

**CITY OF PUNTA GORDA, FLORIDA  
REGULAR CITY COUNCIL MEETING MINUTES  
WEDNESDAY, OCTOBER 20, 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; City Clerk Smith

**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.

**PUBLIC INPUT**

Mr. Tim Ritchie requested City Council adopt an ordinance banning phosphate mining and gypstacks, objecting to Mosaic's construction of a chemical plant only 15 miles away from the City.

Mr. Jeff Lustig protested the City's sign ordinance.

Mr. Sherman Johnson introduced himself as a nominee for the Planning Commission.

**PROCLAMATIONS / PRESENTATIONS**

**Wyvern Hotel Community Service of the Year Award 2020**

**Mayor Matthews** presented Mr. Matt Nemec and Mr. Frank Cerasoli, Wyvern Hotel, with a Certificate of Appreciation in recognition of their recent Ascending Community Service Award presented by Choice Hotels International for their philanthropy and community service.

**Mayor's Ambassador Award**

**Mayor Matthews** presented the Mayor's Ambassador Award to Ms. Jade Hernandez, Miss Punta Gorda Teen USA, noting her accomplishments included academic excellence, promotion of leadership within youth, fundraising and numerous awards.

**National Long- Term Care Residents' Rights Month**

**Councilmember Prafke** proclaimed October 20, 2021 as National Long-Term Care Residents' Rights Month.

**Florida City Government Week**

**Councilmember Cummings** presented the proclamation, which was accepted by City Manager Murray.

**PUBLIC HEARING AGENDA**

**(Quasi- Judicial and Legislative)**

**A Resolution of the City Council of the City of Punta Gorda, Florida approving the final plat to subdivide a parcel of land containing 39,245.58 +/- square feet (0.90**

+/- acres) into five (5) single- family residential lots and one (1) commercial lot, in order to create a subdivision to be called "Jamaica Way Subdivision" for the property at 1700 Jamaica Way, Punta Gorda, Florida, more particularly described on Exhibit "A" attached to this Resolution; authorizing the Mayor and City Clerk to execute the Plat; authorizing the City Clerk to forward this Resolution and the original Final Plat to the Circuit Court Clerk for recording at the applicant's expense; and providing an effective date.

City Attorney Levin read the resolution by title.

Ms. Lisa Hannon, Zoning Official, entered the staff report, as delineated in the agenda material, into the record by reference. She provided a detailed review of the request along with staff's findings, explaining the subdivision was required in order to develop the property, and single-family dwelling units were required to follow all development standards. She stated the proposed subdivision did not create any nonconformities, was served by public streets and utilities were available. She stated the Utilities Department had recommended service be installed prior to final plat approval; however, a utility plan had been submitted and approved. She indicated the request was consistent with the City's Comprehensive Plan and met all technical requirements outlined in Chapter 26, Punta Gorda Code, concluding staff recommended approval of the final plat.

**Mayor Matthews** inquired if the entrance driveway for the commercial portion of the development would be on the backside of the property.

Ms. Hannon replied no site plan was submitted with the rezoning; however, same would need to meet the City's development standards which included distances from intersections for any type of commercial driveway.

**Mayor Matthews** inquired as to the intensity of the commercial building.

Mr. Anthony Farhat replied there were no development plans as yet for the commercial portion; however, it made sense to have the parking lot act as a buffer between the residential units and commercial building. He clarified the parking lot would be connected to the east end egress.

City Attorney Levin explained the difference between quasi-judicial and legislative decision. He stated case law was clear that in order to get a plat approved there were both statutory and City criteria which must be satisfied. He advised once that criteria was satisfied there was no further discretion on the part of the City Council absent other provisions in the City Code such as the ability to approve with conditions, pointing out there was no criteria in the City's ordinance or in statute related to the

timing of the installation of utility lines. He concluded to impose such a condition would exceed the jurisdiction of the City Council in this proceeding.

Mr. Farhat stated they were motivated to move the project forward; thus, they had engaged a utility contractor.

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

Councilmember Prafke **MOVED** to close the public hearing, **SECONDED** by Councilmember Carey.

**MOTION UNANIMOUSLY CARRIED.**

Councilmember Prafke **MOVED** approval of the resolution, **SECONDED** by Councilmember Cummings.

**MOTION UNANIMOUSLY CARRIED.**

#### **CONSENT AGENDA**

Councilmember Prafke **MOVED** approval of the Consent Agenda, **SECONDED** by Councilmember Cummings.

