



**CITY OF PUNTA GORDA, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
WEDNESDAY, MAY 4, 2011 9:00 A.M.**

COUNCILMEMBERS PRESENT: Goldberg, Albers, Wallace, Keesling

COUNCILMEMBERS EXCUSED: Friedman

CITY EMPLOYEES PRESENT: Dave Drury, Finance; Rick Keeney, Public Works; Tom Jackson, Utilities; Phil Wickstrom, Human Resources; Dennis Murphy, Growth Management; Tom Lewis, 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.

PROCLAMATION/PRESENTATIONS

National Day of Prayer

Mayor Goldberg presented the proclamation to Pastor Steve Mock of the First Presbyterian Church.

National Public Works Week

Councilmember Keesling presented the proclamation, which was accepted by Ms. Tracy Quintana, Executive Assistant, on behalf of the Public Works Department.

Law Week, USA

City Attorney Levin read the proclamation.

Severe Weather Awareness Week

Councilmember Wallace presented the award to Mr. Randy Cole, Building Official.

Exercise is Medicine Month

Mayor Goldberg presented the award, which was accepted by Mr. Arthur Anderssen.

Building Safety Month

Councilmember Albers presented the award to Mr. Cole.

Volunteers in Policing (VIP) 10 Year Milestones

City Manager Kunik presented a certificate to Ms. Donna Foiles, Ms. Jeri Davis and Messrs. Dick Adomatis, Bob Taylor, Erny Maresca, Bob Foiles and John Obermeyer who have served as VIPs for ten years.

Police Captain Tom Lewis spoke of the work performed by the VIPs.

Award & Honorable Mention - Florida Association of Public Purchasing Officers

City Manager Kunik announced the City's Procurement Division had been awarded a Best Practice Award for Cost Savings Program for the "Back to Basic Office Supply Program" and an honorable mention for the "My P-Card Looked Like My Personal Credit Card" presentation.

Ms. Marian Pace, Procurement Manager, accepted same on behalf of the Procurement Division.

Awards - American Public Works Association, Florida Chapter

City Manager Kunik announced the following awards given to the City:

The City was awarded Project of the Year - Engineering Category for the Canal Maintenance Seawall Design, which was accepted by Mr. Randy Brodersen, Seawall Maintenance Supervisor.

Mr. Tom Wilcox of HDR Engineering was honored as Contractor of the Year for the Canal Maintenance Seawall Design, which was accepted by Mr. Donnie Holbrook, HDR Vice President.

Ms. Quintana received the Mac Ulsch Award for Long Term Service and Dedication and was selected as Member of the Year by the Florida Chapter.

Councilmember Albers announced he was withdrawing his agenda item regarding changeable copy signs.

Mayor Goldberg acknowledged the great deal of discussion with regard to the signs, adding he wished to discuss same under Policy and Legislation.

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

PUBLIC HEARINGS

GA-11-11 - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 7, "Building Regulations", Article II, "Building Contractors", Section 7-33, "Building Permit Fees", Punta Gorda Code, to amend the building permit fee schedule; 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 amendment would reduce the permit fee for replacement of two or less windows and raise the fees for water heater replacement, entry and overhead doors and storm panels as discussed at the March 16, 2011 meeting.

Councilmember Keesling inquired if the increase for solar water heaters was based upon difficulty.

Mr. Dennis Murphy, Growth Management Director, responded the inspection was more in-depth.

Councilmember Keesling stated if others agreed, she would propose to include the solar water heaters in the same fee range as all water heaters.

Mayor Goldberg called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

Councilmember Wallace stated he supported the amendment to include solar water heaters in the lower permit fee range.

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

MOTION UNANIMOUSLY CARRIED.

GA-12-11 - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 23, "Traffic", Article II, "Parking Areas", Section 23-19, "Penalty For Violation Of This Chapter", Punta Gorda Code, amending Subsection (a) to readopt penalties for violations of Section 23-21 which were inadvertently omitted with adoption of subsequent revisions; providing for conflict and severability and providing an effective date.

