

**CITY OF PUNTA GORDA, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
WEDNESDAY, JULY 8, 2020, 9:00 A.M.**

COUNCILMEMBERS PRESENT: Carey, Cummings, Matthews, Miller, Prafke

CITY EMPLOYEES PRESENT: Kristin Simeone, Finance; Rick Keeney, Public Works; Charles Pavlos, 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 Prafke called the meeting to order at 9:00 a.m.

Invocation was given by Mr. Bill Frank, followed by the Pledge of Allegiance.

Mayor Prafke explained the process for public comments, noting public hearings would be heard at 1:00 pm after a short lunch break.

Mr. Tim Ritchey spoke regarding the operations of Mosaic, asserting millions of gallons of blended acidic radioactive wastewater were being discharged into the Peace River.

Ms. Jessie Bennett stated City Council could not force people to wear a mask.

Ms. Cindi Allen spoke in favor of a mask mandate.

Ms. Diane Marshawit stated requiring masks would only be temporary, noting employees of many stores feared for their health.

Ms. Michelle Felander spoke in favor of promoting but not requiring the use of masks.

Mr. Bill Dryburgh noted asymptomatic individuals who believed COVID-19 was a hoax or believed they could fight off the virus could spread it.

Ms. Ellen Croton objected to requiring use of masks.

Mr. Michael Hirsch spoke in favor of requiring masks and requested the mandate be expanded to include outdoor spaces where social distancing was not possible.

City Manager Kunik read Ms. Nicole D'Amica's comments related to newly appointed City Manager Mr. Greg Murray.

SE-01-2020 – Valiant Recovery: Ms. Vickie Scanlon, Charlotte Behavioral Health Care Inc.; Mr. John Wright, Punta Gorda Chamber of Commerce; Mr. Steve Amann; Ms. Patricia Kuechmann; Ms. Michelle Zirbel; Ms. Julie Babbie, Mr. David Blewett and Ms. Diana Blewett; Ms. Amber LaSanska; Ms. Christine Curran; Ms. Heather Reynaldo-Casanova; Ms. Eleanor Whidden; Mr. Joseph Shella and Ms. Elizabeth Shella; Ms. Brandi Towne; and Ms. Kathie Kuhn wrote in support of the treatment center. Ms. Martha Bireda wrote to voice concern regarding the impact of such a facility on the surrounding community.

Emergency ordinance for masks: Ms. Barbara Katzav, Ms. Elizabeth Starkweather, Mr. Bob Talley and Ms. Anne Camille Talley, Ms. Helene Birmingham, Mr. John Kloster, Mr. Glenice Reed, Mr. John Grossenbacher, Ms. Kathy Ribik, Ms. Cathy Graham and Ms. Serena Wyckoff, Mr. Jeff Sweetland, Mr. Walt Kiser, Mr. Mark Primack, Ms. Kay Blue, Ms. Don Forlenzo, Ms. Karen Clark and Mr. Terry Clark, Ms. Carol Kerr and Mr. Tom Kerr, Mr. Hank Bauman, Ms. Peg Baird, Mr. Harvey Goldberg, Ms. Di Kandis, Mr. John Grossenbacher, Ms. Laurie Barnett, Mr. Jim Blue, Ms. Sheila Jaeger, Mr. and Ms. Steven Kapin, Ms. Joann Anderson and Mr. John Anderson, Mr. John Rice and Ms. Nancy Rice, Ms. Rebecca Zubrod, Ms. Rochelle Bauman, Ms. Maryann Artesani, Ms. Jackie Whitaker, Ms. Betsy Dunphy, Mr. Robert Stevens, Ms. Diane Port and Mr. Chris Port, Ms. Janis Hubbell, Mr. Mary Jollett, Mr. James Williams, Mr. John Taylor, Ms. Trudy Millburg, Mr. Carl Strowd, Ms. Jennifer DeGlopper, Ms. Merry Gwynn and Mr. Edmund Davis, Mr. Jake Dye, Ms. Holly Fedor, Mr. Robert Whitaker, Mr. Tom Lynch, A. J. S., Ms. Marcia Rubin, Ms. Nancy Overman, Mr. Joel Ward and Ms. Mary Beth Ward, Ms. Carol Perry and Ms. Judy Schnabel wrote in support of mandating the wearing of masks,

Ms. Evelyn McKee and Mr. David McKee, Ms. Cheryl Hyman, Ms. Connie Wuckert, Mr. Rob Humpel, Ms. Karla Frazier, Ms. Judy Lynn Scott, Mr. Rick Sarkisian, Mr. William Ballou, Ms. Mary Ann Kot, Ms. Arlene Epting, Mr. Chris Konstantinos, Ms. Judy Scott, Ms. Annette Richter, Mr. Jeff Winters, Mr. Mike Wager, Ms. Maria Brasileiro, Ms. Aimee Leestma, Mr. Gary Stevens, Mr. Richard Asselin, Ms. Mariam Albright and Ms. Kelley Frohlich and Mr. Keith Frohlich wrote in opposition to the mandate.

Mr. Mike Sofranko shared an article regarding attending school in China.

Mr. Randy McLendon shared an article from the Occupational Safety and Health Administration (OSHA) regarding masks.

NOTE: A brief break was called at 10:56 a.m.

