

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

Monday, October 14, 2024, 6:00 pm  
Ocean Breeze Resort Clubhouse Pineapple Bay Room  
700 NE Seabreeze Way, Ocean Breeze, FL

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

**1. Call to Order, President Kelley**

- Pledge of Allegiance
- Roll Call

**2. Approval of Minutes –**

- Regular Town Council Meeting, Monday, September 9, 2024
- Proposed Budget and Tentative Millage Rate Hearing, Wednesday, September 11, 2024
- Final Budget and Millage Rate Hearing, Wednesday, September 25, 2024

**3. RESOLUTION NO. 354-2024 – A RESOLUTION OF THE TOWN OF OCEAN BREEZE, FLORIDA RECOGNIZING CITY GOVERNMENT WEEK, OCTOBER 21-27, 2024, AND ENCOURAGING ALL CITIZENS TO SUPPORT THE CELEBRATION AND CORRESPONDING ACTIVITIES – Mayor Ostrand**  
(Motion, second, public comment, all in favor)

**4. Comments from the public on topics not on the agenda**

**5. Comments from the Council on topics not on the agenda**

**6. Comments from the Town Attorney, Gemma Torcivia**

**7. Comments from Town Management Consultant Terry O’Neil**

**8. Comments from Mayor Ostrand**

**9. Announcements – Meetings to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze.**

- **Regular Town Council Meeting, *Tuesday*, November 12, 2024 at 10:30 am**
- **Regular Town Council Meeting, Monday, December 9, 2024 at 10:30 am**

**10. Adjourn**

(Motion, second, all in favor)

2.

TOWN OF OCEAN BREEZE  
MINUTES REGULAR TOWN COUNCIL MEETING  
Monday, September 9, 2024, 10:30AM  
Ocean Breeze Resort Clubhouse, Pineapple Bay Room  
700 NE Seabreeze Way, Ocean Breeze, FL

1. **Call to Order** – President Kelley called the meeting to order at 10:30 a.m.
  - President Kelley recognized Officer Adams of the Martin County Sheriff’s Department.
  - Pledge of Allegiance – Mayor Ostrand led the Pledge of Allegiance
  - Roll Call – Present: Mayor Karen M. Ostrand, President Sandy Kelley, Vice President Kevin Docherty; Council Members Gina Kent, Matthew Squires, and Michael Heller
  - Staff Present – Town Management Consultant, Terry O’Neil; Attorney, Paul Nicoletti, Attorney Gemma Torcivia; Permit Processor, Pam Orr; and Town Clerk, Kim Stanton

President Kelley recognized Michael Glynn, Environmental Studies Center, and thanked him for providing coffee and donuts. She spoke about the Town’s collaboration with the Environmental Studies Center to remove invasion plants along Indian River Drive.

Mr. Glynn thanked the Town and the community for their support.

2. **Approval of Minutes** – Vice President Docherty, seconded by Council Member Kent, made a motion to approve the minutes of the Special Meeting and Budget Workshop, Setting of Tentative Millage Rate dated July 24, 2024.

President Kelley asked for comments from the public.

There were none.

All in favor: Yes: Kent, Kelley, Docherty, Heller, Squires; No: None; motion passed 5-0.

3. **Proclamation – Declaring “Hunger Action Month” in Ocean Breeze, Florida** – Mayor Ostrand read the Proclamation into the record.

President Kelley asked for a Motion to approve the Proclamation.

Council Member Docherty, seconded by Council Member Kent, made a motion to approve the Proclamation declaring “Hunger Action Month” in Ocean Breeze, Florida.

President Kelley asked for public comment.

There were none.

All in favor: Yes: Kent, Kelley, Docherty, Heller, Squires; No: None; motion passed 5-0.

Mayor Ostrand invited Gary Porter, Director of Community Relations, Treasure Coast Food Bank, to speak.

Mr. Porter addressed the Mayor and the Council regarding the Treasure Coast Food Bank’s efforts to raise awareness and the need to end hunger along the Treasure Coast.

**4. Request for Approval of Contract with Gemma Torcivia to Serve as Town Attorney – Mayor Ostrand recommended Gemma Torcivia to serve as the Town Attorney and asked the Town Council to approve her contract.**

Council Member Heller asked about Item #3 in the contract. He stated that Item #3 was regarding a three percent annual increase in rate of pay annually over the next three years and thereafter, Attorney Torcivia, would have to request an increase every year thereafter. He asked if the contract could be modified to provide for an automatic annual increase for as long as the contract was in effect. He stated that he did not believe that the Town attorney should have to ask for an annual increase of three percent each year. He added that if there were an issue with her performance, then the increase could be discussed.

Mr. O’Neil stated that a motion should be made to make that change.

Council Member Heller, seconded by Council Member Docherty, made a motion to remove the cap.

President Kelley asked for public comment regarding the revisions to Attorney Torcivia’s contract.

Discussion ensued regarding the details of the contract.

Attorney Nicoletti stated that the contract was easily modified to read “the Firm’s fee rates shall be increased by 3% annually each October 1<sup>st</sup>” and he clarified that was October 1<sup>st</sup>, 2025 “subject to approval by the Town during the annual budget review process.” He added that if the Town wanted to negotiate then that could be considered, and that the change would include the attorneys and the paralegals. He commented that the contract would say “fee rates for attorneys and paralegals.” He said that the contract could be modified if it were approved.

President Kelley answered “yes.”

Council Member Heller, seconded by Council Member Docherty, stated that his motion reflected the changes discussed by Attorney Nicoletti.

Roll Call Vote: Yes: Kelley, Squires, Kent, Heller, Docherty; No: None; motion passed 5-0.

Attorney Gemma Torcivia introduced herself and briefly addressed the Council.

Council Member Heller, seconded by Council Member Docherty, made a motion to approve the contract with the revisions.

President Kelley asked for public comments.

There were none.

Roll Call Vote: Yes: Heller, Docherty, Squires, Kent, Kelley; No: None; motion passed 5-0.

Attorney Nicoletti swore-in Attorney Torcivia.

**5. Comments from the public on topics not on the Agenda – Melissa Heller, Seawalk resident, thanked the Mayor, Town Council and staff for the continued assistance and support during closeout.**

Matthew Biondolillo, 2680 NE Breezeway Circle, Seawalk, Ocean Breeze, stated that the closeout list was updated recently and asked what tab number on the closeout included certification of sub-slab preparation including soil compaction?

Attorney Nicoletti answered that he did not have the matrix in front of him but that he would investigate it, and he would email Mr. Biondolillo directly.

Mr. Biondolillo spoke about sub slab preparation and soil compaction testing. He added that he was requesting that the Town take a hard look at soil compaction requirements in comparison to soil compaction test results on lot 24. He spoke about the off-ridge vents and asked if he could gain an understanding of whether vertical construction would be included as part of the closeout?

Attorney Nicoletti answered that he believed that Mr. Biondolillo had seen Mr. O'Neil's memo from 2023 to the Mayor and Town Council referencing closeout and vertical construction that was not part of the infrastructure covered by the bond. He commented that the same was true regarding sub soil compaction. He stated that he did not know if there was a specific matrix tab that dealt with that issue but that he would be happy to look at it and find out.

Mr. Biondolillo answered that he had a copy of the matrix and asked who created the closeout list.

Attorney Nicoletti answered that the closeout list was originally created by Mr. O'Neil, and at the beginning of the year, he rewrote it to simplify and clarify the list so that Forestar had a clear understanding of what was required.

Mr. Biondolillo commented that tab twenty-nine (29) stated that "claims that the allegation of the off-ridge vents was not properly installed" and that under the status, it stated that it was cleared by the Town Building Official.

Attorney Nicoletti stated that was correct.

Mr. Biondolillo stated that this was not his first time before the Council and that he was expressing his deepest concern over lot 24, as well as the remainder of the lots in the development, that modification of the off-ridge vents was not performed in accordance with applicable Florida Statutes and Florida Building Code.

President Kelley asked if lot 24 was his lot?

Mr. Biondolillo answered "yes."

Discussion ensued regarding Florida Statutes, Florida Building Code, modification of products, and manufacturers' instructions.

Mr. O'Neil stated that Mr. Nicolosi, a seasoned Building Official, had been very clear and had written several times. He commented that there was not much more to which the Town could respond. Mr. O'Neil continued that the Building Official was licensed by the State and that the Town did not substitute its' opinion for those of the licensed Building Official, Mr. Nicolosi.

Mr. Biondolillo asked about making an appeal or petition.

Attorney Nicoletti answered that the Town did not have a building board of appeals and that this was not covered by the Martin County's because there was no interlocal agreement. He commented that any action Mr. Biondolillo would want to take, would need to go through the State of Florida and to do that, he believed Mr. Biondolillo would need to hire an attorney.

Mr. Biondolillo stated that he did not think that he would, but that he would investigate.

Attorney Nicoletti told Mr. Biondolillo to think in terms of warranty work and that if he needed to hire an attorney to file a lawsuit against the contractor, DR Horton...he did not believe that the Town would object or try to intervene.

Mr. Biondolillo stated that he was significantly affected based on a decision made by the local Building Official. He added that he would move forward with an appeal and petition at the State level soon. He asked if this was supposed to be on the closeout list because he was informed for over a year that it shouldn't be there and then it suddenly showed up.

Attorney Nicoletti stated that he believed it was on the closeout list and was removed because it had been addressed / resolved by the Building Official. He commented that this was a question that was on the early matrix for Forestar or DR Horton to resolve, but then the Building Official did answer the question, so it was removed.

Mr. Biondolillo asked if it was removed from the closeout list, or if it was completed?

Attorney Nicoletti answered that there were several citizen concerns that were clearly addressed, and once they had been addressed, they were removed off the list because they did not have anything to do with infrastructure, or to do with the closeout of the PUD per se.

Mr. Biondolillo spoke regarding the closeout list date, tab #29, HVAC, the errors and omissions from Mr. Wojcieszak's report and certain communications in the agenda packet.

President Kelley stated that in some cases, the information must be summarized.

Mr. O'Neil clarified that at the last Town Council meeting, Council Member Kent mentioned the issue of the difference between the Town's obligations under the code, and those items that would fall under warranty. He added that the material that was put into the packets was not intended to be a complete summary of all the correspondence, but that staff had simply searched for instances in which those items were discussed – warranty work versus Town code. He stated that this was intended to be responsive to Council Member Kent's inquiry about the difference between warranty work and building code issues.

Mr. Biondolillo spoke about Florida Building Code requirements and/or Florida Statutes and warranty issues. He stated that a huge burden was being placed on his family.

Mr. O'Neil advised President Kelley that the Town's current and prior legal counsel and Building Official have gone to great lengths to not overrepresent what the Town was able to do under the Town's code provisions and in doing that, have spoken at great length about warranty, as did Mr. Wojcieszak (indecipherable). He stated that the professionals told the Town that there was a difference, and that the Town had displayed an aggressive attitude to investigate the issues and hired Mr. Wojcieszak, among other professionals, to assist the Town. He added that the Town had attempted to articulate that warranty issues did exist.

President Kelley commented that as a homeowner in Seawalk she had to understand the difference between warranty work which was the responsibility of the developer; and that there was a distinction.

Discussion ensued regarding warranty issues and work performed in accordance with Florida Statutes.

