



**CITY OF PUNTA GORDA, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
WEDNESDAY, JUNE 18, 2008 9:00 A.M.**

COUNCILMEMBERS PRESENT: Friedman, Albers, Wallace, Goldberg, Smith-Mooney

CITY EMPLOYEES PRESENT: Dave Drury, Finance; Rick Keeney, Public Works; Tom Jackson, Utilities; Phil Wickstrom, Human Resources; Dennis Murphy, Growth Management; Kathy Dailey, City Manager's Office; Butch Arenal, Police; Robert Hancock, Fire; City Attorney Levin; City Manager Kunik; City Clerk Foster

Mayor Friedman called the meeting to order at 9:00 a.m.

Invocation was given by Mr. Oscar Dorr, followed by the Pledge of Allegiance.

PROCLAMATIONS/PRESENTATIONS

Linda Fanstill, Finance Department - 35 Years of Service

City Manager Kunik presented the award, which was accepted by Ms. Linda Fanstill.

Mr. Dave Drury, Finance Director, spoke of Ms. Fanstill's years with the City.

John Lloyd, Utilities Department - 35 Years of Service

City Manager Kunik presented the award to Mr. John Lloyd.

Mr. Tom Jackson, Utility Director, spoke of Mr. Lloyd's contributions to the City.

PUBLIC HEARINGS

AX-10-07 – An Ordinance of the City of Punta Gorda, Florida, Annexing within the Corporate Area of the City of Punta Gorda, Property described as Parcel No. 0071974-000100-2, being Lots 1 through 40, inclusive, Block 5, Carmalita Heights, as recorded in Plat Book 7, Page 26 of the Public Records of Charlotte County, Florida and Parcel No. 0071966-000500-8, being Lots 1 through 52, inclusive, Block 6, Forest Park as recorded in Plat Book 1, Page 88 of the Public Records of Charlotte County, Florida, together with those portions of Burland Street, Education Avenue and Carmalita Street lying contiguous and adjacent to said lots, commonly known as 1100 Carmalita Street and 1500 Carmalita Street, containing 21.65 acres +/-, as more particularly described on Exhibit A, and property described as Parcel Nos. 0080941-000000-4, 0080942-000000-3, 008094300000-

2,0080944-000000-1,0080945-000000-0,0080946-000000-9,0080947000000-8,0080947-000000-7, being Lots 1-20 inclusive, Block 9 together with the 60' Right-of-Way of Clemens Avenue lying contiguous to Lot 13, Block 9 of said Forest Park, commonly known as 1014 Cooper Street, 607 Carmalita Street, 611 Carmalita Street, 705 Carmalita Street, 737 Carmalita Street, 600 Allen Street, 608 or 700 Allen Street, 612 Allen Street, containing 3.06 acres +/-, as more particularly described on Exhibit B, and property described as Parcel Nos. 0071986-000000-9, 0071988-000000-7, 0071985-000000-0, 0071987-000000-8, being the East ½ of Lot 27, Clay's Subdivision of Section 8, Township 41 South, Range 23 East, recorded in Plat Book 1, Page 14 of the Public Records of Charlotte County, Florida, commonly known as 1420 Henry Street, 1404 Henry Street, 1416 Henry Street, 1450 Education Avenue, containing 5.06 acres +/-, as more particularly described on Exhibit C in accordance with the Voluntary Annexation Provisions of Section 171.044 Florida Statutes; redefining the Boundary Lines of said City in conformance therewith; amending the Official Boundary Map of the City of Punta Gorda, Florida; providing for conflict and severability and providing an effective date.

FIRST READING

City Attorney Levin read the ordinance by title.

Ms. Joan LeBeau, Chief Planner, displayed an overhead of the location, explaining the School Board of Charlotte County had requested a voluntary annexation to bring all properties into one jurisdiction for future expansion and use by the school. She advised a large scale land use amendment would be required. She explained staff had been directed to draft a policy for addressing road rights-of-way (ROW) during the annexation process, noting this annexation would be subject to those conditions. She concluded staff and the Planning Commission recommended approval.

Councilmember Goldberg referenced correspondence from Charlotte County, asking staff's recommendation with regard to moving forward with the annexation conditioned upon future development of said policy.

City Manager Kunik responded staff recommended moving forward with the understanding any policy adopted by both entities would be followed.

Mr. Rob Berntsson, applicant's attorney, explained the annexation was important due to the present situation of having multiple jurisdictions on one school campus. He concluded there was no objection to complying with any future policy.

Mr. Steven Ellis, Charlotte County Growth Management, referenced the consensus to draft an agreement regarding annexations, stating County staff was anxious to work with the City toward same. He requested the hearing be postponed until same could be

adopted. He then displayed an overhead demonstrating ROWs that would not be included in the annexation, voicing objection to same.

City Attorney Levin stated inclusion of the ROW in the annexation was irrelevant toward maintenance of same based on Florida Statute indicating public road transfers required an interlocal agreement between the two entities.

Mayor Friedman recalled previous annexations wherein the ROWs were not included. Councilmember Smith-Mooney **MOVED** to close the public hearing, **SECONDED** by Councilmember Goldberg.

MOTION UNANIMOUSLY CARRIED.

Councilmember Smith-Mooney **MOVED** approval, **SECONDED** by Councilmember Goldberg.

MOTION UNANIMOUSLY CARRIED.

QUASI-JUDICIAL PUBLIC HEARINGS

CCSP 04-07 - Petition for special permit under the provisions of Section 6-6 (j) of the Punta Gorda Code of Ordinances to install one (1) 3' x 30' angled concrete finger dock and five (5) dolphin piles at Lot 8, Block 1, Section 1, AKA 160 Donna Court, and Lot 7, Block 1, Section 1, AKA 1870 West Marion Avenue, Punta Gorda, FL Owner/Petitioner: James Bottoff CONTINUED FROM MAY 21, 2008

City Attorney Levin presented the request.

