



**CITY OF PUNTA GORDA, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
WEDNESDAY, DECEMBER 17, 2008 9:00 A.M.**

COUNCILMEMBERS PRESENT: Friedman, Albers, Wallace, Goldberg, McCormick

CITY EMPLOYEES PRESENT: Dave Drury, Finance; Rick Keeney, Public Works; Tom Jackson, Utilities; Phil Wickstrom, Human Resources; Dennis Murphy, Growth Management; Kathy Dailey, City Manager's Office; Butch Arenal, Police; Robert Hancock, Fire; City Attorney Levin; City Manager Kunik; City Clerk Foster

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

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

There was a surprise visit from Santa Clause, who wished all a Merry Christmas.

Mayor Friedman announced V-09-08 would be continued to January 21, 2009. He then presented Councilmember McCormick with a certificate of completion for the Institute for Elected Municipal Officials.

NOTE: City Council recessed and reconvened as the Community Redevelopment Agency. (See corresponding minutes)

PUBLIC HEARINGS

ZA-15-08 – An Ordinance of the City of Punta Gorda, Florida, amending Chapter 26 of the City Code of Ordinances known as the ‘Land Development Regulations’, Article 12, ‘Landscaping Standards’, Section 12.3., ‘General Provisions’, adding subsection (n) Artificial Turf, providing criteria for Special Exception application process; providing minimum criteria for materials; providing for maintenance requirements; providing for inspections; providing replacement criteria and requirements; providing for responsibility of property owner if damaged or removed due to work on abutting public properties; providing for conflict and severability and providing an effective date.

FIRST READING

City Attorney Levin read the ordinance by title.

Ms. Teri Tubbs, Zoning Official, explained the proposal was initiated by staff in response to citizen requests for an alternative to sod in required yards, recalling both the Planning Commission and City Council had requested same be provided by special

exception to limit the necessary criteria. She drew members' attention to the criteria required for special exception, as delineated in the agenda material. She then reviewed the recommended amendments proposed by the Planning Commission and Land Development Regulation (LDR) committee, stating staff and the Planning Commission recommended approval with those amendments.

Mayor Friedman called three times for public comment.

Councilmember Goldberg **MOVED** to close the public hearing, **SECONDED** by Councilmember Albers.

MOTION UNANIMOUSLY CARRIED.

Councilmember Goldberg **MOVED** approval as amended, **SECONDED** by Councilmember Albers.

MOTION UNANIMOUSLY CARRIED.

City Attorney Levin inquired if members wished the special exception to be considered with the proposed criteria in lieu of the customary special exception criteria or in addition to, such as being required to demonstrate a hardship.

Ms. Tubbs explained the hardship criteria related to variances rather than special exceptions.

ZA-16-08 – An Ordinance of the City of Punta Gorda, Florida, amending Chapter 26 of the City Code of Ordinances known as “The Land Development Regulations”, amending Article 3, Regulating Districts; Section 3.10; HC, Highway Commercial District, adding outdoor dining as a permitted accessory use; and amending Section 3.11., SP, Special Purpose District, adding outdoor dining as a permitted accessory use; amending Article 8, Standards of General Applicability, adding Subsection 8.27 providing for a local exemption to allow dogs in designated outdoor portions of public food service establishments; providing for definitions; providing for application requirements; providing for conflict and severability; and providing an effective date.

FIRST READING

City Attorney Levin read the ordinance by title.

Ms. Tubbs explained the proposal would provide local restaurants the ability to allow pets in outdoor dining areas, stating same had been proposed by the local business community. She noted staff had worked with the Chamber of Commerce and local merchants to determine interest, adding 36% had indicated an interest. She mentioned the ordinance had been drafted similarly to the Sarasota ordinance which had been in place for many years, noting same included sanitation and signage requirements. She stated the LDR committee had reservations, but supported same if businesses felt same would help draw visitors, adding the Planning Commission had recommended

denial based upon concern same would be detrimental to business. She concluded staff recommended approval.

Councilmember Wallace inquired as to the complaint process and whether the City would be involved.

Ms. Tubbs responded the City would have some responsibility to ensure same was reported to the proper State agency.

