



TOWN COUNCIL AGENDA REGULAR MEETING

THURSDAY
AUGUST 22, 2024 – 2:00 P.M.

TOWN COUNCIL CHAMBERS
4300 S. ATLANTIC AVENUE, PONCE INLET, FL

SUNSHINE LAW NOTICE FOR BOARD MEMBERS – Notice is hereby provided that one or more members of the Town’s various 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.
2. PLEDGE OF ALLEGIANCE.
3. ROLL CALL.

NOTE: Citizens who wish to speak during Public Participation about any subject that is not on the meeting agenda should fill out the Citizen Participation Request form and submit it to the Town Clerk prior to the start of the meeting.

4. ADDITIONS, CORRECTIONS OR DELETIONS TO THE AGENDA.

5. CITIZENS’ PARTICIPATION - *The Town of Ponce Inlet encourages engagement by citizens via a variety of means. This is an opportunity for our citizens to talk to us collectively on any subject that is not identified on the meeting agenda. The Town’s Rules for Conducting Town Council meetings are set forth in Resolution 2021-11 and include the following guidelines:*

- *Citizens are provided with **5 minutes** at each meeting to speak on one or more issues that are not otherwise placed on the meeting agenda.*
- *Please introduce yourself with your name and address clearly for the record.*
- *Share with us your thoughts, ideas, and opinions; we want to hear them.*
- *Under our rules, all questions and comments are directed to the Mayor.*

While some questions may be able to be addressed at this meeting, others may require research or more information than we have readily available from our staff, so we may have to defer the response to you until we have that information. Also, depending on the type of issue, we may place the matter on a properly noticed subsequent meeting agenda. As a Council, we welcome the opportunity to hear from you and hope you will speak with us not only during Citizen Participation but outside of these meetings. We understand the formal nature of this meeting, but rest assured, we want to hear from you, we want to address your concerns, and we are appreciative of your involvement.

6. PROCLAMATIONS, PRESENTATIONS, AND AWARDS:

- A. Port Orange-South Daytona Chamber of Commerce presentation – *Barbara Ann Heegan, President and CEO*
- B. Mayor’s proclamation report.

7. CONSENT AGENDA - *Items on the consent agenda are defined as routine in nature that do not warrant detailed discussion or individual action by the Council; therefore, all items remaining on the*

*consent agenda shall be approved and adopted by a single motion, second and vote by the Town Council. Items on the consent agenda are not subject to discussion. **Any member of the Town Council may remove any item from the consent agenda simply by verbal request at the Town Council meeting.** Removing an item from the consent agenda does not require a motion, second or a vote; it would simply be a unilateral request of an individual Council member and this item would then be added as the last item under New Business. As with all agenda items, the public will have the opportunity to comment prior to a motion being placed on the floor and their comment(s) may persuade the Council to remove the item from the Consent Agenda and place under New Business for discussion.*

- A. Request for Use of Town Property for the 2024 Daytona 100 Ultramarathon Race
 - B. Approval of Planning Board By-Law updates.
 - C. Approval of the Town Council Regular meeting minutes. – July 18, 2024.
 - D. Approval of the Town Council Budget Workshop minutes. – July 16, 2024.
8. OLD/NEW BUSINESS ITEMS PREFERRED AT THE BEGINNING OF THE MEETING:
- A. Request for Co-Sponsorship of the Friends of the Marine Science Center’s *Ocean Harvest Market* Event
 - B. Request to pursue an Attorney General Opinion on pre-emption of long-term rental regulations.
 - C. Discussion – Athletic Court Reservation System and Reasonable Modifications under the Americans with Disabilities Act.
9. PUBLIC HEARINGS / QUASI-JUDICIAL MATTERS: *None.*
10. PUBLIC HEARINGS / NON-QUASI-JUDICIAL MATTERS: *None.*
11. ORDINANCES (FIRST READING) AND RESOLUTIONS:
- A. Ordinance 2024-03 – Amendment to LUDC Section 3.17, Docks, Boathouses, Boat Slips, and Piers.
 - B. Ordinance 2024-04 – Amendment to Code of Ordinances Ch. 2, Art. III updating purchasing thresholds.
12. OLD BUSINESS:
- A. Harbour Village CSA cost-participation request. (*tabled from June Council meeting*)
13. NEW BUSINESS:

- A. Discussion – Support for future Volusia County coastal armoring project in Wilbur-by-the-Sea.
 - B. Renewal of five-year agreement with Waste Pro for refuse collection services.
14. FROM THE TOWN COUNCIL:
- A. Vice-Mayor Smith, Seat #5
 - B. Councilmember Villanella, Seat #4
 - C. Councilmember White, Seat #3
 - D. Councilmember Milano, Seat #2
 - E. Mayor Paritsky, Seat #1
15. FROM THE TOWN MANAGER.
16. FROM THE TOWN ATTORNEY.
17. CITIZENS' PARTICIPATION - *The Town of Ponce Inlet encourages engagement by citizens via a variety of means. This is another opportunity for our citizens to talk to us collectively for **2 minutes** before closure of this meeting regarding reports provided by the Town Council, Town Manager, or Town Attorney in items 14-16 (only) of the meeting agenda.*
18. ADJOURNMENT.

Upcoming Town Council meeting(s) and Important date(s):

- Wednesday, September 4, 2024, 6:00 PM – Special Council meeting and 1st Budget Hearing
- Thursday, September 19, 2024, 6:00 PM – Regular Council Meeting and 2nd Budget Hearing

*If a person decides to appeal any decision made by the Town Council 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, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Persons who require accommodation to attend this meeting should contact the Ponce Inlet Town Hall at 236-2150 **at least 48 hours prior to the meeting** to request such assistance.*



Meeting Date: 8/22/2024

Agenda Item: 6

Report to Town Council

Topic: Proclamations, Presentations, and Awards.

Summary:

- A. Port Orange-South Daytona Chamber of Commerce presentation.
- B. Mayor's proclamation report.

Suggested motion: None required.

Requested by: Mayor Paritsky

Approved by: Mr. Disher, Town Manager



MEMORANDUM

Town of Ponce Inlet - Office of the Mayor

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

To: Town Council
Through: Michael E. Disher, Town Manager
From: Mayor Lois A. Paritsky *LP*
Date: August 22, 2024
Subject: Proclamation Report

The following Proclamations will be presented after this meeting:

- In recognition of “Patriot’s Day”, I will be presenting a Proclamation to Ponce Inlet’s First Responders on Wednesday, September 11th at the Ponce Inlet Fire Station declaring September 11th as a *Day of Remembrance*.
- In recognition of “Information Technology Professionals”, I will present a Proclamation to the Ponce Inlet IT Department, declaring the week of September 16th – 20th as *Information Technology Professionals Appreciation Week* and declaring Tuesday, September 17th as *National IT Professionals Day*.

A copy of the Proclamation may be viewed at the Town Hall kiosk.

PROCLAMATION OF THE TOWN OF PONCE INLET, FLORIDA

WHEREAS, on September 11, 2001, the United States of America endured the worst terrorist attack on U.S. soil in the nation's history; and

WHEREAS, in response to this tragedy, Americans across the country came together in a remarkable spirit of devotion and unity and carried out countless acts of kindness and heroism; and

WHEREAS, by Public Law 107-89, Congress has designated September 11 of each year as "Patriot's Day", to honor the memory of those who died and also those who responded to the tragedy in New York City, the Pentagon, and in Shanksville, Pennsylvania; and

WHEREAS, in remembrance of the victims and the survivors of that unthinkable day, the Town of Ponce Inlet has prepared a memorial display for September 11, 2024; and

WHEREAS, the Ponce Inlet memorial display will post memorial wreaths on the fire station lawn in recognition of the 2,508 citizens, 343 firefighters, 77 police officers, and 55 military service members that lost their life that day, with the American flag posted at half-staff; and

WHEREAS, the Town of Ponce Inlet invites citizens to pay their respects in person at our fire department located at 4680 S. Peninsula Drive between 8:00 a.m. and 8:00 p.m. on September 11; and

NOW, THEREFORE, I, Lois A. Paritsky, Mayor of the Town of Ponce Inlet do hereby recognize September 11th, 2024, as a

Day of Remembrance

and call this day to the attention of all Ponce Inlet citizens.

IN WITNESS WHEREOF, I hereunto set my hand and cause the Seal of the Town of Ponce Inlet Florida, to be affixed this 22nd day of August 2024.



Town of Ponce Inlet, Florida

Lois A. Paritsky
Mayor Lois A. Paritsky

Attest:

Kim Cherbano
Kim Cherbano, CMC
Town Clerk

PROCLAMATION OF THE TOWN OF PONCE INLET, FLORIDA

WHEREAS, information technology professionals develop, connect, and protect the transfer of sensitive data across the state through operational excellence and cyber resiliency; and

WHEREAS, information technology professionals continue to sustain the Town's ongoing response to critical government functions and connectivity for Floridians; and

WHEREAS, information technology professionals monitor, research, identify, and respond to continuous or potentials cyberattacks; thereby protecting the Town's intellectual property and any other form of sensitive data; and

WHEREAS, Ponce Inlet's information technology professional continues to provide education and training to the Town's employees in an effort to identity and thwart potential threats; and

WHEREAS, Information Technology Appreciation Week recognizes and celebrates the continuous contributions that information technology professionals provide to enhancing quality of life, enabling education, expanding businesses and jobs, driving economic success, and innovating for future generations for all residents of Florida;

NOW, THEREFORE, I, Lois A. Paritsky, Mayor of the Town of Ponce Inlet do hereby proclaim the week of September 16th – 20th, 2024, as

INFORMATION TECHNOLOGY PROFESSIONALS APPRECIATION WEEK

And proclaim Tuesday, September 17th, 2024, as

NATIONAL IT PROFESSIONALS DAY

IN WITNESS WHEREOF, I hereunto set my hand and cause the Seal of the Town of Ponce Inlet Florida, to be affixed this 22nd day of August 2024.



Town of Ponce Inlet, Florida

Lois A. Paritsky
Mayor Lois A. Paritsky

Attest:
Kim Cherbano
Kim Cherbano, CMC
Town Clerk



Meeting Date: 8/22/2024

Agenda Item: 7

Report to Town Council

Topic: Consent Agenda

- A. Request for Use of Town Property for the 2024 Daytona 100 Ultramarathon Race.
- B. Approval of Planning Board By-Law updates.
- C. Approval of the Town Council Regular meeting minutes. – July 18, 2024.
- D. Approval of the Town Council Budget Workshop meeting minutes. – July 16, 2024.

Summary: See attached staff reports.

Suggested motion: To approve the Consent agenda as presented.

Requested by: Ms. Alex, Cultural Services Manager
Mr. Lear, Planning & Development Director
Ms. Cherbano, Town Clerk

Approved by: Mr. Disher, Town Manager



MEMORANDUM

TOWN OF PONCE INLET, CULTURAL SERVICES DEPARTMENT

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

To: Michael E. Disher, AICP, Town Manager
 From: Jackie Alex, Cultural Services Manager
 Date: August 12, 2024
 Subject: Request for Use of Town Property: 2024 Daytona 100 Ultramarathon Race

MEETING DATE: August 22, 2024

Mr. Bob Becker of Ultra Sports, LLC has submitted his special event permit application through the Cultural Services Department for the *Daytona 100 Ultramarathon Race*. The 10th annual Daytona 100 Ultramarathon is scheduled for the weekend of December 14-15, 2024. This is an event that includes individual races beginning in Jacksonville for 100 miles, and with separate starts in Flagler Beach for both 50-mile and 50k races. This is the third year with the requested use of Kay & Ayres Davies Lighthouse Park as the official finish line for all three races. Over the course of the weekend, runners will be spread out over many miles before they reach the finish line. The runners are expected to cross this finish line in Davies Park over a 20-hour period between late afternoon on Saturday, December 14th until the cutoff at 1:30 pm on Sunday, December 15th. Mr. Becker anticipates roughly 300 runners, with an additional 500 support crew and staff members arriving over the finish line during this time. No complaints or negative feedback were received from residents or noted during the staff's after-action discussion from last year's event.

This year's request again includes the use of Kay & Ayres Davies Lighthouse Park as the official finish line. The Town updated its Special Event regulations on August 17, 2023, which includes new criteria for co-sponsorship approval, below.

Sec. 51-2. – Definitions: Town-sponsored event

Town-sponsored event means that the town, solely or as a co-sponsor of the event, produces and/or coordinates the event, or contributes town services, funds, staff, or aid of any kind as a co-sponsor, after determining that the event:

- (a) Is planned, organized, and conducted by the Ponce Inlet Community Center Board, Inc., or any established not-for-profit organizations and clubs based in Ponce Inlet, such as the Ponce Inlet Veterans Association, Ponce Inlet Lions Club, Ponce Inlet Garden Club, Ponce Inlet Women's Club, and the Ponce Inlet Art Guild, that annually provide a copy of their currently valid IRS tax exemption certificate as an established 501(c)3 organization; and/or
- (b) Has been traditionally co-sponsored by the Town as provided in Sec. 51-8(a).

Sec. 51-8(a). – Co-sponsorship or co-sponsored event criteria and standards:

- (a) Based on the Town's long tradition of co-sponsoring certain annual events based on repeated findings that they provide a local commemoration of a national holiday or provide historical, educational, cultural enrichment or recreational experiences to the public and town residents, the town council, in its sole discretion, may grant full co-sponsorship to those long-standing events identified and approved via resolution.

Pursuant to *Sec. 51-2.* and *Sec. 51-8(a)*, the *Daytona 100 Ultramarathon Race* **does not** meet the criteria for event co-sponsorship. Although hosted and planned by the non-profit Ultra Sports LLC, this organization is not based in Ponce Inlet. For this event, staff must refer to *Sec. 51-8(d)* below,

- (d) For events that do not meet the definition of *Town-sponsored event* under *Sec. 51-2* described above, a written request shall be delivered to the town's cultural services department at least 60 days prior to the event by an applicant if use of town facilities, parking on town property, and/or street closures are found to be required for the event based on the findings of the town's special event review committee. Town staff may provide a report and recommendation to the town council for review.

Acknowledging that the *Daytona 100 Ultramarathon Race* does not meet the current criteria for co-sponsorship request, the applicant has submitted his request for the use of Town property during the event along with the special event permit application packet (**Attachment 1**).

Runners will enter Ponce Inlet on S. Atlantic Avenue, then proceed west along Lighthouse Drive to S. Peninsula Drive to the finish line at the south entrance of Kay & Ayres Davies Lighthouse Park. Provided that runners arrive over a 20-hour period, no road closures will be required.

The off-site parking facilities that are requested from the Town for this event include 8 spaces within the boat ramp trailer parking lot. Additional off-site parking permission has been obtained from Ponce Inlet Community Center, Critter Fleet, and the Ponce Inlet Lighthouse. There will not be a boat ramp closure for this event. The applicant is also requesting placement of temporary signs on Town property.

SUMMARY:

Request is for use of town property for the *Daytona 100 Ultramarathon Race* scheduled for December 14 and 15, 2023; the request is for the placement of temporary signs on Town property, use of Davies Park, and use of 8 parking spaces within the boat ramp trailer parking lot.

Staff recommends approval of the request for use of town property as the criteria have been met.



Jackie Alex, Cultural Services Manager

August 12, 2024

Date

Attachments:

1. Application Packet_2024 Daytona 100



Town of Ponce Inlet
Cultural Services Department
Request Form: Event Use of Town Property
Pursuant to Chapter 51 of the Code of Ordinances

This co-sponsorship request form must be filled out accurately and completely and submitted along with a special event permit application. Incomplete forms cannot be reviewed.

This form and all supporting documents **may be submitted up to 365 days in advance of the event, but no less than 60 days prior to the event date.** If the applicant desires their co-sponsorship request to be heard at a specific Town Council meeting, these documents must be submitted no less than **20 days prior to the desired Council meeting date.**

Request forms for event use of Town property will be presented to Council for review for events not eligible for co-sponsorship. Regardless of whether the event qualifies as a special event, or is eligible for co-sponsorship, an applicant's co-sponsorship request shall comply with the content requirements below.

For event applicants requesting use of town's means of advertising, email jfrench@ponce-inlet.org

Event Name: Daytona 100 Ultramarathon

Event Date(s): Davies Park

Event Location: Davies Park

Business/ Organization Hosting Event: Ultra Sports LLC

Event Applicant/ Contact: Bob Becker, Race Director

Please provide a brief description of the event and any important details:

Daytona 100 Ultramarathon is a running race of 100 miles beginning in JAX Beach, and of 50-miles and 50-kilometers beginning in Flagler Beach. All events finish in Ponce Inlet at Davies Park. The field of approximately 300 total runners and their support crews are very spread-out along the course--which is primarily A1A. They arrive at the finish line from approximately 3:30pm on Saturday, December 14, until before the cut-off 1:30pm on Sunday, December 15. No road or lane closures are requested and no traffic issues should result from this gradual flow. Requested use of Davies Park is for the actual finish line and the location where we cook and offer burgers, soup and related items to finishing runners and their supporters. Typically runners stay at the park for a relatively short time for some food and relaxation, then leave to go to their hotels or home. We begin set-up on Saturday at roughly 1:00-1:30pm and should be finished and packed-up around 2:00pm or so on Sunday.

Please select and state your event needs that require permission from the Town:

Town permission required:
<input type="checkbox"/> Closure of boat ramp
<input type="checkbox"/> Closure of boat ramp trailer parking lot
<input checked="" type="checkbox"/> Placement of temporary signs on Town property
<input type="checkbox"/> Street closures
<input checked="" type="checkbox"/> Use of Town facilities
<input checked="" type="checkbox"/> Parking on Town property
<input type="checkbox"/> Other:

1. **Estimated number of event participants:**

300 runners

2. **Estimated number of any animals by type:**

N/A

3. **Purpose of the event:**

Running race finish line.

4. **Nature and the types of activities that will occur.**

Runners completing an ultramarathon, receiving finisher medals and buckles, then enjoying some R&R, including food prepared there at the Davies Park finish line.

5. **Provide a copy of indemnification in favor of the Town and included as part of the application, which shall be executed by an authorized representative of the applicant.** The organization will not be required to indemnify the Town for the negligent acts of the Town's employees or agents.

☐ Attached

6. **Describe any public right of way, property, buildings, facilities, or equipment utilized:**

Davies Park and authorized parking spaces, as described.

7. **County roadway is to be used:**

☐ Yes- County right-of-way use permit is attached

☒ No

8. **The event serves a valid public purpose benefiting the town and/ or its residents and the community by either-**

☐ Providing a local commemoration of a national holiday; or

☒ Providing historical, educational, cultural enrichment and/or recreational experiences to Ponce Inlet residents and the public.

Describe how:

This recreational event includes runners from the area and numerous Ponce Inlet volunteers who support the athletes. The event provides economic benefit to town businesses and introduces Ponce Inlet for the first time to many of the runners and volunteers.

As the applicant, I certify that upon request, I will provide event space or facilities to established Ponce Inlet organizations and clubs during the event without cost. (If granting of such space will constitute a bona fide undue hardship to the event organizer, the applicant shall include a waiver of this request in their co-sponsorship request along with the reason for the hardship on the bottom of page one of this form.)


Applicant signature

6/20/2024
Date

FOR OFFICE USE ONLY:

Application received by: Jackie Alex

Date: 7/1/24

Event needs requiring permission from Town:

- ☐ Closure of boat ramp
- ☐ Closure of boat ramp trailer parking
- ☒ Placement of temporary signs on Town property
- ☐ Street closures
- ☒ Use of Town facilities
- ☒ Parking on Town property
- ☐ Other: _____



Ultra Running Events

Ultra Sports LLC
520 Orton Avenue #203
Fort Lauderdale, FL 33304
June 21, 2024

Town Council of Ponce Inlet
Attn: Jackie Alex, Cultural Services Manager
Special Event Application for *Daytona 100 Ultramarathon*
Race dates: December 14-15, 2024

Dear Jackie:

Attached to this email (and to a supplemental email due to file size of attachments) are the various exhibits required for Town Council consideration of our application to host the finish line of the *Daytona 100 Ultramarathon* in Davies Park on December 14-15, 2024. Please note that there are no substantive changes to any race-related details associated with last year's race.

Exhibits attached:

- Special event application
- Temporary signs application with location map
- Sound amplification application
- Event use of town property form

Kindly allow the following exhibits unchanged from last year to be used again:

- Use of 10 X 10 canopies
- Lighting details
- Site plan where items will be set-up at Davies Park

Parking:

The same arrangements made last year have been okayed for this December. That includes approval from Mike Bennett to use space at the "Lighthouse" and from Scott and Danielle Weber at "Hidden Treasure" to use space in their "overflow" lot and their regular lot after hours when runners will be gradually arriving at the finish line. (Letter to follow.) Peter Finch has again approved use of parking spaces at the Community Center. Finally, we are requesting use of eight (8) parking spaces in the boat trailer lot contiguous to Davies Park. FYI, our post-race awards presentation will happen again on Sunday afternoon beginning at 1:30pm at "Hidden Treasure".

Liability insurance:

Our race is sanctioned and insurance is obtained through *USA Track & Field*. The annual insurance renewal date for USATF is November 1st. We request that this application be approved subject to proof of coverage being received when available to us prior to race weekend.

Application fees:

I will forward a check upon confirmation of the proper amount due.

I will do my best to attend in person the Town Council meeting when this special event application is being considered. Will you kindly notify me of that date?

Please let me know if there is anything else required (except as noted) to consider this Special Event application. Thank you for your support and assistance along the way.



Bob Becker
Race Director



bob@ultrasportsllc.com

954.439.2800



Town of Ponce Inlet
Cultural Services Department
4300 S. Atlantic Avenue
Ponce Inlet, FL 32127
386-322-6703

SPECIAL EVENT PERMIT APPLICATION
Pursuant to Chapter 51 of the Code of Ordinances

Permit #: _____
Submittal Date: _____
FEE PAID: _____

APPLICATIONS MAY BE SUBMITTED UP TO 365 DAYS IN ADVANCE OF THE EVENT, BUT NO LESS THAN 28 DAYS PRIOR TO EVENT DATE, OR 60 DAYS PRIOR IF REQUESTING TOWN CO-SPONSORSHIP.

Please submit the following information with your application:

- A site plan of the event area(s) with all applicable information requested below.
- If the event is on town property, a certificate of insurance showing the town as additional insured in the amount of \$1,000,000 is required.

SECTION 1: EVENT INFORMATION

Event Name: Daytona 100 Ultramarathon

Event Location: Davies Park (for race finish line)

Date(s) of Event: December 14-15, 2024

Event Hours: Sat. (12/14) set-up approx. 1:00pm-1:30pm
End/cleanup on Sun. at approx. 2:00pm

Brief Event Description: Running races of 100-miles (beginning in JAX Beach) and 50-miles and 50-kilometers (beginning in Flager Beach); finish line for all distances is Davies Park

Estimated Attendance: **300***

Repeat Event: ☒ Yes ☐ No

SECTION 2: APPLICANT INFORMATION

Business/ Organization Hosting Event:

Authorized Head of Business/ Organization: Robert J. "Bob" Becker/Ultra Sports LLC

Phone Number: 954-439-2800

Email Address: bob@ultrasportsllc.com

Event Applicant/ Contact:

Day-of Phone Number: 954-439-2800

Email Address: bob@ultrasportsllc.com

Mailing Address: 520 Orton Ave. #203, Fort Lauderdale, FL 33304

SECTION 3: ADDITIONAL INFORMATION

Please answer the questions below. If answering "Yes," indicate the location(s) on your site plan, providing any additional details on a separate sheet if needed.

Traffic Control Required? ☐ Yes ☒ No

Parade? ☐ Yes ☒ No

Provide a map and streets to be closed

Portable Restrooms? ☐ Yes ☒ No

Private Security Firm? ☐ Yes ☒ No

Shuttle Transportation? ☐ Yes ☒ No

Name of Security Firm

Off-Site Parking Required? ☒ Yes ☐ No

Provide written agreement with property owner(s) and number of spaces needed

Provide a site-plan showing the means of all vehicular (including shuttle) and pedestrian ingress & egress to and from the event.

SECTION 4: TEMPORARY USE - Additional Permits may be required.

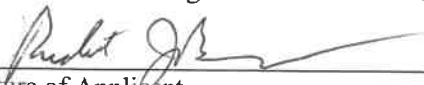
Please answer the questions below. If answering "Yes," indicate the location(s) on your site plan, providing any additional details on a separate sheet if needed.

Barricades Required?	<input type="radio"/> Yes <input checked="" type="radio"/> No	Traffic Cones Required?	<input type="radio"/> Yes <input checked="" type="radio"/> No
Amplified Sound? ¹	<input checked="" type="radio"/> Yes <input type="radio"/> No	High-Intensity Lighting? ²	<input checked="" type="radio"/> Yes <input type="radio"/> No
Provide specifications			
# of Tents (over 10'x10')? None	# Stages/ Structures? ³ None	# of Signs/ Banners? ⁴	
Tent Size ³ (if over 10'x10')	Stage Dimensions:	Sign permit application submitted to Building Division? <input checked="" type="radio"/> Yes <input checked="" type="radio"/> N/A	
If yes, permit #:			
How do you plan to collect and remove trash and litter during and after the event? Self-manage; use town dumpster, if allowed			
Food Prepared On-Site? ⁵ <input checked="" type="radio"/> Yes <input type="radio"/> No			
# of Mobile Food Vendors (MFV)? ⁶ None	# Parking Spaces Required for MFVs? *Include on your site plan		
DBPR Food Service License # *Attach copy of License	DBPR Alcoholic Beverage License # ⁷ *Attach copy of License		

Supplementary Regulations for Special Events:

- 1- See [Code of Ordinances Sec. 34-93](#) for sound limitations and [Code of Ordinances Sec. 34-94](#) for permit requirements to exceed maximum allowable noise level limits and restricted hours.
- 2- See [Code of Ordinances Sec. 34-99.1-5](#) for Town policy on nuisance lighting, requirements to reduce light trespass and glare. This section does not prohibit the temporary exterior lighting used for civic celebration and promotion associated with a permitted special event.
- 3- Tents larger than 10'x10' and stages require a fire inspection and building inspection in addition to a building permit
- 4- See [LUDC Sec. 3.30.6](#) and [Resolution 2011-03](#) for temporary sign regulations. To prevent signs from interfering with public utilities, contact Sunshine State One Call at 1-800-561-6720 prior to digging for sign installation.
- 5- [Code of Ordinances Sec. 46-3.a.4](#): Use of any portable cooking equipment is prohibited in all Town parks except in designated areas of Davies Lighthouse Park. Within designated areas, only propane and electric portable equipment is permitted – no charcoal.
- 6- [LUDC Sec. 3.34](#): Mobile Food vending is the sale of food, either prepared on location or pre-packaged, from a mobile food vending vehicle. Mobile food vendors shall comply with regulations from this section and shall be subject to an inspection pursuant to the NFPA and Florida Fire Prevention Code.
- 7- [Code of Ordinances Sec. 6-7.a](#): It is unlawful for any person to consume or possess any alcoholic beverages on public streets, sidewalks within the town, or on any town property or public park located in the town except as provided in the Code or as approved by Town Council.

I hereby state that the above information is true and accurate to the best of my knowledge. I further understand and agree to any and all conditions and costs of the required permits. I understand that the Town of Ponce Inlet assumes no liability for this event. I hereby agree to defend, hold harmless, and indemnify the Town, at the Town's option, from any and all demands, claims, suits, actions and legal proceedings brought against the Town in connection with this event, whether threatened or otherwise, to the full extent as permitted by the law of the State of Florida. This provision shall survive the term of this agreement and shall remain in full force and effect until the expiration of the time for the institution of any action at law or equity or administrative action against the Town under either federal law or the laws of Florida.


Signature of Applicant

6/21/2024
Date Signed

STATE OF FLORIDA
COUNTY OF ~~VOLUSTA~~ **Broward**

This document was sworn to (or affirmed) and subscribed before me by me of ☒ physical presence or ☐ online notarization, this 21 day of June, 2024, he/she is personally known to me or has presented FL Driver license as identification.


Notary Public, State of Florida

Notary stamp/ seal:



Alexander Valeev
Notary Public
State of Florida
My Commission Expires 02/22/2026
Commission No. HH 232316

STANDARD CONDITIONS FOR SPECIAL EVENT PERMITS

Per [Code of Ordinances Sec. 51-9](#).

Standards and conditions for issuance of permit. The special event review committee will review the special event permit application based upon the following standards and conditions:

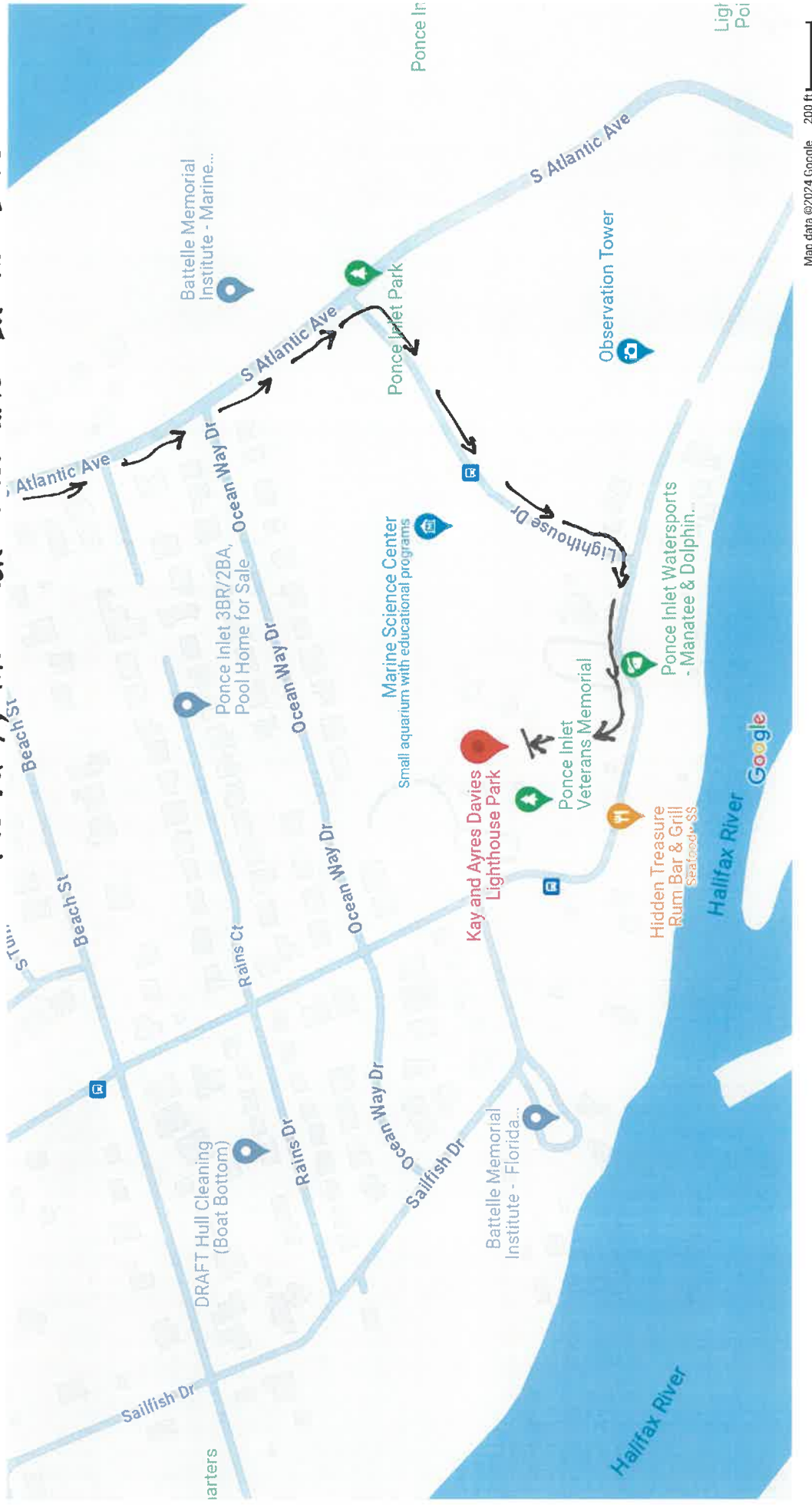
- (a) The conduct of the event will not substantially interrupt the safe and orderly movement of other pedestrian or vehicular traffic in the vicinity of the event.
- (b) The conduct of the event will not require the diversion of so great a number of public safety personnel or equipment of the town to properly secure the event area and the areas contiguous thereto, as to prevent current level of public safety services from being furnished to other parts of the town.
- (c) The event shall not take place until inspections of the special event site have been conducted by the appropriate departments to determine whether this ordinance and any conditions of the special event permit have been met or satisfied.
- (d) The concentration of persons, animals and/or vehicles at the event will not unduly interfere with proper fire and/or police protection of, or ambulance service to, areas contiguous to the event area or other areas of the town.
- (e) The conduct of the special event is not reasonably likely to cause injury or intended to cause injury to persons or property, create an environment not compatible with a residential neighborhood if within or abutting a residential neighborhood, or to result in disorderly conduct as defined by town ordinance or state statutes, provided that the town may not deny a permit solely on the basis of the proposed content of speech or ideas of the group involved.
- (f) The conduct of the event shall not introduce extraordinary hazards to fire protection and/or life safety in the immediate or adjacent areas.
- (g) Adequate sanitation and other required health facilities are, or will be, made available in or adjacent to the event area. These include restrooms, trash receptacles, or anything normally required by the health department.
- (h) The conduct of the special event must be in accordance with the town's noise ordinance.
- (i) There are sufficient parking places on site and/or written approvals from off-site property owners where off-site parking is to occur, to accommodate the approximate number of automobiles expected to be driven to the special event.
- (j) Precautions will be taken to ensure protection of landscaping and irrigation systems.
- (k) The applicant has secured security personnel or police, fire/emergency medical services protection and public works services, if any, are required under this procedure. If applicant has secured police, fire/emergency medical services, or public works services from the town, (s)he must prepay the expenses thereof.
- (l) The applicant shall obtain public liability and property damage insurance, with the town named as an additionally insured party for any special event that is held on town property or that utilizes town facilities, in an amount approved by the town, as recommended by the town's insurance carrier. The applicant shall place on file with the town a certified insurance policy issued by a company authorized to do business in the state.
- (m) Application for a special event permit shall constitute an agreement by the applicant to pay for town personnel expenses and extraordinary services provided by the town, including any repairs, renovations and/or landscaping and turf restorations or replacement of town property which is necessitated by virtue of the special event.
- (n) Any temporary lighting will not adversely affect adjacent properties.
- (o) No applicant shall be granted a permit for an event that is to occur over a period longer than seven consecutive days.
- (p) No applicant shall be granted more than twelve special events permits in a single calendar year.

NOTE: The town may deny or revoke a permit for failure of the applicant to satisfy the applicable standards set forth in this chapter and the requirements of the permit, pursuant to [Code of Ordinances Sec. 51-10\(b\)](#).

Google Maps

Kay and Ayres Davies Lighthouse Park
Daytona 100 runners route to the finish line

RUNNERS PROCEED ON SIDEWALK ALONG
S. ATLANTIC AVE. TURN LEFT ON LIGHTHOUSE DR.
RIGHT ON S. PENINSULA DR. ON SIDEWALK TO
THE PARK, THEN RIGHT TURN AFTER BATHROOM BLDG.



- Route map -



Town of Ponce Inlet
Cultural Services Department
Special Amplified Sound Permit Application

Pursuant to Section 34-94 of the Code of Ordinances

Please Note: The application must be filled out accurately and completely. Incomplete applications cannot be processed.

Permits may be granted by the Town Manager for the purpose of **entertainment** or **nonentertainment** under the following conditions (see Sec. 34-94 for full list of conditions):

- The special permit may be issued only for **four** hours
- Between **9:00 a.m. and 10:00 p.m.** in one calendar day.

Daytona 100 Ultramarathon

Name of Event

Dec. 14-15, 2024

Sat 1:00pm-Sun 2:00pm

(4) (4)
Sat 6-10pm; Sun 9:00am-1:00pm

Date of Event

Time

Hours of Amplified Sound

Name of applicant: Ultra Sports LLC (Bob Becker, RD) Phone: 954-439-2800

Applicant's street address: 520 Orton Ave. #203, Ft. Lauderdale, FL 33304

Description of equipment to be used (ie. stereo, band, etc. Bull horns are not permitted) _____

Small P.A. system with 1 or 2 speakers, primarily for announcements

and possibly some music.

Description of how the sound will be minimized (mufflers, screens or other sound-attenuating devices) Volume control and aim of speaker(s). Use is internal to the group and our footprint

within the park and and not to disrupt surrounding areas.


The issuance of a Special Amplified Sound Permit grants permission to the applicant(s) for the location and type of sound, as per section 34-94 of the Town of Ponce Inlet Ordinances. The Amplified Sound Permit may be revoked by an agent of the Town of Ponce Inlet at any time. The Special Amplified Sound Permit does not waive applicant's responsibility to ensure compliance with all applicable requirements. Applicant(s) agrees to hold the Town of Ponce Inlet, its agents and employees, harmless for any damages that may incur from failure to meet all Town codes.

CERTIFICATION STATEMENT (As required by Chapter 34, Ponce Inlet Code of Ordinances)

As applicant, I understand that I shall monitor the use and operation of all amplified sound equipment to ensure that it is operated within the decibel levels permitted by Chapter 34, §34-93, Ponce Inlet Code of Ordinances.

Dated this 20th day of JUNE 2024.

Applicant's Printed Name: Robert J. Becker

Applicant's Signature: 

FOR OFFICE USE ONLY:

Fees (License Fee) = \$50.00 Amount Paid: _____

Application received by: Jackie Alex Date: 7/1/24

Police Dpt: ☐ Approved ☐ Denied _____

Previous violations of sound ordinance? ☐ Yes ☐ No

Conditions: _____

By: _____ Date: _____



Town of Ponce Inlet
Planning & Development Dept.
4300 S. Atlantic Avenue
Ponce Inlet, FL 32127
386-236-2181 (voice)
386-236-2190 (fax)

TEMPORARY SIGN ON RIGHT-OF-WAY PERMIT APPLICATION

Pursuant to Article 3, Section 3.30 of the
Land Use and Development Code and Resolution
2012-03

Submittal Receipt # and Date: _____

Application #: _____

FEE PAID: _____

Authority to erect temporary signs in the right-of-way is regulated pursuant to Section 3 of the Land Use and Development Code and Resolution 2012-03.

Please Note: Failure to *fully complete* all the applicable items will result in the application being deemed incomplete and no further action will be taken.

SECTION 1: PROPERTY INFORMATION

Address of Adjacent Property: _____

Frontage of lot: _____

Written permission of property owner if not applicant? _____

SECTION 2: PROPERTY OWNER INFORMATION

Applicant Name	Ultra Sports LLC	Mailing Address	520 Orton Ave. #203, Fort Lauderdale, FL 33304
Phone	954-439-2800	Fax	N/A
Agent Name/Title	Bob Becker, RD	Mailing Address	Same
Phone	Same	Fax	N/A

Owner's authorization for agent to apply attached: ☐ Yes ☐ No

SECTION 3: SIGN DESCRIPTION

Please provide a description of the proposed sign, including:

Dimensions of Sign (Maximum of 16 square feet or as otherwise noted in Section 5.6.10): 18"x24"

Maximum Sign Height from grade: 2.5-3' Minimum Sign Height from grade: 1-1.5'

Location of Sign (*provide two copies of a survey or site plan with location marked, including distance from sidewalk, roadway, building and other signs*): _____

Type of material used to construct sign: Coroplast "yard-type" signs with metal stakes

Date to be posted: December 14, 2024 Date of removal December 15, 2024

SECTION 4: APPLICATION PROCEDURE

Pursuant to Section 3.30.4.D. *Sign permit applications*, states that a sign permit application for permanent and certain temporary signs shall be prepared and submitted on forms available at the office of the planning and development department. The sign permit application is in addition to any building permit application required by the Florida Building Code.


I certify that I am familiar with the information contained in this application, and that to the best of my knowledge such information is true, complete and accurate.

[Signature]
Signature of Applicant or Agent

6/21/2024
Date

STATE OF FLORIDA
COUNTY OF ~~VOLUSIA~~ Broward

Affirmed and subscribed before me this 21 day of June, 2024 by Robert J Becker,
who is personally known to me or who has produced FL Driver License (type of ID) as identification.

[Signature]  Alexander Valeev
Notary Public
My Commission Expires 02/22/2026
Commission No. HH 232316

Feb 22, 2026
My commission expires:

FOR OFFICE USE ONLY:

Approved by: _____ Date: _____

Denied by: _____ Date: _____

Reason for denial: _____

ROW sign location list per applicant email 7/1/2024

STRAIGHT AHEAD arrow	S. Atlantic at Beach Street
RIGHT arrows (2)	South Atlantic at Lighthouse Dr.
RIGHT arrows (2)	Lighthouse Dr. at S. Peninsula Dr.
STRAIGHT arrows (4)	On grass through parking lot entrances to remain on right side sidewalk
RIGHT arrows (2)	Near Davies park bathroom building







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: Michael E. Disher, AICP, Town Manager
From: Patty Rippey, AICP, Principal Planner
Through: Darren Lear, AICP, Planning & Development Director
Date: August 5, 2024
Re: Planning Board By-Laws Amendment

Meeting date: August 22, 2024

INTRODUCTION

Members of the Planning Board and Town Council met for a Special Joint meeting on June 4, 2024. Agenda Item 7 was a discussion of amending the Planning Board By-laws to change the regular meeting time.

AUTHORITY AND PROCESS

Pursuant to LUDC Section 6.2.2.C., the Planning Board shall meet at regular intervals and other times as it may deem necessary. It shall adopt written by-laws and procedures necessary for the administration of its responsibilities, as consistent with the Code of Ordinances, and the LUDC. By-laws and procedures shall be approved by the Town Council. Amendments or modifications to the by-laws shall be submitted to the Town Council for final approval.

On July 23, 2024, at its regularly scheduled meeting, the Planning Board unanimously recommended approval of the amendment to the regular meeting time for Town Council consideration at the August 22, 2024 Town Council meeting.

AMENDMENT TO BY-LAWS

The draft version of the revised Planning Board By-Laws, Rules and Procedures is attached to this report. Additions are underlined, deletions are ~~struck through~~. Specifically, under Article III Meetings, the regular meeting time is proposed to be amended from 10:00 AM to 2:00 PM. The scheduled meeting time for quasi-judicial meetings will remain at 5:30 PM. No other changes are being initiated.

Attachment:

Planning Board By-Laws, Rules and Procedures



TOWN OF PONCE INLET
PLANNING BOARD
BY-LAWS, RULES AND PROCEDURES

THESE BY-LAWS are adopted in accordance with Section 6.2.2 of the Town of Ponce Inlet Land Use and Development Code. They shall be considered supplemental to any Ordinance or Resolution adopted by the Town Council which affects the Town of Ponce Inlet Planning Board (hereinafter, referred to as the "Planning Board"). Should there be a conflict between these Bylaws and any Town Ordinance or Resolution, in effect, at any time, then the Ordinance or Resolution shall control.

The Planning Board of the Town of Ponce Inlet, Florida shall be governed by the Charter and Code of the Town of Ponce Inlet and the rules of procedures set forth herein and adopted by the Planning Board.

CREATION

A Planning Board is hereby created which shall have the power and duties of a Planning Commission and a Board of Adjustment, consistent with Section 7.01 of the Charter. It shall also have the power and duties of the local planning agency in accordance with the Community Planning Act (2011), F.S. Ch. 163.3161 et. seq. It shall be referred to in the Articles as the Planning Board. It shall have the following membership, duties, responsibilities, and limitations:

ARTICLE I
OFFICERS, MEMBERS AND DUTIES

1. MEMBERSHIP, TERMS OF OFFICE. The Planning Board shall consist of five (5) regular members and two (2) alternates, who are appointed by the Town Council. Each regular member shall be appointed for a three-year term, in staggered sequence. Alternate members shall be appointed for a term of one (1) year. No official or employee of Town government shall serve on the Planning Board. Each member of the Planning Board shall be a qualified elector of the Town of Ponce Inlet. Preference will be given to full-time residents.

2. REMOVAL FROM OFFICE, VACANCIES. All members of the Planning Board shall serve at the sole pleasure of the Town Council and may be removed at any time without cause and without a hearing. If a Board member has either three consecutive absences from regular meetings or five absences within one rolling year from regular meetings, that member shall be automatically removed from the Board. The Town shall not attempt to differentiate between what one might consider an excused absence vs. an unexcused absence. However, a Board member may appeal to the Town Council for reinstatement if the situation was temporary in nature and he/she is able to resume their responsibilities to the Board. In addition, as a preemptive measure, a Board member may request in writing a leave of absence from the Town Council for illness, family emergencies, etc. A granted leave of absence will not be counted towards the absences of that member for that rolling year. Any vacancy occurring during an unexpired term shall be filled with an alternate member or if no available alternates, by advertising the vacancy until filled.

3. CHAIRPERSON. A Chairperson shall be elected by the Planning Board from among its members. The Chairpersonship shall be for (1) one year beginning on the first regularly scheduled meeting. The Chairperson shall decide upon all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Planning Board in session at the time. The Chairperson shall appoint from the Planning Board membership any committee found necessary to investigate matters not quasi-judicial in nature before the Planning Board. The Chairperson shall sign all Orders of the Planning Board.

4. VICE-CHAIRPERSON. A Vice-Chairperson shall be elected by the Planning Board from among its members at its first regularly scheduled meeting or whenever the position becomes vacant. The Vice-Chairperson shall serve as Chairperson in the absence of the Chairperson. Upon vacancy of the Chair, the Vice-Chairperson will serve as Chairperson until a new Chairperson is elected at the next regular meeting.

5. SECRETARY. Town staff shall assign a Board Secretary. The Board Secretary shall be an employee of the Town of Ponce Inlet. The Board Secretary shall keep all records, conduct all correspondence of the Planning Board, cause to be given the required legal notice of each public meeting, and shall generally take charge of the clerical work of the Planning Board. The Board Secretary shall open the meeting in the absence of the Chairperson and Vice-Chairperson.

The Board Secretary shall take, or cause to be taken, the minutes of every meeting of the Planning Board. These shall show the record of all important facts pertaining to each meeting and hearing, every resolution acted upon by the Planning Board and all votes of members of the Planning Board upon any resolution or upon the final determination of any question, indicating the names of members absent or failing to vote. The Secretary shall present the draft copy of the minutes to the Planning Board for approval at the next regular meeting. The Secretary shall keep as a permanent record the minutes of every meeting of the Planning Board. The Secretary shall keep all records open to the public during normal business hours but, in no event, shall relinquish the original of any record to any person except as provided by law.

6. COMPENSATION. Planning Board members shall serve as volunteers without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the Town Council, or as otherwise provided by law.

7. POWERS AND DUTIES. The Planning Board shall have powers and duties as stated in section 163.3174, Florida Statutes, (as may be amended from time to time), section 6.2.2.D of the Town's Land Use and Development Code (as may be amended from time to time), and the following:

- A. To hear, review, and make recommendations to approve, approve with conditions, or disapprove applications for quasi-judicial land use decisions, including but not necessarily limited to: quasi-judicial rezonings, site plan reviews, final development plans, subdivision plats, special exceptions, conditional uses, street vacations, sign permits, variances when tied to a land use application, changes in structures and uses, and scenic roadway variances. Such recommendations shall include whether a proposal is consistent with the Comprehensive Plan.

- B. To hear, review, and make recommendations regarding proposals for legislative decisions to amend the official zoning map or sections of the land use and development code, if the town council determines, in its discretion, to refer a proposed legislative change to the board for recommendation.
- C. To hear and decide appeals and variances as provided for in the land use and development code and the code of ordinances. Further appeals may be taken to the town council.
- D. To perform such other planning duties and functions not inconsistent with the comprehensive plan, code of ordinances, or the land use and development code, or as directed by the town council.
- E. To hear and decide appeals of orders, decisions, or determinations of the planning and development department director in the enforcement and interpretation of this code. The board may, upon appeal, reverse, affirm, or modify any order, requirement, decision or determination of the planning and development department director. Further appeals may be taken to the Town Council.

ARTICLE II APPOINTMENT PROCEDURES

The procedure for appointment of individuals to the Town's Boards shall be as follows:

1. Whenever a vacancy occurs on any Town Board, the Town Council shall be notified promptly by the Board Secretary.
2. The Board Secretary will advertise the vacancy on the Town's website and on the Town bulletin board and in any other locations which are deemed economically appropriate to fill the vacancy.
3. The Board Secretary will provide the interested candidate(s), the appropriate information about the board.
4. The Board Secretary will create and maintain an application for Boards which has been approved by the Town Council. This application must be completed by any potential applicant for initial appointment. The applications will be accepted by the Board Secretary, who will verify residency through voter registration before forwarding them to the Town Council for consideration.
5. Though all board members serve at the pleasure of Council, preference for re-appointment shall be given to the current seat holder. Board members seeking re-appointment shall submit in writing to the Town their interest in re-appointment at least 30 days prior to the expiration of their term. The board secretary will re-confirm their residency and will provide the Town Council information regarding the appointee's attendance and training.
6. New applicants are strongly encouraged to attend the Town Council meeting for

consideration of their application.

7. Any member appointed as Alternate #1 to the board shall automatically progress to the first available vacant regular seat on that board, without having to go back to the Town Council for promotional appointment. Alternate #2 shall then automatically progress to the Alternate #1 seat.

8. Members of Boards which are required pursuant to state regulations to complete an affidavit of financial disclosure (Form 1) must submit this to the Supervisor of Elections office within thirty (30) days of initial appointment.

ARTICLE III MEETINGS

1. **REGULAR MEETING.** Regular meetings of the Planning Board shall be held once each month, on the 4th Tuesday of the month. Board meetings shall generally begin at ~~10:00 AM~~ 2:00 PM, however, meetings shall begin at 5:30 PM if the meeting agenda includes one or more quasi-judicial hearings, the Planning and Development Director directs as such, or if a simple majority of all members determines that a 5:30 PM meeting time better suits the public interest due to anticipated agenda item(s). All regular meetings shall be held at the Council Chambers. The time and place of the regular monthly meeting may be changed by affirmative vote of a simple majority of all members. At least twenty-four (24) hours' notice of the time and place of the regular meetings shall be given by the Secretary to each member of the Planning Board.

2. **SPECIAL MEETINGS.** Special meetings of the Planning Board may be called at any time by the Chairperson, Town staff, or by affirmative vote of a simple majority of all members. At least forty-eight (48) hours' notice of the time and place of special meetings shall be given by the Secretary to each member of the Planning Board.

3. **CANCELLATION OF MEETINGS.** Whenever there are no applications, appeals or other business for the Planning Board, or whenever so many members notify the Secretary of inability to attend that a quorum will not be available, the Chairperson may dispense with the regular meeting and the Board Secretary shall provide a written or oral notice to all members as soon as possible prior to the time set for the meeting.

4. **QUORUM.** A quorum shall consist of three members of the Planning Board for the transaction of business.

5. **CONDUCT OF MEETINGS.** All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

1. Call to order and Pledge of Allegiance
2. Roll Call and Determination of Quorum
3. Adoption of Agenda
4. Approval of Minutes
5. Report of Staff
6. Correspondence and Disclosure of Ex-Parte Communication
7. Hearing of Cases

8. Business Items
9. Public Comment
10. Board Discussion
11. Adjournment

6. ADJOURNED MEETINGS. The Planning Board may adjourn a regular meeting or special meeting if all business cannot be disposed of on the day set, and no further public notice shall be necessary for resuming such a meeting if the time and place of its resumption is stated at the time of adjournment and is not changed after adjournment.

7. EX-PARTE COMMUNICATIONS. In accordance with Section 286.0115, Florida Statutes, Town Council has passed Resolution 2007-18. Disclosure of ex-parte communications made pursuant to the Resolution and this paragraph should, if possible, be made at the beginning of the public hearing at which a vote is taken so that persons who have opinions contrary to those expressed in the ex-parte communication are given a reasonable opportunity to explain or respond to the communication. Adherence to the following guidelines, as set forth in Resolution 2007-18, shall remove the presumption of prejudice from ex-parte communications with Planning Board members.

a. *Communications between staff and public.* Oral and written communications between staff and members of the public shall be permitted and encouraged.

b. *Communication between the Planning Board and the public.* Members of the Planning Board of the Town shall not be prohibited from receiving and participating in oral or written ex-parte communications regarding quasi-judicial matters before the Planning Board, if all requirements of Resolution 2007-18 are followed as to any ex-parte communication, and any presumption of prejudice arising out of such ex-parte communications is hereby removed and declared non-existent.

1. Any oral ex-parte communication with a Planning Board member relating to pending quasi-judicial action shall not be presumed prejudicial to the outcome of the matter if the subject matter of the communication and the identity of the person, group or entity with whom the communication took place is disclosed and made a part of the record in the quasi-judicial proceeding before final action on the matter.

2. Any written communication to a Planning Board member from any source regarding a pending quasi-judicial matter shall not be deemed prejudicial to the outcome of the matter, if the written communication is made part of the record in the quasi-judicial proceeding before final action on the matter.

3. Planning Board members shall not be prohibited from conducting site visits or receiving expert opinions regarding quasi-judicial matters pending before them, and such activities shall not be presumed prejudicial to the outcome of the matter if the existence of the investigation, site visit, or expert opinion is disclosed and made a part of the record in the quasi-judicial proceeding before final action on the matter.

4. Resolution 2007-18 does not subject Planning Board members to Part III of Chapter 112, Florida Statutes, for not complying with the Resolution.

c. *Communication between Planning Board members and staff.* Written and oral communications between Planning Board members and staff shall be limited to the facts of the application or case. Ex-parte discussions of the positions or arguments of the applicant or any opposing party are discouraged. All such communications shall be disclosed and made a part of the record in the quasi-judicial proceeding before final action on the matter.

d. *Communication between Planning Board members and Town Attorney(s).* Attorneys for the Planning Board may render legal opinions when requested but shall not engage in factual determinations or advocate one party's position over another, except to the extent necessary to respond fully to a purely legal question.

ARTICLE IV VOTING

1. **VOTE.** A simple majority of members present shall be necessary to render a decision. The Chairperson shall have one (1) vote in all issues voted upon by the Board.

2. **REPRESENTATION, PERSONAL INTEREST.** Pursuant to Section 112.3143, Florida Statutes, no Board member may vote on a matter in which (s)he shall be personally or financially interested. An Alternate member will be required to sit in as a voting member for that matter. If a Board member has a voting conflict, (s)he must orally declare the conflict in the meeting and abstain from voting. The member may participate in discussions, but only if (s)he first orally declares his/her conflict of interest. Board members claiming a conflict must complete the memorandum of voting conflict (Form 8B) within 15 days after the vote occurs, for inclusion in the meeting minutes.

ARTICLE V APPEALS

1. **APPEALS.** The Planning Board shall hear and decide appeals from any interpretation, order, requirement, decision, or determination of the Planning and Development Director in the administration and enforcement of the Land Use and Development Code. Appeals may be taken by any person aggrieved or by any officer, board, department or agency of Town government adversely affected by any decision of the Planning and Development Director. Aggrieved parties must file a notice of appeal specifying the grounds with the Planning and Development Director and the Town Clerk within thirty (30) days after rendition of the order, requirement, decision or determination. The notice of appeal shall be on a form prescribed by the Planning and Development Director.

2. **PROCEDURE FOR FILING APPEALS.** Upon receipt of the Notice of Appeal and payment of any appeal fee established by resolution of the Town Council, and after due public notice and notice to all owners of contiguous property, the Planning and Development Director shall transmit to the Planning Board all documents, plans, papers or other materials relating to the appealed decision.

3. WITHDRAWAL OF APPEALS. If appeal is withdrawn before public notice is given, the appeal fee shall be returned to the applicant, minus the application processing fees. In such event, the fact of withdrawal shall be noted on the original and both copies of the application with the signature of the applicant attesting withdrawal. The original shall be retained by the Secretary for the files of the Planning Board and one (1) copy shall be returned to the applicant.

ARTICLE VI HEARINGS

Witnesses may be called, sworn and cross-examined at hearings. Factual evidence may be submitted. The Planning Board shall not be limited to consideration of such testimony and evidence as would be admissible in a Court of Law. However, the Planning Board shall only consider the sort of evidence on which reasonable, prudent persons would be accustomed to rely on in the conduct of their affairs. Hearsay evidence may be used to supplement or explain other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions. Irrelevant and unduly repetitious evidence shall be excluded. The Chairperson may establish appropriate time limits for arguments but such time limits shall be equal for the Planning and Development Director and the applicant. The Chairperson may request that only a representative or representatives speak on behalf of an entire group or portions of a group presenting arguments to the Planning Board. The applicant, agent or attorney shall direct all presentation, questions and arguments to the Planning Board only. Arguments between the parties shall not be permitted. The Planning Board reserves the right to ask questions at any time. Only where alternative documentary evidence, such as drawings or photographs, cannot adequately portray the issues under consideration may the applicant, Planning and Development Director, or any Planning Board member request a view of the site. If a majority of the Planning Board determines that a view of the site is necessary, then the matter shall be continued until the Secretary coordinates a convenient time for all parties and members of the Planning Board to reconvene.

ARTICLE VII DECISIONS

Pursuant to Section 10.2.6 of the Land Use and Development Code, if a variance does not begin to serve the purpose for which it was granted within 12 months from the date of rendition of the written order, or if its use is thereafter abandoned for 12 consecutive months, it shall expire. A shorter or longer period of time may be set by the Planning Board so long as the applicant applies for an extension prior to the expiration.

ARTICLE VIII REHEARING

1. If it is alleged that the Planning Board has overlooked or misunderstood certain facts or points of law, a rehearing of any decision of the Planning Board may be granted to rehear its prior decision. The rehearing may be proposed either on the motion of any member voting on the prevailing side, or on the motion of any person aggrieved by its decision. The motion shall be in writing, filed with the Planning and Development Director within ten (10) working days after the

rendition of the decision, and shall state its grounds. The person requesting the rehearing shall send a notice by Certified Mail to all interested persons, stating the date, time and place the motion for rehearing will be heard by the Planning Board.

2. If the Planning Board grants such a motion, it shall state its reason for doing so and set a time, date and place for another public hearing upon due public notice pursuant to the Land Use and Development Code.

3. The Planning Board shall not otherwise hear any matter based upon the same facts or issues as were previously decided by the Planning Board until at least one (1) year has elapsed from the date of rendition.

ARTICLE IX AMENDMENTS

Amendments or modifications shall be submitted to the Town Council for final approval.

Reviewed and approved as amended for exclusive use by the Town of Ponce Inlet, FL this ____ day of August 2024.

Town of Ponce Inlet

Lois A. Paritsky, Mayor

Attest:

Kim C. Cherbano,
Town Clerk



4

**Town of Ponce Inlet
Town Council
Regular Meeting Minutes
July 18, 2024**

1. CALL TO ORDER: Pursuant to proper notice, Mayor Paritsky called the meeting to order at 2:00 p.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:

Town Council:

Mayor Paritsky, Seat #1
Councilmember Milano, Seat #2
Councilmember White, Seat #3
Councilmember Villanella, Seat #4
Vice-Mayor Smith, Seat #5

Staff Members Present:

Mr. Baker, Building Official
Ms. Cherbano, Town Clerk
Mr. Disher, Town Manager
Mr. Dunlap, Acting Public Works Director
Chief Glazier, Police Chief
Mr. Hooker, Code Compliance Manager
Ms. Hugler, Fire Department Office Manager
Deputy Chief Landreville, Deputy Fire Chief
Ms. McColl, Finance Director
Mr. Okum, IT Director
Chief Scales, Public Safety Director
Attorney Shepard, Town Attorney
Ms. Stewart, Assistant Deputy Clerk

Other representatives present:

Mr. Jeff Brower, Volusia County Chair

4. ADDITIONS, CORRECTIONS, OR DELETIONS TO THE AGENDA: Item 13-D was withdrawn. Item 12-A, renewal of the governmental affairs consultant contract was added.

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

5. CITIZENS PARTICIPATION: Mayor Paritsky opened citizens participation – Cathy Harvey, 41 Loggerhead Court, said she attended the Candidate Forum last night, and she suggests having each candidate stand at a podium or be seated on stage for uniformity. Mayor Paritsky

stated her ideas will be shared with C4PI because they are the ones responsible for hosting the event.

At the last Council meeting, Ms. Harvey made a reference to the \$14,000 given to the First Step Shelter and asked if an explanation could be given for that expense.

Mr. Disher explained the town is required by law to provide its own shelter for the homeless unless we contribute to another shelter. The annual donation meets that requirement. Councilmember Milano stated he is passionate about the shelter and that each time he has campaigned for office, he has donated any leftover campaign funds to the shelter. The amount the town donates to the shelter is .0004% of the operating budget; he noted that Volusia County and Daytona Beach both contribute \$400,000 each.

Mark Oebbecke, 4758 South Peninsula Drive, announced new improvements and repairs to the community center. He referred to the publication "The Island Telegraph" and noted that Ponce Inlet is featured on the back as the "Sleeping Beauty in Ponce Inlet". He also announced that this Veteran's Day is going to be special as the nine founding members of the Ponce Inlet Veteran's Association will be acknowledged for their efforts in building the existing memorial. He asked if the town could create a proclamation honoring those men as we are one of the few regionally recognized memorials in the country and they deserve that recognition. He announced the Town Hall meeting is August 8, 2024 at the community center. He referred to the budget and stated he reviewed other municipalities in Volusia County for comparison, noting the differences. Mr. Oebbecke stated he is tired of people not appreciating the level of service the town offers, noting his involvement with staff and stating they are overworked. Mayor Paritsky agreed on the proclamation for the veteran's acknowledgement.

6. PROCLAMATIONS, PRESENTATIONS, AND AWARDS

Mayor Paritsky explained that Volusia County Council Member Matt Reinhart is not in attendance as normal due to Sunshine Law concerns, because another member of the Volusia County Council is present. Council Member Reinhart has advised her that he is attentive to the issues being raised and will participate in a future discussion before the Volusia County Council. She introduced Volusia County Council Chair, Jeff Brower.

A. Coastal armoring – Volusia County Chair Jeff Brower explained he is here today on an issue that is important to the health and safety of every resident of Ponce Inlet and Wilbur-by-the-Sea. He introduced Tom Rutledge to give the presentation. Tom Rutledge, 4112 Oriole Avenue, Wilbur-by-the-Sea, thanked the Council for recognizing the Volusia County Council Chair on an issue that could negatively impact both communities. He initiated this because South Atlantic Avenue, the main artery serving our communities, is under threat. Recent changes on the 4100 block of South Atlantic Avenue in Wilbur-by-the-Sea have led him to believe that a more robust strategy is needed to mitigate the threat to the road. The issues are: 1) inaction by the abutting beachfront property owners to armor the dunes; he noted six of the eight lots are unarmored; 2) demolition of the homes have left bare sand exposed to the wind; and 3) the county-installed trap bags have been breached. All but two houses on the block were lost during the 2022 hurricanes, and those two were damaged. He contacted Chair Brower, and they agreed from a layman's perspective there was a potential threat to the road and a credentialed opinion was

needed. They received that opinion from Robert Bullard, who is familiar with the issues on this block. Volusia County has installed trap bags on these lots for erosion mitigation. The trap bags have failed in several places due to the interaction with higher magnitude tides that occur several times per year. The county has a plan to refresh the damaged trap bags which is helpful but of little use during a storm event with a high-magnitude surge similar to Hurricane Ian. He said the distance from the eroded dune to the road is approximately 80 to 90 feet, while on one lot it is only 60 feet. Unarmored sections between armored sections are the issue. Should this road be lost, it would be a major repair and have significant impacts on the lives of the nearby residents. It is shown from empirical data that trap bags deteriorate under repeated high tide events; if damaged they tend to fail rapidly; a storm surge high enough to submerge the trap bags will destroy them. It will take engineering solutions to add mass, likely coquina, to save our road in the event of a storm with a three- to five-foot wind-driven surge.

Mr. Rutledge provided a [presentation](#), with graphs from Hurricanes Ian and Nicole, and photographs of the road in discussion. He explained the county is cleaning the storm drains at ten times the frequency than normal due to the sand being blown into the road and washing into the storm drains. Now that these homes are gone there is nothing stopping the wind. Chair Brower stated this is about prevention and the cost of prevention versus repair; he stressed he is here seeking support. The county has decided to lift those trap bags and add mass in front of this property; however, this is about protecting the road and the assets of Wilbur-by-the-Sea and Ponce Inlet. Adding mass to the armor beyond the trap bags may require the approval of the state and possibly the federal government. Policy makers and staff at all levels of government are going to be dealing with these issues for the foreseeable future. Volusia County will carry the workload in the interactions with the state and federal governments; Ponce Inlet, as an affected party, could help with influencing the outcome at all levels. He said this Council, with its due diligence, will come to its own conclusions and determine what role it can play. He would ask a credentialed engineer what the minimum characteristics of a storm are as far as height and surge, above high tide, wind speed, and duration that would threaten South Atlantic Avenue and the 4100 block in Wilbur-by-the-Sea. He is asking the Council to discuss this issue, and if it is determined to have merit, pass a resolution encouraging the county and state governments to come up with a plan to temporarily armor the dune for the purpose of mitigating the threat.

Mayor Paritsky opened public participation – Sharone Lemieux, 4590 South Atlantic Avenue, provided Council with a personal account of the process to repair damage from the hurricanes; she agreed there needs to be a change in policy. Public participation was closed.

7. CONSENT AGENDA: Mayor Paritsky asked if there was any item Council would like to remove from the consent agenda; there were no requests. Mayor Paritsky asked if there were any requests from the public – there were none.

- A. Approval of the Town Council Regular meeting minutes – June 20, 2024.**
- B. Approval of the Town Council Preliminary Budget Workshop minutes – June 26, 2024.**
- C. Declaration of police vehicle as surplus property.**

Mayor Paritsky moved to approve the Consent Agenda as presented; seconded by Councilmember Milano; The motion PASSED 5-0, consensus.

8. OLD/NEW BUSINESS ITEMS PREFERRED AT THE BEGINNING OF THE MEETING: *None.*

9. PUBLIC HEARINGS / QUASI-JUDICIAL MATTERS: *None.*

10. PUBLIC HEARINGS / NON-QUASI-JUDICIAL MATTERS: *None.*

11. ORDINANCES (FIRST READING) AND RESOLUTIONS:

A. Resolution 2024-13. Attorney Shepard read Resolution 2024-13 by title only. **A RESOLUTION OF THE TOWN OF PONCE INLET, FLORIDA, AUTHORIZING THE CREATION OF A DISASTER RECOVERY FUND; AUTHORIZING A TRANSFER OF APPROPRIATIONS WITHIN THE TOWN'S BUDGET FOR FISCAL YEAR 2023-2024; AND PROVIDING AN EFFECTIVE DATE.** – Chief Scales explained that the Disaster Recovery Fund is to ensure the town is prepared for any unforeseen emergencies. By creating this account, it provides a dedicated funding source for emergencies, it guarantees funds have been allocated for such emergencies, and when it comes time for reimbursements, this will make the process much more efficient. Vice-Mayor Smith asked if there is a minimum or maximum amount to be maintained in this account; Chief Scales stated there is not. Councilmember White asked if this would be a restricted fund; Chief Scales stated yes.

Mayor Paritsky opened public participation – Steve Field, 6 Mar Azul, asked if it was difficult to retrieve the money from the general fund; Mr. Disher explained the process noting that ordinarily any transfer of funds requires Council approval. A brief discussion ensued regarding the need to create a new fund versus keeping the policy as is. Public participation was closed.

Councilmember White moved to approve Resolution 2024-13 authorizing the creation of a Disaster Recovery Fund and a transfer of appropriations within the Town's budget for FY 23/24; seconded by Councilmember Milano. The motion PASSED, 5-0 with the following vote: Councilmember White – yes; Councilmember Milano – yes; Mayor Paritsky – yes; Councilmember Villanella – yes; Vice-Mayor Smith – yes.

B. Resolution 2024-14. Attorney Shepard read Resolution 2024-14 by title only. **A RESOLUTION OF THE TOWN OF PONCE INLET, VOLUSIA COUNTY, FLORIDA ADOPTING A PROPOSED MILLAGE RATE FOR THE LEVYING OF AD VALOREM PROPERTY TAXES FOR MUNICIPAL PURPOSES ON ALL TAXABLE PROPERTY WITHIN THE TOWN FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2024 AND ENDING SEPTEMBER 30, 2025; ESTABLISHING THE PUBLIC HEARING DATES AND TIMES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.** – Mr. Disher explained this resolution is to adopt the proposed millage rate on the budget reviewed by Council. The proposed millage rate is 6.6250 which would produce \$8,403,446 in ad valorem revenue at a 95%

collection rate. The proposed millage rate is 14.15% above the rolled-back rate. Mr. Disher stated the information presented can be found on the town's website. He further explained the millage rate set in this meeting is the maximum rate, so once approved it cannot go up, however it can be lowered before final adoption. The first budget hearing will be September 4th at 6:00 PM, and the final adoption will be at the regularly scheduled Town Council meeting, September 19th at 6:00 PM. Mayor Paritsky provided a brief synopsis on how the budget has come to this point and the steps involved. Councilmember Villanella clarified the 6.7473 rate can currently be considered; he recommended setting it at this rate, providing Council can lower it in the future. Councilmember Milano provided more information referring to previous years' budgets and concluded that he too is looking at the 6.7473 rate. Councilmember White explained the steps he has taken in reviewing the budget and concluded he is most comfortable accepting 6.6250 as the threshold. There was further discussion in an effort for a unanimous decision.

Mayor Paritsky opened public participation – Steve Field, 6 Mar Azul, requested the total of the tax base increase in dollar amounts; Mr. Disher stated it increased by 9%. Discussion ensued regarding the effects of potentially raising the millage rate, and an explanation on how this rate is set. Mr. Fields commented on the potential for Las Olas subdivision's newly refurbished walkover to be considered for cost-participation from the town. Mark Oebbecke, 4758 South Peninsula Drive, stated an investment needs to be made to the town and the services it provides by adopting a budget that extends beyond just the essentials. Barbara Davis, 4871 Sailfish Drive, encouraged everyone to remember the Essential Services Advisory Board is made up of people who have specialized in their respective fields, so their recommendations should be considered. She elaborated on services provided by the town and how it makes the increase in millage worth it. Rick Fuess, 46 Ashley Court, reiterated what Mr. Oebbecke and Ms. Davis stated, and requested clarification on the process of hiring of personnel mid-year. Charles Burge, 4670 Links Village Drive, agreed with Councilmember White and detailed the items he is in favor and opposed to in the budget. Mr. Disher clarified the Town Hall payment comes from the Land Acquisition Fund and therefore does not impact the millage rate. Public participation was closed.

Councilmember White proposed the millage be set at 6.7473 and to re-evaluate after further research from staff.

Councilmember White moved the budget for FY 24/25 be based on a proposed millage rate of 6.7473 or lower; seconded by Councilmember Milano. The motion PASSED, 5-0 with the following vote: Councilmember White – yes; Councilmember Milano – yes; Mayor Paritsky – yes; Councilmember Villanella – yes; Vice-Mayor Smith – yes.

12. OLD BUSINESS:

A. Request to approve the piggyback contract with Sunrise Consulting Group. –

Mr. Disher explained this item comes from last month's meeting where Council expressed the desire to renew the town's current governmental affairs consultant contract for a 12-month period starting immediately. The town received permission to utilize a piggy-back contract with the City of Palm Bay and received confirmation from Sunrise Consulting Group to use the rate previously quoted.

Mayor Paritsky opened public participation – hearing none, public participation was closed.