City Clerk Foster swore in all participants for the following quasi-judicial proceeding.

Mr. Rick Keeney, Public Works Director, displayed an overhead of the location and proposed construction, as delineated in the agenda material, explaining the request was to install one 3' X 30" angled finger dock with five dolphin piles on two lots, stating the lots had a combined seawall of 59'. He noted three of the pilings and a portion of the dock would extend outside the 45 degree area, noting the code allowed one freestanding dock protruding no more than 10' waterward on lots with less than 85' of seawall. He explained staff recommended denial based upon the length of the dock and dolphin pilings being located outside the 45 degree area in a congested end canal. He further explained the property owner of the adjacent lot had indicated their intent to construct a dock, which would further crowd the canal.

Councilmember Albers inquired if the Punta Gorda Yacht Club was notified of the request, noting same would impact their property.

Mr. Keeney responded all property owners within 200' were notified.

Councilmember Albers acknowledged this was an unusual request which typically would not be approved; however, it had been brought to his attention a similar dock had existed previously with this being a request to replace same.

Mr. Keeney voiced uncertainty.

Mayor Friedman stated if same were the case, it would have predated the ordinances and would be allowed to remain until same deteriorated and would then be required to be removed.

Mr. Jim Bottoff, applicant, explained the dock was on shared property, displaying an overhead of the requested construction and docking method, as delineated in the agenda material. He stated the two seawalls abutted at a 90 degree angle, preventing docking parallel to the seawall. He stated three pilings had been eliminated at the request of the Punta Gorda Isles (PGI) Canal Advisory Committee (CAC), noting same had been intended to secure the boat's stern. He displayed an overhead of the property with a dock located on the adjacent lot, maintaining neither would interfere with navigation. He then displayed a diagram of the present dock, stating same had been in existence since 1986, providing a brief description of the history of the property.

Councilmember Smith-Mooney inquired if the new owner of the adjacent property had responded.

Mayor Friedman recalled Mr. Keeney had indicated their intent to construct a dock.

Mr. Keeney then referenced the PGI CAC recommendation to eliminate the three outer pilings.

Councilmember Albers inquired if staff had worked with the applicant toward another solution such as a sliding dock.

Mr. Steve Padgett, Senior Project Manager, responded negatively.

Councilmember Goldberg acknowledged the location of the lots presented an awkward situation; however, he felt extending the dock created an impediment to safe navigation, especially in adverse weather conditions.

Mayor Friedman reported he had visited the site, adding he concurred with Councilmember Goldberg. He stated a portion of both boats would extend beyond the property line.

Mr. Bottoff pointed out with the small seawalls there was no way to conform to the code, thus the request for a special permit. He stated navigation of the boats would be up to the operator to perform same in a safe manner.

Councilmember Goldberg **MOVED** to close the public hearing, **SECONDED** by Councilmember Albers.

MOTION UNANIMOUSLY CARRIED.

Councilmember Smith-Mooney voiced understanding toward the property owners; however, she could not approve same.

Councilmember Smith-Mooney **MOVED** denial, **SECONDED** by Councilmember Goldberg.

Councilmember Goldberg mentioned Council's obligation to protect other boaters in the area.

Councilmember Smith-Mooney suggested staff work with the applicant toward a better solution.

MOTION UNANIMOUSLY CARRIED.

ORDINANCE/RESOLUTION

No Public Hearing Required

An Ordinance of the City of Punta Gorda, amending the City of Punta Gorda Firefighters' Retirement System, as adopted by Ordinance No. 879-87, as subsequently amended, is hereby further amended by amending Section 6, Benefit Amounts and Eligibility; repealing all ordinances in conflict herewith and providing an effective date.

SECOND READING

CONTINUED FROM JUNE 4, 2008

City Attorney Levin read the ordinance by title.

Councilmember Albers **MOVED** approval, **SECONDED** by Councilmember Goldberg.

MOTION UNANIMOUSLY CARRIED.

CONSENT AGENDA

Councilmember Smith-Mooney pulled item A-2.

City Attorney Levin advised item F-1 required discussion as well.

A. CITY CLERK

1. Approval of Minutes: Regular Meeting of June 4, 2008
2. Naming Rights Policy

B. LEGAL DEPARTMENT

1. A Resolution of the City Council of the City of Punta Gorda, Florida, accepting Utility Easement Dedication, Bill of Sale and Release of Liens / Affidavit of No Liens from Southwest Land Developers, Inc., and accepting Utility Easement Dedication from Charlotte County Airport Authority, and Letter of Warranty from Environmental Underground Inc. for the water and wastewater utility infrastructure located within and for Airport Commerce Center.
2. Statements of the Farr Law Firm in the total amount of \$620.00 dated May 15, 2008 for services rendered to the City in forfeiture matters.
3. Invoice of City Attorney in the amount of \$5,692.50 for services rendered through June 12, 2008.

C. GROWTH MANAGEMENT

1. Request reimbursement of Development Block Grant (CDBG) Disaster Recovery funds for Sunloft Center facades.

D. UTILITIES DEPARTMENT

1. A Resolution of the City Council of the City of Punta Gorda, Florida, Approving the Interlocal Agreement between the City of Punta Gorda and Charlotte County for the Aqui Esta Widening Project and Authorizing the Mayor to Execute the Agreement on behalf of the City of Punta Gorda.
2. Taylor Road Building Lease Agreement – Change of Term

E. FINANCE DEPARTMENT

1. Award of Agreement for the Replacement of Seawall Caps to Marine Contracting Group of Punta Gorda, FL
2. Communication Site Lease Agreement with Verizon Wireless at the Burnt Store Water Tank

F. CITY MANAGER

1. Amendment to Agreement with City Marketplace

ITEM F-1: City Manager Kunik referenced correspondence, as delineated in the agenda material, requesting amendments to same in the event the hotel changed flags as follows: "...Hilton Garden Inn or other upper mid-scale or higher hotel, such as a Holiday Inn, Marriott Courtyard, Hyatt Place, or similar." He noted same would provide flexibility for future actions.