President Kelley asked for further comments from the public. George Ciaschi, 261 NE Coastal Drive, Ocean Breeze Resort, Ocean Breeze, asked about the Planned Unit Development and what was remaining for the Ocean Breeze Resort area and the Seawalk Development.

Mr. O'Neil answered that both PUD documents were on the Town's website and added that if Mr. Ciaschi had further questions, he would meet with him at the Town office.

Mr. Ciaschi thanked the Council for reducing the millage rate from 5.1 down to a potential 0.8. He asked about the rate being paid by Seawalk versus the other areas in the Town.

Mr. O'Neil answered that the millage rate, by law, had to be the same for all properties. He added that the discrepancy occurs from the way the State prescribes the method the Property Appraiser appraised the property. He commented that the Town had been exploring ways to equalize by initiating a utility tax and that there would be further discussion. He commented that the property at the Resort was appraised as a business, not as individual parcels.

Mr. Ciaschi asked about parking issues within the Town. He asked about ways to get county, state, or federal funding to purchase the upper portion of the parking lot in the plaza and install a two-story parking garage.

Mr. O'Neil stated that the County's Community Redevelopment Area (CRA) was situated to perform such tasks through tax increment financing and that there was a master plan for the downtown Jensen Beach area. He added that the Town was not part of the CRA. He commented that there was a development proposal for the front-end of the plaza property and that for that site, something like additional parking would not be feasible. He stated that the downtown CRA area would be the appropriate site. He added that the Town had inquired about the old Post Office property, which sits unused. He advised Mr. Ciaschi that the CRA was the entity to approach to inquire about additional parking downtown.

Mayor Ostrand informed Mr. Ciaschi that a Corporation privately owns the plaza property.

Mr. Ciaschi asked about leasing from the plaza owners.

Kim Stanton told Mr. Ciaschi that she would send the CRA meeting information to him in an email.

Mr. Ciaschi asked about annexing some of the neighboring properties.

Mayor Ostrand informed Mr. Ciaschi that annexing would include stages and dealings with the County as well as the State and the property owners themselves. She added that Stuart had paid over \$2 million dollars in court costs just to annex certain properties.

President Kelley asked for further public comments.

There were none.

**6. Comments from the Council on topics not on the Agenda** – President Kelley asked for comments from the Council.

Council Member Kent asked about the status of collecting available funds for the public safety barrier.

Mr. O'Neil answered that he had been in touch with the City of Stuart Manager, their staff person who handled the grants, and Captec Engineering. He added that they remain willing to assist the Town in evaluating a public safety barrier and quiet-zone concepts. He commented that this remains a work in progress and that he was glad that the City of Stuart was allowing the Town to piggyback on their efforts. He commented that the City was actively looking to apply for certain grants as well.

Vice-President Docherty spoke about the Friends-to-Neighbors website which provided information about the Town of Ocean Breeze, the County and other Cities within Martin County. He commented that the Chamber of Commerce also had information listed on their website.

Council Member Heller brought up the possibility of implementing a utility tax to diversify the Town's revenue and improve equity among its taxpayers. He commented that several residents met with the Town Manager last month to discuss how this could work. He stated that while it was too late to include it in the 2025 budget, he requested that Staff bring back a presentation and Ordinance at a future meeting for the Town Council to consider.

President Kelley concurred and asked to see detail as to what the impact would be for the Seawalk residents, Ocean Breeze Resort residents and the plaza.

Mr. O'Neil answered that this could be brought back before the Council.

President Docherty stated that the Florida League of Cities would be offering an online seminar for available grant assistance on September 24, 2024. He added that every other week, the Florida League of Cities offered educational webinars and that he recently attended such a webinar regarding Robert's Rules.

**7. Comments from Town Management Consultant, Terry O'Neil –** President Kelley asked Mr. O'Neil if he had any comments.

Mr. O'Neil directed the Council to the "blue sheet" informational items regarding the ongoing closeout efforts. He added that Attorney Nicoletti was in attendance to provide the Mayor and the Council with an update.

Attorney Nicoletti provided an update on the Forestar close-out. He added that the new compliance date was September 30, 2024. He spoke about ramifications should Forestar not comply, and about filing a Notice to Appear in County Court for violation of the Ordinance. He stated that he confirmed that the bond was in place and that he had obtained a new verification certificate from the bond company, dated August 27<sup>th</sup>, 2024. He commented that this was the same verification given to the Town in March. He spoke about case law in the Florida Statutes and stated that the bond did not actually start to run until the work had been completed.

Council Member Heller asked about an ordinance violation and if it would be the responsibility of the developer or the HOA.

Attorney Nicoletti answered that at this point, the Town did not have any thought about filing a Notice of Violation against the HOA. He added that he believed this could be done separately.

Attorney Nicoletti discussed the process of the bonding company. He added that this was a long way off and that he hoped the issues would be resolved without having to involve the bond. He spoke about a letter he received from Attorney David Earle, on behalf of Sheila Raver, his client, who owned Lot 1. He stated that there was a substantial issue and discrepancy at Lot 1 which was adjacent to a preserve area, now owned by the HOA and regulated by the Town and other agencies. He commented that Attorney Earle asked that the Town not release the surety bond unless and until the issues at Lot 1 had been resolved. He commented that he had forwarded Mr. Earles's letter to Forestar's Attorney, Mr. McFetridge. He spoke about his follow-up letters to Attorney McFetridge regarding the Indemnity Agreement and other items which remain open. He informed the Council that Attorney McFetridge responded and that Forestar would be addressing the issues soon. He stated that on August 29<sup>th</sup> and September 6<sup>th</sup> he had contacted Attorney McFetridge for an update and had not yet received a response.

Attorney Nicoletti gave an update on the Sun Communities closeout, flooding at 348 Starboard Way, his contact with Sun's attorney Bob Raynes, work performed in the infill area without obtaining permits for grading and site work, which may have affected drainage patterns, repaving or recontouring the roadways, possible work on the water and sewer systems without permits, email from Attorney Raynes in which he stated Sun Communities believed that they had until November 20, 2027 to closeout the PUD (based on the gubernatorial extensions that have occurred via Executive Orders). He stated that this was a complex matter.

Council Member Docherty asked about these Executive Orders.

Attorney Nicoletti answered that if the Governor's Executive Order covered Martin County, then it would apply, however, in most of those orders it was clear that if someone was in violation of the code, the orders do not apply. He stated that Sun Communities, through their attorney, was saying that they believed they had until 2027. He remarked that on August 28<sup>th</sup> he forwarded an email to Bob Raynes advising that Bayview Construction had submitted construction permits for ten (10) new homes. He added that he had asked Terry and Pam to hold up on issuing permits because municipalities did not issue permits where the potential permittee was in violation of the code. He commented that the Florida Legislature changed the law in 2024 to make it so that municipalities had 30 (thirty) days within which to issue building permits, respond or face a diminution of their building permit fees by 10 (ten) percent per day. He said that by the 20<sup>th</sup> of September, the Town would know the answer to this issue and respond to Sun Communities. He commented that he had asked Sun Communities to be mindful of the issue of performing work in the infill area. He stated that he had not received a compliance date from Sun Communities. He continued that the Town had received a response from Brad Pinover, Senior VP of Construction Services for Sun Communities, that they were completing their engineering review of issues in the infill area and would further advise the Town. He added that Sun Communities did not believe that there was any water or sewer work done without permits, and that they had televised the sewer system and found no critical issues were determined. He stated that the Town would want to see that report. He commented that Sun Communities said that the water system replacement plans would be submitted to the Florida Department of Environmental Protection for approval. He added that he believed that it would be phased over time and that no dates were provided.

Mayor Ostrand asked about the infrastructure on the north end of the Resort and spoke about the four (4) water main breaks within a six (6) week period. She asked about the engineering report deadline of July 30<sup>th</sup>.

Attorney Nicoletti answered that the engineering report was underway and may be complete, but that it had not been submitted to the Town. He added that it was to be submitted to Florida Department of Environmental Protection first which was normal procedure.

Mr. O'Neil stated that there was an inquiry by the new manager at the Resort regarding speed bumps and that they were not aware of the history. He added that the Town Council had taken a strong position that the speed tables needed to be proposed in context of all the other fixes (stormwater, etc.) and that that the Council had to approve a minor amendment to the PUD to allow for the speed bumps. He added that Attorney Nicoletti had reminded Sun's attorney, Bob Raynes, that the Resort's Prospectus had clear language and obligations to deal with speeding. He reminded the Council that the Town had advised Sun to submit a design with FDOT approved speed bumps.

Attorney Nicoletti added that golf carts and emergency vehicles did not do well over certain kinds of speed bumps. He commented that drainage patterns must also be considered.

Vice-President Docherty stated that the Resort had asked residents to respond on Neighbor to Neighbor regarding speed bumps and that the response had been mostly negative. He added that he believed that the Resort would let the Town know how they want to proceed.



Attorney Nicoletti added that his comments today were also in a Memorandum (dated September 9, 2024) which would be distributed to the Council.

President Kelley asked for further comments from Town Management Consultant, Terry O'Neil.

There were none.

**8. Comments from Mayor Ostrand** – Mayor Ostrand mentioned her recent attendance at the Florida League of Cities Annual Conference and her accomplishments. She spoke about the Florida League of Cities Advocacy work for towns and villages in the State of Florida. She added that during Legislative Action Days she would be going to Tallahassee to advocate for towns and villages in the State of Florida. She stated that she was on the Florida League of Mayors Board of Directors and that mental illness among veterans, the homeless, and others was a topic of concern. She encouraged everyone to get involved. She commented that she would provide numbers that could be posted on the website. She added that she would be attending committee meetings in October in Orlando.

**9. Regular and Budget Meeting Announcements** – All meetings, including all **Budget meetings**, will be held at the Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze, FL

- **Wednesday, September 11, 2024: 6 :00 pm – Public Hearing for setting of Tentative Millage Rate and Budget for FY 2024/2025**
- **Wednesday, September 25, 2024: 6:00 pm – Public Hearing and Adoption of Final Millage Rate and Budget for FY 2024/2025**
- Monday, October 14, 2024: 6:00 pm Regular Town Council Meeting
- ~~Monday, November 11, 2024: 10:30 am-Veteran's Day Holiday (Town Office closed)~~
- **Tuesday, November 12, 2024: 10:30 am**
- Monday, December 9, 2024: Regular Town Council Meeting 10:30 am

Mr. O'Neil stated that in previous years, prior to an election at the October meeting, candidates for Town Council and/or Mayor had been welcomed to introduce themselves before the Council and the public, during public comments. He added that this was an informal invitation, as it takes place during public comments, that everyone was welcome to speak about any topic they wish, and that the Town was not sponsoring the event. He stated that this was not a requirement of any candidate running for office.

**10. Adjourn** – Vice-President Docherty, seconded by Council Member Squires, made a motion to adjourn the meeting at 11:58 am.

All in favor: Yes: Kent, Kelley, Docherty, Heller, Squires; No: None; motion passed 5-0.

Respectfully Submitted,

*Kim Stanton,*  
Town Clerk

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

Addendum to Sept. 9, 2024  
Minutes



PAUL J. NICOLETTI  
Attorney at Law

[REDACTED]  
[REDACTED]

MEMORANDUM

TO: THE MAYOR AND MEMBERS OF THE OCEAN BREEZE TOWN COUNCIL.

