

**CITY OF PUNTA GORDA, FLORIDA  
REGULAR CITY COUNCIL MEETING MINUTES  
MONDAY, SEPTEMBER 17, 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.

**PROCLAMATION/PRESENTATIONS**

**Community Planning Month**

Councilmember Wein presented the proclamation to Mr. Mitchell Austin, Urban Design Planner.

**American Business Women's Day**

Councilmember Prafke presented the proclamation, which was accepted by Ms. Audrey Muccio.

**Introduction of Board/Committee Member Nominees**

None.

**PUBLIC HEARINGS**

**ZA-06-18 – An Ordinance of the City of Punta Gorda, Florida, amending Punta Gorda Code Chapter 26, “Land Development Regulations”, Article 3, “Regulating Districts”, Section 26-3.13 “Special Residential Overlay District”, Subsection (I), “Storage of Vehicles and Watercraft”, to clarify provisions for the storage of small watercraft on racks on a dock; renumbering accordingly; 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 the proposed ordinance would allow small watercraft to be stored on a maximum of two racks per dock.

Councilmember Matthews recalled Council had opted against establishing a maximum number of racks or requiring specific construction materials.

Ms. Hannon explained the ordinance incorporated both the Planning Commission’s and the Land Development Regulation (LDR) Review Committee’s input, stating both entities were opposed to a plethora of racks on docks; however, Council could amend the ordinance as desired.

Ms. Wendy Mueller opined a larger dock could accommodate more racks, opining the number should be proportionate to the size of the dock.

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

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

**MOTION UNANIMOUSLY CARRIED.**

**Councilmember Wein** agreed with the concept of a proportionate number of racks.

Discussion ensued with a consensus to allow two racks per eighty feet of dock but to not establish a maximum on docks larger than eighty feet.

Councilmember Matthews **MOVED** approval of ZA-06-18 as amended per Council's consensus, **SECONDED** by Councilmember Wein.

**MOTION UNANIMOUSLY CARRIED.**

**ZA-08-18 – An Ordinance of the City Council of the City of Punta Gorda, Florida, providing requirements for the location and permitting of Medical Marijuana Treatment Center Dispensing Facilities located within the municipal boundaries of Punta Gorda consistent with Chapter 381, Florida Statutes, by amending Punta Gorda Code Chapter 26, “Land Development Regulations”, Article 3, “Regulating Districts”; amending Section 26-3.8, “NC, Neighborhood Center District”, Subsection (a), “Permitted Principle Uses and Structures” by adding a new Subparagraph (18) relating to Pharmacies and a new Subparagraph (19) relating to Medical Marijuana Treatment Center Dispensing Facilities; amending Section 26-3.9, “CC, City Center District”, Subsection (a)(1)a., “Permitted Principle Uses and Structures” by adding Medical Marijuana Treatment Center Dispensing Facilities; amending Section 26-3.10 “HC, Highway Commercial District”, Subsection (a)(1)a., “Permitted Principle Uses and Structures” by adding Medical Marijuana Treatment Center Dispensing Facilities; amending Section 26-3.17 “MO, Medical Overlay District”, Subsection (a) “Permitted Principle uses and Structures” by adding a new Subparagraph (17) relating to Pharmacies and a new Subparagraph (18) relating to Medical Marijuana Treatment Center Dispensing Facilities; providing for conflict and severability; and providing an effective date.**

**FIRST READING**

City Attorney Levin read the ordinance by title.

Ms. Hannon explained ordinances for permitting or determining the location of dispensing facilities could not be more restrictive than ordinances permitting or determining the location of pharmacies licensed under Chapter 465, Florida Statutes. She concluded staff and the Planning Commission recommended approval.

**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** questioned the rationale behind allowing dispensaries in the NC zoning district.

Ms. Hannon explained the local hospital was located in the underlying NC district, adding the MO district was simply an overlay atop same.

Councilmember Cummings **MOVED** approval of ZA-08-18, **SECONDED** by Councilmember Prafke.

