

TOWN OF OCEAN BREEZE
MINUTES REGULAR TOWN COUNCIL MEETING
Monday, July 10, 2023, at 6:00 p.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 6:00 p.m.
 - Pledge of Allegiance – Mayor Ostrand led the Pledge of Allegiance
 - Roll Call – Present Mayor Karen M. Ostrand, President Kenneth De Angeles, Council Members Kevin Docherty, Gina Kent and Elizabeth Reese
Absent: Vice President Bill Arnold and Sandy Keblbec-Kelley
 - Staff Present –Town Management Consultant, Terry O’Neil; Town Attorney, Rick Crary; Town Clerk, Kim Stanton; and Administrative Assistant, Shannon Roger
2. **Approval of Minutes** – Council Member Docherty, seconded by Council Member Reese, made a motion to approve the minutes of the regular meeting of June 12, 2023.

President De Angeles asked for public comments. There were none.
All in Favor: Yes: De Angeles, Kent, Docherty; Reese; No: None; Motion Passed – 5-0

3. **Martin County Fire Rescue Hurricane Preparedness**– Jeffrey Childs, Emergency Management Coordinator, Martin County Fire Rescue, gave a presentation regarding hurricane preparedness, special needs shelters, pets, evacuations and he provided materials.

Council Member Kent asked if the elevation in Seawalk was the same as the Ocean Breeze Resort.

Mr. Childs stated that though there may be a small difference in elevation, the Seawalk community and Ocean Breeze Resort were in the same evacuation zone. He went on to explain that the evacuation zones were based on the predicted storm surge.

Discussion ensued regarding evacuation zones.

Council Member Docherty asked if anything could be done should a resident decide to stay in their home during a mandatory evacuation.

Deputy Joe Angelico, of the Martin County Sheriff’s Department, stated that Emergency Services could not forcibly remove anyone from their home during a mandatory evacuation. He remarked that Emergency Services would respond to all calls regardless of evacuation zone. He then implored everyone to heed all local and state officials regarding evacuations.

Discussion ensued regarding mandatory evacuations and emergency services.

Town Management Consultant Terry O’Neil asked Mr. Childs about the special needs shelter and the shelter that served the Town of Ocean Breeze.

Mr. Childs spoke about a special needs shelter in Martin County located at Anderson Middle School, 7000 SE Atlantic Ridge Drive, Stuart, FL 34997. He added that registration was required and could be done through the Martin County Health Department. He continued that the shelter that serviced the Town was located at Jensen Beach High School, 2875 NW Goldenrod Rd. Jensen Beach, FL 34957.

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

4. November 7, 2023 Town Council Election Proclamation – Town Clerk, Kim Stanton, read the Proclamation into record.

Council member Docherty, seconded by Council Member Reese, made a motion to accept the Election Proclamation.

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

All in Favor: Yes: De Angeles, Kent, Docherty; Reese; No: None; Motion Passed – 5-0

5. Comments from the public not on the agenda – Ann Kagdis, 111 Bay Drive, thanked the Town and Council Members for contributing to the Art and Music Auction, which raised over \$5,000.00.

Ms. Kagdis commented that she was a member of the Jensen Beach Neighborhood Advisory Council, which met recently to discuss the Riverlight Project, a proposed mixed-use development located on NE Indian River Drive. Ms. Kagdis suggested that the Town invite Marcela Cambor, a representative of the developer of the Riverlight Project, to a Council meeting to discuss the potential development.

Town Management Consultant, Terry O’Neil, commented that he was aware of the Riverlight Project and advised Council that Town staff would need time to plan an agenda and structure the meeting to include public comments.

6. Comments from the Council on topics not on the agenda – President De Angeles asked for comments from the Council.

Council Member Kent asked for an update on D. R. Horton and the bond close-out.

Town Management Consultant, Terry O’Neil, responded that the Mayor would provide an update.

Council Member Docherty asked if Town Council meeting times were being posted on Ocean Breeze Resort mailboxes.

Mayor Ostrand stated that as the Town has grown, Budget Meeting Notices are now sent to every resident via mass mailing.

7. Comments from Town Management Consultant Terry O’Neil - There were none

8. Comments from Mayor Ostrand – Mayor Ostrand referred to the copy of a letter from the office of Crary-Buchanan which was included in the meeting packet. She commented that she and Town staff met with an attorney to clarify the responsibilities of the Town, homeowners, and the Seawalk HOA regarding D. R. Horton and the pending close-out of the bond for the Seawalk Community. Mayor Ostrand then asked Town Management Consultant Terry O’Neil to speak further on the issue.

Mr. O’Neil spoke about the long, drawn-out time it has taken to move through the various issues related to the close-out. He commented that it was unacceptable, and as a result the Town had consulted with an attorney to understand the authorities of the Town, and what it could do to expedite the process, as well as the Town’s limitations in relation to building codes. He continued that the letter was intended to provide an update for the Council and residents, as well as to gain the attention of the builder and get the process moving. He commented that he spoke with Town Building Official, Steve Nicolosi, regarding the attic access points in some of the homes at Seawalk, and D. R. Horton was in the process of scheduling repairs on the attic access as well as the

roofing vents. Mr. O'Neil stated that the four-million-dollar bond was still in place and had not been refunded, due to unresolved infrastructure issues, such as irrigation and landscaping, that are implicated by the PUD agreement. He added that he and Mayor Ostrand met with the Seawalk HOA President and Treasurer to discuss the close-out issues, as well as the Town's position.

