



**CITY OF PUNTA GORDA, FLORIDA  
REGULAR CITY COUNCIL MEETING MINUTES  
WEDNESDAY, MARCH 2, 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**

**Florida Firefighter Appreciation Week**

**Councilmember Albers** presented the proclamation to Ms. Jill Balanzo, Muscular Dystrophy Association and Mr. Tyler Canfield, Local #2546.

**Juan Ponce de Leon Conquistador Day**

**Councilmember Friedman** presented the proclamation to Messrs. Jerry Presseler and Lindsay Harrington.

**Relay for Life Days**

**Mayor Goldberg** presented the proclamation, which was accepted by Ms. Deborah Frybarger, American Cancer Society and Mr. David Riley, Relay for Life Chairman.

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

**PUBLIC HEARINGS**

**GA-03-11(a) - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 6, Punta Gorda Code, known as "Boats, Docks and Waterways"; amending Article III, "Burnt Store Isles Canal Maintenance Assessment District", Section 6-34, "Same - Area Included Within District", providing provisions for acceptance of additional land within the district; providing for conflict and severability; and providing an effective date.**

**FIRST READING**

City Attorney Levin read the ordinance by title.

Mr. Rick Keeney, Public Works Director, explained same would provide the regulations for including properties within the established canal maintenance district (CMD), providing a brief summary of same.

**Councilmember Friedman** asked if the City Council should be hearing the request rather than the assessment district.

City Attorney Levin stated as City Council created the district by ordinance they would be the appropriate entity to amend same.

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

**MOTION UNANIMOUSLY CARRIED.**

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

**Councilmember Friedman** questioned a clause with regard to proration of the fee, in that same would be done only when the wall was replaced rather than on the age of the seawall.

Mr. Keeney responded he felt same was based upon the condition of the seawall.

**Councilmember Friedman** stated the fee was to be rated from inception of the assessment district unless the seawall had been replaced.

Mr. Keeney countered the condition of the wall was to be considered upon inspection.

**Councilmember Wallace** recalled discussion of some latitude with regard to the condition of the seawall.

**Councilmember Friedman** stated he felt it would be unfair to those who had been paying the assessment since inception of the assessment district.

**Councilmember Albers** concurred.

**Councilmember Friedman** inquired if the City had the option to refuse inclusion if the condition of the seawall was poor.

City Attorney Levin responded affirmatively.

Consensus of members was to eliminate the proration for any seawalls that had not been replaced.

Councilmember Albers **AMENDED** the **MOTION** to include the revisions.

Councilmember Keesling **AMENDED** the **SECOND**.

**MOTION UNANIMOUSLY CARRIED.**

**GA-03-11(b)- An Ordinance of the City of Punta Gorda, Florida, amending Chapter 6, Punta Gorda Code, known as "Boats, Docks and Waterways"; amending Article II, "Punta Gorda Isles Canal Maintenance Assessment District", Section 6-27, "Same - Area Included Within District", providing provisions for acceptance of additional**

**land within the district; providing for conflict and severability; and providing an effective date.** **FIRST READING**

City Attorney Levin read the ordinance by title.

Mr. Keeney explained same would amend the portion of the code relating to the canal assessment committees' (CAC) duties to include the regulations for inclusion of properties within the CMD. He noted it would be amended in the same manner as the previous ordinance.

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

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

**MOTION UNANIMOUSLY CARRIED.**

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

**MOTION UNANIMOUSLY CARRIED.**

**GA-04-11 - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 16, "Park Regulations", Punta Gorda Code, amending Section 16-4, "Regulations", Subsection (h), adding a provision for City Manager approval to allow animals in city parks under certain conditions; providing for conflict and severability and providing an effective date.** **FIRST READING**

City Attorney Levin read the ordinance by title.

**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, **SECONDED** by Councilmember Friedman.

**MOTION UNANIMOUSLY CARRIED.**

**GA-08-11 - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 23, "Traffic", Punta Gorda Code, repealing Section 23-5, "Street or portion of street declared one-way street" and amending Section 23-4, "Street of portion of street declared a two-way street", to designate traffic on Grace Street between Hazel Street and Cooper Street as a two-way street; 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 would return Grace Street to two-way traffic.

