

**CITY OF PUNTA GORDA, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
WEDNESDAY, OCTOBER 18, 2017, 9:00 A.M.**

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

CITY EMPLOYEES PRESENT: Dave Drury, Finance; Rick Keeney, Public Works; Tom Jackson, Utilities; Phil Wickstrom, Human Resources; Joan LeBeau, Urban Design; Jason Ciaschini, 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

Florida City Government Week

Mayor Keesling presented the proclamation, which was accepted by City Manager Kunik. Mr. Howard Turner, Project Manager, Crowther Gulf, thanked City staff and citizens for their cooperation during the debris removal process, providing a brief report on the volume of debris removed. He stated he would be happy to assist the City in the future.

Introduction of Board/Committee Member Nominees

None.

PUBLIC HEARINGS

City Clerk Smith swore in the participants for SE-04-17.

SE-04-17 - A Special Exception request by Robert Berntsson, Agent for Charlotte 41 Properties, LLC , property owner(s), pursuant to Chapter 26, Section 16.8, Punta Gorda Code to allow for outdoor storage, as is permitted by Special Exception per Chapter 26, Article 3, Section 3.10(b)(1), Punta Gorda Code; and to allow for an indoor storage facility as is permitted by Special Exception per Chapter 26 Section 3.10(f)(6), Punta Gorda Code, for the property addressed as 3811 Tamiami Trail, Punta Gorda, Florida, located in the Highway Commercial (HC) zoning district.

Ms. Lisa Hannon, Zoning Official, displayed an overhead of the subject property, as delineated in the agenda material, and entered the staff report into the record. She stated a previous Special Exception granted in 2007 was never implemented and subsequently expired. She explained the applicant wished to convert the former Muscle Car City museum to an air-conditioned, indoor storage facility along with accessory parking for recreational vehicles (RVs) and rental trucks within a 16 foot high

walled area. She stated staff recommended the following conditions: the 16 foot tall buffer wall must be constructed of materials congruous to the primary structure and be painted to match; additional landscaping would be required to be installed along the east and west portions of the buffer wall; the existing landscaping must be brought up to current Code for the site, including parking, buffering and potential right-of-way issues. She concluded staff and the Planning Commission recommended approval of the request.

Councilmember Prafke disclosed she met informally with the applicant, confirming the applicant was amenable to staff's conditions.

Mr. Robert Berntsson, applicant's attorney, requested approval of the indoor storage facility with the accessory outside parking for RVs and rental vehicles.

Mr. Ian Milne, President, Burnt Store Isles Civic Association (BSICA), stated Mr. Berntsson invited all Burnt Store Isles residents to a meeting where a detailed presentation was provided, adding the BSICA had received much positive feedback about the project and was in favor of same.

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

MOTION UNANIMOUSLY CARRIED.

Councilmember Prafke **MOVED** approval of SE-04-17 with the stated conditions, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

GA-05-17 An Ordinance of the City of Punta Gorda, Florida, amending Punta Gorda Code Chapter 10, "Yard Waste, Solid Waste and Recycling", Article II, "Solid Waste", amending Section 10-11 increasing the monthly fee for removal and disposal of curbside recycling services; providing for conflict and severability and providing an effective date.

FIRST READING

City Attorney Levin read the ordinance by title.

City Manager Kunik stated an increase of \$.90 was proposed as a result of the annual price adjustments provided for in the Waste Management, Inc. contract.

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 GA-05-17, **SECONDED** by Councilmember Wein.

MOTION UNANIMOUSLY CARRIED.

GA-06-17 An Ordinance of the City of Punta Gorda, Florida, amending Chapter 16, "Park Regulations", of the Punta Gorda Code, by adding a new Section 16-10, "Vietnam Veterans Memorial of Southwest Florida Rules and Regulations"; providing for conflict and severability and providing an effective date.

FIRST READING

City Attorney Levin read the ordinance by title.

