

CITY OF CLEWISTON
Regular Commission Meeting
March 21, 2011

The City of Clewiston City Commission held its regular Commission meeting in the City Hall Commission Chambers Monday, March 21, 2011. The meeting was called to order at 6:00 p.m. by Mayor Richard Miller. Pastor Alan Koch gave the invocation and the audience recited the Pledge of Allegiance.

Attendance:

Commissioners Present: Mayor Richard Miller, Commissioner Mali Gardner, Commissioner James Pittman. Commissioners Joseph Miller and Julio Rodriguez were absent.

Personnel Present: City Manager Steve McKown, Police Chief Don Gutshall, City Utilities Director Kevin McCarthy, City Clerk Marilyn McCorvey, Golf Course Director Adolfo Pena, Engineer Tommy Perry, Community Development Director Travis Reese, Public Works Director Sean Scheffler, Code Enforcement Officer Pete Garcia, and City Attorney Charles Schoech.

Visitors Present: Caridad Amores, Frank Buchanan, Jody Hendry, John Hicks, Christine Howell, Donald Kelley, Lisa Kelley, Pam Kelley, and Norman Weigan.

ADDITIONS/DELETIONS/CHANGES AND APPROVAL OF THE AGENDA – City Manager McKown asked that the Donate Life Month Proclamation be added to the agenda as Agenda Item # 10.

Public Comments – None

1. Consent Agenda

- A. *City Commission Regular Workshop Minutes – February 17, 2011*
- B. *City Commission Regular Meeting Minutes – February 21, 2011*
- C. *Event Application – Sugar Festival – April 29 & 30, 2011*
- D. *Event Application – Street Dance on Bond Street – April 29, 2011*
- E. *Event Application – National Day of Prayer – Civic Park – May 5, 2011*

Commissioner Gardner made a motion, seconded by Commissioner Pittman, to approve the Consent Agenda. In addition, Commissioner Pittman asked that a Proclamation be prepared for the National Day of Prayer. Vote 3 yeas, 0 nays. Commissioner Joseph Miller and Commissioner Rodriguez were absent.

PUBLIC HEARING

- 2. Ordinance No. 2011-01** – Mayor Miller stated the purpose of the public hearing is to discuss and accept input from interested parties relative to Ordinance No. 2011-01. City Manager McKown summarized Ordinance 2011-01, read the Ordinance by title and stated that the public hearing had been advertised in the Clewiston News on March 3, 2011. There being no comments from the public or the commission, Mayor Miller closed the public hearing.

Commissioner Pittman made a motion, seconded by Commissioner Gardner, to approve Ordinance No. 2011-01. Vote 3 yeas, 0 nays. Commissioner Joseph Miller and Commissioner Rodriguez were absent.

PROCLAMATIONS

- 3. Proclamation – National Missing Children’s Day – May 25, 2011** – City Manager McKown read the Proclamation.

Commissioner Gardner made a motion, seconded by Commissioner Pittman, to approve the National Missing Children’s Day Proclamation. Vote 3 yeas, 0 nays. Commissioner Joseph Miller and Commissioner Rodriguez were absent.

4. **Proclamation – Fair Housing Month** – City Manager McKown read the Fair Housing Month Proclamation and states that April 11, 2011 marks the 43rd anniversary of the passage of the U.S. Fair Housing Law, Title VIII of the Civil Rights Act of 1968.

Commissioner Gardner made a motion, seconded by Commissioner Pittman, to approve the Fair Housing Month Proclamation. Vote 3 yeas, 0 nays. Commissioner Joseph Miller and Commissioner Rodriguez were absent.

MISCELLANEOUS ACTION AND DISCUSSION ITEMS

5. **Discussion of Mortgage Modification Agreement – Frank Buchanan** – City Attorney Schoech gave a brief background of Mr. Buchanan's land deal for 5.9 acres of land in the Clewiston Commerce Park. Mr. Schoech stated that almost three (3) years ago, the City entered into a mortgage agreement and promissory note with Mr. Buchanan. Mr. Buchanan is in default of the agreement. Mr. Schoech stated Mr. Buchanan is here tonight with a mortgage modification agreement proposing to extend the date for the payment of the principal to June 1, 2012, changing the number of employees required and asking for the City to subordinate its loan to a construction loan. Mr. Schoech stated the City may or may not elect to enter into this agreement at their discretion.

Mr. Buchanan's attorney, Caridad Amores, stated that Mr. Buchanan has a business plan for the Commission to review. Mr. Buchanan wants to resolve this matter, and he is committed to the Clewiston community. She stated he is asking for time for the development of the park and the downside of the real estate market to recover. Mr. Buchanan stated the economy is the biggest problem, and he needs time to build his business in Ft. Lauderdale, then he will build in Clewiston. Mr. Buchanan stated he has already spent over \$750,000 at the Clewiston location and it will take him that amount again to build. Ms. Amores stated that she would send the business plan to the City on the following day.

