to Lessor and furnish copy of same to Lessor.

13.06 Insurance Rate. Lessee shall comply with all insurance requirements relating to or affecting the Demised Premises. If the insurance premium applicable for the permitted uses set forth in section 5.01 as a result of any failure by Lessee to comply with the insurance requirements, or as a result of or in connection with the use to which the Demised Premises are put by Lessee, Lessee shall reimburse Lessor for the excess. The reimbursement shall be made within ten (10) days after Lessor renders the bill therefor.

#### Article 14 – Eminent Domain

14.01 If the whole of the Demised Premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, then the terms of this Lease shall cease and terminate as of the date of the title vesting in such proceeding, and all rent and additional rent shall be paid up to the date and Lessee shall have no claim against Lessor for the value of any unexpired term of this Lease.

14.02 In the event of any condemnation or taking whether whole or partial, the Lessee shall not be entitled to any of the award, as damages or otherwise, for such condemnation, except business damages suffered by Lessee, and Lessor is to receive the full amount of such award, the Lessee hereby expressly waiving any right or claim to any part thereof. If less than the entire Demised Premises shall be acquired or unsuitable for the business of the Lessee, then the term of this Lease shall cease and terminate as of the date of title vesting in the taking party and Lessee shall have no claim against the owner for value of any unexpired term of this Lease.

#### Article 15 – Default of Lessee

15.01 Default. If Lessee shall fail to make any payment of rent when due and payable, or upon the institution of any insolvency, dissolution, bankruptcy, or other debtor proceedings by or against the Lessee, or upon the making by Lessee of any assignment for the benefit of creditors, or if Lessee fails to perform the terms of this Lease within five (5) days after Lessor has mailed a notice of default to Lessee as



provided in Article 25, or hand delivered the notice of default to Lessee, any of which are hereby declared to constitute a default under this Lease, then Lessor may proceed immediately to collect all of the unpaid rent and additional rent called for by this lease, and such monies shall bear interest until collection at the highest rate allowed by law. Additionally, in the event of any default by Lessee as aforesaid, it shall be lawful for Lessor at his election, to declare this Lease terminated, and to immediately re-enter upon the Demised Premises or any part thereof, with or without process of laws, Lessee hereby waiving any demand for possession of the Demised Premises. Upon re-entry, Lessor may relet the Demised Premises, or any part thereof, upon such conditions, covenants and for such terms and rents as Lessor may elect. Lessor may apply the rent received on any reletting of the Demised Premises against the account of Lessee, and Lessee hereby covenants and agrees to reimburse Lessor, upon demand, for any deficiency in rent that may occur upon any reletting of the Demised Premises for the initial term or any extended term of this Lease. Any rent deficiency not received by Lessor within three (3) days after demand by Lessor upon Lessee shall bear interest thereon at the highest rate allowed by law. Lessor shall also be entitled upon any Lessee default to have such other remedy or relief as provided by the laws of the State of Florida or as may be afforded by this Lease.

15.02 Vacation of Demised Premises, Holdover. Lessee agrees that upon the expiration or termination of this Lease, Lessee will surrender and deliver up said Demised Premises, peaceably and quietly to the Lessor, its agents or attorneys, immediately and forthwith, and if Lessee, his agents and tenants shall hold possession of the premises, or any part thereof, for any period of time after same should have been vacated or surrendered, Lessee shall pay to Lessor for each month or for a prorated portion of any month, double the amount of the rent, and Lessee shall be subject to eviction, removal or otherwise, with or without process of law.

15.03 Surrender. No agreement to accept a surrender of the Demised Premises shall be valid unless in writing signed by Lessor. The delivery of keys to any employee of the Lessor or of Lessor's agents shall not operate as a termination of this Lease or a surrender of the Demised Premises. The failure of Lessor to seek redress for violation of, or to insist upon the strict performance of any covenant or condition of the Lease, shall not prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. The receipt of Lessor of rent with knowledge of the breach of any covenant of this Lease, shall not be deemed a waiver of such breach. No provision of this Lease shall be deemed to have been waived by Lessor unless such waiver be in writing signed by Lessor. No payment by Lessee or receipt by Lessor of a lesser amount than the rent herein stipulated, shall be deemed to be other than on account of the earliest stipulated rent, nor shall any endorsement or statement or any check or any letter accompanying any check for payment as rent be deemed an accord and satisfaction, and Lessor may accept such check for payment without prejudice to Lessor's right to recover the balance of such rent or pursue any other remedy.

15.04 Attorney's Fees, Costs. The prevailing party in an action to enforce the terms of this Lease shall be entitled to recover reasonable attorney's fees and costs, at all judicial levels, from the non-prevailing party.

15.05 Cumulative Remedies. Lessor and Lessee intend, understand and agree that the various rights, powers, options, elections, privileges and remedies of Lessor as set forth in this Lease, or as prescribed by law, shall be construed as being cumulative and no one of them shall be construed as being exclusive of the other or exclusive of any rights or priorities allowed by law.



#### Article 16 – Nonliability of Lessor

16.01 Lessor shall not be responsible or liable to Lessee for any loss or damage caused by the act or omissions of any persons occupying any space adjacent to or adjoining the Demised Premises, or within the Business Center. Except for loss or damage caused by Lessor's gross negligence, Lessor shall not be responsible or liable to Lessee for any loss or damage resulting to Lessee or its property from water, gas, steam; bursting, stoppage or leakage of pipes.

#### Article 17 – Inability to Perform

17.01 If Lessor fails to perform any of its obligations under this Lease as a result of Force Majeure, Lessor shall not be liable for loss or damage for the failure and Lessee shall not be released from any of its obligations as a result of Force Majeure, the period of delay or prevention shall be added to the item herein provided for the performance of any such obligation.

#### Article 18 – Waiver of Trial by Jury

18.01 Lessee hereby waives all rights to trial by jury, and any claim, action, proceeding or counterclaim by either Lessor or Lessee against each other on any matter arising out of or in any way connected with this Lease, the relationship of Lessor and Lessee, and or Lessee's use or occupancy of the Demised Premises.

#### Article 19 – Entry

19.01 During any reasonable time before and after the Commencement Date, Lessor may enter upon the Demised Premises, any portion thereof and appurtenant thereto (with men and materials, if required) for any of the following purposes: (i) inspecting the Demised Premises; (ii) making any repairs, replacements or alterations which Lessor may be required to perform under this Lease, or which Lessor may deem desirable for the Demised Premises; (iii) showing the Demised Premises to prospective purchasers or Lessees of the Lessees.

#### Article 20 – Easement for Pipes

20.01 Lessee shall permit Lessor to erect, use, maintain and repair pipes, cables, conduits, plumbing, vents and wires in, to and through the Demised Premises as often and to the extent that Lessor may now or hereafter deem it to be necessary or appropriate for the proper operation and maintenance of the Business Center.

#### Article 21 – Validity, Captions

21.01 Validity. If any provision of this Lease or the application of any provision of this Lease to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Lease, or the application of such provision to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby; and each provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

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21.02 Captions. The captions and headings used throughout this Lease are for convenience or reference only, and shall not affect the interpretation of this Lease.

#### Article 22 – Liability of Lessor

22.01 Lessor and in case Lessor shall be a joint venture, partnership, tenancy-in-common, association or other form of joint ownership, and the members of any such joint venture, partnership, tenancy-in-common, association or other form of joint ownership, shall have absolutely no personal liability with respect to any provision in this Lease or any obligation or liability arising from this Lease or in connection with this Lease in the event of a breach or default of Lessor of any of its obligations. Lessee shall look solely to the equity of the owner of the Demised Premises in the Demised Premises at the time of the breach or default for the satisfaction of any remedies of Lessee. Such scope based on the liability shall be absolute and without any exception whatsoever.

#### Article 23 – Time of Essence

23.01 Time is of the essence in every particular of this Lease in respect to the promises, covenants, agreements, terms and conditions as herein set forth and particularly shall be of the essence where the obligation is that to pay rents or monies.

#### Article 24 – Binding Effect

24.01 All covenants, promises, conditions, terms and obligations in this Lease set forth and contained, or if implied by law, are covenants running with the land for the initial term and any extended term of this Lease, and shall be binding upon the respective heirs, executors, administrations, personal representatives, guardians, successors and assigns of each of the parties of the Lease.

#### Article 25 – Notice

25.01 When either party desires to give the other a notice in respect to and in connection with, as well as according to the terms and conditions of this Lease, such notice shall be given by registered or certified mail with return receipt requested, and it shall be deemed to be given when deposited in the U. S. Mail with sufficient postage prepaid thereon and properly addressed as follows:

Address of Notice to Lessor  
JOTT PROPERTIES, INC  
Attn: Joyce Miser  
2336 S East Ocean Blvd #151  
Stuart, FL 34996

Address of Notice to Lessee  
TBD

The foregoing shall not prevent the giving of notice by Lessor to Lessee solely by delivery of said notice to any agent or employees of Lessee upon the Demised Premises during normal business hours of the Lessee, and the delivery of such notice shall be as effective in all manners and respects as if said notice had been sent and received by certified mail, return receipt requested, as set forth above.

## Article 26 – Integration

26.01 This Lease contains the whole and entire agreement between Lessor and Lessee as of the date hereof, and the execution hereof has not be induced by either party by reason of any representation, promises or understandings not definitely and specifically expressed in this Lease. There are no collateral agreements, stipulations, promises, or undertaking whatsoever upon or by the respective parties in any way concerning the subject of this Lease which are not expressly, definitely and specifically contained and provided in this Lease. No modification, release, discharge or waiver of any provision of the Lease shall be of any force, effect or value unless same is in writing duly signed guardians, executors, heirs, successors or assigns.

## Article 27 – Public Record

27.01 Lessor understands that Lessee is a public municipality and, as such, this Lease will be part of the public record available to any member of the public; however, Lessee agrees that Lessee will not record a copy of this lease in the public records maintained by the Martin County Clerk of Court without the prior written consent of Lessor.

## Article 28 – Subordination

28.01 This Lease is subject and subordinate to each mortgage that may or hereafter affect the Demised Premises and the Leasehold interest created hereby.

## Article 29 – Late Fees and Administrative Charges

29.01 Rent Due Date. All rents, unless otherwise provided for, are due on the first day of the months and become delinquent on the tenth day of the month.

29.02 Late Charges. A late charge of \$10.00 per day will be assessed beginning the sixth day of the month. This assessment will continue at a rate or \$10.00 per day until rent is paid.

29.03 Exceptions. If the first day of the month falls on a Saturday, Sunday or a Legal Holiday, then the rent shall be due on the first day of the business following those days. If the rent is not paid on the tenth day following those specified days, then the \$10.00 late charge shall be assessed beginning the sixth business day.

29.04 Delinquent Rent. All late charges shall be included in the delinquent rent. The Lessor shall have the option to cancel the Lease without recourse, if the delinquent charges are not included in the subsequent month's rental payment.

29.05 Bad Check Charge. In the event any check, bank draft, or negotiable instrument is given for any payments and is dishonored for any reason whatsoever not valuable to the Lessor, the Lessor shall be entitled to an administration charge of \$35.00 payable to the Lessee. This administration charge shall be included in with the delinquent rent.



## Article 30 – Dumpsters

30.01 **Trash/Refuse.** Lessee shall be required to place all garbage, refuse or rubbish, in containers specified by Landlord. Lessee shall not place refuse of any kind along side, in front of, or behind dumpsters. All trash shall be placed inside Dumpster. In addition, all boxes shall be broken down when placed in Dumpsters. Under NO CIRCUMSTANCES shall any construction debris, cabinets, lumber, carpet, sheetrock, or similar debris be placed in Dumpsters. All small personal trashcans shall be placed inside the Demised Premises and never allowed outside the Demised Premises.

30.02 **Penalty.** If Lessee violates the above instructions for dumpster use, an additional amount of money shall be paid to the Lessor in an amount equal to the cost of dumpster clean up by maintenance people, but not less than \$25.00. The charge for cleanup shall be paid on, or before the next first day of the month following notice to Lessee of charge.

30.03 **Prohibited Matters.** In no circumstance shall oil, grease, chemicals or other substances which are pollutants be placed in dumpsters, the disposition of such materials is the total responsibility of the Lessee.

30.04 **Vehicles.** No personal vehicles, boats, or trailers shall be stored at the Business Center.

## Article 31 – Additional Terms

31.01 **ADA Compliance.** Landlord and Tenant do hereby acknowledge and agree that effective January 26, 1992, the Americans with Disabilities Act (hereinafter referred to as "ADA"), including each of the four (4) Titles of the Act, and more specifically Title III of said Act (collectively, the "Act"), is in full force and effect and is applicable to the Premises pursuant to action passed by the United States Congress. The Act is designed to regulate and allow for the equal accessibility of the disabled and impaired person or persons within the Premises or the Property of which the Premises are a part. The Act and all rules, regulations, judicial and administrative rulings and decisions, standards and codes, as the same may be hereafter amended, supplemented and/or modified, are collectively referred to as the "ADA". Tenant does hereby agree that Tenant shall be solely responsible for compliance with the ADA within the Leased Premises during the Term and any renewal terms of this Lease Agreement. Tenant does hereby indemnify Landlord against any fines, litigation or liens that may result from Tenant's noncompliance with the ADA. Landlord shall not be responsible for any legal, civil or criminal action taken by any individual, firm or governmental authority relating to the non-compliance with any and all of the ADA.

31.02 **BROKERS.** Lessee represents and warrants that Lessee has had no dealing with any broker other than Christenson Commercial Real Estate in connection with the negotiation or execution of this Lease, and Lessee agrees to indemnify Lessor and hold Lessor harmless from any and all costs, expenses or liability for commissions or other compensation claimed by any broker or agent other than the party named above with respect to this Lease.

31.03 Sovereign Immunity. Notwithstanding anything in this Lease to the contrary, nothing herein shall be construed as a waiver of Lessee's sovereign immunity in tort, or otherwise, in excess of limits provided or required by law, including but not limited to Florida Statutes Section 768.28 and Article X, Section 13 of the Florida Constitution.

Signed Sealed and Delivered in  
the Presence of

LESSOR  
JOTT PROPERTIES, INC.



WITNESS



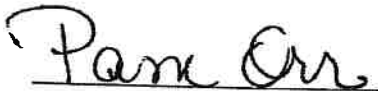
WITNESS



By: Joyce Miser

Its: Secretary/Treasurer

LESSEE  
TOWN OF OCEAN BREEZE



WITNESS




WITNESS



By: Karen Ostrand, Mayor

LESSOR  
JOTT PROPERTIES, INC.



WITNESS



WITNESS



By: Scott Miser

Its: President



Item #5

**RESOLUTION NO. 323-2022**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA SUPPORTING UNITED STATES HOUSE RESOLUTION 7520 INTRODUCED BY U.S. CONGRESSMAN BRIAN MAST AND CITED AS THE "NORTHERN ESTUARIES RESTORATION PLAN (NERP) ACT;" PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the "Northern Estuaries Restoration Plan (NERP) Act" is a U.S. House Resolution recently filed by U.S. Congressman Brian Mast that would primarily direct the Secretary of the Army through the Army Corps of Engineers to develop a comprehensive plan to eliminate all harmful freshwater discharges from Lake Okeechobee; and,

**WHEREAS**, NERP would also seek the resolution and elimination of harmful algal blooms; restoration of hydrological connections and conditions; enhancement of habitat, emergent and submerged aquatic vegetation, and keystone species populations; and the dredging and beneficial reuse of harmful silt and muck deposits in Lake Okeechobee and the northern estuaries; and,

**WHEREAS**, the Comprehensive Everglades Restoration Plan (CERP) was authorized by Congress in 2000 as a plan to "restore, preserve, and protect the south Florida ecosystem while providing other water-related needs of the region, including water supply and flood protection," and,

**WHEREAS**, CERP is comprised of more than 60 capital projects with an estimated costs of more than \$10.5 billion and a thirty-five (35) year timeline constituting the largest hydrologic restoration project ever undertaken in the United States; and,

**WHEREAS**, CERP capital projects are significantly behind initial schedule and as currently planned would only eliminate two-thirds (2/3) of harmful discharges to the St. Lucie River; and,

**WHEREAS**, NERP would comprehensively end all remaining harmful discharges to the northern estuaries not achieved within CERP; and,

**WHEREAS**, the Army Corps of Engineer has repeatedly stated that management of freshwater discharges within the Lake Okeechobee Regulation Schedule and subsequent operations manuals would not alone be sufficient to end all harmful discharges to the northern estuaries; and,

**WHEREAS**, the Town Council of the Town of Ocean Breeze, Florida, supports the Northern Estuaries Restoration Plan Act and urges the members of Congress to adopt the measure and any comprehensive plan that would bring about the end of all harmful discharges to our estuary, providing desperately needed relief for our community and environment.

**NOW, THEREFORE, BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA, AS FOLLOWS;**

**Section 1 – Adoption of “Whereas” Clauses.**

The foregoing “Whereas” clauses are hereby adopted and incorporated herein as forming the legislative findings, purpose, and intent of this Resolution.

**Section 2 – Authorizing Support of U.S. House Resolution 7520.**

The Town Council of the Town of Ocean Breeze, Florida, authorizes this resolution in support of U.S. House Resolution 7520 sponsored by U.S. Congressman Brian Mast and cited as the “Northern Estuaries Restoration Plan (NERP) Act.”

**Section 3 – Effective Date.**

This Resolution shall become effective upon adoption by the Town Council and the Town Clerk shall provide a copy to the Members of Congress who comprise the local federal delegation.

This resolution was heard on the 13<sup>th</sup> day of June, 2022, after which hearing it was moved for adoption by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, and adopted by the following vote of the Town Council:

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

YES	NO	ABSENT

**TOWN COUNCIL:  
TOWN OF OCEAN BREEZE, FLORIDA**

\_\_\_\_\_  
Karen M. Ostrand, Mayor

\_\_\_\_\_  
Kenneth De Angeles, President

Attest:

\_\_\_\_\_  
Pam Orr, Town Clerk



117TH CONGRESS  
2D SESSION

# H. R. 7520

To direct the Corps of Engineers to develop a comprehensive plan for Lake Okeechobee and northern estuaries ecosystem restoration, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2022

Mr. MAST introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To direct the Corps of Engineers to develop a comprehensive plan for Lake Okeechobee and northern estuaries ecosystem restoration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. LAKE OKEECHOBEE AND NORTHERN ESTU-**  
4 **ARIES ECOSYSTEM RESTORATION, FLORIDA.**

5 (a) DEFINITIONS.—In this section:

6 (1) CENTRAL AND SOUTHERN FLORIDA  
7 PROJECT.—The term “Central and Southern Florida  
8 Project” has the meaning given that term in section

1 601 of the Water Resources Development Act of  
2 2000.

3 (2) NORTHERN ESTUARIES.—The term “north-  
4 ern estuaries” means the Caloosahatchee Estuary,  
5 Charlotte Harbor, Indian River Lagoon, Lake Worth  
6 Lagoon, and St. Lucie River Estuary.

7 (3) SECRETARY.—The term “Secretary” means  
8 the Secretary of the Army, acting through the Chief  
9 of Engineers.

10 (4) SOUTH FLORIDA ECOSYSTEM.—

11 (A) IN GENERAL.—The term “South Flor-  
12 ida ecosystem” means the area consisting of the  
13 land and water within the boundary of the  
14 South Florida Water Management District in  
15 effect on July 1, 1999.

16 (B) INCLUSIONS.—The term “South Flor-  
17 ida ecosystem” includes—

- 18 (i) the Everglades;  
19 (ii) the Florida Keys;  
20 (iii) the contiguous near-shore coastal  
21 water of South Florida; and  
22 (iv) Florida’s Coral Reef.

23 (5) STUDY AREA.—The term “study area”  
24 means Lake Okeechobee and the northern estuaries,

1 including all lands and waters in the upstream wa-  
2 tershed of those receiving bodies within—

3 (A) the South Florida ecosystem; or

4 (B) the study area boundaries of the In-  
5 dian River Lagoon National Estuary Program  
6 and the Coastal and Heartland Estuary Part-  
7 nership, authorized pursuant to section 320 of  
8 the Federal Water Pollution Control Act.

9 (b) COMPREHENSIVE PLAN.—

10 (1) IN GENERAL.—

11 (A) DEVELOPMENT.—The Secretary shall  
12 develop, in cooperation with the non-Federal  
13 sponsors of the Central and Southern Florida  
14 project and any relevant Federal, State, and  
15 Tribal agencies, a comprehensive plan for the  
16 purpose of restoring, preserving, and protecting  
17 Lake Okeechobee and the northern estuaries.

18 (B) INCLUSIONS.—In carrying out sub-  
19 paragraph (A), the Secretary shall ensure that  
20 the comprehensive plan provides for the protec-  
21 tion and improvement of water quality within  
22 the study area through activities that include—

23 (i) the elimination of harmful dis-  
24 charges from Lake Okeechobee;

1 (ii) the reduction and elimination of  
2 harmful algal blooms;

3 (iii) the restoration of hydrological  
4 connections and conditions;

5 (iv) the enhancement of habitat, emer-  
6 gent and submerged aquatic vegetation,  
7 and keystone species populations; and

8 (v) the dredging and beneficial reuse  
9 of harmful silt and muck deposits in Lake  
10 Okeechobee and the northern estuaries.

11 (C) SUBMISSION.—Not later than 3 years  
12 after the date of enactment of this Act, the Sec-  
13 retary shall submit to Congress—

14 (i) the comprehensive plan developed  
15 under this paragraph; and

16 (ii) a feasibility report and a pro-  
17 grammatic environmental impact state-  
18 ment for any proposed Federal actions set  
19 forth in such plan.

20 (D) INTERIM REPORTS.—Not later than 1  
21 year after the date of enactment of this Act,  
22 and annually thereafter until the submission of  
23 the comprehensive plan under subparagraph  
24 (C), the Secretary shall submit to Congress an

1 interim report on the development of the com-  
2 prehensive plan.

3 (E) ADDITIONAL STUDIES AND ANAL-  
4 YSES.—Notwithstanding the submission of a  
5 feasibility report under subparagraph (C), the  
6 Secretary shall continue to conduct such studies  
7 and analyses after the date of such submission  
8 as are necessary for the purpose of restoring,  
9 preserving, and protecting Lake Okeechobee  
10 and the northern estuaries.

11 (2) WATER QUALITY.—In carrying out this sub-  
12 section, the Secretary shall take into account the  
13 protection of water quality, in consultation with the  
14 State of Florida and by considering applicable State  
15 water quality standards.

16 (3) INTEGRATION OF OTHER ACTIVITIES.—In  
17 carrying out this subsection, the Secretary shall inte-  
18 grate the activities included in the comprehensive  
19 plan with ongoing Federal, State, and Tribal  
20 projects and activities, including—

21 (A) the Lake Okeechobee System Oper-  
22 ating Manual and any subsequent water control  
23 plan for Lake Okeechobee; and

1 (B) the projects authorized under the Cen-  
2 tral and Southern Florida project and the Com-  
3 prehensive Everglades Restoration Plan.

