

TOWN OF OCEAN BREEZE
MINUTES REGULAR TOWN COUNCIL MEETING

Monday, March 11, 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 Ken 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 Ken De Angeles, Vice-President Ann Kagdis, Council Members Kevin Docherty, 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 Locatis, seconded by Council Member Wagner, made a Motion to approve the Minutes of the February 11, 2019 Regular Meeting.
In favor: De Angeles, Kagdis, Docherty, Gerold, Locatis, Wagner
Opposed: None
Motion Passed: (6-0)
- 3. Budget to Actual Report as of December 31, 2018** – Council Member Locatis asked about the status of the Grant Management Consultant line item.

Mr. O’Neil answered:

- the Town was at the end of its resources for this line item
- some remaining grant dollars could be applied to the Town’s Consultant’s services
- Grant Management Consultant dollars were recovered from the Grant
- \$30,000 remained for Grant Management services and the Town’s Financial Consultant confirmed that any remaining funds to pay for these services would be coming from grant sources

Council Member Gerold asked if the Conferences and Travel line item was the item approved for expenses through the quarter.

Mr. O’Neil replied that the Budget to Actual Report was a view of the quarter ending 12/31/2018 and that when the budget was adopted, the amount budgeted for the entire fiscal year was \$9,000. He stated that, at the budget hearings, the Council discussed that there was not a formal allocation to each Council Member, but when divided amongst six Town Council Members, Conference and Travel dollars would stem from this item. He stated that Staff would like to make sure that these dollars were roughly apportioned, and if that were to change, it would require a discussion by the Town Council. He remarked that some Members, by virtue of their position, i.e. Mayor, President, Vice-President attend more events, and that it was at the discretion of the Council as to how the dollars were spent. He asked for a report of the individual breakdown, but it was not available to distribute.

Council Member Gerold stated that the Conferences and Travel line item was almost even with the Budget after the first quarter.

Mr. O’Neil stated that the report was somewhat misleading because the item was based on an annual activity and reported that annual budget was \$9,000.

Vice-President Kagdis stated it was important and significant that the Mayor continue to represent the Town and when she was unavailable, the President had been representing the Town. She spoke about

the other Town Council Members and their significant contribution on County Committees to ensure that the Town was represented at all times.

Vice-President Kagdis, seconded by Council Member Gerold, made a Motion to accept the Budget to Actual Report as of December 31, 2018.

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

Opposed: None

Motion Passed: (6-0)

4. Ordinance #289-2019 – AN EMERGENCY ORDINANCE OF THE TOWN OF OCEAN BREEZE, FLORIDA, REVISING MEMBERSHIP ON THE TOWN'S ZONING BOARD (ALSO KNOWN AS THE LOCAL PLANNING AGENCY) AND REAFFIRMING THAT TOWN COUNCIL MEMBERS, AS A REQUIREMENT OF HOLD OFFICE, MUST ALSO SERVE AS MEMBERS OF THE TOWN'S ZONING BOARD; AFFIRMING THE LIMITED ADVISORY ROLE OF THE ZONING BOARD; REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

President De Angeles asked for comments from the Town Council.

Council Member Locatis asked why this Ordinance was needed.

Attorney Cray explained that the reason for the Ordinance was that the Mayor was a member of the Zoning Board which meant that she would not be able to discuss the sign Ordinance with individual Council Members, because of the Sunshine Law. He stated that the Mayor had now been removed from all the other Sunshine issues with a Charter Amendment, but that this matter was an outstanding issue and this Emergency Ordinance would remove her from the Zoning Board. He reiterated that the Mayor was not to act as a conduit to express what others were thinking, but it would allow for a more efficient running of the government. He confirmed that he had spoken to the Mayor and she was in agreement. He added that the Statute requires the Town to have a separate Zoning Board and the Town Council could appoint itself to be members of that Board, provided there was also case law if required to serve on the board as part of the Town Council, ex officio, and the Zoning Board was part of the duties as the Town Council and a formality. He explained the reasons for the emergency Ordinance and that the Statutes allowed for this with two-thirds of the Council voting for the emergency Ordinance.

President De Angeles asked for further questions from the Council Members.

There were none.

Council Member Wagner, seconded by Council Member Docherty, made a Motion to pass Ordinance #289-2019.

President De Angeles asked for comments from the public.

