



**CITY OF PUNTA GORDA, FLORIDA  
REGULAR CITY COUNCIL MEETING MINUTES  
WEDNESDAY, APRIL 1, 2009 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.

**PROCLAMATIONS/PRESENTATIONS**

**Charlotte High School Day**

**Mayor Friedman** presented the proclamation.

Mr. Dave Gaylor, Superintendent, Mr. Barney Duffy, Principal, Ms. Colleen Beisner, Student Government President, Ms. Barbara Rendell, School Board Member and Ms. Gussie Baker were present to accept same.

**Coconut Craze Day**

**Mayor Friedman** presented the proclamation, which was accepted by Ms. Linda Dobson, Main Street Director.

**Congressional Record of Congressman Thomas J. Rooney's First Floor Speech to Sue Bohem - Deputy District Director Leah Valenti**

Ms. Valenti advised Ms. Sue Bohem lost her husband, Lt. Roy Bohem in December of 2008, explaining Congressman Rooney opted to utilize his first floor speech about Lt. Roy Bohem, who was the first Navy Seal. She then presented the Congressional Record of this speech to Ms. Bohem.

**Charlotte Harbor National Estuary Program Conservation and Management Plan - Councilmember McCormick**

**Councilmember McCormick** displayed the plan, complimenting the Charlotte Harbor National Estuary Program for their work on same. He advised the book was maintained in the City Clerk's Office should anyone wish to see same.

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

### PUBLIC HEARINGS

An Ordinance of the City Council of the City of Punta Gorda, Florida establishing a new Chapter 11B of the Code of Punta Gorda, Florida, titled the Punta Gorda Economic Development Incentives; establishing an impact fee and connection fee installment payment program for qualifying development that furthers the City's economic development goals; providing a sort title; providing findings; providing authority; providing definitions; providing for applicability; establishing economic development installment payment program criteria, requirements and owner obligations; providing for collection of impact fees and connection fees in the event of default; providing for reporting on and suspension of economic development impact fee and connection fee incentives; providing for severability; providing for conflicts; and providing for an effective date.      First Reading

City Attorney Levin read the ordinance by title.

Ms. Susan Schoettle-Gumm explained consideration should be given to growth in local business from new and expansions of existing business that provided for local jobs, tax base growth, economic diversity and value added business. She stated options included tax abatement/exemption, monetary incentives, impact fee installment payment and State programs, recalling members had decided to move forward with the impact fee installment program. She noted same would be over a period of three years at five percent interest, explaining determination of what businesses would qualify was necessary. She explained she had included the listing of businesses from the Chesapeake Study as well as those qualified by the State. She then provided a brief explanation of the ordinance requirements, as delineated in the agenda material. She addressed the goals identified in the Chesapeake Study, adding the State's targeted industries included manufacturing and wholesale trade which were not included in the Chesapeake Study. She provided information, as delineated in the agenda material to assist members with determination of qualified businesses, advising a resolution denoting same should be adopted with the second reading of the proposed ordinance. She listed possible additional requirements as follows: minimum number of new jobs; require percent of employees to be local residents or minimum amount of investment in improvements to maximize enhancement of tax base.

City Manager Kunik recommended no additional requirements and not to reduce the types of allowable businesses. He suggested members consider adding water and

sewer impact fees to the ordinance, explaining the City's Bond Counsel has advised same was permissible.

**Councilmember McCormick** asked if the delayed funds would be considered as anticipated revenues when borrowing against same in the same manner as was done with the Infrastructure Sales Surtax (ISS) funds.

Mr. Dave Drury, Finance Director, responded affirmatively.

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

**MOTION UNANIMOUSLY CARRIED.**

Councilmember Goldberg **MOVED** approval conditioned upon the water and sewer impact fees being included, **SECONDED** by Councilmember Wallace.

City Attorney Levin advised the proposed amendment would not require the ordinance to be readvertised.

