

**AGENDA
TOWN OF JUPITER ISLAND
TOWN COMMISSION MEETING
WEDNESDAY, APRIL 30, 2025, 9:00 AM
ISLAND ROOM – TOWN HALL – 2 BRIDGE ROAD - HOBE SOUND, FL
SPECIAL TOWN COMMISSION MEETING**

PLEDGE OF ALLEGIANCE

ROLL CALL

NOTE: The Town Commission meeting will recess shortly after the start of the meeting, at approximately 9:05am, for an Attorney-Client Session in the Conference Room to discuss litigation cases as publicly noticed. Once adjourned, the Town Commission will reconvene.

COMMENTS*

1. Mayor/Commissioner Attorney Comments*

COMMISSION ACTION ITEMS

2. Resolution No. 931 - Settlement Agreement
3. Ordinance No. 406 - Adjusting Waterfront Setback Line - 1st Reading
4. Ordinance No. 407 - Adoption of Procedural Terms of Settlement Agreement - 1st Reading

NOTE: The Town Commission meeting will recess at this time, following Agenda Item 4, for a closed-door Executive Session in the Conference Room to discuss Collective Bargaining matters as publicly noticed. Once adjourned, the Town Commission meeting will reconvene.

OTHER ITEMS

5. Other Items*

** No advanced materials provided*

TOWN COMMISSION

Penny Townsend, Mayor
Anne Scott, Vice Mayor
Marshall Field VI, Commissioner
Patricia Warner, Commissioner
Joseph Taddeo, Commissioner

ADMINISTRATIVE STAFF

Town Manager, Robert Garlo
Town Attorney, Thomas J. Baird

Town Clerk, Kimberly Kogos

TOWN VISION

The Town of Jupiter Island is a barrier island community, between the Indian River Lagoon and the Atlantic Ocean, where the beauty of nature will always dominate the presence of man. Our vision for the future is illustrated by the traditions of the past, formed by a community of caring individuals who, with imagination and heart, have combined the island's beautiful gifts of nature with those of tradition and family. Inherent in the character of the Town are tranquility, seclusion and safety. The residents of Jupiter Island will faithfully endeavor to preserve and nurture their unique community for all future generations

STATE MANDATED STATEMENT

If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and that, for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Town prior to the meeting. Please contact the Town Hall, 2 Bridge Road, Hobe Sound, FL 33455, telephone (772) 545-0103.

PUBLIC NOTICE OF PRIVATE ATTORNEY-CLIENT MEETING

TOWN OF JUPITER ISLAND, FLORIDA

TO THE CITIZENS OF THE TOWN OF JUPITER ISLAND, FLORIDA

Please be advised that the members of the Town of Jupiter Island Town Commission will hold a **private attorney-client meeting on WEDNESDAY, APRIL 30, 2025** as part of a Town Commission meeting to be held at the Town Hall, 2 Bridge Road, Hobe Sound, FL 33455. During the Town Commission meeting, the Town Commission will recess to a private Attorney-Client meeting at approximately **9:05 am** to be held in the Town Manager's Conference Room at the Jupiter Island Town Hall as authorized by §286.011(8), *Florida Statutes* to discuss pending litigation and the appeal in the cases styled:

(1) *DAVID S. SLAN, JOANNA C SLAN, ARTHUR HANSEN AND ANTHONY HANSEN V. TOWN OF JUPITER ISLAND, 19th Circuit Court Case No.: 23-00-1607-CAAA;*

(2) *MICHAEL DAVID TESTA, INDIVIDUALLY AND AS TRUSTEE OF THE M. DAVID TESTA REVOCABLE LIVING TRUST, DATED OCTOBER 25, 2017 v. TOWN OF JUPITER ISLAND, JUPITER ISLAND COMPOUND, LLC AND DOLPHIN SUITE, LLC, 19th Circuit Court Case No. 2021CA000599, and Fourth District Court of Appeal, Case No. 4D22--0432.*

The members of the Town Commission expected to attend the private Attorney-Client meeting include: Mayor Penelope (Penny) Townsend, Vice-Mayor Anne Scott, Commissioners, Patricia "Patsy" Warner, Marshall Field, VI, and Joe Taddeo, Town Attorney Thomas J. Baird, Special Counsel, Raquel "Rocky" Rodriguez and/or Kyle Teal, and Town Manager Robert Garlo.

