



**CITY OF PUNTA GORDA, FLORIDA  
REGULAR CITY COUNCIL MEETING MINUTES  
WEDNESDAY, APRIL 20, 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**

**Arbor Day**

**Mayor Goldberg** presented the proclamation to Ms. Joan LeBeau, Chief Planner.

**Mayor Goldberg** then presented certificates of appreciation to Ms. Jennifer Molnar, Ms. Gloria Sepanik and Ms. Ramona Peters for their efforts with the City's team in the Relay for Life event.

**10 Year Service Award - Jennifer Molnar, Fire Marshal**

City Manager Kunik presented the award to Ms. Molnar.

Fire Chief Rob Hancock spoke of Ms. Molnar's years with the City.

**PUBLIC HEARINGS**

**A Resolution of the City Council of the City of Punta Gorda, Florida adopting the Evaluation and Appraisal Report for the City of Punta Gorda Comprehensive Plan 2025; stating the intent of the City Council to amend the Comprehensive Plan based upon recommendations contained in the report; and approving transmittal of the report to the Department of Community Affairs in accordance with Section 163.3191, Florida Statutes.**

**FIRST PUBLIC HEARING**

City Attorney Levin read the resolution by title.

Ms. LeBeau stated the Evaluation & Appraisal Report (EAR) represented an evaluation of the past seven years as well as implementation of the existing Comprehensive Plan (Plan), which was adopted in 2009. She explained the EAR's purpose was to provide a

summary analysis of the successes and failures of the Plan, to identify major issues of concern and to identify proposed changes to amend and update the Plan. She noted the EAR was evaluated through the collaboration of staff, State agencies, other units of government and the general public. She mentioned if the Department of Community Affairs (DCA) found the EAR to not be sufficient, it would be re-presented to the Council for re-adoption to include any necessary changes. She stated many issues were identified during the evaluation process, some of which were new and some of which were being addressed in existing policies. She noted the primary issues identified dealt with some aspect of future growth and focused on conflicts between adjacent land uses, demands upon roads and other infrastructure needs as well as energy and climate adaptation planning strategies. She confirmed as the City continued to grow, those strategies would assist in developing a sustainable community which protected its natural and historical resources via a fiscally responsible approach. She then briefly reviewed each section of the EAR, concluding with a recommendation for approval and for its transmittal to DCA.

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

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

**MOTION UNANIMOUSLY CARRIED.**

**Councilmember Friedman** commented on the lengthy review process, complimenting Ms. LeBeau on her efforts.

**ZA-04-11 - 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", Section 3.6 "Manufactured Home District" amending Subsection 3.6.(a), adding park office and maintenance facilities as permitted principal uses; amending Subsection 3.6 (b) "Permitted Accessory Uses and Structures" adding community rooms and clarifying equipment storage areas; amending Subsection 3.6.(e), "General Requirements" providing for street design; amending Subsection 3.6.(f) providing maximum density; adding Subsection 3.6.(g),(h) and (i), providing regulations and development standards for recreational vehicle parks; 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 current Land Development Regulations (LDRs) were adopted in April 2005, explaining provisions for recreational vehicle (RV) parks were omitted, which created a situation in which there were no regulations to which staff could refer. She stated the proposed amendment essentially re-adopted the

regulations which had had been in place prior to April 2005. She concluded with a recommendation for approval with the amended language as delineated in the agenda material, offering to answer any questions.

**Councilmember Albers** inquired as to the use of the term RV park rather than manufactured home park.

Ms. Tubbs responded there were different definitions of same, adding mobility and size were two of the main differences.

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

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

**MOTION UNANIMOUSLY CARRIED.**

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

**MOTION UNANIMOUSLY CARRIED.**

**ORDINANCE/RESOLUTION**

**No Public Hearing Required**

**GA-09-11 - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 11, "Punta Gorda Development Impact Fees", Section 11-8, "Imposition of Impact Fees", Punta Gorda Code, suspending police, fire and general governmental impact fees and impact fees for changes in use for a period of two years; amending Section 11-9, "Calculation of Impact Fee and Impact Fee Schedules"; Subsection (b); deleting Subsections (c) and (d) in their entirety; amending Chapter 11a, "Punta Gorda Affordable Housing Impact Fee Incentives", Punta Gorda Code, Sections 11a-2(f) and 11a-9(a), extending repayment under the Rental Affordable Housing Impact Fee Installment Payment Program from three years to five years; amending Chapter 11b, "Punta Gorda Economic Development Incentives", Punta Gorda Code, Section 11b(a), extending repayment under the Economic Development Installment Payment Program from three years to five years; providing for conflict and severability and providing an effective date.**

**SECOND READING**

City Attorney Levin read the ordinance by title.