City Manager Kunik and Ms. Macalle Finkle, Paralegal, continued reading comments as follows:

Ms. Kenley Michelle, Ms. Marilyn Thomas, Ms. Angela Suggs, Ms. Jean Stevens, Mr. Chase Russell, Ms. Amelie Schwandt, Ms. Stephanie Mertens Mr. Gary Stevers, Ms. Cheryl Hunsberger, Mr. Mark Hunsberger, Mr. Rick Jahnke, Ms. Kim P., Ms. Lorraine Ross, Ms. Brittany Garrod, Ms. Stefanie Hussey, Ms. Kristine McWilliams, Ms. Anne Welch, Mr. Toni Cartright, Ms. Amy Cook, Ms. Lisa Wager, Mr. Greg Brett, Ms. Ellen Yago, Ms. Connie Rinehart, Ms. Leslie Bonis, Mr. Daniel Bonis, Ms. Susan Iacono, Ms. Barbara Rendell, Mr. Will Wiegman, Ms. Melony Syriac, Mr. Don Cabot, Ms. Annette Richter, Ms. Carla Konstantinos, Mr. Carl Walp, Ms. Joanna Walp and Mr. Jim Crawley wrote in opposition to the mask mandate.

Mr. Skip Powell, Mr. Richard Dressel, Ms. Kathy Palazzolo, Mr. Richard Collins, Mr. Robert Whitaker, Ms. Joanne Lancaster, Mr. Hank Mendenhall, Mr. Tom des Enfants and Ms. Katherine des Enfants, Ms. Nell (Surname Unknown), Mr. Don Krasny and Ms. Sue Krasny, Ms. Debra Kalitan, Mr. Dave Bise, Ms. Merry Bise, Mr. Tom Cavanaugh, Ms. Elizabeth Dunham and Mr. Harold Palmer, Ms. Judy Henderson, Ms. Diane Waggoner, Ms. Faith Ferris, Ms. Lucy Anne Phillips, Ms. Nancy Rice, Ms. Diane Muschlet, Ms. Helen Paul, Ms. Peggy Parsons, Ms. Pamela Bevak and Mr. Rich Bevak, Mr. John Blondin, Ms. Sheri Lenora, Mr. Phil Bieluch and Ms. Gayle Bieluch, Ms. Laurie Hayes, Ms. Jennifer Larmie, Mr. Pete Gaylord, Ms. Diane Hickey, Ms. Kim Laurenti, Mr. Noel Hyde and Ms. Linda Hyde, Ms. Linda Dobrian, Ms. Nancy Yabiz, Ms. Kristen Petroff, Ms. Deborah Melnick, Ms. Beverly MacMahon and Ms. Ann Clark wrote in support of the mask mandate.

Ms. Kathleen Davis questioned the ability to conceal and carry while wearing a mask.

Ms. Kath Bare stated she would shop in Port Charlotte.

Ms. “Dee Must” shared an article regarding America’s largest retailers desiring a mask mandate.

NOTE: The Emergency Ordinance Requiring Face Coverings was heard following Citizens’ Comments.

PROCLAMATION/PRESENTATIONS

Introduction of Board/Committee Member Nominees

None.

NOTE: Public Hearings were heard after Quasi-Judicial Public Hearings.

PUBLIC HEARINGS

ZA-01-2020 – An Ordinance of the City Council of the City of Punta Gorda, Florida, Amending Chapter 26, “Land Development Regulations”, of the Punta Gorda Code, by amending Article 3, “Regulating Districts”, to establish a new Interchange Commercial Overlay District; amending Section 3.1, “District Classification”; adding a new Section 3.21, “IC, Interchange Commercial Overlay District”; amending Article 4, “Uses Permitted With Conditions”; amending Article 7, “Architectural Provisions”; amending Article 10, “Parking and Loading”; and amending Article 11, “Sign Standards”; renumbering Code sections 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 in order to attract appropriate development for the commercial properties being annexed in close proximity to the

interstate, a new, optional zoning classification had been created, stating the proposed overlay district would promote economic opportunity. She concluded staff recommended approval with an amendment to the ordinance language in Section 3.21. **Councilmember Matthews** stated she had expected inclusion of the US 41 corridor in the proposed ordinance.

Mr. Mitchell Austin, Chief Planner, explained the need to accommodate taller buildings such as hotels was anticipated and seen as a potential conflict in relation to residential development along the US 41 corridor. He stated there was a 750-foot buffer area required for hotel uses in relation to residential properties, concluding the overlay was not extended to the US 41 corridor in order to protect residential areas.

Mayor Profke spoke in favor of adding funeral home/cemetery to the list of permitted principal uses, noting a property adjacent to Walmart would then not require a special exception if annexed.

Ms. Hannon confirmed crematory should also be included.

Mayor Profke further requested the inclusion of columbarium as a permitted principal use as well. She commented on the optional use of the proposed overlay district.

City Manager Kunik stated the reason the overlay district was optional was to provide greater flexibility to property owners looking to annex into the City.

Mayor Profke questioned how to provide for tall height pole signs that were typical on interstates.

Mr. Austin stated same could be addressed through the sign code revisions rather than within the proposed overlay district.

Mayor Profke questioned if the language prohibiting pole signs could be stricken or amended.

