

CITY OF CLEWISTON
Regular Commission Meeting
November 20, 2017

The City of Clewiston City Commission held its regular Commission Meeting in the City Hall Commission Chambers Monday, November 20, 2017. The meeting was called to order at 5:00 p.m. by Mayor Gardner. The audience joined in reciting the Lord's Prayer and the Pledge of Allegiance.

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

Personnel Present: City Manager Al Perry, Interim City Clerk Mary K. Combass, Finance Director Shari Howell, Community Development Director Travis Reese, Director of Golf Robbie Rush, Public Works Director Sean Scheffler, Police Chief Aaron Angell, Code Enforcement Officer Debbie McNeil, Compliance Manager Lynne Mila, Karen Moore, Cristina Rodriguez, City Engineer Scott Jones, City Attorney Gary Brandenburg and Volunteer Firemen Greg Westberry, David Hubbard, Sam Briefman, Jimmy McDuffie, Matt Beatty, Pedro Rangel, Pete Garcia and Jeff Edwards. Utilities Director Danny Williams attended via telephone.

Visitors Present: Asa and Betty Godsey, Laura Smith, Hari Patel, Paul Russell, Chad Clouser, Jerry Cochrane, Debbie McDuffie, Andy Tilton, Terry Combass, Ken McDuffie, Dusty McDuffie, Samuel McDuffie, Nicholas McDuffie, Donnie Hughes, Chris Felker, Antonio Perez, Terry Gardner, Pepe Lopez, Jimmy Pittman and Don Shivers.

CALL MEETING TO ORDER

PRAYER AND PLEDGE OF ALLEGIANCE

ADDITIONS/DELETIONS/CHANGES AND APPROVAL OF THE AGENDA – City Manager Al Perry stated that Agenda Item 18A has been added to the agenda.

1. Consent Agenda

- A. *Commission Workshop Regarding Inflow Removal Inflow/Infiltration Project Phase 1 Minutes – October 9, 2017*
- B. *Commission Workshop Minutes – October 12, 2017*
- C. *Commission Meeting Minutes – October 16, 2017*
- D. *Commission Workshop Regarding Projects and Goals for 2018 Minutes – October 30, 2017*
- E. *Turf Management Services Agreement*
- F. *Event Application – ACFC Winter Wonderland – December 16, 2017*
- G. *Proclamation – W. H. “Jimmy” McDuffie, Jr.*

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

PRESENTATION OF PROCLAMATION TO W. H. “JIMMY” MCDUFFIE, JR. – Mayor Gardner asked Mr. McDuffie and his family along with the Clewiston Volunteer Firemen that were present to come forward. She then read the Proclamation recognizing the retirement of Mr. McDuffie and honoring him for 51 years of service to the City of Clewiston. The City Commission presented the proclamation to Mr. McDuffie and thanked him for his service.

ANNUAL SECURIAN PENSION PLAN UPDATE – GLORIA ROSEN – Registered Representative, PAULA LOEB – Senior Relationship Manager, AND JEFFREY RUEBER – Chartered Financial Analyst, Due Diligence Team

Ms. Gloria Rosen presented a handout to the Commission showing the City's annual contributions and benefit payments from the date she took over the plan. She noted that the market plan has

earned almost \$5,000,000 during that time. She introduced Jeff Rueber, Securian's Chartered Financial Analyst, to the Commission and stated that almost 13% was made and there is a net of over 8% after the payout of \$500,000 to the retirees. At Mayor Gardner's request, Ms. Rosen agreed to provide a more detailed breakdown of the fees. She also mentioned that this year's recommended contribution is less than the 2016 deposit because of how well we did. Commissioner Rodriguez thanked Ms. Rosen and her team for the great job they are doing.

PUBLIC HEARINGS

2. **PUBLIC HEARING - Ordinance No. 2017-18 – Final Reading** – Ordinance No. 2017-18 pertains to accessory structures, provides for amendments to Sec. 110-526 of the Code of Laws of the City relating to definition of accessory structure, heights and sizes of garages and carports, and the use of shipping containers as accessory structures in the industrial districts.