**Mayor Goldberg** stated in reviewing the proposed amendment, it occurred to him the change in impact fees was focused primarily on business development; however, the ordinance as written included residential impact fees as well. He suggested a modification to exclude residential impact fees while including the commercial impact fees. He concluded he felt same would be an incentive for new businesses.

**Councilmember Friedman** questioned why the fees would be posed on residential construction if staff had indicated they were not necessary at this time.

**Councilmember Wallace** voiced concern it would present a disparity between the City and County as they were not charging the fees.

**Councilmembers Albers and Friedman** countered people chose Punta Gorda because they desired being located here rather than based upon impact fees.

**Councilmember Friedman** agreed the suggestion was better than the ordinance as written; however, he felt the fire, police and general government should be suspended for commercial and residential.

**Councilmember Wallace** concurred.

**Mayor Goldberg** reopened the public hearing and called three times for public comment.

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

**MOTION UNANIMOUSLY CARRIED.**

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

**MOTION UNANIMOUSLY CARRIED.**

#### CONSENT AGENDA

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

**MOTION UNANIMOUSLY CARRIED.**

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

1. Approval of Minutes: Regular Meeting of April 6, 2011

#### **B. Legal Department**

1. Invoice of Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. for services rendered by David M. Levin, Esq. through April 13, 2011.

#### UNFINISHED BUSINESS

#### Best Western Harborwalk - Approval of Amendment to Development Agreement with Punta Gorda Hotel, LLC & Amendment 8 to Solicitation #U2008007/ENG-HARBORWALK

City Manager Kunik explained the City had been working with the Best Western to develop an agreement by which the City would be able to construct a 10' Harborwalk around the Best Western to link the Event Center and Gilchrist Park portions, adding the City had been awaiting a payback figure over a five year timeframe from Best Western representatives to complete the agreement. He stated the City had been

notified the Best Western property was in foreclosure, commenting in light of same, City Council may wish to forego consideration of reimbursement and proceed with design and permitting of the Harborwalk. He noted Weiler Engineering had advised permitting and design may entail 18 months.

City Attorney Levin advised he had spoken to the bank's attorney with regard to our ongoing process in an attempt to work toward a solution wherein our easement would survive the foreclosure, adding same would be a benefit to the property. He stated he had been advised it would be helpful to his client if the agreement were executed. He mentioned the 2009 development agreement, requesting authority to present same to the court to preserve the City's rights under same.

**Councilmember Friedman** inquired if same would bind any future owners to their obligations to engineer and construct the mooring field should their commercial marina be approved and constructed.

City Attorney Levin responded he would work toward preserving the City's rights. He recalled it had been represented to the City that Peninsula Bank had signed off on the 2009 agreement.

**Councilmember Friedman** stated he had attempted to contact the owner and would continue to do so. He questioned the probability of the bank's attorney allowing him to advise the owner that they were not opposed to this agreement.

City Attorney Levin stated he did not feel same would occur, adding legally Best Western still owned the property and could work out a repayment plan with the bank.

**Councilmember Friedman** inquired if the owner of Best Western could sign the agreement without the bank's approval.

City Attorney Levin stated it could not be done if the property would be adversely affected; however, if the bank recognized the benefit, they would not contest the document.

Discussion ensued with regard to the promised easement in relation to the 2009 developer's agreement.

**Mayor Goldberg** stated this segment of the Harborwalk was an important link. He questioned the likelihood of gaining agreement from the owner within 30 days. He then stated with regard to any compensation by the Best Western, he felt the City should construct this portion regardless if repayment was forthcoming.

**Councilmember Friedman** recalled part of the agreement was for the City to assist with approval of the marina, which had been done. He concurred the City should execute the agreement even if repayment was not made.

City Attorney Levin reiterated the amendment to the existing agreement was ultimately better for both the bank and Best Western owner.

**Councilmember Albers** inquired if the Best Western had waterside property rights which would require their approval to allow the waterward construction.

City Attorney Levin responded a sublease to their submerged lands lease would require approval by the State.

**Councilmember Albers** inquired why this agreement was necessary in light of the City's current easement.

City Attorney Levin responded it was approval for the riparian rights for the waterward construction aspects.

**Councilmember Wallace** confirmed a 5' walkway could be constructed on land without further agreements. He commented on the narrowness of that area.

**Councilmember Friedman** opined members were not opposed to waiving the repayment, but rather to decide whether to move forward at this time or to await the foreclosure process. He spoke in favor of moving forward.

