

TOWN OF OCEAN BREEZE
MINUTES REGULAR TOWN COUNCIL MEETING
Monday, January 14, 2019

Ocean Breeze Jensen Beach Clubhouse, Pineapple Bay Room – 10:30 a.m.
700 NE Seabreeze Way, Ocean Breeze, FL 34957

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

- Pledge of Allegiance – Mayor Ostrand led the Pledge of Allegiance
- Roll Call – Mayor Karen Ostrand, President Kenneth De Angeles, Vice-President Ann Kagdis, Council Members Richard Gerold, Terry Locatis, David Wagner
- Staff Present – Town Management Consultant, Terry O’Neil; Town Attorney, Rick Crary; Town Clerk, Pam Orr, and Bookkeeper/Clerical Assistant, Kim Stanton

2. Approval of Minutes – Council Member Wagner asked for the Minutes be corrected to reflect a change in Item #8 wherein his name should be corrected from Vice-President Wagner to Council Member Wagner. Council Member Wagner, seconded by Council Member Locatis, made a Motion to approve the Minutes of the December 10, 2018 Regular Meeting with the change.

In favor: De Angeles, Kagdis, Gerold, Locatis, Wagner

Opposed: None

Motion Passed: (5-0)

3. Consideration of Filling Vacancy on Town Council – President De Angeles announced that one application had been submitted; and, that he believed the low response level was caused by residents traveling and confusion about the deadline. He asked for consideration by the Council to extend the deadline another month to allow residents an opportunity to submit an application.

Council Member Wagner agreed and made a Motion to extend the time for acceptance of applications.

Council Member Gerold stated that he believed that there was ample time and communication between the Town and the residents and suggested moving forward with the appointment.

Vice-President Kagdis reminded the Council that the time to submit an application had already been extended at the November, 2018 meeting. She stated that the Town had performed a bulk mailing to all registered voters and did not recommend extending the time.

Council Member Wagner withdrew his Motion.

Mayor Ostrand stated that she believed the qualified residents had ample time to respond.

President De Angeles recognized Kevin Docherty as an applicant for the vacancy on the Town Council.

Mr. Docherty, 8 NE Nautical Drive, Ocean Breeze, stated that he was a registered voter and resident of the Town and shared his qualifications for the vacant seat on the Town Council.

President De Angeles asked for a Motion to appoint Mr. Docherty to fill the vacant seat on the Town Council.

Vice-President Kagdis, seconded by Council Member Gerold, made a Motion to appoint Kevin Docherty to fill the vacant seat on the Town Council.

Roll Call

In favor: De Angeles, Kagdis, Gerold, Locatis

Opposed: Wagner

Motion Passed: (4-1)

President De Angeles welcomed Mr. Docherty to the Town Council.

Attorney Crary asked Mr. Docherty if he was aware of the Government and the Sunshine Law.

Mr. Docherty answered "yes."

Attorney Crary reminded Mr. Docherty of some of the requirements of the Sunshine Law.

Attorney Crary administered the Oath of Office to Mr. Docherty.

Council Member Docherty took his seat on the Town Council.

Vice-President Kagdis welcomed Town Council Member Docherty to the Town Council and thanked him for his initiative.

4. Proposed Resolution #286-2018 – Vice-President Kagdis explained proposed Resolution #286-2018 to the Town Council Members.

Council Member Locatis, seconded by Council Member Wagner, made a Motion to approve Resolution #286-2018.

The Town Clerk, Pam Orr, read Resolution #286-2018 into the record:

A RESOLUTION OF THE TOWN OF OCEAN BREEZE OF MARTIN COUNTY, FLORIDA,
URGING MEMBERS OF FLORIDA LEGISLATURE TO SUPPORT CHILD WELFARE REFORM
IN FLORIDA.

President De Angeles asked for public comment.

There was none.

Roll Call

In favor: De Angeles, Kagdis, Gerold, Docherty, Locatis, Wagner

Opposed: None

Motion Passed: (6-0)

5. Removal of Derelict Power Poles; Update on FPL Activities – President De Angeles asked if a representative from FPL was in attendance.

Pam Orr answered "no".

