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**Town of Ponce Inlet
Town Council
Regular Meeting Minutes
February 18, 2021**

6 **1. CALL TO ORDER:** Pursuant to proper notice, Mayor Smith called the meeting to order
7 at 6:00 p.m. in the Council Chambers at 4300 South Atlantic Avenue, Ponce Inlet, Florida.

9 **2. PLEDGE OF ALLEGIANCE:** Mayor Smith led the Pledge of Allegiance.

11 **3. ROLL CALL:**

12 **Town Council:**

13 Mayor Smith, Seat #1

14 Councilmember Milano, Seat #2

15 Councilmember Hoss, Seat #3 (attended via Zoom due to extraordinary circumstances)

16 Councilmember Israel, Seat #4

17 Vice-Mayor Paritsky, Seat #5

19 **Staff Members Present:**

20 Mr. Baker, Chief Building Official/Floodplain Manager

21 Ms. Cherbano, Human Resource Director/Deputy Clerk

22 Mr. Disher, Assistant Director of Planning & Development

23 Chief Glazier, Police Chief

24 Ms. Hugler, Office Manager

25 Ms. Hunt, Assistant Deputy Clerk

26 Mr. Aaron Irwin, IT Manager

27 Mr. Joulani, Director, Planning & Development

28 Mr. Miller, Public Works Manager

29 Chief Scales, Fire Chief

30 Attorney Shepard, Town Attorney

31 Ms. Witt, Town Manager

33 Mayor Smith passed the gavel to Vice-Mayor Paritsky under section 3.03.B of the Town Charter,
34 due to a temporary medical issue that impacts his reading.

36 **4. ADDITIONS, CORRECTIONS OR DELETIONS TO THE AGENDA:** Vice-Mayor
37 Paritsky asked if there were any changes requested to the agenda. Ms. Witt added item 13-D,
38 Consideration of contract with NovaPlan Consulting, LLC for Planning, Zoning, and GIS Mapping
39 services; Vice-Mayor Paritsky added item 13-E, Discussion of guidelines and policies pertaining
40 to hosting and advertising of a town hall meeting by an individual council member; and item 13-
41 F, Town Manager's memo to Council regarding interference with administration and potential
42 Charter & ethics violations by Councilmember David Israel. There were no other changes
43 requested.
44

45 Vice-Mayor Paritsky moved to adopt the agenda as amended; seconded by Mayor Smith. The
46 motion PASSED 5-0, consensus.

47
48 **5. PROCLAMATIONS, PRESENTATIONS, AND AWARDS:**

49
50 **A. Certificate of Appreciation to Jim Volz for his service as a member of the**
51 **Ponce Inlet Community Center, Inc. (PICCI) Board.** Vice-Mayor Paritsky read the inscription
52 on the plaque and presented it to Mr. Volz.

53
54 **6. CONSENT AGENDA:** Vice-Mayor Paritsky asked if there was any item Council would
55 like to remove from the consent agenda or to discuss; she removed item 6-A and placed it as item
56 13-G; there were no other changes. Vice-Mayor Paritsky opened public comments; hearing none,
57 she closed public comments.

58
59 ~~**A. Approval of the Town Council special meeting minutes – January 14, 2021.**~~

60
61 **B. Approval of the Town Council regular meeting minutes – January 21, 2021.**

62
63 **C. Approval of cost-share agreement to include acceptance of a grant award of**
64 **\$807,206 with the St. Johns River Water Management District for the septic-to-sewer project**
65 **on Ponce de Leon Circle.**

66
67 Vice-Mayor Paritsky moved to approve the Consent Agenda as presented; seconded by
68 Councilmember Milano. The motion PASSED 5-0, consensus.

69
70 **7. OLD/NEW BUSINESS ITEMS PREFERRED AT THE BEGINNING OF THE**
71 **MEETING:**

72
73 **A. Consideration of appointment of alternate member to the Planning Board.** Ms.
74 Witt noted that Lisa Necrason has applied for appointment to the Planning Board and has received
75 and reviewed the training materials and attended at least one Planning Board meeting, as required.
76 Ms. Necrason thanked Council for the opportunity to serve. Vice-Mayor Paritsky opened public
77 comment - hearing none, she closed public comment.

78
79 Vice-Mayor Paritsky moved to approve the appointment of Lisa Necrason to Alternate Seat 1 of
80 the Planning Board with a term expiration of December 31, 2021; seconded by Councilmember
81 Milano. The motion PASSED 5-0, with the following vote: Vice-Mayor Paritsky - yes;
82 Councilmember Milano - yes; Councilmember Israel - yes; Councilmember Hoss - yes; Mayor
83 Smith - yes.

84
85 **B. Follow-up discussion of service proposals prepared at the Town's request by**
86 **Volusia County Fire-EMS.** Vice-Mayor Paritsky referred to this issue having come up
87 periodically since 2010 which led to Council directing Ms. Witt to obtain a quote from Volusia
88 County for a comparison of services. After the last meeting and listening to all the comments from
89 the residents, she did not feel this was the time to pursue any further action on this subject. The
90 Town has directed significant resources toward other matters including a coastal resiliency study

91 to respond to issues related to sea level rise, a strategic planning process which now may need to
92 be delayed, and other projects. Vice-Mayor Paritsky stated her recommendation would instead be
93 to place a risk assessment on its list of goals and budget for it during next years' budget process
94 and that no further action be taken on this matter. Councilmember Milano expressed support for
95 the risk assessment so that the town would know where any deficiencies lie in either equipment or
96 staffing within the department. Councilmember Israel clarified that this would be placed in the
97 budget. Vice-Mayor Paritsky then referred to the petitions that were presented to the Town at their
98 January Council meeting and asked Attorney Shepard to provide information regarding these.
99 Attorney Shepard noted that the petition did not meet the minimum requirements to be placed on
100 the ballot and read section 307(a) - Initiative and Referendum, from the Town Charter into the
101 record for clarification regarding the petition initiative; Attorney Shepard provided additional
102 information in a memorandum from his office dated February 3, 2021. Councilmember Israel
103 stated that the fire union reached out to the town manager to inquire about the petitions form prior
104 to circulating them but did not get an answer. Ms. Witt stated that she responded to Lt. George that
105 she would take a look at them but didn't have time to do so right then because of other deadlines
106 she had to meet for the Town; they proceeded with them without review.

