

TOWN OF OCEAN BREEZE
MINUTES REGULAR TOWN COUNCIL MEETING
Monday, February 10, 2025, 10:30 a.m.
Ocean Breeze Resort Clubhouse, Pineapple Bay Room
700 NE Seabreeze Way, Ocean Breeze, FL

1. Call to Order – President Docherty called the meeting to order at 10:30 a.m.

- Pledge of Allegiance – Mayor Ostrand led the Pledge of Allegiance
- Roll Call – Present: Mayor Karen M. Ostrand; President Kevin Docherty; Vice President Sandy Kelley; Council Members George Ciaschi, Janet Galante and Michael Heller; Absent: Council Member Matthew Squires
- Staff Present – Attorney, Gemma Torcivia; Attorney Consultant, Paul Nicoletti; Permit Processor, Pam Orr; Town Clerk, Kim Stanton

2. Approval of Minutes – Vice President Kelley, seconded by Council Member Ciaschi, made a motion to approve the Minutes of the January 13, 2025, Regular Town Council Meeting.

President Docherty asked for comments from the public.

There were none.

(All in favor: Yes: Docherty, Kelley, Ciaschi, Galante, Heller; No: none; Absent: Squires; motion passed 5-0)

3. Update from Martin County Administrator, Don Donaldson and Public Works Director, James Gorton regarding Quiet Zones, West End Boulevard, proposed crosswalk at Maple and results/recommendations of the traffic analysis study – Mr. Donaldson stated that today's updated presentation had not yet been submitted to the Martin County Board of County Commissioners. He added that BOCC would soon be deciding whether to pursue either one or more quiet zones. He stated that various jurisdictions are starting the Quiet Zone application process. He commented that Indian River County had decided not to pursue Quiet Zones due to the safety issue and that St. Lucie County was pursuing one Quiet Zone at the southern boundary.

Mr. Gorton stated that in September 2023, Brightline began commercial operations which added thirty-two (32) trains per day and that Martin County strategically chose to wait one-year to evaluate Quiet Zones. He remarked that in Martin County, there were twenty-seven (27) FEC right-of-way crossings and that the trains operated under the Federal "Train Horn Rule", which stated that the trains must sound horns 15-20 seconds before reaching a highway-rail crossing with certain rhythms and decibel levels. He explained that a Quiet Zone is a partnership between a local authority and the Federal Railroad Administration (FRA). He added that with Quiet Zones, train engineers may still use horns in case of emergency or to comply with other federal regulations. He commented that there were options for a 24-hour versus nighttime (10 PM – 7 AM) Quiet Zones and that that zone must be at least ½ mile long with no other crossings within ¼ mile of the beginning or end of that zone. He stated that Martin County was working with the FRA to look at all of the crossings individually to determine the safety rating score for each crossing and he provided information about Supplemental Safety Measures (SSMs) and Alternative Safety Measures (ASMs) which range from \$16,000 to \$350,000. He stated that the high-risk crossings were at Jensen Beach Blvd, Indian St, Colorado Ave, Monterey Rd, and Cove Rd. He gave a report of neighboring public authorities pursuing Quiet Zones status. He spoke about the three (3) Quiet Zone options of "no change," "county-wide," or "partial." He stated that an expert from FRA would be presenting a similar presentation to the BOCC on March 11, 2025.

Mr. Gorton said that Martin County had asked two consultants to review how to improve traffic and accessibility in Jensen Beach, the roundabout configuration, accessibility assessment, one-way street conversion, and optimized parking. He stated that Martin County had a draft report of that traffic analysis, and the experts determined that there were geometric constraints, safety concerns and operational issues to add a second lane for the roundabout (2-way conversion). He added that the draft recommendations (which would be going before BOCC) were to convert West End to northbound only instead of southbound (which it was currently), convert Maple Street to 1-way southbound and add on-street parking, install crosswalk at Maple and Jensen Beach Blvd, create a formal circulation plan for event management, and evaluate potential for shared parking agreement at Publix shopping center.

President Docherty asked for comments from the Council.

Council Member Heller asked about Jensen Beach Boulevard being the highest risk crossing in the County and the possibility of Jensen Beach Blvd becoming a Quiet Zone.

Mr. Gorton answered this would be a policy decision by the BOCC.

Council Member Heller asked if way-side horns would be an option.

Mr. Gorton answered that if that were to present itself, they would pursue it.

Council Member Galante asked about installing white stanchions on the white lines (at the roundabout) so cars could not cross or cut through. She stated that the crosswalk for pedestrians (at the roundabout) was poorly placed because cars stacked up and ended up stopping on the train tracks. She asked if Jensen Beach Blvd RR gate crossing was within ¼ mile of another horn blowing down by All Saints Church.

Mr. Gorton answered that the two closest crossings were at Palmetto Drive, which was a private driveway to the south, and Pitchford RV Park, which was to the north. He said that they were close but that he did not have the measurement with him.

Council Member Galante asked who was paying for the studies and remediation.

Mr. Gorton answered that the study was funded with the Martin County traffic safety capital improvement project.