Mr. Ed Wotitzky, agent, stated another amendment related to paragraph 2 regarding the architectural plans, suggesting the following verbiage: "... shall be constructed substantially in accordance with the preliminary architectural plans approved by the CRA on June 11, 2008 and subject to the conditions imposed with said approval by the CRA." He then distributed a letter outlining same, as delineated in the agenda material. City Attorney Levin stated he had no problem with either of the amendments.

Councilmember Smith-Mooney recalled the approval was conditioned on the addition of display windows, requesting the agreement include same.

City Attorney Levin responded the language in Section 5 referenced same.

Councilmember Smith-Mooney suggested staff be allowed to request another plan review if substantive changes were submitted.

City Attorney Levin responded the language provided that protection.

Councilmember Albers acknowledged changes occurred over time; however, Council's intent was that the hotel be constructed as a Hilton Garden Inn, questioning if the amendment provided for same.

City Attorney Levin recommended the language be amended to indicate a certain time frame prior to allowing the hotel to change flags.

Mayor Friedman inquired if City Council or CRA approval could be required.

City Attorney Levin responded affirmatively, adding it could also be controlled by requiring a certain level of hotel as was done with the Harbor Inn agreement.

Councilmember Smith-Mooney stated she felt same was restrictive to private enterprise in that it controlled future business decisions.

Councilmember Wallace stated he did not want to be overly restrictive, pointing out the funds being expended could not be supported by a lesser hotel.

Mayor Friedman reiterated it was important to protect the citizens in future years to have what was promised during the variance process.

Mr. Wotitzky pointed out additional conditions created difficulties when seeking financing, adding the applicant was concerned they would not have the necessary flexibility in the future if they decided to sell or change flags. He stated the recommended language provided some control to City Council.

Councilmembers Smith-Mooney, Goldberg and Albers indicated their approval of language stating it would be built and opened as a Hilton Garden Inn and could be changed to one of the listed hotel flags in the future.

Discussion ensued with regard to adding a time limit to the language.

Councilmembers Smith-Mooney and Goldberg expressed agreement with a one year condition.

City Attorney Levin advised he would add same to paragraph 5 and utilize the amended paragraphs for 1 and 2.

Councilmember Goldberg **MOVED** approval as amended, **SECONDED** by Councilmember Albers.

VOTING AYE: Goldberg, Albers, Smith-Mooney, Friedman.

VOTING NAY: Wallace.

MOTION CARRIED.

ITEM A-2: **Councilmember Smith-Mooney** advised she did not wish to revisit the decisions that had been made; however, she felt same was a significant change and the public should be allowed input. She then referenced sample policies that had been provided for consideration during the CRA meeting, expressing her desire to adopt something along those lines. She referenced a news editorial recommending the City name the parking structure after Mr. Leo Wotitzky, noting the proposed policy would not permit same as it would be limited to the placement of a plaque. She noted things

had been named after those who made contributions in the past. She reiterated her request to consider the sample policies.

Councilmember Albers countered it was clear a policy had been adopted during the CRA meeting which was represented by the proposed language. He recommended the policy be approved as written.

Councilmember Smith-Mooney pointed out the sample policy had stipulated a base dollar amount prior to granting any request. She voiced objection to the proposed language as it did not specify whether small donations would be acceptable, noting if so, the plaque could cost more than the donation. She reiterated her request for a more comprehensive policy.

Councilmember Goldberg acknowledged the sample policies had some good aspects; however, he felt it was too complex for the City's purposes. He stated the proposed policy was appropriate for the City's needs.

Councilmember Goldberg **MOVED** approval, **SECONDED** by Councilmember Albers.

Councilmember Smith-Mooney asked if the City was protected should someone insist on naming something.

Councilmember Albers pointed out each request would be reviewed by staff and presented to City Council for approval.

City Attorney Levin added it was discretionary for City Council, adding it provided guidance for consideration of requests.

Councilmember Goldberg pointed out it was not possible to draft a policy to address every aspect.

Councilmember Smith-Mooney inquired if the policy indicated no buildings or streets would be named after someone who had made great contributions to the City.

City Attorney Levin explained the policy stated nothing would be renamed, reiterating it was to Council's discretion to deviate from the policy in certain circumstances where they felt it was warranted. He pointed out the sample policies included criteria that would prevent deviation, thus a more general policy as was proposed would be more in the City's best interests.

Mr. Steve Fabian pointed out Mayor Friedman had first indicated the City's intent was never to name something after an individual, stating he then changed his view. He then asserted it was clear that money talked.

MOTION UNANIMOUSLY CARRIED.

Councilmember Smith-Mooney recommended any questionable requests be added to the regular agenda so as to allow public comment.

Councilmember Albers **MOVED** approval of the remainder of the consent agenda,
SECONDED by Councilmember Wallace.
MOTION UNANIMOUSLY CARRIED.

UNFINISHED BUSINESS

Harbor Bridge Development Parking Agreement

Mr. Dennis Murphy, Growth Management Director, explained a previous agreement had been approved to deed property to Harbor Bridge for the purpose of constructing of a parking lot within one year to be used as overflow parking for area businesses. He advised the construction did not occur within that time period, thus the request for a new agreement. He stated it would be at the discretion of members whether to deed the property or provide a lease option, noting staff preferred the lease option.

Mayor Friedman concurred with the recommendation.

Councilmember Smith-Mooney recalled this had been proposed as the property owner did not have adequate space to meet parking requirements without a variance, adding same should be addressed in the lease.

Mr. Murphy explained the current code allowed shared parking.

Consensus of members was to direct staff to draft a lease to be presented for approval.

Mr. Jim Sanders, Harbor Bridge, distributed a timeline of actions taken to date with regard to development of the parking lot. He stated the present agreement was for a transfer of property, adding the bank had intended to hold the mortgage on the property until the financing was paid off.