SUBJECT: 1. REVIEW OF THE OPEN DEVELOPMENTS  
2. STATUS OF THE TOWN ATTORNEY POSITION

DATE: SEPTEMBER 9, 2024

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THIS MEMORANDUM IS PUBLIC RECORD

This is a bit of a chronology of activities beginning at the end of July, 2024.

1. REVIEW OF THE OPEN DEVELOPMENTS.

**FORESTAR:**

On July 31, I advised Will McFetridge, Esq. that the Town was reacting to the 1082 page submittal by Forestar by accepting certain items, asking for additional "explanation or certification" for several items; and identifying those items which required additional work by Forestar. I also advised that the Town was granting Forestar until September 30<sup>th</sup> to accomplish each of the items, and that was the new "compliance date," failing which legal action would be taken by the town.

In this context, "legal action" means a couple of things:

First: in accord with our original plan, it means the filing of a Notice of Violation, granting time for compliance (probably 30 days) followed by a Notice to Appear in Martin County Court for violation for the PUD Ordinance for failure to perform required elements of the PUD; and

Second: it also means notifying the Bonding company that their insured has failed to comply with the PUD Ordinance Agreement, by not completing the PUD requirements by the date required.

Telephone and Fax: +1 [REDACTED]

Email: [REDACTED]



**MEMORANDUM**

**TO: THE MAYOR AND MEMBERS OF THE OCEAN BREEZE TOWN COUNCIL**

**SUBJECT: 1. REVIEW OF THE OPEN DEVELOPMENTS  
2. STATUS OF THE TOWN ATTORNEY POSITION**

**DATE: September 9, 2024**

On August 1, I contacted the Bonding company to open a dialogue and ask for information concerning the Bond; there was a lot of back and forth with emails and phone calls to arrive at an understanding regarding my concerns about the Bond, which led to a Zoom Meeting on August 20<sup>th</sup> with their legal counsel in Atlanta. We did arrive at a basic agreement that the Bond remains in effect, and new Verification Certificate could be issued by the Bonding Company. We have now received that Verification Certificate dated August 27, 2024 and a copy (I believe) is in the "Blue Sheet" section of the Agenda. It's interesting to note that this date is exactly 6 years following the original date of the Bond. I also performed some independent legal research which I will provide to the Town Attorney when appointed which indicates that the Statute of Limitations for Performance Bonds does not begin to "run" until the work is completed and accepted by the Town... which has not yet occurred. I also asked Forestar for an updated Indemnity Agreement, which has likewise not been received yet.

On August 14, I received a letter from David Earle, Esq. on behalf of his client, Sheila Raver regarding her continuing issues with Lot 1, and asking that the Town not release the Surety Bond unless and until the Lot 1 issues have been resolved. I forwarded the letter to Will McFetridge.

On August 19, I recontacted Will McFetridge, advising that I hadn't heard anything since my transmission of July 31, and advised him of the following:

"First, I am wondering if there are any items from my letter which are disputed by your clients? If so, I would appreciate a response detailing the following items:

Second, The Indemnity Agreement mentioned in the letter needs to be re-asserted and extended by your clients until August 27, 2026, as requested.

Third, all the other items in my letter which need attention are still open and unresolved. Unless and until these items are resolved, the Town cannot closeout the PUD. Almost 3 weeks has passed since my letter, and I am hopeful you will respond soon.

If you want to discuss any of this, prior to a written response, please feel free to call me. I am available at most times, except for hearings on Tuesday from 10 AM to about Noon, and then again on Wednesday from 9 AM to about 11 AM, and again from 2 PM until 3 PM. Those are my only scheduled blackout dates and times."

Telephone and Fax: +1 [REDACTED]

Email: [REDACTED]

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**MEMORANDUM**

**TO: THE MAYOR AND MEMBERS OF THE OCEAN BREEZE TOWN COUNCIL**

**SUBJECT: 1. REVIEW OF THE OPEN DEVELOPMENTS  
2. STATUS OF THE TOWN ATTORNEY POSITION**

**DATE: September 9, 2024**

He did respond right away, advising "Believe me, Forestar is not ignoring your letter, and we will be addressing these items as soon as we can."

On August 29, I recontacted Will McFetridge, asking for an update, but no response so far.

On September 6, I recontacted Will McFetridge asking for an update on the Indemnity Agreement, but no response so far.

Are you beginning to see a pattern here?

**SUN COMMUNITIES:**

On August 1, I requested information on the flooding situation at 348 Starboard Way from Bob Raynes, Esq. who represents Sun Communities, and followed up with a phone call. They promised to look into the situation.

Sun Communities is also aware of the Town's concerns they (or their predecessor in interest) had performed work in the "Infill Area" without obtaining any permits for grading and site work with excavation which may have affected the drainage patterns; and also re-paving or re-configuring the roadways; and possible work to the water and sewer system.

On August 20, I received an email from Bob Raynes opining that Sun Communities believes it has until November 20, 2027 to closeout its PUD, as provided in various extensions to Development Orders granted by Governor Desantis in Executive Orders following several storms occurring since the original PUD Ordinance No. 220-2015. This is a complex matter and did not require an immediate response from the Town unless and until the issue of after-the-fact building permits is resolved.

On August 28, I forwarded an email from Pam Orr to Bob Raynes, advising that Bayview Construction has submitted for construction permits for several new homes. I asked Terry and Pam to hold up on the issuance of the permits, until I could look at the ramifications of issuing permits during a period where work had been performed without permits. To make matters more complicated, The Florida Legislature (this year) adopted an amendment to Sec. 553.792(1)(a)1, Fla. Statutes, which requires a local government to issue small residential building permits within 30 days of a complete application or face the loss of permit fees at the rate of 10% per day. I don't know of any local government which

Telephone and Fax: +1 [REDACTED]

Email: [REDACTED]

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MEMORANDUM

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will issue permits, while violations are outstanding. So, on or before September 20 (30 days), I am planning to advise Bob Raynes that this matter must be resolved first, before Building Permits can be issued. On the flip side of the argument, the Town may want to issue the Permits, if Sun agrees to comply by dates certain. To that end, I have also proposed that Sun enter into a Stipulation with the Town which would enable the Town to release the Permits.

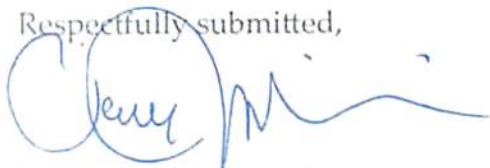
Just this past week, on September 3<sup>rd</sup>, we received a response from Brad Pinover, Senior VP of Construction Services for Sun Communities that they are completing their engineering review of the issues, and will further advise the Town. Incidentally, Sun Communities does not believe any water or sewer was done without permits, and having televised the sewer system, no critical issues were determined. They did say that the Water system replacement plans will be submitted to FDEP for approval, and then scheduled for capital replacement by Sun... but no dates were provided. And, this does not really respond to the matter sufficiently.

2. STATUS OF THE TOWN ATTORNEY POSITION:

By Mid-August, I had reviewed and revised the proposed contract with Gemma Torcivia, and her firm TG Law, PLLC, and sent it to the Mayor along with Gemma's Certificate of Good Standing from The Florida Bar. I know that each of you have had an opportunity to interview Ms. Torcivia, and

Please let me know if you require any additional information regarding these issues.

Respectfully submitted,



PAUL J. NICOLETTI

Cc:

Terry O'Neil, Management Consultant

Pam Orr, Permit Processor

Kim Stanton, Town Clerk

Telephone and Fax: +1 [REDACTED]

Email: [REDACTED]



[REDACTED]

[REDACTED]

TOWN OF OCEAN BREEZE  
MINUTES TENTATIVE BUDGET AND PROPOSED MILLAGE RATE HEARING  
Wednesday, September 11, 2024, 6:00 p.m.  
Ocean Breeze Resort Clubhouse, Pineapple Bay Room  
700 NE Seabreeze Way, Ocean Breeze, FL

1. **Call to Order** – President Kelley called the meeting to order at 6.00 p.m.

- Pledge of Allegiance – Mayor Ostrand asked for a moment of silence in remembrance of the lives lost during the attack on September 11, 2024; Mayor Ostrand led the Pledge of Allegiance
- Roll Call – Present: Mayor Karen M. Ostrand, President Sandy Kelley, Vice-President Kevin Docherty, Council Members Michael Heller, Gina Kent, and Matthew Squires
- Staff Present –Town Management Consultant, Terry O’Neil; Town Financial Consultant, Holly Vath; Town Clerk, Kim Stanton; Permit Processor, Pam Orr

2. **Proposed Millage for Fiscal Year 2024/2025 - Holly Vath, Town Financial Consultant** – Ms. Vath provided an overview from the July 24, 2024, Budget Workshop hearing in which a proposed tentative millage rate of .8 mills was approved. She continued to explain the 2024/2025 budget summary, explained the roll-back rate, which was .7471, and directed the Council to Page 9.

President Kelley stated that she would like to remain at the .8 mills.

President Kelley asked for comments from the Council.

Council Member Squires stated that he agreed.

President Kelley asked for comments from the public.

Vice-President Docherty spoke about the closeout costs of the two developments, Seawalk and Ocean Breeze Resort.

Town Clerk, Kim Stanton, read Resolution No. 350-2024 into the record: **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, MARTIN COUNTY, FLORIDA ADOPTING THE TENTATIVE LEVYING OF AD VALOREM TAXES FOR THE TOWN OF OCEAN BREEZE, MARTIN COUNTY FOR FISCAL YEAR 2024/2025; PROVIDING FOR AN EFFECTIVE DATE.**

She further read that the tentative FY 2024/2025 operating millage rate was .8000 mills, which was .0529 more than the rolled-back rate of .7471 mills which was a 7.08 increase, the voted debt service millage was 0% and the Resolution would take effect immediately upon its adoption.

Council Member Squires, seconded by Vice-President Docherty, made a motion to adopt Resolution No. 350-2024.

President Kelley asked for comments from the public.

Ann Kagdis, 111 NE Bay Drive, Ocean Breeze, commended Vice-President Docherty for speaking about the necessity to be prepared for potential legal fees with the closeout of the two PUDs to ensure that all

residents were protected and to protect their investments. She spoke about the importance of maintaining that the Town had no bonded indebtedness.

President Kelley asked for further public comments.

There were none.

President Kelley asked for further comments from the Council.

There were none.

Roll Call Vote: Yes: Kelley, Squires, Kent, Heller, Docherty; No: None; Motion Passed 5 - 0

**3. Proposed Budget for Fiscal Year 2024/2025 – Holly Vath, Town Financial Consultant – Ms. Vath explained a change from the last hearing on July 24, 2024, which was the State Half-Cent Sales Tax revenue, and the local communication services tax revenue would be increasing due to the population update. She spoke about reserves. She reminded the Council that dollars collected in gas tax revenue had to be spent on transportation and road expenses. She added that there were no changes to the expense portion of the budget, which remained at \$305,095.**

She took questions from the Council regarding additional policing services and the conferences and travel line item which was proposed in 2025 at \$6,900.

President Kelley asked the Council if they were agreed with the proposed \$6,900.