Mr. Donaldson answered that during their Settlement Agreement Brightline, in anticipation of Martin County possibly wanting quiet zones, was required to make increased safety improvements, i.e., quad gates, etc., which were above what DOT or FRA required. He added that under the Settlement Agreement with Brightline it was required to put in some fencing and other improvements. He stated that otherwise, as a rail entity, they were under no obligation to go above and beyond what the regulations require.

Council Member Galante asked for data as to how many accidents and deaths there have been to date.

Mr. Gorton answered that there had been two deaths in Martin County and five accidents.

Mayor Ostrand asked about the lack of lighting along West End Blvd and stated that it is extremely dark at the roundabout. She spoke about the plans that were prepared (by Marcela Camblor) and shared with the County.

Mr. Gorton responded that lighting was a part of the traffic study. He added that he could ask if West End could be looked at to see if there was any real estate that...

Mayor Ostrand spoke further about the Town's West End plans.

Mr. Gorton stated that he would work with Pam to get a copy of those plans.

Council Member Galante spoke about the difficulty of exiting the Resort along Indian River Drive. She asked that a traffic / feasibility study be performed for the purpose of a possible traffic light.

President Docherty stated that this could be talked about during the Town's workshop.

Council Member Ciaschi asked about installing lights in the location of the roundabout in downtown Jensen Beach to start lowering the score of the highest risk crossing. He asked about a safety wall along the west side of the tracks because the houses were up against the tracks.

Mr. Gorton answered that Brightline was in the middle of a study for adding security fencing along the corridor and that he anticipated having this information soon. He stated that he had seen the initial draft which included a fence in that area but that it is not final yet, so he did not want to give misinformation, and that the report was in process.

Council Member Ciaschi asked what he meant by a "fence;" did he mean a solid wall or a chain link fence.

Mr. Gorton answered that it was security fencing so that it would be...to secure the corridor, to keep people from entering. He said that the way the analysis worked was that they were looking at neighborhoods, destinations where people might attempt to cross the tracks, and that information determined where the security fencing would be located.

Council Member Ciaschi stated that he would like to see a solid wall because that would help alleviate some of the noise for the residents in the Seawalk community.

Mr. Donaldson said that a decorative or sound wall would have to be a local option and be constructed by the private property owners on their property as opposed to on FEC property.

President Docherty spoke about a driver who drove onto the tracks at the roundabout and added that he believed the most crucial factor was the poor lighting in that area.

Council Member Heller asked if the fatalities were suicides.

Mr. Gorton answered no and that both fatalities were pedestrians near Indian Street.

President Docherty asked for comments from the public.

There were none.

4. Discussion of proposed participation in Arbor Day activities – Council Member Galante provided details regarding proposed Arbor Day activities sponsored by the Town. She also asked about flagpoles.

Vice President Kelley asked about the private land owned by Sun Communities.

Council Member Galante answered that she was referring to the Town sponsoring Arbor Day activities, the PUD, and that Sun Communities had not been replacing trees which were removed.

Vice President Kelley stated that she believed Council Member Galante should speak with someone at Sun Communities. She stated that she spoke with Pam and Kim at the office about the issue. The Town would have to find property, the tree would have to be planted, and someone would have to maintain the tree and not owning any property made it difficult.

Pam Orr, Permit Processor, stated that a maintenance agreement with the property owner would be required.

Mayor Ostrand stated that applications could be sent out to all the Town's property owners and if they choose to have a tree planted and would take responsibility, then a form could be filled out so that we know citizens are in agreement. She added that she believed this was a good idea and that she liked the idea. She stated that there were many places in which a tree could be planted and that it could be sent out or advertised that the Town was looking and that someone could agree they would like a tree, and the Town would then know who would take responsibility and who was interested.

Council Member Galante stated that in Sun's Prospectus, there was an item that homeowners could ask for a tree to be planted on the property.

Pam Orr, Permit Processor, stated that this would require a maintenance agreement with Sun Communities.

Kim Stanton stated that staff would need direction.

Council Member Heller stated that the Town would need permission from a property owner to plant a tree. He asked what the public purpose would be for planting trees on someone else's property? He suggested that if the Council wished to support Arbor Day, they should consider planting a tree in their own yard. He continued that the local law included in the agenda package had no applicability to the Town of Ocean Breeze. He remarked that the Resort was owned by a commercial entity, and they had a landscaping plan. He commented that the Plaza was a parking lot and shopping center and did not offer much green space. He continued that the Seawalk community already had strict requirements about the removal and replacement of trees, and they have an architectural review board that reviewed each and all homeowners' request to make changes. He stated that he did not support a single dollar of tax dollars to do this. He added that he would not support a single minute of staff's time spent doing something like this which has no applicability to the Town.

President Docherty asked for comments from the public.

Melissa Heller, 2760 Breezeway Circle, Ocean Breeze, stated that the Town had been working the Seawalk landscaping issues and that a lot of the trees the developer had installed had died and they had previously asked the Town for help in calling the bond on their community so that those trees could be replaced with living trees. She added that she would prefer that the dead trees be replaced because under the PUD, they are part of their storm drain system. She commented that the Town had bids to do this corrective landscaping work. She remarked that before the Town talked about planting additional trees, they would like the Town's help in replacing the trees that were already dead.

