



**CITY OF PUNTA GORDA, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
WEDNESDAY, OCTOBER 5, 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

Acknowledgment of 2011 Main Street Punta Gorda Awards

Mayor Goldberg stated Florida Main Street had awarded Main Street Punta Gorda for the following categories: Outstanding Sign/Display Project; Phase One Wayfinding, Outstanding Economic Restructuring Program or Project; Business Incentive Plan and Outstanding Retail Sales Promotion; Wreaths Around Main Street 2010.

City Manger Kunik then announced Police Chief Butch Arenal had been elected as the Chairman of the Florida Law Enforcement Accreditation Organization and Mr. Rick Keeney, Public Works Director had been awarded the honor of Leadership Fellow by the American Public Works Association.

Introduction of Board/Committee Member Nominees

Ms. Joyce Thompson introduced herself as a nominee for Code Enforcement Board.

Mr. Jay Buckley introduced himself as a nominee for the City's representative on the Charlotte County Marine Advisory Board.

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

CONSENT AGENDA

Mayor Goldberg pulled item B-1, stating he felt pursuing annexation should be added to the area under Growth Management.

City Manager Kunik stated same would be added; however, the list was not the only projects being undertaken, but rather the major ones.

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

MOTION UNANIMOUSLY CARRIED.

A. City Clerk's Department

1. Approval of Minutes: Regular Meeting of September 21, 2011
2. Approval of Minutes: Budget Public Hearing of September 21, 2011

B. City Manager's Department

1. FY 2012 City Manager & Department Objectives
2. Memorandum of Understanding between the City of Punta Gorda and Southwest Police Benevolent Association (PBA) Officers Union

C. Fire Department

1. A Resolution of the City Council of the City of Punta Gorda, Florida, approving the negotiation of an Agreement for Education Services between the City of Punta Gorda and Desoto County Hospital District d/b/a Desoto Memorial Hospital for the Advanced Life Support (ALS) Preceptorship Program; authorizing the City Manager and Fire Chief to execute the Agreement; and providing an effective date

D. Legal Department

1. Invoice of Allen, Norton & Blue, P.A. for services rendered in August 2011
2. Invoices of the Farr Law Firm for services rendered in August 2011
3. Invoice of Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. for services rendered by David M. Levin, Esq. through September 28, 2011.
4. Monthly Litigation Report

NEW BUSINESS

SP-01-11 - Request by Dr. Rivera for an off-site parking area.

Ms. Teri Tubbs, Zoning Official, explained with the success of the newer two story office building constructed at 315 E. Olympia Avenue, additional parking was needed. She stated Dr. Rivera has proposed to create an off-site parking area on three vacant lots located behind the buildings on Hargreaves Street, adding the primary use would be for employees, thereby creating additional available on-site and on-street parking for customers and patients. She concluded staff, the Development Review Committee and Planning Commission recommended approval.

Councilmember Albers confirmed same would not be paved.

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

MOTION UNANIMOUSLY CARRIED.

Discussion regarding allowing encroachments into easements in use in the Special Residential Overlay District.

Ms. Tubbs advised when the Land Development Regulations (LDRs) were adopted in 2005, they contained a provision prohibiting any building or structure to be located within any setback or recorded easement. She explained it had been brought to the City's attention that homes constructed within the Special Residential Overlay (SRO) district required a 7.5' setback, thus requiring air conditioners or other equipment and roof overhangs to encroach into the standard recorded easement, adding the LDRs were amended to allow such encroachments. She stated an issue had arisen in that no consideration had been given to easements in use and the need for the City to access same for maintenance or construction of utility or stormwater systems, adding staff proposed an amendment to prohibit permanent structures within any easement in use with the exception of roof overhangs at least 8' above grade. She displayed various overheads denoting possible scenarios of construction. She requested direction to prepare an ordinance to amend the code to require the property owner to relocate items in easements in use if construction in the easement was desired.

City Attorney Levin inquired what would transpire if the City needed to use an easement in the future which had mechanical encroachments within same.

Councilmember Friedman opined the concern was relative to being able to bring equipment into the area for service.

Discussion ensued with regard to access to the easement.

Councilmember Friedman recommended new construction with an encroachment be limited to the first occurrence, explaining the second property would be required to locate their mechanicals on the other side of the structure. He further explained if there were mechanicals on both sides, a variance would be necessary.

