

**CITY OF PUNTA GORDA, FLORIDA  
REGULAR CITY COUNCIL MEETING MINUTES  
WEDNESDAY, JUNE 6, 2018, 9:00 A.M.**

**COUNCILMEMBERS PRESENT:** Cummings, Keesling, 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 Keesling called the meeting to order at 9:00 a.m.

Invocation was given by Mr. John Burrage, followed by the Pledge of Allegiance.

**PROCLAMATIONS/PRESENTATIONS**

**National Garden Week**

Councilmember Prafke presented the proclamation, which was accepted by Ms. Carol Houston.

**Florida League of Cities 2018 Home Rule Hero – Mayor Rachel Keesling**

Councilmember Wein presented the Florida League of Cities 2018 Home Rule Hero award to Mayor Keesling.

**Introduction of Board/Committee Member Nominees**

Mr. Norman Ashworth stated he was a nominee for the Burnt Store Isles (BSI) Canal Advisory Committee.

**PUBLIC HEARING AGENDA**

**Quasi-judicial Public Hearings**

City Clerk Smith swore in the participants.

**CP-01-18 – An Ordinance of the City Council 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) and Commercial/County (C/County) to Highway Commercial Corridor/City (HCC/City) for 13.78 acres being a portion of South Highlands, according to the map or plat thereof, as recorded in Plat Book 2, Page 6, Public Records of Charlotte County, Florida, together with Sections 21 and 28, Township 41 South, Range 23 East, being more particularly described in Exhibit “A” (the “Loop Area”) attached hereto; providing for conflict and severability; and providing an effective date.**

**SECOND READING/ADOPTION**

City Attorney Levin read the ordinance by title.

Ms. Joan LeBeau, Urban Design Manager, entered the staff report into the record, stating the subject property was comprised of recently annexed “Loop” parcels.

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

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

**MOTION UNANIMOUSLY CARRIED.**

Councilmember Prafke **MOVED** approval of CP-01-18, **SECONDED** by Councilmember Matthews.

**MOTION UNANIMOUSLY CARRIED.**

**ORDINANCE/RESOLUTION**

**No Public Hearing Required**

**Citizen Comments – Ordinances/Resolution Items Only**

There were none.

**Z-01-18 – An Ordinance of the City Council of the City of Punta Gorda, Florida, rezoning 13.78 +/- acres being a portion of South Highlands, according to the map or plat thereof, as recorded in Plat Book 2, Page 6, Public Records of Charlotte County, Florida, together with Sections 21 and 28, Township 41 South, Range 23 East, being more particularly described in Exhibit “A” (the “Loop Area”) attached hereto; from its current Charlotte County zoning classifications of Commercial General (CG), Mobile Home Conventional (MHC), Residential Single Family 5 (RSF5), to City of Punta Gorda zoning district Highway Commercial (HC); providing for conflict and severability; and providing an effective date.**

**SECOND READING**

City Attorney Levin read the ordinance by title.

Ms. Lisa Hannon, Zoning Official, stated this rezoning would become effective upon adoption of the associated Comprehensive Plan amendment (CP-01-18).

Councilmember Prafke **MOVED** approval of Z-01-18, **SECONDED** by Councilmember Wein.

**MOTION UNANIMOUSLY CARRIED.**

**ZA-04-18 – An Ordinance of the City Council of the City of Punta Gorda, Florida, amending Punta Gorda Code, Chapter 26, “Land Development Regulations”, Article 3, “Regulating Districts”, Section 26-3.1(b), “Overlay Districts”, adding a new “EPCO: Emerald Pointe Condominium Overlay District” classification; creating a new Section 26-3.20, establishing regulations for the Emerald Pointe Condominium Overlay District; providing for conflict and severability; and providing an effective date.**

**SECOND READING**

City Attorney Levin read the ordinance by title.

Councilmember Wein **MOVED** approval of ZA-04-18, **SECONDED** by Councilmember Prafke.

**MOTION UNANIMOUSLY CARRIED.**

**A Resolution of the City Council of the City of Punta Gorda, Florida, Adopting a Residential Anti-displacement and Relocation Assistance Plan; Authorizing the Mayor to Sign on Behalf of the City; and providing an effective date.**

City Attorney Levin read the resolution by title.

Ms. LeBeau explained since the Department of Housing & Urban Development had not made a final determination regarding the City's withdrawal from the Community Development Block Grant Program, staff recommended adoption of the subject Plan for an additional year. She stated this could be considered a housekeeping item, and having the Plan in place might be beneficial when seeking Federal grant funding.

