

**CITY OF PUNTA GORDA, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
WEDNESDAY, JUNE 2, 2021, 9:00 A.M.**

COUNCILMEMBERS PRESENT: Carey, Cummings, Matthews, Miller, Prafke

CITY EMPLOYEES PRESENT: Kristin Simeone, Finance; Rick Keeney, Public Works; Charles Pavlos, Utilities; Jeff Payne, Human Resources; Joan LeBeau, Urban Design; Pamela Davis, Police; Ray Briggs, Fire; City Attorney Levin; City Manager Murray; Deputy City Clerk Welch

Mayor Matthews called the meeting to order at 9:00 a.m.

Invocation was given by Mr. Carlo Gargiulo, followed by the Pledge of Allegiance.

Mr. Ed Weiner expressed dissatisfaction that all flags must be treated equally with no greater consideration for the American flag.

City Attorney Levin clarified under Supreme Court decisions, the City could not discriminate based on the content of a sign which, by the proposed definition, included flags; therefore, the American flag could not be regulated differently than other flags as same would be a content-based regulation.

Mr. Michael Hirsch expressed concern portions of the proposed sign code violated free speech rights, opining the proposed definition and application of fighting words was not reflective of Supreme Court cases involving same.

City Manager Murray announced now that Council Chambers was fully reopened, emailed comments would no longer be read into the record at the meetings.

Ms. Judy Beaumont, Punta Gorda Garden Club (Club) President, thanked City Council for the upcoming proclamation recognizing National Garden Week, providing an overview of the Club's involvement in the community. She announced a garden tour was planned for December 3 and 4, 2021, to replace the Holly Days Home Tour.

PROCLAMATION/PRESENTATIONS

National Garden Week

Mayor Matthews presented the proclamation, which was accepted by Ms. Beaumont.

Flag Day - Read Only

Councilmember Prafke read the proclamation.

Mayor Matthews announced a Flag Day ceremony would be held at 9:00 a.m. on June 14, 2021, at the Laishley Park gazebo, inviting everyone to attend.

Introduction of Board/Committee Member Nominees

None.

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

ORDINANCE/RESOLUTION

No Public Hearing Required

AX- 01- 2021 An Ordinance of the City Council of Punta Gorda, Florida, annexing within the municipal limits of Punta Gorda, 16.8+/- acres of city- owned property located in Charlotte County, Florida, commonly known as the city of Punta Gorda Public Works & Utilities Campus, and addressed as 3130 & 3132 Cooper Street, as more particularly described in Exhibit "A", in accordance with the voluntary annexation provisions of Section 171.044, Florida Statutes; redefining the boundary lines of said city in conformance therewith; amending the official boundary map of the City of Punta Gorda, Florida; directing the City Clerk to provide certified copies of this ordinance to the Charlotte County Clerk of Court, Charlotte County Administrator, Florida Department of State and Florida Office of Economic and Demographic Research; providing for conflict and severability; and providing an effective date.

SECOND READING

City Attorney Levin read the ordinance by title, noting this was the second reading.

Councilmember Prafke **MOVED** approval of AX-01-2021, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

ZA- 01- 2021 An Ordinance of the City of Punta Gorda, Florida, amending Chapter 26, Article 11 "Sign Standards," Punta Gorda Code; rewriting and reorganizing the same in its entirety; providing for conflict and severability; and providing an effective date.

SECOND READING

City Attorney Levin read the ordinance by title, noting this was the second reading.

Mayor Matthews questioned if staff would cite individuals who placed multiple flags to celebrate military and patriotic holidays, inquiring who would be responsible for such flags placed in cul-de-sacs. She further questioned how commercial displays and cemeteries would be addressed.

City Attorney Levin replied the proposed Sign Code included an exclusion for holiday decorations, which included Memorial Day and Veterans Day decorations. He indicated certain time limitations could be included for holiday decorations; however, he felt same was not appropriate. He stated the City had the discretion and authority to remove signs in the City's right-of-way. He concluded the City would exercise both reasonableness and discretion when enforcing the Code, adding education would be provided as part of the enforcement process.

Mayor Matthews objected to American flags being removed from a property for any reason.

