

TOWN OF OCEAN BREEZE  
MINUTES REGULAR TOWN COUNCIL MEETING  
Monday, November 14, 2022 10:30AM  
Ocean Breeze Resort Clubhouse, Pineapple Bay Room  
700 NE Seabreeze Way, Ocean Breeze, FL

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

2. **Approval of Minutes** – Council Member Arnold, seconded by Vice President Gerold, made a motion to approve the Minutes of the regular meeting on October 10, 2022, the minutes from the Tentative Budget Meeting September 14, 2022 and the Final Budget Meeting September 21, 2022.

Council Member Wagner requested a minor correction to the October 10, 2022 minutes.

President De Angeles asked for public comments.

There were none.

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

President De Angeles recognized the passing of Larry Massing, the Town Building Official, and asked Mr. O’Neil to comment. Mr. spoke briefly on Mr. Massing’s passing and mentioned that there was a condolence card on the table to sign.

3. **Recognition of Outgoing Town Council Members** – President De Angeles recognized Vice President Gerold, Council Member Locatis, and Council Member Wagner for their service to the Town of Ocean Breeze. President De Angeles commented that the three outgoing members had contributed greatly to the community over the years, and their wisdom and ideas would be missed.

4. **Announcement of Election Results** – Pam Orr, standing in for Town Clerk, read the Official Certificate of County Canvassing Board of Martin County election results into the record: Sandy Keblbeck 197 votes, Gina Kent 154 votes, Dustin Lerew 73 votes, Terry Locatis 135 votes, Elizabeth Reese 190 votes.

5. **Oath of Office** – Attorney Crary administered the Oath of Office to Karen Ostrand as Mayor, and Sandy Kelley, Gina Kent, and Elizabeth Reese as Council Members

President De Angeles congratulated the new council members.

5. **Selection of Council President and Vice President; and Review of Board and Agency Memberships**– President De Angeles asked for nominations for the office of President.

Council Member Arnold nominated Ken De Angeles for the office of President.

Council Member Kelley nominated Elizabeth Reese.

Council Member Reese declined the nomination.

Council Member Kelley withdrew the nomination.

Council Member Docherty seconded the nomination for Kenneth De Angeles for President.

President De Angeles asked for a motion to close the nominations.

Council Member Arnold seconded by Council Member Docherty made a motion to close the nominations.  
All in favor: Yes: De Angeles, Arnold, Docherty, Reese, Kent, Kelley; No: None; Motion Passed 6-0

Roll Call Vote: Yes: De Angeles, Arnold, Docherty Reese, Kent, Kelley; No: None; Motion Passed: 6-0

President De Angeles asked for nominations for office of the Vice President.

Council Member Docherty nominated Bill Arnold.

Council Member Reese nominated Sandy Kelley.

President De Angeles asked for a motion to close the nominations.

Council Member Docherty made a motion to close the nominations.  
All in favor: Yes: De Angeles, Kent, Arnold, Kelley, Reese, Docherty, No: None; Motion Passed 6-0

Pam Orr, standing in for Town Clerk, called roll for Bill Arnold for Office of Vice-President.  
Roll Call: Yes: De Angeles, Arnold, Docherty No: Kelley, Reese, Kent; Vote Tied

Pam Orr, standing in for Town Clerk, called roll for Sandy Kelley:  
Roll Call: Yes: Kent, Reese, Kelley No: Arnold, Docherty, De Angeles; Vote Tied

Town Attorney Rick Crary noted that the first vote for Bill Arnold ended in a tie and that the second vote for Sandy Kelley will also result in a tie. He reminded Council that there was a tie in the past, and recommended that Council Members discuss the re-organization to prevent a stalemate.

Council member Gina Kent asked if she could change her vote.

Attorney Crary confirmed that she could change her vote.

Council Member Kent changed her vote to Bill Arnold for Vice President.

Council Member Arnold asked if the Mayor had a vote.

Attorney Crary stated that the Mayor did not have a vote.

Attorney Crary suggested that the Council begin the vote again.

President De Angeles asked for nominations for office of the Vice President.

Council Member Docherty nominated Bill Arnold.

President De Angeles asked for a motion to close the nominations.

Council Member Docherty seconded by Council Member Kent made a motion to close the nominations.  
All in favor: Yes: De Angeles, Kent, Arnold, Kelley, Reese, Docherty, No: None; Motion Passed 6-0

Attorney Crary informed the new Council Members that the office of President of the Town Council was strictly ceremonial.

