



**+CITY OF PUNTA GORDA, FLORIDA  
REGULAR CITY COUNCIL MEETING MINUTES  
WEDNESDAY, OCTOBER 6, 2010 9:00 A.M.**

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

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

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

Invocation was given by Mr. John Burrage, followed by the Pledge of Allegiance.

**PROCLAMATION/PRESENTATIONS**

**Fire Prevention Week**

**Mayor Goldberg** presented the proclamation to Fire Chief Rob Hancock.

**National Financial Planning Week**

**Mayor Goldberg** presented the proclamation, which was accepted by Mr. Brian Keats.

**Introduction of Board/Committee Members Nominees**

Ms. Beauford-Johnson introduced herself as a nominee for Historic Preservation Advisory Board.

**20 Year Service Award - David Meyers, Public Works**

City Manager Kunik presented the award to Mr. Meyers.

Mr. Rick Keeney, Public Works Director, spoke of Mr. Meyers' years with the City.

**2010 Award of Merit for the City of Punta Gorda Parks and Recreation Master Plan**

City Manager Kunik presented the award to Mr. Dennis Murphy, Growth Management Director, who recognized Ms. Joan LeBeau, Mr. Mitchell Austin and Ms. Julie Ryan for their work on the master plan.

**Recognition of Main Street Punta Gorda Board and Volunteers & Presentation of Awards received at the Florida Main Street Conference.**

**Vice Mayor Albers** recognized the Main Street Punta Gorda (MSPG) Board of Directors and conference committee volunteers for their accomplishments in planning and hosting the Annual Florida Main Street conference.

Mr. Mark Martella, MSPG Board President, presented the City with awards for Herald Court Centre and the Marion Avenue Streetscape projects.

**NOTE: City Council recessed and reconvened as the Community Redevelopment Agency. (See corresponding minutes)**

## PUBLIC HEARINGS

ZA-12-10 - An Ordinance of the City of Punta Gorda, Florida, repealing Ordinance 1610-09; and amending Chapter 26, Article 11, "Sign Standards", Code of Ordinances, City of Punta Gorda, Florida, Amending Chapter 26, Article 11, Section 11.3, "Permitted Signs", Code of Ordinances, City of Punta Gorda, Florida, adding a new Subsection 11.3(r) relating to portable signs; providing for portable signs within commercially zoned districts; providing standards for the location, design, use and maintenance of portable signs; providing for the discontinuance and removal of nonconforming portable signs; amending Chapter 26, Article 11, Section 11.4, "CC Signage", Subsection 11.4(e)(5), Code of Ordinances, City of Punta Gorda, Florida, deleting references to portable signs, deleting the sunset provision and allowing the installation of a wall mounted menu sign; providing for conflict and severability and providing an effective date.

### FIRST READING

Continued from 9/15/10

City Attorney Levin read the ordinance by title.

Ms. Teri Tubbs, Zoning Official, explained the Planning Commission had continued their review to allow staff to meet with the Punta Gorda Chamber of Commerce (PGCC) and area business owners, which took place on September 2, 2010, during which no concerns were raised. She stated at the request of the Planning Commission, staff verified with the City's risk manager with regard to the requested amount of liability insurance, adding \$100,000 and a hold harmless agreement were recommended in lieu of the ordinance's requirement for \$300,000. She concluded staff and the Planning Commission recommended approval with the amended liability insurance requirement.

**Mayor Goldberg** called three times for public comment.

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

**MOTION UNANIMOUSLY CARRIED.**

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

**MOTION UNANIMOUSLY CARRIED.**

### ORDINANCE/RESOLUTION

**No Public Hearing Required**

An Ordinance of the City of Punta Gorda, Florida, amending Chapter 23, "Traffic", City Code of Ordinances, adding a new section 23-21 prohibiting the parking of vehicles and trailers with signs, graphics or printing in certain areas of non-

residential zoned properties; amending Section 23-14(A) relating to penalties; amending Section 23-14(C) relating to citation contests; amending Section 23-19 holding registered owners responsible for violations; providing for conflict and severability and providing an effective date. **SECOND READING**

City Attorney Levin read the ordinance by title, stating same had been amended pursuant to direction at the first reading.