4 (c) JUSTIFICATION.—Notwithstanding section 209 of  
5 the Flood Control Act of 1970 (42 U.S.C. 1962-2) or any  
6 other provision of law, in carrying out any activity in-  
7 cluded in the comprehensive plan developed under sub-  
8 section (b), the Secretary may determine that—

9 (1) the activity is justified by the environmental  
10 benefits derived by Lake Okeechobee and the north-  
11 ern estuaries; and

12 (2) no further economic justification for the ac-  
13 tivity is required, if the Secretary determines that  
14 the activity is cost-effective.

○

**Memorandum**

**To:** Town Council and Mayor

**From:** Terry O'Neil, Town Management Consultant

**Date:** June 7, 2022

**Re:** Discussion of Sun Communities' proposal to convert an existing bocci ball court into a third pickleball court.

---

Citing the popularity of pickleball, Sun Communities is proposing to convert a seldom-used bocci ball court into a third pickleball court. Noting that the proposed change is entirely within the confines of the existing courts, staff does not view the conversion as a substantive deviation from the PUD master plan and unless the Council directs otherwise intends to issue an administrative level building permit for the work being proposed.



**townclerk@townofoceanbreeze.org**

---

**From:** Gena May <GMay@suncommunities.com>  
**Sent:** Friday, May 6, 2022 11:10 AM  
**To:** townclerk@townofoceanbreeze.org  
**Cc:** Chris Walters; Gena May  
**Subject:** Change of Amenities at Ocean Breeze

To Whom It Concerns:

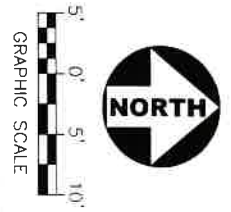
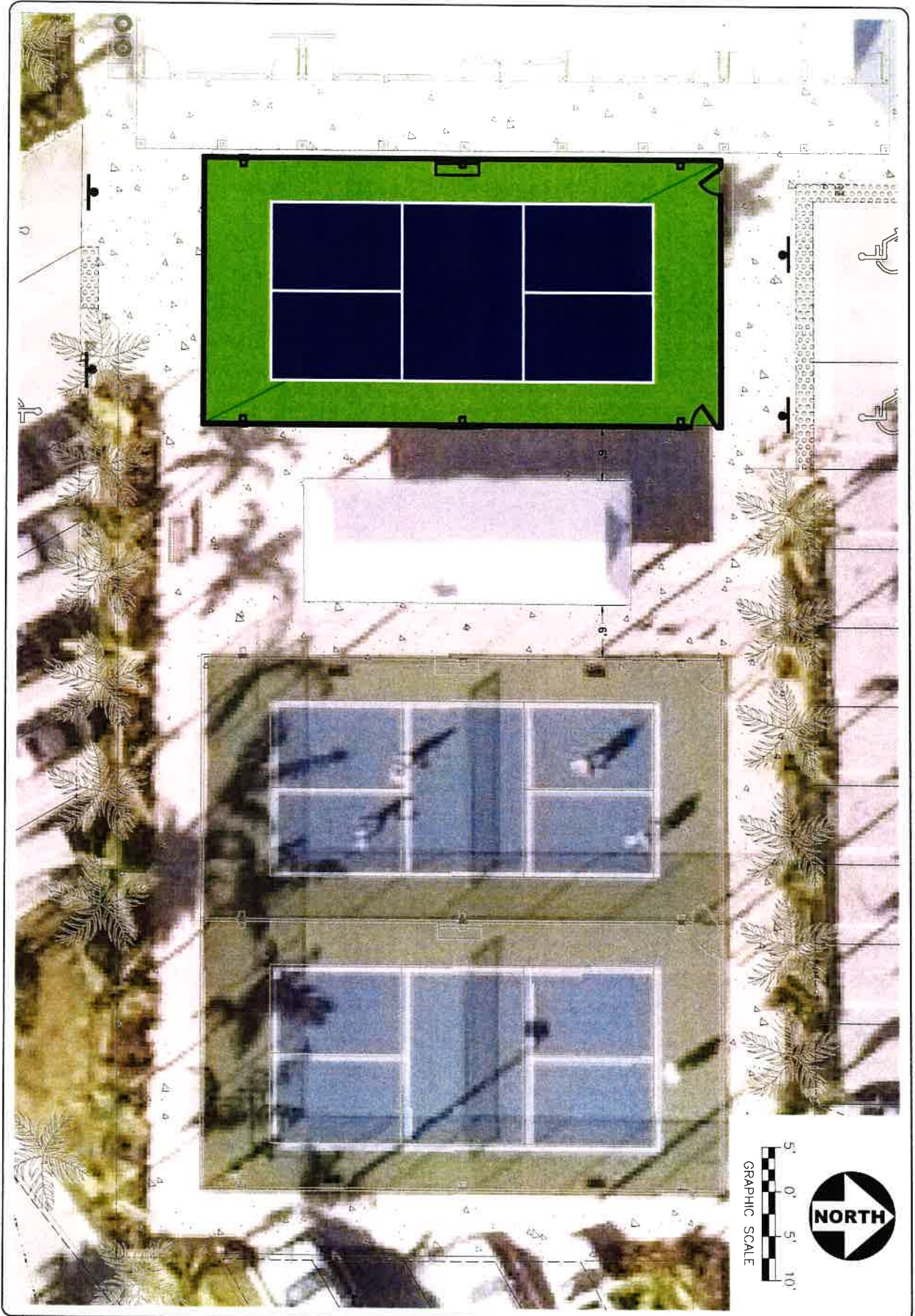
The residents at the community have asked us to consider replacing the unused Bocce Ball court with a third pickleball court. Since this change is not part of our original PUD planning documents, I am asking what you would require from us to do this \$60K upgrade for them?

*Gena May*

Regional Vice President, Operations & Sales  
Sun Communities

27777 Franklin Rd. Suite 200 | Southfield, MI 48034  
Email: [gmay@suncommunities.com](mailto:gmay@suncommunities.com)

COMMITMENT – INTENSITY – EMPOWERMENT – ACCOUNTABILITY – CUSTOMER SERVICE



2023 N.W. 1543.8  
 301 NW Florida Ave  
 Stuart, Florida 34994  
 P.O. Box 1543.8

**OCEAN BREEZE RESORT**  
 JENSEN BEACH, FL  
  
**PICKLEBALL COURT**  
**EXHIBIT**

**SCALE VERIFICATION**  
 1" = 10'  
 SOLID BAR IS EQUAL TO HALF AN INCH ON ORIGINAL DRAWING. RESIST ALL SCALED DIMENSIONS ACCORDINGLY.

NO.	DATE	BY	REVISIONS

DATE: 1/18/23  
 DRAWN BY: JJS  
 DESIGNED BY: JJS  
 CHECKED BY: JMC  
 PROJECT NO.: 1543.8  
 HORIZ. SCALE: 1" = 10'  
 VERT. SCALE: 1/2" = 10'  
 CADD FILE: PICKLEBALL

**CAPTEC**  
 Civil Engineering Professionals

301 NW Florida Ave  
 Stuart, Florida 34994  
 Phone: (772) 882-4541  
 Fax: (772) 882-4541

TOWN OF OCEAN BREEZE  
MINUTES REGULAR TOWN COUNCIL MEETING  
Monday, February 8, 2021, 10:30 a.m.  
Ocean Breeze Resort Clubhouse, Pineapple Bay Room  
700 NE Seabreeze Way, Ocean Breeze, FL

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

2. **Approval of Minutes** – Council Member Wagner, seconded by Council Member Arnold, made a Motion to approve the Minutes of the January regular Town Council meeting.

President De Angeles asked for any public comment.

There were none.

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

3. **Budget to Actual** – Kim Stanton, Bookkeeper gave brief explanations for the reduction in state revenue and building permits for the period October 1 through December 30, 2020.

President De Angeles asked for questions or comments from the Council.

There were none.

President De Angeles asked for questions from the public.

There were none.

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

4. **Adjourn Town Council Meeting in order to convene the Town’s Zoning Board** – Council Member Docherty, seconded by Council Member Locatis, made a Motion to adjourn the Town Council meeting in order to convene the Town’s Zoning Board Meeting at 10:39 a.m.

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

## 5 – 7 Zoning Board Hearing

(CONTINUED)



TOWN OF OCEAN BREEZE  
MINUTES – ZONING BOARD HEARING  
Monday, February 8, 2021, 10:30 a.m.  
Ocean Breeze Resort Clubhouse, Pineapple Bay Room  
700 NE Seabreeze Way, Ocean Breeze, FL

**Items 1 – 4 – Regular Town Council Meeting**

**5. Call to Order** – President De Angeles called the meeting to order at 10:40 a.m.

- Roll Call – Present: Chair Kenneth De Angeles, Vice-Chair Richard Gerold, Zoning Board Members Bill Arnold, Kevin Docherty, Terry Locatis and David Wagner
- Staff Present – Town Management Consultant, Terry O’Neil; Town Clerk, Pam Orr; and Bookkeeper/Clerical Assistant, Kim Stanton; Town Attorney, Rick Crary

**6. Public Hearing to consider: ORDINANCE NO. 310-2021 – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA UPDATING THE TOWN’S COMPREHENSIVE PLAN IN ACCORDANCE WITH FLORIDA STATUTE SECTION 163.3191; ADOPTING NEW PROVISIONS DEEMED MANDATORY BY FLORIDA LAW SINCE THE TOWN PLAN’S LAST UPDATE IN 2014, INCLUDING “PERIL OF FLOOD” STANDARDS SET FORTH IN FLORIDA STATUTES CHAPTER 163.3178 (2) (f) 1-6, AS WELL AS OTHER MINOR AMENDMENTS REFLECTING CHANGES IN LOCAL CONDITIONS; PROVIDING FOR TRANSMITTAL OF PROPOSED AMENDMENTS TO THE STATE LAND PLANNING AGENCY, AKA THE DEPARTMENT OF ECONOMIC OPPORTUNITY BUREAU OF COMMUNITY PLANNING, AS WELL AS OTHER RELEVANT AGENCIES; PROVIDING FOR A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND FOR OTHER PURPOSES**

Pam Orr, Town Clerk, read Ordinance No. 310-2021 into the record.

Chair De Angeles asked Mr. O’Neil to explain the updates to the Town’s Comprehensive Plan.

Mr. O’Neil thanked Ms. Christia Li Roberts, Martin County School Board Representative for the Town’s district, for agreeing to serve as a non-voting member of the Town’s Zoning Board.

Mr. O’Neil provided background information regarding Florida’s mandatory requirement for local governments to review and update their comprehensive plans on a, roughly, seven year schedule. He further explained the transmittal process to the Florida Department of Economic Opportunity. He gave an overview update to the Zoning Board on the Coastal Element portion of the plan and the substantive changes that were required. He spoke about the state’s flood standards and the requirements of the Town regarding any coastally impacted construction areas. He referred the Zoning Board to the colored maps regarding the coastal impact area along Indian River Drive. He continued to explain the entire timing of the process of updating the Comprehensive Plan.

Mr. O’Neil spoke about the Town’s two development areas and stated that with the trajectory of those developments in place, the appropriate changes were being made to the plan to reflect those changes.

Mr. O'Neil continued to review the entire 2035 Comprehensive Plan (Exhibit "A") with the Zoning Board clarifying all sections / elements that had changes, clarifications, additions or deletions. He took questions from the Board Members and the public regarding the various elements of the plan. He spoke about the removal of all septic tanks within the Town and added that Policy 1.2 of the Sanitary Sewer, Solid Waste, Drainage, Potable Water and Natural Groundwater Aquifer Recharge Element was kept in the plan in the case a septic tank was overlooked.

Mr. O'Neil continued to explain, clarify and take questions from the Zoning Board regarding information and safeguards within the Coastal Management Element goal, objectives and policies.

Mr. O'Neil provided details regarding the Conservation Element Preserve Area Maintenance Plan which was approved under the Ocean Breeze West Planned Unit Development (PUD) Agreement.

Mr. O'Neil gave a detailed update and answered questions regarding the Intergovernmental Coordination Element. After discussion with Ms. Li Roberts, it was agreed to change Policy 1.14 to read "all relevant agencies" and not just the "Treasure Coast Regional Planning Council."

Mr. O'Neil spoke about the Capital Improvements Element goal, objectives and policies. Discussion ensued regarding a Town facility, a feasibility analysis, constituent support and grant opportunities. Mr. O'Neil commented about the possibility of adding language to support planning for a feasibility analysis for Town facilities. He asked the Mayor to speak about this matter and he encouraged the Zoning Board to discuss the matter.

Mayor Ostrand spoke about the reasons that she believed the Town should have a Town Hall. She asked the Zoning Board Members to approve a feasibility analysis for within twenty-four (24) months. She spoke about the current Town office and her belief that it was inadequate for the purposes of day to day objectives of staff. She spoke about the need for a meeting place with adequate office space and storage. She suggested that a feasibility analysis clause be inserted into the comprehensive plan.

Discussion ensued regarding the number of years the Town would be in existence, funding sources, the taxpayers within the Town and their opinions and possible federal and/or state grant dollars.

Vice-Chair Gerold added that he did understand where the funding would come from in order to move forward and that, unless there was a lot of federal and state grant money, he did not see the Town affording a building.

Board Member Roberts stated that she believed that there were state funds available, from time to time, for public facilities. She suggested adding language to allow for a feasibility study; not necessarily committing to building a town hall, but to allow for the planning piece to see if this was something the Town wanted to do.

Mr. O'Neil stated that language could be inserted in the plan to allow for a feasibility study which would allow for a full analysis.

Vice-Chair Gerold stated that he did not object to keeping this open to study. He asked the other Council Members to share their thoughts.

Chair De Angeles asked when the Town of Ocean Breeze would be "built-out?"

Mr. O'Neil answered that, at the current pace, in three to four years, the Town could be eighty-percent built-out.

Chair De Angeles asked what services the Town provided?

Mr. O'Neil answered that the Town did not provide any services.

Mayor Ostrand referred to a feasibility planning clause to study the issue over the course of twenty-four (24) months. She spoke about her belief that a simple Town Hall would tie all areas of the entire Town together. She expressed her belief that a Town Hall would bring about a sense of pride, accomplishment and commitment. She spoke about the need for office space for full-time staff and that the permitting office was currently in the front office which was also the space for the Town Clerk.

Chair De Angeles asked what level of services the Town would give to the residents of Ocean Breeze once the Town was fully built out; he stated there would be no permits needed for new building.

Mayor Ostrand answered that the Town would continue to have Town Council Meetings, meetings with people from the Florida legislature, staff meetings, private meetings between individual Council Members and staff.

Chair De Angeles asked what types of subjects would be talked about once the Town was fully built out.

Mayor Ostrand spoke about the most current issues being talked about, i.e. West End Boulevard and the Railroad changes, the incidents that were taking place along Indian River Drive with cars running up onto the grass and sidewalk which was putting people in danger of being hit by a vehicle. She spoke about future ordinances that may come forth which would be for the betterment of the residents of Ocean Breeze.

Deidre Hendry, resident of Ocean Breeze, spoke about her support for a Town Hall.

Board Member Docherty stated that the clause to be added to the plan would assist the Town in understanding the costs. He suggested putting the clause into the plan to look at the feasibility of such an endeavor as acquiring a Town Hall.

Board Member Arnold stated that he agreed with Board Member Docherty that the clause should be added in the plan to perform a feasibility study because he would like to know the sustainability of a Town Hall and how the Town would acquire the capital.

Mayor Ostrand stated that the Town was accountable to the State for its expenditures of revenue and that she believed the study should be added to the Capital Improvements Element.

Discussion ensued regarding "Parcel A," the Council's vote to not accept "Parcel A," the future development of "Parcel A" which falls under the umbrella of the Ocean Breeze West PUD.

Janet Galante, resident of Ocean Breeze, stated that the Town had nothing to lose by putting the clause into the plan and she suggested moving forward to conduct a study.

Mr. O'Neil instructed the Town Council on their options.

Board Member Docherty, seconded by Board Member Arnold, made a motion to accept the proposed amendments as discussed in the exhibit and as modified, with the addition of the feasibility analysis language to the Capital Element, and recommend to the Town Council that they accept this package of proposed amendments.

Chair De Angeles asked for further comments or questions by the public.

Ms. Galante asked Mr. O'Neil if Ms. Roberts was appointed by this Zoning Board.

Mr. O'Neil answered that the Town's Ordinance called for the Town having a non-voting representative on the Zoning Board and that Ms. Roberts was appointed by the School Board.

Roll Call Vote: Yes: Docherty, Locatis, Wagner, Gerold, De Angeles; No: None; Motion Passed: 5 – 0  
(Although Board Member Arnold seconded the Motion, he was inadvertently omitted from the roll call vote)

**7. Adjourn Zoning Board** – Board Member Wagner, seconded by Board Member Locatis, made a Motion to adjourn the Zoning Board at 11:30 a.m.

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

Respectfully Submitted,

Pam Orr  
Town Clerk

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



Memorandum

Items 13, 16 & 17

To: Town Zoning Board, Town Council and Mayor  
From: Terry O'Neil, Town Management Consultant  
Date: June 7, 2022  
Re: Public hearings to be held on June 13, 2022 (agenda items 13, 16 and 17)

Materials attached to this memorandum are provided in support of agenda items 13, 16 and 17 of the Town Zoning Board and Town Council meetings of June 13, 2022.

**Agenda Item 13. Meeting as the Town Zoning Board/Local Planning Agency<sup>1</sup>:** Consideration and recommendation regarding proposed Ordinance No. 322-2022, amending the *Sanitary Sewer, Potable Water & Natural Groundwater Recharge* element of the Town's Comprehensive Plan thereby allowing "Parcel A" of the Ocean Breeze East PUD to forego connection to Martin County's waste-water system in favor of using a septic tank system, and further, as a DEO-requested housekeeping matter, amending the Transportation Element of the Town's Comprehensive Plan to include an up-to-date "Vehicle Circulation" map, and

**Agenda Item 16. Meeting as the Town Council:** Consideration of proposed Ordinance No. 322-2002 on first reading amending the *Sanitary Sewer, Potable Water & Natural Groundwater Recharge* element of the Town's Comprehensive Plan thereby allowing "Parcel A" of the Ocean Breeze East PUD to forego connection to Martin County's waste-water system in favor of using a septic tank system, and amending the Transportation Element of the Town's Comprehensive Plan to include an up-to-date "Vehicle Circulation" map, and

**Agenda Item 17. Meeting as the Town Council:** Consideration of proposed Resolution No. 321-2022 approving a minor amendment to the Ocean Breeze West PUD establishing development standards for Parcel A, allowing Parcel A the use a septic tank and adopting water use standards for the entire Ocean Breeze West PUD. Note: Proposed Resolution No. 321-2022 is virtually the same as Resolution No. 314-2021, approved by the Council in September 2021, which became void when the applicant did not execute the resolution within 60 days of Council adoption. Except for permitting a septic tank on Parcel A, the proposed minor amendment is a "do over" of the Council's September 2021 approval.

**Background:**

In September 2021, upon declining to accept the voluntary donation of Parcel A and agreeing to development standards for a single-family home on the site, the Town Council approved Resolution No. 314-2021, as follows:

A RESOLUTION OF THE TOWN OF OCEAN BREEZE, FLORIDA, AMENDING ORDINANCE NO. 170, ORDINANCE NO. 251-2017, ORDINANCE NO. 274-2017, RESOLUTION NO. 277-2018 AND RESOLUTION NO. 293-2019, TOGETHER COMPRISING THE OCEAN BREEZE WEST PLANNED UNIT DEVELOPMENT (PUD) AGREEMENT, HEREBY DELETING LANGUAGE IN DEVELOPMENT CONDITION K (5) REQUIRING THE VOLUNTARY DONATION OF PARCEL "A" TO THE TOWN; APPROVING MINOR CHANGES TO THE PROJECT'S MASTER SITE PLAN, PHASING PLAN AND LANDSCAPE PLAN, AS WELL AS NEW DEVELOPMENT CONDITIONS ALLOWING FOR THE CONSTRUCTION OF A SINGLE-FAMILY HOME ON PARCEL "A"; REQUIRING THAT DEVELOPMENT WITHIN THE OCEAN BREEZE WEST PUD ADHERE TO MARTIN COUNTY WATER USE STANDARDS; DECLARING SAID AMENDMENTS TO BE CONSISTENT WITH THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR CONFLICT PROVISIONS AND A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

<sup>1</sup> Per Town Ordinance, members of the Town Council also serve as members of the Town Zoning Board/Local Planning Agency, which by Florida statute is required to consider and provide recommendations to the Town Council regarding Comprehensive Plan amendments and certain amendments to the Town's development regulations.

**Why is this matter coming back before the Zoning Board and Town Council in the form of a proposed Comprehensive Plan amendment and Minor PUD emendment?**

As mentioned above, Resolution No. 314-2021 became void when Section 9 of the document, which states, *"the complete execution and recording of this resolution by the Town Clerk, which shall be paid for by the applicant, shall occur no later than 60 days from the date of this approval,"* was not met.

Presumed to be a factor in the applicant not executing the earlier resolution, Martin County Utilities continues to decline Parcel A's connection to its waste-water system in favor of waiting until the entire South Street neighborhood is hooked up. Further, the County advises that providing sewer service to the neighborhood is not within its 5 to 7-year capital planning horizon.

Still intent on marketing Parcel A for development as a single-family home, the applicant has been left with two courses of action:

- (1) Seek an amendment to the Town's Comprehensive Plan allowing Parcel A to use a septic tank system. Please note the plan currently states that "all new residential development shall be required to connect to the Martin County regional wastewater systems"), and
- (2) Apply to reinstate the Council-approved, now-void August 2021 minor PUD amendment, including removal of the mandatory hook-up provisions.

**Staff recommendation:**

Addressing both the Town Zoning Board and the Town Council, following (1) staff's presentations, (2) testimony by the applicant (if any) and (3) comments from the Public, **staff recommends approval of proposed Ordinance No. 322-2022 and Resolution No. 321-2022.** It should be noted that removal of the sewer hook-up provisions in the PUD agreement will not take effect unless the corresponding comprehensive plan amendment is successful. Second reading of the ordinance amending the comprehensive plan is expected to occur at the August 8, 2022 Town Council meeting.