**MOTION UNANIMOUSLY CARRIED.**

- 5.a. Approval of Minutes: Regular Meeting of October 6, 2021
- 5.b. Monthly Litigation Report
- 5.c. Invoice of Allen, Norton & Blue, P.A. for legal services rendered in September 2021
- 5.d. A Resolution of the City Council of the City of Punta Gorda, Florida, as local host agency for the Coastal & Heartland National Estuary Partnership, authorizing award of a grant from the U.S. Environmental Protection Agency for National Estuary Program Annual Funding; Authorizing the City Manager to Administer the grant on behalf of the City; Accepting Grant award and proving an effective date.

#### **REGULAR AGENDA**

##### **Northbound Tamiami Trail (US 41) Vision Study**

Mr. Mitchell Austin, Principal Planner, stated City staff and the Florida Department of Transportation (FDOT) project team were working together diligently on the project.

Mr. Richard Oujevolk, FDOT, stated he was seeking City Council's concurrence on the proposed design, providing a presentation related to the Vision Study, as delineated in the agenda material. He began with a study overview and concept summary, briefly reviewing each section of road and the proposed improvements, which included signaling/signal modification, bicycle lanes, shared use paths, through lane continuity, dedicated left and right turn lanes for safety, new crosswalks, and Nesbit Street bicycle facilities, noting the proposal was subject to change based on coordination regarding

development conditions. He reviewed preliminary cost estimates of approximately \$6.2 for construction costs, which would be borne by FDOT. He reviewed next steps which included completion of the draft lane repurposing concept report, a public meeting to be held in Spring 2022, completion of project development and environment study in June 2022 and then proceeding with design.

**Councilmember Cummings** expressed concern the design was rigid and did not plan for future years.

Mr. Oujevolk disagreed, stating the City's Comprehensive Plan and future circulation elements were considered. He stated FDOT understood it was a dynamic that was changing; however, the only rigidity was the installation of the roundabout as safety was a priority, explaining an intersection control evaluation study was conducted for the area, and although the roundabout would cause a slowdown, it would help to control speed through the downtown. He opined the remainder of the proposed improvements were somewhat superficial.

**Councilmember Cummings** voiced concern regarding the City's demographic and utilizing the roundabout.

Mr. Oujevolk stated it was necessary for people to learn to negotiate the roundabouts.

**Councilmember Prafke** opined the proposal had potential, including the HAWK signals, suggesting if people wanted to travel at a higher speed, they should utilize I-75. She then voiced frustration regarding FDOT inviting public comment on projects but not listening, objecting to FDOT pushing their traffic onto side/residential roads.

**Mayor Matthews** concurred.

Mr. Oujevolk offered to attempt to arrange a meeting with FDOT leadership.

**Councilmember Carey** voiced approval of the proposal with the exception of the crosswalks at the roundabout.

Mr. Oujevolk explained the new HAWK signaling system, opining the new system was working, improved visibility and slowed down traffic to make the intersection safer.

**Councilmember Miller** commented favorably on the proposal.

**Mayor Matthews** spoke regarding the speed limit on Nesbit, suggesting same needed to be reduced from Virginia Avenue to Laishley Park as it would be a main thoroughfare for bicycle traffic. She stated the roundabout needed to be sufficient in width to accommodate tractor trailer traffic utilizing the downtown US 41 corridor. She questioned how emergency vehicles would get around traffic when heading north from the fire station to the bridges.

Fire Chief Briggs stated the Fire Department would not be in favor of any changes which would impede emergency response, requesting striping or mountable islands be

used. He concluded the Department would prefer an option that would allow emergency vehicles to access the left lane.

Mr. Oujevolk replied FDOT could design the concrete apron with a two-inch lip, which optically appeared as a much more formidable barrier. He stated FDOT could consider a mountable surface that did not deter emergency vehicle access, adding he would carry forward that recommendation to the design team.

**Mayor Matthews** voiced support for the concept.

Councilmember Prafke **MOVED** approval of the concept of the vision study presented, **SECONDED** by Councilmember Cummings.

**MOTION UNANIMOUSLY CARRIED.**

**Consideration to modify the City of Punta Gorda Shell Creek Water Treatment Plant Water Use Permit (#20000871.013) to comply with proposed Minimum Flows for Lower Shell Creek.**

Mr. Chuck Pavlos, Utilities Director, stated the Southwest Florida Water Management District was required to establish Minimum Flow and Level (MFL) for various water bodies, stressing Lower Shell Creek was the raw water source for the City's water plant; thus, it was important to understand the impacts of implementation of MFLs.