Mayor Ostrand spoke about the increase in travel expenses and explained her schedule for the upcoming year. She asked that the amount remain in the 2025 budget.

Mr. O'Neil asked for clarification and the Mayor's recommendation.

Mayor Ostrand stated that it was her recommendation that the amount in the 2025 budget remain.

Ms. Vath stated that the current budget for 2024 was \$5,800.

Mayor Ostrand spoke about the importance of everyone attending the ethics classes.

President Kelley asked for comments from the public and the Council.

Vice-President Docherty outlined his and the Mayor's upcoming travel. He spoke about the fact that he would be asking the Council to revisit the issue regarding his travel amount in the future. He added that he was attending a forum regarding grants.

President Kelley asked Council Member Heller if he was agreeable with the "contributions" line-item that was being proposed for 2025 in the amount of \$1,000.

Council Member Heller answered "yes."

Discussion ensued regarding the Environmental Studies Center educational sign.

Ms. Vath explained the Town's general fund reserves, pages 10-11.

President Kelley asked for comments from the public.

There were none.

President Kelley asked for further comments from the Council.

There were none.

Town Clerk, Kim Stanton, read Resolution No. 351-2024 into the record: **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, MARTIN COUNTY, FLORIDA, ADOPTING THE TENTATIVE BUDGET FOR FISCAL YEAR 2024/2025; PROVIDING FOR AN EFFECTIVE DATE.**

Vice-President Docherty, seconded by Council Member Kent, made a motion to adopt Resolution No. 351-2024.

President Kelley asked for public comment.

There were none.

President Kelley asked for comments from the Council.

There were none.

Roll Call Vote: Yes: Heller, Docherty, Squires, Kent, Kelley; No: None; Motion Passed 5 – 0

**4. Announcements** – All meetings, including all **Budget meetings**, will be held at the Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze, FL:

- **Wednesday, September 25, 2024: 6:00 pm – Public Hearing and Adoption of Final Millage Rate and Budget for FY 2024/2025**
- Monday, October 14, 2024: 6:00 pm Regular Town Council Meeting
- **Monday, November 11, 2024: 10:30 am-Veteran’s Day Holiday (Town Office closed)**
- **Tuesday, November 12, 2024: 10:30 am**
- Monday, December 9, 2024: Regular Town Council Meeting 10:30 am

**5. Adjourn** – Vice President Docherty, seconded by Council Member Squires, made a motion to adjourn the meeting at 7:08 pm.

All in Favor: Yes: Kelley, Docherty, Heller, Kent, Squires; No: None; Motion Passed – 5 - 0

Respectfully Submitted,

*Kim Stanton*  
Town Clerk

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

TOWN OF OCEAN BREEZE  
MINUTES OF THE FINAL BUDGET AND MILLAGE RATE HEARING FOR FY 2024/2025  
Wednesday, September 25, 2024 – 6:00 p.m.  
Ocean Breeze Resort Clubhouse, Pineapple Bay Room  
700 NE Seabreeze Way, Ocean Breeze, FL – 6:00 p.m.

**1. Call to Order** – President Kelley 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 Ostrand, President Sandy Kelley, Vice-President Kevin Docherty, Council Members Gina Kent and Matthew Squires  
Absent – Council Member Heller
- Staff Present – Town Management Consultant, Terry O’Neil; Town Financial Consultant, Holly Vath; Permit Processor, Pam Orr; Town Attorney, Gemma Torcivia

**2. Proposed Millage for Fiscal Year 2024/2025 – Holly Vath, Town Financial Consultant** – Ms. Vath reminded the Council that the millage rate was set at .8 mills at the Tentative Budget and Proposed Millage Rate Hearing. She stated that there were no changes made to the budget at the Tentative hearing. She advised the Council that the rolled-back rate was .7471 and if they decided to continue with the .8 mills, that would be 7.08 percent above the rolled-back rate. She asked for comments from the Council.

President Kelley stated that she believed the that Council was agreeable with .8 mills.

President Kelley asked for comments from the public.

There were none.

Town Clerk, Kim Stanton, read Resolution #352-2024 into the record. **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE OF MARTIN COUNTY, FLORIDA ADOPTING THE FINAL LEVYING OF AD VALOREM TAXES FOR THE TOWN OF OCEAN BREEZE, MARTIN COUNTY FOR THE FISCAL YEAR 2024/2025; PROVIDING FOR AN EFFECTIVE DATE.**

President Kelley asked for comments from the public.

There were none.

President Kelley asked for comments from the Council.

There were none.

Vice-President Docherty, seconded by Council Member Squires, made a motion to adopt Resolution #352-2024 to set the final millage rate at .8 mills.

Roll Call Vote: Yes: Kelley, Squires, Kent, Docherty; No: None; Absent: Heller; Motion Passed: 4-0

**3. Proposed budget for Fiscal Year 2024/2025 – Financial Consultant, Holly Vath** – Ms. Vath advised the Council that the proposed expense budget was \$305, 095 in which general fund reserves, in

the amount of \$73,993, would have the be utilized. She spoke about the general fund reserves balance and stated that the budget had not changed since the tentative budget meeting.

Town Clerk, Kim Stanton, read Resolution #353-2024 into the record. **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, MARTIN COUNTY, FLORIDA, ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2024/2025; PROVIDING FOR AN EFFECTIVE DATE.**

President Kelley asked for comments from the public.

George Ciaschi, 261 NE Coastal Drive, Ocean Breeze, asked what would happen if the reserves were fully used.

Mr. O'Neil stated that staff believed that the \$180,000 in the reserve was an adequate amount to address the closeout issues and that in the future, the millage rate may increase slightly. He explained that the Town was looking into a possible utility tax to diversify revenue sources.

President Kelley asked for further comments from the public

There were none.

President Kelley asked for comments from the Council.

There were none.

Vice-President Docherty, seconded by Council Member Kent, made a motion to adopt Resolution #353-2024.

President Kelley asked for further comments from the public and from the Council.

There were none.

Roll Call Vote: Yes: Docherty, Squires, Kent, Kelley; Absent: Heller; No: None; Motion Passed: 4-0

President Kelley asked about the hurricane preparedness pamphlet.

Mr. O'Neil spoke about the information provided to the Council and the public.

**4. Announcements – Meetings to be held at the Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze, Florida:**

- Regular Town Council Meeting, Monday, October 14, 2024 at 6:00 p.m.
- Regular Town Council Meeting, Tuesday, November 12, 2024 at 10:30 a.m.
- Regular Town Council Meeting, Monday, December 9, 2024 at 10:30 a.m.

Mr. O'Neil explained that the Supervisor of Elections would be handling the canvassing of the votes for the Town of Ocean Breeze and that the election results would be certified no later than November 16<sup>th</sup>.

Vice-President Docherty and Mayor Ostrand spoke about the 2024 election candidates, registering to vote, grants, and the Indian River Drive refurbishment.

Discussion ensued regarding grants, grants administration, "eCivis," Florida League of Cities, public safety barrier wall and the City of Stuart.

President Kelley asked about posting the initial results of the election at the Town office.

**5. Adjourn** – Council Member Squires, seconded by Vice-President Docherty and Council Member Kent, made a Motion to adjourn the meeting at 6.25 p.m.

All in Favor: Kelley, Docherty, Kent, Squires

Respectfully submitted,

*Kim Stanton*

Town Clerk

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



**RESOLUTION NO. 354-2024**

**A RESOLUTION OF THE TOWN OF OCEAN BREEZE, FLORIDA  
RECOGNIZING CITY GOVERNMENT WEEK,  
OCTOBER 21-27, 2024 AND ENCOURAGING ALL CITIZENS TO SUPPORT  
THE CELEBRATION AND CORRESPONDING ACTIVITIES.**

**WHEREAS**, city government is the government closest to most citizens, and the one with the most direct daily impact upon its residents; and

**WHEREAS**, municipal government provides services and programs that enhance the quality of life of residents, making their city their home; and

**WHEREAS**, city government is administered for and by its citizens, and is dependent upon public commitment to and understanding of its many responsibilities; and

**WHEREAS**, city government officials and employees share the responsibility to pass along their understanding of public services and their benefits; and

**WHEREAS**, Florida City Government Week offers an important opportunity for elected officials and city staff to spread the word to all citizens of Florida that they can shape and influence this branch of government; and

**WHEREAS**, the Florida League of Cities and its member cities have joined together to teach citizens about municipal government through a variety of activities; and

**NOW THEREFORE BE IT RESOLVED BY THE TOWN OF OCEAN BREEZE AS FOLLOWS:**

Section 1. That the Town of Ocean Breeze encourages all citizens, city government officials and employees to participate in events that recognize and celebrate Florida City Government Week.

Section 2. That the Town of Ocean Breeze does encourage educational partnerships between city government and schools.

Section 3. That the Town of Ocean Breeze supports and encourages all Florida city governments to actively promote and sponsor "Florida City Government Week."

PASSED AND ADOPTED this 14<sup>th</sup> day of October, 2024.

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

\_\_\_\_\_  
Sandy Kelley, President

ATTEST: \_\_\_\_\_  
Kim Stanton, Town Clerk



## **GENERAL INFORMATION ITEMS**

**The attached items (i.e.: correspondence, emails, 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.**

- A. Executed (Amended) Agreement for Legal Services per Council direction
- B. Response from Forestar Attorney regarding July 31, 2021 Seawalk closeout matrix send by Attorney Nicoletti
- C. Summary of activities for the Town's November elections
- D. Information regarding Town registration with the Florida League of Cities' grant assistance program

A.  
Amended language  
shown in yellow

**AGREEMENT FOR LEGAL SERVICES**

THIS AGREEMENT FOR LEGAL SERVICES (hereinafter "Agreement") is made and entered into this 9<sup>th</sup> day of September, 2024 by and between the TOWN OF OCEAN BREEZE, a Florida municipal corporation, with offices at 1508 NE Jensen Beach Blvd., Jensen Beach, FL 34957 (mailing address: P.O. Box 1025, Jensen Beach, FL 34958), (hereinafter "TOWN") and the TG LAW PLLC, a Florida Limited Liability Company, with offices at 515 N. Flagler Drive, Suite 350, West Palm Beach, Florida 33401 (hereinafter "FIRM").

WHEREAS, the TOWN agrees to utilize the FIRM to provide legal and other representation services to the TOWN, and the FIRM agrees to serve in such capacity.

NOW THEREFORE, the parties, intending to be legally bound, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the TOWN and the FIRM hereby agree as follows:

1. The FIRM hereby agrees to serve as Town Attorney for the TOWN, effective beginning on October 1, 2024, and thereafter for an indefinite period subject to annual appropriation by the Town Council, by providing legal representation on matters relating to the TOWN. The responsibilities and duties of the FIRM shall include but shall not be limited to:

- A. Attend all meetings of the Mayor and Town Council (regular and special);
- B. Attend other meetings as requested or deemed appropriate by the Mayor, the Town Council or the senior Town staff;
- C. To be available on call, at reasonable times, to communicate with the Mayor, with members of the Town Council, and with Town staff regarding legal matters;
- D. To prepare or review all governance documents, referenda, contracts, agreements, policies, procedures, personnel matters and Town agenda items;
- E. To provide appropriate training to Town staff, and the Mayor and Town Council, as needed, pertaining to legal issues such as the Sunshine and ethics laws, procurement requirements, land use and zoning procedures, code compliance

matters, and other administrative and quasi-judicial matters, *et cetera*; and to assist with parliamentary procedures.

