



PLANNING BOARD AGENDA REGULAR MEETING

TUESDAY

September 24, 2024 – 2:00 PM

COUNCIL CHAMBERS

4300 S. ATLANTIC AVE., PONCE INLET, FL

SUNSHINE LAW NOTICE FOR BOARD MEMBERS – Notice is hereby provided that one or more members of the Town Council or other Town Boards may attend and speak at this meeting.

A complete copy of the materials for this agenda is available at Town Hall.

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE.
2. ROLL CALL AND DETERMINATION OF QUORUM.
3. ADOPTION OF AGENDA.
4. APPROVAL OF MEETING MINUTES:
 - A. July 23, 2024
5. REPORT OF STAFF:
 - A. Planning Division Reports
 - B. Other Updates and/or Reports
6. CORRESPONDENCE & DISCLOSURE OF EX-PARTE COMMUNICATION – None.
7. HEARING OF CASES (Public hearings & Quasi-Judicial matters): A Quasi-Judicial decision entails the application of already-established criteria and general public rule or policy to a limited number of specific individuals, interests, properties, or activities. Certain standards of basic fairness must be adhered to in order to afford due process. The parties must receive notice of all hearings and be able to present evidence, cross-examine witnesses, and be informed of all the facts upon which a Quasi-Judicial board acts. It shall be the responsibility of the APPLICANT to ensure that the proposal meets all the criteria and standards established in the Land Use and Development Code for the development sought. Procedure for Public Hearings:
 1. Reading of the Item for the Record;
 2. Staff Testimony, including noticing information;
 3. Board Discussion;
 4. Public Discussion, including statement of Applicant(s);
 5. Boardmembers individually complete Quasi-Judicial worksheets (if applicable);
 6. Motion and Second by the Board; followed by Board discussion, and
 7. Roll-call Vote.
8. BUSINESS ITEMS.
 - A. Ordinance 2024-##, Amending the LUDC, Article 2 “Zoning Districts”, Section 2.40.1 “Interpretation of Uses and Structures Permitted, Table 2-5, “Table of Permitted Uses”; adding farmers markets as a major special exception to the public-institutional zoning district

B. Ordinance 2024-##, Amending Articles 3, 8, and 9 of the LUDC to substitute references of the Code Enforcement Board with Special Magistrate

9. PUBLIC PARTICIPATION.

10. BOARD DISCUSSION.

11. ADJOURNMENT.

*If a person decides to appeal any decision made by the Planning Board with respect to any matter considered at a meeting or hearing, he/she will need a record of the proceedings and that for such purpose, may need to ensure that a verbatim record of the proceedings is made (at their own expense), which includes testimony and evidence upon which the appeal is to be based. Persons who require an accommodation to attend this meeting should contact the Ponce Inlet Town Hall at 236-2150 **at least 48 hours prior to the meeting**, in order to request such assistance.*



Meeting Date: September 24, 2024

Agenda Item: 4

Report to Planning Board

Topic: Approval of Meeting Minutes

Summary:

Staff has prepared the attached set of Planning Board meeting minutes for the Board's review and approval.

A. July 23, 2024

Requested by:

Ms. Stewart, Assistant Deputy Clerk

Reviewed by:

Mr. Lear, Planning & Development Director

Approved by:

Mr. Disher, Town Manager



Town of Ponce Inlet

Planning Board

Regular Meeting Minutes

July 23, 2024

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

4
5 **2. ROLL CALL AND DETERMINATION OF QUORUM:**

6
7 Board members present:

8 Mr. Oebbecke, Seat #1- Absent
9 Mr. Kaszuba, Seat #2; Chair
10 Mr. Burge, Seat #3 - Absent
11 Mr. Cannon, Seat #4
12 Mr. Carney, Seat #5; Vice Chair
13 Mr. Revak, Alternate #1
14 Mr. Young, Alternate #2

15
16 Staff present:

17 Mr. Baker, Chief Building Official
18 Ms. Rippey, Principal Planner
19 Attorney Shepard, Town Attorney
20 Ms. Stewart, Assistant Deputy Clerk

21
22 **3. ADOPTION OF AGENDA:** - Mr. Cannon moved to adopt the agenda as presented;
23 seconded by Vice-Chair Carney. The motion PASSED by consensus, 5-0.

24
25 **4. APPROVAL OF MINUTES:**

26
27 **A. April 23, 2024** - Chair Kaszuba stated line 133 should read “Vice-Chair Carney”
28 instead of “Chair Carney”.

29
30 Mr. Young moved to approve the April 23, 2024, meeting minutes as amended; seconded by Vice-
31 Chair Carney. The motion PASSED by consensus, 5-0

32
33 **B. June 4, 2024 Town Council Special Joint Meeting with Planning Board**
34 *(approved by Town Council at the June 18, 2024 Town Council regular meeting)*

35
36 **5. REPORT OF STAFF:**

37 **A. Planning Division Reports** – Ms. Rippey provided an update on Planning &
38 Development Director, Mr. Lear, explaining he has been out on medical leave and Mr. Baker is
39 Acting Planning & Development Director. She announced Volusia County is hosting a meeting on
40 July 30, 2024, at the Ponce Inlet Community Center from 4:30 pm to 6:30 pm regarding the dune
41 recovery project and the easement requirements. She explained staff has received an application

42 for an appeal regarding a permit that was approved for construction of a seawall at 125 Ponce de
43 Leon Circle; it will be brought before the Board at the August 27, 2024 meeting. Chair Kaszuba
44 asked how far the easements go on the beach recovery project. Ms. Rippey replied she will find
45 out and report the information back to the Board. Mr. Revak stated he noticed a crane across from
46 the lighthouse yesterday near the site where the proposed boatel would be located; there was a stop
47 work order on that project; he asked if there was an update. Mr. Baker explained the stop work
48 order was lifted; staff is waiting on an engineering report for the seawall construction. There is a
49 permit to install floating docks; the crane Mr. Revak saw is likely for the pilings. Chair Kaszuba
50 asked if any of that work is linked to the boatel proposal. Mr. Baker replied no applications have
51 been submitted. The work currently being done is separate from that.

52

53 **B. Other Reports & Updates** – There were no other updates.

54

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

56

57 **7. HEARING OF CASES:** None.

58

59 **8. BUSINESS ITEMS/PUBLIC HEARINGS:**

60

61 **A. Ordinance 2024-XX (proposed), Amendment to LUDC Section 3.17, Docks,**
62 **Boathouses, Boat Slips, and Piers.** - Ms. Rippey explained this proposed ordinance was presented
63 to the Board on April 23, 2024 when the Board requested some changes; it is back for review
64 today. She provided a [PowerPoint](#) and a recap of the project. She noted that a 2012 code
65 amendment to the LUDC Section 3.17 has inadvertently proven to be problematic for certain
66 property owners with landward mean high-water lines a substantial distance from the navigable
67 waterway. Based on an arial assessment of the riverfront, there are seven properties on the Daggett
68 Creek branch of the Halifax River and six additional homes near the southern end of South
69 Peninsula Drive that will benefit from this amendment. She showed aerial photographs of the area
70 and reviewed the proposed amendment language that was changed. She noted additional language
71 in Section G stating the calculation for the dock size will not include the access walkway to the
72 dock terminal platform, which should correct the issue caused by the 2012 amendment. She
73 continued to review the requested language changes. Mr. Cannon asked if there could be a problem
74 later by keeping the variance requirement in Section H for a substandard lot. Attorney Shepard
75 explained there is nothing wrong with the criteria as it is written. Mr. Cannon asked if the variance
76 criteria should be included in that sentence or if it should be removed. Attorney Shepard replied
77 that is a policy question; however, if there is an on-going issue with criteria that the Board and
78 property owners continually question, then remove it. Discussion regarding the inclusion of the
79 variance language in the criterion continued.

80

81 Chair Kaszuba commented that this will potentially affect 13 properties; he asked how
82 many of those currently have structures. Ms. Rippey explained all but one, which is the one with
83 the previous variance request, and they are in the process of constructing their home. Chair
84 Kaszuba asked for clarification on why this change is needed from what was established in 2012;
85 if it is because there have been more attempts to build on properties that people may not have
86 thought to build on 15 years ago. Ms. Rippey explained the mean high-water line has encroached
87 further onto properties over time. Also, the 2012 amendment applies the dock size calculations at
88 the mean high-water line; before that, the calculation began at the waterfront. The issue is nnow

89 the area over the walkways is being included into that calculation; it was not the intent of the code
90 amendment in 2012 and is only an issue for these few homes.

91
92 Mr. Cannon moved Ordinance 2024-XX, Docks, Boathouses, Boat Slips and Piers be forwarded
93 to the Town Council with a recommendation of APPROVAL; seconded by Vice-Chair Carney. The
94 motion PASSED 5-0, with the following vote: Mr. Cannon – yes; Vice-Chair Carney – yes; Chair
95 Kaszuba – yes; Mr. Revak – yes; Mr. Young – yes.