Mr. Yonas Ghile, Lead Hydrologist, Southwest Florida Water Management District (SWFWMD), displayed a presentation on Recommended MFLs for Lower Shell Creek, as delineated in the agenda material, noting minimum flow for a given watercourse was the limit at which further withdrawals would be significantly harmful to the water resources or ecology of an area. He reviewed minimum flow considerations which included use, wildlife habitats, aesthetic and scenic attributes, sediment loads, water quality and others. He provided a brief overview of peer review and stakeholder outreach which took place, noting a presentation would be made to the District Governing Board in December 2021. He outlined data specific to Lower Shell Creek, including baseline flows and flow-based blocks, noting an enhanced hydrodynamic model along with enhanced ecological criteria and considerations were used to create same. He concluded with a review of the recommended MFLs for blocks 1 (13% of flow), 2 (23% of flow) and 3 (40% of flow), noting no recovery strategy was required; however, as the recommended MFLs for Lower Shell Creek were not projected to be met in the next 20 years it was necessary for the District to concurrently adopt a prevention strategy. He stated such a strategy was not required with the modification of the City's Water Use Permit (WUP). He concluded in collaboration with the City's and consultant, the District staff drafted a WUP modification letter that allowed the City to

meet future water demands and ensure the recommended MFLs were met during the next 20-year planning period.

City Manager Murray commented the City had hired an independent consultant which had verified the data and reached a similar conclusion, adding staff felt the City could meet its water supply demand and still accommodate the statutory requirements.

Ms. Laura Baumberger, Carollo, provided a presentation on Lower Shell Creek Minimum Flow and Level (MFL) Impacts on City Water Supply, as delineated in the agenda material, briefly reviewing the City's historical and projected water demand. She provided data related to the impact of MFLs on the City's water supply as well as an analysis of daily implementation of MFLs for 2020 demand versus 2040 demand. She concluded the Southwest Florida Water Management District (SWFWMD) had worked with the City to develop an MFL for Shell Creek that protected the environmental resources but also allowed the City to meet their water supply needs, suggesting the City should work with the (PRMRWSA) to amend the Water Systems Interconnect and Water Transfer Contract to document that PRMRWSA would assist the City in meeting their water demands as needed under MFL conditions as well as request a modification of its water use permit to incorporate the proposed withdrawal limits which would allow the MFL to be met for the next 20 years.

**Councilmember Cummings** inquired if the data showed where it was necessary for the City to invest funds.

City Manager Murray responded affirmatively, noting there would be an analysis of the amount budgeted in the Utilities fund for capital projects to determine where to best expend those funds.

Councilmember Prafke **MOVED** approval of requesting a modification of the City's Water Use Permit for MFLs as recommended and authorize the City Manager to sign the permit modification, **SECONDED** by Councilmember Cummings.

**MOTION UNANIMOUSLY CARRIED.**

**Councilmember Prafke** inquired as to offering reclaimed water which would then reduce the potable water usage.

Mr. Pavlos replied installation of a reclaimed water system in an already developed community was disruptive, expensive, and less efficient; thus, it was not recommended.

**NOTE: A short break was called at 10:54 a.m.**

**Agreement award to Evoqua Water Technologies, LLC of Sarasota, Florida for Liquid Hydrogen Peroxide, Products and Equipment.**

Ms. Anne Heinen, Procurement Manager, explained in anticipation of the November 2021 expiration of the current sulfide control system, an Invitation to Bid was issued for those services at the Wastewater Treatment Plant, noting the estimated annual cost based on assumed quantities was \$281,500. She concluded staff was requesting approval of the award of a five-year contract to Evoqua Water Technologies, noting savings amount to approximately \$45,000 annually.

Councilmember Prafke **MOVED** award of the agreement to Evoqua Water Technologies of Sarasota, Florida, **SECONDED** by Councilmember Cummings.

**MOTION UNANIMOUSLY CARRIED.**

**Expanding PGI Canal Maintenance District Area to include Champagne Estates Condominium**

Ms. Cathy Miller, Canal Maintenance Supervisor, explained the request from Champagne Estates located at 1600 West Marion Avenue, which included 242 linear feet of seawall, noting the applicant was present to answer questions. She stated the applicant's consultant evaluated the seawall and found structural issues and recommended replacement, noting staff agreed with same. She stated staff further recommended the applicant purchase seawall panels from the City for structural consistency. She stated the Punta Gorda Isles Canal Advisory Board requested that the property not become part of the district until the seawalls were replaced, noting staff would oversee the replacement.

**Councilmember Carey** inquired why the property was not part of the district previously.

Ms. Miller replied with uncertainty.

