

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

Commemoration of the 50th Anniversary of the Vietnam War

Councilmember Matthews presented the proclamation, which was accepted by Ms. C. J. Metcalf.

Charlotte Warriors JV Cheerleading Squad Day

Mayor Prafke presented the proclamation, which was accepted by the Cheerleading Squad.

Introduction of Board/Committee Member Nominees

None.

Mayor Prafke announced the Damage Prevention Fence for Mural item had been withdrawn from the agenda by the Mural Society.

PUBLIC HEARINGS

Quasi-Judicial Public Hearings

V-04-18 - Request by Andrey Nikitin, property owner, for a variance to the Land Development Regulations pursuant to Chapter 26, Section 16.10 and Section 17.6, Punta Gorda Code, to allow a new single-family residence to be constructed in a General Single-Family zoning district (GS-3.5) on a non-conforming lot of record containing 9,042 square feet instead of 9,600 square feet as required per Chapter 26, Section 3.4(g)(1), Punta Gorda Code; and to allow construction of a new swimming pool, deck and screen enclosure with 15.0 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.

Continued from December 19, 2018

City Clerk Smith sworn in the participants.

City Attorney Levin read the request by title.

Ms. Lisa Hannon, Zoning Official, entered the staff report into the record, as delineated within the agenda material, noting the seawall was rated in good condition. She stated the applicant had submitted a letter from a medical provider outlining the minimal therapy pool size based on the size and height of the applicant and which would afford reasonable Americans with Disability Act accommodation. She concluded based upon the approval criteria and findings, staff recommended approval of the request with the stated conditions, concluding the Board of Zoning Appeals recommended approval by a 6 - 1 vote. City Attorney Levin recalled at the previous public hearing there was concern as to whether or not the accommodation requested was the minimal necessary to provide for reasonable use of the property, noting the applicant obtained some additional information from the medical provider that gave specific dimensions and reasons why the plans provided were necessary for this individual's reasonable accommodations based on their disability. He stated therefore, there was nothing further to be presented for consideration.

Ms. Eve Porter, stated she had no additional information to present, noting an updated drawing on the survey.

Councilmember Wein confirmed there had been no objections from the neighbors.

Mayor Prafke inquired whether the property owner would be responsible for paying for erosion control around the pool.

Ms. Hannon responded that language could be added to the hold harmless agreement, adding she had included sample language that the City would not be held responsible for any damage to the deck of the pool should the seawall fail.

Ms. Porter stated the property owner had submitted a written statement indicating he was willing to reinforce the seawall.

Councilmember Matthews voiced concern regarding the integrity of the seawall during construction, suggesting there were alternatives such as modifying the site plan with a smaller footprint.

City Attorney Levin confirmed it was possible to add language that any needed reinforcement of the seawall to ensure its integrity was the responsibility of the owner.

Councilmember Cummings inquired if Public Works had any issue with the design as it related to the seawall.

Mr. Rick Keeney, Public Works Director, replied it was likely there were tiebacks, opining the contractor would be cognizant of the need to be careful of same.

Councilmember Carey confirmed the property owner would have no objections to the additional hold harmless language.

Mayor Prafke called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

Councilmember Wein **MOVED** approval of V-04-18 with conditions as recommended by staff and discussed by City Council, **SECONDED** by Councilmember Cummings.

Voting Aye: Carey, Cummings, Prafke, Wein.

Voting Nay: Matthews.

MOTION CARRIED.

ORDINANCE/RESOLUTION

No Public Hearing Required

Citizen Comments – Ordinances/Resolution Items Only

None.

A Resolution of the City Council of the City of Punta Gorda, Florida, adopting the Transportation Buildout Study and incorporating the Transportation Buildout Study into the City of Punta Gorda Comprehensive Plan 2040; and providing an effective date.

City Attorney Levin read the resolution by title.

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

MOTION UNANIMOUSLY CARRIED.

CONSENT AGENDA

Councilmember Matthews pulled Items D2 and D3.

A. Citizen Comments - Consent Agenda Items

None.

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

MOTION UNANIMOUSLY CARRIED.