Linda Capobianco, NE White Pine Terrace, Ocean Breeze, stated that the quote to replace the dead trees at Seawalk was \$52,000. She added that before the Town would ask the taxpayers to pay for trees to be planted on someone's private property, she wanted to deal with the dead trees in Seawalk.

President Docherty asked Council Member Galante to find out the costs for the planting of a tree, costs for staff to go through this process and inquire of Sun Communities and Ocean Breeze Plaza owners to find out if they were willing to enter into a maintenance agreement. He added that she could come before the Council at

the next meeting with the approach and maintenance agreements. He commented that a vote could be taken at the next meeting.

Council Member Ciaschi asked if the \$52,000 was part of the PUD and if the trees that had died were the Town's responsibility according to the PUD. He asked about the Town's responsibility.

Attorney Nicoletti answered that as part of the close out, there was an issue regarding landscaping in the preserve areas and as well as street trees. He stated that those issues were ultimately not the Town's responsibility but the regulatory responsibility of the Town. He commented that as part of the PUD, it was up to the Town to make sure that those items were replaced and that they survive. He remarked that either the HOA or Forestar were responsible for assuring that they were in place and thriving. He added that he was aware of the issue and aware of the recent decision of the HOA to ask the Town to follow-up on all the PUD outstanding issues and perhaps to trigger the bond. He commented that if that were the case, this was one of the things that had to be investigated. He stated that he had asked the Engineer to look at all the issues that were outstanding and to apply cost estimates to those issues and that this was the first step in calling the bond. He added that there was a good estimate for the trees but that the Town did not know all the street work, drainage and other things that must be done.

Mayor Ostrand stated that the idea of Arbor Day was not just going anywhere and planting trees but that it would begin with a celebration of planting a tree. She suggested that the Town could get the County involved with planting a tree and not use the Town's money – but, to put the idea out there that the Town would celebrate the planting of trees. She commented that for Florida, trees help hold water, protect the land so that the water could be filtered to prevent green algae. She said that there were many reasons to plant a tree and look at the celebration of planting a tree. She stated that she would be happy to put it before Martin County.

President Docherty stated that at the next meeting, the Mayor, and Council Member Galante would provide the Town Council with items, costs, and venues.

5. Request for additional funding for travel expenses – President Docherty stated that the budget for his travel of \$600 had been exhausted. He spoke about certain activities and reimbursements which were allocated to the conferences and travel line item. He spoke about the Florida League of Cities Legislative Action Days, Treasure Coast Regional League of Cities advocacy travel, which would be reimbursed by the TCRLC, and Florida League of Cities leadership classes. He asked if any Council Members would be willing to allow him to use their budgeted amounts to attend the leadership class and FLC Annual Conference. He handed the gavel over to Vice President Kelley.

Vice President Kelley stated that she would like to transfer \$300 from her budgeted amount into President Docherty's account.

Council Member Heller asked how these expenses assist the Town with closeouts or improve the Town's financial situation. He asked about any grants or other funding the Town could potentially receive as a result of this travel. He stated that if not, he did not believe there was a return on these investments of taxpayer dollars. He added that he could not support the Mayor's cap of \$4,500 which was nearly 50% of what the entire Resort pays in taxes for the year.

Council Member Galante spoke about the importance of the Town being on the radar of the legislature. She stated that the closeout (Stipulation Agreement) had taken place and that the Seawalk closeout was forthcoming. She commented that Attorney Nicoletti and Attorney Torcivia were working on getting the Seawalk closeout complete. She added that she would like to transfer \$200 from her budgeted amount into President Docherty's account.

Mayor Ostrand spoke about her work as the Chair for (Florida League of Cities) Advocacy. She stated that the smallest things (in Tallahassee) affect the Town. She spoke about the Town of Ocean Breeze being a Town for 65 years and the importance of promotion of the Town. She stated that the Town could be pre-empted by the State. She commented that there were 411 towns and cities in Florida, many with small populations. She spoke about sovereign immunity and the importance of being involved and having a voice with Representative John Snyder, Senator Gayle Harrell and all the representatives. She stated that she contacted all the representatives. She commented that she would be bringing forward all the newest information from the State. She commented that the Town was getting close to having a population of seven hundred and added that the Town was the eighth smallest Town. She said that she met with many people and developers. She spoke about President Docherty possibly serving on the Florida Municipal Insurance Trust Board. She spoke about the importance of President Docherty serving on that board. She added that if he were to get on that Board, a lot of the trips would be paid for by the FMIT.

Council Member Ciaschi stated that he understood that spending this money is important, especially the local Florida League of Cities. He spoke about attending the meetings himself, meeting people, etc., which gives a face and a voice going forward so not going up to Tallahassee and Orlando, he believed was detrimental to the Town. He added that he would like to transfer \$300 from his budget amount into President Docherty's account. He commented that he believed that the attendance of the Mayor and President at certain meetings was important because they discuss matters to give the Town a voice.

Council Member Heller stated that he agreed that garnering information and bringing it back to the Town was important. He asked what tangible things had been brought back to the Town.

