Mayor Keesling called the meeting to order at 9:00 a.m.
Invocation was given by Mr. John Burrage, followed by the Pledge of Allegiance.

COUNCIL REORGANIZATION

Results of November 8, 2016 Election
City Clerk Smith announced the 2016 Election results as follows:
District 1: Jaha Cummings - Unopposed
District 2: Rachel Keesling - Unopposed
District 4: Lynne Matthews - 6,213 votes
              Bob Peterson - 5,112 votes
City Clerk Smith advised Charter Amendments 1 through 9 were approved by the electorate, confirming details of each referendum question and their results were available in the City Clerk's Office.

CITY CLERK PRESIDING

Oath of Office
Councilmembers Cummings, Keesling and Matthews were sworn in by the City Clerk.

Election of Mayor
City Clerk Smith opened the floor for nominations for Mayor.
Councilmember Wein NOMINATED Councilmember Keesling.
Councilmember Matthews NOMINATED Councilmember Prafke.
Councilmember Cummings MOVED to close the nominations, SECONDED by Councilmember Keesling.
MOTION UNANIMOUSLY CARRIED.
Voting for Councilmember Keesling: Cummings, Keesling, Wein.
Voting for Councilmember Prafke: Matthews, Prafke.
Councilmember Keesling received the most votes and was thus elected Mayor.

MAYOR PRESIDING

Election of Vice Mayor
Mayor Keesling opened the floor for nominations for Vice Mayor.
Councilmember Cummings nominated Councilmember Wein.
Councilmember Matthews nominated Councilmember Prafke.
Councilmember Wein MOVED to close the nominations, SECONDED by Councilmember Matthews.
MOTION UNANIMOUSLY CARRIED.
Voting for Councilmember Wein: Keesling, Cummings, Wein.
Voting for Councilmember Prafke: Matthews, Prafke.
Councilmember Wein received the most votes and was thus elected Vice Mayor.

PRESENTATIONS/ PROCLAMATIONS

Rotary's Service Above Self Award for the Late Wayne B. Goff
Councilmember Prafke presented the proclamation.

Lung Cancer Awareness Month
Councilmember Wein presented the proclamation, which was accepted by Mr. Tom Cappiello.

Christmas Parade Day
Councilmember Keesling presented the proclamation to Mr. Ron Thomas, event organizer. She announced the annual tree lighting would be held on the Friday evening prior to the Christmas Parade on December 2, 2016, encouraging all to attend.

Shop Charlotte Month
Councilmember Matthews presented the proclamation, which was accepted by Ms. Alyson Burch, Charlotte State Bank & Trust.

National Family Caregivers Month
Councilmember Cummings read the proclamation, which would be presented to the Academy of Florida Elder Law Attorneys.

25 Year Service Award - Lieutenant/ EMT Robert Logan, Fire Department
City Manager Kunik presented the award to Lieutenant/ EMT Robert Logan.
Fire Chief Ray Briggs spoke of Mr. Logan’s service to the Fire Department.
**Introduction of Board/Committee Member Nominees**

Mr. Harvey Goldberg introduced himself as a nominee for the alternate position on the Planning Commission.

Mr. Robert Burns introduced himself as a nominee for the Historic Preservation Advisory Board.

Mr. Gary Skillicorn introduced himself as a nominee for the alternate position on the Planning Commission.

Mr. Fred Cort introduced himself as a nominee for the Historic Preservation Advisory Board.

Mr. Sean Harrigan introduced himself as a nominee for the Burnt Store Isles Canal Advisory Committee.

**Mayor Keesling** confirmed members were amenable to hearing Approval of First Amendment to Acquisition Agreement & Declaration of Restrictive Covenants and Conditions (Fishermen’s Village Land Sale) prior to Public Hearings.

**PUBLIC HEARINGS**

**GA- 11- 16 - An Ordinance of the City of Punta Gorda, Florida, amending Chapter 9c, “Fire Prevention”, Section 9c- 3, “Fire Prevention Code Adopted; Exception”, Punta Gorda Code, to clarify the State regulations included in the City’s Fire Prevention Code; 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 ordinance clarified State and Federal regulations which were incorporated into the City’s Fire Prevention Code as recommended by the State Fire Marshal's Office.

**Mayor Keesling** called three times for public comment.

Councilmember Prafke moved to close the public hearing, seconded by Councilmember Matthews.

**MOTION UNANIMOUSLY CARRIED.**

Councilmember Prafke moved approval of GA-11-16, seconded by Councilmember Wein.

**MOTION UNANIMOUSLY CARRIED.**

**QUASI- JUDICIAL PUBLIC HEARINGS**

City Clerk Smith swore in the participants.

