

TOWN OF OCEAN BREEZE
MINUTES TOWN COUNCIL REGULAR MEETING
Monday, July 9, 2018
Ocean Breeze Resort Clubhouse – Pineapple Bay Room

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

- Pledge of Allegiance – President De Angeles led the Pledge of Allegiance
- Roll Call – Present: President Kenneth De Angeles, Vice-President Ann Kagdis, Council Members Richard Gerold, Mary Jo Geyer, Terry Locatis, David Wagner
Late Arrival: Mayor Karen Ostrand
- 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 Geyer, seconded by Vice-President Kagdis, made a Motion to approve the Minutes of the June 11, 2018 Regular Meeting.

Council Member Wagner stated the June 11, 2018 Minutes were not representative of the meeting.

President De Angeles asked about specifics.

Council Member Wagner talked about the change of terms for elected officials and changes to the Town’s form of government by using an Ordinance and not a Charter revision.

Mr. Crary asked for clarification.

Council Member Wagner answered, changing the form of government from a strong-Mayor Town Council to a weak-Mayor Town Council.

Attorney Crary stated that he believed that the discussion was regarding the provisions recently adopted that restrained the Mayor from signing contracts. He commented that there were provisions for Town Council to pass Ordinances for oversight and approval. He added that the form of government had been clarified and formalized giving the Mayor less authority to act on her own.

President De Angeles clarified the recent Ordinance regarding the Mayor’s powers by adding that previously the Mayor could hire and fire and if the Town Council objected, the matter would be brought up at a meeting. He added that now, prior to hiring and firing, the Mayor would have to bring the matter before the Town Council for approval.

Council Member Wagner agreed and stated that he believed that this changed the Town’s form of government.

Attorney Crary stated that the Town had a hybrid form of government and that in the traditional weak Mayor form the Mayor was one of the members of the Town Council and the Mayor’s position rotated and acted as the President at the meetings. He added that strong-Mayor was a separate, elected Chief Executive. He stated that in governments with weak-Mayors, the Town Manager conducted most of the business with a wide range of power. He pointed out that the Town had a separate Mayor but had more stringent controls, even though the Mayor was not a

member of the Town Council. He concluded that within the Charter, there was the possibility of having tighter controls on the Mayor, which makes it a weaker-Mayor position.

Mr. O'Neil asked if any Ordinance adopted to constrain the Mayor was anticipated in the Charter.

Attorney Crary answered "yes," and clarified that the Charter itself allowed the Town Council to pass the recent Ordinance regarding the Mayor's powers. He added that the Town Council cannot pass any Ordinance further restricting the Mayor if the language was not already in the Charter.

Council Member Wagner stated that he felt as if the Town Council had not put the Charter into practice.

Attorney Crary stated that now, by putting in place an Ordinance that says the Mayor had to come before the Town Council for approval on contracts, the Town was putting their Charter into practice. He referred to Section 2 of the Charter wherein it states "unless otherwise required by Ordinance." He added that the Council had now put into Ordinance what was previously performed in practice.

Council Member Gerold, seconded by Council Member Geyer, made a Motion to approve the Minutes of the June 11, 2018 Regular Meeting.

In Favor: De Angeles, Kagdis, Gerold, Geyer, Locatis

Absent: Mayor Ostrand

Opposed: Wagner

Motion Passed 5 – 1

3. Election Proclamation – Town Clerk read the 2018 Election Proclamation into the record.

Attorney Crary clarified that the newly elected Town Council Members and Mayor would be taking office on November 12, 2018.

President De Angeles asked for public comments.

There were none.

President De Angeles asked for comments from the Town Council.

Council Member Locatis asked why the voting location was Langford Park.

Mr. O'Neil answered that the Town was obliged to hold the elections at the place where the Supervisor of Elections directed.

President De Angeles spoke about the financial obligations and savings of the Town regarding the annual elections.

4. Resolution #280-2018 – Town Clerk read Resolution #280-2018 into the record:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA, HONORING FIFTY YEARS OF MUNICIPAL HOME RULE IN THE FLORIDA CONSTITUTION AND COMMITTING TO AN EDUCATIONAL INITIATIVE TO HELP FLORIDIANS UNDERSTAND THIS BENEFICIAL RIGHT.

Council Member Wagner, seconded by Council Member Locatis, made a Motion to approve Resolution #280-2018.

President De Angeles asked for comments from the public.

There were none.

