



**CITY OF PUNTA GORDA, FLORIDA  
REGULAR CITY COUNCIL MEETING MINUTES  
WEDNESDAY, JANUARY 19, 2011 9:00 A.M.**

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

**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**

**Charlotte Harbor Regatta Week**

**Councilmember Albers** presented the proclamation, which was accepted by Mr. Brian Gleason.

**St. Vincent de Paul Day**

**Mayor Goldberg** presented the proclamation to Mr. Joe Sabatino.

**PUBLIC HEARINGS**

**GA-22-10 - An Ordinance of the City of Punta Gorda, Florida, rewriting in its entirety Chapter 23, "Traffic", of the Punta Gorda Code; providing for conflict and severability and providing an effective date.**

**FIRST READING**

City Attorney Levin read the ordinance by title.

City Manager Kunik explained the proposed ordinance reorganized the Chapter to provide clarity and consistency with current provisions of State law, adding same would also provide penalties for violations including the ability to place a stop on a vehicle's license plate renewal.

**Councilmember Friedman** asked if the provision requiring three unpaid violations prior to placing the stop was regulated by Florida Statute.

City Attorney Levin responded affirmatively.

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

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

**MOTION UNANIMOUSLY CARRIED.**

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

**MOTION UNANIMOUSLY CARRIED.**

**Councilmember Wallace** stated he wished the Community Redevelopment Agency (CRA) to revisit the boat trailer parking at Laishley Park Marina as the denoted spaces were not very clear, adding it caused cars seeking parking spaces to drive the wrong way on the turnaround.

Consensus of members was to agree.

**ZA-20-10 - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 26 Punta Gorda Code known as "The Land Development Regulations", Article 12, Landscaping Standards, amending Subsection 12.4, Types of Landscaping, amending Sub-subsection 12.4(k) and adding (l) providing for soil stabilization in instances where demolition of a structure has occurred; amending Subsection 16.5, Application for Demolition Permit, removing exemption for demolition permit for swimming pools and adding (e) providing for soil stabilization method requirements for properties where demolition of a single family residence has occurred; adding (f) providing for soil stabilization for multi-family and commercial properties; providing for conflict and severability; and providing an effective date.**

**FIRST READING**

City Attorney Levin read the ordinance by title.

Ms. Teri Tubbs, Zoning Official, explained the Land Development Regulations (LDRs) required complete ground cover to ensure maintenance of proper soil stabilization to comply with the City's National Pollution Discharge Elimination System (NPDES) permit; however, the combined use of strip-sodding and seeding was sufficient in instances where demolition of single family residences had occurred, provided all drainage areas were fully sodded. She continued the use of a hydro-seed application in lieu of sod may be effective and appropriate for larger tracts, stating same was compliant with NPDES regulations. She concluded staff and the Planning Commission recommended approval.

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

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

**MOTION UNANIMOUSLY CARRIED.**

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

**MOTION UNANIMOUSLY CARRIED.**

**ORDINANCE/RESOLUTION**

**No Public Hearing Required**

**GA-02-11 - An Ordinance of the City Council of the City of Punta Gorda, Florida amending Chapter 11 "Punta Gorda Development Impact Fees", Section 11-9, "Calculation of Impact Fee and Impact Fee Schedules", Subsection (d), Punta Gorda Code, delaying the fee increase implementation date of February 1, 2011 to February 1, 2012; providing for conflict and severability; and providing an effective date.**

**SECOND READING**

City Attorney Levin read the ordinance by title.

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

**Councilmember Wallace** requested members revisit the entire impact fee schedule at an upcoming meeting.

**MOTION UNANIMOUSLY CARRIED.**

**GA-19-10 - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 17, Punta Gorda Code, adding a new Article "V", providing for a Connection Fee Installment Payment Program for existing commercial development and manufactured, modular or mobile home developments connecting to the City's water and wastewater systems; 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-19-10 - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 26, Punta Gorda Code known as 'The Land Development Regulations', Article 11, Sign Standards, readopting Subsection 11.11, Creative Signs, which was inadvertently repealed with the adoption of Ordinance 1657-10; providing for creative sign review, providing for applicability, providing for application requirements, providing for design criteria, providing for conflict and severability; and providing an effective date.**

**SECOND READING**

City Attorney Levin read the ordinance by title.