96
97 **B. Amendment to Planning Board Bylaws, Article III, Section 1, changing regular**
98 **meeting time from 10:00 am to 2:00 pm** – Ms. Rippey provided a [presentation](#) and explained this
99 request was from the April 23, 2024 Planning Board meeting and was also discussed at the June 4,
100 2024 Town Council Special Meeting with the Planning Board; it is a request to formally amend the
101 Planning Board Bylaws to amend the regular meeting time for non-quasi-judicial items from 10:00 am
102 to 2:00 pm. The scheduled meeting time for the quasi-judicial items will remain at 5:30 pm; no other
103 changes are being initiated. Pursuant to LUDC Section 6.2.2.C, the Planning Board shall meet at
104 regular intervals and other times as it may deem necessary. It shall adopt written bylaws and procedures
105 necessary for the administration of its responsibilities, as consistent with the Code of Ordinances and
106 the LUDC. Bylaws and procedures shall be approved by the Town Council; amendments or
107 modifications to the bylaws shall be submitted to the Town Council for final approval in August. Mr.
108 Young asked what the catalyst was for this change. Chair Kaszuba explained that a Planning Board
109 member that is not present today requested it.

110
111 Mr. Revak moved that the amendment to the Planning Board Bylaws, Article III, Section 1,
112 changing the regular meeting time from 10:00 am to 2:00 pm be forwarded to the Town Council
113 with a recommendation of APPROVAL; seconded by Mr. Cannon. The motion PASSED 5-0, with
114 the following vote: Mr. Revak – yes; Mr. Cannon – yes; Chair Kaszuba – yes; Vice-Chair Carney
115 – yes; Mr. Young – yes.

116
117 **C. Training on Quasi-Judicial Proceedings** – Attorney Shepard explained this
118 training is on conducting quasi-judicial hearings on land use matters; however, if the appeal Ms.
119 Rippey mentioned earlier goes forward, it will have its own special set of procedures. He is
120 reviewing the code now to formulate the procedures on the appeal which is a different kind of
121 quasi-judicial matter. His intention is to circulate a memo to the attorneys for both sides, ensure
122 they agree on the procedures, and then provide those procedures to the Board.

123
124 Attorney Shepard provided a [PowerPoint presentation](#) on conducting quasi-judicial
125 hearings on land use matters; he explained the Planning Board is the Local Planning Agency (LPA)
126 and is responsible for conducting the comprehensive planning program. It reviews amendments
127 and makes recommendations to the Town Council regarding amendments; monitors the evaluation
128 and appraisal reports; reviews the Land Use and Development Code (LUDC) for consistency; and
129 other tasks as assigned by the Town Council. He explained the decision to make a policy or code
130 change is legislative; once the change is made, the application of the law is quasi-judicial. Mr.
131 Young asked if the Planning Board proposed policy or if they set policy. Attorney Shepard
132 explained that the Planning Board proposes and recommends policy, and in most cases, it becomes
133 the policy. There are certain decisions the Board will make that are not policy but are final unless
134 they are appealed further, like the appeal discussed earlier. It will be a quasi-judicial proceeding;
135 if one side or the other accepts the results of the appeal, the decision will be final. If they do not
136 accept the results, it will go to the Town Council. The legislative hearing process involves broad
137 notice and public input. He explained the “fairly debatable” standard of review, noting that there

138 must be a reasonable basis to support the action, it is akin to a bar debate.

139

140 Attorney Shepard explained that applying the code and the comprehensive plan is quasi-
141 judicial; this includes a rezoning or a variance. The Board cannot create new policies to govern a
142 specific situation. The key elements of quasi-judicial are the finding of facts regarding the specific
143 proposal and the exercise of judgement and discretion in applying adopted policies to the specific
144 situation. He reviewed the hearing process and noted that the parties in a quasi-judicial hearing
145 have the right to call and examine witnesses. Failure to allow that is a violation of due process
146 rights. He continued to explain the hearing process and provided examples. Chair Kaszuba asked
147 what happens if a Board member misses a first hearing but is present for the continued hearing.
148 Attorney Shepard explained that since the meetings are recorded, and the physical evidence is
149 available, theoretically, the Board member would be able to review it in advance of the second
150 hearing so they could participate in the continued session. Vice-Chair Carney commented that
151 some projects come before the Board and some do not; he asked who makes the decision on what
152 gets brought to the Planning Board for approval. Attorney Shepard explained if an item is presented
153 to the Planning Board it is because staff does not have the authority to approve it or it is being
154 contested; or by Code that it must come before the Board. He continued the presentation,
155 explaining which affected parties have a standing to sue. He explained burden of proof for quasi-
156 judicial matters and that quasi-judicial decisions are based on the unique set of facts for each case
157 and do not set precedents. Attorney Shepard discussed variances and the variance standards; he
158 stressed that all conditions must be met to grant a variance. He explained competent substantial
159 evidence and noted that a lay person can provide fact-based evidence. Mr. Young referred to the
160 recent Sailfish Marina project and the study that was done by an outside party and that the study
161 did not reflect what they knew as residents to be true. Attorney Shepard replied that the Board
162 should not be gathering evidence on their own prior to hearing a case; however, this is a small
163 town and they do have special, individualized knowledge about certain circumstances that may
164 not be considered by experts. He explained that that knowledge is used in the questions asked, not
165 in the conclusion reached; he stressed that they must not substitute their own testimony for the
166 evidence presented.

167

168 Attorney Shepard continued the presentation and stated the Florida Supreme Court ruled
169 that local governments are not required to make findings of fact to support its decision on an
170 application for rezoning but it is a good idea in case of appeal to support the quasi-judicial decision.
171 He reviewed ex-parte communications and provided examples of what must be disclosed and
172 when. He explained what bias in quasi-judicial hearings is and voting conflicts of interest. Attorney
173 Shepard explained the standard of review is limited by three issues: whether procedural due
174 process was accorded; whether the essential requirements of the law were observed; and whether
175 the decision was supported by competent substantial evidence. Petitions of certiorari must be filed
176 within 30 days; after a decision is made by the Board, there are 30 days for it to be challenged.
177 This applies to decisions such as the possible appeal discussed earlier that could then be appealed
178 to the Town Council or decisions from this Board appealed directly to the Circuit Court. Denials
179 must cite the legal basis for the reason. He reviewed the best practices for quasi-judicial decisions,
180 reiterating the Board must be an objective decision-maker. He encouraged them on how to be
181 effective Board Members, stressing the need to be well prepared for meetings and to make their
182 final action clear. Attorney Shepard closed the presentation by explaining conditions of approval,
183 the rational nexus test and rough proportionality test; and explained F.S. Section 70.45, exposure
184 for unlawful exaction. Chair Kaszuba opened the discussion for questions; hearing none, he closed
185 the discussion.

186

187 **D. Discussion to reschedule the November and December Planning Board**
188 **meetings** – Ms. Rippey explained that November and December Planning Board meetings fall
189 close to the Thanksgiving holiday and the Christmas holiday, so the dates are usually moved up a
190 week. That would reschedule the Planning Board meetings to November 19, 2024, and December
191 17, 2024. Mr. Young noted that he will be out of town that week.

192
193 Mr. Cannon moved to reschedule the November 26, 2024 Planning Board meeting to November
194 19, 2024; and the December 24, 2024 Planning Board meeting to December 17, 2024; seconded
195 by Vice-Chair Carney. The motion PASSED 5-0, with the following vote: Mr. Cannon – yes; Vice-
196 Chair Carney – yes; Chair Kaszuba – yes; Mr. Revak; M r. Young – yes.

197
198 **9. PUBLIC PARTICIPATION:** Chair Kaszuba opened public participation – hearing none,
199 he closed public participation.

200
201 **10. BOARD DISCUSSION:** Mr. Cannon referred to Attorney Shephard’s presentation and
202 reiterated that it is important that each Board member have an opinion so that the Chair understands
203 where everyone is on a matter; they need to voice any reservations they may have or if they feel a
204 criteria is not met. It makes it easier for a motion and decision to be made.

205
206 **11. ADJOURNMENT:** The meeting was adjourned at 12:00 p.m.

207
208 Prepared and submitted by,

209
210 *Draft*

211 Debbie Stewart

212 Assistant Deputy Clerk

213



Meeting Date: September 24, 2024

Agenda Item: 8-A

Report to Planning Board

Topic: Ordinance 2024-##, Amending the LUDC, Article 2 “Zoning Districts”, Section 2.40.1 “Interpretation of Uses and Structures Permitted, Table 2-5 “Table of Permitted Uses”; adding Farmers Markets as a Major Special Exception to the Public-Institutional zoning district

Summary: See staff report for additional information.

For Discussion & Board Comment

Or – Proposed Motion:

To find that proposed Ordinance 2024-XX, Ordinance 2024-##, Amending the LUDC, Article 2 “Zoning Districts”, Section 2.40.1 “Interpretation of Uses and Structures Permitted, Table 2-5 “Table of Permitted Uses”; adding Farmers Markets as a Major Special Exception to the Public-Institutional zoning district is consistent with the Comprehensive Plan, and to forward to the Town Council with a recommendation of approval.

Requested by: Mr. Lear, Planning & Development Director

Approved by: Mr. Disher, Town Manager



MEMORANDUM

TOWN OF PONCE INLET, PLANNING AND DEVELOPMENT DEPARTMENT

The Town of Ponce Inlet staff shall be professional, caring, and fair in delivering community excellence while ensuring Ponce Inlet residents obtain the greatest value for their tax dollar.

