

CITY OF CLEWISTON
Regular Commission Meeting
January 23, 2017

The City of Clewiston City Commission held its regular Commission Meeting in the City Hall Commission Chambers Monday, January 23, 2017. The meeting was called to order at 5:00 p.m. by Mayor Gardner. Pastor Jeff Smith gave the invocation and the audience recited the Pledge of Allegiance.

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

Personnel Present: City Manager Al Perry, Interim City Clerk Mary K. Combass, Finance Director Shari Howell, Public Works Director Sean Scheffler, Recreation Director Lance Ramer, Police Chief Don Gutshall, Community Development Director Travis Reese, Lynne Mila, Utilities Director Danny Williams, Code Enforcement Officer Debbie McNeil, Karen Moore, City Engineer Scott Jones and Tommy Perry, and City Attorney Gary Brandenburg.

Visitors Present: Attorney Melanie McGahee, Attorney Antonio Perez, Attorney Crystal Sands, Pablo Llossas, Kathy Irey, Laura Smith, Asa and Betty Godsey, Donnie Hughes, Pablo Diaz, Hillary Hyslope, Andy Tilton, Ramon Iglesias, Tabitha Yebba, and Terry Gardner

Pastor Jeff Smith read a decree of blessings and economic prosperity with witnesses from the Clewiston Ministerial Association.

Commissioner Petersen made a motion, seconded by Commissioner Roland, to accept the Clewiston Ministerial Association's Decree. Vote 5 yeas, 0 nays

ADDITIONS/DELETIONS/CHANGES AND APPROVAL OF THE AGENDA – City Manager Perry requested Agenda Item 5A be added and Agenda Items 13 and 14 be removed. Mayor Gardner confirmed that Agenda 5A will be added and Agenda Items 13 and 14 will be removed. She also stated that the Event Application under Consent Agenda Item E is amended to state that it is based on a new route to be approved by Police Chief Gutshall.

1. Consent Agenda

- A. *Commission Workshop Minutes – December 15, 2016*
- B. *Commission Reorganization Meeting Minutes – December 19, 2016*
- C. *Commission Meeting Minutes – December 19, 2016*
- D. *Event Application – Hendry County Fair Parade – February 11, 2017*
- E. *Event Application – 2017 Tiger Service Break 5K Race – February 20, 2017(based on a new route to be approved by Police Chief Gutshall)*
- F. *Event Application – Clewiston Pawn, Inc. Street Dance – March 17, 2017*

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

PUBLIC HEARINGS

- 2. Ordinance No. 2016-10 – Final Reading** - Ordinance 2016-10 amends the land development regulations of the City of Clewiston, establishing a temporary building moratorium on marijuana dispensaries/medical marijuana treatment centers for a period of six (6) months from the date of adoption of this ordinance.

Mayor Gardner opened the public hearing and stated the purpose of the public hearing was to discuss and accept input from all interested parties relative to the adoption of Ordinance No. 2016-10. She asked that all citizens desiring to speak on this matter to please stand and be sworn in. She stated that all public comments would be incorporated into the official minutes of the meeting. She summarized Ordinance No. 2016-10 and read it by title. She stated that official notice of the public hearing was advertised in the Clewiston News on December 29, 2016 and asked for comments from those in attendance and from the Commission. As there were no comments, Mayor Gardner declared the public hearing closed.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to approve Ordinance No. 2016-10 and authorize the Mayor to sign. Vote 5 yeas, 0 nays

- 3. Ordinance No. 2016-11 – Final Reading** - Ordinance 2016-11 repeals Sections 14-5, 14-27 and 14-29 of the Code of Ordinances. The City of Clewiston has determined that it is necessary and in the public's best interest to provide uniform control over aggressive, dangerous and vicious dogs.

Mayor Gardner opened the public hearing and stated the purpose of the public hearing was to discuss and accept input from all interested parties relative to the adoption of Ordinance No. 2016-11. Mayor Gardner stated the Commission has received a revised ordinance and asked City Attorney Brandenburg to review the revisions. Attorney Brandenburg explained that a definition for vicious dogs was added and the ordinance title was expanded to make it more clear. He stated that he has been asked if this ordinance complies with a Fourth District Court of Appeals Case. He stated he has reviewed the case several times and believes this ordinance is in compliance with that case. He stated Ordinance No. 2016-11 does provide an additional classification of an aggressive dog which, in his opinion does not conflict with the state statute.