Ms. Hannon reiterated allowing pole signs within certain zoning districts could be considered within the sign code which was currently being rewritten.

City Attorney Levin stated if necessary, this ordinance could be modified to be consistent with the new sign code.

Mayor Profke stated she had received comments expressing concern regarding the transition between 100-foot tall buildings and the one-story building of the shopping center.

Mr. Austin acknowledged it was challenging to address the impact of building height on adjacent properties within a traditional zoning code.

City Manager Kunik stated no issues regarding height in that area were expressed during planning sessions; thus, the 100-foot height was included to encourage development.

Mayor Prafke called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

Councilmember Matthews **MOVED** approval of ZA-01-2020 as amended with the language in Section 3.21 and the addition of uses as requested by the Mayor, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

QUASI-JUDICIAL PUBLIC HEARINGS

City Attorney Levin swore in the participants, advising Council's decision should be based on sworn evidence and testimony presented this date.

City Manager Kunik read into the record a public comment from Ms. Darlene Devo, which spoke in favor of a recovery facility like Valiant Recovery Center.

CP-04-19 An Ordinance of the City Council of the City of Punta Gorda, Florida, amending the City of Punta Gorda Comprehensive Plan Future Land Use Map to include newly annexed lands; amending the Future Land Use Map to reflect the change in the current designations of Low Density Residential/County (LDR/County) to High Density Residential/City (HDR/City) for 19.51+/- acres being a portion of Section 33, Township 41 South, Range 23 East, more particularly described in the boundary survey attached hereto, and addressed as 11220 Burnt Store Road; providing for conflict and severability; and providing an effective date.

FIRST READING

City Attorney Levin read the ordinance by title.

Ms. Hannon entered the staff report, as delineated in the agenda material, into the record in its entirety by reference, noting the request, a companion to a recent annexation ordinance, would amend the City's Future Land Use Map to designate the subject property as High Density Residential/City and would apply all provisions of the City's Comprehensive Plan as described in the application. She noted the property was entitled to 16 residential units under the County's Comprehensive Plan and was proposed to receive 60 units from the Burnt Store Presbyterian Church (Church) and might be eligible for the transfer of additional density units through the County's transfer of density units process. She then reviewed staff's findings and conclusions as well as the recommended conditions of approval in detail. She concluded staff and the Planning Commission recommended approval of the request.

Mr. John DeMilly, applicant, indicated he and his wife had no plans for development at this time, adding they were working with the Church and Mr. George Mueller to facilitate the Church's project and to integrate that project with their own.

Mayor Prafke called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

Councilmember Matthews **MOVED** approval of CP-04-19, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

Z-05-19 An Ordinance of the City Council of the City of Punta Gorda, Florida, rezoning 19.51+/-acres being a portion of Section 33, Township 41 South, Range 23 east, more particularly described in the boundary survey attached hereto, and addressed as 11220 Burnt Store Road, from its current Charlotte County Zoning Classification of Residential Estate 1 Unit Per Acre/County (RE1/County) to Neighborhood Residential 15 Units Per Acre/City (NR-15/City); providing for conflict and severability; and providing an effective date. **FIRST READING**

City Attorney Levin read the ordinance by title.

Ms. Hannon entered the staff report into the record in its entirety by reference, as delineated in the agenda material, noting this rezoning was a companion to the annexation and comprehensive plan amendment ordinances, would designate the subject property as Neighborhood Residential 15 Units Per Acre and would apply all provisions of the City's Land Development Regulations. She stated the property was proposed to receive 60 density units from the Burnt Store Presbyterian Church and might be eligible for the transfer of additional density units through Charlotte County's process. She stated the request was consistent with the City's Comprehensive Plan as outlined in depth in the staff report. She then reviewed staff's finding and conclusions, stating staff and the Planning Commission recommended approval of the request.

Mr. DeMilly, applicant, commented positively on City staff's professionalism.

Mayor Prafke called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

Councilmember Matthews **MOVED** approval of Z-05-19, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

SE-01-2020 - A request by Royce Dockrill, resident of Valiant Recovery Corp, applicant, and president of Valiant PG Corp, property owner, for a Special Exception pursuant to Chapter 26, Section 16.8, Punta Gorda Code, to allow a detoxification and substance abuse treatment center not primarily associated with a primary medical facility within the Medical Overlay district as a use permitted by Special Exception pursuant to Chapter 26, Section 3.17(f)(4), Punta Gorda Code, on property zoned Neighborhood Center (NC).

City Attorney Levin read the request by title.

Ms. Hannon entered the staff report into the record in its entirety by reference, as delineated in the agenda material, explaining the request was to allow operation of a residential detoxification and substance abuse treatment center in an existing structure at 610 East Olympia Avenue, which was zoned Neighborhood Center and within the Medical Overlay district. She explained a Special Exception was required as the proposed use was not associated with the primary medical facility Bayfront Health Punta Gorda. She stated the request was consistent with the City's Comprehensive Plan as outlined in depth in the staff report. She reviewed staff's findings, which included additional findings related to licensure and accreditation requirements for the proposed facility, as well as staff's conclusions. She concluded by detailing staff's recommended conditions of approval: State licensure requirements must be met; notice to the Police Department of patients leaving the program prior to completion; facility staff to accompany residents at all times when outside the facility; registration of sex offenders admitted for treatment with the Charlotte County Sheriff's Office as required by State law; removal/replacement of deficient landscaping to conform to the approved landscape plan on file as required by Punta Gorda Code; addiction treatment related to residential detoxification/substance abuse only.

