



**CITY OF PUNTA GORDA, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
WEDNESDAY, SEPTEMBER 16, 2009 9:00 A.M.**

COUNCILMEMBERS PRESENT: Friedman, Albers, Wallace, Goldberg, McCormick

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. John Burrage, followed by the Pledge of Allegiance.

PROCLAMATIONS/PRESENTATIONS

American Business Women's Day

Mayor Friedman presented the proclamation.

Ms. Virginia Vaughn accepted same.

St. Vincent de Paul Day

Mayor Friedman presented the proclamation to Mr. Joe Sabatino.

Introduction of Board / Committee Nominees

Mr. Vic Poitras introduced himself as a nominee for Code Enforcement Board.

15 Year Service Award – Ken Walters, Police Department

City Manager Kunik presented the award, which was accepted by Mr. Ken Walters.

Mr. Butch Arenal, Police Chief, spoke of Mr. Walters' years with the department.

PUBLIC HEARINGS

SRC-01-09 – A request by Richard Cavalieri, as agent for Punta Gorda Housing Authority, for approval of the final plat for Gulf Breeze Apartments. Short Legal: 06 41 23 P-1 – That part of the SE ¼ of the SE ¼ lying south of ACL RR right-of-way west of Cooper Street less four 1 acre tracts fronting on Rail Road on Cooper Street Side, containing 12.13 acres, more or less.

Continued from August 19, 2009

Mayor Friedman announced the applicant had requested a continuance.

City Attorney Levin presented the request for plat approval, opening the public hearing.

Councilmember Wallace **MOVED** to continue SRC-01-09 to October 7, 2009, **SECONDED** by Councilmember Albers.

MOTION UNANIMOUSLY CARRIED.

ORDINANCE/RESOLUTION

No Public Hearing Required

An Ordinance of the City of Punta Gorda, Florida, amending Chapter 7 of the City Code of Ordinances, "Building Regulations", Articles II and III, using reserved Section 7-29 as "Building Code Adopted" due to renumbering; amending Section 7-30, adopting the Green Building Program; providing for conflicts and severability; and providing for an effective date. **SECOND READING**

City Attorney Levin read the ordinance by title.

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

MOTION UNANIMOUSLY CARRIED.

An Ordinance of the City of Punta Gorda, Florida, amending the City Code of Ordinances, Chapter 23, "Traffic", Article II, "Parking Areas", amending Section 23-17, restricting vehicle parking on Sullivan Street between West Charlotte Avenue and West Retta Esplanade to the east side of said street; prohibiting parking on Herald Court between U.S. 41 northbound (Tamiami Trail) and Taylor Street in the City of Punta Gorda; providing for conflicts and severability; and providing an effective date. **SECOND READING**

City Attorney Levin read the ordinance by title, noting same had been amended as requested by members.

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

MOTION UNANIMOUSLY CARRIED.

A Resolution of the City Council of the City of Punta Gorda, Florida, approving Modification One to Subgrant Agreement between the Division of Emergency Management and the City of Punta Gorda for the Hazard Mitigation Grant Program; authorizing the City Manager to execute the modification on behalf of the City; and providing an effective date.

City Attorney Levin read the resolution by title.

Mayor Friedman referenced an email with questions relating to the proposed resolution.

City Manager Kunik explained the grant had been ongoing following Hurricane Charley, adding the public was made aware of same. He further explained the City acted as a conduit by forwarding the applications to the Federal Emergency Management Agency (FEMA) who made the final decision, based upon their criteria as to who would receive the funds.

Mayor Friedman recalled the email alleged one applicant would be receiving grants for two different properties which they felt was not allowed. He questioned if same was correct.

City Manager Kunik reiterated the decisions were made by FEMA.

Discussion ensued.

City Clerk Foster advised the grant was by property rather than owner and was based upon repetitive losses.

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

MOTION UNANIMOUSLY CARRIED.

