

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

Town of Ponce Inlet

Town Council Regular Meeting Minutes

April 18, 2019

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

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

3. **ROLL CALL:**

Town Council present:

Mayor Smith, Seat #1
Councilmember Milano, Seat #2
Vice-Mayor Hoss, Seat #3
Councilmember Paritsky, Seat #5

Absent:

Councilmember Perrone, Seat #4; Excused

Staff Members Present:

Ms. Cherbano, Human Resources Director/Deputy Clerk
Mr. Disher, Assistant Director of Planning & Development
Chief Fabrizio, Police Chief
Mr. Gunter, Public Works Manager
Ms. Hugler, Administrative Assistant
Mr. Joulani, Director, Planning & Development
Ms. McColl, Finance Manager
Chief Scales, Fire Chief
Atty. Shepard, Town Attorney (available via telephone)
Ms. Witt, Town Manager
Ms. Zengotita, Cultural Services Manager

4. **ADDITIONS, CORRECTIONS OR DELETIONS TO THE AGENDA:** There were none. Mayor Smith opened public comment – hearing none – he closed public comment.

Councilmember Paritsky moved to adopt the agenda as presented; seconded by Vice-Mayor Hoss. The motion PASSED 4-0, consensus.

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

A. **International City/County Management Association’s recognition via the Florida City and County Management Association (FCCMA) of the Town of Ponce Inlet’s 25th anniversary of operating under the council-manager form of government** - Ms. Witt introduced Alan Rosen, Assistant City Manager, City of Port Orange and FCCMA representative. Mr. Rosen congratulated the Town Council for achieving this milestone. He provided a video promoting Council/Manager forms of government and highlighting the benefits from that relationship. He reviewed a few of the Town’s accomplishments and explained the services

45 available through the FCCMA. Mr. Rosen presented a certificate to Council and Ms. Witt for this
46 achievement.

47
48 No Council action was required on this item.

49
50 **B. Proclamation recognizing May 6-10, 2019 as Teacher Appreciation Week –**
51 Mayor Smith read the proclamation recognizing May 6-10, 2019 as Teacher Appreciation Week
52 and presented it to Ms. Zengotita to send to Longstreet Elementary.

53
54 **6. CONSENT AGENDA:** There were no requested changes; Mayor Smith asked for
55 public comments – hearing none – he closed public comments.

56
57 A. Approval of the Town Council regular meeting minutes – March 21, 2019.

58
59 B. Approval of the Town Council special meeting minutes - March 27, 2019.

60
61 C. Approval of payment of legal bill in the amount of \$31,008 (\$25,713 of which is
62 related to the Pacetta Lawsuit) – dated April 2, 2019.

63
64 Councilmember Paritsky moved to approve the Consent Agenda as presented; seconded by Vice-
65 Mayor Hoss. The motion PASSED 4-0, consensus.

66
67 **7. OLD/NEW BUSINESS ITEMS PREFERRED AT THE BEGINNING OF THE**
68 **MEETING:**

69
70 **A. Inlet Harbor Estates Subdivision**

71
72 **1. Proposed Subdivision Plat with Unity-of-Title Agreement and**
73 **Conservation Easement** - Mr. Disher reviewed the history of this development, noting this
74 project began in 2013. Following approval in 2015 of the development agreement, the developer
75 completed improvements such as the new sidewalk on Inlet Harbor Road, stormwater retention
76 area, and landscape buffer. He noted that the subdivision plat is the final step in the process. He
77 stated the property is 4.7 acres and is located on the north side of Inlet Harbor Road and will consist
78 of ten lots. He reviewed the zoning and lot sizes, noting that these are consistent with the Town’s
79 Codes, Development Agreement, and Comprehensive Plan. Mr. Disher referenced the 1,577
80 square-foot “Pocket Park,” which will be deeded to the Town; adding that the Town’s Boards have
81 recommended that the developer pay to the Town, the \$1,500 cost associated with improvements
82 in the park for a bench and trash receptacle. He also noted that if the Town’s Memorial Bench
83 program is approved, this park would contain a memorial bench in honor of the developer’s late
84 wife. He then reviewed the plat depicting the size and location of the lots, infrastructure
85 improvements, landscape and buffer areas, and drainage and utility easements. Mr. Disher noted
86 that there is an existing Unity-of-Title Agreement for future Lots 1-4 (indicated on the Inlet Harbor
87 survey as Parcel Six) and serves as part of the required setbacks for the dry boat stack storage area.
88 He noted that the 2.5± acre conservation area is required as part of the mitigation requirements for
89 development in the Coastal High Hazard Area (CHHA). He noted the developer’s request to waive
90 the one-year maintenance bond relates to the sidewalk, which was accepted by the Town and has