Mayor Gardner summarized and read Ordinance No. 2017-18 by title. She stated that official notice of the public hearing was advertised accordingly and opened the public hearing. City Attorney Gary Brandenburg stated that he had discussed the language in paragraph (g) (7) of Section 1 of the ordinance with Community Development Director Travis Reese and he agreed it is properly worded.

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

Vice Mayor Atkinson made a motion, seconded by Commissioner Petersen, to approve Ordinance No. 2017-18 and authorize the Mayor to sign. Vote 5 yeas, 0 nays

3. **PUBLIC HEARING - Ordinance No. 2017-19 – Final Reading** – Ordinance No. 2017-19 clarifies and establishes the responsibility for the costs of relocation of utilities in the alley and easements abandoned by Ordinance No. 2016-06.

Mayor Gardner summarized and read Ordinance No. 2017-19 by title. She stated that official notice of the public hearing was advertised accordingly and opened the public hearing. As there were no comments, Mayor Gardner closed the public hearing.

Vice Mayor Atkinson made a motion, seconded by Commissioner Rodriguez, to approve Ordinance No. 2017-19 and authorize the Mayor to sign. Vote 5 yeas, 0 nays

ORDINANCES

4. **Ordinance No. 2017-20 – First Reading** – Ordinance No. 2017-20 enacts a new Chapter 2, Article V., "Employment Screening" to provide for criminal history record checks pursuant to Section 166.0442, Florida Statutes; finds certain positions of municipal employment or appointment to be critical to security or public safety within the City; finds certain public facilities to be critical to security or public safety within the City; provides for modifications to positions of municipal employment or appointment and modifications to public facilities to be made by resolution adopted by the City Commission.

Mayor Gardner summarized and read Ordinance No. 2017-20 by title.

Vice Mayor Atkinson made a motion, seconded by Commissioner Petersen, to approve Ordinance No. 2017-20 on first reading and set the public hearing for December 18, 2017. Vote 5 yeas, 0 nays

RESOLUTIONS

5. **Resolution No. 2017-19** – Resolution No. 2017-19 requests the Florida Fish and Wildlife Conservation Commission "FWC" and the Florida Department of Environmental Protection "FDEP" to consider certain important issues regarding the overall viability, sustainability and

health of Lake Okeechobee and encourages other Lake Okeechobee cities and counties to support the resolution.

Mayor Gardner read Resolution No. 2017-19 by title.

Vice Mayor Atkinson made a motion, seconded by Commissioner Petersen, to approve Resolution No. 2017-19 and authorize the Mayor to sign. Vote 5 yeas, 0 nays

Commissioner Roland informed the Commission that he will hand deliver the resolution to entities on both coasts and around the lake asking for support.

6. **A. Resolution No. 2017-20** – Resolution No. 2017-20 authorizes a loan application for the State Revolving Fund to finance the construction of wastewater treatment facilities in the City.
- B. Inflow and Infiltration Removal Studies Contract for Consulting/Professional Services between Public Utility Management and Planning Services, Inc. and the City of Clewiston** – If approved, in accordance with the Scope of Services attached to the Contract, the Consultant, Public Utility Management and Planning Services, Inc. will provide professional engineering consultant services in the area of water, sewer and stormwater engineering making and analyses for the duration of the contract.

Mayor Gardner read Resolution No. 2017-20 by title. Utilities Director Danny Williams addressed the Commission and expressed that he feels the wastewater treatment plant is way over capacity and the first phase of the three phase project is necessary. He stated that the intake is costing the City to treat and needs to be eliminated. He noted the City does not have to go to the second or third phase. He also stated there is an indication there are underground pipe problems because not many problems were found with the first smoke test. He added that the contractor will send notices to the community that they will be in the area.

Vice Mayor Atkinson made a motion, seconded by Commissioner Roland, to approve Resolution No. 2017-20 to apply for SRF funding, and approve the Inflow and Infiltration Removal Studies Contract for Consulting/Professional Services between Public Utility Management and Planning Services, Inc. and the City of Clewiston, cost not to exceed \$34,750. Vote 5 yeas, 0 nays

7. **Resolution No. 2017-21** – Resolution No. 2017-21 urges members of the Florida Legislature and Congress to fully fund and expedite repairs to the Herbert Hoover Dike.

Mayor Gardner read Resolution No. 2017-21 by title.