ITEM D2: City Attorney Levin read the resolution by title.

Mr. Mitchell Austin, Urban Design Planner, explained the attachments to the resolution had been provided by the Florida Department of Transportation (FDOT) based on City Council's actions at the October 3, 2018 meeting where they directed staff to pursue decorative signal mast arm upgrades for the traffic signals at Taylor Road, Virginia Avenue, Olympia and Marion Avenues at U.S. 41 northbound, noting staff had estimated the project would cost approximately \$63,000; however, FDOT's request for local funding match was only \$43,400.

Councilmember Matthews voiced concern regarding expending funds on a want rather than a need.

Councilmember Cummings opined it was necessary to have a clearly defined historic district.

Councilmember Carey agreed.

Councilmember Wein inquired if the City were to add stop lights at Retta Esplanade, who would pay for the lights and the upgrades.

Mr. Austin replied FDOT was considering whether traffic signalization of those two intersections was appropriate, adding if they determined those signals were warranted, those costs would be borne by the department for the standard signal arms; however, the City would need to pay a local match for upgrades.

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

Voting Aye: Carey, Cummings, Prafke, Wein.

Voting Nay: Matthews.

MOTION CARRIED.

ITEM D3: City Attorney Levin read the resolution by title.

Mr. Austin explained as with any grants funds received from FDOT, the City had to have a maintenance agreement, adding when the City agreed to an upgrade,

it was also necessary to agree to maintain same. He stated FDOT was paying the City to maintain the decorative elements.

Councilmember Cummings **MOVED** approval of Item D.3., **SECONDED** by Councilmember Wein.

Voting Aye: Carey, Cummings, Prafke, Wein.

Voting Nay: Matthews.

MOTION CARRIED.

B. City Manager's Department

1. State Appropriation Request for Funding of Groundwater Reverse Osmosis (RO) Water Treatment Plant
2. Amended Intergovernmental Cooperative Agreement for Public Risk Management Group Health Trust

C. Legal Department

1. Invoice of Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. for services rendered through March 6, 2019

D. Urban Design Division

1. A Resolution of the City Council of the City of Punta Gorda, Florida, as local host agency for the Charlotte Harbor National Estuary Program, accepting funding from Mosaic Company; authorizing the City Manager to accept and administer the funding on behalf of the City; and providing an effective date.
2. A Resolution of the City Council of the City of Punta Gorda, Florida, approving the Locally Funded Agreement with the State of Florida Department of Transportation for SR 45 (US 41/Tamiami Trail) traffic signal and lighting upgrades; authorizing the City Manager to enter into the agreement on behalf of the City; and providing an effective date.
3. A Resolution of the City Council of the City of Punta Gorda, Florida, approving the Locally Funded Agreement with the State of Florida Department of Transportation for SR 45 (US 41/Tamiami Trail) traffic signal and lighting upgrades; authorizing the City Manager to enter into the agreement on behalf of the City; and providing an effective date.

REGULAR AGENDA

Citizen Comments – Regular Agenda Items Only

Mr. David Aynes, Harbor Walk Condominiums, explained the last parking space on the northbound side of Nesbit was a public safety issue, asserting it blocked the view of motorists, pedestrians and cyclists.

Ms. Sheila Jaeger stated City Code defined nuisance noises as sounds offensive beyond the premises of origin, adding the City had a prohibition on loud sound making devices plainly audible at a distance of 100 feet from the device or instrument. She stated her home was 350 feet (from the pickleball court), adding she heard a monotonous, sharp, attention-grabbing irregular series of pops which were plainly audible and did not blend in with other unoffensive background noise. She stated she had repeatedly stated it was not about decibels but rather sound quality and the damaging effects of noise annoyance which was more complicated but more pertinent.

BUDGET

Award of Agreement to Sunland Paving Company of Port Charlotte, FL for Minor Paving and Asphalt Repair Services.

Ms. Marian Pace, Procurement Manager, explained the City's paving needs had changed; thus, additional services were included in the new contract to make it more workable for the City's Engineering Division and Utilities Department. She stated the lowest bidder was Sunland Paving Company, noting the unit prices for bituminous materials would fluctuate monthly. She concluded staff recommended award of the agreement to Sunland.