**Attached Documents:**

- Zoning Board & Town Council Quasi-Judicial Hearing Procedures (yellow sheet)
- Draft Ordinance No. 322-2022
- Draft Resolution No. 321-2022
- Confirmation that the Martin County Health Department will allow a septic system on Parcel A
- Application and hearing(s) notification materials
- Draft transmittal letter to the FDEO
- Excerpted materials from the September 13, 2021 Agenda item

## TOWN OF OCEAN BREEZE

### ZONING BOARD & TOWN COUNCIL QUASI-JUDICIAL HEARING PROCEDURES

1. Town Clerk reads the title of the ordinance/resolution.
2. ZB Chair or Council President asks: *"Do members have any exparte communications to disclose?"*
3. ZB or Council members disclose exparte communications, if any.
4. ZB Chair or Council President then states: *"All those giving testimony, please stand, raise your right hand, and be sworn in."* (Town Attorney administers oath).
5. ZB Chair or Council President asks staff, *"Please present your testimony, including any evidence, and your recommendation regarding this case."*
6. ZB Chair or Council President then states, *"The petitioner may now give testimony and call any witnesses."*
7. ZB Chair or Council President asks, *"Do members have any questions for the petitioner?"*
8. ZB Chair or Council President then asks, *"Does staff have any questions for the petitioner?"*
9. ZB Chair or Council President asks, *"Does the petitioner wish to offer any rebuttal testimony?"*
10. ZB Chair or Council President asks: *"Does any member of the public wish to comment?"*
11. ZB Chair or Council President closes the hearing at the conclusion of all the evidence and asks the members to deliberate in public asking them to cite the facts being considered and then to state their position.
12. ZB Chair or Council President then considers a motion to recommend approval or approve the ordinance/resolution; a motion to recommend approval with conditions or approve with conditions; a motion to recommend denial of deny the request; or, a motion to continue the hearing to a date certain.



BEFORE THE TOWN COUNCIL  
TOWN OF OCEAN BREEZE, FLORIDA  
ORDINANCE NO. 322-2022

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA AMENDING THE *SANITARY SEWER, SOLID WASTE, DRAINAGE, POTABLE WATER & NATURAL GROUNDWATER RECHARGE ELEMENT* OF THE TOWN'S COMPREHENSIVE PLAN THEREBY ALLOWING A SINGLE RESIDENTIAL LOT, KNOWN AS "PARCEL A", TO FOREGO CONNECTION TO THE MARTIN COUNTY WASTE WATER SYSTEM IN FAVOR OF USING A SEPTIC TANK SYSTEM; AND FURTHER AMENDING THE *TRANSPORTATION ELEMENT* OF THE TOWN'S COMPREHENSIVE PLAN TO ADOPT AN UP-TO-DATE TRAFFIC CIRCULATION MAP; PROVIDING FOR TRANSMITTAL OF THE PROPOSED AMENDMENTS TO THE STATE LAND PLANNING AGENCY, AKA THE DEPARTMENT OF ECONOMIC OPPORTUNITY BUREAU OF COMMUNITY PLANNING, AS WELL AS OTHER RELEVANT AGENCIES; PROVIDING FOR A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND FOR OTHER PURPOSES

\* \* \* \* \*

**WHEREAS**, the Owner of a single lot within the Ocean Breeze West Planned Unit Development known as "Parcel A" has applied for an amendment to the *Sanitary Sewer, Solid Waste, Drainage, Potable Water & Natural Groundwater Recharge Element* of the Town's Comprehensive Plan, thereby allowing Parcel A to forego connection to the Martin County Waste Water System in favor of using a septic tank system; and

**WHEREAS**, as a follow up to recent EAR-based amendments to the Town's Comprehensive Plan, the Florida Department of Economic Opportunity (FDEO) has requested that the Town adopt an up-to-date Traffic Circulation map; and

**WHEREAS**, on June 13, 2022, the Town's Zoning Board, which also serves as the Town's Land Planning Agency, conducted a duly advertised public hearing to consider these proposed amendments and voted to recommend their approval to the Town Council; and

**WHEREAS**, on June 13, 2022, the Town Council conducted a duly advertised public hearing to consider the Zoning Board's recommendations, as well as public comments, and voted on first reading to approve the proposed amendments set forth in this ordinance and approved their transmittal to the Florida Department of Economic Opportunity (DEO) and all other relevant agencies; and

**WHEREAS**, in light of comments made by the public, the FDEO and other relevant agencies, the Town Council conducted a duly advertised public hearing on August 8, 2022, to consider adoption of this ordinance on second reading; and

**WHEREAS**, the Town Council has provided for full public participation in the comprehensive planning and amendment process and has considered and responded to public comments.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA, THAT:**

**SECTION 1:** Policy 1.2 "Sanitary Sewer" of the *Sanitary Sewer, Solid Waste, Drainage, Potable Water & Natural Groundwater Recharge Element* of the Town's Comprehensive Plan is hereby amended as follows: All existing septic tanks shall be maintained at a level of service as specified by the conditions of the Health Department permit. **Except for Parcel A of the Ocean Breeze West PUD, Aa11** new residential development shall be required to connect to the Martin County regional wastewater systems.

**SECTION 2:** the *Transportation Element* of the Town's Comprehensive Plan is hereby amended to include an up-to-date *Traffic Circulation map* shown as Exhibit A attached.

**SECTION 3:** The Ocean Breeze Town Council does hereby approve transmittal of this Ordinance to the Florida Department of Economic Opportunity (DEO) and all relevant agencies.

**SECTION 3:** All ordinances or parts of ordinances herewith are hereby repealed to the extent of such conflict.

**SECTION 4:** If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

**SECTION 5:** The effective date of this plan amendment, if the amendment is not timely challenged, shall be the date the state land planning agency posts a notice of intent determining that this amendment is in compliance. If the amendment is timely challenged, or if the state land planning agency issues a notice of intent determining that this amendment is not in compliance, this amendment shall become effective on the date the state land planning agency of the Administrative Commission enters the final order determining this adopted amendment to be in compliance.

PASSED on First Reading this 13<sup>th</sup> day of June, 2022.

Council Member \_\_\_\_\_ offered the foregoing ordinance and moved its adoption. The motion was seconded by Council Member \_\_\_\_\_ and upon being put to a roll call vote, the vote was as follows:

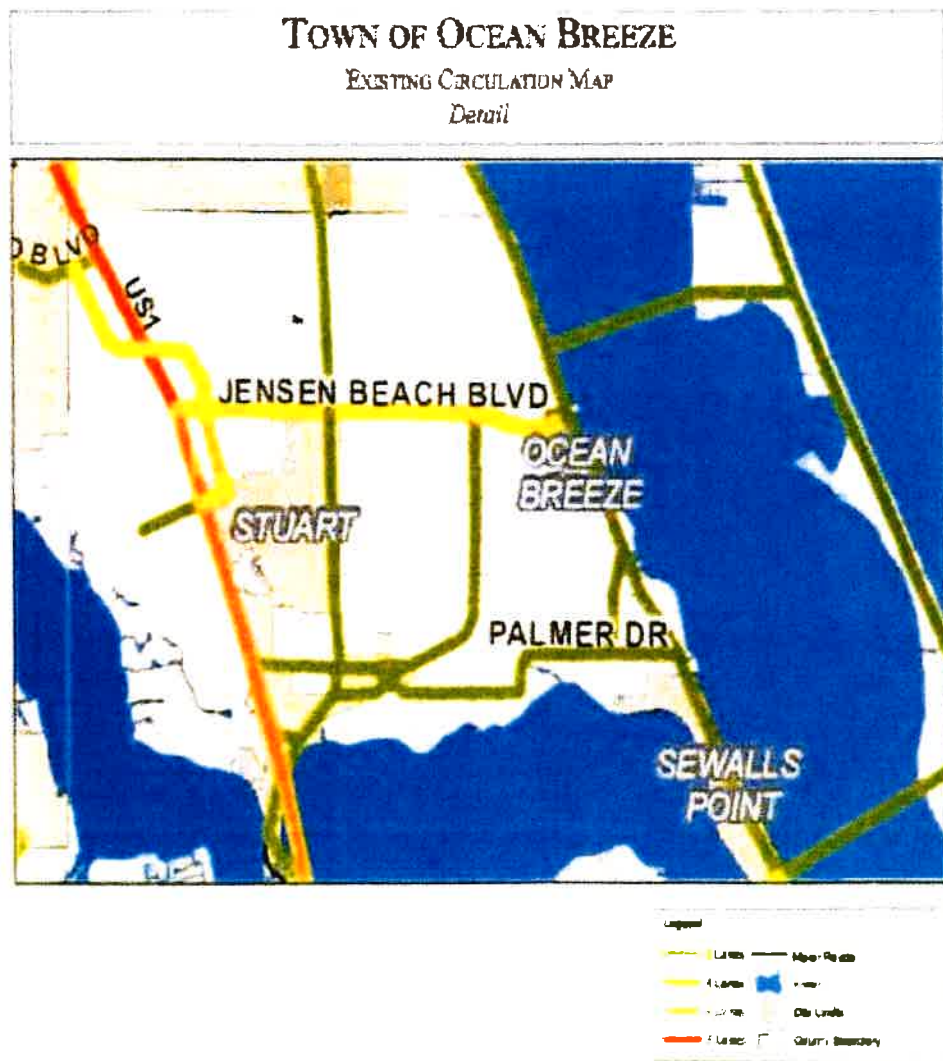
**BILL ARNOLD, COUNCIL MEMBER**

TOWN ATTORNEY

[illegible]



## Exhibit A





**BEFORE THE TOWN COUNCIL OF THE  
TOWN OF OCEAN BREEZE, MARTIN COUNTY, FLORIDA**

**RESOLUTION NUMBER 321-2022**

**A RESOLUTION OF THE TOWN OF OCEAN BREEZE, FLORIDA, AMENDING ORDINANCE NO. 170, ORDINANCE NO. 251-2017, ORDINANCE NO. 274-2017, RESOLUTION NO. 277-2018 AND RESOLUTION NO. 293-2019, TOGETHER COMPRISING THE OCEAN BREEZE WEST PLANNED UNIT DEVELOPMENT (PUD) AGREEMENT, HEREBY DELETING LANGUAGE IN DEVELOPMENT CONDITION K (5) REQUIRING THE VOLUNTARY DONATION OF PARCEL "A" TO THE TOWN, AS WELL AS LANGUAGE REQUIRING A "STUB OUT" FOR WATER AND SEWER CONNECTIONS TO THE SITE; APPROVING MINOR CHANGES TO THE PROJECT'S MASTER SITE PLAN, PHASING PLAN AND LANDSCAPE PLAN, AS WELL AS NEW DEVELOPMENT CONDITIONS ALLOWING FOR THE CONSTRUCTION OF A SINGLE-FAMILY HOME ON PARCEL "A"; REQUIRING THAT DEVELOPMENT WITHIN THE OCEAN BREEZE WEST PUD ADHERE TO MARTIN COUNTY WATER USE STANDARDS; DECLARING SAID AMENDMENTS TO BE CONSISTENT WITH THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR CONFLICT PROVISIONS AND A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.**

**WHEREAS**, on September 13, 2010, the Ocean Breeze Town Council adopted Ordinance Number 170 rezoning the OBP West Property and approving the OBP West Planned Unit Development (PUD) Agreement, Master Site Plan and Development Conditions, which Ordinance is recorded in Official Records Book 2476, Page 1346, public records of Martin County, Florida; and

**WHEREAS**, on March 13, 2017, the Ocean Breeze Town Council adopted Ordinance Number 251-2017 approving the amendment to the OBP West PUD Agreement, including the change of the name of the PUD to Ocean Breeze West, the Revised Master/Final Site Plan and Development Conditions, which ordinance is recorded in Official Records Book 2922, Page 1580, public records of Martin County, Florida; and

**WHEREAS**, on January 24, 2018, the Ocean Breeze Town Council adopted Ordinance Number 274-2017 approving the amendment to the OB West PUD Agreement amending Development Condition H (Access and Connectivity), which ordinance is recorded in Official

Records Book 2981, Page 781, public records of Martin County, Florida; and

**WHEREAS**, on June 11, 2018, the Ocean Breeze Town Council adopted Resolution Number 277-2018 approving the OB West Plat, which resolution is recorded in Official Records Book 3030, Page 899, public records of Martin County, Florida; and

**WHEREAS**, on August 12, 2019, the Ocean Breeze Town Council adopted Resolution Number 293-2019, which resolution is recorded in Official Records Book 3080, Page 2736, approving the amendment to the OB West PUD Agreement amending the reduction of the size of the swimming pool and pool deck, changes to entry landscaping features, relocation of street trees, changes to storm water retention area landscaping, modifications to project fencing and modification of the phasing plan pertaining to the timing of site clearing, sidewalk construction and final installation of roadway asphalt; and

**WHEREAS**, the OWNER, Forestar (USA) Real Estate Group, Inc., a Delaware corporation, is the developer of the Seawalk portion of the Ocean Breeze West PUD, and by virtue of retaining ownership of lots therein, OWNER is in control of the HOA referenced in the PUD, and owner represents and warrants that OWNER has full authority, without the joinder of any other person or entity, to request and enter into this agreement amending the PUD; and

**WHEREAS**, the OWNER is voluntarily requesting to amend the PUD Agreement to remove a clause calling for the voluntary donation of Parcel "A" to the Town, as well as language requiring a "Stub Out" for water and sewer connections to Parcel A, as well amendments to the project's Revised Master/Final Site Plan, the Landscape Plan and Certificate of Occupancy (CO) Phasing Plan to delete references to the voluntary donation, and to establish new development conditions to permit the construction of a single-family home on Parcel "A."

**WHEREAS**, an application for the above amendments to the OB West PUD Agreement has been filed on behalf of the OWNER of the property; and

**WHEREAS**, The Town Council views water conservation as important to the public's health, safety and welfare, and

**WHEREAS**, the Town Council held a properly noticed quasi-judicial public hearing to consider the proposed amendments; and

**WHEREAS**, the Town Council has considered the OWNER's voluntary request for a PUD Amendment(s) and has also considered comments from the public, as well as the recommendations of Town staff; 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 PUD Amendment and 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 THAT:**

**SECTION 1.** The project's approved development plans, prepared by Lucido & Associates, on file as public records with the Office of the Town Clerk, a partial depiction of which is shown as Exhibit "A" attached, are hereby amended to delete references to the donation of Parcel "A" to the Town.

**SECTION 2.** Section K(5) of the development standards and conditions contained in Ordinance No. 251-2017 is hereby amended as shown below to delete a requirement for the voluntary donation of Parcel "A" to the Town, as well as an obligation for the applicant to provide a water and sewer "stub-out" to Parcel "A."

~~Parcel "A" as shown on the revised master/final site plan shall be voluntarily donated to the Town by the OWNER prior to or in conjunction with the recordation of the plat. Said donation shall be subject to the Town's acceptance. Approval for development of Parcel "A" as a Town office or single-family home shall require a minor amendment to this ordinance, including posting the site, mailed notice to property owners within 300 feet and at least one public hearing before the Town Council. Authorization for the Town to apply for and process said minor amendment is hereby deemed to be granted by the OWNER and the HOA. In no instance shall the Town, or any owner of Parcel "A", be a member of the HOA or be subject to its provisions or covenants. Owner shall provide stub out of water and sewer connections to the site.~~

**SECTION 3.** Development conditions allowing for the construction of a single-family home on Parcel "A", including lot development standards, prohibited uses, and other regulations are hereby adopted as shown by Exhibit "B" attached.

**SECTION 4.** Compliance with Martin County's restrictions on the use of water for irrigation or other purposes: For the entirety of the Ocean Breeze West PUD, failure by the owner(s), its successors, heirs or assigns to comply with Martin County's restrictions on the use of water (potable or otherwise) for irrigation or other purposes, as may be amended from time to time, shall constitute a violation of this PUD. In the event the Town adopts its own restrictions on water use, those provisions shall apply.

**SECTION 5.** 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 ordinance are hereby superseded to the extent of such conflict.

**SECTION 6.** If any provision of this ordinance 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 ordinance 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 7.** All of the terms and conditions of Ordinance No. 170, Ordinance No. 251-2017, Ordinance No. 274-2017, Resolution No. 277-2018, and Resolution No. 293-2019 that are not specifically amended or revised by this Amendment shall remain in full force and effect as stated therein.

**SECTION 8.** Section 2. of this resolution striking the OWNER'S obligation to provide "stub out" of water and sewer connections to the site shall become effective only upon an emendment to the

Town's Comprehensive Plan exempting Parcel A from the provision that "*All new residential development shall be required to connect to the Martin County regional waste water system.*"

**SECTION 9.** The complete execution and recording of this resolution by the Town Clerk, which shall be paid for by the applicant, shall occur no later than 120 days from the date of this approval, failing which this resolution shall become void.

**APPROVED AND ADOPTED** this 13<sup>TH</sup> day of June, 2022.

KENNETH DE ANGELES, PRESIDENT  
RICHARD GEROLD, VICE-PRESIDENT  
WILLIAM ARNOLD, COUNCIL MEMBER  
KEVIN DOCHERTY, COUNCIL MEMBER  
TERRY LOCATUS, COUNCIL MEMBER  
DAVID WAGNER, COUNCIL MEMBER

YES	NO	ABSENT

ATTEST:

\_\_\_\_\_  
PAM ORR  
TOWN CLERK

\_\_\_\_\_  
KENNETH DE ANGELES  
COUNCIL PRESIDENT

\_\_\_\_\_  
WILLIAM F. CRARY, II  
TOWN ATTORNEY

\_\_\_\_\_  
KAREN M. OSTRAND  
MAYOR

APPROVED AS TO FORM



**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 THIS RESOLUTION. IF IT IS LATER DISCOVERED THAT THE UNDERSIGNED, OR ITS SUCCESSORS OR ASSIGNS HAVE FAILED IN ANY MATERIAL WAY TO DEVELOP THE PLANNED UNIT DEVELOPMENT ACCORDING TO THE ORDINANCES AND RESOLUTIONS REFERENCED IN SECTION 7 OF THIS RESOLUTION NO. 321-2022, THEIR CONDITIONS AND THE DEVELOPMENT PLANS AND DOCUMENTS, AS THE SAME HAVE BEEN AMENDED IN THIS RESOLUTION, THE UNDERSIGNED UNDERSTANDS AND AGREES ON BEHALF OF ITSELF AND ITS SUCCESSORS AND ASSIGNS THAT THIS RESOLUTION MAY BE AMENDED OR REPEALED BY THE TOWN COUNCIL, AND THAT OTHER ACTIONS MAY BE TAKEN AGAINST THE UNDERSIGNED BY THE TOWN, INCLUDING BUT NOT LIMITED TO CODE ENFORCEMENT ACTIONS, PERMIT AND LICENSING SUSPENSIONS OR REVOCATIONS, AND ANY OR ALL OTHER APPLICABLE CIVIL AND CRIMINAL ACTIONS.

IN WITNESS WHERE OF THE UNDERSIGNED HAS EXECUTED THIS ACCEPTANCE AND AGREEMENT.

OWNER:

FORESTAR (USA) REAL ESTATE  
GROUP, INC., a Delaware corporation

Witnesses

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_

President-Florida Region

\_\_\_\_\_  
Print Name: \_\_\_\_\_

**OWNER'S ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The above Resolution, Acceptance and Agreement was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, \_\_\_\_\_ President-Florida Region of FORESTAR (USA) REAL ESTATE GROUP, INC., a Delaware corporation. He/She ☐ is personally known to me, or ☐ has produced \_\_\_\_\_ as identification.

(NOTARIAL STAMP)

\_\_\_\_\_  
Notary Public  
My commission expires:

# EXHIBIT "A" Page 1 of 3

EXISTING  
0' WIDE  
UTILITY  
EASEMENT

## Parcel A

(0.38 ac)

To Be Donated  
to the  
Town of Ocean  
Breeze

106.44'

EXISTING 5' WIDE  
BELL SOUTH EASEMENT

Future La  
Existing Z  
Existing L

75'

75'

75'

110'

10' Wide Utility Easement

1

2

3

4

5

50'

1.29'

133

1.38'

134

135

136

137

Scale: 1" = 50'



Date: 7.29.2021

**Ocean Breeze West PU**

Town of Ocean Breeze, Martin County, Flor

Parcel A Exhil

(a portion of the Revised Master / Final Site Pla

EXISTING  
0' WIDE  
UTILITY  
EASEMENT

EXISTING 5' WIDE  
BELL SOUTH EASEMENT

**Parcel A**  
(0.38 ac)  
**To Be Donated**  
**to the**  
**Town of Ocean**  
**Breeze**

Future La  
Existing Z  
Existing U

1

2

3

4

**PH**

133

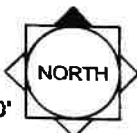
134

135

136

137

Scale: 1" = 50'



Date: 7.29.2021

**Ocean Breeze West PU**

Town of Ocean Breeze, Martin County, Flori

**Parcel A Exhibit**

(a portion of the Revised C.O. Phasing Plan and Development Timetabl

Exhibit "A". Page 3 of 3

10187  
x 23.85  
BENCHMARK

NE South Street

S89°57'52"E 106.44'(M)  
S89°36'36"E 106.44'(D)

EXISTING 5' WIDE  
BELL SOUTH EASEMENT

**Parcel A**  
(0.38 ac)  
**To Be Donated**  
**to the**  
**Town of Ocean**  
**Breeze**

N00°05'54"E 160.31'(M)  
N00°28'28"E 160.00'(D)

S00°05'54"W 160.30'(M)  
S00°28'28"W 160.00'(D)

5' BELL SOUTH EASEMENT  
(O.R.B. 308, PAGE 1768)  
EXCEPTION 15

S89°58'28"E - 648.94'(M)  
S89°36'36"E - 647.67'(D)

6' OPAQUE  
FENCE

10.0' Wide Utility Easement

3' Drainage Easement  
Side of Lot Line

NE SKYLINE TERRACE

Sheet LA-3

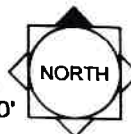
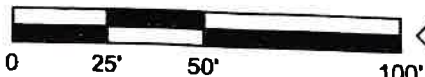
Sheet LA-2

NE SH

133

135

Scale: 1" = 50'



Date: 7.29.2021

**Ocean Breeze West PU**

Town of Ocean Breeze, Martin County, Fla

**Parcel A Exh**

(a portion of sheet LA3 of the Revised Landscape Pla



**EXHIBIT "B"**  
**DEVELOPMENT CONDITIONS FOR PARCEL "A"**

**Table # 1 -- Development Conditions for Parcel "A"**

a. Minimum lot area:	7500 ft. <sup>2</sup>
b. Minimum lot width:	60 feet. Lot width shall be measured along the straight line which connects the two points located on the side lot lines at a distance equal to the minimum front setback required for the proposed use from the street.
c. Maximum density:	One single-family residential dwelling unit. Ancillary dwelling units are not permitted.
d. Maximum impervious surface coverage:	65%
e. Minimum open space:	30%
f. Maximum number of stories and building height:	Two stories, 35 feet. Building height means the vertical distance between (1) the lowest permissible elevation above the existing grade which complies with finished floor elevation requirements as established by flood maps, the Health Department, or building code, along the front of a building and (2) either the highest point of the coping of a flat roof, the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, hip, and gambrel roofs.
g. Front building setback:	25 feet
h. Side building setbacks:	One story – 8 feet Two story – 10 feet
i. Rear building setbacks:	One story – 10 feet Two story – 15 feet
j. Parking:	The single-family residence allowed on Parcel "A" shall be served by a paved driveway connected to the street which shall be sufficient in size to accommodate at least two parked vehicles and shall be no less than 10' x 20' each in size.
k. Storage of vehicles:	Storage or parking of recreational vehicles, including, but not limited to, boat trailers, camping trailers, and travel trailers are permitted provided that such equipment shall not be used for living, sleeping, or other occupancy when parked and provided that such equipment over 25 feet in length shall not be parked or stored within any side or rear setback area.  Storage or parking of one commercial vehicle or commercial trailer, not to exceed one-ton cargo capacity, is allowed, provided that such vehicle or trailer is owned or operated by the resident of the property; and that such vehicle or trailer is garaged or otherwise screened from view of adjoining properties and any adjoining street. This provision does not apply to public service agency vehicles such as law enforcement and those providing emergency response services.
l. Uses permitted within building setbacks:	Trees, shrubbery or other objects of natural growth; fences or walls which meet the height and other requirements set forth in this Resolution; driveways, sidewalks and parking areas which meet the requirements set forth elsewhere in this Resolution; wells and associated pump, water treatment and water conditioning equipment, provided that the water pump is concealed by a fence or housing that is at least 50 percent opaque; utility transmission lines of all types, including, but not limited to, electric, telephone, cable television and data, including all associated aboveground utility cabinets; the following types of equipment may extend into the required setback area by up to 50 percent, but in no case less than three feet from a property line; heating, ventilation and air-conditioning equipment, whether ground-mounted, wall-mounted, window-mounted or cantilevered from a building; emergency electric power generators, if enclosed by an insulated cabinet; the following non-habitable architectural features of a building may extend into the required setback area by up to three feet: roof overhangs, gutters,



cantilevered balconies and bay windows, staircases, awnings over windows and doors, and chimneys; drainage swales and water control structures; pumps and other mechanical equipment associated with pools and spas may extend into the required setback area by up to 50 percent, provided that such equipment is screened from view of abutting residential lots by a fence, hedge or wall or by enclosing the equipment with material (such as lattice) which is at least 50 percent opaque. Other uses determined by the Town to be similar in nature to the uses listed above.