**Mayor Goldberg** stated staff met with representatives of the PGCC who recommended two clarification amendments to the ordinance, as delineated in the agenda material. He mentioned a request to reopen the public hearing for comment.

**Councilmember Albers** stated he had no concerns with the recommended amendments; however he continued to oppose the clause allowing parking within 50' of the main entrance, citing several examples which he felt were inappropriate. He recommended that clause be eliminated.

**Councilmember Friedman** stated he had suggested the 50' distance to address night time safety concerns, stating as he had seen the above mentioned tire sign, he now felt the 50' clause could be taken advantage of. He stated he would not oppose eliminating same and addressing any individual concerns as they arose.

**Councilmember Wallace** stated while he felt the intent of the proposed ordinance was a noble goal, he continued to see same as overly restrictive, especially in the present economy. He opined the City would be involved in litigation which would be lost.

**Councilmember McCormick** concurred.

**Mayor Goldberg** opened the public hearing.

Mr. Ed Wotitzky, PGCC representative, voiced concern with any legislation which included restrictions and regulations toward businesses as same restricted their ability to do business. He pointed out a restriction against vehicles uses solely for advertising would be preferred. He concluded the PGCC opposed the ordinance, requesting additional time be allowed to work with staff toward an ordinance that would be accepted by the PGCC.

**Councilmember Albers** asked if it would be possible for the PGCC Board to meet prior to their next meeting so as to not delay the issue so long.

Mr. Wotitzky stated he felt the requested time was necessary in order to provide meaningful input.

**Councilmember Albers** stated he did not see the proposed ordinance as an additional restriction, he viewed same as an attempt to stop a proliferation of vehicles being used primarily for advertising.

**Mayor Goldberg** mentioned the many discussions held on the subject over a period of time, opining if it was possible to gain the support of the local businesses, he felt same would make enforcement easier. He voiced support of the continuance in hope of gaining that support.

**Councilmember Wallace** concurred.

**Mayor Goldberg** pointed out Charlotte County had a similar ordinance; however, they did not enforce same.

Mr. Randy Fassett spoke in opposition to the proposed ordinance as he felt same was prohibitive to businesses. He cited several examples he felt were contrary to being business friendly.

Mr. John Polk, Babcock Furniture, stated he had been in favor of the ordinance as it was proposed this date; however, he would oppose the elimination of the 50' clause. He stated as the issue was trucks being used solely for advertising, that was what should be regulated.

Mr. Colm Hendrick, Hendrick's Food Vault, stated he felt the attempt to fix a badly written ordinance was not possible. He stated he would not remove his truck in violation of his constitutional rights, suggesting an ordinance be written to restrict trucks being used for advertising. He stated if that were done, he would remove his truck. He cited litigation relating to other municipalities sign codes, maintaining the ordinance being proposed would invite litigation.

City Attorney Levin advised ordinances could not be written to prohibit content, which was avoided by the proposed ordinance.

Councilmember McCormick **MOVED** to continue to November 3, 2010, **SECONDED** by Councilmember Wallace.

**Councilmember McCormick** stated the people most affected by bad signage were the businesses, thus the reason to work with the PGCC toward a mutually acceptable ordinance.

**MOTION UNANIMOUSLY CARRIED.**

**Councilmember Albers** stated the City had an ordinance prior to 2005 which prohibited advertising vehicles, adding although the verbiage was somewhat subjective, he felt same was the direction to pursue. He asked members if they would be interested in considering same.

City Attorney Levin stated his duty was to advise members of the potential risks association with same; however, Council was not required to follow same. He then referenced a comment that the three square feet mentioned in the proposed ordinance

was overly restrictive, adding same could be discussed by the PGCC toward a more desirable size.

**Councilmember Albers** reiterated his request to consider the 2005 ordinance.

**Councilmember Wallace** stated he did not see any increased liability with the 2005 ordinance than the one proposed this date.

**Councilmember Friedman** commented on the many discussions over time related to the proposed ordinance, questioning the need to reexamine the entire focus. He stated he was not opposed to the 2005 ordinance as same accomplished the intent.

Discussion ensued with regard to the legality of the various proposals.

