



**CITY OF PUNTA GORDA, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
WEDNESDAY, JULY 6, 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.

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

PUBLIC HEARINGS

ZA-06-11 - 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 Section 12.10, "Prohibited Plants"; providing certain exceptions to removal requirement for existing developed single-family property; providing requirement for hold harmless agreements; providing maintenance requirements for retained prohibited species; providing exceptions for certain banyan and ficus trees; providing modification to the list of prohibited plants and trees; providing for conflict and severability; and providing an effective date.

FIRST READING

Continued from June 15, 2011

City Attorney Levin read the ordinance by title, stating the proposed ordinance had been amended pursuant to Council direction.

Ms. Teri Tubbs, Zoning Official, explained the amended ordinance now indicated it would be unlawful for any person to sell or plant any of the denoted plant materials, effective April 20, 2005, adding anyone violating same would be required to remove such prohibited plants at their sole expense. She further explained a condition of any approval for new development would require the removal of Brazilian Peppers,

Australian Pines and Melaleuca trees, along with any new Australian Pines that sprouted on the property. She concluded staff recommended approval.

City Attorney Levin stated he would like to include verbiage in the third whereas clause to indicate the trees in the prohibited list constituted a public nuisance.

Ms. Joan LeBeau, Chief Planner, confirmed same were a nuisance.

Mayor Goldberg called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

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

MOTION UNANIMOUSLY CARRIED.

GA-13-11 An Ordinance of the City of Punta Gorda, Florida, amending Chapter 12, Punta Gorda Code, implementing legislative changes made to the Local Business Tax Act; providing for conflicts and severability; and providing an effective date.

FIRST READING

City Attorney Levin read the ordinance by title

City Manager Kunik explaining same had been amended to gain compliance with legislation adopted effective July 1, 2011 eliminating the ability to tax individuals.

Mayor Goldberg called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

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

MOTION UNANIMOUSLY CARRIED.

GA-15-11 - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 16, "Parks", Punta Gorda Code; amending Section 16-4, "Regulations", providing provisions for overnight parking in city parks; amending Chapter 23, "Traffic", Article II, "Parking Areas", Punta Gorda Code; amending Section 23-15, prohibiting parking on walkways and courtyards; amending Section 23-17, eliminating on-street parking on Grace Street; adding new section 23-23, providing parking provisions in city lots, garages, public streets and other property; providing for conflict and severability; and providing an effective date.

FIRST READING

City Attorney Levin read the ordinance by title.

Councilmember Albers inquired why Gilchrist Park had been included, stating he had been informed Gilchrist was included due to the mooring field. He stated if the

mooring field was constructed, parking would be at the Best Western rather than the park. He requested same be eliminated.

Councilmember Friedman concurred.

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.

A Resolution of the City of Punta Gorda, Florida, designating those parcels identified on the map attached hereto as Exhibit "A" as a Brownfield Area for the purpose of Environmental Remediation, Rehabilitation, and Economic Redevelopment; naming the Brownfield Area as "The West Henry Street Enhancement Zone"; designating the Community Redevelopment Agency as the Brownfield Advisory Committee; directing the City Clerk to notify the State of Florida Department of Environmental Protection of the designation of the West Henry Street Enhancement Zone as a Brownfield Area; providing for conflicts; providing for severability; and providing for an effective date.

FIRST PUBLIC HEARING

City Attorney Levin read the resolution by title.

City Manager Kunik explained adoption of the proposed resolution would designate the property as a Brownfield Area, providing the ability for future development to apply for bonus tax refunds up to \$2,500 for each job created based upon the State's criteria.

Mayor Goldberg called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

City Attorney Levin inquired if two public hearings were required.

City Clerk Foster responded affirmatively, requesting the motion indicate the second public hearing would be held on August 10, 2011 at 9:00 a.m.

Councilmember Albers **MOVED** approval on first reading and to hold the second public hearing at 9:00 a.m. on August 10, 2011, **SECONDED** by Councilmember Wallace.