**SRC- 01- 16 - A Resolution of the City Council of the City of Punta Gorda, Florida, approving the Final Plat for the “Villas On Henry” Subdivision, property more**
particularly described in Exhibit “A” attached hereto; partially accepting the
dedication of easements and road improvements as shown on the Plat;
authorizing the Mayor and City Clerk to execute the Plat; authorizing the City
Clerk to forward this Resolution and the Original Final Plat to the Circuit Court
Clerk for recording at the applicant’s expense; and providing an effective date.
City Attorney Levin advised SRC-01-16 had been withdrawn by the applicant,
confirming there was no further action required by City Council.
Z-01-16 - An Ordinance of the City Council of Punta Gorda, Florida, rezoning
approximately 4.035 +/- acres of property, generally described as 24368 Airport
Road, Punta Gorda, Charlotte County, Florida, and being more particularly
described in Exhibit “A” attached hereto, from its current zoning classification of
Planned Employment Center/Neighborhood Center (PEC/NC) to Neighborhood
Center (NC); providing for conflict and severability; and providing an effective
date.
City Attorney Levin read the ordinance by title.
Ms. Teri Tubbs, Urban Design Manager, displayed an aerial view of the subject
property, as delineated in the agenda material, and entered the staff report into the
record by reference. She stated the request was consistent with the Comprehensive
Plan, adding no negative effects were anticipated. She confirmed the proposed change
was consistent with adjacent properties. She explained the property was originally
rezoned to PEC with a specific site plan; however, the site had since changed hands,
and the current owner did not wish to develop the property in the same manner. She
summarized based upon known factors, staff considered the application to be in order.
She concluded with a recommendation for approval, offering to answer any questions.
Mayor Keesling called three times for public comment.
Councilmember Matthews MOVED to close the public hearing, SECONDED by
Councilmember Prafke.
MOTION UNANIMOUSLY CARRIED.
Councilmember Matthews MOVED approval of Z-01-16, SECONDED by
Councilmember Prafke.
MOTION UNANIMOUSLY CARRIED.
Note: The Public Hearing for PD-03-16 was held at the Charlotte Harbor Event &
Conference Center at 1:00 p.m.
PD-03-16 – An Ordinance of the City of Punta Gorda, Florida, rezoning properties
generally described as 901, 1001 and 1101 Aqui Esta Drive, Punta Gorda, Florida,
and more particularly described in Exhibit “A” attached hereto, containing 105.55
Deputy City Clerk Stewart swore in all participants.

City Attorney Levin read the ordinance by title.

Ms. Teri Tubbs, Urban Design Manager, entered the staff report into the record, as delineated within the agenda material, displaying an aerial view of the subject property, containing approximately 105.55 acres. She stated existing low density zoning allowed single-family homes of five units per acre, whereas the proposed Planned Development (PD) included a mixed use of condominiums, apartments, resort hotel, 1,800 square foot medi-spa, 25 slip dock facility, 2,500 square foot Dock Master’s office, storage and other public amenities. She noted the PD reduced the residential component of the development by 220 residential units for a total of 308, adding the Land Development Regulations (LDRs) allowed for a transfer of those development rights.

City Manager Kunik reported diversification of the tax base provided an estimated $715,000 in bed and sales taxes to Charlotte County, whereas the City’s benefit was approximately $27,100 in sales tax and an undetermined amount from tourism branding and marketing.

Ms. Tubbs announced the applicant’s request included docking support services and passive recreation with picnic tables, open space and parking but without a boat ramp as previously included. She explained outdoor entertainment was a restricted use, adding deli take-out food, offices, restaurants without outdoor seating and a retail outlet for exclusive use of residents were proposed, as well as a hotel to include a restaurant, lounge and gift/retail shop. She noted the applicant had reported the nearest single-family residence was at least 750 feet from the property; however, the medi-spa was situated within 300 feet from the nearest multi-family homes. She reported building length of the hotel and some of the condominium buildings were 450 feet in length as based on conceptual site plans, exceeding the current Code limitation of 200 feet in length or width without special approval, opining the proposal was out of scale with the surrounding multi-family zoning designation; however, special approval was requested through the PDV process. She stated the transportation analysis for the property was currently rated at a Level of Service (LOS) C, anticipated to increase to an LOS D by 2040, with a study submitted by the applicant proposing traffic generation with 90% of traffic exiting toward U.S. 41 and 10% toward Punta Gorda Isles (PGI). She announced staff recommended the following conditions:
developer to install left turn lane on Aqui Esta Drive for entrance to the development prior to commencement of on-site development; right turn lane from Aqui Esta Drive to U.S. 41 to allow a separate lane for southbound traffic; bicycle and pedestrian facilities on Aqui Esta Drive from Bal Harbor Boulevard prior to issuance of the first Certificate of Occupancy; proof of ownership of a strip of land adjacent to the proposed boat dock and slip area prior to commencement of any development within that area. She reported upon approval of the request, the City required copies of any permits issued by the Army Corps of Engineers (ACOE) as well as any deed restrictions for preserved site areas. She provided a detailed description of the conditions imposed by the City as well as those self-imposed by the developer. She concluded both staff and the Planning Commission had recommended approval of the development as being consistent with the Comprehensive Plan with conditions permitted under the PDV process.