Councilmember Wallace asked if a person walking past a nonparticipating restaurant sat in the outside dining area for a moment, if the restaurant would be in violation and fined.

Ms. Tubbs responded she would defer same to the City Attorney.

City Attorney Levin stated the City was responsible for enforcing the ordinance or violations to same, explaining if the City received a complaint, it would be obligated to provide a report of the complaint to the State agency. He opined the City would likely issue a warning for such an instance.

Discussion ensued with regard to enforcement measures.

Councilmember Goldberg asked if a proprietor chose to allow same, could their outdoor dining area be segmented to areas allowing or not allowing dogs.

Ms. Tubbs responded affirmatively.

Councilmember Goldberg asked if staff would follow up with members if the Statute was sunset in July, 2009.

Ms. Tubbs responded affirmatively.

Councilmember McCormick stated while he did not like to override a recommendation by an advisory committee, he felt the decision should be up to the business owner as to whether to participate.

Councilmember Albers stated he felt confusion may arise with people thinking that all restaurants were participants, suggesting signage be utilized.

Mayor Friedman pointed out signage was required for participating businesses.

Councilmember Goldberg mentioned the regulations, opining same would provide great oversight.

City Attorney Levin pointed out hand sanitizers were required at each table in participating Sarasota restaurants.

Mr. James Easton commented the City already provided a dog park, adding he felt dogs in restaurants would discourage others from eating there. He spoke of past occasions where he had been in a restaurant allowing dogs, opining same was unpleasant.

Councilmember Albers **MOVED** to close the public hearing, **SECONDED** by Councilmember Goldberg.

MOTION UNANIMOUSLY CARRIED.

Councilmember Wallace stated he felt a July, 2009 sunset would provide for a test period.

Mayor Friedman recalled same was a Statute, asking if the state did not sunset same, if the City's ordinance would continue.

City Attorney Levin responded the City would be required to adopt a new ordinance as the proposed ordinance would sunset in July, 2009.

Councilmember Wallace **MOVED** approval, **SECONDED** by Councilmember Goldberg.

MOTION UNANIMOUSLY CARRIED.

An Ordinance of the City of Punta Gorda, Florida, amending Chapter 17 "Public Utilities" of the City Code of Ordinances, Article III "Water Emergencies", amending Sections 17-19, 17-22, 17-25, 17-26 to comply with the requirements of Southwest Florida Water Management Code Rule 40D-21; amending Section 17-23 by decreasing penalties for violations; providing for conflict and severability and providing an effective date.

FIRST READING

City Attorney Levin read the ordinance by title.

City Manager Kunik explained the proposed ordinance included required changes to Article III Water Emergencies of Chapter 17 of the City Code defining water emergencies, watershed condition triggers and responses to water emergencies to meet the requirements of the Southwest Florida Water Management District (SWFWMD) Code Rule 40D-21. He provided a brief review of the proposed changes, noting the revised fine schedule for violations had also been included. He stated the proposed ordinance had been forwarded to SWFWMD for review with no comments received to date. He noted staff and the UAB recommended approval.

Mayor Friedman confirmed if adopted, the City would make the determination when to restrict water usage.

Councilmember Wallace clarified the City was working in conjunction with SWFWMD's guidelines.

City Manager Kunik reported SWFWMD met on a monthly basis and hoped to adopt their new rule no later than January, 2009.

Councilmember Goldberg commented it was possible the City could be under more restrictive water use policies under SWFWMD without this ordinance due to it's location in the southern portion of the district.

Councilmember Wallace **MOVED** to close the public hearing, **SECONDED** by Councilmember Albers.

MOTION UNANIMOUSLY CARRIED.

Councilmember Goldberg **MOVED** approval and to continue the second reading to January 21, 2009, **SECONDED** by Councilmember Wallace.

MOTION UNANIMOUSLY CARRIED.

QUASI-JUDICIAL PUBLIC HEARINGS

City Clerk Foster swore in all participants for the following quasi-judicial proceedings.