To: Planning Board
From: Patty Rippey, AICP, Principal Planner
Through: Darren Lear, AICP, Planning & Development Director
Date: September 17, 2024
Subject: Ord. No. 2024-XX – Amending Section 2.40 – Table of Permitted Uses in the Land Use and Development Code to include farmers markets as a major special exception use in the Public-Institutional zoning district

MEETING DATE: September 24, 2024

1 **INTRODUCTION**

2 This proposed ordinance has been drafted in response to the Town Council’s directive to amend
3 the Land Use and Development Code (LUDC) to allow farmers markets as a special exception use
4 in the Public Institutional (P-I) zoning district.
5

6 **AUTHORITY AND PROCESS**

7 Pursuant to LUDC Section 6.2.2.A, the Planning Board, “...serves as the local planning agency
8 in accordance with the Community Planning Act (2011) F.S. § 163.3161 et. Seq.” Pursuant to
9 LUDC Section 6.2.2.D. “As the local planning agency, [the Board shall] ... review proposed land
10 development regulations, determine their consistency with the comprehensive plan, and make
11 recommendations to the town council as to whether the regulations should be adopted.”
12

13 Following the Board’s recommendation, the Town Council will review the ordinance. If approved
14 on 1st reading at a public hearing, the amendment will then be scheduled for a 2nd reading at a
15 public hearing for adoption.
16

17 **BACKGROUND**

18 Town staff received a written request from the Ponce Inlet Community Center Board of Trustees
19 requesting that farmers markets be added as a permitted or special exception use in the P-I zoning

20 district. Code amendments are initiated in one of three ways: 1) sponsored or directed by a
21 Councilmember; 2) proposed by staff to implement policies in the comprehensive plan or changes
22 to state law; or 3) through a paid application from a member of the public.

23
24 At the June 4, 2024 Special meeting with Planning Board and Town Council, the Town Council
25 directed staff to move forward with amending the LUDC to allow farmer’s markets as a permitted
26 special exception use in the Public-Institutional (P-I) zoning district.

27
28 **DISCUSSION**
29 Farmers markets are a temporary or occasional outdoor retail sale of farm produce or seafood,
30 typically located within a parking lot or approved location in a public right-of-way closed to
31 vehicular traffic (LUDC Section 3.20.1.A). Farmers markets are only permitted by right in the
32 PWD zoning district and allowed as a minor special exception use in the B-1, B-2, and PUD zoning
33 districts. In the P-I zoning classification, farmers markets are not a permitted or special exception
34 use, although they may be allowed through a special event permit, limited to 12 times per calendar
35 year.

36
37 According to LUDC Section 6.6.3, “A special exception is a use that would not be appropriate
38 without restriction, but which, if controlled as to number, area, location or relation to the
39 surrounding area, would promote the public health, safety and general welfare. These uses require
40 more comprehensive review, and by their nature may necessitate specific conditions to mitigate
41 any potential adverse impacts. Such uses may be permitted in a zoning district as a special
42 exception only if identified as such in this code.” The Planning Board serves as the decision-
43 making authority for minor special exceptions (LUDC Section 6.4), while major special exceptions
44 require a recommendation from the Planning Board and approval by the Town Council.

45
46 The request to add farmers markets as a special exception use to the P-I zoning district would
47 provide additional locations for farmers markets to serve the local population. Sixteen properties
48 within the Town limits are zoned Public-Institutional. Those properties include Town-owned
49 facilities and parks, County-owned facilities and parks, and private scientific facilities.

50
51 The Ponce Inlet Community Center Board of Trustees is in support of allowing a local farmers
52 market to operate at the Community Center. Based on the safety, convenience and unique location,
53 the Board has requested that farmers markets be added as a special exception use in the P-I zoning
54 district in the LUDC, Section 2.40 Table of Permitted Uses. The Ponce Inlet Community Center
55 is owned by the Town and is zoned P-I.

56
57 The proposed amendment will add a major special exception notation, “S^{MJ}[10]”, in the P-I zoning
58 column in Section 2.40. of Table 2-5 (Table of Permitted Uses) under the section of the table titled
59 “COMMUNITY FACILITIES AND PUBLIC ASSEMBLY”. Footnote [10] is included in the
60 “S^{MJ}” notation and is located on the last row of Table 2-5 to identify P-I zoned properties excluded
61 from the major special exception.

62 The six (6) P-I zoned properties proposed to be included as a major special exception are: Ponce
63 Inlet Community Center, Ponce Inlet Fire Rescue, Timothy Pollard Memorial Park, Pacetti Hotel
64 Museum, Ponce de Leon Lighthouse and Museum, Kay and Ayres Davies Lighthouse Park.
65

66 The ten (10) P-I zoned properties proposed to be excluded from a major special exception are:
67 Ponce Preserve, Timucuan Oaks Garden, Winter Haven Park, Public Works Facility, Ponce Inlet
68 Historic Museum, Batelle Institute properties (S. Atlantic & Sailfish Drive), Jesse Linzy Boat
69 Ramp, Marine Science Center, and Lighthouse Point Park.
70

71 **Comprehensive Plan**

72 Staff reviewed the policies of the Comprehensive Plan and found the Ordinance will maintain
73 consistency with the Town’s desired vision and direction. The Future Land Use Element of the
74 Comprehensive plan classifies the P-I land use category as land used for quasi-public and private
75 activities or facilities which will serve the public interest in an educational, recreational, or
76 scientific context.
77

78 **Recommendation**

79 Staff recommends Ordinance No. 2024-xx, amending Section 2.40 Table of Permitted Uses to
80 include farmers markets as a major special exception use in the P-I zoning district excluding ten
81 of the sixteen P-I zoned properties.
82

83 Attachments

- 84 1. Ponce Inlet Community Center Board of Trustees Letter
85 2. Special meeting with Planning Board & Town Council minutes
86

ATTACHMENT I
PONCE INLET COMMUNITY CENTER LETTER



Ponce Inlet Community Center
4670 S. Peninsula Drive
Ponce Inlet, FL 32127

Mr. Darren Lear,

Recently our Board of Trustees were unanimous in support of allowing the local Farmers Market to operate at the North end of the parking area at the Community Center. We feel that this location provides the safety and convenience that would add significant value to the vendors and those enjoying the market.

In looking at our ability to have the market on the property we found that, per the current zoning, we are classified a PUBLIC/INSTITUTIONAL property. Based-on Table 2-5, TABLE OF PERMITTED USES we are precluded from having a Farmers Market on the property, as listed under the COMMUNITY FACILITIES AND PUBLIC ASSEMBLY section – even as a minor or major special exception.

Given the importance to the residents of Ponce Inlet of continuing to have a Farmers Market here in the Town and the unique location we provide, we are requesting that the COMMUNITY AND PUBLIC ASSEMBLY section be changed to - under the 'P/I' column - to either: P, S_{MIN} or S_{ML}. This will allow the Community Center to move forward with soliciting the Town to be a permanent 'home' for the Farmers Market at the Community Center – the center of community activities.

As the Farmers Market has lost their ability to operate at their current location, we ask that this reclassification of the abilities of a PUBLIC/INSTITUTIONAL entity is expedited.

Respectfully submitted,

A handwritten signature in black ink that reads "Kimberly Canny". The signature is written in a cursive, flowing style.

Kimberly Canny

President, Ponce Inlet Community Center.

ATTACHMENT II
SPECIAL MEETING MINUTES



Town of Ponce Inlet
TOWN COUNCIL
SPECIAL JOINT MEETING MINUTES
WITH PLANNING BOARD

4

TUESDAY

TOWN COUNCIL CHAMBERS

JUNE 4, 2024 at 10:00 AM

4300 S. ATLANTIC AVENUE, PONCE INLET, FL

1. **CALL TO ORDER.** Pursuant to proper notice, Mayor Paritsky 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 Paritsky led the Pledge of Allegiance.

3. **ROLL CALL OF TOWN COUNCIL.**

Mayor Paritsky, Seat #1

Councilmember Milano, Seat #2

Councilmember White, Seat #3

Councilmember Villanella, Seat #4

Vice-Mayor Smith, Seat #5

ROLL CALL OF PLANNING BOARD.

Mr. Oebbecke, Seat #1

Mr. Kaszuba, Seat #2; Chair

Mr. Burge, Seat #3

Mr. Cannon, Seat #4 - Absent

Mr. Carney, Seat #5; Vice Chair - Absent

Mr. Revak, Alternate #1

Mr. Young, Alternate #2

Staff Members Present:

Mr. Baker, Chief Building Official

Ms. Cherbano, Town Clerk

Mr. Disher, Town Manager

Ms. Gjessing, Assistant Deputy Clerk

Chief Glazier, Police Chief

Mr. Griffith, Public Works Director

Mr. Okum, IT Director

Ms. Pierce, Planning & Development Office Manager

Ms. Rippey, Principal Planner

Chief Scales, Public Safety Director

Ms. Stewart, Assistant Deputy Clerk

4. **ADDITIONS, CORRECTIONS OR DELETIONS TO THE AGENDA.**

Mayor Paritsky moved to approve the agenda as presented; seconded by Councilmember Villanella: The motion PASSED 5-0, consensus.

