

**CITY OF PUNTA GORDA, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
WEDNESDAY, AUGUST 22, 2018, 9:00 A.M.**

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

CITY EMPLOYEES PRESENT: Kristin Simeone, Finance; Rick Keeney, Public Works; Tom Jackson, Utilities; Phil Wickstrom, Human Resources; Joan LeBeau, Urban Design; Pamela Davis, Police; Ray Briggs, Fire; City Attorney Levin; City Manager Kunik; City Clerk Smith

Mayor Keesling called the meeting to order at 9:00 a.m.

Invocation was given by Mr. John Burrage, followed by the Pledge of Allegiance.

PROCLAMATIONS/PRESENTATIONS

Introduction of Board/Committee Member Nominees

There were none.

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

PUBLIC HEARINGS

GA-04-18 – An Ordinance of the City of Punta Gorda, Florida, amending Chapter 15, “Offenses and Miscellaneous”, of the Punta Gorda Code, amending reserved Section 15-8, establishing security measure requirements for owners and operators of retail gas pumps; providing for conflict and severability and providing an effective date.

FIRST READING

City Attorney Levin read the ordinance by title.

Ms. Macalle Finkle, Paralegal, stated this ordinance represented a proactive step toward prevention of the use of skimmers in the City, explaining a locking device would be required to be installed on the gas pump by the owner/operator of the gas station.

Councilmember Matthews requested clarification of the implementation timeline as well as of enforcement.

Ms. Finkle replied the ordinance would become effective upon adoption/second reading, pointing out there were only a few gas stations within City limits.

Police Chief Pam Davis suggested allowing 30 days for owners/operators to come into compliance to ensure proper education.

Discussion ensued regarding skimming and encryption devices.

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-04-18, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

GA-05-18 – 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.

Ms. Finkle explained the City contracted with Waste Management, Inc. for recycling services, stating the proposed \$.60 increase in the monthly fee was the result of annual price adjustments as provided in their 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-05-18, **SECONDED** by Councilmember Matthews.

MOTION UNANIMOUSLY CARRIED.

Ms. Jenna Blackway, Sanitation Division Supervisor, introduced Waste Management, Inc. representatives Mr. Todd Peres, District Manager, and Ms. Stephanie Kissinger, Public Sector Solutions Manager, and played a short video which had been developed to educate the public on proper recycling guidelines, specifically to reduce contamination. Discussion ensued followed by a brief question and answer session with Mr. Peres, Ms. Kissinger and Ms. Blackway.

CONSENT AGENDA

Councilmember Matthews pulled Item D2.

A. Citizen Comments - Consent Agenda Items

None.

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

MOTION UNANIMOUSLY CARRIED.

ITEM D2: Councilmember Matthews voiced concern regarding the temporary floating docks becoming permanent, stating she had personally observed same occur at a different location. She explained those docks had neither been removed nor properly maintained; thus, she would like to see more specific timeframes for the use and maintenance of the docks proposed by Learn to Sail, Inc. to ensure the area's aesthetics were retained.

Mr. David Johnston, Learn to Sail Inc., provided a PowerPoint presentation, as delineated in the agenda materials, which described the proposed docks in detail, including their use, storage and maintenance, as well as the sailing programs operated at the foot of the Bayfront Center boat ramp.

Councilmember Matthews questioned the organization's plan in the event of an imminent storm.

Mr. Johnston replied smaller boats were stored at the Bayfront Center while the larger vessels were kept on trailers, ready to be stored at the Public Works/Utilities campus on Cooper Street. He mentioned land anchors had been purchased to better secure the trailers.

Councilmember Wein spoke positively regarding the program. He inquired where the docks would be stored so as to not cause visual blight, further asking when the docks would be pulled out of the water after conclusion of the summer camp program.

Mr. Johnston replied the docks would be pulled approximately one week following the conclusion of any program. He displayed an aerial view of the subject area and pointed out the dock storage location, noting same would not negatively impact aesthetics.

Discussion ensued with regard to the types of boats used in and benefits of the program.

Mr. Tom Cavanaugh urged City Council's support.

Councilmember Matthews clarified she supported the program but was concerned with aesthetics on behalf of nearby residents.

Councilmember Matthews **MOVED** approval of Item D2, **SECONDED** by Councilmember Wein.

MOTION UNANIMOUSLY CARRIED.

