

**CITY OF PUNTA GORDA, FLORIDA  
REGULAR CITY COUNCIL MEETING MINUTES  
WEDNESDAY, NOVEMBER 15, 2017, 9:00 A.M.**

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

**CITY EMPLOYEES PRESENT:** Sharon Knippenberg, 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.

**CITY COUNCIL REORGANIZATION**

**Results of November 7, 2017 Election**

City Clerk Smith announced the 2017 Election results as follows:

District 3: Gary Wein - Unopposed

District 5: Nancy Prafke - Unopposed

**CITY ATTORNEY PRESIDING**

**Oath of Office**

Councilmembers Wein and Prafke were sworn in by the City Clerk.

**Election of Mayor**

City Attorney Levin opened the nominations for Mayor.

Councilmember Wein **NOMINATED** Councilmember Keesling.

As there were no other nominations, Councilmember Keesling was elected Mayor by acclamation.

**MOTION UNANIMOUSLY CARRIED.**

**Election of Vice Mayor**

**Mayor Keesling** opened the nominations for Vice Mayor.

Councilmember Matthews **NOMINATED** Councilmember Prafke.

Councilmember Cummings **NOMINATED** Councilmember Wein.

**Voting for Councilmember Prafke:** Prafke and Matthews.

**Voting for Councilmember Wein:** Keesling, Cummings and Wein.

Councilmember Wein received the most votes and was thus elected Vice Mayor.

**PROCLAMATION/PRESENTATIONS**

**Christmas Parade Day**

**Councilmember Matthews** presented the proclamation, which was accepted by Ms. Julie Mathis, Charlotte County Chamber of Commerce.

**Shop Charlotte Month**

Councilmember Wein presented the proclamation, which was accepted by Ms. Denise Dull.

**Lung Cancer Awareness Month**

Councilmember Prafke presented the proclamation, which was accepted by Mr. Thomas Capiello.

**Giving Tuesday**

Councilmember Cummings presented the proclamation, which was accepted by Ms. Marie LaBrosse.

**Marilyn Smith Mooney Service Above Self**

Mayor Keesling read the proclamation for Ms. Marilyn Smith-Mooney.

**20 Year Service Award – Tom Quegan, Police Department**

City Manager Kunik presented the award to Mr. Tom Quegan, Police Department. Interim Police Chief Jason Ciaschini spoke of Mr. Quegan’s service to the Department.

**Introduction of Board/Committee Member Nominees**

Messrs. Haskell Rhett, Tom Sullivan and Fred Hannon introduced themselves as nominees for the Charlotte County Marine Advisory Committee.

**PUBLIC HEARINGS**

**CP-02-17 – An Ordinance of the City Council of Punta Gorda, Florida, amending the City of Punta Gorda Comprehensive Plan Future Land Use Map for properties generally described as Wal-Mart, 5001 Taylor Road and Murphy Oil, 26359 Jones Loop Road, Punta Gorda, Florida, and more particularly described in Exhibit “A” attached hereto, containing 25.93 +/- and 0.77 +/-acres respectively, from Commercial General/County (CG/County) to Highway Commercial Corridor/City (HCC/City); providing for conflict and severability; and providing an effective date.**

**SECOND READING**

City Attorney Levin read the ordinance by title.

Mayor Keesling called three times for public comment.

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

**MOTION UNANIMOUSLY CARRIED.**

Councilmember Prafke **MOVED** approval of CP-02-17, **SECONDED** by Councilmember Matthews.

**MOTION UNANIMOUSLY CARRIED.**

**ORDINANCE/RESOLUTION**

**No Public Hearing Required**

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

None.

**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.**

**SECOND READING**

City Attorney Levin read the ordinance by title.

Councilmember Matthews **MOVED** approval of GA-08-17, **SECONDED** by Councilmember Prafke.

**MOTION UNANIMOUSLY CARRIED.**

**Z-02-17 – An Ordinance of the City of Punta Gorda, Florida, rezoning properties generally described as Wal-Mart, 5001 Taylor Road, and Murphy Oil, 26359 Jones Loop Road, Punta Gorda, Charlotte County, Florida, and more particularly described in Exhibit “A” attached hereto, from Commercial General/County (CG/County) to Highway Commercial/City (HC/City); 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 Z-02-17, **SECONDED** by Councilmember Matthews.