Mayor Gardner stated that official notice of the public hearing was advertised in the Clewiston News on December 29, 2016. She summarized Ordinance No. 2016-11, read it by title and asked if there were any comments relative to this ordinance.

Ms. Kathy Irey addressed the Commission and expressed her concern with language in the ordinance that states that any dog that has been involved with dog fighting is a dangerous dog. She feels that language is incorrect. Ms. Irey asked if there is anything the City could do to let residents in the community know about the ordinance. Mayor Gardner asked City Manager Perry to look into getting the information out to the community. Ms. Irey also asked if there is education or training for the animal control officers to help them determine whether a dog is actually dangerous. Mayor Gardner stated that Police Chief Gutshall has heard her comments and she is sure that the animal control officers receive training.

Mr. Melvin Rosen addressed the Commission and expressed his concern that if his dog, while on a leash, was attacked by a dog running loose, that his dog may be liable even though he was protecting himself. Police Chief Gutshall explained that the ordinance allows that if his dog is on a leash and he has control of his dog, his dog would not be held liable, the other dog would be held liable. Mayor Gardner asked that everyone call the Police Department if they see any loose dogs in the community.

Mr. Lavonne Sherrill addressed the Commission and expressed his concern that bull dogs will not be allowed in the City limits. Mayor Gardner explained that all breeds are fine as long as they are on a leash. She also stated that, according to state law, specific breeds cannot be prohibited in a community. The ordinance is not specific to breeds; it is specific to the dog's actions.

Attorney Brandenburg stated that Ms. Irey was correct regarding her concern with the language in the ordinance that states that dogs involved in dog fighting are dangerous dogs. He stated that paragraph should be removed from the ordinance.

Commissioner Rodriguez stated the Commission makes their decisions based on what they hear from the residents.

As there were no further comments, Mayor Gardner closed the public hearing.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to approve Ordinance No. 2016-11 with the recommended changes by Attorney Brandenburg. Vote 5 yeas, 0 nays

ORDINANCES

4. **Ordinance No. 2017-01 – First Reading** - Ordinance 2017-01 creates Chapter 110, Article II, Division 2, Section 110-63 of the Clewiston Code of laws and ordinances, entitled “Reasonable Accommodation Procedures” to protect persons with disabilities due to substance abuse and the general public.

Mayor Gardner read Ordinance 2017-01 by title.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to approve Ordinance No. 2017-01 on first reading and set the public hearing for February 20, 2017. Vote 5 yeas, 0 nays.

5. **Ordinance No. 2017-02 – First Reading** - Ordinance No. 2017-02 creates Sec. 74-7(d) of the Code of Ordinances, provides for standards for discharge of prohibited substances in the City Wastewater Collection and Treatment System, and creates a Fats, Oil and Grease Best Management Practices Manual.

Mayor Gardner read Ordinance No. 2017-02 by title.

Commissioner Petersen made a motion, seconded by Commissioner Roland, to approve Ordinance No. 2017-02 on first reading and set the public hearing for February 20, 2017. Vote 5 yeas, 0 nays

- 5A. **Ordinance No. 2017-03 – First Reading** - Ordinance No. 2017-03 amends Section 110-2 of the Zoning Code to modify the definition of hotel and motel, and create a definition of extended stay hotel and motel, to impose time limitations for persons to stay in hotels and motels.

Mayor Gardner read Ordinance No. 2017-03 by title.

Commissioner Rodriguez made a motion, seconded by Vice Mayor Atkinson, to approve Ordinance No. 2017-03 on first reading and set the public hearing for February 20, 2017. Vote 5 yeas, 0 nays

RESOLUTION

6. **Resolution No. 2017-01** – Resolution No. 2017-01 requests the Florida Department of Transportation to prepare and enter into a transfer of property by public purpose Quit Claim Deed to the City of Clewiston.

Mayor Gardner read Resolution No. 2017-01 by title.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to approve Resolution No. 2017-01 and authorize the Mayor to sign. Vote 5 yeas, 0 nays

MISCELLANEOUS ACTION AND DISCUSSION ITEMS

7. **Request for Final Development Order - B.A. Hospitality, LLC** - Pursuant to Section 110-84 of the City Code of Ordinances, the applicant, B.A. Hospitality, LLC, is requesting approval for a final development order for a 4-story, 13,000 sq. ft. hotel to be located at 305 West Sugarland Hwy., Lots 1 – 10, inclusive, and Lots 33 – 36, inclusive, all in Block 201 of the General Plan of Clewiston, Florida. Parcel ID Nos. 3-34-43-01-010-0201-001.0, 3-34-43-01-010-0201-015.0, General Plan of Clewiston, Florida. The property is zoned C, Commercial.

Mayor Gardner noted that additional information was received by the Commission. She stated there were concerns at the January 19, 2017 Commission Workshop and would like to make sure that all questions are answered before a motion is made. There was a general discussion regarding the water line that is needed because of the lack of flow and who is responsible for the construction of the water line. Community Development Director Travis Reese stated he feels that additional language should be added to the order to clarify that

everyone understands and agrees that there is additional work that has to be done. City Engineer Tommy Perry stated there is an email that contains the language that he recommends using. Commissioner Rodriguez asked if the developer was aware that the water line was needed. City Engineer Perry stated that the developer knows that he will need to build the water line and notification was sent to him stating that the City can't provide the pressure so he will have to do his design differently or install a pump to increase the pressure. City Engineer Perry also stated that he feels it should be the developer's responsibility to construct the water main. Commissioner Roland stated that he feels the City may need to help with the cost so that the project will be built. Vice Mayor Atkinson said he feels it is the City's responsibility to get the water line to the property. Mayor Gardner agreed. City Engineer Perry said what is being suggested is that the language be changed so that it is not a requirement for the building permit to have that certification. Vice Mayor Atkinson expressed his concern that if the order is approved like it is at this time, he feels the applicant may think a permit will be issued even if the water line isn't done. Director Reese stated that engineer and contractor will understand that the fire suppression will have to be there. Attorney Brandenburg said his understanding is when the developer applies for the building permit, the architect and engineer have to certify to the City that the fire flows necessary to protect that building are in place or will be in place at the time they complete it to meet the requirements of law. He also stated that it is always the developer who certifies that the fire flow is in place.

Commissioner Rodriguez made a motion, seconded by Vice Mayor Atkinson, to approve the Final Development Order as discussed with City cost participation and Developer cost participation for the infrastructure improvements with a condition that any required accessories to obtain the required fire flows and pressure are met by the Developer. Vote 5 yeas, 0 nays

8. **Appointment of New Planning and Zoning Board Member** – Resulting from Planning & Zoning Board Member Michael Atkinson being elected as a City Commissioner, the Planning and Zoning Board has a vacancy. Jerry C. Cochrane has applied for the vacancy and appears to be qualified for the position.

Vice Mayor Atkinson made a motion, seconded by Commissioner Rodriguez, to appoint Charles Jerry Cochrane to fill the vacancy on the Planning and Zoning Board. Vote 5 yeas, 0 nays

9. **Award of 2017 Professional Aerial and Ground Mosquito Control Bid** – The Invitation to Bid was advertised in the Clewiston News on December 15, 2016. The only bid submitted by Clarke Environmental Mosquito Management, Inc. was opened on January 5, 2017.

Public Works Director Sean Scheffler explained that aerial applications and ground spray miles are increased from last year. He also clarified that the ZIKA virus was the reason for the additional ground treatments purchased last year.

Commissioner Rodriguez opened a discussion regarding which application was more effective, aerial or ground. Director Scheffler explained the two applications complement each other. He stated the ground applications are not quite as effective as the aerial applications but the cost of the ground applications is much less. He also said that aerial applications are used when it is known that residents will be outside and when there is a high hatch.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to award the 2017 Professional Aerial and Ground Mosquito Control Bid to Clarke Environmental Mosquito Management, Inc. in an amount not to exceed \$175,115. Vote 5 yeas, 0 nays

10. **Approval of Amendment #1 of Agreement for State Financial Assistance Between Florida Department of Law Enforcement and City of Clewiston (Contract #G1603)** – This Amendment to the FDLE Grant Agreement for the \$1,500,000 appropriation for funding for the Clewiston Police Department primarily revises the reimbursement process and schedule. City Attorney Brandenburg has reviewed the Amendment.

Commissioner Petersen made a motion, seconded by Vice Mayor Atkinson, to approve Amendment #1 of Agreement for State Financial Assistance Between Florida Department of Law Enforcement and City of Clewiston (Contract #G1603). Vote 5 yeas, 0 nays

11. Discussion regarding the interpretation of Section 22-45 of Article III of Chapter 22 of the Clewiston Code of Ordinances (Operation of Junkyards and Junk Vehicle Businesses) –

Mayor Gardner acknowledged the Commission had a memo from City Attorney Brandenburg regarding this matter. Attorney Brandenburg explained his interpretation to the Commission. He stated he feels the six foot fence or wall height limit can be exceeded as long as the cars are placed on racks. If the cars are stacked and touch each other, they cannot exceed the six foot height limit of the wall or fence. Attorney Brandenburg offered to do an amendment to the ordinance for clarification if the Commission wished. Mayor Gardner agreed that should be done and stated that ambiguity needs to be removed from ordinances. Commissioner Petersen said she feels there should be some sort of cap on the height of the racks. Community Development Director Reese said if the business is in the industrial section, the maximum height allowed is thirty-five feet. Commissioner Rodriguez questioned if there is a color recommendation for the wall. Director Reese suggested the color beige. Mayor Gardner asked City Manager Perry to contact the owner to let him know the Commission recommends the color beige for the wall.

12. Discussion regarding City Attorney – Mayor Gardner

Mayor Gardner stated the Commission made a decision in August of 2016 to go out for bid for a City Attorney after the resignation of the former City Attorney. The matter was discussed again last month. She stated that all Commissioners have met with Attorney Brandenburg one on one and urged each Commissioner to let her know what they would like to do. Commissioner Rodriguez said he is in favor of hiring Attorney Brandenburg this evening. Commissioner Petersen said her concern was transparency five months ago, but feels the City needs to move forward.

Commissioner Rodriguez made a motion, seconded by Commissioner Petersen, to hire Attorney Gary Brandenburg as the City Attorney. Vote 5 yeas, 0 nays

Before the vote, Vice Mayor Atkinson stated that Attorney Brandenburg responds in a timely manner and he is in favor of hiring him as the City Attorney. Mayor Gardner stated that she likes his quick response and honesty.

13. Discussion regarding the location of the remaining Food Truck Invasion Events scheduled for February 20, 2017 and April 17, 2017 – Mayor Gardner

This Agenda Item was removed as noted above.

14. FMPA Update

This Agenda Item was removed as noted above.

15. Departmental Monthly Activity Reports - Presented for information only.

PUBLIC COMMENTS – Mr. Pablo Llossas addressed the Commission and stated that he received a citation for riding his golf cart on the road on the way home from the Food Truck Invasion event. He stated there was someone else who was also stopped on a golf cart the same night and received a warning. He stated he feels the residents in the Community should have been notified that the ordinance was going to be enforced. Commissioner Roland stated that he started to make a motion at the December 19, 2016 Commission Meeting to make the City a golf cart community. He said his concern is kids driving golf carts. Mayor Gardner stated that the Commission had previously discussed making the City a golf cart community and asked Attorney Brandenburg to review the matter and make a recommendation to the Commission. She also stated that she feels the police officers are doing their job but she would like to make sure they are consistent. She asked Police Chief Gutshall to make sure

the officers are being consistent. Police Chief Gutshall explained that it is incumbent upon every driver, parent or owner of a vehicle to know the traffic laws. He stated the Police Department was told to enforce the ordinance. He was previously criticized that only warnings were given. He said the Police Department will enforce what they are asked to do. Mayor Gardner asked City Manager Perry to notify Mr. Llossas when the next discussion regarding golf carts will be held.

Mr. Jerry Cochrane addressed the Commission and stated, as the Commission previously discussed, that he would like the title search to be done to determine the ownership of Francisco Street. Mayor Gardner clarified that the County owns South Francisco Street; the issue is from US 27 North to Hoover Dike Road. Mayor Gardner asked City Manager Perry to follow through with this matter to get this resolved. City Manager Perry stated he had talked to Hendry County Attorney Mark Lapp and Attorney Lapp said he would discuss the matter with Hendry County Public Works Director Shane Parker and get back to him. Mayor Gardner asked City Manager Perry to follow up with Mr. Parker and then discuss the matter with Attorney Brandenburg.

Mr. Jerry Cochrane next stated that he would like to see the underbrush cleared up by the City on the overgrown vacant parcel of land in Ridgewood Subdivision. Mayor Gardner stated that many residents in that area previously wanted that property to stay natural. Mayor Gardner asked City Manager Perry to review the reverter clause in the deed from US Sugar to see what can be done and make a recommendation to the Commission at the February 20, 2017 City Commission Meeting.

Commissioner Roland made a motion, seconded by Vice Mayor Atkinson, for the City Manager to discuss this matter with U.S. Sugar Corporation to find out if they want to sell the vacant parcel in Ridgewood Subdivision or if the City can sell the vacant parcel. Vote 5 yeas, 0 nays

Commissioner Roland made a motion, seconded by Vice Mayor Atkinson, to have a title search to determine the ownership of the Industrial Canal, which is now named the Clewiston Canal. Vote 5 yeas, 0 nays

Mr. Pedro Diaz addressed the Commission and requested an update regarding alleys being used a part of the setback so that if they are ever vacated, they will go to the property owner. City Manager Perry stated the language is drafted to address issues and said it may be part of the next Planning & Zoning Board Agenda. Commissioner Roland stated that he had asked Mr. Diaz to come to this meeting.

COMMENTS FROM THE CITY MANAGER – City Manager Perry stated that the Police Department was involved in tracking down a suspect. Shots were fired from one of the City's Police Officers, who did a fantastic job.

COMMENTS FROM THE CITY ATTORNEY – Attorney Brandenburg stated there was an issue with the Special Exception Modification for Villas at Lake Shore as to the type of vehicles that can be parked at that location. Mayor Gardner stated that her intent was that oversized vehicles shall be prohibited. Staff will review the Order for the Special Exception Modification with Attorney Brandenburg to revise to reflect Mayor Gardner's intent.

COMMENTS FROM THE CITY COMMISSION - Commissioner Rodriguez said that he feels the biggest challenge the City faces is growing the economy because the cost of doing business is getting more expensive. He feels it is important that the City support growth such as the Hampton Inn. He recommended that everyone tell Mr. Patel thank you for choosing Clewiston as the site for the Hampton Inn. Mr. Ramon Iglesias of Roland Martin's Marina addressed the Commission and informed them there is going to be a 500 angler tournament. He stated the anglers say that Clewiston has the highest charging hotels. He feels that Mr. Patel's intent is not to overcharge customers and the City should help him. Mayor Gardner stated that she feels the hotel will develop the main street area that has become dilapidated. Mr. Iglesias thanked the Commission and the department directors for their help with the angler events. Attorney Antonio Perez stated that he feels the code should be enforced on US 27 to encourage other businesses and force them to redevelop to keep people here and not go somewhere else.

Vice Mayor Atkinson asked residents to call the City Clerk, City Manager or a Commissioner, with concerns or problems rather than making negative comments on Facebook.

Mayor Gardner stated that she believes in accountability. Residents in the community should ask questions and express their concerns so that the City has an opportunity to respond and clear up or address the concerns. She also thanked Code Enforcement Officer Debbie McNeil for her consistency. She stated that a code review needs to be done if we want to attract people to this community.

ADJOURNMENT

The meeting adjourned at 7:01 p.m.

Mali Gardner, Mayor

Mary K. Combass, Interim City Clerk