



**CITY OF PUNTA GORDA, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
WEDNESDAY, MAY 18, 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 9:03 a.m.

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

PROCLAMATION/PRESENTATIONS

Hibiscus Day

Mayor Goldberg presented the proclamation to Ms. Diane Munson and Mr. Stan Munson.

John Henry Allen Day

Councilmember Wallace read the proclamation in honor of Mr. Allen.

National Safe Boating Week

Councilmember Albers presented the proclamation, which was accepted by Messrs. Steve Kapin and Doug Donovan of the U.S Coast Guard Auxiliary and Mr. Ronald Bick of the Peace River Sail and Power Squadron.

Presentation of Flag to Leadership Charlotte Class of 2011 - Congressman Rooney's Office

Ms. Leah Valenti of Congressman Rooney's office, presented the flag which had flown over the United States Capital to members of the Leadership Charlotte Class of 2001.

PUBLIC HEARINGS

GA-10-11 - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 6, "Boats, Docks and Waterways", Article 1, Section 6-6(c)(4)(d), Punta Gorda Code, requiring all new boat docks or slips to be used for the berthing of boats on a long-term basis and the conversion of existing docks or slips to be used for the berthing of boats on a long-term basis in the Burnt Store Isles Subdivision (PGI

Section 15) to have boat lifts or davits; requiring the recording of a restrictive covenant for the construction of new boat docks or slips which are not to be used for the berthing of boats on a long-term basis; adding a grandfather provision for existing boat docks and slips; providing for conflict and severability and providing an effective date.

FIRST READING

Mayor Goldberg announced staff had requested a continuance until August 10, 2011. City Attorney Levin read the ordinance by title, opening the public hearing.

Councilmember Albers suggested several changes to the proposed verbiage to clarify some of the questions which had been raised.

City Attorney Levin stated he had no objection to incorporating those changes following the review by the Burnt Store Isles (BSI) Canal Advisory Committee (CAC).

Councilmember Albers requested the changes be made prior to their review.

Councilmember Wallace concurred with the suggestion.

Councilmember Freidman inquired what had transpired since the time the Department of Environmental Protection (DEP) had required same.

City Attorney Levin stated a citizen had pointed out the City's ordinance was not being enforced correctly. He explained the DEP had issued a permit for the removal of the Burnt Store Isles (BSI) boat lock doors, wherein one of the specific conditions was a requirement for all new boat slips or mooring areas used for other than temporary berthing to have boat lifts or davits. He opined the original ordinance was somewhat ambiguous, thus the need for amendment.

Councilmember Friedman recalled stormwater mitigation was also a condition for the removal of the doors, inquiring if same had been completed.

City Manager Kunik advised he would research same and respond.

Councilmember Albers stated as the language from DEP indicated "new" docks, he did not feel an extension to an existing dock would be included in the requirement.

Councilmember Friedman **MOVED** to continue GA-10-11 until August 10, 2011, **SECONDED** by Councilmember Wallace.

MOTION UNANIMOUSLY CARRIED.

QUASI-JUDICIAL PUBLIC HEARINGS

SE-02-11 - A Special Exception pursuant to Chapter 26, Section 16.8, Punta Gorda Code, to allow a tennis country club to include non-resident members to be operated at 92 Vivante Boulevard, Punta Gorda, Florida, 33950.

City Attorney Levin presented the special exception request.

City Clerk Foster swore in all participants.

Ms. Teri Tubbs, Zoning Official, stated the request was to allow a limited number of outside tennis memberships to be sold for the purpose of being able to provide a tennis program that would enable members to engage in a USTA-like tennis facility and program, providing members to participate in team play, learn the game and enjoy the tennis amenities. She noted the program had been in operation and recently brought to staff's attention, adding a special exception was required to facilitate the opportunity. She drew members' attention to four conditions, as delineated in the agenda material, concluding the Planning Commission and staff recommended approval.

Mr. Rob Berntsson, applicant's agent, emphasized the request was limited to the tennis facilities, adding non-resident members had always been allowed based upon the condominium covenants.

Mr. Mark Hoskins, Vivante Homeowners' Association, urged members to approve the request, adding the tennis program had been very successful and members wished to continue same. He concluded the board and property management company were in favor of the request.

Mr. Berntsson stated the request met the criteria for approval, requesting members' favorable consideration.

City Attorney Levin clarified the clubhouse would not be included in the request.