**Councilmember Wallace** spoke in favor of the program, asking if same would be publicized.

Ms. Tubbs responded staff had been informing businesses of same.

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

**MOTION UNANIMOUSLY CARRIED.**

## CONSENT AGENDA

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

**MOTION UNANIMOUSLY CARRIED.**

### **A. CITY CLERK'S DEPARTMENT**

1. Approval of Minutes: Regular Meeting of January 5, 2011

### **B. FINANCE DEPARTMENT**

1. Piggyback the City of Palm Bay's Agreement with Gila, LLC d/b/a Municipal Services Bureau (MSB) of Austin, TX for Debt Collection Services.

### **C. LEGAL DEPARTMENT**

1. Invoice of the Farr Law Firm for services rendered in November 2010
2. Invoice of Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. for services rendered by David M. Levin, Esq. through January 10, 2011.

## UNFINISHED BUSINESS

### Discussion regarding Reconsideration of Internal Investigation

**Mayor Goldberg** explained prior to and during the previous Council meeting he had been torn with regard to whether an investigation was warranted; however, after following the chain of information, he felt it was futile to attempt to determine which employee may have provided the alleged leak. He concluded he felt there was insufficient evidence to indicate a City employee had provided the allegedly leaked information, nor should City Council involve themselves in areas that should be addressed by the City Manager. He felt continued focus on this discussion had been disruptive to the City, asking members to allow the City to move forward.

**Councilmember Keesling** reiterated she had spoken to the City Attorney with regard to the layers of legal issues involved, adding she did not believe same was good for the City or the employees thus she did not support the investigation.

**Councilmember Wallace** advised he did not support same.

**Councilmember Albers** stated while he was disappointed no investigation would occur, he did not feel it was Council's responsibility to mandate the City Manager to do so.

**Councilmember Friedman** opined it was unfortunate a majority of the public had been misinformed and had the inability to separate two independent incidents, adding his request was related to an employee disclosing public information for their own gain. He stated he had not initially asked for an investigation, but rather he had inquired of the City Manager as to what would be done about the situation and was told it was simply the way things were done. He advised this was the impetus for his requested investigation. He concluded by requesting the individual Councilmembers to speak

with the City Manager if a similar situation occurred in the future as not taking any action was a tacit acceptance of that behavior.

City Manager Kunik stated his statements made with regard to the incident had nothing to do with his tacit approval of an employee providing information related to City business prior to it being publically released.

**Review of Linear Park Phases II & III design plans and discuss value engineering to reduce overall project costs.**

City Manager Kunik stated the presentation would denote the plans, adding certain items would be discussed as to whether members wished to include and fund within the scope of the project.

Mr. Dennis Murphy, Growth Management Director, displayed a PowerPoint presentation, as delineated in the agenda material, providing a brief overview of the entire project.

**Councilmember Wallace** noted the high number of bridges included in Phase III, asking if same was due to not having adequate land area.

Mr. Murphy responded affirmatively. He continued his review by denoting specific features of the plan such as proposed trailhead parking and Bocce Courts at the junction of Phase I and Phase III and the associated stormwater retention and landscaping. He advised significant stormwater piping would be required at the intersection of Phase III and Phase II and the Multi-Use Recreational Trail (MURT) Phase IV, adding same would be a key intersection with decorative features and landscaping. He mentioned brick crosswalks were proposed for a traffic calming effect. He denoted the location of bridges, displaying a rendering of same. He advised an access easement would be required for the portion running from Gill Street to Durrance Street due to the location of same, adding a seawall and handrail would be required in one area due to the steep slope of same. He displayed photos of proposed shade structures and exercise equipment to be located along the walkway, noting bicycle parking was included at each trailhead area. He then drew members' attention to a list of possible value engineering items, as delineated in the agenda material, and their estimated costs. He advised he would be working with the engineers to gain a more accurate cost estimate of items to be eliminated.