An Emergency Ordinance of the City Council of the City Of Punta Gorda amending the City of Punta Gorda General Employees' Retirement System, adopted pursuant to Ordinance 1286-00, as subsequently amended, amending Section 5, Contributions; repealing all ordinances in conflict herewith and providing an effective date.

City Attorney Levin read the ordinance by title, noting same would require a supermajority vote.

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

MOTION UNANIMOUSLY CARRIED.

CONSENT AGENDA

Councilmember Wallace pulled item D-1, commenting he felt same was a great program and wished to encourage the development of same.

Councilmember Goldberg **MOVED** approval of the consent agenda, **SECONDED** by Councilmember McCormick.

MOTION UNANIMOUSLY CARRIED.

A. CITY CLERK

1. Approval of Minutes:

a. Regular Meeting of September 2, 2009

b. Budget Workshop of September 2, 2009

B. GROWTH MANAGEMENT DEPARTMENT

1. A Resolution of the City Council of the City of Punta Gorda, Florida, approving the levy of delinquent user fee liens for the Mandatory Lot Mowing Program for Fiscal Year 2008/2009.
 2. A Resolution of the City Council of the City of Punta Gorda, Florida, approving the Local Agency Program Supplemental Agreement and authorizing the City Manager to sign the Supplemental Agreement.
 3. A Resolution of the City Council of the City of Punta Gorda, Florida, reaffirming the Charlotte County/City of Punta Gorda Local Mitigation Strategy as the formal guide for the City of Punta Gorda Hazard Mitigation Activities.
 4. Formal Annual Report under the Insurance Service Organization (ISO)/Community Rating Service (CRS) Program
 5. Request to allow ponies in Laishley Park for the Peace River Fall Seafood Festival & Boat Show, October 15-19, 2009.
 6. A Resolution of the City Council of the City of Punta Gorda, Florida, approving the Local Agency Program Supplemental Agreement and authorizing the City Manager to sign the Supplemental Agreement.
- C. LEGAL DEPARTMENT**
1. Statement of Allen, Norton & Blue, P.A. for services rendered in July 2009
 2. Statement of Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. for services rendered by David M. Levin, Esq., through September 2009
- D. FIRE DEPARTMENT**
1. Memorandum of Agreement between the City of Punta Gorda and the Charlotte County Health Department

UNFINISHED BUSINESS

Discussion of Non-Conforming Signs

City Attorney Levin explained he had expressed concern at the previous meeting in that a section of the Florida Statutes impacted the City's code with relation to their handling of non-conforming signs; however, further research had shown the statute related only to off-site signs. He concluded the current code regulation requiring non-conforming signs to be phased out within five years of adoption of the revised Land Development Regulations (LDRs) was valid.

Mayor Friedman stated he felt there were the following considerations: whether members wished the April, 2010 date for bringing signs into compliance to remain; whether to place the same regulations on single tenant locations, as the present policy only addressed multi-tenant locations and what to do about annexations.

Councilmember Goldberg stated he felt single tenant properties should be treated in the same manner as multi-tenant locations, adding he felt the signs should be allowed to remain beyond the April, 2010 date but be brought into compliance if there was a change in ownership or use.

Consensus of members was to not go forward with the April, 2010 date, to allow the non-conforming signs to remain unless there was a change in use or ownership and to regulate single tenant locations in the same manner.

Mayor Friedman then mentioned annexation, suggesting same be something to be negotiated with the owners of the property to be annexed.

Councilmember McCormick stated he felt the compliance date should be delayed rather than eliminated, adding he felt properties to be annexed should be advised they must come into compliance by a certain date.

Councilmember Albers pointed out the non-conforming signs had been approved by a previous Council under the rules in effect at that time, adding he felt it was unfair to require a costly change when it had been previously approved. He pointed out if the property were not annexed, the non-conforming sign would remain in the County's jurisdiction, thus he did not feel the City should require same to be replaced as a condition for annexation.