91 been in place for more than a year. He noted that the subdivision plat is consistent with the
92 Comprehensive Plan and confirmed that all public notice requirements were completed. He noted
93 that all outstanding technical comments have been satisfied and reviewed the Planning Board's
94 recommendations. Councilmember Paritsky asked if staff has an opinion regarding the non-
95 vehicular access easement on Lot 8 that was suggested by a resident. Mr. Disher stated according
96 to the Transportation Element of the Comprehensive Plan, driveways serving individual lots
97 should be directed to local streets rather than collector roads whenever possible. He noted that both
98 Inlet Harbor Road and S. Peninsula Drive are considered sub-collector roads. He further suggested
99 the Council could consider a partial easement along only a portion of Lot 8. Councilmember
100 Milano stated he met with Mr. Disher and listened to the Planning Board meeting; and he has
101 concerns of liability and asked if there is sufficient room between the property lines of the new
102 lots fronting on S. Peninsula Drive for the proposed sidewalk widening project. Mr. Disher noted
103 the total right-of-way width of S. Peninsula Drive is 65 feet, which leaves 13 to 15 feet from the
104 front property lines to the edge of the existing sidewalk. Councilmember Milano suggested that
105 for a future project that a walkway be installed in the 2.5± acre conservation area to the river,
106 similar to the Ponce Preserve boardwalk.

107
108 Mayor Smith opened public comment - Robert Bullard, 4802 S. Peninsula Drive expressed
109 concerns regarding the stormwater management area. He noted that most of the vegetation on the
110 canal is Brazilian Pepper trees and suggested the developer construct a filtering system to allow
111 drainage of cleaner water into the canal. Mr. Bullard asked Mr. Disher what the intent of the 50-
112 foot shoreline buffer is. Mr. Disher stated it is to preserve vegetation and allow the homeowners
113 access to the canal. Mr. Bullard asked how many lots have frontage on both Inlet Harbor Road and
114 South Peninsula Drive? Mr. Disher stated, one. Mr. Bullard suggested designating primary and
115 secondary access to the lot. Mr. Bullard asked what affect this development has on the parcel
116 owned by the Murano family. Mr. Disher stated he did not have that information available. Mr
117 Bullard noted that there have been three major traffic accidents at this intersection. Mayor Smith
118 closed public comment.

119
120 Councilmember Paritsky moved to find the proposed Inlet Harbor Estates Subdivision Plat to be
121 consistent with the Comprehensive Plan and to approve the plat subject to: 1) satisfactory
122 completion of all development agreement benchmarks; and 2) replacement of the grant of access
123 easement document in connection with the canal parcel and the dock parcel providing access to
124 Lots 1 and 2 with a Covenant or other appropriate legal document; seconded by Vice-Mayor Hoss.
125 The motion PASSED 4-0, consensus.

126
127 Councilmember Paritsky moved to approve and accept the 2.5± acre conservation easement to be
128 granted to the Town; seconded by Vice-Mayor Hoss. The motion PASSED 4-0, consensus.

129
130 **2. Pocket park Development**
131
132 Councilmember Paritsky moved to approve payment in lieu of construction for the Pocket Park
133 improvements in the amount of \$1,500; seconded by Vice-Mayor Hoss. The motion PASSED 4-0,
134 consensus.