Roll Call: Yes: De Angeles, Arnold, Docherty, Kelley, Reese, Kent; No: None; Motion Passed 6-0

## **7. Budget to Actual – July 1, 2022 – September 30, 2022.**

President De Angeles asked for questions from the public. There were none

Vice President Arnold seconded by Council Member Docherty made a motion to accept the Budget to Actual report.

All in favor: Yes: De Angeles, Arnold, Docherty, Kelley, Reese, Kent; No: None; Motion Passed 6-0

Town Management Consultant, Terry O’Neil, addressed the new Council Members and reminded them that the Budget to Actual report is a quarterly report which reviews the Town Budget relative to revenues and spending. Mr. O’Neil stated that currently there were no issues and the Town was under the budget.

## **8. FIRST READING: ORDINANCE #330-2022 – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA EXPRESSLY APPROVING THE APPLICATION AND ENFORCEMENT OF MARTIN COUNTY ORDINANCE NO. 1182 “RESIDENTIAL RESTRICTIONS ON SEXUAL OFENDERS AND SEXUAL PREDATORS” WITHIN THE TOWN OF OCEAN BREEZE; PROVIDING FOR A CONFLICTS CAUSE, A SEVERABILITY CLAUSE AND FOR OTHER PURPOSES.**

Town Management Consultant, Terry O’Neil, noted that this was the first reading of the Ordinance and asked Pam Orr, standing in for Town Clerk to read the Ordinance into the record.

Pam Orr, standing in for Town Clerk, read Ordinance #330-20022 into the record.

Town Management Consultant, Terry O’Neil remarked that in June, Martin County adopted a County wide ordinance that set distance standards for sexual offenders. He went on to say that he had spoken with every municipality in Martin County and the ordinance was in effect. Mr. O’Neil went on to explain that Ocean Breeze differed due to an older ordinance that required an action from the Town Council to enact an ordinance from outside the Town’s jurisdiction.

President De Angeles asked for a motion to approve Ordinance #330-2022 on first reading.

Vice President Arnold, seconded by Council member Docherty, made a motion to approve Ordinance #330-2022 on first reading.

President De Angeles asked the public for comments. There were none

Roll Call: Yes: De Angeles, Arnold, Docherty, Reese, Kent; Kelley; No: None; Motion Passed 6-0

**9. Confirmation of Contract for Building Official Services.** - Town Management Consultant, Terry O’Neil, explained that the Town’s building program required the Town to have a licensed Building Official. Due to the circumstances, the Mayor had executed a contract with Mr. Nicolosi, which was

allowable under the Town Charter. He added that a roll call vote to ratify the contract with Mr. Nicolosi would be necessary.

President De Angeles asked for a motion to ratify the contract with Steve Nicolosi for the position of Town Building Official.

Council Member Docherty, seconded by Vice-President Arnold, made a motion to ratify the contract with Steve Nicolosi.

Roll Call: Yes: De Angeles, Arnold, Docherty, Reese; Kent, Kelley; No: None; Motion Passed 6-0

**10. Request for Town Contribution of \$180.00 toward the Annual Jensen Beach Chamber of Commerce Parade** – President De Angeles encouraged every Town resident with a golf cart to join the parade. He introduced Deputy Andy Adams with the Martin County Sheriff's Department and informed the audience that the Sheriff's Department would be handling security and leading the parade.

Discussion ensued about the Christmas Parade.

President De Angeles asked for a motion to approve the Town Contribution of \$180.00.

Vice President Arnold, seconded by Council member Reese made a motion to approve the Town contribution to the Jensen Beach Chamber of Commerce.

President De Angeles asked for comments from the public. There were none.

Roll Call: Yes: De Angeles, Arnold, Docherty, Kelley, Reese, Kent; No: None; Motion Passed 6-0

Town Management Consultant, Terry O'Neil, explained that there was a line item in the recent Town Budget for \$1,000.00 for community support events which required every expenditure be brought before the Town Council for approval.

**11. Discussion for Changing the time for Town Council Meetings** – Council Member Docherty explained that several years ago he conducted a survey regarding holding Town Council meetings in the evening. With the addition of Seawalk, he proposed that the new Council Members reach out to Seawalk residents and informally ask them about their preferences for meeting times.

Mayor Ostrand added that there were many new residents in Ocean Breeze Resort who preferred evening meetings.

Discussion ensued regarding evening meetings.

