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# Town of Ponce Inlet

## Town Council Regular Meeting Minutes

### May 16, 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 Perrone, Seat #4

Councilmember Paritsky, Seat #5

**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

Chief Scales, Fire Chief

Atty. Shepard, Town Attorney

Ms. Witt, Town Manager

Ms. Zengotita, Cultural Services Manager

4. **ADDITIONS, CORRECTIONS OR DELETIONS TO THE AGENDA:** Ms. Witt added item 5-D, Report of Fitness Challenge Award; there were no other changes requested. Mayor Smith opened public comment – hearing none – he closed public comment.

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

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

A. **Proclamation recognizing May 19-25, 2019 as Emergency Medical Services Week - Mayor Smith read the proclamation recognizing May 19-25, 2019 as Emergency Medical Services Week and presented it to Chief Scales.**

B. **Proclamation recognizing May 20-26, 2019 as Public Works Week - Mayor Smith read the proclamation recognizing May 20-26, 2019 as Public Works Week and presented it to Mr. Gunter.**

46  
47 **C. Proclamation declaring the Town’s 2019 Election - Mayor Smith read the**  
48 **proclamation declaring the Town’s 2019 Election to be held on August 27, 2019.**  
49

50 **D. Report of Fitness Challenge -** Chief Scales explained the program and stated that  
51 he, along with his wife Becky, daughter Emma, Amy Zengotita, her husband Luis participated in  
52 the Port Orange Get Fit Challenge as “Team Ponce” and were awarded second place for achieving  
53 the second highest percentage of weight loss.  
54

55 **6. CONSENT AGENDA:** There were no requested changes; Mayor Smith asked for  
56 public comments – hearing none – he closed public comments.  
57

58 A. Approval of the Town Council regular meeting minutes – April 18, 2019.  
59

60 B. Approval of payment of legal bill in the amount of \$11,143.71 (\$2,657.71 of which  
61 is related to the Pacetta Lawsuit) – dated May 7, 2019.  
62

63 Councilmember Paritsky moved to approve the Consent Agenda as presented; seconded by Vice-  
64 Mayor Hoss. The motion PASSED 5-0, consensus.  
65

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

69 **A. Pollard Park Improvements Project**  
70

71 **1. Construction Oversight Services -** Ms. Zengotita stated this request is to  
72 award Mead & Hunt (Town’s Engineering firm) construction oversight, inspections, and  
73 management of the Pollard Park Improvement Project. Mayor Smith opened public comment -  
74 John Cannon, 109 Beach Street inquired about engineer record services and preparing for record  
75 drawings - under exclusions, it states “review of contractor record sketches”. Mr. Giannini stated  
76 that the exclusion section was included in error and will be revised and resubmitted. Mayor Smith  
77 closed public comment.  
78

79 Councilmember Paritsky moved to authorize Mead & Hunt to perform construction oversight  
80 services for Pollard Park Improvements Project in the amount of \$31,880 as amended; seconded  
81 by Vice-Mayor Hoss. The motion PASSED 5-0, consensus.  
82

83 **2. Award of bid to Saboungi Construction for renovation project -**  
84 Ms. Zengotita reported that eight contractors submitted bids for this project, and the lowest  
85 qualified bid was submitted by Saboungi Construction. Ms. Witt noted Mr. Saboungi was present  
86 to answer any questions. Councilmember Perrone asked about the cost overruns. Mr. Giannini,  
87 PE, Mead & Hunt, stated that the costs of construction continues to rise, but will be locked-in once  
88 awarded. Ms. Witt stated that funds are available in the Land Acquisition Fund to offset the cost  
89 difference. Mayor Smith opened public comment - hearing none, he closed public comment.  
90

91 Councilmember Paritsky moved to approve the Bid Award to Saboungi Construction in the amount  
92 of \$1,082.742 and issue a Notice to Proceed; seconded by Vice-Mayor Hoss. The motion PASSED  
93 5-0, consensus.

