

**CITY OF PUNTA GORDA, FLORIDA  
REGULAR CITY COUNCIL MEETING MINUTES  
DECEMBER 1, 2021, 9:00 A.M.**

**COUNCILMEMBERS PRESENT:** Carey, Cummings, Kuharski, Lockhart, Matthews

**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

**CALL TO ORDER**

**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.

1) **AGENDA APPROVAL**

**Mayor Matthews** confirmed there were no changes to the agenda.

**NOTE: Public Input was heard following Proclamations/Presentations.**

2) **PUBLIC INPUT**

2.a Anyone wishing to address the Council on any matter must state their name for the record. Each person will be allowed to speak once on each item up to a maximum of three minutes.

Mr. Edwin Porter voiced concern regarding Punta Gorda Code Chapter 14, Noises, opining there was much subjectivity within the language regarding the term “offensive”. He suggested including numerical sound level readings expressed in decibels to make the language more objective.

Mr. John Spraga concurred with Mr. Porter’s comments regarding Chapter 14, noting a neighbor had complained about music he played in his home.

2.b Those wishing to introduce themselves as nominees for a board or committee may do so at this time. Those who choose to speak must state their name for the record.

Ms. Mary Bittner introduced herself as a nominee for the Punta Gorda Housing Authority.

**NOTE: Proclamations/Presentations were heard following Agenda Approval.**

3) **PROCLAMATIONS / PRESENTATIONS**

3.a 5 Year Service Award - Lynne R. Matthews, Mayor/Councilmember

City Manager Murray presented the award to Mayor Matthews.

3.b [5 Year Service Award - Jaha Cummings, Councilmember](#)

City Manager Murray presented the award to Councilmember Cummings.

3.c [Budweiser Clydesdales Day](#)

**Exhibits:**

[Cover Page](#)

[Budweiser Clydesdales Day](#)

**Mayor Matthews** presented the proclamation, which was accepted by Mr. John Wright, Punta Gorda Chamber of Commerce Executive Director.

3.d [Shop Punta Gorda Month](#)

**Exhibits:**

[Cover Page](#)

[Shop Punta Gorda Month](#)

**Councilmember Kuharski** presented the proclamation, which was accepted by Mr. Wright.

3.e [National Influenza Vaccination Week](#)

**Exhibits:**

[Cover Page](#)

[National Influenza Vaccination Week](#)

**Councilmember Lockhart** presented the proclamation, which was accepted by Mr. Joe Pepe, Charlotte County Department of Health.

**NOTE: The Covid Update was heard following Public Input.**

3.f [Covid Update - Doctor Joe Pepe](#)

Mr. Pepe provided an update on COVID-19, noting cases were down at this time. He stated positivity was under 3%, stating strategies included infection control and contact management, as well as a monoclonal anti-body treatment site which had provided approximately 5,500 treatments. He indicated there had been vaccine outreach events offering boosters during the past several weeks and vaccine events were provided at schools. He stated vaccination of the total population was approximately 74% and vaccination of those over 65 years of age had reached the 90th percentile. He stated the Health Department continued to provide education and had reached out to realtors and the local Chambers of Commerce to provide effective communication to visitors. He stated his team was moving back to a public health model with COVID consolidated into a program rather than a disaster response.

**Mayor Matthews** inquired as to the percentage of students vaccinated.

Mr. Pepe replied it was very low at 5%, but it was early in the process.

City Manager Murray inquired if the Omicron variant was more readily transmitted.

Mr. Pepe stated there were many questions regarding the Omicron variant, adding they were waiting to receive more information. He stated pharmaceutical companies were working on a new vaccine formulation to address the Omicron variant, noting they estimated same would be in production within 100 days. He

concluded it was necessary to celebrate safely this holiday season and continue to take protection measures to prevent transmission.

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

4) COMMUNITY REDEVELOPMENT AGENCY AGENDA

5) PUBLIC HEARING AGENDA (Quasi-Judicial and Legislative)

- 5.a GA-06-2021 An ordinance of the City of Punta Gorda further amending the City of Punta Gorda police officers' retirement system, restated pursuant to ordinance 1644-10, amending section 6, benefit amounts and eligibility; amending section 10, optional forms of benefits; amending section 16, minimum distribution of benefits; providing for severability of provisions; repealing all ordinances in conflict herewith and providing an effective date. FIRST READING

**Exhibits:**

*Cover Page*

*Proof of Publication 11-19-2021*

*Letter from Pension Board Attorney*

*Proposed Ordinance*

City Attorney Levin announced this was a legislative ordinance, reading same by title.