FIRST READING

City Attorney Levin read the ordinance by title.

City Manager Kunik reported penalties for violating Section 23-21, relating to parking of vehicles with signs, graphics and printing were omitted during a subsequent revision of the Code, thus the amendment would reinstate same.

Mayor Goldberg called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

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

MOTION UNANIMOUSLY CARRIED.

GA-21-10 - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 15, "Offenses And Miscellaneous Provisions", Punta Gorda Code, by amending Section 15-19, "False Alarms", setting fees for public safety response to false alarms; providing penalties for violations; deleting obsolete provisions; providing for appeals; authorizing the Code Enforcement Board to hear appeals; providing for conflict and severability; and providing an effective date. **FIRST READING**

City Attorney Levin read the ordinance by title.

City Manager Kunik explained as Council had decided not to move forward with a registration program for false alarms, the fines were increased for false security alarms and the exemption for governmental entities was removed. He stated further clarification of verbiage in Section 15-19 was also addressed in the proposed amendment.

Councilmember Albers questioned the twelve month limit.

Fire Chief Rob Hancock explained it was a rolling twelve months beginning with the first offense.

Councilmember Keesling inquired why it was twelve months for the Police Department and only six months for the Fire Department.

Chief Hancock responded same had not been amended.

City Attorney Levin added the cost to respond to a fire alarm was higher than a police response.

Councilmember Albers stated he felt both instances should be twelve months.

Councilmember Keesling advised she felt the fine structures should be identical as well.

Mayor Goldberg called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

City Attorney Levin reported the public agencies which had been exempt previously had been notified of the proposed amendment.

Discussion ensued with regard to public notification.

Councilmember Wallace **MOVED** approval as amended to include both Police and Fire under the Police fine structure and time table, **SECONDED** by Councilmember Keesling.

Councilmember Wallace **AMENDED** the **MOTION** to indicate the security companies would be notified.

Councilmember Keesling **AMENDED** the **SECOND**.

MOTION UNANIMOUSLY CARRIED.

A Resolution of the City Council of the City of Punta Gorda, Florida adopting the Evaluation and Appraisal Report for the City of Punta Gorda Comprehensive Plan 2025; stating the intent of the City Council to amend the Comprehensive Plan based upon recommendations contained in the report; and approving transmittal of the report to the Department of Community Affairs in accordance with Section 163.3191, Florida Statutes.

SECOND PUBLIC HEARING

City Attorney Levin read the resolution by title, advising this was the second reading of the ordinance to transmit the report to the Department of Community Affairs (DCA).

Ms. Joan LeBeau, Chief Planner, advised the draft which had been displayed on the City's web page had been amended to correct scriveners' errors.

Mayor Goldberg called three times for public comment.

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

MOTION UNANIMOUSLY CARRIED.

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

MOTION UNANIMOUSLY CARRIED.

ORDINANCE/RESOLUTION

No Public Hearing Required

ZA-04-11 - An Ordinance of the City of Punta Gorda, Florida, amending, Chapter 26, Punta Gorda Code, known as "The Land Development Regulations", Article 3, "Regulating Districts", Section 3.6 "Manufactured Home District" amending Subsection 3.6.(a), adding park office and maintenance facilities as permitted principal uses; amending Subsection 3.6.(b) "Permitted Accessory Uses and Structures" adding community rooms and clarifying equipment storage areas; amending Subsection 3.6.(e), "General Requirements" providing for street design; amending Subsection 3.6.(f) providing maximum density; adding Subsection 3.6.(g),(h) and (i), providing regulations and development standards for recreational vehicle parks; providing for conflict and severability; and providing an effective date.

SECOND READING

City Attorney Levin read the ordinance by title.

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

MOTION UNANIMOUSLY CARRIED.

CONSENT AGENDA

Councilmember Albers pulled items C-1 and E-1.

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

MOTION UNANIMOUSLY CARRIED.