Vice Mayor Atkinson made a motion, seconded by Commissioner Petersen, to approve Resolution No. 2017-21 and authorize the Mayor to sign. Vote 5 yeas, 0 nays

8. **Deleted - Resolution No. 2017-22** – Resolution No. 2017-22 adopts amendments to the budget for fiscal year 2016-2017.

This agenda item was deleted.

MISCELLANEOUS ACTION AND DISCUSSION ITEMS

9. **Discussion regarding 2018 Commission Meeting Schedule** – The Commission discussed having two Commission Meetings each month in 2018 at the October 30, 2017 Commission Workshop and requested that this item be placed on the November 20, 2017 Commission Meeting Agenda.

City Manager Perry suggested the budget information be provided to the Commission once a month at the second meeting of each month. Commissioner Rodriguez suggested the meetings begin at 5:30 or 6:00 pm to make it easier for citizens to attend. Vice Mayor Atkinson expressed that he is in favor of the meetings starting later. Commissioner Roland expressed that he would prefer the meetings begin no later than 5:30 pm so that City

employees would not have to wait as long for the meetings to begin. Commissioner Petersen stated that she agreed with Commissioner Roland.

Commissioner Roland made a motion, seconded by Vice Mayor Atkinson, to approve the 2018 Commission Meeting Schedule with the meeting times amended to begin at 5:30 p.m. Vote 5 yeas, 0 nays

- 10. Extension of 2017 Grounds Maintenance Contract with Cross Training Ministries, Inc.** – Cross Training Ministries, Inc. has requested a one year extension of the 2017 Grounds Maintenance Contract which initial annual term expires on December 31, 2017. Cross Training agrees to extend the contract under the same provisions provided in the current contract. Public Works Director Sean Scheffler has been pleased with the work of Cross Training Ministries.

Vice Mayor Atkinson made a motion, seconded by Commissioner Petersen, to extend the 2017 Grounds Maintenance Contract with Cross Training Ministries, Inc. for one year. Vote 5 yeas, 0 nays

- 11. Extension of 2017 Grounds Maintenance Contract with IVG Corp.** – IVG Corp. has requested a one year extension of the 2017 Grounds Maintenance Contract which initial annual term expires on December 31, 2017. IVG Corp. agrees to extend the contract under the same provisions provided in the current contract. Public Works Director Sean Scheffler has been pleased with the work of IVG Corp.

Vice Mayor Atkinson made a motion, seconded by Commissioner Petersen, to extend the 2017 Grounds Maintenance Contract with IVG Corp. for one year. Vote 5 yeas, 0 nays

- 12. Award of US27/Sugarland Highway Phase One Beautification Project** – The City advertised for bids for the US27/Sugarland Highway Phase One Beautification Project on October 12, 2017. The bids were received and opened on November 2, 2017. The total bid amounts were \$98,544.50 and \$168,779.03.

Compliance Manager Lynne Mila explained the City had applied for a Florida Highway Beautification Council Grant about two years ago. She stated the design was to install 101 Royal Palms and \$101,700 was received to do the project. She also stated that the bids were approximately five times the amount budgeted so the project has now been divided into four phases and this bid is for phase one. Mr. Chad Clouser, the landscape architect on the project, addressed the Commission and stated that the bids for Phase One came into budget. He explained that we can extend further into Phase Two with an additional nine trees with a change order. Compliance Manager Mila confirmed that a grant application for Phase Two has been submitted for about \$80,000. Mr. Clouser stated that once the Commission approves the award of Phase One, we can discuss the start date with the contractor. He also expressed that the contractor is known to him and he does not have any reservations.

Vice Mayor Atkinson made a motion, seconded by Commissioner Roland, to award the US27/Sugarland Highway Phase One Beautification Project to the low bidder, Edgewood Landscape in the amount of \$98,544.50. Vote 5 yeas, 0 nays

- 13. Approval of Change Order No. 1 for the Master Pump Station Rehabilitation Project** – This Change Order is needed to allow Hinterland Group, Inc. to pay Barney's Pumps Inc. for the purchase of the pumps and control panels in the total amount of \$105,568.76.