City Attorney Levin explained the districts were created subsequent to the developer turning over the canal system to the City, adding he presumed the condominium was not part of the development at that time. He stated if City Council desired the property to part of the district, it would be necessary to adopt an ordinance to modify the district boundaries.

Councilmember Cummings **MOVED** approval to expand the PGI district to include Champagne Estates with the stipulation the existing seawall first be replaced by the property owner, **SECONDED** by Councilmember Carey.

**MOTION UNANIMOUSLY CARRIED.**

### **Septic- to- sewer Sewer Area 1, 2, 3**

City Manager Murray explained the presentation was for information purposes rather than being a comprehensive explanation of construction of the system.

Mr. Pavlos explained staff received the preliminary engineering report evaluating gravity and vacuum sewer alternatives for Charlotte Park, noting a conventional vacuum system in addition to some gravity sewer extensions was determined to be the most cost effective and least disruptive. He stated the cost was approximately \$25 million, or approximately \$20,000 per residential connection. He stated the next step, if City Council wanted to move forward, would be completion of a more detailed design, research funding options, and devise an assessment methodology.

City Manager Murray stated funding options could possibly include state or federal sources.

**Councilmember Cummings** stated based on the Jones Edmunds study, the Riverside Drive area was equally important in terms of the Harbor, suggesting it would serve the City better to move forward with Riverside first in that it would involve less cost per house due to the existing pump station. He stated the City could then request funding from the state for Charlotte Park as phase 2, suggesting \$20,000 was too much to ask of homeowners.

**Mayor Matthews** countered Charlotte Park was a critical location and should be addressed first, recalling City Council had voted to do so.

**Councilmember Prafke** stated if the City was being held accountable for its utility service area, City Council should be able to make decisions and approve the assessment without Charlotte County's involvement.

City Manager Murray stressed staff was moving forward cautiously but thoroughly on the decision tree for the project, pointing out the City had no authority to impose a property assessment in Charlotte Park; however, if there was a benefit to the utility that could be demonstrated, the City could determine the amount of the assessment to be included on a tax bill and could levy that assessment.

**Mayor Matthews** voiced concern regarding the cost.

City Manager Murray estimated \$20,000 spread over 20 years would be approximately \$100 per month. He voiced uncertainty as to whether County approval was necessary if it was the City's utility service area and the County had no role in putting the assessment on the tax bill.

City Attorney Levin commented the academic question was whether the septic-to-sewer project was a utility issue or an environmental issue. He stated it might be beyond the scope of the City's utility to mandate connections that more directly



benefited the environment than the utility itself. He stated as a function of the enabling legislation the County might need to be part of that process because the project was in unincorporated Charlotte County.

**Mayor Matthews** stated the County indicated the City was responsible for putting City customers on sewer.

City Attorney Levin opined if that was the case, the City should not have to seek the County's approval. He stated if the City were to mandate a septic-to-sewer connection in unincorporated areas, it would be the residents rather than the County opposing the City's authority, adding he was not convinced the City could mandate same.

**Councilmember Carey** voiced concern the project needed to be "shovel ready" in order to receive legislative funding, adding many issues must be resolved before the City could seek funding.

City Manager Murray stated if supplemental funds were not available for the project, discussions regarding assessments were moot.

**Councilmember Cummings** stated the City had not begun to engage residents of Charlotte Park, opining the County Commission would not take the political heat of forcing that kind of cost on people when a considerable amount had already been expended on Riverside Drive to create the foundation. He stated if the City was serious about septic-to-sewer and helping the Harbor, it would be very easy to begin that project.

**Councilmember Prafke** opined some residents in Charlotte Park understood it would be necessary to convert, noting water quality was a significant legislative issue. She voiced support for moving forward with identifying funding options.

**Mayor Matthews** suggested talking with legislators rather than asking for funding at this time, adding it was necessary to be ready to expend funds when a request was made; however, that was a few years into the future. She stated a financial plan needed to be in place before doing anything further, confirming there was consensus to proceed accordingly.

#### **Discussion of Legislative Initiative**

City Manager Murray stated potential initiatives included public safety such as for veteran's crisis assistance and training structures for tactical training, economic development such as for infrastructure systems, water quality such as septic-to-sewer sewer and water line projects, and other items which City Council felt were pertinent. He stated staff would like to finalize the initiatives at the next meeting for submission to the delegation in time for the November 10, 2021 meeting.

**Mayor Matthews** announced the legislative delegation meeting would be held at the Military Heritage Museum. She suggested creating a succinct list of three or four items for the legislative request.

**Councilmember Cummings** opined this year was an exception due to the size of the City being less than 50,000, adding no money would be available if the City did not ask for it.