107
108 Mayor Smith noted that the Fire-EMS services will continue to operate under the existing contract,
109 allowing the town to transport our patients and others, exactly as it has for the past several years.
110 Vice-Mayor Paritsky opened public comment. Derek George, Ponce Inlet Firefighters Local 4140
111 stated they understood Ms. Witt did not have time to review their petition when they sent it to her
112 and the petitions were not ill intent as the Union is not trying to undermine Council; he stated it
113 was something they put together after members of the public reached out to them and wanted to
114 help. He thanked Council for wanting to put this matter to an end and thanked the public for
115 support. He stated that accreditation in fire services is very different from that of the police service,
116 and it is difficult to obtain accreditation due to many factors including, water supply, equipment,
117 apparatus, location, etc. and it is very difficult for small agencies to become accredited due to the
118 costs involved. David Loh, 103 Oceanway Drive stated he supports a risk assessment done by a
119 fire rescue consultant paid for by the town and noted the IAFF could do one at no cost upon the
120 request of the union president. Tony Goudie, 4715 Dixie Drive stated this is "good news"; this
121 gave people a look into the process and he felt there is a distinct treatment of the firefighters; he
122 expressed concerns that the town administration seems to rather pay a labor attorney than negotiate
123 a contract with its firefighters; he offered to show someone how to properly file a referendum, and
124 he reminded everyone on the dais to remember their manners. Cynthia Johnston, 70 Inlet Harbor
125 Road stated it was not necessarily "misinformation", it was lack of information. Mayor Smith
126 stated that during the election, information was swirling that the system was broken, the firehouse
127 was going to disappear, and the firefighters were going away. Mayor Smith referenced this began
128 when Councilmember Israel was running for office and he continued to make those statements and
129 that is why the residents are confused. Councilmember Israel stated that at the time, the ambulance
130 was out of town 66% of the time and residents did not know that (Editor's Note - clarification: The
131 peak of out-of-town transports was December 2019-January 2020 and the ambulance was out-of-
132 town 5% to 7% of the time, remaining available for a call 93% to 95% of the time; the total out-
133 of-town transports vs in-town transports was 60% vs 40% during those two months). Skip White,
134 4885 S. Atlantic Avenue stated he would fully support the Council reviewing and budgeting for
135 our fire department to apply for and participate in the firefighters accreditation program; he has

136 researched this and feels this is nothing but a positive move for our residents and the fire
137 department. Vice-Mayor Paritsky closed public comments.

138
139 Council consensus was that no further action should be taken at this time regarding contracting
140 Fire-EMS services; agreed that a risk assessment is necessary and requested the risk assessment
141 be budgeted in next year's budget; and that accreditation be further explored.

142
143 **8. PUBLIC HEARINGS / QUASI-JUDICIAL:** None.

144
145 **9. PUBLIC HEARINGS / NON-QUASI-JUDICIAL MATTERS:**

146
147 **A. Second reading & adoption of Ordinance 2021-01, creating an Essential**
148 **Services Advisory Board.** Attorney Shepard read the ordinance by title only. AN ORDINANCE
149 OF THE TOWN COUNCIL OF THE TOWN OF PONCE INLET, FLORIDA AMENDING
150 CHAPTER 2, ARTICLE IV OF THE TOWN'S CODE OF ORDINANCES TO CREATE
151 DIVISION 3 WHICH ESTABLISHES AN ESSENTIAL SERVICES ADVISORY BOARD AND
152 PROVIDES FOR MEMBERSHIP, TERMS OF OFFICE, QUALIFICATIONS, RULES OF
153 PROCEDURE, AND THE POWERS AND DUTIES OF THIS BOARD; PROVIDING FOR
154 CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. Ms. Witt
155 reviewed her staff report stating that in local government, there is a contact struggle with finite
156 resources and seemingly endless number of competing priorities. The Essential Services Advisory
157 Board will provide the Town Council with an opportunity for the same vetting process that currently
158 exists on the Planning Board and Cultural Services Board so that these competing priorities can be
159 researched and analyzed through enhanced transparency before coming to the Town Council. Similar
160 to the Cultural Services Board, the Essential Services Advisory Board is not the type of board that would
161 require regular attendance by the town attorney, so attendance would be scheduled when needed. This
162 allows for more community involvement and greater transparency when the town is considering larger
163 projects and purchases. Councilmember Israel asked how much this board will cost the taxpayers. Vice-
164 Mayor Paritsky stated that there would be no counsel fees unless an attorney's attendance is required.
165 Vice-Mayor Paritsky opened public comments - hearing none, she closed public comments.

166
167 Vice-Mayor Paritsky moved to approve the second reading and adoption of Ordinance 2021-01
168 as presented; seconded by Councilmember Milano. The motion PASSED 4-1, with the following
169 vote: Vice-Mayor Paritsky - yes; Councilmember Milano - yes; Councilmember Israel - no;
170 Councilmember Hoss - yes; Mayor Smith - yes.

171
172 Council acknowledged a waiver of the requirement of attending a board meeting prior to
173 appointment for initial board members.