135

136 **3. Request for waiver of the one-year maintenance bond requirement for**
137 **completed improvements**
138

139 Councilmember Paritsky moved to approve the request for waiver of the one-year maintenance
140 bond; seconded by Vice-Mayor Hoss. The motion PASSED 4-0, consensus.
141

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

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

146 **A. Second reading/adoption of Ordinance 2019-03, amending the Town Code to**
147 **create a section to address the protection of threatened and endangered wildlife species and**
148 **to adopt regulations specific to the protection of gopher tortoises.** Ms. Witt read the ordinance
149 by title only. AN ORDINANCE OF THE TOWN OF PONCE INLET, FLORIDA, AMENDING
150 ARTICLE 4 OF THE LAND USE AND DEVELOPMENT CODE BY CREATING SECTION
151 4.14. ENTITLED “PROTECTION OF THE THREATENED AND ENDANGERED WILDLIFE
152 SPECIES” AND CREATING SUBSECTION 4.14.1 - GOPHER TORTOISE PROTECTION;
153 ESTABLISHING RULES TO PROTECT THE THREATENED GOPHER TORTOISE
154 (*GOPHERUS POLYPHEMUS*) AND ITS HABITAT WITHIN THE TOWN OF PONCE INLET
155 WHILE RECOGNIZING THE RIGHTS OF PROPERTY OWNERS TO USE THEIR LAND IN
156 A REASONABLE AND RESPONSIBLE MANNER; PROVIDING FOR SEVERABILITY;
157 PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING
158 FOR AN EFFECTIVE DATE. Mayor Smith opened public comments - hearing none, he closed
159 public comments.
160

161 Councilmember Paritsky moved to approve the second reading and adoption of Ordinance 2019-
162 03; seconded by Vice-Mayor Hoss. The motion PASSED 4-0, with the following vote:
163 Councilmember Paritsky - yes, Vice-Mayor Hoss - yes; Councilmember Milano - yes; Mayor Smith
164 - yes.
165

166 **10. CITIZENS’ PARTICIPATION:** Mayor Smith opened public comment - Robert Bullard,
167 4802 S. Peninsula Drive referenced the Mayor of Chattahoochee’s comments of “kicking the can
168 down the road” in the FCCMA video and his own experience with such in regard to recycling and
169 other issues. He stated that with Pacetta lawsuit now behind us, he believes there are a number of
170 other issues that the Town should no longer “kick down the road” and he will be commenting on
171 them more specifically in the coming months. Mayor Smith closed public comments.
172

173 **11. ORDINANCES (FIRST READING) AND RESOLUTIONS:**
174

175 **A. Ordinance 2019-04, amending the Town’s noise regulations to clarify the use**
176 **occupancy of the property from which sound is emitted that determines the category and**
177 **corresponding decibel limit allowable.** Ms. Witt read the Ordinance by title only. AN
178 ORDINANCE OF THE TOWN OF PONCE INLET, FLORIDA, RELATING TO NOISE
179 DISTURBANCES; AMENDING CHAPTER 34, ARTICLE IV, SECTION 34-93(b) OF THE
180 CODE OF ORDINANCES OF THE TOWN OF PONCE INLET, FLORIDA; PROVIDING FOR
181 CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE. Chief

