

**CITY OF CLEWISTON
Regular Commission Meeting
October 17, 2011**

The City of Clewiston City Commission held its regular Commission meeting in the City Hall Commission Chambers Monday, October 17, 2011. The meeting was called to order at 6:00 p.m. by Mayor Richard Miller. Pastor Benjamin Escorcía gave the invocation and the audience recited the Pledge of Allegiance.

Attendance:

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

Personnel Present: City Manager Steve McKown, Police Chief Don Gutshall, Utilities Director Kevin McCarthy, City Clerk Marilyn McCorvey, Golf Course Director Adolfo Pena, City Engineer Tommy Perry, Recreation Director Lance Ramer, Public Works Director Sean Scheffler, City Attorney Charles Schoech, and Community Development personnel Pete Garcia, Karen Moore and Debbi Towner.

Visitors Present: Jeff Barwick, Benjamin Escorcía, Denise Hatton, Amy McKown, and Jillian Sparks.

ADDITIONS/DELETIONS/CHANGES AND APPROVAL OF THE AGENDA – City Manager McKown asked that Item G (reduction of lien approval) be removed from the consent agenda and added as a discussion item as 4B and discussion on Basilan Crescent be added as 4C. Also add Event Application for Tiger Boosters waiver of fees for the JBB Auditorium as 1J.

Public Comments – None

1. Consent Agenda

- A. *City Commission Budget Workshop Minutes – September 12, 2011*
- B. *City Commission Workshop Minutes – September 15, 2011*
- C. *City Commission Tentative Budget Hearing Minutes – September 15, 2011*
- D. *City Commission Regular Meeting Minutes – September 19, 2011*
- E. *City Commission Final Budget Hearing Minutes – September 19, 2011*
- F. *Event Application – Clewiston High School Homecoming Parade – October 21, 2011*
- G. *Moved to discussion item 4B*
- H. *Declaration of Surplus Equipment – Engines 4 & 7 (pumper trucks), Command 3 (2000 Crown Vic)*
- I. *Appointment of Pablo LLosas as alternate member of Citizens Advisory Task Force*
- J. *Event Application – Tiger Boosters waiver of fees for JBB Auditorium*

Commissioner Pittman made a motion, seconded by Commissioner Gardner, to approve the Consent Agenda. Vote 5 yeas, 0 nays.

PUBLIC HEARINGS

- 2. Ordinance No. 2011-03 – Final Reading** - This ordinance amends Chapter 14 of the City Code regarding animals, Article 1. In general, Section 14-1 of the City designation of a Bird Sanctuary and deleting the prohibition on carrying a gun or rifle within the Bird Sanctuary. Mayor Miller opened the public hearing and asked the City Manager to summarize Ordinance 2011-03, read the Ordinance by title and state the advertising information. City Manager McKown stated the Ordinance will put the City in conformance with the State Statute regarding carrying a firearm. He then read Ordinance 2011-03 by title and stated the public hearing was advertised in the Clewiston News on October 6, 2011. There being no comments from the audience or Commission, Mayor Miller closed the public hearing.

Commissioner Pittman made a motion, seconded by Commissioner Joseph Miller, to adopt Ordinance No. 2011-03 on final reading. Vote 5 yeas, 0 nays.

3. **Ordinance No. 2011-02** – This is the first of two public hearings on Ordinance No. 2011-02 which amends the City of Clewiston Comprehensive Plan. When approved on final reading, the amendments will be sent to the State Land Planning Agency and reviewing agencies under the State Expedited Review process.

Commissioner Gardner made a motion, seconded by Commissioner Rodriguez, to table this item. Vote 5 yeas, 0 nays.

MISCELLANEOIUS ACTION AND DISCUSSION ITEMS

4. **Hato Potrero Draft Sales Agreement** – City Manager McKown stated the representative from Hato Potrero that he has been dealing with had a death in the family and Mr. Perez is out of town so we have not been able to get the financial information requested. Mr. Perez has engaged an attorney and he has stated he has reviewed the sales agreement and suggested we change the agreement to the amount actually spent, instead of \$400,000. The 10% down payment would still be based on the \$400,000 figure. Mr. McKown stated that tonight we are asking for conditional approval of the agreement so the attorneys can work out the language. City Attorney Schoech stated that we can change the language to not to exceed \$400,000 for now and then amend it to the actual cost. The consensus of the commission was for City Attorney Schoech to continue to work on the sales agreement with Mr. Perez and his attorney, and to call a special meeting for approval of the agreement if it is ready before the next regular Commission meeting on November 21.