There were none.

Roll Call:

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

Opposed: None

Motion Passed: (6-0)

5. Adjourn Town Council Meeting – Vice-President Kagdis, seconded by Town Council Member Wagner, made a Motion to adjourn the Regular Town Council Meeting and reconvene immediately after the Zoning Board Meeting.

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

Opposed: None

Motion Passed: (6-0)

Items 6, 7, 8 & 9 – Zoning Board Meeting (see Zoning Board Minutes)

10. Reconvene Town Council Meeting

Call to Order –President Ken De Angeles called the Regular Meeting to order at 11:02 a.m.

- Roll Call – Present: Mayor Ostrand, President De Angeles, Vice-President Kagdis, Town Council Members Kevin Docherty, 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

11. Consideration of Draft Ordinance No. 287-2019 on First Reading:

Mr. O’Neil explained that Staff suggested the item be withdrawn and re-advertised at a later date.

Vice-President Kagdis, seconded by Council Member Docherty, made a Motion to withdraw Draft Ordinance No. 287-2019 and re-advertise at a later date.

Roll Call:

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

Opposed: None

Motion Passed: (6-0)

12. Request from Town of Jupiter Island: Resolution No. 288-2019 – Town Clerk, Pam Orr, read Resolution No. 288-2019 into the record:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE IN MARTIN COUNTY, FLORIDA, EXPRESSING SUPPORT FOR EFFORTS BY JUPITER ISLAND AND OTHER SISTER CITIES TO CONVINCE THE FLORIDA LAND AND WATER ADJUDICATORY COMMISSION NOT TO TAKE ANY ACTIONS THAT MIGHT HAVE THE EFFECT OF OVERRIDING MARTIN COUNTY’S GROWTH MANAGEMENT PLAN, OR INTERFERING WITH ITS IMPLEMENTATION BY MARTIN COUNTY’S COMMISSIONERS AND THEIR STAFF; PROVIDING FOR AN EFFECTIVE DATE.

Mr. O’Neil invited Mr. Gene Rauth, Town Manager of Jupiter Island, to explain the details of the proposed Resolution, and stated Staff recommended approval of Resolution No. 288-2019.

Mr. Rauth gave a brief history of the two, very large property owners off of Bridge Road between I-95 and Indiantown. He stated that one of the property owners was petitioning the Governor and Florida Land and Water Adjudicatory Commission to propose a new form of government; not a city, but a limited purpose government. He stated that Martin County was being sued by the property owner because Martin County denied the approval of 2,400 new homes. He added that Martin County Commission was gagged and bound because of this active lawsuit. He commented that the City of Sewall’s Point, City of Stuart and Jupiter Island had all passed similar resolutions, and, the Village of Indiantown had a similar resolution on their next meeting agenda. He commented that if approved by

the Governor and the Cabinet, a limited purpose government, with taxing ability, would be created. He spoke about an increase in densities and a move toward a new city, and that this was a critical decision. He added that the owners were suing Martin County because Martin County altered their Comprehensive Plan. He concluded that the Town of Jupiter Island was asking the Town of Ocean Breeze to join the other towns and cities and object to this action.

President De Angeles asked Mr. Rauth to explain a “limited form of government.”

Mr. Rauth answered referring to the Florida Statutes, Statute 190, provisions for metropolitan areas. He explained community development districts and the funding for roads and streets. He stated that the Statute was not intended for rural areas. He referenced the history in the formation of Port St. Lucie, Wellington and West Lake.

President De Angeles asked for questions from the Town Council Members.

There were none.

President De Angeles asked for questions from the public.

There were none.

Vice-President Ann Kagdis stated that the major objection to this was that this was against the Martin County Comprehensive Plan.

Mr. Rauth stated that the mechanism the property owners were protesting was the Comprehensive Plan Amendment.

Vice-President Kagdis commented that projections, over the next ten years, calculated 13.1 million people moving into Florida and growth would take place over the entire state; some of that growth would be in Martin County which means that the Comprehensive Plan would have to be amended.

Mr. Rauth commented that Martin County recently transmitted the Comprehensive Plan amendments for a very large development plan referred to as the new urbanism around the north end of the County. He stated that Martin County’s Comp Plan was working and that Martin County was planning the correct way.

President De Angeles asked for additional comments from the public.

There were none.

