

**CITY OF PUNTA GORDA, FLORIDA  
REGULAR CITY COUNCIL MEETING MINUTES  
WEDNESDAY, JUNE 20, 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**

**Punta Gorda Blood Donation Day**

**Councilmember Matthews** presented the proclamation, which was accepted by Ms. Lori O'Brien, One Blood.

**Amateur Radio Week**

**Mayor Keesling** presented the proclamation, which was accepted by Mr. Ron Furley, Peace River Radio Association.

**Introduction of Board/Committee Member Nominees**

None.

**PUBLIC HEARINGS**

**ZA-07-18 – An Ordinance of the City of Punta Gorda, Florida, amending Chapter 26, “Land Development Regulations”, Punta Gorda Code; Article 3, “Regulating Districts”, Section 26–3.10, “HC, Highway Commercial District”, Subsection (f), to allow permanent canopy shade structures as a use permitted by Special Exception; and amending Section 26–4.39, to provide for conditions and specifications relating to permanent canopy shade structures; 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, announced City Council requested the proposed Code amendment to allow commercial use permanent canopy shade structures by Special Exception, drawing attention to an automotive business' request for such a structure which had been allowed by City Council.

**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** inquired whether there was a need to restrict the exception to automotive.

Ms. Hannon replied same was at the pleasure of City Council, adding it would need to be a permanent structure, which required a building permit.

Discussion ensued regarding restricting such shade structures to automotive businesses.

City Attorney Levin advised City Council could consider individual circumstances during the Special Exception process; thus, a limitation was not necessary. He advised the ordinance would need to be amended to impose the limitation which would also require advertising and a new public hearing.

**Mayor Keesling** pointed out the canopy needed to be located behind the building, suggesting approval of the proposed amendment and a separate amendment in the event additional requests were made.

City Manager Kunik clarified the proposed language was limited for the purpose of aesthetics.

Councilmember Prafke **MOVED** approval of ZA-07-18, **SECONDED** by Councilmember Wein.

**MOTION UNANIMOUSLY CARRIED.**

**Quasi-Judicial Public Hearings**

**PD-01-18 – An Ordinance of the City of Punta Gorda, Florida, rezoning 4.02 +/- acres, generally described as 900 West Marion Avenue, Punta Gorda, Florida, and more particularly described as “all of Block 13, City Of Punta Gorda, according to the map or plat thereof as recorded in Plat Book 1, Pages 1 and 23, Public Records of Charlotte County, Florida”, from its current zoning classification of Neighborhood Residential 15 Units per Acre (NR-15) to Planned Development Neighborhood (PDN); providing for conflict and severability; and providing an effective date.**

**FIRST READING**

City Attorney Levin read the ordinance by title.

City Clerk Smith swore in all participants.

Ms. Hannon entered the staff report, as delineated in the agenda material, into the record by reference, explaining the subject property had been used as a university by Special Exception until its vacancy several years earlier. She explained the applicant was requesting a rezoning, noting staff and the Planning Commission recommended approval as the request was consistent with the City’s Comprehensive Plan and Future

Land Use Map, reduced overall density to 2.24 density units per acre and enhanced the City's tax base by re-purposing an existing development.

Ms. Geri Waksler, applicant's representative, displayed a site map and explained the request, stating no changes to the existing footprint were proposed, and no new buildings were requested for this mixed use project. She noted the applicant would renovate all existing buildings as follows: Building 1, hotel with 25 rooms; Building 2, Military Heritage Museum and private 244 seat auditorium; Buildings 3-9, condominium units. She stated aesthetics would remain the same, pointing out the only proposed new construction was a driveway connection from Building 3 to Building 1 for better site flow and possibly some enhanced parking for recreational amenities; however, there was sufficient on-site parking at this time. She asserted the proposal was consistent with the City's Comprehensive Plan, noting a transportation study indicated current adopted levels of service would be maintained. She confirmed existing landscape buffers would be enhanced. She noted the proposed hotel was adjacent to the proposed condominiums; thus, there was an inherent incentive to ensure the hotel use was compatible with adjacent residential use. She stated the project was presented to the Punta Gorda District 1 Homeowners Association, and no objections were voiced. She explained the rezoning would allow the site to transition from its former office/university use to a mixed use with offices, museum, hotel and condominiums. She opined the proposed redevelopment benefitted the City by officially utilizing existing infrastructure and broadening the City's tourist amenities, reducing density in a coastal high hazard area, diversifying the City's tax base by incorporating new commercial uses and allowing a long dormant site to once again become a vibrant part of the community, requesting approval of the request.

