

**CITY OF PUNTA GORDA, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
WEDNESDAY, FEBRUARY 20, 2019, 9:00 A.M.**

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

CITY EMPLOYEES PRESENT: Kristin Simeone, Finance; Rick Keeney, Public Works; Tom Jackson, Utilities; Phil Wickstrom, Human Resources; Joan LeBeau, Urban Design; Pamela Davis, Police; Ray Briggs, Fire; City Attorney Levin; City Manager Kunik; City Clerk Smith

Mayor Prafke 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

Recognition of former Mayor and City Council Member Rachel Keesling

Mayor Prafke presented a plaque to Former Mayor Rachel Keesling in appreciation for her service as a City Council Member and Mayor.

Ms. Carolyn Freeland, Mr. William Albers, Mr. Harvey Goldberg, Ms. Kim Devine, Mr. Tom Cavanaugh and Ms. Alexia Martin spoke regarding Ms. Keesling's accomplishments and service.

City Manager Kunik thanked Ms. Keesling for her youthful energy, enthusiasm and assistance in moving the City forward, even when difficult issues arose.

Councilmembers Wein and **Cummings** spoke of Ms. Keesling with fondness, commenting she had elevated the role of Mayor during her tenure and had opened doors for the City at the State level.

15 Year Service Awards – Larry Schrader, Police Department & Lisa Hannon, Zoning Official

City Manager Kunik presented the 15 year service award to Detective Larry Schrader.

Captain Norm Nahra spoke of Detective Schrader's contributions to the Police Department and the numerous service awards he had received.

City Manager Kunik presented the 15 year service award to Ms. Lisa Hannon, Zoning Official.

Ms. Joan LeBeau, Urban Design Manager, spoke of Ms. Hannon's accomplishments and spoke highly of her service to the City.

Legislative Update from U.S. Representative Greg Steube (FL-17)

Representative Greg Steube introduced himself and provided a brief description of his various legislative committee memberships, adding he was interested to learn about any issues pertinent to the City.

City Manager Kunik commented Representative Stuebe's staff had been very helpful with a FEMA reimbursement issue related to Hurricane Irma damage.

Representative Steube offered his assistance should difficulties arise with other agencies, introducing his District Director, Ms. Sydney Greuters. He stated he would maintain an office in Punta Gorda with a full time staff person.

Councilmember Wein mentioned funding for the Charlotte Harbor National Estuary Program was becoming an issue at the Federal level, explaining their work was related to environmental issues but their mission included sustaining the health of Charlotte Harbor and its watershed.

Representative Steube stated he would be meeting with Ms. Jennifer Hecker, Executive Director, later this morning. He stated \$500 million had been allocated to rebuild the Herbert Hoover Dike, which would decrease discharges from Lake Okeechobee; however, it would take time to complete the infrastructure. He opined water quality issues were related to a failure to transition from septic to sewer, adding the Federal government needed to play a role in assisting local governments with those conversions, and he hoped to obtain funding for those types of programs.

Introduction of Board/Committee Member Nominees

Ms. Wendy Mueller introduced herself as a nominee for the Board of Zoning Appeals Alternate seat.

Mr. Bill Hughes, Ms. Debbie Sarkisian and Mr. Jeff Carmen introduced themselves as nominees for the Pickleball Committee.

Ms. Nora Giardina introduced herself as a nominee for the Code Enforcement Board.

PUBLIC HEARING AGENDA

ZA-09-18 An Ordinance of the City of Punta Gorda, Florida, amending Chapter 26, Article 8, Section 8.3, Punta Gorda Code, providing exclusions from height limits for radio antennas and deleting provisions relating to a waiver from height limitations; providing for conflict and severability; and providing an effective date.

FIRST READING

City Attorney Levin read the ordinance by title.

Ms. Lisa Hannon, Zoning Official, explained City Code provided exclusions from height limitations and Council could grant a waiver to the limitation; however, there was no process in place for same. She stated the proposed ordinance provided for exclusions from height limitations for radio antennas and deleted provisions related to the waiver.