Councilmember Lockhart **MOVED** approval of GA-06-2021, **SECONDED** by Councilmember Kuharski.

**MOTION UNANIMOUSLY CARRIED.**

- 5.b V-02-2021 - A request by Kenneth E. and Susan R. Krause, property owners, pursuant to Chapter 26, Section 16.10, Punta Gorda Code, to construct a new swimming pool, deck and screen enclosure with 15 feet rear yard setbacks at the closest points instead of 20 feet as is required per Chapter 26, Section 3.13(d), Punta Gorda Code, at an existing single-family structure constructed in 1974.

Legal: Punta Gorda Isles Sec 7 Blk 66 Lt 4

A/K/A: 410 Bal Harbor Blvd, Punta Gorda, FL 33950

Charlotte County Parcel Id: 412212305003

**Exhibits:**

*Cover Page*

*Proof of Publication 11-5-21*

*Proof of property posting*

*V-02-2021 City Council Staff Report*

*V-02-2021 Staff presentation*

*V-02-2021 Application*

*V-02-2021 - Property survey and site plan*

*DRC 11/12/21 Excerpt*

City Attorney Levin read the variance request by title.

Ms. Lisa Hannon, Zoning Official, entered the staff report into the record by reference, as delineated in the agenda material. She described the existing conditions at the property and explained the proposed pool construction. She reviewed the approval criteria as well as staff's findings, stating the request was

not in conflict with the Comprehensive Plan. She concluded the Board of Zoning Appeals and staff recommended approval with the conditions that the applicant apply for a building permit and complete and record a hold harmless agreement. City Attorney Levin explained the quasi-judicial procedures.

Mr. Kenneth E. and Ms. Susan E. Krause, testified he suffered from several medical conditions and would benefit from use of the pool, noting they could not install a pool to accommodate a wheelchair without the variance.

**Councilmember Carey** inquired whether the therapy was a necessity.

Mr. Krause stated they would appreciate having the pool as his condition was worsening and this was their permanent home.

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

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

**MOTION UNANIMOUSLY CARRIED.**

**Mayor Matthews** confirmed the variance ran with the land rather than the owner. City Attorney Levin stated the Americans with Disabilities Act (ADA) complicated the law with regard to variances, explaining reasonable accommodation needed to be made for those with disabilities to allow them to enjoy their property the same as those without disabilities. He stated while competent evidence of the need for the accommodation was required, there were limits on the ability to inquire into or question the supporting testimony. He concluded the letter submitted by the applicant met the threshold for a reasonable accommodation, indicating it was possible to place a condition of approval which would extinguish the variance if the property were sold prior to construction of the pool as this accommodation would be specific to an individual.

**Councilmember Kuharski** suggested including a start date for construction, recommending the hold harmless protect the City from any damage to any structure related to collapse or repair of the property's seawall.

**Councilmember Carey** expressed concern there was a reason the setback was increased from 15 feet to 20 feet and approval of the request would set a precedent, noting someone needed to pay for collateral damage.

City Attorney Levin stated he was unsure of the legislative history of increasing the setbacks, commenting favorably on the suggestion of a stronger hold-harmless agreement.

**Councilmember Kuharski** indicated he understood the setback requirement had been changed as 15 feet was found to be insufficient. He clarified he was not against the variance request; however, conditions were needed to protect the City and the community.

**Councilmember Lockhart** agreed the variance should not run with the land if the pool were not constructed.

City Attorney Levin suggested the public hearing be reopened to allow the City Engineer to provide testimony.

Councilmember Lockhart **MOVED** to reopen the public hearing, **SECONDED** by Jaha Cummings.

**MOTION UNANIMOUSLY CARRIED.**

City Attorney Levin stated a hold harmless agreement was a good tool to insulate the City from liability for its actions, stating part of the decision making process was consideration of the City's risk for exposure to liability. He inquired as to the City's potential risk in terms of damage to the seawall and adjacent properties as a consequence of reducing the setback to 15 feet.