47 **5. REVIEW AND APPROVAL OF WATERSHED MASTER PLAN TO MEET THE**
48 **STATUTORY REQUIREMENTS FOR CRS ACTIVITY 450 – STORMWATER**
49 **MANAGEMENT.** – Mr. Disher reviewed the history of this project, noting that it began with a Florida
50 Department of Environmental Protection (FDEP) grant application in 2020; it then was shifted into the
51 Resilient Florida Program in 2022 when that program was created. The Town hired a consultant at the
52 beginning of 2023 and has been working with them since then to prepare the Watershed Master Plan for
53 the Board and Council’s review and approval today; it is due to the state by the end of the month per the
54 term of the grant. Ms. Rippey explained the Watershed Master Plan analyzes the combined impacts on
55 the Town’s drainage system from existing and expected development; various long rainfall events, such
56 as the 100-year storm; tidal flooding and projected sea level rise. Based on these projections, the
57 Watershed Master Plan also provides policy recommendations for future decision making; it will also
58 allow the Town to improve its community rating system (CRS) rating which will eventually lower
59 insurance costs for our residents. Ms. Rippey introduced Ms. Elizabeth Perez and Mr. Joel Jordan,
60 Collective Water Resources, LLC (CWR), to give the presentation on the Watershed Master Plan.

61
62 Ms. Perez provided a [Watershed Presentation.pptx](#) and explained the Watershed Master Plan is a
63 thorough assessment of the potential types of flooding that could impact the Town and includes
64 recommendations for future decision-making and mitigation. The Watershed Master Plan is a term
65 coined by FEMA under the CRS program; it is reviewed by national reviewers and assigned credit. A
66 vulnerability assessment was conducted as part of this study that was funded by FDEP under the Resilient
67 Florida Program. She explained that a watershed master plan is a comprehensive decision-making tool
68 to assist communities with stormwater management; it provides an opportunity to enhance relevant
69 datasets, address climate vulnerability, and update stormwater modeling to current standards. The plan
70 looks at both existing and future conditions; FEMA asks that we look out to the year 2100. The
71 consultants reviewed the impact of sea level rise and climate change; wetlands; applicable codes and
72 regulations; and mitigation of potential impacts. Ms. Perez noted that the plan is not a comprehensive
73 capital improvement plan, adaptation plan, or a detailed funding plan. She noted that currently, the Town
74 is a Class 5 within the CRS program; this plan is essential to move to a higher rating which could result
75 in residents receiving a lower insurance premium. She explained the CRS program and how the rating
76 system provides incentives for communities that adopt and enforce flood management practices. Ms.
77 Perez explained the vulnerability assessment and the three steps required under the Resilient Florida
78 program for assessments of this type: conduct an exposure analysis; conduct a sensitivity analysis; and
79 assign focus areas. She provided general definitions of terms used within the Watershed Master Plan
80 including community assets, vulnerability and risk, and other related terms.

81
82 Mr. Jordan continued the presentation with the hydrology and hydraulics overview; he explained that
83 hydrology looks at how much runoff will be generated from a rainfall event, while hydraulics is how
84 that runoff gets moved from wherever it collects. The topography, land use and land cover, soils, and
85 climate and rainfall were reviewed for current and future conditions. He explained the hydraulics
86 overview and provided a digital map. Ms. Perez resumed the presentation and stated that for the
87 vulnerability assessment, the State of Florida requires you to look at critical and regionally significant
88 assets. The first step is the exposure analysis which included flooding threats: tidal, storm surge, rainfall-
89 induced, and compound; the time horizons up to the year 2100; and sea level rise projections. She
90 reviewed the exposure analysis results from year 2023 to year 2100; and she provided digital maps for
91 the results for rainfall-induced flooding, Category 2 storm surge flooding, and compound flooding. She
92 reviewed the analysis results for the percentage of buildings exposed to flooding and the percentage of
93 property assets exposed to flooding by flood type and scenario; she noted that this analysis will make

94 the Town compliant with Resilient Florida requirements. She also reviewed the roadway assets and the
95 table showing the percentage of assets exposed to potential future flooding. Councilmember White
96 referred to the buildings and properties assets and asked if a property had a building on it, would it not
97 be an asset? Ms. Perez explained that for planning purposes, they look at properties; she noted that Mr.
98 Jordan will explain more on the focus areas. Mr. Revak asked for clarification on the meaning of the
99 total number of assets; the Town has more than the 65 buildings shown on the table. Ms. Perez explained
100 that is as prescribed by the state of Florida; they specifically state what counts as a building. She
101 continued the presentation and reviewed the sensitivity analysis results.
102

103 Mr. Jordan reviewed the eight focus areas; they were analyzed using future land use changes and known
104 flooding complaints. The analyzed areas were: Old Carriage Road and Anchor Drive area; Calumet
105 Avenue; Michael Lane (Oceanside Village Subdivision); Las Olas Subdivision; Bay Harbour Drive to
106 Beach Street; South Atlantic Avenue; and the Riverfront area. He reviewed each focus area individually
107 and the proposed improvements for each. Councilmember Milano stated that years ago, the two
108 developments at Old Carriage and Anchor Drive had trouble with the silt in the canal not draining; he
109 asked if the suggestions provided in this report would include the cleaning of those canals. Mr. Jordan
110 explained they did not look at any dredging in the intercoastal waterway; that is a costly process and it
111 is not easy to obtain the needed permits. He continued to review the analysis results and recommended
112 improvements for the focus areas; he noted that the Town contracted with Zev Cohen & Associates to
113 evaluate the current system at Michael Lane (Oceanside Village Subdivision). Councilmember White
114 commented that everything was connected through a series of pipes and ponds in the Bay Harbour area
115 and asked where the water ends up. Mr. Jordan replied there is a 24” outfall pipe at Beach Street that
116 runs to the intercoastal waterway; this is why it takes time for water to drain from yards and roadways
117 after a rain event. This is a complex area; there were seven flood reports from Hurricane Ian from just
118 this focus area. He continued with the presentation; the Bay Harbour area has a combination of
119 alternative improvements recommended to alleviate flooding. He continued with South Atlantic Avenue,
120 and reviewed the evaluated improvements which include swale improvements on both sides of the road,
121 where practical. He noted that any improvements on this roadway would have to be coordinated with
122 Volusia County as the County owns the roadway. Councilmember White asked if Volusia County
123 Council Member Matt Reinhart could be provided with this presentation. Mayor Paritsky agreed that
124 was an excellent idea. Mr. Jordan reviewed the analysis of the Riverfront area and recommended
125 improvements. He noted that this area is subject to both rainfall-induced flooding and tidal flooding. He
126 reviewed the recommended solutions including flap-gates and additional retention capacity.
127 Councilmember Villanella commented that it does not seem that there are enough swales in the Town.
128 Mr. Jordan explained there are some; and swales are encouraged as part of retention areas in the LUDC.
129 Some swales in the town are perfectly adequate for a storm event but in other areas, due to soil conditions,
130 etc., they cannot store the runoff. Retention would need to be combined with other potential
131 improvements.
132

133 Ms. Perez reviewed the recommended adaptation strategies, explaining that FEMA asks that as part of
134 the Watershed Master Plan we document other strategies and mitigation measures. The adaption
135 strategies include 1) regulation strategies (stormwater manual, LUDC); 2) public information (required
136 by FEMA); 3) structural controls (flap-gates, seawalls, etc.); 4) non-structural controls (swales,
137 improved site design, etc.); 5) protection of natural areas; and 6) acquisition of flood-prone properties.
138 She explained these things are included in the plan to optimize the Town’s ability to apply for funding;
139 she reviewed funding examples including the Resilient Florida program. She noted that the Town will
140 qualify for the second Resilient Florida funding grant with this plan. She briefly discussed other funding

141 examples. Mayor Paritsky reminded the Council and Planning Board that this document is a foundation,
142 and that the Town has methodically worked toward a resilient Ponce Inlet. The Town adopted a
143 Resolution that memorializes the importance of resilience and identifying all our issues; whether it is
144 flooding, or sea level rise, and how we are going to mitigate and adapt to the issues. She was recently in
145 Washington D.C. representing Ponce Inlet for the American Flood Coalition when the Watershed Master
146 Plan was completed, and it is a big deal – we are ahead of the curve; we were already ahead of the curve
147 with the vulnerability assessment. This plan is also a diagnostic tool for the Town. Not only will we
148 prioritize the funding opportunities presented in the plan, but we can forward it to Volusia County as
149 Councilmember White suggested; she can also take it to the state legislature for appropriations requests.
150 She pointed out that the Town Manager was the former Planning & Development Director for the Town
151 so there has always been a focus on resiliency in our plans and codes. Mayor Paritsky opened discussion
152 for the Council.
153