V-09-08 – Request to grant a variance to the Land Development Regulations per Section 26-16.10., Page 26-196, of the City Code to allow the maximum building height for the mixed used buildings which are located in the center of the proposed ‘Public Works Campus’ mixed use project to be no greater than 5 stories and 54 feet in height as measured from Base Flood Elevation (BFE) to the top of the roof structure, and to allow the office use buildings located along Maud Street to be no greater than 4 stories and 40 feet in height as measured from BFE to the top of the roof structure; and to allow the multi-family buildings which will face Shreve Street to have no more than 3 habitable floors and be no greater than 40 feet in height as measured from BFE to the top of the tie beam; instead of 2 stories and 35 feet in height as allowed in the Neighborhood Center (NC) zoning district, per City Code Section 26-3.8.(g)(11), Page 26-18, located on property commonly known as “The City of Punta Gorda Public Works Campus”.

Legal: A portion of Trabue Subdivision, Blocks 51, 52, 53, 55, 56 & 78 as recorded in Plat Book 1, Page 1, Section 12, Township 41 south, Range 22 east, of the public records of Charlotte County, Florida. Long legal description available at the City of Punta Gorda, Urban Design Division, 126 Harvey Street, Punta Gorda, Florida

CONTINUANCE REQUESTED

City Attorney Levin presented the request, advising the applicant had requested a continuance to allow sufficient time to provide preliminary site plans.

Councilmember Albers encouraged the developer to meet with individual Councilmembers prior to the public hearing.

Councilmember Albers **MOVED** to continue V-09-08 to January 21, 2009, **SECONDED** by Councilmember Goldberg.

MOTION UNANIMOUSLY CARRIED.

Mayor Friedman announced he had received a petition in opposition, adding he felt the developer should be aware of same.

V-10-08 – Request to grant a variance to the Land Development Regulations per Section 26-16.10., Page 26-196, of the City Code of Ordinances to allow a ground sign that is 19.5 feet in height instead of 15 feet in height as permitted in the Highway Commercial (HC) zoning district, and to allow the ground sign to have

98.6 square feet of signage area for a multi-tenant building instead of a maximum 64 square feet signage area as permitted by City Code Section 26-11.3.(g) on page 26-120. LEGAL: That portion of Tract "I" adjacent to Tamiami Trail South highway frontage including a Portion of Lots 14-25, Punta Gorda Isles Section 15, Charlotte County, Florida. A/K/A 3811 Tamiami Trail, Punta Gorda, Florida.

City Attorney Levin presented the signage request.

Ms. Tubbs explained the proposed use as a "Muscle Car Museum" was tourist related and would bring visitors to the area, providing an economic benefit to the City. She stated the additional height was desired to ensure enough clearance to accommodate semi trailers making deliveries to the site. She provided a detailed description of the proposed sign, as delineated in the agenda material, stating as the museum was somewhat unique, adequate and unique signage was appropriate and met the criteria for a variance. She concluded the Board of Zoning Appeals (BZA) and staff recommended approval; however, the BZA recommended same be conditioned upon any other buildings constructed on the site not be considered for a sign variance.

Mayor Friedman stated he felt the business would be an economic draw for the City.

Councilmember Goldberg **MOVED** to close the public hearing, **SECONDED** by Councilmember Albers.

MOTION UNANIMOUSLY CARRIED.

Councilmember Wallace **MOVED** approval, **SECONDED** by Councilmember Albers.

MOTION UNANIMOUSLY CARRIED.

CONSENT AGENDA

Mayor Friedman mentioned Firefighter John Briggs was present, representing the union, thanking same for their cooperative effort toward their contract.

Councilmember Albers **MOVED** approval of the consent agenda, **SECONDED** by Councilmember Goldberg.

MOTION UNANIMOUSLY CARRIED.

A. CITY CLERK

1. Approval of Minutes:
 - a. Town Hall Meeting of December 1, 2008
 - b. Regular Meeting of December 3, 2008

B. CITY MANAGER

1. A Resolution of the City Council of the City of Punta Gorda, Florida, opposing any change to the City's rate-setting authority as established by Section 180.191, Florida Statutes, and specifically the efforts of Miami-Dade County to prohibit municipal water and sewer utilities from levying a surcharge on

consumers located outside its municipal boundaries unless an equal surcharge is levied on consumers located inside its municipal boundaries

C. GROWTH MANAGEMENT

1. A Resolution of the City Council of the City of Punta Gorda, Florida, approving submission of an application for recertification as a Tree City USA and authorizing the Mayor to sign the application.
2. A Resolution of the City Council of the City of Punta Gorda, Florida, approving submission of an application for the Tree City USA Growth Award and authorizing the Mayor to sign the application.