94  
95 Councilmember Paritsky moved to approve additional funding allocation in the amount of  
96 \$294,647 from the Town’s Land Acquisition Fund to the Pollard Park Construction Fund;  
97 seconded by Vice-Mayor Hoss. The motion PASSED 5-0, consensus.

98  
99 **8. PUBLIC HEARINGS / QUASI-JUDICIAL:** None.

100  
101 **9. PUBLIC HEARINGS / NON-QUASI-JUDICIAL MATTERS:**

102  
103 **A. Second reading/adoption of Ordinance 2019-04, amending the Town’s noise**  
104 **regulations to clarify the use occupancy of the property from which sound is emitted that**  
105 **determines the category and corresponding decibel limit allowable.** Attorney Shepard read the  
106 Ordinance by title only. AN ORDINANCE OF THE TOWN OF PONCE INLET, FLORIDA,  
107 RELATING TO NOISE DISTURBANCES; AMENDING CHAPTER 34, ARTICLE IV,  
108 SECTION 34-93(b) OF THE CODE OF ORDINANCES OF THE TOWN OF PONCE INLET,  
109 FLORIDA; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN  
110 EFFECTIVE DATE. Councilmember Milano read the Vision Statement and noted “residential  
111 haven” and asked why we need different levels for sound decibel limitations. Attorney Shepard  
112 stated that while he does not speak for the businesses and this is a policy decision, the businesses  
113 would likely stress that higher decibel limits are an important part of how they make a living.  
114 Councilmember Paritsky noted that at the April meeting, residents brought forth issues and  
115 concerns with noise; she suggested they give further consideration as to how they might best  
116 address this item, perhaps via specific outdoor music regulations. Councilmember Perrone asked  
117 if the Town requires businesses to close at a certain time. Ms. Witt stated that she isn’t aware of  
118 such, but the Town does have regulations limiting the hours that they can play music outside.  
119 Councilmember Perrone asked if Planning staff has walked the property at Jerry’s to help them  
120 determine ways in which to soften the noise via increased buffering. Mr. Disher stated that staff  
121 has met with the owner (Mr. Cipolla) to discuss options for this. Mayor Smith opened public  
122 comments - hearing none, he closed public comments.

123  
124 Councilmember Paritsky moved to approve the second reading and adoption of Ordinance 2019-  
125 04 as presented; seconded by Vice-Mayor Hoss. The motion PASSED 5-0, with the following vote:  
126 Councilmember Paritsky - yes, Vice-Mayor Hoss - yes; Mayor Smith - yes; Councilmember Milano  
127 - yes; Councilmember Perrone - yes.

128  
129 Councilmember Paritsky suggested a discussion item be placed on a future agenda regarding  
130 outdoor music regulations, permitting policies, and to invite business owners and residents to  
131 participate in an attempt to strike a balance. Council agreed to place this item on the June Council  
132 Agenda; by consensus 5-0.

133  
134 **10. CITIZENS’ PARTICIPATION:** Mayor Smith opened citizen’s participation. Judy  
135 DiCarlo, 32 Caribbean Way, commented that issues with noise regulations have been going on for  
136 many years and she appreciates Council’s willingness to address and hopefully resolve them. Mike

137 Ramsey, 47 Beach Street, stated his concerns regarding parking and storage of boats, trailers, and  
138 recreational vehicles and how this could decrease property values. He referenced photographs and  
139 emails he sent to Council and staff regarding an RV parked at 84 Inlet Point Boulevard, the corner  
140 of Inlet Point and Beach Street. He stated his disagreement with the Town’s opinion that the replat  
141 was legal to combine these two lots. (Council agreed to extend the 5-minute time limit.) Mr.  
142 Ramsey noted that the owners at the referenced address purchased the vacant lot behind them,  
143 which is not part of the South Turn subdivision, and did a minor replat to make it part of their lot  
144 that is within the South Turn subdivision. He expressed concerns of the legality of adding a  
145 property to a subdivision without the permission of the homeowner’s association. He  
146 recommended that Council 1) obtain a second opinion as to the legality of the minor replat by a  
147 licensed real estate attorney; 2) encourage the property owner at 84 Inlet Point Boulevard to  
148 construct a detached garage; or 3) replace the chain link fence with a solid six-foot high fence. He  
149 stated that Ponce Inlet should implement rules to limit the quantity and size of such items parked  
150 or stored in residential neighborhoods. Mayor Smith closed public comments. Attorney Shepard  
151 stated that he was not familiar with the referenced opinion. Mr. Ramsey stated the opinion was  
152 rendered in April by Mr. Disher. Mayor Smith noted that it was not an “opinion”, it was a historical  
153 summary of the actions with this property, as Mr. Disher is a certified planner, not an attorney.  
154 Councilmember Paritsky suggested the Town Attorney’s office review the matter. Mr. Disher  
155 stated the minor replat was reviewed by Attorney Hand and he would ensure a copy of the report  
156 is forwarded to Attorney Shepard for further review. Council discussed options, including  
157 changing definitions. Attorney Shepard read the current definition of “recreational vehicle” from  
158 the Code.

