

**CITY OF CLEWISTON  
Regular Commission Meeting  
June 20, 2016**

The City of Clewiston City Commission held its regular Commission meeting in the City Hall Commission Chambers Monday, June 20, 2016. The meeting was called to order at 5:00 p.m. by Mayor Phillip Roland.

Pastor Guillermo Russo of the First Baptist Church gave the invocation and the audience joined in reciting the Pledge of Allegiance.

**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, Interim City Clerk Kathy Combass, City Attorney Charles Schoech, Finance Director Shari Howell, Code Enforcement Officer Debbie McNeil, Community Development Director Travis Reese, Public Works Director Sean Scheffler, Police Lieutenant Aaron Angell, Police Lieutenant Mike Rowan, Recreation Director Lance Ramer, Library Director Ava Barrett, Utilities Director Danny Williams, Lynne Mila, Debbi Towner, Karen Moore and City Engineer Scott Jones

**Visitors Present:** Brent Kettler, Asa and Betty Godsey, Hillary Hyslope, Gaile Carter, Christine Howell, Donnie Hughes, Cindy Carroll, Toni Couse, Pepe Lopez, Jerry Cochrane, Ernesto Cordero, Frank Harris, Dr. Laura Jones, Raoul Bataller, Richard Phelps and Steve Gwinn

**ADDITIONS/DELETIONS/CHANGES AND APPROVAL OF THE AGENDA**

City Manager Perry requested Agenda Item Nos. 9, 11, 12, 14 and 15 be pulled from the Agenda.

**1. Consent Agenda**

- A. *Commission Workshop Minutes – May 12, 2016*
- B. *Commission Meeting Minutes – May 16, 2016*
- C. *Commission Meeting Minutes – May 23, 2016*
- D. *Approval of Exhibit A of FDOT Traffic Signal Maintenance and Compensation Agreement*

**Vice Mayor Petersen made a motion, seconded by Commissioner Ridgill, to approve the consent agenda and pull Agenda Item Nos. 9, 11, 12, 14 and 15 from the Agenda. Vote 5 yeas, 0 nays**

**PRESENTATION TO WALTER E. VAUGHN - HONORARY LIFETIME MEMBER OF THE CLEWISTON LIBRARY ADVISORY BOARD FOR HIS 28 YEARS OF SERVICE**

Member of the Clewiston Library Board, Toni Couse, recognized Walter E. Vaughn as an Honorary Lifetime Member of the Clewiston Library Advisory Board for his 28 years of service on the Board of the Clewiston Library.

**BRENT KETTLER, ECONOMIC DEVELOPMENT DIRECTOR – ECONOMIC DEVELOPMENT COUNCIL UPDATE**

Brent Kettler, Economic Development Director, discussed his beliefs and what he sees in the future specifically for Hendry County. Mr. Kettler said currently we are not taking the individuals who live here and training them. There are zero vocational training facilities in Hendry County and zero post-secondary facilities in Hendry County. He stated vocational training must pick up as he understands there are many individuals not made for college.

**PUBLIC HEARINGS**

- 2. Ordinance No. 2016-02 - Final Reading** – Ordinance 2016-02 provides for rezoning of a parcel of property located at 318 W. Pasadena Avenue from Single-Family Residential

District (R-1B) to General Commercial District (C); provides for update of the Clewiston Official Zoning Map; and provides for an effective date.

Mayor Roland opened the public hearing by stating the purpose of this hearing was to discuss and accept input from all interested parties relative to the adoption of Ordinance No. 2016-02. He asked that all citizens desiring to speak on this matter to identify themselves by name and address. All public comments would be incorporated into the official minutes of this meeting. City Manager Perry summarized Ordinance 2016-02 and read it by title. City Manager Perry stated the public hearing was advertised in the Ft. Myers News Press on June 10, 2016 and the Hendry Glades Sunday News on June 12, 2016. Mayor Roland closed the public hearing as there were no comments or questions proposed.

**Commissioner Gardner made a motion, seconded by Vice Mayor Petersen, to approve Ordinance No. 2016-02 on Final Reading and authorize the Mayor to sign the Ordinance. Vote 5 yeas, 0 nays**

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

3. **Award of Master Pump Station Rehabilitation Bid** – The City advertised for bids for the Master Pump Station Rehabilitation on July 16, 2015. The bids were opened on March 31, 2016 and ranged from \$767,000 to \$870,144. City Engineers Tommy Perry and Scott Jones with Johnson-Prewitt & Associates, Inc. will have a recommendation.

