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**Town of Ponce Inlet  
Town Council and Planning Board  
Special Meeting Minutes  
October 17, 2019**

1. **CALL TO ORDER:** Pursuant to proper notice, Mayor Smith called the meeting to order at 10:00 a.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 Perrone, Seat #4

Councilmember Paritsky, Seat #5

Planning Board members present:

Mr. Mauldin, Seat #1

Mr. DiCarlo, Seat #2

Mr. Barrow, Seat #3

Mr. Cannon, Chair; Seat #4

Mr. Bergeron, Alternate Seat #1

Planning Board members absent:

Mr. Thompson, Vice-Chair; Seat #5

Staff Members Present:

Ms. Cherbano, Human Resources Director/Deputy Clerk

Mr. Disher, Assistant Director, Planning & Development

Ms. Hugler, Administrative Assistant

Mr. Joulani, Director, Planning & Development

Chief Scales, Fire Chief

Mr. Shepard, Town Attorney

Lieutenant Walker, Police Department

Ms. Witt, Town Manager

4. **ADDITIONS, CORRECTIONS OR DELETIONS TO THE AGENDA:** Council approved the agenda as presented 5-0, consensus.

5. **TOPICS REQUESTED BY PLANNING BOARD FOR DISCUSSION TO SEEK CLARIFICATION / INTEREST / PRIORITY:**

45           **A.     RV/Boat parking and screening code amendments** - Mayor Smith noted that this  
46 is a discussion only and any decisions will be made by the Planning Board and Council at a future  
47 date. He noted that staff is present as a resource only and the topics on this agenda came at the  
48 Planning Board’s request. Mayor Smith opened public comment and reminded participants of the  
49 five-minute limit, to allow for all parties who wish to speak to be able to do so.

50  
51 Paul Roxenberg, 119 Beach Street stated he did his research before buying property in town,  
52 designed his home to accommodate his “toys”, and he is screened on three sides. He suggested  
53 “grandfathering” current property owners in perpetuity or provide an RV storage facility. Mike  
54 Ramsey, 47 Beach Street stated he has lived here over twenty years and that property rights do not  
55 end at the property line; and suggested that mobile homes, 5<sup>th</sup> wheel trailers and travel trailers be  
56 banned from town or be parked entirely within a garage. Al Weeks, 4857 S. Peninsula Drive stated  
57 he keeps his boat in the backyard as the Code allows; any changes will devalue property values by  
58 taking property rights away. Lisa Genovese, 62 South Turn Circle suggested that the question be  
59 placed on the ballot to let the residents decide. Robert Page, 46 South Turn Circle stated the rules  
60 are in place to maintain beauty and believes that RVs should not be parked or stored in a residential  
61 area. Al Bourgness, 4717 S. Peninsula Drive stated his support of the current regulations and noted  
62 that he does not want to have to go to Port Orange or anywhere else to access his boat; and he  
63 noted that the ordinance works, so why change it. Terri Crumley, 84 Inlet Point stated that this  
64 issue started because of her vintage trailer; she stated that residents need to be able to live their  
65 own lives. Jim Morris, 4876 S. Peninsula Drive stated, “property values”, “mobile homes”,  
66 “Pacetta” are scare words and scare tactics. The Crumleys did everything by the book and they  
67 have vested rights. He commented this is an abuse of governmental authority and that a referendum  
68 is not allowable; he noted that this has always been a boating community. Josh Wagner, 4321 S.  
69 Atlantic Avenue thanked Council for having this discussion. He stated that he does not have time  
70 to go to elsewhere to get his boat; asked that Council not turn Ponce Inlet into an HOA as it will  
71 only lead to misery and compared this to the “Prince Mongo” issue. He noted that the Code  
72 Enforcement process works and that this could become a constitutional issue. Debbie Keese, 4712  
73 Montrose Avenue stated her opposition to any changes, noting that boat ownership is a status  
74 symbol and Ponce Inlet is a recreational town. Greg Robertson, 4747 S. Peninsula Drive asked  
75 why anyone would want to tell him what to do? It’s his property and people should be able to fix  
76 their car or park their RV in the driveway. Terrie Pellet, 112 Beach Street stated that the Crumley’s  
77 RV is fine where it is; leave them alone. Susan Cirotti, 94 Alberta Drive stated that she bought her  
78 property eight months ago because she *can* store her RV on her property. Al Bourgness, 4717 S.  
79 Peninsula Drive again spoke in favor of allowing residents to keep their RVs and boats on their  
80 own properties; he noted that neighboring properties maintain their properties and asked that  
81 Council leave the regulations as they are. Steve Dudley, 60 Bay Harbour Drive likes the balance  
82 of rules and freedoms for boat owners; he suggested the regulations not be changed. Chairman  
83 Cannon suggested that everyone listen to the audio recordings of past meetings and noted that the  
84 Planning Board has been asked to look at the regulations to see if anything needed to be changed.  
85 He thanked everyone for their participation and noted the topic will be on the November Planning  
86 Board agenda for further discussion. Al Weeks, 4857 S. Peninsula Drive cautioned against  
87 changing the regulations as that could lead to legal ramifications. Jim Morris, 4876 S. Peninsula  
88 Drive suggested that Council decide today that the issue be dropped and maintain the status quo.  
89 Mike Ramsey, 47 Beach Street stated that the silent majority, nearly 90%, feel that these are  
90 “eyesores”, and suggested separating RVs from boats because, in his opinion, RVs, mobile homes,  
91 buses or whatever you want to call them, are “eyesores” and should be shielded from view. James