Mr. O'Neil stated that the Town Council directed Staff, along with the assistance of President De Angeles, to send a letter to Florida Power and Light; a copy of which was included in the meeting packet. He expressed his disappointment that an FPL representative was not able to attend the meeting. He remarked that FPL had indicated that they were working with Sun Communities on this matter. He continued that Chris Walters had been very cooperative and that Staff would be meeting with Sun Communities and their Design Team on January 18, 2019.

President De Angeles asked Attorney Crary if the Town Council had any recourse.

Attorney Crary stated that he would look into this and suggested the Town Council continue to negotiate with Sun Communities and FPL. He stated that at the Town Council's direction, he would reach out to FPL.

President De Angeles asked for comments from the Town Council.

Council Member Gerold suggested that the Town Council continue to write letters to FPL to request their presence at a Town Council meeting.

President De Angeles agreed with Council Member Gerold.

Mayor Ostrand added that with the next communications, it should be asked why they did not attend this meeting and to set a firm date for attending.

President De Angeles stated that the letter requested that they attend our meeting on January 14, 2019 at 10:30 a.m.

Mayor Ostrand suggested finding out why they did not attend.

Council Member Gerold asked about the possibility of several Council Members meeting with the FPL representative.

Mr. O'Neil answered that any time there is a meeting with more than one Council Member in attendance it is a public meeting and must be advertised. He stated that a discussion would take place with FPL and that Staff would report back to the Town Council at the next Town Council meeting.

Attorney Crary stated that he had dealt with two of FPL spokespeople in the past and that they had been cooperative.

President De Angeles stated that Staff should continue pursuing the matter.

6. Discussion of Town Issues to be Presented at the Legislative Delegation – Vice-President Kagdis stated that each year the new legislative delegation for Martin County met and asked municipalities to bring forth any issues to be considered in Tallahassee. She spoke about submitting an amendment to Florida Statute Section 166.021 regarding location of public meetings. She explained that if a Town consisted of more than 500 residents, the meetings had to take place within the Town limits. She remarked that the Town had requested that the Legislature raise the limit from 500 to 1000 residents. She commented that Senator Negron had planned to bring the issue forth at last year's delegation, but the plans changed after the Parkland shooting. She stated that Senator Harrell and Representative Overdorf should be made aware of this issue. Vice-President Kagdis continued that another issue to be considered was the timeliness of ad valorem assessment appeals. She stated that the Florida Department of Revenue should address the matter because the appeals come after budget submittal; which was a dilemma for small cities. She stated she would be discussing these two issues at the Martin County Legislative Delegation meeting.

President De Angeles thanked Vice-President Kagdis.

7. Comments from the public on topics not on the Agenda – Mary Jo Geyer, 95 NE Ocean Breeze Drive, Ocean Breeze, congratulated Council Member Docherty on his appointment to the Town Council. She asked about the pro-rated water metering and if it was an issue that the Town Council could consider under safety and well-being of the community.

President De Angeles asked Mr. O'Neil if the Town had any jurisdiction on this matter.

Council Member Gerold spoke about his water bills increasing from \$18-\$19 to \$30-\$35 since the arrival of the recreational vehicles. He stated that it was his impression that the residents were paying for the water generated from the RVs and rented residences.

Mr. O'Neil stated that the water for the Town was supplied by Martin County and Martin County would typically have its own Utilities Services Agreement with Sun Communities. He commented that Staff would look into whether the County's regulations had some restriction for remarketing water. He stated that water arrived in bulk and as an owner, he believed it was permissible to meter and prorate billing for individual users. He stated that there may be some restrictions associated with remarketing water and that it was possible that Martin County's Utilities Services Agreement spelled out how the water is remarketed, and issues of equity. He commented that he would look into this and report back to the Town Council. He remarked that the prospectus might have information concerning this issue.

Mayor Ostrand stated that there was running water coming from the pipe at the main water meter and asked if the County was responsible for maintenance.

Mr. O'Neil answered that typically, on the service side of the meter, Martin County would take care of it, but once it went through the meter, wasted water was billed. He commented that there were regulations about wasting water as well.

President De Angeles asked for public comments.

Carl Lefler, 6 NE Nautical Drive, Ocean Breeze, announced that there was a severe water leak on Indian River Drive and that he and some of his neighbors had brought this to the attention of Sun Communities three weeks ago, but the problem was getting worse.

Mr. O'Neil asked for the approximate location of the leak.

Mr. Lefler stated the leak was on the east side of Indian River Drive in front of his house and that the water was running continuously.