Mayor Ostrand stated that the Town had performed major work for the Indian River, with help from former Council Member, Ann Kagdis, by going up to Tallahassee numerous times. She stated that the project was \$1.3 million. She added that when the closing was done, she had hoped that all of this could be discussed, reasons why, monies showed, etc. and that she would like to have a workshop on the agenda so that these questions could be planned for and answered. She stated that she would like to have the workshop next month to answer many of these questions, discuss the future of the Town and get through the closeout.

Council Member Ciaschi, seconded by Council Member Galante, made a motion to transfer some of the funds which were already in the budget from (Vice President Kelley \$300, Council Member Ciaschi \$300, Council Member Galante \$200) to President Docherty.

Vice President Kelley asked for comments from the public.

Pam Hurlock, 2840 Breezeway Circle, Ocean Breeze, stated that she believed this would be coming up again and that she was asking if the Town was going to be transferring additional funds for travel expenses, that the Town look at the cell phone reimbursements. She stated that she did not agree with that reimbursement, and that those dollars should be allocated to travel.

President Docherty spoke about being on his computer 3-4 hours per day and that he received 15-20 emails per day on his phone. He added that he was answering the state legislators and county. He stated that the item being discussed was a transfer of dollars already in the budget. He remarked that he was currently working on getting Congressman Brian Mast to attend an upcoming meeting. He commented that the \$85 cell phone reimbursement had been budgeted for a number of years. He said that he did not charge the Town for mileage reimbursement unless he traveled over one hundred miles. He added that it was a stipend, not a payment and that the Mayor and Town Council were volunteers.

Ms. Hurlock said that (the Mayor and Town Council Members) would still have to pay for cell phones and internet access so she felt that some of the personal expenses were being reimbursed and if that were to be part of the budget and additional travel expenses were needed, then it should be taken out of cell phone...

President Docherty answered that he was not asking for more, that it was a transfer.

Ms. Hurlock stated that President Docherty had asked for \$1000 more and that the other members volunteered to...and this is the first quarter of the year. She added that she believed in the future there would be more requests and that if the Town was going to continue doing this, she believed that the cell phone budget should be examined.

Council Member Heller stated that the three things facing the Town were closeout for Sun Communities, which he believed was complete, closeout for Seawalk and train horns. He added that he believed the that the Mayor, staff and Council should be concentrating, lobbying the County, spending money, traveling, doing whatever can be done to stop the train horns – that this was quality of life for everyone. He said the other activities, although they may be important, should be put on the back burner behind closeouts and train horns.

Joe Beert, 2850 NE Breezeway Circle, Ocean Breeze, stated that the Town was small, and that most Towns have parks, police departments, fire department, they own land and own stuff to maintain. He asked about the importance of certain meetings (travel) and why, if they are so important, there are only two people attending.

Council Member Galante answered that they were charged with other meetings.

Mr. Beert asked what benefit these meetings were to the Town and the residents. He asked for transparency as to what is being learned at an IEMO II meeting or course; the Town does not have workers' comp or park workers or fire department. He stated that the point is not to go there and learn stuff but that there should be a benefit to the residents. He said that when the tax bills come out, Seawalk is paying about \$10 to \$1 of what the Resort pays on their behalf per living unit. He added that Seawalk residents are the purse for a lot of these projects which is why they are demanding that everyone be tight with the money. He commented that if the Mayor and Town Council members were going there to learn something and it was a benefit to the residents, he was "all about that" but that if it was just "busy work," then it was a waste of taxpayer money. He said that if someone had the time to do that, then he was fine with them doing it on their own dime.

Ms. Hurlock stated that the cell phone stipends put \$7,000 into the budget every year.

Vice President Kelley stated that some Council Member's did not receive a cell phone stipend.

Ms. Hurlock stated that she knew that but that her point was that the Town was using its reserves at a ridiculous rate and in a couple of years, the Town will suddenly have to figure out where it would get money from and she believed that one of the ways could be by reducing the amount of money being spent and not just raising everyone's taxes. She commented that raising taxes was going to have to take place, but that it would need to be equitable, and the Town needed to tighten the purse strings.

Mayor Ostrand stated that the (cell phone) stipend came up four years ago and since that time, she had not asked for money from the Town for travel. She added that it had cost her over \$1,000 - \$1,500 every year from her own pocket. She commented that she loved this Town and was willing to pay for it. She said it has taken her 8 years to have representatives listen and give a voice to the Town. She stated that the \$85 is nothing compared to what she puts out because she loves this Town and that she was proud and happy to do it. She spoke about the many hours she had spent volunteering her time to the Town and writing up things. She stated that other Towns with services pay a salary. She said that she wanted to be able to go to these things to stand

up for all the residents. She commented that for President Docherty to serve on the FMIT Board would help everyone because everyone pays too much for insurance – that it was a big fight.

Council Member Ciaschi commented that soon the new budget would be worked on, and all these suggestions could be discussed and that he wanted to hear about all these things because they could not make an educated decision on how to move forward without these ideas. He stated that when the budget meetings come up, he would like everyone to attend so that all voices could be heard. He added that not everyone took the cell phone stipend and personally he did not.