Mr. Brian Clemons, City Engineer, was sworn in and then stated deadmen were typically placed 16 to 18 feet from the seawall, which was likely why the setback had been changed to 20 feet. He noted there were alternatives for anchoring the seawall panels.

City Attorney Levin inquired as to the location of the existing deadmen.

Mr. Krause stated same were approximately 13 to 14 feet from the seawall. He opined there was a reasonable buffer between the deadmen and pool. He stated he had no issue with the construction start date being a condition.

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

**MOTION UNANIMOUSLY CARRIED.**

City Attorney Levin questioned if Council desired to review the hold harmless agreement prior to approving the variance.

**Mayor Matthews** expressed desire to do so.

**Councilmember Kuharski** clarified he desired the agreement to hold the City harmless for damage to any structure caused by collapse of the seawall or subsequent construction to repair same.

Councilmember Lockhart **MOVED** to reopen the public hearing and continue V-02-2021 to January 5, 2022, **SECONDED** by Councilmember Cummings.

**MOTION UNANIMOUSLY CARRIED.**

- 5.c [V-03-2021 - A request by Anthony Favara, authorized agent, for Debra and Lloyd Cranford, property owners, pursuant to Chapter 26, Section 16.10, Punta Gorda Code, to allow for the replacement of an existing non-conforming six \(6\) foot tall chain link fence, with a six \(6\) foot tall tan vinyl security fence with a twenty-four \(24\) foot wide gate, instead of a four \(4\) foot tall fence, as required by Chapter 26, Section 8.5\(b\)\(3\), Punta Gorda Code, for the property located in a Special Purpose \(SP\) zoning district and constructed in 2011.](#)

[Legal: Punta Gorda Blk 119 Lts 10 and 11](#)

[A/K/A: 1385 Elizabeth St, Punta Gorda, FL 33950](#)

[Charlotte County Parcel Id: 412307256008](#)

***Exhibits:***

[Cover Page](#)

[Proof of Publication 11-5-21](#)

[Proof of property posting](#)

[V-03-2021 City Council Staff Report](#)

[V-03-2021 Staff presentation](#)

[V-03-2021 Application](#)

[1385 Elizabeth Street Fence Specifications](#)

[DRC 11/12/2021 Excerpt](#)

City Attorney Levin read the variance request by title.

Ms. Hannon entered the staff report into the record by reference, as delineated in the agenda material. She explained the request and reviewed the approval criteria and staff's findings, noting the application did not meet the literal criteria of hardship as outlined in the Punta Gorda Code; therefore, staff recommended denial of the request. She noted the Board of Zoning Appeals recommended approval of the request with staff's recommended conditions of requiring a building permit as well as a landscape plan submission prior to installation.

**Councilmember Kuharski** inquired as to why the existing fence was not suitable.

Mr. Lloyd Cranford, applicant, pointed out the property was commercial and would be used for a personal automotive shop. He displayed photographs of the existing and proposed fence, indicating landscaping would be installed. He stated a neighboring property owner submitted a letter of support. He stated there was a security issue, adding the fence would improve the appearance of the property.

**Councilmember Lockhart** confirmed the fence was in need of repair, questioning if same was allowed.

Ms. Hannon replied repair and maintenance was allowed; however, a non-conforming structure was required to come into conformance with the code if more than 50% of same was removed.

Ms. Geri Waksler commented this property was in the special purpose district. She stated this district was for uses which could have adverse impacts on adjacent properties; however, Punta Gorda Code did not allow for fences which could buffer adjacent properties. She opined the City had inadvertently made it more difficult for certain uses to come into the City if a variance would be required to fence a property. She suggested the City reconsider the special purpose district's fence code given the uses allowed in the district.

Mr. Jay Wester, Peace River Custom Fence, stated he believed four-foot fences were intended to avoid blocking adjacent property owner's views; however, same would not occur as this was a commercial property. He stated the existing fence was unsightly and was becoming dysfunctional, adding the design could be altered to increase visibility if there was an issue.

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

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

**MOTION UNANIMOUSLY CARRIED.**

**Councilmember Carey** inquired as to the other 6-foot fences in the subject property's neighborhood.

Ms. Hannon replied same were likely existing nonconforming fences, expressing uncertainty as to the original intent of the Code. She clarified the fence was permitted to be 6-feet behind the front of the structure but not in the street front yard.