The Attorney-Client meeting is expected to begin at approximately **9:05 am**, and is anticipated to last for approximately 1 hour, however, it may continue so long as the members of the Town Commission determine necessary. At the conclusion of the private Attorney-Client meeting, the members of the Town Commission will re-convene their meeting in the Town Commission Chambers and take up any other items on the agenda.

For information, please contact Kimberly Kogos, Town Clerk at 772-545-0100.

Posted: 4/21/2025

PUBLIC NOTICE OF PRIVATE EXECUTIVE SESSION

TOWN OF JUPITER ISLAND, FLORIDA

TO THE CITIZENS OF THE TOWN OF JUPITER ISLAND, FLORIDA

Please be advised that the members of the Town of Jupiter Island Town Commission will hold a **private Executive Session on WEDNESDAY, APRIL 30, 2025**, as part of its regular commission meeting. The Town Commission meeting will be held at the Town Hall, 2 Bridge Road, Hobe Sound, FL 33455. Directly following the regular Town Commission Meeting, the Commission will convene to a private Executive Session in the Town Manager's Conference Room as authorized by §447.605, *Florida Statutes* to discuss collective bargaining negotiations.

The members of the Town Commission expected to attend the private Executive Session include: Mayor Penelope (Penny) Townsend, Vice-Mayor Marshall Field, VI, Commissioners Anne Scott, Patricia Warner and Joseph Taddeo, Town Attorney Thomas J. Baird, Labor Attorney Tammie Rattray (remotely) Town Manager Robert Garlo, Chief Michael Ewing, and Finance/Human Resources Director Matthew Pazanski.

The Executive Session is expected to begin directly following the adjournment of the regularly scheduled Town Commission meeting, and is anticipated to last for approximately 1 hour, however, it may continue so long as the members of the Town Commission determine necessary.

For information, please contact Kimberly Kogos, Town Clerk at 772-545-0100.

Posted: 04/21/2025

#5933287 v1 18270-00002

RESOLUTION NO. 931

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AGREEING TO SETTLEMENT OF THE CASES OF TESTA, ET AL. V. TOWN OF JUPITER ISLAND AND FELDSINE, ET AL. V. TOWNSEND AND THE TOWN OF JUPITER ISLAND ON CERTAIN TERMS AND CONDITIONS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE SETTLEMENT DOCUMENTS AND TAKE SUCH ACTIONS AS MAY BE NECESSARY ON BEHALF OF THE TOWN TO EFFECTUATE THE SETTLEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on May 7, 2019, the Commission enacted Ordinance 376, amending and, pertinent to this settlement, locating the Town’s Waterfront Setback Line (WSBL) seaward pertaining to properties in the 300 block of South Beach Road; and

WHEREAS, following the enactment of Ordinance 376, the owners of real property located at 306, 310, 322, and 332 South Beach Road (the “Owners”) applied to the Town’s Impact Review Committee for approvals to construct beach houses on their parcels lying within the new WSBL east of South Beach Road; and

WHEREAS, the Town’s Impact Review Committee reviewed and approved the Owners’ applications; and

WHEREAS, due to the location of the approved beach houses, the Owners were required to submit applications for Coastal Construction Control Line (CCCL) permits from the Florida Department of Environmental Protection (“FDEP”); and

WHEREAS, certain Petitioners filed petitions (the Administrative Law Petitions) challenging the FDEP’s Notice of Intent to issue CCCL permits, and three of the Owners’ applications for CCCL permits remaining pending; and