Consensus of members was to treat property to be annexed in the same manner as other properties in that the April, 2010 deadline would be rescinded and staff would negotiate with each property owner.

NEW BUSINESS

Request from East Elementary Parent-Teacher Organization (PTO) to waive tent permit fee associated with upcoming special event

City Manager Kunik explained same was a request to waive the necessary tent permit fee for an upcoming event to be held at Fishermen's Village.

Councilmember McCormick inquired if a pop-up tent was included in the regulations. Mr. Rob Hancock, Fire Chief, responded affirmatively.

Councilmember Albers pointed out the fees were to recoup costs, stating he would recommend denial and to instruct the City Manager not to bring such requests to Council as fees would not be waived unless it was something very unusual.

Councilmember Wallace recalled a decision where fees would only be waived if there was a benefit to the public from the event.

Councilmember Albers **MOVED** to deny, **SECONDED** by Councilmember Goldberg.

MOTION UNANIMOUSLY CARRIED.

Consensus of members was to indicate City Council would no longer waive fees unless it was a very unusual circumstance.

Local Vendor Preference for Formal Sealed Bids

Mayor Friedman stated he had been approached by the owner of a fairly large business who had indicated he had lost a couple of project bids as same had gone to out of City firms, asking why the City did not recognize local businesses as Charlotte and Sarasota Counties did. He explained their policies indicated if a local company's sealed bid was within 5% of the lowest bidder, they were afforded the opportunity to match same. He stated the process would not apply to jobs with Florida Department of Transportation (FDOT) or Federal funding as same was precluded by law. He concluded the proposed program would provide a 5% preference to firms located within Charlotte County.

Councilmember Wallace spoke in favor of the program, adding it demonstrated support for local businesses. He suggested a sunset be included so members could reevaluate the program as there was a risk same could increase prices.

Councilmember Goldberg also supported same, asking the impact of the program on the City's ability to participate in cooperative solicitation.

Ms. Marian Pace, Procurement Manager, stated an exemption should be included related to cooperative purchases as same often provided lower pricing. She pointed out Punta Gorda was generally the most active in the coop, thus not having the exemption would prevent many other agencies from cooperating in the City's bids.

Mayor Friedman asked if the City were going out for a cooperative bid and the local business owner was provided the 5% preference, if it would not amount to a double savings. He cited an example of a cooperative bid, where the local vendor's price came in at 3% higher, asking if they could be afforded the opportunity to match the bid. He pointed out doing so would provide the same savings to the other agencies cooperating in the bid.

Ms. Pace explained the other agencies may not be able to participate in the cooperative bid as Punta Gorda's local preference would not apply in their City or County.

Councilmember McCormick referenced a news article wherein Charlotte and Sarasota Counties were attempting to work out a problem related to the difference in their local preferences. He voiced concern the program may present problems.

Ms. Pace explained some counties had a reciprocity law wherein one entity's preference was applied during their bidding process.

City Manager Kunik acknowledged there was a risk, which was why staff proposed only a 5% preference.

Ms. Pace advised many more agencies were utilizing a local preference as had been done in the past.

Discussion ensued with regard to fairness to businesses not located within the County. Ms. Patti Allen, Punta Gorda Chamber of Commerce Governmental Affairs Committee, commented on the staggering number of people now out of work, questioning how many were local contractors. She stated adoption of the policy would demonstrate support of businesses within the community.

Ms. Julie Mathis, Charlotte County Chamber of Commerce, voiced support, adding the Chamber's Governmental Affairs Committee had adopted a local preference resolution.

Mr. Mike Hatfield, Weiler Engineering, expressed support of the program, advising he had dealt with local preferences and had not seen it adversely affect an agency.

Mayor Friedman commented the City's purchasing process outside of the sealed bid process had a scoring system related to local businesses, adding the proposal was an extension of same.

Councilmember Goldberg asked if a consensus of Council would suffice or whether an ordinance would be required.

Ms. Pace responded an ordinance would be drafted for members' approval.