Ms. Macalle Finkle, Paralegal, displayed a sketch and renderings of the proposed signage as well as the proposed locations, explaining the Vietnam Wall of Southwest Florida, Inc. Committee had requested adoption of special park regulations for the memorial area in Veterans Park. She confirmed the Committee had reviewed the proposed ordinance.

Mayor Keesling called for public comment.

Mr. Michael Hirsch asserted the ordinance was a misguided attempt by government to regulate speech within a relatively large area of a public park, adding same was unconstitutional.

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

MOTION UNANIMOUSLY CARRIED.

City Manager Kunik pointed out the proposed ordinance was modeled after the Vietnam Veterans Wall regulations in Washington, D.C.

City Attorney Levin recalled he had recently distributed a memorandum distinguishing between open public forum, limited open public form and non-public forum, adding traditionally the Veterans Park area was not designated by the City as open public forum. He stated the United States Supreme Court recognized the City's ability to designate open public forum that traditionally had not been considered as such and to limit public areas for specific purposes. He stated given the fact that it was a very limited area, the ordinance would not prevent the type of demonstrations or limit the types of protests which could be held outside of the designated area; therefore, the restrictions being imposed for the sanctity of the purpose for which this park has been designated would likely be upheld by Federal law.

Mayor Keesling questioned how closely the wording matched what was in Washington, D.C.

Ms. Finkle replied with uncertainty, offering to review the language. She clarified the demonstration and/or special events definitions were in question.

Mayor Keesling requested an updated diagram of the park which included the pond. She confirmed the gazebo was not included in the designated area and was open to any use.

Councilmember Prafke **MOVED** to continue GA-06-17 to the November 1, 2017, City Council meeting, **SECONDED** by Councilmember Wein.

MOTION UNANIMOUSLY CARRIED.

CONSENT AGENDA

A. Citizen Comments - Consent Agenda Items

None.

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

MOTION UNANIMOUSLY CARRIED.

B. City Clerk's Department

1. Approval of Minutes: Regular Meeting of October 4, 2017

C. City Manager's Department

1. Letter of Support for the Southwest Florida Regional Planning Council's Disaster Recovery Coordinator Economic Adjustment Assistance Grant Application.

D. Legal Department

1. Invoice of Persson & Cohen, P.A. for services rendered in September 2017

2. Invoices of Allen, Norton & Blue, P.A. for services rendered in September 2017

Citizen Comments – Regular Agenda Items Only

Mr. Charlie Council, Planning Commission (PC) Chair, questioned the rationale for combining the PC and Board of Zoning Appeals (BZA), opining it would be appropriate to first elicit comments regarding same from the two boards.

Mr. Harvey Goldberg opined the Aqua Marketing plan was a good blueprint to move the City forward.

Mr. John Burrage, BZA Chair, concurred with Mr. Council's statement regarding first obtaining input from the PC and BZA.

BUDGET

Award of Two Agreements for the Purchase of Rebar for Fabrication of Seawall Slabs: 1) SteelCON of Jacksonville, FL – MMFX Steel ChromX 9100Low Carbon Rebar (Primary); and 2) Gerdau Ameristeel, Tampa, FL – Epoxy Coated Rebar (Alternative)

City Manager Kunik stated after awarding the agreements to purchase material, the next step was to identify a contractor.

Councilmember Cummings **MOVED** approval of awarding the agreements as recommended by staff, **SECONDED** by Councilmember Prafke.

MOTION UNANIMOUSLY CARRIED.

UNFINISHED BUSINESS

Punta Gorda Historical Society Local Business Tax

City Manager Kunik explained staff received a request from the Punta Gorda Historical Society (PGHS) to waive the Local Business Tax for the History Park Farmers Market, adding the City Attorney had opined that was not possible. He advised City Council had the option of utilizing City Council Contingency Funds or reserves to pay the tax for the PGHS, adding the other option was to deny the request.

Councilmember Cummings stated the new leadership of the PGHS had undertaken a difficult task of restructuring the organization, opining it was important for them to remain solvent.