**Councilmember McCormick** stated he felt the PGCC should have the opportunity to consider the 2005 ordinance.

Ms. Dorothy Strunk, PGCC, stated they had looked as same; however, they would like to have additional time to present same to the Board.

**Councilmember Wallace** stated the 2005 ordinance addressed the initial intent.

Consensus of members was to direct staff to proceed with drafting an ordinance similar to the one from 2005 to be considered at the same time as the one proposed this date.

**An Ordinance of the City of Punta Gorda, Florida, amending the Code of Ordinances, City of Punta Gorda, Florida, Chapter 16, "Park Regulations", Section 16-4, "Regulations", repealing Subsection (e) prohibiting possession of firearms; renumbering Section 16-4 accordingly; providing for conflict and severability and providing an effective date.** **SECOND READING**

City Attorney Levin read the ordinance by title.

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

**MOTION UNANIMOUSLY CARRIED.**

**An Ordinance of the City of Punta Gorda, Florida, amending Chapter 4, "Alcoholic Beverages", of the City Code of Ordinances, amending Section 4-3, to extend the hours for sale of alcoholic beverages; providing for conflict and severability and providing an effective date.** **SECOND READING**

City Attorney Levin read the ordinance by title.

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

**MOTION UNANIMOUSLY CARRIED.**

**An Ordinance of the City of Punta Gorda, Florida, amending Chapter 1, "General Provisions", amending Sections 1-1 and 1-4 regarding the designation and citing of the Code of Ordinances, City of Punta Gorda, Florida; providing for conflict and severability and providing an effective date.** **SECOND READING**

City Attorney Levin read the ordinance by title.

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

**MOTION UNANIMOUSLY CARRIED.**

**ZA-15-10 – An Ordinance of the City of Punta Gorda, Florida, amending Chapter 26 of the City Code of Ordinances known as “The Land Development Regulations”, Article 3, regulating districts, amending Subsection 3-13, SRO, Special Residential Overlay District, amending Sub-subsection 3-13(p) “Temporary Buildings and Above Ground Swimming Pools”, adding a definition for “Kiddie Pools”; providing for conflict and severability and providing an effective date.**      **SECOND READING**

City Attorney Levin read the ordinance by title.

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

**MOTION UNANIMOUSLY CARRIED.**

#### **CONSENT AGENDA**

Councilmember Friedman **MOVED** approval of the consent agenda, **SECONDED** by Councilmember Wallace.

**MOTION UNANIMOUSLY CARRIED.**

#### **A. City Clerk's Department**

1. Approval of Minutes: Budget Public Hearing of September 14, 2010
2. Approval of Minutes: Regular Meeting of September 15, 2010
3. A Resolution of the City Council of the City of Punta Gorda, Florida, approving amended bylaws governing the function and procedures of the Historic Preservation Advisory Board.

#### **B. City Manager's Department**

1. Amendment to City Manager's Contract
2. Next Generation Enrollment: Retiree Benefit Administration Services

#### **C. Growth Management Department**

1. A Resolution of the City Council of the City of Punta Gorda, Florida, authorizing the City Manager or his designee to enter into Construction Agreements with the State of Florida Department of Transportation on behalf of the City; and providing an effective date.

#### **D. Police Department**

1. Byrne/JAG Grant (OSSI Improvement Program) - Appropriation
2. Byrne/JAG Grant Appropriation - T3 Personal Mobility Vehicle and Dispatch Monitors

## **E. Legal Department**

1. Approval of Second Modification of Commercial Lease Agreement for History Park
2. Invoice of Allen, Norton & Blue, P.A. for services rendered in August 2010
3. Invoices of the Farr Law Firm for services rendered in August 2010
4. Invoice of Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. for services rendered by David M. Levin, Esq., from August 24, 2010 through September 30, 2010
5. Invoice of John A. Makhholm, P.A. for services rendered in August 2010
6. Monthly Litigation Report

**NOTE: A short break was called at 10:43 a.m.**

### **UNFINISHED BUSINESS**

#### **FY 2011 Strategic Plan**

City Manager Kunik drew members' attention to the plan, as delineated in the agenda material, stating estimated costs and time lines had been incorporated where applicable.

