



**CITY OF PUNTA GORDA, FLORIDA
REGULAR CITY COUNCIL MEETING MINUTES
WEDNESDAY, JUNE 15, 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.

PROCLAMATION/PRESENTATIONS

Florida City and County Management Association Award for Program Excellence

City Manager Kunik presented the award, stating same was in reference to the City's partnerships with other governmental and private entities.

Mayor Goldberg accepted same on behalf of City staff and City residents who assisted in many efforts in the community.

Introduction of Board/Committee Members Nominees

Mr. Paul Sacilotto introduced himself as a nominee for Planning Commission.

PUBLIC HEARINGS

ZA-06-11 - An Ordinance of the City of Punta Gorda, Florida, amending chapter 26, Punta Gorda Code, known as "The Land Development Regulations", Article 12, "Landscaping Standards", amending Section 12.10, "Prohibited Plants"; providing certain exceptions to removal requirement for existing developed single-family property; providing requirement for hold harmless agreements; providing maintenance requirements for retained prohibited species; providing exceptions for certain banyan and ficus trees; providing modification to the list of prohibited plants and trees; providing for conflict and severability; and providing an effective date.

FIRST READING

City Attorney Levin read the ordinance by title, stating a question had arisen as to the need for a Hold Harmless Agreement for those whose plants had been grandfathered

following the adoption of the current ordinance in 2005. He explained staff had incorporated previous provisions into the proposed ordinance, adding a review of the legislative history of previous ordinances had indicated there was no intent for a retroactive effect. He stated he felt a revision was necessary so as to retain the grandfathering that was previously granted to those plants that existed currently. He recommended the ordinance be returned to staff to rewrite to prohibit the planting of prohibited species, while allowing those which currently existed. He further explained certain trees had been prohibited prior to the adoption of the current ordinance which would require removal. He noted no Hold Harmless Agreement would be necessary for those plants which had been previously grandfathered.

Councilmember Albers voiced approval of same, adding he did not believe the ordinance should address seed pod or berries as same was a civil matter between neighbors. He further stated he did not feel the City should remove prohibited plants from vacant lots, as same should be required of the property owner when the property was developed.

Mr. William Quednau voiced support of the proposed amendments.

Mr. Louis Desguin expressed his support.

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

MOTION UNANIMOUSLY CARRIED.

City Attorney Levin advised the ordinance could be continued to a date certain to allow revision, or to begin anew with the reworded ordinance.

Councilmember Wallace **MOVED** to continue ZA-06-11 to July 6, 2011, **SECONDED** by Councilmember Keesling.

MOTION UNANIMOUSLY CARRIED.

QUASI-JUDICIAL PUBLIC HEARINGS

City Clerk Foster swore in all participants for the following quasi-judicial proceedings.
SE-03-11- A Special Exception request by Beres Powell, P.E., agent for Jacqueline M. Williams, pursuant to Chapter 26, Section 16.8, of the Punta Gorda Code to allow a pre-school daycare facility to be located at 223-227 Dr. Martin Luther King Jr. Blvd., in the City Center (CC) zoning district; as such use requires Special Exception approval pursuant to Chapter 26, Section 3.9(f)(11).

City Attorney Levin presented the request for special exception.

Ms. Tubbs, Zoning Official, displayed an overhead depicting an aerial view of the subject location, as delineated in the agenda material, stating this was a request to allow a pre-school/daycare facility within the existing structure at 223 Martin Luther

King Boulevard (MLK). She mentioned the facility would accommodate up to 60 students, ages 18 months to 5 years. She advised this request for a special exception was allowed by reasonable implication as schools and educational facilities were permitted within the CC zoning district; however, pre-school/daycare facilities were not listed as being permitted. She mentioned the applicant indicated this would be more of an educational facility as opposed to strictly daycare. She concluded the Development Review Committee (DRC) and Planning Commission had recommended approval, adding staff had received no letters of objection regarding this request.

Mr. Randy Dunn advised his business was located two parcels away from the proposed business, voicing his support of same. He stated the owner had a PHD in childhood development, opining same would be an asset to the community.

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

MOTION UNANIMOUSLY CARRIED.

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

MOTION UNANIMOUSLY CARRIED.