**Councilmember Matthews** inquired as to specifically naming the Military Heritage Museum in the proposal.

Ms. Waksler replied the applicant had no objection to same, explaining specific square footage had not been included to allow flexibility for that use.

**Councilmember Prafke** inquired as to amenities for the hotel.

Ms. Waksler replied potentially a pool, pavilions and sport courts.

**Councilmember Prafke** inquired as to food service.

Ms. Waksler replied same was not anticipated at this time and thus was not denoted in the ordinance. She clarified food service would require a special request to City Council.

Mr. Tom Hamilton inquired as to parking for a 240 seat auditorium.

Ms. Cathy Roth stated the Military Heritage Museum was pleased with the possibility of a new location and the expanded services which would be available, adding a lease was being negotiated.

Ms. Waksler pointed out the auditorium already existed; however, it would not be open to the public.

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

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

**MOTION UNANIMOUSLY CARRIED.**

Councilmember Matthews **MOVED** approval of PD-01-18 with the Military Heritage Museum specifically named in the proposal, **SECONDED** by Councilmember Wein.

**MOTION UNANIMOUSLY CARRIED.**

**Z-02-18 - An Ordinance of the City Council of the City of Punta Gorda, Florida, rezoning .90 +/- acres, generally described as "Units 1 through 12 of Isles Colony Condominium Apts No. II, a condominium, according to the Declaration of Condominium recorded in O.R. Book 182, Page 418, and all exhibits and amendments thereof, Public Records of Charlotte County, Florida", from General Multi-family 15 Units per Acre (GM-15) to Neighborhood Center (NC); providing for conflict and severability; and providing an effective date.**      **FIRST READING**

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, emphasizing the request's consistency with the Comprehensive Plan. She explained staff recommended approval of this request as it enabled the redevelopment of a long vacant property in alignment with the City's goal of blending residential and non-residential uses within neighborhoods. She confirmed future development would require approval by the Development Review Committee. She concluded the Planning Commission recommended approval by a vote of five to two.

Ms. Waksler, applicant's representative, distributed a Declaration of Restrictive Covenant, as delineated in the agenda material, explaining the request along with a history of the site. She asserted the NC zoning district was appropriate for small commercial/office use of less than 2,000 square feet and 5 single family home sites, adding residential development would be adjacent to other residences and commercial development would be adjacent to the Isles Yacht Club (IYC). She stressed the proposed rezoning was consistent with the Comprehensive Plan, adding its existing high density residential land use allowed for both residential and non-residential uses which were compatible with neighborhood development. She stated the owner was

willing to bind himself to his promise and had recorded a deed restriction which would limit non-residential development to the southern corner of the property, adding enforcement rights had been given to the City; thus, the restriction could not be modified without the City's approval.

Mr. Anthony Farhat, property owner, displayed a conceptual site plan, as delineated in the agenda material, describing the cottage residences and small commercial component to be constructed. He stated no structure would exceed 35 feet.

Ms. Waksler concluded the request met the standards for a rezoning and was consistent with the Comprehensive Plan, requesting approval.

City Attorney Levin gave a brief description of the legal requirements for a rezoning, advising City Council did not have the authority to restrict uses which were permitted according to the zoning code nor was it appropriate to consider architectural renderings or voluntary limitations with respect to heights and setbacks. He advised the Declaration provided by the applicant could not be taken into account when making a decision as to whether or not the rezoning was an appropriate change.

**Councilmember Wein** clarified the Declaration was an enforceable guarantee.

Mr. Hamilton asserted many types of commercial development would be inconsistent with the surrounding properties.

Mr. Paul Wozney voiced opposition to the request if development could not be restricted as indicated in the Declaration.

Mr. Ron Reedy stated he was in favor of the lot being developed; voicing concern regarding constructing five residences on such a small parcel and the impact of same on his adjacent property.

Mr. Dave Baccatia voiced concern about the change in use and commercial use of the property.

Ms. Deena Palumbo voiced opposition to the rezoning.

Ms. Sheri Lenore stressed the developer should have understood the zoning restrictions of the property when it was purchased.

Ms. Janice Fulman concurred with the opinions of her neighbors, opining the IYC fit well into the residential area, but the proposed use was contrary to the feeling of the neighborhood and would create safety concerns.