Councilmember Prafke **MOVED** approval, **SECONDED** by Councilmember Matthews.

**MOTION UNANIMOUSLY CARRIED.**

**A Resolution of the City Council of the City of Punta Gorda, Florida, Adopting a Citizen Participation Plan; and providing an effective date.**

City Attorney Levin read the resolution by title.

Ms. LeBeau recommended adoption of this Plan for the reasons delineated under the previous agenda item.

Councilmember Wein **MOVED** approval, **SECONDED** by Councilmember Prafke.

**MOTION UNANIMOUSLY CARRIED.**

#### **CONSENT AGENDA**

A. Citizen Comments - Consent Agenda Items

None.

**Mayor Keesling** stated she had been advised Item D3 needed to be pulled.

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

**MOTION UNANIMOUSLY CARRIED.**

**ITEM D3:** City Manager Kunik stated City Council's approval of the demolition of 412 Allen Street and payment of back taxes and lien write-offs was needed to allow the City to clean up the property.

Councilmember Prafke **MOVED** approval of the demolition and payment of back taxes and lien write-offs for 412 Allen Street, **SECONDED** by Councilmember Wein.

**MOTION UNANIMOUSLY CARRIED.**

City Manager Kunik then stated staff was seeking Council's direction regarding use of the property upon demolition of the existing structure. He advised the property could be listed for sale, noting the adjacent property owner had expressed interest in purchasing the site.

**Councilmember Prafke** suggested donation of the property to a non-profit organization.

**Councilmember Matthews** inquired as to the value of the property, expressing hope the City would at least break even if it was sold.

City Manager Kunik replied the City would definitely not break even.

Discussion ensued with regard to the sale or donation of the property, possibly to Habitat for Humanity, due to the significant need for affordable housing as well as options which would minimize the financial impact to the City.

**Mayor Keesling** recommended first exploring the possibility of selling the property to the adjacent neighbor in that he/she had been forced to deal with a negative situation for a significant period of time.

**Councilmember Wein** suggested the property could be sold for the cost of demolition. Ms. Marian Pace, Procurement Manager, stated the property could be sold, put out for bid or auction or a realtor could be retained. She confirmed disposition of the property through auction could include establishment of a reserve amount, which would ensure the City recouped its costs.

**Councilmember Matthews** suggested placing the property up for bid with the proviso it would be donated if not sold within a specific period of time.

**Mayor Keesling** concurred.

City Attorney Levin proposed delaying demolition and making same the responsibility of the buyer.

Consensus was to move forward with demolition.

B. City Clerk's Department

1. Donation Review Committee Bylaws Amendment
2. Approval of Minutes: Regular Meeting of May 16, 2018

C. City Manager's Department

1. A Resolution of the City Council of the City of Punta Gorda, Florida, authorizing the participation of Punta Gorda Housing Authority Employees in the City of Punta Gorda's Group Health, Dental and Ancillary Insurance Programs; providing for conflict and severability; and providing an effective date.

- D. Legal Department
  - 1. Invoice of Allen, Norton & Blue, P.A. for Legal Services Rendered through April 30, 2018
  - 2. Monthly Litigation Report
  - 3. Approval of Demolition, Payment of Back Taxes & Lien Write-offs for 412 Allen Street
- E. Utilities Department
  - 1. A Resolution of the City Council of the City of Punta Gorda, Florida, accepting a Utility Easement from Howard Management, LLC for the location of a sanitary lift station; and providing an effective date.

**Citizen Comments – Regular Agenda Items Only**

There were none.

**BUDGET**

**Burnt Store Isles Underground Utility Assessment Area Public Hearing – A Resolution of the City Council of the City of Punta Gorda, Florida, creating the Burnt Store Isles Underground Utility Assessment Area to fund the procurement of a binding cost estimate from Florida Power & Light (FPL) for the conversion of existing overhead electric distribution facilities to underground facilities within a portion of the Burnt Store Isles Subdivision; providing for authority and definitions; confirming the Initial Assessment Resolution (No. 3350-18); providing for the imposition of the assessments to fund the underground utility improvements within the underground utility assessment area; providing for collection of the assessments pursuant to the uniform assessment collection act; providing for the effect of this resolution; providing for conflict and severability; and providing an effective date.**

City Attorney Levin read the resolution by title.

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

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

**MOTION UNANIMOUSLY CARRIED.**

**Councilmember Prafke** disclosed the only property she owned in the subject area was her private domicile; thus, she did not believe a conflict of interest existed.