City Attorney Levin acknowledged City Council had discretion to establish separate regulations for the American flag, advising against doing so as same would likely not pass constitutional muster. He then indicated cemeteries could be exempted from the limitations on flags, adding flags placed in cul-de-sacs could be removed by the City.

Councilmember Carey questioned if cul-de-sacs would be exempt similar to parks, with decorations allowed provided the City and residents approved of same.

Ms. Lisa Hannon, Zoning Official, replied statutory and signage in cul-de-sacs were typically considered to be a decorative part of the landscape, adding Code Compliance Officers would use the reasonableness standard when determining if there were any violations in the cul-de-sacs. She noted enforcement would be complaint driven.

Mayor Matthews opined retail store seasonal events should be exempt.

Councilmember Carey inquired how bunting would be addressed under the proposed Sign Code.

City Attorney Levin responded the proposed Code was open to some degree of interpretation and reason, stating seasonal decorations were also granted an exclusion, which would address placement of same at shopping centers.

Mayor Matthews opined car dealerships should be exempt.

City Attorney Levin replied commercial properties would need to abide by the provisions of the Sign Code in order to be evenhanded in enforcement. He advised car dealerships could not be granted an unlimited number of American flags but a limited number of other types of flags, noting that specifically was found to be unconstitutional in the Demitt vs. the City of Clearwater case which was heard in the United States Court of Appeals for the 11th Circuit.

Mayor Matthews opined car dealerships would object to the regulations.

Ms. Hannon recalled there had been a problem some years prior; however, car dealerships had since abided by the limitation on the number of signs and flags.

Discussion of application of the Sign Code to car dealerships ensued.

Councilmember Carey noted while the Sign Code was being drafted to ensure free speech, many individuals perceived it as limiting free speech.

Councilmember Profke spoke on the difficulty of balancing the right to free speech with the public's desire for civility. She then noted the monument sign for the Burnt Store Isles subdivision would be grandfathered as a non-conforming sign which had conformed to a previous Sign Code.

Mayor Matthews questioned if all signs leading into housing developments were non-conforming.

Ms. Hannon replied the majority of those signs were approved by City Council in prior years.

City Attorney Levin pointed out there could be signs the City was not aware of which predated the effective date of the proposed Sign Code and did not conform to the Sign Code in existence at the time of their construction, concluding such signs would not be grandfathered non-conforming signs.

Mayor Matthews inquired as to non-conforming signs on property that would be annexed into the City.

Ms. Hannon replied non-conforming signs on properties considering annexation would be addressed by a pre-annexation agreement.

Councilmember Prafke inquired if the proposed Code would address a device made from pipe used to display a flag.

City Attorney Levin replied in the affirmative, explaining the ordinance's language included "thing" and "accoutrements", which should address such a device.

Councilmember Miller inquired as to the Police Department's opinion.

Mr. Jason Ciaschini, Police Captain, replied the Police Department enforced all the laws and ordinances of the State of Florida and the City, indicating officers would respond to sign complaints in the same manner they responded to any other complaint.

Mayor Matthews confirmed the only amendment Councilmembers desired was the exemption of cemeteries.

Councilmember Miller expressed concern there would be issues with the proposed Sign Code related to the First Amendment, opining Mr. Hirsch's comments were appropriate.

City Attorney Levin expressed disagreement with Mr. Hirsch's interpretation of the U.S. Supreme Court decision addressing the definition of "fighting words", advising the definition of "fighting words" in the proposed Code was consistent with the U.S. Supreme Court's decision in Cohen vs. California where the court said fighting words were, "those personally abusive epithets which when addressed to the ordinary citizen are as a matter of common knowledge inherently likely to provoke violent reaction." He noted in that court case, the language on Mr. Cohen's clothing was not addressed to anybody in particular and, therefore, was not considered fighting words. He opined "fighting words" would have limited application in the City, emphasizing they must be addressed directly to a particular individual. He expressed doubt a large amount of enforcement against signs with fighting words would occur. He concluded the courts

had consistently indicated First Amendment rights were not absolute and he felt comfortable the ordinance was consistent with the parameters set forth by the U.S. Supreme Court.

Councilmember Cummings **MOVED** approval of ZA-01-2021 subject to the amendment regarding cemeteries, **SECONDED** by Councilmember Carey.