D. LEGAL DEPARTMENT

1. Statement of Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. for services rendered by David M. Levin, Esq., through December 10, 2008.

E. FINANCE DEPARTMENT

1. Continuing Engineering Services Agreement - MWH Americas, Inc. to provide engineering services for the Shell Creek Water Treatment Plant Off-Line Reservoir.

F. HUMAN RESOURCES

1. Approval of an agreement between the City of Punta Gorda and the Suncoast Professional Firefighters and Paramedics, Local 2546, International Association of Firefighters.

UNFINISHED BUSINESS

Approval of Land Swap Agreements between the City and Southwest Land Developers regarding the Henry Street property and Airport Commerce Center property.

CONTINUANCE REQUESTED

Mayor Friedman advised this would be continued until V-09-08 had been heard.

Councilmember Goldberg **MOVED** to continue to January 21, 2009, **SECONDED** by Councilmember McCormick.

MOTION UNANIMOUSLY CARRIED.

Infrastructure Sales Surtax (ISS) Funding Options

City Manager Kunik drew members' attention to the list, as delineated in the agenda material, stating staff had been requested to accelerate some of the projects by financing same. He mentioned the sales tax collections would even out over the six year period to equal approximately \$12,000,000. He then displayed a graph denoting the various projects, proposed costs and financing methods, as delineated in the agenda material. He noted banks were currently offering 4.5%; however, same could change in the future. He advised staff was not ready to expend the funds at this time as designs were not complete, thus he would not recommend getting a loan at this time. He explained it would be preferable to establish a line of credit wherein the funds

were drawn only when necessary, adding the debt service on a \$6,700,000 line of credit would be approximately \$1,300,000 per year. He then listed the projects that could be funded with same, as delineated in the agenda material, adding same assumed the taxes funds would be collected as anticipated. He concluded by recommending approval of the proposed priority list.

Mayor Friedman commented there was no mention of the portion of the linear park from the Train Depot to the east side of town.

Councilmember Wallace spoke favorably with regard to the line of credit method, questioning the debt service.

Mayor Friedman responded same was the principal and interest over a six year period.

Councilmember McCormick inquired how many trucks would be equipped with the ALS funding.

Fire Chief Rob Hancock responded three.

Councilmember Goldberg confirmed if the interest rate on the line of credit increased too much that same could be refinanced.

Mayor Friedman opined the key was whether paying 4.5% interest would be outweighed by the increase in the cost of construction over the six year period, adding he felt same would occur when the economy improved. He voiced approval of the proposal.

Councilmember Wallace concurred this was the time to invest in the future.

Councilmember Goldberg inquired if a larger line of credit should be requested with a target of utilizing only the proposed \$6,700,000.

Discussion ensued with regard to interest rates and various financing options.

Councilmember McCormick commented fixed financing did not allow the priority of construction to be changed whereas a line of credit provided the flexibility.

Consensus of members was to direct staff to explore both options and to report to members as to the best opportunity.

A Resolution of the City Council of the City of Punta Gorda, Florida approving the City of Punta Gorda Declared State of Emergency (D.S.E) Reporting and Pay Policy as amended and providing an effective date.

City Attorney Levin read the resolution by title.

City Manager Kunik explained staff met with individual members, adding the policy reflected a collection of input from same. He concluded staff recommended approval, noting an established policy was required to receive reimbursement from the Federal Emergency Management Agency (FEMA).

Councilmember Albers **MOVED** approval, **SECONDED** by Councilmember Wallace.

MOTION UNANIMOUSLY CARRIED.

NEW BUSINESS

SV-03-08 – The Royal Order of Juan Ponce de Leon Conquistadors have requested that the application fee to rename a street be reduced and/or waived.

Ms. Tubbs stated the Conquistadors were requesting a waiver of the application fee of their request to rename a portion of West Marion Avenue entering into Ponce de Leon Park. She noted the fee was \$750; however, staff had evaluated same and determined the cost of mailings would be minimal due to its location.