174
175 **B. Second reading & adoption of Ordinance 2021-02, amending Chapters 18 and**
176 **34 of the Code of Ordinances relating to permitting and construction requirements; adopting**
177 **the Florida Building Code, 7th Edition (2020); adopting the most recent edition of the NFPA**
178 **70 National Electrical Code (NEC); and adopting the Building Officials Association of**
179 **Florida's Model Administrative Code (2020) with additions from the Town of Ponce Inlet.**
180 Attorney Shepard read the ordinance by title only. AN ORDINANCE OF THE TOWN OF

181 PONCE INLET, FLORIDA AMENDING CHAPTERS 18 AND 34 OF THE PONCE INLET
182 CODE OF ORDINANCES RELATING TO PERMITTING AND CONSTRUCTION
183 REQUIREMENTS; ADOPTING THE FLORIDA BUILDING CODE, 7TH EDITION (2020)
184 TOGETHER WITH CERTAIN APPENDICES THERETO; ADOPTING THE MOST RECENT
185 EDITION OF THE NFPA 70 NATIONAL ELECTRICAL CODE (NEC); ADOPTING THE
186 BUILDING OFFICIALS ASSOCIATION OF FLORIDA’S MODEL ADMINISTRATIVE
187 CODE (2020) TOGETHER WITH CERTAIN ADDITIONS THERETO; PROVIDING
188 DIRECTIONS TO THE TOWN MANAGER; PROVIDING FOR CODIFICATION;
189 PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN
190 EFFECTIVE DATE. Vice-Mayor Paritsky opened public comments – hearing none, she closed
191 public comments.

192
193 Vice-Mayor Paritsky moved to approve the second reading and adoption of Ordinance 2021-02
194 as presented; seconded by Councilmember Milano. The motion PASSED 5-0, with the following
195 vote: Vice-Mayor Paritsky – yes; Councilmember Milano – yes; Councilmember Israel - yes;
196 Councilmember Hoss – yes; Mayor Smith - yes.

197
198 **C. Second reading & adoption of Ordinance 2021-03, amending section 4.4 of the**
199 **Land Use and Development Code to create a waiver procedure for additional fence height**
200 **and materials on public/institutional properties with special security needs.** Attorney Shepard
201 read the ordinance by title only. AN ORDINANCE OF THE TOWN OF PONCE INLET,
202 FLORIDA, AMENDING SECTION 4.4 OF THE LAND USE AND DEVELOPMENT CODE
203 REGARDING FENCES AND WALLS; AMENDING SECTION 6.6.5 OF THE LAND USE
204 AND DEVELOPMENT CODE REGARDING ADMINISTRATIVE VARIANCES;
205 PROVIDING FOR CODIFICATION AND SEVERABILITY; PROVIDING FOR CONFLICTS,
206 AND AN EFFECTIVE DATE. Ms. Witt stated Battelle expressed concern about the cost for this
207 small scale amendment coupled with the additional costs of the variance application required for
208 them to replace a deteriorating fence with same. Upon staff analysis, this is a text amendment
209 enables the town to make a change that we would need for some of our properties because several
210 would be in the same situation; therefore she requested that the Council consider splitting the cost
211 of this text amendment fee of \$2,500 with Battelle and charge their half for the fact that this was
212 put to the top of the priority list, as the town is a beneficiary of this action.

213
214 Vice-Mayor Paritsky opened public comments. Tony Goudie, 4715 Dixie Drive asked why we
215 would do something that benefits them; if they want a change, they should pay for it. Ms. Witt
216 stated that Battelle made a good argument that we should have taken a look at our properties when
217 updating the fence regulations as we have properties like the lighthouse and cell tower that are in
218 this same situation and could not replace their fences. Vice-Mayor Paritsky closed public
219 comments. Mr. Disher stated the applicant paid the fees; during the review process, it came to
220 staff’s attention that many of the town-owned properties could be affected. Councilmember Israel
221 asked why the town would be giving Battelle 50% back; yet when Matt Dvorak wanted to expand
222 parking, he paid his fees. Ms. Witt referenced the nexus of when the town benefits from an action
223 as well, stating that they try to be fair in their consideration of requests. Mr. Disher concurred,
224 adding that the Dvorak’s did a parking amendment and that consists of a different process as an
225 exclusive benefit to his business.

226 Council approved by consensus, 4-1 (Councilmember Israel against), to split the \$2,500 test
227 amendment fee with Battelle.

228
229 Vice-Mayor Paritsky moved to approve the second reading and adoption of Ordinance 2021-03
230 as presented; seconded by Councilmember Milano. The motion PASSED 5-0, with the following
231 vote: Vice-Mayor Paritsky – yes; Councilmember Milano – yes; Councilmember Hoss - yes;
232 Councilmember Israel - yes; Mayor Smith - yes.

233
234 **D. Second reading & adoption of Ordinance 2021-04, increasing fines for parking**
235 **violations from \$15 to \$45.** Attorney Shepard read the ordinance by title only. AN ORDINANCE
236 OF THE TOWN COUNCIL OF THE TOWN OF PONCE INLET, FLORIDA, AMENDING
237 CHAPTER 74, ARTICLE II AND APPENDIX B OF THE TOWN’S CODE OF ORDINANCES
238 TO INCREASE FINES FOR PARKING VIOLATIONS; PROVIDING FOR CONFLICTS,
239 SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. Councilmember Milano
240 thanked Councilmember Israel for bringing this item to Council’s attention, noting that vehicles
241 have been left overnight and sometimes, for days. He requested that additional signage be added
242 to the boat trailer parking lot informing visitors of boat lengths, parking regulations, and towing
243 information. Ms. Witt stated that the town may need to update its agreement with Volusia County.
244 Attorney Shepard noted that a notice on a sign may not be enforceable; need to research ordinances
245 and regulations that the town has in place and go from there; the County and Town must agree on
246 the contents. Vice-Mayor Paritsky opened public comments. Mike Mirage, 15 Mar Azul suggested
247 the ordinance number be placed on the signage. Cynthia Johnston, 70 Inlet Harbor Road stated she
248 would like to see implementation of an escalating fine. Vice-Mayor Paritsky closed public
249 comments. Follow-up discussions by staff and Council clarified that the escalating fine aspect
250 would be in that it could be an additional ticket per day. Councilmember Israel suggested providing
251 a 30-day notice of fine increase. Ms. Witt stated that given the implementation timeframe, they
252 will be able to notice it several times within the 30 days.