182 Fabrizio stated there was confusion with wording in the existing ordinance, specifically “receiving
183 use occupancy category”. He noted that proposed changes to this Ordinance are minor and has
184 been prepared to modify and clarify the provision regarding the occupancy from which the sound
185 is emitted and this modification enables the officers to accurately enforce noise regulations when
186 responding to noise complaints. Mayor Smith asked where the reading is taken from, for example,
187 in a condominium. Chief Fabrizio replied that it would be taken from the condo unit. Mayor Smith
188 opened public comment - Reggie Bergeron, 1 Mar Azul North, stated that Jerry’s Restaurant has
189 become an outdoor venue by hosting outdoor concerts and festivals, with loud music and creating
190 a nuisance. He expressed concerns that there are young families and children in his neighborhood
191 and suggested that time limits be imposed for these events. Kathy Smith, 13 Mar Azul stated that
192 she’s been a resident since 2010 and the noise from Jerry’s has gotten worse in the past couple of
193 years. She stated it is unacceptable because Las Olas is a developing community. Mayor Smith
194 asked if meter readings showed they are over or under the decibel limit. Chief Fabrizio stated the
195 first complaint on the day of Reggae Fest was at noon and the band was not set up; there were
196 three other complaints, but the band was not playing when the officers arrived. He noted that most
197 complaints are anonymous, which makes it difficult for officers to monitor as they do not know
198 where the caller is located. He reported that during Reggae Fest, four parking citations were issued,
199 two arrests were made, and there was one medical call. He stated numerous readings were taken,
200 and a warning was issued as the decibel limit reached 80. Chief Fabrizio noted for comparison that
201 the noise level in the Council Chambers is between 60 and 80 decibels. He then referenced normal
202 household appliances that measure higher than our regulation limits. He also explained “ambient”
203 noise. He noted that in the event of a complaint of loud bass, the officers will go to the
204 complainant’s residence and address accordingly. He also noted that Jerry’s has reached out to the
205 PD, and the Las Olas HOA to discuss installation of buffers at the beer garden to decrease the level
206 of noise emitted from the property. Mayor Smith stated the importance to not submit an anonymous
207 complaint due to inability to properly test. Mike Mirage, 15 Mar Azul North, stated he was in the
208 music industry, so he is very familiar with this topic and he can hear the noise from inside his
209 home. He noted that along the northern Las Olas property line the vacant lots remain so because
210 people do not want to build a house with a bar in their back yard. Mayor Smith asked if the bass
211 changes the reading of the noise meter. Chief Fabrizio stated that the Town’s meter does not
212 measure bass. Brian Smith, 13 Mar Azul North, stated that the noise has gotten worse since the
213 opening of the beer garden. He stated the Police have been very responsive and the HOA at Las
214 Olas is working with Jerry’s to try to resolve this matter. He added that it is a restaurant, not a
215 music venue. Reggie Bergeron, 1 Mar Azul North, stated there are four families with very young
216 children, who have informed him that they have to turn on fans and noise machines to get the
217 children to fall asleep. Councilmember Paritsky expressed concern over the stated problems with
218 Jerry’s and suggested a noise engineer may need to be consulted. Joe DiCarlo, 32 Caribbean Way
219 stated the bass is so loud that it rocked his vehicle when he drove by and cars were parked all over
220 the sidewalk. James Barrow, 88 Buschman Drive suggested perhaps not allowing the noise during
221 the week and to create a noise regulation schedule for just the weekends. Mayor Smith closed
222 public comment. Ms. Witt provided Councilmember Perrone’s comments as follows: 1) concern
223 with the commercial decibel limits between the hours of 10:00 p.m. and 7:00 a.m. being higher
224 than that which is allowed at any time in the residential zoning; and 2) suggested that only one
225 category for noise be created; and if keeping two categories, he suggests measuring from where
226 the sound is “heard” as what should determine the category, not the limit of the category from
227 which the sound was emitted. Council discussed options and suggested the ordinance may need to

228 be modified.

229

230 Councilmember Paritsky moved to approve first reading of Ordinance 2019-04 as presented;
231 seconded by Vice-Mayor Hoss. The motion PASSED 4-0, with the following vote: Councilmember
232 Paritsky - yes; Vice-Mayor Hoss - yes; Mayor Smith - yes; Councilmember Milano - yes.

