

**CITY OF CLEWISTON
Regular Commission Meeting
October 19, 2015**

The City of Clewiston City Commission held its regular Commission meeting in the City Hall Commission Chambers Monday, October 19, 2015. The meeting was called to order at 5:00 p.m. by Mayor Phillip Roland. In celebration of Florida City Government Week, the Clewiston High School Public Safety Academy presented the colors and Vice Mayor Petersen said an opening prayer.

Commissioners Present: Mayor Phillip Roland, Vice Mayor Kristine Petersen, Commissioner Mali Gardner, Commissioner Sherida Ridgill, and Commissioner Julio Rodriguez.

Personnel Present: City Manager Al Perry, City Clerk Shari Howell, Police Chief Don Gutshall, Finance Director Ted Byrd, Code Enforcement Officer Debbie McNeil, Recreation Director Lance Ramer, Public Works Director Sean Scheffler, Community Development Director Travis Reese, Utilities Director Danny Williams, City Engineer Tommy Perry, Scott Jones, Karen Moore, Debbi Towner, Lynne Mila and City Attorney Charles Schoech.

Visitors Present Asa and Betty Godsey, Donald Hughes, Pepe Lopez, Curtiss Pullen, Pedro Diaz, Phil Flood, Melanie McGahee, Antonio Perez, Juan Cardenas, Laura Smith, Christopher Vary, Melissa Carter, Miranda Waddell, Melissa Beltz, Raoul Bataller

ADDITIONS/DELETIONS/CHANGES AND APPROVAL OF THE AGENDA – none

1. Consent Agenda

A. City Commission Tentative Budget Hearing Minutes – September 17, 2015

B. City Commission Workshop Minutes – September 17, 2015

C. City Commission Minutes – September 21, 2015

D. City Commission Final Budget Hearing Minutes – September 28, 2015

E. Special Event Application – Crowning of Miss US Latina Jocelyn Martinez – Latin Street Festival to be held on Bond Street on Sunday, November 8, 2015

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

PUBLIC HEARING

- 2. Ordinance No. 2015-03 – Final Reading** – Ordinance No. 2015-03 amends section 74-115 – Fee on electrical accounts levied for mosquito control. The purpose for this ordinance is to enable the Commission to establish a mosquito fee by resolution. Mayor Roland opened the public hearing by stating the purpose of the public hearing was to discuss and accept input from all interested parties relative to the adoption of Ordinance No. 2015-03. He asked that all citizens desiring to speak on the matter identify themselves by name and address. He stated all public comments would be incorporated into the official minutes of the meeting. City Manager Perry summarized Ordinance No. 2015-03 and read it by title. Mr. Perry stated the public hearing was advertised in the Clewiston News on October 8, 2015. Mayor Roland closed the Public Hearing.

Vice Mayor Petersen made a motion, seconded by Commissioner Gardner, to approve Ordinance No. 2015-03 amending section 74-115 – fee on electrical accounts levied for mosquito control. Vote 5 yeas, 0 nays.

- 3. Variance Request** - Omar and Pedro Diaz are requesting a variance to the yard requirements for the property located at Central Avenue, Lots 41 to 43 and Lot 44, Block 423, General Plan of Clewiston. The Planning and Zoning Board met on October 5, 2015 and recommends approving the variance request as presented. Mayor Roland opened the Public Hearing by stating the purpose of the public hearing was to discuss and accept input from all interested parties relative to the modified variance request to the yard requirements for construction of a four (4) unit apartment building on Central Avenue, Lots 41 to 43 and Lot 44, Block 423, General Plan of Clewiston from Omar and Pedro Diaz. He asked that all citizens desiring to speak on the matter identify themselves by name and address. He stated all public comments would be incorporated into the official minutes of the meeting. City Manager Perry stated the request was to reduce the lot area requirement for four (4) units from 12,000 square feet to 10,500 square feet, and to