Ann Kagdis, 111 NE Bay Drive, Ocean Breeze, stated that she was a former Council Member and President of the Town Council and during that time, there were no payments for anything. She commented that it cost her \$10,000 a year to be on the Town Council. She said that not everyone could use their personal funds to be on the Town Council. She commented that if some kinds of resources were not provided, the residents would be limiting themselves by the extent of the people who were willing to serve. She stated that she thought it was wonderful that the officials received something because not everyone had a pension or investments that could cover expenses. She added that when she first started going to Tallahassee, she did not know anyone. She remarked that Indian River Drive did not have baffle boxes to clean the water. She stated that it took five years to get the money from Tallahassee and the only reason the Town received it was because they went to every single meeting and badgered elected officials nicely – and got to know their aids, the Governors, we tried to make friends and when we finally got the grants, which were extensive, we got help from other areas. She added that everything does not happen right away and the only way to build a network when you are a small Town is to group with other Towns. She said that there are many small towns, but by grouping together there was power – individually, with 500 residents, you have no power in Tallahassee because there are places with 150,000 – 200,000 residents vying for the same money and it was critical to have people represent you. She remarked that not everyone was able to drive seven hours to Tallahassee and that she car-pooled and stated that she and the Mayor shared a room and that they were always looking for the least expensive way. She said that all information on a cell phone is public record. She asked if someone wanted their private phone to have the public records. She said that she did not believe this was appropriate. She added that she did not want her private phone to have public information. She stated that the question should be asked “what is the overall benefit,” and that it might not be instant, and it might not be today or tomorrow, but the networking they do today, may have a very significant impact on the kind of funding that you get for this area next year.

Mr. Beert asked what the Town provided and if the Town was receiving all this money, why do the taxes keep going up.

Mayor Ostrand said that the taxes went down.

Mr. Beert said that the baffle boxes were paid for by the gas tax...correct?

Mayor Ostrand answered that grants were received.

Mr. Beert asked what the Town provided to him as a citizen?

Mayor Ostrand asked Mr. Beert if he read the Kiosk that was “out there?”

Mr. Beert said “yes,” and he asked what the Town provided besides the lights along Indian River Drive.

Mayor Ostrand answered that Sun Communities provided the small lights.

Mr. Beert asked what did the Town provide in services?

Mayor Ostrand answered that the PUD is governed by the Town and that the Town Attorneys were working with Seawalk on various problems. She added that the other items could be discussed next month at the workshop planning meeting.

(Roll call vote: Yes: Docherty, Ciaschi, Kelley, Galante; No: Heller; Absent: Squires; Motion passed 4-1)

6. Comments from the public on topics not on the Agenda – Melissa Heller, 2760 NE Breezeway Circle, Ocean Breeze, stated that she moved to the Seawalk community after retiring from her jobs as CFO of Broward County as well as Deputy City Manager of the City of Coral Springs. She said that she held a master's degree in Local Government Finance. She commented that with respect to the dead trees she previously mentioned, there were emails last February in response to the developer's request to release the bond – the developer being Forestar, who was responsible for the land development part of the PUD. She stated that the Town, at that time, did not bring that request to the Council because it did not believe that the developer had completed its work. She said that was why the residents were asking the Town for help with this. She stated that a workshop on how the Town would like to grow should take place before the budget meetings because the matters could be studied by the accountant so that plans could be made. She stated that the Town was going to have a budget deficiency in 2027 that it had done nothing to address this since it was discussed at the last budget meetings. She added that the Town's last attempt at growth was eight years old and that the Town still had open permits despite the fact that the developer completed its last construction work (unintelligible). She commented that with respect to the budget deficient in 2027, Holly Vath stated during the budget meetings in 2024 that the Town had only one more year of drawing down its excess reserves. She added that since 2022, the Town had used between \$73,000 and \$119,000 annually from its reserves to balance the budget. She stated that this had been done intentionally as a financial strategy because the reserves were very high and when the taxes for Seawalk came in, the revenue was much higher so the drawing down on reserves was appropriate at that time. She remarked that the Town was now coming to the end of that and there was going to be a big hole in the budget. She commented that next year, 2026, would be the last year the Town would be able to use the same amount and that it meant in 2027, the Town would have a big hole to fill. She stated that according to Holly's presentation, there would be only \$34,500 to take from reserves, which was \$36,000 less than the previous year and to close this \$36,500 gap, which was likely to be more than 10% of the budget, the Town could either increase revenue or decrease expenses. She said that on the expense side, there was not much to cut except conference and travel expenses and on the revenue side, ad valorem taxes. She said that (ad valorem) revenue generated just over \$68,000 in this year's budget. She added that since this was the Council's only way to raise revenue, there would need to be more than a 50% increase in that revenue to cover the current operating expenses. She said State law prohibited the Town from raising taxes this much and even if it starts next year, the Town may not be able to raise taxes enough to close this gap by only adjusting the millage rate. She said that she was sure, at the next meeting, Holly could explain the unfortunate realities of the State's form DR-420MMP, the maximum millage levy calculation preliminary disclosure which details the limitations. She commented that as far back as 2022, implementation of the utility tax had been discussed as a way to diversify revenue and reduce reliance on the millage rate; it also had the benefit of being much more equitable than ad valorem taxes. She said that Holly Vath mentioned this in her presentations on the 2025 budget and some of the residents, including herself, met with the Mayor and Staff back in August to discuss several scenarios for implementation of this tax. She stated that she did not know why further information had not been brought back to the Council on this topic but that she encouraged the Council to direct staff to bring this back for consideration as soon as possible. She commented that besides being able to balance the budget in 2027, it was the only hope of having any money to fund innovative ideas. She said that in reference to the Town's future and opportunities for growth, she asked the Council to consider how the Town's last attempt at growth had gone – back in 2017, the Town approved the Seawalk development that is now 62% of the Town's taxable value. She added that the developer sold its' last house in September 2022 without closing out its development or irrigation permits which remain open without inspection to this day. She said it had been 30 months since the developer last (indecipherable) in their community. In January 2024, the Town notified the developer that they had defective asphalt at the entrances

