

**CITY OF CLEWISTON**  
**Regular Commission Meeting**  
**December 17, 2012**

The City of Clewiston City Commission held its regular Commission meeting in the City Hall Commission Chambers Monday, December 17, 2012. The meeting was called to order at 6:15 p.m. by Mayor Phillip Roland.

**Attendance:**

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

**Personnel Present:** Finance Director Ted Byrd, Police Chief Don Gutshall, City Clerk Marilyn McCorvey, Recreation Director Lance Ramer, Golf Course Director Adolfo Pena, Community Development Director Travis Reese, Public Works Director Sean Scheffler, City Attorney Charles Schoech, and Karen Moore.

**Visitors Present:** Cindy & Tracy Bethea, Jerry Cochran, Asa & Betty Godsey, Denise Hatton, John Hicks, Christine Howell, Donald Hughes, Pepe Lopez, Paula Pittman, John Polhill, Curtiss Pullen, Sherida Ridgdill, Mercedes Vary, Christy Vaughan, and John Wellslager.

**ADDITIONS/DELETIONS/CHANGES AND APPROVAL OF THE AGENDA** – Interim City Manager Gutshall asked that the Scott Martin Challenge be added to the Agenda as Item 15(B). The Commission agreed to the additions.

**PUBLIC COMMENTS**

Sherida Ridgdill came forward to speak and stated that in 2008, the City Commission reviewed a Charter written mostly by the City Manager which was ratified by the voters, and in 2012 the Charter was again reviewed thoroughly by a Charter Review Committee and ratified by the voters. Ms. Ridgdill urged the Commission to go through an orientation which should include the Employee Handbook, ordinances, the Sunshine Law and the City Charter. Ms. Ridgdill stated she was honored to sit on the Charter Review Committee and no lack of effort was present. She felt that the Committee did their homework and their duties. Ms. Ridgdill cited sections of the Charter relating to the Commissioner's duties and the qualifications of the City Manager.

John Polhill came forward and stated he has a mosquito problem. He does not think he is receiving good mosquito control and has not heard an airplane in over a year. Mr. Polhill asked if the program had changed. Public Works Director Scheffler stated under the contract with Fleming Pest Control, the parameters are different than they were with Clark. Mr. Scheffler stated mosquito problems have ebbs and flows, but encourages the public to call Public Works if they have a problem as applications are largely complaint based.

Mercedes Vary of the Active Citizens for Children came forward to speak. She stated she was happy to see the Commissioners at the Winter Wonderland and stated they had a large crowd. Ms. Vary stated they had the new park's name whittled down to three and she wanted the Commission's preference for the name. The three names being considered are: Sugartown Playground, Sweet Town Playground, and Woodworks Park II. The Commission asked this item be put on the January agenda.

Jerry Cochran came forward to speak on the Bethea problem and stated the fact remains that Mr. Bethea put an oversized structure on City property. Mr. Cochran thought Mr. Bethea should have been thankful for the prior ruling by the Commission, but he is back asking for another concession. Mr. Cochran did not feel any more accommodation should be granted to Mr. Bethea.

**RECOGNITION OF 2012 EMPLOYEES OF THE YEAR** – Jose Rojas – Police Department, Gabriel Puente - Public Works, Mayra Bautista – Utilities Department, and Joseph Kane – City Wide.

**1. Consent Agenda**

- A. *City Commission Workshop Minutes – November 15, 2012*
- B. *City Commission Meeting Minutes – November 19, 2012*
- C. *City Commission Special Meeting Minutes – November 26, 2012*

- D. *City Commission Special Meeting Minutes – December 3, 2012*
- E. *Approval of 2013 Commission Meeting Schedule*

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

### **PUBLIC HEARINGS**

2. **Variance Request – This item was continued from the November 19, 2012 Commission meeting** – Neil Wallace of 520 Ponce de Leon Ave is requesting a variance to the minimum side set back requirements in order to construct an addition to the existing garage. The current home is located 6 feet from the south property line, making it a legal non-conforming structure. City Attorney Schoech swore in individuals who were going to speak on this item. Mayor Roland continued the Public Hearing. The members of the Commission posed several questions to Mr. Wallace regarding the structure and the drawing which appeared to add a second level. The Commission agreed part of the problem is they do not have a set of plans to really evaluate the addition.

Jerry Cochran stated he felt Mr. Wallace was trying to do the right thing. He stated this variance is the reason we have zoning regulations and there are certain criteria that must be met for rezoning and he does not think this request meets any of the requirements. Mr. Cochran felt at the very least, the request should be sent back to the Planning & Zoning Board.

