

**CITY OF PUNTA GORDA, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
WEDNESDAY, NOVEMBER 1, 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.

PROCLAMATION/PRESENTATIONS

Family Caregivers Month

Councilmember Matthews presented the proclamation, which was accepted by Ms. Pam Keller, elder law attorney.

Introduction of Board/Committee Member Nominees

Mr. James Williams introduced himself as a nominee for the Historic Preservation Advisory Board.

Note: City Council recessed and reconvened as the Community Redevelopment Agency (CRA) (see corresponding minutes).

PUBLIC HEARINGS

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.

PUBLIC HEARING CONTINUED FROM 10/18/2017 & SECOND READING

City Attorney Levin read the ordinance by title, explaining the ordinance had been amended to mirror the Federal Code of Regulations and to designate the memorial area as “limited designated public forum.” He further noted a minor typographical error in Section 16-10(b)(1)g.

Mr. Michael Hirsh voiced opposition to the proposed regulations, expressing doubt research had been conducted to warrant the need for same.

Mr. Dick Carr stated the Veterans Memorial Wall in Punta Gorda deserved the same protections and respect as the memorial in Washington, D.C.

Mr. Michael Raymond, American Legion, spoke in support of the proposed regulations.

Mayor Keesling called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

City Attorney Levin stated there was no intent to prohibit customary activities at the nearby gazebo, suggesting Council adopt the ordinance, if so inclined, with the appropriate adjustments to ensure such activities were not prohibited.

Discussion ensued with regard to possible changes to the buffer zone after reviewing aerial views of the subject property.

City Attorney Levin opined 50 feet was an appropriate distance.

Councilmember Cummings **MOVED** to approve GA-06-17 and to amend Section 16-10(b)(2) to state "50 feet," **SECONDED** by Councilmember Wein.

MOTION UNANIMOUSLY CARRIED.

GA-08-17 – An Ordinance of the City of Punta Gorda, Florida, amending Chapter 11, "Punta Gorda Development Impact Fees", Section 11-5, "Definitions", of the Punta Gorda Code, redefining "nonresidential development" and "residential development"; providing for conflict and severability and providing an effective date.

FIRST READING

City Attorney Levin read the ordinance by title.

City Manager Kunik explained there was a need for additional rental housing units, adding development of this type of housing product would result in an economic benefit to the community. He proposed extending the economic development impact fee installment payment plan to nonresidential developments containing five or more dwelling units in single ownership for rental use only.

Mr. Harvey Goldberg agreed additional housing was needed, opining this change would open the door to new development.

Mayor Keesling called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

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

MOTION UNANIMOUSLY CARRIED.

A Resolution of the City of Punta Gorda, Florida, electing to use the Uniform Method of Collecting Non-Ad Valorem Special Assessments levied within the incorporated area of the City to fund an engineering study for the conversion of the electric distribution system from an overhead to an underground system

within a portion of Burnt Store Isles subdivision; stating a need for such levy; providing for the mailing of this Resolution; and providing for an effective date.

City Attorney Levin read the resolution by title.

City Manager Kunik explained this resolution would establish an assessment of \$75 per electrical account in Burnt Store Isles for affected property owners. He stated once adopted, the assessment would appear on 2018 tax bills.

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, **SECONDED** by Councilmember Matthews.

MOTION UNANIMOUSLY CARRIED.

A Resolution of the City of Punta Gorda, Florida, electing to use the Uniform Method of Collecting Non-Ad Valorem Special Assessments levied within the incorporated area of the City to fund the design and construction of an additional canal improvement; stating a need for such levy; providing for the mailing of this Resolution; and providing for an effective date.

City Attorney Levin read the resolution by title.

City Manager Kunik announced Mr. Hans Wilson, Hans Wilson & Associates, would provide an update on permitting of the additional canal improvement at the November 15, 2017 City Council meeting, adding the economist's report and an update on methodology from the project attorney would also be provided at that time. He clarified the resolution would reserve the City's right to use the tax bill collection method in the event all facets of the process fell into place in a timely manner; however, it was non-binding.

Councilmember Matthews noted many residents were concerned regarding the lack of firm costs as well as the fact that the City did not yet own the proposed site.

Discussion ensued regarding the uncertainty of project costs.

Mayor Keesling called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

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

MOTION UNANIMOUSLY CARRIED.