Councilmember Milano moved to approve the piggy-back contract with Sunrise Consulting Group at the \$3,000 monthly rate, effective immediately; seconded by Councilmember Villanella. The motion PASSED 5-0, consensus.

13. NEW BUSINESS:

A. Discussion – Ponce Inlet Business Hours and Vision Statement. – Mr. Disher stated an email was received prior to last month’s Council meeting by a resident who questioned whether the current business hour restrictions supported the town’s vision statement, or if a new vision state were needed. The Council had directed staff to research and bring back additional information on this topic for the next meeting. Mr. Disher explained the Council could decide to revisit the restrictions or could revisit the entire vision statement, noting that no funds for such an endeavor are currently available or proposed. Mayor Paritsky questioned if some of the ordinances presented are consistent with the values and needs of residents. She stated it may be time to look further into updating these outdated ordinances. Vice-Mayor Smith said it is always good to review periodically, unless this is a response to a specific concern. The rest of Council concurred it would be good to review.

Mayor Paritsky opened public participation – Jair Kessler, 81 Buschman Drive, reviewed her own history with the business hours restrictions concerning the Farmers Market; she asked Council to consider the opportunity to host a market in the morning and evening when reviewing this ordinance. Public participation was closed.

Council directed staff and the Planning Board to review the Town’s regulations for business operating hours, activities, and noise levels for consistency with the adopted Vision Statement.

B. Discussion – Code enforcement hearing process through a Special Magistrate. Mr. Hooker, Code Compliance Manager, presented this item. He provided a history of the Local Code Enforcement Board Act as well as the use of Special Magistrates in Volusia County and around the state. He detailed a Special Magistrate’s duty and how it compares to the Code Enforcement Board. After a survey conducted in October 2019, it was determined that out of 214 municipalities statewide, 62.1% used a Special Magistrate exclusively and 23.8% used a Code Enforcement Board. In June 2024, a survey of agencies in Volusia County was conducted - of the respondents, the Town of Ponce Inlet was the only municipality to use a Code Enforcement Board exclusively. Mayor Paritsky extended her gratitude to all volunteers that sit on a board, emphasizing the Council’s gratitude for the Code Enforcement Board. Attorney Shepard explained that while the duty of Special Magistrates and Code Enforcement Board are similar, the difference lies in the execution and the efficiency of the execution.

Mayor Paritsky opened public comment – Karen Rij, Ponce Inlet resident, explained that as a member of the Code Enforcement Board, she would like to know what was wrong with the current process and what the cost would be to the town. Mayor Paritsky clarified that nothing was wrong, but it would be a more elevated process for the town. Attorney Shepard explained how the cost could be negotiated, e.g. hourly as needed or flat monthly rate. Sharone Lemieux, 4590 South

Atlantic Avenue, questioned whether the process would remain the same for code complaints and if the process would be expedited. Attorney Shepard addressed her questions while emphasizing that with the Special Magistrate, there should be no concern for anything less than an efficient process. Rick Fuess, 46 Ashley, stated that as a member of the Code Enforcement Board, he sees the merit in transitioning to a Special Magistrate. Barbara Davis, 4871 Sailfish Drive, explained how she supports a Special Magistrate to provide more efficiency in the code enforcement process. Pete Finch, 106 Rains Drive, explained his history with being appointed to the Code Enforcement Board and voiced his support to transition to a Special Magistrate.

Council directed staff to draft an ordinance to transition from the Code Board to a Special Magistrate.

C. Discussion – Purchasing thresholds – Mr. Disher explained this item is a continuation from a discussion presented at last month's Town Council meeting and proceeded to explain the Town's current purchasing thresholds. He stated the threshold for purchases by the Town Manager has been \$25,000 since 2006, other than between 2009 to 2018 when it was reduced to \$10,000 due to the "Great Recession." From staff's research of cities around Volusia County, he stated there did not seem to be much correlation between purchasing thresholds and population size. Council discussed the amounts they would be comfortable raising the purchasing threshold to. There was a consensus that \$50,000 would be appropriate.

Mayor Paritsky opened public participation – hearing none, public participation was closed.

Council directed staff to amend the purchasing threshold regulations to allow the Town Manager to make purchases up to \$50,000.

~~**D. Request to change the December 2024 Regular Town Council meeting date.**~~
(item 13-D withdrawn by request)

14. FROM THE TOWN COUNCIL:

A. Vice-Mayor Smith, Seat #5 – Vice-Mayor Smith stated this meeting is a great example of how meetings should run with public participation and decorum.

B. Councilmember Villanella, Seat #4 – Councilmember Villanella agreed with Vice-Mayor Smith's comments stating the dialogue between all was outstanding.

C. Councilmember White, Seat #3 – Councilmember White echoed the previous comments and thanked the public for their discussion regarding the budget. Councilmember White requested an update to the Jeff Miller memorial and Mr. Disher explained the town is currently waiting for the bench to be delivered. He also requested an update to when the Ponce Preserve boardwalk would reopen. Chief Scales explained they are looking at quotes and that contractors have advised it may take up to four weeks to gather the materials needed for the project; however, it should only take roughly 30 days to complete the work. Chief Scales explained the figures that came with the request for the new fire truck in the upcoming budget cycle and provided updates to those figures.

322
323 **D. Councilmember Milano, Seat #2** – Councilmember Milano shared a story
324 regarding a homeless veteran that was helped by the First Step Shelter. In August this person will
325 be placed in housing for the first time in 24 years.
326

327 **E. Mayor Paritsky, Seat #1** – Mayor Paritsky explained she represented the town as
328 a speaker at the Florida Bar Association meeting where she described how the town has prioritized
329 animal welfare. She then spoke on the recent board training session provided by her and the Clerk's
330 office, and explained the information presented. She re-iterated her appreciation for all board
331 members, volunteers, and those who attended. Mayor Paritsky stated she is honored to be
332 representing Ponce Inlet at the upcoming Florida League of Mayors Mental Health and Veterans
333 Seminar.
334

335 **15. FROM THE TOWN MANAGER** – Mr. Disher stated the County has requested a
336 consensus from the Town Council to allow staging of the annual Christmas Parade at Lighthouse
337 Point Park as part of the organizers' application.
338

339 Council by consensus indicated support for Christmas Parade staging at Lighthouse Point Park.
340

341 Mr. Disher stated the police department would be conducting another crosswalk detail at
342 Winterhaven Park on July 30, 2024. The fire department will be hosting a water rescue training at
343 the County dog beach. He reminded everyone that the Volusia County Coastal Division will be
344 hosting a meeting at the Ponce Inlet Community Center on July 30, 2024 regarding easements for
345 sand and dune restoration.
346

347 **16. FROM THE TOWN ATTORNEY** – Attorney Shepard provided an analogy regarding
348 setting preliminary millage rates for future consideration.
349

350 **17. PUBLIC PARTICIPATION (on items 14 – 16 only)** – Mayor Paritsky opened public
351 participation – Mark Oebbeke, 4758 South Peninsula Drive, thanked Council for their consensus
352 regarding the Christmas parade. Public participation was closed.
353

354 **18. ADJOURNMENT** – Mayor Paritsky adjourned the meeting at 5:01 P.M.
355

356 Respectfully submitted by:
357

358 **DRAFT**

359 Kim Cherbano, CMC, Town Clerk

360 Prepared by: Stephanie Gjessing, Assistant Deputy Clerk

361
362 Attachment(s): Presentation from Mr. Rutledge

FIGURES

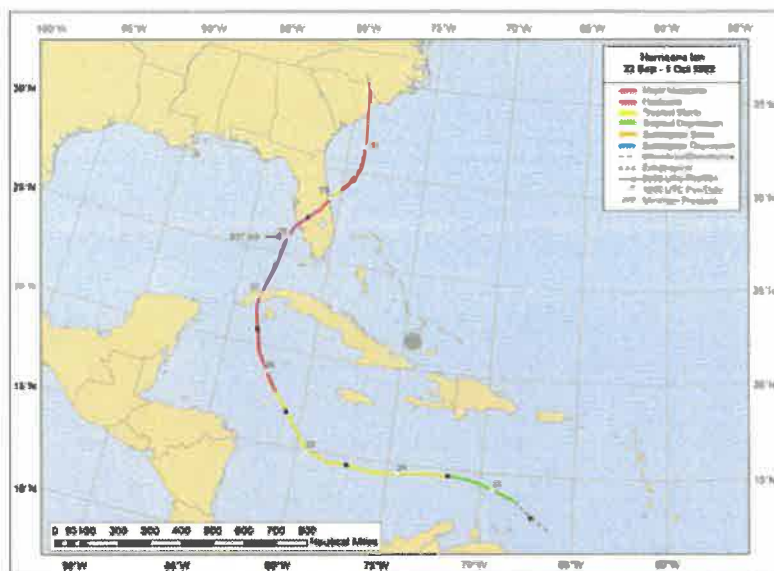
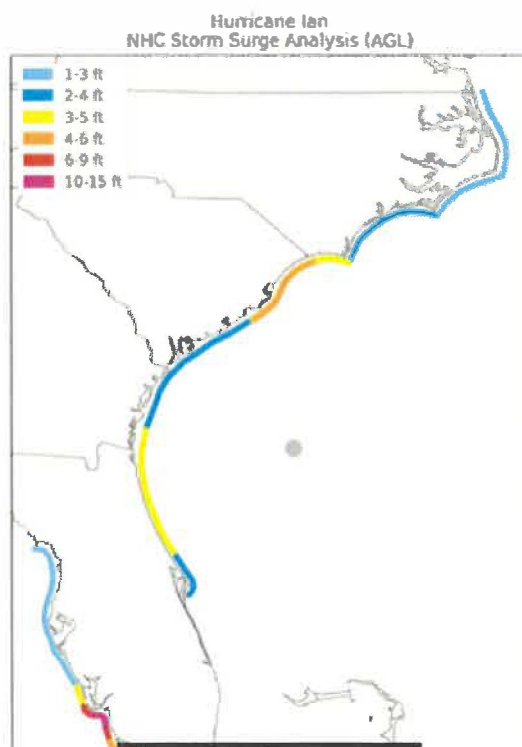
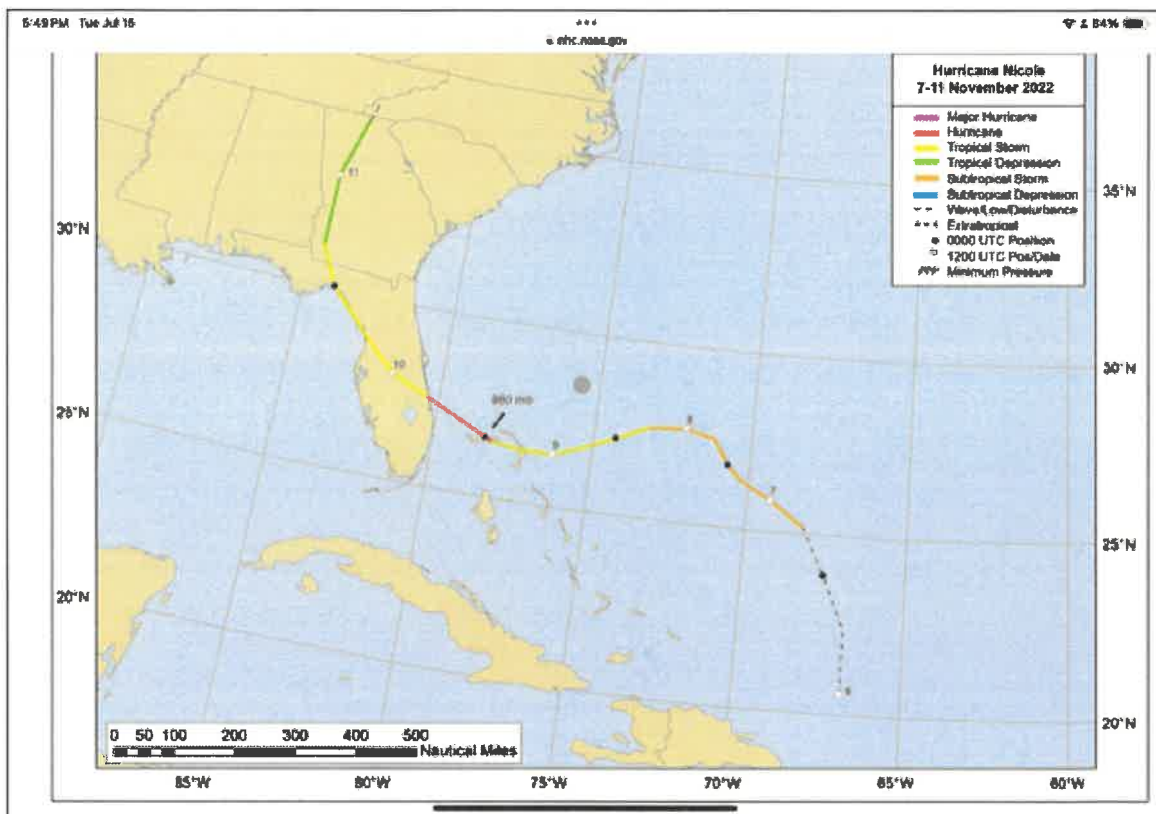


Figure 1. Best track positions for Hurricane Ian, 23–30 September 2022. Tracks during the extratropical stage are partially based on analyses from the NOAA Weather Prediction Center.

46 of 72





5:51PM Tue Jul 19

www.nhc.noaa.gov

84%

Location	Minimum Sea Level Pressure		Maximum Surface Wind Speed		Storm surge (ft)	Storm tide (ft)	Estimated inundation (ft)	Total (ft)
	Date/ time (UTC)	Press. (mb)	Date/ time (UTC)	Sustained (kt)				
New Smyrna Beach (XNSB) (27.00N 80.00W) (10m)	10/0938	984.3	10/0933	49	65			
Jupiter (XJAK) (26.97N 80.57W) (10m)	10/0645	987.5	10/0150	27	49			
Titusville (XPAR) (28.50N 80.81W) (10m)	10/0948	990.0	10/0828	41	57			
Port Everglades (XPEG) (26.00N 80.12W) (41m)			08/0756	28	39			
Malabar (XRPB) (27.50N 80.50W) (10m)			10/0431	40	61			
St. Lucia NPP (XSTL) (27.30N 80.27W) (10m)	10/0721	981.0	10/0347	42	54			
Vero Beach (XVER) (27.62N 80.38W) (10m)	10/0759	980.0	10/1104	23	44			
Belleair (27.94N 82.80W) (10m)			10/1353	23	39			
Caryfort Reef Light (26.23N 80.27W) (10m)			08/2318	36	37			
Clam Bayou (27.44N 82.70W) (10m)			10/1748	27	38			
Conservation (26.10N 80.30W) (10m)			10/0413	23	39			
Dunedin Causeway (26.00N 80.00W) (10m)			10/1325	36	49			
Grove City (26.90N 82.31W) (10m)			10/1110	27	37			
Griffin (27.00N 82.04W) (10m)			10/1056	27	46			
Land o' Leaps (26.10N 82.62W) (10m)			10/1153	23	41			
Lewis (27.50N 81.33W) (10m)			10/1310	27	50			
New Pass Shoal (27.30N 82.80W) (10m)			10/1132	37	47			
Oakes Substation (27.30N 82.77W) (10m)			10/0150	27	50			
Reedy Lake (26.40N 81.07W) (10m)			10/1301	27	43			

Hurricane Nicole: A Late Season Storm

Assembled by Emily Powell, Florida Climate Center, 19 December 2022

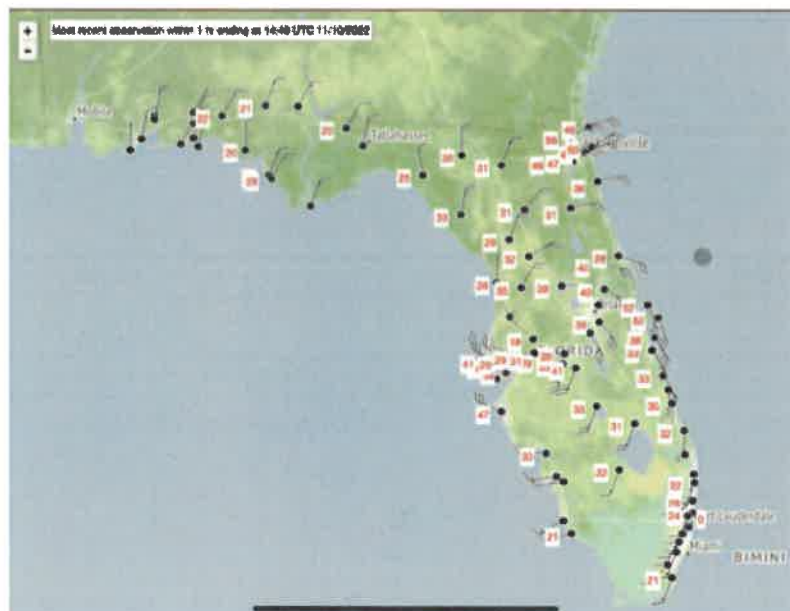


reaching Florida on 8 November 2022 at 1PM EST
(Image from NASA/VIRRS)



Hurricane Nicole's track (Image from the North Carolina State Climate Office)

Nicole had maximum sustained wind speeds of 75 mph as it approached Florida's east coast, and the storm's large wind field brought a strong northeasterly wind flow up and down the northeastern coast of Florida. Strong onshore winds helped drive storm surge and severe erosion along coastal areas.



center, and it is unclear whether this value is erroneous data or associated with a mesovortex in the northern eyewall. The minimum central pressure is set to 990 mb based on the available data and consideration for the various sampling issues.

Storm Surge²

Due to its large size and interaction with the anticyclone to the north, Nicole produced an impactful storm surge along a large portion of the east coast of Florida, battering beaches with elevated water levels and wave action. Florida was previously hit by Hurricane Ian in late September which caused beach erosion along the east coast and freshwater flooding from rainfall in rivers and canals. The impact of Ian likely left the area more vulnerable to storm surge from Nicole. Additionally, Nicole's large wind field and its initial subtropical characteristics increased the potential for widespread wave and storm surge impacts.

Table 3 and Figure 5 provide the peak storm surge observations from various National Ocean Service (NOS) tide gauges and United States Geological Survey (USGS) stream gauges along the U.S. east coast and the Florida Big Bend region. Sensors measured 3 to 4 ft of water above Mean Higher High Water (MHHW) from Jupiter Inlet, Florida, northward to St. Simons Island, Georgia. An NOS tide gauge at Trident Pier, near Cape Canaveral, measured 5.83 ft above normal tide levels, which resulted in a water level of 3.68 ft above MHHW. In addition, notable storm surge flooding occurred on the St. Johns River, where an NOS tide gauge at the I-295 Buckman Bridge measured a water level of 3.82 ft above MHHW.

A storm surge hindcast produced by the NHC Storm Surge Unit (not shown) indicates the maximum inundation along the northeast coast of Florida was up to 5 ft above ground level (AGL). Significant damage occurred where beach erosion encroached on nearby communities. For example, aerial imagery revealed that Wilbur-by-the-Sea, a community located just south of Daytona Beach, experienced beach erosion causing damage to beachfront structures.

² Several terms are used to describe water levels due to a storm. Storm surge is defined as the abnormal rise of water generated by a storm, over and above the predicted astronomical tide, and is expressed in terms of height above normal tide levels. Because storm surge represents the deviation from normal water levels, it is not referenced to a vertical datum. Storm tide is defined as the water level due to the combination of storm surge and the astronomical tide, and is expressed in terms of height above a vertical datum, i.e. the North American Vertical Datum of 1988 (NAVD88) or Mean Lower Low Water (MLLW). Inundation is the total water level that occurs on normally dry ground as a result of the storm tide, and is expressed in terms of height above ground level. At the coast, normally dry land is roughly defined as areas higher than the normal high tide line, or Mean Higher High Water (MHHW).

FIGURES

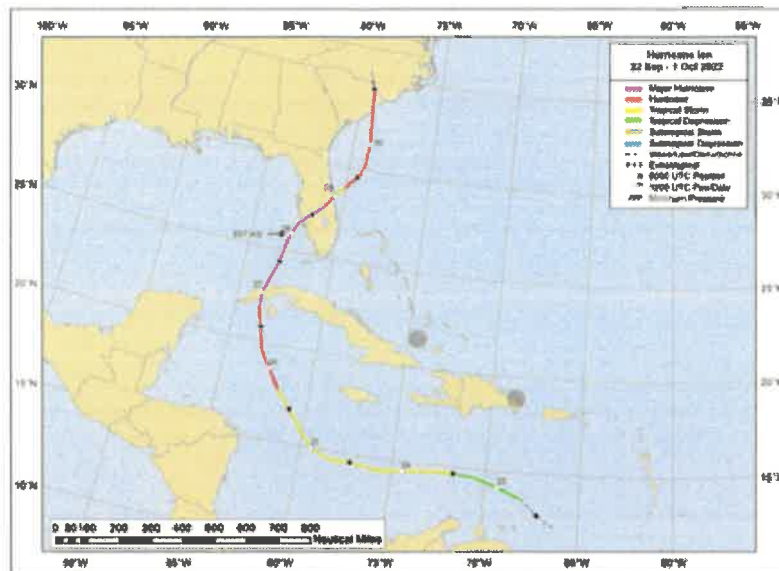
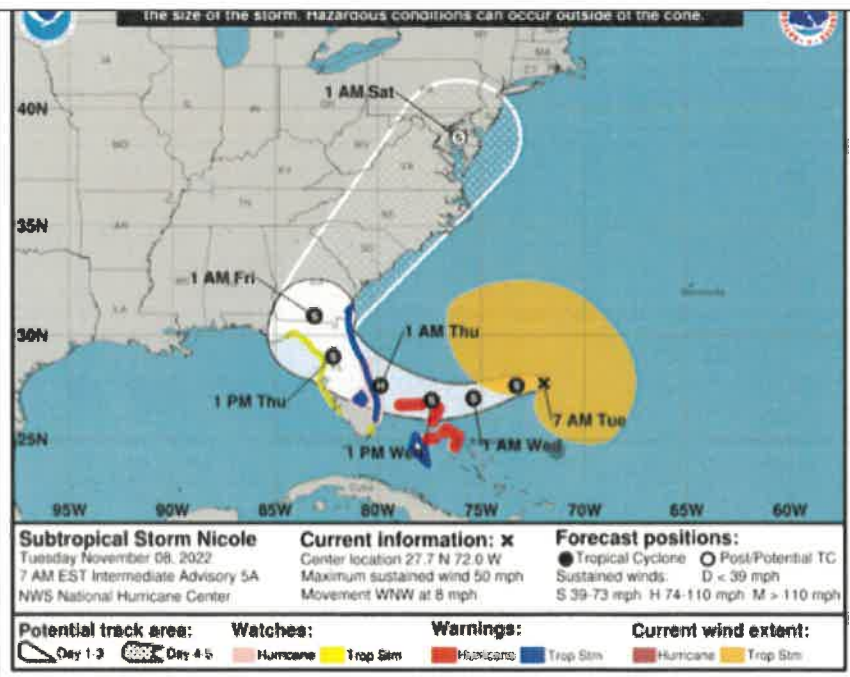
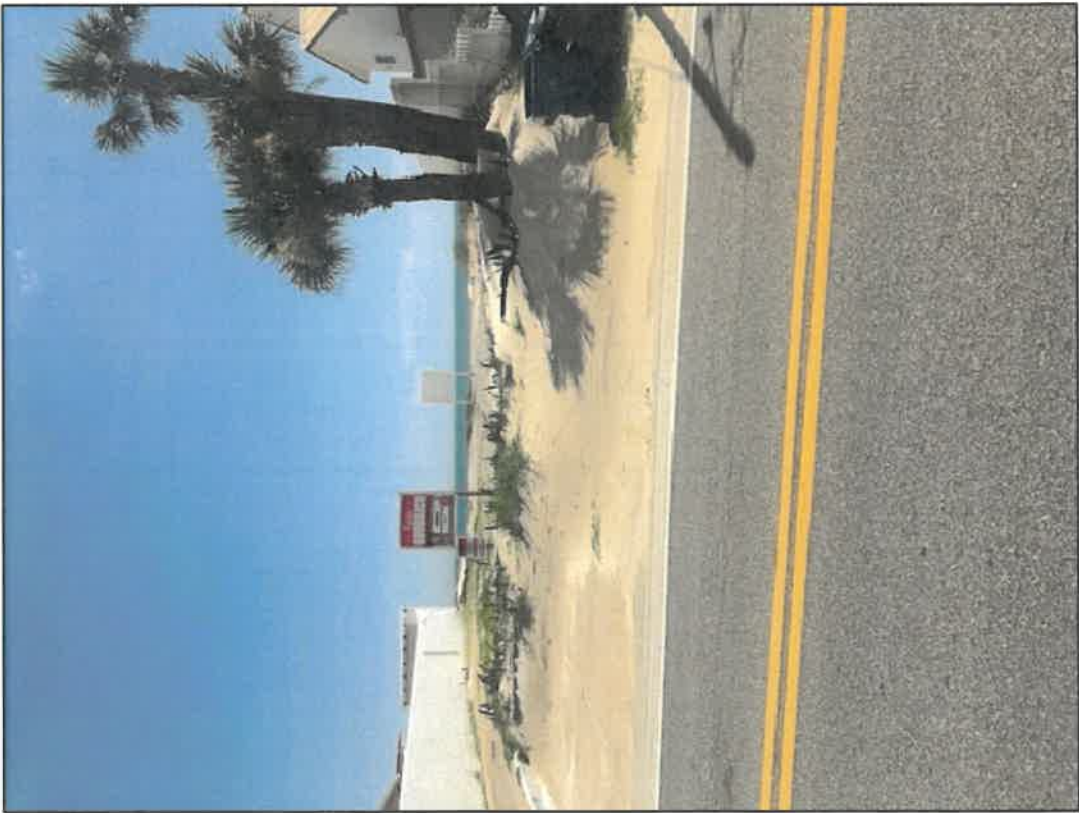
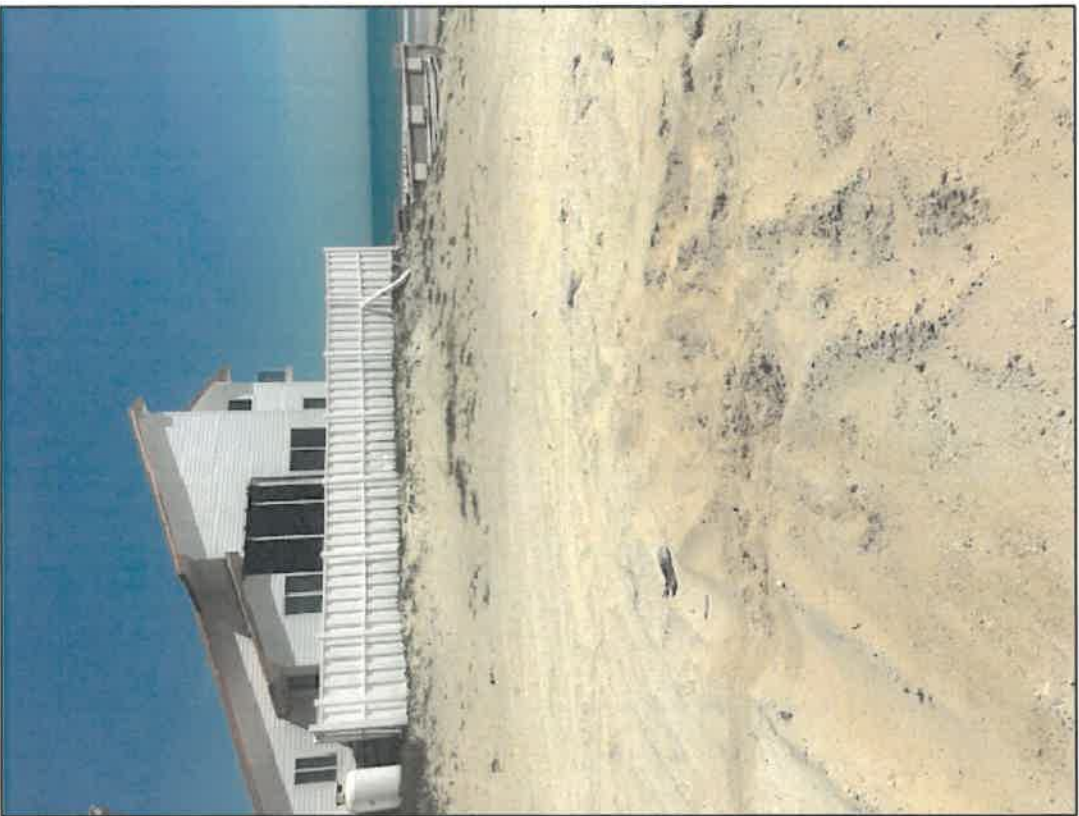


Figure 1. Best track positions for Hurricane Ian, 23–30 September 2022. Tracks during the extratropical stage are partially based on analyses from the NOAA Weather Prediction Center.



The history of Nicole from when it first formed as a subtropical storm on November 7th until it departed Florida and moved north into the southeast U.S. on November 11th.











Town of Ponce Inlet
Town Council
Budget Workshop Minutes
July 16, 2024

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:** Led by Mayor Paritsky.

3. **ROLL CALL:**

Town Council:

Mayor Paritsky, Seat #1

Councilmember Milano, Seat #2

Councilmember White, Seat #3

Councilmember Villanella, Seat #4

Vice-Mayor Smith, Seat #5

Staff Members Present:

Mr. Disher, Town Manager

Ms. Dowling, HR Coordinator

Mr. Dunlap, Acting Public Works Director

Ms. Gatrost, Public Works Office Manager

Chief Glazier, Police Chief

Ms. Hugler, Fire Department Office Manager

Ms. Manchester, Police Department Office Manager

Ms. McColl, Finance 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. **Proposed Budget for FY 2024/25** – Mr. Disher provided a [presentation](#) and a summary of the assumed expenses and priorities. He noted that property values have increased by 9.07%, with the proportion of homesteaded properties remaining the same as last year at 47%. The capital purchases were outlined in the budget memo and discussed at the last budget workshop and include items such as the new fire truck, etc. Capital projects include the septic-to-sewer project. He provided an overview of key services, and what each department provides regarding public safety, infrastructure, information technology, planning and development, administration, and cultural services. Mr. Disher reviewed the tax base and noted it is used to calculate the projected revenue when compiling the budget. The 2024 gross taxable value is \$1.3 million, and each .10 mills is expected to generate \$126,844. The current millage rate is 6.2779 and would yield \$7.9 million if it remains the same; this is \$601,496 more than the rolled-back rate. The proposed millage rate of 6.6250 would generate \$8.4 million and would be \$440,277 above the current millage rate and \$1.04 million above the rolled-back rate. He explained the projected general fund revenue by source, noting that 79% comes from ad valorem taxes. He reviewed a 2023 comparison of general

fund ad valorem revenue to other Volusia County jurisdictions; Ponce Inlet was significantly above the other jurisdictions with 62% of its revenue coming from ad valorem taxes. He reviewed the proposed FY 2024/25 budget summary including the projected revenue, sources, and expenditures. The Town's budget also includes special funds outside of the general fund; he explained some are restrictive and can only be used for specific things; others are created for funds that are received such as the gas tax. Other special funds are for special projects like the septic-to-sewer project, and some are related to specific operations. He went over the general fund expenditures by department, noting that 47% of expenses are related to the Police and Fire Departments. Mr. Disher explained that Ponce Inlet's tax bill to residents is only one-third of their complete tax bill. He reviewed the historic millage rates for the last ten years and the proposed millage rate estimates, explaining how much revenue each would be expected to generate, including the roll-back rate. The maximum millage rate for a simple majority vote is 5.69%; the budget has been balanced at 6.625% and requires a super majority vote; anything above 6.7473% would require a unanimous vote.

Mr. Disher explained the priorities were developed with the Essential Services Advisory Board (ESAB); they are required by ordinance to make budget recommendations on items relating to Public Works, Fire and Police. He explained the process staff and the ESAB goes through to provide a priority list. He reviewed the priority list as it stood as of March; in June, they reviewed the request for the Public Works Building "B" replacement as it had been identified as unusable due to deterioration. It is important to remember that not all projects are funded with ad valorem taxes which include the Public Works Building "B" project (Land Acquisition fund) and the septic-to-sewer project among other projects. The proposed budget has been balanced based on the higher level of service; it includes a list of projects, equipment, maintenance, and professional services, which totals \$939,500. The impact of the 6.625 millage rate was provided in the budget memo along with a lower level of service millage rate of 6.2779 for comparison. He reviewed the unfunded requests which include a Public Works maintenance technician; the Ponce Preserve gazebo roof replacement (3 of 6); Fire Department replacement cascade system and bunker gear dryer; and Police Department golf cart. The Council will be asked to set a millage rate at July's regularly scheduled Town Council meeting, which is typically set at the higher level. He explained that once it is set, you cannot go higher, but you can lower it if needed before the budget is approved in September. He asked for the Council's input.

Mayor Paritsky thanked Mr. Disher for a comprehensive, detailed, and understandable presentation. She reiterated that this is a workshop, and that a final millage rate is not being set today. She noted that any or all the items that may have a benefit or an impact on some but not all residents or sections of the community are something that must be looked at; this Council is responsible for the entire, incorporated municipality of Ponce Inlet. Since it was first incorporated in 1963, there have been and will always be resources allocated to individual sections of the community. For example, one of the items in the proposed budget is a new ladder truck for the Fire Department; at a cost of \$1.8 million, it offers practically no benefit to the hundreds of single-story homes in our town but will primarily service those who live in high-rise condominiums. The town recently completed a sewer and sidewalk project on Ponce de Leon Circle, and she stated that unless you live on that street, it does not benefit everyone. Several years ago, the Town assisted the residents at Old Carriage Road and Anchor Drive by supplementing the cost of engineering, surveying, and legal research for their dredging project. The comprehensive septic-to-sewer

92 projects are another example. Other examples include resurfacing tennis and pickleball courts,
93 kayak landings, and the Veteran's Memorial. Mayor Paritsky explained the point is we should not
94 apply the test of whether a particular item benefits the entire town; rather, we must consider the
95 entire town as a single incorporated municipality. She opened the discussion to the Council.

96 Councilmember White stated the two most important tasks a sitting councilmember undertakes
97 each year are policy making and the Town budget process. These tasks are never taken lightly as
98 it is their sworn duty to make the critical tasks open and available to everyone. One aspect he hopes
99 to accomplish today is, as a Town Council and staff, to not only look at the FY 2024/25 budget
100 but also understand how important budget items impact Ponce Inlet's financial future for years to
101 come. We must not only look at one year's budget as citizens and Councilmembers but look at the
102 next ten years; can we afford what we are asking, requesting, and approving to do.

103 Councilmember Villanella complimented staff on the enormous detail provided in the proposed
104 budget. He does not have any concerns; he has reviewed the budget line-by-line and although there
105 are a few line items that may raise a question mark, once investigated it is determined it is
106 something needed, such as the fire truck. He stated Mayor Paritsky provided a great example of
107 single-family homes versus condos; it is the whole town. We must make the best decisions for the
108 whole town.

109 Councilmember Milano referred to the ten-year historic millage rate graph, and stated he has been
110 on the Council for all those years. In 2014/15, the operating budget was approximately \$5.2
111 million; if you take that \$5.2 million and calculate the inflation rate into it, that amount would be
112 almost \$7 million today. In 2014/15, there were only three firefighters per shift; now there are
113 seven additional firefighters. There were eight total police officers and there are now fifteen.
114 Services and protection have been increased for everyone. He made a mistake one year and voted
115 for lowering the millage to the roll-back rate; doing that took the Town's reserves from eight
116 months to four months. It is required by law to have between four and nine months. He will not
117 make that mistake again. He will do everything in his power as a Councilmember to ask for a super
118 majority millage so it can be adjusted down as we have previously done. People talk about how
119 the town is spending more money, but the residents get wonderful services. We are correcting
120 things like the stormwater project, the fire hydrants are up to date, the fire truck is up to date, and
121 making sure we are providing proper equipment, so the employees are not injured on the job.
122 Mayor Paritsky added there is also an increase in our property values, so residents are getting a
123 return on their investment there as well. Councilmember Milano referred to the recent article
124 announcing Ponce Inlet as the safest small town in Florida; he congratulated the staff for that
125 designation.

126 Vice Mayor Smith agreed; the Council has always discussed safety and it has been paid back by
127 receiving that designation. It is an honor to say we are the safest small town in the state of Florida.
128 Mayor Paritsky asked if there was anything specific Councilmembers wanted to add or delete from
129 the proposed budget. Councilmember Milano noted he is comfortable with a super majority
130 millage because of the unfunded priorities since they are safety items. He recounted a memory of
131 a firefighter trying to get a resident from a second story unit out, and he did not have the power
132 load stretcher when it was needed; that was not the only time it was needed. He referred to the
133 gazebo roof replacement and noted that it is also a safety issue; we need to be proactive not

134 reactive. He stated let the Council have the super majority vote millage, and have staff come back
135 with what they need and a straight millage rate.

136 Councilmember White stated he is not in favor of the 6.625 millage rate; he reviewed the proposed
137 budget and met with staff last week to go over it. He was happy to see some of what was discussed
138 then included in Mr. Disher's presentation; he does not want anyone to think he is not in favor of
139 supporting the Town. However, he needs to think about the future – he stated we would be in a
140 difficult situation with no way of getting out based on this budget if we did not have 9% increase
141 in our property values. He is not saying that we do not need the things proposed in the budget;
142 however, sometimes we need to take a step back and digest what has been done. Discussion ensued
143 regarding the proposed budget, service levels, impact of millage rates, and unfunded needs. It was
144 explained that the fire truck is a lease/purchase; in March, the \$80,000 was a down-payment on a
145 new fire truck to be ordered with a three-year wait time; since then, an opportunity has arisen to
146 purchase a demo fire truck, which is available immediately, and is less money; there has been a
147 price increase to build a new one.

148 Councilmember White referred to Public Works Building "B"; it is \$275,000 and is not affecting
149 the millage rate for FY 2024/25, but it is important to tell the citizens what they are getting for that
150 \$275,000. The amount started at \$150,000 and has increased to the \$275,000. Chief Scales
151 explained the initial numbers were best guess numbers; however, after reviewing it and comparing
152 to other projects completed in the past, it was not accurate; \$50,000 is design, architectural, and
153 engineering; the remaining amount would be for demolition, relocation of the generator, and
154 construction of a new building. Mr. Disher added the numbers have fluctuated over time; the locker
155 rooms, and other items that had been proposed with a parking lot expansion have been combined
156 with the new building except for the parking lot. Councilmember White asked for confirmation
157 that these funds are from the land acquisition fund, which is restricted. Mr. Disher explained yes;
158 for a public building which can include any component of that building. Councilmember White
159 asked if any unused funds from that \$275,000 would have to be returned to the land acquisition
160 fund. Chief Scales confirmed that they would. Discussion continued regarding the budget line
161 items. Mayor Paritsky asked if Vice-Mayor Smith had any questions or concerns with what is
162 presented. Vice-Mayor Smith stated he is comfortable with the proposed millage rate; staff has
163 justified that rate, there is a reason for everything in the budget, and he is comfortable with it as
164 presented. Mayor Paritsky agreed that she is also comfortable with it as presented. Councilmember
165 Villanella stated he is satisfied with the way it is presented, he likes the items included, and
166 appreciates the detail. He understands that things will fluctuate during any budget year; this is a
167 minimal moving target. Councilmember Milano stated that some of the unfunded items are
168 significant; the chosen millage needs to be considered and it needs not to be a number where we
169 cannot fit those unfunded items in. We did that once before and it took months of our reserves to
170 balance the budget the following year. The number can always start higher and then be lowered;
171 this needs a super majority vote.

172 Mayor Paritsky asked what millage rate the Council would be comfortable with. Discussion
173 continued regarding the proposed millage rate, projected revenue, proposed budget line items and
174 the reserves. Mayor Paritsky reiterated that property values have increased, people have an
175 investment in this town and their real estate, and they are getting a return. People move to the
176 Town of Ponce Inlet for a reason; there is an expectation for the services that Ponce Inlet provides.
177 Councilmember White disagreed and stated that he is being told by residents to hold the millage

rate where it is. Mayor Paritsky asked Councilmember White how many residents reached out; Councilmember White responded six this morning on the beach. Discussion continued. Councilmember Villanella noted that the difference they are discussing is an average of an additional \$31 per month, or \$440 per year.

Mayor Paritsky opened public comment. Charles Burge, 4670 Links Village Drive, stated he agrees with Councilmember White and disagrees with Mayor Paritsky regarding Anchor Drive and Ponce de Leon Circle; insurance companies base rates on the crime statistics, fire department rates, and our flood plain. When you try to rectify a flood plain situation or put in infrastructure, it affects resident's insurance rates and the town. He feels comments were directed at him regarding funding a private equity concern; and a 6.747 millage rate to fund fire department equipment and stretchers, he agrees with; but he does not agree to fund a private equity concern. Therefore, he agrees with Councilmember White; but when a cap is set, he asked how many times in history has it been lowered. Councilmember Milano stated he does not remember a time it has not been lowered from the higher rate. Vice-Mayor Smith agreed and explained this discussion is had every year; it has always started high and then decreased because they will have had time to review everything and sharpen their pencils. They want the flexibility; every year this discussion is had and every year the rate starts high and then is reduced selectively by what can be taken out of the budget. This is why he always starts with the rate staff asks for. Mr. Burge stated that if the Council has line-item veto, there are items he would like stricken that he feels very adamant about. Discussion ensued regarding the proposed beach walkover request for Harbour Village and alternative suggestions. Mr. Burge stated he feels everything on the list is more important than that walkover and that there should be more for disabled people and veterans. Mayor Paritsky added that the request for the beach walkover was made by the elected board members of Harbour Village on behalf of 670 people that are residents in our town.

Mr. Disher stated it is always the goal of staff to make the budget as tight as possible while providing the level of service the residents expect; it is ultimately the Council's budget that staff prepares. Staff received the input needed and will prepare it for Council, who will vote on Thursday for a maximum millage rate, and then work down from there. The first reading of the budget and tentative millage rate will be in the beginning of September and the final reading will be at the September Council meeting.

6. ADJOURNMENT. Mayor Paritsky adjourned the meeting at 11:37 a.m.

Respectfully submitted by:

DRAFT

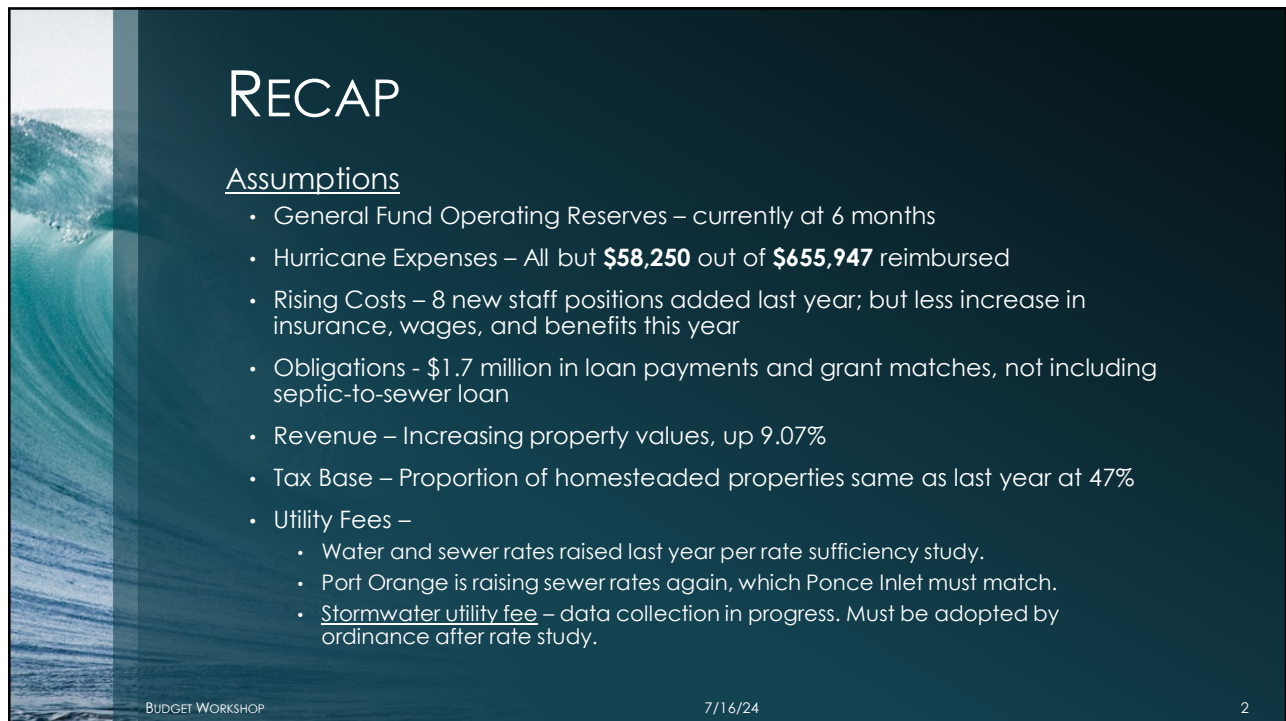
Kim Cherbano, Town Clerk

Prepared by: Debbie Stewart, Assistant Deputy Clerk

Attachment(s): July Budget Workshop Presentation



1



RECAP

Assumptions

- General Fund Operating Reserves – currently at 6 months
- Hurricane Expenses – All but **\$58,250** out of **\$655,947** reimbursed
- Rising Costs – 8 new staff positions added last year; but less increase in insurance, wages, and benefits this year
- Obligations - \$1.7 million in loan payments and grant matches, not including septic-to-sewer loan
- Revenue – Increasing property values, up 9.07%
- Tax Base – Proportion of homesteaded properties same as last year at 47%
- Utility Fees –
 - Water and sewer rates raised last year per rate sufficiency study.
 - Port Orange is raising sewer rates again, which Ponce Inlet must match.
 - Stormwater utility fee – data collection in progress. Must be adopted by ordinance after rate study.

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RECAP

Priorities

- Capital Purchases (equipment) - \$444,000 in Police, Fire, and Public Works
- Capital Projects (construction) - \$5,780,000, including septic-to-sewer Ph. 1
- Maintenance Activities - \$75,000, including Harbour Village boardwalk contribution
- Professional Services - \$28,500 salary survey
- New Personnel – \$0
- Other - \$362,589
- TOTAL – **\$6,690,089**

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OVERVIEW

Key Services

- Public Safety
- Infrastructure
- Planning & Development
- Administration
- Cultural Services

Budget and Tax Environment

- Tax Base
- Projected Revenue
- Revenue Sources
- Local Government Ad Valorem %
- Budget Summary
- Reserve Analysis
- Breakdown by Department
- Historic Millage Rates
- Complete Tax Bill
- Millage Rate Estimates

Service Levels

- ESAB Priorities
- Not funded by Ad Valorem
- High
- Low
- Impacts
- Unfunded Requests
- Summary

Millage Rate?

Next Steps

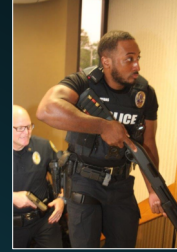
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KEY SERVICES – PUBLIC SAFETY



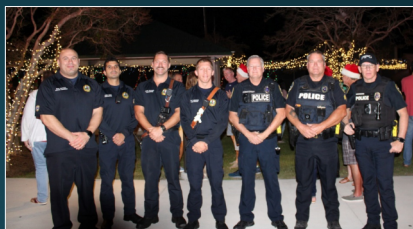
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KEY SERVICES – PUBLIC SAFETY



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KEY SERVICES – INFRASTRUCTURE



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KEY SERVICES – INFRASTRUCTURE



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KEY SERVICES – PLANNING & DEVELOPMENT



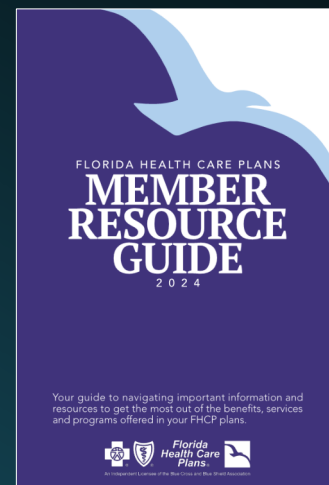
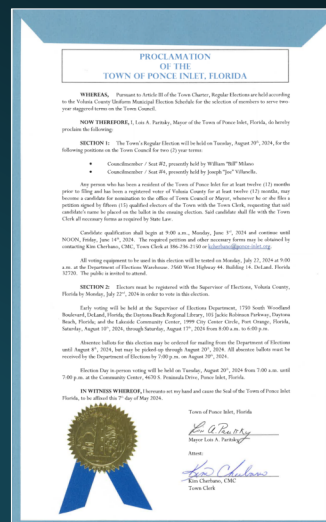
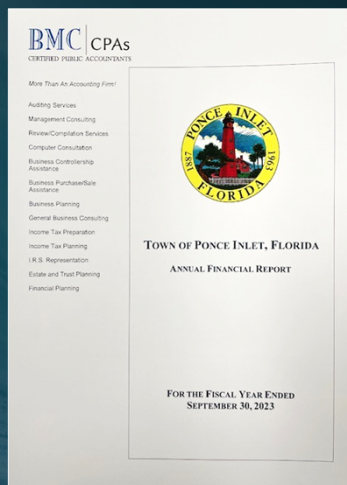
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KEY SERVICES – ADMINISTRATION



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KEY SERVICES – CULTURAL SERVICES



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TAX BASE (+/-) = CHANGE FROM LAST YEAR

Total number of households in Ponce Inlet

Single Family = 1,210 (+11)
 Condominiums = 1,990
 Total = 3,200 (+11)

Number of homesteaded households in Ponce Inlet – 47% of total

Single Family = 832 (+8)
 Condominiums = 665 (-13)
 Total = 1,497 (-5)

Number of non-homesteaded households in Ponce Inlet – 53% of total

Single Family = 378 (+3)
 Condominiums = 1,325 (+13)
 Total = 1,703 (+16)

Median taxable value of a home in Ponce Inlet

Single Family = \$362,890 (+\$34,817)
 Condominiums = \$338,800 (+\$28,356)
 Overall = \$343,558 (+\$27,046)

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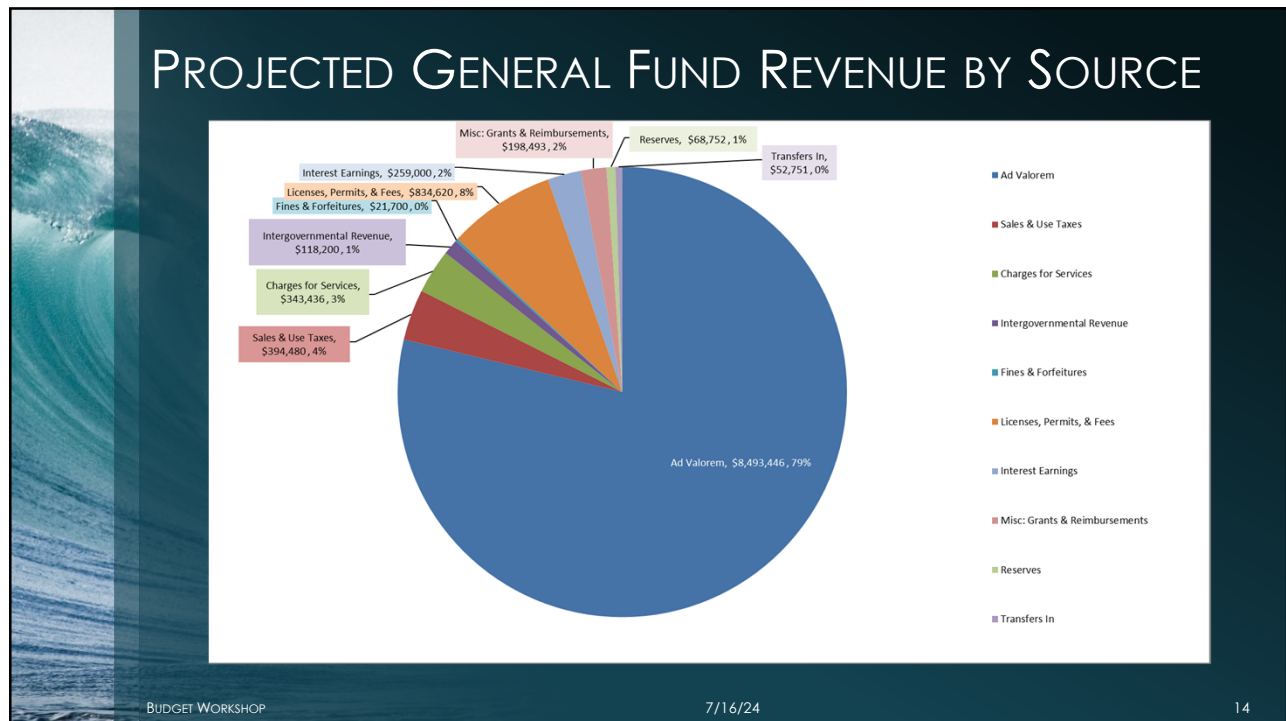
PROJECTED REVENUE

Property Values

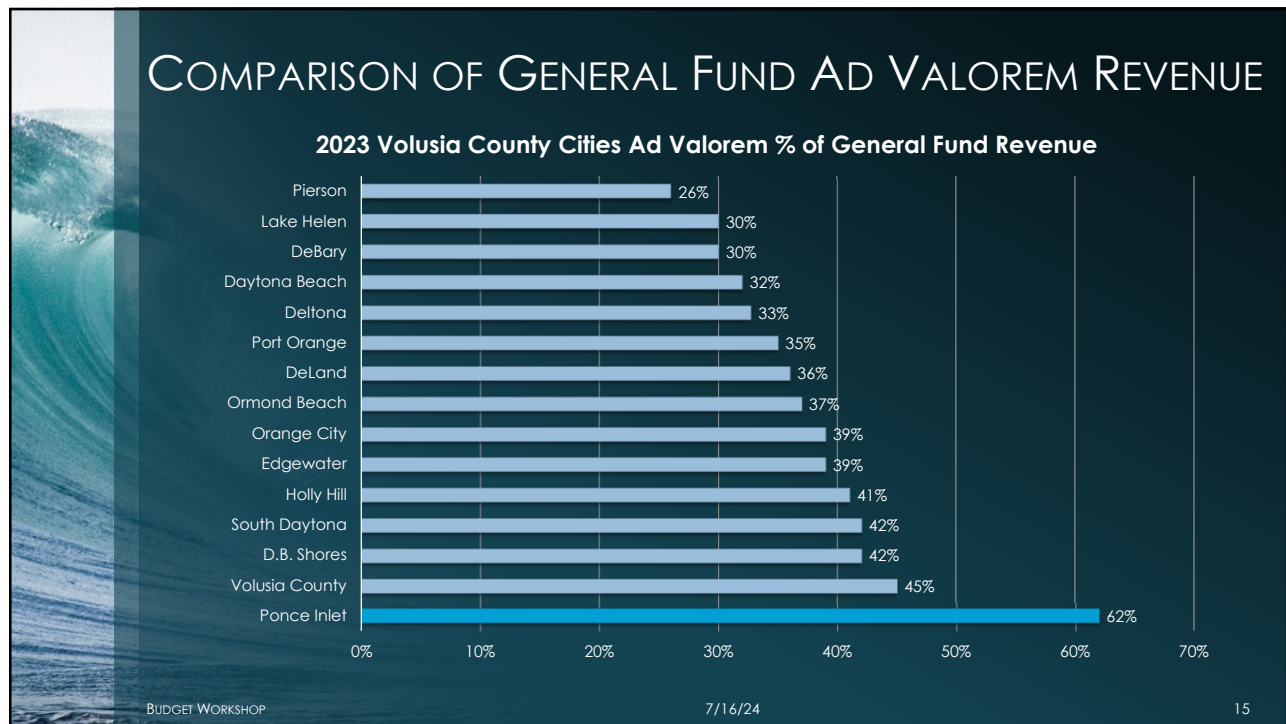
- 2024 gross taxable value is **\$1,335,204,947**.
- **9.07%** increase over current year's revenues.
- Each 0.10 mills is expected to generate **\$126,844**.
- If millage remains at current rate of **6.2779**, would yield **\$7,963,169** (at 95% collection rate).
- This is **\$601,496** more than from the rolled-back rate of **5.8037** mills.
- The proposed millage rate of **6.6250** would generate **\$8,403,446** (at 95% collection rate).
- This is **\$440,277** above the current FY 23-24 millage rate and **\$1,041,773** above the rolled-back rate.

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FY 24/25 BUDGET SUMMARY

FY 23/24 BUDGET SUMMARY

<u>General Fund:</u>		<u>Revenues</u>		
	Ad Valorem	\$	8,493,446	78.75%
	Sales & Use Taxes	\$	394,480	3.66%
	Charges for Services	\$	343,436	3.18%
	Intergovernmental Revenue	\$	118,200	1.10%
	Fines & Forfeitures	\$	21,700	0.20%
	Licenses, Permits, & Fees	\$	834,620	7.74%
	Interest Earnings	\$	259,000	2.40%
	Misc: Grants & Reimbursements	\$	198,493	1.84%
	Reserves	\$	68,752	0.64%
	Transfers In	\$	52,751	0.49%
	Total Revenue	\$	10,784,878	100.00%
		<u>Expenditures</u>		
	Legislative (includes \$160,880 transfers out & \$60,000 contingency)	\$	481,285	4.46%
	Administration (includes \$39,584 transfer out)	\$	1,201,399	11.14%
	Legal	\$	205,000	1.90%
	Planning & Zoning (includes \$170,000 to S. Peninsula Sidewalk Fund transfer out)	\$	625,957	5.80%
	Information Technology	\$	769,020	7.13%
	Police	\$	2,328,745	21.59%
	Fire	\$	2,689,801	24.94%
	Building & Code	\$	1,028,962	9.54%
	Public Works	\$	911,935	8.46%
	Parks & Recreation	\$	542,775	5.03%
	Total Expenditures	\$	10,784,878	100.00%

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FY 24/25 BUDGET SUMMARY

<u>Special Funds:</u>		
Old Gas Tax	\$	85,000
New Gas Tax	\$	46,200
Donations	\$	2,700
Hurricane Ian	\$	-
Disaster Recovery	\$	25,000
Tree Bank	\$	12,000
Sidewalk	\$	15,000
Parks & Recreation	\$	3,000
Community Center	\$	49,180
Historical Museum	\$	115,500
Police Education	\$	2,000
Stormwater Improvements Loan Repayment	\$	156,586
Town Hall Loan Repayment	\$	327,947
Land Acquisition Fund	\$	643,557
Capital Fire Equipment	\$	210,000
Capital Facility Maintenance	\$	-
Ponce de Leon Sewer Project	\$	-
Economic Impact Fund	\$	156,550
South Peninsula Drive Sidewalk Project	\$	1,091,837
Septic-to-Sewer Phase 1 & 2	\$	5,200,000
Water Operating & Maintenance	\$	1,964,877
Water Renewal & Replacement	\$	195,900
Refuse	\$	486,300
Sewer	\$	1,178,460
Water Expansion	\$	27,950
Water System Improvements Loan Repayment	\$	62,000
Total Special Funds	\$	12,057,544

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RESERVE ANALYSIS

Town of Ponce Inlet Reserve Analysis (April 2024)

Fund Name	Fund Type	Fund Balance FY 19/20	Fund Balance FY 20/21	Fund Balance FY 21/22	Fund Balance FY 22/23	Fund Balance FY 23/24
General Fund	Non-Restricted	\$2,808,484	\$3,405,223	\$4,035,916	\$ 4,048,698	\$ 4,190,777
Old Gas Tax (.06)	Restricted	\$84,930	\$88,278	\$98,529	\$ 98,082	\$ 89,115
New Gas Tax (.05)	Restricted	\$411,517	\$470,268	\$433,304	\$ 487,462	\$ 538,391
Donations	Restricted	\$3,625	\$3,617	\$6,423	\$ 8,188	\$ 8,566
Hurricane Ian	Restricted	n/a	n/a	n/a	\$ -	\$ 123,842
Tree Bank	Restricted	\$15,947	\$22,855	\$26,791	\$ 27,760	\$ 44,085
Sidewalk	Restricted	\$44,863	\$56,246	\$70,453	\$ 76,824	\$ 90,787
Parks & Recreation	Restricted	\$11,116	\$14,594	\$20,856	\$ 24,682	\$ 27,812
Community Center	Non-Restricted	\$5,388	\$26,434	\$57,100	\$ 223,737	\$ 225,717
Historical Museum	Non-Restricted	\$18,697	\$19,648	\$21,978	\$ 22,383	\$ 14,670
Lighthouse Park Project	Grant Project	\$163,657	\$23,246	\$23,283	\$ -	\$ -
Police Education	Restricted	\$10,643	\$11,237	\$12,566	\$ 13,623	\$ 14,853
Stormwater Loan	Debt Service	\$2,630	\$2,729	\$2,727	\$ 2,725	\$ 2,723
Town Hall Loan	Debt Service	\$2,409	\$2,409	\$2,408	\$ 1,581	\$ 1,221
Land Acquisition Fund	Restricted	\$124,805	\$167,230	\$302,799	\$ 464,357	\$ 439,546
Capital Fire Equipment Fund	Non-Restricted	\$150,000	\$200,000	\$29,400	\$ 229,400	\$ 115,830
Capital Facility Maintenance Fund	Non-Restricted	n/a	\$25,000	\$50,000	\$ 75,000	\$ 82,760
Ponce de Leon Septic-to-Sewer Project	Grant Project	n/a	n/a	\$31,841	\$ (40,374)	\$ (21,155)
Economic Impact Fund	Restricted	n/a	n/a	n/a	\$ 1,214,037	\$ 266,002
S. Peninsula Dr. Sidewalk	Restricted	n/a	n/a	n/a	\$ 150,000	\$ 802,756
Water Operating & Maintenance Fund	Enterprise	\$1,009,119	\$1,288,818	\$1,042,489	\$1,022,330	\$850,862
Water O&M Fund (Capital Assets - Equity)	Enterprise			\$2,053,209	\$1,887,943	\$1,765,438
Refuse	Enterprise	\$27,986	\$36,744	\$45,649	\$ 31,384	\$ 6,389
Sewer	Enterprise	\$6,273	\$8,986	\$8,991	\$ 7,529	\$ 6,515
Water Expansion	Restricted	\$117,920	\$127,082	\$145,406	\$ 155,286	\$ 164,448
Water System Improvements Loan	Debt Service	\$59,038	\$59,211	\$59,385	\$ 59,558	\$ 59,731
Contraband/Forfeiture	Restricted	\$7,033	\$7,033	\$3,494	\$ -	\$ -
Total		\$5,086,080	\$6,066,888	\$8,584,997	\$ 10,092,195	\$ 9,711,681

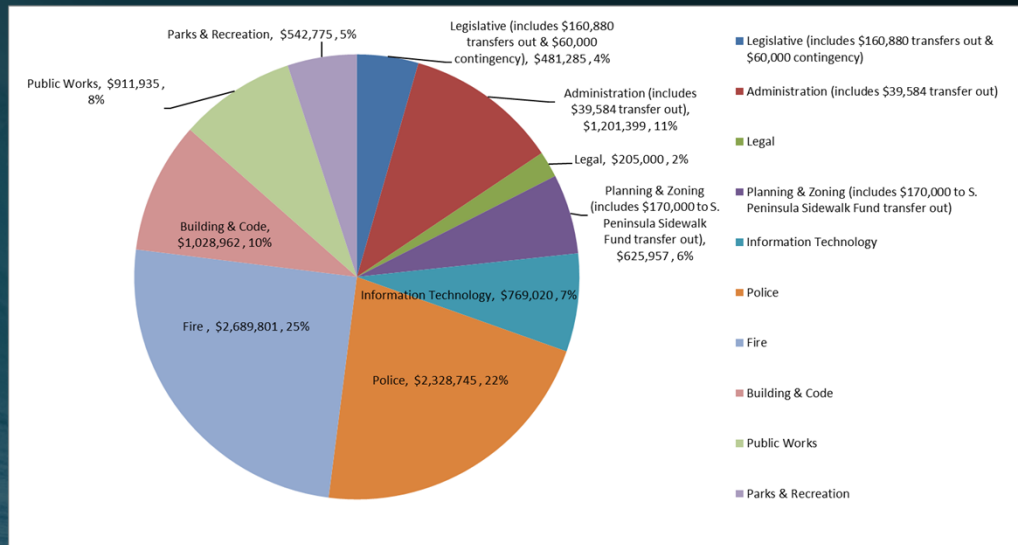
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GENERAL FUND EXPENDITURES BY DEPARTMENT



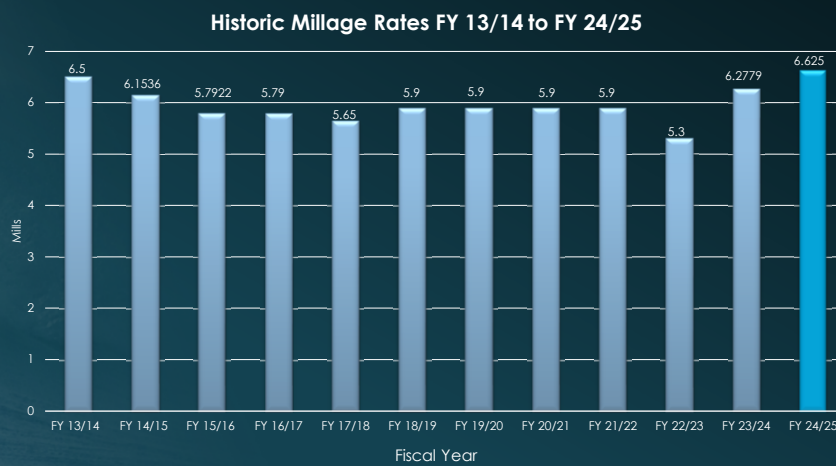
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HISTORIC MILLAGE RATES

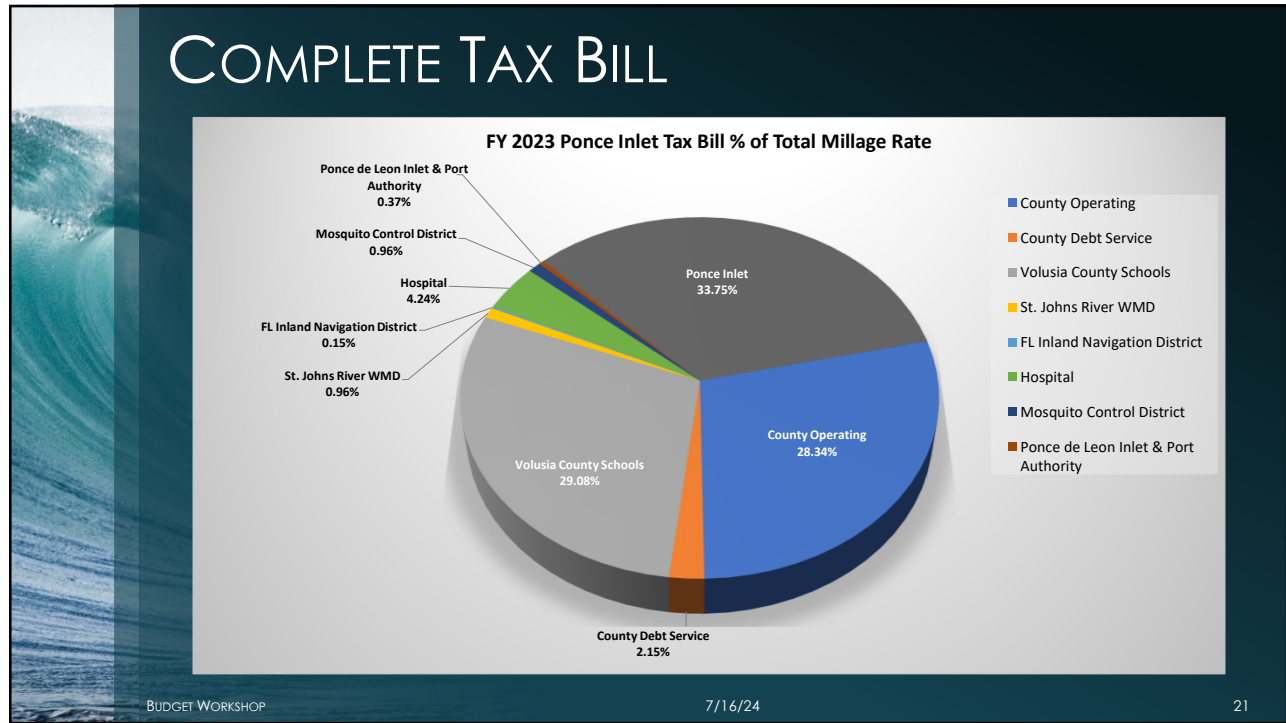


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MILLAGE RATE ESTIMATES

Current year estimated rolled back-rate: **5.8037**
Proposed millage scenarios based on preliminary estimates:

Proposed Millage Rate	Ad Valorem Proceeds	95% Proceeds	% Increase over RBR	
7.0000	9,346,435	8,879,113	20.61%	
6.9500	9,279,674	8,815,691	19.75%	
6.9250	9,246,294	8,783,980	19.32%	
6.9000	9,212,914	8,752,268	18.89%	
6.8000	9,079,394	8,625,424	17.17%	
6.7473	9,009,028	8,558,577	16.26%	Max for super majority vote
6.7000	8,945,873	8,498,579	15.44%	
6.6500	8,879,113	8,435,157	14.58%	
6.6250	8,845,733	8,403,446	14.15%	Proposed FY 24/25 millage rate
6.6000	8,812,353	8,371,735	13.72%	
6.5900	8,799,001	8,359,051	13.55%	
6.5000	8,678,832	8,244,891	12.00%	
6.4000	8,545,312	8,118,046	10.27%	
6.3000	8,411,791	7,991,202	8.55%	
6.2779	8,382,283	7,963,169	8.17%	Adopted FY 23/24 millage rate
6.2000	8,278,271	7,864,357	6.83%	
6.1339	8,190,014	7,780,513	5.69%	Max for simple majority vote
6.1000	8,144,750	7,737,513	5.10%	
6.0000	8,011,230	7,610,668	3.38%	
5.9000	7,877,709	7,483,824	1.66%	
5.8000	7,744,189	7,356,979	-0.06%	
5.8037	7,749,129	7,361,673	0.00%	Roll-back rate
5.7941	7,736,311	7,349,495	-0.17%	
5.7000	7,610,668	7,230,135	-1.79%	
5.6500	7,543,908	7,166,713	-2.65%	
5.6000	7,477,148	7,103,290	-3.51%	

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PRIORITIES – ESAB RECOMMENDATION

AS OF MARCH 7, 2024

Priority	Request	Dept.	Fiscal Year	Cost	Comment	Previous Priority
1	Stormwater one-way valve installation, Phase 2	PW	24-25	\$180,000	Completion of project started in FY 23/24 (not on last year's list, added by Town Council)	--
2	1 Water system personnel	PW	24-25 (mid-year)	\$30,000	Needed to restore 1 crew to previous size (4). Split 50% with Water Enterprise Fund	23/24 #5
3	Replacement fire truck/apparatus	FD	24-25	\$80,000	Initial down payment. 2-3 year build time from order date. Lease to own, w/ annual payments	--
4	Public safety vessel	PD	24-25	\$80,000	Town council goal. Previously recommended by ESAB in 2022. Not included last year.	--
5	2nd set of fire-fighting gear	FD	24-25	\$52,000		23/24 #6
6	Museum boardwalk replacement	PW	24-25	\$65,000	Safety issue. Deferred from past two budgets, \$25,000 in FY 22/23, \$45,000 in FY 23/24.	--
7	Back-up power load stretcher	FD	24-25	\$50,000	Needed to optimize service delivery for 2 nd patient transport vehicle	--
8	Replacement cascade system	FD	24-25	\$60,000		24/25 #1

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NOT FUNDED BY FY 24/25 AD VALOREM

To be funded FY 23/24 (\$41,500)

- Replacement plotter/scanner \$11,000
- Portable message board (1) \$19,000
- Public Works gate motors \$11,000

Funded from other revenue sources (\$5,604,000)

- Automatic water line flushers (3) - Water R&R fund \$45,000
- Replacement fire hydrants, valves, and meters – Water R&R fund \$68,000
- Public Works Building "B" – Land Acquisition fund \$275,000
- Septic-to-Sewer project, Phase 1 – FDEP SRF Loan \$5,200,000
- Tree replenishment plan – Tree Mitigation Bank \$8,000
- Hazardous waste pick-up and paper shredding – Refuse fund \$8,000

To be deferred to future year (\$49,302)

- Hosting Volusia League of Cities dinner (FY 25/26) \$8,900
- CivicPlus agenda management software \$14,300
- Additional leased vehicles (2 of 3) \$26,102

TOTAL \$5,694,802
 Total without septic-to-sewer \$494,802

BUDGET WORKSHOP

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HIGHER SERVICE LEVEL – 6.6250 MILLS

Equipment (\$374,000)

• Quint 75' ladder truck	\$210,000 (1 st year of 10)
• Replacement fire hose	\$29,000
• Back-up power load stretcher	\$45,000
• Public safety vessel	\$40,000 (+\$40,000 grant)
• Fire Department generator	\$35,000 (+\$35,000 grant)
• Additional security cameras at parks (6)	\$15,000

Projects (\$314,000)

• Museum boardwalk replacement	\$35,000
• S. Peninsula sidewalk project (transfer to 311 fund)	\$170,000
• Storm drain one-way valves, Phase 2	\$100,000
• Utility box art wrap	\$9,000

Maintenance/Repair (\$143,000)

• Stormwater pond excavation	\$50,000
• Harbour Village public access boardwalk contribution	\$25,000 (final \$ TBD)
• Museum fence repair and painting	\$35,000
• Repair and resurface tennis court	\$15,000
• Landscaping and gutters at Community Center	\$18,000

Professional Services (\$108,500)

• Salary Survey	\$28,500
• Government Affairs consultant and financial auditors	\$80,000

TOTAL

\$939,500

BUDGET WORKSHOP

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IMPACT OF 6.6250 MILLAGE RATE

General Maximum Impact of Millage Rate - FY 24/25

Proposed Rate	6.625
Prior year tax rate	6.2779

Homesteaded Properties currently assessed below market value

2023 - Ponce Inlet Taxes			Proposed 2024 - Ponce Inlet Taxes			Difference
Assessed Taxable Value	Minus Homestead	Taxes Paid to Ponce	3% Assessed Increase	Minus \$50,000 Homestead	Taxes Paid to Ponce	
\$1,000,000	\$950,000	\$5,964	\$1,030,000	\$980,000	\$6,493	\$528
\$750,000	\$700,000	\$4,395	\$772,500	\$722,500	\$4,787	\$392
\$500,000	\$450,000	\$2,825	\$515,000	\$465,000	\$3,081	\$256
\$375,000	\$325,000	\$2,040	\$386,250	\$336,250	\$2,228	\$187
\$250,000	\$200,000	\$1,256	\$257,500	\$207,500	\$1,375	\$119

Non-Homesteaded Properties currently assessed at prior year market rate

2023 - Ponce Inlet Taxes		Proposed 2024 - Ponce Inlet Taxes		Difference
Assessed Taxable Value	Taxes Paid to Ponce	10% Increase (Average Townwide)	Taxes Paid to Ponce	
\$1,000,000	\$6,278	\$1,100,000	\$7,288	\$1,010
\$750,000	\$4,708	\$825,000	\$5,466	\$757
\$500,000	\$3,139	\$550,000	\$3,644	\$505
\$375,000	\$2,354	\$412,500	\$2,733	\$379
\$250,000	\$1,569	\$275,000	\$1,822	\$252

BUDGET WORKSHOP

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LOWER SERVICE LEVEL — 6.2779 MILLS

Equipment (\$223,000)

- Quint 75' ladder truck \$159,000 (1st year of 10, no downpayment)
- Replacement fire hose \$29,000
- Fire Department generator \$35,000 (+\$35,000 grant)

Projects (\$170,000)

- S. Peninsula sidewalk project (transfer to 311 fund) \$170,000

Maintenance/Repair (\$73,000)

- Stormwater pond excavation \$50,000
- Repair and resurface tennis court \$15,000
- Gutters at Community Center \$8,000

Professional Services (\$108,500)

- Salary Survey \$28,500
- Government Affairs consultant and financial auditors \$80,000

TOTAL \$574,500

BUDGET WORKSHOP

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IMPACT OF 6.2779 MILLAGE RATE

General Maximum Impact of Millage Rate - FY 24/25

Proposed Rate 6.2779
Prior year tax rate 6.2779

Homesteaded Properties currently assessed below market value

2023 - Ponce Inlet Taxes			Proposed 2024- Ponce Inlet Taxes			
Assessed Taxable Value	Minus Homestead	Taxes Paid to Ponce	3% Assessed Increase	Minus \$50,000 Homestead	Taxes Paid to Ponce	Difference
\$1,000,000	\$950,000	\$5,964	\$1,030,000	\$980,000	\$6,152	\$188
\$750,000	\$700,000	\$4,395	\$772,500	\$722,500	\$4,536	\$141
\$500,000	\$450,000	\$2,825	\$515,000	\$465,000	\$2,919	\$94
\$375,000	\$325,000	\$2,040	\$386,250	\$336,250	\$2,111	\$71
\$250,000	\$200,000	\$1,256	\$257,500	\$207,500	\$1,303	\$47

Non-Homesteaded Properties currently assessed at prior year market rate

2023 - Ponce Inlet Taxes		Proposed 2024 - Ponce Inlet Taxes		
Assessed Taxable Value	Taxes Paid to Ponce	10% Increase (Average Townwide)	Taxes Paid to Ponce	Difference
\$1,000,000	\$6,278	\$1,100,000	\$6,906	\$628
\$750,000	\$4,708	\$825,000	\$5,179	\$471
\$500,000	\$3,139	\$550,000	\$3,453	\$314
\$375,000	\$2,354	\$412,500	\$2,590	\$235
\$250,000	\$1,569	\$275,000	\$1,726	\$157

BUDGET WORKSHOP

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UNFUNDED REQUESTS

• Public Works maintenance technician (mid-year)	\$30,000
• Ponce Preserve gazebo roof replacement (3 of 6)	\$35,000
• Fire Dept. replacement cascade system	\$60,000
• Fire Dept. bunker gear dryer	\$15,000
• Police Dept. low-speed vehicle ("golf cart")	\$20,000
TOTAL	\$160,000

BUDGET WORKSHOP

7/16/24

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SUMMARY OF SERVICE LEVELS

	Cost	HIGH 6,6250	LOW 6,2779
<u>Equipment</u>			
Quint 75' ladder truck	\$210,000 (1 st year of 10)	✓	✓
Replacement fire hose	\$29,000	✓	✓
Back-up power load stretcher	\$45,000	✓	
Public safety vessel	\$40,000 (+\$40,000 grant)	✓	
Fire Department generator	\$35,000 (+\$35,000 grant)	✓	✓
Additional security cameras at parks (6)	\$15,000	✓	
<u>Projects</u>			
Museum boardwalk replacement	\$35,000	✓	
S. Peninsula sidewalk project (transfer to 311 fund)	\$170,000	✓	✓
Storm drain one-way valves, Phase 2	\$100,000	✓	
Utility box art wrap	\$9,000	✓	
<u>Maintenance/Repair</u>			
Stormwater pond excavation	\$50,000	✓	✓
Harbour Village public access boardwalk contribution	\$25,000	✓	
Museum fence repair and painting	\$35,000	✓	
Repair and resurface tennis court	\$15,000	✓	✓
Landscaping and gutters at Community Center	\$18,000	✓✓	✓
<u>Professional Services</u>			
Salary Survey	\$28,500	✓	✓
Government Affairs consultant and financial auditors	\$80,000	✓	✓
TOTALS		\$939,500	\$574,500

BUDGET WORKSHOP

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PROPOSED MILLAGE RATE?