Messrs. Bob Fritz, David Schall and Ron Harley, amateur radio operators, spoke in favor of the ordinance.

Mayor Prafke called three times for any further public comment.

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

MOTION UNANIMOUSLY CARRIED.

Councilmember Matthews **MOVED** approval of ZA-09-18, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

ZA-10-18 An Ordinance of the City of Punta Gorda, Florida, amending Chapter 26, Punta Gorda Code, known as “The Land Development Regulations”, Amending Article 10, “Parking and Loading”, Section 10.3 “Parking Specifications”, by adding new Subsections (j) and (k), to provide for optional electric vehicle parking and charging station facilities; providing for conflict and severability; and providing an effective date.

FIRST READING

City Attorney Levin read the ordinance by title.

Ms. Hannon stated City Code contained no provisions for off-street parking facilities for electric vehicles, adding as there had been an upsurge in electric vehicles in the community, staff desired to provide private developers the opportunity to voluntarily install the facilities and to provide design guidelines for same. She concluded staff and the Planning Commission recommended approval.

Mayor Prafke called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

Mayor Prafke inquired whether it was possible to require cars to be charging when parked in the space.

Ms. Hannon replied in the negative as the spaces were privately owned.

Councilmember Cummings **MOVED** approval of ZA-10-18, **SECONDED** by Councilmember Wein.

MOTION UNANIMOUSLY CARRIED.

CONSENT AGENDA

A. Citizen Comments - Consent Agenda Items

None.

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

MOTION UNANIMOUSLY CARRIED.

B. City Clerk's Department

1. Approval of Minutes: Regular Meeting of February 6, 2019

C. Legal Department

1. Invoice of Persson & Cohen, P.A. for services rendered in January 2019

D. Urban Design Division

1. Event Permit: 19-151292; iHeart Media Peace River Seafood Festival; March 8-10, 2019; Laishley Park

E. Police Department

1. Helping Emergency Responders Obtain Support (HEROS) Program

Citizen Comments – Regular Agenda Items Only

Mr. Hughes opined City Council should defer the discussion regarding sound abatement for pickleball to the Pickleball Committee.

Ms. Melissa McIntosh spoke in support of retaining pickleball courts in Gilchrist Park.

Ms. Susan Chaplain questioned how the City could close pickleball courts when the community donated funds toward same, adding she was in favor of a sound barrier being installed in Gilchrist Park.

Ms. Ann Taylor spoke in support of the courts in Gilchrist Park.

Ms. Gloria Riley, PicklePlex Board member, stated the Board supported retention of the courts and installation of the sound abatement fence.

Ms. Cheryl Runkin, Ms. Martha Sparks and Ms. Pamela Morgan spoke in support of sound barriers and retaining the courts in Gilchrist Park.

Mr. Bill Winters voiced opposition to reducing the number of courts.

Ms. Nancy Morton, Ms. Linda Ward, Ms. Robin Sloboda and Ms. Laura Phillips commented on the health benefits of pickleball, retention of the current courts in Gilchrist Park and installation of a sound barrier on the street side of the courts.

Ms. Kathleen Shanley voiced support of the \$12,000 sound barrier option.

Ms. Lucy (unintelligible) voiced opposition to closing the courts at Gilchrist but agreed with adding sound abatement.

Mr. Peter Kunsiek stated he moved to Punta Gorda for the outdoor activities and was in favor of the sound barrier.

Mr. John Taylor asserted the Gilchrist pickleball courts were overcrowded, opining sound abatement was not necessary.

Mr. Jim Green, Ms. Barbara (unintelligible), Ms. Diane O’Keele, Mr. David Perone and Ms. Jerline Searle spoke in favor of retaining all eight pickleball courts in Gilchrist Park and installing sound abatement fencing.

Ms. Sheila Jaeger stated the noise from pickleball was distressing not just to neighbors of the park but also users of the park. She stated the sound barrier would be pricey, ugly, awkward and labor intensive, suggesting removing the courts from Gilchrist Park was the only permanent practical solution as this issue would always be contentious.