**MOTION UNANIMOUSLY CARRIED.**

### QUASI-JUDICIAL PUBLIC HEARINGS

V-02-18 - Request by Warren R. Ross, Esq., agent, for James E. Campbell and Gail M. Campbell, property owners, pursuant to Chapter 26, Section 26-16.10, Punta Gorda Code, to allow a rear yard setback of 7.9 feet at its closest point and 9.7 feet at its furthest point instead of 20 feet as is required per Chapter 26, Section 26-3.13(d), Punta Gorda Code, to construct a new screen enclosure on an existing non-conforming pool deck at a single-family residence located in a General Single-family zoning district. Legal: Punta Gorda Isles Section 7, Block 66, Lot 20 (a/k/a 1609 Montia Court, Punta Gorda, Florida). Charlotte County Parcel ID: 412212358006.

City Clerk Smith swore in the participants.

City Attorney Levin read the ordinance by title.

Ms. Hannon explained the criteria for a variance to be granted, describing the conditions and configuration of the property. She read the staff report, as delineated in the agenda material, into the record, stating Mr. James Campbell, applicant, had submitted evidence related to his medical disability, which was recognized by the Americans with Disabilities Act. She stated reasonable accommodation must be made, which included the granting of a variance to allow the applicant to enjoy his property. She concluded with a recommendation for approval of the request.

**Councilmember Wein** spoke in favor of the request, pointing out there were no objections from the neighbors.

Ms. Tamsin Hayes, applicant's representative, provided a description of the requested screen enclosure, noting same would not intrude any further into the setback than the existing pool. She advised a screen enclosure was medically necessary to allow the applicants to enjoy their property and would also eliminate safety issues.

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

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

**MOTION UNANIMOUSLY CARRIED.**

Councilmember Cummings **MOVED** approval of V-02-18, **SECONDED** by Councilmember Wein.

**MOTION UNANIMOUSLY CARRIED.**

### ORDINANCE/RESOLUTION

#### **No Public Hearing Required**

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

None.

PD-02-18 – An Ordinance of the City of Punta Gorda, Florida, amending the conceptual site plan previously adopted with Ordinance No. 1801-14, adding a new site specific plan for the westerly ½ of Lot 15, 4.52 +/- acres, generally described as 24420 Airport Road, Punta Gorda, Florida, and more particularly described in Exhibit “A” attached hereto, providing for certain modifications to the regulations applicable to the development; providing for conflict and severability; and providing an effective date.

**SECOND READING**

City Attorney Levin read the ordinance by title.

Councilmember Prafke **MOVED** approval of PD-02-18, **SECONDED** by Councilmember Matthews.

**MOTION UNANIMOUSLY CARRIED.**

### CONSENT AGENDA

#### A. Citizen Comments - Consent Agenda Items

Mr. Gary Skillicorn opined the letter issued to the Charlotte County Board of County Commissioners regarding use of the old library building did not accurately reflect Council’s decision on September 5, 2018, as delineated in the meeting minutes. He questioned the appropriateness of Councilmember Cummings’, as principal advocate of the Cultural Heritage Center, use of his position as a Councilmember to support his and a family member’s position.

**Councilmember Matthews** explained she had requested the three specific uses recommended by Council for the old library to be denoted in the minutes.

Mr. Mike Mansfield, Habitat for Humanity, thanked City Council for consideration of the proposed land swap which would result in construction of a home for a needy family.

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

## **MOTION UNANIMOUSLY CARRIED.**

### **B. City Clerk's Department**

1. Approval of Minutes: Budget Public Hearing of September 5, 2018
2. Approval of Minutes: Regular Meeting of September 5, 2018

### **C. Legal Department**

1. A Resolution of the City Council of the City of Punta Gorda, Florida, granting a deed to Charlotte County Habitat for Humanity, Inc. for 328 East Virginia Avenue and accepting a deed from Charlotte County Habitat for Humanity, Inc. for Lots 19 and 20, Block Q, La Punta Park; providing for conflict and severability; and providing an effective date
2. Invoice of Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. for services rendered through September 13, 2018

### **D. Urban Design Division**

1. A Resolution of the City Council of the City of Punta Gorda, Florida, approving an amendment to the Development Agreement between the City of Punta Gorda and Vent, LLC; authorizing the Mayor to sign the agreement; and providing an effective date

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

Mr. Dick Carr, Southwest Florida Vietnam Wall Inc. President, thanked Council for their past support, requesting funding for Phase II of the Veteran's Park. He stated construction on the parking would begin when the rainy season ended.