Roll Call:

Yes: De Angeles, Kagdis, Gerold, Geyer, Locatis, Wagner

Absent:

Opposed:

Motion Passed 6 – 0

5. Ordinance #278-2018 – AN ORDINANCE OF THE TOWN OF OCEAN BREEZE, FLORIDA, REQUESTING AND CONSENTING TO THE INCLUSION OF ALL OF THE TOWN OF OCEAN BREEZE WITHIN A MUNICIPAL SERVICE BENEFIT UNIT (“MSBU”) OR OTHER SPECIFIC GEOGRAPHIC AREA DESIGNATED BY MARTIN COUNTY TO PROVIDE FIRE PROTECTION SERVICES; AND FURTHER REQUESTING AND CONSENTING TO THE FUTURE INCLUSION OF ALL OF THE TOWN OF OCEAN BREEZE WITHIN A MUNICIPAL SERVICE TAXING UNIT THAT PROVIDES BOTH FIRE RESCUE AND EMERGENCY MEDICAL SERVICES; PROVIDING FOR AN ANNUAL RENEWAL OF SUCH REQUESTS AND CONSENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mr. O’Neil explained that for decades the Town had secured and paid for Fire/EMS services through an Interlocal Agreement with Martin County. He further explained that the Sheriff’s Department was obligated to provide law enforcement in Martin County regardless of jurisdictional or municipal boundaries, which was funded by county-wide taxes. He explained that Fire/EMS was currently funded through a Municipal Services Taxing Unit, and absent other arrangements, Fire/EMS services only applied to unincorporated areas of Martin County. He remarked that the Town had been paying roughly half of what other unincorporated areas had been paying. He advised that the County could not continue to provide this service at the discounted rate, and that the County wanted to apply the MSTU tax rate. He stated that the Town had been paying \$32,000 a year and was now paying \$66,000 a year. He explained that in the PUD Agreements with Ocean Breeze East and Ocean Breeze West the Town was reimbursed approximately ninety-percent of the Fire/EMS costs. He added that Martin County would like to take the Town out of the picture and take on the responsibility and apply a tax within the Town jurisdiction, and also, change the means of collections by implementing a “Fire Protection Assessment Fee” which was allowed by Statute. He explained that this means was different from the MSTU and was another mechanism to collect funds and was only related to Fire operations, not medical operations. He stated that collectively the two funds, MSTU and MSBU, would be how Martin County funded their total operations. He stated that Martin County would like to start with the Fire Assessment Fee immediately and if Martin County adopted the Ordinance, the Town would be allowing Martin County to take the Fire Assessment Fee process and apply it within the Town which would mean individual property owners would be receiving the bill. He added that later, within a year, Martin County would be charging the MSTU tax to the three property owners. He explained that when OBP West was developed, the individual parcel owners would be receiving the tax bills. He stated that this was reasonable and that there were no alternatives and recommended that the Town Council adopt Ordinance #278-2018 upon first reading. He added that the cost to the parcel owners would be the same as Martin County residents in the unincorporated areas. He informed the Town Council that the documents were provided to Sun Communities, Ocean Breeze West and the owners of Ocean Breeze Plaza. He added that he had

spoken with representatives from Sun Communities and Ocean Breeze West and had left messages for the Plaza owners and thus far, there had been no objections.

Attorney Crary stated that the Martin County Board of County Commissioners would be receiving this Ordinance on first reading. He spoke about his conversations with an Attorney in Tampa with expertise in this area. He counseled the Town Council that Martin County was looking for approval for the Fire Assessments and consent for the EMS Assessments. He stated that the language came together between Mr. O'Neil, himself, the County Attorney and the Attorney in Tampa.

President De Angeles asked about the Sun Communities parcel.

Mr. O'Neil spoke about the current billing system for Fire/EMS.

Council Member Locatis stated that, after reviewing the documents, he concluded that the Town Council had no choice in the matter. He acknowledged that Sun would want to recoup these dollars from the residents.

Mr. O'Neil spoke about the budgeting process and possible reductions.

President De Angeles confirmed that the ad valorem tax was currently being passed on to individual residents.

Council Member Locatis asked if this would be increasing significantly.

Mr. O'Neil answered "no," that the operational costs for the Town should come down.

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

Vice-President Kagdis spoke about statewide issues and litigation with Fire/EMS.

Council Member Gerold, seconded by Vice-President Kagdis, made a Motion to approve Ordinance #278-2018 upon first reading.