233

234 **B. Resolution 2019-04, supporting a one-year extension to the Volusia County**
235 **interlocal agreement for distribution of proceeds of the local option fuel tax.** Ms. Witt read
236 the Resolution by title only. A RESOLUTION OF THE TOWN OF PONCE INLET, FL,
237 SUPPORTING A ONE-YEAR EXTENSION TO THE INTERLOCAL AGREEMENT FOR
238 DISTRIBUTION OF PROCEEDS OF LOCAL OPTION FUEL TAX FOR THE PERIOD
239 SEPTEMBER 1, 2019 - AUGUST 31, 2020; PROVIDING FOR RATIFICATION OF EXISTING
240 TERMS AND CONDITIONS OF INTERLOCAL AGREEMENT; PROVIDING FOR
241 CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE
242 DATE. Ms. Witt stated that this was previously brought before Council for a three-year extension,
243 but the County is now only seeking a one-year extension. This distribution formula is more
244 favorable to the Town than the State default formula and though she would have preferred the
245 three-year extension, the one-year is still better for the Town than the alternative default. Mayor
246 Smith opened public comment - hearing none, he/Mayor Smith closed public comment.

247

248 Councilmember Paritsky moved to approve first reading of Resolution 2019-04 as presented;
249 seconded by Vice-Mayor Hoss. The motion PASSED 4-0, with the following vote: Councilmember
250 Paritsky - yes; Vice-Mayor Hoss - yes; Mayor Smith - yes; Councilmember Milano - yes.

251

252 **12. OLD BUSINESS:** None.

253

254 **13. NEW BUSINESS:**

255

256 **A. Interlocal agreement and application for participation in the latest iteration of**
257 **Volusia County's Municipal Transport Program.** Chief Scales provided the history behind this
258 item and noted the Town began participation in 2012. He noted this program has been a success
259 and this agreement allows the Town's continued participation in the municipal transport program.
260 Chief Scales explained how the program works and noted that there are no fundamental changes
261 to existing operational processes. Ms. Witt noted the amount of work involved with getting the
262 Town's membership into this program and she commended Chief Scales for his tenacity in
263 enabling the Town to enter into this agreement. Chief Scales thanked the crews for their
264 participation and making this a success. Council concurred. Mayor Smith opened public comment
265 - Valerie Walker, Inlet Point Boulevard asked what happens if our ambulance is out of town on
266 another emergency. Chief Scales noted that there is an automatic mutual aid agreement with
267 neighboring municipalities and Volusia County EMS (formerly EVAC) has distributed its assets
268 to provide better coverage. Chief Scales assured that the Town will never be without coverage.
269 Councilmember Paritsky asked what happens if the Town does not sign the agreement. Chief
270 Scales replied that our ambulances would not be allowed to transport. Paul Roxenberg, 119 Beach
271 Street, stated that one of the responsibilities of local government is to provide emergency services.
272 He provided scenarios where the ambulance is out of town and leaves one staff member to operate
273 the fire truck. He suggested that the Town should hire more staff and modify the agreement to

274 minimize the amount of time our emergency vehicles are out of town. Mayor Smith asked Mr.
275 Roxenberg what he suggests as fully-staffed. Mr. Roxenberg stated double the current staff.
276 Councilmember Milano asked Mr. Roxenberg if he had an opinion regarding combining all
277 Fire/EMS departments into one countywide department. Mr. Roxenberg opined that no one wants
278 to give up their autonomy and we do not want to lose our service level but there can be efficiencies
279 to be gained and greater access to equipment via a countywide service provider. David Loh, 103
280 Oceanway Drive, stated Ponce Inlet is unique as we are a dead-end community and all transports
281 take a minimum of one hour. He asked *what if* we had a fire incident while the firefighters and
282 medics are out of Town? He stated that a closest-unit response could take a long time and a fire
283 grows by 20 times every 60 seconds. He suggested hiring more firefighter/paramedics which
284 would fully staff the department and noted that there may be grants available to help with funding.
285 Councilmember Milano asked when the budget process starts. Ms. Witt replied in July and any
286 proposal for increased staffing will be presented to Council during or in advance of that process.
287 Chief Scales stated that the agreement presented this evening is no different than what the Town
288 agreed to in 2012 and re-assured everyone that the Town is *never* without protection. He noted
289 that the Town also honors the closest-unit response regardless of whether it is an EMS call or a
290 fire call. Mayor Smith closed public comment.