Mr. Michael Haymans, applicant's representative, noted a special exception would not be required and no conditions would be imposed if the facility was owned and operated by the hospital. He accepted the staff report but objected to the condition which restricted the treatment of other addictions, requesting same be allowed for a secondary addiction diagnosis. He then indicated no sex offenders would be admitted to the program, opining the Police Department's concerns had been addressed. He reported since 2014, 41 out of a total of 356 patients admitted to Mr. Royce Dockrill's facilities had left treatment early, elaborating 28 of the patients who left early were local members of the community and those who were not left the area the same day. He stated the proposed facility was a group home, indicating the imposition of too many conditions upon housing because of alleged public safety concerns based upon

stereotypes about a person's membership in a protected class was problematic. He stated drug addiction and alcoholism were protected classes within the Fair Housing Act, adding decisions could not be based on fears and prejudices. He stated the applicant wanted the community to be safe and to feel safe, adding facility staff would contact the Police Department if residents left before their treatment was complete, acknowledging patients who left early could not be forced to leave the City. He emphasized there was a need in the community for this type of facility. He indicated the program would be private pay, though some degree of assistance might be available. He concluded by reiterating the applicant accepted the conditions with the one noted exception.

City Attorney Levin stated the facility was licensed as a substance abuse and mental health facility under State regulations, inquiring if other licenses were required for other types of addictions.

Mr. Haymans replied his applicant did not believe so; however, counselors would be certified in addictions beyond drug and alcohol addictions.

City Attorney Levin stated explained his concern related to ensuring any additional addiction treatment services were properly licensed.

Discussion ensued with Mr. Haymans agreeing to accept as a condition the requirement to obtain any required licenses prior to offering treatment.

City Attorney Levin inquired how a person's primary addiction would be determined when applying to the facility.

Ms. LeeAnn Dockrill responded she handled all the intake calls, noting those seeking help were very open about their addictions. She noted individuals seeking treatment specifically for sex or gambling addiction were referred elsewhere.

Councilmember Matthews inquired if anyone came to the center involuntarily.

Ms. Dockrill replied involuntary attendance was rare and usually resulted from a court order, adding it was typical for an applicant to request treatment rather than facing other penalties.

Councilmember Matthews inquired as to any mutual aid agreement with the hospital.

Ms. Dockrill replied they could work with a hospital, indicating arrangements still had to be made. She explained they currently sent individuals to other facilities if they could not provide the proper level of care.

Councilmember Matthews confirmed the Police Department's concerns had been addressed.

Mayor Prafke inquired as to the relationship between Charlotte Behavioral Health Center (CBHC) and this program.

Mr. Dockrill replied their intent was to send clients to the hospital or CBHC for detoxification for the first year or two, noting CBHC would likely send clients to his facility for treatment after detoxification.

Mayor Prafke inquired as to residents taking walks on their own.

Mr. Dockrill replied group walks would provide fresh air and exercise. He then provided a presentation on Valiant Recovery Addiction Treatment Centers, as delineated in the agenda material, focusing on the details of the program and proposed location and the process of opening a recovery center in Florida. He noted 67% of clients who completed a 30–90–day program and 73% of clients who completed a 45–90–day program remained sober for a minimum of one year. He provided a comparison of Valiant Recovery’s program and costs to other programs in Florida, noting Valiant Recovery’s costs were lower and more one–on–one counseling sessions were offered. He concluded there was a need for addiction treatment services in Punta Gorda and Charlotte County (County).

Ms. Debra Neff indicated she had taught courses at various facilities, concurring there was a need for the facility.

Mr. Kevin Biehl stated he was ten years sober thanks to facilities such as Valiant Recovery.

Mr. James Byrum explained therapists were licensed individually. He indicated he had operated sober recovery housing for 22 years, opining the proposed facility was of high quality. He emphasized there was a need for such facilities in the County.

Ms. Heather Rideout cited an example of a family situation where this type of facility could have helped.

Mayor Prafke called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

Councilmember Carey stated she had met with the owner and toured the facility, noting such a facility could have helped a relative. She added everyone she spoke to about the proposed facility was in favor of the request.

Mayor Prafke and **Councilmembers Matthews, Miller** and **Cummings** disclosed they had also met with the owner.

Councilmember Matthews concurred with Councilmember Carey, questioning if Council could grant conditional approval with an option to revoke same.

City Attorney Levin advised against doing so, suggesting the State be allowed to determine whether the facility was operating appropriately.

Mayor Prafke inquired as to allowing treatment of secondary addiction diagnoses.

City Attorney Levin suggested the condition concerning treatment of other addiction diagnoses be amended with the addition of, “without first obtaining all applicable state licenses,” after, “are not permitted.”