Vice-President De Angeles asked for public comment.

There were none.

In Favor: De Angeles, Kagdis, Gerold, Geyer, Locatis, Wagner

Absent: Mayor Ostrand

Opposed: None

Motion Passed 6 – 0

Joe Capra, Captec Engineering, gave an update on the Indian River Drive Project including contributions from the Town, Martin County and Grant Agencies. He stated that the incomplete items were the color to be added to the stamped asphalt crosswalks, kiosks, erosion on the bio-swale due to heavy rain and repairs thereto, one-year warranty bond, Amy Adams management of the grant funding, monitoring requirement and equipment, the education component and the timing of the final close-out of the project.

Council Member Gerold asked if Martin County would be maintaining the sidewalk.

Mr. Capra answered that he believed Martin County would be maintaining the sidewalks and the baffle boxes.

Council Member Gerold asked about maintenance of the landscaping in the islands.

Mr. Capra spoke about the Interlocal Agreement between the County, the Town and an Agreement with Sun Communities. He stated that the project would not be turned over until the weeds were out and the islands were landscaped properly. He stated that he was not sure of the responsible party for maintaining the islands, but that it was in the Agreement. He stated that lighting was in the Agreement but that it had to be taken out because of the price.

Council Member Geyer asked Mr. Capra to confirm that Martin County was responsible for the ongoing maintenance of the baffle boxes.

Mr. Capra answered that Martin County cleaned the baffle boxes.

Council Member Wagner asked about the testing of the quality of the water.

Mr. Capra answered that the water quality would be tested weekly; electronically monitored samples were taken to a lab and analyzed.

Council Member Wagner asked how long this would continue.

Mr. Capra answered it was a matter of rainfall and could take up to a year.

Council Member Wagner asked about the data and how to receive the data.

Mr. Capra answered that the data would be in a report which was being sent to the Florida Department of Environmental Protection and that the requirement for monitoring was part of the FDEP grant. He stated that the Town would receive copies of the reports.

Council Member Wagner asked about having something in place to monitor the quality of the water after the grant requirements had been met.

Mr. Capra answered that besides the cost of equipment, the equipment was temperamental and required a lot of maintenance. He spoke about consulting with Florida Water Management District and stated that he didn't believe the Town would want to do this. He added that the baffle boxes were cleaned out at least once, if not twice, a year by vacuum trucks.

Duncan Koreivo, 427 Intercoastal Drive, Ocean Breeze Resort, asked about an open sewer with drainage coming from the road on the south side of Indian River Drive in front of the Environmental Studies Center.

Mr. Capra explained that the water from the road and sidewalks drain into inlet boxes, through pipes and then to the baffle boxes, one of which is in front of the Environmental Studies Center. He explained the baffle box process and that there should not be any more work to be done on that section unless going further south.

Mr. Koreivo stated it was being eroded and asked if there was going to be a channel and added that it was draining into the river. He stated that in the beginning there was a wall and heavy rains

washed out that wall so that the water was flowing through. He asked about blocking the flow, etc. and if there was a plan for this area.

Mr. Capra answered that during construction, sedimentary (inaudible) barriers were in place because of the sediment coming in during construction. He stated that after construction, the barriers were removed.

Mr. Koreivo stated the water was pooling causing mosquitos, and expressed concern for the children from the School who play on the beach.

Mr. Capra stated that he would look into the matter.

6. Discussion of Draft Resolution – the Town Clerk read the draft resolution into the record.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA ESTABLISHING PROCEDURES FOR THE SELECTION OF COUNCIL PRESIDENT AND VICE-PRESIDENT PROVIDING FOR AN EFFECTIVE DATE AND OTHER PURPOSES.

President De Angeles spoke about the most recent tie vote during the Reorganization of the Town Council. He stated that one suggestion was to flip a coin, etc. and voiced his disagreement with this method.

Mr. O'Neil stated that the draft resolution was prepared upon direction of the Town Council. He added that a policy may not be needed and the Council could continue to work through the current process in place. He reviewed the draft Resolution before the Town Council.

Attorney Crary reminded the Council that on all other town business, a coin toss was out of the question; this would only apply to the Reorganization of the Town Council in which the Town Council chooses who would be conducting the meetings.

Council Member Gerold spoke about the draft Resolution, stated that it was appropriate and that he approved.

Council Member Wagner agreed with Council Member Gerold. He stated that he was in agreement with the draft Resolution as a solution to the problem that the Council had at the last Reorganization and that he recommended adopting it.