Mr. Berntsson confirmed only the tennis facilities were included.

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.

MOTION UNANIMOUSLY CARRIED.

ORDINANCE/RESOLUTION

No Public Hearing Required

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. **SECOND READING**

City Attorney Levin read the ordinance by title, adding same had been amended as requested at the last meeting.

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

MOTION UNANIMOUSLY CARRIED.

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.

SECOND READING

City Attorney Levin read the ordinance by title.

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

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.

SECOND READING

City Attorney Levin read the ordinance by title.

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

MOTION UNANIMOUSLY CARRIED.

CONSENT AGENDA

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

MOTION UNANIMOUSLY CARRIED.

A. City Clerk's Department

1. Approval of Minutes: Regular Meeting of May 4, 2011

B. Growth Management Department

1. A Resolution of the City Council of the City of Punta Gorda, Florida, establishing the amount of the lot mowing user fee to be charged to owners of all vacant properties included in the Mandatory Lot Mowing Program for Fiscal Year 2011/2012.
2. A Resolution of the City Council of the City of Punta Gorda, Florida, repealing Resolution No. 2879-10 and authorizing the Mayor on behalf of the City of Punta Gorda, Florida, to enter into and execute the Amended Interlocal Agreement for Coordinated Planning and School Concurrency between the City of Punta Gorda, Florida, the Charlotte County Board of County Commissioners,

and the School Board Of Charlotte County, Florida; providing for conflict and severability; and providing an effective date.

3. A Resolution of the City Council of the City of Punta Gorda, Florida, repealing Resolution No. 2759-08, and adopting the City of Punta Gorda Event Manual, Event Permit Application Form, Application Procedures, and Rental Fee Schedule for using City facilities and utilizing City personnel and Contract for events held in Laishley Park; and providing an effective date.

UNFINISHED BUSINESS

Presentation and Agreement award to Stevens & Layton, Inc. of Fort Myers, FL for Bal Harbor Blvd water main, sewer force main and street improvements.

Mr. Steve Adams, Utility Engineer, explained the project would impact a large area, thus brochures had been provided to all affected property owners.

Mr. John Cole, Giffles-Webster Engineering, displayed a PowerPoint presentation, as delineated in the agenda material, denoting the scope of the project. He provided a detailed description of the work to be done, explaining that traffic would be maintained in one lane of the roadway during the project. He advised most of the driveways and sidewalks on the eastern edge of the roadway would be impacted, explaining they would be replaced as the work concluded.

Councilmember Wallace questioned the time frame.

Mr. Cole responded eight months.

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

MOTION UNANIMOUSLY CARRIED.

Councilmember Freidman recalled members had opted to utilize two foot shoulders on the roadway, asking if there had been adequate space to widen the sidewalk to accommodate bicycles.

Mr. Mark Gering, City Engineer, responded it had proven to be too costly, adding there was not adequate space to provide a sidewalk wide enough to accommodate both bicycles and pedestrians.

Discussion of No Left Turn at Henry Street/U.S. 41 Intersection

Mr. Mark Gering, City Engineer, stated staff had been asked to evaluate the possibility of installing a "No Left Turn" sign, detailing issues for consideration as follows: Florida Department of Transportation (FDOT) may require modifications of the median openings onto US 41 and had requested traffic counts and a plan showing how the diverted traffic would be handled; Henry Street's designation as a hurricane evacuation route; diversion of traffic on Henry Street would require the same on Grace and Ann

Streets, directing traffic to McKenzie which may affect residents in the area; inadequate space to make a U-turn on U.S. 41 in the area of Henry Street; may require construction of a raised median along with signage and striping and accident records indicate a lower rate at Henry Street than at McKenzie Street's signalized intersection. He advised approximately 20 hours of staff time would be required to address the FDOT requirements, requesting direction as to whether to proceed.

Councilmember Friedman stated the people who had suggested the change had not done so for safety, but rather for traffic efficiency. He stated same would be compatible with FDOT's Corridor Access Management Plan (CAMP) plan, opining their approval would most likely be granted. He stated he did not feel anyone would be making a U-turn at that location as a signal existed on McKenzie Street. He inquired if other members felt improved traffic flow at Henry Street would warrant the change.

Mayor Goldberg stated he did not feel the small amount of efficiency warranted the time and effort.

Councilmembers Albers, Wallace and Keesling concurred.