B. City Clerk's Department

1. Approval of Minutes: Workshop of June 27, 2018
2. Approval of Minutes: Regular Meeting of July 3, 2018
3. Approval of Minutes: Regular Meeting of July 11, 2018
4. Approval of Minutes: Special Meeting of July 18, 2018

- C. Legal Department
 - 1. A Resolution of the City Council of the City of Punta Gorda, Florida, honoring Fifty Years of Municipal Home Rule in the Florida Constitution and committing to an educational initiative to help Floridians understand this beneficial right
 - 2. Invoice of Persson & Cohen, P.A. for services rendered in July 2018
 - 3. Invoices of Lewis, Longman & Walker P.A for services rendered in July 2018
- D. Urban Design Division
 - 1. Punta Gorda Living Shoreline Project
 - 2. Learn to Sail, Inc. Proposal for Temporary Floating Docks
 - 3. Florida Resilient Coastline Program Grant
- E. Utilities Department
 - 1. A Resolution of the City Council of the City of Punta Gorda, Florida, accepting a Bill of Sale, Release of Liens/Affidavit of No Liens and Warranty from D. R. Horton, Inc. for Water Distribution and Wastewater Collection Facilities located within Waterford Estates Phase 2A; providing for conflict and severability; and providing an effective date.

Citizen Comments – Regular Agenda Items Only

Ms. Wendy Young voiced opposition to only assess residents of the Punta Gorda Isles “Bird Section” for the Additional Harbor Access project.

Mr. Bill Stamp opined it was time to move forward with the Additional Harbor Access project.

BUDGET

Award of Agreement to Florida Design Contractors, Inc., of Lake Park, FL, for Replacement of the Water Treatment Plant Generator

Ms. Anne Heinen, Procurement Division, reviewed the bid process, announcing a total project cost of \$1.43 million. She requested Council’s approval of a \$50,000 contingency budget for unforeseen construction conflicts or plan errors.

Mayor Keesling confirmed the \$50,000 contingency was over and above the project cost, expressing surprise the agreement did not include some type of contingency.

Councilmember Wein questioned the amount of usage hours on the current generator and the amount of hours anticipated for the new generator.

Mr. Tom Jackson, Utilities Director, replied he did not have the current generator’s usage figures in hand, stating he anticipated the new generator would last 30 years.

Discussion ensued regarding the specifics of the generator equipment.

Councilmember Matthews reiterated concern a contingency was not included in the original bid package.

Mr. Jackson clarified the contingency applied to changes made by the City, stressing staff was confident there would be few.

Councilmember Wein **MOVED** to award the Agreement to Florida Design Contractors Inc., **SECONDED** by Councilmember Prafke.

MOTION UNANIMOUSLY CARRIED.

Additional Harbor Access (PGI Bird Section Cut-through) Land Purchase

City Manager Kunik reviewed the terms of the proposed land purchase contract, as delineated in the agenda material, stating the offer of \$440,000 was valid until August 31, 2018.

Councilmember Matthews **MOVED** approval of the proposed terms and allocation of a \$440,000 loan from the Special Use Fund to be re-paid with Special Assessment proceeds, **SECONDED** by Councilmember Wein.

MOTION UNANIMOUSLY CARRIED.

Purchase of City-owned Property at 5625 Taylor Road by Robert N. McQueen, Trustee

City Manager Kunik reviewed the terms of the proposed purchase contract, as delineated in the agenda material.

Councilmember Prafke confirmed Mr. McQueen had been invited to annex into the City.

Councilmember Wein voiced disappointment Mr. Jay Buckley, former Punta Gorda resident and strong project advocate, could not see the project move forward.

Councilmember Prafke **MOVED** approval of the terms as proposed, **SECONDED** by Councilmember Wein.

MOTION UNANIMOUSLY CARRIED.

City Attorney Levin then stated the City's contract did not include a provision to terminate if the property proved to be inadequate for the City's purposes; however, Mr. McQueen's contract did include a provision for a feasibility study, thus allowing for termination. He explained both contracts were contingent upon simultaneous closings, asking if there had been any discussion between the parties regarding same.

City Manager Kunik replied in the negative, noting Mr. McQueen was anxious to finalize the purchase. He offered to raise the issue with Mr. McQueen.