City Attorney Schoech stated that if zoning boards looked at the letter of the law when granting variances, very few would be granted. The Commission has to decide whether to apply the letter of the law or the spirit of the law.

Pepe Lopez stated the reason this variance is being considered is to get rid of the cars. The Commission might be approving something that could be gone with a new owner. Mr. Lopez stated he would like to see something visual.

There being no further comments, Mayor Roland closed the public hearing.

**Commissioner Rodriguez made a motion, seconded by Commissioner Gardner, to remand this variance request back to the Planning & Zoning Board and require a rendition of the addition. Vote 5 yeas, 0 nays.**

### **RESOLUTIONS**

3. **Resolution No. 2012-18** – This resolution adopts a budget amendment to establish a budget for USDOJ grant award in the amount of \$23,204.00.

**Commissioner Miller made a motion, seconded by Commissioner Gardner, to approve Resolution No. 2012-18. Vote 5 yeas, 0 nays.**

### **MISCELLANEOUS ACTION AND DISCUSSION ITEMS**

4. **Resolution No. 2012-19** – This DRAFT resolution establishes the basis for the golf course advisory committee. This item is for discussion and changes to the resolution. The meetings of the advisory board will be ruled under the Sunshine Laws. Commissioner Miller feels that non-members should be part of the Committee. Golf Course Director Pena stated that the majority of the non-members play during the winter season. The final Resolution will be on the January agenda for approval.
5. **Discussion of Tracy Bethea Code Violation Located at 923 North Berner Road.** – At the April 16, 2012 Commission meeting, the Commission approved that Mr. Bethea would be allowed to keep his carport located on City property if seven (7) provisions were met. One of those provisions was a \$2 million liability insurance policy. Mr. Bethea has been unable to meet the provisions set forth by the Commission. Mr. Bethea stated he can obtain \$1 million of insurance on the property but he cannot afford the \$2 million. He stated he has not gotten a letter from the Drainage District either. Commissioner Gardner stated she supported this item in April with the seven requirements, but she is not in favor of reducing the liability amount. Commissioner Gardner stated that her feelings are that if all of the requirements are not met in

ten (10) days, she is not in favor of continuing the special provisions given by the Commission. City Attorney Schoech stated the \$2 million dollar figure was chosen because of sovereign immunity limitations. Community Development Director Reese stated there is also another problem with the structure as it exceeds the maximum square footage allowed in the area. Mr. Bethea agreed that he will move the structure to his property.

6. **New Harvest Ministries Sewer Connection** – New Harvest Ministries is in the process of obtaining the necessary permitting to construct a new building at their current location at 360 Holiday Isles Drive and is requesting the City to grant permission for the existing building and new building to be connected to the City sewer system.

**Commissioner Pittman made a motion, seconded by Commissioner Gardner, to approve the request and grant permission to move forward with a letter granting permission to connect to our sewer system to New Harvest Ministries, contingent upon an executed contract to be presented at a future Commission meeting and payment of appropriate assessments. Vote 5 yeas, 0 nays.**

7. **Lien Reduction – Greg Westberry** – Greg Westberry purchased the property previously owned by James & Kristy Durance which had accumulated a lien of \$4,500. Mr. Westberry appeared before the Special Magistrate on November 29, 2012. Special Magistrate Watt recommended reducing the lien from \$4500 to \$0, with Mr. Westberry reimbursing the City for all recording fees. Community Development Director stated the reason for Mr. Watt's decision was the change in ownership.

**Commissioner Gardner made a motion, seconded by Commissioner Rodriguez, to reduce the lien from \$4500 to \$500 to cover fees and costs. Vote 5 yeas, 0 nays.**

8. **Lien Reduction – Lawrence Gamer** – Mr. Gamer's son, Nick, appeared before the Special Magistrate on November 29, 2012. Special Magistrate Watt recommended reducing the lien from \$3800 to \$1500. Community Development Director Reese stated the reason Mr. Watt did not reduce the lien further was there was no change in ownership of the property. There are currently no code violations on the property. Commissioner Gardner stated she would support lowering the lien to \$1900.