92 Keese, 4712 Montrose Avenue referenced the percentages and asked where these figures are  
93 coming from; noting that the majority of the residents in attendance today are speaking in favor of  
94 keeping the RV and boat regulations as they are. Mayor Smith closed public comments. He stated  
95 that he moved to Ponce Inlet for many of these same reasons, he owns a boat and an old truck -  
96 and took offense to the term “eyesore” as that is a matter of one’s opinion. He explained the process  
97 was to initiate a review of the current regulations to see if any changes were warranted. Chairman  
98 Cannon again encouraged everyone to listen to the audio of the September 24<sup>th</sup> Planning Board  
99 meeting; and noted that the proposed changes are mainly to registration and maintenance  
100 regulations. He agreed that this is a retirement and a boating community. *Editor’s note: Audio*  
101 *equipment malfunctioned.* Councilmember Milano stated that his recollection of the topic was to  
102 ask staff and the Planning Board to determine if changes needed to be made to existing regulations,  
103 not to seek an all-out ban. He cautioned against believing rumors. Vice-Mayor Hoss stated that  
104 recommendations are made to the Council, who can accept, reject, or amend; there is no  
105 expectation of a drastic change to the existing regulations. She encouraged residents to continue  
106 to attend and participate in the meetings where this item will be discussed.

107  
108 *Editor’s note - a break was called 11:01 a.m. to allow IT staff to repair the recording system;*  
109 *Mayor Smith reconvened the meeting at 11:20 a.m.*

110  
111 **B. Non-conforming commercial build-back policies** - Mr. Cannon stated this topic  
112 has come up during past Planning Board meetings and Mr. Disher has provided a list of non-  
113 conforming commercial structures located within the B-2 zoning district. He stated the board is  
114 seeking Council’s guidance on how to handle the nine non-conforming properties that have a  
115 setback encroachment on the front and/or side property lines. Mr. Disher explained that the  
116 buildback program was created to allow residential property owners in the high-rises and those  
117 with principal structures taller than 35 feet to rebuild it in the event of a disaster. He stated that if  
118 the owner does not obtain a build-back certificate and the principal structure is destroyed beyond  
119 65%, the structure must be rebuilt to the regulations and codes existing at the time of build-back.  
120 At this time there are no accommodations for non-residential properties. Mayor Smith referenced  
121 the “triangle” parcel and noted that the property was allowed to be developed either with no rules,  
122 outside the rules, or the rules changed after they were built. He stated that there has been no  
123 definitive answer from the Department of Interior. Mr. Cannon agreed and asked for guidance.  
124 Councilmember Milano noted that five of the eleven total properties are located on Front Street.  
125 He expressed support for the Town to create regulations that would allow the non-conforming  
126 commercial properties to be rebuilt; adding that in many instances, these properties existed before  
127 the Town was incorporated. Mr. Barrow suggested the criteria for a variance be changed so that  
128 property owners would not have to request a variance. Mr. Cannon asked if rebuilding the structure  
129 in the same location violates the existing Code, would the owner be allowed to re-build it anyway,  
130 if there is room on the lot to relocate the new structure? Councilmember Milano stated that it could  
131 cause an undue burden on the owner for an issue that they were not responsible for creating.  
132 Councilmember Perrone asked how it could be considered an “undue burden” to require that the  
133 structure be relocated elsewhere on the property when there is enough space to do so. Discussion  
134 ensued regarding primary and accessory structures. Ms. Witt clarified that the residential build-  
135 back program applies to the primary structure only; she noted that the purpose of today’s meeting  
136 is to determine if Council wants staff to work with the Planning Board on these topics. Mr. Cannon  
137 stated his belief that there are problems with the way the Codes are written, and the boards can  
138 only make decisions based on the rules as they exist and that is why the Board is seeking Council’s