Council Member Wagner, seconded by Council Member Gerold, made a Motion to support Resolution #288-2019.

Role Call:

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

Opposed: None

Motion Passed: (6-0)

13. Discussion by Resort Manager Chris Walters regarding several PUD related issues: (Follow up to January 18, 2019 Staff level meeting) — Sun needed more time to prepare, they anticipate presenting in April.

14. Comments from the public on topics not on the Agenda – Richard Seibt, 112 NE Bay Drive, Ocean Breeze, stated he was presenting to the Council on behalf of Richard Ruscillo, Nautical Drive (by Peter's Steakhouse), Ocean Breeze. He spoke about a power line that was tied off onto a tree by the Art Cottage, and stated that the line went from the pole, to the tree, to the conduit. He commented that he did not know if the wires were "live" or not; and, that the wires were tied off with a white piece of rope that was tied onto some branches. He asked if FPL was aware of the situation and what was FPL's time frame to fix it.

Mr. O'Neil commented that he felt it was useful to have this matter on record.

President De Angeles asked if a representative for Sun Communities was in attendance.

There was no response.

Council Member Gerold stated that the previous Minutes should reflect this matter being brought before the Town Council when the unit on Nautical Drive was being built. He stated that the Town Council was under the impression that this was to be removed and added that he did not believe that the line belonged to FPL.

President De Angeles asked Mr. O'Neil to find out the ownership of these wires.

Mr. O'Neil stated that the matter had been brought-up previously and that he would locate the responsible party.

Council Member Locatis stated that his recollection was that FPL had tied those wires to the tree.

Council Member Gerold stated that when this matter was discussed previously, it was told to the Council that FPL tied the wires to the tree.

Mr. O'Neil responded that it was important to find out ownership of the wires and that he would look into the situation.

Duncan Koreivo, 427 Intercoastal Drive, Ocean Breeze, presented the Town Council with a visual map given to him by Sun Communities (copy attached) in which Upland Beach #2 was identified and assigned to an area on the map. He stated that the PUD had Lot #432 in the location of the Sun Communities map depicting Upland Beach #2. He stated that the residents were sold units at this location depicting the space as "open space" (a/k/a Upland Beach #2) or as a park. He requested that this to be on the record.

President De Angeles asked Mr. Koreivo if he had contacted Sun Communities regarding this discrepancy.

Mr. Koreivo stated that Sun Communities was aware of it and that he hoped Chris Walters would have been in attendance at today's meeting.

Mr. O'Neil stated that Staff looked into this issue and that the OBE PUD Agreement, which was binding on Sun Communities, showed a unit on that Lot which was contrary to the map Mr. Koreivo had provided to the Town Council. He added that the PUD governed and that it was not a good

practice to vary from the PUD. He commented that this was seemingly a private matter and that if Sun Communities wanted to build a beach, Sun would need to apply for a Minor Amendment to the OBE PUD to propose that Upland Beach at that corner as Mr. Koreivo described. He stated that the map provided to the Council by Mr. Koreivo appeared to be a marketing document.

Mr. Koreivo stated that the map, provided to him, had "Ocean Breeze Resort" as the heading. He stated that Sun Communities was selling units as though the map represented the PUD. He stated that every buyer was being sold units were shown this map.

Council Member Gerold stated that he agreed with Mr. Koreivo and that he supported his efforts. He commented that when purchasing his home, he had no idea what a PUD was and that most of the people in the resort had not seen the PUD. He added that when purchasing their unit there were other instances in which they were told one thing, and later learned about the actual PUD and the inconsistencies. He remarked that this became a realization when the house on lot #430 was demolished (Jack Bowden's house) and then stakes were put up on lot #432. He commented that Mr. Bowden was not aware that there was a lot #432 next to him; he was also under the impression that there was to be an Upland Beach next to his unit. He stated this discrepancy went way back, he has been there four years. He added that the issue with the two-story houses going up next to one story houses caused owners to become interested in the PUD whereas they could witness the zoning and the site maps.

Mayor Ostrand agreed with Mr. Koreivo and explained that she too was not aware of the falsehood of some of the advertising and false representation. She stated that her hopes were that something positive would come from this.

President De Angeles asked Mr. O'Neil if he had spoken to Sun regarding these problems.