Consensus of members was to direct staff to develop the ordinance for businesses in Charlotte County to receive a preference with a future review by members to determine the effects of same.

Councilmember McCormick opined same was interfering in free enterprise, recommending a short duration.

East Retta Esplanade On-street Parking, Sidewalk and Drainage between U.S. 41 and United States Postal Service property

City Manager Kunik stated staff identified two options necessary to alleviate stormwater issues while maintaining the same number of parking spaces.

Mr. Steve Padgett, Chief Project Manager, displayed an overhead of the site and two options for proposed construction, stating option one would overlay and stripe the existing pavement for right angle parking which would not include sidewalks. He explained the other option included parallel parking in two locations, adding same would provide adequate space for a five foot sidewalk and an eight foot buffer area to improve the drainage. He noted staff recommended the second option, adding the surrounding property owners were in support of same.

Mayor Friedman inquired if there was a reason for maintaining the parking spaces at the same number as presently existed.

Mr. Padgett stated same was related to the necessary approvals by the Southwest Florida Water Management District (SWFWMD), in that any additional spaces would require a full SWFWMD review and increased permitting costs.

Councilmember Goldberg voiced his preference for the second option; however, he stated adding nose in parking behind the Post Office would provide additional parking and eliminate the cost of the sidewalk.

Councilmember McCormick clarified the second option would not require the full SWFWMD review.

Mayor Friedman questioned the timing.

Mr. Padgett stated the work would be done in-house and with the City's paving contractor, adding they were presently working on the Taylor Street improvements, thus this project would not commenced until that was completed. He estimated completion of Taylor Street to occur in November, 2009.

Councilmember Albers inquired as to the cost of permitting and engineering should Councilmember Goldberg's option be pursued.

Mr. Padgett estimated engineering for same at \$20,000 to \$25,000, adding he was unable to estimate the permitting costs.

City Manager Kunik explained SWFWMD may require an expansion of the stormwater retention.

Consensus of members was to move forward with the second option.

Approval to develop a Nuisance Abatement Procedure

Councilmember Wallace mentioned a presentation he had attended during the Florida League of Cities conference wherein it was stated the procedure was successful and less time consuming than the present method.

City Manager Kunik explained the procedure would be utilized to clean up developed properties facing or in foreclosure that were not being maintained. He stated presently they were cited and taken before the Code Enforcement Board; however, some of the property owners were not inclined to expend the funds to maintain the property. He stated the City hired the contractor to clean up the property while placing a lien on same. He stated the proposed procedure would include a special assessment process which would make the City's lien superior so that when the property changed hands, the lien would be paid back to ensure clear title.

Councilmember Wallace added the percentage of success was particularly high when dealing with banks as they did not wish the lien to remain on the property.

City Attorney Levin explained creation of a special assessment survived the foreclosure process.

Councilmember Albers inquired if same would include businesses and multi-family properties as well.

City Attorney Levin responded affirmatively.

Consensus of members was to direct staff to move forward with same.

Scheduling of Town Hall Meetings

Mayor Friedman suggested the location of the meetings be determined by geography, adding he felt two meetings would be sufficient. He recommended one be held in the southern portion of town and one in the northern portion.

Councilmember Albers concurred, recommending the location be in a larger venue such as the Event Center and the Burnt Store Presbyterian Church.

Consensus of members was to agree and to hold same in January or February.

RECOMMENDATIONS FROM CITY OFFICERS

CITY ATTORNEY

City Attorney Levin advised Mr. Mike Rooney had agreed to serve as the attorney for the Code Enforcement and Building Boards, requesting approval to negotiate a contract with him to provide services on an as-needed basis.

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

MOTION UNANIMOUSLY CARRIED.

BOARDS AND COMMITTEES

Announcement of Vacancies

Building Board – Alternate

City Clerk Foster announced the vacancy.

Revitalization Committee

City Clerk Foster announced the vacancy.