**MOTION UNANIMOUSLY CARRIED.**

**CONSENT AGENDA**

**Councilmember Matthews** inquired as to the functions provided by the Automated Metering Infrastructure vendors.

Ms. Marian Pace, Procurement Manager, responded Fortiline, Inc. would oversee the installation and provide ongoing services, adding Zenner USA manufactured and managed the software for the citizens portal and collection points.

Ms. Lisa Hannon, Zoning Official, reported the Founders Day banner size had been increased to nine by three feet.

A. Citizen Comments - Consent Agenda Items

None.

Councilmember Matthews **MOVED** approval of the Consent Agenda with the amended banner size, **SECONDED** by Councilmember Prafke.

**MOTION UNANIMOUSLY CARRIED.**

- B. City Clerk's Department
  - 1. Approval of Minutes: Regular Meeting of November 1, 2017
- C. Legal Department
  - 1. Invoice of Persson & Cohen, P.A. for services rendered in October 2017
  - 2. Invoices of Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. for services rendered through November 8, 2017.
- D. Finance Department
  - 1. Approval of Agreements with Fortiline, Inc. and Zenner USA for the purchase of an Automated Metering Infrastructure (AMI) system, future equipment and services.
- E. Urban Design Division
  - Founders Day Week Banner

City Attorney Levin clarified City Council action would be taken on the Grande Harbor Bert Harris claim.

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

Mr. Fig Newton invited the public to the Lighting of the Village on Saturday, November 18, 2017, from 5:00 p.m. to 9:00 p.m., adding "Light Up the Night" would take place on Friday, December 1, 2017 at 5:30 p.m.

Ms. Wendy Young voiced concern regarding the possibility of two special assessments for certain Punta Gorda Isles residents, including the additional harbor access and seawall repairs.

Mr. Frank Malone opined the cost of the additional harbor access should be borne by all residents.

Ms. Karen Turnbull voiced opposition to the defined benefit area for the additional access, opining the new access would benefit all boaters and most area homeowners.

Mr. Richard Prawn voiced concern regarding potential seawall damage which could be caused by a hurricane drawing the water out of the canal system quickly through an additional access point which was approximately 1,500 feet long and 60 feet wide. He asserted the law required properties which benefited from a special project to pay for the improvement.

#### **BUDGET**

##### **Information Technology Appropriation**

City Manager Kunik explained the timing of the appropriation request was to allow the Information Technology Division to continue to move forward with their projects.

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

**MOTION UNANIMOUSLY CARRIED.**

**UNFINISHED BUSINESS**

**Approval of Harborwalk Mural on US41 Southbound Bridge Underpass**

Ms. Kelly Gaylord, Punta Gorda Historic Mural Society, displayed two renderings of Mr. Skip Dyrda's proposed mural, as delineated in the agenda materials, explaining same would be located along the Harborwalk under the U.S. 41 Southbound bridge. She stated the mural would take two months to complete once fundraising was completed.

**Councilmember Prafke** announced a bicycle tour with the City Manager would be held as a fundraiser for the mural.

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

**MOTION UNANIMOUSLY CARRIED.**

**Additional Harbor Access Permitting Update, Assessment Methodology and Economic Study**

Mr. Hans Wilson, Hans Wilson Engineering (HWE), announced the Department of Environmental Protection had issued the permit for the additional harbor access project. He reported a third project manager had been assigned by the Army Corps of Engineers (ACE), noting the Essential Fish Habitat Division of the National Marine Fishery Service (NMFS) indicated the cut should be aligned more to the east; however, he believed the City had done a good job of evaluating the alternatives and balancing the needs of resource protection, boater navigation and other issues. He stated HWE was in consultation under Section 7 of the Endangered Species Act with the NMFS as a commenting agency to ACE, which was the permitting agency. He stated he anticipated final approval from ACE within the next six months. He explained DEP permit required special conditions related to mitigation and the public interest. He confirmed no other permits were needed.