Councilmember Cummings spoke in favor of the applicant pursuing accreditation from Commission on Accreditation of Rehabilitation Facilities (CARF) for an existing facility as doing so would facilitate pursuing accreditation of the proposed facility. He expressed concern the proposed facility was being marketed internationally as a luxury treatment center in Florida, adding Mses. Chrissie Salazar, Crystal Coyne and Katelyn Kubasik held concerns as well. He then expressed concern Federal law would preempt the City from taking regulatory action after approval of the facility, noting Mr. David Aronberg, State Attorney for Palm Beach County, cautioned Council should act carefully. He then read a quote from Mr. Aronberg regarding regulation of sober homes by State and local governments.

Mr. Haymans interjected due process was not being followed as evidence was being presented outside of the public hearing.

City Attorney Levin opined the objection was well-founded, advising it was inappropriate to introduce materials which were not subject to cross examination.

Mayor Prafke recalled at the previous hearing individuals who were knowledgeable regarding accreditation had voiced concern about Valiant Recovery bringing their services to the community, noting Mr. Haymans stated those concerns had been resolved.

Councilmember Cummings disagreed, noting they still had to apply for a license. He clarified he was concerned CARF accreditation had not already been achieved. He stressed Council’s decision could not be undone due to preemption by Federal law. He spoke against identifying the facility with a marquee or advertising it as a luxury treatment in Florida, adding if the facility were truly intended to serve the area, referrals should come from CBHC and other local providers. He opined the most successful programs were longer-term and locally based as people needed continued care afterward. He spoke in favor of including conditions regarding direct referrals from local providers to ensure the facility served the community, objecting to marketing outside of the community.

Councilmember Carey **MOVED** approval of SE-01-2020 with staff’s conditions and amendment of the condition regarding treatment of secondary addictions as suggested by the City Attorney, **SECONDED** by Councilmember Matthews.

Councilmember Cummings inquired if a condition could be added regarding use of the marquee.

City Attorney Levin replied he was uncertain City Council could regulate the sign's content.

Mr. Haymans maintained Councilmember Cummings was overstepping the rights provided by the Commerce Clause and due process.

Discussion ensued with City Attorney Levin advising City Council did not have the authority to restrict the applicant's business to the local community under the Commerce Clause.

MOTION UNANIMOUSLY CARRIED.

SE-02-2020 - A request by Weiler Engineering Corp., Authorized Agent, for Charlotte 41 Properties, LLC, property owner, for a Special Exception pursuant to Chapter 26, Section 16.8, Punta Gorda Code, to allow an assisted living facility with memory care units to be located in a Highway Commercial zoning district, as is permitted by Special Exception approval per Chapter 26, Section 3.10(f)(6), Punta Gorda Code, on property zoned Highway Commercial (HC).

City Attorney Levin read the request by title.

Ms. Hannon entered the staff report into the record in its entirety by reference and displayed a presentation on Hampton Manor, both delineated in the agenda material, noting the proposed use was a 94-unit memory care center with associated amenities in a single-story building which was located in the Highway Commercial zoning district at 10211 Tamiami Trail. She displayed the building elevations and general photos of the site, stating the use would not adversely affect neighboring properties and all landscape buffer requirements must be maintained in perpetuity. She advised the request was consistent with the Comprehensive Plan and the development would be required to meet all development standards in effect prior to construction, concluding staff and the Planning Commission recommended approval.

Councilmember Matthews inquired as to the area where the facility was proposed.

Mr. Jason Green, applicant's representative, replied the facility would be developed on the back lot; however, two additional lots adjacent to US 41 were hatched in the map in the presentation as a roadway.

City Attorney Levin clarified the special exception applied only to the large, western parcel.

Mr. Green concurred. He then presented information related to the request, noting the proposed development would complete internal circulation and provide transportation options throughout the entire site. He added assisted-living facilities generated low

amounts of traffic. He displayed the landscape plan, reviewing options for utilities access. He stated a property owners association was being created to satisfy the Water Management District's requirements and to provide a responsible entity for City utilities. He then displayed images of a facility recently opened in Cape Coral, stating the design for the proposed facility would be similar. He concurred with staff's findings and conclusions, requesting approval of SE-02-2020.

Councilmember Carey questioned if the neighbors had been contacted regarding the request.

Mr. Green replied a public comment made at the Planning Commission meeting expressed disappointment the stormwater pond could not be used as a dog park.

Mayor Prafke indicated she had received a comment expressed concern Seminole Lakes residents would no longer be able to use a path crossing the property.

Mr. Green pointed out a sidewalk would be constructed.

Mayor Prafke called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

Councilmember Matthews **MOVED** approval of SE-02-2020 as it met all the approval criteria, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

ORDINANCE/RESOLUTION

No Public Hearing Required

NOTE: Resolution declaring Council's intent to consider vacating a portion of the Plat of South Highlands was heard following ZA-01-2020.

A Resolution of the City Council of the City of Punta Gorda, Florida, declaring its intent to consider vacating a portion of the Plat of South Highlands, according to the map or plat thereof as recorded in Plat Book 2, Page 6, Public Records of Charlotte County, Florida, being further bound and described as all or part of Lots 14 through 34, 39 through 51, 69 through 70, and Rights of Way of First Avenue, Second Avenue and Third Avenue, lying north of Jones Loop Road Right of Way; requesting a recommendation from the Planning Commission; and fixing a public hearing thereon.

City Attorney Levin read the resolution by title.

City Manager Howard Kunik indicated this intent to vacate was to promote development in a section of the TerraCap property.