Mr. Marshall Fernholtz suggested a compromise such as the sound barrier was needed.

Mr. Mark Allen spoke in favor of retaining the pickleball courts in Gilchrist Park.

Mr. Bob Federici spoke regarding the constant noise from pickleball, asserting there were other sports not allowed in Gilchrist Park because it was not intended for those types of activities. He asserted home values in the area were dropping.

Ms. Christi Federici voiced opposition to the sound barrier. She stated she had no peace in her home, opining Councilmembers would not want the pickleball noise across from their home. She stated the noise caused stress and anxiety, requesting the courts be removed from the park. She pointed out pickleball players were able to go home and enjoy peace and quiet.

Mr. Chris Hanson spoke in favor of retaining pickleball in Gilchrist.

Mr. Jeff Carmen spoke in favor of sound abatement and suggested moving the staging area to the other side of the court.

Mr. Chuck Nehroo and Bob Smutka requested the courts be retained in Gilchrist Park.

Ms. Sarkisian read letters written by Ms. Mary Stewart and Mr. Polino Risolko which voiced support of retaining the courts in Gilchrist Park.

Ms. Anastasia Settle voiced support of installing the sound abatement.

Ms. Dawn MacGibbon stated peace and prosperity were goods which belonged to the whole human race, adding it was not possible to enjoy them in a proper and lasting way if they were achieved and maintained at the cost of others by violating their rights. She stated Gilchrist Park was given to the citizens of Punta Gorda and was meant to be protected by City Council, adding the 2005 Master Plan indicated the activities and use of the park envisioned by citizens included a place to picnic and walk as well as an unobstructed view of the harbor.

Mr. Carlos Obern spoke in favor of retaining the courts in Gilchrist Park.

Mr. Frank Frasier suggested switching the location of the pickleball courts with the existing tennis courts.

Mr. Ricardo DelGardo opined adding the sound barrier would resolve the noise issue.

Ms. Kjersten Hobbs, Mr. John Stockinger, Mr. Jeff Wilson, Ms. Margaret Strong and Mr. Nix Zacrak voiced support of retaining the eight courts and installing a sound barrier.

Ms. Andrea Gately requested consideration of installing a sound barrier but to delay consideration of closing the courts until after the park renovation was complete.

Ms. Kathy (unintelligible) spoke in favor of installing a sound barrier to give local residents some relief.

Ms. Kathy Getz stated a beautiful passive park had become a sports park, requesting the park be retained as a passive park.

Mr. Rick Sarkisian commented acoustic fence was a proven solution.

Ms. Lynn Stockinger stated she was in favor of sound abatement and making things palatable for the neighbors.

Mr. Chris Wolfe opined the tennis courts were underutilized while the pickleball courts were always in use, asserting the community benefitted financially both directly and indirectly from pickleball.

Ms. Betsy Blaustein requested the decision be delayed until the Pickleball Committee completed their work.

Ms. Susan Barnhart and Mr. Al Green spoke in support of retaining the courts and installation of sound abatement.

Mr. Brad Gamblin suggested the City needed a parks and recreation department.

Mr. John Welsh spoke regarding dredging Ponce Inlet to a deeper depth of 7 feet, opining it would make the canals more useable.

Ms. Beth Magnin agreed with allowing the Pickleball Committee to do their work as well as delaying any decisions until the renovations on the park were complete.

NOTE: A short break was called at 11:16 a.m.

BUDGET

City-wide Master Plan Additional Services – Transportation Activity

Mr. Mitchell Austin, Urban Design Planner, drew members' attention to the Transportation Activity Proposal provided by Dover Kohl & Partners (DKP), as delineated in the agenda materials, noting the DKP team felt there was a knowledge gap related to transportation best practices and were recommending creation of an educational webinar and an easy-to-digest series of videos on that topic. He stated same would be beneficial to the community in preparation for the charrettes and be lasting documents which would help with informed decision making going forward with implementation of the City-wide Master Plan. He stated staff recommended approval of Option 1 and an appropriation of funds for same, noting this option provided a product tailored to Punta Gorda and would address questions and concerns posed by community members during the live webinar portion. He clarified the webinar would be conducted at a site specific location, adding the webinar, along with a question and answer period, would be recorded and subsequently made available for public consumption.