Vice Mayor Atkinson made a motion, seconded by Commissioner Roland, to approve Change Order No. 1 for the Master Pump Station Rehabilitation Project. Vote 5 yeas, 0 nays

- 14. Approval of Letter to Commercial Businesses along US Highway 27** – At the October 30, 2017 Commission Workshop, Mayor Gardner asked staff to draft a letter to commercial businesses along US Highway 27 reminding them of the City's maintenance standards requirements and asking them to comply.

Mayor Gardner suggested that a workshop be scheduled for December 14, 2017 to discuss this matter. It was the general consensus of the Commission that the workshop be scheduled for December 14, 2017 immediately after the regular City Commission Workshop.

15. Discussion regarding Parking for Commercial and Residential Properties – City Attorney Gary Brandenburg

Mayor Gardner expressed that she feels the new process regarding this matter be in place before the February 2018 deadline for driveway apron paving. Commissioner Petersen agreed with Mayor Gardner and stated that she wanted to make sure that residents were notified in a timely manner.

16. Discussion regarding Purchasing Procedures – City Attorney Gary Brandenburg

City Attorney Brandenburg recommended the Commission allow him to present an ordinance regarding this matter. He suggested that the City's code and charter be brought into compliance with what the City's practice is and that staff look at other communities' purchasing procedures. He agreed to have the first reading of the ordinance ready for the December 18, 2017 Commission Meeting.

17. USDA Utility Relocation Grant Discussion – USDA has requested additional items.

City Manager Perry stated that he feels that City staff should continue to seek the grant. He also stated that he would like to hear more of the contractor's timeframe because we cannot hold up the construction. Mr. Paul Russell, the contractor for the construction of the Hampton Inn, addressed the Commission and reminded them that the City gave a deadline of October 31, 2017 for the construction of the Hampton Inn to begin. He stated they have been trying to hold back a little but are planning to start the slab in January and then they are going to want to go vertical with the building. He indicated that one of the complications is the feasibility of not having the water line there. Utilities Director Danny Williams stated that he will have both water line taps there this week so that there is no hold up. There was a brief discussion regarding the installation of the temporary water line. Mr. Russell stated the temporary line would be needed once the shell of the building is done. Director Williams stated that he does not see any issues and feels the main concern is the relocation of the Comcast and CenturyLink lines. He also stated that he believes we are going to redesign the engineering so we are going to re-bid. City Attorney Brandenburg stated that if there is any reimbursement in the grant for the engineering contract, you have to re-bid the engineer. Mr. Russell stated that April 1, 2018 is the date the new line is needed. There was a brief discussion regarding the material and cost of the water line. City Manager Perry stated the low bidder, GO Underground, said if we give notice tomorrow morning, they could mobilize in two weeks and have the line constructed in two to four weeks. Attorney Brandenburg stated that USDA has not approved the contract that was put out for bid and is requiring the City to use their form of contract and it is not likely to be done by April 1, 2018. He feels we need to add an additional three weeks if we have to go out to bid and does not feel it can be done. He also stated the City can go forward with the contract that has already bid using impact fees or attempt to try to get everything in place but expressed that he feels the chances of getting everything done in time is very unlikely. Mr. Antonio Perez addressed the Commission and stated a letter was sent proposing to keep pursuing the grant until May 30, 2017 and then after that date, a different course would be taken because the City was dictating when the construction needed to start. He said he would like the Commission to set another deadline for the City to receive the grant and if it is not received by that date, a different course should be taken. Attorney Brandenburg stated the closing with USDA by February 2018 is needed. City Manager Perry noted the contractor may not be able to complete the project as quickly later. Director Williams stated that the City has to correct the bidding documents and the engineering issue. He also stated that USDA urged us not to walk away. He feels someone should be assigned full time to this matter. Mr. Hari Patel addressed the Commission and expressed his concern with the stand alone pipe. Community Development Director Reese expressed that he feels the pipe will be sufficient for the construction but does not feel there is enough time. Mayor Gardner stated that we need something in writing by the December 18, 2017 Commission Meeting from USDA that the grant can be done by February 2018. Commissioner Rodriguez expressed that he feels that someone should be assigned full time to this project to make sure that the City receives the grant and a bid should be put out for engineering to help move the project forward. Mayor

Gardner stated that the bid documents that were submitted were not the USDA approved documents and if the engineering services were to be reimbursed by the grant, then a new contract agreement that is competitively bid for this project would be needed. Commissioner Rodriguez stated that he does not feel that staff can get it done within three months. City Manager Perry informed the Commission that if we have to wait until next month for the grant, we will need to talk to the low bidder to see if he will hold his price for another month. Attorney Brandenburg stated that USDA is not going to give a timeline in writing of when the funds are going to be available. Commissioner Rodriguez stated that another option may need to be considered; the project should not be stopped. Mayor Gardner agreed.