Mr. John Grossenbacher stated he now was in favor of the proposal given the developer's compromises and Declaration.

Ms. Susan Zenowich voiced concern regarding safe vehicular access to the property.

Mr. Gerald Janelle expressed opposition to the request.

Mr. Farhat reiterated the rezoning would restrict building height to 35 feet and would further restrict buildable space off the seawall, adding the changes and concessions made were in response to concerns expressed by residents.

Mr. Don Kronin voiced objection to the request.

Mr. Janelle objected to the number of trash cans which would appear on the street.

Mr. Gary Bain, Southwest Engineering, displayed a site layout, as delineated in the agenda material, reiterating the proposed use would reduce traffic, adding the intent for the commercial development was an office boutique which would not be open late. He stated all of the residential components fit on the parcel.

Ms. Waksler reiterated the rezoning would place greater limitations on the development of the property, including reduced heights and increased rear setbacks. She asserted the single family residences increased the view corridors between the buildings. She maintained zoning was never intended to remain in place forever but rather must be flexible in response to changing conditions. She stated the zoning code included a process for making changes over time, pointing out the City looked nothing like it did 30 years earlier. She said the Courts had repeatedly determined zoning was not a contract. She concluded the decision to rezone must be based on competent substantial evidence measured against specific factors which were identified, adding the evidence presented overwhelmingly supported approval.

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

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

**MOTION UNANIMOUSLY CARRIED.**

**Mayor Keesling** and **Councilmembers Cummings, Matthews, Prafke** and **Wein** disclosed they had met with the developer to discuss the project and had been copied on emails received from citizens regarding the request.

City Attorney Levin advised the decision being made this date must be made based on the evidence and testimony presented this date.

Ms. Hannon explained the process for review of the project.

**Councilmember Cummings** opined rezoning was a normal process in the evolution of a city.

Councilmember Cummings **MOVED** approval of PD-01-18 with staff's recommendations, **SECONDED** by Councilmember Wein.

**Councilmember Prafke** stated she understood changing needs, noting the IYC had been expanded to include a banquet room. She acknowledged constructing residences on a busy corner was problematic, adding the proposed project would be a much less

intense use than a larger condominium complex. She opined the homes were characteristic of other single family homes on Jamaica Way.

**Mayor Keesling** recalled changes made in the area of the proposed site over the years, noting there was previously a more intensive commercial use. She pointed out the developer had made concessions after hearing concerns expressed by the public.

**Councilmember Matthews** agreed most concerns had been addressed, adding based on Mr. Farhat's record as a developer, she was confident he would keep his word and develop the property as promised.

**Councilmember Wein** spoke in favor of the request.

**MOTION UNANIMOUSLY CARRIED.**

**NOTE: A short break was called at 10:50 a.m.**

#### CONSENT AGENDA

A. Citizen Comments - Consent Agenda Items

None.

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

**MOTION UNANIMOUSLY CARRIED.**

B. City Clerk's Department

1. Approval of Minutes: Regular Meeting of June 6, 2018

C. City Manager's Department

1. Letter of Support for the HIPPY Program

D. Legal Department

1. Invoices of Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. for services rendered through June 14, 2018

E. Finance Department

1. Award of Master Agreements for the Engineering Library to 29 firms for engineering and architectural services as required

F. Urban Design Division

1. A Resolution of the City Council of the City of Punta Gorda, Florida, repealing Resolution No. 3333-17 and adopting an updated City of Punta Gorda Americans with Disabilities Act (ADA) Transition Plan; and providing for an effective date

G. Police Department

1. A Resolution of the City Council of the City of Punta Gorda, Florida, repealing Resolution No. 3061-13 and approving an Agreement between the School Board of Charlotte County, Florida, and the City Council of the City of Punta Gorda,

Florida, relating to the School Resource Officer Program; authorizing the Mayor to execute the agreement on behalf of the City; and providing an effective date

### **Citizen Comments – Regular Agenda Items Only**

Mr. Don Sabatini objected to a settlement with Winter Park Dodge.

Ms. Martha Bireda spoke in favor of the historic sign toppers, opining it was the first step in uniting the City's historic neighborhoods.

### **BUDGET**

#### **Fiscal Year 2019 Burnt Store Isles (BSI) Canal Maintenance Assessment District Budget Status and Discussion**

Ms. Sharon Knippenberg, Controller, provided a budget status update for the BSI Canal Maintenance Assessment District (CMAD), as delineated in the agenda material, presenting a proposed Operating Assessment and Dredging Project Assessment of \$460 and \$95, respectively, for a total Assessment of \$555. She confirmed staff had provided the same presentation to the BSI Canal Advisory Committee (CAC), which recommended approval of this assessment.