Mr. Hans Wilson, Hans Wilson Engineering, stated he was pleased to announce the permit for this project was in hand. He provided Mr. Mark Gering, City Engineer, with the original permit and a complete copy of the project notebook. He then asked Councilmembers to consider designating the waterway as "Buckley's Pass."

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

MOTION UNANIMOUSLY CARRIED.

Councilmember Matthews voiced appreciation to Mr. Wilson for his diligence. She then asked Mr. Wilson to comment on Smugglers Cut, which would be allowed to remain open.

Mr. Wilson stated he had previously understood Smugglers Cut would be closed due to its shallow nature and speeding boaters; however, the Army Corps of Engineers was not in favor of limiting navigational access. He stated signage would be required at both entrances warning boaters of the water's shallowness and the City's Manatee Protection Plan's regulations.

City Manager Kunik stressed there was much work to do before construction could begin on Buckley's Pass, urging everyone's patience. He explained all of the parcels to be assessed must be identified and the number of water access units determined for each. He confirmed all proposed assessment actions would be well advertised.

Note: A short break was called at 10:41 a.m.

Note: The Ponce de Leon Redesign Update was heard prior to the following item.

Costs Associated with Security Enhancements at City Facilities

Mr. Phil Wickstrom, Human Resources Manager, provided an overview of the proposed electronic monitoring and physical modifications to City facilities to enhance security as well as associated costs, stating same were proposed in response to concerns for employees' personal safety.

City Manager Kunik drew Councilmembers' attention to proposed costs and budget sources, stating the dollar amount denoted under "General" would be paid through the Special Use Fund. He requested approval of the associated costs to allow same to be incorporated into the FY 2019 and FY 2020 budgets.

Ms. Simeone clarified an appropriation would be presented to Council in October 2018 to adjust the budget.

Councilmember Wein **MOVED** approval of staff's recommendation, **SECONDED** by Councilmember Prafke.

Ms. Pace advised the security enhancements would entail ongoing annual costs associated with support and maintenance.

MOTION UNANIMOUSLY CARRIED.

Discussion regarding Creation of an Assistant City Manager Position

Councilmember Cummings spoke at length regarding the value of establishing an Assistant City Manager (ACM) position at the same time the City pursued an update of its Master Plan.

Mayor Keesling pointed out an ACM position was not budgeted, adding Council had opted against creating a number of other staff positions due to budgetary concerns. She commented a contract position might represent a way to test the value of an ACM position. She opined the idea had merit; however, funding remained a concern, suggesting establishment of an ACM position could be included in the Strategic Plan.

Councilmember Wein asserted the City enjoyed good solid leadership from its staff, culminating with the City Manager, adding the transition upon City Manager Kunik's retirement should be seamless.

Councilmember Prafke agreed with the idea of a transition plan but did not feel an ACM position was necessary. She maintained the right person with the right experience would be able to assume the duties of the City Manager position. She reiterated the budget could not accommodate an ACM position as evidenced by the staff positions which were put on hold.

Councilmember Matthews stated she had discussed this issue at length with City Manager Kunik, adding she also did not believe an ACM was necessary at this time. She noted City Manager Kunik had expressed his intention to remain with the City for another two years.

Councilmember Wein reiterated it was necessary to have proactive versus reactive discussions, adding it was possible a good candidate was already on staff.

City Manager Kunik advised succession planning discussions were currently ongoing, offering to devise a transition plan proposal for possible inclusion in the Strategic Plan. Discussion ensued with consensus to discuss succession planning, including exploration of an ACM position, as part of the Strategic Plan.

Purchase of Cell Phones for Use by City Councilmembers

Mayor Keesling suggested the City consider providing cell phones for Councilmembers' use as part of their job function. She explained e-mails and calendars would all be maintained on one telephone and could be integrated with the City's information systems.

City Manager Kunik clarified use of a City cell phone by Councilmembers would be optional, asking any Councilmember who desired same to contact him or Ms. Finkle.

UNFINISHED BUSINESS

Ponce de Leon Park Redesign Update

City Manager Kunik announced the goal was to begin redesign of Ponce de Leon Park in the April/May 2019 timeframe, which would allow the Peace River Wildlife Center (PRWC) to complete fundraising. He stated Mr. James Herston, Herston Engineering Services, Inc., had volunteered his services to the City for this project; however, Mr.