291
292 Councilmember Paritsky moved to approve the interlocal and business associate agreements,
293 authorize the execution of the agreements, and complete the application for participation in the
294 Volusia County Municipal Transport program; seconded by Vice-Mayor Hoss. The motion
295 PASSED 4-0, consensus.

296
297 **B. Issuance of notice to proceed with contractual assistance from Mead & Hunt**
298 **for Davies Lighthouse Park Renovation Project for survey, design, plans & specifications,**
299 **and bidding assistance.** Ms. Zengotita reported that the project was approved through an ECHO
300 grant and noted that the plan submitted to ECHO was preliminary, adding that all the Boards will
301 review the plans and make recommendations. Councilmember Paritsky asked if we are under a
302 strict timeline. Ms. Zengotita stated no, and there will be many changes proposed and decisions to
303 be made regarding sidewalks, trees, and stormwater maintenance. Mayor Smith opened public
304 comment - Mike Bennett, Director of Operations, Ponce Inlet Lighthouse offered their assistance
305 with the park renovation. He noted that the park and the sidewalk were used as staging and living
306 areas when the lighthouse was constructed and wanted to ensure that the archeological value of
307 this parcel is protected, and all possible artifacts are identified. Council thanked Mr. Bennett for
308 the information and the offer of assistance. Ms. Witt noted that Ms. Zengotita worked with Ellen,
309 curator at the Lighthouse to create signage for the tramway. Ms. Zengotita noted that archeologists
310 from FL Public Archaeology Network (FPAN) were on site during the installation of the retaining
311 wall at the Pacetta Cemetery. Mayor Smith closed public comment.

312
313 Councilmember Paritsky moved to approve issuance of a Notice to Proceed to Mead & Hunt for
314 the Davies Lighthouse Park Renovation Project; seconded by Vice-Mayor Hoss. The motion
315 PASSED 4-0, consensus.

316
317 **14. FROM THE TOWN COUNCIL:**

318

319 **A. Councilmember Paritsky, Seat #5** – Stated that she attended a fund raiser for the
320 Halifax Human Society and expressed appreciation for the outpouring of support for animals; she
321 provided an update to the short-term rental legislation and will continue to monitor and report any
322 updates; she congratulated Joe DiCarlo for being selected as 2019 Citizen of the Year, and
323 congratulated (Vice-Mayor) Mary Hoss and Robyn Hurd for being awarded the Lifetime
324 Achievement Awards.

325
326 **B. Councilmember Perrone, Seat #4** – Absent.

327
328 **C. Vice-Mayor Hoss, Seat #3** – Encouraged residents to contact the representatives
329 in Tallahassee to voice their concerns with proposed changes to the short-term rental regulations
330 and Home Rule, adding that the proposed changes to the rental regulations could be a disaster for
331 Ponce Inlet; she suggested citizens research the reasons behind these requested changes - is it a
332 benefit for everyone or just a small group; she congratulated Mr. DiCarlo and thanked
333 Councilmember Paritsky.

334
335 **D. Councilmember Milano, Seat #2** – Concurred with Vice-Mayor Hoss’ comments.

336
337 **E. Mayor Smith, Seat #1** – Nothing to report.

338
339 **15. FROM THE TOWN MANAGER** – Ms. Witt reviewed Council’s calendar, specifically
340 noting the Easter Party scheduled for April 20th at 10:00 a.m., the Spring Lecture Series will present
341 “The Women of Ponce Past” on Tuesday, April 23 at 10:30 a.m., the Annual Volunteer
342 Appreciation Dinner will be held on Thursday, April 25th at 5:00 p.m.

343
344 **16. FROM THE TOWN ATTORNEY** – Ms. Witt noted that the Pacetta case files have been
345 closed and the filings are complete; the case files are being prepped for storage.

346
347 **17. ADJOURNMENT** - Mayor Smith adjourned the meeting at 8:40 p.m.

348
349 Respectfully submitted by:

350
351

352
353 _____
354 Jeaneen Witt, CMC, Town Manager/Town Clerk
Peg Hunt, Board Secretary