139 direction. Mr. Mauldin clarified that Council is asking the Planning Board to re-evaluate the  
140 variance criteria and provide feedback. Councilmember Milano stated yes. Mr. DiCarlo expressed  
141 concerns that a resident can buy a property knowing that it is non-conforming. Mayor Smith stated  
142 there is a difference between buying a property you know is non-conforming and having to obtain  
143 a variance before you can use the property - and the use of a property. He added that the Board's  
144 decision should always include the reasons *why* it believes the criteria was not met; and asked that  
145 Board members not take a difference of opinion personally. Mr. Bergeron stated that there are  
146 seven criteria that must be met in order for a variance to be granted. The Planning Board delivered  
147 the decision that not all of the seven criteria were met, based on the research and the law. He  
148 suggested the law be changed to protect vested rights. Mr. Barrow noted that the criteria are not  
149 explicit enough to allow staff, the board and council to agree. Mayor Smith suggested that blanket  
150 regulations could resolve variance issues regarding properties that are already known; it would  
151 only apply to properties that are new or unique to that specific property. Attorney Shepard noted  
152 that there is blurring of item B and item F - as these items are being discussed together. He stated  
153 that the Planning Board followed his instructions, but it is important to understand the law of non-  
154 conforming use *as it is*, so that you understand what it is you might be changing. He summarized  
155 the discussion: if you do not want to deal with the variances the way they are, then you need to  
156 look at the build-back policies and the non-conformities and make it where if someone who does  
157 not conform and is destroyed, can re-build exactly what they had. The law of non-conforming use  
158 as it is - is to *eliminate* non-conforming use; the idea is you do not build-back non-conforming  
159 uses, that is the law. The reason is to get rid of non-conforming uses. You can change the law, but  
160 the reason it exists is because most places look at non-conforming uses as a "problem to be  
161 eliminated, not a problem to be perpetuated". Mr. Cannon referenced the August 22, 2019 Council  
162 meeting where Council overturned the Planning Board's decision on a variance request and stated  
163 that it is the Board's desire to understand the process on how Council reached its decision. He  
164 proceeded to cite sections of the criteria and explained how and why the Board reached its decision  
165 to deny the variance application. Councilmember Milano expressed concerns of the residents being  
166 split over decisions made by Council. Councilmember Perrone reviewed the rationale for granting  
167 the Dvorak's variance and stated it may not apply to all other commercial properties and suggested  
168 that each property be decided on a case-by-case basis. Councilmember Paritsky agreed and stated  
169 that Council's duty as a fact-finding body is to come to independent judgement and stated the goal  
170 is to be redevelop on a higher and better use. She commended the Planning Board for its hard work  
171 and diligence. She noted that some of the reasons given for granting the variance were not part of  
172 the criteria (a hard-working resident providing for his family). Mr. Barrow asked about the twelve-  
173 month limit on variances. Mr. Disher stated the variance becomes valid upon recording of the  
174 Order; he added that this variance is based on "use" and they are currently "using" the property.  
175 Attorney Shepard stated that the structure exists, the variance allows it to exist, and legitimizes the  
176 existing structure, allowing it to be rebuilt in the same location if it is destroyed. The twelve-month  
177 limit is not applicable in this instance. Mr. Cannon expressed concerns that all the criteria were  
178 not met based on the rules in the books and suggested that the rules be changed to allow the Board  
179 to do what Council wants it do. Attorney Shepard cautioned against the Board asking Council what  
180 to do - they must be making independent decisions. He added that the Board and Council were  
181 right with their respective decisions. He offered to work with Mr. Joulani and Mr. Disher to explore  
182 adding more criterion to better-define the regulations. He stated that variances should be rarely  
183 granted and explained "legal hardship". Mr. Disher noted the Code differentiates between non-  
184 conforming "uses" and non-conforming structure. Mr. Joulani clarified that the build-back policy  
185 only applies to the principal structure, not *all structures* on the property.

186 Attorney Shepard will work with staff to create build-back policies for B-2 properties.

187  
188 Councilmember Perrone asked if that would open the town to a suit. Attorney Shepard stated no,  
189 so long as there is a rational basis for creating such regulations.