253
254 Vice-Mayor Paritsky moved to approve the second reading and adoption of Ordinance 2021-04
255 as presented; seconded by Councilmember Milano. The motion PASSED 5-0, with the following
256 vote: Vice-Mayor Paritsky - yes; Councilmember Milano - yes; Councilmember Israel - yes;
257 Councilmember Hoss – yes; Mayor Smith – yes.

258
259 **E. Second reading & adoption of Ordinance 2021-05, amending the Land Use**
260 **and Development Code to create regulations regarding nuisance lighting.** Attorney Shepard
261 read the ordinance by title only. AN ORDINANCE OF THE TOWN OF PONCE INLET,
262 FLORIDA, AMENDING ARTICLE IV OF CHAPTER 34 OF THE CODE OF ORDINANCES
263 BY RENAMING THE ARTICLE AND CREATING SECTION 34-99 ENTITLED “NUISANCE
264 LIGHTING” PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS;
265 PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. Vice-Mayor
266 Paritsky opened public comments; hearing none, she closed public comments.

267
268 Vice-Mayor Paritsky moved to approve the second reading and adoption of Ordinance 2021-05
269 as presented; seconded by Councilmember Milano. The motion PASSED 5-0, with the following

270 vote: Vice-Mayor Paritsky – yes; Councilmember Milano – yes; Councilmember Israel - yes;
271 Councilmember Hoss – yes; Mayor Smith – yes.

272

273 **10. CITIZENS’ PARTICIPATION:** Vice-Mayor Paritsky opened citizen’s participation.
274 Tony Goudie, 4715 Dixie Drive asked why Councilmember Hoss was not present in person adding
275 that according to the Charter, any councilmember who misses three meetings can be removed.
276 Attorney Shepard stated under the current law, with a pandemic, councilmembers are allowed to
277 appear via Zoom technology and be considered “present” and vote on all matters; the relief through
278 COVID is separate from the Charter; and Councilmember Hoss’ appearance via Zoom has been
279 acknowledged due to extraordinary circumstances by the Council. Sharone LeMieux, 4590 S
280 Atlantic Avenue, commended Council’s cohesive and collective efforts in the exploration,
281 application, and pursuit of grant monies that improve the community while relieving the financial
282 entirety to its residents; it is the result of a united effort of a successful town council to find the
283 resources that improve our quality of life, keep Ponce Inlet environmentally progressive, and
284 comprehensively explore the best options available for necessary services. Thank you for keeping
285 Ponce Inlet residents at the forefront of every meeting. She added that democracy is not a spectator
286 sport but deserves active participation and preemptive efforts that keep residents’ participation
287 active, as well as government transparency. Vice-Mayor Paritsky closed citizen’s participation.

288

289 **11. ORDINANCES (FIRST READING) AND RESOLUTIONS:**

290

291 **A. Resolution 2021-02, opposing the elimination of the statutory authorization for**
292 **regional planning councils, as proposed in current legislation.** A RESOLUTION OF THE
293 TOWN OF PONCE INLET, VOLUSIA COUNTY, FLORIDA OPPOSING ELIMINATION OF
294 STATUTORY AUTHORIZATION FOR REGIONAL PLANNING COUNCILS IN FLORIDA
295 AS PROPOSED IN SENATE BILL 62 OR SIMILAR PROPOSED LEGISLATION;
296 PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS;
297 AND PROVIDING FOR AN EFFECTIVE DATE. Mr. Disher stated this resolution is in
298 opposition of the state’s plan to eliminate regional planning councils. These councils provide
299 assistance and guidance to address issues such as regional planning, emergency preparedness,
300 hurricane evacuation, and sea level rise. They have a lot of technical expertise and are essential to
301 assisting local governments. Under the proposed bill, this responsibility would then fall to county
302 and local governments which are not equipped to handle some of the issues that encompass more
303 than one city. Vice-Mayor Paritsky asked how this affects our existing contract with the East
304 Central Florida Regional Planning Council (ECFRPC). Attorney Shepard stated the Community
305 Affairs Committee and Senator Bradley introduced the Bill. Today, this office spoke with Hugh
306 Harling, Executive Director of the regional planning council in his area and provided the following
307 analysis: *it appears that if Senate Bill 62 passes, which we do not know, any town with a contract*
308 *with the ECFRPC or any other regional planning council, should be unaffected. In its current*
309 *form, it does not eliminate regional planning councils instead, it eliminates all references to*
310 *regional planning councils in FL statute. It does not eliminate them; it eliminates any reference to*
311 *them as a body having statutory authority. An important distinction is that the East Central FL*
312 *Regional Planning Council was established before FL statutes (1980), and this means that if*
313 *Senate Bill 62 passes, the ECFRPC will continue to exist as it did prior to the legislation but*
314 *without the FL statutory framework. The most recent senate analysis comes to the same*
315 *conclusion. Additionally, Senate Bill 62 explicitly re-authorizes local governments to create*

316 regional planning entities through Chapter 163. During the conversation with Mr. Harling, he
317 learned that they have plans to re-establish operations of the ECFRPC through interlocal
318 agreements and expect to continue to operate should the Bill pass. Vice-Mayor Paritsky noted the
319 importance of this agency’s work and noted that the FL League of Cities opposes this bill and
320 asked all municipalities to provide a resolution as well, so she was pleased to see this item on the
321 agenda. Vice-Mayor Paritsky opened public comments; hearing none, she closed public
322 comments.