- 4B. **Atalla's Quick Stop Reduction of Lien** – (Item moved from consent agenda) – City Attorney Schoech stated that the City has an appointed Special Magistrate to hear code violations. Mr. Schoech explained the process as follows: Violators are ticketed by the Code Enforcement Officer and if they do not come into compliance, they must appear before the special magistrate. The magistrate hears the case and gives the violator a certain number of days to correct the violation, and if it is not corrected, the magistrate imposes a fine. If the violator does not pay the fine, a lien is placed on the property. Each day is a separate violation, and the fine accrues until the property is brought into compliance. Mr. Schoech stated the City Commission has the authority to reduce the lien amount, but there are other fees and costs involved that cannot be reduced or waived. He stated the commission cannot rehear the case, but should take into consideration the recommendation of the magistrate because he heard all of the testimony, and you naturally assume there is merit to his recommendation. The Commission can reduce the lien, eliminate it, or let it remain the same. Commissioner Gardner stated she wants people to be in compliance, but if we continue to waive the fees, our program will not have the teeth we want it to have and she does not favor reducing the lien amount to anything less than \$1,000. Mayor Miller stated he feels the program has worked well and he is in favor of accepting the recommendation of the magistrate. He stated that the magistrate made his ruling knowing all of the facts about the violation.

Commissioner Gardner made a motion, seconded by Commissioner Pittman, to reduce the lien amount to \$900.00 (\$300 for the administrative fees and \$600 for the fine). Vote 3 yeas, 2 nays. (Mayor Miller and Commissioner Joseph Miller voted nay)

- 4-C. **Declaration of Basilan Crescent as Surplus Property** – City Engineer Tommy Perry explained where the surplus property is on Basilan Crescent and that the property would be divided amongst the adjoining property owners. Mr. Perry stated he does not see that the street could be extended because of the school property. One of the current owners of the adjoining property wants to extend their day care center and needs the additional property to do so. City Attorney Schoech stated we must follow a process as the City received the property at no cost and it is platted as a public right-of-way. The City can proclaim it is no longer needed and abandon the plat and the abutting property owners take possession of it. Mr. Schoech stated we must advertise the abandonment twice and have a public hearing. Mr. Schoech stated that as an abutting property owner, Commissioner Pittman cannot vote on this issue.

Commissioner Gardner made a motion, seconded by Commissioner Rodriguez, to authorize the City Manager, City Engineer, and City Attorney to move forward with an Ordinance to accomplish the abandonment of the surplus property. Vote 4 yeas, 0 nays. (Commissioner Pittman abstained)

5. **Departmental Monthly Activity Reports** – Presented for information only.
6. **Recreation Department Presentation** – Recreation Director gave an informational presentation on the various parks and properties of the Department.

FINANCIAL REPORT FROM THE FINANCE DIRECTOR – Finance Director Byrd stated that at year end the City had \$191,000 revenues over expenses.

REPORTS FROM CITY MANAGER – City Manager McKown stated that he had looked into the sexual predator concern that had been brought up at the Workshop. Mr. McKown stated that there are 7 offenders and 2 predators listed on the FDLE site residing in Clewiston. Police Chief Gutshall gave the different aspects of what is considered offender and what is considered predator. City Manager McKown stated these people are visited three times per month by various law enforcement personnel. He stated only one is questionable as to their residence being too close to children and his probation officer will be notified.

REPORTS FROM THE CITY ATTORNEY – Mr. Schoech added to the right-of-way abandonment issue stating that the City should recoup our costs for advertising, legal, etc and that these costs should be charged to the petitioner.

REPORTS FROM THE CITY COMMISSION – The City commission will have a recreation workshop on November 17 at 4:00 p.m.

Commissioner Joseph Miller made a motion, seconded by Commissioner Pittman, to reconsider the Tiger Boosters waiver of fees for the John Boy Auditorium. Commissioner Joseph Miller stated he was under the impression that we did not waive all fees for events at the auditorium. Recreation Director Ramer stated that too was his understanding as a couple of years ago, the City was losing money with all of the fee waivers for events at the auditorium.

Commissioner James Pittman made a motion, seconded by Commissioner Gardner, to charge the Tiger Boosters the non-profit fee of \$500, plus their actual security costs. Vote 5 yeas, 0 nays.

Adjournment:

The meeting was adjourned at 8:10 p.m.

Richard Miller, Mayor

Marilyn McCorvey, City Clerk