MOTION UNANIMOUSLY CARRIED.

ORDINANCE/RESOLUTION

No Public Hearing Required

SV-01-11 - A Resolution of the City Council of the City of Punta Gorda, Florida declaring its intent to vacate that undeveloped right-of-way being a portion of Block 109, running east to west and lying between Lots 1 through 9 and Lots 10 through 18, Town of Punta Gorda, being an unimproved 41 foot wide street according to the plat thereof as recorded in Plat Book 1, Page 14 of the Public Records of Charlotte County, Florida containing 17,858 square feet; providing for publication and notice to adjacent property owners; and providing an effective date.

City Attorney Levin read the resolution by title.

City Manager Kunik stated the Development Review Committee (DRC) and Planning Commission had reviewed the request wherein it was requested any development provide the necessary improvements, adding staff concurred with same.

Councilmember Friedman commented the proposed corridor would have provided good access to the railroad for the Linear Park, asking if there was any other alternative than a vacation such as the City retaining ownership with an easement.

Discussion ensued with regard to possible alternatives including the use of an easement, occupation of right-of-way (ROW) or the possibility of having a reverter clause should the development not move forward.

Mayor Goldberg inquired if the applicant had been made aware of the alternatives.

City Clerk Foster advised the action this date was to declare the City's intent to vacate, adding the applicant would most likely be in attendance for the public hearing.

Councilmember Albers inquired if the vacation could be predicated on the development going forward.

City Attorney Levin responded the vacation could be conditioned.

Councilmember Keesling mentioned the agenda item for July 13, 2011 stated the co-applicants had no plans for development, thus stormwater would be required of any future developer.

Mr. David Hilston, Urban Design Manager, explained the vacation was desired in order to facilitate the sale of the property to a potential developer.

Councilmember Friedman **MOVED** approval and requested staff discuss alternatives with the applicant, **SECONDED** by Councilmember Albers.

MOTION UNANIMOUSLY CARRIED.

CONSENT AGENDA

Councilmembers Friedman and Albers pulled item D-1.

Councilmember Friedman mentioned the resolution heard this date to dedicate the Henry Street property as a Brownfield Area to encourage development of same, thus he maintained his objection to drawing more attention to the eagle nest so as not to hinder sale and development of the property.

Mayor Goldberg stated the surrounding land was unusable with the eagles in the nest due to the buffer zone.

Councilmember Albers pointed out the proposal required a much larger buffer zone, adding he concurred same would hinder the sale of the property. He recommended the situation be left as it was presently.

Mayor Goldberg added the managers of the History Park had expanded the buffer zone for protection of the nest.

Councilmember Albers **MOVED** to deny Item D-1, **SECONDED** by Councilmember Friedman.

MOTION UNANIMOUSLY CARRIED.

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

MOTION UNANIMOUSLY CARRIED.

A. City Clerk's Department

1. Approval of Minutes: Regular Minutes of June 15, 2011

B. Growth Management Department

1. A Resolution of the City Council of the City of Punta Gorda, Florida, adopting a Citizen's Participation Plan
2. A Resolution of the City Council of the city of Punta Gorda, Florida, adopting a Residential Anti-Displacement and Relocation Assistance Plan

C. Police Department

1. Byrne/Justice Assistance Grant – Local Solicitation
2. Byrne/Justice Assistance Grant – State Solicitation

D. Public Works Department

1. Bald Eagle Education Grant Continued from 6/15/11

E. Legal Department

1. Monthly Litigation Report – July 2011

NEW BUSINESS

FY 2012 Budget Update - General & Gas Tax Funds

Ms. Sharon Knippenberg, Controller, displayed a PowerPoint presentation, as delineated in the agenda material, stating the proforma included the costs to implement Advanced Life Support (ALS), the wage increase to be utilized for increased

employee contribution to the pension plans and the use of storm fund reserves. She noted further changes included reduced State revenue projections, reduced health insurance increase, reduction in pension contributions by the City, additional departmental reductions and additional personnel projection savings, adding the deficit was estimated to be \$89,000. She then listed options to close the gap as follows: increased collection rate for property taxes, eight hour furlough for all employees and use of additional reserves.