- m. **Accessory structures:** Shall mean a subordinate building or structure detached from but located on the same lot as the principal single-family residence, the use of which is incidental and accessory to that of the principle single-family residence. Examples include utility storage buildings (sheds), detached cabanas and gazebos, swimming pools, hot tubs and their enclosures, fences and walls.

Parcel "A" shall be limited to one single-story utility storage building not exceeding 250 square feet in area.

Fences and walls shall be located on or within five feet of lot lines and shall not exceeding six feet in height, except such fences or walls shall not exceed three feet six inches when located in a required front yard. Except for fences and walls, accessory structures shall be allowed in the rear yard only and shall meet the minimum side and rear setbacks established by the height of the primary residence.

Except for fences and walls, accessory structures are permitted only as an ancillary use to an existing primary residence.

- n. **Swimming pools, hot tubs and spas:** Swimming pools, hot tubs and spas containing water more than 24 inches (610 mm) in depth shall, at a minimum, shall be surrounded by a fence or approved barrier at least 48 inches (1,219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1,372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced, or changed in a manner that reduces its effectiveness as a safety barrier.

Table # 2. -- Parcel "A" Use Restrictions

a.	Ancillary dwelling units are prohibited.
b.	Except for a home-based business that meets Martin County's requirements for the issuance of a home-based business tax receipt in its R-2 zoning district, or as otherwise provided in Florida Statute having preemption <sup>7</sup> , the operation of a business on Parcel "A" is prohibited.
c.	Except during the declaration of a federal, state, or local emergency, recreational vehicles located on Parcel "A" may not be used for living, sleeping or other occupancy.
d.	Vehicle and boat parking shall be on a paved surface, unless screened from view at the street by a fence, wall or landscaping.
e.	Except as otherwise prescribed by the Ocean Breeze East PUD, all development on Parcel "A" and the use thereof shall comply with <i>Chapter 21. Building and Housing Regulations, Article 3. Local Amendments, Part 2. Property Maintenance Code, Articles 1 through 23</i> , of the <i>Martin County Code of Ordinances</i> , as it applies to residential structures, and as may be amended from time to time.
f.	No livestock or live poultry shall be kept on Parcel "A"
g.	Mobile homes shall not be permitted on Parcel "A"
h.	Junked or derelict vehicles shall not be kept on Parcel "A".

**Table # 3. Additional Conditions Pertaining to Parcel "A"**

a.	The street address of Parcel "A" shall be approved by the Town Clerk.
b.	Trash, garbage and refuse collection, occurring at least as frequently as the collection schedule maintained by the Martin County Utilities & Solid Waste Department, shall be the responsibility of the owner of Parcel "A" through a private contract for services. Proof of the service contract shall be provided to the Town before the issuance of any building permits. All trash and garbage shall be regularly removed and shall not be allowed to accumulate. Trash, garbage or other waste shall be kept in a sanitary, covered container(s). All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.
c.	The owner of Parcel "A," shall have the right to apply for an amendment to this Resolution without the necessity of obtaining permission, written or otherwise, from any other party to the Ocean Breeze West PUD Agreement, provided the the scope and application of such amendment is limited to matters affecting Parcel "A." Similarly, the owner(s) of the Seawalk portion of the Ocean Breeze West PUD, authorized to seek amendments thereto, may do so without the permission, written or otherwise, of the owner of Parcel "A", provided the scope and application of such amendment is limited to matters affecting the Seawalk portion of the PUD. This provision shall in no way constrain the rights of any party to the Ocean Breeze West PUD Agreement to object or to legally challenge any proposed amendments to this Resolution.
d.	For the purpose of preserving the public's health safety and welfare, the Town shall have the right, at its own discretion, to initiate a public hearing to amend this resolution. This provision shall in no way constrain the rights of the Owner(s) of Parcel "A" to object or to legally challenge any amendments proposed by the Town.
e.	No construction on Parcel "A" shall be permitted until such time as all necessary utility easements servicing the Sea Walk portion of the PUD have been properly established and dedicated to Martin County and/or other relevant service provider(s).
f.	The owner of Lot "A" is aware that only limited services are directly provided by the Town of Ocean Breeze and agrees to disclose to any potential buyer of Parcel "A" that certain services, including but not limited to water and waste water treatment, police protection, waste management, fire protection and advance life support services are provided by Martin County or other public/private service provider and that the owner of Parcel "A" is directly responsible to pay the cost of these services. Further, the owner shall disclose to any buyer of Parcel "A" that the Town of Ocean Breeze has by ordinance authorized Martin County to directly apply its Fire/EMS Municipal Services Taxing Unit ad valorem tax rate to all real property within the Town, including Parcel "A".
g.	All applicable Martin County and Martin County School Board impact fees shall be paid prior to the Town's issuance of any permits for Parcel "A".
h.	<p>The owners(s) of Parcel "A" shall not permit the grass, weeds or underbrush thereon to exceed a height of eight inches above the grade of the land, including any elevated and depressed areas. All such materials shall be cut and maintained to a height of eight inches or less and cuttings shall be either removed from the property or mulched. All such materials shall be cut and removed or mulched within fifteen calendar days of a notice to do so issued by the Town.</p> <p>Further, the owner(s) shall not permit the accumulation thereon of dead and dying trees and limbs; rubbish, trash and other refuse, including materials which might conceal pools of water creating breeding grounds for mosquitoes, as well as discarded appliances, furniture, tools, machinery, equipment, metal goods or other solid waste.</p> <p>If within fifteen days from receipt of a notice of violation from the Town, the owner(s) of Parcel "A" has not abated any nuisance(s) described above, the Town may enter upon the property and take such steps as are reasonably required to effect abatement through its employees, agents or contractors and may file a lien against the property to recover any abatement costs that are not reimbursed by the owner(s).</p>

**From:** Maria Camporeale  
**Sent:** Monday, April 25, 2022 4:50 PM  
**To:** Terrance O'Neil; townclerk@townofoceanbreeze.org  
**Cc:** Terry O'Neil; Rick Crary  
**Subject:** RE: Parcel A

Good afternoon, we are seeking to amend both the PUD Agreement and the Town's comprehensive plan. I will be the point person and please send the fee schedule, thank you.



**Maria Camporeale**  
**Land Acquisition Director**  
**West/SE Florida**

6123 Lyons Road, Suite 103  
Coconut Creek, FL 33073  
c: 917.847.1065  
o: 561.724.8620

**Forestar.com**

**From:** Terrance O'Neil <terrancewoneil@gmail.com>  
**Sent:** Saturday, April 23, 2022 11:47 AM  
**To:** townclerk@townofoceanbreeze.org  
**Cc:** Maria Camporeale <MariaCamporeale@forestar.com>; Terry O'Neil <Twoneil@aol.com>; Rick Crary <RCII@crarybuchanan.com>  
**Subject:** Re: Parcel A

[External]

Maria, please send another email naming the specific entity that's applying and stating that that entity is seeking to amend both the PUD agreement and the Town's comprehensive plan. Also the email should identify the applicant's point person throughout the process.

I will begin mapping out the schedule, etc. and will be in touch soon.

Regards

Terry

Sent from my iPhone

Nick Clifton  
Environmental Health Manager  
Florida Department of Health in Martin County  
3441 SE Willoughby Blvd  
Stuart, FL 34994  
772-221-4090

How are we doing? Please take our survey!

For the submission of documents or materials related to **Permitting, Applications, Inspections Scheduling,**  
**or a Requests for Additional Information** please send to our centralized email address:  
[DOHMartinCounty@FLHealth.gov](mailto:DOHMartinCounty@FLHealth.gov)

**Mission: "To protect, promote & improve the health of all people in Florida through integrated state, county, & community efforts".**

**Note:** Florida has a very broad public records law. Most written communications to or from state officials regarding state business are public records available to the public and media upon their request. Your e-mails may therefore be subject to public disclosure.

**From:** Terrance O'Neil  
**Sent:** Tuesday, May 24, 2022 4:29 PM  
**To:** Maria Camporeale  
**Cc:** Terrance O'Neil  
**Subject:** Re: 1562 NE South St, (Parcel A), Ocean Breeze

Got it thanks, let's compare notes on the letters and posting on Thursday.  
Thanks.

Sent from my iPhone

On May 24, 2022, at 9:32 AM, Maria Camporeale <MariaCamporeale@forestar.com> wrote:

See below, thank you.



**Maria Camporeale**  
**Land Acquisition Director**  
**West/SE Florida**

6123 Lyons Road, Suite 103  
Coconut Creek, FL 33073  
c: 917.847.1065  
o: 561.724.8620

**Forestar.com**

**From:** Clifton, Nicholas L <Nicholas.Clifton@flhealth.gov>  
**Sent:** Tuesday, May 24, 2022 9:26 AM  
**To:** Maria Camporeale <MariaCamporeale@forestar.com>; David Duncan <dduncan@martin.fl.us>  
**Subject:** RE: 1562 NE South St, (Parcel A), Ocean Breeze

[External]

Good Morning,

This parcel will need to be served by an Onsite Sewage Treatment and Disposal System (septic). A permit can be applied for from our office as sewer is not available.

Thank you,



## AFFIDAVIT ATTESTING TO NOTIFICATION

I, Maria Camporeale, being first duly sworn, depose and say:

1. That Maria Camporeale is the authorized agent for Forestar (USA) Real Estate Group, Inc., the applicant of the development application to the Town of Ocean Breeze for an amendment to the Ocean Breeze West Planned Unit Development (OB West PUD);
2. That OB West PUD is the subject of a request for approval of an amendment to the PUD Agreement and Master/Final Site Plan, C.O. Phasing Plan and Landscape Plan to delete the requirement to voluntarily donate Parcel A to the Town of Ocean Breeze;
3. That the notice for the re-scheduled public hearing before the Town Council on June 13<sup>th</sup>, 2022 at 10:30 a.m. was sent by U.S. Mail on May 26<sup>th</sup>, 2022 to the property owners within 300 feet of the subject property. A copy of the notice is attached hereto and made a part hereof;
4. That the notice for the public hearing was mailed to the property owners within 300 feet of the subject property as prepared and certified by Prestige Title Agency dated May 26<sup>th</sup>, 2022;
5. That on June 2<sup>nd</sup>, 2022 the notification sign was re-posted on the property, which photograph of the sign is attached hereto and made a part hereof.

STATE OF FLORIDA

COUNTY OF Palm Beach

SWORN TO AND SUBSCRIBED before me by means of ☒ physical presence or ☐ online notarization, this 2<sup>nd</sup> day of June 2022 by Maria Camporeale, who ☒ is personally known to me or ☐ has produced FL DL as identification.

(Notary Seal)



*Luciana Pereira da Costa*  
NOTARY PUBLIC

My Commission Expires:

## **NOTICE TO SURROUNDING PROPERTY OWNERS**

Subject: Public Hearings before:  
Town of Ocean Breeze Zoning Board and Town Council

Petitioner: Forestar (USA) Real Estate Group, Inc.

Parcel I.D. Number: 22-37-41-000-000-00405-1

Property Location: 0.39-acre lot located at the intersection of NE Highland Avenue and NE South Street (See attached location map)

Proposed Requests: Request to consider amendments to the Town's Comprehensive Plan allowing Parcel "A" to use a septic system, adopt and up-to-date transportation circulation map, as well as amendments to the Ocean Breeze West Planned Unit Development to amend Development Order Condition K (5) to delete the requirement to voluntarily donate Parcel "A" to the Town; allow Parcel "A" to use a septic system and establishing development conditions to allow for the construction of a single-family home on Parcel "A," require adherence to Martin County water use standards and for other purposes.

Dear Property Owner:

On Monday, June 13, 2022, beginning at 10:30 AM, the Ocean Breeze Zoning Board and Town Council will conduct public hearings to consider the above requests.

The hearings will be held at the Ocean Breeze Resort Clubhouse, 700 NE Seabreeze Way, Ocean Breeze, Florida 34957. All interested parties and citizens may appear and be heard as to any and all matters pertinent to the request. A copy of the application is available for inspection at the Ocean Breeze Town Office, at 1508 NE Jensen Beach Blvd., Jensen Beach, Florida. If you have any questions regarding this notice, please feel free to call the Town at (772) 334-6826 Monday through Friday between 9:30 AM and 12:00 Noon.







ARTERS-GALLAGHER FAMILY TRUST  
1562 NE SOUTH STREET  
JENSEN BEACH FL 34957

FORESTAR USA REAL ESTATE GROUP INC  
2221 E LAMAR BLVD #790  
ARLINGTON TX 76006

MATUSZEK HEATHER L  
1591 NE SOUTH ST  
JENSEN BEACH FL 34957

BISSET CRAIG  
3044 NE SKYVIEW LN  
OCEAN BREEZE FL 34957

FORT ROBERT G KAY CHER  
1482 NE SOUTH ST  
JENSEN BEACH FL 34957

MCDONALD ALEXA  
3024 NE SKYVIEW LN  
OCEAN BREEZE FL 34957

BROWN JENNIFER TAYLOR  
1502 NE SOUTH ST  
JENSEN BEACH FL 34957

FULFORD DEXTER FLOYD FULFORD  
SAVANNAH LEE  
3094 NE HIGHLAND AVE  
JENSEN BEACH FL 34957

MEYER NICHOLAS J MEYER LAUREN J  
3034 NE SKYVIEW LN  
OCEAN BREEZE FL 34957

BROWN STEFANIE LEIGH BROWN DALE A  
300 FINSBURY PARK CT  
SUWANEE GA 30024

HARRIS ANDREW ANTHONY HARRIS  
PATRICIA ALICE  
341 LOWELL RD  
SAYVILLE NY 11782

MURRAY BRANDI L MURRAY RICHARD F  
1611 NE SOUTH ST  
JENSEN BEACH FL 34957

BRYANT RONALD D & CHRISTINA A  
1479 NE 29TH TERR  
JENSEN BEACH FL 34957

HUGHES ANDREW  
1526 NE HILLTOP ST  
JENSEN BEACH FL 34957

PAGE OWNBY TAMERA  
1604 NE HILLTOP ST  
JENSEN BEACH FL 34957

CARLSON DONALD LEE  
1499 NE 29TH TERR  
JENSEN BEACH FL 34957

JONES COURTNEY LEE  
1624 NE HILLTOP ST  
JENSEN BEACH FL 34957

RAVER SHELIA MARIE  
1519 NE SKYHIGH TERR  
JENSEN BEACH FL 34957

CARREON CHRISTIAN CARREON LISA  
16830 SUTTLES DR  
RIVERSIDE CA 92504

KELLY-RAYNER COLLEEN A GILLIS GLENN  
T  
1529 NE SKYHIGH TER  
JENSEN BEACH FL 34957

RICHARDS JENNIFER LEE  
1550 NE SKYHIGH TER  
OCEAN BREEZE FL 34957

CULVER DAVID L CULVER PAMELA LIN  
1594 NE HILLTOP ST  
JENSEN BEACH FL 34957

KOVIACK JONATHAN GENE LIU YING  
1540 NE SKYHIGH TER  
JENSEN BEACH FL 34957

RICHMOND ANTHONY D  
1592 NE SOUTH ST  
JENSEN BEACH FL 34957

D R HORTON INC  
6123 LYONS RD #100  
COCONUT CREEK FL 33073

LOUNSBURY RICHARD P LOUNSBURY LISA M  
12585 S INDIAN RIVER DR  
JENSEN BEACH FL 34957

SALLY S READLING LIVING TRUST  
AGREEMENT  
1532 NE SOUTH ST  
JENSEN BEACH FL 34957

DUOBA JOSEPH RUGGIERO AMANDA  
1560 NE SKYHIGH TERR  
OCEAN BREEZE FL 34957

MARSHALL BRENT J MARSHALL RACHEL S  
1512 NE SOUTH ST  
JENSEN BEACH FL 34957

SCHAMBACK BONNIE  
1549 NE SKYHIGH TER  
JENSEN BEACH FL 34957

SCHOMMER TERRY HEIR-L/E SCHOMMER  
RANDY F ESTATE  
1506 NE HILLTOP ST  
JENSEN BEACH FL 34957

WOLSKE KRISTY M  
3065 NE HIGHLAND AVE  
JENSEN BEACH FL 34957

SEA WALK HOMEOWNERS ASSOCIATION INC  
1350 NE 56TH ST #180  
FORT LAUDERDALE FL 33334

YOUNG MARK Q  
1641 NE SOUTH ST  
JENSEN BEACH FL 34957-7270

SEA WALK HOMEOWNERS ASSOCIATION INC  
1350 NE 56TH ST #180  
FORT LAUDERDALE FL 33334

YURILLO MARIE  
PO BOX 468  
JENSEN BEACH FL 34958-0468

SHERER HEIDI (L/E)  
1496 NE HILLTOP ST  
JENSEN BEACH FL 34957

SLAWEK AMY  
1425 MIAMI LN  
DES PLAINES IL 60018

SQUIRES BRITTNEY ELENA SQUIRES  
MATTHEW YOUNG  
1570 NE SKYHIGH TER  
OCEAN BREEZE FL 34957

TAPCHAK EUGENE D  
163 RADFORD 2A ST  
YONKERS NY 10705

TOWNSEND GENE  
1503 SOUTH ST  
JENSEN BEACH FL 34957

VICAT MICHELLE SUZANNE  
1533 NE SOUTH ST  
JENSEN BEACH FL 34957

WELLS TODD P WELLS JOANNA M  
1612 NE SOUTH ST  
JENSEN BEACH FL 34957



**NOTICE OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS  
AND AMENDMENTS TO THE OCEAN BREEZE WEST  
PLANNED UNIT DEVELOPMENT AGREEMENT  
(AKA SEAWALK)**

Public Hearings before:

Petitioner:

Parcel ID Number:

Meeting Location:

Meeting Date & Time:

Town of Ocean Breeze Zoning Board and Town Council  
Forestar (USA) Real Estate Group, Inc.

22-37-41-000-000-00405-1

Ocean Breeze Resort Clubhouse

700 NE Seabreeze Way, Ocean Breeze, Florida 34957

Monday, June 13, 2022, at 10:30 AM

PROPOSAL TO AMEND THE TOWN'S COMPREHENSIVE PLAN TO ALLOW FOR USE  
OF SEPTIC TANK SYSTEM AND AMENDMENTS TO PUD DEVELOPMENT  
CONDITION # (5)

TO DELETE THE REQUIREMENT TO VOLUNTARILY  
DONATE PARCEL 7A TO THE TOWN, AND ESTABLISHING DEVELOPMENT  
CONDITIONS FOR THE CONSTRUCTION OF A SINGLE FAMILY HOME ON PARCEL  
7A AND FOR OTHER PURPOSES.

FOR MORE INFORMATION PLEASE CALL  
THE TOWN OF OCEAN BREEZE AT (772) 534-0826

6/12/22

Text of Ad: 05/24/2022

**NOTICE OF PUBLIC HEARINGS  
BEFORE THE TOWN OF OCEAN  
BREEZE, FLORIDA ZONING  
BOARD/LOCAL PLANNING  
AGENCY AND TOWN COUNCIL  
TO REVIEW AND CONSIDER  
AMENDMENTS TO THE  
TOWN'S COMPREHENSIVE  
PLAN**

Notice is hereby given that on Monday, June 13, 2022, beginning at 10:30 AM, at the Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze, Florida, 34957, the Ocean Breeze Zoning Board/Local Planning Agency and Ocean Breeze Town Council will conduct public hearings to review and consider proposed amendments to the Town's Comprehensive Plan. The Town Council's public hearing will begin immediately upon conclusion of the 10:30 public hearing held by the Zoning Board/Local Planning Agency. All interested parties are invited to attend and be heard.