Consensus of members was to proceed with the lease, noting if Mr. Sanders encountered difficulties, staff would be notified.

City Attorney Levin stated he felt the bank would need to know the lease term.

Mr. Murphy suggested a 25 year lease with two additional renewals.

Discussion ensued with regard to use of the property and financing term.

Mr. Sanders pointed out the building permit would expire at the end of the month, requesting same be extended.

NOTE: A short break was called at 10:31 a.m.

NEW BUSINESS

Downtown Flooding Study

Mr. Randy Brodersen, Project Manager, explained Wilson Miller had performed a downtown flooding study, which required approval to commence with design which must be completed by November, 2008 per the grant terms.

Ms. Sandra Newell, Wilson Miller, displayed a PowerPoint presentation, as delineated in the agenda material, stating they had performed the study to evaluate conditions and recommend improvements. She then provided a review of the project area, existing conditions, project scenarios and recommendations, project costs and benefits and proposed conditions, as included in the agenda material. She further explained

recommendations for check valves, outfall and internal pumps, piping in residential areas and baffle boxes, estimating the total cost at \$5,422,560. She concluded the benefits would eliminate the need for detours, reduce structure flooding, public works costs, loss of work, impacts to businesses and electrical outages. She stated the benefit to cost ratio was 1.18, noting the Federal Emergency Management Agency (FEMA) considered same when approving funding requests. She concluded her presentation by displaying a comparison of intersection flooding with and without the proposed alternatives, as delineated in the agenda material, noting same would not protect the City against storm surge conditions.

City Manager Kunik reminded members of the grant obligations for design, mentioning grant funds of \$3,200,000 for construction with the matching costs budgeted through Infrastructure Sales Surtax (ISS) revenues.

Mayor Friedman inquired as to what remained of the grant funds and the anticipated design costs.

City Manager Kunik responded study and design cost \$460,000; therefore, \$2,740,000 remained, noting FEMA would be requested to fund the remaining construction costs.

Councilmember Smith-Mooney confirmed the unallocated portion of study and design funds could be utilized for construction.

Councilmember Wallace inquired if the piping solutions were a large portion of the total cost, opining check valves and pumps would be very beneficial.

Ms. Newell responded FEMA had been presented a copy of the study and would assist with locating funding based upon priority.

Mayor Friedman suggested the City proceed in priority order until the funding was exhausted.

Councilmember Goldberg clarified pipes would be resized when constructing check valves and pumps.

Ms. Newell explained check valves were proposed for existing pipes as well as proposed outfall pipes.

Councilmember Albers **MOVED** approval to commence to the design phase, **SECONDED** by Councilmember Wallace.

MOTION UNANIMOUSLY CARRIED.

Water Supply Program Update / Off-Line Reservoir

Mr. Jackson displayed a PowerPoint presentation, as delineated in the agenda material, stating the 2006 Water Supply Master Plan denoted timing to bring the offline reservoir and increased plan capacity on line, noting same were based on vigorous growth and economy. He further explained bulk water sales were contemplated, adding since that

time conditions had changed. He opined plant expansion could be delayed based upon the slower economic conditions. He then explained proposed minimum flow level (MFL) rules to limit the withdrawal amounts from Shell Creek were moving forward; however, staff had presented Southwest Florida Water Management District (SWFWMD) with questions to clarify the situation as needed to plan the size of the offline reservoir. He stated the minimum desired size would be to duplicate the safe use of water in the existing reservoir, noting same was approximately 760 million gallons (mg). He added the intent was to construct as large a reservoir as was possible on the property.

Mayor Friedman questioned the 760 mg as opposed to the 300 mg referenced as the reservoir's yield.

Mr. Jackson responded the 760 mg was the safe yield prior to salt water intrusion.

Mr. Steve Adams, Utility Engineer, further explained the total stored water volume of the reservoir was 760 mg to the ground surface behind the dam; however, the amount being pumped from the reservoir could not include water below the tidally influenced downstream without allowing intrusion of salt. He stated the safe yield was 360 mg.

Mr. Jackson continued his review, providing a brief status report of the City's application for a mining permit for construction of the offline reservoir. He explained the City had performed traffic and impact studies; however, in response to complaints from a group of residents in the area, the hearing officer was considering the requirement of a full comprehensive impact study which caused staff to request a continuance. He stated he had worked with the City Attorney and County staff with regard to the next step, mentioning two options as follows: request a utility exemption from the ordinance which prevents fill from being moved off site, thus reducing the size of the reservoir or to perform the requested study at an estimated cost of \$50,000, noting the County had never accepted a study to date.

Councilmember Goldberg inquired as to the comment regarding the smaller reservoir.

Mr. Jackson responded the prohibition from removing fill from the site would limit the size of the reservoir itself. He then stated he felt it possible to work with the County to gain a hybrid exemption where they would be able to remove the fill from the site to enable the most efficient project.

Mayor Friedman inquired if a variance by the County Commission would accomplish same.

Mr. Jackson responded he believed that was the method.

Councilmember Goldberg recalled discussions regarding the importance of the reservoir at the last joint meeting.

Mayor Friedman mentioned the benefits to County residents as a result of the reservoir.

City Manager Kunik confirmed members wished staff to work with County staff toward a resolution of the permitting issues, noting time was of the essence.

Mayor Friedman voiced disappointment the project was not moving as quickly as members had requested many months prior. He opined the sooner the permit was gained and the request for proposal (RFP) were issued, the better the chances of gaining grant funding.

Councilmember Albers inquired if the decision of the hearing officer could be appealed.

Mr. Mark Gering, City Engineer, explained the City had not been turned down as a continuance had been requested. He stated the County's ordinance related to excavation and earth moving, noting the City was fully exempt from the excavation provisions and would need to work with the County for an exemption to the earth moving portions.

Mayor Friedman clarified the hybrid exemption would allow selling of the fill.