159  
160 Council requested staff obtain information on how other jurisdictions regulate and define  
161 recreational vehicles and to place this item on the June agenda for discussion, along with a  
162 discussion of fence heights or other types of screening available; by consensus, 5-0.

163  
164 **11. ORDINANCES (FIRST READING) AND RESOLUTIONS:**

165  
166 **A. Resolution 2019-05, adopting updated Personnel Rules and Regulations for**  
167 **Town employees.** Attorney Shepard read the Resolution by title only. A RESOLUTION OF THE  
168 TOWN COUNCIL OF THE TOWN OF PONCE INLET, VOLUSIA COUNTY, FLORIDA  
169 ADOPTING UPDATED PERSONNEL RULES AND REGULATIONS IN ACCORDANCE  
170 WITH THE TOWN CHARTER, SECTION 4.06, HEREINAFTER NAMED EMPLOYEE  
171 RULES, REGULATIONS, AND BENEFITS; PROVIDING FOR SEVERABILITY;  
172 PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING FOR AN  
173 EFFECTIVE DATE. Ms. Witt explained this project was a huge undertaking and long overdue.  
174 She corrected the following grammatical and typographical errors: page 9, section 5 - remove “all  
175 or”; page 24, first paragraph - remove the first “or”; page 25, section A, second paragraph - remove  
176 “also be subject to” and insert “receive”; section B, section 3 - remove “reallocated” and insert  
177 “reduced”; page 26, second paragraph - remove “also be subject to”; replace with “receive”; page  
178 94, section A - remove “days” and replace with “scheduled”; section B - insert “under this  
179 provision” before the word “implies”. Councilmember Perrone asked when this goes into effect.  
180 Ms. Witt stated that upon Council’s approval, this will immediately be in effect for general  
181 employees and it can be negotiated with the bargaining unit employees. Councilmember Milano  
182 commended Ms. Witt for her work on this product. Ms. Witt thanked staff members for their

183 assistance in compiling this book. Mayor Smith opened public comment - hearing none, he closed  
184 public comment.

185  
186 Councilmember Paritsky moved to approve Resolution 2019-05 as amended; seconded by Vice-  
187 Mayor Hoss. The motion PASSED 5-0, with the following vote: Councilmember Paritsky - yes;  
188 Vice-Mayor Hoss - yes; Mayor Smith - yes; Councilmember Perrone - yes; Councilmember Milano  
189 - yes.

190  
191 **12. OLD BUSINESS:** None.