The proposed comprehensive plan amendments are contained in draft Ordinance No. 322-2022, the title of which is shown below:

**AN ORDINANCE OF THE  
TOWN COUNCIL OF THE  
TOWN OF OCEAN BREEZE,  
FLORIDA AMENDING THE  
SANITARY SEWER, SOLID  
WASTE, DRAINAGE, POTABLE  
WATER & NATURAL GROUND  
WATER RECHARGE ELEMENT  
OF THE TOWN'S COMPREHEN-  
SIVE PLAN THEREBY ALLOW-  
ING A SINGLE RESIDENTIAL  
LOT, KNOWN AS "PARCEL A",  
TO FOREGO CONNECTION TO  
THE MARTIN COUNTY WASTE  
WATER SYSTEM IN FAVOR OF  
USING A SEPTIC TANK SYS-  
TEM; AND FURTHER AMEND-  
ING THE TRANSPORTATION  
ELEMENT OF THE TOWN'S  
COMPREHENSIVE PLAN TO  
ADOPT AN UP-TO-DATE TRAF-  
FIC CIRCULATION MAP; PRO-  
VIDING FOR TRANSMITTAL OF  
THE PROPOSED AMEND-  
MENTS TO THE STATE LAND  
PLANNING AGENCY, AKA THE  
DEPARTMENT OF ECONOMIC  
OPPORTUNITY BUREAU OF  
COMMUNITY PLANNING, AS  
WELL AS OTHER RELEVANT  
AGENCIES; PROVIDING FOR A  
CONFLICTS CLAUSE, A  
SEVERABILITY CLAUSE AND  
FOR OTHER PURPOSES**

The proposed ordinance is available for review by the public at the Ocean Breeze Town Office, 1508 NE Jensen Beach, Boulevard, Jensen Beach, Florida 34957, between the hours of 9:00 AM and 2:00 PM, M-F, excluding holidays. Any person deciding to appeal any decision made during these hearings will need to ensure that a verbatim record of the proceedings is made.

In compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for these public hearings should contact the Town Clerk at 772-334-6826 at least 48 hours in advance of the hearings, excluding Saturday and Sun-

June 17, 2022

Department of Economic Opportunity  
Attention: Ray Eubanks, Plan Processing Administrator State  
Land Planning Agency  
Caldwell Building  
107 East Madison - MSC 160  
Tallahassee, Florida 32399

RE: TOWN OF OCEAN BREEZE, FLORIDA ORDINANCE NO. 322-2022, PROPOSED  
COMPREHENSIVE PLAN AMENDMENTS

Town of Ocean Breeze comprehensive plan amendments contained in Ordinance No. 322-2022 were approved on first reading on June 13, 2022 and are hereby transmitted to the Florida Department of Economic Opportunity (DEO) for review pursuant to the requirements of Section 163.3184 F.S. The ordinance was approved by a 6-0 vote.

This transmittal includes three copies (one paper copy and two electronic copies in Portable Document Format (PDF) on a CD ROM, with each reviewing agency receiving a copy via email. The adoption package includes the following items:

1. Memo to Reviewing Agencies
2. Ordinance No. 322-2022, including "Exhibit A" updated traffic circulation map
3. Staff Memo/Analysis
4. Minutes from the Town Zoning Board and Town Council meetings of June 13, 2022
5. Advertising Notice/ public comment sheet

The proposed amendments are being submitted under the state coordinated review process. By this letter, I hereby certify that the required number of copies of the amendments have been sent as of this date to the identified reviewing agencies as required by Section 163.3184(1)(c), F.S. For purposes of complying with Section 163.3184(2), F.S. please be advised that the proposed amendments are not applicable to an area of critical state concern.

If you require further information, please contact me by telephone at (772) 334-6826; by fax at (772) 334-6823 or by email at [townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org)

Sincerely,

Terry O'Neil  
Town Management Consultant

Enclosures:

Cc: (full packet on disc):

Stephanie Heidt, AICP, Treasure Coast Regional Planning Council  
Deborah Oblaczynski and Terry Manning, AICP, South Florida Water Management District  
Paul Schilling, Martin County Growth Management  
John Krane, P.E., Florida Dept. of Transportation, District 4 Florida  
Dept. of Environmental Protection Plan Review  
Robin Jackson, Florida Dept. of State, Bureau of Historic Preservation

Cc: (letter only):

Ocean Breeze Mayor and Town Council  
Rick Crary, Town Attorney  
Pam Orr, Town Clerk



TOWN OF OCEAN BREEZE  
MINUTES REGULAR TOWN COUNCIL MEETING  
Monday, September 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
- President De Angeles asked for a moment of silence in remembrance of 9/11
- Roll Call – Present: Mayor Karen M. Ostrand, President Kenneth De Angeles, Vice-President Richard Gerold, Council Members, Bill Arnold, Kevin Docherty, Terry Locatis and David Wagner
- Staff Present – Town Management Consultant, Terry O’Neil; Town Attorney, Rick Crary; Town Clerk, Pam Orr; and Bookkeeper/Clerical Assistant, Maria Pierce

**2. Approval of Minutes** – Vice-President Gerold, seconded by Council Member Arnold, made a motion to approve the Minutes of the August 9, 2021 regular Town Council meeting.

President De Angeles asked for public comments.

There were none.

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

**3. Proclamation Declaring “Hunger Action Month” in Ocean Breeze, Florida** – Mayor Ostrand read the proclamation into the record. President De Angeles introduced Ron Wise, Director of Program Services and Alexandra Lord, Community Outreach Coordinator from the Treasure Coast Food Bank. Mr. Wise gave a presentation regarding the food bank.

**4. Budget to Actual Report: Third Quarter of Fiscal Year 2021** – Town Clerk, Pam Orr, asked if Council had a chance to look at the report and if there were any questions.

Council Member Wagner asked if it was a true statement that all the single family home building permits for Seawalk had been issued.

Town Clerk, Pam Orr, confirmed this statement to be true.

Council Member Arnold, seconded by Council Member Docherty, made a motion to accept the budget to actual report.

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

**5. QUASI JUDICIAL HEARING: RESOLUTION NUMBER 314-2021 – A RESOLUTION OF THE TOWN OF OCEAN BREEZE, FLORIDA, AMENDING ORDINANCE NO. 170, ORDINANCE NO. 251-2017, ORDINANCE NO. 274-2017, RESOLUTION NO. 277-2018 AND RESOLUTION NO. 293-2019, TOGETHER COMPRISING THE OCEAN BREEZE WEST PLANNED UNIT DEVELOPMENT (PUD) AGREEMENT, HEREBY DELETING LANGUAGE IN DEVELOPMENT CONDITION K (5) REQUIRING THE VOLUNTARY DONATION OF PARCEL “A” TO THE TOWN; APPROVING MINOR CHANGES TO THE PROJECT’S MASTER SITE PLAN, PHASING PLAN AND LANDSCAPE PLAN, AS WELL AS NEW DEVELOPMENT CONDITIONS ALLOWING FOR THE CONSTRUCTION OF A**



**SINGLE-FAMILY HOME ON PARCEL "A"; REQUIRING THAT DEVELOPMENT WITHIN THE OCEAN BREEZE WEST PUD ADHERE TO MARTIN COUNTY WATER USE STANDARDS; DECLARING SAID AMENDMENTS TO BE CONSISTENT WITH THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR CONFLICT PROVISIONS AND A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.** – Town Clerk Orr read into the record the title of the resolution.

President De Angeles asked if any Council Members had any exparte communications to disclose.

There were none.

President De Angeles asked that all those giving testimony please stand and raise their right hand. Town Attorney Cray swore in the individuals standing.

President De Angeles asked staff to present the testimony and any evidence supporting the Resolution.

Town Management Consultant, Terry O'Neil, stated that this was a minor amendment to the Ocean Breeze West PUD agreement which removed the donation requirement of Parcel A from the PUD, deleted the donation requirement from the master site plan, the phasing plan, and the landscaping plan, and established development standards for Parcel A. Mr. O'Neil stated that language was added to require the developer to comply with Martin County's water use standards. He also commented on the requirement for Parcel A to be connected to the Martin County waste water system per the Town's current Comprehensive Plan. After discussion ensued, Mr. O'Neil recommended that Resolution #314-2021 be adopted as presented.

President De Angeles asked the petitioner to give testimony and call any witnesses.

Morris Crady, Planner for Lucido & Associates, provided a brief background of Parcel A. He stated that originally, Parcel A was intended to be an access road into the Seawalk development, however, the County did not approve of the use. He explained that if Martin County did not approve the connection to a waste water system, then a temporary septic tank allowance from the Town of Ocean Breeze would be needed, until such a time sewer was installed on South Street. He remarked that the Developer was in agreement with staff regarding the proposed developmental rights.

Mayor Ostrand stated she would be willing to attend meetings with Lucido & Associates and the County regarding a waste water connection for Parcel A within the County.

Vice-President Gerold asked who owned the 20 feet easement along the backside of Seawalk that adjoined the Publix side and what the easement was for, and could it be adjusted.

Mr. Crady stated that Martin County required the fence to be placed on the inside of the utility easement to allow Martin County Utilities access via the Publix parking lot versus having to access it through private property. Mr. Crady also stated that all the lots in Seawalk were the same depth of 120 feet and that the easement was not located on the usable portion of the lot. He commented that the fence line was located where it is shown on the landscape plans.

Mr. O'Neil clarified that all the lots were as platted and the fence in question was not on the owner's lots.

Council member Locatis asked if all adjacent homes on South Street were on septic and what would be the timetable for sewer.

Mr. O'Neil responded that all homes on South Street were on septic systems and that Martin County had indicated that it is not within their 5-year plan.

President De Angeles asked if the use of a septic tank would be a temporary solution to allow a single-family home to be built on Parcel A.

Mr. Crady stated the Developer would agree to an interim use of a septic tank until the County brought in sewer.

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

There were none.

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

There were none.

President De Angeles asked for public comments.

Scott Stulb, resident of Seawalk, owner of lot 11, stated that he objected to the removal of Parcel A from the Ocean Breeze West PUD until the fence line behind the Publix shopping center matched the original Ocean Breeze West PUD. He provided a map for the record. Mr. Stulb shared his concern about the visibility behind Publix as well as his concern that other lots appear to be deeper. He asked that the fence line be moved back.

Mr. Crady replied that the other lots have a landscape buffer, which is a common area and is not part of the property. He explained that the County required the fence to be placed on the property line. He continued that the lots that adjoin South Street are similar.

Discussion ensued about the fence line.

Mr. Crady restated that the County would have to agree to the placement of the fence, and then either D. R. Horton or the Homeowner's Association would have to move it.

Council Member Arnold asked if the fence was installed when the property was purchased.

Mr. Stulb stated the fence was in place when he purchased the property.

Janet Galante, resident of Ocean Breeze Resort, asked why the Town did not accept Parcel A and what the Town received in return.

Mr. O'Neil explained the original agreement regarding the voluntary donation of Parcel A.

Council Member Arnold discussed the cost of \$50,000 to \$60,000 to prepare the property to build significantly outweighed the benefit of accepting the property.

Vice-President Gerold stated that the Town would have incurred the cost of insurance, landscaping, and other expenses if used for a park and that the size of the lot was not feasible for a Town office.

Mr. O'Neil stated the Town approached Martin County regarding utilizing the parcel for a neighborhood passive use park, however, Martin County did not have the ability to maintain it.

President De Angeles closed the hearing and asked the Council Members to deliberate in public, to state their position and to consider a motion.

Vice-President Gerold, seconded by Council Member Locatis made a motion to approve Resolution 314-2021.

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

**6. SECOND READING: ORDINANCE NO 310-2021 – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA UPDATING THE TOWN'S COMPREHENSIVE PLAN IN ACCORDANCE WITH FLORIDA STATUTE SECTION 163.3191; ADOPTING NEW PROVISIONS DEEMED MANDATORY BY FLORIDA LAW SINCE THE TOWN PLAN'S LAST UPDATE IN 2014, INCLUDING "PERIL OF FLOOD" STANDARDS SET FORTH IN FLORIDA STATUTES CHAPTER 163.3178 (2) (F) 1-6, AS WELL AS OTHER MINOR AMENDMENTS REFLECTING CHANGES IN LOCAL CONDITIONS; PROVIDING FOR TRANSMITTAL OF PROPOSED AMENDMENTS TO THE STATE LAND PLANNING AGENCY, AKA THE DEPARTMENT OF ECONOMIC OPPORTUNITY BUREAU OF COMMUNITY PLANNING, AS WELL AS OTHER RELEVANT AGENCIES; PROVIDING FOR A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND FOR OTHER PURPOSES. – Town Clerk Orr read into the record the title of the resolution.**

Town Management Consultant, Terry O'Neil, provided background information on the amendment and reviewed the mandatory changes that were required. He recommended Council approve the ordinance as presented.

President De Angeles asked for public comment. There was none.

President De Angeles asked for Council comment.

Council Member Locatis questioned if the coastal impact area and the coastal high hazard area would affect insurance ratings on personal properties. Mr. O'Neil explained that they did not have that information. He confirmed that the maps were in the format that is acceptable to the State and had little or no latitude in interpreting the data.

President De Angeles asked about the feasibility study. Mr. O'Neil explained the process and stated that the Town had two years to complete the feasibility study after the adoption of the ordinance. Discussion ensued.

Council Member Arnold, seconded by Council Member Docherty, made a motion to approve Ordinance No. 310-2021.

President De Angeles asked for public comments.

There were none.

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

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

**8. Comments from the Council on topics not on the Agenda** – Vice-President Gerold asked if Martin County could come and provide information on railroad safety, what they transport, as well as the County's emergency plan.

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

Cathy Berry, resident of Ocean Breeze Resort stated there would be a meeting with the Sheriff's office and residents of Ocean Breeze Resort on Monday September 20, 2021 at 10 am in the Pineapple Bay Room to discuss the possibility of starting a neighborhood watch program.

**10. Comments from Mayor Ostrand** – Mayor Ostrand stated that she attended the Florida League of Cities conference and shared some highlights. She informed residents that on September 15, 2021 from 9 am – 12 pm there would be a Martin County Legislative Delegation meeting at the Chastain Center at Indian River State College. Mayor Ostrand informed the residents that there would be a workshop in October regarding the Town.

**11. Announcements** – President De Angeles announced the upcoming meetings to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze, Florida.

- Proposed Budget and Tentative Millage Hearing, Wednesday, September 15, 2021 at 5:01pm
- Final Budget and Millage Rate Hearing, Wednesday, September 22, 2021 at 5:01pm
- Regular Town Council Meeting October 11, 2021 at 10:30 am

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

Respectfully Submitted,

Pam Orr

Town Clerk

Minutes approved: October 11, 2021

## MEMORANDUM

**To:** Town Council and Mayor

**From:** Terry O'Neil, Town Management Consultant

**CC:** Rick Crary, Town Attorney  
Pam Orr, Town Clerk

**Date:** September 7, 2021

**Re:** Proposed amendments to the Ocean Breeze West PUD Agreement to allow for the construction of a single-family home on Parcel "A". (Hearing continued from August 9, 2021).

As the Council will recall, the Ocean Breeze West PUD Agreement calls for the developer to voluntarily donate to the Town an approximately 17,000 sq. ft. vacant lot fronting South Street known as Parcel "A". Specifically, condition K. 5. states:

*Parcel "A" as shown on the revised master/final site plan shall be voluntarily donated to the Town by the OWNER prior to or in conjunction with the recordation of the plat. Said donation shall be subject to the Town's acceptance. Approval for development of Parcel "A" as a Town office or single-family home shall require a minor amendment to this ordinance, including posting the site, mailed notice to property owners within 300 feet and at least one public hearing before the Town Council. Authorization for the Town to apply for and process said minor amendment is hereby deemed to be granted by the OWNER and the HOA. In no instance shall the Town, or any owner of Parcel "A", be a member of the HOA or be subject to its provisions or covenants. Owner shall provide stub-out of water and sewer connections to the site.*

In November 2020, the council decided not to accept the lot, thus clearing the way for the developer to seek a PUD amendment extinguishing the voluntary donation provisions and establishing development standards so that Parcel "A" can be marketed for the construction of a single-family home.

#### FEATURES OF THE AMENDMENT APPLICATION

The applicant, Forestar USA Real Estate Group, Inc., proposes the following amendments:

1. Delete the voluntary donation provisions from condition K.5. (See draft Resolution No. 314-2021, Section 2.).
2. Delete references to the donation of Parcel "A" from the project's *Master/Final Site Plan, C.O. Phasing Plan and Development Timetable and Landscape Plan*. (See draft Resolution 314-2021, Exhibit "A").
3. Adopt new development standards and other regulations for Parcel "A" that approximate the County's surrounding R-2 zoning. (See draft Resolution 314-2021, Exhibit "B").

#### PARCEL "A" CONNECTION TO THE COUNTY'S WASTEWATER SYSTEM

As was indicated in the staff memo originally presented as part of the August 9, 2021 agenda package, the applicant initially proposed to delete the "Owner shall provide stub-out of water and sewer" provision from condition K.5. in favor of a septic system. Staff had no objection at the time but has since determined that the Town's Comprehensive Plan requires that all residential development be connected to the County's wastewater system. This provision may not be overridden by a PUD agreement. At present, the County Utility Department can readily provide water service, but has declined to connect Parcel "A" to its wastewater system until the South



Street neighborhood as a whole is connected. The County's timeline to do so is outside its 5-year planning window with no specific target date. In light of the Town's long-standing commitment to eliminating septic systems, staff is disappointed in this decision and unless otherwise directed by the Council will continue to support efforts by the applicant to change the County's mind.

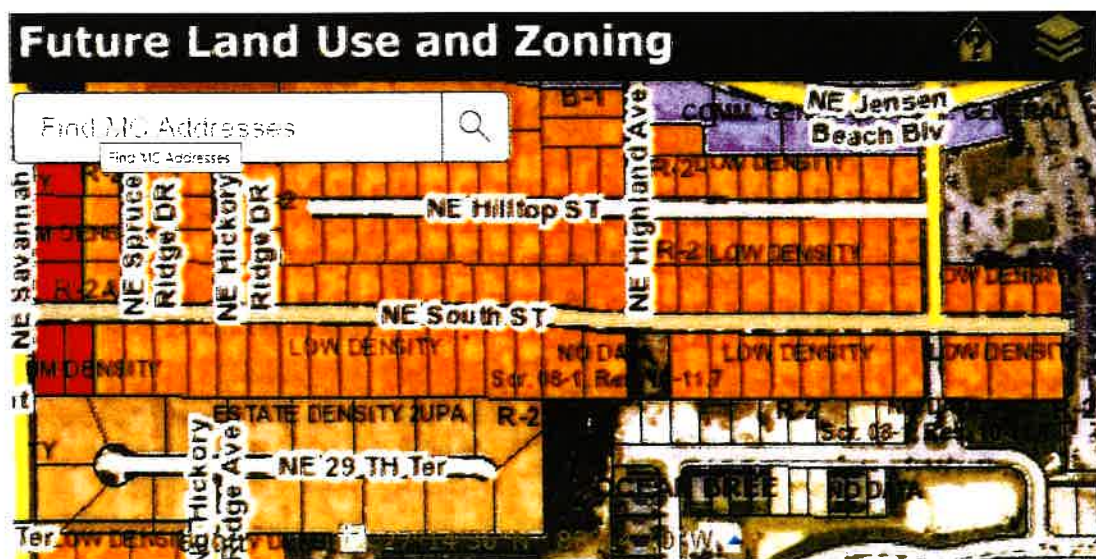
#### **USE OF WATER FOR IRRIGATION AND OTHER PURPOSES**

A number of Seawalk residents have complained to the Town that the developer is using too much water to irrigate the common landscaped areas and that the pass-through costs they are incurring are excessive. Martin County Utilities confirms that the developer's water usage has routinely exceeded the County's use standards. In that Martin County is not empowered to enforce its regulations in the Town, staff has included the following language in draft Ordinance No. 314-2021, which is found at Section 4.

**Compliance with Martin County's restrictions on the use of water for irrigation or other purposes:** For the entirety of the Ocean Breeze West PUD, failure by the owner(s), its successors, heirs or assigns to comply with Martin County's restrictions on the use of water (potable or otherwise) for irrigation or other purposes, as may be amended from time to time, shall constitute a violation of this PUD. In the event the Town adopts its own restrictions on water use, those provisions shall apply.

#### **DEVELOPMENT STANDARDS FOR PARCEL "A"**

Though governed under the OB West PUD Agreement, Parcel "A" is not a part of the Sea Walk subdivision/HOA. As such, its ultimate use for a single-family home requires that development conditions unique to the parcel be established. In that all other properties on South Street are in unincorporated Martin County and have been developed under the County's long-standing R-2 zoning regulations, staff and the applicant have agreed that approximating, but not entirely mirroring the County's R-2 zoning standards is a reasonable approach (see map below). These proposed conditions are shown in Exhibit "B" of draft Resolution No. 314-2021.



#### **STAFF RECOMMENDATION**

1. Conduct quasi-judicial public hearing on draft Resolution No. 314-2021
2. Approve draft Resolution No. 314-2021, with amendments if deemed necessary.

## ATTACHED DOCUMENTS

- *Town of Ocean Breeze, Quasi-Judicial Hearing Procedure* (yellow sheet)
- Draft Resolution No. 314-2021, including Exhibits "A" and "B"
- Application letter and public hearing notification package
- Copy of Ordinance No. 251-2017
- Martin County water line map showing service on South Street
- Copy of pertinent sections of Martin County's *"Property Maintenance Code"*
- Email from Martin County Utilities declining to connect Parcel "A" to sewer.
- Town Comprehensive Plan Sanitary Sewer Policy 1.2 requiring that all residential units be connected to County Sewer



**BEFORE THE TOWN COUNCIL OF THE  
TOWN OF OCEAN BREEZE, MARTIN COUNTY, FLORIDA**

**RESOLUTION NUMBER 314-2021**

**A RESOLUTION OF THE TOWN OF OCEAN BREEZE, FLORIDA, AMENDING ORDINANCE NO. 170, ORDINANCE NO. 251-2017, ORDINANCE NO. 274-2017, RESOLUTION NO. 277-2018 AND RESOLUTION NO. 293-2019, TOGETHER COMPRISING THE OCEAN BREEZE WEST PLANNED UNIT DEVELOPMENT (PUD) AGREEMENT, HEREBY DELETING LANGUAGE IN DEVELOPMENT CONDITION K (5) REQUIRING THE VOLUNTARY DONATION OF PARCEL "A" TO THE TOWN; APPROVING MINOR CHANGES TO THE PROJECT'S MASTER SITE PLAN, PHASING PLAN AND LANDSCAPE PLAN, AS WELL AS NEW DEVELOPMENT CONDITIONS ALLOWING FOR THE CONSTRUCTION OF A SINGLE-FAMILY HOME ON PARCEL "A"; REQUIRING THAT DEVELOPMENT WITHIN THE OCEAN BREEZE WEST PUD ADHERE TO MARTIN COUNTY WATER USE STANDARDS; DECLARING SAID AMENDMENTS TO BE CONSISTENT WITH THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR CONFLICT PROVISIONS AND A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.**

**WHEREAS**, on September 13, 2010, the Ocean Breeze Town Council adopted Ordinance Number 170 rezoning the OBP West Property and approving the OBP West Planned Unit Development (PUD) Agreement, Master Site Plan and Development Conditions, which Ordinance is recorded in Official Records Book 2476, Page 1346, public records of Martin County, Florida; and

**WHEREAS**, on March 13, 2017, the Ocean Breeze Town Council adopted Ordinance Number 251-2017 approving the amendment to the OBP West PUD Agreement, including the change of the name of the PUD to Ocean Breeze West, the Revised Master/Final Site Plan and Development Conditions, which ordinance is recorded in Official Records Book 2922, Page 1580, public records of Martin County, Florida; and

**WHEREAS**, on January 24, 2018, the Ocean Breeze Town Council adopted Ordinance Number 274-2017 approving the amendment to the OB West PUD Agreement amending Development Condition H (Access and Connectivity), which ordinance is recorded in Official

Records Book 2981, Page 781, public records of Martin County, Florida; and

**WHEREAS**, on June 11, 2018, the Ocean Breeze Town Council adopted Resolution Number 277-2018 approving the OB West Plat, which resolution is recorded in Official Records Book 3030, Page 899, public records of Martin County, Florida; and

**WHEREAS**, on August 12, 2019, the Ocean Breeze Town Council adopted Resolution Number 293-2019, which resolution is recorded in Official Records Book 3080, Page 2736, approving the amendment to the OB West PUD Agreement amending the reduction of the size of the swimming pool and pool deck, changes to entry landscaping features, relocation of street trees, changes to storm water retention area landscaping, modifications to project fencing and modification of the phasing plan pertaining to the timing of site clearing, sidewalk construction and final installation of roadway asphalt; and

**WHEREAS**, the OWNER, Forestar (USA) Real Estate Group, Inc., a Delaware corporation, is the developer of the Seawalk portion of the Ocean Breeze West PUD, and by virtue of retaining ownership of lots therein, OWNER is in control of the HOA referenced in the PUD, and owner represents and warrants that OWNER has full authority, without the joinder of any other person or entity, to request and enter into this agreement amending the PUD; and

**WHEREAS**, the OWNER is voluntarily requesting to amend the PUD Agreement to remove a clause calling for the voluntary donation of Parcel "A" to the Town, as well amendments to the project's Revised Master/Final Site Plan, the Landscape Plan and Certificate of Occupancy (CO) Phasing Plan to delete references to the voluntary donation, and to establish new development conditions to permit the construction of a single-family home on Parcel "A."