with physically raised cracks and 13 months later, no corrective action. She remarked that as of January 2025, the Seawalk HOA had spent more than \$73,000 on lawyers, engineers and repairs that were necessary for the safety of residents. She commented that they have damaged roadways, crumbling storm drains, eroding embankments, dry retention pond, which are a critical part of the stormwater system, and pool bathrooms and sidewalks which are not ADA compliant. She added that given this current situation, she believed that the Town Council ought to have real conversations about whether it was capable of completing the current project, let alone additional ones. She said that to complete the project, the Town needed to draw down on the bond it was holding to finish the developers work and this bond needed to be called immediately and she asked the Council to consider scheduling a special meeting for later this month because the Seawalk residents have already suffered through 30 months of inaction and they see no reason to wait. She stated that the residents of Seawalk and the members of the HOA have done more than their part and they were respectfully asking for the Town to do theirs.

Vice President Kelley stated that she agreed and that she supported the utility tax. She said that she was hearing some push back regarding the utility tax because the residents do not want another tax. She stated that the utility tax would not have a significant impact, but it would help with the reserves. She commented that the item should be explained and show how it will affect everyone. She asked Pam Hurlock to assist her in getting this item on the agenda.

Council Member Galante asked if Melissa Heller was related to Council Member Heller. She asked why Seawalk residents had not taken up the mantle in being more visible with the media and DR Horton. She spoke about the new development by St. Martin De Porres Church.

Ms. Heller answered that they were advised by their attorneys to proceed with the Section 558 construction defect remedy. She commented that they were encouraged by their attorney to work with the Town in collaboration and work with the lawyers to undertake the available legal remedies. She stated that DR Horton was developing the Sabal Point community and that it was outside the Town's boundaries, and one had nothing to do with the other. She remarked that if they were not part of the Town, and part of Martin County, they could seek remedies from them. She spoke about the retention walls at the Sabal Point development which the Seawalk development needed but did not get. She said that she did not understand what the media would do for them and that they had spent \$73,000 on repairs and expertise to move their legal claims forward in the appropriate manner.

Liz Reese, 1363 NE White Pine Terrace, Ocean Breeze, asked the Town to consider that when the Town decided to take on the Seawalk project back in 2012, the Town attorney at the time suggested that it wasn't a good idea because, according to the Mayor at that time, we only have part-time staff and we cannot afford to hire any full time staff. She remarked that a developer cannot be allowed to do whatever they want because we have no resources to fight them. She stated that Seawalk was an unfinished project with unhappy residents and the writing was on the wall in 2012. She stated that back on September 9th, Paul Nicoletti spoke about legal action and he said in accordance with our original plan it (indecipherable) 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 of the PUD ordinance for failure to perform required elements of the PUD and second, it also meant notifying the bonding company that their insured had failed to comply with the PUD ordinance by not completing PUD requirements by the date required. She added that she did not understand why, when September 30th came, we did not enforce these two items from the September 9th Agenda.

Vice President Kelley asked if a special meeting could be scheduled soon because DR Horton had forced this position. She said that DR Horton was ignoring deadlines that the Town set and they are not communicating.

Discussion ensued regarding visits to the Seawalk community, dead grass, representation, and certain documents in packets.

Attorney Torcivia explained the memorandum in today's packet and commented that the law favored developers. She spoke about private providers for inspections. She remarked that the Seawalk community issues were more complex than Sun Communities. She said that the Town had been working heavily on Seawalk concerns and that it had been decided to allow the Seawalk HOA attorney to do some pushing. She added that the process to call the bond was underway.

Attorney Nicoletti stated that certain warranty issues were not part of the PUD. He commented that it was decided that if the 558 issues could be used, then that would take things down the road in bringing DR Horton or Forestar to the table. He said that if DR Horton continues to be intransigent, then based on what he knows now, he believed that his original thought about them being in violation of the Ordinance may not be the avenue but that it may actually be the bond. He spoke about the need to figure out the costs of the work. He said that even so, at least when the HOA finally gets to a position where they are taking over the preserve, that it was clean and operates and had the proper trees. He spoke about the asphalt and drainage needing to be correct. He stated that the Council would find this was not a simple process. He spoke about getting people to do the work under the bond. He stated that the process to get work done was give and take, back and forth, with the bonding company which is an insurance company. He spoke further about the process and that DR Horton had been intransigent.