reduce the rear yard setback from 20 feet to 6 feet and the ground coverage area from 40% to 42.3%. He said the property was zoned R3 multi-family and that the public hearing was advertised in the Clewiston News on August 27, 2015. He noted that at the September 21, 2015 City Commission meeting, the Commission considered an original modified request from Pedro Diaz; the Commission voted to send the original modified request back to the Planning and Zoning Board for review. He stated no further notice was mandated for this request. Mayor Roland asked for any public comments relative to the issue. Since the public hearing was regarding land use and was quasi-judicial in nature, City Attorney Schoech swore in all those testifying on the matter. Vice Mayor Petersen abstained from discussion and voting on the issue as Mr. Diaz had recently provided a donation to the uniform fundraising efforts of her Clewiston High School class. Commissioner Gardner stated that after thoroughly reviewing the information provided to the Commission by City Attorney Schoech regarding guidelines for hardships, and after reviewing the request from Pedro and Omar Diaz, she would not be able to support the variance request. She stated she did not believe this was a hardship resulting from the peculiarities of the property but that it was a self-created hardship resulting from the plan that had been submitted for consideration. Commissioner Ridgdill asked if the applicants could build up in order to build a four (4) unit structure. Community Development Director Reese said this could be done, but it would be limited to thirty-five (35) feet; a two (2) story building could be erected. Mayor Roland stated he felt the project submitted for consideration did not appear to be out of line when considering the surrounding properties. Commissioner Rodriguez felt the applicants should be given the same consideration as the Greentree project or the recent applicants on Avenida del Rio. He said he believed the Commission needed to take a stand regarding variance requests as they pertained to meeting the criteria necessary for meeting a hardship, but felt it did not have to begin with this particular request; he felt the Diaz project was a good project. Commissioner Gardner stated she was not in agreement with some of the comments Commissioner Rodriguez had made concerning the issue. She stated that in regards to the two (2) requests he mentioned in his comments, the Avenida del Rio request had been due to a peculiar lot size and the Greentree request was for a public purpose and was not injurious to the surrounding area. She noted it was not easy to say no, but she felt the request did not meet the standard for granting a variance; she could not support it. She said the City did need to review all zoning. Commissioner Ridgdill agreed the Avenida del Rio request had been granted due to the peculiar lot size of the property and that the Greentree request had been granted because it provided the public purpose of senior housing and had been granted with certain stipulations pertaining to change of property use should that ever occur. Director Reese explained that each time an applicant submitted a variance request, they had to show the six (6) criteria needed for a variance had been met by answering questions contained in the application request. He also stated that each time the Planning and Zoning Board reviewed a variance request, they took into consideration the criteria required to be present for a hardship. Pedro Diaz, 204 South San Gabriel, explained the property was inherited from his grandfather and had been in his family for over twenty-five (25) years. He said he had done a project on Bond Street and had decided to do one on Central Avenue since the mobile homes on the street would be phasing out. Mayor Roland inquired as to whether or not Mr. Diaz had received a variance on the Bond Street project. It was noted that he had. Commissioner Gardner felt the issue was totally different and to her recollection the property on Bond Street met the criteria for a hardship. Mr. Diaz inquired about the process of possibly changing the zoning of the property since he said this had been discussed at a previous meeting. City Attorney Schoech explained this could be done by the process of an ordinance. Commissioner Gardner stated, for the record, she was in agreement that the Commission needed to review all of the City zoning, but as it related to this request, she was not in favor of "putting the cart before the horse" and felt a zoning review was in order for another time. Laura Smith, 206 Ridgewood Avenue, came forward and stated that a two story unit would still need a variance for the lot area requirement. She said her biggest fear concerning this request was the density; there was nowhere for children to play and the nearest park was over four blocks away. She said there were many lots in Clewiston that will be coming up with the same issues and she felt once the Commission set the precedent they couldn't go back. She agreed that the Commission needed to review the City's zoning and said she knew they would. Mayor Roland closed the public hearing.

Commissioner Rodriguez made a motion to approve the request, as presented, for variances to the yard requirements for construction of a four (4) unit apartment building on Central Avenue, Lots 41 to 43 and Lot 44, Block 423, General Plan of Clewiston. Motion died due to lack of a second.