V-01-11 - Request for a variance to the Land Development Regulations per Chapter 26, Section 16.10, Punta Gorda Code, to allow a newly constructed pool deck on an existing structure to have rear yard setbacks of 18.6 feet and 19.6 feet instead of 20 feet as required by Chapter 26, Section 3.13(d), Punta Gorda Code; and to allow a newly constructed pool deck on an existing structure to have side yard setbacks of 7.2 feet and 7.4 feet instead of 7.5 feet as is required per Chapter 26, Section 3.4.(g)(3), Punta Gorda Code, for property located in the General Single Family (GS) zoning district. LEGAL: Block 4, Lot 14, Punta Gorda Isles Section 4 of the Public Records of Charlotte County, Florida A/K/A: 2281 Bayview Road, Punta Gorda Florida.

City Attorney Levin presented the request for variance.

Ms. Tubbs displayed an overhead depicting the subject location, as delineated in the agenda material, stating during the Board of Zoning Appeals (BZA) hearing it was discovered there were discrepancies between two surveys performed on the property with the recent survey denoting more parcel space. She advised the BZA felt same was the reason the pool contractor constructed the pool deck and enclosure in the manner they did.

Councilmember Friedman questioned the relevance of the survey when the setback requirement was not met in either case.

Ms. Tubbs stated the BZA felt same caused confusion during construction.

Councilmember Friedman indicated while he did not feel the construction should be removed; however, with this construction being recent he felt the pool company should have been held responsible in some manner.

Ms. Tubbs responded the Zoning Division did not address contractor issues.

Councilmember Friedman stated he felt some type of follow-up should take place.

Councilmember Albers stated he felt same should be addressed by the Building Board.

Mr. Jim McCarty, applicant, stated he had opted to renovate the home rather than construct a new home, explaining he had many difficulties during reconstruction. He stated he had been required to have three surveys from the time he purchased the property. He denoted some problems during construction of the pool, explaining a part of the construction error resulted from the measurements being taken from the back of the house which was not located square to the boundaries.

Mr. Ralph Dicarlo, Tropical Pools, provided additional information related to the survey measurements.

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.

Councilmember Friedman requested staff determine how same could be avoided in the future.

CONSENT AGENDA

Councilmember Albers pulled item C.1, suggesting if the City were able to garner the grant that sponsors be found to fund the 25% matching grant with the ability to advertise same on the website.

Councilmember Friedman opined the more attention provided to the eagles, the more stringent the regulations toward buffer space. He stated he felt same may hinder the sale of the property once same was listed.

Councilmember Albers stated he felt the increased buffer area was a recommendation, rather than a regulation. He opined the request this date was solely related to the grant application.

Councilmember Friedman reiterated his concern with regard to providing additional attention to the eagle nest.

Councilmember Wallace concurred same should be considered.

Mayor Goldberg stated he viewed the increased buffer as a recommendation; however, he felt same could be increased in a less obtrusive manner.

Councilmember Friedman reiterated increased attention to the eagles could be counterproductive to the City's intent to have the property developed at some point in time.

Councilmember Wallace questioned the length of the History Park lease, noting same would not be sold with the property.

City Clerk Foster advised the lease would expire in 2045.

Consensus of members was to delay a decision until the next meeting.

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

MOTION UNANIMOUSLY CARRIED.

A. City Clerk's Department

1. Approval of Minutes: Regular Meeting of June 1, 2011

B. Growth Management Department

1. Notice of Non-Compliance and Request for Nuisance Abatement at 24368 Airport Road
2. Request from Fishermen's Village to install two canopies in the tennis court area.

C. Public Works Department

1. Bald Eagle Education Grant

D. Legal Department

1. Invoice of Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A. for services rendered by David M. Levin, Esq. from April 18, 2011 through June 8, 2011.

NEW BUSINESS

FY 2012-2016 Proformas for the City's Enterprise (Utilities, Sanitation, Building & Laishley Park Marina) and Canal Maintenance District (Punta Gorda Isles (PGI) & Burnt Store Isles (BSI)) Funds

City Manager Kunik stated staff would provide additional information with regard to the enterprise fund budgets. He noted the general fund budget would be discussed in July, 2011.

Ms. Sharon Knippenberg, Controller, displayed a PowerPoint presentation, as delineated in the agenda material, stating utility revenues were difficult to predict as same were predicated on customer usage. She mentioned mandatory water restrictions further reduce usage as had occurred during 2008 and 2009. She then drew members' attention to the proforma, as delineated in the agenda material, estimating higher

revenues than had been initially anticipated. She gave a detailed description of staff's efforts to plan construction needs while attempting to reduce debt. She then displayed various scenarios relating to rate reduction and or financing of capital improvements, as delineated in the agenda material, providing a brief description of each.