Councilmember Cummings **MOVED** approval of V-03-2021 with staff's conditions, **SECONDED** by Councilmember Kuharski.

**VOTING AYE:** Matthews, Carey, Cummings, Kuharski.

**VOTING NAY:** Lockhart.

**MOTION CARRIED.**

- 5.d [CP-04-2021 - An ordinance of the City of Punta Gorda, Florida, adopting an amendment to the "City of Punta Gorda comprehensive plan 2040" for the purpose of creating the "property rights element" including the goal, objectives, and policies as required by state statute; providing for conflicts and severability; and providing an effective date.](#)

**Exhibits:**

[Cover Page](#)

[Proof of Publication 11-5-2021](#)

[CP-04-2021 City Council Staff Report](#)

[CP-04-2021 - Proposed Ordinance](#)

[Exhibit A - Property Rights Element](#)

[Planning Commission 11-22-2021 Excerpt](#)

City Attorney Levin read the ordinance by title.

Mr. Mitchell Austin, Principal Planner, explained the addition of the Property Rights Element was a new statutory requirement as of June 29, 2021, noting the proposed amendment would be transmitted to the Florida Department of Economic Opportunity. He stated staff would schedule a second public hearing at the conclusion of the State mandated review process.

City Manager Murray provided a summary of the need to adopt the ordinance to add this particular element prior to any further amendments to the City's Comprehensive Plan.

Mr. Austin stated for a professional planner, the requirement to adopt the element was confusing since everything it said we have to adopt in the property rights element was what staff already practiced. He stated property rights were established by the City's Charter, Code of Ordinances and Comprehensive Plan; however, staff believed what was being proposed was consistent with the legislative requirement.

City Attorney Levin opined the requirement to add the element was unnecessary as there was already sufficient legislation and constitutional language to protect private property rights.

**Councilmember Carey** voiced concern the language opened a door for the legislature to interfere with the City's home rule powers.

City Attorney Levin opined as a result of prior local government actions which were perceived to be unfair in the application of their regulations, the new provision was an extra opportunity for private property owners to provide some leverage in challenging a decision of a local government.

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

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

**MOTION UNANIMOUSLY CARRIED.**

Councilmember Lockhart **MOVED** approval of CP-04-2021, **SECONDED** by Councilmember Cummings.

**MOTION UNANIMOUSLY CARRIED.**

**NOTE: A short break was called at 11:02 a.m.**

- 5.e [AX-03-2021 - An Ordinance of the City of Punta Gorda, Florida, annexing within the corporate limits of the City of Punta Gorda, property addressed as 9511 Mac George Street, Punta Gorda, containing 0.15 +/- acres; identified as lot 387, South-Highlands, as recorded in Plat Book 2, page 6, Public Records of Charlotte County, Florida, described in Exhibit "A" attached hereto and incorporated herein; and annexing a portion of the property generally described as 9298 Mac Ever Street, containing 2.49 +/- acres; which is a tract or parcel of land in Charlotte County, Florida, described in Exhibit "B" attached hereto and incorporated herein; In accordance with the voluntary annexation provision of Section 171.044. Florida Statutes; Redefining the boundary lines of said 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. FIRST READING](#)

**Exhibits:**

[Cover Page](#)

[Proof of Publication 11-5-21](#)

*Proof of Publication 11-12-21*  
*Proof of property posting*  
*AX-03-2021 City Council Staff Report*  
*AX-03-2021 Staff Presentation*  
*AX-03-2021 Application*  
*3591-2021 Pre-Annexation Resolution*  
*Ordinance*  
*Existing City Limits*  
*Proposed City Limits*  
*DRC 11-12-2021 Excerpt*  
*Planning Commission 11-22-2021 Excerpt*

City Attorney Levin read the ordinance by title.

Ms. Hannon entered the staff report, as delineated in the agenda material, into the record by reference. She explained annexation of this parcel would help complete annexation of the Loop properties and provide the opportunity for economic development within City limits, reviewing staff's conclusions and identifying appropriate objectives and policies of the Comprehensive Plan. She stated the application was in order and statutory requirements had been met, concluding the Planning Commission and staff recommended approval.

Ms. Geri Waksler, applicant's representative, explained the subject parcel was not owned by the applicant at the time of the original annexation and had since been purchased. She concurred with staff's analysis and recommendations, requesting approval of the application.