Commissioner Gardner made a motion, seconded by Commissioner Ridgill, to deny the request, as presented, for variances to the yard requirements for construction of a four (4) unit apartment building on Central Avenue, Lots 41 to 43 and Lot 44, Block 423, General Plan of Clewiston. Vote 2 yeas, 2 nays. Commissioner Rodriguez and Mayor Roland voted nay. Vice Mayor Petersen abstained from voting as Mr. Diaz had recently provided a donation to the uniform fundraising efforts of her Clewiston High School class.

Commissioner Rodriguez made a motion, seconded by Mayor Roland who had previously passed the gavel to Vice Mayor Petersen, to approve the request, as presented, for variances to the yard requirements for construction of a four (4) unit apartment building on Central Avenue, Lots 41 to 43 and Lot 44, Block 423, General Plan of Clewiston. Vote 2 yeas, 2 nays. Commissioner Gardner and Ridgill voted nay. Vice Mayor Petersen abstained from voting as Mr. Diaz had recently provided a donation to the uniform fundraising efforts of her Clewiston High School class. Motion failed.

- 4. Variance Request** – Christopher Vary is requesting a variance to the yard requirements for construction of an open front porch for the property located at 416 East Osceola Avenue, Block 168, East ½ of Lot 15; all of Lots 16 - 17, General Plan of Clewiston. The Planning and Zoning Board met on October 5, 2015 and recommends that the variance be approved with the condition that the porch never be enclosed. Mayor Roland opened the Public Hearing by stating the purpose of the public hearing was to discuss and accept input from all interested parties relative to the variance request to the yard requirements for construction of an open porch at 416 East Osceola Avenue, Block 168, E ½ of Lot 15; all of Lots 16 & 17, General Plan of Clewiston from Christopher Vary. He asked that all citizens desiring to speak on the matter identify themselves by name and address. He stated all public comments would be incorporated into the official minutes of the meeting. City Manager Perry stated the request was to reduce the front yard setback from 30 feet to 25.78 feet to allow for construction of an open porch. He stated the property was zoned R-1B and the public hearing was advertised in the Clewiston News on September 24, 2015. Mayor Roland asked for any public comments relative to the issue. Since the public hearing was quasi-judicial in nature, City Attorney Schoech swore in those testifying on the matter. Community Development Director Reese noted the only previous variance granted for the property had been granted for an accessory structure. It was asked if the project would encroach further than any of the other surrounding properties; Director Reese stated he believed it would not. Christopher Vary, 416 East Osceola Avenue, stated the size of the porch would be eight (8) feet wide by fourteen (14) feet long. He said he was adding an addition to the house and felt the porch would balance it out. He said presently all the front entrance had was a concrete pad, making it difficult to prevent getting wet while entering the home when it was raining. Commissioner Gardner stated she would not be supporting Mr. Vary's variance request, noting it was the second time he had come before the Commission seeking a variance on this property. She said she felt like the Commission could not continue to grant variances every time a property owner wanted to make modifications. She said she could see granting his first request regarding an accessory structure due to the nature of the way the home was built on the lot and the placement of the driveway, but she could not support an additional variance for the property. Mr. Vary stated his lot was shorter and narrower than the standard lot size and that was something he could not change because he could not move his house. Commissioner Rodriguez stated that he would be in support of Mr. Vary's request, but it was not a hardship. He said he was surprised that no one spoke out regarding Mr. Vary encroaching setbacks. He said he felt the Commission was definitely sending a message tonight regarding variances; if the criteria required for a variance could not be met the request would be denied. He said he did not have a problem with this going forward; he was not happy with the process. He said as long as he was on the Commission the criteria required would apply for a variance. Commissioner Gardner stated she was voting no to the two (2) variance requests tonight because she felt the first request was a self-imposed hardship and the second because a variance had previously been granted on the property. She said she did not feel a property should grow by variance request. Mayor Roland closed the public hearing.