- F. To give legal opinions and interpretations as requested by the Mayor, the Town Council or the senior Town Staff;
- G. To undertake representation of the TOWN in matters of general litigation at the request of and as authorized by the Town Council;
- H. To represent the TOWN at administrative and judicial hearings, depositions, mediations, and settlement conferences;
- I. To recommend, coordinate and oversee the retention of outside legal counsel, when appropriate;
- J. When requested by the Mayor or Town Council to perform investigations;
- K. Attend other meetings and provide other legal services as requested by the Mayor, the Town Council or senior Town Staff; and,
- L. Defend the TOWN in lawsuits and administrative actions as needed.
- M. The FIRM also agrees to the extent requested by the TOWN, and available to the FIRM, that the FIRM shall provide or make arrangements for other management and professional services through its own sources, at commercially reasonable rates which shall not be surcharged by the FIRM.

3. The parties agree that the FIRM shall be primarily represented by Gemma Torcivia, who is a duly licensed attorney in the State of Florida, and is in “good standing” as that term is used by The Florida Bar, shall hold and use the title of “Town Attorney” as that term is defined in the Town Charter, the Town Code of Ordinances, and Florida Statutes, and who shall be responsible for the supervision of other attorneys and paralegals in the FIRM. The FIRM shall be compensated at the rate of \$275.00 an hour for services rendered by attorneys of the FIRM, and \$95.00 an hour for the services of paralegals of the FIRM. The FIRM’s fee rates shall be increased by three percent (3%) annually, each October 1st commencing October 1, 2025, for attorneys and for paralegals; and shall be subject to approval by the TOWN during the annual budget review



process. If at any time a FIRM attorney's license to practice law in the State of Florida or elsewhere shall be impaired by an order of Contempt by a court of competent jurisdiction, by a criminal charge brought by law enforcement, or by a suspension or revocation by The Florida Supreme Court, or by a recommendation for suspension or revocation by The Florida Bar or other state or federal bar, Gemma Torcivia shall immediately notify the TOWN in writing, fully apprising the TOWN of the circumstances.

4. The parties agree that the TOWN shall reimburse the FIRM for any reasonable and ordinary expenses and costs incurred during the course of providing legal services. The expenses and costs include, but are not limited to, out-of-pocket expenses for filing fees, recording, court reporters, photocopies, postage, research charges, mileage (at the IRS rate), and other usual and customary expenses. However, the FIRM agrees not to charge mileage for the monthly Regular Town Council Meeting. In the event of unusually large costs or expenses, the FIRM reserves the right to require a cost deposit from the TOWN prior to undertaking the expenditure of funds on the TOWN's behalf.

5. The FIRM shall submit itemized invoices for services rendered on a monthly basis with payment to be made by the TOWN within thirty (30) days of submission of the invoice.

6. This document contains all of the terms and conditions of this Agreement and shall only be subject to modification upon mutual agreement, in writing, of the parties to the Agreement.

7. The TOWN may terminate this agreement, without cause, after providing fifteen (15) days written notice to the FIRM. The FIRM may terminate this agreement, without cause, after forty-five (45) days written notice to the TOWN.

8. All notices or other communications hereunder shall be in writing and shall be deemed duly given if delivered in person or sent by certified mail return receipt requested and addressed as follows:

- a. Mayor  
Town of Ocean Breeze  
P.O. Box 1025  
Jensen Beach, Florida 34958

b. Gemma Torcivia  
TG Law PLLC  
515 N. Flagler Drive, Suite 350  
West Palm Beach, FL 33401

The parties having been duly authorized by their respective governing bodies have executed this Agreement for Legal Services effective on the date first set forth above.

**TOWN OF OCEAN BREEZE, FLORIDA      TG LAW PLLC**

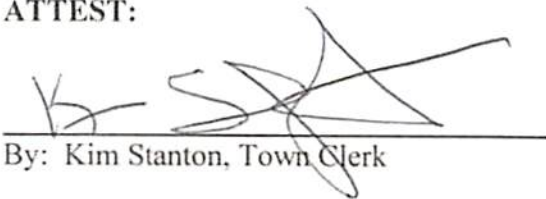


By: Karen M. Ostrand, Mayor



By: Gemma Torcivia, Manager

**ATTEST:**



By: Kim Stanton, Town Clerk

**APPROVED AS TO FORM  
AND CORRECTNESS:**

\_\_\_\_ PAUL J. NICOLETTI \_\_\_\_



By: Paul J. Nicoletti, Attorney at Law





**JOHNSON  
POPE**  
BOKOR  
RUPPEL &  
BURNS, LLP

COUNSELORS AT LAW

TAMPA ■ CLEARWATER ■ ST. PETERSBURG

B.

WILLIAM F. McFETRIDGE  
Riverwalk Plaza  
400 North Ashley Street, Suite 3100  
Tampa, Florida 33602  
Telephone (813) 223-2500  
Fax (813) 223-7118  
Email: WMcFetridge@JPFirm.com

September 20, 2024

*VIA EMAIL*

Paul J. Nicoletti

[REDACTED]  
[REDACTED]  
[REDACTED]

**Re: Town of Ocean Breeze – Sea Walk Closeout Items**

Mr. Nicoletti:

As you know, this firm represents Forestar (USA) Real Estate Group Inc. (“Forestar”). This letter responds to your letter dated July 31, 2024, the accompanying “Sea Walk Closeout Matrix,” and the issues raised therein. Forestar’s responses are as follows:

**Section 2: Items and Matters for which the Town requests additional explanation or certification prior to acceptance**

- a. TAB 2: Forestar is committed to coordinating with the Sea Walk HOA (“HOA”) and provided the following alternatives: (i) the shutting down and capping in place of any existing active irrigation per the PUD; or (ii) if the HOA wishes, pursuing a minor amendment to the PUD to allow for irrigation only in any currently and actively irrigated common areas with the HOA’s written approval, along with irrigation system plans and an after-the-fact construction permit from the Town.
- b. TAB 13: Fill on individual lots and individual Lot grading plans are not typically provided on a Site Overall Paving, Grading & Drainage as-built, which is why they were not included on this as-built. Individual Lot as-built surveys that are provided at Certificate of Occupancy show finished individual lot grading per any typical lot grading plans provided in the civil grading design. If the Town requires MacKenzie’s certification of the individual lot grading, we will coordinate with MacKenzie Engineering & Planning, Inc. (“MacKenzie”) to review and certify each individual lot grading as-built survey and include their certification of those surveys in a revised/amended resubmittal. There is too much data to add each individual lot’s survey data to the Overall Paving, Grading & Drainage as-builts.
- c. TAB 14: Signage certifications are also not typically requested on a Site Overall Paving, Grading & Drainage as-built. However, as the Town has requested it, we will coordinate with MacKenzie

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████████████████████  
████████████████████





Paul J. Nicoletti  
September 20, 2024  
Page 2

to inspect and, upon inspection approval, have MacKenzie provide a certification stating the signage and traffic devices have been installed per the approved civil plans and the approved PUD Master Plan, and meet MUTCD requirements. This certification will be included in the revised/amended resubmittal.

- d. TAB 15: We will coordinate with MacKenzie to provide a certification that the Sea Walk project's entrance gates are in compliance with ASTM Designation F2200-20 and the PUD Master Plan and include it in the revised/amended resubmittal.
- e. TAB 21: A certification by Caulfield & Wheeler for the confirmation of installation of all PRMs and PCPs (survey markers) has been provided by Zachary Griffin via email and at each of the meetings at the Town between Forestar and the Town's representatives. However, as the Town is requesting that MacKenzie certify an already signed and sealed certified document by a professionally licensed public land surveyor, we will coordinate with MacKenzie to review and provide a certification of the certification and add it to the revised/amended submittal.
- f. GENERAL REQUIREMENT: We will coordinate with MacKenzie, as the certifying engineer, to either remove the 700+ referenced photos from the revised/amended resubmittal, or if they so choose, keep any photos in the revised/amended resubmittal, add the Town's criteria for each remaining photo.

**Section 3: Items and Matters for which the Town requests additional work from Forestar**

- a. TAB 1: The landscaping for the Sea Walk project has been under the control and maintenance of the HOA since May 31, 2022. To facilitate the certification of the site landscaping, Forestar installed, at its cost, missing landscaping materials following an inspection by Lucido & Associates, at which time Lucido & Associates certified the landscaping was complete and installed per the PUD. Because the Town elected to have Mr. Flaugh perform a site inspection seven (7) months later, there may have been deficiencies found by Mr. Flaugh, but these deficiencies were not caused by Forestar. Forestar will review Mr. Flaugh's last inspection and provide further information upon assessment.
- b. It is typical in PUDs that after PUD site plan approval, certain engineering additions are added that may not be reflected in a PUD site plan but are nonetheless reviewed and approved on other subsequent documents or sets of plans. PUDs are not typically amended to show these additions because the other subsequent approvals are typically included in a full PUD plan set, and there is an understanding that the PUD Site Plan is an architectural rendering and does not include civil engineering design standards and details. As the PUD designer, Lucido & Associates, certified the entire PUD as complying with PUD requirements and the Approved Master Plan because, in their experience, they know non-material deviations that do not impact the requirements of a PUD are





Paul J. Nicoletti  
September 20, 2024  
Page 3

sometimes added following subsequent reviews. Such deviations do not substantiate PUD amendments.

However, since the Town is requiring a PUD amendment for the irrigation issue, Forestar proposes to remove the T-turnaround adjacent to Lot 1 and leave the portion of the turnaround across the street from Lot 1 and amend the PUD Site Plan accordingly. Forestar will also, through its environmental consultant, provide a certification that confirms that all preserve areas are free of exotics, debris, and intrusions and are in compliance with the PAMP, allowing for one particular area where exotics were left in place as a buffer upon the request of the residents. This will be confirmed with the HOA in writing.

- c. TAB 12: Forestar will continue to coordinate with the resident/owner of Lot 1 and the resident's attorneys to address the resident's concerns about the re-grading and full usage of the west side of her lot. Forestar will coordinate with the Town as needed to resolve this resident's complaint. In prior meetings with the Town, the Town's representatives acknowledged that filling a portion of the preserve adjacent to the resident's west property line with a slope to adjust for the difference in elevation would be allowed to accommodate the filling and re-grading of the resident's lot. The impact of this slope would be offset by new plantings specified in a PAMP amendment and approved by the Town. Please confirm that this is still the case.
- d. See response for Section 3, Letter b. above.
- e. TAB 17: The maintenance of drainage inlet grout and minor landscaping and/or water damage of the asphalt at the south side of the main entrance island will be corrected by Forestar and re-inspected and re-certified by MacKenzie in a revised/amended submittal. Neither of these items have failed, as stated in the July 31st letter, or drainage inlets would have collapsed underground, and asphalt would have broken into pieces on the roadway. Neither has happened in each case. These are long-term maintenance issues which is why MacKenzie provided the Town with their PUD Consistency Certification.
- f. TAB 19: Forestar has provided the affirmative statement as to which engineer was the EOR for each and every one of the major components of the infrastructure plan. As no comments were provided by the Town regarding the statement, Forestar considered the request closed. Please advise whether the Town prefers this statement included in the revised/amended submittal forthcoming by MacKenzie.
- g. TAB 20: The discharge onto Lot 11 from the neighboring commercial plaza was due to overflow stormwater from the plaza not maintaining its drainage system during one very extreme storm event. Forestar has not been provided and has not received any reports of erosion from Sea Walk homeowners. As is typical, the sidewalk access to the plaza was modified to attain ADA standards but is considered a non-substantial deviation from the approved PUD Site Plan. However, at the



Paul J. Nicoletti  
September 20, 2024  
Page 4

Town's request, Forestar and MacKenzie will re-evaluate the area's construction and provide further feedback at a later date. We must note that the Town is holding Forestar responsible for the plaza's unauthorized discharge into the Sea Walk Community but, instead, should be pursuing action against the plaza for its lack of stormwater system maintenance which is the most likely cause of the discharge.