**Mayor Goldberg** mentioned the item related to gray water irrigation at an estimated cost of \$20,000,000, voicing concern with regard to utilizing same on a residential basis as same was cost prohibitive.

**Councilmember Albers** concurred, adding he did not feel same should be included in the plan, although it could be considered for new development.

**Councilmember McCormick** voiced concern consideration of same would disappear if it were eliminated, suggesting same be retained in the plan for future consideration.

**Mayor Goldberg** opined items being included in a plan should be achievable in the upcoming years.

**Councilmember Friedman** pointed out the City's strategic plan was utilized as an operational plan for the fiscal year rather than a long range plan.

**Councilmember McCormick** stated a long range plan should be developed to include this item and the West Mooring field as both should be considered in future years.

**Councilmember Wallace** stated he felt the West Mooring Field should be left on the plan as grant funding may become available to assist with same.

**Mayor Goldberg** countered no funds were available for same; however, it could be included solely for seeking funding sources.

Consensus of members was to concur with eliminating reuse from the plan, and to include pursuing funding for the mooring field.

**Councilmember Albers** requested the item related to canal assessment methods be amended to indicate same related solely to condominiums.

Mr. Jay Buckley commented grant funds were available for construction of mooring fields, albeit not for engineering.

**Presentation of concept plans for Shreve Street Multi Use Recreational Trail (MURT 4)**

Mr. Mike Giardullo, Weiler Engineering, displayed a PowerPoint presentation, as delineated in the agenda material, stating same was an integral part of the ring around the City. He provided a detailed review of the 5,000 foot long path and the items associated with same such as crosswalks, signage, landscaping and seating areas. He displayed overhead photos of the entire trail, detailing plans within each section. He estimated construction cost at \$550,000 to \$600,000, acknowledging only \$480,000 had been allocated to the project. He stated it was possible to eliminate a seating area if necessary.

**Councilmember Wallace** stated the second seating area was unnecessary as it faced a roadway. He then commented on the narrow access area near Pompano Terrace.

Mr. Giardullo stated stormwater improvements would be necessary to widen that area.

**Councilmember Albers** stated he felt the compass roses could be eliminated if necessary, adding he felt the proposed 10' width may be too large for a connector path.

Mr. Giardullo stated the Florida Department of Transportation's (FDOT) recommendation for a shared use path was 12' with a minimum of 10'. He stated the cost savings to reduce same to 8' was only approximately \$25,000.

**Councilmember Friedman** stated he felt changes should not be made until final cost estimates were presented. He stated members were in need of an update for the entire ring around the City costs to determine what funding from various sources was available.

City Manager Kunik stated the update would be provided along with the 100% West Harborwalk plans in November, 2010.

Mr. Giardullo explained when the project went to bid, it would be bid with the understanding that certain items may be eliminated, providing the ability to negotiate with the bidder with regard to same. He then stated 60% plans would be available on November 1, 2010 with final plans available in February, 2011.

**Councilmember Friedman** mentioned an upcoming discussion regarding improvements on Carmalita, asking if same should be considered in that the sidewalks could be constructed in such a manner as to be a part of the ring around the City.

Mr. Murphy stated same had been included in the submittal to FDOT.

**Councilmember Wallace** added same would assist with the transportation issues related to the schools.

#### **Harborwalk West 90% Design Plans - Project Update**

Mr. Giardullo displayed a PowerPoint presentation, as delineated in the agenda material, providing an update to the previous presentations.

**Councilmember Wallace** inquired as to the greenspace in Gilchrist Park.

Mr. Giardullo explained by relocating other items to the perimeter, the greenspace was increased, adding parking spaces were increased as well. He continued his review of particular items included within the plan. He advised the narrowed walkway in the Bayfront Center area provided a 19' grassy strip for boat launching for the Sailing Center. He estimated construction at \$3,440,000, suggesting components be phased such as the passive park area west of Berry Street - \$350,000; Bocci Courts - \$90,000 to \$100,000 or playground additions - \$90,000 to be funded when funding became available. He added elimination of brick crosswalks and reducing landscaping would save costs as well. He advised 100% plans would be available in November, 2010, adding permitting was progressing well.

**Mayor Goldberg** commented the boat ramp was a priority component of the plan and could be bid separately from the remaining aspects.