Ms. Geri Waksler, applicant's agent, explained the proposal to rezone from GS-5 included approximately 106 acres consisting of a mixed use community of 300 condominiums, 2 vertically integrated commercial/residential buildings, a 180 room hotel, a 28,000 square foot spa, 49 boat slips, a 2,500 square foot dock basin support building, a large clubhouse area with amenities, additional pools within internal condominium clusters, a multi-purpose pathway and 49 acres of preserved wetlands. She announced the developer contended the project was compatible with the surrounding area, acknowledging compatibility was not defined within the City's Comprehensive Plan or LDRs. She pointed out the surrounding area already contained a mix of residential and non-residential uses, adding all uses with the exception of the proposed docks would be buffered. She announced there were 43 acres and hundreds of linear feet of 25 to 30 foot mangroves buffering the hotel, medi-spa and condominiums, adding the closest single-family home to the hotel or medi-spa was over 750 feet away, with condominiums at least 300 feet away. She noted additional open space would be created by clustering and oversizing of buildings, increasing view quarters and buffering of internal recreational uses. She reported the applicant proposed conditions to further ensure compatibility by restricting height to three stories over parking, limiting hours of operation and outdoor entertainment, shielded lighting, extending landscape buffers and limiting use of the boat basin and facilities to resort guests, employees, condominium residents and their guests. She pointed out the developer had accepted compatibility conditions as proposed by City staff to include additional turn lanes for ingress and egress and public access easements for the shared-use path and passive recreation. She added the applicant was receptive to
additional conditions and concept plan changes which would further reduce impacts from the project, such as restricting boat rentals to licensed captains only, a change in the times proposed for operations or perhaps even elimination of some outdoor activities.

Mr. Fernando Garcia-Chacon, JLL’s Hotel and Hospitality Group (JLL), reported on project feasibility and economic impacts, estimating the project to produce annual revenues of $233,000 in additional property taxes based on an anticipated $55,000,000 construction cost for the hotel and a basis of $240,000 for each of the 300 condominium units.

Mr. Ian Vincent professed as to his qualifications as an environmental consultant, announcing permits were already in hand from both the Southwest Florida Water Management District and the ACOE. He reported on efforts made in coordination with the Florida Fish and Wildlife Commission and the U.S. Fish and Wildlife Service toward protecting various wildlife species. He declared an area previously designated as an eagle’s nesting area had been proactively set aside. He concluded average mangrove height at the site was approximately 30 to 35 feet.

Mr. Steve Padgett, Fawley Bryant Architects, Inc., provided a detailed architectural overview of the project, reporting on efforts made to minimize noise on adjacent neighborhoods. He noted the project’s village concept provided various colors and materials, reporting mangroves provided a buffer which shielded the view of any building rooftops. He declared the site was specifically designed with a desire to be a good neighbor.

Mr. Reid Fellows, Transportation Consultants, Inc., spoke of the anticipated impact on traffic from all components of the project, noting study results indicated a resulting LOS of D or better.

Ms. Waksler acknowledged the community’s opposition to the project; however, she pointed out testimony could only be accepted if based on fact. She pointed out zoning was intentionally not subjected to public referendum but rather a review against an adopted set of standards established by the community and expressed through the Comprehensive Plan and the LDRs. She maintained this application met and addressed those standards, as stated in the staff report and by expert testimony, providing a brief review of same. She concluded the applicant found staff’s Conditions 3 and 10 to be unacceptable. She advised the developer considered the sidewalk/bike path from Bal Harbor Boulevard as too expensive and not proportional to the project. She relayed a three to eight year construction schedule was too short due to the uncertainty of the future economy, adding required permits would take four years to obtain. She
requested additional consideration for amending Conditions 2, 4, 5 and 6, noting the applicant’s justification for same.

Mr. L. Dennison Reid provided a PowerPoint presentation regarding public testimony in rezoning proceedings, as submitted into the record, providing examples whereas County courts had found residents to be considered qualified as expert witnesses. He reported on denial of a petition for Writ of Certiorari for an earlier proposal at the location, adding in 2005, public testimony was considered to be competent substantial evidence. He requested Council consider residents’ concerns as an important role in their decision regarding the request.

Mr. George Brown stated his testimony was on behalf of over 1,600 residents and property owners in the area, declaring opposition was not against developing the site but rather the magnitude of the proposal in an area of low density zoning. He spoke of overburdened evacuation routes and existing vacant retail locations throughout the City, questioning the developer’s track record.

City Attorney Levin advised the applicant had the ability to cross examine witnesses providing testimony this date.

Ms. Waksler questioned Mr. Brown’s presentation and the depiction entitled “Relative Scale of the Hotel/Spa” as having a distorted appearance, opining the Wyvern Hotel’s five stories appeared to be much shorter than the project’s three story hotel depicted. Mr. Brown indicated the slide was taken from the applicant’s site plan whereas the view was from an elevated position. He noted a slide yet to be presented would show a different perspective.

Mr. Jim Vandenberg displayed a video of the anticipated view and impact from surrounding properties, contending the project’s architectural renderings were misleading, without true representation of the project’s massive scope. He pointed out the hotel planned for the site would be the largest in Punta Gorda.

Ms. Sara Smith spoke of increased traffic generated by the development, contending the publications relied upon by the project engineers did not provide as much knowledge regarding local traffic as was understood by local residents. She pointed out Aqui Esta Drive was just one of two collector roads serving PGI, reporting on its frequent, existing traffic congestion.

Ms. Jennifer Fox questioned the project’s consistency with the existing residential character, reporting on uses permitted within same. She contended a commercial marina, hotel and medi-spa were out of character for the area.

Mr. Dave Fox detailed his experience as a licensed professional engineer, reporting unlike other City marinas, the proposed facility was removed from Charlotte Harbor
access by approximately one hour. He pointed out the marina recreation area was 150 feet from single family homes, likening the site to a tiki hut environment whereas buffering was insufficient.

Ms. Jane Leach expressed concern for the marina, recreation and commercial entertainment areas as being too close to existing residential areas, subjecting neighbors to additional noise, lighting and safety issues. She opined the canal route was constricted by navigational points of less than 50 feet and contained dangerous, blind corners.