323
324 Vice-Mayor Paritsky moved to approve Resolution 2021-02 as presented; seconded by
325 Councilmember Milano. The motion PASSED 5-0, with the following vote: Vice-Mayor Paritsky
326 – yes; Councilmember Milano – yes; Councilmember Israel – yes; Councilmember Hoss - yes;
327 Mayor Smith – yes.

328
329 **12. OLD BUSINESS:**

330
331 **A. Timing related to strategic planning process.** Ms. Witt noted that Council
332 approved a comprehensive strategic planning process at its December 10, 2020 meeting; upon
333 further consideration and a growing awareness of the extensive work that we are embarking upon
334 simultaneously with the East Central Florida Regional Planning Council for a resiliency study, she
335 wanted to afford Council the opportunity to postpone the strategic planning process, being mindful
336 that we could lose participation from our residents from either one or the other of these important
337 projects if we run them concurrently. Furthermore, some of the information that we expect to gain
338 from the resiliency study will likely be important to know for the strategic planning process. She
339 wanted to ensure that this project is not short-changed in any manner. She noted that there should
340 be no concern that staff lacks direction on the goals that the Council wants us to work on, as we
341 have enough current work to carry us well beyond the anticipated September completion of the
342 resiliency study. UCF’s John Scott Dailey Florida Institute of Government is amenable to
343 postponing this project, if that is what the Town would prefer; we could begin our strategic
344 planning project in October, budgeted in our new fiscal year; the proposal for the strategic planning
345 project is currently \$8,500, though there may be a slight modification to this rate structure in next
346 fiscal year. Vice-Mayor Paritsky opened public comments - hearing none, she closed public
347 comments.

348
349 Vice-Mayor Paritsky moved to postpone the strategic planning project until October 2021, to
350 allow for completion of the resiliency study; seconded by Councilmember Milano. The motion
351 PASSED 5-0, with the following vote: Vice-Mayor Paritsky - yes; Councilmember Milano - yes;
352 Councilmember Israel - yes; Mayor Smith - yes; Councilmember Hoss - yes.

353
354 **13. NEW BUSINESS:**

355
356 **A. Grant application to the River-to-Sea TPO for the design, engineering, and**
357 **construction of an 8-foot accessible sidewalk adjacent to South Peninsula Drive, where**
358 **feasible.** Mr. Joulani presented a summary of his staff report regarding this item and stated that
359 the town has submitted the required documents for ranking of this project to the TPO annually
360 since 2018. He stated that this is a request to authorize staff to submit an updated application or
361 letter of intent to remain in the priority list for 2021. He also requested the Town Council consider

362 increasing the grant match percentage to 12.5% or 15% so that the Town can earn additional points
363 and move up on the priority list. He noted that the project is currently 12th on the priority list for
364 funding, and the cost estimates have been updated for the projected year of construction. There
365 was discussion regarding the right-of-way width and encroachments. Mr. Joulani noted that this
366 will be determined with more certainty when the right-of-way is surveyed during the design phase.
367 Councilmember Israel suggested that all residents on Peninsula Drive be notified of the project.
368 Vice-Mayor Paritsky opened public comments. Joe Perrone, 78 Buschman Drive stated that this
369 topic has been on the TPO's radar for years, and that the Town must make sure to lock in the
370 minimum required match so that it cannot be affected if that requirement changes in the future. He
371 further suggested that the Town should check with the residents to see if they are supportive of
372 this project and then confirm that the match rate is grandfathered. Councilmember Israel expressed
373 concern about the cost of this project and asked Vice-Mayor Paritsky if she was supporting a tax
374 increase for this. Vice-Mayor Paritsky noted that the Town's commitment to this project is for this
375 year only and the Town has the right to withdraw its application for funding in future years. Ms.
376 Witt stated that if there is any hesitation to increase the percentage, Council can keep it at 10%.
377 Councilmember Milano stated there are between 15 and 20 homes on S. Peninsula Drive that
378 would be adversely affected by this project and noted that the existing sidewalk is not safe; he
379 agrees with an increase to 15%. Mayor Smith agreed and added that the additional width could
380 provide for safer line-of-sight views for people exiting their driveways. He asked if the cost
381 estimate is for removal and replacement or is it to add to the sidewalk width. Mr. Joulani confirmed
382 that the costs include removal and replacement. Joe Villanella, 46 Jana Drive, noted his support of
383 increasing the percentage if it improves the Town's chances of being awarded the project. He
384 stated the State may be reducing its funding, so the Town needs to lock in its rate; and this has
385 been a safety issue. Sharone LeMieux, 4590 S Atlantic Ave., stated her support of a safe
386 bikepath/walkway. Tony Goudie, 4715 Dixie Drive stated that this has been a long-standing issue;
387 asked for specific information regarding how this will affect tax rates (Editor's Note: Attachment
388 1 was later provided and is submitted as a supplement to these minutes); noted that as each day
389 passes, the construction costs increase. Vice-Mayor Paritsky closed public comments.

390
391 Mayor Smith moved to authorize and approve submittal of the grant application to the River-to-
392 Sea TPO for the design, engineering, and construction of an 8-foot accessible sidewalk adjacent
393 to South Peninsula Drive where feasible and to increase the town's matching funds to 15%;
394 seconded by Councilmember Milano. The motion PASSED 5-0, with the following vote: Mayor
395 Smith - yes; Councilmember Milano - yes; Councilmember Israel - yes; Vice-Mayor Paritsky -
396 yes; Councilmember Hoss - yes.