Mayor Keesling confirmed it was for one tax year only.

City Attorney Levin stated although City Council did not have the authority to waive the tax; the City Manager's proposal was legally permissible.

Councilmember Cummings **MOVED** to pay the 2017/2018 Local Business Tax Receipt for the Punta Gorda Historical Society (History Park Farmers Market) from the Council Contingency Fund, **SECONDED** by Councilmember Prafke.

MOTION UNANIMOUSLY CARRIED.

Program to Allow Use of Docks During Seawall Repairs

City Manager Kunik stated the new dock sharing program, which benefitted boat owners whose seawalls were being repaired, was going well; however, a City Code provision within the Special Residential Overlay district did not allow dock rentals. He stated staff recommended an ordinance be drafted to allow dock owners to loan their vacant dock at no charge or for a fee, noting the provision would be in effect for a period of three years.

City Attorney Levin stated the options were to require the Boater's Alliance to regulate the process or to dispense with the City's prohibition of leasing docks to eliminate the need to police potential violations.

Councilmembers Matthews opined the Boater's Alliance did not have the ability to police the program.

City Attorney Levin confirmed there was consensus to do the latter, adding he would prepare an emergency ordinance accordingly.

Living Shoreline – Developing a Comprehensive Action Plan through Collaboration

Ms. Joan LeBeau, Urban Design Manager, displayed a PowerPoint presentation on Living Shorelines, as delineated in the agenda materials, explaining the concept of a living shoreline and its benefits. She stated the owner of the Four Points by Sheraton had indicated his desire to transform the hotel property to include a living shoreline. She reported staff subsequently met with other interested agencies and organizations to review the potential for creating more natural infrastructure, adding the group was expanding the idea to include a regional comprehensive living shoreline action plan which could eventually be utilized as a model by other communities. She explained staff would like to add Phases 1 and 2 of the proposal to the Climate Adaptation Plan (CAP) update, briefly reviewing the benefits to the City. She drew members' attention to the estimated budget of \$550,000 for the Four Points by Sheraton pilot project, noting staff would seek grant funding for the multi-year project, which included project design, surveys and permitting. She pointed out \$30,000 had already been incorporated in the City's budget for the CAP update, explaining the living shoreline element could be incorporated at this time for an additional \$15,000 and would result in a cost savings in the long term. She noted a City-County collaboration was being pursued; however, the County was awaiting the outcome of the first part of the project. She stated staff was seeking City Council approval to move forward with Phases 1 and 2 concurrently, reiterating staff would seek grants and other funding sources for implementation. She concluded with a review of the next steps, which would begin with designing the pilot project scope and implementation plan.

Councilmember Matthews stated she would first like to see more information related to funding. She then voiced concern regarding the addition of mangroves which could block the view of the water.

Ms. LeBeau explained mangroves could be maintained at a certain height, adding same would be part of the permitting process. She clarified mangroves would not be planted in areas where they would cause problems.

Ms. Christine Shepard, The Nature Conservancy, offered to provide a list of potential funding sources to implement the projects, explaining development of the plan and having "shovel ready" projects would assist with future grant funding opportunities.

Mayor Keesling inquired if the Southwest Florida Regional Planning Council was assisting with the update.

Ms. LeBeau replied it was necessary to develop the scope before going out to bid.

Mayor Keesling inquired if the City would be responsible for maintaining the pilot project.

Councilmember Prafke inquired if the Sheraton was willing to contribute funds towards the project.

Ms. LeBeau replied both issues were still being discussed.