- h. TAB 22: The "DO NOT ENTER" sign on White Pine Terrace will be relocated closer to Hickory Ridge Avenue if MacKenzie's review of the signage mandates that the sign is in the wrong location.
- i. TAB 25: A draft bond for the 10% reduction will be provided for the Town's review as soon as possible.

Although Forestar and MacKenzie are currently working through these issues, based on the above, Forestar requests that the Town revise the compliance date to complete Section 2., Items b., c., d., e., f., and Section 3., Items e., f., h., and i., to October 30, 2024. Where responses outlined above can be submitted earlier, they will be. Due to the complexity of coordination with the HOA, the Town, plan reviews, completion of the minor amendment to the PUD, and coordinating with the owner and attorneys of Lot 1, Forestar requests that additional time past October 30, 2024, be provided for Section 2., Item a., and Section 3 Items a., b., c., d., and g., revising the compliance date for these items to December 31, 2024. Finally, Forestar requests reconsideration of Section 3, Items a. and g., as Forestar disputes the Town's position on these issues.

Concerning the Performance Bond, the Bond is set for automatic renewal and is in no danger of expiration. Please feel free to confirm this with Westchester Fire Insurance Company. Concerning the Indemnity Agreement, the Agreement is not limited in time and there is no fixed duration. Thus, there is no need to extend the Agreement for any period of time as there is no period to extend.

Forestar looks forward to continuing to work through these issues with the interested parties.

Sincerely,

JOHNSON, POPE, BOKOR,  
RUPPEL & BURNS, LLP

*/s/ William F. McFetridge*

William F. McFetridge



**Town Clerk**

---

**From:** [REDACTED]  
**Sent:** Wednesday, July 31, 2024 4:29 PM  
**To:** Will McFetridge  
**Cc:** Terry O'Neil (terrancewoneil@gmail.com); Permits; Town Clerk; Deborah Ross; David Earle; Gary Simmons  
**Subject:** Sea Walk Closeout  
**Attachments:** Letter to McFetridge regarding 1082 page submittal by Forestar.pdf; Closeout Matrix of 7-30-2024.pdf

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Will:

On June 29, 2024, the Town of Ocean Breeze received a submittal of 1082 pages from Forestar purporting to comply with all outstanding compliance requirements. During the past 30 days, the Town has endeavored to review all the materials, and I am replying to Forestar through you as their attorney. There remain several outstanding issues for Forestar to resolve, but none of them are insurmountable. The Town is providing an additional time period for this compliance.

After you have had an opportunity to read through everything, please contact me with any questions or issues you would like to discuss. I look forward to resolving this matter for both of our clients in a timely manner.

**Paul J. Nicoletti | Attorney at Law**

Board Certified in City County and Local Government Law

[REDACTED]  
Stuart, Florida 34986-2001

Office & Fax: [REDACTED]  
Voice & Text: [REDACTED]  
Email: [REDACTED]



**Commercial email is not a secure mode of communication, and may be accessed by unauthorized persons.**  
**NOTICE TO PRIVATE PERSONS OR ENTITIES:** This communication originates from the law firm of Paul J. Nicoletti, Attorney at Law, and is protected under the Electronic Communication Privacy Act, 18 U.S.C. S2510-2521. The information contained in this email message may be privileged and confidential under Fla. R. Jud. Admin. 2.420,

[REDACTED]

Date:

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[REDACTED]



Information regarding the status of the application...

and information is intended only for the use of the individual(s) named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this communication is strictly prohibited. If you are not an intended recipient, please notify the sender immediately by e-mail or by telephone at [REDACTED], for further instructions. Thank you.

**NOTICE REGARDING FLORIDA PUBLIC ENTITIES:** Depending on its content and the addressee, this message may be subject to the provisions of Sec. 119.07, Florida Statutes (Sunshine Law) which provides for public records to be available for inspection and copying by anyone. This includes emails and email addresses. If you have any questions about this, please consult your own government counsel.





**PAUL J. NICOLETTI**  
Attorney at Law

[REDACTED]  
[REDACTED]

July 31, 2024

William F. McFetridge, IV, Esquire  
Johnson Pope Bokor Ruppel & Burns LLP  
400 N Ashley Dr Ste 3100  
Tampa, FL 33602-4337

Office: 813-579-4177  
Fax: 813-223-7118  
[wmcfetridge@jpfirm.com](mailto:wmcfetridge@jpfirm.com)

Reference: Closeout Requirements for the Sea Walk PUD, Town of Ocean Breeze, Florida

Dear Mr. McFetridge:

The Town staff has reviewed the 1082 pages which your client, Zachary Griffin, at Forestar, Inc., submitted on June 29, 2024 regarding the closeout of the Sea Walk Planned Unit Development (PUD) Ordinances and Resolutions. **Reference is made to the TABs on the Attached Matrix dated July 30, 2024.**

In response to your client's submittal, I would call your attention to the following issues of concern:

**1. Items and Matters which are accepted and approved, as submitted:**

a. **TABs 3 through 9:** Are accepted as cleared, not necessarily by Forestar, but by individual evidence provided by the Town staff or submitted to the Town by the HOA.

b. **TAB 11:** The certification of Shaun G. MacKenzie, P.E. dated January 15, 2024 is accepted as final evidence of compliance with the **Individual Lot Landscaping** in accordance with the approved landscaping plan in the PUD.

~~CONFIDENTIAL~~  
~~CONFIDENTIAL~~



July 31, 2024

William F. McFetridge, IV, Esquire

Reference: Closeout Requirements for the Sea Walk PUD, Town of Ocean Breeze, Florida

c. **TAB 23:** This acceptance has been received by the Town from Martin County for all utility easements within the PUD.

d. **TAB 24:** This acceptance has been received by the Town from the SFWMD and FDEP of all approval documentation for the PUD.

**2. Items and Matters which require additional explanation or certification prior to acceptance:**

a. **TAB 2:** The approved Landscape Plan provides there shall be no permanent irrigation of the common areas, except for the entrance features. Notwithstanding this provision, many common areas and rights of way have been piped for irrigation. As understood by the Town, the HOA agrees to allow for this permanent irrigation on the common areas. However, this arrangement is not in compliance with the PUD and a Minor Amendment to the PUD must be proposed by Forestar/DR Horton, which in turn requires prior HOA approval, along with complete drawings showing the irrigation system (as built, plus an "after the fact" Construction Permit from the Town. Whatever the resolution, it must be demonstrated that the common area vegetation will be reliably sustained in a viable condition.

b. **TAB 13:** The Infrastructure As-Built certification by Shaun G. MacKenzie, P.E. dated January 15, 2024 cannot be considered correct, accurate or complete. This certification indicates the "fill on individual lots is documented separately on lot grading plans," but no certification is provided regarding the fill on individual lots, especially as regarding drainage performance and consistency with the Approved Stormwater Master Plan.

c. **TAB 14:** The Infrastructure As-Built certification by Shaun G. MacKenzie, P.E. dated January 15, 2024 cannot be considered correct, accurate or complete. There is no specific consideration of the street signs, and other traffic signs or other traffic devices meeting the requirements of MUTCD and the Approved PUD Master Plan.

d. **TAB 15:** The Infrastructure As-Built certification by Shaun G. MacKenzie, P.E. dated January 15, 2024 cannot be considered correct, accurate or complete. There is no mention of that the project's entrance gates are in compliance with ASTM Designation F2200-20 "Standard Specification for Automatic Vehicular Gate Construction," and the PUD Master Plan.

July 31, 2024

William F. McFetridge, IV, Esquire

Reference: Closeout Requirements for the Sea Walk PUD, Town of Ocean Breeze, Florida

e. **TAB 21:** The survey documentation for the overall Approved Master Plan is lacking a certification provided by Shaun G. MacKenzie, P.E. or a Florida Land Surveyor, indicating that markers (PRM's, etc.) have been found and located for the overall boundaries of the Plat.

f. **GENERAL REQUIREMENT:** There are 700+ photo pages which are not adequately correlated to any certifications required of your client's firm. For these to be acceptable, they must indicate for each and every photo, the name and contact information of the photographer, the date and time each photo was taken, the exact location and direction of the camera when taking the photo referenced to the Approved Master Plan, whether the photo accurately shows what the photographer was viewing when taking the photo, the exact purpose of the photo, that is, the evidentiary value expressed or being provided by the photo, whether the photo has been altered in any way, and to what extent the photo was altered, and by whom.

**3. Items and Matters which require additional work on the part of your firm:**

a. **TAB 1:** This issue has long term impacts on the Stormwater System. No information was provided by your client in the submittal of June 29, 2024. The Lucido and Associates Certification of Landscaping Installation and Maintenance dated September 13, 2022 is deemed inadequate and cannot be considered correct, accurate or complete. The Town has obtained the Assessment Report on the Landscape for Seawalk PUD filed by Michael Flaugh, Landscape Architect dated March 23, 2023, and January 29, 2024. Recommendations have been provided by Mr. Flaugh dated June 12, 2024, copies of all reports have been provided earlier to your client. **TAB 10** has been merged with this **TAB 2** regarding Landscaping compliance.

b. In addition, Lucido and Associates, as the PUD designer, certified the entire PUD as complying with the PUD requirements and the Approved Master Plan. However, and for instance, the roadway T-turnaround immediately adjacent to Lot 1 (1519 NE Skyhigh Terrace) is not even shown on the Approved Master Plan drawings, and the turn around must either be removed or added to the Approved Master Plan by a proposed Minor PUD Amendment. In order to comply with this requirements, Forestar must also confirm and

July 31, 2024

William F. McFetridge, IV, Esquire

Reference: Closeout Requirements for the Sea Walk PUD, Town of Ocean Breeze, Florida

certify that all preserve areas are free of exotics, debris, and intrusions and are in compliance with the Preserve Area Maintenance Plan (PAMP).

c. **TAB 12:** Lot 1. This issue has long term impacts on the Stormwater System. The grading and slopes on the front, rear and west side of Lot 1, are not consistent with acceptable engineering standards or the Approved Master Plan. The Final Survey fails to address the steep slope which adversely impacts the 3 foot drainage easement on the north and west boundary of Lot 1. In the rear of the lot, the slopes vary as much as 1.8:1. Lot 1 needs to be corrected, and harmonized with the contiguous Preserve Area to the west. This issue requires re-grading and re-planting, and most likely a retaining wall, to provide protection from erosion and protection of the Preserve Area. To the extent that remedial work impacts the adjoining preserve area, those impacts must be offset by new plantings specified in the PAMP and approved by the Town.

d. In addition, the T-turnaround which was constructed by Forestar or DR Horton, is not shown on the Approved Master Plan and must be either removed, or a Plan Amendment furnished, as a result PUD Consistency Certification by Shaun G. MacKenzie, P.E. dated January 15, 2024 cannot be considered correct, accurate or complete.

e. **TAB 17:** The PUD Consistency Certification by Shaun G. MacKenzie, P.E. dated January 15, 2024 cannot be considered correct, accurate or complete. Forestar must produce a new engineer's inspection and compliance report, acceptable to the Town regarding the failed grout at storm drain inlets, and failed asphalt installed at the south side of the entry island as provided in the comments from Scott Montgomery, P.E. dated January 8, 2024 to Pam Orr, the Town's Permit Processor, a copy of which was sent to Zachary Griffin at Forestar on January 18, 2024.

f. **TAB 19:** The PUD Consistency Certification by Shaun G. MacKenzie, P.E. dated January 15, 2024 cannot be considered correct, accurate or complete. The project's infrastructure was designed and partially certified by Grzelka Engineering before the developers advised the Town on June 15, 2021 that Mr. Grzelka was no longer the infrastructure engineer-of-record and that Melissa Corbett, P.E. of the MilCorps Group would be the new Engineer of Record. The Town requires Forestar to produce an affirmative statement acceptable to the Town, as to which engineer was the engineer-of-record for each and every one of the major components of the infrastructure plan.