Herston expressed understanding if the City wished to proceed in another direction due to numerous commitments which were impacting the amount of time he could dedicate to the project.

Councilmember Cummings stated Mr. Jeff Weiler, Weiler Engineering, had offered his services free of charge.

Mayor Keesling pointed out the project required 60% design plans as of this date in order to adhere to established timelines. She expressed appreciation to Mr. Herston for the work he had performed to date.

City Manager Kunik confirmed Mr. Herston would provide the project files to Mr. Weiler.

Mr. Herston replied affirmatively, urging City Council to ensure the no-fee bid included new restroom facilities as well as extension of a water line the entire distance of Ponce de Leon Boulevard, both of which had not been part of the plans at the outset.

Councilmember Matthews questioned the current status of the project.

Mr. Herston replied approximately six or seven Design Studios had been conducted, stating the project could likely be submitted for final DRC by September 30, 2018, and construction could commence in January 2019 and finish in December 2019. He acknowledged the project had not been problem free, stating the PRWC must be prepared to make certain final decisions.

Discussion ensued with regard to the immediate next steps, particularly with the transfer of engineering services.

Ms. Pace confirmed the project would not be required to be sent out for bid.

Councilmember Prafke expressed appreciation to Mr. Herston for his contributions to the project.

Ms. Callie Stahl, PRWC Executive Director, confirmed Mr. Keith Towles had agreed to serve as the contractor for construction of the new facility.

Councilmember Prafke **MOVED** to accept the offer of volunteer services from Weiler Engineering, **SECONDED** by Councilmember Cummings.

MOTION UNANIMOUSLY CARRIED.

NEW BUSINESS

Proposed Developer's Agreement for Riverside Drive Wastewater Force Main Project

Mayor Keesling announced this item was being continued to September 17, 2018, at the applicant's request.

Event Permit #18-148546; Big Orange Music Festival; November 2-4, 2018;

Laishley Park

Ms. Lisa Hannon, Zoning Official, provided a detailed review of the event, noting a request was made to close the Harborwalk during event times due to admission cost and security concerns. She stated staff recommended approval contingent upon satisfaction of any public safety issues.

City Manager Kunik confirmed the criteria for closure of the Harborwalk had been met. Councilmember Cummings **MOVED** approval of Event Permit #18-148546, **SECONDED** by Councilmember Wein.

MOTION UNANIMOUSLY CARRIED.

Event Permit #18-148540; Blackwater Country Jam; September 21-23, 2018;

Laishley Park

Ms. Hannon provided a detailed review of the event, noting a request was made to close the Harborwalk during event times due to admission cost and security concerns. She stated staff recommended approval contingent upon satisfaction of any public safety issues, adding the criteria for closure of the Harborwalk had been met.

Councilmember Matthews **MOVED** approval of Event Permit #18-148540, **SECONDED** by Councilmember Prafke.

MOTION UNANIMOUSLY CARRIED.

Event Permit #18-148671; Zirkus Circus and the Flippin Spectacular; City Marketplace

Ms. Hannon stated Punta Gorda Code Chapter 4A, Amusements, provided for fairly strict requirements as far as bonding and per-ride deposits, adding the antiquated requirements of Chapter 4A would create a hardship for the event organizer; thus, she recommended the application be considered under the standard event permitting process.

Councilmember Matthews **MOVED** approval of staff's recommendation to utilize the Event Manual guidelines to review the event, **SECONDED** by Councilmember Prafke.

MOTION UNANIMOUSLY CARRIED.

RECOMMENDATION FROM CITY OFFICERS

CITY MANAGER

City Manager Kunik announced more than the typical number of complaints had been received regarding tall grass on properties in the lot mowing program, stating staff intended to research a secondary mowing contract to include twice the number of mows during the rainy season.

Councilmember Prafke asked how billing would be handled through the Charlotte County Tax Collector.

City Manager Kunik replied a tentative assessment would be set in July 2019 but not approved until September 2019, reminding Council assessments could be lowered but not raised after establishing same in July.

Councilmember Prafke spoke in favor of amending the program to provide for a second mow each month, stating she also wished to see a separate fee established for vacant lots which abutted sidewalks. She explained grass/weeds grew up and over a considerable portion of the sidewalk, opining an edging fee could be imposed on those properties at least once during the summer.

Councilmember Wein suggested a flat monthly assessment.

