

**CITY OF PUNTA GORDA, FLORIDA
CITY COUNCIL SPECIAL MEETING MINUTES
CHARLOTTE HARBOR EVENT & CONFERENCE CENTER
WEDNESDAY, APRIL 3, 2019 1:00 P.M.**

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

CITY EMPLOYEES PRESENT: Jason Ciaschini, Police; Ray Briggs, Fire; Kristin Simeone, Finance; Rick Keeney, Public Works; City Attorney Levin; City Manager Kunik; City Clerk Smith

Mayor Prafke called the meeting to order at 1:00 p.m.

PUBLIC HEARINGS

A Resolution of the City Council of the City of Punta Gorda, Florida, relating to the dredging project; providing authority and definitions; approving the final assessment roll; providing for the imposition of the assessments to fund the Buckley's Pass Dredging Project; providing for collection of the assessments pursuant to the Uniform Collection Act; providing for the effect of this resolution; providing severability and an effective date.

City Attorney Levin explained the meeting procedure and read the resolution by title only.

City Manager Kunik provided a chronological history of events related to the project leading up to the current date.

Ms. Macalle Finkle, Paralegal, explained assessment letters had been mailed, noting Statute required the City to hold a public hearing to obtain public comment on the assessment. She stated if City Council moved forward today, the next step was the mailing of pre-payment notices and sending the project out to bid.

Mr. Hans Wilson, Hans Wilson Engineering, displayed an aerial view of the final plan, briefly describing the project, and explaining how the design, permitting and costs of the project had evolved over time due to the influence of public input and various processes. He stated he hoped the project bid would come in under the estimated probable cost.

Ms. Finkle explained the total capital cost and total project cost components, noting a project cost of \$3.1 million. She then reviewed the assessment methodology and outlined the process of identifying water access units (WAUs), noting there were a total of 2,785 WAUs assessed to 2,112 tax accounts with 22 WAUs apportioned to 19 parcels in unincorporated Charlotte County. She discussed financing and payment, advising the cost of one prepaid WAU was \$983, noting if the assessment was spread over three years on the tax bill, the cost would increase to \$1,199.85 which equated to \$399.95 annually.

City Manager Kunik reviewed the summation of public input received.

Mayor Prafke called for public comment.

Mr. Don Sabatini displayed a PowerPoint Presentation, as delineated in the agenda material, suggesting payment for the project be made by extending the additional Hurricane Irma Canal Maintenance fee of \$100 from 2021 to 2025.

Mr. Richard Greenwald stated there was no difference in use between a person with an 80 foot seawall and those who had a larger seawall, adding he did not understand why any property owner should pay for more than one WAU.

Mr. Al Covington spoke in favor of the assessment, opining property owners would realize an increase in property value.

Mr. John Benande questioned why the project was being paid for by a small group of people when it appeared the entire City would benefit.

Mr. Timothy Beltz stated he was in favor of moving forward but perhaps using other revenue sources, adding he was in favor of Mr. Sabatini's suggestion. He suggested a property tax break for those who paid the assessment if property values rose.

Mr. Bob Whitacre opined the assessment would divide the City.

Mr. Matt Ezra stated he was in favor of Mr. Sabatini's recommendation.

Ms. Paula Thompson stated she was in favor of the project; however, she voiced concern regarding WAU's. She opined everyone should pay for the project.

Mr. Denison Reed voiced his objection to the Congregation of the United Church of Christ being assessed. (NOTE: Mr. Reed's comments are referenced under New Business.)

Mr. Bill Estlack stated he supported the project but felt it should be paid for by all property owners in Punta Gorda Isles (PGI). He concurred with Mr. Sabatini's comments.

Mr. John Olsen stated he was opposed to the assessment.

Mr. David Marshon opined the canal district should pay for the project; however, he was not in favor of changes to the methodology which would cause delays.

Ms. Diana Simmons objected to assessing only the bird section as everyone would benefit.

Mr. Alexander Peterson stated the additional access was needed; however, he objected to the assessment methodology as all properties would benefit. He voiced support for Mr. Sabatini's proposal.

Mr. Don Kidwell agreed the canal maintenance fund should pay for the project. He questioned why a funding change would cause a delay of one year.

Mr. Mike Fortier stated he supported Mr. Sabatini's suggestion, asserting it was a dubious statement that property values would increase as a result of additional access.

Mr. Greg Gibson voiced his objection to the assessment methodology.

Ms. Wanda Wannell stated she did not object to paying the assessment but preferred other resources be used to lower the cost.

Mr. Richard Kirkpatrick stated he would rather the project be paid for by more property owners.

Ms. Maryann Artesani stated she was in favor of the project, adding she concurred with Mr. Sabatini.

Mr. Bill Wannell stated the project would eliminate the safety concern for larger boats and improve water quality.

Mr. Gary Satterfield stated if everyone in the City would benefit, then everyone should pay the assessment.

Mr. Garner Suessmann stated he was not a City resident, asserting only City residents should pay for the project.

Mr. Dave Lumpke stressed it was time to move forward with the project.