Discussion ensued with regard to timing and process of the hearing.

City Attorney Levin stated he was not convinced the exemption only applied to excavation, but rather that it may include the fill removal as well, adding it may be possible to go to the County Commission for an interpretation of same.

Mr. Jackson then stated the next step was the RFP process for the reservoir design, noting he had conservatively estimated it to occur in six months, noting he would attempt to accomplish same more quickly.

Councilmember Albers questioned how the design could be done prior to knowing whether removal of the fill would be permitted.

City Manager Kunik explained the RFP selection process was somewhat timely, adding same could require as much as three months to issue a contract. He suggested staff work toward the permit while the RFP process was underway.

Mayor Friedman inquired what bearing MFLs would have on the reservoir considering the amount of water being drawn during the rainy season would be minimal.

Mr. Jackson responded it would come into play if withdrawals were limited during no flow conditions, adding the reservoir should be sized accordingly to enable the City to request assistance with funding. He then displayed an overhead, as delineated in the agenda material related to the Water Supply Master Plan wherein consideration was being given to adjusting the timing of various projects, noting staff was identifying MFL reductions and analyzing raw water total dissolved solids (TDS) and their effect on

reservoir sizing. He noted same would enable identification of new water supply projects and establish capital and operating costs of the projects.

Councilmember Goldberg inquired what time staff was spending on identifying new water supply projects.

Mr. Jackson advised the Peace River Authority was doing so and staff was tracking same.

Councilmember Smith-Mooney inquired if the lower demands were based upon conservation efforts and watering restrictions, noting the district may provide a variance to same.

Ms. Terri Behling, Southwest Florida Water Management District (SWFWMD), stated the governing board would meet next week to consider the one day per week watering restrictions, reporting staff recommended extending same through September 30, 2008. She acknowledged they had considered bringing certain areas out of the restrictions; however, below normal rainfall during May, compounded with the existing deficits caused the restrictions to remain in place. She explained variances to same generally related to which day the watering was permitted, rather than additional days.

Councilmember Smith-Mooney pointed out the restrictions resulted in water going over the dam and into the gulf, inquiring why same could not be utilized.

Ms. Behling expressed understanding; however, decisions were made for the entire district.

Discussion ensued with regard to drought recovery.

Councilmember Goldberg pointed out as a result of conservation, the rate payers may be charged more.

City Attorney Levin recommended the City consider initiating a form of rule making to provide an exception for suppliers to build reservoirs, thus exempting same from the restrictions. He stated same could be initiated by a petition to the governing board.

Consensus of members was to move forward with same as well as contacting the County regarding the mining permit.

Peace River Manasota Regional Water Supply Authority Phase I-A Pipeline Project Update

Ms. Susan Hoculi, Peace River Manasota Regional Water Supply Authority (PRMRWSA), displayed a PowerPoint presentation, as delineated in the agenda material, while providing a brief update of the status of the interconnect. She stated the interconnect was designed for amounts up to 6 mg per day as allowed through the water permit with a bi-directional water transfer by means of a 24" diameter pipe, pumping storage and metering facilities. She noted the City would control the water delivered to the

PRMRWSA, adding the authority would bear all costs to design, construct and operate the interconnect. She displayed a map, as delineated in the agenda material, denoting the preferred route of the pipeline, explaining a ground storage tank and pumping station was included. In relation to locating the pump station, she explained the City was amenable to placing it adjacent to the City's existing water plant; however, it was now felt it would be more appropriate to locate same on the south bank of the river. She advised the contract currently called for the sale of water at a rate of \$2.1 per 1,000 gallons; however, the City set those rates with inflation in mind. She noted on an emergency basis, water could be piped to the City on a water credit basis. She reported upcoming events as follows: revision of the water supply contract in July, 2008; final design efforts by June, 2009; commencement of construction in September, 2009 and bringing the project in service by February, 2011. She concluded her presentation with a brief update on the Authority's Source Water Feasibility Study.

NOTE: A short break was called at 12:28 p.m.

RECOMMENDATIONS FROM CITY OFFICERS

CITY MANAGER

Discussion regarding Enterprise Punta Gorda

City Manager Kunik reported the resignation of the Executive Director and subsequent meetings of the Enterprise Punta Gorda (EPG) board, stating the board felt the configuration of the board was still valid in that it was comprised of the various organizations focused upon community and business development. He mentioned the difference between business and economic development, noting business development had a smaller focus. He explained after the formation of Main Street, EPG's focus was shifted to the business component. He further explained the two main projects were branding and the possibility of outside funding for same and the format for a monthly score card. He listed options for moving forward as follows: disband EPG, EPG board to continue as is and to seek a business development employee, to await a forthcoming proposal from the Punta Gorda Chamber of Commerce to assume some of the functions or to reconfigure EPG board with different partners.

Councilmember Smith-Mooney added a portion of the situation was related to growing pains as the functions of the Executive Director position were not clearly defined with relation to the difference between the community development and business development aspects. She spoke of the need for an individual to have experience in business development.

Councilmember Wallace inquired if the current board were committed to Punta Gorda, considering they had several County representatives.

Councilmember Smith-Mooney responded there were a certain number of citizens and businesses who believed only members strictly associated with the City should be voting members; however, a portion of the funding was derived from the County members.

Councilmember Wallace inquired if it would be possible to fill the position for only a six month period should the decision be to disband EPG.

Councilmember Smith-Mooney expressed uncertainty, stating Mr. Don Root, Charlotte County, had suggested it would be difficult to find an experienced individual willing to report to a board for the salary being offered. She added he had suggested it possibly being an employee of the City who reported to the City Manager.

Councilmember Goldberg opined the business development function was essential during the economic downturn currently being experienced, adding the City must be competitive to ensure businesses did not go elsewhere. He spoke in favor of providing fiscal resources toward same; however, he was not convinced as to the manner of doing so. He suggested a proposal for each alternative.