July 31, 2024

William F. McFetridge, IV, Esquire

Reference: Closeout Requirements for the Sea Walk PUD, Town of Ocean Breeze, Florida

g. **TAB 20:** The Stormwater Adequacy certification by Shaun G. MacKenzie, P.E. dated January 15, 2024 cannot be considered correct, accurate or complete. The certification indicates "In addition, based on the performance of the stormwater ponds historical events over the past three years, adequate capacity is available to accommodate limited additional discharge from the plaza." Nonetheless, the As-built drawings of the area of concern are not accurate as to the walkway to the Plaza, and no drawings reflect the drainage discharge onto Lot 11, which discharge needs to be corrected, to be consistent with the Approved Stormwater Master Plan. In addition, there are reports of erosion from several homeowners on both the north and southeast side of the community. Additional information is available from the Town staff, and is evolving as of the writing of this letter, but may require additional work by Forestar to comply with the stormwater and landscaping requirements of the P.U.D.

h. **TAB 22:** The PUD Consistency Certification by Shaun G. MacKenzie, P.E. dated January 15, 2024 cannot be considered correct, accurate or complete. There is a "Do Not Enter" sign located near the exit gate on White Pine Terrace just east of Hickory Ridge Avenue. The sign does not conform to the Approved Master Plan, and must be relocated closer to Hickory Ridge Avenue, consistent with the Approved Master Plan.

i. **TAB 25:** All documentation required by Westchester Fire Insurance Company for a proposed bond reduction must be prepared in draft by your client and provided to the Town no later than the compliance date.

**The items above contained in this response letter must be completed and submitted to the Town on or before September 30, 2024, unless authorization to extend the date is issued in writing by the Town (the "compliance date"), failing which legal action will be taken by the Town.** The Town staff has tried to be as specific and clear as possible, but if you or your client have questions or need further clarification, please let me know.

If your client disputes any of the items listed, they should provide the Town with a letter clearly specifying the disputed item(s), the extent and basis for the dispute, and asking for specific consideration regarding the item(s).

Please note that some of the action items will require coordination with the Sea Walk Homeowners Association, and I encourage you or your client to contact their representatives

July 31, 2024

William F. McFetridge, IV, Esquire

Reference: Closeout Requirements for the Sea Walk PUD, Town of Ocean Breeze, Florida

in that regard. The HOA attorney, Deborah Ross, Esq., and the attorney for Mrs. Sheila Raver (Lot 1), David Earle, Esq. have specifically asked for copies of any correspondence (including this letter) under the Florida Public Records laws.

**PERFORMANCE BOND:** I also recognize that your client wishes to have the Performance Surety Bond reduced at the earliest possible date. Working on the items that need attention is the best possible way to accomplish this goal. If we receive all of the final items required by the Town in a complete and acceptable form which can be approved by the Town within the time set for compliance, I will then ask the Ocean Breeze Town Council to consider a Bond Reduction at its next Regular Town Council Meeting. If there is a failure by your client to submit all of the final items required by the Town in a complete and acceptable form which can be approved by the Town within the time set for compliance, **it is my intent at the next Regular Town Council Meeting following such failure to ask the Ocean Breeze Town Council for authority to make a claim on the Performance Surety Bond furnished by Westchester Fire Insurance Company forthwith.** Because there are various dates associated with the Bond, including its original issuance on August 27, 2018, and a Verification Certificate for Indefinite Term Surety Bond dated March 25, 2022, I will be contacting the Insurer to have them verify in writing that this Bond is not in jeopardy of expiration on August 27, 2024. If the bonding company advises us that the Bond expires August 27, 2024, I will be making a claim for all work which is not in compliance by Forestar. I am certainly willing to work with you jointly on this issue.

**INDEMNITY:** On August 27, 2018, the Forestar (USA) Real Estate Group, Inc. [Fee Owner] issued its Indemnity Agreement for, among other things, "...certification services for all civil engineering work... and all other improvements authorized under the Ocean Breeze West P.U.D. and its related plat approved by Town Resolution No. 277-2018, for which permits are required to be obtained by Fee Owner." A copy of this Indemnity Agreement is attached for your review. The Indemnity Agreement goes on to say in paragraph 2 that the "Fee Owner hereby agrees to fully indemnify, defend, and hold harmless the Town of Ocean Breeze, and the Town Engineer, Building Official (and all other officials, representatives and personnel of the Town having any oversight responsibility with respect to services being provided by Fee Owner's private providers)." Clearly it was the intent of the parties that this indemnity would protect the Town from any inaction or improper action by the private providers hired by Forestar on behalf of the Town. For many reasons which do not need to be enumerated here, the five year statute of limitations on the filing of an action regarding the Indemnity Agreement could expire on August 27, 2024. **Please be advised this is the**

July 31, 2024

William F. McFetridge, IV, Esquire

Reference: Closeout Requirements for the Sea Walk PUD, Town of Ocean Breeze, Florida

**Town's notice to your client that this Indemnity Agreement must be extended in a timely manner for a two year period, until August 27, 2026 by the Fee Owner so that the Town may rely on this indemnification if the private providers hired by the Fee Owner are later are discovered to have violated or failed to "comply with all applicable laws, codes, and ordinances" as provided in the Indemnity Agreement. As consideration for this extension, I am willing to ask the Town Council to agree that it shall forego any code violation actions described below until not earlier than December 1, 2024, thereby giving your client additional time within which to comply with the Town Codes, if needed. Failure by your client to extend this Indemnity Agreement on or before August 26, 2024 is also deemed a violation of the Ocean Breeze West P.U.D.**

**CODE VIOLATION ACTIONS:** I am preparing a list of current violations of the relevant PUD ordinances and resolutions which will be ready in case your client is not responsive and there is a failure by your client to submit all of the final items required by the Town in a complete and acceptable form which can be approved by the Town within the time set for compliance and I must later file an action in our state courts. In addition to a claim on the Performance Surety Bond and the Indemnity Agreement, I am also considering an ordinance violation action in state court, as the Town's initial, but not exclusive, legal remedy. There are Town Code provisions which provide for fines of up to \$500.00 per day per violation for failure to comply with the zoning provisions of the Code, including a failure to abide by the time frames provided in the Conditions of Development provided in the Ocean Breeze West P.U.D ordinances and resolutions. **This is notice to your client that such fines and reasonable administrative costs can be assessed by the court.**

**CIVIL ACTIONS:** I am also discussing with the Town staff the possibility of filing a civil lawsuit regarding the failure of your client to do all things necessary and proper to closeout the Ocean Breeze West PUD in a timely manner. This situation has caused certain damages to the Town by incurring additional professional expenses for surveys, reports and studies paid for using the taxpayer's money, and for legal expenses, all caused by the failure of your client to comply with its written agreement including the timetable for development and the Development Conditions adopted in the PUD ordinance.

July 31, 2024

William F. McFetridge, IV, Esquire

Reference: Closeout Requirements for the Sea Walk PUD, Town of Ocean Breeze, Florida

The Town wants to avoid any and all of these enforcement measures, and is looking to Forestar and/or D.R. Horton to thoroughly and professionally resolve the issues listed as specified herein and in the attached documents.

Very truly yours,



PAUL J. NICOLETTI

Attachment: Sea Walk Matrix

Cc:

Ocean Breeze Mayor and Town Council

Town Staff

Deborah Lynn Ross, Esquire

David B. Earle, Esquire

Gary E. Simmons, Jr., Esquire

Ross Earle Bonan Ensor & Carrigan, P.A

Attorneys for the Sea Walk HOA

PO Box 2401

Stuart, FL 34995-2401

Office: 772-287-1745 x218

Fax: 772-287-8045

[dlr@reblawpa.com](mailto:dlr@reblawpa.com)

## Town Clerk

C.

**From:** Debbie Dent <debbied@martinvotes.gov>  
**Sent:** Thursday, September 19, 2024 11:13 AM  
**To:** Town Clerk  
**Subject:** RE: Town of Ocean Breeze Election 2024

Good morning Kim,  
We do not certify the official results until November 16. Prior to that date it would be Unofficial results. Overseas voters get 10 extra days after the election. If I find that all of the Town's ballots are in prior to that date, I will be able to get it to you sooner. We will just have to see.  
Have a great day

Debbie Dent, CERA, MFCEP  
Chief Deputy  
Martin County Elections Center  
772-288-5637 ext 8051



Under Florida law, e-mail addresses are public records. If you do not want your e-mail 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:** Town Clerk <townclerk@townofoceanbreeze.org>  
**Sent:** Thursday, September 19, 2024 11:06 AM  
**To:** Debbie Dent <debbied@martinvotes.gov>  
**Cc:** Terry O'Neil (terrancewoneil@gmail.com) <terrancewoneil@gmail.com>; Permits <permits@Townofoceanbreeze.org>  
**Subject:** Town of Ocean Breeze Election 2024

Hi Debbie,

We are putting together some information for the Mayor and Town Council to go in their October 14<sup>th</sup> Agenda and meeting documents regarding the Martin County Canvassing Board activities. I have printed the 2024 Canvassing Board Schedule from your website and also am providing them with the Town's Election Proclamation adopted in July which states:

**Election Returns:**

**Election returns shall be furnished after the Election at the Canvassing Board Meeting on Saturday, November 16, 2024 at 9:00 am at: Martin County Supervisor of Elections, 135 NE Martin Luther King, Jr., Blvd., Stuart, Florida.**

I received that date from you a few months ago. Would we be able to let our Council and audience know if the election returns will be available sooner? I know we will have a preliminary count the evening of November 5<sup>th</sup> but was wondering about obtaining official results earlier than November 16<sup>th</sup>?

Please let me know and thank you for all your help with this year's Town election!