**Councilmember McCormick** suggested a corporate plaque program to assist with funding the benches and other aspects of the project, adding the plaques should be designed ahead of time.

Mr. Giardullo responded same was underway.

**Mayor Goldberg** confirmed once 100% plans were in hand construction of the boat ramp could proceed.

#### **Discussion of School Resource Officer Program**

City Manager Kunik stated the present agreement with the School Board required their payment of 35% of the costs for the School Resource Officers (SRO), adding Council had approved the agreement for the current year while asking staff to investigate a more favorable distribution of costs for future years. He noted the City provided one SRO each at Charlotte High School and Punta Gorda Middle School. He listed alternatives as follows: retain same program at same funding levels; request an increase in funding from the School Board or discontinue program in one or both of the schools, adding if the latter were chosen, advance notice would be necessary so as to prepare for staffing levels.

Mr. Frederick Fox stated it was clear to him that the School Board did not intend to commit funds to the transportation issues, opining it was unfair for the School Board to expect the City to fund safety on campus when they would not fund safety issues off campus.

**Councilmember McCormick** mentioned the DARE programs which were performed by the SROs, commenting on its value to the community. He urged members to continue the program due to its positive aspects.

Ms. Donna Widmeyer, Assistant Superintendent, stated the School Board valued the SRO program and would like to see same continue. She stated if the City discontinued the program, they would look toward other school securities as they worked with the Charlotte County Sheriff's Office regarding the other schools.

**Councilmember Wallace** inquired if the Sheriff's Office was amenable to taking over these schools.

City Manager Kunik responded it had been the City who wished to take over the SRO program in these two schools. He stated he did not feel there was any debate as to the quality of the program, but rather it was a funding issue.

**Councilmember Friedman** concurred, stating the City's portion of the tax bill for City residents was approximately one-third of the School Board's portion. He mentioned the fact that City employees had not received a raise in three years, questioning whether funding a discretionary program as such was appropriate in light of same.

**Councilmember McCormick** countered the program paid dividends as there were fewer vandalism problems as in other areas of the County. He reiterated his desire to maintain the program.

**Councilmember Wallace** asked Chief Arenal to comment on the cost benefit.

Chief Arenal stated the SRO program had helped to build a good relationship with the students in the area, adding same was valuable to the department as the information gained assisted with solving crimes. He stated he understood the funding issues, adding if he were required to eliminate positions, the SROs would be the first to be cut.

**Councilmember McCormick** questioned the savings if the School Board's contribution was increased to 50%.

Discussion ensued with regard to the costs per officer.

**Councilmember McCormick** pointed out same would save \$23,000 per year.

**Councilmember Friedman** countered there was a questions as to whether to provide salary increases or to continue to subsidize the program, adding he felt the Sheriff's program should be able to adequately handle the program.

**Councilmember Wallace** stated he did not feel it was solely a financial issue as there were benefits to continuing the program. He stated while he would like to see the School Board provide more funding, he was not in favor of reducing or eliminating the program.

**Mayor Goldberg** commented on the relationship between the SRO and the students at Charlotte High School.

**Councilmember Wallace** stated he felt they should wait to see how the next budgeting cycle went prior to making a decision. He acknowledged the employees had not received raises; however, there were still people being laid off in other areas.

**Councilmember Friedman** reiterated his concern that the City could not afford to perform this discretionary service in light of the budgeting issues.

Ms. Widmeyer acknowledged the financial aspects, explaining they met annually with the Police Chief with regard to the SRO program, thus they could monitor the economic situation and make a decision by March, 2011.

**Councilmember McCormick** opined if the City eliminated the program, residents' property insurance bills would increase within two years.

Discussion ensued.

**Councilmember Albers** commented it was a worthwhile program; however, it was wrong to feel the City was responsible for funding the school security issues. He recommended the School Board be requested to plan on funding 50% of the program in the next fiscal year as it was the School Board's responsibility to provide for security at their facilities. He recommended the City request same in a letter and request a response before the end of the year.

Consensus of members was to request an increase to 50% for the next budget cycle.