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

**MOTION UNANIMOUSLY CARRIED.**

**Award of Agreement to Avant Construction of Punta Gorda, FL, for the Construction of Gilchrist Park Playground Restrooms**

City Manager Kunik announced Avant Construction of Punta Gorda, FL (Avant) was the lowest, responsive, responsible bidder. He advised costs would be paid with impact fees and one percent sales tax revenue.

**Councilmember Matthews** mentioned the Friends of the Playground had expressed interest in having a mural painted on the side of the structure, which would require stucco as opposed to siding.

Ms. Pace reviewed roofing and siding options, as delineated in the agenda material, advising a stucco finish on one side could be processed as a change order. She concluded staff recommended standard seam roofing and cement board lap siding, both included in the base bid.

**Mayor Keesling** expressed agreement with staff's recommendation provided one side was finished in stucco to allow for a mural.

Councilmember Cummings **MOVED** approval of the award to Avant Construction with the base bids with an option to stucco one wall for a mural, **SECONDED** by Councilmember Prafke.

**MOTION UNANIMOUSLY CARRIED.**

**Award of Agreement to JRL Underground Utilities, Inc. of Fort Myers, FL for Drainage Improvements – Swale Regrading/Restoration**

Ms. Pace announced JRL Underground Utilities, Inc. (JRL) was the lowest, responsive, responsible bidder.

**Councilmember Matthews** asked if the agreement provided for the possibility of the contractor abandoning the project as the previous contractor had done.

Ms. Pace replied it was extremely difficult to provide for liquidated damages in this type of contract other than a standard default clause, noting violators would be prohibited from bidding on any City project in the future.

**Councilmember Wein** voiced opposition to the impact of this project on the General Fund, particularly due to the sub-standard reserves within same, asserting swale maintenance was the responsibility of the property owner.

**Mayor Keesling** confirmed this was a three-year contract.

Ms. Pace advised the agreement provided for termination for convenience.

Councilmember Prafke **MOVED** approval of the award to JRL Underground Utilities, **SECONDED** by Councilmember Matthews.

**VOTING AYE: Cummings, Matthews, Prafke, Keesling.**

**VOTING NAY: Wein.**

**MOTION CARRIED.**

City Attorney Levin then commented on the previously approved agreement with Avant, asking how the change to one wall having a stucco finish should be addressed.

Ms. Pace offered to address the option at the staff level and enter into immediate negotiations with Avant for a change order.

Ms. Frienee Mattesich, Avant Construction, voiced agreement to the proposed change, acknowledging same would result in a cost reduction.

**Appropriation of Funds for the Reconfiguration of Lashley Park Parking**

City Manager Kunik reminded Council the parking reconfiguration at Lashley Park was discussed during the CRA meeting.

Councilmember Matthews **MOVED** approval, **SECONDED** by Councilmember Wein.

**MOTION UNANIMOUSLY CARRIED.**

**Appropriation of Funds for Harborwalk West Area 1 Enhancements**

Ms. Kristin Simeone, Interim Finance Director, explained additional 1% sales tax funds would be realized, requesting an appropriation of \$50,000, as detailed in the agenda material, for additional trees and site furnishings in Gilchrist Park/Harborwalk West Area 1.

**Councilmember Prafke** questioned the reason behind the placement of three oak trees directly down the middle of the park.

Ms. LeBeau replied trees had originally been planted throughout the center of the event area, which provided desired shade; however, the view shed could not be seen from outside the area.

Councilmember Wein **MOVED** approval, **SECONDED** by Councilmember Prafke.

**MOTION UNANIMOUSLY CARRIED.**

**Note: Fiscal Year (FY) 2019–2023 Utilities Capital Improvement Program and FY 2019 Utilities Operations Fund Budget Status Update was heard after Discussion of Gas Pump Security Measures.**

**FY 2019–2023 Utilities Capital Improvements Program and FY 2019 Utilities Operations Fund Budget Status Update**

Ms. Simeone presented the FY 2019-2023 Utilities Capital Improvements Program and FY 2019 Utilities Operations Fund Budget Status Update, as delineated in the agenda material, first reviewing the Utilities Construction funds.

**Councilmember Prafke** inquired as to the increase to \$3.3 million, specifically asking if same was due to the lift station project.

Mr. Tom Jackson, Utilities Director, replied affirmatively.

**Mayor Keesling** requested clarification of the difference between impact and connection fees.

Ms. Sharon Knippenberg, Controller, explained connection fees were applicable to the cost of operation, i.e., meters, hook-ups, while utility impact fees assisted with payment of the debt associated with construction of the City's utility plants as well as new extension lines.