Council Member Geyer asked for clarification on "a Council Member may be voted upon only once for the position under consideration."

Mr. O'Neil explained the statement.

Council Member Geyer asked for clarification regarding the language "on a selection by selection basis."

Mr. O'Neil explained that this was a one-time vote on the matter at hand and that it doesn't waive the policy forever – the policy would stay in place. He added that if for some reason the Council decided not to employ the coin flip, the Council could, by vote, suspend that paragraph.

Attorney Crary stated that this was a rough draft and it would be best to bring it back before the Council at the next meeting.

Mr. O'Neil stated that this agenda item was only for discussion today.

Council Member Locatis stated he did not like the idea of flipping a coin and that the issue may not come up again.

Jim Ostrand, 27 NE Nautical Drive, Ocean Breeze Resort, spoke about the United States Senate and when they had a split vote, the President and Vice-President of the Senate votes. He asked why the Mayor couldn't vote to break a tie.

Attorney Crary stated that this would expose the Mayor to the Sunshine Law requirements, but he would research it. At one time in the past, the Charter had to be changed to take away the Mayor's vote on the Town Council because of exposure to Sunshine.

Mayor Ostrand spoke about her role and the Sunshine Law.

Attorney Crary stated that the State Legislature exempted themselves from the Sunshine Law.

President De Angeles stated that if there were no objections from the Town Council, he would request that Attorney Crary and Mr. O'Neil draft a resolution that could be officially considered.

Council Member Wagner, seconded by President De Angeles, made a Motion to direct Staff to bring a Resolution before the Town Council.

President De Angeles asked if there were any objections to this Motion.

There were none.

7. Comments from the public on topics not on the Agenda – Deputy Joe Angelico, Martin County Sheriff's Office, 800 SE Monterey Road, Stuart, spoke about the recent vehicle burglaries and that all the vehicles were unlocked. He stated a motorcycle and a pressure cleaner had been stolen from residents' driveways and added that the crimes were under investigation. He commented that burglary of unlocked vehicles was trending throughout the County. He spoke about the increase of Sheriff's Deputies at the schools and therefore, the community policing was limited. He spoke about the damage to the splitter island on Indian River Drive which was caused by a single vehicle crash.

President De Angeles asked if the crimes were being committed by individuals coming from up from the south.

Deputy Angelico answered that the more serious crimes were committed by individuals down south. He spoke about the "Code Red" program, which automatically makes calls related to hurricanes, police actions, etc.; and, he directed residents to sign-up on the Martin County Sheriff's Office Web-site.

(Unknown) asked for a description of suspects in the most recent vehicle burglaries?

Deputy Angelico stated that he did not have that information.

President De Angeles asked for questions from the Council.

Vice-President Kagdis stated that there were concerns regarding the FP&L lights along Indian River Drive that were burnt out.

The Town Clerk stated that this was currently being addressed with FP&L.

8. Comments from the Council on topics not on the Agenda – Council Member Geyer asked about having the Fire Chief come and do a presentation. She stated that some of the newer stilt homes do not have a secondary egress and the owners were not aware of this when they purchased their homes. She added that if these homes had already passed the county code, what options would these residents have in order to evacuate their homes in the case of a fire.

Mr. O'Neil answered "yes," and added that the Town would be having conversations with Martin County Emergency Services due to the hurricane season. He stated this had been done in the past and that he would invite a representative from Martin County to come and speak about emergency preparedness and that issue.

9. Comments from Town Management Consultant Terry O'Neil – There were none.

10. Comments from Mayor Ostrand – Mayor Ostrand spoke about the refurbishing of the Town's two signs. She presented a rendering of the refurbished signs and stated that Staff was awaiting an additional quote.

11. Announcements – President De Angeles announced the following:

Regular Town Council Meeting, Monday, August 13, 2018 at 10:30 am to be held at Ocean Breeze Resort, Pineapple Shores Room.

Treasure Coast Regional League of Cities Annual Bar-B-Q, Wednesday, July 18, 2018, at the First United Methodist Church in Okeechobee, Florida.

Mayor Ostrand announced a banner of the entire Town of Ocean Breeze was being made.

12. Adjourn – Vice President Kagdis, seconded by Council Member Locatis, made a Motion to adjourn the meeting at 11:45 am.

All in Favor: Yes

Opposed: None

Absent: None

Motion Passed 6 – 0

Minutes approved: August 13, 2018