Commissioner Rodriguez made a motion (Mayor Roland passed the gavel to Vice Mayor Petersen), seconded by Mayor Roland, to approve the variance to the yard requirements for construction of an open front porch

for the property located at 416 East Osceola Avenue, Block 168, East ½ of Lot 15; all of Lots 16 - 17, General Plan of Clewiston. Vote 2 yeas, 3 nays. Commissioner Gardner, Commissioner Ridgill and Vice Mayor Petersen voted nay. Motion failed.

RESOLUTION

- 5. Resolution No. 2015-14** – This resolution revises the monthly mosquito control fee charged to the utility customers of the City from six dollars to seven dollars and provides an effective date. City Manager Perry read Resolution No. 2015-14 by title. Commissioner Gardner stated she was in favor of raising the mosquito fee by one dollar because it became evident during budget discussions that the solid waste and mosquito fees would need to be revised in order to meet the increased cost of providing the services

Vice Mayor Petersen made a motion, seconded by Commissioner Gardner, to approve Resolution No. 2015-14. Vote 5 yeas, 0 nays.

- 6. Resolution No. 2015-15** – This resolution endorses and supports the Hendry County Fair & Livestock Show, Inc. grant application to the Florida Department of Agriculture and Consumer Services (DACS) in the amount of \$750,000 for funding improvements to the Hendry County Fair & Livestock show arena and pavilion in Clewiston, incorporating the request into the 2016 Legislative priorities list for Hendry County, and providing for an effective date. City Manager Perry read Resolution No. 2015-15 by title.

Vice Mayor Petersen made a motion, seconded by Commissioner Gardner, to approve Resolution No. 2015-15 to support the Hendry County Fair & Livestock Show, Inc. grant application to the Florida Department of Agriculture and Consumer Services. Vote 5 yeas, 0 nays.

- 7. Resolution No. 2015-16** – This resolution adopts amendments to the budget for fiscal year 2015-2016 pertaining to the Library and FDLE Police grants. City Manager Perry read Resolution No. 2015-16 by title.

Commissioner Ridgill made a motion, seconded by Vice Mayor Petersen, to approve Resolution No. 2015-16. Vote 5 yeas, 0 nays.

MISCELLANEOUS ACTION AND DISCUSSION ITEMS

- 8. Consideration of Fee Waiver for Clewiston Tiger Boosters Tiger Growl Fundraiser Dinner and Dance** – This event will take place at the John Boy Auditorium on Saturday, November 21, 2015 and it will benefit the Clewiston Tiger Boosters, an organization created and known for providing support to the Clewiston school system athletic programs. City Manager Perry noted the Clewiston Tiger Boosters were now at a not for profit status. Melissa Carter, speaking on behalf of the Clewiston Tiger Boosters, expressed their appreciation to the City for their support of the Tiger Boosters' various fundraising functions over the years.

Commissioner Gardner made a motion, seconded by Vice Mayor Petersen, to charge the Clewiston Tiger Boosters the 501c3 non-profit rental fee of \$560 for the John Boy Auditorium with the understanding they would need to comply with the security detail and special event insurance requirements. Vote 5 yeas, 0 nays.

- 9. S-169 Structure – Cooperative Agreement between the City of Clewiston and the South Florida Water Management District** – This agreement acknowledges the desire of both parties to cooperate with regard to replacement structure, removal of S-169, and a replacement canal crossing at the old S-169 location and specifies each party's mutual covenants, promises and agreements in regards to this project. Attorney Schoech stated he had reviewed the agreement. Pepe Lopez presented the Commission with a rendering of a possible bridge location and the Commission discussed this option as well as others. Mr. Lopez explained the cost enquiry he had done regarding the bridge replacement. Phil Flood with South Florida Water Management District answered the Commission's questions regarding the project. He stated South Florida Water Management District was willing to work with the City and if there was anything the Commission would like to see modified in the agreement to let them know. He said the

agreement would need to be presented to his board as well. Commissioner Ridgill explained reservations she had regarding the agreement. Commissioner Gardner said since she had been on the Commission, in regards to working with South Florida Water Management District, they had always been willing to hear the City's concerns; she said they'd been great and she could not say enough about them or Mr. Flood. In reviewing the agreement, she said she too had reservations at first, but having learned City Attorney Schoech had reviewed the document and knowing it could be modified; she was confident in supporting the agreement tonight in light of the City's past relationship with the South Florida Water Management District.