MOTION UNANIMOUSLY CARRIED.

CONSENT AGENDA

Councilmember Prafke **MOVED** approval of the consent agenda, **SECONDED** by Councilmember Carey.

MOTION CARRIED UNANIMOUSLY

- A. City Clerk's Department
 - 1. Approval of Minutes: Regular Meeting of May 19, 2021
- B. Legal Department
 - 1. Invoice of Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. for legal services rendered through May 27, 2021.
- C. Urban Design Division
 - 1. A Resolution of the City Council of the City of Punta Gorda, Florida, as Local Host Agency for the Coastal & Heartland National Estuary Partnership (CHNEP), approving the Interlocal Agreement between the City of Punta Gorda and the University of Florida to perform activities consistent with CHNEP'S Comprehensive Conservation Management Plan (CCMP); authorizing the Mayor to sign the agreement on behalf of the City; and providing an effective date.
- D. Police Department
 - 1. Application for FY 2022 Florida Department of Law Enforcement Justice Assistance Grant -County-wide
 - 2. A Resolution of the City of Punta Gorda, Florida, accepting a grant award from the Florida Department of Law Enforcement under the Fiscal Year 2021 Coronavirus Emergency Supplemental Funding (CESF) Local Residual Funding (Award No. 2021-CERF-CHAR-1-5A-023); authorizing the Mayor to execute the grant agreement on behalf of the City; and providing an effective date.

BUDGET

Award of Amendment #10 to Carollo Engineers, Inc., for professional services to prepare and submit an Underground Injection Control Operation Permit.

Ms. Anne Heinen, Procurement Manager, explained staff requested a proposal to provide engineering services to compile, analyze and submit pertinent data to the Florida Department of Environmental Protection (FDEP), along with preparation and

submission of an application for the required regulatory operation permit for the Class 1 Deep Injection Well system at the Shell Creek Reverse Osmosis Water Treatment Plant. She stated the City was currently operating under an operational testing permit which expired July 5, 2022 and was non-renewable. She reported the lump sum cost was \$57,405 with completion in 365 days. She stated the City would be responsible for payment of the permit processing fee of \$10,000 to the FDEP. She concluded staff recommended award of Amendment #10 to Carollo Engineers Inc. of Sarasota, Florida. Councilmember Prafke **MOVED** approval of award of Amendment #10 to the Master Agreement to Carollo Engineers Inc. of Sarasota, Florida, **SECONDED** by Councilmember Carey.

MOTION UNANIMOUSLY CARRIED.

Award of Amendment #5 to ADG Architecture, LLC, for Architectural and Engineering Services for Improvements at the Nature Park

Ms. Heinen stated this project was budgeted but unfunded at this time, explaining same was for engineering services for construction plans and technical specifications to update the fishing pier and observation deck at Nature Park to meet the Americans with Disabilities Act (ADA) guidelines and the Florida Accessibility Code. She stated the construction plans were requested to be done in two phases to allow flexibility in completion of the project.

Councilmember Carey questioned why the Nature Park was not constructed to meet ADA guidelines originally.

Ms. Julie Ryan, Senior Project Manager, replied the portion of the Nature Park to be addressed dated to the 1990s and was identified as an issue in the ADA Transition Plan. She stated design was being funded with ADA funds and park impact fees as well as additional ADA funds allocated to the project's construction.

Councilmember Miller confirmed the project was estimated to cost \$1 million for both phases, questioning if the existing structures were in danger of falling down.

Ms. Ryan replied the structures were still functional but were nearing end of life.

Councilmember Prafke **MOVED** approval of award of Amendment #5 to ADG Architecture, **SECONDED** by Councilmember Miller.

MOTION UNANIMOUSLY CARRIED.

UNFINISHED BUSINESS

None.

NEW BUSINESS

NOTE: Discussion of Florida Power and Light providing electric vehicle charging stations was held following the Community Redevelopment Agency meeting.