1. What level of service and millage rate do you prefer?
2. Are there any specific items you wish to include or defer?

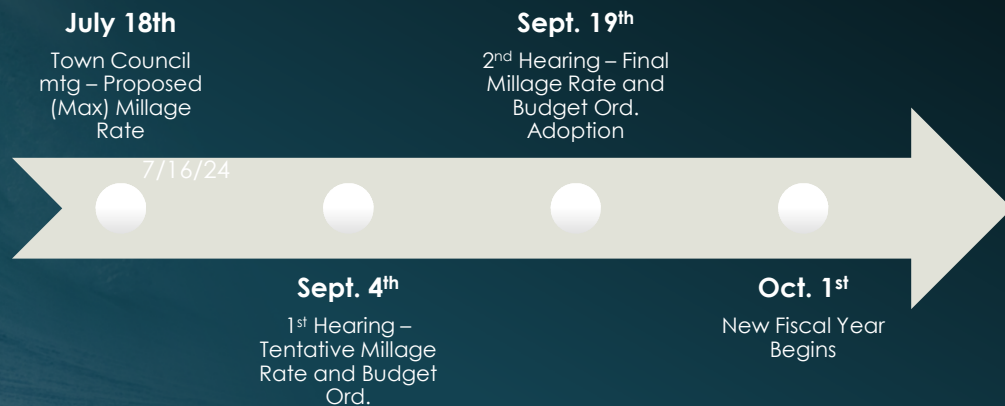
BUDGET WORKSHOP

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NEXT STEPS



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Meeting Date: 8/22/2024

Agenda Item: 8-A

Report to Town Council

Topic: Request for Co-Sponsorship of the Friends of the Marine Science Center's *Ocean Harvest Market* Event.

Summary: Pursuant to Sec. 51-2 and Sec. 51-8(a)(1) & (2) of the Ponce Inlet Code of Ordinances, the applicant meets criteria for event co-sponsorship. The total cost absorbed by the Town would be \$150 for waiving the Special Event permit application fee.

Suggested motion: Staff recommends approval of the co-sponsorship request as the criteria have been met.

Requested by: Ms. Alex, Cultural Services Manager

Approved by: Mr. Disher, Town Manager



MEMORANDUM

TOWN OF PONCE INLET, CULTURAL SERVICES DEPARTMENT

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

To: Michael E. Disher, AICP, Town Manager
 From: Jackie Alex, Cultural Services Manager
 Date: August 12, 2024
 Subject: Request for Co-Sponsorship of the Friend's of the Marine Science Center's *Ocean Harvest Market* Event –September 28, 2024

MEETING DATE: August 22, 2024

The Friends of the Marine Science Center will be hosting the *Ocean Harvest Market* as a fundraiser for the Marine Science Center on Saturday, September 28, 2024, from 10:00am until 5:00pm. This event will be held at the Ponce Inlet Community Center, with vendors inside selling coastal-themed items and poinsettias. Because it will also include food trucks, the event requires a Special Event permit from the Town. This is the first year for this event, and the organizers anticipate 500 people throughout the seven-hour timeframe. The Community Center holds its own liability insurance policy, of which the Town has a copy. The Friends group is requesting co-sponsorship of this event for waiver of the special event permit fee (\$150).

The Town updated its Special Event regulations on August 17, 2023, which includes new criteria for co-sponsorship approval, below.

Sec. 51-2. – Definitions: Town-sponsored event

Town-sponsored event means that the town, solely or as a co-sponsor of the event, produces and/or coordinates the event, or contributes town services, funds, staff, or aid of any kind as a co-sponsor, after determining that the event:

- (a) Is planned, organized, and conducted by the Ponce Inlet Community Center Board, Inc., or any established not-for-profit organizations and clubs based in Ponce Inlet, such as the Ponce Inlet Veterans Association, Ponce Inlet Lions Club, Ponce Inlet Garden Club, Ponce Inlet Women's Club, and the Ponce Inlet Art Guild, that annually provide a copy of their currently valid IRS tax exemption certificate as an established 501(c)3 organization; and/or
- (b) Has been traditionally co-sponsored by the Town as provided in Sec. 51-8(a).

Sec. 51-8(a)(1) & (2). – Co-sponsorship or co-sponsored event criteria and standards:

- (1) In addition to those long-standing events established by resolution, other events meeting the definition of *Town-sponsored event* under Sec. 51-2 may be approved by the town council in its sole discretion.

- (2) Full co-sponsorship for these events may include contributions of town services, funds, staff or aid of any kind as co-sponsor.

Pursuant to *Sec. 51-2.* and *Sec. 51-8(a)(1) & (2)*, the *Ocean Harvest Market* **does** meet the criteria for event co-sponsorship as the Friends of the Marine Science Center are an established not-for-profit organization based in Ponce Inlet.

The applicant has submitted her request for co-sponsorship along with the special event permit application packet (**Attachment 1**).

If the Town Council co-sponsors this event on the terms that the organizer is requesting, the total cost absorbed by the Town would be \$150 for the Special Event permit application fee.

SUMMARY:

Request for co-sponsorship of the Friends of the Marine Science Center's *Ocean Harvest Market* event scheduled for September 28, 2024; the request is for waiver of the special event permit fee (\$150).

Staff recommends approval of the co-sponsorship request as the criteria have been met.



Jackie Alex, Cultural Services Manager

August 12, 2024

Date

Attachments:

1. Application Packet_2024 Ocean Harvest Market



Town of Ponce Inlet
Cultural Services Department
Request Form: Event Co-Sponsorship

Pursuant to Chapter 51 of the Code of Ordinances

This co-sponsorship request form must be filled out accurately and completely and submitted along with a special event permit application. Incomplete forms cannot be reviewed.

This form and all supporting documents **may be submitted up to 365 days in advance of the event, but no less than 60 days prior to the event date.** If the applicant desires their co-sponsorship request to be heard at a specific Town Council meeting, these documents must be submitted no less than **20 days prior to the desired Council meeting date.**

Request forms for co-sponsorship of eligible events will be presented to the Town Council for review if co-sponsorship has never been requested previously or if changes to a recurring event are proposed that would increase the costs incurred by the Town. Regardless of whether the event qualifies as a special event or is eligible for co-sponsorship, an applicant's co-sponsorship request shall comply with the content requirements below.

For event applicants requesting use of the Town's means of advertising, email jalex@ponce-inlet.org

Event Name: Ocean Harvest Market
Event Date(s): 9-28-24 Event Location: PICC
Business/ Organization Hosting Event: Friends of the MSC
Event Applicant/ Contact: Arlene Deegan

Event (please select the one that best applies):

- | |
|--|
| <input type="checkbox"/> Historic North Turn Legends Beach Parade |
| <input type="checkbox"/> Ponce Inlet Veterans Memorial Association Memorial Day |
| <input type="checkbox"/> Ponce Inlet Veterans Memorial Association Veterans Day |
| <input type="checkbox"/> Christmas Parade |
| <input type="checkbox"/> Planned, organized, and conducted by the Ponce Inlet Community Center Board, Inc. |

Hosted by the following non-profit Ponce Inlet club or organization*:

- | |
|--|
| <input type="checkbox"/> Ponce Inlet Veterans Memorial Association |
| <input type="checkbox"/> Ponce Inlet Lions Club |
| <input type="checkbox"/> Ponce Inlet Garden Club |
| <input type="checkbox"/> Ponce Inlet Women's Club |
| <input type="checkbox"/> Ponce Inlet Art Guild |

☒ Other Friends of the MSC

*All non-profit Ponce Inlet clubs and organizations must annually provide a copy of their currently valid IRS tax exemption certificate as an established 501(c)3 status with a Ponce Inlet address.

Please provide a brief description of the event and any important details:

Food trucks & artists selling coastal items.

Please select your event needs and request for co-sponsorship:

Fees Incurred:	Town permission required:
<input checked="" type="checkbox"/> Waiver of Special Event permit fees	<input type="checkbox"/> Closure of boat ramp
<input type="checkbox"/> Waiver of Town personnel fees	<input type="checkbox"/> Closure of boat ramp trailer parking
<input type="checkbox"/> Waiver of Town Park pavilion rental fees	<input type="checkbox"/> Placement of temporary signs on Town property
	<input type="checkbox"/> Street closures
	<input type="checkbox"/> Use of Town facilities
	<input type="checkbox"/> Parking on Town property
Other: advertising	

1. Estimated number of event participants:

500

2. Estimated number of any animals by type:

none

3. Purpose of the event:

Fundraising through vendor space rental

4. Nature and the types of activities that will occur.

Selling of crafts & food

5. Provide a copy of indemnification in favor of the Town and included as part of the application, which shall be executed by an authorized representative of the applicant. The organization will not be required to indemnify the Town for the negligent acts of the Town's employees or agents.

☐ Attached

☒ The applicant is the Ponce Inlet Community Center Board, Inc. and the Town has a copy

6. Describe any public right of way, property, buildings, facilities, or equipment utilized:

none

7. County roadway is to be used:

☐ Yes- County Right-of-Way Use Permit is attached

☒ No

8. The event serves a valid public purpose benefiting the town and/ or its residents and the community by either-

☐ Providing a local commemoration of a national holiday; or

☐ Providing historical, educational, cultural enrichment and/or recreational experiences to Ponce

☐ Inlet residents and the public.

Describe how:

An event for residents to engage with their community & enjoy food

As the applicant, I certify that upon request, I will provide event space or facilities to established Ponce Inlet organizations and clubs during the event without cost. (If granting of such space will constitute a bona fide undue hardship to the event organizer, the applicant shall include a waiver of this request in their co-sponsorship request along with the reason for the hardship on the bottom of page one of this form.)

Melinda C. Ash
Applicant signature

8-6-2024
Date

FOR OFFICE USE ONLY:

Application received by: Jackie Alex

Date: 8/6/24

Total Cost Incurred by Town: \$ 150

☒ Waiver of Special Event Permit fees
Total Cost: 150

☐ Waiver of Town personnel fees
Total Cost: _____

☐ Waiver of Park Pavilion Rental fee
Total Cost: _____

☐ Increase in costs since previous year:

☐ Yes **Total:** _____ ☐ No

Event needs requiring permission from Town:

☐ Closure of boat ramp

☐ Closure of boat ramp trailer parking

☐ Placement of temporary signs on Town property

☐ Street closures

☐ Use of Town facilities

☐ Parking on Town property

☐ Other: _____



Town of Ponce Inlet
Cultural Services Department
4300 S. Atlantic Avenue
Ponce Inlet, FL 32127
386-322-6703

SPECIAL EVENT PERMIT APPLICATION

Pursuant to Chapter 51 of the Code of Ordinances

Permit #: _____

Submittal Date: _____

FEE PAID: _____

APPLICATIONS MAY BE SUBMITTED UP TO 365 DAYS IN ADVANCE OF THE EVENT, BUT NO LESS THAN 28 DAYS PRIOR TO EVENT DATE, OR 60 DAYS PRIOR IF REQUESTING TOWN CO-SPONSORSHIP.

Please submit the following information with your application:

- A site plan of the event area(s) with all applicable information requested below.
- If the event is on town property, a certificate of insurance showing the town as additional insured in the amount of \$1,000,000 is required.

SECTION 1: EVENT INFORMATION

Event Name: Ocean Harvest Market

Event Location: Ponce Inlet Community Center

Date(s) of Event: **Saturday September 28, 2004**

Event Hours: **10 am --5pm**

Brief Event Description: **Inside the center we will have vendors/artists selling coastal themed items, information on the Marine Science Center, and the Friends Group poinsettia sale table. Outside we hope to have 3 food trucks and 10x10 tent spaces. It would say 10- this is a first time event.**

Estimated Attendance: **1000 500**

Repeat Event: ☐ Yes ☒ No

SECTION 2: APPLICANT INFORMATION

Business/ Organization Hosting Event: Friends of the Marine Science Center

Authorized Head of Business/ Organization: Arlene Deegan

Phone Number: 386-852-5928

Email Address: deeganarlene@gmail.com

Event Applicant/ Contact: Mindy Ash

Day-of Phone Number: 847-421-3539

Email Address: mindycash7@gmail.com

Mailing Address: 4890 Sailfish Dr. ponce Inlet, Fl. 32127

SECTION 3: ADDITIONAL INFORMATION

Please answer the questions below. If answering "Yes," indicate the location(s) on your site plan, providing any additional details on a separate sheet if needed.

Traffic Control Required? ☐ Yes ☒ No

Parade? ☐ Yes ☒ No

Provide a map and streets to be closed

Portable Restrooms? ☐ Yes ☒ No

Private Security Firm? ☐ Yes ☒ No

Shuttle Transportation? ☐ Yes ☒ No

Name of Security Firm

Off-Site Parking Required? ☐ Yes ☒ No

Provide written agreement with property owner(s) and number of spaces needed

Provide a site-plan showing the means of all vehicular (including shuttle) and pedestrian ingress & egress to and from the event.

SECTION 4: TEMPORARY USE - Additional Permits may be required.

Please answer the questions below. If answering "Yes," indicate the location(s) on your site plan, providing any additional details on a separate sheet if needed.

Barricades Required?	<input type="radio"/> Yes <input checked="" type="radio"/> No	Traffic Cones Required?	<input type="radio"/> Yes <input checked="" type="radio"/> No
Amplified Sound? ¹	<input type="radio"/> Yes <input checked="" type="radio"/> No	High-Intensity Lighting? ²	<input type="radio"/> Yes <input checked="" type="radio"/> No
Provide specifications			
# of Tents (over 10'x10')? 0	# Stages/ Structures? ³ 0	# of Signs/ Banners? ⁴ 0	
Tent Size ³ (if over 10'x10')	Stage Dimensions:	Sign permit application submitted to Building Division? <input type="radio"/> Yes <input checked="" type="radio"/> N/A	
If yes, permit #:			

How do you plan to collect and remove trash and litter during and after the event?

Trash bins, Community Center dumpster

Food Prepared On-Site? ⁵ ☐ Yes ☒ No

of Mobile Food Vendors (MFV)?⁶
3

Parking Spaces Required for MFVs?

*Include on your site plan

10

DBPR Food Service License #

*Attach copy of License

DBPR Alcoholic Beverage License # ⁷

*Attach copy of License

Supplementary Regulations for Special Events:

- 1- See [Code of Ordinances Sec. 34-93](#) for sound limitations and [Code of Ordinances Sec. 34-94](#) for permit requirements to exceed maximum allowable noise level limits and restricted hours.
- 2- See [Code of Ordinances Sec. 34-99.1-5](#) for Town policy on nuisance lighting, requirements to reduce light trespass and glare. This section does not prohibit the temporary exterior lighting used for civic celebration and promotion associated with a permitted special event.
- 3- Tents larger than 10'x10' and stages require a fire inspection and building inspection in addition to a building permit
- 4- See [LUDC Sec. 3.30.6](#) and [Resolution 2011-03](#) for temporary sign regulations. To prevent signs from interfering with public utilities, contact Sunshine State One Call at 1-800-561-6720 prior to digging for sign installation.
- 5- [Code of Ordinances Sec. 46-3.a.4](#): Use of any portable cooking equipment is prohibited in all Town parks except in designated areas of Davies Lighthouse Park. Within designated areas, only propane and electric portable equipment is permitted – no charcoal.
- 6- [LUDC Sec. 3.34](#): Mobile Food vending is the sale of food, either prepared on location or pre-packaged, from a mobile food vending vehicle. Mobile food vendors shall comply with regulations from this section and shall be subject to an inspection pursuant to the NFPA and Florida Fire Prevention Code.
- 7- [Code of Ordinances Sec. 6-7.a](#): It is unlawful for any person to consume or possess any alcoholic beverages on public streets, sidewalks within the town, or on any town property or public park located in the town except as provided in the Code or as approved by Town Council.

I hereby state that the above information is true and accurate to the best of my knowledge. I further understand and agree to any and all conditions and costs of the required permits. I understand that the Town of Ponce Inlet assumes no liability for this event. I hereby agree to defend, hold harmless, and indemnify the Town, at the Town's option, from any and all demands, claims, suits, actions and legal proceedings brought against the Town in connection with this event, whether threatened or otherwise, to the full extent as permitted by the law of the State of Florida. This provision shall survive the term of this agreement and shall remain in full force and effect until the expiration of the time for the institution of any action at law or equity or administrative action against the Town under either federal law or the laws of Florida.

Melinda C. Ash
Signature of Applicant

Date Signed

8-7-2024

STATE OF FLORIDA
COUNTY OF VOLUSIA

This document was sworn to (or affirmed) and subscribed before me by me of ☐ physical presence or ☐ online notarization, this 17th day of August, 2024 he/she is personally known to me or has presented DL as identification.

Cheryl A. Rydberg
Notary Public, State of Florida

Notary Seal:



STANDARD CONDITIONS FOR SPECIAL EVENT PERMITS

Per Code of Ordinances Sec. 51-9.

Standards and conditions for issuance of permit. The special event review committee will review the special event permit application based upon the following standards and conditions:

- (a) The conduct of the event will not substantially interrupt the safe and orderly movement of other pedestrian or vehicular traffic in the vicinity of the event.
- (b) The conduct of the event will not require the diversion of so great a number of public safety personnel or equipment of the town to properly secure the event area and the areas contiguous thereto, as to prevent current level of public safety services from being furnished to other parts of the town.
- (c) The event shall not take place until inspections of the special event site have been conducted by the appropriate departments to determine whether this ordinance and any conditions of the special event permit have been met or satisfied.
- (d) The concentration of persons, animals and/or vehicles at the event will not unduly interfere with proper fire and/or police protection of, or ambulance service to, areas contiguous to the event area or other areas of the town.
- (e) The conduct of the special event is not reasonably likely to cause injury or intended to cause injury to persons or property, create an environment not compatible with a residential neighborhood if within or abutting a residential neighborhood, or to result in disorderly conduct as defined by town ordinance or state statutes, provided that the town may not deny a permit solely on the basis of the proposed content of speech or ideas of the group involved.
- (f) The conduct of the event shall not introduce extraordinary hazards to fire protection and/or life safety in the immediate or adjacent areas.
- (g) Adequate sanitation and other required health facilities are, or will be, made available in or adjacent to the event area. These include restrooms, trash receptacles, or anything normally required by the health department.
- (h) The conduct of the special event must be in accordance with the town's noise ordinance.
- (i) There are sufficient parking places on site and/or written approvals from off-site property owners where off-site parking is to occur, to accommodate the approximate number of automobiles expected to be driven to the special event.
- (j) Precautions will be taken to ensure protection of landscaping and irrigation systems.
- (k) The applicant has secured security personnel or police, fire/emergency medical services protection and public works services, if any, are required under this procedure. If applicant has secured police, fire/emergency medical services, or public works services from the town, (s)he must prepay the expenses thereof.
- (l) The applicant shall obtain public liability and property damage insurance, with the town named as an additionally insured party for any special event that is held on town property or that utilizes town facilities, in an amount approved by the town, as recommended by the town's insurance carrier. The applicant shall place on file with the town a certified insurance policy issued by a company authorized to do business in the state.
- (m) Application for a special event permit shall constitute an agreement by the applicant to pay for town personnel expenses and extraordinary services provided by the town, including any repairs, renovations and/or landscaping and turf restorations or replacement of town property which is necessitated by virtue of the special event.
- (n) Any temporary lighting will not adversely affect adjacent properties.
- (o) No applicant shall be granted a permit for an event that is to occur over a period longer than seven consecutive days.
- (p) No applicant shall be granted more than twelve special events permits in a single calendar year.

NOTE: The town may deny or revoke a permit for failure of the applicant to satisfy the applicable standards set forth in this chapter and the requirements of the permit, pursuant to Code of Ordinances Sec. 51-10(b).



4680 S Peninsula Dr,
Ponce Inlet, FL 32127
4 min drive-home



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Not For Profit Corporation

FRIENDS OF THE MARINE SCIENCE CENTER, INC.

Filing Information

Document Number	N01000002689
FEI/EIN Number	59-3718113
Date Filed	04/16/2001
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Principal Address

100 LIGHTHOUSE DRIVE
PONCE INLET, FL 32127

Changed: 05/13/2005

Mailing Address

100 LIGHTHOUSE DR
PONCE INLET, FL 32127

Changed: 03/22/2018

Registered Agent Name & Address

Stanton, Teresa
100 Lighthouse Rd
PONCE INLET, FL 32127

Name Changed: 02/10/2023

Address Changed: 02/05/2024

Officer/Director Detail

Name & Address

Title Director

ECKERT, LAURA
100 LIGHTHOUSE DRIVE
PONCE INLET, FL 32127

Title President

DEEGAN, ARLENE
100 LIGHTHOUSE DRIVE
PONCE INLET, FL 32127

Title Secretary

Hoffman, Mary
100 LIGHTHOUSE DRIVE
PONCE INLET, FL 32127

Title Director

Faircloth, Debbie
100 LIGHTHOUSE DRIVE
PONCE INLET, FL 32127

Title VP

Ash, Minday
100 Lighthouse Rd
Ponce Inlet, FL 32127

Title Tresurer

Camron, Marty
100 Lighthouse Rd
Ponce Inlet, FL 32127

Annual Reports

Report Year	Filed Date
2022	01/05/2022
2023	02/10/2023
2024	02/05/2024

Document Images

02/05/2024 -- ANNUAL REPORT	View image in PDF format
02/10/2023 -- ANNUAL REPORT	View image in PDF format
06/02/2022 -- Amendment	View image in PDF format
01/05/2022 -- ANNUAL REPORT	View image in PDF format
01/28/2021 -- ANNUAL REPORT	View image in PDF format
01/21/2020 -- ANNUAL REPORT	View image in PDF format
01/13/2019 -- ANNUAL REPORT	View image in PDF format
03/22/2018 -- Amendment	View image in PDF format



Consumer's Certificate of Exemption

Issued Pursuant to Chapter 212, Florida Statutes

DR-14
R. 01/18

85-8012696450C-6	06/30/2022	06/30/2027	501(C)(3) ORGANIZATION
Certificate Number	Effective Date	Expiration Date	Exemption Category

This certifies that

FRIENDS OF THE MARINE SCIENCE CENTER
INC
100 LIGHTHOUSE DR
PONCE INLET FL 32127-7325

is exempt from the payment of Florida sales and use tax on real property rented, transient rental property rented, tangible personal property purchased or rented, or services purchased.



Important Information for Exempt Organizations

DR-14
R. 01/18

1. You must provide all vendors and suppliers with an exemption certificate before making tax-exempt purchases. See Rule 12A-1.038, Florida Administrative Code (F.A.C.).
2. Your *Consumer's Certificate of Exemption* is to be used solely by your organization for your organization's customary nonprofit activities.
3. Purchases made by an individual on behalf of the organization are taxable, even if the individual will be reimbursed by the organization.
4. This exemption applies only to purchases your organization makes. The sale or lease to others of tangible personal property, sleeping accommodations, or other real property is taxable. Your organization must register, and collect and remit sales and use tax on such taxable transactions. Note: Churches are exempt from this requirement except when they are the lessor of real property (Rule 12A-1.070, F.A.C.).
5. It is a criminal offense to fraudulently present this certificate to evade the payment of sales tax. Under no circumstances should this certificate be used for the personal benefit of any individual. Violators will be liable for payment of the sales tax plus a penalty of 200% of the tax, and may be subject to conviction of a third-degree felony. Any violation will require the revocation of this certificate.
6. If you have questions about your exemption certificate, please call Taxpayer Services at 850-488-6800. The mailing address is PO Box 6480, Tallahassee, FL 32314-6480.



Meeting Date: 8/22/2024

Agenda Item: 8-B

Report to Town Council

Topic: Request for Council consensus to pursue an Attorney General Opinion on pre-emption of long-term rental regulations.

Summary: See attached memorandum.

Suggested motion: At Council's discretion.

Requested by: Drew Smith, Town Attorney's office

Approved by: Mr. Disher, Town Manager



Memo

To: Town Council and Town Manager
From: Drew Smith 
Re: Permission to Request Attorney General Opinion

In a recent code enforcement case involving the Town's rental registration and inspection program, the respondent raised defenses related to the alleged violation. Specifically, the respondent asserted: 1) that the Town's ordinance has been preempted by Section 83.425, Florida Statutes; and 2) that the Town's registration fees constitute a tax rather than a fee. As explained below, this request for permission to seek an Attorney General Opinion is limited to the first issue.

In its 2023 session, the Florida Legislature created section 83.425, Florida Statutes, which provides:

The regulation of residential tenancies, the landlord-tenant relationship, and all other matters covered under this part are preempted to the state. This section supersedes any local government regulations on matters covered under this part, including, but not limited to, the screening process used by a landlord in approving tenancies; security deposits; rental agreement applications and fees associated with such applications; terms and conditions of rental agreements; the rights and responsibilities of the landlord and tenant; disclosures concerning the premises, the dwelling unit, the rental agreement, or the rights and responsibilities of the landlord and tenant; fees charged by the landlord; or notice requirements.

At the time of adoption, the Legislature was addressing in various bills local ordinances related to rent control, tenant bills of rights, and the landlord-tenant relationship. The Town's ordinance is a registration and inspection ordinance and is not designed to impose requirements on landlords beyond the basic

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property maintenance codes that apply to all properties. In adopting such policy, the Town has recognized that rental properties statistically present more property maintenance violations than owner-occupied properties. The Town has not utilized its rental registration and inspection ordinance to regulate the relationship between landlords and tenants.

The question raised by the respondent in the code enforcement case, though, advocates for a broader reading of the statute wherein any ordinance having anything to do with long term residential leases is preempted. While all the specific categories of issues relate to the relationship between landlord and tenant, the statute does include broad the two broad catch-alls: “the regulation of rental tenancies” and “all other matters covered under this part [Chapter 83, Florida Statutes, Part II].” Both broad terms relate back to the relationship between landlord and tenant—the residential tenancy is the relationship between landlord and tenant and the subject matter covered by Chapter 83, Florida Statutes, is landlord-tenant relationships. At best, there is ambiguity in the statutory language as to the extent of the preemption. Surveying local codes, the non-exclusive list of jurisdictions with rental registration and inspection ordinances that require registration of long term leased residential properties includes: Cape Coral, Daytona Beach, Margate, Longboat Key, Cocoa Beach, Lauderdale Lakes, West Palm Beach, Bonita Springs, Palm Coast, and Miami. That said, given the recency of the statute, there have been no judicial decisions on the subject matter. Given the ambiguity of the statutory language and the shift by the State toward penalizing jurisdictions for attempting to regulate in areas where there has been preemption, we believe it wise to seek input from the Attorney General on this question: Does Section 83.425, Florida

Statutes, preempt local governments from enforcing ordinances that require registration and inspection of residential rental properties?

As stated in the introductory paragraph, there does not appear to be a need to request an opinion from the Attorney General on the second issue raised by the respondent in the code enforcement matter arguing that the registration fee charged by the Town is an impermissible tax. In an informal opinion issued on August 2, 2012, to the City of Belleaire Beach, the Attorney General summarized the statutory and case law recognizing the validity of regulatory fees. There is not a question whether local governments have the right to charge regulatory fees to fund regulatory programs. The critical issue in fee cases is: how does the fee relate to the costs of the regulatory program? As the Attorney General noted in the 2012 opinion, "... it is clear that a regulatory fee must have a reasonable relationship to defraying the cost of enforcing regulations relating to a particular business or profession." Local governments should monitor all their regulatory fees compared against cost to ensure that reasonable relationship exists. For this reason, discussion of the amounts charged for regulatory fees is always a fair topic for the Council to take up, but that kind of fact-specific inquiry is beyond the Attorney General's purview. Accordingly, while the Council may want to discuss as a body the current fee structure, we do not believe the Attorney General's Office would provide an opinion on the issue beyond what it has given in prior opinions.



Meeting Date: 8/22/2024

Agenda Item: 8-C

Report to Town Council

Topic: Athletic Court Reservation System and Reasonable Modifications under the Americans with Disabilities Act.

Summary: The purpose of this report is to provide suggested options for requested reasonable modifications made by individuals with disabilities regarding the Town's court reservation system. Please see attached staff report and supporting documents for more information.

Suggested motion: As directed by the Town Council.

Requested by: Ms. Alex, Cultural Services Manager

Approved by: Mr. Disher, Town Manager



MEMORANDUM

TOWN OF PONCE INLET, CULTURAL SERVICES 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: Michael E. Disher, AICP, Town Manager
 From: Jackie Alex, Cultural Services Manager
 Date: August 14, 2024
 Subject: Discussion - Athletic Court Reservation System and Reasonable Modifications under the Americans with Disabilities Act

MEETING DATE: August 22, 2024

Introduction:

The purpose of this report is to provide suggested options for requested reasonable modifications made by individuals with disabilities regarding the Town's court reservation system. This report discusses the Americans with Disabilities Act (ADA); the potential liability of 10 suggested options provided by the public, Board members, and staff; the recommendation provided by the Cultural Services Board; and the legal and ADA analysis of the Board's recommendation to Town Council. In providing this information, Staff is requesting direction from the Town Council on the appropriate path forward, balancing the appropriate level of modifications to ensure compliance with the ADA along with the acceptable level of risk.

Background:

On March 18, 2024, a group of residents requested to meet with the Mayor and staff to discuss their concerns regarding the Town's online reservation system. These concerns were triggered by the temporary closure of the pickleball courts in Daytona Beach Shores for maintenance, and the subsequent influx of players from that city utilizing the Town's courts and online reservation system. At the conclusion of that meeting, one of the residents submitted a written request for accommodation under the Americans with Disabilities Act for special access to the online reservation system. The request specifically was for staff to create outstanding reservations for this resident for specific time slots each week for an unstated length of time beyond when court reservations are ordinarily opened to the public. The request further suggested Town staff speak with the Town Attorney to verify the legality of this claim.

Through consultation with our Town Attorney, the subject request for advanced reservations beyond one week was found not to meet the legal requirements of a "reasonable modification" and would impose a "fundamental alteration," as it does not provide the same opportunity to those without disabilities (see 4-22-24 email from Town Attorney Holli New, **Attachment 1**). However, even if a reasonable modification poses a fundamental alteration or undue burden on the Town, the Town must still take whatever reasonable action it can to ensure that the individuals with

disabilities receive the same benefits (see 5-24-24 legal analysis by Town Attorney Holli New, **Attachment 2**). The Cultural Services Board met on May 6, 2024, and June 3, 2024, to discuss and obtain public input on this topic (**Attachments 3 & 4**). The requirements of the ADA are explained further below.

Overview:

Under Title II of the ADA, governmental entities have an obligation to provide full and equal enjoyment of its “benefits, services, programs and activities” to individuals with disabilities. The benefit in question is the Town’s on-line court reservation system. The system, run through a third-party website known as “HoldMyCourt.com,” is accessed from the Town’s website. According to the Town Attorney, the Town must provide equal opportunity to all members of the public, “...to reserve a particular athletic court on a particular day at a particular time.” The Town’s responsibility under the ADA law is to offer alternative reservation methods upon request to those who cannot utilize the standard on-line method due to a disability. Governments that willfully ignore such requests or fail to address known compliance deficiencies can be subject to legal action. The Town Attorney states, “If a government fails to fulfill its obligations, an individual may seek enforcement by filing an administrative complaint with an appropriate Federal agency or commencing a private lawsuit” (**Attachment 2**).

There are two separate requirements the Town must abide by with respect to ADA compliance:

1. By April 2027, all content provided on the Town’s website, including reservation systems, must meet new federal technical standards, known as WCAG 2.1 Level AA.
2. As of now, the Town must provide a reasonable modification to any public service it offers when a request for an accommodation is made.

These requirements are not mutually exclusive. The Town Attorney has previously stated that complying with the new web site technical standards does not relieve it from its other obligations under the ADA.

Therefore, even if staff finds an online reservation system that is fully compliant with the new technical standards, the Town’s standing legal obligation remains; upon request, staff must provide an individual with a disability a reasonable modification to access the online reservation system if that individual still cannot access it.

Discussion:

Since the distribution of the first staff report on this topic to the Cultural Services Board in May 2024, there have been both public and internal discussions on 10 suggested options (summarized on **Attachment 5**) to provide reasonable modifications for the Town’s court reservation system. The 10 options were all assessed by staff and the Town Attorney, while option Nos. 3, 8, and 10 were also reviewed by an ADA specialist.

The Town employs two staff members to ensure ADA compliance is met. The Town’s ADA Coordinator is the staff liaison who reviews and directs ADA accommodation requests to the appropriate department. The Town’s website administrator ensures the Town’s website and posted

content, including documents and links, meets current accessibility requirements¹. These Staff members are not experts on ADA law but do reference and uphold the standards stated in Resolution 2019-11 (**Attachment 6**). Staff members also consult with the Town Attorney's office on questions of legal compliance and liability.

The Town Attorney's role in this topic to date has been to advise staff, the Cultural Services Board, and the public about the legal risks involved with each suggested option. To provide additional feedback from an ADA perspective, Staff also contacted a subject-matter expert from the Southeast ADA Center.

Although this research began in response to an ADA complaint, the request for accommodation has since been withdrawn by the submitter on public record. There are currently no outstanding ADA complaints or reasonable modification requests pertaining to the Town's online court reservation system. Nonetheless, the research conducted so far has brought to light a potential liability that needs to be addressed.

As part of its research on this topic, Staff has investigated multiple on-line court reservation vendors. Staff has received several suggestions from the public as well. However, to date Staff has only found one online court reservation systems that is in full compliance *now* with the new WCAG 2.1 Level AA technical standards. This system, known as "Recreation Management," is provided by the same vendor as the Town's current website vendor, Civic Plus. The other systems reviewed were either not compliant or only partially compliant with the new requirements. Although the new federal rules grant the Town until April 2027 to come into compliance, the Recreation Management software is already compliant now. Compliant online court reservation systems are paid services, and to add this feature to our website would be approximately \$12,500 for the first year and \$8,500 for each subsequent year. Civic Plus's Recreation Management software allows staff to take online reservations for athletic courts as well as for town programs and pavilion rentals.

Recommendations:

Over the course of this work, recommendations have been provided from multiple sources, as follows:

Cultural Services Board - At its June 3, 2024, meeting, the Board voted to recommend that the Town retain the current online athletic court reservation system; classify one court as open play only; provide a staffed phone line during Town business hours; and change the operating hours of the online reservation system to match the Town's business hours. This recommendation combines aspects of Options #10, #3, and #8.

Town Attorney - In **Attachment 2**, the Town Attorney provided her legal analysis for each of the 10 suggested options for reasonable modifications, while her analysis of the Board's recommendation is provided on **Attachment 7**. In both, she states that, "...each of the suggestions presented carries a different level of inherent risk." The key takeaway in the Town Attorney's analysis is the importance of, "...providing alternative reservation methods that offer features and functionality comparable to the immediacy and convenience of online reservations. The more

¹ The Town's website contains accessibility features and guidance for anyone who has difficulty accessing the site.

comparable the experience, the less likely the Town will face legal challenges regarding accessibility under the ADA.” Based on the legal analysis, Option #1 for open play represents the lowest level of liability, since eliminating the on-line system altogether is the only way to completely eliminate the risk. However, based on the public comments, it is also the least popular option for the active regular players.

ADA specialist - In **Attachment 8**, an ADA specialist also provided an analysis² of the Board’s recommendation. She states that it would provide an equitable reasonable modification, “...in that people with and without disabilities have the same opportunity for access to reservations and get specific or desired time slots. If a person with a disability doesn’t get the desired time slot this is not relative to reasonable modification as people with and without disabilities have the same opportunity.” In this explanation, the ADA specialist states that the benefit in question is equal opportunity for access to a reservation, not to a specific or desired time³. Additionally, the ADA specialist confirms that if choosing to leave the current reservation system as-is, the Town must review the system for accessibility under the new technical standards by the federal rule deadline of April 2027.

She concludes that **“reasonable modifications must always be related to the individual’s specific limitation caused by the disability.”** Such individuals are not required to provide medical documentation but must explain how their disability is related to their requested modification.

Staff - The 10 suggested options provided by staff, residents, and Board members exemplify the Town’s commitment to adapting practices to provide equal opportunity to all that use our services. However, both the Town Attorney and the ADA specialist state that reasonable modifications should be requested by the individual with a disability to address his or her specific needs. With no outstanding ADA compliance requests for a reasonable modification, staff is reluctant to implement any of the suggested options at this time.

Over the course of the past five months, staff has researched and consulted various experts on this topic. These findings have provided staff a better understanding on ADA compliance not just for the current online court reservation system, but future town-wide applications. Staff now has more resources to address requests for reasonable modifications to the online court reservation system.

Recognizing that “reasonable modifications must always be related to the individual’s specific limitations caused by the disability,” staff’s recommendation is to update the current online reservation system to fully meet the new WCAG 2.1 Level AA technical standards, continue to refer those requesting special accommodation to the Town’s ADA coordinator and/or website administrator, and upon request, implement a reasonable modification based on an individual’s specific limitation caused by a disability. From a customer service standpoint separate from ADA

² Ms. Schwanke qualifies her analysis as informal guidance that is neither legal advice nor binding on enforcement.

³ This may appear to conflict with the Town Attorney’s analysis referenced in **line 40** of this staff report and **Attachment 2**. This conflict between two subject experts exemplifies the complex nature of ADA reasonable modification requests that staff has experienced throughout its research. An individual with a disability could perceive either expert’s analysis correct as to what the Town must provide regarding the online court reservation system. However, if brought to court, our Town Attorney would litigate the case.

compliance, staff will schedule the opening of online reservations during business hours, which may benefit future ADA requests for reasonable modifications.

Request for Direction:

Staff is requesting direction from Town Council on the path forward for the future of the online court reservation system, balancing the appropriate level of modifications to ensure compliance with the ADA along with the acceptable level of risk. Three recommended options are presented for consideration:

- (1) The Cultural Services Board's recommendation of combining Options #10, #3, and #8
- (2) The Town Attorney's analysis of Option #1 representing the lowest liability risk
- (3) Staff's recommendation implementing a fully compliant online reservation system, schedule the opening of online reservations during business hours, and execute requested reasonable modifications based on an individual's specific limitation caused by a disability.



Jackie Alex, Cultural Services Manager

August 14, 2024
Date

Attachments:

1. Email from Town Attorney Holli New regarding ADA compliance on court reservation systems, April 22, 2024
2. "ADA Website Compliance & Accessibility Requirements for the Pollard Park Athletic Court Reservation System," provided by Town Attorney Holli New, May 24, 2024
3. Cultural Services Board Staff report and meeting minutes- May 6, 2024
4. Cultural Services Board Staff report and meeting minutes- June 3, 2024
5. Summary of 10 Options to provide reasonable modifications to the Town's online court reservation system
6. Resolution 2019-11
7. "ADA Website Compliance Follow Up," provided by Town Attorney Holli New
8. Email from ADA specialists Marsha Schwanke and Barry Whaley representing the Southeast ADA Center, Syracuse University

Jackie Alex

From: Holli New <hnew@shepardfirm.com>
Sent: Monday, April 22, 2024 9:08 PM
To: Jackie Alex
Subject: RE: Athletic court reservation system
Attachments: Fact Sheet_ New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments _ ADA.gov.pdf; ADA Update_ A Primer for State and Local Governments _ ADA.gov.pdf

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Hi Jackie,

Please see below for a general analysis regarding requests for reasonable modifications, as requested, and a summary of the DOJ's recently promulgated accessibility requirements for web content. These technical standards will likely apply to the Town's reservation system.

Requests for Modification

The ADA is designed to ensure equal opportunities and access for individuals with disabilities. To that end, state and local governments are required to make reasonable modifications to their usual practices when necessary to avoid discrimination on the basis of disability.[1] Determination of what constitutes a "reasonable modification" involves a fact-specific, case-by-case inquiry that considers, among other factors, the effectiveness of the modification in light of the nature of the disability in question and the cost of implementation. The DOJ illustrates what constitutes a "reasonable modification" in Title II guidance with the following example:

- "A person who uses crutches may have difficulty waiting in a long line to vote or register for college classes. The ADA does not require that the person be moved to the front of the line (although this would be permissible), but staff must provide a chair for him and note where he is in line, so he doesn't lose his place."
- "At a museum's gift shop, accompanying and assisting a customer who uses a wheelchair may not be reasonable when there is only one person on duty."

As demonstrated in the above example, modifications are meant to mitigate the barriers faced by individuals with disabilities so that they have the same opportunity to participate as those without disabilities. However, only "reasonable" modifications are required. A modification is not reasonable if it imposes a "fundamental alteration" to the essential nature of the program. Again, these examples based on DOJ materials may be helpful:

- "At a hot lunch program for elderly town residents, staff are not obliged to feed a woman with a disability who needs assistance in eating, if it does not provide this service for others. However, the woman should be allowed to bring an attendant to assist her. If she can feed herself but cannot cut large pieces of food into bite-sized pieces, it is reasonable to ask staff to cut up the food."
- "A testing agency may be required to allow an individual to use a basic calculator during an exam even if test-takers are not typically allowed to do so. If the objective of the test is to measure one's ability to solve algebra equations, and the ability to perform basic math computations (e.g., addition, subtraction, multiplication, and division), is secondary to the objective of the test, then a basic calculator may be an appropriate testing accommodation. If, however, the objective of the test is to measure the ability to

perform math computations, then it likely would not be appropriate to permit the use of the calculator, as it could fundamentally alter the purpose of the test and the value of the test results.”

A review of caselaw indicates that where “reasonable modifications” involve waiving applicable rules and regulations to accommodate a person with a disability, many courts focus on “whether a waiver of the rule would be so at odds with the purposes behind the rule that it would be a fundamental and unreasonable change.”

Thus, while the Town is encouraged to consider the preferences of the individual requesting a modification, it is not necessarily obligated to provide the exact modification requested if such modification is determined to be unreasonable, as described above. Ultimately, what is obligated is that reasonable modifications be made to ensure the requesting resident has an equal opportunity to receive the same benefit of the program or service—in this case, the benefit of the reservation system—that all other members of the public are afforded. As such, my recommendation in this instance, and in related modification requests, is to engage the requestor in an interactive process to determine an appropriate reasonable modification that will accommodate the requestor's needs.

Web Accessibility Requirements for the Reservation System

Relatedly, in addition to the Town's existing obligations under the ADA to ensure that communications with people with disabilities are as effective as communications with people without disabilities, and to provide people with disabilities an equal opportunity to participate in or benefit from the entity's services, programs, or activities, as described above, **the ADA has undergone a recent update that will affect the Town's approach to digital inclusivity in forthcoming years.**

On April 8, 2024, the U.S. Attorney General signed a final rule establishing specific technical standards (WCAG 2.1 Level AA) that state and local governments must follow to make their web content and mobile apps accessible to people with disabilities. The standards apply to web content that a state or local government provides or makes available, including content provided by a third party on behalf of the state or local government:

“Further, the Department emphasizes that the phrase “provides or makes available” in § 35.200 is not intended to mean that § 35.200 only applies when the public entity creates or owns the web content or mobile app. The plain meaning of “make available” includes situations where a public entity relies on a third party to operate or furnish content. Section 35.200 means that public entities provide or make available web content and mobile apps even where public entities do not design or own the web content or mobile app, if there is a contractual, licensing, or other arrangement through which the public entity uses the web content or mobile app to provide a service, program, or activity. For example, even when a city does not design, create, or own a mobile app allowing the public to pay for public parking, when a contractual, licensing, or other arrangement exists between the city and the mobile app enabling the public to use the mobile app to pay for parking in the city, the mobile app is covered under § 35.200. This is because the public entity has contracted with the mobile app to provide access to the public entity's service, program, or activity (i.e., public parking) using a mobile app.”

Recognizing that smaller government entities may face challenges with respect to resources for implementing the new requirements, the DOJ has staggered the compliance dates for public entities according to their total population: once the rule is published, governments serving a population of 50,000+ will have two years to comply, and those serving populations of up to 50,000 will have three years.

I have attached the DOJ's Fact Sheet, which summarizes the new rule. If you would like a copy of the actual rule for presentation purposes, let me know. I have also attached general guidance materials from the DOJ on ADA requirements for state and local governments, which includes additional examples and explanations.

Hopefully this assists in assessing the Town's recreational court reservation system. If I can provide any additional information, kindly let me know.

Thank you,

HOLLI NEW | ATTORNEY AT LAW



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KOHLMYER & HAND, P.A.
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From: Jackie Alex <jalex@ponce-inlet.org>
Sent: Friday, April 19, 2024 12:01 PM
To: Holli New <hnew@shepardfirm.com>
Subject: Athletic court reservation system

Hi Holli,

Thank you for speaking with me today on your recent findings regarding ADA compliance. Attached is my draft staff report regarding the residents' concerns with the town's online court reservation system.

Based on our conversation regarding what you found from 2003 and 2022 about the requirement of a staffed information line, I'm understanding I may not need the highlighted paragraphs if they can be attachments, I may reference to the Board understanding that confirms it's not feasible. I could have these factors at the ready to say rather than write.

Thank you,
Jackie Alex
Cultural Services Manager
Town of Ponce Inlet
4300 South Atlantic Avenue
Ponce Inlet, FL 32127
Phone: 386-322-6703
jalex@ponce-inlet.org

Ponce Inlet Historical Museum
143 Beach Street

Memorandum

Shepard, Smith, Kohlmyer & Hand, P.A.
2300 Maitland Center Parkway, Suite 100
Maitland, Florida 32751
Telephone (407) 622-1772

To: Mike Disher, Town Manager
Dan Scales, CFO
Jackie Alex, Cultural Services Manager
From: Holli New, Esq.
Subject: Ponce Inlet – ADA Website Compliance & Accessibility Requirements for the
Pollard Park Athletic Court Reservation System
Date: May 24, 2024

At the request of the Town of Ponce Inlet, our office has prepared this memorandum to address the Town's obligations under Title II of the Americans with Disabilities Act (the "ADA") as it pertains to the Town's online reservation service for the athletic courts at Pollard Park. Title II mandates equal access to programs, activities, and services provided by public entities, and this mandate extends to online platforms. This memo provides an overview of the requirements for website accessibility as outlined by the Department of Justice (the "DOJ") and the legal responsibility to offer alternative means of access when website barriers exist. In addition, this memo assesses the recent public suggestions for achieving accessibility by analyzing their potential effectiveness in complying with ADA requirements and explaining the legal liabilities associated with each recommendation.

Enforcement of Title II Rights¹

Under Title II of the ADA, governmental entities have an affirmative obligation to provide full and equal enjoyment of its "services, programs and activities" to individuals with disabilities. If a government fails to fulfill its obligations, an individual may seek enforcement by filing an administrative complaint with an appropriate Federal agency or commencing a private lawsuit.

¹ See generally 28 C.F.R. pt. 35, subpt. F.

1. *Administrative complaint.*

If an individual files an administrative complaint, an appropriate Federal agency will investigate the allegations of discrimination.² Should the agency conclude that the public entity violated Title II, it will attempt to negotiate a settlement with the public entity to remedy the violations.³ If settlement efforts fail, the matter will be referred to the Department of Justice (the “DOJ”) to decide whether to institute litigation.⁴ In cases where there is Federal funding, fund termination is also an enforcement option.⁵

2. *Private cause of action.*

An individual may also go directly to court.⁶ Remedies include injunctive relief and compensatory damages for any injuries suffered, including compensation, when appropriate, for any emotional distress caused by the discrimination.⁷ The prevailing party may also recover attorneys’ fees, litigation expenses, and costs, at the court’s discretion.⁸

Suggestions

1. Remove the town online reservation system and have open play for all courts.

From an ADA compliance standpoint, this suggestion provides equal opportunity for all participants, disabled and non-disabled, to access the athletic courts in that all participants have the *same* level of open access.

2. Resident group managing the court reservation system.

Liability Regarding Technical Standards

The Town would still be responsible for ensuring that the reservation system complies with the technical standards for web content accessibility.⁹

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* Note that the ADA does not require complainants to exhaust administrative remedies prior to instituting private litigation.

⁷ U.S. Dep’t. of Justice, ADA Title II Technical Assistance Manual 1994 Supplement, at II-9.2000 (1994), <https://archive.ada.gov/taman2up.html>.

⁸ 28 C.F.R. § 35.175

⁹ In April 2024, the DOJ adopted an internationally recognized accessibility standard for web access, the Web Content Accessibility Guidelines (“WCAG”) 2.1, as the technical standard for web content and mobile app accessibility under title II. As a result, public entities are now required to comply with the WCAG 2.1 Level AA success criteria and conformance requirements.

Pursuant to the DOJ's new rule,¹⁰ third-party web content must be accessible to persons with disabilities if the third-party web content is being used to allow the members of the public to participate in or benefit from the public entity's services, program, or activities. The DOJ explicitly and unequivocally states that a public entity may not delegate away its obligation to complying with the technical requirements in the new rule:

The general requirements in the final rule apply to web content or mobile apps that a public entity provides or makes available directly, as well as those the public entity provides or makes available "through contractual, licensing, or other arrangements....

The Department intentionally used the same phrasing in this rule because here too, where public entities act through third parties using contractual, licensing, or other arrangements, they are not relieved of their obligations under this subpart. For example, when public educational institutions arrange for third parties to post educational content on their behalf, public entities will still be responsible for the accessibility of that content under the ADA.

Further, the Department emphasizes that the phrase "provides or makes available" in § 35.200 is not intended to mean that § 35.200 only applies when the public entity creates or owns the web content or mobile app. The plain meaning of "make available" includes situations where a public entity relies on a third party to operate or furnish content. Section 35.200 means that public entities provide or make available web content and mobile apps even where public entities do not design or own the web content or mobile app, if there is a contractual, licensing, or other arrangement through which the public entity uses the web content or mobile app to provide a service, program, or activity. For example, even when a city does not design, create, or own a mobile app allowing the public to pay for public parking, when a contractual, licensing, or other arrangement exists between the city and the mobile app enabling the public to use the mobile app to pay for parking in the city, the mobile app is covered under § 35.200. This is because the public entity has contracted with the mobile app to provide access to the public entity's service, program, or activity (i.e., public parking) using a mobile app.¹¹

Liability for all other ADA requirements

In addition to the technical requirements, the Town would also still be liable for ensuring that the resident group appropriately responds to any requests for accommodation or auxiliary aids or

¹⁰ U.S. Dep't. of Justice, *Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities*, 89 Fed. Reg. 31320 (04/24/2024) (to be codified at 28 C.F.R. 35).

¹¹ *Nondiscrimination*, *supra* n11.

services. Title II of the ADA specifically applies to public entities and mandates that all programs and services provided by these entities be accessible. When a public entity contracts with a private entity to manage a public program, the program is still considered a “public service, program, or activity” under the ADA. Therefore, the compliance requirements remain.

3. Classify certain pickleball courts for open play, i.e. 1 or 2 of the 4 courts.

This is a solution that does not address the problem:

Problem: A person with a disability is unable to access the website that provides reservation services for athletic courts at Pollard Park.

Law: Regulations implementing Title II prohibit inequality in services, programs, or activities provided by public entities.¹² Public entities may not “afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit or service that is not equal to that afforded others” or “provide a qualified individual with a disability with an aid, benefit or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.”¹³

Applied: In this case, the benefit is not the use of the athletic courts; rather, it is the opportunity to reserve a particular court on a particular day at a particular time.¹⁴

Solution: Note that the ADA provides for equality of opportunity, not equality of results.¹⁵ Thus, a solution is one that provides a person with a disability the same opportunity to reserve an athletic court as is afforded to those without a disability. Failure to provide an alternative method of access may be an independent basis for liability under Title II.¹⁶

4. Classify tennis court as open play.

See answer to #3.

5. Block off 4 hours each day for open play either on the tennis court or select pickleball courts.

See answer to #3.

6. Switch the Town’s online court reservation system to a different vendor system that states they are ADA compliant.

See answer to #2.

¹² 28 C.F.R. § 35.130

¹³ *Id.*

¹⁴ Notwithstanding availability limitations that those who can access the reservation system face.

¹⁵ U.S. Dep’t. of Justice, ADA Title II Technical Assistance Manual, at II-3.3000 (1993), <https://archive.ada.gov/taman2.html#II-3.6000>.

¹⁶ *Rylee v. Chapman*, 316 F. App’x 901, 902 (11th Cir. 2009); *Alboniga v. Sch. Bd. of Broward Cnty.*, 87 F. Supp. 3d 1319, 1337 (S.D. Fla. 2015).

7. Hire a 24/7 call center to accept reservations.

The DOJ makes clear in the commentary to the new rule that the use of other means of “effective communication,” such as 24/7 staffed telephone lines, does not create an equivalent service. The DOJ expresses the view that the need to rely on customer service simply cannot present the same ease of use, independence, or privacy protection that website access can provide. As a result, this method of communication cannot substitute for a compliant website.

The Department’s 2003 guidance on State and local government entities’ websites noted that “an agency with an inaccessible website may also meet its legal obligations by providing an alternative accessible way for citizens to use the programs or services, such as a staffed telephone information line,” while also acknowledging that this is unlikely to provide an equal degree of access. The Department’s March 2022 guidance did not include 24/7 staffed telephone lines as an alternative to accessible websites. Given the way the modern web has developed, the Department no longer believes 24/7 staffed telephone lines can realistically provide equal opportunity to individuals with disabilities. Websites—and often mobile apps—allow members of the public to get information or request a service within just a few minutes, and often to do so independently. Getting the same information or requesting the same service using a staffed telephone line takes more steps and may result in wait times or difficulty getting the information.

For example, State and local government entities’ websites may allow members of the public to quickly review large quantities of information, like information about how to register for government services, information on pending government ordinances, or instructions about how to apply for a government benefit. Members of the public can then use government websites to promptly act on that information by, for example, registering for programs or activities, submitting comments on pending government ordinances, or filling out an application for a government benefit. A member of the public could not realistically accomplish these tasks efficiently over the phone.

Additionally, a person with a disability who cannot use an inaccessible online tax form might have to call to request assistance with filling out either online or mailed forms, which could involve significant delay, added costs, and could require providing private information such as banking details or Social Security numbers over the phone without the benefit of certain security features available for online transactions. A staffed telephone line also may not be accessible to someone who is deaf-blind, or who may have combinations of other disabilities, such as a

coordination issue impacting typing and an audio processing disability impacting comprehension over the phone. Finally, calling a staffed telephone line lacks the privacy of looking up information on a website. A caller needing public safety resources, for example, might be unable to access a private location to ask for help on the phone, whereas an accessible website would allow users to privately locate resources. For these reasons, the Department does not now believe that a staffed telephone line—even if it is offered 24/7—provides equal opportunity in the way that an accessible website can.

- 8. Change the operating hours of an ADA-compliant reservation system to match the Town's business hours and provide a staffed phone line (restricted to M-F, no holidays, 8:00 am – 4:30 pm). This suggestion includes a voicemail hotline for calls after hours for staff to then enter reservations the following business day in the order they were received.**

See answer to #7.

- 9. Keep the online reservation system as is, with no modifications.**

Technical Standards.

The Town will have to remediate the current reservation system to ensure that it meets the WCAG 2.1 level AA standards by April 26, 2027. Failure to comply exposes the Town to the enforcement mechanisms and penalties noted above.

Accommodation request

The Town's full compliance with web/mobile app WCAG 2.1 level AA standards does not mean it has met all its obligations under the ADA or other applicable laws. That is, when an individual with a disability encounters barriers to accessing to a service, program, or activity offered through a public entity's website or mobile app that conform to WCAG standards, the public entity still has an obligation to provide the individual an alternative means of access, unless the public entity can demonstrate that the alternative methods of access results in a fundamental alteration in the nature of the service, program, or activity or in an undue financial and administrative burden.¹⁷

The concept of "reasonableness" in disability accommodation is inherently case-dependent.¹⁸ Therefore, determining appropriate accommodations necessitates a fact-specific, individualized inquiry into the circumstances of the disabled individual and the potential accommodations that would enable them to achieve meaningful access.¹⁹ A trend in caselaw shows that when plaintiffs demonstrate an obstacle that hinders their ability to participate in a government program or receive

¹⁷ See U.S. Dep. of Justice, *Accessibility of Web Content and Mobile Apps Provided by State and Local Government Entities: A Small Entity Compliance Guide*, at pg. 5 (May 22, 2024), <https://www.ada.gov/resources/small-entity-compliance-guide/> (PDF).

¹⁸ *Wong v. Regents of the Univ. of Cal.*, 192 F.3d 807, 818 (9th Cir. 1999).

¹⁹ *Id.*

a benefit, there is a strong likelihood that they can establish they lack meaningful access under Title II.²⁰ For example, in *Martin v. Metropolitan Atlanta Rapid Transit Authority*, a group of disabled individuals sued the Metropolitan Atlanta Mass Transit Authority (“MARTA”), alleging discrimination against riders with disabilities by failing to provide them with scheduling and route information in accessible formats.²¹ MARTA offered evidence that the scheduling information was available by telephone, customers could request alternate formats by submitting a request to its customer service department, and that it was in the process of developing accessible formatting for its website.²² The court nevertheless held that their offered accommodations were “not the equivalent to what MARTA provides to the general public.”²³ The court thus found that MARTA failed to “[make] adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service” in violation of the ADA.²⁴

Conversely, plaintiffs seeking to expand a program's or service's core benefits are likely advocating for a fundamental alteration.²⁵ For example, in *Jones v. City of Monroe*, the city supplied free, one-hour parking spaces for shoppers in the downtown district.²⁶ Jones, a downtown employee who suffered from multiple sclerosis, frequently parked her car in the one-hour space adjacent to her job for her entire shift, instead of parking in the free, all-day employee lot two blocks away.²⁷ After receiving a citation, Jones requested the city to allow her to park in the one-hour space to accommodate her disability.²⁸ The city denied her request and Jones brought suit.²⁹ The Sixth Circuit determined that the city had not denied Jones meaningful access to free parking, stating that the “benefit that [the city] is providing to all of its citizens, including Jones, is free downtown parking at specific locations; it is not free downtown parking that is accessible to wherever a citizen, disabled or non-disabled, chooses to go or work.”³⁰

As demonstrated by these examples, determinations of whether a requested accommodation is required by law is highly fact-specific.³¹ The decision that a proposed modification or auxiliary

²⁰ *Am. Council of the Blind v. Paulson*, 381 U.S. App. D.C. 162, 173-74 (2008)(citations omitted).

²¹ *Martin v. Metropolitan Atlanta Rapid Transit Authority*, 225 F. Supp. 2d 1362 (N.D. Ga. 2002).

²² *Id.* at 1377. The court noted that there is a difference between the idealized scenario and the practical application. That is, theoretically, the provision of alternative formats and phone services would comply with ADA requirements; however, as implemented, telephone hold times were extensive, schedule information provided by customer service representatives was limited, and it took months for customers to receive their requested Braille schedules.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*; see e.g., *Alexander v. Choate*, 469 U.S. 287, 289, (1985)(holding that the State of Tennessee was not required to expand its Medicaid benefits “simply to meet the reality that the handicapped have greater medical needs.”).

²⁶ *Jones v. City of Monroe*, 341 F.3d 474, 475 (6th Cir. 2003).

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* at 479.

³¹ *Cohen v. Monroe Cty.*, 749 F. App'x 855, 857 (11th Cir. 2018).

aid or service would result in a fundamental alteration or undue burden must be made by the head of the public entity, or their designee, “after considering all resources available for use in the funding and operation of the service, program, or activity.”³² Such decision must be accompanied by a written statement of the reasons for reaching that conclusion.³³ However, **even if a fundamental alteration or an undue burden exists, the public entity must still take any other action that would not result in such an alteration** and that ensures to the maximum extent possible that individuals with disabilities receive the benefits or services provided by the public entity.³⁴

The DOJ’s ADA Technical Assistance Manual, which was created to assist public entities in understanding the scope of their responsibilities under Title II, provides the following example for “reasonable modifications”:

*ILLUSTRATION 2: A county general relief program provides emergency food, shelter, and cash grants to individuals who can demonstrate their eligibility. The application process, however, is extremely lengthy and complex. When many individuals with mental disabilities apply for benefits, they are unable to complete the application process successfully. As a result, they are effectively denied benefits to which they are otherwise entitled. In this case, the county has an obligation to make reasonable modifications to its application process to ensure that otherwise eligible individuals are not denied needed benefits. Modifications to the relief program might include simplifying the application process or providing applicants who have mental disabilities with individualized assistance to complete the process.*³⁵

Conclusion

As explained in the above analysis, each of the suggestions presented carries a different level of inherent risk. While our office can offer general legal advice on the relevant laws and potential outcomes, we are aware of neither the feasibility of implementing those suggestions that may be considered viable, nor the Town’s risk tolerance. Ultimately, this is a policy decision. However, if the Town has any questions or requires further clarification on the legal aspects of each option, our office is happy to provide additional information.

³² 28 C.F.R. § 35.164

³³ *Id.*

³⁴ *Id.*

³⁵ U.S. Department of Justice, *ADA Title II Technical Assistance Manual*, at II-3.6100 (1993), <https://archive.ada.gov/taman2.html#II-3.6000>



MEMORANDUM

TOWN OF PONCE INLET, CULTURAL SERVICES 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: Cultural Services, Historic Preservation, and Tree Advisory Board
From: Jackie Alex, Cultural Services Manager
Date: April 24, 2024
Subject: Athletic Court Reservation System

MEETING DATE: May 6, 2024

Introduction:

The purpose of this report is to discuss issues recently brought to Staff's attention by a group of residents regarding the Town's court reservation system. These issues include potential improvements, as well as compliance with the Americans with Disabilities Act (ADA). Staff has reviewed the capabilities of the current and new reservation system, while the Town Attorney has focused on legal compliance with the ADA. The result of this review is that the Town is left with two options for court reservations. As this affects the public at large, any changes to the court reservation system will need to go through this Advisory Board as well as Town Council. It is brought before this Board to provide a recommendation to Town Council on whether to keep, modify, or remove the online court reservation system.

Background:

At the December 2, 2014, Parks, Recreation and Tree Advisory Board meeting, Staff requested the Board make a recommendation regarding a resident's suggestions for improvement at Timothy Pollard Memorial Park. These included an online court reservation system as well as painting pickleball lines on the existing basketball court, similar to the lines on the shared tennis court at that time. The Board recommended approval of both requests to the Town Council, which the Town Council then approved at its December 18, 2014, meeting.

Renovations in 2019 to Pollard Park included the construction of four new pickleball courts and a new basketball court, and the resurfacing of the tennis court, creating separate designated courts for each sport.

In March of 2024, the pickleball courts operated by the City of Daytona Beach Shores were renovated and went through intermittent, temporary closures. During this time, a group of residents shared with Town staff their experience of an influx of new pickleball players using the online pickleball court reservation system at Pollard Park, believing them to be those affected by the Shores court closures. The residents expressed their concern of losing the reservations to which

they had become accustomed, and requested that Ponce Inlet residents receive priority on the Town's on-line court reservation system.

On March 18, 2024, at the request of the resident group, a meeting with the Mayor, the Public Safety Director, and the Cultural Services Manager was held to discuss their concerns regarding the Town's court reservation system. Staff informed the residents that renovations to Pollard Park and the athletic courts had been funded in part through a grant with Volusia ECHO. This grant was conditioned on maintaining access for the general public and without discrimination for the use of the facility (**Attachment 1**)¹. Therefore, staff cannot limit access to Ponce Inlet residents.

At the conclusion of that meeting, the residents provided the following requests for changes to the Town's court reservation system, understanding that some would require additional research or Council approval.