Discussion of Proposed Amendments to Employee Pension Plans

City Manager Kunik displayed a PowerPoint presentation, as delineated in the agenda material, while providing a synopsis of prior discussions.

Councilmember Wallace inquired as to what action had been taken by the Legislature. Mr. Dave Drury, Finance Director, stated the definition of pensionable wages had been changed which removed certain items such as clothing allowances, overtime greater than 300 hours, sick escrow and vacation pay. He stated Police and Fire plans had been amended to remove the requirement for an increased benefit when requiring an increased member contribution. He then continued with the presentation which included information on the City's contribution to the three plans, suggestions to reduce the multiplier, increase retirement age and to move all new employees to a defined contribution (DC) plan.

City Manager Kunik advised the State did not change the regulations regarding the insurance monies, thus it was not longer being considered to switch new Police and Fire employees to a DC plan.

Mr. Drury then displayed slides suggesting changes for non vested employees in all three plans, to include reduced multiplier, increased retirement age and changes in base wage calculation. He denoted items that were currently being included as pensionable wages, noting the change in the law would reduce same only to base pay and up to 300 hours of overtime wages. He displayed a slide denoting the estimated savings if new employees were moved to a DC plan.

City Manager Kunik advised the savings would not be realized for at least 15 years.

Mr. Drury then provided information regarding the estimated savings if the various changes were made to employees of less than ten years, as delineated in the agenda material, adding same would also not be realized for many years.

City Manager Kunik then stated staff had prepared recommendations for consideration, explaining same would take a number of months to accomplish due to the drafting and hearing process. He then recommended the following for general employees: a DC plan to be established for new employees with a contribution rate to be determined; no changes for vested employees; provision of options for non-vested employees to allow them to pay to continue the current plan, change to a DC plan or change multiplier and increase retirement age. He recommended the following for Police and Fire: continue the defined benefit plan to enable receipt of the insurance monies and change retirement age for Fire to comply with that of Police.

Councilmember Wallace inquired if there would be savings related to reduced wages being included as pensionable wages.

Mr. Drury responded affirmatively.

Councilmember Wallace voiced concern with making any changes to non-vested employees as they were hired understanding they would receive a certain benefit, which should be honored.

Councilmember Albers concurred, pointing out employees were being asked to contribute more to the plan. He then stated he concurred with the proposed changes for new employees.

Mayor Goldberg stated he was in agreement with only making changes for new employees.

Councilmember Albers stated the shortfall was created by the City not funding a minimum amount when years were good, adding he was a proponent of requiring a minimum funding amount going forward.

City Manager Kunik confirmed there was a consensus to move forward with a DC plan for new employees in the general employees plan.

Councilmember Albers clarified employees in the current plan would be able to switch to the DC plan if they desired.

Mayor Goldberg confirmed there was a consensus to not impact non-vested employees.

Consensus of members was to agree with the proposed changes for new employees.

Councilmember Friedman stated he felt same was a fair manner of proceeding; however, he felt it necessary to understand there would be no substantive savings for

at least 15 years or more, thus it was felt the contributions for the next five to ten years could be undertaken without increasing property taxes.

City Manager Kunik advised the 2% increase in employee contribution for the general employee plan was significant, adding same must be bargained with Police and Fire.

Councilmember Friedman stated he felt maintaining the status quo for current employees was an accomplishment in light of the many cutbacks they have been subjected to over the past several years, pointing out the citizenry had not been affected during that time.

Mayor Goldberg stated same assisted with attracting and maintaining quality employees to provide the level of service that was being done in Punta Gorda.

NEW BUSINESS

Discussion and direction to staff regarding plants and structures that have been placed in the City rights-of-way in violation of the Punta Gorda Code Chapter 20, Streets and Sidewalks.

Ms. Tubbs explained staff had come across numerous properties, as depicted in photographs included in the agenda material, which had various plants, concrete pads, rocks and other structures in the City rights-of-way (ROWs) in conflict with Chapter 20 of the City's code. She advised the code prohibited such items without an approved building permit, adding same were also in conflict with the soil conservation requirements of the Land Development Regulations (LDRs). She requested direction as to how staff should proceed.

City Manager Kunik explained following Hurricane Charley, situations as this were not prioritized, thus they proliferated.