- A. City Clerk's Department
 - 1. Approval of Minutes: Regular Meeting of April 20, 2011
- B. City Manager's Department
 - 1. 2012 IFDS World Championship Letter of Support for Boater Improvement Fund Grant
 - 2. A Resolution of the City of Punta Gorda, Florida, in support of locating The Jackson Laboratory in the City of North Port, Florida; providing for conflict and severability; and providing for an effective date.
- C. Finance Department
 - 1. Agreement award to Wright Construction Group, Inc. of Punta Gorda, FL for the construction of Shreve Street Multi-Use Recreational Trail (MURT)
- D. Police Department
 - 1. Equipment Disposal/Transfer Authorization - Donation to Department of Forestry
- E. Public Works Department
 - 1. A Resolution of the City Council of the City of Punta Gorda, Florida, approving an Interlocal Agreement between City of Punta Gorda and Charlotte County for construction of sidewalks on Aqui Esta Drive; authorizing the Mayor to execute the Interlocal Agreement; and providing an effective date.
- F. Utilities Department
 - 1. A Resolution of the City Council of the City of Punta Gorda, Florida, accepting a Sovereignty Submerged Lands Easement Modification to Reconfigure within Easement Area from the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida for the Hendrickson Dam; authorizing the Mayor to execute the Easement Modification on behalf of the City; providing for conflict and severability; and providing an effect date.
- G. Legal Department
 - 1. Invoice of Allen, Norton & Blue, P.A. for services rendered in March 2011
 - 2. Invoice of the Farr Law Firm for services rendered in March 2011
 - 3. Monthly Litigation Report

ITEM E-1: Councilmember Albers commented the sidewalks abutting the County roads were flat and even; however, the new one was not, which was bothersome. He acknowledged the culverts may be repaired; however, same did not include improvements to the sidewalk. He added he was aware the City was committed to the agreement.

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

MOTION UNANIMOUSLY CARRIED.

ITEM C-1: Mr. Murphy recalled there had been questions with regard to the bid award to Wright Construction, adding as same was over the budget, staff recommended the following eliminations: compass rose and brick crosswalk at the Church of the Good Shepard Day School, replacement of brick crosswalk with striped pavement at the Life Care Center, replacement of brick crosswalk with striped pavement at the Punta Gorda Isles (PGI) Association and removal of seating area and associated enhancements along Shreve Street as well as eliminating the additional landscape maintenance option. He concluded by stating the end result would be a MURT rather than a Linear Park.

Discussion ensued with regard to the establishment period for new landscaping.

City Manager Kunik read an email from Councilmember Friedman into the record, as delineated in the agenda material, urging members not to eliminate too many aspects as same would most likely not be replaced in the future.

Councilmember Wallace confirmed the eliminations would bring the project in within the budget, stating he felt all eliminations should be undertaken rather than expending additional funds.

Councilmember Albers commented he felt the brick walkway at the PGI Association would serve as a traffic calming device, adding same would add \$2,500 to the project.

Councilmember Wallace suggested the Association be contacted to see if they would be willing to pay for the brick walkway.

Councilmember Wallace **MOVED** approval with the eliminations, **SECONDED** by Councilmember Keesling.

MOTION UNANIMOUSLY CARRIED.

UNFINISHED BUSINESS

Economic Development Incentive for Annexation

Councilmember Albers stated he had proposed consideration of an economic incentive for properties that annex into the City within a designated timeframe, such as two years, wherein the annexing property would be refunded half of their first payment of City taxes after completing annexation. He explained the funds would be paid from a general fund economic development reserve account and would be paid in the same manner the second year following annexation.

Mayor Goldberg concurred same could be used as an incentive to those who may wish to annex.

City Manager Kunik read an email from Councilmember Friedman, as delineated in the agenda material, suggesting the item be tabled for a period of time.

Consensus of members was to direct staff to draft a program for approval of members. Councilmember Wallace **MOVED** approval as discussed, **SECONDED** by Councilmember Albers.

MOTION UNANIMOUSLY CARRIED.