Councilmember Friedman stated the base proforma did not represent a comparison to past proformas in that no consideration had been given to changing the ratios for capital improvements and replacements, thus a proforma had been devised without members' approval of same. He then displayed charts denoting various scenarios, as delineated in the agenda material, stating his point was that not implementing the 3% increase the previous year over a five year period while utilizing a 9% increase in the final year would result in the same reserve balance. He reiterated his desire to rescind the rate increase at this time based upon increased revenues and reduced capital costs. He then displayed a proforma with the unchanged ratios for capital improvements and replacements, denoting an ending reserve balance of over \$8,000,000. He then detailed a proforma without the rate increase, denoting an ending reserve balance of almost \$6,000,000. He explained if \$2,000,000 in debt was paid in 2012, the reserve balance would still be over \$5,000,000 in five years. He opined members must temper consideration of what was good for the utility with what was good for the residents. He concluded with a request to consider reduction of rates as same would not be harmful to the utility.

Councilmember Wallace commented a review of expenses should be undertaken as well. He questioned why operational costs increased at the rate which was being projected.

Mayor Goldberg stated the difference between staff's and Councilmember Friedman's proformas was staff's proposal to utilize reserves for replacements rather than borrowing to fund same.

Discussion ensued with regard to the use of reserves as opposed to incurring debt.

Councilmember Albers stated he favored paying down the debt, opining the 3% increase was such a small amount that customers would not have a problem with paying same.

Councilmember Wallace concurred it did not make sense to have such a large amount in reserves while paying interest on a debt.

City Manager Kunik pointed out one of staff's scenarios contemplated elimination of the 3% and use of reserves for the replacements.

Councilmembers Wallace and Keesling agreed with elimination of the 3% increase, opining if same was not necessary, it should be returned to the customer.

Mayor Goldberg agreed with utilizing reserves for recurring replacements, adding while elimination of the 3% was a good gesture, he had not heard any complaints with regard to same from the customers. He commented the possibility of mandatory water restrictions could not be ignored.

Councilmember Wallace recommended a return of the 3% increase and to begin reducing debt by a minimum of \$1,000,000.

Councilmember Albers commented the increase in rates had not been used in an improper manner, but rather it was being used to pay down debt which improved the utility and future risks to customers.

Consensus of members was to reduce the rates by 3% and to reduce the debt by \$2,000,000 in 2012.

Mr. Dave Drury, Finance Director, suggested rather than a 3% reduction, the rates be rolled back to the previous year's rate.

Councilmember Friedman requested amended proformas to determine the amount of debt which could be paid in future years.

Consensus of members was to utilize reserves for renewal and replacement.

Ms. Knippenberg then addressed the sanitation fund, recalling purchase of new trucks had been delayed to 2011. She noted the new policy of extending the life of the trucks would require the purchase of two in 2014 and four in 2016; however, staff would review the condition of the fleet at that time in an attempt to delay if possible.

Councilmember Wallace reiterated his request to look at expenses due to the increase when revenues were being reduced.

Discussion ensued with regard to revenues and proposed expenses.

Ms. Knippenberg then denoted various scenarios which included rate adjustments, noting rate reductions would eliminate the ability to purchase trucks in 2014 from reserves.

Consensus of members was to maintain the current rates.

Ms. Knippenberg then addressed the building fund, as delineated in the agenda material, stating staff's recommendation was to continue the use of reserves and maintain weekly furloughs for staff. She then reviewed the Laishley Park marina fund, noting revenues had dropped the previous autumn season which was based upon the cost of fuel. She advised the proforma was conservative with regard to revenues, noting staff was being used at a minimum to maintain operations. She noted consideration should be given to items such as community room rentals and profitable use of retail space.

Mayor Goldberg opined revisions to the City's submerged lands lease to allow for increased dockage may assist in gaining additional revenues. He then inquired if areas within the park utilized for fishing tournaments were considered revenue to the marina fund.

Ms. Knippenberg responded park rentals were considered as general fund revenues.

City Manager Kunik inquired if members wished to have a presentation on the seawall inspection process.

Consensus of members was to agree.

Mr. Randy Brodersen, Canal Maintenance Supervisor, introduced Mr. Gary Disher, Public Works consultant.

Mr. Disher displayed a GIS program denoting the City's canals, stating all seawalls had been inspected and included in the computer program. He explained the color coding which provided information to staff as to what repairs, if any, were required at each location. He stated a library had been constructed which denoted the dates the original seawalls had been installed. He then displayed aerial photographs of PGI beginning with 1951 through 1998. He advised he had provided the same information for BSI. He advised another assessment of all seawalls would be made to ascertain the condition of the seawalls in order to forecast future repair/replacement needs.

Councilmember Albers opined the program was a fabulous tool.

Councilmember Friedman asked if the repair areas were programmed to estimate repair costs for budgeting purposes.