397
398 **B. Issues in Ponce Inlet related to homelessness.**
399 **1. Discussion of homeless problem; and**
400 **2. Panhandling and nuisance ordinances** - Councilmember Israel expressed
401 sympathy with the homeless issue and noted that he has seen an increase in the number of homeless
402 in Ponce Inlet. He stated his experience has taught him that some of the homeless may have mental
403 health issues, some are displaced from their home, others may have substance abuse issues, some
404 are lazy, and some are dangerous. He noted that the cities of Daytona Beach and Port Orange
405 recently adopted ordinances restricting homelessness and panhandling and this action has forced
406 many of the homeless into the town. He has received complaints of human waste and trash being
407 found on private property, trespassing onto boats, residents being asked for money, food, or
408 cigarettes, and sleeping on park benches. He noted that there is a homeless shelter, but it is located
409 in Daytona Beach, which if our officers transport someone out there, it is one less officer in town

410 protecting the residents. He requested Council discuss this issue and create proactive regulations.
411 Attorney Shepard noted that Federal Law requires that the Town participate in a cooperative shelter
412 like the First Step Shelter or build a shelter of its own; he referenced his memorandum dated
413 February 3, 2021 wherein he discussed options available: prohibit public urination and defecation;
414 prohibit nudity; establish rules for parks and benches; prohibit urban camping; and prohibit
415 aggressive panhandling based on actions associated with objective dangers and intimidation, such
416 as physical touching and a danger to traffic. Mayor Smith stated some of these options could give
417 the police officers the tools they need to combat this issue. Vice-Mayor Paritsky concurred and
418 said the homeless and panhandling issues are intertwined and the town needs to be proactive; this
419 is an opportunity to request the town attorney prepare ordinances for Council consideration.
420 Councilmember Milano noted that the shelter is working, and the Safe Zone housed 171 guests in
421 the safe zone overnight since it opened. Vice-Mayor Paritsky opened public comments. Mike
422 Mirage, Mar Azul North, stated he was clearing vegetation at the Las Olas gates and discovered a
423 homeless camp in the woods on their property. He asked that Council discuss this matter with the
424 County too, since the development's eastern gate is on Atlantic Avenue. Councilmember Israel
425 added that he also has concerns of squatters using vacant homes for shelter. Sharone LeMieux
426 4590 S. Atlantic Ave. stated she supports the compassionate, understanding, approach of
427 Councilmember Milano; does not believe anyone desires to be homeless, and having a viable
428 choice of the First Step Shelter is an excellent alternative for Ponce. Vice-Mayor Paritsky closed
429 public comments.

430
431 Council requested the Town Attorney prepare an ordinance for Council's consideration based
432 upon the discussion at this meeting; 5-0 consensus.
433

434 **C. Intersection at Harbour Village Boulevard and South Peninsula Drive – Chief**
435 Glazier stated at Vice-Mayor Paritsky's request, staff researched and observed this intersection.
436 He reviewed his memorandum outlining the potential issues at this intersection, noting that within
437 a 14-month period, there were three auto accidents, and, in each case, the at-fault driver was turning
438 left from the east side of Harbour Village Boulevard. He recommended that based on the size of
439 the intersection and volume of pedestrian, bicycle, and vehicular traffic, that a comprehensive
440 review be performed to determine which signs, signals, pavement markings, and other traffic
441 control devices may provide the best solution. Councilmember Israel suggested relocating the stop
442 signs. Ms. Witt noted that if approved, the town has traffic engineers that it can contract with to
443 study this intersection. Councilmember Milano requested that the town also study the intersections
444 of Beach Street and Oceanway Drive (on South Peninsula Drive); he provided photos of the
445 intersection and stated it is a blind intersection. Vice-Mayor Paritsky opened public comments.
446 Lisa Necrason, 4739 S. Peninsula Drive stated she initially thought it was a four-way stop and felt
447 that should be considered and noted there is a school bus stop at this intersection; she has been cut-
448 off by vehicles exiting Harbour Village Boulevard while she was driving on Peninsula. Mike
449 Mirage, 15 Mar Azul North suggested that they also consider placing speed humps at this
450 intersection. Sharone LeMieux, 4590 S. Atlantic Avenue, agreed that a four-way stop would help
451 with traffic control and noted that there is a decorative wall that creates a blind spot at the
452 intersection. Joe Perrone, 87 Buschman Drive, stated that he reported the vegetation surrounding
453 equipment boxes blocks the view of the intersection. Vice-Mayor Paritsky closed public
454 comments.

455 Council consensus, 5-0; to request a traffic engineering study of the Harbour Village Boulevard,
456 Beach Street, and Oceanway Drive intersections on South Peninsula Drive and research the
457 feasibility of speed humps on S. Peninsula Drive south of Inlet Harbor Boulevard.

458

459 **D. Consideration of contract with NovaPlan Consulting, LLC for Planning,**
460 **Zoning, and GIS Mapping services** - Ms. Witt noted that with Mr. Joulani's pending retirement
461 and unique qualifications, it is staff's desire to have a contract with his company to work as an
462 independent contractor to assist the Town with key projects related to planning, zoning, and GIS
463 mapping. She noted a correction to Section 2 of the agreement: This Agreement shall be on an as
464 needed basis for the Town and based upon the availability of the Contractor. Vice-Mayor Paritsky
465 opened public comments; hearing none, she closed public comments.

466

467 Vice-Mayor Paritsky moved to approve the contract with NovaPlan Consulting, LLC as amended;
468 seconded by Councilmember Milano. The motion PASSED 5-0, with the following vote: Vice-
469 Mayor Paritsky - yes; Councilmember Milano - yes; Mayor Smith - yes; Councilmember Israel -
470 yes; Councilmember Hoss - yes.