Mr. Phil Gonot, PMG Associates (PMG), provided a detailed review of the results of the economic impact study, as delineated in the agenda materials, explaining PMG was tasked with evaluating whether there was an economic benefit to the properties in the designated benefit area and determining the total assessment based on the preliminary project cost estimates. He described the property comparison areas and the process for comparisons, noting considerations included Certified Just Value (CJV), sales price, square footage and location. He concluded the economic evaluation showed the additional direct access to deep water would add approximately \$15,000 to each vacant lot (based on CJV), explaining based on average listing prices, the increase in value would be \$81,577 per vacant lot. He estimated multi-family properties would evidence an increase in value of 10% to 30% over current levels. He

stated with regard to the assessment, a determination was made regarding water access units (WAU), which were defined as a docking space. He described the various types of properties in the benefit area, which included 21 lots in unincorporated Charlotte County. He reported there were a total of 2,995 WAU, noting based on the initial cost of construction of \$1.5 million, each WAU assessment was estimated at \$501; however, that could increase if the cost of construction increased. He concluded PMG had determined that completion of the additional access channel provided an economic benefit to the area, recommending the City pursue an interlocal agreement with Charlotte County for the unincorporated lots, approve the assessment methodology and proceed with approval of the channel cut plan and assessment. He stated PMG had provided the City Manager an assessment roll which included every property and the number of WAU assigned.

City Manager Kunik noted the initial cost of \$1.5 million included the \$400,000 asking price for Mr. Robert McQueen's property, adding Mr. McQueen had also requested the deed to certain property on Taylor Road across from Creekside. He opined it was necessary to obtain an appraisal for the property.

Discussion ensued with consensus to obtain appraisals for both properties.

**Mayor Keesling** drew members' attention to PMG's slide number five, questioning why certain areas of Punta Gorda Isles were not included.

Mr. Gonot replied those properties not having direct access to deep water were not included.

**Councilmember Prafke** questioned why the report did not include degrees of variability to impacts on a property, clarifying she expected a more sophisticated report which included different levels of assessment.

Mr. Gonot stated PMG relied on two analyses, including the engineer's assessment of the benefits derived and the attorney's assessment methodology, pointing out PMG's contract was limited to the defined benefit area.

**Councilmember Matthews** questioned how one side of La Costa Island Court would benefit while the other would not.

Mr. Wilson responded the break point (between the areas highlighted in brown versus those in green) was based on the property owner having an equal travel distance to either Ponce de Leon Inlet or the proposed cut. He stated property owners just to the southeast had a slightly greater benefit from the proposed cut; however, their travel distance was only slightly less than that to Ponce de Leon Inlet, adding that gradation increased moving further southeast.

**Mayor Keesling** questioned whether special permits had been taken into account.

Mr. Gonot replied PMG only considered what could be allowed on the property.

**Mayor Keesling** inquired whether a lien could be placed on the church property in case it should be sold and used for multi-family development in order for the City to be reimbursed any assessment paid due to an exemption.

Ms. Heather Encinosa, Nabors, Giblin & Nickerson, responded churches were not exempted from special assessments. She explained the City could craft a local special assessment exemption policy, noting if the property should become ineligible for the exemption, it would be possible to impose an assessment.

City Attorney Levin inquired if including the unincorporated area of the County was a legal necessity.

Ms. Encinosa replied it was not necessary for the individual properties to participate in the assessment; however, the cost allocated to the properties needed to come from some other revenue source, clarifying the cost could not be pushed onto City property owners.

City Manager Kunik stated in the absence of an interlocal agreement with the County, the City would have to absorb the costs.

**Councilmember Wein** commented he would prefer not to expend a large dollar amount on legal fees to resolve the issue of the church property.

Mr. Gonot explained the WAU for the church was determined by measuring the amount of water frontage and then determining how many WAU could be put on the property based on multi-family zoning.

**Councilmember Matthews** inquired as to the WAU for the 106 acre parcel on Aquí Esta Drive.

Mr. Gonot explained the property would have 49 WAUs as not all the parcels had water access.