**Commissioner Pittman made a motion, seconded by Commissioner Miller, to reduce the lien from \$3800 to \$1500. Vote 4 yeas, 1 nay. (Commissioner Gardner voted nay.)**

9. **City Manager Job Description and Advertising** – City staff seeks direction of the qualifications and experience the Commission wants to see in these. Commissioner Gardner stated that it is her feelings that equivalent experience should be considered instead of a degree. Commissioner Miller stated he feels we owe our citizens a qualified city manager and most of those are members of ICMA and he does not think we should accept anything less. Commissioner Miller does not feel that the City should weaken the education or professional experience requirements. Commissioner Gardner stated that for the last ten years, the Commission has brought in people and she has been asked why we don't hire locals in our top position. She stated she knew a lot of people who work for the City and elsewhere that do not possess degrees. Commissioner Pittman stated that he hoped we could hire someone that was more local, but a degree is preferable, but he would welcome anyone who believes they have equivalent experience to turn in an application. Commissioner Rodriguez stated we interviewed a lot of people with credentials and degrees and the one we hired was more concerned about what he would get when he left. Commissioner Miller stated that ICMA felt we might fall into cronyism if we don't look for the most qualified, educated person.

Sherida Ridgdill stated the Commission should consider the qualifications listed in the Charter, but could evaluate those qualification any way they wish. She stated the city manager position is not a light duty position and it would be a daunting task for anyone with no municipal experience. Ms. Ridgdill stated there is a big difference in running a business and running a city. Ms. Ridgdill stated there are a lot of city or county administrators looking for a job and the City should recruit the brightest and the best. She urged the Commissioners to think long and hard before they lower the standards for a city manager, if anything, she recommended raising them. Ms. Ridgdill asked if the Commission might consider a committee that could

make recommendations to them on what the requirements should be and encouraged the Commission to contact the Florida League of Cities or ICMA and really look hard at what the requirements would be for a City with a budget the size of Clewiston's.

Raoul Ballater stated that the city manager serves at the pleasure of the Commission. He stated further there is a provision in the Charter which states subject to provisions of a contract agreement. Mr. Ballater stated there should be an understanding that the city manager serves at the pleasure of the Commission.

Commissioner Gardner stated she has been on the Commission for a long time, but education is not the end all for the job. Commissioner Rodriguez stated the City needs someone that will go to the Commission for direction and advice.

**The consensus of the Commission was to add the wording "or equivalent experience" to the ad and send to the Commission for approval.**

- 10. Utilities Director Job Description and Advertising** – City staff seeks direction on the qualifications the Commission desires for this position. Lynne Mila, Compliance Manager, came forward to give the Commission a summary of FMPA and what they might be able to do for Clewiston during the absence of a utility director. Ms. Mila stated that FMPA is a wholesale power agency created through interlocal agreement and 31 cities own FMPA. FMPA does not supply engineering services to individual municipalities. Ms. Mila stated that FMPA will help us find potential candidates and filter candidates for the utility director position.

**The consensus of the Commission was to ask FMPA to fine tune our job description before advertising.**

- 11. Pension Plan Evaluations** – The City received 14 proposals for the administration of the City's pension plan. Staff does not have the expertise to evaluate the proposals. City Attorney Schoech recommends that the City hire a pension attorney. Mr. Schoech stated he has spoken to Bonni Jensen who represents many municipalities in south Florida and he will contact her if the Commission desires.

**Commissioner Gardner made a motion, seconded by Commissioner Pittman, to retain the services of Bonni Jensen as pension attorney. Vote 5 yeas, 0 nays.**

- 12. City Engineer Discussion** – This item was postponed from the November 19, 2012 meeting. Commissioner Rodriguez stated he asked this item be put on the agenda. Commissioner Rodriguez stated that City Engineer Tommy Perry is not here tonight, but this is his 10<sup>th</sup> year on the Commission and he has not been happy with Mr. Perry. He feels Mr. Perry's work is slow which has made projects run behind and it is his belief that Mr. Perry allows his personal and political views dictate his actions. Commissioner Rodriguez would like for the City to prepare an RFP for engineering services. Commissioner Rodriguez stated he had spoken to Mr. Perry and that he agreed with him. Commissioner Miller stated that performance wise, Mr. Perry may be slow, but his personal and political views should not come into play. Commissioner Pittman stated that Mr. Perry is a humble man, and he is as honest as the day is long. He further stated that Mr. Perry may be slow, but his knowledge of the City is second to none. City Attorney Schoech stated that the RFP must go through the CCNA rules.

Christy Vaughn stated she felt it was in very poor form for the Commission to vote on the City engineer without his presence.

Scott Jones of Johnson Prewitt came forward and stated they enjoy being the City engineer and as their workload varies, they may be behind sometimes. He stated that the good thing is they are a local firm and when City employees stop by with a problem they go out and solve it. Mr. Jones stated their firm does serve at the pleasure of the Commission and if the Commission is not happy with their services, they should go out for proposals. Finance Director Byrd stated going out for the RFP is a good idea as that should be done for every service. Mr. Byrd stated it seems like the City uses Johnson Prewitt for all of our needs with the exception of large projects. Mr. Byrd believes the City Engineer should be here for review for the Commission and as large projects come up, they may or may not be awarded to the City engineer.