471

472 (Editor's Note: Due to Florida Retirement System requirements, for which final confirmation was
473 ascertained after this meeting, any use of this contract will be delayed accordingly).

474

475 **E. Discussion of guidelines and policies pertaining to hosting and advertising of a**
476 **town hall meeting by an individual council member.** Vice-Mayor Paritsky noted that there are
477 no existing guidelines pertaining to a sitting member of Council holding a town hall meeting at a
478 town-owned facility. Attorney Shepard stated if you wish to create a policy, how it will be written
479 depends on many factors including, "cut-off" dates, is it a legal use of a town-owned facility; is it
480 an "in-kind" donation; is it a public meeting, does it need to be noticed and recorded, what happens
481 to any records and documents that are generated or distributed during the meeting - all of these
482 issues must be addressed. Attorney Shepard briefly reviewed the Sunshine Law and noted that
483 certain rules do apply - the meeting host cannot discriminate against attendees; must provide
484 reasonable accommodations; must allow cameras and other recording devices; and any records
485 created become a public record and must be retained pursuant to public records laws. Mayor Smith
486 stated all Council members are elected "at large", so if a meeting is held by one member in a public
487 facility, does it become a public meeting; and what happens if another member of Council attends.
488 Attorney Shepard stated that it is a meeting regardless and caution should be taken to ensure a
489 third party is not being used as a conduit.

490

491 Council by consensus, requested the Town Attorney research issues and options available relating
492 to a policy for Council's consideration; 5-0.

493

494 **F. Approval of the Town Council special meeting minutes – January 14, 2021.**
495 Vice-Mayor Paritsky requested a correction to the minutes to denote that Volusia County had
496 approved the North Turn Special Event *prior* to the Town's December 10th regular meeting, based
497 on the staff report and agenda packet materials provided at the December 10th Council meeting;
498 there were no other changes. Vice-Mayor Paritsky opened public comments - hearing none, she
499 closed public comments.

500

501 Vice-Mayor Paritsky moved to approve the January 14, 2021 Special meeting minutes as
502 amended; seconded by Councilmember Milano. The motion was APPROVED 5-0, with the
503 following vote: Vice-Mayor Paritsky - yes; Councilmember Milano - yes; Councilmember Israel -
504 yes; Mayor Smith - yes; Councilmember Hoss - yes.

505

506 **G. Town Manager’s memo to Council regarding interference with administration**
507 **and potential Charter & ethics violations by Councilmember David Israel.** Vice-Mayor
508 Paritsky referenced the memorandum and packet submitted to Council by the Town Manager. Ms.
509 Witt made two corrections to the memorandum: on page 2, “December 10, 2021” corrected to
510 “December 10, 2020”; and on page 3, in the first paragraph, “over three months ago” corrected to
511 “over one month ago”. Vice-Mayor Paritsky read the memorandum title into the record and asked
512 Attorney Shepard for guidance on how Council should proceed. Attorney Shepard stated that under
513 the Town’s Charter, there is no authority or mechanism to punish or remove a council member.
514 He stated that while he has not had time to analyze this matter in detail, some potential options are
515 to retain an independent investigator to investigate the matter; have an internal investigation;
516 consider censure; but that these could be discussed at a later meeting or the Council could simply
517 note that the memo is received, file it, and move on. Mayor Smith stated it is disruptive activity
518 and stated that the Town Manager runs the Town according to the Charter; he expressed that if
519 they can be assured the behavior stops, we can move on; if not, then we should discuss further.
520 Councilmember Israel read a Charter provision which he believed enabled him to proceed in some
521 of the matters described; Attorney Shepard stated that while he did not know if these claims were
522 true, that Charter provision has no application to these charges. Referring specifically to the
523 interference aspect, Councilmember Milano stated that you need to always go to the town manager
524 before you go to any other employee and ask them to do something; just follow the procedure.
525 Vice-Mayor Paritsky noted she reviewed the allegations and expressed concerns with the
526 allegations and would prefer to discuss this matter in detail at a special meeting, after everyone
527 has had an opportunity to properly review the materials.

528

529 Vice-Mayor Paritsky requested a special meeting be scheduled, with this item as the only agenda
530 item, where this can be discussed further. Mayor Smith, Councilmember Milano, and
531 Councilmember Hoss concurred.

532

533 Councilmember Israel requested that the Town afford him an attorney like they did for the Mayor
534 for his ethics complaint. Attorney Shepard stated it is the timing and order of the process. An ethics
535 complaint is filed at the State level and you are required to respond within a specific timeframe;
536 what is going on here, is that the matter is being scheduled for a public meeting where options will
537 be discussed. At that time, depending on the outcome, you may be entitled to an attorney, but not
538 on the front end. Vice-Mayor Paritsky opened public comments. Tony Goudie, 4715 Dixie Drive
539 stated he served for nine years on Council and during that time, Council approved legislation for
540 all members of Council and Staff be afforded legal representation due to the many accusations
541 they faced; he expressed concerns that the newest member of Council may not have been trained,
542 especially during a pandemic, or have experience in the Council-Manager form of government;
543 and that a document containing allegations was delivered to Council just hours before this meeting.
544 Attorney Shepard noted that the document presented today is up for further discussion at a special
545 meeting; he emphasized that this was not Ms. Witt’s agenda item, nor did she add it to the agenda.
546 This item was placed on the agenda so Council could determine what steps to take next. Vice-
547 Mayor Paritsky closed public comment. Mayor Smith noted that the document also contains a

548 series of emails that were sent on the town server through the town’s email system and are public
549 record and he would be interested in seeing if Mr. Goudie still felt this was a training issue after
550 reading these emails. Mr. Goudie requested a copy of the memo with the emails.

551

552 Vice-Mayor Paritsky moved to extend the meeting to 10:15 p.m.; seconded by Councilmember
553 Milano; the motion PASSED 5-0, consensus.