154 Councilmember White commented he is trying to understand the ranking; noting that the challenge is
155 going to be how we rank it. He asked if there are any current regulations for the Town to pump
156 stormwater into the river; it will be a challenge if it must be treated before it goes into the river. Ms.
157 Perez explained that Ponce Inlet is in the St. Johns River Water Management District who protects water
158 quality vigilantly; therefore, along with the new stormwater rule, the Town will likely be required to
159 provide pre-treatment. For a large storm event, it may not be possible to treat all the water; there are
160 pump stations in the state that are permitted with nominal treatment but not the St. John's. She added
161 that pump stations must be carefully engineered, and they consume a lot of power. There is no uniform
162 requirement for pretreatment throughout the state currently. However, that will change with the new
163 stormwater rule. Mayor Paritsky asked if the Town has been funded for the adaptation plan. Mr. Disher
164 replied yes; the next step is to put it out for bid. Councilmember Milano referred to the objectives that
165 the Town could start doing right away; one is the storm retention which is at 1"; the recommendation is
166 2.5". The next objective was land acquisition. He suggested the Town Manager and Planning Board
167 review the retention now instead of when it comes up in the ranking; to do some of these smaller things
168 now while we wait for funding to do the big projects. He understands the retention ponds are being
169 dredged and cleaned. The Town has tried to be proactive with resiliency and do some of these things;
170 perhaps we have not communicated that well to the residents. Councilmember White added that the
171 Planning Board has been working on this for two years; the comprehensive plan has been adjusted based
172 off the resiliency program. Mayor Paritsky opened discussion for the Planning Board.
173

174 Mr. Burge asked if the river level is higher than the flap-gate if the outflow will still occur. Mr. Jordan
175 replied yes, and explained how the flap-gate would work. Mr. Burge asked if the flap-gate prevents street
176 litter or dirt from flowing into the river. Mr. Jordan explained devices can be installed that will catch it
177 before it goes into the receiving body of water; however, they must be maintained. There is an option of
178 installing concrete baffle boxes; however, they also must be maintained. Mr. Burge referred to the streets
179 between Peninsula Drive and South Atlantic Avenue that frequently flood, and asked if there is a way to
180 lower the water table so the rainfall would percolate into the ground. Mr. Jordan replied yes, from a
181 technical standpoint, but it would be much more problematic from a permitting standpoint because that
182 is where the natural vegetation has grown expecting the water table to be there. If it is lowered, the root
183 systems may not be able to reach the water table and there would be adverse effects to plants and wildlife.
184 Discussion continued regarding the water table. Planning Board Chair Kaszuba stated it is important for
185 the Town to have a good working relationship with the other jurisdictions, particularly Volusia County
186 and the federal government. He watched the County work on the swales last summer and it seemed
187 inadequate. He hopes this report will get a more serious look at the suggested solutions. He understands

188 some projects have hefty price tags but some smaller projects we could start doing. Mayor Paritsky
189 agreed. Mr. Oebbecke commented that we need to get this information to our citizens; we need the
190 committees such as the Land Acquisition Committee, etc., to get the citizens involved so they feel they
191 are part of the solution.

192
193 Mayor Paritsky opened public comment. Barbara Davis, 4871 Sailfish Drive, thanked the Council for
194 recognizing that we need to be proactive. It flooded in 2004; we had a rain event in 2009; we did a
195 resiliency report; in 2022 everything flooded during a tropical storm. She has been beating her drum for
196 16 years about the 1” retention; she explained why that needs to be changed. She mentioned several
197 properties where the structures are being lifted instead of the lot being filled and why more properties
198 should be allowed to do that. She referred to swales and stated there is a 75-foot right-of-way on Sailfish
199 Drive that is supposed to be protected by resolution; however, people are putting sod on it and clearing
200 it out. We need to legislate on the 1” retention and swales; and land acquisition. The Town bought a
201 parcel on Sailfish Dr. and sold it for the same price instead of installing retention. The Land Acquisition
202 Committee was disbanded so we cannot look for more retention areas. She referred to the Las Olas
203 information provided and asked what will happen there; sewer water is in the water there when it floods.
204 Until Mr. Griffith came to work here, we did not have a flap-gate on the river; water was backing up
205 through the storm gates onto Sailfish Drive. We need more retention. The focus area recommended low-
206 impact development; we need legislation to stop people from filling and not putting in adequate plants
207 to absorb the water. Improve site design. We have the right-of-way where we could install swales,
208 particularly in the flood zones on Sailfish Drive. The north end of the right-of-way is 30 or 40 feet wide
209 and 75 feet on the south end – swales could be installed all the way down in the flood area and increase
210 retention. Let’s get proactive; let’s take this list and get started; let’s legislate and get the 2.5” retention
211 at least. Councilmember Milano agreed and referred to the slide depicting swales, noting their location.
212 He provided the history of the 1” retention and how he tried to get it increased. He explained he had to
213 go through the county’s road and bridge department to have a swale installed near his property. They
214 provided the dirt and built a mound to help direct water to the south to the stormwater drain. Mayor
215 Paritsky closed public comment. Mayor Paritsky provided instructions to the Planning Board on what
216 the motion should be: to recommend approval of the Watershed Master Plan; suggest modifications as
217 part of the approval; or recommend rejection of the plan. Mayor Paritsky opened discussion to the
218 Planning Board; there was no discussion.

219
220 Mr. Young moved to recommend approval of the Watershed Master Plan as presented; seconded by Mr.
221 Burge; The motion PASSED 5-0, with the following vote: Mr. Young – yes; Mr. Burge – yes – Mr.
222 Oebbecke – yes; Mr. Kaszuba – yes; Mr. Revak - yes.

223
224 Councilmember White moved to adopt the Watershed Master Plan to meet the requirements for CRS
225 Activity 450 Stormwater Management as presented; seconded by Councilmember Villanella; The motion
226 PASSED 5-0, following vote: Councilmember White – yes; Councilmember Villanella – yes; Mayor
227 Paritsky – yes; Councilmember Milano – yes; Vice-Mayor Smith - yes.

228
229 Councilmember Milano referred to the “near term recommendations” listed on page 57 and asked if we
230 could start on those items now; hopefully the Town can submit for a grant for other items. Mr. Disher
231 explained this will be entered into a list and sorted by area, priority, and timeframe. Councilmember
232 Milano suggested sending a letter to residents that this plan is available for them to review. Mr. Disher
233 explained notice was provided regarding today’s meeting. Mayor Paritsky reiterated that the public is
234 noticed; she explained staff will create an outline that will prioritize everything. Mr. Disher explained

235 that Hurricane Ian was a wake-up call; that is when we began cleaning the stormwater pipes which was
236 recently concluded; that had never been done before. Staff is currently designing two pond excavations,
237 and stormwater flaps on a couple of roads are being installed. We are in the process of securing \$10.4
238 million to complete the septic-to-sewer project. We are being proactive and moving forward as best we
239 can. He referred to the 2.5” recommended retention and explained that number was not arbitrarily picked;
240 this was an incredible study with specific recommendations for us. It is a computerized model of the
241 entire Town’s watershed and drainage pattern and considers the groundwater table. These recommended
242 projects are eligible for future grant funding through the Resilient Florida Program with up to 50%
243 construction funding for some. Mr. Disher announced the Town has received grant funding for the
244 adaptation plan which is the next step in these efforts; we are doing a combination of planning and
245 construction to address these issues. He also added that lots that may have had stormwater drainage
246 retention when they were first developed may have since filled in; each property must retain the first
247 inch of rainfall that comes off the roof during a storm. Over time, and as properties change hands, these
248 drainage areas have been filled in. That is another aspect that could be addressed if homeowners are
249 unaware of what those holes in their yards are for. Mayor Paritsky thanked Ms. Perez and Mr. Jordan
250 for being here today and requested a copy of the PowerPoint be provided to Council. Mr. Disher asked
251 that it be provided to the Planning Board and posted on the Town’s website.

252
253 **Mayor Paritsky adjourned the meeting at 12:19 pm for lunch**
254 **Mayor Paritsky reconvened the meeting at 12:50 p.m.**
255

256 **6. REQUEST FOR DIRECTION ON AMENDING THE LAND USE & DEVELOPMENT**
257 **CODE TO ALLOW FARMER’S MARKETS AS A PERMITTED SPECIAL EXCEPTION USE**
258 **IN THE PUBLIC INSTITUTION (P-I) ZONING DISTRICT.** – Ms. Rippey explained staff is
259 requesting direction from the Council on amending the LUDC to allow farmer’s markets as a permitted
260 special use in the public institutional (P-I) zoning district, as Town staff received a written request from
261 the Ponce Inlet Community Center Board requesting it. Code amendments are initiated in one of three
262 ways: 1) sponsored or directed by a Councilmember; 2) proposed by staff to implement policies in the
263 comprehensive plan or changes to state law; or 3) through an application with a fee payment. Barring
264 these, staff can only devote time to such requests after other Council-directed goals and tasks have been
265 completed. Farmers markets are a temporary or occasional outdoor retail sale of farm produce or seafood;
266 typically located within a parking lot or approved location in a public right-of-way closed to vehicular
267 traffic. Farmers markets are only permitted by right in the PUD and PWD zoning districts and are also
268 allowed as a minor special exception in the B-1 and B-2 commercial zoning districts. The request to add
269 farmers markets as a special exception use to the P-I zoning district would provide additional locations
270 for farmers markets to serve the local population. In the P-I zoning classification, farmers markets are
271 only allowed through a special event permit, limited to 12 times per calendar year. Mayor Paritsky asked
272 for clarification that if this P-I zoning was amended, it would be applicable to any area zoned P-I. Ms.
273 Rippey answered yes. Mayor Paritsky asked if the special event permit applications are submitted
274 through the Cultural Services Department. Mr. Disher replied yes. Mayor Paritsky stated that if Council
275 agrees to this amendment for the community center, the impact would be that every P-I zoned area would
276 have the right to do this. Ms. Rippey answered yes. Mayor Paritsky stated the consequence of approving
277 this is bigger than just for the community center. She asked if there was a way the community center
278 could have a farmers market every Sunday without this sweeping change; she asked if there was anything
279 in the code would allow that to happen.
280