ORDINANCES/RESOLUTIONS

No Public Hearing Required

Citizen Comments – Ordinances/Resolution Items Only.

There were none.

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.

SECOND READING

City Attorney Levin read the ordinance by title.

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

MOTION UNANIMOUSLY CARRIED.

An Emergency Ordinance of the City Council of the City of Punta Gorda, Florida; establishing a temporary moratorium on the enforcement of certain provisions of the Punta Gorda Code to allow owners or occupants of adjacent upland property in the General Single-family Residential District to rent docks to be used by third parties; providing for conflict and severability; providing for an effective date and a sunset date.

City Attorney Levin read the ordinance by title.

Ms. Macalle Finkle, City Paralegal, explained this issue was discussed at Council's previous meeting, noting due to the impact of Hurricane Irma, an attempt was being made to help residents store and secure their boats while damaged seawalls were being repaired/replaced. She clarified City Code language would remain the same, but a temporary moratorium would be established relative to enforcement.

Mayor Keesling confirmed the moratorium would be effective for three years until October 31, 2020.

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

MOTION UNANIMOUSLY CARRIED.

CONSENT AGENDA

A. Citizen Comments - Consent Agenda Items

There were 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 1, 2017

- C. City Manager's Department
 - 1. Designate City's Alternate Member to PRM Group Health Trust Board
- D. Legal Department
 - 1. Monthly Litigation Report

Note: A short break was called at 9:59 a.m.

Citizen Comments – Regular Agenda Items Only.

Ms. Rebecca Krikorian stated she had requested permission to have her seawall repaired privately, questioning the City's financial responsibility during standard seawall/seawall cap repair/replacement. She expressed hope the City would reimburse the cost of seawall panels, seawall cap and fill if she proceeded with repairs.

Mr. Richard Rosic stated he was not willing to wait for the City to repair his seawall damage, adding he would like to pursue same privately while holding the City harmless. He confirmed he expected no reimbursement from the City.

BUDGET

Award Agreement to Neubert Construction Services, Inc. of Fort Myers, FL, for the Fabrication of Concrete Seawall Panels.

Mayor Keesling disclosed her husband, Mr. Klint Keesling, had bid on the project; thus, she would abstain from voting (see Form 8B, Voting Conflict, attached). She then turned the gavel over to Vice Mayor Wein.

City Manager Kunik recommended award of the subject agreement to Neubert Construction Services (Neubert).

Councilmember Matthews questioned the reason behind Neubert's substantially lower bid in comparison to the other bidders.

Ms. Marian Pace replied the contractor had confirmed the price was accurate, noting the City had utilized Neubert in the past, and their reference surveys were favorable.

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

MOTION UNANIMOUSLY CARRIED.

Vice Mayor Wein turned the gavel over to Mayor Keesling.

Harborwalk – Gilchrist Park Playground Restroom.

Mr. Mitchell Austin, Urban Design Planner, announced the Federal Emergency Management Agency (FEMA) approved a Letter of Map Revision (LOMR) for a portion of Gilchrist Park, effective February 14, 2018, explaining the existing plans for the playground must be modified due to the change in flood zone designation from VE to AE. He recommended Council approve the budget request for building calculations and plan modifications to the restrooms, stating the engineering fee for same was \$8,000.

Councilmember Cummings **MOVED** approval of the modifications and appropriation of funds, **SECONDED** by Councilmember Prafke.

MOTION UNANIMOUSLY CARRIED.

UNFINISHED BUSINESS

Fiscal Year 2018 Department Performance Measures.

City Manager Kunik explained the performance measures had been revised per City Council direction to include timelines where appropriate.

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

MOTION UNANIMOUSLY CARRIED.

Seawall Repair by Homeowners.

Mr. Mark Gering, City Engineer, explained a small number of homeowners had expressed interest in hiring their own contractor to replace their seawalls ahead of the City making the repairs, adding some had inquired about reimbursement while others indicated their intention to bear the cost entirely. He noted most of these properties were high priority cases which would be addressed in the first pass of the replacement program while others might not have their seawall repaired for approximately one year. He stated if allowed, the homeowners should be provided with seawall panels constructed by the City to ensure consistent high quality, adding City inspectors would oversee construction. He noted FEMA had not provided clear direction in this matter, anticipating one to two years before a final determination was made. He then mentioned some homeowners whose property was for sale had requested their properties be given a higher priority, which would assist in closing on those sales.