192  
193 **13. NEW BUSINESS:**

194  
195 **A. Landscaping concept for “triangle parcel” abutting 4958 South Peninsula**  
196 **Drive** - Mr. Disher stated staff worked with the Dvorak’s on this item. The proposal is that the  
197 Town would landscape the property (since it’s town-owned property) and relocate the handicap  
198 parking spaces. In exchange, the Dvorak’s would maintain the landscaping. A walkway would be  
199 constructed along the front of the building and from the parking area to the Park, with a crosswalk.  
200 Councilmember Milano expressed concerns of irrigating the landscaping. He suggested  
201 xeriscaping instead of installing trees, shrubs, and traditional plants; and commended those who  
202 worked on the design. Mr. Disher reiterated that this is a proposal and noted that too much  
203 vegetation could hinder vehicular view of pedestrians. Mayor Smith opened public comment -  
204 Matt Dvorak, 4958 South Peninsula Drive stated that he met with Mr. DiCarlo, who helped him  
205 create this proposal. He expressed concerns with moving the handicap parking spaces and  
206 suggested improved signage for the area. Mayor Smith asked how many handicap parking spaces  
207 are on the property. Mr. Dvorak stated one, although it looks like two because it is a very large  
208 space. Mr. Dvorak expressed concern with xeriscaping looking more like a jungle. Councilmember  
209 Perrone asked about a variance to allow the building to be rebuilt. Attorney Shepard stated Council  
210 cannot discuss the idea of a variance at this time due to lack of public notice, quasi-judicial  
211 concerns, and that it has had no evidence or testimony. Carroll Hamilton, 86 Oceanway Drive  
212 stated that the proposal would make the area more aesthetically pleasing. Mayor Smith closed  
213 public comment. Mayor Smith stated the Town is still waiting for a concurrence from the State as  
214 to *what is* and *what is not* allowed, per restrictions noted on the 1972 deed from the Federal  
215 Government to Ponce Inlet. He referenced the “reverter clause” and reviewed the list of restricted  
216 and prohibited uses. Judy DiCarlo, 32 Caribbean Way stated that she became involved after  
217 learning that the Town was looking to sell the property. She explained that the concept is in no  
218 way connected to knowing what the town can and cannot do. She asked how long the Agreement  
219 with the Dvoraks is valid; Mayor Smith stated three years. She suggested they work on this with a  
220 goal of completion prior to the end of the agreement. Mayor Smith closed public comment.

221  
222 Council agreed by consensus, to request staff move forward with this conceptual plan, to be  
223 considered further in a future budget year but prior to the end of the current agreement, 5-0.

224  
225 **B. Regulations regarding disposal of Town-owned properties** - Councilmember  
226 Paritsky stated there is no procedure in place for disposal of real property. She stated her desire for  
227 Council to consider enacting an ordinance setting forth procedures for disposal of real property,  
228 including for example, holding a special meeting for that specific agenda item, notifying residents

229 via email (possible three times), posting agendas (notices) at Town hall, and including a notice on  
230 the municipal water bills. She stated Council would have to render a “finding”, as to whether  
231 disposal of real property is in the best interest of the Town. Her goal is to inform as many residents  
232 as possible and to obtain a higher level of public participation. Since this agenda was posted, she  
233 received comments from residents requesting that a similar process be created for the purchase of  
234 real property as well. She referred to an email from Les Thompson, wherein he suggested that  
235 Council consider the use of the property prior to purchase. Councilmember Perrone stated that the  
236 sale of any vacant real property should be done by a super-majority vote of the Council; he  
237 suggested that beach accessways also be included in the inventory. Councilmember Milano  
238 referenced the list of town-owned properties and stated that the lot next to Public Works is a public  
239 works lot that has not yet been developed, not a vacant lot as listed. Councilmember Milano stated  
240 that the creation of procedures could have a negative and totally opposite result in the future and  
241 strongly urged Council to fully research this matter before making any decision. He then referred  
242 to the list of Town-owned real properties and stated that none of those properties should ever be  
243 considered “surplus” or sold. Vice-Mayor Hoss stated that once you sign the papers, you cannot  
244 get it back. She expressed concerns of giving up (selling) any Town-owned real property and stated  
245 that no amount of monetary value can make up for losing a valuable piece property. Mayor Smith  
246 opened public comment - hearing none, he closed public comment. Councilmember Paritsky noted  
247 for the record that by creating procedures, Council (and the Town) would be bound by specific  
248 criteria which would have to be met before future Councils consider disposal of real property. She  
249 noted her intention was not to promote the sale of any Town-owned property. She added that many  
250 residents voiced strong opposition to the proposed sale of the “triangle parcel” and that she wants  
251 to encourage residents to provide as much public input as possible. Councilmember Perrone stated  
252 there were two hearings regarding that proposed sale, but citizen input did not occur until the  
253 second meeting and later. He suggested the Town implement stronger public notification  
254 procedures.