Ms. Sheri Lenore, Smart Growth Punta Gorda, stated their goal was to involve citizens in the development of the Strategic Plan, asserting the input submitted to the City Manager was casually dismissed. She requested same be handled differently in the future. She further suggested staff meet with citizens to discuss their input.

Mr. John Wright, Punta Gorda Chamber of Commerce (PGCC) President, objected to the amount of Local Business Tax (LBT) being charged to the Downtown Merchants Association Saturday Farmer's Market.

## **BUDGET**

### **Fiscal Year (FY) 2019 Strategic Plan**

City Manager Kunik stated the changes recommended by City Council at their September 5, 2018 meeting had been incorporated into the Strategic Plan, as delineated in the agenda material.

**Councilmember Prafke** requested "for example" be added to the third Goal denoted on page 6 prior to "through annexation." She then spoke regarding comments provided by citizens as well as ongoing public education.

**Councilmember Matthews** suggested scheduling an interactive workshop in the future to allow everyone's involvement.

Consensus was to hold a Strategic Plan workshop in future years to include a facilitator.

Councilmember Cummings **MOVED** approval of the Strategic Plan as amended, **SECONDED** by Councilmember Wein.

**MOTION UNANIMOUSLY CARRIED.**

**Addition to Building Division Staffing for FY 2019**

Mr. Randy Cole, Chief Building Official, explained the request to add a part-time line and grade inspector for FY 2019, as delineated in the agenda material, noting the position would not be filled until the new fiscal year.

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

**MOTION UNANIMOUSLY CARRIED.**

**Appropriation of Funds for Purchase of Land, Survey and Closing Costs for Buckley's Pass (Additional Harbor Access)**

Ms. Kristin Simeone, Interim Finance Director, explained Council's approval was being sought for an appropriation from the Special Use Fund in the amount of \$453,000, as a loan.

**Councilmember Matthews** clarified the initial deposit on the Taylor Road project should be \$40,000, noting the agenda material depicted \$44,000. She voiced concern costs had increased to \$2.5 million from the \$1.5 million originally proposed to residents of the Punta Gorda Isles (PGI) "Bird Section". She questioned the source of the increase.

Ms. Simeone replied the engineering firm had estimated the project cost would increase by approximately \$500,000.

**Councilmember Prafke** clarified the estimate was all inclusive.

City Manager Kunik stated Mr. Hans Wilson, project engineer, would make a presentation to City Council as soon as the final design and bid specifications were in place.

**Councilmember Wein** suggested it would behoove Councilmembers to educate residents, adding he felt this project would benefit Punta Gorda as a whole.

Councilmember Matthews **MOVED** approval of appropriation of the funds, **SECONDED** by Councilmember Wein.

**MOTION UNANIMOUSLY CARRIED.**

### **Project Priorities for Special Use Fund**

Ms. Simeone drew members' attention to the list of one-time, non-recurring expenditures to be considered.

**Councilmember Prafke** stated she would prefer the \$453,000 for Buckley's Pass not be derived from the Special Use Fund as that loan would not be repaid until the assessment was established.

Consensus was to eliminate the Land Purchase for Buckley's Pass (loan).

**Councilmember Wein** then voiced concern with increasing General Fund reserves through the Special Use Fund, noting reserves were already set to increase annually.

**Councilmember Cummings** voiced concern with the City's vulnerability because of insufficient reserves.

**Councilmember Matthews** cautioned against expending the entire Special Use Fund due to the uncertainty of Federal Emergency Management Agency funding for Hurricane Irma damage.