Councilmember Cummings **MOVED** approval of the award to Sunland Paving Company, **SECONDED** by Councilmember Carey.

MOTION UNANIMOUSLY CARRIED.

Award of Master Agreements to AECOM Technical Services, Inc. and KCCS, Inc., both of Tampa, FL, for Construction Engineering and Inspection (CEI) services as may be requested by the City. Award of Amendment 1 for CEI services for Harborwalk Areas 2A and 2B to KCCS, Inc.

Ms. Pace explained staff had solicited a request for qualification for the purpose of establishing a Master Agreement for CEI services for projects when the City deemed it necessary, explaining staff did not want to award the agreement to just one firm because as the engineer of record, they could not also be the CEI. She stated the evaluation committee short listed the top firms with KCCS first

and AECOM Technical Services second, announcing staff entered into negotiations with those two firms. She explained because KCCS was selected first, a scope of work for a specific authorization #1 was included in the solicitation for CEI services for Harborwalk Areas 2a and 2b.

Councilmember Matthews **MOVED** approval of the Master Agreement to AECOM Technical Services, Inc. and KCCS, Inc., both of Tampa for CEI services and award of Amendment 1 for CEI services for Harborwalk Areas 2A and 2B to KCCS, **SECONDED** by Councilmember Wein.

MOTION UNANIMOUSLY CARRIED.

Request by Pickleball Committee to Undertake an Acoustical Study

City Manager Kunik stated the Pickleball Committee had proposed to undertake an acoustical study at the Gilchrist Park courts and had proposed purchase of a camera to be mounted at the courts to monitor play, noting the Committee was willing to donate a camera if City staff could mount same.

Ms. Donna Peterman, Pickleball Committee Chair, reported the group had identified 15 items to research as part of their 90 day fact finding mission, adding the acoustic study would provide scientific data that would be important in guiding the Council's deliberations. She stated they were requesting the funds now in order to capture conditions at Gilchrist Park both before and after installation of noise abatement. She stated one proposal for acoustic fencing was included in the agenda material and another one had been distributed to Council by the City Manager, confirming it was preferable to conduct the study with all eight courts open.

Mayor Prafke inquired as to a scope of work.

Ms. Deb Sarkisian replied she left that to the experts as she was not qualified to direct those firms on how to do an acoustic study.

Mayor Prafke questioned how the cameras would be operated.

Ms. Peterman explained the purpose of the cameras was to learn when and how much the courts were being utilized.

Councilmember Matthews inquired why so much emphasis was being put on Gilchrist Park, noting the goal of the Committee was to find alternate locations. She cautioned against expending too much more on pickleball.

Councilmember Wein inquired whether the acoustic study would generate raw quantitative data that could be applied to other sites.

Councilmember Cummings stated measuring noise at Gilchrist was not necessary as residents had already attested they were affected by same. He stated the firm which had submitted a proposal was music oriented, adding it was necessary to hire someone who specialized in environmental and community noise as well as sound impacts.

Ms. Sarkisian stated Mr. Hartwick was an industrial hygienist and an environmental engineer, adding he was an expert on noise in environmental settings and had testified in court on behalf of businesses and neighborhoods.

City Attorney Levin stated the acoustic study should be considered in terms of the City's ordinance as to whether the noise level would be offensive beyond the premises or to a reasonable person.

Ms. Peterman opined if the Committee had permission to pursue the study, they could establish firm criteria as to what services were being sought.

City Manager Kunik confirmed the acoustic fencing would be within the informal quote threshold.

Councilmember Matthews suggested data should be obtained prior to installation of the fencing.

Councilmember Wein **MOVED** approval of moving forward with a sound study and installation of a camera for two weeks, **SECONDED** by Councilmember Matthews.

Voting aye: Carey, Matthews, Prafke, Wein.

Voting Nay: Cummings.

MOTION CARRIED.

City Attorney Levin stated the City should not be liable for theft or vandalism of the camera.

Ms. Peterman agreed.