Florida Power and Light to provide electric vehicle charging stations in the City of Punta Gorda

Mr. Dominic Versailles, Florida Power and Light (FPL), provided a presentation on electric vehicle (EV) technology, explaining FPL intended to build 1,000 EV charging ports throughout Florida through its EVolution pilot program to address the increasing number of EVs on the road. He outlined the benefits of becoming a partner, stating the program included a seven-year commitment after which the City could choose to renew same for three one-year periods, purchase the charging infrastructure at fair market value or request the infrastructure be removed. He explained the intention was to construct 2 to 6 EV charging ports, which would each provide charging at 2 parking spaces, stating the cost would be approximately \$45 to \$60 per parking space each month if a charging port was used 8 hours per day. He noted the program would allow FPL to gain a better understanding of how EVs impacted the power grid.

Councilmember Prafke questioned if the charging station could accommodate credit cards.

Mr. Versailles replied no credit card was involved, indicating the EVolution app could be used.

City Attorney Levin drew attention to Exhibit C (Form of Easement Agreement), expressing concern the easement agreement was too general. He questioned if Exhibit C could be replaced with one more specific to the easement's purpose.

Mr. Versailles replied Exhibit C was for a transformer necessary for Level 3 urban chargers in a centralized location, adding the easement and transformer would be removed at the conclusion of the program if they were no longer necessary.

City Attorney Levin confirmed the easement exhibit could be modified to limit its use to this program.

Mr. Versailles stated easements were not required for Level 2 charging ports.

Councilmember Prafke indicated the program would be wonderful if customers could pay for the charge; however, same could not be done. She pointed out the City was always looking for funds for projects, concluding the program did not make sense.

Councilmember Miller expressed concern individuals would take advantage of the service, adding the City would lose money from the gas tax.

Councilmember Carey spoke in favor of the program, opining it could benefit the City, benefit the environment, and encourage individuals with electric vehicles to visit.

Councilmember Cummings agreed the program would benefit the City, acknowledging emissions were still generated by power plants which charged the vehicles.

Mayor Matthews stated this amenity could bring individuals into the City center, suggesting stations be installed at strategic locations in the City with some affiliated stations at locations not owned by the City. She spoke in favor of being proactive by participating in the program.

Councilmember Prafke clarified her objection was offering free charging at the City's expense.

Councilmember Miller agreed individuals using the charging stations should pay for the electricity they used.

Mayor Matthews pointed out Level 3 chargers had a payment mechanism; however, those charging stations would only be located near major highways.

Councilmember Carey questioned at what point in the 7-year program the City would break even as there would be no charge for the infrastructure, its installation or maintenance.

Councilmember Cummings noted provision of the service would be similar to the City's choice not to charge individuals for use of its parks.

Mayor Matthews pointed out free electricity was available at the parks.

Councilmember Miller expressed concern use of the charging stations could be abused by residents.

Mayor Matthews stated most EV owners had charging ports at their residence.

Councilmember Miller objected to offering free EV charging.

Councilmember Cummings pointed out the City offered free parking.

Councilmember Miller objected to that as well, questioning where charging stations could be placed to be effective for the City.

Mayor Matthews replied many locations were appropriate, such as the City's parking garage, Laishley Park or Gilchrist Park.

Councilmember Carey questioned if the charging stations could be sponsored.

City Manager Murray expressed uncertainty regarding same, indicating FPL would need to be asked if same was an option.

Mayor Matthews questioned if Councilmember Miller and Councilmember Prafke would find the program acceptable if the charging stations could be sponsored.

Councilmember Miller replied affirmatively; however, it would be important to work out the arrangements as to who the sponsors would be.

Councilmember Prafke suggested sponsorship was one way to introduce the program, voicing concern regarding the impact of EVs on the gas tax, which funded road paving.

Mayor Matthews noted only one EV charging station was available in the City, stating there was no way for someone to visit the City and be assured of having enough electricity to return home. She stated seeking out a free charging station was the nature of the EV concept. She added the legislature was considering establishing a tax associated with EV users. She concluded it made sense to offer charging stations as an amenity to visitors.

Councilmember Prafke pointed out a previous City Council had indicated the City would not provide free amenities to boaters, opining consistency was needed.

Councilmember Cummings countered that proposal had been to construct an upland facility in the middle of a neighborhood instead of an area where boaters would patronize local businesses, adding it would make sense to install the charging stations in the downtown.