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

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

**MOTION UNANIMOUSLY CARRIED.**

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

**MOTION UNANIMOUSLY CARRIED.**

**ORDINANCE/RESOLUTION**

**No Public Hearing Required**

**ZA-02-11 - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 26, Punta Gorda Code known as "The Land Development Regulations", Article 3, "Regulating Districts", amending Section 3.13, "SRO, Special Residential Overlay District", Subsection (t), "Walkways in Rear Yards", removing provisions to increase walkway width by Special Exception; amending Chapter 26, Article 16, Section 16.10, Punta Gorda Code, "Variances", Subsection (d), "Public Hearing Notice", adding provisions for requests for Variances for structures within 6 feet of a seawall to be heard by the appropriate Canal Advisory Committee and providing additional criteria for such structures; 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.**

**GA-01-11 - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 6, Punta Gorda Code, known as "Boats, Docks and Waterways"; Article II, "Punta Gorda Isles Canal Maintenance Assessment District", Subsection 6-28 "Same - Governing Body; Advisory Committee"; amending Subsection (b), adding a provision to require review for variance requests that are located within six (6) feet of the seawall on the property abutting the seawall; amending Article III, "Burnt Store Isles Canal Maintenance Assessment District", Subsection 6-35 "Same - Governing Body; Advisory Committee", amending Subsection (b), adding a provision to require review for variance requests that are located within six (6) feet of the seawall on the property abutting the seawall; 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.**

**GA-05-11- An Ordinance of the City of Punta Gorda, Florida, amending Chapter 1, "General Provisions", Punta Gorda Code, using reserved Section 1.7, providing for**

the collection of debts through the use of a collection agency, providing that the costs of collection shall be added to the amount of any debts assigned by the City to a collection agency for collection; 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.**

GA-06-11 - An Ordinance of the City of Punta Gorda; amending and restating the City of Punta Gorda Municipal Employees' Retirement System, adopted pursuant to Ordinance No. 1286-00, as subsequently amended, by restating the City of Punta Gorda General Employees' Retirement System; providing for codification; providing for severability of provisions; repealing all ordinances in conflict herewith and providing an effective date. **SECOND READING**

City Attorney Levin read the ordinance by title.

**Councilmember Keesling** suggested copies not be provided for second reading as same was costly.

Discussion ensued with a consensus that amendments may be proposed, thus copies were necessary.

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

**MOTION UNANIMOUSLY CARRIED.**

#### **CONSENT AGENDA**

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

**MOTION UNANIMOUSLY CARRIED.**

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

1. Approval of Minutes: Regular Meeting of February 16, 2011
2. Approval of Minutes: Town Hall Meeting of February 16, 2011
3. A Resolution of the City Council of the City of Punta Gorda, Florida changing the dates of its regularly scheduled City Council meetings on July 20, 2011 and August 3, 2011.

#### **B. GROWTH MANAGEMENT DEPARTMENT**

1. A Resolution of the City Council of the City of Punta Gorda, Florida, approving submission of a 50/50 matching Urban and Community Forestry Grant Application administered by the State of Florida, Department of Agriculture and Consumer Services, Division of Forestry and authorizing execution of the

application and memorandum of agreement by the City Manager and providing an effective date.

2. SCA-02-11; Event Permit: 11-117298; Punta Gorda Days, Inc. Block Party; April 16, 2011.

**C. PUBLIC WORKS DEPARTMENT**

1. A Resolution of the City of Punta Gorda, Florida, approving Maintenance Agreement BDR83 (FM No.430399-1-78-01) with the Florida Department of Transportation for city maintenance of Florida Department of Transportation highways within the City limits; authorizing the Mayor to executive the agreement on behalf of the City; and providing an effective date.

**D. LEGAL DEPARTMENT**

1. Monthly Litigation Report

**NOTE: A short break was called at 10:35 a.m.**

**UNFINISHED BUSINESS**

**Discussion of At-Will Legal Counsel Services for various City Boards**

City Manager Kunik recalled discussion at the previous meeting with regard to the proposed contract with Henderson, Franklin, Starnes & Holt, wherein an objection arose with regard to paying travel time as the firm was located in Fort Myers. He noted a suggestion had been made to determine if one of Charlotte County's assistant attorneys could perform the task, adding the County Attorney had indicated their workload would not allow for them to be of service to the City. He stated staff had been advised the attorney from Henderson, Franklin, Starnes & Holt resided within the City and would not be charging for travel time.