**Councilmember Prafke** acknowledged the positives of each item listed; however, the only obligation was the Ponce de Leon Park re-design. She agreed the Fund should not be expended too quickly.

**Councilmember Wein** opined there was a moral commitment to the Boca Grande Drainage Project as well as security enhancements.

**Councilmember Prafke** contended security enhancements were an operational expense.

**Mayor Keesling** countered the approved budget did not have a line item specifically for security enhancements.

**Councilmember Prafke** requested a spreadsheet to allow Council and the public to see the total picture.

City Manager Kunik noted the items listed in Council's agenda material were not included in the budget; however, security enhancements could certainly be funded out of General Fund reserves. He confirmed security would be addressed through a dedicated line item in future budgets.

**Councilmember Matthews** suggested only the Ponce de Leon Park re-design and Master Plan projects should be funded through the Special Use Fund as the City had not yet received a commitment from FEMA.

**Mayor Keesling** requested specific information on the Veterans Park project be provided at a future meeting

Discussion ensued with regard to the project's budget with a consensus to discuss same when firms prices were available.

Councilmember Matthews **MOVED** to proceed with an expenditure of \$700,000 from the Special Use Fund for the Ponce de Leon Park construction and a to-be-determined expenditure for the Master Plan, the remainder to be held in escrow until further notice, **SECONDED** by Councilmember Prafke.

**MOTION UNANIMOUSLY CARRIED.**

### NEW BUSINESS

#### Discussion regarding Downtown Merchants Association Saturday Farmers Market Local Business Tax.

**Councilmember Wein** stated Mr. Wright had indicated the cost for the Downtown Merchants Association's (DMA's) LBT renewal was burdensome, asking if Council could provide some accommodation.

**Councilmember Matthews** suggested the tax be calculated on a quarterly average number of vendors as provided by the PGCC.

**Councilmember Wein** commented perhaps tax relief could be granted to the street entertainment and the non-profits.

City Clerk Smith clarified individuals who performed at the Farmers Market sold their CDs/DVDs while other artists sold art work, noting they paid the DMA a percentage of their sales. She mentioned due to conflicting information regarding DMA vendor counts, the City Clerk's Office assumed responsibility for same.

**Mayor Keesling** asked the City Clerk to comment on the former Equity Study Commission (ESC), noting Mr. Jerry Presseller, DMA President, had served on same.

City Clerk Smith stated an ESC was formed in 1995 following the State's adoption of new legislation, at which time fees were established which had not changed as of the present date. She explained an ESC was formed again in 2011, at which time Mr. Presseller proposed a fee reduction for the Farmers Market, adding same was subsequently discussed by City Council; however, no formal decision was made nor was there any further discussion beyond bringing City Code into compliance with new legislation.

City Attorney Levin clarified the issue seemed to be the method of fee calculation as opposed to the fee itself, stating Council could amend City Code if desired.

**Councilmember Prafke** commented briefly on the fee schedule imposed on vendors by the DMA, opining those providing entertainment should not be charged. She suggested basing calculations on both temporary and full-time vendors but excluding weekly vendors as the latter were charged only \$50 as compared to the \$63 LBT.



City Clerk Smith noted staff conducted vendor counts once each month, pointing out while one particular weekly vendor was present only once, a different weekly vendor would be present at the next Farmers Market.

**Councilmember Wein** noted basing fee calculations on averages resulted in a reduction of 25% from the current tax, suggesting the Farmers Market's FY 2018/2019 tax be reduced by that amount and the issue be re-visited the following year.

Mr. Wright stated the DMA had paid over \$4,000 each year for the past 10 years, the funds being derived through 2 other events, both of which had been rained out. He maintained the DMA might not be able to sustain the Farmers Market. He offered to provide an accounting to the City Clerk's Office based on the fees collected by the DMA each week.

**Mayor Keesling** requested a list of vendors in addition to actual counts.

Councilmember Cummings **MOVED** to waive the late fees which would begin to accrue on October 1, 2018, to allow time for an ordinance amendment to be drafted, **SECONDED** by Councilmember Matthews.