#### **School Transportation for Middle School Students in Punta Gorda**

**Councilmember Wallace** stated he and staff had met with residents of the Historic District regarding transportation issues for middle school students and the lack of busing to Punta Gorda Middle School. He acknowledged it was the School Board's responsibility; however, the City had a responsibility for the safety and welfare of its residents.

City Manager Kunik explained the School Board had discontinued the courtesy busing for students within two miles from the school, adding costs had been developed for busing and/or crossing guards which were generally handled by the School Board and Charlotte County Sheriff's Office respectively. He listed alternatives as follows: maintain the status quo; purchase a bus and charge students for transportation to

Punta Gorda Middle School or to contribute funding toward supplementing the Sheriff's school crossing guard program to provide for coverage at additional crossings.

**Councilmember Albers** stated he felt it would be wrong to undertake responsibilities that belonged to the School Board and the Sheriff's Department as the residents of Punta Gorda should not be asked to pay for same. He recommended the City send a letter to the School Board requesting they fund same.

Mr. Fox stated they had approached the School Board, adding there were traffic safety issues within the area being mentioned although FDOT had indicated same was not a safety hazard. He voiced objection to the busses being discontinued without an alternative plan. He mentioned many other interlocal agreements where governmental entities worked together, asserting no one was working together on this issue. He alleged people were moving out of the downtown area because of this issue.

Ms. Widmeyer stated she was here to listen and provide the comments to the Superintendent as she was not prepared to comment on this issue.

**Councilmember Wallace** suggested they consider a bus picking up the students from one central location to transport them across US 41 to the middle school. He commented same would not be as expensive as picking them up at their homes.

Mr. Fox stated the parents were willing to assist funding a bus.

**Councilmember McCormick** suggested Dial A Ride be considered as there were busses in that program operated by the County, adding it may be possible to contract a price with them toward same.

Discussion ensued with a consensus for the City to assist in contacting the County and School Board toward a resolution.

Ms. Christine Fox stated the strategic plan indicated the City provided services to enhance safety and the quality of life, thus she felt it was the responsibility of the School Board and the City to ensure the safety of the children.

#### **NEW BUSINESS**

#### **Request by the Historic Preservation Advisory Board to establish a fund raising account.**

Mr. David Hilston, Urban Design Manager, explained the Historic Preservation Advisory Board (HPAB) had requested the ability to raise funds for a historical plaque program and possible other projects as determined by the Board. He noted the HPAB bylaws alluded to the Board's ability to receive funds and recommend its use to City Council.

**Mayor Goldberg** voiced support.

**Councilmember McCormick** confirmed the funds would be audited by the City's Finance Department.

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

**MOTION UNANIMOUSLY CARRIED.**

**Carmalita/US 41 Intersection Mobility Improvement and Ring-Around-the-City Funding**

Mr. Murphy stated the Charlotte County/Punta Gorda Metropolitan Planning Organization (MPO) currently had the City's Carmalita/US 41 project ranked as a Number 3 priority; however, funding circumstances with the Number 2 priority project may allow the City's project to move up in the rankings, to be funded in FDOT's fiscal year 2013/2014 budget.

**NOTE: Councilmember Wallace left the meeting at 12:44 p.m.**

Mr. Murphy continued by explaining the estimated \$1,700,000 cost would be funded in the amount of \$850,000 by the MPO with the City funding the remainder, which would be transferred from currently funded projects as follows: Linear Park Phase 2, \$720,000 and Linear Park Phase 3, \$130,000, adding since Transportation Regional Incentive Program (TRIP) funds were spread over two years, FDOT has requested the City remain flexible in the funding year in that if the project could be funded in the 2011/2012 fiscal year, the City would have funds available.

**NOTE: Councilmember Wallace returned to the meeting at 12:46 a.m.**

Mr. Murphy advised funding would be moved forward only for projects with a completed/approved application. He advised as both phases of Linear Park were recommended to be funded by FDOT's Local Assistance Program (LAP) in the year 2014/2015, Council was being requested to review the merit of the Carmalita project, decide their willingness to delay the Linear Park projects to when funding may be available in 2014/2015 and whether to transfer funds currently budgeted for Linear Park projects to the Carmalita/US 41 project should same be moved to the Number 2 priority slot.