1. Regulate "no-show" reservations.
2. Regulate players using multiple e-mail accounts to reserve the court for more than one hour at a time.
3. Research "penalties" for no-show players and others that violate rules.
4. Research the ability and capability of a new reservation system on the following:
 - a. Tracking "no-show" players
 - b. Mobile app "check-in" for players upon arrival
 - c. A wait list for courts with an alert if a court becomes available.
5. Develop timeslots for pickleball league reservations.
6. Start a new registration list for a new reservation system.
7. Require in-person registration with proof of residency.
8. Regulate private pickleball lesson vendors.
9. Research leasing a private pickleball court by the Town to add court capacity.
10. Research locations and costs to build more pickleball courts.
11. Provide staff/ department contact for players to report rule infractions.
12. Publish additional information on court etiquette and use.

Additionally, a resident submitted a request for a court reservation accommodation due to a disability. Under the Americans with Disabilities Act (ADA), public entities are required to provide "reasonable modifications" or accommodations to their usual practices when necessary to provide equal access and avoid discrimination based on a disability. The request was for staff to create outstanding reservations for this resident for certain days and times each week for an unstated length of time beyond when court reservations are ordinarily opened to the public.

Discussion:

Currently, the Town's online reservation system only allows reservations to be made by the public one week in advance. For example, on Monday night, the Monday of the following week will become available. This provides equal opportunity to all members of the public to make a reservation. Through consultation with our Town Attorney, the subject request for advanced reservations beyond one week was found to not meet the legal requirements of a "reasonable

¹ Link: [Volusia ECHO Program Guidebook: page 6](#)

modification” (**Attachment 2**), since no one else would have that same opportunity. This request would therefore impose a “fundamental alteration,” as it does not provide the same opportunity to those without disabilities. **Attachments 2 & 3** provide several examples of “reasonable modifications” based on U.S. Department of Justice (DOJ) materials². The Town is not obligated to provide the exact requested modification, as it was found to not be considered “reasonable.”

After speaking with other municipalities regarding on-line court reservation systems, Staff found no other cities within the County or the state that operate an on-line reservation system for their pickleball courts. However, one facility, operated by a private club, currently manages an on-line reservation system with a staffed desk and information line provided during operational hours to check players in and assist with reservation needs.

In addressing the residents’ listed requests, Town staff reviewed the technical capabilities of the current and new reservation system, while the Town Attorney focused on legal compliance regarding requests for ADA accommodation. The result of this review is that the Town is left with two options for court reservations: (1) a staffed telephone line executing ADA requests or (2) removing the court reservation system in its entirety.

Option (1) – With this option, players with a disability could call a staff member and request a reservation be made in their name. The time that reservations are currently scheduled to become available to the public can be changed to business hours to accommodate this change³. However, there are several additional factors that will determine the success of this change.

1. A staff member must be physically present and available during this allotted timeframe. For this to work, the staff member cannot be serving another member of the public in-person or over the phone, on vacation, out of the office, or otherwise detained with other duties that arise.
2. Since the online reservation system is on a first-come, first-served basis, reserving the player’s requested time slot becomes dependent on the speed in which the staff member can reserve the spot versus other players requesting their desired reservations on-line at the same time.
3. Under the ADA, a player is not required to disclose their disability, nor is a staff member allowed to request it, which means the disability cannot be verified. This could leave this service open to potential abuse.
4. This accommodation must serve *all* disabilities, which is not guaranteed by the use of a staffed phone line. This method provides a “reasonable modification” but may not provide equal access to all those disabled.

However, if this option is executed, it does not by itself fulfill a majority of the resident’s original requests to improve the current reservation system. The Town cannot limit access to only Ponce Inlet residents – it must remain open to the general public. A new on-line court reservation system

² [ADA Update: A Primer for State and Local Governments](#)

³ Currently, online reservation times become open at 10:00pm.

can create methods that address “no-shows” per request #3 above, however, they still rely entirely on the honor system. Unless a staff member is physically present during the court’s operational hours of 6:00 am - 10:00 pm, there cannot be accountability for accurate check-ins or no-shows. Currently there is a Town court rule posted on both the Town’s website and at the athletic courts to address “no-shows” for reservations. The rule states that if reservations are not claimed within 10 minutes, the reservation is considered void and open for use by other players.

The Town is not under legal obligation to provide a staffed telephone line as an alternative to access this on-line service. As of March of 2022, the DOJ no longer believes staffed telephone lines can realistically provide equal opportunity to individuals with disabilities, given the way that the modern internet has developed, the factors listed above, and other factors⁴ (**Attachment 4**).

Option (2) – In option two, removing the online court reservation not only resolves many of the resident’s expressed concerns, but also provides equal access to all visitors and individuals with disabilities. Residents living closer to the courts are able to access them more quickly than visitors. Players must be present to play, reserving their turn by placing their paddle within the next available slot on the paddle rack (**Figure 1**), which is currently on the north and south pickleball courts.

Figure 1



This eliminates “no-shows” as well as the problem of the same person using multiple e-mail accounts to reserve the court for more than one hour at a time. Additionally, this option opens the possibility of play for anyone with a disability that may have been unable to do so with an online reservation system. If Option 2 is selected, the athletic courts will become open for play on a first-

⁴ [Full DOJ rule of WCAG 2.1, Level AA; page 14-17](#)

come, first-served basis, providing a feasible, inclusive option for all who wish to play. This option is how all other cities within Volusia County operate their pickleball courts.

In addition to the Town’s current obligations under the ADA for web site accessibility, recent updates to the ADA will affect the Town’s overall approach to digital inclusivity in future years. According to the Town Attorney in **Attachment 2**, “...on April 8, 2024, the U.S. Attorney General signed a final rule that establishes specific technical standards (WCAG 2.1, Level AA) that state and local governments must follow to make their web content and mobile apps accessible to people with disabilities. The standards apply to web content that a state or local government provides or makes available, including content provided by a third party on behalf of the state or local government.” These third parties include reservation systems, which are not exempt from meeting the technical standards⁵ (see **Attachment 5**). Furthermore, the DOJ has set compliance dates dependent on the government’s total population. As the Town of Ponce Inlet serves a population of “up to 50,000,” the Town will have three years to comply with these updated standards once the rule is published.

Addressing Additional Requests:

Request #7:

The Town’s fee schedule now includes a fee to rent the pickleball courts for private lessons (**Figure 2**). The Town Council approved this amendment 5-0 via Resolution 2024-05 at its April 18, 2024, meeting.

Figure 2

Section 6. Amending Fees for Parks and Special Events. Part XX of Appendix A of the Town of Ponce Inlet Code of Ordinances is hereby amended to read as follows:		
PART XX – PARKS AND SPECIAL EVENTS		
APPLICATION TYPE		FEE
1	Rental of gazebo and pavilions at Town parks and approved Town facilities for limited duration	\$35.00 + \$100.00 refundable deposit
2	Rental of tennis <u>and pickle-ball</u> courts for private lessons	
	For-profit entities	\$20.00 per hour
	Non-profit entities	\$10.00 per hour
3	Special event permits	
	Permit fee	\$150.00
	Amplified sound permit fee	\$50
	Additional fee for tents and/or temporary structures	per Part II
	Additional services	
	Standby fire/EMS protection	per Part XVI

RESOLUTION 2024-05
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⁵ [Fact Sheet: New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments](#)

Requests #8 & #9:

If requested by this Board, Staff may research potential locations and the cost for additional courts within the town.

Requests #10 & #11:

Depending on the recommendation from this Board and decision by the Town Council on the future of the on-line court reservation system, new court rule signage will be required for court etiquette and reporting of violations.

Summary and Conclusion:

The Town's current on-line court reservation system was established in December 2014 by recommendation of the Parks, Recreation and Tree Advisory Board and approval by the Town Council. In 2019, renovations to Timothy Pollard Memorial Park added four new pickleball courts with assistance from public funding through the Volusia ECHO grant, which requires access to the public without discrimination.

Staff was provided with 13 requests by a group of residents to change aspects of the Town's online court reservation system, with one request relating to a special accommodation under the ADA. Town staff conducted research and consulted with the Town Attorney and other municipalities regarding online court reservation systems. Staff found two options in providing a "reasonable modification" for individuals with a disability to make a court reservation.

The first option is a staffed telephone line, however, the DOJ does not believe this provides a realistic, equal opportunity to all disabilities and states the Town is not under a legal obligation to provide this option.

The second option is to remove the online court reservation system for all town athletic courts and establish the courts as open play on a first-come, first-served basis. This option provides a solution to the resident's requests regarding the online system, but more importantly is the most feasible option to provide an ADA "reasonable modification." The Town *is* under legal obligation to provide a "reasonable modification" to the court reservation system to ensure equal opportunity is provided to all visitors, including those with disabilities.

The Town appreciates the residents bringing the ADA compliance concern to staff's attention, as it is our utmost goal to provide equal access and inclusivity to all residents and visitors of our community. Staff's priority is to best serve this community, and we are grateful for citizen participation in helping to accomplish that goal.

Recommendation:

Staff is requesting a recommendation from the Board on whether to keep, modify, or remove the online court reservation system. Additionally, Staff is seeking a recommendation from the Board on whether to research potential locations and cost estimates for additional pickleball courts within town.



Jackie Alex, Cultural Services Manager

April 24, 2024
Date

Attachments:

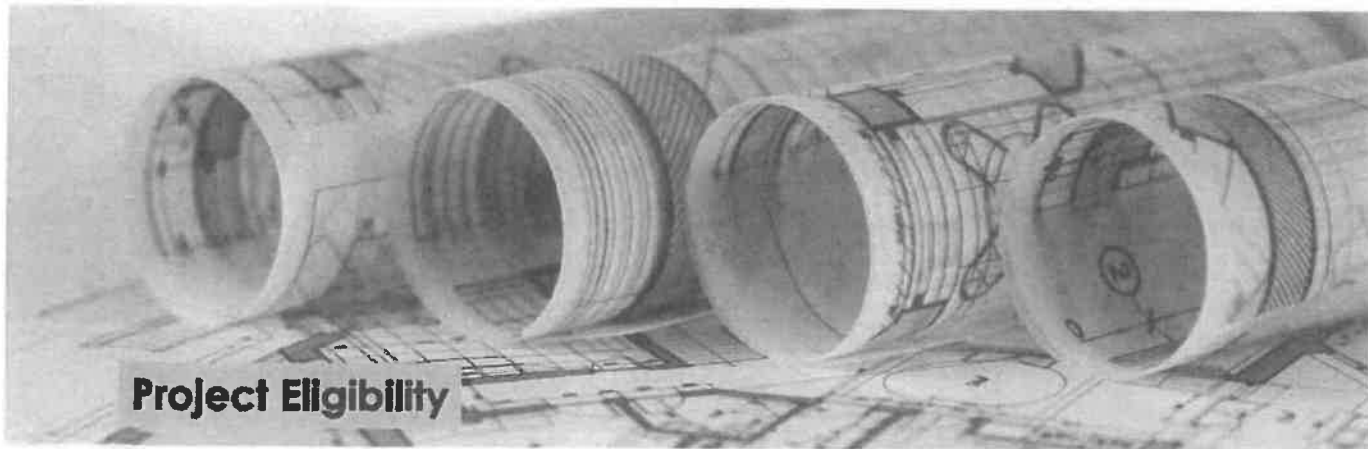
1. Volusia ECHO Program Guidebook- Excerpt regarding Public Access
2. Email from Town Attorney Holli New regarding ADA compliance on court reservation systems, April 22, 2024
3. ADA Update: A Primer for State and Local Governments- Excerpt regarding examples of "reasonable modifications"
4. Excerpt of the full DOJ rule of WCAG 2.1, Level AA
5. Fact Sheet: New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments- Excerpt regarding content posted by a third party and compliance date.



Volusia ECHO Program

A guide for applicants





Project Eligibility

Pursuant to Volusia County Council Resolution 2000-156, an organization's project/application must meet the following criteria:

- The Volusia ECHO Program funds are to be used solely to finance acquisition, restoration, construction and improvement of environmental/ecological, cultural, historical/heritage and outdoor recreation facilities for public use.
- Projects without construction designs that guarantee ECHO related uses are ineligible.
- Only one application for the same project, facility complex or site will be accepted in a single grant cycle.
- There may be no more than two open ECHO grant awards per project site to be an eligible application.
- Projects should not duplicate each other or an existing or planned ECHO related function in the same area of service, whether public or private. This applies to projects from the same applicant or different applicants.
- County staff shall make recommendations on duplication and eligibility. Appeals may be made to the ECHO Advisory Committee.
- Historic restoration, a trail system, off-beach parking and established, fully open to the public ECHO related projects are exempt from these restrictions.
- Projects solely for depreciable items, with less life expectancy than the required grant agreement period, are ineligible unless there is sufficient evidence the applicant has the ability to replace them.

PUBLIC ACCESS

The project must be accessible to the public for a period of 20 years from execution of the grant agreement. In addition, grantees may not discriminate in the schedule of fees or terms of use of the facility. Public access must be provided within three years of the ECHO award. If this does not occur, the applicant will not be eligible to apply for additional ECHO funding.

Projects that ultimately allow access only to the exterior of a building are ineligible. These include:

- Projects intended primarily for students, faculty and staff and/or that are intended to augment or supplement a curriculum
- Projects on multi-use campuses/complexes with no designated parking

UNRESTRICTED OWNERSHIP/ UNDISTURBED USE OF FACILITY

Documentation of the ownership or lease of the facility and property shall provide for undisturbed use. Length of the lease shall be consistent with requirements set in the Restrictive Covenants. Leases shall not be cancelable without cause. Owners of leased property must be a municipality of Volusia County, the County of Volusia, the State or Federal government, or an eligible Not for Profit.

Applicant must document ownership or undisturbed use by one of the following:

- Proof of unrestricted ownership of property and/or building(s): unrestricted shall mean unqualified ownership and power of disposition. Projects leased to For-Profit entities are not eligible for ECHO funding. Documentation may be a copy of the deed or the title. Provisional

Jackie Alex

From: Holli New <hnew@shepardfirm.com>
Sent: Monday, April 22, 2024 9:08 PM
To: Jackie Alex
Subject: RE: Athletic court reservation system
Attachments: Fact Sheet_ New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments _ ADA.gov.pdf; ADA Update_ A Primer for State and Local Governments _ ADA.gov.pdf

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Hi Jackie,

Please see below for a general analysis regarding requests for reasonable modifications, as requested, and a summary of the DOJ's recently promulgated accessibility requirements for web content. These technical standards will likely apply to the Town's reservation system.

Requests for Modification

The ADA is designed to ensure equal opportunities and access for individuals with disabilities. To that end, state and local governments are required to make reasonable modifications to their usual practices when necessary to avoid discrimination on the basis of disability.[1] Determination of what constitutes a "reasonable modification" involves a fact-specific, case-by-case inquiry that considers, among other factors, the effectiveness of the modification in light of the nature of the disability in question and the cost of implementation. The DOJ illustrates what constitutes a "reasonable modification" in Title II guidance with the following example:

- "A person who uses crutches may have difficulty waiting in a long line to vote or register for college classes. The ADA does not require that the person be moved to the front of the line (although this would be permissible), but staff must provide a chair for him and note where he is in line, so he doesn't lose his place."
- "At a museum's gift shop, accompanying and assisting a customer who uses a wheelchair may not be reasonable when there is only one person on duty."

As demonstrated in the above example, modifications are meant to mitigate the barriers faced by individuals with disabilities so that they have the same opportunity to participate as those without disabilities. However, only "reasonable" modifications are required. A modification is not reasonable if it imposes a "fundamental alteration" to the essential nature of the program. Again, these examples based on DOJ materials may be helpful:

- "At a hot lunch program for elderly town residents, staff are not obliged to feed a woman with a disability who needs assistance in eating, if it does not provide this service for others. However, the woman should be allowed to bring an attendant to assist her. If she can feed herself but cannot cut large pieces of food into bite-sized pieces, it is reasonable to ask staff to cut up the food."
- "A testing agency may be required to allow an individual to use a basic calculator during an exam even if test-takers are not typically allowed to do so. If the objective of the test is to measure one's ability to solve algebra equations, and the ability to perform basic math computations (e.g., addition, subtraction, multiplication, and division), is secondary to the objective of the test, then a basic calculator may be an appropriate testing accommodation. If, however, the objective of the test is to measure the ability to

perform math computations, then it likely would not be appropriate to permit the use of the calculator, as it could fundamentally alter the purpose of the test and the value of the test results.”

A review of caselaw indicates that where “reasonable modifications” involve waiving applicable rules and regulations to accommodate a person with a disability, many courts focus on “whether a waiver of the rule would be so at odds with the purposes behind the rule that it would be a fundamental and unreasonable change.”

Thus, while the Town is encouraged to consider the preferences of the individual requesting a modification, it is not necessarily obligated to provide the exact modification requested if such modification is determined to be unreasonable, as described above. Ultimately, what is obligated is that reasonable modifications be made to ensure the requesting resident has an equal opportunity to receive the same benefit of the program or service—in this case, the benefit of the reservation system—that all other members of the public are afforded. As such, my recommendation in this instance, and in related modification requests, is to engage the requestor in an interactive process to determine an appropriate reasonable modification that will accommodate the requestor’s needs.

Web Accessibility Requirements for the Reservation System

Relatedly, in addition to the Town’s existing obligations under the ADA to ensure that communications with people with disabilities are as effective as communications with people without disabilities, and to provide people with disabilities an equal opportunity to participate in or benefit from the entity’s services, programs, or activities, as described above, **the ADA has undergone a recent update that will affect the Town’s approach to digital inclusivity in forthcoming years.**

On April 8, 2024, the U.S. Attorney General signed a final rule establishing specific technical standards (WCAG 2.1 Level AA) that state and local governments must follow to make their web content and mobile apps accessible to people with disabilities. The standards apply to web content that a state or local government provides or makes available, including content provided by a third party on behalf of the state or local government:

“Further, the Department emphasizes that the phrase “provides or makes available” in § 35.200 is not intended to mean that § 35.200 only applies when the public entity creates or owns the web content or mobile app. The plain meaning of “make available” includes situations where a public entity relies on a third party to operate or furnish content. Section 35.200 means that public entities provide or make available web content and mobile apps even where public entities do not design or own the web content or mobile app, if there is a contractual, licensing, or other arrangement through which the public entity uses the web content or mobile app to provide a service, program, or activity. For example, even when a city does not design, create, or own a mobile app allowing the public to pay for public parking, when a contractual, licensing, or other arrangement exists between the city and the mobile app enabling the public to use the mobile app to pay for parking in the city, the mobile app is covered under § 35.200. This is because the public entity has contracted with the mobile app to provide access to the public entity’s service, program, or activity (i.e., public parking) using a mobile app.”

Recognizing that smaller government entities may face challenges with respect to resources for implementing the new requirements, the DOJ has staggered the compliance dates for public entities according to their total population: once the rule is published, governments serving a population of 50,000+ will have two years to comply, and those serving populations of up to 50,000 will have three years.

I have attached the DOJ’s Fact Sheet, which summarizes the new rule. If you would like a copy of the actual rule for presentation purposes, let me know. I have also attached general guidance materials from the DOJ on ADA requirements for state and local governments, which includes additional examples and explanations.

Hopefully this assists in assessing the Town's recreational court reservation system. If I can provide any additional information, kindly let me know.

Thank you,

HOLLI NEW | ATTORNEY AT LAW



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From: Jackie Alex <jalex@ponce-inlet.org>
Sent: Friday, April 19, 2024 12:01 PM
To: Holli New <hnew@shepardfirm.com>
Subject: Athletic court reservation system

Hi Holli,

Thank you for speaking with me today on your recent findings regarding ADA compliance. Attached is my draft staff report regarding the residents' concerns with the town's online court reservation system.

Based on our conversation regarding what you found from 2003 and 2022 about the requirement of a staffed information line, I'm understanding I may not need the highlighted paragraphs if they can be attachments, I may reference to the Board understanding that confirms it's not feasible. I could have these factors at the ready to say rather than write.

Thank you,
Jackie Alex
Cultural Services Manager
Town of Ponce Inlet
4300 South Atlantic Avenue
Ponce Inlet, FL 32127
Phone: 386-322-6703
jalex@ponce-inlet.org

Ponce Inlet Historical Museum
143 Beach Street



ADA.gov

U.S. Department of Justice
Civil Rights Division

ADA Update: A Primer for State and Local Governments

Last updated: February 28, 2020

More than 55 million Americans –18% of our population– have disabilities, and they, like all Americans, participate in a variety of programs, services, and activities provided by their State and local governments. This includes many people who became disabled while serving in the military. And, by the year 2030, approximately 71.5 million baby boomers will be over age 65 and will need services and surroundings that meet their age-related physical needs.

Guidance & Resources

Read this to get specific guidance about this topic.

For a beginner-level introduction to a topic, view [Topics](#)

1. The ADA allows (and may require - see below) different treatment of a person with a disability in situations where such treatment is necessary in order for a person with a disability to participate in a civic activity. For example, if an elected city council member has a disability that prevents her from attending council meetings in person, delivering papers to her home and allowing her to participate by telephone or videoconferencing would enable her to carry out her duties.
2. There are some situations where it simply is not possible to integrate people with disabilities without fundamentally altering the nature of a program, service, or activity. For example, moving a beach volleyball program into a gymnasium, so a player who uses a wheelchair can participate on a flat surface without sand, would “fundamentally alter” the nature of the game. The ADA does not require changes of this nature.

In some cases, “equal” (identical) treatment is not enough. As explained in the next few sections, the ADA also requires public entities to make certain accommodations in order for people with disabilities to have a fair and equal opportunity to participate in civic programs and activities.

Reasonable Modification of Policies and Procedures

Many routine policies, practices, and procedures are adopted by public entities without thinking about how they might affect people with disabilities. Sometimes a practice that seems neutral makes it difficult or impossible for a person with a disability to participate. In these cases, the ADA requires public entities to make “reasonable modifications” in their usual ways of doing things when necessary to accommodate people who have disabilities. For example:

- A person who uses crutches may have difficulty waiting in a long line to vote or register for college classes. The ADA does not require that the person be moved to the front of the line (although this would be permissible), but staff must provide a chair for him and note where he is in line, so he doesn’t lose his place.
- A person who has an intellectual or cognitive disability may need assistance in completing an application for public benefits.

- A public agency that does not allow people to bring food into its facility may need to make an exception for a person who has diabetes and needs to eat frequently to control his glucose level.
- A city or county ordinance that prohibits animals in public places must be modified to allow people with disabilities who use service animals to access public places. (This topic is discussed more fully later.)
- A city or county ordinance that prohibits motorized devices on public sidewalks must be modified for people with disabilities who use motorized mobility devices that can be used safely on sidewalks. (This topic is discussed more fully later.)

Only “reasonable” modifications are required. When only one staff person is on duty, it may or may not be possible to accommodate a person with a disability at that particular time. The staff person should assess whether he or she can provide the assistance that is needed without jeopardizing the safe operation of the public program or service. Any modification that would result in a “fundamental alteration” – a change in the essential nature of the entity’s programs or services – is not required. For example:

- At a museum’s gift shop, accompanying and assisting a customer who uses a wheelchair may not be reasonable when there is only one person on duty.
- At a hot lunch program for elderly town residents, staff are not obliged to feed a woman with a disability who needs assistance in eating, if it does not provide this service for others. However, the woman should be allowed to bring an attendant to assist her. If she can feed herself but cannot cut large pieces of food into bite-sized pieces, it is reasonable to ask staff to cut up the food.
- If a city requires a 12-foot set-back from the curb in the central business district, it may be reasonable to grant a 3-foot variance for a store wishing to install a ramp at its entrance to meet its ADA obligations. If the set-back is smaller and the ramp would obstruct pedestrian traffic, granting the variance may “fundamentally alter” the purpose of the public sidewalk.

Service Animals

CSB meeting 5-6-24. Attachment 4

Billing Code: 4410-13

DEPARTMENT OF JUSTICE

28 CFR Part 35

CRT Docket No. 144; AG Order No.

RIN 1190-AA79

Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities

AGENCY: Civil Rights Division, Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice (“Department”) issues its final rule revising the regulation implementing title II of the Americans with Disabilities Act (“ADA”) to establish specific requirements, including the adoption of specific technical standards, for making accessible the services, programs, and activities offered by State and local government entities to the public through the web and mobile applications (“apps”).

DATES: *Effective Date:* This rule is effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Compliance Dates: A public entity,¹ other than a special district government,² with a total population of 50,000 or more shall begin complying with this rule [INSERT DATE TWO YEARS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. A public entity with a total population of less than 50,000 or any public entity that is a special district

¹ The Department uses the phrases “State and local government entities” and “public entities” interchangeably throughout this rule to refer to “public entit[ies]” as defined in 42 U.S.C. 12131(1) that are covered under part A of title II of the ADA.

² See U.S. Census Bureau, *Special District Governments*, <https://www.census.gov/glossary/?term=Special+district+governments> [https://perma.cc/8V43-KKL9]. “Special district government” is also defined in this rule at § 35.104.

On July 26, 1991, the Department issued its final rules implementing title II and title III, which are codified at 28 CFR part 35 (title II) and part 36 (title III),²⁵ and include the ADA Standards for Accessible Design (“ADA Standards”).²⁶ At that time, the web was in its infancy—and mobile apps did not exist—so State and local government entities did not use either the web or mobile apps as a means of providing services to the public. Thus, web content and mobile apps were not mentioned in the Department’s title II regulation. Only a few years later, however, as web content of general interest became available, public entities began using web content to provide information to the public. Public entities and members of the public also now rely on mobile apps for critical government services.

B. History of the Department’s Title II Web-Related Interpretation and Guidance

The Department first articulated its interpretation that the ADA applies to websites of covered entities in 1996.²⁷ Under title II, this includes ensuring that individuals with disabilities are not, by reason of such disability, excluded from participation in or denied the benefits of the services, programs, or activities offered by State and local government entities, including those offered via the web, such as education services, voting, town meetings, vaccine registration, tax filing systems, applications for housing, and applications for benefits.²⁸ The Department has

²⁵ Title III prohibits discrimination on the basis of disability in the full and equal enjoyment of places of public accommodation (privately operated entities whose operations affect commerce and fall within at least one of 12 categories listed in the ADA, such as restaurants, movie theaters, schools, day care facilities, recreational facilities, and doctors’ offices) and requires newly constructed or altered places of public accommodation—as well as commercial facilities (facilities intended for nonresidential use by a private entity and whose operations affect commerce, such as factories, warehouses, and office buildings)—to comply with the ADA Standards. 42 U.S.C. 12181–12189.

²⁶ See 28 CFR 35.104, 36.104.

²⁷ See Letter for Tom Harkin, U.S. Senator, from Deval L. Patrick, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice (Sept. 9, 1996), <https://www.justice.gov/crt/foia/file/666366/download> [<https://perma.cc/56ZB-WTHA>].

²⁸ See 42 U.S.C. 12132.

since reiterated this interpretation in a variety of online contexts.²⁹ Title II of the ADA also applies when public entities use mobile apps to offer their services, programs, or activities.

As with many other statutes, the ADA's requirements are broad and its implementing regulations do not include specific standards for every obligation under the statute. This has been the case in the context of web accessibility under the ADA. Because the Department had not previously adopted specific technical requirements for web content and mobile apps through rulemaking, public entities have not had specific direction on how to comply with the ADA's general requirements of nondiscrimination and effective communication. However, public entities still must comply with these ADA obligations with respect to their web content and mobile apps, including before this rule's effective date.

The Department has consistently heard from members of the public—including public entities and individuals with disabilities—that there is a need for additional information on how to specifically comply with the ADA in this context. In June 2003, the Department published a document entitled “Accessibility of State and Local Government Websites to People with Disabilities,” which provides tips for State and local government entities on ways they can make

²⁹ See U.S. Dep't of Just., *Guidance on Web Accessibility and the ADA*, ADA.gov (Mar. 18, 2022), <https://www.ada.gov/resources/web-guidance/> [<https://perma.cc/WH9E-VTCY>]; Settlement Agreement Between the United States of America and the Champaign-Urbana Mass Transit District (Dec. 14, 2021), https://www.ada.gov/champaign-urbana_sa.pdf [<https://perma.cc/VZU2-E6FZ>]; Consent Decree, *United States v. The Regents of the Univ. of Cal.* (Nov. 21, 2022), <https://www.justice.gov/opa/press-release/file/1553291/download> [<https://perma.cc/9AMQ-GPP3>]; Consent Decree, *Dudley v. Miami Univ.* (Oct. 13, 2016), https://www.ada.gov/miami_university_cd.html [<https://perma.cc/T3FX-G7RZ>]; Settlement Agreement Between the United States of America and Nueces County, Texas Under the Americans with Disabilities Act (effective Jan. 30, 2015), https://archive.ada.gov/nueces_co_tx_pca/nueces_co_tx_sa.html [<https://perma.cc/TX66-WQY7>]; Settlement Agreement Between the United States of America, Louisiana Tech University, and the Board of Supervisors for the University of Louisiana System Under the Americans with Disabilities Act (July 22, 2013), <https://www.ada.gov/louisiana-tech.htm> [<https://perma.cc/78ES-4FQR>]; Settlement Agreement Between the United States of America and the City and County of Denver, Colorado Under the Americans with Disabilities Act (Jan. 8, 2018), https://www.ada.gov/denver_pca/denver_sa.html [<https://perma.cc/U7VE-MBSG>].

their websites accessible so that they can better ensure that individuals with disabilities have equal access to the services, programs, and activities that are provided through those websites.³⁰

In March 2022, the Department released additional guidance addressing web accessibility for individuals with disabilities.³¹ This guidance expanded on the Department's previous ADA guidance by providing practical tips and resources for making websites accessible for both title II and title III entities. It also reiterated the Department's longstanding interpretation that the ADA applies to all services, programs, and activities of covered entities, including when they are offered via the web.

The Department's 2003 guidance on State and local government entities' websites noted that "an agency with an inaccessible website may also meet its legal obligations by providing an alternative accessible way for citizens to use the programs or services, such as a staffed telephone information line," while also acknowledging that this is unlikely to provide an equal degree of access.³² The Department's March 2022 guidance did not include 24/7 staffed telephone lines as an alternative to accessible websites. Given the way the modern web has developed, the Department no longer believes 24/7 staffed telephone lines can realistically provide equal opportunity to individuals with disabilities. Websites—and often mobile apps—allow members of the public to get information or request a service within just a few minutes, and often to do so independently. Getting the same information or requesting the same service using a staffed telephone line takes more steps and may result in wait times or difficulty getting the information.

³⁰ U.S. Dep't of Just., *Accessibility of State and Local Government Websites to People with Disabilities*, ADA.gov (June 2003), <https://www.ada.gov/websites2.htm> [<https://perma.cc/Z7JT-USAN>].

³¹ U.S. Dep't of Just., *Guidance on Web Accessibility and the ADA*, ADA.gov (Mar. 18, 2022), <https://www.ada.gov/resources/web-guidance/> [<https://perma.cc/874V-JK5Z>].

³² U.S. Dep't of Just., *Accessibility of State and Local Government Websites to People with Disabilities*, ADA.gov (June 2003), <https://www.ada.gov/websites2.htm> [<https://perma.cc/Z7JT-USAN>].

For example, State and local government entities' websites may allow members of the public to quickly review large quantities of information, like information about how to register for government services, information on pending government ordinances, or instructions about how to apply for a government benefit. Members of the public can then use government websites to promptly act on that information by, for example, registering for programs or activities, submitting comments on pending government ordinances, or filling out an application for a government benefit. A member of the public could not realistically accomplish these tasks efficiently over the phone.

Additionally, a person with a disability who cannot use an inaccessible online tax form might have to call to request assistance with filling out either online or mailed forms, which could involve significant delay, added costs, and could require providing private information such as banking details or Social Security numbers over the phone without the benefit of certain security features available for online transactions. A staffed telephone line also may not be accessible to someone who is deafblind, or who may have combinations of other disabilities, such as a coordination issue impacting typing and an audio processing disability impacting comprehension over the phone. Finally, calling a staffed telephone line lacks the privacy of looking up information on a website. A caller needing public safety resources, for example, might be unable to access a private location to ask for help on the phone, whereas an accessible website would allow users to privately locate resources. For these reasons, the Department does not now believe that a staffed telephone line—even if it is offered 24/7—provides equal opportunity in the way that an accessible website can.



ADA.gov

U.S. Department of Justice
Civil Rights Division

Fact Sheet: New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments

The Attorney General signed a final rule updating its regulations for Title II of the Americans with Disabilities Act (ADA). The final rule has specific requirements about how to ensure that web content and mobile applications (apps) are accessible to people with disabilities.

Purpose of this fact sheet: This fact sheet gives a summary of the rule. The summary is designed to provide introductory information about the rule's requirements, particularly for people who may not have a legal background. [For more information, please read the full rule.](#) Please note that this link leads to an advance copy of a rule that has been approved by the Attorney General. The official version of the rule will be published in the Federal Register.

programs, or activities do not fall under the exception even if the documents were posted before the date the government has to comply with the rule.

- **Example:** A state posted a PDF version of a business license application on its website in 2020. Members of the public still use that PDF to apply for a business license after the date the state has to comply with the rule. The exception would **not** apply to the application and it would usually need to meet WCAG 2.1, Level AA.

3. Content posted by a third party where the third party is not posting due to contractual, licensing, or other arrangements with a public entity

Third parties sometimes post content on state and local governments' websites or mobile apps. Third parties are members of the public or others who are not controlled by or acting for state or local governments. The state or local government may not be able to change the content third parties post.

- Content that is posted by third parties on a state or local government's website or mobile app would not need to meet WCAG 2.1, Level AA.
 - **Example:** A message that a member of the public posts on a town's online message board would probably fall under the exception.

This exception only applies to content posted by a third party. Content that is not posted by a third party usually needs to meet WCAG 2.1, Level AA. This includes:

1. Third-party content posted by the state or local government.
 - **Example:** Many state or local governments post content on their websites that is developed by an outside technology company, like calendars, scheduling tools, maps, reservations systems, and payment systems. This content would **not** fall under the exception,

and it would usually need to meet WCAG 2.1, Level AA, because it is posted by the state or local government.

2. Content posted by a state or local government's contractor or vendor.
 - **Example:** If a state or local government uses a company to design, manage, or update its website, the content the company posts for the government would **not** fall under the exception, and it would usually need to meet WCAG 2.1, Level AA.
3. Tools and platforms that allow third parties to post content.
 - **Example:** If the state or local government has a message board platform on its website, that platform would **not** fall under the exception, and it would usually need to meet WCAG 2.1, Level AA, because the message board was added to the website by the state or local government. However, the exception would probably apply to posts by third parties on that platform.

What the exception does not change

Under the current ADA rules, state and local governments must provide individuals with disabilities with effective communication, reasonable modifications, and an equal opportunity to participate in or benefit from their services, programs, and activities.

- **Example:** If a person with a disability is a party to a state court case, and a third-party private law firm in the case submits documents to the state court's website, the court could provide effective communication to the person with a disability by providing the documents to the person in a format that is accessible to them quickly upon request.
-

- **Example that meets the rule:** A state's web page with information about a park has text with a color contrast ratio that is 4.45:1. WCAG 2.1, Level AA requires a color contrast ratio of 4.5:1 for this text. It can be hard for some people with vision disabilities to see text on a web page if there is not enough contrast between the color of the text and the background color. But that very small difference in color contrast ratio probably would not change whether most people with vision disabilities could read the text on the website and access the information about the park. If the state can prove the difference in color contrast is so small that it would not make it harder for people with disabilities to access the information about the park, the state would not violate the rule.

For more information, see the [final rule](#) in the section of the appendix called “§ 35.205 Effect of noncompliance that has a minimal impact on access.”

How Long State and Local Governments Have to Comply with the Rule

State and local governments must make sure that their web content and mobile apps meet WCAG 2.1, Level AA within two or three years of when the rule is published, depending on their population.

You can find more information about why the Department is requiring compliance with this timeline in the [rule](#) in the section of the appendix called “Requirements by Entity Size.”

This table shows how much time a state or local government has to comply with this rule.

State and local government size	Compliance date
---------------------------------	-----------------

State and local government size	Compliance date
0 to 49,999 persons	Three years after the final rule is published
Special district governments	Three years after the final rule is published
50,000 or more persons	Two years after the final rule is published

After this time, state and local governments must continue to make sure their web content and mobile apps meet WCAG 2.1, Level AA.



What is the compliance date for school districts?

A school district is not a special district government. If it is a city school district, it would use the population of the city to know when to comply. If it is a county school district, it would use the population of the county. If it is an independent school district, it would use the population estimate in the most recent Small Area Income and Poverty Estimates.



How do you know the compliance date for other parts of government, like your city, state, or town police department or library?

To figure out the date, you have to know the population of your state or local government. For most governments, this is a number you can find in the 2020 data from the U.S. Census Bureau. For smaller parts of a larger government that do not have a population listed there, like a city police department or a city library, you can look at the population of the larger government they are part of, like the city the runs the police department and library in this example.



**Town of Ponce Inlet
CULTURAL SERVICES, HISTORIC PRESERVATION,
AND TREE ADVISORY BOARD
REGULAR MEETING MINUTES**

May 6, 2024

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE: Pursuant to proper notice, Chair Bell called the meeting to Order at 5:30 PM in the Council Chambers, located at 4300 S. Atlantic Avenue, Ponce Inlet, Florida and led the attendees in the Pledge of Allegiance.

2. ROLL CALL & DETERMINATION OF QUORUM: A quorum was established with five members and two alternates present.

Board members present:

Ms. LaBarre, Seat 1
Ms. Keese, Seat 2
Mr. Shaffer, Seat 3
Ms. Finch, Seat 4; Vice-Chair
Ms. Bell, Seat 5, Chair
Ms. Kessler, Alternate Seat 1
Mr. Patton, Alternate Seat 2 - Absent

Staff members present:

Ms. Alex, Cultural Services Manager
Mr. Disher, Town Manager
Ms. Hugler, Fire Department Office Manager
Ms. New, Town Attorney
Ms. Rippey, Principal Planner
Chief Scales, Public Safety Director
Ms. Stewart, Assistant Deputy Clerk

3. ADOPTION OF AGENDA: Chair Bell requested switching the order of items 7-A and 7-B swap, therefore hearing the tree removal request prior to the pickleball court discussion.

Ms. LaBarre moved to approve the agenda as amended: seconded by Mr. Shaffer. The motion PASSED by consensus, 5-0.

4. APPROVAL OF MINUTES:

A. April 1, 2024 – Chair Bell asked if there were any changes; there were none.

Chair Bell moved to approve the April 1, 2024 meeting minutes as presented; seconded by Vice-Chair Finch. The motion PASSED by consensus, 5-0.

5. REPORT OF STAFF:

46 **A. Cultural Services Update** – Mrs. Alex announced that May 7, 2024 is a volunteer
47 workday in Ponce Preserve to remove invasive plants; approximately 22 volunteers will be
48 participating. An update will be posted on the Town’s Facebook page following the event.
49

50 **B. Public Works Update** – Chief Scales reported that Public Works is continuing research
51 on the kayak launch discussed last month. The department is in the process of creating their budget for
52 next year and reviewing a multitude of maintenance projects that involve the parks and cultural services
53 offerings the Town has. If Board members have suggestions or questions for Public Works, please
54 contact them.
55

56 **6. OLD BUSINESS:** *None.*
57

58 **7. NEW BUSINESS:**
59

60 **B. A. Tree Removal Request – 4716 South Peninsula Drive:** - Ms. Rippey provided a [presentation](#)
61 and noted that the applicant/property owner is in attendance if there are any questions after the
62 presentation. The tree in question is one Live Oak measuring 18” diameter at breast height (DBH); if
63 approved, the applicant will be allowed to remove the specimen tree from his lot and will be required
64 to replace it with one shade tree on the property. She reviewed the authority and process of a tree
65 removal permit application, noting that for trees of this size, the Cultural Services Board has the
66 authority to approve, approve with conditions, or deny the request. Ms. Rippey provided an overview
67 of the property and the adjacent properties, including an aerial photograph of the property and images
68 of the tree that show it is leaning towards the home. The applicant is concerned about the tree damaging
69 the home during storm events and indicated in his narrative that due to the tree’s proximity to the house,
70 the tree requires frequent trimming. She reviewed the vegetation protection and removal standards and
71 stated that based on the findings of this report, staff finds the application meets the criteria to support
72 the requested removal of the 18” DBH Live Oak tree and recommends approval subject to the following
73 condition: the applicant shall mitigate the tree removal with one specimen-species native shade tree
74 that is a minimum of 6-feet in height and 2.5” caliper at the time of planting. She noted that after the
75 application was submitted and this staff report was distributed to the Board, the arborist report was
76 received and provided to the Board; she reviewed the report which also recommends removal.
77

78 *Vice Chair Finch moved to recommend approval of the tree removal request for 4716 South Peninsula*
79 *Drive subject to the stated condition; seconded by Ms. LaBarre. The motion PASSED 5-0, with the*
80 *following vote: Vice-Chair Finch - yes; Ms. LaBarre – yes; Ms. Keese – yes; Mr. Shaffer – yes; Chair Bell*
81 *- yes.*
82

83 **A. B. Athletic Court Reservation System** – Ms. Alex explained that issues were recently brought to
84 the attention of staff regarding the Town’s court reservation system; these issues include potential
85 improvements, as well as compliance with the Americans with Disabilities Act (ADA). She provided
86 background on the Town’s current online court reservation system and noted that the Volusia ECHO
87 grant requires access to the public without discrimination. In March, after intermittent and temporary
88 closures for renovations of the courts in Daytona Beach Shores, Ponce Inlet residents requested a
89 meeting with staff to discuss concerns about losing their reservations to which they had become
90 accustomed; at the meeting, 13 requests were provided to staff to change various aspects of the Town’s
91 online reservation system. A separate request was made by one resident for advanced reservations as a
92 special accommodation under the ADA. While the Town Attorney determined the request for advanced
93 reservations did not meet the legal requirements of a reasonable modification request, the request did
94 make the Town aware of potential liabilities of its current online reservation system. Under the ADA
95 law, the Town is legally required to provide a reasonable modification to an ADA request.

96
97 Ms. Alex explained that Town staff conducted research and consulted with the Town Attorney
98 and other municipalities regarding online reservation system and found two options that provide a
99 reasonable modification for individuals with a disability to make a court reservation. The first option
100 is a staffed telephone line; however, the Department of Justice (DOJ) does not believe this provides a
101 realistic, equal opportunity to all disabilities and states the Town is not under a legal obligation to
102 provide this option. The second option is to remove the online court reservation system for all Town
103 athletic courts and establish the courts as open play on a first-come, first-served basis. This option
104 provides a solution to the resident's requests regarding the online system and the most feasible option
105 to legally provide an ADA reasonable modification.
106

107 Ms. Alex noted that recent updates to the ADA will affect the Town's overall approach to digital
108 inclusivity in future years. A federal rule published April 26th cites that state and local governments
109 must follow specific technical standards for web content and mobile apps, including content provided
110 by a third party such as a reservation system. The DOJ has set a compliance deadline of three years for
111 the Town and other smaller communities to comply with the updated standards. There are two separate
112 aspects of the ADA requirements that the Town must comply with: 1) the new technical standards that
113 third-party vendors must provide on web and mobile app content; and 2) the *current* requirement to
114 provide reasonable modifications to all ADA requests when made. Staff is requesting a
115 recommendation from the Board on whether to keep, modify, or remove the online court reservation
116 system; and a recommendation from the Board on whether to research potential locations and cost
117 estimates for additional pickleball courts within the Town. She introduced the Town Attorney, Holli
118 New, for any questions.
119

120 Chair Bell stated many written comments have been received regarding this issue, with most in
121 favor of keeping the current system. She opened Board discussion. Ms. Keese asked what the ADA
122 problem is with the reservation system. Attorney New explained a request was received for an
123 accommodation; if someone who has a disability cannot use the reservation system because of their
124 disability, they have the right to call the Town and request an accommodation to have an equal
125 opportunity. She explained the ADA law in more detail and provided examples. Vice Chair Finch asked
126 if the reservation system is not ideal, and if the Town chose option 2 would we be following the ADA.
127 Attorney New explained the ADA encourages the most inclusive approach to any sort of public service
128 or program. The ADA is on an individualized basis and gives governments the flexibility to analyze
129 for an inclusive approach. Members discussed the current system and the ADA. Option 1, staffed phone
130 line, was discussed and how it may not meet serve the needs of all disabilities. Option 2, an open play
131 system, was discussed at length; the benefits and drawbacks to open play were also discussed at length.
132 It was suggested holding a court open just for disabilities and if that would fulfill the ADA. Attorney
133 New reiterated that the Town's obligation is to offer everyone the same opportunity to benefit from the
134 system. Chair Bell opened public comment.
135

136 Mary Comfort, 85 Ocean Way Drive, stated her understanding of the web accessibility
137 guidelines is that if the reservation system complies with the guidelines, you have met the standard for
138 inclusivity. She would like to better understand why this is not the same thing as the example of the
139 parking space payment system. Attorney New explained the web content accessibility standards are
140 separate from the reasonable accommodation or modification requirement. The technical standards
141 were newly implemented this year in April, and state and local governments must abide by those within
142 a timeframe determined by population. Even if the Town found a reservation system that adheres to the
143 technical requirements, there is still an ongoing requirement under the ADA to provide reasonable
144 accommodation if someone with a disability still cannot access the reservation system. Ms. Comfort
145 suggested the Town require proof of disability from a doctor on a letterhead for a reasonable

146 accommodation request. Mr. Shaffer asked if the reservation system could be kept and have something
147 in place for handicapped people to have an option to reserve the court ahead of time. Attorney New
148 explained the Town would have to ensure that whatever modification or accommodation being offered
149 is equally effective for everyone. Steve Hollinger, 4670 Lynx Village Drive, B-204, asked if a disabled
150 person has ever complained about the reservation system; he believes the reservation system is a benefit
151 to a disabled person because they can get a court, know when they can get a court, and show up and
152 play. He loves the reservation system here; when he goes to the Shores to play, depending on how many
153 people are there, you may have to wait 30 minutes between games. Four people play pickleball; if he
154 cannot access a computer, he will ask a friend so one of the other four can make the reservation. He
155 asked if we are chasing a problem that does not exist; there was an issue a few weeks ago when the
156 Shores closed their courts for remodeling, so their players came here to play. Ponce Inlet is the only
157 place he knows that has a reservation system; he listed the open play cities. Ms. Kessler commented
158 that pickleball is a sport and it seems to her that you cannot be visually impaired or immobile to play;
159 she does not understand why anyone would not be able to access the reservation system. Attorney New
160 explained it is not within the Town's scope to determine whether a particular service is available or
161 determining disabilities because some are seen and unseen. It may not look like a typical game of
162 pickleball but be their way of benefiting from this amenity. Jan Shaw, 4358 Candlewood Lane, stated
163 they have played on the new courts and reservation system for the last five years without an issue; the
164 problem started with the frustration over the Shores players taking up court time. She attended the
165 meeting that was requested with staff to discuss this frustration; up until then, no one had complained
166 about the system or that they were disabled and having trouble getting a court. The special
167 accommodation request also came from the frustration caused by the Shores players. They were not
168 fast enough to reserve the courts before the Shores players. The ADA was mentioned at that meeting;
169 she asked if anyone has approached the Town that reserving a court is still a problem, because it is not.
170 She has assisted those people that were having an issue with the system and booked courts for them;
171 there has not been an issue for the last several weeks. She referenced an email she sent to the Board,
172 showing the reservation system for the week and all the available capacity. She agrees with the
173 gentleman that this is much ado about nothing.

174
175 Lisa Genovese, 4628 Riverwalk Village Lane, stated she has a group that plays and has reserved
176 two courts for the last two years; starting in January, she could only book one court because people
177 were booking the court but not showing up to play. She asked the town several months ago if they could
178 send an email that if people are not going to play, to please cancel the court but nothing was done. Her
179 husband is the one is disabled; when it was busy, he could not book a court. The ADA problem could
180 go away because a person could appoint someone to reserve a court for them. She noted that it is not
181 just disabled people that have problems with the reservation system; older people do as well. She added
182 that the older players do not want to play with much younger players. We need the reservation system,
183 and it works for everyone. She asked at the last meeting if there was a way to make a standing
184 reservation; maybe form a league and block out times for the league so no one must make a reservation
185 unless you are a newbie or a visitor. She apologized for bringing up the ADA, but it is unfair that her
186 husband cannot book a reservation; however, it is not stopping him from getting a court as he can
187 appoint someone to book it for him. Chair Bell asked for clarification that Ms. Genovese's husband is
188 the one who called with the ADA issues. Ms. Genovese explained her husband has Parkinson's disease
189 and pickleball is the only thing he can still do. She noted that the younger people do not want to play
190 with the older people and the older people do not want to play with them; someone could get hurt. The
191 reservation system is beautiful but needs to be tweaked; she volunteered to help with it. She clarified
192 that three weeks in a row on a Tuesday at 10:00, the same person booked a court, but did not show up
193 to play. Her friend made a list and in 13 days there were 43 no-shows; this is an issue that needs to be
194 addressed; there are reservation systems that keep track of no-shows.

196 Vice Chair Finch commented that there have been complaints that people take advantage of the
197 reservation system by using multiple email addresses which ties up the court; there are also complaints
198 about people signing up for other people. She understands that is an accommodation for the disabled,
199 but she is not sure it fair to the public. She appreciates that Ms. Genovese brought up the ADA as it
200 needs to be reviewed. Mary Lou Fillingame, 33 Ocean Way Drive, stated she has been playing
201 pickleball in Ponce Inlet for 10 years; she was one of the ones that went to the town and begged for
202 pickleball courts. She does not want to do away with the reservation system; however, if we do remove
203 it, where will people park? There are only six parking spots on South Peninsula Drive and a few down
204 the side. Staff parks there during the week; there is also the tennis court, the basketball court, and the
205 racquetball court. Parking is something the Board needs to think about before a decision is made.
206

207 Chair Bell moved to research if it would be reasonably accommodating to keep the current reservation
208 system and keep one court open for that reasonable modification if needed; and to research what
209 websites would meet the new technical standards. The motion failed for lack of a second.
210

211 Mr. Shaffer commented that we may need to research a new reservation system that
212 automatically keeps count and penalizes the no-shows. Ms. Alex explained that staff researched several
213 different reservation systems; what Chair Bell is proposing does not provide the equal opportunity
214 required. The court reservation system that she has been researching on a trial basis is almost the same
215 as other online reservation systems. A staff member would have to be present to check them in or note
216 a no-show, etc. Discussion ensued regarding no-shows, the reservation system, and having an open
217 court. Ms. Genovese suggested painting the tennis court as the fifth pickleball court to use as open play.
218 Attorney New quoted the ADA requirement: "individuals with disabilities get to use the public service
219 in a manner that provides substantially equivalent timeliness, privacy, independence, and ease of use."
220 These are not arbitrary standards; these are federal regulations that we are required to adhere to and
221 there are consequences if we do not. The ADA is to be as inclusive as possible despite inconveniences.
222 Chair Bell commented that per the agenda the Board is being asked to keep, modify, or remove the
223 current reservation system; she asked if the only choice is to remove it. Attorney New explained she
224 and Ms. Alex have discussed potential options and the practical application; it cannot be equal in theory
225 - it must be equal as applied. Chair Bell asked what the best recommendation for modification to
226 Council would be. Attorney New expressed having a separate open play court for people with
227 disabilities is not an equal opportunity for benefit. She explained that non-disabled people would have
228 75% more chances to utilize the court. Angie Cooper, 4626 Harbour Village Boulevard, asked if the
229 town had three years to comply with an ADA plan. Ms. Alex explained there are two separate
230 requirements for the ADA process; one is the technical standard that the Town must comply within the
231 next three years for web content; and the other is now, or at any time in the future, the Town must
232 legally comply with any reasonable modification request for a disabled person. Ms. Cooper asked if
233 there was an actual request; Ms. Alex responded yes. Ms. Cooper noted that the word "reasonable" is
234 ambiguous; she asked why we cannot leave the reservation system as it is and bring in an ADA
235 specialist to provide guidance. Attorney New explained there is not a specific timeframe to respond to
236 provide flexibility depending on individual government resources; It is an interactive process to figure
237 out a reasonable accommodation.
238

239 Ms. Keese stated she would like to wait for a decision until more research is conducted. Ms.
240 Alex explained multiple options have been explored but she is open to suggestions that would provide
241 equal opportunity. Chair Bell agreed, since the person that first requested the accommodation now
242 wants to keep the reservation system. Mr. Shaffer suggested the Board study the ADA to better
243 understand it so they could come up with a better solution and keep the system as is. Nancy Breedlove,
244 4670 Links Village Drive, stated the reservation system works well; she could say she has a disability
245 and get a letter from her doctor stating that; she tries at 10:00 to reserve a court and by 10:01 they are

all full. The biggest issue with the reservation system is what has been said - people do not show up. There is a sign stating you forfeit the court if you do not show up within 10 minutes. She suggested a system where players could notify the town when a court that was reserved is unoccupied; then that person could get penalized. She suggested that those with disabilities be able to call a week in advance to reserve a court and to set the tennis courts up as pickleball courts certain times of the week. Discussion continued.

Chair Bell moved to recommend staff and the Town Attorney research if it would be reasonably accommodating to have an online athletic court reservation system open only during Town business hours for those with disabilities to call and reserve a court. The motion FAILED for lack of a second.

Jennifer Feuer, 4653 Riverwalk Village Court, stated that having the availability to reserve a court 24/7 is more accommodating than 8:00 am to 4:00 pm; 24/7 is completely inclusive. We need to look at "holdmycourt.com" as it has been in place 10 years and see if there is an updated version that is ADA compliant and that will send automatic email reservation reminders; doctors, hair salons, etc., use similar systems and do not have these issues; and it would solve the "no-show" issue because the reminder could provide a cancellation option. Attorney New noted that it brought forth something we were unaware of, and we want to ensure we are being as inclusive as possible. Mary Comfort, 85 Ocean Way Drive, requested staff research other municipalities that have a reservation system. Attorney New explained there are very particular standards of what reasonable is; if directed by the Town, she could take each proposed solution and do an in-depth analysis, review case law, ADA analysis, etc., so the Board can fully understand what the ADA requires. Ms. Genovese asked if she could drop the request she made for her husband for reasonable accommodation; he has the right to ask others to book a court for him, which is what we have been doing and it is no longer a problem. Vice Chair Finch added that another concern is double-booking by people using multiple email accounts. Discussion continued. Bill Collard, 4628 Harbour Village Boulevard, stated he watched four people tonight provide a solution, yet no one listened; the two tennis courts are rarely used, one could be painted as a pickleball court and be for ADA only, and leave the other four pickleball courts as they are.

Mr. Disher explained that this is a matter of risk for the Town and what the Town must do to comply with the ADA. The Town Attorney has done a great job with this. Her job is to keep the Town from getting sued. He explained a similar situation that happened a few years ago when the Town removed bus stops; that was based on the ADA. Someone was suing communities in the county for not having ADA-compliant bus stops. Ponce Inlet did not get sued because we removed our bus stops; eventually we were able to install ADA-compliant bus stops. The same thing happened with the website; people were suing jurisdictions for not having ADA-compliant websites. The Town removed all documents until we figured out how to make them compliant. Again, we were the only jurisdiction that did not get sued. It comes down to a matter of risk. We will research this and provide different options; this Board and the Council can then weigh those options.

Chair Bell moved to request staff and Town Attorney further research to seek compliance for online athletic court reservation system only open during normal operating business hours to be equally accessible to meet ADA requirements.

Ms. Kessler asked if the motion could be amended to add "automated system for 24-hours that are compliant".

Chair Bell amended the motion to request staff and Town Attorney further research to seek compliance for either a new online athletic court reservation system that would meet the ADA requirements or allowing a system open only during normal operating business hours to be equally accessible to meet ADA requirements. The motion failed for lack of a second.

Vice Chair Finch stated she is not seconding this motion because she is concerned about the time and money already put into researching this issue. Attorney New explained again that the website or system may be technically accessible under the ADA requirements, but the Town still must give an accommodation to someone who, despite adherence to the ADA technical standards, still cannot access the reservation system. Ms. LaBarre asked if there was an opportunity for further research or if the research was concluded. Ms. Alex reiterated that she and the Town Attorney have researched several options; all the submitted comments were researched: the tennis court, an additional open-play court, no reservation system, and a completely different reservation system. They have not found one that is a reasonable modification to provide equal opportunity for all or most disabilities. Attorney New added that there has not been a suggestion that she would recommend that is a reasonable risk; she added that this is an extremely litigious area of law and especially against local governments.

Dave Fraboni, 4733 Riverglen Boulevard, stated he Googled ADA, Florida, pickleball court systems, and found four; one the city of Winter Park uses. We should do the research to make sure it checks the boxes and that it guarantees the opportunity to make a reservation; but it is not guaranteed you have the same court every time. Attorney New explained the system Winter Park has may be technically accessible under the ADA and meet the technical requirements. They also may have the resources to accommodate a reasonable request for someone who still may not be able to access the reservation system. The Town still must provide a modification to someone with a disability that may still not be able to access a reservation system that meets the ADA technical standards. Chair Bell suggested a call center as an option. Jennifer Feuer, 4653 Riverwalk Village Court, suggested that before we remove the reservation system, could they make a motion to have two open play courts and two reservation-only courts for a set time to evaluate how it affects the community at large including those with disabilities and see what the reaction is. Vice Chair Finch stated that all concerns that have been raised would be solved with open courts; her concern is the town being sued. She noted that Harbour Village could make their private courts into pickleball courts.

Vice Chair Finch moved to remove the online athletic court reservation system; seconded by Ms. LaBarre. The motion FAILED 2-3 with the following vote: Vice Chair Finch - yes; Ms. LaBarre - yes; Ms. Keese - no; Mr. Shaffer - no; Chair Bell - no.

Attorney New referred to the suggestion of two open courts and two reserved courts; stated she can put it formally in writing with the requisite references, but it is not something that she would recommend, and she explained that it still would not be equitable access.

Ms. Keese moved to keep the athletic court reservation system as is and for staff and the Town Attorney to research other municipalities that have online court reservation systems and report back to the Board; seconded by Mr. Shaffer. The motion PASSED 4-1 with the following vote: Ms. Keese - yes; Mr. Shaffer - yes; Ms. LaBarre - yes; Vice Chair Finch - no; Chair Bell - yes.

Jim Meadows, 752 Tarrytown Trail, Port Orange, stated he is blessed to be invited to play in Ponce Inlet; he does not want to play at an open play court; he listed his injuries and ailments that hinder him when trying to play at open play courts. He explained how difficult it is to play on an open play court with disabilities.

Chair Bell moved have staff research the cost of painting the tennis courts as dual sports courts; seconded by Ms. Keese. The motion PASSED with the following vote: Chair Bell - yes; Ms. Keese - yes; Ms. LaBarre - no; Ms. Finch - yes; Mr. Shaffer - yes.

346 Attorney New encouraged anyone that feels that the state and federal requirements that affect
347 us directly are too onerous to go to the federal register when the Department of Justice releases a
348 proposed notice of rulemaking, to tighten regulations on local governments; they do accept public
349 feedback and take it into consideration.

350
351 **B. Timucuan Oaks Garden Potential Improvements** - Ms. Alex stated two hurricanes made
352 landfall in September and November 2022 creating an impact throughout our town; Timucuan Oaks
353 Garden was one of these areas, experiencing destruction of the park's pergola. Previous discussions
354 among this Board suggest a preference to not rebuild this pergola; other suggestions include additional
355 benches, a paved walkway to the boardwalk, butterfly plants, and more shade trees. Staff submitted the
356 pergola for FEMA reimbursement and is anticipating reimbursement in the amount of \$14,640. Staff
357 is requesting a recommendation from the Board on whether to rebuild a pergola within the park or to
358 budget for other improvements within the park for the next fiscal year (FY 2024/25). Ms. Keese asked
359 if we must rebuild the pergola since FEMA is reimbursing the money. Ms. Alex explained we can use
360 the funds for different things. Chair Bell commented that rebuilding the pergola has been discussed
361 previously; it could go airborne in a hurricane, and it really serves no shade purpose. She would like to
362 see the jasmine moved to the gazebo, provide additional benches, and provide ADA accessibility to the
363 boardwalk. She researched that and instead of hardening the walkway with concrete, provide an
364 alternative such as a beach mat (she provided a photo).

365
366 Consensus to not rebuild the pergola, provide additional benches, research ADA accessibility to the
367 boardwalk, and provide a structure for the jasmine to climb; 5-0, consensus.

368
369 **8. PUBLIC PARTICIPATION:** There was no public participation.

370
371 **9. BOARD/STAFF DISCUSSION:** None.

372
373 **10. ADJOURNMENT:** The meeting was adjourned at 7:43 p.m.

374
375 Prepared and submitted by:

376 

377 _____
378 Debbie Stewart, Assistant Deputy Clerk

379
380 Attachment(s): Resident comments

381 Arborist report

382 Photo of beach mat

Customer Name: Charlene Rossi

Address: 4716 South Peninsula Drive, Ponce
Inlet Florida 32129

Phone: 386.314.3297

Species Identification: 18.7" DBH (diameter at breast height) *Quercus virginiana*.

Species Diagnosis: Specimen has significant photo tropic growth with major lean over home. Main leader damages and union damages present throughout the canopy and the stem of the tree. Decay has not been compartmentalized properly due to poor cutting and branch protection zone damages. Large epicormic growth present from main leader of the tree due to major cutting in the past; causing weak branch structure. Sandy soil and leaning present.

Recommendation: Removal

Deemed: Tree is hazardous in abnormal wind conditions.

Michael Feltner
ISA Certified Arborist
FL9716-A

Michael Feltner

Stephanie Gjessing

From: Audrey Knox <audreyknox344@gmail.com>
Sent: Wednesday, May 1, 2024 9:41 AM
To: Debbie Stewart
Subject: Court reservation system

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Please do not replace the pickleball court reservation system . It works well .

Audrey

I never knew what a broken heart was until my child died.

Stephanie Gjessing

From: Ann Louise Tuke <annlouise.tuke@gmail.com>
Sent: Wednesday, May 1, 2024 11:10 AM
To: Debbie Stewart
Subject: Court reservation system

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Dear Ms Stewart,

I am writing in regards to the court reservation system in Ponce Inlet. I would very strongly request that this reservation system be maintained for the vast majority of residents that use it. Our only real issues have been when there were closures of other courts in the surrounding area, so see no reason to make these changes based on those occasional circumstances. The majority of residents using the courts play together in organized groups, and this would only complicate a system that works very well in our small community.

Please pass on this email to the members of the cultural services board and thanks so much for the opportunity to voice my opinion.

Best regards,
Ann Louise Tuke
125 Rains Drive

Stephanie Gjessing

From: Gil Newkerk <gilfishes@gmail.com>
Sent: Wednesday, May 1, 2024 2:53 PM
To: Debbie Stewart
Subject: Court Reservations

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Good day Ms. Stewart,

Appears the Cultural Services Board is meeting soon to discuss removing the existing court reservation system.

Not sure what the issue is or what event may have triggered this to be a Board consideration, however I hereby do not endorse such a change.

The current reservation system is easy to navigate through, timely and available to all Ponce Inlet residents and others for that matter.

The current system allows a person/group to reserve courts in hour increments which is preferred by most to get in a continuous hour workout.

Other systems use a "paddles up" system which allows only one game at a time. Thus one could be sitting longer than enjoying a more vigorous courttime.

As a year round Ponce Inlet resident, voter and taxpayer, I trust my wishes will carry the weight deserving of them.

Thank you for your time and attention to this matter.

Regards

Gil Newkerk

4445 S. Atlantic Ave #403

Ponce Inlet, FL 32126

Stephanie Gjessing

From: Joan Marcelli <jmar5254@gmail.com>
Sent: Wednesday, May 1, 2024 10:05 AM
To: Debbie Stewart
Subject: Pickle ball

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Please don't replace the reservation system.

Thank you
Jim Marcelli

Sent from my iPhone

Stephanie Gjessing

From: eileenwodder <eileenwodder@gmail.com>
Sent: Wednesday, May 1, 2024 3:59 PM
To: Debbie Stewart
Subject: Pickle ball courts

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Just dropping an email to encourage you to continue using the reservation system at the Ponce pickle ball courts. I understand there is talk that a paddle system may be in the works instead. I play with a group of ladies that are all of the same caliber play and we feel comfortable playing with each other. (We are good about cancelling courts if we find we don't have enough players to use what we have reserved.) Without the reservation system we would not be able to play our own game substituting our own players during the 1 and 2 hour court times.

Please take this in consideration when discussing this subject at the May 6th meeting.

Thanks,
Eileen Wodder

Stephanie Gjessing

From: Joan Meaney <joanmeaney@hotmail.com>
Sent: Wednesday, May 1, 2024 9:56 AM
To: Debbie Stewart
Cc: Barbara Cronin
Subject: Pickleball

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

I am in favour of reservation system.

Joan Meaney
Links North B701
Sent from my iPhone

Stephanie Gjessing

From: Julie Miller <julienies15@gmail.com>
Sent: Wednesday, May 1, 2024 10:19 AM
To: Debbie Stewart
Subject: Pickleball

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

I just wanted to express my desire to keep the reservation system for pickleball.
I am sorry to miss the meeting but have already left for the season.

Julie Miller

--

Julie Miller
julienies15@gmail.com

Stephanie Gjessing

From: Barbara Stewart <toot541@aol.com>
Sent: Tuesday, April 30, 2024 7:44 PM
To: Debbie Stewart
Subject: Pickleball Committed ... Revised with pickleball spelled correctly !

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Good Evening, I see that the reservation system is on the agenda for the meeting. I know this will be a controversial subject. I myself am favor of an open system. I have always wondered why Ponce Inlet has a reservation system when other surrounding towns have open play, I guess it's a carry over from when we only had a tennis court marked with pickleball lines. I live in Ponce and play with a group that secures a reservation a week before, and I love the people I play with but I am in favor of open play. My group can still show up at our time, paddle up together and play a game and then we might switch around and play with others. Pickleball is a social sport, designed to be inclusive to beginners as well as advanced players.. Our pickleball courts are beautiful and the town staff is over the top in keeping them in perfect condition. The Echo Grant has provided a beautiful facility and they should be open to all who want to play, without planning a group a week in advance and requiring a reservation. Thank you all who serve on the committee and to the town staff who do a wonderful job.

Barbara Stewart
4752 Riverglen Blvd
Ponce Inlet, Fl

Sent from my iPad

Stephanie Gjessing

From: Kim Leonardo <leokimy11@gmail.com>
Sent: Wednesday, May 1, 2024 9:34 AM
To: Debbie Stewart
Subject: Pickleball Ponce Inlet

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Please don't replace the pickleball system in Ponce inlet. There are plenty of places for pickleball playing with the system you are considering for those players who would prefer that. One of which is not too far in Daytona Beach shores. Most people are very happy with the system that is in place in our small town now.

Stephanie Gjessing

From: Marilyn Corran <marilyn2u@cfl.rr.com>
Sent: Wednesday, May 1, 2024 9:40 AM
To: Debbie Stewart
Subject: Pickleball reservation

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Please please do not replace the reservation system! The reservation system works. I Please do not replace it!!

Residents since 2003.

Marilyn Corran

4650 Links Village Drive A203

Ponce Inlet

Sent from my iPhone

Marilyn Corran

Stephanie Gjessing

From: Nancy Dillard <nbdillard2003@yahoo.com>
Sent: Wednesday, May 1, 2024 10:16 AM
To: Debbie Stewart
Subject: Pickleball reservation system

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

I am writing in favor of the current reservation system.

Among several reasons I feel that the weaker players may not show up or be hesitant to come if they feel like they will have to play with better players; and the better players may resent having to play with the weaker ones. And while many of the current players are retired, we still do not have several hours to wait to play. We volunteer, take classes, meet with our non-playing friends, and suffer with extreme temperatures while sitting around waiting to play. I am a year-round player and have found that the reservation system works.

Please forward this message to all members of the committee. Thank you.

Nancy Dillard
Harbour Village
LS B403

Sent from Yahoo Mail on Android

To Members of the Cultural Services Board:

I have been playing pickleball for about 9 years in Ponce Inlet since it was initially played on the old basketball court. There were only a few of us at that time that taught ourselves how to play the game. We had a portable net which was rolled out onto the basketball court each time we wanted to play and then rolled back over to the fence when we were done. I believe the reservation system was created at that time partly to keep track of people playing and determine if there was a need to provide pickleball courts.

A group of us went to the town asking that pickleball courts be built as a part of the renovation of Pollard Park. Through much discussion, and what seemed like a long-time, plans were secured to build four pickleball courts. That system has worked all these years with a few glitches along the way, the latest being the resurfacing of the Daytona Beach Shores courts. We have gotten through those glitches each time, but it seems the biggest issue was the amount of people who reserve courts and don't cancel when they don't use them. Even though a court is not cancelled, players can use that court after 10 minutes of that reservation not showing up. It is more a common courtesy issue.

I have played in several areas in Florida and California. I have played with the paddle system and the reservation system in these areas. In case you are not familiar with the paddle system, here is a short description of what happens.

In Ponce Inlet a player would place their paddle in the paddle holder of which there are twelve for two courts and the same on the other two courts. There is an order to placement. When a court becomes available, the first set of four paddles take a court, the second set moves to the first slots, etc. When another court becomes available you and the other players that have placed paddles in the holders go to the available court and start a game. Those people waiting then place their paddles, in line, in the empty paddle holders. When the game is complete, you go back to the paddle holders and again place your paddle in the holder, in line (if available) and wait for a court to become available. When the courts are busy, this may take a while. I have spoken with a lot of people who have experienced very long waits in between games. If I am using the reservation system and play two hours, usually that means I play 5-6 games. We rotate our players in and out. If I am using the paddle system, I may only be playing 2-3 games in those two hours I am at the courts.

From my experience, I have found this system very unfair. I have witnessed players moving paddles, so they didn't have to play with certain players, or only play with their level of play or selected groups of players. Some have even gone so far as to bring several paddles to hold their slot. I have also witnessed players not leaving the court after their game is done

by simply continuing to play. Placing your paddle does NOT mean that you arrive to play, place your paddle and then you have that court for an hour or longer.

Another issue I see is that there will be 30-40 or more people who show up to play the coveted morning hours. There are only 15-16 parking spaces and those are taken by employees, tennis, basketball, pickleball, racquetball players, playground and picnic table users. With the reservation system only those people with reservations show up to play. Another thing to consider is you will need more benches for the area to accommodate the additional people.

UPDATE: I have read the Summary and Conclusion presented by Mrs. Alex to the Cultural Board Members and I am disappointed that no discussion or mention was made as to where people will park when or if this takes place. I do not believe a decision can be made until you have that plan in place. Parking along the road or at the Community Center should not be an option due to safety or in the case of the Community Center events being held there.

Mention was made of other parks in Volusia County not using the reservation system. Those parks provide ample parking for their activities and have more courts.

When the meeting was held with the mayor and several residents to discuss issues with the pickleball court reservations, I attended for the purpose of making sure certain issues did not get out of hand and to get a feeling of what our mayor might suggest addressing them. Some of the issues presented were certainly not the feelings of all those in attendance. The mayor and staff seemed willing to work on or get information on these issues for the people in attendance at that meeting. I was afraid that the complaints being voiced at this meeting would turn to what the May 6, 2024, Cultural Board meeting is addressing.

Sincerely,

Mary Lou Fillingame

33 Ocean Way Drive

To: Members of the Cultural Services Board

Subject: Scheduling Pickleball Courts

I am writing regarding the scheduling of the pickleball courts at Timothy Pollard Memorial Park. I wish to speak in support of keeping the scheduling of playing time as it is currently done using the Hold My Court platform. In my opinion, the current arrangements are much preferred to the alternative methods such as paddle scheduling used at other local facilities. My reasons are as follows.