City Manager Murray stated the City was classified as a metropolitan city and available funds had been cut from \$8 million down to \$2.4 million, adding the County was utilizing much of their funding for their septic-to-sewer projects.

**Mayor Matthews** stated it was also necessary to assign dollar amounts for projects.

**Councilmember Prafke** inquired what could be done to get FDOT's attention regarding the inappropriate utilization of side streets to divert traffic.

**Mayor Matthews** suggested the City Manager and the Mayor meet with Representative Michael Grant and Senator Albritton to discuss same. She then confirmed members were amenable to the legislative items discussed.

City Manager Murray inquired whether the water quality item should include septic-to-sewer or whether same should be a discussion item only at this point.

**Mayor Matthews** stated it was too soon to request funding for septic-to-sewer.

**Councilmember Cummings** stated there was one-time funding available.

**Councilmember Carey** suggested asking for funds for the initial phase of design and engineering.

Discussion ensued with consensus to do so.

#### **Annual Evaluation City Manager**

Discussion ensued regarding the City Manager's performance, with all members voicing appreciation for his knowledge and hard work.

Councilmember Carey **MOVED** approval of a 4% merit increase for the City Manager effective retroactive to August 24, 2021 with future evaluations due on October 1<sup>st</sup> of each year, **SECONDED** by Councilmember Cummings.

**MOTION UNANIMOUSLY CARRIED.**

#### **BOARDS / COMMITTEE**

##### **Announcement of Vacancies**

Board of Zoning Appeals - Regular (2) and Alternate (2)

Code Enforcement Board (2 alternate)

Firefighters' Pension Board

Historic Preservation Advisory Board

Planning Commission

Punta Gorda Isles Canal Advisory Committee

City Clerk Smith announced the vacancies.

### **Nominations**

Planning Commission

Councilmember Carey **MOVED** to nominate and appoint Mr. Sherman Johnson, **SECONDED** by Councilmember Prafke.

**MOTION UNANIMOUSLY CARRIED.**

### **REPORTS FROM CITY OFFICERS**

#### **CITY MANAGER**

City Manager Murray thanked Councilmembers Miller and Prafke for their service.

#### **CITY ATTORNEY**

City Attorney Levin thanked Councilmembers for their patience and understanding as it related to the adoption of the new sign code.

**Mayor Matthews** inquired whether it was possible to pursue civil action against those who were blatantly opposing the sign ordinance and being continuously disruptive.

City Attorney Levin replied in the negative. He explained a Motion to Stay would be presented to the Code Enforcement Board in relation to the sign code violations currently being challenged in Circuit Court, which would result in a cost savings to the City; however, the City would continue to enforce the sign code which remained lawful until a court of competent jurisdiction decided otherwise. He stated he spoke briefly with Police Department staff regarding the opportunity to deal with public disturbances, stressing same were unrelated to the sign code. He clarified it was possible to be more aggressive with respect to disturbing the peace.

**Mayor Matthews** cited an example where a church service in Gilchrist Park had been blatantly disrupted on a couple of occasions and another where a sign of a fetus was displayed.

City Attorney Levin advised there was a fair amount of free speech which was protected by the United States Constitution, adding obscenity, fighting words and indecent speech were the areas the City was comfortable regulating because the courts had said those three categories were clearly not protected by first amendment rights. He said other things that might be found distasteful were protected.

### **COUNCIL MEMBER COMMENTS**

**MATTHEWS:** Announced the Homecoming Parade was Thursday, October 28, 2021 at 6:00 p.m.; the Veteran's Parade was November 6, 2021 at 10:00 a.m.; Halloween festivities would take place in the City Hall Annex parking garage; the Punta Gorda

Chamber's job fair would take place on October 27, 2021 from 3:00 p.m. to 6:00 p.m. at the Event Center.

- Requested a discussion regarding lowering the speed limit on Nesbit Street be included on a future agenda.
- Provided an update from the MPO Board meeting, noting she would be sending a letter to Senator Albritton regarding the Purple Heart Highway designation through the Punta Gorda corridor, which was an MPO initiative which began the previous year.
- Reported she and the City Manager would be meeting with the Meridian Assisted Living project manager regarding some construction site issues.
- Stated FPL was no longer responding to the City's request regarding removing double poles, opining it was necessary to involve the PUC.

**MILLER:** No comment.

**CAREY:** No comment.

**CUMMINGS:** Stated it had been a pleasure serving with Councilmembers Prafke and Miller.

**PRAFKE:** Concurred with Mayor Matthews regarding FPL.

The meeting was adjourned at 12:13 p.m.

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Mayor

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City Clerk