Councilmember Wein voiced support for the project due to the benefits to water quality in Charlotte Harbor. He then **MOVED** approval of an additional \$15,000 appropriation to include the Living Shoreline element to the Climate Adaptation Plan update, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

City Attorney Levin advised the Legislature had preempted mangrove regulation and adopted a Statute which allowed mangroves to be “hedged” if the mangroves had historically been trimmed to maintain a view before the Statute went into effect. He stated the Statute also allowed cutting “windows” of a certain size in the canopy to allow for a view for single family and residential developments. He opined the height of the mangroves could be lowered today if they had not historically been trimmed. He stated without a change in the regulations to allow for this type of living shoreline, there would be opposition from upland property owners to planting new mangroves which would block their view of the water. He then noted there was a subspecies known as dwarf mangroves which would be ideal for this type of shoreline use. He stated these types of issues should be explored when developing the living shoreline program, concluding the City might not have the ability to trim the mangroves as much as needed for a view if they were not associated with a residence as provided for by the Statute.

Ms. LeBeau reiterated there was no intent to plant mangroves where they would create a problem.

City Attorney Levin clarified rather than attempting to retard what the group was trying to do, he was suggesting through the auspices of this program, they could recommend amendments to the Statute which would facilitate and enhance the opportunity for living shorelines.

Councilmember Cummings suggested proposing that language immediately since the legislative session would begin soon.

Councilmember Prafke suggested the partners work with Ms. Betty Staugler, Florida Sea Grant, adding it was possible outcomes from the project could be utilized to develop legislation.

Mayor Keesling stated seeking relief from existing State regulations could be incorporated into the Plan.

Ms. LeBeau stated staff would present information to City Council as the project moved forward.

NOTE: A short break was called at 10:18 a.m.

Brand and Strategic Communications Plan Presentation by AQUA Marketing & Communications

Mr. Dave DiMaggio, Aqua Marketing Communications, displayed a PowerPoint presentation, as delineated in the agenda materials, and described in detail the recommendation for Punta Gorda's new City brand identity including a logo and the tagline "Florida's Harborside Hometown".

Mr. Elliot Cohen, Aqua Marketing Communications, explained the guidelines for transitioning from identifying the brand to the process of branding, noting the Branding Guide would assist with implementation. He reviewed the Strategic Communications Objectives as well as the Strategic Communications Plan, which consisted of a three year blueprint and many phases of implementation, noting there were several immediate actions for the first year such as review of internal department opportunities to apply branding and vision, recruitment of a communications manager and creation and maintenance of new, externally focused City social media channels.

City Manager Kunik noted staff was moving forward with reviewing resumes received for the communications manager position.

Discussion ensued regarding the appropriateness and appeal of the proposed tagline and logo.

Councilmember Cummings **MOVED** approval of adopting the tagline and logo and to move forward with the year one communication plan, **SECONDED** by Councilmember Wein.

MOTION UNANIMOUSLY CARRIED.

NEW BUSINESS

Consideration of Consolidation of Planning Commission and Board of Zoning Appeals

Councilmember Matthews opined there had been much transition among the members of the PC and BZA, adding she agreed the advisory boards should be consulted on the process of combining the committee; however, the BZA only met three or four times per year, making it difficult to recruit and maintain members. She stated the City Attorney had indicated it was possible to combine the two boards, suggesting same take place in 2018 when several term limits were expiring.

Mayor Keesling inquired if there were quorum issues with the BZA, pointing out the Citizens Academy had been formed to encourage citizen involvement and to assist with recruitment of board volunteers.

City Clerk Smith responded in the negative, acknowledging the BZA met infrequently in some years. She stated the PC and BZA were both popular among volunteers, agreeing there was turnover of BZA members; however, that was true for most of the boards due to term limits, resignations and other issues. She stated the City Clerk's Office reached out to Citizens Academy participants to determine their interest in volunteering.

Councilmember Prafke agreed the City had made much effort to promote citizen participation, adding board service was a good opportunity for citizens to engage with the City; however, if the advisory boards were in favor of the combination, she would be willing to consider the change.

Discussion ensued with consensus to obtain input from the PC and BZA.

Peace River Wildlife Center Sign Request

City Manager Kunik reported a request was received from the Peace River Wildlife Center for temporary signage to display fundraising campaign goals. He displayed an example of the signage and a map of the two proposed locations.

A lengthy discussion ensued regarding the signage design and the proposed locations with consensus to deny the request as proposed.