Councilmember Matthews voiced concern regarding addendums to the contract as well as the need to utilize additional funds from the Special Reserve Account for something she felt should be included in the Master Plan, concluding she did not support the proposal.

Councilmember Cummings voiced support for the proposal, noting the project was currently under budget. He stated in order for the charrette process to be useful there should be as much education of the citizenry as possible, adding decisions needed to be made based on best practices in urban design and transportation.

Councilmember Wein voiced support for moving forward with Option 1, pointing out the City hired the consultants for their expertise.

Councilmember Carey inquired how the proposal related to the traffic study which was presented a couple of months prior.

Mr. Austin replied the transportation study was related to the build out pattern of Punta Gorda and potential traffic issues through 2045, noting same focused primarily on automobile traffic. He stated DKP's focus was how to make the downtown a viable location with better connections to other areas, adding DKP was looking at transportation from a holistic perspective. He summarized DKP's approach would be different and would utilize a different set of metrics.

Mayor Prafke opined this item should be an outcome of the Master Plan. She voiced concern regarding the limited timeframe for conducting the webinar and making use of the videos.

Mr. Austin stated DKP would be ready to proceed on February 26, 2019, adding videos could be posted to the website immediately thereafter.

Councilmember Cummings stated Punta Gorda was unique in that a large percentage of the community turned over every eight years, adding there were new residents who would not have been a part of the previous master plan process and would need to be brought up to date in order to contribute.

Councilmember Cummings **MOVED** approval of the proposal as recommended by staff, **SECONDED** by Councilmember Wein.

Voting Aye: Cummings, Wein.

Voting Nay: Carey, Matthews, Prafke.

MOTION FAILED.

Councilmember Cummings **MOVED** approval of Option 2, **SECONDED** by Councilmember Wein.

Voting Aye: Cummings, Wein.

Voting Nay: Carey, Matthews, Prafke.

MOTION FAILED.

Relocation of Access Road Proposal Washington Loop Road/ City of Punta Gorda Water Plant

This item was continued to the March 6, 2019 meeting at the property owner's request.

UNFINISHED BUSINESS

Pickleball Courts Sound Abatement

City Manager Kunik reviewed staff's findings and options for providing noise barrier material at the pickleball courts in Gilchrist Park, as delineated in the agenda material.

Councilmember Matthews inquired as to a study of the noise level, questioning whether City Council should move forward or delegate the task to the Pickleball Committee.

Councilmember Cummings stated City Council's primary role regarding citizens was protecting health, safety and welfare, which was followed by the protection of property rights. He opined there were no pickleball courts at the Isles Yacht Club because of the possible negative effect on members. He stated the fencing needed to be ten feet high around all four sides; however, same would block the view of homeowners, other park users and pickleball players, adding such an opaque barrier which would result in the loss of a beautiful park and would likely lower property values. He stated other municipalities understood that very popular, community oriented, healthy sports should be located in sports parks.

Councilmember Carey stated she visited a park with two walls of acoustic fencing, noting same worked well and the homeowners were satisfied with the sound abatement. She opined the owners of the private property adjacent to the Gilchrist Park courts would lose very little of their view. She then inquired as to the timing of the park renovation.

City Manager Kunik responded same was far into the future.

Councilmember Wein suggested the Pickleball Committee be given an opportunity to complete their task of identifying solutions. He confirmed if the City were to purchase the fabric, same could be moved to another site should the courts be relocated.

Mayor Prafke agreed with allowing the Committee to complete their task. She pointed out there were many considerations with regard to the acoustic fence; however, sending it out to bid would make it possible to act more quickly.

Councilmember Matthews stated it was necessary to know what to include in the bid, opining only two walls were needed. She agreed to allow the Pickleball Committee time to discuss the matter.