Mr. Kim Halford opined many people in the Bird Section would be assessed but would not benefit.

Mr. Michael Hirsch stated if other City resources would be used to fund the project it should be prioritized along with all other pending projects.

Mr. George Remick agreed the project was needed due to increased boat traffic; however, existing PGI canal maintenance assessment fees should fund the project.

Mr. Karen Turnbull spoke in favor of Mr. Sabatini's proposal.

Mr. Michael Strunk stated he owned a condominium but was prohibited from utilizing the available docks and did not have access to the water, requesting City Council consider this situation when making assessments.

Mr. David Schall opined everyone would benefit; thus, City Council should reconsider the funding method.

Mr. Bill Courtney pointed out Burnt Store Isles (BSI) had not requested City funding for its projects; thus, the City should not fund PGI projects.

Ms. Wendy Young requested City Council reconsider the assessment methodology.

Mr. Dave Fox opined City Council should use their best judgment to decide what funding method was best.

Ms. Karen Clark stated she hoped City Council would move forward with the recommended assessment methodology; however, if any change was to be considered, all PGI residents should be polled regarding same.

Mr. Charles Bettinson opined the value of his home would not increase due to its distance from the cut; however, boat congestion would increase in that area. He then

stated residents of BSI should not be assessed for a PGI project.

Mr. Darrell Odegard opined the project was an extension of the canal system and everyone who was part of the system should pay.

Mr. John Kelly voiced concern people no longer wanted to pay after seeing the assessment amount.

Mr. Ron Dressler opined it would be necessary to dredge the new channel every couple of years.

Ms. Lauree Lainhart stated if it was decided that all property owners should pay the assessment, a public hearing should be held allowing them to comment.

Ms. Charleen Duggins stressed the City was a boating community, adding everyone should pay the assessment or Mr. Sabatini's method should be utilized.

Mr. William Day stated he was in favor of the project, adding he did not object to the funding methodology.

Mr. Dennis Vorhees opined those who benefitted should pay for the project, reiterating the City did fund any BSI projects.

Ms. Debra Deegan stated she was amenable to paying for her two WAUs.

Mr. Bill Hughes reiterated BSI projects were not funded by the City.

Mr. Donald Krasny agreed with Mr. Sabatini's suggestion for funding.

Mr. Ronald McNeil suggested passing the resolution with the provision that the funding options could be addressed.

Mr. John Forr reiterated if changes were made to the assessment methodology, additional public hearings were needed.

Ms. Linda Wolf stated she was willing to pay the assessment but was also in favor of Mr. Sabatini's suggestion.

Mr. Dan Osborne questioned the cost of a general assessment.

Mr. Ben Talifero voiced concern regarding the sharpness of the southwest turn within the cut.

Mr. Steve Stackel spoke in favor of spreading the cost among all canal property owners as the entire canal system rather than individual property owners would benefit.

Mr. Tom Lindsay inquired if the City would maintain the new cut and canal after it was constructed.

Mr. John Diehl objected to the amount of the condominium assessment and the defined benefit area.

Ms. Connie Kendall questioned the equation used for condominium owners where the dock was a shared asset.

Mr. Tom Freeland opined the entire City would benefit, suggesting the project cost be

borne by everyone with a seawall.

Mr. Angelo Muscolino agreed everyone with a seawall should pay.

Mr. Peter Keating asserted the assessment should be reevaluated to make it more equitable, pointing out businesses such as fishing charters and tour guides utilized the canals as well.

Mr. Mark Kuharski commented City Council was doing the right thing.

Mr. Steve Cudack voiced agreement with the assessment area being the bird section.

Mr. Casey Trappenburg objected to the assessment calculation for condominium owners.

Ms. Sue Krasny commented lines should not be drawn through the community, opining the project would have no effect on her property value due to the robust real estate market.

Ms. Dortha Zysko urged City Council to pass the resolution as written.

Mr. Dave Leonard voiced disagreement with the assessment methodology.

Mr. Bob Toth stated he was in favor of assessing those properties that would benefit, which did not include Seminole Lakes.

Mr. Ron Kopyscianki concurred with Mr. Sabatini's suggested funding method.

Ms. Madeleine Wilson agreed with Mr. Sabatini's suggestion.

Mayor Prafke confirmed there was no further public comment.

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

MOTION CARRIED UNANIMOUSLY.

NOTE: A short break was called at 3:23 p.m.

Councilmember Cummings cited statutory requirements for special assessments and described what constituted a special benefit.

Councilmember Carey opined WAUs was an illogical method for assessments; however, she did not believe all property owners in PGI should be assessed.

Councilmember Wein suggested it was necessary to first determine whether to move forward with the project, adding he was in favor of same.

Councilmember Matthews agreed the project needed to move forward; however, she was not in favor of the WAU process. She suggested denial of the resolution, recommending 50% of the Special Use Fund be utilized and the remaining balance be paid with PGI Canal Maintenance fees of \$100 per month for those in the benefit area.

Mayor Prafke questioned the delay if there was a change to the methodology.