**Councilmember Wallace** inquired if there were traffic counts for that area.

Mr. Murphy responded he could provide same; however, this was an intersection with serious accidents.

**Mayor Goldberg** stated he felt the improvements would assist students walking to school on that street along with signalization as denoted.

Mr. Murphy mentioned the crosswalk at Taylor Street was a signalized intersection as well. He then provided some detail on the proposed improvements.

**Councilmember Albers** voiced concern this project was not included on the list of projects that had been provided when people were encouraged to vote on the

Infrastructure Sales Surtax (ISS), adding if grant funds became available for the Linear Park projects, it would not be an issue.

Discussion ensued with regard to funding alternatives.

City Manager Kunik added intersection improvements were included on the ISS project list, explaining the request this date was to create a project to possibly allow the City to move up on the MPO funding priority list. He reminded members an update on the ring around the City would be provided in November, 2011.

**Councilmember Friedman** commented members were not in a position to make that decision until after hearing the update on ring around the City; however, he felt there was a potential to move forward on the MPO funding priority list by applying for same. He further stated the owner of the shopping center at that location may be willing to share in the City's portion of funding as same would make their property a more viable property.

Councilmember McCormick **MOVED** approval to create the project, **SECONDED** by Councilmember Albers.

**MOTION UNANIMOUSLY CARRIED.**

#### RECOMMENDATION FROM CITY OFFICERS

##### CITY ATTORNEY

City Attorney Levin drew members' attention to the Motion to Intervene and Consolidate filed by Ms. Gerda Craig's attorney in relation to the City's code cases regarding the property at 2543 Brazilia Court, as delineated in the agenda material, stating the City had a foreclosure proceeding against Ms. Linda Louise for fines that resulted from her failure to come into compliance with Code Enforcement Board (CEB) orders. He further explained Ms. Craig had a case filed against Ms. Louise in that she obtained the property fraudulently, thus they were requesting to consolidate the cases. He stated the City's options were to contest the request and maintain the City's sole case, or to seek an agreement with the Gerda Craig trust in that if the cases were consolidated, they would agree to bring the property into compliance, pay the legal costs and a certain amount of the fines. He requested direction from City Council.

**Councilmember McCormick** stated he felt there was another option of the City simply dropping the case and stopping the embarrassment.

**Mayor Goldberg** clarified the foreclosure action could be dropped; however, the CEB case would remain active as the liens remained with the property.

**Councilmember McCormick** asked if it was within the City's power to dismiss the liens as well.

City Attorney Levin responded affirmatively.

**Mayor Goldberg** stated the violation and the fines were a matter of a quasi-judicial proceeding of which the City Council had no participation.

City Attorney Levin stated the City Council had the authority to extinguish the liens; however, a request to reduce the fines must be decided by the CEB.

Discussion ensued with regard to available options related to code violations.

**Mayor Goldberg** opined eliminating same set a bad precedent.

**Councilmember Albers** stated same would bring no closure or compliance, adding he felt combining the cases would prove beneficial based upon the agreement proposed by the City Attorney.

**Mayor Goldberg** questioned the timing.

City Attorney Levin responded he would contact Ms. Craig's attorney the following day with regard to combining the cases, adding with regard to the City's case, publication of the case in a newspaper for four weeks was required, followed by twenty days in which Ms. Louise was given time to respond. He stated the City's ad had one more week. He stated he felt the agreement with Ms. Craig's attorney could be presented at the next Council meeting.

**Councilmember McCormick** stated he would not be a party to any continuation of the case.

**Councilmember Wallace** stated he felt there should be a mechanism in stopping the fines at this point as same had gotten out of hand in relation to a five foot section of fence.

City Attorney Levin stated each month the CEB was advised of the number of days the property was out of compliance and a fine was set based upon the amount of penalty that had been set by the Board, explaining direction to Code Enforcement staff to not make that request to the CEB in upcoming months would stop additional fines.

**Councilmember Wallace** stated he could support same if the assessment of fines was stopped. He then asked members if they agreed with extinguishing half of the liens.

**Mayor Goldberg** stated he would be in favor of not assessing any more fines at this point.

Consensus of members was to authorize the City Attorney to move forward with consolidating the cases based upon a negotiated agreement and to direct the CEB not to levy additional fines if the agreement was reached.