**Councilmember Wallace** inquired if it would be possible to construct the 5' walkway at this time and to construct the waterward walkway when permitting was granted.

**Councilmember Keesling** pointed out the 5' walkway on land would not be constructed if the 10' waterward walkway was approved.

**Councilmember Albers** voiced concern with expending funds for design without having an agreement signed by the Best Western.

**Councilmembers Keesling and Wallace** concurred.

Councilmember Albers **MOVED** approval of the Weiler agreement contingent on an executed agreement with Best Western as amended to eliminate repayment.

Discussion ensued with regard to design and permitting timing.

**Councilmember Friedman** urged members not to delay design and permitting on the Best Western agreement.

**Mayor Goldberg** voiced support of moving forward.

**Councilmember Albers** reiterated he was not comfortable with expending funds for design without approval to construct over the water.

Councilmember Keesling **SECONDED** the motion.

**MOTION UNANIMOUSLY CARRIED.**

**Economic Development Ad Valorem Tax Exemption for Certain Businesses and Expansion of Existing Businesses - Continuing Discussion of Proposed Ordinance**

City Manager Kunik recalled members' request for an opinion by the City Attorney with regard to the types of business that would be included, adding the response was any

new and expanding retail, service and other forms of non-manufacturing businesses provided the requisite number of jobs were created. He requested direction as to the number of years to be applied for the exemption and percentage of exemption.

**Councilmember Albers** expressed concern with waiving ad valorem taxes for a ten year period, pointing out one of the City's goals was to increase the commercial taxes in relation to residential. He pointed out vacant properties were presently being taxed and if this were adopted, it would prove to be a reduction in the City's current tax revenues. He stated he also was not in favor of allowing same for retail businesses as he felt it should be geared more toward larger manufacturing type businesses.

**Councilmember Wallace** concurred, adding he felt same may be beneficial in the future following annexation of additional large development properties.

**Councilmember Friedman** stated he felt same was unfair to businesses which had located within the City over the past few years, adding he did not feel the need to adopt this as there were only three larger parcels within the City. He suggested it may be possible to adopt same contingent on the current vacant properties being excluded or limiting same only to future annexations.

**Mayor Goldberg** concurred, adding it could be a possible incentive to properties considering annexation.

City Attorney Levin stated he felt the ordinance could be limited to future annexation areas.

**Councilmember Albers** reiterated his concern with allowing a 100% waiver for a ten year period.

**Councilmember Keesling** inquired if the approval criteria in Charlotte County's ordinance were based upon Statute.

City Attorney Levin stated members could draft approval criteria, adding Statute set the minimum.

Mr. Steve Fabian stated the proposed ordinance was not necessary to gain annexation.

**Mayor Goldberg** confirmed members were in approval to consider applications for newly annexed, vacant properties.

City Manager Kunik inquired if expansion of existing businesses would be included.

Discussion ensued with regard to the criteria and percentage of waiver.

Consensus of members was to approve the concept and to direct staff to prepare suggested criteria for consideration.

City Attorney Levin stated utilizing the minimums included in the Statutes allowed members the flexibility to add conditions based upon each application.

Mr. Lindsay Harrington, Punta Gorda Chamber of Commerce (PGCC) Economic Development Task Force (EDTF), stated their review considered the ordinance to consider individual businesses, thus the City Marketplace property would not be included as it was planned to be a shopping center of many businesses. He pointed out the County's ordinance was written to consider each application individually. He urged members to approve same in hope of creating jobs.

Consensus of members was to include a sunset date in the proposed ordinance.

**Councilmember Wallace** opined it would be hard to get voters to approve something only for new annexations, suggesting it may be prudent to wait until annexations occur.

**Councilmember Albers** pointed out the timing involved to get the proposal on an election ballot.

**Councilmember Friedman** commented no further annexations could be undertaken until the Loop property annexed so as not to create enclaves. He opined any major properties to annex could be years into the future.

**Councilmember Wallace** suggested tabling the discussion for six months until the annexation situation was evident.

City Manager Kunik pointed out same had been included in the City's Strategic Plan.

**Councilmember Friedman** stated he felt a six month wait made sense.

Mr. Harrington suggested the EDTF work with staff toward crafting a program for consideration.

Consensus of members was to agree.

### **Police Fleet Replacement Plan**

City Manager Kunik stated five of the allocated nine vehicles were purchased in the previous year in order to await the new V-6 vehicles for the remainder of the purchases. He advised the fleet would be downsized as well. He noted once ordered it was several months prior to delivery, adding some maintenance had been delayed to save the cost if the unit was to be replaced.