Ms. Reese asked if the next steps were to pull from the bond and that she wanted to understand roles, and did Seawalk have to pull the numbers.

Attorney Nicoletti said that the Town had to provide the bonding company with the costs of repair and replenishment of the different things that needed to be done. He stated that he had asked Leo Giangrande, the Town's engineering consultant, to produce cost estimates for things that had to be done to close out the PUD. He said that he spoke to Terry about this, and Terry agreed that money was in the budget to do it. He stated that the Town was at the point where they need to be albeit not as fast and complete as the HOA or homeowners would like. He stated that he would encourage the HOA to continue with the 558 process and that this was terribly important for the HOA. He stated that the Town's side of this was to get the cost estimates for the work that needed to be done for the PUD – for instance fix Lot 1.

Ms. Reese asked if this would need a motion and vote to go ahead.

Attorney Torcivia answered "yes."

Ms. Reese said that they would appreciate it if they could get the bond working for them because they have spent \$73,000 and are repairing, repairing, repairing.

Council Member Heller asked if there was a time limit for the engineer to give the cost estimate.

Attorney Nicoletti said that he did not know when Leo Giangrande would have the estimate prepared and that he would find out.

Council Member Galante asked if all the homes were sold and if they were having problems reselling...

Ms. Reese said that there were seven houses on the market, and they had not sold.

Council Member Galante asked the amount of the Seawalk HOA fees.

Ms. Reese answered \$286 a month.

Discussion ensued regarding taxes and lot rent.

Attorney Nicoletti advised the Council to entertain a motion directing staff to put the Town in a position to call the bond. He added that by the next meeting, the Town should know all the things and that the trigger could be pulled.

Council Member Heller stated that he hoped within a month.

Attorney Torcivia stated that Staff would move forward with immediate action as soon as they had direction.

Council Member Heller stated that the can had been kicked for 30 months.

Attorney Torcivia stated that Staff could move forward when directed.

Matthew Biondolillo, 2680 NE Breezeway Circle, spoke about the memorandum written by Attorney Torcivia and stated that the focus was on liability rather than responsibility. He stated that the Town had responsibility as it related to the PUD and compliance to make sure that the work was performed in accordance with Florida Statutes, industry standards, design plans, etc. He stated that new information was presented to the Town back in September 2024. He commented that DR Horton had failed to properly prepare the sites. He asked if DR Horton or Forestar provided as-built drawings for the PUD? He said it was DR Horton and Forestar's responsibility to provide those drawings. He commented that they had made a formal request back in September that the soil compaction and the associated testing be added to the PUD closeout and that they did not receive an answer and that they were seeking an answer because the permit remains open. He stated that they have asked the Town to take a hard look at DR Horton's practices for construction.

Attorney Torcivia stated that she did not represent any individual homeowner and that her duty was to the Town. She commented that it was her responsibility to declare when and if the Town was liable for something. She added that licenses were held at the State level and she informed Mr. Biondolillo that he had the right to call to make a complaint. She added that DR Horton elected to use private inspectors which they had a right to do. She spoke about soil compaction and liability. She spoke about the 558 claim.

Mr. Biondolillo asked about responsibility as it related to compliance matters as it related to the PUD. He gave examples of the attic access panels and off ridge vents not meeting building code and there were remedies put in place.

Attorney Torcivia stated that the Town attorney does not represent the residents but the Town as an independent body with an electorate. She stated that it was her responsibility as Town attorney to implement the Charter, to ensure that the Town Council had good legal advice to stay within the boundaries of the law, and to represent the Town.

Mr. Biondolillo stated that the Charter also covered helping the Town address matters dealing with compliance and that was what he was asking for. He stated that the HOA had submitted a 558 claim to deal with the construction defects but that they were there today to focus on responsibilities associated with the PUD.

Attorney Nicoletti answered that compliance had been achieved because whenever a building official issued a certificate of occupancy, compliance had been achieved and after that, those issues, defects that may exist, become warranty matters between the homeowner and the builder. He commented that to the extent that the

Town may have helped with a few issues, i.e., roof vents and attic access doors, that was not the Town's responsibility. He stated that compliance issues, once the certificate of occupancy was issued, no one had the ability to say what the Building Official can and cannot approve; no city official would go against what the Building Official does unless it is illegal, unethical, or immoral. He added that the Town was concerned with the PUD closeout issues which were primarily infrastructure, landscape and irrigation. He stated that it was not the Town's business to be involved in certain issues. He spoke about the as-built drawing for each home.

Mr. Biondolillo said that it was for the PUD.

Attorney Nicoletti stated that there were as-builts, and part of the problem was making sure that they are actually accurate and up to date and these matters continue to be investigated. He said that there were not as-builts for individual homes but that there were surveys for each property. He said that the (Town's) responsibility was a clear path and does not involve some of the things in which the homeowners are interested.

Council Member Ciaschi asked if it was going to cost anything moving forward in getting the estimates before the special meeting.

Attorney Torcivia answered that the costs would be for lawyers and engineers.