Ms. Simeone continued the presentation, stating Council had awarded the contract for construction of the Reverse Osmosis (RO) project at their previous meeting, briefly reviewing project funding. She concluded with a review of the Utilities Operation Fund FY 2019 – 2023 Proforma of revenue and expense assumptions.

### **UNFINISHED BUSINESS**

#### **Reconsideration of City Council Directive for Development of Draft Guidelines for City Center Increased Building Height**

**Mayor Keesling** stated the Commission on Ethics had responded to her request relative to a potential voting conflict with what was essentially a “non-opinion”, adding she continued to pursue a definitive answer; however, in the meantime and in an abundance of caution, she would not participate in discussion of this issue (see Form 8A Memorandum of Voting Conflict attached).

**Councilmember Wein** asked City Council to reconsider moving forward with establishment of new building height restrictions in light of going forward with the Citizens Master Plan Update (CMPU), acknowledging there would continue to be conversation among Councilmembers and citizen groups in the interim.

**Councilmember Cummings** voiced concern with Councilmembers making decisions on quasi-judicial matters based on perceived popularity versus qualified evidence. He spoke at length regarding quasi-judicial hearing requirements, noting he had undergone training with the Florida League of Cities (FLC) to ensure he had an accurate understanding of the duties and responsibilities associated with same. He read a summary of four separate cases on quasi-judicial proceedings, stating he wished to educate the public on the process. He spoke in opposition to utilizing the variance process as a way to deal with the issue of building height, proposing the following compromise between the need for additional height to preserve the economy and the concerns among some residents relative to any growth: five stories at fourteen feet per floor, two stories to remain at the zero lot line, three to four stories to require a ten foot step-back, five stories to require projected canopies and setbacks.

**Councilmember Wein** opined the decision to hire an outside consultant to facilitate an update of the Citizens Master Plan would remove emotion from the discussion.



**Councilmember Prafke** pointed out all Councilmembers had availed themselves of training available through the FLC, adding members were well versed in the quasi-judicial process, and relied upon the City Attorney's advice during each hearing. She voiced displeasure at the insinuation to the contrary. She pointed out the CMPU would allow residents to participate in the process, voicing support of Councilmember Wein's recommendation to defer any further staff action.

**Councilmember Matthews** agreed, adding she had numerous years of experience with quasi-judicial proceedings. She stressed citizen input must be taken into consideration, reiterating the CMPU would allow same.

Councilmember Prafke **MOVED** to ask City staff to table development of any formal recommendations regarding building height, **SECONDED** by Councilmember Matthews.  
**MOTION UNANIMOUSLY CARRIED.**

**Presentation of Sewer Master Plan by Jones Edmunds & Associates, Inc.**

Mr. Jackson announced Jones Edmunds & Associates, Inc. (Jones Edmunds) had been selected to prepare a septic to sewer master plan for the City's utility service area which would be consistent with the process currently underway in Charlotte County.

Ms. Lisa Ray, Jones Edmunds, provided a detailed presentation of the Sewer Master Plan, as delineated in the agenda material, the goal of which was to improve water quality in Charlotte Harbor through a regional effort. She expressed appreciation to all those who had collaborated on development of the Sewer Master Plan.

City Manager Kunik commented the Sewer Master Plan was well thought out, urging its acceptance; however, he recommended disregarding the years designated for implementation as it was necessary to take a cautionary approach.

Discussion ensued with the importance of the septic to sewer initiative.

Councilmember Prafke **MOVED** acceptance of the report, **SECONDED** by Councilmember Cummings.

**MOTION UNANIMOUSLY CARRIED.**

City Manager Kunik advised staff would develop a more in-depth financial plan.

**Note: New Business was heard following Appropriation of Funds for Harborwalk West Area 1 Enhancements.**

**NEW BUSINESS**

**TU-02-18 – 901 Aquí Esta Drive – Temporary Use Permit for Security Boundary Fence**

Ms. Hannon explained a request to install a six foot vinyl coated, chain link security fence was submitted in order to prevent ongoing trespassing violations. She pointed out these violations had continued even after installation of "No Trespassing" signage

and security cameras, the latter having been stolen. She concluded staff recommended approval of the request contingent upon the applicant obtaining the proper fence permit, confirming electric and barbed wire fences were prohibited. She mentioned the current eagle nesting season had concluded, thus eliminating any environmental impact.