554

555 **14. FROM THE TOWN COUNCIL:**

556

557 **A. Vice-Mayor Paritsky, Seat #5** – Reported that in her capacity as a member
558 of the Florida League of Cities Advocacy Committee, and as the Advocacy Committee Chair for
559 Volusia County, she interacts with legislators in Tallahassee to express support or opposition to
560 the many bills that are filed each legislative session. It is important for them to understand how a
561 particular bill could directly impact our quality of life in Ponce Inlet, should they become law.
562 Bills can be troubling to us for various reasons: they can preempt our ability to govern and they
563 may impose new regulations, oversight, and enforcement. When local choice is removed, the
564 wishes of the residents can no longer be reflected in our local ordinances, and a one-size fits all
565 approach occurs at the state level. She reported on a development involving grass roots advocacy
566 which gives our residents the ability to provide direct input on bills via SMS and email in
567 coordination with the Florida League of Cities. This will prove to be one of the most powerful,
568 comprehensive, and far reaching advocacy tools ever implemented to aid in our effort to
569 communicate with our legislators at the state level. She expressed her appreciation to Mike Disher
570 who took the time to review the bills with her to ensure understanding of how a bill would impact
571 the Town and our residents. First, the Short-term vacation rental bill, which we oppose. This year’s
572 iteration does protect our grandfathered short-term rental regulations and our ability to enforce
573 zoning violations, however the bill infringes upon our local ability to license rentals, compel
574 compliance, and enforce violations of our long and short term rental requirements.
575 These duties would be taken over by the Florida Department of Business and Professional
576 Regulation or “B.P.R.” The ordinarily simple task of verifying whether or not a license has been
577 obtained will require us to follow a process established by the state. The same will be true for
578 inspections and the handling of complaints relating to short term rentals in our community. Right
579 now, all of this is done locally by our Code Compliance Officer. Under the terms of this bill, we
580 will lose that local control to the BPR, a State Entity that is already unable to meet its performance
581 obligations without this additional workload. A second bill pertains to home-based businesses.
582 This bill would preempt us from licensing and regulating home based businesses. Under the terms
583 of this bill, we could no longer enact or enforce any ordinance, regulation or policy regarding
584 home-based businesses as defined in the bill. The senate version of the legislation requires that a
585 home-based business could not substantially increase traffic, noise, waste, or recycling. Our own
586 ordinance goes further by including criteria that the home-based business is to have no impact on
587 the neighborhood and includes standards that must be met. The house bill is problematic for similar
588 reasons – so we are opposing that pre-emption. A third bill concerns County and Municipal Code
589 Enforcement. This bill would prohibit code enforcement officers from investigating and enforcing
590 potential code violations if the complaint is received anonymously. The bill requires any person
591 who reports a violation of a code or ordinance to provide their name and address to the local
592 government before any enforcement proceedings occur. Our town does not require a name as
593 many have expressed a concern about creating friction in their neighborhood but do believe that
594 there may be a violation that requires investigation.

595

596 **B. Councilmember Israel, Seat #4** - Stated he had nothing to report.

597

598 **C. Councilmember Hoss, Seat #3** - Stated this was an excellent meeting.

599

600 **D. Councilmember Milano, Seat #4** - Reported that there are approximately 40
601 residents at the First Step Shelter; the Safe Zone housed 171 guests since November 23rd; and 38
602 from hospitals, 78 from police departments, 61 residents have obtained permanent employment;
603 122 are earning income; and they have obtained food stamps, Medicare, and other resources for
604 their residents. He noted that funding remains a big concern. He congratulated Chief Dan Scales
605 for achieving his CFO (Chief Fire Officer) status, noting that there are 1,494 in the entire country,
606 269 in FL.

607

608 **E. Mayor Smith, Seat #1** - Thanked all who volunteered to work the North Turn
609 parade, the officers, the volunteers, and the Glasnak's - it was a great day for all, and we maintained
610 the tradition for another year.

611

612 **15. FROM THE TOWN MANAGER** – Ms. Witt stated there are two Town events planned
613 for the Spring: *Ponce Preserves the Planet* on March 20th which will consist of tables located
614 throughout the Ponce Preserve trails to ensure social distancing, and a Children's Easter Drive-
615 Thru event is scheduled on April 3rd at the Town Hall, similar to the Halloween event last year; as
616 an FYI, *Reggaefest* is scheduled for March 27th and she emailed preliminary information to
617 Council regarding the event; she noted that Council has received the March calendar of meetings
618 and events; and will provide Mr. Goudie with the items he requested as well.

619

620 **16. FROM THE TOWN ATTORNEY** – Attorney Shepard stated that after his recitation of
621 the State law regarding legal representation, it is usually done in arrears; however, Ponce Inlet has
622 an ordinance that goes much farther. He requested Council's direction on whether it wished for
623 him to research if Councilmember Israel is entitled to legal representation at this point. *Council by*
624 *consensus, authorized the town attorney to research whether Councilmember Israel is entitled to*
625 *legal representation from this juncture.*

626

627 Vice-Mayor Paritsky asked if or how the town may want to proceed with approval of upcoming
628 special events. Attorney Shepard noted that the town may regulate special events due to COVID
629 by using public health measures, but that he could research that further. *Council by consensus,*
630 *requested the town attorney research any restrictions that the Town can or should consider for*
631 *anticipated special events that will be held within the next several months, in light of the pandemic.*

632

633 **16. ADJOURNMENT** - Vice-Mayor Paritsky adjourned the meeting at 10:14 p.m.

634

635 Respectfully submitted by:

636

637

638

639 _____
Jeaneen Witt, CMC, Town Manager/Town Clerk

640 Peg Hunt, Assistant Deputy Clerk