Councilmember Albers suggested waiting for the Chamber's proposal. He reminded members having an employee on staff required EPG to be under the Sunshine Law.

Councilmember Smith-Mooney responded Mr. Root had mentioned an exclusion from the law which provided him confidentiality which extended to the board as well.

Councilmember Albers inquired when the proposal from the Chamber would be made.

Councilmember Smith-Mooney cautioned the board was unsure if same would be successful due to the specialized nature of business development.

Mr. John Wright, Punta Gorda Chamber, stated he had served as chair of the EPG board for the past year, noting he felt at loggerheads with the board for the past six to seven months. He further stated his Chamber board was losing faith with the direction being taken by EPG based upon EPG's refusal to participate with the Chamber board formed to assist EPG. He voiced concern with ongoing funding for EPG, noting recruitment would be impossible if funding were to cease after six months. He further expressed concern with the composition of the EPG board due to the mix of County and City entities, stating he had heard conflicting stories as to whether those entities were willing to commit their portion of funding for 2009. He explained the City/County mixture of board members was not conducive to Punta Gorda's unique needs. He expressed the Chamber's willingness to work with EPG toward defining the job description for the EPG position, adding they believed there was a need for a business development operation. He advised he had been working on their draft proposal which

would be reviewed by a subcommittee the following week, adding there were approximately 12 things that could be undertaken by members of the committee who were already in the business community.

Councilmember Albers commented it appeared the board was interested in continuing EPG; therefore, if a plan was presented and approved he felt it would be funded beyond six months.

Mayor Friedman recalled the City Manager had mentioned four potential paths, opining the EPG board would not choose to disband themselves or to turn the program over to the Punta Gorda Chamber. He suggested as the City's representatives, City Manager Kunik and Councilmember Smith-Mooney attend the next board meeting and speak with Mr. Wright to come back to Council with a recommendation or a list of options with their associated pros and cons. He agreed funding would not be a problem should a suitable plan be approved.

Councilmember Smith-Mooney clarified Mr. Wright's statement with regard to coming to loggerheads with the board to mean the majority of the board rather than all members. She explained certain County representatives were satisfied with the manner in which things were transpiring while other members were becoming frustrated with the timing.

Mayor Friedman reiterated he felt same was the reason to take a step away from the existing board and allow the City's representatives to provide a recommendation.

Councilmember Goldberg reminded members the primary beneficiary was the City of Punta Gorda; therefore, an objective plan must be derived to focus on development of the business community of Punta Gorda.

Mr. Wright clarified the EPG board had asked the Chamber to retract their proposal.

Councilmember Smith-Mooney responded affirmatively; however, the direction being given this date was to present same for consideration by the City's representative.

Mr. Don McCormick mentioned the resignations from the EPG board, inquiring who now represented the board.

Councilmember Smith-Mooney replied Ms. Connie Cantor replaced Mr. Wright. She further stated Ms. Brenda Lynch, at large member who had served as the treasurer, had also resigned, adding members had inquired if she would be willing to come back under certain conditions. She pointed out with Mr. Wright's resignation, the Vice Chairman had assumed his Chairman's role, noting that individual was a County representative.

Consensus of members was for the City Manager and Councilmember Smith-Mooney to attend the next board meeting and gain the proposal from the Chamber to make a recommendation to City Council.

CITY ATTORNEY

City Attorney Levin drew members' attention to his correspondence, as delineated in the agenda material, with regard to a settlement offer with Mr. Brian Martin. He explained the case involved two qualifiers for Ideal Homes with one having been found in violation of City and State law resulting in a loss of his permitting privileges. He stated same was heard by the circuit court, wherein the City defended their position, noting a decision on same was pending. He explained the case against Mr. Martin was not as strong; therefore, he recommended a settlement to avoid the potential liability for fees and legal costs. He concluded the Building Board voted to authorize the settlement denoting if Mr. Martin were to get his State license reinstated, he would have permitting privileges within the City.

Councilmember Albers inquired as to the fines.

City Attorney Levin responded the fines and restitution were required prior to regaining permitting privileges. He advised the State had the authority to directly fine Mr. Martin and were pursuing cases against him.

Councilmember Albers questioned the difference between the two qualifiers' cases.

City Attorney Levin replied the case against Mr. Martin related to three liens and was weak.

Councilmember Wallace pointed out the individuals could file against Mr. Martin themselves.

Councilmember Wallace **MOVED** approval, **SECONDED** by Councilmember Goldberg.

MOTION UNANIMOUSLY CARRIED.

BOARDS AND COMMITTEES

Announcement of Vacancies

Board of Zoning Appeals - Alternate

City Clerk Foster announced the continuing vacancy.

Building Board - Alternate

City Clerk Foster advised with the appointment of one alternate member to a full seat, a vacancy now existed for the alternate seat.

Nominations

Planning Commission

Councilmember Goldberg **NOMINATED** all interested parties.

Appointments

Planning Commission

Voting forms were distributed.

City Attorney Levin announced Mr. Zapke had received the most votes and was therefore appointed to the Planning Commission.

Presentation of FY 2009 General Fund Budget Status

City Manager Kunik referenced actions taken since the previous review of the general fund budget, stating revenues and expenditures had been revised. He stated the revenue shortfall was \$273,392 based upon the roll forward rate and not including reserves. He then displayed a comparison of the FY 2008 and FY 2009 budgets, adding the proposed budget included a 3% salary increase for employees.

Councilmember Albers questioned the 4.2% increase in the Police budget.

City Manager Kunik responded same was a transfer from the ISS funds for fleet replacements, noting no replacements had been made the previous year.

Councilmember Albers stated smaller vehicles should be considered when replacing vehicles based upon the need to be conservative.