Commissioner Gardner made a motion, seconded by Vice Mayor Petersen, to approve the S-169 Structure Cooperative Agreement between the City of Clewiston and the South Florida Water Management District. Vote 4 yeas, 1 nay. Commissioner Ridgill voted nay.

- 10. Decision regarding downtown parking** – At Thursday's Commission workshop, City Manager Perry explained a concept he had regarding the Community Re-development Agency (CRA) and downtown parking. He explained he had a discussion with Dr. Vann, who recently purchased the old theatre, "Happy Chef" and adjoining parking lot properties, concerning the parking lot purchased. It was City Manager Perry's thinking the CRA could purchase the parking lot from Dr. Vann for downtown parking and Dr. Vann could still use it for parking as well. Dr. Vann was not in favor of this idea as he felt if he ever had to sell the building; it would be easier to sell with the parking lot property included. Mr. Perry then explained he had discussed the possibility of a long term lease of the parking lot property with Dr. Vann. He said the CRA could share in construction and maintenance costs of the property. The lot would become downtown parking twenty-four (24) hours a day as well as parking for Dr. Vann's business. He noted Dr. Vann seemed receptive to this concept. He also said Johnson-Prewitt had some preliminary drawings of the parking lot. Commissioner Ridgill stated a lot of the City parking on Central Avenue and along the sides of the Clewiston Inn was underutilized because there was no signage encouraging it as City parking. She also expressed it was her opinion, when considering the codes as they pertained to the two buildings and the parking lot purchased by Dr. Vann, it would not be feasible to share the parking lot with Dr. Vann as the two buildings would require almost all if not all of the parking spaces available. At the Commission workshop, she said she was not in favor of aiding one business when there were other business properties with worse parking issues. Community Development Director Reese explained the downtown parking issue was at the top of the list of CRA priorities as it pertained to the development of the downtown area. During the discussion in the Commission meeting, Commissioner Ridgill stated she was very outspoken in speaking out against the CRA concept, but after having taken a tour around the area, she said she felt like the unpaved areas in the vicinity would continue to go unpaved until the buildings were sold, she said the area created an eyesore. She also said she would feel more comfortable if the City was able to purchase the parking area, but noted perhaps if this concept was explored the surrounding business owners could take part in refurbishing the area as well. She said perhaps knowing the area would be paved, they would be willing to come up with a paint scheme to utilize as a whole and paint the buildings in the area. Mr. Perry asked the Commission for authorization to speak with Dr. Vann regarding the concept to assure he was totally in agreement with it before it was taken to the CRA, and to arrange a CRA meeting for the concept discussion. Commissioner Gardner was in agreement with Commissioner Ridgill and stated she was in agreement with continuing this discussion.
- 11. Discussion of Tyler Software Implementation Progress** – Finance Director Byrd stated he had been working on spreadsheets in order to produce reports out of the software that would aid in preparing for the audit. It was noted, with the new staffing changes within City Hall, it had been difficult to move forward with the Tyler task.
- 12. Update on Code Enforcement** – Chief Gutshall stated the Special Magistrate Hearing was scheduled for November 18, 2015 and would include twenty-five (25) cases, nineteen (19) cases being non-compliance from the last hearing. He stated there were twelve (12) new cases that had been opened which would not meet the threshold for time by the hearing date. Commissioner Gardner asked that the November 18th Special Magistrate agenda be provided to the Commission. She also asked City Attorney Schoech if he had any discussions with the Code Enforcement staff regarding enforcing the codes as they pertained to recreational vehicles; he replied he had.
- 13. Departmental Monthly Activity Reports - Presented for information only.**

PUBLIC COMMENTS - At this time, any person will be allowed to speak on any matter that pertains to City business.