WHEREAS, on June 2, 2021, David Testa, individually and as Trustee of the M. David Testa Revocable Living Trust, Dated October 25, 2017, filed a lawsuit against the Town styled *Testa, et al. v. Town of Jupiter Island*, Case No. 2021-CA-000599 (Fla. 19th Cir. Ct.) (“Notice Lawsuit”), in which Plaintiff challenged the Town’s enactment of Ordinance 376; and

WHEREAS, on August 26, 2021, Jupiter Island Compound, LLC, and Dolphin Suite, LLC, moved to intervene in the Notice Lawsuit, and were granted intervention on September 15, 2021; and

WHEREAS, on February 8, 2023, the Fourth District Court of Appeal held in *Testa v. Town of Jupiter Island*, 360 So. 3d 722 (Fla. 4th DCA 2023), that “the Town did not strictly comply with section 166.041(3)(a)’s notice requirements in advance of the Town Commission’s adoption of Ordinance 376 on May 7, 2019”; and

WHEREAS, on May 23, 2023, Philip Feldsine, Jupiter Island Compound, LLC, and Dolphin Suite, LLC initiated a lawsuit against Town Mayor Penelope Townsend, and her husband, Peter Townsend (the “Townsend”), and later amended the lawsuit to add the Town of Jupiter Island as a defendant, alleging violations of chapters 86 and 119, Florida Statutes, which suit is styled *Feldsine, et al. v. Townsend*, Case No. 2023-CA-000960 (Fla. 19th Cir. Ct.) (“Sunshine Litigation”) (the Notice Lawsuit and Sunshine Litigation collectively referred to as the “Resolved Cases”); and

WHEREAS, all parties have agreed to amicably settle all claims and/or defenses asserted in, or related to, the Resolved Cases; and

WHEREAS, the parties who are involved in the Administrative Law Petitions have agreed to settle all claims and/or defenses asserted in, or related to the Administrative Law Petitions; and

WHEREAS, the Town believes it has meritorious defenses to the Resolved Cases; however, in an effort to resolve the pending controversies, it desires to amicably and expeditiously resolve all claims and avoid further litigation; and

WHEREAS, the Town Commission is exercising its home rule authority and good faith discretion to settle litigation, because it has deemed it to be in the best interest of its residents and property owners as related to the Resolved Cases and other related ongoing and/or threatened litigation; and

WHEREAS, the parties desire to enter into a settlement agreement, documenting the terms under which the parties will settle with the intended purpose of resolving all claims raised or that could have been raised in the Resolved Cases; and

WHEREAS, this Resolution authorizes the Town Manager to settle all claims brought or that could have been brought in the Resolved Cases by the Town's entry into a settlement agreement with all parties to the Resolved Cases, with each party to bear their own attorney's fees and costs and, among other things and subject to satisfaction of certain conditions in the settlement agreement, (a) exchanging general releases as to all claims that were brought or could have been brought; (b) entry of a stipulated final judgment in the Notice Litigation declaring Ordinance 376 null and void, resulting in the restoration the Waterfront Setback Line as provided in Ordinance 252; (c) enactment of ordinances establishing a new Waterfront Setback Line and procedures governing the Town's future changes to the Waterfront Setback Line and/or the permitting of new beachfront development; and (d) resolving all disputes arising from the previous adoption of Ordinance 376.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE TOWN OF JUPITER ISLAND, FLORIDA:

Section 1. **Adoption of Representations.** The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and the same are hereby incorporated herein as a specific part of this resolution.

Section 2. **Authority to Execute Settlement Agreement.** The Town Commission for the Town of Jupiter Island hereby approves settlement of the Resolved Cases and authorizes and directs the Town Manager to execute a settlement agreement and all related documents on terms and conditions acceptable to the Town Manager, Town Attorney and the Town’s outside counsel in the Resolved Cases, and to effectuate the terms contained in the terms of the settlement agreement.

Section 4. **Effective Date.** This resolution shall be effective immediately upon execution.

PASSED AND ADOPTED this _____ day of _____, _____.

(SEAL)

TOWN OF JUPITER ISLAND

Mayor

Vice Mayor

Commissioner

Commissioner

Commissioner

Attest:

Town Clerk

#6127920 v1 18270-00002

ORDINANCE NO. 406

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AMENDING APPENDIX A OF THE CODE OF ORDINANCES WHICH CONTAINS THE LAND DEVELOPMENT REGULATIONS OF THE TOWN; PROVIDING FOR THE AMENDMENT OF ARTICLE IV, DIVISION III, SECTION 3.02, TO MODIFY THE WATERFRONT SETBACK LINE ESTABLISHED IN EXHIBIT “C” THEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, embodied within the Town’s Comprehensive Plan is the Town Vision, which states in part that in Jupiter Island, the beauty of nature will always dominate the presence of man; and

WHEREAS, the Comprehensive Plan includes a Conservation Element, the purpose of which is to promote throughout the Town the conservation, use and protection of natural resources and to protect enhance the public health, safety and welfare and the quality of the environment; and

WHEREAS, the Comprehensive Plan includes a includes a Coastal Management Element, the purpose of which is to plan for and where appropriate, restrict development activities where such activities would damage or destroy coastal resources, and to protect human life and limit public expenditure in areas that are subject to destruction by natural disaster or sea level rise; and

WHEREAS, the Comprehensive Plan also includes a Property Rights Element, that requires the Town Commission to consider in its decision-making the property rights of property owners regarding the maintenance, use, development and improvement of his or her property, subject to state and local laws; and

WHEREAS, the respective owners of the real property located at 306, 310, 322, and 332 South Beach Road (collectively, the “Properties”), in accordance with, and reliance on, the foregoing Comprehensive Plan provisions and the Waterfront Setback Line established by Ordinance 376 and having understood these laws to be controlling at the time with respect to the development of the Properties, applied for and received approvals from the Town’s Impact Review Committee to construct structures on certain portions their undeveloped properties located east of South Beach Road; and

WHEREAS, no property owners in the Town, other than the owners of the Properties, have applied for and received approvals from the Town’s Impact Review Committee to construct structures on undeveloped property located east of South Beach Road in reliance on the waterfront setback line established by Ordinance 376; and

WHEREAS, the Commission exercising its home rule authority and good faith discretion determined that it is in the best interest of its residents and property owners to adopt a Resolution at a duly noticed Commission meeting held on April 30, 2025, approving a global settlement agreement resolving any and all pending and/or future disputes with the owners of the Properties regarding the Waterfront Setback Line established by Ordinance 376 and creating mutual covenants among the parties to the global settlement agreement; and

WHEREAS, by way of the global settlement agreement and the stipulated entry of a final judgment pertaining to Ordinance 376, a court of competent jurisdiction has ruled that Ordinance 376 is void and unenforceable; and

WHEREAS, the Court's ruling pertained to *Testa, et al. v. Town of Jupiter Island*, Case No. 2021-CA-000599 (Fla. 19th Cir. Ct.) ("Notice Lawsuit"), regarding the validity of the public notice for Ordinance 376, and said Notice Lawsuit was pending for several years until the parties reached a global settlement agreement; and

WHEREAS, in February of 2024, the Town contracted with the marine engineering firm of Cummins Cederberg to study the propriety and necessity of adjusting the Waterfront Setback Line from its location, as established by Ordinance 376; and

WHEREAS, the Town Commission determined that the Properties were exempt from the Zoning in Progress notice based upon the approvals the Properties had previously obtained from the Impact Review Committee pursuant to Ordinance 376.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE TOWN OF JUPITER ISLAND, FLORIDA:

Section 1. The foregoing "**WHEREAS**" clauses are hereby ratified and confirmed as being true and correct and are made a specific part of this Ordinance upon adoption hereof.