Vice Mayor Atkinson made a motion, seconded for discussion by Commissioner Roland, that the City's impact fees be used to pay for the utility relocation and to hire a contractor. Vote 5 yeas, 0 nays

Before the vote, Commissioner Petersen stated that she hates that we can't use the grant money but feels it is time to move forward. Community Development Director Travis Reese asked if it is possible to get a loan from CRA so that the impact fees used can be repaid by the CRA in the future. Mayor Gardner stated the financing part of this project can be discussed at the December 18, 2017 Commission Meeting. Mr. Don Shivers addressed the Commission and asked if there is anything in the grant application that prohibits the City from pursuing the grant and paying for it from another source. Attorney Brandenburg responded that it is prohibited. Mr. Jimmy Pittman addressed the Commission and suggested the engineering fees be removed from the contract and be paid with the impact fees. Attorney Brandenburg stated that it is not just the engineering fees; the contract followed the wrong format and has to be redone with USDA's forms. Mr. Antonio Perez asked if there is any way to save the grant money for a different block or project for the City of Clewiston. Mr. Shivers stated that he has contact information on a company that does USDA grant application writing. Mayor Gardner asked Mr. Shivers to provide the information to City Manager Perry. Attorney Brandenburg recommended the City go out to bid for a new engineering contract with the current engineer and others that can compete. He confirmed that it is permissible to have more than one engineer and the engineer can then be picked for their area of expertise. He then stated that he could have an RFP ready for the December 18, 2017 Commission Meeting.

After the vote, Mayor Gardner stated for the record that she pulled the impact study that was done by the Hendry County Economic Development Council and the yearly economic activity impact of the Hampton Inn project for the City of Clewiston was \$1.79 million.

18. FMPA Discussion – City Attorney Gary Brandenburg

Attorney Brandenburg informed the Commission that he questioned FMPA as to whether each city had to carry the burden of their lawyer's time and expense for going through the documents regarding this matter. He stated that FMPA's response was that each city should pay for their attorney's time and expenses. He also stated that he has made some suggested changes to the documents but has not yet heard back from FMPA. He further stated that the City has to determine whether FMPA or their experts are correct in the assumptions they have made and asked why, if this is an even deal for the City, the City would want to do it because the risk or the wealth would be lessened depending on the way the assumptions go. He added that he has no way of knowing if the assumptions made by FMPA would be in favor of the cities. Mayor Gardner asked if Compliance Manager Lynne Mila knew how the other cities voted. Compliance Manager Lynne Mila stated that Ocala, Leesburg and Homestead will vote in November and Kissimmee Utility Authority (KUA) and the City of Key West will vote in December ahead of Clewiston. Mayor Gardner asked Compliance Manager Mila to provide an update on how the other cities voted and stated that this matter will be on the December 18, 2017 Commission Meeting Agenda.

18A. Request to utilize a loan from the Water Sewer Fund to purchase budgeted golf course capital equipment.

Finance Director Shari Howell addressed the Commission and stated there is \$150,000 budgeted for a loan to purchase the equipment. She stated that quotes for used equipment were received totaling \$74,460. She then reminded the Commission a rate increase for rounds of play was approved and the intent was that the rate increase would pay for the

equipment over time. She explained that she feels the cost of a loan to pay for the equipment is not fiscally responsible and is asking for approval to utilize internal funding to cover the cost and to also use capital improvement reserves. She stated that as of September 30, 2017, there is \$60,539 in reserves for capital improvements. She also stated that it is estimated that we will take in an additional \$35,277 in capital improvement fees. She explained that the request is to use funding in the amount of \$30,000 that will be paid back with the rate increase so that at the end of this fiscal year there will still be a little over \$60,000 reserved for capital improvements.