COMMENTS FROM CITY MANAGER – City Manager Perry stated he would like Scott Jones to address requesting Commission approval to pay for the Boat Basin Parking Rehabilitation Project awarded to Weekley Paving Asphalt. Mr. Jones said the project was finished and he recommended payment of the full project amount of \$31,783. Commissioner Gardner expressed reservations as to why this had not been added as a separate agenda item in order to open it up for discussion. City Manager Perry explained it was his initial understanding only ninety (90) percent of the project would be paid, but later had received a request to pay the project in full. It was noted it was within City Manager Perry’s authority to authorize up to ninety (90) percent of a project before bringing it to the Commission for final payment approval. City Engineer Tommy Perry stated if the Commission had any concerns regarding the project to please by his office and he would be happy to discuss them. Mayor Roland said he had observed the project over the last few weeks and felt it was not a very good example of workmanship.

Commissioner Ridgill made a motion, seconded by Commissioner Gardner, to allow City Manager Perry to pay (90) percent of the project and request the final ten (10) percent at the next Commission meeting, a time certain. Vote 5 yeas, 0 nays.

COMMENTS FROM THE CITY ATTORNEY

COMMENTS FROM THE CITY COMMISSION – Commissioner Petersen noted she had observed the configuration changes within the Police Department and the working teams that had been put together really seemed to “breathe fresh life” into the department. She stated she felt they were being very proactive. She used the recent homicide investigation the Police Department performed saying it was comparable to any large departments surrounding the area. The Commission was in agreement asking the Chief to continue to express their appreciation. Commissioner Gardner said she wanted to see a zoning review done and felt like it should not be taken lightly. She said perhaps the City needed to work with the Florida League of Cities regarding this issue and said it was important to see what other cities around the area were doing. She said she thought the present zoning had been in place since 1992. Commissioner Petersen said she wanted to schedule the second half of the Recreation workshop before tonight’s meeting adjourned. The workshop was scheduled for 5:00 p.m. on Monday, November 2, 2015. Commissioner Ridgill concurred with Mayor Roland’s comments regarding the workmanship of the Boat Basin Rehabilitation Paving Project. She asked for a copy of the bid documents for the project to be provided to the Commission. The Recreation Department’s upcoming Fall Festival was recognized to take place on Saturday, October 24, 2015 at the “Sugar Festival Grounds”. Recreation Director Ramer explained the events stating they were set to begin that day around 4:00 p.m. Commissioner Ridgill announced the “Putts Fore Pets Golf Tournament” that would take place on Saturday October 31, 2015. She explained the events and said the proceeds would benefit the Clewiston Animal Control Shelter.

Commissioner Ridgill addressed the Commission regarding the ten police cars budgeted in the current budget. She said, as a formality, the Commission needed a motion in order to address acquiring the police cars. She was cognizant of the fact this issue should have been a separate agenda item, but felt the matter should take precedence. There was some discussion pertaining to the financing of the police vehicles as they were budgeted as lease purchases. It was noted the cars would be acquired and the Commission would formally address any documents concerning financing.

Commissioner Ridgill made a motion, seconded by Commissioner Gardner, to authorize City Manager Perry to acquire the ten budgeted police cars, labeling the task a priority project, and stating the receipt of the cars should take place as soon as possible. Vote 4 yeas, 1 nay. Commissioner Rodriguez voted nay.

Commissioner Petersen addressed the Commission and audience regarding the recent homicide of past Clewiston High School student/athlete Expavious “Tyrell” Taylor at the Fort Myers “Zombiecon” event. She said the Clewiston High School FFA would be holding a fundraiser on Friday to aid the family with funeral arrangements. She noted any contributions would go directly to the family. Having known Mr. Taylor as a student, she expressed his traits of being an exemplary young man who had overcome great difficulties in losing both of his parents at a young age.

The meeting adjourned at 7:25 p.m.

Phillip Roland, Mayor

Shari Howell, City Clerk