Mr. John Shattuck commended the opposing group’s organization in presenting over 1,600 residents’ signatures and an informative presentation, opining the group had made a strong case for the project being inconsistent with the City’s Comprehensive Plan in protecting existing residential areas. He urged Councilmembers to deny the request.

City Attorney Levin interjected a procedural issue had occurred in that the presentation originally requested by an intervenor was not being followed. He explained the public hearing had proceeded instead with the City and applicant as parties to the request, whereas additional time was given to a lengthy presentation as a claim for the representative to speak on behalf of others waiving their time to speak. He stated an obstruction now existed with additional materials presented this date, explaining by resolution, all agenda items must be submitted no later than seven days in advance. He maintained for fair opportunity, sufficient time had not been provided for the applicant to rebut, expressing concern for moving forward without due process. He then questioned if the applicant had any objections.

Ms. Waksler replied she had been given the materials only five minutes prior; however, she waived any objections to proceeding.

Mayor Keesling read the public comment procedures into the record.

Mr. Bill Gunther expressed opposition to the request, questioning the boating route from the site to Charlotte Harbor.

Mr. Bill Leach spoke of potential issues affecting surrounding areas such as excessive sound from mechanical equipment, common area lighting, trash storage and removal, and hotel laundry facilities, contending mangrove height was shorter than proposed by the applicant.

Ms. Marianne Artisani questioned density requirements as applicable to the hotel and how a marina could be constructed on land which was not owned by the applicant. She further inquired if a performance bond would be required, adding she favored the proposal but was opposed to its location.
Ms. Charlene Duggan maintained the proposal differed from what others desired in an urban mecca, pointing out the mangroves discussed did not exceed 15 to 20 feet. She contended sightlines proposed by the developer were inaccurate due to homes situated on elevated lots. She added the hotel, medi-spa and retail buildings would be in direct competition with current businesses, expressing a desire to protect those owners. She concluded the project was contrary to the Comprehensive Plan, urging Council to deny the request.

Mr. Donald Taub commented the applicant was the sole beneficiary of spot zoning, contending same was illegal in some areas. He opined a rezoning should contain a public benefit.

Mr. Mason Haas declared he purchased his home with the understanding surrounding properties were zoned single-family, questioning what changes had transpired since a 2005 rezoning denial and if widening Aqui Esta Drive considered the additional traffic. He opined buildout was more extensive than reported, and noise would become problematic.

Mr. Randy Bonk expressed opposition to the request, supporting the majority voice. He opined noise, traffic and lighting would have a negative effect on property values.

Mr. David Flag noted staff and the applicant differed in the distance measured from neighboring properties, opining property values would decrease.

Ms. Judy Robinson spoke in opposition to the request due to anticipated noise, traffic and a decrease in neighborhood character.

Mr. Jay Needleson expressed opposition to the request due to increased traffic on an evacuation route. He concurred with the opinion regarding decreased property values.

Ms. Karen Turnbull relayed concerns expressed by an acquaintance for being subjected to nearby construction during the last few good years of his life, along with an inability for emergency personnel to serve residents of the development. She questioned the purpose of zoning and function of City Council, expressing shock in the proposal reaching this point.

Mr. Don Health reported he was against the project, questioning if additional traffic studies would be performed. He pointed out construction schedules had not been reported, recommending denial of the request. He maintained the additional $71,000 in tax revenue anticipated by the City could be made up by an increase in ad-valorem taxes.

Mr. Mike Fouci expressed concern for placing economics before the community, recommending the rezoning request be denied.
Mr. Steve Fabian reported the City Code required each of eight conditions for a variance to be approved, questioning any undue hardship on the developer should the request be denied.

Mr. Mike Strunk pointed out a petition was signed by 1,600 individuals, which was not a majority of PGI. He expressed his hope for approval as an impetus for growth.

Ms. Wendy Mueller questioned transportation studies as related to project completion, noting traffic estimates were only applicable through 2022. She opined the widening of Aqui Esta Drive was insufficient for any additional traffic.

Mr. Dave Meola expressed displeasure as construction would be viewed from his backyard, alleging Councilmembers would follow the Planning Commission in approving the request, contrary to residents whose wishes should preside. He contended by renting the venue for the meeting held this date, the City had already invested funds in the request, welcoming all growth at the expense of existing residents and businesses.

Mr. Don Sabatini reported he appreciated the public hearing process and those providing input in a controlled manner, opining the community was growing in a positive direction.

Ms. Barbara Frush declared City Council was the voice of the community, requesting members support the majority. She implied statistics showed for every signature on the petition, 30 more with a similar vote were unavailable to sign as Punta Gorda was a city of volunteers.

Mr. Robin Adair expressed a desire to see the majority vote prevail, adding he was supportive of developing the site under the existing, low density zoning regulations.