City Manager Kunik stated electric vehicles were being considered for some departments. He continued the comparison stating the budget had been reduced by 11%, which included the ISS funds. He advised 13 employees had taken advantage of the early retirement option, adding the proposed budget included a total employee reduction of 17.5. He then displayed a chart denoting the current millage, levy with Amendment 1 impact, rollback and adjusted rollback rates based upon the property appraiser's June estimates. He then provided options to eliminate the shortfall as follows: Utilize estimated fund balance in excess of 5% reserve - \$200,000 to \$250,000 or alternative salary adjustments; 1.5% each in January and July - \$60,000; 3% in July - \$120,000 or no merit increase - \$180,000. He recommended members consider a combination of the options to eliminate the shortfall.

Mayor Friedman stated the ability to balance the budget with the roll forward millage rate was possible, adding he felt members should await the final numbers from the property appraiser. He opined he would prefer to utilize the reserves rather than the salary alternative. He suggested other alternatives be presented. He inquired if there was any interest in raising the millage rate to enable more road paving.

Councilmember Wallace responded negatively.

Councilmembers Albers, Smith-Mooney and Goldberg concurred the climate was not conducive for doing so.

Mayor Friedman clarified staff would proceed with the roll forward rate and bring back the final budget once property values were known.

Presentation of FY 2009 Sanitation Budget Status

City Manager Kunik displayed information denoting the sanitation fund was balanced based upon a two day pickup schedule; however, questions had been raised regarding reducing same to one day per week. He advised utilizing City staff in a semi-automated procedure would reduce the annual cost to 212.95; no change in procedure to an annual cost of \$195 or outsourcing for one day per week at a cost of \$148 per year.

Mayor Friedman expressed surprise the reduction was only approximately 15%, especially in light of the reduction in fuel.

Councilmember Albers inquired if the semi-automated procedure would utilize one man trucks.

Mr. Keeney responded the County utilized a fully automated system with one person; however, the City's semi-automated system would allow continued use of the current fleet. He pointed out the expense of purchasing new trucks. He explained the semi-automated system would require a driver and a person on the back of the truck.

Councilmember Albers questioned the reduction in staff related to either proposal based on one pickup per week.

Mr. Keeney responded same would reduce staff by two positions. He explained one day pickups would require more trips to the landfill.

Mayor Friedman inquired as to the number of times the truck went to the landfill.

Mr. Keeney responded it was typically one trip per day; however, same varied dependent on the time of year.

Mayor Friedman stated the newspapers had indicated the County's rates would increase by 40% if they continued two day pickups.

Mr. David Drury, Finance Director, stated he spoke with a representative of Waste Management who had indicated they were not going to raise their contract, thus the reduction for the County was only 8%.

Councilmember Albers opined members must consider what the residents desired, suggesting the homeowners associations be contacted to determine whether a \$35 savings was worth the loss of service.

Councilmember Wallace pointed out consideration must be given to the total picture in that they may desire this reduction to offset the increase in utility costs.

Consensus of members was to request staff to verify the figures and to gain public sentiment from the various organizations to determine the residents' desires.

NOTE: Councilmember Smith-Mooney left the meeting at 1:57 p.m.

Presentation of FY 2009 Utilities Budget Status

City Manager Kunik provided a brief comparison of changes related to the proforma, stating when same was drafted a year previously it was understood the interconnect would be operational and bulk water sales were contemplated. He then displayed a chart of revenues and expenses for the utility fund, noting a \$1,908,379 shortfall. He stated same was a result of slow growth and watering restrictions. He explained staff had created an expenditure budget in an attempt to reduce costs based on the flat revenues. He stated reserves were being used to make up the shortfall; however, same could not be repeated the following year.

Councilmember Albers clarified the \$11,400,000 in 2008 revenues had been reduced, voicing objection to same as the budget should not be changed, but rather it should be denoted as a shortfall during the year. He pointed out the monthly reports were misleading as well.

City Manager Kunik stated they would revise the monthly format to show the original budget, amended budget and current situation.

Mayor Friedman countered as a budgeting tool the objective should not be changed as that is the measurement to work against.

Councilmember Goldberg stated it was not an amended budget, but rather the current view in comparison to the budget.

City Manager Kunik responded the form would be changed to denote revenues to date. Discussion ensued with regard to reporting format.

Mayor Friedman recalled staff's comments the previous year that no rate increase would be needed; however, members were now being informed a rate increase would be necessary within three months. He asserted members should have been informed of this some time ago, opining same was unacceptable. He questioned the basis utilized to determine the rate increase, noting no information had been provided to members.

City Manager Kunik displayed the operational costs for utilities, as delineated in the agenda material, stating same included a 3% salary adjustment and \$150,000 for increased Florida Power & Light (FPL) charges. He noted same included a reduction of \$500,000 in operating costs. He mentioned operations included debt service, one time expense for deep well injection permits and Fleet Maintenance, which was transferred from the general fund.

Mayor Friedman inquired how moving Fleet to Utilities enabled reduction of staff.

Mr. Jackson explained the transfer of Fleet to Utilities allowed the Fleet employees' tasks to be changed to include tasks previously performed by Utility employees.

Councilmember Wallace questioned the projected carryover.

Mr. Drury spoke of year-to-date actuals which had been adjusted based upon revenues and expenditures. He reported revenues were currently down \$200,000.

Councilmember Wallace questioned if the shortage was \$200,000 or \$2,300,000.

Councilmember Goldberg stated the reserve utilization was not being reported on a monthly basis.

Mayor Friedman pointed out the 2007 projected carryover was \$4,500,000; however, same was being reduced in the monthly report based on reduced revenues.

Mr. Drury explained revenues come in on a consistent basis while expenditures are uneven and inconsistent, adding the bond covenants require a certain percentage of revenue exceeding expenses based upon the amount of debt service.

City Manager Kunik displayed a new proforma, explaining same would be revised to denote the next debt service payment due in July.

Councilmember Wallace inquired why same wasn't denoted in the report at this time since it was included in the budget.

Mr. Drury responded it was included in the estimates column.

Ms. Sharon Knippenberg, Controller, explained there were nine funds that comprised the total Utility fund, while what was being shown was only the operating fund. She stated the denoted debt service was a share of what all of the Utility funds contributed.