Councilmember Cummings stressed the only people making sacrifices were the residents, opining a “V” shaped fence was not a solution and nothing was being done to help the residents at this time.

Councilmember Matthews inquired as to the timing for the bid process.

Mr. Mark Gering, City Engineer, replied the City could purchase the fabric within a couple of weeks, adding a contractor had already been secured to install the fencing. He then explained installation of the fence would cost very little, estimating the cost of the fence material to be approximately \$8,000.

Councilmember Wein stated he was in favor of going out to bid and moving forward with noise abatement.

Councilmember Carey **MOVED** approval of going out to bid for the minimum amount of fencing required as per the expert’s recommendation.

Motion **DIED** for lack of a **SECOND**.

Discussion ensued regarding the options identified in the agenda materials.

Councilmember Carey **MOVED** to go out to bid for two acoustic fence walls with approval to purchase same if the cost was within the estimate provided, **SECONDED** by Councilmember Wein.

MOTION UNANIMOUSLY CARRIED.

City Manager Kunik confirmed if the bid was close to the estimate of \$32,000, he would move forward with the purchase and completion of the fence.

A Resolution of the City Council of the City of Punta Gorda, Florida, accepting a Bill of Sale, Release of Liens/Affidavit of No Liens, and Warranty from D.R. Horton, Inc. for water distribution and wastewater collection facilities located within Waterford Estates Phase 2B; providing for conflicts and severability; and providing an effective date.

City Attorney Levin read the Resolution by title.

Councilmember Matthews **MOVED** approval of the Resolution, **SECONDED** by Councilmember Carey.

MOTION UNANIMOUSLY CARRIED.

Mr. Gering confirmed Councilmember’s color preference for the acoustic fence was green.

NEW BUSINESS

Peace River Wildlife Center Lease Dundee Road Site

Item continued to March 6, 2019 meeting at the request of the Peace River Wildlife Center.

Dredging of Ponce Inlet

City Manager Kunik drew members' attention to the request from the Punta Gorda Boater's Alliance requesting the City seek a permit to dredge Ponce Inlet to 7 feet. Mr. Gering stated this matter was heard by the Punta Gorda Isles Canal Advisory Committee (PGI CAC), noting members had several concerns including dredging beyond Marker 1 where the depth was quoted at 4.8 feet. He advised it would be a major accomplishment to go beyond Marker 1 with any dredging, and many issues would need to be worked out.

Councilmember Matthews explained a Boater's Alliance member conducted hundreds of depth soundings throughout the Ponce channel and found inconsistent readings, adding the permitting process could take years; thus, the Boater's Alliance recommended beginning the process of looking into whether it was possible to dredge to 7 feet. She stated this was on the agenda for discussion to determine whether to proceed.

Mayor Prafke questioned why this matter was being brought to Council, stressing the item should first be well vetted by the PGI CAC.

City Manager Kunik agreed, adding if the PGI CAC decided to move forward, the project must be funded with Canal Maintenance Assessment District monies.

RECOMMENDATION FROM CITY OFFICERS

CITY MANAGER

Discussion of Scheduling Community Meeting for FY 2020 Budget Input

City Manager Kunik stated staff was ready to schedule a community conversation in late March or early April, confirming City Council's preference was for staff to lead the meeting.

CITY ATTORNEY

Vlcko & Turnbull v. City, et. Al. Case No. 18-0962-CC

City Attorney Levin reported the City had received a settlement proposal in the referenced litigation, explaining the Sunshine Law allowed City Council to meet with the City attorney "in the shade" to discuss litigation strategy. He stated he was requesting such a meeting to consider the settlement proposal received, adding it was necessary to identify a specific day and time for the meeting in order to provide reasonable notice to the public. He stated the suggestion that such a meeting was illegal was not accurate under the provisions of the law. He concluded any proposed agreed upon settlement would be brought to Council for a decision in a public meeting.

