



**Town of Ponce Inlet
Planning Board
Regular Meeting Minutes
February 28, 2023**

1 **1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE:** Pursuant to proper notice,
2 Chairman Cannon called the meeting to order at 10:00 a.m. in the Council Chambers, located at
3 4300 S. Atlantic Avenue, Ponce Inlet, FL, and led attendees in the Pledge of Allegiance.

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5 **2. ROLL CALL AND DETERMINATION OF QUORUM:**

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7 Board members present:

8 Mr. Oebbecke, Seat #1
9 Mr. Kaszuba, Seat #2
10 Mr. White, Seat #3; Vice-Chairman
11 Mr. Cannon, Seat #4; Chairman
12 Mr. Iyampillai, Alternate #1
13 Mr. Burge, Alternate #2

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15 A quorum was established with six members present; Mr. Carney, Seat #5 was absent.

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17 **A. Oaths of Office** – Attorney Shepard administered the Oath to Mr. Oebbecke, Mr.
18 Kaszuba, Mr. Iyampillai, and Mr. Burge. Chairman Cannon welcomed Charlie Burge to the Board.

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20 Chairman Cannon requested nominations and suggested one vote on the following:

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22 **B. Election of Chair** – Mr. White moved to nominate Mr. Cannon to serve as
23 Chairman; seconded by Mr. Oebbecke. There were no other nominations.

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25 **C. Election of Vice-Chair** – Mr. Kaszuba moved to nominate Mr. White to serve as
26 Vice-Chairman; seconded by Chairman Cannon. There were no other nominations.

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28 The motions PASSED 5-0, with the following vote: Mr. Oebbecke – yes; Mr. Kaszuba – yes; Mr.
29 White – yes; Mr. Cannon – yes; Mr. Iyampillai – yes.

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31 Staff present:

32 Mr. Disher, Planning & Development Director / Interim Town Manager
33 Ms. Hunt, Deputy Clerk
34 Mr. Mendenhall, Principal Planner
35 Ms. Rippey, Senior Planner
36 Attorney Shepard, Town Attorney

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38 **3. ADOPTION OF AGENDA:** There were no changes.

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40 Chairman Cannon moved to adopt the agenda as presented; seconded by Vice-Chairman White.
41 The motion PASSED by consensus, 5-0.

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4. APPROVAL OF MINUTES:

A. December 13, 2022

Chairman Cannon moved to approve the December 13, 2022 meeting minutes as presented; seconded by Mr. Kaszuba. The motion PASSED by consensus, 5-0.

5. REPORT OF STAFF:

A. Administrative Variance Applications – Mr. Mendenhall stated there were no Administrative Variance requests submitted for consideration; introduced Patty Rippey, Senior Planner; a variance request for a dock, with unique circumstances, will be on the next meeting agenda.

B. Other Reports & Updates – Mr. Disher provided a summary of Ms. Rippey’s experience and joined us from the City of South Daytona; the Town is still in hurricane recovery mode with construction and repairs; Volusia County will consider a resolution that temporarily defers the requirements to restore or construct a dune in front of new seawall projects – this is extremely important due to the significant erosion from the hurricanes.

6. CORRESPONDENCE/DISCLOSURE OF EX-PARTE COMMUNICATION: None.

7. HEARING OF CASES: None.

8. BUSINESS ITEMS/PUBLIC HEARINGS:

A. Ordinance 2023-01, Large Scale Comprehensive Plan Amendment to the Coastal Management and Future Land Use Elements from the Vulnerability Assessment. Mr. Mendenhall provided a brief history of this topic and referred members to the Peril of Flood requirements listed on page 2 of the staff report, noting that the Town’s coastal management element has been updated to address those provisions: 1) Include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise; 2) Encourage the use of best practice development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency; 3) Identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state; 4) Be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable flood plain management regulations outlined in 44 C.F.R. part 60; 5) Require that any construction activities seaward of the coastal construction control lines established under F.S. 161.053 be consistent with chapter 161; 6) Encourage local governments to participate in the National Flood Insurance Program Community Rating System administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for their residents. He stated the amendments were discussed during the April, May, and December 2022 Planning Board meetings and this draft ordinance contains recommendations based on those discussions;

89 the text in red are the original proposed changes; the text in green is the new proposed language
90 as discussed in December. He then reviewed the changes:

91 Policy 1.1.1 – Regional Impact Consideration: added “for any regional or local project that
92 may negatively affect a natural coastal resource.” He noted that this applies to private and publicly
93 owned properties. Policy 1.1.3 - Natural and Open Space: He stated that the map numbers may
94 change based on future amendments. Policy 1.1.4 – Public Shoreline Access: added “this may be
95 accomplished through such efforts as requiring developments to dedicate land for dune walkovers,
96 establishing agreements and funding mechanisms for boardwalk maintenance, and providing
97 standards and criteria in the LUDC that clearly identify how and when shoreline access is to be
98 provided”. He noted that this lays out a strategy by which this can be accomplished through the
99 development process. Policy 1.1.5 – Western Ecological Corridor: added language to include a
100 review process of private developments or community enhancement projects; this clarifies when
101 those reviews would occur. Policy 1.2.1 – Development in Natural Habitat Areas: added “if such
102 habitat is identified, the Town shall protect the impacted species to the greatest extent possible
103 through coordination and compliance with these agencies and applicable regulations”. Policy 1.2.2
104 – Wetland Buffer: added “criteria and standards to alter and mitigate for development within the
105 wetland buffer shall be maintained in the LUDC”.