Councilmember Wallace reiterated his question of why it was shown in the annual budget at \$584,000.

Ms. Knippenberg stated that was the amount being paid from the operating fund. She then apologized for the format of the monthly report, adding same would be modified to provide more information. She explained the year-to-date estimates column changed monthly based on what was occurring; therefore, when staff saw a downturn in revenues, the annual number was reduced. She further explained the second column was what had been paid thus far, adding there were also encumbered funds for future payments.

Councilmember Albers suggested the figures should be included in the month when debt payments are made.

Ms. Knippenberg responded debt service figures were shown in that manner; however, operational costs were not.

Mr. Drury opined the year-to-date estimate was not necessary as it was simply 1/12 of the total budget.

Mayor Friedman recommended a column for adopted budget, actual and projected actuals for the year.

Discussion ensued regarding report format.

Mayor Friedman clarified the \$2,300,000 carryover would remain at the end of the year, questioning the need for a rate increase.

Ms. Knippenberg explained the initial \$4,500,000 in reserves had been reduced to \$2,300,000 to cover operating costs. She pointed out same was not sustainable, adding the Utility fund was required to have a reserve, thus a rate increase was necessary to protect same.

Mr. Andy Burnham, Burton & Associates, displayed a chart denoting the financial analysis and management system, stating they performed a rate study and would present the financial aspects. He further explained they would perform a rate design analysis to look at the existing structure toward redefining the blocks related to larger volumes of usage.

Mayor Friedman interjected same was counter to what had been discussed as customers should be incented to use water as sufficient supplies existed, adding same amounted to further exasperating the shortage.

Mr. Burnham stated the 2006 rate study took into consideration the robust growth and the contract for supplying bulk water through an interconnect, adding neither was existent at this time. He mentioned the delay in construction of the reservoir and the present difficulty regarding the sale of fill, noting both played into the current shortfall. He displayed the rate model which modeled cash flow abilities, stating same determined the annual revenue requirements for the Utility based on the current operating and capital needs. He pointed out the proposed annual rate increases for 2009 and 2010, noting 2011 and beyond was unsure at this time. He recommended an 18% increase for 2009, followed by 10% in 2010, mentioning the bond covenants' requirements for net income based on debt service. He mentioned the reduction in reserves necessary to meet operating costs for 2008, adding same was not in compliance with bond covenants even with the 18% increase. He explained he did not feel the State would penalize the City knowing same would be remedied over a two year period. He opined reserves equal to three month's operating expenses was optimal; however, two month's worth would be acceptable.

Councilmember Wallace inquired if the SRF requirements were revenue above expenses.

Mr. Burnham responded the calculation considered the gross revenues without impact fees, less the operating expenses.

Councilmember Wallace inquired if same considered the reserves.

Mr. Drury responded it was system improvement assets that were provided by a developer, noting same was allowed when meeting bond requirements.

Mr. Burnham added the two year approach would balance financial performance with customer impacts. He stated without an increase the reserves would go into negative numbers. He mentioned staff's cost control efforts, noting same was beneficial in keeping the increase as low as possible. He reiterated the loss of growth and sale of bulk water.

Mayor Friedman pointed out those things were known over a year ago, reiterating his disappointment members were only now hearing of the need for a rate increase.

Councilmember Wallace concurred.

Mr. Burnham recalled they had recommended annual rate increases of 3% per year during the 2006 study so as not to have a situation like this.

Mayor Friedman reiterated members had been informed no rate increases would be necessary for two to three years when beginning this fiscal year. He requested a proforma based upon the current conditions with the shortfall and an explanation of what the 18% increase would do remedy same.

Councilmember Wallace added no backup information had been provided related to the bond covenants.

Mr. Burnham maintained the figures were accurate. He stated they could provide current financial projects for the next five years, the required increases and what capital expenditures would have to be eliminated without an increase.

City Manager Kunik advised the information would be provided to members, adding they would update the proforma in the desired format.

Councilmember Albers stated specifics were needed when explaining the increase to citizens, such as the increase in chemical costs and fuel.

Consensus of members was to schedule a discussion for the July 2, 2008 meeting, after receipt of the additional information from staff.

POLICY AND LEGISLATION

GOLDBERG: Mentioned a letter regarding modification of the vacation accrual policy, asking if same was to be discussed today.

City Manager Kunik responded he would like to implement same by October 1, 2008.

Councilmember Albers voiced concern that none of the liability was removed from the proposed policy as same was being transferred to sick escrow.

City Manager Kunik responded many long term employees would be gone for a great length of time if required to use their accrued time.

Councilmember Albers suggested doing so over a period of years. He questioned the number of hours that long term employees had in accrual.

City Manager Kunik responded some had 504 hours.

Mayor Friedman opined vacations were not meant to accumulate time to cash in upon leaving the City, adding he felt employees should be required to take their vacations down to the desired level of accrual. He maintained the conversion to sick escrow did not accomplish what was intended.

Councilmember Albers commented sick leave escrows were generally paid out at 50% rather than in full in private enterprise. He suggested looking at more options.

Mr. Phil Wickstrom, Human Resources Manager, explained there were a few employees who had accrued their vacation balance under the existing rules for the specific reason of being paid same upon retirement. He explained the sick leave bank worked in a manner to reward employees for not using or abusing their sick leave by allowing them to escrow a certain number of days to be paid out upon retirement. He provided a brief description of the sick escrow program. He stated the vacation accrual policy was drafted as such so as not to punish employees who had accrued their hours as was allowed under the personnel rules, concluding same was an issue of fairness.

Mayor Friedman stated he better understood the intent; however, vacation was granted to provide time off rather than a retirement account.

Councilmember Goldberg stated 120 hours was a reasonable range.

Consensus of members was to add the policy to the next agenda for approval.

The meeting was adjourned at 3:30 p.m.

Mayor

City Clerk