Though first I would like to commend the building and upkeep of the facilities at the park. While I learned to play pickleball on the old basketball court before the renovations, the new courts are great, making for a safer and more enjoyable experience. (And the availability of the park during the pandemic was a welcome refuge during trying times.)

As a long time Ponce Inlet resident who plays on the courts regularly and year around, it appears that the problem with scheduling began recently when the Daytona Beach Shores courts were closed during the peak demand season. Otherwise, I have experienced little or no problem with court access. Since the Shores courts have reopened, I have experienced no problem reserving a court. Though at times, I may not be able to get the time that I would prefer, there are courts available.

For me, the benefit is being able to schedule a time when a group can meet and be assured of an hour of playing time instead of having to waste time waiting for a court to open. Given my current commitments, it is difficult to justify waiting around for exercise. Waiting an hour for thirty minutes of exercise seems inefficient. I would most likely engage in other activities. Also, when our children and grandchildren visit, playing together makes for a fun family activity, and it is nice to have a specific time to begin and to end.

It seems the current rule whereby if a court is not claimed within 10 minutes of the beginning of the reservation it becomes an open court is a good one.

Other pickleball facilities in the area with significantly more capacity employ a paddle system and are available to those who wish to play under such a system. At these facilities, I understand that at times there may be problems with people breaking in line or not being willing to leave the court. With the limited number of courts we have, this might be an even greater problem. I have never experienced any problems at our courts with players not respecting the court schedules.

I also have some concerns regarding parking during peak demand, given the limited space. Parking can be a challenge now when the park is fully utilized. Adding people waiting their turn to play could substantially increase the congestion.

Again, I appreciate the opportunity to enjoy the recreation activities provided here in Ponce Inlet. It is a special place. Thanks for your efforts in making it and keeping it that way.

Respectfully,
Jesse Dillard

Stephanie Gjessing

From: Jane Adamyk <jane.adamyk@gmail.com>
Sent: Wednesday, May 1, 2024 10:15 AM
To: Debbie Stewart
Subject: Ponce Inlet Pickleball courts

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

I understand there is discussion in an upcoming council meeting on changing the current pickleball reservation system. I strongly disagree with changing the current system which is working well and allows groups to play with friends that have similar skill levels and at times convenient to the group. It makes efficient use of court time.

Jane Adamyk

905 334 6746

Sent from my iPhone

Stephanie Gjessing

From: Mary Wools <woolsmj@yahoo.com>
Sent: Wednesday, May 1, 2024 8:43 AM
To: Debbie Stewart
Subject: Reservation system for pickleball

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Please do not replace the current reservation system

Thank you
Sent from my iPhone

Stephanie Gjessing

From: Carol Benedict <cmb920@gmail.com>
Sent: Wednesday, May 1, 2024 9:53 AM
To: Debbie Stewart
Subject: Reservation system pickleball

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Please do not replace the reservation system. It works.
Sent from CB

Stephanie Gjessing

From: cliff auxier <cauxier@hotmail.com>
Sent: Wednesday, May 1, 2024 8:22 PM
To: Debbie Stewart
Subject: Pickleball Reservation System

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

I'm writing this to express my position on the Ponce Inlet pickleball reservation system verses a first come, first serve, or an open court play system.

To start with, my wife and I are snowbirds, spent 10 weeks at our condo in Harbour Village this year. We both play pickleball on average 3 days per week, year around. In Ponce, we're fortunate to have become friends with a group that play Monday-Friday. In Michigan we play using an open play system. We enjoy both.

My recommendation is you stick with the reservation system but block 4 hours per day for open play. I'd block 10-2pm daily, making this open play using a paddle rotation system. When a game is over, teams put paddles in the rack based on winning or losing (non-winning), in order using a first in, first out concept.

Thanks for listening. For follow up questions or discussions, feel free to call.

Cliff Auxier
4630 Harbour Village Blvd
Unit 1204
Ponce Inlet, FL., 32127
734-904-1937

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Stephanie Gjessing

From: Casey Berryman <casey.s.berryman@gmail.com>
Sent: Thursday, May 2, 2024 4:28 AM
To: Debbie Stewart
Subject: NO to 100% paddle play / 3 reservation-1 free court

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Good day,

As a resident of Ponce and frequent but new user of the pickle ball courts; I have come to understand that the current reservation system may be taken down.

I have had frustrations of getting a court in the past; however we do like the current system despite some of the frustrations/ scheduling issues that I am certain people are experiencing.

Was wondering if there may be a partial solution where one court could be removed from the schedule and become a free/paddle play/challenge court. I think that might be super helpful for some folks not familiar with the reservation system or on days when a reservation isn't available folks could still play.

Thank you.

Casey Berryman
104 Anchor Dr

Stephanie Gjessing

From: Kristen Bowers <kristenbowers@hotmail.com>
Sent: Thursday, May 2, 2024 7:49 AM
To: Debbie Stewart
Subject: Ponce Pickleball Courts

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Culture Services Committee:

I am a full time resident. I have lived in Ponce Inlet since 2008.

I understand that the committee is reviewing the current court reservation system. The current system works great. I play 4 times per week. Its always such a pleasure to go to courts to play with friends. It's a great asset to have in our community. Yes, in March, there were some problems when DBS had closed their courts for maintenance, but since the courts have reopened there have been no issues.

I understand there is a proposal to switch to a "paddle system". This will create many problems. Firstly, we do NOT have enough courts to effectively run this system. It works in the Shores because they have 10+ courts. Under a paddle system, lower skilled players would not get to play as often. There will be crowds of people milling around waiting for courts. Parking and available seating areas will become very limited. It will become chaos.

Please keep the current reservation system. It works. If in the future, more courts are considered then a paddle reservation system could be revisited.

Thank you for your consideration.

Kristen Bowers
407-461-9991

Sent from Mail for Windows 10

Stephanie Gjessing

From: Nancy Breedlove <nancybreedlove@hotmail.com>
Sent: Thursday, May 2, 2024 11:28 AM
To: Debbie Stewart
Subject: Pickleball

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Good morning,

It has recently been brought to my attention that there are some that would like to do away with the reservation system for pickleball and instead use the color-coded paddle system, based on the player's ability. Who is to judge the player's ability?

I play with a group a couple of days a week when we are fortunate enough to reserve a court. This is our first year playing and we are enjoying the game, and I have to admit, we are improving. This group enjoys each other's company and the health aspect that the exercise provides. By eliminating the reservation system, this would detract from the enjoyment of the game.

Please do not change from the reservation system. If any changes were to be made, I would suggest better monitoring of those that reserve a court for two hours and don't bother to show or cancel.

In addition, I am a taxpayer in Ponce Inlet and should have the same opportunity as other taxpayers in Ponce Inlet to enjoy the parks and the amenities offered without restrictions being placed on the use by the player's ability.

I plan to attend the meeting on Monday.

Thank you for allowing me to voice my opinion.

Nancy Breedlove
4670 Links Village Dr B704
Ponce Inlet, FL 32127

Stephanie Gjessing

From: Brenda <brendabrock13@gmail.com>
Sent: Wednesday, May 1, 2024 9:12 PM
To: Debbie Stewart
Subject: NO for Paddle Play

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

The email that Jan Shaw sent says it all.
I would copy and paste it but I'm sure reading through it once was fine.

No need for a change...
Brenda Brock
50 Tina Maria Circle

Sent from my iPhone

Stephanie Gjessing

From: Randy Clark <randyclarkbldr@gmail.com>
Sent: Wednesday, May 1, 2024 7:42 PM
To: Debbie Stewart
Subject: Pickleball Courts

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Sent from my iPadHello. My name is Randy Clark & live in towers 5. I have been playing pickleball almost 3 years on our beautiful courts. I love the reservation system we have as long as we can stop people from reserving courts, then not showing up. Perhaps we could confirm playing when we arrive & delete those who do not show up from the reservation system. For several years this has not been a problem. See you Monday. Thank you for your attention to this matter.

Stephanie Gjessing

From: Barbara Cronin <bacronin@yahoo.com>
Sent: Thursday, May 2, 2024 2:47 PM
To: Debbie Stewart
Subject: Pickleball reservation system at ponce inlet

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Please keep the online reservation system. Thank you.

Stephanie Gjessing

From: Nola Devitt <nola.devitt@gmail.com>
Sent: Wednesday, May 1, 2024 7:46 PM
To: Debbie Stewart
Subject: No for paddle play

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

My friends and I play 4 times a week year round. It works because we are playing with friends. Most of the time when we play the other courts are empty. There are other courts, usually ones you pay to belong to, that require membership dues and more.

Please leave these courts free to all.

Nola Devitt

816-876-1985

Nola.devitt@gmail.com

1132 Hermitage Ct, Port Orange, FL 32129

Stephanie Gjessing

From: Joseph Genovese <jgenovese54@gmail.com>
Sent: Wednesday, May 1, 2024 9:59 PM
To: Debbie Stewart
Subject: Pickleball

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Hello, I would appreciate it if you could pass this on to board members. When we met last meeting, we discussed the issues with the reservation system. Number one is the no shows. The town was previously asked twice to please send an email to everyone on the reservation system "please delete your reservation, if your plans change - others might want to use it" This would've taken 5 minutes and helped immensely. The same people book and don't show without any consequences - with only 4 courts it's frustrating. We also discussed giving PI residents priority booking. We found out with the Echo grant that this wasn't possible. We also discussed forming a league, so that the times were permanently blocked out. I also brought up the fact that older or handicapped people cannot book as quickly as younger ones. However any player can designate literally anyone to sign in and reserve a court. Young or old. There are no rules against that. So anyone does have the opportunity to reserve. The minor issue of no shows is minuscule compared to the problems that open play will bring. The reservation system is civilized - never an argument. Open play people manipulate the paddles and the players. Will you get cameras to enforce rules? Everyone wants to play at their own skill level, and with their own group. The courts aren't set upon for open play. Where will they park? Spots are limited. With reservations, only a certain number can play. Im sure that you don't want double parked cars everywhere - especially by the Fire Department. That will be a big safety issue. Where will the players wait in line to play ? You will need to build more shade structures first. The original meeting wasn't to make more work for the town. We heard that Jackie was getting new software, so we were hoping to make improvements for the residents with booking. The majority of people are great, I think that it's wonderful that so many diverse ages enjoy playing. One lady in our group is 80 ! It's great to see families playing with young children also. We must keep the reservation system. I do have free time and have offered to volunteer to help improve the system. I do have a FB page for the Pickleball Players with over 160 members. Everyone wants to keep the reservation system. I thank you for you time considering this, Lisa Genovese 4628 Riverwalk Village Ct

Stephanie Gjessing

From: Deb Graham <dg61032@yahoo.com>
Sent: Wednesday, May 1, 2024 11:38 PM
To: Debbie Stewart
Subject: Pickleball Court Reservation System

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

I have been playing at the Community Courts in Ponce Inlet for 4 years now. We are owners at Eastwind and spend 7 months out of the year in Ponce. I play in 4 different groups and have made many close friendships because of Pickleball. All of the regular pickleball players know each other and respect each others desired playing times, We have our court reservations down to a science. We all know the other groups preferred playing times and reserve accordingly. The bottom line is that we have a group of friends who we like to play with, and the paddle system would make that impossible. There were never any hiccups in our system until Daytona Beach Shores courts were being repaved and we had an influx of their players. That problem has since been resolved. To reinvent the wheel at this point of time would be a huge mistake. The parking issues would be a sizable problem. And if you think there are complaints right now, be ready for many more if the Reservation System is replaced by the Paddle system. As for the problems voiced by the seniors who are not tech-savvy enough to reserve their own courts... we know who they are and we are all friends. We are all adult enough to be able to help them out and eliminate this issue. We are more than willing to do so, and as Jan Shaw has mentioned in her email have done so in several cases so far. I know this is a cliché, but please don't try to fix something that isn't broke.

Sincerely,
Jim and Deb Graham
4505 S Atlantic Ave
#6040 S
Ponce Inlet

Stephanie Gjessing

From: Andrea Martin <admartin1953@yahoo.com>
Sent: Thursday, May 2, 2024 3:07 PM
To: Debbie Stewart
Subject: Open Paddle Play vs. Reservation based Play

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

To The Cultural Services Committee:

I would like to make known my opinion regarding the pickleball issue regarding switching the current reservation system to a open paddle play system. In a nutshell, NO! Whereas there have been some kinks and some grumbling of late regarding the reservation system, I can guarantee the issues would be tenfold if you were to put Open Paddle option in play. I have played elsewhere in the country where the open paddle play was used and it failed miserably. Too many people were unable to play with their friends and there were even instances where it was ignored completely and the same group would continue to play past their allotted game. Please do not change the way Ponce is doing things.

Thank you for your attention to this matter.

Andrea Martin
4650 Links Village Dr., Unit C402
Ponce Inlet, FL 32127

Sent from my iPad

Stephanie Gjessing

From: Joy Mueller <joyannmueller@gmail.com>
Sent: Wednesday, May 1, 2024 10:23 PM
To: Debbie Stewart
Subject: Pickleball courts

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Please keep the reservations as they are on line but add the rule that if you don't arrive 10 minutes after you reserved, anyone can walk on and you lost your court. I have been down there and could use a second court that was reserved but no one showed up for 20 minutes so we finally took it. This has happened several times so if we had a rule if you were 10 minutes late, you lost your court if someone steps on it, please consider that rule for Ponce Inlet.

Thanks,
Joy Mueller
Ponce Inlet resident in Harbour Village
My cell is (651) 485-9694 if you would like to talk more!

Sent from my iPhone
Joy Mueller

Stephanie Gjessing

From: RICK RUSSELL <rruss93167@aol.com>
Sent: Wednesday, May 1, 2024 7:42 PM
To: Debbie Stewart
Subject: Pickleball Reservation System

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

In regards to the current Pickleball Reservation System I would like to request the current system remain in place. The ease of reserving a court time is preferable to "the paddle system". I have been playing with the same group for over a year now. We have a similar level of play and attitude towards the game. If I were to be thrust in to playing with "other random players" this might not be the case. Please leave the current reservation system in place. Thank you, Barbara Russell

Sent from my iPad

Stephanie Gjessing

From: Jannette Shaw <jshaw0@aol.com>
Sent: Thursday, May 2, 2024 10:51 AM
To: Debbie Stewart; Mike Disher; Lois Paritsky; Dan Scales; Jackie Alex
Cc: Jan Shaw
Subject: Fwd: Pickleball Court reservations

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Hi everyone I would like to add an additional suggestion to my email from yesterday. We are having a lot of conversations with pickleball friends. Brenda B has suggested this option...

During our March 18th meeting, Dan Scales advised that the tennis court would become dual purpose, again, and be repainted to be used as a 5th pickleball court. That is a great idea and will be appreciated once the repainting and net changes are completed. Honestly, there are only a few people that actually play tennis on that court. It sits empty 80% of the day. More often young families use the court as play space for their kids on riding toys or there is a gentleman who regularly uses it to play fetch with his dog!! The same thing happens on the handball court.

So the suggestion is this. If this Board truly feels that an open play court is necessary, to accommodate older disabled residents, why not designate that court as the open play pickleball court? It's close to parking. There is ample shade covered seating under the gazebo for those waiting to play, and the bathrooms are close. Perhaps it could be designated for tennis a few hours each day and then open pickleball play the remainder of the day. It should be easy to do, just block that court from reservations for the same hours every day.

Just a thought for your consideration.

I ask this email also be shared with the Cultural Services Board before the May 6 meeting.

Thank you

Jan Shaw

Sent from my iPhone

Begin forwarded message:

From: Jannette Shaw <jshaw0@aol.com>
Date: May 1, 2024 at 4:48:24 PM EDT
To: Liz Caswell <elizcaswell@yahoo.com>, Mary Fillingame <mlfillin@gmail.com>
Subject: Fwd: Pickleball Court reservations

Sent from my iPhone

Begin forwarded message:

From: Jannette Shaw <jshaw0@aol.com>
Date: May 1, 2024 at 4:47:32 PM EDT
To: dstewart@ponce-inlet.org, Mike Disher <mdisher@ponce-inlet.org>,

Jackie French Ponce Activities French <jfrench@ponce-inlet.org>, Lois Paritsky <lparitsky@ponce-inlet.org>, Dan Scales <dscales@ponce-inlet.org>

Cc: Jan Shaw <jshaw0@aol.com>

Subject: Pickleball Court reservations

Sent from my iPhone

There has been a great deal of discussion lately surrounding the Ponce Inlet Pickleball Courts.

I would like to remind everyone what started those discussions.

Our neighbors, in DBS, closed their courts for 4-5 weeks in March to repair and resurface. That brought 100's of DBS players into Ponce looking for a place to play. Ponce Inlet has 4 courts which are kept busy by our residents. With the addition of DBS players chaos ensued.

Some Ponce players temporarily had difficulty reserving their usual courts. A few of those Ponce players got very vocal about what was happening and instead of asking for help from each other they took their complaints to our Mayor and Cultural Services Manager. Truly it was much ado about nothing, as we now see that DBS courts have reopened and Ponce residents are once again able to access their usual court times.

So then, why is the Cultural Board pursuing a plan to change how Ponce Pickleball players access our courts? Nothing is broken, it was a temporary hiccup, everything has returned to what it was.

I have read Jackie's proposal to change everything and I am disappointed and concerned. I will speak to the memorandum dated 4.24.2024.

I was one of the group of maybe 7 residents, all pickleball players, to attend the March 18, 2024 meeting Jackie refers to. The meeting was requested by Lisa G. The meeting was never convened to ask that the current reservation system be abolished. It was a meeting intended to find out if reservation login times could be temporarily altered to accommodate Ponce residents before others. We were told that could not be done because everyone needed to have equal access. There was some discussion surrounding no show players, and creation of leagues to allow blocking off court times, but again that was all done in the context of increasing frustration due to court shortages following increased players from DBS. No

show players has never been an issue in the past and it is not an issue today.

When we all left that March 18 meeting we made it very clear, to Jackie, Lois and Dan, that we did not want the current court reservation system to be discarded. We actually discussed what a new reservation system might look like, as were were told some time ago a new program was being reviewed by Jackie. Lisa G did mention an issue that some of her players were not quick enough to log in to reserve courts, again due to the DBS influx of players. Everyone jumped into the ADA discussion. After that meeting I resolved Lisa's concerns by logging in and helping her reserve courts for her group of friends. It was that easy! But that concern has also disappeared now that the DBS courts are open.

So, issues that were brought to the discussion table in March, out of frustration focused on DBS players, no longer exist. As I stated above, much ado about nothing.

Reserving out one week is perfectly acceptable. It is the way we have reserved our courts for the last 4-5 years.

Jackie mentions her contact with other municipalities, who have public courts, finding none used a reservation system. That is true, but Ponce cannot be compared to surrounding municipalities. We have 4 courts and a very small park area to accommodate our players, including seating and parking.

DBS has 10 courts and double, maybe triple the parking spaces Ponce has.

Port Orange has 8 courts outside and I believe 2 non-dedicated courts inside at the rec center (on the basketball courts). The outdoor courts in PO have double the parking we have.

Then there are the 6 courts for DeLand/Orange City. One of their players relayed a horror story of 60+ people waiting to play on weekend mornings because there is no reservation system.

Comparing our space to those towns is unfair and unreasonable.

We also hear from players who use the paddle system that it is unfair because people waiting to play move their paddles ahead of others in the racks.

Jackie states that "removing the online court reservation system resolves many of the expressed concerns but provides equal access to all individuals with disabilities." I completely disagree.

Playing by the paddle system will disenfranchise those with disabilities even more. The congestion at the courts will be

ridiculous with everyone rushing to get to play. There will be no parking spaces onsite because they will fill quickly.

In any given hour on the 4 courts, from 8-12noon, we can have 24 people playing or sitting on inside court benches waiting to sub in and out of games with their group of friends. Currently those courts are reserved, no one else shows up because there is no free play. One group leaves at the end of their reservation time and the next group arrives. Cars and people move in and off the property. It works and provides us with a safe environment.

So now invasion 30-40 people showing up all at once to get their paddles placed to play 1 game. They end their game and move off the court so the next four players pull their paddles and play. The original 4 players are hanging around to play again. No one leaves because 1 game is never enough. Then another group arrives and wants to play, they wait to place their paddles. But all the first players remain waiting to place their paddles and play again. We have no parking and no seating for these folks. Yes you can say overflow parking could use the PICC, but that only works if there is nothing scheduled at the PICC. Now add in those with perceived disabilities. They can't find parking, they can't find anywhere to sit. It's hot outside and now you have another issue of people feeling ill waiting in the heat. 4 picnic tables under the gazebo along with a few benches won't be enough. Our older folks will never get to play and will stop trying. That's not fair!!

This is supposed to be about community, exercise, fun with friends or family. Under the paddle system you don't get to play multiple games with your friends. You play one game and you leave the court. Your paddles may not be pulled together for the next 30 min or ever. So you spend more time sitting than playing. What purpose does that serve?

Jackie mentions ADA requirements changing when accessing reservation systems. It appears Ponce has 3 or more years to resolve that concern. It does not need to be done now by abolishing the current court reservation system.

Please leave our process of reserving courts as is. It has worked for all of us for years. The glitch was DBS improving their courts for their players. That glitch has been removed. Our reservations have returned to normal. NO ONE wants to go to paddle play. NO ONE will be able to arrange group play if Ponce moves to paddle play. We don't have enough courts to manage it. I am happy to speak with anyone about this.

Please make sure the Cultural Services board gets this email as well. I also apologize if paragraphs etc appear poorly placed. This was prepared

on my phone.

We have lived in Ponce for over 18 yrs. We played PB on the double lined basketball and tennis courts before our current courts were built. What we currently have is an easy access court reservation system that gives us all fair access to the courts. We have come a long way. Please don't take us backwards.

Thank you.

Jan Shaw
4358 Candlewood Ln

Sent from my iPhone

Stephanie Gjessing

From: Nathan Berryman <nathan.berryman1@gmail.com>
Sent: Friday, May 3, 2024 5:03 AM
To: Debbie Stewart
Subject: Love Inlet Pickleball courts

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Hello,

I am a full time Ponce Inlet resident and frequent pickleball player at our courts. I've been made aware that there are potential changes to the reservation system and I have some comments and concerns I'd like to express.

First, the current reservation system is definitely broken. I often cannot reserve a court but go down anyways to find them not in use or block reserved by people with multiple accounts. There is blatant abuse by a large group of users who do this and oppose changes to the system. They constitute a loud voice but a small percentage of users.

I am in favor of going to a paddle play system with a three game limit for winners. This is a common set up used by many other courts I have played on and works well.

If we continue to use the reservation style; in person validation of residency and email should be required.

Best of all, may be to continue the reservation system as is but only on two courts and make the remaining two courts paddle play.

Finally, is there any way to get more courts?

Thanks for listening.

Nathan.

Sent from my iPhone

Stephanie Gjessing

From: Ruth <lighthousedrc@gmail.com>
Sent: Friday, May 3, 2024 1:50 PM
To: Debbie Stewart
Subject: Reservation system vs paddle system

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

I recommend keeping the reservation system. With it, u r assured of a scheduled playing time with friends who have similar skill levels.

I have been to courts that use the paddle system. Found that people would move my paddle to another spot so they could play with their group with no regard to all the time I had been waiting .

Ruth Chapman
34 Ocean Way Dr
Ponce Inlet

Stephanie Gjessing

From: Peter Cronin <pjcronin4611@yahoo.com>
Sent: Friday, May 3, 2024 9:05 AM
To: Debbie Stewart
Subject: Ponce inlet pickleball courts

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Dear Ms Stewart, please KEEP the court reservation system. Thank you. Pete Cronin

Sent from Yahoo Mail for iPhone

Stephanie Gjessing

From: Lynda Loeb <lyndarl47@gmail.com>
Sent: Thursday, May 2, 2024 6:40 PM
To: Debbie Stewart
Subject: Fwd: online reservation system for PB courts

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

----- Forwarded message -----

From: Lynda Loeb <lyndarl47@gmail.com>
Date: Thu, May 2, 2024 at 9:23 AM
Subject: online reservation system for PB courts
To: <dstewart@ponceinlet.org>

I have been playing on our four courts in Ponce Inlet since they were first constructed. The online reservation has been great. It has fostered great friendships and made it easy to schedule play. If we go to the paddle system it will be difficult if not impossible to play with our different groups. Parking can be a problem if people are just showing up and waiting for the current hour of play to end. For these reasons alone I hope you consider those PI residents who have enjoyed playing on our courts using the online reservation system.

Thank you for your consideration,
Lynda Loeb
4670 Links Village Dr.
Ponce Inlet, FL

Stephanie Gjessing

From: Heather Patton <hpryan1024@gmail.com>
Sent: Thursday, May 2, 2024 6:23 PM
To: Debbie Stewart
Cc: Heather Patton
Subject: Pickleball RSVP

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

I understand the Cultural Board is having a discussion on the pickleball/tennis reservation system.

I am traveling overseas and will not be able to attend but wanted to reach out and just add my thoughts.

The park facility here in Ponce is wonderful and seems to be well attended by all who enjoy the sports offered.

The reservation system allows many of us to schedule our activities. This way when you show up we know we get to play and not have to go elsewhere.

Is the system perfect , no but we all have the chance to access. Maybe the times aren't always open but usually something is available.

I also use the DbShores system since I have a property there and that system requires you to be a registered tax payer in order to register to use the system. Only one email per property. Not sure if the PI system offers that option but it could help keep only locals booking reservations and not same person using several emails.

I would hate to see our system be removed because a few might not be able to access as quickly as others or some other issue.

On another note , cameras would be a great addition so if your wishing to go play you could login and see what's going on at the courts. Another benefit that DBShores does offer.

I look forward to hearing how it goes Monday.

Heather Patton
386-290-0554
Hpryan1024@gmail.com

From: Jannette Shaw <jshaw0@aol.com>
Sent: Friday, May 3, 2024 9:20 AM
To: Debbie Stewart; Mike Disher; Jackie Alex; Lois Paritsky; Dan Scales
Subject: Pickleball court availability

I would just like to share the current court availability as off this morning, into next week. There is ample opportunity for anyone to log in and find courts available. No time crunch. It can take them as long as they need. Thank you for reviewing.

Jan Shaw

Sat, May 4							
	Court 1: Southwest Pickfield	Court 2: Southeast Pickfield	Court 3: Northeast Pickfield	Court 4: Northwest Pickfield	Court 5: Totals Court	Court 6: Southfield	Court 7: Birmingham
10:00am	2:00pm	2:00pm	2:00pm	2:00pm	2:00pm	2:00pm	2:00pm
7:30am	2:30pm	2:30pm	2:30pm	2:30pm	2:30pm	2:30pm	2:30pm
6:00am	Court	SP-1	Court	SP-2	2:00pm	2:00pm	2:00pm
5:30am	Court	SP-1	Alta Cavallaro	Jay Shaw	Dante Walker	2:30pm	2:30pm
9:00am	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
9:30am	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
10:00am	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
10:30am	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
11:00am	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
11:30am	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
12:00pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
12:30pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
1:00pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
1:30pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
2:00pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
2:30pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
3:00pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
3:30pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
4:00pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
4:30pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
5:00pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
5:30pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
6:00pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
6:30pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
7:00pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
7:30pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
8:00pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm
8:30pm	Alta Cavallaro	Alta Cavallaro	Alta Cavallaro	Larson	2:00pm	2:30pm	2:30pm

5:47



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En. May 1	Sat May 4	Sat May 5	Sun May 6	Tue May 7	Wed May 8	Thu May 9
5:47:42 am						

Sun, May 5

	Court 1: Southwest Pickleball	Court 2: Southwest Pickleball	Court 3: Northwest Pickleball	Court 4: Northwest Pickleball	Court 5: Tennis Court	Court 6: Basketball	Court 7: Basketball
7:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
7:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am
8:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
8:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am
9:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
9:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am
10:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
10:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am
11:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
11:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am
12:00pm	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
12:30pm	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am
1:00pm	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
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3:00pm	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
3:30pm	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am
4:00pm	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
4:30pm	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am
5:00pm	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
5:30pm	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am
6:00pm	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
6:30pm	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am
7:00pm	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
7:30pm	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am
8:00pm	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
8:30pm	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am
9:00pm	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am

5:51



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	May 5	May 6	May 7	May 8	May 9		
	4	3	6	1	1	9	
Mon, May 6							
	Court 1: Southwest Pickleball	Court 2: Southeast Pickleball	Court 3: Northwest Pickleball	Court 4: Northeast Pickleball	Court 5: Tennis Court	Court 6: Basketball	Court 7: Basketball
7:00am	David Morgan	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
7:30am	David Morgan	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am
8:00am	2:00am	VLC	2:00am	2:00am	2:00am	2:00am	2:00am
8:30am	2:30am	VLC	2:30am	2:30am	2:30am	2:30am	2:30am
9:00am	David Morgan	3:00am	3:00am	3:00am	3:00am	3:00am	3:00am
9:30am	David Morgan	3:30am	3:30am	3:30am	3:30am	3:30am	3:30am
10:00am	David Morgan	4:00am	4:00am	4:00am	4:00am	4:00am	4:00am
10:30am	David Morgan	4:30am	4:30am	4:30am	4:30am	4:30am	4:30am
11:00am	David Morgan	5:00am	5:00am	5:00am	5:00am	5:00am	5:00am
11:30am	David Morgan	5:30am	5:30am	5:30am	5:30am	5:30am	5:30am
12:00pm	David Morgan	6:00am	6:00am	6:00am	6:00am	6:00am	6:00am
12:30pm	David Morgan	6:30am	6:30am	6:30am	6:30am	6:30am	6:30am
1:00pm	David Morgan	7:00am	7:00am	7:00am	7:00am	7:00am	7:00am
1:30pm	David Morgan	7:30am	7:30am	7:30am	7:30am	7:30am	7:30am
2:00pm	David Morgan	8:00am	8:00am	8:00am	8:00am	8:00am	8:00am
2:30pm	David Morgan	8:30am	8:30am	8:30am	8:30am	8:30am	8:30am
3:00pm	David Morgan	9:00am	9:00am	9:00am	9:00am	9:00am	9:00am
3:30pm	David Morgan	9:30am	9:30am	9:30am	9:30am	9:30am	9:30am
4:00pm	David Morgan	10:00am	10:00am	10:00am	10:00am	10:00am	10:00am
4:30pm	David Morgan	10:30am	10:30am	10:30am	10:30am	10:30am	10:30am
5:00pm	David Morgan	11:00am	11:00am	11:00am	11:00am	11:00am	11:00am
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6:00am	David Morgan	12:00am	12:00am	12:00am	12:00am	12:00am	12:00am
6:30am	David Morgan	12:30am	12:30am	12:30am	12:30am	12:30am	12:30am
7:00am	David Morgan	1:00am	1:00am	1:00am	1:00am	1:00am	1:00am
7:30am	David Morgan	1:30am	1:30am	1:30am	1:30am	1:30am	1:30am

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sunday, june 2

	Court 1: Southwest Pickleball	Court 2: Southwest Pickleball	Court 3: Northwest Pickleball	Court 4: Northwest Pickleball	Court 5: Tennis Court	Court 6: Basketball	Court 7: Basketball
7:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
7:30am	2:30am	2:30am	Cash	2:30am	2:30am	2:30am	2:30am
8:00am	Lynette	Monica Hend	Frank	1:00am	Monica Hend	1:00am	2:00am
8:30am	Veronica	Janet Hend	DBB	1:30am	Janet Hend	1:30am	2:30am
9:00am	LA 101	Ann Marie	DBB	Monica Hend	2:00am	2:00am	2:00am
9:30am	LA 101	Ann Marie	DB	Monica Hend	2:30am	2:30am	2:30am
10:00am	Ann McDonald	Lisa McDonald	DB	Ann McDonald	10:00am	10:00am	10:00am
10:30am	Ann McDonald	Lisa McDonald	10:30am	Ann McDonald	10:30am	10:30am	10:30am
11:00am	Ann McDonald	Lisa McDonald	11:00am	Ann McDonald	11:00am	11:00am	11:00am
11:30am	Ann McDonald	Lisa McDonald	11:30am	Ann McDonald	11:30am	11:30am	11:30am
12:00pm	12:00pm	12:00pm	12:00pm	12:00pm	12:00pm	12:00pm	12:00pm
12:30pm	12:30pm	12:30pm	12:30pm	12:30pm	12:30pm	12:30pm	12:30pm
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7:00pm	7:00pm	7:00pm	7:00pm	7:00pm	7:00pm	7:00pm	7:00pm
7:30pm	7:30pm	7:30pm	7:30pm	7:30pm	7:30pm	7:30pm	7:30pm
8:00pm	8:00pm	8:00pm	8:00pm	8:00pm	8:00pm	8:00pm	8:00pm

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Wed, May 8

	Court 1: Southwest Pickleball	Court 2: Southeast Pickleball	Court 3: Northwest Pickleball	Court 4: Northeast Pickleball	Court 5: Tennis Court	Court 6: Basketball	Court 7: Basketball
7:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
7:30am	2:30am	2:30am	Court	2:30am	2:30am	2:30am	2:30am
8:00am	3:00am	3:00am	3:00am	3:00am	3:00am	3:00am	3:00am
8:30am	3:30am	3:30am	3:30am	3:30am	3:30am	3:30am	3:30am
9:00am	4:00am	4:00am	4:00am	4:00am	4:00am	4:00am	4:00am
9:30am	4:30am	4:30am	4:30am	4:30am	4:30am	4:30am	4:30am
10:00am	5:00am	5:00am	5:00am	5:00am	5:00am	5:00am	5:00am
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11:30am	6:30am	6:30am	6:30am	6:30am	6:30am	6:30am	6:30am
12:00pm	7:00am	7:00am	7:00am	7:00am	7:00am	7:00am	7:00am
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2:00pm	9:00am	9:00am	9:00am	9:00am	9:00am	9:00am	9:00am
2:30pm	9:30am	9:30am	9:30am	9:30am	9:30am	9:30am	9:30am
3:00pm	10:00am	10:00am	10:00am	10:00am	10:00am	10:00am	10:00am
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7:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am	2:00am
7:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am	2:30am

5:52

holdmycourt

Thu, May 9

	Court 1: Southwest Pickleball	Court 2: Southeast Pickleball	Court 3: Northwest Pickleball	Court 4: Northeast Pickleball
7:00am	<u>7:00am</u>	<u>7:00am</u>	<u>7:00am</u>	<u>7:00am</u>
7:30am	<u>7:30am</u>	<u>7:30am</u>	<u>7:30am</u>	<u>Crash</u>
8:00am	<u>8:00am</u>	<u>8:00am</u>	<u>8:00am</u>	<u>Crash</u>
8:30am	<u>8:30am</u>	<u>8:30am</u>	<u>8:30am</u>	<u>8:30am</u>
9:00am	<u>9:00am</u>	<u>9:00am</u>	<u>9:00am</u>	<u>9:00am</u>

Sent from my iPhone

Stephanie Gjessing

From: Steve & Val Nott <svnott@gmail.com>
Sent: Thursday, May 2, 2024 6:02 PM
To: Debbie Stewart
Subject: Pickleball

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Just a quick note to say that I am NOT in favor of implementing 'paddle play' at the Ponce pickleball courts.

I realize there are pros & cons to either - paddle or reservation - but I feel the reservation system creates more camaraderie & playing time.

There can be alot of waiting with the paddle system, it is very intimidating for beginners, & not competitive enough for seasoned players.

Just my opinion!

Thanks!

Val Nott

Stephanie Gjessing

From: Jacqueline Will <jwillponceinlet@me.com>
Sent: Thursday, May 2, 2024 5:37 PM
To: Debbie Stewart
Subject: Court Reservation System

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

This message is in respond to a possible change in the court reservation system that Ponce Inlet has for court time. The current system works very well for our group that plays pickelball and enjoys our court times together. The system is very fair. We reserve our time when it becomes available so that we are assured that the court is free for us to play at the desired times. We always show up and everyone is respectful. We immediately cancel our reservation if we cannot make our time. If there wasn't a reservation system, we feel that it would be wasting valuable time to be waiting possibly an hour or more for a court to open. We have working schedules, appointments, jobs, etc. that we plan our court time around. We have an established group that we love playing together with. If a spot in the foursome occasionally opens up and there is someone looking to play, we of course invite that person to play. In all said, we are definitely opposed to open playing and not having a secure court time. We hope you will consider our opinion and keep the court reservation in place. We love our Ponce Inlet Courts. We hope to continue playing in our wonderful town. Thank you.

Ponce Inlet 25 year resident
Jacqueline Will
Sent from my iPhone

Stephanie Gjessing

From: Jackie Alex
Sent: Monday, May 6, 2024 8:49 AM
To: Debbie Stewart
Cc: bruceb4699@yahoo.com
Subject: FW: Pollard Park Pickleball Courts

Debbie,

Please add the email below to those distributed to the Cultural Services Board on this agenda item tonight. Thank you-

Jackie Alex
Cultural Services Manager
Town of Ponce Inlet
4300 South Atlantic Avenue
Ponce Inlet, FL 32127
Phone: 386-322-6703
jalex@ponce-inlet.org

Ponce Inlet Historical Museum
143 Beach Street

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

* * *

PLEASE NOTE: Please do not send any personal e-mail to this address. Florida has very broad public records laws. Most written communication to or from Town of Ponce Inlet officials and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

From: Bruce B <bruceb4699@yahoo.com>
Sent: Sunday, May 5, 2024 1:42 PM
To: Jackie Alex <jalex@ponce-inlet.org>
Subject: Pollard Park Pickleball Courts

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

May 4, 2024

Cultural Services Board
Town of Ponce Inlet

Dear Members

As you know, the recent refurbishing of the Daytona Beach Shores pickle ball courts caused the Pollard Park courts to be in high demand. This demand unfortunately, resulted in the Ponce Inlet court reservation system being abused by a few no shows. It appears that some displaced Shores players may have reserved courts here, but, did not show up. I know that this was extremely frustrating for the Ponce Inlet players as well as, I assume, for the Town staff who had to deal with complaints from a few vocal players about the no shows. I believe, however, that this was an anomaly, since things here have returned to the way they were prior to the construction and reopening of the Shores courts and play is back to normal.

I understand, however, that as a result of these complaints about the abuse of the reservation system, you are unfortunately considering abandoning the reservation system in favor of a paddle rack system. I say unfortunately because the Ponce Inlet court reservation system has historically worked very well since it allows groups of friends of similar abilities as well as families to play with each other for an hour or, if the court is open, for longer periods. The paddle rack system does not readily allow this since it randomly pits seasoned and beginner players against each other.

In conclusion, I know that the vast majority of us who use the Pollard Park courts appreciate the ability to reserve the courts so that we can play with our families and friends. Please keep the reservation system intact. That is just one of the things that makes playing pickle ball in Ponce so enjoyable. Thank you.

Sincerely,

Bruce Bannerman

4670 Links Village Drive. Unit C 702
Ponce Inlet

Stephanie Gjessing

From: Ann Garabedian <ann.garabedian@gmail.com>
Sent: Sunday, May 5, 2024 7:14 PM
To: Debbie Stewart
Subject: Scheduling of the pickleball courts

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

To whom it may concern

I am writing with regards to the scheduling of the pickleball courts at Timothy pollard memorial park.

Although the present system can be somewhat frustrating at times it certainly is the much preferred system by me. I can count on an hours play with friends of a similar standard. Not only is this fun but is less likely to result in accidents on the court because of incompatible levels of play.

We are very lucky in Ponce to have such wonderful facilities and hope the present system will remain in operation.

Thank you
Ann garabedian
Sent from my iPhone

Stephanie Gjessing

From: eileencgriffith55@gmail.com
Sent: Friday, May 3, 2024 4:47 PM
To: Debbie Stewart
Subject: Pickle Ball Reservation System

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

I'm writing to express my concern about changing from the reservation system to a "show up and play". I just began playing pickle ball a couple years ago and I have created a group of friends that I am comfortable playing with and we are all at the same playing level. As you know, this winter, we experienced people coming from other areas that thought of themselves as professional players and we didn't even want to share a court with them, let alone be subject to their insults if they "were stuck" playing with us. I live right across the street from the courts, and I love the convenience of walking over, meeting my friends, and playing pickle ball for the fun it creates.

I hope you give some consideration to the people that love the game, but aren't getting ready to enter into a tournament or lose sleep if they don't win that day. I would be very saddened if the reservation system went away.

Thanks for your consideration.

Eileen

Sent from Mail for Windows

Stephanie Gjessing

From: jmeadows55 <jmeadows55@gmail.com>
Sent: Saturday, May 4, 2024 6:08 PM
To: Debbie Stewart
Subject: pickleball reservations

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

We would prefer the reservation system over the paddle system. Thank you for your cooperation, we will see you Monday Evening.

Sent from my T-Mobile 4G LTE Device



MEMORANDUM

TOWN OF PONCE INLET, CULTURAL SERVICES 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: Cultural Services, Historic Preservation, and Tree Advisory Board
 From: Jackie Alex, Cultural Services Manager
 Date: May 24, 2024
 Subject: Additional Research on the Athletic Court Reservation System

MEETING DATE: June 3, 2024

Introduction:

The purpose of this report is to provide additional information on accessibility options for the Town's court reservation system, as requested by the Cultural Services Board at its May 6, 2024 meeting. The 1990 Americans with Disabilities Act (ADA) prohibits discrimination against people with any disability, seen or unseen, including access to state and local government programs and services such as the athletic courts at Pollard Park. Under Title II of the ADA, governmental entities have an obligation to provide full and equal enjoyment of its "services, programs and activities" to individuals with disabilities. If a government fails to fulfill its obligations, an individual may seek enforcement by filing an administrative complaint with an appropriate Federal agency or commencing a private lawsuit (**Attachment**).

The report discusses the viability of nine options that were provided last month by the public, Board members, and staff. This information is brought before this Board to provide a basis for a recommendation to the Town Council regarding the online court reservation system.

Background:

At the May 6, 2024, Cultural Services Board meeting, Staff presented a report to discuss issues recently raised by residents regarding the Town's online court reservation system. The issues included potential improvements to the system, as well as compliance with the Americans with Disabilities Act (ADA) stemming from a request for special accommodation.

The purpose of the ADA law is to make sure that those with disabilities have the same rights and opportunities as everyone else to access locations and services that are available to the general public. With the request for accommodation, the Town is under legal obligation to provide what was discussed in the meeting as a "reasonable modification." Public services, public facilities, and public resources obtained through public funds must each comply with the ADA law. As pickleball at Pollard Park meets all three of these categories for ADA compliance, the focus of the May 6th meeting was to address the ADA compliance required by law.

Staff discussed two separate requirements the Town must abide by regarding ADA compliance:

1. All web content provided on the Town's website, including reservation systems, must meet new WCAG 2.1 Level AA technical standards.
2. The Town must provide a reasonable modification to a public service when a request for an accommodation is made.

The Town has three years¹ to meet the first requirement and must also work to provide a reasonable modification when requested at any time. ADA compliance is a matter of federal law. Now that the Town has been made aware of this issue, it is obligated to provide a reasonable modification for those with disabilities that request one in the future.

Discussion:

The focus of Staff and the Town Attorney on this topic is assessing the Town's options for the future of the court reservation system, including both the feasibility and the liability risk of each option. The legal analysis of each option from the Town Attorney is provided on the **Attachment**.

Since the distribution of the first staff report on this topic, there have been both public and internal discussions on the following suggested options for the future of the Town's court reservation system. Any option chosen will result in a change to the current park signage.

Option #1

Remove the online court reservation system and classify all athletic courts as open play

- a. **Description:** A paddle rack is placed at each pickleball court containing 4-16 slots for players to insert their paddle, with a sliding indicator to signify which group is next to play.
- b. **Staff/ resources feasibility:** Paddle racks are currently in place at two of the four existing pickleball courts. Staff can establish open play rules and place them on park signage and the Town's website. No staff is required.
- c. **Liability:** This suggestion provides equal (the same) opportunity for all participants, disabled and non-disabled, to access the athletic courts.

Option #2

Resident group manages an ADA-compliant court reservation system

- a. **Description:** Resident group enters into a management agreement with the Town, subject to approval by the Town Council. This arrangement is comparable to those agreements held between the Town and the Ponce Inlet Community Center Board and the Lighthouse Preservation Association to manage Town-owned assets on the Town's behalf.
- b. **Staff/ resources feasibility:** ADA-compliant court reservation systems are a paid service. If this option is selected, the Town would pay for this service instead of the resident group. The group would report to the Town through the Cultural Services Manager.

¹ Dating from April 26, 2024, when the new federal rule was adopted.

- 74 c. **Liability:** The Town would still be responsible for ensuring that the reservation system
75 complies with the technical standards for web content accessibility. The Town would also
76 still be liable for ensuring that the resident group appropriately responds to any requests
77 for accommodation or auxiliary aids or services.
78

79
80 **Option #3**

81 **Classify certain pickleball courts as open play**
82

- 83 a. **Description:** One-to-three pickleball courts would be designated as open play, leaving the
84 other pickleball court(s) available for reservations.
85 b. **Staff/ resources feasibility:** ADA-compliant court reservation systems are a paid service.
86 Both the reservation system and Town signage will need to reflect the court designation as
87 reserved or open play.
88 c. **Liability:** This does not address the problem of a person with a disability who is unable
89 to access the online reservation system. In this case, the benefit is not the use of the athletic
90 courts; rather, it is the opportunity to reserve a particular court on a particular day at a
91 particular time. A solution is one that provides a person with a disability the same
92 opportunity to reserve an athletic court as is afforded to those without a disability. Failure
93 to provide an alternative method of access may be an independent basis for liability
94 under Title II.
95

96
97 **Option #4**

98 **Classify the tennis court as open play**
99

- 100 a. **Description:** Staff may also designate certain hours between tennis and pickleball for open
101 play. For example, tennis from 6:00 am - 2:00 pm. However, this leaves tennis players with
102 less athletic court time than all other sports.
103 b. **Staff/ resources feasibility:** See Option #3.
104 c. **Liability:** See Option #3
105

106
107 **Option #5**

108 **Block off (4) hours each day for open play**
109

- 110 a. **Description:** Staff may designate certain hours for open play, with reservations available
111 for the remaining hours. This option is made for either the tennis court or select pickleball
112 courts.
113 b. **Staff/ resources feasibility:** See Option #3 and Option #4.
114 c. **Liability:** See Option #3
115

116
117 **Option #6-**

118 **Select a new reservation system vendor that is ADA-compliant**
119

- 120 a. **Description:** Currently, the Town utilizes the vendor “holdmycourt.com” for a free court
121 reservation system. Staff has researched several options including those provided at the
122 May meeting from around the state and have not yet found one that is 100% compliant
123 with the new WCAG 2.1 Level AA technical standards. Additionally, Staff found no other
124 cities within the County operating an online reservation system for their pickleball courts.
125 b. **Staff/ resources feasibility:** ADA-compliant court reservation systems are a paid service.
126 Staff would operate and manage an online reservation system. Some systems allow for
127 reminders to be sent out for upcoming reservations and the ability to create a wait list.
128 However, these systems are subject to the same types of abuses and vulnerabilities as the
129 current system, in that there are no penalties for no-shows, and it is up to the player to
130 cancel their own reservation. There is also no way to prevent multiple accounts from being
131 created since a player can sign up for the reservation system with multiple email addresses.
132 A group of four can still reserve four hours of play on one court, or even longer if additional
133 email addresses are used within the group.
134 c. **Liability:** See Option #2
135
136

137 **Option #7-**

138 Hire a 24/7 call center to receive and enter court reservations
139

- 140 a. **Description:** Players with or without disabilities would have the option to call a third-party
141 vendor to make their court reservations.
142 b. **Staff/ resources feasibility:** Paid service. Staff would need to confirm a third-party vendor
143 that would provide customer service and ADA compliance. May involve longer wait times
144 to reach a reservation agent.
145 c. **Liability:** The DOJ makes clear in the commentary to the new rule that using other means
146 of “effective communication,” such as 24/7 staffed telephone lines, does not create an
147 equivalent service. The DOJ expresses the view that the need to rely on customer service
148 simply cannot present the same ease of use, independence, or privacy protection that
149 website access can provide. As a result, this method of communication cannot substitute
150 for a compliant website.
151
152

153 **Option #8-**

154 Changing the operating hours of the online reservation system to match the Town’s business
155 hours. and provide a staffed line and voicemail to receive and create court reservations
156

- 157 a. **Description:** Players with or without disabilities would have the option to call a staff
158 member to make their court reservations during Town business hours (M-F, no holidays,
159 8:00 am – 4:30 pm). This option includes a voicemail system for calls outside business
160 hours. Staff members would then enter the reservations into the system the next business
161 day in the order they are received.
162 b. **Staff/ resources feasibility:** ADA-compliant court reservation systems are a paid service.
163 There are 60 one-hour timeslots available to reserve for the four pickleball courts per day.
164 This service would be available for the other athletic courts as well. Multiple staff would
165 need to be trained and available for this option given staff work schedules, duties, and

- 166 providing other services to residents. May result in longer wait times to access a staff
167 member or reserve the player's preferred timeslot.
168 c. **Liability:** See Option #7
169
170

171 **Option #9-**

172 Keep the online reservation system as is with no modifications.
173

- 174 a. **Description:** A link to a third-party vendor for court reservations would remain on the
175 Town's website, whether that is the current system or another that may provide improved
176 administrative efficiency or reservation reminders and a waitlist.
177 b. **Staff/ resources feasibility:** The current reservation system is free, however, an ADA-
178 compliant reservation system would be a paid service. Staff to provide administrative
179 support such as closures and cancellations within the online system. These measures are
180 also currently provided via the Town's means of advertising or temporary signage.
181 c. **Liability:**
182 a. **Technical standards:** The Town will have to remediate the current reservation
183 system to ensure that it meets the WCAG 2.1 level AA standards by April 26, 2027.
184 Failure to comply exposes the Town to the enforcement mechanisms and penalties
185 noted above.
186 b. **Accommodation request:** When an individual on the basis of a disability cannot
187 access or does not have equal access to a service, program, or activity through a
188 public entity's website or mobile app that conform to WCAG standards, the public
189 entity still has the obligation to provide the individual an alternative method of
190 access to that service, program, or activity, unless the public entity can demonstrate
191 that the alternative methods of access results in a fundamental alteration in the
192 nature of the service, program, or activity or in an undue financial and
193 administrative burden.
194
195

196 **Recommendation:**

197 From the Town Attorney's office, "each of the suggestions presented carries a different level of
198 inherent risk. While our office can offer general legal advice on the relevant laws and potential
199 outcomes, we are aware of neither the feasibility of implementing those suggestions that may be
200 considered viable, nor the Town's risk tolerance. Ultimately, this is a policy decision."
201

202 Based on the feasibility and legal analysis in this report, Option #1 for open play represents the
203 lowest level of liability. However, based on the public comments received before, during, and after
204 the May 6th meeting, it is the least popular option for the most active players. Conversely, leaving
205 the current reservation system in place or replacing it with a more robust system opens the Town
206 to liability without additional resources committed to accommodating special requests for access.
207 None of these options are perfect.
208

209 Staff is requesting the Board provide a recommendation to Town Council on which option the
210 Town should implement regarding future of the online court reservation system.
211

212
213
214
215
216
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218
219



Jackie Alex, Cultural Services Manager

May 24, 2024
Date

Attachment:

“ADA Website Compliance & Accessibility Requirements for the Pollard Park Athletic Court Reservation System.” Provided by Attorney Holli New representing the Town Attorney’s Office



Town of Ponce Inlet
CULTURAL SERVICES, HISTORIC PRESERVATION,
AND TREE ADVISORY BOARD
REGULAR MEETING MINUTES

June 3, 2024

4
5
6
7 **1. CALL TO ORDER & PLEDGE OF ALLEGIANCE:** Pursuant to proper notice, Chair Bell
8 called the meeting to Order at 5:30 PM in the Council Chambers, located at 4300 S. Atlantic Avenue,
9 Ponce Inlet, Florida and led the attendees in the Pledge of Allegiance.

10
11 **2. ROLL CALL & DETERMINATION OF QUORUM:** A quorum was established with five
12 members and two alternates present.

13
14 Board members present:

15 Ms. LaBarre, Seat 1
16 Ms. Keese, Seat 2
17 Mr. Shaffer, Seat 3
18 Ms. Finch, Seat 4; Vice-Chair
19 Ms. Bell, Seat 5, Chair
20 Ms. Kessler, Alternate Seat 1
21 Mr. Patton, Alternate Seat 2
22

23 Staff members present:

24 Mrs. Alex, Cultural Services Manager
25 Mr. Disher, Town Manager
26 Attorney New, Town Attorney
27 Ms. Rippey, Principal Planner
28 Chief Scales, Public Safety Director
29 Ms. Stewart, Assistant Deputy Clerk
30

31 **3. ADOPTION OF AGENDA:** Chair Bell requested switching the order of items 6-A and 7-A,
32 therefore hearing the tree removal request prior to the athletic court reservation system discussion.
33

34 Vice-Chair Finch moved to approve the agenda as amended; seconded by Ms. LaBarre. The motion
35 PASSED by consensus. 5-0.
36

37 **4. APPROVAL OF MINUTES:**

38
39 **A. May 6, 2024 –** Chair Bell asked if there were any changes; there were none.
40

41 Ms. LaBarre moved to approve the May 6, 2024 meeting minutes as presented; seconded by Vice-Chair
42 Finch. The motion PASSED by consensus. 5-0.
43

44 **5. REPORT OF STAFF:**

45 **A. Cultural Services Update –** Mrs. Alex stated budget preparation has been ongoing for
46 the past few months and staff appreciates the Board's recommendations for future projects; they will
47 be presented to the Town Council for final approval in September. The volunteer workday was a

success; 16 volunteers removed 121 pounds of air potatoes. She applauded all the volunteers for that event and all the work over the last six months removing invasive plants. The experts will be coming back to spray any remaining vines and will tackle Timucuan Oaks. She noted that 90% of the air potatoes have been removed and announced there will be another volunteer workday in the fall.

B. Public Works Update – Chief Scales provided an update on Public Works activities, noting they have some staffing challenges and are down three positions. However, staff is working hard to prioritize to ensure things are taken care of. He announced that Mr. Griffith, Public Works Director, is retiring; his last day will be June 14, 2024. All the work Mr. Griffith has done for the town is greatly appreciated and he has made this community much better. Vice-Chair Finch thanked Public Works for filling the hole on Beach Street so quickly. Chief Scales explained that the city of Port Orange was there on Friday installing some material; Public Works is monitoring the issue to ensure it is taken care of as quickly as possible. Chair Bell asked if the Town will be hiring for the open positions. Chief Scales replied yes and noted that Mr. Steve Dunlap, Assistant Public Works Manager, will be attending these meetings moving forward.

7. NEW BUSINESS:

A. Tree Removal Request - #DEV R 314-2024: Property Address: 112 Inlet Harbor Road – Ms. Rippey provided a [powerpoint.pptx](#) and explained the request is to remove two specimen Live Oak trees measuring 18” and 26” DBH (diameter breast height) noting that any trees 18” DBH or greater require this Board’s approval and the review must include all the criteria listed in the Land Use and Development Code (LUDC). The Board has the authority to approve, approve with conditions, or deny the proposed tree removal. The subject property is a vacant lot in the R-1 zoning district and part of the Inlet Harbor Estates Subdivision that was platted in 2020. She provided an aerial view of the property and an image of where the single-family structure will be and where the two subject trees are located. The applicant indicated in his narrative that he and his contractor deliberated several different options for moving the position of the structure; however, due to the setbacks, it would still require removal of the largest tree. She reviewed the vegetation protection and removal standards; there is nothing rare or unique about these trees that would require them to be preserved and the criterion has all been met. Based on the findings of this report, staff finds the application complies with the tree protection requirements and meets the LUDC Section 4.10.4D to support removal of two Live Oak trees of 18” DBH and 26” DBH, staff recommends approval subject to the following conditions: the removal of the trees may not commence until after all required permits for the new single-family home have been issued by the Planning and Development Department; during construction appropriate measures to prevent destruction or damage of all protective vegetation or trees shall be consistent with the code; and pursuant to the LUDC, a total of 14 trees are required for mitigation for removal of the 18” and 26” DBH trees. Additional mitigation is required for the removal of trees under 18” DBH from the footprint of the primary structure. The final landscape plan and tree replacement mitigation for the property shall meet all requirements pursuant to the code and if there is no room left for all the required trees, the applicant shall request approval to pay an amount equal to the balance of the replacement trees required by table 4.19 multiplied by the tree replacement fee.

Chair Bell moved to recommend approval of the tree removal request - #DEV R 314-2024: Property Address: 112 Inlet Harbor Road subject to the stated conditions; seconded by Vice-Chair Finch. The motion PASSED 5-0, with the following vote: Chair Bell – yes; Vice-Chair Finch – yes; Ms. LaBarre – yes; Ms. Keese – yes; Mr. Shaffer - yes.

6. OLD BUSINESS:

98 **A. Additional Research on the Athletic Court Reservation System – Ms. Alex**
99 explained the purpose of this report was to provide additional information on accessibility options for
100 the court reservation system as requested at last month's meeting. The focus of this topic has been to
101 address the two separate requirements of the American with Disabilities Act (ADA) compliance that
102 government entities must abide by: 1) all web content provided on the Town's website must meet the
103 new Level AA technical standards; and 2) the Town must provide a reasonable modification to a public
104 service when a request for an accommodation is made. The Town has until April 2027 to meet the new
105 technical standards, but we must provide a reasonable modification when requested at any time. Since
106 the distribution of the first staff report, there have been nine suggested options for the future of the
107 Town's court reservation system. A comprehensive staff report has been prepared on the details of each
108 suggested option, including Town Attorney Holli New's legal analysis of the liability risks involved.
109

110 Attorney New provided a [Legal Analysis.pptx](#) and gave an overview of the ADA law
111 emphasizing that it promotes equal opportunity and ensures that people with disabilities can participate
112 fully in society. The ADA has five Titles; Title II is specific to public entities such as local governments,
113 state governments, and any branch of local or state governments, etc. Title II requires public entities to
114 give people with disabilities an equal opportunity to benefit from all their programs, services, and
115 activities; it cannot deny those with disabilities the chance to participate. Third party contractors who
116 are providing public services on behalf of the Town are responsible for complying with Title II; that
117 would be applicable here to the reservation system as it would be an agent of the Town and be required
118 to adhere to the new technical requirements and every other requirement that would apply to the Town
119 regarding any type of accommodation. She explained discrimination and provided examples. Attorney
120 New provided illustrations from the Department of Justice's (DOJ) Title II Technical Requirements
121 Manual which was created to assist public entities with determining how these very broad statutes apply
122 to everyday life. A reasonable modification when requested is also a requirement of Title II; a change
123 or adjustment to a rule, policy, practice, or service to give a disabled person an equal opportunity. If
124 someone were unable to use the Town's court reservation system, and they tell us they cannot use it,
125 we would be legally bound to find an alternate way to give them the same opportunity to reserve a court
126 within the same timeframe, etc. She reviewed illustrations from the DOJ for examples of reasonable
127 modifications; she noted it is a case-by-case basis and the resources of that local government. Title II
128 prohibits unjustified segregation of individuals with disabilities. A public entity is not required to take
129 any action and may deny a request if it would result in a fundamental alteration of its program, service,
130 or activity; or that would produce an undue financial or administrative burden. However, if someone
131 wants to challenge the government on its denial, the burden is on the government to prove in court that
132 it would have been a fundamental alteration or financial or administrative burden. She reiterated that
133 requests are on a case-by-case basis and remedies depend on the resources of the government.
134 Enforcement of the ADA can come from an individual filing a complaint with the DOJ, DOT, and/or
135 other agencies who will investigate and negotiate a remedy with the public entity. The second option
136 is a private lawsuit; remedies include injunctive relief and compensatory damages for any injuries
137 suffered, including when appropriate, for any emotional distress. The prevailing party may also recover
138 attorneys' fees, litigation expenses, etc.
139

140 Attorney New reviewed some of the nine suggestions for the court reservation system and how
141 the new ADA requirements would or would not work with them. Vice-Chair Finch asked if a private
142 court had to follow the same guidelines. Attorney New explained the requirements would not apply to
143 a private court and members only club. She explained that if the Town has a contractor managing the
144 court reservation system, and they violate the ADA, the Town would be liable. She continued to review
145 the options that had been suggested for the reservation system. She reminded the Board that the system
146 may technically be adhering to the ADA accessibility guidelines, but we still must provide a reasonable
147 accommodation. Ms. Keese stated she has spoken with court reservation system vendors; they are

148 aware of the new requirements and are working on a solution and are supposed to contact her when it
149 is ready. Attorney New asked what those companies do if someone requests an accommodation. Ms.
150 Keese explained she contacted different cities and talked to an expert from the ADA who said it would
151 be acceptable. The Town has an ADA Coordinator, she asked if they could review the current system,
152 holdmycourt.com, to see what it is lacking. Attorney New explained again that it is not just the technical
153 aspect of the system but the reasonable accommodation aspect of the ADA. Discussion continued. Ms.
154 Kessler asked if Attorney New had a suggestion for the least liability solution for the Town. Attorney
155 New explained that is what her analysis is; she took the nine suggestions and put them through the
156 gamut of case law. She conducted extensive research and addressed each suggestion; she wants the
157 Board to be aware of the vulnerability to liability. She explained that the spirit of the ADA is to have
158 someone do something independently and not be contingent on another person. The Board discussed
159 the options and the liabilities of each one. Vice-Chair Finch stated she appreciates all the research and
160 time Attorney New and Ms. Alex have put into this to address everyone's concerns. Ms. LaBarre agreed
161 and added that the Board has been given a legal opinion and we would be remiss to not accept that
162 opinion. She reminded the Board that there was a request for an ADA accommodation, so it is an issue.
163 Some of the example solutions provided were cities who have a different budget than we do; we must
164 review the cost/benefit analysis which the attorney has done for us. Attorney New explained that
165 changing operating hours has been determined by the DOJ to not be sufficient. She reiterated that the
166 Town's full compliance with the technical standards does not mean it has met all obligations under the
167 ADA. The discussion continued regarding the various options suggested for the court reservation
168 system and what would offer the least risk. Chair Bell opened public comment.

170 Mary Comfort, 85 Oceanway Drive, stated she submitted an email on May 10, 2024 regarding a
171 court reservation system that complies with the new Level AA regulations and other municipalities
172 who are using it. She also submitted a link to the system's accessibility conformance report that is listed
173 on their website. She sent the email to Mike Disher and Mayor Lois Paritsky; they responded that the
174 Town Attorney was reviewing the information. Ms. Alex explained it was reviewed internally with the
175 ADA Coordinator and it does not meet all the requirements. Ms. Comfort argued that it does; she has
176 an email from them that confirms that they meet all ADA requirements that she can forward to the
177 Town. She encouraged the Town to contact them; www.supersaas.com/info/sports/courts/system; at
178 the bottom of that page is the performance report that explains how they meet each parameter of the
179 new regulations. Ms. Comfort referred to the ADA.gov fact sheet on the new rule issued March 8, 2024
180 that states the final rule has specific requirements about how to ensure the web content and mobile
181 applications are accessible to people with disabilities; it states the reasons the department sets specific
182 requirements for web and mobile app accessibility and what would cause a barrier. The rules would
183 ensure people with disabilities have access to state and local governments services, programs, and
184 activities available on websites and mobile apps. This rule will also provide state and local governments
185 with more clarity about what they must do to comply with the ADA. It sounds like these guidelines are
186 intended to make people with disabilities have access via the web and apps; otherwise, how can
187 governments ever use websites at all? If someone contacts the Town after we have adopted a system
188 that complies with these rules, and they make a complaint, the Town has the ability through the ADA
189 Coordinator to get information to validate their accommodation. She asked that the Town keep the
190 court reservation system in a format that is compliant with the new rules and as we receive complaints,
191 vet those complaints to see if an accommodation is really required. Ms. LaBarre asked if this company
192 was investigated. Ms. Alex explained the Town's ADA Coordinator assesses them and they did not
193 meet all the requirements; they also did not meet the modification request. Ms. Comfort stated she
194 wanted to challenge that as there are municipalities currently using this system on the basis that they
195 are compliant with the new ADA rule. Ms. Keese asked if the ADA Coordinator explained why. Ms.
196 Alex explained she does not have the specifics with her; the assignment today is to assess the reasonable
197 liability risk the Town is willing to take on and we may be different from other municipalities. Attorney

198 New added that even if this system Ms. Comfort suggested did meet all the new requirements, the Town
199 still must meet the second part of the analysis to meet a modification if requested.
200

201 Dave Fraboni, 4733 Riverglen Boulevard, stated we are not here to discuss liability; that is the
202 job of the Town Attorney. We are here to make a recommendation for what we think should happen and
203 the fact that other websites have not been looked at after a month flabbergasts him. There are residents
204 here that believe in the system we have, and it provides the opportunity to provide a court. Other cities
205 have found a way to make it work and be ADA compliant. If the ADA Coordinator says it is not
206 compliant, then they should be here to explain it to us. The choice is whether we want the reservation
207 system or not; he understands some people do not want the reservation system because it creates work;
208 we must make sure there are no scams and that it is available to everyone. It does not guarantee the right
209 to get a court when you want, but that would not be an equal opportunity for everyone. Jan Shaw, 4358
210 Candlewood Lane, stated she contacted the ADA and provided them a synopsis of our last meeting; the
211 ADA representative told her that "the ADA is about resolution, not lawsuits. The ADA is about making
212 sure the person with the disability is being heard and is made to feel included in the decision to correct
213 the concern." Their comment was that if, as Ms. Genovese did, a concern is made known, the
214 conversation should have immediately been with Ms. Genovese, about what the concern was, and then
215 to make the appropriate accommodation. If at that point the complainant was satisfied, and resolved to
216 their satisfaction, it is done; the ADA is not about lawsuits and would not point fingers at Ponce Inlet
217 that we did not do the right thing if the complainant is satisfied. She has an attorney friend that represents
218 a city who she discussed this with on how he would have handled this; he agreed that he never would
219 have had a public meeting but would have dealt with the person directly to make the accommodation
220 which will cure later issues. Lisa Genovese, 4628 Riverwalk Court, stated that if someone is unable to
221 make their own reservation, there is nothing to prevent them from designating another person to do it
222 for them. She volunteered her time to help man the phones if needed. Chair Bell closed public comment
223 and opened Board discussion. Vice-Chair Finch thanked everyone for their email comments; she read
224 them all. She disagrees that this is just about the ADA; there have been many concerns, one of which is
225 being fair to all players. Reserving courts and not showing up to play is a problem; an open court paddle
226 system would solve all the problems; it is fair to all players. Daytona Beach Shores has it and it seems
227 to work well. She does not like the idea of having two open courts and two reserved courts. Ms. Kessler
228 stated she also is not for dividing the courts; the Town has until April 2027 to become compliant; she
229 asked if that would buy time to keep the current system and find something else in the meantime. Chair
230 Bell stated the reservation system works well for families; she suggested a good faith effort to send to
231 Town Council and to alleviate resident concerns, is a mix of Option 3, classify certain pickleball courts
232 as open play; and Option 8, changing the operating hours of the online reservation system to match the
233 Town's business hour. Ms. LaBarre disagreed and stated the only option is Option 1, remove the online
234 court reservation system and classify all courts as open play; otherwise, we are creating more problems.
235 This has been vetted very carefully by staff; we need the least onerous option, which is Option 1 and
236 has been recommended by the Town Attorney. Discussion continued regarding the options and
237 associated risks.
238

239 Chair Bell moved to recommend a combination of Option 3, classifying at least one pickleball court as
240 open play; and changing the operating hours of the online reservation system to match the Town's
241 business hours as outlined in Option 8; seconded by Mr. Shaffer. The motion PASSED 3-2, with the
242 following vote: Chair Bell – yes; Mr. Shaffer – yes; Ms. Keese – yes; Vice-Chair Finch – yes; Ms. LaBarre
243 – no.
244

245 Chair Bell suggested everyone check the Town Council agenda for this item as this is a
246 recommendation to the Town Council and they could go in a different direction.
247

248 **8. PUBLIC PARTICIPATION:** There was no public participation.
249

250 **9. BOARD/STAFF DISCUSSION:** Chair Bell asked if staff had an opportunity to research the
251 beach pads she suggested last month. Ms. Alex explained not yet, but she will look into it.
252

253 **10. ADJOURNMENT:** The meeting was adjourned at 7:14 p.m.
254

255 Prepared and submitted by:
256

257 -----
258 Debbie Stewart, Assistant Deputy Clerk
259

260 Attachment(s): Resident Comment

Options to provide reasonable modification to online court reservation system

Option #1

Remove the online court reservation system and classify all athletic courts as open play

Description: A paddle rack is placed at each pickleball court containing 4-16 slots for players to insert their paddle, with a sliding indicator to signify which group is next to play.

Option #2

Resident group manages an ADA-compliant court reservation system

Description: Resident group enters into a management agreement with the Town, subject to approval by the Town Council. This arrangement is comparable to those agreements held between the Town and the Ponce Inlet Community Center Board and the Lighthouse Preservation Association to manage Town-owned assets on the Town's behalf.

Option #3

Classify certain pickleball courts as open play

Description: One-to-three pickleball courts would be designated as open play, leaving the other pickleball court(s) available for reservations.

Option #4

Classify the tennis court as open play

Description: Staff may also designate certain hours between tennis and pickleball for open play. For example, tennis from 6:00 am - 2:00 pm. However, this leaves tennis players with less athletic court time than all other sports.

Option #5

Block off (4) hours each day for open play

Description: Staff may designate certain hours for open play, with reservations available for the remaining hours. This option is made for either the tennis court or select pickleball courts.

Option #6-

Select a new reservation system vendor that is ADA-compliant

Description: Currently, the Town utilizes the vendor "holdmycourt.com" for a free court reservation system. Staff have researched several options including those provided at the May meeting from around the state and have not yet found one that is fully compliant with the new WCAG 2.1 Level AA technical standards. Additionally,

Staff found no other cities within the County operating an online reservation system for their pickleball courts.

Option #7-

Hire a 24/7 call center to receive and enter court reservations

Description: All athletic court players, with or without disabilities, would have the option to call a third-party vendor to make their court reservations. This would be a paid service.

Option #8-

Changing the operating hours of the online reservation system to match the Town's business hours, and provide a staffed line and voicemail to receive and create court reservations

Description: All athletic court players, with or without disabilities, would have the option to call a staff member to make their court reservations during Town business hours (M-F, no holidays, 8:00 am – 4:30 pm). This option includes a voicemail system for calls outside business hours. Staff members would then enter the reservations into the system the next business day in the order they are received. There are 60 one-hour timeslots available to reserve for the four pickleball courts per day. This service would be available for the other athletic courts as well. Multiple staff would need to be trained and available for this option given staff work schedules, duties, and providing other services to residents. May result in longer wait times to access a staff member or reserve the player's preferred timeslot.

Option #9-

Remove the online reservation system to be in-person.

Description: All athletic court players, with or without disabilities, would make a court reservation in-person on a paper sign-up sheet provided at the Ponce Inlet Community Center during its current business hours of Monday-Friday, 9:00am-12:00pm.

Option #10-

Keep the online reservation system as is with no modifications.

Description: A link to a third-party vendor for court reservations would remain on the Town's website, whether that is the current system or another that may provide improved administrative efficiency or reservation reminders and a waitlist.