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

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

**MOTION UNANIMOUSLY CARRIED.**

Councilmember Kuharski **MOVED** approval of AX-03-2021, **SECONDED** by Councilmember Cummings.

**MOTION UNANIMOUSLY CARRIED.**

- 5.f [CP-03-2021 - An Ordinance of the City of Punta Gorda, Florida, amending the City of Punta Gorda Comprehensive Plan Future Land Use Map to include newly annexed lands; amending the Future Land Use Map to reflect the change in the current designations of Low Density Residential/County \(LDR/COUNTY\), to Highway Commercial Corridor/City \(HCC/CITY\), for 0.15 +/- acres, identified as lot 387, South-Highlands, as recorded in Plat Book 2, page 6, Public Records of Charlotte County, Florida, being more particularly described in Exhibit "A" attached hereto, and addressed as 9511 Mac George Street, and for 2.49 +/- acres, a tract or parcel of land situated in Charlotte County, Florida, which is a portion of the property generally described as 9298 Mac Ever Street, and being further bounded and described in Exhibit "B" attached hereto and incorporated herein; Providing for conflict and severability; and Providing an effective date. FIRST READING](#)

***Exhibits:***

*Cover Page*  
*Proof of Publication 11-5-2021*  
*Proof of property posting*  
*CP-03-2021 City Council Staff Report*  
*CP-03-2021 Staff Presentation*  
*CP-03-2021 Application*



*Ordinance*  
*Existing Future Land Use Map*  
*Proposed Future Land Use Map*  
*Development Review Committee 11-12-2021 Excerpt*  
*Planning Commission 11-22-2021 Excerpt*

City Attorney Levin read the ordinance by title.

Ms. Hannon entered the staff report, as delineated in the agenda material, into the record by reference. She explained this was a companion ordinance to AX-03-2021 and was for the amendment of the Future Land Use Map, briefly reviewing the objectives and policies that were consistent with the 2040 Comprehensive Plan as well as staff's comments regarding concurrency requirements. She reviewed staff's conclusions, noting staff recommended approval.

Ms. Waksler concurred with staff's analysis, requesting approval of CP-03-2021. Councilmember Carey **MOVED** to close the public hearing, **SECONDED** by Councilmember Cummings.

**MOTION UNANIMOUSLY CARRIED.**

Councilmember Kuharski **MOVED** approval of CP-03-2021, **SECONDED** by Councilmember Cummings.

**MOTION UNANIMOUSLY CARRIED.**

- 5.g PD-03-2021 - An Ordinance of the City of Punta Gorda, Florida, rezoning, 0.15 +/- acres, identified as lot 387, South-Highlands, as recorded in Plat Book 2, page 6, Public Records of Charlotte County, Florida, being more particularly described in Exhibit "A" attached hereto, and addressed as 9511 Mac George Street, and 2.49 +/- acres, a tract or parcel of land situated in Charlotte County, Florida, which is a portion of the property generally described in Exhibit "B" attached hereto and incorporated herein; and 86.78 +/- acres, a tract or parcel of land situated in the State of Florida, County of Charlotte, lying in Sections 21 & 28, Township 41 South, Range 23 East, being a part of the Plat of South-Highlands, according to the plat thereof as recorded in Plat Book 2, page 6, Public Records of Charlotte County; and being further bounded and described in Exhibit "C" attached hereto and incorporated herein; from Residential Single Family 5 units per acre/County (RSF5/COUNTY) to Planned Development Village/City (PDV/CITY) and from Highway Commercial/City (HC/CITY) to Planned Development Village/City (PDV/CITY); Providing for certain modifications to the regulations applicable to the development; Providing for conflict and severability; and Providing an effective date. \*\*\*STAFF REQUESTS CONTINUANCE OF THIS REQUEST \*\*\*

***Exhibits:***

*Cover Page*

*Proof of Publication 11-5-21*

*Planning Commission 11-22-2021 Excerpt*

City Attorney Levin explained staff was requesting a continuance of the first reading of the ordinance for PD-03-2021.

Councilmember Cummings **MOVED** to continue PD-03-2021, **SECONDED** by Councilmember Lockhart.