NEW BUSINESS

Proposed Revisions to the City's Event Manual

Mr. Murphy provided a detailed explanation of the following proposed changes, as delineated in the agenda material: addition of daily rental rates for Laishley Park and multi-day events, street closure rental rates and procedures and three options with regard to noise complaints in Laishley Park.

Discussion ensued with regard to non-profit sponsored events.

Mr. Murphy continued his review of regulations related to overnight parking of recreational vehicles in the park and total capacity of Ponce de Leon Park.

Mayor Goldberg inquired as to the Laishley Park open space fees, asking if it was staff's intent to charge for every available space in the park.

Mr. Murphy responded the courtyard and area behind Laishley Crab House was addressed through the Marina Park agreement.

Councilmember Wallace requested a review of those fees.

Discussion ensued with regard to notification of impacted businesses for street closures with a consensus that a list of businesses and the date they were notified would suffice.

Mr. John Wright, Punta Gorda Chamber of Commerce (PGCC), stated the timing of the notification was troublesome as same was required prior to the Development Review Committee (DRC) which in some cases was many months prior to the event.

Councilmember Albers stated he felt prior to DRC was appropriate as it would enable an impacted business to attend the DRC meeting if they were opposed.

Mr. Murphy stated options had been proposed relating to the noise issue; however, the City Attorney had suggested an alternative option which staff felt was preferred.

City Attorney Levin then drew members' attention to his memorandum, as delineated in the agenda material, suggesting the addition of verbiage to describe the level of unreasonably loud noise. He then stated if an event organizer did not heed the instructions of the Police Officer, they would be charged with resisting an officer without violence as per Florida Statute, adding same would be included in the Police Departments Standard Operating Procedure (SOP) for this activity.

Councilmember Albers voiced objection to consideration of arresting anybody. He stated he agreed with the verbiage as to the type of noise; however, he did not wish

the policy to be so onerous. He stated he felt all event organizers should be advised if they did not comply with a police officer's direction, any future event would require City Council approval.

Councilmember Wallace voiced concern with the ambiguity, asking why a decibel meter could not be utilized as same could not be disputed.

Discussion ensued with regard to appropriate standards.

Captain Lewis stated the standard was based upon reasonableness. He stated complaints during events were rare, adding they were generally able to resolve same to satisfy all parties.

Councilmember Albers stated he felt the standard of reasonableness was working in most cases, commenting on the many factors such as wind and crowd size that affected noise. He voiced objection to basing the policy on a decibel meter.

Mayor Goldberg concurred.

Councilmember Wallace stated he felt the meter could be used as a tool.

Mr. Gordon Stone displayed a chart denoting decibel levels and the permissible exposure time. He stated he felt the abuse of amplifiers was what caused the problem. He expressed the feeling that decibel guidelines must be considered in order to avoid basing any action on opinion.

Mr. Al Villalobos, Harborwalk Condominium President, stated they had been monitoring events with the use of a decibel meter for some time which included 17 events. He stated of those, only two events generated complaints, one being the rock concert and the other was the recent concert at the barbecue event. He opined Lashley Park was an inappropriate venue for a rock concert. He stated a decibel meter would provide assistance for the police department. He stated at 90 decibels, the windows in the units began to rattle.

Ms. Marie LeBlanc stated she wished to correct information that had been provided previously in that the OSHA regulation regarding decibel levels allowed exposure to 100 decibels for a period of two hours rather than the 15 minutes shown earlier.

Mr. Jerry Presseller voiced support of the third option which was to continue the current practice.

Mr. Chris Evans, Marina Park, stated when they were considering going into partnership with the CRA one of the major factors was the CRA's intent to have an active, vibrant public area as same had been for over 20 years. He mentioned the condominiums had only been in existence for ten years. He stated they wished to provide a quality of life that would attract attendees with the understanding of the demographic of people who

would attend as well as those living nearby. He concluded they wished to promote events that were acceptable to the community.