Councilmember Albers stated most instances were enhancements, suggesting the code be amended to state something similar to "The City of Punta Gorda discourages property owners from constructing, planting or placing anything within the City's ROWs. Property owners who choose to ignore the suggestion will be responsible to correct any problems that are caused by items placed, constructed or planted, for example drainage or safety concerns like obstruction of the safe view for traffic. Should ROW access be required, the City will not be responsible to replace or repair anything that has been constructed, planted or placed in the ROW." He voiced objection to regulating the size, shape or placement of this type of enhancement.

Mayor Goldberg stated the verbiage would negate the need for a hold harmless agreement.

Councilmember Friedman suggested additional verbiage to indicate at its discretion, the City may order removal when it was deemed necessary.

Councilmember Wallace voiced concern with the concrete mailbox structures, stating he felt same could be a safety hazard.

Discussion ensued with regard to possible amendments to Chapter 20 of the code.

Mr. Dennis Murphy, Growth Management Director, stated staff would amend the ordinance to require a frangible object and to limit same to a certain area and size.

Councilmember Keesling read from information relating to Postal Service services, indicating they did not require a frangible mailbox.

Councilmember Friedman stated members had not indicated they wanted to regulate the structure, size or area, pointing out visibility and postal accessibility were the only factors to be regulated.

Councilmember Albers acknowledged his proposed verbiage would allow same to be located anywhere in the ROW, thus he felt it should be amended to indicate “around the mailbox”.

Councilmember Keesling suggested a square footage be determined and require a permit for anything beyond that amount.

Ms. Tubbs then mentioned the City at one time had a tree planting program for trees within the ROW, asking if members felt residents who wished to plant an approved tree in the ROW if same should be allowed.

Consensus of members was to allow same based upon the suggested verbiage indicating the City would only replace sod if work within the ROW was necessary.

Discussion ensued with regard to safety concerns with regard to planting trees in the ROW.

RECOMMENDATION FROM CITY OFFICERS

CITY MANAGER

Discussion of agenda items for June 10, 2011 Joint Meeting with the Charlotte County Board of County Commissioners

City Manager Kunik advised topics suggested thus far were update on Airport expansion plans, status report on South County Overlay District and establishment of Tourism Team Initiative.

Councilmember Albers mentioned the Airport and County had recently held a joint meeting. He stated the Tourism Team was only now scheduling their first meeting, thus it may be premature to request a status report on same.

Mayor Goldberg stated if the County did not have additional topics for discussion, the meeting should be cancelled. He stated a status report on the South County Overlay District could be provided without attending a meeting.

City Manager Kunik stated a discussion of the Capital Improvement Projects (CIP) and Ring around the City would be included on the next meeting's agenda. He then mentioned an update on the Best Western may be included.

Councilmember Friedman stated he had spoken with the owner, opining he felt he would instruct his attorney to proceed with documents necessary to allow the City to construct the Harborwalk in that area. He then asked if members could be advised at the next meeting on budgetary items not dependent on property values, such as utility and canal maintenance rates.

City Manager advised a presentation would be held at the second meeting in June, 2011.

Mayor Goldberg asked for an update from the Airport if no joint meeting was held.

BOARDS AND COMMITTEES

Announcement of Vacancies

Building Board

City Clerk Foster announced the vacancy.

Code Enforcement Board Alternate

City Clerk Foster announced the vacancy.

Historic Preservation Advisory Board – Alternate (2)

City Clerk Foster announced the vacancies.

Planning Commission (2)

City Clerk Foster announced the vacancies.

Nominations

Firefighters' Pension Board

City Clerk Foster requested a motion to confirm the appointment of the Board's fifth member.

Councilmember Albers **MOVED** to confirm the appointment of Mr. Bobby Amick as the Boards' fifth member, **SECONDED** by Councilmember Wallace.

MOTION UNANIMOUSLY CARRIED.

POLICY AND LEGISLATION

GOLDBERG: Announced the final Do the Right Thing ceremony for this school year would be held on May 19, 2011 at 3:00 p.m. at the Punta Gorda Isles Civic Association Building. He then announced the Charlevoix mural dedication at 4:00 p.m. on the same day.

CITIZENS' COMMENTS

Mr. Jerry Presseler thanked the Police Department for their quick apprehension of the shooters in the recent downtown shooting.

Mr. Don McCormick stated it had not been indicated what would occur with those employees who were not currently in the pension plan.

Consensus of employees was that anyone joining after this date would be required to join the new DC plan.

The meeting was adjourned at 11:02 a.m.

Mayor

City Clerk