**MOTION UNANIMOUSLY CARRIED**

6) ORDINANCES / RESOLUTIONS  
(No Public Hearing Required)

- 6.a A Resolution of the City Council of the City of Punta Gorda, Florida, authorizing transmittal of the proposed "property rights element" including the goals, objectives and policies to be included in the City of Punta Gorda comprehensive plan 2040, as required by state statute; providing for conflicts and severability; and providing an effective date.

**Exhibits:**

*Cover Page*

*Proposed Resolution to Transmit CP-04-2021*

City Attorney Levin read the resolution by title.

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

**MOTION UNANIMOUSLY CARRIED.**

- 6.b SV-01 2021 - A resolution of the City Council of the City of Punta Gorda, Florida, vacating 1.78 +/- acres, a tract or parcel of land situated in the State of Florida, County of Charlotte, lying in Section 21, Township 41 South, Range 23 East and being further bounded and described in Exhibit "A" attached hereto and incorporated herein; also described as a portion of Orange Road a/k/a Mac Dine Road; and providing an effective date.

**Exhibits:**

*Cover Page*

*Proof of Publication 11-5-21*

*Proof of property posting*

*SV-01-2021 City Council Staff Report*

*SV-01-2021 Staff Presentation*

*SV-01-2021 Application*

*SV-01-2021 Intent to vacate adopted resolution*

*SV-01-2021 Resolution to vacate*

*Development Review Committee 11-12-2021 Excerpt*

*Planning Commission 11-22-2021 Excerpt*

City Attorney Levin read the resolution by title.

Ms. Hannon recalled City Council had approved the intent to vacate at the November 17, 2021 meeting, noting this resolution was for the vacation.

Councilmember Kuharski **MOVED** approval of the resolution, **SECONDED** by Councilmember Lockhart.

**MOTION UNANIMOUSLY CARRIED.**

- 6.c SV-02-2021 - A resolution of the City Council of the City of Punta Gorda, Florida, vacating 53.91 +/- acres, a tract or parcel of land situated in the State of Florida, County of Charlotte, lying in Sections 21 & 28, Township 41 South, Range 23 East, being part of the Plat of South-Highlands, according to the plat thereof as recorded in Plat Book 2, Page 6 Public Records of Charlotte County, Florida, and being further bounded and described in Exhibit "A" attached hereto and incorporated herein; and providing an effective date.

**Exhibits:**

*Cover Page*

*Proof of Publication 11-5-21*  
*Proof of property posting*  
*SV-02-2021 City Council Staff Report*  
*SV-02-2021 Staff Presentation*  
*SV-02-2021 Application*  
*SV-02-2021 Intent to vacate adopted resolution*  
*SV-02-2021 Resolution to vacate*  
*Development Review Committee 11-12-2021 Excerpt*  
*Planning Commission 11-22-2021 Excerpt*

City Attorney Levin read the resolution by title.  
Councilmember Lockhart **MOVED** approval of the resolution, **SECONDED** by Councilmember Cummings.  
**MOTION UNANIMOUSLY CARRIED.**

- 6.d A resolution of the City of Punta Gorda, Florida, establishing the 2022 Charter Review Committee, ratifying the nomination and appointment of members to the Committee, establishing powers and procedures, and providing an effective date  
**Exhibits:**  
*Cover Page*  
*Resolution to Convene Charter Review Committee*

City Attorney Levin read the resolution by title.  
Councilmember Carey **MOVED** approval of the resolution, **SECONDED** by Councilmember Cummings.  
**MOTION UNANIMOUSLY CARRIED.**

7) **CONSENT AGENDA**

Councilmember Cummings **MOVED** approval of the consent agenda, **SECONDED** by Councilmember Carey.  
**MOTION UNANIMOUSLY CARRIED.**

- 7.a Approval of Minutes: Regular Meeting of November 17, 2021  
**Exhibits:**  
*Cover Page*  
*November 17, 2021, Minutes*

- 7.b Invoice of Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. for legal services rendered through November 23, 2021  
**Exhibits:**  
*Cover Page*  
*Invoice 299085 in the amount of \$16,128.75*

- 7.c Amendment 2 to lease agreement between City of Punta Gorda and Florida Fish and Wildlife Conversation Commission for operation of a Wastewater Treatment Plant on the Babcock/Webb Wildlife Management Area.  
**Exhibits:**  
*Cover Page*  
*Lease Agreement*