**Councilmember Matthews** inquired whether docks would be allowed on the McQueen property at the corner of Albatross Drive, which was not considerable buildable.

City Attorney Levin responded per City Code, remote access docks were not permissible, adding there was a long-standing interpretation that docks on that particular parcel would not be permitted.

**Councilmember Matthews** opined the property owners in unincorporated Charlotte County would not be agreeable to the assessment, voicing concern those property owners might not understand they could be assessed for the project.

Ms. Encinosa clarified an agreement was needed with Charlotte County rather than the individual property owner.

Discussion ensued regarding the unincorporated properties.

City Manager Kunik stated City Council needed to approve or deny the methodology, stating no assessment would appear on the next year's tax bill as there was still much work to be done; however, it was necessary to keep progressing. He the City now had an estimate of the WAU and an idea of the assessment amount based on the projected cost.

**Councilmember Matthews** inquired as to the funding source for properties where the assessment was not forthcoming.

City Manager Kunik replied the General Fund.

Councilmember Wein **MOVED** approval of the recommended methodology, **SECONDED** by Councilmember Cummings.

**MOTION UNANIMOUSLY CARRIED.**

City Manager Kunik suggested conducting a straw poll when all the numbers were defined.

A lengthy discussion ensued with consensus not to conduct a straw poll.

**NOTE: A brief recess was called at 10:58 a.m.**

### **Semi-Automated Sanitation Cart Selection**

Ms. Jenna Blackway, Sanitation Supervisor, displayed a PowerPoint presentation, as delineated in the agenda materials, explaining the next step in the residential, semi-automated sanitation service was to order carts. She described the new trucks, noting delivery was anticipated in the January-February 2018 timeframe. She stated the goal was to implement the program by April 2018. She displayed the cart size options, advising colors would be chosen once a vendor was selected. She stated staff recommended residents not be charged for the first the cart; however, residents would pay the City's cost for additional carts. She provided a demonstration of the online cart selection request form, concluding a variety of methods would be used to notify residents regarding the survey.

**Mayor Keesling** suggested enlarging the deadline date of January 16, 2018, on the website page.

**Councilmember Prafke** suggested the word "survey" be changed to "selection" since participation was required rather than optional.

Ms. Blackway noted brochures would be included with the carts to educate users. She stated once the carts were assembled for delivery, they were difficult to stack and store; therefore, it was important for residents to respond by the January 16, 2018, deadline to decline participation. She advised customers could use their own containers as the tippers on the trucks were universal. She inquired whether Councilmembers preferred all customers to receive a cart.



**Mayor Keesling** replied affirmatively, adding most people would quickly adapt. Councilmember Cummings **MOVED** approval of the carts as recommended, **SECONDED** by Councilmember Wein.  
**MOTION UNANIMOUSLY CARRIED.**

### NEW BUSINESS

#### Justice Center Security Issues

Interim Chief Ciaschini reported a wide variety of security upgrades were being discussed for the Charlotte County Justice Center, including restricted entry on the public access roadway on the north side of the complex weekdays between 8:00 a.m. and 5:00 p.m., adding access for public safety personnel would be considered.

Mr. John Embry, Court Administration, stated the current proposal was a compromise to the original proposal of a full-time, permanent gate. He opined the most secure option proposed by the consultant should be selected; however, it was understood access to the nature walk and Veteran's Park memorial was necessary. He explained the gate location was still under discussion, concluding several consultants had indicated the back road was a concern and needed to be addressed.

Interim Chief Ciaschini pointed out the Courthouse was within the City's jurisdiction; therefore, the Punta Gorda Police Department responded on all matters; however, an informal agreement with the Charlotte County Sheriff's Office (CCSO) was for the CCSO to generally handle matters inside the building.

**Councilmember Prafke** inquired as to the location of the gate on the east side.

Mr. Embry replied same would be located somewhere within the observation point area, adding creation of a turnaround was being discussed. He stated some County employees had expressed concern regarding the City's parking spaces adjacent to the secure employee parking lot.

**Councilmember Prafke** pointed out residential development would take place directly across from those parking spaces. She inquired as to plans to protect the building in relation to the public parking to the west.