281 Ms. Rippey explained she did not find anything in her research that would allow it without amending
282 the zoning district and land use. Mr. Disher agreed and added that he has not had an opportunity to
283 research if it could be allowed to occur inside the building. Mayor Paritsky commented that would be
284 like renting the community center; they could also use the kitchen as she knows some of the vendors
285 cook. Vice-Mayor Smith asked what the difference is between the food trucks there on that site
286 periodically and a farmer's market. Mr. Disher explained the food trucks are through a special event
287 permit, so it is limited to 12 times per year. Vice-Mayor Smith asked if there could be multiple special
288 event permits. Discussion ensued regarding special event permits; the limitations of special events; the
289 food trucks; and farmers market. Councilmember White noted that the responses he has received from
290 residents is that they want to see a farmers market at the community center; and they feel very strongly
291 about the location. He asked if there is a way to have the farmers market at the community center on a
292 permanent day. Mayor Paritsky asked if his opinion would change if the consequence would then permit
293 farmers markets in similarly zoned districts. Councilmember White explained no, if the vendors follow
294 the permits and supply the documentation, whether it is at PICCI or another location, it is an added
295 advantage for the residents of Ponce Inlet regardless of what a P-I property holds; it needs to benefit the
296 residents. Vice-Mayor Smith asked if the farmers market would interfere with the church that is held at
297 PICCI on Sunday morning. Councilmember Milano stated he supports the farmers market, but the church
298 is a concern. He noted that PICCI has insurance, but if it opens it up to other locations, such as the
299 museum, it puts the liability on the Town. Mr. Oebbecke explained he spoke to the pastor of the church
300 about the possibility of having the farmers market at the community center; he is fine with it with one
301 condition; that people attending the farmers market do not enter the community center. The external
302 doors to the restrooms will be available to farmers market attendees but everything else will be restricted.
303 Signs will be posted that church is in service. The pastor is there from 9:30 am to noon; church service
304 starts at 10:30 am. The community center is requesting this be allowed as a special exception use; if
305 another request is submitted for a Public-Institutional property, the Town could always deny it if it
306 deemed not appropriate. He explained this would be a farmer's market; it will not be extended to include
307 crafts or things not directly related to food stuffs. Mayor Paritsky asked if that would include food that
308 is cooked on-site. Mr. Oebbecke replied yes, it would. Mayor Paritsky asked if this request was made at
309 the Board of Directors of PICCI. Mr. Oebbecke answered yes, and it was a unanimous vote.

310
311 Councilmember White asked what the process is to request a special exception. Mr. Disher explained
312 that currently, someone would submit an application that is reviewed by staff; then it is reviewed by the
313 Planning Board for approval. If the Council wants to review applications for Town-owned property, then
314 it would be considered a major special exception, which is reviewed by the Planning Board for a
315 recommendation, then by the Council for final approval. Mayor Paritsky asked what Town-owned
316 property is not zoned Public-Institutional? Mr. Disher explained only the Green Mound and Lighthouse
317 Point Park. Discussion continued; other locations were suggested and discussed. Councilmember
318 Villanella stated he would like the farmers market at PICCI; however, he understands the legal concerns
319 that we cannot say the special permit is only for PICCI. Councilmember White reiterated the number of
320 residents that have voiced their opinion to hold the farmers market at PICCI, he feels we must move
321 forward with this. Councilmember Milano and Vice-Mayor Smith agreed.

322
323 Mayor Paritsky provided staff direction to move forward with the farmers market at the Ponce Inlet
324 Community Center.

325

326 **7. DISCUSSION – AMENDING THE PLANNING BOARD BY-LAWS TO CHANGE THE**
327 **MEETING TIME TO 2:00 P.M. AND SPECIFYING THE TIMING OF AGENDA PACKET**
328 **DELIVERY.**


329
330 Mayor Paritsky asked the Planning Board members to explain what they are asking for. Planning Board
331 Chair Kaszuba explained that some of the Planning Board meetings are held at 10:00 am and others are
332 at 5:30 pm, depending on whether it was a quasi-judicial hearing. Some Planning Board members wanted
333 a better idea of how much of their day would be consumed with a meeting for better planning purposes
334 for their schedules. Mayor Paritsky asked for clarification that the new proposed meeting start time is
335 2:00 pm. Chair Kaszuba answered yes. Mr. Burge explained it was presented by a member for personal
336 reasons; personally, he is happy with 10:00 am.

337
338 Mr. Oebbecke moved to change the Planning Board meeting time to 2:00 pm for non-quasi-judicial
339 items; seconded by Mr. Revak; The motion PASSED 4-1, with the following vote: Mr. Oebbecke – yes;
340 Mr. Revak – yes; Mr. Kaszuba – yes; Mr. Burge – no; Mr. Young - yes.

341
342 Mayor Paritsky stated the Planning Board bylaws will be brought to the Town Council for approval. She
343 stated the next part of this item is specifying the timing of the agenda packet delivery; she explained the
344 Planning Board packet is provided in the same timeframe and manner as for the Council and other
345 Boards; one week in advance. She asked the reason for this request. Chair Kaszuba referred to the Sailfish
346 Marina project and explained that Planning Board members had less than a week to review it. They are
347 looking for more time to review the material; ensuring it is a week would be a step in the right direction.
348 Mr. Young commented Board members heard that Sailfish marina had been in the process for two years,
349 yet only received the packet a week in advance. He understands the quasi-judicial nature of that particular
350 application and that the Board's role is to hear the case and decide it; however, when it is something so
351 controversial, it would be helpful to have the information more in advance. Mayor Paritsky asked if they
352 separated out that project (Sailfish Marina), if they were comfortable with the process as it stands today.
353 Mr. Young answered yes. Mayor Paritsky explained there is one week in advance for Council and Boards
354 because there is an internal process of dates; when staff works on something, it is reviewed by the Town
355 Manager, etc. Planning Board materials are labor intensive and there is a lot to read; there are facts that
356 must be applied to ordinances, etc. She suggested that if Board members feel ill-prepared on an item,
357 they make a motion to table it for a month. She referred to Sailfish and reminded members that even if
358 they hear of something for two years, they cannot discuss before the hearing it if it is quasi-judicial.
359 Discussion continued regarding the timing of agenda packet delivery and consensus was reached to leave
360 it as-is. Mr. Disher added that staff is always available to answer questions or explain anything if needed;
361 and staff can provide updates on projects that are not quasi-judicial. Mayor Paritsky asked if anything
362 like Sailfish Marina is coming, to inform the Planning Board and Council it is coming.

364 **8. ADJOURNMENT.** — Mayor Paritsky adjourned the meeting at 1:43 P.M.

365
366 Respectfully submitted by:

367 
368 _____
369 Kim Cherbano, CMC, Town Clerk
370 Prepared by: Debbie Stewart, Assistant Deputy Clerk

371
372 Attachment(s): None



ORDINANCE NO. 2024-XX

AN ORDINANCE OF THE TOWN OF PONCE INLET, FLORIDA, AMENDING THE LAND USE AND DEVELOPMENT CODE, ARTICLE 2 “ZONING DISTRICTS”, SECTION 2.40.1 “INTERPRETATON OF USES AND STRUCTURES PERMITTED”, TABLE 2-5, “TABLE OF PERMITTED USES”; ADDING FARMERS MARKETS AS A MAJOR SPECIAL EXCEPTION USE TO THE PUBLIC-INSTITUTIONAL ZONING DISTRICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article 2 of the Ponce Inlet Land Use and Development Code (LUDC) establishes regulations for zoning districts and permitted uses by zoning district; and

WHEREAS, Section 2.40 provides a table of permitted uses and special exception uses; and

WHEREAS, the Ponce Inlet Community Center Board of Trustees has requested in writing that farmers markets be added as a special exception use in the Public-Institutional zoning district; and

WHEREAS, the Town Council has directed staff to amend the LUDC to allow farmers markets as a special exception use in the Public-Institutional zoning district; and

WHEREAS, the Planning Board, in its capacity as the Local Planning Agency, has determined that this Ordinance is consistent with the Comprehensive Plan and has recommended approval of this Ordinance to the Town Council; and

WHEREAS, the Town Council affirms that this Ordinance is consistent with the Comprehensive Plan and is in the best interest of the public welfare of the Town; and

WHEREAS, the Town has complied with all requirements and procedures of the LUDC and Florida law in processing, noticing, and advertising this Ordinance; and

WHEREAS, this Ordinance is enacted under the general home rule and police powers of the Town of Ponce Inlet.