Mr. O'Neil stated that there was a chance that those were Martin County Utility lines and following this meeting, Town Staff would be in touch with the County.

Mr. Lefler stated that he was told by Sun Community management that Ocean Breeze did not own that property and that it belonged to Martin County.

Mr. O'Neil confirmed that was correct.

Mr. O'Neil stated that Town Staff would talk to John Polley, Director of Martin County Utilities.

Dr. Jennifer DiTrapani, Ocean Breeze Animal Hospital, announced that she and her husband were veterinarians, she discussed the services they offered and asked about the possibility of performing informational seminars for the residents of Ocean Breeze.

President De Angeles commented that he believed Dr. DiTrapani should get in touch with Chris Walters or Donna Carrier at Sun Communities and they could help her with scheduling.

Terrance Kolpackoff, 84 NE Ocean Breeze Drive, stated that poles were being removed along Ocean Breeze Drive and that the grass in front of the houses was being marked with orange paint as the next house online. He commented about the attractive air conditioning covers on the new homes along Indian River Drive. He allowed the Town Council Members to view pictures on his cell phone.

President De Angeles asked Mr. Kolpackoff if he had brought this to the attention of Sun Communities.

Mr. Kolpackoff stated that he spoke to Chris Walters about obtaining twenty signatures from residents that want these covers and added that he didn't know about the cost. He stated that Mr. Walters told him that if he obtained twenty signatures, he would take the matter to corporate.

Mayor Ostrand asked Mr. O'Neil if this had to be a part of the PUD.

Mr. O'Neil answered that he would take a look, but he did not believe that something as minor as a cover, landscaping or beautification were issues. He added that the issue would be making sure that they were properly installed. He stated that the Building Official had looked at them so he did not see an issue as long as they were tasteful and well-constructed.

Vice-President Kagdis stated that there was a lack of lighting at the mailboxes; she added that there were empty electrical fixtures. She commented that walking around these areas was not safe and asked for the timetable for installing these lights. She added that Marcela Camblor, Planner for Sun Communities, stated that the plan was to install seating by the mailboxes, which along with the lighting had not materialized.

8. Comments from the Council on topics not on the Agenda – Council Member Locatis stated that as a Council Member, he was frequently asked questions by residents and answered those that he was able, or he referred residents to Sun management. He stated that after the latest Prospectus was provided to the residents by Sun Communities, he had a number of residents ask him about the contradictory information regarding rent increases and he agreed to meet with management. He stated that he did not get a response and that he did receive a letter, as a resident not a Council Member, from Sun Communities headquarters in which they implied his understanding of the prospectus was incorrect. He stated that the letter referred to possible legal issues, etc. He suggested residents look at the Prospectus, pages 7 – 8, for potential issues. He stated that he would schedule another meeting with Chris for clarification because the letter from Gena May did not explain. He read from the email and stated that the letter warned Council Members to be cautious “as we do not need the wrong information on the record. This could cause a liability for the Town in Ocean Breeze”. He commented that if there were topics that could get the Council into a legal bind, then Rick should interrupt.

Attorney Crary answered that he was an advocate and believer of free speech. He stated that when Council Member Locatis was speaking about the Prospectus he believed it to be more Resort business. He remarked that there was no prohibition of Council Members expressing their opinion on these matters, but that he did not see anything that would gag Council Members from saying whatever they want to say at a meeting. He stated that when Council Member Locatis met with Sun Representatives, he would not be meeting on behalf of the Town Council, but as a concerned resident. He remarked that he did not believe the Town had jurisdiction on the matter.

Council Member Locatis stated that he specified that he was meeting with Sun at the request of residents regarding some concerns. He added that other Council Members had previously met with Sun representatives on lack of parking, etc. He stated that he realized that contradictory information in the Prospectus was not a violation of the PUD, but that if Sun enacted some items (in the Prospectus) it was his belief that it could be a violation.

Attorney Crary answered that the only way to get the Town in trouble would be if Council Member Locatis were operating on behalf of the Town with respect to any issue the Town had not authorized. He stated that he did not see any legal issues that would be a liability for the Town.

Council Member Locatis asked about personal concerns being misconstrued as Town business.

Attorney Crary stated that when Council Members speak at Town Council meetings, they were free to say anything and then Staff would identify if it was an issue involving the Town. He commented that the Town did not take up the Prospectus issue at the last meeting, but that Council Member Locatis was free to say what he said.