**Councilmember Keesling** inquired if an estimated cost had been provided for the Bocce Courts.

Mr. Murphy responded in the negative.

City Manager Kunik advised the figures provided did not take into consideration the overall contingency funds which would be reduced accordingly.

**Councilmember Albers** inquired as to the exercise equipment and artificial turf, commenting he did not feel the estimate was accurate. He requested additional information as to accurate estimates.

**Councilmember Wallace** concurred, stating he felt accurate figures should be compared to the 2009 estimate.

**Mayor Goldberg** requested the contingency figures be included.

City Manager Kunik stated same would be provided for members' consideration.

**Councilmember Keesling** asked if the preconstructed bridges had been used in prior projects.

Mr. Murphy responded in the negative, adding they were widely used in Charlotte County's projects.

**Councilmember Wallace** questioned what a ribbon curb was.

Mr. Murphy responded same had been added along the asphalt as a maintenance issue as weed trimming and edging along the asphalt was more difficult.

**Councilmember Albers** stated as Bocce Courts were included in the future Harborwalk plan for Gilchrist Park, he did not feel they were necessary in this location at this time.

Mr. George Ferugio asked why four courts were depicted in the presentation when it had been indicated only two would be constructed.

Mr. Murphy confirmed there were four courts in sets of two.

**Councilmember Friedman** noted the remaining costs were approximately \$2,600,000 if all the denoted items were eliminated, asking what same would fund.

Mr. Murphy responded asphalt, lighting, landscaping, intersection features and water fountains, among other items. He stated he would work with the engineer to gain line item costs for the various items at today's costs.

City Manager Kunik stated current costs would be provided, noting when same were decided at a future meeting, a decision would have to be made whether to await grant funding or to move forward with Phase III from Olympia Avenue to Shreve Street, which would provide connectivity with the Ring Around the City in a scaled down manner.

Discussion ensued with regard to funding possibilities.

#### **Discussion Regarding Utility Rate Increase**

**Councilmember Friedman** stated he had requested this item, explaining staff had presented the City's long range plan during which he pointed out it appeared the October 2010 three percent increase was unnecessary. He stated as no increase was proposed for many years and the City would be able to meet all obligations, it was apparent to him the increase was not necessary. He stated at this time staff could have indicated the increase had been approved two years prior and they had not picked up

on the possibility of cancelling the increase based upon the different conditions or refuse to acknowledge any possibility of error and spend time and money to develop a retort which merely recited the past three years of utility rate history to create an illusion the increase was justified. He maintained staff had opted for the second scenario rather than address the question of whether the utility could have foregone the increase. He listed reasons for rate increases as follows: bond covenants requiring an income to debt ratio of at least 1.1, to amass sufficient funds to pay for capital improvement projects, maintain a level of reserves on an ongoing basis or to spread out the increases over several small increases rather than one large one. He then stated the City's 2010 debt ratio was 2.9, the reverse osmosis (RO) plant was delayed by at least five years, the objective \$1,000,000 reserves minimum was assured through 2015 and the lack of any project increase for at least five years rendered the need for a rate increase moot. He stated if conditions were to worsen in the future, he felt most rate payers would opt for an increase later rather than paying for it now during the current economic downturn. He suggested staff should provide information on why the rates had to be raised and what penalty would incur if the increase was rescinded. He stated he felt the appropriate action was to correct the error and reduce the rates.

**Councilmember Wallace** stated if there was any opportunity to return tax dollars to the tax payers, it should be pursued.

**Councilmember Albers** stated he was aware the increase was in place for this year, pointing out expenses were exceeding the revenues and many capital projects were planned for the upcoming years. He stated he felt the increase was appropriate.

**Councilmember Friedman** agreed when the decision was made several years ago it made sense based on the information available at that time; however, he maintained those facts were not the same at this time, thus the rate increase was not necessary. He stated he felt staff should have reported same to members prior to instituting the increase.

**Mayor Goldberg** added he understood the increase was necessary to provide funds for the upcoming capital projects to limit the amount of funding necessary to be borrowed.