Mayor Goldberg pointed out in past years, the reserve amount had been higher than estimated, stating if same were the case, there should be no furlough.

Councilmember Albers recalled members had directed the City Manager that no more changes impacting the employees would be considered, thus he wanted the furlough taken off the table for further consideration.

Councilmember Friedman stated the increased collection rate for tax collection should be utilized in the budget as same was out of the City's hands. He then reiterated members had directed the City Manager that there be no more impact on the employees. He reiterated staff had been directed to maintain a 5% reserve; however, the information provided this date listed same at 6%. He stated 6% reserve was \$231,000 over the 5% which should be utilized to bridge the gap. He stated as the property tax figures had not been provided, there was no need to be considering same at this time.

Ms. Knippenberg stated the amount of reserve was a philosophical decision, adding staff desired to produce a balanced budget with revenues equaling expenditures and were working toward same. She then provided detailed information related to road paving and ALS costs. She displayed a proforma denoting 2012 and 2013, advising another shortfall may occur in 2013, which was one reason to maintain a larger reserve in the event it was needed in 2013.

Councilmember Friedman stated members recognized utilizing reserves in this economy was necessary so long as a 5% reserve was maintained. He acknowledged a 10% reserve would be desirable when the economy improved. He then stated the increased reserve amount may negate the need to increase the millage rate for road paving, adding same could be further impacted if the property values were better than anticipated.

Consensus of members was to remove the furlough from consideration and to productively use any reserves above 5%.

City Manager Kunik then advised the increase being provided to employees would be used to make an increased contribution to the pension plan, pointing out it was not a

salary increase. He stated employees not in the pension plan or in the drop plan would realize a real salary increase, adding same was not equitable.

Consensus of members was to concur.

Ms. Knippenberg then drew members' attention to the additional five cent gas tax fund which was utilized for the City's paving program, explaining same paid approximately \$238,000 of the necessary \$600,000. She then displayed a slide of the streets to be included in the 2012 year's program.

Councilmember Friedman inquired if rejuvenation was necessary now that the paving program was well underway.

Mr. Rick Keeney, Public Works Director, stated funding for rejuvenation was to be reduced in future years.

Ms. Knippenberg then displayed a proforma for use of the six cent gas tax revenues, pointing out a gap in the year 2016.

Discussion about Fair Share (Transportation, Parks, Fire, General Government & Police) impact fee rates and methodology

Mr. Duane Guthrie, Clarion Associates, displayed a PowerPoint presentation, as delineated in the agenda material, providing detailed information on the following: revenue and expenditure history, requirements for impact fees, options for one-time infrastructure changes, current economy, common implementation methods and economic and population changes. He continued with the following findings and recommendations: reduced development activity to continue over the next five years and feasibility of transportation and park impact fees, with recommendations to continue suspended collection of police, fire and general government impact fees, consider changing park impact fees to a plan-based method to include linear parks and trails and consider changing transportation fees to a plan-based method with lower fees in the downtown area. He then addressed residential impact fees by recommending combination of population data by units in each structure, consideration of fees by single family unit based on data limitation and increasing impact fees with floor area to eliminate the inequity of smaller units subsidizing larger housing. He then recommended the elimination of size thresholds for noncommercial development, as well as eliminating the medical/dental category and updating the trip generation rates. He concluded by reporting the steps to be taken next, which would include a public meeting to gain community input in August, 2011.

Ms. Susan Shoettle added the Legislature made a change to the impact fee act which required separate accounting and the most recent data, adding a 2009 provision shifted the burden of proof to the local government, thus requiring evidence that the

fees were based upon correct determinations and complied with the Statutes and case law. She noted lawsuits were still pending with regard to same. In reference to the suspension of certain impact fees, she advised same was appropriate in the present economy; however, when development returned special assessments could be utilized to supplement impact fees.