Ms. Waksler rebutted comments made this date, whereby speculative testimony introduced a new compatibility standard by disputing professional traffic studies. She contended the traffic LOS was adopted by the City's Comprehensive Plan and implemented via the LDRs for all development. She pointed out neither a tiki bar nor marina were planned, reporting the docking facility was merely a passive recreational feature. She noted comments regarding the use of boat slips and vessel sizes had been exaggerated, pointing out density planned was actually less than what was allowed. She further reported the presentation displayed by those opposed had distorted building size, announcing they were no higher than Code allowed. She declared massing of the site was intentional, with placement of amenities to reduce noise and to increase open space, with no regard for landscape buffering. She opined evacuation was vastly overstated as it did not consider the community's seasonal nature, particularly regarding hotels, and the percent of wetland exotic vegetation was misrepresented, despite expert reports. She argued Council's ability to deny based
upon a majority preference as opposed to factual testimony which addressed adopted standards of approval. She maintained without a diversified tax base, existing assessments were unable to support the services expected by the community. She contended the project would provide that tax base with a planned community which met all standards for approval as substantiated by expert witnesses and confirmed by both the Planning Commission and staff. She referenced several opposing statements very similar to those heard this date, explaining they were comments made during a 1987 City Council hearing on land use amendments and the rezoning of Buttonwood Village, contending same were heard during proposals for Vivante, 7-Eleven, Four Points by Sheraton and other proposals. She surmised the reasons given by opposing parties almost never came to pass.

City Manager Kunik announced while serving the development did not require increased Fire or Police emergency services, staff had several recommendations as conditions of approval, noting objection by the applicant regarding a timeline for completion.

Ms. Tubbs explained additional staff recommendations to which the developer objected included funding a dedicated right turn lane from eastbound Aqui Esta Drive onto Tamiami Trail, a bike lane from Bal Harbor Boulevard to the project, proof of legal access to a 27 foot strip of land and transfer of development rights for 220 units to be retained in the City as a part of the tax base.

City Attorney Levin confirmed staff was no longer recommending approval of the project due to the applicant’s objections.

Councilmember Prafke moved to close the public hearing, seconded by Councilmember Matthews.

MOTION UNANIMOUSLY CARRIED.

City Attorney Levin commented on required procedures in quasi-judicial rezoning matters which required sworn testimony and cross examination, reporting a petition signed outside of that process could not be legally considered.

Mayor Keesling announced while she favored diversification of the tax base, she did not consider the hotel compatible with residential use, reporting staff recommendations for road improvements were a requirement for approval.

Councilmember Cummings reported he understood the desire for a hotel in relation to the medi-spa for rest and relaxation, pointing out it was common in integrative, restorative and preventative medicine as practiced in Asia and Europe.

Councilmember Matthews referenced other local roads considered as LOS D within Charlotte County’s Roadway LOS Data Report, cautioning against such a designation on
an evacuation route such as Aqui Esta Drive. She recommended amending the Comprehensive Plan to stop development from creating such an impact on residential roads in the future. She concurred with the need to prove ownership of the 27 foot strip, advising the ACOE permit only authorized a single family development, marina and boat ramp, requiring up to 4 years for modifying same. She contended the resulting effect to the City’s tax base was insignificant, adding she was concerned with the intensity, scale and commercial aspect of the project as being incompatible with the surrounding neighborhood.

**Councilmember Prafke** expressed concern for large scale commercial development in a residential area, reporting she was unable to support the project.

**Councilmember Wein** expressed a desire to discuss the future of Aqui Esta Drive regardless of the proposed project. He noted the proximity of marina facilities in relation to surrounding homes, expressing concern for the medi-spa building should the business fail. He recommended allowing public access to open space if approved, questioning a share in cost for canal maintenance as there were no seawalls to be assessed. He opined sight issues would occur with vegetation removed; however, he expressed hope for the project to move forward.

**Councilmember Cummings** declared a tax base of at least 25% commercial was necessary for the City to maintain current levels of service while the current rate was at 10% down from 13% the prior year. He recommended consideration for medical tourism as being both low impact and high yield, noting Charlotte County poverty levels were reaching critical levels where jobs were badly needed.

Discussion ensued regarding commercial uses and appropriate locations for same. Ms. Waksler responded the applicant was open to approval with conditions such as removal of the hotel in favor of an additional 60 condominium units. She acknowledged the four years needed for amending the permit, requesting an additional twelve years for buildout.

City Attorney Levin declared this was not the proper time or place to renegotiate a rezoning, explaining the request was presented and reviewed by staff, who advised of their recommendations and conditions as submitted with subsequent testimony and evidence submitted. He reported the next step was to either approve or deny the request with the applicant then being able to modify the request if denied.