NOW, THEREFORE, BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF PONCE INLET, FLORIDA:

NOTE: Underlined words constitute additions to the Town of Ponce Inlet Land Use Development Code (LUDC) as amended by Ordinance 2024-XX, strikethrough constitutes deletions, and asterisks (***) indicate an omission from the existing text of said LUDC as

47 amended which is intended to remain unchanged.

48
49 **SECTION 1. Recitals.** The foregoing recitals are hereby ratified and confirmed as being
50 true and correct and are hereby made a part of this Ordinance.

51
52 **SECTION 2. Incorporation of Amendments.** The proposed amendments to **Article 2,**
53 **Section 2.40** of the Land Use and Development Code are attached to this Ordinance as Exhibit
54 "A" and are hereby incorporated into the text of this Ordinance as though fully set forth herein
55 verbatim as amendments to the Land Use and Development Code.

56
57 **SECTION 3. Codification.** It is the intent of the Town Council of the Town of Ponce Inlet
58 that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal
59 authority in codifying the provisions of this Ordinance.

60
61 **SECTION 4. Severability.** If any section, subsection, sentence, clause, phrase, word, or
62 provision of this Ordinance is for any reason held invalid or unconstitutional by any court of
63 competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall
64 be deemed a separate, distinct, and independent provision, and such holding shall not affect the
65 validity of the remaining portions of this Ordinance.

66
67 **SECTION 5. Conflicts.** In any case where a provision of this Ordinance is found to be in
68 conflict with a provision of any other ordinance of this Town, this Ordinance shall prevail.

69
70 **SECTION 6. Effective date.** This Ordinance shall become effective immediately upon
71 adoption by the Town Council of the Town of Ponce Inlet, Florida.

72
73 It was moved by _____ and seconded by _____ that said Ordinance
74 be passed on first reading. A roll call vote of the Town Council on said motion resulted as follows:

- 75
- 76 Mayor Paritsky, Seat #1 _____
- 77 Councilmember Milano, Seat #2 _____
- 78 Councilmember White, Seat #3 _____
- 79 Councilmember Villanella, Seat #4 _____
- 80 Vice-Mayor Smith, Seat #5 _____

81
82 Approved on first reading this ___ day of _____ 2024.

83
84 It was moved by _____ and seconded by _____ that said Ordinance
85 be passed on second reading. A roll call vote of the Town Council on said motion resulted as
86 follows:

- 87
- 88 Mayor Paritsky, Seat #1 _____
- 89 Councilmember Milano, Seat #2 _____

90 Councilmember White, Seat #3 _____

91 Councilmember Villanella, Seat #4 _____

92 Vice-Mayor Smith, Seat #5 _____

93
94 Approved and adopted on second reading this ____day of _____ 2024.

95
96 Town of Ponce Inlet, Florida:

97
98

99
100 _____
Lois A. Paritsky, Mayor

101 ATTEST:

102
103

104 _____
105 Kim Cherbano, CMC
106 Town Clerk

EXHIBIT “A”

ARTICLE 2 – ZONING DISTRICTS

SECTION 2.40 TABLE OF PERMITTED USES

2.40.1 Interpretation of uses and structures permitted.

A use or structure that is not expressly permitted in a zoning district is prohibited.

Table 2-5, Table of Permitted Uses

USE MATRIX			
P	=	Permitted use	
S ^{MN}	=	Use requires minor special exception approval by planning board.	
S ^{MJ}	=	Use requires major special exception approval by town council.	See section 6.6.3, for Permitting Process

Use	Residential					Commercial			Public and Open Space		Use Regulations	
	R-1	R-2	R-3	MF-1	MF-2	B-1	B-2	PWD	P/I	C		PUD

COMMUNITY FACILITIES AND PUBLIC ASSEMBLY												

	Farmers Market					S ^{MN}	S ^{MN}	P	S ^{MJ} [10]		S ^{MN}	Section 3.20

<p>[10] Excludes Ponce Preserve, Timucuan Oaks Garden, Winter Haven Park, Public Works Facility, Ponce Inlet Historic Museum, Batelle Institute properties, Jesse Linzy Boat Ramp, Marine Science Center, and Lighthouse Point Park.</p>												



Meeting Date: September 24, 2024

Agenda Item: 8-B

Report to Planning Board

Topic: Ordinance 2024-##, Amending Articles 3, 8, and 9 of the LUDC to substitute references of the Code Enforcement Board with Special Magistrate

Summary: See staff report for additional information.

For Discussion & Board Comment

Or – Proposed Motion:

To find that proposed Ordinance 2024-XX, Ordinance 2024-##, amending Articles 3, 8, and 9 of the LUDC to substitute references of the Code Enforcement Board with Special Magistrate is consistent with the Comprehensive Plan, and to forward to the Town Council with a recommendation of approval.

Requested by: Mr. Lear, Planning & Development Director

Approved by: Mr. Disher, Town Manager



MEMORANDUM

TOWN OF PONCE INLET, PLANNING AND DEVELOPMENT DEPARTMENT

The Town of Ponce Inlet staff shall be professional, caring, and fair in delivering community excellence while ensuring Ponce Inlet residents obtain the greatest value for their tax dollar.

To: Planning Board

From: Darren Lear, AICP, Planning & Development Director

Date: September 17, 2024

Subject: Ord. No. 2024-XX – Amending Articles 3, 8, and 9 of the Land Use and Development Code to substitute references of the Code Enforcement Board with Special Magistrate.

MEETING DATE: September 24, 2024

1 **INTRODUCTION**

2 This proposed ordinance has been developed to implement the Town Council's directive to shift
3 from a code enforcement process utilizing an appointed volunteer board to a special magistrate
4 enforcement process. The amendment changes these references found throughout the Land Use
5 and Development Code (LUDC) pertaining to enforcement of land development regulations.
6

7 **AUTHORITY AND PROCESS**

8 Chapter 162, Florida Statutes, as amended, authorizes the use of a Special Magistrate to enforce
9 the City's codes and ordinances, *“A charter county, a noncharter county, or a municipality may,
10 by ordinance, adopt an alternate code enforcement system that gives code enforcement boards or
11 special magistrates designated by the local governing body, or both, the authority to hold hearings
12 and assess fines against violators of the respective county or municipal codes and ordinances. A
13 special magistrate shall have the same status as an enforcement board under this chapter...”*
14

15 Amendments to land development regulations require review and recommendation by the Planning
16 Board, serving as the Local Planning Agency pursuant to the Community Planning Act F.S. §
17 163.3161 and LUDC Sec. 6.2.2.D.1. Following the Board’s recommendation, the Town Council
18 will review the ordinance. If it is approved on the first reading during a public hearing, the
19 amendment will be scheduled for a second reading and adoption at a subsequent public hearing..
20 Changes to the code enforcement process itself will be addressed in a separate ordinance
21 amendment to the Code of Ordinances. Both ordinances related to this enforcement transition will
22 be presented to the Town Council together.
23

24 **BACKGROUND**

25 A recent survey conducted by Town staff in June 2024 examined the approaches of 16 Volusia
26 County agencies for prosecuting code cases. The survey revealed that the Town of Ponce Inlet is
27 the only municipality that exclusively uses a Code Enforcement Board rather than a special
28 magistrate or combination of the two. At the Town Council meeting on July 18, 2024, the Council
29 directed staff to proceed with transitioning from a code enforcement process utilizing an appointed
30 volunteer board to a Special Magistrate enforcement process.

31
32 **DISCUSSION**

33 In the early 1980s, Palm Beach County and the City of West Palm Beach proposed legislation to
34 expedite the resolution of municipal code violations, which were often delayed due to the heavy
35 caseloads of municipal judges. This initiative led to the creation of Florida Statute Chapter 162,
36 which outlines the code enforcement process for municipalities in Florida.

37 In the early 2000s, further reforms were introduced to streamline the process by incorporating
38 the role of a hearing officer, commonly referred to as a special magistrate, into the statute. Over
39 the past two decades, a growing number of agencies have transitioned from traditional code
40 boards to using these special magistrates to handle code enforcement matters.

41 The special magistrate was introduced to address several concerns associated with the traditional
42 Code Enforcement Board process, including:

- 43 • *Lack of Volunteers*: Difficulty in recruiting and maintaining sufficient board members.
- 44 • *Attendance Requirements*: Challenges in meeting attendance requirements for board
45 members.
- 46 • *Expertise Gaps*: Insufficient expertise in specific subject areas relevant to code violations.
- 47 • *Property Visits*: Board members visiting violating properties and engaging with property
48 owners prior to hearings.
- 49 • *Post-Violation Assistance*: Board members personally assisting violators in correcting
50 issues after violations were identified.
- 51 • *Ex-Parte Communications*: Failure to properly identify and manage ex-parte
52 communications.
- 53 • *Sunshine Law Violations*: Issues with compliance with Sunshine Law regulations.

54 The proposed amendments substitute references to the Code Enforcement Board with a Special
55 Magistrate in LUCD Article 3 “Use Regulations,” Article 8 “Enforcement,” and Article 9
56 “Definitions and Rules of Interpretation.”

57
58 **Comprehensive Plan**

59 Staff reviewed the policies of the Comprehensive Plan and found the proposed amendments will
60 not conflict with any goal, objective, or policy, and will maintain consistency with the Town’s
61 desired vision and direction.