Police Chief Butch Arenal displayed a PowerPoint presentation, as delineated in the agenda material, stating funding for four vehicles had been rolled over for this fiscal year along with the funding for five additional vehicles. He advised the Procurement Division would ensure the best purchase price. He then provided an overview of the existing fleet and the ages of same. He provided a brief explanation of the purchase plan/replacement rotation since 2008 wherein no vehicles were purchased. He then addressed repair and maintenance costs as many of the current fleet were no longer under warranty. He outlined the considerations given during model selection which

included police packages, stating the Dodge Charger was the preferred model. He concluded with a request for approval to purchase the Dodge Charger.

**Councilmember Keesling** inquired as to the fuel savings by going with the V-6 engine.

Chief Arenal responded the exact number was unknown, although they were sure there would be fuel efficiencies.

**Councilmember Friedman** inquired as to cost.

Chief Arenal stated the basic package generally ran about \$26,000, adding Procurement would work toward gaining the best price. He advised the two reviewed models were within \$1,000 of each other.

**Councilmember Friedman** inquired why certain positions such as the community services officer and training sergeant had assigned automobiles rather than using a line vehicle when it was necessary to leave the office.

Chief Arenal stated the community services officer did not drive a police package vehicle but rather drove an SUV. He noted the same situation was in evidence for the training officer who taught at the academy.

**Councilmember Keesling** inquired if there was any conflict with the warranties of the new vehicles.

Chief Arenal responded the City had a good relationship with the garage and no extensive maintenance was performed without the department's approval. He stated the warranty work would be performed at the Dodge dealership; however, the existing maintenance contract with Ford would be maintained for all other work.

Councilmember Albers **MOVED** approval to purchase nine vehicles, **SECONDED** by Councilmember Friedman.

**MOTION UNANIMOUSLY CARRIED.**

#### **NEW BUSINESS**

##### **Street Closures for Downtown Events**

Mr. Dennis Murphy, Growth Management Director, stated as the number of events requiring street closures had increased, staff was seeking direction in order to amend the Event Manual with appropriate criteria. He listed areas of consideration as follows: number of this type of event per year, fee for street closures similar to park rental fees, non-profit organizations to be considered differently from for profit organizations and the possibility of directing certain events to other venues.

**Councilmember Friedman** stated he had attended a recent concert downtown, adding he had inquired why it had not been held in Laishley Park and the organizer had advised he did not wish to deal with noise complaints in Laishley Park. He stated as

fees were charged for the use of the City's parks, same should be considered for use of the streets. He stated the historic events such as the Block Party, Farmer's Market and Sullivan Street Arts Fair should be exempted.

**Councilmember Albers** concurred, pointing out the most recent event was a for profit event which should not avoid park rental fees by using the streets.

Mr. Murphy stated one condition of any request to close the streets was to have a signoff sheet from all affected businesses prior to gaining any approval by the Development Review Committee (DRC).

**Mayor Goldberg** inquired if all events with the exception of those named in the agenda material would be required to be located in Laishley Park.

Mr. Murphy responded that was staff's perception, adding the most recent event wished to avoid the issue with noise complaints in Laishley Park.

**Mayor Goldberg** pointed out it was possible there could be an event proposed in the future that may be more appropriate to be held on the street rather than in a park, asking if there was any leeway in the Event Manual to allow same.

Mr. Murphy responded same would be presented to City Council for approval.

**Councilmember Keesling** mentioned several businesses were missed when the signoff sheet was presented for the last concert, thus a standardized form should be prepared and a list of businesses named.

**Councilmember Friedman** stated he felt if someone did not wish to use the park, it should be handled similarly to a Special Exception as to why it was unique and should be held downtown. He stated he felt a similar fee structure for non-profit and for profit rentals should be utilized for the streets.

Discussion ensued with regard to associated costs.

Ms. Patti Allen, Fishermen's Village, mentioned the events they held.

Mr. Murphy stated he had not listed those events as there was an existing agreement with regard to same.

Mr. John Wright, PGCC, clarified their recommendation was that approval from the businesses came after DRC and the fee would be based upon the number of affected businesses.

Discussion ensued with regard to the notification being done by staff.

Consensus of members was to allow the DRC to make the determination as to whether an event was unique enough to warrant street closure instead of being located within a park.

Ms. Gussie Baker spoke of the efforts by the Block Party to notify every business within the area to be affected with a list of street closures and times and any other information they may request.