A lengthy discussion ensued with regard to the code compliance and foreclosure process.

## **BOARDS AND COMMITTEES**

### **Announcement of Vacancies**

Building Board Alternate

City Clerk Foster announced the vacancy.

Burnt Store Isles Canal Advisory Committee

City Clerk Foster announced the vacancy.

Utility Advisory Board

City Clerk Foster announced the vacancy.

### **Nominations**

Board of Zoning Appeals Alternate

Councilmember Friedman **NOMINATED** all interested parties.

Historic Preservation Advisory Board

Councilmember Friedman **MOVED** to nominate and appoint Ms. Beauford-Johnson, **SECONDED** by Councilmember Albers.

**MOTION UNANIMOUSLY CARRIED.**

Police Officers' Pension Board

Councilmember Friedman **NOMINATED** all interested parties.

Punta Gorda Isles Canal Advisory Committee

Councilmember Friedman **MOVED** to nominate and reappoint Mr. McBride, **SECONDED** by Councilmember Albers.

**MOTION UNANIMOUSLY CARRIED.**

### **Appointments**

Board of Zoning Appeals

Voting forms were distributed.

City Attorney Levin announced Mr. Sween had received the most votes and was therefore reappointed to the Board of Zoning Appeals.

### **POLICY AND LEGISLATION**

**GOLDBERG:** Mentioned emails and news articles with regard to the DEPs intent to increase the amount of allowed ethanol in gasoline, stating the Boater's Alliance has recommended a resolution be adopted to request testing be done prior to the imposition of the standard to ensure no impact to water safety.

Ms. Sarah Buck, Boater's Alliance, requested the City's support in adopting a resolution.

**Mayor Goldberg** stated the proposed type of gasoline would be very damaging to all small motors, thus non-ethanol gasoline would be required, adding there was limited access to same.

Consensus of members was to direct staff to draft the resolution.

**MCCORMICK:** Stated a fellow Councilmember had written an email which he considered as improper conduct, citing the posted code of conduct. He stated he felt it was time for Councilmember Friedman to control his temper and stop embarrassing the remaining members of Council. He then presented the email for the record.

**Councilmember Freidman** countered prior to Councilmember McCormick's election, the Councilmembers got along in a congenial, respectful manner.

**NOTE: Councilmember Wallace left the meeting at 1:50 p.m.**

**Councilmember Friedman** continued by maintaining Councilmember McCormick was uninformed and pursued items for his own personal agenda. He then provided a detailed explanation of what had transpired with regard to the Linda Louise code case.

#### **CITIZENS' COMMENTS**

Mr. Ray Rose stated he felt this meeting was disgusting, adding the Council should be ashamed to have let a discussion such as this continue. He suggested what had happened regarding the fence code case was not important, but rather the City was beginning to be considered in a bad light. He suggested the City be generous when negotiating the settlement. He then asked if the joint City/County meetings would continue.

**Mayor Goldberg** responded affirmatively, stating they had been suspended until after the election.

Mr. Rose then mentioned the roadwork being done on Bal Harbor Boulevard which was funded by Federal funds, and would be torn up in six months to perform utility work. He then stated most police departments would love to be able to talk to students with regard to drugs and alcohol, urging the City to retain the SRO program.

Ms. Buck referenced a column in the local newspaper with regard to the sailing opportunities in the area.

Mr. John Chalifoux displayed photos of recent street flooding, voicing concern that expanding the flood mitigation was not included in the Strategic Plan. He asserted this was a demonstration that he did not have representation as his representative had left the meeting. He then stated after this meeting he was going to have to give consideration as to whether he wished to be a part of same.

City Manager Kunik explained the water dissipated much more quickly than prior to the flood mitigation project.

**Councilmember Albers** stated he was unaware of same, suggesting this be added to the next agenda for discussion.

City Manager Kunik stated the project addressed the worst areas, acknowledging there were a few remaining intersections that were still an issue.

Consensus of members was to monitor the situation and make a determination as to whether additional funds should be expended.

The meeting was adjourned at 2:03 p.m.

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Mayor

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City Clerk