City Manager Kunik summarized staff would draft a plan providing for two mows per month, adding the issue of edging must be worked out. He stated staff would calculate an annual fee for consideration.

Mayor Keesling confirmed City Manager Kunik would respond to those residents.

CITY ATTORNEY

Offer of Settlement – 1601 Tamiami Trail (Winter Park Dodge, Inc.)

City Attorney Levin explained a new settlement offer had been proffered, as delineated in the agenda material, asking how Council wished to proceed.

Councilmember Prafke **MOVED** to reject the offer, **SECONDED** by Councilmember Wein.

MOTION UNANIMOUSLY CARRIED.

Approval of Settlement Agreement/Case #16-2152-CA – Robert Berry Trabue and McCo, Inc. versus City of Punta Gorda and ATA Fishville, LLC

City Attorney Levin explained the terms of the proposed settlement agreement, which provided for payment of \$10,000 to the respondents and a commitment from the City to earmark \$700,000 from sale proceeds for Ponce de Leon Park improvements.

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

MOTION UNANIMOUSLY CARRIED.

City Attorney Levin advised the respondents would file a Notice of Voluntary Dismissal.

Approval of Second Amendment to Acquisition Agreement with ATA Fishville FL, LLC

City Attorney Levin stated the development of Fishermen's Village had been delayed due to the litigation referenced in the previous agenda item, recommending approval of the proposed second amendment.

Mayor Keesling commented favorably on the work performed thus far.

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

MOTION UNANIMOUSLY CARRIED.

City Attorney Levin stated Council had authorized him to seek a formal advisory opinion from the Florida Commission on Ethics (FCE) regarding voting conflicts of interest, reporting FCE's opinion was consistent with past interpretation in that there was no violation if the affected Councilmember's interest constituted less than 1% of the class, and there was no special benefit realized by the Councilmember.

BOARDS AND COMMITTEES

Announcement of Vacancies

Board of Zoning Appeals Alternate

Board of Zoning Appeals (3)

City Clerk Smith announced the vacancies.

Nominations

Historic Preservation Advisory Board Alternate

Councilmember Matthews **NOMINATED** all interested parties.

Code Enforcement Board Alternate

Councilmember Matthews **MOVED** to nominate and appoint Mr. Mike Makedonski, **SECONDED** by Councilmember Prafke.

MOTION UNANIMOUSLY CARRIED.

Appointments

Code Enforcement Board

Voting forms were distributed.

City Attorney Levin announced Mr. Hank Bauman had received the majority of votes and was thus re-appointed to the Board.

POLICY AND LEGISLATION

KEESLING: Spoke at length regarding the importance of home rule to municipalities.

Councilmember Cummings commended Mayor Keesling on her efforts.

Support for Local State of Emergency regarding Red Drift, Blue-Green Algae and Fish Kills

Mayor Keesling announced she received a request, as delineated in the agenda material, from Sanibel Mayor Kevin Ruane to join with other Lee County Mayors to communicate with Governor Rick Scott regarding expansion of the local state of emergency pertaining to the red tide algae problem affecting Southwest Florida waters. She expressed hope Councilmembers wished to support this and similar efforts.

Councilmember Wein agreed this was an important ecological issue requiring the City's support even though the impact on the City was minimal at this time.

Councilmember Prafke agreed it was necessary to support neighboring communities, adding she believed the City was being impacted because residents could not enjoy the entire area.

Councilmember Matthews stated there was power in numbers, pointing out this issue was affecting considerations to relocate to the area.

Consensus was to give the Mayor the authority to sign any letters of support or any other items related to this issue.

CUMMINGS: Stated the occupants of 1203 West Marion Avenue across from Fishermen's Village requested the City install a sign prohibiting through traffic from utilizing their parking lot in the interest of the public's health, safety and welfare.

Councilmember Matthews stated she understood the parking lot was privately owned. City Manager Kunik interjected the City owned the overflow parking lot.

Councilmember Cummings **MOVED** approval of installation of "No-through Traffic" signage in the parking lot at 1203 West Marion Avenue, Councilmember Matthews **SECONDED**.

MOTION UNANIMOUSLY CARRIED.

CITIZENS COMMENTS

Ms. Patti Allen, Fishermen's Village, thanked City Council for their actions taken this date.

The meeting was adjourned at 12:30 p.m.

Mayor

City Clerk