NEW BUSINESS

Request to remove on-street parking space on Nesbit Street at Harbor Walk Drive

Ms. LeBeau explained the Harbor Walk Condominium had requested the City to address the continuing traffic hazard where Nesbit Street, Harbor Walk Drive

and Lashley Crabhouse parking lot driveways intersected. She stated staff recommended striping the space at a cost of \$250 due to the slope in that area. Councilmember Cummings **MOVED** approval of striping the space, **SECONDED** by Councilmember Matthews.

MOTION UNANIMOUSLY CARRIED.

Councilmember Matthews stated Commissioner Constance had asked City Council to consider lowering the speed limit on Nesbit north of Marion Avenue.

Damage Prevention Fence for Mural

Withdrawn.

Downtown Farmers Market

Ms. Lisa Hannon, Zoning Official, explained the Downtown Farmers Market was asking to manage the market similar to special events held on public property. She stated staff researched various street rental rates and was recommending an annual rental rate of \$750 for Council's consideration.

Councilmember Cummings **MOVED** approval of the annual rental rate as recommended by staff, **SECONDED** by Councilmember Wein.

MOTION UNANIMOUSLY CARRIED.

RECOMMENDATION FROM CITY OFFICERS

CITY MANAGER

City Manager Kunik announced the budget community conversation would be held on March 28, 2019, at 5:00 p.m. at the Punta Gorda Isles Civic Association.

CITY ATTORNEY

City Attorney Levin announced Mr. Miroslav Vlcko voluntarily cancelled the March 8, 2019 hearing scheduled on his Motion for Summary Judgement and had rescheduled same for April 29, 2019 at 1:30 p.m.

BOARDS AND COMMITTEES

Announcement of Vacancies

Burnt Store Isles Canal Advisory Committee

Historic Preservation Advisory Board

Firefighters' Pension Board

City Clerk Smith announced the vacancies.

Nominations

Code Enforcement Board Alternate

Councilmember Matthews **MOVED** to nominate and appoint Mr. Jay Nadelson, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

POLICY AND LEGISLATION

PRAFKE: Thanked everyone for participating in the Master Plan charrettes, noting she had talked to Mr. Micah Richins, Sunseeker CEO, who indicated an interest in working with the City on the suggested bridge lighting project.

- Requested Councilmember Cummings provide updates on his activities during Legislative Action Days in Tallahassee, Florida.

MATTHEWS: Suggested reconsideration of the assessment methodology and utilizing a per foot calculation as there were many properties between 85' and 90', and owners were having to pay for 2 water access units, which was a financial burden to many in Punta Gorda Isles. She requested the City consider utilizing Special Use Funds to relieve the financial burden, as well as establishing a specified maximum amount which would be subjected to the assessment. She stated some people were asking for a straw poll and she recommended doing so.

CAREY: Stated the number one comment that came out of many charrette conversations was how much people loved Punta Gorda.

WEIN: Asked citizens to contemplate the events at Christ Church in New Zealand.

CITIZENS COMMENTS

Ms. Jaeger stated she and her neighbors welcomed the Pickleball Committee's efforts to accumulate pertinent facts; however, they requested the data be interpreted by the Committee and the Council in context with the science on health risks on noise annoyance. She stated the noise was a problem, asserting it was both plainly audible at a distance of 100 feet, and was a sound offensive beyond the premises of origin, which was the park itself. She opined covering only two sides of the court was not sufficient and was unattractive. She stated there were expectations of peace and quiet in your home for 24 hours a day, noting according to Mr. Dover's opening presentation, pickleball noise was a problem all over the country.

Mr. Gene Pawlowski opined Buckley's Pass should be assessed on a linear foot, suggesting the Pass would benefit the entire City; therefore, the design, which would cost approximately 10% to 15%, should be covered by the City taxation method and the balance should be covered by the benefactors of that district. He then proposed no further funds be spent on pickleball at Gilchrist Park but rather it be spent at the Pickleplex.

Ms. Wendy Mueller requested funds be made available to keep the waterfront center going while residents waited for funding to build an activity center.

The meeting was adjourned at 10:41 a.m.

Mayor

City Clerk