**WHEREAS**, an application for the above amendments to the OB West PUD Agreement has been filed on behalf of the OWNER of the property; and

**WHEREAS**, The Town Council views water conservation as important to the public's health, safety and welfare, and

**WHEREAS**, the Town Council held a properly noticed quasi-judicial public hearing to consider the proposed amendments; and

**WHEREAS**, the Town Council has considered the OWNER's voluntary request for a PUD Amendment(s) and has also considered comments from the public, as well as the recommendations of Town staff; 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 PUD Amendment and 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 THAT:**



**SECTION 1.** The project's approved development plans, prepared by Lucido & Associates, on file as public records with the Office of the Town Clerk, a partial depiction of which is shown as Exhibit "A" attached, are hereby amended to delete references to the donation of Parcel "A" to the Town.

**SECTION 2.** Section K(5) of the development standards and conditions contained in Ordinance No. 251-2017 is hereby amended as shown below to delete a requirement for the voluntarily donation of Parcel "A" to the Town, as well as an obligation for the applicant to provide a water and sewer "stub-out" to Parcel "A."

~~Parcel "A" as shown on the revised master/final site plan shall be voluntarily donated to the Town by the OWNER prior to or in conjunction with the recordation of the plat. Said donation shall be subject to the Town's acceptance. Approval for development of Parcel "A" as a Town office or single-family home shall require a minor amendment to this ordinance, including posting the site, mailed notice to property owners within 300 feet and at least one public hearing before the Town Council. Authorization for the Town to apply for and process said minor amendment is hereby deemed to be granted by the OWNER and the HOA. In no instance shall the Town, or any owner of Parcel "A", be a member of the HOA or be subject to its provisions or covenants. Owner shall provide stub-out of water and sewer connections to the site.~~

**SECTION 3.** Development conditions allowing for the construction of a single-family home on Parcel "A", including lot development standards, prohibited uses, and other regulations are hereby adopted as shown by Exhibit "B" attached.

**SECTION 4.** Compliance with Martin County's restrictions on the use of water for irrigation or other purposes: For the entirety of the Ocean Breeze West PUD, failure by the owner(s), its successors, heirs or assigns to comply with Martin County's restrictions on the use of water (potable or otherwise) for irrigation or other purposes, as may be amended from time to time, shall constitute a violation of this PUD. In the event the Town adopts its own restrictions on water use, those provisions shall apply.

**SECTION 5.** 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 ordinance are hereby superseded to the extent of such conflict.

**SECTION 6.** If any provision of this ordinance 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 ordinance 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 7.** All of the terms and conditions of Ordinance No. 170, Ordinance No. 251-2017, Ordinance No. 274-2017, Resolution No. 277-2018, and Resolution No. 293-2019 that are not specifically amended or revised by this Amendment shall remain in full force and effect as stated therein.



**SECTION 8.** This ordinance shall become effective immediately upon adoption by the Town Council and acceptance by the OWNER.

**SECTION 9.** The complete execution and recording of this resolution by the Town Clerk, which shall be paid for by the applicant, shall occur no later than 60 days from the date of this approval, failing which this resolution shall become void.

**APPROVED AND ADOPTED** this 9<sup>th</sup> day of August, 2021.

KENNETH DE ANGELES, PRESIDENT  
RICHARD GEROLD, VICE-PRESIDENT  
WILLIAM ARNOLD, COUNCIL MEMBER  
KEVIN DOCHERTY, COUNCIL MEMBER  
TERRY LOCATUS, COUNCIL MEMBER  
DAVID WAGNER, COUNCIL MEMBER

YES	NO	ABSENT

ATTEST:

\_\_\_\_\_  
PAM ORR  
TOWN CLERK  
APPROVED AS TO FORM:

\_\_\_\_\_  
KENNETH DE ANGELES  
COUNCIL PRESIDENT

\_\_\_\_\_  
WILLIAM F. CRARY, II  
TOWN ATTORNEY

\_\_\_\_\_  
KAREN M. OSTRAND  
MAYOR

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 THIS RESOLUTION. IF IT IS LATER DISCOVERED THAT THE UNDERSIGNED, OR ITS SUCCESSORS OR ASSIGNS HAVE FAILED IN ANY MATERIAL WAY TO DEVELOP THE PLANNED UNIT DEVELOPMENT ACCORDING TO THE ORDINANCES AND RESOLUTIONS REFERENCED IN SECTION 7 OF THIS RESOLUTION NO. 314-2021, THEIR CONDITIONS AND THE DEVELOPMENT PLANS AND DOCUMENTS, AS THE SAME HAVE BEEN AMENDED IN THIS RESOLUTION, THE UNDERSIGNED UNDERSTANDS AND AGREES ON BEHALF OF ITSELF AND ITS SUCCESSORS AND ASSIGNS THAT THIS RESOLUTION MAY BE AMENDED OR REPEALED BY THE TOWN COUNCIL, AND THAT OTHER ACTIONS MAY BE TAKEN AGAINST THE UNDERSIGNED BY THE TOWN, INCLUDING BUT NOT LIMITED TO CODE ENFORCEMENT ACTIONS, PERMIT AND LICENSING SUSPENSIONS OR REVOCATIONS, AND ANY OR ALL OTHER APPLICABLE CIVIL AND CRIMINAL ACTIONS.

IN WITNESS WHERE OF THE UNDERSIGNED HAS EXECUTED THIS ACCEPTANCE AND AGREEMENT.

OWNER:

FORESTAR (USA) REAL ESTATE  
GROUP, INC., a Delaware corporation

Witnesses

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Nicolas Aparicio  
President-Florida Region

\_\_\_\_\_  
Print Name: \_\_\_\_\_

OWNER'S ACKNOWLEDGMENT

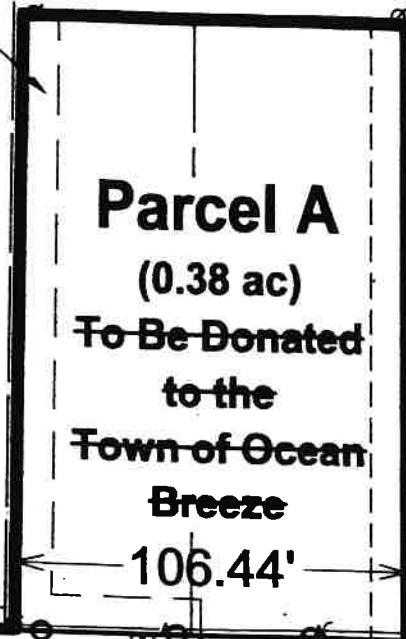
STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The above Ordinance, Acceptance and Agreement was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this \_\_\_\_\_ day of \_\_\_\_\_ 2021, by Nicholas Aparicio, President-Florida Region of FORESTAR (USA) REAL ESTATE GROUP, INC., a Delaware corporation. He/She [ ] is personally known to me, or [ ] has produced \_\_\_\_\_ as identification.

(NOTARIAL STAMP)

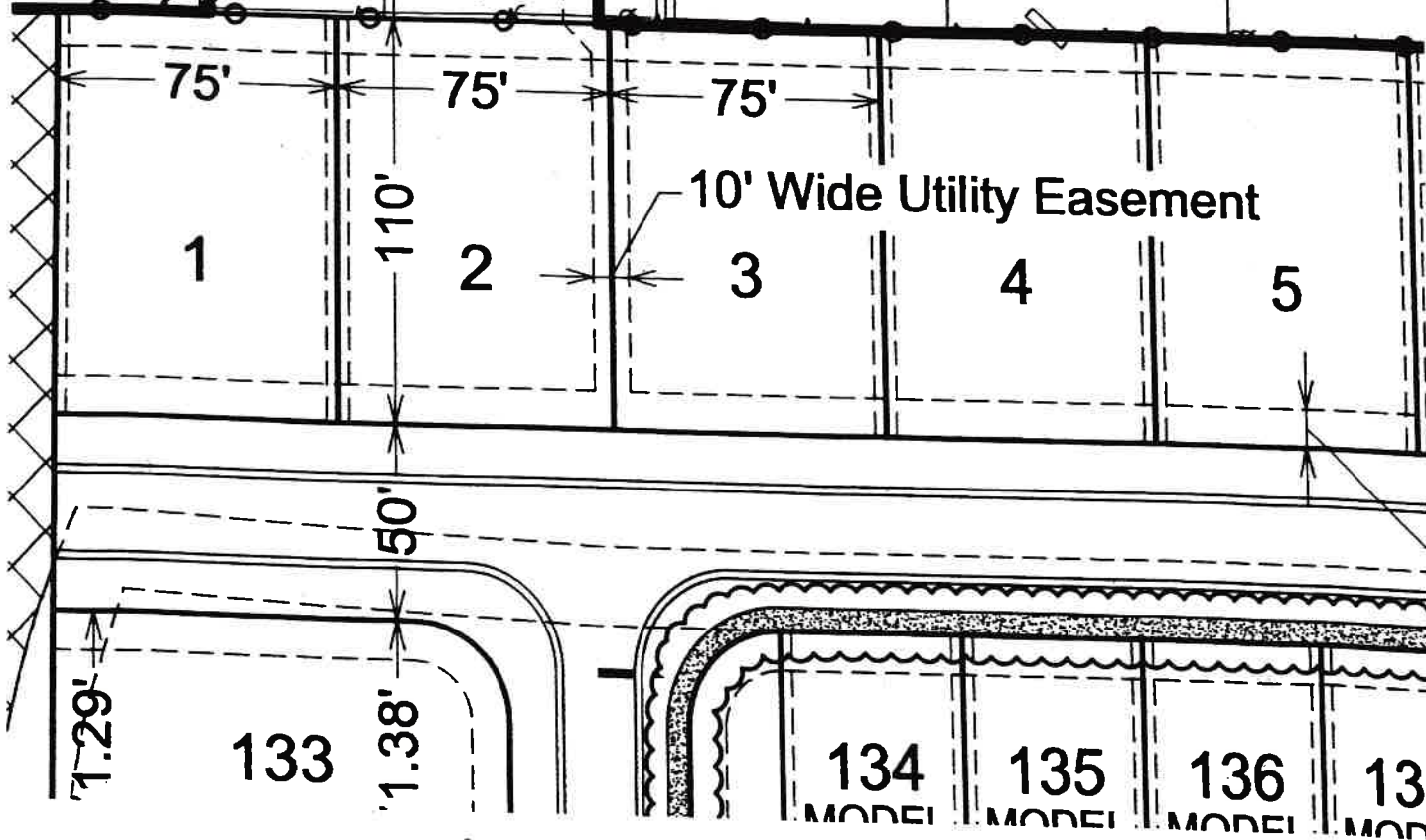
\_\_\_\_\_  
Notary Public  
My commission expires:

EXISTING  
0' WIDE  
UTILITY  
EASEMENT

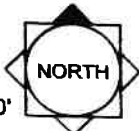


EXISTING 5' WIDE  
BELL SOUTH EASEMENT

Future La  
Existing 2  
Existing 6



Scale: 1" = 50'



Date: 7.29.2021

**Ocean Breeze West PU**

Town of Ocean Breeze, Martin County, Flor

Parcel A Exhil

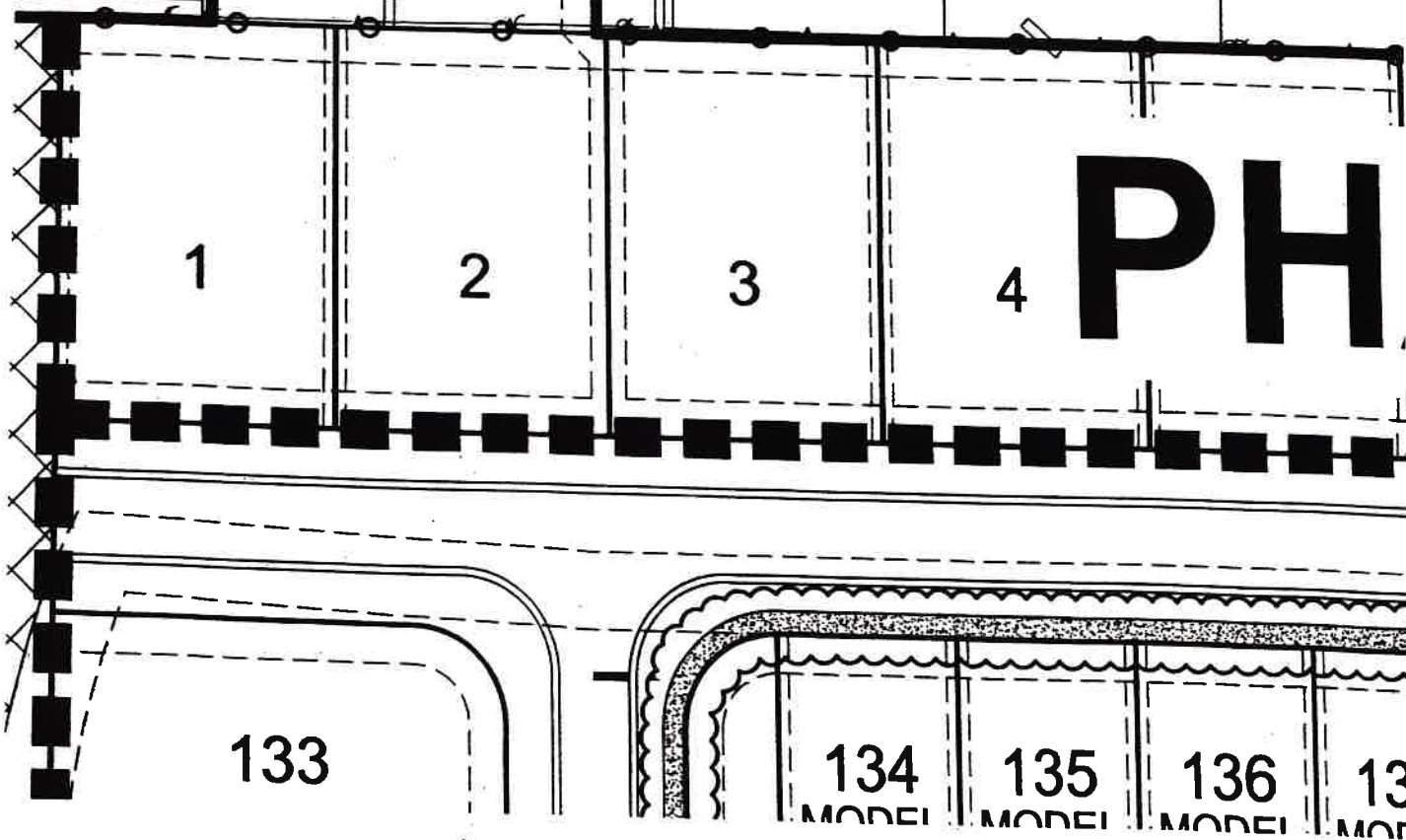
(a portion of the Revised Master / Final Site Pla

EXISTING  
0' WIDE  
UTILITY  
ASEMENT

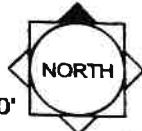
EXISTING 5' WIDE  
BELL SOUTH EASEMENT

**Parcel A**  
(0.38 ac)  
**To Be Donated**  
**to the**  
**Town of Ocean**  
**Breeze**

Future Loc  
Existing  
Existing



Scale: 1" = 50'



Date: 7.29.2021

**Ocean Breeze West PL**

Town of Ocean Breeze, Martin County, Fl

Parcel A Exh

(a portion of the Revised C.O. Phasing Plan and Development Timetal



Exhibit "A". Page 3 of 3

10187  
x 23.85

NE South Street

S89°57'52"E 106.44'(M)  
S89°36'36"E 106.44'(D)

EXISTING 5' WIDE  
BELL SOUTH EASEMENT

**Parcel A**  
(0.38 ac)  
**To Be Donated**  
**to the**  
**Town of Ocean**  
**Breeze**

N00°05'54"E 160.31'(M)  
N00°28'28"E 160.00'(D)

S00°05'54"W 160.30'(M)  
S00°28'28"W 160.00'(D)

5' BELL SOUTH EASEMENT  
(D.R.S. 338, PAGE 1794)  
EXCEPTION 15

S89°58'28"E - 648.94'(M)  
S89°36'36"E - 647.87'(D)

6' OPAQUE  
FENCE

10.0' Wide Utility Easement

3' Drainage Easement  
Side of Lot Line (M)

NE SKYLINE TERRACE

Sheet LA-3

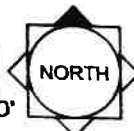
Sheet LA-2

NE SKYLINE TERRACE

133

135

Scale: 1" = 50'



Date: 7.29.2021

**Ocean Breeze West PU**

Town of Ocean Breeze, Martin County, Fla

**Parcel A Exh**

(a portion of sheet LA3 of the Revised Landscape Pla



EXHIBIT "B"  
DEVELOPMENT CONDITIONS FOR PARCEL "A"

Table # 1 -- Development Conditions for Parcel "A"

a. Minimum lot area:	7500 ft. <sup>2</sup>
b. Minimum lot width:	60 feet. Lot width shall be measured along the straight line which connects the two points located on the side lot lines at a distance equal to the minimum front setback required for the proposed use from the street.
c. Maximum density:	One single-family residential dwelling unit. Ancillary dwelling units are not permitted.
d. Maximum impervious surface coverage:	65%
e. Minimum open space:	30%
f. Maximum number of stories and building height:	Two stories, 35 feet. Building height means the vertical distance between (1) the lowest permissible elevation above the existing grade which complies with finished floor elevation requirements as established by flood maps, the Health Department, or building code, along the front of a building and (2) either the highest point of the coping of a flat roof, the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, hip, and gambrel roofs.
g. Front building setback:	25 feet
h. Side building setbacks:	One story – 8 feet Two story – 10 feet
i. Rear building setbacks:	One story – 10 feet Two story – 15 feet
j. Parking:	The single-family residence allowed on Parcel "A" shall be served by a paved driveway connected to the street which shall be sufficient in size to accommodate at least two parked vehicles and shall be no less than 10' x 20' each in size.
k. Storage of vehicles:	Storage or parking of recreational vehicles, including, but not limited to, boat trailers, camping trailers, and travel trailers are permitted provided that such equipment shall not be used for living, sleeping, or other occupancy when parked and provided that such equipment over 25 feet in length shall not be parked or stored within any side or rear setback area.  Storage or parking of one commercial vehicle or commercial trailer, not to exceed one-ton cargo capacity, is allowed, provided that such vehicle or trailer is owned or operated by the resident of the property; and that such vehicle or trailer is garaged or otherwise screened from view of adjoining properties and any adjoining street. This provision does not apply to public service agency vehicles such as law enforcement and those providing emergency response services.
l. Uses permitted within building setbacks:	Trees, shrubbery or other objects of natural growth; fences or walls which meet the height and other requirements set forth in this Resolution; driveways, sidewalks and parking areas which meet the requirements set forth elsewhere in this Resolution; wells and associated pump, water treatment and water conditioning equipment, provided that the water pump is concealed by a fence or housing that is at least 50 percent opaque; utility transmission lines of all types, including, but not limited to, electric, telephone, cable television and data, including all associated aboveground utility cabinets; the following types of equipment may extend into the required setback area by up to 50 percent, but in no case less than three feet from a property line; heating, ventilation and air-conditioning equipment, whether ground-mounted, wall-mounted, window-mounted or cantilevered from a building; emergency electric power generators, if enclosed by an insulated cabinet; the following non-habitable architectural features of a building may extend into the required setback area by up to three feet: roof overhangs, gutters,

cantilevered balconies and bay windows, staircases, awnings over windows and doors, and chimneys; drainage swales and water control structures; pumps and other mechanical equipment associated with pools and spas may extend into the required setback area by up to 50 percent, provided that such equipment is screened from view of abutting residential lots by a fence, hedge or wall or by enclosing the equipment with material (such as lattice) which is at least 50 percent opaque. Other uses determined by the Town to be similar in nature to the uses listed above.

- m. **Accessory structures:** Shall mean a subordinate building or structure detached from but located on the same lot as the principal single-family residence, the use of which is incidental and accessory to that of the principle single-family residence. Examples include utility storage buildings (sheds), detached cabanas and gazebos, swimming pools, hot tubs and their enclosures, fences and walls.

Parcel "A" shall be limited to one single-story utility storage building not exceeding 250 square feet in area.

Fences and walls shall be located on or within five feet of lot lines and shall not exceeding six feet in height, except such fences or walls shall not exceed three feet six inches when located in a required front yard. Except for fences and walls, accessory structures shall be allowed in the rear yard only and shall meet the minimum side and rear setbacks established by the height of the primary residence.

Except for fences and walls, accessory structures are permitted only as an ancillary use to an existing primary residence.

- n. **Swimming pools, hot tubs and spas:** Swimming pools, hot tubs and spas containing water more than 24 inches (610 mm) in depth shall, at a minimum, shall be surrounded by a fence or approved barrier at least 48 inches (1,219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1,372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced, or changed in a manner that reduces its effectiveness as a safety barrier.