Mr. Miroslav Vlcko, plaintiff, stated he would like to address the timing of the meeting, noting a motion for summary judgment had been filed and the hearing was scheduled

for March 8, 2019. He explained City Attorney Levin had requested an adjournment of the hearing date, adding he was amenable to doing so if City Council was willing to consider the settlement. He stated if the settlement was rejected out of hand or no meeting was scheduled, the hearing would go forward.

City Attorney Levin reiterated this was the time for City Council to grant his request for a shade meeting to consider the settlement proposal, adding his recommendation was to meet at the end of the March 20, 2019 City Council meeting.

Consensus was to schedule a shade meeting with the City Attorney.

City Attorney Levin stated once the City Council set a specific date and time, the hearing set for March 8, 2019 would be continued.

Discussion ensued regarding scheduling a meeting date.

Mr. Vlcko stated he was not willing to adjourn the March 8, 2019 hearing based on a shade meeting date of March 20, 2019, adding it was not necessary to consider the settlement at this point; however, he would contact Mr. Levin if that changed. He stated he would like an opportunity to address the issue itself since it was on the agenda.

City Attorney Levin advised the case was not on the agenda for discussion.

Mr. Vlcko stated he would make comments under citizens comments, inquiring whether it was appropriate for him to utilize the minutes of the other individuals in attendance with him this date.

City Attorney Levin replied in the negative.

Mr. Vlcko stated he would not make any comments and would see the City Attorney in court on March 8, 2019.

City Attorney Levin clarified Mr. Vlcko had withdrawn his settlement proposal; thus, there was no longer a need for a shade meeting.

BOARDS AND COMMITTEES

Announcement of Vacancies

Board of Zoning Appeal Alternate

Building Board Alternate

Code Enforcement Board Alternate

City Clerk Smith announced the continuing vacancies.

Appointments

Code Enforcement Board

Voting forms were distributed.

City Attorney Levin announced Ms. Nina Giardina had received the most votes and was thus appointed to the Board.

POLICY AND LEGISLATION

PRAFKE: Reported several Councilmembers would be attending a regional pre-legislative luncheon, noting Senator Ben Albritton would be meeting with Councilmembers following the luncheon.

CUMMINGS: Announced the Blanchard House Museum was holding a food event on March 5, 2019 at Leroy's restaurant, noting same was a part of the March on Museums.

MATTHEWS: Thanked Councilmembers who participated in the VIP tours for the Military Heritage Museum, noting a welcome home event for Vietnam veterans would be held on March 29, 2019.

CITIZENS COMMENTS

Ms. Jaeger voiced concern the voices of other Gilchrist Park users were not being heard as they were not organized like the pickleball players. She opined a two sided acoustic fence would shield the homeowners but not other park users. She asserted a noise study on decibel levels did not negate the noise problem for those who lived with it. She requested the members of the Pickleball Committee be persons who were interested in serving the entire community.

Ms. Karen Turnbull stated she also enjoyed the serenity of Gilchrist Park, adding she would not want to live across the street from the continuous noise of pickleball. She opined pickleball had changed the atmosphere of the park for those who enjoyed the serenity. She then stated an end point was needed for the lawsuit, inquiring whether the City Attorney could provide a definite date upon which he would be ready for a hearing.

City Attorney Levin responded if City Council was given an opportunity to hear his position, a settlement might be possible by the end of April, but was dependent upon how far apart the parties might be. He pointed out he was trying to do his best to come to a reasonable response; however, the settlement had been withdrawn, reiterating he was prepared to go to the hearing on March 8, 2019.

Ms. Turnbull inquired if a hearing date of March 30, 2019 would allow sufficient time to discuss the proposal.

City Attorney Levin replied affirmatively, reiterating since the settlement proposal had been taken off the table, he would be preparing for a court hearing on March 8, 2019.

Ms. Turnbull inquired if it was possible to change what had been said.

City Attorney Levin responded it must be done now as this was the only opportunity City Council had to schedule a shade meeting in a reasonable period of time.

Ms. Turnbull replied she could not do so without counsel present.

The meeting was adjourned at 12:54 p.m.

Mayor

City Clerk