**Councilmember Matthews** commented Federal regulations mandated separation of 660 feet between an eagle's nest and any type of construction or activity which would disrupt the nest, stating the proposed fence would not meet that requirement.

Ms. Hannon responded the Migratory Bird Permit office in Atlanta, Georgia, had advised the fence was allowed provided it did not impact the nest, and construction was not conducted until the eagles were done nesting for the season.

**Councilmember Matthews** asserted she had personally observed eagles still using the nest and had photographs of same.

Mr. Daniel Diaz-Balart, applicant's attorney, stated the United States Fish & Wildlife Migratory Bird Division had advised a permit was not required provided the nest was not impacted in any way and construction was done after the nesting season, confirming all requirements would be met.

**Mayor Keesling** stated the nest was already being disrupted by the abovementioned illegal activities, opining the fence would ultimately protect the nest.

Councilmember Cummings **MOVED** approval, **SECONDED** by Councilmember Wein.

**VOTING AYE: Cummings, Matthews, Prafke, Keesling.**

**VOTING NAY: Matthews**

**MOTION CARRIED.**

#### **Smuggler's Event Management, 4th of July Festival, Park Fee Waiver Request**

**Mayor Keesling** recalled Council had waived the park fees for the 2017 4<sup>th</sup> of July Festival, explaining the site was occupied for almost a full week due to the significant preparations necessary for this private fireworks show. She inquired if Councilmembers would like to grant another waiver, perhaps on a multi-year basis.

Ms. Hannon noted a refundable damage deposit would be collected each year even if the park rental fee was waived.

**Mayor Keesling** clarified the waiver, if approved, would be applicable to Smuggler's Event Management only.

Councilmember Cummings **MOVED** to waive the park rental fee for Smuggler's Event Management's 4<sup>th</sup> of July event for the next five years, **SECONDED** by Councilmember Wein.

**MOTION UNANIMOUSLY CARRIED.**

## **Discussion of Gas Pump Security Measures related to Card Skimmers**

**Councilmember Matthews** voiced concern regarding the incidents of credit card skimmer use at gas stations, noting Cape Coral, Florida had adopted an ordinance which required each gas pump to have a locking device which required a unique key so as to restrict access to credit card information.

**Councilmember Wein** pointed out possible enforcement issues, noting skimmers were being used at businesses other than gas stations.

Police Chief Pamela Davis displayed a photograph of a skimmer, adding a unique key for each pump was a good deterrent as was causing the pump to malfunction when opened. She acknowledged the existence of certain enforcement issues, reviewing a number of deterrent methods.

Discussion ensued with consensus for staff to draft ordinance language.

**Note: A short break was called at 10:38 a.m.**

**Note: Recommendations from City Officers was heard following Unfinished Business.**

## **RECOMMENDATIONS FROM CITY OFFICERS**

### **CITY MANAGER**

City Manager Kunik reviewed upcoming agenda items, including the pay plan study and recommendations scheduled for June 20, 2018.

**Mayor Keesling** confirmed pay plan recommendations were intended for implementation in FY 2019.

### **CITY CLERK**

#### **Florida League of Cities Voting Delegate**

City Clerk Smith explained City Council had been asked to select a voting delegate for the FLC Business Meeting to be held at the Annual Conference in August 2018, noting Mayor Keesling had served in that capacity in the past.

Consensus was for Mayor Keesling and Councilmember Prafke to serve as the voting delegate and alternate, respectively.

## **BOARDS AND COMMITTEES**

### **Announcement of Vacancies**

Historic Preservation Advisory Board

Building Board (2)

Code Enforcement Board (2)

Planning Commission

City Clerk Smith announced the vacancies.

## **Nominations**

Burnt Stores Isles Canal Advisory Committee

Councilmember Matthews **NOMINATED** all interested parties.

### **POLICY AND LEGISLATION**

**KEESLING:** Announced she intended to run for re-election as the District 2 Councilmember, reviewing the accomplishments made and partnerships formed since she was first elected to City Council.

- Announced a City Council Workshop with business owners was scheduled for June 27, 2018, 6:00 p.m. to 8:00 p.m., at the Charlotte Harbor Event & Conference Center.

- Reviewed the City Council meeting schedule for July and August 2018.

**CUMMINGS:** Announced Charlotte Behavioral Health Care now offered walk-in services.

### **CITIZENS COMMENTS**

Ms. Ronna James suggested evening Council meetings.

Mr. Joe Comeaux recognized this date as the anniversary of D-Day and the assassination of Senator Robert F. Kennedy.

The meeting was adjourned at 12:05 p.m.

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Mayor

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City Clerk