RESOLUTION NO. 2019-11

**A RESOLUTION OF THE TOWN OF PONCE INLET,
VOLUSIA COUNTY, FLORIDA SUPPORTING
CONTINUED IMPLEMENTATION OF POLICIES
AND PRACTICES FOR ADA COMPLIANCE AS IT
RELATES TO THE TOWN'S DIGITAL CONTENT;
AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, access to civic life by people with disabilities is a fundamental goal of the Americans with Disabilities Act (ADA); and

WHEREAS, the Town of Ponce Inlet is fully committed to providing equitable access to the Town's programs and services, including digital content posted on the Town's website and social media communications; and

WHEREAS, governmental entities must ensure effective communication - including the provision of necessary auxiliary aids and services - so that individuals with disabilities can participate in civic life; and

WHEREAS, local governments are not required to take any actions that will result in a fundamental alteration or in undue financial and administrative burdens. 28 C.F.R. §§35.160-35.164; and

WHEREAS, the Town has designated an ADA Coordinator for records and communication purposes for individuals requiring accommodation; and

WHEREAS, the Town of Ponce Inlet, in accordance with the ADA and Florida law, will provide reasonable accommodations to any person with a disability who needs an accommodation in order to attend any Town public hearing or meeting of a body, board, or magistrate acting in its official capacity on behalf of the Town with 48 hours' notice in advance of the scheduled public hearing or meeting; and

WHEREAS, the Town has revised and expanded ADA disclosures and notifications of accommodations on the Town's website; and

WHEREAS, the Town sought to provide public access to archived audio of governmental meetings but has determined that closed captioning of meetings is currently cost-prohibitive. Therefore, the Town has determined that all audio recordings of meetings be removed from Town's website; and

WHEREAS, staff has received training for making web content more accessible to accommodation software for the visually impaired and is in the process of implementing new software to expand accessibility to readers and other accommodations; and

WHEREAS, the Mayor and Town Council of the Town of Ponce Inlet hereby confirm a

policy of ADA accessibility for the Town's website and digital communications to certify current and continued compliance with ADA accessibility.

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

Section 1. The foregoing "Whereas" clauses verified as true and correct and are incorporated herein.

Section 2. The Mayor and Town Council hereby confirm that the Town Manager is to maintain policies and practices to ensure the current and continued compliance of the Town's digital content with ADA requirements and to maximize the accessibility of civic content for all users. The Town Manager is directed to continually update and maintain the Town's website to ensure that it remains equally accessible to those with disabilities.

Section 3. Effective Date. This resolution shall take effect immediately upon its adoption.

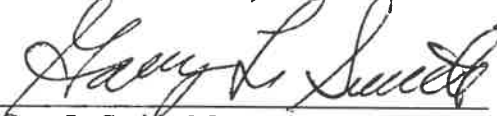
It was moved by Councilmember Paritsky and seconded by Vice-Mayor Hoss that said Resolution be adopted. A roll call vote of the Town Council on said motion resulted as follows:

Mayor Smith, Seat #1	Yes
Councilmember Milano, Seat #2	Yes
Vice-Mayor Hoss, Seat #3	Yes
Councilmember Perrone, Seat #4	Yes
Councilmember Paritsky, Seat #5	Yes

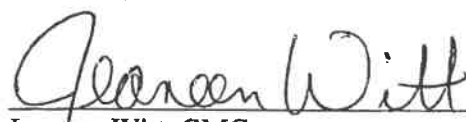
Passed this 19th day of September 2019.



Town of Ponce Inlet, Florida


Gary L. Smith, Mayor

ATTEST:


Jeaneen Witt, CMC
Town Manager/Town Clerk

Memorandum

Shepard, Smith, Kohlmyer & Hand, P.A.

2300 Maitland Center Parkway, Suite 100

Maitland, Florida 32751

Telephone (407) 622-1772

To: Mike Disher, AICP, Town Manager
Dan Scales, CFO, Public Safety Director
Jackie Alex, Cultural Services Manager

From: Holli New, Esq.

Subject: Ponce Inlet – ADA Website Compliance Follow Up

Date: July 1, 2024

This memorandum serves as a follow-up to previous discussions regarding the Town of Ponce Inlet's online athletic court reservation system and its compliance with Title II of the Americans with Disabilities Act (the "ADA"). On June 3, 2024, the Town's Cultural Services Advisory Board issued a formal recommendation to the Town Council outlining potential modifications to address accessibility concerns associated with the current reservation system ("Recommendation 1"). After this meeting, Town staff provided an additional suggestion to this office for analysis that was not previously reviewed by the Board ("Recommendation 2"). At the request of the Town, this memo aims to assess both recommendations against the established guidelines under Title II.

Background

Pursuant to Title II of the ADA, a qualified individual with a disability cannot, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.¹ To that end, public entities must "make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity."²

¹ 42 U.S.C. § 12132.

² 28 C.F.R. § 35.130(b)(7).

Recommendation 1: retain the current online athletic court reservation system; classify one court as open play only; provide a staffed phone line during Town business hours; and change the operating hours of the online reservation system to match the Town's business hours.

Current Reservation System

As previously noted, if the Town chooses to retain the current reservation system, the website must be remediated to meet the WCAG 2.1 Level AA standards (the "Guidelines"). The Guidelines offer a comprehensive framework addressing accessibility for a wide range of disabilities, including visual impairments, motor limitations, and cognitive differences. However, the Department of Justice (the "DOJ") recognizes that no single set of standards can encompass the entire spectrum of disabilities. Therefore, even with a fully WCAG-compliant reservation system, state and local governments remain obligated under Title II to provide individuals with disabilities with effective communication, reasonable modifications, and an equal opportunity to participate in or benefit from its services, programs, and activities. For example, "[i]f a person's disability stops them from accessing a county's mobile app that meets WCAG 2.1, Level AA to buy tickets to the county's annual fair, the county needs to provide an alternative way for the person to purchase tickets."³ According to the DOJ, governments "must figure out on a case-by-case basis how best to meet the needs of the individual with a disability."⁴ That is what brought us to this discussion.

If an individual cannot utilize the online platform, the Town must provide alternative methods for making reservations. However, there is no one-size-fits-all solution for alternative reservation methods. Rather, the most appropriate approach depends on the specific needs and preferences of the individuals with disabilities, the resources available to the Town, and the feasibility of various accommodations. Analyzing the potential liability for various suggestions is limited, as the ultimate determination of whether the Town provided an equal opportunity to benefit from the reservation service is a fact-intensive question. This question can only be

³ U.S. Dep. of Justice, *Accessibility of Web Content and Mobile Apps Provided by State and Local Government Entities: A Small Entity Compliance Guide* (May 22, 2024), <https://www.ada.gov/resources/small-entity-compliance-guide>.

⁴ *Id.*

resolved by a jury, based on substantive law and a thorough examination of all evidence in the record.⁵

Single Court Open Play

While designating one court as open play is a step in the right direction, it presents a double-edged sword for accessibility that the Town should take into consideration when determining whether it is an effective solution. On the one hand, open play seemingly provides fair access for all the public. Individuals who are unable to make online reservations due to a disability would have an equal opportunity to use the court as those who could otherwise secure a reservation online. This approach promotes inclusivity by ensuring that visitors with disabilities are not completely excluded from utilizing the courts. The drawback, however, is that visitors who can make reservations online still have access to four courts (both open and reserved), while those relying on open play are limited to one court, effectively maintaining a disparity in access. More importantly, the open court approach does not directly address the core issue of enabling visitors with disabilities to make reservations.

Changing Operating Hours

Synchronizing the online reservation hours with the operational hours of the Town is a proposal that has merit and should be considered. While not an exhaustive solution, this recommendation creates more equitable reservation opportunities for the public by ensuring the same access window for both online and alternative reservation methods.

Liability Analysis

Overall, the Board's proposed recommendations represent positive movement towards a more inclusive environment for individuals with disabilities. Moreover, such action demonstrates the Town's commitment to adapting its practices and policies so that public services and programs can be enjoyed by the public, not just the majority. It is crucial to recognize, however, that these proposed solutions do not absolve the Town of potential liability. The focus of ADA compliance lies in ensuring equal opportunity to benefit from the public service.

The first-come, first-served nature of a web-based reservation system presents a unique challenge where ensuring an "equal opportunity to benefit" effectively means avoiding a scenario

⁵ If a reasonable jury could conclude from the facts that the Town's offered accommodation, or lack thereof, denied equal access then the Town is liable. *Childress v. Fox Associates, LLC*, 932 F.3d 1165, 1171 (8th Cir. 2019); *Argenyi v. Creighton University*, 703 F.3d 441, 449 (8th Cir. 2013).

where those requesting an accommodation to make a reservation are left with limited or undesirable reservation options.⁶ Legal liability arises from the inequitable experience *created* by the chosen accommodation, rather than the specific accommodation employed. For example, the DOJ has recently updated its stance on the efficacy of staffed phone lines as a guaranteed accommodation for individuals with disabilities under the ADA.⁷ This shift has significant implications for the Town when determining what constitutes a reasonable accommodation under the ADA. While staffed phone lines were once a primary communication channel, their limitations in ensuring equal access for all disabilities have become more apparent.⁸ As a result, the DOJ has indicated that it no longer considers constantly staffed phone lines to be a realistic means of providing equal opportunity to individuals with disabilities.⁹ However, this policy change should not be misconstrued as a complete dismissal of phone lines as a method for providing access to reservation services. Calling a staffed phone line remains a viable solution for some visitors with disabilities.¹⁰ Instead, the key takeaway is the notion of "functional equivalence." In the context of reservations, this means providing alternative reservation methods that offer features and functionality comparable to the immediacy and convenience of online bookings. The more comparable the experience, the less likely the Town will face legal challenges regarding accessibility under the ADA.

Recommendation 2: remove the online reservation system. All players would make a reservation in-person on a paper signup sheet provided at the Ponce Inlet Community Center during its current business hours of Monday-Friday, 9:00am-12:00pm.

Requiring the public to physically drive to the Community Center to make a reservation does address the issue of immediacy that is associated with online bookings. However, no solution is perfect. A physical reservation may introduce other barriers for those with disabilities. For example, individuals with mobility impairments may face challenges in physically visiting the

⁶ I.e., the "leftover" slots.

⁷ See U.S. Dep't. of Justice, *Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities*, 89 Fed. Reg. 31320 (04/24/2024) (to be codified at 28 C.F.R. 35).

⁸ *Id.*

⁹ *Id.*

¹⁰ See, e.g., *Nat'l Fed'n of the Blind v. Target*, 452 F.Supp. 2d (N.D. Cal. 2006)(declining to dismiss case based on argument that Target provides information contained on its website in other formats); *Access Now v. Blue Apron, LLC.*, No. 17-CV-116-JL, 2017 U.S. Dist. LEXIS 185112 (D.N.H. Nov. 8, 2017)(denying motion to dismiss based on phone alternatives, explaining whether telephone number is sufficient for "effective communication" is a fact-specific inquiry).

Center to make a reservation during its business hours. Not all individuals with disabilities have access to personal or public transportation. This limitation could make it impractical or even impossible for some to drive to the Center during its business hours to make a reservation. Moreover, even with a physical system, the "first-come, first-served" nature inherent in any reservation method remains. This can disadvantage visitors who require additional time for travel due to their disability, as they might miss out on reservations simply due to the logistics of physically arriving first.

Switching to a physical reservation system does not substantially change the analysis as far as the Town's legal obligations. The core principle of Title II is to ensure individuals with disabilities are not excluded from or denied equal access to the benefits of a public entity's services, programs, or activities. Regardless of the standard reservation method (online or physical), the Town's responsibility under Title II remains the same: offering alternative reservation methods to those who cannot utilize the standard method due to a disability.

From: [ADA Southeast](#)
To: [Jackie Alex](#)
Subject: TA Response: ADA TA Jackie Alex
Date: Tuesday, July 30, 2024 4:46:54 PM
Attachments: [image001.png](#)

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Jackie Alex
Cultural Services Manager
Town of Ponce Inlet
4300 South Atlantic Avenue
Ponce Inlet, FL 32127
Phone: 386-322-6703
jalex@ponce-inlet.org

July 30, 2024

Dear Jackie:

Thank you for contacting the Southeast ADA Center, your regional resource center on the Americans with Disabilities Act (ADA). It was a pleasure to speak with you to discuss the ADA and digital access. The Southeast ADA Center is a project of the Burton Blatt Institute at Syracuse University, and it is one of ten regional resource centers funded by the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR). NIDILRR is a Center within the Administration for Community Living (ACL), Department of Health and Human Services (HHS). Our purpose is to provide accurate ADA information, informal technical assistance and training on the ADA to business, government, and people with disabilities.

Disclaimer: We are only authorized to provide informal guidance about the Americans with Disabilities Act. We are not allowed to enforce the law in any way, provide advocacy services or legal representation, provide legal review of any documents, give legal advice, or make a determination of any entity's legal rights or responsibilities under the ADA. In addition, the informal guidance that we provide is not binding on any agency with enforcement responsibility under the ADA.

Your Question: I had the opportunity to talk with the Town Manager

on our discussion and I was hoping you can provide additional feedback.

Staff had brought the options to an advisory Board to provide a recommendation to our Council, which they selected to combine Options #10, 3, and 8. Could you provide your feedback/ opinion on this recommendation?

Additionally, from our conversation, I am understanding that ADA complaints or reasonable modification requests are handled by the government entity working directly with the individual on a solution and that entity must make an attempt to meet a reasonable modification when an ADA compliance complaint is submitted.

If you can include clarification on both aspects within your overview of the options, staff would greatly appreciate the opportunity to clearly communicate the perspective from an ADA standpoint.

Our Response: Applaud your commitment to equal access. Please review the information below and contact us if you have questions or need further guidance on the ADA.

Options to provide reasonable modification to online court reservation system

Regarding the selection to combine Options #10, 3, and 8, this would provide an equitable reasonable modification in that people with and without disabilities have the same opportunity for access to reservations and get specific or desired time slots or courts. If a person with a disability doesn't get the desired time slot this is not relative to reasonable modification as people with and without disabilities have the same opportunity.

For option 10, leaving the system as-is for now but ensuring to review the system for accessibility under the new rules. And combining with option 8 and/or option 3, provides for equitable reasonable modification. In a separate email I can provide more information.

Option #8

Changing the operating hours of the online reservation system to match

the Town's business hours, and provide a staffed line and voicemail to receive and create court reservations

Option #3

Classify certain pickleball courts as open play

Description: One-to-three pickleball courts would be designated as open play, leaving the other pickleball court(s) available for reservations.

Option #10

Keep the online reservation system as is with no modifications.

a. Description: A link to a third-party vendor for court reservations would remain on the Town's website, whether that is the current system or another that may provide improved administrative efficiency or reservation reminders and a waitlist.

Handling of ADA complaints or Reasonable Modifications

For your question on handling of ADA complaints or reasonable modifications, your understanding is "handled by the government entity working directly with the individual on a solution and that entity must make an attempt to meet a reasonable modification when an ADA compliance complaint is submitted."

Americans with Disabilities Act (ADA): The term reasonable modification is used in Title II and Title III of the ADA. Title II covers state and local government (public entities), while Title III covers businesses and nonprofit organizations open to the public (public accommodations). A reasonable modification is a change in a policy, practice, or procedure that is done to offer equal access and equal opportunity for a person with a disability. There are limits on these changes, and that is where reasonable comes in. Title II public entities—such as a public library or county social service office—do not have to make a modification that would fundamentally alter a service, program, or activity that they must provide to the public.

In accordance with Title II of the Americans with Disabilities Act (ADA) the policy should be to provide individuals with disabilities with a reasonable modification to the policies, practices, and procedures so they can access government facilities, programs, services, and activities.

Furthermore, the policy should have that these modifications are provided quickly, easily and without additional disability justification. The policy should also define what is a reasonable modification, which is a change or exception to a policy, practice, or procedure that allows people with disabilities to have equal access to programs, services, and activities. Reasonable modifications must always be related to the individual's specific limitation caused by the disability. When requesting a reasonable modification to a program or service, an individual with a disability is not required to provide a medical documentation or diagnosis to justify their request, but they must be able to explain how their disability is related to the requested modification.

Disclaimer: Accessibility cannot be guaranteed for external websites. The Southeast ADA Center provides these links as a courtesy and does not endorse, take responsibility for or exercise control over the organization, or vouch for the accuracy of the contents of the destination link.

Below is a link to an example of a Reasonable Modification Policy. Although the example relates to Transportation, this may also be helpful for outlining the process for a request or complaint.

[Example: Reasonable Modification Policy from Mitchell County, North Carolina](#)

Web: <https://www.mitchellcountync.gov/policies/reasonable-modification-policy>

If you need additional information on the ADA, please call our office at 1-800-949-4232 [AL, FL, GA, KY, MS, NC, SC, TN] or 404-541-9001, and speak with one of our information specialists. Our office hours are 9:00 AM -5:00 PM Eastern time, Monday through Friday.

Sincerely,

Barry Whaley, Project Director

Marsha Schwanke, Web Specialist

Southeast ADA Center - A project of the Burton Blatt Institute (BBI) at
Syracuse University

2355 Huguenard Drive Suite 200, Lexington, KY 40503

Toll-free: 1-800-949-4232 (voice: AL, FL, GA, KY, MS, NC, SC, TN)

Phone: 404-541-9001

Web: ADAsoutheast.org



The contents of this technical assistance, email, publication, letter, or film, were developed by the [Burton Blatt Institute at Syracuse University](#), with funding from the [Southeast ADA Center](#) under NIDILRR Grant Number #90DPAD0005-01-00 from the [National Institute on Disability, Independent Living, and Rehabilitation Research \(NIDILRR\)](#), a Center within the [Administration for Community Living \(ACL\)](#), U.S. Department of Health and Human Services (HHS). The Southeast ADA Center is a project of the Burton Blatt Institute at Syracuse University. The contents do not necessarily represent the policy of NIDILRR, ACL, HHS, and you should not assume endorsement by the Federal Government.

The information, materials, and/or technical assistance provided by the Southeast ADA Center are intended solely as informal guidance on the Americans with Disabilities Act (ADA), and are neither a determination of your legal rights or responsibilities under ADA, nor binding on any agency with enforcement responsibility under the ADA. The Southeast ADA Center does not warrant the accuracy of any information contained herein. Furthermore, in order to effectively provide technical assistance to all individuals and entities covered by the ADA, NIDILRR requires the Southeast ADA Center to assure confidentiality of communications between those covered and the Center. Any links to non-Southeast ADA Center information are provided as a courtesy, and are neither intended to, nor do they constitute, an endorsement of the linked materials or its accessibility.



Meeting Date: 8/22/2024

Agenda Item: 11-A

Report to Town Council

Topic: First reading of Ordinance 2024-03, Amendments to LUDC Section 3.17, Docks, Boathouses, Boat Slips, and Piers.

Summary:

The Planning & Development Department is proposing amendments to the LUDC Section 3.17, Docks, Boathouses, Boat Slips, and Piers. The proposed changes were drafted in response to concerns that the present requirements for the calculation of maximum dock square footage are too challenging for certain properties to meet.

Suggested motion:

Staff recommends approval of proposed Ordinance 2024-03, amending Section 3.17, Docks, Boathouses, Boat Slips, and Piers of the LUDC to be consistent with the comprehensive plan.

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: Michael E. Disher, AICP, Town Manager
 From: Patty Rippey, AICP, Senior Planner
 Through: Darren Lear, AICP, Planning & Development Director
 Date: August 13, 2024
 Subject: Ord. No. 2024-03 – Docks, Boathouses, Boat Slips, and Piers

MEETING DATE: August 22, 2024

1 INTRODUCTION

2 This proposed ordinance has been drafted in response to concerns that the present requirements
 3 for the calculation of maximum dock square footage are too challenging for certain property
 4 owners to meet.

6 AUTHORITY AND PROCESS

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

13
 14 The Planning Board reviewed the proposed amendments at its April 23, 2024 meeting and
 15 requested Staff to revise the ordinance to include certain changes. The Planning Board reviewed
 16 the revised amendment on July 23, 2024 and unanimously recommended approval by the Town
 17 Council at its next regularly scheduled meeting.

18
 19 Following the Board's recommendation, the Town Council will review the ordinance at the August
 20 22, 2024 meeting. If approved on 1st reading at a public hearing, the amendment will then be
 21 scheduled for a 2nd reading at a public hearing for adoption.

22
 23
 24

BACKGROUND

The impetus for the proposed ordinance stems from a 2023 variance case (No. 14-2023) in which the applicant sought relief from the maximum dock size requirements in the LUDC. In that case, the length of access walkway to the terminal platform caused the proposed dock to exceed the maximum dock size. It should be noted that before 2012, access walkways were not included in dock size calculations. Ordinance 2012-14 amended the dock size calculation language, stating that the area of a dock shall include all existing and proposed docks and related structures beginning at the mean high water line (MHWL) and extending water ward.

In the 2023 variance case, the applicant requested to construct a 525 square-foot dock together with a 2,000 square-foot walkway, for a total of 2,525 square feet. The long access walkway was necessary to cross through 500 feet of wetlands to reach open water from the upland portion of the property. However, per code, the maximum total square footage allowed for the subject dock and walkway was 700 square feet, based on the 70-foot lot width at the MHWL.

During the March 28, 2023 variance hearing, the Board questioned compliance with certain variance criteria. The Board asked how the conditions and circumstances were peculiar to the land and not typical of other lands in the same zoning if the properties to the south had similar conditions. Staff responded that no other lot has the same exact lot configuration and the distance between the MHWL and navigable waters is not the same as other properties. Staff continued that the lots to the south were able to construct their docks without a variance, as they were not subject to the size limitation enacted in 2012 that is now limiting the current owners from constructing a dock without first obtaining a variance. It was suggested later after the hearing concluded, during Board discussion, that an amendment to the LUDC could make similar variances for properties in similar circumstances unnecessary.

DISCUSSION

The 2012 LUDC amendment regarding the dock square footage calculation has proven to be problematic for certain property owners with MHWLs that are a substantial distance from the navigable waterway. Based on an aerial assessment of the riverfront, there are seven properties on the Daggett Creek branch of the Halifax River and approximately six additional homes near the south end of S. Peninsula Drive that are in a similar situation.

The most significant part of the code amendment is to remove access walkways from the dock size measurement. The entire list of proposed amendments includes:

- In Section 3.17.1.A, adding definitions for “access walkway” and “terminal platform”
- In Section 3.17.2.A, adding, “the main pier or walkway shall not exceed six feet (6’) in width”
- In Section 3.17.2.G,
 - Removing references to state and/or federal approval
 - Clarifying that access walkways shall not be included in the maximum dock size calculation
- In Section 3.17.2.H.4, adding requirement to meet all other dimensional standards
- In Section 3.17.2.M, adding “access walkway” to the types of structures that shall not have enclosed sides.

Comprehensive Plan

Staff reviewed the policies of the Comprehensive Plan and found the Ordinance will maintain consistency with the Town's desired vision and direction. In particular, the proposed ordinance will ensure that Coastal Management Element Policy 1.6.3 is implemented fairly for all single-family riverfront lots.

Policy 1.6.3: Single-Family Boat Slip Allowance. Single-family residential riverfront lots will not be denied their riparian rights to construct one dock per lot. If single-family residential riverfront lots are subdivided subsequent to the approval of the MPP, each additional single-family residential riverfront lot shall represent one powerboat slip that is part of the total number of powerboat slips allocated to the Town of Ponce Inlet.

Recommendation

The Planning Board recommends approval of the amendment to the Town Council. Staff recommends the Town Council approve Ordinance No. 2024-03, amending Section 3.17 – *Docks, Boathouses, Boat Slips, and Piers* of the LUDC to be consistent with the comprehensive plan.

ORDINANCE NO. 2024-03

AN ORDINANCE OF THE TOWN OF PONCE INLET, FLORIDA, AMENDING THE LAND USE AND DEVELOPMENT CODE, ARTICLE 3 USE REGULATIONS, SECTION 3.17 DOCKS, BOATHOUSES, BOAT SLIPS, AND PIERS; PROVIDING DEFINITIONS AND STANDARDS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article 3 of the Ponce Inlet Land Use and Development Code (LUDC) establishes regulations for particular uses that are permitted in the LUDC; and

WHEREAS, Section 3.17 of the LUDC regulates docks, boathouses, boat slips and piers; and

WHEREAS, concerns have been raised that the present requirements for the calculation of maximum dock square footage are too challenging for certain property owners to meet, and that amendments to the LUDC are necessary to address these concerns; 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.

NOTE: Underlined words constitute additions to the Town of Ponce Inlet Land Use Development Code (LUDC) as amended by Ordinance 2024-03, ~~striketrough~~ constitutes deletions, and asterisks (***) indicate an omission from the existing text of said LUDC as amended which is intended to remain unchanged.

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

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

SECTION 2. Incorporation of Amendments. The proposed amendments to **Article 3, Section 3.17** of the Land Use and Development Code are attached to this Ordinance as Exhibit "A" and are hereby incorporated into the text of this Ordinance as though fully set forth herein verbatim as amendments to the Land Use and Development Code.

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

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

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

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

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

Mayor Paritsky, Seat #1	_____
Councilmember Milano, Seat #2	_____
Councilmember White, Seat #3	_____
Councilmember Villanella, Seat #4	_____
Vice-Mayor Smith, Seat #5	_____

Approved on first reading this ____ day of _____ 2024.

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

Mayor Paritsky, Seat #1	_____
Councilmember Milano, Seat #2	_____
Councilmember White, Seat #3	_____
Councilmember Villanella, Seat #4	_____
Vice-Mayor Smith, Seat #5	_____

87
88 Approved and adopted on second reading this ____day of _____ 2024.

89
90 Town of Ponce Inlet, Florida:

91
92
93 _____
94 Lois A. Paritsky, Mayor

95 ATTEST:

96
97
98 _____
99 Kim Cherbano, CMC
100 Town Clerk

1 EXHIBIT “A”

2
3 **ARTICLE 3 – USE REGULATIONS**

4
5 ***

6
7 **SECTION 3.17. DOCKS, BOATHOUSES, BOAT SLIPS, AND PIERS**

8 **3.17.1 Applicability.**

9 This section applies to boathouses, boat slips, piers, docks, and marginal docks in any zoning
10 district along the Halifax River or any of its arms, canals or tributaries.

11 *A. Definitions.*

12 Access Walkway. The part of a dock that connects a riparian owner’s property to a terminal
13 platform. The main access pier or catwalk shall be considered a walkway.

14 *Boathouse.* An accessory use to a residence adjacent to a waterway, providing covered space
15 for the housing of a boat and its customary accessories. A boathouse may not be used for human
16 habitation.

17 *Boat slip.* See definitions, section 3.9.

18 *Dock.* A fixed or floating structure, including access walkways, terminal platforms, catwalks,
19 mooring pilings, lifts, davits and other associated water-dependent structures, used for mooring
20 and accessing vessels, pursuant to Chapter 18-21 F.A.C.

21 *Marginal dock.* A dock placed immediately adjacent and parallel to the shoreline or seawall,
22 bulkhead or revetment, pursuant to Chapter 18-21 F.A.C.

23 *Mooring piling.* A post, pillar, piling, or stake used for the purpose of berthing buoyant vessels
24 either temporarily or indefinitely, whether or not it is used in conjunction with a dock.

25 *Pier.* A fixed or floating structure used primarily for fishing or swimming and not designed
26 or used for mooring or accessing vessels.

27 Terminal Platform. The part of a dock or pier that is connected to the access walkway, located
28 at the terminus of the structure, and is designed to secure and load/unload a vessel or conduct other
29 water-dependent activities. The terminal platform is considered the activity area of the dock. Such
30 a platform is typically wider than the pier leading to it and shall be located at the end of the access
31 walkway.

32 *B. How permitted.* See section 2.40, Table 2-5 (Table of Permitted Uses).

33 **3.17.2 Standards.**

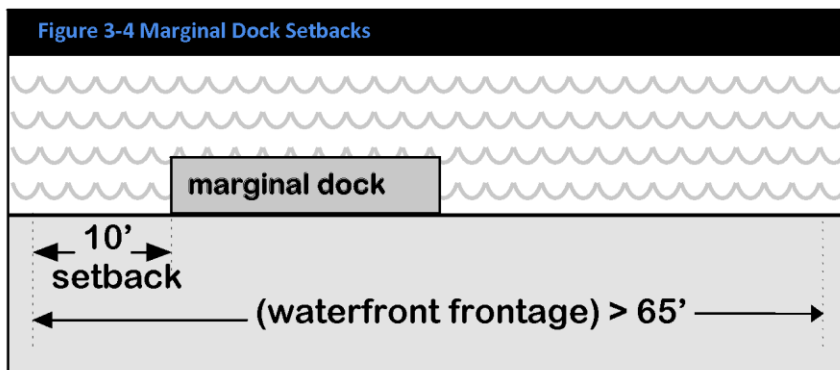
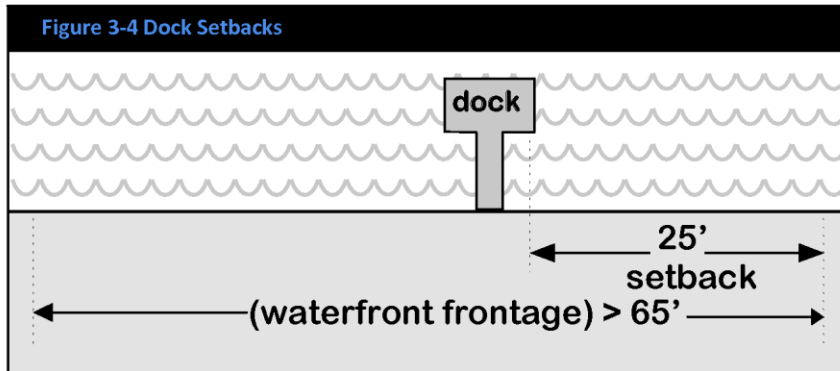
34 *A.* No boathouse, boat slip, pier, or similar structure shall be erected or constructed to exceed a
35 height of 15 feet above mean high water. An additional 42 inches is allowed for guardrails on
36 sundeck roofs only. The main pier or walkway shall not exceed six feet (6') in width.

37 *B.* Docks, marginal docks, boathouses, boat slips, piers, and/or similar structures may be
38 constructed waterward of the mean high water line if:

- 39 1. All local, state and federal requirements are met, and

2. The structure will not materially impair navigation, cause scouring and erosion of the shoreline or river bottom, or otherwise adversely affect the public health, safety and welfare.
- C. No artificial lighting is allowed higher than 15 feet above mean high water.
- D. No more than two boat slips are allowed for each single-family dock.
- E. Boathouses shall not be used for dwelling purposes or contain any sleeping or living quarters.
- F. No boathouse shall exceed 20 feet in width and 40 feet in length.
- G. Docks, marginal docks, boathouses, boat slips, piers, and/or similar structures, singly or collectively, shall not occupy an area more than ten times the lot width expressed in feet at the mean high water line (i.e. 70 feet of lot width equates to a maximum of 700 s.f. of dock area). For lot widths of 100 feet or more, Aa maximum of 1,000 square feet of dock area may be allowed for single-family residential homes along the Halifax River and in all artificially created waterways (i.e. canals) without state and/or federal approval. For lot widths of 100 feet or more, Along the Halifax River, a maximum of 1,000 square feet of dock area may be allowed without state and/or federal approval, unless required by state or federal law in certain instances when state-owned submerged lands are involved. The area of a dock shall be calculated by measuring all existing and proposed docks and related structures beginning at the mean high water line and extending waterward, except that the maximum area shall not include the access walkway to the dock terminal platform.
1. Subject to local, state, and/or federal approvals, an additional ten square feet above the maximum 1,000 square feet of dock and/or related structures may be added for each additional ten linear feet greater than 100 linear feet of waterfront frontage along the Halifax River measured at the mean high water line (i.e. 110 linear feet of shoreline frontage allows up to 1,010 square feet of dock and/or related structures). All state and federal permit approvals shall be submitted to the town prior to the commencement of any construction.
2. All commercial and multi-family docks and related structures are subject to section 3.9, Boat slip regulations and other applicable local, county, state and/or federal requirements.
- H. A dock and/or related structure is allowed if it:
1. Is not used for living or the storage of materials other than those associated with recreational use; and
2. Is constructed or held in place by pilings, including floating docks, so as not to involve filling or dredging other than that necessary to install the pilings; and
3. Will not violate water quality standards, impede the flow of water, adversely affect flood control, or create a navigational hazard; and
4. Is accessory to a developed lot with a minimum waterfront frontage of 65 feet measured at the mean high water line. Lots with a waterfront frontage of less than 65 feet may be allowed a dock or similar structures on a case-by-case basis, provided that navigation is not impeded, the ability to dock boats on adjacent properties is not impaired, all other dimensional standards of this section can be met, and a variance has been granted.

- I. Docks in artificially created waterways (i.e., canals) shall not impede navigation and protrude into the waterway more than 25 percent of the width of the waterway measured from the mean high water line.
- J. Subject to federal and state regulation, the replacement or repair of non-conforming docks and mooring piles shall be allowed in accordance with sections 7.4 and 7.5, if:
1. No fill material other than the piles is used.
 2. The replacement dock or mooring pile is in the same location, configuration and dimensions as the existing or original dock or mooring pile.
- K. Docks and related structures (including access walkways, boathouses, boat slips, piers, mooring piles, or other similar structures) shall not be constructed or erected closer than 25 feet from any side lot line or side lot line extended into a waterway (Figure 3-3). Marginal docks shall not be constructed or erected closer than ten feet from any side lot line or a side lot line extended into a waterway (Figure 3-4) No newly constructed dock shall impede the navigation or docking ability to existing docks on adjacent properties.



- L. No more than one boathouse may be erected or constructed on an individual waterfront lot.
- M. No boathouse, covered dock, [or access walkway](#) shall have enclosed sides. No screening or other visually blocking materials shall be attached or otherwise added to any required guardrails.
- N. A boathouse or covered dock without a sundeck shall have a pitched roof with a slope ratio between 2.5:12 and 4:12.
- O. Construction standards.

1. Construction materials and methods shall be employed in compliance with the Florida Building Code, Chapter 16: Structural Design. Compliance with this standard shall be certified on a plan sealed by a Florida-registered architect or structural engineer.
 2. All wood members must be pressure treated or have an equivalent strength that meets or exceeds the durability of pressure-treated wood.
 3. All fastening devices, nails, screws, bolts, and similar devices shall be highly corrosive resistant.
 - a. All light-gauge fastening devices such as nails and screws shall be stainless steel and all bolts shall be stainless steel or hot-dipped galvanized.
 - b. All hurricane anchoring devices shall be hot-dipped galvanized or stainless steel. "Hot-dipped galvanized" means at least two ounces of zinc coating per square foot after fabrication.
 4. Boathouse roofs acting as a sun deck shall be designed to provide for 60 pounds per square foot deck loading for occupants. If the boathouse provides for boat suspension, the maximum lift capacity of the hoisting device shall be considered in the design and still provide a minimum 60 pounds per square foot for occupants of the sun deck. Stairs and guardrails must be provided for all sun decks consistent with standard building code requirements. No baluster shall exceed 1.5 inches in diameter. No lighting may be affixed to a sun deck.
- P. This section does not preempt any federal or state regulation or prohibit any federal or state enforcement action.



Meeting Date: 8/22/2024

Agenda Item: 11-B

Report to Town Council

Topic: First reading of Ordinance 2024-04, Amendments to Code of Ordinances Ch. 2, Art. III updating purchasing thresholds.

Summary:

Proposed ordinance and supporting documentation will be distributed separately.

Suggested motion:

Staff recommends approval of proposed Ordinance 2024-04, amending Chapter 2, Article III of the Code of Ordinances updating purchasing thresholds.

Requested by: Mr. Disher, Town Manager

Approved by: Mr. Disher, Town Manager.



Meeting Date: 8/22/2024

Agenda Item: 12-A

Report to Town Council

Topic: Update on Harbour Village CSA cost-participation request.

Summary: This is a request from the Harbour Village Golf & Yacht Club Community Service Association (CSA) to participate in the cost of reconstructing its dune walkover. This item was originally considered at the May 7, 2024 regular Town Council meeting and again at the June 20, 2024 regular Town Council meeting, where it was tabled pending the adoption of a tentative millage rate.

Suggested motion: At Council's discretion.

Requested by: Mr. Lear, Planning & Development Director

Approved by: Mr. Disher, Town Manager



MEMORANDUM

TOWN OF PONCE INLET, OFFICE OF THE TOWN MANAGER

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

To: Town Council
From: Michael, E. Disher AICP, Town Manager
Date: August 15, 2024, 2024
Subject: Update on Harbor Village CSA cost-participation request

MEETING DATE: August 22, 2024

At its June 20, 2024 meeting, the Town Council considered a request from the Harbor Village Golf & Yacht Club Community Service Association (CSA) Harbor Village Beach Club to share in the cost of reconstructing its dune walkover. The dune walkover, which suffered considerable damage during the 2022 hurricane season, is privately owned but is open to the public, pursuant to the Third Amendment to the Development Agreement for the Harbor Village Golf and Yacht Club PUD. The Council discussed whether the Town's contribution could be reimbursed by FEMA if the structure is damaged by a hurricane and whether the contribution of public funds would require it to be made ADA-accessible.

After discussion, the Town Council tabled the item pending the outcome of the July 16, 2024 budget workshop and July 18, 2024 adoption of a tentative millage rate. The millage rate set at that time was 6.7473, which would be able to accommodate the previously suggested amount of \$22,987.50, equal to 25% of the estimated construction costs of \$91,950.

The staff reports from May and June 2024 are attached for reference.

Attachments

- May 7, 2024 staff report
- June 20, 2024 staff report



Meeting Date: 5/7/2024

Agenda Item: 13-A

Report to Town Council

Topic: Request for cost participation from Harbour Village CSA.

Summary: Harbour Village Golf & Yacht Club Community Service Association Inc. requests cost participation from the Town for repairs to its dune walkover.

Suggested motion: At Council's discretion.

Requested by: Mr. Lear, Planning & Development Director
Rick Gray, President, on behalf of Harbour Village Golf & Yacht Club Community Service Association Inc., owner

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 obtain the greatest value for their tax dollar.

To: Michael, E. Disher AICP, Town Manager
 From: Darren Lear, AICP, Planning & Development Director
 Date: April 30, 2024
 Subject: Harbor Village cost participation request

REQUEST: Harbor Village Golf & Yacht Club Community Service Association Inc. requests cost participation from the Town for repairs to its dune walkover

LOCATION: 4679 S. Atlantic Avenue

APPLICANT: Rick Gray, President, on behalf of Harbor Village Golf & Yacht Club Community Service Association, Inc., owner

MEETING DATE: May 7, 2024

The Harbor Village Beach Club was constructed in the mid- to late-2000s and includes a club hall, parking area, swimming pool and the dune walkover (**Attachment 1**). Pursuant to the Third Amendment to the Development Agreement for the Harbor Village Golf and Yacht Club PUD, dated July 25, 1986 and as amended December 13, 1993 and March 20, 1996, "The dune easement and walk-over shall be constructed at the expense of the Developer and shall be for the use of Ponce Inlet residents only."

During the 2022 hurricane season, many properties were heavily damaged within Volusia County including the Harbor Village Beach Club. The dune walkover suffered considerable damage during that season's storms. Given that the dune walkover is open to the public and not just Harbor Village residents, the Harbor Village Golf & Yacht Club Community Service Association is requesting cost participation from the Town for repairs to the walkover.

This request was recently presented by the Association President Rick Gray at the January 18, 2024, Town Council meeting, with a total cost estimate for repairs in the total amount of \$91, 950 (**Attachment 2**).

The cost participation percentage amount has not been formally expressed by the Association and is therefore at the discretion of the Town Council. It should be noted that the residents of the Harbor Village Golf & Yacht Club Community represent approximately 25% of the total

22 population of the Town. Using this same percentage of the total cost would represent an
23 approximate cost participation amount of \$22,987.50.

24
25 This amount is not currently included in this year's budget. Should the Council approve the
26 request, the amount selected will need to be included in the FY 24-25 budget. The request can then
27 be processed at the beginning of the next fiscal year starting October 1, 2024. This will likely be
28 in the form of a one-time cost-participation agreement indemnifying the Town for any possible
29 liability and ensuring there is no additional obligation of any kind from the Town. Unless specified
30 otherwise by the Council, approval of the agreement itself would follow the Town's purchasing
31 procedures and spending thresholds, requiring Council approval only if the amount exceeds
32 \$25,000.

Attachments:

1. Location map
2. Cove Points Marine Construction Inc. cost estimate
3. Email cost participation request

ATTACHMENT 1
LOCATION MAP



ATTACHMENT 2

Cove Points Marine Construction, Inc.

3625 US Highway 1
Edgewater, FL 32141 US
386-575-8605
jenna.wy@covepoints.com
www.covepoints.com



Estimate

ADDRESS

Harbour Village
4622 Links Village Drive
Ponce Inlet, Florida 32127

ESTIMATE # 1799**DATE** 12/04/2023**EXPIRATION** 12/11/2023**DATE**

DATE	DESCRIPTION	QTY	RATE	AMOUNT
	Marine estimate for demo and reconstruction of the Public Boardwalk Section and the Public gate section.			
	All labor and materials are included for description below.			
	Demolition of existing Public Boardwalk Section and Public Gate Section is included in this estimate.			
	All job relation demo and debris is removed through use of CPMC dump trailer or roll off dumpsters.			
	This estimate does not include permitting other than for the local jurisdiction.			
	**PLEASE NOTE, DUE TO VOLATILE PRICING AND SCHEDULING CHANGES IN THE MARKET AT THIS TIME, THIS ESTIMATE IS ONLY GOOD FOR 5 BUSINESS DAYS FROM THE DATE SENT TO THE CLIENT. THIS ESTIMATE WILL ONLY BE GOOD UNTIL 12/11/2023.			
	Services			91,950.00
	Public Boardwalk Section:			
	*Material sizing or quantities may change based on engineers final plans. The pricing of this estimate will change if that occurs.			

DATE

DESCRIPTION

QTY

RATE

AMOUNT

2x10 bents.

6x6 posts.

2x8 joists.

2x6 rail.

2x8 top rail.

2x8 deck boards.

All wood used in construction will be
2.5 CCA treated.

All fasteners used will be stainless steel.

Public Gate:

*Material sizing or quantities may
change based on engineers final plans.
The pricing of this estimate will change
if that occurs.

This estimate is based on duplication of
existing footprint, sizing and detail of
existing boardwalk Public Gate.

Demo and remove existing Public Gate.

2x8 deck boards.

2x6 rail.

2x8 top rail.

All wood used in construction will be
2.5 CCA treated.

All fasteners used will be stainless steel.

Exclusions:

**This estimate is based on duplication
of existing footprint, sizing and detail of
existing Public boardwalk section. If the
design dimensions or material sizing of
Public Boardwalk changes the price of
this estimate will change.

*This estimate is based on the public

DATE

DESCRIPTION

QTY

RATE

AMOUNT

gate being rebuilt in same footprint as existing gate. If the design dimensions, or material sizing of the Public gate changes the price of this estimate will change.

CPMC is not responsible for seeding and or sod repair.

***Sand and dune restoration for beach construction is not included in this estimate. If client would like CPMC to handle sand/dune restoration it will be handled via a time and material + 25% basis.

***If Volusia county requires a barrier for turtle season, customer will be responsible for covering costs associated with its construction. This will be billed to the customer via a change order.

This estimate does NOT include the removal of any water vegetation or mangroves unless otherwise stated in this estimate.

This estimate does NOT include any backfill, topsoil, grass, seeding or sod anywhere on the property where work will be performed unless otherwise stated in the estimate.

If the client is unable to provide CAD files of their survey, client will be responsible for any additional fees incurred due to having the survey put into a CAD file or our draftsman having to re-draw the survey.

This estimate does NOT include electrical or plumbing services.

CPMC is not responsible for lines that may be hidden or buried in yard, or embankment. These lines include but are not limited to electrical, sewage and or septic lines, plumbing, or irrigation.

No painting or staining included with estimate. All wood material to be treated as per engineers specs.

DATE

DESCRIPTION

QTY

RATE

AMOUNT

Should additional work be requested or required it will be executed through a change order. Change orders must be prepaid. Change orders are based on the following fee schedule plus 25%. This 25% is included for all labor and materials on change orders. Receipts will be submitted.

Administrative Fee \$65/hr

Draftsman Fee \$100/hr

General Marine Workers \$95/hr

Trac Steer with operator \$155/hr

E50 MiniX with operator \$165/hr

CX130 Large X with operator \$195/hr

Barge/Crane with 3 men

\$3,500/day(8hours)

Barge/Crane with 3 men/drilling \$650/hr

Dump Trailer load \$650/load

Large Barge with CX130 \$4,800/day

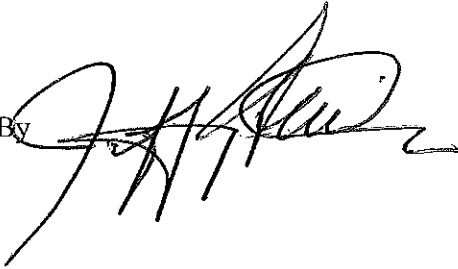
(Includes 3men for 8 hours.)

All machines and or barges are billed port to port.

TOTAL

\$91,950.00

Accepted By



Accepted Date

4-4-24

ATTACHMENT 3

Darren Lear

From: Rikgee <rikgee@aol.com>
Sent: Wednesday, April 10, 2024 3:53 PM
To: Darren Lear
Cc: Jennifer O'Leary; Karla Baumann; Jeffrey Wilner
Subject: Invoice for beach crossover boardwalk near the HV Beachclub
Attachments: Harbour Village Accepted Cove Points Proposal for Public Boardwalk Reconstruction.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL: This email was sent from outside of ponce-inlet.org, confirm this is a trusted sender before opening any links or attachments]

Darren

Thank you for getting back to me. As per our conversation, I have attached our approved proposal from Cove Points to rebuild the public part of the beach crossover boardwalk next to our HV Beach club. We still need to get the engineering study done for this project and go thru the permitting process so it will probably be at least a couple of months before we can actually begin the rebuild. We know the town is beginning its budget process for next year so we wanted to at least get the accepted proposal to you right away. We will also copy you in with the engineering study and permitting process as things progress.

Darren, we appreciate the town looking at our reimbursement request for the rebuilding of this public boardwalk and will work with you with whatever information you require. Please let us know of any meetings you might want and any deadlines we need to look at. We will make ourselves available at any time to discuss with the town.

As always, we look forward to continuing our close working relationship with the town.

Rick Gray
President Harbour Village Association
(518) 331-7452



Meeting Date: 6/20/2024

Agenda Item: 12-A

Report to Town Council

Topic: Update on Harbour Village CSA cost-participation request.

Summary: This item is a continuation from the May 7, 2024 regular Town Council meeting to consider a request from the Harbour Village Golf & Yacht Club Community Service Association (CSA) to participate in the cost of reconstructing its dune walkover.

Suggested motion: At Council's discretion.

Requested by: Mr. Lear, Planning & Development Director
Rick Gray, President, on behalf of Harbour Village Golf & Yacht Club Community Service Association Inc., owner

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 obtain the greatest value for their tax dollar.

To: Town Council
From: Michael, E. Disher AICP, Town Manager
Date: June 12, 2024
Subject: Update on Harbour Village CSA cost-participation request

MEETING DATE: June 20, 2024

At its May 7, 2024 meeting, the Town Council considered a request from the Harbour Village Golf & Yacht Club Community Service Association (CSA) to share in the cost of reconstructing its dune walkover. The dune walkover, which suffered considerable damage during the 2022 hurricane season, is privately owned but open to the public, pursuant to the Third Amendment to the Development Agreement for the Harbour Village Golf and Yacht Club PUD.

After discussion, the item was tabled to allow time to research two questions related to a contribution by the Town (paraphrased below).

1. *If the dune walkover is damaged in a future hurricane, would the Town's contribution be eligible for FEMA reimbursement?*

No, because the Town does not own or lease the property. See excerpt from FEMA's Public Assistance and Policy Guide, **Attachment 1**.

2. *Would the contribution of public funds by the Town require the walkover to be made ADA-compliant, including construction of a handicapped-accessible ramp?*

No, according to the Town Attorney, "...because the Town is not providing any programs, activities, or services for the dune walkover, and the Town is not responsible for any maintenance or operation of any portion of the dune walkover." See memo dated June 12, 2024, **Attachment 2**.

As noted previously, if the Town Council decides to contribute toward this project, the money would need to be included in the FY 24-25 budget. The construction estimate provided by Harbour Village CSA earlier this year was \$91,950. Although the CSA has not requested a specific percentage or amount, Staff had previously suggested 25% (or \$22,987.50) based on the rough percentage of the Town's population comprised of Harbour Village residents. The amount is ultimately at the discretion of the Town Council.

The request would then be processed at the beginning of the next fiscal year starting October 1, 2024. The arrangement would be in the form of a one-time cost-participation agreement indemnifying the Town for any possible liability and ensuring there is no additional obligation of any kind from the Town. Unless specified otherwise by the Council, approval of the agreement itself would follow the Town's purchasing procedures and spending thresholds, requiring Council approval only if the amount exceeds \$25,000.

Attachments:

1. Excerpt from FEMA's Public Assistance and Policy Guide
2. Memo from Town Attorney, June 12, 2024

- To address damage caused by the declared incident (Permanent Work, temporary repairs, and mold remediation).

The Applicant must demonstrate that the debris causing an immediate threat was generated by the declared incident during the declared incident period.

The Applicant must demonstrate that damage was caused directly by the declared incident. FEMA does not provide PA funding for repair of damage caused by:

- Deterioration;
- Deferred maintenance;
- The Applicant's failure to take measures to protect a facility from further damage; or
- Negligence.¹⁰¹

When necessary to validate damage, the Applicant may be required to provide:

- ☐ Pre-incident photographs of the impacted site or facility; and/or
- ☐ Documentation supporting pre-disaster condition of the facility (e.g., facility maintenance records, inspection/safety reports).

If a facility was functioning prior to the disaster and the disaster caused damage that rendered the facility non-functional, the facility may be eligible provided the pre-disaster condition was not a significant contributing factor in the cause of failure.

2. Within Designated Area

To be eligible, the facility must be located, and work must be performed, in the designated area defined in the declaration [except for sheltering, evacuation, and EOC activities]. The sheltering, evacuation and EOC activities must be used for a declared area.¹⁰² Emergency Work or Permanent Work performed on a facility located outside of the designated area is ineligible. This is true even if an eligible Applicant is legally responsible for the work, including work performed outside the designated area to protect a facility within the designated area.

Tribal governments do not always have geographical boundaries, and some have boundaries that cross State lines. Therefore, declarations do not usually define specific designated geographical areas for Tribal governments. For Tribal governments, FEMA determines eligibility based on legal responsibility and whether the work is directly related to the declared incident.

3. Legal Responsibility

To be eligible, work must be the legal responsibility of the Applicant requesting assistance.¹⁰³

To determine legal responsibility for Emergency Work, FEMA evaluates whether the Applicant requesting the assistance either had jurisdiction over the area or the legal authority to conduct the work related to the request at the time of the incident.

To determine legal responsibility for Permanent Work, FEMA evaluates whether the Applicant claiming the costs had legal responsibility for disaster-related restoration of the facility at the time of the incident based on ownership and the terms of any written agreements (such as for facilities under construction, leased facilities, and facilities owned by a Federal agency).

¹⁰¹ 44 C.F.R. § 206.223(e).

¹⁰² 44 C.F.R. § 206.223(a)(2).

¹⁰³ 44 C.F.R. § 206.223(a)(3).

(a) *Documentation to Support Legal Responsibility*

Documents that support legal responsibility include:

- ☐ Deeds;
- ☐ Titles;
- ☐ Lease agreements (required for leased facilities); and
- ☐ Contract (required for facilities under construction at the time of the incident).

(b) *Facility Ownership*

When the Applicant requests PA funding to restore a facility, it is the Applicant's responsibility to provide proof that it owns the facility. To determine ownership, FEMA may review deeds, title documents, and local government tax records.

Ownership of a facility is usually sufficient to establish the Applicant's legal responsibility to restore the facility, provided it is not under construction by a contractor or leased to another entity at the time of the incident.

(c) *Facilities under Construction*

If the facility is under construction by a contractor at the time of the incident, FEMA reviews the contract to determine whether the Applicant is legally responsible for the repair of damage caused by the incident.¹⁰⁴ At a minimum, FEMA evaluates the contract to determine if it:

- Identifies the contractor or owner as being responsible for disaster-related repairs;
- Requires a builder's risk policy for losses that occur while the contractor has control of the facility;
- Has a Force Majeure provision, which is a clause that relieves the contractor from responsibility for damage beyond its reasonable control, such as natural disasters (often referred to "acts of God") or acts of war; or
- Has a provision that identifies the point at which the contractor transfers legal responsibility for the facility, or portions of the facility, back to the owner.

(d) *Leased Facilities*

The Applicant may own a facility and lease it to a tenant, or the Applicant may lease a facility owned by another party. In either case, FEMA reviews the lease agreement to determine legal responsibility for repair of damage caused by the incident. If the lease does not specify either party as responsible, FEMA considers the owner of the facility legally responsible for the costs to restore the facility.

If the lease is between two eligible Applicants, FEMA provides PA funding to the Applicant legally responsible for the restoration.

(e) *Federal Facilities*

Facilities owned and maintained by Federal agencies are ineligible. If a Federal agency constructed a facility and formally designated the Applicant as the legally responsible entity for

¹⁰⁴ Stafford Act § 406(e)(2), 42 U.S.C. § 5172.



SHEPARD, SMITH, KOHLMYER & HAND, P.A.
ATTORNEYS & COUNSELORS AT LAW
SHEPARDFIRM.COM

MEMORANDUM

TO: Mike Disher; Darren Lear
FROM: Ryan Knight
DATE: June 12, 2024
RE: Harbor Village Cost Participation Request and ADA

Title II of the Americans with Disabilities Act (ADA) applies to State and local governments, including towns and townships, school districts, water districts, special purpose districts, and other small local governments and instrumentalities. It prohibits discrimination on the basis of disability in all services, programs, and activities provided by towns. 28 CFR § 35.102. Thus, people with disabilities must have an equal opportunity to participate in and benefit from a town's services, programs, and activities. To accomplish this, the ADA sets requirements for town facilities, new construction and alterations, communications with the public, and policies and procedures governing town programs, services, and activities. Thus, Title II is intended to apply to all programs, activities, and services provided or operated by State and local governments.¹ Additionally, Title II of the ADA applies to State and local government facilities, among others. 36 CFR Part 1190. These include pedestrian facilities in public rights-of-way. *Id.*

Public entities are not subject to title III of the ADA, which covers only private entities. Conversely, private entities are not subject to title II. However, in many situations, public entities have a close relationship to private entities that are covered by title III, with the result that certain activities may be at least indirectly affected by both titles. Some examples would be where a

¹ <https://archive.ada.gov/taman2.htm> (Title II Technical Assistance Manual).



SHEPARD, SMITH, KOHLMYER & HAND, P.A.
ATTORNEYS & COUNSELORS AT LAW
SHEPARDFIRM.COM

municipality owns an office building that it uses for city business while also leasing space to other non-public entities or a municipality engaging in a joint venture with a private corporation to build a new sports stadium. In many of these situations, the municipality has a contract or agreement with a private entity that would subject it to title II or III regulations.

The Harbor Village Golf & Yacht Club Community Service Association, Inc. (“Harbor Village”) has requested cost participation from the Town for repairs to its dune walkover. Pursuant to the Third Amendment to the Development Agreement PUD, the “dune easement and walkover shall be constructed at the expense of the Developer and shall be for the use of Ponce Inlet residents only.” The Town does not have any maintenance obligations, does not provide any services, and does not own any portion of the dune walkover. Moreover, the Town has no contractual agreement with Harbor Village related to the dune walkover and the dune walkover is not located in a public right-of-way that requires the Town maintain nor does the Town have the obligation to maintain. Because the Town is not providing any programs, activities, or services for the dune walkover, and the Town is not responsible for any maintenance or operation of any portion of the dune walkover, the fact that the Town could possibly commit funds for the repair of the dune walkover would not subject the Town or the dune walkover to the compliance requirements of title II of the ADA.

/s/ Ryan G. Knight



Meeting Date: 8/22/2024

Agenda Item: 13-A

Report to Town Council

Topic: Support for future Volusia County coastal armoring project in Wilbur-by-the-Sea.

Summary: See attached staff report and supporting documents.

Suggested motion: As directed by the Town Council.

Requested by: Mr. Disher, Town Manager

Approved by: Mr. Disher, Town Manager



MEMORANDUM
OFFICE OF THE TOWN MANAGER

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

TO: Town Council
FROM: Michael E. Disher, AICP, Town Manager
DATE: August 14, 2024
SUBJECT: Discussion – Support of future Volusia County coastal armoring project in Wilbur-by-the-Sea

MEETING DATE: August 22, 2024

1 Introduction

2 At its July 18, 2024 meeting, the Town Council heard a presentation by Volusia County Chair Jeff
3 Brower and Wilbur-by-the-Sea resident Tom Rutledge. The presentation (**Attachment 1**) included
4 photographs of several coastal properties in Wilbur-by-the-Sea that were severely damaged during
5 Hurricanes Ian and Nicole in 2022 and are now experiencing severe wind and water erosion.
6 Although the former homes have been demolished and removed, the owners have not installed any
7 coastal armoring, and the properties are now up for sale. Their sole protection from the waves is
8 the row of Trap Bags installed by Volusia County, some of which have been breached. The primary
9 concern expressed was that if the erosion continues, it would eventually undermine S. Atlantic
10 Avenue, causing costly disruptions to Wilbur-by-the-Sea and Ponce Inlet. Mr. Rutledge and Mr.
11 Brower expressed their belief that more robust armoring is needed, in the form of a coquina
12 revetment. The presentation concluded with a desire for state and local governments to work
13 together to create a plan to address such issues quickly, and that changes to state and federal law
14 are needed to empower local governments to address them. Mr. Brower suggested the Town
15 Council conduct its own evaluation of the situation; and if found to have merit, pass a resolution
16 encouraging the county and state governments to come up with a plan to temporarily armor the
17 dune to mitigate the threat (see meeting minutes excerpt, **Attachment 2**).

19 Background

20 Prior to last month's presentation, this issue was first raised through a July 9, 2024 e-mail sent
21 from Chairman Brower to County senior management, the State Secretary of FDEP, and the FDOT
22 District 5 Secretary (see **Attachment 3**). Then on July 16, 2024, the County Council discussed

the issue at length¹ during non-agenda closing comments, but took no specific action at that time. It was stated that neither FDEP nor FDOT deem this situation to be an emergency, and those agencies will not act until the erosion reaches much closer to the road. FDEP also considers coquina revetments to be permanent, rather than temporary armoring, and will not approve their use now without prior permitting. It was also noted that in the case of a disaster, FEMA would pay for any repairs to the road, whereas the County would be required to pay for any preventative improvements. County staff also provided information on the new state grants available to private property owners for coastal armoring and sand placement; the temporary nature and purpose of Trap Bags; and FDEP's March 2025 deadline for their removal. Finally, County staff said the upcoming sand placement and dune restoration projects will be proceeding on schedule beginning in Fall 2024.

Update

Town staff recently asked Volusia County staff for an update on this issue. At this time, no specific projects or plans for the coastal properties in Wilbur-by-the-Sea have been identified or approved by the County Council or County staff. The issue has not appeared on any subsequent County Council agendas, and County staff has not been directed to prepare anything for a future agenda at this time.

However, the County Coastal Division has reset the Trap Bags in front of the properties in question, raising them above the new higher level of sand that has accreted onto the beach since 2022. County staff also provided the Town with a copy of its recently updated Executive Summary for Emergency Coastal Response (**Attachment 4**). This document, which can also be found on the County website², explains how the County plans for and prepares for emergencies. The updated version includes its planning and preparations for erosive coastal storm events such as Hurricanes Ian and Nicole. County staff also stated that even though this segment of S. Atlantic Avenue is a county road and not a state facility, it could count on FDOT to assist with any needed repairs in case of an emergency, and that such repairs would be completed quickly.

Conclusion

Staff is requesting direction from the Town Council on this issue; specifically, on the level of support to provide at this time and the extent to which Town staff resources should be utilized.

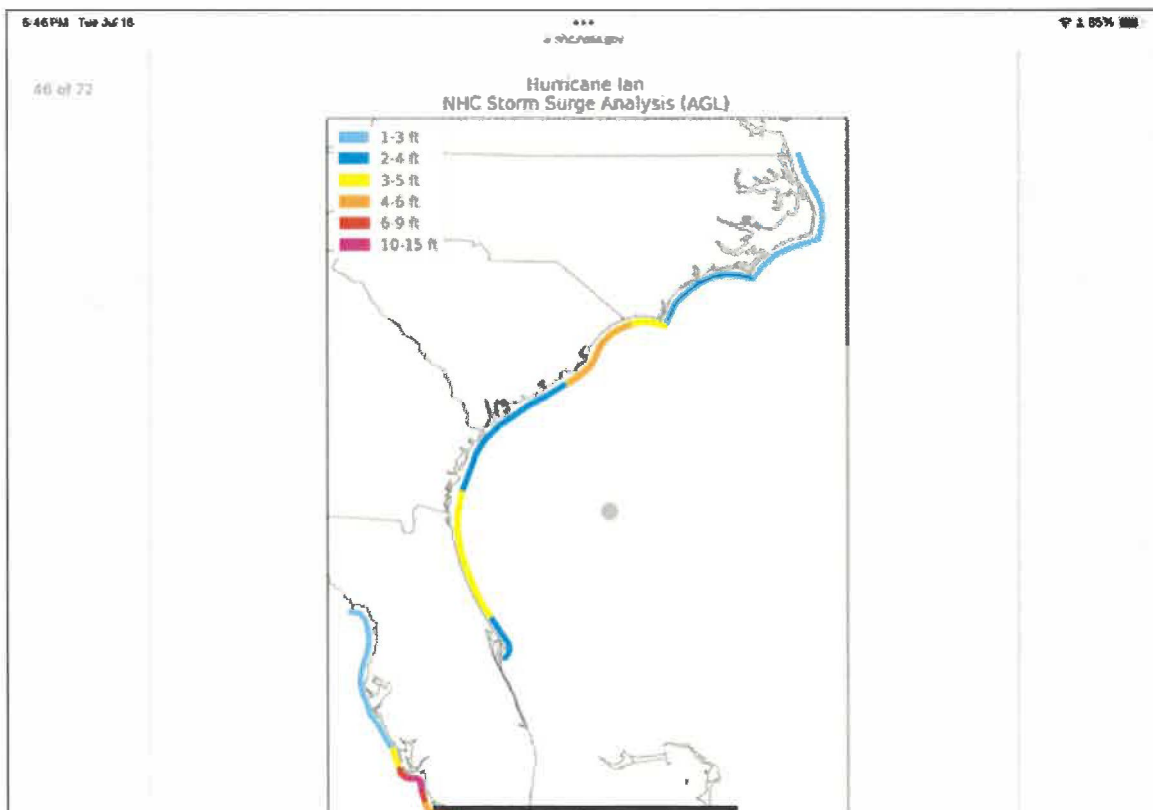
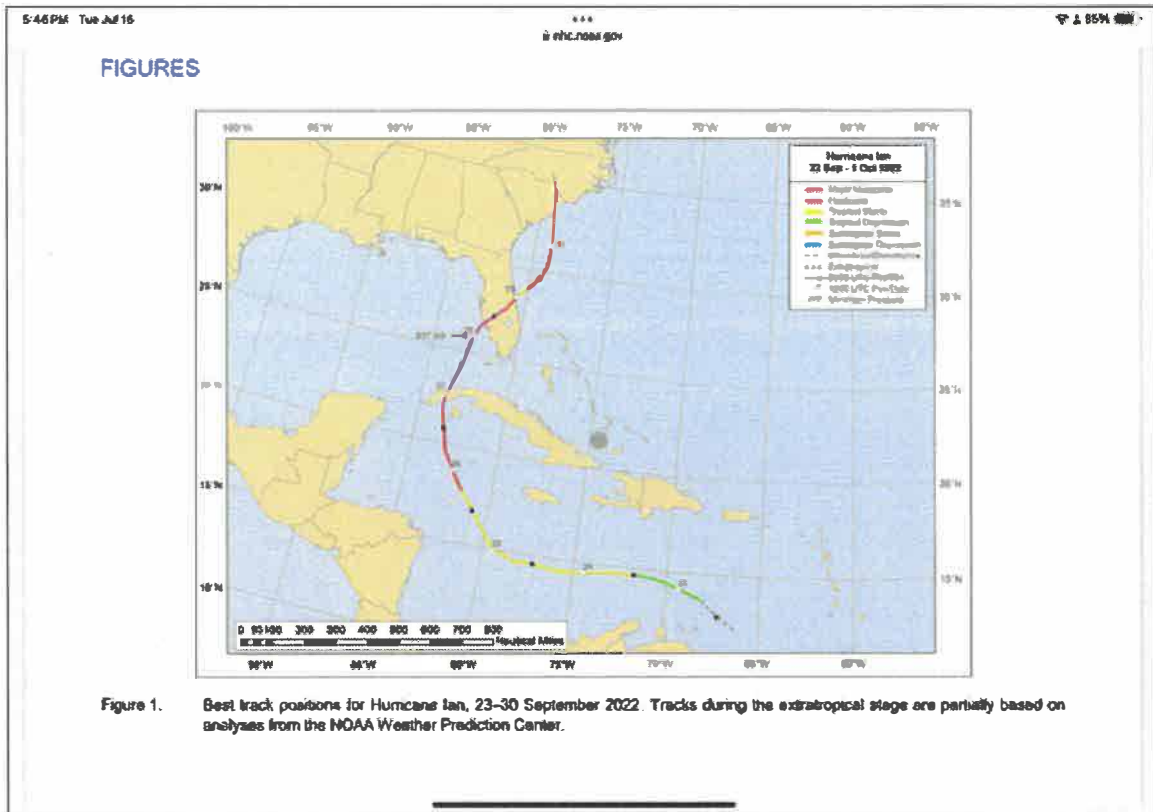
Attachments:

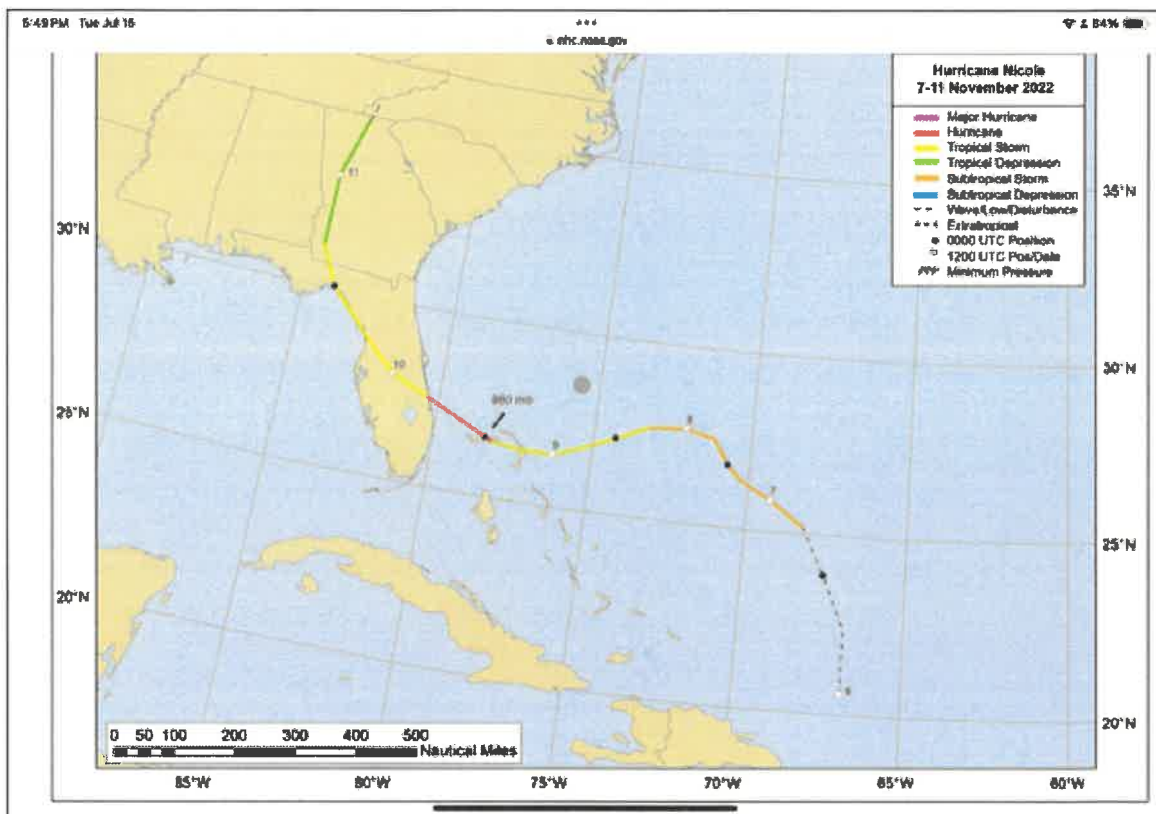
1. Copy of 7-18-24 presentation
2. Excerpt from Draft 7-18-24 Town Council meeting minutes
3. E-mail from County Council Chair Brower – 7-9-24
4. Volusia County Executive Summary for Emergency Coastal Response

¹ https://www.youtube.com/watch?v=xsQOAiUF338&list=PLOb_PiKk0mFol4VLz9Hz78vbZEJ2mXn84&index=3, starting at the 6:29:20 mark.

² Look for "Documents" at <https://www.volusia.org/services/emergency-services/emergency-management/resources/>

ATTACHMENT 1





5:51 PM Tue Jul 19 nhc.noaa.gov 100% 84%

Location	Minimum Sea Level Pressure		Maximum Surface Wind Speed		Storm surge (ft)	Storm tide (ft)	Estimated inundation (ft)	Total (ft)
	Date/Time (UTC)	Press (mb)	Date/Time (UTC)	Sustained (mph)				
New Smyrna Beach (XNSB) (27.80N 81.30W) (15m)	10/0938	984.3	10/0933	49	65			
Jupiter (XJAK) (26.97N 80.57W) (15m)	10/0645	987.5	10/0150	27	49			
Titusville (XPAR) (28.60N 80.81W) (15m)	10/0948	990.0	10/0828	41	57			
Port Everglades (XPEG) (26.00N 80.12W) (41m)			08/0756	28	39			
Malabar (XRPB) (27.98N 80.55W) (15.7m)			10/0431	40	61			
St. Lucia NPP (XSTL) (27.30N 80.27W) (11m)	10/0721	981.0	10/0347	42	54			
Vero Beach (XVER) (27.62N 80.38W) (10m)	10/0759	980.0	10/1104	23	44			
Belleair (27.94N 82.80W) (11m)			10/1353	23	39			
Caryfort Reef Light (26.23N 80.27W) (15m)			08/2318	36	37			
Clem Bayou (27.44N 82.70W) (10m)			10/1748	27	38			
Concepcion (26.18N 80.30W) (10m)			10/0413	23	39			
Dunedin Causeway (26.00N 80.80W) (15m)			10/1325	36	49			
Grove City (26.90N 82.31W) (20m)			10/1110	27	37			
Griffin (27.00N 82.34W) (15m)			10/1056	27	46			
Land o' Leaps (26.18N 82.62W) (15m)			10/1153	23	41			
Lewis (27.50N 81.33W) (15m)			10/1310	27	50			
New Pass Shoal (27.30N 82.80W) (15.2m)			10/1132	37	47			
Onaka Substation (27.30N 80.27W) (17m)			10/0150	27	50			
Reedy Lake (26.44N 81.07W) (11.5m)			10/1301	27	43			

Hurricane Nicole: A Late Season Storm

Assembled by Emily Powell, Florida Climate Center, 19 December 2022

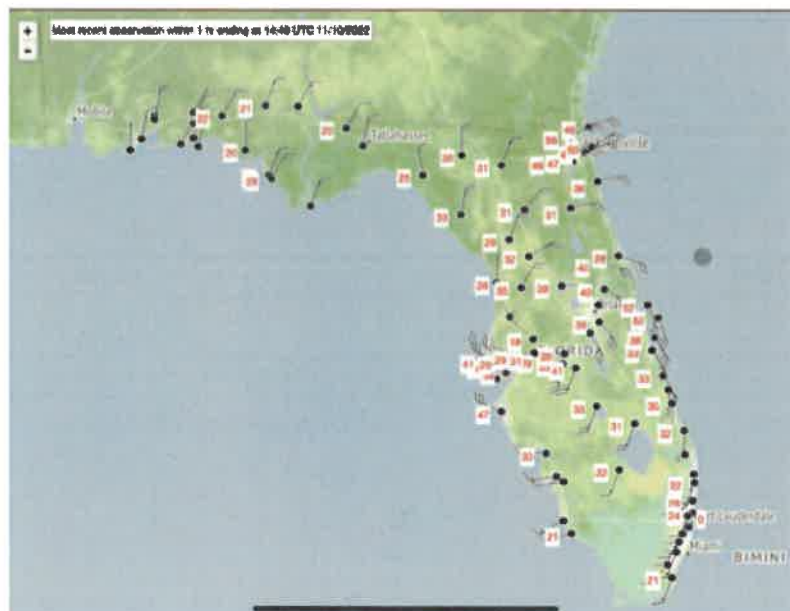


Approaching Florida on 8 November 2022 at 1PM EST
(Image from NASA/VIRRS)



Hurricane Nicole's track (Image from the North Carolina State Climate Office)

Nicole had maximum sustained wind speeds of 75 mph as it approached Florida's east coast, and the storm's large wind field brought a strong northeasterly wind flow up and down the northeastern coast of Florida. Strong onshore winds helped drive storm surge and severe erosion along coastal areas.



center, and it is unclear whether this value is erroneous data or associated with a mesovortex in the northern eyewall. The minimum central pressure is set to 990 mb based on the available data and consideration for the various sampling issues.