President De Angeles asked for comments from the Council

Council Member Reese said that she had spoken with several residents in Seawalk who preferred evening meetings.

Attorney Crary reminded Council Members that they were not allowed to discuss Town business with fellow Council Members outside of Town Council meetings, per the Sunshine Law.

Council Member Docherty asked if they could speak with the Mayor about Town Business.

Attorney Crary responded that it was acceptable to speak with the Mayor, but the Mayor could not impart any discussions she had with Council Members to another Council Member. He explained the Sunshine Law and transparency.

Council Member Kent asked if the Town Council agenda and discussions that occurred during the meeting could be shared with the Seawalk HOA.

Attorney Crary responded that that they could inform the HOA about the agenda and subsequent discussion, but could not speak with other Council Members about town business outside a Town Council meeting.

Discussion ensued regarding the Sunshine Law.

Discussion ensued regarding the procedure to change the time of Town Council Meetings.

David Wagner, 124 NE Bay Drive, commented that noise from Clubhouse activities may disrupt an evening meeting.

Mayor Ostrand commented that the Clubhouse restaurant was closed on Mondays, therefore any noise or disruption would be minimal.

Mr. Wagner responded that the pool would remain open and any noise from the pool would disrupt the meeting.

President De Angles asked Council Member Docherty if he would like to make a motion to change the time of the meetings.

Council member Docherty said he would wait until the next meeting as he wanted to give residents time to consider the change.

Council Member Docherty, seconded by Vice President Arnold, made a motion to continue the discussion of meeting time changes.

Roll Call: Yes: Arnold, Kelley, Reese, Kent, Docherty; No: De Angeles; Motion Passed: 5-1

## **12. Comments from the public on topics not on the agenda.**

David Wagner, 124 NE Bay Drive, asked if a member of the Town Council could also serve on an HOA.

Attorney Crary answered that as an HOA is not a government entity and it did not conflict with serving on the Town Council. He added that due to the potential of discussing Town business at an HOA meeting, that matters could potentially become, or are currently, Town business. Mr. Crary cautioned against serving on both the Town Council and an HOA board as it could place the individual in direct violation of the Sunshine Law. Mr. Cary continued to discuss the Sunshine Law.

Council Member Kent asked if the HOA was considered the general public.

Attorney Crary said that because the HOA could potentially be discussing matters that could be brought to the Town in which the HOA resides, it could lead to a potential conflict and violation of the Sunshine Law. He added that two members of the Council attending an HOA meeting and discussing issues that would come before the Town in an official capacity, would be a violation of the Sunshine Law.

Council Member Kent asked for clarification on being an HOA board member and a Town Council Member versus attending a HOA meeting and being a Town Council member.

Attorney Crary said that there is no legal prohibition against either serving on a HOA board or attending a HOA meeting, however the potential for direct conflict in governmental decision making was very high.

Town Management Consultant, Terry O'Neil, added that having two Town Council Members serving on the same HOA Board would prove to be very difficult, if not impossible, to avoid conflict because actions taken by the HOA Board were often Town related.

Council Member Keblbeck-Kelley said that there is only one member of the Town Council that is on the HOA Board.

Town Manager Terry O'Neil said that was fine.

Council Member Keblbeck-Kelley asked if what was discussed at Town Council meetings could be posted on the Seawalk Community Facebook Page.

Attorney Crary stated that Town Council members could not discuss Town issues with one another on Facebook.

Discussion ensued regarding the Sunshine Law.

Tom Campenni of Martin County Friends and Neighbors addressed the Council members and informed them of a class for newly elected Council Members through the Treasure Coast Regional League of Cities December 7, 2022, and encouraged all Town Council Members to attend.

President De Angeles asked if there would be a conflict of interest if all Council Members attended.

Mr. Campenni said there would be no conflict of interest as discussions would not focus on an attendee's municipality and all questions would be written down and screened for conflict of interest. He also advised Council Members to not discuss Town matters with one another.

Discussion ensued regarding the Treasure Coast Regional League of Cities class on December 7, 2022.

Anne Kagdis welcomed the newly elected Council Members. She requested that the Town Council donate \$100.00 to The History Museum of Jensen Beach. She informed the Council that in April, The Entrepreneurship Foundation which supported both Jensen Beach Elementary and Jensen Beach High School Art & Music programs would be holding an auction and asked for a \$100.00 donation. She thanked Council Member Docherty and Vice President Arnold for supporting The History Museum of Jensen Beach Bowling Bash. She also thanked the Council for their contributions over the past year.