Councilmember Wallace suggested option three be utilized with the suggestion that anyone violating same would be required to gain Council approval prior to holding a subsequent event.

Councilmember Albers agreed.

Mayor Goldberg stated a reasonableness standard should be established.

City Manager Kunik read comments from Councilmember Friedman into the record, as delineated in the agenda material. He confirmed the consensus of members was to adopt option 3 with internal SOPs for the Police Department and with any violator to require Council approval. He then commented on the City's reputation as being an event City, opining same should be emphasized as that was the City's major attraction. Consensus of members was to approve the manual as amended by the discussion this date.

RECOMMENDATION FROM CITY OFFICERS

CITY MANAGER

City Manager Kunik advised pension recommendations would be provided to members at the May 18, 2011 meeting, adding the five year Capital Improvement Program (CIP) would be presented at the June 6, 2011 meeting.

CITY ATTORNEY

City Attorney Levin reported he would be attending the annual municipal attorney's conference and would not request reimbursement from the City for same.

BOARDS AND COMMITTEES

Announcement of Vacancies

Code Enforcement Board – Alternate

City Clerk Foster announced the vacancy.

Historic Preservation Advisory Board – Alternate

City Clerk Foster announced the vacancy.

Nominations

Historic Preservation Advisory Board

Councilmember Albers **MOVED** to nominate and appoint Ms. Jan Sidebottom, **SECONDED** by Councilmember Wallace.

MOTION UNANIMOUSLY CARRIED.

POLICY AND LEGISLATION

Discussion of Changeable Copy Signs

Mayor Goldberg read from the City's code with regard to the regulations for such signs, pointing out the City Attorney had indicated same was in violation of the first amendment rights of the U.S. Constitution. He stated he felt same should be brought into compliance.

City Attorney Levin stated the City's ordinance was similar to many others written in a certain time period; however, with the many changes in the law, many aspects of the City's sign ordinance were no longer in compliance with the Constitution. He explained courts were very liberal with regard to allowing free speech and case law basically indicated sign ordinances could not relate to the sign content. He noted regulations could address such issues as location, size or number of signs; however, any rule which addressed the content of the sign was not in compliance. He concluded the City should amend their ordinance to remove the content based regulations to come into compliance, adding constitutional violations were enforced by civil rights actions which had penalties including subjecting individual Councilmembers who adopted such ordinances to lawsuit. He concluded for that reason it was in the City's best interest to remove the language.

Councilmember Wallace confirmed elimination of the subject paragraph would solve the issue, voicing support of same.

Councilmember Wallace **MOVED** to amend same and to suspend any enforcement during that period, **SECONDED** by Councilmember Keesling.

City Manager Kunik read comments from Councilmember Friedman into the record, as delineated in the agenda material, recommending the privilege be revoked for a business which did not use the sign for a business purpose.

Mayor Goldberg pointed out changeable copy signs were allowed by a matter of right by the current ordinance.

Mr. Michael Hirsch stated regulating the content of signs has been unconstitutional for many years, adding it had simply not been challenged. He voiced opposition to regulating the business' ability to utilize their signs.

Mr. Todd Katz thanked members for their attention to this matter.

MOTION UNANIMOUSLY CARRIED.

KEESLING: Commented on the dragon boat event, opining it was a great event, which drew many visitors to town.

WALLACE: Complimented Mr. Evans for his efforts to provide events that would be accepted by the community.

CITIZENS' COMMENTS

Mr. Steve Fabian mentioned the local public safety agencies that assisted with the dragon boat races, adding the Coast Guard had indicated the safety boats were not necessary which he did not agree with.

Mr. Don McCormick commented on the billable time utilized by the City Attorney on certain items such as the changeable copy sign that he felt were unnecessary, suggesting members adopt a policy to require approval of three members prior to employing the attorney's time.

Mr. Ray Rose, PGI Civic Association, stated he felt the crosswalk discussed previously would provide a benefit as people may use the parking lot to access the various portions of the trail.

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

Mayor

City Clerk