Economic Development Installment Payment Program Discussion

City Manager Kunik explained staff was proposing an ordinance amendment to the Economic Development Incentives to allow for apartment developments to be eligible for the fair share impact fee and utility connection fee installment payment programs.

Discussion ensued with consensus for staff to draft an ordinance amendment.

Discussion Regarding Turning Lane Changes at Nesbit and Marion Intersection

City Manager Kunik displayed aerial views of the intersection of Nesbit Street and Marion Avenue, announcing based on analysis by the Florida Department of Transportation and concurrence from the Charlotte County Transportation Division, the Metropolitan Planning Organization determined the dual left turn lane on Nesbit Street could be eliminated; however, three parking spaces north of Marion Avenue would need to be removed. He reported the estimated cost for the signal, striping and sign adjustment was \$10,000.

Councilmember Cummings opined changing the lane configuration would be problematic.

Councilmember Prafke recalled the Police Department report indicated there were no accidents at that intersection.

Discussion ensued with consensus not to pursue any changes to the turn lane or parking spaces at this time.

RECOMMENDATION FROM CITY OFFICERS

CITY MANAGER

City Manager Kunik reported City Council previously approved the banners for Restaurant Week; however, it had not been approved as an annual event as intended, adding a request was made for the same banners in the same locations again this year. He stated the banners would be hung in October of each year as Restaurant Week began in November, concluding staff had no objections.

Consensus was to allow same.

CITY ATTORNEY

Grande Harbor Bert Harris Claim

City Attorney Levin drew members' attention to his memorandum dated October 11, 2017, which explained the process related to the Bert Harris Private Property Protection Act (BHPPPA), advising according to a Florida Supreme Court decision, the BHPPPA did not apply to actions on adjoining properties which might have the effect of diminishing the value of the claimant's property. He stated the City was statutorily required to make a recommendation for settlement offer to the claimant, noting 11 settlement options were provided in the BHPPPA, one of which was, "No changes to the action of the government entity." He clarified City Council would not need to take any action to address or mitigate the alleged impact unless they chose to do so, noting he would present his recommendation to City Council at the November 1, 2017 meeting. He further clarified the City's response would be to make no change to its decision to allow the Peace River Wildlife Center to be located on City property in Ponce de Leon Park. He surmised there was no validity to the claim under the BHPPPA; however, there was no process available to reject it out of hand. He concluded the City had 150 days to respond.

CITY CLERK

City Clerk Smith clarified the BZA had met approximately six times this calendar year but only twice the previous year. She offered to provide meeting frequency and member turnover information to City Council for their next discussion.

Councilmember Prafke requested the information also be provided to the PC and BZA.

Discussion of December 2017 Meeting Dates

City Clerk Smith recalled City Council briefly discussed the possibility of cancelling the December 20, 2017 meeting to take a break during the holidays, noting the cancellation was optional and at Council's discretion.

Discussion ensued with consensus not to cancel the meeting.

BOARDS AND COMMITTEES

Announcement of Vacancies

Board of Zoning Appeals Alternate

Building Board Alternate

Utility Advisory Board

Historic Preservation Advisory Board

City Clerk Smith announced the vacancies.

Mayor Keesling questioned the maximum terms allowed on the Historic Preservation Advisory Board (HPAB).

City Clerk Smith stated the ordinance simply indicated members "may be reappointed" while the HPAB Bylaws specified three year terms, and members may be reappointed for two terms.

City Attorney Levin opined the use of the term "may" in the Bylaws was informational rather than a restriction.

Mayor Keesling inquired if members could sit out and serve again at a later date.

City Attorney Levin responded it was not necessary for the members to sit out.

City Clerk Smith noted the language in the Bylaws and the ordinance was conflicting.

Mayor Keesling stated she would like the current members to have an opportunity to serve another term if they were interested in doing so.

City Attorney Levin stated unless there was a specific prohibition against allowing same, the language in the ordinance and Bylaws seemed to be for organizational purposes. He agreed to research the conflicting language; however, there was a legal argument that "shall" could be "may," and "may" could be "shall," advising it depended upon whether there was a consequence for treating one as the other.