Council Member Ciaschi asked if it would affect the HOA 558 claim if the Town moved forward?

Attorney Nicoletti answered "no."

Council Member Ciaschi, seconded by Vice President Kelley, made a motion to move forward in obtaining the engineering cost estimates and to direct the attorneys to move forward in calling the bond.

President Docherty asked for public comment.

Mr. Biondolillo asked to clarify that a conversation took place between Terry O'Neil as it related to the off-ridge vents which are listed on the closeout list and that he had made a statement that it was not warranty work but rather compliance so there still ... to be chaos and confusion...

Council Member Ciaschi confirmed the following motion: the Town Council was directing the Town Attorneys to secure the cost estimates from the engineer and move forward with calling the bond for the Seawalk PUD and as well as to notify the Council as soon as those numbers come in so that a special meeting potentially could be called as soon as possible with all expedience.

(Roll call vote: Yes: Ciaschi, Kelley, Heller, Galante, Docherty; No: none; Absent: Squires; Motion passed 5-0)

7. Comments from the Council on topics not on the Agenda – Council Member Heller asked about tie votes either at regular town council meetings or budget meetings.

Attorney Torcivia stated that a definitive answer would be given at the next meeting or via email after confirmation. She commented that it was her understanding that a tie vote was a "no" vote and it was practice trying to encourage someone to amend their vote.

Town Clerk, Kim Stanton answered that, for budget meetings, Holly Vath contacted the Florida Department of Revenue last year and the budget items had to be passed to move forward with the budget process.

Council Member Galante asked about public records requests and costs incurred.

Kim Stanton, Town Clerk, stated that if a request required over 30 minutes of time to fulfill, the Town office had a policy that aligned with Statute 119 for charges.

Council Member Galante asked for the fee amounts.

Ms. Stanton stated that it was a small amount for copies and the hourly rate was charged for time incurred.

8. Comments from Town Management Consultant Terry O'Neil - absent.

9. Comments from Town Attorney, Gemma Torcivia, and Update from Close-out Attorney Paul Nicoletti – none

10. Comments from Mayor Ostrand – a) Request to nominate Council Member Docherty as perspective member on the Florida Municipal Insurance Trust (FMIT) Board of Trustees – Mayor Ostrand spoke about President Docherty's potential nomination on the FMIT Board of Trustees.

Council Member Ciaschi, seconded by Council Member Galante, made a motion for President Docherty to serve as a member on the Florida Municipal Insurance Trust (FMIT) Board of Trustees.

President Docherty asked for comments from the public.

There were none.

(All in favor: Yes: Docherty, Kelley, Ciaschi, Galante, Heller; No: None; Absent: Squires; Motion passed 5-0)

b) Discussion of proposed policy regarding proclamations, awards, certificates, plaques, invited speakers and other ceremonial items – Mayor Ostrand asked for the item to be continued to the next regular Town Council meeting on March 10, 2025.

Council Member Ciaschi stated that he would be out of town and asked that the meeting be continued to the April 2025 meeting.

Mayor Ostrand stated that it would be discussed only.

Vice President Kelley proposed that the workshop be postponed until after Seawalk's closeout. Vice President Kelley, seconded by Council Member Heller, made a motion to postpone a workshop until the Seawalk PUD had been closed out by the Town.

Attorney Torcivia stated that the process could take months.

President Docherty asked for comments from the public.

There were none.

President Docherty asked for comments from the Council.

There were none.

(Roll call vote: Yes: Kelley, Heller, Docherty; No: Ciaschi, Galante; Absent: Squires; Motion passed 3-2)

President Docherty asked for the Mayor to speak about Item b. on the Agenda.

Attorney Torcivia stated that the Mayor could defer the item, that it was her item and there did not need to be a motion and a second but that she can elect to defer the item.

Mayor Ostrand stated that she would like to defer the item to the March 10, 2025, meeting.

Mayor Ostrand spoke about a luncheon next week sponsored by the Florida League of Cities and all the Town Council members were invited. She said it was at The Catch in Sewall's Point and on February 20, 2025, Martin County would hold its State of the Union which was breakfast at 8:15AM open to everyone.

Council Member Heller encouraged everyone to reach out to County Commissioner Vargas or any other County Commissioners regarding the train horns. He suggested that everyone let the Commissioners know about their concerns and desire to see the quiet zones, etc.

Mayor Ostrand announced that at the Jensen Beach Chamber of Commerce 75th Anniversary she was able to speak to County Commissioner Vargas about the train horns.

President Docherty stated that he would like to see wayside horns installed at the Jensen Beach roundabout.

11. Announcements – President Docherty provided information about the St. Patrick's Day parade. He announced that the Regular Town Council meeting would be held on Monday, March 10, 2025, at 10:30 a.m. at the Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze.

12. Adjourn – Council Member Galante, seconded by Council Member Ciaschi, made a motion to adjourn the meeting at 1:30 p.m.

(All in favor: Yes: Docherty, Kelley, Ciaschi, Galante, Heller; No: None; Absent: Squires; Motion passed 5-0)

Respectfully Submitted,

Kim Stanton

Town Clerk

Minutes approved: *April 14, 2025*