**Councilmember Prafke** pointed out the \$95 Dredging Project Assessment would end upon final payment to the dredging contractor.

Ms. Knippenberg concurred, then providing a detailed review of the Proforma Assumptions for Revenues and Expenditures as well as the 5 Year Special Projects Program.

**Councilmember Wein** inquired if a reduction in seawall replacement was anticipated in light of the large number of seawalls being replaced as a result of the damage caused in 2017 by Hurricane Irma.

Mr. Rick Keeney, Public Works Director, replied he did not believe so as BSI had not experienced a significant number of seawall failures.

**Mayor Keesling** inquired as to the expiration of the current seawall replacement contract for standard work unrelated to storm damage.

Ms. Marian Pace, Procurement Manager, replied no such contract existed at this time. She stated the contractors currently working on storm damaged seawalls were authorized to conduct any type of repairs in their respective zones.

Ms. Knippenberg concluded her presentation with a review of separately designated reserves.

#### **Fiscal Year 2019 Punta Gorda Isles (PGI) Canal Maintenance Assessment District Budget Status and Discussion**

Ms. Knippenberg provided a budget status update for the PGI CMAD, as delineated in the agenda material, stating both staff and the PGI CAC recommended imposing a



\$100 Hurricane Irma Assessment in addition to the current Operating Assessment of \$550 for a total of \$650. She mentioned the current assessment of \$550 had been in place since 2016.

**Mayor Keesling** asked if any reimbursements had been received to date.

Ms. Knippenberg replied in the negative, stating she did not anticipate a written response from the Federal Emergency Management Agency for at least another three months. She advised \$22,159,617 and \$6,977,470 were estimated in Federal and State assistance for seawall failure and rip rap mitigation, respectively.

**Councilmember Matthews** inquired as to the locations of rip rap.

Mr. Keeney replied rip rap was utilized in various locations throughout the canal system but primarily on curves and especially in erosion areas where enforcement was needed.

Ms. Knippenberg then concluded her presentation with a review of the 5 Year Special Project Program.

**Mayor Keesling** observed total seawall expenses were projected to increase from \$805,300 to \$1,747,155 from FY 2019 to FY 2020.

Ms. Knippenberg explained work would return to the normal level of service in FY 2020.

Consensus was general approval of the proposed assessments which would be formally presented in July 2018.

**Award of At-will Legal Counsel Services for Risk Protection Orders to Farr Law Firm of Punta Gorda, FL**

Ms. Pace explained this agreement would provide legal counsel service for risk protection orders for use by the Police Department, adding the agreement was based on hourly rates for a period of five years with an option to renew for an additional five years.

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

**MOTION UNANIMOUSLY CARRIED.**

**School Resource Officer (SRO) Program**

City Manager Kunik stated a proposed new agreement with the School Board of Charlotte County (School Board) would add three additional officers beginning July 1, 2018, to be located at three Punta Gorda schools, adding the School Board would pay all personnel and operating costs associated with those positions.

**Councilmember Prafke** confirmed the City would be required to provide vehicles for the three officers.

Councilmember Matthews **MOVED** approval, **SECONDED** by Councilmember Prafke.  
**MOTION UNANIMOUSLY CARRIED.**

#### **UNFINISHED BUSINESS**

**Note: The Revised Offer of Settlement was heard following Recommendations from City Officers/City Manager.**

#### **Revised Offer of Settlement – 1601 Tamiami Trail (Winter Park Dodge, Inc.)**

City Attorney Levin confirmed the property owner's attorney was not present as he had been detained in Court, asking how City Council wished to proceed.

Councilmember Matthews **MOVED** to decline the settlement offer, **SECONDED** by Councilmember Wein.

**MOTION UNANIMOUSLY CARRIED.**

#### **Sale of Property Located at 412 Allen Street, Punta Gorda, through the City's On-line Auction System**

Ms. Pace stated staff had determined a fair sale price for the subject property of \$1.82 per square foot or \$17,700 for the parcel. She advised the City had projected total expenditures of \$22,409.32 for payment of back taxes and estimated demolition costs. She requested authorization to sell the property on the City's on-line auction site, requesting Council's direction with regard to establishing a reserve price if the sale at auction was approved.