Section 2. **Exhibit "C."** The Waterfront Setback Line codified in Exhibit "C," which is contained in the Town's Code of Ordinances, Appendix A at Article IV, Supplemental Regulations, Division 3, Development Standards, Section 3.02 A and B, pertaining to Waterfront Setback Lines shall be amended and replaced with the newly revised Exhibit "C" attached hereto (the "Amended WFSBL"). The newly revised Exhibit "C" includes maps illustrating and describing the location of the Amended WFSBL.

Section 3. **No Non-Conformities.** Nothing in this ordinance is intended to, nor should be construed as, establishing any property (including the Properties) as a "non-conforming" property pursuant to the Town's Land Development Regulations or Policies 01.01.01.04 and 01.01.01.05 of the Town's Comprehensive Plan.

Section 4. **Severability.** If any provision of this ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance, which can be given effect without the invalid provisions or applications, and to this end, the provisions of this ordinance are hereby declared severable.

Section 6. Repeal of Ordinances in Conflict. All other ordinances of the Town of Jupiter Island, Florida, or parts of ordinances in conflict herewith are hereby repealed.

Section 7. Codification. This ordinance shall be codified and made a part of this official Code of Ordinances of the Town of Jupiter Island, Florida.

Section 6. Effective Date. This Ordinance shall become effective immediately upon the first business day following the entry of the stipulated final judgment in *Testa, et al. v. Town of Jupiter Island*, Case No. 2021-CA-000599 (Fla. 19th Cir. Ct.).

PASSED UPON FIRST READING THE ____ DAY OF _____, 2025.

PASSED AND ADOPTED UPON SECOND READING AT THE PUBLIC HEARING ON THE ____ DAY OF _____, 2025.

(SEAL)

TOWN OF JUPITER ISLAND

Mayor

Vice Mayor

Commissioner

Commissioner

Commissioner

ATTEST:

Town Clerk

ORDINANCE NO. 407

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AMENDING ARTICLE IV OF APPENDIX A OF THE CODE OF ORDINANCES ENTITLED, "SUPPLEMENTAL REGULATIONS" TO CREATE A NEW SECTION 3.23 ESTABLISHING PROCEDURES FOR PERMITTING NEW BEACHFRONT DEVELOPMENT; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AS FOLLOWS:

WHEREAS, embodied within the Town's Comprehensive Plan is the Town Vision, which states in part that in Jupiter Island, the beauty of nature will always dominate the presence of man; and

WHEREAS, the Comprehensive Plan further includes a Conservation Element, the purpose of which is to promote the conservation, use and protection of natural resources and ultimately to protect and enhance the public health, safety and welfare and the quality of the environment; and

WHEREAS, the Comprehensive Plan includes a Coastal Management Element, the purpose of which is to plan for and where appropriate, restrict development activities where such activities would damage or destroy coastal resources, and to protect human life and limit public expenditure in areas that are subject to destruction by natural disaster or sea level rise; and

WHEREAS, consistent with its Comprehensive Plan, the Town's Land Development Regulations serve the following purposes, among others:

- Guiding and ensuring coordinated, orderly, and harmonious development in accordance with the existing and future needs of the Town;
- Protecting, promoting and improving the public health, safety, and general welfare;
- Conserving the value of land, buildings and resources, and protecting landowners from adverse impacts of adjoining developments;
- Protecting the character and maintaining the stability of residential, recreational, open space and public areas;

- Assuring that necessary public facilities are made available concurrently with the impacts of development;
- Balancing the interest of the general public in the Town with that of individual property owners; and

WHEREAS, the Town Commission is elected as the representative of the Town residents and is empowered by the Charter to enact legislation advancing these purposes; and

WHEREAS, the Town Commission has devoted significant time and resources to establishing a waterfront setback line (WFSBL) and beachfront development that balances all of these purposes, among others, and has through this process held public workshops and hearings and distributed materials to facilitate public input and debate; and

WHEREAS, the Town Commission has approved Ordinance 406, amending the WFSBL; and

WHEREAS, for various reasons not all property owners desire or are able to publicly participate in hearings regarding the WFSBL and/or beachfront development; and