- 7.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 (CHNEP), Authorizing the City Manager to Sign the Commitment Form From Restore America's Estuaries (RAE) for the Wild Turkey Strand Habitat and Hydrologic Restoration Project; and Providing an Effective Date

**Exhibits:**

*Cover Page*

*Resolution*

*Wild Turkey Strand Full Proposal*

*Restore America's Estuaries Commitment Form*

8) REGULAR AGENDA

- 8.a National League of Cities Service Line Warranty Program Update

**Exhibits:**

*Cover Page*

*Service Line Warranty Presentation*

*February 19, 2020 agenda item pertaining to agreement with Utility Service Partners*

*Resolution Approving Marketing Agreement*

*Marketing Agreement*

Mr. Steve Bieranowski, Service Line Warranties of America (SLWA), provided an update of the program since inception in February 2020 and the initial mailing in June 2020, as delineated in the agenda materials, and explained opportunities for marketing the program to residents.

**Councilmember Kuharski** stated he did not object to the program; however, it was inappropriate for the City to put its stamp of approval on the service agreement.

**Councilmember Cummings** opined the program was important for the historic district to help mitigate major expenses, concurring it would be less important for newer homes.

**Councilmember Lockhart** agreed it was important to have programs available; however, she was also concerned regarding the perception the City was backing and was closely associated with the program.

**Councilmember Carey** opined there was a lack of education, noting many residents were under the impression the City was profiting from the program.

**Mayor Matthews** objected to another mailing, adding any further promotion of the program should be done through the City Manager's Office and SLWA needed to more thoroughly explain the program and its options.

City Attorney Levin recalled he had concerns regarding liability and insisted on some fairly extensive language. He stated he was not in a position to comment on policy; however, City Council approved a marketing agreement with a three year term and a one year automatic renewal. He noted the marketing agreement expressly authorized mailings with the City's name and logo, adding the City could not terminate the program unilaterally unless the organization was willing to renegotiate. He pointed out the City had declined the opportunity to receive a royalty. He offered to contact the League of Cities Service Warranty Program to attempt to negotiate termination of the program.

**Mayor Matthews** requested an item be prepared to address the agreement on the January 5, 2021, City Council agenda.

**Councilmember Carey** inquired whether the marketing could be improved.

Mr. Bieranowski stated the City had final approval and agreed not to do any further mailings.

City Attorney Levin stated he would like to see same in writing.

Mr. Bieranowski apologized, offering to examine different marketing avenues with Ms. Melissa Reichert, Assistant City Manager.

**Mayor Matthews** stated information could be posted through the City's Weekly Highlights Report and social media pages.

**Councilmember Lockhart** indicated same was satisfactory if the contract could not be renegotiated; however, she preferred a program to educate residents on their liabilities.

City Attorney Levin inquired if the program would be offered to the City's citizens without the City's participation.

City Manager Murray inquired if the program would be offered at the same rate.

Mr. Bieranowski replied the program would not necessarily be available.

**Councilmember Cummings** reiterated his support for the program.

**Councilmember Lockhart** inquired if residents could find this type of warranty program.

Mr. Bieranowski replied affirmatively, clarifying the prices could be higher.

**Councilmember Carey** pointed out very few programs were as complete as SWLA's program.

**Councilmember Kuharski** reiterated his objection was to the City's name being included on marketing materials.

Ms. Reichert noted the company had been working with the City and had discontinued the mailings.

8.b [Discussion of Peace River Manasota Regional Water Supply Authority \(the Authority\) Interlocal Agreement for Phase I Regional Interconnect dated December 2, 2015.](#)

***Exhibits:***

[Cover Page](#)

[Peace River Manasota Regional Water Supply Authority Interlocal Agreement](#)

City Manager Murray explained the referenced Peace River Manasota Regional Water Supply Authority (PRMRWSA) Interlocal Agreement contained conflicting language related to the City's financial obligation for the Phase 1 Regional Interconnect project, providing a lengthy description of the various agreements in place for funding the interconnect and the City's Reverse Osmosis (RO) Water Treatment Plant. He concluded based on staff's research regarding the funding matrix and interpretation of the language within the agreements, full payment of the \$1.5 million to PRMRWSA was warranted. He stated the funds were budgeted.