Commissioner Roland made a motion, seconded by Vice Mayor Atkinson, to approve a loan in the amount of \$74,460 from the Water Sewer Fund to purchase the budgeted golf course equipment with the stipulation that it will be paid back at the end of Fiscal Year 2019. Vote 4 yeas, 1 nay (Commissioner Rodriguez voted nay.)

Before the vote, Commissioner Rodriguez stated he will not be supporting this request and expressed that he feels the capital improvement fees should be used to buy the two most important pieces of equipment. Finance Director Howell explained the intent is to keep the funding source as a loan so that it is clear that the golf course revenues pay for the equipment. She stated that she felt comfortable with this method because at the end of this fiscal year, the impact would be \$23,783 which would be paid by next year.

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

PUBLIC COMMENTS – Mr. Antonio Perez addressed the Commission and stated that he received a notice from the City regarding the parking and paving issue. He explained that he owns a vacant lot and because he does not use it for parking, he does not feel he should have to pave it. He added that the RV parks along the alleys and Pasadena do not have an apron or driveway and feels they should have been included in notices that went out. City Attorney Brandenburg explained that it would be a violation of the City Code because it is the owner's responsibility to keep others from parking on the property by fencing it off and placing a "no trespassing" sign on it. Mr. Perez stated that he feels the City should also do the same thing.

Mr. Jerry Cochrane said Mr. Perez' point is well taken. He said the City has become the part of the part of the problem when we keep granting extensions. He noted that he is glad to see the US27 Beautification Project moving along but feels that something should be in place so the City can recover the replacement cost if any of the trees are damaged. Mayor Gardner said that is something that can be looked at.

Ms. Laura Smith addressed the Commission and asked that the City sent out a public notice to everyone asking them to take the plywood or shutters down from their windows. Mayor Gardner stated that the City should post the notice on the City's Facebook page and website and also send it out with the utility bills.

COMMENTS FROM CITY MANAGER – City Manager Perry announced that the Police Department is doing a "Shop with Cops" program for Christmas this year. He also stated that he felt it is worth mentioning that after the passing of a local City resident, City Police Officers Jennifer Diaz and Buffie McLeod were noticed washing dishes and mopping floors at the resident's home. Mayor Gardner asked City Manager Perry to thank Officers Diaz and McLeod on the Commission's behalf.

COMMENTS FROM THE CITY ATTORNEY – none

COMMENTS FROM THE CITY COMMISSION – Commissioner Petersen stated that she feels the City's Code Enforcement Officer is doing the work of more than one person and that should be kept in mind when we direct and re-direct. She also stated that she appreciates the job that she does. Commissioner Roland agreed.

Commissioner Petersen and Commissioner Rodriguez wished everyone a Happy Thanksgiving.

Vice Mayor Atkinson asked if there is an update on recycling. Public Works Director Sean Scheffler stated that he called Lee County Solid Waste and requested a meeting to be set up to

discuss beginning the recycling process quicker in the City. Mayor Gardner asked that an update on this matter be placed on the December 18, 2017 Commission Meeting Agenda.

Mayor Gardner stated that she had asked Community Development Director Travis Reese to give an update of things that are happening in the City. Director Reese presented a handout to the Commission and stated that so far this year, 365 permits and 15 new CO's have been issued compared to 292 permits and 10 CO's last year. He then identified some of the businesses and buildings that were currently under construction and the new businesses and buildings in which construction permits have been applied. City Manager Perry added that he serves on the Airglades Advisory Board Committee with Fred Ford and Mr. Ford believes they will be turning dirt for the Airglades Airport the first or second quarter of 2018.

Mayor Gardner announced that Big and Rich will be part of the entertainment at the Sugar Festival. She also stated that she would appreciate any updates from Director Reese for the December 14, 2017 Highway 27 Workshop.

Mayor Gardner stated that we have so much to be thankful for; we live in the land of the free and the home of the brave. She also stated that she is so thankful for our military, law enforcement officers and emergency responders.

The meeting was adjourned at 7:11 p.m.

Mali Gardner, Mayor

Mary K. Combass, Interim City Clerk