62
63 **Recommendation**

64 Staff recommends Ordinance No. 2024-xx, amending Articles 3, 8, and 9 of the LUDC to
65 substitute references of the Code Enforcement Board with Special Magistrate.

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ORDINANCE NO. 2024-XX

AN ORDINANCE OF THE TOWN OF PONCE INLET, FLORIDA, AMENDING THE LAND USE AND DEVELOPMENT CODE, ARTICLE 3 “USE REGULATIONS”, ARTICLE 8 “ENFORCEMENT” AND ARTICLE 9 “DEFINITIONS AND RULES OF INTERPRETATION” TO REPLACE REFERENCES TO THE "CODE ENFORCEMENT BOARD" WITH "SPECIAL MAGISTRATE"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

13 **WHEREAS**, Articles 3, 8 and 9 of the Ponce Inlet Land Use and Development Code
14 (LUDC) define the code enforcement board and certain enforcement functions granted to them;
15 and

16 **WHEREAS**, Chapter 162, Florida Statutes, as amended, authorizes the use of a Special
17 Magistrate to enforce a local government’s codes and ordinances; and

18
19 **WHEREAS**, the Town Council has directed staff to transition from the Code Enforcement
20 Board to a Special Magistrate; and

21
22 **WHEREAS**, before this transition can occur, it is necessary to amend the LUDC to replace
23 all references to the “Code Enforcement Board” with “Special Magistrate”; and

24
25 **WHEREAS**, the Planning Board, in its capacity as the Local Planning Agency, has
26 determined that this Ordinance is consistent with the Comprehensive Plan and has recommended
27 approval of this Ordinance to the Town Council; and

28
29 **WHEREAS**, the Town Council affirms that this Ordinance is consistent with the
30 Comprehensive Plan and is in the best interest of the public welfare of the Town; and

31
32 **WHEREAS**, the Town has complied with all requirements and procedures of the LUDC
33 and Florida law in processing, noticing, and advertising this Ordinance; and

34
35 **WHEREAS**, this Ordinance is enacted under the general home rule and police powers of
36 the Town of Ponce Inlet.

37
38 **NOW, THEREFORE, BE IT ENACTED BY THE TOWN COUNCIL OF THE**
39 **TOWN OF PONCE INLET, FLORIDA:**

40
41 **NOTE:** Underlined words constitute additions to the Town of Ponce Inlet Land Use
42 Development Code (LUDC) as amended by Ordinance 2024-XX, ~~striketrough~~ constitutes
43 deletions, and asterisks (***) indicate an omission from the existing text of said LUDC as
44 amended which is intended to remain unchanged.
45

46 **SECTION 1. Recitals.** The foregoing recitals are hereby ratified and confirmed as being
47 true and correct and are hereby made a part of this Ordinance.
48

49 **SECTION 2. Incorporation of Amendments.** The proposed amendments to **Articles 3,**
50 **8, and 9** of the LUDC are attached to this Ordinance as Exhibit "A" and are hereby incorporated
51 into the text of this Ordinance as though fully set forth herein verbatim as amendments to the
52 LUDC.
53

54 **SECTION 3. Codification.** It is the intent of the Town Council of the Town of Ponce Inlet
55 that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal
56 authority in codifying the provisions of this Ordinance.
57

58 **SECTION 4. Severability.** If any section, subsection, sentence, clause, phrase, word, or
59 provision of this Ordinance is for any reason held invalid or unconstitutional by any court of
60 competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall
61 be deemed a separate, distinct, and independent provision, and such holding shall not affect the
62 validity of the remaining portions of this Ordinance.
63

64 **SECTION 5. Conflicts.** In any case where a provision of this Ordinance is found to be in
65 conflict with a provision of any other ordinance of this Town, this Ordinance shall prevail.
66

67 **SECTION 6. Effective date.** This Ordinance shall become effective immediately upon
68 adoption by the Town Council of the Town of Ponce Inlet, Florida.
69

70 It was moved by _____ and seconded by _____ that said Ordinance
71 be passed on first reading. A roll call vote of the Town Council on said motion resulted as follows:
72

73 Mayor Paritsky, Seat #1 _____
74 Councilmember Milano, Seat #2 _____
75 Councilmember White, Seat #3 _____
76 Councilmember Villanella, Seat #4 _____
77 Vice-Mayor Smith, Seat #5 _____
78

79 Approved on first reading this ___ day of _____ 2024.
80

81 It was moved by _____ and seconded by _____ that said Ordinance
82 be passed on second reading. A roll call vote of the Town Council on said motion resulted as
83 follows:
84

85 Mayor Paritsky, Seat #1 _____
86 Councilmember Milano, Seat #2 _____
87 Councilmember White, Seat #3 _____

88 Councilmember Villanella, Seat #4 _____

89 Vice-Mayor Smith, Seat #5 _____

90
91 Approved and adopted on second reading this ____ day of _____ 2024.

92
93 Town of Ponce Inlet, Florida:

94
95
96 _____
97 Lois A. Paritsky, Mayor

98 ATTEST:
99
100
101 _____
102 Kim Cherbano, CMC
103 Town Clerk

EXHIBIT “A”

AMENDMENTS TO ARTICLES 3, 8 AND 9.

Articles 3, 8 and 9 of the Town of Ponce Inlet Land Use Development Code, are hereby amended to read as follows:

ARTICLE 3 USE REGULATIONS

SECTION 3.18. DWELLING RENTALS

* * *

3.18.4 General regulations.

The following regulations shall pertain to the rental of dwellings:

- A. A contact person must be available 24 hours per day, seven days per week to respond to complaints regarding the conduct of the occupants of the subject dwelling.
- B. Occupancy of individual units shall conform to the occupancy limits of all applicable building codes.
- C. The owner or manager shall maintain a tenant and vehicle registration that includes the name and address of each unit's tenant and the make, year and tag number of the tenant's vehicle.
- D. There shall be a written lease between the owner and tenant and that includes an explicit statement that the tenant agrees to follow these regulations.
- E. Violation of these provisions may result in revocation of the rental permit for cause, upon notice and opportunity to be heard by the town council and subject to prosecution before the ~~code enforcement board~~ special magistrate, and any other penalties, as provided for in section 3.18.6 below.
- F. The rental permit application shall be filed with the town prior to rental of the subject property.

* * *

3.18.7 Annual reporting requirements.

- A. *Annual summary report.*
 - 1. An annual summary report must be filed by:
 - 2. All licensed real estate agents, brokers, agents or other parties who represent an owner of a property rented at any time during a calendar year; and
 - 3. All owners of dwellings rented at any time during a calendar year.
 - 4. The summary report is due by February 1 of each year.

5. The report shall reflect the rental activities of all subject dwellings within the town for the previous calendar year. This report shall include, at a minimum, the address of subject property and length of rental period per tenant.
6. The town shall maintain a third-party rental summary report form and make it available to the public upon request.
7. Violation of this requirement subjects violators to prosecution before the ~~code enforcement board~~special magistrate and other penalties in section 3.18.6.

* * *

SECTION 3.34 MOBILE FOOD VENDORS

* * *

- B. *Temporary use permit.* A mobile food vendor shall be required to obtain a temporary use permit, pursuant to LUDC Sec. 6.6.17, prior to operating on any property within the town, subject to the following:
1. *Duration.* Temporary use permits shall be valid for the duration of time specified pursuant to 6.6.17.F. (Expiration).
 2. *Permit revocation.* In addition to the provisions of section 6.6.17.H.1, a temporary use permit for a mobile food vendor may be revoked by the town for any one of the following violations:
 - a. Operating outside of the approved mobile food vending site.
 - b. Operating without the required state licenses.
 - c. Creating a public nuisance as defined in this code.
 3. *Violation and penalties.* No person shall violate the provisions of this section, nor shall any person fail to comply with all state and town laws, codes, ordinances, rules, or regulations. The ~~code enforcement board~~special magistrate shall have jurisdiction to enforce these provisions pursuant to F.S. Ch. 162 and this code. Any person determined to be in violation will be subject to penalties and remedies available as provided by law.

* * *

~~(Ord. No. 2022-07, § 2, 11-17-2022)~~

ARTICLE 8 ENFORCEMENT

SECTION 8.2. ENFORCEMENT PROCEDURES AND PENALTIES

* * *

8.2.2 Enforcement penalties.

Any person who violates any provision of the LUDC, fails to secure a permit or certificate of occupancy as required by the LUDC, or fails to comply with any order issued by the authorities set forth in section 8.1.2, is punishable in accordance with section 1-11 of the Code of Ordinances. Penalties shall be assessed upon finding of violation by the ~~code enforcement boards~~special magistrate or any court of competent jurisdiction.

* * *

ARTICLE 9 DEFINITIONS AND RULES OF INTERPRETATION

SECTION 9.4. DEFINITIONS

* * *

~~*Code enforcement board.* The code enforcement board of the Town of Ponce Inlet, Florida. See Code of Ordinances chapter 2, article V.~~

* * *

Special magistrate. The code enforcement special magistrate appointed by the town council to serve in lieu of a code enforcement board to hear and decide code violations under this section and F.S. ch. 162.

* * *