President De Angeles asked the Mayor to add the request for charitable contributions to her comments and a vote from Town Council would follow.

Town Management Consultant, Terry O'Neil, advised President De Angeles to add the requests to the December meeting agenda.

**13. Comments from the Council on topics not on the agenda** – Council Member Docherty requested that the Town contact FPL for an update on the replacement of the light poles on Indian River Drive.

**14. Comments from Town Management Consultant Terry O’Neil** – There were none.

**15. Comments from Town Attorney Rick Crary** – Attorney Crary discussed the Sunshine Law. He discussed the proposed Resolution waiving permit fees in the event of a hurricane or natural disaster. He remarked that according to the Florida Statutes, permit fees may be waived in the event of a hurricane or other natural disaster, if the residence is not located in a flood zone. He then recommended that the new Town Building Official be consulted for confirmation. Mr. Crary recommended speaking with the Town’s Financial Advisor regarding waiving permit fees, and the effects that it could have on the Town financially.

President De Angeles asked what the Town’s current position is on waiving permit fees in the event of a hurricane and or natural disaster.

Town Management Consultant, Terry O’Neil, stated that there is no policy in place to waive permit fees.

Town Attorney Crary added that before any other action was taken, he would recommend speaking to the Town Building Official and Financial Consultant. He added that the municipalities in Florida who were currently waiving permit fees due to Hurricane Ian, were doing so on a very limited basis.

David Wagner, 124 NE Bay Drive, asked about the tolling extension from Sun Communities.

Town Management Consultant, Terry O’Neil, stated that in the State of Florida in the event of an Emergency, the Governor can issue an edict that freezes the timeframe of a development agreement and extend the timeframe within the agreement. In the case of The Ocean Breeze Resort, the developer had routinely claimed these extensions.

Attorney Crary referred back to the subject of waiving permit fees. He added that the statute he previously mentioned did not clarify whether or not the homes in Ocean Breeze Resort would be included, as the statute is limited to single family homes. Mr. Crary suggested that this be brought up with the Town Building Official.

**16. Comments from Mayor Ostrand** – Mayor Ostrand requested a donation in the amount of \$250.00 be made to the United Way for Hurricane Ian relief in Lee County.

President De Angeles asked for a motion to approve the \$250.00 donation.

Vice President Arnold seconded by Council member Kent made a motion to approve the donation. President De Angeles asked the public for comments. There were none

Council Member Docherty asked if all the money would be going to Lee County.

Mayor Ostrand confirmed that the entire amount would be going to Lee County.  
(Roll Call: Yes: De Angeles, Arnold, Reese, Docherty, Kent, Kelley; No: None; Passed 6-0)

Mayor Ostrand requested a donation to the Environmental Studies Center in the amount of \$275.00.

President De Angeles asked for a motion to approve the \$275.00 donation.

Vice President Arnold, seconded by Council Member Reese, made a motion to approve the donation.

Vice President Arnold asked if all the donations were being taken from the \$1,000.00 line item in the budget.

Town Management Consultant, Terry O'Neil, confirmed that the donations were coming from the \$1,000.00 line item in the budget and that the Town had spent a little over half.

Council Member Docherty asked if the donation to the Environmental Studies center had increased from last year.

Mayor Ostrand confirmed that the amount had increased \$25.00 due to the increase in the number of students.

President De Angeles asked for public comments. There were none

Roll Call: Yes: De Angeles, Arnold, Kent, Docherty, Reese, Kelley; No: None; Motion Passed 6-0

Mayor Ostrand welcomed the newly elected Council Members and encouraged them to attend the Orientation for Newly Elected Officials class on December 7<sup>th</sup>. She went on to ask for an alternate for the Treasure Coast League of Cities Advocacy Team.

Attorney Crary explained preemption and local laws.

Tom Campenni from Friends and Neighbors of Martin County, suggested that the Council postpone the Advocacy appointments until after the newly elected Council Members have attended the Treasure Coast Regional League of Cities orientation on December 7<sup>th</sup>.

17. Announcements – Regular Town Council Meeting – Monday, December 12, 2022 at 10:30AM to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze.

18. Adjourn - Vice President Arnold, seconded by Council Member Kent, made a motion to adjourn the meeting at 11:58 am.

Respectfully Submitted,

*Kim Stanton*

Town Clerk

Minutes approved:

*December 12, 2022*