Commissioner Gardner stated her concern is the grant the City received for the park and the City's obligations for the forgiveness of the grant. Commissioner Gardner stated she is not in favor of subordinating our loan for Mr. Buchanan to secure a construction loan. Commissioner Pittman stated he does not have a problem with some sort of a modification, but he does not support the subordination as we have been burned before.

City Attorney Schoech recapitulated that his understanding and direction was that the Commission might consider an extension, but not the subordination. He stated we should try to work out an agreement that takes out the subrogation, but grants an extension of time.

Norman Weigan stated he was the realtor that sold the property to Mr. Buchanan and he thinks Mr. Buchanan is a good businessman and an honorable man. He stated that Mr. Buchanan has already paid the City a large sum of money for the land. Mr. Buchanan had plans drawn up and has the building stored on site. He feels that Mr. Buchanan has made a good faith effort.

The Commission asked staff to review Mr. Buchanan's business plan and City Attorney Schoech to work on a mortgage modification agreement that might be acceptable to all parties.

6. **AECOM Amendment 10** – Utilities Director McCarthy stated that AECOM has been doing the work and permit revisions for our WWTP expansion and has provided us a price as an amendment to our current contract to perform a mechanical integrity test, which must be done every 5 years. Mr. McCarthy felt that allowing AECOM to perform this test was the logical move.

Commissioner Pittman made a motion, seconded by Commissioner Gardner, to approve the AECOM Amendment 10 in an amount not to exceed \$51,695. Vote 3 yeas, 0 nays. Commissioner Joseph Miller and Commissioner Rodriguez were absent.

7. **Hay Lease Extension** - Utilities Director McCarthy stated that in 2005 the City put the hay lease out for bids, and had only one bidder. The lease was for 5 years and an option for the City to renew for another 5 years. Mr. McCarthy stated the current lessee, Pedro Garcia, has done a good job and has removed the hay and helped keep our WWTP in compliance with our regulations.

Jody Hendry, attorney representing Donald Kelley, came forward to speak. He stated that Mr. Kelley did not know of any complaints from the City during the 17 years he leased the hay fields, and he missed out on the bid 5 years ago. Mr. Hendry stated that Mr. Kelley is willing to pay at least \$5,000 more per year for the hay lease. Mr. Hendry asked that Mr. Kelley be given an opportunity to bid on the lease of the hay fields.

Utilities Director McCarthy stated that Mr. Kelley had the lease for 17 years, and there were problems when Mr. Kelley had the lease, and he was notified in 2004 that his lease would be terminated. The bid was advertised in 2006 for a 5 year term with an opportunity for a 5 year lease extension. Mr. McCarthy stated that the WWTP operators have been pleased with Mr. Garcia's operation, and he recommends that the lease be extended for another five years to Mr. Garcia. Mr. McCarthy stated that the performance of the lessee, not the price, is what is important to him.

Commissioner Gardner felt that when any lease expires, we should go out for bids. She stated it doesn't serve a purpose to automatically renew a lease. Commissioner Pittman stated that farming is different than other leases.

Pete Garcia came forward to speak and stated he has improved the hay output by about 40%. He has mowed every summer and continues to work on the problem areas. Mr. Garcia stated that he has not neglected the fields, has paid every invoice on time and he spends a lot of time working on the fields. Mr. Garcia stated that it takes a long time to get the fields to where they are currently.

City Manager McKown stated that we have a lot of DEP requirements on this property. A lot of the phosphorus and nitrogen that is put on the land is taken off when the hay is cut. If additional hay is coming off the land, more phosphorus and nitrogen are coming off the property. Mr. McKown stated that if we put the lease out for bids, there will be many more stringent lessee requirements (which Mr. Garcia is currently voluntarily adhering to) than there currently are.

Commissioner Pittman made a motion to extend the hay lease to the current lessee for five years. Motion died due to lack of a second.

Commissioner Pittman made a motion, seconded by Commissioner Gardner, to table this item until the April meeting. Vote 3 yeas, 0 nays. Commissioner Joseph Miller and Commissioner Rodriguez were absent.

8. **Departmental Monthly Activity Reports** – Presented for information only.
9. **Utility Department Departmental Presentation** – Kevin McCarthy – Mr. McCarthy gave an update on projects in his department.

FINANCIAL REPORT FROM THE FINANCE DIRECTOR

REPORTS FROM CITY MANAGER – None

REPORTS FROM THE CITY ATTORNEY – Mr. Schoech stated that he has been in contact with Bubba Wade of United States Sugar Corp. regarding the granting of the easement to the Evercane property.

REPORTS FROM THE CITY COMMISSION – Commissioner Gardner reminded CHS graduates about the FCAT rally at the High School on April 7 at 7:30 a.m. The Bid O Birding Festival is also this week. Commissioner Pittman stated that he would like to see the City’s web site updated. He said he is willing to hire someone to perform the task. Mayor Miller stated he thinks our Commerce Park also needs a web site. He reminded everyone about Spring Cleaning on April 16.

Adjournment:

The meeting was adjourned at 7:40 p.m.

Richard Miller, Mayor

Marilyn McCorvey, City Clerk