Councilmember Cummings stated the more catastrophic failures seemed to entail two separate issues, erosion control and the seawall, suggesting the former might need to be prioritized over the latter.

Discussion ensued regarding the pros and cons of privately contracted seawall repairs of City owned seawalls with a consensus to deny allowing same due to the potential of jeopardizing FEMA funding.

Reconsideration of Medical Marijuana Treatment Center Dispensing Facilities within the City Limits of Punta Gorda.

Councilmember Matthews announced she had requested this agenda item as she felt the moratorium violated State Statute as well as the intent of the voters. She pointed out a number of surrounding communities, including Lee, Charlotte and Collier Counties and the City of North Port, had opted to allow dispensaries, requesting Councilmembers reconsider their previous action to establish a moratorium.

A lengthy discussion ensued with consensus to stay the course and await the outcome of the upcoming legislative session.

RECOMMENDATION FROM CITY OFFICERS

CITY MANAGER

City Manager Kunik announced City Council would hold a branding workshop with Aqua Marketing & Communications, Inc., on Wednesday, November 8, 2017, at 2:00 p.m., in Council Chambers.

City Manager Evaluation

Councilmember Matthews **MOVED** approval of a 3% merit increase retroactive to October 1, 2017, **SECONDED** by Councilmember Prafke.

MOTION UNANIMOUSLY CARRIED.

CITY ATTORNEY

City Attorney Levin reported at the next City Council meeting, he would present his proposed response to the Grande Harbor lawsuit of no change to the status quo. He advised there had been substantial forward movement on the lawsuit involving Fishermen's Village, stating a meeting between the parties was scheduled for November 6, 2017.

CITY CLERK

CRA Vacancy

City Clerk Smith announced Charlotte County had nominated Mr. Charles Council to fill the current CRA vacancy.

Councilmember Matthews **MOVED** approval of the appointment of Mr. Council to the CRA, **SECONDED** by Councilmember Prafke.

MOTION UNANIMOUSLY CARRIED.

City Clerk Evaluation

Councilmember Prafke **MOVED** approval of a 3% merit increase retroactive to October 1, 2017, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

City Manager Levin confirmed Council did not require his presence at the branding workshop.

BOARDS AND COMMITTEES

Announcement of Vacancies

Board of Zoning Appeals Alternate

Historic Preservation Advisory Board

City Clerk Smith explained a discrepancy had been discovered between the Board's bylaws and the ordinance which created the Board, suggesting Council might wish to delay the appointment to allow time to review both documents.

City Attorney Levin advised the ordinance would prevail upon any conflict between the two documents, recommending the bylaws be amended so as to be consistent with the ordinance.

City Clerk Smith suggested the Alternates could be asked to fill in during the interim. Discussion ensued with a consensus to have the Board review both the ordinance and bylaws and make a recommendation to City Council.

Building Board Alternate

Utility Advisory Board

Charlotte County Marine Advisory Committee

City Clerk Smith announced the vacancies.

Appointments

Punta Gorda Isles Canal Advisory Committee

Voting forms were distributed.

City Attorney Levin announced Mr. Jake Dye had received the most votes and was thus appointed to the Committee.

POLICY AND LEGISLATION

KEESLING: Spoke regarding the City's Halloween event, asking Councilmembers to consider a small level of City funding.

Consensus was to do so.

Mayor Keesling confirmed she would seek a recommendation from the event organizers.

- Announced the annual tree lighting was scheduled for Friday, December 1, 2017, starting at 5:30 p.m., with the actual lighting to take place at approximately 7:15 p.m. She advised Marion Avenue would be closed at approximately 4:00 p.m. in the interest of public safety.

MATTHEWS: Stated she learned private vehicles were being stored in the Herald Court Centre parking garage.

City Manager Kunik confirmed the Police Department was aware.

PRAFKE: Reported on the December 2, 2017 Founders Day and the Southern Supper events, adding she had tickets available for the latter.

CITIZENS COMMENTS

Mr. Hirsh requested the Police Department be trained to understand First Amendment activities near the Vietnam Veterans Memorial.

Mr. Goldberg reminded everyone of the November 4, 2017 Veterans Day Parade.

Mr. Austin asked Council to consider closing Marion Avenue to vehicular traffic on Halloween night in 2018.

The meeting was adjourned at 11:43 a.m.

Mayor

City Clerk