**MOTION UNANIMOUSLY CARRIED.**

#### **Discussion of Design Standards for Electric Vehicle Charging Stations.**

Ms. Hannon announced staff was seeking direction from Council regarding design guidelines for electric vehicle charging stations which might be established by developers.

**Councilmembers Matthews** and **Prafke** advised several citizens had spoken in favor of establishment of these types of stations.

**Councilmember Wein** clarified the intent was not for the City to establish charging stations but rather only to have design regulations in place if a private entity opted to do so.

City Attorney Levin noted Council's agenda material contained photographs of various charging stations, pointing out signage limiting parking at the station to electric vehicles only as well as a four hour limit. He asked how Council wished to handle enforcement of such limitations.

Discussion ensued with consensus it would be the property owner's decision.

City Manager Kunik stated staff would develop some guidelines.

#### **Discussion of Commission on Accreditation of Rehabilitation Facilities (CARF) Accreditation of Residential Treatment Programs**

**Councilmember Cummings** explained CARF accreditation ensured individuals receiving substance abuse treatment at a residential treatment center received the type of care they deserved. He recommended requiring this accreditation for new facilities.

Consensus was to do so.

City Attorney Levin advised staff would draft an ordinance for Council's consideration.

### **RECOMMENDATION FROM CITY OFFICERS**

#### **CITY MANAGER**

City Manager Kunik stated the abovementioned letter to Charlotte County regarding use of the old Library building had been drafted but could be amended at Council's direction. He confirmed Council recommended the following uses: community center; cultural heritage center; Charlotte County history museum; some combination thereof.

**Councilmember Prafke** noted the second sentence of the second paragraph seemed to indicate Council had a preference, which was not the case, suggesting that sentence be removed.

City Manager Kunik advised protocol dictated letters from City Council be addressed to the Chairman of the Charlotte County Board of County Commissioners who would then filter same to the remaining Commission members.

#### **CITY ATTORNEY**

City Attorney Levin updated Councilmembers on the Vivante Special Exception and land ownership lawsuits, concluding no decision had yet been made on the Motion to Dismiss.

### **BOARDS AND COMMITTEES**

#### **Announcement of Vacancies**

Code Enforcement Board Alternate

City Clerk Smith announced the vacancy.

#### **Nominations**

Board of Zoning Appeals Alternate

Councilmember Matthews **MOVED** to nominate and appoint Mr. John Bothwell, **SECONDED** by Councilmember Cummings.

**MOTION UNANIMOUSLY CARRIED.**

#### **Appointments**

Board of Zoning Appeals (3)

Voting forms were distributed.

City Attorney Levin announced Messrs. Sam Hoagland, Edward Weiner and Charles Wolley had received the majority of votes and were thus appointed to the Board.

### **POLICY AND LEGISLATION**

**MATTHEWS:** Commented on some recent inquiries from the community regarding local legislation of the use of plastic straws, stating the PGI Civic Association, TEAM Punta Gorda, Smart Growth Punta Gorda and the DMA were working with residents and

business owners to develop a list of suggested guidelines for Punta Gorda to become more of a “green” community.

**CUMMINGS:** Requested the City Attorney explain instances when Councilmembers must or must not abstain from voting due to a conflict of interest.

City Attorney Levin spoke regarding moral versus statutory conflicts of interest, explaining the State required a Councilmember to vote unless a Statutory conflict existed.

#### **CITIZENS COMMENTS**

Mr. Mark Kenyon inquired if the \$2.5 million estimate for Buckley’s Pass included the \$400,000 for the land purchase discussed earlier in the meeting.

City Manager Kunik replied he would research same with the project engineer.

Ms. Wendy Young contended Buckley’s Pass would benefit all of PGI, asking Council to consider assessing all PGI Canal Maintenance Assessment District property owners.

Ms. Karen Turnbull agreed the cut-through would benefit all of PGI and represented what was best for the City. She opined targeting a certain area for an assessment had made the entire issue contentious.

The meeting was adjourned at 11:23 a.m.

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Mayor

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City Clerk