Storm Surge²

Due to its large size and interaction with the anticyclone to the north, Nicole produced an impactful storm surge along a large portion of the east coast of Florida, battering beaches with elevated water levels and wave action. Florida was previously hit by Hurricane Ian in late September which caused beach erosion along the east coast and freshwater flooding from rainfall in rivers and canals. The impact of Ian likely left the area more vulnerable to storm surge from Nicole. Additionally, Nicole's large wind field and its initial subtropical characteristics increased the potential for widespread wave and storm surge impacts.

Table 3 and Figure 5 provide the peak storm surge observations from various National Ocean Service (NOS) tide gauges and United States Geological Survey (USGS) stream gauges along the U.S. east coast and the Florida Big Bend region. Sensors measured 3 to 4 ft of water above Mean Higher High Water (MHHW) from Jupiter Inlet, Florida, northward to St. Simons Island, Georgia. An NOS tide gauge at Trident Pier, near Cape Canaveral, measured 5.83 ft above normal tide levels, which resulted in a water level of 3.68 ft above MHHW. In addition, notable storm surge flooding occurred on the St. Johns River, where an NOS tide gauge at the I-295 Buckman Bridge measured a water level of 3.82 ft above MHHW.

A storm surge hindcast produced by the NHC Storm Surge Unit (not shown) indicates the maximum inundation along the northeast coast of Florida was up to 5 ft above ground level (AGL). Significant damage occurred where beach erosion encroached on nearby communities. For example, aerial imagery revealed that Wilbur-by-the-Sea, a community located just south of Daytona Beach, experienced beach erosion causing damage to beachfront structures.

² Several terms are used to describe water levels due to a storm. Storm surge is defined as the abnormal rise of water generated by a storm, over and above the predicted astronomical tide, and is expressed in terms of height above normal tide levels. Because storm surge represents the deviation from normal water levels, it is not referenced to a vertical datum. Storm tide is defined as the water level due to the combination of storm surge and the astronomical tide, and is expressed in terms of height above a vertical datum, i.e. the North American Vertical Datum of 1988 (NAVD88) or Mean Lower Low Water (MLLW). Inundation is the total water level that occurs on normally dry ground as a result of the storm tide, and is expressed in terms of height above ground level. At the coast, normally dry land is roughly defined as areas higher than the normal high tide line, or Mean Higher High Water (MHHW).

FIGURES

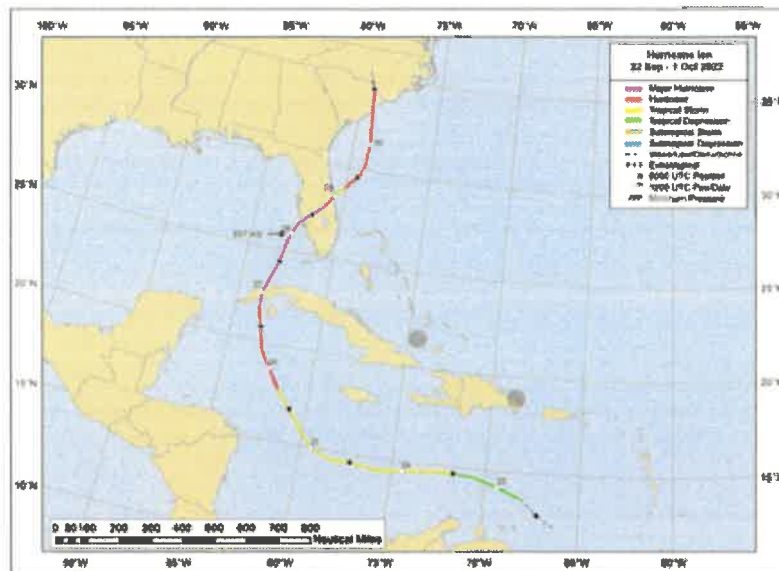
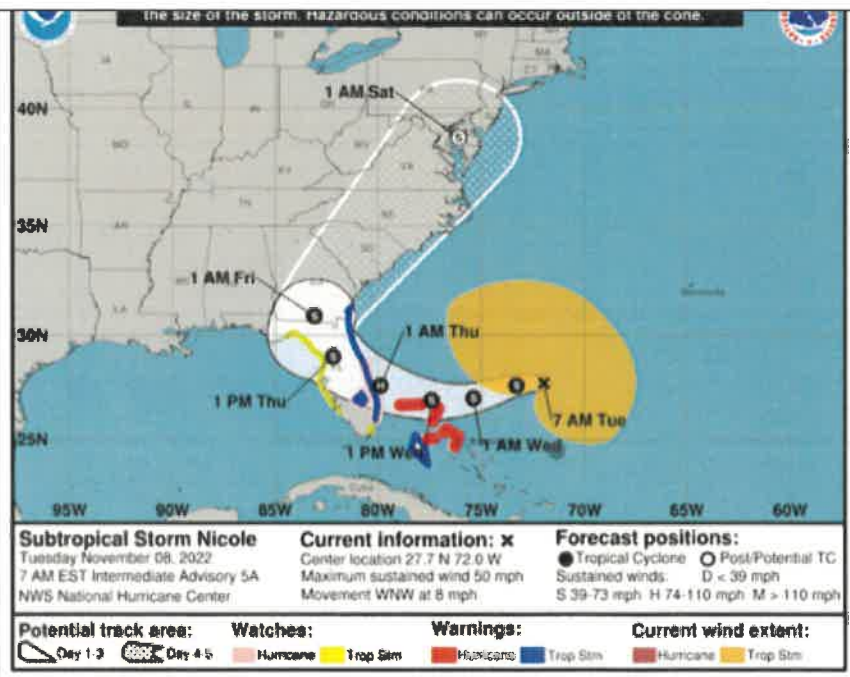
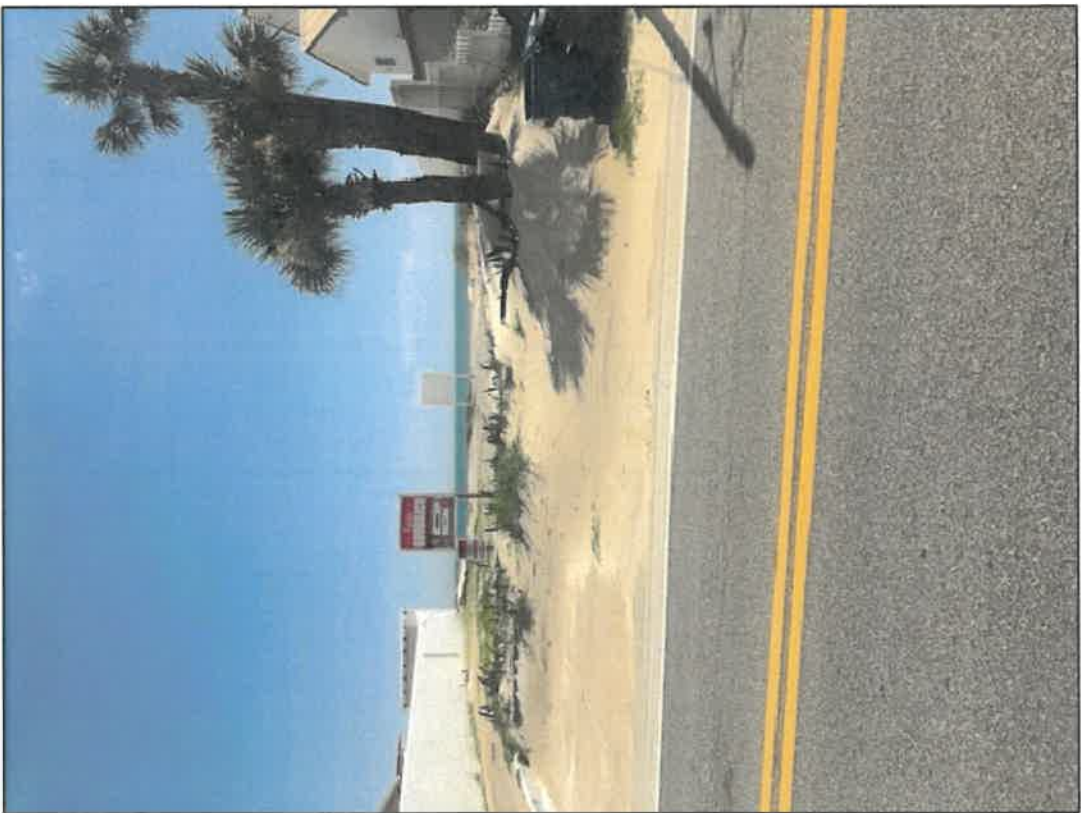
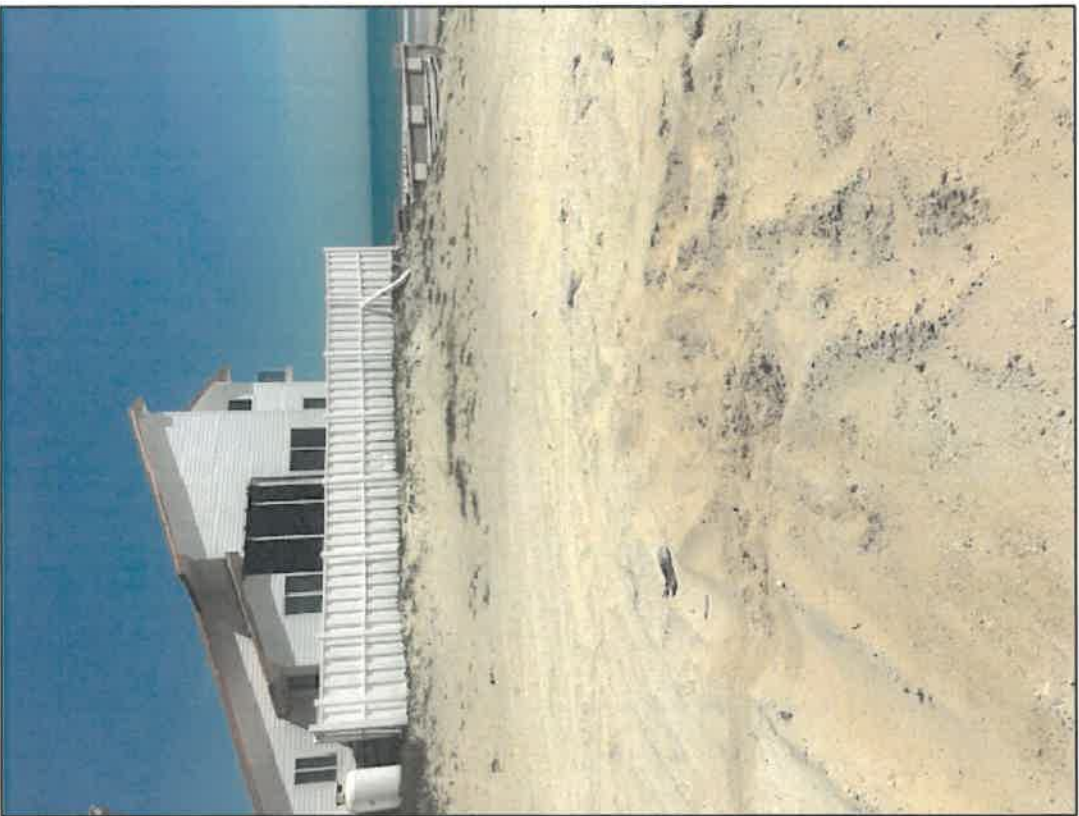


Figure 1. Best track positions for Hurricane Ian, 23–30 September 2022. Tracks during the extratropical stage are partially based on analyses from the NOAA Weather Prediction Center.



The history of Nicole from when it first formed as a subtropical storm on November 7th until it departed Florida and moved north into the southeast U.S. on November 11th.











ATTACHMENT 2

Excerpt from DRAFT 7-18-24 Town Council meeting minutes

6. PROCLAMATIONS, PRESENTATIONS, AND AWARDS

Mayor Paritsky explained that Volusia County Council Member Matt Reinhart is not in attendance as normal due to Sunshine Law concerns, because another member of the Volusia County Council is present. Council Member Reinhart has advised her that he is attentive to the issues being raised and will participate in a future discussion before the Volusia County Council. She introduced Volusia County Council Chair, Jeff Brower.

A. Coastal armoring – Volusia County Chair Jeff Brower explained he is here today on an issue that is important to the health and safety of every resident of Ponce Inlet and Wilbur-by-the-Sea. He introduced Tom Rutledge to give the presentation. Tom Rutledge, 4112 Oriole Avenue, Wilbur-by-the-Sea, thanked the Council for recognizing the Volusia County Council Chair on an issue that could negatively impact both communities. He initiated this because South Atlantic Avenue, the main artery serving our communities, is under threat. Recent changes on the 4100 block of South Atlantic Avenue in Wilbur-by-the-Sea have led him to believe that a more robust strategy is needed to mitigate the threat to the road. The issues are: 1) inaction by the abutting beachfront property owners to armor the dunes; he noted six of the eight lots are unarmored; 2) demolition of the homes have left bare sand exposed to the wind; and 3) the county-installed trap bags have been breached. All but two houses on the block were lost during the 2022 hurricanes, and those two were damaged. He contacted Chair Brower, and they agreed from a layman's perspective there was a potential threat to the road and a credentialed opinion was needed. They received that opinion from Robert Bullard, who is familiar with the issues on this block. Volusia County has installed trap bags on these lots for erosion mitigation. The trap bags have failed in several places due to the interaction with higher magnitude tides that occur several times per year. The county has a plan to refresh the damaged trap bags which is helpful but of little use during a storm event with a high-magnitude surge similar to Hurricane Ian. He said the distance from the eroded dune to the road is approximately 80 to 90 feet, while on one lot it is only 60 feet. Unarmored sections between armored sections are the issue. Should this road be lost, it would be a major repair and have significant impacts on the lives of the nearby residents. It is shown from empirical data that trap bags deteriorate under repeated high tide events; if damaged they tend to fail rapidly; a storm surge high enough to submerge the trap bags will destroy them. It will take engineering solutions to add mass, likely coquina, to save our road in the event of a storm with a three- to five-foot wind-driven surge.

Mr. Rutledge provided a [presentation](#), with graphs from Hurricanes Ian and Nicole, and photographs of the road in discussion. He explained the county is cleaning the storm drains at ten times the frequency than normal due to the sand being blown into the road and washing into the storm drains. Now that these homes are gone there is nothing stopping the wind. Chair Brower stated this is about prevention and the cost of prevention versus repair; he stressed he is here seeking support. The county has decided to lift those trap bags and add mass in front of this property; however, this is about protecting the road and the assets of Wilbur-by-the-Sea and Ponce Inlet. Adding mass to the armor beyond the trap bags may require the approval of the state and possibly the federal government. Policy makers and staff at all levels of government are going to be dealing with these issues for the foreseeable future. Volusia County will carry the workload in the interactions with the state and federal governments; Ponce Inlet, as an affected party, could

help with influencing the outcome at all levels. He said this Council, with its due diligence, will come to its own conclusions and determine what role it can play. He would ask a credentialed engineer what the minimum characteristics of a storm are as far as height and surge, above high tide, wind speed, and duration that would threaten South Atlantic Avenue and the 4100 block in Wilbur-by-the-Sea. He is asking the Council to discuss this issue, and if it is determined to have merit, pass a resolution encouraging the county and state governments to come up with a plan to temporarily armor the dune for the purpose of mitigating the threat.

Mayor Paritsky opened public participation – Sharone Lemieux, 4590 South Atlantic Avenue, provided Council with a personal account of the process to repair damage from the hurricanes; she agreed there needs to be a change in policy. Public participation was closed.

Executive Summary for Emergency Coastal Response

(Updated August 2024)



Introduction

Volusia County, Florida, is a coastal community with 37 miles of developed Atlantic coastline, 50 bridges, and 1,000 miles of county-maintained roads. It encompasses 1,101.1 square miles and has a population of 590,357 residents. The county's demographic profile reveals a median age of 46.6 years, with 25.7% of the population aged 65 and over, indicating a significant senior presence. Economically, the median household income stands at \$64,857, with an employment rate of 52.9%.

Volusia County understands the unique vulnerabilities and risks associated with the community. Therefore, Volusia County provides a wide variety of emergency response services to residents and visitors, including fire protection, law enforcement, infrastructure maintenance, debris removal, and coastal storm response.

Volusia County's number one priority is always life safety. To maintain the County's life safety priority, Volusia County developed a stance that allows it to remain flexible and adapt to any weather characteristic affecting our dynamic coastline, roadways, bridges, waterways, utilities, and other public infrastructure. Volusia County continues to take a forward-leaning posture to anticipate the potential impacts the community could face during a potential event and educate the community on prevention, preparedness, response, recovery, and mitigation efforts. Partnerships with local governments, non-profits, and private sector organizations are involved with preparing residents for impending impacts. Volusia County has established relationships with its municipalities, state and federal agencies, contractors, vendors, and volunteer organizations in anticipation of any potential impacts the community may experience.

Preparedness

Volusia County, Florida, and its 16 municipalities must be adequately prepared to address the many disasters threatening local governments, neighborhoods, infrastructure, institutions, and businesses. This preparation requires continuous actions to decrease the vulnerabilities of the county to these potential disasters and weather events, to be able to provide emergency services when a disaster does strike and to accelerate the recovery process and return quickly and effectively to normal or identify the new normal after the impacts of such an event. This document summarizes the response plans that Volusia County manages and utilizes to coordinate emergency response.

Community meetings: Coordination with municipalities, to include their building officials to identify the community's vulnerabilities and areas of concern due to previous storm impacts.

Community outreach and public education: Consistently conduct public education presentations and participate in community outreach to better prepare Volusia County citizens on an individual level for the different types of hazards that the county may face.

Partner meetings, trainings, and exercises: Regularly planning and participating in trainings and exercises that address prevention, preparedness, mitigation, response, and recovery for a variety of hazards that may impact Volusia County emergency preparedness is a year-round activity within the Public Works Department, the primary agency within the County responsible for infrastructure maintenance, operation, improvement, and repair. This includes the Road and Bridge Division, Coastal Division, Water Resources & Utilities, Engineering & Construction, Mosquito Control, Solid Waste, and Traffic Engineering.

Certain personnel responsible for keeping contact lists and response plans up to date are cognizant of the importance of these activities throughout the year. Individuals responsible for the upkeep of equipment ensure that equipment necessary during an emergency is maintained in a state of readiness throughout the year for potential emergencies, including hurricanes.

Detailed planning includes meticulous team assignments within each maintenance area and the identification of critical paths that should be prioritized in the event of a disaster. It also includes identifying suitable storage and staging areas for mass debris removal.

Tools available in response specific to an erosive coastal storm event based on the response necessitated by the event conditions:

- 3,000 linear feet of trap bags and supplies to respond to coastal erosion concerns
- Executed agreement with the Florida Inland Navigation District (FIND) for about 200,000 cubic yards of beach quality sand at an upland DMMA in Edgewater, Florida
- Beach Sand Haul Report that identifies numerous upland sand sources for distribution to the various reaches of the County's beaches along with identified truck haul routes.
- Two (2) Sand Haul, Beach Restoration, and Debris Removal contracts in place for recovery efforts
- Current area-wide permit with FDEP allowing for installation of TrapBags on private properties where appropriate easements are provided.

- Easements were recorded for at-risk private property response, and easements were available for oceanfront property owners who have yet to sign.
- Road and Bridge along with traffic engineering crews stage for infrastructure repairs, traffic management, and stabilization for road failures, traffic signal repairs, traffic management/detours.
- Volusia County maintains 24 continuing service contracts with engineers and contractors, as well as ongoing agreements for asphalt and milling when emergency repairs require supplemental resources.

Planning Components

Volusia County Comprehensive Emergency Management Plan

During an incident/emergency, Volusia County has developed a Comprehensive Emergency Management Plan, which shall be implemented using the following operational priorities:

- Life safety and the safety of first responders shall be the number one priority, along with the general health and welfare of Volusia County Citizens.
- The protection of property and the environment.
- The restoration of essential infrastructure, utilities, and essential functions to provide for the citizens of Volusia County.
- Coordinating the efforts of not only Volusia County but activating the resources, personnel, and expertise of the municipalities, non-governmental organizations, and all other stakeholders within the Emergency Management Program.

Response: Consequence Management

Local State of Emergency

“Declaration of a Local State of Emergency” in accordance with the provisions of state statutes. This declaration may include promulgating any necessary emergency ordinances, including those requiring the closure of businesses, public offices, and evacuation orders. The County assumes complete control of County-owned resources and facilities for purposes of supporting emergency response and disaster recovery operations. If the response to the event threatens to deplete available county and municipal resources, the county may request state assistance and/or mutual aid from adjacent jurisdictions.

Activation of the Emergency Operations Center

Volusia County utilizes Emergency Support Functions, which focus on information sharing, planning, and resource support for emergency operations. The designated representatives of the lead agencies or organizations of the county's Emergency Support Functions assume control of the operation of that function. Emergency Support Functions include but are not limited to mass care, utilities (power, water, gas), Public Works, Law Enforcement, Fire Services, business industry, and local non-profits. Personnel representing the Emergency Support Functions and assigned to the EOC will activate their operations in accordance with established plans and procedures for that Emergency Support Functions.

Public protective actions, e.g., evacuation, will be implemented as necessary through the cooperation of the County Emergency Support Functions and involved municipalities. When protective actions have been pre-planned, they will be implemented per established procedures and pre-determined decision guidelines. Otherwise, protective action decisions will either be made by the on-scene incident command or the County Emergency Operations Center.

Evacuations and Notification

The Emergency Operations Center will coordinate all County assistance and support for multi-jurisdiction evacuations under the direction and control of the Director of Emergency Management. The Manager's Advisory Group will make policy decisions (such as deploying personnel, determining evacuation routes, and opening shelters).

The Volusia County Sheriff will activate curfews when necessary and coordinate enforcement in conjunction with municipal law enforcement.

Evacuation routes have been coordinated between Volusia County Emergency Management, the Volusia Sheriff's Office, Florida Highway Patrol, Florida Department of Transportation, Volusia County Road and Bridge Division, Volusia County Traffic Engineering, and local municipalities. The main evacuation routes are the major roadways in the county. These include the interstate system (I-95, I-4), U.S. highways (U.S. 1, U.S. 92), state roads (S.R. 40, S.R. 421, S.R. 44, S.R. 415, S.R. 5A, S.R. 442, S.R. A1A). Alternate routes will be immediately identified if evacuation routes are closed or damaged.

To ensure the residents' life safety, especially during Atlantic CAT 3-5 storms, barrier island residents will be advised through the media, the Alert Volusia, Everbridge Notification System, social media, and the Emergency Management application to consider leaving as early as possible before a mandatory evacuation order goes into

effect. If the likelihood of an impact scenario exists, mobile/manufactured home residents and those residing in known flood-prone areas will also be advised to consider evacuating before a mandatory evacuation order is issued.

Targeted evacuations will be considered and coordinated when previously damaged or significant vulnerabilities are identified in the predicted impact area. A mandatory evacuation order will ensure sufficient clearance time for the specified specialized populations to evacuate threatened areas before tropical storm-force winds (winds > 39 mph) arrive. Notification for targeted evacuations will be disseminated through the previously stated methods. If contact cannot be completed, notification will occur by any means necessary.

As a result of the 2022 hurricanes, many oceanfront properties have yet to have an opportunity to complete permanent structural repairs. The County has been actively engaging with County and municipal building officials to identify residential structures at risk of collapse during a storm event. The applicable agency with jurisdiction over the upland property is prepared to issue property-specific evacuations, based on current structural assessments, in advance of a significant coastal storm to ensure that lives are not at risk.

General re-entry to all areas previously evacuated will be authorized based on public safety and security concerns, operational requirements for search and rescue, establishment of essential infrastructure and services, and the need to reestablish property owners on their property. This re-entry policy will be established as soon as possible and with as few restrictions and limitations as possible regarding public safety requirements. The decision to establish general re-entry will be evaluated through continuous coordination among the various county and state agencies, municipal law enforcement agencies, and adjacent counties.

Building safety inspections under the supervision of the building official for a specific jurisdiction may be required if structural integrity concerns exist. Mutual aid from other building officials and engineers will be used as requested. Additional resources may be requested through WebEOC to the Florida Division of Emergency Management.

Contracts, Master Agreements, Rental Agreements, Mutual Aid Agreements

An emergency is any condition that may affect the health, safety, and welfare of the citizens of Volusia County or a condition that stops or seriously impairs the necessary function of the County government. If emergency purchases are required when the Purchasing and Contracts Division is closed, the Department / Division Director may purchase at his/her discretion and shall contact the Purchasing and Contracts Division the next business day to obtain an emergency purchase authorization.

This type of purchase is subject to all requirements stated above and shall be processed in the same manner. Approvals are obtained as required per the dollar value of the purchase. Emergency Purchase Orders are assigned special numbers to designate the specific emergency and to facilitate tracking as may be required for various agencies, such as the Federal Emergency Management Agency (FEMA). The director of Purchasing and Contracts may designate one or more Purchasing and Contracts Division staff members during major emergencies (such as storms or hurricanes) to be on call twenty-four hours a day.

State Resources: State and Federal emergency management representatives reside within the emergency Operations Center during an incident to maintain continuous communication and resource access. The Florida Division of Emergency has the capability to provide resources or order resources during an emergency if the county has an unmet need.

Recovery, Mitigation, and Resiliency

The County will begin an initial damage assessment to determine whether more detailed damage assessments are necessary and identify those areas where further efforts should be concentrated.

Short-term recovery begins immediately after the event and is the transition from response to recovery. Community agencies are integral in ensuring survivors' long and short-term recovery. The short-term priority needs of disaster survivors and locally damaged infrastructure priorities are:

- Providing basic human needs (food, clothing, shelter, and medical assistance).
- Restoring critical infrastructure and facilities (power, communications, water, sewage, transportation).
- Restoring critical functions (Fire/EMS/Law Enforcement, Infrastructure, Government).
- Meeting societal needs (rules of law, crisis counseling)

Volusia Prepares is a multi-organizational, multi-jurisdictional group of local government agencies, community groups, private sector organizations, and interested public members coordinating mitigation activities.

Resiliency efforts by the County are at the council's direction, where capital improvement projects are approved and funded.



Meeting Date: 8/22/2024

Agenda Item: 13-B

Report to Town Council

Topic: Renewal of five-year agreement with Waste Pro for refuse collection services.

Summary: WastePro has been providing refuse pick-up services for the Town since 2019. With the current five-year agreement set to expire on October 1, 2024, staff is requesting to renew the refuse collection agreement.

Suggested motion: Staff recommends approval to renew the refuse collection agreement between the Town of Ponce Inlet and WastePro of Florida, Inc. for an additional five-year term.

Requested by: Chief Scales, Public Safety Director

Approved by: Mr. Disher, Town Manager



MEMORANDUM

Office of the Public Safety Director

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

To: Michael E. Disher, AICP, Town Manager

From: Dan Scales, Public Safety Director

Date: August 5, 2024

Subject: Renewal of Refuse Collection Agreement between the Town of Ponce Inlet and WastePro of Florida, Inc.

MEETING DATE: August 22, 2024

Purpose:

The purpose of this report is to recommend the renewal of the refuse collection agreement between the Town of Ponce Inlet and WastePro of Florida, Inc. WastePro has been providing refuse pick-up services for the Town since 2019, including regular trash collection, recycling, and bulk waste pick-up. The current five-year agreement is set to expire on October 1, 2024.

Background:

The Town of Ponce Inlet entered into an agreement with WastePro in 2019 to provide refuse collection services. The contract is renewable for three additional 5-year terms beyond the current term which ends September 30, 2024, unless cancelled with one year's notice by either party prior to any of the five-year terms. Last year, WastePro submitted a rate increase notice to the Town, and the Town Council increased the waste collection fees¹ charged to residents in response. The increase was intended to cover rising costs for the current fiscal year through the end of FY 24/25, so no rate changes are being proposed at this time. During last year's Council discussion of the rate increase, questions were raised by Council members and the public about different service delivery options to help minimize future rate increases. Although no changes were made then, the agreement does provide the ability for both parties to make modifications at any time. As the current contract nears its expiration, it is prudent to review the potential benefits and challenges of renewing this agreement.

Discussion:

Staff reached out Waste Pro representatives to review the questions posed last year. These questions cover various aspects of refuse collection services, including the frequency of collection, cost implications, operational efficiency, and seasonal adjustments.

¹ Res. 2023-08, August 17, 2023

- 26 1. **Reducing Service to Once-a-Week Trash Pick-Up:** WastePro has indicated that the
27 potential cost savings would be minimal, but could not provide precise figures without a
28 pro-forma evaluation. It is essential to recognize that municipalities in Florida often opt
29 for twice-a-week trash collection due to the state's high temperatures. Prolonged exposure
30 to heat can lead to severe odor issues, attraction of insects and other vermin, and the
31 spawning of insect larvae (maggots) when trash remains uncollected for an extended
32 period.

33 This report does not recommend changing to a once-a-week trash pick-up schedule.

- 34 2. **Operational Efficiency:** If the town were to adopt a once-a-week pick-up schedule, the
35 time required to collect trash throughout the town on that day would increase. The
36 volume of trash collected per pick-up would be higher, leading to longer collection times
37 and increased workload for crews.

- 38 3. **Seasonal Adjustments:** WastePro currently employs a static number of trucks for refuse
39 pick-up in Ponce Inlet. However, they have the capability to adjust resources seasonally
40 if required. During peak seasons, such as holidays or tourist influx periods, WastePro can
41 deploy additional trucks to accommodate the increased volume of trash, ensuring that
42 service levels remain consistent.

43 **Conclusion and Recommendation:**

44 Over the past five years, WastePro has demonstrated reliability, efficiency, and responsiveness to
45 the needs of our community. Based on the evaluation of WastePro's cost considerations and
46 operational factors, it is recommended that the Town of Ponce Inlet renew the refuse collection
47 agreement with WastePro for an additional five-year term.

48 **Attachment:**

Agreement between the Town of Ponce Inlet and WastePro, August 22, 2019

**SOLID WASTE, RECYCLABLES, AND BULK WASTE
COLLECTION AND DISPOSAL AGREEMENT**



**Agreement
Between**

Town of Ponce Inlet

and

Waste Pro of Florida, Inc.

Approved: August 22, 2019

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SOLID WASTE, RECYCLABLES, AND BULK WASTE COLLECTION AND DISPOSAL AGREEMENT

Town of Ponce Inlet, Florida

This Contract is made and entered into this 26th day of August, 2019, between the Town of Ponce Inlet, a municipal corporation of the State of Florida, Volusia County, Florida, hereinafter referred to as "TOWN," and Waste Pro of Florida, Inc. authorized to do business in the State of Florida, hereinafter referred to as "CONTRACTOR."

Now, therefore, in consideration of the mutual covenants, agreements and consideration contained herein, the TOWN and CONTRACTOR hereby agree as hereinafter set forth:

SECTION 1. EFFECTIVE DATE, COMMENCEMENT DATE, AND TERM

- A. Effective and Commencement Dates. The Effective Date of this Contract is the date this Contract is executed and signed by both the TOWN and CONTRACTOR. The Commencement Date is the date that Collection services required pursuant to this Contract commence, or October 1, 2019.
- B. Initial Term. The term of this Contract shall be for a five (5) year period beginning on the Commencement Date, October 1, 2019, and terminating September 30, 2024.
- C. Renewal Option. This Contract shall automatically renew for up to three (3) additional five (5) year periods unless either party provides the other party with written notice of non-renewal at least one (1) year prior to the conclusion of any Contract term.

SECTION 2. DEFINITIONS

For the purpose of this Solid Waste, Recyclables, and Bulk Waste Collection and Disposal Agreement, hereinafter referred to as "Contract," the definitions contained in this Section shall apply unless otherwise specifically stated or otherwise in conflict with Florida law. If a word or phrase is not defined in this Section, the definition of such word or phrase as contained in the TOWN Code shall control except where preempted by Florida law, in which case Florida law shall control. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender shall include the feminine gender. The word "shall" is always mandatory and not merely discretionary.

- A. Active Utility Billing Account means any property with a water meter paying at least the minimum monthly water service charge.
- B. Biohazardous or Biomedical Waste means any waste that may cause disease or reasonably be suspected of harboring pathogenic organisms, including waste resulting from the operation of medical clinics, hospitals, and other facilities processing waste that may consist of, but are not limited to, human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, sharps, contaminated clothing, and surgical gloves.
- C. Bulk Trash means those wastes that may require special handling and management and which by reason of bulk, shape, or weight cannot be placed in a Container. Bulk Trash includes, but is not limited to, furniture and fixtures, mattresses, White Goods, equipment, and any and all household goods that are customary to ordinary housekeeping operations of a Residential Service Unit. Bulk Trash must be generated by the customer at the Residential Service Unit at which the Bulk Trash is placed for Collection. Bulk Trash does not include Construction and Demolition Debris, Contractor-Generated Waste, or Exempt Waste.
- D. Bulk Waste means the combination of Bulk Trash and Yard Trash. Bulk Waste must be generated by the customer at the Residential Service Unit at which it is placed for Collection. Bulk Waste does not include Construction and Demolition Debris, Contractor-Generated Waste, or Exempt Waste.

- E. Business(es) means all retail, professional, wholesale, agricultural, industrial facility, or any other commercial enterprises offering goods or services to the public or other businesses; any church, synagogue, mosque, or other house of worship; and any schools or other institutions.
- F. Certificate of Occupancy means a document produced by the Town certifying that a newly constructed building has been constructed in compliance with Town specifications and Florida Building Code and is suitable for use.
- G. Collection means the process whereby Solid Waste, Recyclable Materials, or Bulk Waste is removed and transported to the facilities designated in this Contract.
- H. Commencement Date means the date Collection services pursuant to this Contract commence, or October 1, 2019.
- I. Compactor means any container that has a compaction mechanism, whether stationary or mobile.
- J. Construction and Demolition Debris or C&D Debris means discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project.
- K. Container means any container intended for Collection.
- L. Contract means this agreement, including all attachments and amendments thereto, between the TOWN and the CONTRACTOR, governing the provision of services as provided herein.
- M. Contract Administrator means the Town Manager or designee.
- N. Contract Year means the time from the Commencement Date through September 30, 2020 and each year thereafter during the term of the Contract.
- O. CONTRACTOR means that person or entity that has obtained from the TOWN a Contract to provide the services set forth herein.
- P. Contractor-Generated Waste means Bulk Trash and/or Yard Trash generated by builders, building contractors, privately employed tree trimmers and tree surgeons, landscape services, lawn or yard maintenance services, and nurseries.
- Q. County means Volusia County, Florida.
- R. Designated Disposal Facility means the disposal facility designated by the TOWN.
- S. Designated Materials Recovery Facility or Designated MRF means the facility designated by the TOWN for delivery of all Residential Recyclable Materials collected pursuant to this Contract. The designated facility for collected recycling material will be the Ormond Beach Transfer Station, 600 North Orchard Street, Ormond Beach, FL 32174.
- T. Dumpster means any metal container, with a capacity of two (2) or more cubic yards, designed or intended to be mechanically dumped into a loader packer type garbage truck.
- U. Effective Date means the date this Contract is executed by both the TOWN and CONTRACTOR.
- V. Exempt Waste means Biohazardous or Biomedical Waste, Hazardous Waste, Sludge, construction and demolition waste, tree parts or lumber that is more than four (4) feet in length in its longest dimension, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid

batteries, used oil and tires, those wastes under the control of the Nuclear Regulatory Council, Contractor-Generated Waste, and those other materials whose size and/or weight are in excess of that allowed for Bulk Waste as defined herein.

- W. Hazardous Waste means any solid waste that is defined as a hazardous waste by the Florida Department of Environmental Protection in the State of Florida Administrative Code, or by any current or future federal, state, or local law.
- X. Holiday means a designated holiday on which the CONTRACTOR shall not be required to provide Residential Collection Service or to maintain office hours. For the purposes of this Contract, Holiday shall only mean Christmas Day, New Year's Day, Thanksgiving Day and any day that the landfill closes unless additional Holidays are approved by the Contract Administrator.
- Y. Non-Collection Notice means a durable tag, sign, and/or sticker placed on any Container or waste that has been set out for Collection by a customer but is not collectable in accordance with the provisions of this Contract and, therefore, has not been collected by the CONTRACTOR.
- Z. Recyclable Materials or Recyclables means those materials that are capable of being recycled and which would otherwise be processed or disposed of as Residential Solid Waste. Recyclable Materials include newspapers (including inserts), corrugated cardboard, mixed paper (including brown paper bags, magazines, phonebooks, junk mail, white and colored paper, and paperboard), aluminum cans, plastic containers and bottles marked with SPI codes 1-2, tin and ferrous cans, and other materials added by the TOWN.
- AA. Recycling Bin means a rigid rectangular receptacle made of plastic or other suitable substance of no less than eighteen (18) gallons for the Collection of Recyclable Materials.
- BB. Residence means any individual living unit in a single-family structure or building intended for, or capable of being utilized for, residential living. For the purposes of this Contract, the term Residence shall include a living unit that adjoins or is part of a building from which a duly licensed Business is conducted or operated.
- CC. Residential Collection Service means the Collection of Residential Waste from all Residential Service Units in the Service Area and the delivery of such materials to the facilities designated in this Contract.
- DD. Residential Customer means the occupant of the Residential Service Unit that receives Collection services pursuant to this Contract.
- EE. Residential Service Unit means any Residence receiving Residential Collection Service pursuant to this Contract.
- FF. Residential Waste means Solid Waste, Bulk Waste, and Recyclable Materials generated by Residential Customers and by the Town.
- GG. Roll Cart means a wheeled container designed and intended to be used for automated or semi-automated Collection of Solid Waste and/or Recyclable Materials that is a type and size approved by the Town.
- HH. Roll-off Container means any open-top Container of a capacity of ten (10) cubic yards or more.
- II. Service Area means the municipal limits of the TOWN.
- JJ. Sludge means the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar disposal appurtenances, or any other such waste having similar characteristics or effects.

- KK. Solid Waste means garbage, rubbish, refuse, trash, or other similar discarded material resulting from domestic, industrial, agricultural, or governmental operations. For the purposes of this Contract, the only things Solid Waste excludes are Recyclable Materials, Exempt Waste, and Residential Bulk Waste.
- LL. TOWN means the Town of Ponce Inlet, Florida.
- MM. Town Council or Council means the governing body of the Town of Ponce Inlet, Florida.
- NN. White Goods means inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic appliances. White Goods must be generated by the customer at the Residential Service Unit at which the White Goods are placed for Collection.
- OO. Work Day means any day, Monday through Saturday, which is not a Holiday as set forth in this Contract.
- PP. Yard Trash means any vegetative matter resulting from normal yard and landscaping maintenance that is not more than four (4) feet in its longest dimension. Yard Trash must be generated by the customer at the Residential Service Unit at which the Yard Trash is placed for Collection. Yard Trash includes Christmas trees, but does not include Contractor-Generated Waste or Exempt Waste. Yard trash does not include vegetative or bulk material that is generated as the result of a hurricane or other declared disaster event.

SECTION 3. GENERAL DESCRIPTION OF CONTRACTOR'S SERVICES

- A. Exclusive Contract. The CONTRACTOR is herein granted an exclusive Contract to provide Residential Collection Service within the TOWN. The CONTRACTOR is not granted the exclusive right to collect C&D Debris. The CONTRACTOR may provide C&D Debris collection services at competitive rates that shall not be controlled by this Contract.
- B. Services to be Provided. The CONTRACTOR shall provide Residential Collection Service to all Residential Service Units and to the Town within the Service Area. The CONTRACTOR shall transport and deliver all Solid Waste, Recyclable Materials, and Bulk Waste collected pursuant to this Contract to the facilities designated herein. CONTRACTOR agrees and understands that the Residential Bulk Waste is not required to be containerized in cans or plastic bags. CONTRACTOR further agrees and understands that CONTRACTOR is responsible for collecting any Residential Waste that has spilled or is no longer containerized, unless such spillage is clearly not caused by the CONTRACTOR or an employee of the CONTRACTOR.
- C. Exempt Waste. The CONTRACTOR shall not be required to collect or dispose of Exempt Waste, but may offer such services. All such collection and disposal of Exempt Waste are not regulated under this Contract, but if provided by the CONTRACTOR shall be in strict compliance with all federal, state, and local laws and regulations.
- D. Responsibility for Billing. The TOWN shall be responsible for the billing and collection of payments for Residential Collection Service. The CONTRACTOR shall be responsible for the billing and collection of payments for providing and servicing extra Residential Roll Carts, special collection services requested and provided to Residential Customers as outlined in Section 5.D of this Contract.
- E. Payment for Disposal. The CONTRACTOR shall be responsible for making payment to the Designated Disposal Facility for the disposal of all Solid Waste collected pursuant to this Contract, and shall provide documentation of such payment to the TOWN. If the Designated Disposal Facility requires that a payment bond be posted for disposal of Solid Waste collected pursuant to this Contract, the CONTRACTOR shall be responsible for posting such payment bond.

SECTION 4. TRANSITION IN SERVICE

- A. Transition Prior to Commencement Date of Service. The CONTRACTOR is responsible for providing a smooth transition in services to minimize inconvenience to Residential Customers. To accomplish this objective, the CONTRACTOR shall submit to the Contract Administrator, prior to the TOWN's execution of this Contract, a Transition Plan that provides a detailed description of how the CONTRACTOR will plan and prepare for initiating Collection services on the Commencement Date. The Transition Plan must meet the approval of the Contract Administrator. If the Contract Administrator does not approve any part of the Transition Plan, CONTRACTOR shall provide a revised proposed Transition Plan within five (5) Work Days of notification. At a minimum, the CONTRACTOR must address the specific performance requirements listed below in the Transition Plan and accomplish them according to deadlines specified in the TOWN-approved plan. This list is not intended to identify all necessary tasks to be performed by the CONTRACTOR, but to provide a springboard for the CONTRACTOR to develop a comprehensive Transition Plan.
- (1) Contact List: List of key transition personnel including, but not limited to, service transition project manager, education and outreach coordinator, and operations director (or similarly titled positions).
 - (2) Transition Meeting and Call Schedules: Proposed meeting and call schedules including, but not limited to, meetings with the Contract Administrator, Town staff, and outgoing contractor leading up to the Commencement Date.
 - (3) Office: Schedule for setting up an office, installing local telephone number routed to the office, and training staff to begin receiving calls.
 - (4) Fleet: Schedule for ensuring that all vehicles are street legal (registered, insured, licensed, and tagged) and providing a vehicle/equipment list and route summary to the Contract Administrator. For all new purchases, CONTRACTOR shall provide a list of vehicles, manufacturer, purchase order, and documentation of anticipated delivery date.
 - (5) Staffing and Training: Schedule for obtaining necessary labor and training staff on equipment and routes.
 - (6) Routing: Schedule for developing Solid Waste, Recyclables, and Bulk Waste routes, identifying obstacles such as low trees and overhead wires, and conducting dry-runs of collection routes.
- B. Transition Prior to Expiration of this Contract.
- (1) Should the TOWN choose not to exercise the renewal option of this Contract or should no renewal options remain, the TOWN anticipates awarding a new contract at least six (6) months prior to the expiration of this Contract or any subsequent renewals. In the event a new contract has not been awarded within such time frame, the CONTRACTOR agrees to provide service to the TOWN for up to an additional one hundred and eighty (180) day period beyond the expiration of the Contract, provided the TOWN requests said services, in writing, at such time. The service rates for this additional period will be adjusted as they normally would on October 1 as specified in Sections 12 and 13 of this Contract.
 - (2) At the expiration of this Contract, the CONTRACTOR shall work with the TOWN and the newly selected hauler to ensure a smooth transition period with no interruption of service, including, but not limited to, compliance with the following performance requirements:
 - (a) Attend coordination meetings with the TOWN and newly selected hauler, as requested.
 - (b) Work with the newly selected hauler to develop a mutually agreeable schedule for removal of CONTRACTOR-owned Containers and placement of newly selected hauler's containers. The schedule shall ensure no interruption in solid waste services.

- (c) Allow the newly selected hauler to purchase or rent for up to ninety (90) days, CONTRACTOR-owned Containers from the CONTRACTOR. The purchase price and/or rental shall be negotiated.
- (3) The TOWN reserves the right to withhold payment to CONTRACTOR for the final month of service until CONTRACTOR has complied with all requirements of this Section.

SECTION 5. RESIDENTIAL COLLECTION SERVICE

A. Residential Solid Waste Collection.

- (1) The CONTRACTOR shall provide Residential Solid Waste Collection to all Residential Service Units in the Service Area two (2) times per week with not less than forty-eight (48) hours or more than seventy-two (72) hours between regularly scheduled pickup days, with the exception of Holidays as set forth herein. Residential Solid Waste Collection shall occur twice per week on Monday and Thursday, unless a modification is approved by the Contract Administrator.
- (2) All Residential Solid Waste shall be properly containerized. All Solid Waste to be hand-lifted is to be placed in customer-provided containers or non-dissolvable plastic garbage bags with a capacity of not more than thirty-two (32) gallons and weighing not more than fifty (50) pounds. Any trash container larger than 32 gallons must be able to be lifted with a mechanical trash container lifting device. If the Town decides to implement carted Collection of Solid Waste, to the extent possible all Solid Waste is to be placed in CONTRACTOR-provided Roll Carts; CONTRACTOR is expected to pick up additional bags, boxes, etc... that may be placed next to Roll Carts. Residential Customers may request the CONTRACTOR to provide and service additional Solid Waste Roll Carts as specified in Section 6.B(4) of this Contract.
- (3) Hours: Residential Collection Service shall be provided commencing no earlier than 7:00 a.m. and terminating no later than 7:00 p.m. The hours and days of Collection may be extended due to extraordinary circumstances or conditions, with the prior written consent of the Contract Administrator.

B. Residential Bulk Waste Collection.

- (1) The CONTRACTOR shall provide Residential Bulk Waste Collection, consisting of Yard Trash and Bulk Trash, to all Residential Service Units in the Service Area. Non-vegetative Residential Bulk Waste Collection shall occur on shall occur on the solid waste collection days and vegetative bulk waste shall occur once per week on Wednesday, unless otherwise approved in writing by the Contract Administrator; large piles of vegetative bulk waste may require multiple days for full collection. Collection is limited to twelve (12) cubic yards per set-out. In a few locations where space is limited (such as cul-de-sacs), one or more Residential Customers may combine their Bulk Waste into a single large pile. The TOWN will work with the residents and CONTRACTOR to identify these locations.
- (2) If Bulk Waste exceeds the twelve (12) cubic yard limit, the CONTRACTOR will treat any amount above the twelve (12) cubic yard limit as a special collection service in accordance with Section 5.D(2).
- (3) The CONTRACTOR may collect Bulk Trash and Yard Trash in the same vehicle or in separate vehicles but shall collect such material in such a way that Yard Trash can be separated for recycling. Residents are asked to place non-containerized Yard Trash separate from Bulk Trash into an unobstructed pile to permit the CONTRACTOR to collect such Yard Trash with a grapple or clam truck, although at times hand collection, or an alternative method of collection, may be required. Collection of Yard Trash using a grapple or clam truck may be on the same Collection day as Collection of Bulk Trash. Collection of Bulk Trash may use a grapple or clam truck, although at times hand collection, or an alternative method of collection, may be required.

- (4) The CONTRACTOR shall collect White Goods so that they can be recycled. Residents are asked to place White Goods adjacent to other Bulk Trash but separate so as not to be obstructed. Even if residents fail to separate their White Goods, CONTRACTOR shall still utilize its best efforts to recycle comingled White Goods collected.

C. Residential Recyclables Collection.

- (1) The CONTRACTOR shall provide Residential Recyclables Collection to all Residential Service Units in the Service Area. This service shall be provided once every week on Tuesday, unless a modification is approved in writing by the Contract Administrator.
- (2) Residential Recyclables shall be collected in a single stream, meaning that paper and commingled containers may be placed in the same 18 gallon recycle bin. All Recyclables are to be placed in 18 gallon recycle bins. Residential Customers may request the CONTRACTOR to provide and service additional recycle bins as specified in Section 6.C(2) of this Contract.
- (3) Contractor and City shall mutually agree on any additions or deletions of recyclable types to be collected. The addition of items shall be at no additional cost to the TOWN unless the CONTRACTOR can document that the addition of such items substantially impacts the cost of providing Residential Collection Service.

D. Residential Special Collection Service.

- (1) For an additional fee, Residential Customers may request special collection service from the CONTRACTOR that exceeds the base-level services outlined herein. CONTRACTOR shall be responsible for invoicing and collecting payment from Residential Customers for special collection services outside the scope of this contract. The TOWN is not liable for a Residential Customer's failure to remit payment to CONTRACTOR for any special collection service provided.
- (2) Bulk Waste in excess of twelve (12) cubic yard limit. If a Residential Customer places more than twelve (12) cubic yards of Bulk Waste curbside for Collection, the CONTRACTOR shall collect all Bulk Waste and shall invoice the Customer for the amount of Bulk Waste exceeding the twelve (12) cubic yard limit. This per cubic yard amount shall be as approved in the contract between the Town and the CONTRACTOR.
- (3) By noon the business day following each Work Day, the CONTRACTOR shall provide the Town with the residential address associated with any overage of bulk waste to be charged and shall provide digital photographs of the entire pile prior to Collection, to document the size of the Bulk Waste pile.
- (4) No Mixing of Residential Materials.
- (5) The CONTRACTOR shall collect Residential Solid Waste, Bulk Waste, and Recyclable Materials generated in the TOWN separate from any Solid Waste, Bulk Waste, or Recyclable Materials generated in another jurisdiction.
- (6) The CONTRACTOR shall not commingle Residential Recyclable Materials with other Residential Waste.

E. Side or Back Door Collection. Notwithstanding any term or definition set forth in this Contract, side or back door Collection of Residential Solid Waste and Residential Recyclable Materials from a Residential Service Unit shall be required if all adult occupants residing therein are disabled and if a request for side or back door Collection has been made to, and approved by, the Contract Administrator in the manner required by TOWN. The Contract Administrator shall notify the CONTRACTOR in writing of any customers requiring side or back door Collection. No additional monies shall be due to the CONTRACTOR for the provision of side or back door Collection to disabled Residential Customers. The CONTRACTOR will not be required to enter any buildings, garages or gated areas of the property to service a Residential Customer.

- F. Dead Animals Collection. CONTRACTOR shall pickup any dead animals from both streets and right of ways within the Town upon visually observing such or being notified by the Town of the need for said pickup, within four (4) hours of notification, on any day in which they are in Town performing other collections – currently scheduled for Monday – Thursday.
- G. Hours. Residential Collection Service shall be provided Monday through Saturday, commencing no earlier than 7:00 a.m. and terminating no later than 7:00 p.m., with no service on or Sunday. The hours and/or days of Collection may be extended due to extraordinary circumstances or conditions, with the prior consent of the Contract Administrator.
- H. Holidays. In the event a Residential Customer's normal Collection day falls on a holiday observed by the CONTRACTOR and accepted by the TOWN via this CONTRACT, Collection shall occur on the Residential Customer's next regularly scheduled Collection day.
- I. Accessibility. All properly prepared Residential Containers, including Roll Carts, shall be placed within three (3) feet of the curb, swale, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by the CONTRACTOR and customer, that will provide safe and efficient accessibility to the CONTRACTOR'S collection crew and vehicle. When possible, CONTRACTOR shall work to ensure that Containers, including Roll Carts, are placed in an upright position within three (3) feet of the curb, swale, roadway, or other such location agreed to by the CONTRACTOR and customer, that will help to ensure that no Container or Roll Cart impedes, alters, or prevents the vehicular traffic. In certain instances, properly prepared Residential Waste may be placed in driveway turnout areas to avoid placing it in the traveled roadway. The CONTRACTOR shall report monthly to the Contract Administrator all situations that prevent or hinder Collection on any premises.
- J. Manner of Collection.
- (1) The CONTRACTOR shall provide Residential Collection Service with as little noise and disturbance as possible.
 - (2) CONTRACTOR's employees shall completely empty any Container without obstructing alleys, roadways, driveways, sidewalks, or mail boxes. Roll Carts shall be placed in an upright position with the lid closed. Containers with unattached lids shall be placed either in an upright position with the lid set on top or in an inverted position with the lid placed underneath to help prevent the lid from flying away or if that is impractical directly behind the Container.
 - (3) CONTRACTOR'S employees shall follow the regular walk for pedestrians while on private property. No trespassing by CONTRACTOR'S employees will be permitted or crossing property to the adjoining premises unless the occupant or owner of both properties has given permission. Care shall be taken to prevent damage to property, including flowers, shrubs, and other plantings. CONTRACTOR is responsible for repairs to all damaged property.
 - (4) CONTRACTOR's Collection vehicles shall remain on the right-hand side of the road when providing Residential Collection Service on two-way streets with center stripes. At no time shall collection crews cross to the opposite side of a street with center stripes to retrieve Containers, Roll Carts, or materials that have been set out for Collection. In situations where it is impossible or difficult to turn around to serve a location from the right side of the vehicle, then left-side service is permitted, but only in a manner that ensures the safety of residents and collection workers and only when approved by the Contract Administrator. At no time shall collection workers use the riding steps when the vehicle is backing up, exceeding 10 miles per hour, or traveling more than 0.2 miles.
- K. Spillage. The CONTRACTOR shall clean up any Residential Solid Waste spilled from a Container by the CONTRACTOR or its employees or Residential Bulk Waste spilled or scattered by the CONTRACTOR or its

employees prior to proceeding to the next customer, if reasonably possible, but in no event prior to the end of that pick-up day. Care shall be taken by CONTRACTOR'S employees to prevent damage to Containers by unnecessary rough treatment.

- L. Routes and Schedules. The CONTRACTOR shall provide the Contract Administrator with schedules for all Residential Collection Service routes in accordance with the Transition Plan and shall always keep such information current. If any changes in the Collection routes occur, the Contract Administrator shall be immediately notified in writing. No permanent change in routes or schedules that will alter the days of Residential Waste Collection may be made without the prior written consent of the Contract Administrator. In the event a permanent change in routes or schedules that will alter the days of Residential Waste Collection is approved by the Contract Administrator, the CONTRACTOR shall immediately notify the affected Residential Customers, in writing or other manner as approved by the Contract Administrator, not less than two (2) weeks prior to the change.

SECTION 6. RESIDENTIAL COLLECTION CONTAINERS

- A. Customer-Provided Containers. Within five (5) Work Days of being notified by a Residential Customer or the TOWN that CONTRACTOR or its employees destroyed the customer's non-TOWN supplied Container, CONTRACTOR shall provide the Residential Customer with a Container of comparable size and quality. CONTRACTOR is not responsible for a replacement Container if it can satisfactorily prove to the Contract Administrator that CONTRACTOR or its employees did not damage the customer's Container. Prior to payment or replacement of the Container, the Residential Customer shall give CONTRACTOR their damaged Container for disposal.

- B. Purchase and Distribution of Solid Waste Roll Carts.

If during the term of this Agreement, the TOWN chooses to implement carted Collection of Solid Waste at the onset of any five-year renewal of this agreement, and if such carted Collection of Solid Waste is approved by the CONTRACTOR, this section shall apply.

- (1) Within one hundred and twenty days of the TOWN'S decision to implement carted Collection of Solid Waste, CONTRACTOR shall deliver one (1) Solid Waste Roll Cart to each Residential Customer within the Service Area. After the roll-out, CONTRACTOR shall deliver Solid Waste Roll Carts within five (5) Work Days of notification of a new Residential Customer. Roll Carts must meet the technical specifications provided in Exhibit 5 and be approved by the Contract Administrator. Roll carts shall be delivered with information attached pursuant to Section 11.C.
- (2) The standard Solid Waste Roll Cart shall be ninety-five (95) gallons or similar in size. However, CONTRACTOR shall make sixty-five (65) gallon (or similar in size) Solid Waste Roll Carts available upon request by a Residential Customer. Prior to assembly and distribution of Solid Waste Roll Carts, CONTRACTOR may conduct a survey of Residential Customers to determine which size Solid Waste Roll Cart they prefer. If CONTRACTOR plans to conduct such a survey, the details of such survey shall be included in the Transition Plan and the survey and method of collection of survey data must be approved by the TOWN in advance of its distribution.
- (3) Upon request by a Residential Customer, CONTRACTOR shall exchange a Solid Waste Roll Cart with an alternatively-sized Roll Cart within five (5) Work Days of request for such exchange by the customer or TOWN. CONTRACTOR shall provide one (1) Solid Waste Roll Cart exchange per Residential Customer during the initial Contract term at no charge to the customer or the TOWN. Should a Residential Customer request additional exchanges, CONTRACTOR may charge the Residential Customer no more than one hundred dollars (\$100) per Roll Cart that is exchanged. CONTRACTOR shall track and report exchanges in the asset management database specified in Subsection E below.

- (4) Upon request by a Residential Customer, CONTRACTOR shall provide more than one (1) Solid Waste Roll Cart to accommodate extra materials. CONTRACTOR shall charge Residential Customer for each extra Solid Waste Roll Cart for an additional unit in accordance with Exhibit 1. CONTRACTOR shall provide additional Solid Waste Roll Carts within five (5) Work Days of request by a Residential Customer or the TOWN. CONTRACTOR shall record all extra Solid Waste Roll Carts delivered to Residential Customers in the asset management database and report them monthly to the Contract Administrator. If a Residential Customer desires the Collection of the extra Solid Waste Roll Cart(s), CONTRACTOR shall issue an annual invoice for the Collection that shall be paid directly by the Residential Customer to CONTRACTOR in accordance with the rate schedule provided in Exhibit 1. Such annual invoice shall be prorated based upon the 1st day of the month that Collection commences, and it shall be based upon a calendar year. CONTRACTOR shall send all renewal invoices to the Residential Customers in December of each calendar year. CONTRACTOR shall not be required to collect any extra Solid Waste Roll Cart(s) unless it has been paid to collect same. Residential Customer may cancel its extra Solid Waste Roll Cart(s) Collection at any time, but such cancellation shall only go into effect the next calendar year. Residential Customers who cancel their extra Collection shall not receive a proration for services, nor shall they be able to seek a credit for failure to utilize this service. The TOWN is not liable or responsible for any payment to CONTRACTOR for the failure of payment by a Residential Customer, or for CONTRACTOR's collection of such extra waste.
- (5) If the Town elects to transition to carted Collection of Solid Waste, and if CONTRACTOR approves such transition, within thirty (30) days of such election, CONTRACTOR shall provide a transition plan to the Contract Administrator, which is subject to the approval of the Contract Administrator. The transition plan shall include the information specified below:
 - (a) Cart Procurement: Schedule for purchase and manufacturing of CONTRACTOR-provided Roll Carts for Residential Collection Service including artwork approval by TOWN and prototype delivery. The TOWN retains the right to require acceptable documentation including, but not limited to, purchase orders, delivery schedules, and receipts of payment.
 - (b) Cart Assembly and Distribution (A&D): Schedule for Roll Cart A&D including cart shipment dates, days and hours of operations, and completion of A&D. All Roll Carts shall be delivered to all customers at least two (2) weeks prior to the Commencement Date. An A&D plan shall also be included two (2) weeks prior to the Commencement date identifying A&D contractor, if applicable, and contact information, staging areas, A&D route schedule, number of crews, expected number of carts delivered per crew per day, method of assigning carts to addresses, data points to be collected at time of A&D, and upload frequency of data into central A&D database. CONTRACTOR shall provide a list matching the serial number of each Roll Cart to the specific address to which each Roll Cart has been assigned. After delivery, residents may affix their names and property address onto their assigned Roll Cart.
 - (c) Cart Swaps: Schedule for Roll Cart swaps, including plan for receiving swap requests, initiating exchanges, and maintaining asset management database.

C. Purchase and Distribution of Recycling Bins.

- (1) Residential Customers shall retain Recycling Bins utilized during the previous collection contract. Prior to the Commencement Date, the CONTRACTOR shall ensure that all Residential Customers desiring Recycling Bins are provided such. Recycling Bins shall be of a similar size and quality as those currently in use, meet the technical specifications provided in Exhibit 5, and be approved by the Contract Administrator. The CONTRACTOR shall purchase and provide Recycling Bins to all new Residential Customers within five (5) Work Days of notification of a new Residential Customer.
- (2) Upon request by a Residential Customer, CONTRACTOR shall provide more than one (1) Recycling Bin to accommodate extra recyclable materials. CONTRACTOR shall provide additional Recycling Roll Bins within

five (5) Work Days of request by a Residential Customer or the TOWN. CONTRACTOR shall record all extra Recycling Bins delivered to Residential Customers on the asset management list and report them monthly to the Contract Administrator. Additional Recycling Bins shall be collected at no additional cost to the Residential Customer or the TOWN.

D. Repair and Replacement of Solid Waste and Recycling Bins.

- (1) CONTRACTOR shall maintain a sufficient inventory of Solid Waste Roll Carts (if this option is ever selected) and Recycling Bins to be able to deliver new or replacement Roll Carts/Bins of the requested size within five (5) Work Days of receiving request.
- (2) CONTRACTOR shall repair or replace a Roll Cart/Bin within five (5) Work Days of receiving notice from the TOWN or customer of the need for repair, or if identified unserviceable by CONTRACTOR.
- (3) Any Roll Carts/Bins damaged by the CONTRACTOR, including extra Roll Carts/Bins, shall be replaced by the CONTRACTOR, at the CONTRACTOR's expense, at no cost or inconvenience to the Residential Customer.
- (4) The cost of replacing Roll Carts/Bins due to loss, theft (without documented police report), or destruction through no fault of the CONTRACTOR shall be charged by the CONTRACTOR to the Residential Customer for an amount not to exceed the rate schedule set forth in Exhibit 1. This rate may be adjusted by the TOWN if the CONTRACTOR provides sufficient documentation to demonstrate that such adjustment is warranted. This fee may be collected from the Residential Customer by the CONTRACTOR at the time of delivery of the Roll Cart/Bin.

E. Asset Management List.

- (1) The TOWN will provide the CONTRACTOR with a list of Residential Customers that includes the parcel folio number, address, and number of Residential Service Units on each parcel. CONTRACTOR shall use this list to develop and maintain an asset management database through which CONTRACTOR shall be responsible for reporting and tracking the movement of all Roll Carts used for Residential Collection Service, including deliveries, removals, exchanges, repairs, warranty recovery, and any other information necessary to manage cart assets, subject to TOWN approval. The database shall also specify the route for each Residential Service Unit and shall be in a format that is searchable by the Contract Administrator. The initial database must be populated and transmitted to the Contract Administrator in accordance with the approved Transition Plan. All database adjustments must be made within forty-eight (48) hours of physical inventory exchange and completion of work order. If a cart is swapped out, data for the cart removed and the cart replaced is to be provided. Data fields shall include, but not be limited to the following:
 - (a) Work order number, date, and status
 - (b) Residential Service Unit name/ID and address
 - (c) Parcel folio number (as provided by the TOWN)
 - (d) For each Roll Cart at each Residential Service Unit, the type (Solid Waste or Recycling), size, and serial number
 - (e) Routes on which the Residential Service Unit is serviced
- (2) CONTRACTOR shall provide the Contract Administrator with an updated copy of the asset management database monthly, as well as access upon request.

- F. Ownership of Roll Carts/Bins. Ownership of Roll Carts/Bins provided by CONTRACTOR shall rest with the CONTRACTOR until expiration or termination of this Contract, at which point ownership and warranty transfer shall rest with the TOWN. Should the Contract be terminated early for convenience, the TOWN shall pay the CONTRACTOR a prorated amount for the purchase price of the Solid Waste Roll Carts based on a five (5) year amortization schedule.

SECTION 7. RESIDENTIAL NON-COLLECTION PROCEDURES

- A. In the event Solid Waste contains Exempt Waste, Recyclable Materials are contaminated through commingling with Solid Waste, or other occurrence that would warrant legitimate non-collection by the CONTRACTOR, the CONTRACTOR shall affix a Non-Collection Notice to the Container or waste itself explaining why Collection was not made and explaining proper procedures for setting out Solid Waste, Bulk Waste, and Recyclable Materials. CONTRACTOR shall take digital photographs of the waste or pile to document the reason for non-collection. If the uncollected waste consists of Bulk Waste, CONTRACTOR shall take photographs from at least one (1) side of the pile, at a minimum.
- B. The design and content of all Non-Collection Notices must be approved by the Contract Administrator and the cost of printing and delivery of said notices shall be paid for by the CONTRACTOR.
- C. By the end of each Work Day or in no event later than noon the next Work Day, the CONTRACTOR shall electronically transmit to the Contract Administrator a list of all Residential Service Units at which Collection was not made that Work Day. This list shall include the reasons for the non-collection and the addresses of such non-collection. The CONTRACTOR shall also electronically transmit all digital photographs of the non-collection to the Contract Administrator.

SECTION 8. RESIDENTIAL BULK WASTE PROCESSING

- A. The CONTRACTOR is responsible for the transport, processing, marketing, and final disposal of all Residential Bulk Waste collected by the CONTRACTOR. Bulk Waste must be processed or disposed at a legally permitted and licensed facility(ies) to process such materials, as agreed upon by the TOWN and CONTRACTOR. The Bulk Waste processing facility shall be (name of facility specified by selected vendor to be inserted) or such other facility(ies) approved in writing by the Contract Administrator.
- B. To the extent practical, the CONTRACTOR shall recycle any recyclable items collected in the Residential Bulk Trash, including White Goods, and shall mulch, compost, or otherwise recycle Yard Trash. The CONTRACTOR shall record the quantities of Bulk Trash and Yard Trash recycled and the quantities disposed and shall report such quantities to the Contract Administrator for each month and the report shall be given to the Contract Administrator within the month following the report date.

SECTION 9. DESIGNATED FACILITIES

- A. Except as set forth below, all Residential Solid Waste collected by the CONTRACTOR shall be transported to, and disposed of, at any facility selected by the Contractor and approved by the TOWN. The designated facility for collected solid waste and bulk waste will be the Volusia County Landfill, 1990 Tomoka Farms Road, Port Orange, Florida 32128-3752.
- B. All Residential Recyclable Materials collected by the CONTRACTOR shall be delivered any facility selected by the Contractor and approved by the TOWN. The designated facility for collected recycling material will be the Ormond Beach Transfer Station, 600 North Orchard Street, Ormond Beach, FL 32174.
- C. Failure to comply with this provision shall result in the levy of liquidated damages as specified in Section 21 of this Contract and may result in the CONTRACTOR being in default under this Contract.

SECTION 10. ADDITIONAL SERVICES

- A. **TOWN Services.** The CONTRACTOR shall provide, at no cost to the TOWN, Solid Waste and Recyclables Collection services to all Town facilities, including the provision and servicing of Containers. Provided below is a list of services provided at the time of Contract execution. Services to be provided may be adjusted during the term of the Contract based on need.

Locations	Address	Service Frequency	# Garbage Carts	# Recycle Carts	Dumpster Size
Ponce Inlet Police Dept	4301 S. Peninsula Dr.	Once weekly	1 dumpster	1 dumpster 2 toters	6 yards & 4 yards
Ponce Inlet Fire Dept	4680 S. Peninsula Dr.	Once weekly	1 dumpster	1 dumpster 2 toters	8 yards & 6 yards
Ponce Inlet Public Works Facility	4875 S. Peninsula Dr.	Twice weekly	4	2 toters	95 gal
Ponce Inlet Community Center	4670 S. Peninsula Dr.	Once weekly	1 dumpster	-	6 yards
Ponce Inlet Boat Ramp	4985 S. Peninsula Dr.	Once Weekly	2 dumpsters	-	8 yards
Ponce Preserve	4401 S. Peninsula Dr.	Once weekly	Bulk waste		

- B. **Public Awareness Program.** The CONTRACTOR agrees to participate in public outreach events, at no charge to the Town, by providing up to twelve (12) hours per year of an outreach person's time at such public outreach events, provided that notice of at least two weeks is given. If the TOWN'S notice for CONTRACTOR'S cooperation under this Section is less than two weeks, CONTRACTOR, at its sole discretion, may agree to provide the requested outreach person.

SECTION 11. RESIDENTIAL RATES AND BILLING

- A. **Customer Billing.** Except as specifically provided herein, the TOWN shall be responsible for the billing and collection of payments for all Residential Collection Service. The CONTRACTOR shall be responsible for directly billing Residential Customers for providing and servicing extra Roll Carts and for providing special collection service as specified in Section 5.D of this Contract.
- B. **CONTRACTOR Invoicing.** The CONTRACTOR shall invoice the TOWN for Residential Collection Services rendered under this Contract no later than the tenth (10th) calendar day of the month following the month such services were rendered. The TOWN shall review the invoice and pay all undisputed portions of the invoice within twenty (20) days of receipt of the invoice. The TOWN may utilize a check, or ACH for making payments. The monthly invoice from and payment to the CONTRACTOR shall be the Residential Service Unit count times the monthly residential rate as shown in Exhibit 1, attached hereto and included herein.

Residential Service Unit Count. No later than September 1st, 2019, the TOWN will provide the CONTRACTOR with an initial list of Residential Service Units within the Service Area. In the event the CONTRACTOR does not agree with the Residential Service Unit count provided by the TOWN, the CONTRACTOR may request that the TOWN and the CONTRACTOR perform a joint physical count of the Residential Service Units in the Service Area. The Residential Service Unit count may be increased or decreased monthly by the Town based upon those units with an active utility billing account, as defined in this contract. No temporary suspension of collection service may be authorized for any customer with an active utility billing account. The CONTRACTOR may request and the TOWN will subsequently provide a list of active utility billing accounts at any time during the contract, at no cost to the CONTRACTOR. If the CONTRACTOR does not dispute the number of Residential Service Units

provided by the TOWN for a given month within 30 days of receipt of said month's payment, the number of Residential Service Unit shall be deemed to be accepted by the CONTRACTOR and CONTRACTOR waives all rights to recourse for its failure to contest the Residential Service Unit count provided by the TOWN.