Kim Stanton  
Town Clerk



Town of Ocean Breeze  
Post Office Box 1025  
Jensen Beach, FL 34958  
Telephone: (772) 334-6826  
Cell: (772) 215-2700  
Fax: (772) 334-6823  
[www.townofoceانبreeze.org](http://www.townofoceانبreeze.org)

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, please contact this office. This communication may contain privileged and confidential information intended only for the addressee(s) named above. If you are not the intended recipient, you are hereby notified that any review, dissemination, distribution or duplication of this communication is strictly prohibited. If you are not the intended recipient, please notify the sender by reply email and destroy all copies of the original message.

# **TOWN OF OCEAN BREEZE, FLORIDA PROCLAMATION – 2024 TOWN ELECTION**

## **ELIGIBILITY:**

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

## **CANDIDATES:**

Candidates for office shall file for qualifying with the Town of Ocean Breeze Town Clerk between the qualifying period of Thursday, August 1, 2024 through Wednesday, August 21, 2024. All qualifying documents are provided by the Town Clerk and can also be accessed on the Town's web-site at: [www.townofoceanbreeze.org](http://www.townofoceanbreeze.org)

## **VACANCIES:**

The positions of two (2) current Council Members and the Mayor are open. Additionally, one (1) Council seat is vacant, for a total of three (3) Council seats. All terms are for two (2) years. The Council Members currently holding seats are: President Sandy Kelley and Gina Kent. The current Mayor is Karen M. Ostrand.

## **REGULAR ELECTION:**

The Regular Town Election will be held Tuesday, November 5, 2024.

## **VOTE BY MAIL BALLOTS:**

**Please Contact** – Vicki, Davis, Supervisor of Elections  
135 SE Martin Luther King Jr. Blvd.  
Stuart, FL 34994  
Phone: (772) 288-5637 Fax: (772) 288-5765  
[www.MartinVotes.com](http://www.MartinVotes.com)

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

## **ELECTION RETURNS:**

Election returns shall be furnished after the Election at the Canvassing Board Meeting on Saturday, November 16, 2024 at 9:00 am at: Martin County Supervisor of Elections, 135 NE Martin Luther King, Jr. Blvd, Stuart, Florida.

**DATE TO TAKE OFFICE:** Monday, December 9, 2024

## **VOTER REGISTRATION:**

The deadline for registering to vote in the November 5, 2025 Election, is Monday, October 7, 2024. Registration takes place at the Supervisor of Elections' office. Town Office is located at: 1508 NE Jensen Beach Blvd., Jensen Beach, FL 34957  
Office hours of operation: Monday – Thursday, 9:00 a.m. – 2:00 p.m.





# Martin County Canvassing Board

## November 5, 2024 | General Election Public Notice

The Martin County Canvassing Board will convene at the Elections Center

**135 SE Martin Luther King, Jr. Blvd. | Stuart FL 34994**

at the dates and times listed below:

DATE/TIME	ACTIVITY
<b>October 16, 2024</b> 8:30 am to 9:30 am	Public Logic and Accuracy Test
<b>Oct 20 - 23, 2024</b> 8:00 am to 8:30 am	Public Inspection to review Vote by Mail materials before canvassing or tabulation
<b>Oct 20 - 23, 2024</b> 9:00 am to 5:00 pm	Canvass of Vote by Mail ballots <ul style="list-style-type: none"><li>· Open envelopes and remove ballots</li><li>· Run ballots through the high-speed tabulator</li><li>· Duplication of ballots</li></ul>
<b>Oct 25 - 30, 2024</b> 8:00 am to 8:30 am	Public Inspection to review Vote by Mail materials before canvassing or tabulation
<b>Oct 25 - 30, 2024</b> 9:00 am to 5:00 pm	Canvass of Vote by Mail ballots <ul style="list-style-type: none"><li>· Open envelopes and remove ballots</li><li>· Run ballots through the high-speed tabulator</li><li>· Duplication of ballots</li></ul>
<b>Nov 1 - 2, 2024</b> 8:00 am to 8:30 am	Public Inspection to review Vote by Mail materials before canvassing or tabulation
<b>Nov 1 - 2, 2024</b> 9:00 am to 5:00 pm	Canvass of Vote by Mail ballots <ul style="list-style-type: none"><li>· Open envelopes and remove ballots</li><li>· Run ballots through the high-speed tabulator</li><li>· Duplication of ballots</li></ul>

DATE/TIME	ACTIVITY
<b>November 5, 2024</b> <i>1:00 pm to 1:30 pm</i>	Public Inspection to review Vote by Mail materials before canvassing or tabulation
<b>November 5, 2024</b> <i>2:00 pm to conclusion</i>	<b>Canvass of Vote by Mail ballots</b> <ul style="list-style-type: none"> <li>· Open envelopes and remove ballots</li> <li>· Run ballots through the high-speed tabulator</li> <li>· Duplication of ballots</li> </ul>
<b>November 7, 2024</b> <i>5:00 pm to 6:00 pm</i>	<b>Canvass</b> <ul style="list-style-type: none"> <li>· Provisional ballots</li> <li>· Cure affidavits</li> <li>· Sign and submit 1st set of unofficial results</li> </ul>
<b>November 9, 2024</b> <i>9:00 am to conclusion</i>	<ul style="list-style-type: none"> <li>· If required, conduct county recount</li> </ul>
<b>November 10, 2024</b> <i>9:00 am to conclusion</i>	<ul style="list-style-type: none"> <li>· If required, conduct a state machine recount and submit second set of unofficial results</li> </ul>
<b>November 16, 2024</b> <i>9:00 am to conclusion</i>	<ul style="list-style-type: none"> <li>· If required, conduct State manual recount</li> <li>· Canvass 10-day rule ballots</li> <li>· Sign and submit official results to Department of State, Division of Elections</li> <li>· Randomly select race and precinct</li> <li>· Conduct manual audit</li> </ul>



**From:** Chris Holley <cholley@flcities.com>  
**Sent:** Monday, October 7, 2024 11:28 AM  
**To:** Town Clerk  
**Cc:** flcgrants@eunasolutions.com  
**Subject:** Welcome to the FLC Grants Assistance Program!

You don't often get email from cholley@flcities.com. [Learn why this is important](#)

Dear Kim Stanton,

formerly "E-Civics"

Welcome to the FLC Grants Assistance Program in partnership with Euna Solutions! We are thrilled to have the Town of Ocean Breeze on board and look forward to helping your municipality secure funding for upcoming projects and initiatives.

As a member, you have access to:

- The nation's largest professionally curated database of over 10,000 federal, state, and foundation grants via the Euna Grants solution
- A dedicated Euna Grants Florida Grant Coordinator
- Euna Grants' post-award suite for a vastly discounted rate

We encourage you to watch the recording of the FLC Grants Assistant Program Overview Webinar for a demo on registering, logging in, and using the system. [Watch Now](#)

If you have any questions, please don't hesitate to contact me at [grants@flcities.com](mailto:grants@flcities.com) or Euna Solutions at [flcgrants@eunasolutions.com](mailto:flcgrants@eunasolutions.com).

Thank you,

**Chris L. Holley II**

Director of Member Services and Training  
 Florida League of Cities, Inc.  
 850.725.3014  
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# GRANTS ASSISTANCE PROGRAM

Florida League of Cities



**The League has invested in the Grants Assistance Program with Euna Solutions, providing member cities with grant research and training opportunities as well as valuable cost savings for assistance with application and grant management.**



Through this partnership, every member of the League will have the tools to make finding, applying for, and managing their grants easier than ever before.

The League has invested in this program so our members can leverage a variety of benefits, including:

**Access to the nation's largest professionally curated database of over 10,000 federal, state and foundation grants tracked for new solicitation notifications.**

- A customizable search engine that supports tagging of relevant grants, allowing new or updated grant information to be sent to your designated staff person.
- Previously awarded grant applications to be used as templates.
- Pre-award management of application compliance, tracking, and deadline notifications.

**Dedicated Euna Solutions Florida Grant Coordinator to assist member cities.**

- Your grant coordinator can assist with system training, grant research, grant policies, and reviewing



additional Euna Solutions services.

**Access to Euna Solutions post-award suite for improved collaboration, tracking, and reporting at a vastly discounted rate.**

[View Program Flyer](#)

[Begin Registration Process](#)

After registering, we encourage you to watch the recording of the FLC Grants Assistance Program Overview Webinar. The webinar covers a high-level overview of the Grants Assistance Program and a demo on registering, logging in and using the system. [Watch Now](#)

## Grants Assistance Program Frequently Asked Questions

Why is FLC partnering with Euna Solutions?

How do I sign my city up for this program?

How many user licenses can my city have?

What if my city needs additional licenses?

What additional services are available through Euna Solutions?

How do learn more about additional grant management services?

What types of grants are curated within Euna Solutions?

How do I get system training?

What services can the grant coordinator assist my city with?

How do I contact the grant coordinator?

Additional Grant Resources

### About

- [About the League](#)
- [About Florida Cities](#)
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- [Awards](#)
- [Contact Us](#)

### Services

- [Insurance](#)
- [Investments](#)
- [Retirement](#)
- [Loans](#)
- [Disaster Recovery](#)

[Sign Up for Publications](#)

### Other Resources

- [QC Online](#)
- [Grants Program](#)
- [YEMO](#)
- [Media Center](#)
- [Jobs](#)

### Social Media

- [!\[\]\(5a0d662075632df1b39c9e3427a70093\_img.jpg\) Instagram](#)
- [!\[\]\(b9aaeddcca3b0cfd727d0e19f8b22e6b\_img.jpg\) Facebook](#)
- [!\[\]\(7985cfc9ac20c5a67d1a49b8edd9370c\_img.jpg\) LinkedIn](#)
- [!\[\]\(c3dc9c5d8504b4ff44583fa2a53f68d3\_img.jpg\) YouTube](#)
- [!\[\]\(dcc90d5dff4daebc8e015e38f89e1f01\_img.jpg\) Twitter](#)

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## Florida League of Cities.

Euna Solutions® is proud to partner with the Florida League of Cities! Euna Grants, powered by eCivis, offers members essential tools and resources, leading the way in grant management practices, and strengthening support for FLC members.

**Register Now**







# FLC members can leverage the following benefits through the Grant Assistance Program in Partnership with Euna Solutions.

- Dedicated FLC Grant Coordinator with the sole function of assisting member cities.
- Access to the nation’s largest professionally curated database of federal, state, and foundation grants totaling more than 10,000 that are tracked for new solicitation notifications.
- Access to a customizable search engine where relevant grants can be tagged so that new or updated grant information is sent to your designated staff person.
- Access to a library of previously awarded grant applications as examples.
- Access to pre-award management of application compliance, tracking, and deadline notification.
- Discounted post-award suite for improved collaboration, tracking, and reporting.

Current customers of Euna Grants will receive League pricing upon renewal, at the conclusion of their current contract term.

For additional information or questions about the program, please email [flcgrants@eunasolutions.com](mailto:flcgrants@eunasolutions.com) (<mailto:flcgrants@eunasolutions.com>).

## Register Now

First Name *(Required)*

Kim

Last Name *(Required)*

Stanton

Email *(Required)*

TOWNCLERK@TOWNOFOCEANE

Phone

7723346826

Job Title *(Required)*

Organization *(Required)*