Code Enforcement Board – Alternate

City Clerk Foster announced the vacancy.

Board of Zoning Appeals (3)

City Clerk Foster announced the vacancies.

Nominations

Code Enforcement Board

Councilmember Albers **NOMINATED** all interested parties.

Burnt Store Isles Canal Advisory Board

Councilmember Goldberg **MOVED** to nominate and appoint Mr. Ashworth, **SECONDED** by Councilmember McCormick.

MOTION UNANIMOUSLY CARRIED.

Punta Gorda Isles Canal Advisory Board

Councilmember Goldberg **MOVED** to nominate and appoint Mr. Kresge, **SECONDED** by Councilmember Wallace.

MOTION UNANIMOUSLY CARRIED.

Firefighter's Pension Board

Councilmember Goldberg **NOMINATED** all interested parties.

Appointments

There were none.

POLICY AND LEGISLATION

FRIEDMAN: Reported he had spoken with the developer of The Loop project, who indicated in the current economic climate, the project was on hold. He stated annexation was discussed wherein the change in laws regarding approval by the state could accelerate the annexation. He concluded information related to the annexation would be forthcoming within a few weeks.

Councilmember Albers opined same was positive, asking for members' support to proceed with annexation of a property in the area of the public schools. He further requested members consider incentives to attract properties to annex, noting same was beneficial to the City by way of increased revenues.

ALBERS: Referenced a short conversation regarding bulk water during the joint City/County meeting, recommending further discussions be held with regard to same due to the fact Mr. Don Root would be asking the City about same. He noted the City Manager had suggested waiving the 25% surcharge for properties outside the City limits when a signed annexation agreement was in place.

Councilmembers Wallace and Goldberg agreed it was a good idea.

Councilmember Goldberg stated Mr. Root had delivered an economic development speech at the Charlotte County Chamber of Commerce meeting this date relating to a solar energy business in the Airport Park, adding he had asked him to provide some models for consideration by the City.

Mayor Friedman cautioned there were many questions to be answered prior to making a decision, opining incentives for economic development should come from the general fund rather than the Utility fund as same would be born by the rate payer.

Councilmember McCormick suggested volume contract pricing be considered.

Councilmember Wallace stressed the importance of considering revenues, pointing out the costly projects related to Utilities in the future.

Councilmember Goldberg stated he felt all options should be considered at this point.

WALLACE: Advised he had attended the Cooper Street Recreation Center's board meeting the previous day, asking if additional funds were realized in the upcoming budget year that consideration be given to further funding for the Center. He spoke of the benefits provided by the Center.

MCCORMICK: Advised the Chinese drywall problems continued to exist, stating remediation assistance was not forthcoming.

Councilmember Wallace opined while members' felt empathy for the affected property owners, there was nothing more that could be done on a local level.

Councilmember McCormick concurred it was a national issue, adding citizens could contact their Senators and Representatives to ask the Governor to make a FEMA disaster declaration.

CITIZENS' COMMENTS

Mr. Tom Cavanaugh, Team Punta Gorda, thanked members for their support of the County's South Gateway Project.

Mr. Tom Carroll spoke in favor of the lot mowing program; however, he stated the properties not participating in the program were not being maintained. He opined the present code enforcement process was too long, allowing lots in violation to become an eyesore prior to compliance.

City Attorney Levin responded a new procedure had been implemented wherein the City indicated at the first notification that the City would continue to maintain the property at the cost of the property owner.

Ms. Teri Tubbs, Zoning Official, countered the above mentioned procedure related to developed properties that were in foreclosure. She stated properties not included in the lot mowing program were being inspected on a more aggressive basis, adding the ensuing notification provided only five days to correct the situation prior to the City stepping in.

Discussion ensued with regard to the lot mowing program.

Ms. Patti Allen voiced support of the local vendor preference and the decision made regarding non-conforming signs as both supported businesses.

The meeting was adjourned at 10:45 a.m.

Mayor

City Clerk