Mr. O'Neil answered that he had briefly informed Chris Walters, the Resort Manager, that any variation from the PUD would require the amendment as described earlier. He stated that Sun had currently been issued a permit for that lot, and subsequently, Sun decided not to move forward based on this conflict. He commented that he believed that the Council would be supportive of an amendment that matched up with community expectations but that Sun must go through the process. He stated that if Sun decided to build a house on that lot, he believed the Town was bound, by the PUD, to issue a permit for it; and then unfortunately, the remedies may be on the private side as to what was represented and what was not.

Board Member Gerold spoke about Ron Reilly's (?) legacy home which was demolished and at that time, there were two lots available to Mr. Reilly and he was given an option of choosing lot #430 or lot #432. He stated that the resident at Lot #430, Mr. Jack Bowden, was under the impression that he was "grandfathered in" to have that corner at lot #432.

Mr. O'Neil stated that the best practice for Sun was to fully understand the PUD and the site plan conditions and make sure that was presented as accurate information. He added that Sun Communities would be coming forward at the next Town Council Meeting and this item would come up or would be on the Agenda for discussion.

15. Comments from the Council on topics not on the Agenda – Vice-President Kagdis announced that the mandatory ethics class would be held locally on April 25, 2019. She gave an open invitation from the Martin County Library System Book Depot seeking volunteers for the Wednesday and Saturday shifts at the B & A Flea Market in Stuart; she added that she had the volunteer applications.

Council Member Gerold asked about the location of the fire hydrants and if the Sun was in compliance with the Fire Department because, there appeared not to be very many hydrants.

Mr. O'Neil answered that the location of fire hydrants was dictated by Martin County Fire/EMS and that Martin County reviewed the plans prior to construction. He stated that he did not know if the hydrants were all correctly placed but that Staff could talk to Martin County Fire/EMS.

Council Member Gerold asked about licensing of particular contractors and what was involved.

Mr. O'Neil answered that there had been some difficulties on four or five permit activities related to properties, owned by individuals, who were seeking to enclose the ground floor of their units. He stated that last week the qualifier, Mr. Brown, was alerted that he was out of sync with the requirements of the code. He stated that the construction did not match plans that were submitted, there were inspections that were missed and instances of starting work without proper permitting. He stated that the permits were owner permits and that the same contractor was performing work for Sun Communities, of which there were no violations. He stated that "Stop Work Orders" were placed on certain units and tasked the contractor with getting an engineer involved to certify the work that had been performed. He stressed that this was to be at no or minimal inconvenience to the owners, and that the process was not yet complete.

Council Member Wagner spoke about the petition in the Agenda packet from the residents on South Street wanting to eliminate the entrance on Skyline to exit only. He stated that the other end of the project was designated as exit only and asked about entry.

Mr. O'Neil answered that, during the Ocean Breeze West Project development discussions, the Town fought hard, although unsuccessfully, for the residents of South Street, and the Town does sympathize with them. He stated that the Plaza was a constituent of the Town and that Staff did not recommend closing or changing the current configuration of entry or exit into the Plaza.

Council Member Docherty stated that it had been brought to his attention by a number of constituents in the Community that there was a problem at the intersection of NE Bay Drive and NE Coastal Drive. He commented that at that stop sign going up Coastal Drive, there were four parking spaces on the right side next to a home. He continued that the stop sign was six feet behind the parking spaces, so if vehicles were turning right and there was a large car or truck in the first two parking spaces, a driver could not see what was coming down the street. He suggested to Chris Walters and/or Sun Communities that those first two parking spaces be designated as for compact cars only.

President De Angeles asked Mr. O'Neil if this matter had any scope of influence on the OBE PUD.

Mr. O'Neil answered that he believed it did and that Sun Communities may be coming forward soon to propose some amendments to include the Kayak Launch among other things. He commented that the Agenda packets included information about some remedial amendments that Sun consider regarding parking, traffic movements, and variations from the PUD as specifically prescribed, adequate width in parking spaces, blind spots, etc. He remarked that he had conversations and alerted Management and Marcella Cambor in writing that they should plan on performing a sweep to rectify all these issues with a PUD Amendment.

Mr. Locatis stated that the petitioners from South Street were referring to the entrance into the Publix Shopping Center. He stated that the petitioners believed that if that entry/exit at Skyline were an exit

only, or closed off, this would reduce the amount of traffic on South Street. He asked if the Town had any jurisdiction over the location of the Shopping Center exits.