Town Attorney, Rick Crary, stated that the Town had consulted with two attorneys from Crary-Buchanan regarding the Seawalk community and their ongoing issues.

Council member Kelley asked Attorney Crary if Seawalk homeowners should consult with their own attorney regarding their ongoing issues with D. R. Horton or should they first speak to the Seawalk HOA.

Attorney Crary responded that he did not recommend speaking to their HOA rather than consulting their own attorney as every Seawalk homeowner had their own warranty and separate contracts with the builder. He continued that consulting with their own attorney regarding their legal rights was recommended, as there is only so much the Town could do.

Council Member Kent asked about HOA's responsibilities regarding the Seawalk community and their ongoing issues with the builder.

Town Management Consultant, Terry O'Neil, commented that the HOA's involvement was primarily regarding the PUD agreement, and the bond resolution as it pertained to common areas in the Seawalk community. He added that as the homes were individually owned and every homeowner had a separate contract and warranty with the builder, that the HOA was not responsible.

Council Member Kent asked if it was the homeowners' responsibility to retain legal counsel if a problem with their home was found to be a building code violation.

Attorney Crary stated that as he had not seen the individual contracts between Seawalk homeowners and the builder. He added that he could only assume, based on other contracts he had reviewed in the past, that typically the contract stated that the builder performs the work according to state building codes. He added that even if the work was not done according to the Florida Building Code, the Town had no legal ability to waive the State of Florida requirements of the Florida Building Code. He continued that each homeowner should speak to an attorney to review their contract with the builder, and to determine what would fall under a warranty issue and the possibility of an individual making a claim.

Council Member Kent asked if D. R. Horton was responsible for warranties as well as adhering to Florida Building Codes.

Attorney Crary stated that D. R. Horton presumably had both a statutory warranty and other extra warranties provided with each individual contract and should be reviewed by the homeowner's legal counsel to determine the builder's liability to the homeowner.

Discussion ensued regarding Florida Building Codes and warranties.

Attorney Crary then advised Council Members who were also Seawalk homeowners, to ensure there is no conflict of interest, to contact the Florida Ethics attorney prior to voting on any issues which would directly affect them in relation to D. R. Horton and any outstanding issues with their homes. He added that this applied to all Council Members when an issue arose that might present a conflict of interest.

A Seawalk resident asked why the Seawalk HOA was paying for an attorney to deal with the PUD as the

common areas do not belong to the Seawalk HOA until the bond had been closed out.

Town Management Consultant, Terry O'Neil responded that the Town had an obligation to administer the PUD, and that remained in place in perpetuity.

Discussion ensued regarding the PUD and the Seawalk HOA.

Matthew Biondolillo, 2680 NE Breezeway, commented that many homeowners are unaware that their roof may be missing baffles, which could lead to water intrusion.

Mayor Ostrand stated that the Town was seriously and keenly aware of the issues facing Seawalk homeowners. She then stated that as she was the one who would sign off on the bond, she wanted to ensure everything was completed correctly. She added that although the Town was attempting to move at a faster pace, this would take time.

Discussion ensued regarding Florida Building Codes and Seawalk homes.

Council Member Kent asked why a homeowner should obtain legal counsel if the builder did not adhere to Florida Building Codes.

Attorney Cray stated that law was complex, and he urged homeowners to review their individual contract rights.

Council Member Kelley commented that she was surprised to hear Attorney Cray recommend every homeowner seek individual legal counsel as she thought the Town and the Seawalk HOA were working collectively to resolve the outstanding issues.

Attorney Cray stated that the Town was only looking at their responsibilities in relation to Florida Building Code and what remedies are available now after a Certificate of Occupancy was issued. He went on to say that the attorneys hired by the Town do not yet have a recommendation.

Discussion ensued regarding Seawalk Homeowners obtaining individual legal counsel.

9. Announcements – President De Angeles announced the upcoming meetings for 2023 to be held at the Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze.

- Budget Workshop and Setting of Tentative Millage Rate, Wednesday, July 26, 2023, at 6:00 p. m.
- Regular Town Council Meeting Monday, August 14, 2023, at 10:30 a. m.
- Regular Town Council Meeting Monday, September 11, 2023, at 10:30 a.m.
- Proposed Budget and Tentative Millage Rate Hearing, Wednesday, September 13, 2023, at 6:00 p. m.
- Final Budget and Millage Rate Hearing, Wednesday, September 20, 2023, at 6:00 p. m.

President De Angeles asked for a motion to adjourn.

Council Member Kent, seconded by Council Member Docherty, made a motion to adjourn.

All in Favor: Yes: De Angeles, Kent, Docherty; Reese; No: None; Motion Passed – 5-0

Meeting adjourned at 7:13 p.m.

July 10, 2023, Minutes

Respectfully Submitted, Kim Stanton Town Clerk
Minutes approved: July 10, 2023