**Table # 2. -- Parcel "A" Use Restrictions**

a.	Ancillary dwelling units are prohibited.
b.	Except for a home-based business that meets Martin County's requirements for the issuance of a home-based business tax receipt in its R-2 zoning district, or as otherwise provided in Florida Statute having preemption <sup>7</sup> , the operation of a business on Parcel "A" is prohibited.
c.	Except during the declaration of a federal, state, or local emergency, recreational vehicles located on Parcel "A" may not be used for living, sleeping or other occupancy.
d.	Vehicle and boat parking shall be on a paved surface, unless screened from view at the street by a fence, wall or landscaping.
e.	Except as otherwise prescribed by the Ocean Breeze East PUD, all development on Parcel "A" and the use thereof shall comply with <i>Chapter 21. Building and Housing Regulations, Article 3. Local Amendments, Part 2. Property Maintenance Code, Articles 1 through 23</i> , of the <i>Martin County Code of Ordinances</i> , as it applies to residential structures, and as may be amended from time to time.
f.	No livestock or live poultry shall be kept on Parcel "A"
g.	Mobile homes shall not be permitted on Parcel "A"
h.	Junked or derelict vehicles shall not be kept on Parcel "A".

**Table # 3. Additional Conditions Pertaining to Parcel "A"**

a.	The street address of Parcel "A" shall be approved by the Town Clerk.
b.	Trash, garbage and refuse collection, occurring at least as frequently as the collection schedule maintained by the Martin County Utilities & Solid Waste Department, shall be the responsibility of the owner of Parcel "A" through a private contract for services. Proof of the service contract shall be provided to the Town before the issuance of any building permits. All trash and garbage shall be regularly removed and shall not be allowed to accumulate. Trash, garbage or other waste shall be kept in a sanitary, covered container(s). All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.
c.	The owner of Parcel "A," shall have the right to apply for an amendment to this Resolution without the necessity of obtaining permission, written or otherwise, from any other party to the Ocean Breeze West PUD Agreement, provided the the scope and application of such amendment is limited to matters affecting Parcel "A." Similarly, the owner(s) of the Seawalk portion of the Ocean Breeze West PUD, authorized to seek amendments thereto, may do so without the permission, written or otherwise, of the owner of Parcel "A", provided the scope and application of such amendment is limited to matters affecting the Seawalk portion of the PUD. This provision shall in no way constrain the rights of any party to the Ocean Breeze West PUD Agreement to object or to legally challenge any proposed amendments to this Resolution.
d.	For the purpose of preserving the public's health safety and welfare, the Town shall have the right, at its own discretion, to initiate a public hearing to amend this resolution. This provision shall in no way constrain the rights of the Owner(s) of Parcel "A" to object or to legally challenge any amendments proposed by the Town.
e.	No construction on Parcel "A" shall be permitted until such time as all necessary utility easements servicing the Sea Walk portion of the PUD have been properly established and dedicated to Martin County and/or other relevant service provider(s).
f.	The owner of Lot "A" is aware that only limited services are directly provided by the Town of Ocean Breeze and agrees to disclose to any potential buyer of Parcel "A" that certain services, including but not limited to water and waste water treatment, police protection, waste management, fire protection and advance life support services are provided by Martin County or other public/private service provider and that the owner of Parcel "A" is directly responsible to pay the cost of these services. Further, the owner shall disclose to any buyer of Parcel "A" that the Town of Ocean Breeze has by ordinance authorized Martin County to directly apply its Fire/EMS Municipal Services Taxing Unit ad valorem tax rate to all real property within the Town, including Parcel "A".
g.	All applicable Martin County and Martin County School Board impact fees shall be paid prior to the Town's issuance of any permits for Parcel "A".
h.	<p>The owners(s) of Parcel "A" shall not permit the grass, weeds or underbrush thereon to exceed a height of eight inches above the grade of the land, including any elevated and depressed areas. All such materials shall be cut and maintained to a height of eight inches or less and cuttings shall be either removed from the property or mulched. All such materials shall be cut and removed or mulched within fifteen calendar days of a notice to do so issued by the Town.</p> <p>Further, the owner(s) shall not permit the accumulation thereon of dead and dying trees and limbs; rubbish, trash and other refuse, including materials which might conceal pools of water creating breeding grounds for mosquitoes, as well as discarded appliances, furniture, tools, machinery, equipment, metal goods or other solid waste.</p> <p>If within fifteen days from receipt of a notice of violation from the Town, the owner(s) of Parcel "A" has not abated any nuisance(s) described above, the Town may enter upon the property and take such steps as are reasonably required to effect abatement through its employees, agents or contractors and may file a lien against the property to recover any abatement costs that are not reimbursed by the owner(s).</p>

# **GENERAL INFORMATION ITEMS**

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

# FyI- MC Sex Offender Ordinance (Proposed)

772-334-6823 fax  
townofocceanbreeze.org

**Please make note of our new email address.**

**From:** David Arthur <[darthur@martin.fl.us](mailto:darthur@martin.fl.us)>  
**Sent:** Friday, June 3, 2022 2:25 PM  
**To:** Terrance O'Neil <[terracewoneil@gmail.com](mailto:terracewoneil@gmail.com)>; [townclerk@townofocceanbreeze.org](mailto:townclerk@townofocceanbreeze.org)  
**Cc:** Rick Crary <[RCII@crarybuchanan.com](mailto:RCII@crarybuchanan.com)>  
**Subject:** RE: New County Ordinance

If I can be of any assistance please do not hesitate to contact me.

**David Arthur**

Senior Assistant County Attorney  
Martin County Administrative Center  
2401 S.E. Monterey Road  
Stuart, Florida 34996-3397  
(o) 772-288-5441

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**From:** Terrance O'Neil <[terracewoneil@gmail.com](mailto:terracewoneil@gmail.com)>  
**Sent:** Thursday, June 2, 2022 6:28 PM  
**To:** [townclerk@townofocceanbreeze.org](mailto:townclerk@townofocceanbreeze.org)  
**Cc:** David Arthur <[darthur@martin.fl.us](mailto:darthur@martin.fl.us)>; Rick Crary <[RCII@crarybuchanan.com](mailto:RCII@crarybuchanan.com)>  
**Subject:** Fwd: New County Ordinance

**Caution: This email originated from an external source.  
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Pam, please add Rick's email below to the "blue sheet" info item being included on the June 13 Council Agenda. Let's plan on bringing forward an ordinance allowing for the sex offender regulations' application in the Town at the September Council meeting. Also, please send a copy of Town Ordinance No. 37 to David in the County Attorney's Office.

Many thanks

Terry

Sent from my iPhone

Begin forwarded message:

**From:** Rick Crary II <[rcii@crarybuchanan.com](mailto:rcii@crarybuchanan.com)>  
**Date:** June 2, 2022 at 4:57:15 PM EDT  
**To:** Terrance O'Neil <[terracewoneil@gmail.com](mailto:terracewoneil@gmail.com)>; [townclerk@townofocceanbreeze.org](mailto:townclerk@townofocceanbreeze.org)  
**Cc:** "Heidi G. Barr" <[HBarr@crarybuchanan.com](mailto:HBarr@crarybuchanan.com)>  
**Subject:** New County Ordinance



Terry:

After reviewing the statutes, Florida Constitution and AG Opinions, I think that in an abundance of caution in order to confirm the applicability of Martin County's new Sexual Predator ordinance within the boundaries of the Town, I would advise that pursuant to the Town's Ordinance #37 the council would need to adopt an ordinance expressly approving application and enforcement of that ordinance within the Town.

I have called Assistant County Attorney David Arthur to discuss the potential need for such an ordinance. Mr. Arthur says that's no problem and that there is also no hurry for the Town to adopt the ordinance at its upcoming meeting. He says the County's ordinance will not take effect for 90 days (i.e., not until September).

So, the Council will have time to duly consider the matter and bring the matter back for adoption of an ordinance with readings in July and August. (Please note that I will likely be out of town for the August meeting).

Mr. Arther would like to have a copy of Ordinance #37, which per my notes was adopted in November of 1985. Please have Pam or someone make a copy and send it to him at [darthur@martin.fl.us](mailto:darthur@martin.fl.us)

Kind regards,  
Rick

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*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:** TERRANCE O NEIL <twoneil@aol.com>  
**Sent:** Monday, May 23, 2022 1:19 PM  
**To:** David Arthur  
**Cc:** Rick Crary II; Sebastian Fox; townclerk@townofoceanbreeze.org; Heidi G. Barr; David W. Myers; Sarah Woods; Rebecca Ramey  
**Subject:** Re: Town of Ocean Breeze: County-wide ordinance regarding Residential Restrictions on Sexual Offenders and Sexual Predators

Thank you Sebastian, the edit seems clear and reasonable to me. I know the mayor supports including the Environmental Studies Center.

Sent from my iPhone

On May 23, 2022, at 12:18 PM, David Arthur <darthur@martin.fl.us> wrote:

Please let us know asap.

---

**From:** Rick Crary II <RCII@crarybuchanan.com>  
**Sent:** Monday, May 23, 2022 12:12 PM  
**To:** Sebastian Fox <sfox@martin.fl.us>  
**Cc:** twoneil@aol.com <twoneil@aol.com>; townclerk@townofoceanbreeze.org <townclerk@townofoceanbreeze.org>; Heidi G. Barr <HBarr@crarybuchanan.com>; David W. Myers <Mayor@townofoceanbreeze.org>; Sarah Woods <swoods@martin.fl.us>; David Arthur <darthur@martin.fl.us>; Rebecca Ramey <rramey@martin.fl.us>  
**Subject:** Re: Town of Ocean Breeze: County-wide ordinance regarding Residential Restrictions on Sexual Offenders and Sexual Predators

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Sounds to me like that covers the Environmental Studies Center, but Terry and/or the Mayor may want to weigh in.

Rick Crary

On May 23, 2022, at 12:08 PM, Sebastian Fox <[sfox@martin.fl.us](mailto:sfox@martin.fl.us)> wrote:

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

Good afternoon,

I am assisting David Arthur with the subject ordinance.

Please review the revised definition of "school" found below. We believe the additional language shown in red adequately addresses the concern related to the Environmental Studies Center.

1. "School" means a public or private kindergarten, elementary, middle or secondary (high) school or any educational facility operated by the Martin County Public School System.

We look forward to hearing from you ASAP, as our agenda deadline is 5:00pm today.

Best,

**Sebastian Fox**

Assistant County Attorney  
Martin County Attorney's Office  
Martin County Board of County Commissioners  
2401 S.E. Monterey Road  
Stuart, Florida 34996  
772-288-5444 | [sfox@martin.fl.us](mailto:sfox@martin.fl.us)

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**From:** David Arthur <[darthur@martin.fl.us](mailto:darthur@martin.fl.us)>

**Sent:** Monday, May 23, 2022 11:39 AM

**To:** Sebastian Fox <[sfox@martin.fl.us](mailto:sfox@martin.fl.us)>

**Cc:** Sarah Woods <[swoods@martin.fl.us](mailto:swoods@martin.fl.us)>

**Subject:** Fw: Town of Ocean Breeze: County-wide ordinance regarding Residential Restrictions on Sexual Offenders and Sexual Predators

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**From:** David Arthur

**Sent:** Saturday, May 21, 2022 3:47 PM

**To:** Terry O'Neil <[twoneil@aol.com](mailto:twoneil@aol.com)>; Rick Crary II <[RCII@crarybuchanan.com](mailto:RCII@crarybuchanan.com)>

**Cc:** [townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org) <[townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org)>; Heidi G. Barr

<[HBarr@crarybuchanan.com](mailto:HBarr@crarybuchanan.com)>; [Mayor@townofoceanbreeze.org](mailto:Mayor@townofoceanbreeze.org) <[Mayor@townofoceanbreeze.org](mailto:Mayor@townofoceanbreeze.org)>; Sarah Woods <[swoods@martin.fl.us](mailto:swoods@martin.fl.us)>

**Subject:** RE: Town of Ocean Breeze: County-wide ordinance regarding Residential Restrictions on Sexual Offenders and Sexual Predators

Terry,

I appreciate your quick response. I will discuss with Sarah on Monday how we can include a facility such as the Environmental Studies Center. I am confident we can find a way.

Will keep you apprised.

**David Arthur**

Senior Assistant County Attorney  
Martin County Administrative Center  
2401 S.E. Monterey Road  
Stuart, Florida 34996-3397  
(o) 772-288-5441

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**From:** Terry O'Neil <[twoneil@aol.com](mailto:twoneil@aol.com)>  
**Sent:** Saturday, May 21, 2022 3:21 PM  
**To:** David Arthur <[darthur@martin.fl.us](mailto:darthur@martin.fl.us)>; Rick Crary II <[RCII@crarybuchanan.com](mailto:RCII@crarybuchanan.com)>  
**Cc:** [townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org); Heidi G. Barr <[HBarr@crarybuchanan.com](mailto:HBarr@crarybuchanan.com)>; [Mayor@townofoceanbreeze.org](mailto:Mayor@townofoceanbreeze.org)  
**Subject:** RE: Town of Ocean Breeze: County-wide ordinance regarding Residential Restrictions on Sexual Offenders and Sexual Predators

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Thank you David. I cant speak for the Council, but for the sake of discussion let's say the County Commission is inclined to be conservative and wants an ordinance with teeth. It would then follow that the ESC is the very kind of facility they'd want to protect and thus defining it as "included" for the narrow purposes of the ordinance would make sense. The Mayor thinks so as well. Again thanks for looking into this!

Regards,

Terry

Sent from [Mail](#) for Windows

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**From:** [David Arthur](#)  
**Sent:** Saturday, May 21, 2022 12:41 PM  
**To:** [twoneil@aol.com](mailto:twoneil@aol.com); [Rick Crary II](#)  
**Cc:** [townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org); [Heidi G. Barr](#)  
**Subject:** RE: Town of Ocean Breeze: County-wide ordinance regarding Residential Restrictions on Sexual Offenders and Sexual Predators  
**Importance:** High

Terry,

Sorry for the delayed response, I have been out sick.

I looked at the Environmental Studies Center website and this is what I found in the description:

**About the Center**

**Mission:**

*To create environmental awareness within the students of Martin County which can be carried into the home, school and community.*

**About the Center:**

The Environmental Studies Center is operated by the Martin County Public School System. Students in kindergarten through seventh grade classes visit the Center each year to participate in hands-on field investigations. In addition we also serve high school Marine and Environmental Science classes. Students explore the Indian River Lagoon, Hutchinson Island beaches, mangrove communities, freshwater ponds and wetlands. The Center is home to a wide variety of fish and reptiles, including a loggerhead sea turtle and alligators.

The proposed ordinance has the following definition:

"School" means a public or private kindergarten, elementary, middle or secondary (high) school.

This is a very close call, but I think the ESC is technically not a school as defined above. I must confess I tend to err on the strict construction school of thought, so I could be wrong. Either way I could see this being an issue if an offender establishes residency within 2,500 feet of the ESC.

Is this something Ocean Breeze wants our proposed ordinance to cover? If so that would be easy to fix, but I need to know asap as my deadline to get this on our agenda is Monday, May 23.

I look forward to hearing from you.

**David Arthur**

Senior Assistant County Attorney  
Martin County Administrative Center  
2401 S.E. Monterey Road  
Stuart, Florida 34996-3397  
(o) 772-288-5441

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**From:** Terry O'Neil <[twoneil@aol.com](mailto:twoneil@aol.com)>

**Sent:** Wednesday, May 18, 2022 9:43 AM

**To:** David Arthur <[darthur@martin.fl.us](mailto:darthur@martin.fl.us)>; Rick Crary II <[RCII@crarybuchanan.com](mailto:RCII@crarybuchanan.com)>

**Cc:** [townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org); Heidi G. Barr <[HBarr@crarybuchanan.com](mailto:HBarr@crarybuchanan.com)>

**Subject:** RE: Town of Ocean Breeze: County-wide ordinance regarding Residential Restrictions on Sexual Offenders and Sexual Predators



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David,

For the purposes of the proposed ordinance, is the School Board's Environmental Studies Center property on Indian River Drive considered a public school?

Thanks,

Terry O'Neil

Sent from [Mail](#) for Windows

**From:** [David Arthur](#)

**Sent:** Monday, May 16, 2022 9:36 PM

**To:** [Rick Crary II](#)

**Cc:** [twoneil@aol.com](mailto:twoneil@aol.com); [townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org); [Heidi G. Barr](#)

**Subject:** Re: Town of Ocean Breeze: County-wide ordinance regarding Residential Restrictions on Sexual Offenders and Sexual Predators

Please use this version, my latest draft.

<image001.png>

**From:** Rick Crary II <[RCII@crarybuchanan.com](mailto:RCII@crarybuchanan.com)>

**Sent:** Monday, May 16, 2022 8:44 PM

**To:** David Arthur <[darthur@martin.fl.us](mailto:darthur@martin.fl.us)>

**Cc:** [twoneil@aol.com](mailto:twoneil@aol.com) <[twoneil@aol.com](mailto:twoneil@aol.com)>; [townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org) <[townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org)>; [Heidi G. Barr](#) <[HBarr@crarybuchanan.com](mailto:HBarr@crarybuchanan.com)>

**Subject:** Re: Town of Ocean Breeze: County-wide ordinance regarding Residential Restrictions on Sexual Offenders and Sexual Predators

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Thank you, David. I have forwarded a copy of Martin County's proposed ordinance to the Town Management Consultant for Ocean Breeze, Terry O'Neil for his review. I believe he will share it with the Mayor. Our Town Council will not be meeting again this month, The next Town Council meeting will be on June 13th.

Kind regards,  
Rick

On May 16, 2022, at 4:26 PM, David Arthur <[darthur@martin.fl.us](mailto:darthur@martin.fl.us)> wrote:

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

Dear Mr. Crary:

I represent Martin County. I understand you represent the Town of Ocean Breeze.

I attach our above-captioned draft ordinance that will be on our June 7 Board agenda. As this will effect Ocean Breeze, I attach it for your review.

Please advise if Ocean Breeze has any questions or concerns. My review indicates Ocean Breeze does not have such an ordinance, so there would be no conflict. Please correct me if I am mistaken.

I look forward to hearing from you. If I do not hear from you by Monday, May 23, 2022, I will assume Ocean Breeze has no objections. Thanks.

***David Arthur***

Senior Assistant County Attorney  
Martin County Administrative Center  
2401 S.E. Monterey Road  
Stuart, Florida 34996-3397  
(o) 772-288-5441

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<Residential Restrictions on Sexual Offenders and Sexual Predators  
05\_11\_22 clean.docx>

ORDINANCE NO. 37

AN ORDINANCE OF THE TOWN OF OCEAN BREEZE, FLORIDA, PREEMPTING APPLICATION OF COUNTY ORDINANCES WITHIN THE INCORPORATED LIMITS OF THE TOWN OF OCEAN BREEZE WHICH ORDINANCES ARE NOT SPECIFICALLY ADOPTED BY ORDINANCE BY THE TOWN OF OCEAN BREEZE; PROVIDING FOR INSERTION IN THE TOWN CODE; PROVIDING REPEAL OF ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH; PROVIDING FOR SEPARATION IN THE EVENT A SECTION OR PORTION IS DECLARED TO BE UNCONSTITUTIONAL; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Ocean Breeze has reviewed and considered the legal opinions stated in AGO 85-48 issued June 14, 1985, by the Attorney General of the State of Florida to the effect that a county ordinance may be enforced throughout the county, in municipalities as well as the unincorporated areas, if it is not in conflict with an ordinance of the municipalities and deals with a matter that is susceptible to county-wide regulation; and

WHEREAS, the Town Commission has determined that a broad construction of this Attorney General's Opinion would have the following consequences:

(a) The difficulty of determining whether a given county ordinance "deals with a matter that is susceptible to county-wide regulation" would create confusion and uncertainty; and

(b) The necessity for the officers and employees of the Town of Ocean Breeze to maintain constant familiarity with new county ordinances and the existing county code would result in administrative hardship; and

(c) The potential for inconsistent interpretations and enforcement of the same county ordinance within the unincorporated areas of the county and the Town of Ocean Breeze would be undesirable.

(d) The necessity for the government of the Town of Ocean Breeze to retain control of all matters of local concern.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF OCEAN BREEZE, FLORIDA, that no ordinance, rule, regulation or other enactment of Martin County shall apply

within or be enforced within the incorporated limits of the Town of Ocean Breeze, Florida, unless such application and enforcement is expressly required under general or special law or expressly approved by the Town Commission through a duly enacted ordinance.

#### SEPARATION.

If any section, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, and it shall be construed to have been the intent of the Board to adopt this Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts had not been included herein. If this Ordinance or any provision thereof shall be held to be inapplicable to any person, groups of persons, property, kind of property, circumstances or set of circumstances, such holdings shall not affect its applicability to any other person, property or circumstances.

#### REPEAL.

Town ordinances and Town resolutions, or parts thereof, in conflict with this Ordinance are hereby abolished and repealed to the extent of such conflict, except that this ordinance shall not operate to repeal ordinances in which any ordinance, rule, regulation or other enactment of Martin County has previously been adopted.

#### INCORPORATION IN TOWN CODE.

Provisions of this Ordinance shall be incorporated in the Town Code and the word "Ordinance" may be changed to "section", "article", or other appropriate word, and the sections of this Ordinance may be renumbered or relettered to accomplish such intention.

EFFECTIVE DATE.

This Ordinance shall become effective immediately upon the date of its adoption according to law.

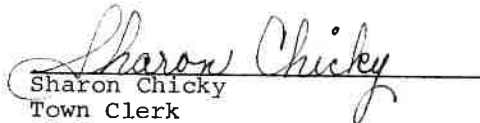
PASSED first reading at the regular meeting of the Town Commission held on the 9th day of September, 1985.

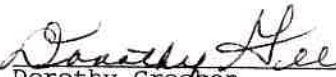
PASSED second reading at the regular meeting of the Town Commission held on the 14th day of October, 1985.

ADOPTED at the regular meeting of the Town Commission held on the 11th day of November, 1985.