**Mayor Matthews** expressed concern the agreement had not been vetted adequately.

Discussion ensued with consensus to make payment to PRMRWSA.

Councilmember Cummings **MOVED** approval of making final payment of \$1.5 million to PRMRWSA, **SECONDED** by Councilmember Carey.

**MOTION UNANIMOUSLY CARRIED.**

- 8.c [Award of Amendment #11 to Carollo Engineers, Inc. of Sarasota, Florida to plan and design the replacement of media in the South Filter of the Water Treatment Plant.](#)

**Exhibits:**

[Cover Page](#)

[Amendment #11](#)

[Recommendation for Award](#)

Ms. Anne Heinen, Procurement Manager, explained Carollo Engineers, Inc. of Sarasota, FL (Carollo) was awarded a Master Agreement for providing engineering services for public water supply in November 2019, noting staff requested a proposal from Carollo to provide engineering services to plan, design and provide construction services to replace the media in the south filter at the Water Treatment Plant. She noted the total cost of engineering services for the project was \$64,629 and the timeframe for completion was 30 weeks, concluding staff recommended award of Amendment #11 to Carollo.

Councilmember Cummings **MOVED** approval of the award of Amendment #11 to Carollo Engineer, Inc., of Sarasota, Florida, **SECONDED** by Councilmember Lockhart.

**MOTION UNANIMOUSLY CARRIED.**

- 8.d [Florida Scrub-Jay Official State Bird Campaign](#)

**Exhibits:**

[Cover Page](#)

[FSJ Official State Bird](#)

City Manager Murray explained a local group had reached out asking for the City's support for their campaign to name the Florida Scrub-Jay Florida's state bird. Discussion ensued with consensus to take no action.

9) **BOARDS / COMMITTEES**

- 9.a [Announcement of Vacancies: Board of Zoning Appeals \(2 alternate\)](#)

**Exhibit:**

[Cover Page](#)

City Clerk Smith announced the vacancies.

- 9.b [Announcement of Vacancies: Code Enforcement Board \(2 alternate\)](#)

**Exhibit:**

[Cover Page](#)

City Clerk Smith announced the vacancies.

9.c [Nomination: Historic Preservation Advisory Board \(1 alternate\)](#)

**Exhibits:**

[Cover Page](#)

[Perry D Resume](#)

Councilmember Carey **MOVED** to nominate and reappoint Mr. David Perry, **SECONDED** by Councilmember Cummings.  
**MOTION UNANIMOUSLY CARRIED.**

9.d [Nominations: Punta Gorda Housing Authority](#)

**Exhibits:**

[Cover Page](#)

[Getz Resignation](#)

[Bittner Resume](#)

[Roleson Resume](#)

[Shaw Resume](#)

Councilmember Cummings **NOMINATED** all interested parties.

9.e [Appointments: Punta Gorda Isles Canal Advisory Committee](#)

**Exhibits:**

[Cover Page](#)

[D'Amico Resume](#)

[Onuchovsky Resume](#)

[Rich Resume](#)

Voting forms were distributed.

City Clerk Smith announced Mr. Carl Rich received the most votes and was thus appointed to the Committee.

10) [REPORTS FROM CITY OFFICERS](#)

10.a **City Manager**

City Manager Murray noted Council would be on break for a month. He then announced the Christmas tree lighting would occur on December 3, 2021.

**City Attorney**

City Attorney Levin wished everyone a safe and happy holiday.

**City Clerk**

No reports.

11) [COUNCIL MEMBER COMMENTS](#)

11.a **Mayor**

**MATTHEWS:** Wished everyone a happy holiday season, stating Councilmember's spouses were welcome to ride on the firetruck to the Christmas tree lighting.

- Noted the foster children's lunch would take place on December 4, 2021, at First United Methodist Church, adding the Baker Center and Budweiser Clydesdale events were coming up as well.

**Councilmembers:**

**CUMMINGS:** Wished everyone a Merry Christmas, Happy Hanukkah and Happy New Year.

**LOCKHART:** Expressed hope everyone would have a good holiday.

**CAREY:** Wished everyone a happy holiday, voicing hope the season would see a return to fellowship and courtesy.

**KUHARSKI:** Wished everyone happy holidays.

**ADJOURNMENT**

The meeting adjourned at 12:23 pm.

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Mayor

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City Clerk