**Councilmember Matthews** suggested first notifying the adjacent property owner of the sale price.

**Councilmember Prafke** pointed out that neighbor had been advised the property could be purchased by payment of back taxes of approximately \$13,000 plus \$200 but had not done so.

City Attorney Levin confirmed Council wished to set a reserve of \$17,000.

City Manager Kunik pointed out City Council had already authorized demolition of the structure.

Consensus was to list the property until August 22, 2018.

#### **NEW BUSINESS**

#### **Purchase of 328 East Virginia Avenue**

Ms. Joan LeBeau, Urban Design Manager, explained the City had an opportunity to purchase the subject property, located adjacent to the Bailey Brother's Park, inquiring whether Council was amenable to offering \$4,128 for same.

Councilmember Prafke **MOVED** to purchase the property at a cost not to exceed \$4,128, **SECONDED** by Councilmember Wein.

**MOTION UNANIMOUSLY CARRIED.**

### **Historic District Sign Toppers – Brand and Location Options**

Mr. Mitchell Austin, Urban Design Planner, announced the existing sign toppers located throughout the Historic District were in need of replacement, having been in place since approximately 2004. He displayed information on sign topper brands and location options, as delineated in the agenda material, noting the Historic Preservation Advisory Board (HPAB) recommended placement throughout the Community Redevelopment Agency (CRA) area and expressed their design related preference for Option 3. He concluded staff was seeking Council’s direction on brand preference and location options in order to develop cost estimates, anticipated to be less than \$20,000.

**Mayor Keesling** expressed uncertainty about implementing the project throughout the entire CRA area, suggesting the toppers be limited to the 82 locations in all designated Historic Districts, as delineated in staff’s presentation. She then voiced preference for the teal colored topper, questioning the durability of the white portion in the area’s climate.

**Councilmember Wein** agreed with Mayor Keesling’s preference with regard to locations, commenting favorably on the sign shape depicted in Option 3.

**Councilmember Prafke** voiced agreement with the HPAB’s recommendation as she felt same would be more visible whether day or night, adding she also did not feel the toppers should be placed throughout the entire CRA area; however, she would like to see the toppers beyond the abovementioned 82 locations.

Discussion ensued regarding possible boundaries.

**Councilmember Wein** opined the entrances to the Historic District should be marked.

**Councilmember Matthews** stated consideration must be given to cost prior to finalizing locations, opining the project area should be more squared and less complicated. She expressed preference for Option 1 as the white background would be more visible, and teal would fade from the harsh sunlight. She confirmed the project would be financed out of the General Fund.

City Manager Kunik confirmed Option 3 was preferred, but estimates would be obtained for Option 1 as well for comparison purposes.

### **RECOMMENDATION FROM CITY OFFICERS**

#### **CITY MANAGER**

City Manager Kunik announced the tentative canal maintenance assessments for the BSI and PGI CMADs as well as the lot mowing assessment would be presented on July 3, 2018, along with an update on the General Fund and a revised scope for the Citizens’ Master Plan.

## BOARDS AND COMMITTEES

### **Announcement of Vacancies**

Police Officers' Pension Board

City Clerk Smith announced the vacancy.

### **Nominations**

Building Board (2)

Councilmember Prafke **MOVED** to nominate and re-appoint Mr. Robert Haynes and Ms. Lisa Kellythorne, **SECONDED** by Councilmember Matthews.

**MOTION UNANIMOUSLY CARRIED.**

Code Enforcement Board (2)

Councilmember Prafke **NOMINATED** all interested parties.

Historic Preservation Advisory Board

Councilmember Matthews **NOMINATED** all interested parties.

Planning Commission

Councilmember Matthews **NOMINATED** all interested parties.

### **Appointments**

Burnt Stores Isles Canal Advisory Committee

Voting forms were distributed.

City Attorney Levin announced Mr. John Forr had received the majority of votes and was thus reappointed to the Committee.

## POLICY AND LEGISLATION

**KEESLING:** Reminded everyone about the June 27, 2018 Business Workshop to be held at the Charlotte Harbor Event & Conference Center from 6:00 p.m. to 8:00 p.m.

- Thanked the Blanchard House Museum and Councilmember Cummings for bringing the "Lee Pitts Live" show to the area recently.

## CITIZENS COMMENTS

Ms. Bireda applauded Councilmembers on their thoughtful discussions this date.

The meeting was adjourned at 12:09 p.m.

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Mayor

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City Clerk