Mayor Matthews stated there was a three to two situation here, requesting City Manager Murray reach out to FPL to inquire as to sponsorships for the EV charging stations. She stated once that information was known, this item could be discussed again and voted upon by City Council.

Councilmember Prafke reiterated her objection was to providing charging at the City's expense.

Mayor Matthews and **Councilmembers Carey** and **Cummings** expressed support for FPL's proposal as it was currently stated.

Councilmembers Miller and **Prafke** expressed opposition to the proposal.

City Manager Murray stated an ordinance change would be required to limit use of charging station parking places to EVs.

NOTE: A brief break was called at 10:42 a.m.

Proposed Stop Sign at West Charlotte Avenue and Taylor Street

City Manager Murray explained due to traffic accidents and requests by surrounding business owners, stop signs were being proposed for the intersection of West Charlotte Avenue and Taylor Street, adding same would enhance pedestrian and vehicle safety. He explained an evaluation and warrant was necessary to significantly change signage or traffic control devices. He explained no action was required; rather, information was being provided in order to address Councilmembers' concerns.

Mr. Bryan Clemons, Public Works Engineering Manager, explained in order to warrant a stop sign, at least 5 accidents in a 12-month period must have occurred, noting over a

5-year period, there were two, 12-month periods meeting that criteria, with a high of 7 accidents between February 12, 2018 and February 12, 2019; therefore, staff recommended placement of 2 additional stop signs at the intersection, which would create a 4-way stop at that location. He indicated there might be a slight visibility issue; however, accidents were the major concern, concluding staff did not anticipate a queuing issue to result from the stop signs.

Mayor Matthews and **Councilmember Cummings** expressed support for the proposal.

City Manager Murray indicated treatments would be made on the corners where the stop signs were located, adding a detailed schedule for implementation would be devised and the public would be notified prior to installation of the stop signs.

Consensus of City Council was the proposed stop signs would be beneficial.

RECOMMENDATION FROM CITY OFFICERS

CITY MANAGER

No comments.

CITY ATTORNEY

City Attorney Levin reported Learn to Sail had inquired as to a longer-term lease, explaining there was now uncertainty as to whether the City or State owned the northern portion of the basin. He advised a submerged land lease might be required from the State, noting same could affect the cost as well as the ability to extend the lease for 10 or more years. He stated he was attempting to clarify ownership, noting he would inform Learn to Sail if it was necessary to rethink the lease.

CITY CLERK

Donation Review Committee Appointment Confirmation

Deputy City Clerk Welch explained it was necessary for City Council to confirm the appointment of Ms. Donna Peterman as Chair of the Donation Review Committee due to her recent selection as Chair of the Historic Preservation Advisory Board.

Councilmember Cummings **MOVED** to confirm the appointment of Ms. Donna Peterman as Chair of the Donation Review Committee, **SECONDED** by Councilmember Prafke.

MOTION UNANIMOUSLY CARRIED.

Proclamations Procedure Discussion

Deputy City Clerk Welch inquired whether City Council desired to lift the restriction on the number of proclamations which could be accepted in person during Council meetings.

Discussion ensued with consensus to lift the restriction.

BOARDS AND COMMITTEES

Announcement of Vacancies

Board of Zoning Appeals Alternate (2)

Code Enforcement Board - Alternate

General Employee's Pension Board - 5th Member

Building Board (1 contractor and 1 consumer advocate)

Deputy City Clerk Welch announced the vacancies.

Nominations

Burnt Store Isles Canal Advisory Committee

Councilmember Prafke **MOVED** to nominate and appoint Mr. Sean Harrigan, **SECONDED** by Councilmember Miller.

MOTION UNANIMOUSLY CARRIED.

Code Enforcement Board

Councilmember Prafke **MOVED** to nominate and appoint Mr. Jay Nadelson, **SECONDED** by Councilmember Miller.

MOTION UNANIMOUSLY CARRIED.

POLICY AND LEGISLATION

MATTHEWS: Announced the budget had been presented to Governor Ron DeSantis, who had until June 16, 2021, to sign same, expressing optimism the City would receive funding for the Boca Grande drainage project.

CITIZENS COMMENTS

Citizens comments were heard at the beginning of the meeting.

The meeting was adjourned at 12:03 p.m.

Mayor

City Clerk