Mr. Embry responded bollards and other options were being discussed.

City Manager Kunik inquired if a sidewalk was still planned on the outside of the gate to provide access from the Veteran's Memorial Wall to the Harborwalk.

Mr. Embry replied same was being considered.

### RECOMMENDATION FROM CITY OFFICERS

#### CITY MANAGER

City Manager Kunik reported although not officially open, Gilchrist Park was being utilized by the public, adding comments received were related to bright lighting,

limited parking and the absence of restrooms. He stated plans were underway for restrooms near the playground; however, it would be at least one year before restrooms were constructed near the pavilions. He stated some additional temporary restroom options were being researched for future Council consideration. He agreed to include an update in the Weekly Report.

#### CITY ATTORNEY

##### Grande Harbor Bert Harris Claim

City Attorney Levin drew members' attention to the memorandum in the agenda materials which contained his recommendation for responding to the Claim. He advised a Florida Supreme Court decision was rendered earlier this year which made it clear that claims under the Bert Harris Act may not be based on government action on property which was not owned by the claimant.

Councilmember Wein **MOVED** to direct the City Manager to submit a written settlement offer to Grande Harbor Group, LLC and Grande Harbor Development LLC, indicating there shall be no change to the action of the City Council taken with respect to the relocation and continued operation of the Peace River Wildlife Center within Ponce de Leon Park, **SECONDED** by Councilmember Prafke.

**MOTION UNANIMOUSLY CARRIED.**

#### CITY CLERK

##### City Council Service Boards & Committees 17-18

City Clerk Smith drew members' attention to the listing of service boards and committees, explaining Councilmembers were requested to select three boards and prioritize them in order of preference. She stated Councilmembers were being asked to discuss appointments for the new fiscal year.

Discussion ensued with regard to current and proposed representation resulting in the following appointments:

**Mayor Keesling** - Southwest Florida League of Cities; Tourist Development Council.

**Councilmember Cummings** - Punta Gorda Housing Authority; Tourist Development Council; Charlotte Harbor Environmental Center.

**Councilmember Matthews** - Metropolitan Planning Organization.

**Councilmember Prafke** - Charlotte County Airport Authority; Metropolitan Planning Organization (alternate).

**Councilmember Wein** - Punta Gorda Business and Economic Development Group; Charlotte Harbor National Estuary Program Policy Committee; Southwest Florida Regional Planning Council.

## BOARDS AND COMMITTEES

### **Announcement of Vacancies**

Building Board

Board of Zoning Appeals Alternate

Building Board Alternate

Utility Advisory Board

City Clerk Smith announced the vacancies.

### **Nominations**

Charlotte County Marine Advisory Committee

Councilmember Prafke **NOMINATED** all interested parties.

## POLICY AND LEGISLATION

**KEESLING:** Requested Councilmembers attend the tree lighting on Friday, December 1, 2017, from 5:30 p.m. to 8:00 p.m., noting Taylor Street would be closed beginning at 4:00 p.m. She stated a Toys-for-Tots Drive would be held that evening. She suggested parking at Herald Court Centre as Marion Avenue would be closed. She announced the movie "Elf" would be shown on the City Marketplace property on December 2, 2017.

**PRAFKE:** Announced a Pickleball Open House would be hosted at the South County Regional Park on Wednesday, December 6, 2017, from 6:00 p.m. to 8:00 p.m.

**MATTHEWS:** Reported numerous citizens were concerned about the amount being expended for the new branding and logo given the uncertainty regarding reimbursement from the Federal Emergency Management Agency for seawall repairs, questioning whether Councilmembers were in favor of moving forward.

Discussion ensued regarding the logo and tagline with Councilmembers comments being in favor of moving forward.

## CITIZENS COMMENTS

Ms. Turnbull asserted the current seawall fee assessment method did not meet the standards cited in the assessment methodology for the additional Harbor access.

Mr. Harvey Goldberg recalled discussion related to outside grant funding for the new access project.

The meeting was adjourned at 12:11 p.m.

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Mayor

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City Clerk