Councilmember Albers suggested a conceptual approval of the request prior to agreeing to waive the fee.

Councilmember Albers **MOVED** approval to reduce the charges to \$250, **SECONDED** by Councilmember Wallace.

MOTION UNANIMOUSLY CARRIED.

Discussion of Neighborhood Stabilization Program

City Manager Kunik stated Charlotte County was applying for the grant funds, adding the City proposed to have an interlocal agreement with the County to manage the funds similar to the agreement related to the Disaster Recovery Funds.

Consensus of members was to approve same.

RECOMMENDATIONS FROM CITY OFFICERS

CITY MANAGER

Charlotte Harbor National Estuary Program Climate Ready Estuaries Pilot Program

Mr. David Hilston, Urban Design Manager, explained the City had been approached by the Charlotte Harbor National Estuary Program (CHNEP) to participate in a climate ready estuary program, adding Council approval would be required. He further explained it would accomplish some of the requirements of the Comprehensive Plan, adding same would be at no cost to the City.

Ms. Lisa Beever, CHNEP, explained funds had been received from the Environmental Protection Agency (EPA) to conduct a vulnerability assessment, noting CHNEP had been designated as one of six pilot climate ready estuaries in the United States. She explained each program was approaching same in a different manner, stating the CHNEP approach was to team up with the City to develop an adaptation program which complied with the City's Comprehensive Plan. She concluded she looked forward to working with the City.

Councilmember Wallace spoke in support.

Councilmember Wallace **MOVED** approval, **SECONDED** by Councilmember Albers.

MOTION UNANIMOUSLY CARRIED.

City Manger Kunik reminded those in attendance of the strategic plan workshop to be held at 2:00 p.m. this date at the Laishley Park community room.

BOARDS AND COMMITTEES

Announcement of Vacancies

Board of Zoning Appeals - Alternate

City Clerk Foster announced the vacancy.

Waterfront Development Advisory Committee

City Clerk Foster announced the vacancy.

Planning Commission - Alternate

City Clerk Foster announced the vacancy.

Nominations

Board of Zoning Appeals

Councilmember Goldberg **NOMINATED** all interested parties.

Punta Gorda Isles Canal Advisory Committee (2)

Councilmember Goldberg **NOMINATED** all interested parties.

Appointments

There were none.

POLICY AND LEGISLATION

FRIEDMAN: Commented on the Legislative Delegation meeting to be held January 21, 2009, stating he would be representing the City.

Ms. Kathy Dailey, Assistant City Manager, explained the meeting was held each year wherein the various entities presented their requests for funding of projects, noting she normally attended to represent the City. She advised she had been told this year there should be no funding requests, but rather it would be an opportunity to express opinions on the various legislative proposals.

Mayor Friedman asked members to contact the City Manager with any items they felt should be discussed.

Councilmember Goldberg stated he felt unfunded mandates from the State and the legislation proposed the previous year to undermine the City's home rule powers should be discussed.

Mayor Friedman mentioned the legislation related to utility surcharges and procurement policies should be mentioned.

City Manager Kunik reported he would provide the final list for the January 7, 2009 agenda.

Mayor Friedman then requested an agenda item for January 21, 2009 with a report of which new development projects would be added to the City's and CRA's property tax

rolls for the upcoming year. He wished all in attendance a Merry Christmas and Happy New Year.

MCCORMICK: Reported the Executive Director of the Southwest Florida Regional Planning Council (SWFRPC) would make a presentation at the January 7, 2009 meeting related to economic development.

WALLACE: Commented favorably on the recent meeting with Congressman Rooney.

- Questioned the City current relationship with the County's Economic Development Council.

City Manager Kunik responded he sat on the new board which met monthly.

Councilmember Wallace stressed the importance of the City having a relationship with same as they were receiving a significant amount of funding which was not going to the City at this time.

City Manager Kunik explained the present focus was in the airport area as the funds were geared toward larger tracts of land which would promote employment and economic growth.

Discussion ensued with regard to the focus away from the City.

The meeting was adjourned at 10:44 a.m.

Mayor

City Clerk