City Engineer Scott Jones stated he recommended the Master Pump Station Rehabilitation bid be awarded to Hinterland Group, Inc. at a cost of \$767,000. City Engineer Jones stated they are satisfied this company can do the job. There was a general discussion regarding the bid amount from Barney's Pumps for the Pump and Control Panel Cost. City Engineer Jones stated there was a typing error in the letter and the correct amount should be \$99,456 instead of \$99,938. Commissioner Rodriguez questioned if there was a forgiveness amount on the proposal. City Engineer Jones stated \$373,220 is the principal forgiveness. City Finance Director Shari Howell clarified the forgiveness amount is based on what the actual project costs. She said this is not an absolute as it is based on the actual project cost not the loan.

**Vice Mayor Petersen made a motion, seconded by Commissioner Rodriguez, to approve the Award of Master Pump Station Rehabilitation Bid to Hinterland Group with the amended amount to be paid for pumps and control panels of \$99,456 as presented. Vote 5 yeas, 0 nays**

**Commissioner Rodriguez asked if City Finance Director Howell would clarify the percentage to the Commission when that is available.**

4. **Appointment of Clewiston Library Advisory Board Member** – The Clewiston Advisory Library Board has a vacant position. Mr. Michael Galassini is willing to serve in that capacity. In accordance with the City's Code of Ordinances, Sec. 62-81, if a vacancy occurs, the City Commission shall fill such vacancy for the unexpired term. If Mr. Galassini is appointed, his term will expire in December 2017.

**Commissioner Gardner made a motion, seconded by Vice Mayor Petersen to appoint Mr. Michael Galassini to serve on the Advisory Library Board for the unexpired term of the vacant position. Mr. Galassini's term will expire December 2017. Vote 5 yeas, 0 nays**

5. **Approval of Hope Hospice and Community Services, Inc. Lease** – This lease is for a portion of the JBB Senior Citizens Building. The present lease expires June 1, 2016. The rent is \$400 per month including utilities. (This agenda item was tabled at the City Commission Meeting dated May 16, 2016)

City Manager Perry stated the monthly rental amount has been increased to \$500 and will remain under annual renewal by the City Commission.

**Commissioner Gardner made a motion, seconded by Commissioner Ridgill to approve the lease for the portion of the JBB Senior Citizens Building to Hope Hospice and Community Services, Inc. at \$500 per month including utilities for a period of one year and sign the lease. Vote 5 years, 0 nays**

6. **Consideration of accepting a surety bond as a utility deposit for the two utility accounts of the nursing home located at 301 South Gloria Street** - The nursing home located at 301 South Gloria Street has recently changed management. The two utility accounts utilized by the nursing home will transfer from Palm Terrace Care of Clewiston SA – Clewiston, LLC to Clewiston Nursing & Rehabilitation Center, LLC and will require utility deposits. The amount for the two deposits totals \$41,000. Clewiston Nursing & Rehabilitation Center, LLC is requesting to utilize a surety bond for the utility deposits.

Attorney Schoech stated his recommendation is to deny accepting the surety bond as a utility deposit for the two utility accounts of the nursing home located at 301 South Gloria Street. He said there are two reasons for denial. One reason is, as the bond is written, it applies to any properties within the City where Clewiston Nursing & Rehabilitation Center, LLC may obtain utilities from the City. The second reason is the bond is cancellable by the surety upon a 30-day notice. He stated that does not protect the City. Additionally, based on conversation at the workshop Thursday, he recommends accepting either a letter of credit or a cash bond and pursuant to Section 74-116 of the Code, this would be for average utility bills of two months.

**Commissioner Ridgill made a motion, seconded by Commissioner Gardner, that we do not accept the surety bond as a utility deposit for the two utility accounts of the nursing home located at 301 South Gloria Street because as written, it applies to any and all other locations with the City where they may obtain utilities from the City and because it may be cancelled with a 30-day notice by the surety. Additionally, Commissioner Ridgill motioned the City only accept either a letter of credit or a cash bond in the estimated amount of two months' average utility bills in accordance with Section 74-116 of the Code of Ordinance of the City of Clewiston. Vote 5 years, 0 nays**

7. **Consideration and approval of funding method for the Golf Course Greens Replacement Project** – The Commission approved the Capital Improvement Project of replacing the Golf Course greens at the May 23, 2016 Commission Meeting. The Commission will consider and approve one of the funding methods discussed at the May 23, 2016 Commission Meeting.

There was a general discussion regarding the funding options. Attorney Schoech distributed a document that included a list of fees associated with line of credit financing for a water control district. Attorney Schoech explained the costs associated with municipal financing and stated the least amount for legal fees would be \$8,000. Commissioner Gardner reminded the Commission the City also had the \$25,000 gift from U. S. Sugar. Finance Director Shari Howell stated there is a little over \$150,000 in capital improvement reserves plus the \$25,000 that would be in reserves as well. She said we still have to clarify the legal options to define what we are actually doing. She also stated there would be time next month to complete the clarification. Commissioner Gardner said she feels the Commission should sit down with Finance Director Shari Howell and understand everything before making that decision next month. She stated the City needs to weigh the options and see if there is anything different that can be done. She said with the 0% financing, she cannot see spending the extra money on a project that will just increase the cost of the project. Commissioner Ridgill agreed and stated the additional \$8,000 equals 5.3% of the project. Commissioner Gardner stated she feels there are two options at this point. We can go with the option of the 0% financing and the legal fees that go with it or pull it from the capital improvement fund and use the gift money for what it is intended and do the project that way. The Commission agreed to make a final decision on this matter next month.

8. **Approval of Florida Department of Law Enforcement Grant Agreement for the \$1,500,000 appropriation for funding for the Clewiston Police Department** – The FDLE received an appropriation of \$1,500,000 in pass-through funding for the Clewiston Police

Station. This funding and project is allocated for state fiscal year 2016-17, contract period beginning July 1, 2016 and ending June 30, 2017.

**Vice Mayor Petersen made the motion, seconded by Commissioner Gardner, to allow the City Manager or the Mayor upon consultation with the Chief, Lieutenants or City Manager Perry who will be the Project Manager to have the authority to approve work orders, changes and payables in order to more efficiently move the project forward.**

**Vice Mayor Petersen amended her motion to state to allow the City Manager or the Mayor upon consultation with the Chief, Lieutenants or City Manager Perry or the Project Manager to have the authority to approve work orders, changes and payables in order to more efficiently move the project forward.**

Vice Mayor Petersen asked if City Engineer Perry would be the project manager. Commissioner Rodriguez stated he understood the City may have to hire a project manager. Commissioner Gardner said she is not in favor of hiring a project manager. She feels the City Engineer has handled this type of project; plans have been developed and he has been there every step of the way. If we bring anyone else on board at this point, we will not be able to meet the deadline of June 30, 2017. Commissioner Rodriguez stated a project manager has to be on the property at all times. Project Manager is not a part time position. City Manager Perry stated when we receive the grant next month for signature, that will give us time to negotiate with the design and make that decision and bring this back to the next meeting. Commissioner Ridgill stated the City should entertain the motion and get the grant signed and come back next month to determine who will handle all change orders and make a decision on a project manager. She said this is not a typical building or home. The City has a deadline and a person will need to be on site to ensure the project will be complete on time. She said she would like a solution as to how the project will be managed properly.

**Vice Mayor Petersen amended her motion, seconded by Commissioner Ridgill to allow the Mayor and the City Manager to sign the Florida Department of Law Enforcement Grant Agreement for the \$1,500,000 appropriation for funding for the Clewiston Police Department.**

**Vote 5 yeas, 0 nays**

Commissioner Rodriguez requested the City search to see what a project manager would cost for this project and what it entails to hire a project manager.

9. **Approval of the “2016 Conceptual Roadway Plan – Ventura Avenue” Roadway Improvement Plans for the South Florida Water Management District Cooperative Funding Program Stormwater Management Project** – The Roadway Improvement Plans for Ventura Avenue between Deane Duff Avenue and Francisco Street consist of storm water and drainage improvements as part of the City of Clewiston’s efforts to establish a “Main Street Business District”. It furthers the District’s Strategic Plan through both water quality and flood control enhancements by treating water prior to entering the Clewiston Drainage District and SFWMD canals and ultimately into Lake Okeechobee and the Caloosahatchee River.

**Pulled from Agenda as previously noted.**

10. **Approval of State Aid to Libraries Grant Amendment Number 1 to the Grant Agreement Between the State of Florida, Department of State and City of Clewiston for and on behalf of Hendry County Library Cooperative, Project Number 16-ST-18 in the amount of \$27.00** – This Amendment revises Section 1.b) and Section 5 of the Grant Agreement and Attachment B is replaced with the revised Fiscal Year 2015-16 State Aid to Libraries Final Grants List.

**Commissioner Gardner made a motion, seconded by Commissioner Rodriguez for Approval of State Aid to Libraries Grant Amendment Number 1 to the Grant Agreement Between the State of Florida, Department of State and City of Clewiston for and on behalf of Hendry County Library**

**Cooperative, Project Number 16-ST-18 in the amount of \$27.00 and authorize the Mayor to sign. Vote 5 years, 0 nays**

- 11. Approval of LaRue Planning & Management Services, Inc. Agreement** – This Agreement is for the services and cost for preparation of a zoning ordinance depicting light commercial zoning standards and regulations for the area known as the Merchant Square Subdivision.

**Pulled from Agenda as previously noted.**

- 12. Discussion regarding Clewiston Park of Commerce** – Commissioner Ridgill asked this item be placed on the agenda for discussion.

**Pulled from Agenda as previously noted.**

- 13. Discussion regarding the Rental Inspection Agreement** – Commissioner Ridgill asked this item be placed on the agenda for discussion.

City Manager Perry confirmed each Commission member had a copy of the Residential Rental Agreement in hand.

City Attorney Schoech stated Commissioner Ridgill had asked him to review a Federal Court case in the Southern District of Ohio regarding an inspection program of residential properties. Attorney Schoech stated he believes, in light of this case, the City should amend the inspection program to provide for voluntary inspection and or warrants for inspection if we believe there is probable cause to believe there is a problem with the property. Code Enforcement Officer Debbie McNeil stated there is verbiage in the current program that states the City must have permission from not only the landowner, but also the tenant and the City ask the landowner to make arrangements with the tenant for a time and date that works for the tenant. If the landowner and tenant refuse, it does state in the program that the Commission gives the Code Enforcement Officer the right to obtain an inspection warrant to follow up. City Attorney Schoech said if that procedure is followed, there would not be a problem. There was a general discussion regarding the procedures for obtaining an inspection warrant. Commissioner Gardner stated Officer McNeil had mentioned that this Residential Rental and Inspection Program would include all property that is not homestead property which is where we have a deficiency gap now because not everybody is getting the power in their name. This would actually bring everyone renting property in the City of Clewiston into the program for the most part. Commissioner Gardner questioned if this would include Florida migrant housing, mobile homes and RV's. Officer McNeil replied it would. Commissioner Gardner said she thinks this Residential Rental and Inspection Program was better than what is now in place. Mayor Roland agreed but stated he feels it would be illegal based on the Fourth Amendment. Attorney Schoech stated federal courts in different jurisdictions have held that it is a violation to require mandatory inspections without permission or without a warrant. He said he believes, if taken to court, the Southern District of Florida would follow those edicts. Commissioner Gardner stated she would like to see this item on the agenda for next month's meeting after the attorney reviews the document to ensure any ambiguities in light of the Ohio case are clarified and we have time for others in the public to review the document. Commissioner Ridgill stated the rates for the permit seem reasonable from what she has read, but one of the components of the Ohio case was the excessive fee being charged. She said she does not believe these are excessive fees. Mayor Roland asked how the City could charge for something that may be illegal. Attorney Schoech replied you are not charging for the inspection; the fee is to issue a permit for them to be able to rent their property. This is a very common program and a number of cities throughout Florida have a rental permit program. Commissioner Gardner stated the most common name of the fee was rental business tax receipt. Attorney Schoech stated we are not charging for the inspection of the property, the fee is for the permit and that has not been ruled illegal. Commissioner Ridgill questioned Attorney Schoech if he had heard anything that would make a vacant property registration ordinance unconstitutional or problematic for the City. Attorney Schoech said he had not. Commissioner Ridgill said if the City goes forward with the rental inspection program, she would like the City to look at this vacant property registration ordinance. Commissioner Gardner asked Officer McNeil if that had

already been done. Officer McNeil replied yes, she had. Commissioner Gardner stated that item could be reviewed next month as well. Mayor Roland agreed.

**It was the general consensus of the Board to table this item to the July 2016 agenda after Attorney Schoech reviews the agreement and to include review of the vacant property ordinance.**

14. **Discussion regarding update on Interlocal Agreement Between the City of Clewiston and Hendry County Concerning Recreational Facilities, Programs and Services –** Commissioner Ridgdill asked this item be placed on the agenda for discussion. At the April 18, 2016 City Commission Meeting, the Commission requested City Manager Perry notify Hendry County that the City Commission wished to discuss the current agreement and did not accept the automatic renewal provision of the agreement. That notice was given to Hendry County on April 26, 2016.

**Pulled from Agenda as previously noted.**

15. **Discussion - Bid Process Improvements –** City Engineer Tommy Perry - Commissioner Ridgdill asked this item be placed on the agenda for discussion.

**Pulled from Agenda as previously noted.**

16. **Departmental Monthly Activity Reports -** Presented for information only.

#### **PUBLIC COMMENTS –**

Christine Howell stated she had an issue with the new color of the Royal Palm bridge. She would like to see the ends restored to the white color to give it a historic look. She commented going north, you don't see the bridge due to the gray color until you are within almost a block of the bridge. She said after she had mentioned her concerns to City Manager Perry, reflectors were then placed on the bridge. She said she feels the reflectors take away from the historic look and would like to see the bridge restored as it was. She asked the Commission to consider restoring the bridge. Commissioner Rodriguez agreed and said he would vote to paint the bridge white, take the reflectors off and restore the bridge the way it was. Mayor Roland asked Commissioner Rodriguez to put this in a motion.

**Commissioner Rodriguez made a motion, seconded by Commissioner Gardner for discussion to paint the bridge white and remove the reflectors.**

Commissioner Gardner stated she liked the new colors but agreed the reflectors need to be removed. Commissioner Ridgdill noted the charter states the Commission is not to interfere with administration. She said she would have to look at the road and bridge documentation to see if we are required to have reflectors before recommending they are removed. She stated staff did what they thought was in the best interest of the community and City and would not like to contradict staff for doing this maintenance.

**Commissioner Gardner withdrew her second and opted to allow staff to make the determination taking into consideration the comments made.**

City Manager Perry said he greatly appreciated Ms. Howell's input and what she does for this community. After the bridge was painted, she notified him of her displeasure. He stated he had questioned other citizens regarding the new colors and many stated they liked the new look. He said he would not mind at all painting it back white.

Mayor Roland opened the floor to Pepe Lopez. Mr. Lopez discussed his concern of the use of Royal Palms on Hwy 27. He said his concern is the palm fronds fly around during a storm and could cause serious accidents on Highway 27. He feels the City should consider the liability and how much damage they can do. Commissioner Gardner said she had spoken with Mr. Lopez and City Manager Perry as well because this is grant funded and the State of Florida approved the Royal Palms, the palms will be used. This is a State right of way and, therefore, the State has the position of approval of the Royal Palms. There was an alternative sent to the State and they denied it because the alternative was not a native tree.

Commissioner Ridgdill stated when Mr. Lopez brought up his concerns, she also had similar concerns because of experience involving risk, but she said she did not know what the City could do now other than reject the grant. Commissioner Gardner asked if this could be researched to see if there is a recommendation in the grant of something else. She said she is not sure what our liability may be but if this is State approved and on their property; what is our liability? Attorney Schoech stated it is the FDOT's responsibility and their liability unless the grant program transfers that to the City and he does not believe it does. Commissioner Gardner asked Public Works Director Sean Scheffler if the City trims the Royal Palms in Clewiston regularly. He replied the City does not; the Royal Palm is considered a self-cleaning tree. Commissioner Gardner suggested asking what the guidelines are for maintenance.

Mayor Roland opened the floor to Ernesto Cordero. Mr. Cordero presented a handout of a letter to the Commission regarding the parking violations on his business property, his business license application and violations of other businesses operating in the City. Mayor Roland said he understands that Mr. Cordero opened up his place of business without a permit. Mr. Cordero stated he submitted his application on March 7<sup>th</sup> and it was never explained to him why he could not get his license. Commissioner Ridgdill stated Mr. Cordero is trying to start a small business in this town. She said we have people with entrepreneurial skills that do not know all the rules and she said she does not want the City to lose small businesses because of that reason. She said she would like staff to review this and feels that EDC Director Kettler could possibly help new business owners so this does not happen in the future. Commissioner Gardner said this matter has been heard before the Magistrate and the Magistrate has ruled. She said she feels all of this should be reviewed again and discussed, but she does not see how the City can go against the Magistrate's ruling and how he interprets the law and code. Code Enforcement Officer Debbie McNeil stated the cases were heard before the Magistrate and stated the Magistrate's findings. The cases before the Magistrate were the millings done with no permit, the sign on the building with no permit and the business operating without a business tax receipt license. The Magistrate found guilty on all three cases and provided fourteen (14) days for the business tax receipt to be corrected, thirty (30) days for the sign to be corrected to get a permit and he provided sixty (60) days for the milling to be corrected with a permit. June 21<sup>st</sup> is the fourteen-day deadline. Mr. Gwinn said he met last week with Director Reese and Officer McNeil and discussed what was needed to find a solution in order to avoid the fines. Mr. Gwinn said the business was shut down. He said he is trying to help Mr. Phelps with this matter and keep Mr. Cordero in business. He said they do want to conform to what the City requires. Commissioner Gardner stated she feels the City can do a better job communicating on what the current laws are and some of these laws have been in effect a long time. She feels the City's Code Enforcement Officer, Building Official, City Manager and Mr. Cordero, Mr. Phelps and Mr. Gwinn should meet and find counsel for guidance in this process. There should be a way a small business that just opened does not have to shut down. Hopefully, the City can find solutions that are within the law. Commissioner Gardner said she feels there should be a checklist to be given to a prospective business owner. She reiterated that she would ask business owners, property owners, code enforcement, building officials and the City Manager sit down to find a way to find guidance for what the Magistrate dictated needed to be done and what in the letter of the law we can do. She stated she did not want to leave this meeting without saying she wants to know how the items in Mr. Cordero's letter are going to be addressed. City Manager Perry stated staff has learned some things through this process and has discussed this matter every Tuesday at the staff meetings. There has been constant contact trying to approve this business. Commissioner Ridgdill stated what she sees is that we have a small business providing seven jobs that we need to go back and look and see if there is any possible way we can salvage that business. There may have to be a step-by-step procedure and we may need to extend some deadlines to be able to come to a compromise to be able to keep the business. She said she agrees in the future, the City has to be very cognizant of finding a way to help small business and promote small business. She stated she is asking staff and other Commissioners to try to salvage this business in this situation. Commissioner Gardner stated she would like to know from Director Reese, case by case, the violations in this matter and he should furnish the Commission with a copy. Mr. Kettler said he will meet with the property owner and business owner as well. Vice Mayor Petersen stated when the conversations take place, code should be looked at to determine what should take place. Mayor Roland said it is incumbent upon the City that when a person

comes to Community Development to apply for a permit, the City give that person a list of items required and advise them if items required are not followed, they will be in violation.

Mayor Roland recognized Raoul Bataller. Mr. Bataller addressed the Commission stating his concerns regarding the construction of the police station.

**COMMENTS FROM CITY MANAGER - none**

**COMMENTS FROM THE CITY ATTORNEY - none**

**COMMENTS FROM THE CITY COMMISSION** – Commissioner Ridgill questioned Director Reese when the Planning & Zoning Board was going to discuss the ordinances that pertain specifically to the Park of Commerce. Director Reese replied the ordinances will be discussed at the June 29, 2016 Planning & Zoning Board Meeting and confirmed the meeting is at City Hall at 5:30 pm. He also stated there will be more on the agenda than just the ordinances and agreed to report on what was tabled for the following month.

The meeting was adjourned at 7:23 p.m.

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Phillip Roland, Mayor

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Kathy Combass, Interim City Clerk