Councilmember Albers **MOVED** approval of the agreement, **SECONDED** by Councilmember Wallace.

**MOTION UNANIMOULSY CARRIED.**

**City of Punta Gorda Comprehensive Plan, Evaluation and Appraisal (EAR) Report Update**

Ms. Joan LeBeau, Chief Planner, announced the EAR had been completed and was available on the City's web site for review, urging members to provide comments. She then provided a brief PowerPoint presentation on the EAR approval process.

**Mayor Goldberg** complimented staff on the work performed.

**NEW BUSINESS**

**CA-01-11 - Certificate of Appropriateness Appeal of Historic Preservation Advisory Board's Denial for the Demolition of 501 E Olympia Avenue**

City Attorney Levin stated upon review it had been determined that although the subject structure was listed on the Florida Master Site File (FMSF), it was not located within a Historic District and did not require Certificate of Appropriateness (CA) for demolition, thus the appeal was moot. He stated the only other action that City Council

could take was to delay the demolition for 45 days to remand same back to the Historic Preservation Advisory Board (HPAB) in hopes of purchasing same.

**Councilmember Friedman** recommended the demolition permit be issued.

**Councilmember Wallace** stated same would be a shame as it was a nice structure.

City Manager Kunik advised this site was being considered by a committee for a Historic Archive.

Mr. John Chalifoux, HPAB Chairman, spoke in opposition of not preserving historic structures. He stated Team Punta Gorda (TPG) had looked at the site; although, the owner did not wish to sell same individually as she owned the entire block.

**Mayor Goldberg** inquired if a 45 day delay would be of assistance.

Mr. Chalifoux responded the TPG committee was new and any additional time would be beneficial.

**Councilmember Albers** stated he was in favor of retaining historic structures; however, the ordinance did not provide for same in this instance.

Mr. Chalifoux stated he had contacted the City Manager in November, 2010 regarding preservation issues and had received no response to date.

City Attorney Levin stated he had been asked to perform research, adding same had not been completed as yet. He stated if the HPAB felt the ordinance should be amended they should provide a recommendation to City Council.

**Councilmember Friedman** pointed out the agenda material indicated it would take over \$100,000 to rehabilitate the structure, questioning if TPG would be willing to expend those funds.

Ms. Gussie Baker, Punta Gorda Days, stated their organization had donated the funding to the City to perform the initial historic survey to designate the local historic district. She spoke of the importance in retaining the history of the area, suggesting the district be expanded to include structures such as this.

Ms. Jan Sidebottom, Main Street Punta Gorda (MSPG), stated she served on the TPG committee, adding they had been looking at that structure as an archive.

**Councilmember Friedman** stated even if the demolition was delayed for 18 months, if no one stepped forward to purchase same, the code enforcement issues would be perpetuated for that much longer.

Consensus of members was not to delay the demolition and to task the HPAB with researching the possibility of expanding the district and possible amendments to the ordinance.

## **Review of Fair Share Impact Fees - Transportation (Roads), Parks, Fire, Police and General Government**

City Manager Kunik advised members had requested a discussion of all impact fees at a previous meeting, stating information had been provided related to the funding amounts and past/proposed expenditures for each fund, as delineated in the agenda material. He provided a brief review of each fund, stating he could not recommend a suspension of all five funds for a five year period. He then recommended retention of collection of road and parks impact fees while suspending police, fire and general government impact fees as same would not be necessary until large annexations impacting growth occurred. He pointed out collected impact fees must be expended within seven years or returned. He stated other actions included installment payments for fair share impact fees for affordable housing over a five year period, amendment to the change of use impact fees in the downtown area and review of current rate structure for possible reduction.

**Councilmember Albers** voiced concern that public safety needs would grow when annexation occurred beyond I-75, adding if the fees were not collected prior to that time, the City would have to find the funding elsewhere. He then mentioned the change of use charges, expressing surprise with the established amounts as being so large.