**Councilmember Prafke** **MOVED** to deny the request based on the following: evidence and testimony presented; the change being contrary to the land use plan with adverse effects on the Comprehensive Plan; adverse influence on living conditions in the neighborhood; adverse effect on property values in adjacent areas; the project being
out of scale with the needs of the neighborhood, SECONDED by Councilmember Matthews. Councilmember Prafke AMENDED her MOTION to eliminate "adverse effect on property values in adjacent areas." Councilmember Matthews AMENDED her SECOND. MOTION UNANIMOUSLY CARRIED. Note: The remainder of the meeting was held following Z-01-16. V-03-16 - A request by Charles and Regina Philbrook, property owners, for a variance to the Land Development Regulations pursuant to Chapter 26, Section 26-16.10, Punta Gorda Code, to allow an addition of a screen room and deck to the existing structure, which will extend beyond the property line onto common ground of the Emerald Pointe Condominium Association a distance of 2.2 feet deep by approximately 20.7 feet wide, and said addition will be 10.6 feet from the mean high water line instead of 25 feet as is required per Chapter 26, Section 26-8.19, Punta Gorda Code. Legal: Emerald Point Townhouses PH V UN 1035 (a/k/a 25188 Marion Avenue, Unit 1035, Punta Gorda, Florida). Charlotte County Parcel ID: 412305529205. City Attorney Levin read the request by title. Ms. Tubbs displayed an aerial view of the subject property, as delineated in the agenda material, stating the Emerald Pointe development had some unique setbacks which appeared to have been approved in the 1970s; however, such conditions would not cause a need for approval for additional encroachments into required setbacks. She pointed out although many properties within the subdivision had been granted variances, such approvals did not set a precedent as each request stood on its own merit. She noted the site was already developed with an existing deck and screen room, adding staff could find no hardship. She acknowledged granting of the variance would not be injurious to or incompatible with contiguous uses; however, the proposed addition would cause the deck to be constructed above the existing air conditioning (A/C) condenser units currently located behind the existing deck. She stated most A/C condenser units were not designed to be located under other structures but rather typically required a five foot clearance, displaying clearance specifications provided by the Chief Building Official. She explained if the variance was approved and the deck constructed, the applicant would need to provide the A/C
condenser specifications which showed the deck being constructed above the A/C units would not be in conflict with installation/maintenance requirements. She continued the property owner would also need to submit a letter from a structural engineer which stated the existing deck was structurally sound prior to submitting a building permit application to extend the deck. She pointed out an existing screen room was 1.8 feet from the rear property line and 12.4 feet from the Mean High Water (MHW) line; thus, the addition would bring the deck/screen enclosure expansion to 10.6 feet from the MHW line. She noted the expansion, although not large, would increase an existing non-conforming condition. She concluded staff did not find a hardship; therefore, the request did not meet the required criteria for approval, noting the Board of Zoning Appeals recommended denial of the request.

**Mayor Keesling** inquired if the A/C units were owned by the applicants. Ms. Tubbs replied she believed so.

**Mayor Keesling** commented there did not appear to be many other units extending past the property line.

**Councilmember Prafke** stated Council was awaiting a response from the Emerald Pointe Condominium Association (EPCA) regarding development of standards specific to this community. She expressed uncertainty with regard to allowing the requested extension beyond the property line.

Mr. Charles Philbrook, applicant, stated he had been working for approximately 18 months on gaining permission to add four feet to his lanai, adding he had complied with all requests for information. He stated the EPCA Board of Directors and a sub-committee of same had approved the extension. He explained the current space was simply too small for family and friend gatherings of more than three or four people.

Mr. Michael Leslie stated he was Mr. Philbrook's neighbor and had spoken to several other neighbors, adding he had not heard any objections to this request. He stated the area was somewhat isolated and would not impede any pedestrian traffic or use of Emerald Pointe's common elements.

Ms. Jeanette Knapp stated she was a year-round resident who lived immediately adjacent to Mr. Philbrook's property and would thus be directly impacted by the expansion. She advised she was in favor of the request, urging City Council's approval of V-03-16.

Mr. Kurt Leese, applicant's contractor, stated there were several ways the A/C units could be configured to meet the City's requirements, confirming he had met with Building Division staff regarding same.
Mr. Mitch Eby stated he was a year-round Emerald Pointe resident, adding the majority of units had extended lanais. He further noted many units had A/C equipment under their lanais and had experienced no problems. He strongly recommended Council's approval of V-03-16.

Ms. Ronna James spoke in support of V-03-16.

**Mayor Keesling** called three times for any additional public comment.

Councilmember Prafke **MOVED** to close the public hearing, **SECONDED** by Councilmember Matthews.

**MOTION UNANIMOUSLY CARRIED.**

City Attorney Levin explained in order to be granted a variance, the applicant must demonstrate all applicable criteria set forth in City Code was met.

**Councilmember Wein** voiced concern at the lack of compliance since Emerald Pointe was constructed prior to establishment of current City Code. He encouraged the EPCA to work with the City toward establishment of an overlay district to avoid the need for these types of variance applications. He inquired if the extension would create any safety hazards, specifically asking if access would be available for emergency apparatus.

Chief Briggs replied there would be no issue for the Fire Department.

**Councilmember Wein** inquired if at least three feet would be maintained between the deck and the rip rap.

Ms. Tubbs replied affirmatively, stating the distance would actually be six feet.

**Councilmember Prafke** stated based on the testimony and the criteria, the requirements for a variance could be satisfied.

City Attorney Levin stated the proposed lanai would extend beyond the applicant's ownership, inquiring if the EPCA had granted an easement of sorts.

Ms. Tubbs replied affirmatively, reading a letter from the EPCA into the record which granted that permission.

City Attorney Levin commented the permission was problematic, adding he would prefer to see a portable easement to avoid future problems or questions. He suggested same be a condition of the variance, if granted.

**Councilmember Wein** inquired if a portable easement could be granted which would cover the entire Emerald Pointe community.

City Attorney Levin replied he suspected the difference in legal descriptions would cause an "across the board" easement to be difficult.

Councilmember Wein **MOVED** approval of V-03-16 contingent upon satisfaction of all above stated conditions, **SECONDED** by Councilmember Prafke.
MOTION UNANIMOUSLY CARRIED.

ORDINANCE/ RESOLUTION
No Public Hearing Required

Citizen Comments - Ordinances/ Resolution Items Only
None.