Mr. Brodersen responded affirmatively, displaying a chart denoting repair and replacement needs based upon the first inspection of the walls.

Mayor Goldberg commented the replacement needs appeared to be much less than had been previously anticipated.

City Manager Kunik advised the canal district rates would remain the same as in the previous year. He reported a review of the general fund would be held in July, 2011.

RECOMMENDATION FROM CITY OFFICERS

CITY MANAGER

City Manager Kunik advised the Charlotte County Property Appraiser has advised he had requested an extension, thus the taxable values would not be provided by July 1, 2011. He stated the budget was being predicated on a 4% reduction.

CITY CLERK

City Clerk Foster reported the Equity Study Commission had met the previous day to make final recommendations for City Council, drawing members attention to her memo, as delineated in the agenda material, stating two recommendations were made

as follows: elimination of the word “adult” when referencing gaming machines and reduction of tax for Flea Markets from \$63.00 to \$25.20 per vendor. She explained the word “adult” was not included in the present ordinance, thus no amendment was necessary; however, the recommendation for rate reduction would require a decision.

Mayor Goldberg stated he understood the rationale for adjusting the rate for Flea Markets; however, he voiced concern with regard to the revenue shortfall that would result.

Councilmember Friedman opined if the committee wished to reduce the rate for one area, they should have considered increasing same in another area to maintain the current level of revenues. He opined there had been no intent to increase revenues; however, a reduction was not desired.

City Clerk Foster explained Flea Markets were taxed on the highest number of vendors on any given day in the previous year. She explained, as an example, the downtown farmers’ market, paid approximately \$800 the previous year, but had gained many vendors since that time, so it was possible there would be no loss in revenue for the upcoming budget year. She advised she would provide members with those figures.

Councilmember Keesling inquired if a business owner, who had paid a business tax, would be required to pay another business tax if they participated in the farmers’ market.

City Clerk Foster explained vendors were not taxed individually, but rather the proprietor of the flea market was taxed based upon the number of vendors. Whether that cost was passed on to the vendor was not a matter the City was involved with.

Councilmember Albers questioned whether the vendor would receive the reduction if Council decided to reduce the tax.

City Clerk Foster expressed uncertainty as same was not regulated by the City.

Councilmember Albers acknowledged the farmers’ market was not open seven days a week; however, the City provided them with a storefront by allowing same on the City’s street or in a City park.

Councilmember Friedman opined the rates should remain as they presently were, considering there was no guarantee the reduction would be passed on to the vendors.

Mayor Goldberg stated he would like to see the analysis of the numbers to determine the financial impact prior to making a decision.

BOARDS AND COMMITTEES

Announcement of Vacancies

Board of Zoning Appeals – Alternate

City Clerk Foster announced the vacancy.

Building Board

City Clerk Foster announced the vacancy.

Historic Preservation Advisory Board – Alternate (2)

City Clerk Foster announced the vacancies.

Utility Advisory Board

City Clerk Foster announced the vacancy.

Appointments

Planning Commission (2)

Voting forms were distributed.

City Attorney Levin reported Messrs. Zajicek and Zapke had received the most votes and were therefore reappointed to the Planning Commission.

CITIZENS' COMMENTS

Ms. Laura Fields, Manatee's Pizza, commented the street lights on East Virginia Avenue had not been working since her business had opened, adding she had not been able to find a solution to same. She opined the area was unsafe as it was so dark in the evening. She then stated she had received a code violation notice because she had a blinking open sign at her business, adding same was not a traffic hazard as had been stated. She noted the location of her business was such that her sign could not be seen without having the lighted sign, adding in this economy, anything that was helpful should be permitted.

Ms. Tubbs advised a lighted sign was allowed, adding it was the flashing that was prohibited.

Ms. Fields stated she had a lighted sign that was not visible due to the sun shining on the building's windows.

Discussion ensued with regard to the intent of the current ordinance, with a consensus not to amend same to allow blinking lighted signs.

Mr. Louie Desguin, Punta Gorda Historic Society (PGHS), stated they were charged with operating the History Park which was located near the eagle's nest. He stated their Sunday Farmer's Market helped raise the funds to maintain the grounds. He stated they were pleased with the location of the eagle's nest, adding they had been exploring the possibility of having a webcam which could be accessed upon paying a fee. He noted same would provide revenue to the PGHS as well as reducing the number of people who came to view the nest in person. He stated they had taken on the responsibility of the eagles when people attempted anything that could be harmful to them.

The meeting was adjourned at 11:52 a.m.

Mayor

City Clerk