**Councilmember Friedman** countered the increase was based upon the necessary RO plant, reiterating same had been delayed for at least five years, thus adequate funds existed for current plans.

Discussion ensued with regard to upcoming capital projects.

**Mayor Goldberg** stated he stood behind the decision to have a more equitable balance between reserves and debt service for the capital projects.

**Councilmember Albers** suggested the City Manager provide information as to the additional debt planned over the next four years which would assist members in determining if a future rate increase would be necessary.

## NEW BUSINESS

### Request for Contribution to 2011 Entrepreneurial Academy

City Manager Kunik relayed a request to provide \$5,000 in funding to the Punta Gorda Chamber of Commerce (PGCC) for the 2011 program, adding the City had provided this amount for their 2010 program. He noted the total annual budget for the program was \$10,000, concluding the funding would come from the \$25,000 allocated in Business Development Reserves. He noted some questions as to whether the City should begin to reduce the amount of funding.

**Councilmember Albers** stated he felt the program was successful and should continue; however, he felt the City's funding had been to assist with the inception of the program rather than ongoing support. He voiced opposition to funding the full \$5,000, adding he felt this should be the City's last contribution as other funding should be sought by the PGCC.

**Mayor Goldberg** stated he saw it differently in that the use of tax funds to stimulate business within the City was a proper expenditure. He stated the first Academy had proven successful as a number of the graduates had established businesses within the City. He reiterated the benefit from same outweighed the amount being funded by the City.

**Councilmember Wallace** asked if there was information as to how many businesses were started and how many jobs were created.

Mr. John Wright, PGCC, stated the total cost to the Chamber was more than \$10,000, adding that was the amount that was paid to the firm conducting the Academy. He stated 20 people graduated from the 2010 program, of which four home businesses were created in Punta Gorda, two existing business had indicated they may not have survived without the program and two new businesses were in the process of opening. He stated none of the other areas with like Academies were realizing those numbers. He stated plans were underway to provide an Academy for existing businesses which would be funded by the PGCC. He requested the full funding for 2011 with a proviso the 2012 funding request would be reduced.

**Mayor Goldberg** pointed out the City had a Business Development reserve of \$25,000, adding he was in favor of contributing to the program.

**Councilmember Wallace** stated he could support same with a proviso future requests would be reduced.

**Councilmember Keesling** agreed.

Consensus of members was to contribute the \$5,000 in funds.

### **Cooper Street Recreation Center Playground Update**

Mr. Murphy advised Community Development Block Grant (CDBG) funds would be utilized for the playground renovations. He then displayed a PowerPoint presentation demonstrating the existing facilities and proposed renovations, giving a detailed description of the various components. He concluded anticipated completion was April or May, 2011.

### **Sallie Jones Outreach Program and 2nd Annual Fifth Grade Poster Contest**

Ms. Joan LeBeau, Chief Planner, displayed a PowerPoint presentation, as delineated in the agenda material, explaining the outreach program consisted of students spending one day per month in interactive classes related to the Arbor Day Program. She provided a brief explanation of what was included, adding the program would conclude with the student's participation in the second annual poster contest and the annual Arbor Day Program to be held at Laishley Park. She concluded by thanking members for their support in making Punta Gorda's celebration one of the best in the area.

## **RECOMMENDATION FROM CITY OFFICERS**

### **CITY MANAGER**

#### **Boat Launch Improvement Grant Update**

City Manager Kunik explained the grant request had been submitted to the Charlotte County Marine Advisory Committee, noting same looked promising; however, funding would not become available until the October, 2011 time frame. He stated other funding was being sought to enable an earlier start on the process.

### **City Attorney**

City Attorney Levin advised the judge in the Linda Louise case had scheduled time to hear motions on February 15, 2011.

**Councilmember Wallace** inquired with regard to being allowed to have live-aboard boats in the Marina.

City Attorney Levin responded several modifications to the submerged lands lease were pending with the State at this time.

## **BOARDS AND COMMITTEES**

### **Announcement of Vacancies**

Building Board (2)

City Clerk Foster announced the vacancies.