Nominations

Firefighters' Pension Board

Councilmember Cummings **MOVED** to nominate and reappoint Mr. Bill Albers, **SECONDED** by Councilmember Prafke.

MOTION UNANIMOUSLY CARRIED.

Punta Gorda Isles Canal Advisory Committee

Councilmember Matthews **NOMINATED** all interested parties.

POLICY AND LEGISLATION

KEESLING: Thanked the Punta Gorda Isles Civic Association (PGICA) for their donation to the City's Halloween Trunk or Treat event on October 31, 2017, from 5:00 p.m. to 7:00 p.m.

- Announced the Tree Lighting was scheduled for Friday, December 1, 2017, noting parking might be an issue due to much activity taking place downtown that day, and a section of Marion Avenue would close at 2:00 p.m. She stated other events included the Christmas Parade at Noon on Saturday, December 9, 2017, Harboritaville in the evening on Saturday, October 21, 2017 and the Charlotte High School Homecoming Parade beginning at 6:30 p.m. on Thursday, October 19, 2017.

CUMMINGS: Inquired as to the possibility of additional wayfinding signage on Olympia Avenue for the Herald Court Centre parking garage.

Mayor Keesling pointed out there were blue parking signs on the building.

Councilmember Wein opined the signage should be visible from the road.

City Manager Kunik stated staff would gather information on existing signage for discussion at a future City Council meeting.

MATTHEWS: Reported a citizen had requested the trash and recycling pick-up schedule be posted on the website.

- Announced the Boater's Alliance would be holding a strategy planning session on November 16, 2017, at 10:00 a.m., adding information would be forthcoming and would be shared.

- Stated she attended a meeting for the Block Party, adding plans were moving forward.

- Explained the SWFRPC had proposed adoption of two resolutions at the meeting to be held the following date, noting she was not able to attend the meeting. She stated the Lee County Board of County Commissioners had adopted a resolution in opposition, explaining the SWFRPC was attempting to usurp the way the Interlocal Agreement (IA) was written. She stated the IA between the six member counties was loosely written and lacked any statement which prohibited members from withdrawing from the SWFRPC, adding the SWFRPC was attempting to make the IA more stringent so as not to allow members to withdraw. She stated she could not attend the SWFRPC meeting due to the County Legislative Delegation meeting and two other commitments.

Mayor Keesling questioned whether it was more important to attend the SWFRPC meeting.

Councilmember Matthews replied in the negative, opining the SWFRPC members would veto the proposed resolutions. She stated there was much dissent in the group, adding four of six counties had already opted out. She opined the remaining counties would likely withdraw as well, confirming Charlotte County had expressed their intent to withdraw. She clarified the City was also a voting member of the SWFRPC.

PRAFKE: Thanked City Council for attending the Pickleplex groundbreaking, which was a great success.

- Stated registration for the December 2, 2017, City Manager's Bicycle Ride/Tour was available on the City's website, noting funds would be utilized for the proposed mural on the Harborwalk under the U.S. 41 Southbound bridge.

- Announced the Southern Supper would also take place on December 2, 2017, noting tickets were \$55 and proceeds would benefit the Punta Gorda History Center.

WEIN: Stated the Peace River Botanical and Sculpture Gardens Phase 1 and 2 opening was scheduled for Thursday and Friday of this week.

- Suggested City Council's tablets be donated to homeless students attending Punta Gorda schools when new tablets were ordered.

CITIZENS COMMENTS

Ms. Kathy Goetz announced she and Ms. Eunice Wiley would serve as Co-Chairs of the newly formed Historic District Civic Association.

Ms. Debbie Carey, PGICA President, introduced Mr. John Miller, Government Liaison.

Mr. Harvey Goldberg spoke regarding the shift of millennials moving to small towns.

The meeting was adjourned at 12:23 p.m.

Mayor

City Clerk