255  
256 Council authorized the Town Attorney to work with Councilmember Paritsky to create a draft  
257 policy for further consideration.

258  
259 **14. FROM THE TOWN COUNCIL:**

260  
261 **A. Councilmember Paritsky, Seat #5** – Stated that the legislative session is over and  
262 there was a significant erosion of home rule; she reported that the proposed changes to short-term  
263 rental regulations (thankfully) failed in the Senate; she stated her appreciation to the Marine  
264 Science Center bird rescue personnel and the Ponce Inlet Police Department for their assistance  
265 with a bird in distress. She learned that the bird, a baby boat-tailed Grackle is now recovering at  
266 the Center. She noted that this is an example of how special this Town is and how fortunate we are  
267 to be part of it.

268  
269 **B. Councilmember Perrone, Seat #4** – Asked if Council would consider discussing  
270 regulations regarding plastic straws and asked that we invite the restaurant and 7-11 owners to the  
271 meeting to participate in this discussion; he noted the Memorial Day Ceremony will be held on  
272 Monday, May 27<sup>th</sup> at 9:00 a.m. at the Veterans Memorial.

273

274 **C. Vice-Mayor Hoss, Seat #3** – Urged residents to watch what is going on in  
275 Tallahassee, as home rule is constantly under attack, which prevents local governments from  
276 creating and enforcing their own rules; she referenced the poem “Invictus” and noted that  
277 everything that happens in Tallahassee affects each of us directly.  
278

279 **D. Councilmember Milano, Seat #2** – Reported that he was asked about State  
280 Legislators and suggested that residents investigate how each of the Legislators voted regarding  
281 home rule - adding that most, if not all of our local legislators, voted against it; he stated that the  
282 First Step Shelter board is in disarray and Catholic Charities is struggling to keep the homeless  
283 shelter project moving forward; the \$2.5 million the City of Daytona Beach contributed is not  
284 nearly enough.  
285

286 **E. Mayor Smith, Seat #1** – Stated he had nothing else to report.  
287

288 **15. FROM THE TOWN MANAGER** – Ms. Witt referenced a letter she would be sending to  
289 the County Manager, requesting the grant requirements for Wilbur-Bay Wetlands be amended to  
290 remove the covered picnic area requirement; she advised the Solid Waste Bid Opening will be held  
291 on May 28<sup>th</sup> and this item will be on the June agenda; she noted that the Memorial Park Benches  
292 were a nice thought, but after discussions with the Town Attorney’s office, the difficulty in  
293 managing language requirements for them have resulted in staff recommending that they not  
294 proceed further with this; she reported that she has just learned that the links on the Town’s website  
295 agenda items are not ADA-compliant and therefore, they will be promptly removed from our  
296 website – documents will be posted differently on future agendas to comply with these  
297 requirements; she noted that they are finding the ADA-compliant audio streaming is very  
298 expensive, so for now staff will continue to email the audio files to anyone upon their request but  
299 will not be posting these to the website.  
300

301 **16. FROM THE TOWN ATTORNEY** – Attorney Shepard was pleased to announce that  
302 there is no active litigation involving the Town of Ponce Inlet!; the proposed legislative changes  
303 to short-term rentals failed; vegetable gardens are allowed; and trees that pose a threat, may be  
304 removed without a permit, so long as the owner has a letter from a certified arborist confirming  
305 that the tree was dead or diseased – the Town’s regulations will need to be amended for such; he  
306 thanked the Town for the nominating him for a Volusia League of Cities award and is very honored  
307 to have been chosen as winner of the Executive Award; and he thanked Council and staff for their  
308 continued support.  
309

310 **17. ADJOURNMENT** - Mayor Smith adjourned the meeting at 8:31 p.m.  
311

312 Respectfully submitted by:  
313

314 \_\_\_\_\_  
315 Jeaneen Witt, CMC, Town Manager/Town Clerk  
316 Peg Hunt, Board Secretary