Councilmember Keesling questioned how elimination of the size threshold would assist small businesses.

Mr. Guthrie advised the present table charged a higher amount per square foot for smaller buildings, thus reduction of the dollar amount would reduce the rates.

Councilmember Wallace inquired how commuting figures were calculated.

Mr. Guthrie stated the Census Bureau tracked that information, adding it was based partially on unemployment taxes being paid.

Mayor Goldberg asked what was envisioned for the public input meeting.

Mr. Guthrie responded he would discuss same with staff, adding it could be citizens, business owners or stakeholders. He stated he would gain input as the process was underway to assist with the final report.

City Manager Kunik advised a draft report would be provided for members prior to the final report in September, 2011.

Discussion and direction to staff regarding the limited use of search lights.

City Manager Kunik advised staff had received requests to utilize search lights in conjunction of certain events, noting same was prohibited by code. He noted search lights had been employed at several events, without the knowledge of staff or complaints by citizens, requesting direction as to whether the code should be amended to allow search lights or other advertising devices when deemed appropriate as a part of an approved special event.

Councilmember Friedman mentioned the agenda material denoted prohibited signs, exempting signs with time and temperature, recalling the doctor who had been required to remove his changing sign.

Ms. Tubbs responded the regulations were different in the City Center (CC) zoning district, which required nonconforming signs to be removed upon new ownership.

City Attorney Levin pointed out there were laser lights used for promotion, asking if members wished to limit same to traditional search lights.

Consensus of members was to direct staff to amend the regulations for special events, utilizing a definition of a search light to limit same.

RECOMMENDATION FROM CITY OFFICERS

CITY MANAGER

City Manager Kunik reported staff would be mailing letters requesting input for the 2012 Strategic Plan.

BOARDS AND COMMITTEES

Announcement of Vacancies

Historic Preservation Advisory Board – Alternate (2)

City Clerk Foster announced the vacancies.

Utility Advisory Board

City Clerk Foster announced the vacancy.

Nominations

Board of Zoning Appeals – Alternate

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

MOTION UNANIMOUSLY CARRIED.

Building Board

Councilmember Friedman **MOVED** to nominate and appoint Mr. Erik Howard, **SECONDED** by Councilmember Keesling.

MOTION UNANIMOUSLY CARRIED.

POLICY AND LEGISLATION

FRIEDMAN: Stated he had received several emails with regard to dog friendly areas, adding a request had been made to allow dogs on the Harborwalk area in Gilchrist. He noted same would only require the addition of waste stations.

Councilmember Albers pointed out it would be necessary to cross through the park to access the walkway.

City Manager Kunik advised there was a sidewalk near the Best Western or at the other end of the park where the walkway could be entered.

Councilmember Albers stated many were opposed to dogs in Gilchrist, thus he felt signage should make it clear dogs were only allowed on the walkway.

City Manager Kunik pointed out dogs were on the walkway even though it was prohibited.

Mayor Goldberg pointed out dogs were in the park during the Guitar Army events.

Discussion ensued with regard to allowing same prior to the completion of the Harborwalk, with a consensus to await the completion of the improvements.

KEESLING: Reported funding for the Southwest Florida Regional Planning Council (SWFRPC) had been reduced in the Governor's budget, stating the Executive Director had responded to same by firing four employees. She stated upon action by the Commission, the employees had been reinstated and a vote of no confidence was taken regarding the Executive Director based on a lack of communication and poor response to public records requests. She noted all issues would be addressed at their July meeting.

CITIZENS' COMMENTS

Mr. Steve Fabian asked if the present millage rate included the \$350,000 for road improvements, and if so was the proposal to increase same again this year.

City Manager Kunik responded affirmatively to both questions.

Councilmember Friedman added same had transpired for the previous three years.

Mr. Fabian commented on the recent Independence Day party held on the roof of the Herald Court Centre, adding it would only be improved by having access to electric power.

The meeting was adjourned at 12:22 p.m.

Mayor

City Clerk