Mr. O'Neil answered that the current configuration had been permitted by the Town and was consistent with the County; this was a County road. He stated that he had heard nothing from the County Engineers to the contrary. He added that full access to Ocean Breeze Plaza was best for the Plaza.

16. Comments from Town Management Consultant, Terry O'Neil – Mr. O'Neil spoke about the Special Transportation Fund account balance as being \$81,000.00. He stated that most of those dollars were not designated in any particular way and that over the last several meetings, projects were discussed that were fundable from this Special Fund. He mentioned the Town Limit Sign program and plans to seek permission from the Plaza and the Developers of Ocean Breeze West to erect some small, tasteful Town identification signs so that people coming and going know they were entering and exiting the Town. He commented that he believed this was a good idea, and the price was going to be approximately \$2,200.

He shared information provided to the Council regarding "Your Speed Signs," which were electronic indicators to be placed on Indian River Drive on the speed limit signs which read 25 mph. He indicated that the sign would flash giving the actual speed of vehicles. He added that Council Member Docherty brought this matter to the Council's attention and Staff was proposing the purchase of a two of signs. He stated that Martin County, who controlled the right-of-way, seemed favorable to the idea, but had not given the green light yet. He added Staff had gathered some quotes and this was about a \$7,000 project for two signs and that the Special Revenue Dollars were on point with this project; and, that the signs do work to slow people down.

Mr. O'Neil spoke about the proposed mangrove planting project to perform stabilization of the shoreline around one baffle box which was installed across from the Environmental Studies Center. He continued that this was an opportunity for the kids attending the Environmental Studies Center to get involved in the plantings along with the assistance of professionals. He indicated that the cost of the project may range from \$3,000 - \$5,000 and that because it was associated with the roadway project and the roadway storm water, the project was eligible to qualify for Special Revenue Dollar expenditures. He discussed the need for a budget amendment to put these dollars into the 2018/2019 operating budget. He concluded that the Mayor agreed that before the Town moved forward, the Council should be made aware of the progress; and unless the Council said otherwise, Staff would continue with these projects.

President De Angeles asked for confirmation of the balance of the Special Revenue Fund.

Mr. O'Neil answered \$81,000.

Council Member Gerold asked about the source of this revenue.

Mr. O'Neil answered that the revenue source was the State and the Local Share of Fuel Taxes.

Council Member Gerold asked if those dollars could only be spent on certain projects of relevance to Roads and Streets.

Mr. O'Neil answered "yes" that these were special purpose dollars. Mr. O'Neil stated that Staff would be bringing forth a budget amendment and continue to plan for these projects.

Council Member Gerold, seconded by Council Member Docherty, made a Motion to Amend the Budget in order to move forward with these projects.

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

Opposed: None

Motion Passed: (6-0)

President De Angeles asked for an update on the Town's website.

Mr. O'Neil answered that the Town's website was in "maintenance mode" and that the Town had hired a local firm to assist with retooling the website to make it ADA compliant and about exposure to law suits. He stated that the contract was signed by the Mayor last week for \$2,500, that the existing budget should suffice and that time was of the essence. He projected the website would be ADA compliant and up within a four to five week period.

Council Member Gerold asked about the meaning of ADA compliance.

Mr. O'Neil stated that the website had to allow people who were blind, deaf and with certain (disabilities) to avail themselves of the information in documents; the documents could be put into a format that were transferrable to reading and other means.

President De Angeles asked for further comments from the Council

There were none.

17. Comments from Mayor Ostrand – Mayor Ostrand elaborated on the Town Limit Signs, the speed signs and the baffle box mangrove planting project. She reiterated her ability to speak with Town Council Members and Zoning Board Members individually but was not at liberty to act as a conduit between Members. She welcomed all Members to contact her for input, discussions and matters to be brought up to Staff.

18. Announcements – President De Angeles announced the following:

- Regular Town Council Meeting – Monday, April 8, 2019 at 10:30 a.m. to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room
- Congressman Brian Mast attending the April 8, 2019 meeting

Council Member Wagner, seconded by Vice-President Kagdis, made a Motion to adjourn the meeting at 11:37 a.m.

Respectfully Submitted,

Pam Orr

Town Clerk

Minutes approved: April 8, 2019