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107 Mr. Mendenhall paused to address board member’s questions. Vice-Chair White referenced policy
108 1.1.3 – regarding acquiring lands, the Town cannot approach a property owner to acquire their
109 property, so how does the Town go about acquiring it? Attorney Shepard stated there is no issue,
110 in this State, with identifying property that the Town has made the determination that it would like
111 to acquire; the problem is (with reactivating the Land Acquisition Advisory Committee/LAAC),
112 the citizens of the Committee without having knowledge or training on the significant implications
113 of what they said, identified lands during a public meeting as potential targets for acquisition, for
114 good or for bad, you affect its value. So far (in FL) it has not been recognized as a “taking”. He
115 emphasized “so far” because the land use area of the law is dynamic and ever-changing. If we were
116 at a Council meeting or as the Planning Board, you were tasked with identifying possible properties
117 for acquisition, and it is being done at a decision-making level, then that is appropriate. It is still
118 not a claim and it then gives Council the opportunity to direct the Town Manager to approach the
119 owner to determine their interest in selling; this is a *purposeful act* as opposed to an *accidental*
120 *act*. He stated that during the Pacetta case, they took the Land Acquisition Advisory Committee’s
121 meeting minutes and claimed that it was a part of a grander scheme, quiet on the political levels
122 but not on the Committee level, to regulate the property in such a way that it became less valuable
123 and the Town could acquire it at a lower price. That was part of their case and totally untrue – but
124 you all know the consequences of such actions. Governments must talk about land acquisition for
125 drainage, roadways, infrastructure, parks, etc., but that is *purposeful* as opposed to a group of
126 residents saying, “I want that [specific] property”.

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128 Vice-Chair White referenced policy 1.1.4, line 41 and asked what the definition of “development”
129 means; is it one family, two family, condominium, commercial, etc. Mr. Mendenhall stated it refers
130 to any property that is being developed; not those that are already developed. Mr. White noted that
131 it not a “given” that dune walkovers are automatically approved and requested that language be
132 included that states Volusia County and FDEP permitting and approval shall also be obtained. Mr.
133 Mendenhall stated that that is already part of an existing process and all development on the beach
134 must go through the County and FDEP permitting process in addition to the Town’s; this language
135 gives the Town the ability to ask for that documentation.

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137 Mr. Oebbecke asked if there needs to be definitions in these policies, for example, what is a
138 “wetland”, which allows the general public to understand the terminology. He referenced 1.1.4
139 and asked what “enhanced access” means. Mr. Mendenhall stated that the particular language is
140 the original language; but it could mean public access for walking or launching a kayak or canoe
141 – depending on the type of project (ex. a commercial development with a water-dependent use);
142 he suggested typo/capitalization corrections be made throughout the document.

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144 Mr. Burge referenced 1.1.4, line 42 regarding funding mechanisms and asked if that meant private,
145 public or both, and what does “funding mechanism” mean. Mr. Mendenhall stated that there are
146 privately owned beach accesses that allow public use, the Town will establish agreements that
147 clearly identify that although these are accessible to the public, they are required to be routinely
148 maintained by the private entity; the funding mechanisms would fall under the Agreements and
149 the Town has a fund to pay for maintenance and repair of its own public access facilities. He further
150 clarified that the Town only maintains funds for the access points it owns, not privately owned or
151 Volusia County’s.

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153 Chairman Cannon referenced 1.2.2, line 72 – and asked if development is allowed in wetlands,
154 and asked for an explanation on buffer zones. Mr. Mendenhall stated yes, the Town has a Wetlands
155 Alteration Permit and there are enhanced regulations for that including mitigation, maintaining
156 buffers, etc., which are also dictated by the LUDC. The new language provides clarification on
157 what can and cannot go through the buffer. Chairman Cannon suggested that all regulations
158 regarding boat slips be put in the same location.

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160 Mr. Mendenhall resumed the review: regarding policy 1.2.1 – language has been added to further
161 protect endangered, threatened, or species of special concern; in addition to coordination and
162 compliance with FL Fish & Wildlife Conservation Commission and the US Fish & Wildlife
163 Services and applicable regulations. Policies 1.4.2, 1.4.3, and 1.4.4 – language was adjusted to
164 include more active verbiage (i.e., replacing “encourage the use of” with “apply”; and “identify”
165 with “Implement”); and Policy 1.4.9 – this language lays out the strategy. Mr. Oebbecke suggested
166 adding “plus one foot” to the base flood elevation requirements.

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168 Mr. Iyampillai asked if there are generators are the lift stations. Mr. Mendenhall stated that the
169 sanitary sewer system is owned and operated by the City of Port Orange and he would check with
170 them. Mr. Burge referenced line 282 and asked where the storm water is pumped to. Mr.
171 Mendenhall stated into the storm water system and eventually the river.

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173 Chairman Cannon opened public comment – hearing none, he closed public comment.
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175 Chairman Cannon moved to forward Ordinance 2023-01 to the Town Council as amended, with
176 the recommendation of approval; seconded by Mr. Kaszuba. The motion PASSED 5-0, with the
177 following vote: Mr. Oebbecke – yes; Mr. Kaszuba – yes; Vice-Chairman White – yes; Chairman
178 Cannon – yes; Mr. Iyampillai – yes.

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180 **B. Annual Boardmember Training** – Attorney Shepard reviewed the training
181 materials.
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183 **9. PUBLIC PARTICIPATION:** Chairman Cannon opened public participation – hearing
184 none, he closed public participation.

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186 **10. BOARD DISCUSSION:** None.

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188 **11. ADJOURNMENT:** The meeting was adjourned at 12:07 p.m.

189 Prepared and submitted by,

190 Peg Hunt

193 Peg Hunt
194 CMC/Deputy Clerk

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196 Attachment(s): None.