City Manager Kunik responded a change would necessitate starting the process from the beginning, explaining it would not be possible to identify a new methodology in

time to meet the deadline for this year's tax bill; thus the delay would be at least one year.

Mayor Prafke voiced opposition to utilizing Special Use Funds as same were for the benefit of the entire City.

Councilmember Wein agreed.

Mayor Prafke pointed out WAUs had been discussed for the past two years. She then stated the City was willing to work with condominium owners, explaining it was necessary to meet with the City Manager and provide clear documentation regarding dockage.

Councilmember Carey questioned the source of funding if it was determined fewer condominiums were responsible for the assessment.

City Manager Kunik explained in the total calculation of project cost there was 10% for uncollectable WAUs.

Councilmember Cummings suggested spreading the assessments over five years.

Mayor Prafke agreed.

Councilmember Matthews interjected the proposed assessment was not fair or equitable, questioning why it would take a year to make a change to the methodology. Discussion ensued regarding the process for identifying a new methodology as well as complying with notice requirements in time to meet the deadline for the current year's tax bill.

Councilmember Carey stated the methodology was in question rather than the timeframe, opining it was unfair to charge an extra WAU for an extra .50 feet.

Councilmember Matthews agreed, stating the methodology was flawed because many properties were slightly in excess of 85 feet; however, due to the configuration of the lot it was not possible to put more than one lift, dock or boat on the property according to City Code.

Councilmember Wein stated he could not support changing course at this time.

Ms. Heather Encinosa, Neighbors, Giblin & Nickerson, Special Counsel, advised State law required a two prong test for a special assessment – 1) special benefit to property and 2) fair and reasonable apportionment. She stated for the latter, the State Courts had been clear there could be more than one way to do an assessment as reasonable minds could differ. She continued mathematical precision was not required but there needed to be a logically and factually driven way of spreading the cost. She pointed out the WAU was commonly used and the City's long standing Code contained very detailed rules for assigning WAUs to properties as well as the reference to 85 feet. She further noted properties on a canal with a certain width and a certain amount of

frontage was allowed two WAUs; however, unique circumstances with regard to angles which caused it not to fit could be appealed and corrected, adding certain mechanisms within the Code would allow the City Manager to make those corrections. She stated corrections could be made even after the assessment roll had been certified, encouraging property owners to bring forward those types of situations.

City Attorney Levin noted Ms. Encinosa's firm had the expertise and experience in developing these types of assessment methodologies and had prepared the document being considered by City Council this date.

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

Ms. Encinosa advised if it was later demonstrated that only certain condominium units should be charged for WAUs, it would be necessary to provide notice to those unit owners experiencing an increased assessment and an amended resolution would be brought to City Council at a future date.

Voting Aye: Cummings, Prafke, and Wein.

Voting Nay: Carey and Matthews.

MOTION CARRIED.

NEW BUSINESS

Buckley's Pass Dredging Assessment Deferral Agreement with Congregational United Church, UCC, Inc. for 1201 Aqui Esta Drive.

City Manager Kunik explained staff had met with the Church's Pastor and a member of the congregation to discuss Council's direction not to send the Church an invoice for the Buckley's Pass assessment, adding the deferral agreement being considered this date would formalize same.

Ms. Finkle provided a brief explanation regarding the purpose of the Deferral Agreement, noting the Church property had entitlement to docks; however, the parcel could not be exempted and the assessment could not be waived. She stated it was agreed the City would pay the assessment up front with the understanding if the property was sold, the exempt use changed or if WAUs were constructed on the property, the City would be reimbursed at that time. She stated staff had proposed to charge interest, to be capped after ten years; however, Church representatives requested the interest be waived.

Mr. Toth agreed the Church should not be charged interest.

Note: Comments made by Mr. Denison Reed under the Resolution Public Hearing earlier in the meeting are reiterated here.

City Attorney Levin clarified if the property was sold to another religious organization

and City Council decided to defer payment, a new agreement would be necessary; otherwise the owner would need to pay the assessment.

Mr. Gene Pawlowski suggested if the Church became an income generating property, the Agreement should be amended.

Ms. Encinosa advised leasing, renting or subleasing in whole or in part any portion of the property would trigger a repayment; however, the Church could request an amendment to the agreement if they should ever pursue same.

Mr. Mike Ford, Congregational United Church of Christ Pastor, voiced his appreciation for Council's consideration of the Agreement.

Councilmember Wein **MOVED** to eliminate interest accrual on the loan, **SECONDED** by Councilmember Cummings.

MOTION CARRIED UNANIMOUSLY.

Councilmember Cummings **MOVED** approval of the Deferral Agreement, **SECONDED** by Councilmember Wein.

MOTION CARRIED UNANIMOUSLY.

Councilmember Comments

None.

Citizens' Comments

Ms. Carolyn Freeland stated she was pleased the Buckley's Pass project was going forward; however, she was disappointed with the assessment methodology.

ADJOURNMENT

The meeting was adjourned at 4:23 p.m.

Mayor

City Clerk