**Mayor Goldberg** stated he had similar concerns related to the rate structure.

**Councilmember Friedman** concurred, stating he felt a review of same should be undertaken. He stated the issue to be determined this date was whether to suspend fees for a period of time, commenting without sufficient impact fees, the funding must come from property taxes. He pointed out the impacts of business should not be subsidized by the tax payers, adding he had seen no evidence reducing or suspending impact fees resulted in increased business. He spoke in opposition to suspending any fees, adding he felt review in some of the other alternatives should be undertaken.

**Councilmember Wallace** stated growth should pay for growth in relation to annexation, adding he did not feel the costs should be paid by the existing taxpayers. He stated he felt impact fees did prohibit growth because banks did not loan money to pay for impact fees. He supported staff's recommendation to suspend the three recommended funds, and make the recommended reductions.

**Councilmember Keesling** requested a five year proforma within each category based upon the recommended reductions.

Discussion ensued with regard to costs associated with annexation.

Mr. John Wright, Punta Gorda Chamber of Commerce (PGCC), stated with the tough economy, impact fees were an issue. He stated there were instances when a business had chosen to locate somewhere else based solely on the cost of impact fees in the City. He stated suspension of the fees would send a pro business message to potential owners, adding neighboring communities were doing it as should the City.

**Councilmember Friedman** stated if he were in Mr. Wright's position, he might agree as he was being rated on how many businesses he brought to the area; however, it was Council's responsibility to weigh that potential against the alternative of requiring the taxpayers to subsidize the costs. He voiced objection to the statement the City should do so to prove they were business friendly, stating the City had expended millions of dollars over the past four or five years to ensure a business friendly atmosphere. He concluded if the City was not perceived as business friendly after all of that, this action would not change the perception.

**Councilmember Albers** asked if the businesses Mr. Wright stated left the City were new construction or change of use situations.

Mr. Wright responded a study had been performed to indicate particular business types to seek, explaining they had approached a bakery located in Naples who expressed an interest in relocating until they saw the amount of impact fees.

**Councilmembers Friedman and Albers** requested a listing of businesses which had made the same decision.

Ms. Suzanne Graham, Charlotte/Desoto Building Industry Association (CDBIA), stated they, along with the Charlotte County Chamber of Commerce, Board of Realtors and Enterprise Charlotte Economic Council all supported the PGCC's recommendation. She stated the impact fee study was based upon faulty methodology, adding the 2006 data used to set the rates projected a growth to 21,000 people in 2011 while there was actually 17,000. She noted that number had not changed since 2006, adding the collection of fees was also much less than predicted in 2006. She stated Charlotte County had performed an updated study in 2009, suggesting the City utilize their methodologies. She voiced opposition to a reduction in fees as no current data was available. She concluded by recommending all impact fees be suspended while a study was undertaken to determine actual costs.

**Councilmember Friedman** asked if Ms. Graham was suggesting that nothing would have been different if impact fees had not collected over the past five years.

Ms. Graham responded she was stating the impact fee study projected a certain amount of growth which had not occurred since that time and should be looked at again.

**Councilmember Friedman** stated members agreed a review should be undertaken, adding the question was whether to eliminate the fees before or after the review.

City Manager Kunik stated one recommendation was to do a study, adding if a full study was desired, it would be funded by impact fees. He voiced objection to suspending all five categories while the study was underway.

Ms. Dorothy Strunk, PGCC, stated it was obvious there were many questions requiring answers in order for members to make an intelligent decision, adding a moratorium during that time would not be detrimental.

Mr. Bill Dryburgh, Caldwell Banker Realty, suggested members look at the concessions given to Walt Disney World by Orange and Osceola Counties, which proved very successful to the surround area. He stated he and Mr. Harrington had developed a model which had enabled them to lease 95% of the Sunloft Center, adding they wished to employ same to attract big business to the City rather than losing same to Charlotte County. He concluded if the fees were not suspended, they should be reduced.

Mr. Harrington stated this issue arose when one business relocating a very short distance down the street was to be charged \$20,000 in impact fees. He cited several examples where reduced or suspended impact fees would make the difference in whether businesses located in the City. He then stated the manner of evaluating the use for businesses must be reconsidered to reduce impact fees.

**Councilmember Albers** acknowledged it was expensive to construct a new building, inquiring if contractors, material suppliers or realtors had been lobbied to reduce fees. He pointed out everyone had to do their part; however, it was not only the government causing the difficulties.