Ms. Hannon stated the resolution to vacate would be included on City Council's August 19, 2020, agenda, explaining the subject area was part of a development project. She noted there were related requests for a Planned Development and Comprehensive Plan amendment, which City Council would consider at their August 19, 2020, meeting. She reported staff had received a petition to vacate 5.43 acres which were part of the Loop Municipal Service Area, noting the applicant was the contract purchaser of all the lots proposed to be vacated and the roadways were adjacent to the lots proposed to be vacated. She noted the applicant intended to develop the property as an apartment complex, concluding the vacation would create one unified development parcel.

Councilmember Matthews inquired as to the proposed height of the buildings.

Ms. Hannon replied an apartment complex with three stories over parking was proposed, indicating the conceptual site plan had been received but development plans had not.

Councilmember Matthews **MOVED** approval of the resolution, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

NOTE: The Emergency Ordinance was heard following Citizens' Comments.

An Emergency Ordinance of the City Council of the City of Punta Gorda, Florida in response to the public health emergency within the City of Punta Gorda resulting from spread of the Coronavirus Disease 2019 ("COVID-19"); providing findings; providing definitions; requiring face coverings as more fully specified herein; allowing for exceptions to the face covering requirement; providing for enforcement; providing penalties for violation; providing for sunset; providing for conflicts and severability; and providing for an effective date.

City Attorney Levin read the ordinance by title.

Mr. Joseph Pepe, Florida Health Department in Charlotte County, Administrator, provided a PowerPoint Presentation, as delineated in the agenda material, noting upward COVID-19 trends related to reopening schools and increased mobility were anticipated, noting the median age of those impacted in Charlotte County (County) had declined from approximately 69 to the 50s. He stated 12 nursing facilities had been opened statewide, including one in Port Charlotte, adding 8 long-term care facilities in the County now had COVID-19 wings. He stated hospitalizations had remained down. He reported there were 541 cases in Port Charlotte and 329 in Punta Gorda, stating 14,000 people had been tested with a positivity rate of approximately 7%. He explained a current concern related to younger individuals transmitting COVID-19 within multi-generational households or bringing the illness into long-term care

facilities. He stated there had been an uptick in utilization in hospitals, which resulted from a combination of more procedures being performed as well as an increase in COVID-19 cases. He clarified positive antibody test results were included in the overall positive results only when the individual was not tested while actively sick with the virus. He noted more individuals were recovering at home and did not require hospitalization. He then indicated nursing homes and assisted living facilities had done well in reducing the number of staff members testing positive. He noted a significant percentage of intensive care unit (ICU) beds were occupied by cardiac patients, which was related to procedures which had been postponed as well as regular care of cardiac patients. He reported one COVID-19 patient in the County was on a ventilator, with a total of 5 COVID-19 patients in County ICUs. He explained the response to COVID-19 had evolved and now produced better outcomes, providing an overview of treatments, including convalescent plasma, Remdesivir, anticoagulation therapy and dexamethasone, as well as healthcare system support. He spoke in favor of protecting the most vulnerable by avoiding closed spaces, crowded places and close-contact settings. He concluded testing was increasing throughout the County, testing was being relocated back to the Charlotte Sports Park, the mortality rate was declining, ample personal protective equipment (PPE) and testing supplies were available and additional community cooperation was needed to slow spread of the virus. He expressed support of wearing masks, acknowledging same was not 100% effective; however, same would help until additional medical interventions were available.

Mr. Ndubuisi Edeoga, an infectious disease doctor, spoke in favor of the ordinance. He stated individuals should take such simple preventive actions if they desired medical professionals to take great measures to save their lives. He noted knowledge of the virus had changed due to research and initial journal articles which did not favor wearing masks had been retracted.

Councilmember Matthews inquired how many of the 971 positive cases in the County were still active.

Mr. Pepe replied there were two ways to clear someone, explaining one method was waiting for a minimum of ten days to pass since onset of illness and three days without symptoms and another method was based on negative tests. He estimated three hundred patients had been diagnosed over the previous ten days.

Councilmember Carey questioned what was considered recovered.

Mr. Pepe replied the clinical definition was that an individual was no longer infectious, acknowledging effects could linger.

Mr. Edeoga stated COVID was different than flu in its long-term effects, which included long-term memory issues and fibrosis in the lungs, noting more was still being learned. He noted new studies indicated individuals could continue to be infectious for more than 14 days.

Mayor Prafke requested comment on the United States Food and Drug Administration approval of masks.

Mr. Pepe replied the Centers for Disease Control and Prevention acknowledged while cloth masks and procedure masks were not as good as an N95 medical device, they were better than no mask. He noted the amount of people impacted by an asymptomatic person was less if they were wearing a mask.

Mr. Edeoga stated masks helped limit spreading the virus when sneezing or coughing.

Mayor Prafke requested Mr. Edeoga comment on the assertion masks could cause a lack of oxygen.

Mr. Edeoga replied he had headaches when he wore his mask all day; however, most people would not wear the mask for long periods.

Mr. Pepe noted the proposed ordinance had many exceptions for those whose health would be negatively impacted by wearing a mask.

Mayor Prafke inquired as to a practical age to expect children to wear masks.

Mr. Edeoga replied children two years old or younger should not wear masks. He spoke in favor of allowing younger children to wear masks if they were capable of doing so, but not requiring it if they were not.

City Manager Kunik stated staff and the City Attorney felt the ordinance language was reasonable and urged City Council to pass same.

City Attorney Levin explained he had conducted research to draft the proposed ordinance, including a June 20, 2020, public health advisory issued by the State's Surgeon General and State Health Officer. He noted the exceptions for children under a certain age were typically set at 2 years old or 6 years old. He then commented on the exception regarding social distancing, noting while the description of social distancing was vague, same was used in many ordinances.

Councilmember Miller questioned if Section 4, Item (2) of the proposed ordinance should be amended to read as, "Persons observing continuous social distancing."

City Attorney Levin suggested 90 days for the sunset period, advising City Council could extend or repeal the ordinance as needed.

Mayor Prafke inquired if Council desired to add language to Section 4, Item (2).

Councilmember Carey voiced concern individuals not wearing masks would not maintain social distance.

City Attorney Levin concurred, emphasizing the ordinance was intended to protect others.

Councilmember Miller questioned if the ordinance would apply to schools.

City Attorney Levin replied in the affirmative. He then drew attention to the mandatory requirements, which required persons preparing or serving food to wear a face mask without exception.

Mayor Profke inquired if Council desired to change the minimum age for the face mask requirement.

Councilmember Matthews spoke in favor of keeping the exception set for children under two years old. She advocated for the ordinance to be adopted, expressing desire to amend Section 4, Item 2 as suggested.

City Attorney Levin agreed to insert the word “continuous.” He then explained businesses would not be held liable for failing to require someone to wear a mask, but rather it was the responsibility of the individual. He stated if someone refused to leave upon request, the Police Department could be contacted for assistance.

Mayor Profke pointed out the proposed ordinance included an exception for individuals who could not wear a mask due to medical reasons.

City Attorney Levin stated a warning could be issued prior to a first citation for violations of the ordinance, adding violations would be a code enforcement violation which would not involve the court system.

Councilmember Matthews **MOVED** approval of the ordinance with amendment of Section 4, Item 2, to insert the word “continuous”, **SECONDED** by Councilmember Carey.

MOTION UNANIMOUSLY CARRIED.

NOTE: A break was called at 1:08 p.m. with consensus to reconvene at 1:45 p.m.

NOTE: GA-10-2020 was heard following the Resolution declaring Council's intent to consider vacating a portion of the Plat of South Highlands.

GA-10-2020 - An Ordinance of the City of Punta Gorda amending the City of Punta Gorda Police Officers' Retirement System, restated pursuant to Ordinance 1644-10, amending Section 30, Supplemental Benefit Component for Special Benefits; Chapter 185 Share Accounts; providing for severability of provisions; repealing all ordinances in conflict herewith and providing an effective date.

SECOND READING

City Manager Kunik read the ordinance by title.

Councilmember Matthews **MOVED** approval of the ordinance, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

Note: A short break was called at 4:05 p.m.

CONSENT AGENDA

Councilmember Cummings **MOVED** approval of the Consent Agenda, **SECONDED** by Councilmember Carey.

MOTION UNANIMOUSLY CARRIED.

A. Legal Department

1. Invoice of Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. for legal services rendered through June 29, 2020.
2. Invoices of Persson & Cohen, P.A. for legal services rendered in June 2020.

BUDGET

A Resolution adopting a proposed millage rate for the City of Punta Gorda, Florida for Fiscal Year 2020/2021 and setting a date, time and place of public hearing to consider the adoption of the tentative millage rate and proposed budget.

City Attorney Levin read the resolution by title.

Ms. Kristin Simeone, Finance Director, explained the proposed millage rate was 3.4337, noting the calculated rollback rate was 3.3469, making the proposed millage rate 2.59% over the rollback rate. She stated the resolution set the tentative millage rate and the public hearing date and time of September 2, 2020 at 5:01 p.m.

Councilmember Matthews **MOVED** approval of the resolution setting the tentative millage rate at 3.4337 for Fiscal Year 2020/2021 and setting the date and time for the public hearing, **SECONDED** by Councilmember Miller.

MOTION UNANIMOUSLY CARRIED.

A Resolution adopting a tentative levy of annual special assessment for the City of Punta Gorda's Buckley's Pass Dredging Assessment Area for Fiscal Year 2020–2021; setting a date, time and place of public hearing to consider final adoption of the assessment; and providing an effective date.

City Attorney Levin read the resolution by title.

Ms. Simeone stated the assessment rate was \$399.95 per water access unit, with any credits due to be issued in the third year of the assessment. She concluded the resolution set the public hearing date and time of September 2, 2020, at 5:01 p.m.

Councilmember Matthews **MOVED** approval of the resolution setting the tentative levy of the Buckley's Pass Assessment at \$399.95 per water access unit for the second year of the three year assessment for those parcels that did not elect to prepay and setting a public hearing date and time, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

A Resolution adopting a tentative levy of annual special assessment for the City of Punta Gorda Lot Mowing Assessment District for Fiscal Year 2020–2021; setting a date, time and place of public hearing to consider final adoption of the assessment; and providing effective date.

City Attorney Levin read the resolution by title.

Ms. Simeone stated the proposed assessment rate of \$175 was \$5 more than the previous year, concluding the resolution set the public hearing date and time of September 2, 2020, at 5:01 p.m.

Councilmember Matthews **MOVED** approval of the resolution setting the tentative assessment for the Lot Mowing Program at \$175 for Fiscal Year 2020/2021 and setting the public hearing date and time of September 2, 2020, at 5:01 p.m., **SECONDED** by Councilmember Miller.

MOTION UNANIMOUSLY CARRIED.

Note: The City Council adjourned and reconvened as the Burnt Stores Isles Canal Maintenance Assessment District at 4:16 p.m.

BURNT STORE ISLES CANAL MAINTENANCE ASSESSMENT DISTRICT

A Resolution adopting a tentative levy of annual special assessment for the Burnt Store Isles Canal Maintenance Assessment District for Fiscal Year 2020–2021; setting a date, time, and place of public hearing to consider final adoption of the assessment; and providing an effective date.

City Attorney Levin read the resolution by title.

Ms. Simeone stated the proposed assessment rate was \$460 per single-family residence and, for all other properties, the proposed assessment rate was \$.048 per square foot of land lying less than 120 lineal feet from the seawall for FY 2020/2021. She announced the public hearing for final adoption would be held on September 2, 2020, at 5:01 p.m. in Council Chambers.

Councilmember Matthews **MOVED** approval of the resolution adopting the proposed assessment of \$460 per single family residence and setting the public hearing for final adoption on September 2, 2020, at 5:01 p.m. in Council Chambers, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

Note: The Burnt Store Isles Canal Maintenance Assessment District adjourned and reconvened as the Punta Gorda Isles (PGI) Canal Maintenance Assessment District at 4:18 p.m.

PUNTA GORDA ISLES CANAL MAINTENANCE ASSESSMENT DISTRICT

A Resolution adopting a tentative levy of annual special assessment for the Punta Gorda Isles Canal Maintenance Assessment District for Fiscal Year 2020–2021; setting a date, time and place of public hearing to consider final adoption of the assessment; and providing an effective date.

City Attorney Levin read the resolution by title.

Ms. Simeone stated the proposed assessment rate was \$550 for a single-family residence and, for all other properties, the proposed assessment rate was \$.058 per square foot of land lying less than 120 lineal feet from the seawall. She announced the public hearing for final adoption would be held on September 2, 2020, at 5:01 p.m. in Council Chambers.

Councilmember Matthews **MOVED** approval of the resolution adopting the proposed assessment of \$550 per single family residence and setting the public hearing for final adoption on September 2, 2020, at 5:01 p.m. in Council Chambers, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

NOTE: The Punta Gorda Isles Canal Maintenance Assessment District adjourned and reconvened as the City Council at 4:19 p.m.

UNFINISHED BUSINESS

Parks and Recreation Master Plan 2020 Update

Ms. Fabiano Solano, Planning Intern, announced the winner of the naming contest was *Punta Gorda's Place to Play* submitted by Mr. Pete Gaylord, noting a gift basket was provided as a prize. She then stated a general survey was now open to help shape the Parks and Recreation Master Plan (Plan), adding data previously gathered in 2017 would also be summarized in the Plan. She indicated workshops, called "Park Pop Ins", would be held every Friday during July 2020, noting participants would be asked to complete a brief survey.

Councilmember Matthews confirmed attendees could be asked to sign-up for the workshops in order to ensure attendance did not exceed 50 people.

Ms. Solano concluded with a review of the timeline for the Plan Update, anticipating adoption would take place in December 2020.

RECOMMENDATION FROM CITY OFFICERS

CITY MANAGER

City Manager Kunik stated staff had developed signage prototypes for businesses to use for the mask requirement, briefly displaying same.

Approval of City Manager Employment Agreement – Gregory B. Murray

City Attorney Levin reported the Employment Agreement for Mr. Gregory Murray, had been finalized and sent to Mr. Murray for execution, requesting City Council approval and appropriation of funds.

Councilmember Matthews **MOVED** approval of the Employment Agreement and appropriation of funds as outlined in the agenda material, **SECONDED** by Councilmember Carey.

MOTION UNANIMOUSLY CARRIED.

CITY ATTORNEY

None.

BOARDS AND COMMITTEES

Announcement of Vacancies

Building Board

Board of Zoning Appeals (Alternate)

City Clerk Smith announced the vacancies.

Nominations

Building Board

Councilmember Mr. Cummings **MOVED** to nominate and reappoint Mr. Jeffery Masters to the Building Board, **SECONDED** by Councilmember Carey.

MOTION UNANIMOUSLY CARRIED.

POLICY AND LEGISLATION

PRAFKE: Noted Council would begin a six-week break upon adjourning this date.

MATTHEWS: Requested an update from Dover, Kohl and Partners for the August 19, 2020, meeting.

- Noted the hospital was scaling back elective surgeries due to COVID-19.

MILLER: Welcomed Mr. Murray to the City.

CAREY: Thanked Charlotte County Commissioner Chris Constance for his comments regarding Punta Gorda leading the way with the mask ordinance.

CITIZENS COMMENTS

Citizens' comments were read into the record at the beginning of the meeting.

The meeting was adjourned at 4:35 p.m.

Mayor

City Clerk