Raoul Ballater stated the county changed their policy so they spread projects around to specialty engineers.

**Commissioner Rodriguez made a motion, seconded by Commissioner Gardner, to prepare an RFP for City Engineer. Vote 3 yeas, 2 nays. Commissioner Miller and Commissioner Pittman voted nay.)**

- 13. City Attorney Discussion** – This item was postponed from the November 19, 2012 meeting. Commissioner Gardner stated that she does not believe we should go out for RFP's all at one time. Commissioner Gardner feels we need continuity at this time. Commissioner Rodriguez stated he asked for this to be brought up and he thinks City Attorney Schoech is a great attorney, but feels there were mistakes made under Mr. Schoech's watch to the tune of \$400,000. City Attorney Schoech stated when a situation reaches the point where he has fallen out of favor with three commissioners, the City will not have to fire him, he will resign. Mr. Schoech stated he gives legal advice but his advice is not always followed. Commissioner Gardner stated she wants to hear legal advice, even if the City Manager does not agree, give the Commission the advice. Mayor Roland stated he holds the attorney responsible for contracts.

**Commissioner Rodriguez made a motion to terminate City Attorney Schoech's services. Motion died from lack of a second.**

**Commissioner Gardner made a motion to table this item for three (3) months. Motion died for lack of a second.**

- 14. Appointee to the TDC** – Commissioner Miller asked this item be put on the agenda. The TDC appointee has traditionally been the Mayor.

**Commissioner Gardner made a motion, seconded by Commissioner Pittman, to appoint Mayor Roland to the TDC. Vote 5 yeas, 0 nays.**

- 15. Acceptance of Name of North Francisco** – This item was tabled from the November 19, 2012 meeting. Denise Hatton, President of the Chamber of Commerce, came forward to speak on this and stated she understands that the renaming was not done the way the Commission would have liked. Ms. Hatton stated the name Big O Blvd was chosen, but the Chamber will submit to the will of the Commission and will support the Commission's decision. Ms. Hatton stated the Chamber was transparent as to what they were doing during the renaming process. Staff was directed to look into a couple of ideas for directions to the Lake and bring back to the Commission in January.

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

- 15(B) Scott Martin Challenge Proposal for 2013** - Scott Martin came forward to speak on this and stated he enjoys promoting the City of Clewiston and had conversations with the previous City Manager and Mayor in regards to the continuation of the relationship. Mr. Martin stated he is asking for \$20,000 this year which is a \$5,000 increase. Mr. Martin stated Lake Okeechobee is ranked the #2 Lake in the county and we have a wonderful opportunity to move it to #1. He stated a total of 3 of the shows will be shot on Lake Okeechobee. Mr. Martin stated the cost of air time has gone up and he is giving the City the very best deal he can. He stated the City is paying 33% of the value of the sponsorship he is offering.

Finance Director Byrd stated the City has already paid \$3,000 of the \$20,000 but he had not found it in the budget. Commissioner Miller stated he had met with Mr. Martin and went over the contract and it was his intention to bring it to the Commission, but apparently it slipped through the cracks. The Commission fully supports Mr. Martin's efforts in promoting the Lake. (Staff has subsequently found that this was budgeted in the Utility Department budget.)

**Commissioner Gardner made a motion, seconded by Commissioner Miller, to approve the Scott Martin Challenge contract and authorize the Mayor to sign. Vote 5 yeas, 0 nays.**

**REPORTS FROM THE CITY COMMISSION** – Commissioner Rodriguez stated that some of the audience may not share his philosophy and may disagree with him, but when he was elected, it was up to him to make the best decisions he could on the citizen’s behalf. He has the best interest of the citizens in mind every time he comes to a meeting. Commissioner Miller stated that Commissioners can disagree and still be friends. Commissioner Miller stated it appears there is a movement to clean house and he believes our City has been run very well and the City department heads are doing more with less and it is his feeling that the former City Manager did a great job. Commissioner Miller wants the Commission to get beyond personal issues. Commissioner Pittman wished everyone a Merry Christmas and he is looking forward to the new year. Commissioner Gardner stated she appreciates the public participation and looks forward to hearing from our citizens. Mayor Roland thanked the Commissioners for their support in making him Mayor and also thanked the citizens for their participation.

**Adjournment:**

The meeting was adjourned at 9:55 p.m.

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Phillip Roland, Mayor

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Marilyn McCorvey, City Clerk