Consensus of members was to direct staff to draft an ordinance with those conditions.

Discussion and direction to staff regarding allowed encroachments and setback requirements.

Ms. Tubbs explained the LDRs reduced side yard setback requirements in certain zoning districts from 7.5' to 5' and allowed detached garages in the rear yard to have a minimum setback of 3'. She noted the LDRs allowed for some encroachments into the required yards and in some cases up to 5', adding when the yard was less than 5' in width, the encroachment could not exceed one-half of the width of the yard. She pointed out other encroachments were allowed without the one-half yard limitation, thus staff proposed to amend the LDRs to indicate all instances of a yard less than 5'

would be governed by the one-half yard limitation. She further stated the LDR regulations for outside storage of personal property required staff to determine the actual building setbacks which were difficult to enforce, thus an amendment was proposed to clarify same within the definition of yard.

Consensus of members was to support staff's proposal.

Discussion and direction to staff regarding the number of sidewalks permitted from the rear of a property to the dock or seawall in the Special Residential Overlay (SRO) District.

Ms. Tubbs stated the code defined walks as being no wider than 5' in width and allowed same in rear yards only for the purpose of getting from one point to another by a direct method, adding this had been interpreted to mean a single walk was all that was permitted. She explained staff was finding many instances where more than one walkway was constructed in rear yards, adding staff did not feel there was a reason to limit walkways to only one; however, walkways should be limited to two for the seawall or dock on a standard 80' lot or no more than one per each 50 linear feet of frontage.

Councilmember Albers suggested input be requested from Punta Gorda Isles and Burnt Store Isles. He stated while he agreed with the recommendation for the standard size lot, he wasn't sure what was being proposed for the larger lots.

Ms. Tubbs stated same would be based upon the overall frontage.

Consensus of members was to direct staff to amend the ordinance to provide specifications for the number of sidewalks.

RECOMMENDATION FROM CITY OFFICERS

CITY ATTORNEY

Update on Best Western Harborwalk

City Attorney Levin recalled Council's decision to relocate the portion of the Harborwalk adjacent to the Best Western from the upland to a walkway over the water, adding he had advised an easement including riparian rights was necessary. He stated he had met with representatives of the Best Western, who were adamantly opposed to granting riparian rights, but rather they would be willing to be the applicant for permitting with the City funding same. He stated the State had indicated they had authorized the issuance of a Submerged Lands Lease to the Best Western and until same was paid for, no modifications could be made. He further stated the State would prefer the City exercise their easement rights on the uplands, adding it might be possible to cantilever the upland walkway over the water somewhat without an amendment to the Submerged Lands Lease being necessary. He stated in doing so, water quality and riparian rights issues would be negated. He advised he had discussed

same briefly with staff, adding it became evident there may not be a cost savings. He stated there would be a significant delay in being able to construct the over the water walkway so long as Best Western was in bankruptcy court and did not pay the Submerged Lands Lease, thus a decision must be made as to whether to await same or to utilize the uplands easement.

Councilmember Albers inquired if the current easement would require amending to include the cantilever.

City Attorney Levin responded it would, opining the Best Western representatives would approve of same. He noted either option would be costly due to the condition of the seawall, but rather timing would be the issue.

Councilmember Friedman stated so long as adequate width was provided, he did not feel there was a great difference in either option. He opined same should be at least 10' wide.

Discussion ensued.

City Attorney Levin stated preliminary designs would be necessary to gain approval from the State.

Consensus of members was to pursue the upland option to gain cost estimates and preliminary design.

BOARDS AND COMMITTEES

Announcement of Vacancies

Punta Gorda Isles Canal Advisory Committee

City Clerk Foster announced the vacancy.

Nominations

Charlotte County Marine Advisory Committee

Councilmember Friedman **NOMINATED** all interested parties.

Appointments

Code Enforcement Board

Voting forms were distributed.

City Attorney Levin announced Ms. Joyce Thompson had received the most votes and was therefore appointed to the Code Enforcement Board.

POLICY AND LEGISLATION

ALBERS: Mentioned the increase of emails received which were not related to City business asking if members felt the City Clerk should filter same.

Consensus of members was to agree.

CITIZENS' COMMENTS

Mr. John Chalifoux expressed surprise the City Council did not address the negative

actions of Councilmember Wallace as same did not help the City's image.
The meeting was adjourned at 11:15 a.m.

Mayor

City Clerk