ATTEST:

TOWN COUNCIL  
TOWN OF OCEAN BREEZE PARK

  
Sharon Chicky  
Town Clerk

By:   
Dorothy Green  
Its President

APPROVED AS TO FORM:

APPROVED:

  
William F. Crary II, Esq.  
Town Attorney

  
Carl E. Hoke  
Mayor



**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA**

**ORDINANCE NUMBER \_\_\_\_\_**

**AN ORDINANCE OF MARTIN COUNTY, FLORIDA, ADDING  
ARTICLE 7, RESIDENTIAL RESTRICTIONS ON SEXUAL  
OFFENDERS AND SEXUAL PREDATORS TO CHAPTER 111,  
MISCELLANEOUS PROVISIONS, GENERAL ORDINANCES,  
MARTIN COUNTY CODE; PROVIDING FOR APPLICABILITY,  
CONFLICTING PROVISIONS AND SEVERABILITY;  
PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE,  
CODIFICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Article 8, Section 1(f) of the Florida Constitution concerning non-charter counties such as Martin County, the Board of County Commissioners may enact ordinances applying not only to the unincorporated areas but also to incorporated areas, that is, municipalities, so long as the ordinance is not in conflict with a municipal ordinance in which case the ordinance shall not be effective within the municipality to the extent of such conflict; and

**WHEREAS**, pursuant to Sections 944.606(2) and 943.0435(12), Florida Statutes, the Florida Legislature has found and determined that the protection of the public from sexual offenders, particularly those who have committed offenses against minors, is a paramount governmental interest; and

**WHEREAS**, Sections 775.215, 947.1405(7)(a)2. and 948.30(1)(b), Florida Statutes, provide for one thousand (1,000) feet residence prohibitions from specified locations for certain sexual offenders and sexual predators; and

**WHEREAS**, pursuant to Section 125.01(1)(t), Florida Statutes, the Board of County Commissioners is authorized to adopt ordinances and resolutions necessary for the exercise of its powers and to prescribe fines and penalties for the violation of ordinances in accordance with law; and

**WHEREAS**, pursuant to Section 125.01(1)(w), Florida Statutes, the Board of County Commissioners is authorized to perform any other acts not inconsistent with law, which acts are in the common interest of the people of the County, and to exercise all powers and privileges not specifically prohibited by law; and

**WHEREAS**, the County has a substantial and compelling interest in maintaining the quality of life and protecting the health, safety and welfare of citizens at schools, child care facilities and parks to engage in positive education, economic and social activities, and has a substantial and compelling interest in allowing the citizens to gainfully and productively use and

enjoy the facilities in such areas in the County without victimization at the hands of a sexual offender or sexual predator; and

**WHEREAS**, the County finds that the creation of a sexual offender and sexual predator residency prohibition section of the Martin County Code of Ordinances, which would prohibit sexual offenders and sexual predators under certain Florida Statutes from residing within twenty-five hundred (2,500) feet of specified locations in the County, is in the best interest of the health, safety and welfare of the residents, citizens, and visitors of the County; and

**WHEREAS**, the Florida Third District Court of Appeal has held that a county ordinance nearly identical to this proposed ordinance was valid and not preempted by the Legislature in *Exile v. Miami-Dade County*, 35 So.3d 118, 118 - 119 (2010) and *Calderon v. State of Florida*, 93 So.3d 439, 440 - 441 (2012); and

**WHEREAS**, the enactment of this proposed ordinance will not conflict with any municipal ordinance.

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS, MARTIN COUNTY, FLORIDA, THAT:**

**PART 1: ADDITION OF ARTICLE 7, RESIDENTIAL RESTRICTIONS ON SEXUAL OFFENDERS AND SEXUAL PREDATORS, TO CHAPTER 111, MISCELLANEOUS PROVISIONS, GENERAL ORDINANCES, MARTIN COUNTY CODE**

Article 7, Residential Restrictions on Sexual Offenders and Sexual Predators, is hereby added to Chapter 111, Miscellaneous Provisions, of the Martin County Code of Ordinances to read as follows:

**ARTICLE 7. RESIDENTIAL RESTRICTIONS ON  
SEXUAL OFFENDERS AND SEXUAL PREDATORS**

**Section 111.149. - Title.**

This ordinance shall be known and may be cited as “The Martin County Residential Restrictions Ordinance”.

**Section 111.150. - Findings and Intent.**

1. Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses. Most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of

their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

2. The intent of this article is to serve the County's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the County, particularly children, by prohibiting sexual offenders and sexual predators from: (i) establishing temporary or permanent residence in certain areas where children are known to regularly congregate; (ii) renting or leasing certain property to sexual offenders or sexual predators if such property is located in close proximity to where children are known to regularly congregate; and (iii) accessing parks and child care facilities.

#### **Section 111.151. - Applicability.**

This ordinance shall be applicable to the incorporated and unincorporated areas of Martin County to the extent not in conflict with a valid municipal ordinance.

#### **Section 111.152. – Definitions and References to Statutes and Codes.**

A. Definitions. The following terms and phrases, whether the first letter is capitalized or in lower case or in the singular or plural, when used in this ordinance shall have the meanings ascribed to them in this section unless the context otherwise requires:

1. “Child” or “children” means any person(s) less than sixteen (16) years of age.
2. “Child care facility”, as defined in Section 402.302(2), Florida Statutes, means any child care center or child care arrangement which provides child care for more than five (5) children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, whether or not operated for profit, and that is duly licensed pursuant to Sections 402.301 - 319, Florida Statutes, and Rule 65C-22, Florida Administrative Code.
3. “Child safety zone” means an area three hundred (300) feet extending from schools, child care facilities, parks, and school bus stops measured in a manner similar to the measurement of the residency restriction area provided in this ordinance.
4. “Convicted” or “conviction” means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere plea (or an Alford or Kennedy plea), regardless of whether adjudication is withheld or if there is a suspended execution or imposition of sentence, resulting in a “sanction,” which includes, but is not limited to, community control, community service, conditional release, controlled release, a fine, hospitalization or institutionalization, monitoring, parole, probation, remedial program, or incarceration in a federal prison, state prison, private correctional facility, or local detention facility including but not limited to a county or municipal jail. Convictions may be from any federal or state



jurisdiction, the jurisdictions of any territory or possession of the United States, a military tribunal including courts-martial conducted by any branch of the Armed Forces of the United States, any tribal jurisdiction, and any foreign jurisdictions, that is, jurisdictions outside of the United States and its possessions and territories where the foreign jurisdiction accords the minimum of due process to an accused and has followed the foreign jurisdiction's own procedures.

5. "Day" means a calendar day.
  6. "Legal guardian" or "guardian" shall mean biological or adoptive parent of a child registered at a child care facility or a person who is responsible for the care and maintenance of said child pursuant to Florida Statutes or similar laws of another jurisdiction.
  7. "Park" means a County or municipal park.
  8. "Permanent residence" means a place where a person abides, lodges, or resides for three (3) or more consecutive days.
  9. "Reside" or "residence" means to have a place of permanent residence, temporary residence, or transient residence.
  10. "School" means a public or private kindergarten, elementary, middle or secondary (high) school or any educational facility operated by the Martin County Public School System.
  11. "Sexual offender" shall have the meaning ascribed to such term in Section 943.0435, Florida Statutes.
  12. "Sexual offense" means a conviction under Sections 794.011, 800.04, 827.071, 847.0135 excluding 847.135(6), or 847.0145, Florida Statutes, or a similar law of another jurisdiction in which the victim or apparent victim of the sexual offense was less than sixteen (16) years of age, excluding Section 794.011(10), Florida Statutes.
  13. "Sexual predator" shall have the meaning ascribed to such term in Section 775.21, Florida Statutes.
  14. "Temporary residence" means a place where the person abides, lodges, or resides for a period of three (3) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of three (3) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.
  15. "Transient residence" means a place where a person lives, remains, or is located for a period of three (3) or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a structure or outdoor area where the person sleeps or seeks shelter and a location that has no specific street address.
- B. References to Statutes and Codes. Any amendment, revision, re-codification or change to any statute or code that is cited in this ordinance shall be as effective as the

original citation. Nothing herein shall preclude the County from amending this ordinance as necessary.

**Section 111.153. - Sexual Offender and Sexual Predator Residence Prohibition; Penalties.**

1. It is unlawful for any person who has been convicted of a violation of Sections 794.011 (sexual battery), 800.04 (lewd and lascivious acts on/in presence of persons under age 16), 827.071 (sexual performance by a child), 847.0135 (sexual acts transmitted over computer) excluding 847.0135(6), or 847.0145 (selling or buying of minors for portrayal in sexually explicit conduct), Florida Statutes, or a similar law of another jurisdiction, in which the victim or apparent victim of the offense was less than sixteen (16) years of age, to reside within 2,500 feet of any school or child care facility.
  - a. The 2,500-foot distance shall be measured in a straight line from the outer boundary of the real property that comprises a sexual offender's or sexual predator's residence to the nearest boundary line of the real property that comprises a school or child care facility. The distance may not be measured by a pedestrian route or automobile route, but instead as the shortest straight-line distance between the two points.
2. Penalties. A person who violates this section shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment in the County jail for not more than three hundred sixty-four (364) days or by both such fine and imprisonment.

**Section 111.154. - Exceptions.**

1. A sexual offender or sexual predator residing within 2,500 feet of any school or child care facility does not commit a violation of this section if any of the following apply:
  - a. The sexual offender or sexual predator established a residence on or before September 5, 2022. The sexual offender or sexual predator shall not be deemed to have established a residence or registered said residence for purposes of this section if the residence is an illegal multifamily apartment unit within a neighborhood zoned for single-family residential use.
  - b. The sexual offender or sexual predator was a minor when he or she committed the sexual offense and was not convicted as an adult.
  - c. The school or child care facility was opened after the sexual offender or sexual predator established the residence.
2. This section shall not apply to a sexual offender or sexual predator who is convicted of a subsequent sexual offense as an adult after residing at a registered residence within 2,500 feet of a school or child care facility.



**Section 111.155. - Property Owners or Lessors Prohibited from Renting Real Property to Certain Sexual Offenders or Sexual Predators; Penalties.**

1. It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with knowledge that it will be used as a permanent or temporary residence by any person prohibited from establishing such permanent or temporary residence pursuant to this ordinance, if such place, structure, or part thereof, trailer or other conveyance, is located within 2,500 feet of a school or child care facility. Knowingly renting to a sexual offender or predator shall include, but shall not be limited to, renting or leasing a residence after being notified that the prospective renter, lessee or adult resident is a sexual offender or predator as defined in this ordinance.
2. Prior to letting, renting or leasing any place, structure, or part thereof, trailer or other conveyance for use as a permanent or temporary residence that is located within 2,500 feet of a school or child care facility, and annually thereafter if a rental agreement is entered into, the owner or lessor shall obtain confirmation of a nationwide search from the Martin County Sheriff's Office or other law enforcement agency that the prospective renter, lessee or adult resident is not a registered sexual offender or sexual predator as a result of a conviction of a sexual offense as defined in this ordinance. A person may call the Martin County Sheriff's Office to obtain assistance or referrals to determine whether a prospective renter, lessee or adult resident is a sexual offender or predator and to determine whether a residence is 2,500 feet from a particular school or child care facility.
3. Penalties.
  - a. A person who violates subsection 1 of this section shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment in the County jail for not more than sixty (60) days, or both such fine and imprisonment. A person who is convicted of a second or subsequent violation of subsection 1 of this section shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment in the County jail for not more than 364 days, or by both such fine and imprisonment.
  - b. A person who violates subparagraph 2 of this section shall be punished by a civil penalty of \$500.00 for each day of violation or noncompliance.

**Section 111.156. - Sexual Offender and Sexual Predator Access to Parks and Child Care Facilities Restricted; Penalties.**

1. It is unlawful for a sexual offender or sexual predator convicted of a sexual offense to knowingly be present in a County or municipal park when a child under the age of 16 years is present, unless the sexual offender or sexual predator is the parent or legal guardian of a child present in the park.

2. Within one hundred eighty (180) days after the effective date of this ordinance, signage at the entrance of County and municipal parks shall include notification that a person convicted of a sexual offense shall not be present in a park when a child under the age of sixteen (16) years is present, unless the sexual offender or sexual predator is the parent or guardian of a child present in the park.
3. It is unlawful for a sexual offender or sexual predator convicted of a sexual offense to knowingly enter or remain in a child care facility ("facility") or on its premises unless the sexual offender or sexual predator:
  - a. Is dropping off or picking up a child registered at the facility and is the parent or legal guardian of said child; and
  - b. Remains under the supervision of a facility supervisor or his or her designee while on the facility premises.
4. Penalties. A person who violates this section shall be punished by a fine not to exceed \$500.00 or imprisonment in the County jail for not more than 60 days, or by both such fine and imprisonment. A person who is convicted of a second or subsequent violation of this section herein shall be punished by a fine not to exceed \$1,000.00 or imprisonment in the County jail for not more than 364 days, or by both such fine and imprisonment.

**Section 111.157. - Loitering or prowling in child safety zone; penalties.**

1. It is unlawful for any sexual offender or sexual predator:
  - a. To loiter or prowl with the intent to commit a sexual offense while knowingly within a child safety zone when children are present; and
  - b. To engage in overt conduct that, under the circumstances, manifests an intent to commit a sexual offense.
2. Conduct which may, under the circumstances, be deemed adequate to manifest an intent to commit a sexual offense includes, but is not limited to, conduct such as the following:
  - a. Making sexual conversation or sexual remarks to a child;
  - b. Making lewd or sexual gestures to a child, or exposing sexual organs to a child; and
  - c. Giving gifts of candy, money, music, or other items to a child to which he or she is not related or acquainted.
3. Unless flight by the sexual offender or sexual predator or other circumstance makes it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the sexual offender or predator an opportunity to explain his or her presence and conduct. No sexual offender or predator shall be convicted of an offense under this section if the law enforcement officer did not comply with this procedure or if it is proven at trial that the explanation given by the sexual

offender or predator is true, and that the sexual offender or predator had no intent to commit a sexual offense.

4. As used in this section a sexual offender or predator is related to a child if he or she is the father, mother, step-father, step-mother, grandparent, sibling, cousin, aunt, uncle or resides with the child. As used in this section a sexual offender or predator is acquainted with a child if he or she has been introduced to the child in the presence of an adult with legal authority to supervise the child.
5. Penalties. A person who violates this section shall be punished by a fine not to exceed \$500.00 or imprisonment in the County jail for not more than 60 days or by both fine and such imprisonment.
6. This section is not intended to limit or affect the applicability of any general loitering and prowling statutes to sexual offenders or predators, including, but not limited to, Section 856.021, Florida Statutes.

**Sections 111.158 – 111.163. – Reserved.**

**PART 2: APPLICABILITY OF ORDINANCE.**

This Ordinance shall be applicable to the unincorporated areas of Martin County, and to the incorporated areas of Martin County to the extent permitted by Article VIII, Section 1(f), of the Constitution of the State of Florida.

**PART 3: CONFLICTING PROVISIONS.**

Martin County ordinances, County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict.

**PART 4: SEVERABILITY.**

If any portion of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void by a court of competent jurisdiction, such holding shall not affect the remaining portions of this Ordinance. If this Ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances by a court of competent jurisdiction, such holding shall not affect its applicability to any other person, property or circumstances.

**PART 5: FILING WITH THE DEPARTMENT OF STATE.**

The Clerk be and hereby is directed forthwith to scan this ordinance in accordance with Rule 1B-26.003, Florida Administrative Code, and file same with the Florida Department of State via electronic transmission.

**PART 6: CODIFICATION.**

Provisions of this Ordinance shall be incorporated into the Martin County General Ordinances, except that parts 2 through 7 shall not be codified. The word “ordinance” may be changed to

“article,” “section,” or other word, and the sections of this Ordinance may be renumbered or re-lettered.

**PART 7: EFFECTIVE DATE**

This Ordinance shall take effect on September 5, 2022.

**PASSED AND DULY ADOPTED THIS 7<sup>th</sup> DAY OF JUNE, 2022.**

**ATTEST:**

**BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA**

\_\_\_\_\_  
**CAROLYN TIMMANN, CLERK  
OF THE CIRCUIT COURT AND  
COMPTROLLER**

\_\_\_\_\_  
**DOUG SMITH, CHAIRMAN**

**APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY**

\_\_\_\_\_  
**SARAH W. WOODS  
COUNTY ATTORNEY**

# FYI: Information from Property Appraiser



From the office of Jenny Fields, CFA  
Martin County Property Appraiser

May 27, 2022

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

Re: 2022 Estimated Preliminary Taxable Value - Town of Ocean Breeze

Dear Ms. Orr:

Pursuant to F.S. 200.65(8), the Estimated Taxable Value of the above referenced taxing authority is **66,455,469**. This value is an estimation of line 4 on the DR-420 (Current year gross taxable value for operating purposes) that will be certified by July 1.

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

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

Respectfully submitted,

Caitlin Blair, CFE  
Tax Roll Manager

Representing Jenny Fields, CFA ♦ Martin County Property Appraiser  
772.223.7953 ♦ [caitlin.blair@pa.martin.fl.us](mailto:caitlin.blair@pa.martin.fl.us)  
[3473 SE Willoughby Blvd., Suite 101, Stuart, FL 34994](https://www.pa.martin.fl.us)

***"We VALUE Martin!"***

Website: [www.pa.martin.fl.us](http://www.pa.martin.fl.us)







From the office of Jenny Fields, CFA  
Martin County Property Appraiser

**IMMEDIATE RELEASE**

**May 27, 2022**

**Record Setting Taxable and Market Values in Martin County for 2022**

Stuart, FL - The Martin County Property Appraiser's Office (MCPAO) released the 2022 estimated preliminary taxable values to the ten Martin County Taxing Authorities today. The Taxing Authorities will use the estimated taxable values to help them prepare for their upcoming budgets and to determine their proposed millage rates.

A peek at the numbers shows Martin County taxable values are close to \$27.5 billion, an increase of 9.59% compared to last year's number of more than \$25.1 billion. This is an estimation and we anticipate further increases as we finalize valuations for our upcoming tax roll certification in July.

The market value also increased by 16.10% to \$42.1 billion, compared to last year's value of more than \$36.2 billion.

A look inside new construction shows a market value growth of \$480 million this year. This growth is primarily led by a 43% increase in new homes being built in some of our newest communities such as Jensen Village, Seawalk, Trillium, Seaside, Banyan Bay, Prado, and Langford Landing. This figure includes other notable projects that were completed prior to January 1<sup>st</sup> such as the new River House Condominiums in downtown Stuart and the Axis One multi-family apartments on US1 in north Stuart.

"This year's market value growth in the residential sector was through the roof," said Martin County Property Appraiser Jenny Fields. "The Office tracked a 25% to 30% increase in sale prices for single family homes, townhouses, and condominiums throughout the 2021 year. Similar to last year, the County has a diminishing pool of willing and able sellers when both out of state and in state home buyers are actively competing for available properties."

Many other market sectors experienced growth and high demand including commercial, industrial, and vacant land throughout Martin County. The demand for industrial properties has been strengthening for the last five years as price per square foot continues to increase. The most recent year of analysis showed an increase of 10-15% in sale prices for this sector.

The ten Martin County Taxing Authorities are the Children's Service Council, the City of Stuart, the Florida Inland Navigation District, Martin County Board of County Commissioners, the Martin County School Board, the South Florida Water Management District, the Town of Jupiter Island, the Town of Sewall's Point, the Town of Ocean Breeze and the Village of Indiantown.

These estimated preliminary taxable and market values are based on market conditions as of January 1, 2022.

Fields and her Office Professionals will next certify the 2022 Preliminary Tax Roll to the Department of Revenue (DOR) before the July 1 deadline.



Appraiser  
(https://www.martincountyfla.gov/property-appraiser)

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## MENU

to receive the prestigious Certificate of Excellence in Assessment Administration from the International Association of Assessing Officers.

For more information or to schedule an interview with Martin County Property Appraiser Jenny Fields, please email Cory Rubal at [cory.rubal@pa.martin.fl.us](mailto:cory.rubal@pa.martin.fl.us).

<b>Percent Change Municipality Taxable Values</b>	<b>2021 Oct Final</b>	<b>2022 Prelim Estimate</b>	<b>Value Change (Diff)</b>	<b>2021/2022 % Change</b>
City of Stuart	2,381,313,329	2,673,409,997	292,096,668	12.27%
Town of Jupiter Island	2,697,135,952	2,979,538,125	282,402,173	10.47%
Town of Sewall's Point	736,690,940	809,627,646	72,936,706	9.90%
Town of Ocean Breeze	47,845,960	66,455,469	18,609,509	38.89%
Village of Indiantown	2,060,086,268	1,947,273,782	(112,812,486)	-5.48%
Martin County (County taxable)	25,141,805,080	27,551,723,935	2,409,918,855	9.59%

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## WEBSITE HELP

Having trouble finding what you're looking for in our website?

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Live Chat Online - Chat with us!



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**Florida Department of Revenue**  
*Property Tax Oversight*

**Jim Zingale**  
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

May 31, 2021

Honorable Jenny Fields  
Martin County Property Appraiser  
3473 SE Willoughby Blvd. Suite 101  
Stuart, FL 34994

Re: Assessment Roll Submission Deadline Extension

Dear Honorable Jenny Fields:

This is in response to your request for an extension to submit the 2022 Martin County Real and Tangible Personal Property Assessment Rolls and Recapitulation.

You have an extension until July 11, 2021. The Property Tax Oversight program's Tallahassee office must receive your assessment rolls by this date. Please be aware that you should not certify to the taxing authorities until assessment of all properties under subsection 193.023(1), F.S., is complete.

Under s. 1011.62(4)(a), F.S., no later than two working days before July 19, the Department of Revenue must certify to the Commissioner of Education the most recent estimate of the taxable value for school purposes in each school district based on the latest available data property appraisers have submitted. At the Department of Education's request, the Department of Revenue will make this certification by July 13, 2021.

Thank you for your cooperation. If you have any questions regarding this response, please contact Lizette Kelly at 850-617-8865.

Sincerely,

Rene Lewis  
Program Director  
Property Tax Oversight  
Department of Revenue

BG/kp  
cc: All County Taxing Authorities  
Enclosure: DR-483



**LET'S HAVE A SMOKIN' GOOD TIME AT THE  
TREASURE COAST COUNCIL OF LOCAL GOVERNMENTS &  
TREASURE COAST REGIONAL LEAGUE OF CITIES  
JOINT MEETING & BBQ**

**HOSTED BY THE  
CITY OF OKEECHOBEE**

Wednesday, July 20th beginning at 10 AM

Guest Speaker: Mike Elfenbein

Conservation Chair for Izaak Walton League of America

Who will speak on the

Lake Okeechobee Nutrient Reduction Project

Location: First United Methodist Church of Okeechobee

200 NW 2nd St. Okeechobee, FL 33972

**Lunch Selections (Please choose one with your RSVP)  
Prime Rib or Baked Chicken**

**All entrees are served with potatoes, vegetable,  
dessert & beverage**

You will receive confirmation of your reservation and lunch selection. This is a free event for elected officials, staff or Associate members, however if you RSVP to attend and do not cancel by July 15th, your city or company will be charged \$15.00 per person.

RSVP IS MANDATORY NO LATER THAN JULY 15TH TO  
PATRICIA CHRISTENSEN: PCHRISTENSEN@TCRLC.COM  
OR  
NANCY ESPLIN: NANCY.ESPLEN@INDIANRIVERSCHOOLS.ORG