Mr. Chalifoux stated with new residential construction within the City at a cost of \$150,000, the water, sewer and road impact fees total over \$10,000 or 7.5% thus he would only make 10% on the job. He concluded any reduction would assist with overall costs.

**Councilmember Friedman** concurred that everything helped; however, members were trying to determine what percent would be a make or break decision. He stated the City was much smaller than the other areas mentioned which was an attraction of its own. He concluded by stating those speaking this date represented business, while members must also consider the taxpayers who would have to pay the costs should fees be suspended.

**Councilmember Albers** voiced objection to suspending all fees, suggesting members temporary reduce police, fire and government fees by 50% and reduce change of use fees by 50% while a study was being undertaken.

Mr. Ray Rose asked if commercial and industrial property taxes subsidized personal property taxes, and if so would it not be prudent to advocate for same. He opined same would provide a more favorable tax rate.

**Councilmember Friedman** responded in the affirmative.

**Councilmember Wallace** reiterated reduced impact fees would encourage businesses to locate in that area.

Ms. Graham stated Charlotte County had provisions in their ordinance to assist local government with increases or decreases in impact fees based upon a construction cost index or an assessed property value index, suggesting the City consider adding same to their ordinance. She reiterated by not giving suspension of impact fees a chance, members would never know if it would assist in drawing businesses to Punta Gorda. She pointed out the small amount that had been collected in recent years, opining it would not be a great loss to suspend same.

**Mayor Goldberg** stated in 2010, 94 businesses closed while 104 new businesses opened, adding he felt same was a positive trend. He mentioned the structure of the different use categories which did not allow a great deal of flexibility, adding same should be included in the review. He stated he was willing to take the chance a reduction in impact fees for a period of time could be beneficial, thus he supported staff's recommendations stipulated upon it be for a period of two years as same should demonstrate whether there was a response to same.

Ms. Strunk asked what percentage of the impact fees were within those three categories.

City Manager Kunik responded fees on a single family home were as follows: \$2,031 – roads, \$398 – police, \$292 – fire, \$689 – general and \$386 – parks.

**Councilmember Friedman** responded the three together were approximately 32%.

Mr. Don McCormick stated he felt members should determine whether to charge same or not, rather than a reduction.

City Manager Kunik requested direction.

**Councilmember Wallace** stated he would concur with the Mayor's suggestion to approve staff's recommendations with a two year limit.

City Manager Kunik inquired as to rate reductions.

**Councilmember Keesling** supported a reduction to the 2007 level.

**Councilmember Friedman** questioned why same would be undertaken prior to a study.

City Manager Kunik suggested staff prepare an ordinance amendment for members' consideration while going out to bid for a consultant to perform the study.

Consensus of members was to concur.

### **BOARDS AND COMMITTEES**

#### **Announcement of Vacancies**

Firefighters' Pension Board

City Clerk Foster announced the vacancy.

Historic Preservation Advisory Board Alternate

City Clerk Foster announced the vacancy.

Punta Gorda Housing Authority

City Clerk Foster announced the vacancy.

#### **Nominations**

Utility Advisory Board

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

**MOTION UNANIMOUSLY CARRIED.**

### **POLICY AND LEGISLATION**

**GOLDBERG:** Mentioned the Town Hall meeting at 6:00 p.m. on March 3, 2011 at the Burnt Store Presbyterian Church.

- Stated the "Paint the Town Purple" cause mentioned earlier in the meeting could include signage or ribbons and wreaths at business locations to promote a good cause. Mr. Murphy stated staff desired input on the locations.

**WALLACE:** Stated he concurred with Mr. Fabian with regard to the location of the sign for Laishley Park due to the difficult turn at that corner.

### **CITIZENS' COMMENTS**

Mr. Fabian mentioned the two proclamations which were not included on the agenda, stating he wished he had known in advance.

Mr. Jay Buckley Waterfront Development Advisory Committee (WDAC), stated they had invited an individual from Premier Yachts to make a presentation at their next meeting.

Mr. Chalifoux displayed a fundraising brochure prepared by the HPAB, adding they had become proactive to generate their own funding due to the difficult budget situation.

The meeting was adjourned at 12:40 p.m.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk