



**CITY OF PUNTA GORDA, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
WEDNESDAY, JANUARY 5, 2011 9:00 A.M.**

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

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

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

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

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

PUBLIC HEARINGS

GA-02-11 - An Ordinance of the City Council of the City of Punta Gorda, Florida, amending Chapter 11 "Punta Gorda Development Impact Fees", Section 11-9, "Calculation of Impact Fee and Impact Fee Schedules", Subsection (d), Punta Gorda Code, delaying the fee increase implementation date of February 1, 2011 to February 1, 2012; providing for conflict and severability; and providing an effective date.

FIRST READING

City Attorney Levin read the ordinance by title.

Mayor Goldberg called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

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

Councilmember Wallace requested a future agenda item to discuss the fees as Charlotte County had made considerable decreases to their fees.

MOTION UNANIMOUSLY CARRIED.

GA-19-10 - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 17, Punta Gorda Code, adding a new Article "V", providing for a Connection Fee

Installment Payment Program for existing commercial development and manufactured, modular or mobile home developments connecting to the City's water and wastewater systems; providing for conflict and severability and providing an effective date. FIRST READING

City Attorney Levin read the ordinance by title.

Councilmember Albers recalled the City Manager had discussed the potential of changing the term from three to five years, stating he approved of same.

Consensus of members was to agree.

Mayor Goldberg then mentioned a clause requiring the application for installment payment to be approved by City Council, stating he felt the City Manager could approve same contingent upon appropriate documentation.

Consensus of members was to agree.

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

MOTION UNANIMOUSLY CARRIED.

Councilmember Wallace **MOVED** approval as amended, **SECONDED** by Councilmember Keesling.

MOTION UNANIMOUSLY CARRIED.

ZA-19-10 - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 26, Punta Gorda Code known as 'The Land Development Regulations', Article 11, Sign Standards, readopting Subsection 11.11, Creative Signs, which was inadvertently repealed with the adoption of Ordinance 1657-10; providing for creative sign review, providing for applicability, providing for application requirements, providing for design criteria, providing for conflict and severability; and providing an effective date. FIRST READING

City Attorney Levin read the ordinance by title.

Mayor Goldberg called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

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

Councilmember Wallace commented favorably toward the program.

MOTION UNANIMOUSLY CARRIED.

CONSENT AGENDA

Councilmember Friedman pulled item B-2.

Councilmember Albers noted three items regarding events which included animals, stating he felt members had given direction for the City Manager to approve same. He asked members if they had an issue with same.

Consensus of members was to agree with doing so.

Ms. Teri Tubbs, Zoning Official, stated same may require an amended ordinance based upon only dogs being allowed in certain parks.

City Attorney Levin stated Council approval was required without an amendment to the current codes.

Consensus was to direct the City Attorney to prepare the ordinance.

ITEM B-2: Councilmember Friedman stated he had two potential problems related to the need and purchasing process, asking why rather than purchasing three trucks this year, the purchase could not be delayed a year or the purchases be staggered. He pointed out the proposed purchase amounted to 25% of the Sanitation total budget, noting he had not recalled any pickups not being made due to lack of equipment. He then stated should members determine to go forward with the purchase, he felt the customary bid process of taking the lowest bidder should be undertaken.

Mr. Rick Keeney, Public Works Director, stated the purchase could be postponed; however, the City's replacement program was based upon the fact there had not been a program and the trucks were allowed to get into bad shape. He noted the low entry truck was preferred as there had been many injuries requiring surgery in the past from the high entry design. He noted purchase of the three trucks would be the last purchases for many years, adding all trucks were used a great deal and required much maintenance as they aged.

Mayor Goldberg inquired if the two spare trucks were older than the ones being replaced.

Mr. Keeney responded in the negative.

Councilmember Albers opined two spares in a fleet of eight seemed excessive, asking if both were frequently used at the same time.

Mr. Keeney responded it varied; however, there had been times.

Councilmember Friedman voiced concern that the intended spare trucks would be newer than some being on the road on a regular basis. He stated in most operations, the spares were the oldest vehicles. He stated he felt with a small fleet, the purchase cycle should be tempered with the condition of the vehicle. He added the intent was to keep the trucks maintained to keep up the desired level of service which was presently being done in an excellent manner, noting a phased purchase made more sense in the economic climate.

Councilmember Wallace questioned the status of the semi-automated service.

Mr. Keeney responded same had been presented to the citizens and Council who had determined to maintain the present service.

Councilmember Albers reiterated his question regarding why newer trucks were being proposed as the spares.

Mr. Keeney stated if the three trucks were purchased, the trucks that were purchased in 2005 would become the spares, adding the ones that were spares currently were seven and ten years old.

Discussion ensued with regard to the replacement policy and the need for newer trucks for spares.

Consensus of members was to ask staff to look into the replacement policy and actual maintenance costs of the older trucks for discussion by members at a later meeting.

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

MOTION UNANIMOUSLY CARRIED.

A. CITY CLERK'S OFFICE

1. Approval of Minutes: Regular Meeting of December 15, 2010

B. FINANCE DEPARTMENT

1. Award of At-Will Legal Counsel Services for the Police Department to The Makhholm Law Group of St. Petersburg, FL.
2. Award the purchase of three (3) Crane Carrier Refuse Trucks to Container Systems & Equipment Co, Inc. of Daytona Beach, FL based on the Florida Sheriff's Association Contract #10-18-0907 Spec #50.

C. GROWTH MANAGEMENT DEPARTMENT

1. SCA: 05-10; Event Permit: 10-116888; Punta Gorda BBQ and Music Festival in Laishley Park March 4, 5, & 6 2011.
2. SCA: 06-10; Event Permit: 10-116913; Punta Gorda Relay for Life Petacular Parade; January 22, 2011; Laishley Park
3. SCA: 01-11; Request by the Charlotte Players to have an animal in Hector House Park on January 16, 2011 for two hours.
4. Request to amend the contract for both hot dog vending companies that are the approved vendors for Gilchrist and Ponce De Leon Parks to allow a single portable sign to be used during regular business hours.
5. A Resolution of the City Council of the City of Punta Gorda, Florida, approving amendments to the City of Punta Gorda Rental Policies for Urban Parks removing references to Herald Court Centre; providing an effective date.

D. PUBLIC WORKS DEPARTMENT

1. San Rocco Drainage Improvements

E. LEGAL DEPARTMENT

1. Monthly Litigation Report

NOTE: The first item under new business was moved forward upon consensus of members.

NEW BUSINESS

Request by Charlotte County to include the City of Punta Gorda in a Public Safety – Sheriff municipal services tax unit.

Mr. Ray Sandrock, Charlotte County Administrator, presented a PowerPoint presentation, as delineated in the agenda material, stating a significant portion of the County ad valorem budget was related to law enforcement; however, same was not located in any one place in the budget for easier review. He stated the Sheriff's budget had not been reduced in the amount of the remainder of the budget which required the County to make up the difference in funds from that raised by property taxes. He displayed slides denoting the total County budget and how same was distributed. He denoted which portions of the Sheriff's budget were paid by City residents, noting same included items such as corrections and court security. He stated the change was proposed to create transparency and accountability to the citizens, adding the County Commission would still approve the millage rates. He reported the County Commissioners had agreed to hold public hearings prior to making the change, to ensure the public was aware. He opined the change to the City should not incur additional costs, adding review into the funds allocated to the Community Redevelopment Agency (CRA) would have to be undertaken to ensure no impact.

Councilmember Friedman inquired if the Council had to approve same, or if the County Commission could approve same for the County area and maintain the same taxing program for the City.

Mr. Sandrock responded City approval was necessary to make the change for the City's taxes. He further stated it would not be possible for the unincorporated area to make the change without the City doing so.

Councilmember Albers voiced concern with the loss of oversight, adding while he was comfortable with the present Sheriff and Commissioners, they would change in time. He concluded he did not see any positive to the change.

Councilmember Wallace opined transparency was a positive.

Councilmember Friedman stated he understood why the Sheriff and Commission would want to make the change; however, he did not understand why the citizens

would want same. He stated citizens measured the Sheriff on how safe they felt, thus, it was possible the Sheriff would error on the side of budgeting heavy to maintain that perceived measurement at some point in the future. He concluded by reiterating he saw no positive for the tax payer.

Mr. Sandrock mentioned budget cuts made in previous years, noting some of the constitutional offices did not make the same cuts. He reiterated the proposed change would make it clear to tax payers as to how much money was being budgeted.

Mr. Bill Cameron, Sheriff, stated he did not work for the County Commission, nor did the Commission have oversight of the Sheriff's budget as the City Council did over the Police Chief's budget. He explained the citizens had always indicated they desired additional funding for public safety; however, since the County Commission would not raise the millage rate to fund same, it required them to reduce other programs. He stated by separating the Sheriff's budget into a separate millage rate, the Sheriff would be encouraged to better manage the funds as remaining funds would not be returned to the general fund as they were under the present system.

Discussion ensued with regard to taxing processes in all areas of local government.

Councilmember Keesling requested additional information regarding the impact on the CRA.

City Manager Kunik stated the County had four CRAs as well, adding they wished to ensure the process for funding the CRAs would not be impacted should the proposed change be undertaken.

Councilmember Friedman stated he appreciated the Sheriff's desire to enhance his managerial ability; however, he did not see any advantage to the citizens. He reiterated his concern was not related to the present personnel, but rather what could occur in future years.

Councilmember Wallace mentioned a draft ordinance where a ten year period was mentioned, asking if same was flexible.

Mr. Sandrock responded affirmatively.

Mayor Goldberg mentioned the four year election cycle, commenting once millage rates were increased, they were rarely reduced.

Mr. Sandrock reminded members the County Commission would still have the ability to approve the millage rates.

Mayor Goldberg asked members if they were willing to consider the proposal.

Councilmember Keesling stated she needed additional information prior to making a decision.

Mr. Sandrock stated they wished to know whether Council was willing to explore the possibility this date, acknowledging they were aware much work remained to be done. **Councilmember Keesling** reiterated with additional information and public input, consideration could be given.

Councilmember Wallace concurred.

Councilmember Friedman inquired if the County Commission had discussed same and gained public input.

Mr. Sandrock replied the previous Commission had discussed same.

Councilmember Wallace stated he felt that should be the first step prior to the City taking a stance.

Mayor Goldberg stated same could be discussed at the next City/County joint meeting.

Councilmember Friedman stated if the majority of County residents were not opposed, he did not feel the City should stand in the way; however, it did not appear that public input had been gained.

Councilmember Wallace suggested same be added to a future ballot to determine the public's wishes.

NOTE: A short break was called at 10:36 a.m.

UNFINISHED BUSINESS

Linear Park - Olympia to US 41/Cross Street Breakdown of Costs

City Manager Kunik recalled a question at Council's December 15, 2010 meeting with regard to the increased funding projections for Linear Park phases 2 and 3, stating staff had not brought back the design at the various stages with the estimated costs and the difference from the initial estimate as had been done for other projects. He explained the design was changed beyond the original concept, thus same should have been presented to members to denote the changes and associated costs. He stated grant funds had been requested based on the full design as no construction funds could be obtained without a completed design. He noted no grant funds had been received, thus staff had the option of waiting on same, prioritizing phase 3 or reviewing the entire linear park to see if items could be eliminated to assist with funding of this portion.

Councilmember Wallace stated he understood staff was waiting on grant funds as he never felt the City was able to fund the full design itself.

Councilmember Albers commented it was a poor performance on staff's part by not informing members over the years that the cost was much more than \$1,300,000.

Mayor Goldberg expressed amazement at the large increases in estimates.

Councilmember Albers requested members be updated on a much more regular basis as they had not seen any drawings beyond the initial concept.

Councilmember Friedman pointed out members had received no information since July, 2009, adding there had been no reason for any member to think the funds would not cover the full design with having been given no additional information.

Discussion ensued with regard to funding options and reporting of total project costs.

Councilmember Albers requested the full design be presented to members for discussion of elements to be eliminated or phased in order to gain a total cost.

Consensus of members was to concur.

NEW BUSINESS

Presentation of the 2011 Long Range Financial Plan

City Manager Kunik displayed a PowerPoint presentation, as delineated in the agenda material, while providing a detailed accounting of the five year fiscal forecast, noting same was based upon assumption. He stated the annual revenues were not sufficient to meet the recurring expenses, adding reserves had been utilized to assist with balancing the budget. He commented continuing to do so would deplete the reserves at some point in time. He stated no rate increases were projected for the Utilities accounts, noting same was based upon utilizing a small amount of reserves and a limited growth in users. He then stated by 2014, reserves would be necessary to balance the CRA budget. He provided a brief summary on the Building, Laishley Park, Punta Gorda Isles (PGI) Canal Assessment and Burnt Store Isles (BSI) Canal Assessment, noting all were covering expenses with revenue.

Discussion ensued with regard to gas tax funds and their use.

Councilmember Friedman then asked what the \$1,000,000 debt service reserve in CRA was for.

Ms. Sharon Knippenberg, Controller, responded a balloon payment was due in 2013, explaining staff recognized it would be difficult to pay the full debt without setting aside funding. She stated the intent was to utilize the \$1,000,000 to pay down the principle and refinance the balance; however, the full payment would require refinancing with the reserved funds to be used to make a debt payment rather than paying down the principle.

Councilmember Friedman then recalled a 15% increase in utility rates had been undertaken in 2009 to maintain the 1.1 debt ratio.

Ms. Knippenberg stated the increase was related to the aggressive capital improvement program (CIP) at that time and for the debt coverage ratio.

Councilmember Friedman pointed out the debt ratio was currently at 2.9, questioning why the rate increases were necessary.

Ms. Knippenberg responded same had been related to the CIP, adding there had also been a future 5% rate increase planned which was felt to be no longer necessary.

Councilmember Friedman reiterated his question as to why the most recent 3% increase was imposed when the 1.1 ratio was easily being met.

Ms. Knippenberg stated at the time the budget was prepared she was not comfortable the present rates would provide the necessary revenues.

Discussion ensued with regard to projected revenues and expenses in relation to rate increases.

City Manager Kunik then addressed the City's credit rating assessment, stating consideration must be given to same as financing would be necessary at some point in the future. He detailed the City's positive attributes, as delineated in the agenda material, noting there were areas which could be enhanced. He acknowledged there were some enhancements the City had no control over such as reduction in property values and County-wide unemployment rate; however, the trend to utilize reserves to balance the budget was within the City's control. He then denoted issues related to the next budget as follows: changes to pension plans, healthcare, continuation of road resurfacing, operational efficiencies, refinancing the CRA debt balloon payment and fee adjustments.

Councilmember Albers commented on the information provided related to pension funds and the disparity between funds, noting none of the provided information seemed significant enough to cause the disparities. He questioned if adequate oversight was being provided to protect the City from future liabilities caused by poor investment decisions. He suggested a workshop be held to discuss the pension plans and the management thereof.

Consensus of members was to agree, with the actuaries to be in attendance along with the board chairs and pension board attorney.

Mr. Dennis Clark inquired if the widening of Aqui Esta was initially to be three lanes, adding funds should be remaining as it was being constructed as two lanes.

Mayor Goldberg responded the funds denoted in the presentation were for utility relocation which did not change with the roadway design.

Reallocation of funds for the purchase of new benches/receptacles to replace existing benches/receptacles at Laishley Park

Mr. Dennis Murphy, Growth Management Director, explained stated upon inspection, staff had determined the need to replace benches and trash receptacles in Laishley

Park, adding the proposal was to replace same and to refurbish the items for use along Marion Avenue as those benches were approximately 20 years old. He explained by piggy backing on the Harborwalk East purchase, volume prices were secured, noting the total funding required for Laishley Park from the Infrastructure Sales Surtax (ISS) would be \$32,158.00.

Councilmember Albers expressed amazement with the cost for the benches and receptacles.

Mr. Murphy responded the cost was high; however, there was a 20 year lifespan on same.

Mayor Goldberg mentioned the need for benches to maintain a pedestrian friendly downtown area.

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

MOTION UNANIMOUSLY CARRIED.

Review of City Manager's policy to condone and encourage the leaking of City information.

Councilmember Friedman stated he did not wish to discuss any particular incident, but rather to discuss fairness and good management practice. He stated he was fond of the City Manager; however, over the years, he felt there were two shortcomings: the reluctance to acknowledge something had been done wrong or could be done better and ignoring or playing down an inappropriate action. He stated he had been listing many examples of same in the City Manager's appraisals over the past five years, to no avail. He stated same was not fair to the many good employees who were treated in the same manner as those few who act in a subpar manner, break rules, condone or act in an unethical behavior that is contrary to City practices. He stated the Sunshine Law made it impossible to address such actions outside of a public meeting. He continued there had been blatant leaks of information over the years which reflected poorly on the City or individuals or were embarrassing or vindictive. He stated this was not meant as a cover up as the information was public information, but rather same related to ethics, morality, work rules and the fact that no one should be able to use their jobs for personal gain of any nature. He asserted in the latest instance, had he not sent the City Manager an email, nothing would have been done about it. He opined this was wrong as there were rules and the employees should abide by them or action be taken when the rules were broken. He inquired if the other members felt the situation should be remedied or whether it was a tacit acknowledgement that the rules could be broken with no consequences.

Councilmember Albers stated he had commented on the same issues through the years, adding he also had questioned the lack of action in the most recent incident. He stated he agreed with an internal investigation to determine who had not adhered to the rules in this instance.

Mayor Goldberg mentioned Councilmembers did a performance review of the City Manager and City Clerk each year, acknowledging there had been instances when he felt poor judgment had been used by the City Manager. He stated in some instances, corrective action had been taken. He stated he would support an internal investigation on the most recent leak, adding a message must be sent that there were policies that must be adhered to and cannot be ignored.

Councilmember Albers stated the issue was with some media getting information prior to others as same was all public information.

Councilmember Keesling stated she was satisfied with the information provided by the City Attorney which indicated the investigation should not go any further.

Mayor Goldberg stated he also had discussed same with the City Attorney; however, he felt an internal investigation was warranted. He reiterated a message must be sent.

Councilmember Albers stated as an internal investigation was operational, he was not comfortable in forcing the City Manager to undertake same; however, he encouraged him to move forward with the investigation.

Councilmember Friedman countered it was not solely operational as continuing to do nothing was setting policy that the City's rules did not have to be abided by.

Mayor Goldberg voiced his high regard for the City Manager; however, no one was perfect and there were ways to improve performance.

BOARDS AND COMMITTEES

Announcement of Vacancies

Building Board – Alternate

City Clerk Foster announced the vacancy.

Historic Preservation Advisory Board – Alternate

City Clerk Foster announced the vacancy.

Utility Advisory Board (2)

City Clerk Foster announced the vacancy.

Appointments

Board of Zoning Appeals

Voting forms were distributed.

City Attorney Levin announced Mr. Richard Kilmer had received the most votes and was therefore reappointed to the Board of Zoning Appeals.

POLICY AND LEGISLATION

ALBERS: Advised he had provided his suggested topics for the upcoming Town Hall meetings, adding staff would provide information for each member to provide a short update on them. He stated they were issues that he generally received questions on from the public.

Councilmember Friedman suggested any other issues be brought to the next meeting and members select which topics they would present.

WALLACE: Remarked he had received his FEMA notice indicating he was in a flood zone, so he agreed the bands on signs presented at the last meeting were unnecessary.

CITIZENS' COMMENTS

Mr. Jim Hoffman stated he received a letter from the City requiring him to install backflow preventers on his property, adding he called the City to inquire what law required same. He stated he would be required to have five backflow valves at the cost of approximately \$2,000 and annual inspections at a cost of \$800. He mentioned the slim chance that water would flow back into the City's lines, adding the requirement was to locate same in the front yard which was an eyesore and would allow anyone walking by to turn the water off. He pointed out the County was not enforcing same for retrofits, questioning why the City was enforcing same selectively. He then asked why the City charged a \$150 permit for a parking lot to be resurfaced when there were no inspections of same. He commented on the Sheriff's budget presentation, asking if the County Commission had the same ability to refuse to approve his budget. He then asked if federal grants had been awarded to the City as he had noticed many written documents indicated the items being constructed by the City were grant funded.

Mr. Tom Jackson, Utility Director, stated he would meet with Mr. Hoffman with regard to the backflow preventers.

Mayor Goldberg requested Mr. Murphy discuss the permit fees with Mr. Hoffman.

Councilmember Friedman asked that City Council be informed with regard to the results of those meetings.

Mr. Ken Goodwin stated he felt the discussion regarding the internal investigation may be stemming from a lack of transparency, opining as a tax payer he should be able to be served by an employee acting as a whistle blower. He stated a policy should be drafted that limits certain leaks and misinformation and at the same time allowing employees to exercise their rights of free speech by being allowed to bring incidents of wrong doing to the press and the public. He stated he felt the policies should be reviewed rather than spending time on an investigation.

Councilmember Friedman stated there were no discrepancies between Mr. Goodwin's objectives and what was in the policy this date. He added the instance being discussed did not involve whistle blowing, adding same was protected by Florida Statute.

Mr. Mike Haymans announced the street bricking party on Trabue Avenue to be held on January 8, 2011, noting same would help to preserve the history and charm of Punta Gorda.

Mr. Steve Fabian stated he felt there was a misconception with the public as to what was being done on Aqui Esta, adding Florida Department of Transportation (FDOT) had removed the majority of the funding for that project which required same to be reduced in scope.

Mr. Bill Hughes expressed disappointment with this meeting, stating he felt there were methods of correcting an employee. He expressed his support in the City Manager.

Mr. Clark asked if Councilmembers critiqued each other, expressing disappointment in the City Council while citing examples. He asserted Councilmember Friedman held vendettas against specific individuals.

The meeting was adjourned at 12:37 p.m.

Mayor

City Clerk