Council Member Locatis stated that, in the past, residents were encouraged to bring up issues that weren't Town business so that the matter would be on record.

Attorney Crary stated that generally, whenever a matter was not Town business, it was pointed out.

Council Member Locatis stated that he brought the matter up at the Town meeting because he was not allowed to talk to other Council Members outside of a public meeting and he wanted them to know that he thought there was an issue.

Attorney Crary advised that the Town Council Members had a lawful right to discuss with anybody, including Town Council Members, Resort issues that were not going to come before the Town. He stated this was a gray area because it could become dangerous and that if he, himself, were a Town Council Member, he probably wouldn't discuss the Resort issues. He stated that Council Member Locatis was discussing the Prospectus and that he and Terry were not aware of anything relating to an Ordinance. He commented that the State of Florida preempted rent control under Chapter 723 and controlled Prospectuses so Towns do not have jurisdiction over rent control.

President De Angeles remarked that the differentiation between "Town Council Member" and "concerned resident" should be made before conversations with the Resort representatives.

Vice-President Kagdis spoke about Town Council meeting discussions in the past and that, at times, developing bodies would be asked to explain something and opted not to come before the Town Council because the meetings were on record.

President De Angeles emphasized that the public could voice their opinion about the Town at the public meetings and reiterated The Sunshine Law.

Mayor Ostrand spoke about the boundaries, Resort, commercial and residential areas of the Town of Ocean Breeze. She spoke about the health, safety and welfare of all the residents and businesses in the Town.

President De Angeles asked for further comments from the Town Council.

There were none.

9. Comments from Town Management Consultant Terry O'Neil – Mr. O'Neil reported that Staff would be meeting this Friday, January 18, 2019 with Sun Communities and Marcela Cambor, Mr. Massing, the Town's Building Official, and Mayor Ostrand to look at the issue of the pier, kayak launch, location of upland beach or beaches, lighting, mailbox cluster lighting, traffic movements and speed of traffic. He stated that Sun Communities may have to come back before the Council for a Minor Amendment to the PUD to address certain issues, reconfigurations, etc.

Mr. O'Neil reported that a letter was sent to the Plaza owner alerting them to the proliferation of banners and flags, etc. He stated that he believed it was their inclination to address the issue and agreed that the banners and flags were out-of-hand. He added that a regulation, on the part of the Town, might be necessary to assist the Plaza with their common areas.

President De Angeles asked if the grassy area was owned by the shopping center or if it was County property.

Mr. O'Neil stated that most of the area was Plaza property and there should not be any signs in the right-of-way.

President De Angeles mentioned a conversation with the management of the shopping plaza in which he was told that management would remove the signs, but that they were immediately put back up by the tenants. He stated it was an eyesore on the entrance into Jensen Beach and the Town of Ocean Breeze.

Mr. O'Neil advised the Council Members and the Mayor that in the future, miscellaneous informational items would be included in their packets to inform the Council about what was going on and, if necessary, could be discussed.

10. Comments from Mayor Ostrand – Mayor Ostrand spoke about the two recreational vehicles, with individuals living in them, located in the Ocean Breeze Plaza parking lot. She asked if the Town had heard anything back from the property owner in response to the letter from the Town.

Pam Orr, Town Clerk, answered that Ali Morgan, Manager of Ocean Breeze Plaza, was due to be at the Town Office this week to discuss the matter.

Mayor Ostrand stated that this was a vagrancy situation and stated the Town Council should figure out how to prevent these situations. She stated that the shopping Plaza was in the Town of Ocean Breeze and proposed Town of Ocean Breeze signs on or near the entrances and exits.

Mr. O'Neil stated that Staff would look into the issue of a sign program and would come back before the Council with proposals and information.

11. Announcements – Regular Town Council Meeting – Monday, February 11, 2019 at 10:30 a.m. to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room

12. Adjourn – Council Member Docherty, seconded by Council Member Locatis, made a motion to adjourn the meeting at 11:59 a.m.

In favor: De Angeles, Kagdis, Docherty, Gerold, Locatis, Wagner

Opposed: None

Motion passed 6-0

Respectfully Submitted,

Pam Orr,
Town Clerk

Minutes approved: Feb 11, 2019