GA-13-16 - An Ordinance of the City of Punta Gorda further amending the City of Punta Gorda General Employees’ Retirement System, adopted pursuant to Ordinance #1671-11, as subsequently amended; amending Section 5, Contributions; repealing all ordinances in conflict herewith and providing an effective date.

SECOND READING
City Attorney Levin read the ordinance by title.
Councilmember Prafke MOVED approval of GA-13-16, SECONDED by Councilmember Matthews.

MOTION UNANIMOUSLY CARRIED.

CONSENT AGENDA
A. Citizen Comments - Consent Agenda Items
None.
Councilmember Prafke MOVED approval of the Consent Agenda, SECONDED by Councilmember Wein.

MOTION UNANIMOUSLY CARRIED.
B. Public Works Department
1. A Resolution of the City Council of the City of Punta Gorda, Florida, accepting a Perpetual Sidewalk Easement from SunTrust Bank for the property located at 3905 Tamiami Trail, Punta Gorda, Florida; authorizing the Mayor to execute the easement on behalf of the City; directing the City Clerk to record the easement; and providing an effective date.

Citizen Comments - Regular Agenda Items Only
Ms. Andrea Lefrancois spoke in favor of permitting medical marijuana dispensaries in the City, stating she had been a caregiver for someone who would have greatly benefited from medical marijuana.
Ms. James stressed marijuana was beneficial to cancer patients in reducing their pain, urging Council not to ban dispensaries.

BUDGET
Discussion of Health Insurance for City Councilmembers.
City Manager Kunik stated City Council was comprised of younger Councilmembers than in the past. He advised a suggestion was made to offer City Council retirees
continued health and dental insurance coverage on the same basis as regular City retirees, irrespective of the age of the Councilmember. He confirmed according to the City’s health and dental insurance broker and Public Risk Management’s pool bylaws, nothing precluded the City from offering this option. He clarified retirees paid all insurance premium costs. He asked if Council wished to amend the Personnel Rules & Regulations accordingly.

Mayor Keesling stated she had raised this issue after realizing the two Councilmembers who recently left office were eligible to continue coverage while she would not be eligible based on her age. She requested Council's consideration of this discrepancy.

Councilmember Wein confirmed no other City employees were elected. He agreed Councilmembers were special, adding he had no objection to allowing retired Councilmembers to pay the premiums for insurance regardless of their age.

Councilmember Matthews agreed, inquiring if formerly retired Councilmembers would be eligible.

City Manager Kunik responded he was not aware of any former Councilmembers who were not of retirement age, acknowledging he was unsure if the benefit could be retroactive.

Mr. Phil Wickstrom, Human Resources Manager, clarified the benefit could not be retroactive.

Councilmember Prafke commented she preferred the term unique as opposed to special when referring to Councilmembers, stating City Council was a part of the team comprised of City employees.

City Manager Kunik stated if Council wished to proceed, the Personnel Rules & Regulations would be amended accordingly.

Councilmember Prafke MOVED to consider Councilmembers as retired, regardless of age, upon leaving office, SECONDED by Councilmember Matthews.

Councilmember Wein suggested Councilmembers be required to be in good standing upon leaving office in order to qualify for the benefit.

Councilmember Prafke AMENDED the MOTION to add a requirement for Councilmembers to be in good standing at the time of their retirement from the City, SECONDED by Councilmember Cummings.

MOTION CARRIED UNANIMOUSLY.

Mayor Keesling called for a vote on the amended motion.

MOTION CARRIED UNANIMOUSLY.
UNFINISHED BUSINESS

Approval of First Amendment to Acquisition Agreement & Declaration of Restrictive Covenants and Conditions (Fishermen's Village Land Sale).

Mr. Mike McKinley, Fishermen's Village (FV) attorney, explained the buyer’s lender had requested removal of the reverter language in the Acquisition Agreement from the deed and placement into a separate legal instrument, noting same would be accomplished through a Declaration of Restrictive Covenants and Conditions, which would be recorded in the Official Public Records simultaneously with the closing documents.

Mayor Keesling called for public comment, confirming there was none.
Councilmember Prafke MOVED approval, SECONDED by Councilmember Matthews. MOTION UNANIMOUSLY CARRIED.

Continued Discussion of Medical Marijuana.

City Attorney Levin reminded Councilmembers of their November 2, 2016, discussion regarding the ballot measure relating to the use of marijuana for debilitating medical conditions and the actions being taken by other local governments, briefly reviewing the options available to the City as presented at the previous Council meeting - stringent regulations, minimal or reasonable regulations or moratoriums. He noted a moratorium, while reasonable, could be problematic in that it, in essence, became a prohibition against the issue approved by the voters. He stated a Councilmember had referred to a marijuana dispensary as being more like a pharmacy than a bar as a pharmacy dispensed drugs as well, adding a pharmacy might dispense drugs which could be even worse than marijuana in terms of secondary activities; however, he was unsure how to deal with same in a zoning context. He expressed uncertainty as to the best approach from a legal perspective.

Councilmember Cummings suggested establishing a deadline to implement zoning regulations rather than a moratorium, explaining doing so would respect the needs of the public in a responsible manner.

City Attorney Levin explained in the absence of a moratorium, dispensaries would be allowed until such regulations were adopted.