**NOTE: A short break was called at 11:35 a.m.**

### **Employee Wellness Center**

Mr. Phil Wickstrom, Human Resources Manager, displayed a PowerPoint presentation, as delineated in the agenda material, explaining the cost trends associated with provision of health insurance for employees. He noted traditional methods of cost control were as follows: employee contribution to premium, dependent coverage subsidy, plan changes with higher co-pays, deductibles or reduced benefits, changing insurance companies or reduction of other compensation components such as salary or pension. He explained an employee wellness center was another method of reducing costs by means of replacement of primary care visits, reduced specialist utilization and costs, reduced prescription costs and utilization for workers compensation, police and fire testing and physicals and pre-employment physicals. He opined worker productivity would be increased through increased access to primary care, adding a reduction in long term disease costs was anticipated as well. He noted the goal was to reduce the workers compensation modifier by 25% within two years and to reduce health insurance renewal increases by 50% within three years. He denoted incentives to encourage employee usage of the wellness center, as delineated in the agenda material, adding the negative aspects would be higher co-pays for primary care and specialty visits, prescriptions and contributions to health care premiums. He concluded options to be considered were health insurance plan design, whether to build the wellness center individually or to contract with a medical services provider.

**Councilmember Keesling** inquired if other Public Risk Management (PRM) pool members had a clinic.

Mr. Wickstrom responded in the negative.

**Councilmember Wallace** questioned the location of the County facility, asking the status of piggybacking with that Clinic.

Mr. Wickstrom responded it could be undertaken at any time; however, the County desired a location on this side of the bridge as the County had many employees located in this area.

Discussion ensued with regard to start up costs.

**Councilmember Friedman** asked if all PRM pool members paid the same rate.

Mr. Wickstrom responded in the negative, explaining rates were based upon utilization.

**Councilmember Friedman** opined if the City was the only pool member who utilized a wellness center, the savings would be affected based upon the pool calculations related to renewal rates.

Discussion ensued with regard to becoming self insured.

Consensus of members was to keep exploring the various options for future consideration.

## RECOMMENDATION FROM CITY OFFICERS

### CITY MANAGER

City Manager Kunik stated staff would present members with proposals for pensions at the second May meeting as the State legislature should be finished with their bills by that time.

### CITY ATTORNEY

City Attorney Levin advised a release of lien related to the Gerta Craig case had been inadvertently left out at the last meeting, requesting approval to execute and record same.

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

**MOTION UNANIMOUSLY CARRIED.**

### BOARDS AND COMMITTEES

#### **Announcement of Vacancies**

Code Enforcement Board – Alternate

City Clerk Foster announced the vacancy.

Historic Preservation Advisory Board – Alternate

City Clerk Foster announced the vacancy.

Historic Preservation Advisory Board

City Clerk Foster announced the vacancy.

#### **Nominations**

Punta Gorda Housing Authority (2)

Councilmember Friedman **MOVED** to nominate and appoint Mr. Fabian and Ms. Washington, **SECONDED** by Councilmember Albers.

**MOTION UNANIMOUSLY CARRIED.**

### POLICY AND LEGISLATION

**ALBERS:** Mentioned a near catastrophe in the Utilities Department which was handled in such a smooth manner that most citizens were totally unaware. He complimented staff on their efforts.

**FRIEDMAN:** Commented he had been approached on two topics, explaining the first was a request for staff to develop a ratio of garage to living space limit. He noted he had offered to determine if there was an interest; however, he would not want same to take effect prior to Mr. Wiley settling his issues with Burnt Store Isles Association (BSIA).

**Mayor Goldberg** responded he did not feel there was an issue, adding he felt this was an attempt to have the City adopted an ordinance to settle an issue they were dealing with.

**Councilmember Albers** stated he had suggested the BSIA determine if there was support among the various homeowner associations and determine the appropriate ratio prior to requesting City staff expend any time on same.

**Councilmember Keesling** inquired why BSI did not add same to their deed restrictions rather than blanket the entire City.

**Councilmember Albers** responded he would like them to poll the other areas.

**Councilmember Friedman** then stated concerns had been relayed to him regarding commercial vehicles such as lawn maintenance trucks parking and blocking one lane of traffic rather than parking in a driveway or vacant lot.

Consensus of members was to make no changes to the current regulations.

#### **CITIZENS' COMMENTS**

Mr. Harrington recommended the City promote the changes made this date toward impact fees, thanking members for doing so. He then commented he wished the media would spend more time in demonstrating how well things were going in the City of Punta Gorda with regard to managing the City's budget, citing several examples.

The meeting was adjourned at 12:38 p.m.

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Mayor

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City Clerk