**MOTION UNANIMOUSLY CARRIED.**

#### **CONSENT AGENDA**

**Councilmember Albers** pulled item B-2 and C-1.

**Councilmember Goldberg** pulled item C-3.

**ITEM B-2:** **Councilmember Albers** mentioned he had attended the last Code Enforcement Board (CEB) meeting, questioning the need to have an attorney present at every meeting to represent the Board. He suggested the Building Official should be able to determine whether his presence was necessary.

City Attorney Levin explained State Statute required that he act as the City Prosecutor, which meant he was unable to advise the board. He stated it was not always known if the attorney's advice would be needed until the hearing was in progress.

**Mayor Friedman** asked if the case could be continued if legal advice was necessary.

City Attorney Levin responded same may allow the respondent to appeal under the claim that due process was being delayed.

**Mayor Friedman** stated he had served on the CEB in years past when only one attorney was present, recommending same become the process again.

**Councilmember McCormick** suggested a requirement wherein anyone appearing before the Board must advise the City if they were bringing a legal representative.

City Attorney Levin reiterated the risk of appeal, pointing out the cost of legal fees to defend same would be more than the monthly attendance of the CEB attorney.

Discussion ensued with regard to the roles of the two attorneys present at the CEB.

Consensus of members was to change the process to require the CEB attorney to be present on an as needed basis.

**ITEM C-1: Councilmember Albers** stated after working with City staff, the in-kind donation requested from the City was no longer necessary.

Ms. Becky Bovell, Tourism Director, thanked Council for the City's support, commenting on the significant economic impact derived from the event.

**ITEM C-3: Councilmember Goldberg** requested clarification on the utilization of in-kind services toward the City's benefit.

Ms. Joan LeBeau, Chief Planner, explained three previous grants had been received from the State Division of Forestry as follows: replanting of trees lost during Hurricane Charley, completion of a tree inventory and information and education for staff. She stated the proposed grant would provide an Urban Forester who would meet on site to educate staff and assist with management of the tree program.

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

**MOTION UNANIMOUSLY CARRIED.**

**A. CITY CLERK'S OFFICE**

1. Approval of Minutes: Regular Meeting of March 18, 2009

**B. LEGAL DEPARTMENT**

1. Monthly Litigation Report
2. Statement of the Law Office of Brendan Bradley, P.A. for services rendered in November 2008 through February 2009
3. Statement of the Farr Law Firm for services rendered in February 2009

**C. GROWTH MANAGEMENT**

1. SCA-04-09 - Request by Charlotte County Tourism Bureau for in-kind services during the annual Redfish Cup Tournament and Festival.
2. A Resolution of the City Council of the City of Punta Gorda, Florida, approving submission of a Florida Boating Improvement Program grant application to the Florida Fish and Wildlife Commission; authorizing the Urban Design Manager to execute the application and administer the grant; and providing an effective date
3. A Resolution of the City Council of the City of Punta Gorda, Florida, approving the submission of a 50/50 matching Urban and Community Forestry Grant Application administered by the State of Florida, Department of Agriculture and Consumer Services, Division of Forestry; authorizing execution of the application by the City Manager; and providing an effective date

4. A Resolution of the City Council of the City of Punta Gorda, Florida, supporting special funding through the American Recovery and Reinvestment Act of 2009 (ARRA) to provide a fixed route bus transit service

## UNFINISHED BUSINESS

### Discussion of West Mooring Field Development Agreement and Management Agreement

**Mayor Friedman** stated this issue had been ongoing for sometime, opining it was better to negotiate this type of partnership face to face rather than having the attorneys handle same. He stated he had requested the City Manager contact Mr. Ron Asmar, Best Western principle, to see if he would meet with staff this date to discuss the duration of the agreement and the necessary easements, which were the major outstanding issues. He reported Mr. Asmar had agreed to do so. He then drew members' attention to the agreements, as delineated in the agenda material, suggesting the outstanding issues not be discussed until the principles met with staff. He concluded the finalized agreement could be addressed at the next meeting.

**Councilmember Albers** concurred.

**Mayor Friedman** inquired if members had any questions other than the two outstanding issues.

**Councilmember Goldberg** stated it appeared the issues raised by staff and the Waterfront Development Advisory Committee (WDAC) had been addressed.

Ms. Geri Waksler, agent, acknowledged the agreement had taken some time; however, all suggested changes had been made.

### Contract award to Weiler Engineering Corporation to provide engineering and design services for the Harborwalk and East Mooring Field

City Manager Kunik advised one piece of the agreement was for design of the Harborwalk from the hospital to Fishermen's Village and the other was a proposal to design of the east mooring field. He stated same could be addressed separately.

Ms. Marian Howe, Procurement Manager explained a third portion was the master agreement designating Weiler Engineering as the engineer of record for the Harborwalk project and amenities.

Councilmember Albers **MOVED** approval of the east mooring field agreement, **SECONDED** by Councilmember McCormick.

**MOTION UNANIMOUSLY CARRIED.**

**Mayor Friedman** then asked for action on the master agreement.

Councilmember Wallace **MOVED** approval of the master agreement, **SECONDED** by Councilmember Goldberg.

**MOTION UNANIMOUSLY CARRIED.**

**Mayor Friedman** then asked for discussion of the Harborwalk agreement.

**Councilmember McCormick** stated he felt the scope of service and size of the project should be disclosed for the record.

**Councilmember Albers** stated he felt the cost of design and engineering coupled with the cost of construction exceeded what he considered a reasonable expense for the result. He suggested same be taken in portions as some areas were more important than others. He stated he felt adequate staff and stakeholder group expertise existed to make necessary changes to the established design in other areas of the proposed Harborwalk. He stated the Best Western area was the most important portion, adding the pathways on the east side required improvement and a parking area. He stated he did not agree with expending funds to place walkways within the Mangroves as same would not be widely used. He acknowledged there were portions of the linear park that would require engineering and design.

**Councilmember McCormick** stated it appeared the total amount of funds would be expended over a period of years, inquiring if 30% would be completed within the first year.

City Manager Kunik responded affirmatively.

**Mayor Friedman** stated the impetus to hire an engineering firm was to ensure a consistent look throughout the entire project. He recalled members had prioritized the areas of importance for the entire pedestrian and bicycle pathways, followed by staff providing cost estimates for same. He listed the priorities as follows: Best Western portion, eastern portion improvements, linear park from Fishermen's Village to the Train Depot, linear park completion to meet the eastern end of the Harborwalk and the US 41 corridor.

**Councilmember Goldberg** concurred, adding the proposal was very broad and was not affordable at this time. He stated the proposal included gaining public input, opining adequate input had been provided to date with regard to enhancing the preferred facilities in the near future.

**Councilmember McCormick** stated if same was considered in pieces the master plan may be lost. He suggested renegotiating toward completion of what could be funded at this time.

**Mayor Friedman** stated he felt prior to proceeding, members must reaffirm the priorities. He recalled Florida Department of Transportation (FDOT) would fund the US 41 portion from Monaco Drive to Aqui Esta, which would be completed this year. He added there were portions of the linear park that would be funded this year as well. He stated to gain continuity from Fishermen's Village to the eastern portion of the City, he felt costs should be provided for the following: repaving walkway on the eastern end,

construction of the Best Western portion, construction of the Harborwalk in the park area, design and construction of the linear park and the US 41 corridor from Aquí Esta to the Train Depot. He stated if there were additional funds, members could then determine what remaining portions should be addressed by Weiler Engineering.

**Councilmember Albers** agreed costs were necessary; however, the consultant had indicated the importance of beginning permitting for the Best Western portion. He recommended that be approved this date.

City Manager Kunik advised financing had been arranged to accelerate projects to be funded with ISS funds which included the Public Works/Utility campus. He stated funding had been allocated for the prioritized areas as follows: \$580,000 for the eastern portion, \$300,000 for the Best Western portion, \$780,000 for the linear park from Shreve Street to US 41, and \$1,300,000 for the rails to trails portion, noting all costs were for design, permitting and construction. He advised Weiler Engineering had applied for a grant to assist with the Best Western portion. He stated the two unknowns were the final costs for the Public Works/Utility campus and the rails to trails portion.

**Councilmember Albers** stated he felt each portion of the entire project should be taken individually.

City Manager Kunik responded same could be done; however, it did not provide consistency.

**Mayor Friedman** opined as staff finalized the cost estimates for each portion, Weiler Engineering should be involved to determine how their full plan could be incorporated into the individual portions. He stated he felt the proposed agreement could be amended to separate the various portions with the associated costs.

City Manager Kunik asked if the amount of public participation proposed was necessary and if boardwalks over the Mangroves on the east side were necessary, noting if not, costs would be reduced.

**Mayor Friedman** stated he felt the boardwalks should not be considered in the initial phase.

**Councilmember Albers** opined the east side would be a staging area rather than a destination. He stated reduction of the Mangroves so there was a view of the water and repaving the walkway would be sufficient.

**Councilmember Goldberg** reiterated adequate public input had been provided.

Consensus of members was the secondary boardwalk on the east side was not necessary at this time, nor was additional public input.

**Mayor Friedman** requested staff prepare a cost allocation for the denoted sections, while providing consistency throughout.

Ms. Pace clarified the costs were to include design, permitting and construction. She inquired as to members' direction for Weiler Engineering to apply for alternative funding.

**Mayor Friedman** explained that could be associated with each portion. He requested a full cost estimate for the component of the Weiler presentation for each portion as stated above.

#### **NEW BUSINESS**

**Mayor Friedman** asked for a motion on the action taken during the CRA meeting to proceed with the development of the Retta Esplanade extension.

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

**MOTION UNANIMOUSLY CARRIED.**

#### **Temporary Commercial Parking Lot at City Marketplace Property**

Councilmember Goldberg **MOVED** denial, **SECONDED** by Councilmember Albers.

**VOTING AYE: Goldberg, Albers, McCormick, Friedman.**

**VOTING NAY: Wallace.**

**MOTION CARRIED.**

#### **Fiscal Year 2010 Water & Sewer Rates**

**Mayor Friedman** advised the Utility Advisory Board (UAB) were meeting to consider the rates on April 13, 2009, thus he did not feel members should discuss same until the next meeting.

**Councilmember Wallace** commented it did not hurt to send a message that members wished any increase to be as minimal as possible.

**Councilmember Albers** stated he questioned why only one of the seven scenarios comprehended grant funds, suggesting all scenarios include grant funds.

City Manager Kunik acknowledged same could be done; however, there was no guarantee grant funding would be awarded. He stated staff could delay the presentation until the next meeting to allow the UAB to make a recommendation.

Discussion ensued with regard to previous projections and their relationship to the current budgetary considerations.

City Manager Kunik pointed out the budget reductions that City Council approved at their last week had a dramatic effect on reducing the amount of rate increase as all were related to operational expenses.

**Councilmember Goldberg** recommended staff prepare alternatives that included grant funds and that did not.

#### **RECOMMENDATIONS FROM CITY OFFICERS**

##### **CITY MANAGER**

### **City Attorney Contract Renewal**

City Manager Kunik drew members' attention to the agenda material, explaining the renewal was automatic upon receipt of the denoted letter from City Attorney Levin.

City Manager Kunik then reported Weiler Engineering had completed a grant application for the Best Western portion of the Harborwalk which had been signed the day before due to the deadline for same.

Consensus of members was to approve the action taken.

### **BOARDS AND COMMITTEES**

#### **Announcement of Vacancies**

Historic Preservation Advisory Board (2)

City Clerk Foster announced the vacancies.

#### **Nominations**

Punta Gorda Housing Authority (2)

Councilmember Goldberg **MOVED** to nominate and appoint Ms. Brenda Bala and Ms. Mary Kleiss, **SECONDED** by Councilmember Albers.

**MOTION UNANIMOUSLY CARRIED.**

Utility Advisory Board (2)

Councilmember Albers **NOMINATED** all interested parties.

#### **Appointments**

Revitalization Committee

Councilmember Albers **MOVED** to confirm the appointment of Ms. Nancy Lisby, **SECONDED** by Councilmember Goldberg.

**MOTION UNANIMOUSLY CARRIED.**

The meeting was adjourned at 11:42 a.m.

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Mayor

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City Clerk