Councilmember Cummings stated the applicable law in the Territory of Guam included a nine month period for establishment of regulations; however, certain safeguards were put into place during the interim period. He mentioned Arizona was somewhat more strict than other States.
**Councilmember Prafke** stated she would be in favor of not allowing the establishment of dispensaries for six months until the proper requirements were worked out. She clarified she was in favor of providing convenience to the City's residents who needed this type of help.

**Councilmember Wein** asserted whatever action the City needed to take should be fast tracked in consideration of those people experiencing the need for the benefit of this particular substance. He opined medical marijuana should be made available immediately, albeit in a very restrictive manner. He maintained Charlotte County's moratorium was wrong, adding those in need should be able to obtain the medicine they needed in a dignified and properly managed way.

**Councilmember Cummings** agreed, adding hospitals and pharmacies already had dispensing safeguards in place. He reiterated pharmacies were already dealing with far worse substances on a daily basis.

**Mayor Keesling** asked if someone could open a dispensary at this time. City Attorney Levin replied the Zoning Official and Building Official had the discretion of interpreting the Code in cases where a use was not specifically discussed within same. He suggested tabling this item until the next Council meeting to determine if hospitals and pharmacies had the option of or desire for dispensing marijuana, reminding everyone marijuana was still prohibited Federally.

**Councilmember Matthews** inquired when the State law would be enforced. City Manager Kunik replied there were very few dispensaries in Florida which had been approved, opining the State must adopt additional regulations and policies based on the recent vote, which would likely not happen "overnight". He offered to research zoning districts of other communities and report back to Council.

**Mayor Keesling** stated she hoped dispensaries would be required to be located away from uses such as schools or daycares, for example.

**Councilmember Wein** agreed; however, he strongly urged Councilmembers to move as quickly as possible.

**Mayor Keesling** recommended staff consider the best fit with regard to zoning districts.

City Attorney Levin noted the language was unclear as far as the effective date of enforcement of the newly established State law, confirming he would determine same by the time of the next Council meeting.

**Councilmember Matthews** opined the City's action should be in sync with State law.
RECOMMENDATION FROM CITY OFFICERS
CITY CLERK

City Council Service Boards & Committees Fiscal Year 2016-2017

City Clerk Smith stated each year following the City election and Council reorganization, Councilmembers accepted appointments to various boards and committees requesting Council representation. She noted a list of those entities was provided in the agenda material.

Discussion ensued with regard to current and proposed representation resulting in the following appointments:

**Mayor Keesling** - Southwest Florida League of Cities; Tourist Development Council; Drug Free Punta Gorda.

**Councilmember Cummings** - Punta Gorda Housing Authority; Tourist Development Council.

**Councilmember Matthews** - Charlotte Harbor Environmental Center; Metropolitan Planning Organization (alternate); Southwest Florida Regional Planning Council.

**Councilmember Prafke** - Charlotte County Airport Authority; Punta Gorda Business and Economic Development Group (alternate); One Community One Message.

**Councilmember Wein** - Punta Gorda Business and Economic Development Group; Charlotte Harbor National Estuary Program Policy Committee.

**BOARDS AND COMMITTEES**

**Nominations**

Burnt Store Isles Canal Advisory Committee

Councilmember Prafke **MOVED** to nominate and appoint Mr. Sean Harrigan, **SECONDED** by Councilmember Cummings

**MOTION UNANIMOUSLY CARRIED.**

Planning Commission Alternate

Councilmember Matthews **NOMINATED** all interested parties.

Building Board

Councilmember Matthews **MOVED** to nominate and appoint Mr. Timothy Meyer, **SECONDED** by Councilmember Prafke.

**MOTION UNANIMOUSLY CARRIED.**

**Appointments**

Historic Preservation Advisory Board (3)

Voting forms were distributed.
City Attorney Levin announced Mr. Robert Burns, Ms. Donna Peterman and Ms. Julie Price had received the most votes and were thus appointed to the Board.

POLICY AND LEGISLATION

PRAFKE: Announced the Historic City Hall Tour was scheduled for December 5, 2016, asking if Councilmembers wished to dress in period costume. Consensus of Council was to do so.
- Commented on other activities associated with the Founders Day celebration.
- Stated she and three pickleball players recently met with the Charlotte County Director of Community Services and a representative of the Visitors Bureau on costs associated with installation of pickleball courts at the South County Regional Park (SCRP). She noted she also discussed fund raising with the players. She explained the hope was for tournament quality courts at SCRP, adding restrictions could then be put into place at the Gilchrist Park courts.

MATTHEWS: Voiced concern regarding roadway level of service, particularly for Aqui Esta Drive, submitting written data obtained from Charlotte County's web site into the record. She confirmed she would reiterate her comments at the 1:00 p.m. public hearing this date, suggesting Council might wish to consider not allowing Class D roads, especially those intended for use as evacuation routes.

CITIZENS COMMENTS

Mr. Steve Fabian congratulated the newly elected Councilmembers. He then announced a "Blue Mass" would be held on Sunday, November 20, 2016, at St. Charles Borromeo Church in Port Charlotte, explaining same was intended to honor first responders.

Ms. James expressed surprised Council meetings were held during the day.

Mr. Goldberg commented Punta Gorda's "birthday" would fall on the day of the next Council meeting, December 7, 2016.

The meeting was adjourned at 5:20 p.m.