190  
191 **C. Interest in creating a master plan for south end of town, including future**  
192 **community character** - Mr. Disher stated that Mr. Thompson asked for the level  
193 of interest to create community character on the south end of town beyond the Code, to create a  
194 plan for what the area would look like. Councilmember Perrone noted there are two overlay  
195 districts in the south end of town. There was a question regarding possible “taking” allegations.  
196 Attorney Shepard stated it would only result in a “taking” if it takes rights away reasonable rights  
197 from property owners. He noted that Master Plans rarely work because of economics and noted  
198 that the City of Maitland attempted this without success. Mayor Smith agreed, adding that it could  
199 be a waste of time to pursue unless you own all the property with the same zoning.

200  
201 There was no interest in pursuing this matter by Council, based on the discussion.

202  
203 **D. New scenic road designations** - Mr. Cannon stated this topic is to determine if  
204 there are any other roads that qualify for scenic roadways. Mr. Disher stated that currently Beach  
205 Street and Sailfish Drive are currently designated and explained the protections and restrictions  
206 with the designation. Mr. Bergeron noted that this topic should be first discussed by the Cultural  
207 Services Board. Vice-Mayor Hoss agreed. Councilmember Perrone asked if the “roadway” at town  
208 hall is considered a “road”. Mr. Disher stated no, it is a driveway and part of the parking lot.

209  
210 Council recommended that this topic be brought before the Cultural Services Board for  
211 consideration.

212  
213 **E. Right-of-way review with lot categorization implication** - Mr. Disher noted the  
214 concerns of measuring appropriate setbacks from rights-of-way, Lighthouse Boatyard, Lighthouse  
215 Drive, and Rains Drive, to ensure that roads and rights-of ways are identified and measured  
216 appropriately. Mayor Smith confirmed that the Town has performed a rights-of-way study and  
217 agreed that this information is important, but needs to establish the level of priority.

218  
219 Mayor Smith suggested this topic be discussed when reviewing the Planning priorities.

220  
221 **F. Goal(s) & Criteria for Variances, §6.6.4, LUDC** - Combined with item B.

222  
223 **6. REVIEW OF CURRENT PLANNING PRIORITIES THAT STAFF HAS BEEN**  
224 **WORKING ON AND SOME OF THE LOCAL AND STATE TIMETABLES**  
225 **ASSOCIATED WITH THEM:**

226 Mr. Disher reported that staff has spent a great deal of  
227 time working on the RV regulations; and referenced the projects and tasks list. He noted that the  
228 items in red, are from Council’s Goals and the check-marked items are those which staff is  
229 currently working on. He briefly reviewed and explained the projects, development applications,  
230 comp plan and proposed code amendments, zoning related cases, and on-going tasks. Mr. Joulani  
231 noted that this list was assembled to inform Council, Boards, and residents of the workload staff  
is performing.

233  
234 **7. ANY ADDITIONAL TOPICS FROM TOWN COUNCIL FOR DISCUSSION:**  
235 Mayor Smith asked for public comments. James Hunt, Port Orange spoke regarding Lighthouse  
236 Point Park and noted that he will be submitting comments in the future to request the Park be  
237 expanded. Councilmember Perrone asked if the Code allows new structures to be “frame”. Mr.  
238 Joulani stated it is the building Code, which dictates that the framing must meet the wind load; it  
239 is not appropriate to mandate what materials a builder can use. Councilmember Perrone suggested  
240 that screening be considered for retention ponds. Mayor Smith closed public comments.

241  
242 Ms. Witt clarified Council’s priorities and asked where the RV screening should fall; and items A  
243 & B should be added to this list. Mayor Smith stated that the attorney has agreed to work with  
244 Planning staff on the variance item and that should take priority; then the RV screening regulations,  
245 if necessary. Mr. Disher noted that the RV regulations is in draft form and will be going before the  
246 Planning Board in November for further consideration; and the town attorney will be working with  
247 staff regarding the properties and structures that may qualify for the commercial (B-2) build-back  
248 program, which could take several months. Ms. Witt expressed concerns that the 5G regulations  
249 have not been addressed. Mayor Smith stated that Council was not aware of the number of projects  
250 staff was tasked with and suggested that the Town Manager prioritize the list, not Council. Ms.  
251 Witt stated that staff should be able to address the goals items within the next six months and to  
252 shelve the 5G item until the next goals session.

253  
254 Council agreed that the Town Manager prioritize the Goals list and to temporarily table the 5G  
255 wireless regulations until the January 2020 goals session.

256  
257 **8. ADJOURNMENT** - Mayor Smith adjourned the meeting at 1:08 p.m.

258  
259 Respectfully submitted by:

260  
261 \_\_\_\_\_  
262 Jeaneen Witt, CMC, Town Manager/Town Clerk  
263 Peg Hunt, Board Secretary