Historic Preservation Advisory Board Alternate

City Clerk Foster announced the vacancy.

Punta Gorda Isles Canal Advisory Committee

City Clerk Foster announced the vacancy.

## **Nominations**

Building Board Alternate

Councilmember Albers **MOVED** to nominate and appoint Mr. Stirling, **SECONDED** by Councilmember Friedman.

**MOTION UNANIMOUSLY CARRIED.**

Utility Advisory Board (2)

Councilmember Friedman **MOVED** to nominate and appoint Mr. Hoffman and to continue the remaining vacancy, **SECONDED** by Councilmember Albers.

**MOTION UNANIMOUSLY CARRIED.**

## **POLICY AND LEGISLATION**

**KEESLING:** Mentioned the upcoming hearing regarding the Linda Louise case, stating the proposed settlement was still available, asking if any members wished to have a Shade Meeting following the next Council meeting to consider same.

**Mayor Goldberg** voiced his support.

**Councilmember Albers** stated he did not support same.

**Councilmember Friedman** questioned the legal costs.

City Attorney Levin stated there was an opportunity for savings in legal fees which could be discussed in a Shade Meeting.

**Councilmember Albers** stated under those circumstances he would agree to same.

**Councilmember Wallace** concurred.

Consensus was to schedule the Shade Meeting following the next Council Meeting.

**Councilmember Keesling** then announced the Hands Across the Harbor Event was to be held on January 29, 2011, noting there were two other events the same day.

**GOLDBERG:** Mentioned the "Doing Business with the City" seminar which was held the previous week, noting same was well received by the business community.

**FRIEDMAN:** Mentioned recent emails questioning why the City was closing public streets for events rather than utilizing the City parks, stating he felt the City Manager or staff should respond to same.

City Manager Kunik responded Councilmember Albers and Mayor Goldberg had responded.

**Councilmember Albers** stated he felt the events that were already being held in the downtown area were fairly well entrenched; however, he felt any new events should be encouraged to locate in Laishley Park.

**Determination of Town Hall Meeting Topics**

**Councilmember Albers** stated he did not wish to remove the Canal Maintenance topic as he felt the GPS listing of all seawalls was something the public would be interested in. He stated the City Manager could take one topic.

Consensus of members was to assign the topics as follows: Street Repaving – Keesling, Canal Maintenance – Albers, Harborwalk and Ring Around the City Update – Friedman, Development Review – Wallace, CRA – Goldberg and Grant Dollars – Kunik.

#### **CITIZENS' COMMENTS**

Mr. Ray Rose spoke negatively with regard to the manner in which subjects were being brought up during public meetings in such a antagonistic manner. He stated he felt the rate increases were decided two years prior.

**Councilmember Friedman** stated he was not looking to assign blame, but rather to protect the rate payers.

Mr. Jim Hoffman recalled he had inquired at the last meeting with regard as to which portions of the Ring Around the City were being funded by tax dollars, adding he felt with the amount being spent, it should be taken to the voters to decide. He then questioned the cost of the future maintenance once constructed. He suggested the boat ramp be delayed until grant funds were available, adding that was a time when fewer boats would be on the water. He then asked Councilmember Friedman what he knew about the investigation discussed earlier that others did not know.

**Mayor Goldberg** stated a small portion of the Ring Around the City was grant funds, explaining no property tax funds were being utilized, but rather the Infrastructure Sales Surtax (ISS) funds would be used. He pointed out the ISS fund usage was detailed to the voters when same was on the ballot.

Ms. Rhonna James stated she had been a resident for one week. She commended the Council and City staff for their vision for such a beautiful City. She then stated members were the public's representatives, adding she had never before heard a staff member speak in such a manner to Councilmembers.

Ms. Patti Allen thanked members for the funding for the Entrepreneurial Academy, suggesting it be continued in future years. She noted she had attended the first Equity Study Commission meeting the previous day, expressing pride in being a part of the City.

The meeting was adjourned at 11:30 a.m.

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Mayor

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City Clerk