- C. Service Rates. The TOWN shall initially pay the CONTRACTOR for Residential Collection Service in accordance with the rates and generation factors established in Exhibit 1, attached hereto and included herein. The collection elements and Bulk Waste disposal element of the initial service rate shall not be adjusted through September 30, 2021.
- D. Service Rate Adjustments. The rates for Residential Collection Service shall be adjusted October 1, 2021, and annually thereafter each Contract Year, as described herein. Any requested adjustments must be submitted to the Town by July 1st of each year for the following fiscal year, beginning with July 1st, 2021. An example of the calculation of such adjustment is provided in Exhibit 2. All rate adjustments shall be reduced to writing and signed by the CONTRACTOR representative identified in Section 27 and the Town Administrator.
- E. Indexes for Adjusting Rates. The following indexes shall be used for calculating rate adjustments pursuant to this Contract. If either of these indexes is discontinued or substantially altered, the TOWN shall select another relevant index published by the United States Government or by a reputable publisher of financial and economic indexes.
- (1) The Consumer Price Index (CPI) used for adjusting rates shall be the Consumer Price Index for Series Id: CUUR0000SEHG02, Garbage and trash collection in U.S. city average, all urban consumers, not seasonally adjusted as determined and recorded by the United States Department of Labor, Bureau of Labor Statistics.
 - (2) The Fuel Index used for adjusting rates shall be the Lower Atlantic (PADD 1C) Ultra Low Sulfur (15 ppm and under) Retail Diesel Prices (Dollars per Gallon) as published by the Energy Information Administration of the United States Department of Energy.
- F. Collection Element Adjustment. The collection elements of the Residential Collection Service rates shall be adjusted based on the Consumer Price Index and Fuel Index, as defined in this Section and illustrated in Exhibit 2.
- (1) Ninety-five percent (95%) of the collection elements of the Residential service rates shall be adjusted based on one hundred percent (100%) of the percentage change in the CPI for February of the previous year and February of the current year, rounded to the nearest hundredth of a percent.
 - (2) Five percent (5%) of the collection elements of the Residential service rates shall be adjusted based on the percentage change in the average monthly Fuel Index for the twelve (12) month period ending February of the previous year and the average monthly Fuel Index for the twelve (12) month period ending February of the current year, rounded to the nearest hundredth of a percent.
 - (3) In no event shall the annual collection element adjustment exceed five percent (5%) of the collection element of the service rate paid by the Town in the previous Contract Year.
- G. Solid Waste Disposal Element Adjustment. The Solid Waste disposal element of the Residential service rate shall be adjusted on the effective date of the new rate based on the new tipping fee at the Designated Disposal Facility. The new annual Residential Solid Waste disposal element shall be calculated as follows:

$$\begin{array}{rcl} \text{New tipping fee (\$/ton)} & \times & 0.764 \text{ tons/Residential Service Unit (Solid Waste generation factor)} \\ & = & \text{New Residential Solid Waste disposal element (\$/Residential Service Unit)} \end{array}$$

Such changes in rate shall be effective October 1st of the next fiscal year. In no event shall the CONTRACTOR utilize any tipping fee, other than the current approved tipping fee, in the preparation of its monthly invoices to

the TOWN; except that in the event the CONTRACTOR is charged a tipping fee that is less than the current approved tipping fee for the disposal of Residential Solid Waste, such lower tipping fee shall be used in the preparation of the monthly invoice to the TOWN. The TOWN may request from the CONTRACTOR such further information as may be reasonably necessary in making its determination.

- H. **Bulk Waste Disposal Element Adjustment.** The Bulk Waste disposal element of the Residential service rate shall be adjusted based on the new disposal rate at the Designated Disposal. The new annual Residential Bulk and Yard Waste disposal element shall be calculated as follows:

$$\begin{array}{rcl} \text{New tipping} & \times & 0.623 \text{ tons/Residential} \\ \text{fee (\$/ton)} & & \text{Service Unit (Bulk Waste} \\ & & \text{generation factor)} \\ & = & \text{New Residential Bulk Waste} \\ & & \text{disposal element} \\ & & \text{(\$/Residential Service Unit)} \end{array}$$

- I. **Generation Factor Adjustments.** The generation factors specified in Exhibit 1 that are used to calculate the rates for Solid Waste disposal and Bulk Waste disposal shall be set by July 15, 2021, and shall be adjusted October 1, 2021, and shall then remain constant for the remainder of the Contract term. The generation factors will be adjusted based on the average quantities of Residential Solid Waste and Residential Bulk Waste (not including Bulk Waste that exceeded the 12 cubic yard limit per pickup) collected per Residential Service Unit during the first Contract Year. Regardless of final determination of the average quantities of Residential Solid Waste and Residential Bulk Waste collected per Residential Service Unit during the first Contract Year, the adjusted generation factor for Residential Bulk Waste shall not exceed the FY 2016 level of 4.67 tons per Residential Service Unit per year and the generation factor for Residential Solid Waste shall not exceed the generation factor provided in Exhibit 1 of 1.28 tons per Residential Service Unit per year. The Contractor shall provide monthly documentation demonstrating the accuracy of the tonnage of Residential Solid Waste and Bulk Waste collected in the Town during the first Contract Year. The Solid Waste disposal element and Bulk Waste disposal element shall be calculated based on these adjusted generation factors, as well as the adjustments specified in Sections 12.H and 12.I above. Notwithstanding the CONTRACTOR provided monthly reporting, the TOWN may elect to conduct its own waste management study. The generation factors determined by that study will be the factors used in the CONTRACT.
- J. **Contract Preparation and Administration Expenses.** The TOWN shall assume all expenses regarding contract preparation and general administration of the contract by TOWN employees.
- K. **Recycling Revenues.** The TOWN shall retain any revenue generated from the processing and sale of Residential Recyclable Materials after processing and transportations fees are paid.

SECTION 12. CHANGE IN LAW AND UNUSUAL CHANGES IN THE COST OF DOING BUSINESS

The CONTRACTOR may petition the TOWN for an additional rate adjustment resulting from a change in law or unusual cost of doing business. The CONTRACTOR'S request shall contain substantial proof and justification to support the need for the rate adjustment. The TOWN may request from the CONTRACTOR such further information as may be reasonably necessary in making its determination. Within sixty (60) calendar days of receipt of the request and all other additional information required by the TOWN, the Town Administrator shall make a determination regarding the fairness of the request and shall make a recommendation to the Town Council at a regular meeting. Adjusted Rates shall become effective upon approval by the Town Council.

SECTION 13. CONTRACTOR'S PERSONNEL

- A. The CONTRACTOR shall assign a qualified supervisor to oversee the operations within the Service Area and shall provide the name of that person in writing to the Contract Administrator annually and any other time the person in that position changes. The supervisor shall always be available to the TOWN by telecommunications equipment that the CONTRACTOR is providing Residential Collection Service. The supervisor or their

representative shall be available onsite within four (4) hours or before the end of the Work Day if requested by the Contract Administrator.

- B. The CONTRACTOR shall employ and assign qualified personnel to perform all services set forth herein. The CONTRACTOR shall be responsible for ensuring that its employees comply with all applicable laws and regulations and meet all federal, state and local requirements related to their employment and position.
- C. The TOWN may request the transfer of any employee of the CONTRACTOR who materially violates any provision hereof, or who is wanton, negligent, or discourteous in the performance of his duties.
- D. CONTRACTOR'S employees shall be required to wear a clean uniform shirt bearing the CONTRACTOR'S name. CONTRACTOR'S employees, who normally come into direct contact with the public, including drivers, shall bear some means of individual identification such as a name tag or identification card.
- E. Each driver of a Collection vehicle shall at all times carry a valid Florida driver's license and all other required licenses for the type of vehicle that is being operated.
- F. CONTRACTOR'S employees, officers, and agents shall at no time be allowed to identify themselves or in any way represent themselves as being employees of the TOWN. The CONTRACTOR'S name and office telephone number shall be properly displayed on all Collection vehicles.

SECTION 14. SPILLAGE AND LITTER

- A. The CONTRACTOR shall not litter any premises in the process of providing Residential Collection Service. The CONTRACTOR shall exercise all reasonable care and diligence in providing Collection services so as to prevent spilling or dropping of Solid Waste, Bulk Waste, or Recyclable Materials during Collection activity and shall immediately, prior to proceeding to the next customer, if reasonably possible, but in no event prior to the end of that pick up day, clean up such spilled or dropped Solid Waste, Bulk Waste, or Recyclable Materials. The CONTRACTOR shall transport all Solid Waste, Bulk Waste, and Recyclable Materials in such a manner as to prevent the spilling or blowing from the CONTRACTOR'S vehicle.
- B. Equipment oil, hydraulic fluids, spilled paint, or any other liquid or debris resulting from the CONTRACTOR'S operations or equipment repair shall be covered immediately with an absorptive material and removed from the street or other surface. When necessary, CONTRACTOR shall apply a suitable cleaning agent to the street surface to provide adequate cleaning or remove contaminated surface soil or material and promptly replace with clean soil or surface material. CONTRACTOR shall provide the TOWN with a daily report of any such leakage, the location of such leakage, the vehicle at issue, and the remediation measures used to correct same.

SECTION 15. COLLECTION EQUIPMENT

- A. The CONTRACTOR shall always have on hand, in good working order, such collection equipment as shall permit the CONTRACTOR to adequately and efficiently perform the duties specified in this Contract. Any proposed change in the collection system being used by the CONTRACTOR during the Contract period shall be submitted in writing by the CONTRACTOR to the Contract Administrator.
- B. Residential collection vehicles shall be of a type sufficient to efficiently collect all Solid Waste, Bulk Waste, and Recyclable Materials covered by this Contract, and transport such materials to the designated facilities in a manner such that no collected materials can be blown or fall from the vehicle during transport. The CONTRACTOR may utilize open-bed vehicles in the provision of Bulk Waste Collection; however, the vehicles must contain the Bulk Waste so that no material is spilled, leaked, or blown from the vehicle, and the vehicle must be covered with a securely fastened tarp during transport.

- C. Each collection vehicle shall always be equipped with: (a) all safety supplies, equipment, and first aid supplies required by applicable laws; (b) a fire extinguisher; (c) a heavy-duty broom, a rake, and a large dustpan or shovel; (d) a spill response kit; (e) an audible back-up warning device; and (f) back-up cameras. The spill response kit shall be suitable and adequate for cleaning up any leaks or spills of oil, hydraulic fluid, or other liquids from CONTRACTOR's collection vehicles.
- D. All equipment shall be kept well painted, shall clearly display and shall only display CONTRACTOR's name and telephone number, and shall be maintained in good repair, appearance, and sanitary, clean condition in order to meet community standards of appearance at all times. All collection equipment shall be leak-proof to prevent any liquid from draining onto the ground. The TOWN reserves the right, at its discretion, to require a vehicle be taken out of service for habitual leakage of oil, hydraulic fluid, or other liquids or other maintenance issues. Such vehicle shall not be placed back into service until and unless the TOWN is able to verify that the necessary repairs have been made.
- E. The CONTRACTOR shall have available to it, at all times, reserve equipment which can be put into service and operation within two (2) hours of any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment used by the CONTRACTOR to perform the contractual duties.

SECTION 16. OFFICE

- A. The CONTRACTOR shall maintain an office where complaints can be received and which provides toll-free telephone access for customers living in the TOWN. Such office shall be equipped with sufficient telephones, shall have responsible persons in charge, and shall be open 8:00 a.m. to 5:00 p.m. Monday through Friday on those days that the CONTRACTOR provides Residential Collection Service. The CONTRACTOR shall provide either a telephone answering service or mechanical device to receive customer inquiries during those times when the office is closed. Messages left on the answering service or mechanical device shall be responded to on the next Work Day.
- B. The CONTRACTOR shall provide the Contract Administrator with an emergency phone number where the CONTRACTOR can be reached outside of the required office hours.

SECTION 17. SERVICE INQUIRIES, COMPLAINTS, AND PROPERTY DAMAGE

- A. All service inquiries and complaints shall be directed to the CONTRACTOR. A representative of the CONTRACTOR shall be available to receive the complaints during normal business hours. All service complaints shall be handled by the CONTRACTOR in a prompt and efficient manner. In the case of a dispute between a CONTRACTOR and a customer, the matter will be reviewed and a decision made by the Contract Administrator.
- B. The CONTRACTOR will maintain a written record of all calls it receives regarding services provided pursuant to this Contract, including but not limited to inquiries, missed Collections, and complaints (Call Log). CONTRACTOR shall use a standard form for the Call Log, as approved by the Contract Administrator, to record the pertinent facts of each call, including but not limited to date and time of call; name, address, and telephone number of person calling; reason for the call; action taken by CONTRACTOR; and date and time any issue was resolved. CONTRACTOR shall keep this Call Log up to date. By the end of each Work Day, the CONTRACTOR shall e-mail to the Contract Administrator the Call Log for all calls received during that Work Day or since the previous Call Log was submitted.
- C. For those complaints related to missed Collections, CONTRACTOR shall make every effort to return to the service address and collect the missed materials that same day. For missed Collection complaints that are received by noon on a Work Day, the CONTRACTOR must return to the service address and collect the missed materials that same day. For missed Collection complaints that are received after noon on a Work Day, the

CONTRACTOR must return to the service address and collect the missed materials by noon of the following Work Day.

- D. For those complaints related to repair or replacement of Roll Carts, the appropriate subsections of Section 6 of this Contract shall apply.
- E. By noon on the first Work Day of each week, the CONTRACTOR shall e-mail to the Contract Administrator a report of those complaints, related to Collection, that were not resolved in the manner set forth in Subsection C above. This weekly report shall include all information specified in Subsection B above, as well as the status of the disposition of the complaint.
- F. The CONTRACTOR shall be responsible for the prompt repair or replacement, if repair is not adequate, of any damage to public or private property during the provision of Residential Collection Service, and caused by the CONTRACTOR or the CONTRACTOR'S representative. Within twenty-four (24) hours of occurrence, the CONTRACTOR shall provide the Contract Administrator with a full explanation of the disposition of any complaint involving a claim of damage to public or private property as a result of actions of the CONTRACTOR. The CONTRACTOR shall promptly repair any such legitimate damage claim at its sole expense and within an agreed upon time frame, not to exceed one (1) week, as approved by the Contract Administrator. Upon the request of the CONTRACTOR, the Contract Administrator may grant a time extension. Proof of the need for an extension shall be submitted by the CONTRACTOR.
- G. By the end of the first Work Day of each month, the CONTRACTOR shall e-mail to the Contract Administrator a report on any unresolved complaint involving a claim of damage to public or private property as a result of actions of the CONTRACTOR'S employees, agents or subcontractors. This monthly report shall include the name, address and phone number of the complainant, date of occurrence, nature of occurrence and the status of the disposition of the complaint.
- H. CONTRACTOR agrees that it is in the best interest of the TOWN that all Residential Collection Service be provided on the scheduled Collection day. Accordingly, missed Collections will normally be collected in accordance with Subsection C above regardless of the reason that the Collection was missed. However, in the event the CONTRACTOR does not address a missed Collection complaint in accordance with Subsection C because it believes such complaint to be without merit, CONTRACTOR shall immediately notify the Contract Administrator in writing. The Contract Administrator will investigate all disputed complaints and render a final and binding decision.

SECTION 18. RECORDKEEPING AND REPORTING

- A. The Town is subject to Chapter 119, Florida Statutes, "Public Records Law." CONTRACTOR acknowledges the public shall have access at all reasonable times to all documents and information pertaining to TOWN's contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the TOWN and the public to all documents subject to disclosures under applicable law.
- B. To the extent that CONTRACTOR has been provided access to or has received security sensitive information, as defined by Florida Statutes, Section 119.071 and/or has executed a Confidential Information Acknowledgement and Agreement as part of this Contract, CONTRACTOR shall keep and maintain the security sensitive information as confidential and exempt from public disclosures as required by Florida Statutes.
- C. CONTRACTOR agrees to keep and maintain public records required by the TOWN to perform the service in CONTRACTOR's possession or control in connection with CONTRACTOR's performance under this Contract and, upon the request from the TOWN's custodian of public records, to provide the TOWN with a copy of the requested records or allow the records to be inspected or copied within a reasonable amount of time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. CONTRACTOR shall ensure that public records that are exempt or confidential and exempt from public records disclosure

requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the CONTRACTOR does not transfer the records to the TOWN.

- D. Upon completion of the Contract, CONTRACTOR agrees, at no cost to TOWN, to transfer to the TOWN all public records in possession of the CONTRACTOR or keep and maintain public records required by the TOWN to perform the service. If the CONTRACTOR transfers all public records to the TOWN upon completion of the Contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the TOWN, upon request from the TOWN's custodian of public records, in a format that is compatible with the information technology system of the TOWN.
- E. CONTRACTOR's failure or refusal to comply with the provisions of this section shall result in the immediate termination for cause of the Contract by TOWN.
- F. The CONTRACTOR shall keep records of the amounts of Residential Solid Waste, Bulk Trash, and Yard Trash disposed; Residential Bulk Trash, Yard Trash, and Recyclable Materials recycled. Such records shall be kept separate and apart from all other records maintained by the CONTRACTOR.
- G. The CONTRACTOR shall file and keep current with the TOWN all documents and reports required by this Contract. All documents and reports submitted to the TOWN by the CONTRACTOR shall be fully transparent. CONTRACTOR shall provide additional information as requested by the Contract Administrator to comply with such requirement for transparency.
- H. By the date specified in the TOWN-approved Transition Plan, CONTRACTOR shall electronically transmit to the Contract Administrator the completed and current Residential Customer list that has been revised to incorporate the Roll Cart asset management database meeting the requirements of Section 6.E. At a minimum, the database shall include all information initially provided by the TOWN, (parcel folio number, address, and number of Residential Service Units on the parcel) and all information specified in Section 6.E (routes on which customer is serviced; size and serial number of Solid Waste (if applicable) and Recycling Roll Carts; size and serial number of all extra Solid Waste and Recycling Roll Carts; work order number, date, status, and any extra service fees billed by the CONTRACTOR for any deliveries, removals, exchanges, repairs, warranty recovery, and any other information necessary to manage cart assets).
- I. At the end of each Work Day or in no event later than noon the next Work Day, the CONTRACTOR shall electronically submit the following to the Contract Administrator, in a format approved by the Contract Administrator:
 - (1) Call Log for all calls received since the previous report, including how such calls were resolved.
 - (2) Record of Residential Customers that placed more than the twelve (12) cubic yard limit of Bulk Waste curbside for Collection during that Work Day.
 - (3) Record of any other non-collection occurrences during that Work Day, the reasons for the non-collection, and the addresses of such non-collection.
 - (4) Full explanation of any complaint involving a claim of damage to public or private property as a result of actions of the CONTRACTOR that occurred within the last twenty-four (24) hours.
 - (5) Full explanation of any occurrences of leakage of fluids from a collection vehicle within the last twenty-four (24) hours, including the location of such leakage, the vehicle at issue, and the remediation measures used to correct same.

- J. By noon on the first Work Day of each week, the CONTRACTOR shall e-mail to the Contract Administrator a report of Collection complaints that were not resolved as required by Section 19.E.
- K. Prior to the fifteenth (15th) calendar day of each month during the term of this Contract, the CONTRACTOR shall submit a report electronically to the Contract Administrator, in a format approved by the Contract Administrator. The report shall contain the following information:
 - (1) Tonnage of Residential Solid Waste, Residential Bulk Trash and Residential Yard Trash disposed during the previous month. At the Contract Administrator's request, CONTRACTOR shall provide documentation, in the form of scale house tickets, of the tonnage of Residential Solid Waste and Residential Bulk Waste that is disposed each month.
 - (2) Tonnage of Residential Bulk Trash, Residential Yard Trash, and Residential Recyclable Materials recycled during the previous month.
 - (3) List of all Residential Customers charged for special waste collection, including Bulk Waste in excess of twelve (12) cubic yards per set-out, during the previous month. The list shall include the customer's name and address, date service was provided, service that was provided, and fee that was charged.
 - (4) Updated Roll Cart asset management database, as well as the number of new, replacement, or additional Solid Waste Roll Carts and Recycling Roll Carts distributed during the previous month, the date each was requested, and the date each Roll Cart was delivered.
 - (5) Documentation of payment to the Designated Disposal Facility for disposal of Solid Waste during the previous month.
- L. Prior to September 15th of each year during the term of this Contract, the CONTRACTOR shall ensure and certify to the TOWN that all required documents are current and on file with the TOWN. Such documents include, but are not limited to, certificates of insurance, performance bond, route schedules and maps.
- M. In addition to any other requirements of this Contract, the CONTRACTOR shall be required to provide statistical and other pertinent information pertaining to Residential Collection Service as may be requested by the TOWN to monitor compliance with this Contract or to comply with the provisions of Section 403, F.S., as amended, other pertinent laws and regulations, or any interlocal agreements the TOWN has or may enter into during the term of this Contract.
- N. The CONTRACTOR shall mark any information it considers confidential, proprietary, or privileged as such and the TOWN will treat such information accordingly as provided for in Chapter 119, Florida Statutes. If the CONTRACTOR has questions regarding the application of Chapter 119, Florida Statutes, to the CONTRACTOR's duty to provide public records relating to this Contract, CONTRACTOR shall contact the TOWN's custodian of public records, Russell Muniz, at (954) 434-0008.

SECTION 19. LIQUIDATED DAMAGES

- A. It is the intent of the TOWN to ensure that the CONTRACTOR provides a quality level of Residential Collection Service. The TOWN and CONTRACTOR acknowledge and agree that it is impossible to precisely determine the amount of damages that would be incurred by the TOWN due to service failures or circumstances described in this Section for which the CONTRACTOR would otherwise be liable. Accordingly, the TOWN has determined terms and amounts of liquidated damages set forth herein, and the parties agree that the liquidated damages are reasonable under the circumstances. Therefore, the following shall constitute liquidated damages, not penalties, that the TOWN may assess against the CONTRACTOR for failing to comply with requirements of this Contract, time being of the essence. It is hereby agreed that the TOWN may deduct from any monies due, or which may become due to the CONTRACTOR, such assessed liquidated damages in the following amounts:

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| (1) | Failure to submit a Transition Plan within thirty (30) days of Contract execution or to revise the Transition Plan within five (5) Work Days of notification by the Contract Administrator without prior approval of the Contract Administrator for such delay in submittal (§4.A) | \$100.00 per day past the due date |
| (2) | Failure to meet the schedule outlined in the TOWN-approved Transition Plan without prior approval of the Contract Administrator for such delay (§4.A) | \$100.00 per incident per day past the due date |
| (3) | Failure or neglect to resolve each valid complaint, including missed Collection, in the timeframe specified (§19) | \$100.00 per each unresolved |
| (4) | Failure to repair damage to public or private property determined caused by the CONTRACTOR or its personnel within the timeframe approved by the Contract Administrator (§19.F) | \$100.00 per incident after the timeframe approved in writing by Contract Administrator |
| (5) | Mixing of materials in violation of §5.E | \$100.00 per occurrence |
| (6) | Failure to comply with hours and days of operation (§5.G and §9.D) | \$250.00 per occurrence per vehicle |
| (7) | Changing Collection routes without proper notification (§5.L) | \$1,000.00 per incident per day |
| (8) | Failure to distribute Solid Waste Roll Carts by date specified in Transition Plan unless otherwise approved by the Contract Administrator (§6B(1)) | \$100.00 per Roll Cart per day past due date |
| (9) | Failure to repair, replace, exchange, or deliver a Roll Cart within the required timeframe (§6) | \$100.00 per Roll Cart |
| (10) | Failure to provide a completed Roll Cart asset management database and to keep such database up to date as specified (§6.E) | \$100.00 |
| (11) | Failure to leave a Non-Collection Notice explaining why all material was not collection (§7) | \$100.00 per occurrence |
| (12) | Failure to collect and process Bulk Waste in a manner that enables, at a minimum, recycling of Yard Trash and White Goods (§5.B and §8) | \$100.00 per Residential Service Unit |
| (13) | Failure to deliver all Residential Solid Waste to the Designated Disposal Facility (§10.A) | \$100.00 per incident |
| (14) | Failure to deliver all Residential Recyclable Materials to the Designated MRF (§10.B) | \$100.00 per incident |
| (15) | Failure to prepare and distribute TOWN-approved public education materials in the timeframe specified (§11.C) | \$100.00 per incident |

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| (16) | Failure to have a vehicle operator properly licensed (§15.E) | \$100.00 per vehicle per day |
| (17) | Failure to clean up spillage, leakage, or excessive blowing debris with the timeframe specified after notification by Town (§16.B) | \$100.00 per incident per day |
| (18) | Failure to assign scheduled vehicles and equipment on a route day (§17) | \$100.00 per vehicle per day |
| (19) | Failure to submit to the TOWN all plans, reports, records, or other documents in the time required under the provisions of this Contract, including §20, unless otherwise approved by the Contract Administrator | \$250.00 per month |
| (20) | Failure or neglect to complete more than 95 percent of a route (number of missed pickups must be less than 5 percent of total customers on that daily route to be considered more than 95 percent complete) on the regularly scheduled Collection day without justifiable cause (cause that is beyond the control of the CONTRACTOR) or prior approval by the Contract Administrator | \$250.00 per incident |

- B. The Contract Administrator may assess liquidated damages pursuant to this Section at any time during the term of this Contract. The Contractor Administrator shall notify the CONTRACTOR in writing of the liquidated damages assessed and the basis for each assessment. In the event the CONTRACTOR wishes to contest such assessment, within ten (10) Work Days of receipt of written notice, CONTRACTOR shall request in writing a meeting with the Contract Administrator to resolve the issue. The TOWN shall notify the CONTRACTOR in writing of any action taken with respect to CONTRACTOR'S claims within five (10) Work Days of such meeting. The Town Administrator's decision shall be final and conclusive unless determined by a court of competent jurisdiction to be fraudulent, capricious, arbitrary, so grossly erroneous as to necessarily imply bad faith, or not supported by competent evidence. Any liquidated damages assessed by the Town Administrator shall be deducted from the TOWN's next monthly payment to the CONTRACTOR.

SECTION 20. EMERGENCY SERVICE PROVISIONS

- A. In the event of a hurricane, tornado, major storm, natural disaster, or other such event, the Contract Administrator may grant the CONTRACTOR a variance from regular routes and schedules. Such variance from regular routes and schedule to ensure the safety of the CONTRACTOR's employees and members of the community shall not be unreasonably denied by the TOWN. However, CONTRACTOR shall make its best effort to resume regular Collection service as soon as possible. As soon as practicable after such event, the CONTRACTOR shall advise the Contract Administrator when it is anticipated that normal routes and schedules can be resumed. The Contract Administrator shall make an effort through the local news media to inform the public when regular Collection services may be resumed.
- B. The clean-up from some events may require that the CONTRACTOR hire additional equipment, employ additional personnel, dispose of additional solid waste and bulk waste or work existing personnel on overtime hours to clean debris resulting from the event. The CONTRACTOR shall receive additional compensation, above the normal compensation contained in this Contract, to cover documented costs provided the CONTRACTOR has first secured written authorization and approval from the TOWN through the Contract Administrator. The

CONTRACTOR shall substantiate such additional costs for labor, equipment, transportation, and/or disposal in writing. The TOWN shall have the right to audit such costs. The CONTRACTOR shall provide the TOWN with a separate disaster cleanup agreement with specified rates at the commencement of each Contract Year.

- C. In the event of a declared disaster, the rate paid to the CONTRACTOR shall be the rate in the Disaster Cleanup Agreement, attached hereto as Exhibit 4. The TOWN reserves the right to hire additional hauling contractors for debris removal operations after it is determined by the Contract Administrator that additional services are needed and after notice to the CONTRACTOR.

SECTION 21. PERFORMANCE BOND

Prior to commencing services, the CONTRACTOR shall furnish to the TOWN, and keep current for the full duration of the Contract and any renewal, a Performance Bond for the faithful performance of this Contract and all obligations arising hereunder in the amount of three hundred thousand dollars (\$300,000.00). It shall be executed by a surety company licensed to do business in the State of Florida; having an "A-" or better rating by A. M. Best or Standard and Poors; included on the list of surety companies approved by the Treasurer of the United States; and in a form acceptable to the TOWN.

SECTION 22. INSURANCE

- A. The CONTRACTOR shall provide, pay for, and always maintain in force during the term of this Contract, such insurance, including Worker's Compensation Insurance and comprehensive general liability insurance as stated below. The CONTRACTOR shall also name the TOWN as an additional insured to CONTRACTOR'S comprehensive general liability insurance policy, and shall provide the TOWN with annual Accords documenting both insurance coverages and that the TOWN has been named as an additional insured on the comprehensive general liability insurance policy and as a certificate holder for all other forms of insurance and setting forth the minimum insurance standards set forth below:
- (1) Worker's Compensation Insurance to apply for all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws, for the benefit of the CONTRACTOR'S employees.
 - (2) Comprehensive General Liability Insurance, including contractual, with minimum limits of Two Million Dollars (\$2,000,000.00) per occurrence, combined single limit for bodily injury liability and property damage liability. The TOWN is to be included and named as an "additional insured" with respect to any claims arising out of this Contract.
 - (3) Business Automobile Liability Insurance with minimum limits of one million dollars (\$1,000,000) per occurrence, combined single limits bodily injury liability and property damage. The policy must be no more restrictive than the latest edition of the business automobile liability policy without restrictive endorsements, as filed by the Insurance Services Office, and must include all owned vehicles and all hired or non-owned vehicles.
- B. UPON EXECUTION OF THIS CONTRACT, CONTRACTOR SHALL SUBMIT TO TOWN COPIES OF ITS CERTIFICATE(S) OF INSURANCE EVIDENCING THE REQUIRED COVERAGES REQUIRED HEREIN AND SPECIFICALLY PROVIDING THE ENDORSEMENT TO THE POLICIES THAT SHOWS THE TOWN OF PONCE INLET IS AN ADDITIONAL NAMED INSURED CERTIFICATE HOLDER, AS APPLICABLE, WITH RESPECT TO THE REQUIRED COVERAGES AND CONTRACTOR'S WORK UNDER THIS CONTRACT.
- C. The CONTRACTOR shall not commence operations, and/or labor to complete any of the work pursuant to this Contract until certification or proof of insurance issued directly by the insurance company underwriting department or insurance agent, detailing terms and provisions of coverage has been received and approved by the Town.

- D. Insurance policies and coverages shall not be affected by any other policy of insurance which the TOWN may carry in its own name.
- E. CONTRACTOR's insurance policies shall be endorsed to provide the TOWN with at least thirty (30) calendar days' prior written notice of cancellation, non-renewal, restrictions, or reduction in coverages or limits. Notice shall be sent to:

Jeaneen Witt, Town Manager
Town of Ponce Inlet
4300 South Peninsula Drive
Ponce Inlet, Florida 32127
- F. All required insurance policies shall preclude any insurer's or underwriter's rights of recovery or subrogation against TOWN with the express intention of the parties being that the required insurance coverages protect both parties as the primary coverages for any and all losses covered by the above-described insurance.
- G. CONTRACTOR shall ensure that any companies issuing insurance to cover the requirements contained in this Contract agree that they shall have no recourse against TOWN for payment or assessments in any form on any policy of insurance.
- H. The clauses 'Other Insurance Provisions' and 'Insured Duties in the Event of an Occurrence, Claim or Suit' as it appears in any policy of insurance in which TOWN is named as an additional insured shall not apply to TOWN. TOWN shall use its best efforts to provide written notice of occurrence within thirty (30) working days after TOWN's actual notice of such event.
- I. If any of CONTRACTOR's initial insurance expires prior to the completion of the term of this Contract, renewal copies of policies shall be furnished to TOWN at least thirty (30) days prior to the date of their expiration, and TOWN shall be an additional named insured by endorsement on all of CONTRACTOR's renewal policies.
- J. The official title of the owner is Town of Ponce Inlet. This official title shall be used in all insurance policies and documentation.
- K. Notwithstanding any other provisions of this Contract, CONTRACTOR's obligation to maintain all required insurance as specified in this Section of the Contract shall survive the expiration or earlier termination of this Contract.

SECTION 23. INDEMNIFICATION OF TOWN

- A. CONTRACTOR shall indemnify, defend, and hold harmless TOWN, TOWN'S contractors, and the public officials, officers, directors, employees, agents and other contractors of each of them, from and against any and all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals as well as all Court or other dispute resolution costs), liabilities, expenditures or causes of action of any kind (including negligent, reckless, willful or intentional acts or omissions of the CONTRACTOR, any subcontractor, any supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any services or anyone for whose acts any of them may be liable), caused by the breach of this Contract, violation of applicable law, and the negligent acts or omissions of the CONTRACTOR in the performance of this Contract. This indemnity includes but is not limited to claims attributable to bodily injury, sickness, disease or death and to injury or destruction of tangible property.
- B. CONTRACTOR further agrees to indemnify, defend, save and hold harmless the TOWN, its officers, agents and employees, from all damages, liabilities, losses, claims, fines and fees, and from any and all suits and actions of every name and description that may be brought against TOWN, its officers, agents and employees, on account

of any claims, fees, royalties, or costs for any invention or patent rights or for the infringement of any and all copyrights or patent claimed by any person, firm or corporation.

- C. CONTRACTOR agrees, at CONTRACTOR'S expense, after written notice from the TOWN, to defend any action against the TOWN that falls within the scope of this indemnity as set forth above in Subsections A and B, or the TOWN, at the TOWN'S option, may elect not to tender such defense and may elect instead to secure its own attorneys to defend any such action and the reasonable costs and expenses of such attorneys incurred in defending such action shall be payable by CONTRACTOR. Additionally, if CONTRACTOR, after receipt of written notice from the TOWN, fails to make any payment due under this Contract to the TOWN or fails to perform any obligation required by this Contract, CONTRACTOR shall pay any reasonable attorneys' fees and costs incurred by the TOWN in securing any such payment from CONTRACTOR, or any reasonable attorneys' fees and costs incurred in the enforcement of this indemnity, or both. Payment of any amount due pursuant to the foregoing indemnity shall, after receipt of written notice by CONTRACTOR from the TOWN that such amount is due, be made by CONTRACTOR prior to the TOWN being required to pay same, or in the alternative, the TOWN, at the TOWN'S option, may make payment of an amount so due and CONTRACTOR shall promptly reimburse the TOWN for same, together with interest thereon at the rate of twelve percent (12%) per annum simple interest from the date of receipt by CONTRACTOR of written notice from the TOWN that such payment is past due at least twenty (20) days.
- D. It is specifically understood and agreed that the consideration inuring to the CONTRACTOR for the execution of this Contract consists of the promises, payments, covenants, rights and responsibilities contained in this Contract.
- E. The execution of this Contract by the CONTRACTOR shall obligate the CONTRACTOR to comply with the foregoing indemnification provision; however, the collateral obligation of providing insurance must be also complied with as set forth in Section 24.
- F. The CONTRACTOR shall require all subcontractors to enter into a contract containing the provisions set forth in the preceding subsections in which contract the subcontractor fully indemnifies the TOWN in accordance with this Contract.

SECTION 24. POINT OF CONTACT

The day-to-day dealings between the CONTRACTOR and the TOWN shall be between the CONTRACTOR and the Town Administrator or designee.

SECTION 25. NOTICE

Except as provided herein, whenever either party desires to give notice to the other, it must be given by written notice, sent by certified U.S. mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified and to the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective persons and places for giving of notice:

As to the TOWN:

Jeaneen Witt, Town Manager Town of Ponce Inlet 4300 South Peninsula Drive Ponce Inlet, Florida 32127	and	Kim McColl, Finance Manager Town of Ponce Inlet 4300 South Peninsula Drive Ponce Inlet, Florida 32127
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As to the CONTRACTOR:

Waste Pro of Florida, Inc. Ken DeForest, Division Manager 925 South Clyde Morris Blvd. Daytona Beach, Florida 32114	and	Waste Pro of Florida, Inc. Tim Dolan, Region Vice-President 3750 St Johns Parkway Sanford, Florida 32771
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Notices shall be effective when received at the address as specified above. Changes in the respective addresses to which such notice is to be directed may be made from time-to-time by written notice. Electronic transmission is acceptable notice, effective when received; however, electronic transmissions received (i.e. printed) after 4:30 p.m. or on weekends or holidays, will be deemed received on the next business day. The original of items that are transmitted electronically must also be mailed as required herein.

SECTION 26. TERMINATION OF CONTRACT

- A. **Termination for Cause.** The TOWN may cancel this Contract, except as otherwise provided below in this Section, by giving the CONTRACTOR thirty (30) days' advance written notice, to be served as provided in Section 25, upon the happening of any one of the following events:
- (1) The CONTRACTOR shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors or file a voluntary petition in bankruptcy (court) or a petition or answer seeking an arrangement for its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any other law or statute of the United States or any state thereof or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or
 - (2) By order or decree of a Court, the CONTRACTOR shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of the CONTRACTOR, seeking its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60) days after the entry thereof, any notice of default shall be and become null, void and of no effect; unless such stayed judgment or order is reinstated, in which case, said default shall be deemed immediate; or
 - (3) By, or pursuant to or under the authority of any legislative act, resolution or rule or any order or decree of any Court or governmental board, agency or officer having jurisdiction, a receiver trustee or liquidator shall take possession or control of all or substantially all of the property of the CONTRACTOR, and such possession or control shall continue in effect for a period of sixty (60) days; or
 - (4) The CONTRACTOR has defaulted by failing or refusing to pay in a timely manner the administrative charges or other monies due the TOWN and said default is not cured within thirty (30) days of receipt of written notice by TOWN to do so; or
 - (5) The CONTRACTOR has defaulted by allowing any final judgment for the payment of money to stand against it unsatisfied and said default is not cured within thirty (30) days of receipt of written notice by TOWN to do so; or
 - (6) In the event that the monies due the TOWN under subsection (4) above or an unsatisfied final judgment under subsection (5) above is the subject of a judicial proceeding, the CONTRACTOR shall not be in default if the sum of money is bonded. All bonds shall be in the form acceptable to the Town Attorney; or

- (7) The CONTRACTOR has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Contract or any of the rules and regulations promulgated by the TOWN pursuant thereto or has wrongfully failed or refused to comply with the instructions of the Contract Administrator relative thereto and said default is not cured within thirty (30) days of receipt of written notice by the TOWN to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) days following receipt by the CONTRACTOR of written demand from the TOWN to do so, the CONTRACTOR fails to commence the remedy of such default within said thirty (30) days following such written notice or having so commenced shall fail thereafter to continue with diligence the curing thereof (with the CONTRACTOR having the burden of proof to demonstrate (a) that the default cannot be cured within thirty (30) days, and (b) that it is proceeding with diligence to cure said default, and such default will be cured within a reasonable period of time). However, notwithstanding anything contained herein to the contrary, for the failure of the CONTRACTOR to provide Collection for a period of three (3) consecutive Work Days, the TOWN may secure the CONTRACTOR'S billing records on the fourth (4th) Work Day in order to provide interim Contract Collection until such time as the matter is resolved and the CONTRACTOR is again able to perform pursuant to this Contract; provided, however, if the CONTRACTOR is unable for any reason or cause to resume performance at the end of thirty (30) Work Days all liability of the TOWN under this Contract to the CONTRACTOR shall cease and this Contract may be deemed terminated by the TOWN, except to the extent the failure to provide Collection services is the result of the occurrence of an event of force majeure.
- B. Habitual Violations. Notwithstanding the foregoing and as supplemental and additional means of termination of this Contract under this Section, in the event that the CONTRACTOR'S record of performance shows that the CONTRACTOR has frequently, regularly or repetitively defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by the CONTRACTOR, in the opinion of the TOWN, and regardless of whether the CONTRACTOR has corrected each individual condition of default, the CONTRACTOR shall be deemed a "habitual violator," shall be deemed to have waived the right to any further notice or grace period to correct, and all of said defaults shall be considered cumulative and collectively and shall constitute a condition of irredeemable default. The TOWN shall thereupon issue the CONTRACTOR a final warning citing the circumstances therefore, and any single default by the CONTRACTOR of whatever nature, subsequent to the occurrence of the last of said cumulative defaults, shall be grounds for immediate termination of the Contract. In the event of any such subsequent default, the TOWN may terminate this Contract upon giving of written final notice to the CONTRACTOR, such cancellation to be effective upon the date specified in the TOWN'S written notice to the CONTRACTOR, and all contractual fees due hereunder plus any and all charges and interest shall be payable to said date, and the CONTRACTOR shall have no further rights hereunder. Immediately upon the specified date in such final notice the CONTRACTOR shall cease any further performance under this Contract.
- C. Effective Date of Termination. In the event of the aforesaid events specified in subsections A and B above and except as otherwise provided in said subsections, termination shall be effective upon the date specified in the TOWN'S written notice to the CONTRACTOR and upon said date this Contract shall be deemed immediately terminated and upon such termination all liability of the TOWN under this Contract to the CONTRACTOR shall cease, and the TOWN shall have the right to call the performance bond and shall be free to negotiate with other contractors for the operation of the herein specified services. The CONTRACTOR, for failure to perform, shall reimburse the TOWN all direct and indirect costs of providing interim Residential Solid Waste, Recyclables, and Bulk Waste Collection.

SECTION 27. MODIFICATIONS TO THE CONTRACT

The TOWN and the CONTRACTOR understand and agree that the Florida Legislature has the authority to make changes in Solid Waste Management legislation and that changes in law may mandate certain changes to this Contract. Should such changes materially alter the obligations of the CONTRACTOR, then the Collection charges established in the Exhibits to this Contract shall be adjusted accordingly. When such modifications are made to this Contract, the TOWN and the

CONTRACTOR shall negotiate in good faith a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required. In addition, TOWN and the CONTRACTOR may approve other changes upon mutual agreement to address any other amendments to this contract. If an agreement cannot be reached, this Contract shall terminate upon one hundred and eighty (180) days of a declared impasse by either party.

SECTION 28. PERMITS AND LICENSES

The CONTRACTOR shall obtain, at its own expense, all permits and licenses required by law or ordinance and maintain same in full force and effect, and shall, prior to execution of the Contract, provide copies of those permits and licenses to the TOWN, and within fifteen (15) days of receipt, all renewals thereof.

SECTION 29. INDEPENDENCE OF CONTRACT

It is understood and agreed that nothing herein contained is intended or should be construed as in any way establishing the relationship of co-partners or a joint venture between the parties hereto or as constituting the CONTRACTOR as an agent, representative or employee of the TOWN for any purpose whatsoever. The CONTRACTOR is to be, and shall remain, an independent contractor with respect to all services performed under this Contract.

SECTION 30. FORCE MAJEURE

If either party is prevented from or delayed in performing its duties under this Contract by circumstances beyond its control, whether or not foreseeable, including, without limitation, fires, hurricanes, severe weather, floods, pandemics, quarantines, war, civil disturbances, acts of terrorism, labor disputes, acts of God, or significant threats of such circumstances, or any future laws, rules, regulations, orders, or acts of any local, state, or federal government ("Force Majeure"), then the affected party shall be excused from performance hereunder during the period of such disability. The party claiming Force Majeure shall promptly notify the other party in writing when it learns of the existence of a Force Majeure condition and when the Force Majeure condition has terminated. Notwithstanding anything in this Contract to the contrary, the term "Force Majeure" does not include, and a party shall not be excused from performance under this Contract for, events relating to increased costs, including, without limitation, increased costs of fuel, labor, insurance, or other expenses of performing the services hereunder.

SECTION 31. EMPLOYEE STATUS

Persons employed by the CONTRACTOR in the performance of services and functions pursuant to this Contract shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to the TOWN'S officers and employees either by operation of law or by the TOWN.

SECTION 32. EQUAL OPPORTUNITY EMPLOYMENT

CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, religion, age, color, sex or national origin, or physical or mental handicap, or marital status. CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment without regard to their race, religion, age, color, sex or national origin, or physical or mental handicap, or marital status. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship.

CONTRACTOR agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. CONTRACTOR further agrees that he/she will ensure that subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.

CONTRACTOR shall comply with all federal, state and TOWN laws applicable to the CONTRACTOR services and specifically those covering Equal Opportunity Employment, the Americans with Disabilities Act ("ADA") and the South Florida Building Code. The CONTRACTOR is expected to fully comply with all provisions of all laws and the TOWN reserves the right to verify the CONTRACTOR'S compliance with them. Failure to comply with any laws will be grounds for termination of the Contract for cause.

SECTION 33. MEDIATION

In addition to any other remedy provided by law, the TOWN may agree to use arbitration or mediation to resolve any controversy or claim arising out of or relating to this Contract. Any controversy or claim arising out of or relating to this Contract, or breach thereof, may be settled by arbitration in accordance with the rules of the American Arbitration Association and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. In the event arbitration is agreed to by both parties in writing, such controversy or claim shall be submitted to arbitrators selected from the National Panel of The American Arbitration Association.

SECTION 34. RIGHT TO REQUIRE PERFORMANCE

The failure of the TOWN at any time to require performance by the CONTRACTOR of any provision hereof shall in no way affect the right of the TOWN thereafter to enforce same, nor shall waiver by the TOWN of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

SECTION 35. GOVERNING LAW

The parties agree that this Contract shall be construed in accordance with and governed by the laws of the State of Florida.

SECTION 36. CONSENT TO JURISDICTION

The parties agree that the jurisdiction for any legal action arising out of or pertaining to this Contract shall be with the State Courts of Florida, and specifically, the County or Circuit Court for the Seventh Judicial Circuit in and for Volusia County, depending upon the respective jurisdictional limit. Each party further agrees that venue for any action to enforce this Contract shall be in Volusia County, Florida.

SECTION 37. LITIGATION

In the event of any litigation which arises out of, pertains to, or relates to this Contract, or the breach of it, including, but not limited to, the standard of performance required in it, the prevailing party shall be entitled to recover its reasonable attorneys' fees from the non-prevailing party, at both trial and appellate levels.

SECTION 38. COMPLIANCE WITH LAWS

The CONTRACTOR shall conduct its operations under this Contract in compliance with all applicable Federal, State, and local laws and regulations.

SECTION 39. SEVERABILITY

If any provision of this Contract or the application of it to any person or situation shall to any extent be held invalid or unenforceable, the remainder of this Contract and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected, shall continue in full force and effect, and shall be enforced to the fullest extent permitted by law.

SECTION 40. ASSIGNMENT AND SUBCONTRACTING

- A. Assignment. No assignment of this Contract or any right occurring under this Contract shall be made in whole or in part by the CONTRACTOR without the express written consent of the Town Council. The TOWN shall have full discretion to approve or deny, with or without cause, any proposed or actual assignment by the CONTRACTOR. Any assignment of this Contract made by the CONTRACTOR without the express written consent of the Town Council shall be null and void and shall be grounds for the TOWN to declare a default of this Contract and immediately terminate this Contract by giving written notice to the CONTRACTOR, and upon the date of such notice this Contract shall be deemed immediately terminated, and upon such termination all liability of the TOWN under this Contract to the CONTRACTOR shall cease, and the TOWN shall have the right to call the performance bond and shall be free to negotiate with other contractors, the CONTRACTOR, or any other person or company for the service which is the subject of this Contract. In the event of any assignment, the assignee shall fully assume all the liabilities of the CONTRACTOR.
- B. Subcontracting. CONTRACTOR shall not employ subcontractors without the advance written permission of the TOWN. CONTRACTOR shall be fully responsible for the services and work provided by a subcontractor under the terms of this Contract. CONTRACTOR agrees that any employee or agent of the CONTRACTOR and any agent/employee of a subcontractor to the CONTRACTOR shall be removed from the TOWN jobsite or TOWN premises upon request by the Town Administrator or designee. Such request will only be issued to remove a person if the Town Administrator or designee has a reasonable basis (as determined in his or her discretion) that the presence of such person on TOWN property or at a TOWN jobsite is not in the best interest of the TOWN, or its employees, guests, visitors or citizens.
- C. CONTRACTOR shall not be permitted to alter its contracted name, create a dba, or transfer more than fifty percent (50%) interest in its company without the specific written approval of the TOWN.

SECTION 41. MODIFICATIONS

This Contract constitutes the entire Contract and understanding between the parties hereto, and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties hereto.

SECTION 42. LEGAL REPRESENTATION

It is acknowledged that each party was, or had the opportunity to be, represented by counsel in the preparation of and contributed equally to the terms and conditions of this Contract and, accordingly, the rule that a contract shall be interpreted strictly against the party preparing the same shall not apply herein due to the joint contributions of both parties.

SECTION 43. FUND APPROPRIATION

The CONTRACTOR understands and agrees that the TOWN, during any fiscal year, is not authorized to expend money, incur any liability or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year and that any contract, verbal or written, made in violation of this subsection is null and void and that consequently, no money may be paid on such contract beyond such limits. Nothing contained in this Contract shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. CONTRACTOR shall not proceed with services under this Contract without TOWN'S written verification that the funds necessary for CONTRACTOR'S compensation and other necessary expenditures are budgeted as available within the appropriate fiscal year budget. The TOWN does not represent that said budget item will be adopted, said determination being the determination of the Town Council at the time of the adoption of the budget.

SECTION 44. PUBLIC ENTITY CRIME

CONTRACTOR understands that a person or affiliate as defined in Section 287.133, Florida Statutes, who has been placed on the convicted vendor list maintained by the Florida Department of Management Services following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to the TOWN and may not transact business with the TOWN in an amount set forth in Section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. CONTRACTOR herein certifies that it is qualified under Section 287.133, Florida Statutes, to provide the services set forth in this Contract for Residential Collection Service.

SECTION 45. FINANCIAL INTEREST

CONTRACTOR warrants and represents that no elected official, officer, agent, or employee of the TOWN has a financial interest, directly or indirectly, in this Contract or the compensation to be paid under it and, further, that no person who acts in the TOWN as a "purchasing agent" as defined in Chapter 112, Florida Statutes, nor any elected or appointed officer of the TOWN, nor any spouse or child of such purchasing agent, employee or elected or appointed officer, is a partner, officer, director, or proprietor of the CONTRACTOR and, further, that no such person, purchasing agent, TOWN elected or appointed officer, or the spouse or child of any of them, alone or in combination, has a material interest in the CONTRACTOR. Material interest means direct or indirect ownership of more than five percent (5%) of the total assets or capital stock of the CONTRACTOR.

SECTION 46. ALL PRIOR AGREEMENTS SUPERSEDED

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained in this Contract and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Contract that are not contained in this document. Accordingly, it is agreed that no deviation from the terms of this Contract shall be predicated upon any prior representations or agreements, whether oral or written.

SECTION 47. HEADINGS

Headings in this document are for convenience of reference only and are not to be considered in any interpretation of this Contract.

SECTION 48. EXHIBITS

Each exhibit referred to in this Contract forms an essential part of this Contract. Each such exhibit is a part of this Contract and each is incorporated by this reference.

SECTION 49. MOST FAVORED NATIONS PROVISION AND COOPERATIVE PURCHASING

Upon Contractor's execution of a new contract with a neighboring municipality for the provisions of the same terms and conditions provided in this Agreement and the Agreement provides more favorable fees or rates than those provided herein, Contractor will reduce the fees and rates charged to the City herein so as to be equal to or lower than the rates charged the neighboring municipality's Agreement.

Other Towns and Cities of similar size and scope of services may contract for the services provided to the Town of Ponce Inlet under the terms of this Agreement, if the other Town or City determines that the Agreement's use is cost-effective and in the best interest of that Municipality. Upon such request, the Contractor may, at its discretion, provide such services, upon the terms and conditions contained herein.

SECTION 50. AGREEMENT FOR SOLID WASTE DISPOSAL AND RECYCLABLES PROCESSING SERVICES

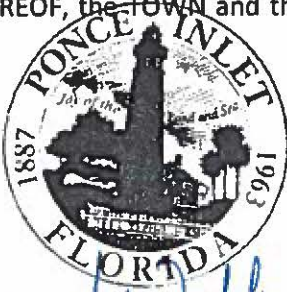
The parties recognize and agree the tremendous economies of scale and cost savings that could be achieved by having one vendor provide both collection and disposal services. As a direct result of the fact that the TOWN's current waste disposal and recyclables processing services agreement is about to expire, the TOWN has elected to enter into a backup agreement with CONTRACTOR to provide such services. In the event that the TOWN elects to terminate its agreement with its current waste disposal and recyclables processing services provider for cause, or in the event the TOWN or its current waste disposal and recyclables processing services provider elects not to extend its term, CONTRACTOR has agreed to provide such services in accordance with Exhibit "6", which will be executed herewith and which will commence upon thirty (30) days written notice from the TOWN. The TOWN specifically finds CONTRACTOR to be a sole source provider, and it waives any and all procurement code requirements to the contrary.

SECTION 51. MODIFICATION OF TERMS

At any time after the first year of the term of this Agreement, upon the application of the Contractor, or on the initiative of the Town, the Town and the Contractor may negotiate changes in the type, level and method of delivery of services provided by the Contractor under this Agreement, whether in connection with rate adjustments or otherwise. Such negotiations and modifications may include, but shall not be limited to, innovative proposals to improve the quality of service, decrease the rates for service or both; take advantage of new equipment and procedures available in the industry; make reasonable modifications in the terms and provisions of the Agreement to assist in cost containment to the customers; or otherwise modify the terms and provisions of this Agreement in such manner as Contractor and Town may agree, City does not hereby commit itself to agree to any requested or proposed modification in terms and specifications, but reserves the right to make such modifications and amendments to this Agreement as the City may determine from time to time to be in the best interest of the Town, its residents and customers of the Contractor. Contractor specifically acknowledges the reserved right of the City to negotiate modifications to this Agreement once executed. All modifications of this Agreement shall be in writing. No modifications shall be binding upon the Town until such modification shall have been authorized by resolution of the Town Council. Moreover, no modification of this Agreement shall be binding and valid as to surety without the consent of the surety.

Town of Ponce Inlet, Florida
Solid Waste, Recyclables, and Bulk Waste Collection and Disposal Agreement

IN WITNESS WHEREOF, the TOWN and the CONTRACTOR have executed this Contract on the respective date(s) below each signature.



ATTEST:

Jeaneen Witt
Jeaneen Witt, Town Manager/Town Clerk

Date: 8/26/19

TOWN OF PONCE INLET, FLORIDA
A municipal corporation

By:

Gary L. Smith
Gary L. Smith, Mayor

Date: 8/26/19

Approved as to form and correctness:

Clifford B. Shepard
Clifford B. Shepard
TOWN ATTORNEY

Date: 8-27-19

WITNESSES:

Brandy H. Branner

Print Name: Brandy H. Branner

Dawn Williams

Print Name: Dawn Williams

WASTE PRO OF FLORIDA, INC.

By:

Tina Denton

Print Name & Title: Tina Denton EVP

Date: 9/10/19

EXHIBIT 1
RESIDENTIAL COLLECTION AND DISPOSAL SERVICE RATES

These rates shall be in effect from October 1, 2019, through September 30, 2021. Rates shall be adjusted starting October 1st of each Contract Year thereafter in accordance with Section 12 herein. An example rate adjustment calculation is provided in Exhibit 3.

Table 1 – Residential Collection Service Rate for Manual Solid Waste Collection

IF TOWN RETAINS MANUAL SOLID WASTE COLLECTION	Generation Factor (tons/unit/ year)	Disposal Fee (\$/ton)	Monthly Fee per Service Unit
Solid Waste Collection (2x/week, manual, unlimited)	NA	NA	\$ 16.08
Recycling Collection (1x/week in bins)	NA	NA	\$ 5.09
Bulk Waste Collection (1x/week, 12 cy limit)	NA	NA	\$ 5.74
Monthly Total per Residential Service Unit			\$ 26.91

Bulk Waste Collection in excess of the 12 cubic yard limit shall be invoiced directly to the Customer by the Contractor at \$25 per cubic yard.

Table 2 – Residential Collection Service Rate if TOWN Ever Elects to Transition to Carted Solid Waste Collection

IF TOWN SELECTS CARTED SOLID WASTE COLLECTION	Generation Factor (tons/unit/ year)	Disposal Fee (\$/ton)	Monthly Fee per Service Unit
Solid Waste Collection (2x/week in Contractor-provided Roll Cart)	NA	NA	\$ 17.98
Recycling Collection (1x/week in Bin)	NA	NA	\$ 5.09
Bulk Waste Collection (1x/week, 12 cy limit)	NA	NA	\$ 5.74
Monthly Total per Residential Service Unit			\$ 28.81

Bulk Waste Collection in excess of the 12 cubic yard limit shall be invoiced directly to the Customer by the Contractor at \$25 per cubic yard.

EXHIBIT 2
SAMPLE CALCULATION OF ANNUAL RATE ADJUSTMENTS

Service rates are adjusted as defined and described in Sections 12 and 13 of this Contract and as illustrated in this Exhibit. All assumptions are for demonstration purposes only.

Assumptions (for demonstration purposes only):

- CPI February 2020 = 243.283
CPI February 2021 = 247.126
100% of percentage change in CPI = $100\% \times ((247.126 - 243.283) / 243.283) = 0.01264 = 1.26\%$
- Average of monthly Fuel Index prices for March 2016-February 2017 = 2.56375
Average of monthly Fuel Index prices for March 2017-February 2018 = 2.65231
Percentage change in Fuel Index = $(2.65231 - 2.56375) / 2.56375 = 0.034543 = 3.45\%$

Residential Service Rate	a Rates for Demonstration Purposes Only (\$/unit/month)	b 95% of Collection Element	c CPI (80% of % Change)	d 5% of Collection Element	e Fuel Index (% Change)	f New Rate (\$/unit/month)	g Formula	h 5% Cap	i Exceeds 5% Cap?
COLLECTION ELEMENTS	\$/unit/month					\$/unit/month			
Solid Waste Collection	\$12.94	\$12.29	1.26%	\$0.65	3.45%	\$13.12	$f = a + (b \cdot c) + (d \cdot e)$	\$13.59	No
Bulk Waste Collection	\$11.83	\$11.24	1.26%	\$0.59	3.45%	\$11.99	$f = a + (b \cdot c) + (d \cdot e)$	\$12.42	No
Recycling Collection	\$3.32	\$3.15	1.26%	\$0.17	3.45%	\$3.37	$f = a + (b \cdot c) + (d \cdot e)$	\$3.49	No
	\$28.09					\$28.47			
DISPSOAL ELEMENTS	See Calculations Below (\$/unit/month)					\$/unit/month			
Bulk Waste Disposal	\$12.12	na	1.26%	na	na	\$12.27	$f = a + (b \cdot c)$	\$12.73	No
Solid Waste Disposal	\$4.77	Adjusted only when actual tip fee changes				\$4.77	na	na	
TOTAL	\$44.98					\$45.51			

Residential Disposal Rates	a Tip Fees for Demonstration Purposes Only (\$/ton)	b Generation Factor (tons/unit/ year)	c Rates (\$/unit/ month)	d Formula
Bulk Waste Disposal	\$39.00	3.73	\$12.12	$c = (a \cdot b) / 12 \text{ months}$
Solid Waste Disposal	\$44.69	1.28	\$4.77	$c = (a \cdot b) / 12 \text{ months}$

EXHIBIT 3 TECHNICAL SPECIFICATIONS FOR ROLL CARTS

Following are minimum requirements for Solid Waste and Recyclables Roll Carts as required within the scope of this Contract. CONTRACTOR must provide a prototype of each of the TOWN's program-sized Roll Carts (Solid Waste and Recycling) that meet the following technical specifications for TOWN approval prior to ordering the TOWN's Roll Carts. The TOWN reserves the right to waive the requirement of a prototype.

Construction and Design	<ul style="list-style-type: none"> • Must meet ANSI Standards Z245.30 and AZ245.60 "Type B/G" containers, all rules, regulations, and laws pertaining to this product. • Roll Carts must be produced by a major manufacturer. • The upper lift point shall be permanently molded into the Roll Cart and the lower must be a 1" diameter galvanized free floating metal bar or composite equivalent, securely attached to prevent failure or loss. Molded bars are unacceptable. • The Roll Cart must be manufactured with a narrow width design to fit through a 30" door opening.
Size (Capacity)	<ul style="list-style-type: none"> • Two different sized Roll Carts are required with the following capacities: <ul style="list-style-type: none"> ○ Large = 94-96 gallon ○ Medium = 64-66 gallon
Materials	<ul style="list-style-type: none"> • Must be rotationally or injection molded using medium to high density 100% recyclable polyethylene. • Minimum resin weight of unassembled Roll Cart, including cart body and lid, must be: <ul style="list-style-type: none"> ○ 30 pounds or greater for large Roll Cart ○ 22 pounds or greater for medium Roll Cart • Resin used in the manufacturing process must contain a minimum of 25% post-consumer recycled material. • All plastic parts must be stabilized against ultraviolet light deterioration with a UV stabilizer additive.
Body	<ul style="list-style-type: none"> • The body of the Roll Cart must be one piece. • The Roll Cart wall and bottom thickness must be a minimum of .150 inches. • The body of the Roll Cart must be designed with a drag rail on the container bottom and reinforced in the area that contacts the ground with a molded-in bottom wear strip. • The top of the body must be molded with a reinforced rim to add structural strength and stability to the container and to provide a flat surface for lid closure. This reinforced rim must have a raised inner perimeter. The rim of the Roll Cart must not be designed to have an inward radius to obstruct free flow emptying the material out of the container.
Lid	<ul style="list-style-type: none"> • Lids must be of a configuration that the lid will not warp, bend, slump, or distort to such an extent that it no longer fits the body properly or becomes otherwise unserviceable.

	<ul style="list-style-type: none"> • The lid must be one-piece construction and securely attached to the rear of the wheeled section of the Roll Cart using a rustproof, weather-resistant fastener system. • The lid must be hinged to open to a position of 270 degrees from the closed position and hang open without stressing the lid, body, or tipping over the Roll Cart. • Lids must be designed to be easily removed in the event of damage or failure. Lid latches are not acceptable.
Handle	<ul style="list-style-type: none"> • Each Roll Cart must have a horizontal handle(s) to provide comfortable gripping areas for pushing or pulling the Roll Cart. • The handle shall be integrally molded into the body or lid, and only plastic surfaces shall be exposed to the hands of the user.
Wheels/Axle	<ul style="list-style-type: none"> • Roll Carts must be equipped with two (2) plastic molded or rubber wheels making the cart capable of being easily moved and maneuvered. • Wheels shall be snap-on or attached in a way that prevents unintended detachment. • Wheels must be a minimum of 10 inches in diameter for large and medium Roll Carts. • Each Roll Cart shall be furnished with a minimum 5/8 inch diameter axle with a corrosion-resistant coating that must be securely attached to the body by molded axle retainers. • The wheels and axle must be rated to meet the maximum load requirements of 3.5 pounds per gallon.
Stability	<ul style="list-style-type: none"> • Roll Carts must be able to remain stable and upright in winds up to 30 miles per hour when empty.
Color	<ul style="list-style-type: none"> • Color must not be streaked in the finished product and must be colorfast so that the color does not alter significantly with normal use. Painted Roll Carts are unacceptable. • Colors will be specified by the Town. • The final color selection must be approved by the TOWN prior to manufacturing.
Markings	<ul style="list-style-type: none"> • The TOWN must approve all markings. • Sequential serial numbers must be molded, branded, or hot stamped into the front of the body with white color. Such number shall be assigned to a specific property within the TOWN. • An eight to ten (8-10) alpha/numeric serial number shall be used as determined by the TOWN. • A Southwest Ranches logo must be clearly molded, inscribed, or hot-stamped into both sides of the body with the following wording in 1 inch lettering on the lid: <ul style="list-style-type: none"> ○ Property of the Town of Ponce Inlet. ○ Instructions for which side of the Roll Cart must face the street for collection. ○ ANSI and regulatory labeling required.

	<ul style="list-style-type: none"> Recycling Roll Carts must also have the following markings: <ul style="list-style-type: none"> Recycling logo on both sides of the Roll Cart. In-mold label on the cart lid with program instructions as determined by the TOWN.
Warranty	<ul style="list-style-type: none"> Roll Carts must be fully (100%) warranted against defects in materials and workmanship for a minimum period of ten (10) years from the date of delivery and be transferrable to the TOWN at the expiration of this Contract. The warranty must be unconditional and non-prorated providing the TOWN with assurance of full Roll Cart replacement. The warranty must survive the termination of any contract for the manufacture and/or A&D of Roll Carts. Warranty is understood to include the following coverage: <ul style="list-style-type: none"> Failure of the lid to prevent rainwater from entering the Roll Cart when the lid is closed on the body. Damage to the body, the lid, or any component parts through opening or closing the lid. Failure of the lid hinge to remain fully functional and continually hold lid in the originally-designed and intended positions when either opened or closed. Failure of the body and lid to maintain its original shape. Wear through of Roll Cart bottom so that it leaks liquid. Failure of the wheels to provide continuous, easy mobility, as originally designed. Failure of any part to conform to minimum standards as specified.
Asset Management	<ul style="list-style-type: none"> A manufacturing database must be maintained that includes each Roll Cart's serial number, date of manufacture, location of manufacturer, Roll Cart type, color, and size. At the time and point of delivery, the date, time, and latitude/longitude of the Roll Cart's delivery must be captured and associated with the manufacturing database and the residential physical address to which the Roll Cart is assigned. The asset management database, including manufacturing information and A&D information, shall be completed and submitted to the Contract Administrator prior to the Commencement Date and maintained throughout the term of this Contract. At the termination of this Contract, the asset management database shall be transmitted to the TOWN in an acceptable format.

Exhibit 4

Disaster Cleanup Agreement

Storm Operations

Pre-Storm

- On an annual basis Waste Pro will be available to meet with the City, prior to the traditional hurricane season to discuss readiness plans.
- Waste Pro subscribes to the Volusia County Emergency Management notification system. The VCEM provides information on all potentially hazardous/severe weather events. If the City, Volusia County, the State of Florida or the United States Federal government declare an impending or actual emergency, Waste Pro will contact the City to coordinate any needed services.

During Storm – Normal collection operations will be suspended upon direction of governmental officials or when sustained winds have forced the closure of any bridges to the Town. During the actual storm, operations will cease and will only resume when it is safe to operate.

Post Storm - Operational hours during the first 72 hours after a storm or disaster event will be up to 12 hours per day and work will commence as soon as it is safe to deploy work crews and at the Town's direction. The scope of service available in the first 72 hours will be dependent on personnel and equipment availability.

Additional work – Any work over and above normal activity is likely to affect collection services. The Contractor will be compensated for any additional labor and disposal expenses incurred as a result of performing the additional work. Hours to be paid will be any additional hours worked over normal route time. Normal route time is defined as the average number of hours the Contractor runs over the same calendar month, over a 3-year period, not to include any period affected by a storm event. In the event there is not 3 years of operational data available the Town and Contractor will develop an estimate of operations time to be used to determine any extra work. The Town recognizes that operations may be performed on the normal solid waste and yard waste collection days or throughout the normal work week if equipment and personnel are available.

Pricing

Post Storm Operations – Waste Pro Fleet

- Charges will be:
 - Rear load truck and (1) man crew \$225.00 per hour
 - Additional laborers \$ 45.00 per hour
 - Grapple truck and (1) driver \$180.00 per hour
 - Roll off truck/container with (1) driver \$180.00 per hour

- Waste Pro will cooperate with the City's monitoring contractor to provide documentation of all work activities.
- Billing for storm debris removal service will be on a weekly basis with payment within 30 days of invoice date.
- Disposal charges will be billed to the City.

Post Storm Operations - Extraordinary Services

- In the event the City needs additional storm debris removal assistance, Waste Pro will cooperate with the City to locate and provide sub-contracted storm debris removal services.
- Pricing will be obtained at the time of the event and Waste Pro will cooperate with the City to secure the lowest available pricing possible.
- Billing for Extraordinary Services will be on a weekly basis with payment within 30 days of invoice date.
- Disposal charges will be billed to the City.



Meeting Date: 8/22/2024

Agenda Item: 15

Report to Town Council

Topic: From the Town Manager

Summary: Please see attached report.

Requested by: Mr. Disher, Town Manager

Approved by: Mr. Disher, Town Manager



MEMORANDUM

OFFICE OF THE TOWN MANAGER

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

To: Town Council
From: Michael E. Disher, AICP, Town Manager
Date: August 15, 2024
Subject: Town Manager's Report

MEETING DATE: August 22, 2024

1. At its [August 6, 2024](#) meeting, the County Council approved the following:

- [Item W](#) – Task Assignment: with Dowst and Associates, Inc., to Public Works / Engineering for Surveying and Mapping Services for the S. Peninsula Drive Sidewalk Improvements. The County will notify us of when the work will begin so that we can notify our residents in advance.
- [Item 10](#) – Renewal of Ponce Inlet Fire Rescue certificate of public convenience and necessity, advanced life support, non-transport. The certificate is renewed every two years. The County renewed certificates with all participating jurisdictions at this meeting.
- [Item 27](#) – Ord. 2024-20 - Vehicular Beach Access Fees – adjusted fees for on-beach parking: \$30 daily pass, \$150 annual pass for out-of-county residents, and \$0 (free) annual pass for county residents who register with the County. The \$0 annual pass expires on January 31, 2026 unless reauthorized by the County Council.
- [Item 28](#) – Award of agreement for vehicular beach access payment collection services to PCI Municipal Services, LLC and contract task assignment amendment to Mead & Hunt Inc. for implementation and support. This is the bid award to update and automate beach access tolls. The contract is for 5 years. Mead & Hunt will continue to provide technical support for the system's implementation and oversight. Staff attended this meeting and spoke in support of joining as part of a coordinated beach traffic management program.

2. Public Works updates:

- Ponce Preserve pilings – Staff has obtained quotes for the repair as an emergency purchase to address danger to public health, safety, and welfare, and is now finalizing the contract. It will take an additional 3-4 weeks for the contractor to secure the materials and mobilize. Once started, repairs should take around 30 days (weather permitting) to complete.

- Staff also had the pilings examined at the boat ramp and at Timucuan Oaks. At the boat ramp, 14 of the 32 pilings are in poor condition, while the remaining 6 are in serious or critical condition and must be replaced. At Timucuan Oaks, the condition of the pilings is overall much better. However, the inspection indicated that at least 11 of the pilings are in poor to critical condition and should be replaced or encased.
 - New trail signs have been installed at Ponce Preserve, including directional signs pointing toward places of interest, along with “Keep Off” signs discouraging use of informal “social trails.”
3. On July 30, 2024, Staff attended Volusia County’s sand placement easement event at the Ponce Inlet Community Center. The County is attempting to receive easements from all beachfront property owners. Owners who have wish to have their dunes restored by the County and have not already signed an easement agreement must do so by September 30th.
 4. The Volusia County Costal Division has announced that it will be removing Brazilian pepper trees throughout Lighthouse Point Park in September and October. This will precede the planned improvements to the park’s boardwalk system in 2025.
 5. Building permit activity: The number of permits and applications for July has returned to the 100-per-month average, after having exceeded that average every month since February.

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Avg
Permit applications	94	112	112	111	142	124	102						797	114
Permits issued	85	118	113	96	147	119	121						799	114
Plan reviews	85	118	113	118	137	115	120						811	116
Inspections	243	242	274	292	254	238	255						1,798	257

6. The Cultural Services Department is coordinating a tribute to former employee Jeff Miller at Timucuan Oaks park for the week of September 3rd. Details will be shared with the community once finalized.
7. After winning last year’s World Championship, Caroline Marks has won the [women’s surfing gold medal at the 2024 Olympic Games](#). Last year the Town recognized her achievement with a Caroline Marks Day proclamation. Her family has been contacted about recognizing her latest achievement here in Ponce Inlet in the near future.