WHEREAS, the Town Commission believes that it would benefit from more direct input from property owners regarding the location of the WFSBL and consideration of future beachfront development; and

WHEREAS, the ability to vote in a non-binding referendum would expand the opportunity for public input on a potentially controversial issues; and

WHEREAS, a public hearing was properly noticed and held before the Commission on April 30, 2025, at which hearing Town property owners were afforded the opportunity to be heard; and

WHEREAS, the Town Commission was presented with text amendment to amend Appendix A of the Code of Ordinances which contains the Town’s Land Development Regulations to provide procedures which must be met when considering any new beachfront development; and

WHEREAS, the Town Commission has determined the creation of Article IV, Division 3, Section 3.23, and its inclusion in the Town’s Land Development Regulations is consistent with its Comprehensive Plan and its Future Land Use Element and Map.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE TOWN OF JUPITER ISLAND, FLORIDA:

Section 1. Recitals. The foregoing “**WHEREAS**” clauses are hereby ratified and confirmed as being true and correct and are incorporated herein.

Section 2. Amended LDRs. The Town Commission hereby amends its Land Development Regulations contained in Appendix A by creating a new Section 3.23 of Division 3 of Article IV – Supplemental Regulations, as follows:

Sec. 3.23. – Procedures for Permitting New Beachfront Development.

A. Prior to taking any future legislative action that would permit new beachfront development by amendment to the waterfront setback line, the Town Commission shall require the following to occur:

(i). Conduct a density analysis to evaluate whether, and to what extent, a proposed change to the waterfront setback line would permit the development of existing vacant land, which analysis shall be published on the Town’s website 60 days prior to the Town Commission’s consideration of an amendment to the waterfront setback line;

(ii). Following publication of the density analysis, the Town shall conduct at least two publicly noticed workshops at which public comment is solicited and permitted; and

(iii). After holding the two workshops, schedule a non-binding referendum asking the electors within the Town whether the proposed legislative action should be adopted.

B. The provisions of Paragraph 3.23.A. also shall apply to any approval of new structures seaward of the waterfront setback line with the exception of accessory features, (e.g., gazebos, trellises, porticos, pergolas, patios, carports, and porches), subject to the requirements in Division 5 of this Appendix A, governing variances.

C. Nothing herein is intended to delegate or limit the Town Commission’s legislative authority conferred upon it by the Town Charter, and the Commission retains the authority to exercise its discretion to act in the best interests of the Town, so long as the procedural requirements of this ordinance are satisfied. Nor does this ordinance place any condition or restriction on the Town’s quasi-judicial authority.

D. If repeal of this section is ever proposed, the Town shall hold a non-binding referendum asking Town voters whether they agree to the repeal of this section.

Section 3. Exemption for Amendment of the WFSBL. The adoption of Ordinance 406 amending the WFSBL shall not subject to the procedural requirements of this ordinance.

Section 4. Repeal of Ordinances in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. Severability. If any court of competent jurisdiction holds any word, part, section, paragraph or provision hereof to be unlawful or unconstitutional, such ruling or finding shall not affect the remaining portions of this ordinance, which shall remain in full force and effect.

Section 6. Codification. This ordinance shall be codified and made a part of the Code of Ordinances of the Town of Jupiter Island, Florida.

Section 7. Effective Date. This ordinance shall become effective immediately upon the first business day following the entry of the stipulated final judgment in *Testa, et al. v. Town of Jupiter Island*, Case No. 2021-CA-000599 (Fla. 19th Cir. Ct.).

PASSED UPON FIRST READING THE ____ DAY OF _____, 2025.

PASSED AND ADOPTED UPON SECOND READING AT THE PUBLIC HEARING ON THE ____ DAY OF ____, 2025.

(SEAL)

TOWN OF JUPITER ISLAND

Mayor

Vice Mayor

Commissioner

Commissioner

Commissioner

ATTEST:

Town Clerk